

# DIGEST OF BILLS ENACTED BY THE SIXTY-FIRST GENERAL ASSEMBLY

1997 FIRST REGULAR SESSION  
JUNE 1997

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 Sixty-first General Assembly at its First Regular Session ending May 7, 1997. The summaries include the dates bills are approved and the effective dates of the bills. The Digest is not a substitute for the text of the bills or for provisions of Colorado Revised Statutes, but gives the user notice of and summary information on recent changes to the statutes.

## ADMINISTRATIVE RULE REVIEW

**H.B. 97-1193** Continuation of 1996 rules of executive agencies - exceptions - pilot project. Provides for the continuation of the rules and regulations of state agencies that were adopted or amended on or after November 1, 1995, and before November 1, 1996; except that certain rules and regulations shall expire as scheduled on May 15, 1997.

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

Repeals property tax instructions to assessors of the division of property taxation relating to vacant land.

Authorizes the office of legislative legal services to implement a one-year pilot project for the prioritization of the review of rules. Requires every rule to be reviewed using appropriate graduated levels of review based on criteria established by the committee on legal services.

**APPROVED** by Governor May 13, 1997

**EFFECTIVE** May 13, 1997

## AGRICULTURE

**S.B. 97-51** State fair authority - first extension of time for loan liquidation. Extends to April 7 the period of time in which a loan made to finance the cash flow needs of the state fair authority must be liquidated.

**APPROVED** by Governor January 21, 1997

**EFFECTIVE** January 21, 1997

**S.B. 97-167** Hybrid animals - study. Authorizes the commissioner of the department of agriculture to convene an advisory group to study the behavior of certain hybrid animals, including wolf hybrids. Provides that the advisory group shall consist of the commissioner of the department or his designee, a veterinarian, and representatives from the division of wildlife, wolf-refuge owners, hybrid animal breeders, animal-welfare agencies, and the agricultural and environmental communities.

States that the study shall include a review of incidents involving property damage and personal injury caused by hybrid animals. Requires the advisory group to present its findings to legislative committees of reference by January 15, 1998.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** April 24, 1997

**S.B. 97-225** State fair authority - second extension of time for loan liquidation. Amends the provision contained in SB 97-51 to extend to June 30 the period of time in which a loan made to finance the cash flow needs of the state fair authority must be liquidated.

**APPROVED** by Governor April 7, 1997

**EFFECTIVE** April 7, 1997

**H.B. 97-1027** Pest Control Act - enforcement. States that the commissioner of agriculture shall not be required to plead or prove irreparable injury when applying to a court for an injunction to enforce the "Pest Control Act".

**APPROVED** by Governor March 20, 1997

**EFFECTIVE** March 20, 1997

**H.B. 97-1279** Agricultural products - sheep and wool - composition of sheep and wool board - fees. Changes the composition of the sheep and wool board to comprise 12 members rather than the current total of 9. Rearranges districts and representation to include 8 at-large members, including 2 at-large members who are actively engaged in commercial feeding of sheep.

Increases the maximum allowable sheep and wool authority marketing fee from 25 cents to 50 cents per head of sheep and changes the incidence of such fee from owners of sheep to operators of feedlots, slaughterhouses, packing plants, and livestock auction markets. Requires such operators to keep records of the names and addresses of sheep owners using such facilities and to deduct the per-head assessment from amounts payable to sheep owners. Imposes a 5-cent cap on annual increases in the license fee.

Ends an existing per-head assessment on sheep other than those in feedlots for

predator control. Increases the per-head license fee authorized under the voluntary, county predator control program from 60 cents to \$1.00, and requires the sheep and wool board to provide the county assessor of each county with the names, addresses, and number of sheep marketed by sheep owners in the county.

**APPROVED** by Governor March 31, 1997

**EFFECTIVE** March 31, 1997

**H.B. 97-1342** State fair authority - abolishment - creation within department of agriculture - board of commissioners - manager - powers and duties - appropriations. Abolishes the existing Colorado state fair authority and its board of commissioners. Creates the Colorado state fair authority as a division of the department of agriculture. Establishes the board of commissioners of the authority and sets forth the membership of the board. Specifies the duties of the board. Creates the office of manager of the Colorado state fair authority and provides for the appointment of a manager by the board. States that the manager is the chief administrative head of the authority and specifies the manager's powers and duties.

Transfers property of the abolished state fair authority to the new state fair authority. Specifies that the new authority assumes all rights and obligations under contracts entered into by the abolished authority. States that the authority and the board shall constitute an enterprise for purposes of section 20 of article X of the state constitution so long as certain requirements are satisfied. Requires the authority and its board to submit annual reports to the governor, general assembly, joint budget committee, and legislative audit committee. Authorizes the issuance and payment of warrants authorized by the board. Specifies that the authority is not subject to the statutory requirements regarding personal services contracts and the "Procurement Code" until March 1, 1998.

Eliminates the ability of the authority to negotiate loans. Specifies that any loans entered into by the previous board shall be an obligation of the new board. Requires any loans entered into prior to June 30, 1997, to be liquidated by July 15, 1997. Removes language relating to the lease of the state fair grounds from the state. Creates the Colorado state fair authority cash fund. Eliminates language relating to the authority paying for controlled maintenance projects out of the fund.

Requires the general assembly and the governor to approve the issuance of any revenue bonds by the board. Clarifies that the revenue bonds issued by the board are payable only from the net revenues from the operation of the additional facilities paid for with bond proceeds and from contributions by nonstate sources for such facilities. Specifies that any revenue bonds issued by the old board are obligations of the new board.

Repeals the exception from PERA membership for temporary employees of the abolished state fair authority. Repeals the statute regarding retirement plans for employees of the abolished state fair authority.

Appropriates \$4,000,000 from the general fund to the Colorado state fair authority cash fund for fiscal year 1996-97. Appropriates from said cash fund to the department of agriculture for allocation to the state fair authority for fiscal year 1997-98: \$1,719,909 for repayment of the Colorado national bank loan, \$1,028,270 for repayment of the state treasurer's loan, \$234,728 for accounts payable, \$142,002 for the portion of outstanding long-term debt currently due, \$877,091 for working capital needs, and \$10,952,012 and 28.0 FTE for implementation of the act. Appropriates \$51,246 and 0.7 FTE to the department of law

for fiscal year 1997-98 for the provision of legal services to the department of agriculture for the purposes of the act to be paid from certain cash funds appropriated to the department of agriculture.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** June 30, 1997

## APPROPRIATIONS

**S.B. 97-176** Supplemental appropriation - department of agriculture. Amends the 1996 general appropriation act to the department of agriculture. Decreases the general fund portion of the appropriation and decreases the cash funds portion.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-177** Supplemental appropriation - department of corrections. Amends the 1996 general appropriation act to increase the total appropriation to the department of corrections. Increases the general fund, cash funds, cash funds exempt, and federal funds portions.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-178** Supplemental appropriation - department of education. Amends the 1996 general appropriation act to increase the total appropriation to the department of education. Increases the general fund and cash funds exempt portions of the appropriation and decreases the cash funds portion. Amends HB 96-1354 to adjust the appropriation made to the department of education in the 1996 general appropriation act to decrease the cash funds portion and increases the cash funds exempt portion.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-179** Supplemental appropriation - offices of governor, lt. governor, and state planning and budgeting. Amends the 1996 general appropriation act to decrease the total appropriation to the offices of the governor, lt. governor, and state planning and budgeting. Increases the general fund portion of the appropriation and decreases the federal funds portion.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-180** Supplemental appropriation - department of health care policy and financing. Amends the 1996 general appropriation act to decrease the total appropriation to the department of health care policy and financing. Decreases the general fund, cash funds exempt, and the federal funds portions of the appropriation. Amends sections of 1996 acts to adjust the appropriations made to the department of health care policy and financing in the 1995 general appropriations act to decrease the general fund portion.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-181** Supplemental appropriation - department of higher education. Amends the 1996 general appropriation act to increase the appropriation to the department of higher education. Decreases the cash funds portion of the appropriation and increases the cash funds exempt portion.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-182** Supplemental appropriation - department of human services. Amends the 1996 general appropriation act to increase the appropriation to the department of human services. Increases the cash funds and cash funds exempt and decreases the general fund and federal funds. Adds a footnote to the 1996 general appropriation act. Further amends the 1995 general appropriation act to add 2 new lettered notes to comply with the final court order for Case #94-M-1417. Amends HB 96-1208 to adjust the appropriation to the departments of human services and personnel in the 1996 general appropriation act.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-183** Supplemental appropriation - judicial department. Amends the 1996 general appropriation act to increase the total appropriation to the judicial department. Decreases the general fund portion of the appropriation and increases the cash funds, cash funds exempt, and federal funds portions.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-184** Supplemental appropriation - department of labor and employment. Amends the 1996 general appropriation act to increase 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. Adds a new footnote to the 1996 general appropriation act.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-185** Supplemental appropriation - department of law. Amends the 1996 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 exempt portion.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-186** Supplemental appropriation - legislative department. Amends the 1996 general appropriation act to increase the total appropriation to the legislative department through an increase in the appropriation to the legislative council.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-187** Supplemental appropriation - department of local affairs. Amends the 1996 general appropriation act to increase the total appropriation to the department of local affairs. Increases the general fund and cash funds portions of the appropriation and decreases the cash funds exempt portion.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-188** Supplemental appropriation - department of military affairs. Makes a supplemental appropriation to the department of military affairs. Increases the general fund portion of the appropriation. Adds a footnote to the 1996 general appropriation act.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-189** Supplemental appropriation - department of natural resources. Amends the 1996 general appropriation act to increase the total appropriation to the department of natural resources. Increases the general fund, cash funds, and cash funds exempt portions of the appropriation and decreases federal funds portion. Adds two new footnotes to the 1996 general appropriation act.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-190** Supplemental appropriation - department of personnel. Amends the 1996 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 and decreases the cash funds portion.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-191** Supplemental appropriation - department of public health and environment. Amends the 1996 general appropriation act to increase the total appropriation to the department of public health and environment. Increases the general fund and federal funds portions of the appropriation and decreases the cash funds and cash funds exempt portions.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-192** Supplemental appropriation - department of public safety. Amends the 1996 general appropriation act to increase the total appropriation to the department of public safety. Increases the general fund, cash funds, and cash funds exempt portions of the appropriation. Adds a footnote to the 1996 general appropriation act.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-193** Supplemental appropriation - department of regulatory agencies. Amends the 1996 general appropriation act to increase the total appropriation the department of regulatory agencies. Increases the cash funds portion of the appropriation.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-194** Supplemental appropriation - department of revenue. Amends the 1996 general appropriation act to increase the total appropriation to department of revenue. Increases the general fund, cash funds, and cash funds exempt portions of the appropriation.



**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-195** Supplemental appropriation - department of state. Amends the 1996 general appropriation act to increase the total appropriation to the department of state. Increases the cash funds portion of the appropriation.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-196** Supplemental appropriation - department of transportation. Amends the 1996 general appropriation act to increase the total appropriation to the department of transportation. Increases the cash funds and cash funds exempt portions of the appropriation.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-197** Supplemental appropriation - department of the treasury. Amends the 1996 general appropriation act to increase the total appropriation to the department of the treasury. Increases the general fund and cash funds exempt portions of the appropriation.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**S.B. 97-215** 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, 1997. Sets the grand total of the operating budget at \$9,203,847,747, of which \$4,459,279,661 is from the general fund, \$2,686,839,926 is from cash funds, and \$2,057,728,160 is from federal funds.

Appropriates \$280,030,764 for capital construction, of which \$166,991,628 is from the capital construction fund, \$102,548,982 is from cash funds, and \$10,490,154 is from federal funds.

For the 1996-97 fiscal year: Decreases the cash funds exempt appropriation to the department of corrections for capital outlay fund under correctional industries; increases the total general fund appropriation to the judicial department by decreasing the general fund appropriation for conflict of interest under the public defender and creating a new general fund appropriation for alternate defense counsel; and increases the cash funds exempt appropriation to the department of public safety for indirect cost assessment under the Colorado state patrol and decreases the general fund appropriation for personal services under the Colorado bureau of investigation.

**APPROVED** by Governor May 27, 1997  
**PORTIONS VETOED** May 27, 1997

**EFFECTIVE** May 27, 1997

**H.B. 97-1315** Legislative appropriation. Appropriates \$20,953,514 to the general assembly and the legislative service agencies for the 1997-98 fiscal year. Specifies that \$100,000 of this sum is from cash funds and the remainder is from the general fund. Projects that the statutory tax levy on civil actions in 1997-98 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 27, 1997

**EFFECTIVE** May 27, 1997

**H.B. 97-1358** Supplemental appropriation - capital construction. Amends the 1996-97 general appropriations act to increase the total appropriation to capital construction. Increases the capital construction fund exempt, cash funds, and federal funds portion of the appropriation and decreases the cash funds exempt portion. Amends the 1995-96 general appropriations act to decrease the total appropriation to capital construction. Decreases the capital construction fund exempt, cash funds exempt, and federal funds portions of the appropriation and increases the cash funds portion. Amends the 1994-95 general appropriations act to decrease the total appropriation to capital construction. Decreases the cash funds exempt portion of the appropriation and increases the cash funds portion.

For the 1996-97 fiscal year, there is an increase to the capital construction appropriation to the department of personnel for a lease-purchase agreement created in SB 96-216.

For the 1993-94 fiscal year: 1) Decreases the appropriation to the department of corrections for the construction of one hundred eighty minimum security beds and appropriates \$19,886,250 to the department of corrections for two hundred fifty close security beds; 2) decreases the appropriation to the university of Colorado for construction and equipment for a new library for geological sciences and earth sciences at university of Colorado at Boulder; and 3) increases the appropriation for planning and construction of a three story in-fill addition at Mesa state college.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** May 27, 1997

## CHILDREN AND DOMESTIC MATTERS

**S.B. 97-50** Regimented juvenile training program - selection guidelines - annual report. Instructs the department of human services and the judicial department to implement selection guidelines for the regimented juvenile training program that exclude lower-risk juveniles from participation. Specifies criteria to be included in the selection guidelines. Requires the department of human services and the judicial department to each submit an annual report to the general assembly concerning operation of the regimented juvenile training program throughout the state and in each judicial district. Extends the program repeal date to July 1, 2000.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** April 19, 1997

**S.B. 97-71** Dependency and neglect - procedures. **Child custody cases.** Allows a juvenile court that has jurisdiction in a case involving a child who is dependent or neglected to enter orders addressing custody, parenting time, or child support concerning such child if no child custody action concerning the child is pending in a district court in the state. Clarifies the procedure for the right to request a hearing before a judge in cases where a child is the defendant.

**Admissions.** Provides that no admission made by a respondent in a dependency and neglect case may be used against him or her in any criminal prosecution, except for purposes of impeachment or rebuttal.

**Emergency protection orders.** Specifically authorizes emergency protection orders to restrain a person from threatening, molesting, or injuring a child, to restrain a person from interfering with the supervision of a child, or to restrain a person from having contact with a child.

**Termination of parent-child legal relationship.** Provides that the hearing on termination shall not be held on the same day as the hearing on the adjudication of the child as dependent and neglected.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-81** Dissolution of marriage - disposition of property - direct division of public employee retirement benefits - applicability. Makes the provision concerning the direct division of public employee retirement benefits upon agreement of the parties applicable to dissolution of marriage, legal separation, or declaration of invalidity of marriage actions filed on or after January 1, 1997, and to such actions filed prior to that date if the court had not entered a final property division order concerning such benefits.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** March 24, 1997

**S.B. 97-83** Colorado Children's Code - relinquishment, termination, and adoption - relinquishment counseling - payments to relinquishing parents - foreign adoption decrees - standardized forms - legal effects of adoption - confidential intermediaries. **Relinquishment and Termination of Parental Rights:**

Allows the court to determine appropriate counseling that a party relinquishing parental rights must obtain. Identifies the topics that the counseling shall address. Provides that a child to be relinquished shall receive relinquishment counseling as the court deems appropriate. Permits the court to order a child who is less than 12 years of age be prepared for relinquishment, termination, or adoption.

Mandates the use of standardized forms prescribed by the judicial department for relinquishment petitions and counseling affidavits. Directs that the affidavits of relinquishment counseling include a copy of the original birth certificate, or the application therefor, and a statement disclosing any payments, gifts, assistance, goods, or services received, promised, or offered in connection with the pregnancy, birth, and proposed relinquishment and the source of same.

Requires the relinquishing parent, the child placement agency, and the county department of social services to provide to the court certain nonidentifying information about the parent and the child to be relinquished.

Makes the best interests of the child, rather than the best interests of all parties, the standard by which a court shall approve or disapprove a petition for relinquishment. Before entering an order of relinquishment, requires the court to find that the parent's decision to relinquish is knowing, voluntary, and not the result of threat, coercion, or undue influence. Creates a rebuttable presumption that if a child 12 years of age or older objects to being relinquished, such relinquishment would not be in that child's best interests.

Makes Colorado law concerning relinquishment counseling, notification, and relinquishment hearings applicable to all adoption cases involving a Colorado child, or a child whose home state is Colorado, even if the child is to be sent out of state for the relinquishment or adoption.

Reduces the period of time from one year to 6 months that an individual of good moral character must have the child living in his or her home in order for the court to grant such person guardianship and legal custody after the entry of an order of relinquishment of parental rights. Authorizes a court to grant guardianship and legal custody to a designated adoptive parent. Requires a relative seeking custody of a relinquished child to request custody in a timely manner.

Specifies that a parent has 30 days within which to respond to a motion to terminate his or her parental rights. Requires the notice of the proceeding to terminate parental rights to provide notice concerning a parent's ability to waive his or her right to appear and contest the termination and that failure to appear and contest may likely result in termination of parental rights.

**Adoption:**

In order for a child to be considered available for a stepparent adoption, requires the parent to identify by affidavit or sworn testimony that the other birth parent has abandoned the child or failed, without cause, to provide for the child for one year or more.

In cases for a decree declaring a foreign adoption valid, provides that the court shall not require the petition to contain or be accompanied by the written consent, written report, fees required in other adoptions, or by a written legal memorandum concerning the foreign law. Recognizes foreign adoptions entered by authorized individuals or entities other than

courts of competent jurisdiction. Allows a verified statement to serve as sufficient evidence that an adopting parent is a citizen and resident of the state of Colorado. Permits a photocopy of the child's resident alien card issued by the immigration and naturalization service to serve as sufficient evidence that the foreign child to be adopted is either a permanent resident or a naturalized citizen of the United States. Specifies that parties need not be represented by an attorney in foreign adoption decree proceedings.

Authorizes the court to require potential adoptive parents to participate in adoption counseling as the court deems appropriate. Clarifies that in all adoptions, either the county department of social services or the child placement agency shall provide a written report to the court concerning certain matters, including the petitioner's participation in adoption counseling if required by the court. Identifies what adoption counseling may address. In relative adoptions, requires the court to review the report prepared by the county department or child placement agency and permits the court to order further assessment, if necessary.

Requires a licensed child placement agency, when placing a child, to file an affidavit with the court stating that the agency's license is in good standing with the department of human services. Directs such agency to notify the court immediately upon suspension, revocation, or denial of its license by the department or upon disciplinary action taken against the agency. Makes failure to so notify a class 3 misdemeanor. Directs the department to promulgate rules adopting a mechanism by which child placement agencies shall notify the court of disciplinary actions against them.

Requires an adoption petition to be accompanied by a standardized affidavit form disclosing all fees, costs, or expenses charged by any person or agency in connection with the adoption. Requires the court to hold a hearing on the adoption petition 6 months or more after placement of the child and to enter the decree of adoption if the court makes certain findings. Specifies that a child to be adopted shall be eligible for enrollment and coverage by any medical or dental insurance held by the prospective adoptive parents on the same basis as the coverage would be available to a biological child of the adoptive parents.

Increases the number of members on the adoption intermediary commission from 7 to 11. Defines the term "half-sibling" and authorizes adult half-siblings to file a court request for appointment of a confidential intermediary to search for their birth families. For purposes of access to adoption information, reduces the age of "adult" from 21 to 18. Reduces the age of the relatives, the whereabouts of whom the confidential intermediary may seek information, from 21 to 18.

**APPROVED** by Governor May 28, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-114** Child support - establishment and enforcement - determination of paternity - orders for postsecondary education expenses. Allows an agent of a local child support enforcement agency to access records at the division of employment and training within the department of labor and employment. Provides that information obtained by a state or local child support enforcement agency from the department of labor and employment may be used only for the purposes specified in law and may not be disclosed by such agency to any person or entity unless there is an agreement consistent with the federal "Social Security Act" addressing confidentiality safeguards.

Changes references from "blood tests" to "genetic tests".

Makes sureties in civil and criminal support proceedings subject to entry of judgment for the amount of the bail and court costs upon forfeiture of the bond.

Makes the following changes to the statutory child support provisions:

- Clarifies that a child support obligee or the delegate child support enforcement unit shall not be required to wait 15 days before executing an automatic child support judgment.
- Provides that the filing of a verified entry of judgment for child support shall revive all individual support judgments that have arisen during the period of time specified by the entry of support judgment, pursuant to rule 54 (h) of the Colorado rules of civil procedure, without the requirement of a separate motion, notice, or hearing.
- Eliminates certain obsolete dates.
- Repeals the court's authority to order the parents of a child to contribute to the costs of a program of postsecondary education for the child in child support orders entered on or after July 1, 1997. Specifies that parties may enter into a written stipulation on or after July 1, 1997, to continue child support beyond the child's 19th birthday or to provide for postsecondary education expenses for a child.

For purposes of income assignments, defines "employer" to include any person, company, corporation, the Colorado compensation insurance authority, or insurance carrier paying temporary total disability or temporary partial disability workers' compensation benefits.

Makes the following changes to the "Colorado Child Support Enforcement Procedures Act":

- Eliminates the county department's ability to recover costs incurred in excess of fees from the obligee in cases in which an individual is receiving child support enforcement services.
- Makes provisions related to the state parent locator service applicable to all child support obligations ordered as a part of any proceeding, regardless of when the order was entered.
- Makes the administrative lien and attachment provisions applicable to all child support obligations ordered as part of any proceeding, regardless of when the order was entered.

Exempts child support enforcement offices from the required filing fee of the clerk and recorder for processing liens on personal property.

Makes changes to the administrative lien and attachment provisions and the definitions used in the administrative procedure portion of the child support establishment and enforcement statute effective upon passage. Makes the changes to the automatic support judgment provisions effective July 1, 1997, and applicable to orders entered on or after that date. Makes the changes to the postsecondary education provisions in the "Uniform Dissolution of Marriage Act" effective July 1, 1997. Makes the changes set forth in all other

sections of the act effective July 1, 1997, and applicable to orders entered on, before, or after that date.

**BECAME LAW** April 29, 1997

**PORTIONS EFFECTIVE** April 29, 1997  
July 1, 1997

**S.B. 97-115** Uniform Interstate Family Support Act - amendments to conform to recommendations of the national conference of commissioners on uniform state laws.  
**General provisions.** Amends the "Uniform Interstate Family Support Act" based on recent recommendations from the national conference of commissioners on uniform state laws. Standardizes the language of Colorado's version of the Act with that of the uniform act as required by the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", P.L. 104-193.

Amends the definitions of "income-withholding order", "initiating state", "responding state", and "state". Includes the United States Virgin Islands in the definition of "state".

Eliminates throughout the Act the requirement that notices relating to child support enforcement proceedings, support orders, income-withholding orders, and other communications be sent by first class mail.

**Jurisdiction.** Modifies procedures to be followed in circumstances in which 2 or more child support orders have been issued by courts of this state or another state with regard to the same obligor and child.

**Civil provisions.** Eliminates the authority of the child support enforcement agency to establish or modify a spousal support order.

Identifies the procedures to be followed by an initiating state if a responding state has not enacted the "Uniform Interstate Family Support Act" or a law substantially similar to the Act.

**Income-withholding orders.** Relocates provisions within the statutes concerning the enforcement of withholding orders of another state without registration of child support orders of another state. Specifies that the obligor's employer must comply with a withholding order from another state that appears regular on its face and that expresses the amounts to be withheld as sums certain and as periodic payments.

Provides that the law of the state of the obligor's principal place of employment shall apply with respect to processing fees, amounts to be withheld, time limits, and for purposes of establishing priorities for the withholding and allocation of income if the employer receives multiple income-withholding orders. Grants immunity from liability to employers that comply with the directive. Subjects an employer who willfully fails to comply with an income-withholding order issued by another state to penalties. Requires an obligor contesting an income-withholding order to send a notice of the contest to the child support enforcement agency providing services to the obligee and to each employer that has directly received an income-withholding order.

**Enforcement and modification of support order after registration.** Provides that,

if all parties reside in Colorado and the child does not reside in the issuing state, a Colorado tribunal has jurisdiction to enforce or modify the issuing state's child support order. Requires a tribunal exercising such jurisdiction to apply the definitions and the jurisdiction sections of the "Uniform Interstate Family Support Act" and the procedural and substantive law of Colorado. Subjects a party who obtains a modification order and who fails to file a certified copy with the issuing tribunal to appropriate sanctions by the tribunal in which the issue of failure to file arises.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1103** Domestic relations cases - court appointments - representatives - special advocates - arbitrators. Authorizes the court in a domestic relations proceeding to appoint an attorney to serve as a representative of the parties' minor or dependent children or an individual to assist the court as a special advocate for the child. Requires the court to issue an order of appointment. Specifies that the same individual may not serve as both the child's representative and as the child's special advocate.

Provides that an individual appointed to serve as a representative of the child shall represent the best interests of the child with respect to the child's custody, support for the child, the child's property, parenting time, or any other issue related to the child that is identified in the court's order. Directs the child's representative to actively participate in all aspects of the case involving the child and identifies that such representative shall not be called as a witness in the case.

Identifies that an individual appointed to serve as a special advocate may be, but need not be, an attorney. Provides that such an individual shall investigate, report, and make recommendations on any issues that affect or may affect the best interests of the child. Requires a special advocate to file a written report with the court reflecting his or her independent and informed recommendations, which report shall include the wishes of the child, if expressed. Allows the special advocate to be called to testify as a witness during hearings regarding his or her recommendations.

Directs the court to enter an order for costs, fees, and disbursements in favor of the child's representative or special advocate.

Upon the consent of all parties, authorizes the court to appoint an arbitrator to resolve disputes between the parties concerning their minor or dependent children. Directs all awards entered by an arbitrator so appointed to be in writing. Provides that the arbitrator's award shall be effective immediately upon entry and shall continue in effect until vacated, modified, or corrected by the arbitrator pursuant to the "Uniform Arbitration Act of 1975" or until the award is modified by the court pursuant to a de novo review. Authorizes any party to move the court to modify the arbitrator's award pursuant to a de novo review of such award. Unless manifestly unjust, requires the court upon a de novo review of an arbitrator's award to order the nonprevailing party to pay the fees and costs of the prevailing party and the fees of the arbitrator associated with such review.

**APPROVED** by Governor March 20, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1109** Central registry - phase-out - implementation plan. No later than March 1,



1999, requires the state department of human services to submit an implementation plan to the general assembly for the creation of alternatives to the state central registry of child

protection. Establishes the issues that the state department's plan shall address.

**APPROVED** by Governor March 20, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1126** Juvenile justice - commitment to department of human services. Provides that any juvenile who is 12 years of age or older and who is adjudicated for any class of felony, but is not adjudicated as an aggravated juvenile offender, may be committed to the department of human services. Provides that any juvenile who is 10 or 11 years of age and who is adjudicated for a class 1, 2, or 3 felony, but is not adjudicated as an aggravated juvenile offender, may be committed to the department of human services.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** May 27, 1997

**H.B. 97-1164** Parenting time - enforcement - "Colorado Parenting Time Enforcement Act". In actions involving disputes concerning parenting time, adds a time limit of 30 days within which the court must deny the motion, set the matter for hearing, or refer the parties to mediation. Changes the level of evidence that the court must find in order to proceed with the action from "substantial *and* continuing" to "substantial *or* continuing" noncompliance with the parenting time order or schedule. Provides that if the court sets the matter for hearing, it must do so with notice to the parents as expeditiously as possible. Requires, rather than permits, the court to issue an order which may include one or more specified remedies, if the court finds that a parent has not complied with a parenting time order or schedule and has violated the court's order.

Among the remedies, requires make-up parenting time to occur within 6 months, rather than one year, or within one year if the period of time or holiday cannot be made up within 6 months of the noncompliance. Further specifies that make-up parenting time take place at the time, as well as in the manner, chosen by the aggrieved parent. Adds the following to the list of remedies from which the court may choose when there is a finding of noncompliance: Require either or both parents to attend a parental education program; require the parties to participate in family counseling; impose a civil fine not to exceed \$100 per incident of denied parenting time; and enter any other order that may promote the best interests of the child.

Directs that any civil fines collected as a result of noncompliance with a parenting time order or schedule be credited to the dispute resolution fund.

Requires the court to order a noncomplying parent to pay the attorney's fees, court costs, and expenses incurred by the aggrieved parent. Authorizes the court to order the petitioning parent to pay the court costs, attorney fees, and expenses of the responding parent if the court finds there was not a violation of the parenting time order or schedule.

Authorizes the appropriate state agency, as determined by the governor, to develop a parenting time enforcement program that complies with all federal requirements and restrictions. Provides that the program, if developed, shall address the enhancement and

facilitation of children's access to their noncustodial parents by any one or combination of specified remedies. Allows the program to operate on a statewide basis or on a representative pilot basis. Directs the selected agency, if any, to monitor, evaluate, and report on the parenting time enforcement program in accordance with regulations prescribed by the secretary of the federal department of health and human services and to evaluate and report on the effectiveness of the amendments made in the act to the statutory provision relating to disputes concerning parenting time.

**APPROVED** by Governor May 22, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1198** Marriage - only between one man and one woman. Specifies that marriages, whether contracted within or outside this state, that are not between one man and one woman shall not be recognized as valid in this state.

**VETOED** by Governor June 5, 1997

**H.B. 97-1205** Child support - enforcement - occupational, professional, and recreational license suspension - automatic property liens - recordation of social security numbers - repeal of jury trials in paternity cases - state directory of new hires - state case registry - financial institution data match - post-secondary education expenses - appropriation. Based upon the provisions of the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996":

Requires the director of the division of employment and training to provide wage and claim information to the secretary of the federal department of health and human services. Requires genetic testing in paternity cases to be conducted by a lab approved by an accreditation body designated by the secretary of the federal department of health and human services. Specifies that genetic testing results shall be admissible in evidence without the necessity of proof of foundation, authenticity, or accuracy.

Amends the "Uniform Interstate Family Support Act" by requiring income-withholding orders issued in other states to be sent by first-class mail to the obligor's employer. Requires the employer to treat a certified copy of an income-withholding order issued in another state that appears regular on its face as if it had been issued by a tribunal of this state.

Makes the following changes to the child support guidelines:

- Itemizes the information a child support order must include concerning the parties to the action.

- Authorizes the court or delegate child support enforcement unit to order an unemployed parent to pay support in accordance with a plan approved by the court or unit or to participate in work activities. Identifies what "work activities" may include.
- Reduces the number of members of the child support commission by 2 members. Requires the governor, in making appointments to the commission, to consider geographical diversity. Adds certain issues for the commission to review.
- Eliminates the authority of a court to order the parents of a dependent child to contribute to the expenses of a post-secondary education.

Provides for an automatic lien to arise by operation of law on real and personal property belonging to a support obligor when support becomes due and is not paid. Establishes a procedure for giving notice of such liens. Creates an exception to such liens for bona fide purchasers and lenders.

Makes child support orders entered by a delegate child support enforcement unit, in addition to those entered by a court, subject to immediate income assignment. Reduces the period of time from 10 days to 7 days within which withheld amounts must be forwarded by an employer pursuant to an income assignment. Clarifies that a Colorado employer who receives an income assignment issued by another state is to apply the income assignment law of the obligor's principal state of employment. Directs the state department of human services to send notice to the obligor, once an income assignment has been executed, stating that the income assignment has commenced.

Requires a notice of deduction for health insurance to be mailed by first-class mail, rather than certified mail, by the obligee to the obligor's employer upon the discovery of current or changed employment. Directs that the notice shall contain a statement that the obligor may file an objection to the deduction if the premium amount is not reasonable. Creates a presumption that a premium amount that results in a child support order of \$50 or less or that is 20% or more of the obligor's gross income is not reasonable.

Requires the recordation of social security numbers in the following circumstances: Application for professional or occupational license, commercial driver's license, or marriage license; decrees of dissolution of marriage; orders for child support; paternity determinations; and death certificates. Limits access to social security numbers to the department of human services. Authorizes departments to access records via such social security numbers only within their areas of regulatory authority.

Makes the following changes to the "Uniform Parentage Act":

- Provides that an executed voluntary paternity acknowledgment constitutes a legal finding of paternity after 60 days or on the date of an administrative or judicial proceeding concerning paternity of or child support for the child, whichever is earlier.
- Establishes the only bases upon which a paternity acknowledgment may be challenged.
- Directs the court to enter temporary child support orders upon evidence of paternity from genetic testing.

- Authorizes the court to order the father to pay the mother's genetic testing expenses.
- Identifies that bills for pregnancy, childbirth expenses, and genetic testing shall be admissible in evidence without the necessity of third-party foundation testimony, and provides that such bills shall constitute prima facie evidence of the amounts incurred therefor.
- Requires all child support orders entered pursuant to the Uniform Parentage Act to contain certain information about the parties.
- Repeals the option for jury trials in paternity actions.

Requires paternity acknowledgment forms prescribed and furnished by the state registrar to contain the minimum requirements specified by the secretary of the federal department of health and human services.

Authorizes the executive director of the department of human services to procure the necessary services and support to develop, implement, and operate state and federal child support enforcement welfare reform mandates. Provides that the procurement of such services and support shall not be subject to the procurement code. Makes the following changes to the "Colorado Child Support Enforcement Act":

- Subjects the child support enforcement agency and all delegate child support enforcement units to certain privacy provisions with respect to the informational data obtained in the course of child support enforcement.
- Directs the department of human services to conduct annual reviews of the child support enforcement program to measure the state's compliance with federal requirements. Requires the department to report to the joint budget committee concerning the cost-effectiveness of privatizing the self-audit duties and the cost-effectiveness of the new child support enforcement provisions of the bill.
- Authorizes access to records of the state parent locator service by courts with jurisdiction to issue custody or parenting time orders as well as support orders and permits state locator information to be transmitted to such court. Adds trustees and other payors of funds to those who must provide information upon request to the state parent locator service or delegate child support enforcement unit. Authorizes the state parent locator service to initiate an administrative subpoena requiring any public employee retirement benefit plan or financial institution located or doing business in the state to provide information to the agency concerning an account holder who owes or is owed an obligation for child support. Authorizes a public utility to verify whether a parent is or was a recipient of services of the public utility and to provide certain information concerning such parent. Defines "public utility".
- Provides that the distribution of recovered public assistance paid for child support and maintenance shall be in accordance with applicable federal law.
- Authorizes the child support enforcement agency to report to consumer reporting agencies pursuant to federal law.
- Repeals current provisions for administrative review of child support orders and

reenacts new provisions, including a requirement to provide notice to the parties of their right to request a review and of their opportunity to challenge a review and to request a modification.

- Makes the driver's license suspension provisions permanent and authorizes the suspension of commercial driver's licenses for nonpayment of child support.
- Establishes a state directory of new hires in the department of human services. Requires employers to report all new employees on or after October 1, 1997, who are hired for 30 days or more and directs the child support enforcement agency to begin automated comparisons of such information with the family support registry not later than May 1, 1998. Specifies the frequency of such reporting.
- Authorizes the state board of human services to promulgate rules in cooperation with any state agency, board, commission, or bureau authorized to issue professional, occupational, or recreational licenses for the denial, suspension, or revocation of professional, occupational, and recreational licenses of individuals owing past-due child support or for individuals failing to comply with subpoenas or warrants related to paternity or child support proceedings. Directs the licensing agency to enter into a memorandum of understanding with the child support enforcement agency identifying the responsibilities of each. Establishes a procedure for such denial, suspension, or revocation, including a 30-day period within which to comply or request a review hearing at the county level and then at the state level. Identifies the sole issues to be determined upon review of the denial, suspension, or revocation of a license.
- Establishes a state case registry in the department of human services for tracking all child support cases established or modified on or after October 1, 1998. Limits access to the information in the state case registry to the state child support enforcement agency, the delegate child support enforcement units, the federal office of child support enforcement, the courts, and the agents of such agency, units, office, or courts.
- Authorizes the state department of human services to enter into agreements with financial institutions doing business in the state to develop and operate a data match system, using automated data exchanges. Such system shall be used to receive certain account information from financial institutions about child support obligors on a semiannual basis.
- Directs the state department of human services to seek a federal waiver or exemption from any provision of the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" with which there is a determination, finding, or warning of alleged noncompliance by the state of Colorado.

Specifies that the delegate child support enforcement unit shall pay the costs of genetic testing if the unit orders such testing, subject to recoupment from the presumed or alleged father.

Increases appropriations made in the annual general appropriation act to the department of human services by \$204,712 and 5.0 FTE for the implementation of the act. Appropriates \$1,447,967 and 6.0 FTE to the department of human services for

implementation of the act. Appropriates \$59,200 to the judicial department for implementation of the act. Appropriates \$490,150 and 3.0 FTE to the department of regulatory agencies for the implementation of the act. Appropriates \$28,470 and 0.3 FTE to the department of law for the implementation of the act.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1223** Dissolution of marriage - parental education classes - exemption in domestic abuse cases. Provides that a court may not order the parents of children under 18 years of age to attend parental education classes in cases where there is a domestic abuse restraining order.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** March 24, 1997

**H.B. 97-1247** Teen courts - creation - procedures. Authorizes municipal courts, the juvenile court for the city and county of Denver, or any district court other than in the city and county of Denver to establish a teen court program as an alternative sentencing program for teenagers charged with minor offenses. Under the program, following a sentencing hearing at which other teenagers participate.

Authorizes the supervising court to enter a deferred judgment conditioned on a teenager's successful completion of the teen court program. Describes the procedures to be followed by a supervising court, including requiring the teenager to plead guilty to the original charge. Provides that upon successful completion of the teen court program the charges against the teenager are dismissed and shall not be considered a conviction.

Authorizes the supervising court to establish procedures for conducting the teen court program, including the range of sentences that may be imposed by the teen court jury. Requires a teen court judge, who is a volunteer attorney approved by the chief judge of the supervising court, to file a report on the teenager's completion of the program with the supervising court within 6 months of the order for deferred judgment.

Provides that a court may establish its own teen court program with procedures different from those established by the act. Encourages courts to apply for grants from the youth crime prevention and intervention fund to fund teen court programs.

**APPROVED** by Governor June 4, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1293** Out-of-home placement of children - impact on school district enrollment.

Contingent upon the implementation of the children, youth, and families automation project in the department of human services, directs the department to make certain information available to all county departments of social services throughout the state. The information shall include vacancies in out-of-home placement facilities in each county, the number of out-of-home placement children enrolled in each school district in relation to the total number of students enrolled in each school district, the placement facilities in each school district, and the types of services available in each school district to meet the special needs of out-of-home placement children to the extent such information is known and within available resources.

Requires the county department of social services to make recommendations to the court in every proceeding in which the court contemplates placing a child out of home, including information about placement facilities that are most able to serve appropriately the best interests of the child. Specifies the factors that the county must consider in making its recommendations, including the special needs of the child, the proximity of the placement facility to the child's home, whether the facility is located within the child's home school district, and the number of out-of-home placement children enrolled in the affected school district if such information is available through the children, youth, and families automation project.

If the county department of social services recommends placement outside the child's home school district, requires the county department to inform the child's home school district of the proposed placement. Requires the court to consider the recommendations of the county department in making its placement determination. Upon entry of the court's order placing the child in an out-of-home placement facility outside the child's home school district, directs the child's home school district to contact the school district in which the child is to be placed concerning the special needs of the child and resources necessary to meet those needs.

Directs the state board of education to provide such enrollment information to the department of human services as the department may request.

Applies to children placed out-of-home on or after July 1, 1999.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1318** Juvenile justice - residential juvenile facility. Authorizes the department of human services to contract with a single private entity for the design, construction, and operation of a 500-bed residential juvenile facility to be located on the parcel of real property formerly known as the Lowry bombing range. Describes the program and style of the juvenile facility.

Requires the department to issue a request for design, construction, and operation proposals for the juvenile facility on or before January 31, 1998, and to select a contractor on or before June 1, 1998. Specifies requirements for the contractor and the contract. Requires applicants for employment at the juvenile facility to submit their fingerprints to the Colorado bureau of investigation for a criminal records check.

Instructs the division of youth corrections, beginning one year after the facility begins operations and annually thereafter, to calculate the recidivism rate for juveniles housed at the

facility and report the rate to the general assembly. Specifies that the calculation shall include any juvenile who commits an offense within 3 years after leaving the facility.

Appropriates \$2,736,250 out of the capital construction fund to the department of human services, for allocation to the division of youth corrections, for implementation of the act.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** May 27, 1997



## CONSUMER AND COMMERCIAL TRANSACTIONS

**S.B. 97-24** Deceptive trade practices - use of term "optician". Makes it a deceptive trade practice for a person to claim, orally or in writing:

- To be a "certified optician" or a "certified opticien" unless the person holds a current certificate of competence from the American Board of Opticianry; or
- To be able to perform certain procedures, such as vision therapy, refractions, or keratometry, or any act that constitutes the practice of optometry or medicine, if such person is a certified optician and does not perform such procedures under the direction of someone who has supervisory authority.

States that no person may associate a service, product, or business name with the title "certified optician" unless he or she holds the described certificate of competence. Requires that certificates of competence be prominently displayed and made available for inspection by consumers and agents of the state of Colorado. Exempts licensed physicians and optometrists from these requirements and prohibitions.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-155** Central indexing system - miscellaneous changes. Requires the secured party to sign any amendment that deletes collateral covered by a financing statement, termination statement, separate statement of assignment, or release of collateral. States that electronically filed amendments must include an electronic signature of the secured party that complies with procedures adopted by the filing officer. Allows an electronic signature to consist of an access code or other identifying word or number assigned by a filing officer.

States that a mortgage is effective as a financing statement even if it does not include the social security number or federal taxpayer identification number of the debtor.

States that any continuation statement filed after July 1, 1996, continues the perfection in all collateral listed on the filing. Provides that filing one continuation statement maintains the effectiveness of any financing statement that was filed in multiple locations if it names identical collateral.

Prohibits any person from filing a financing statement or amendment that adds collateral covered by a financing statement unless the debtor authorizes such filing in writing. States that a debtor, by signing a written security agreement, authorizes the secured party to file a financing statement and amendments covering collateral listed in such statement and any proceeds of such collateral. Sets forth penalties for violators.

Requires the signature of the secured party on an electronic filing if an amendment, termination statement, or statement of release of collateral deletes collateral covered by a financing statement. Provides procedures for such signatures. Does not require other filings of amendments, termination statements, assignments, and releases of collateral that are made electronically to include the signature of the secured party.

Empowers the central indexing system board to review ways to expand the amount of public information the system provides.

Authorizes filing officers to charge a filing party an additional \$5 if such person uses a document that is not on a standard form established by the central indexing system board for filing purposes.

Eliminates the requirement that a continuation statement state that it is still effective.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** April 24, 1997

**S.B. 97-213** Public trustees - indemnification when original evidence of debt is not provided in certain transactions. Provides that, in circumstances where liens on deeds of trust are to be fully or partially released, certain financial institutions may certify to the public trustee that the original evidence of debt is not being exhibited or produced. Stipulates that the financial institution shall indemnify the public trustee for any and all damages, costs, liabilities, and reasonable attorney fees incurred as a result of the action of the public trustee taken in accordance with such request for release without production or exhibition of the original evidence of indebtedness. Limits the proper venue for any action based on such indemnification to the county in which the public trustee receiving the certification is located. Clarifies that nothing in article 39 of title 38, Colorado Revised Statutes, concerning mortgages, deeds of trust, and other liens, shall be construed to waive the immunity of a public trustee pursuant to the Colorado governmental immunity act.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** September 1, 1997

**NOTE:** This act was passed without a safety clause. The act establishes an effective date of September 1, 1997. It shall take effect on that date unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**S.B. 97-226** Telemarketing services - exemption from laws governing telemarketing fraud prevention of certain qualified telephone marketing service companies. Removes the provision excluding that portion of a telephone marketing service company's services performed on behalf of nonexempt sellers from such company's exemption from the definition "commercial telephone seller" or "seller" for purposes of the telephone fraud prevention statutes. Clarifies that nonexempt sellers must comply with the registration requirements and unlawful telemarketing prohibitions set forth in the statutes.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** May 21, 1997

**H.B. 97-1194** Self-sufficiency for persons with disabilities - express warranties for wheelchairs. Requires wheelchair manufacturers to furnish consumers with an express warranty that extends for at least one year. States that a wheelchair shall be covered by a warranty having the same features as an express warranty if the manufacturer or dealer of the wheelchair fails to furnish an express warranty.

States that any nonconformity of the wheelchair shall be repaired by the manufacturer or any of the manufacturer's authorized dealers if the consumer reports the nonconformity and makes the wheelchair available for repair within the warranty period. Requires a manufacturer to respond to a dealer's request for authorization to make repairs within one business day after receipt of such request. Requires that such repairs be warranted for a period not less than the original warranty period.

Provides remedies for consumers when a nonconformity is not repaired after reasonable attempts to do so. States that remedies include a refund of payments made or receipt of a replacement wheelchair. States that such remedies are not exclusive. Requires a consumer to offer to return the wheelchair with the nonconformity when making a demand for a remedy and, in turn, requires the manufacturer or any of the manufacturer's authorized dealers to provide the refund or replacement within 30 days after receiving such offer. Requires consumers, upon receipt of a replacement wheelchair or a refund, to return the wheelchair with the nonconformity, if it is safe to do so, along with the documents necessary to transfer possession. Makes the remedy of a refund also available to any person who leases a wheelchair.

States that manufacturers must notify recipients and purchasers of a wheelchair of any known design defects in the wheelchair, and requires the manufacturers to replace any defective parts, free of charge, even after the one-year express warranty expires.

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

Provides that a manufacturer, dealer, or lessor who engages in conduct to delay a final repair required under warranty with the intention of requiring payment of the cost of repair to be made by a publicly funded program of assistance commits the crime of theft.

Requires that disputes among the manufacturers, lessors, or dealers concerning the enforcement of the consumer's rights be submitted to arbitration. States that, if a consumer waives his or her rights with respect to these provisions, such waiver shall be void as against public policy. Makes manufacturers and any of the manufacturer's authorized dealers who violate the new requirements liable for actual damages caused by the violation and reasonable attorney fees. Allows the consumer to be awarded collateral costs incurred as a result of such violation and punitive damages.

Requires the seller of any wheelchair to disclose prior to sale whether the wheelchair is new or used and whether any warranty applies to such wheelchair.

**APPROVED** by Governor April 30, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1243** Rates charged for certain transactions governed by the Uniform Consumer Credit Code - elimination of restrictions. On and after July 1, 1997, subject to the usury rate of 45% per annum, allows:

- The credit service charge for consumer credit sales other than revolving charge accounts to be set at any rate contracted for and agreed to by the parties to such sale;

- The credit service charge for revolving charge accounts to be set at any rate contracted for and agreed to by the parties;
- The loan finance charge for supervised loans other than loans pursuant to revolving loan accounts to be set at any rate contracted for and agreed to by the parties to such loan;
- The loan finance charge for a supervised loan pursuant to a revolving loan account to be set at any rate contracted for and agreed to by the parties, as applied to the unpaid balance of the principal; and
- A lender for a revolving loan account secured by an interest in land, under certain conditions, to contract for and receive finance charges to open, use, or maintain such account, as a fixed amount, as a percentage of the credit limit, or on any other basis contracted for and agreed to by the parties in addition to finance charges at a periodic rate or rates.

Sets forth a noninclusive list of the types of charges that may be considered "interest" for purposes of such transactions. Provides for the repeal of said provisions on July 1, 2002.

**VETOED** by Governor June 5, 1997

**H.B. 97-1284** Deceptive trade practices - unsolicited electronic communications. Makes the following acts involving electronic communications deceptive trade practices under the "Colorado Consumer Protection Act":

- Soliciting a consumer residing in Colorado by fax without including a toll-free telephone number that a recipient may use to request no further transmissions.
- Selling the consumer's fax number without either giving notice to the consumer or allowing the consumer the option of preventing the sale of the number.

Provides that soliciting a consumer by fax is not a deceptive trade practice if there is an existing business relationship between the seller and the consumer or if the fax transmission was requested or initiated by the consumer. States that this provision does not apply to the transmission of documents by a telecommunications provider providing transmission facilities.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1309** Charitable solicitations by telephone - required disclosures. Requires a paid solicitor who makes an oral solicitation to any person in Colorado by telephone regarding a charitable contribution to make the following oral disclosures during the telephone call:

- A statement that the person soliciting such contribution is paid to make the solicitation;
- The name of the telemarketing company that employs the paid solicitor;
- The name and telephone number of the charitable organization on whose behalf the paid solicitor is making the solicitation;
- A statement that the person to whom the solicitation is made has the right to rescind any agreement or pledge to make a charitable contribution within the time period specified by law;
- A statement that the charitable contribution is not tax deductible, if such is the case; and
- Upon request by a person from whom a charitable contribution is sought, the percentage of the contribution that will be paid to the charitable organization as a result of such person's contribution.

Requires a volunteer who makes an oral solicitation to any person in Colorado by telephone regarding a charitable contribution to disclose as part of the telephone call that the contribution is not tax deductible, if such is the case. Specifies that nothing in this act is to be construed as restricting, superseding, abrogating, or contravening any state or federal law or regulation regarding charitable solicitations.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** July 1, 1997

## CORPORATIONS AND ASSOCIATIONS

**S.B. 97-91** Colorado Revised Nonprofit Corporation Act. Effective July 1, 1998, repeals the "Colorado Nonprofit Corporation Act". Specifies that nonprofit corporations that were dissolved or otherwise suspended by operation of law are deemed to be nonprofit associations unless the nonprofit corporation reinstates itself. Prohibits private foundations from engaging in self-dealing, retaining excess business holdings, or making taxable expenditures as defined by federal law. Conforms procedures for filing documents by the secretary of state to the provisions for for-profit corporations in the "Colorado Business Corporation Act". Allows a court to call meetings when it is otherwise impractical or impossible for the corporation to do so.

Conforms procedures for incorporation of nonprofit corporations to the sections for for-profit corporations set forth in the "Colorado Business Corporation Act". Conforms sections relating to the general powers and emergency powers of nonprofit corporations to similar sections for for-profit corporations set forth in the "Colorado Business Corporation Act". Allows any civil action to be brought against any nonprofit corporation and subjects assets held by a nonprofit corporation to levy and execution to the extent that the nonprofit corporation would be reimbursed by liability insurance.

Conforms procedures for the establishment and exclusive use of a reserved name to the similar procedures for for-profit corporations set forth in the "Colorado Business Corporation Act".

Requires nonprofit corporations to maintain a registered office and agent and to notify the secretary of state of any changes of such registered office or agent. Conforms requirements for maintaining a registered office and agent to those requirements governing for-profit corporations set forth in the "Colorado Business Corporation Act".

Specifies that nonprofit corporations are not required to have members. Allows bylaws to establish criteria for admission and membership. Stipulates that directors, officers, employees, and members are not, as such, personally liable for debts or actions of the nonprofit corporation. Permits the board of directors to fix consideration for memberships. Allows a member to resign at any time. Specifies standing requirements and procedures for derivative suits.

Requires nonprofit corporations with voting members to have an annual meeting, unless otherwise specified in the bylaws. Conforms the notice, waiver of notice, voting by proxy, and determination of record date requirements for nonprofit corporations to similar requirements for for-profit corporations set forth in the "Colorado Business Corporation Act". Allows actions without meetings if the members entitled to vote on the action unanimously agree in writing to take such action. Allows for action by written ballot in lieu of a meeting. Sets quorum and voting requirements for voting groups. Fixes procedures for action by single and multiple voting groups. Allows for cumulative voting for directors. Permits the election of directors on the basis of chapter, region, or preferential voting.

In the absence of contrary provisions, specifies that a nonprofit corporation acts through its board of directors. Conforms the required qualifications and election, appointment, designation, resignation, and removal procedures for directors of nonprofit corporations to those of for-profit corporations. Conforms procedures and requirements for board meetings, actions without meetings, meeting notice and the waiver thereof, and

quorum of the board of directors for nonprofit corporations to those of for-profit corporations.

Specifies titles for officers for nonprofit corporations. Conforms procedures for the appointment or designation of officers to that of for-profit corporations. Limits certain personal liabilities of and allows indemnification for directors and officers. Describes the standards of conduct for directors and officers. Defines "conflicting interest transactions" and specifies procedures for dealing with them.

Conforms procedures for amendments to the articles of incorporation and bylaws by the incorporators, directors, and members to those for for-profit corporations. Allows the bylaws to specify that amendments may only be made after ratification by a 3rd party.

Authorizes nonprofit corporations to merge with domestic and foreign nonprofit corporations. Specifies voting requirements for approval of such merger. Specifies the information required to be included in a merger plan.

In the absence of other authority, stipulates the procedure for the authorization and subsequent sale of the nonprofit corporation's property in and outside of the regular course of business. Forbids distributions by nonprofit corporations except for distributions to members that are nonprofit corporations, reasonable compensation for services rendered, or benefits conferred on members in conformity with its purposes.

Sets forth the procedures for voluntary dissolution. Requires the adoption of a plan of dissolution that upon approval becomes the articles of dissolution. Allows revocation of such articles within 120 days.

Allows the secretary of state to administratively dissolve a nonprofit corporation in the same manner as with a for-profit corporation. Permits reinstatement following administrative dissolution. Conforms the grounds and procedure for judicial dissolution with those of a for-profit corporation.

Conforms requirements for foreign nonprofit corporations to engage in activities to the requirements imposed on foreign for-profit corporations. Sets forth procedures for withdrawal of, and service of process on, a foreign nonprofit corporation from this state. Sets forth grounds for, procedures for, and the effect of revocation of a certificate of authority by the secretary of state. Allows appeal from a revocation.

Conforms record-keeping, maintenance, and inspection requirements to similar requirements imposed on for-profit corporations. In the absence of consent from the board of directors, limits the use of membership lists for purposes unrelated to the member's interest as a member. Requires the nonprofit corporation to mail financial statements to members upon request. Authorizes the secretary of state to propound interrogatories to any nonprofit corporation to determine whether such corporation is complying with the new act.

Specifies that all corporations subject to the prior "Colorado Nonprofit Corporation Act" are governed by the new "Colorado Revised Nonprofit Corporation Act". Requires pre-1968 corporate entities to comply with certain provisions of the new act. Sets forth procedures for pre-1968 corporations to elect to come under the provisions of the new act. Requires the statement of election that comes under the provisions of the new act to include certain information. Specifies that such statement be filed with the secretary of state.

Specifies that the repeal of the prior Act does not affect any rights, remedies, or violations of the prior act taken before its repeal.

**APPROVED** by Governor May 1, 1997

**EFFECTIVE** July 1, 1998

**S.B. 97-233** Colorado Corporations and Associations Act - filing of documents. Enacts the "Colorado Corporations and Associations Act". Modifies the rules for conversion of entities from one organizational form to another to respond to new federal tax rules classifying business organizations. Creates a standard procedure for mergers that apply to all forms of business or nonprofit entities recognized by Colorado law. Sets forth the procedure for the approval and filing of documents to confirm the merger or conversion. Specifies that the method of conversion and merger set forth in the "Colorado Corporations and Associations Act" is not exclusive and that any requirements that bind a particular form of entity continue to bind the entity.

Specifies procedures for filing documents required to be filed by entities with the secretary of state. Permits all documents required to be filed by this act to be filed with the secretary of state in the same manner as for limited liability companies and limited liability partnerships.

Increases the choice of the words or initials that limited partnerships and limited liability limited partnerships must include in the name of the entity. Allows a limited partnership to use the name of a limited partner in the name of the partnership without subjecting the limited partner to individual liability.

Specifies that a limited liability company or a limited partnership will not automatically dissolve on the dissociation of a member or the general partner unless the partnership files an election that states otherwise. Allows a limited liability company to continue on the dissociation of a member. For a limited partnership, sets forth a procedure for the designation of a new general partner upon the withdrawal of the last remaining general partner. Confirms that a limited liability company must have at least one member at the time it is formed. Specifies that a limited liability company with one member may have an "operating agreement". Allows limited liability companies to be served by registered mail instead of through the secretary of state.

Allows accounting firms organized as limited liability companies, limited liability partnerships, or professional corporations to provide segregated moneys in the form of cash, bank certificates of deposit, United States treasury obligations, or letters of credit as substitute alternative security for professional liability insurance.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** June 3, 1997

**H.B. 97-1237** Colorado Uniform Partnership Act (1997). Adopts the "Colorado Uniform Partnership Act (1997)", a revision of the "Uniform Partnership Act of 1914" ("UPA") adopted in Colorado as the "Uniform Partnership Law". Modifies the Uniform Act to establish that a partnership is a separate entity instead of following the UPA's formulation of a partnership as an entity as well as an aggregate of the individual partners. Recognizes the primacy of a partnership agreement over statute, with the exception of certain statutory



provisions that are nonwaivable such as the requirements for execution of statements, restrictions on access to partners books and records, and the relationship between partners.

Sets forth the requirements for filing, amending, and canceling optional authorized partnership statements with the secretary of state. Includes statements of partnership authority, denial of partnership authority, dissociation, dissolution, and merger as authorized statements. Allows such statements to act as notice to 3rd parties. Specifies that the law of the state where the partnership is formed governs relations between the partners.

Specifies that the property of a partnership is not co-owned by the individual partners. Eliminates the "tenant in partnership" concept contained in the UPA. Specifies that each partner is an agent of the partnership and that an act of a partner for apparently carrying on the partnership business, or business of the kind carried on by the partnership, binds the partnership. Repeals the list of events requiring unanimous consent of the partners for approval. Expands the UPA requirements for conveyance of real property to include all property, instead of merely real property. Allows filing of a statement of partnership authority to facilitate transfers of property from a partnership. Specifies that, if such statement is properly filed, it is conclusive with respect to bona fide purchasers.

Clarifies that a partner may recover for a tort committed by the partnership or another partner acting as an agent for the partnership. Allows all liquidating partners to receive compensation for services performed in "winding up" instead of merely allowing compensation to the surviving partner. Clarifies that amendments to the partnership agreement shall be approved by unanimous consent of the partners.

Specifies that a partner's attorneys and agent have the same rights as the partner to inspect books and records and allows access to records by former partners for the period in which they were partners. Allows the imposition of a reasonable copying charge for books and records. Obliges partners to provide, without demand, information required for a partner's exercise of the partner's rights and duties.

In addition to other duties established elsewhere in the new act, imposes duties with regard to other partners and the partnership, a duty of loyalty, a duty of care in the conduct or liquidation of a partnership, and a duty to comply with the provisions of the partnership agreement. Imposes an obligation of good faith and fair dealing with the other partners and the partnership in discharging the partner's duties. Gives a partnership a cause of action against a partner for breach of the partnership agreement or duty owed to it.

States that a transferring partner remains a partner for management and liability purposes. Allows a partnership to refuse to make distributions or recognize the rights of a transferee until after receiving notice of the transfer. Invalidates transfers in violation of a restriction on transfers as to transferees with notice of the restrictions. Authorizes a judgment creditor of a partner's transferee, as well as a judgment creditor of a partner, to obtain a charging order against a partner's interest in distributions from the partnership. Specifies that a charging order is a lien on the debtor's partner's right to distribution that may be foreclosed upon.

Specifies that dissolution and liquidation occur only if a partnership is not continued, bringing dissolution pursuant to the new act into line with the same concept in the corporation statutes. Allows withdrawal of a partner from a partnership without triggering dissolution. Allows expulsion of a corporate partner if such partner has had its charter

revoked or its right to conduct business suspended. Defines "death of a partner" for partners that are also entities. Repeals all of the events that relate to termination of the partnership, as opposed to withdrawal of a partner from a partnership.

Limits the apparent authority of a dissociated partner whose interest is purchased to a duration of 2 years, but allows that time to be terminated by actual notice to a creditor or 90 days after the filing of a statement of dissociation. Specifies that a dissociated partner whose interest is purchased is not personally liable for post-dissolution liabilities unless such partner's wrongful acts are responsible for the debt. Terminates the apparent authority of the dissociated partner 90 days after filing a statement of dissociation.

Sets forth the events causing dissolution and provides for the winding up of partnership business. Allows a partnership to continue in business as the same partnership instead of requiring dissolution. Allows a partnership to continue in circumstances that would, under the UPA, cause unavoidable dissolution, if a majority so agrees.

Allows all of the partners to agree to revoke a dissolution and, if so agreed, continues the partnership business as if dissolution never occurred. Authorizes the liquidating partners to engage in activities to preserve the partnership's business as a going concern for a reasonable time. Allows a partnership to be bound by any acts by the partners that are appropriate for liquidation and for any obligations. Allows a statement of dissolution to be filed that provides constructive notice, terminates apparent authority of a partner, and terminates authority to convey partnership real estate pursuant to a statement of partnership authority.

Instead of using the UPA's differing classifications, provides one rule for how the partners share liabilities incurred during the liquidation process. Sets forth the rules for liquidating distribution to the partners and the rules for contributions by partners necessary to wipe out a negative capital account and to pay partnership obligations in excess of its assets. Treats partners who are creditors of the partnership the same as other creditors, rather than subordinate to outside creditors. Repeals the distinction between capital and profits. Repeals the rule giving creditors of a partner priority over creditors of a partnership in the assets of a bankrupt partner.

Authorizes a safe harbor method of converting a general partnership into a limited partnership and vice versa. Authorizes a safe harbor method of merging a general partnership with one or more general or limited partnerships. Sets forth the effects of a merger. Allows the filing of a statement of merger. Clarifies that the procedures for converting and merging are not exclusive, and that these entities can convert or merge in any other manner authorized by law.

Allows a partnership to register as a limited liability partnership without a unanimous vote only if the partnership agreement expressly considers obligations to contribute to the partnership. Changes "statement of registration" to "statement of qualification".

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** January 1, 1998

**NOTE:** This act was passed without a safety clause. The act establishes an effective date of January 1, 1998. It shall take effect on that date unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state

constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

## CORRECTIONS

**H.B. 97-1046** Operations of the department - discharge money - administrative warrants - parole system study. Clarifies that a discharged inmate may be given a bus ticket only to places within the state and that an inmate who has previously been returned to the department of corrections is not entitled to "gate" money.

Authorizes the executive director to issue administrative warrants for the arrest of escapees from the department. Authorizes the executive director to enter into written agreements with other law enforcement agencies for operational support and to assist in apprehending escapees.

Clarifies that the executive director or the executive director's designee may authorize an offender to not be initially confined in the diagnostic center. Clarifies that an offender may be assigned to the assessment program in the diagnostic center for up to 60 days.

Makes revisions to the work program. Renames it the intensive labor work program.

Changes terminology from "gang" to "security threat group" relating to security measures taken by superintendents of correctional facilities.

Specifies that all violent offenders are excluded from being referred to community corrections by the executive director.

Provides for a study of the parole system by the legislative council. Repeals the authorization for preparole facilities and programs.

**APPROVED** by Governor March 20, 1997

**EFFECTIVE** March 20, 1997

**H.B. 97-1115** Jails - medical treatment charge. Authorizes county jails to assess a medical treatment charge against any person who receives medical treatment while being held in custody in a county jail. Specifies that the person's inability to pay the medical treatment charge is not a basis for refusing medical treatment. Identifies an unpaid medical treatment charge as a cost of care for which a judgment may be entered and which may be collected by the county.

**APPROVED** by Governor April 1, 1997

**EFFECTIVE** April 1, 1997

**H.B. 97-1244** State criminal justice facilities - construction of additional beds and related supporting facilities - appropriations - authorization of electrified, lethal perimeter security systems. Based upon the projected correctional facility needs over the next 5 years, provides for the construction of the following new beds and related supporting facilities and makes the appropriations therefore during the 1997-98 fiscal year from the capital construction

fund:

- 480 minimum restrictive security beds at a correctional facility at Trinidad;
- 192 minimum restrictive security beds in 2 96-bed housing units as additions to the Four Mile correctional center, to replace the existing 300 beds in living units 1 and 2, including the decommissioning of living unit 1 and the renovation of living unit 2 into program space;
- 292 minimum restrictive security beds in 3 96-bed housing units and a 4-bed management unit as additions to the Buena Vista minimum complex, to replace the existing 214 beds in modular units;
- The construction of the central plant building shell and the central warehouse and the build-out of the cook-to-serve food service operation as additions to the Denver women's correctional facility that are necessary to support phase II of the expansion project at the facility; and
- 180 beds as an addition to the youth offender system facility on the grounds of the Colorado mental health institute at Pueblo.

Authorizes the department of corrections to commence preparation of the schematic design for phase II of the expansion project at the San Carlos correctional facility and the facilities program plan for a training facility on the grounds of the Colorado mental health institute at Pueblo. Directs the department of corrections to commence planning for the construction of phase III of the construction project at the Sterling correctional facility.

Increases the amount of moneys to be transferred from the general fund to the capital construction fund for the fiscal year commencing July 1, 1997, by approximately \$78.8 million to fund said projects.

Changes the name of the Buena Vista modular unit to the Buena Vista minimum complex to reflect the elimination of modular units at the facility. Corrects the name of the San Carlos correctional facility on the list of correctional facilities managed, supervised, and controlled by the department of corrections and adds the Sterling correctional facility, the Trinidad correctional facility, and the Denver's women's correctional facility to said list.

Authorizes the department of corrections to design and construct electrified, lethal perimeter security systems at state correctional facilities if the department determines the use of such security systems to be necessary and appropriate. Extends governmental immunity to the department of corrections, its agents, and any contractor hired by the department for the design and construction of any electrified, lethal perimeter security system in regard to any claims arising from the design and construction of the lethal aspect of such security system.

**APPROVED** by Governor June 4, 1997

**EFFECTIVE** June 4, 1997

**H.B. 97-1291** Correctional industries - interest and earnings - management fees. Removes the 3% interest limitation on moneys borrowed from the state treasury by the division of correctional industries.

Requires interest derived from moneys in the correctional industries special revolving enterprise account to be credited to the account. Provides that investment earnings on moneys in the account are exempt from payment of the state treasury deposit and investment management fee.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** March 24, 1997

## **COURTS**

**S.B. 97-9** Public transportation - jurors. Requires the state court administrator and officials public transportation systems to devise systems whereby jurors may obtain free transit to and from the vicinity of courthouses along the regular routes and using the regular schedules of the transportation system.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** May 27, 1997

**S.B. 97-144** County judges - salary - workload. Effective July 1, 1998, instructs the chief justice of the Colorado supreme court to annually determine the salary for county judges, except Class A and Class B county judges, using the average number of cases filed annually in each county court for the preceding 3 years. Prohibits any reduction in salary for any county judge who is serving as of June 30, 1998. Clarifies that any reduction in salary for a judge who is appointed after June 30, 1998, shall begin with the judge's next term of office.

Specifies that calculation of salaries for part-time county judges shall be based on methods used to determine the need for full-time county judges, as established and approved by the supreme court. Establishes the starting salary for a part-time county judge at 20% of the full-time county judge salary, and allows increases by 5% increments, based on increases in the part-time judge's workload, up to 90% of a full-time county judge workload. Allows the chief justice to assign any part-time county judge who is working at 80% or more of a full-time workload to serve on a full-time basis, so long as the part-time judge meets the qualifications for county judges in Class A and Class B counties. Specifies that any judge so assigned shall be paid the salary of a full-time county judge, but that the assignment shall not affect the classification of the county in which the part-time county judge serves.

Specifies conditions under which a part-time county judge who is assigned to perform judicial duties in a district court or in another county court may receive additional compensation.

**APPROVED** by Governor May 5, 1997

**PORTIONS EFFECTIVE** July 1, 1998

**H.B. 97-1012** County judges - reclassification of Summit county. Changes the classification of Summit county from a Class D to a Class B county for purposes of the employment of county judges.

Includes a legislative intent statement that appropriations for the implementation of this act in fiscal year 1998-99 shall be derived from savings generated from implementation of SB 97-144.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** July 1, 1998

**NOTE:** This act was passed without a safety clause. The act establishes an effective date of July 1, 1998. It shall take effect on that date unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1037** Judicial performance commissions - magistrates - mid-term reviews - publication of recommendations - appropriation. Requires the state commission on judicial performance to:

- Develop additional surveys for litigants, attorneys in the district attorney's and public defender's offices, law enforcement personnel, employees of local departments of social services, and victims of crime;
- Report to the district commissions on the statistical validity of all of the surveys;
- Specify when and how statistically invalid surveys may be used; and
- Develop criteria for district commissions to utilize in determining whether to recommend retention.

Changes the date that reports from the state commission are due from 60 days to 45 days prior to the retention election.

Authorizes the district commissions on judicial review to conduct interviews, receive information, and conduct public hearings concerning judges within their district. Directs the district commissions to draft the narrative profiles of the judges and magistrates in their district.

Requires the state and district commissions to arrange to have their recommendations for each justice or judge scheduled for retention printed with the ballot information booklet and mailed to electors.

Requires district commissions to conduct additional evaluations of each district and county court judge during every even-numbered year that the judge is not scheduled for a retention election. Also requires evaluation of each magistrate during every odd-numbered year. Allows conferences with the judge or magistrate. Directs the district commission to disseminate their reports, but prohibits it from mailing the additional evaluations to registered electors.

Clarifies that the terms of members of commissions expire on November 30 of the year in which the term is scheduled to expire. Requires the state commission and every district commission to notify the appointing official within 5 days after a vacancy arises on the commission. Requires the appointing official to make an appointment within 45 days after a vacancy. Permits the state commission to appoint a member to the state commission or a district commission if the appointing official fails to make an appointment within 45 days after a vacancy.

Transfers \$16,000 from the department of state cash fund to the ballot information publication and distribution revolving fund. Expresses the intent of the general assembly that for the fiscal year beginning July 1, 1998, \$56,000 be appropriated to legislative council to print the recommendations.

**APPROVED** by Governor June 5, 1997

**EFFECTIVE** June 5, 1997

**H.B. 97-1156** Judicial review - land use decisions - time for filing of administrative record. In cases brought under Rule 106, C.R.C.P., for judicial review of land use decisions by local governmental entities, requires filing of the administrative record within 30 days, unless the court specifically orders otherwise.

**APPROVED** by Governor April 8, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1204** District courts - 4th and 18th judicial districts - number of judges. Adds a district court judge in the 4th judicial district and in the 18th judicial district.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** July 1, 1998

**H.B. 97-1239** Damages limitation statutes - adjustments to reflect effects of inflation. Adjusts the following damages caps for inflation based upon the consumer price index:

- The limitation on actions brought against a licensee for selling beer, wine, liquor, or fermented malt beverages to a minor or a visibly intoxicated person who causes injury (currently \$150,000);
- The limitation on a social host giving beer, wine, liquor, or fermented malt beverages to a minor who causes injury (currently \$150,000);
- The limitation on noneconomic damages (pain and suffering) for personal injury cases and for wrongful death cases (currently \$250,000);
- The wrongful death solatium (currently \$50,000).

Directs that the adjustment be certified by the secretary of state as of January 1, 1998, based on the cumulative annual adjustment for inflation for each year since the effective date of the applicable damages limitation. States that such adjusted limitation shall be the limitation applicable to all claims for relief that accrue on or after January 1, 1998.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.





## CRIMINAL LAW AND PROCEDURE

**S.B. 97-34** Death penalty - testimony of victim's family. Clarifies that members of the family of a homicide victim have the right to testify at the penalty phase of a death penalty case. Specifies that the act is applicable to all sentencing hearings conducted on or after the effective date.

**APPROVED** by Governor March 21, 1997

**EFFECTIVE** March 21, 1997

**S.B. 97-84** Victim rights - sexually violent predators - notifications while on probation - miscellaneous changes - appropriation. On and after January 1, 1999, upon request from either the district attorney or the probation department, requires a court to determine whether a person is a sexually violent predator. Defines sexually violent predator as a person convicted of specified crimes against certain victims who, according to a risk assessment screening instrument, is more likely to commit additional sexually violent crimes. If sentenced as a sexually violent predator, requires the person to register with local law enforcement agencies quarterly rather than annually. Excludes juveniles from the additional registration requirements.

Expands the sex offender treatment board to 14 members including 2 additional mental health professionals and one clinical polygraph examiner. Directs the division of criminal justice in consultation with the sex offender treatment board to develop a risk assessment instrument by January 1, 1999, to assist the sentencing court in determining whether an offender is a sexually violent predator.

Expands the definition of critical stages of the criminal justice process to which victims are entitled to notice to include certain probation hearings and changes in probationary status. Clarifies that a victim must be informed of the process for enforcing compliance with the victim's rights requirements. Grants victims the right to be notified by the probation department of certain information concerning persons charged or convicted of crimes against the victim. Permits the probation department to apply to the victims and witnesses assistance and law enforcement board for grants to implement victim's rights.

Clarifies that grants from the victims assistance and law enforcement fund to criminal justice agencies and victim assistance organizations are to provide statewide or multi-jurisdictional assistance to victims. For district victims and witnesses assistance and law enforcement boards, changes the body to whom reports are made and that resolves conflicts of interest from the legislative audit committee to the victims compensation and assistance coordinating committee.

Expands the definition of victim for purposes of application for crime victim compensation to include persons who are victims of crime or victims of terrorism in another country where there is no other crime victim compensation. Adds to the list of compensable crimes careless driving resulting in death and hit and run when the accident results in death. Adds careless driving resulting in death, hit and run when the accident results in death, stalking, ethnic intimidation, and being an accessory to any of the specified crimes to the list of crimes to which statutory victim's rights apply.

Makes a technical correction in the definition of victim for purposes of restitution.

Appropriates \$30,000 from the sex offender surcharge fund to pay for the development of the risk assessment instrument. Appropriates \$114,952 and 3.3 FTE from the victim assistance and law enforcement fund to pay for the victim notifications.

**APPROVED** by Governor June 4, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-96** Concealed handguns - permits - criteria - procedure - appropriation. Authorization for permits. Specifies that the issuance of permits to carry concealed handguns is a matter of statewide concern, and assigns to county sheriffs and the police chiefs responsibility for issuing the permits.

**Qualifications to receive permits.** Specifies the qualifications for receiving a permit, including:

- Residency;
- 21 years of age or older;
- Criminal history;
- Whether the applicant is the subject of a restraining order or an emergency protection order;
- Use of controlled substances and alcoholic beverages;
- Mental health and competency;
- Whether the applicant has failed to pay child support;
- Competence with a handgun;
- Whether the sheriff or police chief has grounds to believe the applicant would be dangerous to himself or herself or to others.

**Use of permits.** Specifies the contents of the permit and how the permit may be used. Identifies failure to carry and produce a permit upon demand as a class 2 misdemeanor that shall be dismissed if the permittee produces the permit in court.

**Submittal of applications.** Specifies the documents, including an application, the permit fee, evidence of competence with a handgun, and a photograph, that an applicant must submit to the sheriff of the county or police chief of the city or city and county in which the applicant resides. Provides that the application shall be a statewide standardized form developed by the attorney general's office, and limits the contents of the application. Instructs the sheriff or police chief to witness the applicant's signature on the permit application, verify the applicant's identity, take two full sets of the applicant's fingerprints, and conduct a background investigation on the applicant to determine whether to grant the permit. Specifies the procedures for denying a permit, including judicial review of the denial. Instructs the sheriff or police chief to notify the CBI of persons receiving permits. Directs the sheriff or police chief to establish the amount of the new and renewal permit fees based on the costs of issuing and renewing the permits, and sets caps on the fee amounts.

Allows the sheriff or police chief to release the names of persons to whom he or she issues permits.

**Duties of CBI.** Requires the CBI to send one set of fingerprints to the federal bureau of investigation for processing and process the other set of fingerprints. Requires the CBI to maintain a listing of permit holders that is available only to law enforcement agencies.

**Duties of Attorney General's Office.** Requires the attorney general's office to prepare a written examination concerning lawful use of deadly physical force. Specifies that the test shall be designed so that a person with a basic understanding of the law may achieve a passing score. Requires the attorney general's office to prepare the permit application form.

**Emergency permits.** Establishes procedures by which sheriffs or police chiefs may issue a temporary emergency permit to any person who is in immediate danger.

**Maintaining and renewing permits.** Specifies conditions under which a permit may become invalid or may be suspended. Establishes procedures for renewing a permit, including the documents and fee to be filed and the sheriff's or police chief's duties.

**Exemptions.** Exempts peace officers, level I and level Ia, and comparable federal officers and peace officers, level II, while on duty, from the requirement to obtain a permit.

**Carrying restrictions.** Specifies that a permit does not authorize a permittee to carry a concealed handgun in areas where carrying is prohibited by federal law. Specifies that a local government may prohibit the carrying of handguns, open or concealed, in any discrete area within its jurisdiction; except that it is not an offense under the local ordinance if the person carrying the handgun has a permit.

**Immunity.** Grants civil immunity to the CBI, local law enforcement agencies, and employees of said entities for the good faith implementation of the act. Grants civil immunity for damages arising from issuance or denial of a permit to persons who may provide information concerning an applicant.

**Existing permits.** Provides that permits issued prior to July 1, 1997, shall expire on June 30, 1998. Specifies procedures for renewing the permits.

**Appropriation.** Appropriates \$528,380 and 2.0 FTE to the department of public safety for the implementation of this act.

**VETOED** by Governor May 16, 1997

**H.B. 97-1009 Grand jury reports - release.** In any case where a grand jury does not return an indictment and the prosecuting attorney does not file charges, authorizes the grand jury to prepare a report of its findings if it determines a report would be in the public interest. Specifies that preparation of the report must be approved by at least the same number of jurors as would be required to return an indictment. Requires the grand jury to certify that release of the report is in the public interest.

Requires the prosecuting attorney to notify any person or business named in the report and give such person or business an opportunity to review the report and prepare a written response. Instructs the prosecuting attorney to submit the report, with the certification and any responses, to the court. Lists the criteria the court applies in determining whether to release the report. Allows release of response only if the respondent agrees in writing.

**APPROVED** by Governor April 8, 1997

**EFFECTIVE** October 1, 1997

**H.B. 97-1013** Controlled substances - emergency prescriptions for hospice patients. Authorizes a pharmacist to dispense a prescription without written authorization from the physician in emergency situations involving hospice patients as long as such dispensing is consistent with federal law on emergency prescriptions. Allows for the transmission of the written order from the physician to the pharmacist by the methods and within the time frames in federal law.

**APPROVED** by Governor March 20, 1997

**EFFECTIVE** March 20, 1997

**H.B. 97-1060** Telecommunications crime - cloning equipment - exemptions - appropriation. Broadens telecommunications crime by making it a class 4 felony to knowingly use cloning equipment to intercept signals or create a cloned cellular phone or to aid, abet, advise, or encourage anyone to do the same. Exempts certain telecommunications service employees, law enforcement officers, public officials, and employees of state and federal agencies from prosecution for telecommunications crime if committed in the course of providing telecommunications services or law enforcement. Clarifies that prosecution for telecommunications crime does not preclude civil liability for the same actions.

Adds telecommunications crime to the list of crimes that may constitute racketeering activity.

For fiscal year 1997-98, appropriates \$73,636 to the corrections expansion reserve fund for implementation of the act. For fiscal year 1998-99, appropriates \$22,458 to the department of corrections for implementation of the act. For fiscal year 1999-2000, appropriates \$22,458 to the department of corrections for implementation of the act. For fiscal year 2000-2001, appropriates \$11,229 to the department of corrections for implementation of the act.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1077** Criminal laws - substantive changes - appropriation. Deletes harassment by stalking from the list of extraordinary risk misdemeanors. Adds certain sexual offenses to the list of crimes against at-risk adults and at-risk juveniles. Clarifies the statute on complicity by specifying that encouraging a person to commit a crime constitutes complicity. Adds physical actions that would cause a person to be in fear to the definition of "credible threat" in the harassment by stalking statute.

Clarifies that a person providing alcoholic beverages to a minor or encouraging a minor to obtain alcoholic beverages may be prosecuted for contributing to the delinquency of a minor. Clarifies that only one of the types of identifying information provided to a law

enforcement agency need be false to constitute the offense of false reporting to authorities. Specifies that the conditions applicable to persons placed on probation for domestic violence also apply to persons granted a deferred sentence.

Reduces the penalty for conviction as a special offender with regard to controlled substances. Clarifies that possession of 25 grams or more of a schedule II controlled substance is not a class 4 felony. Provides for enhanced sentencing for manufacturing, dispensing, selling, distributing, possessing, or possessing with intent to manufacture, dispense, sell, or distribute any schedule I or II controlled substance, based on the amount involved. Clarifies controlled substance special offender sentencing when the offense is committed on or near school grounds or public housing developments.

Conforms the elements of "heat of passion" assault in the first and second degree to those of "heat of passion" second degree murder. Repeals the requirement that political cards, pamphlets, circulars, posters, dodgers, and advertisements relating to an election campaign include the name of a person responsible for such material.

Clarifies that any juvenile who has been convicted of a felony and is being sentenced as an adult and who is on probation or bond or under a deferred judgment for an offense that would have constituted a felony if committed by an adult is subject to aggravated sentencing.

Corrects the name of one of the offenses for which sex-offender registration is required. Amends the definition of "render assistance" as an accessory to a crime to include harboring or concealing the victim or a witness to a crime and concealing, destroying, or altering testimonial evidence. Includes all sex offenses for which a defendant is required to register as a sex offender as crimes subject to the \$1000 surcharge for victims and witnesses assistance. Eliminates all loitering provisions except for loitering on school grounds. Raises the maximum amount for class 2 misdemeanor theft and the minimum amount for class 4 felony theft from \$400 to \$500. Deletes theft from the list of violent felony offenses for which a defendant may not receive earned time while on parole.

For fiscal year 2000-01, transfers \$478,634 to the capital construction fund and appropriates said amount to the corrections expansion reserve fund for implementation of the act. For fiscal year 2001-02, transfers \$905,723 to the capital construction fund and appropriates said amount to the corrections expansion reserve fund and appropriates an additional \$145,977 of general funds to the department of corrections for implementation of the act.

**APPROVED** by Governor June 4, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1084** Nursing care facility applicants - criminal background checks. Authorizes a nursing care facility or a person seeking employment at a nursing care facility to obtain the required criminal background check on the applicant through a private criminal background check company authorized to do business in the state of Colorado that is approved by the state board of nursing. Authorizes such a company to utilize fingerprints to ascertain information from the federal bureau of investigation. Requires the criminal background check, whether done by the Colorado bureau of investigation or a private company, to be conducted not more than 90 days prior to employment of the applicant.

Gives the state board of nursing the authority to approve private criminal background

check companies for the purpose of conducting such background checks. In approving private criminal background check companies, identifies that approval shall be based upon the provision of lawfully available, accurate, and thorough information pertaining to criminal histories, including arrest and conviction records.

**APPROVED** by Governor March 31, 1997

**EFFECTIVE** March 31, 1997

**H.B. 97-1088** Cigarette vending machines. In the criminal provision relating to the sale of cigarettes in vending machines, modifies restrictions on the location of such machines to allow the sale in establishments where the machine dispenses cigarettes through the operation of a device that enables an adult employee of the establishment to prevent the dispensing of cigarettes to minors.

**APPROVED** by Governor May 16, 1997

**EFFECTIVE** May 16, 1997

**H.B. 97-1125** Graffiti - revocation of driver's license. Makes mandatory revocation of a driver's license one of the penalties for defacing property by graffiti. Broadens the elements of defacement of property to include any marring of the surface of the property using any substance or object. Specifies that the driver's license is revoked for 6 months for each conviction and that revocations run consecutively. Specifies that, if a person under 16 years of age has any convictions for defacing property, he or she shall not be eligible to receive a driver's license until the entire revocation period has elapsed, as measured from the person's 16th birthday. Clarifies that "conviction" includes adjudication as a juvenile delinquent for purposes of mandatory revocation of a driver's license for defacing property. Requires the court to notify the department of revenue of any conviction for defacement, and specifies when the revocation period begins. Exempts revocation of a license due to conviction for defacing property from the circumstances under which a person must file proof of financial responsibility.

**APPROVED** by Governor June 4, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1145** Criminal laws - miscellaneous procedural changes. Specifies that a restitution order constitutes a final judgment if it is entered against a person who pleads guilty pursuant to a deferred judgment, rather than being convicted. Specifies that the district attorney has the discretion to allow a crime victim or an immediate family member of the crime victim to view a presentence report. Clarifies that, for purposes of discovery, public nuisance actions constitute expedited proceedings under the Colorado rules of civil procedure. Clarifies that the state grand jury may investigate cases that the attorney general has authority to prosecute. Provides that commission of any felony, not just a class 1, 2, 3, or 4 felony, is grounds for bond revocation. Requires businesses that provide temporary nursing care services to obtain background checks on employees.

Requires a judge or magistrate to give notice to sex offenders regarding registration when such offenders are released without being placed on probation, sentenced to jail, or sentenced to the department of corrections. Includes persons who receive a deferred judgment or deferred sentence for a sex offense in the group of persons required to undergo sex offender treatment. Revises the procedure for revocation of conditional release from commitment for persons found guilty by reason of insanity. Specifies that only the chairman

of a legislative committee, rather than any member of the committee, may administer an oath to a witness appearing before the committee.

**APPROVED** by Governor June 4, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1181** Animal cruelty - fund - penalties - appropriations. Creates a surcharge and imposes a mandatory minimum fine for certain persons convicted of animal cruelty. Authorizes the court to require persons convicted of any crime, the underlying factual basis of which has been found to include the knowing or intentional torture or torment of an animal which needlessly injures, mutilates, or kills an animal, to complete an anger management treatment program or other appropriate treatment program. Authorizes the court to order an evaluation prior to sentencing.

States that the provisions on the surcharge, mandatory minimum fines, and the anger management treatment programs do not apply to certain uses of animals, including the treatment of pack or draft animals by negligently overdriving, overloading, or overworking them, the treatment of livestock in farming or ranching, or to the treatment of animals involved in research, rodeos, hunting, or to activities involving wildlife and predator control.

Creates an animal cruelty prevention fund in the state treasury to pay for the care of abused animals and for court-ordered anger management treatment programs and counseling for indigent persons.

Authorizes the court to require juveniles who have been adjudicated a juvenile delinquent, the underlying factual basis of which has been found to include the knowing or intentional torture or torment of an animal which needlessly injures, mutilates, or kills an animal, to complete an anger management treatment program or other appropriate treatment program. Authorizes the court to order an evaluation prior to disposition. Defines "nonviolent misdemeanor" to exclude crimes involving animal cruelty.

Appropriates \$33,176 out of the animal cruelty prevention fund to the judicial department for the implementation of this act. Appropriates \$31,824 out of the animal cruelty prevention fund to the department of agriculture for the implementation of this act.

**APPROVED** by Governor June 4, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1186** Assault - inmates - causing contact with bodily fluids or hazardous materials - appropriation. Makes exposing an employee of a detention facility to bodily fluids or hazardous materials by an inmate a second degree assault. Requires a person bound over for trial, indicted for, or convicted of the offense to submit to a medical test for communicable diseases and to supply bodily fluids for such test. Requires the results of such test to be disclosed to any victim of the offense who requests such disclosure.

Makes a five-year statutory appropriation with an appropriation of \$228,272 for fiscal year 1997-98 out of the capital construction fund to the corrections expansion reserve fund to implement this act.

**APPROVED** by Governor June 4, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1225** Death penalty - unitary review. Recognizes the necessity of establishing a unitary system of review for class 1 felony cases in which a death sentence is imposed. Establishes a single procedure for review in such cases. Specifies that the act applies to class 1 felony convictions for which the death penalty is imposed on or after the date that the Colorado supreme court adopts rules implementing the unitary review procedure.

Instructs the trial court to enter a stay of execution upon imposition of a death sentence, pending further order of the Colorado supreme court. Requires the trial court to hold a hearing to advise the defendant and the prosecution about postconviction review and direct appeal processes, including appointment of new postconviction counsel and direct appeal counsel if necessary. Establishes procedures and criteria for appointment of new postconviction counsel.

Specifies the contents of and issues that may be raised in a motion for postconviction review. Provides that, if the defendant alleges ineffective assistance of counsel, he or she waives the attorney-client privilege with respect to information related to the ineffective assistance claim. Prohibits either party from bringing a motion for reconsideration or rehearing of the trial court's ruling on the motion for postconviction review.

Establishes the procedure for filing a notice of appeal with the Colorado supreme court. Specifies that, if the defendant is seeking review of direct appeal issues and postconviction review appeal issues, the appeal must consolidate and resolve all issues at one proceeding. Identifies the appeals that the prosecution may bring.

Instructs the Colorado supreme court to adopt rules, on or before January 1, 1998, establishing procedures, including time limits, for postconviction review and the unitary appeal process. Specifies particular issues to be addressed by rule. Requires the rules to ensure that final appellate briefing in the unitary review process is completed within 2 years after the sentence of death is imposed, and prohibits any extensions of time beyond the 2-year period. Urges the Colorado supreme court to expedite consideration of death sentence appeals.

Prohibits the defendant from bringing a motion for postconviction review after the passage of the stated filing deadlines, except under specified circumstances. Specifies that the provisions of the act are severable.

**APPROVED** by Governor June 4, 1997

**EFFECTIVE** June 4, 1997

**H.B. 97-1241** Pretrial release - personal recognizance bond - pretrial services program report. Unless the district attorney consents, prohibits release of an adult on personal recognizance if the person's criminal record indicates he or she failed to appear on bond for any felony or class 1 misdemeanor charge in the preceding 5 years. Requires each local pretrial services program to annually report on the recommendations made by the program and the number of defendants under pretrial supervision who failed to appear on bond. Instructs the judicial department to submit to the general assembly an annual compilation of the reports.

**APPROVED** by Governor April 16, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1268** Privacy of electronic communications - cordless telephones. Conforms the definition of "electronic communications" to the federal "Electronic Communications Privacy Act" by eliminating the exception for the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit. Makes wiretapping involving a cordless telephone a class 1 misdemeanor.

States that it is not unlawful for a district attorney or law enforcement officer to listen to a recording or to read a transcription of an electronic communication involving a cordless telephone when the district attorney or officer comes into possession of such materials from a third party. Requires the district attorney or law enforcement officer to have a reasonable basis for believing that the recording or transcription is reliable and to have probable cause to believe a crime was committed in order to use the materials as evidence in a prosecution for a crime other than wiretapping or eavesdropping. States that nothing in this provision shall preclude a district attorney from prosecuting a person for a violation of the criminal laws on wiretapping or eavesdropping.

**APPROVED** by Governor April 30, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

## EDUCATION - PUBLIC SCHOOLS

**S.B. 97-13** Compulsory school attendance - enforcement. Makes the compulsory school attendance laws applicable to a 6-year-old child who has been enrolled in a public school in the first grade or a higher grade level. Allows the court in such circumstances to issue orders to compel compliance with the compulsory school attendance requirements. Provides that the compulsory school attendance laws shall not apply to a 6-year-old child whose parent or legal guardian chooses to withdraw such child.

In judicial proceedings involving enforcement of compulsory attendance laws, allows the court to issue an order compelling the parent to take reasonable steps to assure the child's attendance in school. Authorizes the court at the initial proceeding to order a treatment plan that addresses problems affecting the child's school attendance. Provides that the court may order the parent to show cause why the parent should not be held in contempt of court for noncompliance with a court order issued against the parent or against the parent and the child.

**APPROVED** by Governor March 20, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-18** Charter schools act - revisions. Authorizes a charter school to organize as a nonprofit corporation. Clarifies that an approved charter application is to serve as the basis for a contract between the charter school and the local board of education. Provides that a new charter may be approved for a period of at least 3 but no more than 5 academic years, and that a charter may be renewed for a period not to exceed 5 years. Requires the governing body of a charter school to submit a renewal application to the local board of education no later than December 1 of the year prior to the year in which the charter expires. Requires the local board of education to rule on a renewal application no later than February 1 of the year in which the charter expires, or at a mutually agreed upon date.

**APPROVED** by Governor April 21, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**S.B. 97-29** National academic contests - travel expenses for state-level winners. Authorizes the department of education to distribute moneys to school districts to send state-level winners of academic contests to national-level contests to represent the state. Allows nonpublic school students and students participating in a home based education program within a district to receive such moneys from the district under certain circumstances.

Directs the state board of education to promulgate rules governing the distribution of said moneys using, at a minimum, specified criteria. Creates the national academic contest fund and specifies that bequests, gifts, and grants received for the purpose of sending students to national-level contests shall be credited to said fund. Allows moneys

appropriated by the general assembly to be credited to the fund.

Appropriates \$50,000 from the department of state cash fund to the national academic contest fund and appropriates said moneys to the department of education for implementation of this act.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** May 27, 1997

**S.B. 97-125** Fees - disclosures. Requires school district boards of education to have available on request a description of how the amount of any fee was derived. Requires any school board or public school publicizing a fee to clearly specify whether the fee is voluntary and any activity from which the student will be excluded if the fee is not paid.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** March 28, 1997

**S.B. 97-126** Boards of cooperative services - membership. For any board of cooperative services ("BOCES") that consists of a single school district and a single postsecondary educational institution, allows the board of education for the school district to appoint the superintendent of the school district to be a member of the BOCES. Specifies that the term of said member shall not exceed 3 years and that if said member ceases being employed by the school district during his or her term, a vacancy shall exist on the BOCES. Specifies that the governing board for the postsecondary institution may appoint the chief executive officer of the postsecondary institution, rather than any employee of the institution.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** May 21, 1997

**S.B. 97-153** Interscholastic activities - participation - appeals - arbitration. Prohibits schools and school districts from adopting or agreeing to be bound by rules that prohibit specified participation in extracurricular activities. Requires school principals to authorize a student to participate in an activity through an amateur association or league of which the school or school district is a member unless the student's participation would compromise academic class attendance or the student is academically ineligible to participate in any extracurricular activity according to the rules of the school.

Authorizes schools to charge a nonenrolled student not more than 150% of the amount the school charges an enrolled student to participate in the activity.

Authorizes any student sanctioned or determined to be ineligible to participate in any extracurricular activity to appeal the sanction or determination through the applicable process at the school or any league or association to which the school or school district belongs. Additionally authorizes the student at any time to submit the issue to binding arbitration before a group of judges or arbitrators approved by the school, school board, or league or organization to which the school or school district belongs. Directs the judge or arbitrator to consider whether the rule was properly applied and whether a waiver should be granted. Requires that a final decision be rendered within 30 days after filing for arbitration, and makes the judge's or arbitrator's decision binding on all parties. States that the cost of the arbitration shall be borne equally by the student and the association or organization to which the school belongs.

Excludes certain rules of a coach from the appeal and arbitration process. Such rules are those that are not contrary to statute and are uniformly applied to all team members.

Deletes statutory references to any association of schools that organizes or controls sanctioned extracurricular and interscholastic activities.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** March 28, 1997

**H.B. 97-1007** Capital construction - assistance program - school districts - matching grants. Establishes a school construction and renovation fund. Provides that moneys in the fund are to be used to make matching grants to school districts for capital construction projects. Declares the policy of the general assembly not to provide matching grants for any projects that have not been evaluated and included on the prioritized list prepared by the state board of education.

Allows matching grants for capital construction projects involving instructional facilities, including classrooms, libraries, physical plants, and administrative areas. Prohibits matching grants for athletic, recreational, or other noninstructional facilities.

Requires matching grant applications to be submitted by school districts to the state board of education no later than July 1 of each year. Declares the intent of the general assembly that, in applying for matching grants, school districts give consideration to the needs of both traditional public schools and charter schools. Directs the state board or its designees to review the applications and to prioritize them based on the relationship of the project to safety concerns, the relative wealth of the school district, the enrollment growth within the district, and whether the project will assist in incorporating technology into the educational environment. Authorizes the state board to prescribe the form of the applications, to request additional information, and to promulgate rules for the implementation of the program. Directs the state board to transmit its prioritized list of eligible projects to the joint budget committee and the education committees of the house of representatives and the senate no later than December 1 of each year. Provides that the joint budget committee shall determine the number of eligible projects that may receive matching grants, that only projects on the prioritized list may receive matching grants, and that the projects shall be funded in the priority determined by the state board.

Provides that it is the intent of the general assembly that the amount of a matching grant shall be no more than the difference between the school district assessed valuation per pupil and the statewide average assessed valuation per pupil, expressed as a percentage, multiplied by the cost of the capital construction project.

**VETOED** by Governor June 5, 1997

**H.B. 97-1058** Educator licensing - renewal - reinstatement - inactive status - appropriation. Deletes the requirement that the affidavit submitted by license applicants must be notarized. Requires persons who request issuance of a professional license or renewal of a license, endorsement, or authorization to submit an affidavit stating that the applicant has not been convicted of certain felonies or misdemeanors. States the general assembly's intent that the state board of education adopt the minimum amount of rules necessary to implement the least cumbersome process for educator licensing.

Clarifies that a professional licensee need not be employed as a professional educator during the term of the professional license and that employment as a professional educator is not a requirement for renewal of a professional license. Specifies that any professional development activities completed will apply to renewal of any professional educator licenses or endorsements the applicant may hold. Deletes the requirement that a professional licensee consult with an immediate supervisor in completing professional development activities. Prohibits the state board of education from adopting rules to require: Specific professional development activities; more than 6 credit hours or 90 actual hours of professional development activity; a completion schedule for professional development activity; or supervision or approval of professional development. Requires educators to select professional development activities that will assist the educator in achieving the standards for a professional educator. Lists several goals that are included in those standards.

Changes the current type IV authorization, transitional, to a type IV authorization, extension. Provides that, under this authorization, any licensed educator who, prior to expiration of an educator license, fails to complete the necessary professional development activities because of extreme hardship can continue teaching while completing the professional development activities. Allows issuance of the authorization only on a finding of hardship by the state board of education. Limits the authorization to one year unless the licensee can make a further showing of extreme hardship.

Establishes a procedure by which a person may reinstate his or her professional license after the department refuses to renew it. To reinstate a license, requires the license holder to pay a fee and to cure any defect that resulted in denial of the renewal, including completing any professional development activities if necessary. Specifies that, prior to reinstatement, the license holder is deemed to not hold a professional license or certificate. Prohibits the department from requiring any person who reinstates a license to demonstrate professional competencies as a condition of reinstatement.

Allows a professional educator licensee to convert the license to inactive status by delivering the license to the department of education. Clarifies that, while on inactive status, the licensee is considered unlicensed and is not required to complete professional development activities. Provides that, while on inactive status, expiration of the license is suspended and that when the license is returned to active status, it is valid for the period remaining on the license as of the date inactive status was assumed. Allows a licensee to return to active status by requesting the license from the department of education. Requires the department to issue a new license stamped with the new expiration date when the license holder returns to active status. Specifies that, if a person completes professional development activities while on inactive status, those activities may be used to renew the license so long as: The licensee submits evidence of completion of the activities; the activities meet the criteria adopted by the board of education; and the activities are completed within 5 years before the license expires.

Deletes the state board of education's authority to waive the requirement for professional development plans. Specifies that an educator may simultaneously hold varying types of educator licenses.

Clarifies that any provisional educator license is valid in a school district that does not offer an induction program if the induction program requirement is waived for that school district. Allows the state board of education to renew a provisional educator license for additional 3-year periods if the provisional licensee can demonstrate good cause for failure

to complete an induction program. Exempts any professional teacher license applicant who completes an induction program while teaching under an adjunct teacher authorization, an emergency authorization, or a temporary authorization from the requirement to complete the induction program as a provisional licensee. Exempts any professional educator license applicant from the induction program requirement if the school district in which the applicant is employed does not offer an induction program, but requires the applicant to complete whatever training requirements the school district may have.

Prohibits the state board of education from requiring any applicant for a professional educator license to demonstrate professional competencies if the applicant demonstrated professional competencies prior to obtaining a provisional educator license.

Authorizes the department of education to issue a professional teacher license to any person who obtains national certification. Broadens the provisional principal license requirements to allow 3 years' experience working with students as a licensed or certificated professional in a school, rather than considering only teaching experience. For purposes of identifying licensed administrators who may teach occasionally without maintaining a valid teachers license, broadens the requirements to allow 3 years' experience working with students as a licensed or certificated professional in a school, rather than considering only teaching experience. Deletes the provisions that require the state board of education to respond in writing to the professional standards boards when referring recommendations back to the boards. Repeals the minority alternative teachers fellowship program.

Appropriates \$25,550 to the department of education for implementation of the act.

**APPROVED** by Governor June 5, 1997

**EFFECTIVE** June 5, 1997

**H.B. 97-1108** Educators - approved program of preparation - requirements. Specifies that approved preparation programs for school principals and school district administrators shall include proficiencies in the principles of business management and budgeting practices and in the analysis of student assessment data and its use in planning for student instruction.

Instructs the Colorado commission on higher education to adopt policies requiring any institution of higher education that offers such an approved preparation program to include said proficiencies. Prohibits the institution from increasing either the amount of course work in the program or the cost of the program as a result of including said proficiencies.

**APPROVED** by Governor March 20, 1997

**EFFECTIVE** March 20, 1997

**H.B. 97-1117** Teachers - contracts - resignation, renewal, and nonrenewal. Provides that a teacher or chief administrative officer must give written notice to a school district that he or she will not fulfill the obligations of said person's employment contract for the succeeding academic year no later than 30 days prior to the commencement of the succeeding academic year.

Provides that a full-time probationary teacher must notify a school board of his or her rejection of reemployment for the succeeding academic year no later than 30 days prior to the commencement of the succeeding academic year.

**APPROVED** by Governor April 21, 1997

**EFFECTIVE** August 15, 1997

**H.B. 97-1146** Educational interpreters for the deaf - standards. Creates an interpreter standards committee in the department of education for the purpose of making recommendations to the state board of education on the minimum standards for educational interpreters for the deaf in the public schools. Lists the items to be studied by the committee. Requires the committee to submit a final report to the state board of education on or before December 31, 1997. Abolishes the committee on July 1, 1998.

Directs the state board of education to promulgate rules setting minimum standards for persons employed by or in school districts as educational interpreters for the deaf.

On or after July 1, 2000, requires any person employed as an interpreter for deaf students in the public schools on a full-time or part-time basis to meet the minimum standards for educational interpreters for the deaf as established by rules of the state board of education.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** March 24, 1997

**H.B. 97-1174** Exceptional children - placement - disruptive students - pilot schools. Provides that the "least restrictive environment" does not include an environment in which the nature or severity of a child's disability is so disruptive that the education of other students in a regular classroom would be significantly impaired, even when the disabled child is provided supplementary aids and services.

Requires that the placement committee utilize guidelines recommended by the department of education to determine the least restrictive environment for placement of a child with a disability. Allows the placement committee to consider the cost to the school district when choosing between 2 or more appropriate placements for a child with a disability.

If the teacher determines that the presence of a child with a disability in the classroom is so disruptive that the education of other children is being significantly impaired, the teacher may use the district's regular in-school disciplinary procedure unless it would be inconsistent with the child's individual educational program or may request a review of the individual education program or behavior plan to consider changes in services or placement.

Reduces the cap on the number of full-time residential pilot schools for students who are expelled from 2 to 1. Increases the cap on the number of year-round nonresidential pilot schools from 2 to 3.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1200** School finance - special building and technology fund. Expands the school district special building fund to allow moneys in the fund to be used for acquiring, as well as constructing, a building and for purchase and installation of instructional and informational technology. Specifies that purchase of such technology includes expenditures for software and staff training related to the new technology. Changes the name of the fund

to the special building and technology fund.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** March 24, 1997

**H.B. 97-1203** School district reorganization - requirements - full 12-grade education program. Requires that a school district plan of organization include a provision that the reorganized school district or districts will provide a full 12-grade education within the boundaries of the reorganized district.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** March 24, 1997

**H.B. 97-1210** Charter schools - funding level. Beginning July 1, 1998, requires the charter school and the school district to agree in the charter school contract on the level of funding and the services to be provided by the school district. Specifies that the combination of funding and services shall equal at least 95% of the district per pupil operating revenues multiplied by the number of pupils enrolled in the charter school. Authorizes the charter school to choose those services that it will purchase, at cost, from the school district. Prohibits a school district from requiring a charter school to pay rent for space within school district facilities that the school district board of education deems available. Recognizes that costs for the use, operation, and maintenance of facilities used by the charter school are subject to negotiation between the charter school and the school district.

**VETOED** by Governor June 5, 1997

**H.B. 97-1219** Educational accountability - consolidation of statutes - abolition of state accountability advisory committee. Consolidates the statutory sections on educational achievement with the sections on educational accountability. Abolishes the state accountability advisory committee.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1249** School finance - extracurricular activities - PERA contributions - charter school approval - expelled students services - special education - assessments - appropriations. Increases statewide base per pupil funding from \$3,568 to \$3,667. Deletes the provision requiring the minimum per pupil funding amount to be increased annually by an amount equal to at least 85% of the percentage increase in statewide base per pupil funding. Requires that, for the 1997-98 budget year, such amount be increased by the difference between the district's per pupil funding for the 1997-98 budget year and the school district's per pupil funding for the 1996-97 budget year as determined under the regular



formula. Sets forth the formula for determining such increase for the 1998-99 budget year and thereafter. Defines "per pupil funding".

Increases the at-risk factor from 11% to 11.5% for purposes of determining the amount of funding a school district will receive for its at-risk pupils. Stipulates that every school district receiving at-risk funding for the 1997-98 budget year and thereafter expend no less than 75% of such funding on direct instruction or staff development, or both, for teaching at-risk pupils.

Replaces current provisions in the school finance act (the act) relating to the determination of a reorganized district's size factor with new provisions based upon whether the size factor of the new district or districts is less than or greater than the size factor of the original district or districts.

Deletes the provision that allows school board members and other officers or employees to be held personally liable for knowingly and willfully certifying a levy in excess of that allowed by the act.

Allows the state treasurer, in accordance with written directions from a school district, to make a distribution from the state public school fund directly to an account designated by the district that allows the district to retain title to the funds.

For purposes of the definition of "at-risk pupils", changes the definition of "district pupils eligible for free lunch" to exclude the restriction that eligibility be determined based upon the federal law in effect on July 1, 1994. Deletes the provision allowing school districts to elect to count at-risk pupils on October 15 of the applicable year or the school day nearest that date.

Modifies the definition of "funded pupil count" to mean the greater of the district's pupil enrollment for the applicable budget year or the average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the 2 immediately preceding budget years.

Modifies the provision concerning the insurance reserve requirement to allow school districts to establish a separate fund or account in the general fund for risk management purposes.

For the 1997-98 budget year, increases the amount required to be allocated to instructional supplies and materials, capital outlay, and other instructional purposes from \$130 to \$134 per pupil. For the 1998-99 budget year and budget years thereafter, requires that such amount be increased by the same percentage as statewide base per pupil funding. Reduces the amount of such moneys that may be used for staff development from 20% to 10%. For the 1997-98 budget year, increases the amount required to be allocated to the capital reserve fund, to a fund or account within the general fund for the purpose of risk management, or among such fund or accounts from \$210 to \$216 per pupil. For the 1998-99 budget year and budget years thereafter, requires such amount to be increased by the same percentage as the statewide base per pupil funding.

Prohibits any school or school district that receives funds under the act from belonging to an organization or association or enforcing a rule of a coach or principal that would deny a student the ability to participate in any school or interscholastic activity due to the student's

participation in lawful activities during out-of-school hours and off of school property.

Directs the Colorado economic development commission, on or before October 1, 1997, to make recommendations to the governor and general assembly regarding methods of evaluating the need to limit state economic development programs that allow decisions made by local governments to adversely affect the amount of general fund revenue that would otherwise be used to finance public schools.

Decreases the employer contribution rate to the public employees' retirement association (PERA) from 11.6% to 11.5% for the school division. For the 1997-98 budget year and budget years thereafter, requires the difference between the district's total employer contribution rate to PERA as calculated at 11.6% and as calculated at 11.5% to be credited to a capital construction account in the general fund.

Modifies the provision requiring interest earned on certain moneys transferred to the public school fund to be retained in the fund. Requires all interest earned on the fund to be credited to the public school income fund and periodically transferred therefrom to the state public school fund.

For the 1997-98 budget year, 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, 1997, and that they be reviewed and approved by an auditor for the district.

Amends the "Charter Schools Act" to provide that a charter school must apply to, and be granted a charter from, a school district. Prohibits a charter school from applying to or being granted a charter from a school district unless a majority of the charter school's pupils reside in the chartering school district or in school districts contiguous thereto.

Requires a school district, upon request of a student or the student's parent or guardian, to provide services to any student expelled from such school district to enable the student to return to school or complete the GED. Provides that such services shall be provided by the expelling school district unless such district expelled less than 50 students the preceding year. Allows a school district that expelled less than 50 students the preceding year to provide such services in conjunction with one or more school districts, boards of cooperative services, or pilot schools. Establishes in the department of education the expelled student services grant program to provide moneys to school districts and pilot schools for purposes of funding said services for expelled students. Sets forth the criteria for the state board of education to consider when awarding such grants.

Amends the "Colorado Pilot Schools Act" to allow pilot schools to enter into agreements with a school district or board of cooperative services to provide services to expelled students to enable such students to return to school or complete the GED. Clarifies that students receiving educational services from a pilot school pursuant to such agreement shall not be considered enrolled at the pilot school or subject to the pilot school's admission requirements. Allows pilot schools to apply for grants under the expelled student services grant program.

For the 1997-98 budget year, provides for the distribution of \$49,800,756 to each

school district or board of cooperative services that maintain special education programs in proportion to the amount of funding appropriated and received by the district or board for the 1994-95 budget year. Establishes a formula for distributing any increase in the appropriation made to the department of education for special education programs for the 1997-98 budget year and budget years thereafter based on the percentage of children with disabilities residing in the school district divided by the total number of children with disabilities statewide.

Creates the Colorado assessment program and, in connection therewith, directs the department of education to implement, beginning with the 1997 spring semester, statewide assessments adopted by the board of education in the areas of reading, writing, mathematics, and science. Directs the state standards and assessments development and implementation council to develop and recommend to the board state assessments in said subject areas. Establishes an implementation schedule for the administration of assessments under the program. Requires the department to prepare an annual report on the assessments and submit such report to the education committees of the house of representatives and the senate and to the governor. Specifies the contents of the report. Requires the board to specify the time by which a district shall begin to assess students in subject matters other than reading, writing, mathematics, and science.

Allows the department to fund the student assessment program with moneys appropriated by the general assembly for public school finance, total program, subject to the limitation set forth in the annual general appropriations bill. Appropriates \$1,600,000 to the department of education for the implementation of the student assessment program for the 1996-97 fiscal year and \$1,800,000 for the 1997-98 fiscal year.

Adjusts the appropriation for the state aid school finance payments for the 1997-98 budget year to decrease the general fund appropriation, total program, by \$9,237,485 and to increase cash fund exempt appropriations, total program, by \$9,025,872 and by \$6,406,731 from reserves in school lands and federal mineral lease revenues. Increases the appropriation for special education by \$4,737,485. Increases the appropriation for gifted and talented children by \$1,000,000. Appropriates \$3,500,000 for the expelled student services grant program.

**APPROVED** by Governor April 30, 1997

**EFFECTIVE** April 30, 1997

**H.B. 97-1253** Commission for achievement in education - abolition. Abolishes the Colorado commission for achievement in education. Includes the graduate education and research study in the statewide higher education enrollment plan to be adopted by the Colorado commission on higher education.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.



## EDUCATION - UNIVERSITIES AND COLLEGES

**S.B. 97-15** Governing boards - cash funds - state treasury management fees. Creates the board of trustees for the university of northern Colorado fund, the trustees of the state colleges in Colorado fund, and the state board for community colleges and occupational education fund. Exempts the funds from state treasury management fees.

**APPROVED** by Governor April 14, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-28** Colorado commission on higher education - student fee policies. Requires the Colorado commission on higher education to establish separate fee policies for bond redemption fees, administrative fees unrelated to a specific academic course, and student purpose fees other than permanent student purpose fees.

For bond redemption fees, allows assessment of user fees and portions of general student fees for repayment of bonds issued for auxiliary facilities. Allows cross-pledging of the revenues from such fees, with specified limitations. Requires the fees assessed for repayment of bonds to be discontinued or reduced upon repayment of the bonds. Requires itemization of bond repayment fees, including itemization of the portions of general student fees used for repayment of bonds, on student billing statements. Provides that use of any surplus remaining in revenues collected through auxiliary facility fees shall be subject to review by representatives of student government.

Allows fees relating to administrative costs for specific academic courses to be imposed or increased without a vote of the student body. Requires student body approval of fees that cover administrative costs that are not related to specific academic courses. Requires itemization on student billing statements of all administrative cost fees.

Requires approval by the student body of fees related to student purposes other than permanent student purposes. Requires new student purpose fees to include an expiration date. Requires itemization on student billing statements of all student purpose fees.

Instructs institutions of higher education to refund upon request any fees imposed through a negative check-off. Prohibits further consideration of any fee that was defeated at a student election until the next regularly scheduled student body election. Includes the Auraria higher education center in the definition of "institution of higher education", and deletes separate references to the Auraria higher education center.

Specifies limitations on whether an auxiliary facility that is designated as an enterprise may pledge internal revenues. Deletes certain auxiliary facilities from and adds the Lowry enterprise to the list of auxiliary facilities that are designated as enterprises.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1028** Student admissions - percentage of resident students - Western state college. Continues the provision that allows western state college to maintain a 60% ratio of in-state to out-of-state students.

**APPROVED** by Governor March 20, 1997

**EFFECTIVE** March 20, 1997

**H.B. 97-1218** Colorado water resources institute - extension - advisory committee - fund. Replaces the advisory council on water resources research policy with an advisory committee on water research policy of not less than 10 members appointed by the director of the Colorado water resources research institute. Specifies that members of the committee are appointed for terms of 4 years and do not receive compensation or reimbursement of expenses. Sets forth the duties of the advisory committee.

Establishes a water policy research fund which consists of donations accepted by the institute. Authorizes the institute to expend moneys from the fund to further the institute. Specifies that interest on the fund remains in the fund and that moneys in the fund do not revert to the general fund at the end of a fiscal year.

Extends the Colorado water resources research institute for another 10-year period.

**APPROVED** by Governor May 16, 1997

**EFFECTIVE** May 16, 1997

**H.B. 97-1341** Tenure - post-tenure review policies. Requires each governing board to establish a post-tenure review policy under which each tenured faculty member receives a performance evaluation at least every 5 years. Specifies minimum considerations to be included in the evaluation. Requires each institution, in applying the considerations, to take into account the statutory role and mission of the institution.

Provides that any faculty member whose performance is found to be unsatisfactory shall complete a performance improvement plan designed by the institution and be reevaluated within 3 years. Specifies that any faculty member whose performance does not improve is subject to sanctions, including loss of tenure. Requires the institution to terminate the employment of any faculty member who loses tenure. Specifies that the post-tenure review policy shall provide due process to faculty members at each stage of review.

With regard to tenure eligibility requirements, directs each governing board to make exceptions under any requirement of continuous employment for faculty members who take extended maternity or parental leave or who take extended leave because of a disability or an emergency situation.

Allows a governing board, in delegating to the chief executive officer of an institution authority over personnel matters, to authorize the chief executive officer to further delegate such authority to other officers of the institution.

**VETOED** by Governor June 5, 1997

**H.B. 97-1352** Funding - policy areas - repeal. Repeals the provisions instructing the general assembly to identify 5 policy areas in higher education for additional funding, and repeals provisions specifying those areas for the 1994-95, 1995-96, 1996-97, and 1997-98 fiscal years.

**APPROVED** by Governor June 5, 1997

**EFFECTIVE** June 5, 1997



## ELECTIONS

**S.B. 97-31** Recall elections - petition requirements - election date and cost - candidate's statement - constitutional requirements. Prohibits the filing of a recall petition against an elected officer whose term will expire within 6 months. Eliminates the inconsistency regarding where a petition to recall a state officer should be filed. Requires a petition to recall a school district officer to be signed by 40% of the eligible electors of the school district who voted in such district, rather than who voted for school directors, at the last preceding election at which the director to be recalled was elected. If no such election was held, requires the petition to be signed by at least 10% of the eligible electors residing within such district on the date the petition form is approved.

Specifies that the number of signatures required for a petition to recall nonpartisan officers other than state or county officers or school district officers is determined at the time the petition form is approved. Eliminates the duty of the secretary of state to approve or disapprove the form of recall petitions other than petitions to recall state officers. Allows a recall petition to be filed at any time during the 60-day period after the designated election official has approved the petition form. Requires the designated election official to determine the sufficiency or insufficiency of the petition within 10 working days following the initial filing thereof. Changes the filing period for a petition protest from 15 days after the petition or an amendment is filed to 15 days after the determination of the sufficiency or insufficiency of the petition. Rather than allowing a committee named on the petition to withdraw an insufficient petition, allows a petition to be amended once at anytime within 60 days from the date the petition form was approved. Before an election official certifies the sufficiency of a petition, clarifies that the time for protest must elapse.

Requires a governing body to set a recall election date not less than 45 days, rather than 30, and not more than 75 days, rather than 60, from the date of the determination of sufficiency. Specifies when a statement of justification may be filed by the officer sought to be recalled. Changes the filing period for nomination petitions and affidavits of intent to run as a write-in candidate from no later than 15 days after the petition is found to be sufficient to 15 days after the date on which the governing body convenes and sets the election date.

To the extent that the statutory provisions governing the recall of state officers conflict with the constitutional provisions relating thereto, specifies that the constitutional provisions will control.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** May 27, 1997

**S.B. 97-204** Ballot information publication and distribution revolving fund - creation. Establishes the ballot information publication and distribution revolving fund to be used by the legislative council of the general assembly to pay costs incurred in the publication of the text and title of all initiated and referred measures in every legal newspaper in the state and costs incurred in the distribution of the ballot information booklet to residences of Colorado registered electors. Provides that moneys be appropriated to the fund each year in the general appropriation act and that unexpended moneys shall remain in the fund and not revert to the general fund.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** April 19, 1997



**S.B. 97-223** Ballot issues - comments - filing deadline - transmittal of ballot issue notices. Referendum B was adopted at the 1996 general election and amended the provisions of section 20 of article X of the state constitution to require the mailing of a ballot issue package 30 days, instead of 15 to 25 days, before a ballot issue election and the filing of written comments supporting or opposing the measure with the election officer 45 days, instead of 30 days, before the election. This act makes the following amendments to conform certain provisions of the "Uniform Election Code of 1992" to the amendments in Referendum B:

- Instead of requiring that comments be filed on the Friday before the 30th day before an election since the 30th day before such an election is always a Sunday, requires such a filing on the Friday before the 45th day since the 45th day is always a Saturday.
- Requires petition representatives to submit a summary of comments in favor of the petition 43 days, instead of 28 days, before the election.
- Requires delivery by the designated election official to the county clerk and recorder of the text of any required ballot issue notices 42 days, instead of 25 days, before the election.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** May 27, 1997

**H.B. 97-1031** Partisan primary elections - combination of precincts. Allows counties to combine precincts for any partisan primary election upon approval of the board of county commissioners. Requires those counties that choose to combine precincts to publish polling place locations.

**APPROVED** by Governor February 20, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1234** Registration of electors. Makes various revisions to the provisions on qualification and registration of electors and the establishment of precinct polling places in the "Uniform Election Code of 1992" (the "Code"). Makes conforming amendments arising from certain revisions.

Creates a new part on cancellation of registration containing the following relocated provisions, with amendments:

**Withdrawal of registration.** Consistent with the provisions on registering to vote, allows withdrawal or cancellation of registration by filing a self-affirmation rather than by an oath and affidavit.

**Deceased electors.** Removes a deceased person's precinct number and date of registration from the information required to be provided by the state registrar to the secretary of state. Requires the secretary of state to send each clerk and recorder information on deceased persons on a monthly, rather than quarterly, basis. Modifies clerk and recorders' duties in connection with registration records of deceased electors and replaces references to "purge" with "cancel". Allows clerk and recorders to make such cancellation under certain circumstances without written notice.

**Change of residence - multiple registration.** In connection with registration of electors who are registered in another county, eliminates use of the statewide electronic registration system to transmit registration information to an elector's prior county of residence and the signing of a "notice of registration" form. Eliminates the secretary of state's duty to notify clerk and recorders of duplicate records. Deletes the clerk and recorder from those persons who provide notice of registration to the clerk and recorder of the county of prior residence. Requires the secretary of state to provide notification of multiple registrations on a monthly basis and the list of electors having multiple registration 15, instead of 8, days before an election. Adds odd-numbered year elections to the list of elections provided to county clerk and recorders by the secretary of state. Requires cancellation of registration in the county of prior residence when certain information matches.

**"Active" and "Inactive" status for electors.** Changes when elector information cards are mailed by the county clerk and recorder and specifies that such cards are mailed to active registered electors. Requires such cards to be mailed by forwardable mail instead of nonforwardable mail. Makes designation of an elector's registration record as "inactive" discretionary, rather than mandatory, when such card is returned as undeliverable.

Modifies the elections that an "Inactive" elector may vote in and the locations and elections at which an elector may change from "Inactive" to "Active" status. Eliminates the clerk and recorders' duties in connection with certain returned mail and absentee ballots. Requires that an "Inactive" elector must vote in any election conducted by the clerk and recorder, rather than 2 consecutive elections, to be deemed "Active".

Changes "continuance card" to "confirmation card" and changes when such cards are mailed. Modifies the contents of a confirmation card and when an inactive elector's registration is canceled for lack of response to such card. Changes when the list of electors whose names were canceled is furnished to county chairpersons.

**Felony conviction.** Provides for notice to the secretary of state by the United States attorney of the conviction of an elector of a felony in federal court. Requires the secretary of state to notify the county clerk and recorder of the county where the offender resides and for the county clerk and recorder to cancel the registration of such elector.

Makes the following changes to provisions relating to registration of electors, the master list of electors, call and notice of an election, and mail registration and registration at voter registration agencies:

Deletes deferred registration and specifies that registration may be made with the clerk and recorder or municipal clerk at any time but that only those electors who are registered to vote for at least 29 days before an election may vote at that election. Allows registration at any office maintained by the county clerk and recorder. Specifies that the registration of a nonresident must be forwarded to the clerk and recorder of the county of residence. Makes

a conforming amendment to the questions answered by an elector related to elimination of signing a notice of registration form.

Eliminates mobile registration sites. Clarifies that changes to voter registration made at driver's license examination facilities during the last week for registration must be forwarded on a daily basis to the appropriate county. Allows an elector to make a change of address prior to an odd-numbered year election with the clerk and recorder and at the polls. Deletes the election judge signature requirement in connection with such a change.

Removes the date of naturalization from those items kept on the master list of electors. Requires the clerk and recorder to transfer a list of registered electors to the secretary of state prior to odd-numbered year elections. Modifies the information that the county clerk and recorder transmits to the secretary of state each month in connection with maintenance of the master list. When an elector is registered in more than one precinct, requires, rather than allows, the elector to vote in the precinct of most recent registration. Deletes certain procedures related to registration in multiple precincts.

Specifies the date of registration when a timely received registration by mail has no postmark. Replaces reference to "continuation" notice with "confirmation" notice.

Requires the voter information card to be mailed 25 days before the general election, rather than between 29 days before and 30 days after the primary election.

Conforms the pertinent municipal election provision to the election code change that specifies that registration may be made with the county clerk and recorder or municipal clerk at any time.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1235** Election ballots - conduct of elections - mail ballot elections - absentee voting - early voting - counting ballots - ballot issue explanation. Adds primary and odd-numbered year elections to those elections for which the county clerk and recorder provides ballots. Changes when the ballots must be printed and in the possession of the county clerk and recorder prior to such elections.

Makes the division of a ballot into a stub and a duplicate stub discretionary rather than mandatory. Specifies that a duplicate stub is not required for a ballot prepared for a mail ballot election. Eliminates requirements relating to detaching and initialing the duplicate stub by the election judge. Modifies ballot privacy envelope requirements related to stubs. Eliminates, as preliminary requirements to the elector's depositing a ballot in the ballot box, delivery of the ballot to the election judge, announcement by the judge of the elector's name, and matching the stub number against the registration list.

Changes those electors who are mailed a mail ballot packet from eligible electors to active registered electors. Adds electors who are listed as "Inactive" to those electors who may obtain a mail ballot at the designated election official's office.

Modifies the return envelope that is delivered with absentee ballot materials. Replaces writing or stamping the elector's ballot stub number on the elector's registration record with recording the ballot number before transmittal of an absentee ballot or allowing

the elector to vote. Eliminates the absentee ballot stub number from information included on the list of absentee ballots.

Deletes "ADDRESS CORRECTION REQUESTED" from the required marking on an envelope containing absentee ballot materials. When absentee ballots are sent to a group facility, eliminates a request by a major political party as a prerequisite to having a committee representing the county clerk and recorder and the major political parties deliver and return such ballots, and requires such committee to include political party representatives only if available.

Modifies the notation made by the designated election official on an envelope containing an absentee ballot. Permits requests for emergency absentee ballots to be made by 7 p.m., instead of 5 p.m., on the day of the election. Eliminates verification of an elector's name by comparing the name on the return envelope containing the absentee ballot with the office precinct record.

Reduces the period of time during which early voting is available from 21 days to 10 days before a presidential primary election or a primary election and from 21 days to 15 days before a general election. Allows a county clerk and recorder, under certain circumstances, to establish additional early voters' polling places.

Eliminates the requirement that an election judge announce the name of the absentee voter before opening an absentee ballot. Allows an election judge to verify the name of an absentee voter in the pollbook.

Specifies that the explanatory language on the ballot preceding ballot issues is printed one time at the beginning of those measures.

**APPROVED** by Governor March 31, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1354** Reapportionment computer systems - appropriation. Directs the legislative council to develop a computer system for use in court-ordered reapportionment. Authorizes contracts for hardware, software, and computer services. Directs that the data base include 1990 population figures, 1988 and 1990 election data, and the geographic area encompassed by house districts 44, 45, 46, 47, 60, and 61. Requires the system to be ready for use during the 1997 interim. Appropriates \$400,000 out of the general fund to the legislative council for the development of the computer system.

In order to facilitate the preparation of a computer data base for use in reapportionment after the census in the year 2000, requires counties to establish precinct

boundaries which shall remain in effect for the next two general elections. Provides that such precincts shall be established no later than 29 days prior to precinct caucus day in 1998, or, in counties affected by the court-ordered reapportionment, within 2 weeks after court approval of the reapportionment plan. Allows subdivision of such precincts within established boundaries.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** May 27, 1997

## FINANCIAL INSTITUTIONS

**S.B. 97-57** Public deposits - eligible collateral - letters of credit. Adds irrevocable and unconditional standby letters of credit that are issued by a federal home loan bank and that satisfy certain criteria to the types of collateral that may be used by savings and loan associations that hold public deposits in excess of the amount protected by federal deposit insurance.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** March 28, 1997

**H.B. 97-1165** Banking - trust company capital calls. Authorizes the state bank commissioner, with the approval of the banking board, to issue capital calls for trust companies in the case of capital inadequacy. Specifies procedures for collecting assessments levied pursuant to such a capital call and the terms of liability of trust company shareholders.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** March 28, 1997

**H.B. 97-1191** State financial services board - final orders - appeals. Authorizes any person not regulated by the division of financial services who is directly affected by a final order of the financial services board to appeal such final order to the Colorado court of appeals.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

## GENERAL ASSEMBLY

**S.B. 97-102** Sunset review of advisory bodies - continuation. Continues the following state advisory bodies scheduled for repeal July 1, 1997: The Colorado municipal bond supervision advisory board and the state capitol building advisory committee.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** March 24, 1997

**S.B. 97-110** Sunset review of advisory committees - continuation of state medical assistance and services advisory council. Continues the state medical assistance and services advisory council.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** March 24, 1997

**S.B. 97-216** Repeal of obsolete or redundant laws. Repeals the following laws as unneeded based upon the law's obsolescence or the law's redundancy:

- 23-60-104 (3), concerning the appointment of a state council for the purpose of advising the state board for community colleges and occupational education in carrying out the board's responsibilities regarding occupational education;
- 24-30-206, concerning the submittal of annual work programs to the governor by the head of each department of the executive branch of state government;
- 24-34-904 (1) (m), concerning the duty of the office of regulatory reform to provide and coordinate information and assistance in conjunction with the Colorado joint review process;
- 26-4-109, concerning the state department of human services obtaining waivers for counties wishing to study the feasibility of "The Colorado Care Health Insurance Program";
- 27-1-204 (2), (3), and (7), concerning community mental health services purchased from providers approved by the executive director department of human services;
- 27-13-104 and 27-13-106 through 27-13-108, concerning the establishment of and funding for the special intensive treatment demonstration unit at the Colorado mental health institute at Pueblo;
- 32-10-103, 32-10-106 through 32-10-138, 32-10-174, 32-10-178, and 32-10-179, concerning the three lakes water and sanitation district.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** May 27, 1997

**S.B. 97-220** Review of executive and judicial branch reporting requirements. As a result of the legislative review of reporting requirements, repeals requirements in titles 4 through 12 and articles 1 through 5.5 of title 13, Colorado Revised Statutes, for certain periodic reports to be filed with the general assembly by executive and judicial branch agencies that were

scheduled to expire on July 1, 1997. Continues the reporting requirement for the filing of reports by the governor's office concerning economic development programs.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** June 3, 1997

**S.B. 97-221** Review of executive and judicial branch reporting requirements. Changes requirements for the filing of reports by the governor's office concerning economic development programs from quarterly to annually. Specifies that such reports shall be submitted to the joint budget committee and made available to the full general assembly rather than submitted to the joint budget committee and the business affairs and labor committees of the senate and house of representatives. (NOTE: The requirement for the filing of the report itself was to expire on July 1, 1997, but was continued in SB 97-220.)

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** May 27, 1997



## GOVERNMENT - COUNTY

**S.B. 97-10** Compensation of elected county officers. Fixes the salaries of county officers whose term of office begins on or after January 1, 1999. Repeals the statutory provision requiring category II counties with 5 persons serving on its board of county commissioners to apportion the compensation for county commissioners so that the aggregate amount of salaries is the same as if the county had 3 commissioners on the board. Changes the category classification of several counties for compensation purposes.

**APPROVED** by Governor April 8, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**S.B. 97-21** County retirement plans - investment of funds - board composition. Sets forth the types of investments that can be made by a retirement board of a county officers' and employees' noninsured trust retirement plan of an individual county. Modifies the provisions governing the types of investments that can be made by a retirement board of a noninsured trust retirement plan of an association of counties. Provides that such investment limitations shall not apply to investments that are self directed by participants in said plan. Authorizes the inclusion of the following entities in a pension plan or system of retirement benefits established by a county or counties: county departments of health and social services; certain library districts located in whole or in part within those counties; and district attorneys' offices serving those counties. Specifies the composition requirements for boards of retirement of individual county retirement plans.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** March 28, 1997

**S.B. 97-212** County sheriffs - qualifications. Establishes qualification and training requirements for county sheriffs pursuant to the authority granted to the general assembly as a result of the approval by vote of section 8.5 of article XIV of the Colorado constitution at the November 5, 1996, general election. Provides for the enforcement of such requirements, including the suspension of a sheriff's pay in the event such sheriff fails to comply with such requirements.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** May 21, 1997

**S.B. 97-217** Limitation on sales and use tax - exemption for additional county sales and use tax to fund health service district. Specifies that any additional increment of sales tax or use tax imposed by any category IV or category V county for the purpose of funding the operations of any health service district within such county is exempt from the 7% limitation on the total sales or use tax imposed by the state, counties, and municipalities. Limits the increment of such sales tax or use tax to a maximum rate of one percent. Allows the board

of county commissioners to terminate any such tax after notice to the health service district and a public hearing thereon. Specifies that the termination date for any such tax is not less than 6 months after the board's decision.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** June 3, 1997

**H.B. 97-1026** Standards for documents filed in clerk and recorder's office. Requires documents recorded or filed with the county clerk and recorder to contain a top margin of at least one inch and a left, right, and bottom margin of at least ½ of an inch. Allows the clerk and recorder to refuse to record or file documents not conforming to the specified requirements. Until September 1, 1998, specifies that the requirement for the top margin does not apply to documents using forms on which space is provided for recording or filing information at the top margin of the document.

**APPROVED** by Governor April 8, 1997

**EFFECTIVE** September 1, 1997

## GOVERNMENT - LOCAL

**S.B. 97-47** Property rights - land use approvals - conditions - actions by landowners. Declares that the right to own and use private property is fundamental, 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 local governments, when imposing conditions upon land use approvals, from requiring a landowner to dedicate land to the public or pay a specific amount of money to a public entity except when:

- There is an essential nexus between the dedication or payment and a legitimate local government interest; and
- The dedication or payment is roughly proportional, both in nature and extent, to the impact of the owner's proposed use or development of the property.

Requires a local government to base any requirement for such dedication or payment on duly adopted standards that ensure rational and consistent application of the requirements.

Gives property owners the right to seek a court order relieving them of the duty of complying with a requirement for dedication of land or payment of money that does not meet the statutory standards. Places the burden of proof on the local governmental entity involved in any such action.

States that nothing in these provisions shall affect the ability to bring an action under existing eminent domain statutes or limit claims under constitutional due process guarantees, but requires an action under the act to be combined with any pending action under Rule 106(a)(4) of the Colorado Rules of Civil Procedure. States that the authority of local governments to regulate land use under other laws shall not be limited except as expressly provided in these provisions.

**VETOED** by Governor May 5, 1997

**S.B. 97-69** Sales and use tax - use of precinct locators for collection purposes. Allows public utilities to rely upon precinct locators when determining whether to collect local sales or use taxes. Defines "precinct locator" as the record maintained by a county clerk and recorder and used to determine the jurisdiction within which an address is located for voting purposes and, for commercial or industrial addresses, includes the record used to determine the jurisdiction within which an address is located for the purpose of remitting sales or use tax on motor vehicles.

Provides that no penalty or interest shall be charged and that no action for deficiency shall be maintained against a public utility if the public utility relied in good faith upon the most recently updated version of a precinct locator in making a determination as to whether to collect a particular local sales or use tax. Specifies that a public utility will not be exempt from penalties, interest, or an action for deficiency if the public utility was informed in writing prior to a taxable transaction that the precinct locator was inaccurate and the public utility was given correct information.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** April 24, 1997

**S.B. 97-132** Emergency services - 9-1-1 access - public safety answering points - funding mechanisms - charges for wireless carriers. Declares that dialing 9-1-1 is the most effective and familiar way the public has of seeking emergency assistance and that extending the availability of 9-1-1 service to users of wireless (e.g., cellular) phones is in the public interest.

Defines and directs the implementation of wireless automatic location identification (wireless ALI) and wireless automatic number identification (wireless ANI).

Authorizes local governments to impose a charge for the support of public safety answering points (PSAPs) on wireless communications access, in the same manner and subject to the same 70 cents-per-month cap as for the existing charge on wireline exchange access facilities. Requires parity between the charges imposed on wireless and wireline access. Removes the current prohibition on imposing such charges on more than 100 exchange access facilities within a governing body's jurisdiction.

Includes resellers in the definition of "service suppliers" who must collect and remit charges for the support of PSAPs. Limits expenditure of moneys collected through such charges to the purchase, installation, and maintenance of equipment and other directly related costs of operating a PSAP, excluding personnel costs except in counties of 50,000 or less operating PSAPs under intergovernmental agreements.

Requires that wireless carriers and basic emergency service providers (BESPs) be reimbursed for the equipment they must purchase to provide wireless ANI and wireless ALI at the request of local governments.

Grants BESPs and service suppliers, and their employees and agents, immunity from liability for violations of privacy, personal injury, and other claims arising out of the operation of PSAPs except where injury is caused through intentional or grossly negligent conduct.

**APPROVED** by Governor April 30, 1997

**EFFECTIVE** April 30, 1997

**H.B. 97-1093** Local government master plans. Provides that in creating the master plan of a county or region, the county or regional planning commission may take into consideration the availability of affordable housing within the county or region. Encourages counties to examine regulatory impediments to the development of affordable housing. Declares that county, regional, and municipal master plans are advisory only. Allows counties or regional planning commissions to include in their master plans designated utility corridors to facilitate the provision of utilities to all developments in the county or region. Adds affordable housing to the list of considerations that a municipal planning commission is to take into account when preparing a master plan.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** April 24, 1997

## GOVERNMENT - MUNICIPAL

**S.B. 97-166** Volunteer firefighter pensions - benefits for retired volunteer firefighter returning to active service. Allows a retired volunteer firefighter, subsequent to retirement, to serve as a volunteer firefighter of a fire department when a governing body of a municipality, fire protection district, or county improvement district determines that the fire department is in need of additional volunteer firefighters. Allows such retiree returning to active service as a volunteer firefighter to continue to receive pension benefits from the volunteer firefighter pension fund. During the period such retiree is receiving a pension and acting as an active volunteer firefighter, prohibits the retiree from receiving service credit for the purpose of increasing such pension. Specifies that such retiree returning to active service is considered an employee for purposes of the "Worker's Compensation Act of Colorado".

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** March 28, 1997

**H.B. 97-1006** Fire and police pensions - management of assets. Authorizes the trustees of the following fire and police pension plans and funds to manage and invest plan and fund assets pursuant to the "Uniform Prudent Investor Act":

- Old hire pension plans that are not affiliated with the fire and police pension association.
- Exempt alternative plans that are not affiliated with the fire and police pension association.
- The fire and police members' benefit fund.
- The fire and police members' statewide money purchase plan benefit fund.
- Withdrawn local alternative pension plans.
- The fire and police members' money purchase plan benefit fund.

In conformance with this authorization, deletes specific provisions relating to trustee investment of plan and fund assets, delegation of investment authority, and employment of investment counselors.

Replaces the specified investment options the board of the fire and police pension association may offer members of money purchase plans and the trustees of a locally administered and financed alternative plan may offer participants with a requirement that the board or trustees select at least 3 investment alternatives from which members or participants may choose.

Relocates the provision specifying that the board of the fire and police pension association, in connection with managing the assets of the fire and police members' benefit fund, is not precluded from forming a tax-exempt corporation for ownership of investments in real property. Extends such authority to the board in connection with the money purchase plan benefit fund.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

**H.B. 97-1022** Fire and police pensions - old hire pension plans - use of excess funds. Where no active employees are participating in an old hire pension plan, authorizes employers to use the excess balance in the old hire pension plan fund for contributions to certain new hire pension plans, for contributions under the federal social security laws, for law enforcement-related purposes, or for any other use as determined by the employer. Requires employers to maintain the old hire pension plan fund at a level equal to at least twice the amount necessary to fund the benefit liabilities of any persons continuing to receive benefits from the fund. Defines "excess balance" as the amount in the fund exceeding that level. Requires the actuary of the old hire pension plan to determine the excess balance of the plan fund by utilizing assumptions approved by the fire and police pension association board of directors.

Where no active employees are participating in an old hire pension plan and the plan provides no cost-of-living benefit to persons receiving benefits from the plan fund, allows the board of trustees of the firefighters' or police officers' old hire pension fund to use the assets in the plan fund to purchase annuities in amounts sufficient to pay for any required benefits to persons receiving benefits from the plan fund. If such annuities are purchased, allows an employer, by resolution, to authorize the use of any additional funds remaining in the plan fund after such purchase for contributions to certain new hire pension plans, for contributions under the federal social security laws, for law enforcement-related purposes, or for any other use as determined by the employer. Limits the types of insurance companies from which such annuities may be purchased. Specifies that the employer remains liable for any required benefit payments to persons for whom such annuities were purchased in case of any default on the payment of benefits resulting from the purchase of such annuities.

If an old hire pension plan fund does not provide any type of cost-of-living benefit to persons receiving benefits from the plan fund, requires the assets in the plan fund to be used to provide an annual adjustment to the pension benefits for such persons prior to using the excess balance of an old hire pension plan fund for contributions to certain new hire pension plans, for contributions under the federal social security laws, for law enforcement-related purposes, or for any other use as determined by the employer and prior to purchasing annuities to pay for required benefits. Specifies the manner in which the minimum annual adjustment is calculated.

Applies to old hire pension plans existing on or after July 1, 1997.

**APPROVED** by Governor March 20, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1099** Municipal annexation. Clarifies the prohibition on certain annexations of enclaves by prohibiting annexation of an enclave if any part of the municipal boundary or territory surrounding the enclave consists of public rights-of-way rather than "solely" of such rights-of-ways. Specifies that no enclave may be annexed if any part of the territory surrounding the enclave was annexed since December 19, 1980, without compliance with the state constitution. Deletes a provision regarding annexation of unincorporated areas having more than 2/3rds contiguity for 3 years in conformance with state constitutional requirements. Conforms the provision on judicial review of annexation of an enclave to these changes.

Provides that no power of attorney providing the consent of a landowner to be

annexed pursuant to a petition for annexation or petition for annexation election shall be valid for a term of more than 5 years and that no power of attorney executed before the effective date of this act is valid for a term of more than 5 years after that date.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** May 27, 1997

**H.B. 97-1111** Volunteer firefighter pensions - postretirement increases - state contribution. Whenever the board of trustees of the volunteer firefighter pension fund increases the retirement pension benefits paid to volunteer firefighters over the age of 50 with 20 years of service, permits such increase to be applied to the pension benefits of volunteer firefighters receiving such benefits at the time of such increase. Allows the pro rata share of such increase to be applied to the pension benefits of volunteer firefighters over the age of 50 with 10 years of service receiving such benefits at the time of such increase. Whenever the board elects to apply any such increase, requires the board to apply such increase to the retirement pension of all retired volunteer firefighters in a fire department who are eligible for such increase. Requires any actuarial review of retirement pension benefit payments to include the cost of any such increase. Specifies the amount of state contributions to be received by a municipality, fire protection district, or county improvement district that was levying a property tax equal to or less than ½ mill before July 1, 1997, and that subsequently increases its mill levy, appropriation, or contributions to pay for any such increase.

**APPROVED** by Governor May 22, 1997

**EFFECTIVE** May 22, 1997

**H.B. 97-1213** Fire and police pensions - supplemental disability benefit program. Under the law relating to benefits provided under pension plans for police officers and firefighters, permits an increase in annual disability benefits for total and occupational disabilities if the member participates in a supplemental disability benefit program.

Authorizes the fire and police pension association board to establish a supplemental disability benefit program. Specifies the members who may participate in the program and when the election to participate may be made. Describes the levels of supplemental benefits. Provides how the cost of funding is determined and that such cost is payable by members. Makes benefits under the program eligible for annual cost-of-living adjustments.

Specifies treatment of members who elect an optional form of payment. Exempts supplemental benefits from certain reductions of disability benefits. Requires enrollment in the program at the time of applying for the supplemental benefits in order to receive those benefits. Makes members with preexisting conditions at the time of enrollment ineligible for such benefits.

**APPROVED** by Governor April 6, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.





## GOVERNMENT - SPECIAL DISTRICTS

**S.B. 97-55** Regional transportation district - sales tax rate increase - voter approval. Authorizes the regional transportation district board to increase the sales tax rate of the district by four-tenths of one percent, from six-tenths of one percent to one percent. Provides that the increased rate shall be levied upon the same transactions as the state sales tax; except that such sales tax rate shall also be levied upon the purchases of machinery and machine tools.

Requires the board to submit the sales tax rate increase to the eligible electors of the district upon the board receiving a petition signed by 5% of the eligible electors of the district or upon the board adopting a resolution. Specifies that the question may only be submitted to the voters once and that the question must be submitted on or before December 31, 1998. Provides the form of the question to be submitted to the voters, which provides that the district debt's may be increased, with the bond proceeds and all remaining revenues generated by the sales tax increase after repaying the bond obligations to be used for the construction and operation of mass transit improvements specified in the "guide the ride plan" adopted by the board on or before July 1, 1997. Provides that the ballot question and title may be modified only to the extent necessary to conform to the requirements of a court decision regarding the ballot question or title.

Provides requirements for petitions and incorporates other petition requirements from the "Uniform Election Code of 1992". Restricts the use of public moneys to urge electors to vote in favor of or against an increase in the district's sales tax rate.

Requires the board to levy any increase in sales tax commencing January 1 of the year immediately following the year in which the voters approve the increase. Reduces the rate of sales tax collected by the district by two-tenths of one percent when the improvements specified in the "guide the ride" plan are completed and all bonds to be repaid by the increased rate have been repaid.

Appropriates \$23,904 of the moneys received from the regional transportation district to the department of revenue for the implementation of this act, to be expended only if the district's sales tax rate is increased.

**APPROVED** by Governor May 20, 1997

**EFFECTIVE** May 20, 1997

**S.B. 97-138** Special district boundary alterations - approval. Stipulates that, in order for a special district to alter its boundaries to include additional real property located in a city and county other than a county whose governing body adopted a resolution of approval for the original special district service plan, the governing body of the city and county in which the additional real property will be located must also adopt a resolution of approval or waive its right to require such resolution.

**APPROVED** by Governor April 14, 1997

**EFFECTIVE** April 14, 1997

**S.B. 97-230** Metropolitan football stadium district - renovation of Mile High stadium. Provides the board of the metropolitan football stadium district with the authority to consider

and determine whether it is more cost effective and economically viable to maintain and repair Mile High stadium, renovate Mile High stadium, or construct a new stadium. Specifies that "renovate" means a substantial addition to or to substantially remodel, redevelop, or otherwise improve the stadium so that it meets criteria established by the board as well as criteria that may be established by the national football league.

Provides the board with comparable authority and duties when renovating Mile High stadium as it would have when constructing a new stadium, including the authority to lease the renovated stadium, share revenues generated from the stadium, plan, design, operate, and maintain the renovated stadium, and spend sales tax revenues if the renovation is approved by the voters. Requires the franchise to be responsible for the same share of costs of the renovation as if a new stadium were built. Requires the football stadium site selection commission to consider the Mile High stadium site.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** June 3, 1997

**H.B. 97-1047** Regional transportation district - provision of goods and services at transfer facilities. Allows RTD to negotiate and enter into agreements to provide retail and commercial goods and services at park-n-rides, bus terminals, light rail stations, and other transfer facilities owned or operated by the district. Prohibits RTD itself from providing such goods and services.

Requires private individuals and entities selling goods or services at transfer facilities to pay rent to RTD at fair market value. Allows RTD to receive services or capital improvements in lieu of rental payments.

Prohibits the use of transfer facilities for the provision of goods or services if the use reduces transit services, the availability of public parking, or results in a competitive disadvantage to a private business near the facility.

Makes the development of transfer facilities to provide goods and services subject to local laws, ordinances, and regulations, including planning and zoning regulations.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** April 19, 1997

**H.B. 97-1339** Overlapping special or metropolitan districts - authority to provide the same service. Allows a special or metropolitan district that overlaps an existing special or metropolitan district to provide the same service as the existing special or metropolitan district when:

- Provision of such service is included in the service plan of the overlapping district, as approved by the appropriate local governmental body;
- The improvements of facilities to be financed, established, or operated by the overlapping district do not duplicate or interfere with those planned or provided by the existing special or metropolitan district;

- The board of directors of any special district or metropolitan district authorized to provide a service within the boundaries of the overlapping area consents to the overlapping district providing the same service.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** June 3, 1997

## GOVERNMENT - STATE

**S.B. 97-16** Nonprofit entities created or supported by state agencies or state-level authorities - reporting and auditing requirements. Allows a state agency or an employee or agent thereof to create a nonprofit entity, under the agency's control, to carry out the governmental functions of the agency only if the agency possesses specific statutory authority for creating such a nonprofit entity. Exempts certain existing nonprofit entities from this requirement. Specifies that the requirement does not limit certain activities of state-supported institutions of higher education and of the Colorado postsecondary educational facilities authority. By September 1, 1997, requires each state agency to provide to the state auditor a list of all such nonprofit entities created by such agency and in existence on July 1, 1997, along with a copy of each nonprofit entity's most recent annual audit report or financial statement.

Specifies that such nonprofit entities created by a state agency, with the exception of certain nonprofit entities created by the board of regents of the university of Colorado, are subject to annual audits by the state auditor. Specifies that certain capital financing activities of a nonprofit entity created for the sole benefit of one or more state-supported institutions of higher education are subject to the same audit requirements currently imposed for gifts and bequests received by such entities.

Allows a state-supported institution of higher education intending to establish a nonprofit entity to seek approval for such creation from the Colorado commission on higher education in lieu of obtaining statutory authority therefor. Prior to granting such approval, requires the commission to seek and consider recommendations from the legislative audit committee regarding such approval.

Beginning July 1, 1997, requires certain statutorily-created authorities intending to create or participate in the creation of a nonprofit entity to file a statement of intent with the state auditor. Specifies the required contents of such statement and when it should be filed. For fiscal years ending after June 30, 1997, requires such authorities to report in its annual financial audit report the annual financial activities of any nonprofit entity created.

Specifies that any nonprofit entity supported by or established by or on behalf of a state agency may not be an agency or department of state government and may not be subject to any provisions of law affecting only governmental or public entities. Exempts the state from responsibility for any debt or liability incurred by any such entity.

**VETOED** by Governor June 5, 1997

**S.B. 97-59** Open meetings - list of finalists for chief executive officer - public notice. Requires state and local public bodies to make public the list of finalists being considered for a chief executive officer position no later than 14 days before appointing or employing someone to fill the position rather than no later than 14 days before conducting the first interview for the position.

**APPROVED** April 14, 1997

**EFFECTIVE** April 14, 1997

**S.B. 97-80** State employees - protections from retaliation for disclosure of information - complaints filed with state personnel board. States that, under the state whistle blower law,

a written complaint by an employee in the state personnel system alleging retaliation for the employee's disclosure of information filed on or after July 1, 1997, must be filed with the state personnel board within 30 days after the employee knows or should have known of a disciplinary action against the employee.

Requires the state personnel board to:

- Provide the employee with written notice within 10 days of receipt of the complaint that the complaint has been received and docketed, that the investigation of the charges has commenced, and that specifies the process for reviewing the complaint;
- Provide a copy of the complaint to the appropriate state agency within 10 days after the board's receipt thereof;
- Commence an investigation of the charges made by the employee within 50 days after the date the complaint was filed;
- Complete such investigation within 45 days after the commencement thereof;
- Mail a copy of the investigator's report to the employee and affected state agency within 5 days after the board's receipt thereof;
- Set the matter for hearing to commence not later than 45 days after the board's receipt of a petition by an appointing authority or supervisor or the completion of any ongoing investigation related to other allegations of the employee, whichever is later;
- Order the appropriate relief within 30 days of a determination in favor of the aggrieved employee, including reimbursement of court costs and attorney fees, if any;
- Provide a copy of any disciplinary action assessed against an employee's supervisor or appointing authority that was found to have violated the state whistle blower law; and
- Promulgate rules establishing the procedures for filing such complaints and identifying the rights and obligations of employees under the state whistle blower law.

Requires the affected state agency to respond to a complaint within 45 days of the filing thereof. Allows a hearing date to be continued once only for good cause shown for no longer than 45 days with the approval of the state personnel board. Specifies that any hearing conducted under the state whistle blower law should take precedence over any other matter pending before the board. Allows an employee to assert a defense that a disciplinary action was initiated in violation of the state whistle blower law in any grievance or appeal before the state personnel board rather than to assert the defense in only a disciplinary proceeding before the board. Specifies that the failure to raise any such defense precludes any subsequent cause of action for a violation of the state whistle blower law arising out of the same set of facts at issue in the grievance or appeal.

Changes the penalty for an appointing authority or a supervisor engaging in retaliatory conduct from causing an entry in the authority's or supervisor's personnel record to receiving

a disciplinary action that remains a permanent part of the authority's or supervisor's personnel file. Requires the disciplinary action to be appropriate depending on the nature and severity of the retaliatory conduct involved, from a mandatory minimum of one week suspension up to and including termination.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-93** Economic development commission - extension of repeal - economic development advisory board - repeal. Relocates the authorization for local governments to participate in federal economic development programs from the article governing the economic development advisory board to the article governing the economic development commission. Repeals the economic development advisory board. Extends the automatic repeal date for the economic development commission from July 1, 1997, to July 1, 2001.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** March 28, 1997

**S.B. 97-107** Office of regulatory reform - termination - adjustments of 1997-98 appropriations. Terminates the office of regulatory reform and the advisory committee to such office in the office of the executive director of the department of regulatory agencies. Provides for certain small business assistance functions that had been carried out by the office of regulatory reform to be carried out by the office of business development in the governor's office. Specifies that the review of proposed continuing professional education requirements will be carried out by the office of the executive director of the department of regulatory agencies. Provides that the cumulative economic analyses of air pollution control measures will be carried out by the executive director of the department of public health and environment.

Adjusts appropriations made in the FY 1997-98 general appropriation act to reflect termination of the office of regulatory reform and the assumption of the remaining duties of such office by other agencies of state government.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-150** State treasurer - investment of state funds - reports - annual work plans. Eliminates the requirement that the director of the division of gaming furnish the state treasurer with a monthly report of the division's revenue and expenses.

Provides that the Colorado lottery commission will no longer be required to notify the state treasurer of the amount of money to be transferred from the lottery fund to the conservation trust fund.

Allows the state treasurer to deposit moneys in the controlled maintenance trust fund in banks and savings and loan associations and to invest moneys in the fund in specified investments.

Modifies the investments in which the state treasurer invests moneys in the state treasury that are not immediately required to be disbursed as follows:

- Changes "short-term interest-bearing securities which shall be readily convertible into cash" to "United States domestic fixed income securities" to reflect the terminology currently used to describe such securities.
- Requires the state treasurer to formulate investment policies appropriate to funds in the state treasurer's custody available for investment.
- Changes "United States treasury bills and notes or notes, debentures, or other obligations issued by any agency of the United States government or United States government-sponsored corporations" to "debt obligations of the United States treasury, any agency of the United States government, or United States government-sponsored corporations" to reflect the terminology currently used to describe such obligations.
- Changes "acceptances of banks that are issued in the regular course of business" to "banker's acceptances or bank notes issued by banks rated at least investment grade by a nationally recognized rating organization" to reflect the terminology currently used to describe such instruments.
- Allows the state treasurer to invest in money market funds that meet specified requirements.
- Changes the present language allowing investments in corporate notes that are the obligation of a corporation that has a rating of at least "A" by one or more nationally recognized rating organizations to "corporate debt obligations rated at least investment grade by a nationally recognized rating organization" to reflect the terminology currently used to describe such obligations. Eliminates the requirement that investments in corporate or bank notes are limited to those issued by corporations or banks organized and operating within the United States having a net worth in excess of \$250,000,000 and that such notes must mature within 3 years from the date of purchase.
- Eliminates the requirement that asset-backed securities have an expected average life of less than 5 years from the date of purchase.
- Allows the state treasurer to invest in specified mortgage pass-through securities and collateralized mortgage obligations.
- Eliminates specified transactions in which the state treasurer may engage and provides that the treasurer may engage in reverse repurchase agreements and securities lending programs for any securities in the treasurer's custody.

Eliminates specific investment requirements in sections governing the public school fund, the Colorado compensation insurance authority fund, the subsequent injury fund, the Colorado major medical insurance fund, and the Colorado medical disaster insurance fund with the result that the moneys in such funds will be invested pursuant to the general investment requirements governing the state treasurer.

Eliminates the requirement that each department of the state prepare an annual work program for the ensuing fiscal year, including information on the requested quarterly allotments for each department. Repeals the provisions governing the setting aside of reserve

funds by the departments.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**S.B. 97-164** Professional services contracts - public notice. Increases the thresholds that trigger the public notice requirement for professional services contracts with state agencies by requiring such notice if the construction cost is estimated to exceed \$500,000 instead of \$100,000, or if the professional services fee is estimated to exceed \$50,000 instead of \$10,000.

Creates a separate threshold for department of transportation projects by requiring public notice if the basic transportation-related construction cost of the project is estimated to exceed \$1 million or if the fee for professional engineering or surveying services is estimated to exceed \$100,000.

Applies to contracts entered into on or after July 1, 1997.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** May 21, 1997

**S.B. 97-201** Elected state officials - compensation. Increases the annual salaries of members of the general assembly from \$17,500 to \$30,000 and changes the rate of pay to 12 equal monthly payments. Increases the annual salary of the governor from \$70,000 to \$90,000. Increases the annual salaries of the lieutenant governor, the secretary of state, and the state treasurer from \$48,500 to \$68,500. Increases the annual salary of the attorney general from \$60,000 to \$80,000. Specifies that such increased salaries take effect for terms of office commencing in January, 1999.

**APPROVED** by Governor May 28, 1997

**EFFECTIVE** May 28, 1997

**S.B. 97-222** Department of regulatory agencies - excise tax collected on license and registration fees - creation of legal defense account within division of registrations cash fund. Eliminates the excise tax currently collected by the department of regulatory agencies on license and registration fees relating to the divisions of insurance, securities, and real estate. Reduces the excise tax currently collected on license and registration fees relating to the division of registrations from \$9 to \$1 per year and provides for its collection only on renewal fees. Specifies that the taxes collected are credited to a legal defense account within the division of registrations cash fund rather than the state general fund. Creates the legal defense account to supplement revenues received from a board or commission in the division of registrations for the payment of legal expenses.



**APPROVED** by Governor June 4, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-228** Department of state - elimination of surcharges on fees collected by secretary of state - transfer of revenue from the department of state cash fund. On July 1, 1997, requires the transfer of \$4 million from the department of state cash fund to the business training and promotion cash fund. Creates the business training and promotion cash fund in the state treasury. On July 1, 1997, requires the transfer of \$1 million from the department of state cash fund to the state rail bank fund if Senate Bill 97-37 is enacted and becomes law. Eliminates the authority of the secretary of state to impose and collect surcharges on fees collected by the secretary of state.

Appropriates \$4,000,000 from the business training and promotion cash fund for fiscal year 1997-98, \$1,900,000 of which is appropriated to the department of higher education for allocation to the division of occupational educational for the Colorado customized training program, and \$2,100,000 of which is appropriated to the department of local affairs for economic development for Colorado promotion and Colorado welcome centers.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-234** State capitol building - renovation fund. Provides that the department of personnel shall have the authority to accept any bequests, gifts, and grants of any kind to be used for the renovation of the state capitol building. Allows certain conditions to be placed upon the use of such bequests, gifts, and grants. Establishes the Colorado state capitol building renovation fund in the state treasury for monetary bequests, gifts, grants, and state moneys provided to renovate the state capitol building. Specifies that interest earned on the fund shall be credited to the fund and that moneys remaining in the fund at the end of a fiscal year shall not revert to the general fund.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** May 27, 1997

**S.B. 97-237** Public records - documents prepared for elected officials. Makes the following amendments regarding public access to documents prepared for elected officials:

- For documents prepared by the office of legislative legal services for members of the general assembly, the final version of a document that is **not** prepared in response to a request for a bill or amendment and does **not** contain legal analysis or express a legal opinion shall be a public record unless the member requests that it remain work product;
- For documents prepared for elected officials other than members of the general assembly, the final version of a document that consists solely of factual information compiled from public sources shall be a public record; and
- Makes it clear that elected officials may voluntarily release all or any part of work product prepared for them.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1055** Library services - payment of election costs - petition and election requirements. Allows boards of county commissioners of counties having territory within a library service area of a proposed library district to waive the bonding requirement for the costs of an election to establish such library district and, with the consent of the board of trustees of an existing library, to pay for such election costs.

Requires the board of county commissioners to fund at least fifty percent of the election costs of the proposed library district if such district includes only one county and if the petition submitted for district organization is signed by registered electors residing in the proposed library district in an amount equal to at least five percent of the total number of votes cast in any precinct in the proposed library district for all candidates for the office of secretary of state at the previous general election. Stipulates that, where the library service area of a proposed library district includes two or more counties, such election costs shall be prorated based upon population. Provides that no board of county commissioners shall be required to pay such election costs more than once every four years.

Sets forth election requirements for the establishment of public libraries and library districts. Repeals provisions containing election notice requirements and mandatory ballot language for questions concerning the establishment of public libraries and library districts.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** April 24, 1997

**H.B. 97-1059** Controller - payment of incidental expenses of state entities. Allows the controller to select a designee to approve requests from state departments, institutions, and agencies to pay incidental expenses. Increases the cap on the amount that may be authorized by fiscal rule of the controller to be used to pay incidental expenses from \$1,000 to \$2,500.

**APPROVED** by Governor March 21, 1997

**EFFECTIVE** March 21, 1997

**H.B. 97-1069** State workers' compensation self-insurance program - no security requirement. Provides that no security requirements shall be prescribed or applied by the executive director of the department of labor and employment in granting or continuing permission for a state workers' compensation self-insurance program that provides coverage for state employees.

**APPROVED** by Governor March 21, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1082** Public employees' retirement association - divisions - composition - benefit calculation - short-term disability. Combines the public employees' retirement association (PERA) state division and the PERA school division into a state and school division.

Changes the definition of "highest average salary" for members of the judicial division retiring on or after July 1, 1997, and provides that their benefits be calculated based on the highest annual salary upon which contributions were paid for 12 consecutive months, rather than for 3 periods of 12 consecutive months.

Specifies that employers designated as school employers by rule of the PERA board of trustees and municipal division employers must forward a monthly contribution report and the full amount of employer and member contributions to the association by the date established by PERA board rule rather than by the tenth day of each month.

Decreases the employer contribution rate for members of the state and school division.

Allows interest to be assessed pursuant to PERA board rules, rather than automatically, on late contributions submitted to the association.

Changes the benefit formula for PERA members and benefit recipients to 2½% of highest average salary per year for all years of service from the current formula of 2½% per year for each of the first 20 years and 1½% per year for years in excess of 20 years. Provides that retired justices, judges, and other members of PERA will have their benefits recalculated prospectively for benefit payments payable on or after July 1, 1997, to reflect the change in the benefit formula. Limits the amount of the option 1 benefit to 100% of the highest average salary and the amount permitted by federal law.

Provides for short-term disability payments and disability retirement benefits for members of PERA who apply for disability payments on or after January 1, 1999, upon a finding of a disability. Changes the definition of "disability" for purposes of eligibility for disability retirement benefits from incapacitation from performance of regularly assigned employment duties to incapacitation from regular and substantial gainful employment. Provides short-term disability payments for eligible members who are found to be mentally or physically incapacitated from performance of the essential functions of their jobs but who are not totally and permanently incapacitated from gainful employment.

Provides that any member's application for disability retirement benefits or short-term disability payments must be received by the association within 90 days after the date of termination of employment. Provides that PERA will contract with a disability program administrator to determine disability of members, to provide short-term disability insurance coverage, and to administer the short-term disability program pursuant to a contract conforming to PERA board rules. Specifies that various standards and requirements be provided in these rules. Provides that members approved for short-term disability payments shall be provided with reasonable income replacement, rehabilitation or retraining services, or a combination thereof under a program provided by the disability program administrator for a period specified in PERA board rules.

Specifies that the cost of the short-term disability program shall be funded by PERA. Provides that if any disability is the direct result of any intentionally self-inflicted injury, the member shall not be eligible for short-term disability payments or disability retirement benefits. Provides that the reduction in disability retirement benefits for disability retirees with earned income above a certain level shall apply only to retirees whose disability retirement date is on or after July 1, 1988, and whose application for disability retirement was received by PERA prior to January 1, 1999. Provides that members who are receiving short-term disability payments are eligible to enroll in the PERA health care program.

Specifies that contributions to the voluntary investment program must be received by PERA by the date specified in PERA board rules rather than the 10th calendar day of each month.

Provides that the expense, subsistence, and travel allowance received by members of the general assembly shall be considered salary for PERA purposes. Allows members serving on July 1, 1997, to have any such allowance paid between January of 1992 and May of 1994 considered salary.

**APPROVED** by Governor May 6, 1997

**PORTIONS EFFECTIVE** July 1, 1997  
January 1, 1999

**H.B. 97-1090** Handguns - instant criminal background check - exclusions. Exempts transfers in which a person's handgun is returned to that person from the requirements of the "Instant Criminal Background Check System Act". Examples of such transitions include returns based on a consignment agreement, repair agreement, or other agreement in which the handgun is held as collateral. Exempts a law enforcement officer or agent from the background check requirement only if the law enforcement officer or agent may lawfully possess a handgun. Exempts a person in lawful possession of a concealed weapons permit from the background check requirement.

**BECAME LAW** March 23, 1997

**EFFECTIVE** March 23, 1997

**H.B. 97-1114** Public employees' retirement association - miscellaneous changes. Makes the following changes to the provisions of law governing the public employees' retirement association (PERA):

- Requires the board of trustees of the association to specify by rule the factors used in actuarial determinations or calculations;
- Reduces the amortization period deemed to be actuarially sound from 60 to 40 years;
- Requires elected municipal officials, city managers, and key management staff of authorizing municipalities affiliated with PERA to make a one-time, irrevocable election to become a member or to be exempt from membership;
- Requires any transfer of funds from PERA to a municipal division employer that terminates affiliation with PERA to be accomplished by a direct trustee-to-trustee transfer;
- Specifies that benefits forfeited upon member termination shall be anticipated in determining the cost of a plan;
- Allows members to provide documentation, rather than certification from a previous employer, of certain information regarding noncovered employment when purchasing service credit;
- Allows members to purchase service credit through a trustee-to-trustee transfer or a direct rollover from a qualified plan;

- Makes contributions to PERA subject to the maximum limits imposed by federal income tax laws;
- Authorizes the collection of attorney fees and costs incurred by the prevailing party in a legal action to recover payments made to ineligible recipients;
- Allows the executive director to correct administrative errors made in the administration of the plan and make any appropriate correcting adjustments relating to the error;
- Provides that distributions otherwise payable by PERA are subject to federal tax liens;
- Provides for the surviving spouse or the designated cobeneficiary to have the same rights if a member dies after becoming eligible for reduced service retirement as the spouse or cobeneficiary currently has if the member dies after becoming eligible for service retirement;
- Removes the provision terminating a surviving spouse's benefits in the event of remarriage for surviving spouses who remarry on or after July 1, 1997;
- Repeals the preexisting medical condition limitation for persons eligible to enroll in the PERA health care program;
- Authorizes the board to identify and designate one or more insurance providers to offer long-term care insurance to PERA members or retirees, or both, with coverage funded solely by premium payments by individual members or retirees electing such insurance.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1119** Measurable annual objectives of state departments - inclusion in budget requests and annual report. For budget years beginning on or after July 1, 1998, requires the budget requests of each state department, institution, or agency of the executive branch to include one or more measurable annual operational objectives in the areas of efficiency and effectiveness. Requires state departments to include in their annual reports to the governor the results of any actions in furtherance of such measurable annual operational objectives in the areas of efficiency and effectiveness.

**APPROVED** by Governor April 16, 1997

**EFFECTIVE** April 16, 1997

**H.B. 97-1207** Disbursements by controller - withholding of certain delinquent debts owed by vendors. Beginning July 1, 1997, allows the controller to withhold from approved disbursements certain delinquent debts owed by vendors for payment to state agency claimants. Provides that notice shall be given to a vendor before such amounts are withheld. Requires that moneys withheld for payment to state agency claimants be deposited with the state treasurer and credited to the appropriate agency or fund. Specifies the order in which withholding amounts shall be applied to unpaid debts, with debts for unpaid child support being the first priority.

Creates the vendor offset implementation fund to fund the costs of withholding certain debts owed to state agencies. Authorizes the controller to borrow up to \$400,000 from the general fund to implement the vendor offset program. Requires the controller to reimburse the general fund for such borrowed funds with moneys credited to the vendor offset implementation fund.

Requires contracts entered into on or after July 1, 1997, that involve the payment of money by the state to contain a clause notifying the other party to the contract of the controller's authority to withhold debts owed to state agencies under the vendor offset intercept system.

Appropriates \$400,000 from the vendor offset implementation fund for the implementation of this act.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1269** State air and space museum - The Wings Over the Rockies Air and Space museum. Designates the Wings Over the Rockies Air and Space Museum as the official state air and space museum.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1312** Vested property rights - site specific development plans - protection of property development rights. Amends the definition of "site specific development plan" by:

- Eliminating certain restrictions and requirements pertaining to a site specific development plan and for the approval thereof;
- Expanding the types of plans and approvals that do not constitute a site specific development plan;
- Requiring each local government to designate the site specific development plans used by the local government for which a vested property right is to be deemed established upon the approval thereof; and
- Requiring the specific elements, level of detail, and objective information to be shown on a site specific development plan to be governed by the ordinance or resolution of the local government pertaining to the approval process.

Establishes the types of rights that are vested upon approval by a local government at a public meeting or hearing of a site specific development plan. States that a local

government is not prohibited from considering a request by a landowner for a vested property right to the extent of certain information shown in a site specific development plan that has not been designated by a local government. Specifies that the establishment of a vested property right is subject to compliance with all existing ordinances and regulations, all subsequently required permits and land use approvals, if any, and the zoning in effect on the date that an application is accepted resulting in such right. Requires any amendment to the terms and conditions of a site specific development plan to be mutually agreed to by the landowner and the local government. Eliminates a local government's ability to approve a site specific development plan as may be reasonably necessary to protect the public health, safety, and welfare. Requires a local government to bear the cost and expense of publishing the notice concerning the approval of a site specific development plan. 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. Allows a local government to charge a reasonable fee to a landowner for the approval of a vested property right in a site specific development.

Specifies when a vested property right terminates and the circumstances under which the right is extended. Specifies that the pendency of an initiative or referendum or certain legal proceedings tolls the vesting period. Precludes certain other subsequent regulations adversely impacting the development or use of property for which a vested property right is established. Expands the types of costs and expenses that a landowner may receive as just compensation for subsequent regulation of a vested property right. Expands the types of ordinances or regulations that apply notwithstanding a vested property right.

Specifies that a prevailing party in a lawsuit or arbitration proceeding arising out of the provisions of this act is entitled to reasonable costs and expenses, including attorney fees.

**VETOED** by Governor April 25, 1997

**H.B. 97-1328** State lottery division - instant scratch lotteries based upon bingo. Eliminates the prohibition against the state lottery division conducting instant scratch lotteries based upon the game of chance known as bingo.

**VETOED** by Governor June 4, 1997

**H.B. 97-1351** Lottery - regulation by lottery division - authorization of video lottery terminals - continuation under sunset law - appropriation. Allows licensed casinos, class B horse racetracks, and greyhound racetracks to apply to the existing lottery commission for authority to act as lottery sales agents and have on their premises video lottery terminals (VLTs) through which patrons can participate in the state lottery. Limits the hours during which VLTs may be operated. Grants to the lottery commission and the lottery division in the department of revenue the authority to issue and revoke licenses, approve games, control the number and type of VLTs that may be used, and monitor play through a central computer system. Requires at least 500 VLTs per location to be approved for installation at licensed horse and greyhound racetracks.

Requires VLTs to be owned and maintained by, and operated at the expense of, either the commission or a technology provider, but assigns to the sales agent the costs of utilities, security, marketing, removal of and accounting for proceeds, validating tickets or vouchers,

and maintaining and upgrading the premises on which the VLTs are located.

Allows sales agents to retain 45% of net machine income. In the case of sales agents that are pari-mutuel licensees (i.e. racetracks), requires 10% to be used to fund purses for live races, leaving the sales agent with a net return of 35%. Distributes the remaining revenue, net of prizes and expenses, pursuant to the "GOCO" provisions of article XXVII of the state constitution. Assigns a portion of any excess revenue, up to a maximum of \$12 million, adjusted annually for inflation, to the Colorado promotion fund.

Sunsets the supervisory functions of the lottery division over VLTs on July 1, 2004. Extends the termination date of the division itself until July 1, 2008.

Appropriates \$27,100,000 to the department of revenue, for allocation to the lottery division, for implementation of the act.

**VETOED** by Governor June 4, 1997

**H.B. 97-1359** Capital construction fund - revenue transferred from general fund. Increases from \$50 million to \$100 million the amount of revenue transferred on July 1, 1997, to the capital construction fund from the general fund.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** May 21, 1997



## HEALTH AND ENVIRONMENT

**S.B. 97-82** Immunization of children - school entry. Requires every student except those exempted pursuant to law to submit an up-to-date certificate of immunization at the time of school registration. If the student presents an out-of-date certificate, requires the parent or guardian to submit, within 14 days after receiving direct personal notification that the certificate is not up-to-date, documentation that the next required immunization has been given and a written plan for completion of all required immunizations. States that the scheduling of immunizations shall follow medically recommended minimum intervals approved by the state board of health. If the student begins but does not continue or complete the written plan, he or she shall be suspended or expelled for noncompliance with immunization requirements. Eliminates the ability to present at school registration a written plan signed by the parent or guardian or emancipated child demonstrating that the required immunizations will be resumed within 30 days after the plan is signed.

Eliminates the 60-day provisional period that is currently allowed for transfer students to submit their immunization record for entry into school. Relocates requirements that provide that students expelled for violations of the school immunization laws shall not be counted in calculating the school dropout rate.

Mandates that all information distributed to parents by school districts regarding immunization inform them of their rights regarding exemptions from immunization requirements.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-111** Violations of federal Medicaid regulations - state authority to impose sanctions - continuation. Continues the authority of the department of public health and environment and the department of health care policy and financing to impose sanctions upon nursing facilities that violate provisions of the federal Medicaid regulations.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** March 24, 1997

**S.B. 97-136** Lead-based paint - creation of lead hazard reduction program - abatement of lead-based paint hazards - certification and training requirements - appropriation. Establishes the lead hazard reduction program in the department of public health and environment. Requires the department, on or before July 1, 1998, to establish a comprehensive plan to reduce elevated blood lead levels in children and control exposure to lead-based paint hazards in residences and child-occupied facilities. Requires that such plan include:

- Standards for the screening of young children for elevated blood lead levels;
- A comprehensive education program;
- Case management and environmental follow-up services;
- Proposed regulations governing environmental investigations and interventions;
- Recommendations for further legislative action; and

- A fiscal analysis of the lead hazard reduction program.

Requires the department of public health and environment, on or before October 1, 1998, to submit a report to the general assembly on the plan for implementation of the lead hazard reduction program. Creates the lead hazard reduction cash fund.

Directs the air quality control commission to promulgate rules regarding lead-based paint abatement, including:

- Procedures for training and certification of persons and companies involved in abatement of lead-based paint in housing and child-occupied facilities;
- Performance standards and practices for lead abatement;
- Procedures for the approval of persons and companies who train or accredit persons performing lead-based paint abatement activities;
- Procedures for notifying appropriate persons regarding lead-based paint abatement activities; and
- Establishment of fees for certification, monitoring, and approval activities.

Prohibits training and certification requirements that are more stringent than required by federal law or are more stringent than the requirements of any program approved by the federal environmental protection agency. Requires that prior experience in abatement of lead-based paint hazards be considered in establishing training and certification requirements.

Requires the air pollution control division to certify persons or companies involved in lead-based paint abatement. Allows the division to delegate duties regarding enforcement of lead-based paint standards, other than training and certification duties, to local health or building departments. Authorizes the division to commence enforcement actions for violations under the lead hazard reduction program.

Directs the air quality control commission to promulgate rules to establish required fees for the lead hazard reduction program. Requires the commission to adjust such fees to cover the direct and indirect costs to implement the lead hazard reduction program.

Appropriates \$66,395 and 1.5 FTE to the department of public health and environment, air quality control division, for the implementation of the act.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-203** Air quality - control - extension or rescission of state implementation plan revisions - legislative council review. Rescinds approval of a revision to the state implementation plan (SIP) erroneously approved by the general assembly during the 1996 regular session. Approves the following revisions to the SIP, thereby permitting their submission to the federal environmental protection agency for final approval and incorporation in the SIP:

- The 1993 periodic emissions inventory SIP;
- The Denver emergency episode SIP;
- The Greeley carbon monoxide SIP revision;
- The Canon City SIP revision;
- The Steamboat Springs SIP revision;
- Amendments to regulation number 3, concerning air pollution emission notice deferral, insignificant activities, and fugitive emissions;
- Amendments to regulation number 3, concerning prevention of significant deterioration permits, total suspended particulates, and hydrogen sulfide;
- Amendments to regulation number 10, concerning general conformity;
- Amendments to regulation number 11, concerning the inspection and maintenance program;
- Amendments to regulation number 17, concerning the clean fuels fleet program;
- Amendments to regulation number 5, concerning the generic banking emissions/trading rules;
- Amendments to regulations number 1 and 7, and the common provisions regulation, concerning negligibly reactive volatile organic compounds and delisting of acetone;
- Amendments to regulation number 1, concerning opacity limitations and sulfur dioxide averaging provisions for coal-fired electric utility boilers during periods of startup, shutdown, and upset.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** April 19, 1997

**S.B. 97-205** Air quality - reduction of emissions from federal facilities and federal land. Directs the air quality control commission, pursuant to provisions of the federal "Clean Air Act", to require federal facilities, including federal lands, to minimize emissions to the extent practicable in order to minimize the effects of such activities on the attainment and maintenance of national ambient air quality standards and the achievement of federal and state visibility goals. Specifies that these provisions do not apply to activities conducted at federal facilities that relate to matters of national security. Specifies that, within units of the national park system, the commission shall act to minimize the generation and impacts of smoke in Colorado when prescribed burning is necessary to maintain the natural ecosystem.

Requires the air pollution control division to communicate with appropriate officials of other states and of the federal government to advocate adoption of the policy set forth in these provisions.

**VETOED** by Governor June 3, 1997

**S.B. 97-208** Dental programs - children's dental assistance - donated dental services - fluoridation - reimbursement of dental hygienists - appropriation. Creates a dental assistance program for children under the age of 21 years who lack dental insurance and are ineligible for medicaid. Provides for the delivery of preventive, emergency, diagnostic, and limited restorative dental services to eligible children by providers under contract with the department of public health and environment. Directs the department to establish copayments or fees for each participating eligible child, not to exceed a cap per eligible family. Creates the children's dental plan cash fund, which shall be comprised of copayments and gifts and donations received to carry out the program.

Directs the department of public health and environment to administer the program and to define the types of dental services provided. Creates a dental advisory committee to assist the department in implementing the program.

Directs the department of public health and environment to contract with a nonprofit organization to administer a donated dental services program to provide dental treatment for disabled or elderly persons who are not eligible for medicaid.

Creates a grant program to assist communities, based on priority of need, to obtain the equipment and training to fluoridate their drinking water systems. Directs the department of public health and environment to promulgate criteria for prioritizing grant applications.

States that no general fund moneys shall be appropriated for the purpose of implementing the programs contained in the act.

Requires a licensed dental hygienist who provides services under a prepaid dental care plan to be reimbursed for such services at the same rate at which other professionals are reimbursed for similar services.

Appropriates \$123,000 out of the children's dental plan cash fund to the department of public health and environment to implement this act, including \$88,000 for the dental assistance program for children, \$10,000 for donated dental services, and \$25,000 for the fluoridation program.

**APPROVED** by Governor May 28, 1997

**EFFECTIVE** May 28, 1997

**S.B. 97-236** Air quality - state implementation plan (SIP) review - oxygenated gasolines. Extends, with modifications by the general assembly, as authorized by law, the SIP revision of the oxygenated gasolines program as adopted by the air quality control commission on April 17, 1997, thereby permitting its submission to the federal environmental protection agency for final approval and incorporation into the SIP.

Specifies that revisions to the SIP adopted solely to conform the SIP to prior actions of the general assembly pursuant to its statutory review authority may be submitted to the federal environmental protection agency for final approval and incorporation into the SIP without further review and approval by the general assembly.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** June 3, 1997

**H.B. 97-1095** Newborn hearing screening - advisory committee - repeal. Establishes the advisory committee on hearing in newborn infants to collect data concerning newborn hearing screening, to report such information to the general assembly, and to provide recommendations to hospitals, other health care institutions, the department of public health and environment, and the public concerning hearing testing in newborns. Specifies what the recommendations are to address. Provides that the committee shall be comprised of at least 7 members appointed by the executive director of the department of public health and environment. Directs that the committee members shall serve without compensation. Repeals the committee on July 1, 2005.

On and after July 1, 1997, requires every licensed or certified hospital to educate the parents of infants born in such hospitals about newborn infant hearing screening and follow-up care. Specifies that such education shall not be considered a substitute for actual screening. Directs the hospitals to report annually to the advisory committee concerning the number of infants born in the hospital, the number of infants screened, and the number of infants who passed and the number who failed to pass the screening. Subject to available appropriations, requires the advisory committee to make its report available throughout the state. Specifically to physicians caring for newborn infants, consumer groups, managed care organizations, and the media.

Directs the state board of health to promulgate rules requiring hearing screening of newborn infants if, by July 1, 1999, the number of infants screened does not equal or exceed 85% of all infants born in hospitals. Requires such rules, if promulgated, to identify institutions that due to a low volume of births at such institutions may be allowed to otherwise assure hearing screening is conducted on newborns.

Directs a physician, nurse, midwife, or other health professional attending a birth outside a hospital to provide information to parents of newborn infants regarding places where they may have their infants' hearing tested and the importance of such testing. Requires the department to encourage the cooperation of local health departments, health care clinics, school districts, and other appropriate resources to promote the testing of infants' hearing.

**APPROVED** by Governor May 28, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1113** Individual sewage disposal systems - rules - application review - imposition of fees. Makes modifications to the "Individual Sewage Disposal Systems Act". Authorizes the state board to establish criteria for variances and authorizes local boards of health to issue such variances.

Modifies the requirements for individual sewage disposal system rules adopted by local boards of health, including the following: Eliminates the specifications for soil percolation tests and absorption systems; requires minimum distances from groundwater and bedrock in addition to other minimum distances; requires standards for when an individual sewage disposal system must be designed by a registered professional engineer and be approved by the local health department; and requires a board of health that is a separate governmental entity from the general purpose government to notify the general purpose

government and allow comment by such government whenever the board of health intends to approve an application.

Eliminates the requirement that guidelines and rules conform to or exceed standards in the manual of septic tank practice.

Requires applications for individual sewage disposal systems to be reviewed by the local health department, rather than the local board of health.

Requires fees charged by local health departments for individual sewage disposal system permits to be no greater than actual and direct costs of the department's services. Increases the maximum fee from \$150 to \$1,000. Changes the fees for collection and testing of effluent samples from \$25 and 10 cents per mile to actual costs plus the local mileage rate.

Changes the maximum fee for a systems contractor license from \$25 to the actual costs incurred. Changes the maximum fee for a systems cleaner license from \$25 to the actual costs incurred.

Requires a person maintaining or cleaning an individual sewage disposal system to dispose of any septage at an approved site and in an approved manner.

Creates the offense of falsifying or maintaining improper records concerning individual sewage disposal system cleaning activities that are not performed or are performed improperly and provides that such offense is a class 1 petty offense.

Authorizes a local board of health to impose a penalty of up to \$50 per day for a violation of the "Individual Sewage Disposal Systems Act" or rules promulgated pursuant to such Act. Authorizes a person subject to such penalty to obtain a hearing before the local board of health.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1116** Colorado Health Facilities Authority Act - multistate health institutions - financing. Amends the "Colorado Health Facilities Authority Act" by allowing the authority to participate in financing on behalf of multistate health institutions that are affiliated with the state of Colorado.

Changes the definition of "health facility" by adding facilities located within the state or outside the state of Colorado if an out-of-state health institution that operates the facility, or an affiliate of the institution, also operates a health facility within the state. Adds to the definition of "health institution" entities that provide or operate health facilities outside this state if the entity, or an affiliate of the entity, also operates and is engaged in a financing or refinancing on behalf of a health facility within the state. Also adds to the definition of "health institution" health care organizations, and any affiliates of such organizations, that have regional or national headquarters in Colorado.

Authorizes the Colorado health facilities authority to assist, coordinate, and participate with other issuers of tax-exempt bonds and public officials in other states in connection with financing on behalf of multistate health institutions. Gives the authority, in connection with financing on behalf of a multistate health institution, the power to determine or agree upon

who will be assisting, coordinating, or participating issuers of tax-exempt bonds in other states, to determine or agree upon the terms or conditions of the financing, and to charge fees to, apportion fees among, or agree upon fees with assisting, coordinating, or participating issuers of tax-exempt bonds in other states.

Recognizes enhanced health care-related employment opportunities for the people of the state of Colorado as a result of financing on behalf of multistate health institutions.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1157** Medical records - patient access for purposes of diagnosis and treatment. Updates the patient records laws to clarify the types of health facilities and providers to which such provisions apply. Requires health care coverage entities that provide health care services and that are regulated by the division of insurance to comply with the laws on patient records. Makes it an unfair method of competition and an unfair or deceptive act or practice in the business of insurance for any such entity to violate the patient records laws.

If a licensed health care professional determines that a copy of a patient record, including an X ray, mammogram, CT SCAN, MRI, or other film is not sufficient for diagnostic or treatment purposes, requires a health facility or provider to make an original of the film available to the patient or another hospital or provider as directed by the patient pursuant to a written authorization-request for film and payment of reasonable costs. Specifies that any original film made available pursuant to this provision shall be returned upon request to the lending entity within 30 days. Provides that a lending entity shall not be responsible for any loss, damage, or other consequences resulting from release of any such film.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** April 19, 1997

**H.B. 97-1162** Elimination of petroleum tank definition repeals. With respect to petroleum tanks, eliminates the following: The repeal dates for the definitions of "British thermal unit", "gallon equivalent", "gallon diesel equivalent", "gallon gasoline equivalent", and "motor fuel"; the repeal date for the environmental response surcharge, proceeds of which go into the petroleum storage tank fund; and the repeal date for provisions specifying the method of sales of motor fuels.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** March 28, 1997

**H.B. 97-1169** Wood smoke reduction fund and fee - elimination. Effective July 1, 1997, eliminates the wood smoke reduction fund and the \$1.00 smoke reduction fee retailers are

required to collect when they sell a new wood stove, insert, or gas or electric fireplace in connection with a voluntary conversion. Requires that moneys in the wood smoke reduction fund on such date and any moneys credited to such fund after such date be transferred to the general fund.

No later than July 20, 1997, requires retailers who collect fees between January 1, 1997, and June 30, 1997, to file a final semi-annual report with the department of revenue, remit the fees collected, and forward conversion forms indicating whether the purchases were made in connection with a conversion to a cleaner burning device.

**APPROVED** by Governor June 4, 1997

**EFFECTIVE** June 4, 1997

**H.B. 97-1176** Air quality - visibility impairment - subcommittee. Creates a subcommittee of the committee created in Senate Joint Resolution 97-29 to solicit citizen input and identify and discuss issues concerning the establishment of objective criteria for reducing emissions for the purpose of protecting and improving humanly perceptible visible resources. Specifically identifies groups whose views are to be sought, including environmental groups, the National Park Service, the U.S. Forest Service, the EPA, and interested business, labor, and citizen groups. Repeals the statutory provision creating the subcommittee on January 1, 1998.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** May 21, 1997

**H.B. 97-1248** Uranium mill tailings remedial actions - expansion of authority - program fund. Stipulates that the remaining balance in the uranium mill tailings remedial action program fund at the end of the 1998-99 fiscal year shall be credited and transferred to the local government severance tax fund administered by the department of local affairs rather than to the severance tax trust fund.

Authorizes the department of public health and environment to participate in activities in connection with land annotation and site information, identification, removal, and disposal of tailing deposits that are associated with designated mill sites but remain outside of disposal cells constructed for remedial purposes pursuant to the federal "Uranium Mill Tailings Radiation Control Act of 1978". Also authorizes the department to participate in the groundwater restoration phase of such act.

**APPROVED** by Governor April 16, 1997

**EFFECTIVE** April 16, 1997

**H.B. 97-1272** Solid waste - regulatory authority of the state and governing bodies having jurisdiction - applications for solid wastes disposal sites and facilities. Declares that it is the responsibility of the state board of health and the department of public health and environment to establish regulations for the engineering design and operation of solid wastes disposal sites and facilities. Declares that it is the responsibility of the municipal or county governing body having jurisdiction to ensure that the siting of a site and facility is compatible with land use planning.

Requires a governing body having jurisdiction over an application for a proposed solid wastes disposal site and facility to consider only the factors provided in the statutes. Limits



consideration of recommendations by local health departments to only such recommendations that apply regulations of the state board of health or the department of public health and environment.

Eliminates access routes from the engineering design criteria in the rules of the state board of health. Limits the definition of the "operation" of a solid wastes disposal site and facility to activities that occur within the geographic boundaries of the site and facility.

Declares that local regulations, ordinances, or resolutions adopted on or after July 1, 1997, that concern the engineering design and operation of a solid wastes disposal site and facility and that conflict with or are more stringent than regulations of the state board of health are null and void. Prohibits the application of any such regulations, ordinances, or resolutions adopted before July 1, 1997, to any application for a certificate of designation. Provides that the terms and conditions of any certificate of designation existing prior to July 1, 1997, are not affected by such provisions. Provides that a governing body having jurisdiction is not precluded or preempted from placing conditions on a certificate of designation consistent with local land use authority.

Requires the department of public health and environment to consider local impacts and local concerns in reviewing any application for a solid wastes disposal site and facility.

Prohibits the promulgation of any local resolution or ordinance concerning the engineering design and operation of a solid wastes disposal site and facility that conflicts with or is more stringent than any regulation adopted by the state board of health or the department of public health and environment.

**VETOED** by Governor June 5, 1997

**H.B. 97-1295** Radioactive materials - financial assurance warranties - storage and disposal - license requirements. Allows the department of public health and environment to require financial assurance warranties from persons applying to become licensed or authorized to acquire, own, possess, or use radioactive material. Removes the requirement that a governmental entity own any site used for storage or disposal of low-level radioactive materials owned or generated by the United States department of energy so long as the owner of the site complies with regulations promulgated by the board of health, which may include financial assurance warranties.

Provides that the financial assurance warranties are to ensure decommission and decontamination of licensed facilities and to pay for the department's long-term monitoring of those facilities.

Requires the state board of health to promulgate regulations to implement the procedure for providing, using, and forfeiting the financial assurance warranties. Establishes when the department may refuse the financial assurance warranty of a licensee. Allows the department to determine the amount of the financial assurance warranty after considering a number of factors.

Requires the licensee to maintain the financial assurance warranty in good standing. Allows the department to decrease or increase the amount of the financial assurance warranty for good cause. The licensee may request an administrative hearing if the licensee disputes

the amount of the financial assurance warranty.

Mandates that the financial assurance warrantor notify the department and the licensee upon the occurrence of certain events that impair the warranty. Permits the forfeiture of the financial assurance warranties under a number of circumstances. Allows the licensee to request a hearing on such forfeiture.

Authorizes the attorney general to commence legal proceedings to collect any moneys warranted by financial assurance warranties.

Creates the decommissioning fund and the long-term care fund for use by the department for disposing of radioactive materials and covering certain administrative and legal costs incurred by the department. Allows the department to return unused money from either fund to the licensee.

**APPROVED** by Governor June 5, 1997

**EFFECTIVE** August 15, 1997

**NOTE:** This act was passed without a safety clause. The act establishes an effective date of August 15, 1997. It shall take effect on that date unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1298** Health care facilities - reporting of incidents - release of information. Requires licensed health care facilities to report the occurrence of specified incidents to the department of public health and environment. Authorizes the state board of health to specify by rule the manner, time period, and form for reports. Identifies the reports as confidential, but allows them to be transmitted to other regulatory agencies as necessary for disciplinary or license sanctions. Requires the department to investigate each report that is appropriately submitted and prepare a summary of its findings, including whether there was a violation or deficiency or whether the facility acted appropriately.

Instructs the department to release the following information to the public:

- Investigation summaries;
- Complaints against a facility and the conclusions reached by the department after its investigation; and
- A list of the deficiencies entered against each health care facility.

Allows the department to respond to inquiries concerning a report by confirming that it has received the report and that it is under investigation.

Deletes all references to summary reports from the statutes governing the quality management program.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** April 24, 1997

**H.B. 97-1324** Air quality - Grand Canyon visibility transport commission recommendations - legislative approval. Finds and declares that the Grand Canyon visibility transport commission (GCVTC) was created under the "Federal Clean Air Act Amendments of 1990" to issue a report directed toward protecting visibility in the Grand Canyon national park. Recognizes that the GCVTC has completed its activities, but that a successor body is being proposed. Recognizes the importance of protecting visibility in the Grand Canyon national park. Declares the general assembly's intent to preserve Colorado's sovereignty and ensure fairness in implementing requirements placed on Colorado.

Encourages the governor or a designee of the governor to participate in any successor body to the GCVTC. Requires that a stakeholder process be implemented that includes representatives of the general assembly. Further requires the governor to provide an annual report to the general assembly concerning the activities of the GCVTC.

Prevents the GCVTC or any successor body from imposing new or different requirements on regulated communities or Colorado unless the requirements are approved or enacted by the general assembly acting by bill.

**APPROVED** by Governor June 4, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

## HEALTH CARE POLICY AND FINANCING

**H.B. 97-1063** Medical assistance - new program - revisions - appropriation. Subject to receipt of waivers from the federal government, establishes a program in the department of health care policy and financing to provide disabled children who would otherwise be institutionalized an opportunity to receive in-home care. Sets eligibility requirements, including requiring the cost to be no higher than institutionalized care. Gives priority to children who are on the waiting list for other in-home programs and children of parents who will be able to return to work because of the program. Authorizes eligibility for children who would be medicaid eligible except for a temporary increase in their parent's income. Directs the medical services board to adopt rules to govern the program. Permits the department to authorize parents to hire and manage care providers and to provide assistance to parents in developing care management skills. Directs the department to study the advisability of setting a maximum parental income level for all children's medicaid waiver programs and to report to the joint budget committee by November 1, 1997, with its findings and recommendations. Appropriates \$22,400 for this program.

Repeals the exclusion of persons with developmental disabilities from participating in the home and community-based services for the elderly, blind, and disabled program.

Subject to appropriation by the general assembly, effective July 1, 1998, expands state optional services covered by medicaid to include all prosthetic devices, rather than those only surgically implanted, and specifies that medically necessary augmentative communications devices are included.

For nonemergency services, requires medicaid clients who are also covered by another primary insurer to follow the protocols of that insurer including using in-network providers and obtaining referrals from a primary care physician. Establishes that the client is liable for services if he or she fails to follow the protocols. Creates an exception if the insurer or provider fails to communicate the protocols to the client. Allows the insurer and client to enter into a written agreement whereby the client will be personally liable for nonemergency, nonreimbursable expenses. Directs the medical services board to approve a form for such agreements.

Continues the federally mandated \$90 personal needs allowance for certain veterans and their surviving spouses.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** June 3, 1997

## HUMAN SERVICES - INSTITUTIONS

**H.B. 97-1166** Colorado works program - child care assistance program. Enacts a new program to replace aid to families with dependent children (AFDC) and related programs.

**Short title.** States that the act shall be known as the "Colorado Works Program Act".

**Legislative intent.** Finds that the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193 (herein "the federal law"), provides states with an opportunity to implement innovative strategies for enabling the needy to attain self-sufficiency.

**No entitlement.** Provides that nothing in the act shall be interpreted to create a legal entitlement to assistance under the works program.

**Works program - purposes.** States the purposes of the works program. Provides that the 45-day review and comment period required in the federal law shall be satisfied by the hearings conducted in the legislative process.

**State department duties.** Requires the state department of human services to:

- Submit a state plan to the secretary of the federal department of health and human services;
- Allocate the county block grants to the counties;
- Administer the reserve account consisting of funds appropriated for the purposes of meeting emergencies or contingencies in a county;
- Establish performance goals, including goals for a reduction in out-of-wedlock pregnancies, and a formula for measuring county success in implementing the works program;
- Develop standardized forms for the works program;
- Monitor progress in meeting the work participation rates;
- Establish a process for regionalization;
- Develop training for caseworkers;
- Monitor interstate and intrastate migration of participants;
- Comply with the federal reporting requirements.

**Funding - maintenance of effort requirements.** Establishes a formula for allocating the county block grants for state fiscal year 1997-98. In subsequent state fiscal years, allows for adjustments based on performance. Establishes maintenance of effort rates for the state and the counties.

**County duties.** Requires each board of county commissioners to appropriate such

moneys as are necessary to meet the county's maintenance of effort. Requires the county department of social services to meet work participation rates, track participants' length of stay, submit required reports, use an income eligibility verification system, provide Title IV-D services, and meet the required maintenance of effort.

**Target populations.** Subject to certain restrictions, allows a county to serve any person or family who was eligible to receive aid to families with dependent children on July 16, 1996.

**Program features.** Requires a county to provide an assessment and a basic assistance grant. Establishes a pilot program pursuant to which counties may apply for waivers from work requirements and implement the works program pursuant to such waivers. Establishes allowable sanctions against participants.

**Regionalization.** Authorizes two or more counties to implement the works program jointly.

**Private contracting.** Allows the state department of human services or any county department of social services to award a contract or contracts for the implementation of the works program.

**Medicaid.** Exercises state options under federal law to continue to provide Medicaid coverage for certain populations.

**Tax credit.** Provides a tax credit for employer expenses relating to hiring of works program participants.

Creates the Colorado child care assistance program.

**VETOED** by Governor April 24, 1997

## HUMAN SERVICES - SOCIAL SERVICES

**S.B. 97-5** Medicaid managed care - appropriations. The bill contains the following provisions:

**LEGISLATIVE DECLARATION.** Describes the historical impact of federal medicaid requirements on the state and the opportunity that Colorado has to tailor the state's medical assistance program to the state's particular needs. Identifies how the general assembly intends to use the savings that will be realized from the statewide implementation of medicaid managed care.

**STATEWIDE MANAGED CARE SYSTEM.** The statewide managed care system consists of the following:

- **Plan.** Subject to the receipt of federal waivers, requires the department of health care policy and financing to implement a plan pursuant to which, by July 1, 2000, 75% of Colorado's medical assistance recipients will be in a managed care plan. Subject to the approval of the executive director of the department, allows the following to be implemented statewide by July 1, 2000:
  - 1) Acute and long-term care pilot program;
  - 2) Limited enrollment managed care contracts;
  - 3) Managed mental health services; and
  - 4) Program of all-inclusive care for the elderly.
- **Bidding.** Authorizes the department of health care policy and financing to institute a program of competitive bidding to provide medical services in a managed care program.
- **Long-term care.** Requires the department of health care policy and financing to assess the results of the long-term care projects in effect during the 3-year phase-in for the implementation of statewide managed care. Restricts the department from contracting for long-term care services as part of the statewide implementation of managed care until further authorization by the joint budget committee and the house and senate health, environment, welfare, and institutions committees.
- **Cost-savings.** Requires the department of health care policy and financing to submit an annual cost savings report to the joint budget committee, the house and senate health, environment, welfare, and institutions committees, and the office of state planning and budgeting. Describes how such cost savings are intended to be used.
- **Insurance; grants.** Creates a program to provide subsidized insurance coverage for uninsured children under age 19 in low-income households. Creates a grant program to assist essential community providers to serve the medically indigent population and to identify and implement additional cost-effective options to expand access to services for such population. Requires the department of health care policy and financing to submit to the joint budget committee and the health, environment, welfare, and institutions committee of the house of representatives by November 1, 1997, a report on a plan to develop a dental services program that assures access to dental services for children in the medicaid program.

**ORGANIZATIONS.** *MCO's.* Requires the medical services board to establish

criteria pursuant to which medicaid managed care organizations (MCO's) shall be selected. States specific criteria that all MCO's must meet and with which the department of health care policy and financing must verify compliance.

*ECP's.* Defines an essential community provider (ECP), and requires MCO's to seek proposals from ECP's in the MCO's geographic catchment area for the provision of services that the ECP can provide.

**QUALITY MEASUREMENTS.** States the criteria that the department of health care policy and financing must use to measure quality, and authorizes the department to promulgate rules to clarify and administer the measurements.

**REQUIRED FEATURES OF MANAGED CARE SYSTEM.** Establishes the general features that all medicaid managed care programs must contain, including the recipients' right to choose among competing plans, plans to inform recipients of choices available, plans for the monitoring of reasons for disenrollment, complaint and grievance procedures, provisions for billing recipients, required compliance with insurance division regulations concerning marketing of the programs, and requirements concerning an MCO's provision of the prescription drug benefit. Establishes the criteria pursuant to which a recipient's continuity of care shall be considered and maintained.

**PRIMARY CARE PHYSICIAN PROGRAM.** Authorizes a primary care physician program. Requires the department of health care policy and financing to establish procedures and criteria for the cost-effective operation of the primary care physician program.

**CAPITATION RATES - RISK ADJUSTMENT.** Requires the department of health care policy and financing to make prepaid capitation payments to managed care organizations based upon a defined scope of services. The capitation rates shall include risk adjustments, reinsurance, or stop-loss funding methods. Payments to plans may vary when it is shown that certain populations are expected to cost more or less than the capitated population as a whole.

**PRIVATIZATION.** Subject to a finding of cost-effectiveness by the joint budget committee of the general assembly, requires the department of health care policy and financing to hire independent contractors to administer not less than 20% of the statewide managed care program.

**DATA COLLECTION.** Identifies the types of data that providers must supply to the department of health care policy and financing. Requires the department to compile data on health outcomes and to evaluate the cost-efficiency of the state's managed care programs.

**CONSUMER CERTIFICATE CHOICE PROGRAM.** Requires the department of health care policy and financing to submit to the general assembly a list of options and recommendations for the implementation of a consumer certificate choice program. Lists issues to be covered and requires recommendations concerning the inclusion of the medically indigent population in the consumer certificate choice program.

**DISENROLLMENT FROM MANAGED CARE.** Repeals a provision requiring managed care providers to allow recipients to disenroll at any time.

**APPROPRIATIONS.** Makes adjustments to the annual appropriations act for the



appropriation to the department of health care policy and financing.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** June 3, 1997

**S.B. 97-6** Restructuring of human services delivery system - local advisory boards - phase-out of county merit system. Repeals and reenacts the statutes creating the process for restructuring the health and human services system, thereby repealing the local planning committees, the legislative restructuring oversight committee, and the restructuring steering committee. In their place, authorizes the creation of local health and human services advisory boards to meet the intent of the original restructuring legislation that there be an ongoing process or forum for continued coordination and collaboration at the local level concerning the delivery of human services. Allows counties, judicial districts, or other service areas to jointly create such boards.

Authorizes the consolidation of two or more local advisory groups that are currently authorized or mandated in statute and that have similar members and functions. Allows local entities to consolidate local advisory groups in addition to, in combination with, or in lieu of creating local health and human services advisory boards. If consolidating boards have different appointing authorities, requires each appointing authority to agree to the consolidation and appointments. States that the consolidation of advisory bodies does not change the requirements of each of the separate functions, and provides that the responsibilities of each group as specified in statute must continue to be met. Specifies the advisory groups that may be consolidated.

Consolidates the authority to adopt rules governing program scope or substantive provisions in the state board of human services and eliminates the authority of the executive director of the state department of human services to adopt rules regarding program scope or substantive provisions.

Effective January 1, 2001, abolishes the state-operated county merit system for employees of county departments of social services and the merit system council. Requires county departments to cover their employees under a personnel system that is in compliance with federal requirements for personnel administration for social services employees. Prior to transferring county employees to a successor merit system, requires each county to submit a transition plan to the department of human services for approval. Requires the department to submit a progress report on or before January 1, 2000, to the health, environment, welfare, and institutions committees of the house of representatives and the senate and to the state board of human services on the implementation of the transition of counties from the merit system to successor county merit systems. Directs that the state personnel board may contract to provide personnel services for civil defense employees of the political subdivisions of the state whose personnel services are currently being provided by the merit system council of the department of human services.

**APPROVED** by Governor May 28, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-11** Women in the military national memorial - fund - repeal - appropriation. Establishes a women in the military memorial fund in the state treasury to consist of moneys

received through gifts, grants, contributions, and donations. Authorizes the division of veterans affairs in the department of human services to accept such gifts, grants, contributions, and donations. Authorizes the executive director of the department of human services to expend moneys from the fund to contribute toward the construction of a national memorial in Washington, D.C., recognizing women who have served or who are currently serving in the military, the reserves, or the national guard. Directs the general assembly to make annual appropriations from the fund to the division for the implementation of the act.

Repeals the law, effective July 1, 2002.

Appropriates \$26,000 out of any moneys in the women in the military memorial cash fund to the department of human services for allocation to the division of veterans affairs for the implementation of the act.

**APPROVED** by Governor June 4, 1997

**EFFECTIVE** June 4, 1997

**S.B. 97-42** Medicaid - rate setting methodology for reimbursement of nursing facilities - appropriation. Places a 6% cap on annual increases in administrative costs and an 8% cap on annual increases in health care services costs for rates for the reimbursement of Class I and Class V nursing facilities providing services through the medicaid program. In addition, effective July 1, 1997, provides that only such costs as are reasonable, necessary, and patient-related for medicaid clients may be reported for reimbursement for Class I and Class V nursing home facilities. Permits a nursing facility to include the level of medicare part A ancillary costs that were included and allowed in the medicaid cost report filed prior to July 1, 1997, but limits any subsequent increase in this amount to either the increase in the facility's allowable medicare part A ancillary costs or the percentage increase in the cost of medical care reported in the consumer price index for the same time period, whichever is lower. Excludes part B costs for medicare from allowable reimbursement for nursing facilities. Authorizes the department of health care policy and financing to promulgate rules for calculating the limitations and cost reporting requirements for nursing facilities' rates.

Authorizes the department of health care policy and financing to use a case-mix reimbursement system for reimbursing some or all Class I and Class V medicaid nursing facilities. Directs that such case-mix reimbursement system shall be instituted if the department and the joint budget committee of the general assembly determine prior to implementation that such a reimbursement system will not increase state expenditures for nursing facility care. States that the administrative costs for implementing a case-mix reimbursement system shall be paid from the savings that result from the caps and cost reporting requirements. Authorizes the department and the medical services board to adopt rules as necessary to implement a case-mix reimbursement system. Requires the department to report to the joint budget committee and to the health, environment, welfare, and institutions committees of the general assembly by November 1, 1997, on its efforts to develop a case-mix reimbursement system, the feasibility of implementing the system by July 1, 1998, and the impact upon medicaid nursing facility rates caused by the inclusion of medicare costs in medicaid cost reports.

Adjusts the appropriation in the long bill for fiscal year 1997-98 to the department of health care policy and financing by increasing the appropriation to medical programs, administration, by \$752,479 and 1.0 FTE and by decreasing the appropriation to medical

programs, medical services, by \$15,737,425.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** June 3, 1997

**S.B. 97-101** Medical assistance - federal matching funds for school districts - report. Authorizes school districts, boards of cooperative services, and state K-12 educational institutions to enter into contracts with the department of health care policy and financing to receive federal matching funds for amounts spent in providing health services to students who are medicaid recipients. Clarifies that such contracts are voluntary and subject to availability of state and federal funds. Specifies the procedure for entering into contracts.

Requires contracting entities to develop a services plan that identifies the health services needed by their students and the services they anticipate providing. Limits the medical services that may be provided without parental consent and the use of family health questionnaires and personally identifiable data. Requires contracting entities to perform an assessment of the needs of uninsured and underinsured students, and authorizes the contracting entities to spend up to 30% of the federal funds received on health care for low-income students.

Specifies that a contracting entity will receive an amount of federal funds up to the amount specified in the contract, less administrative costs. Places a cap on administrative costs. Requires the medical services board to specify the health services that contracting entities may provide. Authorizes contracting entities to provide services directly or by contract with other entities.

Directs the department of health care policy and financing to apply for a waiver of federal requirements, as may be necessary to implement the contracting provisions. Requires the department to work with the office of state planning and budgeting and the joint budget committee in implementing contracts. Authorizes the department and the department of education to enter into an interagency agreement to implement the contracting provisions, and authorizes the medical services board and the state board of education to adopt rules as necessary under the agreement.

Requires the department of health care policy and financing to hold annual public hearings to receive comments on the contracting process. Requires the department to submit a formal evaluation of the program to the senate and house committees on education and health, environment, welfare, and institutions after the program has been in effect 5 years.

Appropriates \$17,854,326 and 2.0 FTE to the department of health care policy and financing, of which \$8,564,720 shall be from amounts provided by school districts and \$9,289,606 from federal matching funds. Appropriates \$90,288 to the department of health care policy and financing and \$99,399 to the department of education for administrative costs. Transfers \$9,099,919 of the federal funds to the department of education for distribution to contracting entities.

**APPROVED** by Governor May 28, 1997

**EFFECTIVE** May 28, 1997

**S.B. 97-112** Central fund for state and veterans nursing homes - continuation - general fund loan forgiveness. Continues the authority of the department of human services to expend

moneys from the central fund for state and veterans nursing homes. Specifies that all interest earned on the investment of moneys in such fund remain therein rather than be transferred to the general fund.

Reaffirms the statutory duty of the executive director of the department of human services to sell, with the approval of the state board of human services, surplus real property at the Colorado state veterans center at Homelake (Homelake facility) to the highest bidder for not less than the appraised value of such land. Provides that moneys from such sales shall be deposited in the central fund for state and veterans nursing homes and applied toward the retirement of outstanding anticipation warrants issued to cover the costs of completing the construction of the domiciliary care unit and the addition to the nursing home unit at the Homelake facility.

Recites facts surrounding an \$831,397.35 loan from the general fund to the Colorado state veterans nursing home at Rifle. Forgives \$407,348.54 of the remaining balance of \$540,407.35 of such general fund loan as of July 1, 1996.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-120 Welfare reform - child care - medicaid - tax credits - appropriation.** The bill contains the following provisions:

**"COLORADO WORKS" PROGRAM.** Enacts a new program to replace aid to families with dependent children (AFDC) and related programs.

- **Intent.** Declares that the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the "federal welfare reform act") gives states unprecedented authority to implement welfare strategies to suit local conditions and to emphasize work in such a way as to ensure the long-term self-sufficiency of participants.
- **No entitlement.** Provides that there is no legal entitlement to public assistance under the "Colorado Works" program.
- **General provisions.** Repeals the AFDC, job opportunity and basic skills training (JOBS), and Colorado personal responsibility and employment demonstration (C-PREP) programs, effective July 1, 1997. Establishes an implementation date of July 1, 1997, for the "Colorado Works" program, the purposes of which are to:
  - 1) Assist participants to terminate their dependence on welfare;
  - 2) Develop policies that ensure that participants are in work activities; and
  - 3) Allow counties increased control over the implementation of the program.
- **County block grants and maintenance of effort.** Using state and federal funds, provides a block grant to each county which, for 1997-98, will be 100% of state and federal funds received by such county in 1994-95 for:
  - 1) The AFDC program;
  - 2) The JOBS program;

- 3) The C-PREP pilot program (if operated in the county);
- 4) The administrative costs related to those programs.

Requires a county to spend 100% of the amount of its own funds that it spent in 1995-96 for the AFDC, JOBS, and C-PREP programs and their related administrative costs as a maintenance of effort. Authorizes adjustments to future block grants based on population, performance, and other factors that affect the number of needy families in such county. Requires the state to make an annual appropriation of funds to be applied to the state's maintenance of historic effort as specified in the federal welfare reform act.

- **Emergency fund.** Allows a county to apply to the state department of human services for additional funds from a short-term emergency fund in certain specified circumstances.
- **Reserve fund.** Requires the state to maintain a long-term reserve fund that is subject to appropriation.
- **Performance contract; performance measurements.** Requires the state department to enter into an annual performance contract with each county that specifies the county's duties and responsibilities in connection with the implementation of the "Colorado Works" program. Directs the state board of human services to develop statewide performance goals and a formula for measuring each county's progress toward those goals.
- **Target populations.** Allows persons who were eligible for AFDC on July 16, 1996, who meet income and resource requirements, and who cooperate in obtaining any applicable child support to receive assistance under the "Colorado Works" program. States that two-parent families shall be treated the same as single-parent families. Persons who will not receive assistance include:
  - 1) Those who have received assistance for more than 60 months;
  - 2) A minor parent not living with an adult, unless there is a risk of abuse;
  - 3) A minor parent not engaged in an educational program;
  - 4) Fugitive felons and parole or probation violators;
  - 5) Persons convicted of drug felonies on or after July 1, 1997, unless such persons have taken action toward rehabilitation.
- **Forms of assistance.** Requires a county to assess participants in the "Colorado Works" program. Requires the state department of human services to promulgate rules for screening for victims of domestic violence. Requires a county to enter into individual responsibility contracts with participants in which the participant agrees upon goals for securing employment and self-sufficiency and any sanctions for failing to adhere to the terms of such a contract.

Requires delivery of the basic assistance grant statewide and allows a county to provide any other assistance the county deems appropriate. Allows a county to provide a "diversion grant" under specified conditions.

- **Sanctions.** Requires the state board of human services to promulgate rules that address the imposition of sanctions affecting the basic assistance grant. Authorizes a county to terminate the basic assistance grant if a participant refuses to engage in work. Allows a county to impose any other sanctions on assistance other than the basic assistance grant that the county deems appropriate.
- **Waivers.** Allows the governor and the state department of human services to issue waivers of certain statutes and rules to a county in connection with its implementation of the "Colorado Works" program. Prohibits waivers of statewide eligibility criteria or the amount of the basic assistance grant.
- **Reporting; regionalization; contracting.** Requires the state department of human services to report to the federal government as required by the federal welfare reform act. Allows a county to work with another county or counties to administer the "Colorado Works" program. Authorizes contracting with private entities, including nonprofit organizations, for the administration or operation of the "Colorado Works" program. Requires the state department of human services to work with counties to develop and collect data on interstate and intrastate migration of participants.
- **Legislative oversight committee.** Establishes a legislative oversight committee to oversee the implementation of the "Colorado Works" program. Provides that the legislative oversight committee shall be comprised of the members of the health, environment, welfare, and institutions committees of the house and the senate. Repeals the provisions creating and directing the legislative oversight committee, effective July 1, 2001.

**CHILD CARE ASSISTANCE PROGRAM.** Establishes the allocation formula and priorities for the Colorado child care assistance program.

**TITLE IV-E FOSTER CARE PROGRAM.** Provides that eligibility for Title IV-E foster care shall be based upon AFDC rules that were in effect on June 1, 1995.

**MEDICAL ASSISTANCE PROGRAM.** Makes the following changes to the state's medical assistance program:

- **Eligibility.** Exercises the state's option under the federal welfare reform act to provide medical assistance to persons who met the eligibility criteria for AFDC that were in effect on July 16, 1996.
- **Buy-in program.** Directs the state department of health care policy and financing to seek waivers to allow for the creation of a medicaid buy-in program for persons who are in transition between receiving public assistance and being self-sufficient.

**TAX CREDITS.** Establishes a tax credit against state taxes for an employer of any person receiving public assistance under the Colorado Works program in the amount of 20% of the employer's annual investment in certain employment-related services provided on behalf of such an employee.

**APPROPRIATIONS.** Makes adjustments to appropriations made in the annual appropriations act in connection with the implementation of this act by the state department of human services. Appropriates \$4,090,712 to the state department of health care policy and

financing for the implementation of this act. Appropriates \$40,175 and 0.8 FTE to the department of law for the implementation of this act. Appropriates \$4,271 to the department of law for the provision of legal services to the department of labor and employment related to the implementation of this act.

**EFFECTIVE DATE.** Provides that portions of the act take effect upon passage; except that the provision for a statewide grievance process for workers allegedly displaced by participants takes effect upon passage, but only if SB 97-42, enacted at the First Regular Session of the Sixty-first General Assembly, becomes law.

**APPROVED** by Governor June 3, 1997

**PORTIONS EFFECTIVE** July 1, 1997

**S.B. 97-141 Independent living services - requirements.** Repeals and reenacts the statutes on independent living centers to reflect changes in the federal law governing independent living services for individuals with significant disabilities, including the types of services offered and evaluation standards for compliance by centers. Mandates that each independent living center maintain an individual consumer service record indicating the consumer's choice of services, including an individualized independent living plan regarding the consumer's choice of services or a written waiver of such plan. Authorizes the department of human services to contract with independent living centers for independent living core services.

Includes a statement of the intent of the general assembly that the general fund appropriation in the 1997-98 long bill to the department of human services, division of vocational rehabilitation, for independent living grants be appropriated only to the independent living centers that are certified by the department as of June 1, 1997, and that such appropriation be distributed in equal amounts to each of those centers.

**APPROVED** by Governor May 28, 1997

**EFFECTIVE** May 28, 1997

**S.B. 97-147 Medical assistance - disabled work incentive program - repeal.** If moneys are appropriated for the fiscal year starting July 1, 1998, establishes a pilot program to continue medicaid eligibility for up to 150 disabled persons who exceed limitations on income or assets because they go to work. Provides that medicaid coverage under the program may wrap around private medical insurance. Specifies that participants shall remain eligible for medicaid even after the program terminates, so long as the state continues a medicaid program and the participants continue to meet the eligibility requirements as they existed before the program was terminated.

Allows the department of health care policy and financing to collect premiums from the disabled persons or their employers on a sliding scale based upon the disabled person's income and resources. Requires the department of health care policy and financing to apply for federal waivers. Authorizes the medical services board to adopt rules to implement the program. Establishes a fund to receive donations to implement the program and to study the cost-effectiveness of the program.

Directs the department to study the program with the vocational rehabilitation program in the department of human services and to report to the joint budget committee by

October 1, 2000. Repeals the program effective July 1, 2001.

Provides that the act shall not take effect unless moneys are appropriated for the program for the fiscal year 1998-99.

**APPROVED** by Governor May 28, 1997

**EFFECTIVE** July 1, 1998

**S.B. 97-171** Public assistance - immigrants - appropriations. The bill contains the following provisions:

**TANF and medicaid for qualified aliens.**

- Provides that qualified aliens, as defined in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193 (the "federal welfare legislation"), who entered the United States before August 22, 1996, are eligible to receive assistance under the state temporary assistance to needy families (TANF) program and medicaid.
- Bars qualified aliens arriving on or after August 22, 1996, from receipt of TANF assistance and medicaid for 5 years.
- Allows qualified aliens who were or would have been eligible for supplemental security income (SSI) as a result of a disability but who are not eligible for such SSI as a result of the passage of the federal welfare legislation to be eligible for medicaid, if such qualified aliens meet the resource, income, and disability requirements for SSI.

**State programs for qualified aliens.**

- Provides that legal immigrants may receive benefits under the old age pension, the aid to the blind, the aid to the needy disabled, and the medically indigent programs if they meet the eligibility criteria for such programs other than citizen status. As a condition of eligibility for receipt of public assistance, a legal immigrant shall agree to refrain from executing an affidavit of support for the purpose of sponsoring an alien on or after July 1, 1997, during the pendency of such legal immigrant's receipt of public assistance.

**Other programs for legal immigrants.**

- Establishes an emergency assistance program for legal immigrants who are residents of Colorado.
- Requires the state department to promulgate rules to enforce sponsor commitments under affidavits of support.

**Appropriations.** Makes adjustments to the annual appropriations act in connection with appropriations therein for the state department of human services and the state department of health care policy and financing for the implementation of this act.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** July 1, 1997



**S.B. 97-174 Child care services - consolidation.** Establishes a pilot program for community consolidated child care services that shall be implemented and monitored by the state department of human services, with input and cooperation from the state department of education. Requires the state department of human services to develop a request for proposals on or before July 1, 1997, to be distributed to the governing bodies of municipalities, counties, and school districts to design consolidated programs of comprehensive early childhood care and education services intended to serve children in low-income families, with a special emphasis on families participating in work activities related to welfare reform.

Specifies criteria for selecting the pilot site agencies. Identifies the program goals of the pilot site agencies, including minimum program components and consolidation of state and federal funding sources.

Requires the state department of human services to designate not more than 12 pilot site agencies on or before October 1, 1997. Requires the state department of human services to evaluate the pilot program no later than March 1, 1999.

**APPROVED** by Governor May 28, 1997

**EFFECTIVE** May 28, 1997

**S.B. 97-218 Child welfare services - capped allocations - dependency and neglect appeals - dependency and neglect criteria - conflict resolution process - placement criteria - placement reporting - investigations of reports of dependency and neglect.** The bill contains the following provisions:

**Amendments concerning child welfare services:**

- Requires the state department of human services to develop formulas for capped and targeted allocations for child welfare services by June 15, 1997, with input from the child welfare allocations committee. Provides that the child welfare allocations committee consists of 4 county commissioners and 4 persons appointed by the state department.
- Requires counties to receive capped allocations for child welfare services for state fiscal year 1997-98 and each fiscal year thereafter. Allows for adjustments to such capped allocations based upon caseload growth or changes in federal law or funding.
- Requires the state department of human services to develop a management training package to be delivered to counties by October 1, 1997, to assist the counties in the delivery of child welfare services.
- Requires the state department of human services to pursue federal waivers to implement the act.
- Allows a county to negotiate rates, services, and outcomes with providers on and after July 1, 1997, if the county has a request-for-proposal process in effect for soliciting bids from providers or another mechanism for evaluating the rates, services, and outcomes from such providers.
- Allows the state department of human services to enter into performance contracts

with not more than three counties or groups of counties for the delivery of child welfare services. Requires an interested county to apply to the state department no later than August 1, 1997. Requires the selected counties to commence operations under the performance contracts no later than September 1, 1997. Allows a county that has entered into a performance contract with the state department of human services to be exempt from the rules of the state board of human services governing the delivery of child welfare services. Repeals the provisions relating to the delivery of child welfare services under such performance contracts, effective July 1, 1998.

- Requires the state department of human services, with input from the judicial department, the child welfare allocations committee, and a legislative oversight committee, to study and make recommendations by January 1, 1998, on the advisability of implementing managed care for the delivery of child welfare services on a statewide basis. Repeals the provisions relating to this study, effective July 1, 1998.

**Amendments to Children's Code - dependency and neglect:**

- Defines emotional abuse as an identifiable and substantial impairment of the child's intellectual or psychological functioning or development or a substantial risk of impairment of the child's intellectual or psychological functioning or development.
- Clarifies what shall be a final and appealable order in dependency and neglect cases.
- Codifies "prospective harm" as a basis for a petition in dependency and neglect.
- Creates a conflict resolution process for grievances concerning the conduct of county department personnel in performing their duties in connection with child abuse and neglect reports, investigations, petitions, and dispositions.
- Establishes placement criteria and placement reporting requirements concerning children who are placed out of the home.
- Allows parents, grandparents, relatives, or foster parents who have had a child in their care for more than three months who have information or knowledge concerning the care of the child to intervene following adjudication with or without counsel.
- Provides that these amendments take effect July 1, 1997.

**Appropriations:** Appropriates \$17,653 to the judicial department from the family issues cash fund for the implementation of the act.

**APPROVED** by Governor June 3, 1997

**PORTIONS EFFECTIVE** July 1, 1997

**H.B. 97-1029** Family development centers - continuation - appropriation. Extends the family development center program by 3 years, from July 1, 1997, to July 1, 2000. Deletes references to the program being a pilot program. Appropriates moneys for the program from the family issues cash fund.

**APPROVED** by Governor May 28, 1997

**EFFECTIVE** May 28, 1997

**H.B. 97-1065** Public and medical assistance - personal identification systems - study. Creates a committee to evaluate and recommend appropriate methods of personal identification to be used in verifying eligibility for public assistance and medical assistance. Requires the committee to report its recommendations to the general assembly, the department of human services, and the department of health care policy and financing. Directs those departments to report to the House and Senate health, environment, welfare, and institutions committees on their recommendations for implementing the committee's report. Requires, to the extent possible, the use of an applicant's social security number as a method of personal identification for every person applying for public assistance or medical assistance.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** April 19, 1997

**H.B. 97-1079** Homeless youth - family reconciliation services - taking youth into custody - licensed homeless youth shelters - voluntary alternative residences - harboring a minor. **Homeless Youth Act.** Adopts the "Homeless Youth Act", which act allows any homeless youth or family member in conflict or experiencing problems with a homeless youth, to receive family reconciliation services from the county department of social services if the county elects to establish such a program. Defines "homeless youth" as a youth who is at least 15 years of age but less than 18 years of age and who has certain residential needs. Provides that such services may be provided to alleviate personal or family situations that present a serious and imminent threat to the health, safety, or welfare of the youth or family and to maintain intact families when possible. Describes family reconciliation services as services that are designed to develop skills and support within a family. Requires county departments that elect to provide educational reconciliation services to work cooperatively with school district boards of education in fashioning educational programs for homeless youth.

**Family intervention reconciliation services.** Allows the department of human services to elect to contract directly with private nonprofit organizations or entities for the provision of family intervention reconciliation services or to pass the moneys to the county departments of those counties electing to provide such services. Authorizes the county department to privatize the provision of such services and voluntary alternative residences.

**Youth in custody.** Establishes certain circumstances under which a law enforcement officer may take a youth into custody without a court order for the purpose of transporting the youth to the home of the youth's parent or, in certain situations, to a licensed homeless youth shelter or a licensed child care facility. Requires the officer to inform the youth of the reason for such custody.

**Provision of crisis intervention and alternative residential services.** Authorizes licensed child care facilities and licensed homeless youth facilities to provide both crisis intervention services and alternative residential services to homeless youth. Directs that a youth who is not returned to the home of the youth's parent and who is not placed in a voluntary alternative residential placement shall reside in a licensed child care facility or a licensed homeless youth shelter for a period not to exceed 2 weeks and requires the facility or shelter to make a concerted effort to reconcile the family. Requires each law enforcement officer taking a youth into custody under this provision and each facility or shelter admitting a youth, to provide the youth and the youth's parent with a statement furnished by the

department of human services concerning the availability of counseling services, the availability of longer term residential arrangements, and the possibility of referral to the county department of social services.

**Notice requirements.** Requires any person who provides shelter to a youth without consent of the youth's parent and after knowledge that the youth is away from the home of the youth's parent without permission to notify the parent or a law enforcement officer within 24 hours after the youth is sheltered. Requires a licensed homeless youth shelter or licensed child care facility that has admitted a youth to immediately notify the youth's parent of the youth's whereabouts, physical and emotional condition, and the circumstances surrounding the youth's placement and that familial reconciliation is of paramount concern to the shelter or facility. Requires the licensed homeless youth shelter or licensed child care facility to arrange transportation for the youth, if there is agreement between the youth and parent, to the parent's residence or to an alternative residential placement facility. Directs the parent, to the extent of the parent's ability, to reimburse the party who paid for the transportation costs.

**Voluntary alternative residence - parental agreement.** Requires that any available family reconciliation services be provided to a youth and the youth's family when the youth voluntarily resides elsewhere than with the youth's parent. Allows a youth and his or her parent to enter into a written agreement for voluntary out-of-home alternative residence with a relative or other responsible adult, in a licensed child care facility, or in a licensed homeless youth shelter. Allows such agreements to provide for payment arrangements. Specifies that the person assuming responsibility for the provision of a residence under an agreement shall have the authority to enroll the youth in the school district in which the voluntary alternative residence is located and to obtain preventive medical and dental care and treatment for the youth.

**Voluntary alternative residence - lack of parental agreement.** Allows for a referral to the county department of social services if the youth and the youth's parent cannot agree on an initial voluntary alternative residence within 2 weeks after admission to the licensed child care facility or licensed homeless youth shelter. Authorizes such facility or shelter to arrange for the establishment of a supervised independent living arrangement or voluntary residential agreement between the youth and a relative or other responsible adult or with a licensed child care facility or licensed homeless youth shelter under certain circumstances. Limits the situations under which a supervised independent living arrangement may be established. Clarifies that a voluntary residential agreement shall not require the county department of social services to assume custody of the youth or to exercise any parental power or control over the youth or require medicaid assistance. Authorizes the person assuming responsibility for the provision of a residence for the youth to enroll the youth in the school district in which the youth resides and to obtain preventive medical and dental care and treatment for the youth.

**Homeless youth shelters.** Requires the department of human services to license facilities serving as homeless youth shelters, if such facilities meet certain requirements.

**Harboring a minor.** Replaces the crime of aiding or harboring a runaway child with the crime of harboring a minor. Specifies that, in addition to providing shelter to a minor without the consent of a parent, the crime of harboring a minor includes the following acts: intentional failure to release the minor to a law enforcement officer when requested; intentional failure to disclose the location of a minor to a law enforcement officer when

requested; intentional obstruction of an officer from taking a minor into custody; intentional assistance of a minor in avoiding custody by an officer; and intentional failure to notify a parent, guardian, custodian, or law enforcement officer that a minor is being sheltered within 24 hours after shelter has been provided. Provides that it is not a crime for the minor to be sheltered in a licensed child care facility or a licensed homeless youth shelter for 2 weeks, if done in accordance with statutory procedures. Creates a defense to prosecution under the crime of harboring a minor if the defendant had custody of the minor pursuant to a court order.

**APPROVED** by Governor May 22, 1997

**EFFECTIVE** May 22, 1997

**H.B. 97-1263** Public assistance - benefit cap. Provides that, after July 1, 1997, if an additional child is born into a household that is receiving aid to families with dependent children or assistance under a successor program funded by federal block grant moneys under the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193, the household or the participant shall not be considered eligible for any incremental increase in the cash assistance that would otherwise be granted to the household or the participant.

Allows a single custodial parent who does not receive additional assistance for the birth of such a child to receive the total value of all child support payments due and collected for such child. Allows the value of such payments to be excluded from income for the purposes of determining eligibility for aid to families with dependent children or for assistance under a successor program funded by federal block grant moneys under the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193.

Authorizes a county department of social services to issue vouchers for the purpose of providing assistance for the benefit of any additional children to whom the benefit cap applies.

**VETOED** by Governor June 3, 1997

**H.B. 97-1270** Public assistance - condition of eligibility - immunization of children. As a condition of eligibility for any successor program to AFDC funded by federal block grant moneys under the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", requires a participant to provide verification or written confirmation by a physician or nurse that each child in the household is being brought up-to-date with immunizations and that, no later than the first scheduled redetermination of eligibility, each child in the household has received any immunization for which the child is eligible according to the age of the child. Allows exemptions based on religious or medical reasons.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1304** Children's basic health plan - managed care coverage for eligible children - implementation by the department of health care policy and financing - appropriations. **Children's basic health plan creation.** Creates the children's basic health plan to be implemented by the department of health care policy and financing (department).

**Funding.** Creates the children's basic health plan trust in the state treasury. Provides that annual appropriations to the trust from the state shall be made by the general assembly based on the amount of savings achieved through reforms, consolidations, and streamlining of health care programs realized through actual reductions in administrative and programmatic costs and not decreases in the number of caseloads of such programs. Requires the department to submit an annual savings report to the joint budget committee of the general assembly and the office of state planning and budgeting that states the cost savings anticipated from health care program reforms, consolidation, and streamlining. Allows the department to accept gifts, grants, and donations for the trust.

**Duties of the department.** Authorizes the department to: Design a schedule of health care services to be included in the plan; design and implement a structure of periodic premiums due to the department from enrollees in the plan based on a sliding fee scale; design detailed rules of eligibility and enrollment; allow a procedure where a financial sponsor may pay the premium; create a procedure for the department to pay subsidies for eligible children to enroll in the plan or a comparable health insurance plan; and establish criteria to allow a managed care plan, the department, or some other entity to verify eligibility. Allows the department to contract with the Colorado children's health plan for the provision of services.

**Financial management.** Requires the department to promulgate rules to ensure that sufficient funds are present in the trust to implement the provisions of the plan. The board is required to assess the expenditures for the plan and compare it to the funds in the trust and make the adjustments necessary to ensure that expenditures remain within the limits of available revenue. Allows the department to institute a program for competitive bidding to select managed care contractors for the provision of medical services to children enrolled in the plan. Declares that the children's basic health plan is not an entitlement and enrollment is limited based upon annual appropriations from the trust by the general assembly. When funding is limited, requires the department to give priority to children who would qualify for medicaid as if there were no asset testing and to children with gross family incomes under 133% of the federal poverty level.

**Eligibility.** States that only children under 18 years of age, whose gross family income does not exceed 185% of the federal poverty level, and who have not been covered by a health insurance plan with benefits comparable to the plan are eligible for subsidized enrollment in the plan. Allows uninsured children whose gross family income exceeds 185% of the federal poverty level to enroll in the plan but not be eligible for a subsidy from the department. Requires that a child be uninsured for the 3 months prior to application to the plan. Mandates that, if one child is enrolled in the plan, all uninsured children in the family must be enrolled.

**Managed care plans.** Authorizes the department to establish a method to select the managed care plans to contract with the department for the provision of health care services to children under the plan.

**Federal waivers.** Requires the department to apply for any federal waiver necessary to implement the plan.

**Privatization.** Allows the department to enter into personal services contracts for the administration of the children's basic health plan contingent upon the approval of the state personnel director.

**Appropriation.** Appropriates \$2,000,000 to the children's basic health plan trust fund from the general fund. Appropriates \$2,000,000 from the children's basic health plan trust to the department of health care policy and financing. Modifies a lettered note designation associated with the department of higher education, regents of the university of Colorado health sciences center, Colorado child health plan in the annual general appropriation act to show that \$2,374,570 shall be from program reserves and from moneys received from the department of health care policy and financing.

**APPROVED** by Governor May 28, 1997

**EFFECTIVE** May 28, 1997

**H.B. 97-1344 Public assistance - medical assistance - appeal process.** Requires every county department of social services or service delivery agency to adopt a procedure for the resolution of disputes between the county department or service delivery agency and an applicant for or recipient of public assistance or medical assistance prior to appeal to the state. Directs that the dispute resolution process include an opportunity for all clients to have a county conference, upon the client's request, and such requirement may be met through a telephonic conference upon the agreement of the client and the county department. Provides that the dispute resolution process must meet rules adopted by the state board on expeditious time frames, notice, and an opportunity to be heard and to present evidence. Provides that if the dispute is not resolved by the local dispute resolution process, the applicant or recipient may appeal to the department of human services or the department of health care policy and financing, as applicable. Allows two or more counties to establish jointly the dispute resolution process. Requires the state board of human services and the medical services board, respectively, to adopt rules on the dispute resolution process and on what issues are appealable to the state. Requires county notices to applicants or recipients to inform them of the basis of the county's decision or action, their rights to a county conference under the dispute resolution process, and their rights to a state level appeal and the process for making such an appeal.

States that any disputes at the county or state level related to the successor program to aid to families with dependent children shall be decided in accordance with rules promulgated by the state board of human services and with the county's official written policies governing delivery of assistance under such program.

Requires the department of human services or the department of health care policy and financing to make an investigation if the department initiates the review of a county decision and give the county an opportunity to rebut its findings or conclusions.

Directs the department of human services, the department of health care policy and financing, and the division of administrative hearings in the department of personnel to work together to streamline the appeal process at the state level.

Authorizes the department of human services to apply to the United States department of agriculture and the health care financing administration for waivers to develop a process for appeals that ensures that issues may be consolidated at the local and state levels. Eliminates statutes concerning evidentiary conferences at the county level.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** July 1, 1997

## INSURANCE

**S.B. 97-41** Health insurance - Colorado uninsurable health insurance plan. Updates definitions applicable to the Colorado uninsurable health insurance plan to conform such provisions with existing law applicable to health care coverage. Adds definitions necessary for new funding mechanisms provided in this act.

Revises provisions related to the members of the board of directors of the plan and the powers and duties of the board. Makes the Denver district court the venue for legal actions affecting the plan. Clarifies the board's procedures for selecting the administering carrier for the plan. Clarifies the establishment of premiums for coverage offered through the plan.

Expands the powers of the board to include the establishment of procedures and standards for the subsidization of premiums and other plan expenses of qualified insureds and the development of a list of medical conditions for which plan eligibility will be granted without the need for prior application to an insurance carrier. Repeals preexisting condition limitations for any eligible individual with qualifying previous coverage.

Provides that continued funding for the plan shall be from current sources and penalties, fines, and excise taxes collected by the commissioner of insurance and currently credited to the general fund of the state. Establishes the Colorado uninsurable health insurance plan cash fund for the deposit of such additional revenues. Deletes the repeal of the business associations unclaimed moneys fund and the deposit of moneys therefrom to the Colorado uninsurable health insurance plan cash fund.

**APPROVED** by Governor May 1, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-54** Health insurance - federal "Health Insurance Portability and Accountability Act of 1996". Brings Colorado's health insurance laws into compliance with the requirements of the federal "Health Insurance Portability and Accountability Act of 1996". Declares that the intent of this act is solely to make Colorado law consistent with federal law in order to retain state jurisdiction over health insurance plans, avoid dual state and federal regulation, reduce public confusion about health insurance rights and responsibilities, and preserve Colorado health insurance requirements that exceed federal law. Declares that nothing in this act shall prevent or prohibit the governor from giving the required notice to the federal government that Colorado is implementing an acceptable alternative mechanism to section 2741 of the federal act, but that no such notice may take place without specific statutory authorization from the general assembly. Specifies that nothing in this act shall be construed to authorize implementation of the National Association of Insurance Commissioners' model acts on individual availability or portability.

Cross references identical definitions contained in both the "Small Employer Health Insurance Availability Program Act" and the "Colorado Health Care Coverage Act". Makes these definitions consistent with the federal law.

Makes Colorado's health insurance laws with respect to renewability of policies consistent with the requirements of federal law. Sets forth the circumstances under which an insurer may refuse to renew coverage.

Pursuant to federal law, requires small employer carriers to offer all of their small



employer health insurance policies to all employers of 2 to 50 employees rather than only the basic and standard health benefit plans currently required by Colorado law. Makes this requirement inapplicable to such health benefit plans made available in the small employer group market only through certain types of bona fide associations.

Requires carriers offering individual health insurance coverage to offer and accept for enrollment every eligible individual applying for coverage except for coverage offered only through bona fide associations and conversion policies.

Prohibits health insurers from charging higher premiums to similarly situated covered individuals on the basis of health status-related factors. Makes Colorado's limitations on preexisting condition exclusions in health benefit plans consistent with federal law.

Clarifies that contributions to a medical savings account may only be excluded from federal taxable income for purposes of Colorado income tax if the individual has not already deducted such contributions on federal income tax returns.

**APPROVED** by Governor May 1, 1997

**EFFECTIVE** May 1, 1997

**S.B. 97-61** Reporting requirements - form of financial statements - application of NAIC guidelines - requests for phase-in. In connection with the existing requirement that insurers and certain health care providers follow all applicable instructions, procedures, and guidelines promulgated by the National Association of Insurance Commissioners (NAIC) when filing annual financial statements with the insurance commissioner, provides relief from the initial application of such instructions, procedures, or guidelines if the result would be to reduce a company's total capital and surplus by 10% or more or would cause the company's capital and surplus to fall to or below a threshold level, known as the "company action level," set by the commissioner.

Allows a company to request relief from a new NAIC instruction, procedure, or guideline in the form of a phase-in of its effectiveness over a period of up to 3 years. Requires the commissioner to provide notice and an opportunity for a hearing before denying any such request.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** March 24, 1997

**S.B. 97-72** Domestic abuse discrimination - prohibited. Identifies practices that discriminate against victims of domestic abuse that are unfair methods of competition and unfair or deceptive acts or practices in the business of insurance. Requires an insurer, upon the written request of an insured or an applicant, to demonstrate that an act taken that adversely affects a victim of domestic abuse is not solely based on a victim's domestic abuse status but instead is based on underwriting criteria related to the condition, property, or claim history of the insured or the applicant and upon sound underwriting and actuarial principles. Grants immunity to insurers for actions taken in compliance with the act.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** January 1, 1998

**S.B. 97-104** Insurance companies - regulation by insurance commissioner - market conduct

examinations - confidentiality of information - appropriation. Creates a market conduct examinations program under which the commissioner of insurance will consider complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, and market share analyses in addition to the other sources of information currently considered. Includes advisory organizations and rating organizations within the definition of a "company" subject to examination.

Requires companies that are examined to make documents available for examination at the division offices and to pay the costs associated with the examination. Requires examinations to be conducted by the insurance commissioner or the commissioner's assistants unless good cause is shown to hire contract examiners. Provides that working papers, claim files, and other documents involved in an ongoing informal investigation are to be given confidential treatment. Increases certain fees to pay for examinations.

Appropriates \$503,262 and 7.0 FTE to the department of regulatory agencies for the implementation of the act. Of this amount, \$100,831 and 1.4 FTE is further appropriated to the department of law and \$17,182 and 0.1 FTE is further appropriated to the department of personnel, division of administrative hearings, for legal and administrative law judge services related to the implementation of the act.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** June 3, 1997

**S.B. 97-108** Division of insurance - sunset review - continuation until July 1, 2002 - appropriation. Continues the division of insurance until July 1, 2002.

Expands the range of misconduct for which the commissioner may assess monetary penalties, authorizing penalties of up to \$1,000 per occurrence (limited to a maximum aggregate penalty of \$10,000) for violations of any insurance statute or rule or order adopted pursuant to the insurance statutes. In cases of willful violation, authorizes a penalty of up to \$10,000 per occurrence, not to exceed an aggregate penalty of \$150,000 in any 6-month period. Allows appeal of such penalty to be made to the court of appeals.

Allows the reduction of coverage of motor vehicle insurance policies if the reduction is part of a general reduction filed with, instead of approved by, the commissioner.

Changes the administration of self-insurance authorization from the department of revenue to the division of insurance.

Appropriates \$245,401 and .6 FTE to the department of regulatory agencies, division of insurance, for the implementation of the act. Of this amount, \$204,984 and 2.8 FTE is further appropriated to the department of law for the provision of legal services relating to the implementation of the act.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-109** Insurance companies - financial examinations. Reinstates the requirement that self-insured employers report closed-claim data. Eliminates the current requirement that managed care plans file premiums or charges, in addition to rates, with the commissioner of insurance. Changes the financial examination cycle for health maintenance organizations

from at least once every 3 years to once every 5 years. When auditing a company's tax statement, grants the commissioner authority to examine any books or records bearing on the company's tax statement. For purposes of litigation involving unauthorized foreign or alien insurers, if the insurer is listed on the commissioner's nonadmitted insurers list, allows the insurer to show to the judge and the commissioner that sufficient assets exist to pay any final judgment instead of depositing cash or filing a bond with the clerk of the court.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** April 24, 1997

**S.B. 97-224** Automobile insurance - income sensitive motor vehicle coverage - continuation. Continues until July 1, 2002, the availability to persons with qualifying incomes of income sensitive motor vehicle insurance policies that provide \$25,000 medical protection and \$5,000 wage loss protection. Lowers the required savings that the insurer must demonstrate from a minimum of 20% to 15% of the personal injury protection coverage premium during the first year an insurer offers income sensitive motor vehicle insurance policies.

**APPROVED** by Governor May 16, 1997

**EFFECTIVE** May 16, 1997

**H.B. 97-1104** Health insurance - treatment of intractable pain. Requires an insurance carrier offering a health care plan or managed health care plan to disclose whether the plan provides coverage for the treatment of intractable pain. If the carrier does offer treatment for intractable pain, requires that the plan provide access to such treatment either by a primary care physician with demonstrated interest and documented experience in pain management or by allowing direct access or referral to a pain management specialist participating in and available under the plan. Provides that, if the plan is silent on whether it covers treatment for intractable pain, then the plan shall be presumed to offer coverage for the treatment of intractable pain. Authorizes the commissioner of insurance to promulgate rules regarding the referral of insured persons to pain management specialists. Defines "intractable pain".

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** April 24, 1997

**H.B. 97-1122** Managed care plans - consumer protection standards - enforcement by commissioner of insurance. Enacts the "Consumer Protection Standards Act for the Operation of Managed Care Plans". Defines the terms "network" and "participating provider" for purposes of the "Colorado Health Care Coverage Act".

Sets forth standards for the adequacy of managed care networks. Requires health insurance carriers to maintain access plans for health care services offered through managed care plans. Sets forth the requirements for such access plans. Provides for the confidentiality of any proprietary parts of access plans. Establishes occurrences when a managed care plan may not penalize or deny or restrict benefits to a covered person.

Sets forth requirements for health insurance carriers and health care providers participating in managed care plans. Requires contracts between such parties to hold persons covered under managed care plans harmless for the cost of covered care. Requires such agreements to provide for contingencies in the event of insurance carrier insolvency or cessation of operations. Requires the development of provider selection standards. Prohibits certain conduct with respect to provider selection. Requires certain terms with respect to

termination of a contract between a carrier and a provider of health care services under a managed care plan. Requires that each managed care plan allow covered persons to continue receiving care for 60 days after a participating provider is terminated by the plan without cause and the covered person did not receive proper notice.

Establishes standards for contracts between persons authorized by health care providers to negotiate provider contracts and health insurance carriers. Requires contracts between such intermediaries and health insurance carriers to be consistent with other standards in this act.

Authorizes the commissioner of insurance to enforce the provisions of this act. Makes violation of this act an unfair method of competition and unfair or deceptive act or practice under the unfair insurance practices laws. Prohibits the commissioner from arbitrating, mediating, or settling disputes between a managed care plan and a provider concerning the provider's inclusion in or termination from the plan.

Applies to all managed care plans that are issued, renewed, extended, or modified on or after January 1, 1998, except worker's compensation and automobile insurance contracts.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1131** Health insurance - denial of coverage based on recreational activities. Makes it an act of unfair discrimination and an unfair claim settlement practice for a health insurer to deny coverage to an individual solely because of the individual's casual or nonprofessional participation in certain lawful recreational activities including motorcycling, snowmobiling, and off-highway vehicle riding.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** October 1, 1997

**H.B. 97-1144** Health insurance - small employer geographic location case characteristics. Authorizes the commissioner of insurance to establish one or more separate geographic location categories for certain counties that are not part of a primary metropolitan statistical area or a metropolitan statistical area for purposes of certain health insurance premium rating determinations.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** March 24, 1997

**H.B. 97-1161** Health coverage plans - procedure for denial of benefits. Specifies that a health coverage plan shall not deny a request for reimbursement for or coverage of medical treatment on the grounds that treatment is not necessary, appropriate, efficient, or effective unless the denial is made in accordance with this statutory provision. Requires such plans to notify the policy holder in writing of the reasons for denial. Requires the commissioner of insurance to promulgate rules for the content of and deadline for such notification.

Requires all such denials to include an explanation of the specific medical basis for the denial and to advise the covered person of the right to appeal the decision. Requires such

denials to be signed by a licensed physician familiar with the Colorado standard of care. Grants the covered person's health care provider the ability to communicate with the physician involved in the decision. Requires a health coverage plan to disclose its standards for denial of treatment. Specifies that this statutory provision does not preclude the right of an individual to seek other legal remedy.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1175** Financial institutions - sale of insurance. Prescribes certain standards related to the sale of insurance by financial institutions. Forbids "tying" arrangements and misleading advertising. Requires disclosure by the financial institution that the insurance products are not deposits, not insured or guaranteed, may involve investment risk, and that the product may be purchased from an agent of the consumer's choice. Forbids discrimination against nonaffiliated agents. To the extent practicable, requires a separate location within the financial institution for sale of insurance. Forbids sales of insurance by unlicensed employees of financial institutions.

Allows the banking board and the commissioner of insurance to adopt rules relating to the sale of insurance by banks, industrial banks, and trust companies. Allows the financial services board and the commissioner of insurance to adopt rules relating to the sale of insurance by savings and loan associations and credit unions.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** April 24, 1997

**H.B. 97-1192** Health insurance - mandatory coverage - biologically based mental illness. Effective January 1, 1998, requires health care policies to provide coverage for the treatment of biologically based mental illness that is no less extensive than the coverage provided for any other physical illness. Defines "biologically based mental illness" to include schizophrenia, schizoaffective disorder, bipolar affective disorder, major depressive disorder, specific obsessive-compulsive disorder, and panic disorder. Specifies that these benefits are not required to the extent that such benefits duplicate other mandated mental illness coverages currently required under Colorado law.

**APPROVED** by Governor April 1, 1997

**EFFECTIVE** January 1, 1998

**H.B. 97-1275** Insurers' rehabilitation and liquidation - priority of distribution. Specifies that an annuity issued in connection with funding a structured settlement of liability is a class 2 claim for purposes of distributions of assets of life insurers upon liquidation.

Defines an "insurer's estate" to mean general assets of the insurer less any assets held in separate accounts that are not chargeable with liabilities arising out of any other business of the insurer. Provides that every claim under a separate account contract not chargeable with liabilities arising out of any other business of the insurer shall be satisfied out of the assets in the separate account equal to the reserves and other contract liabilities maintained in the account for such contract.

To the extent that such amounts are insufficient to discharge such a claim due to fraud, error, or malfeasance on the part of the insurer, the unsatisfied claim shall be treated as a

class 2 claim against the insurer.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1311** Health benefit plans - description form. Requires the commissioner of insurance to develop a Colorado health benefit plan description form, by rule, by November 15, 1997. Requires the form to include information of general interest to purchasers of health plans and to facilitate comparison of different health benefit plans. Requires insurance carriers to provide such description form on request or as part of marketing materials provided to potential health insurance purchasers.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** June 3, 1997

**H.B. 97-1316** Fraud investigations by the attorney general - appropriation. Allows the commissioner of insurance to refer suspected insurance fraud to the attorney general. Requires the notice of insurance fraud penalties statement to be printed on insurance policies or applications for insurance. Increases the maximum fine for making a false insurance entry from \$500 to \$5000. Increases the maximum fine for testifying falsely in an insurance investigation from \$500 to \$5000. Grants the attorney general concurrent jurisdiction with the district attorneys to investigate and prosecute insurance fraud. Imposes a \$120 fee on each entity regulated by the division of insurance to fund the costs of attorney general investigations and prosecutions.

Makes it an unfair method of competition to:

- Refuse to issue a policy for, or impose a surcharge for, coverage of persons who have had their licenses suspended for their inability to operate a motor vehicle due to physical incompetence; and
- Refuse to issue a policy for, or to impose a surcharge for, coverage of minors who have had non-driving related alcohol offenses.

Makes an appropriation from the division of insurance cash fund to the department of regulatory agencies, division of insurance, of \$174,846. Further appropriates such amount and 2.5 FTE to the department of law to implement this act.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section

1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1323** Health insurance - small group coverage - exemptions - business groups of one. Repeals an existing prohibition on interruptions in coverage and changes in plan design or benefits since January 1, 1996, for insurers that issued individual health insurance policies for self-employed individuals or other "business groups of one" before January 1, 1996, and do not wish to be regulated under provisions applicable to small group carriers. Adopts detailed requirements for continuation of the exemption, including parity of rate increases upon renewal among a carrier's entire book of individual health benefit plans sold to business groups of one, disclosure by the carrier to the purchaser in advance of specified differences between available health insurance options, and certification by the carrier's representative of certain facts pertaining to the marketing and sale of the plan.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** May 21, 1997

## LABOR AND INDUSTRY

**S.B. 97-139** Workers' compensation - benefits - calculation - scheduled and nonscheduled injuries. Increases the permanent partial disability benefit from \$150 per week to \$175 per week, allowing increases or decreases in this figure based on the state average weekly wage. Where an injury causes a loss set out on the list of scheduled injuries and a loss compensable under the provisions governing medical impairment benefits, requires that the scheduled injury be compensated separately, according to the schedule, rather than combined with the nonscheduled injury. Requires that claims for mental or emotional stress be compensated under the special provisions applicable to such claims rather than combined with a scheduled injury to allow the claimant to receive medical impairment benefits.

**VETOED** by Governor April 25, 1997

**S.B. 97-140** Workers' compensation - benefits - conditions of recovery. For purposes of workers' compensation benefits, declares that work-related mental or emotional stress must be treated differently from work-related injuries and occupational diseases resulting solely in physical impairment. Declares the general assembly's intent to apply the 12-week limitation on mental impairment benefits to both permanent and temporary disability benefits under the workers' compensation system, thereby legislatively reversing a contrary decision of the Colorado supreme court. Requires scheduled injuries to be compensated exclusively under the compensation schedule.

Changes current references to "mental impairment" to refer to "mental or emotional stress". Requires claims for mental or emotional stress to be proven using criteria established in the American Psychiatric Association's "Diagnostic and Statistical Manual for Mental Disorder," 4th edition. Allows for independent medical examinations in disputed cases.

Limits the period of benefits for which mental or emotional stress benefits are available to 12 weeks, unless the claimant's physician or psychologist makes a written request for a continuation of benefits after 8 weeks. If the physician or psychologist so requests, benefits may be extended for up to 12 additional weeks for a maximum total of 24 weeks.

**VETOED** by Governor April 25, 1997

**S.B. 97-207** Workers' compensation - access to claim files - restrictions. With respect to workers' compensation claim files, specifies that the director of the division of workers' compensation may only permit access to other governmental entities as required for the performance of their official duties and only if those duties relate to activities necessary to enforce the provisions of the "Workers' Compensation Act of Colorado" or the enforcement of child support obligations pursuant to law. Further provides that this provision is not intended to restrict the rights of persons otherwise authorized specifically by law to inspect and copy such records.

States that the general assembly intends that any contract, agreement, or any other means to transfer information in effect prior to the effective date of this act between the department of labor and employment and any other governmental entity related to access to workers' compensation claim files shall be conformed to these new provisions or be



terminated as authorized by law.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** May 27, 1997

**H.B. 97-1010** Unemployment compensation - insurance - treatment of Indian tribes as employers. Removes Indian tribes from the definition of a political subdivision, thereby treating such tribes as rated employers for unemployment insurance coverage purposes in conformity with federal law.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1100** Labor laws - prohibition on local governments enacting certain labor laws. Declares that the following areas of labor law are a matter of statewide concern: Employment relations and collective bargaining and minimum wages. Prohibits local governments from enacting any jurisdiction-wide laws in such areas. Specifies that local governments may enact laws or ordinances that are specifically authorized in state law or local ordinances relating to the employees and contractors of the local government.

**VETOED** by Governor March 24, 1997

**H.B. 97-1128** Workers' compensation - benefits - overpayment - recovery by employer or insurer. Gives the division of workers' compensation and administrative law judges hearing workers' compensation cases the express authority and direction to reopen awards and to order repayment of benefits when a claimant has received excess benefits.

Requires written notice to the employer and the employer's insurer (if any) of any such overpayment within 20 days after the claimant receives it or learns that it will be paid. If notice is given, allows recoupment through a diminution in future payments, prorated over the same amount of time as the period during which the overpayments were made. If notice is not given, allows a total suspension of benefit payments until all overpayments have been recovered. In cases where repayment by either of these methods is not practicable, allows the employer or insurer to request an order for repayment. Requires notice to the claimant of the obligation to report any excess benefits.

Allows an order for repayment of benefits to be reduced to judgment in the same manner as are fines and penalties from employers.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1159** Unemployment compensation - insurance tax rates - reduction in standard rate. Sets the standard rate for unemployment insurance taxes at 1.7%. Specifies that employers newly subject to unemployment insurance tax on or after July 1, 1997, shall pay such tax at the standard rate of 1.7% for a period of 12 consecutive calendar months and, after such 12-month period, would pay the unemployment insurance tax at an experience rating rather than the standard rate.

Establishes a transitional period for new businesses created on or after July 1, 1994,

and before July 1, 1997, for purposes of moving those entities from the current rating system to the system established in this act.

**APPROVED** by Governor May 28, 1997

**EFFECTIVE** May 28, 1997

**H.B. 97-1172** Employee leasing companies. Recognizes that 2 employers may both be the employer in a co-employer or employing unit relationship. Defines "employee leasing company" as a person, business, or other entity that provides services to a work-site employer pursuant to an employee leasing company contract. Specifies those functions that an employee leasing company must perform in order to be considered an employer for purposes of Colorado law.

Allows small employer insurance carriers to give a discount to small employers who have contracts with employee leasing companies. Requires the employee leasing company to be solely responsible for paying the premiums in order for the small employer to qualify for a discount. Requires the carrier to guarantee the issuance of coverage to any work-site employer that has a contract with the employee leasing company who requests coverage and to base any discount solely on savings from collection of premiums and marketing.

**APPROVED** by Governor April 8, 1997

**EFFECTIVE** April 8, 1997

**H.B. 97-1180** Workers' compensation - ratios - Colorado compensation insurance authority. Allows the board of directors of the Colorado compensation insurance authority (CCIA) to set different workers' compensation rates for employers so long as those rates are not excessive, inadequate, or unfairly discriminatory. Allows nondisclosure by the CCIA of records not required to be released by other insurance companies. Allows the board to impose a premium surcharge for up to 12 months for those employers or their successors in interest whose coverage was terminated because of fraud or intentional misrepresentation of a material fact. Allows employers who have had such surcharge imposed to make a complaint to the commissioner of insurance. Allows the board to refuse to issue a policy until all premiums have been paid and provisions of the canceled policy have been complied with.

Expands the authority of the commissioner to regulate the CCIA. Grants the state treasurer authority to invest CCIA funds in a broader range of investments.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** May 21, 1997

**H.B. 97-1221** Employment references - exceptions to blacklisting prohibition - disclosure of theft or embezzlement. Amends the anti-blacklisting statutes to allow lending institutions and their agents, acting in good faith, to disclose information about theft, embezzlement, and other defalcations by a current or former employee. Creates a presumption that such institutions and their agents act in good faith unless it is shown by a preponderance of the evidence that they intentionally or recklessly disclosed false information about the employee.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** April 19, 1997

**H.B. 97-1224** Freedom of legislative and judicial access act - creation. Makes it unlawful for a person, including a corporation, limited liability company, partnership, association, firm, governmental entity, individual, or any officer or agent thereof, to:

- Adopt or enforce any rules, regulations, or policies forbidding or preventing its employees, franchisees, or agents or entities under its control or oversight from testifying before a legislative committee or court of law or speaking to a legislator at the request or invitation of such committee, court, or legislator concerning any action, policy, rule, regulation, practice, or procedure of any such person; or
- Take any action against its employees, franchisees, or agents or entities under its control or oversight for testifying before a legislative committee or court of law or speaking to a legislator at the request or invitation of such committee, court, or legislator concerning any action, policy, rule, regulation, practice, or procedure of any such person.

States that the prohibition does not apply to testimony that discloses confidential, proprietary, or otherwise privileged information. Specifies the criminal penalty for any such violation. Allows an employee, franchisee, or agent or entity under the control of any person to recover damages, including reasonable attorney fees, from any person resulting from any such violation. Specifies that nothing in the act shall be construed to prohibit an employee, franchisee, or agent or entity under the control of any person from pursuing any other right of action permitted under law for any such violation. Specifies that nothing in this act shall be construed to obligate any person to compensate an employee or agent for time spent testifying before a legislative committee or court or speaking to a legislator concerning any such action, policy, rule, regulation, practice, or procedure.

**APPROVED** by Governor June 4, 1997

**EFFECTIVE** June 4, 1997

**H.B. 97-1245** Unemployment compensation - claimant with alcohol or controlled substance addiction - benefits chargeable to fund. Allows a full unemployment benefit award to be charged to the unemployment compensation fund, instead of a rated employer's account, when the award is to a claimant who has separated from a job because of an addiction to drugs or alcohol and who has been or is being treated for such addiction.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** April 24, 1997

**H.B. 97-1251** Housing provided pursuant to contract of employment - termination of license to occupy. Allows an employer and employee to enter into a written agreement to provide an employee a license to occupy premises as part of the compensation for such employment. Allows the termination of such license upon a 3-day notice to the employee. Requires the employee to vacate the premises within 3 days of a notice of termination of a license. Requires an agreement to be in writing and to include the names and signatures of the employer and employee, the address of the premises, and a statement that the license is provided to the employee as part of the employee's compensation. If an employee does not vacate the premises within 3 days after receipt of the notice, allows local law enforcement officers to remove the employee, and any personal property of the employee, on showing of the notice and agreement.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

## MILITARY AND VETERANS

**H.B. 97-1083** National guard members - reemployment and benefits. Makes the reemployment and benefit retention rights that apply when private employees who are members of the Colorado national guard are absent from employment for military training applicable to such guard members who are absent from employment due to active service for state purposes, regardless of the length of the absence.

**APPROVED** by Governor March 4, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1320** Western slope veterans' cemetery - committee - report - fund. Directs the Colorado board of veterans affairs to appoint an advisory committee of between 5 and 7 persons residing on the western slope to report on the establishment of a military veterans' cemetery on the western slope. Requires the advisory committee to report to the board of veterans affairs by November 1, 1997, on:

- The appropriate size, location, and potential sites for the cemetery;
- The anticipated costs for the establishment and maintenance of the cemetery;
- Plans for raising moneys for the establishment and maintenance of the cemetery;
- The availability and desirability of federal moneys for the acquisition and operation of the cemetery; and
- Eligibility requirements for interment in the cemetery.

Directs the board of veterans affairs to submit recommendations on plans for the establishment and maintenance of the cemetery to the capital development committee within 30 days of receipt of the advisory committee's report.

Establishes a new fund to accept donations, grants, and appropriations for the acquisition and operation of the cemetery.

**APPROVED** by Governor June 5, 1997

**EFFECTIVE** June 5, 1997

## MOTOR VEHICLES AND TRAFFIC REGULATION

**S.B. 97-3** Motor vehicle taxes and fees - trucks and truck tractors - payment in installments. Allows owners of trucks and truck tractors operating interstate or intrastate to apply to pay annual registration fees and specific ownership taxes for such vehicles in installments. Directs the department of revenue to approve an application to pay the fees and taxes for a fleet or fleets of vehicles in installments if:

- The total amount of the annual registration fees and specific ownership taxes for the fleet or fleets equals \$1000 or more;
- The owner pays 1/3 of the total amount due for the registration fees and specific ownership taxes with the application;
- The owner does not owe any past due registration fees or specific ownership taxes or any penalties for nonpayment;
- The owner has not been denied the privilege of making installments because of prior nonpayment of installments; and
- The owner has obtained a performance bond, bank letter of credit, or certificate of deposit in an amount equal to at least the amount of the registration fees and specific ownership taxes that are to be paid in installments.

Provides that tax and fee installments are due on the 1st day of the 5th month of the registration period and the 1st day of the 9th month of the registration period. Provides that the full amount of the taxes and fees owed for the year for the fleet or fleets of vehicles is due immediately if an installment is not paid on time.

Authorizes the department of revenue to deny a motor vehicle owner the privilege of paying in installments if the owner fails to pay any installment for a motor vehicle within 30 days after the installment was due. Authorizes the department to promulgate regulations to implement the installment payment process.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** January 1, 1998

**S.B. 97-35** Registration - collector's items. Limits the criteria for registration of a motor vehicle as a collector's item to a requirement that the motor vehicle be at least 25 years old.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-36** Automated vehicle identification systems - service of process - reports of convictions and outstanding judgments or warrants - assessment of points - penalties. Declares that the use of automated vehicle identification systems ("photo-radar") to enforce traffic laws is a matter of statewide concern. Authorizes the state, a county, or a municipality to use automated vehicle identification systems to detect state or municipal traffic violations with the following limitations:

- Allows a municipality to establish jurisdiction over a defendant only if the defendant

is served with the penalty assessment notice or summons and complaint pursuant to specified procedures. Allows the state or a county to establish jurisdiction over a defendant only if the defendant is personally served with the penalty assessment notice or summons and complaint. Allows the state, a county, or a municipality to mail a written notice of violation to a defendant and permits a defendant to waive service of process.

- Requires a defendant to be served with a penalty assessment notice or summons and complaint within 90 days after the alleged violation occurred.
- Prohibits the state, a county, or a municipality from making a report to the department of revenue regarding any conviction or entry of judgment or regarding any outstanding judgment or warrant if the violation was detected through the use of an automated vehicle identification system.

Prohibits the department of revenue from assessing any points against a person's driver's license because of a state or municipal traffic violation and from maintaining any record of such a violation if the violation was detected using an automated vehicle identification system.

Limits the penalty that the state, a county, or a municipality may impose for a state or municipal traffic violation detected using an automated vehicle identification system as follows:

- 1st offense of speeding less than 10 miles per hour above the reasonable and prudent speed: No penalty may be imposed. Requires the state, county, or municipality to mail a warning to the driver.
- 2nd or subsequent offense of speeding less than 10 miles per hour above the reasonable and prudent speed or any other 1st offense: Maximum penalty, including any surcharge, is \$40.

Prohibits the state, a county, or a municipality that has established an automated vehicle identification system for the enforcement of municipal traffic regulations or state traffic laws from paying any portion of any fine collected through the use of such system to the system manufacturer or vendor. Requires any compensation paid for such equipment to be based upon the value of such system and not on the number of traffic citations issued or the amount of revenue generated by the equipment.

**APPROVED** by Governor June 5, 1997

**EFFECTIVE** June 5, 1997

**S.B. 97-38** Electric motor vehicles - use of neighborhood electric vehicles. Defines neighborhood electric vehicles and categorizes neighborhood electric vehicles as motor vehicles for purposes of Colorado law. Exempts neighborhood electric vehicles from meeting the requirement that motor vehicles be equipped with tail lamps, multiple-beam headlights, side mirrors, and slow moving vehicle emblems.

Prohibits the operation of neighborhood electric vehicles unless authorized and regulated by a local government and before the posting of necessary traffic control devices and signs. Prohibits local governments from registering or licensing such vehicles and from

authorizing operation of such vehicles on limited access highways. Provides that any person operating such vehicles on limited access highways commits a class B traffic infraction. Prohibits the department of revenue from registering or titling neighborhood electric vehicles until the federal department of transportation has adopted a federal motor vehicle safety standard for such vehicles.

Exempts electric motor vehicles from the requirement that motor vehicles be equipped with mufflers.

**APPROVED** by Governor April 21, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**S.B. 97-58** Ready-mix concrete truck operators - maximum hours of service. Prohibits intrastate ready-mix concrete truck operators from driving for any period after having been on duty for 70 hours during 7 consecutive days if the employing motor carrier does not operate every day of the week or 80 hours during 8 consecutive days if the employing motor carrier operates every day of the week. Specifies that 24 consecutive hours off duty shall constitute the end of any 7 or 8 consecutive-day period.

States that commercial motor vehicles that transport hazardous materials are subject to federal hour-of-service limitations.

**APPROVED** by Governor April 8, 1997

**EFFECTIVE** April 8, 1997

**S.B. 97-88** Motor vehicle insurance - operator's policy. Allows any natural person to purchase an operator's policy of liability insurance for purposes of complying with mandatory motor vehicle insurance laws. Requires such policies to include a statement that the insurer is only liable for liability incurred while the named insured is the operator of a motor vehicle, that the policy does not provide coverage for vicarious liability, and that the policy may not meet requirements imposed by other states. Requires the insured to sign a statement that the insured has read and understood the policy and its limitations.

In the absence of other coverage on the motor vehicle, forbids a motor vehicle owner who holds an operator's policy from allowing another person to operate the owner's motor vehicle. Allows such policies to provide coverage when a vehicle is driven in other jurisdictions. Requires such policies to cover liability incurred while the motor vehicle is not operated by any person. Specifies that operator policies are not available to motor vehicle dealers, lessors, manufacturers, rebuilders, or distributors, or fleet owners, common and contract carriers, or individuals who own motor vehicles for use by employees.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** August 6, 1997



**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**S.B. 97-89** Collectors' trucks and truck tractors - registration fee - penalties. Clarifies that trucks and truck tractors may be registered as collectors' items. Establishes \$65 as the annual registration fee for a truck or truck tractor that has an empty weight of 6,001 pounds or more or a declared gross vehicle weight of 16,001 pounds or more that is a collectors' item if it is used only for noncommercial transportation and only driven to collectors' meets, parades, or exhibition tours.

Creates penalties for the commercial use of a truck or truck tractor registered as a collector's item or driven for purposes other than to collector's meets, parades, or exhibition tours.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** January 1, 1998

**S.B. 97-135** Abandoned motor vehicles - collection and storage. Gives auto parts recyclers the same ability as towing carriers with regard to the collection and storage of abandoned motor vehicles. Defines "auto parts recycler". Specifies that auto parts recyclers need not have a license from the public utilities commission to engage in those functions.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** April 24, 1997

**S.B. 97-198** Registration - full-use dealer license plates - annual fee. Requires the annual fee for motorcycles to be calculated by the department based on the average of specific ownership taxes and registration fees paid for motorcycles that are seven model years old or newer. Requires the annual fee for full use dealer plates and full use dealer plates for motorcycles to be pro-rated on a monthly instead of annual basis.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1003** Conduct related to motor vehicles - insufficient funds checks - ignition interlock systems - timely payment of fines - personal service of notices - speeding in construction zones - school bus requirements - financial responsibility requirements for

underage alcohol violations. Directs the department of revenue to deny issuance or renewal of a driver's license if the applicant issued a check or order to pay a penalty assessment, a driver's license fee, a license reinstatement fee, or a motor vehicle record fee and such check

or order was returned for insufficient funds or a closed account and the check or order remains unpaid. Makes the \$30 administrative processing fee for outstanding judgments or warrants also applicable to returned checks. Provides that administrative processing fees collected by the department of revenue are retained by the department. Allows an applicant to appeal to the department regarding the imposition of a penalty if the applicant can show that the financial institution made an error and that there were sufficient moneys in the account.

Allows a person to obtain an ignition interlock system if such person has no outstanding judgments or warrants at the time of the hearing, rather than at the time of driver's license restraint. Extends the ignition interlock device program for 2 years, until July 1, 2000. Allows a person whose driver's license was revoked because such person is a habitual traffic offender to obtain an ignition interlock system, in addition to persons whose licenses are revoked primarily because of alcohol violations.

If a person receives a penalty assessment notice for a traffic violation and such person pays the fine and surcharge on or before the date the payment is due, reduces the points assessed against the person's driver's license as follows:

- For a violation with an assessment of 3 or more points, reduces the assessment by 2 points; and
- For a violation with an assessment of 2 points, reduces the assessment by one point.

Allows a municipality to elect to follow such requirements for reductions in traffic offenses. Requires any municipality that reduces a traffic offense to conform the reduced offense and point assessment with the statutory point assessment schedule. Assesses one point against a driver's license for the offense of operating a vehicle with defective head lamps.

If a penalty assessment notice for a traffic infraction is not personally served on the defendant or the defendant has not accepted the court's jurisdiction, provides that the traffic infraction is a class B traffic infraction and the department of revenue has no authority to assess any points for the traffic infraction.

Doubles the penalty and surcharge for a speeding violation occurring in a portion of a state highway that the department of transportation has designated as a maintenance, repair, or construction zone. Requires the department to post signs indicating the beginning and end of zones where such activity is taking place or will be taking place within 4 hours.

Changes from permissive to mandatory the requirement that any school bus with a capacity of 16 or more be equipped with 4 yellow signal lights in addition to 4 red signal lights. Requires a school bus to stop as far to the right of a roadway as possible, rather than as far off of the roadway as possible, when discharging and loading passengers.

Eliminates the proof of financial responsibility requirement imposed on any person whose driver's license was revoked because such person obtained, attempted to obtain, consumed, or possessed alcoholic beverages or ethyl alcohol while such person was under the age of 21. Allows any person who currently has posted financial responsibility for the future because of such a violation to end such posting.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1021** Proof of financial responsibility - former residents. Requires the director of the division of motor vehicles in the department of revenue to suspend the requirement for proof of financial responsibility for the future for former Colorado residents who obtain a driver's license in another state or foreign jurisdiction. Requires the director to reinstate the requirement for such persons if they apply for a new Colorado driver's license.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** April 19, 1997

**H.B. 97-1035** Drivers' licenses - revocations - nondriving alcohol offenses - procedure. Eliminates the current requirement that a person under 21 years of age who is convicted of certain offenses relating to the purchase, consumption, or possession of alcohol be ordered by a judge to immediately surrender the person's license to the court to begin the process of revocation. Specifies that the period of revocation based on such conviction begins when the person whose license is being revoked is given a notice by the department of revenue.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** May 21, 1997

**H.B. 97-1080** License plates - medal of honor recipients. Creates a special motor vehicle license plate for recipients of the medal of honor. Authorizes any recipient of the medal of honor to apply for such plates. Provides that no fee be charged for one set of such plates. Allows a medal of honor recipient to apply to use such plates on a motor home, in addition to any passenger car or truck, upon the payment of any required taxes or fees.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** March 24, 1997

**H.B. 97-1098** Inflatable restraint systems - insurance claims - replacement of inflatable restraint systems - use of salvaged systems - police accident reports. If a person makes a claim and receives payment under an automobile insurance policy for a motor vehicle inflatable restraint ("air bag") system that has inflated and deployed or has been stolen, states that the person shall replace such system. Authorizes an insurer to inspect the vehicle if such a claim is made to verify that the system did inflate or was stolen.

Prohibits a motor vehicle repair garage from returning any components of a replaced inflatable restraint system to the consumer.

Allows a motor vehicle repair garage to replace an inflatable restraint system only with a newly manufactured system or with a system that has been salvaged and sold by a vehicle dismantler or an auto parts recycler. Prohibits a motor vehicle repair garage from installing a salvaged inflatable restraint system unless such installation has been authorized

in writing by the customer.

Requires that the invoice for the sale of a salvaged inflatable restraint system by a vehicle dismantler or auto parts recycler include the date of sale, the vehicle identification number of the vehicle from which the system was salvaged, and the part number for the system. Requires a vehicle dismantler or auto parts recycler to maintain the bill of sale for the sale of a salvaged inflatable restraint system for at least 3 years.

Requires a law enforcement officer who is reporting a traffic accident to include information in the report regarding whether the motor vehicle's inflatable restraint system, if any, inflated and deployed during the accident.

**APPROVED** by Governor May 16, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1105** Motor vehicle repair facilities. In the "Motor Vehicle Repair Act of 1977", changes references from "motor vehicle repair garage" to "motor vehicle repair facility". Allows a facility to note the customer's telephone number on the invoice and work order once, instead of each time the customer is called. Extends the grace period before storage charges accrue by any days the repair facility is closed for business. Requires a repair facility to retain a work order for at least 3 years. Provides that a storage fee may not be charged unless it is imposed pursuant to a written agreement. Repeals the \$10 fee cap on storage fees.

Makes a violation of the "Motor Vehicle Repair Act of 1977" a deceptive trade practice subject to the "Colorado Consumer Protection Act".

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** May 21, 1997

**H.B. 97-1140** Drivers' licenses - reexamination - after involvement in fatal accident - time limit. If a fatal motor vehicle accident involving one or more licensed drivers occurs, directs the department of revenue, if it deems appropriate, to mail a written notice to all such drivers involved in the accident requiring such drivers to submit to reexamination. Prohibits the department from requiring reexamination of a driver based upon such accident if the department hasn't mailed a notice to the licensee within 90 days after the department receives notice regarding such accident.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** January 1, 1998

**NOTE:** This act was passed without a safety clause. The act establishes an effective date of January 1, 1998. It shall take effect on that date unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed

for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1142** New residents - registration of vehicles - driver's license and identification card applications - penalties for noncompliance. Requires that any application for a driver's license, instruction permit, commercial driver's license, or identification card contain a statement indicating that:

- The applicant understands that, as a resident of Colorado, any vehicles owned by the applicant must be registered in Colorado or the applicant may be subject to penalties; and
- The applicant agrees to comply with such registration requirements within 30 days after becoming a resident.

Clarifies that, within 30 days after a person becomes a resident of Colorado, such person is required to register the vehicles owned by such person in Colorado. Clarifies that a person failing to comply with registration requirements after becoming a resident of Colorado is guilty of a misdemeanor, punishable by a \$500 fine, and is subject to a civil penalty of \$500. Eliminates jail sentences from the possible penalties for motor vehicle registration violations. Authorizes the department of revenue to cancel or deny the driver's license or identification card of a person who fails to register such person's motor vehicles in Colorado. Provides that, in addition to such penalties, a person failing to register such person's vehicles in Colorado continues to be liable for all unpaid registration fees and specific ownership taxes.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1189** Motor vehicle fees - increase in fee for duplicate certificate of title - distribution of fees collected by county clerks. Increases the fee for a duplicate certificate of title from \$3.50 to \$6.50. When collected by the county clerk and recorder, distributes such fee as follows:

- The portion to be retained by the county clerk and recorder is increased from \$1.50 to \$5.50; and
- The portion credited to the state special purpose account for distributive data processing is decreased from \$2.00 to \$1.00.

When collected by the county clerk and recorder, distributes the \$3.50 fee for assignment of a new identifying number to a motor vehicle as follows:

- The portion retained by the county clerk and recorder is increased from \$1.50 to \$2.50; and
- The portion credited to the state special purpose account for distributive data processing is decreased from \$2.00 to \$1.00.

**APPROVED** by Governor May 16, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1199** Leases - security interest not created by terminal adjustment clause. Ensures that a lease of a motor vehicle does not create a sale or security interest solely because the lease agreement allows for upward or downward adjustments of rent based upon the amount to be realized upon sale or disposition of the motor vehicle.

**APPROVED** by Governor April 16, 1997

**EFFECTIVE** April 16, 1997

**H.B. 97-1209** Motor vehicle insurance - motorist insurance identification database program - penalties for noncompliance with insurance requirements - appropriation. Establishes a computer database to help law enforcement officials verify owner compliance with motor vehicle financial security requirements. States that the program shall be administered by the motor vehicle division in the department of revenue. Requires that a motorist insurance identification fee of not more than \$1.00 be paid when registering a motor vehicle. States that such fee shall be credited to the motorist insurance identification account within the highway users tax fund.

Requires the department of regulatory agencies to review the program to determine if the number of uninsured motorist claims reported by insurers declined between July 1, 1997, and the date of the review and to submit its findings to the general assembly no later than October 15, 1999. Repeals the database program and the motor vehicle insurance laws effective July 1, 2001, if the number of uninsured motorist claims reported by insurers does not decline during such period.

Requires the motor vehicle division to contract with a designated agent by January 1, 1998, for the purpose of monitoring compliance with motor vehicle insurance requirements. States that, not later than January 1, 1999, the designated agent shall develop and maintain a database with information provided by the motor vehicle division and insurers. States that self-insured persons are not required to provide information for the database.

Requires insurers to report policyholder and uninsured motorist claim numbers to the commissioner of the division of insurance and to provide the following information to the designated agent:

- Name, date of birth, and driver's license number and address of each named insured;
- Make, year, and vehicle identification number of each insured motor vehicle;

- Policy number, effective date, and expiration date of each policy.

Requires the motor vehicle division to fine an insurer up to \$250 for each day the insurer fails to report required information.

Requires the motor vehicle division to provide the designated agent with the name, date of birth, address, and driver's license number of every individual in its computer database and the make, year, and vehicle identification number of all registered vehicles.

Requires the designated agent to update the database so that monthly comparisons may be made of motor vehicle registrations and the database. If such comparisons show that a motor vehicle has been uninsured for 3 months, requires the motor vehicle division to direct the designated agent to notify the owner that he or she has 45 days to comply or provide proof of an exemption.

Provides that a person charged with not having the required proof of financial security may prove compliance by mailing the motor vehicle division a letter from an insurer verifying that the required coverage existed on the date in question.

States that information included in the database is the property of the party supplying the information. Describes to whom and in what instances the database information may be disclosed. If database information is knowingly disclosed for any other purpose or to an unauthorized person, states that the party making the disclosure commits a class 1 misdemeanor.

Provides immunity to the state when complying with the requirements of this act. States that the designated agent is not liable for performing its duties unless the act or omission is willful and wanton or it is negligent in failing to protect the information disclosed to it by an insurer. Exempts insurers from liability unless they commit a willful and wanton act or omission.

Allows the administrative suspension of driver's licenses of uninsured motorists, effective not later than January 1, 1999. Requires the department of revenue to suspend the license of any person on its determination that the person lacked a complying policy or certificate of self-insurance. Requires the department to make such determination of uninsured status on the basis of an affidavit of a law enforcement officer. Specifies that this determination of facts is independent of such determination of similar facts in a criminal case involving the same action or suspensions under the financial responsibility act. After the determination, requires the department to either issue a notice of suspension or rescind the order of suspension.

States that a law enforcement officer may, upon determining that a driver lacks a complying policy or certificate of self-insurance, issue a notice of suspension and, if such suspension is issued, the law enforcement officer shall take possession of the driver's licence, issue the driver a temporary permit, swear out an affidavit, and forward all of the above to the department of revenue. Requires the department to adopt forms and a format for affidavits. Specifies that the suspension becomes effective 7 days after the driver receives notice, either in the mail or from the officer, unless the driver files proof of financial responsibility for the future, complies with the financial responsibility law, or provides evidence that a complying policy was in force at the time.

Specifies that the duration of the suspension shall be until the driver complies with the financial responsibility laws or files proof of financial responsibility for the future. Allows the driver to request an administrative hearing. Allows a temporary permit to be issued during the pendency of the hearing process. Specifies procedures for such hearings and provides that the sole issue is whether the driver lacked a complying policy or certificate of self-insurance.

Appropriates \$3,374,500 to the department of revenue for allocation to the division of motor vehicles for the implementation of the act.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1227** Drivers' licenses - reexamination - driving with excessive alcohol content - first offense. Prohibits the department from requiring a person to undergo driving skills or knowledge testing to obtain a new driver's license after the expiration of a license revocation if the revocation was imposed for a first offense of driving with excessive alcohol content.

**APPROVED** by Governor April 16, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1233** Identification cards - cancellation - fee for reissuance. Authorizes the department of revenue to cancel, deny, or deny the reissuance of an identification card for the following reasons:

- Failure to give the required or correct information in an application for an identification card or commission of any fraud in making such application; or
- Permitting an unlawful or fraudulent use of an identification card or conviction for misuse of an identification card.

Establishes a \$20 fee to cover the costs of the department of revenue for the reissuance of an identification card that has been cancelled or denied or to verify the identity of an applicant.

Allows a person whose identification card has been cancelled or denied to request a hearing.

**APPROVED** by Governor April 6, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1238** Motorcycle operator safety training program - increase in registration surcharge. Increases the surcharge imposed on any motorcycle or motorscooter registration



to support the motorcycle operator safety training program from \$2 to \$4. Repeals the \$2 increase in such surcharge on July 1, 2002. Prohibits expending more than 20¢ of the additional \$2 surcharge for promotion of the motorcycle operator safety training program and for motorist awareness.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1246** Motor vehicle records - protection of privacy - records regarding disability - reproduction of driver's licenses or identification cards. Prohibits the release of any record indicating that a person has obtained distinguishing motor vehicle license plates or an identifying motor vehicle placard for persons with disabilities or the release of any other motor vehicle record that would reveal the presence of a disability.

Prohibits any person from reproducing a driver's license or identification card for the purpose of distribution, resale, reuse, or manipulation of the data or images contained in such driver's license or identification card unless authorized by the department of revenue or otherwise authorized by law. Makes the violation of such prohibition a class 3 misdemeanor.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1262** Used motor vehicles - mileage. Increases the mileage at which a motor vehicle is deemed to be a used motor vehicle from 200 miles to 1,500 miles.

**BECAME LAW** April 29, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1301** Underage drinking and driving - driving with blood alcohol content of 0.02 - penalties - revocation of driver's license - proof of financial responsibility - expungement of records. Prohibits any person under the age of 21 from driving a motor vehicle while such person has a blood or breath alcohol content of 0.02 or above. Makes the driving of a motor vehicle by a person under 21 with an alcohol content of at least 0.02 but less than 0.05 a class A traffic infraction, with a \$50 fine and 4 points assessed against the person's driver's license. Directs the department to revoke the license of a person convicted of such traffic infraction.

Imposes a revocation period upon conviction of 3 months for a 1st offense, 6 months for a 2nd offense, and one year for a 3rd or subsequent offense.

Reduces the alcohol level at which the department of revenue is directed to revoke the driver's license of a person under the age of 21 who is operating a motor vehicle from 0.10 to 0.02. Reduces the alcohol level at which the department of revenue is directed to revoke the driver's license of a person under the age of 21 who is operating a commercial motor vehicle from 0.04 to 0.02. Imposes a revocation period of 3 months for a 1st offense, 6 months for a 2nd offense, and one year for a 3rd or subsequent offense.

Upon request, authorizes a hearing officer to modify the license restraint imposed on a person for a 1st-time underage drinking and driving conviction or administrative revocation and, in lieu of the 3-month revocation, to order a revocation of not less than 30 days plus a license suspension for the remainder of the 3-month period. Allows the hearing officer to grant such person a probationary driver's license, to be effective no earlier than 30 days after the beginning of the revocation period, that may be used only for reasons of employment, education, health, or drug or alcohol education or treatment.

Requires the department of revenue to revoke the driver's license of any provisional driver, in addition to any minor driver, upon the 1st conviction of such person for an alcohol- or drug-related driving violation.

Requires proof of financial responsibility for the future for underage drinking and driving as follows:

- 1st conviction or administrative revocation: No proof is required.
- 2nd or subsequent conviction or administrative revocation: Proof required for a time period equal to the time period the person's driving privilege is ordered to be under restraint.

Upon request, requires the department of revenue or the court to expunge the record of an underage drinking and driving conviction or administrative revocation if:

- The person is over 21 years old and the court action or administrative action is completed;
- The person has not been convicted of any other alcohol- or drug-related offense committed while the person was under 21 or, for a request made to the department of revenue, is not subject to any other administrative revocation for underage drinking and driving; and
- The person has paid the fine and surcharge and completed any other requirements of the court.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1346** Drivers' licenses - sale of photographs for prevention of fraud. Authorizes the department of revenue to sell copies of photographs, electronically stored photographs, or

digitized images from driver's license records for the purpose of preventing fraud, including the use of such photographs or images in mechanisms intended to prevent the fraudulent use of credit cards, debit cards, checks, or other forms of financial transactions. Allows a purchaser to use such photographs, electronically stored photographs, or digitized images only for the purpose of verifying the identity of account holders. Directs the department of revenue to set a fee for such sales. Allows the department of revenue to authorize an applicant to obtain copies of such photographs or images from a vendor and to pay the vendor directly for such photographs or images.

Prohibits the department of revenue from selling any photograph, electronically stored photograph, or digitized image of a person whose address is required to be kept confidential because of the danger of criminal harassment or bodily harm.

**APPROVED** by Governor May 28, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1348** Motor vehicle records - driver's license records - request for confidentiality - inspection of records - sale of records by county clerk and recorders - provision of motor vehicle services - appropriation. Directs the department of revenue to include a confidentiality notice on any form for a driver's license application, identification card application, motor vehicle title application, or motor vehicle registration application. Requires that such notice indicate that any person filing such an application may request that information in such person's motor vehicle or driver record not be used for any purpose other than a purpose authorized by law. Requires any person who wishes to make such a request to complete a confidentiality request form and file the form directly with the department of revenue. Directs the department of revenue to create a confidentiality request form and provides that the department and the county clerk and recorders, as the designated agents of the department, are the sole distributors of the confidentiality request form.

Prohibits the department of revenue or a county clerk and recorder from allowing inspection of certain motor vehicle or driver records by any person, other than a person in interest or a governmental agency carrying out its official functions, unless the person signs a requestor release form. If such form indicates that the person will use information in records, requested individually or in bulk, for any purpose other than a purpose authorized by law, prohibits the department or clerk and recorder from allowing inspection of any records for which a confidentiality form has been filed.

Prohibits a county clerk and recorder from providing motor vehicle or driver records to the public if such records are available to the public directly from the department of revenue.

Declares that, since it is the government that requires citizens to register, license, and take other actions concerning their motor vehicles, it is the duty of government to provide convenient and easily accessible motor vehicle services to the public.

Appropriates \$85,265 to the department of revenue, division of information technology, for the implementation of the act.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** September 1, 1997



## NATURAL RESOURCES

**S.B. 97-48** Arkansas River regulation - board of parks and outdoor recreation. Continues the authority of the board of parks and outdoor recreation in the division of natural resources to regulate recreational and commercial use of the portion of the Arkansas River that runs from the confluence of the Lake Fork and the East Fork of the Arkansas river to the Pueblo reservoir.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** March 24, 1997

**S.B. 97-49** State trust land - agricultural and grazing leases - state board of land commissioners - appropriation. Provides a lease term of 10 years for agricultural or grazing leases on state trust lands unless the state board of land commissioners (board) and the lessee agree to an alternate term.

Requires the board, in renewing a lease for agricultural or grazing purposes, to consider the benefit that continued agricultural and grazing use of the land contributes by the preservation of the stability of the local community, the revenue provided for trust purposes, and lessee's stewardship of the land. Provides the lessee with 90 days to negotiate for the a new lease. For agricultural or grazing leases expiring on or after July 1, 1998, specifies that the board shall give the present lessee one year's written notice of its intent not to renew the lease. Requires the board to make certain findings before it leases such land for any purpose other than agricultural or grazing.

Gives persons leasing land for agricultural and grazing purposes the right to match the best offer for sale of the land received by the board if the board offers the land for sale.

Requires anyone who leases, purchases, or exchanges land that belongs to the state and upon which there are improvements authorized by the board belonging to another party to pay such party for such improvements before the board sells, exchanges, or leases the land. If the board cancels or terminates a lease of state lands upon which there are authorized improvements belonging to another party, requires the board to compensate the owner for those improvements subject to available funding if the lessee has satisfied all outstanding lease obligations.

Provides immunity from civil liability to a lessee of state trust lands and the lessee's agents and employees for any cause of action for damages or injury that arises as a result of the board allowing public access to the leased lands for recreational or wildlife purposes without the lessee's approval. Clarifies that assent by the lessee to any plan approved by the board that allows access over which the lessee has no control does not constitute approval by the lessee.

Appropriates \$8,541 out of the land board administration fund to the department of natural resources. Further appropriates such amount to the department of law for the provision of legal services in connection with the implementation of the act.

**APPROVED** by Governor May 28, 1997

**EFFECTIVE** May 28, 1997

**S.B. 97-52** Wildlife - trapping, snaring, and poisoning - prohibitions - implementation of

"Amendment 14" - appropriation. Declares the intention of the general assembly to implement section 13 of article XVIII of the state constitution adopted in 1996 as "Amendment 14".

Prohibits the taking of wildlife with any leghold trap, any instant kill body-gripping design trap, or by poison or snare in the state of Colorado, subject to exemptions for:

- Departments of health, for purposes of protecting human health and safety;
- Control or management of birds, rodents, and fish;
- Nonlethal trapping for scientific research, falconry, relocation, or medical treatment of the animal being trapped;
- Landowners seeking to prevent ongoing damage to commercial crops and livestock where alternative methods of wildlife control have failed.

Gives the division of wildlife in the department of natural resources and the department of agriculture rule-making authority to define the types of traps, snares, and poisons that may be used and the manner in which they are to be used under the various exemptions. Adopts criminal penalties for violations.

Appropriates \$46,400 and 1.1 FTE to the division of wildlife and \$65,973 to the department of agriculture for the implementation of the act. Of the amount appropriated to the department of agriculture, further appropriates \$2,373 to the department of law for the provision of legal services related to the implementation of the act.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** May 27, 1997

**S.B. 97-117** State parks - disabled veterans free entrance. Continues free entrance to state parks and recreation facilities for disabled veterans whose vehicles display a Colorado disabled veteran's license plate.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** March 28, 1997

**S.B. 97-199** Mining - regulation of operators - performance bonds - authority of office of mined land reclamation to accept self-bonds. To conform with federal law, changes "shall" to "may" in an existing provision so that the office of mined land reclamation is permitted, rather than required, to accept the bond of a mine operator itself without separate surety upon the operator's demonstration of financial responsibility.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** March 28, 1997

**S.B. 97-206** Management of state lands - state land board - implementation of amendments to state constitution - appropriation. Conforms provisions in the statutes governing the state board of land commissioners (land board) with the provisions of Amendment 16, adopted by the voters at the November 1996 general election, that amended sections 3, 9, and 10 of article IX of the state constitution.

Changes provisions related to the appointment of members of the land board to conform to the amended provisions of section 9 of article IX of the state constitution. Conforms statutory provisions related to a director and staff for the land board to the amended provisions of section 9 (4) of article IX of the state constitution.

Changes provisions related to leases of mineral land and agricultural land and rentals therefrom to include incentives and lease rates to "promote sound stewardship and land management practices, long-term agricultural productivity, and community stability", as required by the amended provisions of section 10 of article IX of the state constitution. Changes provisions related to lease terms to reflect the land board's responsibility to comply with the provisions of sections 9 and 10 of article IX of the state constitution rather than the current responsibility to "produce an optimum long-term revenue".

Under amended section 10 of article IX of the state constitution, directs the land board to establish a long-term stewardship trust of up to 300,000 acres of land determined by the board to be valuable primarily to preserve long-term benefits and returns to the state. Specifies that the board should establish such trust through a statewide public nomination process. Provides that land may only be removed from the trust upon an affirmative vote of 4 of the 5 members of the land board and a designation or exchange of other land of an equal or greater amount into the trust. Requires that no land included as part of the long-term stewardship trust may be sold unless such lands are removed from the trust.

Prior to the lease, sale, or exchange of any lands for commercial, residential, or industrial development, pursuant to amended section 10 of article IX of the state constitution, specifies that the land board shall determine whether the income from the proposed transaction can reasonably be anticipated to exceed the fiscal impact of the development on local school districts and state funding of education from increased school enrollment associated with the development.

Consistent with the amended provisions of section 10 of article IX of the state constitution, changes provisions related to leases of state land within corporate city limits to reflect that such provisions must comply with the provisions of sections 9 and 10 of article IX of the state constitution rather than the current responsibility of producing "the greatest annual revenue".

Under amended section 9 (7) of article IX of the state constitution, authorizes the land board to undertake nonsimultaneous exchanges or dispositions of state lands and provides that the proceeds of such dispositions are not part of the public school fund until such a transfer is actually completed.

Updates provisions related to the mineral section of the land board and the superintendent thereof and repeals a provision specifically authorizing acquisition of a right-of-way in 1964.

Clarifies that moneys allocated to the land board trust administration fund shall be from the income generated by the state trust lands.

Pursuant to amended section 10 of article IX of the state constitution, authorizes the land board to sell or lease conservation easements on state lands, allow school districts access to state lands without charge if such access does not interfere with other approved uses, and provide school districts the opportunity to lease, purchase, or otherwise use state lands as

school building sites.

Specifically authorizes the state treasurer to invest public school fund moneys in bonds issued by school districts and to make direct loans to school districts pursuant to the amended provisions of section 3 of article IX of the state constitution. Permits the state to guarantee school district bonds pursuant to the amended provisions of section 3 of article IX of the state constitution.

Appropriates \$40,684 to the department of natural resources for allocation to the state land board from the state land board trust administration fund for the implementation of this act. Out of such appropriation, appropriates \$22,776 and 0.3 FTE to the department of law for the provision of legal services related to the implementation of this act.

Makes provisions of this act severable in the event any provision of the act is found to be held invalid if other provisions can be given effect without the invalid provision.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** May 21, 1997

**S.B. 97-211** Fishing licenses - low-income seniors. Continues resident low-income senior lifetime fishing licenses by repealing the July 1, 1997, repeal date.

**APPROVED** by Governor May 1, 1997

**EFFECTIVE** May 1, 1997

**S.B. 97-235** Snowmobiles and other off-highway vehicles - operation on roadways - "R.S. 2477" rights-of-way. Allows operation of snowmobiles and other off-highway vehicles on rights-of-way constructed or established over federal lands under the former federal statute known as "R.S. 2477", unless a local political subdivision has acted by ordinance or resolution to lawfully restrict such use.

**VETOED** by Governor June 3, 1997

**H.B. 97-1123** Mineral leasing fund - distribution. Increases the maximum amount of spillover moneys a county may receive from the mineral leasing fund. Increases the amount of moneys that must be transferred to the state public school fund before distributions above \$200,000 can be made to any single county.

Allows a county to elect an alternative method for the distribution of the county's share of moneys from the mineral leasing fund. Requires counties to make such election for a minimum of 2 calendar years. Provides that, for the first calendar year following a county's election to use the alternative distribution method, the moneys the county would have received from the mineral leasing fund will be transferred to the local government mineral impact fund.

Specifies that, for the 2nd calendar year and each calendar year thereafter following a county's election, unless the election is withdrawn, the treasurer shall distribute a specified percentage of the moneys attributable to that county directly to school districts and municipalities in the county. Sets forth the method of distribution where there is more than one school district in the county and more than one municipality in the county.



Requires the executive director of the department of local affairs to distribute to a county electing the alternative distribution method an amount from the local government severance tax fund equal to the amount credited to the local government mineral impact fund as a result of the election. Makes other distributions and loans of money from that fund contingent upon the sufficiency of funds remaining after such distributions to counties.

**APPROVED** by Governor May 28, 1997

**EFFECTIVE** May 28, 1997

**H.B. 97-1132** Private landowner liability - opening land to the public for recreation. Clarifies the intent of the laws encouraging land owners to make private lands available for public recreational use to include all lands and not just lands within rural areas. Clarifies that, when land is leased to a public entity or the public entity has been granted an easement, any consideration received for use of the land is not a charge. Defines the term "management" for purposes of such laws. Specifies that property used for public recreational use that is constructed or used for or in connection with the diversion, storage, conveyance, or use of water is not an attractive nuisance. Allows the prevailing party in a civil action by a recreational user of such property for damages against a landowner to recover the cost of the action and reasonable attorney fees.

**APPROVED** by Governor March 21, 1997

**EFFECTIVE** March 21, 1997

**H.B. 97-1134** Vessel safety - personal watercraft operation - minimum age for motorboat operation - prohibited vessel operation - penalties - appropriation. Defines personal watercraft as a motorboat or specialty prop-craft that is operated by a person sitting, standing, or kneeling on the vessel. Requires all persons aboard a personal watercraft to wear an approved personal flotation device. Mandates a person operating a personal watercraft equipped with an engine cutoff switch lanyard to appropriately attach such lanyard. Forbids the operation of a personal watercraft between one half hour after sunset and one half hour before sunrise. Makes it unlawful for anyone to operate a personal watercraft in an unsafe manner.

Effective January 1, 1998, generally prohibits a person under 16 years of age from operating a motorboat. Allows a person between 14 and 16 years of age to operate a motor boat if he or she completes a boating safety course approved by the division of parks and outdoor recreation and has the boating safety certificate in his or her possession. Forbids knowingly permitting or authorizing a person under 16 years of age who has not met the boating safety requirements to operate a motorboat. Prohibits an owner or operator of a vessel livery to rent a motorboat to a person under 16 years of age who has not met the boating safety requirements.

Increases the fine for careless operation of a vessel and the unsafe operation of a personal watercraft to \$100. Increases the fine for violation of certain other boating laws from \$25 to \$50. Requires that a peace officer have reasonable suspicion prior to boarding a vessel.

Appropriates \$28,693 to the department of natural resources for allocation to the division of parks and outdoor recreation for the implementation of this act.

**APPROVED** by Governor June 4, 1997

**PORTIONS EFFECTIVE** June 4, 1997

January 1, 1998

**H.B. 97-1170** Department of natural resources - continuation of the education program.  
Continues the natural resources educational program in the department of natural resources.

**APPROVED** by Governor March 20, 1997

**EFFECTIVE** March 20, 1997

## PROFESSIONS AND OCCUPATIONS

**S.B. 97-14** Debt management - creditor agreement to debtor's schedule of payments. Subject to rules of the banking board, for purposes of a debt adjuster's entitlement to a fee, specifies that a creditor's acceptance of a scheduled payment from a debt adjuster after the creditor has received a proposed schedule of payments constitutes a creditor's agreement to the schedule of payments. Allows a debt adjuster to take a fee if 80% of the creditors accept the schedule of payments. Specifies that a creditor is not deemed to have agreed to a schedule of payment, other than for the purpose of allowing a debt adjuster to collect a fee, unless the agreement by the creditor is in writing.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** April 24, 1997

**S.B. 97-27** Colorado limited gaming act - local government limited gaming impact fund - advisory committee. Establishes the local government limited gaming impact fund. Provides that a percentage of the share of limited gaming revenues to be transferred to the general fund pursuant to the state constitution shall be transferred to the local government limited gaming impact fund. Requires the percentage of such revenues to be transferred to be determined by the Colorado limited gaming control commission after consulting with the local government limited gaming impact advisory committee created by this act. Provides that a minimum of 11% of the revenues must be transferred annually to the fund and increases the percentage to 13%, effective July 1, 2002.

Establishes the local government limited gaming impact advisory committee. Sets forth the membership of the committee. Requires the committee to establish standards for documenting, measuring, assessing, and reporting the documented gaming impacts upon eligible local governmental entities. Requires the committee to review the documented gaming impacts upon eligible local governmental entities on a continuing basis and make funding recommendations for designated projects submitted by eligible local governmental entities. In the event that documented gaming impacts exceed the amount of gaming revenues derived by eligible local governments, requires the committee to request the transfer of additional moneys to the fund from the share of gaming revenues to be transferred to the general fund.

Specifies that moneys from the fund shall be distributed at the authority of the executive director of the department of local affairs after considering the recommendations of the local government limited gaming impact advisory committee. Requires moneys from the fund to be distributed only to eligible local governmental entities. Provides that moneys from the fund may be distributed only upon application for grants by eligible governmental entities to finance the planning, construction, and maintenance of public facilities and the provision of public services related to documented gaming impacts.

Specifies that no additional limited gaming proceeds will be transferred to the contiguous county fund on or after July 1, 1997, and that no additional limited gaming proceeds shall be transferred to the municipal limited gaming impact fund on or after July 1, 2002. Repeals both funds after final distributions have been made and transfers any remaining moneys to the local government limited gaming impact fund.

Eliminates the requirement that the gaming impact advisory committee make an

annual recommendation to the joint budget committee for an amount of gaming revenues to be transferred to the state highway fund.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-90** Real estate appraisers - licensing - penalty fees. Requires only real estate appraisers who perform appraisals in conjunction with a debt instrument that is federally guaranteed or in the federal secondary market or regulated by federal law and real estate appraisers who are employed by county assessors to be registered, licensed, or certified.

Changes the expiration date of the registrations, licenses, and certificates of real estate appraisers from January 1st of the 3rd year after issuance to December 31st of the 2nd year after issuance. Creates penalty fees for late renewal of a registration, license, or certificate.

Extends from one to 2 years after the date of taking office or the beginning of employment the time limit a real estate appraiser employed by a county assessor has to be registered, licensed, or certified by the board of real estate appraisers. Exempts county assessors from discipline by the board of real estate appraisers on the ground that they have performed appraisals beyond their level of competency when appraising real estate in fulfillment of their official duties.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**S.B. 97-119** Industrial hygiene services - provision to state agencies. Adds industrial hygienists to the list of professional services for which state agencies may negotiate contracts. Defines "certified industrial hygienist", "industrial hygienist", and "practice of industrial hygiene".

Requires the department of personnel to develop and maintain, or cause to be developed and maintained, at state agencies approved lists of qualified industrial hygienists for purposes of state professional service contracts.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** March 24, 1997

**S.B. 97-133** Consumer reporting agencies - notice and disclosure - disputed information - penalties. Requires a consumer reporting agency to provide consumers with consumer reports that consumers can understand. Requires a consumer reporting agency, upon the occurrence of certain events, to notify a consumer by mail, that he or she has a right to a free disclosure copy of his or her consumer file along with instructions on how to read the report.

Requires a user of information provided by a consumer reporting agency to give the consumer's social security number to the agency, if the consumer provided such number, when requesting or providing consumer information.

Prohibits a consumer reporting agency from furnishing a consumer report for employment or insurance purposes without the consent of the consumer. Prohibits a consumer reporting agency from including in a consumer report the number of inquiries made concerning the consumer one year after such inquiry is made.

Allows a user of a consumer report that has taken adverse action against a consumer based on the consumer report to explain the report and provide the consumer with a copy of the report. Requires a consumer reporting agency, in the event inaccurate information in a consumer report is successfully disputed by a consumer, to send a revised consumer report to the consumer and, if requested by the consumer, to the person who has requested the disputed information.

Requires a consumer reporting agency to provide a representative for a consumer to speak with concerning disputed entries.

Increases damages payable by a consumer reporting agency that willfully violates the consumer reporting requirements from \$500 to \$1000 per inaccurate entry. Creates a two-tier penalty for negligent violation of the reporting requirements based on the effect of the inaccurate entry on the consumer's creditworthiness. Adds a definition of creditworthiness.

Adds a provision for deletion of obsolete credit information from a consumer report that mirrors the federal "Fair Credit Reporting Act".

**APPROVED** by Governor April 21, 1997

**EFFECTIVE** August 1, 1997

**S.B. 97-173** Certified public accountant - "retired" status. Authorizes the Colorado state board of accountancy to grant retired status to persons who hold Colorado certified public accountant certificates and to determine conditions under which such status will be granted. Allows persons who have been issued a retired status certificate to hold out and use the title "retired certified public accountant" or "retired C.P.A." Specifies that persons who are granted retired status shall not perform certain functions.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** May 21, 1997

**H.B. 97-1025** Pharmacists - licensing - exemption for direct sale of dialysis solutions for self-administration by patient. Exempts from licensing and other statutory requirements regulating the practice of pharmacy the direct sale or delivery by the manufacturer of prepackaged dialysis solutions for the purpose of self-administration, pursuant to a doctor's order, by a person with chronic kidney failure.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** April 19, 1997

**H.B. 97-1039** Health care practitioners - solicitation of accident victims - waiting period. Prohibits health care practitioners or their agents from soliciting employment relating to a

personal injury for 30 days following the incident giving rise to the injury. Excludes emergency health care services provided or referrals made at the time of the incident. States that an injured person or his or her representative may deny compensation for services provided by any health care practitioner making a prohibited solicitation.

**APPROVED** by Governor April 16, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1056** Real estate appraisers - contingent fees - testimony in tax valuation cases. Amends the real estate appraiser licensing statutes to define 2 new terms: "Independent appraisal", in which an appraiser acts as a disinterested party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of real estate, and "consulting services", which include similar services rendered in connection with property tax assessments and appeals, real estate brokerage, and mortgage banking.

Prohibits any person from accepting a contingent fee for an independent appraisal, misrepresenting a consulting service as an independent appraisal, or failing to disclose the fact that a contingent fee is or will be paid in connection with a consulting service.

Replaces the current flat prohibition on appearing in tax valuation protests and appeals when a contingent fee is paid with a requirement that an appraiser disclose that a contingent fee is or will be paid in connection with any such appearance.

**BECAME LAW** April 29, 1997

**EFFECTIVE** April 29, 1997

**H.B. 97-1076** Alcohol beverages - recodification of beer and liquor codes. Reorganizes the beer code. Eliminates the following provisions from the beer code and makes similar provisions in the liquor code applicable to fermented malt beverages: Information about the state licensing authority, licenses and temporary permits, disciplinary actions, excise taxes and liens, unlawful acts, civil liability, unlawful financial interests, and penalties for violations of law.

Reorganizes the liquor code into the following nine parts:

- Part 1 - General provisions
- Part 2 - State licensing authority - duties
- Part 3 - State and local licensing
- Part 4 - Classes of licenses and permits
- Part 5 - License fees and excise taxes
- Part 6 - Disciplinary actions
- Part 7 - Inspection of books and records
- Part 8 - Judicial review and civil liability
- Part 9 - Unlawful acts - enforcement

Revises the composition and duties of the wine industry development board.

**APPROVED** by Governor April 8, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1078** Alcohol beverages - consumption while aboard certain motor vehicles. Makes it lawful for a person who is at least 21 years of age to consume malt, vinous, or spirituous liquors while aboard a charter or scenic bus or a luxury limousine.

**APPROVED** by Governor April 8, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1183** Medical practice - alternative medicine - definition - disciplinary action. Defines alternative medicine. Requires physicians who practice alternative medicine to inform patients during the initial patient contact of the physician's experience and education regarding the alternative medicine practiced by the physician. Prohibits the board of medical examiners from disciplining a physician solely on the grounds that such physician practices alternative medicine.

**APPROVED** by Governor April 16, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1187** Dentists - patient's choice of restorative material. Allows a dental patient the right to choose or replace any professionally recognized restorative material. Prohibits the dental board from taking disciplinary action against a dentist solely for removing or placing any professionally recognized restorative material.

**APPROVED** by Governor March 31, 1997

**EFFECTIVE** March 31, 1997

**H.B. 97-1188** Medical practice - unprofessional conduct - treatment of intractable pain. Clarifies that a person licensed as a physician is not subject to discipline by the board of medical examiners solely for prescribing controlled substances for the relief of intractable pain.

**APPROVED** by Governor April 21, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section

1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1206** Electricians - exemption from permit and inspection requirements - load control devices of public utilities. Exempts from generally applicable permit and inspection statutes the installation of load control devices for electric hot water heaters in single-family residences that are under the control of and operated by an electric utility and installed by a registered electrical contractor.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** March 28, 1997

**H.B. 97-1217** Professional land surveyors - definition changes - boundary corner establishment - appeal of administrative decisions. Clarifies the definitions of the terms "professional land surveying", "control corner", and "land survey". Adds definitions of "corner" and "monument".

In any action before the state board of registration for professional engineers and professional land surveyors, clarifies that a surveyor has the same right of subpoena as the board or program administrator of the board. Provides for the appeal of any decision by the board to a court of competent jurisdiction.

Clarifies that the establishment of a boundary corner through acquiescence doesn't alter the location or existence of a properly restored boundary corner in the vicinity. Changes from 6 to 12 months the time within which a surveyor who sets or accepts an existing survey monument while performing a monumented land survey must file a land survey plat in the office designated by the county commissioners for the county in which the survey monument is located.

**APPROVED** by Governor June 4, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1222** Alcohol beverages - liquor licenses - restrictions. Authorizes local licensing authorities and the state, with respect to state-owned property, to deny the issuance of a new tavern or retail liquor store license when it is determined that the issuance of the license would create or add to an undue concentration of the same class of license and, as a result, require the use of additional law enforcement resources.

**APPROVED** by Governor April 16, 1997

**EFFECTIVE** April 16, 1997

**H.B. 97-1226** Accountants - educational requirements - power of state board to promulgate rules. Authorizes the state board of accountancy to make rules to determine additional educational requirements to take the certified public accountant examination or for the issuance of the certificate of certified public accountant that may be necessary to comply with uniform educational standards set by the American Institute of Certified Public Accountants, the National Association of State Boards of Accountancy, or other nationally recognized programs approved by the board.



**APPROVED** by Governor April 6, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1261** Professional land surveyors - requirements for geographic information systems mapping. Defines geographic information system (GIS) land position. Exempts professional land surveyors from the technical requirements of land surveying, platting, and boundary marking when identifying tracts of land for a GIS. Establishes limitations on the uses for GIS land positions.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1297** Shellfish dealers - certification - administration by department of public health and environment. Declares that it is in the public interest to certify shellfish dealers in accordance with the national shellfish sanitation program administered by the United States food and drug administration. Establishes a certification program administered by the department of public health and environment. Defines a shellfish dealer as a person who engages in any of a number of activities, including shipping, shucking, packing, repacking, processing, and storing shellfish. Prohibits persons from acting as shellfish dealers without an appropriate certificate.

Authorizes the department to grant, deny, suspend, and revoke certifications; to inspect the premises and records of shellfish dealers; to hold hearings and assess civil penalties in accordance with the "State Administrative Procedure Act"; and to cooperate with the federal government and other state governments to implement certification provisions. Makes certain acts unlawful and classifies such violation a class 3 misdemeanor.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** July 1, 1997

## PROPERTY

**S.B. 97-2** Land survey plats - preparation requirements - corrections in definitions. Eliminates the requirement that a land survey plat be prepared each time a land survey monument is set in a subdivision that was platted after July 1, 1975.

Corrects 2 references to the term "plat" contained in the "Colorado Common Interest Ownership Act" so that the references refer to the appropriate section defining a "plat" rather than to a section concerning the monumentation of subdivisions.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** March 28, 1997

**H.B. 97-1016** Recording of instruments conveying real property to public entities. Requires all instruments conveying the title of real property to the state or a political subdivision to be recorded with the office of the clerk and recorder of the county in which such real property is situated within 30 days of such conveyance. If the state or a political subdivision fails to record any such instrument, requires the state or the political subdivision to pay the amount of interest incurred by the county when a tax lien is sold on land upon which no tax was due. Requires the executive director of the appropriate state department or the appropriate official designated by a political subdivision to perform such recording.

**APPROVED** by Governor March 20, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1052** Lending institutions - notification of borrower tax status - appropriation. Authorizes lending institutions to receive notification when a borrower is delinquent in the payment of sales and use tax, withholding tax, special fuels tax, gas tax, or aviation fuel tax and a distraint warrant has been issued. Requires the borrower's signed consent to any such notification.

Authorizes the department of revenue to promulgate rules concerning the provision of information to lending institutions, including the establishment and periodic adjustment of a filing fee. Requires that such filing fee cover programming and other administrative costs incurred by the department in implementing this provision. Specifies that the department may adjust the filing fee at any time and not necessarily at the beginning of the year. Establishes the tax delinquency notification fund and requires that filing fees paid to the department of revenue be credited to such fund.

Appropriates \$20,225 to the department of revenue for the implementation of this act.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1143** Spurious liens and documents - effectiveness - remedies. Defines a spurious lien as one not authorized by statute, not agreed to by the owner of the property, or not imposed by order of an authorized state or federal court. Defines a spurious document as one that is forged, groundless, fraudulent, or otherwise patently invalid. Authorizes any state or local employee to either accept or reject for recording or filing any spurious lien or spurious document. Relieves any state or local employee from liability for either accepting or rejecting for recording or filing any document the employee believes in good faith to be a

spurious lien or spurious document.

Limits the validity of any spurious lien or spurious document to 30 days after its recording or filing. Authorizes a new procedure for an action to declare a spurious lien or spurious document invalid. Describes the requirements for an order to show cause under the new procedure. Requires the court to enter judgment for costs, including reasonable attorney fees, in favor of the prevailing party in such an action.

Allows title insurance companies not to disclose to proposed insureds the existence of spurious liens, spurious documents, or other documents that do not encumber or are not an impairment of the record of the property proposed to be insured.

**APPROVED** by Governor March 20, 1997

**EFFECTIVE** March 20, 1997

## PUBLIC UTILITIES

**H.B. 97-1024** College-provided telecommunications services. Includes colleges that provide telecommunications service to their students, faculty, and staff within the definition of a "private telecommunications network", thus exempting such colleges from regulation as a public utility.

**APPROVED** by Governor March 24, 1997

**EFFECTIVE** March 24, 1997

**H.B. 97-1071** Public utilities commission - oversight agency for safety of rail fixed guideway systems within the state - appropriation. Designates the public utilities commission as the state agency to establish and carry out a system safety oversight program for rail fixed guideway systems in the state. Directs the commission to adopt rules, investigate safety problems, and order corrective action by transit agencies. Makes investigative reports confidential and nondisclosable. Funds the administration of the program through fee assessments upon transit agencies.

Appropriates out of the public utilities commission fixed utility fund to the public utilities commission the sum of \$55,604 and 0.7 FTE.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1350** Public utilities commission - approval of rates and expenditures for new construction - factors - environmental costs and benefits - limitations. Prohibits the public utilities commission, when exercising its regulatory authority in connection with evaluating potential utility resources for purposes of rate making, approval of construction of new facilities, or otherwise, from considering environmental costs unless such costs are recognized under generally accepted accounting principles and are incurred or proposed either:

- For the purpose of complying with existing environmental laws or rules or with settlements approved by a state or federal court or administrative agency; or
- Under a voluntary plan to reduce emissions or accomplish other environmental mitigation beyond the levels required by existing environmental law or rules.

Prohibits the commission from establishing or enforcing environmental standards except to the extent of considering the prudence of expenditures made to comply with existing environmental laws or rules. Requires the commission to consider the effects on the state's economy and employment that may result from the acquisition of potential utility resources. Specifically allows the commission to take into account emission-trading credits

and the lowest-cost available alternatives when considering the costs and benefits of potential utility resources for purposes of prudency review and integrated resource planning.

**VETOED** by Governor June 3, 1997

## STATUTES

**H.B. 97-1005** Colorado Revised Statutes - enactment of 1996 supplements. Establishes the effective date for the 1996 cumulative supplement to Colorado Revised Statutes and enacts it as the positive statutory law of the state of Colorado.

**APPROVED** by Governor February 20, 1997

**EFFECTIVE** February 20, 1997

**H.B. 97-1220** 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 and clarifies the language and more accurately reflects the legislative intent of the laws. The specific reasons for each amendment or repeal are set forth in the appendix to the act.

**APPROVED** by Governor May 27, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

## TAXATION

**S.B. 97-1** Sales and use tax - transfer to highway users tax fund of proceeds attributable to vehicles and related items - allocation - expenditures by the department of transportation - appropriation. Beginning with the 1997-98 fiscal year and for 4 succeeding fiscal years thereafter, allocates 10% of the proceeds of sales and use taxes attributable to the sales or use of vehicles and related items to the highway users tax fund; except that, in any fiscal year during the 5-year period:

- Provides for a reduction in the amount of sales and use taxes credited to the highway users tax fund if there will not be sufficient general fund revenue to fund general fund expenditures up to the statutory appropriation limit after making required expenditures, making the allocation to the highway users tax fund, and maintaining the statutorily required reserve; and
- Provides for a dollar-for-dollar reduction in the amount of sales and use taxes credited to the highway users tax fund and the amount of revenue appropriated during the next fiscal year for capital construction projects if there will not be sufficient excess revenues available for appropriation during the next fiscal year for capital construction projects in an amount equal to \$140,000,000 after making the allocation to the highway users tax fund and maintaining sufficient general fund revenues to fund general fund expenditures up to the statutory appropriation limit and the statutorily required reserve.

Requires the general assembly to examine the conditions imposed on the revenues credited to the highway users tax fund as a result of this act and the amount of sales and use taxes credited thereto if the general assembly implements a tax policy change resulting in a significant reduction of general fund revenues.

Provides for the transfer of the revenues credited to the highway users tax fund as a result of this act to the state highway fund for allocation to the department of transportation for the implementation of the strategic transportation project investment program to be expended as follows:

- At least 80% of such revenues on base corridors; and
- Not more than 20% of such revenues on major investment study corridors, of which at least 50% must be used for highway purposes or highway-related capital improvements.

During the 5-year period, requires the department of transportation to report annually to the transportation committee of the senate and the transportation and energy committee of the house of representatives and to the joint budget committee concerning the revenues expended by the department for the implementation of the strategic transportation project investment program. Sets forth the specific information to be described in the report.

For the fiscal year beginning July 1, 1997, appropriates \$148,300,000 from the highway users tax fund to the department of transportation for the implementation of this act.

**APPROVED** by Governor June 4, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-26** Property tax - assessment ratio for residential real property. Establishes 9.74% of actual value as the ratio of valuation of assessment for residential real property for property tax years commencing on or after January 1, 1997, but before January 1, 1999.

**APPROVED** by Governor May 28, 1997

**EFFECTIVE** May 28, 1997

**S.B. 97-39** Property tax - agricultural property - classification. Amends the definition of "agricultural and livestock products" for property tax purposes to state that neither the use of the product after sale nor the nature of the purchaser change the agricultural character of the product.

Specifies that the definition of "agricultural land" applies regardless of whether the land is used by the landowner or by a lessee. Eliminates the requirement that, to qualify as "agricultural land", the use of property as a farm or ranch must generate at least one-third of the total gross income resulting from all uses of the property during a given year.

Defines agricultural land that is "in the process of being restored through conservation practices" as land that has been placed in a federal conservation reserve program or land for which a conservation plan approved by the appropriate conservation district has been implemented for up to 10 crop years.

Establishes the following new categories of agricultural land:

- Land used as a farm or ranch for which the owner has a decreed water right or final water permit for purposes other than residential purposes, where the owner uses the water for production of agricultural or livestock products on the land; and
- Land that has been reclassified from agricultural land to another classification and that met the new statutory definition of agricultural land during the 3 years preceding the year of assessment.

Requires an assessor to determine that a parcel of land does not qualify as agricultural land under the first new category before changing the classification from agricultural land to any other classification.

For purposes of abatement and refund of property taxes, provides that "erroneous valuation" includes:

- Any reclassification of property from agricultural land to any other classification for the property tax year commencing January 1, 1996, if the property would qualify as agricultural land under the statutory definition, as amended by this act; and
- Any denial of exemption from taxation for the property tax year commencing January 1, 1996, that was claimed for products that would qualify as agricultural and livestock products under the statutory definition, as amended by this act.

Specifies that the changes to the definition of "agricultural land" apply to property tax years commencing on or after January 1, 1997.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** April 24, 1997



**S.B. 97-45** Income tax - adjustment to taxable income - distributions under a qualified state tuition program. For income tax years commencing on and after January 1, 1998, exempts from Colorado taxable income the portion attributable to interest and other income of a distribution from a qualified state tuition program that is distributed for the purpose of meeting qualified higher education expenses of a designated beneficiary.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**S.B. 97-76** Sales and use tax exemption - coins and precious metal bullion. Reinstates the sales and use tax exemption for coins and precious metal bullion.

Specifies that the act applies to sales of coins and precious metal bullion made on or after October 1, 1997.

**VETOED** by Governor April 21, 1997

**S.B. 97-92** Sales and use tax exemption - livestock definition. Defines "livestock" for purposes of the sales and use tax exemption for the sale and use of feed for livestock. Expands the sales and use tax exemption for the sale and use of livestock.

**APPROVED** by Governor April 19, 1997

**EFFECTIVE** July 1, 1997

**S.B. 97-131** Sales and use tax exemption - fuel for residential energy use by occupants. For purposes of the sales and use tax exemption for fuel for residential energy use, clarifies that "residence" includes individually owned condominium units, regardless of the rental period.

Specifies that the act applies to sales and purchases of electricity, coal, wood, gas, fuel oil, or coke on and after July 1, 1997.

**VETOED** by Governor April 25, 1997

**H.B. 97-1033** Sales and use tax exemption - charitable organizations - inclusion of fraternal benefit societies. Includes fraternal benefit societies under the definition of "charitable organization" to clarify that sales to fraternal benefit societies are not subject to the imposition of sales and use tax.

**VETOED** by Governor June 4, 1997

**H.B. 97-1057** Sales and use tax exemption - tangible personal property used for biotechnical purposes. On and after July 1, 1997, exempts from sales and use tax all sales of tangible personal property purchased by companies to be used in Colorado directly and predominately in research and development of biotechnology.

**VETOED** by Governor June 4, 1997

**H.B. 97-1086** Property tax - personal property exemption - reimbursement to local governments - fund created - state-local forum. For property tax years beginning on or after January 1, 1998, 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 tax years beginning on or after January 1, 1998, but prior to January 1, 2006, 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 1997 property tax year. Creates the property tax exemption backfill fund and, for fiscal years beginning on or after January 1, 1998, but prior to January 1, 2006, 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 through 2005, 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.

Repeals the current exemption for personal property in the amount of \$2,500 or less, effective January 1, 1998.

Instructs the state-local forum to conduct intergovernmental fiscal policy research and make recommendations to the general assembly concerning the effects on governments of statewide tax policy changes. Requires the director of research of the legislative council to appoint staff members to assist the state-local forum. By October 1, 1997, requires the executive committee of the legislative council to adopt a plan to pay for the personnel costs associated with the state-local forum's fiscal policy research and to identify a permanent source of staff funding. Requires state and local governments to cooperate with the state-local forum by providing summary tax information. Specifically allows the state-local forum to obtain confidential information relating to fiscal policy research, including tax information in summary form. Prohibits any member or employee of the state-local forum from releasing confidential information. Requires the state-local forum to prepare an annual report of its activities.

**VETOED** by Governor June 4, 1997

**H.B. 97-1137** Gasoline tax - filing of applications for refunds. Prohibits a claimant from filing an application with the department of revenue for a refund of gasoline tax more than once each calendar quarter. Expands the time period in which a claimant may apply for such a refund from 6 months to 12 months after the date of purchase of the gasoline.

**APPROVED** by Governor March 21, 1997

**EFFECTIVE** July 1, 1997

**H.B. 97-1152** Income tax - credit for school-to-career programs. Beginning with the 1997 income tax year, allows a credit against state income taxes for 10% of the total qualified investment made in a qualified school-to-career program. Allows the amount of excess credit to be carried forward as a credit against subsequent years' tax liability for up to 5 years.

Repeals the existing income tax credit for investments in school-to-career programs in which students work predominately in enterprise zones.

**APPROVED** by Governor June 3, 1997

**EFFECTIVE** June 3, 1997

**H.B. 97-1230** Sales and use tax exemption - vending machine sales - in-lieu registration fee. For years beginning on or after January 1, 1998, exempts sales and purchases of packaged items of food or drink through vending machines, other than bulk or sundry merchandise vending machines, from the state sales tax. In lieu of the state sales tax, imposes a registration fee on all vending machines, other than bulk or sundry merchandise vending machines, used to make such sales and purchases. Specifies that sales of items through bulk or sundry merchandise vending machines shall continue to be subject to collection of the state sales tax.

Requires each vending machine operator to maintain a record of the identification number, ownership, and taxing jurisdiction of the location of every vending machine used by the operator and to annually apply for identification numbers for his or her vending machines in accordance with rules promulgated by the department of revenue. Establishes a fee schedule for various types of vending machines. Commencing on October 1, 2000, authorizes the department of revenue to review every 3 years the fees imposed. Provides for phasing in the payment of the increased fees for calendar years 1998 and 1999. Provides that the expenses of the department of revenue in furnishing identification numbers shall be paid from the fees collected for vending machines and that the remainder of the fees collected shall be credited to the state general fund.

Increases the amount of the penalty for each unregistered vending machine from \$25 to \$200. Decreases the period of time after which a vending machine seized by the department of revenue may be sold from 60 to 30 days.

Defines "vending machines" and various classes of vending machines. Provides that the state sales tax exemption created by this act is not applicable to statutory cities' and counties' sales tax bases, unless expressly adopted by such cities and counties. Provides that the state sales tax exemption created by this act is not applicable to the regional transportation district, the scientific and cultural facilities district, or the baseball stadium district, unless expressly adopted by the regional transportation district. Instructs the department of revenue, on or before January 1, 1999, to make recommendations to the general assembly concerning how to allocate to said special districts a portion of the amount received through the registration fee in lieu of authorizing the special districts to continue collecting sales tax on vending machine sales.

Appropriates \$21,431 from the vending machine fee administration cash fund and 0.3 FTE to the department of revenue for the implementation of the act.

**VETOED** by Governor June 4, 1997

**H.B. 97-1260** Income tax - voluntary contributions - Colorado special olympics - appropriation. For income tax years commencing on or after January 1, 1997, but prior to January 1, 2000, permits taxpayers to designate on their Colorado individual income tax return an amount of contribution to the Colorado special olympics fund. Authorizes the general assembly to appropriate moneys in the fund to the department of revenue for costs incurred in implementing the contribution program and administering moneys designated as contributions. Creates the Colorado special olympics fund and credits such contributions to the fund. Stipulates that the Colorado special olympics shall use such moneys only for transportation, equipment, and uniforms for participants in the special olympics program.

Appropriates \$36,000 from the Colorado special olympics fund to the department of revenue for the implementation of the act.

**APPROVED** by Governor May 28, 1997

**EFFECTIVE** May 28, 1997

**H.B. 97-1265** Income tax - tax credit for alternative fuels vehicles and refueling facilities - alternative fuels vehicles rebate program. Modifies the formula used for calculating the amount of the income tax credit allowed for purchasing a motor vehicle that uses an alternative fuel or for converting the fuel system in a vehicle to a fuel system that uses an alternative fuel. Expands the credit to allow a credit for taxpayers who replace the power source in a vehicle that uses a traditional fuel with a power source that uses an alternative fuel. Conforms the definition of "alternative fuel" to be the same as used in the clean fuel fleet program. Allows the credit only for vehicles that are used for business purposes. Doubles the amount of the credit for any motor vehicle purchase or power source replacement that permanently displaces a motor vehicle or power source that is 8 years old or older. Extends the period of time that the income tax credit can be carried forward. Eliminates the existing July 1, 1998, repeal date for the credit.

Provides an income tax credit for a portion of the cost of constructing, reconstructing, or acquiring an alternative fuel refueling facility and that is directly attributable to the storage, compressing, or dispensing of alternative fuels for motor vehicles. Provides that the credit may be carried forward for five years.

Establishes a program to provide rebates to state and local governmental entities and to tax-exempt entities that purchase or convert to alternative fuel motor vehicles or that replace the power source in a vehicle that uses traditional fuel with a power source that uses an alternative fuel. Specifies the formula for calculating the maximum amount of the rebate. Allows a rebate only to the extent that a vehicle is used for the business or official activities of the entity. Doubles the amount of the rebate for any motor vehicle purchase or power source replacement that permanently displaces a motor vehicle or power source that is 8 years old or older. Authorizes the executive director of the department of revenue to grant rebates and requires the executive director to promulgate rules for granting such rebates. Establishes the alternative fuels rebate fund from which rebates are to be made and specified moneys to be credited to said fund.

Appropriates \$740,179 out of the alternatives fuels rebate fund to the department of

revenue, of which \$36,000 is allocated for the initial costs of the department in implementing this act and of which the remainder is to be used to make rebates to qualified entities under article 32 of title 39, Colorado Revised Statutes.

**VETOED** by Governor June 4, 1997

## TRANSPORTATION

**S.B. 97-37 Railroad rights-of-way - acquisition - use - appropriation.** Permits the executive director of the department of transportation to accept donation of an abandoned railroad right-of-way. Requires the executive director to sell, trade, or otherwise convey the donated right-of-way to a railroad company capable of operating a freight or passenger rail service. Creates the state rail bank fund. Requires the proceeds of any sale of an abandoned railroad right-of-way to be deposited in the state rail bank fund. Permits the executive director to allow the use of the donated right-of-way for any public purpose that is not inconsistent with freight or passenger rail service.

Requires the executive director to determine what rail lines or railroad rights-of-way are eligible to be acquired. Requires the transportation commission to review and approve the rail line or railroad right-of-way to be acquired. Mandates the executive director to submit a prioritized list with recommendations to the transportation legislation review committee (TLRC) concerning state acquisition of and uses for rail lines and railroad rights-of-way.

Authorizes the executive director, upon approval by the general assembly, to acquire rail lines or railroad rights-of-way for placement in the state rail bank. Allows the executive director to accept gifts, grants, and donations for the disposition of railroad rights-of-way. Requires the department of transportation to maintain the property in the state rail bank, including the assumption of the responsibility for any fencing agreements of the abandoning railroad company.

Allows the executive director to make the property in the state rail bank available for recreational purposes so long as such use does not limit the ability to restore or reconstruct the property for railroad or other transportation services. Allows the executive director to sell or lease the property in the state rail bank to a financially responsible railroad operator for railroad purposes. Makes any damage to an irrigation ditch in or adjacent to railroad rights-of-way or any increase in ditch maintenance caused by the use of the railroad right-of-way for a public purpose the responsibility of the person to whom the title of the railroad right-of-way is transferred. Makes owners of such irrigation ditches immune from liability arising out of such use of the railroad right-of-way.

Compels an owner of a rail line or railroad right-of-way to notify the executive director when he or she intends to dispose of the rail line or railroad right-of-way. Requires the executive director, within 30 days after receipt of such notice, to inform all departments of the state of Colorado, the appropriate transportation authority, and any local government that contains the rail line or railroad right-of-way affected by the impending sale. Requires the owner to provide any of the public entities with the opportunity to purchase the rail line or railroad right-of-way if the owner receives notice of the entity's interest within 90 days after the announcement of the owner's intended disposal.

Requires the TLRC to consider the recommendations of the executive director and information from any other source and requires the legislative members of the committee to make findings and recommendations to the general assembly regarding the acquisition, use, and disposition of abandoned railroad rights-of-way.

Transfers \$1,000,000 from the department of state cash fund to the state rail bank

fund. Appropriates \$1,000,000 from the state rail bank fund to the department of transportation for the implementation of the act.

**APPROVED** by Governor June 4, 1997

**EFFECTIVE** June 4, 1997

**S.B. 97-128** Pilot program for warranty of paving projects - powers of department of transportation. Requires the state transportation commission to establish a pilot program for the warranty of certain hot bituminous pavement projects. Directs the commission to implement such program by July 1, 1997. Stipulates that the program will end July 1, 2002, unless it is extended by the general assembly.

Limits the duration of such warranties to a maximum of 3 years and exempts contractors from liability for pavement distresses that are caused by factors beyond a contractor's control. Defines "warranty" and "qualified hot bituminous pavement project". Directs the commission to comply with federal requirements or regulations when federal aid is utilized for such paving projects.

Provides for a technical advisory committee to select those paving projects that will be undertaken as part of the pilot program. Specifies the composition of the advisory committee.

Requires that all paving projects constructed as part of the pilot program be subject to a cost-benefit evaluation by a committee selected by the commission. Specifies the composition of the committee. Directs the committee to gather data on actual costs of warranted projects and comparable nonwarranted projects and to present a report on its conclusions to the house and senate transportation committees at the end of the warranty period for the projects or at an earlier date specified by either committee.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1023** Metropolitan transportation development commission - repeal. Repeals the statutory provision establishing the metropolitan transportation development commission, which was terminated in 1992.

**APPROVED** by Governor April 1, 1997

**EFFECTIVE** April 1, 1997

**H.B. 97-1061** Intrastate air carriers - Colorado business incentive fund - performance reports. Requires any entity establishing a new business facility or operation and participating in the Colorado business incentive fund to give due consideration to the provision of intrastate air service to all areas of Colorado and to comply with intrastate air

carrier performance reporting requirements of Colorado law. Expands the guidelines for participating in the business incentive fund to include new operations in the state in addition to new business facilities. Expands the local governmental entities that may enter into agreements to participate in the Colorado business incentive fund to include those entities operating airports at which commercial passenger service is provided.

Specifies that intrastate air carriers that fail to submit required performance reports when due with the aeronautics division in the department of transportation, and that fail to cure the failure within 30 days after notification, may be subject to a civil money penalty of not less than \$2,500 and not more than \$5,000 for each violation as determined by the Colorado aeronautical board. Specifies that moneys from such civil penalties shall be credited to the aviation fund and continuously appropriated to cover the administrative costs of enforcing the performance report provisions. Requires such reports to contain information on mechanical defects discovered and repairs made for each operation of a flight and any weather conditions contributing to delayed or canceled flights.

Appropriates \$5,500,000 from the Colorado business incentive fund to the department of local affairs for allocation to the economic development commission for the fiscal year beginning July 1, 1997, for implementation of the Colorado business incentive fund portions of this act.

Makes this act applicable to intrastate air carrier performance reports not filed when due on or after May 8, 1997.

**APPROVED** by Governor May 8, 1997

**EFFECTIVE** May 8, 1997

**H.B. 97-1066** Emissions inspections - new diesel vehicles. Extends from 12 months to 2 years the time a certificate of compliance that is issued for new diesel vehicles without an emissions test is valid. Clarifies statutory language regarding expiration of such certificates.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

**H.B. 97-1190** Drivers' licenses - renewal by mail. Allows the department of revenue to offer renewal of a driver's license by mail subject to certain conditions. Limits the availability of license renewal by mail to drivers who are 21 years of age or older and under 66 years of age. Restricts license renewal by mail to every other license renewal period.

**APPROVED** by Governor March 28, 1997

**EFFECTIVE** March 28, 1997

**H.B. 97-1273** Rural transportation authority law - creation. Creates the "Rural



Transportation Authority Law". Specifies that 2 or more municipalities, 2 or more counties, or one or more municipalities and one or more counties may create an authority. Directs the director of the division of local government in the department of local affairs to issue a certificate upon the filing of a contract establishing an authority. Specifies the required provisions of such a contract. Prohibits a municipality or county from entering into a contract creating an authority unless 2 public hearings are held. Requires voter approval prior to the establishment of any such authority. Allows the state to join in such a contract upon approval by the governor.

Requires a board of directors to exercise all powers, privileges, and duties vested in or imposed upon an authority. Specifies the powers and duties of the board and the duty of a director when a conflict of interest arises.

Specifies that an authority has the power to:

- Enter into contracts;
- Establish, collect, and increase or decrease fees, tolls, rates, and charges for the privilege of traveling on or using any property included in a rural transportation system;
- Pledge all or a portion of such revenues to the payment of bonds;
- Finance, construct, operate, or maintain rural transportation systems within or without the boundaries of the authority;
- Acquire, lease, dispose of, and encumber real or personal property;
- Accept real or personal property for the use of the authority;
- Impose an annual motor vehicle registration fee not to exceed \$10 per vehicle;
- Levy a sales or use tax, or both, at a rate not to exceed 4/10 of one percent.

Specifies the manner in which an authority may include property within or exclude property from the boundaries of the authority. Subjects property included in an authority to the same mill levies and other taxes levied on other similarly situated property. Allows the board to determine the location of a rural transportation system upon a 2/3rds vote. Specifies when a rural transportation system is subject to the construction bidding provisions governing state projects and state-funded local projects. Directs an authority to assess taxes within the boundaries of existing taxing districts whenever possible.

Allows an authority to establish rural transportation activity enterprises for purposes of conducting authorized activities. Specifies that such enterprise is excluded from the provisions of section 20 of article X of the state constitution. Sets forth the parameters under which such enterprise may operate, including its ability to contract and to issue revenue bonds. States that certain revenues collected and rates charged by an authority in connection with a rural transportation system are not subject to the election requirements or spending limits under section 20 of article X of the state constitution.

Clarifies that state and local traffic laws regarding toll collection and enforcement

pertain to and govern the use of any rural transportation system on which vehicles subject to such laws are operated. Specifies the penalty for violations of such laws.

Allows an authority to establish local improvement districts within the boundaries of the authority to facilitate the financing, construction, operation, or maintenance of rural transportation systems. Specifies the method of establishing a local improvement district. Specifies the methods of issuance and payment of bonds by the authority. Designates the areas in which an authority has cooperative powers. Grants certain powers to the state or any political subdivision thereof for purposes of aiding and cooperating in the financing, construction, operation, or maintenance of rural transportation systems.

Requires voter approval for any action by an authority to establish or increase any tax or to create a multiple fiscal year obligation under section 20 of article X of the state constitution. Specifies the notice requirements for the creation of an authority and for any proposal by an authority to establish, increase, or decrease any tax or fee. Requires an authority to report annually to the transportation legislation review committee. Allows the committee to review the operations, plans, and projects of any rural transportation authority.

Specifies that the state shall not limit or alter the rights of obligees with which the authority contracts. Specifies the manner in which the authority may invest or deposit its funds. Allows fiduciaries to invest in any bonds issued by the authority. Exempts the income, revenues, and bonds issued by the authority from all state taxation and assessments. Creates a limitation on actions. Allows the board of an authority to file a petition in district court for a judicial examination and determination of certain issues.

**APPROVED** by Governor April 24, 1997

**EFFECTIVE** August 6, 1997

**NOTE:** This act was passed without a safety clause. It shall 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

## UNITED STATES

**H.B. 97-1041** Fitzsimons Army Garrison - acceptance of legislative jurisdiction. Accepts the relinquishment of federal jurisdiction over the real property comprising the United States Army Garrison, Fitzsimons, from the federal government effective upon acceptance by the governor of the notice of relinquishment. Directs the governor to notify the office of legislative legal services of the date of such acceptance. Specifies that the state shall not assume any liability as a result of accepting jurisdiction over the property.

**APPROVED** by Governor March 13, 1997

**EFFECTIVE** March 13, 1997

## **WATER AND IRRIGATION**

**S.B. 97-8** Water conservation board - project authorization and deauthorization - studies - appropriations. Authorizes the water conservation board to expend moneys on the following:

- Certain enumerated water projects;
- The Colorado river compact decision support system;
- The satellite monitoring system maintenance;
- The continuation of the extreme precipitation study and revisions to the national oceanic and atmospheric agency atlas;
- The continuation of the Roaring Fork and Arkansas rivers multi-objective management plans;
- A statewide river rehabilitation and floodplain management needs inventory;
- The Chatfield reservoir reallocation study;
- The Tamarack project and continuation of demonstration projects;
- The Grand Valley water management project and native aquatic species facilities;
- Salinity control program loans.

Deauthorizes certain projects authorized in previous years. Changes the amount authorized for a certain project in a previous year. Authorizes the restoration of the previous balance in the emergency infrastructure repair loan account balance. Increases the amount of money in the Arkansas river augmentation loan account from \$1,500,000 to \$3,000,000. Creates the Horse Creek basin account.

Exempts any account in the Colorado water conservation board construction fund from paying the state treasurer management fee.

Appropriates \$4,000,000 to the department of natural resources for allocation to the water conservation board from the severance tax trust fund perpetual base account for the Eagle Park Reservoir rehabilitation project.

**APPROVED** by Governor May 21, 1997

**EFFECTIVE** May 21, 1997

**S.B. 97-151** Water conservation board - fish and wildlife resources account - interest - use of species recovery grants. Allows all interest earned from investment of the moneys in the fish and wildlife resources account in the Colorado water conservation board construction fund to be credited to that account. Exempts moneys in the account from the state treasurer management fee.

Provides that species recovery grants from the fish and wildlife account may be made to implement proposals to enhance fish and wildlife resources that address the needs of

federally protected species and are consistent with state water policy.

**APPROVED** by Governor June 4, 1997

**EFFECTIVE** June 4, 1997

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