

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

1999 FIRST REGULAR SESSION  
JUNE 1999

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-second General Assembly at its First Regular Session ending May 5, 1999. 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. 99-1163** Continuation of 1998 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, 1997, and before November 1, 1998; except that certain rules and regulations shall expire as scheduled on May 15, 1999.

Postpones indefinitely the expiration of the rules and regulations of the public employees' retirement association scheduled to expire on May 15, 1999.

Repeals a rule of the state board of health adopted on or after November 1, 1996, and before November 1, 1997, that relates to another rule contained in the bill for expiration.

Extends the pilot project on the prioritization of the review of the executive branch rules for 2 more years.

**APPROVED** by Governor April 15, 1999

**EFFECTIVE** April 15, 1999

## AGRICULTURE

**S.B. 99-43** Right-to-farm - costs for prevailing party in nuisance suits. Allows a court to award expert fees, reasonable court costs, and reasonable attorney fees to the prevailing party in any action seeking to assert that an agricultural operation is a public or private nuisance. Specifies this law in no way restricts, supersedes, abrogates, or contravenes a person's ability to enforce the housed commercial swine feeding operations laws prohibiting water and air pollution.

**APPROVED** by Governor April 16, 1999

**EFFECTIVE** July 1, 1999

**S.B. 99-111** Release of destructive rodent pests - requirements. Prohibits the release of destructive rodent pests into a county without compliance with all requirements imposed by the wildlife commission and the prior approval of both the wildlife commission and the board of county commissioners of the county. Specifies that a person who transports destructive rodent pests through a county without releasing them, keeps destructive rodent pests confined for scientific purposes or for use as food or as pets, or releases destructive rodent pests into the county in which they were originally taken into captivity need not obtain such prior approval. Defines the term "destructive rodent pests" to include rodents, including but not limited to prairie dogs, ground squirrels, pocket gophers, jackrabbits, and rats, that pose a threat to agricultural, horticultural, or livestock concerns or to human health.

Allows the board of county commissioners of any county into which a person releases destructive rodent pests without the prior approval of the board to require such person to eradicate or remove the destructive rodent pests or pay a fine in an amount sufficient to compensate the county for the costs of eradicating or removing the destructive rodent pests.

**APPROVED** by Governor March 25, 1999

**EFFECTIVE** March 25, 1999

**S.B. 99-122** Colorado Seed Act - continuation - registration dates - seed advisory committee. Continues the "Colorado Seed Act" until July 1, 2009. Revises the definition of "farmer seed labeler" to clarify that such person labels only seeds that were produced for sale on property owned or rented by such person or such person's employer. Changes the effective date of all registrations so that all registrations shall be effective March 1 of each year and shall expire the last day of February of each year. Updates references made to federal law.

Repeals statutory provisions creating the seed advisory committee.

**APPROVED** by Governor March 31, 1999

**EFFECTIVE** March 31, 1999

**S.B. 99-137** Pet animals - authority of licensed pet animal facilities - financial bonding for impounded animals. Requires licensed animal shelters to hold a pet animal at least 5 days before the shelter may make the animal available for adoption or otherwise dispose of the animal. Defines "days" for purposes of the minimum holding period as days during which the shelter is open to the public. Defines "disposition" as adoption, return of the animal to the owner, release to a rescue group, another shelter, or a licensed wildlife rehabilitator, or euthanasia.

States that, if the animal shelter acquires the pet animal from the owner or if the animal

is abandoned, the animal becomes the property of the animal shelter upon transfer and the shelter may dispose of the animal at its discretion. Allows an animal shelter to dispose of pet animals through euthanasia after exhausting reasonable efforts to contact the owner if, in the opinion of a veterinarian, the pet animal is experiencing extreme pain or suffering. Requires the animal shelter in such circumstances to exhaust reasonable efforts to contact the owner for up to 24 hours if a pet animal has identification.

Grants immunity from civil actions to an animal shelter that complies with the statutory requirements prior to disposing of a pet animal. States that nothing in the act precludes a local government from adopting an ordinance that exceeds the 5-day minimum holding period nor precludes a licensed animal shelter from adopting a policy that exceeds the 5-day minimum holding period.

If the owner or custodian of impounded animals wishes to prevent disposition of the animals, requires such owner or custodian to post a 30-day bond with the court for the cost of the animals' care. Allows the animal shelter to determine the disposition of the animals upon expiration of the bond, unless a court order prohibits such disposition. Allows the court to order the immediate disposition of an impounded animal by euthanasia if, in the opinion of a veterinarian, the animal is experiencing extreme pain or suffering. Makes the owner or custodian liable for the costs of the care, keeping, or disposal of impounded animals.

**APPROVED** by Governor April 19, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-201** State fair authority - exemption from procurement code - contributions from nonstate sources. Permanently exempts the Colorado state fair authority from the requirements of the "Procurement Code". Clarifies that the board of commissioners of the Colorado state fair authority may not accept contributions from nonstate sources if such contributions would cause the board and the authority to lose enterprise status for purposes of section 20 of article X of the state constitution, but that the board may accept such nonstate contributions in any budget year in which the board and the authority do not qualify as an enterprise due to the amount of grants received from the state.

**APPROVED** by Governor April 14, 1999

**EFFECTIVE** April 14, 1999

**H.B. 99-1111** Captive wildlife and alternative livestock board - continuation - interest earned on cervidae disease revolving fund. Extends the existence of the captive wildlife and alternative livestock board for an additional 10 years, until July 1, 2009. Mandates that all interest earned on the investment of moneys in the cervidae disease revolving fund shall remain in the fund and shall no longer be credited to the general fund.

**APPROVED** by Governor May 3, 1999

**EFFECTIVE** May 3, 1999

**H.B. 99-1117 Pest Control Act - inspection procedures - assessment for expenses.** Makes a landowner liable for only the county's direct costs and expenses, up to the amount of \$5000, in treating pest infestation or infection. Grants the board of county commissioners, in addition to the commissioner of agriculture, discretion to set civil penalties for violations of the "Pest Control Act". Prohibits entry upon property until the landowner or occupant has been sent notification by certified mail.

Restates the notice of inspection and inspection procedures.

Requires the board of county commissioners to develop a payment schedule with any landowner for the cost of an assessment if the landowner shows economic hardship.

**APPROVED** by Governor April 13, 1999

**EFFECTIVE** April 13, 1999

**H.B. 99-1132 Commercial feed law - manufacturers of commercial feed - registration - commissioner of agriculture - rules.** Repeals and reenacts, with amendments, the "Colorado Commercial Feed Law of 1979". Makes the following additions to the current commercial feed law:

- Requires a manufacturer of commercial feed to register with the department of agriculture. Clarifies the activities that do not require registration.
- Eliminates the registration requirement for feed.
- Establishes the procedure for registration to manufacture commercial feed. Sets the registration fee and renewal fee at \$10 per year. Requires a registrant to pay a \$10 penalty for failure to comply with the registration renewal requirements.
- Allows the commissioner of agriculture (commissioner), after an administrative hearing, to deny a registration, place a registrant on probation, or restrict, suspend, revoke, or refuse to renew the registration of a person who violates the commercial feed law or rules of the commissioner.
- Authorizes the commissioner to promulgate, amend, and repeal rules for the implementation of the commercial feed law.
- Permits the commissioner to impose a civil penalty for a violation of the commercial feed law.
- Establishes a \$25 minimum inspection fee.
- Requires lot or date coding on all products.

Makes the following changes to the current commercial feed law:

- Reduces the maximum inspection fee from 20¢ to 15¢ per ton to be paid by the person whose name appears on the label of the commercial feed. Permits another person to assume liability for the payment of the inspection fee.
- Sets forth alternative inspection fees instead of a registration fee for products that are sold in packages weighing 10 pounds or less.
- Requires each person who is required to pay an inspection fee on commercial feed to file an annual statement, instead of a semiannual statement.
- Defines additional terms.

**APPROVED** by Governor May 14, 1999

**EFFECTIVE** January 1, 2000

**NOTE:** This act shall take effect January 1, 2000, 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. 99-1319 Livestock - designated diseases - handling.** Authorizes the department of agriculture to design and implement programs for the diagnosis, control, and eradication of designated diseases. Defines "designated disease" as an infectious or contagious animal disease that is determined by the state veterinarian to be an economic threat to Colorado's livestock industry or a risk to human health. Modifies requirements for branding animals that have tested positive for a designated disease.

Requires livestock suspected of having a designated disease to be tested for all of the designated diseases and not just brucellosis.

States that a person in violation of the quarantine laws shall be subject to a civil penalty the same as a person in violation of any other provision of the law concerning the prevention and eradication of diseases.

**APPROVED** by Governor May 29, 1999

**EFFECTIVE** May 29, 1999

## APPROPRIATIONS

**S.B. 99-175** Supplemental appropriation - department of agriculture. Amends the 1998 general appropriation act to decrease the total appropriation to the department of agriculture. Decreases the general fund, cash funds, and federal funds portions of the appropriation.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** March 10, 1999

**S.B. 99-176** Supplemental appropriation - department of corrections. Amends the 1998 general appropriation act to decrease the total appropriation to the department of corrections. Decreases the general funds, cash funds exempt, and federal portions of the appropriation and increases the cash funds portion.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** March 10, 1999

**S.B. 99-177** Supplemental appropriation - department of education. Amends the 1998 general appropriation act to increase the total appropriation to the department of education. Decreases the general fund and federal funds portions of the appropriation and increases the cash funds and cash funds exempt portions.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** March 10, 1999

**S.B. 99-178** Supplemental appropriation - offices of the governor, lt. governor, and state planning and budgeting. Amends the 1998 general appropriation act to decrease the total appropriation to the officer of the governor, lt. governor, and state planning and budgeting. Decreases the general fund portion of the appropriation.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** March 10, 1999

**S.B. 99-179** Supplemental appropriation - department of health care policy and financing. Amends the 1998 general appropriation act to increase the total appropriation to the department of health care policy and finance. Decreases the general fund and cash funds portions of the appropriation and increases the cash funds exempt and federal funds portions.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** March 10, 1999

**S.B. 99-180** Supplemental appropriation - department of human services. Amends the 1998 general appropriation act to increase the appropriation to the department of human services. Decreases the general fund and cash funds exempt portions of the appropriation and increases the cash funds and federal funds portions.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** March 10, 1999

**S.B. 99-181** Supplemental appropriation - judicial department. Amends the 1998 general appropriation act to decrease the total appropriation to the judicial department. Increases the general fund and federal funds portions of the appropriation and decreases the cash funds and

cash funds exempt portions. Appropriates \$186,893 from the general fund to the judicial department to pay for overexpenditures of the Mandated Costs line in the 1997 general appropriation act.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** March 10, 1999

**S.B. 99-182** Supplemental appropriation - department of labor and employment. Amends the 1998 general appropriation act to increase the total appropriation to the department of labor and employment. Increases the cash funds, cash funds exempt, and federal funds portions of the appropriation.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** March 10, 1999

**S.B. 99-183** Supplemental appropriation - department of law. Amends the 1998 general appropriation act to decrease the total appropriation to the department of law. Decreases the general fund, cash funds, and federal funds portions of the appropriation and increases the cash funds exempt portion.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** March 10, 1999

**S.B. 99-184** Supplemental appropriation - legislative department. Amends the 1998 general appropriation act to decrease the total appropriation to the legislative department. Decreases the general fund portion of the appropriation.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** March 10, 1999

**S.B. 99-185** Supplemental appropriation - department of local affairs. Amends the 1998 general appropriation act to decrease the total appropriation to the department of local affairs. Decreases the general fund, cash funds, and federal funds portions of the appropriation and increases the cash funds exempt portion.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** March 10, 1999

**S.B. 99-186** Supplemental appropriation - department of military affairs. Amends the 1998 general appropriation act to increase the total appropriation to the department of military affairs. Decreases the general fund portion of the appropriation and increases the cash funds, cash funds exempt, and federal funds portions.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** March 10, 1999

**S.B. 99-187** Supplemental appropriation - department of natural resources. Amends the 1998 general appropriation act to increase the total appropriation to the department of natural resources. Increases the general fund and cash funds portions of the appropriation and decreases the cash funds exempt and federal funds portions.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** March 10, 1999



**S.B. 99-188** Supplemental appropriation - department of personnel. Amends the 1998 general appropriation act to increase the total appropriation to the department of personnel. Decreases the general fund and cash funds exempt portions of the appropriation and increases the cash funds portion.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** March 10, 1999

**S.B. 99-189** Supplemental appropriation - department of public health and environment. Amends the 1998 general appropriation act to increase the total appropriation to the department public health and environment. Increases the general fund and cash funds exempt portions of the appropriation and decreases the cash funds portion. Appropriates \$7,919 from cash funds exempt and federal funds to the department of public health and environment to pay for overexpenditures of the Infant Immunization Program line in the 1997 general appropriation act.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** March 10, 1999

**S.B. 99-190** Supplemental appropriation - department of public safety. Amends the 1998 general appropriation act to increase the total appropriation to the department of public safety. Increases the general fund, cash funds, cash funds exempt, and federal funds portions of the appropriation. Decreases the total adjustment in the 1998 general appropriation act resulting from the amendment to section 24-51-401 (7) in House Bill 98-1242 to \$1,385,342.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** March 10, 1999

**S.B. 99-191** Supplemental appropriation - department of regulatory agencies. Amends the 1998 general appropriation act to decrease the total appropriation to the department of regulatory agencies. Increases the general fund and cash funds exempt portions of the appropriation and decreases the cash funds and federal funds portions.

**APPROVED** by Governor March 15, 1999

**EFFECTIVE** March 15, 1999

**S.B. 99-192** Supplemental appropriation - department of revenue. Amends the 1998 general appropriation act to increase the total appropriation to the department of revenue. Increases the general fund, cash funds, and cash funds exempt portions of the appropriation. Changes the adjustment to the appropriation for the department of revenue in House Bill 98-1173 from "special purpose, data processing services, titles," to "cash and documents processing division, program costs".

**APPROVED** by Governor March 15, 1999

**EFFECTIVE** March 15, 1999

**S.B. 99-193** Supplemental appropriation - department of state. Amends the 1998 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 15, 1999

**EFFECTIVE** March 15, 1999

**S.B. 99-194** Supplemental appropriation - department of transportation. Amends the 1998 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 15, 1999

**EFFECTIVE** March 15, 1999

**S.B. 99-195** Supplemental appropriation - department of the treasury. Amends the 1998 general appropriation act to decrease the total appropriation to the department of the treasury. Decreases the general fund portion of the appropriation.

**APPROVED** by Governor March 15, 1999

**EFFECTIVE** March 15, 1999

**S.B. 99-196** Supplemental appropriation - capital construction. Reduces additional appropriations in the department of human services for the 1993-94 and 1994-95 fiscal years for a juvenile facility to be located in the city and county of Denver.

Amends the 1992 general appropriation act to add a new footnote to allow funds for the "Implementation of the Americans with Disabilities Act" to remain available until completion of the project.

Amends the 1995 general appropriation act to add a new footnote to allow funds for the Integrated Teaching Laboratory at the Engineering Center at the University of Colorado at Boulder to remain available until completion of the project.

For the 1996-97 fiscal year, changes the funding for Waterfowl Habitat Projects from the wildlife cash fund to the duck stamp program under the department of natural resources. Increases the total capital construction appropriation for the department of public health and environment by adding \$47,732 in federal funds for the renovation at Lowry.

For the 1997-98 fiscal year, amends the total capital construction appropriation as follows: Decreases the federal funds appropriation to the department of higher education for Campus-wide Water Mitigation at Colorado State University; changes the type of repair work done to gymnasium at Fort Lewis College; changes the funding for Waterfowl Habitat Projects from the wildlife cash fund to the duck stamp program under the department of natural resources; increases the cash funds exempt appropriation to the department of public health for replacement of Air Quality Monitoring Station; and increases the capital construction fund exempt appropriation to the department of public safety for replacement facility, Fort Collins troop office.

For the 1998-99 fiscal year, amends the total capital construction appropriation as follows: Increases the cash funds exempt appropriation to the department of corrections; increases the capital construction fund exempt, cash funds, and federal funds appropriations to the department of health care policy and financing; increases the cash fund exempt appropriation for the department of higher education; increases the capital construction fund exempt, cash funds, and cash funds exempt appropriations and decreases the federal funds appropriation for the department of human services; decreases the capital construction fund exempt appropriation for the department of public safety; increases the capital construction fund exempt appropriation for the department of revenue; and adds a new footnote under capital construction for the substance abuse admissions unit under the department of human

services.

**APPROVED** by Governor March 15, 1999

**EFFECTIVE** March 15, 1999

**S.B. 99-197** Legislative appropriation. Provides that members of committees of reference of the general assembly who attend meetings of the joint budget committee may be paid per diem subject to any guidelines that may be established by the executive committee of the legislative council.

Appropriates \$23,679,340 to the general assembly and the legislative service agencies for the 1999-2000 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 1999-2000 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 March 15, 1999

**EFFECTIVE** March 15, 1999

**S.B. 99-215** General appropriations 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, 1999. Sets the grand total for the operating budget at \$10,920,964,143, of which \$5,019,303,413 is from the general fund, \$3,500,971,169 is from cash funds, and \$2,400,689,561 is from federal funds.

Appropriates \$511,607,155 for capital construction, of which \$270,096,545 is from the capital construction fund exempt, \$208,305,406 is from cash funds, and \$33,205,204 is from federal funds.

For the 1998-99 fiscal year: Decreases the total general fund appropriation to the department of education by decreasing the cash fund appropriation for the total program under public school finance and increasing for the sponsored programs under appropriated sponsored programs; increases the general fund, cash funds, cash funds exempt, and federal funds appropriations to the governor - lieutenant governor - state planning and budgeting by creating a line item for year 2000 compliance under the office of state planning and budgeting; adds a new footnote to allow the office of state planning and budgeting to roll forward any funds not expended in 1998-99 for year 2000 compliance; increases the total general fund appropriation to the department of health care policy and financing by decreasing general fund and federal funds to the medical programs administration, increasing the general fund and federal funds for medical services premiums, increasing the general fund and cash funds exempt for other medical services, and increasing the general fund and federal funds to the department of human services programs; increases the cash funds exempt appropriation to the department of higher education for other than tuition revenue; adds a new footnote to the department of higher education to redistribute the residence training program appropriation; increases the total appropriation to the department of human services for home care allowance under self-sufficiency due to an increase in cash funds exempt appropriation, increases the general fund appropriation for the purchase of contract placements and decreases the general fund appropriation to Lookout Mountain orientation unit under division of youth corrections, and increases the cash funds exempt appropriation for mental health capitation under health and rehabilitation services; amends a footnote relating to the department of labor and employment and its ability to access the full amount of federal funds available to Colorado under the federal welfare-to-work program. Changes

the capital construction appropriation to the department of corrections for the Denver women's correction facility, phase 3 and east Canon City prison complex visitor processing center expansion by decreasing the cash funds appropriation and increasing the cash funds exempt appropriation; adds a new part for governor - lieutenant governor - state planning and budgeting to allow for the funding of year 2000 fatal and critical embedded systems, phase 1; adds language to outline the source of funds for the year 2000 fatal and critical embedded systems and a new footnote to outline how the funds should be distributed; appropriates \$1,882,670 from the general fund to the capital construction fund.

For the 1995-96 fiscal year: Provides that a \$729,000 appropriation to the department of corrections is from the reserves in the canteen operation.

For the 1997-98 fiscal year: The department of health care policy and financing is appropriated \$9,980,521 for payment of overexpenditures.

**APPROVED** by Governor May 3, 1999  
**PORTIONS VETOED** May 3, 1999

**EFFECTIVE** May 3, 1999

## CHILDREN AND DOMESTIC MATTERS

**S.B. 99-18** Juvenile correctional facilities - construction - allocation for art. Reduces from a minimum of 1% to a minimum of 0.1% the percentage of capital construction appropriations for juvenile facilities that must be used for art. Requires that the money be used for materials to allow juveniles housed by the department of human services to create works of art for juvenile facilities.

**APPROVED** by Governor March 24, 1999

**EFFECTIVE** March 24, 1999

**S.B. 99-50** Sentencing of sex offenders - consideration of prior criminal and delinquency records. Requires the juvenile presentence investigation on certain juvenile sex offenders to include the juvenile's prior criminal and delinquency record. Directs a juvenile court, when sentencing certain juvenile sex offenders, to consider such prior record.

Directs the adult presentence report to include a defendant's juvenile delinquency record if the defendant is convicted of certain sex offenses. Directs the sentencing court, in determining the appropriate sentencing alternative for such defendants, to consider the defendant's prior criminal and juvenile delinquency records, if any. Defines "convicted" to include a deferred judgment and sentence, a deferred adjudication, an adjudication, and pleas of guilty or nolo contendere.

Authorizes the adult probation department to have access to court juvenile delinquency records for purposes of the presentence investigation and to prepare the presentence report on criminal defendants who are convicted of certain sex offenses.

**APPROVED** by Governor April 15, 1999

**EFFECTIVE** July 1, 1999

**S.B. 99-75** Child support - family support court registry - child support orders - child support incentive payments - family support registry - state case registry. Extends the October 1, 1999, repeal of family support registries in the district courts to January 1, 2001.

Eliminates the requirement that child support orders include the following information: The parties' telephone numbers, driver's license numbers, and information concerning the parties' employers.

Clarifies that requests for review before a magistrate shall be filed within 15 days for paternity and support proceedings under articles 4 and 6, respectively, of the "Colorado Children's Code".

Specifies that if the court enters an order determining the existence of a parent-child relationship during the course of a dependency and neglect proceeding, the court shall order that a new birth certificate be issued.

Changes the child support incentive payments formula to conform with the federal "Child Support Performance and Incentive Act of 1998", effective January 1, 2000.

Specifies that the family support registry shall be available for the receipt of support orders for use by all counties and judicial districts consistent with the requirements of federal law. Amends the family support registry provisions to accommodate the receipt of

maintenance payments and payments of maintenance combined with child support by the family support registry.

Adds that the state case registry shall include the social security number of each child who is the subject of the order and the date of birth of each parent.

Portions effective July 1, 1999, with varying applicabilities. Portions effective January 1, 2000.

**APPROVED** by Governor May 29, 1999

**PORTIONS EFFECTIVE** July 1, 1999  
January 1, 2000

**S.B. 99-130** Juvenile justice - eligibility for youthful offender system - repeat juvenile offenders - jail as condition of probation - revocation of bond - venue - bail - service of summons - statements made while in custody. Allows certain juveniles who are convicted of class 2 felonies to be sentenced to the youthful offender system in the department of corrections. Extends the potential length of sentence for such juveniles to 7 years in the youthful offender system. Allows juveniles for whom criminal charges are transferred to the district court to be sentenced to the youthful offender system under the same circumstances as apply to juveniles against whom criminal charges are directly filed in district court.

Requires any juvenile who is adjudicated a repeat juvenile offender to be placed or committed out of the home for a minimum of one year, unless the juvenile court finds that an alternative sentence or commitment of less than one year would be more appropriate. Allows the judge to sentence a repeat juvenile offender who is 18 years of age or older at the time of sentencing to up to 2 years in a county jail or a community correctional facility or program.

For any person who is adjudicated for an act committed prior to his or her eighteenth birthday, but who is over 18 years of age at the time of sentencing, increases to 90 days the length of time for which the court may sentence the person to county jail as a condition of probation or following revocation of probation; but allows the court to sentence said person to a period of up to 180 days in county jail as a condition of probation or following revocation of probation if the person is released for school attendance, job training, or employment.

Allows a parent, guardian, legal custodian, or other adult responsible for a juvenile who is released on bond to request the court to revoke the bond and remand the juvenile to custody if said person determines he or she cannot control the juvenile. Clarifies that a juvenile may be released on bond if he or she appears on a summons. Clarifies that service of a summons upon a juvenile's parent, guardian, legal custodian, or physical custodian is sufficient to compel attendance of both the juvenile and the parent, guardian, legal custodian, or physical custodian in court.

Allows transfer of venue only after adjudication and sentencing unless the court finds that a change in venue is necessary to ensure a fair trial. Clarifies that, for any juvenile who is placed in the legal custody of a county department of social services, the juvenile is deemed to reside within the county in which the legal custodian is located, even if the juvenile is physically residing in a residential facility that is in another county. Prohibits a court from transferring jurisdiction to a county other than the county in which the legal custodian is located.

Specifies that a statement made by a juvenile in the course of a custodial interrogation at which the juvenile's parent, guardian, or legal or physical custodian is not present may be admissible if the juvenile misrepresents his or her age as 18 years of age or older and the law enforcement official acts in good faith reliance on the misrepresentation.

Corrects certain statutory references regarding appointment and authority of magistrates.

**APPROVED** by Governor June 4, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1073** Dissolution of marriage - disposition of property - division of public employee retirement benefits. Specifies that the parties to a domestic relations action must submit a written agreement to divide a public employee retirement benefit to the plan administrator within 90 days after entry of the decree and the permanent orders regarding property distribution, rather than at the time of the dissolution of marriage, legal separation, or declaration of invalidity.

Requires the plan administrator to wait 30 days after submission of the order approving the agreement before making the first payment.

Clarifies that a court shall have jurisdiction to modify an order approving a written agreement dividing a public employee retirement benefit if the parties have agreed in writing to the modification.

**APPROVED** by Governor March 15, 1999

**EFFECTIVE** March 15, 1999

**H.B. 99-1094** Juvenile justice - aggravated juvenile offenders - sentencing. Requires aggravated juvenile offenders adjudicated for an offense that would constitute a class 2 felony if committed by an adult to be committed to the department of human services for a determinate period of at least 3 but not more than 5 years.

Requires aggravated juvenile offenders adjudicated for an offense that would constitute a class 1 felony if committed by an adult to be committed to the department of human services for a determinate period of at least 3 but not more than 7 years.

Allows the department to petition the court for parole on behalf of a juvenile who is sentenced for an offense other than an offense that would constitute a class 1 or a class 2 felony if committed by an adult at any time after the juvenile has served the minimum mandatory period of commitment or 3 years, whichever is sooner.

Applies to offenses committed on or after July 1, 1999.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1115** Domestic violence - voluntary contribution on tax return - domestic abuse programs - publication of name change - family violence justice fund - appropriation. Extends the voluntary contribution tax check-off for the Colorado domestic abuse program for 7 more years.

Specifies that the Colorado domestic abuse program may be funded through general fund moneys. Grants the executive director of the department of human services the authority to expend such general fund moneys for the program.

Exempts persons seeking a name change from the statutory publication requirement if such person was a victim of a domestic violence-related crime, a victim of child abuse, or a victim of domestic abuse.

Establishes the family violence justice fund in the state treasury. Authorizes the state court administrator to make grants from the fund directly to qualifying organizations providing civil legal services to indigent residents of the state of Colorado who are victims of family violence. Defines the term "family violence". Lists the types of services that may be provided with moneys from the fund. Sets forth an application procedure by which organizations may seek grants from the family violence justice fund.

Appropriates \$250,000 to the department of human services, for allocation to the Colorado domestic abuse program fund for the implementation of this act. Appropriates \$250,000 to the judicial department, for allocation to the state court administrator, for the implementation of this act. Adjusts the general fund appropriation made to the capital construction fund in the annual general appropriations act by \$500,000.

Appropriates \$150,000 to the department of human services, for allocation to the Colorado domestic abuse program fund, in fiscal year beginning July 1, 2000, for the implementation of this act. Appropriates \$150,000 to the judicial department, for allocation to the state court administrator, in fiscal year beginning July 1, 2000, for the implementation of this act. Directs the such appropriations be derived from savings generated from the passage of House Bill No. 99-1168.

Provides that section 9 of this act shall take effect July 1, 2000; except that said section shall only take effect if:

- Section 42-2-206, Colorado Revised Statutes, is amended in House Bill 99-1168 to change the penalty for driving with a revoked license from a class 6 felony to a class 1 misdemeanor and the final fiscal note for such bill shows prison bed savings and operating costs savings that are equal to or greater than the prison bed construction and operating costs shown in the final fiscal note for this act; and
- House Bill 99-1168 is enacted and becomes law.

**APPROVED** by Governor June 2, 1999

**PORTIONS EFFECTIVE** June 2, 1999  
July 1, 2000

**NOTE:** House Bill 99-1168 was signed by the Governor on May 24, 1999.

**H.B. 99-1146** Adoption - "Adoption and Safe Families Act of 1997" - implementation - appropriation. Clarifies current statutory provisions designed to implement the federal "Adoption and Safe Families Act of 1997" and creates additional statutory provisions in order to assure proper and complete implementation of the federal act.

Applies federal reasonable efforts requirements to the juvenile justice process for juveniles sentenced to community placement on or after July 1, 1999. Requires the court to



include specific findings in any order removing a juvenile delinquent from the home for placement in a detention facility, a temporary holding facility, or a shelter facility or in any order sentencing a juvenile delinquent to a community placement. Defines "community placement" to comport with federal standards.

Clarifies that the 6-month review of a juvenile delinquent's community placement subsequent to the 90-day review may be an administrative review conducted by the department of human services if there is no objection by a party to the action. Requires the entity conducting the review to provide notice of the review to the juvenile, the juvenile's parents or guardian, any service providers working with the juvenile, the juvenile's guardian ad litem, if any, and all attorneys of record. Requires the entity conducting the review to make specific determinations at the review. Specifies that the entity conducting the review on behalf of a juvenile placed out of state shall make a determination that the out-of-state placement continues to be appropriate and in the best interests of the child.

Clarifies that a permanency hearing to review placement conducted on behalf of a juvenile delinquent placed in a community placement for a period of one year or longer must be held within said year and may be an administrative review conducted by the department of human services, absent objection by any party to the action. Identifies specific issues that the entity conducting the review must determine at the permanency review. Specifies that the entity conducting the review on behalf of a juvenile placed out of state shall make a determination that the out-of-state placement continues to be appropriate and in the best interests of the child.

Clarifies that a petition alleging the dependency or neglect of a child shall include a statement recognizing the court's requirement to hold a mandatory permanency hearing within one year if the child is placed out of the home for a period of 12 months or longer. Clarifies that a petition for a review of the need for placement shall include a statement recognizing the requirement to hold a mandatory permanency hearing if the child is placed out of the home for a period of 12 months or longer.

Clarifies that "reasonable efforts" findings are required at 90-day review hearings, permanency hearings, periodic reviews, and any subsequent reviews for dependent or neglected children placed out of the home. Requires the entity conducting any such review on behalf of a child placed out of state to make a determination that the out-of-state placement continues to be appropriate and in the best interests of the child.

Changes the phrase "permanency planning hearings" to "permanency hearings".

Appropriates \$53,048 and 1.0 FTE to the department of human services, children, youth and families, special purpose welfare programs, quality improvement unit, for the implementation of this act for the fiscal year beginning July 1, 1999. In addition, appropriates \$221,260 to the judicial department, trial courts, for mandated costs for the implementation of this act.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1156** Juvenile justice - restorative justice. Specifies that it is the intent of the general assembly to restore public safety by providing the opportunity to bring together affected victims, the community, and juvenile offenders for restorative purposes in certain juvenile cases. Authorizes the executive director of the department of public safety to accept

funds, grants, gifts, or donations for restorative justice programs. Encourages nonstate entities seeking to provide restorative justice program services to apply for grants directly from the youth crime prevention and intervention program.

**APPROVED** by Governor March 17, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1173** Youthful offenders - educational requirements for probation or parole. Authorizes the juvenile parole board and the juvenile parole hearing panel to require adjudicated juveniles to attend school or an educational program or to work toward the attainment of a high school diploma or a GED as a condition of parole. Specifies that the board shall not require a juvenile to attend a school from which he or she has been expelled without prior approval from that school's local board of education. Directs the board to notify the school district in which the juvenile delinquent is enrolled if attendance at school is a condition of parole.

States that the juvenile court shall not require a juvenile, as a condition of probation, to attend a school from which he or she has been expelled without prior approval from that school's local board of education.

Authorizes the court to order a criminal defendant who is less than 18 years of age at the time of sentencing, but who is being convicted and sentenced as an adult, to attend school or an educational program or to work toward the attainment of a high school diploma or a GED as a condition of probation. Specifies that the court shall not require a juvenile to attend a school from which he or she has been expelled without prior approval from that school's local board of education.

If a defendant who was convicted and sentenced as an adult is less than 18 years of age at the time of parole, authorizes the adult parole board to make school or educational attendance or work toward the attainment of a high school diploma or a GED a condition of parole. Specifies that the board shall not require a juvenile to attend a school from which he or she has been expelled without prior approval from that school's local board of education. Directs the court or parole board to notify the school district in which the defendant is enrolled if attendance at school is a condition of probation or parole.

Amends the "School Attendance Law of 1963" to require public schools to notify the court or parole board of a student's failure to attend school.

**APPROVED** by Governor March 15, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1174** Prevention programs - listing. Lists in one place in the statutes the prevention programs for youth that are operated by or funded through state agencies. Beginning January 15, 2002, requires the legislative council staff to submit to the judiciary committees of the

senate and house of representatives a triennial updated report of the prevention programs listed. Specifies the contents of the report. Instructs the legislative council staff in preparing the report to contact each state agency to obtain information concerning prevention programs operated by or funded through each state agency.

**APPROVED** by Governor May 3, 1999

**EFFECTIVE** May 3, 1999

**H.B. 99-1188** Adoption - procedures - access to adoption records - contact. Authorizes confidential intermediaries to inspect post-adoption records. Adds grandparents, adult descendants of an adoptee or adoptive parent, a legal guardian of an adoptee, a spouse of an adoptee, and adult stepchild of an adoptee, or a legal representative to the list of persons who have standing to seek the appointment of a confidential intermediary. Provides that a "legal guardian" does not include a foreign government.

For adoptions finalized prior to September 1, 1999, specifies that all adoption records shall remain confidential and that the names of the parties and the child shall also remain anonymous if the adoption was finalized on or after July 1, 1967. Allows access to adoption information to certain persons only through the appointment of a confidential intermediary. Specifies the procedures to be followed by a confidential intermediary in such cases.

For adoptions finalized on or after September 1, 1999, opens all adoption records to inspection by an adult adoptee, an adult adoptive parent, or the legal representative of any such individual. Defines the term "adoption records". In addition, makes all adoption records except those containing nonidentifying information available to certain other relatives of an adult adoptee.

Limits access to adoption records for adoptions finalized on or after September 1, 1999, if the birth parent submitted a written statement to the court requesting confidentiality within 3 years after the final order of relinquishment or termination. Provides for access to adoption records when the person about whom information is sought has died.

Directs a child placement agency to accept a consent form from an adult adoptee, a birth parent, or an adoptive parent permitting the release of identifying information concerning the person submitting the form. Permits the child placement agency to release identifying information about the person associated with an adoption if the child placement agency has a consent form from the party about whom information is sought. Authorizes the child placement agency to charge a reasonable fee for such service if a written fee agreement has been signed by the agency and the party submitting the consent form. Prior to signing a fee agreement, requires the child placement agency to provide to the party submitting a consent form information concerning organizations performing similar services.

Prohibits access to adoption records and contact with an adoptee in those circumstances in which one family has adopted 2 or more siblings until such time as all of the siblings adopted by the family have attained 18 years of age. Allows an adult adoptee, at any time, to submit a written statement to the adoption court specifying his or her desire to maintain the confidentiality of identifying information contained in the adoption records.

Directs the department of human services and department of public health and environment to work together to design and implement efforts to inform the public about the existence and availability of the confidential intermediary process, the voluntary adoption

registry, and statutory changes related to access to adoption information.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1218 Adoption - expedited methods.** Authorizes an expedited method for the adoption of children for custodial adoptions and kinship adoptions where the birth parent or birth parents have abandoned the child or failed to support the child for a period of one year or more. Defines "custodial adoption" as an adoption by a person and such person's spouse, if applicable, who either has been awarded custody of or allocated parental responsibilities for the child or has been awarded guardianship of the child by a court of law and has had physical custody of the child for a period of one year or more. Defines "kinship adoption" as an adoption by a relative of the child and the relative's spouse, if applicable, who is either a grandparent, brother, sister, half-sibling, aunt, uncle, or first cousin and has had physical custody of the child for a period of one year or more and the child is not the subject of a pending dependency and neglect proceeding.

Excepts custodial and kinship adoptions from the requirements of a complete investigation and written report by the county department of social services or a licensed child placement agency, and allows the court to waive the assessment and approval of the potential adoptive parents or determine and order what information it deems necessary, including an abbreviated home study or home evaluation.

Requires that in all stepparent, custodial, and kinship adoptions, the petition for adoption shall contain a statement informing the court whether the prospective adoptive parent was convicted of certain felony crimes. Requires the petitioner to pay for and attach to the petition a current criminal records check. Directs the court to deny the final petition if the court finds that the prospective adoptive parent was convicted of certain enumerated felonies and to deny the decree of final adoption if it finds that the prospective adoptive parent was convicted of a felony for physical assault or battery that was committed within the last 5 years.

Requires a petition in a custodial or kinship adoption to contain a statement that the petitioner has consulted with the appropriate local county department of social services regarding the possible eligibility of the petitioner and the child for temporary assistance for needy families, medicaid, subsidized adoption, or other public assistance.

Requires the court to hold a hearing on the adoption petition as soon as possible in cases of stepparent, custodial, or kinship adoptions. Requires the court in addition to issuing a final decree of adoption in a stepparent adoption to enter an order terminating the other parent's parental rights. Requires the court, in addition to issuing a final decree of adoption in a custodial or kinship adoption, to enter an order terminating the parental rights of the child's parents.

**APPROVED** by Governor June 1, 1999

**EFFECTIVE** June 1, 1999

**H.B. 99-1234 Petition for dissolution of marriage - automatic temporary injunction.** Requires a petition for dissolution of marriage or legal separation to contain the provisions of the automatic temporary injunction that take effect when the petition for dissolution of marriage or legal separation is filed, along with a written acknowledgment by the petitioner and the co-petitioner, if any, that he or she has received a copy of, has read, and understands the

automatic temporary injunction.

Adds a fourth component to the automatic temporary injunction that goes into effect when a petition for dissolution of marriage or legal separation is filed. Requires that the temporary injunction restrain both parties, without at least 14 days' advance notification and the written consent of the other party or an order of the court, from canceling, modifying, terminating, or allowing to lapse for nonpayment of premiums, any life, health, homeowner's or renter's, or automobile insurance coverage in which either of the parties or their children are included or are beneficiaries.

Applies to petitions for dissolution of marriage or legal separation filed with the court on or after July 1, 1999.

**APPROVED** by Governor June 1, 1999

**EFFECTIVE** June 1, 1999

**H.B. 99-1253** Juvenile justice - custodial statements. Provides that statements made by a juvenile during a custodial interrogation conducted outside the presence of the juvenile's parent, guardian, or legal or physical custodian shall not be inadmissible into evidence if the law enforcement officer conducting the custodial interrogation, reasonably relied on the deliberate misrepresentations made by the juvenile.

**APPROVED** by Governor May 29, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1299** Adoption - home study reports - adoptive family resource registry - appropriation. Directs the state department of human services ("department") to develop an approved vendor list of qualified home study providers by region, including county departments of social services, individuals, and child placement agencies, through an application process. Authorizes qualified home study providers approved by the department to promote the adoption of available children through public information campaigns and to participate in statewide training provided by the department.

As part of the investigation of prospective adoptive parents, requires that the criminal background check include a determination whether the prospective adoptive parent has been convicted at any time of a felony or misdemeanor in one of the following areas: Child abuse or neglect, spousal abuse, any crime against a child, any domestic violence-related crime, violation of a restraining order, or any crime involving violence, rape, sexual assault, or homicide, excluding physical assault or battery. Requires the investigation to include access to the state central registry of child protection to determine whether the prospective adoptive parent or parents are the subject of a report of known or suspected child abuse or has been designated as "status pending" due to an administrative appeal.

Directs the state board of human services ("state board") to promulgate rules

identifying the criteria for preadoptive investigations and the minimum uniform standards for home study reports. Directs the state board to set the amount of the fee a prospective adoptive parent shall be assessed for the investigation and home study report in a public adoption (adoption of children in the legal custody and guardianship of a county department of social services). Authorizes the department to waive the fee if it presents a barrier to the adoption.

Directs the department to establish a statewide adoptive family resource registry of prospective adoptive families that county departments of social services may access to determine the availability of qualified families seeking to adopt a child in the custody of a county department. Specifies that no prospective adoptive parent's name shall be referred to the registry without such person's written consent. Directs the state board to promulgate rules specifying what limited amount of nonidentifying data shall be accessible through the Internet and other confidentiality provisions related to the registry. Authorizes the executive director of the department to accept funds, grants, gifts, or donations from any private or public source for the purpose of establishing the statewide adoptive family resource registry. Authorizes the department to seek any necessary waivers in order to use federal funding for this purpose.

Directs the department to examine and evaluate the process of adoptive placements of children in the legal custody of the county departments of social services and to report to the members of the general assembly by December 31, 1999, and December 31, 2001. Permits the executive director of the department to accept funds, grants, gifts, or donations from any private or public source for this purpose.

Appropriates \$60,000 to the division of children, youth, and families, within the department for the implementation of this act.

**APPROVED** by Governor May 29, 1999

**EFFECTIVE** May 29, 1999

## CONSUMER AND COMMERCIAL TRANSACTIONS

**S.B. 99-65** Commercial code - security interests - filing - central indexing system - appropriation. In statutes governing perfection of security interests under article 9 of the "Uniform Commercial Code", establishes the office of a designee of the central information system board (formerly the central indexing system board) as the only office in the state in which filing may be accomplished for collateral other than the types of collateral traditionally associated with real estate.

Except for such realty-related collateral, eliminates the existing option to file in the office of the county clerk and recorder of any county on and after January 1, 2000. Contains transitional provisions for the collection of documents by the central filing officer from the secretary of state and from the county clerks in the various counties. Makes corresponding changes to statutes governing the powers and duties of the central information system board ("board") and the central filing system for agricultural liens.

Provides for electronic filing (in which no physical, paper original document is filed) and for transmission and retrieval of images of physical originals by facsimile so long as the information transmitted is sufficient to produce a true copy of the original. Requires that digitally imaged or electronically filed documents be retained in a form that facilitates location and retrieval of an image or printout of the original document or of the information originally filed. Specifically authorizes the central filing officer to establish prepaid accounts, an electronic debit system, or the like to facilitate payment of filing fees.

Allows for the rejection of documents that cannot be filed because they are illegible, refer to other documents that are not adequately identified, or suffer from other enumerated defects. Requires the reason for any such refusal to be communicated to the person presenting the document for filing.

Changes the composition of the board to more accurately reflect the interests of users. Requires the board to select a central filing officer and otherwise procure equipment and personal services, relying on private contractors whenever practicable. Directs that the central filing system and index include the capability for periodic self-audits. Requires the board to conduct such self-audits, monitor the performance of the system, and make quarterly reports to the general assembly during the startup period.

Amends the fee structure for filing of documents. Reduces or eliminates a number of fees, including the \$3 per filing now being transferred to the county clerk's technology fund by the secretary of state. Allows the county clerks in the various counties to retain equipment previously purchased using moneys from the fund.

Appropriates to the department of state \$89,308 from the secretary of state cash fund, \$749,426 from the central information system cash fund, and \$120,661 from the central filing office cash fund. Further appropriates to the department of law \$4,626 of the foregoing amounts received from the department of state. Reduces the department of state's fiscal year 1999-2000 appropriation for central lien indexing by \$2,614,770.

**APPROVED** by Governor May 20, 1999

**PORTIONS EFFECTIVE** July 1, 1999  
January 1, 2000

**S.B. 99-143** Consumer protection - deceptive trade practices - damages. Limits the class of

potential plaintiffs under the citizen-suit provisions of the "Colorado Consumer Protection Act" to actual or potential consumers of the defendant's goods, services, or property, successors in interest to such consumers, or business competitors of the defendant.

Replaces existing provisions that automatically require the imposition of treble damages plus court costs and attorney fees with a provision allowing recovery of court costs and attorney fees plus the greater of: (I) the actual damages sustained; (II) \$500; or (III) where bad-faith conduct is clearly proven, treble damages. Defines bad-faith conduct as fraudulent, willful, knowing, or intentional conduct that causes injury.

Reorganizes existing consumer protection provisions for clarity.

**APPROVED** by Governor May 18, 1999

**EFFECTIVE** May 18, 1999

**H.B. 99-1270** Manufactured home sellers - registration, escrow and bonding, and contract requirements. Requires a person to register with the division of housing before engaging in the business of selling manufactured homes in Colorado. Requires any person who wishes to sell manufactured homes from more than one retail location in Colorado to obtain a separate registration for each retail location. States that a registration is valid for 1 year after its issuance. Sets forth registration application requirements. Allows the division of housing to charge a fee of not more than \$150 per registration or renewal to cover direct and indirect administrative costs.

States that a person is not engaged in the business of selling manufactured homes and is thus not subject to the registration, escrow and bonding, and contract requirements imposed on sellers of manufactured homes if such person:

- Acts personally in selling a manufactured home owned or leased by such person;
- Sells a manufactured home for salvage or nonresidential use;
- Sells a manufactured home in the course of engaging in activities that are either subject to the statutory requirements relating to real estate transactions or specifically exempted from such statutory requirements; or
- Sells, in any calendar year, 3 or fewer previously occupied manufactured homes that are owned by a manufactured home park owner and located within one or more manufactured home parks in Colorado.

Creates the manufactured home fund. Requires all registration and renewal fees paid by sellers of manufactured homes to be credited to the manufactured home fund and requires all interest earned on moneys in the fund to be credited to the fund. States that all moneys in the fund shall remain in the fund subject only to annual appropriation by the general assembly for the direct and indirect costs of administering the registration, escrow and bonding, and contract requirements imposed upon manufactured home sellers.

Requires registered manufactured home sellers to escrow manufactured home sale down payments. Requires any manufactured home seller that applies for registration to contemporaneously file with the division of housing a \$50,000 letter of credit, certificate of deposit, or surety bond drawn in favor of the attorney general for the use of the people of Colorado. Requires the division of housing to send the attorney general an updated list of all registered and bonded manufactured home sellers at least once per month. States that the division of housing may revoke or suspend the registration of any manufactured home seller



that fails to provide a letter of credit, certificate of deposit, or surety bond. Before a claim can be paid, requires a ceasing of business operations or a bankruptcy filing by the registered manufactured home seller or a final judicial judgment in favor of a person making a claim against the line of credit, certificate, or surety bond.

Requires the seller of a manufactured home to disclose specified legal rights and obligations of the buyer in the contract for sale. Requires the seller of a manufactured home to disclose the existence of the escrow account for home sale down payments and the letter of credit, certificate of deposit, or surety bond filed with the division of housing in the contract for sale. Requires the seller of a manufactured home to specify a date certain for delivery of the home or list the preconditions that must occur before a date certain can be set and specify the buyer's remedies for delayed delivery in the contract of sale.

Defines any violation of registration, escrow and bonding, and contract requirements by a manufactured home seller as an unlawful manufactured home sale practice. States that an unlawful manufactured home sale practice is a deceptive trade practice, and repeals existing law that classifies certain activities related to the advertisement or sale of manufactured homes as a deceptive trade practice.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** October 1, 1999

**NOTE:** This act shall take effect October 1, 1999, 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.

## CORPORATIONS AND ASSOCIATIONS

**H.B. 99-1259** Limited partnerships - presumptions - filing the certificate. Creates a presumption that general partners of a limited partnership have agreed to execute and file certificates of limited partnership. Creates a presumption that property contributed to the partnership and legal relationships of the parties will remain consistent with applicable Colorado law related to limited partnerships until the general partner files the certificate. Allows a partner to seek a court order to force the filing of the certificate when the general partner has failed to do so. Makes the presumption that a general partner executes and files the certificate inapplicable in an action for damages against the general partner by other partners for failure to file the certificate.

**APPROVED** by Governor March 24, 1999

**EFFECTIVE** March 24, 1999

## CORRECTIONS

**S.B. 99-131** Youthful offender system - continuation - annual report. Extends the repeal date for the youthful offender system in the department of corrections to June 30, 2004. Instructs the department of corrections to submit an annual report that includes an evaluation of the operations of the youthful offender system.

**APPROVED** by Governor March 15, 1999

**EFFECTIVE** March 15, 1999

**H.B. 99-1068** Community corrections - escapees - forfeiture of credits - repeal - appropriation. Establishes that a person sentenced by a court directly to a community corrections program who escapes from a residential program or fails to report to a nonresidential program forfeits any time deductions that the person may have earned prior to the escape. Directs the administrator of the community corrections program to report to the court within 30 days after an escape or failure to report the amount of time deduction that would have been earned by the person. Repeals the changes effective July 1, 2001.

For the fiscal year 1999-2000, transfers \$9,957 from the general fund to the capital construction fund, appropriates said amount to the corrections expansion reserve fund, and appropriates an additional \$3,455 from the general fund to the department of corrections.

**APPROVED** by Governor May 18, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1164** Prevention of illegal benefit payments to inmates - notification of state agencies - incentives to report. Requires county sheriffs, the state department of human services, county departments of social services, and the department of labor and employment to develop a system for reporting identifying information about persons confined in local jails and state correctional facilities to agencies that administer workers' compensation and public assistance programs, so that persons who are disqualified from receiving payments while incarcerated can be identified. Requires that a portion of the moneys saved by identifying such disqualified persons be paid as a reward to the sheriff.

**APPROVED** by Governor May 7, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1317** Department of corrections - executive director - appointment of inspector general and investigators. Authorizes the executive director of the department of corrections ("department") to appoint an inspector general and investigators. Provides that the inspector general and investigators shall have the powers of a peace officer, level Ia.

Directs the inspector general to investigate:

- Any crimes, criminal enterprises, or conspiracies originating within the department and any originating outside correctional facilities that are related to the safety and security of correctional facilities;
- Any administrative violations, waste or mismanagement of departmental resources, or corruption;
- Any criminal violation or act committed within correctional facilities linked to the security of correctional facilities; and
- Any illegal drug use by offenders in correctional facilities.

In addition, permits the inspector general to perform all duties that investigators are authorized to perform.

Authorizes investigators:

- To investigate violations of state, local, and federal statutes affecting the safe operations of the department;
- To investigate criminal acts committed by offenders, employees, contractors or subcontractors, or volunteers or visitors;
- To seek out and assist in the arrest of fugitives; and
- To conduct preemployment investigations of employees.

Requires each investigator to notify the local law enforcement agency when the investigator intends to investigate within that agency's jurisdiction.

**APPROVED** by Governor April 30, 1999

**EFFECTIVE** April 30, 1999

**H.B. 99-1353** Private treatment facilities for out-of-state offenders - registration - notification - penalties - repeal - appropriation. Requires the administrator ("administrator") of the interstate compact for out-of-state parolee supervision ("interstate compact") to reject the placement of out-of-state offenders in private treatment programs in Colorado unless the sending state complies with the interstate compact. Prohibits sending states from permitting or encouraging travel by offenders into Colorado prior to the receipt of notification from the administrator of the acceptance of the offender into a treatment program. Requires the sending state to provide written justification why treatment in Colorado is preferable to treatment in the sending state.

Prior to the acceptance or admission of any adult convicted of a crime outside of Colorado into a private residential program providing services or treatment, requires the offender to sign a waiver authorizing the release of confidential information, and requires the program:

- To register with the administrator;
- If the offender is not under the supervision of a parole or probation officer, to notify the administrator of specified information; and
- If the offender is under such supervision, to confirm that the sending state has provided the administrator with the information required by the interstate compact.

Authorizes the administrator to accept or reject the placement of an out-of-state offender subject to the interstate compact pursuant to the criteria established by the interstate compact. Requires the administrator to notify local law enforcement agencies and the

Colorado bureau of investigation of all out-of state offenders entering Colorado for treatment. Requires the administrator to notify other states who are parties to the interstate compact of the new requirements established by the act.

Directs local law enforcement agencies to require out-of-state offenders to physically appear to be fingerprinted and photographed. Requires a program providing services to a person convicted of a crime outside of Colorado to immediately notify the local law enforcement agency if such person fails to appear or whenever such person is absent from the facility without authority and to notify the local law enforcement agency at least 7 days prior to the release of any such person from the program.

Makes violation of the provisions of the act by a private treatment program a misdemeanor subject to a \$500 fine. Establishes increasing monetary penalties for subsequent violations.

Authorizes the administrator to promulgate rules governing out-of-state offenders who are not under the supervision of a parole or probation officer. Requires specified state departments and agencies to develop proposed legislation concerning the regulation of private facilities that provide treatment or services to out-of-state offenders. Specifies that local governments are not prohibited from enacting their own ordinances and regulations concerning the licensing of these facilities.

Repeals the act, effective July 1, 2001.

Specifies that the act applies to any person convicted or accused of a crime in another state and transferred into this state to participate in a private treatment program on or after the effective date of the act.

Appropriates \$28,530 and 1.0 FTE to the department of corrections for implementation of the act. Adjusts the general fund appropriation to the capital construction fund in the annual general appropriations act by \$28,530.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** June 2, 1999

## COURTS

**S.B. 99-17** Judicial performance review commissions - continuation - state funds. Extends the statutory authority for state and local judicial performance commissions until June 30, 2009. Authorizes the appropriation of general funds to pay for the expenses of the commissions.

**APPROVED** by Governor March 25, 1999

**EFFECTIVE** March 25, 1999

**S.B. 99-116** District judges - first judicial district - add judge - appropriation. Increases the number of district judges in the first judicial district, composed of Jefferson and Gilpin counties, from 9 judges to 10.

Appropriates \$342,515 and 5.0 FTE to the judicial department for implementation of the act, including \$295,744 for trial courts and \$46,771 for the public defender.

**APPROVED** by Governor May 7, 1999

**EFFECTIVE** July 1, 1999

**S.B. 99-147** Juror and witness fees - rate increase - return mileage - appropriation. Sets the reimbursement rate for juror and witness service at the same rate as that for state officers and employees, thus raising the rate from 15¢ to 28¢ per mile. Changes the reimbursement for juror and witness service from one-way mileage to round-trip mileage.

Appropriates \$381,309 to the judicial department, trial courts division for implementation of the act.

**APPROVED** by Governor May 19, 1999

**EFFECTIVE** July 1, 1999

**S.B. 99-150** Drug dealer liability - cause of action - procedures. Establishes a new cause of action in favor of any person or entity suffering damages or increased expense because of illegal drug use. Specifies that an action may be brought against: (1) Any person who sold, administered, or furnished illegal drugs or who was in the chain of distribution of the illegal drug used by the individual illegal drug user; or (2) any person who knowingly participated in the marketing or distribution of the type of illegal drug used by that individual. Sets forth certain exceptions, the burden of proof to be established, what damages may be recovered, rules on contributory negligence, contribution among joint tortfeasors, prejudgment attachments, and other procedures. Established a 4-year statute of limitations for such actions.

Applies to causes of action accruing on or after June 2, 1999.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** June 2, 1999

**S.B. 99-170** Civil actions - year 2000 failures - individuals' affirmative defense. Establishes an affirmative defense to any action brought against an individual for default, failure to pay, breach, omission, or other violation if the individual establishes that the default, failure to pay, breach, omission, or other violation was caused, in whole or in part, by a year 2000 failure associated with an electronic computing device, hereafter "Y2K affirmative defense".

Precludes a claim against the individual from being reasserted for 30 days after a court dismisses a prior action as a result of a Y2K affirmative defense. Extends the statute of limitation 45 days upon dismissal of an action because of a Y2K affirmative defense. Specifies that the dismissal of an action as the result of a Y2K affirmative defense shall not impair, extinguish, discharge, satisfy, or otherwise affect the underlying obligation.

Authorizes an individual who has established a Y2K affirmative defense to dispute directly with a credit reporting agency operating in this state any item of information in the individual's consumer file relating to the subject of the Y2K affirmative defense. Obligates the credit reporting agency to comply with the requirements of the "Colorado Consumer Credit Reporting Act" and the federal "Fair Credit Reporting Act" in responding to the dispute. Requires the credit reporting agency, upon request, to include a statement in the consumer file explaining or concerning the content of the consumer file, at no charge to the consumer.

Repeals the act, effective December 31, 2006.

Applies to causes of action accruing on or after January 1, 2000.

**APPROVED** by Governor April 8, 1999

**EFFECTIVE** April 8, 1999

**S.B. 99-205** Firearms manufacturers - limitations on suit. Identifies as a matter of statewide concern the decision of whether to sue a firearms or ammunition manufacturer or dealer or a firearms trade association in any action arising from the lawful design, manufacture, marketing, or sale of firearms or ammunition to the public, and reserves to the state the right to sue said entities in said actions. Specifies that a political subdivision may bring suit against a firearms or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by the political subdivision.

**VETOED** by Governor June 2, 1999

**S.B. 99-222** Liability of hospital enterprises - electronic computing device failures associated with year 2000 date change. Establishes the standard of care for hospital enterprises for the failure of electronic computing devices to correctly interpret, produce, calculate, compare, compute, generate, account for, process, or sequence a date that is compatible with the year 2000 date change. Establishes an affirmative defense for a hospital enterprise that makes reasonable efforts to identify the potential for a year 2000 failure and attempts to correct or otherwise avert such failures. Excludes the award of exemplary damages for year 2000 failures. Provides that prior to the filing of any civil action related to a year 2000 failure, a hospital enterprise, upon request, shall provide supporting documentation summarizing the actions it has taken to correct or avert year 2000 failures.

Establishes a 3-year statute of limitations for civil actions arising out of the year 2000 date change. Applies to causes of action accruing on or after July 1, 1999.

**APPROVED** by Governor May 17, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1071** Damages - physician volunteer services - immunity. Gives a licensed physician, who is practicing medicine as a volunteer for a nonprofit organization, nonprofit

corporation, or hospital, immunity from civil liability for any act or omission while performing such volunteer work so long as the act or omission was not grossly negligent or willful and wanton misconduct and the patient receiving the volunteer services is informed that his or her right to sue the volunteer physician is limited and has agreed in writing to accept such volunteer services.

Requires the nonprofit organization, nonprofit corporation, or hospital to annually verify that a physician who performs volunteer services for such entity holds an unrestricted license to practice medicine in Colorado.

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** April 22, 1999

**H.B. 99-1204** Civil restraining orders - consolidated procedures. Consolidates the various types of civil restraining orders issued by a municipal, county, or district court into a single type of civil restraining order, with the exception of restraining orders issued in domestic relations cases and emergency protection orders to prevent domestic abuse. Specifies the procedures that a court must use in issuing a civil restraining order. Gives the court jurisdiction to issue such additional orders as it deems necessary to protect persons. Clarifies that enactment of the act does not affect the effectiveness of any civil restraining order issued by a court prior to July 1, 1999. Extends to July 1, 1999, the date by which the state court administrator must adopt a standard set of forms for issuing civil restraining orders.

Allows a district court to maintain jurisdiction in dissolution of marriage cases for the purpose of issuing civil restraining orders following entry of the divorce decree.

**APPROVED** by Governor April 30, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1211** County court judges - Boulder and Larimer counties - increase in number - appropriation. Authorizes one additional county court judge in each of the counties of Boulder and Larimer.

Appropriates \$538,021 and 7.4 FTE to the judicial department for implementation of the act.

**APPROVED** by Governor May 18, 1999

**EFFECTIVE** May 18, 1999

**H.B. 99-1283** Automated external defibrillators - limited immunity. Grants immunity to persons and entities that render emergency care or treatment, without compensation, to a person in cardiac arrest by the use of an automated external defibrillator (AED) so long as the person or entity meets certain training, maintenance, oversight, and notification requirements. Extends such immunity to the licensed physician who is involved with the AED site placement, the person or entity that provides the CPR and AED site placement, and the person or entity responsible for the site where the AED is located. States that such immunity shall not apply if injury results from gross negligence or willful or wanton misconduct. States that the requirements for complying with training, maintenance, and notification are not applicable to a person using an AED during a medical emergency if that individual is acting as a good samaritan.

**APPROVED** by Governor April 16, 1999

**EFFECTIVE** April 16, 1999



**H.B. 99-1295** Civil actions - limitation of liability of businesses - electronic computing devices - year 2000 failures. Establishes the "Year 2000 Liability Act of 1999". Applies to civil actions for damages arising from a year 2000 failure associated with an electronic computing device. Defines the terms "electronic computing device" and "year 2000 failure". Limits a business' liability in such actions to actual damages. Establishes an affirmative defense for any business, or any director, officer, or employee of such business, who makes reasonable efforts to identify the potential for a year 2000 failure and who attempts to correct or otherwise avert such failures. Lists such "reasonable efforts". Directs a business to provide documentation concerning the reasonable efforts it has taken, upon request, prior to the filing of a civil action. Specifies that the limitation of liability for year 2000 failures is not intended to vary or alter the terms of any contract, warranty, or agreement addressing issues relating to year 2000 matters.

Adds to the list of confidential functions of the compliance review committee of a financial institution the activities of the committee to seek to improve the ability of electronic computing devices to account for the year 2000 date change and to improve compliance with regulations and guidelines in system preparedness for the year 2000 date change and implementation of year 2000 plans.

Establishes a 3-year statute of limitations for civil actions arising out of a year 2000 failure.

Applies to causes of action accruing on or after July 1, 1999.

**APPROVED** by Governor April 5, 1999

**EFFECTIVE** July 1, 1999

## CRIMINAL LAW AND PROCEDURE

**S.B. 99-48 Motor vehicle theft - penalty increase.** Increases the penalty for aggravated motor vehicle theft in the second degree from a class 2 misdemeanor to a class 5 felony if the value of the vehicle is \$15,000 or more or a class 6 felony if the value of the motor vehicle is \$500 or more but less than \$15,000. Leaves the penalty for aggravated motor vehicle theft in the second degree a class 2 misdemeanor if the value of the vehicle is less than \$500. Clarifies the jurisdiction in cases where the commission of motor vehicle theft occurs in one jurisdiction and the recovery of the motor vehicle occurs in another jurisdiction.

Excepts this act from the 5-year statutory appropriation statute for prison bed construction and operating costs and ties any prison bed construction and operating costs resulting from this act to the prison bed savings and operating costs savings created by an amendment contained in House Bill No. 99-1168.

Provides that the act applies to offenses committed on or after July 1, 2000; except that said act shall only take effect if:

- Section 42-2-206, Colorado Revised Statutes, is amended in House Bill 99-1168 to change the penalty for driving with a revoked license from a class 6 felony to a class 1 misdemeanor and the final fiscal note for such bill shows prison bed savings and operating costs savings that are equal to or greater than the prison bed construction and operating costs shown in the final fiscal note for this act; and
- House Bill 99-1168 is enacted and becomes law.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** July 1, 2000

**NOTE:** House Bill 99-1168 was signed by the Governor on May 24, 1999.

**S.B. 99-96 Female genital mutilation - crime created - educational program.** Requires the executive director of the department of public health and environment, or the executive director's designee, to:

- Carry out appropriate and culturally sensitive education, prevention, and outreach activities concerning female genital mutilation;
- Inform the appropriate communities about the health risks associated with and the emotional and psychological trauma inflicted by that practice;
- Educate the medical community about recommended standards of medical practice; and
- Inform the medical community and other appropriate communities of the criminal penalties for such action.

Authorizes the executive director to obtain and expend private funds, grants, gifts, or donations for the educational program. Creates the female genital mutilation fund for such grants, gifts, or donations. Repeals the educational program effective July 1, 2004.

Makes it a crime of child abuse for a person to excise or infibulate the genitalia of a female child, or for the parent, guardian, or other person legally responsible for a female child to allow such mutilation of the child's genitalia. Specifies that consent to such conduct or belief that the conduct is required as a matter of custom, ritual, or standard practice is not an

affirmative defense. Establishes exceptions to such crime if the procedure is necessary for the health of the child or performed on a mother who is in labor or in connection with the birth of her infant.

Requires the district attorney to report information to the immigration and naturalization service where there is a reasonable belief that any person arrested or charged with female genital mutilation is not a citizen or national of the U.S.

States the intent of the general assembly that any cost of the act will be offset by savings from the passage of House Bill 99-1168.

Provides that this act shall apply to offenses committed on or after May 24, 1999; except that said act shall only take effect if:

- Section 42-2-206, Colorado Revised Statutes, is amended in House Bill 99-1168 to change the penalty for driving with a revoked license from a class 6 felony to a class 1 misdemeanor and the final fiscal note for such bill shows prison bed savings and operating costs savings that are equal to or greater than the prison bed construction and operating costs shown in the final fiscal note for this act; and
- House Bill 99-1168 is enacted and becomes law.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** May 24, 1999

**NOTE:** House Bill 99-1168 was signed by the Governor on May 24, 1999.

**S.B. 99-106 Hazing - penalties.** Establishes a class 3 misdemeanor offense for engaging in hazing. Defines "hazing" as any activity that recklessly endangers the health or safety of or causes a risk of bodily injury to another person for the purpose of initiation or admission into any student organization.

**BECAME LAW:** April 17, 1999

**EFFECTIVE** July 1, 1999

**S.B. 99-119 Sexual offenses - HIV testing - mandatory sentencing.** Requires a person who is convicted under a municipal ordinance that is comparable to the offense of prostitution or patronizing a prostitute to submit to human immunodeficiency virus (HIV) testing. Specifies that the results of said test shall be reported to either the district attorney or municipal attorney. Authorizes the district attorney or municipal attorney to release the test results to a district attorney or municipal attorney in another jurisdiction if the person is charged in the other jurisdiction with prostitution or patronizing a prostitute. Requires the HIV test to be performed by a facility that provides ongoing health care. Requires the employee of the facility who performs the test to provide oral and documentary evidence concerning whether the person tested was provided notice of the positive result and the date of such notice. Specifies that authorized possession of medical records concerning HIV testing in this context does not constitute theft of medical records.

In sentencing a person who is convicted of prostitution with knowledge of being infected with HIV, allows the court to order an assessment for the use of controlled substances or alcohol and to order the person to receive treatment if recommended following the assessment. Also allows the court to order the person to participate in mental health

treatment if recommended in the presentence report.

Requires the court to order any person who has been bound over for trial on a sex offense consisting of sexual penetration that involved sexual intercourse or anal intercourse to submit to HIV testing. Specifies that the test results shall be reported to the district attorney. Requires the district attorney to maintain the confidentiality of the test results except under specified circumstances. If the person tests positive, allows the district attorney to seek information from the state department of public health and environment and the local health department concerning whether the person had knowledge of his or her HIV infection prior to the date of the offense.

If the district attorney determines the person had such knowledge, allows the district attorney to file an indictment or information seeking mandatory sentencing. Requires the state or local health department employee who first notified the person to provide oral and written information only about the notice and its date at the sentencing hearing. If such employee is no longer employed by the state or local health department, requires the state or local health department to provide the former employee's name and address, if available, the documentary evidence, and, if the former employee is unavailable, any current officer or employee with knowledge of the notice and its date. If the person is convicted and the court determines the person had prior knowledge of his or her HIV infection, requires the court to sentence the person to a mandatory term of incarceration of at least 3 times the upper limit of the presumptive range for the level of offense committed, up to the remainder of the person's natural life.

Specifies that the disclosure provisions shall not be construed to abridge the statutory confidentiality requirements imposed on the state department of public health and environment and the local health departments except with regard to the court and the parties to the criminal action.

Provides that sections 5 and 6 of this act shall apply to offenses committed on or after May 29, 1999; except that said sections shall only take effect if:

- Section 42-2-206, Colorado Revised Statutes, is amended in House Bill 99-1168 to change the penalty for driving with a revoked license from a class 6 felony to a class 1 misdemeanor and the final fiscal note for such bill shows prison bed savings and operating costs savings that are equal to or greater than the prison bed construction and operating costs shown in the final fiscal note for this act; and
- House Bill 99-1168 is enacted and becomes law.

**APPROVED** by Governor May 29, 1999

**EFFECTIVE** May 29, 1999

**NOTE:** House Bill 99-1168 was signed by the Governor on May 24, 1999.

**S.B. 99-129** Public transportation entities - authority to appoint fare inspectors. Authorizes public transportation entities to appoint and employ fare inspectors to enforce the statutory provision proscribing theft of public transportation services by fare evasion. Specifies qualifications for such fare inspectors. Empowers fare inspectors to issue citations to persons violating such statutory provision. Requires fare inspectors to issue citations on behalf of the county in which the person occupying, riding in, or using a public transportation vehicle without paying the applicable fare is located at the time the theft is discovered. Requires the

public transportation entity whose fare inspector issued the citation to timely deliver the citation to the local law enforcement agency for the jurisdiction in which the accused person is located at the time the theft is discovered, as well as to the district attorney for the county on behalf of which the citation was issued. Requires the local law enforcement agency to transmit the citation to the clerk of the appropriate county court for purposes of enforcement and prosecution of the theft by fare evasion statute.

**APPROVED** by Governor April 15, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1027** Criminal mischief involving graffiti - driver's license revocation. Makes revocation of a driver's license a mandatory penalty for convictions or adjudications for criminal mischief where the court finds that the underlying factual basis for the conviction or adjudication involved defacing property. Applies the penalty in the same manner as a mandatory driver's license revocation for a conviction or adjudication for defacing property. Prohibits an insurer from canceling, increasing the premium for, or otherwise changing an insurance policy because the insured or a member of the insured's household has had his or her license revoked because of a conviction or adjudication for defacing property or criminal mischief.

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1070** Sexual assault - age of parties. Adds a new crime of sexual assault in the second degree when, at the time of the act, the victim is at least 15 years of age but less than 17 and the actor is at least 10 years older than the victim and is not the victim's spouse. Makes the crime of sexual assault in the second degree in such circumstances a class 1 misdemeanor, subject to enhanced sentencing provisions.

Applies to offenses committed on or after July 1, 1999.

**APPROVED** by Governor April 16, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1075** Bail bonds - procedures - compensated sureties - forfeiture - judgment - exoneration. Establishes and defines a "board system" that prohibits the acceptance of appearance bonds from any bonding agent if a bail forfeiture judgment against the bonding agent remains unpaid or is not otherwise discharged. Establishes a procedure for compensated sureties that:

- Permits the court to declare the bond forfeited and enter judgment for the state if a defendant fails to appear.
- Requires that notice of the forfeiture order be sent to the bonding agent and surety within 10 days after entry of the forfeiture.

- Requires the notice of entry of judgment to include a statement of such entry, an advisement that the compensated surety has 15 days to request a show cause hearing, and an advisement that the judgment will be entered 30 days after entry of forfeiture if the surety does not request a hearing.
- Gives the surety 15 days after receiving notice of forfeiture to request a show cause hearing; requires that such a request be granted and a hearing set within 30 days after entry of forfeiture or at the court's earliest convenience; and permits the court, upon conclusion of the hearing, to enter judgment against the compensated surety or order further hearings.
- Requires the court to enter judgment against the compensated surety 30 days after entry of forfeiture if a show cause hearing was not requested.
- Does not vacate any resulting judgement for not being timely heard, if a show cause hearing was set but not held within 30 days after entry of forfeiture, and automatically stays execution on such judgment for no more than 120 days after entry of forfeiture.
- Requires the court to set aside the forfeiture and exonerate the bond if the defendant appears either voluntarily or in custody after surrender or arrest at any time before entry of judgment; except that all necessary and actual extradition costs up to the amount of the bond are borne by the surety.
- Requires that execution on the judgment is automatically stayed for 90 days after entry of the judgment; except that if judgment is entered after a show cause hearing that was held beyond the 30-day period after entry of forfeiture, the judgment shall be stayed for no more than 120 days after entry of forfeiture.
- Requires the compensated surety to pay the unpaid judgment upon the expiration of the automatic stay, unless the defendant has appeared either voluntarily or involuntarily or the court issues an additional stay or vacates the judgment.
- Requires that the bonding agent be placed on the board and prohibited from writing bonds if a judgment is not paid, vacated, or discharged before the expiration of the automatic stay.
- Requires that, if the judgment is still unpaid 30 days after the bonding agent was placed on the board, the bail insurance company must pay the judgment within 15 days after the mailing of the notice or the company will be placed on the board and prohibited from executing any bonds until the judgment is paid, vacated, or discharged.
- Requires removal of a compensated surety from the board upon payment or discharge of the underlying judgment, or entry of an additional automatic stay, and requires notice of any placement on the board.
- Permits a court to vacate the judgment or stay the execution if justice so requires.
- Requires that the compensated surety be exonerated on the bond if the judgment is satisfied, or if the defendant appears either voluntarily or in custody after surrender or arrest within 90 days after entry of judgment, or if the court so orders; except that all necessary and actual costs of the extradition of the defendant are borne by the surety.
- Requires the court to order a remission less any actual and necessary extradition costs of the state and sheriff if the compensated surety effects the apprehension or surrender of the defendant within one year after payment of the judgment.
- Clarifies that bonds are valid even if they were written by a compensated surety while on the board, and prohibits a defense to liability on the bond on such facts.

- States that the automatic stay of execution shall expire unless the defendant appears and surrenders or satisfies the court that such appearance was impossible and not due to his or her fault, in which case the court may set aside the forfeiture and vacate the judgment.

Requires the court to order the division of insurance to forfeit the qualification bond of a cash bonding agent if the agent is placed on the board for more than 30 consecutive days for the same forfeiture.

Requires the court to order the division of insurance to suspend the license of a bail bonding agent if the agent is placed on the board for more than 45 consecutive days for the same forfeiture.

Requires the division of insurance to order a bail insurance company to pay an unpaid judgment if the judgment remains unpaid 15 days after the company has been placed on the board.

Requires the division of insurance to deny, suspend, revoke, or refuse to renew a bail bonding license if the agent has not paid a judgment after being on the board for more than 45 consecutive days for the same forfeiture or if the agent continues to execute bonds after being placed on the board. Adds such an offense to the list of prohibited activities of bail bonding agents, punishable as a misdemeanor.

**APPROVED** by Governor March 24, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1095** Drugs associated with drug-induced rape - prohibition - appropriation. Prohibits any person from knowingly possessing gamma hydroxybutyrate (GHB) or ketamine. Makes violation of this prohibition a class 1 misdemeanor.

Prohibits any person from knowingly manufacturing, distributing, dispensing, selling, or possessing with intent to manufacture, distribute, or sell GHB or ketamine. Prohibits any person from knowingly causing or attempting to cause any other person to unknowingly consume or receive the direct administration of GHB or ketamine. Makes violation of either of these prohibitions a class 3 felony or a class 2 felony if the violation is subsequent to a prior conviction for a violation of either of these prohibitions.

Allows a person who is licensed to prescribe, administer, or dispense controlled substances to possess, manufacture, distribute, dispense or sell GHB or ketamine for bona fide medical needs.

Excepts this act from the 5-year statutory appropriation statute for prison bed construction and operating costs and ties any prison bed construction and operating costs resulting from this act to the prison bed savings and operating costs savings created by an amendment contained in House Bill No. 99-1168.

Provides that this act shall apply to offenses committed on or after July 1, 1999; except that said act shall only take effect if:

- Section 42-2-206, Colorado Revised Statutes, is amended in House Bill 99-1168 to change the penalty for driving with a revoked license from a class 6 felony to a class 1 misdemeanor and the final fiscal note for such bill shows

prison bed savings and operating costs savings that are equal to or greater than the prison bed construction and operating costs shown in the final fiscal note for this act; and

- House Bill 99-1168 is enacted and becomes law.

**APPROVED** by Governor June 1, 1999

**EFFECTIVE** July 1, 1999

**NOTE:** House Bill 99-1168 was signed by the Governor on May 24, 1999.

**H.B. 99-1162** Procedural changes - grand juries - costs - bail - probation. Clarifies that a grand jury of any type shall serve for a term of 12 months unless the court discharges the jurors earlier or enlarges the term; except that no grand jury term shall exceed 18 months. Specifies that a judge may close the grand jury selection proceeding to the public. Allows release of juror names and numbers in the absence of a court order preserving confidentiality.

Repeals the provision that grants the state of Colorado a judgment for costs incurred in making undercover purchases of controlled substances to obtain evidence against a defendant, but gives the court authority to include the cost of these undercover purchases in orders for restitution.

Codifies section 19 of article II of the state constitution with regard to a person's right to bail after conviction.

Clarifies that, unless an appeal from the trial court raises a claim related to the granting of probation, the trial court retains jurisdiction of the case for the purpose of adjudicating complaints regarding alleged violations of the terms and conditions of probation.

Corrects a reference to federal law in the definition of "victim" for purposes of the "Colorado Crime Victim Compensation Act".

**APPROVED** by Governor March 15, 1999

**EFFECTIVE** March 15, 1999

**H.B. 99-1168** Criminal laws - substantive changes. Changes harassment by stalking to the crime of stalking. Expands the crime to include circumstances under which the offender presents a credible threat to a person with whom the victim has or has had a relationship. Expands the crime to include circumstances under which the offender repeatedly engages in conduct that would cause a reasonable person to suffer serious emotional distress. Raises the penalty from a class 6 to a class 5 felony for a first offense and from a class 5 to a class 4 felony for second or subsequent or aggravated offense. Makes stalking a crime of extraordinary risk of harm to allow the court to impose enhanced sentencing.

Makes harassment a class 1 misdemeanor if the offender commits harassment with the intent of harassing or intimidating another person because of the other person's actual or perceived race, color, religion, ancestry, or national origin. Clarifies that a charge of ethnic intimidation may be based on actions taken because of the offender's perception of the victim's race, color, religion, ancestry, or national origin. Raises ethnic intimidation resulting in bodily injury to a class 4 felony if the offender is physically aided or abetted by one or more persons during commission of the offense.



Increases the penalty for unlawful distribution, manufacturing, dispensing, sale, or possession of flunitrazepam to a class 3 felony or a class 2 felony for any second or subsequent offense. Requires the mandatory sentencing provisions for schedule I and schedule II controlled substances to apply to flunitrazepam. Makes illegal possession or consumption of ethyl alcohol by an underage person an unclassified offense rather than a class 2 petty offense, thereby removing the right to a jury trial on the offense. Extends the ability to aggregate the amount of drugs involved in two or more transactions over a six-month period to all schedule I and schedule II controlled substances and flunitrazepam.

Lowers the penalty for driving after revocation of license from a class 6 felony to a class 1 misdemeanor. Creates as a class 6 felony the crime of aggravated driving with a revoked license where a person convicted of driving with a revoked license is also convicted of other specified crimes.

Clarifies that "bodily injury" as used in the crime of unlawful ownership of a dangerous dog does not include a fracture of a bone, because such injury is included in the definition of "serious bodily injury".

Makes theft by receiving committed twice or more within 6 months a class 4 felony if the aggregate amount involved is \$500 or more but less than \$15,000 and a class 3 felony if the aggregate amount involved is \$15,000 or more.

Classifies remifentanil hydrochloride as a schedule II controlled substance. Classifies modafinil, sibutramine, and stadol (butorphanol tartrate) as schedule IV controlled substances.

Clarifies that the crimes concerning escape or other offenses committed while under lawful confinement apply to persons who are confined due to convictions or adjudications occurring under the laws of this state, another state, the United States, or any territory under the control of the United States.

Clarifies that real property is not subject to seizure and forfeiture if it is neither proceeds of nor part of the same tract or lot of land used for the underlying public nuisance act.

Makes it a class 6 felony to possess or use up to 8 ounces of marihuana in a detention facility. Makes any subsequent offense, where both the initial and subsequent offenses involved more than one ounce of marihuana, a class 5 felony.

Makes any equipment, including computer equipment, used in committing sexual exploitation of a child or computer crime subject to forfeiture as a class 1 public nuisance. Clarifies that the crime of failing to register as a sex offender applies to persons required to register as sexually violent predators. Makes knowingly neglecting or otherwise acting in a manner injurious to the welfare of an at-risk juvenile a class 1 misdemeanor.

Removes a defendant's right to appellate review of the propriety of a sentence if the sentence is within the range agreed upon by the parties pursuant to a plea agreement. Clarifies that enhanced sentencing applies where a defendant who is on bond for commission of a felony is subsequently convicted of another felony and convicted in the case involving the previous felony charge.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1172** Mental condition - cooperation in examination - pleading. For offenses committed on or after July 1, 1999, requires a defendant who pleads not guilty by reason of insanity to cooperate in court-ordered examinations. Sanctions any defendant who refuses to cooperate by prohibiting that defendant from calling his or her own physician as a witness.

For offenses committed on or after July 1, 1999, prohibits a defendant from introducing evidence relevant to the issue of insanity without first entering a plea of not guilty by reason of insanity. Requires any defendant who seeks to introduce expert opinion evidence as to his or her mental condition to give notice of such intent and undergo a court-ordered examination. Directs that any defendant who provides such notice waives any claim of confidentiality or privilege with regard to communications made to a physician or psychologist. Requires the defendant to give notice at arraignment of the intent to introduce evidence as to mental condition, but allows the court to allow notice at a later date on a showing of good cause. Specifies that any delay caused by undergoing the examination is excluded from the time within which the defendant must be tried.

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1235** Genetic testing - violent offenders - confidentiality - appropriation. Expands the list of crimes for which a person is required to submit to and pay for a DNA test of the person's blood to include crimes of violence and crimes for which a person must be sentenced as a crime of violence. Establishes the violent offender identification fund to receive such payments. Authorizes the parole board to require such testing as a condition of parole for a person found guilty of a sexual offense under the department of correction's code of penal discipline. Prohibits the release, except to criminal justice agencies, of information concerning chemical testing of offenders' DNA.

Appropriates from the general fund \$335,910 and 2.0 FTE to the department of public safety for allocation to the Colorado bureau of investigation. Also appropriates \$2,950 from the general fund to the judicial department for allocation to probation and related services in the judicial department. Adjusts the general fund appropriation made to the capital construction fund in the annual general appropriations act by \$338,860.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1254** Collection of restitution - legislative council study - repeal - appropriation. Directs the legislative council staff to conduct a study of the assessment, collection, and distribution of criminal restitution. Specifies matters that the study shall examine and contacts with whom the staff should consult. Directs the council staff to present the final report and recommendations to legislative council and any other committees designated by legislative council by September 1, 1999. Authorizes the council to solicit and expend gifts, grants, and donations to defray the costs of the study. Repeals the statutory section effective July 1, 2000.

Appropriates from the general fund to the legislative department \$14,172. Adjusts the general fund appropriation made to the capital construction fund in the annual general appropriations act by \$14,172.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** May 24, 1999

**H.B. 99-1260** Sex offenders - juvenile records - duty to register - genetic testing - community corrections sentence - sexually violent predators - community notification - appropriation. Allows public access to arrest and criminal records information concerning a juvenile charged with unlawful sexual behavior. Clarifies that the requirement to register as a sex offender applies to persons convicted under laws of another jurisdiction. Requires a sex offender who moves to Colorado to register as a sex offender in this state if the person was required to register as a sex offender in the state of conviction, regardless of the date of conviction. Makes technical amendments to clarify the definition of "unlawful sexual behavior", including clarifying that the genetic testing requirement imposed as a condition of probation applies to persons who receive deferred judgments.

Requires sex offenders who are sentenced directly to jail or community corrections to undergo DNA testing. Instructs the court to direct the sheriff to obtain the blood sample. Directs the Colorado bureau of investigation to conduct the DNA test and to maintain the test results on file. Allows a judge to sentence a sex offender to a residential community corrections program as a condition of probation. Establishes procedures by which the sex offender may be released to probation in the community. Requires any sex offender released from a residential community corrections program to participate in the intensive supervision probation program for sex offenders.

Extends the effective date for sexually violent predator evaluations to July 1, 1999. Directs the court to order administration of a sexually violent predator risk assessment for any defendant convicted of the specified offenses, and requires the court to make a finding concerning whether the defendant is a sexually violent predator. Instructs the parole board, in considering the release of any offender convicted of one of the specified offenses, to make specific findings concerning whether the offender is a sexually violent predator, based on a sexually violent predator risk assessment conducted by the department of corrections.

Requires department of corrections or department of human services personnel, prior to releasing a sex offender, to verify that the address given by the sex offender as the place where he or she will reside upon release is a residence, that the owners or occupants of the residence know the sex offender's criminal history and have agreed to allow the sex offender to reside at the address, and that the residence does not violate any conditions of parole. States that the sex offender is deemed to have provided false information if department personnel determine that the address does not meet these conditions. Makes providing false information concerning the address at which a person intends to reside upon release from incarceration or commitment an act that constitutes failure to register as a sex offender.

Makes a clarifying conforming amendment recognizing the court's ability to impose an indeterminate sentence pursuant to the "Colorado Sex Offender Lifetime Supervision Act of 1998". Clarifies that sex offender evaluation services shall be provided in conformance with standards adopted by the sex offender management board.

Authorizes the department of corrections or the supervising officer for any sex offender sentenced under the "Colorado Sex Offender Lifetime Supervision Act of 1998" who has been identified as a sexually violent predator to request the court or the state board of parole to determine whether the sexually violent predator should potentially be subject to community notification. Instructs the sex offender management board to adopt a risk assessment instrument, criteria for determining whether community notification is appropriate, and procedures and protocols for community notification. Identifies the local law enforcement agency for the jurisdiction in which the sexually violent predator resides as

the entity that would carry out the community notification. Instructs the division of criminal justice within the department of public safety to create a technical assistance team to assist law enforcement agencies in carrying out community notifications and to provide educational services to communities.

Corrects the statutory cross references in the definition of "unlawful sexual offense", for purposes of the statute concerning habitual sex offenders against children. Clarifies that a sex offender must register if he or she moves to another state. Instructs the law enforcement agency of the jurisdiction in this state in which the sex offender resided to notify the agency responsible for sex offender registration in the new state. Requires, rather than allows, a local law enforcement agency to release information concerning a sex offender to any resident of the jurisdiction who requests information or to any nonresident who demonstrates a need to know. Extends the minimum registration time for a sex offender convicted of the class 1 misdemeanor of third degree sexual assault from 5 years to 10 years.

Clarifies that, in notifying a local law enforcement agency that a sex offender is planning to reside within the agency's jurisdiction, the department of corrections or department of human services may provide additional information concerning the sex offender. Allows the Colorado bureau of investigation, in providing the results of a criminal history check, to tell the requesting party that the person being checked is on the sex offender registry.

Appropriates \$241,551 and 2.5 FTE from moneys remaining in the statewide instant criminal background check cash fund to the department of public safety for implementation of portions of the act. For the fiscal year beginning July 1, 2000, appropriates \$172,882 and 1.5 FTE from general fund moneys to the department of public safety for implementation of portions of the act. Specifies the general assembly's intent that the future appropriation be derived from savings generated by House Bill No. 99-1168.

Provides that sections 3, 4, 14, and 17 of this act shall apply to offenses committed on or after July 1, 1999; except that section 3 and 17 shall only take effect if:

- Section 42-2-206, Colorado Revised Statutes, is amended in House Bill 99-1168 to change the penalty for driving with a revoked license from a class 6 felony to a class 1 misdemeanor and the final fiscal note for such bill shows prison bed savings and operating costs savings that are equal to or greater than the prison bed construction and operating costs shown in the final fiscal note for this act; and
- House Bill 99-1168 is enacted and becomes law.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** July 1, 1999

**NOTE:** House Bill 99-1168 was signed by the Governor on May 24, 1999.

**H.B. 99-1304** Burglary - clarification of "unlawful entry". Clarifies that, for purposes of the crimes of first and second degree burglary, a person may remain in a building unlawfully and form the intent to commit therein a crime, regardless of whether the person's initial access to the building was lawful or unlawful.

Applies to offenses committed on or after July 1, 1999.

**APPROVED** by Governor April 15, 1999

**EFFECTIVE** July 1, 1999

## EDUCATION - PUBLIC SCHOOLS

**S.B. 99-37** Dropout programs - repeal. Repeals the provisions establishing educational clinics for public school dropouts. Repeals the second chance program for problem students. Repeals a charter school provision that references educational clinics.

**VETOED** by Governor March 29, 1999

**S.B. 99-39** Dropout rates - definition - reporting between school districts. Modifies the definition of a "dropout" to mean a person who is the subject of notification to a school or school district that such person has left or will leave school for any reason, or such person has been absent from class for 6 consecutive weeks or more in any one school year. Specifies that a student who is excused from school for a long-term illness or who is enrolled in an on-line educational program shall not be counted as a dropout.

Requires the state board of education to adopt rules requiring school districts to report the enrollment of students who have transferred to another school or school district in order to identify dropouts more accurately. Directs the state board of education to set standards for determining which school or school district shall count a dropout in its dropout count.

**APPROVED** by Governor June 1, 1999

**EFFECTIVE** June 1, 1999

**S.B. 99-52** Charter schools - tax-exempt financing - extension of charter - educational programs - application - review and deadlines. Clarifies that, for purposes of tax-exempt financing, a charter school is a governmental entity. States that direct leases and financial obligations of a charter school do not bind the school district unless the district specifically assumes such obligations. Permits a charter school and the local board of education to extend the length of the charter beyond 5 years in order to enhance the terms of financing.

Authorizes a charter school to offer any educational program that may be offered by a school district unless expressly prohibited by the charter or state law.

Requires that, for purposes of reviewing charter school applications, a district accountability committee must have at least one member who is knowledgeable about charter schools and another who is a parent or legal guardian of a child enrolled in a charter school in the district or, if there are no charter schools in the district, a parent of a child enrolled in the district.

Requires the school district to rule upon the application within 75 days after receipt of the application. Directs that the contract between the charter school and the local board of education be concluded no later than 90 days after the local board of education rules on the application for a charter school unless the parties mutually agree to waive the deadline.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-68** School district boards of education - powers - sanctions for failure to return textbooks. Authorizes a school district to withhold the diploma, transcript, or grades of any student who fails to return or replace a textbook loaned to the student by the school district and to prevent the student from participating in any graduation or continuation ceremony. Requires the school district to make a reasonable effort to obtain payment for lost or damaged textbooks. For students who are unable to pay for textbooks, allows the school district to design an alternative payment plan that may include service within the school in which the student is enrolled.

**APPROVED** by Governor April 14, 1999

**EFFECTIVE** April 14, 1999

**S.B. 99-139** Law-related education advisory board - termination. Eliminates provisions concerning the law-related education advisory board within the Colorado department of education prevention initiatives unit, scheduled for repeal effective July 1, 1999.

**APPROVED** by Governor March 24, 1999

**EFFECTIVE** March 24, 1999

**H.B. 99-1037** School district - grounds for expulsion - offense against the person - enrolling in victim's school - prohibited. Requires a school district to prohibit certain expelled students from enrolling or re-enrolling in the same school in which the student's victim or a member of the victim's immediate family is enrolled or employed. Where a school district does not have actual knowledge of the victim's name, provides that the provisions of the act shall be implemented only on request of the victim or a member of the victim's immediate family.

In any school district that has only one school in which the expelled student may enroll, requires the school district either to prohibit the expelled student from enrolling or re-enrolling as above or to design a schedule that minimizes the contact between the expelled student and the victim.

Specifies that the prohibition is limited to those students who were convicted, adjudicated a juvenile delinquent, received a deferred judgement, or placed in a diversion program as a result of the offense for which they were expelled. Does not apply to expelled students who only commit an offense against property. Prior to implementing the provisions of the act, requires a school district to obtain information from the appropriate court to determine whether an expelled student is subject to the provisions of the act.

Permits any county or district court to issue a temporary or permanent civil restraining order to enjoin the expelled student from enrolling or re-enrolling as above, and provides for an expedited ex parte hearing on such matter.

Applies to offenses committed on or after July 1, 1999.

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1039** School employees - background checks - disclosure of reasons for leaving

employment - appropriation. Expands the criminal background checks for all prospective school employees to include whether the person has committed any felony. During a person's employment by a school district or nonpublic school, authorizes the school district or school to make an inquiry to the department of education to determine if the person has been convicted of a felony or a misdemeanor involving unlawful sexual behavior or unlawful behavior involving children or left employment with a school district or had a teaching certificate annulled, suspended, or revoked because of an allegation involving unlawful sexual behavior or unlawful behavior involving children.

Requires school districts to notify the department of education whenever it learns that a current or past employee has been convicted of any felony or a misdemeanor involving unlawful sexual behavior or unlawful behavior involving children.

Directs a nonpublic school to submit to the department of education a set of each applicant's fingerprints. Requires the department of education to transmit the fingerprints to the Colorado bureau of investigation and to inform the school of the results of the investigation.

Adds entering into an agreement for a deferred prosecution to the definition of "conviction" for purposes of background checks and denying, annulling, suspending, or revoking teaching certificates.

Authorizes a school district to disclose to another district or to a school the reasons why a teacher or probationary teacher left employment with the district. Requires that such information only be disclosed to the teacher and to personnel authorized to review the teacher's personnel file. Prohibits including in a teacher's contract any provision that restricts the school district from disclosing to another school district or to a school the reasons why the teacher left employment with the school district.

Appropriates \$1900 from the nonpublic school fingerprint cash fund to the department of education for the implementation of this act. Appropriates \$1900 to the department of public safety, Colorado bureau of investigation, crime information center, from cash funds exempt received from the department of education for the implementation of this act.

Applies to persons employed by any school district or nonpublic school and prospective school employees applying on or after July 1, 1999.

**APPROVED** by Governor June 1, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1040** School district benefit retirement systems. Authorizes a board of education of a school district to establish a comprehensive benefit retirement system for employees of the school district, employees of charter schools within the district, and other specified employees.

Provides that the benefit retirement system shall constitute a retirement association for such employees. Specifies that the board of education shall provide for the benefits to be furnished and for the organization and administration of the association in a plan. Specifies the benefits that may be paid in accordance with a plan document. Allows the board of education to authorize other programs, including programs providing health care benefits.

Specifies that all assets of the association shall be held in trust. Provides that a board



of trustees shall have the exclusive authority to invest and manage the assets of the association, pay benefits, and otherwise administer the association.

Provides that any existing benefit retirement system created by a board of education under present law will become subject to this act on January 1, 2000, that the association will become the successor to the existing system whose separate existence then ceases, and that the assets of the existing system will become vested in the association which also succeeds to all contractual rights and obligations of the existing system.

Provides that a school district shall have the power to provide that school district employees who become employees of an association shall continue to receive certain employee fringe benefits from the school district, the funding of which shall be based upon the service accrued in the school district and in the association.

Specifies the membership and composition of the board of trustees. Provides that where a board of education has previously created a retirement system, members of any existing board of managers shall serve on a transitional board of trustees for the association until their terms on the board of managers would have expired. Provides that members of the board of trustees shall serve without compensation.

Specifies the powers and duties of the board of trustees. Requires the board of trustees to appoint an administrator to direct and administer the association. Allows the board to delegate certain duties and authorities to the administrator. Requires the board to adopt rules governing the administration of the association. Requires the board of trustees to submit annual reports to the board of education.

Provides that the board of trustees has the authority to determine membership status in accordance with the law and plan provisions, exemptions from membership, eligibility, service credit, and salary used to determine benefits. Specifies procedures for appealing such decisions.

Allows the administrator to delegate duties and authorities to employees of the association. Specifies circumstances and procedures for the administrator to correct administrative errors.

Specifies that the board of trustees shall control the investment and management of funds, subject to certain requirements. Requires the board to adopt a statement of investment objectives and policies.

Further specifies:

- Fiduciary standards of conduct for the trustees of the board of trustees;
- Limitations on employment after retirement;
- That, with certain exceptions, moneys and benefits payable to members and beneficiaries of the association are not assignable or subject to legal process;
- That members of boards of education, as such, are not liable for investment losses of the association;
- A maximum amortization period for accrued benefit liabilities;
- That the records of members and others be kept confidential;
- The procedures for employers to make employee contributions.
- That existing legislation for such benefit retirement systems is superseded on January 1, 2000, but remains effective as to matters and transactions occurring

prior to January 1, 2000.

**APPROVED** by Governor March 24, 1999

**EFFECTIVE** January 1, 2000

**H.B. 99-1041** Boards of cooperative services - video teleconference meetings. Authorizes a board of cooperative services to adopt a policy to allow the board to conduct meetings using video teleconferencing technology. Requires the board to hold at least one of its quarterly meetings with all members gathered in one location. Requires the policy to address how the public will be allowed access to such meetings and to specify any topics that may not be discussed at such meetings. Prohibits a board of cooperative services from going into executive session during any video teleconference. Clarifies that a quorum shall be deemed to exist if the appropriate number of board members participate in a video teleconference.

**APPROVED** by Governor March 24, 1999

**EFFECTIVE** March 24, 1999

**H.B. 99-1096** Probationary teachers - continuous employment - full year - days of service required. Deems a probationary teacher's employment as a full school year if that teacher's employment includes the last 120 days of the academic year, instead of the last 90 days of the academic year.

**APPROVED** by Governor March 24, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1113** Charter schools - funding. Beginning with the budget year 2000-01, and for budget years thereafter, raises the minimum level of per-pupil funding for charter schools to 95% of district per pupil revenues. Allows the school district to retain up to 5% of district per pupil revenues in payment for the charter school's share of central administrative overhead costs; except that, for school districts that enroll 500 or fewer students, allows a charter school to receive the greater of 100% of per pupil revenues minus the actual amount of the charter school's share of central administrative overhead costs or 85% of per pupil revenues.

Defines "district per pupil revenues" as the district's total program for any budget year, divided by the district's funded pupil count for that budget year. Requires charter schools to set aside for capital reserve purposes the same per pupil amount that school districts are required to set aside. Relieves school districts of the requirement to set aside the capital reserve amount for students who are enrolled in charter schools.

Requires the school district to provide federally required educational services for students in charter schools on the same basis that such services are provided to students enrolled in other public schools. Requires each charter school to pay its share of the district's per pupil cost of providing such services. At either party's request, however, allows the charter school and the school district to negotiate alternate arrangements for the provision of and payment for services. Clarifies that the school district shall forward to the charter school any moneys received by the school district to provide federally required educational services only if the school district and the charter school have negotiated to allow the charter school to provide such services.

Specifies that the charter school may contract with the school district to purchase support services in addition to those included in central administrative overhead costs.

Specifies the method for calculating the cost of such services. Allows the charter school to agree with the school district to pay any actual costs incurred by the school district in providing unique support services to the charter school.

**APPROVED** by Governor March 30, 1999

**EFFECTIVE** March 30, 1999

**H.B. 99-1147** State board of education - vacancies. Provides that, if a vacancy on the state board of education occurs at any time during the period that begins with the general election in November and ends on the second Tuesday of January following the election, the vacancy shall be filled by those members of the state board of education who are elected, qualified, and sworn in or continuing in office as of that second Tuesday of January. Adds that a vacancy occurs when a board member is elected, qualified, and takes office for another state office. Requires that any person appointed to fill a vacancy on the state board of education shall be a member of the same political party as the vacating board member.

**APPROVED** by Governor March 24, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1171** School district directors - election. In school districts with fewer than 1000 students, requires a candidate for school district director to file a nominating petition signed by at least 25 eligible electors. In school districts with 1,000 or more students requires the signatures of at least 50 eligible electors. States that the signatures may be from throughout the school district, regardless of the school district's plan of representation.

Repeals outdated statutory provisions concerning election of school district directors, including provisions allowing a school district to adopt 6-year terms for its directors. Allows a school district to propose a change in the number of school district directors. If directors are elected from director districts and the school district proposes an increase in the number of directors, requires the school district to simultaneously propose an appropriate change in the plan of representation. Allows a school district to adopt a combined director district and at-large plan of representation. Requires any proposal for a change in the number of directors, in the length of directors' terms, or in the plan of representation to be adopted by resolution of the school district board of education or, if proposed by petition, submitted to the board of education at least 110 days prior to the election. Allows a school district to consider in a single election multiple changes in the manner of electing school district directors.

Instructs the board of education of school district number 1 in Denver to redraw the school district's director district boundaries within 120 days after publication of the 2000 decennial census. Requires the board of education to retain 5 director districts and 2 at-large directors in redrawing the boundaries. Provides that if, following redistricting, directors whose terms continue past the November 2001 election no longer reside within the districts from which they were originally elected, said directors shall be deemed to continue

representing said districts. Repeals the existing statute that specifies director district boundaries for school district number 1 following the redistricting of said districts.

**APPROVED** by Governor April 30, 1999

**EFFECTIVE** April 30, 1999

**H.B. 99-1209** School finance - English language proficiency program - preschool program - school district budgets and audits - appropriations. Increases statewide base per pupil funding from \$3,783 to \$3,878. Increases the minimum per pupil funding to \$4,675 and provides for annual increases thereafter by the inflation rate applied to the statewide base per pupil funding amount. Requires a legislative council staff study of the definition of "at-risk pupil". For FY 1999-2000 and thereafter, permits a school district to reduce or eliminate the capital reserve/risk management transfer if the district has a capital reserve fund that is at least 5 times the required minimum per pupil transfer multiplied by the district's funded pupil count. Allows a district to apply for contingency reserve funds to offset financial burdens caused for a decline in pupil enrollment due to a school district reorganization plan.

Effective January 1, 2000, reduces the fee charged by the county treasurer for collection of moneys for school districts from 1/2% to 1/4%.

Provides that any increase in the appropriation for the English language proficiency program over the 1998-99 appropriation be distributed to students with little or no proficiency in English. Adjusts the 1999 long bill to increase the appropriation for this program by \$500,000 and provides money for the increase by reducing the FY 1999-2000 appropriation for expelled student services by \$500,000 from the FY 1998-99 appropriation level. Increases the maximum number of children that may participate in the preschool program by 200 for a total of 9,050 for FY 1999-2000 and thereafter.

Alters the date for making changes in school district budgets from September 30 to October 15 and eliminates the requirement that a copy be submitted to the department of education. Amends a provision in the "Colorado Local Government Audit Law" to modify the requirement that a school district's audit report include a calculation of the district's fiscal year spending under TABOR if the school district has received voter approval to retain revenue in excess of its TABOR spending limits.

Adjusts the 1999 long bill to increase the appropriation for small attendance centers by \$28,961 to fund the estimated entitlement level.

**APPROVED** by Governor March 30, 1999 **PORTIONS EFFECTIVE** March 30, 1999  
January 1, 2000

**H.B. 99-1274** Charter schools - dispute resolution - provision of personal identifying information - enforcement of contracts - publication of educational options - financing. Requires each charter school to include in its charter a process for resolving disputes between the charter school and the authorizing school district. For any charter that does not include a dispute resolution process, requires the state board of education to direct the department of education to provide dispute resolution services at the request of the charter school or the school district. Requires the charter school and the school district to equally divide the department's costs in providing the services, as said costs are set by rule of the state board of education. Allows for appeal to the state board of education if either the charter school or the school district fails to participate in or comply with the dispute resolution process.

Specifies that a charter school applicant does not have to provide personal identifying information concerning any teacher, parent, or prospective pupil prior to the time that the charter is approved and the charter school either employs the teacher or enrolls the pupil. Requires the charter school, upon request of the school district, to provide aggregate information concerning grade levels and schools in which prospective pupils are enrolled. Grants a charter school authority to sue and be sued for enforcement of the terms of any contract for services to which the charter school may be a party. Prohibits a school district from discriminating against a charter school in publicizing information concerning educational options available through the school district, provided the charter school pay for its share of such publicity.

Specifies that any moneys received by a charter school and remaining in the charter school's accounts at the end of a budget year shall remain in such accounts for use by the charter school in subsequent budget years and shall not revert to the school district or to the state.

Clarifies that, beginning in the 2000-01 budget year and for budget years thereafter, the proportionate share of state and federal resources generated by students who receive federally required educational services and who are enrolled in a charter school shall be directed to the charter school only if the charter school and the school district have negotiated to allow the charter school to provide such services.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** June 2, 1999

**H.B. 99-1308** Teacher licensure - demonstration of professional competencies. Requires an applicant for a provisional teacher license who has 3 years or more of teaching experience in another state or country that has reciprocity to be licensed without having to demonstrate professional competencies if such person meets all the other qualifications for a provisional teacher license or a professional teacher license and is qualified to teach in that state or country.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** May 24, 1999

**H.B. 99-1367** School finance - reorganized school districts - calculation of size factor. Specifies that, following the deconsolidation of a school district that enrolls fewer than 15,000 students during the 2000-01 budget year and that includes a small attendance center that provides a kindergarten through twelfth grade education program, where the deconsolidation is approved in the 2000 general election, the size factor used in determining the total program funding for the resulting school districts shall be recalculated, even though the recalculation would result in a size factor for the new school districts that is higher than that of the old school district.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1375** Excellent schools program - annual awards - gifts and donations. Creates an excellent schools program to be administered by the department of education ("department"). Requires the state board of education annually to present awards to the top scoring schools in the state based on an index developed by the department.

Requires the department to include in the index:

- The degree to which the school has achieved specified performance goals on statewide assessments;
- Information relating to literacy education;
- Achievement of accreditation indicators pursuant to the state board of education's accreditation policy; and
- Evidence of community satisfaction with school performance and of parental involvement.

Requires the department to give great weight to the factors in the index that are based on statewide assessments. Requires the state board of education annually to review the percentage goals in the index, and permits the board to raise those percentage goals. Clarifies that any moneys awarded are in addition to funds received through the school finance act or the school district's taxing authority and are to be spent as the school's advisory accountability committee deems fit. Authorizes the department to receive public and private moneys for use in making financial awards.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** July 1, 1999

## EDUCATION - UNIVERSITIES AND COLLEGES

**S.B. 99-51** Youth crime prevention and intervention - Colorado student dropout prevention and intervention program - appropriation. Adds the reduction of dropout rates in secondary schools to the purposes of the existing youth crime prevention and intervention program to create the youth crime and student dropout prevention and intervention program. Adds 4 members to the youth crime and student dropout prevention and intervention program board who have knowledge and awareness of student issues, including the causes of student dropout in secondary schools. Specifies that not less than 20% of the total appropriation for the youth crime and student dropout prevention and intervention program shall be used for programs designed to prevent minority students from dropping out of secondary school. Adds to the list of entities that may apply for a grant from the board.

Adds new criteria for the board to consider in awarding grants that address student dropout issues. Directs that the outcome measurement criteria for a student dropout prevention and intervention program include a method by which to track the students served by the program for at least 2 years or through high school graduation, whichever occurs first.

Authorizes the executive director of the department of local affairs to accept funds, grants, gifts, or donations for student dropout prevention and intervention programs. Creates the student dropout prevention and intervention fund.

Adjusts the 1999 long bill by decreasing the appropriation to the department of local affairs for prevention and intervention program grants by \$25,000 and increasing the appropriation to the department of local affairs, community development, division of local government, local government and community services by the same amount.

**APPROVED** by Governor May 29, 1999

**EFFECTIVE** May 29, 1999

**S.B. 99-154** Teacher preparation programs - standards - approval - on-going review - resident teacher programs. On or before July 1, 2000, instructs the Colorado commission on higher education ("commission"), working in cooperation with the state board of education ("state board") to adopt policies specifying requirements for teacher preparation programs, including procedures for monitoring and improving the effectiveness of the programs. Specifies the minimum requirements for teacher preparation programs.

Beginning July 1, 2000, and prior to July 1, 2001, requires the commission, in conjunction with the state board, to review each existing teacher preparation program to ensure that it meets the statutory requirements. Discontinues any teacher preparation program that is not reapproved prior to July 1, 2001. Following the initial review of teacher preparation programs, instructs the commission to establish a schedule to ensure that each teacher preparation program is reviewed at least once every 5 years. Requires the commission to review each new teacher preparation program and each significant modification to an existing program. Directs the commission, in reviewing teacher preparation programs, to consider the recommendations of the state board and prohibits approval of any program that the state board does not approve. Requires each institution of higher education that offers a teacher preparation program to submit to the commission an annual report to assist in program review.

Requires the commission to place a teacher preparation program on probation if it determines the program does not meet the standards. Instructs the commission to adopt

policies for placing a program on probation and subsequently terminating the program, including procedures for an appeal. If the commission places a program on probation based on a recommendation of the state board, requires the commission to consult with the state board in determining whether to remove the program from probation or terminate the program.

Requires the commission to approve a teacher preparation program provided by a nonpublic institution of higher education, if the program content has been reviewed and approved by the state board.

Beginning January 2002, requires the commission to annually submit to the senate and house education committees a report concerning the effectiveness of the review of teacher preparation programs. Specifies other contents of the report.

Repeals the state board's existing authority to approve teacher preparation programs. On or before July 1, 2000, requires the state board by rule to adopt performance-based teacher licensure standards, and specifies the minimum requirements for said standards. Directs the state board to review the content of teacher preparation programs to ensure that each program is designed to enable graduates from the programs to meet the teacher licensure standards. For any teacher preparation program whose content is not so designed, instructs the state board to recommend to the commission that the program not be approved.

Clarifies the existing requirement that each teacher and each employing school district evaluate the teacher preparation programs during the 1<sup>st</sup> and 3<sup>rd</sup> years that the teacher is employed following graduation. Allows teachers who graduate from out-of-state programs and the school districts that employ them to review the out-of-state programs. Allows, rather than requires, the educator professional standards board to review the evaluations. Allows the department of education to provide copies of the compiled evaluations to each school district and to the commission.

Requires the house and senate education committees to hold biannual meetings to assess the reports received concerning the effectiveness of the teacher preparation programs. Instructs the committees to take testimony at the meetings and to assess whether the approved teacher preparation programs are adequately preparing teacher candidates to meet the teacher licensure standards. If the committees determine that a teacher preparation program is not performing adequately, requires the committees to instruct the commission to reduce the funding received by the institution providing the program.

Deletes the state board's authority to waive any requirement concerning approved teacher preparation programs. Requires approval by a simple majority of the board, rather than a two-thirds majority, for granting a waiver concerning an alternative teacher program or an approved induction program.

Authorizes school districts and boards of cooperative services to establish teacher in residence programs that meet the requirements established for teacher preparation programs provided by institutions of higher education. Allows a school district to hire as a resident teacher a person who does not have a teacher license or a teacher authorization. Specifies requirements for the teacher in residence program. Requires a resident teacher to pass a basic competency test in reading, writing, and mathematics and in the resident teacher's subject matter area in order to remain in a teacher in residence program. Requires any person who completes a teacher in residence program to obtain a provisional teacher license in order to remain employed by the school district as a teacher. Specifies that the final year of



employment as a resident teacher may count as one of the 3 years of continuous employment necessary to achieve nonprobationary teacher status. Directs the school district to notify the department of education of the name and address of and other pertinent information concerning persons employed as resident teachers, and requires the department to provide to such persons information concerning teacher licensure requirements. Requires each teacher in residence program to be approved by the state board of education. Requires any teacher in residence program that is disapproved by the state board of education to be discontinued upon termination of the academic year, unless the program is redesigned to meet the statutory requirements and is subsequently approved by the state board.

Requires a school district to demonstrate good cause for not establishing an alternative teacher program or teacher in residence program prior to obtaining an emergency authorization for a nonlicensed person to teach.

**APPROVED** by Governor June 1, 1999

**EFFECTIVE** June 1, 1999

**S.B. 99-163** Institute for telecommunication education - establishment - advisory board - appropriation. Establishes the Colorado institute for telecommunication education (the "institute") as an auxiliary unit of the university of Colorado. Directs the institute to develop partnerships between participating higher education institutions in Colorado and participating telecommunications and information technology industries and businesses in Colorado. Instructs the institute to act as an interface between such partners.

Requires that the executive director of the institute be appointed by and report to the president of the university of Colorado. Establishes an advisory board of representatives of the university of Colorado, other higher education partners, and industry partners. Authorizes the advisory board to create an executive committee. Requires the advisory board to report annually to the Colorado commission on higher education.

Requires the executive director of the institute, with the assistance of the advisory board, to prepare and submit a plan to the board of regents and the Colorado commission on higher education. Specifies that the plan should include a description of the educational programs to be offered by the institute and the estimated revenue and capital and operating costs for the institute for a period of at least 5 years. Requires the executive director of the institute to adopt policies and procedures governing the institute.

Appropriates \$354,000 and 4.0 FTE from cash exempt funds received by the university of Colorado from gifts, grants, and donations.

**APPROVED** by Governor May 28, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-200** Colorado school of mines - lease of property - social organizations - prohibition

- repeal. Repeals the statutory prohibition that prevents the Colorado school of mines from leasing any portion of its college grounds to any social organization.

**APPROVED** by Governor March 31, 1999

**EFFECTIVE** March 31, 1999

**S.B. 99-203** Education-related reports for the general assembly - changes - termination. Eliminates requirements that the following education-related reports be submitted to the general assembly and the governor:

- Details of specific changes in admission requirements at institutions of higher education;
- Condition of the student loan program;
- Expenditures in various student aid programs;
- The Colorado nursing scholarship program;
- The performance and financial audit of the Colorado advanced technology institute;
- Summary of annual reports of any program receiving funding under the grant and revolving loan program;
- Accounting of all activities and expenditures of the Colorado educational and cultural facilities authority;
- Activities and condition of the university of Colorado research building revolving fund;
- Activities and condition of the CSU research building revolving fund;
- Research projects and findings by the Colorado water resources research institute; and
- Activities and condition of the Colorado school of mines research building revolving fund.

States that annual reports of nonprofit corporations incorporated by the Colorado advanced technology institute be submitted to the state auditor and not the general assembly.

Provides that the operating and financial statements of the university of Colorado hospital authority be submitted to the joint budget committee in lieu of the general assembly.

Eliminates obsolete reporting requirements.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** May 24, 1999

**S.B. 99-219** State board of agriculture - university of southern Colorado - lease of property - social clubs - prohibition. Deletes the provision that prohibited the state board of agriculture to lease property at the University of Southern Colorado ("USC") for the purpose of housing fraternities, sororities, or other student clubs or organizations. Also deletes the provision that requires such improvements to be operated and managed by USC.

**APPROVED** by Governor May 28, 1999

**EFFECTIVE** May 28, 1999

**S.B. 99-229** Quality assurance standards - statewide goals - revision. Revises the expectations and goals for the statewide system of higher education and the quality indicator system for the statewide system of higher education so that the indicators used to measure

performance of the institutions match the goals.

Requires the Colorado commission on higher education ("the commission"), in cooperation with the governing board of each institution, to establish standards within each major goal area that will allow a year-to-year comparison of each institution's progress toward achieving the specific goal, instead of measuring performance against a statewide average. Defines "standards" as quality benchmarks established by the commission, in consultation with the governing boards, by which achievement of the statewide goals and expectations are measured.

Requires the commission and the governing board of each institution to report to the joint budget committee on information received from the quality indicator system and the actions being taken or planned by the governing boards in response to the information.

Changes the review and revision of the statewide quality indicators from an annual review to a periodic review.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** June 2, 1999

**S.B. 99-236** University of Colorado health sciences center - capital construction appropriation. Appropriates to the department of higher education, university of Colorado health sciences center, for capital construction for the fiscal year commencing July 1, 1999:

- \$181 million cash funds exempt and \$35 million in federal funds for construction of a research complex I building at Fitzsimons; and
- \$4,192,000 for research space renovation at the ninth avenue and Colorado boulevard campus.

Specifies the intent of the general assembly that these funds not be encumbered until a facilities program plan for these projects has been approved by the Colorado commission on higher education and reviewed by the capital development committee.

**APPROVED** by Governor June 1, 1999

**EFFECTIVE** June 1, 1999

**H.B. 99-1043** Colorado state university professional veterinary medicine program - collection of fees. Clarifies that, with respect to individuals enrolled in the professional veterinary medicine program on or after July 1, 1999, an "accountable student" is a student who is not receiving funding from the state of Colorado or from a state that has entered into a cooperative agreement with the state of Colorado at the time of the student's selection for admission to the professional veterinary medicine program.

Requires the state board of agriculture to annually assess each cooperative state or accountable student a support fee to reimburse the state of Colorado for instructional costs, and deletes the statutorily specified amount of the fee.

Clarifies further that the fees will not be waived or reduced as a result of a change of status to in-state student.

**APPROVED** by Governor February 19, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1047** Tuition assistance - private occupational schools. For purposes of the Colorado student incentive grant program and the tuition assistance grant program, amends the definitions of "institution of higher education" to include all types of private occupational schools, so long as they have a certificate of approval from the private occupational school division and are either operating in Colorado as of January 1, 1999, or have been in operation in the state at least 10 academic years.

For purposes of the "Postsecondary Enrollment Options Act", maintains the definition of "nonpublic institutions of higher education" as it existed prior to passage of the act.

**APPROVED** by Governor March 17, 1999

**EFFECTIVE** July 1, 2000

**H.B. 99-1176** Institutions of higher education - governing boards - personnel matters - power to delegate. Permits the governing board of any state-supported institution of higher education to authorize the chief executive officer to delegate power over personnel matters to other officers of the institution as specified by the board.

**APPROVED** by Governor April 5, 1999

**EFFECTIVE** April 5, 1999

**H.B. 99-1288** College savings program - creation. Creates the college savings program (the "program") within the Colorado student obligation bond authority (the "authority") for the purpose of providing residents with additional postsecondary educational opportunities.

Requires the Colorado department of the treasury (the "department") to design the program and to approve the promotional plan developed by the financial institutions. Requires the authority to develop and implement the program designed by the department, and provides the authority additional powers to do so. Requires the authority to select and enter into contracts with financial institutions and to establish rules regarding withdrawal of funds, penalties, administration, and all other matters necessary for the development and success of the program. States that the contributions are for the sole benefit of the account owner and beneficiary. States further that these funds are not subject to limitations on investment of public funds or to section 20 of article X of the state constitution. Requires the authority to act in a fiduciary capacity with respect to the management of the program.

Implements the program through the use of financial institutions to act as managers of the accounts. Establishes factors for consideration by the authority in making the choice of financial institutions. States that the authority may only enter into a contract with more than one financial institution if the United States internal revenue service has indicated that the plan will continue to qualify for favorable tax treatment under section 529 of the internal revenue code. Establishes the duties of the program manager, and specifically states that the manager is a fiduciary and will be held to the prudent man standard with respect to the investment of these contributions.

Imposes a minimum period for contracts between the authority and a financial institution, and sets forth what happens if a contract is terminated or not renewed.

Establishes that the program shall be operated through accounts, and sets requirements for opening, maintaining, and withdrawing from these accounts.

Establishes that distributions from accounts are exempt from Colorado income tax.

**APPROVED** by Governor April 30, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1289** Statewide system of higher education - 2-year study - appropriation. Instructs the department of higher education to conduct a 2-year study of the state system of higher education. Instructs representatives from the department, on or before July 1, 1999, to meet with the joint budget committee and the education committees of the house of representatives and the senate to discuss plans for the study and any progress made to date. Instructs representatives from the department to meet again with said committees on or before January 15, 2000, and on or before January 15, 2001, to submit and discuss reports summarizing the study results and making any recommendations for legislation. Requires the department to contract with an entity to assist in the study and in preparing the second report. Specifies the information to be gathered and the issues to be considered in conducting the study and preparing the reports.

Repeals the act, effective July 1, 2001.

Appropriates \$200,000 from the general fund to the department of higher education for the implementation of the act, and provides that the moneys appropriated will remain available through the 2000-01 fiscal year.

**APPROVED** by Governor May 18, 1999

**EFFECTIVE** May 18, 1999

**H.B. 99-1332** Colorado national guard members - tuition assistance. Raises the maximum amount of tuition assistance available to members of the Colorado national guard from 75% to 100% of tuition per semester. Prohibits a member from participating in the program if the amount of tuition assistance provided by the department of military affairs ("department") when combined with assistance received from a private employer would exceed 100% of the tuition cost.

Changes the time that the member must agree to serve from 2 years for each year of tuition assistance received to one year for each semester of tuition assistance received. Clarifies that one semester equals 15 semester hours or 23 quarter hours. Clarifies that the act applies to, among other institutions, all campuses of the university of Colorado. Specifies that the tuition assistance at the university of Colorado health sciences center shall be based on the amount of in-state tuition for general studies at the university of Colorado at Boulder.

Adds a requirement that a person who violates the agreement to serve in the national guard in exchange for tuition assistance must pay any collection costs incurred by the department. Instructs the department to adopt procedures to ensure timely billing of the department by higher education institutions.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1338** Auxiliary facility financing pledging of student fees. Permits the governing board of an institution of higher education to pledge excess revenues generated by one auxiliary facility for the repayment of bonds or other obligations issued or incurred on behalf of another auxiliary facility. Requires the pledge of excess revenues authorized to finance a specific facility to terminate upon full repayment of all bonds or other debt obligations, including refunding bonds or obligations, and all fees and costs related to such bonds or other debt obligations incurred with respect to that specific facility.

Allows reduction of user fees associated with auxiliary facilities and general student fees assessed for the repayment of bonds or other debt obligations only after all bonds or other debt obligations issued, secured, or incurred are fully repaid. For fees related to bonds issued on behalf of auxiliary facilities prior to July 1, 1997, removes the limitation that the bonds be issued for a specific project.

Clarifies that the university of Colorado ("CU") may pledge revenues between the university of Colorado research building revolving fund and other designated enterprise auxiliary facilities. Authorizes CU to repay anticipation warrants from revenues and net income of designated enterprise auxiliary facilities. Specifies that bonds issued by CU may be payable from and secured by a pledge of the research building revolving fund or the revenues and net income of other designated enterprise auxiliary facilities, or both.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1359** Colorado advanced technology institute - abolition - transfer of functions to Colorado commission on higher education - transfer of appropriation. Repeals statutory provisions creating the Colorado advanced technology institute (CATI) and the Colorado advanced technology institute commission. Transfers certain functions relating to advanced technology programs to the Colorado commission on higher education (CCHE). Provides for CCHE to consult with the governing boards of higher education institutions and with the office of innovation and technology in the governor's office in performing said functions. Transfers property and records belonging to CATI to CCHE and makes other conforming amendments.

Provides for the governor to appoint 2 additional members to CCHE for a 3-year period with one of the additional members being a former member of the CATI commission.

Of the appropriation to CATI for the 1999-2000 fiscal year, \$2,855,865 and 2.8 FTE are transferred to CCHE and \$371,225 and 4.0 FTE are transferred to the office of innovation

and technology in the governor's office.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** July 1, 1999

**NOTE:** The office of innovation and technology in the governor's office is created by House Bill 99-1372.

## ELECTIONS

**S.B. 99-1** Presidential primary election - change of date to coordinate with western presidential primary. Changes the date of the presidential primary election from the first Tuesday in March to the first Friday following the first Tuesday in March so that it may be held in conjunction with the presidential primary elections of other western states as part of a coordinated western presidential primary. Prohibits the release of information regarding the count of votes until after 7 p.m. on the day of the presidential primary election. Specifies that early voting for the presidential primary election shall not be allowed after the close of the business day on the Tuesday immediately preceding the election.

Authorizes the general assembly to appropriate moneys from the department of state cash fund to the department of state to be used to cover the costs of county clerk and recorders with respect to presidential primary elections. Authorizes the general assembly to also appropriate general fund moneys for such costs if the moneys in the department of state cash fund are insufficient to cover such costs. Specifies that any appropriations made for this purpose shall not be considered in calculating the amount of the fees charged by the secretary of state.

**APPROVED** by Governor May 28, 1999

**EFFECTIVE** May 28, 1999

**S.B. 99-2** Recall petitions - procedures for striking signatures. Clarifies the procedure for striking a signature from a petition to recall a public official upon the request of the signer by:

- Requiring a signer to make such a request within the 60-day period before the petition is deemed sufficient and the time for protest passes;
- Requiring a signer to make such a request in writing, file the request with the appropriate designated election official, and deliver a copy of the request to at least one member of the committee that represents the signers in all matters affecting the petition;
- Providing that a mailed request that a signature be stricken shall be deemed delivered to the designated election official or a committee member on the date shown on the cancellation mark on the envelope containing the request received by the election official or committee member;
- Providing that a request delivered other than by mail shall be deemed delivered to the designated election official or a committee member on the date of delivery and stamped receipt by the election official;
- Requiring the designated election official to strike the signature of any signer who files a timely request that his or her signature be stricken.

**APPROVED** by Governor March 24, 1999

**EFFECTIVE** September 1, 1999

**NOTE:** This act shall take effect September 1, 1999, 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. 99-25** Election law modifications - adjustment of certain time requirements affecting elections. Amends the "Uniform Election Code of 1992" to adjust and, in some cases, eliminate various time requirements or deadlines on the election calendar. Changes time requirements or deadlines relating to elector registration, party affiliation, precinct caucuses, nomination of unaffiliated candidates, party assemblies and conventions, designation of candidates by convention and petition, vacancies in designating or nominating candidates, write-in candidates, ballot naming, presidential and other primary election ballots, minor party nominations, cancellation of elections, coordinated elections, preparation of election returns, preservation of election records, comments regarding ballot issues, and challenges to registration.

Changes the precinct caucus day from the first Tuesday in April in each even-numbered year to the second Tuesday in April of such year.

Clarifies requirements relating to the computation of time in the election code, registration records for nonpartisan elections, and absentee and early voters' counting procedures.

Specifies notice requirements for mail ballot elections and procedures for counting mail ballots.

**APPROVED** by Governor May 20, 1999

**EFFECTIVE** May 20, 1999

**S.B. 99-27** Precinct caucus day - modification. Moves precinct caucus day from the first Tuesday in April to the second Tuesday in April of each even-numbered year.

**APPROVED** by Governor March 24, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-28** Percentage of votes cast necessary for automatic recount - reduction. Changes the percentage of votes cast for the winning candidate used in determining the necessity of an automatic recount for congressional, state, district, county, and nonpartisan elections in the "Uniform Election Code of 1992" to a uniform 1/2% for all such officers for both the primary and general elections.

**APPROVED** by Governor April 5, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-225** Election law modifications - vacancies in candidacies for elective office. Clarifies that any vacancy in a party nomination occurring after the primary election and more than 18 but less than 61 days before the general election caused by the declination, death, disqualification, resignation, or withdrawal of the person receiving the nomination at the primary election shall be filled by the appropriate state, county, or district vacancy committee depending upon the office for which the vacancy has occurred. Adopts procedures governing the deliberations of such vacancy committee.

In connection with the filling of such vacancy, requires the designated election official, to the extent reasonably practical under the circumstances, to provide notice by publication of the replacement nomination and cause to be printed and placed on the sample ballot delivered to the election judges a sticker indicating the name of the person selected to fill the vacancy.

Clarifies that any vacancy in a party nomination occurring less than 18 days before the general election shall not be filled before the general election. In such case, requires that the votes cast for the candidate whose declination, death, disqualification, or withdrawal caused the vacancy be counted and recorded, and requires that, if that candidate received a plurality of the votes cast, such vacancy be filled by the respective party vacancy committee in the manner currently provided by law for vacancies occurring during a term of office.

Establishes a 2-day waiting period before the secretary of state shall certify to the general assembly the name of the person selected to fill a general assembly vacancy.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1082** Official communication by mail with registered electors. Clarifies requirements for county clerk and recorders' communications by mail with registered electors. Directs that, for any elector registered after August 4, 1999, such communication shall be mailed to the elector's address of record unless the elector has affirmatively requested that such communication be sent to his or her deliverable mailing address. Also directs that, for any elector registered as of August 4, 1999, who has provided the county clerk and recorder both an address of record and a deliverable mailing address but has not indicated a mailing preference, any such communication shall be sent to the elector's deliverable mailing address.

Defines the terms "address of record" and "deliverable mailing address" for purposes of the "Uniform Election Code of 1992".

**APPROVED** by Governor April 13, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1097** Election contests - members of the general assembly - special legislative election procedure. Specifies that, in the event that the election of any person as a member of the state senate or the state house of representatives is contested, a committee on credentials may recommend, under certain circumstances, seating the person certified by the secretary of state or a contestor or contestee who was a candidate and that has not been certified pending resolution of the contest or special legislative election. Gives the person that is seated all the rights, powers, and duties of a duly elected member of the general assembly pending the outcome of the election contest or a special legislative election. Authorizes a committee on credentials to make certain recommendations to the house that organized the committee on matters arising from such contest, including, but not limited to, calling a special legislative election.

Requires a house of the general assembly in which a contest for senator or representative is to be tried, by resolution, to certify questions to the division of administrative hearings for referral to an administrative law judge. Gives the administrative law judge jurisdiction to make findings of fact and recommendations on those questions. Describes the time period within which the administrative law judge must make findings of fact and recommendations. Specifies certain findings and recommendations the administrative law judge shall make.

Authorizes a house of the general assembly acting by resolution to call a special legislative election for a state senate or house of representatives district if the election of any person to that house is contested and a committee on credentials, a committee of reference, or an administrative law judge recommends a special legislative election. Requires the resolution to direct the secretary of state to give notice to the county clerk and recorder of each county in which the district is located to call a special legislative election for the same candidates as at the preceding general election. Directs the secretary of state to give written notice calling a special legislative election to each county clerk and recorder in which the contested district is located. Requires the notice to contain the name of the candidates in the contested district that were on the ballot at the immediately preceding general election, subject to the withdrawal of any candidate from the election. Requires the special election to be held in the entire district for the contested seat and prohibits the exclusion of any precinct from the election.

Specifies the date by which the county clerk and recorder must set a special legislative election. Specifies that the county clerk and recorder must give notice of the special legislative election. Allows candidates to withdraw from a special legislative election. Authorizes the county clerk and recorder to consolidate precincts for a special legislative election. Permits absentee and early voting in a special legislative election. Specifies the process for canvassing the returns for a special legislative election.

Makes special legislative elections subject to the requirements of the "Fair Campaign Practices Act". Modifies the definition of "election cycle", reporting requirements, and

candidate affidavit requirements when a special legislative election is conducted.

Requires counties to pay the cost of conducting a special legislative election.

**APPROVED** by Governor June 4, 1999

**EFFECTIVE** June 4, 1999

**H.B. 99-1152** Election law modifications - affiliation requirements for electors. Clarifies that electors may affiliate with a political party or a political organization. Eliminates existing election code requirements that apply when an elector establishes a new residence and wishes to continue his or her affiliation in a new county. Provides that the declaration of affiliation of each elector shall remain as recorded in the registration record until the elector changes or withdraws his or her party affiliation.

Deletes existing statutory references to "party" or "political party" associated with "affiliation" to conform existing language to clarification that electors may affiliate with a political party or a political organization.

**APPROVED** by Governor March 25, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1160** Canvass of elections - abstract of votes - recounts. Clarifies the duties of the canvass board. Allows the 2 major political parties to appoint one or more registered electors to the county canvass board. Changes the time within which the county canvass board must complete its duties from the 10th day after an election coordinated by the county clerk and recorder to the 7th day after such election.

Requires the county canvass board to prepare and certify an amended official abstract of votes cast in an election if the vote result changes after a recount or, if the vote result does not change after a recount, requires the county canvass board to include a statement of that fact in the official abstract of votes cast.

Changes the time within which the county clerk and recorder must transmit to the secretary of state the votes cast for state offices, ballot questions, and ballot issues certified for the ballot by the secretary of state from the 16th day after an election to the 8th day after an election. Requires the secretary of state to compile and total the returns received from all counties for all candidates, ballot questions, and ballot issues certified for the ballot by the secretary of state, determine if a recount is necessary, and order such recounts no later than the 14th day after the election. Requires the county clerk and recorder to transmit a list of those candidates elected to county offices to the secretary of state no later than the 8th day after an election.

Requires the canvass board or the secretary of state to canvass returns on ballot questions. Authorizes the county clerk and recorder to correct clerical errors or omissions

in returns. Requires election judges to sign any documents submitted to explain or verify any additions or corrections to the returns.

Requires the secretary of state to prepare and certify an official statewide abstract of votes cast for all candidates, ballot issues, and ballot questions certified for the ballot by the secretary of state. Specifies the information to be included in the statewide abstract of votes cast. Requires the secretary of state to issue a report indicating an irregularity in the event that an accurate and verifiable determination of the count cannot be made. Requires the secretary of state to publish an official abstract of votes cast on a biennial basis. Specifies the contents and timing of such abstract and requires the secretary of state to furnish a copy of such abstract to each county clerk and recorder at no charge.

Requires that 2 registered electors of the political subdivision holding an election be appointed to the canvass board for nonpartisan elections. Allows, rather than requires, a member of the governing body to be appointed to the canvass board. Requires that, to the fullest extent possible, no member of the canvass board nor the member's spouse have a direct interest in the election. Requires that the canvass board for an election between 2 or more governing bodies or coordinated by the county clerk and recorder be appointed as provided in the intergovernmental agreement between the governing bodies.

Relocates the requirements for recounts. Specifies that a recount in any election contest shall be held if the difference between the highest number of votes cast in an election contest and the next highest number of votes cast in that election contest is less than a specified percentage.

Requires a recount in an election on any ballot question or ballot issue certified for the ballot by the secretary of state no later than the 14th day after the election if the secretary of state determines that a recount is required. Requires the secretary of state to notify the county clerk and recorder of each county involved in a recount by registered mail and facsimile transmission. Changes the time within which to complete a recount to no later than the 21st day after any election. Requires that any rule adopted by the secretary of state concerning the conduct of a recount take into account the type of voting system and equipment used by the county in which the recount is to be conducted. Specifies how a recount is to be conducted if the results of a test machine count and test hand count are identical.

Requires that any recount for an election coordinated by the county clerk and recorder and a nonpartisan election be completed no later than the 21st day after the election.

Requires that notice of a recount be given to all affected candidates and, in the case of ballot issues and ballot questions, the affected petition representatives, governing bodies, and agents of issue committees required to report contributions under the "Fair Campaign Practices Act".

Allows an interested party to request a recount. Defines "interested party" for purposes of making a recount request and specifies how to conduct such a recount. Requires the interested party requesting a recount to pay the costs of the recount and specifies when such costs may be refunded to the interested party.

**APPROVED** by Governor April 30, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1225** Primary elections - designation of candidates. Requires candidates nominated

by an assembly for any national or state office or for member of the general assembly, district attorney, or district office greater than a county office to file a written acceptance along with the certificate of designation of such assembly. Reduces the time after the assembly within which such acceptances and certificates of designation must be filed from 10 days to 4 days. Allows a candidate to file the acceptance of nomination directly with the appropriate officer under certain circumstances.

Specifies that late filing of an acceptance caused by the failure to timely file a certificate of designation by such an assembly or to file the acceptance with a certificate of designation shall not deprive candidates of their candidacy.

Requires a copy of each certificate of designation to be transmitted to the state central committee of the political party holding such an assembly. Directs the state central committee of each political party to file with the secretary of state a compilation of the certificates of designation of such assemblies. Requires the secretary of state to compare the compilation with the certificates of designation filed in such office and to notify the party of any certificate of designation that has not been filed. Allows the party to cure such failure by filing the certificate, along with the written acceptance, within a specified period.

**APPROVED** by Governor April 13, 1999

**EFFECTIVE** April 13, 1999

**H.B. 99-1356** Permanent absentee voter status - application - termination. Allows eligible electors to apply for permanent absentee voter status. Specifies the application requirements for such status. Requires the county clerk and recorder to verify the eligibility of an applicant for permanent absentee voter status and add the names and precinct numbers of eligible applicants to the list of absentee ballots. Specifies the reasons for which an eligible elector's status as a permanent absentee voter shall be terminated.

Provides that an eligible elector who has applied for an absentee ballot or who has permanent absentee voter status shall not be permitted to vote in any manner other than by absentee ballot. Requires that a card be mailed to an eligible elector who has permanent absentee voter status once every 4 years that includes the eligible elector's name and address, a statement of such status, and ask whether the elector wants to maintain such status. Specifies the format and mailing requirements for such card.

**VETOED** by Governor June 4, 1999

## FINANCIAL INSTITUTIONS

**S.B. 99-83** Foreign capital depositories - creation - regulation - appropriation. Creates a new form of financial institution, the foreign capital depository, to encourage investment in Colorado by foreign nationals seeking safe investments outside their countries of residence. Seeks to balance the need for depositors' privacy and protection from spurious claims, on the one hand, with the legitimate needs of law enforcement authorities under anti-drug and money-laundering statutes and U.S. treaties, on the other.

Prohibits deposits in foreign capital depositories by U.S. citizens. Establishes a minimum deposit amount of \$200,000. Imposes strict privacy requirements, with civil and criminal penalties for unauthorized disclosure of information. Requires claimants under foreign judgments to prove that such judgments were validly imposed under systems providing due process. Allows a depositor to move to quash a subpoena for financial records on specified grounds. Provides for cooperation between state and federal authorities in the investigation of financial crimes involving foreign capital depositories.

From cash funds and cash funds exempt, appropriates \$40,138 to the department of revenue, \$55,988 to the department of regulatory agencies, and \$5,893 to the department of law for implementation of the act.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** May 24, 1999

**H.B. 99-1198** Division of financial services - supervisory powers - conservatorship of credit unions and associations - civil money penalties. Enables the financial services board ("board") to close public hearings, which are required by law, when a final action or order of the commissioner of financial services ("commissioner") is appealed in order to prevent further harm to the financial institution from prompt withdrawal of moneys from the financial institution.

Permits the commissioner to appoint a conservator to assume control of a troubled credit union or savings and loan association subject to an appeal to the board. Provides that conservatorship authority is an intermediate step intended to prevent institutional closing and allow for an orderly rehabilitation of the institution's operations. Provides that, if a conservator is appointed other than the federal deposit insurance corporation, the office of thrift supervision or its successors, or an employee of the division of financial services, the conservator shall provide a bond for the faithful discharge of the duties connected with such conservatorship. Provides that the cost of the bond shall be paid from the assets of the association and that suit may be maintained on such bond by any person injured by a breach or the conditions thereof.

Allows the division of financial services ("division") to assess civil money penalties against credit unions and savings and loan associations themselves, instead of only their directors, committee members, officers, and employees, when the violations are institutional in nature.

Removes the requirement that the division give advance consideration to the financial resources of a person being assessed a civil money penalty, but allows this factor to be considered in an appeal of the amount of the penalty. Clarifies that civil money penalties may be assessed either per occurrence or per day and caps the per occurrence penalty at \$50,000.

Removes the requirement that the governor grant written approval prior to the closing of a savings and loan association since the board now provides the oversight required in this situation.

For life care institutions, changes the rule-making authority to permit the board to promulgate rules rather than the commissioner.

Clarifies that the reports of examination and any ratings or evaluations of financial institutions by the division are confidential and solely the property of the division. Clarifies the division's authority to share information and cooperate with law enforcement agencies conducting criminal investigations related to institutions regulated by the division.

**APPROVED** by Governor May 29, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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.



## GENERAL ASSEMBLY

**S.B. 99-206** Redistricting - use of census data. Requires that the general assembly and the Colorado reapportionment commission use the same population data as is used to apportion seats in the United States house of representatives when they redraw the boundaries of congressional and state legislative districts after the federal census in the year 2000.

**APPROVED** by Governor May 7, 1999

**EFFECTIVE** May 7, 1999

**H.B. 99-1314** Legislative council terms - compensation of leadership. Authorizes payment of salary and expenses for incoming legislative leaders after the general election and prior to the convening of the regular legislative session. Provides that the terms of office of the chair and vice-chair of the legislative council and the chair and vice-chair of the executive committee of the legislative council are one year.

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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 - COUNTY

**S.B. 99-15** Acquisition of real property for recreational use by lease purchase agreements. Authorizes counties to enter into lease purchase agreements for the purpose of financing public parks, trails, golf courses, and open space.

**APPROVED** by Governor March 25, 1999

**EFFECTIVE** March 25, 1999

**H.B. 99-1159** Improvement districts of local general purpose governments. Amends the "County Public Improvement District Act of 1968" and the provisions governing special improvement districts to allow districts to operate or maintain public improvements or provide services. Allows governing bodies to establish improvement districts wholly or partially within the boundaries of another local government if the local government consents. Requires that territory annexed or incorporated by a municipality remain within an improvement district unless the municipality notifies the district that the territory is to be excluded. Requires that any territory removed by such annexation or incorporation remain subject to payment of its share of any outstanding indebtedness or bonds of the district.

Amends the provisions governing petitions to organize improvement districts by changing the number of signatures required from a majority of the electors who are owners of taxable property in the district to 30% or 200 of the electors of the proposed district, whichever is less. Requires that a governing petition include a statement that either the boundaries of the proposed district include at least 100 eligible electors, that such boundaries include at least one eligible elector for each 5 acres of land included within the proposed district, or that the petition is signed by 100% of the owners of taxable real property to be included in the district. Authorizes the appropriate board to waive the requirements for notice, publication, and a hearing on the petition to organize if the petition is signed by 100% of the owners of the taxable real property to be included in the district and the petition contains a waiver request.

Authorizes governing bodies to conduct elections on petitions to organize or such other matters as the governing bodies deem appropriate in accordance with certain election laws if the hearing requirement has not been waived. Specifies when such an election may be held and how the governing body declares an improvement district organized.

Authorizes a board of county commissioners to use county sales tax to operate and maintain improvements provided by the county if such improvements are funded by county sales tax. Requires that any county election on a district sales tax conform to section 20 of article X of the Colorado constitution (TABOR).

Authorizes the board of an improvement district to establish local or special improvement districts to defray the costs of providing improvements or services. Specifies who may vote in an election to establish such local improvement districts and what entities shall perform the functions of the local improvement district.

Authorizes the board of an improvement district to include the costs of acquiring and maintaining the improvements or works of the district and the costs of providing services of the district in its calculation of the amount of the levy on the taxable property in the district.

Removes the limitation on the amount of bonds issued by improvement districts and changes the time frames for payment.

Authorizes the board of an improvement district to seek judicial review of its actions in district court. Sets forth the requirements for such review.

Exempts improvement district revenues, bonds, and property from state taxation and assessments.

Requires that any legal or equitable action challenging an improvement district's action be commenced within 30 days after the action.

**APPROVED** by Governor April 30, 1999

**EFFECTIVE** April 30, 1999

**H.B. 99-1265** Powers - restrict graffiti implements used by juveniles. Expands the powers given to boards of county commissioners to discourage property defacement by juveniles to include restrictions on the purchase or possession of graffiti implements by juveniles. Authorizes boards of county commissioners to enact ordinances that make it unlawful for a retailer to sell graffiti implements to juveniles, but prohibits such ordinances from dictating the manner in which the retailer displays graffiti implements. Defines the terms "juvenile" and "graffiti implement".

**APPROVED** by Governor April 9, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1284** County boundary disputes - elimination of per diem for state engineer. Eliminates the requirement that the 2 counties involved in a boundary dispute compensate the state engineer \$10 per diem for any services rendered in connection with the dispute.

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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 - LOCAL

**S.B. 99-20** Hazardous substances planning and response assistance fund - creation - appropriation. Creates the hazardous substances planning and response assistance fund in the state treasury. Specifies that the fund shall be administered by the executive director of the department of public safety. Requires the executive director to solicit moneys from the federal government and from other public and private sources, which shall be credited to the fund.

Provides that moneys from the fund shall be used to provide grants to public entities and agencies in the state for emergency planning and response purposes. Requires the Colorado emergency planning commission to assess the emergency planning and response needs of the state and report its findings to the executive director of the department of public safety by June 1, 2000. Specifies that the executive director shall evaluate applications, taking into account the needs assessment findings and any other input of the Colorado emergency planning commission, and administer the grants. Requires grant applicants to obtain local funding or enter into an agreement to obtain funding in an amount of at least 25% of the grant. Allows the executive director of the department of public safety to promulgate rules governing the grant application and administration process. Requires the executive director to submit annual reports concerning grants made from the fund to the joint budget committee.

Adjusts the appropriation in the 1999 long bill to the department of public safety, hazardous materials equipment, by increasing the cash funds exempt appropriation from the highway users tax fund by \$60,000 for the purchase of a hazardous material training vehicle.

**APPROVED** by Governor June 1, 1999

**EFFECTIVE** June 1, 1999

**S.B. 99-24** School districts that are also special districts - authority to levy tax to support public recreational facilities. Clarifies that school districts that are also special districts supporting a system of public recreation and playgrounds and that previously began levying a tax to support such system with or without voter approval may continue to levy such taxes until voters approve a change in the levy. Sets forth procedures for such school districts to impose a new tax or increase an existing tax for such purposes.

**APPROVED** by Governor March 15, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-218** Land use regulation - private property - regulatory impairment of property rights - limitations. 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 the granting of 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 standards set forth in the act. Places the burden of proof on the local governmental entity involved in any such action.

Exempts legislatively formulated assessments, fees, and charges that are imposed on a broad class of property owners by a local government. States that nothing in this legislation shall be construed to affect the expressly granted land-use authority of any local government.

**APPROVED** by Governor May 17, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1056** Hazardous substance incidents - response - responsibilities - appropriation. Allows an emergency response authority to provide and maintain the capability for responding to hazardous substance incidents through mutual aid or other agreements. Absent one or more local agreements to the contrary, requires the first emergency response authority to arrive at the scene of a hazardous substance incident to be responsible for the emergency response to such incident until the emergency response authority that has jurisdiction over the incident site arrives. Once the emergency response authority that has jurisdiction over the incident site arrives, requires unified command to be followed until the conclusion of the emergency response.

Clarifies that a private property owner may undertake the response to a hazardous substance incident that occurs on the owner's property. Requires such property owner to report the incident and to coordinate a response with the appropriate emergency response authority. If the property owner fails to respond to the incident or coordinate a response to the incident with the appropriate emergency response authority, allows the emergency response authority to respond to the incident.

Specifies that the fire authority having emergency response responsibility for the corporate limits of any municipality is the designated emergency response authority for the municipality if the governing body of such municipality has not designated an emergency response authority by ordinance or resolution. Specifies that the county sheriff is the designated emergency response authority for any county if the board of county commissioners has not designated an emergency response authority by ordinance or resolution.

Allows the Colorado state patrol to delegate its emergency response authority for any hazardous substance incident that occurs on a federal, state, or county highway located outside of municipal limits to a designated emergency response authority or any other public

entity capable of undertaking such emergency response with the permission of the appropriate municipal governing body or board of county commissioners. Requires the state patrol, when practicable, to locate its emergency response resources based on its assessment of the hazardous substances emergency response needs of the different geographic areas of the state. Requires the state patrol to actively coordinate its emergency response capabilities and plans with local emergency response authorities. Requires the state patrol and all local governing bodies that designate emergency response authorities to exercise continuing supervisory authority in consultation with other federal, state, and local agencies having regulatory jurisdiction for the cleanup and removal of the hazardous substance involved in a hazardous substance incident.

Allows an emergency response authority that is not capable of handling a particular hazardous substance incident to request assistance from any public agency or private entity that is capable of providing assistance. Transfers the authority to organize a state emergency response team from the department of public health and environment to the department of public safety and allows the department of public safety to organize, through mutual aid or other agreements, regional emergency response teams to assist designated emergency response authorities and the state emergency response team in responding to hazardous substance incidents. Requires an emergency response authority that requests a response by the state emergency response team, a regional emergency response team, or both to reimburse such team or teams for costs incurred in an emergency response. Allows mutual aid agreements between the various public and private entities responsible for responding to hazardous substance incidents in order to enhance such response.

Requires the executive director of the department of public safety to appoint a temporary committee on reimbursement for the costs of hazardous substance incidents no later than June 15, 1999. Specifies the membership of the committee and requires the committee to hold its first meeting no later than July 1, 1999. Requires the committee to submit written recommendations for guidelines for administering and resolving claims for reimbursement made against any person or party responsible for a hazardous substance incident to the executive director of the department of public safety no later than August 15, 1999. Specifies that such recommendations may include recommendations for proposed legislation or administrative rules. Requires the executive director of the department of public safety to report the recommendations of the committee to the legislative audit committee no later than September 1, 1999, or by such later date as the legislative audit committee may specify.

Eliminates the Colorado safety institute and transfers its duty to train or coordinate the training of hazardous materials responders to the division of fire safety.

Transfers the responsibility for maintaining a hazardous materials incident emergency response database and a 24-hour public telephone service from the department of public health and environment to the Colorado state patrol. Requires the state patrol to notify all designated emergency response authorities of the existence of the 24-hour public telephone service. Requires the department of public health and environment to maintain a 24-hour public telephone service regarding environmental emergencies.

Adjusts the long bill appropriations for the 1999-2000 fiscal year to reflect the transfer of the hazardous substance incident response database and telephone service from the

department of health and public environment to the Colorado state patrol.

**APPROVED** by Governor April 30, 1999

**EFFECTIVE** April 30, 1999

**H.B. 99-1067** Housing authorities - intergovernmental relations - appointment of commissioners. Defines "political subdivision" to specifically include city and county housing authorities for purposes of the statutory provisions governing intergovernmental relationships.

Allows the governing body of a city or county with a population no greater than 300,000 people to determine the number of commissioners that serve on a housing authority. Specifies that the number of commissioners shall not exceed 9 for a city housing authority and 11 for a county housing authority. Allows a charter or ordinance to specify the appointing authority who will appoint commissioners to a city housing authority.

**APPROVED** by Governor March 24, 1999

**EFFECTIVE** March 24, 1999

**H.B. 99-1092** Reimbursements to state patrol - credited to HUTF. Directs that the net proceeds of reimbursements to the Colorado state patrol for costs incurred in mitigating hazardous substance incidents be credited to the highway users tax fund.

**APPROVED** by Governor April 30, 1999

**EFFECTIVE** April 30, 1999

**H.B. 99-1134** Overhead public utilities - payment for underground conversion. Declares that moving public utilities from overhead to underground locations is a matter of statewide concern. Requires that a political subdivision create a local improvement district to fund the underground conversion of public utilities except when such conversion is associated with public improvements such as street widening or sewer construction. Makes such requirement applicable to the overhead communication facilities of cable operators.

Allows a political subdivision to pay for underground conversions of public utilities without creating a local improvement district so long as it does not seek reimbursement from the public utility or cable operator.

Authorizes the board of directors of a cooperative electric association, or the governing body of a municipal utility, to impose a surcharge on consumers within the service area of such entity who will derive a direct benefit from the conversion of overhead electric and communication facilities to underground locations.

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** April 22, 1999

**H.B. 99-1247** Repeal of prohibition on use tax - home rule city or city and county. Repeals the prohibition on a home rule city or city and county imposing a use tax with respect to the use or consumption of taxable tangible personal property within such city or city and county that occurs more than 3 years after the most recent sale of the property if, within the 3 years following such sale, the property has been significantly used within the state for the principal purpose for which it was purchased.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1280** Planning and zoning - vested rights - site-specific development plans. In existing statutes dealing with vested property rights, amends the definition of a "site specific development plan" to exclude final architectural plans, public utility filings, and final construction documents. Requires local governments to consider the approval of a site specific development plan in accordance with laws and regulations that were in effect at the time the application for approval was submitted. Defines the "application" as a substantially complete application submitted in compliance with applicable requirements established by the local government and, where approval is a multi-stage process, defines the "application" as the original application at the first stage of the process.

Requires local governments to specify, by ordinance or resolution, the type of approval that will give rise to vested property rights. If local governments do not codify such requirements by January 1, 2000, provides that rights vest upon the approval of any document substantially similar to a subdivision plat, planned unit development plan, or other document listed in the definition of a "site specific development plan".

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** May 24, 1999



## GOVERNMENT - MUNICIPAL

**S.B. 99-5** Fire and police pensions - acquisition of service credit. Allows members of the fire and police pension association who are covered by the statewide defined benefit plan on and after January 1, 2000, to purchase service credit for public safety employment not covered by the plan and for periods of active duty in the uniformed services of the United States. Limits the number of years of service credit that may be purchased for periods of active duty in the uniformed services to 5 years. Requires service credit to be purchased for periods of not less than one year. Specifies conditions to be met in order to purchase service credit.

Clarifies that, in order to restore prior service credit of any member who terminates service with the statewide defined benefit plan and who subsequently returns to service as a member of the association, the member must pay interest on the returned refunded contributions from the date of refund to the date of return according to terms and conditions established by the board.

**APPROVED** by Governor March 15, 1999    **PORTIONS EFFECTIVE** August 4, 1999  
January 1, 2000

**NOTE:** Section 1 of this act shall take effect January 1, 2000, 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 section 1 of this act or an item, section, or part of section 1 of this act within such period, then section 1 of the act, or the item, section, or part of section 1, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Section 2 of this act 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 section 2 of this act or an item, section, or part of section 2 of this act within such period, then section 2 the act, or the item, section, or part of section 2, 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. 99-32** Fire and police pensions - disability benefit options - relocation of provisions. Relocates the statutory provisions regarding the 3 reduced annual disability benefit options with survivor benefits that a member may elect in lieu of the normal annual disability benefit for occupational disability and on-duty disability. Relocates the provisions that specify a disability benefit option for occupational disability and on-duty disability if a member is awarded occupational or on-duty disability, is survived by a spouse or dependent child, and dies before making an election. Relocates the provisions that specify when an option election for disability benefits becomes irrevocable.

**APPROVED** by Governor March 15, 1999    **EFFECTIVE** January 1, 2000

**NOTE:** This act shall take effect January 1, 2000, 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. 99-1062** Fire and police pensions - increase in total disability benefits - options in lieu of normal benefits. Increases the normal annual disability benefit for total disability of members of the statewide death and disability plan for firefighters and police officers from up to 60% of a member's salary to 70% of the member's salary. Eliminates the increases in total disability benefit amounts for dependent children and spouses. Relocates and modifies the 3 annual disability payment options with survivor benefits that a member may elect in lieu of the normal annual disability benefit for total disability.

Allows a member to elect a different disability benefit option once within 90 days of receiving written notice from the board of directors of the fire and police pension association.

**APPROVED** by Governor March 5, 1999

**EFFECTIVE** January 1, 2000

**NOTE:** This act shall take effect January 1, 2000, 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 this 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. 99-1063** Fire and police pensions - survivor benefits - remarriage of spouse. Eliminates the termination upon remarriage of benefits paid under the statewide death and disability plan to a surviving spouse of a fire and police pension association member who dies while in active service.

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** January 1, 2000

**NOTE:** This act shall take effect January 1, 2000, 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. 99-1099** Incorporation proceedings - area of more than 75,000 inhabitants - priority over annexation. Creates an exception to the prohibition on commencing a municipal incorporation for all or a part of an area that is subject to a prior municipal annexation proceeding by allowing such an incorporation petition to be filed if the area to be incorporated contains more than 75,000 inhabitants.

Authorizes a municipal incorporation petition for a particular area to be filed after the effective date of an annexation ordinance that annexes all or a part of that area if the petition is filed prior to the expiration of the 60-day period for review of the annexation or after a

review proceeding on such annexation ordinance has been commenced but before the date a judicial declaration or final judgment, including an appellate judgment, is entered in such a review proceeding.

Specifies that this act applies to any annexation petition or petition for incorporation that is pending on or after February 1, 1999, and to any annexation ordinance that is subject to judicial review on or after February 1, 1999, whether or not such review is sought after said date.

**APPROVED** by Governor February 1, 1999

**EFFECTIVE** February 1, 1999

**H.B. 99-1122** Municipal regulation of businesses outside municipal boundaries - limitations - review and comment. Limits the authority of municipalities to prohibit offensive or unwholesome businesses, to prohibit the carrying on of any business in an offensive and unwholesome manner, and to direct the location and regulate the management and construction of specific agricultural businesses to those businesses that are within the limits of the municipality rather than those businesses that are within or within one mile beyond the municipal limits.

Requires boards of county commissioners to refer any proposed land use decision involving certain business or agricultural activities within one mile of a municipality's boundaries to the governing body of the municipality for review and comment.

**APPROVED** by Governor March 17, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1326** Urban renewal. Clarifies the circumstances under which an area can be designated as "blighted" for purposes of urban renewal. Includes goodwill and lost profits as among the reasonable relocation payments that the governing authority may make to a business concern that has been displaced by an urban renewal project. Requires the boundaries of an area determined to be blighted to be drawn as narrowly as the governing body determines feasible to accomplish the planning and development objectives of the proposed urban renewal area. Promulgates additional requirements concerning timing, notice, and relocation of business concerns that must be followed before a governing body may approve an urban renewal plan. Requires the municipality in which an urban renewal authority has been established to timely notify the assessor of the county in which such authority has been established when certain urban renewal plans have been approved, any outstanding obligation incurred by that authority have been paid off, and the purposes of such authority have otherwise been achieved.

**APPROVED** by Governor May 3, 1999

**EFFECTIVE** May 3, 1999

## GOVERNMENT - SPECIAL DISTRICTS

**S.B. 99-11** Tap and connection fees - modification of payment terms to facilitate affordable housing. Authorizes the board of a special district to waive or amortize all or part of its tap fees and connection fees or to extend the time period for paying such fees for property within the district to facilitate the construction, ownership, and operation of affordable housing. Allows the board of the special district to define "affordable housing". Specifies that the board has the authority to encumber the title to the property to require the payment of such fees and charges in the event that the property is no longer used for affordable housing.

**APPROVED** by Governor May 7, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1030** Regional transportation district - increase in privatized bus service operations. Increases the percentage of bus service operations that the regional transportation district (RTD) shall provide through qualified private businesses from 20% to 35%. Specifies that the RTD must request proposals from private providers to provide at least 35%, instead of 20%, of the district's bus service. Changes the term of the agreement to provide bus services from an initial term of up to 3 years, with options to extend the contract for a total of 5 years, to: A maximum term of 3 years, including any renewal options, for any agreement under which the RTD supplies vehicles that have been financed tax-free under the federal internal revenue code; a maximum term of 5 years, including any renewal options, for any agreement under which the RTD supplies vehicles that have not been financed tax-free under the federal internal revenue code; or a term of years negotiated by the provider and the RTD for any agreement under which the provider supplies vehicles.

**APPROVED** by Governor May 28, 1999

**EFFECTIVE** May 28, 1999

**H.B. 99-1268** Elections - district dissolution - director nominations. Specifies that an application to dissolve a special district must meet certain criteria and be approved as to form by the board of directors of the district before the application is circulated for the collection of signatures. Requires that the circulated application be submitted to the board no later than 90 days after the application is approved.

Requires the designated election official of a special district to call for nominations for the election of the district's directors. Specifies when the call must be made and the contents of the call.

Allows candidates for special district director to file a self-nomination and acceptance form. Specifies the qualifications for district director candidates. Describes the information that must be provided and the place for filing the form. Makes the provisions of the election law on verification, protest, and cure of candidate petitions applicable to the form.

Eliminates petitions for nominating nonpartisan special district directors.

Allows the designated election official of a special district to order a single list of property owners as of the 20th day before the election as an alternative to ordering an initial list and a supplementary list of such owners.

Requires the designated election official of a special district, instead of the district's board of directors, to appoint election judges and canvassers for the district unless otherwise directed by that board.

Specifies that an election may be held in 1999 or 2001 for inclusion of the area of Douglas county that is not included in the Denver metropolitan scientific and cultural facilities district.

Requires that the results of special district election be certified to the division of local government within 30, instead of 45, days after the election.

**APPROVED** by Governor April 30, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1294** Regional transportation district - inclusion of additional areas. Authorizes owners of certain land that is contiguous to the boundaries of the regional transportation district (RTD) to petition for the inclusion of the land into the district. Allows an area to be included into the district only if 100% of the owners of the land sought to be included sign the petition.

Authorizes specified individuals to petition the RTD board to conduct an election to include an area in the RTD. Requires at least 8% of the eligible electors who reside within the geographic boundaries of the area to be included to sign the petition. Requires the approval of a majority of registered electors residing in the area to be included in the RTD. Specifies procedures for conducting such an election.

Requires approval of the RTD board to add any new areas to the district.

**APPROVED** by Governor April 30, 1999

**EFFECTIVE** April 30, 1999

## GOVERNMENT - STATE

**S.B. 99-4** State-level entities - requirements for nonprofit activities. Prohibits a state agency or any employee or agent acting on behalf of such agency from establishing a nonprofit entity without specific statutory authority if the purpose of establishing such nonprofit entity is to carry out the governmental functions of the agency and the agency or employee or agent acting on behalf of such agency has actual control over the management and internal operations of the nonprofit entity. Exempts the office of the governor and certain specified state entities from these requirements.

Requires each state agency to provide the state auditor a list of all qualifying nonprofit entities in existence on July 1, 1999, as well as a copy of each nonprofit entity's most recent annual audit report or, if such entity has not been audited, the entity's most recent annual financial statement, by September 1, 1999. Exempts certain existing nonprofit entities from these requirements. Authorizes state-supported institutions of higher education to establish a nonprofit entity without specific statutory authority if approved by the Colorado commission on higher education.

Subjects nonprofit entities created by or on behalf of a state agency to an annual audit by the state auditor. Exempts certain nonprofit entities from this requirement.

Beginning July 1, 1999, 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, 1999, requires such authorities to report in their 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 under this act shall not be an agency or department of the state and shall not be subject to any provisions of law affecting only governmental or public entities. Provides that neither the state nor the applicable state agency shall be held responsible for any debt or liability incurred by any nonprofit entity supported by or established by or on behalf of a state agency except as otherwise provided by law.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** June 3, 1999

**S.B. 99-35** Manufactured housing units - private inspection and certification - state housing board. Authorizes the state housing board to promulgate rules establishing specific standards for the privatization of the manufactured housing inspection functions of the division of housing. Authorizes the division to review and approve quality assurance representatives that perform inspections and affix insignia of approval for factory-built housing, factory-built nonresidential units, camper coaches, camper trailers, park trailers, and recreational vehicles.

Requires that factory-built housing and factory-built nonresidential units manufactured, sold, or offered for sale within Colorado be manufactured in compliance with the applicable provisions of the construction codes adopted by the state housing board. Allows authorized quality assurance representatives to inspect and affix insignia of approval for factory-built housing and factory-built nonresidential units.

Prohibits any person, partnership, firm, corporation, or any other entity from manufacturing, selling, or offering for sale within the state any new recreational vehicle that

is not manufactured in compliance with the American national standards institute's (ANSI's) standard A119.2 or any amendment thereto. Prohibits any person, partnership, firm, corporation, or any other entity from manufacturing, selling, or offering for sale within the state any new recreational park trailer that is not manufactured in compliance with ANSI standard A119.5.

**APPROVED** by Governor April 30, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-85** Colorado civil rights - continuation of the Colorado civil rights division and civil rights commission under sunset law. Extends the automatic termination date of the Colorado civil rights division in the department of regulatory agencies, including the Colorado civil rights commission, until July 1, 2009, pursuant to the provisions of the sunset law.

**APPROVED** by Governor March 25, 1999

**EFFECTIVE** March 25, 1999

**S.B. 99-90** Public employee's retirement association - health care program - state trooper contribution rates - return of matching employer contributions - matching employer contributions to retirement programs - benefit formula for judges. Makes the following changes to the public employees' retirement association (PERA) health care program:

- Changes the name of the health care fund to the health care trust fund;
- Increases the portion of the employer contribution that is contributed to the health care trust fund from .8% to 1.1%;
- Allows employers affiliated with PERA to voluntarily obtain health care coverage for members through the PERA health care program;
- Provides for a higher premium subsidy to be paid on behalf of benefit recipients who do not meet specified age and medicare entitlement requirements.

Makes the following changes to PERA retirement benefits:

- Reduces the member contribution rate for state troopers from 11.5% to 10%;
- Increases the amount of matching employer contributions that may be paid to members after termination of employment or to survivors or beneficiaries of members. Provides for a higher amount of matching employer contributions to be paid to survivors or beneficiaries of members who die before retirement and for members of the municipal division in specified circumstances.
- Provides for matching employer contributions to tax-deferred retirement programs to which members voluntarily contribute. Allows the PERA board to establish the amount of the matching employer contribution subject to specified requirements. Provides that the matching employer contribution shall not begin until after January 1, 2001, and shall only begin if the amortization

period for the association is zero years. Provides for modifying amounts available for matching contributions and contribution rates to avoid an amortization period either above or below 10 years. Reduces the amount of the employer contribution made for a member to PERA's retirement plan by any amount paid as a matching contribution to a tax-deferred retirement program. Requires employers to report to PERA concerning the amount of contributions made to tax-deferred programs. Further reduces the employer contribution rate to the PERA state and school division and the judicial division by 1% at the time the matching employer contributions begin.

- Modifies the benefit formula for judges hired before a specified date and provides for benefit recalculation for current benefit recipients using the new formula.

**APPROVED** by Governor April 16, 1999

**PORTIONS EFFECTIVE** July 1, 1999  
July 1, 2000  
January 1, 2001

**S.B. 99-93** State grants to publicly-supported libraries - appropriation. Establishes a program whereby the state librarian will make grants to eligible public libraries, academic libraries, and school libraries for the purchase of educational resources these institutions would otherwise be unable to afford. States qualifications and reporting requirements for said grants. Specifies the powers and duties of the state librarian in administering the grants program. Establishes the state grants to publicly-supported libraries fund in the state treasury.

Appropriates \$2,000,000 out of the general fund to the state grants for publicly-supported libraries fund for implementation of the act. Appropriates \$2,000,000 and 0.5 FTE out of the state grants for publicly-supported libraries fund to the department of education for allocation to the state library for implementation of the act. Requires that such sum shall be from cash funds exempt received from the department of education and that no more than 2.5% of said amount shall be expended for administrative costs of the state librarian in administering this act. Adjusts appropriations made in the annual general appropriations act.

**VETOED** by Governor June 2, 1999

**S.B. 99-113** Colorado civil rights - commission - mediation - discrimination against older persons in housing. Authorizes the Colorado civil rights commission to intervene, for the purpose of informal mediation, in racial, religious, cultural, age, and intergroup tensions or conflicts.

Makes Colorado discrimination laws concerning housing for older persons equivalent to federal law by revising the criteria for designation as housing for older persons. Authorizes the civil rights commission to promulgate rules to verify the occupancy of a housing facility or community providing housing for older persons.

Provides that a person shall not be held personally liable for monetary damages for a violation of discrimination laws concerning housing for older persons if such person reasonably relied, in good faith, on the application of an available exemption.



**APPROVED** by Governor March 25, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-140** Fire safety - duties of director of division of fire safety - composition, duties, and continuation of the fire safety advisory board. Changes the name of the fire safety advisory board to the fire service training and certification advisory board. Modifies the composition of the board by eliminating the representatives of the Colorado state fire marshals association and the state certified first responders as members. Adds the president of the Colorado community college and occupational education system and the director of the emergency medical services and prevention division within the department of public health and environment as nonvoting members.

Specifies the duties of the board and the director of the division of fire safety in the department of public safety with respect to the voluntary fire service education and training program and the voluntary firefighter and first responder certification programs.

Extends the automatic termination date of the fire safety advisory board to July 1, 2009, pursuant to the provisions of the sunset law.

**APPROVED** by Governor April 15, 1999

**EFFECTIVE** April 15, 1999

**S.B. 99-168** Colorado civil rights - discriminatory or unfair employment practices - harassment. Includes, as an unfair employment practice, harassment during the course of employment of any person, otherwise qualified, because of disability, race, creed, color, sex, age, national origin, or ancestry. Defines "harass" as creating a hostile work environment based upon an individual's race, national origin, sex, disability, age, or religion.

Requires that, in order for such harassment to be considered illegal, a person experiencing harassment on the job must file a complaint with the appropriate authority at such person's workplace and the authority must fail to initiate a reasonable investigation of the complaint and, if appropriate, take prompt remedial action.

**BECAME LAW:** April 19, 1999

**EFFECTIVE** July 1, 1999

**S.B. 99-172** Tobacco litigation settlement fund - creation. Creates in the state treasury the tobacco litigation settlement fund. Specifies moneys to be credited to the fund. States that the moneys in the fund are subject to annual appropriation by the general assembly for such purposes as may be authorized by law. Requires all unexpended and unencumbered moneys in the fund at the end of any given fiscal year to remain in the fund. Specifies that, for purposes of section 20 of article X of the state constitution and article 77 of title 24 of the Colorado Revised Statutes, moneys credited to or expended from the fund are damage awards or interest thereon and are excluded from state fiscal year spending. Specifies that, for

purposes of section 20 of article X of the state constitution, moneys expended from the fund that are received by local governments are damage awards or interest thereon and are excluded from local government fiscal year spending.

**APPROVED** by Governor March 31, 1999

**EFFECTIVE** March 31, 1999

**S.B. 99-174** Release of motor vehicle records. Requires the custodian of any records that concern an individual who has made a request of confidentiality, prior to release of such records, to require the person requesting release of the information to show identification and to keep a list of persons to whom information is released, which list shall be available to the person requesting confidentiality. Repeals provisions authorizing the department of revenue to sell photographs and other images for the prevention of fraud. Prohibits the department from selling or releasing photographs, other images, fingerprints, or social security numbers; except that the act allows release of any of such information to a criminal justice agency and the release of images to a news agency.

**APPROVED** by Governor April 16, 1999

**EFFECTIVE** April 16, 1999

**S.B. 99-204** Executive agencies - reports to general assembly - termination. Eliminates the following state agency reports to the general assembly:

- Review of grants made from and funds received by the victims and witnesses assistance and law enforcement fund to determine whether conflicts of interest exist;
- Asset and liability statement filed by each public entity self-insurance pool;
- Report by the state treasurer on the condition of the state treasury;
- Report by the department of personnel of any final decision by the Colorado supreme court or court of appeals on the constitutionality of the issuance of certificates of participation or other evidence of a district's commitment to pay moneys due under a contract for the lease or purchase of real property;
- Report by the controller concerning collection of debts due the state;
- Account of activities related to the public safety communications trust fund and the receipts and expenditures of such fund;
- Report of controlled maintenance projects that have been completed, eliminated, or initiated by the executive director of the department of personnel;
- Report by the commission on information management concerning the implementation of strategic planning for the state's information systems; and
- Report by the director of the division of local government in the department of local affairs on the activities of the division.

Requires that the general assembly be notified in the most cost-effective manner of the availability of the following reports:

- Nonprofit entities created by a department or agency;
- Report on moneys received and disbursed by escrow account established for the benefit of crime victims;
- Report from the governor on the discharge of assigned responsibilities by principal departments;
- Report by the controller on capital leases having a total value of at least

- \$50,000;
- Report by the controller regarding travel expenses of state employees;
- Report of acquisitions and disposition of real property and capital assets worth more than \$100,000 by state agencies; and
- Report by the director of the division of local government in the department of local affairs concerning waste tire disposal and recycling.

States that section 1 of the act shall take effect only if Senate Bill 99-4 does not become law.

**APPROVED** by Governor May 19, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** (1) Senate Bill 99-4 was signed by the Governor on June 3, 1999.

(2) This act 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. 99-216** Capital construction fund - transfer of moneys from the general fund. Increases the transfer of moneys from the general fund to the capital construction fund for the 1999-2000 fiscal year by \$94,125,274.

**VETOED** by Governor May 3, 1999

**S.B. 99-223** State employee performance - grievance procedures. Authorizes the state personnel director to allow each state agency to establish a plan to implement the director's performance management, evaluation, and reward system. Requires that each such plan be approved by the director.

Requires the state personnel director to establish by rule a process to resolve state employee disputes related to performance evaluations that do not result in corrective or disciplinary actions against the employee.

Authorizes the state personnel board to adopt more than one grievance procedure for employees in the state personnel system. Requires that the board's rules define matters that are subject to grievance procedures.

**APPROVED** by Governor May 17, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-227** Line-item appropriations - extension of authority for overexpenditures and transfers. Extends existing authority for the overexpenditure of line-item appropriations and for limited transfers between such line-item appropriations that is scheduled to expire in 1999 until 2004. Clarifies what constitutes an "overexpenditure".

**APPROVED** by Governor May 19, 1999

**EFFECTIVE** May 19, 1999

**S.B. 99-231** Tobacco litigation settlement moneys - cash fund - trust fund. Eliminates the tobacco litigation settlement fund and replaces it with the tobacco litigation settlement cash fund. Specifies that all tobacco litigation settlement moneys not credited to the tobacco litigation settlement trust fund shall be credited to the cash fund, that the general assembly may appropriate any moneys in the cash fund as authorized by law in accordance with the terms of the tobacco litigation settlement, and that any unencumbered and unappropriated moneys remaining in the cash fund at the end of any fiscal year shall be transferred to the tobacco litigation settlement trust fund.

Creates the tobacco litigation settlement trust fund. Specifies that the following shall be credited to the trust fund:

- The first \$33,000,000 of all moneys paid to the state pursuant to the tobacco litigation settlement agreement, other than attorney fees and costs;
- Not less than 20% of all additional moneys paid to the state pursuant to the tobacco litigation settlement agreement, other than attorney fees and costs; and
- Any unencumbered and unappropriated moneys remaining in the tobacco litigation settlement cash fund at the end of any fiscal year.

Specifies that the principal of the trust fund shall not be expended or appropriated for any purpose and that the general assembly may only appropriate the interest earned on the trust fund as authorized by law in accordance with the terms of the tobacco litigation settlement agreement at such time as the state auditor certifies that actuarially sound projections of future interest earnings indicate that such interest will be sufficient to fully fund all programs and funds for which tobacco litigation settlement moneys are to be expended.

Specifies that any tobacco litigation settlement moneys received to compensate the state for attorney fees, court costs, and other expenses incurred shall be subject to appropriation by the general assembly if the purpose for which such moneys may be expended is not specified or approved by a court or other non-Colorado authority. Requires any agency of state government proposing to expend custodial moneys that are tobacco litigation settlement moneys to compensate the state for attorney fees, court costs, or other incurred expenses to notify the joint budget committee in writing, explaining the basis for determining that the moneys are custodial and setting forth the purpose for which the agency intends to expend such moneys.

States that moneys credited to the tobacco litigation settlement cash fund and the tobacco litigation settlement trust fund are not included in state fiscal year spending for purposes of section 20 of article X of the state constitution.

Permits the state treasurer to authorize the escrow agent for tobacco litigation settlement moneys held in escrow for the state pursuant to the master settlement agreement

and accompanying escrow agreement to invest such moneys in any manner permitted by the escrow agreement.

**BECAME LAW** June 5, 1999

**EFFECTIVE** June 5, 1999

**S.B. 99-233** State fiscal policies relating to TABOR. As a result of previously enacted legislation that imposed restrictions on the ability of each department or agency of state government to maintain the uncommitted reserves of any cash fund under its control, repeals the requirement on the general assembly to prescribe the total amount of revenue that may be collected by each agency and department of state government for a given fiscal year.

Expands the definition of "collections for another government" for purposes of TABOR to include revenues other than tax revenues.

Provides that, if any other local government district that provides higher education services joins the state, the amount of allowable state fiscal year spending for purposes of TABOR for the fiscal year such joinder takes effect is to be adjusted by the fiscal year spending of such district in accordance with TABOR in the current fiscal year.

Provides that, for any given fiscal year, if the state controller discovers an error involving a prior fiscal year that affects the calculation of state fiscal year spending, the controller is authorized to correct such errors by increasing or decreasing in an appropriate amount the allowable state fiscal year spending for the fiscal year in which the error is discovered, subject to the review of such adjustment by the state auditor.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-239** Capital construction fund - transfer of moneys from general fund. Increases the transfer of moneys from the general fund to the capital construction fund for the 1999-2000 fiscal year by \$68,691,405.

**APPROVED** by Governor May 17, 1999

**EFFECTIVE** May 17, 1999

**H.B. 99-1010** State lottery commission - authorization for bingo scratch lotteries. Permits the state lottery commission to conduct instant scratch lotteries based upon the game of chance commonly known as bingo.

**APPROVED** by Governor May 20, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1048** Delinquency charges - limitations on amount imposed by government entities. Prohibits the state and local governments from assessing delinquency charges for any amount due to that government that is paid in full within 5 days after the scheduled due date. Limits the maximum delinquency charge that the state or a local government may charge to the greater of \$15 or 5% per month or fraction of a month up to a total of 25% of the amount due. Defines the terms "amount due" and "delinquency charge" and states that certain types of fees, fines, or penalties imposed are not "delinquency charges".

States that if an amount due is one of a series of payments to be made towards the satisfaction of a single obligation owed to the state or a local government, limits the maximum delinquency charge that the state or a local government may charge to the greater of \$15 or 5% per month or fraction of a month up to a total of 25% of the amount of the overdue payment regardless of the length of time during which the payment remains overdue. Prohibits the state or a local government from assessing interest on a delinquency charge, but allows interest to be charged on any amount due at a maximum annual percentage rate of 18%.

States that restrictions on the charging of interest do not apply to delinquent interest imposed by a local government after a tax lien is sold at a tax lien sale. Allows the state and local governments to recover collection costs, including disconnection or reconnection fees, reinstatement charges, or penalties for fraud.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** January 1, 2000

**NOTE:** This act shall take effect January 1, 2000, 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. 99-1055** Colorado state fair authority - annual reports. Requires the Colorado state fair authority and its board of commissioners to make an annual report by October 31, instead of January 1, of each year. Deletes inclusion in the report of a summary of the authority's activities for the previous year. Specifies that the information in the report cover the fiscal year ending in the year the report is made and the fiscal year preceding that fiscal year and be prepared in accordance with generally accepted accounting principles.

Requires reporting of revenue and expenses for the operation of nonfair events. Specifies reporting of the financial position of the fair instead of the current balance of the Colorado state fair authority cash fund and the expenses of the authority. Requires evidence of compliance with applicable bond covenants relative to outstanding revenue bonds issued by the board.

Adds a statement of the fair's cash flow to the reporting requirements. Requires inclusion in the report of a summary of the fair's attendance. Directs reporting of the number of fair and nonfair events. Includes a statement of revenues and expenses resulting from the operation of the fair for the most recent period ending September 30, including a summary of attendance, within the reporting requirements.

**APPROVED** by Governor February 26, 1999

**EFFECTIVE** February 26, 1999

**H.B. 99-1076** State personnel system - alternative objective measures of competence for selecting employees. In addition to utilizing competitive examinations to determine appointments and promotions to state personnel system positions, authorizes the use of other objective measures of competence in making such a determination. Instead of specifying that examinations may not inquire into or be influenced by the political or religious affiliation or race of the applicant, prohibits consideration of race, color, creed, religion, national origin, ancestry, age, or political affiliation with respect to appointments and promotions of state employees. Also prohibits consideration of sex or disability with respect to such appointments and promotions except as otherwise provided by law.

Makes conforming changes to the provisions on the "rule of 3" and selection of employees in the state auditor's office.

**APPROVED** by Governor March 29, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1077** Statewide risk management system for tracking employment claims against the state - creation. Beginning July 1, 1999, requires the department of personnel to establish and administer a pilot program for the purpose of developing a statewide database and uniform reporting system to track all employee claims brought against state agencies and losses resulting from such claims. Requires the pilot program to include at least 3 agencies to be selected by the department of personnel, including at least one institution of higher education and one executive department other than the department of higher education. Requires the department of personnel to report the results of the pilot program to the general assembly by June 30, 2001.

Beginning July 1, 2001, requires the department of personnel to establish and administer a statewide database and uniform reporting system to track all employee claims brought against all state agencies and losses resulting from such claims. Requires the executive director of the department of personnel to supervise the development and administration of both the pilot program and the database and uniform reporting system. Specifies that the executive director may adopt rules that define terms and may require state

agencies to submit information necessary to implement the pilot program and the database and uniform reporting system.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** March 10, 1999

**H.B. 99-1078** Temporary state personal services contracts - duration. Clarifies that personal services contracts for temporary employment of persons by the state may exceed 6 months.

**APPROVED** by Governor March 29, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1079** Digital or electronic signatures - standards, rules, policies, and procedures. Provides for, but does not require, the use of digital or electronic signatures and gives them the same force and effect as manual signatures when the signature:

- Is unique to the person using it;
- Is capable of verification;
- Is under the sole control of the person using it;
- Is linked to data in such a manner that the signature is invalidated if any data is changed; and
- Conforms to regulatory provisions.

Directs the executive director of the department of personnel to adopt rules governing the requirements for digital or electronic signatures. Provides that any county, city, town, or city and county authorizing the use of digital or electronic signatures shall adopt their own rules, standards, policies, and procedures or shall follow those of the executive director of the department of personnel.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1080** Public employees' retirement association - purchase of service credit. Modifies the statutory provisions governing the purchase of service credit for members of the public employees' retirement association (PERA) who first become members on or after January 1, 1999, to conform to federal law. Requires that such members have 5 years of earned service credit before becoming eligible to purchase credit for noncovered employment that is "nonqualified service" as defined in section 415 (n) (3) (C) of the federal internal revenue code. Limits purchases of service credit for "nonqualified service" by such members to a maximum of 5 years.

Specifies that no contributions by PERA members to purchase service credit or to make direct payments shall be made to cause the limits in section 415 (n) of the federal



internal revenue code to be exceeded.

**APPROVED** by Governor February 19, 1999

**EFFECTIVE** February 19, 1999

**H.B. 99-1102** Financial aid to local governments - telecommunications infrastructure - aggregation of demand - community-based access grant program - appropriations. Declares a need for rationally planned and coordinated purchases of telecommunications technology by public entities at the state and local level, in all geographic areas of the state, in order to achieve economies of scale and allow the state and localities to function as "anchor tenants" in encouraging private investment in telecommunications infrastructure throughout the state and within its local communities. Finds that statewide demand aggregation is proceeding under executive order and that a similar program of aggregation should be initiated at the local, community level.

Requires the departments of local affairs and personnel, working cooperatively, to accommodate local and community traffic on the state multi-use network. Creates a community grant program, administered by the department of local affairs, under which communities will vie for state capital construction moneys to fund local programs to aggregate the telecommunications service requirements of "public offices" within those communities. Defines "public offices" to include public schools, colleges, libraries, hospitals, and offices of state and local government agencies.

Directs funding to projects that result in material improvements in availability and competitive cost of telecommunications infrastructure. Requires that public offices be linked using telecommunications services purchased from the private sector. Limits expenditures under the grant program to costs of connection and requires that public offices bear the capital costs of end-user equipment and the ongoing costs of operation and personnel. Excludes costs for public offices that have existing connections except as necessary to participate in aggregating their demand with that of other offices.

Establishes the goal of funding each community within the state that submits a proposal that is of high quality and competitive with those of communities of comparable size and characteristics. Gives priority to those communities that propose to aggregate the greatest proportion of public offices within the community and that propose an appropriate match, whether cash or in-kind, in relation to the resources of the community.

Allows for some financial assistance to communities for costs of technical assistance, engineering, and other components of proposals for funding. Requires coordination of grant awards with deployment of the state's digital networks. Requires the department of local affairs to report annually to legislative committees.

Appropriates to the department of local affairs \$3,176,000 in capital construction funds and \$124,000 in general funds. Directs that \$1,500,000 in cash funds exempt from the local government severance tax fund be made available to local governments for the community-based access grant program established by this act. Makes corresponding reductions and transfers from the capital construction fund, the capital construction fund exempt appropriation to the department of transportation, and the Colorado advanced technology institute (CATI) commission share of proceeds from supernet.

**APPROVED** by Governor May 17, 1999

**EFFECTIVE** May 17, 1999

**H.B. 99-1127 Governmental entities - alternative forms of payment.** Authorizes state and local governmental entities to accept alternative forms of payment, including but not limited to credit, charge, or debit cards, for the payment of moneys payable to any governmental entity. Prohibits governmental entities from imposing a surcharge for the privilege of using an alternative form of payment, but allows any governmental entity that was imposing such a surcharge as of January 1, 1999, to continue to impose such surcharge. Requires any provider of alternative forms of payment, including but not limited to any issuer of credit, debit, or charge cards, that approves a transaction for the payment of moneys to a state governmental entity to remit to such entity the net revenue of the transaction due to such entity.

Authorizes the state treasurer to enter into one or more contractual master agreements with providers of alternative forms of payment. Specifies that the state treasurer shall enter into no more than one master agreement covering any particular alternative form of payment. Requires a provider of alternative forms of payment that wishes to have one or more state governmental entities accept the provider's alternative forms of payment to join in any master agreement that covers the alternative form of payment. Makes exceptions to said requirement.

Requires any state governmental entity that wishes to accept an alternative form of payment that is covered by a master agreement entered into by the state treasurer to join in such master agreement. Encourages local governmental entities that wish to accept alternative forms of payment to join any applicable master agreements or join with other local governmental entities in contractual arrangements with providers of such alternative forms of payment.

Requires any governmental entity that accepts one or more alternative forms of payment for the payment of moneys that the governmental entity must remit to one or more other governmental entities to either: Remit to such other governmental entities the gross amount of any payments made by alternative forms of payment notwithstanding the deduction of any moneys from such amount by any provider of alternative forms of payment; or enter into an intergovernmental agreement with each such other governmental entity regarding the allocation of the costs of accepting such alternative forms of payment.

**APPROVED** by Governor April 30, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1191 Public records - inspection requests - sexual harassment records - records subject to deliberative process privilege.** Specifies that, if extenuating circumstances exist, the period of time within which public records must be made available for inspection may be extended to not more than 7 working days after the request. Adds as an extenuating circumstance a records request that is so voluminous that the custodian of records is unable to process the request without substantially interfering with the custodian's obligation to perform his or her other responsibilities.

Adds the following to those records that a custodian of records, subject to certain exceptions, is required to deny inspection:

- All records of sexual harassment complaints and investigations instead of only those records maintained pursuant to a general assembly rule on sexual harassment. Permits disclosure of sexual harassment records to the person in interest to the extent disclosure can be made without identifying any individual involved. Exempts from this restriction on disclosure any sexual harassment records that are included in court files and records and any results of an investigation of the general employment policies and procedures of certain governmental entities to the extent that the disclosure can be made without permitting the identification of any individual involved.
- Records protected under the common law governmental or "deliberative process" privilege, under certain circumstances. Requires the custodian to provide the applicant with a sworn statement explaining the basis for nondisclosure and, upon an applicant's request, to apply to the district court for an order permitting the restriction of disclosure. Specifies the procedure in connection with such a proceeding and the factors the court must weigh in determining whether disclosure would cause substantial injury to the public interest.

**APPROVED** by Governor March 31, 1999

**EFFECTIVE** March 31, 1999

**H.B. 99-1242** Public records - consideration of privileged documents in an executive session. Requires that a local public body consider in a public meeting documents or records that are work product or that are subject to the governmental or deliberative process privilege unless an executive session is otherwise allowed by law. Clarifies that any materials distributed to the members of a public body for their use or consideration in a public meeting are not included in the definition of "work product".

**APPROVED** by Governor March 31, 1999

**EFFECTIVE** March 31, 1999

**H.B. 99-1336** Legal investments of public funds - collateralizing repurchase agreements for securities. Except for investments of public funds by the state treasurer, which are already covered by other laws, specifies that for purposes of collateralizing repurchase agreements of United States government securities that are lawful investments of public funds by public entities, such securities must have a fixed coupon rate from the time of settlement to the maturity date, and the collateral securities must be collateralized at no less than 102% and marked to market at least weekly..

**APPROVED** by Governor May 29, 1999

**EFFECTIVE** May 29, 1999

**H.B. 99-1337** Electronic transactions. Enacts statutory provisions to facilitate electronic transactions and on-line government. Permits, but does not require, the use of electronic records or electronic signatures by public entities. Requires state agencies utilizing electronic records or electronic signatures to comply with the rules of the executive director of the department of personnel ("director") or the Colorado supreme court. Allows local public entities to utilize electronic records and electronic signatures upon approval of the local

public entity's governing body.

Establishes that a record or a signature may not be denied legal effect or enforceability solely because it is in the form of an electronic record or an electronic signature.

Provides that, in any governmental transaction in which a signature is required or used, any party to the transaction may use an electronic signature that complies with rules promulgated by either the director for governmental transactions with state agencies, by the supreme court for governmental transactions with the state judicial system, or by the applicable governing body for governmental transactions with local public entities. Requires the director or governing body to consider, among other appropriate factors, whether or not the electronic signature must be:

- Unique to the person using it;
- Capable of verification;
- Under the sole control of the person using it; and
- Linked to data in such a manner that the electronic signature is invalidated if any data is changed.

Permits public entities to require the use of electronic signatures for particular applications within their authority where such mandatory use does not conflict with state or federal law. Prohibits the department of revenue from selling or releasing to anyone, other than the person in interest or a criminal justice agency, any electronic signature filed with, maintained by, or prepared by the department of revenue.

Provides that electronic records or signatures are not inadmissible as evidence solely on the ground that they are in electronic form, are not in original form, or are not originals. Establishes that an electronic record meets the original form requirement if it accurately reproduces the original record as it existed at the time in question. Provides that record retention requirements are met by retaining an electronic record that accurately reproduces the original record as it existed at the time in question but allows a public entity to specify additional requirements for record retention.

Gives the director and the supreme court the authority to adopt rules, standards, policies, and procedures for public entity use of electronic records and signatures with differing levels of security for diverse applications. Requires the governing body of any local public entity authorizing the use of electronic records and signatures to adopt rules, standards, policies, and procedures for their own use or to follow the rules adopted by the director.

Provides that section 2 of this act shall only take effect if House Bill 99-1079 is enacted at the First Regular Session of the Sixty-second General Assembly and becomes law.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** July 1, 1999

**NOTE:** House Bill 99-1079 was signed by the Governor on June 2, 1999.

**H.B. 99-1369** State pension obligation notes - state-assisted firefighters' and police officers' old hire pension plans. Authorizes the state treasurer to issue state pension obligation notes for purposes of paying in one lump sum the state's share of the unfunded liability of certain state-assisted firefighters' and police officers' old hire pension plans instead of continuing the annual transfers of state moneys currently required by law. Specifies that moneys to pay

interest on and principal of such notes are subject to annual appropriation by the general assembly. Requires that proceeds from the sale of such notes be pledged for the repayment of such notes to the extent required by the state constitution. Specifies that, upon payment of the proceeds of the sale of such notes to the fire and police pension association, the state's obligation to fund its portion of the unfunded liability of certain state-assisted pension plans is fully satisfied, subject to the need for the state to fund its obligation through 2009 if the transaction authorizing such notes is structured in a manner that prevents the fire and police pension association from annually transferring the full amount required to assist old hire pension plans as required by state law.

Specifies that any proceeds remaining after the unfunded liability of such state-assisted firefighters' and police officers' old hire pension plans ceases shall be transmitted to the state treasurer, used to pay remaining interest on and principal of such notes, and, once such instruments are satisfied, credited to the general fund.

Authorizes the state treasurer to contract for services related to state pension obligation notes. Specifies that costs of issuing such notes shall be paid from the proceeds from the sale of such notes.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1372 Office of innovation and technology - chief technology officer - information management commission.** Creates the office of innovation and technology in the governor's office and creates the position of chief technology officer as head of the office. Transfers the rights, powers, duties, and functions of the commission on information management ("IMC") in the department of personnel to the newly-created office.

Specifies that the employees of the IMC whose employment is deemed necessary by the chief technology officer shall become employees of the office.

Describes the responsibilities of the office of innovation and technology.

Authorizes the chief technology officer to:

- Monitor trends and advances in information technology, direct and approve a comprehensive, statewide, 4-year planning process, and plan for the acquisition, management, and use of information technology;
- Require state agencies to prepare and submit communications and data processing plans to the office;
- Direct the formulation and promulgation of policies, standards, specifications, and guidelines for communication and information resources and data processing in state agencies;
- Direct the development of policies and procedures, in consultation with the

office of state planning and budgeting, that are integrated into the state's strategic planning and budgeting processes for state agencies to follow in developing communications and data processing plans and technology-related budget requests;

- Direct the development of policies and procedures for the effective management of technology investments throughout their entire life cycle, including, but not limited to, project definition, procurement, development, implementation, operation, performance evaluation, and enhancement or retirement;
- Review budget requests for communication and information resources and data processing from state agencies;
- Direct the development of policies and procedures for review by the commission on information management of technology procurements, agreements, or contracts for amounts exceeding \$25,000;
- Subject to the review and approval of the IMC, aggregate communication and information resources and data processing procurements for one or more state agencies;
- Direct the development of policies and procedures for the effective management of technology investments throughout their entire life cycle;
- Direct the establishment of statewide standards for the efficient exchange of electronic information and technology, including infrastructure, between the public and private sectors in the state;
- Evaluate the feasibility of outsourcing communication and information resources and data processing resources and services and outsource those resources and services that would be beneficial to the state.

Abolishes the commission on information management and reestablishes the commission in the office of innovation and technology. Reduces private sector representation on the commission from 8 to 6 members. Specifies 4 additional members of the commission to be appointed from the general assembly. In addition to the current purposes, powers, and duties of the commission, authorizes the commission, except as otherwise directed by the chief technology officer, to recommend disapproval of state agency procurements of communication and information resources and data processing systems that do not conform to the state strategic communications and data processing plan.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** July 1, 1999

## HEALTH AND ENVIRONMENT

**S.B. 99-70** Environmental self-evaluation - admissibility - privilege. Eliminates the June 30, 1999, repeal date for immunity against civil and administrative penalties for voluntary disclosure of violations uncovered during, and documents arising from, a voluntary environmental self-evaluation. Eliminates the June 30, 1999, repeal date for the environmental self-evaluation witness privilege.

**APPROVED** by Governor April 14, 1999

**EFFECTIVE** April 14, 1999

**S.B. 99-112** Pet animals - frequency of inoculations - dangerous dogs - penalties. States that no board of health or municipality shall require a dog to receive inoculations against rabies any more frequently than is promulgated by the national association of state public health veterinarians in the "Compendium of Animal Rabies Control".

Requires an owner to make restitution if a dangerous dog destroys another animal or property by paying the greater of the fair market value or replacement cost and any actual costs incurred in replacing the injured or destroyed animal or property, plus any expenses incurred in treating the animal. Upon a 2nd or subsequent violation, requires the owner to pay the minimum fine for a class 2 misdemeanor.

Requires a court to order a person convicted of owning a dangerous dog to confine the dog in an escape-proof building or enclosure and, when the dog is outside such building or enclosure, to have such dog on a leash. Upon a 2nd or subsequent conviction, requires the owner to have the dog muzzled when outside of the building or enclosure.

**APPROVED** by Governor April 13, 1999

**EFFECTIVE** July 1, 1999

**S.B. 99-117** Air quality - mobile sources - clean vehicle fleet program - removal of program from state implementation plan - appropriation. Provides statutory authority and direction for the air quality control commission ("commission") within the department of public health and environment to promulgate rules based on the rules of the federal clean fuel fleet program. Directs the governor to withdraw any pending request to the federal government for approval of the clean vehicle fleet program as a part of the Colorado state implementation plan (SIP) for attainment of federal air quality standards for carbon monoxide and to opt out of the federal clean vehicle fleet program.

Allows the new rules to provide for vehicle-specific waivers of clean vehicle fleet requirements in specific and limited circumstances upon application by a fleet operator. Mandates that the new rules shall:

- Require every covered fleet operator, including the U.S. government, to use only fuels for which the clean fuel vehicle was certified as a clean fuel vehicle when operating within the Denver-Boulder carbon monoxide nonattainment area;
- Adopt state-only clean fuel fleet program requirements, subject to adjustment as necessary to adapt to circumstances in the state of Colorado.

Directs the commission to identify emission reductions anticipated to result from the clean vehicle fleet program that could substitute for those required by the federal program

and to submit such emission reductions to the federal government for approval as part of Colorado's carbon monoxide SIP, if necessary.

Gives fleet operators partial compliance credits for conversion of vehicles to use clean fuels under a modified version of the federal program compliance credit system. Specifies that 1/5 of a credit shall be given per vehicle converted between January 1, 1992, and August 31, 1995. Requires fleet operators to apply for such credits by December 31, 2000, and to demonstrate that vehicles have been continuously and routinely used as clean fuel vehicles within the nonattainment area for a specified period of time. Limits the available partial compliance credits to a total of 50, representing the equivalent of full compliance for 10 vehicles.

Appropriates \$51,675 from the highway users tax fund to the department of public health and environment for implementation of the act.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** May 24, 1999

**S.B. 99-145** Air quality - control - federal property and facilities subject to state implementation plans and emission controls - rules - fees - appropriations. Requires that the state implementation plan for air quality and emission controls generally applicable to property and facilities within the state also be imposed upon federal property and facilities. Declares that significant contributions to regional haze and visibility impairment emanate from federal lands within the state, and that the act is adopted pursuant to authority granted to the state under the federal "Clean Air Act". Provides that review and approval of federal land management plans by the air quality control commission ("commission") is appropriate because the federal government is the largest landowner in the state and routinely prepares comprehensive land management plans involving clearing undergrowth by fire.

Directs the commission to require all federal facilities to minimize emissions using available, practicable, and technologically feasible methods in order to minimize the impact or reduce the potential for such impact on both the attainment and maintenance of national ambient air quality standards and the achievement of federal and state visibility goals. Requires federal land managers to submit land management plans or equivalent planning documents for those federal lands to ensure compliance with the act. Requires the commission to conduct a public hearing on minimizing emissions and to make recommendations to the federal land manager regarding changes to make the plan comply with the state standard.

Requires every federal facility submitting a land management plan or an equivalent planning document to the commission to pay a fee for the costs of evaluating the documents.

For purposes of an existing partial exemption from clean-air rules in the case of "agricultural operations", specifically excludes forest management and habitat management activities of federal or state land managers from the term "agricultural operations". Defines such activity as "commercial" rather than "noncommercial" for purposes of provisions imposing civil penalties of \$100 per day for noncommercial violations and \$10,000 per day for commercial violations.

Specifies that no permit for open burning shall be issued by the air pollution control division after January 1, 2001, unless the land management plan for the area to be burned is consistent with the comments and recommendations of the commission. Allows the



exclusion of permit conditions that are specifically prohibited by federal statutes. Requires the division to report such exclusions to the governor and the director of the legislative council within 30 days after the exclusions are granted. Requires the commission to adopt rules to provide for exceptions from permit issuance requirements where the immediate issuance of a permit is necessary to protect the public health and safety.

Appropriates \$128,669 to the department of public health and environment from the stationary sources control cash fund for implementation of the act. Appropriates \$28,800 to the department of law out of cash exempt funds for implementation of the act.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** May 24, 1999

**H.B. 99-1053** Environmental control - Safe Drinking Water Act - exemptions. Exempts public water systems, as defined by the federal "Safe Drinking Water Act", that do not authorize incidental use of untreated water from penalties under state enforcement of the federal act.

Excludes public water systems exempt under the federal act and under Colorado law from the filing requirements for surveys, certification, or any other reporting measures required for public water systems.

**APPROVED** by Governor March 5, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1118** Hepatitis C program - creation - appropriation. Authorizes and instructs the executive director of the department of public health and environment to create a hepatitis C education and screening program. Directs that the program shall include the coordination of local public health officials, health care professionals, public institutions, and community organizations to identify high-risk populations, to assist in the implementation of a model screening process, and to provide information on referral services or otherwise assist in finding treatment for persons with hepatitis C infection. Requires the program to provide public education and outreach services to raise the public's awareness and understanding about the virus. Authorizes the department to enter into contracts to implement and operate the program.

States that this program may be implemented in stages, depending on resources available to fund the program. Describes the stages of implementation.

Provides that if resources allow, after implementing all other parts of the program, the director of the department of public health and environment has the authority to implement a system to investigate, collect, analyze, and report data regarding hepatitis C. Requires the department to report to the joint budget committee of the general assembly about the effectiveness of and the necessity for the program on or before January 1, 2000, prior to receipt of further funding for the program.

Appropriates \$200,000 from the general fund to the department of public health and environment for implementation of the act. Reduces the general fund appropriation to the capital construction fund by \$200,000, and reduces the capital construction fund exempt appropriation to the department of transportation, construction projects, by \$200,000.

**APPROVED** by Governor June 1, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1213** Voluntary Clean-up and Redevelopment Act - extension. Deletes the July 1, 1999, repeal date for the "Voluntary Clean-up and Redevelopment Act", thereby extending the program for the clean-up of real property contaminated by hazardous substances or petroleum products.

**APPROVED** by Governor April 9, 1999

**EFFECTIVE** April 9, 1999

**H.B. 99-1214** Statewide trauma care system - designation of pediatric trauma centers - confidentiality of information collected by area trauma councils. Authorizes the department of public health and environment to designate a facility as a regional pediatric trauma center.

Directs the state board of health to adopt rules protecting the confidentiality of patient's names and identifying information collected through the continuing quality improvement system for the statewide trauma care system. Specifies that the rules shall make certain data or information collected by an area trauma advisory council (ATAC) as part of the continuing quality improvement system and any records relating to such quality improvement system confidential. States that such information and records are not subject to the open records law and may not be subpoenaed or subject to discovery except by court order. States that the confidentiality provision shall not preclude the patient or the patient's representative from obtaining the patient's medical records as otherwise allowed under state law. States that the confidentiality provision shall not be construed to allow access to confidential professional review committee records or reviews of health care providers.

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** April 22, 1999

**H.B. 99-1330** Air quality - state implementation plan - revisions - approval. Approves and extends the following revisions by the air quality control commission to its rules collectively comprising the state implementation plan (SIP), thereby permitting the submission of such revised rules to the federal environmental protection agency for final approval and incorporation into the SIP:

- Exemptions from visibility (opacity) standards for military training exercises using smokes and obscurants;
- Trading of emission credits for volatile organic compounds between 2 industrial sources in the Denver area;
- Adoption of new criteria and procedures for determining that federally funded or approved transportation plans are compatible with state and federal air quality implementation plans;
- Technical amendments to the motor vehicle emissions inspection program for the Denver-Boulder area;
- Changing the tailpipe emission inspection requirement for diesel-powered vehicles from annual to biennial;
- Revisions to the existing "clean fuel fleet" program in the Denver-Boulder area;
- Removal of certain procedural rules from the SIP; and
- Amendments to ambient air quality standards for suspended particulate matter as required to match recently revised federal standards.

Repeals provisions relating to the clean fuel fleet program, contingent on Senate Bill

99-117 becoming law.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** July 1, 1999

**NOTE:** Senate Bill 99-117 was signed by the Governor on May 24, 1999.

**H.B. 99-1351** Air quality - visibility - state implementation plan - emission inventories - appropriation. Directs the air quality control commission in the Colorado department of public health and environment to conduct rule-making hearings at least every 5 years, beginning December 31, 2002, to approve updates to the emission inventories from federal and state activities on public lands resulting in the emission of criteria pollutants affecting visibility in class I federal wilderness areas. Incorporates such inventories into the state implementation plan (SIP) planning and approval process.

Requires public participation in the rule-making hearings on the emission inventories and specifies that the inventories shall include stationary sources, off-highway mobile sources, fires, and biogenic sources. Allows the use of data developed within the preceding 3 years so long as the data are no more than 5 years old. Excludes emissions that the commission determines are of minor significance.

States that the cost of emission inventories relating to federal lands shall be borne by the federal government.

Appropriates \$14,702 to the department of public health and environment from the stationary sources control fund for implementation of the act.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** June 2, 1999

## HUMAN SERVICES - INSTITUTIONS

**H.B. 99-1116** Child mental health treatment act - provision of mental health treatment services - repeal - funding - appropriation. Creates the "Child Mental Health Treatment Act". Allows a parent or guardian to apply to a mental health agency on behalf of his or her minor child for mental health treatment services if the child is categorically eligible for medicaid under the capitated mental health system or if the parent believes the child is a child at risk of out-of-home placement. Defines the terms "mental health agency" and "child at risk of out-of-home placement". Requires the mental health agencies to evaluate and clinically assess the child's need for mental health services and, when warranted, provide the treatment services, subject to available appropriations, as may be necessary and in the best interests of the child and the child's family. Establishes an appeal process if residential services are denied.

Provides that if the mental health agency, in assessing the child, determines that there may be dependency or neglect issues involved that may warrant an investigation by the county department of social services, the mental health agency shall immediately contact the county department. Directs the mental health agency, the county department, and the family to meet within 10 days after the referral to the county. Upon referral, directs the county department to conduct an assessment to determine whether a dependency or neglect action is warranted. Directs the county department, upon determination that there may be mental health issues involved, to meet with a representative of the mental health agency and the family. Directs the county department, in conjunction with the mental health agency, to determine whether mental health services or county services are more appropriate.

Requires the mental health agencies to monitor certain information about services provided and to report to the department of human services by September 1, 2002. Requires the department of human services to report such information in aggregate to the general assembly by December 1, 2002.

Identifies the funding for such mental health services, including private insurance, federal medicaid funding, service fees based on a sliding scale, and the general fund. Directs the state board of human services, in consultation with the department of health care policy and financing, to promulgate rules implementing a sliding scale for the payment of mental health treatment services.

Directs the department of human services to utilize, when appropriate, the established mental health and grievance processes to assure parents access to mental health services. Directs the state board of human services to promulgate rules to assure that a dispute resolution process is available for disputes between county departments of social services and mental health agencies.

Repeals the "Child Mental Health Treatment Act", effective July 1, 2003.

Appropriates \$226,545 to the department of human services for implementation of the act. Adjusts the general fund appropriation to the capital construction fund made in the annual general appropriations act \$226,545.

**APPROVED** by Governor May 29, 1999

**EFFECTIVE** May 29, 1999

**H.B. 99-1223** Employment of personnel working with vulnerable persons - background

checks - consumer-directed attendant support pilot program exception - appropriation. Requires the department of human services ("department") to conduct criminal background checks for any state personnel system employee who is hired for a position in which the person would have direct contact with vulnerable persons. Makes the criminal background checks and employment disqualification requirements in the act apply to state employees who work directly with mentally ill persons and developmentally disabled persons receiving services in state-operated facilities pursuant to title 27, C.R.S., persons receiving vocational rehabilitation services from the department, persons residing in state veterans nursing homes, persons receiving services provided directly by the department in a state-operated facility or in a vulnerable person's home or residence, and juveniles in the custody of the division of youth corrections in the department.

Requires the executive director of the department or his or her designee to designate those contract positions that involve direct contact with vulnerable persons that will be subject to criminal background checks and the requirements of the act. Directs that any contract made by the department with a person for a designated contract position shall include terms and conditions similar to those imposed on state employees, including criminal background checks, self-reporting requirements, and suspension and termination for persons who commit disqualifying criminal offenses.

Disqualifies a person from employment in a position involving direct contact with vulnerable persons either as an employee or as a contracting employee if a criminal background check indicates that the person was convicted of, adjudicated for, pled guilty to, or received a deferred judgment, sentence, or adjudication for a specified disqualifying felony offense. Mandates that a person who is so disqualified shall not be hired or retained by the department or contracted with or continued in a contract position that has been designated as involving direct contact with vulnerable persons.

Disqualifies a person from employment involving direct contact with vulnerable persons either as an employee or as a contracting employee if the person has been convicted of certain misdemeanor offenses within 10 years prior to application, but allows the person to request a reconsideration of disqualification and a review of whether the person poses a risk of harm to vulnerable persons. Sets forth the standards for such a review.

If the person was adjudicated a juvenile delinquent as a result of commission of the disqualifying offense and more than 7 years have passed since the commission of the offense, allows the person to request a reconsideration of disqualification and a review of whether the person poses a risk of harm to vulnerable persons.

Permits a person to request a review of the disqualification if there is a mistake of fact involving the person's identity.

Makes the disqualification provision an exception to the statute that prohibits denying public employment based upon a conviction of a felony or other offense involving moral turpitude. Declares that for purposes of terminating employees in the state personnel system who are convicted of criminal conduct, the disqualifying offenses specified in the act are offenses that involve moral turpitude.

Requires an employee in a position involving direct contact with vulnerable persons to report to his or her supervisor if he or she is arrested, charged with, or served a summons for an offense that disqualifies the employee from employment. States that the employee may be terminated from employment if the employee fails to make such a report. Mandates that

the department or any facility operated by the department advise its employees and contracting employees in writing of the self-reporting requirement. Requires the department to suspend the employee until the criminal charges are resolved or administrative action is completed if the offense involves a disqualifying felony offense. Provides that an employee who is charged with a disqualifying misdemeanor offense may be suspended at the discretion of the department until the criminal charges are resolved or administrative action is completed. Requires the employee to be terminated if he or she is convicted of or pleads guilty to a disqualifying offense. States that nothing in the act shall preclude the department or the director of any facility operated by the department from adopting a policy regarding self-reporting of arrests or a policy regarding disqualification from employment that includes offenses other than the disqualifying offenses set forth in the act.

Excludes a person hired by an individual in the consumer-directed attendant support pilot program from complying with the requirements for certification as a nurse aide.

Applies the criminal background checks, self-reporting requirements, and disqualification provisions to persons hired by or entering into new contracts with the department on or after July 1, 1999, and to persons hired by or who have contracted with the department prior to July 1, 1999, who commit disqualifying criminal offenses on or after July 1, 1999.

Appropriates \$21,112 and 0.1 FTE to the department of public safety, Colorado bureau of investigation, from cash funds received from the department of human services for criminal background checks.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** July 1, 1999

## HUMAN SERVICES - SOCIAL SERVICES

**S.B. 99-10** Aid to the needy disabled program - persons authorized to perform physical examinations. Allows physical examinations of applicants for the aid to the needy disabled program to be conducted by a certified physician assistant, an advanced practice nurse, or a licensed registered nurse who is functioning within the scope of such nurse's license and training. Directs that the supervising physician or the physician or nurse who conducted the examination shall certify in writing the diagnosis, prognosis, and other relevant medical information relating to the applicant's disability.

**APPROVED** by Governor March 24, 1999

**EFFECTIVE** March 24, 1999

**S.B. 99-12** Colorado works - program - development of individual responsibility contracts. Provides that assessments prepared prior to the development of an individual responsibility contract ("IRC") under the Colorado works program apply to participants who are 16 years of age or older but not yet 18 years of age and who have not completed high school or obtained a GED and are not attending high school or participating in a GED program. Allows updated assessments to be conducted at the discretion of the county.

Requires that an IRC be developed for any participant who has been assessed. Requires the county department to seek the input and involvement of the participant when developing the IRC.

Repeals a provision that relates to the assessment of and preparation of IRC's for persons who were receiving aid to families with dependent children prior to the implementation of TANF, since that process has already occurred.

**APPROVED** by Governor April 13, 1999

**EFFECTIVE** April 13, 1999

**S.B. 99-21** Colorado works - county duties - written policies. Directs the board of county commissioners of each county to adopt official written policies for its Colorado works program. Specifies that such written policies shall include a description of the kinds of assistance that are available, any eligibility criteria for assistance unique to the county, and the process by which eligibility and assistance is determined. Requires the board of county commissioners of each county to make the policies available to applicants and participants.

**APPROVED** by Governor April 15, 1999

**EFFECTIVE** April 15, 1999

**S.B. 99-67** Aid to the needy disabled program - medically correctable program - report of health care benefits - appropriation. Makes the medically correctable pilot program for aid to the needy disabled persons a permanent program. Increases the cap on a disability that can be corrected under the medically correctable program from \$10,000 to \$20,000.

Directs the department of health care policy and financing ("department"), in consultation with the department of human services, to develop a program to rank health and medical care needs for aid to the needy disabled (AND) who are not receiving medicaid. States that such program shall be designed to serve AND recipients during the interim period before the person qualifies for federal supplemental security income benefits. Directs that the department submit a written plan to the joint budget committee on what type of health and

medical care services can be provided to such recipients within available appropriations. States that such plan shall include recommendations on how the program can be limited to available appropriations, how utilization of services can be managed, and how services can be provided. Requires the department to include any recommendations for any legislative changes or budgetary changes that may be needed to implement the health and medical care program. States that the program shall be funded annually from appropriations made by the general assembly and from other sources.

Appropriates \$150,000 to the department of human services for allocation to the medically correctable program.

Provides that sections 1 through 3 of this act shall not take effect if the electors disapprove Senate Concurrent Resolution Number 99-002. However, that resolution was not enacted by the General Assembly and will not be submitted to the electors. Therefore, sections 1 through 3 will not take effect.

**APPROVED** by Governor May 20, 1999

**EFFECTIVE** July 1, 1999

**S.B. 99-152** Child care - criminal background checks - inspections - fines - negative licensing action - pilot program - appropriation. Adds conviction for a crime of violence or certain other felonies as a basis upon which a child care license or foster care home certificate shall not be issued. Adds conviction for third degree assault, any misdemeanor involving domestic violence, the violation of a restraining order, or misdemeanor child abuse as a basis upon which the department of human services ("department") may deny, suspend, revoke, or make probationary a child care license or fine the licensee.

Requires all foster care provider applicants and child care license applicants, owners, employees, licensees, and adults residing in a licensed facility to obtain a criminal record check. Exempts temporary employees working less than 90 days at a children's residential camp from such record check and establishes other safeguards in such situations. As part of the investigation determining whether an applicant for a child care license is the subject of a report of known or suspected child abuse, authorizes the disclosure of a person's name who has been designated by the central registry of child protection as "status pending" due to a pending administrative appeal.

Requires the state board of human services to promulgate rules requiring the recertification of foster care homes every 3 years. Requires all applications for the licensure of a child care facility or certification of a foster care home and for employment at a child care facility or foster care home to include a notice to the applicant that he or she is guilty of second degree perjury if he or she knowingly or willfully makes a false statement regarding a material fact on the application, and establishes the statutory basis for such crime.

Requires the state board of human services to promulgate rules concerning the on-site public availability of inspection reports and the display of facility licenses in a prominent and conspicuous place during operational hours of the facility. Directs the department to send a written notice to each facility that is the subject of an inspection for which there were no serious violations. Requires such a facility to provide copies of the notice to the parents and legal guardians of the children cared for at the facility.

Requires applicants seeking certification as foster care homes to provide a list of all of the departments of social services and child placement agencies that had previously



certified the home. Directs the department or agency to conduct a reference check of the applicant.

Authorizes the imposition of a fine for certain actions by a child care licensee. Authorizes the department to assess fines against a licensee or other person who willfully and deliberately or consistently violates the standards prescribed by the department or by law. Prohibits a licensee or a person employed by or residing in the home of a licensee from using controlled substances or consuming alcohol during operational hours and from being under the influence of controlled substances or alcohol during operational hours; except exempts foster care providers from such restrictions unless the use or consumption impairs the foster care provider's ability to properly care for children.

Directs the department to notify the parents or legal guardians of children cared for in a facility against which any negative licensing action was taken. Defines the term "negative licensing action". In such circumstances, requires the facility to provide the department with the names and mailing addresses of the parents or legal guardians of the children at the facility and authorizes the department to assess the cost of the mailing against the facility. Requires the state board of human services to promulgate rules requiring the provision of information to parents and legal guardians concerning the procedure to follow in filing complaints against a licensed facility.

Creates the child care cash fund to which fines shall be transmitted. Specifies that all interest derived from the deposit and investment of moneys in the existing child care licensing cash fund are to be credited to the fund.

Directs the department to conduct a 9-month pilot study in 3 counties on the most thorough, timely, and cost-effective means by which to conduct criminal background checks and to report its findings, conclusions, and recommendations to the members of the HEWI committees of the senate and the house of representatives no later than August 1, 2000.

Appropriates \$35,960 to the department, \$10,960 of which shall be from the child care licensing cash fund and \$25,000 of which shall be from federal child care development funds.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** June 2, 1999

**S.B. 99-226** Community consolidated child care services - additional pilot site agencies - report - independent evaluation - appropriation. Directs the department of human services (the "department"), with input from the department of education, to seek 6 additional pilot site agencies through a request for proposal process to provide community consolidated child care services. Identifies the purposes for adding 6 more pilot sites to the existing 12 pilot sites. Provides that the department shall designate 6 of the original 12 pilot sites to serve as mentors for the 6 new pilot sites. Authorizes the department, to add new pilot site agencies in addition to the 6, as the department deems appropriate.

Requires each agency applying for designation as a pilot site agency to identify the number of children it anticipates serving, and requires each designated pilot site agency to report annually the number of children who actually receive consolidated child care services through that pilot site agency. Specifies that each of the 18 pilot site agencies shall be reviewed annually to determine the need for continued pilot designation status and to establish or renegotiate the agency's contract or agreement with the department.

Requires the department to contract with a qualified individual or entity through a request for proposals process to prepare an independent evaluation of the pilot program. Specifies that the evaluation shall be completed no later than October 1, 2001. Identifies the information that the evaluation shall address.

Specifies the general assembly's intent that no additional state moneys are to be appropriated for the implementation of the act.

Appropriates out of any federal child care development funds not otherwise appropriated \$470,000 to the department of human services, division of children, youth, and families for the implementation of the act.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1017** Colorado works program - appeals of individual responsibility contracts. For any applicant or participant in the Colorado works program who believes an individual responsibility contract (IRC) is unreasonable, creates a right to request a review of the proposed IRC by the county department pursuant to a process designated by the county in its written policy. Requires each applicant or participant to indicate by signature on the IRC either agreement with the terms and conditions of the IRC or that the applicant or participant requests a county level review of the IRC. If a review is requested, directs that the county provide the applicant or participant with a county level review by a person not directly involved in the initial determination. Limits the review to determining whether the terms of the disputed IRC are reasonable within the context of the county's written policy. Requires the reviewer to issue a written decision resolving the outstanding issues. Directs the county to specify the time frame for the review in its written policy.

**APPROVED** by Governor May 18, 1999

**EFFECTIVE** May 18, 1999

**H.B. 99-1018** Undocumented aliens - study of options for providing prenatal care - repeal. Authorizes the department of health care policy and financing to review options for providing prenatal care statewide for undocumented aliens through medicaid providers and possible funding sources. Directs the department to seek a federal waiver for implementation of a program that would include federal financial participation for prenatal care for undocumented aliens. Directs the department to report by October 11, 1999, to the joint budget committee and the house and senate committees of health, environment, welfare, and institutions on possible options and funding sources and the possibility of federal funding. Repeals the study requirement and waiver authorization, effective December 31, 1999.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** May 24, 1999

**H.B. 99-1019** Health care task force - creation - composition - duties - abolition of medical assistance reform advisory committee and joint review committee for the medically indigent - appropriation. Creates the Colorado health care task force. Specifies how members of the general assembly will be appointed to the task force. Specifies that members of the task force shall serve without compensation, but shall be reimbursed for all necessary expenses incurred in the performance of their duties. Allows a subcommittee to be appointed to study specific issues. Allows subcommittees to be composed of interested parties to the issue and subcommittees will be chaired by a member of the task force.

Details the subject matter to be studied by the task force and authorizes the task force to recommend necessary legislation to the general assembly. Requires such recommended legislation to be treated in the same manner as recommendations from legislative interim committees.

Provides for the repeal of the provisions creating the task force on July 1, 2004.

Abolishes the joint review committee for the medically indigent and the medical assistance reform advisory committee.

Appropriates \$5,000 and 0.2 FTE to the legislative department for implementation of the task force. Authorizes the legislative council to accept and expend federal funds, grants, gifts, and donations for purposes of the task force's activities.

**APPROVED** by Governor June 1, 1999

**EFFECTIVE** June 1, 1999

**H.B. 99-1089** Colorado works - cash assistance - definition. Defines the term "cash assistance" for purposes of the Colorado works program. Directs the state board of human services to promulgate rules to give meaning to the term "one-time" as used in the statutory definition of "cash assistance", which refers to "one-time short-term assistance". Further directs the state board of human services to promulgate such rules as may be necessary to comply with changes in federal regulations defining the term "cash assistance".

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1090** Restraint of persons - limitations on use. Establishes minimum standards for the use of restraint on persons in certain public and private facilities. Defines "restraint" to include chemical restraint, mechanical restraint, physical restraint, and seclusion. Identifies the circumstances under which an agency may use restraint. Excludes certain facilities and lawful restraint of certain persons from the requirements of the act. Specifies the duties of an agency when applying restraint. Requires that agency staff be appropriately trained in the use of restraint. Requires agencies to document the use of any type of restraint. Directs each agency to establish a review process for the appropriate use of restraint. Requires agencies to adopt rules establishing procedures for using restraint.

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** April 22, 1999

**H.B. 99-1091** Public assistance - Colorado works program - 60-month lifetime maximum for receipt of benefits. Specifies that, as of June 2, 1997, any month of cash assistance received by an assistance unit that includes a caretaker relative who has received cash assistance under Title IV-A of the social security act shall count toward that caretaker relative's 60-month lifetime maximum of benefits. Defines the term "assistance unit". Specifies that any month in which a caretaker relative is determined to be a disqualified or excluded person from a basic assistance grant shall count as a month of participation in the calculation of such person's overall 60-month lifetime maximum. Defines "disqualified or excluded person". Directs the county department of social services, where available and applicable, to provide for or refer a disqualified or excluded person to other appropriate services. States that the requirement for such provision or referral shall not be construed to create an entitlement for services or a requirement for a county to expend resources in

addition to existing appropriations.

**APPROVED** by Governor March 15, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1166** Colorado medical assistance act - personal needs allowance - increase - appropriation. Increases the personal needs allowance payable to a resident of a nursing facility or an intermediate care facility for the mentally retarded from \$34 to \$50.

Appropriates \$14,400, \$7,200 of which shall be from anticipated federal funds, to the department of health care policy and financing, for allocation to the executive director's office, for the implementation of this act. Appropriates \$1,575,200, \$789,175 from anticipated federal funds, to the department of health care policy and financing, for the implementation of this act. Appropriates \$14,400 to the department of human services, office of information technology services, for the implementation of this act. Appropriates \$127,840 to the department of human services, for self-sufficiency, for the implementation of this act. Adjusts the general fund appropriation made to the capital construction fund in the annual general appropriations act by \$829,833.

**APPROVED** by Governor June 1, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1203** Colorado works program - controlled substance abuse control program. Allows a county to elect to implement a Colorado works controlled substance abuse control program. Provides that a county implementing such a program may require a works participant to participate in the program if the participant represents, or a county department finds, that the participant is or is likely to be using controlled substances. Defines the term "controlled substance" to include certain drugs and alcohol beverages.

Specifies that a county department requiring participation in the program shall require the participant to have an assessment by a certified drug treatment provider and to follow a rehabilitation plan, based upon the assessment, developed by a certified drug treatment provider. Further requires the county department to conduct random testing of the participant if such testing is required by the plan and to impose applicable sanctions for nonparticipation in a work activity for failure to follow the rehabilitation plan. Permits participation in a controlled substance abuse control program to constitute a good cause exception to the imposition of sanctions for nonparticipation in a work activity.

Requires the provisions of the individual responsibility contract ("IRC") to contain a notice that, for counties electing to implement a Colorado works controlled substance abuse control program, the IRC may require the participant to participate in a rehabilitation plan based upon the participant's use of a controlled substance. States that a rehabilitation plan may include random drug testing, drug treatment, or other rehabilitation activities.

Specifies that the program may be included as a county-defined work activity. Provides that the participant may be subject to sanctions for nonparticipation in a work activity if the participant fails to meet the requirements of the rehabilitation plan, unless rehabilitation services, are not available, child care or transportation is not available, or the costs of the services are prohibitive.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** June 3, 1999

**H.B. 99-1227** Child Care Licensing Act - Colorado Medical Assistance Act - residential child health care - definition of "residential child care facility". Clarifies that residential child care facilities, as that term is defined in the "Child Care Licensing Act", include publicly sponsored facilities. Adopts the same definition of "residential child care facilities" for purposes of the residential child health care program for medicaid-eligible children.

**APPROVED** by Governor April 8, 1999

**EFFECTIVE** April 8, 1999

**H.B. 99-1238** Medicaid - application of doctrine of contributory negligence. Amends the statute that allows the state to recover medical benefits paid out for a medicaid recipient in cases involving third party liability to eliminate language that provided that a medicaid recipient's contributory negligence is not imputed to the state, thereby allowing the medicaid recipient's contributory negligence to be considered in the same manner as in other negligence cases.

**APPROVED** by Governor May 7, 1999

**EFFECTIVE** January 1, 2000

**H.B. 99-1307** Colorado medical assistance act - home and community-based services for persons with brain injury - elimination of repeal. Eliminates the July 1, 1999, repeal of the "Home and Community-based Services for Persons with Brain Injury Act".

**APPROVED** by Governor March 17, 1999

**EFFECTIVE** March 17, 1999

**H.B. 99-1333** Western slope military veterans' cemetery - income tax checkoff - design and construction - operation and maintenance - appropriation. Creates a new voluntary contribution on individual income tax returns for a western slope military veterans' cemetery ("cemetery"). Limits the voluntary contribution to 3 tax years commencing on January 1, 1999. Credits any amount received, including interest, to the existing western slope military veterans' cemetery fund ("fund"). Specifies that such amounts shall be used for the operation and maintenance of the cemetery.

Directs the division of veterans affairs ("division") within the department of human services, to prepare, develop, construct, and maintain the cemetery, either directly or through contract with a public or private party. Directs the division to seek reimbursement from the federal department of veterans affairs for all allowable costs under federal law. Specifies that the cemetery is intended for the interment of Colorado veterans and their spouses and dependents, but allows the state board of human services to permit by rule the interment of non-Colorado veterans, their spouses, and dependents and to assess a reasonable fee for such interments. Identifies the parcel to be used for the cemetery as a portion of the Grand Junction regional center property.

Appropriates \$300,000 from the state general fund, and specifies that such appropriation be made available for a period of 3 years. Appropriates \$61,200 from the fund to the department of revenue for implementation of the individual income tax return voluntary contribution.

**APPROVED** by Governor May 21, 1999

**EFFECTIVE** May 21, 1999

**H.B. 99-1354** Contribution to national world war II memorial - appropriation. Directs the division of veterans affairs in the department of human services to make a one-time contribution toward the construction of the national world war II memorial in Washington, D.C., recognizing the contributions of the men and women throughout the nation, including Colorado, who honorably served their nation during world war II. Directs that such contribution is to be transferred into the fund created into the United States treasury for amounts contributed from public and private sources to establish such memorial pursuant to federal law.

Appropriates \$134,000 to the department of human services for allocation to the division of veterans affairs. Makes adjustments in the 1999 long bill for the capital construction fund and the department of transportation.

**APPROVED** by Governor May 27, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1373** Colorado medical assistance act - family planning pilot program - federal waiver. Establishes a family planning pilot program for the provision of family planning services to individuals who are categorically eligible for medicaid and who are at or below 150% of the federal poverty level. Directs the medical services board to promulgate rules concerning the family planning services to be provided under the program.

Requires the executive director of the department of health care policy and financing, in consultation with the department of public health and environment, to seek a federal waiver for the implementation of the family planning pilot program that is cost-neutral to the state general fund. Upon issuance of a federal waiver, directs the departments of health care policy and financing and public health and environment to seek the necessary appropriation of general funds through the normal budgetary process for the implementation of the family planning pilot program. Authorizes the executive director of the department of health care policy and financing to accept and expend funds, grants, gifts, and donations for the implementation of the family planning pilot program. Conditions the implementation of the family planning pilot program on the issuance of necessary waivers and available appropriations.

Requires the executive director of the department of health care policy and financing, or such executive director's designee, to prepare a report for the general assembly concerning

the family planning pilot program not more than 3 years after the commencement of the program. Identifies what the report shall address.

Repeals the program 5 years after receipt of the federal waiver or at the time specified in the federal waiver.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1374** Child care licensees - affiliates - standards. Includes within the standards established by the state board of human services for licensing child care facilities whether an affiliate of the licensee has ever been the subject of a negative licensing action. Defines the term "negative licensing action" as the denial, suspension, revocation, or demotion to probationary status of a license. Authorizes the department of human services to deny, revoke, suspend, or make probationary the license of any child care facility if an affiliate of the licensee has been the subject of a negative licensing action.

Defines an "affiliate of a licensee" as either:

- A person or entity owning more than 5% of the ownership interest in the business to be operated by the licensee; or
- A person directly responsible for the care and welfare of the children served.

**APPROVED** by Governor May 29, 1999

**EFFECTIVE** May 29, 1999

## INSURANCE

**S.B. 99-6** Continuing care - return to home. On and after January 1, 2000, requires health insurance carriers, including medicare supplement carriers, to pay for continuing care services provided by an out-of-network provider if:

- The service is one that the carrier would be liable for if provided by an in-network provider;
- The enrollee is returning to the same location where the enrollee resided prior to hospitalization;
- The enrollee has a continuing care contract or rental agreement with the facility at that location;
- The level of care that the enrollee needs may be provided by the continuing care provider and the continuing care provider is licensed as a skilled nursing facility; and
- The provider agrees to abide by the same terms and condition as an in-network provider.

Requires the carrier to pay the provider the same amount for the same services as it would an in-network provider. Establishes a private cause of action for a carrier's violation of the requirements concerning provision of continuing care services.

**APPROVED** by Governor June 1, 1999

**EFFECTIVE** June 1, 1999

**S.B. 99-31** Employee leasing companies - employer benefit plans. Under the "Colorado Employment Security Act" and the "Colorado Health Care Coverage Act", authorizes professional employer organizations that meet the requirements of the definition of "employee leasing companies" to offer fully insured employee benefit plans, including employee welfare benefit plans such as health coverage, to employees to the full extent afforded employers by law.

Specifies that a health plan sponsored by an employee leasing company with an aggregate of more than 50 employees shall comply with all provisions of Colorado law that apply to large employer health plans, including consumer and provider protections, mandated benefits, nondiscrimination and fair marketing rules, preexisting limitations, and other required health plan policy provisions.

Requires employee leasing companies to certify annually in an independent opinion of counsel to the department of labor and employment that it is in compliance with this act. Authorizes the department of labor and employment to require documentation supporting compliance with this act. Requires employee leasing companies to make annual certifications available to insurance carriers upon request. Repeals provisions in the health insurance laws that restrict the ability of small employer group health insurers to provide coverage to employees covered under policies issued to employee leasing companies.

**APPROVED** by Governor March 25, 1999

**EFFECTIVE** March 25, 1999

**S.B. 99-69** Health insurance - business groups of one. Permits carriers to require covered persons to submit certain information to verify eligibility for business group of one health care coverage. Permits health care coverage carriers offering health benefit plans to business



groups of one to establish annual open enrollment periods. With the approval of the commissioner of insurance, provides a procedure for small employer health carriers not to offer coverage to business groups of one if offering such coverage would place the small employer carrier in a financially impaired condition.

**APPROVED** by Governor April 5, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-114** Health insurance - small employer groups - removal of cafeteria requirement. Eliminates the applicability of the small employer group health insurance laws for health benefit plans when the plan is a cafeteria plan, as defined by federal income tax law, when the employer does not sponsor a health benefit plan, and the employer does not pay for any portion of the premium for the health benefit plan.

**APPROVED** by Governor April 15, 1999

**EFFECTIVE** April 15, 1999

**S.B. 99-123** No-fault automobile insurance - payment of claims to 3rd persons. In cases where a health care provider receives an assignment from an insured under a motor vehicle insurance policy, specifies that, when the health care provider bills the insurer, the health care provider shall notify the insurer of the assignment. Requires the insurer to honor the assignment the same as if a copy of the assignment had actually been received by the insurer. Provides that only upon the insurer's request shall a health care provider have to provide a copy of the assignment to the insurer.

Specifies that it is not an unfair practice in the business of insurance for an insurer to attempt to settle any claim by an insured by paying a 3rd person so long as the insurer believes in good faith that the 3rd person holds a written assignment from the insured. Provides that an insurer shall remain responsible to the insured for such amounts pursuant to the terms of the applicable policy in the event the insurer pays a 3rd person that did not hold a written assignment and did not provide services or goods to the insured at the insured's request.

**APPROVED** by Governor April 15, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-124** Health insurance - small employer groups - study - effectiveness - affordability. Finds that the "Small Employer Health Insurance Availability Program Act" introduced broad and ambitious reform of small employer group health insurance. Further finds that affordable access to small employer group health insurance is important and was important in the enactment of the "Small Employer Health Insurance Availability Program Act". Declares that an evaluation should be conducted to determine if health insurance is readily available to small employers, including the business group of one, and if the insurance is adequate and affordable. States that evaluating how small employer's health insurance needs are being met is important and that all interested parties should participate in the dialogue.

Requires the university of northern Colorado to conduct a study of small employer health insurance needs and availability. Authorizes the president of the university of northern Colorado to solicit and disburse grants, gifts, and donations from private entities for the purposes of this study. Requires the president of the university of northern Colorado to deposit moneys collected into the grants and contracts fund established for the university of northern Colorado's research corporation. Allows the president to discontinue work on the study if resources are not committed and made available by August 15, 1999.

Requires the president of the university of northern Colorado to convene a meeting of all interested parties, including, but not limited to, providers and consumers of small employer group health insurance, the division of insurance, and any entities or persons affected by small employer group health insurance, no later than June 15, 1999, to discuss the resources available for this study. Requires the university of northern Colorado to submit a report of the findings from the study to leadership within the general assembly by December 1, 1999.

Includes specific questions to be answered by the study. Lists the information that should be collected as a part of the study. Repeals statutory provisions authorizing the study on July 1, 2000.

**APPROVED** by Governor May 20, 1999

**EFFECTIVE** May 20, 1999

**S.B. 99-135** Advisory committee on continuing education requirements - repeal. Eliminates provisions concerning the continuing education advisory committee, scheduled for repeal effective July 1, 1999.

**APPROVED** by Governor March 24, 1999

**EFFECTIVE** March 24, 1999

**S.B. 99-141** Health insurance - standing referral to a specialist - notice of second opinion. Finds that efficient and easy access to health care providers for 2nd opinions is important for residents. Further finds that a standing referral to a specialist for ongoing treatment for an insured is in the best interests of Colorado residents.

Requires a carrier's contract with a covered person include a provision, along with the health benefit description form, that informs the covered person when the health benefit policy provides coverage for a 2nd opinion for any diagnosis, procedure, or treatment for any condition that such 2nd opinion coverage exists within policy limits.

Requires health insurers providing coverage through managed care plans to allow for a standing referral to an appropriate specialist by a primary care provider for a covered person

when the covered person, primary care provider, and specialist agree a standing referral is necessary. Requires the specialist to refer the insured back to the primary care provider for primary care.

Prohibits primary care providers and specialists from being penalized by the carrier with actions that include, but are not limited to, disaffiliation or disincentives when prescribing a standing referral for a covered person.

**APPROVED** by Governor April 15, 1999

**EFFECTIVE** July 1, 1999

**S.B. 99-210** Certificate of self-insurance - taxis - acceptable proof. Requires the commissioner of insurance to accept a surety bond in an amount determined by the commissioner as proof that a self-insured taxi or other motor vehicle for hire has the ability to pay all judgments that might be entered against the person.

**APPROVED** by Governor May 17, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-217** Sale of insurance by financial institutions - definition. Deletes bank holding companies as defined under federal law from the definition of "financial institution" under the Colorado insurance anti-affiliation law, thereby enabling a nonbank subsidiary of a bank holding company to underwrite insurance in Colorado.

**APPROVED** by Governor May 17, 1999

**EFFECTIVE** May 17, 1999

**S.B. 99-224** Nonprofit hospital, medical-surgical, and health service corporations - conversion to stock insurance company - limitation on ownership interest - repeal. Repeals a 3-year limitation on the permissible combined voting power that an entity or person may own in a stock insurance company that results from the conversion of a nonprofit hospital, medical-surgical, and health service corporation.

**APPROVED** by Governor May 29, 1999

**EFFECTIVE** May 29, 1999

**H.B. 99-1057** Title insurance documents - time period for retention. Decreases the period for which a title insurance company or agent must retain evidence of insurability of a title for which a policy or contract of title insurance was issued from 15 years to 7 years. Increases the period for which a licensed agent of a title insurance company must retain closing and settlement services files and escrow files from 5 years to 7 years.

**APPROVED** by Governor March 10, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1088** Health insurance - medically necessary therapy - children up to five years of age. Clarifies that with the exception of cleft lip and cleft palate coverage, insurance benefits available to newborn children in their first 31 days of life shall include the coverage of all medically necessary care and treatment of medically diagnosed congenital defects and birth abnormalities, notwithstanding policy limitations and exclusions that are applicable to other conditions or procedures covered by the policy.

Clarifies that copayment, deductible, and aggregate dollar policy maximums for coverage of an infant diagnosed with congenital defects and birth abnormalities in the first 31 days of life shall be no higher than generally applicable under the policy to all other sicknesses, diseases, and conditions otherwise covered by the policy.

Specifies that there shall be no age limit on benefits for children born with cleft lip or cleft palate, or both. Specifies that health care service plans may provide that the benefits required by law for newborn children and cleft lip or cleft palate children shall be covered benefits only if the services are rendered by a provider who is designated by and affiliated with the health maintenance organization.

Requires each individual and group health plan to provide medically necessary physical, occupational, and speech therapy for the care and treatment of a child's congenital defects and birth abnormalities up to 5 years of age. Specifies that the level of such therapy benefits shall be the greater of the number of visits allowable under the policy or plan for any other illness or condition or 20 therapy visits per year each for physical, occupational, and speech therapy. Such visits shall be distributed, as medically appropriate, throughout the yearly term of the policy or enrollee coverage contract, without regard to whether the condition is acute or chronic or whether the therapy is to maintain or to improve functional capacity. Provides that therapy benefits are subject to certain existing statutory provisions on waiver of affiliation periods applicable to a preexisting condition. Provides that a health care service plan may require that the physical, occupational, and speech therapy services for congenital defects and birth abnormalities be rendered by a provider who is designated by and affiliated with the health maintenance organization in order for such services to be considered covered benefits.

Specifies that the act applies to health care policies and contracts issued, modified, or renewed on or after January 1, 2000.

**APPROVED** by Governor June 1, 1999

**EFFECTIVE** January 1, 2000

**H.B. 99-1130** No-fault automobile insurance - basic PIP coverage - qualifying income guidelines. Establishes new guidelines for determining income levels required to qualify for a basic personal injury protection policy at 185% of the federal nonfarm income poverty guidelines adjusted for family size. Requires the commissioner of the division of insurance

to establish the eligibility levels on or before January 1 of each year.

**APPROVED** by Governor March 15, 1999

**EFFECTIVE** March 15, 1999

**H.B. 99-1141** Licensees - appointment of producers - filing requirement - elimination. Repeals provisions requiring that formal appointments of insurance producers be filed with the commissioner of insurance. Deletes the requirement that certain fees be paid by insurers to the commissioner of insurance for the appointment of insurance producers. Replaces repealed provisions with a requirement that insurers maintain a current list of producers authorized to accept applications on behalf of the insurer and make such list available to the commissioner for investigative and enforcement purposes.

**APPROVED** by Governor May 18, 1999

**EFFECTIVE** January 1, 2000

**NOTE:** This act shall take effect January 1, 2000, 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. 99-1143** Health care coverage - small group coverage - ceding of risk - continuation of coverage - notice to employee. Eliminates the current requirement that small group health insurance carriers retain at least 50% of their small group risk under ceding arrangements with other carriers.

Clarifies and strengthens provisions relating to replacement of health coverage by:

- Specifying that such provisions apply to group contracts;
- Requiring the prior carrier to continue benefits for covered persons until release from an in-patient facility; and
- Eliminating current provisions that limit the level of benefits applicable to preexisting conditions.

Requires employers to give explicit, written notice to employees of their right to continue health coverage upon termination of employment. Allows an employee to pay any necessary premiums and continue coverage within 30 days if the employer gives the specified notice or within 60 days if the employer fails to give the specified notice.

Clarifies provisions dealing with guaranteed renewal of health benefit plans to specify that discontinuance, in addition to nonrenewal, is an option in cases of nonpayment of premium or other events listed as bases for ending coverage.

**APPROVED** by Governor March 31, 1999

**EFFECTIVE** January 1, 2000

**H.B. 99-1201** Colorado insurance guaranty association - authority. In the definition of "covered claim" in the "Colorado Insurance Guaranty Association Act", clarifies that the definition includes 1st party claims for damage to property with a permanent location in this state. Specifies that the act does not apply to any person with a net worth in excess of \$10

million. Authorizes the Colorado insurance guaranty association to intervene as a party before any court in Colorado that has jurisdiction over an insolvent insurer. Augments the association's authority to recover the amount of covered claims paid on behalf of certain types of persons or entities.

**APPROVED** by Governor March 23, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1231** No-fault automobile insurance - limitation on medical treatment - children under 13. Creates an exception to the 5-year limitation period on medical treatment in the automobile no-fault insurance law. Provides that a reasonable and necessary surgical or reconstructive procedure performed after an automobile accident shall be covered even if it occurs after the 5-year limitation period if the patient is less than 13 years of age at the time of the accident and the surgical or reconstructive procedure cannot be performed because of such patient's lack of physical maturity.

States that, within 5 years after an accident, a licensed physician or dentist may issue a written opinion that reasonable and necessary surgery cannot be performed until after the 5-year period because of a lack of physical maturity, based on a reasonable degree of medical probability and supported by objective evidence. Makes benefit payments for such surgery are subject to the provisions of the policy at the time of the accident, including managed care arrangements. Requires that the treatment be provided before the individual attains 18 years of age.

Requires the claimant or the provider to notify the insurer in writing 90 days before the future surgery or reconstructive procedure. Includes items that must be included in such notice.

States that benefits provided after the 5-year limitation period shall be in addition to benefits paid within such period, subject to coverage limits. Includes record-keeping requirements.

Makes the act applicable to benefits arising out of motor vehicle accidents occurring on or after January 1, 2000.

**APPROVED** by Governor April 5, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1239** Automobile "no-fault" insurance - permissible use. Defines "converter", for purposes of exclusions under "no-fault" insurance laws, as a person other than a named insured or resident relative who uses a motor vehicle in a manner reasonably determined to be unauthorized or beyond the scope of permission given by a named insured or resident relative. Sets forth 3 factors to be considered when determining whether a person is a converter.

**APPROVED** by Governor April 30, 1999

**EFFECTIVE** April 30, 1999

**H.B. 99-1250** Health insurance - claims - prompt payment requirements. Declares that unnecessary delays in the payment of routine and uncontested claims for reimbursement from patients and health care providers represents an unwarranted drain on health care providers' resources and costs patients time and money.

Requires health insurance entities to pay "clean" claims (i.e., those filed on the insurer's standard form and containing all necessary information) within 30 days after electronic filing and 45 days after paper filing. Where additional information is needed for processing, allows 30 days for receipt of such information. Requires investigation and payment or settlement of disputed claims within 90 days, absent fraud. Imposes penalties and interest on late payments.

Provides that these provisions are not applicable to "no-fault" automobile insurance coverage.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** January 1, 2000

**H.B. 99-1275** Health maintenance organizations - powers. Changes the authority of a health maintenance organization ("HMO") to allow an HMO to offer indemnity benefits that do not exceed 20% of the total benefits incurred by the HMO on an annual basis. Clarifies a provision that allows such indemnity benefits to be provided through insurers or nonprofit hospital, medical-surgical, and health service corporations on an unlimited basis.

Increases the minimum amount of surplus an HMO must have before the commissioner of insurance ("commissioner") issues a certificate of authority to \$1,500,000 and requires an HMO to maintain a minimum surplus of \$1,000,000 thereafter. Allows the commissioner to reduce the initial minimum surplus up to \$500,000 if the HMO establishes that it has sufficient administrative infrastructure.

Authorizes the commissioner to promulgate rules to establish standards consistent with the risk-based capital models applicable to managed care organizations developed or adopted by the national association of insurance commissioners to require an HMO to maintain a greater minimum level of surplus than the specified dollar minimums. Establishes a procedure for an HMO that meets the necessary criteria to request a phase-in of any increase in the surplus minimum over a period of 3 years. Allows a hearing before the denial of an HMO's phase-in request.

Increases the amount of an HMO's minimum deposit based upon the number of people enrolled in the HMO. Establishes a procedure for an HMO that meets the necessary criteria to request a phase-in of any increase in the minimum deposit over a period of 3 years. Allows

a hearing before the denial of an HMO's phase-in request.

Makes regulation of insurance holding company systems applicable to HMOs. Changes and eliminates some reporting requirements of HMOs to the commissioner.

**APPROVED** by Governor March 23, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1306** Health insurance - external review when benefits are denied - appropriation. Excludes insurance for workers' compensation injuries, medical and rehabilitation benefits from no-fault automobile insurance, and mandatory self-insurance from independent external review of health care coverage denials. Requires a 3-tiered appeals process for the denial of health benefit insurance coverage. Allows the first 2 tiers to be conducted internally by the insurer. Requires the 3rd tier to be the independent external review.

Declares that covered individuals should have access to independent external review of health care coverage decisions. Defines "covered individual requesting an independent external review" as someone who was denied coverage who has complied with internal appeal decisions. Defines "expert reviewer" as a licensed health care professional who is an expert in the covered person's illness. Defines "expedited review" and sets forth specific deadlines for accomplishing an expedited review. Defines "independent review entity" as an entity that conducts independent external reviews of determinations by health benefit plans. Requires such entities to be certified by the commissioner of insurance. Makes the commissioner of insurance responsible for coordinating the external review process. Requires the disclosure of the ownership and management of the independent external review entity. Forbids conflicts of interest between the reviewer and the plan, the health care providers, and the covered person.

Requires plans to provide external review processes, to notify the covered person of the availability of the process, and to pay the costs of such reviews. Requires the plan to notify persons who have been denied coverage of the availability of independent external review and specifies the contents of that notification. Limits the availability of independent external review to within 60 days after the initial coverage decision.

Sets forth deadlines for the provision of information to the reviewer and for the reviewer to make a determination. Requires the determination to be in writing. Sets forth the required elements of the determination. Makes the reviewer's determination binding on the plan. Specifies that the plan is not required to cover services not included in the contract. Absolves the entity and reviewer from liability for determinations, except for those made in bad faith or involving gross negligence.

Specifies that a violation of these provisions is an unfair method of competition and an unfair or deceptive act or practice in the business of insurance.

Appropriates \$17,500 from the division of insurance cash fund to the division of insurance for the implementation of independent external review.

**APPROVED** by Governor June 1, 1999

**EFFECTIVE** June 1, 2000

(except appropriation section which is effective July 1, 1999)

**H.B. 99-1310** Property and casualty insurance - commercial insureds - exemption for



insurers from filing rate and form requirements with the division of insurance. Makes legislative findings that:

- An exempt commercial policyholder, employing personnel specializing in insurance practices and risk management, is a sophisticated consumer and does not need the state to regulate rates or form certification for casualty and property insurance for such consumer's benefits; and
- Not regulating rate or form certification requirements for insurers selling to exempt commercial policyholders will allow competitive underwriting.

Requires the division of insurance in the department of regulatory agencies to promulgate rules defining an exempt commercial policyholder. Recommends that the division receive suggestions from risk management professionals, insurance managers or buyers, insurer representatives, qualified insurance consultants, and consumers in creating rules defining exempt commercial policyholders. Allows the commissioner to promulgate other rules as necessary to administer the new provisions.

Exempts insurers selling property and casualty coverage to exempt commercial policyholders from rate regulation and approval requirements and form certification requirements of the division of insurance. Provides for review and regulation by the commissioner of insurance for insurers charging anticompetitive rates as defined in Colorado law.

Requires that policies sold to exempt commercial policyholders contain a conspicuous disclaimer that the policy is exempt from rate filing and form certification with the division of insurance and that rate information is available from the insurer upon reasonable request by the commissioner of insurance or the insured.

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** January 15, 2000

**NOTE:** This act shall take effect January 15, 2000, 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. 99-1344** Life insurance - interest on proceeds. Makes the interest rate on life insurance proceeds paid to beneficiaries within the first 30 days after the date of death and receipt of a request for payout the rate of interest for proceeds left on deposit with the insurer and subject to withdrawal on demand.

For claims paid after such 30-day period, makes the rate of interest 2% above the federal discount rate. Specifies that, if a claim is denied and subsequent legal action results in a judgment against the insurer, the rate of interest shall be 4% above the federal discount rate from the date the legal action was filed until payment of the claim, except for situations where proceeds are deposited with the court in an interpleader action. Provides that in all other situations life insurance policy benefits shall accrue interest at 2% above the federal discount rate when such benefits are not paid more than 30 days after the insurer receives a request for payment. Specifies that such rates shall be determined using a weighted average

of the rates in effect during the applicable period based upon the number of days the rate was in effect.

For variable life insurance policies, specifies that, if a policyholder exercises the right to return the policy for a refund within 15 days of its delivery, the amount refunded shall be the account value calculated as of the date the policy is returned plus any policy fee or charge deducted from the policy.

**APPROVED** by Governor May 29, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1371** Health insurance - individual plans for business groups of one - disclosures. Requires any health insurance carrier doing business in both the individual and small group markets, and declining individual coverage to a business group of one self-employed person, to notify the applicant of the availability of coverage in the small group market, both through that carrier and other carriers offering small group coverage.

Requires the disclosure forms that must be given to a business group of one self-employed person purchasing an individual health benefit plan to briefly describe the factors used to set rates for the individual policy being purchased in comparison with the factors used to set rates for a business group of one small group policy. Requires the health insurance carrier to provide the applicant a copy of the health benefit plan description form for the Colorado standard health benefit plan in addition to the description form for the individual plan being marketed, and requires the division of insurance to make available a standard plan description form to individual carriers upon request.

Eliminates the requirement that every application for an individual business group of one policy must include a statement that the sale must comply with the business group of one statutes governing the sale of individual coverage to a business group of one. Deletes the requirement that the signor must certify that, if the sale does not comply with the business group of one statutes, the plan may be regulated as a small group health plan.

**APPROVED** by Governor May 29, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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.

## LABOR AND INDUSTRY

**S.B. 99-14** Wages - minimum wage - preemption of local minimum-wage laws. Declares that issues related to minimum wages are a matter of statewide concern. Prohibits local governments from enacting any jurisdiction-wide laws with respect to minimum wages unless specifically authorized to do so by state law or required to do so to avoid a loss of federal funding. Does not preempt local ordinances covering only employees of the local government.

**APPROVED** by Governor April 14, 1999

**EFFECTIVE** April 14, 1999

**S.B. 99-34** Unemployment compensation - increase in the minimum base period wage eligibility level. Requires an individual to have been paid not less than 40 times the weekly benefit amount or \$2,500, whichever amount is greater, before the individual is eligible to receive unemployment benefits with respect to any week.

**APPROVED** by Governor May 18, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-155** Unemployment compensation - denial of benefits in a defensive lockout - eligibility for benefits in an offensive lockout. Provides that employees are ineligible for unemployment compensation benefits where the employer is engaged in a defensive lockout. Defines a defensive lockout as a lockout reasonably imposed by an employer to protect materials, property, or operations where a union or 2 or more employees represented by a union take economic action against the employer causing the lockout or a lockout by any member of a multiemployer bargaining unit or by an employer engaged in coordinated bargaining with one or more other employers if such lockout is initiated because of a strike or labor dispute involving any member of such multiemployer bargaining unit or coordinated bargaining group.

When unemployment is due to an offensive lockout initiated by the employer, makes the unemployed individual eligible for unemployment compensation benefits.

**APPROVED** by Governor May 19, 1999

**EFFECTIVE** May 19, 1999

**S.B. 99-161** Workers' compensation - benefits - acts of employee reducing benefits - use of controlled substances. Reduces workers' compensation disability payments, other than disbursements to medical providers, by 50% when injury results from the presence of not

medically prescribed controlled substance in an employee's system. Amends the existing posted-notice provision to require the inclusion of notice that benefits may be so reduced.

**APPROVED** by Governor May 17, 1999

**EFFECTIVE** July 1, 1999

**S.B. 99-228** Unemployment compensation - employment support fund - surcharge tax rate. Changes the surcharge tax rate allocated to the unemployment compensation fund from 80% to 50% and the surcharge tax rate allocated to the employment support fund from 20% to 50%, effective July 1, 1999. Mandates that 80% of the surcharge tax revenues will be considered revenues for purposes of calculating the tax surcharge. Effective for calendar year 2000, sets the annual surcharge tax rate at 0.22%.

Removes the automatic termination date of 2002 for the deposit of the surcharge tax into the employment support fund. Eliminates the fiscal-year-end transfer of unobligated amounts to the unemployment compensation fund, thereby retaining such moneys in the employment support fund. Eliminates the provision requiring the department to reduce the funds available to the employment support fund by an amount equal to appropriations for distributions of moneys pursuant to the federal "Reed Act".

**APPROVED** by Governor May 28, 1999

**EFFECTIVE** May 28, 1999

**H.B. 99-1049** Workers' compensation - random selection of an independent medical examiner. If the parties to a workers' compensation claim are unable to agree on the selection of an independent medical examiner (IME), specifies that the division of workers' compensation in the department of labor and employment shall randomly select only one independent medical examiner from the list maintained by the division.

Makes the random selection of an IME applicable to all open cases with a date of injury on or after July 1, 1991, for which a division IME has not been requested.

Clarifies that this section was remedial in nature and designed to cure a flaw in the existing workers' compensation law when enacted in 1998.

**APPROVED** by Governor April 8, 1999

**EFFECTIVE** September 1, 1999

**NOTE:** This act shall take effect September 1, 1999, 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. 99-1061** Unemployment compensation - requirements for award of benefits for inability to work related to health - leave of absence - domestic violence. In order to be eligible for unemployment compensation benefits when the person quits employment due to health reasons, requires a claimant to comply with provisions established by the division of employment and training in the department of labor and employment requiring written medical statements issued by a licensed practicing physician on any matters related to health.

Specifies that an employer will not be chargeable for benefits paid because an employee quits a job for compelling personal reasons not attributable to the employment.

Requires a claimant who is the victim of domestic violence to provide to the division of labor and employment a police report, criminal charges, restraining order, medical records, or any other corroborative evidence documenting the domestic abuse. Also requires the claimant to either be in counseling or have completed counseling and to verify that no claim for unemployment benefits because of domestic violence has been filed within the past 3 years. If a claimant qualifies for benefits for unemployment because the claimant is a qualified victim of domestic violence, provides for benefits to be chargeable to the unemployment compensation fund.

Specifies that an employer will not be chargeable for benefits if an employee does not work due to an authorized and approved leave of absence.

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** August 15, 1999

**NOTE:** This act shall take effect August 15, 1999, 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. 99-1072** Reference checks - employer liability for disclosing information about current or former employees. Provides immunity to employers and their authorized employees, agents, or representatives who disclose information about a current or former employee's job history or job performance to prospective employers. Allows such immunity to only be overcome if the current or former employee shows, by a preponderance of the evidence, that the information was false and that the employer knew or reasonably should have known that the information was false. Defines the term "job performance".

Requires an employer who provides information about a current or former employee to a prospective employer in writing to send a copy of that information to the current or former employee upon the request of such employee.

**APPROVED** by Governor March 31, 1999

**EFFECTIVE** March 31, 1999

**H.B. 99-1100** Eligibility criteria for resident bidders given bid preference on public construction contracts. Requires any residence, registration, unemployment compensation, and other public construction contract bid preference criteria that are applied to Colorado resident bidders doing business in another state or a foreign country to be applied to resident bidders from such state or foreign country that bid for public construction contracts in Colorado for purposes of determining eligibility for a bid preference.

**APPROVED** by Governor March 17, 1999

**EFFECTIVE** March 17, 1999

**H.B. 99-1105** Workers' compensation - benefits - temporary total disability - grounds for

disqualification. In cases where it is determined that a temporarily disabled employee is responsible for termination of employment, prohibits the division of workers' compensation in the department of labor and employment from attributing the resulting wage loss to the employee's injury for purposes of determining the benefits payable to the employee.

**APPROVED** by Governor April 9, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1107** Workers' compensation - benefits - subsequent injury - exclusion of previous impairment. In workers' compensation cases in which permanent medical impairment is an issue, requires that an award of benefits for an injury exclude any previous impairment to the same body part.

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1157** Workers' compensation - increased PPD benefit amount - calculation of benefits for injured workers sustaining a scheduled and not scheduled injury - calculation of benefits for emotional or mental stress. Increases the permanent partial disability (PPD) benefit from \$150 per week to \$176 per week. Requires an annual increase or decrease in this figure based on the state average weekly wage.

Clarifies that scheduled injuries shall be compensated for as scheduled injuries and nonscheduled injuries shall be compensated for as medical impairment benefits, even if one injury causes both types of losses.

Excludes benefits for a mental impairment from being coupled with scheduled or nonscheduled injuries. Limits the definition of "mental impairment" to include only recognized, permanent psychological disabilities. In addition to the current exemption for victims of violent crime, exempts persons whose injuries result in neurological brain damage from the otherwise applicable limitation of no more than 12 weeks of benefits.

**APPROVED** by Governor April 14, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1269** Workers' compensation - acts of employees reducing compensation - materially deceptive statements. Requires that workers' compensation benefits be reduced by 50% where it is shown that any injured employee willfully misled an employer concerning the employee's physical ability to perform the job, and the employee is subsequently injured on the job as a result of the physical ability about which the employee willfully misled the employer.

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** September 1, 1999

**NOTE:** This act shall take effect September 1, 1999, 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. 99-1278** Workers' compensation - cases - Colorado rules of evidence - requirements of proof. Requires that the Colorado rules of evidence and requirements of proof in workers' compensation hearings conform with those in civil nonjury cases in the district courts rather than the state administrative procedure act.

**APPROVED** by Governor May 29, 1999

**EFFECTIVE** May 29, 1999

## MOTOR VEHICLES AND TRAFFIC REGULATION

**S.B. 99-63** License plates - military veterans - motor homes. Allows any person eligible for a military veteran license plate, rather than only recipients of the medal of honor, to apply for a special license plate for a motor home.

**APPROVED** by Governor April 5, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-79** Disabled parking plates and placards - use and penalties - appropriation. Requires the department of revenue ("department") to clearly identify on the vehicle registration card if the owners are persons with disabilities. Requires a disabled parking placard to have clearly printed on it the disabled person's driver's license number or identification card number. Includes in the types of license plates and placards issued for persons with disabilities a special license plate for certain disabled veterans. Requires the department to make an informational pamphlet about the rights and responsibilities of holders available to applicants for disabled license plates or placards.

Prohibits local governments from limiting such disabled parking privilege to less than 4 hours on any public street and requires the posting of such time limits. Prohibits a person without a disability from using a disabled parking space unless it is for the direct benefit of a person with a disability to enter or exit the vehicle and a disabled license plate or placard is displayed in the vehicle.

States that any person who violates the disabled parking privilege shall receive the maximum fine identified for a class B traffic infraction. Authorizes up to twice such fine for a violation by the driver of a commercial vehicle or for the use of a disabled license plate or placard by a person who is not disabled.

Creates a traffic infraction for blocking access to curb ramps or passenger loading zones that are adjacent to a disabled parking space. Creates criminal and civil penalties for fraudulently obtaining, possessing, using, or transferring a disabled parking placard or for knowingly making, possessing, using, or transferring a counterfeit placard. Doubles the penalty for a person who receives remuneration for committing such a violation.

Limits the liability of an innocent holder of a disabled plate or placard if the plate or placard was used illegally and the holder can provide evidence that the plate or placard was in the care, custody, or control of another person without the holder's knowledge or consent.

Effective July 1, 2000, requires the department to deny the reissuance of a disabled license plate or placard for one year for a first violation of the parking privilege statute and for 5 years for a second or subsequent violation.

Effective July 1, 2000, requires a court to send certification of an entry of judgment



to the department for certain violations. Provides that, upon a third entry of judgment against a vehicle owner, the department shall withhold the owner's vehicle registration until the fines have been paid and revoke the license plate or placard.

States that, except as otherwise provided, the act applies to violations committed on or after July 1, 1999.

Appropriates \$142,800 from the distributive data processing fund to the department of revenue for implementation of the act.

**APPROVED** by Governor May 20, 1999

**EFFECTIVE** July 1, 1999

**S.B. 99-164** License plates - broadcasters - call letters - vehicle weight limitation. Raises the weight limit from 5,000 pounds to 10,000 pounds for vehicles registered under call letters assigned by the federal communications commission, which vehicles are furnished with special license plates.

**APPROVED** by Governor May 18, 1999

**EFFECTIVE** May 18, 1999

**H.B. 99-1024** Abandoned vehicles - towing carriers. Allows the public utilities commission to suspend or revoke a towing carrier's license if the towing carrier violates any statutory provisions governing the towing of abandoned vehicles.

Requires law enforcement agencies to assign a case number to each vehicle reported abandoned by a tow operator. Adds other indicia of the motor vehicle's state of origin to the information required to be reported. Upon receipt of the report, requires the department of revenue to search the records of the issuing state if the vehicle is not registered in Colorado.

Adds out-of-state owners and lienholders of abandoned vehicles that are towed from private property to those persons that an operator must notify following the operator's receipt of the department of transportation's vehicle search report. Requires such operator to make a reasonable effort to ascertain the address of an owner of an abandoned vehicle and whether there are lienholders on the vehicle.

Specifies that the sale of certain private tow abandoned motor vehicles be made by the operator through a motor vehicle dealer or wholesaler, wholesale motor vehicle auction dealer, or a classified newspaper advertisement. Provides that such a sale is not made in a commercially reasonable manner if the vehicle is sold to certain persons with a proprietary interest in the operator having possession of the vehicle.

Prohibits an operator from selling an abandoned motor vehicle towed from private property if the owner of the vehicle notifies the operator within 30 days from the date the notice was mailed of the owner's intent to claim the vehicle. Permits the operator to proceed with the sale if the owner provides written consent in such notification or fails to redeem the vehicle within 30 days from the date the operator mailed the notice to the owner of the abandoned vehicle.

Requires that an operator must register with the department of revenue to perfect a lien upon a towed motor vehicle. Specifies the information contained in such registration. Allows the department of revenue to cancel the registration of an operator who violates any statutory

provisions governing the towing and storage of motor vehicles.

For purposes of applying the proceeds from the sale of an abandoned vehicle to an operator's charges, replaces specific maximum amounts that may be applied from the proceeds to those charges with the amount of the operator's reasonable and documented costs from selling the vehicle and a maximum towing charge that is specified in the rules of the public utilities commission.

**APPROVED** by Governor May 7, 1999

**EFFECTIVE** July 1, 2000

**H.B. 99-1026** Driver's licenses revocations - refusals to complete tests - law enforcement subpoenas. Clarifies that the department of revenue may revoke the driver's license of a person who fails to cooperate by taking a test to determine the alcohol content of the person's blood or breath so that the test can be completed within 2 hours of the person's driving a motor vehicle.

Establishes that any subpoena requiring a law enforcement officer's attendance at a driver's license revocation hearing must be served at least 5 calendar days prior to the day of the hearing.

Allows the department of revenue to reschedule a driver's license revocation hearing or a rescheduled hearing if a law enforcement officer required to attend the hearing cannot attend the hearing because of a reasonable conflict, such as training, vacation, or personal leave. Requires the officer or the officer's supervisor to notify the department of the conflict at least 48 hours prior to the hearing.

**APPROVED** by Governor March 24, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1032** License plates - special plates - military veterans - motorcycles. Adds motorcycles to the list of vehicles for which the department of revenue is directed to issue special license plates for certain military veterans.

**APPROVED** by Governor April 30, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1033** Tarps - splash guards. Permits materials, in addition to sand, to be dropped on highways to secure traction. Excludes vehicles transporting aggregate materials from the tarping requirement when such vehicles are:

- Operating entirely within a marked construction zone;
- Involved in maintenance of public roads during snow or ice removal operations; or

- Involved in emergency operations when requested by a law enforcement agency or a designated hazardous materials emergency response authority.

Excludes from the definition of "aggregate material" hot asphalt, wet concrete, or other materials not susceptible to blowing.

Deletes the rear flap requirement for vehicles transporting aggregate material. Requires splash guards for all vehicles being driven or moved on streets or highways, except:

- Certain passenger vehicles;
- Trucks having an empty weight of 10,000 lbs. or less;
- Trailers equipped with fenders or utility pole trailers;
- Vehicles involved in chip and seal or paving operations or road widening equipment;
- Truck tractors or converter dollies when used with other vehicles;
- Vehicles drawn by animals; and
- Bicycles.

Establishes that the violation of the splash guard requirement is a class B traffic infraction.

**APPROVED** by Governor April 14, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1158** Driver's licenses - minor drivers - restrictions - penalties. Declares that a graduated drivers licensing system is needed in Colorado to develop and improve the skills of its teenage drivers in order to reduce the incidence of collisions and fatalities among teenage drivers. Finds that additional training, restrictions, and increased penalties for violation of such restrictions is necessary to reinforce the importance of safe driving.

Reduces the age at which a minor may obtain a temporary instruction permit from a minimum of 15 years and 3 months of age to 15 years of age. Requires a minor to hold an instruction permit for at least 6 months before such minor may apply for a minor driver's license. Mandates that a minor submit a log or other written evidence signed by a parent, guardian, or other responsible adult certifying that such minor has at least 50 hours of actual driving experience, 10 of which were obtained while driving at night, before applying for a minor driver's license. Restricts the department of revenue from issuing a minor driver's license to anyone under 16 years of age.

Prohibits a minor driver under 17 years of age from driving between the hours of midnight and 5 a.m. without a parent, guardian, or other responsible adult except in the case of emergency or driving to and from work. Requires a minor driver under 17 years of age to possess a written statement from the employer or parent if such minor driver is driving to or from work between the hours of midnight and 5 a.m. Makes the curfew inapplicable in areas where a local government has enacted its own curfew.

Requires occupants in vehicles driven by a minor driver under 17 years of age to wear seat belts or use child restraint systems in accordance with current law. Restricts the number of passengers in a vehicle driven by a minor driver under 17 years of age to no more than one passenger in the front seat and no more passengers than seat belts in the back seat.

Makes violation of the night-time driving or passenger restrictions or seat belt

requirements a class A traffic infraction punishable, upon conviction, by a \$35 penalty, a \$4 surcharge, and an assessment of 2 points against a minor's driving record.

Applies to minors who apply for and receive instruction permits and minor driver's licenses on or after July 1, 1999.

**APPROVED** by Governor June 4, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1165** Use of dyed fuel on highway - prohibition - appropriation. Authorizes ports of entry weigh station personnel when inspecting a vehicle required to stop at a port of entry weigh station to check the fuel tank of the vehicle for tax-exempt diesel fuel dyed in accordance with federal regulations. Makes it unlawful for any person to operate a motor vehicle on any public highway using such dyed fuel and specifies increasing penalties for multiple violations within a 12-month period. Allows the department of revenue to conduct audits of persons committing such violations.

Appropriates \$103,167 and 3.2 FTE out of moneys in the highway users tax fund to the department of revenue for implementation of the act.

**APPROVED** by Governor May 18, 1999

**EFFECTIVE** May 18, 1999

**H.B. 99-1179** License plates - validating tabs and stickers. Permits the department of revenue to obtain any validating tab or sticker through normal purchasing procedures. Allows the department of revenue to produce and issue such validating tabs or stickers through any of its authorized agents. Requires that such validating tabs or stickers be produced in accordance with the minimum specifications of the department of revenue and the same quality control standards used by the department of corrections.

**APPROVED** by Governor May 7, 1999

**EFFECTIVE** May 7, 1999

**H.B. 99-1181** Emissions control requirements - government-owned vehicles. Provides that motor vehicles in the program area that are owned by the federal government, the state, a state agency, or a political subdivision of the state are subject to the same emissions inspection requirements as privately owned motor vehicles, instead of subject to an annual inspection. Provides that 1982 and newer model vehicles that are owned or operated by any agency or political subdivision which is authorized and licensed to inspect its own fleet vehicles shall be inspected annually instead of every 2 years. Directs that vehicles suspected of having an emissions problem may undergo voluntary emissions testing. Prohibits motor vehicles owned by the state or any agency or political subdivision thereof that fail an emissions test from qualifying for emissions-related repair waivers.

**APPROVED** by Governor May 28, 1999

**EFFECTIVE** May 28, 1999

**H.B. 99-1256** County enforcement of traffic offenses. Clarifies that counties may adopt the model traffic code, consistent with the power of counties to control and regulate the movement and parking of motor vehicles on public property. Makes any traffic offense adopted as a county ordinance a traffic infraction, and increases the allowable fines from \$600 to \$1000. Makes county traffic infractions subject to the penalty assessment procedure

that allows for mailing of the specified fine, but specifies that the fine or penalty charged and surcharge thereon shall be paid to the county if it relates to a traffic offense authorized by county ordinance. Allows counties to reduce points assessed against a driver's license for violations of county traffic infractions when the person pays a fine through the penalty assessment procedure.

Grants counties the power to adopt ordinances on the movement and parking of vehicles on public property, thus including traffic violations involving bicycles.

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1279** Alcohol-related offenses - mandatory ignition interlock devices. Requires a person convicted of driving under the influence ("DUI") once during any 5-year period to obtain a restricted license for a period of at least 6 months that requires the person, at his or her expense, to install an ignition interlock device for all vehicles for which the person's name appears on the registration or title. States that driver's license revocations for multiple alcohol-related offenses run consecutively rather than concurrently.

Amends the penalties for repeat DUI to conform to federal requirements for full federal funding for highways. For persons convicted of driving under the influence for a second or subsequent time within a 5-year period, requires that:

- The person's license be revoked for not less than one year;
- During the period of revocation, the person be ineligible for a probationary license with an ignition interlock device;
- The person serve at least 10 days in jail; and
- Upon completion of the period of revocation, the person be required to have a restricted license for at least one year that requires the person, at his or her expense, to install an ignition interlock device for all vehicles for which the person's name appears on the registration or title.

Requires that the defendant receive a report of the drug and alcohol evaluation after conviction.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1293** Department of revenue - public records - bulk electronic information transfer system. Requires the department of revenue ("department") to establish a system that allows bulk electronic transfer of information to primary users and vendors. Specifies the sources of the information that the department is authorized to transfer. Allows the department to enter into contracts with primary users and vendors to provide bulk electronic transfer of information. Specifies the minimum required contract provisions. Instructs the department

to report to the general assembly by December 31, 1999, regarding contracts entered into with primary users and vendors.

Prohibits the department from releasing by bulk electronic transfer photographs, electronically stored photographs, digitized images, or fingerprints maintained by the department. Repeals the department's authority to sell photographs, electronically stored photographs, or digitized images for the prevention of fraud.

Requires fees collected pursuant to contracts between the department and primary users or vendors to be credited to the highway users tax fund. Requires the expenses incurred in administering the bulk electronic information transfer system to be paid from the state general fund.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1364** Automated vehicle identification systems (photo radar) - exclusions - service - notices - limitations. Except for the requirement that process be served by a peace officer, excludes speeding violations of 25 miles per hour or more over the speed limit from the statutory requirements and limitations concerning automated vehicle identification devices ("AVID").

Requires all penalty assessment notices or summons and complaints for violations detected using an AVID to be personally served by a certified peace officer or deputy sheriff, prohibits such service by mail, and limits the amount that can be charged for such service to the actual cost of the service. If the state or local government mails a notice of such a violation, requires the state or local government to use certified mail and to include a copy of the photograph and a specific notice that the person has certain statutory rights and may demand personal service.

Except for systems designed to detect violations of traffic control devices, requires the posting of a notice that an AVID is in use ahead. Prohibits the state or local government from requiring the registered owner of a vehicle to disclose the identity of the vehicle driver, but allows the state or local government to require the owner to submit some evidence that the owner is not the driver shown in the photograph.

Limits the penalty for a speeding violation that is detected using an AVID to \$40, but permits doubling of the penalty for such a violation detected in a school zone. Limits the penalty for violation of a traffic control device detected by the use of an AVID to \$75.

Requires persons requesting from the department of revenue or any other state agency the name or address of the registered owner of a motor vehicle to disclose whether the purpose of the request is to determine the owner of a vehicle detected by an AVID. If so, prohibits the department or other state agency from providing the information unless the

county, city and county, or municipality is complying with state law concerning the use of AVIDs. Prohibits any other person from releasing the name or address of the registered owner of a motor vehicle to a county, city and county, or municipality unless the county, city and county, or municipality complies with state laws concerning the use of AVIDs.

**APPROVED** by Governor May 17, 1999

**EFFECTIVE** May 17, 1999

**H.B. 99-1366** Child restraint systems - exemption from required use - repeal. Repeals the exception to the mandatory use of child restraints or safety belts in motor vehicles that allows a child to be transported in a privately owned noncommercial vehicle without the use of a child restraint system or a safety belt system when all seating positions equipped with safety belts or child restraint systems are occupied.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1370** Primary body color - in-person registration - CBI records. After September 1, 1999, requires an in-person application for renewal of a motor vehicle registration to include the primary body color of the vehicle. Includes the primary body color within the information that the department of revenue may require certain entities to verify by physical inspection.

Authorizes the Colorado bureau of investigation ("bureau") to maintain a mirror computer data file of motor vehicle information and to allow law enforcement agencies access to the file through the Colorado criminal information center system. By January 1, 2001, authorizes the bureau to give law enforcement agencies the ability to search multiple fields of motor vehicle information, including vehicle license plate numbers, vehicle identification numbers, manufacturers, models, years, tab, and primary body colors.

**APPROVED** by Governor May 29, 1999

**EFFECTIVE** May 29, 1999

## NATURAL RESOURCES

**S.B. 99-136** Colorado natural areas council - continuation under sunset law. Extends the automatic termination date of the Colorado natural areas council in the department of natural resources to July 1, 2004, pursuant to the provisions of the sunset law.

**APPROVED** by Governor April 5, 1999

**EFFECTIVE** April 5, 1999

**S.B. 99-214** Wildlife management public education fund - funding - donations - promotional space - appropriation. Changes the designation of the wildlife management public education account from an "account" to a "fund".

Requires that any application issued after January 1, 2000, for a limited hunting or fishing license issued by the division of wildlife in the department of natural resources shall contain a checkoff option and any over-the-counter hunting or fishing license shall contain a mechanism, as soon as practicable, to allow gifts or voluntary contributions of money to fund the wildlife management public education advisory council.

Allocates promotional space to the wildlife management public education advisory council in any license brochure published by the division of wildlife. Requires that promotional space need only be provided when orders for new printings are made on or after June 1, 1999, so that existing brochures and applications can still be used until depleted.

Appropriates \$63,260 from the wildlife management public education fund to the department of natural resources, for allocation to the division of wildlife, and \$150,000 from the wildlife management public education fund to the department of natural resources, for allocation to the wildlife management public education advisory council.

**APPROVED** by Governor June 4, 1999

**EFFECTIVE** June 4, 1999

**H.B. 99-1229** Endangered species - legislative action before reintroduction into state. Requires the general assembly to enact legislation regarding a species before that species, which has been declared endangered pursuant to the federal "Endangered Species Act of 1973" or is a candidate for listing and which is not or is no longer found in Colorado, may be reintroduced into the state.

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** October 15, 1999

**NOTE:** This act shall take effect October 15, 1999, 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. 99-1313** Wildlife commission - composition - division of wildlife - type 2 transfer. Increases the number of members appointed to the wildlife commission from 8 to 10 by adding the executive director of the department of natural resources and the commissioner



of agriculture as ex officio nonvoting members. States that no more than 2 voting members may be from any one of the 5 wildlife districts.

Adds a member who represents the sportsmen or sportswomen category. Defines "sportsman", "sportswoman", and "wildlife organization" for the purpose of commission composition. Reduces from 3 to 2 the number of members from the public at large. Except for members who are serving on the commission on January 1, 2000, requires a member to serve his or her entire term, and any subsequent term, representing the category for which such member was originally appointed. Requires all members of the commission to have a reasonable knowledge of wildlife issues, wildlife habitat, or wildlife management. Prohibits a member of the commission from serving more than 2 consecutive 4-year terms. Requires the secretary of the commission to submit to the governor a request for the removal of a member who fails, for reasons other than temporary mental or physical disability or illness, to attend any combination of 3 regular meetings or workshops of the commission during any 12-month period without being excused by the commission, and allows the governor to remove such member.

Increases the number of regular meetings the commission is required to hold from 2 to 6. Requires the commission to hold 6 commission workshops. Mandates that each member hold at least 2 public meetings in his or her own district. Requires that voting members be physically present to transact business, perform any duty, or exercise any power.

Changes the division of wildlife from a **type 1** to a **type 2** agency.

**APPROVED** by Governor May 17, 1999

**EFFECTIVE** January 1, 2000

**H.B. 99-1355** Off-highway vehicle use. Creates an exception to the off-highway vehicle registration requirements for a nonresident off-highway vehicle owner or operator using such off-highway vehicle in the state of Colorado on or after April 1, 2000.

Requires a nonresident off-highway vehicle owner or operator of an off-highway vehicle that is not covered by a valid license or registration of another state or country to obtain a permit for use of the off-highway vehicle within the state of Colorado on or after April 1, 2000. Creates exemptions to the permit requirement for certain vehicles. Establishes that violation of the permit requirement is a class 2 petty offense punishable by a fine of \$35.

Authorizes the division of parks and recreation to issue permits to nonresident-owned or -operated off-highway vehicles for operation of such vehicles within the state of Colorado. Allows permits to be sold by agents and requires the board of parks and outdoor recreation to set permit fees by rule. Specifies the fee for replacement of a lost, mutilated, or destroyed permit. Specifies that the permits are valid for one year or until the following March 31, whichever comes first. Requires permits to be displayed.

Creates a new exception to the prohibition from operating off-highway vehicles on public streets, roads, or highways in order to allow public utilities and cooperative electric associations or their designated agents to perform meter readings and repair.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1380 Wildlife - youth licensing program.** Increases the bag limit for a youth holder of a combination small game hunting, furbearer, and fishing license from one-half of the bag and possession limit to the full bag and possession limits of fish set by the wildlife commission.

Extends the combination youth small game hunting, furbearer, and fishing license and the youth big game license programs until January 1, 2005.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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.

## PROBATE, TRUSTS, AND FIDUCIARIES

**S.B. 99-101** Fiduciaries' powers - grant conservation easements. Amends the "Colorado Fiduciaries' Powers Act" to give fiduciaries the power to grant a conservation easement in gross. States that if the grant is for less than fair market value, the fiduciary must obtain the written consent of interested persons or an order of the court after notice to interested persons, unless a will or trust instrument directs, permits, or requires a donation of a conservation easement in gross.

**APPROVED** by Governor March 17, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-220** Uniform custodial trust act. Adopts the "Colorado Uniform Custodial Trust Act" issued by the national conference of commissioners on uniform state laws.

Allows a person competent to transfer property to create a custodial trust for the benefit of himself or herself or another, such as a spouse or child, and to provide for the future management of assets in the event of incapacity. Allows any kind of property, real or personal, tangible or intangible, to be made the subject of a transfer to a custodial trustee for the benefit of a beneficiary. Provides that while the beneficiary is competent, the beneficiary retains control over withdrawals from accounts and investments. Once the beneficiary is incompetent, provides that the custodial trustee controls the accounts and investments in accordance with the statute and may make payments on behalf of the beneficiary and individuals who were supported by the beneficiary when the beneficiary became incapacitated or who are legally entitled to support from the beneficiary.

Specifies how incapacity is determined by a custodial trustee. Allows for determination of the beneficiary's capacity by the court upon petition of the beneficiary, the custodial trustee, or other person interested in the custodial trust property or the welfare of the beneficiary. Specifies the powers of a custodial trustee.

Allows for the creation of custodial trusts for the distribution of funds by judgment debtors and others to incapacitated persons for whom a conservator has not been appointed. Requires approval by the court for such a trust if the value of the property or debt exceeds \$30,000.

Protects third parties acting in good faith upon instructions of a custodial trustee. Limits claims of third parties to recourse against custodial trust property. Protects the custodial trustee and the beneficiary from personal liability in claims brought by third parties, unless the trustee or beneficiary is personally at fault. Specifies statutes of limitations for bringing actions against custodial trustees.

Specifies the methods for creation and termination of custodial trusts under the act. Provides that a custodial trust terminates, if not previously terminated, upon the death of the

beneficiary.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1175** Probate code - authority of guardians and conservators to petition for dissolution of marriage - establishment of presumption of joint tenancy - private arrangements among successors. Allows a guardian of a ward who is an incapacitated person or a conservator of a protected person to petition the court for authority to commence a proceeding for dissolution of marriage or legal separation on behalf of the incapacitated person or protected person.

Establishes a presumption that tangible personal property in the joint possession or control of a decedent and the decedent's surviving spouse at the time of the decedent's death, where ownership is not otherwise evidenced by a certificate of title, bill of sale, or other writing, is owned by the decedent and the decedent's spouse in joint tenancy with right of survivorship. Declares that the presumption of ownership in joint tenancy shall not apply to:

- Property acquired by either spouse before the marriage;
- Property acquired by either spouse by gift or inheritance during the marriage;
- Property used by the decedent spouse in a trade or business in which the surviving spouse has no interest;
- Property held for another;
- Property devised in a memorandum for the disposition of tangible personal property.

Declares that the presumption of ownership as joint tenants may be overcome by a preponderance of the evidence demonstrating ownership was held other than in joint tenancy.

Clarifies that private agreements made by successors to alter the interests, shares, or amounts to which they are entitled under a will or under the laws of intestacy do not require contractual consideration.

**APPROVED** by Governor April 30, 1999

**EFFECTIVE** July 1, 1999

## PROFESSIONS AND OCCUPATIONS

**S.B. 99-19** Physicians - limited licensure - Shriners hospital for children. Allows physicians who are licensed to practice medicine in another state or territory to apply for and receive a limited license from the Colorado board of medical examiners for the sole purpose of the evaluation and treatment of children under 18 years of age who are potential patients, patients, or out-patients of a Shriners hospital for children. Allows continued treatment for children up to 21 years of age under certain conditions. Provides for the limited license to be valid for a period of 2 years, subject to 2-year renewals. Subjects physicians who receive such limited licensure to standard license renewal requirements.

Permits the Colorado board of medical examiners to charge a fee, not to exceed  $\frac{1}{2}$  the amount of the fee for a 2-year renewal of a physician's license, for the limited license to practice medicine. Subjects the physicians who hold a limited license to disciplinary action by the Colorado board of medical examiners.

**APPROVED** by Governor March 31, 1999

**EFFECTIVE** March 31, 1999

**S.B. 99-44** Alcohol beverages - wine festival permits - requirements. Establishes procedures pursuant to which the state licensing authority shall grant wine festival permits to limited winery licensee applicants. Requires the payment of a \$25 annual fee and the completion of an application on which the applicant shall specify the licensed premises for the festival. Requires the permittee to notify the state and local licensing authorities 10 business days before any wine festival is to be held. Includes procedures for the filing of a supplemental application for subsequent wine festivals. Sets forth reasons why the state licensing authority may deny a wine festival permit or a supplemental application. States that supplemental applications shall be deemed approved unless the permittee receives a notice of denial at least 72 hours before the proposed festival.

Authorizes the permittee and the participating licensees to jointly use the licensed premises for wine tastings and sales of wines manufactured by Colorado wineries. Limits the use of such permits to 9 festivals during a 12-month period and for a duration of only 72 hours for any one wine festival.

States that, if there is a violation of the liquor code during a wine festival and the responsible party cannot be identified, the state licensing authority may notify every participating licensee and fine each an amount not to exceed \$25 per licensee, or \$200 in the aggregate. States that no joint fine shall create or increase civil liability or create joint liability for a participating licensee.

**APPROVED** by Governor April 19, 1999

**EFFECTIVE** April 19, 1999

**S.B. 99-46** Board of nursing - restructure - creation of panels - additional grounds for discipline. Restructures the state board of nursing by providing for election of a president of the board by board members. Specifies that the president of the board shall divide board members into 2 panels for investigation and adjudication of complaints filed against nurses and psychiatric technicians. Provides that each panel shall consist of 5 members with each category of member represented as equally as possible on each panel. Allows the president to sit on either panel.

Prohibits the panel that investigates complaints to adjudicate the same complaints. Allows the use of an administrative law judge after a panel has investigated a complaint. Provides for representation by an attorney for an individual defending against a complaint. Provides for due process in adjudication of complaints in compliance with Colorado law.

Adds investigatory ability to the powers of the board under current law. Includes the ability to perform licensing functions to powers of the panels. Allows panels to hear recommendations from advisory committees and to issue a confidential letter of concern if a matter does not warrant formal action. Makes complaints filed against a nurse or psychiatric technician public when a complaint has been drafted by the office of the attorney general and served on the nurse by first-class mail.

Clarifies that disciplinary procedures for nurses and psychiatric technicians are governed by the new structure of the board. Adds a new ground for discipline for failing to respond to a complaint in a materially factual and timely manner.

Repeals existing statutory provisions now included within the powers and duties of the board and panels.

**APPROVED** by Governor April 8, 1999

**EFFECTIVE** July 1, 1999

**S.B. 99-66** Racing - continuation of division of racing events and racing commission under sunset law. Extends the automatic termination date of the division of racing events in the department of revenue, including the Colorado racing commission, to July 1, 2008, pursuant to the provisions of the sunset law.

**APPROVED** by Governor March 24, 1999

**EFFECTIVE** March 24, 1999

**S.B. 99-81** Racing - pari-mutuel wagering - proceeds - simulcast races. Defines "simulcast facility" to include greyhound tracks as well as horse tracks. Allows a simulcast facility to adopt the rules of the state from which an out-of-state simulcast signal originates concerning takeout percentages and breakage on pari-mutuel wagers.

Allows the director of the division of racing events (division) within the department of revenue to hold outside employment, subject to prohibitions on conflict of interest.

Allows the division increased flexibility in arranging for drug testing of racing animals by eliminating the current requirement for "random" testing.

Specifies that non-racing events may be held at a racetrack upon prior notice to the Colorado racing commission (commission) and subject to the authority of the commission and the division to take all measures reasonably necessary to ensure that such non-racing events do not interfere with the safe and proper conduct of racing at the racetrack.

Provides for summary suspension of racing licenses in animal abuse situations.

Eliminates the advisory committee overseeing distributions from the horse breeders' and owners' awards and supplemental purse fund.

Changes the payment schedule for taxes on racing proceeds from daily to monthly.

Corrects cross references concerning the required duration of live horse race meets under a previous phase-in schedule. Repeals obsolete provisions.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** June 2, 1999

**S.B. 99-99** Real estate professionals - continuation of the division of real estate and the real estate commission - exemption for rights-of-way agents - endorsement for out-of-state brokers - real estate education - license revocation - recovery fund. Extends the automatic termination date of the division of real estate and the real estate commission to July 1, 2008, pursuant to the provisions of the sunset law. Continues the errors and omissions insurance function of the commission until July 1, 2008.

Exempts rights-of-way agents from real estate licensure for activities related to oil and gas, telecommunication lines, wireless communication facilities, cable, electric generation, transmission and distribution lines, water diversion, collection, distribution, treatment, storage and use, and transportation so long as a relocation of a business or residence is not involved in the transaction.

Authorizes the commission to compile and publish licensure passing rates by institutions providing real estate education.

Increases the maximum amount a consumer can access from the recovery fund to \$50,000 per transaction and \$150,000 per license.

Reduces restriction on out-of-state brokers applying for brokers license in Colorado. Creates endorsement for brokers who have a real estate brokers license for 2 years prior to application. Requires the out-of-state licenses to be in good standing. Adds a one-year waiting period before an applicant may reapply for a real estate license after the commission has revoked the license.

Creates a study to be performed by the commission to evaluate a transfer of supervision for real estate schools from the department of higher education to the commission.

**APPROVED** by Governor May 20, 1999

**EFFECTIVE** July 1, 1999

**S.B. 99-109** Real estate professionals - referral fees - interference with brokerage relationship. Prohibits the payment of real estate brokerage referral fees by real estate licensees except in certain limited circumstances. Defines the terms "brokerage relationship", "interference with the brokerage relationship", and "referral fee". Specifies that violations of the section may be enforced by a civil action in a court of competent jurisdiction. Permits the prevailing party to recover, in addition to actual damages, treble damages and reasonable attorney fees.

**APPROVED** by Governor April 15, 1999

**EFFECTIVE** April 15, 1999

**S.B. 99-142** Nursing home administrators - state board membership - license qualifications - continuation of board under sunset law. Increases the membership of the board of examiners of nursing home administrators by adding a licensed long-term health care

professional. Changes removal of a member for neglect of duty to 3 unexcused absences from scheduled board meetings. Requires that members of the board who are nursing home administrators and long-term care professionals be actively licensed and not have lapses of employment greater than 120 days. Increases the term of board members to 4 years.

Mandates that, in order to qualify for appointment to the board, a nursing home administrator be a Colorado resident, currently licensed, and actively engaged in the practice of a nursing home administrator for at least 5 years and not be convicted of a felony related to the practice of being a nursing home administrator.

Repeals duties of the board that duplicate the "State Administrative Procedure Act".

Clarifies the requirements of applicants for examination for licensure to allow them to have:

- Successfully completed an administrator-in-training program;
- A bachelor's degree in business administration, public health administration, health administration, or any other degree deemed appropriate by the board; or
- An associate's degree or higher in a health-care related field with 2 years of experience in supervision or administration in a nursing home or hospital.

Requires the board to promulgate rules defining the educational and experience requirements for licensure as a nursing home administrator.

Extends the automatic termination date of the board of examiners of nursing home administrators until July 1, 2009, pursuant to the provisions of the sunset law.

**APPROVED** by Governor April 19, 1999

**EFFECTIVE** July 1, 1999

**S.B. 99-232** Limited gaming - state historical fund - expenditures. Makes it clear that expenditures from the state historical fund are intended to be used for the purpose of historical restoration and preservation. Prohibits expenditures from the fund unless the state historical society and the cities of Central, Black Hawk, and Cripple Creek adopt standards for distribution of grants from the fund. Such standards shall include requirements that assure compliance with federal standards for historic rehabilitation and requirements that are intended to reduce use of the moneys for personal profit. Requires that expenditures by the cities be for property located within a national historic landmark district or within an area listed on the national register of historic places.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** June 2, 1999

**H.B. 99-1065** Alcohol beverages - club liquor licenses - investigation of licensees. Creates an exception to the requirement that the moral character of all officers, directors, and 10% shareholders be investigated for licensing purposes. Provides that an investigation of the character of the corporate president and the club manager shall be sufficient for club liquor license purposes. Grants state and local licensing authorities the authority to charge a fee for fingerprinting and a background investigation of club managers.



States that an officer or director of a corporation that holds a club liquor license may have an interest in another liquor license.

**APPROVED** by Governor March 17, 1999

**EFFECTIVE** September 30, 1999

**NOTE:** This act shall take effect September 30, 1999, 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. 99-1187 Bingo and raffles - regulation by secretary of state - continuation under sunset law - creation of advisory board - appropriation.** Recreates and reenacts, with amendments, the statutory framework for licensing of bingo and other games of chance through the secretary of state in accordance with article XVIII, section 2 of the Colorado constitution. Extends the statutory and regulatory scheme until July 1, 2008.

Makes the following changes to the prior regulatory scheme:

- Creates an advisory board, designated the Colorado bingo-raffle advisory board, to meet with the secretary of state and recommend changes to the governing statutes and rules, on an ongoing basis.
- Retains the secretary of state as the "licensing authority" with both licensing and enforcement powers.
- Creates a separate cash fund, designated the bingo-raffle cash fund, for revenues generated through the collection of license fees. Prohibits commingling of bingo-raffle revenues with moneys in the existing department of state cash fund.
- Allows for the assessment of monetary fines, in lieu of license suspension or revocation, for violations of governing statutes and rules.
- Provides a mechanism for the issuance of letter rulings on the legality of any proposed new practice or technology by a licensee. Gives the secretary of state 45 days to declare such a practice or technology illegal, otherwise it is deemed legal.
- Ends the secretary of state's existing, informal practice of "rent control" for bingo halls. Requires all rental agreements to be filed with the secretary of state. Establishes a minimum rental period of 5 hours unless otherwise agreed.
- Expressly prohibits fraud and misrepresentation by persons engaged in charitable gaming activity.
- Allows a landlord, supplier, or manufacturer licensee to instruct and train a bingo-raffle licensee in the repair, operation, and maintenance of bingo-raffle equipment in certain circumstances.
- Allows a landlord to sell bingo-related merchandise and supplies in a bingo hall during a bingo occasion and to carry on other activities agreed to by the organization renting the hall.
- Prohibits the use of "pull tab reader" machines that look and act like slot machines unless they are pre-approved and tested to ensure that they cannot be used as slot machines. Requires notice to the secretary of state whenever pull tab reader machines are shipped, received, or moved from one location to

another.

- Allows certain organizations to conduct more than one game of chance simultaneously at separate locations, displaying a duplicate copy of their license at the off-site location.
- Relaxes current requirements for the ownership of all equipment used in games of chance, permitting such equipment to be leased rather than owned outright by the bingo-raffle licensee if certain conditions are met.
- Allows pull tab (raffle) tickets to be sold by a licensed organization independently of a "bingo occasion" run by the organization if such tickets are sold on premises that are either: (a) Owned, leased, or rented by the organization, used as its principal place of business, and controlled so that access is limited to members and bona fide guests; or (b) Licensed premises of a landlord licensee. Changes the requirements for licensing of premises so that premises may be licensed only if used primarily for the conduct of games of chance.
- Increases the maximum number of games of chance a bingo-raffle licensee may conduct to 158 games per year, up from the current limit of 105.
- Increases the maximum single prize for bingo or lotto to \$500 from the current level of \$250, but limits the number of such larger prizes that may be awarded to one per occasion.
- Moves back quarterly reporting deadlines by approximately 2 weeks, from the 15th to the end of the months of January, April, July, and October. Exempts prize money from the existing requirement to report all payments in excess of \$300 to any individual.
- Expressly applies existing antitrust laws and the "volunteer immunity" statute to licensees and volunteer workers, respectively.

Adjusts the appropriation to the department of state in the fiscal year 1999-2000 general appropriation bill by redesignating the source of \$1,205,208 from the department of state cash fund to the bingo-raffle cash fund, and appropriates to the department of state an additional \$4,900 from the bingo-raffle cash fund.

**BECAME LAW** June 5, 1999

**EFFECTIVE** June 5, 1999

**H.B. 99-1215** Alcohol beverages - public transportation system license - alcohol beverage sales authorized. States that any common carrier railroad holding a public transportation system liquor license may sell alcohol beverages by the drink at any event not open to the public, provided the event is held in a museum owned and operated by the licensee. Requires the licensee to notify the local law enforcement agency at least 14 days before the scheduled date of the event.

**APPROVED** by Governor March 31, 1999

**EFFECTIVE** March 31, 1999

**H.B. 99-1217** Electricians - reciprocal licensing agreements with other states. Provides that the state electrical board may enter into reciprocal agreements with electrical boards of other states where the qualifications for electrical licensing are substantially equivalent to licensure requirements in Colorado. Provides that the state electrical board may issue an electrical license by endorsement or by reciprocal agreement to any person who is licensed to practice in another jurisdiction and possesses credentials and qualifications that are substantially equivalent to Colorado's requirements for licensure.

Eliminates a potential 6-month waiting period after an applicant's license is issued in another state before a Colorado license can be issued.

**APPROVED** by Governor April 9, 1999

**EFFECTIVE** April 9, 1999

**H.B. 99-1228** Veterinarians - access to veterinary records. Exempts from inspection under the open records law veterinary data, information, and records on individual animals that are owned by a private individual or business but are in the custody of a veterinary medical practice or hospital that provides veterinary medical care to animals. Provides that a veterinary-patient-client relationship exists when the animal's owner and a veterinarian enter into a mutual agreement for the provision of medical care for the animal and the owner maintains ownership of the animal.

States that veterinary records in the custody of an animal care provider shall be available for inspection only by the owner of the animal or the owner's designated representative. Provides for copies of X rays and other film to be made available to the owner or the owner's designated representative upon payment of reasonable costs. Prohibits records concerning an animal's care from being available to the public if a veterinary-patient-client relationship exists with respect to such animal. Defines "animal care provider".

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1301** Licensing generally - conditions of admission or continued licensure - "pro bono" requirements prohibited. Prohibits any regulatory agency or other instrumentality of state government from requiring a member of a regulated profession or occupation to donate his or her services without compensation to any other person as a condition of admission to or continued licensure in such profession or occupation. Prohibits any requirement for the payment of money in lieu of donated services, but allows credit toward continuing education requirements in exchange for donated services.

**APPROVED** by Governor April 22, 1999

**EFFECTIVE** April 22, 1999

**H.B. 99-1312** Electricians - increase ratio of apprentices to licensed electricians. Finds that the substantial growth in the construction industry and an insufficient number of qualified electricians to meet the industry's demand necessitates increasing the apprenticeship ratio. Further finds that additional employment opportunities will be created by increasing the apprentice ratio for electricians, thus further improving the state's economy.

Increases the ratio of apprentices from one apprentice to 3 apprentices to every one licensed electrician.

**APPROVED** by Governor June 4, 1999

**EFFECTIVE** October 15, 1999

**NOTE:** This act shall take effect October 15, 1999, 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. 99-1329** Bail bonding agents - creation of professional cash bail agents - educational requirements - bonding - licensing - discipline. Creates a licensure category of professional cash bail agent. Requires at least 8 hours of prelicensure education. Specifies that a professional cash bail agent shall be a licensed bail bonding agent for 4 years in Colorado prior to being eligible for licensure as a professional cash bail agent.

Requires a professional cash bail agent to post a qualification bond of no less than \$50,000 with the division of insurance. Restricts a professional cash bail agent from furnishing a single bail greater than twice the amount of the bond posted with the division. Requires that a professional cash bail agent only issue bail in accordance with Colorado law.

Prioritizes the claim of the division over other claims against a qualification bond in the event of a forfeiture of the professional cash bail agent qualification bond. Prohibits a professional cash bail agent from issuing any new bail until the professional cash bail agent's qualification bond is restored to at least \$50,000. Allows forfeiture proceedings on a qualification bond of a professional cash bail agent when the professional cash bail agent's name has been posted on a board pursuant to Colorado law for a period greater than 30 days.

Allows for discipline of a professional cash bail agent's license for failure to post or maintain a qualification bond with the division. Allows for discipline of a professional cash bail agent's license for furnishing a single bail amount in any court in Colorado in an amount greater than twice the amount of the professional cash bail agent's qualification bond.

Includes surety agent, cash bonding agent, and professional cash bail agent within bail bonding agent for the purposes of licenses issued by the division.

**APPROVED** by Governor May 29, 1999

**EFFECTIVE** January 1, 2000

**H.B. 99-1342** Limited gaming - acquisition of slot machine equipment - notice. Eliminates the statutory prohibition against relationships between manufacturers or distributors of slot machine equipment and slot machine operators. Instead requires manufacturers and distributors to provide the division of gaming in the department of revenue with 10 days' notice whenever such manufacturer or distributor knowingly:

- Acquires a financial interest in an operator;
- Employs a person who is also employed by an operator;
- Allows a person with a substantial interest in its business to have an interest in

- an operator; or
- Allows an operator or person with a substantial interest in an operator to have an interest in its business.

**APPROVED** by Governor April 30, 1999

**EFFECTIVE** April 30, 1999

**H.B. 99-1349** Architects - repeal of use of license number. Repeals the requirement that an architect include the architect's license number in advertisements in a Colorado publication.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** May 24, 1999

**H.B. 99-1368** Real estate brokers - referral of title insurance business for remuneration prohibited. Requires the real estate commission to issue rules that:

- Prohibit real estate brokers and broker associates from offering incentives, imposing disincentives, or giving remuneration to another active licensed real estate broker or broker associate to influence the referral of title insurance business to a certain company or agent; and
- Require written disclosure to the buyer or seller when the listing agreement is signed if there will be a referral to a title company in which the real estate broker or broker associate has a financial interest.

States that the rules must include disciplinary measures to be taken against brokers or broker associates who violate the stated conduct and that the rules can be no more restrictive than those adopted by the division of insurance for title insurance companies.

**APPROVED** by Governor May 29, 1999

**EFFECTIVE** May 29, 1999

## PROPERTY

**S.B. 99-221** Declaration of common interest community - amendment by petition to district court. Allows the unit owners' association of a common interest community to petition the district court for any county that contains all or any portion of the common interest community for an order amending the declaration of the common interest community if:

- The association has twice sent notice of the proposed amendment to all unit owners entitled by the declaration to vote on or otherwise approve the proposed amendment;
- The association has discussed the proposed amendment during at least one meeting of the association; and
- Unit owners of units to which are allocated more than 50% of the number of consents, approvals, or votes of the association that would be required to adopt the proposed amendment pursuant to the declaration have voted in favor of the proposed amendment.

Specifies the information and documents that must be included in and with the petition.

Requires the district court to hear the petition and specifies the time frame for such hearing. Requires the association to send notice of the petition to all persons entitled by the declaration to vote on the proposed amendment within a specified time after the filing of the petition. Sets forth requirements for the content and manner of delivery of such notice, but allows the court to approve alternative forms of notice and methods of delivery in emergencies. Requires the association to file a list of the persons entitled to receive notice with the court within a specified time after the filing of the petition.

States that the district court shall grant the petition if it makes specified findings. Requires any amendment to a declaration approved by the district court to be recorded in each county that includes all or any portion of the common interest community, and states that, once recorded, such an amendment has the same legal effect as an amendment adopted pursuant to any requirements set forth in the declaration.

**APPROVED** by Governor May 19, 1999

**EFFECTIVE** May 19, 1999

**H.B. 99-1083** Mobile home parks - required notice upon termination of tenancy. Requires landlords or management of mobile home parks to provide notice of certain provisions of the "Mobile Home Park Act" to a mobile home owner whose tenancy is being terminated under the "Mobile Home Park Act". Describes the contents of the required notice.

**APPROVED** by Governor March 17, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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.



## PUBLIC UTILITIES

**S.B. 99-57** Telecommunications - authority of public utilities commission - confidentiality of utility's books and records - rates - basic service. Defines new products and services potentially exempt from regulation as those "not included in the definition of basic service", as amended by the public utilities commission (PUC), rather than as those "necessary for the provision of" basic service.

Imposes confidentiality requirements on the PUC when it obtains proprietary documents from telecommunications providers under its general authority to inspect books and records. Allows disclosure of such documents pursuant to court order under the state's open records law.

Dispenses with the current requirement for a hearing before the PUC may approve the rearrangement of exchange areas.

Prohibits the PUC from considering a provider's overall rate of return for purposes of determining rates for particular products and services if the provider has sought and obtained approval of an alternative form of regulation under which those products and services are offered.

Moves public coin telephone service from part 2 of the telecommunications law (governing fully regulated products and services) to part 4 (products and services exempt from economic regulation).

**APPROVED** by Governor March 31, 1999

**EFFECTIVE** March 31, 1999

**S.B. 99-153** Natural gas - retail sales - choice of supplier - voluntary plans for market restructuring. Permits natural gas public utilities to file voluntary plans, subject to the approval of the public utilities commission (PUC), for opening the market to competition in the supply of natural gas to consumers. Requires that any such plan contain specified provisions designed to preserve the integrity and reliability of service, unbundle transmission (i.e., pipeline) and delivery services from natural gas supply, prohibit "slamming", and continue funding of existing low-income programs at least through calendar year 2005.

Allows natural gas public utilities to recover "transition costs", defined to include investments made and costs incurred that the PUC finds to have been reasonably and prudently made in the provision of natural gas service to the public before the effective date of a restructuring plan.

Authorizes the PUC to adopt additional rules as necessary to protect the public interest and foster competition.

Declares that the current method of funding the PUC and the office of consumer counsel (OCC) should be replaced by another method. Requires the PUC and OCC to recommend to the general assembly, on or before December 1, 2000, legislative changes needed to develop alternative funding mechanisms.

Directs the PUC to conduct a study of the effects of market restructuring on low-income consumers and report the results of such study to the general assembly within 2 years after implementation of the first voluntary plan that affects a significant number of



low-income consumers.

**APPROVED** by Governor May 28, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-165** Reading services for the blind cash fund - appropriation. Requires the general assembly to make annual appropriations out of the Colorado disabled telephone users fund to the reading services for the blind cash fund for use by the state librarian in support of privately operated reading services for the blind.

Authorizes the public utilities commission to collect information in order to prepare a report to the business affairs and labor committees of the general assembly by December 15, 1999. Requires the report to specify the telecommunications equipment and service needs of disabled telephone users in Colorado.

Appropriates \$93,800 out of the Colorado disabled telephone users fund to the Colorado reading services for the blind cash fund. Further appropriates \$93,800 out of the reading services for the blind cash fund to the department of education for use by the state librarian in support of reading services.

**APPROVED** by Governor May 28, 1999

**EFFECTIVE** May 28, 1999

**S.B. 99-169** Electricity advisory panel - expense reimbursement. Allows members of the electricity advisory panel who reside outside of the Denver metropolitan area to be entitled to reimbursement for their reasonable and actual expenses incurred to attend meetings. Provides that all panel members are entitled to reimbursement for reasonable and actual expenses incurred to attend the public meetings associated with obtaining public comment on the panel's draft report but the total of all reimbursements cannot exceed the amounts appropriated or voluntarily contributed for this purpose.

**APPROVED** by Governor May 18, 1999

**EFFECTIVE** May 18, 1999

**H.B. 99-1114** Railroad crossings - increase in costs to be paid by railroad corporations. Increases the maximum amount that a railroad corporation may be required to pay for railroad crossing construction in any year to \$2.5 million.

**APPROVED** by Governor March 24, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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.

## STATE PUBLIC DEFENDER

**H.B. 99-1350** Conflicts of interest - limitations on withdrawal. Requires the state public defender to specify the nature of the conflict of interest that forms the basis for requesting withdrawal and appointment of the alternate defense counsel. If stating the conflict would violate an ethical obligation, allows for sealing of that portion of the motion and for later review by another judge if necessary. Specifies circumstances that may constitute a conflict of interest and circumstances that do not constitute a conflict of interest. If the court allows the withdrawal of the state public defender and it is later determined there was no genuine conflict of interest, requires the office of the state public defender to reimburse the office of the alternate defense counsel for the cost of the representation.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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.

## STATUTES

**H.B. 99-1106** Colorado Revised Statutes - enactment of 1998 statutes. Enacts Colorado Revised Statutes 1998 as the positive and statutory law of the state of Colorado and establishes the effective date for said publication.

**APPROVED** by Governor February 19, 1999

**EFFECTIVE** February 19, 1999

**H.B. 99-1360** Revisor's bill - revisions to conform, correct, and clarify statutes. Amends or repeals various statutory provisions that are obsolete, inconsistent, or in conflict with other law, clarifies the language and more accurately reflects the legislative intent of the laws. The specific reasons for each amendment or repeal are set forth in the appendix to this bill.

**APPROVED** by Governor May 18, 1999

**EFFECTIVE** August 4, 1999

**Note:** This act 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. 99-33** Enterprise zones - objectives and outcomes - specification and reporting. Requires development plans for new enterprise zones to include specific objectives that have measurable outcomes, information on how the outcomes will be measured, and the specific, verifiable data that will be used to measure such outcomes. Directs the executive director of the department of local affairs to work with zone administrators to ensure that existing enterprise zones have specific objectives with outcomes that can be measured with specific, verifiable data.

Modifies the annual reporting requirements for enterprise zones. Requires the executive director of the department of local affairs to submit to the general assembly an annual report summarizing the information submitted for each enterprise zone. Requires the state auditor to review such reports no later than September 1, 2001, and every 2 years thereafter. Modifies the time and manner in which the state auditor conducts audits of the enterprise zone program.

Requires companies claiming enterprise zone credits to provide information to evaluate enterprise zones. Requires the executive director of the department of local affairs at specified times to create a plan for the termination of enterprise zones that no longer meet the criteria required to be designated as an enterprise zone. After an enterprise zone has been terminated, allows credits to be extended by filing a certification with the taxpayer's income tax return rather than filing with the economic development commission.

Requires the Colorado economic development commission to review each year only specified programs, projects, and organizations to which taxpayers may contribute for enterprise zone tax credits, rather than all such programs, projects, and organizations. Requires the commission to approve the programs, projects, and organizations to which taxpayers may contribute rather than reject any program, project, or organization that the commission determines is not eligible or is not essential to the mission of the zone. Requires a majority of the members of the commission present to approve a program, project, or organization, rather than a two-thirds majority to reject a program, project, or organization.

**APPROVED** by Governor May 20, 1999

**EFFECTIVE** May 20, 1999

**S.B. 99-74** Child care voluntary contribution program - extension. Extends the child care voluntary contribution program for a period of 10 years. Terminates the terms of the 3 current members of the child care improvement oversight committee on January 1, 2000, and requires the governor to appoint 3 new members to the committee for terms commencing on January 1, 2000. Transfers all rights and responsibilities of the Colorado children's campaign with respect to moneys contributed to the Colorado child care improvement fund to the Colorado office of resource and referral agencies, inc. Increases the amount of certain contributions such office may spend to pay its administrative costs.

**APPROVED** by Governor April 15, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-89** Property tax - notice of valuation - itemized listing of characteristics. Requires notices of valuation for the first year of the reassessment cycle to include an itemized list of land and improvements and the characteristics that are germane to the value of each. Phases in this requirement between 2001 and 2005 based upon county population.

**APPROVED** by Governor May 20, 1999

**EFFECTIVE** May 20, 1999

**H.B. 99-1001** Refund of revenues exceeding TABOR limit - sales tax refund - calculation - qualified individuals - income classifications. If the amount of state revenues exceeds the limitation on state fiscal year spending for any given fiscal year commencing on or after July 1, 1998, and voters have not authorized the state to retain and spend all of the excess revenues, requires a temporary state sales tax refund to refund an amount equal to 105% of those excess revenues that are not refunded by another method established by law.

Requires the executive director of the department of revenue to calculate the amount of the identical individual refund. If the amount of the identical individual refund is less than or equal to \$15, requires that each qualified individual be allowed an identical refund. If the amount of the identical individual refund exceeds \$15, requires the executive director of the department of revenue, by October 1 of a calendar year in which there are excess revenues, to calculate the income classifications and state sales tax refund necessary to refund an amount equal to 105% of the excess revenues not refunded by another method established by law. Specifies the procedure for making this calculation when one or more ballot questions are submitted to the voters seeking authorization for the state to retain and spend all or any portion of the excess revenues.

Directs that the executive committee of the legislative council must approve the calculation of the income classifications and sales tax refund amounts, but establishes circumstances under which the classifications and refunds can be automatically approved. Allows the executive committee, upon disapproving the executive director's suggested income classifications or sales tax refund amounts, to specify the classifications or refunds for use by the executive director.

Requires publication of the amounts of the sales tax refund in rules promulgated by the executive director.

Defines a "qualified individual" for purposes of claiming the refund. Makes certain persons convicted of a felony or misdemeanor ineligible for the refund.

Specifies the following 6 income classifications based on a qualified individual's total federal adjusted gross income and social security benefits excluded from adjusted gross income:

- \$0 to \$25,000;
- \$25,001 to \$50,000;
- \$50,001 to \$75,000;
- \$75,001 to \$100,000;
- \$100,001 to \$125,000;

- \$125,001 and above.

Directs calculation of the amount of the sales tax refund for each income classification by dividing an amount equal to a specified percentage of the total excess revenues by the estimated number of qualified individuals expected to claim the refund. Specifies that 2 qualified individuals filing a joint return are entitled to an amount equal to double the amount of the refund allowed for a particular income classification.

Requires the executive director to adjust, for the taxable year commencing January 1, 2000, and ending December 31, 2000, and for each subsequent taxable year, the income classifications and refund amounts so that the percentage of individuals claiming the refund under a particular income classification for those taxable years and the percentage of excess revenues refunded to the individuals for a particular income classification for those taxable years remains the same as each of those percentages for the 1999 taxable year. Requires the executive director to use the most recent general fund estimates prepared by the staff of the legislative council of the general assembly in calculating the refund amounts.

Requires that, to claim the refund, a qualified individual who has income tax liability or who is claiming a refund of withheld taxes must timely file a state individual income tax return, and requires a qualified individual who files a state individual income tax return only to claim the sales tax refund to file that return on or before April 15 of the calendar year following the tax year for which the credit is being claimed.

Based upon the financial statement prepared to ascertain compliance with section 20 of article X of the state constitution, requires the state controller to certify the amount of state revenues in excess of the constitutional limitation on state fiscal year spending for any given fiscal year by September 1 following the end of that fiscal year. Requires the state auditor to conduct an audit of the certified amount of excess state revenues by the September 15 following that certification.

Allows, subject to certain restrictions, a qualified individual who claims a property tax assistance grant or a heat or fuel expenses assistance grant to claim a sales tax refund on the assistance grant application form.

Allows a qualified individual, if the sales tax refund exceeds the income taxes due on the qualified individual's income, to elect to carry forward the amount of the refund not used as an offset against income taxes or as an offset against subsequent years' income tax liability.

Subjects those persons who claim but are not eligible to claim the refund to specified criminal penalties.

Specifies the refund procedure for qualified individuals who have been convicted of a felony and who, at the time of filing for the refund, are incarcerated in a correctional facility or in a county or municipal jail awaiting transfer to a correctional facility. Requires the department of corrections, the department of human services, and each county, to the extent such county has the capability, to provide information to the department of revenue necessary to identify those persons who are ineligible for a refund because of a term of incarceration and those persons who are eligible for a refund but who are incarcerated at the time of filing.

Appropriates \$240,888 and 2.2 FTE to the department of revenue for implementation

of the act. Adjusts appropriations in the 1999 long bill for the capital construction fund and the department of transportation, construction projects.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1002 Sales and use tax exemption - farm equipment.** Creates a state sales and use tax exemption for farm equipment purchased and sold on or after July 1, 1999, and for farm equipment having a market value of at least \$1,000 that is rented or leased on or after July 1, 1999. Defines "farm equipment" to include farm tractors, implements of husbandry, and irrigation equipment having a per unit purchase price of at least \$1,000. Includes in the definition, regardless of purchase price, attachments to exempt farm tractors and implements of husbandry and bailing wire, binders twine, and surface wrap used primarily and directly in any farm operation. Excludes the following from the definition of "farm equipment":

- All vehicles subject to state registration requirements;
- Machinery, equipment, materials, and supplies used in a manner that is incidental to a farm operation;
- Maintenance and janitorial equipment and supplies; and
- Tangible personal property used in any activity other than farming, including office equipment and supplies, and equipment and supplies used in the sale or distribution of farm products, research, or transportation.

Allows counties and municipalities to impose sales tax on farm equipment that is sold or leased.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** June 3, 1999

**H.B. 99-1003 Income tax - elimination of marriage penalty.** Eliminates the state income tax marriage penalty by:

- Reducing the Colorado taxable income of Colorado resident individuals who claim the standard deduction on a joint federal income tax return through an adjustment to their federal taxable income in an amount equal to the difference between an amount equal to double the amount of the federal basic standard deduction for an individual who is not the head of a household and the amount of the federal basic standard deduction for joint filers; and
- Reducing the Colorado taxable income of Colorado resident individuals who claim itemized deductions on a joint federal income tax return in an amount greater than the amount of the federal basic standard deduction for joint filers, but less than an amount equal to double the amount of the federal basic standard deduction for an individual who is not the head of a household,



through an adjustment to their federal taxable income in an amount equal to the difference between an amount equal to double the amount of the federal basic standard deduction for an individual who is not the head of a household and the amount of the itemized deductions claimed.

**APPROVED** by Governor May 27, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1005** Sales and use tax - direct payment permit for qualified purchasers. Authorizes the executive director of the department of revenue to issue a direct payment permit number to any person who meets certain qualifications and designates such a person as a "qualified purchaser". Specifies that a retailer or vendor who receives a direct payment permit number from a qualified purchaser is not liable for collecting and remitting the sales and use tax due on the sale of commodities, services, or tangible personal property to the qualified purchaser.

Authorizes the executive director of the department of revenue to revoke the direct payment permit number of a qualified purchaser under certain circumstances.

Allows a qualified purchaser to provide a direct payment permit number to a vendor or retailer that is liable and responsible for collecting and remitting the sales and use tax due and requires the qualified purchaser to remit the amount of such tax directly to the executive director of the department of revenue. Allows a qualified purchaser who provides a direct payment permit number to retain a vendor's fee.

Subjects the goods and business fixtures of a qualified purchaser to a lien if the qualified purchaser neglects or refuses to remit the amount of sales and use tax due.

Permits the use of a direct payment permit number in connection with the collection of any countywide tax or city or town sales tax and any sales tax levied by the regional transportation district, the scientific and cultural facilities district, the Denver metropolitan major league baseball stadium district, the metropolitan football stadium district, and any local improvement district.

**APPROVED** by Governor February 26, 1999

**EFFECTIVE** January 1, 2000

**NOTE:** This act shall take effect January 1, 2000, 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. 99-1009** Sales and use tax exemption - coins and precious metal bullion. On or after July 1, 1999, reinstates the sales and use tax exemption for coins and precious metal bullion.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** June 3, 1999

**H.B. 99-1012** Property tax - assessment ratio for residential real property. Sets the ratio of valuation for assessment for residential real property for the 1999 and 2000 property tax years at 9.74% of actual value.

**APPROVED** by Governor April 30, 1999

**EFFECTIVE** April 30, 1999

**H.B. 99-1014** Reports - personal property tax schedules - reports concerning tips or remunerations - filing by magnetic media. Requires that personal property tax schedules be designed to show a property owner's social security number or federal employer identification number.

Specifies that persons who are required to file annual reports concerning tips or remunerations for services or remunerations for direct sales must show amounts withheld for Colorado income tax purposes. Authorizes the executive director of the department of revenue to require magnetic media taxpayers to file such reports by magnetic media.

Modifies the definition of "magnetic media taxpayer" for the purposes of filing annual statements of amounts deducted and withheld from employee wages.

**APPROVED** by Governor April 13, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1015** Sales tax - exemption - food sold through vending machines. On and after January 1, 2000, exempts sales and purchases of food through vending machines from the state sales and use tax.

Provides that the sales and use 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, or to any sales tax levied by the regional transportation district, the scientific and cultural facilities district, the Denver metropolitan major league baseball stadium district, or the metropolitan football stadium district.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** January 1, 2000

**H.B. 99-1016** Sales and use tax exemption - substances provided to livestock. Exempts from the state sales and use tax agricultural compounds used to promote the health of

livestock and semen used for agricultural or ranching purposes. Defines the term "agricultural compounds".

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1125** Income tax - corporations - computation of amount of foreign source income apportioned to Colorado. For income tax years commencing on or after January 1, 2000, adjusts the computation of the amount of foreign source income to be apportioned to Colorado for state corporate income tax purposes, which is now based upon a statutory formula involving a set percentage of income, to reflect the effective federal corporate income tax rate during that tax year for all federal taxable income for a given corporation.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1137** Income tax - exclusion of certain interest, dividend, and capital gains income from federal taxable income to refund excess state revenues to comply with TABOR. For any income tax year commencing on or after January 1, 2000, if the controller certifies that the amount of excess state revenues for the state fiscal year ending in that income tax year equals or exceeds \$220 million, and the voters statewide have not authorized the state to retain and spend all of the excess revenues or have authorized the state to retain and spend only a portion of the excess state revenues for that fiscal year, allows an exclusion from federal taxable income for state income tax purposes in an amount equal to the aggregate of any interest income, dividend income, and net capital gains, not to exceed \$1,200 in any taxable year. In the case of two individuals filing a joint return or a qualified individual filing as a surviving spouse, the amount subtracted from federal taxable income shall not exceed \$2,400 in any taxable year.

Requires the executive director of the department of revenue to publish rules pertaining to the state income tax modification allowed by the act. Requires the modification to be included on income tax forms for the taxable year in which it is allowed.

Specifies that, if the controller certifies that the amount of excess state revenues for any state fiscal year commencing on or after July 1, 1999, are less than \$220 million, the state income tax modification shall not be allowed for the taxable year in which the state fiscal year ended. Requires the executive director of the department of revenue to annually adjust the amount of excess state revenues used to determine if the state income tax modification is allowed to reflect the rate of growth of Colorado personal income for the calendar year immediately preceding the calendar year in which such adjustment is made. Defines "rate of growth of Colorado personal income". Requires the executive director to notify the executive committee of the legislative council of the adjusted dollar amount and the basis for the adjustment. Requires the executive committee to review and approve or disapprove such adjustment, and specifies procedures to be followed in connection with such review.

Requires the state controller to certify the amount of excess state revenues for any given fiscal year by a specified date. Requires the state auditor to conduct an audit of the certified amount of excess state revenues by a specified date.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** May 24, 1999

**H.B. 99-1151** Income tax - increased exclusion of retirement income. For income tax years commencing on or after January 1, 2000, increases from \$20,000 to \$24,000 the amount of pension or annuity income that an individual who is 65 years of age or older at the close of the taxable year may subtract from federal taxable income for state income tax purposes.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1155** Income tax - conservation easement credit. For income tax years commencing on or after January 1, 2000, establishes an income tax credit for taxpayers who donate all or part of a perpetual conservation easement in gross created upon real property they own to a governmental entity or charitable organization.

Establishes an amount for the income tax credit equal to the fair market value of the donated portion of the conservation easement in gross when created. Specifies that the credit shall not exceed \$100,000 per donation. Allows any unused portion of the income tax credit to be carried forward for 20 succeeding income tax years. Allows a taxpayer to claim one tax credit per income tax year but does not allow a taxpayer to claim an additional tax credit for any income tax year in which the taxpayer has carried forward part of the unused tax credit from a previous income tax year. To the extent that an amount is claimed as a charitable contribution deduction on a taxpayer's federal income tax return and as a state income tax credit for a conservation easement, requires that such amount be added back into federal taxable income for the purpose of calculating state taxable income.

**APPROVED** by Governor May 28, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1206** Sales and use tax - highway users tax fund - repeal. Makes permanent the

provisions of Senate Bill 97-1 and House Bill 98-1202 that earmarked 10% of the state sales and use tax for the highway users tax fund ("HUTF").

Repeals the "trigger" that provided for a reduction in the amount of sales and use taxes directed to the HUTF when general fund revenues are not enough to fund \$140 million in capital construction outside the 6% appropriation limit. Retains the "trigger" that provides for a reduction in the amount directed to the HUTF when general fund revenues are not enough to fund expenditures up to the 6% appropriation limit.

**APPROVED** by Governor May 7, 1999

**EFFECTIVE** May 7, 1999

**H.B. 99-1207** Income tax - reduction of rate. Lowers the state income tax rate imposed on individual, estates, trusts, domestic C corporations, and foreign C corporations doing business in Colorado from 5% to 4 <sup>3</sup>/<sub>4</sub>% for income tax years commencing on or after January 1, 1999.

Requires the executive director of the department of revenue to include on all income tax forms for income tax years commencing on or after January 1, 1999, a statement explaining that prior to January 1, 1999, the income tax rate for an individual, estate, and trust was 5% of federal taxable income and the income tax rate for corporations was 5% of net income and that the income tax rate was reduced to 4 <sup>3</sup>/<sub>4</sub>% for taxable years commencing on or after January 1, 1999.

**APPROVED** by Governor June 4, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1208** Nonsettling tobacco manufacturers - escrow payments - penalties - appropriation. Enacts the model statute included in the multistate tobacco settlement agreement that would limit the reduction in the state's settlement payments due to increases in market shares by nonsettling tobacco manufacturers. Requires a tobacco manufacturer who is not a party to the master settlement agreement to either agree to the terms of the master settlement agreement or pay into an escrow account specified amounts for each product sold. Permits the manufacturer to receive the interest on the escrow account. Permits the principal of the escrow account to be withdrawn only:

- To pay a judgment or settlement of a claim that would be released under the master settlement agreement;
- To refund any amount paid into escrow that would be greater than the amount that the manufacturer would be required to pay if it were a party to the master settlement agreement; or
- To return the principal amount to the manufacturer 25 years after it was deposited.

Establishes civil penalties for a manufacturer's failure to pay the required amounts into

escrow and, for a second or subsequent knowing failure, authorizes a court to prohibit a manufacturer from selling tobacco in the state for up to 2 years.

Appropriates from the general fund \$140,840 to the department of revenue and \$27,648 and 0.5 FTE to the department of law. Adjusts the general fund appropriation made to the capital construction fund in the annual general appropriations act by \$168,488.

**APPROVED** by Governor May 28, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1216** Tobacco - violating federal laws - prohibition - confiscation - penalty. Prohibits importing into the state any tobacco that violates federal labeling requirements. Prohibits the sale of or affixing the tax stamp to a tobacco package or container:

- That fails to comply with any federal tax, copyright, trademark, or labeling laws;
- If the package or container was marked for use outside of the United States;
- If the package or container was altered to conceal the fact that it was manufactured for sale outside of the United States; or
- If a stamp, decal, or label is placed on the package or container to conceal the fact that it was manufactured for sale outside of the United States.

Establishes that a violation of any of the provisions is a class 1 misdemeanor. Authorizes the department of revenue to confiscate and destroy tobacco for sale at wholesale or retail that is marked for use outside of the United States.

**APPROVED** by Governor March 24, 1999

**EFFECTIVE** March 24, 1999

**H.B. 99-1237** Income tax - expansion of taxable income modification for capital gains to refund excess state revenues to comply with TABOR. For any income tax year commencing on or after January 1, 2000, if the amount of excess state revenues for the fiscal year immediately preceding such income tax year that the voters statewide have not authorized the state to retain and spend is at least \$260 million as adjusted by the executive director of the department of revenue, expands the existing modification to Colorado taxable income that excludes capital gains earned on Colorado real or tangible personal property or ownership interests in Colorado businesses held for 5 years or more and acquired on or after May 9, 1994, to exclude capital gains earned on personal property or ownership interests acquired before May 9, 1994.

For any calendar year commencing on or after January 1, 2000, requires the executive director of the department of revenue to adjust annually the amount of the threshold for allowing the exclusion of capital gains on Colorado personal property and ownership interests in Colorado businesses acquired before May 9, 1994, to reflect the rate of growth of Colorado personal income for the immediately preceding calendar year. Requires the executive committee of the legislative council to review and approve or disapprove such adjustment, and specifies procedures to be followed in connection with such review.

Requires the state controller to certify the amount of excess state revenues for any given fiscal year by a specified date. Requires the state auditor to audit such annual

certification of the amount of excess state revenues by a specified date

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1244** Property tax - period for obtaining valuation data for taxable real property. Changes the period of time used to determine the level of value for a class of taxable real property when adequate comparable valuation data is not available for the 1½-year period prior to July 1 immediately preceding any regular biennial property tax assessment date from 5 years to such 1½-year period, the 6-month period immediately preceding such 1½-year period, and as many preceding 6-month periods within the 5-year period immediately prior to July 1 immediately preceding the assessment date as are necessary to obtain adequate comparable valuation data.

**APPROVED** by Governor March 31, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1246** Income tax - credit for long-term care insurance. Creates a state income tax credit for resident individuals who purchase long-term care insurance. Establishes the amount of the credit at 25% of the amount paid by the taxpayer for the insurance during the taxable year for which the credit is claimed, with a maximum credit of \$150 for each long-term care insurance policy purchased by the taxpayer. Provides that the credit shall be allowed only to individuals filing a single return with a federal taxable income of less than \$50,000, 2 individuals filing a joint return with a federal taxable income of less than \$50,000 if claiming the credit for one long-term care insurance policy, or 2 individuals filing a joint return with a federal taxable income of less than \$100,000 if claiming the credit for 2 such policies. Prohibits the credit from being carried forward and provides that any unused portion of the credit shall not be refunded to the taxpayer.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1249** Severance tax - exemptions - investment income from revenues. For metallic minerals, increases the amount of gross income of a mining operation that is exempt from the severance tax from \$11 million to \$19 million. Creates an exemption from the severance tax for the first 625,000 tons of molybdenum ore that is mined quarterly. Increases the amount of coal that may be produced quarterly before the severance tax is imposed from 8,000 tons to 300,000 tons.

Specifies that all income derived from the deposit and investment of moneys in the severance tax trust fund and the local government severance tax fund shall remain in such funds.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** May 24, 1999

**H.B. 99-1267** Uranium mill tailings remedial action program - extension. Extends until July 1, 2002, the uranium mill tailings remedial action program currently scheduled to expire July 1, 1999.

**APPROVED** by Governor March 31, 1999

**EFFECTIVE** March 31, 1999

**H.B. 99-1271** Sales and use tax exemption - clean fuel vehicles - eligibility of clean fuel fleet program vehicles for income tax credit or rebate. Creates a state sales and use tax exemption for the sale, storage, use or consumption of motor vehicles, motor vehicle power sources, or parts used for converting power sources for motor vehicles that meet specified emissions standards. Specifies a minimum weight for the motor vehicles to qualify for the exemption. Excepts local governments from granting the exemption.

Repeals the existing statutory provision prohibiting a person or qualified entity covered by the clean fuel fleet program from claiming an alternative fuels income tax credit or an alternative fuels rebate.

Applies to the sale, storage, use, or consumption of motor vehicles on and after July 1, 1999.

**APPROVED** by Governor May 28, 1999

**EFFECTIVE** May 28, 1999

**H.B. 99-1311** State taxes - credit based on business personal property taxes to refund excess state revenues to comply with TABOR - appropriation. For state fiscal years commencing on or after July 1, 1998, establishes a credit against state taxes to refund state revenues that exceed the limitation on state fiscal year spending imposed by the state constitution (TABOR) to qualified taxpayers. Defines a "qualified taxpayer" as a natural person, C corporation, partnership, limited liability company that is not a C corporation, or an S corporation that:

- Is domiciled or does business in the state for the entire state fiscal year for which a credit against state taxes is allowed;
- Owns personal property in the state that is not otherwise exempt from the levy



- and collection of personal property tax; and  
Paid personal property tax on such property during the state fiscal year for which a credit against state taxes is allowed.

Requires that the amount of state revenues for the state fiscal year exceed the limitation on state fiscal year spending imposed by TABOR by \$170 million or more before the credit against state taxes is allowed. Requires the executive director of the department of revenue to annually adjust this dollar amount to reflect the rate of growth of Colorado personal income for the immediately preceding calendar year. Requires the executive committee of the legislative council to review and approve or disapprove such adjustment, and specifies procedures to be followed in connection with such review.

Establishes an amount of such credit equal to the lesser of \$500 or the total amount of personal property tax paid by the qualified taxpayer in the state fiscal year for which the credit is being claimed. Establishes an additional credit against state taxes for each qualified taxpayer that paid more than \$500 in personal property tax in the state fiscal year for which the credit is being claimed in an amount equal to 13.37% of the amount of personal property tax paid by the qualified taxpayer that exceeds \$500. Requires each qualified taxpayer to file a form prescribed by the department of revenue and proof of payment of the total personal property taxes paid by the qualified taxpayer with the department of revenue no later than January 31 of the state fiscal year in which a credit against state taxes is allowed; except, for the state fiscal year commencing July 1, 1999, requires such filing no later than August 31, 1999.

Requires the department of revenue to refund the credit against state taxes to each qualified taxpayer. Provides that if the amount of state revenues actually refunded during any given state fiscal year through the credit against state taxes or any other mechanism to refund excess state revenues exceeds the amount of state revenues in excess of the limitation on state fiscal year spending for the immediately preceding fiscal year required to be refunded, then an amount equal to the difference between the amount of state revenues actually refunded and the amount of state revenues from the immediately preceding fiscal year required to be refunded shall be a refund of state revenues in excess of the limitation on state fiscal year spending for the fiscal year in which said state revenues were refunded.

Requires the state controller to certify the amount of excess state revenues for any given fiscal year by a specified date. Requires the state auditor to conduct an audit of the certified amount of excess state revenues by a specified date.

Appropriates \$204,648 and 0.7 FTE to the department of revenue for implementation of the act. Makes adjustments to the 1999 long bill for the capital construction fund and the department of transportation.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1323** Sales tax - refund - refunds disallowed for 1996-97 fiscal year - unrefunded excess state revenues. For purposes of refunding excess state revenues for the 1996-97 fiscal year to certain qualified individuals who, pursuant to a rule of the department of revenue, were not allowed the refund because of the failure to pay all or any portion of the qualified individual's net income tax liability due prior to a certain date:

- Requires the department of revenue to make a state sales tax refund of excess state revenues for that fiscal year to those qualified individuals by a specified date;
- Requires that the amount of any state sales tax refund of excess state revenues for that fiscal year that is outstanding for more than 6 months after the issuance by department shall be added to and refunded with the excess state revenues for the 1998-99 fiscal year.

Requires the addition to the excess state revenues for the 1998-99 fiscal year of any amount of excess state revenues for the 1996-97 fiscal year that are required to be refunded but that are not refunded.

For any amount of excess state revenues for the 1997-98 fiscal year and for every fiscal year thereafter that are required to be refunded but that are not refunded, requires those unrefunded excess state revenues be added to and refunded with the excess state revenues for the following fiscal year that are to be refunded.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** June 3, 1999

**H.B. 99-1335** Sales and use tax - refund - tangible personal property to be used in Colorado for biotechnological purposes. For calendar years commencing on and after January 1, 1999, establishes a refund for qualified taxpayers of all state sales and use tax paid during a given calendar year for the purchase, storage, use, or consumption of tangible personal property to be used in Colorado directly and predominately in research and development of biotechnology. Defines a "qualified taxpayer" as a C corporation, partnership, limited liability company that is not a C corporation, S corporation, or sole proprietorship that purchases, stores, uses, or consumes tangible personal property to be used in Colorado directly and predominately in research and development of biotechnology. Also defines "biotechnology", "research and development", and "tangible personal property".

Requires the refund to be claimed no earlier than January 1 and no later than April 1 of the calendar year following the calendar year for which the refund is claimed. To obtain the refund, specifies that the qualified taxpayer must file a form prescribed by the department of revenue, provide such additional information as the department may require, and shall also submit proof of payment of the total state sales and use tax paid.

**APPROVED** by Governor May 17, 1999

**EFFECTIVE** May 17, 1999

**H.B. 99-1339** Property tax - exemption of child care centers affiliated with not-for-profit schools - classification as school. For property tax years commencing on or after January 1, 1999, expands the property tax exemption for not-for-profit private schools by modifying the definition of "school" to include any licensed child care center operated by and as an integral part of a not-for-profit educational institution that requires daily attendance and has a curriculum comparable to that of a public elementary or secondary school or college.

Specifies that an educational institution that maintains hours of operation in excess of the minimum hour requirements for public elementary and secondary schools may be classified as a "school" for property tax purposes.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** June 3, 1999

**H.B. 99-1345** Income tax - credit for qualified costs incurred in the preservation of historic properties. Extends through January 1, 2010, the state income tax credit, currently scheduled to expire January 1, 2000, for qualified costs incurred in the preservation of historic properties. Increases the income tax liability carry forward period from 5 to 10 years.

To conform with the January 1, 2010, extension date, adjusts certain deadlines affecting the amount of the tax credit allowed for rehabilitation projects that receive preliminary approval, but are not completed, prior to January 1, 2010.

Removes the limitation on claiming the tax credit for taxpayers who receive a federal income tax credit for the same project. Authorizes the reviewing entity to reduce or eliminate the fees for small rehabilitation projects. Permits certification of rehabilitations commenced prior to submitting an application where acceptable documentation exists of property conditions prior to rehabilitation.

Clarifies that, when more than one taxpayer qualifies for the tax credit, the amount of the tax credit shall be divided pro rata unless a binding agreement is on file with the appropriate reviewing entity that specifies a different method for allocating the credit.

Applies to the restoration, rehabilitation, or preservation of historic properties commenced on or after the effective date of this act.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** June 3, 1999

**H.B. 99-1377** Sales and use tax - exemption - veterans' organizations. Amends the definition of "charitable organization" for purposes of state sales and use taxation to include any veterans' organization registered under section 501 (c) (19) of the federal internal revenue code for the purpose of sponsoring a special event, meeting, or other function in the state of Colorado so long as such event, meeting, or function is not part of that organization's regular activities.

Specifies that any veterans' organization that qualifies as a charitable organization is exempt from state sales and use tax only for the purpose of sponsoring a special event, meeting, or other function that is not part of the organization's regular activities.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** June 3, 1999

**H.B. 99-1381** Sales and use tax - exemption - pesticides. Exempts from the state sales and use tax pesticides registered for use in the production of agricultural and livestock products and sold through licensed pesticide dealers. Requires the commissioner of agriculture to advise the house and senate agriculture committees regarding the effectiveness of the exemption in making Colorado pesticide dealers more competitive with pesticide dealers from bordering states where pesticides are not subject to sales and use tax. Requires the

commissioner to also make recommendations to said committees regarding the elimination of the sales and use tax on other agricultural compounds used in the production of agricultural and livestock products. Allows municipalities and counties to impose sales tax on the pesticides exempted from the state sales and use tax.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** July 1, 1999

**H.B. 99-1383** Income tax - earned income tax credit to refund excess state revenues to comply with TABOR - appropriation. For any income tax year commencing on or after January 1, 1999, if the amount of excess state revenues for the fiscal year that ends in such income tax year that voters have not authorized the state to retain and spend is \$50 million or more, allows an earned income tax credit for resident or part-year resident individuals who claim a federal earned income tax credit. For any calendar year commencing on or after January 1, 2000, requires the executive director of the department of revenue to annually adjust the threshold amount of state excess revenues required for allowing the earned income tax credit to reflect the rate of growth of Colorado personal income for the immediately preceding calendar year. Requires the executive committee of the legislative council to review and approve or disapprove the adjustment, and specifies procedures to be followed in connection with such review. Requires the executive director to publish any earned income tax credit allowed in rules and to include the credit on income tax forms for the applicable income tax year.

For a resident individual, sets the amount of the credit at 8.5% of the amount of the federal earned income tax credit. For a part-year resident, sets the amount of the credit at 8.5% of the amount of the federal earned income tax credit earned while a resident of Colorado. Requires any earned income tax credit that exceeds an eligible individual's income tax liability to be refunded to the individual. Specifies that if the amount of state excess revenues actually refunded through one or more refund mechanisms during any given fiscal year exceeds the amount of state excess revenues for the immediately preceding fiscal year that are required to be refunded, the additional moneys refunded shall be deemed a refund of excess state revenues for the fiscal year in which such moneys were refunded.

Requires the state controller to certify the amount of excess state revenues for any given fiscal year by a specified date. Requires the state auditor to audit the certification of excess state revenues by a specified date.

Appropriates of \$64,922 to the department of revenue, information technology division, for implementation of the act.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** June 3, 1999

## TRANSPORTATION

**S.B. 99-40** Transportation commission - development of statewide transportation policy - intrastate commercial air service policy. Requires the transportation commission to formulate and recommend a statewide transportation policy to the governor and the general assembly within one year. Directs the commission to consider and prioritize the development and improvement of all modes of transportation and to coordinate recommendations relating to commercial air service with recommendations for improvements of the state transportation system as a whole. Make legislative findings.

**APPROVED** by Governor June 4, 1999

**EFFECTIVE** June 4, 1999

**S.B. 99-88** High occupancy toll lanes. Requires the department of transportation, on or before July 1, 2001, to issue a request for proposals to private entities for the purpose of contracting with a private entity for the conversion of an existing high occupancy vehicle (HOV) lane to a high occupancy toll (HOT) lane and for the operation of the HOT lane. Allows the department to convert or operate the HOT lane, or both, in the event that no proposal by a private entity for the conversion or operation, or both, is acceptable.

Specifies that a HOT lane is a lane for use by vehicles carrying less than the specified number of persons for an HOV lane that pay a toll or fee.

Specifies the provisions an agreement for the construction of a HOT lane must include. Requires the department to structure a variable toll or fee to ensure a level of service C and unrestricted access to the HOT lane by eligible vehicles. Prohibits the department from entering into a contract for a HOT lane conversion if the conversion will result in the loss or refund of federal funds for state highways.

Requires the department to develop and adopt specifications and standards for an automatic vehicle identification system for use on HOV lanes, HOT lanes, and public streets or highways where tolls or charges are imposed.

Specifies that certain EPA certified light-duty vehicles or light-duty trucks are inherently low-emission vehicles, regardless of whether the vehicles or trucks are part of a motor vehicle fleet.

Authorizes the department, as part of the department's powers under the public-private initiatives program, to enter into agreements with private entities for the design, financing, construction, operation, or maintenance of HOT lanes.

**APPROVED** by Governor June 3, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1031** Department of transportation - highway project bid awards. Creates an exception to the requirement that the department of transportation reject all bids for a highway construction project if there are less than 3 bidders on the project and the low responsible bid exceeds the estimate of the department on the project by more than 10% by allowing the executive director of the department to make an award to the low responsible bidder if:

- The department's estimate on the project is less than \$1,000,000;
- There are fewer than 3 bidders; and
- The award is more than 10%, but less than 25%, over the department's estimate.

**APPROVED** by Governor May 17, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1036** Hazardous materials in Eisenhower tunnel. Corrects a technical error by authorizing the transportation commission to regulate the hours during which hazardous materials may be transported through the Eisenhower tunnel.

**APPROVED** by Governor March 15, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1324** Department of transportation - design-build contracts. Authorizes the department of transportation to select a design-build firm and award a design-build contract for transportation projects. Defines "design-build contract". Authorizes the department to include a warranty provision in a design-build contract that requires the design-build firm to perform maintenance services on the completed transportation project.

Authorizes the department of transportation to use a design-build contract if the design work for a transportation project must be performed before a potential bidder can develop a price or cost proposal for such project and if the chief engineer of the engineering, design, and construction division determines that using a design-build contract is appropriate. Describes the factors the chief engineer shall consider in making such a determination. Authorizes the department to use a design-build contract regardless of the estimated minimum or maximum cost of a transportation project.

Prescribes public notice procedures when the department of transportation uses a design-build contract. Requires the department to describe in the specifications for the transportation project the particular design-build contract and selection procedures to be used in awarding a design-build contract. Authorizes the department to include in its procedures a scope of work statement and adjusted score design-build procedures. Requires that adjusted score design-build procedures consist of 2 phases. Requires the department to issue a request for qualifications in the first phase and prescribes the requirements for such request for qualifications. Requires the department to develop a short list of design-build firms from the proposals submitted. Requires the department to issue a request for proposals to the design-build firms on the short list and prescribes the requirements for the request for proposals.

Requires the department of transportation to give a preference to Colorado residents in awarding a design-build contract. Specifies that such preference may be waived if it may cause the denial of federal moneys that would otherwise be available for the transportation project or if such preference would otherwise be inconsistent with the requirements of federal law.

Allows the department to cancel a request for qualifications, request for proposals, or other solicitations for proposals or to reject any or all proposals in whole or in part when the department determines that such cancellation or rejection is in the best interest of the department. Authorizes but does not require the department to award a stipulated fee to design-build firms that are not awarded a design-build contract.

Requires the department of transportation to obtain approval from the transportation commission prior to using an adjusted score design-build contract procedure for any transportation project. Authorizes the department to adopt rules.

**APPROVED** by Governor April 9, 1999

**EFFECTIVE** April 9, 1999

**H.B. 99-1325** Transportation revenue anticipation notes - powers and duties of executive director of department of transportation - issuance contingent upon statewide voter approval of ballot question. Authorizes the executive director of the department of transportation to issue revenue anticipation notes ("RANs") in order to finance qualified federal aid transportation projects. Makes the authority of the executive director contingent upon voter approval of a ballot question authorizing the state to issue the notes to be submitted at the statewide election held in November, 1999. Provides that the notes and the costs related thereto are payable from: State matching funds; federal funds paid to the department or political subdivisions of the state that can be used to finance such transportation projects; note proceeds and investment earnings on such note proceeds; and certain other nonstate revenues. If federal transportation funds are not sufficient to pay the federal share of principal of and interest on notes and associated costs when due, authorizes the temporary payment of such federal share with state matching funds that will be reimbursed from the federal transportation funds when received. Requires that state moneys constitutionally earmarked for highway purposes be used only to pay for the portion of notes issued for qualified federal aid transportation projects that are highway projects. Specifies that the moneys to be used to pay such notes and the related costs are subject to annual allocation by the transportation commission.

Sets forth a legislative declaration stating that:

- It is reasonable and necessary to use revenue anticipation notes to finance state transportation projects that may be financed in whole or in part with federal transportation funds;
- Transportation revenue anticipation notes contingent upon annual allocation by the transportation commission do not constitute "a debt by loan in any form" within the meaning of the state constitution;
- Transportation revenue anticipation note proceeds are not included in state fiscal year spending.

Imposes a limitation on the aggregate amount of annual installments of principal and interest on revenue anticipation notes that is due and payable during any given fiscal year based upon a percentage of federal transportation funds paid to the department in the previous fiscal year. Specifies certain procedures and requirements for the issuance of such notes, and authorizes the executive director of the department of transportation to make certain determinations regarding such notes. Requires that transportation revenue anticipation notes shall include certain terms, including the requirement that the payment obligations are subject to annual allocation by the transportation commission and adequate continuing federal appropriations of federal transportation funds. Authorizes the executive director to refund such notes, to engage services required or advantageous in connection with such notes, and to enter into interest rate exchange agreements for such notes.

States that transportation revenue anticipation notes shall be paid from certain moneys and that the owners or holders of such notes may not look to any other state revenues for the payment of the notes. Authorizes the pledging of note proceeds for the payment of notes. Specifies that note proceeds not pledged for the payment of notes are credited to the state highway supplementary fund and shall be used for certain purposes. States that note proceeds and earnings on such proceeds are not included in state fiscal year spending. Provides that any note proceeds pledged for the payment of notes and the related costs and moneys allocated for the payment of notes and the related costs are pledged for such purpose, that such pledge is valid and binding, and that such moneys shall not be used for any other purpose.

Grants certain powers to political subdivisions of the state for the purpose of aiding and cooperating in the financing, construction, operation, and maintenance of qualified federal aid transportation projects. Requires the executive director to make annual reports to the general assembly regarding transportation revenue anticipation notes and specifies information to be included in such reports. Requires any note proceeds not pledged to the payment of such notes to be used for qualified federal aid transportation projects included in the department of transportation's strategic transportation project investment program.

**APPROVED** by Governor June 2, 1999

**EFFECTIVE** June 2, 1999

**H.B. 99-1327** Public transportation transfer facilities - codevelopment - retail and commercial goods and services. Requires the regional transportation district or a public entity other than the department of transportation to obtain the approval of the executive director of the department before entering into any agreement with a person or public entity for the provision of retail and commercial goods and services at a transfer facility that is located on property owned by the department.

Authorizes the executive director of the department of transportation to negotiate and enter into agreements to provide retail and commercial goods and services at transfer facilities



that are owned, leased, or operated by the department.

Requires any person obtaining the use of a transfer facility for the provision of goods or services at transfer facilities owned, leased, or operated by the department of transportation to enter into an agreement with the department.

Prohibits the use of such transfer facilities for the provision of goods or services if the use reduces transit services or the availability of public parking or would result in a competitive disadvantage to certain private businesses.

Subjects any development of a portion of a transfer facility owned, leased, or operated by the department of transportation for retail or commercial use to all applicable laws, ordinances, and regulations of any municipality, county, or city and county where the facility is located.

Specifies that, if the Colorado supreme court rules that possessory interests are subject to property taxation, any possessory interests in a transfer facility that is used for commercial or retail purposes shall be subject to property taxation.

**APPROVED** by Governor April 9, 1999

**EFFECTIVE** April 9, 1999

**H.B. 99-1382** Department of transportation - federal transit funds - intergovernmental agreement with Denver regional transportation district - Towner railroad line disposition - appropriation. Authorizes the Colorado department of transportation (department) to accept federal transportation moneys if an intergovernmental agreement with the Denver regional transportation district concerning the southeast corridor intermodal transportation project is not signed by October 15, 1999.

Extends from June 30, 2000, to December 31, 2001, the date by which the department must sell or lease the Towner railroad line. Changes the repeal date for statutory provisions concerning the Towner railroad line from June 30, 2001, to the date when the line is sold or abandoned. Authorizes the department to sell or lease the Towner railroad line for any purpose that is not inconsistent or in conflict with the continued provision of rail service on the line. Requires the executive director of the department to retain a right of first refusal in the event that the railroad operator attempts to sell the line.

Appropriates \$250,000 out of the state rail bank fund to the department of transportation for implementation of the act.

**APPROVED** by Governor May 5, 1999

**EFFECTIVE** May 5, 1999

## WATER AND IRRIGATION

**S.B. 99-173** Water conservation board - project loan authorization - changes in loan amounts to previously authorized projects - studies - appropriations. Authorizes the expenditure of moneys in the Colorado water conservation board construction fund and the severance tax trust fund perpetual base account on the following:

- Certain enumerated water projects;
- The Rio Grande decision support system;
- Satellite monitoring system maintenance;
- The Arkansas river channel restoration study;
- The imaging system for construction fund project records;
- The South Platte river decision support system feasibility study;
- The Rio Grand headwaters restoration project;
- The Arkansas river basin water and storage needs assessment phase II;
- The Purgatoire river transit loss investigation;
- The Cherry Creek reservoir flood safety investigation; and
- Water planning studies.

Deauthorizes certain projects authorized in previous years. Changes the amounts authorized for certain projects in previous years.

Creates the feasibility study small grant account for the purpose of making small grants to help pay the costs of preparing water project feasibility studies.

Changes funding for the species conservation trust fund from the reserved rights litigation fund to the litigation account in the Colorado water conservation board construction fund.

Appropriates \$225,000 to the Colorado water conservation board for the implementation of local, regional, and statewide water planning studies.

Allocates, from the Colorado water conservation board construction fund, \$2,000,000 to the Arkansas river augmentation loan account and \$5,000,000 to the Colorado river recovery program loan account.

**APPROVED** by Governor May 24, 1999

**EFFECTIVE** May 24, 1999

**H.B. 99-1054** Water conservation programs - repeal of sunset dates. Repeals the sunset dates for:

- The office of water conservation;
- The authority of the water conservation board to expend moneys from the Colorado water conservation board construction fund;
- Water use efficiency plans; and
- Water conservation requirements for public landscaping projects.

**APPROVED** by Governor March 5, 1999

**EFFECTIVE** March 5, 1999

**H.B. 99-1123** Water conservancy district - board of directors - consent for inclusion of newly annexed land. Requires the consent of the board of directors of a water conservancy district ("district") to include, within the boundaries of the district, property that is newly annexed by a municipality that already has property within the boundaries of the district. Establishes that such consent shall set forth the terms and conditions under which the land is to be included in the district. Specifies that the terms and conditions for inclusion of the property within the district shall not be inconsistent with previous applicable inclusion orders relating to the municipality.

Requires the district, if it consents to inclusion and if the municipality agrees to the terms and conditions of the district's consent, to file with the court a certified copy of the municipality's annexation ordinance along with a petition that states the terms and conditions for inclusion of the property within the boundaries of the district.

**APPROVED** by Governor March 15, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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. 99-1222** Denver basin aquifer and South Platte river basin - well pumping - special water committee. Extends the repeal date of the special water committee from July 1, 1999, to July 1, 2001. Delays the commencement of more stringent augmentation plans for pumping from Denver basin aquifers to July 1, 2001.

Authorizes the special water committee to investigate Denver basin ground water management and South Platte river basin issues by conducting public hearings and monitoring the progress of the state engineer and the director of the Colorado water conservation board in implementing the recommendations of the final report submitted to the special water committee in April, 1998.

**APPROVED** by Governor May 18, 1999

**EFFECTIVE** May 18, 1999

**H.B. 99-1318** Colorado water conservation board - membership - commissioner of agriculture. Adds the commissioner of agriculture or a designee to the Colorado water conservation board as a nonvoting ex officio member.

**APPROVED** by Governor April 8, 1999

**EFFECTIVE** August 4, 1999

**NOTE:** This act 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.

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