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# GRAMMAR AND STYLE

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This manual does not attempt to educate the drafter thoroughly in grammatical construction or punctuation in writing bills. Numerous legislative manuals of other states and a textbook titled "Legislative Drafting" by Reed Dickerson discuss rules of grammatical construction and word usage in great detail. These manuals and textbook are available in the Office of Legislative Legal Services for any drafter who wishes to become more familiar with practices followed in well-worded and well-constructed legislation. Basically, the fundamental rules of grammatical construction used in composition are used in statutory drafting; however, listed below are a few principles that are fundamental to good legislative writing. Guidelines on the use of plain language in bill drafting are found in section VII. of the chapter in this manual titled "Special Rules and Techniques of Drafting".

## I. GRAMMAR

**A. Use the singular instead of the plural wherever possible.** Part 1 of article 4 of title 2, C.R.S., provides in part as follows:

**2-4-102. Singular and plural.** The singular includes the plural, and the plural includes the singular.

If the plural must be used in a compound word, the significant word takes the plural:

attorneys-at-law	grants-in-aid	rights-of-way
corporation counsels	judge advocates	trade unions
deputy sheriffs	notaries public	

**B. Eliminate using provisos in statutory drafting.** A proviso contains the words "provided that", "provided, however, that", or "provided further, that" before a sentence or clause, usually to state an exception to the preceding sentence or clause. In the past this office has used provisos to make exceptions. The present practice in bill drafting is to avoid using provisos altogether. The proviso originally was used in conveying real property and was a reservation on the grant - the sole purpose of the reservation being to defeat the grant upon the happening of a condition subsequent. In statutory drafting, provisos have most often been used to make exceptions to preceding provisions and are sometimes improperly used to present extraneous ideas not connected with a preceding provision. In legislation, a simple exception to a preceding provision can be made by the use of such words as "but", "except that", "if", or "so long as". If a provision is subject to numerous exceptions or conditions, place those exceptions or conditions in a separate section or subsection for clarity.

**C. Use the words "shall" and "may" as follows:** Use the word "**shall**" in statutory directions or requirements and in prohibitions; use the word "**may**" where a right, privilege, or power is conferred. For example:

The state engineer *shall* administer the laws of the state relating to water.

A bill *shall* not be considered unless printed for the use of the members.

The General Assembly *may* adjourn from day to day.

Each house *shall* keep a journal of its proceedings, and *may*, in its discretion, from time to time, publish the same.

**D. Use the words "and" and "or" as follows:** Use the word "**and**" to connect two or more phrases, conditions, events, etc. all of which must occur. Use the word "**or**" to connect two or more phrases, events, conditions, etc. when only one or more, but not all, need occur. *Never* use the phrase "and/or". Instead of using "and/or", use "A or B or both".

**E. Express numbers as follows:** In substantive law, express numbers in words. For example: "A surety bond in the sum of five thousand dollars shall be filed." Also, do not use the abbreviated or slang references to numbers. For example, write "one thousand six hundred pounds" but not "sixteen hundred pounds".

In appropriations bills or appropriation sections, express numbers in both words and figures: "There is hereby appropriated, out of the wildlife cash fund, the sum of five thousand dollars and fifty cents (\$5,000.50)" [or "five thousand dollars (\$5,000)", if there are no cents].

**F. Express dates as follows:** July 1, 2000; or beginning July 1, 2000, and ending June 30, 2001. The license shall be renewed prior to July 1 of each year.

**G. Express time as follows:** 12 noon or 12 midnight; 9 a.m. or 2 p.m. Only with the figure "1" would you use a colon and 00, e.g., "1:00 p.m." - *not* "1 p.m."

**H. Express age as follows:** A person who is twenty-one years of age or older; a person who is eighteen years of age or older and under twenty-one years of age.

**I. Use of the word "to" and "through".** Use the connecting word "to" to include the first and last items and the intervening sections specified in a succession of statutory sections or subdivisions (subsections, paragraphs, etc.,) of a statute. This is pursuant to section 2-4-113, C.R.S., which provides that a reference to several statutory sections in succession includes the intervening sections as well as both sections mentioned. However,

when referencing a succession of numbers, dates, letters, etc., use the connecting word "through" to include the last item mentioned. Age should be expressed as indicated in H. above.

**J. Verify that a prepositional word or phrase encompasses all of the numbers, dates, or items intended to be included by its use.** For example, "persons licensed prior to July 1, 2000, and after said date" does not provide for persons licensed *on* July 1, 2000. Use of the prepositions "on" and "after" would have accomplished the inclusion of persons licensed on July 1, 2000. This caution is especially applicable to numerical tables or categories.

**K. Draft short sections, subsections, and paragraphs and use short and simple sentences wherever possible.**

Generally, *the shorter a bill can be drafted, the better*; but do not become so intent on brevity that all necessary requirements are not adequately treated. For example, a drafter once wrote that "Absentee voting shall be permitted in the election provided for in this act" but set up no procedure as to how such absentee voting would be handled. The drafter should have outlined a detailed procedure providing for the method of absentee voting or, better still, referred to and adopted the specific procedure used for absentee voting in an election law already on the statute books that was adaptable to the bill.

**L. Be consistent when using official titles.** For example, don't refer to the "state highway engineer" in one sentence and to the "chief engineer" in another. Always check the official title of an officer, department, agency, institution, or other entity in the statutes and use the correct title either in full or, after using it once in its complete form, provide for its use in a shorter form by so stating in the bill. The latter may be done by definition or by a clause similar to the following: "The department of natural resources, referred to in this article as the "department", shall...."

If a word or phrase is defined in a definitions section, the word or phrase should be used exactly as defined and only when the meaning given by the definition is intended. If a contrary meaning is intended, the drafter must state the contrary meaning specifically.

**M. Be consistent when using ordinary words.** For example, don't use "minor" in one sentence and "child" in another. Using synonyms does not add variety, only confusion.

**N. Use the present tense wherever possible, and avoid use of the future tense.** Do not use the word "shall" to state a rule of law but use it only to differentiate between mandatory and permissive statements. For example, "A violation of any provision of this article *is* a misdemeanor" is preferable to "A violation of any provision of this article *shall be* a misdemeanor".

**O. Use the active voice rather than the passive voice wherever possible.** For example, "The state engineer *shall issue* a permit" (active) is preferable to "A permit *shall be issued* by the state engineer" (passive).

**P. Use simple words.** For example, "A violation of this act *is* a misdemeanor" is preferable to "A violation of this act *constitutes* a misdemeanor".

**Q. Avoid the use of redundant expressions.** For "null and void" use "void"; for "shall be in force and effect" use "shall take effect"; and for "authorized and empowered" use "may".

**R. Don't use many words when a few will do.** For example, the following is too verbose:

The chief clerk is hereby authorized and it shall be his duty to sign and approve every order which may be issued by the commission, and said chief clerk shall have every such order published as provided for in this article.

A more concise and direct statement follows:

The chief clerk shall sign every order of the commission and provide for the publication of such order as required by section X-X-XXX.

**S. Don't use archaic words.** For example, words like "whomsoever" or "aforementioned". In short, never use a "big" word when a simple word will do.

**T. Use standard language for penalty provisions, short title sections, and introductory clauses in definitions sections.** Be alert for references to the civil service or the tax commission; refer instead to the state personnel system or the property tax administrator. Certain writs have been abolished in connection with supreme court review; the preferred language is "subject to appellate review as provided by law and the Colorado appellate rules". Also watch for the allocation of legislative duties to the lieutenant governor, the president of the senate, and the majority leader of the senate, which were changed by constitutional amendment adopted in 1974.

**U. Don't use "herein", "heretofore", or other similar words** as these are imprecise references to the statutes, dates, or other matters. Refer instead to the particular statutory material, e.g., "the air pollution control commission, referred to in this article [not, "herein"] as the "commission", shall...", or to the date, e.g., "all persons licensed before July 1, 1988", [not, "heretofore"]. When the reference is to the date an act takes effect and that date will be the date of the act's passage rather than a date specified in the act, in the case of new material, refer to "On or after the effective date of this article [part, section, etc.]". When existing statutory material is amended, refer to "On or after the effective date of this article [part, section, etc.], as amended,...."

**V. Don't use the terms "handicap", "physically handicapped", "the handicapped" or other similar words.** In 1993, the General Assembly passed SB 93-242 for the purpose of changing the terminology used in the Colorado Revised Statutes for referring to persons with disabilities in order to be consistent with the federal "Americans With Disabilities Act". Drafters should use terms consistent with SB 93-242. In general, rather than saying "the handicapped" or "handicapped persons", the preferred term is "person with a disability" or "persons with disabilities". Rather than saying that a person has a "handicap", state that the person has a "disability".

**W. Do not use "any", "each", "all", or "some" if you can use "a", "an", or "the" with the same result.**

**X. If possible, use finite verbs rather than their corresponding participles, infinitives, gerunds, or other noun or adjective forms.** Do not say "give consideration to", say "consider". Do not say "is applicable to", say "applies".

**Y. Use "that" and "which" correctly.** Use "that" for a restrictive clause and "which" for a nonrestrictive clause.

**"That"** indicates a *restrictive clause* that restricts and defines the word modified and that is necessary to identify the word modified. A restrictive word, clause, or phrase is necessary to the meaning of a sentence and is *not* set off by commas.

*Example restrictive clause:* The court shall retain the weapon *that* was used in the alleged offense until the conclusion of the trial.

**"Which"** indicates a *nonrestrictive clause* that does not restrict the word modified and that provides additional or descriptive information about the word modified. A nonrestrictive word, clause, or phrase is not essential to the meaning of a sentence and is set off by commas.

*Example nonrestrictive clause:* The commission shall establish the hearing date, *which* may be changed upon the request of either party.

**Z. Watch for problems related to particular words that are frequently confused or misused.** See the Glossary of Words and Phrases Frequently Misused contained in section V. of this chapter.

## II. GENDER-NEUTRAL LANGUAGE

The Executive Committee of Legislative Council has directed that gender-neutral language be used for all legislative measures. The Committee on Legal Services has formally approved guidelines for the use of gender-neutral language. The guidelines are summarized in this section II.

The directive provides that "All bills, amendments, resolutions, memorials, and proposals for legislation to be introduced in the General Assembly shall use gender-neutral style, avoiding male or female gender terms except in those instances in which a gender-specific term is applicable only to members of one sex or in instances where an exemption is provided for in guidelines or standards." The directive states that the use or the failure to use gender-neutral language shall not prevent any member from offering any measure or amendment. If the drafter has any question about specific language or about the use of the guidelines, the drafter should discuss the matter with the member sponsoring the measure or amendment.

## **A. General Considerations and Cautions**

When changing language to make it gender-neutral, the drafter should never sacrifice clarity or intent. The drafter should make every effort to follow accepted principles of grammar, punctuation, and usage and any applicable rules of statutory construction.

The drafter may exercise considerable discretion in selecting alternatives for gender-specific language when drafting non-statutory measures and new bodies of law. However, when the length of the new material is relatively short, more caution must be exercised. Generally, gender-neutral language can be used in a new or repealed and reenacted article of C.R.S., but its use in a new section or subsection may create conflicts with existing provisions not being amended. Therefore, if the drafter adds a new provision to existing law, the drafter should check the portions not being amended to assure that any gender-neutral language is consistent or compatible with those unamended portions. For example, if an article contains a general definitions section defining the term "policeman" and a new section is added to that article which uses the gender-neutral alternative of "police officer", an ambiguity could result.

The same degree of care should be exercised when amending an existing statute. For example, if a specific subsection of an existing statute is amended by adding feminine pronouns to existing masculine pronouns to make that subsection gender-neutral, the drafter should check to ensure that the use of the masculine pronoun in subsections that are unamended will not result in an erroneous interpretation of the provision. The underlying question the drafter should consider is whether the changes to gender-neutral language would create an ambiguity or conflict in the remaining portions of the statute that are not being amended.

## **B. Avoid the Use of Gender-specific Nouns**

Use of nouns that are gender-specific should be avoided in favor of the use of substitutes that are generally accepted by recognized authorities on correct English usage. For example, "presiding officer" may be substituted for "chairman", but the use of "chairperson" is discouraged as a substitute because it is not as well accepted.

The following is a list of gender-specific nouns and possible substitutes:

brother, sister	sibling
businessman	business person, executive, member of the community, business manager
crewman	crew member
daughter, son	child, children
draftsman	drafter
enlisted man	enlisted personnel, enlisted member, enlistee
father, mother	parent, parents
female, male	person, individual
fireman	firefighter
foreman	supervisor
grandfather, grandmother	grandparents
grandmother, grandfather	grandparents
husband and wife	married couple
mailman	mail carrier
male, female	person, individual
man	person, human, human being, individual
man hours	person hours, hours worked, worker hours
manmade	artificial, of human origin, synthetic, manufactured
manpower	personnel, workforce, worker, human resources
midshipman	cadet
mother, father	parent, parents
per man	per person
policeman	police officer
seaman	sailor, crew member
serviceman	service member
sister, brother	sibling
six-man commission	six-member commission
son, daughter	child, children
trained manpower	trained workforce, staff, personnel
widow, widower	surviving spouse
wife, husband	spouse
workmen	worker

### **C. Avoid the Use of Gender-specific Pronouns**

The most difficult aspect of drafting measures in gender-neutral language is avoiding gender-specific pronouns. A number of different alternatives are suggested, and some work better than others in given circumstances. The drafter should evaluate each alternative keeping in mind that the goal in drafting any measure is to assure clarity and avoid ambiguity. In general order of preferred use, the alternatives are:

**(1) Repeat the subject of the sentence or the word that would have been the pronoun's antecedent reference.** In some instances the possessive noun may be repeated.  
Examples:

A person shall receive an exemption if ~~he~~ THE PERSON submits an application.

If the director finds cause, ~~he~~ THE DIRECTOR may dismiss the claim.

The applicant shall sign ~~his~~ THE APPLICANT'S name.

The executive director shall issue a report and ~~his~~ THE EXECUTIVE DIRECTOR'S recommendation.

**(2) Substitute a noun for the pronoun.**

*Examples:*

If ~~he~~ THE INDIVIDUAL submits an application, it shall be considered.

Each person listed shall be eligible. ~~He~~ SUCH PERSON shall also be entitled to all ancillary benefits.

**(3) Omit the pronoun or the phrase that would include the pronoun, if the pronoun or phrase is not essential.**

*Examples:*

The director shall hold ~~his~~ office until a successor is appointed.

Each employee shall retain such status as held ~~by him~~ on the date of ~~his~~ resignation.

**(4) Use an article such as "a", "an", "the", or "that" instead of the pronoun.**

*Examples:*

The person shall submit ~~his~~ AN application.

An applicant shall include with ~~his~~ THE application a copy of ~~his~~ THE APPLICANT'S permit.

**(5) Restructure or rewrite the sentence to avoid the need for a pronoun.**



*Examples:*

*Use a relative clause:*

If An applicant WHO has been licensed in another state ~~he~~ shall submit a verified application.

*Use a modifier without an expressed subject:*

~~If the commissioner finds~~ UPON FINDING that the sampling frequency can be safely reduced, ~~he~~ THE COMMISSIONER may order it reduced as specified in subsection (2).

*Remove the nominal:*

A person who imports or ~~has in his possession~~ POSSESSES dangerous drugs commits a class 1 felony.

*Use a plural:*

~~A member~~ MEMBERS shall submit ~~his~~ THEIR expense ~~voucher~~ VOUCHERS.

**(6) Use both the masculine and feminine pronoun.**

*Examples:*

The duties shall be exercised in the name of the director and under his OR HER direction.

A person shall receive an exemption if he OR SHE submits an application.

Use of both a masculine and feminine pronoun in several clauses in a row can become verbose and repetitive. In such cases, a different alternative should be tried (see the first example under alternative (1) of this list).

**D. Do Not Change Gender-specific Language That Applies to Only One Sex**

Words that denote or connote gender distinctions may be used in a statute that specifically applies to only one sex. The drafter should be careful to not change gender-specific language in an existing statute when that statute specifically applies to only one sex. Example:

If the member's wife is living, she shall be made a defendant.

Another example not contained in the guidelines that also illustrates this principle is contained in section 26-15-104.5, C.R.S., concerning prohibition on the use of public funds for abortions.

**26-15-104.5. No public funds for abortion - exception.** (2) If every reasonable effort has been made to preserve the lives of a pregnant woman and her unborn child, then public funds may be used pursuant to this section to pay or reimburse for necessary medical services....

### III. PUNCTUATION

**A. Follow the accepted rules of punctuation in drafting bills.** Although some courts have held that punctuation is not a part of a statute, punctuation is, of course, necessary, and the Colorado Supreme Court has, at least on one occasion, interpreted a proposed constitutional amendment on the basis of punctuation (*In re Senate Concurrent Resolution No. 10*, 137 Colo. 491, 328 P.2d 103 (1958)).

**B. Always use a comma in a series before a conjunction** (or a semicolon if clauses of a series have punctuation within them). For example:

No city, town, county, or city and county shall require any license in addition to the license required by this article.

**C. Place periods and commas inside quotes, unless the punctuation is not a part of the matter being quoted.** In that case, the punctuation is placed outside the quotes. This is particularly true in amendments to bills. For example, do not place a period inside the quotation marks when stating a short title to a bill:

This act shall be known and may be cited as the "Air Pollution Control Act". (The period is not a part of the quote.)

**D. Punctuation in bills based on a uniform act.** When the bill is based on a uniform act, the punctuation, language, and form generally should not be changed.

### IV. CAPITALIZATION

Joint Rule No. 17 of the Senate and House of Representatives governs capitalization in legislative bills. The rule provides as follows:

**Joint Rules of the Senate  
and House of Representatives**

**17. Capitalization in Bills**

Generally, capitals should be used only for:

- (a) The first word of a sentence or following a colon.
- (b) The first word of each entry of an enumeration paragraphed after a colon.
- (c) The short title of a particular act.
- (d) Proper names, such as names of counties, rivers, Colorado Revised Statutes, etc.

Generally capitals should not be used for:

- (a) The titles of federal, state, county, municipal or other public officers, or substitutes for such titles, such as "the commissioner," "the director," etc.
- (b) The titles of federal, state, county, municipal or other public departments, agencies, institutions, boards or funds, or substitutes for such titles, such as "the department," "the university," etc.
- (c) Laws on a particular subject, such as "insurance statutes."
- (d) The words "federal" and "state."
- (e) The words "article," "act," "chapter," "section," and "subsection."

For uniformity, the Office of Legislative Legal Services follows the above rule "literally" and not "generally". Colorado Revised Statutes and the state constitution both are amended according to the rule. This practice has caused some concern among those who believe such titles as "general assembly", "governor", "president of the United States", and the like should be capitalized. The rule gives rise to some confusion because of the use of the word "generally" and because a proper name, such as the name of a county, river, or street, is *generally* capitalized while the word "county", "river", or "street" is itself not capitalized, e.g., Costilla county, Colorado river, Lincoln street, university of Colorado, Lookout Mountain school for boys, and so forth. In memorials and resolutions, which are in many cases sent to Congress or government officials, the Office uses much more capitalization. In compliance with the above-quoted joint rule, capitals are rarely used in bills, which is the practice followed in modern legislative drafting.

One exception to the practice of not capitalizing proper names of units of the government is that the terms for the different branches of the military are to be shown as initial-capped. For example, such words as Army, Navy, Coast Guard, National Guard, Marine Corps, Air Force, etc., should be initial-capped.

When a bill is based on a uniform act, the capitalization generally should not be changed.

See Appendix A of this manual for examples of bills that show correct application of Joint Rule No. 21 of the Senate and House of Representatives and other drafting rules and style guidelines.

## V. GLOSSARY OF WORDS AND PHRASES FREQUENTLY MISUSED

**a, an** Use *a* before words beginning with a consonant sound: *a book, a unique necklace*. Use *an* before words beginning with a vowel sound: *an apple, an urchin*. NOTE: It is the sound, not the actual letter, that determines the form of the indefinite article: *a university, an R.C.A. television set, an 8-sided object*.

**accept, except** *Accept* means to receive: "Please *accept* my offer." The verb *except* means to leave out: "Will you *except* the last provision of the contract?"

**adapt, adopt** *Adapt* incorporates the word *apt*, which means *suited to the purpose*; therefore, *adapt* means *to make suitable*. *Adopt* means *to choose or to make one's own selection*. "We *adopted* the style of play which had been *adapted* from the style used by the Green Bay Packers."

**adverse, averse** *Adverse* means opposing: *adverse circumstances*. *Averse* means *disinclined*: "He was *averse* to my proposal." *Adverse* is usually related to actions or things, *averse* to people (who have an aversion).

**advert, avert** *Advert* means *refer*: "The speaker *adverted* to an earlier talk he had given." *Avert* means *ward off*: "He narrowly *averted* a bad fall."

**affect, effect** *Affect* means *to influence*: "His attitude in class *affected* his grade." *Affect* is never used as a noun except in psychological terminology. *Effect* as a noun means *result*: "The *effect* of the explosion was disastrous." *Effect* as a verb means *to accomplish*: "The new machinery *effected* a decided improvement in the product."

**aggravate** Do not use *aggravate* to mean *irritate*. *Aggravate* means to make a bad situation worse.

**aid, aide** *Aid*, meaning *to assist*, can be a verb: "Alice will *aid* the toddlers in tying their shoes." *Aid* can also be a noun: "Robert gave *aid* to the homeless." *Aide* is always a noun meaning an assistant: "The general had an excellent *aide* to assist him."

**all ready, already** *All ready*, an adjective, means everyone is in readiness or properly prepared: "We were *all ready* to go." *Already*, an adverb, means previously: "They had *already* gone."

**\*alright** A bad spelling of *all right*. Do not confuse the spelling with words like *almost, already, altogether*.

**alumnus, alumna, alumni, alumnae** An *alumnus* is a male graduate. *Alumni* is the plural. An *alumna* is a female graduate. *Alumnae* is the plural. *Alumni* is used for male and female combined.

**allusion, illusion, delusion** An *allusion* is an indirect reference to a literary work or to a statement by another: "When she said, 'To go or not to go, that is the question,' Betty was using an *allusion* to *Hamlet*." An *illusion* is something that appears real to the perception, but is not: "Richard realized that although the magician seemed to be sawing a woman in half, it was an *illusion*." A *delusion* is also a false perception about one's self or others, but is based more on a set of false beliefs than an unreal image: "Although he had achieved very little in school, Joseph had *delusions* of grandeur."

**alternate, alternative** *Alternate* as a verb means to function every other time or to act by turns: "Travis and Jason will *alternate* playing the Nintendo game." *Alternate* as a noun means one who takes the place of another: "On the debating team, Lindsey served as an *alternate*." *Alternative*, also a noun, refers to a choice between two possibilities, one of which must be rejected: "Her only *alternative* was to leave immediately or remain longer than she wished."

**ambivalent, ambiguous** *Ambivalent* means mixed or conflicting feelings about a person or an idea. *Ambiguous* is a statement capable of being misinterpreted because it is not clear.

**amend, emend** *Amend* means to alter for the better, as in *amendments* to the Constitution. *Emend*, once an alternative spelling for *amend*, now is specialized in use to mean removing errors from a text.

**amiable, amicable** *Amiable* is used to describe persons who are kind, gentle, and friendly. *Amicable* is used to describe arrangements or settlements which are agreed to peacefully by both parties.

**among, between** *Between* is used in connection with two persons or things. "He divided the money *between* his two sons." *Among* is used for more than two: "He divided the money *among* his three sons." EXCEPTIONS: If more than two are involved in a united situation, *between* is used: "*Between* the four of us we raised a thousand dollars." If a comparison or an opposition is involved, *between* is used: "There was great rivalry *between* the three colleges. It was difficult to choose *between* them."

**amount, number** *Amount* refers to bulk or quantity: *amount* of sugar, grain, flour, money. *Number* refers to objects which are thought of as individual units: *number* of oranges, children, diamonds. Notice that most words following *amount* are singular (coal, butter, water) and that most words following *number* are plural (apples, bottles, cups).

**and/or** Although the legalism *and/or* is becoming common in current English, it is to be avoided as faddish verbiage. The simple word *or* carries exactly the same meaning in most cases and does not call attention to itself.

**ante-, anti-** These prefixes, though similar, are quite different in meaning. *Ante-* means *before*, as in *antechamber* (a small room that comes before a larger one) or *antebellum* (before the war). *Anti-* means opposed to, as in *antinuclear* or *antitoxin*.

**appraise, apprise** *Appraise* means to evaluate; *apprise* means to inform: "The jeweler *appraised* the diamond and *apprised* the owner of his evaluation."

**apprehend, comprehend** *Comprehend* means only to understand a communication; *apprehend* carries that meaning as well as anticipating with dread or anxiety, with the adjective form used more often: "Sarah was *apprehensive* about flying." *Comprehensive* means all-inclusive, or covering completely: "The insurance policy was *comprehensive*."

**apt, liable, likely** *Apt* refers to a habitual disposition: "Having a good brain, he is *apt* to get high grades." *Likely* merely expresses probability: "It is *likely* to rain." *Liable* implies the probability of something unfortunate: "The firm is *liable* to fail."

**as, like** When used as a preposition, *like* should never introduce a clause (NOT *like I was saying*). When introducing a clause, *as* is used (*as I was saying*) even if some of the words of the clause are implied: "He did it as well *as* I [did]."

**ascent, assent** *Ascent* is a noun referring to a climb or movement upward; *assent* is a noun or verb having to do with agreement with an idea or an opinion: "Eugenia *assented* (or gave *assent*) to the group's opinion that the weather was too uncertain for an *ascent* up the mountain."

**beside, besides** *Beside* means *by the side of*: "Ask him to sit *beside* me." *Besides* means *in addition*: "She had an apartment in the city. *Besides*, she owned a home at the shore."

**bimonthly, semimonthly** *Bimonthly* means occurring every two months; *semimonthly* means twice a month. This can be applied to *biweekly*, *semiweekly* and *biennial*, *semiannual*.

**bring, take** *Bring* refers to action toward the writer or speaker: "*Bring* the book to me." *Take* refers to action away from the writer or speaker: "When you leave us, *take* your or books with you."

**burst, bust** *Burst*, meaning to explode or erupt from inward pressure, is sometimes written *bust*, but this is slang and is incorrect.

**can, may** *Can* implies ability: "I *can* (I am able to) swim." *May* denotes permission: "May I (Have I permission to) swim in your pool?" In informal speech, when the context is clear, *can* and *may* are both used to express permission.

**capital, capitol** *Capital* denotes the seat of government of a state or nation. *Capitol* is the building in which a legislative assembly meets.

**censure, criticize** To *censure* always expresses disapproval, but to *criticize* may be neutral, expressing approval of some characteristics and disapproval of others. *Criticism* should be a careful weighing of the merits and demerits of such things as artistic works.

**cite, site** To *cite* is to make a reference to an original source when you are writing a research essay. The noun *site* applies to the space of ground occupied or to be occupied by a building: "The *site* of a new bank."

**claim, assert** *Claim* refers to a justified demand or legal right: "I *claim* this piece of property." "I *claim* the prize." It should not be used when only an assertion is involved; "He *asserted* (not *claimed*) that his demands were reasonable."

**compare to, compare with** *Compare to* is used to indicate a definite resemblance: "He compared the railroad *to* a street." *Compare with* is used to indicate an examination of similarities and dissimilarities: "He *compared* the Middle Ages *with* modern times."

**complement, compliment** A *complement* is something that fills up or completes, as in the sentence: "Foreign travel is a *complement* to the study of geography." A *compliment* is, of course, an expression of praise, as in "He paid her a high *compliment*."

**comprehensible, comprehensive** *Comprehensible* means capable of being understood. *Comprehensive* means all-inclusive or covering a wide range of knowledge on a subject.

**compulsion, compunction** *Compulsion* is to be compelled to action by a psychological urge. *Compunction* is to feel anxiety because of guilt or remorse.

**confidant, confident** A *confidant* (*confidante*, if female) is a noun meaning a trusted friend. *Confident* is an adjective meaning you are certain, e.g., you are *confident* he or she will not betray your trust.

**congenital, congenial** A *congenital* defect is a bodily defect dating from birth. A *congenial* person is pleasant and sociable.

**connotation, denotation** The *connotation* of a word is what it suggests, favorably or unfavorably, beyond its dictionary meaning (*denotation*). For example, *steed* denotes horse, but *connotes* a powerful, beautiful horse ridden by a knight, unlike *nag*, which suggests a broken-down horse.

**consensus** Even in respected newspapers, *consensus* is sometimes misspelled "conensus," perhaps in the mistaken idea that a "census" has been taken to determine agreement. The root word has to do with consent, hence *consensus*. Do not use the phrase *consensus of opinion*, which is redundant.

**contemptible, contemptuous** *Contemptible* is something that deserves contempt. A *contemptuous* person shows disdain for a person or thing.

**continual, continuous** A *continual* action occurs over a considerable period of time with pauses and intermissions: "He censured her *continually*." A *continuous* action occurs without such pauses: "The roar of the waterfall was *continuous*."

**councilor, counselor** A *councilor* is a member of a council. A *counselor* advises, particularly on legal matters.

**counsel, council** *Counsel* as a noun means *advice*, or, in legal parlance, a lawyer or lawyers: "He sought my *counsel*." "He retained *counsel* to represent him at the trial." As a verb, *counsel* means to advise: "I would *counsel* you to accept the first good offer." *Council* is a *group* of individuals who act in advisory capacity or who meet for the purposes of discussion or decision making: "The mayor met with the *council*." "They called a *council* to make plans for the future."

**credible, credulous** *Credible* means believable (or capable of being believed) and is the opposite of *incredible*. A *credulous* person is willing to believe even when the evidence is not conclusive.

**deadly, deathly** A poison is *deadly* if it can cause death. Silence is *deathly* if it is like the silence of death, but does not kill.

**deduce, deduct** To *deduce* means using reasoning to derive a conclusion. To *deduct*, you subtract, e.g., a discount of 10 percent from a price.

**deprecate, depreciate** To *deprecate* is to express disapproval. To *depreciate* is to lessen the value of an item.

**detract, distract** Although both of these words mean to draw away from, *detract* has come to mean taking away someone's good name, as in "His constant lying *detracts* from his good qualities." *Distract* means drawing the mind away from whatever it had been thinking, as in "The loud noise *distracted* her, making her lose concentration."

**different from** *Different from* is the correct idiom, NOT *different than*.



**differ from, differ with** *Differ from* applies to differences between one person or thing and others: "My car *differs from* his because it is a newer model." *Differ with* means to have a difference in opinion: "I *differ with* him in his views about government."

**discover, invent** You *discover* something already in existence, but unknown (like electricity); you *invent* a new product, like a video recorder.

**discreet, discrete** *Discreet* means careful in avoiding mistakes, as in "He was *discreet* in his habits." *Discrete* means separate, or detached, as in "Each grain of rice was *discrete*, not clinging to the rest in a glutinous mass."

**disinterested, uninterested** *Disinterested* means impartial, showing no preference or prejudice. To be *uninterested* is to be bored, or simply lacking interest.

**don't** *Don't* is the contraction of *do not*: *I don't, you don't, we don't, they don't*. Do not confuse it with *doesn't*, the contraction of *does not*: *He doesn't, she doesn't, it doesn't*.

**dual, duel** *Dual* always refers to two things, as in a "dual-control" video game. *Duel* refers to a formal contest with guns or pistols.

**due to** *Due to* functions like the adjective *attributable* plus the preposition *to*. "The flood was *attributable to* the rapid spring thaw." "The flood was *due to* the rapid spring thaw." If there is no noun like flood for the adjective *due to* to refer to, use the preposition *because of*: "He was late *because of* an accident." Or rephrase the sentence: "His lateness was *due to* an accident."

**elicit, illicit** *Elicit*, always a verb, means to draw forth or bring out: "Herman can always *elicit* an argument with anyone." *Illicit*, always an adjective, means unlawful: "*Illicit* drugs cause major problems in this country."

**eminent, imminent** *Eminent* means famous or prominent; *imminent* means soon to take place: "The Christmas season is *imminent*."

**enormity, enormousness** *Enormity*, used to describe something monstrously evil, should never be confused with *enormousness*, which refers to something of extraordinarily large size.

**farther, further** *Farther* refers to physical distance: "We will drive no *farther* tonight." *Further* refers to degree or extent: "Let's pursue this argument no *further*."

**fewer, less** *Fewer* is used in connection with people or with objects which are thought of as individual units: *fewer oranges, fewer children, fewer books, fewer dollars*. *Less* is used in connection with the concept of bulk: *less money, less coal, less weight, less grain*. Notice

that most words following *fewer* are plural (*oranges, books, dollars*): most words following *less* are singular (*money, coal, wheat*).

**flotsam, jetsam** *Flotsam* means wreckage found afloat. *Jetsam*, which comes from the word *jettison*, means objects thrown overboard and then washed ashore.

**forceful, forcible** One can have a *forceful* personality, but to break down a door violently is to make a *forcible* entry.

**former, latter** *Former* and *latter* are used to designate one of *two* persons or things: "Of the *two* possibilities, I prefer the *former* to the *latter*." If more than two persons or things are involved, *first* or *first named* and *last* or *last named* are used: "He had a choice of yellow, rose, pink, and brown. He preferred the first and last to the others."

**fortuitous, fortunate** That which is *fortuitous* happens by accident and may or may not be a favorable event. The word is often misused as a synonym for *fortunate*, but it does not have this meaning.

**founder, flounder** *Founder*, a nautical verb, denotes a boat collapsing or sinking. Anyone can *flounder*, which means to move clumsily about or to struggle to gain footing: "He *floundered* in the deep mud."

**fulsome** Never use *fulsome* to mean plentiful; it means excessive and insincere: "Her boss gave *fulsome* praise, which angered her."

**\*had ought** *Ought* is known as a defective verb because it has only one form and cannot be used with an auxiliary: "They *ought* (NOT *had ought*) to have told her."

**hanged, hung** *Hanged* is used in connection with executions: "He was condemned to be *hanged* by the neck until dead." *Hung* denotes any other kind of suspension: "The pictures were *hung* on the wall."

**hardly** Like *barely* and *scarcely*, *hardly* should not be used with a negative. "He was *hardly* (*barely, scarcely*) able to do it." (NOT *not hardly, barely, scarcely*)

**healthful, healthy** *Healthful* means health-giving: a *healthful* climate. *Healthy* means *in a state of health*: "He was a *healthy* young man."

**hypercritical, hypocritical** A *hypercritical* person is overly critical; a *hypocritical* individual does not practice what he or she advises.

**imply, infer** *Imply* means to throw out a hint or suggestion: "She *implied* by her manner that she was unhappy." *Infer* means to take in a hint or suggestion: "I *inferred* from her manner that she was unhappy."

**impracticable, impractical** *Impracticable* means impossible to put into practice. *Impractical*, when referring to a person, means one who is incapable of dealing sensibly with practical (or day-to-day) matters. A plan may be *impractical* if it is not profit-making.

**intense, intensive** *Intense* means something is present to a high or extreme degree, for example, *intense* suffering. *Intensive* means highly concentrated or exhaustive in application, as in the *Intensive* Care Unit of a hospital.

**invaluable, priceless** Usually, the prefix *in-* indicates a negative, but *invaluable* does not mean "of no value." It means that the value of the object is so great that its worth cannot be evaluated. The word *priceless* has the same meaning: "so great a value that a price cannot be set for it."

**its, it's** *Its* (no apostrophe) is the possessive case of *it*: "The pig nursed *its* young." *It's* is the contraction for *it is*: "*It's* too late to do anything about it."

**kind, sort, type, variety** Since these words are singular in number, they should never be prefaced by plural demonstrative pronouns: This *kind of people* (NOT these *kind of people*).

**kind of, sort of, type of, variety of** Never use *a* or *an* after these expressions. \**Kind of a pistol* is confusing because *a* is used for one particular member of a class, whereas *kind of pistol* is preferable because *pistol* by itself correctly refers to the general idea of *pistol*.

**lack, absence** *Lack* is a deficiency of something needed: "The *lack* of rain ruined the crops." *Absence* is the nonpresence of a thing that may or may not be necessary: "The *absence* of malice in the negotiations between the parties allowed them to move faster."

**last, latest** *Last* means that which comes at the end: "It is the *last* game of the season." *Latest* is the last in time, but not necessarily the final occurrence: "That was the *latest* insult in a series of indignities."

**lay, lie** *Lay* and *laid* are the principal parts of the transitive verb that means to put down: "I shall *lay* the rug." "I *laid* the rug." "I have *laid* the rug." *Lie, lay, lain* are the principal parts of the intransitive verb (it cannot take an object) that means to recline or repose: "She *will lie* in the hammock." "She *is lying* in the hammock." "She *lay* in the hammock yesterday." "She *has lain* there all afternoon."

**lead, led** When pronounced alike, the word *lead* is the metal, *led* is the past tense and past participle of the verb *to lead*.

**learn, teach** *Learn* means to acquire information or knowledge: "I *learned* my lesson." *Teach* means to impart information or knowledge: "I *taught* him to do it."

**liable** See *apt*.

**like** See *as*.

**literally, figuratively** Unless an event actually happened (*literally* happened), one speaks of it *figuratively*. One should not say, "We *literally* died laughing." *Figuratively* refers to the use of figures of speech, such as similes or metaphors: "When he forgot his wife's birthday, he was in (NOT *literally*) the doghouse."

**mean, median** *Mean* is the middle point between extremes, usually the arithmetic *mean* (computed by dividing the sum of quantities in a set by the number of terms in the set). *Median* refers to the middle value in a distribution: "The *median* salary in the organization is larger than half and smaller than half of all the salaries."

**meantime, meanwhile** The noun *meantime* refers to an action taking place in an interim: "In the *meantime*, he read the novel." The adverb *meanwhile* is almost the same in meaning: "*Meanwhile*, he read the novel."

**militate, mitigate** *Militate* (connected with *military*) means to have strong influence for or against, usually against: "His grouchy manner *militated* against his success as a salesman." *Mitigate* means to *lessen*: "The cold compress on his leg *mitigated* his suffering."

**myself** *Myself* (like *yourself, himself, herself, itself, themselves*) is an intensive and reflexive pronoun. It should never be used in a sentence without its corresponding noun or pronoun: "*I myself* will do it." "I hurt *myself*." "They sent for John and *me* (NOT *myself*)."

**mysterious, mystic** *Mysterious* refers to those phenomena that excite wonder, curiosity, and surprise and that are difficult to explain or understand. A *mystic* purports to have religious experiences of direct association with the deity. Such an occurrence would be called *mystical*.

**precede, proceed** *Precede* means to go ahead of, as in a line: "Stephanie will *precede* Ralph in the graduation line." *Proceed* means simply to go ahead with an action: "We will now *proceed* with the conferring of the degrees."

**presently, at present** *Presently* means soon, or shortly: "I will join you *presently*." *At present* means now, currently, at this time: "*At present*, he is in his office."

**principal, principle** *Principal* is usually an adjective: *principal cities, principal people*. It has become a noun in a few usages where the noun it formerly modified has been dropped. "He was the *principal* (teacher) of the school." "I withdrew the *principal* (amount) and interest from my savings account." "He acted as a *principal* (person) rather than as an agent." The noun *principle* means a basic law or doctrine: "The country was founded on the *principle* that all men are created equal."

**rare, scarce** *Rare* and *scarce* refer to hard to find items that exist in small quantities. *Rare* usually implies exceptional quality or value: "If it is a really *rare* book, it will be quite expensive." *Scarce* can be applied to ordinary things, usually those that were previously abundant: "Potatoes are usually plentiful in the supermarket, but the drought has made them *scarce*."

**reason is because** The words *reason is* (*was*, etc.) should be followed by a statement of the reason: "The reason for his failure was illness." "The reason for the strict rules is to enforce discipline." Similar statements can be made by using *because*: "He failed because of illness." "The rules are strict because it is necessary to enforce discipline." *Reason* and *because* convey the same sense. It is illogical to use both words to convey the same meaning.

**regardless, irregardless** *Irregardless*, a nonstandard word, probably is patterned after *irrespective*. *Regardless*, which means without regard to or despite, is the correct form: "*Regardless* of his frank comments, I like him."

**respectable, respectful** *Respectable* means "worthy of respect or esteem," as in "She had a *respectable* command of the German language." *Respectful* means "showing respect for something else," as in "The teacher received the *respectful* attention of the class." Many letters are closed with "*Respectfully* yours."

**rightfully, rightly** *Rightful* or *rightfully* means having a just or legally established claim: "She was the *rightful* owner of the property." *Rightly* means properly or correctly, without the legal claim: "He *rightly* refused to comment."

**same** Do not use *same* as a pronoun: "I have your order for the books and will send *them* (NOT will send *same*)."

**stationary, stationery** *Stationary*, an adjective, means standing still or having a fixed position. *Stationery*, a noun, means writing materials, especially paper.

**their, there, they're** Be careful to distinguish the spelling of the possessive case of the pronoun *their* (*their* books) from the spelling of the adverb and the expletive *there*, and the contraction *they're*. "I got *there* before I knew it." "*There* are forty grapefruit in the crate." "*They're* waiting for us."

**tortuous, torturous** *Tortuous* means full of twists or bends: "The car was moving too fast for such a *tortuous*, crooked road." *Torturous* means inflicting great pain in a cruel manner: "The *torturous* devices were everywhere in the prison camps."

**unique** *Unique* means the only one of its kind: "His was a *unique* personality." It cannot logically be used in a comparative or superlative form. Something may be more or most odd, rare, unusual, peculiar, remarkable, etc., but NOT more or most unique.

**who's, whose** *Who's* is the contraction for *who is* and *who has*: "I cannot imagine *who's* coming." *Whose* is the possessive form of *who*: "We knew the family *whose* house was robbed."

**woman, women** Just as the plural of *man* is *men*, so the plural of *woman* is *women*.

**you're, your** *You're* is the contraction of *you are*. *Your* is the possessive form of the pronoun *you*: "*Your* birthday is tomorrow."

## VI. THINGS NOT TO PLACE IN THE STATUTES

### A. Avoid References to Colorado Code of Regulations or the Code of Federal Regulations

References should not be made to a particular citation in the Colorado Code of Regulations (the "CCR") or the Code of Federal Regulations (the "CFR") because the references are subject to being amended or renumbered, thereby creating an out-of-date or obsolete reference in the Colorado Revised Statutes. The other objection to such a practice is that it arguably results in an improper delegation of the general assembly's power to set policy because it shifts the setting of the policy to a different entity to issue the rules. If a drafter is asked to refer to such a rule or regulation, the drafter should refer to rules of the particular adopting agency governing the particular topic and attempt to describe the subject matter of the rules without giving the actual citation.

### B. Avoid References to Trade Names or Brand Names

Drafters should avoid making references to trade names or brand names in statutes. Legislators raised concerns about the use of references or terms of a more proprietary nature. One example was the use of the term "toughman" to refer to a type of fighting. The sponsor ultimately amended the bill to refer to "toughperson" fighting. Another example was when a bill referred to a type of motorized equipment as a "goped" and concerns were raised that it was a trade name. Upon conducting trademark searches through the U.S. Patent and Trademark Office, the drafter discovered that "goped" as used in the title of the bill and the bill were not a trade name, but that the hyphenated spelling "go-ped" was a trademark. An amendment was drafted to substitute "motorized scooter" for the term "goped" in the bill. However, since we avoid amending bill titles, the term "goped" was not amended in the title. Another concern is that the term might constitute "special legislation" in violation of Article V, section 25 of the Colorado constitution. The Office is not aware of any legal impediment to using such terms in bills and in statutes, but legislators have expressed concerns about using trade names because that practice could be viewed as an inappropriate endorsement of a particular product. As a result of these concerns, drafters should make the sponsor aware that this has been a drafting issue in the past and should use other descriptive language to substitute in the place of the trade name or brand name.