The Colorado Workmen's Compensation Act

Issued by the

DIVISION OF LABOR

Denver, Colorado

1981

PREFACE

This issue differs from the 1980 issue with changes effective July 1, 1981, under Sections:

8-41-105(7)	8-53-106(2)
8-41-106(1)(a)(IV)	8-53-107
8-44-101(1)(c)	8-53-108
8-44-101(3)	8-53-110(1)(a)
8-44-110	8-53-111
8-46-108	8-53-112
8-46-113	8-54-122 see footnote (10a)
8-49-101(1)(a)	8-54-122 see footnote (10a),(11)
8-49-101(3)	8-65-105
8-49-101(4)	8-65-108
8-51-106(4)	8-66-102(1)(3)
8-51-110-(2),(4),(5)	8-66-110
8-51-111	8-66-112
8-53-103-(2)(a)	

(10a) SB 123 Harmonized with SB 280

(11) Section 8-54-122(2) will be renumbered to 8-54-122(3) in 1981 supp.

Copies of the Medical, Surgical and Hospital Fee Schedule effective December 1, 1980, may be purchased at the following address:

Division of Labor
Room 320
1313 Sherman St.
Denver, CO 80203
Telephone 866-2861

TITLE 8
LABOR AND INDUSTRY

LABOR II - WORKMEN'S COMPENSATION AND RELATED PROVISIONS

Article 40
Title and Enforcement

8-40-101. Short title. Articles 40 to 54 of this title shall be known and may be cited as the "Workmen's Compensation Act of Colorado".

8-40-102. Director to enforce. The director of the division of labor shall enforce and administer the provisions of articles 40 to 54 of this title.

Article 41
Definitions

8-41-101. Commission - division - director - manager. As used in articles 40 to 54 of this title, unless the context otherwise requires:

(1) "Commission" means the industrial commission of Colorado.

(2) "Division", except when used in article 54 of this title, means the division of labor in the department of labor and employment. The term "division", when used in article 54 of this title, means the division of the state compensation insurance fund of the department of labor and employment.

(3) "Director" means the director of the division of labor.

(4) "Manager" means the manager of the division of the state compensation insurance fund.

8-41-102. "Order" defined. Except as otherwise expressly provided in articles 40 to 54 of this title, "order" means and includes any decision, finding and award, direction, or other determination arrived at by the director or a referee of the division and any decision, classification, rate, rule, regulation, requirement, or standard of the commission.

8-41-103. Place of employment. Except as otherwise expressly provided in articles 40 to 54 of this title, "place of employment" means every place whether indoors, outdoors, or underground and the premises, workplaces, works, and plants appertaining thereto or used in connection therewith where either temporarily or permanently any industry, trade, or business is carried on; or where any process or operation directly or indirectly relating to any industry, trade, or business is carried on; or where any person is directly or indirectly employed by another for direct or indirect gain or profit.

8-41-104. Employment. Except as otherwise expressly provided in articles 40 to 54 of this title, "employment" means any trade, occupation, job, position, or process of manufacture or any method of carrying on any trade, occupation, job, position, or process of manufacture in which any person may be engaged; except that it shall not include participation in a ridesharing arrangement, as defined in section 10-4-707.5 (2), C.R.S. 1973, and participation in such a ridesharing arrangement shall not affect the wages paid to or hours or conditions of employment of an employee.

8-41-105. Employer. (1) "Employer" means:

(a) The state, and every county, city, town, and irrigation, drainage, and school district and all other taxing districts therein, and all public institutions and administrative boards thereof without regard to the number of persons in the service of any such public employer. All such public employers shall be at all times subject to the compensation provisions of articles 40 to 54 of this title.

(b) Every person, association of persons, firm, and private corporation, including any public service corporation, personal representative, assignee, trustee, or receiver, who has one or more persons engaged in the same business or employment, except as otherwise expressly provided in articles 40 to 54 of this title, in service under any contract of hire, express or implied.

(2) Articles 40 to 54 of this title are not intended to apply to employers of farm and ranch labor if the amounts expended for wages by an employer of said farm and ranch labor does not exceed the sum of twenty-four thousand dollars for the calendar year 1975 and the sum of ten thousand dollars for the calendar year 1976; thereafter, effective 12:01 a.m., January 1, 1977, this subsection (2) shall not apply, and employers of farm and ranch labor shall be included in the definition contained in paragraph (b) of subsection (1) of this section.

(3) Articles 40 to 54 of this title are not intended to apply to employees of eleemosynary, charitable, fraternal, religious, or social employers who are elected or appointed to serve in an advisory capacity and receive an annual salary or an amount not in excess of seven hundred fifty dollars and are not otherwise subject to the "Workmen's Compensation Act of Colorado".

(4) Articles 40 to 54 of this title are not intended to apply to employers of casual farm and ranch labor or employers of persons who do casual maintenance, repair, remodeling, yard, lawn, tree, or shrub planting or trimming, or similar work about the private home or place of business, trade, or profession of the employer if such employers have no other employees subject to said articles 40 to 54, if such employments are casual and are not within the course of the trade, business, or profession of

said employers, if the amounts expended for wages paid by the employers to casual domestic servants or to casual persons employed to do maintenance, repair, remodeling, yard, lawn, tree, or shrub planting or trimming, or similar work about the private home or place of business, trade, or profession of the employer do not exceed the sum of two thousand dollars for any calendar year, and if the amounts expended for wages by the employer of casual farm and ranch labor do not exceed the sum of two thousand dollars for any calendar year.

(5) Any employer excluded under this section may elect to accept the provisions of articles 40 to 54 of this title by purchasing and keeping in force a policy of workmen's compensation insurance covering said employees.

(6) Articles 40 to 54 of this title are intended to apply to officers of agricultural corporations; but effective July 1, 1977, any such agricultural corporation may elect to reject the provisions of articles 40 to 54 of this title for any or all of said officers.

(7) (a) Any employer, as defined in subsection (1) of this section, who enters into a bona fide cooperative education or student internship program sponsored by an educational institution for the purpose of providing on-the-job training for students shall be deemed an employer of such students for the purposes of workmen's compensation and liability insurance pursuant to articles 40 to 54 of this title.

(b) If the student placed in an on-the-job training program does not receive any pay or remuneration from the employer, the educational institution sponsoring the student in the cooperative education or student internship program shall enter into negotiations with the employer for the purpose of arriving at a reasonable level of compensation to the employer for the employer's expense of providing workmen's compensation and liability insurance while such student is participating in on-the-job training with said employer. This paragraph (b) shall not apply to a student teacher participating in a program authorized pursuant to article 62, of title 22, C.R.S. 1973.

(c) As used in this subsection (7), "cooperative education or student internship program" means a program sponsored by an educational institution in which a student is taught through a coordinated combination of specialized in-the-school instruction provided through an educational institution by qualified teachers and on-the-job training provided through a local business, agency, or organization or any governmental agency in cooperation with the educational institution.

8-41-106. Employee. (1) "Employee" means:

(a) (I) (A) Every person in the service of the state, or of any county, city, town, or irrigation, drainage, or school

district or any other taxing district therein, or of any public institution or administrative board thereof under any appointment or contract of hire, express or implied; and every elective official of the state, or of any county, city, town, or irrigation, drainage, or school district or any other taxing district therein, or of any public institution or administrative board thereof; and every member of the military forces of the state of Colorado while engaged in active service on behalf of the state under orders from competent authority. Policemen and firemen who are regularly employed shall be deemed employees within the meaning of this paragraph (a), as shall also sheriffs and deputy sheriffs, regularly employed, and all persons called to serve upon any posse in pursuance of the provisions of section 30-10-516, C.R.S. 1973, during the period of their service upon such posse, and all members of volunteer fire departments, volunteer rescue teams or groups, volunteer disaster teams, volunteer ambulance teams or groups, and volunteer search teams in any county, city, town, municipality, or legally organized fire protection district in the state of Colorado, and all members of the civil air patrol, Colorado wing, while said persons are actually performing duties as volunteer firemen or as members of such volunteer rescue teams or groups, volunteer disaster teams, volunteer ambulance teams or groups, or volunteer search teams or as members of the civil air patrol, Colorado wing, and while engaged in organized drills, practice, or training necessary or proper for the performance of such duties. Members of volunteer police departments, volunteer police reserves, and volunteer police teams or groups in any county, city, town, or municipality, while actually performing duties as volunteer police officers, may be deemed employees within the meaning of this paragraph (a) at the option of the governing body of such county or municipality.

(B) Notwithstanding the provisions of sub-subparagraph (A) of subparagraph (I) of this paragraph (a), any elected or appointed official of any county, city, town, or irrigation, drainage, or school district or taxing district who receives no compensation for his service as such an official, other than reimbursement of actual expenses, may be deemed not to be an employee within the meaning of this paragraph (a) at the option of the governing body of such county, city, town, or district. The option to exclude such officials as employees within the meaning of this paragraph (a) may be exercised as to any category of officials or as to any combination of categories of officials. Any such option may be exercised for any policy year by the filing of a statement with the division not less than forty-five days before the start of the policy year for which the option is to be exercised. If such a statement is in effect as to any category of such uncompensated officials, no official in said category shall be deemed an employee within the meaning of this paragraph (a). The governing body shall notify each official of such action promptly at the time such election to exclude is exercised.

(II) The rate of compensation of such persons accidentally injured, or, if killed, the rate of compensation for their dependents, while serving upon such posse or as volunteer firemen or as members of such volunteer police departments, volunteer police reserves, or volunteer police teams or groups or as members of such volunteer rescue teams or groups, volunteer disaster teams, volunteer ambulance teams or groups, or volunteer search teams or as members of the civil air patrol, Colorado wing, and of every nonsalaried person in the service of the state, or of any county, city, town, or irrigation, drainage, or school district therein, or of any public institution or administrative board thereof under any appointment or contract of hire, express or implied, including nonsalaried elective officials of the state, and of all members of the military forces of the state of Colorado shall be at the maximum rate provided by articles 40 to 54 of this title; except that this subparagraph (II) shall apply to an official described in sub-subparagraph (B) of subparagraph (I) of this paragraph (a) only if no statement exercising the option to exclude such official as an employee within the meaning of this paragraph (a) is in effect.

(III) Any persons who, as part of a rehabilitation program of any welfare department of any county or city and county, are placed with any employer for the purpose of training or learning trades or occupations shall be deemed while so engaged to be employees of the respective county or city and county arranging the rehabilitation training. Any person who receives a work assignment to a position in any department or agency of any county or municipality or in any school district pursuant to the provisions of sections 26-2-111 (3) (d) and 26-2-111.2, C.R.S. 1973, shall be deemed while so assigned to be an employee of the respective department, agency, or school district to which he is assigned. The rate of compensation for such persons if accidentally injured or, if killed, for their dependents shall be based upon the wages normally paid in the community in which they reside for the type of work in which they are engaged at the time of such injury or death; except that, if any such person is a minor, compensation to such minor for permanent disability, if any, or death benefits to his dependents shall be paid at the maximum rate of compensation payable under articles 40 to 54 of this title at the time of the determination of such disability or of such death.

(IV) Except as provided in section 8-41-105 (7) (a), any person who may at any time be receiving training under any work or job training or rehabilitation program sponsored by any department, board, commission, or institution of the state of Colorado or of any county, city and county, city, town, school district, or private or parochial school or college and who, as part of any such work or job training or rehabilitation program of any department, board, commission, or institution of the state of Colorado or of any county, city and county, city, town, school district, or private or parochial school or college, is placed with any employer for the purpose of training or learning trades

or occupations shall be deemed while so engaged to be an employee of the respective department, board, commission, or institution of the state of Colorado or of the county, city and county, city, town, school district, or private or parochial school or college sponsoring such training or rehabilitation program. The rate of compensation for such person if accidentally injured or, if killed, for his dependents shall be based upon the wages normally paid in the community in which he resides or in the community where said work or job training or rehabilitation program is being conducted for the type of work in which he is engaged at the time of such injury or death, as determined by the director; except that, if any such person is a minor, compensation for such minor for permanent disability, if any, or death benefits to his dependents shall be paid at the maximum rate of compensation payable under articles 40 to 54 of this title at the time of the determination of such disability or death.

(V) Any person who may at any time be receiving training under any work or job training program sponsored by a joint apprenticeship and training committee organized as authorized in section 8-15-105, for the purpose of providing training for or learning a trade or occupation, may be deemed by the joint apprenticeship and training committee, while so engaged, to be an employee of the joint apprenticeship and training committee. The rate of compensation for any such person if accidentally injured, or, if killed, for his dependents, shall be based upon the wages received at the time of such injury or death. If any such person is a minor, compensation for such minor for permanent disability, if any, or death benefits to his dependents, shall be paid at the maximum rate of such compensation payable under articles 40 to 54 of this title at the time of the determination of such disability or death. Any such joint apprenticeship and training committee shall not be considered as an employer for any purposes other than specified in this subparagraph (V).

(b) Every person in the service of any person, association of persons, firm, or private corporation, including any public service corporation, personal representative, assignee, trustee, or receiver, under any contract of hire, express or implied, including aliens and also including minors, whether lawfully or unlawfully employed, who for the purpose of articles 40 to 54 of this title are considered the same and have the same power of contracting with respect to their employment as adult employees, but not including any persons who are expressly excluded from articles 40 to 54 of this title or whose employment is but casual and not in the usual course of the trade, business, profession, or occupation of the employer. The following persons shall also be deemed employees and entitled to benefits at the maximum rate provided by said articles, and, in the event of injury or death, their dependents shall likewise be entitled to such maximum benefits, if and when the association, team, group, or organization to which they belong has elected to become subject to articles 40 to 54 of this title and has insured its liability under said articles: All members of privately organized

volunteer fire departments, volunteer rescue teams or groups, volunteer disaster teams, volunteer ambulance teams or groups, and volunteer search teams and organizations while performing their respective duties as members of such privately organized volunteer fire departments, volunteer rescue teams or groups, volunteer disaster teams, volunteer ambulance teams or groups, and volunteer search teams and organizations and while engaged in organized drills, practice, or training necessary or proper for the performance or their respective duties.

(2) "Employee" excludes any person employed by a passenger tramway operator, as defined in section 25-5-702 (3), C.R.S. 1973, or other employer, while participating in recreational activity on his own initiative, who at such time is relieved of and is not performing any prescribed duties, regardless of whether he is utilizing, by discount or otherwise, a pass, ticket, license, permit, or other device as an emolument of his employment.

8-41-107. Not applicable to common carriers. The provisions of articles 40 to 54 of this title shall not apply to common carriers by railroad but shall apply to all other employers as defined in said articles engaged in intrastate or interstate commerce, or both, except those employers, other than the Colorado division of civil air patrol, for whom a rule of liability is established by the laws of the United States.

8-41-108. Definitions. As used in articles 40 to 54 of this title, unless the context otherwise requires:

(1) "Accident" means an unforeseen event occurring without the will or design of the person whose mere act causes it; an unexpected, unusual, or undesigned occurrence; or the effect of an unknown cause or, the cause being known, an unprecedented consequence of it.

(2) "Accident", "injury", or "injuries" includes disability or death resulting from accident or occupational disease as defined in subsection (3) of this section.

(2.5) "Accident", "injury", and "occupational disease" shall not be construed to include disability or death caused by heart attack unless it is shown by competent evidence that such heart attack was proximately caused by an unusual exertion arising out of and within the course of the employment.

(3) "Occupational disease" means a disease which results directly from the employment or the conditions under which work was performed, which can be seen to have followed as a natural incident of the work and as a result of the exposure occasioned by the nature of the employment, and which can be fairly traced to the employment as a proximate cause and which does not come from a hazard to which the worker would have been equally exposed outside of the employment.

Article 42
Abrogation of Defense

PART 1
ABROGATION OF DEFENSE

8-42-101. Assumption of risk - negligence of employee or fellow servant. (1) In an action to recover damages for a personal injury sustained by an employee while engaged in the line of his duty, or for death resulting from personal injuries so sustained, in which recovery is sought upon the ground of want of ordinary care of the employer, or of the officer, agent, or servant of the employer, it shall not be a defense:

(a) That the employee, either expressly or impliedly, assumed the risk of the hazard complained of as due to the employer's negligence;

(b) That the injury or death was caused, in whole or in part, by the want of ordinary care of a fellow servant;

(c) That the injury or death was caused, in whole or in part, by the want of ordinary care of the injured employee where such want of care was not willful.

8-42-102. Liability of employer complying. An employer who has complied with the provisions of articles 40 to 54 of this title, including the provisions relating to insurance, shall not be subject to the provisions of section 8-42-101; nor shall such employer or the insurance carrier, if any, insuring the employer's liability under said articles be subject to any other liability for the death of or personal injury to any employee, except as provided in said articles; and all causes of action, actions at law, suits in equity, proceedings, and statutory and common law rights and remedies for and on account of such death of or personal injury to any such employee and accruing to any person are abolished except as provided in said articles.

8-42-103. Availability of common-law defenses. If an employer has complied with the provisions of articles 40 to 54 of this title, including the provisions thereof relating to insurance, and an action is brought against such employer or his insurance carrier to recover damages for personal injuries or death sustained by an employee who has elected not to come under said articles, such employer and his insurance carrier shall have all the defenses to the action which they would have had if said articles and part 2 of article 2 of this title had not been enacted.

Article 43
Acceptance

8-43-101 to 8-43-103.

Repealed, Law 1975.

8-43-104. Acceptance as surrender of other remedies. An election under the provisions of section 8-41-105 (5) and in compliance with the provisions of articles 40 to 54 of this title, including the provisions for insurance, shall be construed to be a surrender by the employer, his insurance carrier, and the employee of their rights to any method, form, or amount of compensation or determination thereof or to any cause of action, action at law, suit in equity, or statutory or common-law right, remedy, or proceeding for or on account of such personal injuries or death of such employee other than as provided in said articles, and shall be an acceptance of all the provisions of said articles, and shall bind the employee himself, and, for compensation for his death, his personal representatives, a surviving spouse, and his next of kin, as well as the employer, his insurance carrier, and those conducting their business during bankruptcy or insolvency.

8-43-105. Employer not accepting - notice to employees.

Repealed, Law 1975.

Article 44
Insurance

8-44-101. Insurance requirements. (1) Any employer subject to the provisions of articles 40 to 54 of this title shall secure compensation for his employees in one or more of the following ways, which shall be deemed to be compliance with the insurance requirements of said articles:

(a) By insuring and keeping insured the payment of such compensation in the state compensation insurance fund;

(b) By insuring and keeping insured the payment of such compensation with any stock or mutual corporation authorized to transact the business of workmen's compensation insurance in this state. If insurance is effected in such stock or mutual corporation, the employer or insurer shall forthwith file with the division, in form prescribed by it, a notice specifying the name of the insured and the insurer, the business and place of business of the insured, the effective and termination dates of the policy, and, when requested, a copy of the contract or policy of insurance.

(c) By procuring a self-insurance permit from the commission as provided in section 8-44-109, except for public entity pools as described in section 8-44-110 (3), which shall procure self-insurance certificates of authority from the commissioner of insurance as provided in section 8-44-110.

(2) It shall be unlawful, except as provided in sections 8-48-101 and 8-48-102, for any employer, regardless of the method

of insurance, to require an employee to pay all or any part of the cost of such insurance.

(3) All public entities in the state shall insure and keep insured the payment of compensation by electing one of the three methods provided in subsection (1) of this section. A public entity having an insured payroll of less than one million dollars annually shall not be eligible for self-insurance; except that public entities forming a pool pursuant to section 8-44-110 (3) shall be eligible if the total of all the payrolls of the public entities in the pool exceeds the required minimum.

8-44-102. Contract for insurance subject to act. Every contract for the insurance of compensation and benefits as provided in articles 40 to 54 of this title or against liability therefor shall be made subject to all the provisions of said articles, and all provisions in such contract for insurance inconsistent with the provisions of said articles shall be void. Any contract of insurance issued under said articles by any insurance carrier, including stock and mutual corporations and the state compensation insurance fund, may include and cover any liability of the employer on account of personal injuries sustained by or death resulting therefrom to any employee as such. If the employer desires, the contract may include by endorsement as an employee of the insured any working partner or individual employer actively engaged in the operation of the business. No insurance carrier, except the state compensation insurance fund, shall write any policy of insurance covering the liability under said articles of any employer doing business within the state of Colorado except on a form that has been previously filed with and approved by the commissioner of insurance, nor shall there be attached to said policy or contract of insurance any endorsement, rider, letter, or other document affecting such contract unless the same has been filed with and the form thereof approved by the commissioner of insurance. The commissioner of insurance shall from time to time approve and prescribe a standard or universal form, as nearly as possible, for every contract or policy of insurance, endorsement, rider, letter, or other document affecting such contract for use in insuring the compensation provided for in said articles.

8-44-103. Insurers to file system of rating - approval. Every insurance carrier authorized to transact business in this state, except the state compensation insurance fund, which insures employers against liability for compensation under the provisions of articles 40 to 54 of this title shall file with the commissioner of insurance its classification of risks, any premiums relating thereto, and any subsequent proposed classification of risks and premiums, together with all rates and any systems of rating, none of which shall take effect until approved by the commissioner of insurance, and the commissioner may disapprove the same as inadequate. The commissioner, at any time, may withdraw his approval of any rate or system of rating.

8-44-104. Cutting rates - rebates - penalty. Every insurance carrier, except the state compensation insurance fund, which writes compensation insurance shall write insurance at the rates approved as adequate by the commissioner of insurance. The cutting of rates, rebating, or any other method whereby, directly or indirectly, any employer is given the benefit of or obtains a rate lower than that approved by the commissioner of insurance is prohibited. The commissioner of insurance may suspend the license of any insurance carrier, agent, or broker who violates any provision of this section. Also, any insurance carrier, any employer, or any officer, agent, or employee thereof who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars for each such violation.

8-44-105. Provisions of policies - primary liability - notice of injury. Every contract insuring against liability for compensation or insurance policy evidencing the same shall contain a clause to the effect that the insurance carrier shall be directly and primarily liable to the employee and, in the event of his death, to his dependents to pay compensation, if any, for which the employer is liable, thereby discharging to the extent of such payment the obligations of the employer to the employee; that, as between the employee and the insurance carrier, notice or knowledge of the occurrence of the injury on the part of the employer shall be deemed notice or knowledge, as the case may be, on the part of the insurance carrier; that jurisdiction of the employer, for the purpose of articles 40 to 54 of this title, shall be jurisdiction of the insurance carrier; and that the insurance carrier, in all things, shall be bound by and subject to the orders, findings, decisions, or awards rendered against the employer under the provisions of said articles. Such policy shall also provide that the employee shall have a first lien upon any amount which becomes owing to the employer from the insurance carrier, and the insurance carrier shall pay the same directly to the employee or his dependents, thereby discharging to the extent of such payment the obligation of the employer to the employee. The policy shall not contain any provisions relieving the insurance carrier from payment when the employer becomes legally incapable or insolvent or is discharged in bankruptcy or otherwise during the period that the policy is in operation or the compensation remains owing.

8-44-106. Insurer violation - suspension or revocation of license. If any insurance carrier intentionally, knowingly, or willfully violates any of the provisions of articles 40 to 54 of this title, the commissioner of insurance, on the request of the director, shall suspend or revoke the license or authority of such carrier to do a compensation business in this state.

8-44-107. Default of employer - additional liability. (1) In any case where the employer is subject to the provisions of articles 40 to 54 of this title and at the time of an injury has not complied with the insurance provisions of said articles, or

has allowed his insurance to terminate, or has not effected a renewal thereof, the employee, if injured, or, if killed, his dependents may claim the compensation and benefits provided in said articles, and in any such case the amounts of compensation or benefits provided in said articles shall be increased fifty percent.

(2) In all cases where compensation is awarded under the terms of this section, the director or a referee of the division of labor shall compute and require the employer to pay to a trustee designated by the director or referee an amount equal to the present value of all unpaid compensation or benefits computed at the rate of four percent per annum; or, in lieu thereof, such employer, within ten days after the date of such order, shall file a bond with the director or referee signed by two or more responsible sureties to be approved by the director or by some surety company authorized to do business within the state of Colorado. The bond shall be in such form and amount as prescribed and fixed by the director and shall guarantee the payment of the compensation or benefits as awarded.

(3) A certified copy of any award of the director or commission or any order of the referee, ordering the payment of compensation, entered in such case may be filed with the clerk of the district court of any county in this state at any time after the order of the referee awarding compensation, and the same shall be recorded by him in the judgment book of said court and entry thereof made in the judgment docket, and it shall thenceforth have all the effect of a judgment of the district court, and execution may issue thereon out of said court as in other cases. Upon the reversal, setting aside, modification, or vacation of said order or award and upon payment to the trustee or furnishing of bond in accordance with the terms of this section, then, upon certification thereof by the director or commission, said record in the judgment book and the entry in the judgment docket shall be vacated, and any execution thereon shall be recalled.

8-44-108. Right of insurer to examine books of employer. Any insurance carrier operating under the workmen's compensation act may apply to the commissioner of insurance for permission to examine any of the books, payrolls, or other documents of any employer insured by such carrier or of any contractor, subcontractor, lessee, sublessee, or person covered by the employer's compensation insurance to determine the amount of wage expenditure of such employer or of any contractor, subcontractor, lessee, sublessee, or person during any period that such insureds were insured by the insurance carrier. The commissioner of insurance may grant such carrier authority in writing to make the investigation or may appoint any of his agents to conduct the investigation.

8-44-109. Employer as own insurance carrier - revocation of permission. The commission in its discretion may grant to any

employer who has accepted the provisions of articles 40 to 54 of this title permission to be its own insurance carrier for the payment of the compensation and benefits provided by said articles. Such permission may be granted by the commission after the filing by an employer of such statement and the giving of such information as may be required by the commission. The commission has the sole power to prescribe the rules, regulations, orders, terms, and conditions upon which said permit shall be granted or continued. Permission for self-insurance may be revoked at any time by the commission, and the employer, upon notice of revocation, shall immediately insure otherwise his liability.

8-44-110. Public entities - self-insurance authorized for workmen's compensation - pooled insurance. (1) "Public entity", as used in this section, means and includes any county, municipality, school district, and any other type of district or authority organized pursuant to law.

(2) A public entity may, after receiving permission pursuant to section 8-44-101 (1) (c), act as its own insurance carrier for compensation and benefits. It may establish and maintain an insurance reserve fund for self-insurance purposes and may include in the annual tax levy of the public entity such amounts as are determined by its governing body to be necessary for the uses and purposes of the insurance reserve fund, subject to the limitations imposed by section 29-1-301, C.R.S. 1973. In the event that a public entity has no annual tax levy, it may appropriate from any unexpended balance in the general fund such amounts as the governing body shall deem necessary for the purposes and uses of the insurance reserve fund.

(3) Public entities may cooperate with one another to form a self-insurance pool to provide the insurance coverage required by this article for the cooperating public entities. Any such insurance pool shall be formed pursuant to the provisions of part 2 of article 1 of title 29, C.R.S. 1973.

(4) Any self-insurance pool authorized by subsection (3) of this section shall not be construed to be an insurance company nor otherwise subject to the provisions of the laws of this state regulating insurance or insurance companies; except that the pool shall comply with the applicable provisions of section 10-1-110 (1) to (4) and (6), C.R.S. 1973.

(5) Prior to the formation of a self-insurance pool, there shall be submitted to the commissioner of insurance a complete written proposal of the pool's operation, including, but not limited to, the administration, claims adjusting, membership, plan for reinsurance, and capitalization of the pool. The commissioner shall review the proposal within thirty days after receipt to assure that proper insurance techniques and procedures are included in the proposal. After such review, the commissioner shall have the right to approve or disapprove the

proposal. If the commissioner approves the proposal, he shall issue a certificate of authority. The costs of such review shall be paid by the public entities desiring to form such a pool.

(6) Each self-insurance pool for public entities created in this state shall file, with the commissioner of insurance on or before March 30 of each year, a written report in a form prescribed by the commissioner, signed and verified by its chief executive officer as to its condition. Such report shall include a detailed statement of assets and liabilities, the amount and character of the business transacted, and the moneys reserved and expended during the year. All such reports shall be transmitted to the governor and the general assembly.

(7) The commissioner of insurance, or any person authorized by him, shall conduct an insurance examination at least once a year to determine that proper underwriting techniques and sound funding, loss reserves, and claims procedures are being followed. This examination shall be paid for by the self-insurance pool out of its funds at the same rate as provided for foreign insurance companies under section 10-1-110 (5), C.R.S. 1973. Any such payment received by the commissioner is hereby appropriated to the division of insurance in addition to any other funds appropriated for its normal operation.

(8) (a) The certificate of authority issued to a public entity under this section may be revoked or suspended by the commissioner of insurance for any of the following reasons:

(I) Insolvency or impairment;

(II) Refusal or failure to submit an annual report as required by subsection (6) of this section;

(III) Failure to comply with the provisions of its own ordinances, resolutions, contracts, or other conditions relating to the self-insurance pool;

(IV) Failure to submit to examination or any legal obligation relative thereto;

(V) Refusal to pay the cost of examination as required by subsection (7) of this section;

(VI) Use of methods which, although not otherwise specifically proscribed by law, nevertheless render the operation of the self-insurance pool hazardous, or its condition unsound, to the public;

(VII) Failure to otherwise comply with the law of this state, if such failure renders the operation of the self-insurance pool hazardous to the public.

(b) If the commissioner of insurance finds upon

examination, hearing, or other evidence that any participating public entity has committed any of the acts specified in paragraph (a) of this subsection (8) or any act otherwise prohibited in this section, the commissioner may suspend or revoke such certificate of authority if he deems it in the best interest of the public. Notice of any revocation shall be published in one or more daily newspapers in Denver which have a general state circulation. Before suspending or revoking any certificate of authority of a public entity, the commissioner shall grant the public entity fifteen days in which to show cause why such action should not be taken.

Article 45
Notices and Reports

8-45-101. Record of injuries - occupational disease - reported to division. (1) Every employer shall keep a record of all injuries which result in fatality to, or permanent physical impairment of, or lost time from work for the injured employee in excess of three shifts or calendar days. Within ten days after notice or knowledge that an employee has contracted an occupational disease, or the occurrence of a permanently physically impairing injury, or lost-time injury to an employee, or immediately in the case of a fatality, the employer shall, in writing, upon forms prescribed by the division for that purpose, report said occupational disease disability, permanently physically impairing injury, lost-time injury, or fatality to the division. The report shall contain such information as shall be required by the director.

(2) Injuries to employees which result in fewer than three days' or three shifts' loss of time from work, or no permanent physical impairment, or no fatality to the employee shall be reported by the employer only to the insurer of his workmen's compensation insurance liability, which injuries said insurer shall report only by monthly summary form to the division.

8-45-102. Notice to employer of injury - failure to report. (1) Every employee who sustains an injury resulting from an accident shall notify his employer of said injury within two days of the occurrence of the injury, unless said employee is physically or mentally unable to do so or unless his employer, or his foreman, superintendent, or manager, or any other person in charge has actual notice of said injury. If said employee fails to report said injury, he shall lose one day's compensation for each day's failure to so report. If anyone reports the accident for said injured employee to his employer within the time specified in this section, the injured employee shall be relieved from reporting the accident.

(2) Written notice of the contraction of an occupational disease shall be given to the employer by the affected employee or by someone on his behalf within thirty days after the first distinct manifestation thereof. In the event of death from such

occupational disease, written notice thereof shall be given to the employer within thirty days after such death. Failure to give either of such notices shall be deemed waived unless objection is made at a hearing on the claim prior to any award or decision thereon. Actual knowledge by an employer in whose employment an employee was last injuriously exposed to an occupational disease of the contraction of such disease by such employee and of his exposure to the conditions causing it shall be deemed notice of its contraction. If the notice required in this section is not given as provided and within the time fixed, the director may reduce the compensation that would otherwise have been payable in such manner and to such extent as the director deems just, reasonable, and proper under the existing circumstances.

8-45-103. Information furnished to division - confidential use. Every employer shall furnish the division, upon request, all information required by it to accomplish the purposes of articles 40 to 54 of this title. The information shall be for the confidential use of the division, unless otherwise ordered by the director of the division of labor, and shall not be open to the public nor used in any court or any action or proceeding pending therein, unless the director is a party to such action or proceeding.

8-45-104. Information to division - blanks - verification. Every employer receiving from the division any blanks with directions to fill out the same or requests for information required for the purposes of articles 40 to 54 of this title shall properly fill out the blanks and furnish the information so requested fully and correctly. The director may require that any information requested by the division be verified under oath and may fix the time within which said information shall be returned.

Article 46
General Powers - Extraterritorial Provisions

PART 1
GENERAL POWERS

8-46-101. Collection of statistics. The director or any agents of the division may enter into any place of employment for the purpose of collecting facts and statistics, examining the provisions made for the health, protection, and safety of the employees, and bringing to the attention of every employer any rule, order, or requirement of the commission, or any law, or any failure on the part of any employer to comply therewith.

8-46-102. Records of employers open to inspection of division. All books, records, and payrolls of employers or of any contractor, subcontractor, lessee, sublessee, or person showing or reflecting in any way upon the amount of wage expenditure of such employers, contractor, subcontractor, lessee, sublessee, or person and all other facts, data, and statistics

appertaining to the purposes of this article shall always be open for inspection by the director or any agents of the division for the purpose of ascertaining the correctness of the reported wage expenditure, number of men employed, and such other information as may be necessary for the uses and purposes of the division in the administration of articles 40 to 54 of this title.

8-46-103. Director to enforce orders. If any person fails or refuses to comply with an order of the director, or to obey any subpoena issued by him or agents of the division, or to furnish the statistics, data, and information required to be furnished to the division by the provisions of articles 40 to 54 of this title, or refuses to permit an inspection as provided in said articles, or being in attendance refuses to be sworn or examined, or to answer a question, or to produce a book or paper when ordered to do so by the director or any of the deputies, agents, or referees of the division, the director may apply to the district court, upon proof by affidavit of the facts, for an order, returnable in not less than three days nor more than five days, directing such person to show cause before the district court which made the order why he should not be committed to jail. Upon the return of such order, the district court shall examine under oath such person and give him an opportunity to be heard. If the court determines that the person has refused without legal excuse in any one of the foregoing matters, it may commit the offender to jail forthwith by warrant, there to remain until he submits to do the act which he was required to do or until he is discharged according to law.

8-46-104. Expenses of division. All expenses incurred by the division pursuant to the provisions of articles 40 to 54 of this title shall be paid from funds appropriated for the use of the division upon claims therefor which shall be itemized and sworn to by the person who incurred the same. The claims shall be allowed by the director subject to the approval of the controller. The traveling expenses of the director or of any employees of the division, incurred while on business of the division outside of the state of Colorado, shall be paid in the manner aforesaid, but only when such expenses are authorized in advance by the controller to be incurred by the division.

8-46-105. Orders of director or commission - validity. All orders of the director or commission shall be valid and in force and prima facie reasonable and lawful until found otherwise in an action brought for that purpose, pursuant to the provisions of articles 40 to 54 of this title, or until altered or revoked by the director or commission, as the case may be.

8-46-106. Orders and awards - technical objections. Substantial compliance with the requirements of articles 40 to 54 of this title shall be sufficient to give effect to the orders or awards of the director or commission, and they shall not be declared inoperative, illegal, or void for any omission of a technical nature in respect thereto.

8-46-107. Referee - appointment - powers - investigations - hearings. (1) For the purpose of making any investigation or conducting any hearing with regard to any matter contemplated by the provisions of articles 40 to 54 of this title, the director shall have power to appoint, with the approval of the executive director of the department of labor and employment by an order in writing, any competent person as an agent or referee, whose duties shall be prescribed in such order. Any referee conducting a hearing under article 53 of this title shall be appointed in the same manner as a hearing officer is appointed pursuant to part 10 of article 30 of title 24, C.R.S. 1973.

(2) In the discharge of his duties, such agent or referee shall have every power whatsoever for obtaining information granted in said articles to the director, and all powers granted by law to officers authorized to take depositions are hereby granted to such agent.

(3) The director may conduct any number of such investigations contemporaneously through different agents or referees and may delegate to such agents the subpoenaing and swearing of witnesses and the taking of all testimony bearing upon any investigation or hearing. The decision of the director shall be based upon his examination of all testimony and records. The recommendations made by such agents or referees shall not preclude any further investigations or the taking of further testimony if the director so orders.

8-46-108. Adoption of rules and regulations. The commission has the power to adopt reasonable and proper rules and regulations relative to the administration of articles 40 to 54 and 65 and 66 of this title and proper rules and regulations to govern proceedings and hearings of the division and to amend said rules and regulations from time to time in its discretion. Such rules and regulations shall be promulgated in accordance with section 24-4-103, C.R.S. 1973.

8-46-109. Employees of division - qualifications. The executive director of the department of labor and employment has the power to employ, pursuant to section 13 of article XII of the state constitution, such deputies, experts, statisticians, accountants, inspectors, clerks, and other employees as may be necessary to carry out the provisions of articles 40 to 54 of this title or to perform the duties and exercise the powers conferred by law upon the division. Such deputies, statisticians, accountants, inspectors, clerks, and other employees, except experts in the employ of the division, shall have been for two years prior to such employment or appointment bona fide residents of the state of Colorado, and all of them, except only the experts, while in the employ of the division, shall devote their entire time to the service of the division.

8-46-110. Salaries of employees of division. All deputies, statisticians, accountants, clerks, experts, and other employees

of the division shall receive such compensation as may be fixed by law. The salaries so fixed shall be paid monthly from the fund appropriated for the use of the division after approval by the director.

8-46-111. Public officers to enforce orders - furnish information. It is the duty of all officers and employees of the state, counties, and municipalities, upon the request of the director, to enforce in their respective departments all lawful orders of the director insofar as the same may be applicable and consistent with the general duties of such officers and employees. It is also their duty to make to the director such reports as he may require concerning matters within their knowledge pertaining to the purposes of articles 40 to 54 of this title and to furnish him such facts, data, statistics, and information as, from time to time, may come to them pertaining to the purposes of said articles and the duties of the division thereunder, and particularly all information coming to their knowledge respecting the condition of all places of employment subject to the provisions of said articles with regard to the health, protection, and safety of employees and the hazard of risk of such places of employment.

8-46-112. Employees of division - bonds. Such employees of the division as shall be directed by the director shall furnish surety company bonds in such sum as may be fixed by the director, the premiums therefor to be paid as other expenses of the division are paid.

8-46-113. State average weekly wage - method of computation. (1) The state average weekly wage shall be established by the director annually on or before July 1 of each year. The state average weekly wage shall be determined from statistics furnished the director by the division of employment and shall be based upon the average of the average weekly earnings in selected industries in Colorado, as published by the United States bureau of labor statistics, weighted by the volume of employment according to the records of the division of employment in each of the selected industries, as computed by the division in June for the ensuing twelve months beginning July 1, on the basis of the most recent available figures. Such state average weekly wage shall automatically form the basis for establishing maximum benefits under the "Workmen's Compensation Act of Colorado" as of 12:01 a.m., July 1, 1974, and at each succeeding time and date annually thereafter.

(2) For the period from July 1, 1981, to June 30, 1982, the state average weekly wage shall not exceed seven percent over the three hundred five dollars and eighty-one cents, which was the average weekly wage set for the one-year period ending June 30, 1981. An interim committee shall be appointed by the legislative council to study the methods employed in establishing the state average weekly wage which takes effect July 1, 1981. This subsection (2) is repealed, effective July 1, 1982.

PART 2
EXTRATERRITORIAL PROVISIONS

8-46-201. Definition. As used in this part 2, unless the context otherwise requires, "state" includes any state or territory of the United States, the District of Columbia, and any province of Canada.

8-46-202. Exemptions - laws of other state furnish exclusive remedy. Any employee who has been hired outside of this state and his employer shall be exempted from the provisions of the "Workmen's Compensation Act of Colorado" while such employee is temporarily within this state doing work for his employer if such employer has furnished workmen's compensation insurance coverage under the workmen's compensation or similar laws of a state other than Colorado, so as to cover such employee's employment while in this state, but only if the extraterritorial provisions of sections 8-46-202 to 8-46-204 are recognized in such other state and if employers and employees who are covered in this state are likewise exempted from the application of the workmen's compensation or similar laws of the other state. The benefits under the workmen's compensation or similar laws of the other state shall be the exclusive remedy against such employer for any injury, whether resulting in death or not, received by such employee while working for such employer in this state.

8-46-203. Certificate of other state prima facie evidence. A certificate from the duly authorized officer of the industrial commission or similar department of another state certifying that the employer of such other state is insured therein and has provided extraterritorial coverage insuring his employees while working within this state shall be prima facie evidence that such employer carries compensation insurance.

8-46-204. Injury outside of state - benefits in accordance with state law. If an employee who has been hired or is regularly employed in this state receives personal injuries in an accident or an occupational disease arising out of and in the course of such employment outside of this state, he, or his dependents in case of his death, shall be entitled to compensation according to the law of this state. This provision shall apply only to those injuries received by the employee within six months after leaving this state, unless, prior to the expiration of such six-month period, the employer has filed with the division notice that he has elected to extend such coverage for a greater period of time.

Article 47
Earnings - Wages

8-47-101. Basis of compensation - wages defined - average weekly wage. (1) The average weekly wage of an injured employee shall be taken as the basis upon which to compute compensation

payments.

(2) Whenever the term "wages" is used, it shall be construed to mean the money rate at which the services rendered are recompensed under the contract of hire in force at the time of the injury, either express or implied, and shall not include gratuities received from employers or others, nor shall it include the amounts deducted by the employer under the contract of hire for materials, supplies, tools, and other things furnished and paid for by the employer and necessary for the performance of such contract by the employee; but the term "wages" shall include the reasonable value of board, rent, housing, lodging, or any other similar advantages received from the employer, the reasonable value of which shall be fixed and determined from the facts by the division in each particular case.

(3) Average weekly wages for the purpose of computing benefits provided in articles 40 to 54 of this title, except as provided in this section, shall be calculated upon the monthly, weekly, daily, hourly, or other remuneration which the injured or killed employee was receiving at the time of the injury, and in the following manner:

(a) Where the employee is being paid by the month for his services under a contract of hire, the weekly wage shall be determined by multiplying the monthly wage or salary at the time of the accident by twelve and dividing by fifty-two.

(b) Where the employee is being paid by the week for his services under a contract of hire, said weekly remuneration at the time of the injury shall be deemed to be the weekly wage for the purposes of articles 40 to 54 of this title.

(c) Where the employee is rendering service on a per diem basis, the weekly wage shall be determined by multiplying the daily wage by the number of days and fractions of days in the week during which the employee under a contract of hire was working at the time of the injury or would have worked if the injury had not intervened. In no case shall the daily wage be multiplied by less than five for the purpose of determining the weekly wage.

(d) Where the employee is being paid by the hour, the weekly wage shall be determined by multiplying the hourly rate by the number of hours in a day during which the employee was working at the time of the injury or would have worked if the injury had not intervened, to determine the daily wage; then the weekly wage shall be determined from said daily wage in the manner set forth in paragraph (c) of this subsection (3). In no case shall the hourly rate be multiplied by less than eight.

(e) Where the employee is paid on a piecework, tonnage, commission, or basis other than a monthly, weekly, daily, or

hourly wage and where the employment is but casual and in the usual course of the trade, business, profession, or occupation of his employer, the total amount earned by the injured or killed employee in the twelve months preceding the injury shall be computed, which sum shall be divided by the number of pay periods the injured person was employed during the twelve months immediately preceding the injury, and the result thus ascertained shall be considered the average wage of said employee per pay period.

(4) Where the foregoing methods of computing the average weekly wage of the employee, by reason of the nature of the employment or the fact that the injured employee has not worked a sufficient length of time to enable his earnings to be fairly computed thereunder or has been ill or in business for himself or for any other reason, will not fairly compute the average weekly wage, the division, in each particular case, may compute the average weekly wage of said employee in such other manner and by such other method as will, in the opinion of the director based upon the facts presented, fairly determine such employee's average weekly wage.

(5) Where an employee is a minor and the disability is temporary, the average weekly wage of such minor shall be determined by the division as in cases of disability of adults. Where the disability of such minor is permanent or if benefits under articles 40 to 54 of this title accrue because of the death of such minor, compensation to said minor or death benefits to his dependents shall be paid at the maximum rate of compensation payable under said articles at the time of the determination of such permanency or of such death.

8-47-102. Effect of previous disability or compensation. (1) The fact that an employee has suffered a previous disability or received compensation therefor shall not preclude compensation for a later injury or for death, but, in determining compensation for the later injury or death, his average weekly earnings shall be such sum as will reasonably represent his average weekly earning capacity at the time of the later injury and shall be arrived at according to and subject to the limitations in section 8-47-101.

(2) In case there is a previous disability, the percentage of disability for a subsequent injury shall be determined by computing the percentage of the entire disability and deducting therefrom the percentage of the previous disability as it existed at the time of the subsequent injury. In such cases awards shall be based on said computed percentage. Such computation, when applicable, shall be made in the following types of awards under articles 40 to 54 of this title: Permanent total, permanent partial, including scheduled, working unit, and lump sum; except that, in the event the provisions of section 8-51-106 are applicable, such apportionment shall not be made.

Article 48
Contractors and Lessees

8-48-101. Lessor or contractor-out deemed employer - liability - recovery. (1) Any person, company, or corporation operating or engaged in or conducting any business by leasing or contracting out any part or all of the work thereof to any lessee, sublessee, contractor, or subcontractor, irrespective of the number of employees engaged in such work, shall be construed to be an employer as defined in articles 40 to 54 of this title and shall be liable as provided in said articles to pay compensation for injury or death resulting therefrom to said lessees, sublessees, contractors, and subcontractors and their employees or employees' dependents. The employer, before commencing said work, shall insure and keep insured his liability as provided in said articles, and such lessee, sublessee, contractor, or subcontractor, as well as any employee thereof, shall be deemed employees as defined in said articles. The employer shall be entitled to recover the cost of such insurance from said lessee, sublessee, contractor, or subcontractor and may withhold and deduct the same from the contract price or any royalties or other money due, owing, or to become due said lessee, sublessee, contractor, or subcontractor.

(2) If said lessee, sublessee, contractor, or subcontractor is himself an employer in the doing of such work and, before commencing such work, insures and keeps insured his liability for compensation as provided in articles 40 to 54 of this title, neither said lessee, sublessee, contractor, or subcontractor, its employees, or its insurer shall have any right of contribution or action of any kind, including actions under section 8-52-108, against the person, company, or corporation operating or engaged in or conducting any business by leasing or contracting out any part or all of the work thereof, or against its employees, servants, or agents.

(3) (a) Notwithstanding any provision of this section to the contrary, any person, company, or corporation who contracts with a landowner or lessee of a farm or ranch to perform a specified farming or ranching operation shall, prior to entering into such contract, provide for and maintain, for the period of such contract, workmen's compensation coverage pursuant to articles 40 to 54 of this title covering all his employees and laborers to be utilized under such contract. Proof of such coverage on forms or certificates issued by the insurer shall be provided to the person, company, or corporation contracting for the labor prior to performing such contract.

(b) Any person, company, or corporation contracting with a landowner or lessee of a farm or ranch to provide a specified farming or ranching operation who fails to provide coverage pursuant to subsection (1) of this section or who fails to maintain such coverage for the term of the contract is guilty of a misdemeanor and, upon conviction thereof, shall be punished by

imprisonment in the county jail for not more than sixty days, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

(c) Notwithstanding any provision of this section to the contrary, no person, company, or corporation contracting with a landowner or lessee of a farm or ranch operation to perform a specified farming or ranching operation nor any employee of such person, company, or corporation required to be covered by workmen's compensation pursuant to this subsection (3) shall have any right of contribution from, or any action of any kind, including actions under section 8-52-108, against, the person, company, or corporation contracting to have such agricultural labor performed.

(d) (I) If any person, company, or corporation contracting to provide labor to perform specified farming or ranching operations and required to provide workemen's compensation coverage pursuant to articles 40 to 54 of this title fails to provide such coverage and the person, company, or corporation for whom the labor is provided incurs any liability thereby, the person, company, or corporation providing the labor shall be subject to a cause of action for said liability and for reasonable attorney fees.

(II) If the person, company, or corporation for whom the labor for the performance of a specified farming or ranching operation is provided is sued by the injured employee, said person, company, or corporation may join the person, company, or corporation providing the labor as a third-party defendant in lieu of filing an independent action.

(4) Repealed, Law 1979.

8-48-102. Repairs to real property - liability for insurance. (1) Every person, company, or corporation owning any real property or improvements thereon and contracting out any work done on and to said property to any contractor, subcontractor, or person who hires or uses employees in the doing of such work shall be deemed to be an employer under the terms of articles 40 to 54 of this title. Every such contractor, subcontractor, and person, as well as their employees, shall be deemed to be employees, and such employer shall be liable as provided in said articles to pay compensation for injury or death resulting therefrom to said contractor and subcontractor and their employees or employees' dependents and, before commencing said work, shall insure and keep insured his liability as provided in said articles. Such employer shall be entitled to recover the cost of such insurance from said contractor, subcontractor, or person and may withhold and deduct the same from the contract price or any royalties or other money due, owing, or to become due said contractor, subcontractor, or person.

(2) If said contractor, subcontractor, or person doing or undertaking to do any work for an owner of property, as provided in subsection (1) of this section, is himself an employer in the doing of such work and, before commencing such work, insures and keeps insured his liability for compensation as provided in articles 40 to 54 of this title, neither said contractor, subcontractor, or person nor his employees or insurers shall have any right of contribution or action of any kind, including actions under section 8-52-108, against the person, company, or corporation owning real property and improvements thereon which contracts out work done on said property, or against its employees, servants, or agents.

8-48-103. Exemption of certain lessors of real property. (1) The provisions of this article shall not apply to any lessor or sublessor of real property who rents or leases real property to any lessee or sublessee for the purpose of conducting the business of such lessee or sublessee, whether as a franchise holder, independent agent, or consignee or in any other separate capacity and whether or not such person is an employer, as defined in section 8-41-105, but in no event where such lessee or sublessee is an employee, as defined in section 8-41-106 (1) (b).

(2) No such lessee or sublessee, or any employee or insurer thereof, shall have any right of contribution from or action against such lessor or sublessor under articles 40 to 54 of this title.

(3) The provisions of this article shall not apply to any lessor or sublessor of real property who leases or rents real property to any lessee or sublessee for the purpose of conducting any agricultural production business of such lessee or sublessee, and no such lessee or sublessee, or any employee or insurer thereof, shall have any right of contribution from or action against such lessor or sublessor under articles 40 to 54 of this title.

Article 49
Medical, Surgical, and Hospital

8-49-101. Employer must furnish medical aid - approval of plan. (1) (a) Every employer, regardless of his method of insurance, shall furnish such medical, surgical, dental, nursing, and hospital treatment, medical, hospital, and surgical supplies, crutches, apparatus, and vocational rehabilitation, which shall include tuition, fees, transportation, and weekly maintenance equivalent to that which the employee would receive under section 8-51-102 for the period of time that the employee is attending a vocational rehabilitation course, as may reasonably be needed at the time of the injury or occupational disease and thereafter during the disability and period of vocational rehabilitation, to cure and relieve from the effects of the injury. In no event shall the injured employee be entitled to receive both temporary total disability benefits and income maintenance benefits while

attending a vocational rehabilitation program.

(b) In all cases where the injury results in the loss of a member or part of the employee's body, loss of teeth, loss of vision or hearing, or damage to an existing prosthetic device, the employer shall furnish within the limits of the medical benefits provided in paragraph (a) of this subsection (1) one artificial member, glasses, a hearing aid, a brace, and any other prosthetic device, including dentures, which are reasonably required to replace or improve the function of each member or part of the body or prosthetic device so affected or to improve the employee's vision or hearing. The employee may, at any time within two years from the date such artificial member, glasses, hearing aid, brace, and other prosthetic device, including dentures, was originally furnished, petition the division for one additional replacement upon grounds that the employee has undergone an anatomical change since the original was furnished, and that the anatomical change is directly related to and caused by the injury, and that the replacement is necessary to improve the function of each member or part of the body so affected or to relieve pain and discomfort. Every employer subject to the terms and provisions of articles 40 to 54 of this title must insure his liability for the medical, surgical, and hospital expenses provided for in this article, unless permission is given by the director to such employer to operate under a medical plan, as set forth in subsection (2) of this section.

(2) Every such plan, which is agreed to between the employer and employee, for the furnishing of medical, surgical, and hospital treatment, whether or not the employee is to pay any part of the expense of such treatment, before being put into effect, shall receive the approval of the director. The director has full power to formulate the terms and conditions under which any such plan may operate and the essentials thereof, and at any time he may order modifications or changes in any such plan or withdraw his approval thereof. No plan shall be approved by the director which relieves the employer from the burden of assuming and paying for any part of the medical, surgical, and hospital services and supplies required.

(3) The commission has the power to establish a schedule fixing the fees for which all medical, surgical, hospital, dental, nursing, and vocational rehabilitation treatment rendered to employees under this section shall be compensated, and it is unlawful, void, and unenforceable as a debt for any physician, chiropractor, hospital, person, or institution to contract with, bill, or charge any patient for services, rendered in connection with injuries coming within the purview of this article or an applicable fee schedule, which are or may be in excess of said fee schedule unless such charges are approved by the commission. Fee schedules shall be reviewed on or before July 1 of each year by the commission, and appropriate health care practitioners shall be given a reasonable opportunity to be heard prior to fixing the fees.

(4) Every employee who has suffered an injury covered by this article shall be entitled to vocational rehabilitation at a facility or institution approved by the division when, as a result of the injury or occupational disease, he is unable to perform work for which he has previous training or experience. Such vocational rehabilitation services shall continue for such period of time as may be reasonably necessary, not exceeding twenty-six weeks, for the purpose of restoring the employee to suitable employment. The director, on good cause shown, may extend, for an additional period not to exceed twenty-six weeks, the vocational rehabilitation treatment or services required. In no event shall the total time exceed fifty-two weeks for the rehabilitation services provided pursuant to this subsection (4) or for the payment of income maintenance benefits as provided in paragraph (a) of subsection (1) of this section. If such services are not voluntarily offered by the employer or his insurance carrier and accepted by the employee, the director, on his own motion or upon application of any party in interest, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render the employee fit for a remunerative occupation. Upon a showing that vocational rehabilitation is reasonably necessary, the director may order services and treatment recommended or such other rehabilitation, treatment, or service as he may deem necessary, such rehabilitation, treatment, or service to be provided and paid for in the same manner and with the same limitations as provided in paragraph (a) of subsection (1) of this section.

(5) Any employee who is found to be eligible for vocational rehabilitation under this article shall not have his degree of permanent partial disability determined until he has completed his vocational rehabilitation program. In the event the employee voluntarily, without good cause, withdraws from such rehabilitation program, the degree of permanent partial disability shall be determined as though the employee had successfully completed the vocational rehabilitation program.

(6) The division and the department of social services shall enter into cooperative agreements to coordinate the administration and delivery of rehabilitative services to such eligible employees in order to avoid unnecessary duplication of available vocational rehabilitative benefits.

Article 50
Dependency

8-50-101. Persons presumed wholly dependent. (1) For the purposes of articles 40 to 54 of this title, the following described persons shall be presumed to be wholly dependent (however, such presumption may be rebutted by competent evidence):

(a) Widow or widower, unless it is shown that she or he was voluntarily separated and living apart from the spouse at the time of the injury or death or was not dependent in whole or in part on the deceased for support;

(b) Minor children of the deceased under the age of eighteen years, including posthumous or legally adopted children;

(c) Minor children of the deceased over the age of eighteen years and under the age of twenty-one years if it is shown that at the time of the decedent's death they were actually dependent upon the deceased for support and engaged in courses of study as full-time students at any accredited school.

8-50-102. Other dependents - temporary dependency. Except as otherwise provided in section 8-50-101 (1) (c), a child eighteen years of age or over and a mother, father, grandmother, grandfather, sister, brother, or grandchild who was wholly or partially supported by the deceased employee at the time of death and for a reasonable period of time immediately prior thereto is considered an actual dependent. To be entitled to compensation, such dependents, except as provided in section 8-50-101 (1) (c), must prove that they were incapable of or actually disabled from earning their own living. If said incapacity or disability is temporary only, compensation shall be paid only during the period of such temporary incapacity or disability.

8-50-103. Death benefits. In case of death, the dependents of the deceased entitled thereto shall receive as compensation or death benefits sixty-six and two-thirds percent of the deceased employee's average weekly wages, not to exceed a maximum of eighty percent of the state average weekly wage per week for accidents occurring on or after September 1, 1975, and not less than a minimum of twenty-five percent of the applicable maximum per week. In cases where it is determined that periodic death benefits granted by the federal old age, survivors, and disability insurance act or a workmen's compensation act of another state or of the federal government are payable to an individual and his dependents, the aggregate benefits payable for death pursuant to this section shall be reduced, but not below zero, by an amount equal to one hundred percent of such periodic benefits.

8-50-104. Partial dependents - compensation. Partial dependents shall be entitled to receive only that portion of the benefits provided for those wholly dependent which the average amount of the wages regularly contributed by the deceased to such partial dependents at and for a reasonable time immediately prior to the injury bore to the total income of the dependents during the same time. The director has power and discretion to determine the proper elements to be considered as income of said dependents in each particular case. Where there are persons both wholly dependent and partially dependent, only those wholly dependent shall be entitled to compensation.

8-50-105. Dependency and extent determined - how. (1) Dependents and the extent of their dependency shall be determined as of the date of the injury to the injured employee, and the right to death benefits shall become fixed as of said date irrespective of any subsequent change in conditions. Death benefits shall be directly payable to the dependents entitled thereto or to such person legally entitled thereto as the director may designate.

(2) In case an employee or claimant entitled to compensation dies leaving dependents, any accrued and unpaid portion of the compensation or benefits up to the time of the death of such employee or claimant shall be paid to such dependents as may be ordered by the director and not to the legal representative as such of said decedent. In case the injured employee or claimant leaves no dependents, the director may order the application of any accrued and unpaid benefits up to the time of the death of such employee or claimant paid upon the expenses of the last sickness or funeral of such decedent, the preference in such payment to be to funeral expenses.

(3) In case an injured employee or dependent of a deceased employee entitled to benefits under articles 40 to 54 of this title is declared incompetent or insane, any benefits accrued or to accrue may be paid to the conservator of his estate, if any, or to his dependents, if any, or to the party or institution having custody of the person of such injured employee or dependent of a deceased employee as may be ordered by the director in his discretion.

8-50-106. Termination of right to benefits. Death benefits shall be paid to a dependent widow or widower for life or until remarriage, and, if there are no dependent children, as defined in section 8-50-101 (1) (b) and (1) (c), in the event of remarriage, a two-year lump-sum benefit without discount, less any lump sums previously paid, shall be paid to such widow or widower. Death benefits shall terminate upon the happening of any of the following contingencies and shall thereupon survive to the remaining dependents, if any: Upon the death of any dependent; when a child or brother or sister of the deceased reaches the age of eighteen years, except as otherwise provided in sections 8-50-101 (1) (b) and (1) (c) and 8-50-102; and upon the expiration of six years from the date of the death of the injured employee in the case of partial dependents.

8-50-107. Burial expenses. When, as a proximate result of an injury, death occurs to an injured employee, there shall be paid in one lump sum within thirty days after his death a sum not to exceed one thousand dollars for his reasonable funeral and burial expenses. Said sum may be paid to the undertaker, or to any other person who has paid the undertaker, if the director so orders. If the employee leaves no dependents, compensation shall be limited to said sum and the compensation, if any, which has accrued to date of death and the medical, surgical, and hospital

expenses provided in articles 40 to 54 of this title. If the deceased employee leaves dependents, said sum shall be paid in addition to all other sums of compensation provided for in this article.

8-50-108. Action by injured employee - dependents not parties in interest. No dependent of an injured employee, during the life of the employee, shall be deemed a party in interest to any proceeding by him for the enforcement of any claim for compensation nor with respect to any settlement thereof by said employee.

8-50-109. Illegitimate minor children. Illegitimate minor children of a deceased putative father shall be entitled to compensation in the same respect as a legitimate minor child of said decedent when it is proved to the satisfaction of the director that the father, during his lifetime, has acknowledged said children to be his and has regularly contributed to their support and maintenance for a reasonable period of time prior to his death.

8-50-110. Death after two years. In case death occurs more than two years after the date of receiving any injury, such death shall be prima facie presumed not to be due to such injury; such presumption shall not apply in cases of silicosis, asbestosis, anthracosis, or disability or death resulting from exposure to radioactive materials, substances, or machines or to fissionable materials, or any type of malignancy caused thereby, or from poisoning by uranium or its compounds. In all other cases, such presumption may be rebutted by competent evidence.

8-50-111. Death from injury - benefits. (1) In case death proximately results from the injury, the benefits shall be in the amount and to the persons following:

(a) If there are no dependents, compensation shall be limited to the expenses provided for medical, hospital, and funeral expense of the deceased, together with such sums as may have accrued or been paid to the deceased during his lifetime for disability, and any amount or payment which is due the subsequent injury fund under section 8-51-106.

(b) If there are wholly dependent persons at the time of death, the payment shall be in accordance with the provisions of section 8-50-103.

(c) If there are partially dependent persons at the time of death, the payment shall not exceed sixty-six and two-thirds percent of the average weekly wages, subject to the limitations of articles 40 to 54 of this title as to maximum and minimum weekly amounts, to continue for such period after the date of death as is required to pay, at the weekly rate, the total amount awarded by the director to be paid to such partially dependent persons.

8-50-112. When death not proximate result - benefits. (1) If death occurs to an injured employee, other than as a proximate result of an injury, before disability indemnity ceases and the deceased leaves persons wholly dependent upon him for support, death benefits shall be as follows:

(a) Where the injury proximately caused permanent total disability, the death benefit shall consist of the unpaid and unaccrued portion of the permanent total disability benefit which the employee would have received had he lived until he had received compensation at his regular rate for a period of six years.

(b) Where the injury proximately caused permanent partial disability, the death benefit shall consist of the unpaid and unaccrued portion of the permanent partial disability benefit which the employee would have received had he lived.

8-50-113. Benefits to partial dependents. (1) If death occurs to an injured employee, other than as a proximate result of the injury, before disability indemnity ceases and the deceased leaves persons partially dependent upon him for support, death benefits shall be as follows:

(a) Where the injury proximately caused permanent total disability, the death benefit shall consist of that proportion of the unpaid and unaccrued portion of the permanent total disability benefit which the employee would have received had he lived until he had received compensation at his regular rate for a period of six years as the amount devoted by the deceased to the support of such persons for the year immediately prior to the injury bears to the total income of the persons during said year.

(b) Where the injury caused permanent partial disability, the death benefit shall consist of that proportion of the unpaid and unaccrued portion of the permanent partial disability benefit which the employee would have received if he had lived as the amount devoted by the deceased to the support of such persons for the year immediately prior to the injury bears to the total income of the persons during said year.

8-50-114. Death benefits to nonresident dependents. Death benefits, under the provisions of articles 40 to 54 of this title, to dependents who are nonresidents of the United States at the time of the death of the injured employee shall be equal to the amounts provided for dependents who are residents of the United States as provided in this article. Before such payments shall be made, the requirements of section 8-50-102 must be documented to the director. Compensation and benefits, as provided by articles 40 to 54 of this title, may be paid directly to the injured employee, or to the dependents of any deceased employee, in domestic exchange or in exchange of the country wherein such claimant resides or, at the direction of the director, may be paid to any consul, vice-consul, or consular

agent, duly accredited to the consular district within which such claimant resides, for transmittal to such claimant. The receipt of such consular agent shall be received as evidence of the payment of such compensation and benefits, or payments may be made in such other manner as the director in his discretion shall order. This section shall be repealed effective July 1, 1983.

8-50-114.1. Applicability of repeal of death benefits to nonresident dependents. The repeal of section 8-50-114 shall not affect the payments of death benefits which are being paid before July 1, 1983.

8-50-115. Director to determine and apportion benefits. Death benefits shall be paid to such one or more of the dependents of the decedent, for the benefit of all the dependents entitled to such compensation, as may be determined by the director, who may apportion the benefits among such dependents in such manner as he may deem just and equitable. Payment to a dependent subsequent in right may be made, if the director deems it proper, which payment shall operate to discharge all other claims therefor. The dependents or persons to whom benefits are paid shall apply the same to the use of the several beneficiaries thereof according to their respective claims upon the decedent for support in compliance with the finding and direction of the director.

8-50-116. Minor dependents - safeguarding payments. In all cases of death where the dependents are minor children, it shall be sufficient for the surviving spouse or a friend to make application and claim on behalf of the minor children. The director, for the purpose of protecting the rights and interests of any dependent whom he deems incapable of fully protecting his own interest, may deposit the payments in any type of account in state or national banks insured by the federal deposit insurance corporation or savings and loan associations which are insured by the federal savings and loan insurance corporation and may otherwise provide for the manner and method of safeguarding the payments due such dependent in such manner as he sees fit.

8-50-117. Payment as discharge of liability - conflicting claims. Payment of death benefits to one or more dependents shall protect and discharge to that extent all compensation under articles 40 to 54 of this title unless and until any other person claiming to be a dependent has given the division notice of his claim and until the division has notified the employer or his insurance carrier of such claim. In such case, the director shall determine the respective rights of said rival claimants, and thereafter such death benefits shall be paid to such dependents as he may find so entitled under the provisions of said articles.

Article 51
Benefits

8-51-101. Disability indemnity payable as wages - period of disability. (1) If the injury or occupational disease causes disability, a disability indemnity shall be payable as wages, upon the tenth day after the injured employee leaves work as the result of the injury and thereafter regularly but not less frequently than once every two weeks, unless otherwise ordered by the director, subject to the following limitations:

(a) If the period of disability does not last longer than three days from the day the employee leaves work as a result of the injury, no disability indemnity shall be recoverable except the disbursement provided in articles 40 to 54 of this title for medical, surgical, nursing, and hospital services, apparatus, and supplies, nor in any case unless the division has actual knowledge of the injury or is notified thereof within the period specified in said articles.

(b) If the period of disability lasts longer than two weeks from the day the injured employee leaves work as the result of the injury, disability indemnity shall be recoverable from the day the injured employee leaves work.

(c) In cases where it is determined that periodic disability benefits granted by the federal old-age, survivors, and disability insurance act are payable to an individual and his dependents, the aggregate benefits payable for temporary total disability, temporary partial disability, permanent partial disability, and permanent total disability pursuant to this section shall be reduced, but not below zero, by an amount equal as nearly as practical to one-half such federal periodic benefits; but, if provisions of the federal old-age, survivors, and disability insurance act should be amended to provide for a reduction of an individual's disability benefits thereunder because of compensation benefits payable under articles 40 to 54 of this title, the reduction of compensation benefits provided in said articles shall be decreased by an amount equal to such federal reduction.

(d) In cases where it is determined that periodic disability benefits are payable to an employee under the provisions of a pension plan financed in whole or in part by the employer, hereinafter called "employer pension plan", the aggregate benefits payable for temporary total disability, temporary partial disability, permanent partial disability, and permanent total disability pursuant to this section shall be reduced, but not below zero, by an amount equal as nearly as practical to such employer pension plan benefits, with the following limitations:

(I) Where the employee has contributed to the employer pension plan, benefits shall be reduced under this section only in an amount proportional to the employer's percentage of total contributions to the employer pension plan.

(II) Where the employer pension plan provides by its terms that benefits are precluded thereunder in whole or in part if benefits are awarded under articles 40 to 54 of this title, the reduction provided in this paragraph (d) shall not be applicable to the extent of the amount so precluded.

(e) In cases where it is determined that periodic disability benefits are payable to an individual and his dependents pursuant to a workmen's compensation act of another state or of the federal government, the aggregate benefits payable for temporary total disability, temporary partial disability, permanent partial disability, and permanent total disability pursuant to this section shall be reduced, but not below zero, by an amount equal to the benefits payable pursuant to such other workmen's compensation act.

8-51-102. Temporary total disability. In case of temporary disability of more than three days' duration, the employee shall receive sixty-six and two-thirds percent of his average weekly wages so long as such disability is total, not to exceed a maximum of eighty percent of the state average weekly wage per week.

8-51-103. Temporary partial disability. In case of temporary partial disability, the employee shall receive sixty-six and two-thirds percent of the impairment of his earning capacity during the continuance thereof, not to exceed a maximum of eighty percent of the state average weekly wage per week.

8-51-104. Schedule of disability periods - commencement. (1) In case an injury results in a loss set forth in the following schedule, the injured employee, in addition to compensation to be paid for temporary disability, shall receive compensation for the period as specified:

(a)	The loss of an arm at the shoulder	208 weeks
(b)	The loss of forearm at the elbow	139 weeks
(c)	The loss of a hand at the wrist	104 weeks
(d)	The loss of a thumb and the metacarpal bone thereof	50 weeks
(e)	The loss of a thumb at the proximal joint	35 weeks
(f)	The loss of a thumb at the second or distal joint	18 weeks
(g)	The loss of an index finger and the metacarpal bone thereof	26 weeks
(h)	The loss of an index finger at the proximal joint	18 weeks

(i)	Loss of an index finger at the second joint	13 weeks
(j)	Loss of an index finger at the distal joint	9 weeks
(k)	Loss of a second finger and the metacarpal bone thereof	18 weeks
(l)	Loss of a middle finger at the proximal joint	13 weeks
(m)	Loss of a middle finger at the second joint	9 weeks
(n)	Loss of a middle finger at the distal joint	5 weeks
(o)	Loss of a third or ring finger and the metacarpal bone thereof	11 weeks
(p)	Loss of a ring finger at the proximal joint	7 weeks
(q)	Loss of a ring finger at the second joint	7 weeks
(r)	Loss of a ring finger at the distal joint	4 weeks
(s)	Loss of a little finger and the metacarpal bone thereof	13 weeks
(t)	Loss of a little finger at the proximal joint	9 weeks
(u)	Loss of a little finger at the second joint	9 weeks
(v)	Loss of a little finger at the distal joint	4 weeks
(w)	Loss of a leg at the hip joint or so near thereto as to preclude the use of an artificial limb	208 weeks
(x)	Loss of a leg at or above the knee, where the stump remains sufficient to permit the use of an artificial limb	139 weeks
(y)	The loss of a foot at the ankle	104 weeks
(z)	The loss of a great toe with the metatarsal bone thereof	26 weeks
(aa)	The loss of a great toe at the proximal joint	18 weeks
(bb)	The loss of a great toe at the second or distal joint	9 weeks
(cc)	The loss of any other toe with the metatarsal bone thereof	11 weeks
(dd)	The loss of any other toe at the proximal joint	4 weeks
(ee)	The loss of any other toe at the second or	

	distal joint	4 weeks
(ff)	The loss of an eye by enucleation (including disfigurement resulting therefrom)	139 weeks
(gg)	Total blindness of one eye	104 weeks
(hh)	Total deafness of both ears	139 weeks
(ii)	Total deafness of one ear	35 weeks
(jj)	Where workman prior to injury has suffered a total loss of hearing in one ear, and as a result of the accident loses total hearing in remaining ear	139 weeks

(2) The director shall determine the time when temporary disability terminates as to injuries coming under any provision of this section.

(3) For the purpose of this schedule, permanent and complete paralysis of any member as the proximate result of accidental injury shall be deemed equivalent to the loss thereof.

(4) If amputation is made between any two joints mentioned in this schedule, except amputation between the knee and the hip joint, the resulting loss shall be estimated as if the amputation had been made at the joint nearest thereto. If any portion of the bone of the distal joint of any finger, thumb, or toe is amputated, the amount paid therefor shall be the amount allowed for amputation at said distal joint.

(5) The amounts specified in this section shall be at the compensation rate of eighty-four dollars per week.

(6) When an injured employee sustains two or more injuries coming under this schedule, the disabilities specified in this section shall be added, and the injured employee shall receive the sum total thereof; except that, where the injury results in the loss or partial loss of use of the index finger and thumb of the same hand or of more than two digits of any one hand or foot, the disability, in the discretion of the director, may be compensated on the basis of the partial loss of use of said hand or foot, measured respectively from the wrist or ankle.

(7) Where an injury causes the loss of, loss of use of, or partial loss of use of any member specified in the foregoing schedule, the director may determine the disability suffered and the amount of compensation to be awarded by awarding compensation which bears such relation to the amount stated in the above schedule for the loss of a member as the disabilities bear to the loss produced by the injuries named in the schedule, and such amount shall be in addition to compensation for temporary disability; or the director may award such compensation under the permanent partial disability section of this article as the

director in his discretion may determine from the particular facts in each case.

8-51-105. Facial disfigurement - additional compensation. If any employee is seriously, permanently disfigured about the head, face, or parts of the body normally exposed to public view, the director, in addition to all other compensation benefits provided in this article, may allow such sum for compensation on account thereof as he may deem just, not exceeding two thousand dollars.

8-51-106. Loss of remaining members - compensation. (1) (a) In a case where an employee has previously sustained permanent partial industrial disability and in a subsequent injury sustains additional permanent partial industrial disability and it is shown that the combined industrial disabilities render the employee permanently and totally incapable of steady gainful employment and incapable of rehabilitation to steady gainful employment, then the employer in whose employ the employee sustained such subsequent injury shall be liable only for that portion of the employee's industrial disability attributable to said subsequent injury, and the balance of compensation due such employee on account of permanent total disability shall be paid from the subsequent injury fund as is provided in this section.

(b) In addition to such compensation and after the completion of the payments therefor, the employee shall continue to receive compensation at his established compensation rate for permanent total disability until death out of a special fund to be known as the "subsequent injury fund", created for such purpose in the following manner: For every compensable injury resulting in death wherein there are no persons either wholly or partially dependent upon the deceased, the employer or his insurance carrier, if any, shall pay to the division the sum of fifteen thousand dollars, to be deposited with the state treasurer, as custodian, into the subsequent injury fund. In the event there are only partially dependent persons dependent upon the deceased, the employer or his insurance carrier, if any, shall first pay such benefits to such partial dependents and the balance of the sum of fifteen thousand dollars, to be deposited with the state treasurer, as custodian, into the subsequent injury fund.

(2) If an employee entitled to additional benefits, as provided in this section, obtains employment while receiving compensation from the subsequent injury fund, he shall be compensated out of said fund at the rate of one-half of his average weekly wage loss, subject to the maximum and minimum provisions of the workmen's compensation act, during such period of employment.

(3) In case payment is or has been made under the provisions of this section and dependency later is shown or if

payment is made by mistake or inadvertence or under such circumstances that justice requires a refund thereof, the division is authorized to refund such payment to the employer or, if insured, his insurance carrier.

(4) (a) The sums provided for the subsequent injury fund created by this section shall be used to pay the costs related to the administration of the fund and to make such compensation payments as may be required by the provisions of articles 40 to 54 of this title.

(b) In 1981 a portion of said administrative costs shall be utilized to conduct an actuarial study of the fund, said study to include the actuary's recommendations as to the future need for such studies. Copies of the actuarial report shall be made available to the general assembly by January, 1982.

(c) All funds which are utilized for the administration of the subsequent injury fund or actuarial study of said fund shall be subject to appropriation by the general assembly.

8-51-107. Award for permanent total disability. (1) In cases of permanent total disability, the award shall be sixty-six and two-thirds percent of the average weekly wages of the injured employee and shall continue until death of such person so totally disabled but not in excess of the weekly maximum benefits specified in this article for injuries causing temporary total disability.

(2) The loss of both hands or both arms or both feet or both legs or both eyes or of any two thereof, by injury in or resulting from the same injury or occupational disease, shall create a presumption which may be rebutted by competent contrary evidence of total and permanent disability to be compensated according to the provisions of this section; except that, where the disability comes under this section and where the employer or the division obtains suitable employment for such disabled person which he can perform and which in all cases is subject to the sole approval of the director, the disabilities set out in this subsection (2) shall not constitute total disability during the continuance of the director's approval of said employment but shall constitute such partial disability as may be determined by the director after a finding of the facts.

8-51-108. Permanent partial disability - how determined. (1) (a) Where an accident causes injury resulting in permanent partial disability, except the sustaining of any one of the injuries specifically covered by sections 8-51-104 to 8-51-106, the injured employee shall be deemed permanently disabled from the time he is so declared by the director and from said time shall be entitled to compensation for permanent partial disability in addition to any compensation theretofore allowed.

(b) In determining permanent partial disability, the

director shall ascertain in terms of percentage the extent of general permanent disability which the injury has caused, taking into consideration not only the manifest weight of the evidence but also the general physical condition and mental training, ability, former employment, and education of the injured employee. The director shall then determine the injured employee's expectancy of life from recognized expectancy tables and such other evidence relating to his expectancy as may be presented, but in no event shall the employee's life expectancy be reduced for these purposes if his injury or illness is the direct cause of his reduced life expectancy. He shall then ascertain the total amount which said employee would receive during the balance of his expectancy at the compensation rate of eighty-four dollars per week and shall then take that percentage of the total sum so arrived at as is indicated by the percentage of general permanent disability found to exist in the manner as set forth in this article, not to exceed in any event the aggregate sum of twenty-six thousand two hundred ninety-two dollars, said sum to be paid at a weekly rate of not more than eighty-four dollars.

(2) At any time, and from time to time, during the period for which compensation has been awarded for either permanent total or permanent partial disability, upon application of any party in interest, the director shall require such injured employee to be examined by one or more physicians, and, upon petition from any such interested party supported by a showing that the disability of such injured employee has undergone a change in degree since the entry of such award, the case shall be reopened, and the compensation previously awarded shall be modified, terminated, or continued as the evidence may require.

(3) Repealed, Law 1975.

8-51-109. Added compensation for additional injuries. Where an injured employee sustains an injury covered by sections 8-51-104 to 8-51-106 but in addition thereto receives other injuries which are sufficient in their nature to alone cause temporary total disability, said employee shall receive, in addition to the amounts specified in said schedule, compensation for temporary total disability as long as said disability is found to exist as a result of said other injuries.

8-51-110. Examination - refusal - personal responsibility - physicians to testify and furnish reports. (1) If in case of injury the right to compensation under articles 40 to 54 of this title exists in favor of an employee, upon the written request of his employer or the insurer carrying such risk, he shall submit himself from time to time to examination by a physician or surgeon, who shall be provided and paid for by the employer or insurer, and he shall likewise submit to examination from time to time by any regular physician selected and paid for by the division.

(2) The employee shall be entitled to have a physician, provided and paid for by himself, present at any such examination. If an employee is examined by a chiropractor at the request of the employer, the employee shall be entitled to have a chiropractor provided and paid for by himself present at any such examination. The employee shall also be entitled to receive from the examining physician or chiropractor a copy of any report which said physician or chiropractor makes to the employer, insurer, or division upon said examination, said copy to be furnished to the employee at the same time it is furnished to the employer, insurer, or division. The employee shall also be entitled to receive reports from any physician selected by the employer to treat him upon the same terms and conditions and at the same time the reports are furnished by the physician to the employer. The employer shall be entitled to receive reports from any physician or chiropractor selected by the employee to treat or examine him in connection with such injury upon the same terms and at the same time the reports are furnished by the physician or chiropractor to the employee.

(3) So long as the employee, after written request by the employer or insurer, refuses to submit himself to medical examination or in any way obstructs the same, his right to collect, or to begin or maintain any proceeding for the collection of, compensation shall be suspended. If he refuses to submit to such examination after direction by the director or any examiner of the division or in any way obstructs the same, his right to weekly indemnity which accrues and becomes payable during the period of such refusal or obstruction shall be barred. If any employee persists in any unsanitary or injurious practice which tends to imperil or retard his recovery or refuses to submit to such medical or surgical treatment or vocational rehabilitation as is reasonably essential to promote his recovery and rehabilitation, the director, in his discretion, may reduce or suspend the compensation of any such injured employee.

(4) Any physician or chiropractor who makes or is present at any such examination may be required to testify as to the results thereof. Any physician or chiropractor having attended an employee in a professional capacity may be required to testify before the division when it so directs. A physician or chiropractor will not be required to disclose confidential communications imparted to him for the purpose of treatment and which are unnecessary to a proper understanding of the case.

(5) (a) In all cases of injury, the employer or insurer has the right in the first instance to select the physician who attends said injured employee. If the services of a physician are not tendered at the time of injury, the employee shall have the right to select his own physician or chiropractor. Upon written request to the employer or insurance carrier, the employee may procure written permission to have his own physician or chiropractor attend him. If such permission is neither granted nor refused within fifteen days, the employer or

insurance carrier shall be deemed to have waived any objection thereto. Upon the proper showing to the division, the employee may procure its permission at any time to have a physician of his own selection attend him, and in any nonsurgical case the employee, with such permission, in lieu of medical aid, may procure any nonmedical treatment recognized by the laws of this state as legal, the practitioner administering such treatment to receive such fees therefor under the medical provisions of articles 40 to 54 of this title as may be fixed by the commission.

(b) Any private insurer or self-insured employer acting as his own insurance carrier as provided in section 8-44-109 providing workmen's compensation coverage shall pay for chiropractic care as provided in paragraph (a) of this subsection (5).

8-51-111. State treasurer to invest funds. (1) The state treasurer shall invest any portion of the subsequent injury fund, including its surplus and reserves, which the commission determines is not needed for immediate use. All interest earned upon such invested portion shall be credited to the fund and used for the same purposes and in the same manner as other moneys in the fund. Such moneys may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. 1973.

(2) In addition, such moneys may be invested in notes and loans secured by first mortgages or first deeds of trust on real property located in Colorado and guaranteed by government or private insurance or in nonconvertible corporate notes and bonds and equipment trust certificates of United States domestic corporations rated investment grade by a recognized security rating service.

8-51-112. Last employer liable - exception. (1) Where compensation is payable for an occupational disease, the employer in whose employment the employee was last injuriously exposed to the hazards of such disease and the insurance carrier, if any, on the risk when such employee was last so exposed under such employer shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier. In the case of silicosis, asbestosis, or anthracosis, the only employer and insurance carrier liable shall be the last employer in whose employment the employee was last exposed to harmful quantities of silicon dioxide (SiO2) dust, asbestos dust, or coal dust on each of at least sixty days or more and the insurance carrier, if any, on the risk when the employee was last so exposed under such employer.

(2) In any case where an employee of an employer becomes disabled from silicosis, asbestosis, anthracosis, or poisoning or disease caused by exposure to radioactive materials, substances, or machines or to fissionable materials, or any type of

malignancy caused thereby, or in the event death results from silicosis, asbestosis, anthracosis, or poisoning or disease caused by exposure to radioactive materials, substances, or machines or to fissionable materials, or any type of malignancy caused thereby, and, if such employee has been injuriously exposed to such diseases while in the employ of another employer during his lifetime, the last employer or his insurance carrier, if any, shall be liable only for compensation and medical benefits as provided by articles 40 to 54 of this title, including funeral expenses and death benefits, up to the amount of ten thousand dollars. In addition to such benefits, such employee or, in the event of death, his dependents shall receive additional benefits equivalent to the difference between the amount paid by the last employer or his insurance carrier, if any, and the total amount of benefits payable under said articles. Such additional benefits shall be paid out of the subsequent injury fund created by the provisions of section 8-51-106.

8-51-113. Waiver of compensation by employee - approval required - exception. No waiver of compensation or medical benefits by an employee for aggravation of any preexisting condition or disease shall be allowed under articles 40 to 54 of this title. This section, however, shall not invalidate any such waiver so filed and approved prior to March 1, 1977, under the provisions of the "Colorado Occupational Disease Disability Act", which is repealed effective September 1, 1975.

Article 52
General Provisions

8-52-101. Loaning employer liable for compensation. Where an employer, who has accepted the provisions of articles 40 to 54 of this title and has complied therewith, loans the service of any of his employees who have accepted the provisions of said articles to any third person, he shall be liable for any compensation thereafter for any injuries or death of said employee as provided in said articles, unless it appears from the evidence in said case that said loaning constitutes a new contract of hire, express or implied, between the employee whose services were loaned and the person to whom he was loaned.

8-52-102. Conditions of recovery. (1) The right to the compensation provided for in articles 40 to 54 of this title, in lieu of any other liability to any person for any personal injury or death resulting therefrom, shall obtain in all cases where the following conditions occur:

(a) Where, at the time of the injury, both employer and employee are subject to the provisions of said articles and where the employer has complied with the provisions thereof regarding insurance;

(b) Where, at the time of the injury, the employee is

performing service arising out of and in the course of his employment;

(c) Where the injury or death is proximately caused by an injury or occupational disease arising out of and in the course of his employment and is not intentionally self-inflicted.

8-52-103. Compensation in lump sum. (1) At any time after six months have elapsed from the date of injury, the commission, in the exercise of its discretion, after five days' prior notice to the parties, may order payment of all or any part of the compensation awarded in a lump sum, or in such manner as it may determine to be for the best interests of the parties concerned, and its discretion so exercised shall be final and not subject to review. When payment in a lump sum is ordered, the commission shall fix the amount to be paid based on the present worth of partial payments, considering interest at four percent per annum, and less deductions for contingencies of death and remarriage.

(2) The aggregate of all lump sums granted to a claimant who has been awarded compensation by the director for permanent total disability, permanent partial disability, or death benefits shall not exceed twenty-six thousand two hundred ninety-two dollars.

8-52-104. Acts of employees reducing compensation. (1) The compensation provided for in articles 40 to 54 of this title shall be reduced fifty percent:

(a) Where injury is caused by the willful failure of the employee to use safety devices provided by the employer;

(b) Where injury results from the employee's willful failure to obey any reasonable rule adopted by the employer for the safety of the employee;

(c) Where injury results from the intoxication of the employee.

8-52-105. Notice of injury - time limit. (1) Notice of an injury, for which compensation and benefits are payable, shall be given by the employer to the division within ten days after the injury, and, in case of the death of any employee resulting from any such injury or any accident in which three or more employees are injured, the employer shall give immediate notice thereof to the director. If no such notice is given by the employer, as required by articles 40 to 54 of this title, such notice may be given by any person. Any notice required to be filed by an injured employee or, if deceased, by his dependents may be made and filed by anyone on behalf of such claimant and shall be considered as done by such claimant if not specifically disclaimed or objected to by such claimant in writing filed with the division within a reasonable time. Such notice shall be in writing and upon forms prescribed by the division for that

purpose and served upon the division by delivering to, or by mailing by registered mail two copies thereof addressed to, the division at its office in Denver, Colorado. Upon receipt of such notice from a claimant, the division shall immediately mail one copy thereof to said employer, his agent, or his insurance carrier.

(2) The director shall have jurisdiction at all times to hear and determine and make findings and awards on all cases of injury for which compensation or benefits are provided by articles 40 to 54 of this title. Except in cases of disability or death resulting from exposure to radioactive materials, substances, or machines or to fissionable materials, or any type of malignancy caused thereby, or from poisoning by uranium or its compounds, or from asbestosis, silicosis, and anthracosis, the right to compensation and benefits provided by said articles shall be barred unless, within three years after the injury or after death resulting therefrom, a notice claiming compensation is filed with the division. This limitation shall not apply to any claimant to whom compensation has been paid or if it is established to the satisfaction of the director within five years after the injury or death that a reasonable excuse exists for the failure to file such notice claiming compensation and if the employer's rights have not been prejudiced thereby, and the furnishing of medical, surgical, or hospital treatment by the employer shall not be considered payment of compensation or benefits within the meaning of this section; but, in all cases in which the employer has been given notice of an injury and fails, neglects, or refuses to report said injury to the division as required by the provisions of said articles, this statute of limitations shall not begin to run against the claim of the injured employee or his dependents in the event of his death until the required report has been filed with the division.

(3) In cases of disability or death resulting from exposure to radioactive materials, substances, or machines or to fissionable materials, or any type of malignancy caused thereby, or from poisoning by uranium or its compounds, or from asbestosis, silicosis, or anthracosis, the right to compensation and benefits shall be barred unless, within five years after the commencement of disability or death, a notice claiming compensation is filed with the division.

8-52-106. Disability beginning five years after injury. Any disability beginning more than five years after the date of injury shall be conclusively presumed not to be due to the injury, except in cases of disability or death resulting from exposure to radioactive materials, substances, or machines or to fissionable materials, or any type of malignancy caused thereby, or from poisoning by uranium or its compounds, or from asbestosis, silicosis, or anthracosis.

8-52-107. Assignability and exemption of claims - payment to employers - when. (1) Claims for compensation or benefits due

under articles 40 to 54 of this title shall not be assigned, released, or commuted except as provided in said articles and shall be exempt from all claims of creditors and from levy, execution, and attachment or other remedy or recovery or collection of a debt, which exemption may not be waived.

(2) The power given in any power of attorney or other authority from any injured employee or the dependents of any killed employee purporting to authorize any other person to receive, be paid, or receipt for any compensation benefits awarded any such claimant shall be wholly void and illegal and of no force and effect; except that any employer who is subject to the provisions of articles 40 to 54 of this title and who, by separate agreement, working agreement, contract of hire, or any other procedure, continues to pay a sum in excess of the temporary total disability benefits prescribed by articles 40 to 54 of this title to any employee temporarily disabled as a result of any injury arising out of and in the course of his employment and has not charged the employee with any earned vacation leave, sick leave, or other similar benefits shall be reimbursed if insured by an insurance carrier or shall take credit if self-insured to the extent of all moneys that such employee may be eligible to receive as compensation or benefits for temporary partial or temporary total disability under the provisions of said articles, subject to the approval of the director.

(3) Such payments shall be paid directly to the employer during the period of time that such employer continues to pay a sum in excess of the temporary total disability benefits prescribed by articles 40 to 54 of this title and has not charged any earned vacation leave, sick leave, or other similar benefits to any employee so disabled and for so long as such employee is eligible for temporary disability benefits under the provisions of articles 40 to 54 of this title. The payment of such moneys to an employer shall constitute the payment of compensation or benefits to the employee in accordance with the provisions of section 8-51-101.

(4) When the payment by an employer to any such disabled employee is reduced to a sum equal to or less than the temporary total disability benefits prescribed by articles 40 to 54 of this title, or when the employer has charged the employee with any earned vacation leave, sick leave, or other similar benefits for any reason, the rights of the employee to receive direct payment of any award for temporary partial or temporary total disability that he may be entitled to on and after the effective date of such reduction shall be reinstated in accordance with the provisions of articles 40 to 54 of this title.

(5) Any employer subject to the provisions of articles 40 to 54 of this title and otherwise qualifying for direct payment of employee benefits as provided in this section shall notify the division and the insurance carrier of his eligibility to receive such moneys. The director shall approve such direct payment

after the filing of such information by the employer as the director may require.

(6) Nothing in this section shall be construed to limit in any way the right of any employee to full payment of any award which may be granted to him for permanent partial or permanent total disability under the provisions of said articles.

(7) Following an injury, any injured employee may authorize in writing the continuation of any payroll deduction which the employee had authorized or could have authorized before the injury, which authorization shall be legal and may be honored by the employer to the extent that proceeds of compensation of claims are available to the employer or are made available to the employer by his insurance carrier for this purpose until the authorization is revoked in writing by the injured employee.

(8) If any employer who pays to an injured employee a sum in excess of the temporary total disability benefits prescribed by articles 40 to 54 of this title and who has not charged the employee with any earned vacation leave, sick leave, or other similar benefits seeks to have assigned the compensation benefits otherwise due the injured employee as provided in this section, the employer shall notify the employee of said request at the same time he makes the request of the director or insurance carrier or both.

8-52-108. Negligence of stranger - election of remedies - subrogation - actions - compromise. (1) If any employee entitled to compensation under articles 40 to 54 of this title is injured or killed by the negligence or wrong of another not in the same employ, such injured employee or, in case of death, his dependents, before filing any claim under this article, shall elect in writing whether to take compensation under said articles or to pursue his remedy against the other person. Such election shall be evidenced in such manner as the commission may by rule or regulation prescribe. If such injured employee or, in case of death, his dependents elect to take compensation under said articles, the payment of compensation shall operate as and be an assignment of the cause of action against such other person to the division of the state compensation insurance fund, medical disaster insurance fund, major medical insurance fund, or subsequent injury fund, if compensation is payable from said funds, and otherwise to the person, association, corporation, or insurance carrier liable for the payment of such compensation. Said insurance carrier shall not be entitled to recover any sum in excess of the amount of compensation for which said carrier is liable under said articles to the injured employee, but to that extent said carrier shall be subrogated to the rights of the injured employee against said third party causing the injury. If the injured employee elects to proceed against such other person, the state compensation insurance fund, medical disaster insurance fund, major medical insurance fund, subsequent injury fund, person, association, corporation, or insurance carrier, as the

case may be, shall contribute only the deficiency, if any, between the amount of the recovery against such other person actually collected and the compensation provided by said articles in such case. The right of subrogation provided by this section shall apply to and include all compensation and all medical, hospital, dental, funeral, and other benefits and expenses to which the employee or his dependents are entitled under the provisions of said articles, including articles 65 and 66, or for which his employer or insurance carrier is liable or has assumed liability. Nothing in this section shall be construed as limiting in any way the right of the injured employee to elect to take compensation under articles 40 to 54 of this title and also proceed against the third party causing the injury to recover any damages in excess of the subrogation rights described in this section.

(2) Such a cause of action assigned to the division of the state compensation insurance fund may be prosecuted or compromised by it. A compromise of any such cause of action by the employee or his dependents at an amount less than the compensation provided for by articles 40 to 54 of this title shall be made only with the written approval of the manager of the state compensation insurance fund, if the deficiency of compensation would be payable from the state compensation insurance fund, and otherwise with the written approval of the person, association, corporation, or insurance carrier liable to pay the same.

(3) If an employee is killed by the negligence or wrong of another not in the same employ and the dependents of such employee entitled to compensation under articles 40 to 54 of this title are minors, such election to take compensation and the assignment of the cause of action against such other person and such notice of election to pursue a remedy against such other person shall be made by such minor or shall be made on his behalf by a parent of such minor or by his next friend or duly appointed guardian, as the director of the division of labor may determine by rule in each case.

8-52-109. Right to compensation operates as lien - interest on award. (1) The right of compensation granted by articles 40 to 54 of this title and any awards made thereunder shall have the same preference or lien without limit of amount against the assets of the employer or his insurer or both as may be allowed by law for a claim for unpaid wages for labor.

(2) Every employer or insurance carrier of an employer shall pay interest at the rate of eight percent per annum upon all sums not paid upon the date fixed by the award of the director for the payment thereof. Upon application and satisfactory showing to the director of the valid reasons therefor, said director, upon such terms or conditions as he may determine, may relieve such employer or insurer from the payment of interest after the date of the order therefor; and proof that

payment of the amount fixed has been offered or tendered to the person designated by the award shall be such sufficient valid reason.

8-52-110. Defaulting employer enjoined from continuing business. Any employer subject to the terms and provisions of articles 40 to 54 of this title who fails to insure or to keep the insurance required by said articles in force or who allows the same to lapse or fails to effect a renewal thereof shall not continue any of his business operations while such default in effective insurance continues. The director may institute the proper action to enjoin any such employer from continuing his business operations during any such default.

8-52-111. Attorneys assigned by director - fees. (1) At the request of either an employee or his attorney, the director may determine the reasonableness of the fee charged by such attorney. In making this determination, the director shall consider fees normally charged by attorneys for cases requiring the same amount of time and skill and may decrease or increase the fee payable to such attorney. On contested cases, a contingent fee not exceeding twenty-five percent of the award for permanent partial disability shall be presumed to be reasonable; but, if the director finds that a review by the commission or an appeal to the court of appeals or the supreme court was perfected or if the director finds that such attorney reasonably devoted an extraordinary amount of time to the case, the director may award or approve a contingent fee or other fee in a larger percentage or amount.

(2) In any proceedings before the division, the director shall, upon petitioner's request, assign counsel to represent the petitioner if it appears that the petitioner is unable to employ counsel on his own account and that counsel is required and necessary. In proceedings where counsel is so assigned, the director shall fix the fee for counsel, which shall be paid from the compensation payable, but, if no compensation is awarded or found to be due, the director shall pay said counsel, from division unencumbered funds, a fee fixed by the director.

8-52-112. Deposit on unpaid compensation or benefits - trust fund - surplus. (1) The commission in its discretion at any time, any provisions in articles 40 to 54 of this title to the contrary notwithstanding, by unanimous consent of all of the members thereof, may compute and require to be paid to the division, to be held by it in trust, an amount equal to the present value of all unpaid compensation or other benefits in any case computed at the rate of four percent per annum. Such action may be taken after a finding by the commission as to the insolvency, the threatened insolvency, or any other condition or danger which may cause the loss of, or which has delayed or may impede, hinder, or delay prompt payment of, compensation or benefits by any insurance carrier or employer. The action and finding of the commission shall not be subject to review, and the

commission shall not be required to give any notice of hearing or hold any hearing prior to taking such action or making its finding.

(2) All moneys so paid in shall constitute a separate trust fund in the office of the state treasurer, and, after any such payment is so ordered, the employer or insurance carrier shall thereupon be discharged from any further liability under such award for which payment is made to the extent of the payment made, and the payment of the award shall then be assumed to the extent of payment made by the special trust fund so created. If, for any reason, a beneficiary's right to the compensation awarded and ordered paid into said special trust fund ceases, lapses, or in any manner terminates by virtue of the terms and provisions of articles 40 to 54 of this title so that a surplus not surviving or accruing to any other beneficiary remains in said trust fund of the amount ordered paid into it on behalf of the beneficiary, the insurance carrier or employer who has made said payment shall be entitled to a refund of the present value of said surplus, if any, computed at the rate of four percent per annum. The state treasurer shall invest any portion of the special trust fund, including its surplus and reserves, which the commission determines is not needed for immediate use.

Article 53
Procedure

8-53-101. Disputes concerning compensation. Any dispute or controversy concerning compensation under articles 40 to 54 of this title shall be submitted to the division in the manner and with the effect as provided in this article.

8-53-102. Notice concerning liability - hearings. (1) The employer or, if insured, his insurance carrier shall notify in writing the division and the injured employee or, if deceased, his dependents within twenty-five days after notice or knowledge of an injury to an employee which disables said employee for more than three shifts or three calendar days or results in permanent physical impairment or death of said employee, whether liability is admitted or contested; but, for the purpose of this section, any knowledge on the part of the employer, if insured, is not knowledge on the part of his insurance carrier. Where the employer's report of injury shows that the employee is temporarily disabled for three days or less and medical attention as provided by section 8-49-101, if required, has been afforded at the expense of the employer or the insurance carrier, then no admission or denial of liability need be filed until the employer or, if insured, his insurance carrier has knowledge of or notice of claim for compensation benefits and then within fifteen days from the date of such knowledge or notice.

(2) If such notice is not filed as provided in subsection (1) of this section, the employer or, if insured, his insurance carrier, as the case may be, shall become liable to the claimant,

if successful in his claim for compensation, for one day's compensation for each day's failure to so notify. If the employer or, if insured, his insurance carrier admits liability, such notice shall specify the amount, to whom, the period, and the disability for which compensation will be paid, and payment thereon shall be made forthwith. Upon proper showing in writing made within said times fixed therefor, the director may extend the time for filing such admission of liability, or notice of contest, but not exceeding ten days at any one time. Hearings may be set to determine any matter, but if any liability is admitted, payments shall continue according to admitted liability. No receipt or settlement shall be final unless in conformity with the provisions of articles 40 to 54 of this title and the rules and regulations of the commission and unless such receipt or settlement has been approved by the director.

8-53-103. Hearings - notice - service on nonresident employers. (1) Hearings shall be held by the director upon his own motion or upon the application of any party interested therein. The director shall cause reasonable notice of such hearing to be given to each party interested, by service upon him personally or by mailing a copy thereof to him at his last known post-office address, at least ten days before such hearing. Such hearings may be adjourned from time to time in the discretion of the director and may be held at such places as the director designates. All parties in interest shall have the right to be present at any hearing in person or by their attorney, to present such testimony as may be pertinent to the controversy before the director, and to cross-examine.

(2) The director may receive as evidence and use as proof of any fact in dispute the following matters, in addition to sworn testimony presented at open hearings:

(a) Reports of attending or examining physicians or chiropractors;

(b) Reports of investigators appointed by the director;

(c) Reports of employers including copies of time sheets, book accounts, or other records;

(d) Hospital records in the case of an injured or deceased employee.

(3) The director may cause an examination to be made of the person of the injured employee, or without notice take testimony or inspect the premises where the injury occurred, or inspect the time books, payrolls, or other records of the employer. All ex parte evidence received by the director shall be reduced to writing, and any party in interest shall have the opportunity to examine and rebut the same by cross-examination or by further evidence.

(4) If service of a notice or process is made on a nonresident employer, the same shall be done in the manner provided by this subsection (4) and subsection (5) of this section:

(a) With respect to notices or process issued by the director, service thereof shall be made as follows: By filing a copy of said notice with the secretary of state; by mailing by the director or his designated agent to such employer within ten days after said filing with the secretary of state, by restricted certified mail addressed to the nonresident employer at his last known address, residence, or place of abode, a copy of said notice on which shall be noted the date of filing of the copy of said notice with the secretary of state.

(b) The term "restricted certified mail" means mail which carries on the face thereof in a conspicuous place where it will not be obliterated, the endorsement, "deliver to addressee only", and which also requires a return receipt.

(c) In lieu of mailing said copy of notice to the nonresident employer in a foreign state, the director or any party in interest may cause the same to be personally served in the foreign state on such employer by an adult person not a party to the proceeding by delivering said copy or by offering to make such delivery in case he refuses to accept delivery.

(d) Proof of the filing of a copy of said notice with the secretary of state and proof of the mailing or personal delivery of the copy to said nonresident employer shall be made by affidavit of the party doing said acts. All affidavits of service shall be endorsed upon or attached to the original of the papers to which they relate, and all such proofs of service including the return registry receipt shall be forthwith filed with the original papers.

(5) (a) With respect to process from any court of competent jurisdiction reviewing the acts and determinations of the director or the commission, service of such process on a nonresident employer shall be made by leaving a copy of the process, with a fee of two dollars which shall be taxed as a part of the cost of the proceedings, with the secretary of state or in his office. Such service shall be sufficient service upon any such nonresident employer who has under this subsection (5) appointed the secretary of state his true and lawful attorney therefor, if notice of such service and a copy of the process are forthwith sent by the party requesting the issuance of said process by restricted certified mail, addressed to the nonresident employer at his last known residence or place of abode, and if the date of the filing of a copy of said process with the secretary of state is noted on the copy sent to said nonresident employer by restricted certified mail.

(b) In lieu of the mailing of a copy of said process to a

nonresident employer in a foreign state, any party in interest may cause the same to be personally served in the foreign state of such employer by an adult person not a party to the proceedings by delivering said copies or offering to make such delivery in case he refuses to accept delivery.

(c) Proof of the filing of said notice with the secretary of state or proof of personal delivery of a copy to said nonresident employer shall be made by an affidavit of the party doing said acts. All affidavits of service shall be endorsed upon or attached to the original of the papers to which they relate, and all such proofs of service including the return certified mail receipt shall be forthwith filed with the original papers.

(6) The secretary of state shall keep a record of all such notices or process filed with him and shall not permit said filed copies of notices or process to be taken from his office except upon order of the court but shall upon request and without fee furnish any nonresident employer or his insurer a certified copy of any notice or process issued by the director or the commission in which said employer is named and in the case of process issued by any court reviewing any of the proceedings theretofore had in said matter by the director and the commission, the secretary of state shall charge the usual fees allowed by law for the issuance of certified copies of documents on file at his office and any such charge so made shall be taxed as costs in the case.

(7) The term "nonresident employer" as used in this section shall not be construed to mean foreign corporations lawfully qualified to transact business with the state of Colorado in compliance with section 7-9-101, C.R.S. 1973.

(8) Nothing in this section shall be construed to repeal or amend in any manner part 2 of article 46 of this title or to deprive any nonresident employer of any rights, exemptions, or reciprocity provided in said part 2 for and to which he is entitled and for which he has qualified by virtue of the terms of said part 2.

8-53-104. Hearings - before director or referee - orders. Hearings arising under articles 40 to 54 of this title may be held before the director or any referee of the division. Any referee shall be appointed in the same manner as a hearing officer is appointed pursuant to part 10 of article 30 of title 24, C.R.S. 1973. The director may assign one or more referees, and any such referee shall have power to call, preside at, and conduct hearings, including the power to issue subpoenas. After the conclusion of every hearing the referee shall make a summary order allowing or denying said claim without being required to make specific findings of facts. If compensation benefits are granted, it shall be sufficient to specify the amounts thereof, the disability for which compensation benefits are granted, by whom and to whom such benefits shall be paid, and the method and

time of such payments. Such order of the referee shall be in writing and a copy of such order shall be furnished to each of the parties in interest, the original of which shall be a part of the records in said case. Said order shall be entered as the final award of the director subject to review as provided in articles 40 to 54 of this title.

8-53-105. Director may refer cases - referees. The director may refer any case to any district or county judge or other person in this state as special referee for the purpose of taking evidence, and such special referee, after notice to the parties in interest, may hold hearings and issue subpoenas for such purpose and, in case such hearing is held by him, shall reduce all evidence so taken to writing and certify to and return the same to the director, and such evidence may be used by the director or any referee of the division in making or entering the findings and award of the director. The director, after notice to the parties in interest, may refer the taking of any evidence to any commission, court, or board administering in another state the compensation laws thereof, and such commission, court, or board of such other state, after notifying the parties in interest of the time and place of holding such hearing, shall hold hearings and take such evidence in the same manner and by the officers as authorized by the laws of such state, and all such proceedings shall be certified and return thereof made as prescribed by the director of the division of labor.

8-53-106. Review - petition - notice - clerical mistakes. (1) Any party in interest who is dissatisfied with the award entered by the referee or director may file a petition with the referee or director to review such award. Upon the filing of such petition, the referee or director may reopen the case, holding such further hearings and receiving such further evidence as he may deem necessary, following such further proceedings with a supplemental order; or amend or modify said prior order by a supplemental order; or refer the entire case to the commission. In any event, if it has not already been done, the referee or director, following a petition to review an award, shall make findings of fact which shall include all evidentiary and ultimate facts necessary to support such award. If the referee or director makes a supplemental order as provided in this subsection (1), it shall be final unless a petition to review the same shall be filed with the commission.

(2) (a) The commission, upon referral of a case to it by the director or upon a petition being filed with it to review the director's or a referee's supplemental award, shall review the entire record transmitted by the director in said case and shall enter its award thereon. The grounds of the decision shall be within the scope of the issues presented on the record. The record shall include all matters constituting the record upon which the decision of the director or referee was based, the rulings upon the findings and conclusions, the decision of the director or referee, and any other exceptions and briefs.

(b) The findings of evidentiary fact, as distinguished from ultimate conclusions of fact, made by the director or referee shall not be set aside by the commission on review of the director's or referee's decision unless the findings of evidentiary fact are contrary to the weight of the evidence. The commission may remand the case to the director or referee for such further proceedings as it may direct, or it may affirm, set aside, or modify the order or any sanction or relief entered therein, in conformity with the facts and the law.

(c) The award of the commission shall be final unless a petition to review same shall be filed by a party in interest.

(3) Every petition for review shall be in writing, and shall specify in detail the particular errors and objections. Such petition must be filed within fifteen days of any referee's or director's order or of the award of the commission, unless further time is granted by the referee, director, or the commission within said fifteen days, and unless so filed, said order or award shall be final. Prior to any action being taken by the referee or director upon a petition to review his order, or by the commission upon a petition to review its award, a transcript of all hearings which have been held theretofore in the case shall be furnished by the party seeking such review. Any party seeking review, including the division of the state compensation insurance fund, shall pay the reporter for furnishing and preparing the transcript; except that where it is shown to the satisfaction of the director at the written request of such a petitioner that, because of his financial distress or other conditions, he is unable to pay the cost of preparation of such transcript, the director may cause such transcript to be prepared at the expense of the division and shall pay the reporter's fee therefor. Such transcript must be filed within thirty days after the filing of the petition for review, unless further time is granted by the referee, director, or the commission within said thirty days, and, unless so filed, the petition for review shall be stricken, and the order or award sought to be reviewed shall be final.

(4) All parties in interest shall be given due notice of the entry of any referee's order or any award of the director or the commission. Said period of fifteen days shall begin to run only after such notice, and the mailing of a copy of said order or award to the last known address shown in the files of the division of any party in interest and to the attorneys or agents of record in the case, if any, shall be sufficient notice as of the date of such mailing.

(5) Clerical mistakes in orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the division at any time on its own initiative or on the motion of any party and after such notice, if any, and without the necessity of filing transcripts of testimony taken therein, as the division orders. During the pendency of an

appeal, such mistakes may be so corrected before the case is docketed in an appellate court and thereafter while the appeal is pending may be so corrected with leave of the appellate court.

8-53-107. Actions to set aside award. No action, proceeding, or suit to set aside, vacate, or amend any order or award of the commission, or to enjoin the enforcement thereof, shall be brought unless the plaintiff has first applied to the commission for a review as provided in section 8-53-106. Such action, proceeding, or suit must be commenced within twenty days after the final order or award entered by the commission upon such review.

8-53-108. Review of order or award - parties. Any person in interest, including the division of the state compensation insurance fund, being dissatisfied with any finding, order, or award of the referee or director or any order or award of the commission issued or promulgated by virtue of the authority conferred in articles 40 to 54 of this title, may commence an action in the court of appeals against the director and the commission as defendants to modify or vacate any such finding, order, or award on the grounds set forth in section 8-53-112. In any such action an adverse party shall also be made a defendant.

8-53-109. Precedence of action. All such actions shall have precedence over any civil cause of a different nature pending in such court, and the court of appeals shall always be deemed open for the trial thereof, and such actions shall be tried and determined by the court of appeals in the manner provided for other civil actions.

8-53-110. Petition for review - records. (1) (a) In such action a copy of the petition, which shall state the grounds upon which the review is sought, shall be served upon the commission and each adverse party. The commission, within twenty days after the service of the petition, shall make return to said court of all documents and papers on file in the matter, and of all testimony taken therein, and of certified copies of all findings, orders, and awards, which return shall be deemed its answer to said petition. Such return of the commission shall constitute the judgment roll in such action, and it shall not be necessary to settle a bill of exceptions in order to make such return part of the record of such court in such action.

(b) Such action shall be commenced by such service of the petition upon the commission. The petition shall be filed with the court of appeals within ten days after such service. Such action shall be conducted in the manner prescribed by rule of the supreme court.

(2) The record of said commission so filed in said court shall be returned to the commission after the final disposition by the court of appeals or the supreme court.

8-53-111. Stay of proceedings - consideration of new issues. If, upon trial of such action, it appears that all issues arising in such action have not theretofore been presented to the referee, the director, or the commission in the petition filed as provided in articles 40 to 54 of this title or that the referee, the director, or the commission has not theretofore had an ample opportunity to hear and determine any issues raised in such action or has for any reason not in fact heard and determined the issues raised, the court, before proceeding to render judgment, unless the parties to such action stipulate to the contrary, shall transmit to the commission a full statement of such issues not adequately considered and shall stay further proceedings in such action until such issues are heard by the director or referee and reviewed by the commission and returned to said court. Upon receipt of such statement from the commission, the director or referee shall hear and consider the issues not theretofore heard and considered and may alter, affirm, modify, amend, or rescind the finding, order, or award complained of in said action. The commission shall review the action of the director or referee and shall report its action thereon to said court within a reasonable time after its receipt of the order and award of the director or referee. The court thereupon shall order such amendment or other proceeding as may be necessary to raise the issues as presented by such modification of the finding, order, or award as may have been made by the director or referee or such modification of the order or award as may have been made by the commission, if any such modification has in fact been made, and thereupon shall proceed with the trial of such action.

8-53-112. Causes for setting aside award. Upon such hearing, the court may affirm or set aside such order or award, but only upon the following grounds: That the director or commission acted without or in excess of his or its powers; that the finding, order, or award was procured by fraud; that the findings of fact by the director do not support the order or award.

8-53-113. Actions in court tried within thirty days. Any such action commenced in court to set aside or modify any order or award of the director which has been reviewed by the commission shall be heard within thirty days after issue shall be joined, unless continued on order of the court for good cause shown. No continuance shall be for longer than thirty days at one time.

8-53-114. Error disregarded unless prejudicial. Review and appeal shall be upon the record of the director and commission returned to the court. Upon the hearing of any such action, the court shall disregard any irregularity or error of the director or the commission unless it affirmatively appears that the party complaining was damaged thereby.

8-53-115. Court record transmitted to commission - when.

It is the duty of the clerk of the court of appeals, without order of court or application of the commission, to transmit the record in any case to the commission, within twenty-five days after the order or judgment of the court unless in the meantime, further appellate review is granted by the supreme court. If the supreme court grants further appellate review, the clerk shall return the record immediately upon receipt of remittitur from the supreme court, unless the order of the supreme court requires further action by the court of appeals, and then within twenty-five days after such further action.

8-53-116. Court may remand case to director. Upon setting aside of any order or award, the court may recommit the controversy and remand the record in the case to the commission for further hearing or proceedings by the director and the commission, or it may order said commission to enter the proper award upon the findings as the nature of the case shall demand. In no event shall such order for award be for a greater amount of compensation than allowed by articles 40 to 54 of this title, or in any manner conflict with the provisions thereof.

8-53-117. Summary review by supreme court. If the supreme court reviews the judgment of the court of appeals, such review shall be limited to a summary review of questions of law. Any such action shall be advanced upon the calendar of the supreme court, and a final decision shall be rendered within sixty days after the date the supreme court grants further appellate review. The director, the commission, or any other aggrieved party shall not be required to file any undertaking or other security upon review by the supreme court.

8-53-118. Fees - costs - duty of district attorneys and attorney general. No fee shall be charged by the clerk of any court for the performance of any official service required by articles 40 to 54 of this title. On proceedings to review any order or award, costs as between the parties shall be allowed in the discretion of the court, but no costs shall be taxed against said director or commission. In any action for the review of any order or award, and upon any review thereof by the supreme court, it is the duty of the district attorney in the county wherein said action is pending, or of the attorney general, if requested by the director or commission, to appear on behalf of either or both, whether any other party defendant should have appeared or been represented in the action.

8-53-119. Director may review and reopen on own motion - notice. Upon his own motion on the ground of error, mistake, or a change in condition, the director, at any time within six years from the date of injury in cases where no compensation has been paid, or at any time within two years after the date last payment becomes due and payable, or within six years from the date of injury, whichever is longer, in cases where compensation has been paid, and after notice of hearing to the parties interested, may review and reopen any award and, on such review, may make an

award ending, diminishing, maintaining, or increasing compensation and any medical benefits previously awarded, subject to the maximum and minimum provided in articles 40 to 54 of this title, and shall state his conclusions of fact and rulings of law, and shall immediately send to the parties a copy of the award. No such review or reopening shall affect such award as regards any moneys already paid. The director shall grant or deny a request filed by any interested party asking that the case be reopened under this section and shall state his reasons therefor. Any such order or award made by the director shall be subject to review by the commission.

8-53-120. Witnesses and testimony - mileage - fees - costs. The director, commission, or any agent, deputy, or referee of the division has power to issue subpoenas, to compel the attendance of witnesses or parties and the production of books, papers, or records, and to administer oaths. Any person who serves a subpoena shall receive the same fee as the sheriff. Each witness who is subpoenaed on behalf of the director or commission, and who appears in obedience thereto shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the district court, which shall be audited and paid from the state treasury in the same manner as other expenses are audited and paid, upon the presentation of proper voucher approved by the director or commission. The director or commission, in his or its discretion, may assess the cost of attendance and mileage of witnesses subpoenaed by either party to any proceeding against the other party to such proceeding, when in his or its judgment, the necessity of subpoenaing such witnesses arises out of the raising of any incompetent, irrelevant, or sham issues by such other party.

8-53-121. Failure to appear. (1) Any person who willfully fails or neglects to appear and testify or to produce books, papers, or records as required by such subpoena duly served upon him is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not longer than thirty days for each such offense, or by both such fine and imprisonment.

(2) Each day such person shall so refuse or neglect shall constitute a separate offense.

8-53-122. Compulsion of testimony. The district court of the county wherein such person resides, or the district court of the city and county of Denver, upon application of the director or commission or any agent of the division, shall issue an order compelling the attendance and testimony of witnesses and the production of books, papers, or records before the director, commission, or any agent of the division.

8-53-123. Depositions. The director, commission, or any party, in any investigation or hearing, may cause the depositions

of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in district courts. All such depositions shall be taken upon commission issued by the director or commission and shall be taken in accordance with the laws and rules of court covering depositions in civil cases in the district courts of this state.

8-53-124. Record of proceedings. A full and complete record shall be kept of all proceedings had before the director or commission on any hearing, and all testimony shall be taken down and transcribed by a certified shorthand reporter appointed by the director or commission.

8-53-125. Transcript - certified - evidence. A transcribed copy of the evidence and proceedings, or any specific part thereof, of any investigation or hearing taken by a certified shorthand reporter appointed by the director or commission, being certified by such reporter to be a true and correct transcript of the testimony on the investigation or hearing of a particular witness, or a specific part thereof, carefully compared by him from his original notes, and to be a correct statement of the evidence and proceedings had on such investigation or hearing so purporting to be taken and subscribed, may be received as evidence by the director, commission, and by any court with the same effect as if such reporter were present and testified to the facts so certified. A copy of such transcript shall be furnished on demand to any party upon the payment of fifty cents per folio to the reporter so furnishing such transcript.

8-53-126. Violations - penalty. Any employer or insurer, or any officer or agent of either, or any employee, or any other person who violates any provision of articles 40 to 54 of this title, or does any act prohibited thereby, or fails or refuses to perform any duty lawfully enjoined within the time prescribed by the director or commission, for which no penalty has been specifically provided, or fails, neglects, or refuses to obey any lawful order made by the director or commission or any judgment or decree made by any court as provided by said articles shall be punished by a fine of not more than one hundred dollars for each such offense.

8-53-127. Each day separate offense. Every day during which any employer or insurer, or officer or agent of either, or any employee, or any other person who fails to comply with any lawful order of the director or commission or fails to perform any duty imposed by articles 40 to 54 of this title shall constitute a separate and distinct violation thereof. In any action brought to enforce the same, or to enforce any penalty provided for in said articles, such violation shall be considered cumulative, and may be joined in such action.

8-53-128. Collection of fines and penalties. All penalties provided for in articles 40 to 54 of this title, except fines in cases of misdemeanor, shall be collected in a civil action

brought against the employer or insurer or any officer or agent of either, or of any employee, or any other person as the case may be, in the name of and by the director, and all such penalties when collected shall be payable to the division and transmitted through the state treasurer for credit to the subsequent injury fund.

8-53-129. Attorney general, district attorney, or attorney of division to act for director or commission. Upon the request of the director or commission, the attorney general or the district attorney of any district, or any attorney at law in the regular employ of the division, shall institute and prosecute the necessary actions or proceedings for the enforcement of any of the provisions of articles 40 to 54 of this title, or award or order of the director or commission, or for the recovery of any money due the state compensation insurance fund, or any penalty provided in said articles, and shall defend in like manner all suits, actions, or proceedings brought against the director or commission or any member thereof in his official capacity.

8-53-130. False statement - felony. If, for the purpose of obtaining any order, benefit, award, compensation, or payment under the provisions of articles 40 to 54 of this title, either for himself or for any other person, anyone willfully makes under oath a false statement or representation, he is guilty of a class 4 felony, as provided in section 18-1-105, C.R.S. 1973, and shall be punished accordingly, and he shall forfeit all right to compensation under said articles upon conviction of such offense.

Article 54
State Compensation Insurance Fund

8-54-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Division" means the division of the state compensation insurance fund of the department of labor and employment.

(2) "Manager" means the manager of the state compensation insurance fund.

8-54-102. State compensation insurance fund created - control of fund. (1) There is hereby established a fund, to be known as the state compensation insurance fund, for the benefit of injured and the dependents of killed employees, which shall be administered in accordance with the provisions of this article by the division under the direction of the manager pursuant to rules, regulations, and rates adopted by and investment policies of the industrial commission of Colorado. Such administration shall be without liability on the part of the state, beyond the amount of said fund, constituted as provided in this article.

(2) The manager is vested with full power and jurisdiction over the administration of the state compensation insurance fund

and may do and perform all things, whether specifically designated in this article or, in addition thereto, which are necessary or convenient in the exercise of any power or jurisdiction over said fund in the administration thereof under the provisions of this article as fully and completely as the governing body of a private insurance company might or could do, subject, however, to all the provisions of this article.

8-54-103. Advisory council - powers and duties. (1) To assist the manager and commission in the exercise of their respective powers and jurisdiction over said fund, there is hereby created an advisory council composed of thirteen members, twelve of whom shall be appointed by the governor as provided in this subsection (1), and one of whom, the commissioner of insurance, shall be a member ex officio. The appointments by the governor to the advisory council shall be as follows: One member each from the senate and the house of representatives of the general assembly; eight members who shall be either employers whose liability under articles 40 to 54 of this title is insured by said fund, or officers, officials, or representatives of such employers; and two members who shall be employees of employers whose liability under said articles is insured by said fund.

(2) On or after February 27, 1964, the governor shall appoint four employer members of said council for a term of two years and until their successors are appointed, four employer members for a term of four years and until their successors are appointed, and the general assembly members for a term equal to their remaining time in office. The governor shall appoint one employee member of said council for a term of two years and until his successor is appointed and one employee member for a term of four years and until his successor is appointed. Thereafter appointments shall be for a term of four years, except in the case of members of the house of representatives of the general assembly who shall be appointed for a term of two years. Vacancies shall be filled by the governor for unexpired terms, and, in the case of a vacancy, the remaining members shall exercise all of the powers and duties of the council until such vacancy is filled. Members of the council who are private employers or officers, officials, or representatives of such private employers shall be deemed to have vacated their respective offices if the employer whom any such member represents shall cease to be a policyholder with the fund. Members of the council who are employee representatives shall vacate their respective offices if their employer ceases to be a policyholder with the fund. Two successive unexcused absences from the regular meetings of the advisory council by any appointed council member constitutes an automatic vacancy which shall be filled by the governor as prescribed by this section.

(3) Members of the council shall receive a per diem of thirty-five dollars for each day actually spent in the transaction of the official business of the council and shall be reimbursed for any necessary expenses incurred in the discharge

of their duties as such. Such per diem and reimbursement shall be paid out of the fund upon vouchers drawn by the manager in the same manner as the normal operating expenses of said fund are paid. Members of the council shall meet regularly four times each calendar year. Special meetings of the council may be called, however, at any time either by the executive director of the department of labor and employment or by the manager, or by two or more members of the council.

(4) Said council shall have the following powers and duties to:

(a) Aid the industrial commission, manager, and the officers and employees of the division in formulating policies and discussing problems related to the administration of the affairs of the fund;

(b) Make such recommendations from time to time to the executive director of the department of labor and employment, the industrial commission, manager, and to the officers and employees of the division which to the members of said council may seem necessary or advisable to improve the efficiency of the operation of said fund and improve its service to its policyholders and their employees in the carrying out of the spirit and intent of this article;

(c) Make such recommendations from time to time, which to the members of the council may seem necessary or advisable, to the governor, the general assembly, the executive director of the department of labor and employment, the industrial commission, and the manager for changes in or additions to existing laws which will improve the efficiency of operation of said fund and its service to its assured employers and their employees.

(5) All formal reports of the council shall be addressed to the executive director of the department of labor and employment who shall be responsible for bringing to the attention of the governor or the commissioner of insurance such portions as are necessary. The division shall provide the council with such clerical assistance as may be required to carry out the powers and duties enumerated in this section.

8-54-104. Appointment of personnel - salaries. (1) The executive director of the department of labor and employment shall appoint, pursuant to section 13 of article XII of the state constitution, the manager and such actuaries and other staff personnel of the division as may be necessary to carry out the provisions of this article.

(2) The executive director of the department of labor and employment may employ a compensation actuary, pursuant to section 13 of article XII of the state constitution, who shall be experienced and skilled and fully competent to perform the duties of the position and who shall assist in or take charge of the

practical operation of the state compensation insurance fund under the general direction of the manager.

(3) Salaries of actuaries and other employees of the division and other operating expenses of said division shall be paid monthly out of the moneys appropriated for such purposes by the general assembly from premiums collected by the state compensation insurance fund. Such appropriation shall be based upon an annual budget prepared by the division, approved by the executive director of the department of labor and employment, and submitted by him to the joint budget committee of the general assembly. The joint budget committee shall consult with the executive director of the department of labor and employment, the manager, the advisory council of the fund, and the commissioner of insurance during its review of such budget. The said commissioner shall furnish the joint budget committee with a comparison between the budget of the fund and similar expenditures by private insurance companies writing workmen's compensation insurance policies. The salaries to be paid to the employees of the division and the number of employees to be employed in said division shall be fixed and determined in accordance with section 13 of article XII of the state constitution, and laws relating thereto, and section 24-2-102, C.R.S. 1973.

8-54-105. Commission to fix rates - director to administer rates - sue and be sued - contracts - care of injured. (1) The commission shall have full power and it is its duty to fix and determine the rates to be charged by the state compensation insurance fund for compensation insurance.

(2) The manager shall manage and conduct all business and affairs in relation to the rates to be charged by the state compensation insurance fund for compensation insurance which shall be conducted in the name of the division, and in that name, without any other name, title, or authority, the manager may:

(a) Sue and be sued in all the courts of this state, or of any other state, or of the United States, and in actions arising out of any act, deed, matter, or thing made, omitted, entered into, done, or suffered in connection with the state compensation insurance fund and the administration, management, or conduct of the business or affairs relating thereto; and shall be authorized to employ counsel to represent the fund in any action;

(b) Make and enter into contracts of insurance with employers as provided in this article, and such other contracts or obligations relating to the state compensation insurance fund as are authorized or permitted under the provisions of articles 40 to 54 of this title, but the manager shall not, nor shall any officer or employee of the division, be personally liable in his private capacity for or on account of any act done or omitted or contract or other obligation entered into or undertaken in an official capacity in good faith and without intent to defraud in

connection with the administration, management, or conduct of the state compensation insurance fund, its business, or other affairs relating thereto;

(c) Contract with physicians, surgeons, and hospitals for medical and surgical treatment, services and supplies, crutches and apparatus, and the care and nursing of injured persons entitled to benefits from said fund, and may contract for medical, surgical, hospital, and nursing services and supplies in excess of the amount and period otherwise limited in this article, if said manager may determine that the contracting of such extra medical, surgical, hospital, and nursing services and supplies might tend to reduce the period of disability for which said fund would be liable for the payment and compensation.

8-54-106. State compensation fund a continuing fund - sources - applicability. The state compensation insurance fund shall be a continuing fund and shall consist of all premiums received and paid into said fund for compensation insurance, all property and securities acquired by and through the use of moneys belonging to said fund, and all interest earned upon moneys belonging to said fund and deposited or invested as provided in section 8-54-122. Said fund shall be applicable to the payment of the salaries of the employees of the fund and to its other operating expenses and to the payment of losses sustained or liabilities incurred under the contracts or policies of insurance issued by said state compensation insurance fund in accordance with the provisions of articles 40 to 54 of this title. It is hereby declared that it was and is the purpose and intent of this section that the operating expenses mentioned in this section shall include, among other items, such reasonable monthly rentals for quarters furnished by the state for use in the administration of said fund as shall from time to time be determined by the office of state planning and budgeting.

8-54-107. Places of employment classified - amount of premiums. The commission shall classify the places of employment of employers insured under the state compensation insurance fund into classes in accordance with the nature of the business in which they are engaged and the probable hazard or risk of injury to their employees. It shall determine the amount of the premiums which such employers shall pay to said state compensation insurance fund, and may prescribe in what manner such premiums shall be paid, and may change the amount thereof both in respect to any or all of such employers as circumstances may require, and the condition of their respective plants, establishments, or places of work in respect to the safety of their employees may justify. All such premiums shall be levied on a basis that shall be fair, equitable, and just as among such employers.

8-54-108. Subclasses. It is also the duty of the commission to divide each class under said classification into as many subclasses as may be necessary upon such terms and

conditions as will enable it to determine the risks and fix the rates of premium of the different employers in the same class of employment, with respect to the conditions of said places of employment as regards the several requirements upon which the rates of premium of risks are based and determined, as provided in articles 40 to 54 of this title.

8-54-109. Insurance at cost. It is the duty of the commission in the exercise of the powers and discretion conferred upon it by articles 40 to 54 of this title, ultimately to fix and maintain for each class and subclass of occupation, the lowest possible rates of premium consistent with the maintenance of a solvent state compensation insurance fund, and the creation and maintenance of a reasonable surplus after the payment of legitimate claims for injury and death, that may be authorized to be paid from the state compensation insurance fund for the benefit of injured and dependents of killed employees.

8-54-110. Basis of rates - reserve - surplus. (1) Such rates shall take no account of the extent to which the employees in any particular establishment have or have not persons dependent upon them for support; nor of whether such employees have dependents who are nonresidents of the United States; nor of whether such employees are married or single; nor the age of any such employees.

(2) The rates so made shall be that percentage of the payroll of any employer which, on the average, shall produce a sufficient sum to:

(a) Carry all claims to maturity such that the rates shall be based upon the reserve and not upon the assessment plan;

(b) Produce a reasonable surplus as provided in articles 40 to 54 of this title, and to cover the catastrophe hazard, and to insure the payment to employees and their dependents of the compensation provided in said articles.

(3) In determining the amount of reserve to be laid aside to meet deferred payments according to awards, such reserve shall be ascertained by finding the present worth of such deferred payments calculated at a rate of interest not higher than four percent per annum and such calculations shall be made according to a table of mortality not lower than the American experience table of mortality and, in the discretion of the commission, by such other and further methods as will result in the establishment of adequate reserves.

8-54-111. Division to keep accounts - readjustment by commission of rates. The division shall keep an accurate account of the money paid in premiums by each of the several classes and subclasses of occupations or industries, and the disbursements on account of injuries and death of employees thereof. It shall also keep an account of the money received from each individual

employer and the amount disbursed from the state compensation insurance fund on account of injuries and death of the employees of such employer. The state compensation insurance fund, including such portions of said fund as may be derived from premiums paid by the state and its political subdivisions, shall be one fund indivisible. It is the intention that the amounts raised for such state compensation insurance fund shall ultimately become neither more nor less than to make said fund self-supporting, and the premiums or rates levied for such purpose shall be subject to readjustment from time to time by the commission as may become necessary.

8-54-112. Portions of premiums paid carried to surplus. The division shall set aside such proportion as the commission may deem necessary, of the earned premiums paid into the state compensation insurance fund, as a contribution to the surplus of the fund. Until the surplus of the fund shall amount to the sum of five hundred thousand dollars, at least ten percent of the earned premiums paid into the state compensation insurance fund shall be so set aside.

8-54-113. Amendment of rates - distribution to policyholders. The commission may amend at any time the rates for any class or subclass. No contract of insurance between the state compensation insurance fund and any employer shall be in effect until a policy or binder has been actually issued by the division and the premium therefor paid as and when required by this article. After the inspection of the premises of any employer, or after considering the experience of such employer, the manager may quote with respect to such employer's risk a rate higher or lower than that indicated by the manual issued by the commission as applicable to his risk. Any such decision of the manager shall be subject to review by the commission. Not less often than once a year the manager shall tabulate the earned premiums paid by policyholders of the state compensation insurance fund. Should the experience of the fund show a credit balance and after payment of all amounts which have fallen due because of operating expenses, injury, or death, and after setting aside proper reserves, the division shall distribute such credit balance to the policyholders who have a balance to their credit in proportion to the premium paid and losses incurred by each such policyholder during the preceding insurance period. In the event any such policyholder fails to renew his policy in the state compensation insurance fund for the period following the period in which said dividends were earned, he shall not be entitled to said credit dividend. In the event an employer actually discontinues business, his policy shall be cancelled and the dividend, if any, when ascertained, shall be returned to him.

8-54-114. Policy cancelled, when. If any employer shall be in arrears for more than twenty days in any payment required to be made by him to the state compensation insurance fund as provided in articles 40 to 54 of this title, he shall by virtue of such arrearage be in default of such payment and any policy

issued to him by said fund shall thereupon be cancelled without notice as of the effective or renewal date of said policy. In the event cancellation of policy is made as provided in this section and the state compensation insurance fund is required to make any expenditures for the benefits provided by said articles for any accident causing injury or death within said twenty-day period, said fund shall be entitled to reimbursement from the employer for all amounts so paid which may be collected by said fund in a civil action brought against the employer. The employer shall be primarily liable to any injured employee or the dependents of a killed employee for the payment of the compensation and benefits provided by said articles during said twenty-day period.

8-54-115. Adjustment of premiums. In the event the amount of premium collected by the fund from any employer at the beginning of any policy period, as ascertained and calculated by using the estimated expenditure of wages for the period of time covered by such premium payments as a basis, shall differ from the earned premium based upon the actual wage expenditure for such policy period, an adjustment of the amount of such premium shall be made at the end of such policy period and the actual amount of such premium shall be determined in accordance with the amount of actual expenditure of wages for such period. In the event such actual wage expenditure for such period is less than the amount on which such estimated premium was collected, then such employer shall be entitled to have the amount of the difference in premium repaid to him or credited on succeeding premium payments. If the earned premium, where ascertained, exceeds in amount the premium so paid by such employer at the beginning of each such policy period, such employer, upon being advised of the true amount of such premium due, shall forthwith pay to said state compensation insurance fund an amount equal to the difference between the amount actually found to be due and the amount so paid by him at the beginning of said policy period.

8-54-116. Determination of premium - payment in advance. Each employer insured in the state compensation insurance fund shall pay into the state compensation insurance fund in advance the amount of premium determined and assessed against such employer for the ensuing period. The amount of the premium to be paid by such employer shall be on the basis of the annual expenditure of money by said employer for the services of persons engaged in his employment. The amount of premium to be so paid by each such employer shall be determined by the manager in accordance with the rules and rates made and published by the commission. Payment shall be made within the time fixed by this article, and a receipt or certificate certifying that such payment has been made shall be mailed to such employer by the division, which receipt or certificate shall be prima facie evidence of the payment of such premium.

8-54-117. Premiums paid by public employers. The amount of money to be contributed by the state and by each county, city,

town, irrigation or school district, or other taxing district of the state shall be determined and fixed by the manager in accordance with classifications, rules, and rates made and published by the industrial commission by any of the methods provided in this article for the determination of premiums and rates for private employers.

8-54-118. Officials to make appropriations for premiums. (1) The officials of the state, county, city, town, irrigation or school district, or other taxing district of the state, who are charged by law with the duties of raising and appropriating funds of each such political subdivision for the payment of expenditures authorized on behalf thereof, shall cause to be raised and appropriated sufficient moneys for the payment of any sum of money required to purchase compensation insurance from said fund for any such political subdivision. The officials charged with the duty of issuance and payment of the warrants of each such political subdivision shall pay same when due. The manager shall communicate to the general assembly within the first ten days of each regular session thereof an estimate of the aggregate amount of money necessary to be contributed by the state during the fiscal year next ensuing as its proper payments due to said fund.

(2) The state department of highways shall pay to the state compensation insurance fund from the funds available to said department premiums for workmen's compensation insurance upon its employees engaged in maintenance or construction work other than engineering or supervision furnished by said department.

(3) Each local school district, on or before the first day of June of each year, shall furnish the division on a form prescribed by it, a statement showing the estimated number of employees and the total amount to be expended as wages or salaries by such school district during the year beginning the next succeeding first day of July. Upon receiving such statement, the manager shall compute and shall notify such school district of the amount of premium due the state compensation insurance fund from such school district. Such school district shall then immediately direct that a warrant in payment be drawn upon the fund of such district.

8-54-119. Public officials to supply information - audit. All officials of the state, county, city, town, irrigation or school district, or other taxing district of the state who are charged by law with the duty of keeping or preparing any of the books or records of any such political subdivision upon request shall furnish to the division such information as may be required by the manager relative to the expenditure of money by any such political subdivision for the services of any and all persons in its employ.

8-54-120. Reinsurance. The manager may secure reinsurance covering the catastrophe hazard with respect to any risks carried

by the state compensation insurance fund, and the state treasurer shall pay the premium for such reinsurance from the state compensation insurance fund in the manner provided in section 8-54-121, for other disbursements from said fund.

8-54-121. Treasurer custodian of fund - disbursements. (1) The state treasurer shall be the custodian of the state compensation insurance fund, and all disbursements therefrom shall be paid by him upon warrants drawn in accordance with law upon vouchers issued by the division upon order of the manager. In every case occurring in which a warrant has been drawn in accordance with law against the state treasurer upon vouchers issued by the division for payment of any sum of money from the state compensation insurance fund, and the time within which said warrant shall be presented for payment in order to be valid has not been stamped, printed, or written across the face thereof, and a period of six months has elapsed since the issuance of such warrant during which no person entitled thereto, or the proceeds thereof, has presented the same to the state treasurer for payment, or appeared to claim the funds so authorized to be paid from the hands of the state treasurer, such warrant may in the discretion of the manager be posted for cancellation, and thereafter cancelled and set aside.

(2) In every such case in which it is proposed to cancel any such warrant, the manager shall cause a notice to be drawn in duplicate, with a description of said warrant containing the amount, number, date of issuance, and name of payee, and shall cause one copy of said notice to be posted in a conspicuous place which is open to the public in the office of said division and one copy to be delivered to the state treasurer. If at the end of one month after the posting of such notice and the delivery of a copy to the state treasurer, such warrant is not presented for payment and no person entitled to the proceeds thereof appears to claim the funds so authorized to be paid in said warrant, said warrant may be cancelled as provided in this section.

(3) The state treasurer shall thereupon, upon the request of the manager, transfer any such funds held to the credit of or for the payment of such warrant back to the credit of the state compensation insurance fund. If at any time thereafter application shall be made for the reissuance of such warrant, the same may be reissued, if the claim which it represents appears to be valid and still outstanding. Such reissued warrant shall be made payable from the moneys on deposit in the state compensation insurance fund and shall be made payable to the person entitled to the proceeds thereof.

(4) The powers and discretion granted in this section to the manager and the state treasurer shall obtain in all cases relating to the warrants drawn on the state compensation insurance fund, anything to the contrary in any statute notwithstanding.

8-54-122. State treasurer to invest funds. (1) Except as provided in subsection (2) of this section, the state treasurer shall invest any portion of the state compensation insurance fund, including its surplus or reserves, or any portion of any other fund under the jurisdiction of the commission which the commission determines is not needed for immediate use. Such moneys may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. 1973.

(2) The manager may authorize and direct the state treasurer to invest a portion of the funds in the state compensation insurance fund for the purchase of the land and the building thereon, known as the 950 Broadway Building, located at 950 Broadway, Denver, Colorado, and the adjoining property to the south, situated and known as lots six through eighteen, block one, first addition to Arlington Heights, to house, contain, and maintain the offices and operational facilities of said fund as may be deemed necessary to accommodate its immediate and reasonably anticipated future needs. The manager is authorized to purchase said real property, buildings, and improvements thereon. Title to such real property, buildings, and improvements thereon shall vest in the state compensation insurance fund, and such assets shall be a part of said fund. The manager may lease or rent space not needed for the immediate requirements of the fund in said real property to other public agencies or private businesses. Moneys received from such rental or lease of space and moneys appropriated by the general assembly for rental or lease of space in said real property shall be deposited with the state treasurer for credit to the state compensation insurance fund. The manager shall not sell or otherwise dispose of any property, buildings, or improvements thereon so acquired, without consent of the general assembly, and the moneys received from such sale or disposition shall be credited to the account of the state compensation insurance fund. Expenses for administration, operation, and maintenance of said real property, buildings, and improvements thereon shall be paid by the state treasurer upon the direction and authorization of the manager, out of the funds of the state compensation insurance fund, in an amount not to exceed the moneys received from such rental or lease of space and moneys appropriated by the general assembly.

(3) In addition, such moneys may be invested in notes and loans secured by first mortgages or first deeds of trust on real property located in Colorado and guaranteed by government or private insurance or in nonconvertible corporate notes and bonds and equipment trust certificates of United States domestic corporations rated investment grade by a recognized security rating service.

8-54-123. State treasurer to give separate bond as custodian. The state treasurer shall give a separate and additional bond in such amount as may be fixed by the executive director of the department of labor and employment with sureties

to be approved by the governor, conditioned for the faithful performance of his duties as custodian of the state compensation insurance fund and other funds under the jurisdiction of the director of the division of labor, and as custodian of all the bonds, warrants, investments, and moneys of, or belonging to, said state compensation insurance fund and other funds under the jurisdiction of the director of the division of labor, subject to all provisions of law governing bonds of the state treasurer. The premium on said bond shall be paid out of the earnings of the state compensation insurance fund and other funds under the jurisdiction of the director of the division of labor on a pro rata basis.

8-54-124. Visitation of fund by commissioner - annual audit - examination. (1) The state compensation insurance fund shall be open to visitation by the commissioner of insurance at all reasonable times, and the commissioner of insurance shall require from the manager reports as to the condition of such fund, as required by law to be made by other insurance carriers doing business in this state insofar as applicable to said fund.

(2) An annual audit of said fund shall be made by an auditor or firm of auditors, having the necessary specialized knowledge and experience, retained by the state auditor with the consultation and advice of the manager and the commissioner of insurance. The cost of such audit and examination shall be borne by the fund. Following his examination of the report of such audit, the state auditor shall transmit it, together with his comments and recommendations, to the governor, the general assembly, the executive director of the department of labor and employment, the industrial commission, the manager, and the advisory council of the fund.

(3) The executive director of the department of labor and employment, with the consultation and advice of the manager and the commissioner of insurance, shall employ a qualified actuary or retain the services of a firm of actuaries of recognized standing who shall be free of any interest conflicting with the interests of the fund.

(4) At least once every three years, the commissioner of insurance shall conduct an examination of said fund, such examination to be conducted in the same manner as an examination of a private insurance carrier. With respect to such examination, the provisions of section 10-1-110, C.R.S. 1973, shall be applicable. The commissioner of insurance shall transmit a copy of his examination to the governor, the state auditor, the general assembly, the executive director of the department of labor and employment, the industrial commission, the manager, and the advisory council of the fund.

8-54-125. Intentional misrepresentation by employer. Any employer who intentionally misrepresents to the division the amount of payroll or wage expenditure upon which any premium

under this article is based is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

8-54-126. Blanks furnished by state. The division shall prepare and furnish to employers at the expense of the fund all such blanks as may be necessary to carry out the terms and provisions of articles 40 to 54 of this title in connection with operation and maintenance of the state compensation insurance fund.

8-54-127. Rate schedules posted. The commission shall cause to be prepared proper schedules showing its classification, rates, and regulations which shall be effective at such time as may be ordered by the commission. Said classification, rates, and regulations shall be published by posting a copy thereof on the bulletin board in the offices of said commission.

Medical Insurance Provisions

Article 65
Colorado Medical Disaster Insurance Fund

8-65-101. Short title. This article shall be known and may be cited as the "Colorado Medical Disaster Insurance Fund Act".

8-65-102. Medical disaster insurance fund - tax imposed - returns. (1) There is hereby established a medical disaster insurance fund to defray medical, surgical, hospital, nursing, and drug expenses in excess of those provided under the "Workmen's Compensation Act of Colorado" for employees who have established their entitlement to disability benefits under said act, whether necessary to promote recovery, alleviate pain, or reduce disability.

(2) The director of the division of labor shall administer the medical disaster insurance fund and is hereby given jurisdiction to enforce the provisions of this article. The director shall approve or disapprove admissions to the Colorado medical disaster insurance fund.

8-65-103. Enforcement powers - violations. The director, in the enforcement of this article, shall have all of the powers granted to him in the "Workmen's Compensation Act of Colorado", and any insurance carrier or self-insurer violating any of the provisions of this article is guilty of violation of said act and subject to the penalties therein prescribed.

8-65-104. Receipt and disbursement of moneys. All moneys collected by the division of labor pursuant to the provisions of this article shall be transmitted to the state treasurer who shall deposit the same to the credit of the medical disaster insurance fund, and all disbursements therefrom shall be paid by

him in accordance with and subject to final awards of the director, as provided in this article.

8-65-105. Use of funds limited. (1) All funds received by the division of labor under the provisions of this article shall be used solely to pay the costs related to the administration of the medical disaster insurance fund and to defray the cost of medical, surgical, and hospital expenses necessary to effect the recovery, alleviate pain, or reduce the disability of employees who have established their entitlement to disability benefits under the "Workmen's Compensation Act of Colorado" in accordance with and subject to the provisions of such act.

(2) All funds which are utilized for the administration of the medical disaster insurance fund shall be subject to appropriation by the general assembly.

8-65-106. Applications - medical panel - awards - limitations. (1) Payments from the medical disaster insurance fund shall be awarded by the director only after an application therefor has been filed by a claimant employee, his employer, or his insurance carrier, or one on their behalf, and approved by the director for admission to the fund, in any case where the limits of liability provided under section 8-49-101 have been exhausted.

(2) The director shall, in every case where an application for payments from the medical disaster insurance fund is filed, immediately, after receipt of such application, appoint a medical panel of three medical experts to see and examine the applicant, each of whom shall render a report to the director, advising whether or not the expenditure of further sums of money will promote recovery, alleviate pain, or reduce disability, suggesting the form and manner of further treatment or services and suggesting the reasonable cost thereof.

(3) The director, upon receipt of reports from each of the medical experts appointed in accordance with subsection (2) of this section, shall either deny the application or award payments from the medical disaster insurance fund, based upon such reports and as nearly as possible in accordance with the majority opinion and suggestions of the medical panel.

(4) In making payment awards from the medical disaster insurance fund, the director shall be limited in any one case to the sum of thirty-five thousand dollars, less any amounts of money expended by the employer or his insurance carrier for medical, surgical, or hospital services and the costs of any prosthetic devices, or the reasonable value of any such services or devices furnished by the employer or his insurance carrier.

(5) The director shall award, and the state treasurer shall pay from the medical disaster insurance fund, the reasonable fees and expenses of the appointed members of the medical panel.

8-65-107. Credit for reduced disability - when. (1) In any determination of permanent disability, the employer or his insurance carrier shall receive no credit or benefit for the reduction of disability of any claimant employee under the "Workmen's Compensation Act of Colorado" directly attributable to a compensable accident or disease when such reduction of disability is accomplished by expenditures from the medical disaster insurance fund, unless it shall have been determined by a preponderance of the evidence:

(a) That the claimant employee had refused hospital, surgical, and medical services under the "Workmen's Compensation Act of Colorado" necessary to reduce his disability voluntarily offered by the employer; or

(b) That the claimant employee had reached maximum improvement as determined by the director prior to the filing of the application for payments from the medical disaster insurance fund.

8-65-108. State treasurer to invest funds. (1) The state treasurer shall invest any portion of the medical disaster insurance fund, including its surplus and reserves, which the director determines is not needed for immediate use. All interest earned upon such invested portion shall be credited to the fund and used for the same purposes and in the same manner as other moneys in the fund. Such moneys may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. 1973.

(2) In addition, such moneys may be invested in notes and loans secured by first mortgages or first deeds of trust on real property located in Colorado and guaranteed by government or private insurance or in nonconvertible corporate notes and bonds and equipment trust certificates of United States domestic corporations rated investment grade by a recognized security rating service.

Article 66
Colorado Major Medical Insurance Fund Act

8-66-101. Short title. This article shall be known and may be cited as the "Colorado Major Medical Insurance Fund Act".

8-66-102. Major medical insurance fund - tax imposed - returns. (1) There is hereby established a major medical insurance fund to defray medical, surgical, dental, hospital, nursing, and drug expenses and expenses for medical, hospital, and surgical supplies, crutches, apparatus, and vocational rehabilitation, which shall include tuition, fees, transportation, and weekly maintenance equivalent to that which the employee would receive under section 8-51-102 for the period of time that the employee is attending a vocational rehabilitation course, which expenses are in excess of those

provided under the "Workmen's Compensation Act of Colorado" for employees who have established their entitlement to disability benefits under said act, whether necessary to promote recovery, alleviate pain, or reduce disability. In no event shall the combination of the rehabilitation benefits provided in this section and the rehabilitation benefits provided in section 8-49-101 (4) exceed a total of fifty-two weeks.

(2) The director of the division of labor shall administer the major medical insurance fund and is hereby given jurisdiction to enforce the provisions of this article.

(3) (a) For the purpose of the establishment, maintenance, and continuance of the major medical insurance fund, every person, partnership, association, and corporation, whether organized under the laws of this state or of any other state or country, every mutual company or association, and every other insurance carrier, including the state compensation insurance fund, insuring employers in this state against liability for personal injury to their employees or death caused thereby under the provisions of the "Workmen's Compensation Act of Colorado" shall, as provided in this article, pay a tax upon the premiums received, whether in cash or not, in this state, or on account of business done in this state, for such insurance in this state, at the rate of one and seventy-five hundredths percent of the amount of such premiums, which tax shall be subject to review and adjustment annually based upon competent actuarial studies and which tax shall be assessed and collected as provided in this article. Such insurance carriers shall be credited with all cancelled or returned premiums actually refunded during the year of such insurance.

(b) On and after July 1, 1981, a surtax in the amount of one-half of one percent of the premiums shall be imposed in addition to the rate specified in paragraph (a) of this subsection (3), which surtax shall continue until the balance in the major medical insurance fund exceeds one million dollars, after which time said surtax shall no longer be collected.

(4) Every such insurance carrier shall, on the first day of July, 1971, and semiannually thereafter, make a return, verified by affidavits of its president and secretary, or other chief officers or agents, to the division of labor, stating the amount of all such premiums received and credits granted during the period covered by such return. Every insurance carrier required to make such return shall file the same with the division within thirty days after the close of the period covered thereby, and shall, at the same time, pay to the division of labor a tax ascertained as provided in subsection (3) of this section, less return premiums on cancelled policies.

(5) Every employer carrying his own risk as a self-insurer under the provisions of the "Workmen's Compensation Act of Colorado" shall, under oath, report to the division of labor his

payroll in such form as may be prescribed by the director and at the times in this article provided for premium reports by insurance companies in subsection (4) of this section. The division shall assess against such payroll a tax for the purposes of this article ascertained as provided in subsection (3) of this section on the basic premiums chargeable against the same or most similar industry or business taken from the manual insurance rates chargeable by the state compensation insurance fund, and, upon receipt of notice from the division of labor of the tax so assessed, every such self-insurer shall, within thirty days of the receipt of such notice, pay to the division of labor the tax so assessed.

8-66-103. Failure to make returns. If any such insurance carrier or self-insurer fails or refuses to make the return required by this article, the director shall assess the tax against such insurance carrier or self-insurer at the rate provided for in this article on such amount of premium as he may deem just, and the proceedings thereof shall be the same as if the return had been made.

8-66-104. Collection of taxes due. If any such insurance carrier or self-insurer withdraws from business in this state before the tax falls due as provided in this article, or fails or neglects to pay such tax, the director shall at once proceed to collect the same; and he is authorized to employ such legal processes as may be necessary for that purpose. Suit shall be brought by the director in any of the courts of this state having jurisdiction.

8-66-105. Enforcement powers - violations. The director, in the enforcement of this article, shall have all of the powers granted to him in the "Workmen's Compensation Act of Colorado", and any insurance carrier or self-insurer violating any of the provisions of this article, or failing to pay the tax imposed in this article, is guilty of violation of said act and subject to the penalties therein prescribed.

8-66-106. Receipt and disbursement of moneys. All moneys collected by the division of labor pursuant to the provisions of this article shall be transmitted to the state treasurer who shall deposit the same to the credit of the major medical insurance fund, and all disbursements therefrom shall be paid by him in accordance with and subject to final awards of the director, as provided in this article.

8-66-107. Use of funds limited. All funds received by the division of labor under the provisions of this article shall be devoted to defray the cost of administration, investigation, medical, surgical, dental, hospital, nursing, and drug expenses and expenses for medical, hospital, and surgical supplies, crutches, apparatus, and vocational rehabilitation, which shall include tuition, fees, transportation, and weekly maintenance equivalent to that which the employee would receive under section

8-51-102 for the period of time that the employee is attending a vocational rehabilitation course, which expenses are necessary to effect the recovery, alleviate pain, or reduce the disability of employees who have established their entitlement to disability benefits under the "Workmen's Compensation Act of Colorado" in accordance with and subject to the provisions of said act.

8-66-108. Applications - awards. (1) Payments from the major medical insurance fund shall be awarded by the director only after an application therefor has been filed by a claimant employee, his employer, or his insurance carrier, or one on their behalf, for admission to the fund, in any case where the limits of liability provided under section 8-49-101 have been exhausted.

(2) Following the filing of an application, the director shall approve or disapprove the expenditure of further sums of money from the major medical insurance fund and in so doing may rely upon medical reports contained in the case file if he deems them adequate, or he may rely upon recommendations of the medical director, appointed pursuant to section 8-1-103, or he may appoint a medical panel of not more than three medical experts to see and examine the applicant, each of whom shall render a report to him, advising whether or not such expenditure of further sums of money will promote recovery, alleviate pain, or reduce disability, suggesting the form and manner of such treatment or services and suggesting the reasonable cost thereof. The director, in every case in which an award is made from this fund, shall review said case at such time as the total medical expenditures, including those expended under section 8-49-101, shall reach fifteen thousand dollars and at each ten thousand dollars increment thereafter to determine and enter his order regarding continuation or cessation of further payments from said fund.

(3) The director shall award, and the state treasurer shall pay from the major medical insurance fund, the reasonable fees and expenses of the appointed members of the medical panel when such procedure is used by the director.

8-66-109. Credit for reduced disability - when. In any determination of permanent disability, the employer or his insurance carrier shall receive any credit or benefit for the reduction of disability of any claimant employee under the "Workmen's Compensation Act of Colorado" directly attributable to a compensable accident or disease when such reduction of disability is accomplished by expenditures from the major medical insurance fund.

8-66-110. State treasurer to invest funds. (1) The state treasurer shall invest any portion of the major medical insurance fund, including its surplus and reserves, which the commission determines is not needed for immediate use. All interest earned upon such invested portion shall be credited to the fund and used for the same purposes and in the same manner as other moneys in

the fund. Such moneys may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. 1973.

(2) In addition, such moneys may be invested in notes and loans secured by first mortgages or first deeds of trust on real property located in Colorado and guaranteed by government or private insurance or in nonconvertible corporate notes and bonds and equipment trust certificates of United States domestic corporations rated investment grade by a recognized security rating service.

8-66-111. Abatement of tax - when. The tax imposed in this article shall be abated for any fiscal semiannual period in which the balance in the major medical insurance fund exceeded three million dollars.

8-66-112. Closure of fund. Effective July 1, 1981, no further cases shall be accepted into the major medical insurance fund for injuries or occupational diseases occurring after that date, nor shall any cases be transferred from the medical disaster insurance fund to the major medical fund. When all payments have been made for all cases accepted into the major medical insurance fund, any balance remaining in said fund shall revert to the general fund.

13-25-103. Mortality table. The table referred to in section 13-25-102 is as follows:

Completed Age	Expectancy of Life, U.S. Life Table: 1969-71
0	70.75
1	71.19
2	70.28
3	69.34
4	68.39
5	67.43
6	66.46
7	65.49
8	64.52
9	63.54
10	62.57
11	61.58
12	60.60
13	59.62
14	58.65

Completed Age	Expectancy of Life, U.S. Life Table: 1969-71
15	57.69
16	56.73
17	55.79
18	54.86
19	53.93
20	53.00
21	52.07
22	51.15
23	50.22
24	49.30
25	48.37
26	47.44
27	46.51
28	45.58
29	44.64
30	43.71
31	42.77
32	41.82
33	40.92
34	39.99
35	39.07
36	38.15
37	37.23
38	36.32
39	35.42
40	34.52

Completed Age	Expectancy of Life, U.S. Life Table: 1969-71
41	33.63
42	32.74
43	31.86
44	30.99
45	30.12
46	29.27
47	28.42
48	27.58
49	26.75
50	25.93
51	25.12
52	24.32
53	23.53
54	22.75
55	21.99
56	21.23
57	20.49
58	19.76
59	19.05
60	18.34
61	17.65
62	16.97
63	16.30
64	15.65
65	15.00
66	14.38
67	13.76
68	13.16
69	12.57
70	12.00
71	11.43
72	10.88
73	10.34
74	9.82
75	9.32
76	8.84
77	8.38
78	7.93
79	7.51
80	7.10
81	6.70
82	6.32
83	5.96
84	5.62
85	5.28
86	4.97
87	4.68
88	4.42
89	4.18
90	3.94

Completed Age	Expectancy of Life, U.S. Life Table: 1969-71
91	3.73
92	3.53
93	3.35
94	3.19
95	3.06
96	2.95
97	2.85
98	2.76
99	2.69
100	2.62
101	2.56
102	2.51
103	2.46
104	2.41
105	2.37
106	2.34
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