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EXECUTIVE ORDER

PROCLAMATION CALL FOR THE THIRD EXTRAORDINARY SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY

Pursuant to the authority vested in the Office of the Governor of the State of Colorado, and in particular vested in the Governor pursuant to Article IV, Section 9 of the Colorado Constitution, and as provided for in Article V, Section 7, I, Bill Owens, Governor of the State of Colorado, hereby issue this Executive Order convening the Sixty-Third General Assembly to meet in extraordinary session.

1. Background and Need

A. Capital Punishment Statute

Colorado's three-judge panel death sentencing system was established in 1995 after the United States Supreme Court held that a similar system did not violate the United States Constitution in the case of Walton v. Arizona. On July 1, 1995, the State of Colorado implemented Colorado Revised Statute § 16-11-103, which states: "[u]pon conviction of guilt of a defendant of a class 1 felony, a panel of three judges, as soon as practicable, shall conduct a separate sentencing hearing to determine whether the defendant should be sentenced to death or life imprisonment..." In particular, Colorado Revised Statute § 16-11-103(2)(a)(I) requires that the panel must unanimously determine "[w]hether at least one aggravating factor has been proved..." in order to impose the death penalty.

Since July 1, 1995, three convicted defendants have been sentenced to death by a three-judge panel. Colorado's three-judge panel has been a fair and effective system for determining whether the death penalty is appropriate in each case and the death sentence applied in the three cases was the correct decision.

The United States Supreme Court recently issued an opinion in the case of Ring v. Arizona that overrules the 1990 case of Walton v. Arizona. The Court has ruled that a jury and not a judge must consider and find the presence of aggravating factors that qualify the defendant for the death penalty. This holding places Colorado's current death penalty sentencing system in question for future homicides where the death penalty is sought.

Immediate measures must be taken to ensure that Colorado has a legally defensible sentencing structure in place for future death sentencing determinations. Due to the import of the Ring v. Arizona decision, an extraordinary occasion has arisen that necessitates that I convene a special session to address the issue of ensuring that Colorado has a Constitutional death penalty statute.

B. Wildfire and Drought

Colorado is experiencing the most active and destructive wildfire season in state history. Over 350,000 acres have burned throughout the state, with the vast majority of the fire season still ahead of us. Severe drought conditions continue, making the fire danger ever more serious. Wildfires will continue to be a serious long-term threat to our state. State laws must be drafted and adapted to help Colorado meet the risk of wildfires.

Human activities have been the most significant cause of wildfires in 2002. In response, on June 10, 2002, I ordered a statewide ban on open burning as well as the sale and use of fireworks. Current state laws deterring and punishing human activities responsible for disasters are insufficient. The wildfire situation indicates the possible need to update and clarify Colorado's emergency response laws and related criminal statutes. In particular, wildfires constantly pose a significant threat to our citizens' lives and property and effective laws must be enacted to meet this danger.

Colorado's drought has also reached historic proportions. Many river basins are currently below 10 percent of their normal water capacity and snow pack levels are currently at less than 2 percent of normal level. Drought has forced many Colorado communities to adopt and enforce mandatory water restrictions. It has severely impacted Colorado farmers and ranchers and threatens economic growth in our state. Colorado's drought situation requires legislation to address the impacts and possible methods to mitigate the drought's impact on Colorado communities, both urban and rural.

2. Proclamation

I, Bill Owens, Governor of the State of Colorado, with this proclamation convene the Sixty-Third General Assembly of this state and summon the members of the Sixty-Third General Assembly to meet in Special Session at the State Capitol, in the City and County of Denver, on July 8, 2002, at 10:00 a.m. and designate the following subjects for your consideration and appropriate legislative action:

- A. Concerning the implementation of a capital punishment sentencing structure that comports with the recent decisions of the United States Supreme Court.
- B. Concerning measures to respond to wildfires and drought.

GIVEN under my hand and the
Executive Seal of the State of
Colorado this 1st
day of July, 2002.

Bill Owens
Governor