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0212-1 Report to the Colorado General Assembly:
Recommendations for 1976 Committees on: Penitentiary, Agriculture, State Affairs, Business Affairs and Labor, Education

Colorado Legislative Council

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Report to the Colorado General Assembly: Recommendations for 1976 Committees on: Penitentiary, Agriculture, State Affairs, Business Affairs and Labor, Education
Report to the Colorado General Assembly:
RECOMMENDATIONS FOR 1976, COMMITTEES ON:

Penitentiary
Agriculture
State Affairs
Business Affairs and Labor
Education

VOLUME I

COLORADO LEGISLATIVE COUNCIL
RESEARCH PUBLICATION NO. 212
DECEMBER 1975
The Legislative Council, which is composed of six Senators, six Representatives, plus the Speaker of the House and the Majority Leader of the Senate, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

During the sessions, the emphasis is on supplying legislators, on individual requests, with personal memoranda, providing them with information needed to handle their own legislative problems. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.
COLORADO LEGISLATIVE COUNCIL
RECOMMENDATIONS FOR 1976

(Volume I)

Committees on:
Penitentiary
Agriculture
State Affairs
Business Affairs and Labor
Education

Legislative Council
Report To The
Colorado General Assembly

Research Publication No. 212
December, 1975
To Members of the Fiftieth Colorado General Assembly:

Submitted herewith are the final reports of the Legislative Council interim committees for 1975. This year's report consolidates the individual reports of fifteen committees into three volumes. The reports of the Committees on Mineral Taxation and the Equal Rights Amendments are contained in two separate volumes.

The recommendations of the committees were reviewed by the Legislative Council on November 24 and December 19 and submitted to Governor Lamm for his consideration in designating subjects to be considered by the General Assembly. The Legislative Council submitted items to the Governor with favorable recommendation, without recommendation, and with the recommendation that certain of these items not be placed on the call.

Respectfully submitted,

/s/ Representative Phillip Massari
Chairman
Colorado Legislative Council
FOREWORD


This Volume I contains the reports, all recommended bills, constitutional amendments, and resolutions for the Committees on Penitentiary, Agriculture, State Affairs, Business Affairs and Labor, and Education. A minority report, with an accompanying bill, is included in the report of the Committee on Agriculture.

All recommendations of these committees were submitted to the Governor by the Legislative Council with favorable recommendation, with the following exceptions: (1) the subject of weed control was recommended for the call rather than the Agriculture Committee's bill providing for a statewide system for the control of noxious weeds; (2) a bill from the Committee on Business Affairs and Labor which would permit the issuance of multiple liquor licenses was submitted without recommendation; and (3) four bills were transmitted to the Governor with the recommendation that they not be placed on the call -- Amendments to Colorado Civil Rights Commission (State Affairs), Women's Correctional Institution (Penitentiary), Sale of Alcoholic Beverages on Election Days and Colorado Employment Security Act (Business Affairs and Labor).

The preparation of committee bills was aided by the Legislative Drafting Office. Mike Risner and Marcia Baird assisted the Committee on the Penitentiary; Doug Brown and Gary Davis, the Committee on Agriculture; Becky Lennahan and Sue Burch, the Committee on State Affairs and the Committee on Education; and Terry Walker and Sue Burch, the Committee on Business Affairs and Labor.

December, 1975

Lyle C. Kyle
Director
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LEGISLATIVE COUNCIL

COMMITTEE ON THE PENITENTIARY

Members of the Committee

Rep. Wellington Webb, Chairman
Sen. Harold McCormick, Vice-Chairman
Sen. Ralph Cole
Sen. Regis Groff
Sen. Martin Hatcher
Sen. William Hughes
Sen. Richard Plock

Rep. Richard Castro
Rep. Robert Eckeiberry
Rep. Jean Marks
Rep. Betty Neale
Rep. Robert Shoemaker

Council Staff

Earl Thaxton
Senior Analyst

John Silver
Research Associate
Conditions and events at the state penitentiary in recent years, including inmate disturbances, grand jury and Attorney General's investigations, and administrative changes, have focused increasing public attention on various problems associated with that penal institution. In an effort to find both immediate and long-range solutions to these problems and to provide suggestions for improvement, several investigations and studies have been undertaken by the executive and legislative departments. The intent of Senate Bill 55 of the 1974 legislative session -- to provide impetus for the development of community corrections -- has also generated considerable discussion as to how community corrections programs and facilities can be established and how a comprehensive correctional plan can be developed. Several studies are presently underway in this regard. Increasing public concern and interest in the correctional process has also been generated by rising crime rates, which result in increases in commitments to penal institutions. Problems at the state penitentiary and efforts to find solutions to those problems have been exacerbated in recent years by budgetary limitations.

With the background of this public interest in solutions to correctional system problems, the General Assembly (through House Joint Resolution 1046, 1975 session) directed the Legislative Council to appoint a Committee on the Penitentiary to conduct a

...study of the conditions at the state penitentiary at Canon City, particularly relations between inmates, including racial relations, relations between inmates and penitentiary personnel, relations between line staff and administration, services offered and the lack thereof and physical facilities.

In its effort to understand the nature of problems at the penitentiary and in order to be able to formulate suggestions for necessary changes, the committee undertook three methods of study as set forth below.

Review of Penitentiary Studies. The committee reviewed previous studies of the penitentiary conducted by various governmental agencies and private organizations. These studies were found to be informative as to existing problems and comprehensive in their coverage of all aspects of the penitentiary system. Much of the information contained in these reports and many of the conclusions and recommendations can be utilized as valuable resources for setting direction and priorities for future action. The committee encourages all interested persons to review these studies in order to assist in bringing the various study efforts into a unified proposal for future changes in the correctional system. The studies utilized by the committee were:

(1) "An Evaluation Study of the Administration, Operation and Programs at the Colorado State Penitentiary", Task Force

(2) "A Report on the Colorado State Penitentiary", State of Colorado Grand Jury, April 9, 1974. This report was the result of an 8-month investigation pursuant to the direction of the Governor.


(7) "Management Task Force Report - Colorado State Penitentiary Study", Colorado Department of Administration. This task force report is not in print at the present time, but portions of the report were presented orally to the committee.

Tour of Facilities. Two committee meetings were held at the state penitentiary in order to examine the condition of the penitentiary facilities and the operation of the programs at the maximum security facility, the medium security facility, and the Colorado Women's Correctional Institution. The committee viewed the various cellhouses and living units, athletic facilities, vocational education shops, correctional industry shops, libraries, medical facilities, mess halls and kitchens, and other facilities. The committee also met and held discussions with the directors of the penitentiary programs, line staff personnel, administration personnel, and inmates from the three institutions. These meetings and tours provided valuable information to the committee concerning the relations between inmates, between inmates and staff, and between line staff and administrative personnel.

Review of Planning Efforts. The committee met several times with officials of the Division of Correctional Services in the Colorado Department of Institutions in order to ascertain and understand the efforts of the division in formulating a long-range plan for the delivery of correctional services. This effort was made somewhat difficult because of the change in the position of the director of the division during the 1975 interim. In addition, division personnel were involved with working out the details of a change in administra-
tive policy, pursuant to Executive Order, with regard to the relative roles of the wardens of the institutions and the division office. Furthermore, a prison disturbance in September required that division personnel devote considerable time to dealing with that situation. The committee recognizes and appreciates that divisional research and planning personnel have had to address immediate administrative concerns and needs during the term of the committee study.

For these reasons, the committee was unable to review and analyse any concrete long-range correctional plans during the interim. Similarly, no specific proposals for legislative action were submitted by the division to the committee. The division appears at present to have the statutory authority necessary to accomplish desired changes at the state penitentiary. While no specific plans were reviewed during the interim, the committee is assured that both short-term and long-term planning efforts will continue within the division and will be completed in 1976. The committee reserves judgment on any plans which may be forthcoming from the division. However, the committee supports such planning efforts as necessary to consistently and comprehensively implement a meaningful correctional program and to provide data and information to the General Assembly upon which it can rely to make informed decisions about that program.

Committee Recommendations

The committee considered several proposals for legislative action and recommends two bills for consideration and approval by the Legislative Council and the General Assembly. These bills are summarized briefly below.

Concerning the Women's Correctional Institution -- Bill 1

A bill to provide alternative uses of the Colorado Women's Correctional Institution and to authorize the use of community correctional programs for female adult offenders is recommended by the committee. A similar bill was considered by the 1975 General Assembly (House Bill 1445). The recommended bill, Bill 1, would provide that an adult female offender may, at the discretion of the executive director of the Department of Institutions, be placed in an institution or program as close as practicable to her home community for the purpose of rehabilitation. The Colorado Women's Correctional Institution could be utilized by the Department of Institutions for male and female offenders, when maximum security is deemed necessary. Bill 1 would also provide that all female offenders committed to the Department of Institutions be assigned to its diagnostic program to undergo a comprehensive diagnostic evaluation.
Designating the Chief Officers of Correctional Institutions as the Superintendents Thereof -- Bill 2

Pursuant to administrative changes adopted in July, 1975, the penitentiary was divided into three separate units: the maximum security facility, the medium security facility, and the women's institution. The chief officer of each separate unit is now designated administratively as a "superintendent". The former position of "warden" of the penitentiary does not exist as such pursuant to these administrative changes. However, Colorado Revised Statutes still refer to the penitentiary "warden" in numerous sections. The committee recommends Bill 2, which would amend appropriate sections of law in order to designate the chief officers of the state reformatory and the state penitentiary as "superintendents" rather than as "wardens".

Training of Correctional Officers

The committee found an almost complete lack of in-service training for correctional officers at the state penitentiary. This situation is primarily the result of relief staff shortages. Approximately 40 hours of pre-service training for entry-level positions are offered. However, this training is oriented primarily to security and does not include formal training in such fields as human relations, behavioral sciences, and communications. There is virtually no training at any of the management levels. The committee recognizes the need for training programs for correctional officers and management personnel as one of the top priorities for change at the penitentiary. Adequate pre-service training of entry-level personnel and in-service training of both correctional officers and management personnel is deemed absolutely necessary for improved inmate-staff and staff-management relations.

Accordingly, the committee considered a proposed bill to establish a Colorado Correctional Training Academy for such training purposes. However, through discussions with personnel in the Division of Correctional Services, the committee is satisfied that the approach of the proposed bill is not necessary and that the division is taking the necessary administrative steps to implement a training program. Although no bill is recommended for improving the training program at the penitentiary, the committee does recommend that the General Assembly, through the budgetary process, adequately support the division's efforts to improve both pre-service and in-service training programs.
COMMITTEE ON THE PENITENTIARY

BILL 1

A BILL FOR AN ACT

CONCERNING THE WOMEN'S CORRECTIONAL INSTITUTION, AND PROVIDING

ALTERNATIVE USES THEREFOR AND ALTERNATIVE CORRECTIONAL

PROGRAMS IN LIEU OF PROGRAMS FORMERLY CONDUCTED THEREIN.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Authorizes the executive director of the department of institutions to arrange for purchase of service contracts providing for the utilization of community resources in the treatment of adult female offenders, and empowers him to enter into contracts or agreements for placement in the most appropriate institution or rehabilitation program. Authorizes the executive director to place adult female offenders near the home community or in another appropriate location. Provides that the women's correctional institution may be utilized by the department of institutions for male and female offenders requiring maximum security, and provides for a diagnostic evaluation of adult female offenders.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 27-1-103 (1), Colorado Revised Statutes 1973, is amended by the addition of a new paragraph to read:

27-1-103. Duties of executive director - governor acquire water rights. (1) (k) To arrange for purchase of service contracts which would provide the maximum utilization of
community resources in the treatment of adult female offenders pursuant to section 27-27-103.

SECTION 2. 27-1-105 (1) (c), Colorado Revised Statutes 1973, is amended to read:

27-1-105. Powers of executive director. (1) (c) To enter into contracts and agreements with other jurisdictions, including other states, the federal government, and political subdivisions of this state, AND PRIVATE ORGANIZATIONS for the-confinement-and maintenance-at-the-women's-correctional-institution-at-Gunnison-City PLACEMENT IN THE MOST APPROPRIATE INSTITUTION OR REHABILITATION PROGRAM IN THIS STATE, IN ACCORDANCE WITH SECTION 16-11-308, C.R.S. 1973, of female offenders sentenced to imprisonment by the courts of such other jurisdictions-and-to-notify-the-appropriate authorities-of-other-jurisdictions-as-he-deems-appropriate;--of the-availability-of-space-at-the-women's-correctional-institution for-the-confinement-and-maintenance-of-female-offenders-from other-jurisdictions; AN ADULT FEMALE OFFENDER MAY BE PLACED IN AN INSTITUTION OR PROGRAM THAT IS AS CLOSE AS PRACTICABLE TO THE HOME COMMUNITY OF SUCH OFFENDER OR ANOTHER LOCATION THAT IS CONSISTENT WITH OR COMPLEMENTARY TO THE REHABILITATION PROGRAM AS DETERMINED BY THE EXECUTIVE DIRECTOR.

SECTION 3. 27-21-101 (1), Colorado Revised Statutes 1973, is amended to read:

27-21-101. State penitentiary for women. (1) All females sentenced to the state penitentiary shall serve their sentences in the-women's-correctional-institution-in-Fremont-county, which is-herewith-established-as-the-state--penitentiary--for--women--and
also---designated---as---the---state---reformatory---for---women. An
institution or a rehabilitation program as assigned by the
executive director of the department of institutions. When any
inmate is transferred from one institution to another, from an
institution to a rehabilitation program, or from one
rehabilitation program to another, the district attorney of the
district where the sentence was imposed and the sentencing judge
shall be notified.

(b) Where maximum security is not deemed necessary, an
adult female offender may be placed in a program that is as close
as practicable to the home community of such offender or another
location that is consistent with or complementary to the
rehabilitation program as determined by the executive director of
the department of institutions.

(c) The women's correctional institution in fremont county,
previously known as the state penitentiary for women and the
state reformatory for women, may be utilized by the department of
institutions for male and female offenders where maximum security
is deemed necessary, but nothing in this paragraph (c) shall
prevent an offender from being assigned to another institution.
Any unused facilities in said women's correctional institution in
fremont county may be used for other purposes by the executive
director of the department of institutions as he shall designate.

Section 4. 27-21-102 (1), Colorado Revised Statutes 1973,
is amended to read:

27-21-102. State reformatory for women. (1) All laws of
this state referring to sentences to the Colorado state
reformatory shall be applicable to females as well as males; but all females sentenced to the COLORADO state reformatory shall serve their sentences in the women's correctional institution--in Fremont county established pursuant to section 27-21-101--which is hereby designated as the state reformatory for women; as well as---the state penitentiary--for--women an institution or a rehabilitation program as determined by the executive director of the department of institutions in accordance with section 16-11-308, C.R.S. 1973.

SECTION 5. Article 21 of title 27, Colorado Revised Statutes 1973, is amended by the addition of a new section to read:

27-21-103. Diagnostic unit - location of programs for adult female offenders. (1) Any female offender who is sentenced to the state penitentiary or to the Colorado state reformatory shall be assigned by the court to a diagnostic program to administer a comprehensive diagnostic evaluation to such offender, and, while in such program, the offender shall be held after sentence either at a local holding facility or in any other program which, in the opinion of the executive director of the department of institutions, has the expertise to perform such diagnostic evaluation. Such assignment shall be made for a period not to exceed sixty days; except that such assignment may be extended for an additional thirty days upon approval of the executive director of the department of institutions.

(2) The diagnostic evaluation shall be forwarded to the executive director of the department of institutions.
(3) An adult female offender may be placed in a program that is as close as practicable to the home community of such offender or another location that is consistent with or complementary to the treatment programs as determined by the executive director of the department of institutions.

SECTION 6. Repeal. 27-22-105, Colorado Revised Statutes 1973, is repealed.

SECTION 7. Effective date - applicability. This act shall take effect July 1, 1976, and shall apply to sentences imposed on or after said date.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
COMMITTEE ON THE PENITENTIARY

BILL 2

A BILL FOR AN ACT

1 DESIGNATING THE CHIEF OFFICERS OF CORRECTIONAL INSTITUTIONS AS

THE SUPERINTENDENTS THEREOF.

Bill Summary

(NOTE: This summary applies to this bill as introduced and
does not necessarily reflect any amendments which may be
subsequently adopted.)

Designates the chief officers of correctional institutions
as the superintendents thereof.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 16-8-110 (2) (c), Colorado Revised Statutes
1973, is amended to read:

16-8-110. Mental incompetency to proceed—effect—how and
when raised. (2) (c) By the affidavit of any warden
SUPERINTENDENT or chief officer of an institution having custody
of a defendant awaiting execution.

SECTION 2. 16-11-304 (2) (d), Colorado Revised Statutes
1973, is amended to read:

16-11-304. Maximum and minimum sentences—when necessary—
indeterminate sentences—who mandatory. (2) (d) In any case
involving a person sentenced or committed to either the state
penitentiary or the Colorado state reformatory under an
indefinite sentence, the warden SUPERINTENDENT of the respective
institution shall, in cooperation with the proper parole officer,
bring to the consideration of the state board of parole the
matter of parole of every such person within nine months after
the arrival of such person at the institution, together with all
relevant information available thereon, and shall do likewise
within each six months thereafter until the person sentenced or
committed is paroled or has served the maximum term for which he
was imprisoned under this section.

SECTION 3. 16-11-402, Colorado Revised Statutes 1973, is
amended to read:

16-11-402. Appliances -- sentence -- executed by
superintendent. The governing authority of the state
penitentiary, at the expense of the state of Colorado, shall
provide a suitable and efficient room or place, enclosed from
public view, within the walls of the state penitentiary and
therein construct and at all times have in preparation all
necessary appliances requisite for carrying into execution the
death penalty by means of the administration of lethal gas. The
punishment of death in each case of death sentence pronounced in
this state shall be inflicted by the warden SUPERINTENDENT of the
state penitentiary in the room or place and with the appliances
provided for inflicting the punishment of death by the
administration of lethal gas.

SECTION 4. 16-11-403, Colorado Revised Statutes 1973, is
amended to read:
16-11-403. Week of execution—warrant. When a person is convicted of a class 1 felony, the punishment for which is death, and the convicted person is sentenced to suffer the penalty of death, the judge passing such sentence shall appoint and designate in the warrant of conviction a week of time within which the sentence must be executed; the end of such week so appointed shall be not less than ninety days nor more than one hundred twenty days from the day of passing the sentence. Said warrant shall be directed to the warden SUPERINTENDENT of the state penitentiary commanding said warden SUPERINTENDENT to execute the sentence imposed upon some day within the week of time designated in the warrant and shall be delivered to the sheriff of the county in which such conviction is had, who, within three days thereafter, shall proceed to the state penitentiary and deliver the convicted person, together with the warrant, to the warden SUPERINTENDENT, who shall keep the convict in confinement until infliction of the death penalty. No person shall be allowed access to said convict, except his attendants, counsel, and physician, a spiritual adviser of his own selection, and members of his family, and then only in accordance with prison regulations.

SECTION 5. 16-11-404, Colorado Revised Statutes 1973, is amended to read:

16-11-404. Execution—witnesses. The particular day and hour of the execution of said sentence within the week specified in said warrant shall be fixed by the warden SUPERINTENDENT but shall not be made public by him, and he shall be present thereat
or shall appoint the deputy warden SUPERINTENDENT or some other representative among the officials or officers of the state penitentiary to be present in his place and stead. There shall also be present a physician and such guards, attendants, and other persons as the warden SUPERINTENDENT in his discretion deems desirable, not to exceed fifteen persons. The warden SUPERINTENDENT shall notify the governor of the day and hour for the execution as soon as it has been fixed.

SECTION 6. 16-11-405, Colorado Revised Statutes 1973, is amended to read:

16-11-405. Record and certificate of execution. The warden SUPERINTENDENT shall keep a book of record, to be known as record of executions, in which shall be entered the reports specified in this section. Immediately after the execution, a postmortem examination of the body of the convict shall be made by the attending physician, who shall enter in said book of record the nature and extent of the examination and sign and certify to the same. Said warden SUPERINTENDENT shall also immediately make and enter in said book a report, setting forth the time of such execution and that the convict (naming him) was then and there executed in conformity to the sentence specified in the warrant of the court (naming such court) to him directed and in accordance with the provisions of this part 4, and shall insert in said report the names of all the persons who were present and witnessed the execution, and shall procure each of such persons to sign said report with his full name and place of residence before leaving the place of execution. The warden SUPERINTENDENT
shall thereupon attach his certificate to said report, certifying
to the truth and correctness thereof, and shall immediately
deliver a certified transcript of the record entry to the court
which sentenced the convict.

SECTION 7. 16-14-102 (2) and (3), Colorado Revised Statutes
1973, are amended to read:

16-14-102. Request for disposition of untried complaint or
information. (2) It is the duty of the warden--or superintendent
of the institution where the prisoner is confined to promptly
inform each prisoner, in writing, of the source and nature of any
untried indictment, information, or criminal complaint against
him of which the warden--or superintendent has knowledge, and of
the prisoner's right to make a request for final disposition
thereof.

(3) Failure of the warden--or superintendent of the
institution where the prisoner is confined to inform a prisoner,
as required by subsection (2) of this section, within one year
after a detainer from this state has been filed with the
institution where the prisoner is confined shall entitle the
prisoner to a dismissal with prejudice of the indictment,
information, or criminal complaint.

SECTION 3. The introductory portion to 16-14-103 (1),
Colorado Revised Statutes 1973, is amended to read:

16-14-103. Duties of superintendent upon delivery of
request. (1) Any request made pursuant to section 16-14-102
shall be delivered to the warden--or superintendent where the
prisoner is confined who shall forthwith:
SECTION 9. 16-14-107, Colorado Revised Statutes 1973, is amended to read:

16-14-107. **Prisoners to be informed of provisions of article.** The warden or superintendent shall arrange for all prisoners under his care and control to be informed in writing of the provisions of this article, and for a record thereof to be placed in each prisoner's file.

SECTION 10. 16-16-102 (6), Colorado Revised Statutes 1973, is amended to read:

16-16-102. **Definitions.** (6) "Warden" "SUPERINTENDENT" means the chief correctional officer at any penitentiary or reformatory or facility of either.

SECTION 11. The introductory portions to 16-16-103 (1) and (2), 16-16-103 (2) (a) (I), (2) (a) (II), (2) (a) (III), and (3) (a), the introductory portion to 16-16-103 (3) (b), and 16-16-103 (3) (b) (1) and (4), Colorado Revised Statutes 1973, are amended to read:

16-16-103. **Place of confinement — extension of limits.**

(1) The warden, SUPERINTENDENT, with the approval of the director, shall designate one or more facilities which may be physically separated from the main premises of the penitentiary or reformatory which may be used for the following purposes:

(2) The warden, SUPERINTENDENT, in the exercise of his discretion, and with the assistance of the executive director of the division of parole, may extend the limits of confinement of any inmate in the following instances:

(a) (1) To visit a person of the inmate's immediate family
who is in danger of death, at the wardens SUPERINTENDENT'S discretion only;

(II) To attend the funeral services or other last rites of a person of the inmate's immediate family, at the wardens SUPERINTENDENT'S discretion only;

(III) To obtain health services otherwise not available to the inmate at an institution operated by the state of Colorado, at the wardens SUPERINTENDENT'S discretion only;

(3) (a) Any inmate who is allowed to participate in such paid employment or in such job training for which a subsistence allowance is paid in connection with the job training shall pay over to the warden SUPERINTENDENT or the executive director of the division of parole all moneys received from such paid employment or job training. But the inmate may retain that part of the moneys so received which the warden SUPERINTENDENT or the executive director of the division of parole deems necessary for expenses connected with the employment or job training. These expenses shall include, but not be limited to, travel expenses, food expenses, clothing, tools, and safety equipment.

(b) The remainder of the moneys shall be disbursed by the warden SUPERINTENDENT for the following purposes, in the order stated:

(1) To the state treasurer for the reasonable cost of the inmate's confinement as determined by the warden SUPERINTENDENT;

(4) The extension of the limits of confinement by the warden SUPERINTENDENT shall not for any purpose be considered to be parole as provided in part 2 of article 1 of title 17, C.R.S.
Which application shall be signed by the name of the person, the
application for a commutation of the sentence of such person, in
which escape was made shall be presented to the governor a
 articula
tion of the institution of the county from which the
offense was committed, the parole board, or the warden,
offense, the commutation or pardon, the terms of his bail, or
petition of a person who has been
return to this state is required of a person who has been
To 1973, are amended to read:

SECTION 12. 12-12-174 (2) and (3), Revised
the commutation of the escape.

The commutation of such particular case, a due regard being had to
the circumstances of the state penitentiary. A due regard may be given such evidence of
former good character, or what evidence of good character the applicant or the
colorado state penitentiary, together with such evidence of
showing the conduct of an applicant during his confinement in the
of the inmate. The application shall be accompanied by a certificate
for commutation of sentence of sentence or
application of the colorado state penitentiary, for commutation of sentence of

amended to read:

SECTION 12. 12-11-102. Revised 1973 is
crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation, or parole, AND the state in which he is believed to be, including the location of the person therein at the time application is made.

(3) The application shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, warden SUPERINTENDENT, or sheriff may also attach such further affidavits and other documents in duplicate as he deems proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

SECTION 14. 17-1-212, Colorado Revised Statutes 1973, as amended, is amended to read:

17-1-212. Duty of superintendent. If the board has previously considered a convict for release and he is still imprisoned and if his mental condition is questioned by the warden SUPERINTENDENT of the state penitentiary or the Colorado Penitentiary.
state reformatory, it is the duty of said warden SUPERINTENDENT
to notify the chairman of the board at least forty days prior to
the discharge of the convict, and the chairman then shall proceed
in the same manner outlined in sections 17-1-210 and 17-1-211.

SECTION 15. 18-1-703 (1) (o), Colorado Revised Statutes
1973, is amended to read:

18-1-703. Use of physical force—special relationships.
(1) (o) A warden SUPERINTENDENT or other authorized official of
a jail, prison, or correctional institution may, in order to
maintain order and discipline, use reasonable and appropriate
physical force when and to the extent that he reasonably believes
it necessary to maintain order and discipline, but he may use
deadly physical force only when he reasonably believes it
necessary to prevent death or serious physical injury.

SECTION 16. 27-1-105 (1) (a), Colorado Revised Statutes
1973, is amended to read:

27-1-105. Powers of executive director. (1) (a) To
transfer an inmate from the Colorado State Reformatory to the
state penitentiary when such inmate is deemed an incorrigible
prisoner whose presence at the Colorado State Reformatory appears
to be seriously detrimental to the administration of said
Colorado State Reformatory and, with the approval of the warden
SUPERINTENDENT of the state penitentiary, to transfer from the
state penitentiary to the Colorado State Reformatory a prisoner
of good conduct and recognized behavior for the purpose of aiding
in instructional work at the Colorado State Reformatory;

SECTION 17. 27-29-102, Colorado Revised Statutes 1973, is
amended to read:

27-20-102. **Superintendent, appointment, oath, and bond**

**report.** (1) The organization of the state penitentiary shall consist of a warden SUPERINTENDENT, such guards, turnkeys, overseers, and clerks as may, in the opinion of the department or institutions, be necessary, a parole officer, a physician and surgeon, and a chaplain.

(2) The warden SUPERINTENDENT shall be appointed by the governor, pursuant to section 13 of article XII of the state constitution, and all other officers and employees shall be appointed or employed by the warden SUPERINTENDENT pursuant to section 13 of article XII of the state constitution with the consent of the department of institutions. The warden SUPERINTENDENT shall qualify by taking the usual oath of office and by giving bond to be approved by the state treasurer in the sum of ten thousand dollars, which said oath of office and bond shall be filed in the office of the secretary of state.

(3) The warden SUPERINTENDENT shall report to the executive director of the department of institutions at such times and on such matters as the executive director may require. Publications of the penitentiary circulated in quantity outside the penitentiary are subject to the approval and control of the executive director of the department of institutions.

**SECTION 16.** 27-20-103, Colorado Revised Statutes 1973, is amended to read:

27-20-103. **Superintendent and others - conservators of peace.** The warden SUPERINTENDENT of the state penitentiary and
his assistants, the guards and keepers, shall be conservators of
the peace and as such have the power to arrest or cause to be
arrested, with or without process, upon any grounds owned or
leased by the state of Colorado and used by the state
penitentiary, all persons who break the peace or are found upon
said grounds violating any criminal law of this state and to take
such persons before any court of competent jurisdiction for
trial.

SECTION 19. 27-20-105, Colorado Revised Statutes 1973, is
amended to read:

27-20-105. Trusty prisoners—allowance. Hereafter,
convicts of the state penitentiary undergoing sentence in
accordance with law who are engaged in work connected with said
state penitentiary within or outside the walls of said
institution, and known as trusty prisoners, and who are employed
on the ranches or gardens, lime kilns or quarries, stone yards or
quarries, or upon public roads and highways in this state in
accordance with law, or at any other class of work within or
without the walls of said prison, and who conduct themselves in
accordance with the rules of the prison and perform their work in
a creditable manner, upon approval of the warden SUPERINTENDENT,
may be granted such good time in addition to that allowed by law
as the department of institutions may order, not to exceed ten
days in any one calendar month. Trusty prisoners engaged in
productive and constructive work, as defined by the department of
institutions in its rules, may be granted additional good time
not to exceed three days in any one calendar month.
SECTION 20. 27-20-107 (1) and (2), the introductory portion to 27-20-107 (3), and 27-20-107 (4), are amended to read:

27-20-107. Good time credit allowable.  (1) Unless otherwise provided, every prisoner confined in the state penitentiary who has committed no infraction of the rules or regulations of the prison or the laws of the state and who performs in a faithful, diligent, industrious, orderly, and peaceable manner the work, duties, and tasks assigned to him to the satisfaction of the warden SUPERINTENDENT may be allowed time credit reductions as follows: A deduction of two months in each of the first two years, four months in each of the next two years, and five months in each of the remaining years of said term, and correspondingly for any part of the year, where such term of confinement is for more or less than a year. The mode of computing credits shall be shown by the following table:

<table>
<thead>
<tr>
<th>Number of yrs. of sentence earned</th>
<th>Good time that may be earned</th>
<th>Total good time that may be earned and allowed</th>
<th>Time to be served if full credits are earned and allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st year</td>
<td>2 months</td>
<td>2 months</td>
<td>10 months</td>
</tr>
<tr>
<td>2nd year</td>
<td>2 months</td>
<td>4 months</td>
<td>1 year 3 months</td>
</tr>
<tr>
<td>3rd year</td>
<td>4 months</td>
<td>8 months</td>
<td>2 years 4 months</td>
</tr>
<tr>
<td>4th year</td>
<td>4 months</td>
<td>1 year</td>
<td>3 years</td>
</tr>
<tr>
<td>5th year</td>
<td>5 months</td>
<td>1 year 5 months</td>
<td>3 years 7 months</td>
</tr>
<tr>
<td>6th year</td>
<td>5 months</td>
<td>1 year 10 months</td>
<td>4 years 2 months</td>
</tr>
<tr>
<td>7th year</td>
<td>5 months</td>
<td>2 years 3 months</td>
<td>4 years 9 months</td>
</tr>
<tr>
<td>8th year</td>
<td>5 months</td>
<td>2 years 8 months</td>
<td>5 years 4 months</td>
</tr>
<tr>
<td>9th year</td>
<td>5 months</td>
<td>3 years 1 month</td>
<td>5 years 11 months</td>
</tr>
<tr>
<td>10th year</td>
<td>5 months</td>
<td>3 years 6 months</td>
<td>6 years 6 months</td>
</tr>
</tbody>
</table>

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And so continuing through as many years as may be the time of confinement.

(4) To those prisoners whom the warden SUPERINTENDENT may designate as trustees and who conduct themselves in accordance with prison rules and perform their work in a creditable manner, upon approval of the warden SUPERINTENDENT, additional good time to that allowed in the table set forth in subsection (1) of this section, not to exceed ten days in any one calendar month, shall be credited upon the time remaining to be served, such credit to be allowed only upon the actual number of months served in each year in the state penitentiary.

(3) The warden SUPERINTENDENT may grant to any prisoner confined in the state penitentiary additional good time credit to that allowed under subsections (1) and (2) of this section, not to exceed five days per month for each calendar year remaining to be served, for the following reasons:

(4) The warden SUPERINTENDENT may restore to the credit of any prisoner confined in the state penitentiary all or any portion of good time credits which have been forfeited by the prisoner as a result of any disciplinary action or provision of law.

SECTION 21. 27-20-110, Colorado Revised Statutes 1973, is amended to read:

27-20-110. Forfeiture for violation of rules. In case any convict is guilty of willful violation of any of the rules or regulations of the state penitentiary and is entitled to any deduction from the time of his sentence by the provisions in
sections 27-20-104 to 27-20-106, he shall forfeit, if entitled to so much, for the first offense two days, for the second offense four days, and for each subsequent offense four days, said forfeiture to be determined by the warden SUPERINTENDENT of the state penitentiary.

SECTION 22. 27-20-112, Colorado Revised Statutes 1973, is amended to read:

27-20-112. Superintendent shall record infractions. It is the duty of the warden SUPERINTENDENT to keep a record, in a book for that purpose, of all infractions of the prison rules and regulations, as prescribed by the department of institutions.

SECTION 23. 27-20-113, Colorado Revised Statutes 1973, is amended to read:

27-20-113. Behavior certificate—citizenship. If a convict passes the entire period of his sentence without any violation of the rules and regulations, he is entitled to a certificate thereof from the warden SUPERINTENDENT, endorsed by the department of institutions, and on presenting it to the governor he shall be restored to citizenship.

SECTION 24. 27-20-114, Colorado Revised Statutes 1973, is amended to read:

27-20-114. Federal prisoners—others. Convicts sentenced to hard labor in the state penitentiary for life or any term of time by any court of the United States held within this state must be received into the prison by the warden SUPERINTENDENT thereof, when delivered by the authority of the United States, and there kept in pursuance of their sentences. All persons
convicted of any crime punishable with death, who are pardoned on condition of being imprisoned either for life or for a term of years, shall be imprisoned in the state penitentiary. All persons imprisoned or confined in the state penitentiary shall be subject to the rules and regulations thereof.

SECT. 26. 27-20-116, Colorado Revised Statutes 1973, is amended to read:

27-20-116. County or municipal road work. Upon written request of a majority of the board of county commissioners of any county in the state of Colorado and the order of the department of institutions, the warden SUPERINTENDENT of the state penitentiary shall detail such convicts as are specified in such order, not exceeding the number specified in said written request, to work upon such public roads and highways of the state or of such county or streets and alleys of any city or incorporated town within such county as are designated in the written request of said county commissioners. Such county shall pay all additional expenses of guarding said convicts while working upon said public roads and highways within such county and shall furnish all tools and materials necessary in the performance of said work. When said work is done within the limits of any city or incorporated town within such county, the city or incorporated town where said work is done shall likewise pay all additional expenses of guarding such convicts while performing said work and shall furnish all necessary material used in said work.

SECTION 26. 27-20-116, Colorado Revised Statutes 1973, is
amended to read:

27-20-113. Discharge - clothes, money, transportation. Ten days prior to the date on which any convict confined in the state penitentiary is entitled to be discharged or to be paroled from said state penitentiary, the warden SUPERINTENDENT thereof, or any person acting for him as such officer, shall give such convict a ticket of leave therefrom, which shall entitle him to depart from said prison. The warden SUPERINTENDENT shall at the same time furnish such convict with all articles of personal property belonging to said convict that may have been turned over to the warden SUPERINTENDENT and shall furnish said convict with suitable clothing and may furnish transportation, at the expense of the state, from the place at which said state penitentiary is located to the place of his residence in Colorado or any other state. The warden SUPERINTENDENT shall also furnish to any prisoner being discharged, other than a parolee, one hundred dollars. The warden SUPERINTENDENT may furnish any prisoner being released on parole a reasonable sum of money not to exceed one hundred dollars; except that, if he furnishes less than one hundred dollars, the difference between one hundred dollars and the amount furnished shall be credited to an account for such parolee. The warden SUPERINTENDENT shall certify any amount so credited to the division of parole, and any such amount shall be distributed to a prisoner in accordance with rules promulgated by said division.

SECTION 27. 27-20-121, Colorado Revised Statutes 1973, is amended to read:

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27-20-121. **Failure to observe conditions - penalty.** If any convict receiving a ticket of leave fails to observe and perform any and all of the conditions required and imposed upon him by sections 27-20-119 to 27-20-121 or violates any of their provisions, the **warden SUPERINTENDENT** of said state penitentiary or any guard or officer thereof, or any sheriff or deputy sheriff of any county in this state, or any public officer of any city or town in this state has the authority to arrest such convict and convey him to said state penitentiary, where he shall be confined under the terms and during the whole period of his sentence therefor, and without any deduction from said sentence of any time by virtue of sections 27-20-104, 27-20-105, and 27-20-107.

**SECTION 28.** 27-20-124, Colorado Revised Statutes 1973, is amended to read:

27-20-124. **Visitors at state penitentiary.** The following persons are authorized to visit the state penitentiary at pleasure: The governor, the judges of the supreme and district courts, and all regular officiating ministers of the gospel. No other persons shall be permitted to go within the walls of the prison where convicts are confined, except by special permission of the **warden SUPERINTENDENT**.

**SECTION 29.** 27-22-102, Colorado Revised Statutes 1973, is amended to read:

27-22-102. **Organization - appointments - report.** (1) The organization of the state reformatory shall consist of a **warden SUPERINTENDENT**, chaplain, teacher, physician and surgeon, and parole officer, and such guards, turnkeys, overseers, and clerks
as the department of institutions shall deem necessary.

(2) The warden SUPERINTENDENT shall be appointed by the governor pursuant to section 13 of article XII of the state constitution, and all other officers and employees of the state reformatory shall be appointed or employed pursuant to section 13 of article XII of the state constitution by the warden SUPERINTENDENT with the consent of the department of institutions.

(3) The warden SUPERINTENDENT shall qualify by taking the usual oath of office and by giving bond to be approved by the state treasurer in the sum of ten thousand dollars, which said bond and oath of office shall be filed with the secretary of state.

(4) The warden SUPERINTENDENT shall report to the executive director of the department of institutions at such times and on such matters as the executive director may require. Publications of the reformatory circulated in quantity outside the reformatory shall be subject to the approval and control of the executive director of the department of institutions.

SECTION 30. 27-22-103 (1), Colorado Revised Statutes 1973, is amended to read:

27-22-103. Parole—discharge. (1) It is the duty of the warden SUPERINTENDENT of the Colorado state reformatory, in cooperation with the parole officer stationed at the reformatory, and the duty of the warden SUPERINTENDENT of the state penitentiary, in cooperation with the parole officer stationed at the state penitentiary, as to persons transferred to the state penal institution.
penitentiary from the Colorado state reformatory, to bring to the
consideration of the state board of parole the matter of parole
of every person sentenced or committed to the reformatory or
returned thereto for reason of violation of parole within nine
months after the arrival of such person at the reformatory. It
is the further duty of such warden SUPERINTENDENT and parole
officers to furnish said board at that time with a full and
complete report of the record of such person in the institution
where he has been serving his sentence or commitment together
with all other information in the possession of the institution
respecting such person and a recommendation to the board as to
whether such person should be paroled. The board shall be the
sole judge of whether the parole shall be granted in any case,
and, if it is refused, the appropriate officers shall bring the
consideration of the matter of parole of such person to the
board, with such a report and recommendation, within each six
months thereafter until the person sentenced or committed is
paroled or has served the maximum term for which he may be
imprisoned under section 16-11-302, C.R.S. 1973, in which latter
event he shall be discharged.

SECTION 31. 27-22-104, Colorado Revised Statutes 1973, is
amended to read:

27-22-104. Release and furnishings. Ten days prior to the
date on which any prisoner confined in the Colorado state
reformatory is entitled to be discharged or to be paroled
therefrom, the warden SUPERINTENDENT thereof, or any person
authorized to act for him, shall give the prisoner a release
which shall entitle him to leave the reformatory pursuant to the conditions stated in the release. The warden SUPERINTENDENT, prior to the release of the prisoner, shall furnish him with all articles of personal property belonging to said prisoner that may have been turned over to the warden SUPERINTENDENT and suitable clothing and may furnish transportation, at the expense of the state, from buena vista to the place of his residence in Colorado or any other state. The warden SUPERINTENDENT may also furnish to any prisoner being discharged a sum not to exceed one hundred dollars. The warden SUPERINTENDENT may furnish to any prisoner released on parole a reasonable sum of money not to exceed one hundred dollars. The warden SUPERINTENDENT may grant a portion of such reasonable sum to the parolee outright and credit the remainder to an account maintained by the division of parole for the parolee. The warden SUPERINTENDENT shall certify any amount so credited to the division.

SECTION 32. 27-22-108 (1), Colorado Revised Statutes 1973, is amended to read:

27-22-108. Canteen and library fund created — receipts — disbursements. (1) There is hereby created at the Colorado state reformatory at buena vista, Colorado, a canteen and library fund, which fund shall be used to establish a canteen for the use and benefit of the inmates of the reformatory. The revenues derived from such canteen are appropriated for the purposes set forth in subsection (2) of this section. Said canteen shall be managed under rules and regulations prescribed by the warden SUPERINTENDENT of the reformatory, and it shall not be operated
in any manner for the personal profit of any employees or inmates of the reformatory.

SECTION 33. 27-22-109, Colorado Revised Statutes 1973, is amended to read:

27-22-109. Annual report and audit of fund. The warden SUPERINTENDENT shall report annually to the executive director of the department of institutions on the operation of said fund, and the fund shall be audited annually by the state auditor, who shall prepare a profit and loss statement on the canteen and library fund.

SECTION 34. 27-23-101 (1), Colorado Revised Statutes 1973, is amended to read:

27-23-101. Transfer of insane and convicts. (1) The executive director of the department of institutions is empowered, when it is reported to him by the warden SUPERINTENDENT and certified to by the prison physician that any person imprisoned in the Colorado state reformatory or the state penitentiary is mentally ill or retarded, to order said person transferred to the Colorado state hospital at Pueblo, where said person shall remain for observation and examination for a period not to exceed thirty days, and it is the duty of the superintendent of said hospital to make a written report to said executive director concerning the mental condition of said person immediately upon the expiration of the period of observation and examination.

SECTION 35. 27-23-102, Colorado Revised Statutes 1973, is amended to read:
27-23-102. **Transfer of recovered convict.** When the superintendent of any institution or facility in which the executive director of the department of institutions has placed any person who has been transferred from the state penitentiary or the Colorado state reformatory, as provided in section 27-23-101, is of the opinion that said person is no longer mentally ill or retarded, it is the duty of said superintendent to give written notice of such recovery to the warden SUPERINTENDENT of the state penitentiary or the Colorado state reformatory, as the case may be, who shall transfer said person to the place of his former commitment for the purpose of serving out his sentence, if the same has not expired.

SECTION 36. 27-24-101, Colorado Revised Statutes 1973, as amended, is amended to read:

27-24-101. **Offenders to work.** All able-bodied offenders at the state penitentiary shall be employed at such productive work as may be assigned to them by the warden SUPERINTENDENT of said institution. All goods, wares, or merchandise manufactured, produced, or mined, wholly or in part, by such offenders shall be sold, to the extent possible, to the state and its institutions in accordance with the provisions of sections 27-24-105 to 27-24-114. Any surplus of such goods, wares, or merchandise which is not sold to the state or its institutions in such manner may be sold on the open market in the state of Colorado at prevailing market prices. All moneys realized from the sale of any goods, wares, or merchandise manufactured, produced, or mined by such offenders shall be used to defray the costs of operating
the state penitentiary and to satisfy the costs of maintenance
and retention of offenders at the state penitentiary. The
provisions of this section shall not apply to goods, wares, or
merchandise manufactured, produced, or mined in a program
established pursuant to section 27-24-109.

SECTION 37. 27-24-102, Colorado Revised Statutes 1973, is
amended to read:

27-24-102. Necessary purchases. The warden SUPERINTENDENT
of the state penitentiary has full power, within the limits of
the appropriations made to said institution for such purpose, to
purchase or otherwise acquire property and equipment, including
such machinery, tools, supplies, and materials, as he may deem
necessary to operate such types of industrial or agricultural
projects within said institution to keep all able-bodied
prisoners productively employed.

SECTION 38. 27-24-103, Colorado Revised Statutes 1973, as
amended, is amended to read:

27-24-103. Employment of residents. All able-bodied
residents at the Colorado state reformatory and the Lookout
Mountain school for boys shall be employed at any productive work
assigned to them by the warden-and-superintendent RESPECTIVE
SUPERINTENDENTS thereof, respectively. All goods, wares, or
merchandise manufactured, produced, or mined, wholly or in part,
by such residents shall be sold, to the extent possible, to the
state and its institutions in accordance with the provisions of
sections 27-24-105 to 27-24-114. Any surplus of such goods,
wares, or merchandise which is not sold to the state or its

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institutions in such manner may be sold on the open market in the
state of Colorado at prevailing market prices. All moneys
realized from the sale of any goods, wares, or merchandise
manufactured, produced, or mined by such able-bodied residents
shall be used to defray the costs of maintenance and retention of
such able-bodied residents at the respective institutions
mentioned in this section. The provisions of this section shall
not apply to goods, wares, or merchandise manufactured, produced,
or mined in a program established pursuant to section 27-24-109.

SECTION 39. 27-24-104, Colorado Revised Statutes 1973, is
amended to read:

27-24-104. **Necessary purchases.** The warden— and
superintendent SUPERINTENDENTS of said institutions have full
power, within the limits of the appropriations made to said
institutions for such purpose, to purchase or otherwise acquire
property and equipment, including machinery, tools, supplies, and
materials, deemed necessary to operate such types of industrial
or agricultural projects within said institutions to keep all
able-bodied boys RESIDENTS productively employed.

SECTION 40. 27-24-109 (1), (2), and (3) (b), Colorado
Revised Statutes 1973, as amended, are amended to read:

27-24-109. **Offenders' compensation.** (1) Every offender of
the state penitentiary or the Colorado state reformatory who is
entitled to trustyship because of good conduct, at the discretion
of the warden SUPERINTENDENT of the state penitentiary or the
warden SUPERINTENDENT of the Colorado state reformatory, may
receive compensation for the work he performs in the various
activities of the institutions. The rate of compensation as applied to all classes of work and to the individual worker shall be determined by the department of institutions after consultation with the respective warden SUPERINTENDENTS. The department has the power to make rules and regulations relative to the payment of wages and their disbursements, and there shall always be kept copies of these rules and regulations and the amendments thereto, so that there may be no question at any time about this subject.

(2) The department of institutions, after consultation with the respective wardens SUPERINTENDENTS, is authorized to contract with any corporation, association, labor organization, or private nonprofit organization or with any federal or state agency for the purpose of training or employing offenders who have been committed to the department of institutions, the state penitentiary, or the Colorado state reformatory or who have been assigned to a community corrections program. Whenever possible, all such training referred to in this subsection (2) shall be in accordance with standards promulgated by the apprenticeship council section of the division of labor of the department of labor and employment.

(3) (b) Payment of such amounts for the support of the offender's dependents as is deemed appropriate by the department of institutions after consultation with the respective wardens SUPERINTENDENTS;

SECTION 41. 27-24-111, Colorado Revised Statutes 1973, is amended to read:
27-24-111. *Superintendents' reports.* The warden SUPERINTENDENT of the state penitentiary and the warden SUPERINTENDENT of the Colorado state reformatory shall make such reports to the department of institutions regarding the operation of prison industries as the department requires.

SECTION 42. 27-24-114, Colorado Revised Statutes 1973, is amended to read:

27-24-114. *Regulations on employment.* The department of institutions has the power to establish rules and regulations governing the employment, conduct, and management of the prisoners in the state penitentiary and the Colorado state reformatory when employed on the work provided for them by the warden SUPERINTENDENTS thereof, and it has full power to carry into effect to the fullest extent the provisions of sections 27-24-101 to 27-24-114.

SECTION 43. 27-24-118, Colorado Revised Statutes 1973, is amended to read:

27-24-118. *Convict work on state roads.* The chief engineer of the division of highways, with the consent of the state highway commission and the approval of the governor, may appropriate money from the state highway fund for the purpose of employing inmates of the state penitentiary and the Colorado state reformatory and paying the expenses of equipping the necessary camps for their accommodation, together with the expenses of maintaining such camps. The warden SUPERINTENDENT of the state penitentiary and the warden SUPERINTENDENT of the Colorado state reformatory, with the approval of the department
of institutions, shall, on request of the chief engineer of the
division of highways, furnish such number of able-bodied convicts
as the chief engineer may require, and the respective warden
SUPERINTENDENT of the institution from which said convicts are
taken shall have full control and supervision of whatever camps
are established. The engineer in charge of the construction work
shall have full charge of all labor.

SECTION 44. 27-24-120, Colorado Revised Statutes 1973, is
amended to read:

27-24-120. Request filed with superintendcnt. The board of
county commissioners shall file with the warden SUPERINTENDENT of
the state penitentiary or the Colorado state reformatory a
request for said labor, stating the location of work and the
number of men to be employed.

SECTION 45. 27-24-121, Colorado Revised Statutes 1973, is
amended to read:

27-24-121. Superintendcnt to transport convicts. If men
are available, within fifteen days from receipt of said written
request, the warden SUPERINTENDENT shall transport to the point
indicated in the request the number of men requested and shall
furnish necessary guards and equipment for safe transportation of
said convicts.

SECTION 46. 27-24-122, Colorado Revised Statutes 1973, is
amended to read:

27-24-122. County to furnish quarters. The board of county
commissioners shall furnish such quarters and supplies for said
convicts as are approved by the warden SUPERINTENDENT of the
state penitentiary or the Colorado state reformatory or his
representative.

SECTION 47. 27-24-124, Colorado Revised Statutes 1913, is
amended to read:

27-24-124. **Superintendent to control convicts.** The warden
SUPERINTENDENT of the state penitentiary or the Colorado state
reformatory has full control over said convicts, shall furnish
necessary guards to be paid by the county wherein work is done,
and has the right to order said convicts back to the penitentiary
at any time he may deem it for the best interest of the state of
Colorado.

SECTION 48. 27-25-109, Colorado Revised Statutes 1913, is
amended to read:

27-25-109. **Statements by heads of correctional
institutions.** The warden SUPERINTENDENT of the state
penitentiary and the head, by whatever name known, having charge
of any other state correctional institution shall annually make a
full detailed statement of all materials, machinery, or other
property procured, and the cost thereof, and the expenditures
made during the last preceding fiscal year for manufacturing
purposes, together with a statement of all materials then on hand
to be used or which are in the process of being used in the
manufacture of articles and products and all machinery, fixtures,
and other appurtenances used for the purpose of carrying on the
correctional industrial labor authorized by this part 1. Such
statement shall also itemize the earnings estimated to have been
realized during the preceding year as a result of the utilization
of such labor. Said statement shall be verified under oath and shall be transmitted to the department of institutions within thirty days after the end of each fiscal year.

SECTION 49. 27-40-101 (5), Colorado Revised Statutes 1973, as amended, is amended to read:

27-40-101. Definitions. (5) "Warden" "SUPERINTENDENT" means the warden SUPERINTENDENT of the state penitentiary or the Colorado state reformatory.

SECTION 50. 27-40-106 (2) and (3), Colorado Revised Statutes 1973, as amended, are amended to read:


(2) The warden SUPERINTENDENT shall be responsible for the management, control, regulation, and operation of the physical facilities and for the reception, discipline, and confinement of all offenders.

(3) The warden SUPERINTENDENT shall separate all offenders in the program from the offenders in the correctional institution.

SECTION 51. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
LEGISLATIVE COUNCIL

COMMITTEE ON AGRICULTURE

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Dennis Jakubowski
Research Associate

Larry Thompson
Research Associate
The Committee on Agriculture was directed by the Legislative Council to study the following subjects during the 1975 interim:

(1) Warehousing of agricultural products;
(2) Certification of pesticide applicators; and
(3) Pest control statutes (weed control).

The committee submits a bill in each of these areas.

Bill 3, relating to agricultural products, and Bill 4, relating to the certification of applicators of pesticides, are forwarded with favorable recommendation. Bill 5, concerning weed control, is transmitted without recommendation.

**Agricultural Commodity Warehouses**

In the testimony provided to the committee during the interim, there was no indication that any widespread problems exist in the industry of the warehousing of agricultural products; however, the committee is well aware that isolated incidents of wrongdoing have occurred. Therefore, the committee recommends Bill 3 which contains certain modifications in Colorado's current law which may help to prevent or lessen the impact of such occurrences.

**Warehousing of Agricultural Products -- Bill 3**

Bill 3 recommends changes in present statutes governing warehousemen in the areas of investigations and examinations, insurance, bonding, denial or revocation of licenses, and in providing required general information. Also, there are other administrative changes made to the law.

Investigations and examinations. The Commissioner of Agriculture would be permitted under Bill 3 to request a licensee who owns, operates, or utilizes a warehouse used for the storage of farm products to provide any information to the commissioner related to such warehouse. Also, the commissioner would be given the authority to enter and inspect any such warehouse including its contents and records, both financial and commodity. Current law is not clear on granting such general investigation and examination authorization to the commissioner. Presently, the Department of Agriculture can only react to a verified complaint from the public or act on their own in cases of looking at a specific transaction of a warehouse.
The department indicated that 7.0 additional FTE would be requested to administer the added responsibilities provided for in the bill at an estimated cost of $41,683. It is estimated by the department that the revenues generated by the fee increases provided for in the bill will more than cover the added personnel costs, possibly by approximately $11,000.

The license fees for commission merchants, dealers, and brokers would be raised from $40 to $50 and the license fee for agents would be increased from $5 to $10. There are approximately 5,000 persons licensed under the former categories and approximately 200 licensees within the latter group.

Insurance. Bill 3 would provide that a licensee engaged in the business of storing farm products must furnish evidence to the commissioner that he has minimum property and casualty insurance in an amount sufficient to meet storage obligations. As an alternative to such insurance, the applicant may furnish such other evidence of financial responsibility acceptable to the commissioner. If the commissioner determines that a previously approved policy has become insufficient, the commissioner may require additional coverage. Also the insurance company of the licensee would be required to notify the commissioner of cancellation of a policy rather than the licensee himself making such notification. No such insurance requirement exists under present law.

Denial or revocation of licenses. Three additional grounds for denial or revocation of a license are provided for in the bill. They are:

1. Inadequate financial position to meet liability obligations;
2. Refusal to submit to an inspection; and
3. Failure to display a schedule of fees and charges for storing, handling, loading, and shipping of farm products.

Bonding. Under current Colorado law, before a license is issued to a dealer or a broker, such applicant is to present a surety bond to the commissioner in an amount of not less than $2,000 nor more than $100,000. The schedule as to the amount of the bond is determined by the department.

In the bill, the maximum limit on surety bonds for any broker or dealer would be raised from $100,000 to $200,000. In addition, a person seeking a license could demonstrate other evidence of surety in lieu of the surety bond.

Also, present law would be expanded by giving the commissioner the authority to require an additional bond or other evidence of financial responsibility from any commission merchant, broker, or dealer after determining that a previously approved bond is insuf-
cient. Failure to comply with the determination constitutes grounds for revocation or suspension of a license.

**General information requirements.** The committee recommends several additions to current law which can be aids to the producer and to the industry in avoiding or lessening future problems.

The bill would provide that a licensee engaged in the business of storing farm products who has a Uniform Grain Storage Agreement with the Commodity Credit Corporation would be required to display a certificate indicating that such an agreement exists. The certificate would be obtained from the State Commissioner of Agriculture after the licensee has shown proof to the commissioner that the agreement has been entered into by the licensee.

A warehouseman would be required to display a schedule of fees and charges for storing, handling, loading, and shipping of farm products since failure to do so would be grounds for denial or revocation of a license. Having such fees and charges posted should avoid some problems that may arise in this area.

Bill 3 would add a paragraph to the penalty provision of the current law expressly prohibiting conversion, even though it currently exists in law.

**Other provisions.** Since the regulation of the warehouse industry is included in an article relating to commission merchants, brokers, and dealers, there has been some confusion that Colorado does not have a warehouse law. Therefore, some members of the committee suggested that Article 16 of Title 12 be cited as the "Dealers and Warehousemen of Agricultural Products Act".

Bill 3 would authorize the commissioner to promulgate rules and regulations necessary for the administration of the article. The committee added a requirement that the issuing agency first submit such rules to the appropriate standing committees of both houses of the General Assembly for an opinion as to whether or not such rules conform to legislative intent.

The final miscellaneous change would be the repeal of Article 36 of Title 35 which is an obsolete portion of statute. According to the Department of Agriculture, it appeared to them that Article 36 has never been put into practice.

**Certification of Pesticide Applicators**

Testimony and discussion concerning certification of pesticide applicators. During the interim, the committee heard extensive testimony and had detailed discussions on the issues related to the certification of applicators of pesticides. The issue of certifying private applicators was given the most committee attention.

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The committee reviewed the requirements imposed upon Colorado by the 1972 amendments to the "Federal Environmental Pesticide Control Act" (F.I.F.R.A.). F.I.F.R.A. establishes a comprehensive program to regulate pesticides. Under the act, federal registration of all pesticides is required. Pesticides are divided into two categories (general use and restricted use) and restricted-use pesticides can only be used by certified private and commercial applicators. The Environmental Protection Agency (E.P.A.) is required to set standards for certification of such applicators. October, 1976, is the deadline for the states to establish their programs for certification. Legislation pending in Congress is proposing to extend that date to October, 1977.

Current Colorado statutes, Article 9, 10, and 11 of Title 35, provide for the regulation of pesticides (Article 9), the licensing and examination of commercial pesticide applicators (Article 10), and structural pest control applicators (Article 11). Private applicators are not presently licensed or examined.

The committee concluded that safety and caution by the applicator in the use of restricted-use pesticides is of primary importance. To promote such safety in the use of pesticides, the committee believes implementing legislation (Committee Bill 4) is necessary to require the certification of private applicators of restricted-use pesticides.

The implementing legislation for private pesticide applicators would be part of an overall state plan on pesticide applicator certification to be submitted by the Department of Agriculture to the U.S. Environmental Protection Agency. Included in the state plan is the current Colorado law regarding commercial, structural, and body-politic applicators. The state plan further provides that the Colorado Department of Agriculture be charged with administering applicator certification.

Concerning the Certification of Applicators of Restricted-Use Pesticides -- Bill 4

Committee Bill 4 would provide that private applicators be certified under these conditions:

1. A private applicator could use restricted-use pesticides by completing a self-certification form;

2. A private applicator program shall only be conducted if total federal funding for such program is available; and

3. A private applicator program shall not be conducted by the State Department of Agriculture if at any time the E.P.A. withdraws its approval of the state program due to the program being out of conformity as a result of changes in federal law or E.P.A. rule and regulation.
The following is a summary of Bill 4 on a C.R.S. section-by-section basis. The recommended bill would create a new Article 11.5 (Certified Private Applicators) under Title 12.

Section 35-11.5-101. This section is the legislative declaration of the article. Subsection (2) relates to section 35-11.5-105 by reference to the termination of the private applicator certification program if federal approval of the program is withdrawn due to changes in federal law or E.P.A. rule and regulation in effect on July 1, 1976.

Section 35-11.5-102. A certified applicator is defined in this section as being any person certified by the commissioner as qualified to use and supervise the use of any restricted-use pesticide on property owned or controlled by him or his employer or, applied without compensation other than the trading of personal services between producers of agricultural commodities on the property of another person. In effect, a private applicator is a person who does not apply pesticides for hire.

Section 35-11.5-103. The procedure for self-certification of private applicators is provided for in this section. To be certified as a private applicator of restricted-use pesticides, a person must complete a self-certification form at any location of a licensed dealer. The self-certification form, which would be made available to dealers by the commissioner, would contain adequate information and affirmations for a person to demonstrate competency to use restricted-use pesticides. When completed, the person would be certified by the commissioner to use any restricted-use pesticide. The self-certification would be valid for a period of three years.

Subsection (3) provides for a fine of not less than $100 nor more than $250 if a person who would be classified as a private applicator uses restricted-use pesticides without being certified.

Section 35-11.5-104. According to this section, a private applicator certification program shall only be conducted in this state by the State Department of Agriculture if federal monies are available to fully fund the cost of the program.

Section 35-11.5-105. This section refers to the termination of the program due to E.P.A. withdrawal of program approval.

Section 35-11.5-106. This section authorizes the Commissioner of Agriculture to promulgate rules and regulations that are necessary for the administration of this article. Such rules and regulations must first be submitted to the appropriate standing committees of both houses of the General Assembly for an opinion as to whether or not such rules conform to legislative intent.

Section 2 of the bill. The effective date of the bill is July 1, 1976. This would conform with the provision of the bill that would terminate the private applicator certification program if federal
approval of the program is withdrawn due to changes in federal law or
E.P.A. rule and regulation in effect on July 1, 1976.

Pest Control Statutes

Testimony indicating need for weed control legislation. Testi-
mony heard by the committee indicated that the spread of a number of
noxious weeds is a major problem in Colorado. The committee concluded
that it is difficult to control the spread of noxious weeds on the
state's waterways since the headwaters of the state's streams are on
federal lands and the federal government has not controlled their nox-
iuous weeds. Also, there are public jurisdictions and ditch companies
which have not acted to control the spread of weeds.

Secondly, weeds are difficult to control due to our current
pest control statutes. Present law sets up a voluntary program of
weed control under pest control districts.

Therefore, the committee forwards Bill 5 without recommendation
and recommends the subject of weed control be placed on the Governor's
call for the 1976 session of the General Assembly. Also, the commit-
tee concurs with the efforts of the Department of Agriculture in their
attempts to expand the Division of Plant Industry's Insectary at
Palisade, Colorado.

Weed Control -- Bill 5

Bill 5 would provide for a statewide system for the control of
noxious weeds. The bill suggests a state-local cooperative effort,
with the state on a regional basis directing a weed control program
for any body politic (generally defined as the federal, state, or
local governments and special districts), ditch or reservoir company,
or public utility. Local agents would turn their attention to other
landowners.

Local and regional weed control agents. Bill 5 would provide
for a qualified local weed control agent to serve a county or group of
counties. The local weed control agent would locate and map weeds on
private land within his jurisdiction, educate farmers and ranchers
about weed eradication and control, and direct their attention to spe-
cific weed concentrations on their property. Provision would be made
for the department to pay 75 percent of the local agent's salary and
the county, 25 percent. The commissioner would be given authority to
provide that a county would not have a full-time local agent if he
deemed the agent was not necessary, and that the regional agent must
authorize the local agent's salary.

Bill 5 would also provide for a regional weed control officer
who is to perform the same functions on a regional basis with regard
to property owned by bodies politic, ditch or reservoir companies, and
public utilities. The regional districts would be based on the water divisions of the state.

Costs to state. In addition to the cost-sharing of a local agent's salary, the state would also be involved in sharing the costs of "work done" for the control of weeds in the case of non-resident landowners and of those persons under the jurisdiction of the regional weed control agent. A more detailed explanation of cost-sharing is discussed below. The fiscal note for the bill, for personnel costs only, is estimated at $569,002. It is assumed that there would be 50 local agents due to county consolidations for local districts.

Advisory councils. There would be provision for the establishment of advisory councils for each local agent within a local weed control district and for the establishment of a statewide advisory council consisting of members from the local councils.

Statewide plan. The Department of Agriculture would develop a statewide program for the control and eradication of noxious weeds in cooperation with local and regional weed control agents.

Enforcement - weed control orders. A person in control of the land would be responsible for the control of noxious weeds; however, regional weed control agents or the Department of Agriculture would be able to contract with state or federal agencies for weed control.

Different enforcement procedures could be used depending upon the growth stage of weeds. An early stage weed control order could be issued by weed control agents, requiring any landowner to take appropriate action within 30 days (30-day extension permitted) to control weeds. An immediate weed control order could be issued if an agent determines that a weed is at such a growth stage that it will begin within four weeks to produce viable noxious weed seed. A landowner would have five days (10-day extension permitted) to comply with the order.

Penalty - failure to comply with orders. If any landowner fails to comply with a weed control order at an early stage within the time required, the regional or local agent would notify the district attorney for the judicial district or the attorney general and inform him of the facts of the case and request enforcement action through the courts. In the event a landowner refuses or fails to abide by the court's order, it would be the duty of the district attorney or attorney general to request the court to impose a per diem penalty for each day of violation of the court order or to take such other appropriate action to obtain compliance. The landowner would be in contempt of court for not obeying the order. However, if a landowner is a non-resident, body politic, ditch or reservoir company, or public utility, local and regional weed control agents would have the option to follow the above procedure or to control weeds or contract with others to have them controlled and to charge the expense to the landowner or person in control of the land.
In the case of a landowner who fails or refuses to comply with an immediate weed control order, such landowner would be subject to a civil penalty of not less than ten dollars nor more than fifty dollars for each day during which such violation occurs; except that the maximum amount of any civil penalty would not exceed the cost to the landowner to comply with the order nor three times the valuation for assessment purposes of the acreage designated in the order, whichever is less. Local and regional weed control agents could follow the above procedure or have the weed control done by them or contract with others in the case of noncomplying nonresident landowners, bodies politic, ditch or reservoir companies, or public utilities.

State cost-sharing in cases of work done. In those cases where weed control or eradication efforts are done or caused to be done by a local or regional agent, the cost or expense of the control or eradication would be charged to the landowner and would become a debt of the landowner and could be recovered in a civil action by the Department of Agriculture or the county for the local agent. The final cost to the landowner could be adjusted under a cost-sharing formula carried out by the state.

The amount the Department of Agriculture would pay or assume would be the amount of all costs and expenses exceeding three times the valuation for assessment for general property taxes of the land containing the noxious weeds but not more than six times said valuation for assessment. There also is a provision in Bill 5 to set a maximum amount the Department of Agriculture would assume or pay per landowner; however, the committee did not suggest a specific dollar amount.

Other provisions. To prevent the dissemination of noxious weeds or seeds by the transportation of such by machinery or equipment, the bill would provide that the Commissioner of Agriculture could establish a list of carrying agents and designate methods for decontamination treatment for the agent to control or prevent such dissemination. Finally, the words "noxious weeds" would be removed from the sections of the pest control district statute.

Committee Conclusions and Further Items of Discussion

The members of the committee were in accord that the issue of weed control is of prime importance and the subject should be included on the Governor's call for the 1976 session. Most members of the committee consider Bill 5 a starting point for effective legislation to establish a weed control program for the State of Colorado; however, there are a number of issues raised in the bill which remain unsettled due to the amount of time spent considering other two directives given the committee under H.J.R. No. 1046. Therefore, the committee forwards Bill 5 without recommendation and further requests that legislative staff, personnel of the Department of Agriculture, members of the committee, and other interested parties continue to study the substantive issues raised by the committee.
Left unresolved were such issues as weed control on federal lands, state cost-sharing, weeds on marginal lands, penalty provisions for non-compliance with weed control orders and the desirability of regional weed control agents.

Federal lands. It was concluded by committee members that the control of weeds needs to be approached on a statewide basis. Lack of control in any part of the state would be detrimental to the program. As mentioned earlier, uncontrolled noxious weeds adjoining one part of a state waterway would have an adverse affect on land involved in a control program downstream.

Since one-third of the land area of the state is owned by the federal government and, in addition, the state’s major waterways begin on federal lands, it is of utmost importance to control weeds on those lands. The committee also recognizes the problem of cost in controlling weeds on federal lands.

There is concern on the committee’s part that the federal government should assume the cost of controlling noxious weeds on its lands since the citizens of Colorado may not be able to afford such expenditures. It was reported to the committee by federal officials that, in addition to actual costs of control, there are costs to be incurred in preparing environmental impact statements.

Therefore, an issue yet to be resolved is whether or not a state weed control program should include a mechanism to have the federal government commit itself to paying its fair share for control of weeds on these lands.

Some members of the committee believe that only a minimal amount of state funds should be committed to a state program until there is an absolute guarantee that federal funds would be available. Conversely, there is a belief by some members that the state needs to embark on a statewide program for weed control immediately and then work with the federal government in seeking to obtain federal funding.

The federal government will permit access to federal lands and may provide funding if the state has a uniform program for all landowners of the state. Public Law 90-583, adopted by Congress in 1968, provides that federal departments or agencies are authorized and directed to permit states to enter federal lands to destroy noxious weeds on such lands if the state has a program for the control of weeds. It is required that such entry is not to be inconsistent with national security; that the means to destroy the noxious weeds are acceptable to the head of the federal department or agency; and that the state program treats the federal government in the same manner as private landowners. The amount of reimbursement is limited by the funds appropriated by Congress.

Cost-sharing. Bill 5 would provide a method for state government to share some of the costs of controlling weeds in cases where control is done or caused to be done by local or regional agents.
However, a number of members were concerned with this practice.

**Marginal lands.** An effective mechanism for the control of weeds on marginal lands was an issue raised by the committee. Members of the committee questioned whether it could possibly cost a landowner more money to control weeds than what the land is worth.

**Penalty provisions.** Some members of the committee had reservations that the penalty provisions of Bill 5 were too high for noncompliance for weed control orders.

**Regional weed control agents.** It was believed by some members of the committee that an effective weed control program could be carried out by having only county weed control districts and that regional agents were not necessary.

**Biological Control of Agricultural Pests**

The committee concurs with the efforts of the Department of Agriculture to expand their program facilities relating to the biological control of agricultural pests. Biological control of agricultural pests combined with judicious use of pesticides in integrated scientific control programs has attracted major attention over the last few years because of the impact on environmental quality. The Department's Division of Plant Industry Insectary at Palisade, Colorado has been actively engaged in programs of this type for a number of years and has reached a point where, to do justice to the possibilities offered by an active program, it requires larger and more diversified quarters and facilities.
COMMITTEE ON AGRICULTURE

BILL 3

A BILL FOR AN ACT

CONCERNING AGRICULTURAL PRODUCTS, AND PROVIDING FOR THE
REGULATION OF COMMISSION MERCHANTS, BROKERS, AND DEALERS
THEREOF AND MAKING AN APPROPRIATION THEREFOR.

Bill Summary

(NOTE: This summary applies to this bill as introduced and
does not necessarily reflect any amendments which may be
subsequently adopted.)

Increases renewal fees for commission merchants, dealers,
brokers, and agents; increases the amount of the surety bond or
other surety which dealers and brokers are required to deliver to
the commissioner of agriculture; empowers the commissioner to
determine when a previously approved bond is no longer sufficient
and requires an additional bond; requires commission merchants,
dealers, and brokers to show evidence of minimum property and
casualty insurance coverage; allows the commissioner to require
licensees to produce information relating to storage of farm
products and to permit warehouse inspections; makes failure to
comply with certain of the preceding requirements grounds for
denial or revocation of a license; requires related rules and
regulations to be submitted to appropriate standing committees of
the general assembly.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 16 of title 12, Colorado Revised
Statutes 1973, is amended BY THE ADDITION OF A NEW SECTION to
read:

12-16-100.1. Short title. This article shall be known and
may be cited as the "Dealers and Warehousemen of Agricultural Products Act".

SECTION 2. 12-16-101 (1), Colorado Revised Statutes 1973, is amended to read:

12-16-101. Definitions. (1) "Agent" means any person who, on behalf of any commission merchant, dealer, or broker, BUYS, receives, contracts for, or solicits any farm produce from OR SELLS FARM PRODUCE FOR the owner thereof or who negotiates the consignment or purchase of any farm produce on behalf of any commission merchant, dealer, or broker.

SECTION 3. Article 16 of title 12, Colorado Revised Statutes 1973, is amended BY THE ADDITION OF A NEW SECTION to read:

12-16-102.5. Display of certificate of uniform grain storage agreement. A licensee engaged in the business of storing any farm product who has a uniform grain storage agreement with the commodity credit corporation, United States department of agriculture, shall conspicuously display in his place of business a current certificate indicating such an agreement. Such certificate shall be obtained from the commissioner upon showing proof satisfactory to the commissioner that said agreement has been entered into by the licensee.

SECTION 4. 12-16-103 (1) (a), (1) (b), (1) (c), and (1) (d), Colorado Revised Statutes 1973, are amended to read:

12-16-103. Fees - renewal license. (1) (a) Commission merchants, forty FIFTY dollars for each year;
(b) Dealers, forty FIFTY dollars for each year;
(c) Brokers, forty FIFTY dollars for each year;
(d) Agents, five TEN dollars for each year.

SECTION 5. 12-16-105 (2) (a), Colorado Revised Statutes 1973, is amended, and the said 12-16-105 is further amended by the addition of a new subsection, to read:

12-16-105. Commission merchants', dealers', and brokers' bonds - exemptions. (2) (a) Before any license is issued to any dealer or broker, the applicant shall execute and deliver to the commissioner a surety bond OR OTHER EVIDENCE OF SURETY in the sum of not less than two thousand dollars nor more than one TWO hundred thousand dollars, at the discretion of the commissioner, and executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety.

(3) Whenever the commissioner determines that a previously approved bond is, or for any cause has become, insufficient, he may require an additional bond or other evidence of financial responsibility to be given by a commission merchant, broker, or dealer to conform to the requirements of this article or any rule or regulation promulgated pursuant to the provisions of this article. Failure to comply with the commissioner's requirements within thirty days after written demand therefor constitutes grounds for the suspension or revocation of the license.

SECTION 6. Article 16 of title 12, Colorado Revised Statutes 1973, is amended by the addition of a new section to read:

12-16-105.5. Property and casualty insurance. (1) Before
any license is issued to any commission merchant, dealer, or broker, each applicant who will be in the business of storing farm products shall furnish evidence to the commissioner of minimum property and casualty insurance coverage in an amount sufficient for the licensee's storage obligations; except that, as an alternative to such insurance, the applicant may furnish such other evidence of financial responsibility as shall be acceptable to the commissioner.

(2) The licensee's insurance company shall notify the commissioner in writing, at least ten days prior to the effective date of cancellation, that the insurance policy of the licensee is to be cancelled.

(3) Whenever the commissioner determines that a previously approved insurance policy is, or for any cause has become, insufficient, he may require additional insurance in an amount determined by him to be sufficient, and failure to provide evidence of the additional insurance within thirty days after written demand therefor constitutes grounds for the suspension or revocation of the license.

(4) No licensee for which property and casualty insurance is required, who does not have on file with the commissioner evidence that the required insurance is in full force and effect, shall act as a commission merchant, dealer, or broker.

SECTION 7. 12-16-106, Colorado Revised Statutes 1973, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-16-106. Investigations and examinations. (2.5) In addition to the commissioner's authority in subsections (1) and
of this section, the commissioner may require any licensee engaged in the business of storing farm products to furnish, upon request, any information deemed necessary by the commissioner that relates to the storage of a farm product in any warehouse owned, operated, or utilized by the licensee. The licensee shall permit the commissioner, or any representative or agent of the commissioner, to enter and inspect any warehouse owned, operated, or utilized by said licensee including its contents and records, both financial and commodity, related to all farm products in storage by the licensee and shall render any reasonable assistance necessary in said inspection.

SECTION 8. 12-16-108 (1) (1), Colorado Revised Statutes 1973, is amended, and the said 12-16-108 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

12-16-108. Denial or revocation of license. (1) (1) That the applicant or licensee has failed or refused to execute and deliver to the commissioner a surety bond OR OTHER EVIDENCE OF SURETY as required by section 12-16-105;

(m) That the applicant or licensee is not in an adequate financial position to meet liability obligations;

(n) That the applicant or licensee refuses to submit to an inspection as provided in section 12-16-106 (2.5); or

(o) That the applicant or licensee in the business of storing farm products fails to conspicuously display in his place of business a schedule of his fees and charges for storing, handling, loading, and shipping farm products.

SECTION 9. 12-10-115 (1), Colorado Revised Statutes 1973,
is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-16-115. Penalties. (1) (h) Converts to his own use or benefit the farm products of a producer.

SECTION 10. Article 16 of title 12, Colorado Revised Statutes 1973, is amended BY THE ADDITION OF A NEW SECTION to read:

12-16-116. Administration - rules and regulations - delegation of duties. (1) The commissioner is authorized to promulgate such rules and regulations as are necessary for the administration of this article in accordance with article 4 of title 24, C.R.S. 1973. Rules and regulations to be promulgated under this article shall first be submitted by the issuing agency to the appropriate standing committees of reference of the house of representatives and the senate of the general assembly for their opinions as to the conformity of the rules conforming to the legislative intent.

(2) The powers and duties of the commissioner in this article may be delegated to qualified employees of the department of agriculture.


SECTION 12. Appropriation. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to the department of agriculture for allocation to the division of inspection and consumer services, for the fiscal year beginning July 1, 1976, the sum of ______________ dollars ($__), or so much thereof as may be necessary, for an
additional ____ FTE for the administration of this act.

SECTION 13. Effective date. This act shall take effect July 1, 1976.

SECTION 14. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Requires self-certification of private applicators of restricted use pesticides by the completion of a self-certification form. Provides that the self-certification program shall not be conducted by the department of agriculture if adequate federal moneys are not provided or if the U.S. environmental protection agency withdraws its approval of the state program.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 35, Colorado Revised Statutes 1973, as amended, is amended by the addition of a new article to read:

ARTICLE 11.5

Certified Private Applicators

35-11.5-101. Legislative declaration. (1) In order to foster the health and welfare of the people of this state and to protect the environment, the general assembly declares that safety and caution in the use of restricted use pesticides by private persons is of primary importance. Therefore, it is the
purpose of this article to provide a state program for the
certification of private applicators of restricted use
pesticides.

(2) It is further declared that this program is developed
to conform with federal law and the rules and regulations of the
United States environmental protection agency for the
certification of private applicators of restricted use pesticides
which are in effect on July 1, 1976.

(3) It is further declared that this program is the most
proper and suitable program for this state and that it should be
developed and administered by the Colorado department of
agriculture which is the most appropriate and knowledgeable
agency concerning local pesticide activities in this state.

35-11.5-102. Definitions. As used in this article, unless
the context otherwise requires:

(1) "Certified private applicator" means any person deemed
certified by the commissioner as qualified to use and supervise
the use of any restricted use pesticide on property owned or
controlled by him or his employer or, if applied without
compensation other than the trading of personal services between
producers of agricultural commodities, on the property of another
person.

(2) "Commissioner" means the commissioner of agriculture.

35-11.5-103. Self-certification of private applicators.
(1) It is unlawful for any person to perform the functions of a
certified private applicator without a certificate of
registration.
(2) To be certified as a private applicator to use restricted use pesticides a person must demonstrate his competency by completing a self-certification form at any location of a licensed pesticide dealer. The self-certification forms shall be made available to said dealers by the commissioner. The self-certification form shall contain adequate informations and affirmations to demonstrate the person's competency to use restricted use pesticides, and when said form is completed the person shall be deemed certified by the commissioner to use restricted use pesticides. A completed self-certification form shall be valid for a period of three years.

(3) Any person who violates subsection (1) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than two hundred fifty dollars.

35-11.5-104. Creation of fund - appropriation. (1) There is hereby created in the office of the state treasurer a fund to be known as the certified private applicator's fund, which shall consist of moneys deposited thereto by the department of agriculture from any anticipated federal funds received from the United States environmental protection agency for a state program to certify private applicators of restricted use pesticides. All moneys in the certified private applicator's fund, when sufficient, are hereby appropriated to the department of agriculture to develop, implement, and maintain the department's program for the certification of private applicators of
restricted use pesticides. If said anticipated federal funds are not provided, no such program shall be conducted by the department of agriculture.

(2) The department of agriculture shall annually certify to the state treasurer the amount which is sufficient to develop, implement, and maintain the department's program for the certification of private applicators of restricted use pesticides.

35-11.5-105. Termination of program. In the event that the United States environmental protection agency withdraws its approval of the program provided in this article for the certification of private applicators of restricted use pesticides or the program otherwise becomes out of conformity with federal law or the rules and regulations of the United States environmental protection agency concerning the certification of private applicators of restricted use pesticides, the program provided in this article shall terminate and no such program shall be conducted by the department of agriculture.

35-11.5-106. Administration - rules and regulations - delegation of duties. (1) The commissioner is authorized to promulgate such rules and regulations as are necessary for the administration of this article in accordance with article 4 of title 24, C.R.S. 1973. Rules and regulations to be promulgated under this article shall first be submitted by the issuing agency to the appropriate standing committees of reference of the house of representatives and the senate of the general assembly for their opinions as to the conformity of the rules to the
legislative intent.

(2) The powers and duties of the commissioner in this article may be delegated to qualified employees of the department of agriculture.

SECTION 2. Effective date. This act shall take effect July 1, 1976.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
A BILL FOR AN ACT

CONCERNING WEED CONTROL.

Bill Summary

Provides for local weed control agents to be located in counties, employed by the counties, and compensated by the counties and the state. The local agents' duties would be to inform, assist, and enforce the laws against private landowners. Regional agents (one to be located in each water division) have similar duties with regard to the lands of bodies politic, ditch or reservoir companies, and public utilities. Various means of enforcement are provided and are keyed to the growth stages of weeds. The department of agriculture is to develop and implement a statewide weed control program, and local and state advisory councils are to be created.

SECTION 1. Article 8 of title 35, Colorado Revised Statutes 1973, is repealed and reenacted, with amendments, to read:

ARTICLE 8

Weeds

PART 1

WEED CONTROL ACT

35-8-101. SHORT TITLE. This part 1 shall be known and may be cited as the "Weed Control Act of 1976".
35-6-102. Legislative declaration. In order to foster the
health and welfare of the people of this state, it is declared to
be the policy of the state to control and eradicate noxious
weeds. It is further declared that such control and eradication
is a matter of statewide concern and is affected with a public
interest and that this article is enacted in the exercise of the
police powers of this state.

35-6-103. Definitions. As used in this article, unless the
context otherwise requires:

(1) "Body politic" means any agency of this state or of the
federal government; any unit of local government owning land in
this state, including any county, city, city and county, town,
school district, local improvement or service district, or
special district; or any other governmental unit.

(2) "Commissioner" means the commissioner of agriculture.

(3) "County" includes the city and county of Denver.

(4) "Department" means the department of agriculture.

(5) "Ditch or reservoir company" means any ditch company,
irrigation canal company, or reservoir company, whether for
profit or not for profit.

(6) "Landowner" means any person owning land in this state,
whether acquired by deed or patent or otherwise.

(7) "Noxious weed" means any of the following at any stage
of growth:

(a) Leafy spurge (Euphorbia esula);

(b) Canada thistle (Cirsium arvense);

(c) Russian knapweed (Centaurea repens);
(d) Bindweed (Convolvulus arvensis);
(e) Whitetop (Cardaria draba);
(f) Johnson grass (Sorghum halepense); or
(g) Any other especially troublesome and detrimental plant
of little or no use within the jurisdiction of a regional weed
control agent which may cause damage or loss to a considerable
portion of the land or the livestock of the region and which has
been determined by the commissioner, or regional weed control
agent upon approval of the commissioner, to require control and
eradication efforts.

(8) "Person" means any individual, corporation, state or
federal government or governmental subdivision or agency,
business trust, estate, trust, partnership, or association or any
other legal entity.

(9) "Person in control of land" means a person having
control of land but does not include a tenant.

(10) "Private landowner" means any landowner other than a
body politic, ditch or reservoir company, or public utility.

(11) "Public utility" means any pipeline corporation, gas
corporation, electrical corporation, rural electric corporation,
television corporation, telegraph corporation, or railroad
corporation doing business in this state.

(12) "To control noxious weeds" means to make reasonable
efforts to prevent the formation of viable noxious weed seed.

35-3-104. Local weed control agent. (1) Except as
provided in subsection (2) or (3) of this section, there shall be
a local weed control agent in each county of this state. Any
person employed as such agent must have comprehensive education
or experience in noxious weed control and eradication efforts.

(2) Upon a showing made to the department by a county that
it does not need a full-time local weed control agent and that it
can adequately control noxious weeds in the county by a
cooperative agreement with the local agent or another county, the
county shall be allowed to enter into such a cooperative
agreement.

(3) When the commissioner on his own initiative deems that
it is not necessary to have a full-time local weed control agent
in any county, subsection (1) of this section shall not apply,
and said county shall enter into a cooperative agreement with the
local agent or an adjoining county to perform the required duties
of a local weed control agent.

(4) The local weed control agent shall be employed by the
county and compensated by the county and the department. The
department shall contribute seventy-five percent and the county
of employment twenty-five percent of the local agent’s
compensation. Contribution by the department shall not be made
without authorization by the regional weed control agent.

(5) In the event any local agent is responsible to more
than one regional agent, the department shall determine which
agent shall authorize the local agent’s compensation contributed
by the department, and the department shall determine the manner
in which regional agents shall oversee local agents.

33-8-1002  **Duties of local weed control agent.**  (1) The
local weed control agent has the following duties:

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(a) To locate and map noxious weeds located on private property in the county;

(b) To establish, in cooperation with the county extension agent in the county, a comprehensive program to educate private landowners in the county concerning the identification of types of noxious weeds, including their root systems and stages of growth, and the methods of control or eradication efforts appropriate for different types of noxious weeds;

(c) In specific instances, to direct the attention of private landowners to the location of weeds on their property and to instruct them in appropriate methods of control or eradication efforts;

(d) To cooperate and coordinate with the local advisory council on weed control and other local weed control agents in the performance of their duties; and

(e) To cooperate with, report to, and be responsible to the regional weed control agent.

35-8-106. Regional Weed Control Agent. (1) The department shall employ regional weed control agents with at least one agent located in each of the water divisions of this state, as such divisions are described in part 2 of article 92 of title 31, C.R.S. 1973, and each regional agent shall have jurisdiction over his region.

(2) Any person employed as a regional weed control agent must have comprehensive education or experience in noxious weed control and eradication efforts.

35-8-107. Duties of Regional Weed Control Agent. (1) The
(a) To locate and map noxious weeds in his region which are located on land belonging to any body politic, ditch or reservoir company, or public utility;

(b) To provide information to any body politic, ditch or reservoir company, or public utility concerning the identification of types of noxious weeds, including their root systems and different stages of growth, and methods of control or eradication efforts appropriate for different types of noxious weeds;

(c) In specific instances, to direct the attention of a body politic, ditch or reservoir company, or public utility to the location of noxious weeds on their property and to instruct them in appropriate methods to control or eradicate such weeds;

(d) To cooperate and coordinate with other regional weed control agents in the performance of their duties; and

(e) To oversee, cooperate with, and require reports from local weed control agents.

35-8-106. \textit{Weed Control and Eradication — Unlawful Nuisance}

It is the duty of every landowner and person in control of land in this state to control and make reasonable efforts to eradicate noxious weeds located on his property or on property under his control, and failure to do so is declared to be unlawful as creative of a public nuisance.

35-8-104. \textit{Weed Control Order at Early Stage}

(1) Whenever a local weed control agent determines that a private landowner or person in control of private land is in violation of section
and whenever a regional weed control agent determines that a body politic, ditch or reservoir company, public utility, or person in control of its land is in violation of section 35-8-108, and it is deemed necessary by the appropriate agent that prompt or definite control or efforts to eradicate noxious weeds are required, he shall issue a weed control order to the landowner or person in control or land to effect such weed control or eradication efforts.

(2) In making a determination that a landowner or person in control of land is in violation of section 35-8-108 and that it is necessary that prompt or definite control or efforts to eradicate noxious weeds are required, the appropriate agent shall take into consideration the size of the area covered by the noxious weeds, the concentration and stage of growth of such noxious weeds, and the prospective danger to other landowners from such noxious weeds.

(3) A weed control order shall be on a form prescribed by the commissioner and shall set forth the following:

(a) The name and address of the landowner or person in control of land;

(b) An address, location, or description sufficient to identify the land which contains the noxious weeds;

(c) The approximate acreage which requires control or eradication efforts;

(d) The noxious weeds requiring control or eradication efforts;

(e) One or more methods appropriate for the control or eradication of such noxious weeds.
eradication efforts on the designated noxious weeds;

(f) The provision violated and the facts alleged to constitute the violation;

(g) The date by which the landowner or person in control of the land shall control or make efforts to eradicate the designated weeds. The order shall allow thirty days to control or make efforts to eradicate the noxious weeds, but the period may be extended up to another thirty days when the agent deems it appropriate. The order shall not prevent the landowner or person in control of the land from controlling or making efforts to eradicate the weeds earlier than the date specified in the order.

(h) The name of the regional or local weed control agent;

(i) Indication that the department has the authority to enforce the weed control order through the local district court and, if the alleged violator is a nonresident landowner or a body politic, ditch or reservoir company, or public utility, to perform or have performed by others the weed control or efforts to eradicate required by the order; and

(j) The date of observation of the alleged violation and the date the order is issued.

(4) A weed control order shall be served personally or by certified mail, return receipt requested, upon the alleged violator or his agent for service of process.

(5) Upon compliance, a weed control order shall be rescinded by the issuing agent. In any case in which an alleged violator uses reasonable efforts to employ a method suggested in a weed control order or uses any other appropriate method of
control or effort to eradicate, such shall be deemed compliance
with the weed control order.

35-8-110. Enforcement by court order. (1) Except as
provided in section 35-8-113, if any alleged violator fails to
comply with a weed control order within the time required, the
regional or local agent may notify the district attorney for the
judicial district or the attorney general and inform him of the
facts of the case and request enforcement action. Upon such
request it shall be the duty of the district attorney or attorney
general, as the case may be, to forthwith request from the
district court for the judicial district in which the subject
property lies an order in the name of the department requiring
the alleged violator to control or make efforts to eradicate the
noxious weeds in accordance with the weed control order.

(2) In the event an alleged violator refuses or fails to
abide by the court's order, it shall be the duty of the district
attorney or attorney general, as the case may be, to bring such
to the attention of the court and request the court to impose a
per diem penalty for each day of violation of the court order or
to take such other appropriate action to obtain compliance.

35-8-111. Immediate weed control order at later stage. (1)
Whenever a local weed control agent determines that a private
landowner or person in control of private land is in violation of
section 35-8-108 and whenever a regional weed control agent
determines that a body politic, ditch or reservoir company,
public utility, or person in control of its land is in violation
of section 35-8-108, and the noxious weed on his or its property
has reached a later stage of maturity so that the noxious weed has begun or will begin within four weeks to produce viable noxious weed seed and extensively spread to the property of another person, and it is deemed necessary by the appropriate agent that immediate control or efforts to eradicate the noxious weeds are required, he shall issue an immediate weed control order to the landowner to effect such weed control or eradication efforts.

(4) An immediate weed control order shall be on a form prescribed by the commissioner, shall set forth the information required in subsection (3) of section 32-b-104 for weed control orders, except that the order shall specify a date by which the alleged violator shall control or make efforts to eradicate the noxious weeds which allows five days or, if deemed appropriate by the agent, up to another ten days to control or make efforts to eradicate the noxious weeds, and shall indicate that the department has the authority to enforce the immediate weed control order by seeking a civil penalty of ten to fifty dollars for each day of violation or, if the alleged violator is a nonresident landowner or a body politic, ditch or reservoir company, or public utility, by performing or having others perform the required weed control or eradication efforts.

32-b-112. ENFORCEMENT—BY CIVIL PENALTY. (1) Except as provided in section 32-b-113, any alleged violator who fails or refuses to comply with an immediate weed control order shall be subject to a civil penalty of not less than ten dollars nor more than fifty dollars for each day during which such violation
occurs; except that the maximum amount of any civil penalty shall not exceed the cost to the alleged violator to comply with the order nor three times the valuation for assessment purposes of the acreage designated in the order, whichever is less.

(2) Upon application, civil penalties shall be determined by the court in an action instituted to collect such by the department. No stay of an immediate weed control order shall be issued before a hearing thereon by both parties. A stay of any immediate weed control order pending judicial review shall not relieve any person from any civil penalty under this section, but the reason for the request for judicial review shall be considered in the determination of the amount of the penalty.

(3) Matters brought before a district court pursuant to this section shall have preference over other matters on the court's calendar.

(4) Compliance subsequent to commencement of an action for civil penalties shall not prevent recovery of such penalties.

§35-8-113. Control by local or regional agent. (1) If an alleged violator has received a weed control order or an immediate weed control order, is a nonresident landowner or a body politic, ditch or reservoir company, or public utility, and fails or refuses to comply with such order, the regional or local agent shall employ the appropriate enforcement procedures of section §35-8-110 or §35-8-112 or cause to be done such action as is necessary to effect control or eradication efforts on the noxious weeds.

(2) After adjustment pursuant to section §35-8-115, if any,
the expense or cost in causing control or eradication efforts to be done, if any, shall be charged to the landowner or person in control or land, and a statement of such charges shall be promptly sent to the landowner or person in control or land by the local or regional agent incurring the charges. Said charges shall be a debt of the landowner or person controlling land and may be recovered in a civil action by the department or county for the local agent.

(3) The expense or cost in causing control or eradication efforts to be done on land owned or controlled by a state agency or any unit of local government shall be paid by the state agency or unit of local government out of funds made available for that purpose. If no such fund is available, said expense or cost shall be paid from general funds or any other funds available to the state agency or unit of local government.

33-6-114. Agreements with state and federal agencies. If the department or the regional agent agrees, any state or federal agency may, in lieu of effecting control or eradication efforts on noxious weeds or being subject to enforcement procedures, contract in advance with the department or a regional agent for such control or eradication efforts.

33-6-115. Loss-sharing. The department shall share the cost of the charges and expenses for weed control or eradication efforts caused to be done which were incurred by a regional or local agent. The amount the department shall pay or assume shall be the amount of all costs and expenses exceeding three times the valuation for assessment for general property taxes of the land.
containing the noxious weeds but not more than six times said valuation for assessment. In no event shall the department assume or pay more than ______ dollars per landowner.

35-d-116. **Statewide program.** The department shall develop, in cooperation with local and regional weed control agents, a statewide program for effective and coordinated control and eradication of noxious weeds and shall implement such program through local and regional weed control agents. Said plan shall consist of locating and mapping noxious weeds in the state; evaluating the effectiveness of weed control and eradication efforts; assisting and cooperating with local and regional weed control agents in the performance of their duties; and performing such other activities as the department deems necessary to obtain effective control and eradication of noxious weeds in this state.

35-d-117. **Local and state advisory councils.** (1) The board of county commissioners in each county employing a local weed control agent shall appoint a local advisory council on weed control consisting of five or more members, who shall serve at the pleasure of the board of county commissioners, to advise the local weed control agent concerning all duties assigned to him. Should a vacancy occur, the board of county commissioners shall fill the vacancy by appointment within thirty days. In the case of a vacancy, the remaining members of the local advisory council shall exercise all the powers and authority of said council until such vacancy is filled. A majority of the council shall constitute a quorum to transact business and to exercise the
powers or authority conferred. Members of the council shall serve without compensation but shall be reimbursed for any necessary expenses.

(2) The commissioner, with the approval of the state agricultural commission, shall appoint a state advisory council on weed control consisting of fourteen members, which shall be composed of two members from each region who are members of a local advisory council in that region. The state advisory council shall advise and aid the department in formulating the state plan. Members of said council shall serve at the pleasure of the commissioner. Should a vacancy occur, the commissioner shall make a new appointment, with the approval of the state agricultural commission, for the unexpired term. In the case of a vacancy, the remaining members of the state advisory council shall exercise all the powers and authority of said council until such vacancy is filled. A majority of the council shall constitute a quorum to transact business and to exercise the powers or authority conferred. Members of the council shall serve without compensation but shall be reimbursed for any necessary expenses.

PART 2

WEED DISSEMINATION

35-8-201. Prevention of dissemination—carrying agents. (1) To prevent the dissemination of noxious weeds or the seeds thereof by the transportation of any machinery, equipment, plants, materials, seeds, feeds, screenings, or like carrying agents, the commissioner may establish by regulation a list of
such carrying agents determined by him to be significant agents
of noxious weed or seed dissemination and may designate a
decontamination treatment for the agents to control or prevent
such dissemination.

(2) Any person moving a listed carrying agent before the
applicable decontamination treatment is performed is guilty of a
misdemeanor and, upon conviction thereof, shall be punished by a
tine or not more than five hundred dollars for each such
violation.

SECTION 2. 35-5-101 (10), Colorado Revised Statutes 1973,
is amended to read:

35-5-101. definitions. (10) "Pest", as determined by the
commissioner, means a noxious destructive or troublesome plant
insect or plant disease, when found to be in epidemic proportions
and of sufficient economic importance to threaten the public
welfare.

SECTION 3. 35-5-103, Colorado Revised Statutes 1973, is
amended to read:

35-5-103. methods of control, rules and regulations. The
commissioner is empowered to designate the methods to be used for
the control or eradication of the various noxious-weedy insect
pests and plant diseases and to publish such methods and make and
publish such reasonable rules and regulations as are proper and
necessary to carry into effect the provisions of this article.

The commissioner is authorized to enter into agreements with any
landowner, district, city, or town or with federal, state, or
county agencies for cooperation and for cost-sharing in the
control and eradication of noxious-weeds insect pests or plant diseases located upon land that they control or administer within the district in keeping with the provisions of this article. The commissioner, with the approval of the governor, is authorized to advance funds, which may be appropriated for this purpose subject to reimbursement, to carry into effect the provisions of this article.

Section 4. 35-3-104 (4), Colorado Revised Statutes 1973, is amended to read:

35-3-104. Pest control district — procedure to establish.

(4) Such petition may, in addition to the matters set forth in this section, request the board of county commissioners to take charge of and supervise the work in connection with the control or eradication of the pests named. The board, if a pest control district is created upon the petition in accordance with this article, shall proceed during the existence of said district, through the county pest inspector, to control or destroy such pests at the times and in the manner and by the aid of such means and additional help as the commissioner and county pest inspector recommends, and the board may enter into contracts to have the necessary work done in the district where noxious-weeds insect pests or plant diseases occur in epidemic proportion. Such contracts shall be let through competitive bidding, and the board may pay for the work and materials expended. Said contracts may be let for periods not to exceed one year and may be renewed if necessary. The board of county commissioners also may enter into contracts with landowners in which the landowners are obligated
for their share of the total cost of control operations.

SECTION 5. 85-5-105, Colorado Revised Statutes 1973, is amended to read:

85-5-105.  **Advisory Committee.** After the formation of a pest control district and before any weed- or pest control program has been initiated by the county weed inspector, the board of county commissioners shall appoint an advisory committee of five or more members, who shall serve at the pleasure of the board of county commissioners. Should a vacancy occur, the board of county commissioners shall fill the vacancy by appointment within thirty days. The committee members shall be resident landowners and, insofar as is practical, shall have a practical knowledge of weed and pest control and shall geographically represent the district.

SECTION 6. 85-5-107 (1), Colorado Revised Statutes 1973, is amended to read:

85-5-107. **Duties of pest inspector.** (1) The inspector shall cooperate with the commissioner in locating infestations of noxious-weedy insect pests or plant diseases; make an annual report of known infestations of noxious-weedy insect pests or plant diseases and compile data on areas controlled, eradicated, or under treatment; submit reports thereon to the commissioner, the district advisory committee, and the board of county commissioners by December 1 of each year; consult with the commissioner and the extension service and advise upon all matters pertaining to the best and most practical methods of noxious-weedy insect pest or plant disease control and eradication; and render every possible assistance to obtain the
most effective control or eradication of noxious–weedy insect
pests or plant diseases within the district.

SECTION 1. §5-2-108 (1), (2), and (3), Colorado Revised
Statutes 1973, are amended to read:

§5-2-108. Control or eradication methods and procedures—
Notice—assessments—processes. (1) The county pest inspector
shall give notice by radio, newspaper, or any other means of
communication to the owner, agent, or occupant of any lands
within a district on which noxious–weedy insect pests or plant
diseases are found, advising them of their presence and naming
the noxious–weedy insect pest or plant disease, giving both
common and scientific names. Such notice shall specify the best
available methods of controlling or eradicating such noxious
weedy insect pests or plant diseases and shall require that such
methods be used for control or eradication thereof. Failure to
receive such notice shall not constitute a defense to the
assessment of a lien against the property, as provided in this
section, for the expense for the control or eradication of such
pests.

(2) In case any such owner, agent, or occupant refuses to
comply with the requirements of the county pest inspector for the
control or eradication of such noxious–weedy insect pests or
plant diseases, or causes the same to be done, it is the duty of
the inspector to provide access to sprayers or other equipment
needed and to enter upon such lands with the approval of the
board of county commissioners and, as provided in this article,
to effect the control or eradication of such noxious–weedy
insect pests or plant diseases.

(3) Upon completion of the work, the board or county commissioners shall notify or cause to be notified said landowner, by certified mail, at the address shown on the records of the county assessor, or by one publication in a newspaper having general circulation within the county, as to the amount due, furnishing an itemized statement of the expense of the treatment of such noxious-weeds insect pests or plant diseases (the amount paid the inspector shall not be included), and stating that, if the amount of said statement is not paid to the county treasurer of the county wherein the real estate is located within thirty days from the date of said notice, the amount thereof will be assessed as a lien upon said real estate, but no lien shall be in excess of the valuation for assessment of said real estate.

SECTION 8. 35-3-104, Colorado Revised Statutes 1973, is amended to read:

35-3-104.OWNER REFUSES ACTION. When noxious-weeds insect pests or plant diseases are found on a property not listed on the tax rolls of the county and the owner of the property refuses or fails to take the necessary action to control or eradicate such noxious-weeds insect pests or plant diseases, after notice as prescribed in section 35-3-103, the county pest inspector shall treat the same as though listed on the tax rolls, and the expense thereof may be recovered by the county in an action therefor in any court of competent jurisdiction. The control or eradication of noxious-weeds insect pests or plant diseases on county

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property may be contracted for by the inspector, with the
approval of the board of county commissioners, at county expense.

SECTION 9. 35-5-110, Colorado Revised Statutes 1973, is
amended to read:

35-5-110. Public nuisance—abatement. Any noxious-weedy
insect pests or plant diseases with respect to which a control
district has been proclaimed, and any and all stages thereof,
their carriers, and any and all premises, plants, and things
infested or exposed to infestation therewith within such area are
declared to be a public nuisance, subject to all laws and
remedies relating to the prevention and abatement of nuisances,
the inspector, under the supervision and direction of the
commissioner and with the approval of the board of county
commissioners, in a summary manner or otherwise, may take such
action, including removal and destruction, with reference to such
nuisance as in his discretion seems necessary. The remedies of
this section shall be cumulative with all other remedies provided
in this article.

SECTION 10. 35-5-111, Colorado Revised Statutes 1973, is
amended to read:

35-5-111. Reports of acreage infested—county tax levy—
fund—allocation. (1) The commissioner is directed, and it is
his duty, to ascertain each year, from reports of the inspectors
and other sources, the approximate amount of land and highways
infested with the most troublesome noxious-weedy insect pests or
plant diseases, and their location, and transmit such information
tabulated by counties, not later than July 1 of each year, to the
board of county commissioners of each county affected by such infestation. On the basis of such information, the board of county commissioners of each county may make a tax levy each year on real property for the purpose of paying the cost or nontous weedy insect pest or plant disease control or eradication in a district of the county as provided by this section, but such levy shall not exceed two mills in any one year.

(c) Moneys collected from such levy shall be set apart as a pest control fund, and moneys derived from a particular district shall be used only in that district, and moneys derived on a countywide basis shall be used for the whole county. Vouchers shall be drawn against said fund by the board for items of expense incident to the control or eradication of nontous--weedy insect pests or plant diseases in the county or in any such district. Such expenditures and accounts shall be audited annually.

SECTION 11. 35-5-112 (1), (2), and (3), Colorado Revised Statutes 1975, are amended to read:

35-5-112. Pest control district on public lands—notice—charges. (1) When an area designated as a pest control district by the board of county commissioners of any county contains public lands, it is the duty of the commissioner to notify the proper state departments which control or supervise the public lands within the area so designated that such a district has been formed. It is the duty of any such department so notified, except in the case of lands under the jurisdiction of the state board of land commissioners, to control or eradicate all nontous
weeds, insect pests or plant diseases on any lands under its jurisdiction, and included within the boundaries of the district and for which the district was organized, using the methods prescribed by the commissioner.

(2) In case such department, other than the state board or land commissioners, fails to so control or eradicate such pests, it is the duty of the inspector in the county where the infestation is located to enter upon such lands and undertake the control or eradication of such noxious-weeds, insect pests or plant diseases, or cause the same to be done, the expense thereof to be a proper charge against the department, except the state board of land commissioners, which has jurisdiction over the lands. If not paid, such charge may be recovered in an action therefor by the county in any court of competent jurisdiction; except that it is permissible for any such state department, except the state board of land commissioners, which controls or supervises lands in the designated pest control district to enter into a contract with the board of county commissioners of the county wherein the land is situated to authorize the county pest inspector to undertake the control or eradication of all noxious weeds, insect pests or plant diseases, as provided in this article, on state-controlled land in the district on terms and conditions satisfactory to both parties.

(3) In the case of lands controlled by the state board of land commissioners, which land is included within a district, the costs incurred in controlling or eradicating noxious-weeds, insect pests or plant diseases, which would be chargeable to the
owner of the land if privately owned, shall be paid by the
department of agriculture from funds available to it for the
administration of this article.

SECTION 1c. Article 5 of title 33, Colorado Revised
Statutes 1973, as amended, is amended by the addition of a new
SECTION to read:

33-5-115.5. Dissolution of noxious weed districts. (1) Un
and after January 1, 1977, no pest control district shall be
formed for the control of noxious weeds. Pest control districts
established before said date shall not thereafter perform any
functions for the purpose of controlling noxious weeds but shall
continue to exist for the purpose of dissolution.

(2) During dissolution, such district shall forthwith
proceed to defray, pay, or otherwise liquidate all obligations of
the district, and all property, other than money and accounts or
assessments collectable, shall be sold or otherwise disposed of
as soon as reasonably possible.

(3) After all obligations have been liquidated or provision
has been made therefor, all surplus funds and accounts or
assessments collectable, if any, remaining shall be credited to
the general fund of the county in which the district lies or, if
an account or assessment collectable, assigned to said county.

(4) All records of such district shall be filed with the
county clerk and recorder upon the district's dissolution, and
the district shall thereupon be dissolved without any other
further acts.

SECTION 13. Amendment 33-5-115.5(3) and 33-5-115.6, Colorado
Revised Statutes 1973, are repealed.

SECTION 14. Effective date. This act shall take effect January 1, 1977.

SECTION 15. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
As stated in the majority report, the committee's bill dealing with weed control fails to satisfactorily address several problems. One of the most prominent was equitable treatment for the taxpayers residing in counties which contain significant federal land acreage. Weed problems in such counties are just as prevalent on federal lands as on private lands, whether the weeds are on the land itself or transmitted by water or wind, but the costly burden of control and eradication would fall primarily on the local and state taxpayers. Although convinced that steps must be taken to control noxious weeds in this state, some committee members felt they could not, in good conscience, support the committee's bill without assurance of funding of the federal share.

The bill accompanying this minority report is offered to provide a responsible alternative approach to the weed control problem. The alternative bill would provide for making the landowner aware of a weed control program, would provide for the establishment of local weed control agents, and would give such agents the following duties: identification and mapping of noxious weeds; establishment of educational and informational programs; and cooperation with other weed control agents and the local weed control advisory council. The bill would impose the duty upon landowners to make reasonable efforts to control or eradicate noxious weeds on their properties. The Department of Agriculture would develop a statewide weed control program and local and state weed control councils would be established.

It is suggested that the alternative bill is a significant step forward and provides a methodology for enlightening the general public and the federal government for a response to this state's weed control problem, placing responsibility at the local level and providing for the development of information on the location and concentration of weeds, which information is essential to the development of an effective and comprehensive weed control program. Accurate information on the fiscal impact of such a program upon the lands and landowners must be available before implementation of a mandatory program. The alternative bill also gives lead time and provides for collection of data to show individuals and the federal government their respective obligations in a weed control program.
committee on agriculture

minority report

bill 6

a bill for an act

1 concerning weed control.

bill summary

(note: this summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

provides for the establishment of local weed control agents and gives such agents the following duties: identification and mapping of noxious weeds; establishment of educational and informational programs; and cooperation with other weed control agents and the local weed control advisory council. imposes the duty upon landowners to make reasonable efforts to control or eradicate noxious weeds on their properties. directs the department of agriculture to develop a statewide weed control program and establishes local and state weed control councils.

be it enacted by the general assembly of the state of colorado:

section 1. article 8 of title 35, colorado revised statutes 1973, is amended by the addition of a new part to read:

part 2

weed control act

35-8-201. short title. this part 2 shall be known and may be cited as the "weed control act of 1976".

35-8-202. legislative declaration. in order to foster the health and welfare of the people of this state, it is declared to be the policy of the state to control or eradicate noxious weeds.
35-8-203. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Body politic" means any agency of this state or of the federal government; any unit of local government owning land in this state, including any county, city, city and county, town, school district, local improvement or service district, or special district; or any other governmental unit.

(2) "Commissioner" means the commissioner of agriculture.

(3) "County" includes the city and county of Denver.

(4) "Department" means the department of agriculture.

(5) "Ditch or reservoir company" means any ditch company, irrigation canal company, or reservoir company, whether for profit or not for profit.

(6) "Landowner" means any person owning land in this state, whether acquired by deed or patent or otherwise.

(7) "Noxious weed" means any of the following at any stage of growth:

(a) Leafy spurge (Euphorbia esula);
(b) Canada thistle (Cirsium arvense);
(c) Russian knapweed (Centaurea repens);
(d) Bindweed (Convolvulus arvensis);
(e) Whitetop (Cardaria draba);
(f) Johnson grass (Sorghum halepense); or
(g) Any other especially troublesome and detrimental plant of little or no use which may cause damage or loss to a considerable portion of the land or the livestock and which has been determined by the local weed control agent to require
control and eradication efforts.

(8) "Person" means any individual, corporation, state or federal government or governmental subdivision or agency, business trust, estate, trust, partnership, or association or any other legal entity.

(9) "Person in control of land" means a person having control of land but does not include a tenant.

(10) "Private landowner" means any landowner other than a body politic, ditch or reservoir company, or public utility.

(11) "Public utility" means any pipeline corporation, gas corporation, electrical corporation, rural electric corporation, telephone corporation, telegraph corporation, or railroad corporation doing business in this state.

(12) "To control noxious weeds" means to make reasonable efforts to prevent the formation of viable noxious weed seed.

35-8-204. Local weed control agent. (1) Except as provided in subsection (2) of this section, there shall be a local weed control agent in each county of this state. Any person employed as a local weed control agent must have comprehensive education or experience in noxious weed control and eradication efforts.

(2) Upon a showing made to the department by a county that it does not need a full-time local agent and that it can adequately control noxious weeds in the county by a cooperative agreement with the local agent of another county, the county shall be allowed to enter into such a cooperative agreement.

(3) The local weed control agent shall be employed by the
35-8-205. **Duties of local weed control agent.** (1) The local weed control agent has the following duties:

(a) To locate and map noxious weeds located on private property in the county;

(b) To establish, in cooperation with the county extension agent in the county, a comprehensive program to inform any body politic, ditch or reservoir company, or public utility and to educate private landowners in the county concerning the identification of types of noxious weeds, including their root systems and stages of growth, and the methods of control or eradication efforts appropriate for different types of noxious weeds; and

(c) To cooperate and coordinate with the local weed control advisory council and other local weed control agents in the performance of their duties.

35-8-206. **Weed control - statewide program.** (1) It is the duty of every landowner and person in control of land in this state to control noxious weeds located on his property or on property under his control.

(2) The department shall develop, in cooperation with local weed control agents, a statewide program for effective and coordinated control or eradication of noxious weeds. Said plan shall consist of locating and mapping noxious weeds in the state; evaluating the effectiveness of weed control efforts; assisting and cooperating with local weed control agents in the performance of their duties; and such other activities as the department...
deems necessary to accomplish effective control and eradication of noxious weeds in this state.

35-8-207. Weed control order at early stage. (1) Whenever a local weed control agent determines that a private landowner or person in control of private land is not in compliance with the provisions of section 35-8-206 and it is deemed necessary by the agent that prompt or definite control or efforts to eradicate noxious weeds is required, he shall issue a weed control order to the landowner or person in control of land to effect such weed control or eradication efforts.

(2) In making a determination that a landowner or person in control of land is not in compliance with the provisions of section 35-8-206 and that it is necessary that prompt or definite control or efforts to eradicate noxious weeds are required, the agent shall take into consideration the size of the area covered by the noxious weeds, the concentration and stage of growth of such noxious weeds, and the prospective danger to other landowners from such noxious weeds.

(3) A weed control order shall be on a form prescribed by the commissioner and shall set forth the following:

(a) The name and address of the landowner or person in control of land;

(b) An address, location, or description sufficient to identify the land which contains the noxious weeds;

(c) The approximate acreage which requires control or eradication efforts;

(d) The noxious weeds requiring control or eradication
efforts; and

(e) One or more methods appropriate for the control or eradication efforts on the designated noxious weeds.

(4) A weed control order shall be served personally or by certified mail, return receipt requested, upon the alleged violator or his agent for service of process.

35-8-208. Local and state advisory councils. (1) The board of county commissioners in each county employing a local weed control agent shall appoint a local advisory council on weed control consisting of five or more members, who shall serve at the pleasure of the board of county commissioners, to advise the local weed control agent concerning all duties assigned to him. Should a vacancy occur, the board of county commissioners shall fill the vacancy by appointment within thirty days. In the case of a vacancy, the remaining members of the local advisory council shall exercise all the powers and authority of said council until such vacancy is filled. A majority of the council shall constitute a quorum to transact business and to exercise the powers or authority conferred. Members of the council shall serve without compensation but shall be reimbursed for any necessary expenses.

(2) The commissioner, with the approval of the state agricultural commission, shall appoint a state advisory council on weed control consisting of fourteen members, which shall be composed of two members from each of the water divisions of the state, as such divisions are described in part 2 of article 92 of title 37, C.R.S. 1973, who are members of a local advisory
council in that division. The state advisory council shall advise and aid the department in formulating the state plan. Members of said council shall serve at the pleasure of the commissioner. Should a vacancy occur, the commissioner shall make a new appointment, with the approval of the state agricultural commission, for the unexpired term. In the case of a vacancy, the remaining members of the state advisory council shall exercise all the powers and authority of said council until such vacancy is filled. A majority of the council shall constitute a quorum to transact business and to exercise the powers or authority conferred. Members of the council shall serve without compensation but shall be reimbursed for any necessary expenses.

SECTION 2. The introductory portion to 35-8-101, Colorado Revised Statutes 1973, is amended to read:

35-8-101. Definition. As used in this article PART 1, unless the context otherwise requires:

SECTION 3. 35-8-102 (1) and (3), Colorado Revised Statutes 1973, are amended to read:

35-8-102. Duty of combine operator. (1) It is the duty of every person operating a combine for hire, in any district set apart as a weed extermination area, immediately after completing the combining of grain or seed on each farm to clean or cause said machine to be cleaned, so far as is practical, together with all wagons, trucks, or other equipment used in connection therewith, so that seeds of noxious weeds are not carried to or on the way to the next place of combining by said combining
outfit. No combine shall be moved from any district set apart as a weed extermination area without complying with the provisions of this article PART 1.

(3) Any person, firm, or corporation which fails to comply with the provisions of this article PART 1 is deemed in violation of same and shall be subject to a penalty of not less than ten dollars nor more than five hundred dollars.

SECTION 4. 35-8-103 (1) (f), Colorado Revised Statutes 1973, is amended to read:

35-8-103. Authority of county commissioners. (1) (f) Enter into cooperative agreements with state and federal agencies or departments for the furtherance of noxious weed control work authorized by this article PART 1.

SECTION 5. 35-8-107, Colorado Revised Statutes 1973, is amended to read:

35-8-107. Supplemental to "Pest Control Act". This article PART 1 does not repeal the "Pest Control Act" as far as weeds are concerned but supplements it.

SECTION 6. Effective date. This act shall take effect January 1, 1977.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
LEGISLATIVE COUNCIL
COMMITTEE ON STATE AFFAIRS

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Council Staff

Dennis Jakubowski
Research Associate
Larry Thompson
Research Associate
The Committee on State Affairs was directed by the Legislative Council to study the legislative steps that are necessary to assure women equal rights. The committee investigated the status of women in the areas of employment, education, credit, and insurance.

The committee submits three bills for consideration. In the area of employment, the committee recommends Bill 7, relating to the powers and duties of the Colorado Civil Rights Commission, and Bill 8, concerning grounds for revocation or suspension of the license of a private employment agency. Regarding education, the committee recommends Bill 9, relating to the designation of additional racing days to provide funding for athletics in institutions of higher education.

Women's Equal Rights in Employment

The committee was provided with an overview of the status of women in the area of employment through testimony by representatives of federal agencies charged with enforcement of equal employment opportunity laws. In addition, representatives of the Colorado Civil Rights Commission explained the role of the commission in the enforcement of the "Colorado Antidiscrimination Act of 1957". The committee heard testimony from federal and state representatives that there is a substantial backlog of complaints due to the number of complaints and the lack of personnel to properly investigate and conduct hearings on alleged discriminatory activities.

Powers and Duties of Colorado Civil Rights Commission -- Bill 7

Most members of the committee believe that no major changes in Colorado's employment discrimination law need to be made; however, better enforcement of the law should be undertaken, and this would require some revisions. Therefore, the committee recommends a bill which is designed to make the Colorado Civil Rights Commission more effective and efficient in meeting the enforcement responsibilities assigned it by the "Colorado Antidiscrimination Act of 1957".

In summary, Bill 7 would provide:

1. Discrimination based on marital status. Section 1 of the bill would prohibit any employment discrimination which is based on marital status.

2. Subpoena power. Section 24-34-305 (2) of Bill 7 would grant the Civil Rights Commission subpoena power during the investigative stage of its procedures. The subpoena power granted by this section would permit the commission...
at an earlier date to determine whether or not there is a case of discrimination to be pursued.

(3) Initial exclusive jurisdiction. Section 24-34-305 (3) of Bill 7 would make clear that the Civil Rights Commission would not be barred from action on a case when another agency is acting in concurrent areas of the same case. In effect, other agencies could not bar the jurisdiction of the Civil Rights Commission in its determination of violations of the "Colorado Antidiscrimination Act of 1957". This provision was included in Bill 7 due to a ruling of the Colorado Supreme Court in the case of Umerfield v. School District 11-J which held that the legal doctrine of res judicata barred the Colorado Civil Rights Commission from exercising its jurisdiction when another administrative agency had already heard the issue of discrimination.

(4) Compensation, terms, and conditions of employment. Amendments to section 23-34-306 (1) (a) would add the phrase "compensation, terms, and conditions of employment" to the coverage of the antidiscrimination law. These amendments were added since the antidiscrimination law now prohibits discrimination in promotions, demotions, and compensation, but does not cover such aspects of employment as health and life insurance programs or disability leave policies.

(5) Retaliation. Section 3 of Bill 7 would provide that a person who files a complaint or otherwise cooperates with the commission not be retaliated against by his employer.

(6) Judicial review and enforcement. Section 4 of the bill states that the Court of Appeals, rather than a district court, would have initial jurisdiction in reviewing decisions of the Civil Rights Commission. Testimony was heard indicating that most cases going through the district court were appealed; therefore, the committee believes that this provision will lead to a more speedy resolution of conflict. Also, such a provision will help insure that the antidiscrimination laws will be more uniformly applied.

Testimony Concerning Sex Discrimination by Private Employment Agencies. The committee heard testimony from representatives of the Colorado Public Interest Research Group (CoPIRG) concerning its study of private employment agency practices in the metropolitan Denver area. The CoPIRG report stated that private employment agencies do discriminate against equally qualified applicants on the basis of sex. The report further indicated that the jobs referred to female applicants were weighted towards sales and clerical positions, while male applicants generally received referrals for jobs in professional, managerial, and technical areas.
Committee Directive to the Department of Labor and Employment and the Colorado Civil Rights Commission Concerning Sex Discrimination. The committee concurred with the COPIRC finding that private employment agencies are in violation of federal and state legislation which prohibits sex discrimination in employment and, as a result, sent a letter to the executive director of the Department of Labor and Employment and to the executive director of the Colorado Civil Rights Commission to call to their attention the findings in the COPIRC study. There was a written reply from the Department of Labor and Employment; however, no such reply was received from the Colorado Civil Rights Commission.

The letter to the department requested the following:

(1) Ensure that all designated managing personnel and other employees of licensed private employment agencies are given a complete explanation of laws prohibiting sex discrimination; and

(2) Initiate a rigid program of monitoring employment agencies licensed by the department to check on their compliance with Colorado's antidiscrimination in employment law. In cases where violations indicate a lack of "business integrity" under section 12-24-107 (2), proceedings should be initiated to revoke the illegally operating agency's license.

In response to the committee directive, Mr. Herrick Roth, executive director of the Department of Labor and Employment, stated that every agency listed in the COPIRC report had been contacted by an investigator from the Division of Labor, apprised of the contents of that report, and advised that the department expected complete compliance with all federal and state laws relating to sex discrimination. Mr. Roth added that each agency listed in the COPIRC report was advised that discriminatory job orders should not be accepted from employers, and referrals should not be based on sex, age, race, creed, or color.

Mr. Roth also noted that, in response to the committee's directive, copies of antidiscrimination posters will be sent to every employment agency with instructions regarding posting. In addition, the policy to spot-check all licensed private employment agencies for compliance with Colorado's antidiscrimination law has been reemphasized.

The committee learned from the executive director that section 12-24-107 (2), relating to grounds for revocation of an employment agency license, should be clarified to state specifically that sex discrimination constitutes one of the grounds for revocation or suspension of an employment agency license. The committee concurs with this proposal, and further believes that the portion of the "Private Employment Agency Act of 1967" relating to revocation of licenses should address itself to the problem of sex discrimination in employment. Accordingly, the committee recommends Bill X.
Grounds for Revocation or Suspension of Private Employment Agency Licenses - Bill 8

Bill 8 would clarify in the "Private Employment Agency Act of 1967" that the Division of Labor has full authority to revoke or suspend the license of a private employment agency when it has been finally determined by an agency charged with enforcement of antidiscrimination laws (e.g., U.S. Equal Employment Opportunity Commission or Colorado Civil Rights Commission) that an employment agency is guilty of sex discrimination.

Section 12-24-107 (2) currently gives the director of the Division of Labor authority to revoke an employment agency license when a licensee is found to be "not of good moral character and business integrity". Bill 8 would amend section 12-24-107 (2) to specifically state that engaging in practices which are discriminatory on the basis of sex would be sufficient evidence to indicate that a licensee does not show good business integrity.

Review by Standing Committees of Affirmative Action Plans for Colorado's Executive Branch. In an executive order issued April 16, 1975, Governor Lamm affirmed the commitment of his administration to providing equal opportunity for all employees and those seeking employment with the state. To carry out the commitment, the Governor directed that all agencies and departments in the executive branch develop and implement affirmative action plans. The executive director of the Department of Personnel was given the responsibility for the development, implementation, and continuing evaluation of those affirmative action plans.

The Department of Personnel has set a January 1, 1976, deadline for every department in the executive branch to have an affirmative action plan in effect and available to department employees. The committee has an interest in a follow-up on the progress of executive departments in the development and implementation of their individual affirmative action plans. According to Joint Rule No. 25, the standing committees of State Affairs and Business Affairs and Labor are given the responsibility to review the activities and budget of the Department of Personnel. The committee recommends that the department be prepared to appear before those committees early in the 1976 session to present an update on its activities in this area.

Women's Equal Rights In Education

Testimony Concerning Sexism in Education. The committee received testimony citing evidence of sexism in curricula, textbooks, counseling, vocational education, school expenditures, and teacher attitudes which promote "myths" concerning the role of women in society. Similarly, the committee was told that the educational process is a significant tool in promoting or hindering equal opportunities in employment for women.
The opportunities, or lack thereof, afforded women for athletic competition in high schools and colleges were reviewed by the committee. The committee heard testimony on the women's athletic programs at the University of Colorado, Colorado State University, University of Northern Colorado, University of Southern Colorado, and the University of Denver. This testimony indicated that equality of opportunity does not always exist for women in terms of the supplies and equipment provided, medical and training services offered, or game and practice schedules which have been established.

Impact of Title IX on Education. To attempt to end sexism in education, Congress passed Title IX of the Education Amendments of 1972. Title IX provides that "no person...shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance...". Title IX regulations bar sex discrimination in the nation's elementary and secondary schools and institutions of higher education. Title IX regulations also prohibit sex discrimination against either students or education employees.

The committee heard testimony on the coverage and regulations of Title IX and was informed of its specific impact on counseling, vocational education, and affirmative action plans for employees in high schools and colleges. A particular emphasis was placed on studying the effect of Title IX on women's athletics at the collegiate level.

The committee is in accord with Title IX regulations that equality of opportunity should be provided members of both sexes to participate in athletics. (This does not mean that equal funding must be provided for female and male athletic teams.) The committee believes that additional funding is necessary for women's athletics at the collegiate level for females to achieve athletic opportunities equal to those now afforded males in Colorado. Thus, the committee recommends Bill 9.

**Designation of Additional Racing Days to Provide Funding for College Athletics -- Bill 9**

This bill would provide that the Colorado Racing Commission shall authorize one additional racing day for any 30-day race meet, not to exceed two race meets in any calendar year, in order to generate additional revenue for men's and women's athletics, including intramurals, in institutions of higher education. The state's percentage of the gross receipts from the pari-mutuel wagering proceeds for the additional days of racing would be collected by the Colorado Racing Commission and deposited to the credit of the Colorado Commission on Higher Education (C.C.H.E.).

The proceeds deposited to the credit of the C.C.H.E. would be allocated among the athletic departments of the various state-
supported colleges and universities. The allocation formula has not been determined at this date. The bill would require that at least half of the funds collected from racing by the C.C.H.E. be for the benefit of women's athletics, including intramural programs.

Women's Equal Rights in Credit and Insurance

Committee Conclusions on Credit Opportunities for Women

The committee was informed of the provisions of the Federal Equal Credit Opportunity Act (ECOA) which took effect on October 28, 1975. In brief, ECOA provides that it is unlawful for any creditor to "discriminate against any applicant on the basis of sex or marital status" with respect to any aspect of a credit transaction. The ECOA covers all who regularly extend credit to individuals, including savings and loan associations, banks, finance companies, department stores, credit card issuers, and government agencies such as the Small Business Administration.

Colorado's statute prohibiting credit discrimination based on sex (section 5-1-109) and the statute prohibiting discrimination based on marital status and religion in granting financial assistance in certain housing practices (section 24-34-405 (1)) were reviewed by the committee. The committee recognizes that ECOA has been in effect for such a short time that a complete evaluation of its effectiveness and coverage is not now possible. The committee recommends that no changes be made in the state credit laws until ECOA can be fairly evaluated and judged as to possible shortcomings.

Committee Conclusions on Sex Discrimination in Insurance

The committee received testimony on the implementation and effectiveness of two bills signed into law in 1975 concerning women's rights and insurance -- H.B. 1437, relating to maternity care coverage, and H.B. 1446, prohibiting classification of individuals based solely on marital status or sex. The committee has no changes to recommend on either of these bills or subject areas.

The committee considered a request that the right of conversion, i.e., the right of a person covered under an insurance policy to obtain coverage from that insurer for the same risks when the person's eligibility for the existing coverage ends, should be included in family insurance policies. The committee learned that a task force of Lawyers for Colorado's Women, together with several representatives of the insurance industry, is drafting legislation for possible introduction in the 1976 session concerning conversion rights. The committee supports and encourages the efforts to provide the right of conversion in family insurance policies but recommends no specific legislation at this time.

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COMMITTEE ON STATE AFFAIRS

BILL 7

A BILL FOR AN ACT

CONCERNING CIVIL RIGHTS, AND PROVIDING FOR THE PROTECTION OF SUCH
RIGHTS IN CONNECTION WITH EMPLOYMENT.

Bill Summary

(NOTE: This summary applies to this bill as introduced and
does not necessarily reflect any amendments which may be
subsequently adopted.)

Concerns civil rights and includes marital status and
provides more uniformity in the protected categories. Expands
the jurisdiction of the civil rights commission and makes certain
procedural changes. Defines further discriminatory and unfair
employment practices.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-34-305 (1) (i), Colorado Revised Statutes
1973, is amended, and the said 24-34-305 is further amended BY
THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

24-34-305. POWERS AND DUTIES OF COMMISSION. (1) (i) To
make recommendations to the general assembly for such further
legislation concerning discrimination because of race, creed,
color, national origin, or ancestry, SEX, OR MARITAL STATUS as it
may deem necessary and desirable;

(2) The commission has the further power to compel an
employer, employment agency, labor organization, joint

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apprenticeship committee, or vocational school, or official or
agent thereof, during its investigative process, by the use of
its subpoena power, to produce for examination any books, papers,
or documents relating to any matter involved in a verified
complaint filed with the commission. If a person either fails or
refuses to obey a subpoena issued by the commission, the
commission may petition the district court having jurisdiction
for issuance of a subpoena in the premises and the court shall in
a proper case issue its subpoena. Refusal to obey such subpoena
shall be punishable by contempt.

(3) The commission shall have exclusive jurisdiction to
receive, investigate, and pass upon complaints filed pursuant to
this part 3 and to grant relief for violations of the "Colorado
Anti-Discrimination Act of 1957". The offering of evidence
before, or consideration of a claim or ruling by, any other
agency of the state or political subdivision thereof, any school
district, or any other person or entity as to whether a
discriminatory or unfair employment practice as defined in this
part 3 was committed shall not prevent or bar any person from
seeking redress pursuant to the provisions of this part 3 before
the commission, and the commission shall not be barred from
receiving, investigating, passing upon, or determining such claim
or from granting relief by application of the doctrines of res
judicata, collateral estoppel, election of remedies, or other
similar doctrine.

SECTION 2. 24-34-306 (1) (a), (1) (b), (1) (c), (1) (d),
(1) (f) (I), (1) (f) (II), and (1) (f) (III) and (2), Colorado
Revised Statutes 1973, are amended to read:

24-34-306. Discriminatory and unfair employment practices.

(1) (a) For an employer to refuse to hire, to discharge, to promote or demote, or to discriminate in matters of compensation against any person otherwise qualified with respect to compensation and terms and conditions of employment because of race, creed, color, sex, national origin, or ancestry, or marital status;

(b) For an employment agency to refuse to list and properly classify for employment or to refer an individual for employment in a known available job for which such individual is otherwise qualified because of race, creed, color, sex, national origin, or ancestry, or marital status, or to comply with a request from an employer for referral of applicants for employment if the request indicates either directly or indirectly that the employer discriminates in employment on account of race, creed, color, sex, national origin, or ancestry, or marital status;

(c) For a labor organization to exclude any individual otherwise qualified from full membership rights in such labor organization, or to expel any such individual from membership in such labor organization, or to otherwise discriminate against any of its members in the full enjoyment of work opportunity because of race, creed, color, sex, national origin, or ancestry, or marital status;

(d) For any employer, employment agency, or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment or membership, or to
make any inquiry in connection with prospective employment or membership which expresses, either directly or indirectly, any limitation, specification, or discrimination as to race, creed, color, sex, national origin, or ancestry, or marital status, or any intent to make any such limitation, specification, or discrimination; unless based upon a bona fide occupational qualification or required by and given to an agency of government for security reasons;

(f) (I) To deny to or withhold from any qualified person because of his race, creed, color, sex, national origin, or ancestry, or marital status the right to be admitted to or participate in an apprenticeship training program, on-the-job training program, or other occupational instruction, training, or retraining program;

(II) To discriminate against any qualified person in his pursuit of such programs or to discriminate against such a person in the terms, conditions, or privileges of such programs because of race, creed, color, sex, national origin, or ancestry, or marital status;

(III) To print or circulate or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for such programs, or to make any inquiry in connection with such program which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, creed, color, sex, national origin, or ancestry, or marital status, or any intent to make any such limitation, specification, or discrimination unless based on a bona fide occupational qualification.
(2) Notwithstanding any provisions of this section to the contrary, it is not an unlawful discriminatory practice for the division of employment of the department of labor and employment to ascertain and record the age, sex, race, creed, color, or national origin, ANCESTRY, OR MARITAL STATUS, of any individual for the purpose of making such reports as may be required by law to agencies of the federal or state government only. Said records may be made and kept in the manner required by the federal or state law, but no such information shall be divulged by said division or department to prospective employers as a basis for employment, except as provided in this subsection (2).

SECTION 3. 24-34-306 (1), Colorado Revised Statutes 1973, is amended by the addition of a new paragraph to read:

24-34-306. Discriminatory and unfair employment practices.

(1) (h) For an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or a joint apprenticeship committee or vocational school providing and controlling apprenticeship or other training or retraining, including on-the-job training programs or other training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership because he has opposed any practice made an unlawful employment practice by this part 3 or because an individual had made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part 3 or part 7 of this article.
Statutes 1973, are amended to read:

24-34-308. Judicial review and enforcement. (2) Such proceeding shall be brought in the district-court-of-the-district in-which-is-located-the-county-wherein-the-alleged-discriminatory or-unfair-employment-practice-which-is-the-subject-of-the commission's-order-was-committed-or-wherein-any/respondent; required-in-the-order-to-cease-and-desist-from-a-discriminatory or-unfair-employment-practice-or-to-take-other-affirmative action; resides-or-transacts-business: COURT OF APPEALS.

(11) Petitions filed under this section shall be heard expeditiously and determined upon the transcript filed, without requirement for printing. Hearings in the court under this part 3 shall take precedence over all other matters, except matters of the same character AND MATTERS INVOLVING AWARDS OR ACTIONS OF THE INDUSTRIAL COMMISSION UNDER ARTICLES 53 AND 74 OF TITLE 8, C.R.S. 1973.

(12) If no proceeding to obtain judicial review is instituted by a complainant or respondent within thirty days from the service of an order of the commission pursuant to section 24-34-307, the commission may obtain a decree of the court for the enforcement of such order upon showing that respondent is subject to the jurisdiction of the commission.

SECTION 5. 13-4-102 (2), Colorado Revised Statutes 1973, is amended to read:

13-4-102. Jurisdiction. (2) The court of appeals shall
have initial jurisdiction to review awards or actions of the
industrial commission, as provided in articles 53 and 74 of title
8, C.R.S. 1973, and to review orders of the banking board
granting or denying charters for new state banks as provided in
article 2 of title 11, C.R.S. 1973, AND TO REVIEW FINAL DECISIONS
OR ORDERS OF THE COLORADO CIVIL RIGHTS COMMISSION UNDER PART 3 OF

SECTION 6. Effective date. This act shall take effect July
1, 1976.

SECTION 7. Safety clause. The general assembly hereby
finds, determines, and declares that this act is necessary for
the immediate preservation of the public peace, health, and
safety.
A BILL FOR AN ACT

CONCERNING GROUNDS FOR REVOCATION OR SUSPENSION OF THE LICENSE OF 
A PRIVATE EMPLOYMENT AGENCY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-24-107 (2), Colorado Revised Statutes 1973, 
is amended to read:

12-24-107. License - granted - renewed - revoked. (2) The 
director may revoke the license of any licensee under this part 1 
where, upon investigation, it finds that the licensee is not of 
good moral character and business integrity. In determining the 
character of a person, the director shall be governed by the 
provisions of section 24-5-101, C.R.S. 1973. Willful violation of 
the provisions of this part 1 or rules and regulations 
promulgated under this part 1 by the commission shall be 
considered prima facie evidence of a lack of business integrity.
WHENEVER ANY AGENCY HAVING JURISDICTION TO ENFORCE ANY FEDERAL OR STATE ANTIDISCRIMINATION LAW HAS MADE A FINAL DETERMINATION THAT A LICENSEE UNDER THIS PART 1 HAS VIOLATED SUCH ANTIDISCRIMINATION LAW, THE DIRECTOR MAY REVOKE OR SUSPEND THE LICENSE OF SUCH LICENSEE.

SECTION 2. Effective date. This act shall take effect July 1, 1976.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
A BILL FOR AN ACT

CONCERNING THE DESIGNATION OF ADDITIONAL RACING DAYS TO PROVIDE FUNDING FOR ATHLETICS IN INSTITUTIONS OF HIGHER EDUCATION.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides for additional racing days, with the proceeds going to provide funding for athletics in institutions of higher education.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-60-107, Colorado Revised Statutes 1973, is amended by the addition of a new subsection to read:

12-60-107. Duration of meets - additional racing days. (5) Notwithstanding any provision of this section to the contrary, the commission shall authorize and specify one additional racing day for any thirty-day race meet, not to exceed two meets in any calendar year, authorized by the commission pursuant to this article. The provisions of this article and the rules and regulations of the commission shall govern the conduct of any such additional days of racing. The state's percentage of the gross receipts of the pari-mutuel wagering proceeds, as provided
for in section 12-60-110, shall be collected by the commission, and shall be deposited to the credit of the Colorado commission on higher education, which funds are hereby appropriated to said commission, to be used for the funding of athletics, including intramural programs, in institutions of higher education. At least one-half of such appropriation shall be used to fund and promote women's athletic competition, including intramural programs.

SECTION 2. Repeal. 24-80-1108, Colorado Revised Statutes 1973, is repealed.

SECTION 3. Effective date. This act shall take effect January 1, 1977.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
LEGISLATIVE COUNCIL
COMMITTEE ON BUSINESS AFFAIRS AND LABOR

Members of the Committee

Sen. Kingston Minister, Co-Chairman
Rep. Charles Demoulin, Co-Chairman
Sen. Robert Allshouse
Sen. Fred Anderson
Sen. Hank Brown
Sen. Eldon Cooper
Sen. Clarence Decker
Sen. James Kadlecak
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Council Staff

Lenny Arnold
Research Associate
Duane Barnard
Research Assistant
COMMITTEE ON BUSINESS AFFAIRS
AND LABOR

The joint interim Committee on Business Affairs and Labor was charged by House Joint Resolution 1046 to undertake a study of the following subject areas: 1) The "Liquor Code of 1935" and the fermented malt beverage act; 2) The "Colorado Employment Security Act"; and 3) The Public Utilities Commission -- customer rate classification and ash and trash haulers.

Liquor Code of 1935

The committee believes that the liquor code in its present form is replete with ambiguous language, incongruities, and outdated provisions, making the code difficult to administer and enforce. Therefore, it requested the Department of Revenue in conjunction with the Attorney General's Office to draft a recodification of the beer and liquor laws. This recodification was to provide a noncontroversial updating, reordering, and rewording of the statutes so that they can be more easily used and interpreted. It was the committee's intention that the recodification avoid the more controversial changes in the law. However, due to the time constraints, the Department of Revenue was unable to have the recodification available prior to the committee's last meeting. Notwithstanding, the committee does recommend the following specific amendments to the liquor code and fermented malt beverage statutes.

Recommended Legislation -- Bill 10 through 18

Bill 10 would authorize retail package liquor stores to sell products related to the consumption of alcoholic beverages. The bill would allow the sale, in addition to tobaccos, tobacco products, and smokers' supplies, of other nonfood items such as bottle openers, glasses, and corkscrews.

Bill 11 would permit the sale of alcoholic beverages on primary and general election days during polling hours. Presently, the sale of alcoholic beverages is allowed during polling hours of local elections only.

Bill 12 would allow local licensing authorities to charge the following fees for license applications:

1) Application for a new license -- up to $350;

2) Application for a transfer of location or ownership -- up to $150; and

3) Application for a license renewal (annually) -- up to $75.
Bill 12 would amend both the fermented malt beverage act and the "Liquor Code of 1935", to establish the above application fees. Presently, the fermented beverage act makes no provision for licensing authorities to collect necessary expenses associated with application processing. In addition, the liquor code does not authorize local licensing authorities to collect expenses for license applications other than new licenses. The above fee schedule reflects the average rounded costs to local licensing authorities based on a survey conducted by the Colorado Municipal League.

**Bill 13** would authorize the state or local licensing authority to revoke or elect not to renew a beer or liquor license for inactivity or failure to construct a proposed licensed premise. In the case of an inactive license, the bill would establish a six-month time limit as prima facie evidence of inactivity. A proposed licensed premise would be allowed one year for construction commencing on the date of approval of the license application.

**Bill 14** would allow a licensing authority to have access to the criminal history record information of a criminal justice agency in investigating the character of a licensee or applicant.

**Bill 15** would establish a new "tavern" license category. An establishment of this type would not be required to provide meals, but would have to make available sandwiches and other light snacks. This bill, the committee believes would recognize the present practice in many operations now licensed as a hotel or restaurant in which primary emphasis is placed on consumption of alcoholic beverages. **Bill 15**, in addition, would assist licensing authorities and the public in evaluating whether the nature of the operations of pending applications would be truly that of a hotel or restaurant, or whether it would constitute a "tavern" operation. Provision is made to "grandfather in" existing establishments which are presently licensed as hotels or restaurants but which are more properly classified, in fact, as taverns.

**Bill 16** would permit the issuance of multiple liquor licenses only to hotels and restaurants under certain express conditions, requirements, and limitations. Bill 16 is intended to legitimize existing multiple operations presently organized under contractual management agreements, in certain restaurant and hotel chain operations. The committee was informed that the Department of Revenue has, in the past, allowed such agreements to exist but is presently examining these arrangements and intends to more actively enforce present statutory provisions which prohibit multiple ownership and financial interest in liquor licenses. Expressly under the liquor code (section 12-47-129), no person, partnership, association, or corporation may be interested financially in more than one licensed liquor establishment.

Other major provisions of the bill include:
(1) Restaurant receipts from meals and beverages would have to provide a majority of the income of the business. The Department of Revenue would be required to establish standards for determination of income source. Hotels would be able to serve liquor by the drink in hotel rooms and on the premises where meals are served consistently and provide a substantial source of income to the business.

(2) In order to prevent a hotel or restaurant chain from forming monopolies with regard to the purchase of liquor from wholesalers, the bill incorporates a "registered manager" concept. Under this concept:

- The hotel or restaurant license would be granted for specific premises and issued in the name of the owner or lessee.

- The hotel and restaurant licensee would have to have a separate manager at each location who would be registered with the state and local licensing authority. No person could be a registered manager for more than one hotel and restaurant licensee.

- The registered manager would be required to purchase the alcoholic beverage only for the location which he manages and for no other hotel or restaurant.

- It would be unlawful for a liquor manufacturer or importer to sell directly to a retail liquor establishment or to enter into any financial arrangement, formally or informally, with a retail licensee. The manufacturer could only deal with a liquor or beer wholesaler.

- It would be unlawful to require a wholesaler to make a delivery to any premises other than the specific hotel or restaurant in which the alcoholic beverage is to be sold or consumed.

**Bill 17** would delete the requirement that applicants for beer or liquor licenses file complete plans and specifications for unconstructed buildings and would provide that they file plot plans and detailed sketches of the interior. The bill would allow a local licensing authority to impose additional requirements, as necessary, for approval of a license application.

**Bill 18** would make clarifying amendments to the special events permit law and would delete the two-consecutive-day limitation on a special events permit. Presently, special event permits may be renewed four times during a calendar year for a combined maximum of eight days. Testimony indicated that many special events run more than two days in length and that such a limitation is an unwarranted hardship. The bill would retain the eight-day limitation, but a permit could be issued for all or part of eight consecutive days. **Bill 18**, in addition, would allow a local licensing authority to fix and collect permit processing fees, and would require the local authority to apply the same standards for permit issuance applicable to the state authority.
The Colorado Employment Security Act

After considerable testimony from representatives of labor, industry, the Department of Labor and Employment, and other interested persons, the committee concluded that the Employment Security Act was in need of revision.

However, no bill proposals were placed before the committee until the November 3rd meeting, at which time the committee received the attached bill from the Department of Labor and Employment. Due to the comprehensive nature of the proposal, the limited amount of time for review by all interested persons and a full agenda at the committee's final meeting, no thorough consideration and discussion of the bill was possible.

The attached bill is included in this report as a courtesy to the Department of Labor and Employment, and in no way should be considered as a committee proposal or as receiving committee approval. The committee hopes that by the bill's inclusion in this report, persons interested in employment security laws will have time, prior to the session, to undertake a review of the bill and its impact on affected parties.

The committee acknowledges that there are numerous questions concerning the department's bill and its effect on employers, employees, and the unemployed. Therefore, the bill is being forwarded without comment with the understanding that this item could be on the Governor's call for the coming session.

It should be noted that the committee in its review of the employment security area, also gave some consideration to possible reorganization of the Department of Labor and Employment. Mr. Herrick Roth, executive director of the department, briefly outlined his reorganization plans which he hoped could be implemented without statutory authorization. No clear determination has been made that legislation will not eventually be necessary to reorganize the Department of Labor and Employment, nor has the committee expressly or tacitly approved Mr. Roth's plan of reorganization.

Amendments to Colorado Employment Security Act -- Bill 19

Following is a brief synopsis of the provisions of the department's proposal on the Employment Security Act.

1. 8-70-103 (3) (a) would change the benefit year to a 52-week period following the filing of a claim. The benefit "year" is now a four quarter period which is in effect a variable nine- to twelve-month period depending upon the date on which the claim is filed.
2. 8-70-103 (8) (a) would provide for the immediate coverage of employment of an employer who had one or more employees at any time during the year. Would eliminate the requirement that to be covered an employer must have a payroll of $1,500 or more in a quarter or one employee for some portion of a day in each of twenty calendar weeks.

3. 8-70-103 (10) (a) (II) would be repealed. This would give recognition to the fact that there are independent subcontractors who contract to perform services at another company's place of business.

4. 8-70-103 (10) (g) (I) would eliminate the exemption of organizations, other than churches, which are operated primarily for religious purposes. This would cover employment for youth camps, hospitals, social clubs, concessions, etc., operated under the auspices of a church or a convention or association of churches.

5. 8-70-103 (11) (a) (I) (A) would eliminate the raising and harvesting of horticultural commodities from the definition of farm employment, thus bringing such employment under the act.

6. 8-70-103 (11) (a) (I) (C) would eliminate the reference to that part of the Agricultural Marketing Act which deals with gum trees because it is not applicable in Colorado.

7. 8-70-103 (11) (a) (I) (D) and (F) would remove horticultural commodities from the farm exclusion.

8. 8-70-103 (11) (a) (II) would cover employment in nurseries and greenhouses.

9. 8-70-103 (11) (I) would be repealed. This would eliminate the exclusion of real estate salesmen and insurance agents working on a commission basis from the Employment Security Act. Earnings of such salesmen and agents would be subject to the same tests of employment as other commissioned salesmen.

10. 8-70-103 (22) (a) would provide for an increase in the taxable wage base from the present $4,200 in a calendar year to 70 percent of the average annual wages of workers in selected industries in Colorado or the RITA (Federal Unemployment Tax Act) wage base, whichever is greater.

11. 8-72-107 (3) would provide that the Division of Employment may assess all or any portion of the allowable penalty against an employer for failure to file contribution reports, permitting greater flexibility in the application of the penalty provision.
12. 8-73-102 (2) would correct an inequity in the present qualifying formulas which may result in a person who qualifies under the 60 percent of 1/13 of high quarter wages formula being ineligible when the 30 x WBA (weekly benefit amount) formula is applied against his total wages.

13. 8-73-104 (1) See comment 14 below.

14. 8-73-106 would be repealed. Seasonal employment would no longer be given special treatment. Wages earned in seasonal employment would then be usable in the same way as all other wages. There would be no further need to restrict portions of a claimant's entitlement to certain periods of the year or to hold seasonal hearings.

15. 8-73-107 (1) (c) would delete special provisions providing for the employer's right to appeal on the basis of the claimant's failure to comply with eligibility conditions.

16. 8-73-108 would be repealed and reenacted. The amendment would provide for adjudicating only the last separation prior to the date of the claim for purposes of determining disqualification of the claimant, instead of adjudicating each separation since the beginning of the base period as is presently the case. Under the amendment, separations from base period covered employers would be adjudicated only for the purposes of determining chargeability. Non-charged benefits would be chargeable to the pooled fund.

   The amendment would provide further that disqualification would be six to twelve weeks for voluntary leaving without good cause, discharge for cause, and refusal of referral to, or an offer of, suitable work.

   In cases of gross misconduct the disqualification continues to be thirteen to 26 weeks and the maximum benefit amount would be reduced by an amount equal to the weeks of disqualification times the weekly benefit amount. The specific reasons for the various types of awards would be deleted and separations would be treated under the appropriate six- to twelve-week or thirteen- to 26-week disqualification authority depending upon the nature and severity of the claimant's act.

17. 8-73-110 (4) and (5) would be repealed and would delete the special provisions relating to deductibility of OASI (Old Age Survivor's Insurance) benefits. Primary benefits under the Social Security Act would no longer have an effect on unemployment insurance payments.
8-74-102. The present statute states that a decision of the division becomes final within fifteen days unless the claimant or another interested party files an appeal. There is no provision for the acceptance of an appeal after the fifteen-day period for any reason.

The Manpower Administration has advised that a late appeal should be accepted if the late filing is due to circumstances beyond the claimant's control. The Manpower Administration construes section 303 (a) (3) of the Social Security Act to require state laws to make this provision.

8-75-101 (2). The Manpower Administration has recommended that the comprehensive definition of "exhaustee" which they have provided be incorporated into Colorado law in place of the present definition. The change in definition would have no effect on the extended benefits program.

8-76-103 (1) (a) would eliminate another reference to seasonal employment and relates to proposed amendment number 13.

8-76-103 (3) (a) would provide that newly covered employers pay the full 2.7 percent rate rather than the one percent as presently provided.

8-76-103 (3) (b) (II) would amend the present method of computing employer tax rates, would provide a new schedule of rates, and would provide for rounding the percent of excess to the nearest percentage point rather than to one-tenth of one percent.

8-79-101 would increase the rate of interest on past-due contributions to 3/4 of one percent per month or nine percent per year rather than the present six percent per year.

The preceding explanations were taken largely from the portfolio provided to the committee on November 3 by the Department of Labor and Employment.

Public Utilities Commission

The committee studied three specific subjects concerning the Public Utilities Commission. Two of the subjects, ash and trash hauler regulation and public utility customer rate classification, were part of the committee's study charge. The third subject, concerning P.U.C. regulation of commercial carriers, was considered at the request of the P.U.C. The hearings resulted in two bills, one concerning ash and trash haulers and the other concerning commercial carriers. Although the committee did not make any recommendation with
regard to public utility customer rate classification, the committee
heard testimony from the Public Utilities Commission and two public
utilities about customer rate classification practices.

Ash and Trash Haulers -- Bill 20

Presently, the Public Utilities Commission has the authority to
regulate the rates, charges, and service areas of motor vehicle car-
riers transporting ashes, trash, waste, rubbish, and garbage to and
from disposal sites. The committee received testimony from the Public
Utilities Commission and the industry as to whether there should be
total deregulation of the rates, charges, and service areas for these
carriers, or deregulation only with regard to rates and charges. The
committee recommends Bill 20 which would remove from the Public Util-
ities Commission the authority to regulate rates, charges, and service
areas. However, the carriers would continue to be required to file
liability insurance policies or surety bonds and obtain permits from
the commission.

Commercial Carriers -- Bill 21

The committee recommends Bill 21 which transfers the permit and
insurance requirements for commercial carriers from the Public Util-
ities Commission to the Department of Revenue. This bill was consid-
ered at the request of the Public Utilities Commission. Testimony
indicated that under present law regulation of commercial carriers
consisted of issuing a one-time permit and filing an insurance liabil-
ity policy or surety bond with the commission. It was further indi-
cated that these functions could be transferred to the Department of
Revenue, since that department is responsible for enforcing the Motor

Leased Property Tax Liens

Concerning Exemptions of Certain Property Under Lease From Tax Liens
-- Bill 22

Bill 22 which is recommended by the committee concerns exemp-
tions from tax liens of certain property under lease. It would limit
a tax lien to a delinquent lessee's equity in property under a lease
-- purchase agreement. The bill further provides that leases would be
filed with the Department of Revenue. Presently the lease or a memo-
randum is filed or recorded with the county clerk and recorder of the
county in which the property is located or based.
Committee on Business Affairs
And Labor

Bill 10

A Bill for an Act

Authorizing retail liquor stores to sell nonfood items related to the consumption of alcoholic beverages.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that package retail liquor stores may sell nonfood items relating to the consumption of alcoholic beverages.

Be it enacted by the General Assembly of the State of Colorado:

Section 1. 12-47-102 (16), Colorado Revised Statutes 1973, is amended to read:

12-47-102. Definitions. (16) "Retail liquor store" means an establishment engaged only in the sale of malt, vinous, and spirituous liquors and soft drinks and mixers, all in sealed containers for consumption off the premises, and in the sale of tobaccos, tobacco products, and smokers' supplies, and nonfood items related to the consumption of such beverages.

Section 2. 12-47-109 (1), Colorado Revised Statutes 1973, is amended to read:

12-47-109. Retail liquor store license. (1) Retail liquor
stores shall be licensed only to sell malt, vinous, and
spirituous liquors in sealed containers not to be consumed at the
place where sold. Malt, vinous, and spirituous liquors in sealed
containers shall not be sold at retail other than in retail
liquor stores, except as provided in section 12-47-110. IN
ADDITION, RETAIL LIQUOR STORES MAY SELL NONFOOD ITEMS RELATED TO
THE CONSUMPTION OF SUCH LIQUORS.

SECTION 3. Safety clause. The general assembly hereby
finds, determines, and declares that this act is necessary for
the immediate preservation of the public peace, health, and
safety.
A BILL FOR AN ACT

PERMITTING THE SALE OF ALCOHOLIC BEVERAGES ON ELECTION DAY.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Permits sale of liquor on general and special election days.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-47-124 (1) (c), Colorado Revised Statutes 1973, is amended to read:

12-47-124. Unlawful acts. (1) (c) To sell, serve, or distribute any malt, vinous, or spirituous liquors on any-primary or-general-election-day, as-defined-by--article--1--of--title--1; 6:R:R:S:S:1973:--during-polling;--or-on Sunday and Christmas except as permitted under paragraph (d) of this subsection (1). The provisions of this paragraph (c) shall not apply to any--other election--held--in--this--state;--including;--but-not-limited-to; elections-held-pursuant-to-title-22;--title--23;--and--part--6--of article-32-of-title-24;--part-2-of-article-20-of-title-30;--article 18--and--parts--5--and--6-of-article-25-of-title-31;--and-title-32 (except-part-1-of-article-5-and-article-8); 6:R:R:S:S:1973:--or-to a
dining, club, or parlor car, plane, bus, or other conveyance of a public system engaged in the transportation of passengers when the selling and consumption of such beverages takes place within such conveyance.

SECTION 2. Effective date. This act shall take effect July 1, 1976.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
COMMITTEE ON BUSINESS AFFAIRS
AND LABOR

BILL 12

A BILL FOR AN ACT

CONCERNING APPLICATION TO LOCAL LICENSING AUTHORITIES FOR
FERMENTED MALT BEVERAGE AND LIQUOR LICENSES, AND PROVIDING
FEES THEREFOR.

Bill Summary

(NOTE: This summary applies to this bill as introduced and
does not necessarily reflect any amendments which may be
subsequently adopted.)

Provides for local license application, renewal, and
transfer of license fees for beer and liquor licenses.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-46-116, Colorado Revised Statutes 1973, is
REPEALED AND REENACTED, WITH AMENDMENTS, to read:


(1) Each application for a license filed with a local licensing
authority shall be accompanied by an application fee in an amount
determined by the local licensing authority to cover actual and
necessary expenses subject to the following limitations:

(a) For a new license, not to exceed three hundred fifty
dollars;

(b) For a transfer of location or ownership, not to exceed
one hundred fifty dollars;

(c) For a renewal of license, not to exceed seventy-five dollars.

(2) (a) Application to sell fermented malt beverages at retail may be made to a local licensing authority prior to the construction of the building in which such beverages are to be sold. If, at the time an application to sell fermented malt beverages at retail is made to a local licensing authority, the building in which the beverages are to be sold has not been constructed, the following procedure shall be followed:

(I) The applicant shall file at the time of application plans and specifications for the interior of the building to be occupied and a drawing of the building to be constructed.

(II) The premises upon which the building is to be constructed shall be posted by the applicant in such a manner that the notice is conspicuous and plainly visible to the public.

(b) No license shall be issued by the local licensing authority after approval of the application until the building in which the business is to be conducted is ready for occupancy, with such furniture, fixtures, and equipment in place as is necessary to comply with the provisions of this article and then only after inspection of the premises has been made by the local licensing authority to determine that the applicant has complied with drawings and plans and specifications submitted with the application.

SECTION 2. 12-47-138, Colorado Revised Statutes 1973, is repealed and reenacted, with amendments, to read:

(1) Each application for a license filed with a local licensing authority shall be filed on forms provided by the state licensing authority and shall contain such information as the state licensing authority may require. Each application shall be verified by the oath or affirmation of such persons as prescribed by the state licensing authority.

(2) Each application for a license filed with a local licensing authority shall be accompanied by an application fee in an amount determined by the local licensing authority to cover actual and necessary expenses subject to the following limitations:

(a) For a new license, not to exceed three hundred fifty dollars;

(b) For a transfer of location or ownership, not to exceed one hundred fifty dollars;

(c) For a renewal of license, not to exceed seventy-five dollars.

(3) The applicant shall file at the time of application plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall, in addition to the plans and specifications for the interior, submit an architect's drawing of the building to be constructed.

SECTION 3. Effective date. This act shall take effect July 1, 1976.

SECTION 4. Safety clause. The general assembly hereby
finds, determines, and declares that this act is necessary for
the immediate preservation of the public peace, health, and
safety.
COMMITTEE ON BUSINESS AFFAIRS
AND LABOR

BILL 13

A BILL FOR AN ACT

1 AUTHORIZING THE TERMINATION OF A FERMENTED MALT BEVERAGE OR
2 LIQUOR RETAIL LICENSE FOR INACTIVITY OR FAILURE TO CONSTRUCT
3 PREMISES.

Bill Summary

(NOTE: This summary applies to this bill as introduced and
does not necessarily reflect any amendments which may be
subsequently adopted.)

Authorizes the state or a local licensing authority to
revoke or elect not to renew a beer or liquor license for
inactivity or failure to construct the proposed licensed
premises.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-46-103 (1) (f) (I), Colorado Revised Statutes
1973, is amended to read:

12-46-103. Licensing authority - powers and duties. (1)
(f) (I) Upon his own motion or upon complaint, after
investigation and public hearing, at which the licensee shall be
afforded an opportunity to be heard, to suspend or revoke any
license issued by him upon any violation by the licensee, or by
any agent, servant, or employee of such licensee, of any
provision of this article, or of any rule or regulation of the

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licensing authority authorized by this article, or of any term, condition, or provision of the license issued by the licensing authority. IN ADDITION, A LICENSING AUTHORITY, STATE OR LOCAL, IN ITS DISCRETION, MAY REVOKE OR ELECT NOT TO RENEW A RETAIL LICENSE IF IT DETERMINES THAT, WITHOUT GOOD CAUSE, THE LICENSED LOCATION HAS BEEN INACTIVE FOR AT LEAST SIX MONTHS OR, IN THE CASE OF A RETAIL LICENSE APPROVED FOR A FACILITY WHICH HAS NOT BEEN CONSTRUCTED, SUCH FACILITY HAS NOT BEEN CONSTRUCTED AND PLACED IN OPERATION WITHIN ONE YEAR OF APPROVAL OF THE LICENSE APPLICATION.

SECTION 2. 12-47-120 (1), Colorado Revised Statutes 1973, is amended to read:

12-47-120. Suspension and revocation. (1) In addition to any other penalties prescribed by this article, any licensing authority has the power, on his own motion or on complaint, after investigation and public hearing at which the licensee shall be afforded an opportunity to be heard, to suspend or revoke any license issued by such authority for any violation by the licensee or by any of the agents, servants, or employees of such licensee of the provisions of this article, or of any of the rules or regulations authorized hereunder, or of any of the terms, conditions, or provisions of the license issued by such authority. IN ADDITION, ANY STATE OR LOCAL LICENSING AUTHORITY, IN ITS DISCRETION, MAY REVOKE OR ELECT NOT TO RENEW A RETAIL LICENSE IF IT DETERMINES THAT, WITHOUT GOOD CAUSE, THE LICENSED LOCATION HAS BEEN INACTIVE FOR AT LEAST SIX MONTHS OR, IN THE CASE OF A RETAIL LICENSE APPROVED FOR A FACILITY WHICH HAS NOT
BECOMING CONSTRUCTED, SUCH FACILITY HAS NOT BEEN CONSTRUCTED AND
PLACED IN OPERATION WITHIN ONE YEAR OF APPROVAL OF THE LICENSE
APPLICATION. Any licensing authority has the power to administer
oaths and issue subpoenas to require the presence of persons and
the production of papers, books, and records necessary to the
determination of any hearing which the licensing authority is
authorized to conduct.

SECTION 3. Safety clause. The general assembly hereby
finds, determines, and declares that this act is necessary for
the immediate preservation of the public peace, health, and
safety.
Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that the state or a local licensing authority may use criminal history information in investigating the character of beer or liquor license applicants.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-46-105 (1) (b), Colorado Revised Statutes 1973, is amended to read:

12-46-105. Qualifications and conditions for license. (1) (b) A licensee shall be of good character and reputation. No license shall be issued to or held by any corporation, any of whose officers, directors, or stockholders hold over ten percent of the outstanding and issued stock thereof, unless such director, officer, or stockholder is of good moral character and reputation. In determining whether an applicant for a license or a licensee is of good moral character, the executive director of
the department of revenue shall be governed by the provisions of
AN APPLICANT OR A LICENSEE, THE STATE OR A LOCAL LICENSING
AUTHORITY MAY HAVE ACCESS TO CRIMINAL HISTORY RECORD INFORMATION
FURNISHED BY A CRIMINAL JUSTICE AGENCY SUBJECT TO ANY
RESTRICTIONS IMPOSED BY SUCH AGENCY. AS USED IN THIS PARAGRAPH
(b), "CRIMINAL JUSTICE AGENCY" MEANS ANY FEDERAL, STATE, OR
MUNICIPAL COURT OR ANY GOVERNMENTAL AGENCY OR SUBUNIT OF SUCH
AGENCY WHICH PERFORMS THE ADMINISTRATION OF CRIMINAL JUSTICE
PURSUANT TO A STATUTE OR EXECUTIVE ORDER AND WHICH_ALLOCATES A
SUBSTANTIAL PART OF ITS ANNUAL BUDGET TO THE ADMINISTRATION OF
CRIMINAL JUSTICE.

SECTION 2. 12-47-115 (2), Colorado Revised Statutes 1973,
is amended to read:

12-47-115. Application for license. (2) (a) Before
granting any license for which application has been made, the
state licensing authority or one or more of its inspectors shall
visit and inspect the plant or property in which the applicant
proposes to conduct his business and investigate the fitness to
conduct such business of any person or the officers and directors
of any corporation applying for a license. IN INVESTIGATING THE
FITNESS OF THE APPLICANT OR A LICENSEE, THE STATE LICENSING
AUTHORITY MAY HAVE ACCESS TO CRIMINAL HISTORY RECORD INFORMATION
FURNISHED BY A CRIMINAL JUSTICE AGENCY SUBJECT TO ANY
RESTRICTIONS IMPOSED BY SUCH AGENCY. In granting licenses the
state licensing authority shall consider the reasonable
requirements of the neighborhood and the desires of the
inhabitants as evidenced by petitions, remonstrances, or otherwise.

(b) AS USED IN PARAGRAPH (a) OF THIS SUBSECTION (2), "CRIMINAL JUSTICE AGENCY" MEANS ANY FEDERAL, STATE, OR MUNICIPAL COURT OR ANY GOVERNMENTAL AGENCY OR SUBUNIT OF SUCH AGENCY WHICH PERFORMS THE ADMINISTRATION OF CRIMINAL JUSTICE PURSUANT TO A STATUTE OR EXECUTIVE ORDER AND WHICH ALLOCATES A SUBSTANTIAL PART OF ITS ANNUAL BUDGET TO THE ADMINISTRATION OF CRIMINAL JUSTICE.

SECTION 3. 12-47-141 (2), Colorado Revised Statutes 1973, is amended to read:

12-47-141. Results of investigation - decision of authorities. (2) (a) Before entering any decision approving or denying the application, the local licensing authority shall consider the facts and evidence adduced as a result of its investigation, as well as any other facts, the reasonable requirements of the neighborhood for the type of license for which application has been made, the number, type, and availability of liquor outlets located in or near the neighborhood under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed; except that the reasonable requirements of the neighborhood shall not be considered in the issuance of a club liquor license. IN INVESTIGATING THE QUALIFICATIONS OF THE APPLICANT OR A LICENSEE, THE LOCAL LICENSING AUTHORITY MAY HAVE ACCESS TO CRIMINAL HISTORY RECORD INFORMATION FURNISHED BY A CRIMINAL JUSTICE AGENCY SUBJECT TO ANY RESTRICTIONS IMPOSED BY SUCH AGENCY.
(b) As used in paragraph (a) of this subsection (2), "Criminal Justice Agency" means any Federal, State, or Municipal Court or any Governmental agency or subunit of such agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.

SECTION 4. Safety Clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
A BILL FOR AN ACT

CONCERNING A NEW CATEGORY OF RETAIL LIQUOR LICENSE FOR CONSUMPTION ON PREMISES.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides for a tavern retail on premises liquor license which requires that sandwiches and light snacks, but not meals, shall be served as well as liquor.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-47-102 (9), Colorado Revised Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

12-47-102. Definitions. (9) (a) "Meal" means a quantity of food of such nature as is ordinarily consumed by an individual at regular intervals for the purpose of sustenance, in the following places:

(I) In any dining room of a hotel operated for the accommodation and reception of guests and travelers and where meals are regularly served at tables and in any guest room;

(II) In the dining room of a restaurant where meals are regularly served at tables or lunch counters.
Meals shall be required to be served only between the hours of 8 a.m. and 11 p.m.; except that on Sundays and Christmas, meals shall not be required to be served after 8 p.m. At all other hours packaged snacks or light foods shall be considered meals. Meals need not be prepared upon the actual premises of the hotel or restaurant.

SECTION 2. 12-47-102 (15), Colorado Revised Statutes 1973, is amended, and the said 12-47-102, as amended, is further amended by the addition of a new subsection, to read:

12-47-102. Definitions. (15) "Restaurant" means an establishment provided with special space and accommodations, where, in consideration of payment, food meals, drinks, tobaccos, and candies are furnished to guests, and in which room nothing is sold excepting food, drinks, tobaccos, and candies, and where malt, vinous, and spirituous liquors shall not be served at any place excepting tables and counters with stools. Any establishment connected with any business wherein any business is conducted, excepting the sale of food, drinks, tobaccos, candies, or hotel business, is declared not to be a restaurant. Any hotel not maintaining a restaurant regularly provided with special space and accommodations where food meals, drinks, tobaccos, and candies are furnished to guests is likewise declared not to be a restaurant. Nothing in this subsection (15) shall be construed to prohibit the use in a restaurant of orchestras, singers, floor shows, coin operated music machines, and amusement devices which pay nothing of value and cannot by adjustment be made to pay anything of value, or other forms of entertainment commonly
provided in restaurants. Nothing in this subsection (15) shall authorize or permit any gambling, or the use of any gambling machine or device, or the use of any machine which may be used for gambling, either directly or indirectly.

(22.5) "Tavern" means an establishment serving malt, vinous, and spirituous liquors in which the principal business is the sale of such beverages at retail for consumption on the premises and where sandwiches and light snacks are available for consumption on the premises.

SECTION 3. 12-47-106 (1), Colorado Revised Statutes 1973, is amended by the addition of a new paragraph to read:

12-47-106. Classes of licenses. (1) (i) Tavern license.

SECTION 4. 12-47-112 (1), Colorado Revised Statutes 1973, is amended to read:

12-47-112. Hotel - restaurant license. (1) Restaurants may sell MALT, VINOUS, AND spirituous liquors by the drink only to customers for consumption on the premises, but only in-the rooms where IF meals are served and only-with-meals consistently, and meals and beverages shall provide a majority of the income of the business of the licensed premises. Hotels may sell malt, vinous, and spirituous liquors by the drink IN HOTEL ROOMS only to customers of said hotel and the same shall be served at tables with food ELSEWHERE only on the licensed premises WHERE meals are served consistently and provide a substantial source of income to the business of the licensed premises.

SECTION 5. Article 47 of title 12, Colorado Revised Statutes 1973, as amended, is amended by the addition of a new
SECTION to read:

12-47-112.5. Tavern license. (1) Taverns may sell malt, vinous, or spirituous liquors by the drink only to customers for consumption on the premises and shall have available for consumption on the premises during business hours sandwiches and light snacks, but need not have meals available for consumption.

(2) Every person selling spirituous liquors as provided in this section shall pay to the department of revenue a license fee of twenty-five dollars annually in advance for each place where such liquor is sold.

(3) In addition to the state license fee, every person selling malt, vinous, and spirituous liquors as provided in this section shall pay to the town, city, city and county, or county an annual license fee of three hundred twenty-five dollars in advance for each place where such liquor is sold.

SECTION 6. 12-47-115 (3), Colorado Revised Statutes 1973, is amended to read:

12-47-115. Application for license. (3) No application to have a retail liquor store license, liquor licensed drug store, beer and wine license, TAVERN LICENSE, or hotel and restaurant license at a particular location by or on behalf of the same person shall be received or acted upon concerning a location for which, within two years preceding, the appropriate licensing authority has refused to approve any one of the foregoing types of licenses on the ground, in whole or in part, that the licenses already granted for the particular locality were adequate for the reasonable requirements of the neighborhood and the desires of
the inhabitants at the time of such refusal.

SECTION 7. 12-47-124 (1) (d) (II) and (1) (e), Colorado Revised Statutes 1973, as amended, are amended to read:

12-47-124. Unlawful acts. (1) (d) (II) Notwithstanding the provisions of subparagraph (I) of this paragraph (d), hotel and restaurant licensees, or beer and wine licensees, AND TAVERN LICENSEES, upon the payment of an additional annual fee of two hundred dollars to the local licensing authority, may obtain a special license to sell, serve, or distribute malt, vinous, and spirituous liquors by the drink after the hour of 8 p.m. and until 12 midnight on Sundays and Christmas.

(e) To sell malt, vinous, or spirituous liquors in a place where the same is to be consumed, unless such place is a hotel, restaurant, TAVERN, or club or unless such place is a dining, club, or parlor car, plane, bus, or other conveyance of a public system engaged in the transportation of passengers;

SECTION 8. 12-47-129 (4), Colorado Revised Statutes 1973, is amended to read:

12-47-129. Unlawful financial assistance. (4) It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in any retail liquor establishment, retail license, liquor licensed drug store, or retail dispensary of any kind licensed under this article to conduct, own either in whole or in part, or be directly or indirectly interested in any other retail liquor establishment, or license, or retail dispensary of any kind licensed under this article in this state; EXCEPT THAT THIS SUBSECTION (4) SHALL NOT
BE APPLICABLE TO A RETAIL LICENSED TAVERN WHICH IS ALSO LICENSED
PURSUANT TO ARTICLE 60 OF THIS TITLE WITH RESPECT TO AN INTEREST
IN ANY OTHER RETAIL LICENSED TAVERN WHICH IS ALSO LICENSED
PURSUANT TO ARTICLE 60 OF THIS TITLE.

SECTION 9. 12-47-137 (2) (c), Colorado Revised Statutes
1973, is amended, and the said 12-47-137 is further amended BY
THE ADDITION OF A NEW SUBSECTION, to read:

12-47-137. New license - local licensing authorities -
definitions. (2) (c) "New license" applies only to the
following classes of licenses: Retail liquor store, liquor
licensed drug store, beer and wine license, hotel and restaurant
license, TAVERN LICENSE, and club license. It shall not include
any license required of a railroad transportation system.

(3) Any person holding a hotel and restaurant license for a
particular location on July 1, 1976, who, on the first renewal
date of such license, obtains a tavern license rather than a
hotel and restaurant license shall be subject to license renewal
procedures rather than new license procedures.

SECTION 10. Effective date. This act shall take effect
July 1, 1976.

SECTION 11. Safety clause. The general assembly hereby
finds, determines, and declares that this act is necessary for
the immediate preservation of the public peace, health, and
safety.
A BILL FOR AN ACT

CONCERNING MULTIPLE LICENSING OF ESTABLISHMENTS HOLDING HOTEL
AND RESTAURANT LIQUOR LICENSES, AND PROVIDING FOR REGISTERED
MANAGERS FOR SUCH ESTABLISHMENTS.

Bill Summary

(NOTE: This summary applies to this bill as introduced and
does not necessarily reflect any amendments which may be
subsequently adopted.)

Permits multiple license interests for hotel and restaurant
licensees and requires an on-premises registered manager for such
licensees.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-47-102 (9), Colorado Revised Statutes 1973,
is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

12-47-102. Definitions. (9) (a) "Meal" means a quantity
of food of such nature as is ordinarily consumed by an individual
at regular intervals for the purpose of sustenance, in the
following places:

(I) In any dining room of a hotel operated for the
accommodation and reception of guests and travelers and where
meals are regularly served at tables, and in any guest room;

(II) In the dining room of a restaurant where meals are
regularly served at tables or lunch counters.

(b) Meals shall be required to be served only between the hours of 8 a.m. and 11 p.m.; except that on Sundays and Christmas, meals shall not be required to be served after 8 p.m. At all other hours packaged snacks or light foods shall be considered meals. Meals need not be prepared upon the actual premises of the hotel or restaurant.

SECTION 2. 12-47-112 (1), Colorado Revised Statutes 1973, is amended, and the said 12-47-112 is further amended by the addition of the following new subsections, to read:

12-47-112. Hotel - restaurant license. (1) Restaurants may sell spirituous liquors by the drink only to customers for consumption on the premises, but only in the rooms or facilities where meals are served and only with meals consistently, meals and beverages shall provide a majority of the income of the business of the licensed premises. The Department of Revenue, by rule and regulation, shall establish the standard for determination of income source for a premises licensed pursuant to this section. Hotels may sell malt, vinous, and spirituous liquors by the drink in hotel rooms only to customers of said hotel, and the same shall be served at tables or elsewhere only on the premises where meals are served consistently and provide a substantial source of income to the business of the licensed premises.

(3) Each hotel and restaurant license shall be granted for specific premises and issued in the name of the owner or lessee of the business.
(4) Each hotel and restaurant licensee shall have a separate and distinct manager and shall register the manager of each liquor license premises with the state and the local licensing authority. No person shall be a registered manager for more than one hotel and restaurant license.

(5) The registered manager for each hotel and restaurant license shall purchase alcoholic beverages for that licensed premises only, and such purchases shall be separate and distinct from purchases for any other hotel and restaurant license.

(6) When a person ceases to be a registered manager of a hotel and restaurant license, for whatever reason, the hotel and restaurant licensee shall notify the licensing authorities immediately and shall designate a new registered manager within thirty days.

(7) Either the state or the licensing authority may refuse to accept any person as a registered manager unless he is satisfactory to the respective licensing authorities as to his character, record, and reputation. In determining a registered manager's character, record, and reputation, the state or local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency.

(8) The hotel and restaurant licensee shall pay a registration fee not to exceed seventy-five dollars to the state and to the local licensing authority for actual and necessary expenses incurred in establishing the character, record, and reputation of each registered manager.
SECTION 3. 12-47-124 (1) (m), Colorado Revised Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

12-47-124. **Unlawful acts.** (1) (m) If a retailer, to buy any vinous or spirituous liquors from any person not licensed to sell and deliver at wholesale; if a consumer, to buy any vinous or spirituous liquors from any person not licensed to sell or serve the same at retail as provided by this article.

SECTION 4. 12-47-124 (1), Colorado Revised Statutes 1973, as amended, is amended by THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

12-47-124. **Unlawful acts.** (1) (v) Who holds a manufacturer's and importer's liquor license to sell directly to any retail liquor establishment or to enter into any financial arrangement formally or informally with any retail licensee for the purchase of liquor. It is the intent of this paragraph (v) to require all manufacturers and importers to deal only with licensees of wholesalers' liquor licenses and wholesalers' beer licenses. Any violation of this paragraph (v) by the licensee of a manufacturer's and importer's liquor license shall be grounds for revocation of that license by the state licensing authority.

(w) Who holds a hotel and restaurant license or for the registered manager of a hotel and restaurant license to require a wholesaler to make delivery to any premises other than the specific hotel and restaurant premises where the alcoholic beverage is to be sold and consumed.

SECTION 5. 12-47-129 (4), Colorado Revised Statutes 1973, is amended to read:
12-47-129. Unlawful financial assistance. (4) It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in any retail liquor establishment, retail license, liquor licensed drug store, or retail dispensary of any kind licensed under this article to conduct, own either in whole or in part, or be directly or indirectly interested in any other retail liquor establishment, or license, or retail dispensary of any kind licensed under this article in this state; EXCEPT THAT IT IS NOT UNLAWFUL FOR ANY OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN ANY HOTEL AND RESTAURANT LICENSE TO CONDUCT, OWN EITHER IN WHOLE OR IN PART, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANY OTHER HOTEL AND RESTAURANT LICENSE OR ESTABLISHMENT. THE STATE LICENSING AUTHORITY, BY RULE AND REGULATION, SHALL REQUIRE A COMPLETE DISCLOSURE OF ALL PERSONS HAVING A DIRECT OR INDIRECT FINANCIAL INTEREST, AND THE EXTENT OF SUCH INTEREST, IN EACH RETAIL LICENSE ISSUED UNDER THIS ARTICLE. THE INVALIDITY OF ANY PROVISION OF THIS SUBSECTION (4) CONCERNING INTEREST IN MORE THAN ONE HOTEL AND RESTAURANT LICENSE SHALL INVALIDATE ALL INTERESTS IN MORE THAN ONE HOTEL AND RESTAURANT LICENSE, AND SUCH INVALIDITY SHALL MAKE ANY SUCH INTEREST UNLAWFUL FINANCIAL ASSISTANCE AS DESCRIBED BY THIS SUBSECTION (4).

SECTION 6. Effective date. This act shall take effect July 1, 1976.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for
the immediate preservation of the public peace, health, and safety.
COMMITTEE ON BUSINESS AFFAIRS
AND LABOR
BILL 17

A BILL FOR AN ACT

CONCERNING THE REQUIREMENT THAT APPLICANTS FOR FERMENTED MALT
BEVERAGE OR LIQUOR LICENSES FILE PLANS AND SPECIFICATIONS
FOR THE INTERIOR OF UNCONSTRUCTED BUILDINGS.

Bill Summary

(NOTE: This summary applies to this bill as introduced and
does not necessarily reflect any amendments which may be
subsequently adopted.)

Deletes the requirement that applicants for beer or liquor
licenses file complete plans and specifications for unconstructed
buildings and provides that they file plot plans and detailed
sketches of the interior.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-46-116 (1) (a), Colorado Revised Statutes
1973, is amended to read:

12-46-116. Applications - building not constructed -
procedure. (1) (a) The applicant shall file at the time of an
application complete--plans-and-specifications A PLOT PLAN AND A
DETAILED SKETCH for the interior of the building to be occupied
and a drawing of the building to be constructed. IN ITS
DISCRETION THE LOCAL LICENSING AUTHORITY MAY IMPOSE ADDITIONAL
REQUIREMENTS NECESSARY FOR APPROVAL OF THE APPLICATION.
SECTION 2. 12-47-138 (3), Colorado Revised Statutes 1973, is amended to read:

12-47-138. Applications. (3) The applicant shall file at the time of application complete plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall in-addition-to-the-plans-and-specifications FILE A PLOT PLAN AND A DETAILED SKETCH for the interior AND submit an architect's drawing of the building to be constructed. IN ITS DISCRETION THE LOCAL LICENSING AUTHORITY MAY IMPOSE ADDITIONAL REQUIREMENTS NECESSARY FOR APPROVAL OF THE APPLICATION.

SECTION 3. Effective date. This act shall take effect July 1, 1976.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
A BILL FOR AN ACT

Section 1. 12-48-101, Colorado Revised Statutes 1973, is amended to read:

12-48-101. Special licenses authorized. The state licensing authority, as defined in articles 46 and 47 of this title, may issue a special event permit for the sale, by the drink only, of malt beverages or the sale, BY THE DRINK ONLY, of malt, spirituous, or vinous liquors to organizations qualifying under this article, subject to the APPLICABLE provisions of articles 46 to--48 AND 47 of this title and to the limitations imposed by this article.

Section 2. 12-48-103, Colorado Revised Statutes 1973, is
REPEALED AND REENACTED, WITH AMENDMENTS, to read:

12-48-103. Grounds for issuance of special permits. (1) A special event permit may be issued only upon a satisfactory showing by an organization that other existing facilities are not available or are inadequate for the needs of the organization and:

(a) Its existing licensed facilities are inadequate for the purposes of serving members or guests of the organization and that additional facilities are necessary by reason of the nature of the special event being scheduled; or

(b) The organization is temporarily occupying premises other than its regular premises during such special events as civic celebrations or county fairs and that members of the general public will be served during such special events.

SECTION 3. 12-48-105 (3) and (4), Colorado Revised Statutes 1973, are amended, and the said 12-48-105 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-48-105. Restrictions related to permits. (3) A special event permit may not be issued to any organization for more than two-consecutive-days; or-for-a-maximum-total-time EIGHT DAYS in one calendar year. of-eight-days;

(4) No issuance of a special event permit shall have the effect of requiring the state OR LOCAL licensing authority to issue such a permit upon any subsequent application by an organization.

(5) Sandwiches or other food snacks shall be available during all hours of service of malt, spirituous, or vinous
liquors, but prepared meals need not be served.

SECTION 4. 12-48-106, Colorado Revised Statutes 1973, is
REPEALED AND REENACTED, WITH AMENDMENTS, to read:

12-48-106. Grounds for denial of special permit. (1) The
state licensing authority may deny the issuance of a special
event permit upon the grounds that such issuance would be
injurious to the public welfare by reason of the nature of the
special event, its location within the community, or the failure
of the applicant in a past special event to conduct such event in
compliance with applicable laws and regulations.

(2) Public notice of the proposed permit and of the
procedure for protesting issuance of the permit shall be
conspicuously posted at the proposed location for at least ten
days before approval of the permit by the local licensing
authority.

SECTION 5. 12-48-107 (2), Colorado Revised Statutes 1973,
is amended, and the said 12-48-107 is further amended BY THE
ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

12-48-107. Applications for special permit. (2) In
addition to the fees provided in section 12-48-104, applications
shall be accompanied by such fee as the local licensing authority
may fix, not to exceed in amount the fees provided in section
12-48-104, for both investigation and issuance of permit. Upon
approval of any application, the local licensing authority shall
notify the state licensing authority of such approval. The state
licensing authority shall thereupon promptly act and either
approve or disapprove such application. The state licensing,
authority shall not issue any permit under this article until the local licensing authority has approved such application. IN REVIEWING AN APPLICATION, THE LOCAL LICENSING AUTHORITY SHALL APPLY THE SAME STANDARDS FOR APPROVAL AND DENIAL APPLICABLE TO THE STATE LICENSING AUTHORITY PURSUANT TO THIS ARTICLE.

(3) The local licensing authority shall cause a hearing to be held if, after investigation and upon review of the contents of any protest filed by affected persons, sufficient grounds appear to exist for denial of a permit. Any protest shall be filed by affected persons within ten days after the date of notice pursuant to section 12-48-106 (2). Any hearing required by this subsection (3) or any hearing held at the discretion of the local licensing authority shall be held at least ten days after the initial posting of the notice, and notice thereof shall be provided the applicant and any person who has filed a protest.

(4) The local licensing authority may assign all or any portion of its functions under this article to an administrative officer.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
A BILL FOR AN ACT

AMENDING THE "COLORADO EMPLOYMENT SECURITY ACT".

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Makes various amendments to the "Colorado Employment Security Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF COLORADO:

SECTION 1. 8-70-103 (3) (a), (b) (a), (10) (4) (1), (11)
(a) (1), (11) (a) (11), and (22) (a), Colorado Revised Statutes
1973, are amended to read:

8-70-103. Definitions. (3) (a) "Benefit year" means a
period of four—consecutive—calendar—quarters fifty-two
consecutive calendar weeks beginning with the quarter—when
contains—the—first—calendar—week with respect to in which the
individual first files a valid initial claim, and thereafter—the
period—of—four—calendar—quarters—beginning—in—the—first—of—when—the
individual—executes—a—vatta—initial—claim—for—benefit—after
the—termination—of—his—preceeding—benefit—year

(b) (a) Any employing unit which, after December 31, 1971,
in any calendar quarter in either the current or the preceding calendar year, paid for service in employment wages or fifteen hundred dollars or more; or which, for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year had in employment at least one individual irrespective of whether the same individual was in employment on each such day; or any employing unit which, after December 31, 1975, had for some portion of a day in any calendar week, an individual in employment; or

(10) (a) (1) In the employ of a church, convention, or association of churches; or organization--which--is--operated primarily for--religious--purposes--and--which--is--operated--supervised--controlled--or--principally--supported--by--an--assembly--convention--or--association--or--church--or

(11) (a) (1) Agricultural labor; and, for purposes of this paragraph (a), "agricultural labor" means any service performed prior to January 1, 1972, which was agricultural labor as defined in this paragraph (a) prior to such date and remunerated service performed after December 31, 1971:

(A) On a farm in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

(a) In the employ of the owner, tenant, or other operator
or a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land or brush and other debris left by an act of nature, if the major part of the service is performed on a farm;

(C) in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 23(g) of the "Agricultural Marketing Act" as amended--the---state of or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(D) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator produced more than one-half of the commodity with respect to which the service is performed;

(E) in the employ of a group or operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in subparagraph (1) (D) of this paragraph (a), but only if such operators produced more than one-half of the commodity with respect to which the service is performed;

(F) the provisions of sub-subparagraphs (D) and (E) of this subparagraph (1) are not applicable with respect to service
performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(6) on a farm operated for profit if the service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

(14) As used in this paragraph (a), the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising or agricultural or horticultural commodities and orchards.

(22) (4) "Wages" means all remuneration for personal services, including the cash value of all remuneration paid in any medium other than cash; except--thirty for the purposes of sections 8-76-101 to 8-76-104, wages shall not include that part of the remuneration which, after remuneration equal to ten thousand dollars--seventy percent of the average annual wages of employees of selected industries in Colorado as published by the United States Bureau of Labor Statistics for the calendar year prior to the computation date, rounded to the nearest thousand, or the federal unemployment tax base, whichever is greater, has been paid in a calendar year to an individual by an employer, is--paid--such--individual---by--the employer--during--such--calendar--year---unless--that--part--of--the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required.
to be paid into a state unemployment fund or within any calendar year—that part of an individual's remuneration from a single employer which is after four thousand two hundred and one thousand contribution have been paid under the unemployment compensation law or any state or is paid with respect to employment by a single employer; or when an employing unit, during a calendar year, acquired the experience of an employer as provided in section 8-12-104, and if, immediately after such acquisition, the successor employer continues to employ an individual who immediately prior to the acquisition was an employee of the predecessor, then and in that event any remuneration previously paid to the individual by the predecessor shall be considered as having been paid by the successor.

**SECTION 2.** 8-12-107 (3), Colorado Revised Statutes 1973, is amended to read:

**8-12-107.** **Reports and reports** (3) Whenever an employer fails to furnish contribution reports required by the division of employment; for each such failure unless good cause is shown to the satisfaction of the division, such employer shall be assessed a fine of five dollars for each such delinquency, and each additional day of delinquency shall be considered a separate offense, and the penalty shall be imposed at the rate of one dollar per additional day of delinquency for each report, if good cause is shown to the satisfaction of the division, the total penalty, or any portion thereof may be waived. The penalty shall be collected in the same manner as contributions due under articles 10 to 62 of this title.

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SECTION 3, 8-13-102 (2), Colorado Revised Statutes 1973, is
amended to read:

8-13-102. Weekly benefit amount for total unemployment.
(2) An individual who is entitled to the maximum weekly benefit
amount as computed in subsection (1) of this section may receive a weekly benefit amount of sixty percent of one
fifty-second of his total wages paid for insured work during his
base period, computed to the next higher multiple of one dollar,
but not to exceed sixty percent of the average of the average
weekly earnings in selected industries in Colorado, in no case
shall an individual receive a weekly benefit amount
computed in accordance with this subsection (2) unless it is
greater than the weekly benefit amount yielded by computation in
accordance with subsection (1) of this section and does not
prevent qualification for benefits under the provisions of
SECTION 8-13-104 (1) (c).

SECTION 4, 8-13-104 (1), Colorado Revised Statutes 1973, is
amended to read:

8-13-104. Computation of benefits. (1) The Division shall
compute wage credits for each individual by crediting to and with
the wages for insured work paid during each quarter of such
individual's base period, or twenty-six times the current maximum
benefit amount, whichever is the lesser. Any otherwise eligible
individual shall be entitled during any benefit year to a total
amount of benefits equal to whichever is the lesser of twenty-six
times his weekly benefit amount and one-third of his wage credits
for insured work paid during his base period, except that
benefits—based—on—seasonal—wages—may—be—paid—only—for
unemployment-during-the-normal-seasonal-period—or—the—seasonal
industry—in—whien—seasonal—wages—are—earned—only—to
seasonal-workers—who-are-available—for—work—in—the—seasonal
industry—and—thereafter—within-one-third-of
such-individual's—wages—paid—for—in—seasonal—work—during—the
corresponding-normal-seasonal-period—of—his—base-period—for the
purposes of this section, wages shall be counted as "wages for
insured work" for benefit purposes with respect to any benefit
year only if such benefit year begins subsequent to the date on
which the employing unit by which the wages were paid has
satisfied the conditions of section 8-10-103 (c), 8-16-104, or
8-16-107, with respect to becoming an employer.

Section 5. 8-13-107 (1) (c), Colorado Revised Statutes
1973, is amended to read:

8-13-107. Eligibility conditions—Penalty. (1) (c) He is
able to work and is available for all work deemed suitable
pursuant to the provisions of section 8-13-105. Decisions of the
division regarding the ability of the claimant to work, the
availability of the claimant for work, and the claimant's active
search for work may be appealed by the claimant or by any
employer whose account could be charged with any such benefits
paid pursuant to any such decision, in the appeal is made within
eleven days from the date any such decision is rendered
by the division. A—potentially—charge—employer—may—pay
appeal—on—the—basis—of—insufficiency—to—work—nonavailability—to
worky—or—failure—to—search—for—work—within—eleven—days—from—the

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date-on-when-he-discovers-such-a-condition-to-exist--or--within
thirty--days-from-the-date-on-which-payment-was-made-for-the-week
during-which-the-claimant-is-alleged-to-have-been-unable-to--work
or--unavailable--for--worky--or--to-have-failed-to-make-an-active
search--for--worky--whenever--comes--firstly---theresterey--such
decisiony--of--the-division-shall-not-be-reviewable-or-appellate
for-any-purposes-whatsoever--but--nothing--in--this--paragraph--(C)
snall--prevent--the--division--from--reviewing--and--reDetermining--any
such--decision--at--any--time;--if--the--reeetermination--is--based--upon
facts--not--known--to--the--division--at--the--time--of--its--original
decision---no--individual--shall--be--considered--available--for--work
during--any--week--in--which--he--has--as--a--result--of--his--removal--to--an
area--no--reasonable--expectation--of--securing--employment--in--his
usual--occupation--or--in--an--occupation--for--which--he--is--reasonably
qualified.

Section 8. 8-13-102, Colorado Revised Statutes 1973, is
repealed and reenacted, with amendments, to read:
8-13-102. benefits--awards. (1) In the granting of
unemployment compensation benefits, it is the intent of the
general assembly that the division at all times be guided by the
tenet that unemployment compensation is for the benefit of
persons unemployed through no fault of their own; and that each
eligible individual who is unemployed through no fault of his own
shall be entitled to receive benefits; and that every person has
the right to leave any job for any reason, but that the
circumstances of his separation shall be considered in
determining when the payment of benefits may commence and the
amount he may draw; and that certain acts of individuals are the
direct and proximate cause of their unemployment.

(2) An individual who voluntarily leaves his most recent
employment without good cause or who was discharged for cause
connected with his work not amounting to gross misconduct shall
be disqualified from receiving benefits for a period of not less
than six nor more than twelve weeks beginning with the week in
which the valid initial claim, as defined by section 8-70-103 (3)
(b), was established.

(3) An individual who was discharged for gross misconduct
connected with his most recent employment shall be disqualified
from receiving benefits for a period of not less than thirteen
weeks beginning with the week in which the valid initial claim as
defined by section 8-70-103 (3) (b), was established, and the
total benefits computed under section 8-75-104 shall be reduced
by the number of weeks of disqualification multiplied by the
individual's weekly benefit amount.

(4) An individual who refuses suitable work or who refuses
a referral to suitable work since his last separation from
employment shall be disqualified from receiving benefits for a
period of not less than six nor more than twelve weeks beginning
with the week in which such refusal of work or referral occurred.

(5) If a separation from employment preceding the
claimant's most recent separation is with respect to employment
for a base period employer and is determined to have occurred
under circumstances which would have resulted in a
disqualification under the provisions of this section in such
separation had been the claimant's most recent, the account of
the employer from whom such separation occurred shall not be
charged with benefits paid to the claimant.

SECTION 7. 8-14-102 (c), Colorado Revised Statutes 1973, as
amended, is REPEALED and REENACTED, with amendments, to read:

8-14-102. Initial determination. (c) (a) The deputy shall
promptly notify the claimant and any other interested parties of
the decision, including the earliest week with respect to which
benefits may commence, the weekly benefit amount, and the maximum
duration thereof, and the reasons for the decisions. The deputy,
for good cause, may reconsider his decision and shall promptly
notify the claimant and such other interested parties of his
amended decision and the reasons therefor. Such decision shall
be final and benefits shall be paid or denied in accordance
therewith unless:

(1) the claimant or any such interested party, within
fifteen calendar days after either the delivery of the deputy's
notification, or after such notification was mailed to his last
known address, whichever occurs first, files an appeal from such
decision; or

(11) the claimant or any such interested party files an
appeal later than the time prescribed by subparagraph (1) of this
paragraph (c), but whose delay in perfecting an appeal is the
result of circumstances which the division has determined to have
been for reasons beyond his control; or

(III) the late filing of an appeal is directly attributable
to fault or error on the part of the division.
(b) An appeal filed later than the time prescribed by
subparagraph (1) or paragraph (a) of this subsection (c) shall in
no case be accepted for hearing or consideration by a referree of
the division more than sixty days from the last day of the
thirteen-day appeal period set forth in said subparagraph (1).

(c) An appeal shall be considered to have been filed as of
the date of its delivery to a representative of the division or,
it mailed, as of the date of the postmark of the envelope in
which it was mailed. A mailed appeal which bears no postmark
shall be considered as timely if on the basis of customary mail
delivery practice and the date of receipt by the division it may
be presumed to have been mailed within the appeal period
prescribed by subparagraph (1) or paragraph (a) of this
subsection (c) or paragraph (b) or this subsection (c).

(d) A mailed notice shall be deemed served on the date of
mailing. If an appeal is duly filed, the division shall give
notice thereof to the parties entitled to notice of the original
determination.

Section 10, 8-70-101 (c), Colorado Revised Statutes 1963, is
REPEALED AND REENACTED WITH AMENDMENTS TO READ:

8-70-101. DEFINITIONS. (c) "Exhausted" means an
individual who, with respect to any week of unemployment in his
eligibility period:

(a) Has received, prior to such week, all of the regular
benefits that were payable to him under this title or any other
state law (including dependents' allowances and regular benefits
payable to federal civilian employees and ex-servicemen under a
U.S.C. Chapter 85) for his benefit year that includes such week;

or

(b) Has received, prior to such week, all or the regular benefits that were available to him under this title or any other state law (including dependents' allowances and regular benefits available to federal civilian employees and ex-servicemen under 5 U.S.C. Chapter 85) in his benefit year that includes such week, after the cancellation or some or all of his wage credits or the total or partial reduction of his right to regular benefits; but for the purposes of paragraph (a) of this subsection (2) and this paragraph (b), an individual shall be deemed to have received in his applicable benefit year all or the regular benefits that were payable to him or available to him, as the case may be, even though:

(I) As a result of a pending appeal with respect to wages or employment, or both, that were not included in the original monetary determination with respect to such benefit year, he may subsequently be determined to be entitled to more regular benefits; or

(II) by reason of the provisions in section 8-13-104 (1), or the seasonal provisions of another state law, he is not entitled to regular benefits with respect to such week of unemployment; although he may be entitled to regular benefits with respect to future weeks of unemployment in the next season or off season, as the case may be, in such benefit year; and he is otherwise an exhaustee within the meaning of this section with respect to his right to regular benefits under such state law.

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seasonal provisions during the season or off season in which that
week of unemployment occurs; or

(III) Having established a benefit year, no regular
benefits are payable to him during such year because his wage
credits were cancelled or his right to regular benefits was
totally reduced as the result of the application of a
disqualification; or

(c) His benefit year having ended prior to such week, he
has insufficient wages or employment, or both, on the basis of
which he could establish in any state a new benefit year that
would include such week, or having established a new benefit year
that includes such week, he is precluded from receiving regular
benefits by reason of the provisions in section 8-13-107 (2)
which meets the requirements of section 3304 (a) (1) of the
"Federal Unemployment Tax Act" or the similar provision in any
other state law; and

(d) (1) Has no right for such week to unemployment benefits
or allowances, as the case may be, under the "Railroad
Unemployment Insurance Act", the "Trade Expansion Act of 1962",
and such other federal laws as are specified in regulations
issued by the United States Secretary of Labor; and

(II) Has not received and is not seeking for such week
unemployment benefits under the unemployment compensation law of
the Virgin Islands or Canada, unless the appropriate agency
finally determines that he is not entitled to unemployment
benefits under such law for such week.

(a) The term "applicable benefit year" means, with respect
to an individual, his current benefit year if at the time he
files a claim for extended benefits he has an unexpired benefit
year only in the state in which he files such claim or, in any
other case, his most recent benefit year. For this purpose his
most recent benefit year, if he has unexpired benefit years in
more than one state when he files a claim for extended benefits,
is the benefit year with the latest ending date, or in such
benefit years have the same ending date, the benefit year in
which his latest continued claim for regular benefits was filed.

SECTION 9. 8-79-103 (1) (a) and (3) (a), Colorado Revised
Statutes 1973, are amended to read:

8-79-103. future rates based on benefit experience.
(1) (a) The division shall maintain a separate account for each
employer and shall credit his account with all contributions paid
on his own behalf. Nothing in articles 70 to 92 of this title
shall be construed to grant any employer or individuals in his
service prior claims or rights to the amounts paid by him into
the fund either on his own behalf or in behalf of such
individuals. Benefits paid to an eligible individual shall be
charged, in the amount provided in this section, against the
accounts of his employers in the base period in the inverse
chronological order in which the employment of such individual
occurred. Benefits paid to a seasonal worker during the normal
seasonal periods shall be charged against the account of his most
recent seasonal employers in the corresponding normal seasonal
period--at--his base period in the inverse chronological order in
which the seasonal employment of such individual occurred--and
(3) (a) The standard rate of contributions shall be two and seven-tenths percent; except that each employer newly subject to articles 70 to 82 of this title shall pay contributions at the STANDARD rate of--one--percent and such rate shall remain in effect unless and until there have been twelve consecutive calendar months immediately preceding the computation date throughout which his account has been chargeable with benefit payments; thereafter, his contribution rate shall be determined in accordance with the provisions of subparagraph (11) of paragraph (a) of this subsection (3), except an employer who elects reimbursement under sections 8-16-106 to 8-16-116. An "employer newly subject" as used in this article means an employer who, prior to January 1, 1947, has never at any time been an employer under any provision of articles 70 to 82 of this title or an employer who has test his prior experience under subsection (6) of this section. An employer who, under the provisions of section 8-16-116 (2) (a), terminates his election to make payments in lieu of contributions, or whose election to make payments in lieu of contributions terminated by the division under the authority of section 8-16-116 (4) (c) or (4) (f), shall be liable for contributions at the standard rate of two and seven-tenths percent until there have been twelve consecutive calendar months after such termination and immediately preceding the computation date throughout which his experience rating account has been chargeable with benefit payments; and thereafter
his rates shall be computed under the provisions of this section for so long as the employer remains a contributing employer.

Section 10. 8-10-103 (3) (a) (11), Colorado Revised Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, TO read:

8-10-103. Future rates based on benefit experience. (3)
(a) (11) The total of all an employer's contributions paid on his own behalf on or before thirty-one days immediately following the computation date and the total benefits which were chargeable to his account and were paid on or before thirty-one days immediately following the computation date with respect to weeks, or any established payroll period of unemployment beginning prior to the computation date, shall be used to compute his contribution rate for the ensuing calendar year in accordance with the following table. "Percent of excess", as used in said table, means the percentage resulting from dividing the excess of contributions paid over benefits charged by the average annual payroll, computed to the nearest one-tenth or one percent.
"Ratio of fund balance to total wages", as used in said table, shall be used to determine the rate schedule for the rate year. The total amount of wages for employment paid by all employers during the calendar year preceding the rate year shall be divided into the fund balance as of the June 30 immediately preceding the rate year to compute the ratio of fund balance to total wages. Employers shall be assigned the tax rate based on the computed ratio of fund balance to total wages percent.
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SECTION 11. 8-15-101, Colorado Revised Statutes 1973, is amended to read:

8-15-101.  Interest on past-due contributions.  Contributions unpaid on the date on which they are due and payable, as prescribed by the commission, shall bear interest at the rate of SIX NINE percent per annum, or THREE-FOURTHS of one percent per month, from and after such date until payment plus accrued interest is received by the division.  Interest collected pursuant to this section shall be paid into the unemployment revenue fund.

SECTION 12.  Repeal.  8-15-103 (10) (a) (11) and (11) (1), 8-15-106, and 8-15-110 (4) and (5), Colorado Revised Statutes 1973, are repealed.

SECTION 13.  Effective date.  This act shall take effect July 1, 1976.

SECTION 14.  Safety clause.  The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
COMMITTEE ON BUSINESS AFFAIRS
AND LABOR

BILL 20

A BILL FOR AN ACT

CONCERNING REGULATION BY THE PUBLIC UTILITIES COMMISSION OF
PERSONS TRANSPORTING ASHES, TRASH, WASTE, RUBBISH, AND
GARBAGE.

Bill Summary

(Note: This summary applies to this bill as introduced and
does not necessarily reflect any amendments which may be
subsequently adopted.)

Provides for deregulation of rates and territory of trash
 haulers by the public utilities commission.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 40-10-101 (4) (a), Colorado Revised Statutes
1973, is amended to read:

40-10-101. Definitions. (4) (a) "Motor vehicle carrier"
means every person, lessee, trustee, receiver, or trustee
appointed by any court whatsoever owning, controlling, operating,
or managing any motor vehicle used in serving the public in the
business of the transportation of persons or property for
compensation as a common carrier over any public highway between
fixed points or over established routes, or otherwise, whether
such business or transportation is engaged in or transacted by
(1) All motor vehicle carriers are declared to be public utilities within the meaning of articles 1 to 7 of this title and are declared to be affected with a public interest and subject to this article and to the laws of this state, including the regulation of all rates and charges pertaining to public utilities, so far as applicable and not in conflict therewith.

(2) MOTOR VEHICLE CARRIERS TRANSPORTING ASHES, TRASH, WASTE, RUBBISH, AND GARBAGE SHALL BE SUBJECT TO THIS ARTICLE EXCEPT THOSE PROVISIONS CONCERNING REGULATION OF RATES AND CHARGES AND ANY CONSIDERATION OF SERVICE AREAS.

SECTION 3. 40-10-105 (2), Colorado Revised Statutes 1973, is amended to read:

(2) The granting of any certificate of public convenience and necessity to operate a motor vehicle for hire for the transportation of property shall not be deemed to be an exclusive grant or monopoly, and the doctrine of regulated competition shall prevail. The commission has authority to grant more than one certificate of public
convenience and necessity to operate motor vehicles for the
transportation of property over the same route or a part thereof
or within the same territory or a part thereof if the commission
finds that the present or future public convenience and necessity
requires or will require such operation. The provisions of this
subsection (2) shall not apply to motor vehicle carriers
transporting ashes, trash, waste, rubbish, and garbage.

SECTION 4. 40-10-110, Colorado Revised Statutes 1973, is
amended to read:

40-10-110. Carrier's liability insurance policy, filing.
Every motor vehicle carrier shall file with the commission a
liability insurance policy issued by some insurance carrier or
insurer, authorized to do business in the state of Colorado or a
surety bond issued by some company authorized to do a surety
business in the state of Colorado, in such sum, for such
protection, and in such form as the commission, by its rules and
regulations, may deem necessary to adequately safeguard the
public interest. This section shall apply to motor vehicles used
for transporting ashes, trash, waste, rubbish, and garbage in
general service to the public.

SECTION 5. 40-10-117, Colorado Revised Statutes 1973, is
amended to read:

40-10-117. Rates - limitations. It is unlawful for any
motor vehicle carrier to carry or advertise that it will carry
any goods or persons at rates different from those it has on file
with the commission for such carriage. The provisions of this
section shall not apply to motor vehicle carriers transporting
ASHES, TRASH, WASTE, RUBBISH, AND GARBAGE.

SECTION 6. 40-11-101 (3), Colorado Revised Statutes 1973, is amended to read:

40-11-101. Definitions. (3) "Contract carrier by motor vehicle" means every corporation, person, firm, association of persons, lessee, trustee, or any receiver or trustee appointed by any court, other than motor vehicle carriers as defined by section 40-10-101 (4), owning, controlling, operating, or managing any motor vehicle in the business of transporting persons or property of others, or transporting ashes; trash; waste; rubbish; and garbage--to--and--from--disposal--sites; for compensation or hire, over any public highway of this state between fixed points or over established routes, or otherwise, by special contract or otherwise.

SECTION 7. 40-11-102, Colorado Revised Statutes 1973, is amended to read:

40-11-102. Compliance required - exceptions. No person shall operate any motor vehicle for the transportation of persons or property for compensation on or over any public highway in this state, except in accordance with the provisions of this article or of article 10 of this title. Nothing in this article shall apply to a private individual who carries a neighbor or a friend on a trip, nor to motor vehicles especially constructed for towing, wrecking, and repairing and not otherwise used in transporting property, nor to hearses or ambulances; but this article shall apply to motor vehicles used for transporting ashes, trash, waste, rubbish, and garbage EXCEPT THOSE PROVISIONS
CONCERNING REGULATION OF RATES AND CHARGES AND ANY CONSIDERATION OF SERVICE AREAS.

SECTION 8. 40-11-103 (1) and (2), Colorado Revised Statutes 1973, are amended to read:

40-11-103. Obtain permit from commission. (1) It is unlawful for any contract carrier by motor vehicle to engage in or transact the business of transporting passengers, freight, merchandise, or other property over the public highways of the state of Colorado in intrastate commerce without first obtaining a permit therefor from the public utilities commission of the state of Colorado. It is declared that the business of contract carriers by motor vehicle is affected with a public interest and that the safety and welfare of the public traveling upon such highways, the preservation and maintenance of such highways, and the proper regulation of motor vehicle common carriers using such highways require the regulation of contract carriers by motor vehicle to the extent provided in this article, for which purposes the commission is vested with the authority to issue a permit to a contract carrier by motor vehicle and may attach to such permit and to the exercise of the rights and privileges granted such terms and conditions as are reasonable. THE PROVISIONS OF THIS SUBSECTION (1) SHALL APPLY TO CONTRACT CARRIERS BY MOTOR VEHICLE TRANSPORTING ASHES, TRASH, WASTE, RUBBISH, AND GARBAGE.

(2) No permit nor any extension or enlargement of an existing permit shall be granted by the commission if in its judgment the proposed operation of any such contract carrier will
imperill the efficient public service of any authorized motor
vehicle common carrier then adequately serving the same territory
over the same general highway route. The commission shall give
written notice of any application for the same to all persons
interested in or affected by the issuance of such permit or any
extension or enlargement thereof, pursuant to section 40-6-108
(2). THE PROVISIONS OF THIS SUBSECTION (2) SHALL NOT APPLY TO
CONTRACT CARRIERS BY MOTOR VEHICLE TRANSPORTING ASHES, TRASH,
WASTE, RUBBISH, AND GARBAGE.

SECTION 9. 40-11-105, Colorado Revised Statutes 1973, is
amended BY THE ADDITION OF A NEW SUBSECTION to read:

40-11-105. Commission to make rules - prescribe rates. (4)
The provisions of subsections (2) and (3) of this section shall
not apply to contract carriers by motor vehicle transporting
ashes, trash, waste, rubbish, and garbage.

SECTION 10. 40-11-109, Colorado Revised Statutes 1973, is
amended to read:

40-11-109. Liability insurance or surety bond required.
Every contract carrier by motor vehicle shall file with the
commission a liability insurance policy issued by some insurance
carrier or insurer authorized to do business in the state of
Colorado or a surety bond issued by a company authorized to do a
surety business in the state of Colorado, in such sum, for such
protection, and in such form as the commission, by its rules and
regulations, may deem necessary to adequately safeguard the
public interest. THIS SECTION SHALL APPLY TO CONTRACT CARRIERS
BY MOTOR VEHICLE TRANSPORTING ASHES, TRASH, WASTE, RUBBISH, AND
SECTION 11. 40-11-116, Colorado Revised Statutes 1973, is amended to read:

40-11-116. Public utilities law applies. The provisions of articles 1 to 7 of this title and all acts amendatory thereof or supplemental thereto shall apply insofar as applicable to all contract carriers by motor vehicle subject to the provisions of this article; EXCEPT THAT ANY PROVISION OF SAID ARTICLES AND ACTS CONCERNING REGULATION OF RATES AND CHARGES AND OF SERVICE AREAS SHALL NOT APPLY TO CONTRACT CARRIERS BY MOTOR VEHICLE TRANSPORTING ASHES, TRASH, WASTE, RUBBISH, AND GARBAGE.

SECTION 12. Effective date. This act shall take effect July 1, 1976.

SECTION 13. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
A BILL FOR AN ACT

CONCERNING THE FINANCIAL RESPONSIBILITY OF COMERCIAL CARRIERS.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 7 of title 42, Colorado Revised Statutes 1973, is amended by the addition of a new part to read:

PART 6

MOTOR CARRIERS - FINANCIAL RESPONSIBILITY

42-7-601. Definitions. As used in this article, unless the context otherwise requires:

(1) "Commercial carrier by motor vehicle" means every person, lessee, trustee, or receiver or trustee appointed by any court (other than motor vehicle carriers as defined in section 40-10-101 (4), C.R.S. 1973, or contract carrier by motor vehicle as defined in section 40-11-101 (3), C.R.S. 1973,) owning, operating, controlling, or managing any motor vehicle used in the transportation of property sold or to be sold by such person,
lessee, trustee, or receiver or trustee appointed by any court in
the furtherance of any contract commercial enterprise or of
property of which such person is the owner or lessee when such
property is transported for the purpose of lease or rent over any
public highway of this state between fixed points or over
established routes, or otherwise.

(2) "Department" means the department of revenue of the
state of Colorado.

(3) "Person" means any individual, partnership,
corporation, company, association, joint stock association, or
other legal entity.

42-7-602. Application to operation of motor vehicles. No
person shall operate any motor vehicle for the transportation of
property sold or to be sold by such person in the furtherance of
any private commercial enterprise, or property of which such
person is the owner or lessee, when transported for the purpose
of lease or rent on or over any public highway of this state,
except in accordance with the provisions of this part 6. Nothing
in this part 6 shall apply where any person transports property
belonging to such person which is not sold or to be sold in the
furtherance of any private commercial enterprise and which is not
owned or leased and transported for the purpose of lease or rent.

42-7-603. Permit required - when. (1) It is unlawful for
any commercial carrier by motor vehicle to engage in the
transportation of property over the public highways of this state
without first having obtained a permit therefor from the
department. It is declared that the use of the public highways
by commercial carriers by motor vehicle is affected with a public
interest and that the safety and welfare of the public traveling
upon such highways, the preservation and maintenance of the same,
and the proper regulation of motor vehicle common carriers using
the highways require the regulation of commercial carriers by
motor vehicle to the extent provided in this part 6, and the
department upon application shall issue a permit to a commercial
carrier by motor vehicle and may attach to such permit, and to
the exercise of the rights granted thereunder, such terms and
conditions as are reasonable and consistent with the safety of
the public.

(2) This part 6 shall not apply to any motor vehicle
carrier as defined in section 40-10-101 or to any contract
carrier by motor vehicle as defined in section 40-11-101, nor
shall anything contained in this part 6 be construed or applied
so as to compel a commercial carrier by motor vehicle to be or
become a common carrier or to subject such commercial carrier by
motor vehicle to the laws or rules and regulations applicable to
a common carrier or a contract carrier by motor vehicle, unless
such commercial carrier by motor vehicle is also engaged in the
business of transporting persons or property for compensation or
hire as a motor vehicle common carrier or as a contract carrier
by motor vehicle.

42-7-604. Fees - collection and disposition. The
department shall collect from all commercial carriers by motor
vehicle a filing fee for application for a permit and for the
issuance of the same of ten dollars. All fees collected under
this section shall be paid to the department which shall deposit the same in the office of the state treasurer to be credited to the general fund.

42-7-605. Insurance or bond required. Every commercial carrier by motor vehicle shall file with the department a liability insurance policy, issued by some insurance carrier or insurer authorized to do business in the state of Colorado, or a surety bond, issued by some company authorized to do a surety business in the state of Colorado, in such sum, for such protection, and in such form as the commission, by its rules and regulation, may deem necessary to adequately safeguard the public interest.

42-7-606. Suspension or revocation of permit - procedure. The commission, by order duly entered, may revoke, suspend, alter, or amend any such permit when it has been established to the satisfaction of the department, after a hearing and upon notice to the holder of any permit issued under this part 6, that such holder has violated any of the provisions of this part 6 or any of the terms and conditions of his permit or has exceeded the authority granted by such permit.

42-7-607. Rules and regulations. The department shall promulgate such rules and regulations as may be reasonably necessary for the effective administration of the provisions of this part 6.

42-7-608. Exemptions. (1) Nothing in this part 6 shall be construed so as to apply to or prohibit the following:

(a) Transportation of farm products or livestock to market
by any farmer or producer when selling or delivering only such
farm products or livestock as have been actually grown or
produced by such farmer or producer;

(b) Transportation by such farmer or producer of supplies
to the farm for his own use if such farm products, livestock, or
supplies are transported in a motor vehicle actually belonging to
any such farmer or producer;

(c) Motor vehicles owned and operated by the United States,
the state of Colorado, or any county, city, town, or municipal
corporation in this state or by any department of any of them;

(d) Motor vehicles especially constructed for towing,
wrecking, and repairing, and not otherwise used in transporting
property;

(e) Hearses or ambulances.

(2) Nothing in this article shall be construed as
preventing a farmer from occasionally exchanging transportation
work with a neighbor.

42-7-609. Interstate and foreign carriers. The provisions
of this part 6 shall apply to commercial carriers by motor
vehicle engaged wholly or in part in interstate or foreign
commerce, except insofar as the same may be or become ineffective
under the provisions of the constitution of the United States or
of the acts of congress.

42-7-610. Penalties for violation. Any commercial carrier
by motor vehicle who violates the provisions of this part 6 is
guilty of a misdemeanor and, upon conviction thereof, shall be
punished by a fine of not more than one thousand dollars, or by
imprisonment in the county jail for not more than six months, or
by both such fine and imprisonment. Investigative personnel of
the department have all the powers conferred by law upon peace
officers to make arrests and to serve warrants and other process
in any county or city and county of this state.

42-7-611. Jurisdiction of courts. The district court or
within its jurisdiction the county court of any county in or
through which any commercial carrier by motor vehicle operates
shall have jurisdiction in all matters arising under this part 6
on account of the operations of such commercial carrier by motor
vehicle, except as otherwise provided in this part 6. It is the
duty of the district attorneys having jurisdiction in each such
county in which such commercial carrier by motor vehicle operates
to prosecute all violations of the provisions of this part 6.

SECTION 2. 10-4-707 (4), Colorado Revised Statutes 1973, is
amended to read:

10-4-707. Benefits payable. (4) When an accident involves
the operation of a motor vehicle by a person who is neither the
owner of the motor vehicle involved in the accident nor an
employee of the owner, and the operator of the motor vehicle is
an insured under a complying policy other than the complying
policy insuring the motor vehicle involved in the accident,
primary coverage as to all coverages provided in the policy under
which the operator is an insured shall be afforded by the policy
insuring the said operator and any policy under which the owner
is an insured shall afford excess coverage. When an accident
involves the operation of a motor vehicle regulated under the
provisions of article 10 OR 11 of title 40 OR PART 6 OF ARTICLE 7 OF TITLE 42, C.R.S. 1973, the provisions of subsection (3) of this section shall apply.

SECTION 3. 22-32-128, Colorado Revised Statutes 1973, is amended to read:

22-32-128. Use of school buses by residents of district. At times to be specified by the board, motor vehicles used for the transportation of pupils pursuant to the provisions of section 22-32-113 shall be available to groups of five or more residents of the district who are sixty-five years of age or older for use within or without the district. The board of education of each school district of the state shall adopt policies regarding the reasonable use of such vehicles by groups of persons with special consideration being given those residents who are sixty-five years of age or older. Such motor vehicles shall be covered by an insurance policy similar to, with limits not less than, the insurance coverage which is in effect while said motor vehicles are used for the transportation of pupils. To the extent that such policies provide for the reimbursement to the school district of all the expenses of the operation of such motor vehicles as determined by the school district auditor, no such reimbursement shall constitute compensation, and it shall not subject the school district to the provisions of article 10 OR 11 of title 40 OR PART 6 OF ARTICLE 7 OF TITLE 42, C.R.S. 1973. The miles traveled and the costs expended under this article shall not be allowable for the computation of benefits accruing to a school district under the provisions of
article 51 of this title.

SECTION 4. 40-2-116, Colorado Revised Statutes 1973, is amended to read:

40-2-116. **Motor carrier safety regulations.** The commission has the duty to establish for motor carriers, subject to articles 10 to 12 and 11 of this title, reasonable requirements to promote safety of operation and, to that end, prescribe qualifications and maximum hours of service of employees and minimum standards of equipment and for the operation thereof. For the purpose of carrying out the provisions of this section pertaining to safety, the commission may avail itself of the assistance of any agency of the United States or of this state having special knowledge of any such matter as may be necessary to promote the safety of operation and equipment of motor vehicles as provided in this section. In adopting such rules and regulations, the commission shall use as general guidelines the standards contained in the current rules and regulations of the United States department of transportation relating to explosives and other dangerous articles, safety regulations, qualifications of drivers, driving of motor vehicles, parts and accessories, recording and reporting of accidents, hours of service of drivers, and inspection and maintenance of motor vehicles.

SECTION 5. **Repeal.** Article 12 of title 40, Colorado Revised Statutes 1973, is repealed.

SECTION 6. **Effective date.** This act shall take effect July 1, 1976.

SECTION 7. **Safety clause.** The general assembly hereby
finds, determines, and declares that this act is necessary for
the immediate preservation of the public peace, health, and
safety.
A BILL FOR AN ACT

CONCERNING EXEMPTIONS OF CERTAIN PROPERTY UNDER LEASE FROM LIENS FOR INCOME, SALES, AND USE TAXES.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 39-22-604 (7) (c), Colorado Revised Statutes 1973, is amended, and the said 39-22-604 (7) is further amended by the addition of a new paragraph, to read:

39-22-604. Withholding tax. (7) (c) The real or personal property of an owner who has made a bona fide lease to an employer shall be exempt from the lien created in paragraph (a) of this subsection (7) if such property can reasonably be identified from the lease description and if the lessee is given no right to become the owner of the property leased. This exemption shall be effective from the date of the execution of the lease provided the lease or a memorandum thereof is filed or recorded with the clerk and recorder of the county where the
property-is-located-or-based DEPARTMENT OF REVENUE ON SUCH FORM
AS MAY BE PRESCRIBED BY SAID DEPARTMENT within ten days after the
execution of the lease. Where the lessor and lessee are blood
relatives, relatives by law, or have twenty-five percent or more
common ownership, a lease between such lessee/lessor shall not be
considered bona fide for purposes of this section.

(e) Under leases where the lessee is given the right or may
have an obligation to become the owner of the property, the lien
created in paragraph (a) of this subsection (7) shall extend only
to the lessee's interest therein.

SECTION 2. 39-26-117 (1) (b), Colorado Revised Statutes
1973, is amended, and the said 39-26-117 (1) is further amended
by the addition of a new paragraph, to read:

39-26-117. Tax lien - exemption from lien. (1) (b) The
real or personal property of an owner who has made a bona fide
lease to a retailer shall be exempt from the lien created in
paragraph (a) of this subsection (1) if such property can
reasonably be identified from the lease description and if the
lessee is given no right to become the owner of the property
leased. This exemption shall be effective from the date of the
execution of the lease provided the lease or a memorandum thereof
is filed or recorded with the county-clerk-and-recorder-of-the
county-where-the-property—is-located-or-based DEPARTMENT OF
REVENUE ON SUCH FORM AS MAY BE PRESCRIBED BY SAID DEPARTMENT
within ten days after the execution of the lease. Where the
lessor and lessee are blood relatives, relatives by law, or have
twenty-five percent or more common ownership, a lease between
such lessee/lessor shall not be considered bona fide for purposes of this section.

(f) Under leases where the lessee is given the right or may have an obligation to become the owner of the property, the lien created in paragraph (a) of this subsection (1) shall extend only to the lessee's interest therein.

SECTION 3. 39-26-205 (3), Colorado Revised Statutes 1973, is amended, and the said 39-26-205 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

39-26-205. Tax constitutes lien - exemption from lien.
(3) The real or personal property of an owner who has made a bona fide lease to any taxpayer described in subsection (1) of this section shall be exempt from the lien created therein if such property can reasonably be identified from the lease description, and if the lessee is given no right to become the owner of the property leased. This exemption shall be effective from the date of the execution of the lease if the lease or a memorandum thereof is filed or recorded with the county-clerk-and recorder-of-the-county-where-the-property--is--located--or--based DEPARTMENT OF REVENUE ON SUCH FORM AS MAY BE PRESCRIBED BY SAID DEPARTMENT within ten days after the execution of the lease. Where the lessor and lessee are blood relatives, relatives by law, or have twenty-five percent or more common ownership, a lease between such lessee/lessor shall not be considered bona fide for purposes of this section.

(5) Under leases where the lessee is given the right or may have an obligation to become the owner of the property, the lien
created in subsection (1) of this section shall extend only to
the lessee's interest therein.

SECTION 4. Effective date. This act shall take effect
January 1, 1977.

SECTION 5. Safety clause. The general assembly hereby
finds, determines, and declares that this act is necessary for
the immediate preservation of the public peace, health, and
safety.
LEGISLATIVE COUNCIL

COMMITTEE ON EDUCATION

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Rep. Leo Lucero, Vice-Chairman
Sen. Robert Allshouse
Sen. William Comer
Sen. Eldon Cooper
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Council Staff

Joyce Emerson
Research Associate
Linda Waldman
Senior Research Assistant
The Committee on Education, created pursuant to House Joint Resolution 1046, 1975 session, was directed to study the "Handicapped Children's Educational Act", pre- and post-graduate education of health care personnel, the child health associate program, the data acquisition reporting and utilization project of the Department of Education, alternatives to current procedures for the employment and dismissal of employees of the Colorado School for the Deaf and the Blind who are not covered by the state personnel system, the task force reports of the comprehensive planning effort of the Department of Higher Education, and tuition and fees at institutions of higher education in Colorado.

The committee heard testimony on and discussed each of the topics designated for study. Hearings were informative as to existing conditions or problems, and information provided to the committee will be an important resource material for setting direction and priorities for future action. However, the committee concludes at this time that while several problems have been discovered and explored, the evidence submitted to the committee is not sufficient to justify the recommendation of any proposals for legislative action, except in regard to the School for the Deaf and the Blind and the role of the Commission on Higher Education.

Handicapped Children's Educational Act

The committee reviewed the provisions and implementation of the "Handicapped Children's Educational Act" in light of the uncertainty of federal funding under Title XX of the Social Security Act. The committee examined a definition of "education" under the act, the services provided by various state agencies including school districts, community center boards, and institutions, and the needs of both the handicapped child and the non-handicapped child in the classroom. In addition, the committee discussed the need to clarify the responsibility of administrative units to the mentally retarded and seriously handicapped under the HCFRA and reimbursement procedures for contracted services for certain personnel used or provided by the administrative units, such as public health nurses and audiologists.

During the hearings, the committee learned of possible problem areas within the act. This is the first year for full implementation and the committee encourages each legislator to become familiar with the situation in his own school districts to facilitate further study of the issue.

Health Care Personnel

The committee heard testimony on current programs for the education of physicians, dentists, nurses, and other health care per-
sonnel, with particular emphasis on the child health associate program, the requirements for admission to and curriculum required by medical schools, and the medical manpower needs in Colorado.

Task Force Reports

The committee reviewed the task force reports of the comprehensive planning effort of the Commission on Higher Education in the following areas:

- Access and Delivery;
- Governance and Process;
- Roles of Public Colleges and Universities;
- Graduate Education and Research;
- Manpower and Educational Policy; and
- Pricing.

Tuition and Fees

The committee examined both the present method of determining tuition at Colorado's institutions of higher education and alternatives to this system, such as a voucher or individual grant program, tuition subsidies for targeted groups, and a foundation program for the state higher education institutions. Both the Task Force on Pricing, which studied these issues, and the Colorado Commission on Higher Education told the committee they supported the present system although alternatives were being reviewed due to budgetary and fiscal constraints. In addition, the committee discussed the relationship of tuition to credit load, the definition of a full-time student for tuition purposes and for budgetary purposes, and the difficulty operating within these two definitions.

The committee also heard testimony from representatives of student bodies and administration of Colorado's institutions of higher education on the present status of student fees and the degree of control which students have in determining the amount and the use of such fees. Particular emphasis was placed on the bonding issues involved when one group of students indebts future students for the cost of buildings those future students might not want, legal recourse for bondholders in case of default, and bonding difficulties in today's uncertain market.

Adult Education

The committee heard extensive testimony from the profusion of departments involved with adult education services. One problem, as
expressed to the committee, is that there is a lack of coordination among the providers of adult education services (state, private, and other governmental agencies) which can result in a serious duplication of service, confused responsibilities, and increased program costs.

At the request of the committee, the Departments of Education and Higher Education (the primary state providers of adult education services) were asked to discuss their relative jurisdictions in this area and to suggest possible legislative changes which would be necessary to clarify responsibilities.

At this time, these departments have no policy to propose concerning the redefinition of their respective roles. The committee is assured that communication will continue and efforts will be made to review the need for coordination and definition of roles, particularly with regard to the elimination of any duplication in the provision of the basic education components in the public schools and the community colleges.

However, several members of the committee have indicated their interest in sponsoring a resolution to clarify jurisdiction in this area by designating the State Board for Community Colleges and Occupational Education as the state agency responsible for collecting, updating, and disseminating information concerning adult education services.

School for the Deaf and the Blind

The committee reviewed the status of the teachers at the School for the Deaf and the Blind who are not in the personnel system of the state. The committee concluded that the state constitutional and statutory provisions are ambiguous as to whether the faculty of the school should be excluded from the state personnel system.

Although the committee recognizes that some administrative steps are being taken to develop for the teachers a comprehensive employment and dismissal policy with the necessary procedural safeguards, it is apparent that need for statutory resolution of the exemption question, plus definition of personnel to be covered and due process for dismissal, requires legislative action. No specific bill on this issue is recommended, but the Governor will be asked to place the question on his call.

After reviewing the role of the school, the committee believes that the emphasis at the school is more on education rather than institutionalization. It is therefore recommended that the School for the Deaf and the Blind be transferred by a type 2 transfer to the Department of Education from the Department of Institutions. The committee has not prepared a separate bill on this topic, but suggests it be included in the aforementioned legislation on personnel practices.
Meetings with Governing Boards of Institutions of Higher Education

The committee hearings were augmented by testimony from members of governing boards of colleges and universities. Roles, governance, and budget procedures were the principal topics of informal conversations. The cost of the present multi-layer budget request process was a subject of considerable concern to the committee and the boards. The budgets of the institutions are reviewed by the Colorado Commission on Higher Education, the Office of State Planning and Budgeting, and the Joint Budget Committee, a procedure which can require a number of similar hearings for the institutions compounding the time and cost involved. The estimated cost to the institutions of solely the budget request process is:

<table>
<thead>
<tr>
<th>Governing Board</th>
<th>Cost</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colorado School of Mines</td>
<td>$75,000</td>
<td>total budget effort - 1974-1975</td>
</tr>
<tr>
<td>State Board for Community Colleges and Occupational Education</td>
<td>300,000</td>
<td>cost for individual institutions and board</td>
</tr>
<tr>
<td>University of Northern Colorado</td>
<td>56,000</td>
<td>add 25 percent to cost for time &quot;donated&quot; for night and at-home work</td>
</tr>
<tr>
<td>Trustees of State Colleges</td>
<td>275,000</td>
<td>cost for individual institutions and board - non-administrative costs</td>
</tr>
<tr>
<td>University of Colorado</td>
<td>406,000</td>
<td>direct costs plus direct FTE - excluding administrative officers, e.g., department chairmen</td>
</tr>
<tr>
<td>Board of Agriculture</td>
<td>333,619</td>
<td>cost for individual institutions and board - 1974-1975</td>
</tr>
</tbody>
</table>

Many board members expressed their concern to the committee about the role of the Commission on Higher Education in this process. Several board members contended that the role of the commission should be one of coordination, particularly with regard to overall policies and programs, rather than one of line-item budget analysis. The committee has no specific legislation in this area but recommends that the commission's involvement in the budgetary process be reviewed and that the topic be included on the Governor's call.