

**Report to the Colorado General Assembly:
RECOMMENDATIONS FOR 1976,
COMMITTEES ON:**

Penitentiary

Agriculture

State Affairs

Business Affairs and Labor

Education

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VOLUME I

COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 212

DECEMBER 1975

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* * * * *

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

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December 19, 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

PM/mp

FOREWORD

The recommendations of the Colorado Legislative Council for 1975 appear in three consolidated volumes and two separate volumes for the Committees on Mineral Taxation and the Equal Rights Amendments. Volume I contains the reports of the Committees on the Penitentiary, Agriculture, State Affairs, Business Affairs and Labor, and Education; Volume II, the reports of the Committees on Medical Malpractice, Local Government, Health, Environment, Welfare, and Institutions, and Transportation; and Volume III, the reports of the Committees on Denver Metro Water, Federal and State Lands, Finance, Judiciary, Property Tax Assessment Practices and School Finance, and Legislative Procedures.

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

TABLE OF CONTENTS

VOLUME I

	<u>Page</u>
Letter of Transmittal.....	iii
Foreword.....	v
Table of Contents.....	vii
List of Bills, Constitutional Amendments and Resolutions.....	ix
Committee on the Penitentiary.....	1
Bills 1 and 2.....	7
Committee on Agriculture.....	43
Bills 3 through 5.....	55
Minority Report.....	93
Bill 6.....	95
Committee on State Affairs.....	103
Bills 7 through 9.....	111
Committee on Business Affairs and Labor.....	123
Bills 10 through 22.....	133
Committee on Education.....	209

LIST OF BILLS, CONSTITUTIONAL AMENDMENTS,
AND RESOLUTIONS

VOLUME I

	<u>Page</u>
Bill 1 -- Concerning the women's correctional institution, and providing alternative uses therefor and alternative correctional programs in lieu of programs formerly conducted therein.....	7
Bill 2 -- Designating the chief officers of correctional institutions as the superintendents thereof.....	13
Bill 3 -- Concerning agriculture products, and providing for the regulation of commission merchants, brokers, and dealers therein and making an appropriation therefor.....	55
Bill 4 -- Concerning the certification of applicators of restricted use pesticides.....	63
Bill 5 -- Concerning weed control.....	69
Bill 6 -- Concerning weed control.....	95
Bill 7 -- Concerning civil rights, and providing for the protection of such rights in connection with employment.....	111
Bill 8 -- Concerning grounds for revocation or suspension of the license of a private employment agency.....	119
Bill 9 -- Concerning the designation of additional racing days to provide funding for athletics in institutions of higher education.....	121
Bill 10 -- Authorizing retail liquor stores to sell nonfood items related to the consumption of alcoholic beverages.....	133
Bill 11 -- Permitting the sale of alcoholic beverages on election day.....	135
Bill 12 -- Concerning application to local licensing authorities for fermented malt beverage and liquor licenses, and providing fees therefor.....	137

	<u>Page</u>
Bill 13 -- Authorizing the termination of a fermented malt beverage or liquor retail license for inactivity or failure to construct premises...	141
Bill 14 -- Concerning the use of criminal history information in investigations of fermented malt beverage and liquor license applicants.....	145
Bill 15 -- Concerning a new category of retail liquor license for consumption on premises.....	149
Bill 16 -- Concerning multiple licensing of establishments holding hotel and restaurant liquor licenses, and providing for registered managers for such establishments.....	155
Bill 17 -- Concerning the requirement that applicants for fermented malt beverage or liquor licenses file plans and specifications for the interior of unconstructed buildings.....	161
Bill 18 -- Amending Article 48 of Title 12, Colorado Revised Statutes 1973, concerning special events permits.....	163
Bill 19 -- Amending the "Colorado Employment Security Act".....	167
Bill 20 -- Concerning regulation by the Public Utilities Commission of persons transporting ashes, trash, waste, rubbish, and garbage.....	187
Bill 21 -- Concerning the financial responsibility of commercial carriers.....	195
Bill 22 -- Concerning exemptions of certain property under lease from liens for income, sales, and use taxes.....	205

LEGISLATIVE COUNCIL
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COMMITTEE ON THE PENITENTIARY

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

of the American Correctional Association, December 18, 1973.

- (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.
- (3) "Education Task Force Report - Colorado State Penitentiary Study", Education Task Force appointed by the Governor, December, 1974.
- (4) "Colorado Prison Study", Colorado Advisory Committee to the United States Commission on Civil Rights, September, 1974.
- (5) "Annual Environmental Health Survey of Colorado State Penitentiary", Colorado Department of Health, May 2, 1975.
- (6) "Report of the Attorney General on the Events and Causes of the May 18, 1975, Riot at the Colorado State Penitentiary", Office of the Attorney General, pursuant to Executive Order, June 16, 1975.
- (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 analyze 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

1 CONCERNING THE WOMEN'S CORRECTIONAL INSTITUTION, AND PROVIDING
2 ALTERNATIVE USES THEREFOR AND ALTERNATIVE CORRECTIONAL
3 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.

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

5 SECTION 1. 27-1-103 (1), Colorado Revised Statutes 1973, is
6 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

7 27-1-103. Duties of executive director - governor acquire
8 water rights. (1) (k) To arrange for purchase of service
9 contracts which would provide the maximum utilization of

1 community resources in the treatment of adult female offenders
2 pursuant to section 27-27-103.

3 SECTION 2. 27-1-105 (1) (c), Colorado Revised Statutes
4 1973, is amended to read:

5 27-1-105. Powers of executive director. (1) (c) To enter
6 into contracts and agreements with other jurisdictions, including
7 other states, the federal government, and political subdivisions
8 of this state, AND PRIVATE ORGANIZATIONS for the ~~confinement and~~
9 ~~maintenance at the women's correctional institution at Canon City~~
10 PLACEMENT IN THE MOST APPROPRIATE INSTITUTION OR REHABILITATION
11 PROGRAM IN THIS STATE, IN ACCORDANCE WITH SECTION 16-11-308,
12 C.R.S. 1973, of female offenders sentenced to imprisonment by the
13 courts. ~~of such other jurisdictions and to notify the appropriate~~
14 ~~authorities of other jurisdictions, as he deems appropriate, of~~
15 ~~the availability of space at the women's correctional institution~~
16 ~~for the confinement and maintenance of female offenders from~~
17 ~~other jurisdictions.~~ AN ADULT FEMALE OFFENDER MAY BE PLACED IN AN
18 INSTITUTION OR PROGRAM THAT IS AS CLOSE AS PRACTICABLE TO THE
19 HOME COMMUNITY OF SUCH OFFENDER OR ANOTHER LOCATION THAT IS
20 CONSISTENT WITH OR COMPLEMENTARY TO THE REHABILITATION PROGRAM AS
21 DETERMINED BY THE EXECUTIVE DIRECTOR.

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

24 27-21-101. State penitentiary for women. (1) All females
25 sentenced to the state penitentiary shall serve their sentences
26 in ~~the women's correctional institution in Fremont county, which~~
27 ~~is hereby established as the state penitentiary for women and~~

1 ~~also---designated---as---the---state---reformatory---for---women.~~ AN
2 INSTITUTION OR A REHABILITATION PROGRAM AS ASSIGNED BY THE
3 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF INSTITUTIONS. WHEN ANY
4 INMATE IS TRANSFERRED FROM ONE INSTITUTION TO ANOTHER, FROM AN
5 INSTITUTION TO A REHABILITATION PROGRAM, OR FROM ONE
6 REHABILITATION PROGRAM TO ANOTHER, THE DISTRICT ATTORNEY OF THE
7 DISTRICT WHERE THE SENTENCE WAS IMPOSED AND THE SENTENCING JUDGE
8 SHALL BE NOTIFIED.

9 (b) WHERE MAXIMUM SECURITY IS NOT DEEMED NECESSARY, AN
10 ADULT FEMALE OFFENDER MAY BE PLACED IN A PROGRAM THAT IS AS CLOSE
11 AS PRACTICABLE TO THE HOME COMMUNITY OF SUCH OFFENDER OR ANOTHER
12 LOCATION THAT IS CONSISTENT WITH OR COMPLEMENTARY TO THE
13 REHABILITATION PROGRAM AS DETERMINED BY THE EXECUTIVE DIRECTOR OF
14 THE DEPARTMENT OF INSTITUTIONS.

15 (c) THE WOMEN'S CORRECTIONAL INSTITUTION IN FREMONT COUNTY,
16 PREVIOUSLY KNOWN AS THE STATE PENITENTIARY FOR WOMEN AND THE
17 STATE REFORMATORY FOR WOMEN, MAY BE UTILIZED BY THE DEPARTMENT OF
18 INSTITUTIONS FOR MALE AND FEMALE OFFENDERS WHERE MAXIMUM SECURITY
19 IS DEEMED NECESSARY, BUT NOTHING IN THIS PARAGRAPH (c) SHALL
20 PREVENT AN OFFENDER FROM BEING ASSIGNED TO ANOTHER INSTITUTION.
21 ANY UNUSED FACILITIES IN SAID WOMEN'S CORRECTIONAL INSTITUTION IN
22 FREMONT COUNTY MAY BE USED FOR OTHER PURPOSES BY THE EXECUTIVE
23 DIRECTOR OF THE DEPARTMENT OF INSTITUTIONS AS HE SHALL DESIGNATE.

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

26 27-21-102. State reformatory for women. (1) All laws of
27 this state referring to sentences to the COLORADO state

1 reformatory shall be applicable to females as well as males; but
2 all females sentenced to the COLORADO state reformatory shall
3 serve their sentences in ~~the-women's-correctional-institution--in~~
4 ~~Fremont--county;-established-pursuant-to-section-27-21-101;-which~~
5 ~~is-hereby-designated-as-the-state-reformatory-for-women;-as--well~~
6 ~~as---the--state--penitentiary--for--women~~ AN INSTITUTION OR A
7 REHABILITATION PROGRAM AS DETERMINED BY THE EXECUTIVE DIRECTOR OF
8 THE DEPARTMENT OF INSTITUTIONS IN ACCORDANCE WITH SECTION
9 16-11-308, C.R.S. 1973.

10 SECTION 5. Article 21 of title 27, Colorado Revised
11 Statutes 1973, is amended BY THE ADDITION OF A NEW SECTION to
12 read:

13 27-21-103. Diagnostic unit - location of programs for adult
14 female offenders. (1) Any female offender who is sentenced to
15 the state penitentiary or to the Colorado state reformatory shall
16 be assigned by the court to a diagnostic program to administer a
17 comprehensive diagnostic evaluation to such offender, and, while
18 in such program, the offender shall be held after sentence either
19 at a local holding facility or in any other program which, in the
20 opinion of the executive director of the department of
21 institutions, has the expertise to perform such diagnostic
22 evaluation. Such assignment shall be made for a period not to
23 exceed sixty days; except that such assignment may be extended
24 for an additional thirty days upon approval of the executive
25 director of the department of institutions.

26 (2) The diagnostic evaluation shall be forwarded to the
27 executive director of the department of institutions.

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

6 SECTION 6. Repeal. 27-22-105, Colorado Revised Statutes
7 1973, is repealed.

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

11 SECTION 8. Safety clause. The general assembly hereby
12 finds, determines, and declares that this act is necessary for
13 the immediate preservation of the public peace, health, and
14 safety.

COMMITTEE ON THE PENITENTIARY

BILL 2

A BILL FOR AN ACT

1 DESIGNATING THE CHIEF OFFICERS OF CORRECTIONAL INSTITUTIONS AS
2 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.

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

4 SECTION 1. 16-8-110 (2) (c), Colorado Revised Statutes
5 1973, is amended to read:

6 16-8-110. Mental incompetency to proceed - effect - how and
7 when raised. (2) (c) By the affidavit of any warden
8 SUPERINTENDENT or chief officer of an institution having custody
9 of a defendant awaiting execution.

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

12 16-11-304. Maximum and minimum sentences - when necessary -
13 indeterminate sentences - when mandatory. (2) (b) In any case
14 involving a person sentenced or committed to either the state

1 penitentiary or the Colorado state reformatory under an
2 indefinite sentence, the warden SUPERINTENDENT of the respective
3 institution shall, in cooperation with the proper parole officer,
4 bring to the consideration of the state board of parole the
5 matter of parole of every such person within nine months after
6 the arrival of such person at the institution, together with all
7 relevant information available thereon, and shall do likewise
8 within each six months thereafter until the person sentenced or
9 committed is paroled or has served the maximum term for which he
10 was imprisoned under this section.

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

13 16-11-402. Appliances - sentence executed by
14 superintendent. The governing authority of the state
15 penitentiary, at the expense of the state of Colorado, shall
16 provide a suitable and efficient room or place, enclosed from
17 public view, within the walls of the state penitentiary and
18 therein construct and at all times have in preparation all
19 necessary appliances requisite for carrying into execution the
20 death penalty by means of the administration of lethal gas. The
21 punishment of death in each case of death sentence pronounced in
22 this state shall be inflicted by the warden SUPERINTENDENT of the
23 state penitentiary in the room or place and with the appliances
24 provided for inflicting the punishment of death by the
25 administration of lethal gas.

26 SECTION 4. 16-11-403, Colorado Revised Statutes 1973, is
27 amended to read:

1 16-11-403. Week of execution - warrant. When a person is
2 convicted of a class 1 felony, the punishment for which is death,
3 and the convicted person is sentenced to suffer the penalty of
4 death, the judge passing such sentence shall appoint and
5 designate in the warrant of conviction a week of time within
6 which the sentence must be executed; the end of such week so
7 appointed shall be not less than ninety days nor more than one
8 hundred twenty days from the day of passing the sentence. Said
9 warrant shall be directed to the ~~warden~~ SUPERINTENDENT of the
10 state penitentiary commanding said ~~warden~~ SUPERINTENDENT to
11 execute the sentence imposed upon some day within the week of
12 time designated in the warrant and shall be delivered to the
13 sheriff of the county in which such conviction is had, who,
14 within three days thereafter, shall proceed to the state
15 penitentiary and deliver the convicted person, together with the
16 warrant, to the ~~warden~~ SUPERINTENDENT, who shall keep the convict
17 in confinement until infliction of the death penalty. No person
18 shall be allowed access to said convict, except his attendants,
19 counsel, AND physician, a spiritual adviser of his own selection,
20 and members of his family, and then only in accordance with
21 prison regulations.

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

24 16-11-404. Execution - witnesses. The particular day and
25 hour of the execution of said sentence within the week specified
26 in said warrant shall be fixed by the ~~warden~~ SUPERINTENDENT but
27 shall not be made public by him, and he shall be present thereat

1 or shall appoint the deputy warden SUPERINTENDENT or some other
2 representative among the officials or officers of the state
3 penitentiary to be present in his place and stead. There shall
4 also be present a physician and such guards, attendants, and
5 other persons as the warden SUPERINTENDENT in his discretion
6 deems desirable, not to exceed fifteen persons. The warden
7 SUPERINTENDENT shall notify the governor of the day and hour for
8 the execution as soon as it has been fixed.

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

11 16-11-405. Record and certificate of execution. The warden
12 SUPERINTENDENT shall keep a book of record, to be known as record
13 of executions, in which shall be entered the reports specified in
14 this section. Immediately after the execution, a postmortem
15 examination of the body of the convict shall be made by the
16 attending physician, who shall enter in said book of record the
17 nature and extent of the examination and sign and certify to the
18 same. Said warden SUPERINTENDENT shall also immediately make and
19 enter in said book a report, setting forth the time of such
20 execution and that the convict (naming him) was then and there
21 executed in conformity to the sentence specified in the warrant
22 of the court (naming such court) to him directed and in
23 accordance with the provisions of this part 4, and shall insert
24 in said report the names of all the persons who were present and
25 witnessed the execution, and shall procure each of such persons
26 to sign said report with his full name and place of residence
27 before leaving the place of execution. The warden SUPERINTENDENT

1 shall thereupon attach his certificate to said report, certifying
2 to the truth and correctness thereof, and shall immediately
3 deliver a certified transcript of the record entry to the court
4 which sentenced the convict.

5 SECTION 7. 16-14-102 (2) and (3), Colorado Revised Statutes
6 1973, are amended to read:

7 16-14-102. Request for disposition of untried complaint or
8 information. (2) It is the duty of the ~~warden-or~~ superintendent
9 of the institution where the prisoner is confined to promptly
10 inform each prisoner, in writing, of the source and nature of any
11 untried indictment, information, or criminal complaint against
12 him of which the ~~warden-or~~ superintendent has knowledge, and of
13 the prisoner's right to make a request for final disposition
14 thereof.

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

22 SECTION 8. The introductory portion to 16-14-103 (1),
23 Colorado Revised Statutes 1973, is amended to read:

24 16-14-103. Duties of superintendent upon delivery of
25 request. (1) Any request made pursuant to section 16-14-102
26 shall be delivered to the ~~warden-or~~ superintendent where the
27 prisoner is confined who shall forthwith:

1 SECTION 9. 16-14-107, Colorado Revised Statutes 1973, is
2 amended to read:

3 16-14-107. Prisoners to be informed of provisions of
4 article. The ~~warden~~ superintendent shall arrange for all
5 prisoners under his care and control to be informed in writing of
6 the provisions of this article, and for a record thereof to be
7 placed in each prisoner's file.

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

10 16-16-102. Definitions. (6) "~~warden~~" "SUPERINTENDENT"
11 means the chief correctional officer at any penitentiary or
12 reformatory or facility of either.

13 SECTION 11. The introductory portions to 16-16-103 (1) and
14 (2), 16-16-103 (2) (a) (I), (2) (a) (II), (2) (a) (III), and (3)
15 (a), the introductory portion to 16-16-103 (3) (b), and 16-16-103
16 (3) (b) (I) and (4), Colorado Revised Statutes 1973, are amended
17 to read:

18 16-16-103. Place of confinement - extension of limits.
19 (1) The ~~warden~~ SUPERINTENDENT, with the approval of the
20 director, shall designate one or more facilities which may be
21 physically separated from the main premises of the penitentiary
22 or reformatory which may be used for the following purposes:

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

27 (a) (I) To visit a person of the inmate's immediate family

1 who is in danger of death, at the warden's SUPERINTENDENT'S
2 discretion only;

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

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

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

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

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

25 (4) The extension of the limits of confinement by the
26 warden SUPERINTENDENT shall not for any purpose be considered to
27 be parole as provided in part 2 of article 1 of title 17, C.R.S.

1 1973.

2 SECTION 12. 16-17-102, Colorado Revised Statutes 1973, is
3 amended to read:

4 16-17-102. Application -- character certificate. After a
5 conviction, all applications for commutation of sentence or
6 pardon for crimes committed shall be accompanied by a certificate
7 of the ~~warden~~ SUPERINTENDENT of the Colorado state penitentiary,
8 showing the conduct of an applicant during his confinement in the
9 Colorado state penitentiary, together with such evidences of
10 former good character as the applicant may be able to produce.
11 Good character previous to conviction and good conduct during
12 confinement in the state penitentiary shall be given such weight
13 as to the governor may seem just and proper, in view of the
14 circumstances of each particular case, a due regard being had to
15 the reformation of the accused.

16 SECTION 13. 16-19-124 (2) and (3), Colorado Revised
17 Statutes 1973, are amended to read:

18 16-19-124. Application for requisition. (2) When the
19 return to this state is required of a person who has been
20 convicted of a crime in this state and has escaped from
21 confinement or broken the terms of his bail, probation, or
22 parole, the prosecuting attorney of the county in which the
23 offense was committed, the parole board, or the ~~warden~~
24 SUPERINTENDENT of the institution or sheriff of the county from
25 which escape was made shall present to the governor a written
26 application for a requisition for the return of such person, in
27 which application shall be stated the name of the person, the

1 crime of which he was convicted, the circumstances of his escape
2 from confinement or of the breach of the terms of his bail,
3 probation, or parole, AND the state in which he is believed to
4 be, including the location of the person therein at the time
5 application is made.

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

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

24 17-1-212. Duty of superintendent. If the board has
25 previously considered a convict for release and he is still
26 imprisoned and if his mental condition is questioned by the
27 ~~warden~~ SUPERINTENDENT of the state penitentiary or the Colorado

1 state reformatory, it is the duty of said warden SUPERINTENDENT
2 to notify the chairman of the board at least forty days prior to
3 the discharge of the convict, and the chairman then shall proceed
4 in the same manner outlined in sections 17-1-210 and 17-1-211.

5 SECTION 15. 18-1-703 (1) (b), Colorado Revised Statutes
6 1973, is amended to read:

7 18-1-703. Use of physical force - special relationships.
8 (1) (b) A warden SUPERINTENDENT or other authorized official of
9 a jail, prison, or correctional institution may, in order to
10 maintain order and discipline, use reasonable and appropriate
11 physical force when and to the extent that he reasonably believes
12 it necessary to maintain order and discipline, but he may use
13 deadly physical force only when he reasonably believes it
14 necessary to prevent death or serious physical injury.

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

17 27-1-105. Powers of executive director. (1) (a) To
18 transfer an inmate from the Colorado state reformatory to the
19 state penitentiary when such inmate is deemed an incorrigible
20 prisoner whose presence at the Colorado state reformatory appears
21 to be seriously detrimental to the administration of said
22 Colorado state reformatory and, with the approval of the warden
23 SUPERINTENDENT of the state penitentiary, to transfer from the
24 state penitentiary to the Colorado state reformatory a prisoner
25 of good conduct and recognized behavior for the purpose of aiding
26 in instructional work at the Colorado state reformatory;

27 SECTION 17. 27-20-102, Colorado Revised Statutes 1973, is

1 amended to read:

2 27-20-102. Superintendent - appointment - oath - bond -
3 report. (1) The organization of the state penitentiary shall
4 consist of a ~~warden~~ SUPERINTENDENT, such guards, turnkeys,
5 overseers, and clerks as may, in the opinion of the department of
6 institutions, be necessary, a parole officer, a physician and
7 surgeon, and a chaplain.

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

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

24 SECTION 18. 27-20-103, Colorado Revised Statutes 1973, is
25 amended to read:

26 27-20-103. Superintendent and others - conservators of
27 peace. The ~~warden~~ SUPERINTENDENT of the state penitentiary and

1 his assistants, the guards and keepers, shall be conservators of
2 the peace and as such have the power to arrest or cause to be
3 arrested, with or without process, upon any grounds owned or
4 leased by the state of Colorado and used by the state
5 penitentiary, all persons who break the peace or are found upon
6 said grounds violating any criminal law of this state and to take
7 such persons before any court of competent jurisdiction for
8 trial.

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

11 27-20-105. Trusty prisoners - allowance. Hereafter,
12 convicts of the state penitentiary undergoing sentence in
13 accordance with law who are engaged in work connected with said
14 state penitentiary within or outside the walls of said
15 institution, and known as trusty prisoners, and who are employed
16 on the ranches or gardens, lime kilns or quarries, stone yards or
17 quarries, or upon public roads and highways in this state in
18 accordance with law, or at any other class of work within or
19 without the walls of said prison, and who conduct themselves in
20 accordance with the rules of the prison and perform their work in
21 a creditable manner, upon approval of the ~~warden~~ SUPERINTENDENT,
22 may be granted such good time in addition to that allowed by law
23 as the department of institutions may order, not to exceed ten
24 days in any one calendar month. Trusty prisoners engaged in
25 productive and constructive work, as defined by the department of
26 institutions in its rules, may be granted additional good time
27 not to exceed three days in any one calendar month.

1 SECTION 20. 27-20-107 (1) and (2), the introductory portion
2 to 27-20-107 (3), and 27-20-107 (4), are amended to read:

3 27-20-107. Good time credit allowable. (1) Unless
4 otherwise provided, every prisoner confined in the state
5 penitentiary who has committed no infraction of the rules or
6 regulations of the prison or the laws of the state and who
7 performs in a faithful, diligent, industrious, orderly, and
8 peaceable manner the work, duties, and tasks assigned to him to
9 the satisfaction of the warden SUPERINTENDENT may be allowed time
10 credit reductions as follows: A deduction of two months in each
11 of the first two years, four months in each of the next two
12 years, and five months in each of the remaining years or said
13 term, and correspondingly for any part of the year, where such
14 term of confinement is for more or less than a year. The mode of
15 computing credits shall be shown by the following table:

16	17	18	19	20	21	22	23	24	25	26	27	28
Number of	Good time	Total good	Time to be served									
yrs. of	that may be	time that may	if full credits are									
sentence	earned	be earned	earned and allowed									
1st year	2 months	2 months	10 months									
2nd year	2 months	4 months	1 year	8 months								
3rd year	4 months	8 months	2 years	4 months								
4th year	4 months	1 year	3 years									
5th year	5 months	1 year 5 months	3 years	7 months								
6th year	5 months	1 year 10 months	4 years	2 months								
7th year	5 months	2 years 3 months	4 years	9 months								
8th year	5 months	2 years 8 months	5 years	4 months								
9th year	5 months	3 years 1 month	5 years	11 months								
10th year	5 months	3 years 6 months	6 years	6 months								

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

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

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

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

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

24 27-20-110. Forfeiture for violation of rules. In case any
25 convict is guilty of willful violation of any of the rules or
26 regulations of the state penitentiary and is entitled to any
27 deduction from the time of his sentence by the provisions in

1 sections 27-20-104 to 27-20-106, he shall forfeit, if entitled to
2 so much, for the first offense two days, for the second offense
3 four days, and for each subsequent offense four days, said
4 forfeiture to be determined by the ~~warden~~ SUPERINTENDENT of the
5 state penitentiary.

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

8 27-20-112. Superintendent shall record infractions. It is
9 the duty of the ~~warden~~ SUPERINTENDENT to keep a record, in a book
10 for that purpose, of all infractions of the prison rules and
11 regulations, as prescribed by the department of institutions.

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

14 27-20-113. Behavior certificate - citizenship. If a
15 convict passes the entire period of his sentence without any
16 violation of the rules and regulations, he is entitled to a
17 certificate thereof from the ~~warden~~ SUPERINTENDENT, endorsed by
18 the department of institutions, and on presenting it to the
19 governor he shall be restored to citizenship.

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

22 27-20-114. Federal prisoners - others. Convicts sentenced
23 to hard labor in the state penitentiary for life or any term of
24 time by any court of the United States held within this state
25 must be received into the prison by the ~~warden~~ SUPERINTENDENT
26 thereof, when delivered by the authority of the United States,
27 and there kept in pursuance of their sentences. All persons

1 convicted of any crime punishable with death, who are pardoned on
2 condition of being imprisoned either for life or for a term of
3 years, shall be imprisoned in the state penitentiary. All
4 persons imprisoned or confined in the state penitentiary shall be
5 subject to the rules and regulations thereof.

6 SECTION 25. 27-20-116, Colorado Revised Statutes 1973, is
7 amended to read:

8 27-20-116. County or municipal road work. Upon written
9 request of a majority of the board of county commissioners of any
10 county in the state of Colorado and the order of the department
11 of institutions, the ~~warden~~ SUPERINTENDENT of the state
12 penitentiary shall detail such convicts as are specified in such
13 order, not exceeding the number specified in said written
14 request, to work upon such public roads and highways of the state
15 or of such county or streets and alleys of any city or
16 incorporated town within such county as are designated in the
17 written request of said county commissioners. Such county shall
18 pay all additional expenses of guarding said convicts while
19 working upon said public roads and highways within such county
20 and shall furnish all tools and materials necessary in the
21 performance of said work. When said work is done within the
22 limits of any city or incorporated town within such county, the
23 city or incorporated town where said work is done shall likewise
24 pay all additional expenses of guarding such convicts while
25 performing said work and shall furnish all necessary material
26 used in said work.

27 SECTION 26. 27-20-119, Colorado Revised Statutes 1973, is

1 amended to read:

2 27-20-119. Discharge - clothes, money, transportation. Ten
3 days prior to the date on which any convict confined in the state
4 penitentiary is entitled to be discharged or to be paroled from
5 said state penitentiary, the ~~warden~~ SUPERINTENDENT thereof, or
6 any person acting for him as such officer, shall give such
7 convict a ticket of leave therefrom, which shall entitle him to
8 depart from said prison. The ~~warden~~ SUPERINTENDENT shall at the
9 same time furnish such convict with all articles of personal
10 property belonging to said convict that may have been turned over
11 to the ~~warden~~ SUPERINTENDENT and shall furnish said convict with
12 suitable clothing and may furnish transportation, at the expense
13 of the state, from the place at which said state penitentiary is
14 located to the place of his residence in Colorado or any other
15 state. The ~~warden~~ SUPERINTENDENT shall also furnish to any
16 prisoner being discharged, other than a parolee, one hundred
17 dollars. The ~~warden~~ SUPERINTENDENT may furnish any prisoner
18 being released on parole a reasonable sum of money not to exceed
19 one hundred dollars; except that, if he furnishes less than one
20 hundred dollars, the difference between one hundred dollars and
21 the amount furnished shall be credited to an account for such
22 parolee. The ~~warden~~ SUPERINTENDENT shall certify any amount so
23 credited to the division of parole, and any such amount shall be
24 distributed to a prisoner in accordance with rules promulgated by
25 said division.

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

1 27-20-121. Failure to observe conditions - penalty. If
2 any convict receiving a ticket of leave fails to observe and
3 perform any and all of the conditions required and imposed upon
4 him by sections 27-20-119 to 27-20-121 or violates any of their
5 provisions, the ~~warden~~ SUPERINTENDENT of said state penitentiary
6 or any guard or officer thereof, or any sheriff or deputy sheriff
7 of any county in this state, or any public officer of any city or
8 town in this state has the authority to arrest such convict and
9 convey him to said state penitentiary, where he shall be confined
10 under the terms and during the whole period of his sentence
11 thereto, and without any deduction from said sentence of any time
12 by virtue of sections 27-20-104, 27-20-105, and 27-20-107.

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

15 27-20-124. Visitors at state penitentiary. The following
16 persons are authorized to visit the state penitentiary at
17 pleasure: The governor, the judges of the supreme and district
18 courts, and all regular officiating ministers of one gospel. No
19 other persons shall be permitted to go within the walls of the
20 prison where convicts are confined, except by special permission
21 of the ~~warden~~ SUPERINTENDENT.

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

24 27-22-102. Organization - appointments - report. (1) The
25 organization of the state reformatory shall consist of a ~~warden~~
26 SUPERINTENDENT, chaplain, teacher, physician and surgeon, and
27 parole officer, and such guards, turnkeys, overseers, and clerks

1 as the department of institutions shall deem necessary.

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

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

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

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

22 27-22-103. Parole - discharge. (1) It is the duty of the
23 warden SUPERINTENDENT of the Colorado state reformatory, in
24 cooperation with the parole officer stationed at the reformatory,
25 and the duty of the warden SUPERINTENDENT of the state
26 penitentiary, in cooperation with the parole officer stationed at
27 the state penitentiary, as to persons transferred to the state

1 penitentiary from the Colorado state reformatory, to bring to the
2 consideration of the state board of parole the matter of parole
3 of every person sentenced or committed to the reformatory or
4 returned thereto for reason of violation of parole within nine
5 months after the arrival of such person at the reformatory. It
6 is the further duty of such ~~warden~~ SUPERINTENDENT and parole
7 officers to furnish said board at that time with a full and
8 complete report of the record of such person in the institution
9 where he has been serving his sentence or commitment together
10 with all other information in the possession of the institution
11 respecting such person and a recommendation to the board as to
12 whether such person should be paroled. The board shall be the
13 sole judge of whether the parole shall be granted in any case,
14 and, if it is refused, the appropriate officers shall bring the
15 consideration of the matter of parole of such person to the
16 board, with such a report and recommendation, within each six
17 months thereafter until the person sentenced or committed is
18 paroled or has served the maximum term for which he may be
19 imprisoned under section 16-11-302, C.R.S. 1973, in which latter
20 event he shall be discharged.

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

23 27-22-104. Release and furnishings. Ten days prior to the
24 date on which any prisoner confined in the Colorado state
25 reformatory is entitled to be discharged or to be paroled
26 therefrom, the ~~warden~~ SUPERINTENDENT thereof, or any person
27 authorized to act for him, shall give the prisoner a release

1 which shall entitle him to leave the reformatory pursuant to the
2 conditions stated in the release. The warden SUPERINTENDENT,
3 prior to the release of the prisoner, shall furnish him with all
4 articles of personal property belonging to said prisoner that may
5 have been turned over to the warden SUPERINTENDENT and suitable
6 clothing and may furnish transportation, at the expense of the
7 state, from Buena Vista to the place of his residence in Colorado
8 or any other state. The warden SUPERINTENDENT may also furnish
9 to any prisoner being discharged a sum not to exceed one hundred
10 dollars. The warden SUPERINTENDENT may furnish to any prisoner
11 released on parole a reasonable sum of money not to exceed one
12 hundred dollars. The warden SUPERINTENDENT may grant a portion
13 of such reasonable sum to the parolee outright and credit the
14 remainder to an account maintained by the division of parole for
15 the parolee. The warden SUPERINTENDENT shall certify any amount
16 so credited to the division.

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

19 27-22-108. Canteen and library fund created - receipts -
20 disbursements. (1) There is hereby created at the Colorado
21 state reformatory at Buena Vista, Colorado, a canteen and library
22 fund, which fund shall be used to establish a canteen for the use
23 and benefit of the inmates of the reformatory. The revenues
24 derived from such canteen are appropriated for the purposes set
25 forth in subsection (2) of this section. Said canteen shall be
26 managed under rules and regulations prescribed by the warden
27 SUPERINTENDENT of the reformatory, and it shall not be operated

1 in any manner for the personal profit of any employees or inmates
2 of the reformatory.

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

5 27-22-109. Annual report and audit of fund. The warden
6 SUPERINTENDENT shall report annually to the executive director of
7 the department of institutions on the operation of said fund, and
8 the fund shall be audited annually by the state auditor, who
9 shall prepare a profit and loss statement on the canteen and
10 library fund.

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

13 27-23-101. Transfer of insane and convicts. (1) The
14 executive director of the department of institutions is
15 empowered, when it is reported to him by the warden
16 SUPERINTENDENT and certified to by the prison physician that any
17 person imprisoned in the Colorado state reformatory or the state
18 penitentiary is mentally ill or retarded, to order said person
19 transferred to the Colorado state hospital at Pueblo, where said
20 person shall remain for observation and examination for a period
21 not to exceed thirty days, and it is the duty of the
22 superintendent of said hospital to make a written report to said
23 executive director concerning the mental condition of said person
24 immediately upon the expiration of the period of observation and
25 examination.

26 SECTION 35. 27-23-102, Colorado Revised Statutes 1973, is
27 amended to read:

1 27-23-102. Transfer of recovered convict. When the
2 superintendent of any institution or facility in which the
3 executive director of the department of institutions has placed
4 any person who has been transferred from the state penitentiary
5 or the Colorado state reformatory, as provided in section
6 27-23-101, is of the opinion that said person is no longer
7 mentally ill or retarded, it is the duty of said superintendent
8 to give written notice of such recovery to the warden
9 SUPERINTENDENT of the state penitentiary or the Colorado state
10 reformatory, as the case may be, who shall transfer said person
11 to the place of his former commitment for the purpose of serving
12 out his sentence, if the same has not expired.

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

15 27-24-101. Offenders to work. All able-bodied offenders at
16 the state penitentiary shall be employed at such productive work
17 as may be assigned to them by the warden SUPERINTENDENT of said
18 institution. All goods, wares, or merchandise manufactured,
19 produced, or mined, wholly or in part, by such offenders shall be
20 sold, to the extent possible, to the state and its institutions
21 in accordance with the provisions of sections 27-24-105 to
22 27-24-114. Any surplus of such goods, wares, or merchandise
23 which is not sold to the state or its institutions in such manner
24 may be sold on the open market in the state of Colorado at
25 prevailing market prices. All moneys realized from the sale of
26 any goods, wares, or merchandise manufactured, produced, or mined
27 by such offenders shall be used to defray the costs of operating

1 the state penitentiary and to satisfy the costs of maintenance
2 and retention of offenders at the state penitentiary. The
3 provisions of this section shall not apply to goods, wares, or
4 merchandise manufactured, produced, or mined in a program
5 established pursuant to section 27-24-109.

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

8 27-24-102. Necessary purchases. The ~~warden~~ SUPERINTENDENT
9 of the state penitentiary has full power, within the limits of
10 the appropriations made to said institution for such purpose, to
11 purchase or otherwise acquire property and equipment, including
12 such machinery, tools, supplies, and materials, as he may deem
13 necessary to operate such types of industrial or agricultural
14 projects within said institution to keep all able-bodied
15 prisoners productively employed.

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

18 27-24-103. Employment of residents. All able-bodied
19 residents at the Colorado state reformatory and the Lookout
20 Mountain school for boys shall be employed at any productive work
21 assigned to them by the ~~warden and superintendent~~ RESPECTIVE
22 SUPERINTENDENTS thereof. ~~respectively.~~ All goods, wares, or
23 merchandise manufactured, produced, or mined, wholly or in part,
24 by such residents shall be sold, to the extent possible, to the
25 state and its institutions in accordance with the provisions of
26 sections 27-24-105 to 27-24-114. Any surplus of such goods,
27 wares, or merchandise which is not sold to the state or its

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

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

12 27-24-104. Necessary purchases. The ~~warden~~---and
13 ~~superintendent~~ SUPERINTENDENTS of said institutions have full
14 power, within the limits of the appropriations made to said
15 institutions for such purpose, to purchase or otherwise acquire
16 property and equipment, including machinery, tools, supplies, and
17 materials, deemed necessary to operate such types of industrial
18 or agricultural projects within said institutions to keep all
19 able-bodied ~~boys~~ RESIDENTS productively employed.

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

22 27-24-109. Offenders' compensation. (1) Every offender of
23 the state penitentiary or the Colorado state reformatory who is
24 entitled to trustyship because of good conduct, at the discretion
25 of the ~~warden~~ SUPERINTENDENT of the state penitentiary or the
26 ~~warden~~ SUPERINTENDENT of the Colorado state reformatory, may
27 receive compensation for the work he performs in the various

1 activities of the institutions. The rate of compensation as
2 applied to all classes of work and to the individual worker shall
3 be determined by the department of institutions after
4 consultation with the respective ~~wardens~~ SUPERINTENDENTS. The
5 department has the power to make rules and regulations relative
6 to the payment of wages and their disbursements, and there shall
7 always be kept copies of these rules and regulations and the
8 amendments thereto, so that there may be no question at any time
9 about this subject.

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

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

26 SECTION 41. 27-24-111, Colorado Revised Statutes 1973, is
27 amended to read:

1 27-24-111. Superintendents' reports. The warden
2 SUPERINTENDENT of the state penitentiary and the warden
3 SUPERINTENDENT of the Colorado state reformatory shall make such
4 reports to the department of institutions regarding the operation
5 of prison industries as the department requires.

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

8 27-24-114. Regulations on employment. The department of
9 institutions has the power to establish rules and regulations
10 governing the employment, conduct, and management of the
11 prisoners in the state penitentiary and the Colorado state
12 reformatory when employed on the work provided for them by the
13 warden SUPERINTENDENTS thereof, and it has full power to carry
14 into effect to the fullest extent the provisions of sections
15 27-24-101 to 27-24-114.

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

18 27-24-118. Convict work on state roads. The chief engineer
19 of the division of highways, with the consent of the state
20 highway commission and the approval of the governor, may
21 appropriate money from the state highway fund for the purpose of
22 employing inmates of the state penitentiary and the Colorado
23 state reformatory and paying the expenses of equipping the
24 necessary camps for their accommodation, together with the
25 expenses of maintaining such camps. The warden SUPERINTENDENT of
26 the state penitentiary and the warden SUPERINTENDENT of the
27 Colorado state reformatory, with the approval of the department

1 of institutions, shall, on request of the chief engineer of the
2 division of highways, furnish such number of able-bodied convicts
3 as the chief engineer may require, and the respective warden
4 SUPERINTENDENT of the institution from which said convicts are
5 taken shall have full control and supervision of whatever camps
6 are established. The engineer in charge of the construction work
7 shall have full charge of all labor.

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

10 27-24-120. Request filed with superintendent. The board of
11 county commissioners shall file with the warden SUPERINTENDENT of
12 the state penitentiary or the Colorado state reformatory a
13 request for said labor, stating the location of work and the
14 number of men to be employed.

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

17 27-24-121. Superintendent to transport convicts. If men
18 are available, within fifteen days from receipt of said written
19 request, the warden SUPERINTENDENT shall transport to the point
20 indicated in the request the number of men requested and shall
21 furnish necessary guards and equipment for safe transportation of
22 said convicts.

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

25 27-24-122. County to furnish quarters. The board of county
26 commissioners shall furnish such quarters and supplies for said
27 convicts as are approved by the warden SUPERINTENDENT of the

1 state penitentiary or the Colorado state reformatory or his
2 representative.

3 SECTION 47. 27-24-124, Colorado Revised Statutes 1973, is
4 amended to read:

5 27-24-124. Superintendent to control convicts. The warden
6 SUPERINTENDENT of the state penitentiary or the Colorado state
7 reformatory has full control over said convicts, shall furnish
8 necessary guards to be paid by the county wherein work is done,
9 and has the right to order said convicts back to the penitentiary
10 at any time he may deem it for the best interest of the state of
11 Colorado.

12 SECTION 48. 27-25-109, Colorado Revised Statutes 1973, is
13 amended to read:

14 27-25-109. Statements by heads of correctional
15 institutions. The warden SUPERINTENDENT of the state
16 penitentiary and the head, by whatever name known, having charge
17 of any other state correctional institution shall annually make a
18 full detailed statement of all materials, machinery, or other
19 property procured, and the cost thereof, and the expenditures
20 made during the last preceding fiscal year for manufacturing
21 purposes, together with a statement of all materials then on hand
22 to be used or which are in the process of being used in the
23 manufacture of articles and products and all machinery, fixtures,
24 and other appurtenances used for the purpose of carrying on the
25 correctional industrial labor authorized by this part 1. Such
26 statement shall also itemize the earnings estimated to have been
27 realized during the preceding year as a result of the utilization

1 of such labor. Said statement shall be verified under oath and
2 shall be transmitted to the department of institutions within
3 thirty days after the end of each fiscal year.

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

6 27-40-101. Definitions. (5) "Warden" "SUPERINTENDENT"
7 means the warden SUPERINTENDENT of the state penitentiary or the
8 Colorado state reformatory.

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

11 27-40-106. Responsibilities of director - superintendent.

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

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

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

LEGISLATIVE COUNCIL
COMMITTEE ON AGRICULTURE

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COMMITTEE ON AGRICULTURE

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 3.0 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 insuffi-

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.

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. Testimony 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 noxious 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 committee 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 specific 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 \$569,902. 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 the 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

1 CONCERNING AGRICULTURAL PRODUCTS, AND PROVIDING FOR THE
2 REGULATION OF COMMISSION MERCHANTS, BROKERS, AND DEALERS
3 THEREIN 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.

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

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

8 12-16-100.1. Short title. This article shall be known and

1 may be cited as the "Dealers and Warehousemen of Agricultural
2 Products Act".

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

5 12-16-101. Definitions. (1) "Agent" means any person who,
6 on behalf of any commission merchant, dealer, or broker, BUYS,
7 receives, contracts for, or solicits any farm produce from OR
8 SELLS FARM PRODUCE FOR the owner thereof or who negotiates the
9 consignment or purchase of any farm produce on behalf of any
10 commission merchant, dealer, or broker.

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

14 12-16-102.5. Display of certificate of uniform grain
15 storage agreement. A licensee engaged in the business of storing
16 any farm product who has a uniform grain storage agreement with
17 the commodity credit corporation, United States department of
18 agriculture, shall conspicuously display in his place of business
19 a current certificate indicating such an agreement. Such
20 certificate shall be obtained from the commissioner upon showing
21 proof satisfactory to the commissioner that said agreement has
22 been entered into by the licensee.

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

25 12-16-103. Fees - renewal license. (1) (a) Commission
26 merchants, **forty** FIFTY dollars for each year;

27 (b) Dealers, **forty** FIFTY dollars for each year;

1 (c) Brokers, ~~forty~~ FIFTY dollars for each year;

2 (d) Agents, ~~five~~ TEN dollars for each year.

3 SECTION 5. 12-16-105 (2) (a), Colorado Revised Statutes
4 1973, is amended, and the said 12-16-105 is further amended BY
5 THE ADDITION OF A NEW SUBSECTION, to read:

6 12-16-105. Commission merchants', dealers', and brokers'
7 bonds - exemptions. (2) (a) Before any license is issued to
8 any dealer or broker, the applicant shall execute and deliver to
9 the commissioner a surety bond OR OTHER EVIDENCE OF SURETY in the
10 sum of not less than two thousand dollars nor more than ~~one~~ TWO
11 hundred thousand dollars, at the discretion of the commissioner,
12 and executed by the applicant as principal and by a surety
13 company qualified and authorized to do business in this state as
14 surety.

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

24 SECTION 6. Article 16 of title 12, Colorado Revised
25 Statutes 1973, is amended BY THE ADDITION OF A NEW SECTION to
26 read:

27 12-16-105.5. Property and casualty insurance. (1) Before

1 any license is issued to any commission merchant, dealer, or
2 broker, each applicant who will be in the business of storing
3 farm products shall furnish evidence to the commissioner of
4 minimum property and casualty insurance coverage in an amount
5 sufficient for the licensee's storage obligations; except that,
6 as an alternative to such insurance, the applicant may furnish
7 such other evidence of financial responsibility as shall be
8 acceptable to the commissioner.

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

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

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

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

26 12-16-106. Investigations and examinations. (2.5) In
27 addition to the commissioner's authority in subsections (1) and

1 (2) of this section, the commissioner may require any licensee
2 engaged in the business of storing farm products to furnish, upon
3 request, any information deemed necessary by the commissioner
4 that relates to the storage of a farm product in any warehouse
5 owned, operated, or utilized by the licensee. The licensee shall
6 permit the commissioner, or any representative or agent of the
7 commissioner, to enter and inspect any warehouse owned, operated,
8 or utilized by said licensee including its contents and records,
9 both financial and commodity, related to all farm products in
10 storage by the licensee and shall render any reasonable
11 assistance necessary in said inspection.

12 SECTION 8. 12-16-108 (1) (1), Colorado Revised Statutes
13 1973, is amended, and the said 12-16-108 (1) is further amended
14 BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

15 12-16-108. Denial or revocation of license. (1) (1) That
16 the applicant or licensee has failed or refused to execute and
17 deliver to the commissioner a surety bond OR OTHER EVIDENCE OF
18 SURETY as required by section 12-16-105;

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

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

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

27 SECTION 9. 12-16-115 (1), Colorado Revised Statutes 1973,

1 is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2 12-16-115. Penalties. (1) (h) Converts to his own use or
3 benefit the farm products of a producer.

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

7 12-16-116. Administration - rules and regulations -
8 delegation of duties. (1) The commissioner is authorized to
9 promulgate such rules and regulations as are necessary for the
10 administration of this article in accordance with article 4 of
11 title 24, C.R.S. 1973. Rules and regulations to be promulgated
12 under this article shall first be submitted by the issuing agency
13 to the appropriate standing committees of reference of the house
14 of representatives and the senate of the general assembly for
15 their opinions as to the conformity of the rules conforming to
16 the legislative intent.

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

20 SECTION 11. Repeal. Article 36 of title 35, Colorado
21 Revised Statutes 1973, is repealed.

22 SECTION 12. Appropriation. There is hereby appropriated
23 out of any moneys in the state treasury not otherwise
24 appropriated, to the department of agriculture for allocation to
25 the division of inspection and consumer services, for the fiscal
26 year beginning July 1, 1976, the sum of _____
27 dollars (\$), or so much thereof as may be necessary, for an

1 additional _____ FTE for the administration of this act.

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

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

COMMITTEE ON AGRICULTURE

BILL 4

A BILL FOR AN ACT

1 CONCERNING THE CERTIFICATION OF APPLICATORS OF RESTRICTED USE
2 PESTICIDES.

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.

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

4 SECTION 1. Title 35, Colorado Revised Statutes 1973, as
5 amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

6 ARTICLE 11.5

7 Certified Private Applicators

8 35-11.5-101. Legislative declaration. (1) In order to
9 foster the health and welfare of the people of this state and to
10 protect the environment, the general assembly declares that
11 safety and caution in the use of restricted use pesticides by
12 private persons is of primary importance. Therefore, it is the

1 purpose of this article to provide a state program for the
2 certification of private applicators of restricted use
3 pesticides.

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

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

14 35-11.5-102. Definitions. As used in this article, unless
15 the context otherwise requires:

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

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

24 35-11.5-103. Self-certification of private applicators.

25 (1) It is unlawful for any person to perform the functions of a
26 certified private applicator without a certificate of
27 registration.

1 (2) To be certified as a private applicator to use
2 restricted use pesticides a person must demonstrate his
3 competency by completing a self-certification form at any
4 location of a licensed pesticide dealer. The self-certification
5 forms shall be made available to said dealers by the
6 commissioner. The self-certification form shall contain adequate
7 informations and affirmations to demonstrate the person's
8 competency to use restricted use pesticides, and when said form
9 is completed the person shall be deemed certified by the
10 commissioner to use restricted use pesticides. A completed
11 self-certification form shall be valid for a period of three
12 years.

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

17 35-11.5-104. Creation of fund - appropriation. (1) There
18 is hereby created in the office of the state treasurer a fund to
19 be known as the certified private applicator's fund, which shall
20 consist of moneys deposited thereto by the department of
21 agriculture from any anticipated federal funds received from the
22 United States environmental protection agency for a state program
23 to certify private applicators of restricted use pesticides. All
24 moneys in the certified private applicator's fund, when
25 sufficient, are hereby appropriated to the department of
26 agriculture to develop, implement, and maintain the department's
27 program for the certification of private applicators of

1 restricted use pesticides. If said anticipated federal funds are
2 not provided, no such program shall be conducted by the
3 department of agriculture.

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

9 35-11.5-105. Termination of program. In the event that the
10 United States environmental protection agency withdraws its
11 approval of the program provided in this article for the
12 certification of private applicators of restricted use pesticides
13 or the program otherwise becomes out of conformity with federal
14 law or the rules and regulations of the United States
15 environmental protection agency concerning the certification of
16 private applicators of restricted use pesticides, the program
17 provided in this article shall terminate and no such program
18 shall be conducted by the department of agriculture.

19 35-11.5-106. Administration - rules and regulations -
20 delegation of duties. (1) The commissioner is authorized to
21 promulgate such rules and regulations as are necessary for the
22 administration of this article in accordance with article 4 of
23 title 24, C.R.S. 1973. Rules and regulations to be promulgated
24 under this article shall first be submitted by the issuing agency
25 to the appropriate standing committees of reference of the house
26 of representatives and the senate of the general assembly for
27 their opinions as to the conformity of the rules to the

1 legislative intent.

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

5 SECTION 2. Effective date. This act shall take effect July
6 1, 1976.

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

COMMITTEE ON AGRICULTURE

BILL 5

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 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.

2 be it enacted by the general Assembly of the State of Colorado:

3 SECTION 1. Article 8 of title 35, Colorado Revised Statutes
4 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

5 ARTICLE 8

6 Weeds

7 PART 1

8 WEED CONTROL ACT

9 35-8-101. Short title. This part 1 shall be known and may
10 be cited as the "Weed Control Act of 1976".

1 35-8-102. Legislative declaration. In order to foster the
2 health and welfare of the people of this state, it is declared to
3 be the policy of the state to control and eradicate noxious
4 weeds. It is further declared that such control and eradication
5 is a matter of statewide concern and is affected with a public
6 interest and that this article is enacted in the exercise of the
7 police powers of this state.

8 35-8-103. Definitions. As used in this article, unless the
9 context otherwise requires:

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

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

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

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

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

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

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

25 (a) Leafy spurge (*Euphorbia esula*);

26 (b) Canada thistle (*Cirsium arvense*);

27 (c) Russian knapweed (*Centaurea repens*);

1 (d) Bindweed (*Convolvulus arvensis*);

2 (e) Whitetop (*Cardaria draba*);

3 (f) Johnson grass (*Sorghum halepense*); or

4 (g) Any other especially troublesome and detrimental plant
5 of little or no use within the jurisdiction of a regional weed
6 control agent which may cause damage or loss to a considerable
7 portion of the land or the livestock of the region and which has
8 been determined by the commissioner, or regional weed control
9 agent upon approval of the commissioner, to require control and
10 eradication efforts.

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

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

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

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

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

25 35-3-104. Local weed control agent. (1) Except as
26 provided in subsection (2) or (3) of this section, there shall be
27 a local weed control agent in each county of this state. Any

1 person employed as such agent must have comprehensive education
2 or experience in noxious weed control and eradication efforts.

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

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

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

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

26 35-8-105. duties of local weed control agent. (1) The
27 local weed control agent has the following duties:

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

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

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

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

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

18 35-8-106. Regional weed control agent. (1) The department
19 shall employ regional weed control agents with at least one agent
20 located in each of the water divisions of this state, as such
21 divisions are described in part 2 of article 92 of title 57,
22 C.R.S. 1973, and each regional agent shall have jurisdiction over
23 his region.

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

27 35-8-107. Duties of regional weed control agent. (1) The

1 regional weed control agent has the following duties:

2 (a) To locate and map noxious weeds in his region which are
3 located on land belonging to any body politic, ditch or reservoir
4 company, or public utility;

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

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

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

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

19 35-8-108. Weed control and eradication - unlawful nuisance.

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

25 35-8-109. Weed control order at early stage. (1) whenever

26 a local weed control agent determines that a private landowner or
27 person in control of private land is in violation of section

1 35-8-108 and whenever a regional weed control agent determines
2 that a body politic, ditch or reservoir company, public utility,
3 or person in control of its land is in violation of section
4 35-8-108, and it is deemed necessary by the appropriate agent
5 that prompt or definite control or efforts to eradicate noxious
6 weeds are required, he shall issue a weed control order to the
7 landowner or person in control of land to effect such weed
8 control or eradication efforts.

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

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

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

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

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

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

27 (e) one or more methods appropriate for the control or

1 eradication efforts on the designated noxious weeds;

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

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

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

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

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

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

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

1 control or effort to eradicate, such shall be deemed compliance
2 with the weed control order.

3 35-8-110. Enforcement by court order. (1) Except as
4 provided in section 35-8-113, if any alleged violator fails to
5 comply with a weed control order within the time required, the
6 regional or local agent may notify the district attorney for the
7 judicial district or the attorney general and inform him of the
8 facts of the case and request enforcement action. Upon such
9 request it shall be the duty of the district attorney or attorney
10 general, as the case may be, to forthwith request from the
11 district court for the judicial district in which the subject
12 property lies an order in the name of the department requiring
13 the alleged violator to control or make efforts to eradicate the
14 noxious weeds in accordance with the weed control order.

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

21 35-8-111. Immediate weed control order at later stage. (1)
22 Whenever a local weed control agent determines that a private
23 landowner or person in control of private land is in violation of
24 section 35-8-108 and whenever a regional weed control agent
25 determines that a body politic, ditch or reservoir company,
26 public utility, or person in control of its land is in violation
27 of section 35-8-108, and the noxious weed on his or its property

1 has reached a later stage of maturity so that the noxious weed
2 has begun or will begin within four weeks to produce viable
3 noxious weed seed and extensively spread to the property of
4 another person, and it is deemed necessary by the appropriate
5 agent that immediate control or efforts to eradicate the noxious
6 weeds are required, he shall issue an immediate weed control
7 order to the landowner to effect such weed control or eradication
8 efforts.

9 (2) An immediate weed control order shall be on a form
10 prescribed by the commissioner, shall set forth the information
11 required in subsection (3) of section 35-8-109 for weed control
12 orders; except that the order shall specify a date by which the
13 alleged violator shall control or make efforts to eradicate the
14 noxious weeds which allows five days or, if deemed appropriate by
15 the agent, up to another ten days to control or make efforts to
16 eradicate the noxious weeds, and shall indicate that the
17 department has the authority to enforce the immediate weed
18 control order by seeking a civil penalty of ten to fifty dollars
19 for each day of violation or, if the alleged violator is a
20 nonresident landowner or a body politic, ditch or reservoir
21 company, or public utility, by performing or having others
22 perform the required weed control or eradication efforts.

23 35-8-112. ~~Enforcement by civil penalty.~~ (1) except as
24 provided in section 35-8-113, any alleged violator who fails or
25 refuses to comply with an immediate weed control order shall be
26 subject to a civil penalty of not less than ten dollars nor more
27 than fifty dollars for each day during which such violation

1 occurs; except that the maximum amount of any civil penalty shall
2 not exceed the cost to the alleged violator to comply with the
3 order nor three times the valuation for assessment purposes of
4 the acreage designated in the order, whichever is less.

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

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

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

18 35-8-113. Control by local or regional agent. (1) If an
19 alleged violator has received a weed control order or an
20 immediate weed control order, is a nonresident landowner or a
21 body politic, ditch or reservoir company, or public utility, and
22 fails or refuses to comply with such order, the regional or local
23 agent shall employ the appropriate enforcement procedures of
24 section 35-8-110 or 35-8-112 or cause to be done such action as
25 is necessary to effect control or eradication efforts on the
26 noxious weeds.

27 (2) After adjustment pursuant to section 35-8-115, if any,

1 the expense or cost in causing control or eradication efforts to
2 be done, if any, shall be charged to the landowner or person in
3 control of land, and a statement of such charges shall be
4 promptly sent to the landowner or person in control of land by
5 the local or regional agent incurring the charges. Said charges
6 shall be a debt of the landowner or person controlling land and
7 may be recovered in a civil action by the department or county
8 for the local agent.

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

16 35-8-114. Agreements with state and federal agencies. If
17 the department or the regional agent agrees, any state or federal
18 agency may, in lieu of effecting control or eradication efforts
19 on noxious weeds or being subject to enforcement procedures,
20 contract in advance with the department or a regional agent for
21 such control or eradication efforts.

22 35-8-115. Cost-sharing. The department shall share the
23 cost of the charges and expenses for weed control or eradication
24 efforts caused to be done which were incurred by a regional or
25 local agent. The amount the department shall pay or assume shall
26 be the amount of all costs and expenses exceeding three times the
27 valuation for assessment for general property taxes of the land

1 containing the noxious weeds but not more than six times said
2 valuation for assessment. In no event shall the department
3 assume or pay more than _____ dollars per landowner.

4 35-8-116. Statewide program. The department shall develop,
5 in cooperation with local and regional weed control agents, a
6 statewide program for effective and coordinated control and
7 eradication of noxious weeds and shall implement such program
8 through local and regional weed control agents. Said plan shall
9 consist of locating and mapping noxious weeds in the state;
10 evaluating the effectiveness of weed control and eradication
11 efforts; assisting and cooperating with local and regional weed
12 control agents in the performance of their duties; and performing
13 such other activities as the department deems necessary to obtain
14 effective control and eradication of noxious weeds in this state.

15 35-8-117. Local and state advisory councils. (1) The
16 board of county commissioners in each county employing a local
17 weed control agent shall appoint a local advisory council on weed
18 control consisting of five or more members, who shall serve at
19 the pleasure of the board of county commissioners, to advise the
20 local weed control agent concerning all duties assigned to him.
21 Should a vacancy occur, the board of county commissioners shall
22 fill the vacancy by appointment within thirty days. In the case
23 of a vacancy, the remaining members of the local advisory council
24 shall exercise all the powers and authority of said council until
25 such vacancy is filled. A majority of the council shall
26 constitute a quorum to transact business and to exercise the

1 powers or authority conferred. Members of the council shall
2 serve without compensation but shall be reimbursed for any
3 necessary expenses.

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

21 PART 2

22 WEED DISSEMINATION

23 35-8-201. Prevention of dissemination - carrying agents.

24 (1) To prevent the dissemination of noxious weeds or the seeds
25 thereof by the transportation of any machinery, equipment,
26 plants, materials, seeds, feeds, screenings, or like carrying
27 agents, the commissioner may establish by regulation a list of

1 such carrying agents determined by him to be significant agents
2 of noxious weed or seed dissemination and may designate a
3 decontamination treatment for the agents to control or prevent
4 such dissemination.

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

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

12 35-5-101. Definitions. (10) "Pest", as determined by the
13 commissioner, means a ~~noxious~~ destructive or troublesome ~~plant~~
14 insect or plant disease, when found to be in epidemic proportions
15 and of sufficient economic importance to threaten the public
16 welfare.

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

19 35-5-103. Methods of control, rules and regulations. The
20 commissioner is empowered to designate the methods to be used for
21 the control or eradication of the various ~~noxious-weeds~~ insect
22 pests and plant diseases and to publish such methods and make and
23 publish such reasonable rules and regulations as are proper and
24 necessary to carry into effect the provisions of this article.
25 The commissioner is authorized to enter into agreements with any
26 landowner, district, city, or town or with federal, state, or
27 county agencies for cooperation and for cost-sharing in the

1 control and eradication of ~~noxious-weeds~~ insect pests or plant
2 diseases located upon land that they control or administer within
3 the district in keeping with the provisions of this article. The
4 commissioner, with the approval of the governor, is authorized to
5 advance funds, which may be appropriated for this purpose subject
6 to reimbursement, to carry into effect the provisions of this
7 article.

8 SECTION 4. 35-5-104 (4), Colorado Revised Statutes 1973, is
9 amended to read:

10 35-5-104. Pest control district - procedure to establish.

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

1 for their share of the total cost of control operations.

2 SECTION 5. 35-5-105, Colorado Revised Statutes 1973, is
3 amended to read:

4 35-5-105. Advisory Committee. After the formation of a
5 pest control district and before any ~~weed-of~~ pest control program
6 has been initiated by the county pest inspector, the board of
7 county commissioners shall appoint an advisory committee of five
8 or more members, who shall serve at the pleasure of the board of
9 county commissioners. Should a vacancy occur, the board of county
10 commissioners shall fill the vacancy by appointment within thirty
11 days. The committee members shall be resident landowners and,
12 insofar as is practical, shall have a practical knowledge of ~~weed~~
13 ~~and~~ pest control and shall geographically represent the district.

14 SECTION 6. 35-5-107 (1), Colorado Revised Statutes 1973, is
15 amended to read:

16 35-5-107. Duties of pest inspector. (1) The inspector
17 shall cooperate with the commissioner in locating infestations of
18 ~~noxious-weeds~~ insect pests or plant diseases; make an annual
19 report of known infestations of ~~noxious-weeds~~ insect pests or
20 plant diseases and compile data on areas controlled, eradicated,
21 or under treatment; submit reports thereon to the commissioner,
22 the district advisory committee, and the board of county
23 commissioners by December 1 of each year; consult with the
24 commissioner and the extension service and advise upon all
25 matters pertaining to the best and most practical methods of
26 ~~noxious--weedy~~ insect pest or plant disease control and
27 eradication; and render every possible assistance to obtain the

1 most effective control or eradication of ~~noxious--weedy~~ insect
2 pests or plant diseases within the district.

3 SECTION 7. 35-5-108 (1), (2), and (3), Colorado Revised
4 Statutes 1973, are amended to read:

5 35-5-108. Control or eradication methods and procedures -
6 notice - assessments - protests. (1) The county pest inspector
7 shall give notice by radio, newspaper, or any other means of
8 communication to the owner, agent, or occupant of any lands
9 within a district on which ~~noxious-weedy~~ insect pests or plant
10 diseases are found, advising them of their presence and naming
11 the ~~noxious-weedy~~ insect pest or plant disease, giving both
12 common and scientific names. Such notice shall specify the best
13 available methods of controlling or eradicating such ~~noxious~~
14 ~~weedy~~ insect pests or plant diseases and shall require that such
15 methods be used for control or eradication thereof. Failure to
16 receive such notice shall not constitute a defense to the
17 assessment of a lien against the property, as provided in this
18 section, for the expense for the control or eradication of such
19 pests.

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

1 insect pests or plant diseases.

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

16 SECTION 8. 35-5-109, Colorado Revised Statutes 1973, is
17 amended to read:

18 35-5-109. Owner_refuses_action. When ~~noxious-weedsy~~ insect
19 pests or plant diseases are found on a property not listed on the
20 tax rolls of the county and the owner of the property refuses or
21 fails to take the necessary action to control or eradicate such
22 ~~noxious-weedsy~~ insect pests or plant diseases, after notice as
23 prescribed in section 35-5-108, the county pest inspector shall
24 treat the same as though listed on the tax rolls, and the expense
25 thereof may be recovered by the county in an action therefor in
26 any court of competent jurisdiction. The control or eradication
27 of ~~noxious-weedsy~~ insect pests or plant diseases on county

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

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

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

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

21 35-5-111. Reports of acreage infested - county tax levy -
22 fund - allocation. (1) The commissioner is directed, and it is
23 his duty, to ascertain each year, from reports of the inspectors
24 and other sources, the approximate amount of land and highways
25 infested with the most troublesome noxious-weeds, insect pests or
26 plant diseases, and their location, and transmit such information
27 tabulated by counties, not later than July 1 of each year, to the

1 board of county commissioners of each county affected by such
2 infestation. On the basis of such information, the board of
3 county commissioners of each county may make a tax levy each year
4 on real property for the purpose of paying the cost of ~~noxious~~
5 ~~weedy~~ insect pest or plant disease control or eradication in a
6 district of the county as provided by this section, but such levy
7 shall not exceed two mills in any one year.

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

17 SECTION 11. 35-5-112 (1), (2), and (3), Colorado Revised
18 Statutes 1973, are amended to read:

19 35-5-112. Pest control district on public lands - notice -
20 charges. (1) when an area designated as a pest control district
21 by the board of county commissioners of any county contains
22 public lands, it is the duty of the commissioner to notify the
23 proper state departments which control or supervise the public
24 lands within the area so designated that such a district has been
25 formed. It is the duty of any such department so notified,
26 except in the case of lands under the jurisdiction of the state
27 board of land commissioners, to control or eradicate all ~~noxious~~

1 weedy insect pests or plant diseases on any lands under its
2 jurisdiction, and included within the boundaries of the district
3 and for which the district was organized, using the methods
4 prescribed by the commissioner.

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

24 (3) In the case of lands controlled by the state board of
25 land commissioners, which land is included within a district, the
26 costs incurred in controlling or eradicating ~~noxious--weedy~~
27 insect pests or plant diseases, which would be chargeable to the

1 owner of the land if privately owned, shall be paid by the
2 department of agriculture from funds available to it for the
3 administration of this article.

4 SECTION 12. Article 5 of title 35, Colorado Revised
5 Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW
6 SECTION to read:

7 35-5-115.5. Dissolution of noxious weed districts. (1) Un
8 and after January 1, 1977, no pest control district shall be
9 formed for the control of noxious weeds. Pest control districts
10 established before said date shall not thereafter perform any
11 functions for the purpose of controlling noxious weeds but shall
12 continue to exist for the purpose of dissolution.

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

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

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

27 SECTION 13. Repeal. 35-5-101 (8) and 35-5-102, Colorado

1 revised Statutes 1973, are repealed.

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

4 SECTION 15. Safety clause. The general assembly hereby
5 finds, determines, and declares that this act is necessary for
6 the immediate preservation of the public peace, health, and
7 safety.

COMMITTEE ON AGRICULTURE
MINORITY REPORT
BY SENATOR DAN NOBLE

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.

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

3 SECTION 1. Article 8 of title 35, Colorado Revised Statutes
4 1973, is amended BY THE ADDITION OF A NEW PART to read:

5 PART 2

6 WEED CONTROL ACT

7 35-8-201. Short title. This part 2 shall be known and may
8 be cited as the "Weed Control Act of 1976".

9 35-8-202. Legislative declaration. In order to foster the
10 health and welfare of the people of this state, it is declared to
11 be the policy of the state to control or eradicate noxious weeds.

1 35-8-203. Definitions. As used in this part 2, unless the
2 context otherwise requires:

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

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

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

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

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

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

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

18 (a) Leafy spurge (*Euphorbia esula*);

19 (b) Canada thistle (*Cirsium arvense*);

20 (c) Russian knapweed (*Centaurea repens*);

21 (d) Bindweed (*Convolvulus arvensis*);

22 (e) Whitetop (*Cardaria draba*);

23 (f) Johnson grass (*Sorghum halepense*); or

24 (g) Any other especially troublesome and detrimental plant
25 of little or no use which may cause damage or loss to a
26 considerable portion of the land or the livestock and which has
27 been determined by the local weed control agent to require

1 control and eradication efforts.

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

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

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

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

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

16 35-8-204. Local weed control agent. (1) Except as
17 provided in subsection (2) of this section, there shall be a
18 local weed control agent in each county of this state. Any
19 person employed as a local weed control agent must have
20 comprehensive education or experience in noxious weed control and
21 eradication efforts.

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

27 (3) The local weed control agent shall be employed by the

1 state and compensated by the department.

2 35-8-205. Duties of local weed control agent. (1) The
3 local weed control agent has the following duties:

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

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

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

17 35-8-206. Weed control - statewide program. (1) It is the
18 duty of every landowner and person in control of land in this
19 state to control noxious weeds located on his property or on
20 property under his control.

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

1 deems necessary to accomplish effective control and eradication
2 of noxious weeds in this state.

3 35-8-207. Weed control order at early stage. (1) Whenever
4 a local weed control agent determines that a private landowner or
5 person in control of private land is not in compliance with the
6 provisions of section 35-8-206 and it is deemed necessary by the
7 agent that prompt or definite control or efforts to eradicate
8 noxious weeds is required, he shall issue a weed control order to
9 the landowner or person in control of land to effect such weed
10 control or eradication efforts.

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

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

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

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

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

27 (d) The noxious weeds requiring control or eradication

1 efforts; and

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

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

7 35-8-208. Local and state advisory councils. (1) The
8 board of county commissioners in each county employing a local
9 weed control agent shall appoint a local advisory council on weed
10 control consisting of five or more members, who shall serve at
11 the pleasure of the board of county commissioners, to advise the
12 local weed control agent concerning all duties assigned to him.
13 Should a vacancy occur, the board of county commissioners shall
14 fill the vacancy by appointment within thirty days. In the case
15 of a vacancy, the remaining members of the local advisory council
16 shall exercise all the powers and authority of said council until
17 such vacancy is filled. A majority of the council shall
18 constitute a quorum to transact business and to exercise the
19 powers or authority conferred. Members of the council shall
20 serve without compensation but shall be reimbursed for any
21 necessary expenses.

22 (2) The commissioner, with the approval of the state
23 agricultural commission, shall appoint a state advisory council
24 on weed control consisting of fourteen members, which shall be
25 composed of two members from each of the water divisions of the
26 state, as such divisions are described in part 2 of article 92 of
27 title 37, C.R.S. 1973, who are members of a local advisory

1 council in that division. The state advisory council shall
2 advise and aid the department in formulating the state plan.
3 Members of said council shall serve at the pleasure of the
4 commissioner. Should a vacancy occur, the commissioner shall
5 make a new appointment, with the approval of the state
6 agricultural commission, for the unexpired term. In the case of
7 a vacancy, the remaining members of the state advisory council
8 shall exercise all the powers and authority of said council until
9 such vacancy is filled. A majority of the council shall
10 constitute a quorum to transact business and to exercise the
11 powers or authority conferred. Members of the council shall
12 serve without compensation but shall be reimbursed for any
13 necessary expenses.

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

16 35-8-101. Definition. As used in this ~~article~~ PART 1,
17 unless the context otherwise requires:

18 SECTION 3. 35-8-102 (1) and (3), Colorado Revised Statutes
19 1973, are amended to read:

20 35-8-102. Duty of combine operator. (1) It is the duty of
21 every person operating a combine for hire, in any district set
22 apart as a weed extermination area, immediately after completing
23 the combining of grain or seed on each farm to clean or cause
24 said machine to be cleaned, so far as is practical, together with
25 all wagons, trucks, or other equipment used in connection
26 therewith, so that seeds of noxious weeds are not carried to or
27 on the way to the next place of combining by said combining

1 outfit. No combine shall be moved from any district set apart as
2 a weed extermination area without complying with the provisions
3 of this ~~article~~ PART 1.

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

8 SECTION 4. 35-8-103 (1) (f), Colorado Revised Statutes
9 1973, is amended to read:

10 35-8-103. Authority of county commissioners. (1) (f)
11 Enter into cooperative agreements with state and federal agencies
12 or departments for the furtherance of noxious weed control work
13 authorized by this ~~article~~ PART 1.

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

16 35-8-107. Supplemental to "Pest Control Act". This ~~article~~
17 PART 1 does not repeal the "Pest Control Act" as far as weeds are
18 concerned but supplements it.

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

21 SECTION 7. Safety clause. The general assembly hereby
22 finds, determines, and declares that this act is necessary for
23 the immediate preservation of the public peace, health, and
24 safety.