

Report to the Colorado General Assembly:

**REVIEW OF VARIOUS
FEE - SUPPORTED
ACTIVITIES IN COLORADO**



COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 69

DECEMBER 1962

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REVIEW OF VARIOUS FEE-SUPPORTED
ACTIVITIES IN COLORADO

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Legislative Council Report
To The
Colorado General Assembly

Research Publication No. 69
December, 1962

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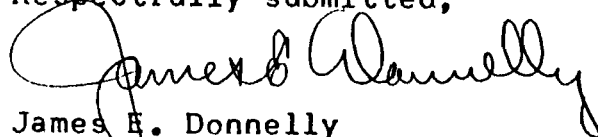
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To Members of the Forty-fourth Colorado General Assembly:

As directed by House Joint Resolution No. 12, 1962 session, the Legislative Council submits the accompanying report of the committee appointed to study the fee system of the State of Colorado.

The report of the committee appointed by the Legislative Council to carry out this study was accepted by the Council at its meeting November 30 for transmission to the Colorado General Assembly.

Respectfully submitted,


James E. Donnelly
Chairman

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Senator James E. Donnelly, Chairman
Colorado Legislative Council
341 State Capitol
Denver 2, Colorado

Dear Mr. Chairman:

Your Committee appointed to study the fee system of Colorado state government, as directed by House Joint Resolution No. 12, 1962 session, has completed a review of various fee-supported activities and submits the accompanying report.

As a result of its study, the committee has made several recommendations concerning three fee-supported programs of the Colorado Department of Agriculture, namely, weights and measures, poultry and egg, and fruit and vegetable inspection.

The committee also reviewed the fee problems of state licensing boards, but did not make any recommendations thereon. However, the problems of the licensing boards encountered by the committee are included in the committee's report.

Respectfully submitted,

/s/ Guy Poe
Chairman

FOREWORD

In accordance with House Joint Resolution No. 12, 1962 session, the Legislative Council established a committee to review the fee system of Colorado state government. Members appointed to this committee included: Representative Guy Poe, chairman; Representative Noble Love, vice chairman; Senators L. T. Skiffington; and Edward J. Byrne; and Representatives Jean Bain, Forrest Burns, Robert Eberhardt, and C. P. Lamb.

The committee held its first meeting in March of 1962 at which time the committee outlined the scope of its study, including three programs of the State Department of Agriculture -- weights and measures, poultry and egg, and fruit and vegetable inspections. The committee also agreed to review fee problems of the various state licensing boards. Subsequently, the committee made a field trip in May and held hearings and meetings in July, August, September, October, and November to review materials prepared by the staff and the agriculture department and to meet with state officials, representatives of industry, and other interested persons and organizations.

The staff is grateful for the cooperation and assistance extended by officials of the agriculture department and the licensing boards, as well as to other persons participating in the study.

Miss Clair Sippel, secretary of the Legislative Reference Office, worked closely with the committee during the study. Phillip E. Jones, senior research analyst, had primary responsibility for preparing staff material, assisted by David Morrissey, research assistant.

December 5, 1962

Lyle C. Kyle
Director

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COMMITTEE FINDINGS AND RECOMMENDATIONS

House Joint Resolution No. 12, 1962 session directed the Legislative Council to conduct a study of the so-called "fee system" in Colorado. Generally, "fee system" is a term used to designate monies collected by state agencies to support regulatory programs involving specific industries or activities. The usual procedure for raising such monies is through a system of license or inspection charges. H.J.R. No. 12 directed the Council to review the relationship of these fees to services and the feasibility of financing certain fee-supported functions from the general fund.

In the conduct of its study, the committee established by the council to carry out this assignment limited its review of fee agencies to the three activities of the State Department of Agriculture which were in the poorest fiscal condition -- poultry and egg inspection, weights and measures inspection, and fruit and vegetable inspection -- and to the licensing boards of the Division of Registration, Department of State.

COLORADO DEPARTMENT OF AGRICULTURE

The Colorado Department of Agriculture is primarily a fee-supported agency, i.e., many of the activities of the department are regulatory in nature, and these programs of the department are largely supported either by inspection charges or through a system of licenses. In viewing three of the regulatory programs of the department (poultry and egg, weights and measures, and fruit and vegetable inspection), the committee encountered two general areas of critical importance to the over-all activities of the department:

- 1) the need for multiple or consolidated inspections; and
- 2) the elimination of departmental cash funds.

In addition, of course, the committee also considered the basic financial structure of the three activities reviewed.

Multiple Inspections

Following two court decisions invalidating the fee programs of the Poultry and Egg Section, State Department of Agriculture, officials were faced with the prospect of being charged with the administration of law but without the funds necessary to carry out a program. With the shortage of monies forcing department officials to reduce poultry and egg inspection personnel, a new program approach was needed if poultry and egg inspection activities were to be continued at any effective level. The only apparent alternative to curtailing poultry and egg inspections seemed to be through a coordination of activities of inspectors in the weights and measures, produce dealers, feed and fertilizer, and poultry and egg sections.

This coordinated inspection force was assigned multiple inspection duties in order to provide regulatory services in all four areas, rather than having individual inspectors concentrate their efforts in one special area. In a sense, the inspectors became generalists, acting in a number of areas, rather than specialists limited to a single area of inspection.

A coordinated inspection program offers these basic advantages:

- 1) better utilization of an inspector's time;
- 2) reduction in travel costs;
- 3) possible reduction in supervisory personnel;
- 4) emphasis on service rather than on collecting fees; and
- 5) a general reduction in over-all inspection expense.

The committee strongly supports this coordinated inspection program as it provides an opportunity to alleviate the continually mounting costs of agricultural inspections, and the committee encourages the department to expand this program wherever it appears feasible.

Elimination of Cash Funds

At present, the agriculture department maintains a separate cash account for each inspection program. Monies are deposited to these respective accounts rather than to the general fund of the state of Colorado. The committee believes that the accounting procedures of the Division of Accounts and Control would be simplified if cash fees collected were deposited directly to the general fund. Such action would reduce administrative costs to accounts and control; however, the agriculture department would still have to maintain a program breakdown of fees collected in order that the relationship of fees to services and costs would be maintained.

The effect of placing all fees in the general fund would be as follows:

- 1) a reduction in accounting costs;
- 2) cash fee agencies would no longer be assessed for fixed building charges of rent, telephone, etc.;
- 3) five and ten per cent deductions from cash fees collected for general fund purposes would no longer be charged to cash funds;
- 4) inspection activities would be supported from the general fund rather than from fees collected, which would provide better program continuity.

It is the consensus of the committee that depositing all cash funds collected directly to the general fund would provide a more equitable and realistic approach to financing the regulatory programs of the department of agriculture. Greater continuity would be achieved because a sudden reduction in monies collected from fees would not mean the immediate curtailment of a given program, and expenditures would be budgeted on the basis of a program and not on the basis of estimated revenues. Department officials would be responsible for seeing that inspection activities received proper emphasis on a program basis according to the intent of the General Assembly and in line with monies obtained through the regulation of respective industries.

A bill reflecting the committee's recommendations concerning the elimination of cash funds is appended hereto for consideration by the General Assembly. It may be noted that the only cash funds excepted in the agriculture department are four revolving and trust funds or accounts - hail insurance, predatory animal control, monies resulting from the sale of vaccine and services, and monies handled under mandatory service contracts.

Weights and Measures Services

The activities of the Weights and Measures Section are solely supported from fees collected from large and small-scale owners and operators, despite the fact that time is spent in inspecting pre-packaged commodities and in providing services to state institutions. In viewing the financing of weights and measures inspection activities, the committee believes that it is inequitable to charge an industry for the support of services not related to the industry. When charges or fees collected from one group or a specific business are used for purposes other than what the fees were originally assessed for, the charge then becomes a tax, and an inequitable tax at that. For this reason the committee believes that the activities of the Weights and Measures Section relating to services to state agencies and to the general public (pre-packaged commodities) should be supported in part by general revenues. The committee has taken into consideration the relative benefit of inspection programs, public versus private industry, in the various alternative fee proposals outlined in succeeding paragraphs.

Levels of Service

For fiscal year 1961, the Weights and Measures Section employed a staff of nine persons (supervisor, assistant supervisor, six agricultural inspectors -- two large-scale inspectors and four small-scale inspectors -- and one clerical stenographer). Total program cost for maintaining this level of service amounted to \$83,914. While personnel remained the same for fiscal year 1962, for fiscal year 1963 the department requested the General Assembly to approve a position of laboratory technician for their standards laboratory; the request was approved, but the department did not have sufficient revenues to support this new position and it was not filled. Total program expense estimated by the department for fiscal year 1963 amounts to \$80,143.

For fiscal year 1964, the department is requesting an increase of five new employees as well as monies for the laboratory technician who was not hired in the current fiscal year. Two of the positions requested will be used for manning two new trucks requested by the department for checking large-scales up to 30,000 pounds capacity. At present a number of livestock scale operators are not receiving service for the license fees they are paying, and the two new small trucks would provide such service. The department is also requesting two positions for small-scale inspection; these personnel would also be utilized in the pre-package area. The fifth position requested is of a clerical nature. The total program cost budgeted by the department for fiscal year 1963-64 is approximately \$165,000. Included in this amount is a capital outlay request of \$15,400, which would cover the cost of the two small trucks and equipment, plus other miscellaneous items.

Alternative Fee Schedules Considered

The committee evaluated two alternative approaches to financing weights and measures inspection activities. Both of these proposals were based on the assumption that agriculture department cash funds would be eliminated, as discussed previously.

Approach Number I. The first proposal would retain the present fees of the agriculture department as follows:

<u>Large-scales:</u>	
60,000 lbs. and over	\$15.00 license fee
4,951 to 60,000 lbs.	\$10.00 license fee
<u>Small-scales:</u>	
451 to 4,950 lbs.	\$ 5.00 license fee
76 to 450 lbs.	\$ 4.00 license fee
75 lbs. and under	\$ 1.00 license fee
<u>Other:</u>	
Fabric meter	\$ 2.50 license fee
Cordage meter	\$ 2.50 license fee
Tanks	\$ 1.00 license fee

Based on these present fees, an estimated \$83,500 would be raised in fiscal year 1963-64. This sum, together with an estimated balance of \$15,000 at the close of the current fiscal year, would provide some \$98,500 for use in financing weights and measures activities in fiscal year 1963-64. The difference between this amount and the requested program of \$165,000 for fiscal year 1963-64 totals \$66,500.

Approach Number II. The second approach to financing the weights and measures program would establish a higher level of fees:

<u>Large-scales:</u>	
40,001 lbs. and up	\$25.00 license fee
30,001 to 40,000 lbs.	\$20.00 license fee
4,951 to 30,000 lbs.	\$15.00 license fee

Small-scales:

451 to 4,950 lbs.	\$ 5.00 license fee
76 to 450 lbs.	\$ 4.00 license fee
75 lbs. and less	\$ 2.00 license fee

Other:

Fabric meter	\$ 2.00 license fee
Cordage meter	\$ 2.00 license fee
Tanks	\$ 2.00 license fee

Approach Number II would raise an estimated \$120,830 which together with the balance carried over would provide approximately \$135,830 available for expenditures in fiscal year 1963-64, or a difference of some \$29,170 between the program request of \$165,000 and estimated revenues.

Committee Recommendations

After reviewing the activities and financial program of the Weights and Measures Section within the agriculture department, the committee has concluded that unfair advantage has been taken of the licensees who pay the fees to support this work. This situation has resulted through no fault of agriculture department officials, however, as they have merely been carrying out their duties as set forth in the law relating to the inspection of pre-package goods and the testing of standards for state institutions.

The committee consequently is recommending no change in the present fee structure relating to weights and measures, but the committee believes the state should appropriate \$20,000 from the general fund, in addition to fee receipts, as the public's annual share or contribution for support of the inspection of pre-package goods and for services provided to state institutions. If this were done, not only would an equitable financing program be established but the department should also be able to provide better service to the licensees who pay directly to support this activity.

Poultry and Egg Inspection

In fiscal year 1960-61, the poultry and egg inspection activities of the Department of Agriculture were conducted by a staff consisting of a supervisor, one assistant supervisor, nine agricultural inspectors, and three clerical employees. For the following fiscal year, 1961-62, staff reductions of one agricultural inspector and one clerical position were made. During the ensuing fiscal year of 1962-63, the activities of poultry and egg inspection were greatly curtailed because of two court decisions invalidating the assessment of fees levied for the support of the inspection programs, i.e., five additional employees were discharged because of insufficient revenues to support the poultry and egg program -- four agricultural inspectors and one clerical position. If there are no further reductions in personnel for the current fiscal year, the staff for the remaining six months of fiscal year 1962-63 will consist of a supervisor, an assistant supervisor, four agricultural inspectors, and one clerical employee.

As previously mentioned, as a result of the reduction in personnel, the department has coordinated inspection activities in order that the poultry and egg industry will receive a minimum level of service. However, for fiscal year 1963-64, the department is requesting the re-establishment of levels of service of personnel equivalent to that of fiscal year 1960-61. The department is making this recommendation even though it intends to continue the development of an integrated inspection program.

Alternative Fee Schedules Considered

The agriculture department is requesting an appropriation of approximately \$110,000 for fiscal year 1963-64 for poultry and egg inspection. In reviewing the department's need for a new program of fees for its poultry and egg inspection activities, the committee considered five alternative approaches, again based on the assumption that departmental cash funds would be eliminated.

Approach Number I. The first approach would generally continue the fee schedules much the same as they existed before being successfully challenged in the courts. In fiscal year 1959-60, which was the last full year under this fee schedule, approximately \$80,000 was collected. These fee schedules are:

Eggs:

Class I retailer	- under \$50,000 gross sales	- \$ 2.00 license fee
Class II retailer	- \$50,000 to \$100,000 gross sales	- \$ 5.00 license fee
Class III retailer	- \$100,001 to \$200,000 gross sales	- \$12.00 license fee
Class IV retailer	- \$200,001 to \$500,000 gross sales	- \$15.00 license fee
Class V retailer	- \$500,001 and over gross sales	- \$25.00 license fee
Class I wholesaler	under 50 cases per week	- \$ 25.00 license fee
Class II wholesaler	50 to 100 cases per week	- \$ 50.00 license fee
Class III wholesaler	101 to 250 cases per week	- \$200.00 license fee
Class IV wholesaler	251 to 750 cases per week	- \$300.00 license fee
Class V wholesaler	751 cases and up per week	- \$500.00 license fee

In addition, annual fees would also be charged to assignment receivers - \$15.00 license fee; delivery trucks of wholesalers, etc. - \$25.00; class I egg breakers - \$25.00; class II egg breakers - \$50.00; and candler's license - \$2.00.

Poultry: A one-fourth cent per bird fee would be charged on all poultry processed by wholesalers in Colorado. In addition, the following license fees would be imposed:

Dealers selling to wholesalers	--	\$10.00 license fee
Wholesalers	- - - - -	\$20.00 license fee
Retailers	- - - - -	\$ 2.50 license fee

Approach Number II. The second alternative considered by the committee would raise an estimated \$92,000 in fiscal year 1963-64, based on the following fee charges:

		Annual License Fee
<u>Eggs:</u>		
Class I retailer	five cases or less per week	\$ 2.00
Class II retailer	six to ten cases per week	\$10.00
Class III retailer	11 to 20 cases per week	\$20.00
Class IV retailer	over 20 cases per week	\$30.00

		Annual License Fee
<u>Eggs:</u>		
Class I wholesaler	(25 or less cases per week)	\$ 25.00
Class II wholesaler	(26-100 cases per week)	\$ 50.00
Class III wholesaler	(101-200 cases per week)	\$100.00
Class IV wholesaler	(201-400 cases per week)	\$200.00
Class V wholesaler	(401-600 cases per week)	\$300.00
Class VI wholesaler	(over 600 cases per week)	\$500.00

Poultry: Provide an annual license fee of \$20 per truck or establishment on all dealers engaged in the buying or selling of poultry and rabbits, excluding producers selling their own product only, plus a one-fourth cent per bird fee on poultry processed by wholesalers for sale in Colorado.

Approach Number III. Under Approach Number III, an estimated \$65,000 would be raised in fiscal year 1963-64. The egg fees would be revised in the same manner as outlined in Approach Number II, but an annual poultry license fee would be provided as follows:

		Annual Fee
Class I wholesaler	up to 10,000 lbs. per year	\$ 10.00
Class II wholesaler	10-50,000 lbs. per year	\$ 25.00
Class III wholesaler	50-250,000 lbs. per year	\$ 100.00
Class IV wholesaler	250-500,000 lbs. per year	\$ 500.00
Class V wholesaler	500-1,000,000 lbs. per year	\$1,000.00
Class VI wholesaler	over 1,000,000 lbs. per year	\$1,500.00

Approach Number IV. This proposal would establish the following fees for the egg industry: 1) \$2.00 annual license for all persons selling, buying for resale, receiving, candling, egg breaking, or shipping poultry eggs into Colorado; and 2) a fee of five cents per case on all eggs sold in the state. This schedule would raise an estimated total of \$84,600, with \$75,000 of this amount being collected from the charge of five cents per case (or one sixth cent per dozen). (If this latter fee were dropped to two and one-half cents per case, estimated revenues would be \$37,500, and at two cents per case an estimated \$30,000 would be received.) Poultry fees would be the same as those contained in Approach Number II and would raise an estimated \$43,200.

Approach Number V. This combination would utilize the egg inspection fee outlined in Approach Number IV, at a five-cent per case charge, while the poultry fee would be the same as Approach Number III a license fee on wholesalers, raising an estimated \$15,815). Approach Number V would raise an estimated \$100,415 for fiscal year 1963-64.

Committee Recommendations

The committee believes that the best program to finance the poultry and egg inspection program is contained in Approach Number IV and recommends that the General Assembly consider establishing the following schedule of fees: for eggs, a \$2.00 annual license fee for all persons selling, buying for resale, receiving, candling, egg breaking, or shipping poultry eggs into Colorado, and an inspection fee of five cents per case on all eggs sold in the state. For poultry, an annual license fee of \$20 per truck or establishment on all dealers engaged in the buying or selling of poultry or rabbits, excluding producers selling their own product only, and a one-fourth cent per bird fee on poultry processed by wholesalers for sale in Colorado. This combined fee program is estimated to raise approximately \$127,800 in fiscal year 1963-64.

Fruit and Vegetable Inspection

As may be noted in the accompanying research report, the point has been reached where revenues from fruit and vegetable inspection charges are no longer adequate to meet rising inspection costs. There seems to be three basic alternatives available to overcome this situation:

- 1) increase inspection fees;
- 2) draw on general fund support; or
- 3) reduce operating costs by changing the program.

The committee has reviewed these three alternatives in some detail and, based on this study, believes that the present compulsory inspection program of fruits and vegetables is no longer meeting the needs of industry. It is therefore recommending that fruit and vegetable inspection in Colorado be placed on a non-compulsory or optional basis and that growers or processors requesting inspection services contract for such services at cost with the State Department of Agriculture. The committee realizes that a non-compulsory program may not provide the same level of service as at present, but a new optional type of program appears to be the best solution.

OTHER CASH FUND AGENCIES REVIEWED

In regard to the other cash fund agencies reviewed, the committee voted to make no specific recommendations other than to pass on to the General Assembly the material contained in the accompanying research report. The committee concluded that the various problems of these agencies are primarily of concern to the respective professions involved and that they should work through their own associations for legislative action concerning fees, activities, etc. In view of the request for an investigator by several of these boards, the committee believes that any specific complaints should be reported to the office of the Attorney General for any necessary action.

REVIEW OF VARIOUS FEE-SUPPORTED ACTIVITIES IN COLORADO

House Joint Resolution Number 12, 1962 session, directed the Legislative Council to conduct a study of the so-called "fee system" of the State of Colorado with particular reference to the advisability of financing certain general government functions from fees, and the relationship between the services rendered and the fees charged for those services.

Generally, the fee system in Colorado is based on the philosophy of the state charging fees to specific groups or industries for the purpose of supporting activities or programs of prime benefit to the respective industries concerned. Such charges are usually made through a system of fees for licenses, examinations, inspections, etc. Although in many cases the licenses and examinations are mandatory for individuals or firms participating in a specific activity, the required fees are not considered as taxes for two reasons: 1) the levy affects only specific groups; and 2) the major portion of the fees received are used to support the service or program administered by the state on behalf of the industry affected.

The following example may help to clarify the difference between an occupation tax and a fee program: a barbershop may be subject to an occupation tax in a specific community as a part of general purpose revenue similar to any other business in the community; however, a state-wide fee program in which the barbershop secures a license from the State Board of Barbers' Examiners as part of a state program regulating barber activities is entirely different. In the one instance, the revenue is assessed for general governmental purposes, while in the latter monies are raised for a single program affecting one industry only. Also, the latter charge has the support of the members of the industry affected, at least for the most part.

There appear to be three basic concepts for the development of the fee method of financing in Colorado:

- 1) to finance programs established for service to a given industry rather than for the benefit of the general public;
- 2) to support programs primarily created for service to an industry, even though particular aspects of the program are of such a nature that the public interest is served; and
- 3) to raise monies to finance regulatory programs protecting the public interest from abuses of a specific type of industry or activity.

Study Procedure

In viewing the fee system in Colorado, the committee examined various state programs on an individual basis, reviewing the relationships among the services provided to respective industries, determining who benefits from such services, the methods of financing the programs, and whether these relationships have changed significantly since the laws were enacted to establish the programs. In considering

the different aspects of the programs studied, the committee utilized materials presented by state agencies, interested groups, and its staff; conducted meetings with state officials; made one field trip to observe poultry and egg processing; and held hearings with industry and consumer representatives.

Scope of Committee Inquiry

The committee limited its study of the problems of fee agencies to three areas:

- 1) the Colorado State Department of Agriculture (fruit and vegetable inspection service, weights and measures inspection, and poultry and egg inspection);
- 2) the State Board of Stock Inspection Commissioners; and
- 3) a consideration of the problems of various licensing boards under the division of registrations of the Department of State. Licensing boards contacted during the course of the study were:

Abstracters' Board of Examiners,
Accountancy Board,
Architects' Board of Examiners,
Athletic Commission,
Barbers' Board of Examiners,
Basic Sciences Board of Examiners,
Chiropractic Board of Examiners,
Collection Agency Board,
Cosmetology Board,
Dental Board of Examiners,
Electrical Board,
Professional Engineers' Board of Registrations,
Funeral Directors' and Embalmers' Board,
Medical Examiners' Board
Professional Nurse Examiners' Board,
Practical Nurse Examiners' Board,
Optometric Examiners' Board,
Pharmacy Board,
Physical Therapy Board,
Real Estate Brokers' Board,
Professional Sanitarians' Registration Board,
Shorthand Reporters' Board, and
Veterinary Medicine Board.

Of the licensing boards listed, the committee devoted detailed attention to eight boards which had indicated problems to the committee: Barbers' Board of Examiners, Chiropractic Board, Cosmetology Board, Electrical Board, Medical Examiners' Board, Practical Nurse Examiners' Board, Real Estate Brokers' Board, and Veterinary Medicine Board.

STATE DEPARTMENT OF AGRICULTURE

To a considerable extent the activities of the State Department of Agriculture are of a regulatory nature and its programs are supported largely by license and inspection fees. Three of the department's programs supported by fees have encountered financial difficulties -- poultry and egg, weights and measures, and fruit and vegetable inspection -- and the committee agreed to devote its attention to these three areas. The financial crises of these programs resulted from two court decisions invalidating the financing of the poultry and egg programs; insufficient and inequitable financing of the weights and measures program, since revenues from the licensing of large and small-scales are currently supporting the activities of the department relating to packaging and service to state agencies; and the mounting costs of inspection of fruit and vegetable program in which revenues are no longer adequate to meet existing levels of service.

Poultry and Egg Inspection

The financial problems of the poultry and egg section of the State Department of Agriculture may be attributed to two recent court decisions.

In May of 1960, nine large Denver poultry wholesalers filed a civil action against the State Department of Agriculture and members of the Agriculture Commission, attacking the constitutionality of a section in the law¹ delegating to the Agriculture Commission the right to set inspection fees on poultry. The court affirmed the plaintiff's contention, finding such delegation of legislative powers unconstitutional. The 1961 General Assembly adopted legislation setting the level of fees established by the commission, but the bill (House Bill No. 48) was vetoed by the Governor at the recommendation of the Attorney General on the ground that one section was probably unconstitutional. In 1962, the General Assembly declined to pass a bill re-establishing a level of fees for the poultry inspection program.

In regard to egg inspection, Judge George McNamara of the Denver District Court ruled in April of 1962 that Colorado's egg law is discriminatory and ambiguous, pointing out that the state was assessing fees on the basis of total food sales, while the law must be interpreted to base fees on total egg sales. Also, the court held that the classification of fees in the law exempted retailers with sales between \$50,000 and \$50,999, \$100,000 and \$100,999, etc., thus making the law discriminatory.

Both court decisions, in effect, eliminated the revenue aspects of the programs, nullifying to some degree the ability of the department to provide inspection services to the poultry and egg industry in Colorado.

1. Section 7-10-6, C.R.S. 1953.

Poultry Inspection

Poultry inspection in Colorado is conducted through both the United States Department of Agriculture (U.S.D.A.) and the Colorado State Department of Agriculture. The U.S.D.A. maintains so-called "on-line inspections" in three poultry processing plants in Colorado; the federal inspector (on the line) checks poultry for grade as well as for diseased or adulterated birds. These three plants process a sufficient amount of poultry (95 per cent of the poultry processed in Colorado) both for intrastate and interstate shipments to qualify for the services of a full-time federal inspection force. However, the few small poultry processors in Colorado cannot qualify for the federal inspection service, and they therefore depend on inspections performed by the Colorado Department of Agriculture.

The Colorado Department of Agriculture conducts poultry inspection at slaughter plants, processing plants, wholesale houses, retail stores, and for restaurants, institutions, hospitals and schools. These inspections are conducted to insure that poultry is processed under proper sanitary conditions, meets grade standards, and is wholesome. The Colorado Department of Agriculture does not inspect poultry for disease.

Inspection Process. Most poultry inspections conducted by the department are at the retail level. Inspectors check fresh birds for bruises, blood clots, broken bones, skin tears, fleshiness, carcass conformation, missing parts and pin feathers, as well as for wholesomeness. Frozen birds are examined for freezer burns, dehydration, and for improper handling and freezing methods. While inspecting slaughter plants, inspectors conduct sanitary examinations of floors, walls, equipment, tools, water supply, and waste disposal; they observe cleanliness of personnel; check to see that adequate washing facilities are available; and follow the general operational procedure in regard to killing, eviscerating, cutting, wrapping, grading, labeling, and storing of poultry.²

Summary of Hearings on Poultry Inspection. In testimony before the committee, agriculture department officials reported that poultry inspection is of substantial benefit to the consuming public since these inspections are conducted primarily for grade and condition. Very few consumers, according to department officials, are familiar enough with poultry to identify grades of birds, especially when the product is cut-up or frozen. Food shoppers find it almost impossible to determine such characteristics as fleshiness, meatiness, and discoloration in a cut-up product, department officials report, and in such cases the grade label is the only way in which a housewife is assured of purchasing a top quality product.

Other arguments presented by members of industry supporting the state program include the following: operators of small processing plants that cannot qualify for federal inspections are in need of the state inspection service; there is need for an inspection service to check for breakdowns in condition from the time the poultry leaves the

2. Department of Agriculture Memorandum, Poultry and Egg Inspection Service, May, 1962.

plant to the time it reaches the consumer; a grading program minimizes the mixing of grades of cut-up poultry; and grading is the only guarantee the consumer has of a top quality product.

Testimony presented to the committee indicated that in regard to developing adequate revenues, the retailers generally supported the concept that a one-fourth cent per bird charge for every bird processed by the wholesalers would provide the needed monies, and such a charge would not be inequitable since the wholesalers could pass the cost on to the retailers. This position was repudiated by the wholesalers who contended that competition prevents such charges from being passed on.

Arguments presented to the committee by large wholesalers in opposition to the state poultry inspection program were as follows:

- 1) Colorado is one of only a few states having a mandatory grading law for poultry;
- 2) state inspections are made for grade only, and it is possible to have an adulterated bird or diseased bird certified as Grade "A" by the State Department of Agriculture;
- 3) inspections are primarily made at the retail level, while support for the activity has been largely charged to wholesalers;
- 4) it is impossible to grade cut-up birds or frozen birds;
- 5) poultry plants can be inspected for sanitation by the health department, and birds may also be inspected at the retail level for wholesomeness by the local health inspector;
- 6) adequate federal inspection exists at the wholesale level, thus it is not necessary to inspect birds at the retail level;
- 7) a bird may be cut-up, in part, to meet an "A" grade, and department officials oppose the mixing of grades; and
- 8) inspection at retail level ought to be for wholesomeness and not for grade (this argument also was supported by Dr. Harvard Larson, Denver Department of Health).³

Egg Inspection

The Colorado Egg Law. Sections 7-11-1 through 7-11-6, C.R.S. 1953, as amended, regulate the following: candling, grading, classification, importation, refrigeration, labeling, advertising, licensing, enforcement, and penalties for violation of the law. The egg law also requires that all eggs sold in Colorado must be candled and edible; prevents the sale of eggs below Grade "B" to retailers or consumers; provides that eggs be graded for size and that cartons must be labeled with the grade, size, date of candling, and license number of the dealer or producer; and that advertisements be required to list grades and prices in equal size type.

3. Committee on Fee Systems, Minutes of Meeting, May 25, 1962.

Inspections are performed at the wholesale, retail, producer, and consumer levels; however, the greater part of the inspector's time is devoted to retail inspection. Inspectors examine cartons (95 per cent of all eggs are sold in cartons) to see that they are clean, properly and plainly labeled, and that the eggs conform to the quality and size indicated on the carton. The quality of eggs are guaranteed for eight days by the wholesaler, and if the inspector finds that the eggs are below grade, they may either be returned to the wholesaler, down-graded, or removed from retail sale. If the eggs have not been candled within eight days, the retailer is responsible for recandling.

Results of Committee Hearings. The committee hearing with members of the egg industry (producers, wholesalers, and retailers) and officials of the department agriculture brought forth these comments:

- 1) egg producers and retailers generally support the egg inspection law;
- 2) Colorado egg producers need an egg grading law to meet competition of states producing eggs at less cost, i.e., competition can be met by Colorado producers on a quality basis only;
- 3) producers and retailers believe the egg law protects consumers and therefore the program should receive at least partial support from the general fund;
- 4) a quality egg can be sold at a better price; and
- 5) the decline in egg production in Colorado since 1950 represents a considerable loss to Colorado's over-all economy.

Generally, an egg grading program is essential to consumers and retailers desiring a top quality product since neither can determine the edibility of an egg from outward appearances. Only through candling may the quality of an egg be determined, and even a fresh egg may be bloody, wormy, or rotten.⁴

Level of Service of Poultry and Egg Inspections

In 1960, prior to the court decisions invalidating the fees collected for poultry and egg inspections, the poultry and egg section of the department of agriculture was staffed with the following personnel: a supervisor, one assistant supervisor, nine agriculture inspectors, one senior clerk-stenographer, and one clerk-stenographer, plus occasional temporary clerical help.⁵ At this time, the poultry and egg section concentrated its activity in the area of poultry and egg inspection only. However, for fiscal year 1962, due to the lack of funds for carrying out inspection activities, even though the department is charged with the responsibility of administering the law, the department has instituted a coordinated inspection service involving the inspectors of the weights and measures section, poultry and egg

4. Committee on Fee Systems, Minutes of Meeting, May 25, 1962.

5. Research Publication No. 40, Colorado Legislative Council, The Colorado State Department of Agriculture, page 44.

service and produce dealers. The present program is in a state of flux and the department is unable to ascertain the amount of fees it will collect for the current year. Monies collected will determine the number of inspectors the department is able to retain for the remainder of the current year and if collections decline much further, the department will have to reduce its present personnel.

Weights and Measures Inspections

The Colorado General Assembly adopted a weights and measures law in 1953 (Chapter 151, Article 1, C.R.S. 1953, as amended by Chapter 325, Laws of 1955) to provide for the regulation of all measured quantities sold and distributed in the state. The law protects both merchants and the general public through the inspection of measuring devices used in all types of commercial activity and through an examination of pre-packed commodities.

Activities

The activities of the weights and measures section are conducted by the following personnel: supervisor, one assistant supervisor, two large-scale inspectors, and four small-scale inspectors. Utilization of the weights and measures' staff on a program basis is summarized in Table I.

Table I

SUMMARY OF PROGRAM EMPHASIS OF WEIGHTS AND MEASURES SECTION* Fiscal Year 1962-1963

<u>Item</u>	<u>Ratio of Manpower Time</u>	<u>Estimated Expenses</u>	<u>Estimated Revenue</u>
Large-scale testing	1.99	\$17,631	\$33,325
Small-scale testing	4.37	37,668	48,303
Meters, tanks, etc.	1.14	9,617	1,944
Pre-pack testing	.79	9,617	0
Service to state agencies	<u>.71</u>	<u>5,610</u>	<u>0</u>
Totals	9.0	\$80,143	\$83,572

* Source: Department of Agriculture.

It may be noted that on the basis of the comparison of services, revenues, and expenses outlined in Table I, both the large and small-scale testing programs are adequately financed to meet the present levels of inspection in these areas; however, no revenues are made available for either checking pre-packaged commodities or for services rendered to state agencies. The department reports that a significant part of the time devoted to state agencies is performed in service to the ports of entry, which require constant checks on the agency's electronic truck scales.

Committee Hearings

Representatives of consumer interest groups who were testifying on behalf of the weights and measures program pointed out that:⁶

- 1) a system of license fees based on what it costs to test various scales seems to be a fair and equitable method of financing such programs;
- 2) services provided to state agencies may need to be accounted for and charged to the general fund rather than to licensed scale operators;
- 3) general fund support also may be the only alternative for supporting a program of testing pre-packaged commodities, and, in any event, such activities ought not to be charged to large and small-scale owners;
- 4) there is definite need for increased emphasis of inspection in the pre-package area to prevent deceptive packaging practices (the indiscriminate use of fractional weights; false or misleading statements regarding so-called "economy packs"; odd shaped packages intended to mislead the purchaser regarding content; unclear or misleading labeling; and oversized packages designed to reflect greater content than actually is contained in a package); and
- 5) in the past decade, the grocery business has gone through a rapid expansion of the pre-packaged commodities and all indications point to continuation of this trend in the immediate future.

The Colorado Grain and Feed Dealers' Association stated that large-scale licenses are paying more than their share in support of weights and measures activities, pointing out that their monies are being used to test commodities other than large-scales, namely, packages packed out-state and having no relation to their activities. For this reason, they stated that present fees are adequate even though department of agriculture officials indicate that there is a need for the addition of two small trucks, since small-truck or livestock-scales scattered throughout the state are not at present receiving adequate service. In voicing opposition to any increase in fees on large scales, the feed dealers stated: "It is a known fact that increased costs of this nature in any industry must be passed on either indirectly or directly to the users of the scales involved either through fees for the use of that scale or in higher margins on grains and other merchandise handled over that scale. The agriculture communities are the users and beneficiaries of these scales and should not be charged for inspection services for which they are not receiving the full benefit."

6. Committee on Fee Systems, Minutes of Meeting, July 17, 1962.

Fruit and Vegetable Inspection

The fruit and vegetable inspection program is conducted through the joint efforts of the U.S.D.A. and the Colorado Department of Agriculture. There are two basic aspects to the inspection program: 1) shipping-point inspections; and 2) receiving-point inspections. The shipping-point program is carried out by the Colorado Department of Agriculture, even though a federal supervisor is responsible for over-all direction of the program, while receiving-point inspections are conducted by the U.S.D.A. The purpose of the joint federal-state program is to provide grade standards by which growers, shippers, carriers, and dealers or receivers may have some basis on which to negotiate contracts or settlements. The inspection service provides an impartial service for determining the quality of a product, thus minimizing situations in which disputes may arise.

Personnel

The Colorado fruit and vegetable inspection program is conducted under the direction of a federal supervisor, but all other employees are hired by the state. The state personnel include three district supervisors (Monte Vista, Greeley, and Grand Junction), one clerk stenographer, four account clerks, and an inspection force of more than 100 part-time (seasonal) federally-licensed inspectors. The number of inspectors will vary each year according to crop productions throughout the state. For instance, in 1960-61 approximately 91 part-time inspectors were employed, or about 25 per cent less than normal.⁷

Inspection Procedure

During an actual inspection, a representative sample of the packed produce is measured, weighed, and trimmed to determine waste caused by defects, or product samples may be cut to check for internal quality. All such information is utilized in the determination of the grade of the shipment.

In a packing house operation that is attempting to maintain a grade standard and where a product falls below grade, the produce is often re-packed or re-sorted when an inspector finds that standards are no longer met. In such situations the inspector is actually performing a quality control service for the packing house. Following shipment of a product, the dealer receiving the goods may request a receiving-point inspection, if he deems that a product is not in grade. The federal receiving-point inspector conducts the same type of representative examination to determine grade or verify the shipping-point grade. In this way, both the producer and receiver are protected in contracting for shipments of perishable food commodities.

7. Department of Agriculture Memorandum, Colorado Federal-State Fruit and Vegetable Inspection Service, June 5, 1962.

Finances

The cost of support of the shipping-point inspection program is borne by the producer. The maximum fee charge permissible by law (Section 7-6-19, C.R.S. 1953) is \$12.00 per carlot for the inspection service. Due to increases in salaries, travel, and administrative expenses, cost of operation of the inspection service has more than doubled in the past twenty years. The increased costs of the service have reached a point where the maximum \$12.00-per-carlot fee is no longer adequate.

Table II provides a comparison of receipts and expenditures for fiscal years 1950-51 through 1960-61. The rapid reduction in the balance for fiscal year 1960-61 may be attributed to a short crop year as well as to the general increase in inspection costs. Table II does not give the complete financial picture, however, since it does not indicate that individual inspection fee charges have increased during the ten-year period and are at the maximum amount allowed by law. Thus, the Agricultural Commission which is vested with authority to set fees within the maximum \$12.00-per-carlot limit is no longer in a position to raise carlot fees to meet rising costs. Other action is now needed to meet the financial needs of the fruit and vegetable program.

Hearing With Fruit and Vegetable Industry

In testimony before the committee, producers associated with the perishable fruit industry testified on behalf of continued activities of the fruit and vegetable inspection service.

A large part of the monies supporting the activities of the fruit and vegetable service are derived from the inspection of fruits on the Western Slope and of potatoes in the San Luis Valley and Northeastern Colorado. Views of these growers are of considerable importance to the program, and such views may be summarized as follows:⁸

The perishable fruit growers believe that a shipping-point inspection program, verified at the receiving-point, is an integral part of the peach program in Western Colorado. A perishable crop breaks down rapidly and growers need to be protected from losses due to transportation problems and also to be assured that contracts will be fulfilled at the receiving-point. Furthermore, the peach growers generally support inspection as essential to maintain quality control and to limit shipments to a top grade product.

Potato growers are becoming dissatisfied with the fruit and vegetable shipping-point inspection program as a result of new procedures within the industry. The potato growers believe that shippers and receivers are now receiving the principal benefit of shipping-point inspection while the growers are paying the costs. The burden of cost of the \$12-per-carlot fee is becoming too high in view of the shrinking margin of profit to growers and, for this reason, potato growers are asking for the use of general fund monies to supplement inspection fees. The growers cited other states providing such

8. Committee on Fee Systems, Minutes of Meeting, July 17, 1962.

support: Illinois \$64,000; Minnesota \$40,000; Wisconsin \$15,000; Michigan \$210,000; and Arkansas \$60,000. Moreover, potato growers believe that a significant reason for the high cost of inspection is the salary increases of inspectors enacted by the General Assembly and that in all fairness the General Assembly should consider assuming part of this additional cost through a general fund appropriation.

In conclusion, the point has been reached where growers are no longer willing to pay for an increase in inspection costs; however, they still feel that there is definite need for an inspection program.

Alternatives to Present Program

In view of industry testimony and information supplied by agriculture department officials, there seems to be increasing dissatisfaction among the growers regarding the compulsory fruit and vegetable inspection. Only perishable fruit growers and growers participating and supporting marketing orders seem united in support of inspection. The major reason for dissatisfaction appears to be the costs involved, especially since the program is compulsory. The present maximum charge for a carlot inspection is \$12.00, and State Department of Agriculture officials report that the fruit and vegetable inspection program cannot maintain present levels of service at this maximum \$12.00-per-carlot fee.

The problem is further aggravated in that certain areas of inspection, namely, the peaches on the Western Slope and the San Luis Valley potatoes, are reported to be paying more for inspection than actual costs involved, while inspection costs exceed revenues for other crops where harvests are not so concentrated.

As a general summary, the cost of fruit and vegetable inspection has risen disproportionately to farm product prices due to the fact that salary increases for inspectors are in no way related to prices received for goods. Furthermore, inspection costs have also risen due to changes in marketing; for instance, products are being packed as they are harvested and growers are shipping directly to metropolitan areas, rather than bringing products to central rail docks. Thus inspectors must spend more time traveling than formerly which results in fewer hours available per day for inspections. The inevitable result is increased inspection costs, which growers no longer feel they can afford.

First of all, the inspection force mostly consists of part-time employees hired on a seasonal basis for a particular harvest. Many of these men are experienced inspectors and perform similar inspections in other states. Salaries of inspectors appear reasonable in relation to salaries of other state employees; however, these men are paid whether they are inspecting or not. Consequently, the basic problem is maximum utilization of the inspection force to keep costs down. The more inspections per man or the more products inspected per man, the lower the inspection costs.

Table II

COLORADO FEDERAL-STATE FRUIT AND VEGETABLE INSPECTION SERVICE,
VOLUMN OF WORK AND FINANCIAL COMPARISON, 1951 THROUGH 1961*

<u>Season</u>	<u>Carload Equivalents Inspected</u>	<u>Income</u>	<u>Expense</u>	<u>Payment to General Revenue</u>	<u>Treasurer's Balance Beginning Fiscal Year</u>
1950-51	30,978	\$240,835.93	\$207,053.44	\$28,512.57	\$ 71,986.98
1951-52	23,318	169,448.72	213,099.95	19,115.42	125,621.93
1952-53	34,336	271,745.44	270,715.41	27,149.54	87,902.03
1953-54	31,629	274,464.77	281,355.98	27,443.98	88,932.06
1954-55	33,346	294,460.65	295,917.52	26,163.31	82,040.85
1955-56	28,944	270,332.98	272,112.78	13,516.66	80,583.98
1956-57	33,127	326,925.69	324,703.83	16,346.28	78,804.18
1957-58	34,276	341,826.99	348,903.15	17,090.88	81,026.04
1958-59	39,473	410,317.64	387,066.42	20,515.88	83,281.67
1959-60	32,251	336,598.97	387,785.20	21,454.65	106,532.89
1960-61	28,553	309,377.53	333,820.57	15,468.85	<u>55,366.66</u>
					\$ 36,281.89**

* Source: Department of Agriculture Memorandum, Colorado Federal-State Fruit and Vegetable Inspection Service.

** Balance June 30, 1961.

There seem to be three basic alternatives for maintaining financial support of the fruit and vegetable inspection program: 1) increase inspection fees; 2) draw on general fund support; and 3) reduce operating costs, perhaps through a non-compulsory program. An increase in inspection fees will draw opposition from a number of growers. The second alternative, general fund support, may receive opposition from urban legislators based on the belief that this type of shipping-point inspection is of little benefit to the consumers. The third alternative may be the most difficult to achieve as it would require some changes in the basic inspection program.

Elimination of Compulsory Inspection. A large number of states do not require compulsory shipping-point inspections. In such states, marketing orders are enforced through standardization programs. For instance, both Arizona and California utilize standardization programs. A standardization program involves the field inspection of a crop, rather than inspection of the commodity as it is packed for shipment, as in the case of shipping-point inspections. Head lettuce (non-compulsory item) has been inspected on a field basis this past season in Colorado. Not all products, however, may be so readily checked on a field basis. Most potato growers do not believe that a standardization program, involving field inspection, could be adapted to their product. In any event, non-compulsory inspection directly affects marketing orders and provisions would need to be made to provide a program of standardization for products covered by such orders in the event a non-compulsory program were adopted.

Regarding the feasibility of a non-compulsory program, Representative Noble Love, a potato grower and processor in Weld County, stated: "Growers in Colorado have reached the point where they no longer can afford to support a deluxe shipping-point inspection program. At the present time, dealers operating packing sheds are in favor of maintaining inspectors at their sheds on a full-time basis for their convenience, i.e., inspectors provide quality control inspections but the cost of the service is charged to the producer. Also shed foremen can provide adequate inspections most of the time, leaving inspectors free to check on sheds in the initial stages of operations of a season or for special problems. Furthermore, compulsory inspections are not essential to maintain state or national marketing orders. A shipping-point inspection is not always the determining factor in establishing price, and the dealer who performs his own inspection and presents a quality product regardless of grade will generally receive a better price. Perhaps, if industry could be charged for the seasonal costs of the fruit and vegetable service, while the general fund could be used for supporting the full-time supervision of the program, an equitable financing of the program would be achieved."

Also, in regard to an optional inspection program, Mr. Paul Swisher, state commissioner of agriculture, stated to the committee at the September 17 meeting: "The fruit and vegetable program is operating with very little financial margin. The maximum carlot fee of \$12.00 is no longer sufficient to maintain the program in the face of rising costs. In view of this cost-price squeeze an alternative approach of optional inspection may provide the necessary service at an over-all lower cost to the producer. Colorado is one of only four states requiring a mandatory shipping-point inspection program, and an optional program would allow the department to provide inspection

on a contractual basis, minimizing lost time due to maintaining inspectors on stand-by status, especially since a considerable amount of fruit and vegetable inspection funds are supporting inspectors in an area at times when producers are not shipping. The optional program would encourage marketing boards of control to plan their shipping programs and to contract for inspections accordingly. In this way inspectors would utilize their time to a maximum. Thus, the over-all cost to producers calling for inspections would probably not exceed the present \$12.00 per carlot."

Multiple Duties for Inspectors. Mr. Virgil Holt, supervisor of fruit and vegetable inspections, stated during hearings held by the 1959-60 Committee on Agriculture, Colorado Legislative Council, that a full-time force of approximately one-third the present number of part-time inspectors could handle all fruit and vegetable inspection in Colorado. A full-time force would be more efficient, as it would not have to engage in yearly training programs, etc. The cost of maintaining a full-time inspection force would be quite high; however, if such a force were integrated into an over-all agricultural program, with an entire inspection force trained and equipped to handle problems in weights and measures, poultry and egg, produce licensing, feed and fertilizer, refrigerated lockers, etc., perhaps the total program cost would not be much higher or even less.

The program emphasis of an integrated agricultural inspection force would fluctuate according to growing seasons; during the winter months, emphasis would be concentrated on retail outlets, or in the areas of weights and measures, etc. Such a program would, in effect, be an extension of the inspection activities of the department at present, regarding poultry and egg, i.e., the department has announced that it is maintaining a minimum level of inspections of poultry and eggs despite curtailment of funds. Weights and measures inspectors and produce inspectors are now performing some integrated inspections in the poultry and egg area.

While an integrated program might reduce the number of inspections in a given area (for instance, small-scale testing), especially during the harvest seasons when inspectors are needed for fruit and vegetable inspections, the advantage of a reduction in such service, at a particular time, might be more than compensated for by alleviating the cost-price squeeze regarding fees that the department is constantly faced with. Also, a minimum number of inspections could be maintained in each area during periods of special program emphasis as required by the harvest seasons.

A further advantage of an integrated program is that all fees could be placed in the general fund and through cost accounting methods the question of public versus industry benefits could be determined and appropriate charges made accordingly.

The concentration of personnel in an integrated program would also be significantly different. There would no longer be the need for a supervisor for a particular type of inspection; instead such personnel could be assigned field responsibilities. Also, a standardized license procedure could be adopted using punch cards; this would allow simplification of licensing procedures, thereby reducing the number of administrative personnel and the cost of processing licenses.

STATE BOARD OF STOCK INSPECTION

The State Board of Stock Inspection was created at the turn of the century for the purpose of recording and inspecting brands used in the identification of livestock in order to prevent illegal transportation and sale of livestock in Colorado. The board consists of five commissioners appointed by the governor for five-year terms. Policies and regulations adopted by the board are administered under the direction of a brand commissioner and a staff of 52 full-time employees and 22 part-time employees.

Table III presents a breakdown of revenues and expenditures for fiscal years 1958 through 1963. During this five-year period, expenses of the board have increased from \$307,082 to an estimated \$443,552. This increase may be attributed, for the most part, to the increase in personal services, from \$236,775 in fiscal year 1958 to \$336,853 estimated for fiscal year 1963.

It may also be noted that although the services of the State Board of Stock Inspection Commissioners are primarily for the benefit of the cattle industry, general fund monies have been used in support of this activity. The Board of Stock Inspection was created in 1903 and an inspection fee (on all cattle shipped intra or interstate) of not to exceed five cents per head was established by the General Assembly. In the late 1930's, the auction market (sales ring) came into existence and another inspection charge of not to exceed ten cents per head was established for these inspections. The original inspection fee of not to exceed five cents per head was raised to not to exceed ten cents per head in the early 1940's.

In addition to the inspection fee charges, a brand registration fee of five dollars (made every five years) and monies from the sale of estrays also provide revenues to the board. The estray fund has built up since 1903 to a total of \$122,000; however, the 1961 session of the General Assembly appropriated \$57,854 of this money as part of the finances of the board's operation.

In 1959, the General Assembly repealed a one-thirtieth of a mill tax on all taxable property in the state for the purpose of supporting brand inspections. This tax was first adopted in 1881 (one-fifteenth of a mill -- L.81, p. 236) and subsequently decreased in 1921 (L.21, p. 748) to one-thirtieth of a mill. A general property tax of this nature may be considered as general fund revenue since it affects all property owners in the state. For fiscal year 1958, this tax raised \$75,066 for support of stock inspection activities. Since repeal of the tax, the General Assembly has appropriated general fund monies in 1960 and 1961 to support stock inspection activities (\$62,536 and \$35,225, respectively).

Table III

STATE BOARD OF STOCK INSPECTION,
REVENUES AND EXPENDITURES
Fiscal Years 1958 through 1963^a

Fiscal Year	Balance	Revenues	Expenses					Total	Balance
			Personal Services	Operating	Travel	Capital	Misc.		
1958	\$154,840	\$242,804 ^c	\$236,775	\$26,243	\$43,671	\$ 392	\$	\$307,082	\$ 90,561
1959	90,561	330,955	239,697	25,307	48,535	154		313,692	107,825
1960	107,825	355,842 ^d	256,229	26,411	51,723	2,000	69	336,432	127,235
1961	127,235	310,646 ^e	269,690	26,325	47,404	3,138		346,556	91,324
1962	91,324	356,124 ^f	300,885	25,917	47,671	1,034	100	375,607	71,841
1963 ^b	71,841	426,260	336,853	41,863	52,361	2,475	10,000 ^g	443,552	54,549

a. Source: Budget Reports and Joint Budget Committee staff.

b. Appropriations for 1962-63.

c. Revenues include: tax levy and motor vehicle ownership - \$75,066; inspection licenses and fees - \$163,561; tax on brands - \$3,677; reimbursements - \$500.

d. Includes general fund appropriation of \$62,536.

e. Includes general fund appropriation of \$35,225.

f. Includes transfer from estray fund of \$57,854.

g. Monies for the prosecution of cattle thieves.

The Joint Budget Committee reports the following figures to indicate that the cash fees collected by the State Board of Stock Inspection are inadequate to defray expenses:

	Fiscal Year				
	<u>1960</u>	<u>1961</u>	<u>1962</u>	<u>1963</u>	<u>1964</u>
Agency rev. col.	\$293,246	\$275,420	\$297,461	\$426,160	\$336,465
Obligations & exp.	<u>336,362</u>	<u>346,557</u>	<u>374,798</u>	<u>429,140</u>	<u>445,338</u>
Excess of exp. over revenues	(\$43,116)	(\$71,137)	(\$77,337)	(\$ 2,980)	(\$108,873)
Per Cent exp. to rev. produced	114.7%	125.8%	126.0%	100.7%	132.4%

5-Year Increase Summary

Agency Revenues Collected	\$ 43,219	14.7%
Obligations and Exp.	<u>108,976</u>	32.4%
Excess of Expenditures over Revenues	<u>(\$65,757)</u>	

It may be noted that for every year listed the expenses of the board have exceeded fee monies collected. If the activities of the State Board of Stock Inspection are to be self-supporting, the basic inspection tax of ten cents per head may need to be raised to fifteen cents per head.

STATE LICENSING BOARDS, DIVISION OF REGISTRATIONS

A letter was drafted and sent to the twenty-three licensing boards under the Division of Registrations requesting the following information:

- 1) Whether any general governmental functions are performed by your activity and the advisability of financing such functions from the state general fund; and
- 2) The relationship between the costs of services rendered and the fees charged for these services, and whether any increases in fees appear necessary in the next two or three years in order to finance adequately your activity.

Three of the agencies contacted did not reply to the committee questionnaire. Twelve of the boards indicated that they did not have any immediate problems of concern to the committee -- Abstracters' Board of Examiners, Accountancy Board, Architects' Board of Examiners, Basic Sciences Board of Examiners, Dental Board of Examiners, Professional Engineers' and Land Surveyors' Board, Funeral Directors' and

Embalmers' Board, Professional Nurse Examiners' Board, Optometric Examiners' Board, Pharmacy Board, Physical Therapy Board, and Professional Secretaries' Registration Board.

Eight boards indicated problems requiring legislative action. Generally, these problems may be classified in three categories: 1) financial -- Barbers' Board of Examiners, Cosmetology Board, Board of Medical Examiners, and Practical Nurses' Board; 2) need for investigative services -- Board of Chiropractic Examiners, and Veterinary Medicine Board; and 3) special problems -- Real Estate Brokers' Board (authority to refund monies at the board's discretion) and the Electrical Board (the establishment of state standards for electrical inspection). All eight boards met with the committee to review their respective problems.

Boards' Purposes and Functions

Each of the licensing boards within the division of registrations is quite similar in respect to general purposes, functions, and methods of financing. Basically, the boards were organized at the request of their respective professions or groups; the boards are "self-administered," i.e., the boards are composed of members of the groups or professions that the boards are to regulate, with a few minor exceptions (the Practical Nurses' Board consists of two professional nurses as well as three practical nurses); and the boards are usually financed through license and examination fees collected from the groups or persons they are regulating.

In general, the licensing boards administer the acts adopted by the General Assembly regarding their specific professions. Such acts usually prescribe minimum qualifications of training for members of a profession; provide for the examination of persons entering the profession; require the licensing of all members of the profession; establish standards of practice, conduct, etc.; provide reciprocity for members of a profession from other states having similar standards; approve institutions or schools providing training services; and establish fees for licenses, examinations, and inspections.

Need for an Investigator to be Assigned to the Attorney General

In the course of its study the Committee on Fee Systems was asked to consider the need for the state to employ an investigator to provide services for various state agencies. Three state agencies -- Medical Examiners' Board, Veterinary Medicine Board, and Chiropractic Board -- appearing before the committee testified as to the need for an investigator. The boards reported as one instance where an investigator is needed that members of their professions had encountered situations where lay people were encroaching on the practice of their respective professions.

The committee staff contacted the Attorney General concerning the possibility of providing investigative services to all state agencies through his office. The results of this conference indicated that the Attorney General has assigned one of his assistants to such

duties in the past, but that there is a definite need for a trained investigator in a number of situations. Also, there appears to be sufficient need for such services in a number of state agencies to require the attention of a full-time investigator.

Problems of State Licensing Boards

The following sections are devoted to the problems presented by the eight boards at the committee hearing of August 21, 1962.

State Board of Barbers' Examiners

The present level of fees collected by the State Board of Barbers' Examiners is sufficient to meet present expenses. For instance, for fiscal years 1961-62, total revenues amounted to \$31,239, less \$3,124 for the general fund, while expenses only amounted to \$26,367. However, this financial picture may not be on as sound a basis as it appears at first glance, for two reasons: 1) a significant amount of the board's revenue (\$13,670 for fiscal year 1962) was collected from haircutter fees charged to cosmetologists (the cosmetologists are objecting to paying such fees on the grounds that they are not receiving any service and the type of haircutting performed by cosmetologists is vastly different from that of barbers); and 2) the barber board is interested in employing another full-time clerk and an additional field inspector. (The addition of another full-time clerk may not be needed if cosmetologists -- haircutters -- licenses are no longer collected by the board.)

Table IV presents a breakdown in present fees charged by the board, plus three proposed fee schedules:

- 1) A proposed fee schedule including charges to cosmetologists to raise monies for additional personnel (Column 3);
- 2) A proposed fee schedule excluding cosmetologists, but sufficient to raise monies for the addition of two employees (Column 4); and
- 3) Proposed fees excluding cosmetologists, but sufficient to maintain present staff services (Column 5).

Table IV

PRESENT AND PROPOSED FEE CHARGES,
STATE BOARD OF BARBER EXAMINERS^a

(1) Item	(2) Present Fees	(3) Proposed Fees ^b	(4) Proposed Fees ^c	(5) Proposed Fees ^d
Barber Examinations	\$10.00	\$20.00	\$20.00	\$20.00
Apprentice Examinations	5.00	5.00	5.00	5.00
Haircutter Examinations	10.00	10.00	---	---
Haircutter Renewals	2.00	2.00	---	---
Barber Renewals	3.00	5.00	7.00	6.00
Apprentice Renewals	2.00	3.00	3.00	3.00
Barber Card Fees	3.00	5.00	7.00	6.00
Apprentice Card Fees	2.00	3.00	3.00	3.00
Barber Reinstatements	13.00	25.00	27.00	26.00
Apprentice Reinstatements	7.00	8.00	8.00	8.00
Barber Shops (NEW)	16.00	25.00	50.00	25.00
Barber Shop Renewals	3.00	5.00	7.00	6.00
Barber Shop Transfers	3.00	5.00	10.00	6.00
Barber Shop Relocations	3.00	5.00	10.00	6.00
Barber School Renewals	10.00	10.00	10.00	10.00
Duplicate Licenses	1.00	1.00	1.00	1.00
Total Estimated Revenue	\$31,239 ^e	\$42,378	\$38,579	\$32,593

- a. Source: State Board of Barbers' Examiners.
- b. Board's recommendations if haircutters' (cometologists) examinations and fees are retained under the barber board and an additional clerk and inspector are used.
- c. Board's recommendations if fees for haircutters are repealed and an additional inspector is hired.
- d. Board's fee recommendations to maintain present staff and services if haircutters' fees are repealed.
- e. Actual revenue collected for fiscal year 1962.

The practice of licensing haircutters (cosmetologists) may be questionable since the board's inspector only checks cosmetology shops to see if these persons are properly licensed, and even this activity is being discontinued in order that the inspector may have more time to check barbershops.

Apparently, the cosmetologists have received little service in the past for this fee and are not now receiving any service for this licensing requirement, which has been in effect since the Cosmetology Act was passed in 1931 (Section 32-1-1, C.R.S. 1953). Also, Section 15-1-15, C.R.S. 1953, provides: "Persons authorized by the laws of this state to practice cosmetology shall be exempt from the provisions of this article, except that they shall not shave or trim the beard, of any person for cosmetic purposes, without first complying with the provisions of this article and obtaining the required license."

If consideration is given to repealing the sections requiring cosmetologists to be licensed by the barbers' board, the fees of the barbers' board would need to be revised to continue the board in operation at present levels of service.

State Board of Chiropractic Examiners

The State Board of Chiropractic Examiners is operated on a part-time basis. The board utilizes the services of six part-time employees to administer the Chiropractic Act (Sections 23-7-1 through 23-2-24, 1960 Cumulative Supplement to C.R.S. 1953). The Chiropractic Act is administered under the direction of a five-man board appointed by the Governor. Board members are paid \$20 per diem plus expenses.

The Chiropractic Board of Examiners seems to be adequately financed from the following fees:

Examination	\$25
License	10
Electro-therapy license	10
License renewal	15
Reciprocity	50

Revenues from such fees for fiscal year 1961 amounted to \$8,918, while \$5,842 was used for expenses of the board; \$891 was transferred to the general fund as part of the ten per cent cash fee deduction; and an additional \$2,375 was also transferred to the general fund as surplus.

The major problem of the board is the need for investigative services. Although the board is adequately financed for normal operational expenses, there is not sufficient monies available for the services of a private investigator. The board believes that there are monies available to pay for needed services on a part-time basis if such services could be acquired at actual cost. In other words, if the board could utilize the services of an investigator employed through the office of the attorney general sufficient monies are available to pay for this type of investigative service.

Licensed Practical Nurses' Board

The Licensed Practical Nurses' Board is in serious financial condition. In fact, the board does not have the funds necessary to continue in operation for the last six months of fiscal year 1963. The board's financial difficulty is due to the fact that it is unable to support its activities on the basis of present revenues. When the board was organized in 1957,⁹ a substantial part of the revenue collected during the first few years of operation was from original

9. 97-3-1 through 97-3-26, C.R.S. 1953, 1960 Cumulative Supplement.

license fees (\$20.00). However for the past two fiscal years (1961 and 1962) most of the licenses processed were for renewals (\$3.00). Thus in the first few years of operation, a large part of the monies collected were not needed and were turned over to the general fund as surplus, but now the renewal fee is inadequate to support the board's activities. The following figures indicate the change in pattern of licenses issued by the board for fiscal years 1959 through 1962:

	<u>1959</u>	<u>1960</u>	<u>1961</u>	<u>1962</u>
New licenses	1,650	1,700	315	350
Renewals	844	2,914	3,458	3,634

The drop in revenues to the board has also resulted in a significant decline in the beginning balance for fiscal year 1963, as may be noted from Table V.

During the 1962 Session of the General Assembly, House Bill No. 8 was introduced to amend the fees of the Practical Nurses' Act. The bill would have increased renewal fees from \$3.00 to \$5.00 and would have produced sufficient revenue to continue activities of the board. The bill was never reported out of committee, however, due to the reported opposition of the Practical Nurses' Association.

In the past, the board has operated under the direction of an executive secretary and two full-time and seven part-time employees. Perhaps, with the decline in new licenses, the board will be able to function with a smaller staff. The executive secretary of the board has recently resigned and the former executive secretary of the Professional Nurses' Board has been appointed on a provisional basis to assist the board in revamping its program. The new secretary has not been in the position long enough to determine what action may be taken to reduce expenses, but by the time the 1963 General Assembly convenes, the secretary and the board will be in a better position to know what administrative action may be taken, and what additional revenues will be needed. The Practical Nurses Association also is meeting prior to the 1963 session to discuss supporting an increase in fees to meet the board's expenses.

Table V

BOARD OF LICENSED PRACTICAL NURSES,
REVENUES AND EXPENSES
Fiscal Years 1959 through 1962^a

Fiscal Year	Balance	Revenues	Personal Services	Operating Expenses	Travel	Capital	10% to Gen. Fund	Misc.	Total	Ending Balance
1959	\$ 8,812	\$42,548	\$15,122	\$5,779	\$1,057	\$2,037	\$4,555	\$8,167 ^b	\$36,719	\$14,641
1960	14,641	27,426	15,292	6,116	1,687	377	2,742	1,648 ^c	27,863	14,205
1961	14,205	28,442	15,363	5,830	1,618	263	2,844	2,755 ^c	28,673	13,974
1962	13,974	17,937	16,584	4,934	571	266	1,794	---	24,109	7,802

- a. Source: Budget office.
- b. Surplus to general fund.
- c. Refunds.

State Board of Medical Examiners

Dr. C. Robert Stark, president of the State Board of Medical Examiners, stated to the committee: "The fees charged by the board are lower than most states, if not all of the other states, and the time is rapidly approaching in which fees will no longer be adequate to defray expenses." Present fees of this board are:

Initial fee:

Examination fee	\$25.00
Reciprocity for National Board Examinations	50.00
Reciprocity for individuals licensed in other states	50.00

Renewal fee:

2.00

Recently, the up-grading of employee salaries, increased rents, etc., has raised costs of the board to the point where they are exceeding revenues. The \$2.00 renewal fee is hardly sufficient to pay the clerical costs involved in processing a license and is completely insufficient to support other activities of the board. However, if the renewal fee were discontinued (a number of states do not require license renewals for medical doctors), the board would not be able to maintain accurate records of the licensed medical doctors in the state. Therefore, an increase in the renewal fee would not appear to be unreasonable if other activities of the board, such as investigative services, are to receive adequate support.

Expenditures and appropriations for fiscal years 1961 through 1963 follow:

	Actual Expenses <u>1961</u>	Actual Expenses <u>1962</u>	Appropriated Expense <u>1963</u>
Personal Services	\$13,079	\$16,973	\$18,743
Operating Exp.	7,283	8,882	9,101
Travel	2,134	2,692	2,743
Capital	799	48	---
Totals	<u>\$23,295</u>	<u>\$28,595</u>	<u>\$30,587</u>

Revenues for fiscal years 1961, 1962 and for 1963 (estimated) are \$31,405, \$32,524, and \$34,960, respectively. The surplus between revenues and expenditures is not as large as it once was; for instance, fiscal year 1961 -- \$8,110; fiscal year 1962 -- \$3,929; and fiscal year 1963 (estimated) -- \$4,373. These figures are especially significant in view of the fact that ten per cent of fees collected are earmarked for general fund revenue. Thus for fiscal years 1962 and 1963 (estimated) revenues exceeded expenditures to a small degree. The point will be reached in the future when the balances will be depleted if no additional revenues are provided.

Veterinary Medicine Board

The Veterinary Medicine Board presently licenses veterinarians residing and practicing in Colorado, as well as those living out-state desiring to practice in Colorado on a part-time basis. The board also licenses artificial inseminators, although the Veterinary Medicine Act (144-1-1 through 144-1-11, C.R.S. 1953, as amended) does not make any provision for the issuance of such licenses. The board obtained a ruling from the Attorney General to the effect that artificial insemination is part of the field of veterinary medicine, thus bringing it under the jurisdiction of the board. Consequently, in addition to the need for investigative services, the board believes that its authority to license artificial inseminators should be provided in the law and not merely on the basis of an opinion rendered by the Attorney General.

Other Requests By Licensing Boards

The Real Estate Brokers' Board, Cosmetology Board, and Electrical Board met with the committee to discuss the following problems:

- 1) the Real Estate Brokers' Board is interested in being able to refund fees collected, which it presently lacks statutory authority to do;
- 2) the Electrical Board is interested in the General Assembly providing, by statute, for a minimum state-wide standard for electrical installation and for the Electrical Board to be vested with regulatory powers; and
- 3) the Cosmetology Board requests that the Cosmetology Act (32-1-1 to 32-1-27, C.R.S. 1953) be amended to eliminate refunding of examination fees; license applicants receiving a passing grade in all areas of examination only; to charge a fee for transferring records to another state; to broaden the powers of the board; and to repeal the requirement for a haircutters' license by the Barber Board of Examiners.

The committee decided not to take any further action in these areas.

APPENDIX A

A BILL FOR AN ACT

CONCERNING FEES AND MONIES COLLECTED BY AND FOR THE STATE DEPARTMENT OF AGRICULTURE.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 6-1-10 (1), Colorado Revised Statutes 1953 (1960 Perm. Supp.), and 6-1-10 (2), Colorado Revised Statutes 1953, are hereby amended to read:

6-1-10. Disposition of revenues. (1) (a) The monies accruing to the hail insurance fund shall be deposited as provided in section 6-4-12. ~~Subject to the provisions of section 8-7-3, the license fees accruing to the weights and measures fund shall be deposited as provided in section 151-1-23. All fees paid for the inspection of fruits and vegetables shall be deposited with the state treasurer and by him credited as follows: five per cent to the state general fund and ninety-five per cent to the state department of agriculture fund, hereby created; MONIES ACCRUING AND PAYABLE TO THE PREDATORY ANIMAL FUND SHALL BE DEPOSITED AS PROVIDED IN SECTION 8-7-4, AS AMENDED. MONIES ACCRUING FROM THE SALE OF VACCINE AND SERVICES SHALL BE DEPOSITED AND EXPENDED AS PROVIDED IN SECTION 8-5-46, AS AMENDED. MONIES HANDLED BY THE DEPARTMENT, IN COOPERATION WITH THE FEDERAL GOVERNMENT, FOR SPECIFIC AGRICULTURAL MARKETING SERVICE PROJECTS, SHALL BE DEPOSITED IN ACCORDANCE WITH AGREEMENTS MADE WITH THE STATE CONTROLLER. All other fees and monies collected by and for the department or any of its subdivisions shall be deposited with the state treasurer and by him credited as follows: ten per cent to the state general fund and ninety per cent to the state department of agriculture fund TO THE GENERAL FUND. All revenue derived from fees imposed for specific purposes shall be used by the department exclusively for such purposes, excluding the amount credited to the general fund. At the~~

~~end-of-each-fiscal-year, the unexpended balance of the amounts collected for each specific purpose shall be retained in the contributing account for use in ensuing fiscal year.~~

(b) ~~The department of agriculture fund~~ ALL FEES AND MONIES SO CREDITED TO THE GENERAL FUND UNDER THE PROVISIONS OF THIS SECTION shall be maintained by appropriate accounting records, in such manner AS DETERMINED BY THE STATE CONTROLLER, as to indicate all receipts and expenditures made with respect to each service administered by the department, IT BEING THE INTENT OF THE GENERAL ASSEMBLY THAT REVENUES DERIVED FOR THE PAYMENT OF PARTICULAR SERVICES SHALL BE USED TO DEFRAY THE COSTS OF PROVIDING SUCH SERVICES.

(2) ~~All expenditures from the department of agriculture fund shall be made upon appropriation by the general assembly, and~~ COMMENCING WITH THE FISCAL YEAR BEGINNING JULY 1, 1963, the general assembly shall appropriate to the department of agriculture ~~out of the department of agriculture fund,~~ FROM THE GENERAL FUND ~~so much thereof as shall be necessary for enforcement of and to carry out the provisions of this article~~ SUCH MONIES FOR THE ADMINISTRATION OF THE DEPARTMENT AND TO CARRY OUT ITS FUNCTIONS AND DUTIES AS SHALL BE NECESSARY.

SECTION 2. 6-12-4 (2), Colorado Revised Statutes 1953, as amended by section 1 of chapter 32, Session Laws of Colorado 1962, is hereby amended to read:

6-12-4. Registration. (2) The registrant shall pay an annual fee of ten dollars for each economic poison registered up to ten brands and one dollar for each additional brand registered, such fee to be deposited ~~to the insecticide inspection fee fund~~ IN THE GENERAL FUND. ~~Such fund is hereby created to be used only for carrying out the provisions of this article.~~

SECTION 3. 6-13-6 (1), Colorado Revised Statutes 1953,
is hereby amended to read:

6-13-6. Inspection fees. (1) (a) Each person, firm, or corporation registering and offering or exposing for sale, selling or distributing any commercial fertilizer or soil amendment in the state of Colorado shall pay an inspection fee which shall be at the rate of twenty-five cents per ton of two thousand pounds; provided, that sales to manufacturers or exchanges between them are hereby exempted. ~~Fees-collected-here-under-shall-constitute-a-fund-for-the-payment-of-the-costs-of-inspection,-sampling,-and-analyses-and-other-expenses-necessary-for-the-administration-of-this-article.~~ Each person, firm, or corporation registering any commercial fertilizer or soil amendment in the state of Colorado shall keep adequate records showing the tonnage of commercial fertilizer or soil amendment shipped to or sold, offered or exposed for sale, or distributed in the state of Colorado, and the commissioner and his duly authorized representatives shall have authority to examine such records to verify the statement of tonnage.

(b) Each registrant shall file an affidavit semiannually within thirty days after each January 1, and each July 1, with the commissioner showing the tonnage of commercial fertilizer or soil amendment sold or distributed in the state of Colorado, during the preceding six months period. If the affidavit is not filed and the inspection fee is not paid within the thirty day period or if the report of tonnage be false, the commissioner may revoke the registration of such person, firm, or corporation, and if the affidavit is not filed and the inspection

fee is not paid within the thirty day period, a penalty of five dollars per day for each subsequent day shall be assessed, and the inspection fee and the penalty shall constitute a debt and become the basis for a judgment against such person, firm, or corporation.

SECTION 4. 6-15-1 (3) and 6-15-4 (1), Colorado Revised Statutes 1953 (1960 Perm. Supp.), are hereby amended to read:

6-15-1. Labeling - inspection - violation. (3) The commissioner of agriculture shall make inspections of nurseries and places in the state where nursery stock is sold or delivered at least once each year and a charge of three dollars per hour, but not to exceed twenty-five dollars for each inspection, shall be made to defray the cost of the service.

The fees provided herein shall be deposited ~~to the nursery inspection fee, plant and insect control fund~~ IN THE STATE TREASURY AND CREDITED TO THE GENERAL FUND.

The commissioner of agriculture may require out-of-state nurseries selling nursery stock in the state of Colorado to deliver to the department of agriculture a certified duplicate copy of the "state of origin" certificate of inspection of the nursery.

6-15-4. Licensing - fees. (1) Any person, firm, corporation, or association selling nursery stock in Colorado, must first secure a license yearly from the commissioner of agriculture. Each branch, sales yard, store, or sales location, shall be licensed. To defray the cost of administration the following license fees shall be charged:

"Nursery." Each nursery shall pay a license fee of ten dollars.

"Dealer." Each dealer shall pay a license fee of ten dollars for each branch, sales yard, store, or sales location operated within the state.

"Agent." Each agent shall be required to secure and carry an agent's permit issued by the commissioner of agriculture, for which an annual fee of five dollars will be charged; such agent's permit may be revoked for cause by the commissioner of agriculture at any time.

"Exemption." Nurseries selling direct to licensed nurseries or licensed dealers within the state of Colorado shall be exempt from the license fee.

The fees provided herein shall be deposited ~~to the nursery inspection fee, plant and insect control fund~~ IN THE STATE TREASURY AND CREDITED TO THE GENERAL FUND.

SECTION 5. 151-1-23 (8), Colorado Revised Statutes 1953 (1960 Perm. Supp.), is hereby amended to read:

151-1-23. Licenses - stickers - certificates - definitions.
(8) The department shall issue for each scale, tank, textile meter, or cordage meter so licensed or to be licensed in this state a sticker for identification and in addition a certificate to the owner or operator holding such a license showing said scale, tank, textile meter, or cordage meter has been tested and is within the allowance tolerances allowed by law. Any license issued under this article shall apply only to the device licensed. Subject to the provisions of section 3-7-3, all license fees and

testing fees collected under the provisions of this section from the licensing of scales, tanks, textile meters, or cordage meters by the department or by contract or written agreements with cities shall be transmitted as provided by law to the department authorized by law to receive the same, and upon being deposited with the state treasurer, shall be credited to the ~~Colorado-department-of-agriculture, division-of-markets, weights-and-measures-fund-hereby-created~~ GENERAL FUND. ~~No moneys-shall-be-paid-out-of-said-fund-except-upon-appropriation of-the-general-assembly,--All-vouchers-drawn-against-the-fund hereby-created-shall-be-signed-and-certified-to-by-the-person now-authorized-by-law,~~

SECTION 6. 151-1-37, Colorado Revised Statutes 1953 (1960 Perm. Supp.), is hereby repealed.

SECTION 7. This act shall take effect on July 1, 1963, with the exception of 6-1-10 (2), as amended by section 1 of this act, which shall take effect on the date of approval of the governor.

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

APPENDIX B

A BILL FOR AN ACT

CONCERNING POULTRY EGGS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 7-11-1 (8), Colorado Revised Statutes 1953 (1960 Perm. Supp.), is hereby amended, and said 7-11-1 is further amended by the addition of NEW SUBSECTIONS (20) and (21), to read:

7-11-1. Definitions. (8) The word "retailer" shall mean any person buying poultry eggs ~~from the producer or wholesaler and selling~~ FOR RESALE to consumers.

(20) The word "inspector" shall mean a duly authorized representative of the commissioner.

(21) The words "producer-dealer" shall mean any person who is engaged in the business of operating or controlling the operation of one or more egg farms producing eggs within the state of Colorado and who sells more than five cases of eggs per week at retail or wholesale.

SECTION 2. 7-11-4 (1), Colorado Revised Statutes 1953 (1960 Perm. Supp.), is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

7-11-4. Licenses - inspection fees. (1) (a) For the purpose of financing and enforcing this article, there shall be a uniform license fee of two dollars per year for each person buying for resale, selling, receiving, candling, egg breaking, or shipping poultry eggs in Colorado. A separate license shall

be obtained for each place where business is conducted. Any person operating trucks or other vehicles used in the buying or selling of eggs shall also obtain such license for each truck or vehicle so used. All license fees shall be due and payable on the first day of January of each year.

(b) In addition to such license fee, there shall be paid an inspection fee on all poultry eggs sold to consumers, restaurants, or manufacturers at the rate of one-sixth of one cent for each dozen shell poultry eggs and one-sixth of one cent per pound on frozen or dried eggs or eggs sold in any form other than in the shell.

(c) The first person, whether resident or nonresident, who sells eggs on a graded basis in this state shall pay the inspection fee imposed by paragraph (b) of this subsection. In the case of frozen, dried, or eggs sold in any form other than in the shell, the first person selling such eggs in the state shall be held liable for any inspection fee due.

(d) The inspection fee shall be paid quarterly on the first day of January, April, July, and October of each year, covering the preceding three month period, and shall be accompanied by a quarterly report, to be made under oath by the licensee, on forms prescribed by the department and containing such information as the department may require. If said fee and the quarterly report are not paid and filed within thirty days after the date due, or if the department has reason to believe that any information contained in the quarterly report is false, it may revoke the license of the licensee as provided by law, and in addition thereto shall impose a penalty of five

dollars per day for each day the fee remains delinquent from the date due. Any such delinquent fees and penalties shall be recovered through an action brought by the attorney general in the name of the commissioner.

(e) Producer-dealers selling less than five cases of eggs per week shall not be required to obtain the license required by this subsection or pay the license or inspection fee.

(f) All license and inspection fees collected under this subsection shall be deposited in the state treasury and credited to the general fund.

SECTION 3. Repeal. 7-11-4 (5) (a), (b), (c), (d), (e), (f), (g), and (h), Colorado Revised Statutes 1953 (1960 Perm. Supp.), are hereby repealed.

SECTION 4. Effective date. This act shall take effect on January 1, 1964.

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

APPENDIX C

A BILL FOR AN ACT

CONCERNING POULTRY, THE LICENSING OF DEALERS ENGAGED IN THE
WHOLESALE BUYING OR SELLING OF POULTRY OR RABBITS, THE
GRADING INSPECTION OF SUCH POULTRY AND RABBITS, AND FEES
THEREFOR.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 7-10-1 (3), Colorado Revised Statutes 1953, is hereby amended to read:

7-10-1. Definitions. (3) The word "dealer" shall include every person engaged in the buying or selling of live market poultry OR DRESSED POULTRY at ~~retail-or~~ wholesale. ~~and-every person-engaged-in-buying-or-selling-of-dressed-poultry-at-wholesale~~

SECTION 2. 7-10-3, Colorado Revised Statutes 1953, is hereby amended to read:

7-10-3. Fees - funds for administration and enforcement.
(1) The sum of twenty dollars shall accompany each application for license by each ~~such-person~~ DEALER engaging or engaged in the wholesale buying or selling of ~~live-market~~ poultry or ~~dressed poultry~~ RABBITS for each place of business and for each truck or other vehicle engaged in buying ~~live-market-poultry-or-dressed~~ OR SELLING OF poultry OR RABBITS. ~~When-any-person-is-engaged-in the-wholesale-buying-of-live-market-poultry-or-dressed-poultry from-the-producer, or from-a-person-licensed-as-recognized-retail-dealers, and-is-engaged-in-the-selling-of-live-market~~

poultry-or-dressed-poultry-only-to-the-holder-of-a-wholesaler's license, the sum of ten dollars shall accompany each application of such person for each place of business and for each truck or other vehicle engaged in buying or selling of live market poultry or dressed poultry. --The sum of two dollars and fifty cents shall accompany the application of each recognized retailer or other person buying live market poultry from producers or any persons licensed as wholesale dealers for the purpose of resale to consumers. --Retail grocery merchants who exchange or barter merchandise for live poultry or dressed poultry, and accumulate a surplus of live market poultry or dressed poultry above their requirements for retail purposes in that individual store are permitted to sell such surplus of live market poultry or dressed poultry to any persons licensed as wholesale dealers. Such license shall be displayed in the place of business or on the truck or vehicle for which issued. Any producer of live market poultry who sells his own product only, or who purchases live poultry to add to his flock, and who is not engaged in any general wholesale or retail business of dealing or trading in live market poultry, shall not be deemed for the purposes of this article to be in the business as a dealer in live market poultry, AND SHALL BE EXEMPT FROM THE PROVISIONS OF SECTION 7-10-2. Any two or more producers of live market turkeys who pool their own product solely for the purpose of marketing said product outside the state of Colorado, shall not be deemed for the purpose of this article to be in the business of a dealer in live market poultry.

(2) (a) FOR THE PURPOSE OF DEFRAYING EXPENSES CONNECTED

WITH THE GRADING INSPECTION OF ALL DRESSED POULTRY AND RABBITS SOLD, OFFERED FOR SALE, OR PROCESSED IN THE STATE OF COLORADO, THE FIRST PERSON, FIRM, OR CORPORATION WHO SHALL PROCESS, SELL, OR OFFER FOR SALE ANY DRESSED POULTRY OR RABBITS TO THE CONSUMER, STORES, BUTCHER SHOPS, RESTAURANTS, HOTELS, OR INSTITUTIONS WITHIN THE STATE SHALL PAY AN INSPECTION FEE OF ONE-QUARTER CENT FOR EACH BIRD AND ONE-QUARTER CENT FOR EACH RABBIT AND/OR ONE-QUARTER CENT FOR EACH TWO POUNDS OF PACKAGED, CUT-UP PROCESSED POULTRY OR RABBITS.

(b) THE INSPECTION FEE IMPOSED BY PARAGRAPH (a) OF THIS SUBSECTION, SHALL BE PAID QUARTERLY ON THE FIRST DAY OF JANUARY, APRIL, JULY, AND OCTOBER OF EACH YEAR, COVERING THE PRECEDING THREE MONTH PERIOD, AND SHALL BE ACCOMPANIED BY A QUARTERLY REPORT, TO BE MADE UNDER OATH BY THE LICENSEE, ON FORMS PRESCRIBED BY THE DEPARTMENT AND CONTAINING SUCH INFORMATION AS THE DEPARTMENT MAY REQUIRE. IF SAID FEE AND THE QUARTERLY REPORT ARE NOT PAID AND FILED WITHIN THIRTY DAYS AFTER THE DATE DUE, OR IF THE DEPARTMENT HAS REASON TO BELIEVE THAT ANY INFORMATION CONTAINED IN THE QUARTERLY REPORT IS FALSE, IT MAY REVOKE THE LICENSE OF THE LICENSEE AS PROVIDED BY LAW, AND IN ADDITION THERETO SHALL IMPOSE A PENALTY OF FIVE DOLLARS PER DAY FOR EACH DAY THE FEE REMAINS DELINQUENT FROM THE DATE DUE. ANY SUCH DELINQUENT FEES AND PENALTIES SHALL BE RECOVERED THROUGH AN ACTION BROUGHT BY THE ATTORNEY GENERAL IN THE NAME OF THE COMMISSIONER.

(c) ALL FEES COLLECTED UNDER THIS SUBSECTION SHALL BE DEPOSITED IN THE STATE TREASURY AND CREDITED TO THE GENERAL FUND.

SECTION 3. 7-10-10 (5), Colorado Revised Statutes 1953, is

hereby amended to read:

7-10-10. Application. (5) The Colorado agricultural commission is hereby authorized to promulgate such rules and regulations as it may deem proper and necessary for the furtherance and enforcement of sections 7-10-9 and 7-10-10 after consultation with industry. ~~so that fees and regulations can be established, and set fees and inspection costs as may be necessary for the administration of sections 7-10-9 and 7-10-10.~~

SECTION 4. Effective date. This act shall take effect on July 1, 1963.

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

APPENDIX D

A BILL FOR AN ACT

REPEALING AND RE-ENACTING ARTICLE 6 OF CHAPTER 7, COLORADO
REVISED STATUTES 1953, AND PROVIDING FOR THE OPTIONAL
INSPECTION OF FRUITS AND VEGETABLES.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 6 of chapter 7, Colorado Revised Statutes 1953, as amended, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

7-6-1. Inspection of fruits and vegetables. Any grower, shipper, shipper's agent, or any other person financially interested in any fruits or vegetables produced in this state may request the commissioner of agriculture, hereinafter called "the commissioner", to inspect any lot of fruits and vegetables as to grade and classification.

7-6-2. Commissioner to appoint inspectors. (1) The commissioner shall appoint any inspectors necessary to perform the inspections requested. At his discretion, the commissioner may appoint inspectors to serve in that capacity for a given period of time, or he may appoint inspectors only for the performance of one or more certain inspections.

(2) All inspectors appointed pursuant to this article must be experienced in the inspection of fruits and vegetables, and must be licensed to inspect fruits and vegetables by the United States department of agriculture.

7-6-3. Certificates of inspection. (1) The commissioner shall furnish forms for certificates of inspection to all ap-

pointed inspectors. The completed certificate shall evidence that inspection has been made, shall designate the classification or grade of the fruits or vegetables that have been inspected, and shall be signed by the inspector who performed the inspection.

(2) The certificate shall be completed by the inspector, and it shall be delivered to the person who requested the inspection only upon payment by such person of the fee for the inspection.

(3) A certificate of inspection issued by an inspector shall be accepted by any court in this state as prima facie evidence of the true grade or classification of the fruit or vegetable at the time of inspection.

7-6-4. Commissioner to establish fees. (1) The commissioner is hereby authorized to establish a schedule of fees for inspections made pursuant to this article. The fees shall be based, as near as may be, on the cost of the service required to conduct a proper inspection and to insure that the inspections provided by this article are self-supporting. A different fee may be established for each variety of fruit or vegetable, but the fee established for an individual variety of fruit or vegetable shall remain constant for each inspection of that variety unless there is a material change in the cost of the services.

(2) The fee charged shall be collected by the inspector, and any fee collected shall be remitted forthwith to the commissioner. No inspector shall charge any fee for his services other than the fee determined by the commissioner.

(3) The general assembly shall not make any appropriations to defray any of the costs of any inspections provided by this article.

(4) Fees collected for inspections shall be deposited with the state treasurer and credited to the general fund.

7-6-5. Rules and regulations - U. S. standards. The commissioner may make any rules and regulations necessary to carry out the provisions of this article, and for the purpose of inspection, he may adopt the United States standards for fruits and vegetables.

7-6-6. Cooperation with federal government. The commissioner is authorized to cooperate with the United States department of agriculture when he determines it necessary to carry out the provisions of this article.

SECTION 2. Effective date. This act shall take effect on July 1, 1963.

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