

problems Colorado and the nation face in the future. Slowing the rate of increase in the amount of energy used can provide a greater number of options in dealing with the continuing energy crisis. As a result, four of the recommended bills are intended to control the use of energy and thus to decrease the amount of energy used in Colorado.

It was also recognized that Colorado, like many other western states, has large deposits of coal. This resource is viewed by many as one of the mainstays of our nation's energy resources both in the present and in the future. Increased coal mining, particularly strip mining, appears inevitable in this state. In order to ensure that proper reclamation practices are followed in strip mining of coal, several amendments to Colorado's Open Mining Land Reclamation Act of 1973 have been recommended in this report.

### I. The State's Role in Energy Shortages

#### Energy or Energy-related Emergency - Governor's Powers - General Assembly's Function -- Bill 30

In the formulation of legislation concerning the state's role in coping with energy crisis situations, the committee determined that four elements would be essential for such a proposal:

- (1) A definition of an energy or energy-related emergency would need to be provided;
- (2) The powers delegated to the Governor would need to be specified;
- (3) The General Assembly should provide control over the Governor's action; and
- (4) The capability for data-gathering and contingency planning by a state agency would need to be provided to assist the Governor and the General Assembly.

An "emergency" is defined in Bill 30 as any crisis caused by, or related to, the use of energy or energy-related commodities, which crisis poses an imminent threat to the health, safety, and welfare of the citizens of this state.

The committee's proposal would give the Governor unconditional authority to proclaim a state of emergency. However, the Governor's power to issue executive orders, proclamations,

or regulations relating to such state of emergency would be conditioned on the approval of the General Assembly, either in a regular or special session. Areas would be designated in which the Governor could issue executive orders, proclamations, or regulations in connection with an emergency.

Control of the Governor's actions during a state of emergency was a serious concern to the committee. The proposed bill would place the control function with the General Assembly. By joint resolution, the General Assembly could revoke any gubernatorial proclamation of a state of emergency or any executive order, proclamation, or regulation relating to such state of emergency.

The conclusion was reached that there is a need to improve the capability of the Governor and General Assembly to deal with energy emergencies. To meet this need, the proposal would add energy data-gathering and contingency planning duties to the Advisory Council of the Colorado Energy Research Institute of the Colorado School of Mines.

#### The Colorado Energy Research Institute (CERI) -- Bill 31

The committee recommends this bill as an alternative to Bill 30. Under Bill 31, CERI would be given the same energy data-gathering and energy contingency planning functions as provided for in the energy emergency measure. This bill is not as comprehensive as Bill 30 in that it does not include the provisions concerning the emergency powers of the Governor.

The committee found that there is a lack of basic information regarding Colorado's supply and demand of energy and possible effects of shortages. Such information is essential for state officials who must respond to a crisis situation. Bill 31 would direct CERI to provide an inventory and projection of the energy demands and supplies for Colorado in an annual report to the Governor and General Assembly. Wherever an energy supply-demand imbalance was found to exist or was projected, CERI would provide recommendations on: (a) methods for energy conservation; (b) measures to reduce or control energy demand; or (c) measures to develop new or expanded supplies of energy. Further, CERI would identify any projected beneficial or adverse social, economic, or environmental impact of such energy recommendations.

## II. Energy Conservation

Testimony indicated that the conservation of energy resources, through its more efficient utilization, could help ease the supply problems Colorado faces in the future. Slowing the rate of increase in the amount of energy used can give the state and the nation a greater number of options in dealing with the continuing energy crisis. Four measures are recommended to control and reduce the use of energy in Colorado.

### Thermal Insulation Regulations - Residential Dwellings -- Bill 32

This proposal would require that the State Director of Housing appoint an eleven-member advisory committee to assist the State Housing Board in establishing thermal insulation regulations for residential dwellings. In order to promote energy conservation, the Housing Board would adopt minimum regulations for thermal insulation by July 1, 1976.

By September 1, 1976, the governing body of each county and municipality would be required to adopt regulations for residential dwellings which are no less stringent than regulations adopted by the State Housing Board. After September 1, 1976, a building permit could not be issued for the construction of such a dwelling unless the proposed construction were to conform with the established standards.

If the construction materials required to meet the thermal insulation regulations were not available, the Governor could suspend such regulations for as long as 90 days.

### Thermal Insulation Regulations - Commercial and Industrial Structures -- Bill 33

This bill, relating to commercial and industrial buildings, is similar in many respects to the previous bill concerning residential dwellings. The director of the Division of Labor would be required to appoint an eleven-member advisory committee to assist the state Industrial Commission in establishing thermal insulation regulations for industrial and commercial structures. The commission would be required to adopt minimum regulations for thermal insulation by July 1, 1977.

By September 1, 1977, the governing body of each county and municipality would be required to adopt regulations

for industrial and commercial structures within their jurisdictions. Such regulations could not be less stringent than the regulations adopted by the commission. After September 1, 1977, a building permit could be issued for the construction of industrial and commercial structures only if such proposed construction were to conform with established regulations.

Further, the bill would provide that the advisory committee which develops thermal insulation regulations could take into consideration the intended function of an industrial or commercial structure. For example, a greenhouse would not be required to meet the same regulations of thermal insulation as a supermarket.

Real Property Tax Credit - Improved Thermal Performance --  
Bill 34

The intent of this proposal is to encourage property owners of residential structures to improve the thermal insulating characteristics of existing houses by permitting a property tax credit based upon the cost of such improvements. This bill is based, in part, on the principles embodied in several measures introduced during the 1974 legislative session.

In order to receive the real property tax credit, a property owner would present bills of sale or other satisfactory proof to the county treasurer of the purchase or installation of thermal performance improvements. A specified percent, as yet undetermined, of the cost of these improvements would then be credited against the owners' taxes. The credit could be claimed for only one taxable year, and could not exceed a certain percent of the total property taxes due and payable by an owner. A penalty provision for the fraudulent filing for this credit is contained in the bill.

Energy Conservation and Public Utilities Commission -- Bill 35

This bill would provide a statement of legislative intent which would specify that the Public Utilities Commission is to take energy conservation into account as conservation relates to the regulation of rates and charges of public utilities. The PUC could establish, if deemed necessary, new rates and charges to discourage wasteful use of energy resources.

### III. Environmental Impact

#### Colorado Open Mining Land Reclamation Act -- Bill 36

Given Colorado's considerable mineral wealth and the projected increase in national demand for our energy resources, mining activity in this state (both underground and surface) is expected to grow dramatically. To ensure that state government has the capability to secure adequate reclamation of land disturbed by surface mining, the Committee on Energy recommends several amendments to the Colorado Open Mining Land Reclamation Act of 1973, and also recommends increased funding of the reclamation program of the Division of Mines.

Amendments recommended which relate to surface mining would accomplish several objectives:

Minerals covered. The list of minerals covered under the statute would be extended to include essentially all materials which are commercially surface mineable. The present statutes list only coal, limestone used for construction purposes, sand, gravel, and quarry aggregates.

Areas prohibited. Surface mining would be prohibited in areas determined to possess unique characteristics relating to biological productivity, ecological fragility, ecological importance, or scenic, historic, cultural, or geological importance.

Reclamation fund. A reclamation fund would be established to provide monies to reclaim orphaned land and, through forfeiture of performance bonds, to implement approved reclamation plans.

Citizen suits. A provision is included which would permit a citizen who believes a public official is not performing his required duties under the reclamation statutes to file an affidavit with such official stating facts and charges of failure to enforce such statutes. If the official were to refuse to enforce such provisions, a citizen could bring an action of mandamus in court to require the performance of such duties.

Appeals. Administrative appeals would be provided for parties aggrieved by the issuance or modification of a mining permit. A complainant could request a hearing under procedures in the Colorado administrative code.

Land Reclamation Board. Membership on this board would be expanded to include two persons appointed by the Governor.

The intent of such expansion is to broaden the expertise and experience of the board.

Notice provisions. Public notice of an intent to file a request for a permit to surface mine would be required not later than the actual date of filing for such permit. This provision would allow interested parties to attend the Land Reclamation Board's hearing at which a particular application was to be considered. The present reclamation law permits an operator to have a hearing on his application for a permit to surface mine but the statute does not currently provide an opportunity for the public to become aware of the hearing relating to the granting of such a permit.

Enforcement. The state's enforcement powers relating to reclamation would be strengthened. Presently, if an operator of a mine is believed to be violating a reclamation requirement, the Division of Mines enters negotiations with the operator to remedy the situation. If attempts at negotiation fail, a hearing is held and, if necessary, orders are issued to effectuate the purposes of the act. The proposed bill would strike the reference to the use of persuasion and negotiations, and would empower the board to move directly to the issuance of a notice of violation. Further, the board would be explicitly empowered to seek restraining orders and temporary or permanent injunctions.

Substitution of lands. The proposal would strike the present provision which allows an operator to substitute an area of land which was mined prior to the effective date of the reclamation statute for an area of land which, while subject to the reclamation act, is considered by the Land Reclamation Board to be unplantable.

Colorado's first reclamation statutes were enacted in 1969, but funds to employ the necessary staff to assure implementation of such statutes were not provided by the General Assembly until April, 1973. Since that date, reclamation funding has increased. For fiscal year 1975-76, the Division of Mines is requesting five positions to implement existing reclamation statutes. The Committee on Energy strongly urges approval of the division's budget request as it pertains to reclamation.

In order to provide sufficient monies for the operation of Colorado's reclamation program, the committee reviewed a proposal to place a severance tax on coal production and on the other minerals proposed for incorporation into the reclamation statutes. The interim Committee on Coal, Oil Shale,

and Related Minerals is considering various severance tax proposals for mineral production so the Committee on Energy decided to defer advancing a specific funding recommendation. The committee recommends, however, that any severance tax proposal which might be advanced by the Committee on Coal, Oil Shale, and Related Minerals include some means by which a portion of such tax may be used to meet the cost of implementing Colorado's reclamation statutes.

COMMITTEE ON ENERGY

BILL 30

A BILL FOR AN ACT

1 CONCERNING EMERGENCIES CAUSED BY OR RELATED TO THE USE OF ENERGY  
2 OR ENERGY-RELATED COMMODITIES, AND PROVIDING FOR THE POWERS,  
3 DUTIES, AND FUNCTIONS OF THE GOVERNOR, THE GENERAL ASSEMBLY,  
4 AND STATE OFFICIALS AND AGENCIES WITH RESPECT THERETO.

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Bill Summary

Describes the powers and functions of the governor and the general assembly in the event of an energy or energy-related emergency; designates the advisory council to the Colorado energy research institute to serve as advisor to the governor and general assembly and assigns related duties to said council.

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

6 SECTION 1. Article 20 of title 24, Colorado Revised  
7 Statutes 1973, is amended BY THE ADDITION OF A NEW PART to read:

8 PART 3

9 AN EMERGENCY CAUSED BY OR RELATED

10 TO THE USE OF ENERGY

11 24-20-301. Definition. As used in this part 3, unless the  
12 context otherwise requires:

13 (1) "Emergency" means any crisis caused by or related to  
14 the use of energy or energy-related commodities which poses an  
15 imminent threat to the health, safety, and welfare of the



1 citizens of this state.

2 24-20-302. Energy or energy-related emergency - governor's  
3 powers - general assembly's function. (1) Upon reasonable  
4 apprehension that an energy or an energy-related emergency  
5 exists, the governor may proclaim a state of emergency.

6 (2) If the general assembly is not in session or if the  
7 general assembly is in regular session during an even-numbered  
8 year, the power to issue executive orders, proclamations, and  
9 regulations in connection with such emergency shall only arise if  
10 accompanied by a call of the general assembly into special  
11 session. If the general assembly is in regular session during an  
12 odd-numbered year, the power to issue executive orders,  
13 proclamations, and regulations in connection with such emergency  
14 may be exercised without calling a special session of the general  
15 assembly.

16 (3) In connection with such emergency, executive orders,  
17 proclamations, and regulations, issued as provided in this  
18 section, may include provisions for the following:

19 (a) Establishment and implementation of programs, controls,  
20 standards, priorities, and quotas for the allocation,  
21 conservation, and consumption of energy resources;

22 (b) Suspension and modification of existing standards and  
23 requirements affecting or affected by the use of energy  
24 resources, including those relating to air quality control, the  
25 type and composition of various energy resources, the production  
26 and distribution of energy resources, and the hours and days  
27 during which public buildings and commercial and industrial

1 establishments may be or are required to remain open; and

2 (c) Establishment and implementation of regional programs  
3 and agreements for the purposes of coordinating the energy  
4 resource programs and actions of the state with those of the  
5 federal government and of other states and localities.

6 (4) The general assembly may revoke by joint resolution any  
7 proclamation of a state of emergency or any executive order,  
8 proclamation, or regulation relating to such state of emergency  
9 issued by the governor.

10 SECTION 2. 23-41-115, Colorado Revised Statutes 1973  
11 (numbered as 124-9-20, C.R.S. 1963), as enacted by section 1 of  
12 chapter 95, Session Laws of Colorado 1974, is amended BY THE  
13 ADDITION OF A NEW SUBSECTION to read:

14 23-41-115. Advisory council on energy and energy-related  
15 mineral research. (5) (a) The advisory council is hereby  
16 designated as the advisory agency for the governor and the  
17 general assembly in matters relating to energy or energy-related  
18 emergencies.

19 (b) The advisory council shall:

20 (1) Prepare and submit an annual report, beginning no later  
21 than January 15, 1976, and such other reports as may be  
22 requested, to the governor and to the general assembly. The  
23 annual report shall contain an inventory of energy demands and  
24 supplies for the state of Colorado for the year of the report and  
25 a projection of energy demands and supplies for the state of  
26 Colorado for the second, third, fourth, fifth, tenth, and  
27 twentieth years after the year of the report. Such reports shall

1 include recommendations in the following areas:

2 (A) Contingency rationing or allocation plans for fuel oil,  
3 gasoline, natural gas, and other energy supplies;

4 (B) Methods for energy conservation;

5 (C) Measures to reduce or control energy demand; and

6 (D) Measures to develop new or expanded supplies of energy,  
7 including any recommendations concerning establishment of oil  
8 refineries, nuclear facilities, or similar major capital  
9 facilities.

10 (II) Develop contingency plans for energy and  
11 energy-related emergencies. Such contingency plans are to:

12 (A) Primarily emphasize the maintenance of essential public  
13 services;

14 (B) Be designed to minimize the disruption and cost of such  
15 emergency to citizens of the state by taking into consideration  
16 all segments of the economy.

17 (III) Identify any projected beneficial or adverse social,  
18 economic, or environmental impact of such energy recommendations.

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

COMMITTEE ON ENERGY

BILL 31

A BILL FOR AN ACT

1 CONCERNING THE DUTIES OF THE COLORADO ENERGY RESEARCH INSTITUTE.

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Bill Summary

Requires the Colorado energy research institute to prepare an annual report and projection of energy demands and supplies and to recommend measures to be taken in case of shortage.

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

3 SECTION 1. 23-41-114 (3), Colorado Revised Statutes 1973  
4 (numbered as 124-9-19, C.R.S. 1963), as enacted by section 1 of  
5 chapter 95, Session Laws of Colorado 1974, is amended BY THE  
6 ADDITION OF A NEW PARAGRAPH to read:

7 23-41-114. Colorado energy research institute - creation.

8 (3) (g) (I) Report to the governor and to the general assembly  
9 no later than January 15, 1976, and annually thereafter.

10 (II) Such report shall contain an inventory of energy  
11 demands and supplies for the state of Colorado for the year of  
12 the report and a projection of energy demands and supplies for  
13 the state of Colorado for the second, third, fourth, fifth,  
14 tenth, and twentieth years after the year of the report.

15 (III) If projected energy demands exceed the projected  
16 energy supplies in any year or if the sufficiency or adequacy of

1 energy supplies is in doubt, the institute shall include in its  
2 report means by which the state can bring energy supply and  
3 demand into balance. Such recommendations shall include:

4 (A) Methods for energy conservation;

5 (B) Measures to reduce or control energy demand; and

6 (C) Measures to develop new or expanded supplies of energy,  
7 including any recommendations to authorize the establishment of  
8 oil refineries, nuclear power facilities, or other similar major  
9 capital facilities. The institute shall identify any projected  
10 beneficial or adverse social, economic, or environmental impact  
11 of such energy recommendations.

12 SECTION 2. Safety clause. The general assembly hereby  
13 finds, determines, and declares that this act is necessary for  
14 the immediate preservation of the public peace, health, and  
15 safety.

COMMITTEE ON ENERGY

BILL 32

A BILL FOR AN ACT

1 CONCERNING THE USE OF THERMAL INSULATION, AND PROVIDING FOR THE  
2 POWERS AND DUTIES OF THE STATE HOUSING BOARD, THE STATE  
3 DIRECTOR OF HOUSING, AND LOCAL GOVERNMENTS WITH RESPECT  
4 THERETO, AND MAKING AN APPROPRIATION THEREFOR.

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Bill Summary

Provides that the state housing board, aided by an advisory committee, adopt thermal insulation regulations for hotels, motels, and residential dwellings and that local governments adopt and enforce similar regulations.

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

6 SECTION 1. 24-32-707 (1), Colorado Revised Statutes 1973  
7 (numbered as 69-9-7 (1), C.R.S. 1963), as amended by section 2 of  
8 chapter 65, Session Laws of Colorado 1974, is amended BY THE  
9 ADDITION OF A NEW PARAGRAPH to read:

10 24-32-707. Powers of board. (1) (f) Not later than July  
11 1, 1976, to adopt regulations containing such minimum standards  
12 of thermal insulation for new hotels, motels, apartment houses,  
13 homes, and other residential dwellings as it determines are  
14 reasonably necessary to promote the conservation of energy.

15 SECTION 2. Article 32 of title 24, Colorado Revised

1 Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW  
2 SECTION to read:

3 24-32-715. Thermal insulation - advisory committee. (1)

4 The promulgation of thermal insulation regulations for hotels,  
5 motels, apartment houses, homes, and other residential dwellings  
6 is a matter of statewide concern.

7 (2) The state director of housing shall appoint an advisory  
8 committee to assist the board in the establishment of thermal  
9 insulation regulations. The eleven-member advisory committee  
10 shall consist of two architects in private practice, two persons  
11 having professional and technical experience in the field of  
12 thermal insulation or use, one general building contractor, two  
13 specialty contractors, three representatives, one each from a  
14 county, municipality, and city and county, and one designee of  
15 the executive director of the department of natural resources.  
16 Members of the advisory committee shall serve without  
17 compensation, but each member shall be reimbursed for his  
18 necessary traveling and other expenses incurred in the  
19 performance of his duties on the advisory committee.

20 (3) The state director of housing has authority to employ  
21 consultants to develop the thermal insulation regulations.

22 (4) Upon finding that the materials required to meet the  
23 thermal insulation regulations are not available either  
24 throughout the state or in a localized area or that such  
25 materials are available only at prices which reflect extreme  
26 temporary shortages, the governor acting through the board may  
27 suspend the provisions of this section for not more than ninety

1 days. This section shall not be construed as providing authority  
2 to suspend any local enactment.

3 SECTION 3. Part 1 of article 28 of title 30, Colorado  
4 Revised Statutes 1973, as amended, is amended BY THE ADDITION OF  
5 A NEW SECTION to read:

6 30-28-135.5. Thermal insulation regulations. Not later  
7 than September 1, 1976, the board of county commissioners of each  
8 county in the state shall adopt thermal insulation regulations  
9 for new hotels, motels, apartment houses, homes, and other  
10 residential dwellings to be constructed in the unincorporated  
11 areas of the county, which regulations shall be no less stringent  
12 than the regulations adopted by the state housing board pursuant  
13 to section 24-32-707 (1) (f), C.R.S. 1973. On and after such  
14 date, no building permit shall be issued for construction of any  
15 new hotel, motel, apartment house, home, or other residential  
16 dwelling in the unincorporated areas of such county unless such  
17 construction conforms to the regulations adopted pursuant to this  
18 section.

19 SECTION 4. Part 2 of article 23 of title 31, Colorado  
20 Revised Statutes 1973, is amended BY THE ADDITION OF A NEW  
21 SECTION to read:

22 31-23-212.5. Thermal insulation regulations. Not later  
23 than September 1, 1976, the governing body of each city, town, or  
24 city and county in the state shall adopt thermal insulation  
25 regulations for new hotels, motels, apartment houses, homes, and  
26 other residential dwellings within its jurisdiction, which  
27 regulations shall be no less stringent than the regulations



1 adopted by the state housing board pursuant to section 24-32-707  
2 (1) (f), C.R.S. 1973. On and after such date, no building permit  
3 shall be issued for the construction of any new hotel, motel,  
4 apartment house, home, or other residential dwelling in such  
5 city, town, or city and county unless such construction conforms  
6 to the regulations adopted pursuant to this section.

7 SECTION 5. Appropriation. There is hereby appropriated,  
8 out of any moneys in the state treasury not otherwise  
9 appropriated, to the division of housing of the department of  
10 local affairs, for the fiscal year commencing July 1, 1975, the  
11 sum of \_\_\_\_\_ dollars (\$ ), or so much thereof as may be  
12 necessary, for the implementation of this act.

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

COMMITTEE ON ENERGY

BILL 33

A BILL FOR AN ACT

1 CONCERNING THERMAL INSULATION, AND PROVIDING FOR THE DUTIES OF  
2 THE INDUSTRIAL COMMISSION OF COLORADO AND LOCAL GOVERNMENTS  
3 WITH RESPECT THERETO, AND MAKING AN APPROPRIATION THEREFOR.

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Bill Summary

Provides that the industrial commission of Colorado, aided by an advisory committee, adopt thermal insulation regulations for industrial and commercial structures and that local governments adopt and enforce similar regulations.

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

5 SECTION 1. 8-1-107, Colorado Revised Statutes 1973, is  
6 amended BY THE ADDITION OF A NEW SUBSECTION to read:

7 8-1-107. Powers and duties of commission - powers and  
8 duties of director. (3) (a) The commission, not later than July  
9 1, 1977, by general order, shall adopt such thermal insulation  
10 regulations for new industrial and commercial structures as it  
11 determines reasonably necessary to promote the conservation of  
12 energy. The regulations may be based on existing standards or  
13 recommendations developed by other private or government  
14 agencies. The commission may take into consideration the purpose  
15 for which an industrial or commercial structure has been designed

1 in order that such regulations are functionally related to such  
2 structure's purpose.

3 (b) The director shall employ consultants and appoint an  
4 advisory committee to assist the commission in the establishment  
5 of such thermal insulation regulations. The advisory committee  
6 shall consist of two architects in private practice, two persons  
7 having professional or technical experience in the field of  
8 thermal insulation, one general building contractor, one  
9 municipal building inspector, one bank officer specializing in  
10 commercial construction loans, one designee of the industrial  
11 commission, and one designee of the executive director of the  
12 department of natural resources. Members of the advisory  
13 committee shall serve without compensation, but each member shall  
14 be reimbursed for his necessary traveling and other expenses  
15 incurred in the performance of his duties on the advisory  
16 committee.

17 (c) The promulgation of thermal insulation regulations for  
18 industrial and commercial structures is a matter of statewide  
19 concern.

20 SECTION 2. Part 1 of article 28 of title 30, Colorado  
21 Revised Statutes 1973, as amended, is amended BY THE ADDITION OF  
22 A NEW SECTION to read:

23 30-28-135.5. Thermal insulation regulations. Not later  
24 than September 1, 1977, the board of county commissioners of each  
25 county in the state shall adopt thermal insulation regulations  
26 for new industrial or commercial structures to be constructed in  
27 the unincorporated areas of the county, which regulations shall

1 be no less stringent than the regulations adopted by the state  
2 industrial commission pursuant to section 8-1-107 (3), C.R.S.  
3 1973. On and after such date, no building permit shall be issued  
4 for construction of any new industrial or commercial structure in  
5 the unincorporated area of such county unless such construction  
6 conforms to the regulations adopted pursuant to this section.

7 SECTION 3. Part 2 of article 23 of title 31, Colorado  
8 Revised Statutes 1973, is amended BY THE ADDITION OF A NEW  
9 SECTION to read:

10 31-23-212.5. Thermal insulation regulations. Not later  
11 than September 1, 1977, the governing body of each city, town, or  
12 city and county in the state shall adopt thermal insulation  
13 regulations for new industrial or commercial structures within  
14 its jurisdiction, which regulations shall be no less stringent  
15 than the regulations adopted by the state industrial commission  
16 pursuant to section 8-1-107 (3), C.R.S. 1973. On and after such  
17 date, no building permit shall be issued for the construction of  
18 any new industrial or commercial structure in such city, town, or  
19 city and county unless such construction conforms to the  
20 standards adopted pursuant to this section.

21 SECTION 4. Appropriation. There is hereby appropriated out  
22 of any moneys in the state treasury not otherwise appropriated,  
23 to the industrial commission in the department of labor, for the  
24 fiscal year commencing July 1, 1975, the sum of \_\_\_ dollars  
25 (\$\_\_\_), or so much thereof as may be necessary, for the  
26 implementation of this act.

27 SECTION 5. Safety clause. The general assembly hereby

1 finds, determines, and declares that this act is necessary for  
2 the immediate preservation of the public peace, health, and  
3 safety.

COMMITTEE ON ENERGY

BILL 34

A BILL FOR AN ACT

1 CONCERNING THE GENERAL PROPERTY TAX, AND PROVIDING A CREDIT FOR  
2 HOMEOWNERS WHO IMPROVE THE THERMAL PERFORMANCE OF  
3 RESIDENTIAL PROPERTY.

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Bill Summary

Provides a credit against property tax for a percentage of the cost of improvements to a residence, which improvements reduce the amount of energy required to heat or cool such residence.

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

5 SECTION 1. Article 10 of title 39, Colorado Revised  
6 Statutes 1973, is amended BY THE ADDITION OF A NEW SECTION to  
7 read:

8 39-10-103.5. Real property tax credit - improved thermal  
9 performance. (1) (a) There shall be allowed to individuals  
10 having resided within this state for the entire taxable year who  
11 own and occupy residential property and who have improved the  
12 thermal performance characteristics of such property, a credit on  
13 the general property taxes due and payable of \_\_\_\_ percent of  
14 the cost of such thermal performance improvements. Such credit  
15 shall be not more than \_\_\_\_ percent of the general property

1 taxes actually due and payable on the residence during the year  
2 for which such improvement is made and such credit is claimed.  
3 Such thermal performance improvements shall be designed to reduce  
4 the amount of energy required to heat or cool such residence,  
5 including, but not limited to, increased thermal insulation, use  
6 of storm windows, thermal pane glass, and appropriate attic  
7 ventilation.

8 (b) Upon receipt of a statement showing the amount of taxes  
9 due and payable, a taxpayer may submit to the treasurer  
10 satisfactory proof of the construction or installation of such  
11 improvements by presentation of bills of sale for the materials  
12 purchased and, when the construction or installation has been  
13 carried out by a contractor, a receipt for labor performed.

14 (c) A person commits a class [ ] misdemeanor if, with  
15 intent to defraud, he makes a written instrument which purports  
16 to describe materials purchased or labor performed in the  
17 improvement of the thermal performance of a residential structure  
18 and which the person knows to be false in some material respect.

19 SECTION 2. Effective date. This act shall take effect on  
20 July 1, 1975. The first property taxes for which credit may be  
21 claimed according to this act shall be those levied in the year  
22 1975 and actually paid during the year 1976.

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

COMMITTEE ON ENERGY

BILL 35

A BILL FOR AN ACT

1 CONCERNING THE REGULATION OF RATES AND CHARGES OF PUBLIC  
2 UTILITIES.

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Bill Summary

States that the public utilities commission has the authority to consider energy conservation in regulating rates and charges.

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

4 SECTION 1. Article 3 of title 40, Colorado Revised Statutes  
5 1973, is amended BY THE ADDITION OF A NEW SECTION to read:

6 40-3-101.5. Rates - energy conservation. The commission  
7 has the power, after a hearing upon its own motion or upon  
8 complaint, to take into account energy conservation as it relates  
9 to a single rate, fare, toll, rental, charge, classification,  
10 rule, regulation, contract, or practice or the entire schedule of  
11 rates, fares, tolls, rentals, charges, classifications, rules,  
12 regulations, contracts, and practices of any public utility and  
13 to establish new rates, fares, tolls, rentals, charges,  
14 classifications, rules, regulations, contracts, practices, or  
15 schedules in lieu thereof.

16 SECTION 2. Safety clause. The general assembly hereby



1 finds, determines, and declares that this act is necessary for  
2 the immediate preservation of the public peace, health, and  
3 safety.

COMMITTEE ON ENERGY

BILL 36

A BILL FOR AN ACT

1 CONCERNING OPEN MINING, AND AMENDING THE "COLORADO OPEN  
2 MINING LAND RECLAMATION ACT OF 1973".

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Bill Summary

Increases area around open mines subject to regulation; forbids open mining in environmentally sensitive areas; extends regulation to open mining of more types of minerals, including oil shale; increases the size of the land reclamation board and specifies and increases the general duties and powers of said board; specifies grounds for denial of open mining permit; increases and clarifies operator's reclamation requirements; specifies standards for determining amount of operator's bond; empowers board to request attorney general to enjoin violations; provides for citizen suits to encourage enforcement, an inventory of mining operations, and a fund for reclamation and other conservation purposes.

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

4 SECTION 1. 34-32-103 (1), Colorado Revised Statutes  
5 1973, is amended to read:

6 34-32-103. Definitions. (1) "Affected land" OR "AREA  
7 OF LAND AFFECTED" means ~~the--area--of--land--from--which~~  
8 ~~overburden--has--been--removed--or--upon--which--overburden--has~~  
9 ~~been--deposited,--or--before--or--after--July--1,--1969~~ THE  
10 SURFACE AREA IN WHICH MINING OPERATIONS ARE BEING CONDUCTED

1 OR HAVE BEEN CONDUCTED SINCE JULY 1, 1969, INCLUDING BUT NOT  
2 LIMITED TO LAND EXCAVATIONS, WORKINGS, REFUSE BANKS,  
3 TAILINGS, SPOIL BANKS, AND AREAS IN WHICH STRUCTURES,  
4 FACILITIES, EQUIPMENT, MACHINES, TOOLS, OR OTHER MATERIALS  
5 OR PROPERTY RESULTING FROM OR USED IN MINING OPERATIONS ARE  
6 SITUATED.

7 SECTION 2. 34-32-103, Colorado Revised Statutes 1973,  
8 is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS  
9 to read:

10 34-32-103. Definitions. (4.5) "Land having special,  
11 exceptional, critical, or unique characteristics" means land  
12 which possesses special, exceptional, critical, or unique:

13 (a) biological productivity, the loss of which would  
14 jeopardize species of wildlife which have been placed on the  
15 federal endangered species list;

16 (b) Ecological fragility in the sense that the land,  
17 once adversely affected, could not return to its former  
18 ecological role in the reasonably foreseeable future;

19 (c) Ecological importance in the sense that the  
20 particular land has such a strong influence on the total  
21 ecosystem of which it is a part that even temporary effects  
22 felt by it could precipitate a system-wide reaction of  
23 unpredictable scope or dimension; or

24 (d) historic, archaeological, topographic, geologic,  
25 ethnologic, scientific, cultural, or recreational  
26 significance; or scenic significance in the sense that an

1 important part of the economic potential of such land, or an  
2 important part of a person's ability to conduct or operate a  
3 business or industry thereon, is attributable to the land's  
4 physical characteristics.

5 (4.7) "Method of operation" means the method or manner  
6 by which open mining is carried out, overburden is placed or  
7 handled, water is controlled, and other acts which affect  
8 the reclamation of the area of land affected are performed  
9 by the operator in the process of uncovering and removing  
10 the deposit.

11 SECTION 3. 34-32-103 (5) and (7), Colorado Revised  
12 Statutes 1973, are amended to read:

13 34-32-103. Definitions. (5) "Open mining" means the  
14 mining of ~~natural--mineral--deposits--of--limestone--used--for~~  
15 ~~construction--purposes,--coal,--sand,--gravel,--and--quarry~~  
16 ~~aggregate~~ ALL MINERALS AND ANY OTHER SIMILAR MATERIAL OR  
17 SUBSTANCE OF COMMERCIAL VALUE TO BE EXCAVATED FROM NATURAL  
18 DEPOSITS ON OR IN THE EARTH, INCLUDING BUT NOT LIMITED TO  
19 COAL, OIL SHALE, CLAY, STONE, SAND, GRAVEL, QUARRY  
20 AGGREGATES, PHOSPHATES, SALTS, BENTONITE, GYPSUM, FELDSPAR,  
21 METALLIFEROUS AND NON-METALLIFEROUS TYPES OF ORES, INCLUDING  
22 URANIUM ORE, by removing the overburden lying above such  
23 deposits and mining directly from the deposits thereby  
24 exposed. The term includes, but is not limited to, such  
25 practices as open cut mining, open pit mining, strip mining,  
26 quarrying, and dredging.

1           (7) "Overburden" means all of the earth and other  
2 materials which lie above ~~natural--mineral--deposits--of~~  
3 ~~limestone--used--for--construction--purposes,--coal,--sandy~~  
4 ~~gravel,--and--quarry--aggregate~~ ALL MINERALS AND ANY OTHER  
5 SIMILAR MATERIAL OR SUBSTANCE OF COMMERCIAL VALUE TO BE  
6 EXCAVATED FROM NATURAL DEPOSITS, INCLUDING BUT NOT LIMITED  
7 TO THE NATURAL DEPOSITS LISTED IN SUBSECTION (5) OF THIS  
8 SECTION, and also means such earth and other materials  
9 disturbed from their natural state in the process of open  
10 mining.

11           SECTION 4. 34-32-105 (2), Colorado Revised Statutes  
12 1973, is amended to read:

13           34-32-105. Land reclamation board -- created. (2) The  
14 board shall consist of ~~five~~ SEVEN members: The executive  
15 director, who shall be chairman; the deputy commissioner of  
16 mines; the chief inspector of coal mines; the state  
17 geologist; ~~and~~ a member of the state soil conservation board  
18 designated by such board; AND TWO PERSONS TO BE APPOINTED BY  
19 THE GOVERNOR. The members of the board shall receive no  
20 additional compensation for their services on the board but  
21 shall be reimbursed for necessary expenses incurred in the  
22 performance of their duties on the board.

23           SECTION 5. 34-32-106, Colorado Revised Statutes 1973,  
24 is amended to read:

25           34-32-106. Duties of the board. (1) The board shall:

26           (a) Meet at least once each month;

1 (b) ISSUE OPEN MINING PERMITS AS PROVIDED IN THIS  
2 ARTICLE;

3 (c) SET THE AMOUNT OF PERFORMANCE BONDS AND MAINTAIN  
4 PROCEEDINGS FOR FORFEITURE OF SUCH BONDS;

5 (d) PROHIBIT ISSUANCE OF PERMITS FOR APPLICATIONS  
6 WHERE THE AREA OF LAND AFFECTED CANNOT BE RECLAIMED WITH  
7 EXISTING TECHNOLOGY;

8 ~~(e)~~ (e) Develop and promulgate standards for land  
9 reclamation plans ~~and--substitution--of--affected--lands--as~~  
10 ~~provided--in~~ REQUIRED UNDER section 34-32-111 (1) (a);

11 (f) REVIEW AND MODIFY RECLAMATION PLANS;

12 (g) PERMIT DEPARTURES FROM RECLAMATION PERFORMANCE  
13 STANDARDS ON AN EXPERIMENTAL BASIS;

14 (h) ISSUE WARNINGS, ENFORCE PENALTIES, AND INITIATE  
15 CIVIL ACTIONS;

16 (i) ORDER CESSATION OF MINING OPERATIONS FOUND IN  
17 VIOLATION OF REGULATIONS AND PERMIT STIPULATIONS;

18 (j) PREPARE PROGRAM IMPLEMENTATION PROGRESS REPORTS;

19 (k) PROVIDE TECHNICAL ASSISTANCE;

20 ~~(l)~~ (l) Administer the land reclamation fund and  
21 determine the order of priority of reclamation of previously  
22 open mined lands as funds are available; AND

23 ~~(m)~~ (m) Carry on a continuing review of the problems  
24 of open mining and land reclamation in the state of  
25 Colorado.

26 ~~(n) --It is the duty of the department of agriculture,~~

1 ~~the department of higher education, the state soil~~  
2 ~~conservation board, the Colorado geological survey, the~~  
3 ~~division of parks and outdoor recreation, the division of~~  
4 ~~wildlife, the university of Colorado, Colorado state~~  
5 ~~university, Colorado school of mines, and the state forester~~  
6 ~~to furnish the board and its designees, as far as~~  
7 ~~practicable, whatever data and technical assistance the~~  
8 ~~board may request and deem necessary for the performance of~~  
9 ~~total reclamation and enforcement duties.~~

10 SECTION 6. 34-32-107, Colorado Revised Statutes 1973,  
11 is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

12 34-32-107. Powers of board. (1) The board may  
13 initiate and encourage studies and programs through the  
14 department and in other agencies and institutions of state  
15 government relating to:

16 (a) The development of less destructive methods of  
17 open mining;

18 (b) Better methods of land reclamation;

19 (c) More effective reclaimed land use; and

20 (d) Coordination of the provisions of this article  
21 with the programs of other state agencies dealing with  
22 environmental, recreational, rehabilitation, and related  
23 concerns.

24 (2) The board may:

25 (a) Cooperate with other governmental agencies,  
26 educational institutions, foundations, industry, and private

1 groups;

2 (b) Compensate for services contracted;

3 (c) Receive federal, state, or other funds and  
4 allocate them for reclamation, education, or research  
5 projects; and

6 (d) Adopt and promulgate reasonable rules and  
7 regulations respecting administration of this article and in  
8 conformity therewith.

9 SECTION 7. Article 32 of title 34, Colorado Revised  
10 Statutes 1973, is amended BY THE ADDITION OF A NEW SECTION  
11 to read:

12 34-32-107.5. Right to hearing - administrative  
13 procedure act applicable. (1) Any person aggrieved by the  
14 board's approval or denial of a permit or modification of or  
15 failure to modify a reclamation plan is entitled to a  
16 hearing before the board.

17 (2) Any hearing provided for in subsection (1) of this  
18 section and all proceedings for promulgation of rules and  
19 regulations shall be conducted in compliance with the  
20 applicable provisions of the "State Administrative Procedure  
21 Act", article 4 of title 24, C.R.S. 1973.

22 SECTION 8. 34-32-108, Colorado Revised Statutes 1973,  
23 is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

24 34-32-108. Duties of other state agencies. It is the  
25 duty of the department of agriculture, the department of  
26 higher education, the state soil conservation board, the



1 Colorado geological survey, the division of parks and  
2 outdoor recreation, the division of wildlife, the university  
3 of Colorado, Colorado state university, Colorado school of  
4 mines, and the state forester to furnish the board and its  
5 designees, as far as practicable, whatever data and  
6 technical assistance the board may request and deem  
7 necessary for the performance of total reclamation and  
8 enforcement duties.

9 SECTION 9. 34-32-109 (1), Colorado Revised Statutes  
10 1973, is amended to read:

11 34-32-109. Necessity of permit - application to  
12 existing permits. (1) It shall be unlawful, after July 1,  
13 1973, for any operator to engage in new open mining without  
14 first obtaining from the ~~department~~ BOARD a permit so to do,  
15 in such form as provided in this article. Permits granted  
16 prior to July 1, 1973, shall be subject to the provisions of  
17 this article. No other governmental office of the state or  
18 any political subdivision of the state shall have the  
19 authority to grant the issuance of a permit. However, the  
20 ~~department~~ BOARD shall not grant a permit in violation of  
21 city, town, county, or city and county zoning or subdivision  
22 regulations.

23 SECTION 10. 34-32-110, Colorado Revised Statutes 1973,  
24 is amended to read:

25 34-32-110. Application for permit - bond - fee. (1)  
26 Any operator desiring to engage in new open mining shall

1 make written application to the board for a permit. The  
2 permit, if approved, shall authorize the operator to engage  
3 in open mining upon the area of land described in his  
4 application until ~~June-thirtieth~~ THE ANNIVERSARY DATE of the  
5 fifth year following approval of the permit.

6 (2) (a) AN OPERATOR DESIRING A PERMIT SHALL CAUSE TO  
7 BE PUBLISHED A NOTICE OF INTENT TO FILE AN APPLICATION NO  
8 LATER THAN THE ACTUAL DATE OF FILING SUCH APPLICATION. SUCH  
9 PUBLICATION SHALL BE IN A NEWSPAPER OR NEWSPAPERS AS IS  
10 NECESSARY TO OBTAIN GENERAL CIRCULATION ONCE IN EVERY COUNTY  
11 AFFECTED AS DETERMINED BY THE BOARD AND IN ONE NEWSPAPER OF  
12 GENERAL CIRCULATION THROUGHOUT THE STATE.

13 (b) ALL PUBLICATIONS PROVIDED IN PARAGRAPH (a) OF THIS  
14 SUBSECTION (2) MAY BE AUGMENTED, IN THE DISCRETION OF THE  
15 BOARD, BY NOTICES BROADCAST OVER ANY OR ALL STANDARD RADIO,  
16 FM RADIO, AND TELEVISION STATIONS AND CABLE TELEVISION.  
17 SUCH BROADCAST NOTICES SHALL MAKE REFERENCE TO LOCATIONS OR  
18 PUBLICATIONS WHEREIN DETAILS OF THE SUBJECT MATTER OF THE  
19 NOTICE ARE LOCATED.

20 ~~(2)~~ (3) An operator desiring a permit shall file an  
21 application which shall state:

22 (a) The legal description and area of land ~~to-be~~  
23 affected by the operation;

24 (b) The owner of the surface of the area of land ~~to-be~~  
25 affected;

26 (c) The owner of the substance to be mined;

1 (d) The source of the applicant's legal right to enter  
2 and open mine on the AREA OF land affected; ~~by-the-permit;~~

3 (e) The address of the general office and the local  
4 address ~~or-addresses~~ of the applicant;

5 (f) Whether the applicant or any affiliated person  
6 holds or has held any other permits under this article and  
7 an identification of such permits;

8 (g) The detailed description of the method of  
9 operation to be employed;

10 (h) The size of the area to be worked at any one time;  
11 and

12 (i) The timetable giving the periods of time which  
13 will be required for the various stages of the operation;

14 (j) THE RESULTS OF ANY TEST BORINGS OR CORE SAMPLINGS  
15 WHICH THE APPLICANT OR HIS AGENT HAS CONDUCTED ON THE AREA  
16 OF LAND AFFECTED, INCLUDING, BUT NOT LIMITED TO, THE NATURE  
17 AND THE DEPTH OF THE VARIOUS STRATA OR OVERBURDEN AND  
18 TOPSOIL, THE QUANTITIES AND LOCATION OF SUBSURFACE WATER AND  
19 ITS QUALITY, AND THE THICKNESS OF ANY MINERAL SEAM. EACH  
20 CROSS SECTION SHALL DEPICT THE THICKNESS AND GEOLOGIC  
21 CHARACTER OF ALL KNOWN STRATA BEGINNING WITH THE TOPSOIL;  
22 AND

23 (k) ANY OTHER INFORMATION DEEMED PERTINENT BY THE  
24 BOARD FOR ITS DECISION ON THE PERMIT.

25 ~~(3)~~ (4) The application or a permit shall be  
26 accompanied by two copies of an accurate map of the area OF

1 LAND affected. The map shall:

2 (a) Be made by a qualified person, registered land  
3 surveyor, or professional engineer;

4 (b) Identify the area which corresponds with the  
5 application;

6 (c) Show adjacent deep mining and adjacent surface  
7 owners;

8 (d) Be made to a scale of not less than one hundred  
9 feet to the inch and not to exceed six hundred sixty feet to  
10 the inch;

11 (e) Show the name and location of all creeks, roads,  
12 buildings, oil and gas wells and lines, and power and  
13 communication lines on the area of affected land AFFECTED  
14 and within two hundred feet of all boundaries of such area;

15 (f) Show the total area to be involved in the  
16 operation including the area to be mined and the area of  
17 land affected;

18 (g) Show the topography of the area with contour lines  
19 of sufficient detail to portray the direction and rate of  
20 slope of the land in question;

21 (h) Indicate the general type, thickness, and  
22 distribution of soil over the area in question;

23 (i) Show the type, character, and density of present  
24 vegetation covering the area in question;

25 (j) Show the depth and thickness of ~~the--coaly--sandy~~  
26 ~~gravel, quarry aggregate, or limestone used for construction~~

1 ~~purposes, to be mined~~ ALL MINERALS AND ANY OTHER SIMILAR  
2 MATERIAL OR SUBSTANCE OF COMMERCIAL VALUE TO BE EXCAVATED  
3 FROM NATURAL DEPOSITS ON OR IN THE EARTH, INCLUDING BUT NOT  
4 LIMITED TO THE NATURAL DEPOSITS LISTED IN SECTION 34-32-103  
5 (5), and the thickness and type of the overburden to be  
6 removed; and

7 (k) Show the expected physical appearance of the area  
8 to be mined and the area of land affected, correlated to the  
9 timetable required by paragraph (i) of subsection ~~(2)~~ (3) of  
10 this section.

11 ~~(4)~~ (5) A basic fee of fifty dollars plus fifteen  
12 dollars for each acre or fraction thereof of the area of  
13 land ~~to be~~ affected by the operation shall be paid before  
14 the issuance of the permit and shall accompany the  
15 application. The application shall also be accompanied by a  
16 bond meeting the requirements of section 34-32-112.

17 ~~(5) Upon receipt of such application, fee, and bond or~~  
18 ~~security as required by this article, the board shall review~~  
19 ~~the application and accompanying maps and issue a permit if:~~

20 ~~(a) The method of operation, physical appearance, and~~  
21 ~~timetable are reasonable in view of the public interest in~~  
22 ~~physically attractive surroundings and completion of the~~  
23 ~~operation as soon as practicable;~~

24 ~~(b) The operator makes a satisfactory showing to the~~  
25 ~~board that his operation will not adversely affect the~~  
26 ~~stability of any man-made structure on the area of the~~

1 affected--land--and--within--two--hundred--feet--of--all--boundaries  
2 of--such--area+

3 ~~(e) In the case of an application for a permit to~~  
4 ~~extract sand, gravel, and quarry aggregate, the extractor~~  
5 ~~shall complete such extraction and begin reclamation within~~  
6 ~~five years after the initial permit is issued. All~~  
7 ~~reclamation is to be completed within three years after the~~  
8 ~~date the operator advises the board that reclamation has~~  
9 ~~commenced as provided in the introductory portion of section~~  
10 ~~34-32-111-(1)-(m).~~

11 (6) An operator may, within the term of a permit,  
12 apply to the board for a permit renewal or for an amendment  
13 to the permit increasing or decreasing the ~~acreage--to--be~~  
14 AREA OF LAND affected. There shall be filed with any  
15 application for amendment a map and form with the same  
16 content as required for an original application, and the  
17 application shall be accompanied by a basic fee of ten  
18 dollars plus a fee of fifteen dollars for each acre or  
19 fraction thereof by which the original area is to be  
20 increased and a supplemental bond for such additional  
21 acreage. If the area of the original application is  
22 reduced, the amount of the bond shall proportionately be  
23 reduced. Renewal applications shall contain the information  
24 required in the original application if different from that  
25 in the original application or renewal. The renewal permit  
26 shall show the area mined or disturbed and the area

1 reclaimed since the original permit or the last renewal.  
2 Applications for renewal or amendment of a permit shall be  
3 reviewed by the board in the same manner as ~~provided in~~  
4 ~~subsection (5) of this section with regard to~~ applications  
5 for new permits.

6 SECTION 11. Article 32 of title 34, Colorado Revised  
7 Statutes 1973, is amended BY THE ADDITION OF A NEW SECTION  
8 to read:

9 34-32-110.5. Denial of permit. (1) An application  
10 for an open mining permit shall not be approved by the board  
11 if it is found on the basis of the information set forth in  
12 the application, an on-site inspection, and an evaluation of  
13 the operation by the board that the requirements of this  
14 article cannot be observed or that the proposed method of  
15 operation, backfilling, grading, highwall reduction,  
16 topsoiling, revegetation, or reclamation of the area of land  
17 affected cannot be carried out consistent with the purpose  
18 of this article.

19 (2) The board shall not approve the application for an  
20 open mining permit where the area of land described in the  
21 application includes land having special, exceptional,  
22 critical, or unique characteristics or when mining on that  
23 area would adversely affect the use or fundamental character  
24 of neighboring land having special, exceptional, critical,  
25 or unique characteristics.

26 (3) If the board finds that the overburden on any part

1 of the area of land described in the application for open  
2 mining permit is such that experience in the state with a  
3 similar overburden shows that substantial deposition of  
4 sediment in streambeds, landslides, or water pollution  
5 cannot feasibly be prevented, the board shall delete that  
6 part of the land described in the application upon which the  
7 overburden exists.

8 (4) If the board finds that the operation will  
9 constitute a hazard to a dwelling house, public building,  
10 school, church, cemetery, commercial or institutional  
11 building, public road, stream, lake, or other public  
12 property which the operator refuses to restore or replace,  
13 the board shall delete those areas from the open mining  
14 permit application before it is approved.

15 SECTION 12. 34-32-111 (1) (a), (1) (b), (1) (e), (1)  
16 (g), (1) (j), (1) (k), and (1) (l) are amended to read:

17 34-32-111. Duties of operator. (1) (a) On or before  
18 ~~July 1~~ of THE ANNIVERSARY DATE OF THE PERMIT each year, the  
19 operator shall submit a reclamation plan and map showing the  
20 AREA OF LAND affected ~~area~~ and other pertinent details, such  
21 as roads and access to the area, and reclamation  
22 accomplished. All maps shall show quarter-section, section,  
23 township, and county lines within the scope of the map,  
24 access to the area from the nearest public road, a meridian,  
25 a title containing the name of the operator and his address,  
26 the scale of the map, the name of the person or engineer who



1 prepared the map, the date, and the township, range, and  
2 county. The reclamation plan prepared by the operator shall  
3 be based upon provisions for or satisfactory explanation of  
4 all general requirements for the type of reclamation chosen.  
5 The details of the plan shall be appropriate to the type of  
6 reclamation designated by the operator and based upon the  
7 advice of technically trained personnel experienced in that  
8 type of reclamation on open mined lands and upon scientific  
9 knowledge from research in reclaiming and utilizing open  
10 mined lands.

11 (b) Grading shall be carried on by striking off ridges  
12 to a width of not less than fifteen feet at the top and  
13 peaks to a width of not less than fifteen feet at the top.  
14 In all cases, an even or gently undulating skyline will be a  
15 major objective. CONFORM WITH EXISTING TOPOGRAPHY, AS  
16 APPROVED BY THE BOARD.

17 (e) (I) All refuse shall be disposed of in a manner  
18 that will control stream pollution, unsightliness, or  
19 deleterious effects from such refuse, and water from the  
20 mining operation shall be diverted in a manner designed to  
21 control siltation, erosion, or other damage to streams and  
22 natural watercourses.

23 (II) ALL AVAILABLE TOPSOIL SHALL BE REMOVED IN A  
24 SEPARATE LAYER, GUARDED FROM EROSION AND POLLUTION, KEPT IN  
25 SUCH CONDITION THAT IT CAN SUSTAIN VEGETATION OF AT LEAST  
26 THE QUALITY AND VARIETY OF THAT SUSTAINED PRIOR TO REMOVAL,

1 AND RETURNED AS THE TOP LAYER AFTER THE OPERATION HAS BEEN  
2 BACKFILLED AND GRADED. AT THE DISCRETION OF THE BOARD, AN  
3 OPERATOR MAY USE OTHER ACCEPTABLE MATERIAL FOR PLACEMENT ON  
4 AFFECTED LAND WHERE SUCH MATERIAL IS CAPABLE OF SUPPORTING  
5 SURFACE VEGETATION VIRTUALLY AS WELL AS THE PRESENT TOPSOIL,  
6 PROVIDED SUCH MATERIAL SHALL BE ACCORDED THE SAME TREATMENT  
7 AS TOPSOIL.

8 (q) If the operator's choice of reclamation is forest  
9 planting, he may SELECT, with the approval of the  
10 ~~department,~~ BOARD, ~~select~~ the type of trees to be planted.  
11 ~~Tree-planting-shall-be-carried-out-based--on--a--spacing--of~~  
12 ~~approximately--ten--feet-by-ten-feet,-and-approximately-four~~  
13 ~~hundred--thirty-five--trees--per--acre.~~ REFORESTATION,  
14 planting methods, and care of stock shall be governed by  
15 good planting practices. If the operator is unable to  
16 acquire sufficient planting stock of desired tree species  
17 from the state or elsewhere at a reasonable cost, he may  
18 defer planting until planting stock is available to plant  
19 such land as originally planned, or he may select an  
20 alternate method of reclamation.

21 (j) If the operator's choice of reclamation is for  
22 range, he shall strike off all the peaks and ridges ~~to--a~~  
23 ~~width--of-not-less-than-fifteen-feet,~~ in accordance with the  
24 other requirements of this article, prior to the time of  
25 seeding. To the greatest extent possible, the affected land  
26 shall be restored to slopes commensurate with the proposed

1 land use and shall not be too steep to be traversed by  
2 livestock, subject to the approval of the board. The lequme  
3 seed shall be properly inoculated in all cases. The area  
4 may be seeded either by hand, power, or the aerial method.  
5 The species of grasses and lequmes and the rates of seeding  
6 to be used per acre shall be determined primarily by  
7 recommendations from the agricultural experiment stations  
8 established pursuant to article 33 of title 23, C.R.S. 1973,  
9 and experienced reclamation personnel of the operator, after  
10 considering other research or successful experience with  
11 range seeding. No grazing shall be permitted on reclaimed  
12 land until the planting is firmly established. The board, in  
13 consultation with the landowner and the local soil  
14 conservation district, if any, shall determine when grazing  
15 may start.

16 (k) If the operator's choice of reclamation is for  
17 agricultural or horticultural crops which normally require  
18 the use of farm equipment, the operator shall grade off  
19 peaks and ridges and fill valleys, except the highwall of  
20 the final cut, so that the area can be traversed with farm  
21 machinery. Preparation for seeding or planting,  
22 fertilization, and seeding or planting rates shall be  
23 governed by general agricultural and horticultural practices  
24 except where research or experience in such operations  
25 differs with these practices. NOTHING IN THIS PARAGRAPH (k)  
26 SHALL PRECLUDE THE BOARD'S REQUIREMENT OF HIGHWALL

1 REDUCTION.

2 (1) If the operator's choice of reclamation is for the  
3 development of the affected ~~area~~ LAND for homesite,  
4 recreational, industrial, or other uses, including food,  
5 shelter, and ground cover for wildlife, the basic minimum  
6 requirements necessary for such reclamation shall be agreed  
7 upon by the operator and the board.

8 SECTION 13. 34-32-111 (1) (m), Colorado Revised  
9 Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to  
10 read:

11 34-32-111. Duties of operator. (1) (m) All  
12 reclamation provided for in this section shall be carried to  
13 completion by the operator with all reasonable diligence and  
14 shall be completed prior to the expiration of three years  
15 after the date on which the operator advises the board that  
16 reclamation work has commenced; except that no planting of  
17 any kind shall be required to be made on any affected land  
18 being used or proposed to be used by the operator for the  
19 deposit or disposal of refuse until after the cessation of  
20 operations producing such refuse or proposed for future  
21 mining, or within depressed haulage roads or final cuts  
22 while such roads or final cuts are being used or made, or in  
23 any area where permanent pools or lakes have been formed.

24 SECTION 14. 34-32-112 (1), Colorado Revised Statutes  
25 1973, is amended to read:

26 34-32-112. Bond of operator - amount - sufficiency of

1 surety ~~---violations---compliance.~~ (1) Any bond required  
2 under this article to be filed by the operator shall be in  
3 such form as the board prescribes, payable to the state of  
4 Colorado, conditioned that the operator shall faithfully  
5 perform all requirements of this article and compl. with all  
6 rules and regulations made in accordance with the provisions  
7 of this article. Such bond shall be signed by the operator  
8 as principal and by a good and sufficient corporate surety  
9 authorized to do business in this state. ~~The penalty of~~  
10 ~~such bond shall be in such amount as the board deems~~  
11 ~~necessary to insure the performance of the duties of the~~  
12 ~~operator under this article with respect to the affected~~  
13 ~~land.~~ IN DETERMINING THE AMOUNT OF THE BOND, THE BOARD  
14 SHALL TAKE INTO CONSIDERATION THE COST OF RECLAMATION,  
15 INCLUDING BUT NOT LIMITED TO THE COST OF BACKFILLING,  
16 GRADING, HIGHWALL REDUCTION, TOPSOILING, OR RECLAMATION TO  
17 BE REQUIRED; BUT IN NO CASE SHALL THE BOND BE LESS THAN THE  
18 TOTAL ESTIMATED COST TO THE STATE OF COMPLETING THE WORK  
19 DESCRIBED IN THE RECLAMATION PLAN. If a county or  
20 municipality requires, in the opinion of the board, an  
21 adequate reclamation plan and a bond sufficient to carry out  
22 that plan, evidence of such plan and bond shall be  
23 acceptable to the board. In lieu of such bond, the operator  
24 may deposit cash and government securities with the board in  
25 an amount equal to that of the required bond on conditions  
26 as prescribed in this subsection (1). ~~In the discretion of~~

1 ~~the board, safety bond requirements may also be fulfilled by~~  
2 ~~using existing reclaimed areas if owned by the operator in~~  
3 ~~excess of cumulative permit or mined acres that have been~~  
4 ~~reclaimed under the provisions of this article and approved~~  
5 ~~by the board.~~ The penalty of the bond or amount of cash and  
6 securities shall be increased or reduced from time to time  
7 as provided in this article. Such bond or security shall  
8 remain in effect until the mined acreages have been  
9 reclaimed, approved, and released by the board.

10 SECTION 15. 34-32-114 (1) (c), Colorado Revised  
11 Statutes 1973, is amended to read:

12 34-32-114. Operators --- succession. (1) (c) The  
13 successor operator assumes, as part of his obligation under  
14 this article, all liability for the reclamation of the AREA  
15 OF land affected by the operation, and his obligation is  
16 covered by an appropriate bond as to such affected land.

17 SECTION 16. 34-32-117 (1), Colorado Revised Statutes  
18 1973, is amended to read:

19 34-32-117. Violations --- administrative procedures ---  
20 appeals from orders of the board. (1) (a) Whenever the  
21 board determines that an operator has not complied with the  
22 provisions of this article, the board shall ~~by private~~  
23 ~~conference, conciliation, and persuasion, endeavor to remedy~~  
24 ~~such violation. In case of the failure of such conference,~~  
25 ~~conciliation, and persuasion to remedy any alleged~~  
26 ~~violation, the board may~~ cause to have issued and served

1 upon the operator alleged to be committing such violation a  
2 written notice which shall specify the provision of this  
3 article which such operator allegedly is violating, and  
4 SHALL CONTAIN a statement of the manner in and the extent to  
5 which said operator is alleged to be violating this article,  
6 and shall require the operator so complained against to  
7 answer the charges of such formal complaint at a hearing  
8 before the board at a time not less than thirty days after  
9 the date of the notice. The board shall issue subpoenas at  
10 the request of the charged operator, requiring the  
11 attendance of witnesses and the production of such papers  
12 and documents as are relevant to such hearing. At such  
13 hearing the charged operator may appear in person or by  
14 counsel, testimony shall be taken under oath and recorded  
15 stenographically, and the charged operator may cross-examine  
16 witnesses. A copy of the record of such hearing shall be  
17 furnished to the charged operator upon payment of the cost  
18 thereof. The board shall enter such order as it deems  
19 appropriate to effectuate the purposes of this article and  
20 shall forthwith mail a copy thereof to the charged operator  
21 or the operator's attorney of record. If such order of the  
22 board is not complied with in the required time, the board  
23 may then commence proceedings under section 34-32-113.

24 (b) THE ATTORNEY GENERAL, UPON THE REQUEST OF THE  
25 BOARD, SHALL BRING AN ACTION FOR A RESTRAINING ORDER OR A  
26 TEMPORARY OR PERMANENT INJUNCTION AGAINST AN OPERATOR OR

1 OTHER PERSON VIOLATING OR THREATENING TO VIOLATE AN ORDER  
2 ADOPTED UNDER THIS ARTICLE OR ANY RULE, REGULATION, OR ORDER  
3 MADE PURSUANT THERETO.

4 SECTION 17. 34-32-118, Colorado Revised Statutes 1973,  
5 is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

6 34-32-118. Citizens' remedies. (1) (a) Any citizen of  
7 the state having knowledge that any of the provisions of  
8 this article are willfully and deliberately not being  
9 enforced by any public officer or employee whose duty it is  
10 to enforce any of the provisions of this article shall  
11 bring such failure to enforce the law to the attention of  
12 such public officer or employee.

13 (b) To provide against unreasonable and irresponsible  
14 demands being made, all such demands to enforce the law must  
15 be in writing, under oath, with facts set forth specifically  
16 stating the nature of the failure to enforce the law.

17 (c) The stating of false facts and charges in such  
18 affidavit shall constitute perjury and shall subject the  
19 affiant to penalties prescribed under the law for perjury.

20 (2) If such public officer or employee neglects or  
21 refuses for an unreasonable time after demand to enforce  
22 such provision, any such citizen shall have the right to  
23 bring an action in the nature of mandamus in the district  
24 court for the judicial district in which the operation which  
25 relates to the alleged lack of enforcement is being  
26 conducted.



1           (3) The court, if satisfied that any provision of this  
2 article is not being enforced, may make an appropriate order  
3 compelling the public officer or employee whose duty it is  
4 to enforce such provision to perform his duties, and upon  
5 failure to do so such public officer or employee shall be  
6 held in contempt of court and shall be subject to the  
7 penalties provided by the laws of the state in such cases.

8           SECTION 18. Article 32 of title 34, Colorado Revised  
9 Statutes 1973, is amended BY THE ADDITION OF THE FOLLOWING  
10 NEW SECTIONS to read:

11           34-32-119. Inventory. The board in cooperation with  
12 other state, federal, and private organizations shall  
13 prepare and maintain a continuing inventory of mining  
14 operations within the state.

15           34-32-120. Reclamation fund. All funds received by  
16 the board from permit fees, and from forfeiture of bonds,  
17 cash deposits, and securities, shall be held by the state  
18 treasurer in a special fund, separate and apart from all  
19 other moneys in the state treasury, to be known as the "Open  
20 Mining Conservation and Reclamation Fund", and shall be used  
21 by the board for the purpose of reclaiming affected land  
22 according to the plan accepted for such land or for any  
23 other conservation purposes provided by this article, and  
24 for such purposes are hereby specifically appropriated to  
25 the board. Funds received from the forfeiture of bonds and  
26 collateral shall be expended, if physically possible,

1           by the board for reclaiming and planting the area  
2 of land affected by the operation upon which liability was  
3 charged on the bond. Any funds received from such  
4 forfeiture in excess of the amount which is required for  
5 reclaiming and planting the area of land affected by the  
6 operation and funds received from forfeitures relating to  
7 land where reclaiming and planting is determined by the  
8 board to be physically impossible may be used for the  
9 reclaiming of other affected lands or for any other  
10 conservation purposes provided by this article.

11           SECTION 19. Safety clause. The general assembly  
12 hereby finds, determines, and declares that this act is  
13 necessary for the immediate preservation of the public  
14 peace, health, and safety.

LEGISLATIVE COUNCIL COMMITTEE  
ON CRIMINAL JUSTICE

Members of the Committee

Sen. Ralph Cole, Chairman  
Rep. Carol Tempest, Vice-  
Chairwoman  
Sen. Roger Cisneros  
Sen. Don MacManus  
Sen. Harold McCormick  
Sen. Ruth Stockton

Rep. Robert Eckelberry  
Rep. Larry Hobbs  
Rep. Charles Howe  
Rep. Kenneth Kramer  
Rep. Hubert Safran  
Rep. Morgan Smith

Council Staff

Earl Thaxton  
Senior Analyst

Steve Jordan  
Senior Research  
Assistant

## COMMITTEE ON CRIMINAL JUSTICE

The Committee on Criminal Justice continued in the 1974 interim with its review of statutes, existing programs, and consideration of new proposals relating to the system of criminal justice. Special emphasis was continued in the field of corrections, particularly as related to rehabilitation; the custody of persons convicted or accused of crimes, including the physical conditions, programs, and the legal framework of local jails; proposals for regional or community correctional facilities and programs; and the functions and authority of the Division of Corrections.

Three bills are recommended relating to criminal justice and are summarized in this report. A brief summary of committee activity is also included relating to the state correctional system study, directed by Senate Bill 55, 1974 session.

Another bill concerning the regulation of handguns is not recommended by the committee but is included in this report at the request of a minority of the committee and with the consent of the entire committee.

### Amending the Colorado Sex Offenders Act -- Bill 37

Adoption of a bill to clarify the intent and make other amendments to the Colorado Sex Offenders Act of 1968 is recommended by the committee. A similar bill had been recommended to the 1974 General Assembly but was not included in the Governor's agenda for that session.

Amendments to this act submitted in this report would delete a misdemeanor from the list of crimes for which a person may be sentenced under the act; would change the receiving center for all persons committed under the act from the state penitentiary to the state hospital; and would reduce the period required for parole consideration from twelve to six months.

### Use of Inmate Labor by Private Industry -- Bill 38

Bill 38 would authorize the training and employment of convicts by private organizations either at state institutions or at facilities outside of the institutions. Several business firms have been working toward establishing a program entitled "Operation Workwhile" which would allow private business firms

to become involved in inmate rehabilitation by providing inmates with viable work skills under realistic conditions to aid in their post-release adjustment.

The project initially would be on an experimental basis for a period of between six months and one year, using an appropriate business or manufacturer and about ten to fifteen inmates. Prisoners would be paid wages and fringe benefits comparable to those given for the same jobs in the open market. Wages earned by the inmate would be held in an account and distributed for the compensation of the victim of the crime committed by the inmate; to support of the inmate's dependents; for personal expenses of the inmate; for a trust account for the inmate upon his release; and to defray the costs incident to the inmate's confinement.

Bill 38 would authorize the Department of Institutions to contract with any corporation, association, labor organization, private nonprofit organization, or federal or state agency for the purpose of training or employing inmates at an established facility in the state penitentiary or the state reformatory or at a facility located outside of the existing institutions, such as a work-release facility.

#### Prohibiting the Transfer of Mentally Ill or Retarded Persons to the Colorado State Penitentiary -- Bill 39

It was brought to the attention of the committee that dangerous committed mental patients had been transferred from the state hospital to the state penitentiary for safekeeping when it was determined by the executive director of the Department of Institutions that the patient could not be safely confined in an institution for the mentally ill. This procedure has caused numerous problems for the administration at the penitentiary and has raised questions concerning the availability of necessary services for these persons in that institution.

Constitutional questions concerning the confinement of persons in a penitentiary without being convicted of a crime have also been raised. A three-judge U.S. District Court panel ruled on November 15, 1974, that mental patients cannot be transferred to the penitentiary unless hospital officials meet stringent requirements to prove they are too dangerous to be kept in the hospital and unless prison officials provide treatment for their mental illness (Romero, Lane, et. al. v. Shauer, Civil Action, C-5366).

It should be noted that completion of the maximum security forensic unit at the Colorado State Hospital should

prevent the necessity of this transfer procedure in the future. The committee is recommending a bill which would prohibit the transfer of such persons to the state penitentiary and would require that any persons from the state hospital who are being confined in the penitentiary be returned to the state hospital.

#### Continuing Study of Corrections Under Senate Bill 55

The Committee on Criminal Justice was designated by the Legislative Council as the committee responsible for conducting the study of the state correctional system directed under S.B. 55 (1974 session). A nine-member Correctional Advisory Commission has been appointed to assist the committee during the study.

The goals of this study project are to intensify the community approach to rehabilitation with respect to locating of the criminal offender within his community. Adjudicated offenders who do not need maximum security would be rehabilitated in and integrated into their communities under a community corrections approach. The maximum utilization of existing community programs and resources and the development of necessary programs and facilities at the community level are the primary interests of this study.

The project places the highest priority on diversion from the traditional custody-oriented correctional facilities to the development and utilization of existing community resources with emphasis on community involvement and responsibility. Individual program needs, and the relevant aspects of social service systems such as health, employment, education, mental health, public assistance, and vocational rehabilitation, are to be considered in the project. The overall goal of the committee's study is to design a plan for implementation of S.B. 55.

The first phase of the study, which is the collection and analysis of existing data on state and local facilities and programs, is now underway. It is anticipated that this phase will help provide information concerning the cost of the correctional system, the failure or success of the system, the condition of present facilities, programs, services which are essential and those which have no apparent benefit, and the type of client with which the system deals. The analysis of data should provide an overview of the present system, an identification of problems with the present correctional system, and possibly may suggest some solutions to these problems.

A preliminary report containing this data will be submitted to the General Assembly by January 1, 1975. A final report to include recommendations for legislative and executive action, and recommendations concerning the technical and financial feasibility of implementing the proposals, will be submitted to the General Assembly by January 1, 1976.

## MINORITY REPORT

### Regulating the Sale, Lease, Exchange, and Use of Firearms -- Bill 40

During its study in 1973, the committee became concerned about the increasing use of a certain type of handgun -- the so-called "Saturday night specials" -- in the commission of crimes. These are small handguns which can be purchased at low cost. In an effort to reduce the number of crimes committed by the use of such handguns, the committee had recommended a bill which would regulate the sale, lease, exchange, and use of these weapons. The proposed bill was not included in the Governor's call for the 1974 session and, for this reason, the bill has not been considered by the General Assembly.

The committee discussed submitting this bill again with favorable consideration, but the motion for this recommendation failed on a four-to-four tie vote. The four members who voted for the motion to recommend the bill requested that it be included in the committee report, even though the bill did not receive committee recommendation.

The bill would prohibit any person engaged in the business of wholesale or retail sale, rental, or exchange of handguns to sell or deliver any handgun, except an antique handgun, if the frame or receiver is a die casting of zinc alloy or any other material which has a melting temperature of less than 1,000 degrees Fahrenheit. The proposed legislation would require that a period of five days -- a "cooling-off" period -- lapse following receipt of the order for the purchase before any person engaged in the business can deliver such handgun. Persons engaged in the business of selling, renting, or exchanging handguns would be required to keep a record and to report such transactions promptly to the appropriate authorities.

Representative Charles B. Howe  
Representative Carol Tempest  
Representative Hubert M. Safran  
Representative Morgan Smith



COMMITTEE ON CRIMINAL JUSTICE

BILL 37

A BILL FOR AN ACT

1 AMENDING THE "COLORADO SEX OFFENDERS ACT OF 1968".

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Bill Summary

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

3 SECTION 1. 16-13-202 (5), Colorado Revised Statutes 1973,  
4 is amended to read:

5 16-13-202. Definitions. (5) "Sex offense" means rape, as  
6 defined in section 18-3-401, C.R.S. 1973; gross sexual  
7 imposition, as defined in section 18-3-402, C.R.S. 1973; deviate  
8 sexual intercourse by force, as defined in section 18-3-403,  
9 C.R.S. 1973; deviate sexual intercourse by imposition as defined  
10 in section 18-3-404, C.R.S. 1973; ~~sexual assault, as defined in~~  
11 ~~section 18-3-407, C.R.S. 1973;~~ sexual assault on a child, as  
12 defined in section 18-3-408, C.R.S. 1973; corruption of minors  
13 and seduction, as defined in section 18-3-410, C.R.S. 1973;  
14 aggravated incest, as defined in section 18-6-302, C.R.S. 1973;  
15 and an attempt to commit any of the offenses mentioned in this  
16 subsection (5).

17 SECTION 2. 16-13-215, Colorado Revised Statutes 1973, is

1 amended to read:

2 16-13-215. State hospital as receiving center. The  
3 Colorado state ~~penitentiary~~ HOSPITAL shall be the receiving  
4 center for all persons committed pursuant to section 16-13-203.

5 SECTION 3. 16-13-216 (1) (a), Colorado Revised Statutes  
6 1973, is amended to read:

7 16-13-216. Powers and duties of the board. (1) (a) Within  
8 six months after a person is committed pursuant to section  
9 16-13-203, and at least once during each ~~twelve~~ SIX months  
10 thereafter, the board shall review all reports, records, and  
11 information concerning said person, for the purpose of  
12 determining whether said person shall be paroled.

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

COMMITTEE ON CRIMINAL JUSTICE

BILL 38

A BILL FOR AN ACT

1 AUTHORIZING THE TRAINING OR EMPLOYING OF CONVICTS BY PRIVATE  
2 ORGANIZATIONS.

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

4 SECTION 1. 27-20-117, Colorado Revised Statutes 1973, is  
5 amended to read:

6 27-20-117. Labor of convicts - earnings. Every able-bodied  
7 convict shall be put to and kept at the work most suitable to his  
8 capacity and most advantageous to the people of the state of  
9 Colorado. ~~and--which--may--least--conflict--with--the--free--labor--of~~  
10 ~~the-said-state-during-his-confinement~~ UNLESS OTHERWISE PROVIDED  
11 BY SECTION 27-24-109, the earnings of such convict, after  
12 deducting a sufficient amount thereof to pay and satisfy the cost  
13 of maintenance and retention, shall be given to the family of  
14 such convict or dependents, if any, but if there are none, the  
15 same shall be accumulated and paid to such convict upon discharge  
16 from the state penitentiary.

17 SECTION 2. 27-24-101, Colorado Revised Statutes 1973, is  
18 amended to read:

19 27-24-101. Prisoners to work. All able-bodied prisoners at  
20 the state penitentiary shall be employed at such productive work  
21 as may be assigned to them by the warden of said institution.

1 All goods, wares, or merchandise manufactured, produced, or  
2 mined, wholly or in part, by such prisoners shall be sold, to the  
3 extent possible, to the state and its institutions in accordance  
4 with the provisions of sections 27-24-105 to 27-24-114. Any  
5 surplus of such goods, wares, or merchandise which is not sold to  
6 the state or its institutions in such manner may be sold on the  
7 open market in the state of Colorado at prevailing market prices.  
8 All moneys realized from the sale of any goods, wares, or  
9 merchandise manufactured, produced, or mined by such prisoners  
10 shall be used to defray the costs of operating the state  
11 penitentiary and to satisfy the costs of maintenance and  
12 retention of prisoners at the state penitentiary. THE PROVISIONS  
13 OF THIS SECTION SHALL NOT APPLY TO GOODS, WARES, OR MERCHANDISE  
14 MANUFACTURED, PRODUCED, OR MINED IN A PROGRAM ESTABLISHED  
15 PURSUANT TO SECTION 27-24-109.

16 SECTION 3. 27-24-103, COLORADO REVISED STATUTES 1973, IS  
17 AMENDED TO READ:

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

1 state of Colorado at prevailing market prices. All moneys  
2 realized from the sale of any goods, wares, or merchandise  
3 manufactured, produced, or mined by such able-bodied boys shall  
4 be used to defray the costs of maintenance and retention of such  
5 able-bodied boys at the respective institutions mentioned in this  
6 section. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO  
7 GOODS, WARES, OR MERCHANDISE MANUFACTURED, PRODUCED, OR MINED IN  
8 A PROGRAM ESTABLISHED PURSUANT TO SECTION 27-24-109.

9 SECTION 4. 27-24-109, Colorado Revised Statutes 1973, is  
10 amended to read:

11 27-24-109. Prisoners' compensation. (1) Every inmate of  
12 the state penitentiary or the Colorado state reformatory who is  
13 entitled to trustyship because of good conduct, at the discretion  
14 of the warden of the state penitentiary or the warden of the  
15 Colorado state reformatory, may receive compensation for the work  
16 he performs in the various activities of the institutions. The  
17 rate of compensation as applied to all classes of work and to the  
18 individual worker shall be determined by the department of  
19 institutions after consultation with the respective wardens. The  
20 department has the power to make rules and regulations relative  
21 to the payment of wages and their disbursements, and there shall  
22 always be kept copies of these rules and regulations and the  
23 amendments thereto, so that there may be no question at any time  
24 about this subject.

25 (2) THE DEPARTMENT OF INSTITUTIONS, AFTER CONSULTATION WITH  
26 THE RESPECTIVE WARDENS, IS AUTHORIZED TO CONTRACT WITH ANY  
27 CORPORATION, ASSOCIATION, LABOR ORGANIZATION, OR ANY PRIVATE

1 NONPROFIT ORGANIZATION OR WITH ANY FEDERAL OR STATE AGENCY FOR  
2 THE PURPOSE OF TRAINING OR EMPLOYING INMATES AT THE STATE  
3 PENITENTIARY OR THE COLORADO STATE REFORMATORY.

4 (3) PROCEEDS AND WAGES DUE AN INMATE FROM THE SALE OF  
5 PRODUCTS PRODUCED BY THE INMATE UNDER A PROGRAM AUTHORIZED BY  
6 SUBSECTION (2) OF THIS SECTION SHALL BE HELD IN AN ACCOUNT  
7 MAINTAINED BY THE DEPARTMENT AND DISTRIBUTED PERIODICALLY FOR:

8 (a) COMPENSATION OF THE VICTIM OF THE CRIME COMMITTED BY  
9 THE INMATE IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS FOR  
10 EXPENSES ACTUALLY AND REASONABLY INCURRED AS A RESULT OF THE  
11 INJURY TO THE PERSON OR PROPERTY, INCLUDING MEDICAL EXPENSES AND  
12 LOSS TO THE VICTIM OF EARNING POWER, AND ANY OTHER PECUNIARY LOSS  
13 DIRECTLY RESULTING FROM THE INJURY TO THE PERSON OR PROPERTY OR  
14 DEATH OF THE VICTIM, WHICH A COURT OF COMPETENT JURISDICTION  
15 DETERMINES TO BE REASONABLE AND PROPER;

16 (b) PAYMENT OF SUCH AMOUNTS FOR THE SUPPORT OF THE INMATE'S  
17 DEPENDENTS AS IS DEEMED APPROPRIATE BY THE DEPARTMENT AFTER  
18 CONSULTATION WITH THE RESPECTIVE WARDENS;

19 (c) ESTABLISHMENT OF FUNDS IN TRUST FOR THE INMATE UPON HIS  
20 RELEASE; EXCEPT THAT SOME AMOUNT SHALL BE ALLOCATED TO THE INMATE  
21 FOR PERSONAL EXPENSES WHILE SERVING HIS SENTENCE.

22 (4) A PORTION OF SAID WAGES AND PROCEEDS IN AN AMOUNT  
23 DETERMINED BY THE DEPARTMENT MAY BE USED TO DEFRAY THE COSTS  
24 INCIDENT TO THE INMATE'S CONFINEMENT.

25 (5) THE WAGES PAID TO AN INMATE SHALL NOT BE LESS THAN  
26 THOSE PAID FOR WORK OF A SIMILAR NATURE IN THE LOCALITY IN WHICH  
27 THE WORK IS PERFORMED.

1 SECTION 5. 27-24-115, Colorado Revised Statutes 1973, is  
2 amended to read:

3 27-24-115. Use of convict-made goods. It is unlawful for  
4 any person or corporation to use, consume, sell, or store in this  
5 state goods, wares, or merchandise manufactured, produced, or  
6 mined, wholly or in part, by convicts or prisoners in any penal  
7 or reformatory institution in this state, but the provisions of  
8 this section shall not apply to the use, consumption, sale, or  
9 storage of such goods, wares, or merchandise by the state or any  
10 political subdivision thereof or by any public institution or  
11 agency owned, controlled, or managed by the state or by any  
12 political subdivision thereof, under the provisions of any laws  
13 enacted, and the provisions of this section shall not apply to  
14 goods, wares, or merchandise manufactured, produced, or mined by  
15 convicts or prisoners on parole or probation. THE PROVISIONS OF  
16 THIS SECTION SHALL NOT APPLY TO GOODS, WARES, OR MERCHANDISE  
17 MANUFACTURED, PRODUCED, OR MINED IN A PROGRAM ESTABLISHED  
18 PURSUANT TO SECTION 27-24-109.

19 SECTION 6. Safety clause. The general assembly hereby  
20 finds, determines, and declares that this act is necessary for  
21 the immediate preservation of the public peace, health, and  
22 safety.

COMMITTEE ON CRIMINAL JUSTICE

BILL 39

A BILL FOR AN ACT

1 PROVIDING FOR THE TRANSFER OF MENTALLY ILL OR RETARDED PERSONS TO  
2 THE COLORADO STATE HOSPITAL.

---

Bill Summary

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

4 SECTION 1. 27-23-101 (3) and (4), Colorado Revised Statutes  
5 1973, are amended, and the said 27-23-101 is further amended BY  
6 THE ADDITION OF A NEW SUBSECTION to read:

7 27-23-101. Transfer of insane and convicts. (3) The  
8 executive director of the department of institutions is further  
9 empowered, when it is reported to him that any mentally ill or  
10 retarded person is so dangerous that he cannot be safely confined  
11 in any OTHER institution for the care and treatment of the  
12 mentally ill or retarded under his supervision, to order said  
13 mentally ill or retarded person transferred to the COLORADO state  
14 penitentiary HOSPITAL for safekeeping.

15 (4) When it is reported to the executive director of the  
16 department of institutions by the ~~warden-and-certified-to-by-the~~  
17 ~~prison-physician~~ DIRECTOR OF ANY OTHER INSTITUTION FOR THE CARE



1 AND TREATMENT OF THE MENTALLY ILL OR RETARDED that any mentally  
2 ill or retarded person who, having been transferred from an  
3 ANOTHER institution for the care and treatment of mentally ill or  
4 retarded persons under the supervision of the said executive  
5 director to the COLORADO state penitentiary HOSPITAL for  
6 safekeeping, can be cared for better at an ANOTHER institution  
7 for the care and treatment of the mentally ill or retarded, said  
8 executive director may order such mentally ill or retarded person  
9 transferred to an ANOTHER institution for the care and treatment  
10 of mentally ill or retarded persons under his supervision. The  
11 expense of transferring said mentally ill or retarded person to  
12 and from, and maintaining him in, the COLORADO state penitentiary  
13 HOSPITAL shall be paid out of any money appropriated for the  
14 maintenance of the institution under the supervision of said  
15 executive director in which said mentally ill or retarded person  
16 was present most recently prior to his transfer to the COLORADO  
17 state penitentiary HOSPITAL.

18 (5) Any mentally ill or retarded person who has been  
19 previously transferred from an institution for the care and  
20 treatment of the mentally ill or retarded to the state  
21 penitentiary shall be transferred by the executive director of  
22 the department of institutions to the Colorado state hospital.  
23 The transfers required by this subsection (5) shall be complete  
24 no later than January 1, 1976.

25 SECTION 2. Safety clause. The general assembly hereby  
26 finds, determines, and declares that this act is necessary for  
27 the immediate preservation of the public peace, health, and  
28 safety.

MINORITY REPORT BILL  
Committee on Criminal Justice

BILL 40

A BILL FOR AN ACT

1 CONCERNING HANDGUNS, AND RELATING TO THE REGULATION THEREOF.

---

Bill Summary

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

Imposes a five-day cooling off period on the sale of handguns. Requires records to be maintained relating to the sale of handguns. Prohibits the sale of "Saturday night specials".

---

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

3 SECTION 1. 18-12-101 (1), Colorado Revised Statutes 1973,  
4 is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to  
5 read:

6 18-12-101. Definitions. (1) (a.1) "Antique firearm" means  
7 any firearm, including any handgun, with a matchlock, flintlock,  
8 percussion cap, or similar type of ignition system manufactured  
9 prior to 1899, and any replica of any such firearm if such  
10 replica is not designed or redesigned for using rimfire or  
11 conventional centerfire fixed ammunition or uses rimfire or  
12 conventional centerfire fixed ammunition which is no longer  
13 manufactured in the United States and which is not readily  
14 available in the ordinary channels of commercial trade.

1 (e.5) "Handgun" means a firearm which is designed to be  
2 held and fired by the use of a single hand and which is designed  
3 to or may be readily converted to expel a projectile by the  
4 action of an explosive.

5 SECTION 2. Article 12 of title 18, Colorado Revised  
6 Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW  
7 SECTION to read:

8 18-12-110. Regulation of handguns. (1) It is unlawful for  
9 any person engaged in the business of the wholesale or retail  
10 sale, rental, or exchange of handguns to deliver any such weapon  
11 to any person until not less than five days have expired  
12 following receipt of the order for the purchase, rental, or  
13 exchange of the handgun.

14 (2) Every person engaged in the business of the selling,  
15 renting, or exchanging of handguns shall keep a record of each  
16 handgun ordered; each handgun sold, rented, or exchanged; and  
17 each purchaser, lessee, or other person with whom an exchange is  
18 made. The record shall be in such form as may be prescribed by  
19 the appropriate law enforcement agency which has jurisdiction in  
20 the area in which the business is located and shall at all times  
21 be open to inspection for official purposes by any peace officer  
22 of this state. The record shall be made at the time of each  
23 transaction and shall include the following:

24 (a) The name, address, age, and occupation of the person  
25 ordering the handgun, such information to be evidenced by  
26 personal identification;

27 (b) The serial number, make, finish, and caliber of the

1 handgun;

2 (c) The date of the order or contract for future delivery  
3 of the handgun;

4 (d) The date of actual delivery of the handgun;

5 (e) The name of the employee accepting the order and the  
6 name of the employee delivering the handgun;

7 (f) A description of each of the personal identifications  
8 furnished by the person seeking to acquire the handgun, including  
9 the serial number or other distinctive features noted in or upon  
10 each type of identification.

11 (3) The report required by subsection (2) of this section  
12 shall be made promptly to the appropriate law enforcement agency.

13 (4) It is unlawful for any person engaged in the business  
14 of the wholesale or retail sale, rental, or exchange of handguns  
15 to sell or deliver any handgun, except an antique handgun, if he  
16 knows or has reasonable cause to believe that the basic  
17 structural components thereof are made of any material having a  
18 melting point of less than one thousand degrees Fahrenheit, or of  
19 any material having an ultimate tensile strength of less than  
20 fifty-five thousand pounds per square inch, or of any powdered  
21 metal having a density of less than 7.5 grams per cubic  
22 centimeter.

23 (5) Any person who violates any provision of this section  
24 commits a class 2 misdemeanor.

25 SECTION 3. Effective date - applicability. This act shall  
26 take effect July 1, 1975, and shall apply only to unlawful acts  
27 alleged to have been committed on or after such date.

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

BILL 41 - BILL SUBMITTED TO  
FIFTIETH GENERAL ASSEMBLY BY THE  
COLORADO LEGISLATIVE COUNCIL

## COMMENT ON BILL 41

The statute which created the Legislative Council directed that the Council "...prepare for presentation to the members and various sessions of the general assembly such reports, bills, or otherwise, as the welfare of the state may require...".

In past years the Council has not prepared and submitted legislation separately from the committees which it created. This year, the Council is recommending a bill which was initiated and approved by the Council itself.

Bill 41 would specify the order the proposed measures would appear on the ballot at general elections. Constitutional amendments and proposed laws referred by the General Assembly would appear before the proposals initiated by the people. It was stated by some Council members that this change would assist voters in their understanding of the origin of proposed measures.

LEGISLATIVE COUNCIL

BILL 41

A BILL FOR AN ACT

1 CONCERNING THE ORDER THAT PROPOSED MEASURES SHALL APPEAR ON THE  
2 BALLOT.

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Bill Summary

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

Changes the order of appearance of proposed constitutional amendments and legislation to allow those constitutional amendments and proposed laws of the general assembly to be placed first on the ballot.

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

4 SECTION 1. 1-40-108 (1), Colorado Revised Statutes 1973, is  
5 amended, and the said 1-40-108 is further amended BY THE ADDITION  
6 OF A NEW SUBSECTION, to read:

7 1-40-108. Ballot - voting - publication. (1) Measures  
8 shall appear upon the official ballot by ballot title only, which  
9 shall be numbered ~~consecutively--in--the--order--in--which--the~~  
10 ~~completed--petitions-are-filed;~~ IN ACCORDANCE WITH SUBSECTION (3)  
11 OF THIS SECTION and shall be printed on the official ballot in  
12 that order, together with their respective numbers prefixed in  
13 boldface type. Each ballot title shall appear on the official



1 ballot but once and shall be separated from the other ballot  
2 titles next to it by heavy black lines and shall be followed by  
3 the words "yes" and "no" with blank spaces to the right and  
4 opposite the same as follows:

5 (HERE SHALL APPEAR THE  
6 BALLOT TITLE IN FULL)

7 YES

8 NO

9 (3) Measures which shall appear on the official ballot  
10 shall be numbered consecutively in the following order:

11 (a) Those constitutional amendments referred by the general  
12 assembly in the order in which the amendments are adopted by the  
13 general assembly;

14 (b) Those proposed laws referred by the general assembly in  
15 the order in which the proposed laws are adopted by the general  
16 assembly;

17 (c) Those laws referred by the people in the order in which  
18 completed petitions are filed with the secretary of state;

19 (d) Those constitutional amendments initiated by the people  
20 in the order in which completed petitions are filed with the  
21 secretary of state;

22 (e) Those proposed laws initiated by the people in the  
23 order in which completed petitions are filed with the secretary  
24 of state.

25 SECTION 2. Safety clause. The general assembly hereby  
26 finds, determines, and declares that this act is necessary for  
27 the immediate preservation of the public peace, health, and  
28 safety.