

**HOUSE JOURNAL**  
**SIXTY-THIRD GENERAL ASSEMBLY**  
**STATE OF COLORADO**  
**Second Regular Session**

Ninety-fourth Legislative Day

Friday, April 12, 2002

1 Prayer by Father Michael Suchnicki, Samaritan House, Denver.

2

3 The Speaker called the House to order at 9:30 a.m.

4

5 The roll was called with the following result:

6

7 Present--61.

8

9 Excused--Representatives Clapp, Fairbank, Sinclair, Williams T.--4.

10

11 The Speaker declared a quorum present.

12

13 On motion of Representative Hodge, the reading of the journal of  
14 April 11, 2002, was declared dispensed with and approved as corrected  
15 by the Chief Clerk.

16

17

18

19

**REPORTS OF COMMITTEES OF REFERENCE**

20

**APPROPRIATIONS**

22 After consideration on the merits, the Committee recommends the  
23 following:

24

25 **HB02-1142** be postponed indefinitely.

26

27

28 **HB02-1312** be amended as follows, and as so amended, be referred to  
29 the Committee of the Whole with favorable  
30 recommendation:

31

32 Amend the Health, Environment, Welfare, & Institutions Committee  
33 Report, dated February 20, 2002, page 1, strike lines 3 and 4 and  
34 substitute the following:

35

36 "strike lines 7 and 8 and substitute the following:

37

38 "COURT'S DOCKET. ON AND AFTER JULY 1, 2002, IF THERE IS NO  
39 DETERMINATION ON A CASE CONCERNING A PETITION FOR ADOPTION BY  
40 ANY SUCH COURT WITHIN SIX MONTHS OF THE FILING OF THE PETITION, IT  
41 SHALL BE GIVEN A PRIORITY ON THE COURT'S DOCKET THAT SUPERSEDES  
42 THE PRIORITY OF ANY OTHER PRIORITY CIVIL HEARING ON THE COURT'S  
43 DOCKET.

1 (2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF";";  
 2  
 3 after line 10 of the committee report, insert the following:  
 4

5 "SECTION 2. Part 1 of article 5 of title 19, Colorado Revised  
 6 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
 7 read:  
 8

9 **19-5-102.5. Relinquishment hearings - court docket priority.**  
 10 (1) ON AND AFTER JULY 1, 2002, ANY HEARING CONCERNING A PETITION  
 11 FOR RELINQUISHMENT FILED IN A DISTRICT COURT, THE COLORADO COURT  
 12 OF APPEALS, OR THE COLORADO SUPREME COURT SHALL BE GIVEN A  
 13 PRIORITY ON THE COURT'S DOCKET. ON AND AFTER JULY 1, 2002, IF THERE  
 14 IS NO DETERMINATION ON A CASE CONCERNING A PETITION FOR  
 15 RELINQUISHMENT BY ANY SUCH COURT WITHIN TWO MONTHS OF THE  
 16 FILING OF THE PETITION, IT SHALL BE GIVEN A PRIORITY ON THE COURT'S  
 17 DOCKET THAT SUPERSEDES THE PRIORITY OF ANY OTHER PRIORITY CIVIL  
 18 HEARING ON THE COURT'S DOCKET.  
 19

20 (2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF  
 21 THIS SECTION, NOTHING IN THIS SECTION SHALL AFFECT THE PRIORITY OF  
 22 A HEARING CONCERNING THE ISSUANCE OF A TEMPORARY RESTRAINING  
 23 ORDER PURSUANT TO SECTION 13-14-102, C.R.S., SECTION 14-4-103,  
 24 C.R.S., OR SECTION 14-10-108, C.R.S.  
 25

26 (3) THE PROVISIONS OF THIS SECTION SHALL BE IMPLEMENTED  
 27 WITHIN EXISTING APPROPRIATIONS.";  
 28

29 line 11 of the committee report, strike "2." and substitute "3."  
 30  
 31  
 32

33 **HB02-1362** be amended as follows, and as so amended, be referred to  
 34 the Committee of the Whole with favorable  
 35 recommendation:  
 36

37 Amend printed bill, page 3, line 18, strike "ADJUST THE AMOUNT OF" and  
 38 substitute "ALLOCATE";  
 39

40 line 19, strike "PAID FOR SPECIFIC" and substitute "FOR GROUP BENEFITS,  
 41 INCLUDING MEDICAL, LIFE, AND DENTAL BENEFITS, THAT ARE COMPONENTS  
 42 OF THE STATEWIDE PILOT PROGRAM IN A MANNER DIFFERENT FROM THE  
 43 MANNER IN WHICH THE STATE CONTRIBUTION IS ALLOCATED FOR";  
 44

45 line 20, after "BENEFITS,", insert "THAT ARE NOT".  
 46  
 47  
 48

49 **HB02-1413** be amended as follows, and as so amended, be referred to  
 50 the Committee of the Whole with favorable  
 51 recommendation:  
 52

53 Amend printed bill, page 41, line 16, strike "of \_\_\_\_ dollars (\$) and \_\_\_\_  
 54 FTE" and substitute "OF ONE MILLION EIGHT HUNDRED SIX THOUSAND FIVE  
 55 HUNDRED SIXTY-THREE DOLLARS (\$1,806,563) AND 12.0 FTE".  
 56

1 **HB02-1414** be amended as follows, and as so amended, be referred to  
2 the Committee of the Whole with favorable  
3 recommendation:  
4

5 Amend printed bill, page 12, after line 4, insert the following:  
6

7 **"SECTION 3. Appropriation.** In addition to any other  
8 appropriation, there is hereby appropriated, out of any moneys in the  
9 ground water management cash fund, created in section 37-80-111.5  
10 (1)(d), Colorado Revised Statutes, not otherwise appropriated, to the  
11 department of natural resources, division of water resources, for the fiscal  
12 year beginning July 1, 2002, the sum of forty-eight thousand dollars  
13 (\$48,000), or so much thereof as may be necessary, for the  
14 implementation of this act."  
15

16 Renumber succeeding section accordingly.  
17

18 Page 1, line 102, strike "PLANS." and substitute "PLANS, AND MAKING AN  
19 APPROPRIATION IN CONNECTION THEREWITH."  
20

21  
22  
23 **HB02-1420** be referred to the Committee of the Whole with favorable  
24 recommendation.  
25

26  
27 **SB02-018** be amended as follows, and as so amended, be referred to  
28 the Committee of the Whole with favorable  
29 recommendation:  
30

31 Amend the Criminal Justice Committee Report, dated March 12, 2002,  
32 page 1, line 6, strike "six hundred sixty-six" and substitute "seven  
33 hundred twenty-nine thousand three hundred ninety-nine dollars  
34 (\$729,399) and 5.8 FTE,";  
35

36 line 7, strike "thousand nine dollars (\$666,009),";  
37

38 line 9, strike "Statutes." and substitute the following:  
39

40 "Statutes. Of this amount, \$63,390 and 1.6 FTE shall be for the public  
41 defender."";  
42

43 after line 10, insert the following:  
44

45 "Page 1, line 103, strike "FEES." and substitute "FEES, AND MAKING AN  
46 APPROPRIATION IN CONNECTION THEREWITH."."  
47

48  
49  
50 **SB02-068** be referred to the Committee of the Whole with favorable  
51 recommendation.  
52

53  
54 **SB02-086** be referred to the Committee of the Whole with favorable  
55 recommendation.  
56

1 **SB02-087** be amended as follows, and as so amended, be referred to  
 2 the Committee of the Whole with favorable  
 3 recommendation:  
 4

5 Amend reengrossed bill, page 5, line 6, strike "**Appropriation.**" and  
 6 substitute "**Appropriation. (1)**";  
 7

8 after line 13, insert the following:  
 9

10 "(2) In addition to any other appropriation, there is hereby  
 11 appropriated, out of any moneys in the Colorado watershed protection  
 12 fund created in section 39-22-2303 (1), Colorado Revised Statutes, not  
 13 otherwise appropriated, to the department of natural resources, water  
 14 conservation board, for costs incurred in administering the moneys in the  
 15 fund and for grants awarded, for the fiscal year beginning July 1, 2002,  
 16 the sum of one hundred thousand dollars (\$100,000), or so much thereof  
 17 as may be necessary, for the implementation of this act."  
 18  
 19  
 20

21 **SB02-097** be amended as follows, and as so amended, be referred to  
 22 the Committee of the Whole with favorable  
 23 recommendation:  
 24

25 Amend reengrossed bill, page 6, strike "**Appropriation.**" and substitute  
 26 "**Appropriation - adjustment in 2002 long bill. (1)**".  
 27

28 Page 7, after line 2, insert the following:  
 29

30 "(2) For the implementation of this act, appropriations made in the  
 31 annual general appropriations act for the fiscal year beginning July 1,  
 32 2002, shall be adjusted as follows:  
 33

34 (a) The appropriation to the department of local affairs, division  
 35 of housing, for the Colorado affordable housing construction grants and  
 36 loans program, is decreased by eleven thousand one hundred and fifty-  
 37 five dollars (\$11,155). Said sum shall be from the General Fund."  
 38  
 39  
 40  
 41

#### 42 **CIVIL JUSTICE & JUDICIARY**

43 After consideration on the merits, the Committee recommends the  
 44 following:  
 45

46 **HB02-1404** be amended as follows, and as so amended, be referred to  
 47 the Committee of the Whole with favorable  
 48 recommendation:  
 49

50 Amend printed bill, strike everything below the enacting clause and  
 51 substitute the following:  
 52

53 "**SECTION 1.** 16-13-301 (2.7), Colorado Revised Statutes, is  
 54 amended, and the said 16-13-301 is further amended BY THE  
 55 ADDITION OF A NEW SUBSECTION, to read:  
 56

1           **16-13-301. Definitions.** As used in this part 3, unless the context  
2 otherwise requires:  
3

4           (2.1) "CONVICTION" MEANS A VERDICT OF GUILTY BY A JUDGE OR  
5 JURY OR A PLEA OF GUILTY OR NOLO CONTENDERE THAT IS ACCEPTED BY  
6 THE COURT OR ADJUDICATION FOR AN OFFENSE THAT WOULD CONSTITUTE  
7 A CRIMINAL OFFENSE IF COMMITTED BY AN ADULT. "CONVICTION" ALSO  
8 INCLUDES HAVING RECEIVED A DEFERRED JUDGMENT AND SENTENCE OR  
9 DEFERRED ADJUDICATION, OR, IN THE CASE OF A JUVENILE, THAT THE  
10 JUVENILE HAS BEEN ADJUDICATED A DELINQUENT, WHETHER BY GUILTY  
11 PLEA OR NOLO CONTENDERE PLEA OR BY AN ADJUDICATION BY A JUDGE OR  
12 JURY AND WHETHER THE SENTENCE IS DEFERRED OR SUSPENDED OR  
13 WHETHER THE JUVENILE IS SENT TO A DIVERSION PROGRAM.  
14

15           (2.7) "Seizing agency" means any agency ~~which~~ THAT is charged  
16 with the enforcement of the laws of this state, of any other state, or of the  
17 United States and ~~which~~ THAT has participated in a seizure or has been  
18 substantially involved in effecting a forfeiture through the development  
19 of evidence underlying the claim for forfeiture or through legal  
20 representation pursuant to this part 3. The department of corrections, ~~and~~  
21 the division of wildlife in the department of natural resources, AND A  
22 MULTI-JURISDICTIONAL LAW ENFORCEMENT TASK FORCE shall be deemed  
23 to be included under this definition.  
24

25           **SECTION 2.** 16-13-303 (5.1) and (5.2), Colorado Revised  
26 Statutes, are amended to read:  
27

28           **16-13-303. Class 1 public nuisance.** (5.1) (a) In any action to  
29 forfeit property pursuant to this part 3, the plaintiff, in addition to any  
30 other matter which must be proven in the plaintiff's case in chief, shall  
31 prove by a ~~preponderance of~~ CLEAR AND CONVINCING evidence that  
32 possession of the property is unlawful or that the owner of the property  
33 was a party to the creation of the public nuisance. THE PLAINTIFF SHALL  
34 ALSO PROVE BY CLEAR AND CONVINCING EVIDENCE THAT THE PROPERTY  
35 WAS INSTRUMENTAL IN THE COMMISSION OR FACILITATION OF A CRIME  
36 CREATING A PUBLIC NUISANCE OR THE PROPERTY CONSTITUTES DIRECTLY  
37 TRACEABLE PROCEEDS OF THE CRIME. PRIOR TO AN ENTRY OF JUDGMENT  
38 OF FORFEITURE, THE COURT SHALL MAKE A FINDING BASED UPON CLEAR  
39 AND CONVINCING EVIDENCE THAT THE VALUE OF THE PROPERTY TO BE  
40 FORFEITED IS PROPORTIONAL TO THE CRIME AND IS NOT EXCESSIVE.  
41

42           (a.5) UNDER PROPORTIONALITY REVIEW, THE COURT SHALL  
43 ENSURE THAT THE FORFEITURE MEETS THE REMEDIAL PURPOSE OF THE  
44 STATUTE. THE COURT SHALL BE GUIDED BY OBJECTIVE CRITERIA  
45 INCLUDING:  
46

47           (I) THE SEVERITY OF THE OFFENSE OR RELATED CRIMINAL  
48 ACTIVITY AND THE HARM OR RISK OF HARM TO THE PUBLIC;  
49

50           (II) THE FINANCIAL GAIN DERIVED OR SOUGHT TO BE DERIVED  
51 THROUGH COMMISSION OF THE OFFENSE OR RELATED CRIMINAL ACTIVITY;  
52

53           (III) THE ACTUAL OR INTENDED LOSS TO VICTIMS DUE TO  
54 COMMISSION OF THE OFFENSE OR RELATED CRIMINAL ACTIVITY;  
55

56           (IV) THE EXTENT OF THE PROPERTY OWNER'S INVOLVEMENT IN THE

1 OFFENSE OR RELATED CRIMINAL ACTIVITY;  
2  
3 (V) WHETHER THE OFFENSE WAS PART OF AN ONGOING PATTERN  
4 OF RELATED CRIMINAL ACTIVITY; AND  
5  
6 (VI) THE VALUE OF THE OWNER'S INTEREST IN THE PROPERTY.  
7  
8 (b) As used in paragraph (a) of this subsection (5.1), an owner  
9 was a "party to the creation of the public nuisance" if it is established  
10 that:  
11  
12 (I) The owner was involved in the public nuisance act; or  
13  
14 (II) The owner knew ~~or reasonably should have known~~ of the  
15 public nuisance act OR HAD NOTICE OF THE ACTS CREATING THE PUBLIC  
16 NUISANCE AND FAILED TO TAKE REASONABLE STEPS TO PROHIBIT OR ABATE  
17 THE UNLAWFUL USE OF THE PROPERTY.  
18  
19 (5.2) (a) ~~It shall be an affirmative defense that, and the property~~  
20 ~~of a person who was not involved in the public nuisance act or acts shall~~  
21 ~~not be forfeited if, the person establishes by a preponderance of evidence~~  
22 ~~that the person took all reasonable steps to abate the public nuisance and~~  
23 ~~took all reasonable steps to prevent the property from becoming a public~~  
24 ~~nuisance or from becoming involved in the public nuisance act. WITH~~  
25 ~~RESPECT TO A PARTIAL OR WHOLE OWNERSHIP INTEREST IN EXISTENCE AT~~  
26 ~~THE TIME THE CONDUCT CONSTITUTING A PUBLIC NUISANCE TOOK PLACE,~~  
27 ~~"INNOCENT OWNER" MEANS ANY OWNER WHO:~~  
28  
29 (I) DID NOT HAVE ACTUAL KNOWLEDGE OF THE CONDUCT  
30 CONSTITUTING A PUBLIC NUISANCE OR NOTICE OF THE ACTS CREATING THE  
31 PUBLIC NOTICE; OR  
32  
33 (II) UPON LEARNING OF THE CONDUCT CONSTITUTING A PUBLIC  
34 NUISANCE, TOOK REASONABLE ACTION TO PROHIBIT SUCH USE OF THE  
35 PROPERTY. AN OWNER MAY DEMONSTRATE THAT HE OR SHE TOOK  
36 REASONABLE ACTION TO PROHIBIT THE CONDUCT CONSTITUTING A PUBLIC  
37 NUISANCE IF THE OWNER:  
38  
39 (A) TIMELY REVOKED OR ATTEMPTED TO REVOKE PERMISSION FOR  
40 THE PERSONS ENGAGING IN SUCH CONDUCT TO USE THE PROPERTY; OR  
41  
42 (B) TOOK REASONABLE ACTION TO DISCOURAGE OR PREVENT THE  
43 USE OF THE PROPERTY IN CONDUCT CONSTITUTING A PUBLIC NUISANCE.  
44  
45 (b) WITH RESPECT TO A PARTIAL OR WHOLE OWNERSHIP INTEREST  
46 ACQUIRED AFTER THE CONDUCT CONSTITUTING A PUBLIC NUISANCE HAS  
47 OCCURRED, "INNOCENT OWNER" MEANS A PERSON WHO, AT THE TIME HE  
48 OR SHE ACQUIRED THE INTEREST IN THE PROPERTY, HAD NO KNOWLEDGE  
49 THAT THE ILLEGAL CONDUCT SUBJECTING THE PROPERTY TO SEIZURE HAD  
50 OCCURRED OR THAT THE PROPERTY HAD BEEN SEIZED FOR FORFEITURE,  
51 AND:  
52  
53 (I) ACQUIRED AN INTEREST IN THE PROPERTY IN A BONA FIDE  
54 TRANSACTION FOR VALUE; OR  
55  
56 (II) ACQUIRED AN INTEREST IN THE PROPERTY THROUGH PROBATE

1 OR INHERITANCE; OR

2

3 (III) ACQUIRED AN INTEREST IN THE PROPERTY THROUGH  
4 DISSOLUTION OF MARRIAGE OR BY OPERATION OF LAW.

5

6 (c) AN INNOCENT OWNER'S INTEREST IN PROPERTY SHALL NOT BE  
7 FORFEITED UNDER ANY PROVISION OF STATE LAW. AN INNOCENT OWNER  
8 HAS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE  
9 THAT HE OR SHE HAS AN OWNERSHIP INTEREST IN THE SUBJECT PROPERTY.  
10 THE PROSECUTING ATTORNEY SHALL HAVE THE BURDEN OF ESTABLISHING  
11 BY CLEAR AND CONVINCING EVIDENCE THAT AN INDIVIDUAL IS NOT AN  
12 INNOCENT OWNER.

13

14 **SECTION 3.** 16-13-307, Colorado Revised Statutes, is amended  
15 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to  
16 read:

17

18 **16-13-307. Jurisdiction - venue - parties - process.** (1.5) NO  
19 JUDGMENT OF FORFEITURE OF PROPERTY IN ANY FORFEITURE PROCEEDING  
20 SHALL BE ENTERED UNLESS AND UNTIL AN OWNER OF THE PROPERTY IS  
21 CONVICTED OF AN OFFENSE LISTED IN SECTION 16-13-301 OR 16-13-303.  
22 NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE THE  
23 CONVICTION TO BE OBTAINED IN THE SAME JURISDICTION AS THE  
24 JURISDICTION IN WHICH THE FORFEITURE ACTION IS BROUGHT. IN THE  
25 EVENT CRIMINAL CHARGES ARISING FROM THE SAME ACTIVITY GIVING RISE  
26 TO THE FORFEITURE PROCEEDINGS ARE FILED AGAINST ANY INDIVIDUAL  
27 CLAIMING AN INTEREST IN THE PROPERTY SUBJECT TO THE FORFEITURE  
28 PROCEEDING, SUCH FORFEITURE PROCEEDING SHALL BE STAYED BY THE  
29 COURT UNTIL THE DISPOSITION OF THE CRIMINAL CHARGES. NOTHING IN  
30 THIS SECTION SHALL BE CONSTRUED TO REQUIRE THAT A STAY BE  
31 MAINTAINED DURING AN APPEAL OR POST-CONVICTION PROCEEDING  
32 CHALLENGING A CRIMINAL CONVICTION. NOTHING IN THIS SECTION SHALL  
33 BE CONSTRUED TO PROHIBIT OR PREVENT THE PARTIES FROM  
34 CONTEMPORANEOUSLY RESOLVING CRIMINAL CHARGES AND A FORFEITURE  
35 PROCEEDING ARISING FROM THE SAME ACTIVITY.

36

37 (1.6) UPON ACQUITTAL OR DISMISSAL OF A CRIMINAL ACTION  
38 AGAINST A PERSON NAMED IN A FORFEITURE ACTION RELATED TO THE  
39 CRIMINAL ACTION, THE FORFEITURE ACTION SHALL BE DISMISSED AND THE  
40 SEIZED PROPERTY SHALL BE RETURNED TO THE OWNER UNLESS POSSESSION  
41 OF THE PROPERTY IS ILLEGAL. IF THE FORFEITURE ACTION IS DISMISSED OR  
42 JUDGMENT IS ENTERED IN FAVOR OF THE CLAIMANT, THE CLAIMANT SHALL  
43 NOT BE SUBJECT TO ANY MONETARY CHARGES BY THE STATE FOR STORAGE  
44 OF THE PROPERTY OR EXPENSES INCURRED IN THE PRESERVATION OF THE  
45 PROPERTY.

46

47 (1.7) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1.5) OF  
48 THIS SECTION:

49

50 (a) FOLLOWING THE FILING OF CRIMINAL CHARGES, IF A PROPERTY  
51 OWNER FAILS TO APPEAR AT A COURT HEARING RELATING TO SUCH  
52 CHARGES AND IS DETERMINED TO BE A FUGITIVE TO AVOID CRIMINAL  
53 PROSECUTION, THE DISTRICT ATTORNEY SHALL SEND NOTICE TO THE  
54 FUGITIVE'S LAST KNOWN ADDRESS THAT THE FORFEITURE ACTION WILL  
55 PROCEED THIRTY DAYS AFTER THE DATE OF THE NOTICE. IF THE FUGITIVE  
56 APPEARS IN THE CRIMINAL ACTION OR IN THE FORFEITURE ACTION WITHIN

1 THE THIRTY-DAY PERIOD, THIS PARAGRAPH (a) SHALL NOT BE AVAILABLE  
2 TO THE PLAINTIFF. THIRTY DAYS AFTER THE DATE OF THE NOTICE SENT BY  
3 THE DISTRICT ATTORNEY, IF THE FUGITIVE HAS NOT APPEARED IN THE  
4 CRIMINAL ACTION OR IN THE FORFEITURE ACTION, THE FORFEITURE ACTION  
5 MAY PROCEED AND A JUDGMENT OF FORFEITURE MAY BE ENTERED  
6 WITHOUT A CRIMINAL CONVICTION OF THE OWNER.  
7

8 (b) IF, FOLLOWING NOTICE TO ALL PERSONS KNOWN TO HAVE AN  
9 INTEREST, OR WHO HAVE ASSERTED AN INTEREST IN THE PROPERTY  
10 SUBJECT TO FORFEITURE, NO PERSON CLAIMS AN INTEREST IN THE SEIZED  
11 PROPERTY, A FORFEITURE ACTION MAY PROCEED AND A JUDGMENT OF  
12 FORFEITURE MAY BE ENTERED WITHOUT A CRIMINAL CONVICTION OF THE  
13 OWNER.  
14

15 (c) IF THE PLAINTIFF PROVES BY CLEAR AND CONVINCING  
16 EVIDENCE THAT THE PROPERTY WAS INSTRUMENTAL IN THE COMMISSION  
17 OF AN OFFENSE LISTED IN SECTION 16-13-303 (1) BY A NON-OWNER AND  
18 THE PLAINTIFF PROVES BY CLEAR AND CONVINCING EVIDENCE THAT THE  
19 OWNER IS NOT AN INNOCENT OWNER AS DEFINED IN SECTION 16-13-303  
20 (5.2) (a), A JUDGMENT OF FORFEITURE MAY BE ENTERED WITHOUT A  
21 CRIMINAL CONVICTION OF THE OWNER.  
22

23 (d) IF THE PLAINTIFF PROVES BY CLEAR AND CONVINCING  
24 EVIDENCE THAT THE PROPERTY WAS INSTRUMENTAL IN THE COMMISSION  
25 OF AN OFFENSE BY A DECEASED OWNER AND THE PLAINTIFF PROVES BY  
26 CLEAR AND CONVINCING EVIDENCE THAT THE DECEASED OWNER WAS NOT  
27 AN INNOCENT OWNER AS DEFINED IN SECTION 16-13-303 (5.2) (a), A  
28 JUDGMENT OF FORFEITURE MAY BE ENTERED WITHOUT A CRIMINAL  
29 CONVICTION OF THE DECEASED OWNER.  
30

31 (1.8) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT  
32 THE TEMPORARY SEIZURE OF PROPERTY FOR EVIDENTIARY,  
33 INVESTIGATORY, OR PROTECTIVE PURPOSES.  
34

35 (2.5) ALL FORFEITURE ACTIONS SHALL PROCEED IN STATE DISTRICT  
36 COURT IF THE PROPERTY WAS SEIZED BY A LOCAL OR STATE LAW  
37 ENFORCEMENT AGENCY AS A RESULT OF AN ONGOING STATE CRIMINAL  
38 INVESTIGATION AND THE OWNER IS BEING PROSECUTED IN STATE COURT.  
39 UNLESS REQUIRED BY AN AUTHORIZED AGENT OF THE FEDERAL  
40 GOVERNMENT, NO STATE OR LOCAL LAW ENFORCEMENT AGENCY MAY  
41 TRANSFER ANY PROPERTY SEIZED BY THE STATE OR LOCAL AGENCY TO A  
42 FEDERAL AGENCY FOR FORFEITURE UNDER FEDERAL LAW UNLESS AN  
43 OWNER OF THE PROPERTY IS BEING PROSECUTED IN FEDERAL COURT.  
44

45 **SECTION 4.** 16-13-308 (1) (f), Colorado Revised Statutes, is  
46 amended to read:  
47

48 **16-13-308. Temporary restraining order - preliminary**  
49 **injunction - when to issue.** (1) (f) Any person with an ownership  
50 interest adversely affected by a temporary restraining order issued  
51 pursuant to this subsection (1) may file a motion to vacate the temporary  
52 restraining order. Such motion shall be filed within ten days of the time  
53 said person is served with or otherwise has notice of the temporary  
54 restraining order. The motion shall be set for hearing within ten days  
55 after its filing. At said hearing, the court shall determine whether the  
56 various provisions of the temporary restraining order should remain in



1 effect pending final determination of the action. No part of the temporary  
2 restraining order shall be vacated unless the proponent of the motion  
3 demonstrates that there is no probable cause to believe that a public  
4 nuisance exists or that the public nuisance acts underlying the action  
5 occurred, or that the proponent has a reasonable likelihood of prevailing  
6 on the merits. ~~of an affirmative defense asserted pursuant to section~~  
7 ~~16-13-303 (5.2).~~ Any motion to vacate a temporary restraining order  
8 shall state specifically the factual and legal grounds upon which it is  
9 based, and only those grounds may be considered at the hearing. Until  
10 vacated, the temporary restraining order shall remain in full force and  
11 effect.

12  
13 **SECTION 5.** 16-13-311 (3), Colorado Revised Statutes, is  
14 amended to read:

15  
16 **16-13-311. Disposition of seized personal property.**

17 ~~(3) (a) Except as otherwise provided in this section, the court may order~~  
18 ~~any such property sold by the sheriff in the manner provided for sales on~~  
19 ~~execution. The proceeds of the sale shall be applied as follows~~ IF THE  
20 PROSECUTION PREVAILS IN THE FORFEITURE ACTION, THE COURT SHALL  
21 ORDER THE PROPERTY FORFEITED. SUCH ORDER SHALL PERFECT THE  
22 STATE'S RIGHT AND INTEREST IN AND TITLE TO SUCH PROPERTY AND SHALL  
23 RELATE BACK TO THE DATE THE NOTICE OF SEIZURE WAS PLACED ON THE  
24 RECORD IN THE OFFICE OF THE CLERK AND RECORDER, IN THE COUNTY  
25 WHERE THE PROPERTY IS LOCATED. EXCEPT AS OTHERWISE PROVIDED IN  
26 PARAGRAPH (c) OF THIS SUBSECTION (3), THE COURT SHALL ALSO ORDER  
27 SUCH PROPERTY TO BE SOLD AT A PUBLIC SALE BY THE LAW ENFORCEMENT  
28 AGENCY IN POSSESSION OF THE PROPERTY IN THE MANNER PROVIDED FOR  
29 SALES ON EXECUTION. THE SALE OF FORFEITED PROPERTY SHALL BE  
30 CONDUCTED IN A COMMERCIALY REASONABLE MANNER. PROPERTY  
31 FORFEITED UNDER THIS SECTION OR PROCEEDS THEREFROM SHALL BE  
32 DISTRIBUTED OR APPLIED IN THE FOLLOWING ORDER:

33  
34 ~~(I) To the fees and costs of removal and sale~~ TO PAYMENT OF THE  
35 BALANCES DUE ON ANY LIENS PERFECTED ON OR BEFORE THE DATE OF  
36 SEIZURE PRESERVED BY THE COURT IN THE FORFEITURE PROCEEDINGS, IN  
37 THE ORDER OF THEIR PRIORITY;

38  
39 ~~(II) To the allowance and cost of closing and keeping closed the~~  
40 ~~building or place where the property was seized pursuant to the~~  
41 ~~provisions of this part~~ TO COMPENSATE AN INNOCENT PARTIAL OWNER  
42 FOR THE FAIR MARKET VALUE OF HIS OR HER INTEREST IN THE PROPERTY;

43  
44 ~~(III) To the payment of the plaintiff's costs in such action, and~~ TO  
45 ANY PERSON WHO SUFFERS BODILY INJURY OR PROPERTY DAMAGE AS A  
46 RESULT OF THE CONDUCT CONSTITUTING A PUBLIC NUISANCE THAT  
47 RESULTED IN SUCH FORFEITURE, IF SAID PERSON PETITIONS THE COURT  
48 THEREFOR PRIOR TO THE HEARING DIVIDING THE PROCEEDS PURSUANT TO  
49 THIS SECTION AND THE COURT FINDS THAT SUCH PERSON SUFFERED SAID  
50 DAMAGES AS A RESULT OF THE SUBJECT ACTS THAT RESULTED IN THE  
51 FORFEITURE;

52  
53 ~~(IV) The balance, if any, or any portion thereof not otherwise~~  
54 ~~distributed pursuant to this subparagraph (IV), to the general fund of the~~  
55 ~~state. Instead of being deposited in the general fund, such balance or any~~  
56 ~~portion thereof may be delivered, upon order of the court, as follows: TO~~

1 THE LAW ENFORCEMENT AGENCY IN POSSESSION OF THE PROPERTY FOR  
2 REASONABLE FEES AND COSTS OF SALE, MAINTENANCE, AND STORAGE OF  
3 THE PROPERTY;

4  
5 ~~(A) To the seizing agency if the court finds that the proceeds can  
6 be used by such agency;~~

7  
8 ~~(B) To any person who suffers bodily injury or property damage  
9 as a result of the action which constitutes the nuisance, if said person  
10 petitions the court therefor.~~

11  
12 (V) TO THE DISTRICT ATTORNEY FOR ACTUAL AND REASONABLE  
13 EXPENSES RELATED TO THE COSTS OF PROSECUTING THE FORFEITURE  
14 PROCEEDING AND TITLE TRANSFER NOT TO EXCEED TEN PERCENT OF THE  
15 VALUE OF THE PROPERTY;

16  
17 (VI) ONE PERCENT OF THE VALUE OF THE PROPERTY TO THE CLERK  
18 OF THE COURT FOR ADMINISTRATIVE COSTS ASSOCIATED WITH  
19 COMPLIANCE WITH THIS SECTION;

20  
21 (VII) THE BALANCE SHALL BE DELIVERED, UPON ORDER OF THE  
22 COURT, AS FOLLOWS:

23  
24 (A) FIFTY PERCENT TO THE GENERAL FUND OF THE GOVERNMENTAL  
25 BODY OR BODIES WITH BUDGETARY AUTHORITY OVER THE SEIZING AGENCY  
26 OR, IF THE SEIZING AGENCY WAS A MULTI-JURISDICTIONAL TASK FORCE,  
27 FIFTY PERCENT TO BE DISTRIBUTED IN ACCORDANCE WITH THE  
28 APPROPRIATE INTERGOVERNMENTAL AGREEMENT; AND

29  
30 (B) THE REMAINING AMOUNT TO THE STATE TREASURER FOR  
31 DEPOSIT INTO THE ASSET FORFEITURE TREATMENT CASH FUND, CREATED  
32 IN SECTION 16-13-318, FOR ANNUAL APPROPRIATION TO THE DEPARTMENT  
33 OF HUMAN SERVICES, ALCOHOL AND DRUG ABUSE DIVISION, TO FUND  
34 DETOXIFICATION AND SUBSTANCE ABUSE TREATMENT.

35  
36 ~~(b) In lieu of ordering the sale of such property, the court shall, if  
37 it finds that it can be used by the agency which seized it, order it  
38 delivered to the agency for such use.~~

39  
40 (c) IF, IN A FORFEITURE PROCEEDING, A PARTIAL OWNER IS  
41 DETERMINED TO BE AN INNOCENT OWNER UNDER LAW, AT THE OPTION OF  
42 THE INNOCENT PARTIAL OWNER, IN LIEU OF A PUBLIC SALE, THE INNOCENT  
43 PARTIAL OWNER MAY PURCHASE THE FORFEITED ITEMS FROM THE STATE  
44 AT A PRIVATE SALE FOR FAIR MARKET VALUE. PROCEEDS RECEIVED BY THE  
45 STATE SHALL BE DISPOSED OF PURSUANT TO THIS SECTION.

46  
47 (d) AFTER A JUDGMENT OF FORFEITURE HAS BEEN ENTERED, ANY  
48 SEIZING AGENCY IN POSSESSION OF ANY MONEY FORFEITED SHALL DEPOSIT  
49 THE MONEY IN THE REGISTRY OF THE COURT WHERE THE FORFEITURE  
50 ORDER WAS ENTERED. UPON THE SALE OF FORFEITED REAL OR PERSONAL  
51 PROPERTY, THE SEIZING AGENCY RESPONSIBLE FOR OVERSEEING THE SALE  
52 SHALL ENSURE THAT ANY LIENHOLDERS ARE COMPENSATED FROM THE  
53 PROCEEDS OF THE SALE PURSUANT TO THE PRIORITIES SPECIFIED IN  
54 PARAGRAPH (a) OF THIS SUBSECTION (3) FOR THEIR INTERESTS IN THE  
55 FORFEITED PROPERTY. THE SEIZING AGENCY SHALL DEPOSIT ALL  
56 REMAINING PROCEEDS FROM THE SALE IN THE REGISTRY OF THE COURT

1 IMMEDIATELY UPON COMPLETION OF THE SALE. THE SEIZING AGENCY  
2 SHALL NOTIFY THE COURT AND THE DISTRICT ATTORNEY WHEN ALL  
3 PROPERTY SUBJECT TO THE FORFEITURE ORDER HAS BEEN SOLD AND ALL  
4 PROCEEDS AND MONEY HAVE BEEN DEPOSITED IN THE REGISTRY OF THE  
5 COURT WHERE THE FORFEITURE ORDER WAS ENTERED.

6  
7 (e) WITHIN THIRTY DAYS AFTER THE DATE THE ORDER OF  
8 FORFEITURE IS ENTERED, THE DISTRICT ATTORNEY MAY SUBMIT A MOTION,  
9 AN AFFIDAVIT, AND ANY SUPPORTING DOCUMENTATION TO THE COURT TO  
10 REQUEST COMPENSATION CONSISTENT WITH THIS SECTION. WITHIN THIRTY  
11 DAYS AFTER THE DATE THE ORDER OF FORFEITURE IS ENTERED, ANY VICTIM  
12 OF THE CRIMINAL ACT GIVING RISE TO THE FORFEITURE MAY SUBMIT A  
13 REQUEST FOR COMPENSATION, AN AFFIDAVIT, AND SUPPORTING  
14 DOCUMENTATION TO THE DISTRICT ATTORNEY TO REQUEST COMPENSATION  
15 FROM THE FORFEITURE PROCEEDS.

16  
17 (f) WITHIN TEN DAYS AFTER THE DATE A SEIZING AGENCY NOTIFIES  
18 THE COURT THAT ALL PROPERTY FORFEITED HAS BEEN SOLD AND ALL  
19 PROCEEDS AND MONEY HAVE BEEN DEPOSITED IN THE REGISTRY OF THE  
20 COURT WHERE THE FORFEITURE ORDER WAS ENTERED, THE SEIZING  
21 AGENCY MAY SUBMIT A MOTION, AN AFFIDAVIT, AND SUPPORTING  
22 DOCUMENTATION TO THE COURT FOR REIMBURSEMENT OF EXPENSES  
23 CONSISTENT WITH THIS SECTION. IN ITS MOTION, THE SEIZING AGENCY  
24 SHALL IDENTIFY ANY OTHER SEIZING AGENCIES THAT PARTICIPATED IN THE  
25 SEIZURE AND SPECIFY THE DETAILS OF ANY INTERGOVERNMENTAL  
26 AGREEMENT REGARDING SHARING OF PROCEEDS. THE SEIZING AGENCY  
27 SHALL SEND A COPY OF THIS MOTION TO THE DISTRICT ATTORNEY.

28  
29 (g) THE DISTRICT ATTORNEY SHALL PREPARE A MOTION AND  
30 PROPOSED ORDER FOR DISTRIBUTION BASED UPON THE MOTIONS AND  
31 REQUESTS SUBMITTED BY THE PARTIES. THE ORDER SHALL INCLUDE  
32 ALLOCATION OF ONE PERCENT OF THE VALUE OF THE PROPERTY TO THE  
33 CLERK OF THE COURT FOR THE DIRECT AND INDIRECT COSTS INCURRED BY  
34 THE CLERK IN IMPLEMENTING THE PROVISIONS OF THIS SUBSECTION (3).  
35 THE DISTRICT ATTORNEY SHALL SEND COPIES TO ALL REMAINING  
36 INTERESTED PARTIES.

37  
38 (h) ANY PARTY SHALL HAVE TEN DAYS AFTER FILING OF THE  
39 PROPOSED ORDER TO FILE ANY OBJECTIONS TO THE PROPOSED ORDER FILED  
40 BY THE DISTRICT ATTORNEY.

41  
42 **SECTION 6.** 16-13-314 (2), Colorado Revised Statutes, is  
43 amended to read:

44  
45 **16-13-314. Disposition of forfeited real property.** (2) The  
46 proceeds of such sale shall be applied as follows: IN THE SAME MANNER  
47 AND PRIORITY AS ENUMERATED IN SECTION 16-13-311 (3).

48  
49 ~~(a) To the fees and costs of the sale;~~

50  
51 ~~(b) To the payment of fees, costs, and fines provided by this part~~  
52 ~~3;~~

53 ~~(c) To the payment of the plaintiff's costs in the action; and~~

54  
55 ~~(d) The balance, if any, or any portion thereof not otherwise~~  
56 ~~distributed pursuant to this paragraph (d), to the general fund of the state.~~

1 ~~Instead of being deposited in the general fund, such balance or any~~  
2 ~~portion thereof may be delivered, upon order of the court, as follows:~~  
3

4 ~~(I) To the seizing agency if the court finds that the proceeds can~~  
5 ~~be used by such agency;~~  
6

7 ~~(II) To any person who suffers bodily injury or property damage~~  
8 ~~as a result of the action which constitutes the nuisance, if said person~~  
9 ~~petitions the court therefor.~~  
10

11 **SECTION 7.** 16-13-315, Colorado Revised Statutes, is amended  
12 BY THE ADDITION OF A NEW SUBSECTION to read:  
13

14 **16-13-315. Seizure of personal property.** (3) IF A RENTAL  
15 MOTOR VEHICLE IS SEIZED PURSUANT TO THIS PART 3, THE SEIZING AGENCY  
16 SHALL NOTIFY THE MOTOR VEHICLE RENTAL COMPANY OF THE SEIZURE IF  
17 THE MOTOR VEHICLE IS IDENTIFIED AS A RENTAL MOTOR VEHICLE. THE  
18 MOTOR VEHICLE RENTAL COMPANY MAY APPEAR AT THE SEIZING AGENCY  
19 AND REQUEST THE RETURN OF THE RENTAL MOTOR VEHICLE. THE RENTAL  
20 MOTOR VEHICLE SHALL BE RETURNED TO THE MOTOR VEHICLE RENTAL  
21 COMPANY UNLESS THE MOTOR VEHICLE MUST BE MAINTAINED IN THE  
22 CUSTODY OF THE SEIZING AGENCY FOR EVIDENTIARY PURPOSES OR IF THE  
23 SEIZING AGENCY HAS PROBABLE CAUSE TO BELIEVE THE MOTOR VEHICLE  
24 RENTAL COMPANY, AT THE TIME OF RENTAL, HAD KNOWLEDGE OR NOTICE  
25 OF THE CRIMINAL ACTIVITY FOR WHICH THE RENTAL CAR WAS USED.  
26

27 **SECTION 8.** Part 3 of article 13 of title 16, Colorado Revised  
28 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
29 read:  
30

31 **16-13-318. Asset forfeiture treatment cash fund.** (1) THERE IS  
32 HEREBY CREATED IN THE STATE TREASURY THE ASSET FORFEITURE  
33 TREATMENT CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND",  
34 WHICH SHALL CONSIST OF MONEYS RECEIVED BY THE STATE TREASURER  
35 PURSUANT TO SECTION 16-13-311 AND ANY OTHER MONEYS APPROPRIATED  
36 THERETO. ALL INTEREST DERIVED FROM THE INVESTMENT OF MONEYS IN  
37 THE FUND SHALL BE CREDITED TO THE FUND. ANY MONEYS NOT  
38 APPROPRIATED BY THE GENERAL ASSEMBLY SHALL REMAIN IN THE FUND  
39 AND SHALL NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND OR  
40 ANY OTHER FUND AT THE END OF ANY FISCAL YEAR. ALL MONEYS IN THE  
41 FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL  
42 ASSEMBLY TO THE DEPARTMENT OF HUMAN SERVICES, ALCOHOL AND DRUG  
43 ABUSE DIVISION, TO FUND DETOXIFICATION AND TREATMENT OF  
44 SUBSTANCE ABUSE. MONEYS APPROPRIATED FROM THE FUND SHALL BE IN  
45 ADDITION TO, AND SHALL NOT BE USED TO SUPPLANT, OTHER FUNDING  
46 APPROPRIATED TO THE DEPARTMENT OF HUMAN SERVICES, ALCOHOL AND  
47 DRUG ABUSE DIVISION. THE DEPARTMENT OF HUMAN SERVICES, ALCOHOL  
48 AND DRUG ABUSE DIVISION SHALL DISTRIBUTE THE PROCEEDS TO REGIONS  
49 WHERE THE FORFEITURE OCCURRED.  
50

51 (2) THE ALCOHOL AND DRUG ABUSE DIVISION IN THE DEPARTMENT  
52 OF HUMAN SERVICES SHALL PREPARE AN ANNUAL ACCOUNTING REPORT OF  
53 THE FUND, INCLUDING REVENUES, EXPENDITURES, BEGINNING AND ENDING  
54 BALANCES, AND SERVICES PROVIDED. THE ALCOHOL AND DRUG ABUSE  
55 DIVISION SHALL PROVIDE THIS INFORMATION IN ITS ANNUAL BRIEFING TO  
56 THE JOINT BUDGET COMMITTEE.

1           **SECTION 9.** 16-13-502 (2), Colorado Revised Statutes, is  
2 amended, and the said 16-13-502 is further amended BY THE  
3 ADDITION OF A NEW SUBSECTION, to read:

4  
5           **16-13-502. Definitions.** As used in this part 5, unless the context  
6 otherwise requires:

7  
8           (1.5) "CONVICTION" MEANS A VERDICT OF GUILTY BY A JUDGE OR  
9 JURY OR A PLEA OF GUILTY OR NOLO CONTENDERE THAT IS ACCEPTED BY  
10 THE COURT OR ADJUDICATION FOR AN OFFENSE THAT WOULD CONSTITUTE  
11 A CRIMINAL OFFENSE IF COMMITTED BY AN ADULT. "CONVICTION" ALSO  
12 INCLUDES HAVING RECEIVED A DEFERRED JUDGMENT AND SENTENCE OR  
13 DEFERRED ADJUDICATION, OR, IN THE CASE OF A JUVENILE, THAT THE  
14 JUVENILE HAS BEEN ADJUDICATED A DELINQUENT, WHETHER BY GUILTY  
15 PLEA OR NOLO CONTENDERE PLEA OR BY AN ADJUDICATION BY A JUDGE OR  
16 JURY AND WHETHER THE SENTENCE IS DEFERRED OR SUSPENDED OR  
17 WHETHER THE JUVENILE IS SENT TO A DIVERSION PROGRAM.

18  
19           (2) "Seizing agency" means any agency ~~which~~ THAT is charged  
20 with the enforcement of the laws of this state, of any other state, or of the  
21 United States relating to controlled substances and ~~which~~ THAT has  
22 participated in a seizure or has been substantially involved in effecting a  
23 forfeiture through legal representation pursuant to this part 5; except that  
24 the filing of any lien against property forfeited under this part 5 by the  
25 governing body or agency thereof of any seizing agency after the date of  
26 seizure shall preclude such agency from participating pursuant to this part  
27 5 as a seizing agency and shall deny any such agency from receiving any  
28 proceeds under this part 5. The department of corrections AND A  
29 MULTI-JURISDICTIONAL TASK FORCE shall be deemed to be included under  
30 this definition.

31  
32           **SECTION 10.** 16-13-504 (2.1) and (2.2), Colorado Revised  
33 Statutes, are amended, and the said 16-13-504 is further amended BY  
34 THE ADDITION OF A NEW SUBSECTION to read:

35  
36           **16-13-504. Forfeiture of vehicle, fixtures and contents of  
37 building, personal property, or contraband article - exceptions.**

38 (1.5) IF A RENTAL MOTOR VEHICLE IS SEIZED PURSUANT TO THIS PART 5,  
39 THE SEIZING AGENCY SHALL NOTIFY THE MOTOR VEHICLE RENTAL  
40 COMPANY OF THE SEIZURE IF THE MOTOR VEHICLE IS IDENTIFIED AS A  
41 RENTAL MOTOR VEHICLE. THE MOTOR VEHICLE RENTAL COMPANY MAY  
42 APPEAR AT THE SEIZING AGENCY AND REQUEST THE RETURN OF THE  
43 RENTAL MOTOR VEHICLE. THE RENTAL MOTOR VEHICLE SHALL BE  
44 RETURNED TO THE MOTOR VEHICLE RENTAL COMPANY UNLESS THE MOTOR  
45 VEHICLE MUST BE MAINTAINED IN THE CUSTODY OF THE SEIZING AGENCY  
46 FOR EVIDENTIARY PURPOSES OR IF THE SEIZING AGENCY HAS PROBABLE  
47 CAUSE TO BELIEVE THE MOTOR VEHICLE RENTAL COMPANY, AT THE TIME  
48 OF RENTAL, HAD KNOWLEDGE OR NOTICE OF THE CRIMINAL ACTIVITY FOR  
49 WHICH THE RENTAL CAR WAS USED.

50  
51           (2.1) (a) In any action to forfeit property pursuant to this part 5,  
52 the plaintiff, in addition to any other matter which must be proven in the  
53 plaintiff's case in chief, shall prove by ~~a preponderance of the~~ CLEAR AND  
54 CONVINCING evidence that possession of the property is unlawful, or that  
55 the owner of the property or interest therein was involved in or knew of  
56 the subject act. THE PLAINTIFF SHALL ALSO PROVE BY CLEAR AND

1 CONVINCING EVIDENCE THAT THE PROPERTY WAS INSTRUMENTAL IN THE  
2 COMMISSION OR FACILITATION OF THE CRIME OR THE PROPERTY  
3 CONSTITUTES DIRECTLY TRACEABLE PROCEEDS OF THE CRIME. PRIOR TO  
4 AN ENTRY OF JUDGMENT OF FORFEITURE, THE COURT SHALL MAKE A  
5 FINDING BASED UPON CLEAR AND CONVINCING EVIDENCE THAT THE VALUE  
6 OF THE PROPERTY TO BE FORFEITED IS PROPORTIONAL TO THE CRIME AND  
7 IS NOT EXCESSIVE.

8  
9 (a.5) UNDER PROPORTIONALITY REVIEW, THE COURT SHALL  
10 ENSURE THAT THE FORFEITURE MEETS THE REMEDIAL PURPOSE OF THE  
11 STATUTE. THE COURT SHALL BE GUIDED BY OBJECTIVE CRITERIA  
12 INCLUDING:

13  
14 (I) THE SEVERITY OF THE OFFENSE OR RELATED CRIMINAL  
15 ACTIVITY AND THE HARM OR RISK OF HARM TO THE PUBLIC;

16  
17 (II) THE FINANCIAL GAIN DERIVED OR SOUGHT TO BE DERIVED  
18 THROUGH COMMISSION OF THE OFFENSE OR RELATED CRIMINAL ACTIVITY;

19  
20 (III) THE ACTUAL OR INTENDED LOSS TO VICTIMS DUE TO  
21 COMMISSION OF THE OFFENSE OR RELATED CRIMINAL ACTIVITY;

22  
23 (IV) THE EXTENT OF THE PROPERTY OWNER'S INVOLVEMENT IN THE  
24 OFFENSE OR RELATED CRIMINAL ACTIVITY;

25  
26 (V) WHETHER THE OFFENSE WAS PART OF AN ONGOING PATTERN  
27 OF RELATED CRIMINAL ACTIVITY OR RELATED CRIMINAL ACTIVITY; AND

28  
29 (VI) THE VALUE OF THE OWNER'S INTEREST IN THE PROPERTY.

30  
31 (b) As used in paragraph (a) of this subsection (2.1), an owner  
32 was "involved in or knew of the subject act" if it is established that:

33  
34 (I) The owner was involved in the subject act; or

35  
36 (II) The owner knew ~~or reasonably should have known~~ of the  
37 subject act OR HAD NOTICE OF THE ACTS FACILITATING THE CRIMINAL  
38 ACTIVITY AND FAILED TO TAKE REASONABLE STEPS TO PROHIBIT OR ABATE  
39 THE ILLEGAL USE OF THE PROPERTY.

40  
41 ~~(2.2) (a) It shall be an affirmative defense that, and the property~~  
42 ~~of a person who was not involved in the subject act or acts shall not be~~  
43 ~~forfeited if, the person establishes by a preponderance of the evidence~~  
44 ~~that the person took all reasonable steps to abate the subject act and took~~  
45 ~~all reasonable steps to prevent the property from becoming involved in~~  
46 ~~the subject act and subject to being forfeited pursuant to this part 5.~~  
47 WITH RESPECT TO A PARTIAL OR WHOLE OWNERSHIP INTEREST IN  
48 EXISTENCE AT THE TIME THE CONDUCT SUBJECTING THE PROPERTY TO  
49 SEIZURE TOOK PLACE, THE TERM "INNOCENT OWNER" MEANS ANY OWNER  
50 WHO:

51  
52 (I) DID NOT HAVE ACTUAL KNOWLEDGE OF THE CONDUCT  
53 SUBJECTING THE PROPERTY TO SEIZURE OR NOTICE OF THE ACTS  
54 FACILITATING THE CRIMINAL ACTIVITY; OR

55  
56 (II) UPON LEARNING OF THE CONDUCT SUBJECTING THE PROPERTY

1 TO SEIZURE, TOOK REASONABLE STEPS TO PROHIBIT THE CONDUCT. AN  
2 OWNER MAY DEMONSTRATE THAT HE OR SHE TOOK REASONABLE ACTION  
3 TO PROHIBIT SUCH CONDUCT IF THE OWNER:

4  
5 (A) TIMELY REVOKED OR ATTEMPTED TO REVOKE PERMISSION FOR  
6 THOSE ENGAGING IN SUCH CONDUCT TO USE THE PROPERTY; OR

7  
8 (B) TOOK REASONABLE ACTIONS TO DISCOURAGE OR PREVENT THE  
9 USE OF THE PROPERTY IN CONDUCT SUBJECTING THE PROPERTY TO SEIZURE.

10  
11 (b) WITH RESPECT TO A PARTIAL OR WHOLE OWNERSHIP INTEREST  
12 ACQUIRED AFTER THE CONDUCT SUBJECTING THE PROPERTY TO SEIZURE  
13 HAS OCCURRED, THE TERM "INNOCENT OWNER" MEANS A PERSON WHO, AT  
14 THE TIME HE OR SHE ACQUIRED THE INTEREST IN THE PROPERTY, HAD NO  
15 KNOWLEDGE THAT THE ILLEGAL CONDUCT SUBJECTING THE PROPERTY TO  
16 SEIZURE HAD OCCURRED OR THAT THE PROPERTY HAD BEEN SEIZED FOR  
17 FORFEITURE, AND:

18  
19 (I) ACQUIRED AN INTEREST IN THE PROPERTY IN A BONA FIDE  
20 TRANSACTION FOR VALUE;

21  
22 (II) ACQUIRED AN INTEREST IN THE PROPERTY THROUGH PROBATE  
23 OR INHERITANCE; OR

24  
25 (III) ACQUIRED AN INTEREST IN THE PROPERTY THROUGH  
26 DISSOLUTION OF MARRIAGE OR BY OPERATION OF LAW.

27  
28 (c) AN INNOCENT OWNER'S INTEREST IN PROPERTY SHALL NOT BE  
29 FORFEITED UNDER ANY PROVISION OF STATE LAW. AN INNOCENT OWNER  
30 HAS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE  
31 THAT HE OR SHE HAS AN OWNERSHIP INTEREST IN THE SUBJECT PROPERTY.  
32 THE PROSECUTING ATTORNEY SHALL HAVE THE BURDEN OF ESTABLISHING  
33 BY CLEAR AND CONVINCING EVIDENCE THAT AN INDIVIDUAL IS NOT AN  
34 INNOCENT OWNER.

35  
36 **SECTION 11.** 16-13-505 (10) (b), Colorado Revised Statutes, is  
37 amended, and the said 16-13-505 is further amended BY THE  
38 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

39  
40 **16-13-505. Forfeiture proceedings.** (1.5) NO JUDGMENT OF  
41 FORFEITURE OF PROPERTY IN ANY FORFEITURE PROCEEDING SHALL BE  
42 ENTERED UNLESS AND UNTIL AN OWNER OF THE PROPERTY IS CONVICTED  
43 OF AN OFFENSE LISTED IN SECTION 16-13-503. NOTHING IN THIS SECTION  
44 SHALL BE CONSTRUED TO REQUIRE THE CONVICTION TO BE OBTAINED IN  
45 THE SAME JURISDICTION AS THE JURISDICTION IN WHICH THE FORFEITURE  
46 ACTION IS BROUGHT. IN THE EVENT CRIMINAL CHARGES ARISING FROM THE  
47 SAME ACTIVITY GIVING RISE TO THE FORFEITURE PROCEEDINGS ARE FILED  
48 AGAINST ANY INDIVIDUAL CLAIMING AN INTEREST IN THE PROPERTY  
49 SUBJECT TO THE FORFEITURE PROCEEDING, SUCH FORFEITURE PROCEEDING  
50 SHALL BE STAYED BY THE COURT UNTIL THE DISPOSITION OF THE CRIMINAL  
51 CHARGES. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE  
52 THAT A STAY BE MAINTAINED DURING AN APPEAL OR POST-CONVICTION  
53 PROCEEDING CHALLENGING A CRIMINAL CONVICTION. NOTHING IN THIS  
54 SECTION SHALL BE CONSTRUED TO PROHIBIT OR PREVENT THE PARTIES  
55 FROM CONTEMPORANEOUSLY RESOLVING CRIMINAL CHARGES AND A  
56 FORFEITURE PROCEEDING ARISING FROM THE SAME ACTIVITY.

1 (1.6) UPON ACQUITTAL OR DISMISSAL OF A CRIMINAL ACTION  
2 AGAINST A PERSON NAMED IN A FORFEITURE ACTION RELATED TO THE  
3 CRIMINAL ACTION, THE FORFEITURE ACTION SHALL BE DISMISSED AND THE  
4 SEIZED PROPERTY SHALL BE RETURNED TO THE OWNER UNLESS POSSESSION  
5 OF THE PROPERTY IS ILLEGAL. IF THE FORFEITURE ACTION IS DISMISSED OR  
6 JUDGMENT IS ENTERED IN FAVOR OF THE CLAIMANT, THE CLAIMANT SHALL  
7 NOT BE SUBJECT TO ANY MONETARY CHARGES BY THE STATE FOR STORAGE  
8 OF THE PROPERTY OR EXPENSES INCURRED IN THE PRESERVATION OF THE  
9 PROPERTY.

10  
11 (1.7) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1.5) OF  
12 THIS SECTION:

13  
14 (a) FOLLOWING THE FILING OF CRIMINAL CHARGES, IF A PROPERTY  
15 OWNER FAILS TO APPEAR AT A COURT HEARING RELATING TO SUCH  
16 CHARGES AND IS DETERMINED TO BE A FUGITIVE TO AVOID CRIMINAL  
17 PROSECUTION, THE DISTRICT ATTORNEY SHALL SEND NOTICE TO THE  
18 FUGITIVE'S LAST KNOWN ADDRESS THAT THE FORFEITURE ACTION WILL  
19 PROCEED THIRTY DAYS AFTER THE DATE OF THE NOTICE. IF THE FUGITIVE  
20 APPEARS IN THE CRIMINAL ACTION OR IN THE FORFEITURE ACTION WITHIN  
21 THE THIRTY-DAY PERIOD, THIS PARAGRAPH (a) SHALL NOT BE AVAILABLE  
22 TO THE PLAINTIFF. THIRTY DAYS AFTER THE DATE OF THE NOTICE SENT BY  
23 THE DISTRICT ATTORNEY, IF THE FUGITIVE HAS NOT APPEARED IN THE  
24 CRIMINAL ACTION OR IN THE FORFEITURE ACTION, THE FORFEITURE ACTION  
25 MAY PROCEED AND A JUDGMENT OF FORFEITURE MAY BE ENTERED  
26 WITHOUT A CRIMINAL CONVICTION OF THE OWNER.

27  
28 (b) IF, FOLLOWING NOTICE TO ALL PERSONS KNOWN TO HAVE AN  
29 INTEREST OR WHO HAVE ASSERTED AN INTEREST IN THE PROPERTY SUBJECT  
30 TO FORFEITURE, NO PERSON CLAIMS AN INTEREST IN THE SEIZED PROPERTY,  
31 A FORFEITURE ACTION MAY PROCEED AND A JUDGMENT OF FORFEITURE  
32 MAY BE ENTERED WITHOUT A CRIMINAL CONVICTION OF THE OWNER.

33  
34 (c) IF THE PLAINTIFF PROVES BY CLEAR AND CONVINCING  
35 EVIDENCE THAT THE PROPERTY WAS INSTRUMENTAL IN THE COMMISSION  
36 OF AN OFFENSE BY A NON-OWNER AND THE PLAINTIFF PROVES BY CLEAR  
37 AND CONVINCING EVIDENCE THAT THE OWNER IS NOT AN INNOCENT  
38 OWNER AS DEFINED IN SECTION 16-13-303 (5.2) (a), A JUDGMENT OF  
39 FORFEITURE MAY BE ENTERED WITHOUT A CRIMINAL CONVICTION OF THE  
40 OWNER.

41  
42 (d) IF THE PLAINTIFF PROVES BY CLEAR AND CONVINCING  
43 EVIDENCE THAT THE PROPERTY WAS INSTRUMENTAL IN THE COMMISSION  
44 OF AN OFFENSE BY A DECEASED OWNER AND THE PLAINTIFF PROVES BY  
45 CLEAR AND CONVINCING EVIDENCE THAT THE DECEASED OWNER WAS NOT  
46 AN INNOCENT OWNER AS DEFINED IN SECTION 16-13-303 (5.2) (a), A  
47 JUDGMENT OF FORFEITURE MAY BE ENTERED WITHOUT A CRIMINAL  
48 CONVICTION OF THE DECEASED OWNER.

49  
50 (2.5) ALL FORFEITURE ACTIONS SHALL PROCEED IN STATE DISTRICT  
51 COURT IF THE PROPERTY WAS SEIZED BY A LOCAL OR STATE LAW  
52 ENFORCEMENT AGENCY AS A RESULT OF AN ONGOING STATE CRIMINAL  
53 INVESTIGATION AND THE OWNER IS BEING PROSECUTED IN STATE COURT.  
54 UNLESS, REQUIRED BY AN AUTHORIZED AGENT OF THE FEDERAL  
55 GOVERNMENT, NO STATE OR LOCAL LAW ENFORCEMENT AGENCY MAY  
56 TRANSFER ANY PROPERTY SEIZED BY THE STATE OR LOCAL AGENCY TO A



1 FEDERAL AGENCY FOR FORFEITURE UNDER FEDERAL LAW UNLESS AN  
2 OWNER OF THE PROPERTY IS BEING PROSECUTED IN FEDERAL COURT.

3

4 (10) The evidentiary burdens at a forfeiture hearing brought  
5 pursuant to this part 5 shall be as follows:

6

7 (b) If the claimant establishes that such claimant is the true owner  
8 of the property sought to be forfeited, the prosecuting attorney shall have  
9 the burden of going forward with the evidence and proving the allegations  
10 of the petition by a ~~preponderance of the~~ CLEAR AND CONVINCING  
11 evidence. ~~The claimant shall establish any affirmative defense to the~~  
12 ~~forfeiture by a preponderance of the evidence.~~

13

14 **SECTION 12.** 16-13-506 (1), Colorado Revised Statutes, is  
15 amended to read:

16

17 **16-13-506. Final order - disposition of property.** (1) If the  
18 prosecution prevails in the forfeiture action, the court shall order the  
19 property forfeited and perfect the state's right and interest in and title to  
20 such property, and such order shall relate back to the date THE NOTICE of  
21 seizure WAS PLACED ON THE RECORD IN THE OFFICE OF THE CLERK AND  
22 RECORDER, IN THE COUNTY WHERE THE PROPERTY IS LOCATED. The court  
23 shall also order such property to be sold AT PUBLIC SALE by the sheriff  
24 LAW ENFORCEMENT AGENCY IN POSSESSION OF THE PROPERTY in the  
25 manner provided for sales on execution. The proceeds of sale shall be  
26 applied ~~as follows and in the following order:~~ IN THE MANNER AND  
27 PRIORITY ENUMERATED IN SECTION 16-13-311.

28

29 ~~(a) First to the sheriff for reasonable fees and costs of sale;~~

30

31 ~~(b) Second to payment of the balance due on any lien perfected~~  
32 ~~on or before the date of seizure preserved by the court in the forfeiture~~  
33 ~~proceedings;~~

34

35 ~~(c) Of the balance remaining after payment pursuant to paragraphs~~  
36 ~~(a) and (b) of this subsection (1):~~

37

38 ~~(I) Ten percent shall be deposited into the state general fund for~~  
39 ~~appropriation by the general assembly to the judicial department for the~~  
40 ~~payment of costs attributable to proceedings brought pursuant to section~~  
41 ~~16-13-505;~~

42

43 ~~(I.5) Ten percent shall be deposited into the state general fund for~~  
44 ~~appropriation by the general assembly to the department of public safety~~  
45 ~~for law enforcement purposes. For the purposes of this subparagraph~~  
46 ~~(I.5), law enforcement purposes shall include, but are not limited to, the~~  
47 ~~administration of the department of corrections and its facilities.~~

48

49 ~~(H) One and one-half percent to the district attorney as fees for~~  
50 ~~bringing said action.~~

51

52 ~~(d) Any moneys remaining after payment pursuant to paragraphs~~  
53 ~~(a), (b), and (c) of this subsection (1) shall be applied as follows:~~

54

55 ~~(I) To the payment of the costs incurred by the seizing agency in~~  
56 ~~connection with the storage, maintenance, security, and forfeiture of such~~

1 property; and

2

3 (H) (A) ~~To the seizing agency; and~~

4

5 (B) ~~To any person who suffers bodily injury or property damage~~  
6 ~~as a result of the subject acts which resulted in such forfeiture, if said~~  
7 ~~person petitions the court therefor prior to the hearing dividing the~~  
8 ~~proceeds under this section and the court finds that such person suffered~~  
9 ~~said damages as a result of the subject acts which resulted in the~~  
10 ~~forfeiture.~~

11

12 **SECTION 13.** 16-13-601, Colorado Revised Statutes, is amended  
13 to read:

14

15 **16-13-601. Receipt of federally forfeited property.** Any agency  
16 charged with the enforcement of the laws of this state is authorized to  
17 accept, receive, dispose of, and expend the property or proceeds from any  
18 property forfeited to the federal government and allocated to such agency  
19 by the United States attorney general pursuant to 21 U.S.C. 881 (e). Such  
20 revenues shall be in addition to the moneys appropriated to such law  
21 enforcement agency by the general assembly or any unit of local  
22 government. Said property or proceeds may be credited to any lawfully  
23 created fund designated to receive proceeds of forfeitures. ANY STATE OR  
24 LOCAL LAW ENFORCEMENT AGENCY THAT RECEIVES FORFEITURE  
25 PROCEEDS FROM THE FEDERAL GOVERNMENT PURSUANT TO AN EQUITABLE  
26 SHARING AGREEMENT SHALL TRANSFER SUCH PROCEEDS IN THE FORM OF  
27 CASH OR PROPERTY TO THE GOVERNING BODY OF THE JURISDICTION IN  
28 WHICH THE STATE OR LOCAL LAW ENFORCEMENT AGENCY IS LOCATED.  
29 THE JURISDICTION RECEIVING THE PROCEEDS SHALL APPROPRIATE THEM  
30 ACCORDING TO FEDERAL GUIDELINES IN 18 U.S.C. 981, 21 U.S.C. 881, AND  
31 28 U.S.C. 524. ANY PROCEEDS RECEIVED PURSUANT TO THIS SECTION ARE  
32 EXEMPT FROM THE DISTRIBUTION REQUIREMENTS OF SECTION 16-13-311  
33 (3) (a).

34

35 **SECTION 14.** 16-13-701, Colorado Revised Statutes, is amended  
36 to read:

37

38 **16-13-701. Reporting of forfeited property.** (1) Any provision  
39 of law to the contrary notwithstanding, ~~each seizing agency, as defined~~  
40 ~~in section 16-13-301 (2.7) or section 16-13-502 (2), which receives any~~  
41 ~~property or proceeds which has been forfeited pursuant to this article or~~  
42 ~~any other statute of the state of Colorado, or any statute of the United~~  
43 ~~States, shall, for each fiscal year commencing on or after July 1, 1992;~~  
44 ~~submit a written report of any forfeited moneys or property received~~  
45 ~~during such fiscal year to the governmental body or bodies which have~~  
46 ~~approval authority over the budget of such seizing agency and to the~~  
47 ~~Colorado department of local affairs. Such report shall include an~~  
48 ~~accounting of how any forfeited moneys or property were expended~~  
49 ~~during such fiscal year. The governmental body or bodies which have~~  
50 ~~approval authority over the budget of such seizing agency shall report in~~  
51 ~~its primary financial statements concerning the acquisition, disposition,~~  
52 ~~and status of forfeited property, and such information shall be subject to~~  
53 ~~audit in accordance with part 6 of article 1 of title 29, C.R.S. THE~~  
54 ~~ELECTED DISTRICT ATTORNEY FOR EACH JUDICIAL DISTRICT SHALL FILE AN~~  
55 ~~ANNUAL FORFEITURE REPORT ON OR BEFORE JANUARY 31 FOR THE~~  
56 ~~PREVIOUS CALENDAR YEAR. SUCH REPORT SHALL INCLUDE:~~

1 (a) A DESCRIPTION AND THE VALUE OF ALL PROPERTY THAT WAS  
2 THE SUBJECT OF A FORFEITURE ACTION FILED IN THE JUDICIAL DISTRICT,  
3 INCLUDING THE FORFEITURE CASE NUMBER;

4  
5 (b) THE CRIMINAL CHARGES FILED AGAINST THE OWNER OF THE  
6 PROPERTY AND THE CRIMINAL CASE NUMBER;

7  
8 (c) DISPOSITION OR STATUS OF THE CRIMINAL AND FORFEITURE  
9 ACTIONS, INCLUDING THE VALUE OF THE PROPERTY FORFEITED; AND

10  
11 (d) A DESCRIPTION AND THE VALUE OF ANY PROPERTY SEIZED BY  
12 LOCAL OR STATE LAW ENFORCEMENT AGENCIES THAT WAS TRANSFERRED  
13 TO THE UNITED STATES FOR FORFEITURE UNDER FEDERAL LAW, INCLUDING  
14 THE FEDERAL FORFEITURE CASE NUMBER AND THE CRIMINAL CASE  
15 NUMBER, WHETHER THE CRIMINAL ACTION WAS FILED IN STATE OR  
16 FEDERAL COURT, AND THE GROUNDS FOR THE TRANSFER.

17  
18 (2) ~~Subsection (1) of this section shall not apply to the attorney~~  
19 ~~general, the Colorado state patrol, and the Colorado bureau of~~  
20 ~~investigation in the department of public safety~~ THE REPORT REQUIRED IN  
21 THIS SECTION SHALL BE FILED WITH THE DEPARTMENT OF LOCAL AFFAIRS  
22 AND SHALL CONSTITUTE A PUBLIC RECORD AND SHALL BE OPEN TO  
23 INSPECTION AS PROVIDED IN PART 2 OF THE ARTICLE 72 OF TITLE 24,  
24 C.R.S., COMMONLY KNOWN AS THE "PUBLIC RECORDS ACT".

25  
26 (3) ANY STATE OR LOCAL LAW ENFORCEMENT AGENCY OR  
27 MULTI-JURISDICTIONAL TASK FORCE THAT RECEIVES PROCEEDS FROM  
28 FEDERAL FORFEITURE ACTIONS SHALL SUBMIT A COPY TO THE DEPARTMENT  
29 OF LOCAL AFFAIRS OF ANY ACCOUNTING REPORT FILED BY SUCH AGENCY  
30 PURSUANT TO FEDERAL LAW OR REGULATION. THE DEPARTMENT OF LOCAL  
31 AFFAIRS SHALL PROVIDE THIS INFORMATION IN ITS ANNUAL BRIEFING TO  
32 THE JOINT BUDGET COMMITTEE. THE FEDERAL ANNUAL ACCOUNTING  
33 REPORT SHALL CONSTITUTE A PUBLIC RECORD AND SHALL BE OPEN TO  
34 INSPECTION AS PROVIDED IN PART 2 OF ARTICLE 72 OF TITLE, 24, C.R.S.,  
35 COMMONLY KNOWN AS THE "PUBLIC RECORDS ACT. SUCH INFORMATION  
36 SHALL BE SUBJECT TO AUDIT IN ACCORDANCE WITH PART 6 OF ARTICLE 1  
37 OF TITLE 29, C.R.S.

38  
39 (4) IN THE EVENT OF AN ALLEGED FAILURE TO COMPLY WITH THE  
40 REQUIREMENTS OF THIS SECTION, ANY CITIZEN SHALL HAVE STANDING TO  
41 SEEK A WRIT OF MANDAMUS ORDERING SUCH COMPLIANCE. IF ANY CITIZEN  
42 OBTAINS RELIEF UNDER THIS SECTION, SUCH CITIZEN SHALL BE ENTITLED  
43 TO A JUDGMENT AGAINST THE DEFENDANT FOR THE PAYMENT OF  
44 REASONABLE FEES AND COSTS INCURRED IN SEEKING SUCH RELIEF.

45  
46 **SECTION 15. Effective date - applicability.** Sections 5 and 13  
47 of this act shall take effect and apply to all forfeiture actions filed on or  
48 after January 1, 2003, and the remainder of this act shall take effect and  
49 apply to all forfeiture actions filed on or after July 1, 2002.

50  
51 **SECTION 16. Safety clause.** The general assembly hereby  
52 finds, determines, and declares that this act is necessary for the immediate  
53 preservation of the public peace, health, and safety."  
54  
55  
56

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**PRINTING REPORT**1  
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The Chief Clerk reports the following bills have been correctly printed:  
**HB02-1447; HCR02-1004; 1005.**

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**MESSAGES FROM THE SENATE**

Mr. Speaker:

The Senate has adopted and returns herewith: HJR02-1042, 1043.

The Senate has passed on Third Reading and transmitted to the Revisor of Statutes: SB02-053;

SB02-027, amended as printed in Senate Journal, April 10, pages 732-733;  
SB02-063, amended as printed in Senate Journal, April 10, page 734;  
SB02-019, amended as printed in Senate Journal, April 10, page 734.

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The Senate has postponed indefinitely and returns herewith: HB02-1356.

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**MESSAGE FROM THE REVISOR**

We herewith transmit without comment, SB02-053; and, Without comment, as amended, SB02-027, 063 and 019.

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**INTRODUCTION OF BILL  
First Reading**

The following bill was read by title and referred to the committee indicated:

**HB02-1447** by Representative(s) Alexander--Concerning the direct care provider career path pilot program.  
Committee on Health, Environment, Welfare, & Institutions

---

**INTRODUCTION OF CONCURRENT RESOLUTION**

The following resolution was read by title and referred to the committee indicated:

**HCR02-1005** by Representative(s) Dean; also Senator(s) Matsunaka-- Submitting to the registered electors of the state of Colorado an amendment to article X of the constitution of the state of Colorado, concerning a requirement that the text of any new citizen ballot question provide for a new revenue source adequate to fund the expenses associated with the adoption of said question if its administration is likely to necessitate an expenditure of state moneys above a specified amount.

Committee on Finance

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**INTRODUCTION OF RESOLUTION**1  
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The following resolution was read by title and laid over one day under the rules:

**HJR02-1050** by Representative(s) Harvey; also Senator(s) Evans--  
Concerning honoring the Class 5A girls basketball state title champions.

WHEREAS, The Highlands Ranch Falcons girls basketball team defeated the Doherty Spartans 52-45 to win the Class 5A state title championship; and

WHEREAS, This is the Falcons' third consecutive season to win the Class 5A state title; and

WHEREAS, The Falcons dominated the game by the mid-point of the fourth quarter with 16 points and withstood a comeback attempt in the fourth quarter that reduced their lead to 3 points by taking their lead back up to 6 points with only 1:47 left in the game when a 3-point shot was scored; and

WHEREAS, Ann Strother, Liz Sherwood, Kim Perkins, Susie Powers, and Kelly Boren scored 20, 14, 10, 6, and 2 points respectively during the championship game; and

WHEREAS, Ann Strother was honored as the tournament's Most Valuable Player and earned a position on the All-Tournament Team and was selected as the Rocky Mountain News' All-Colorado player of the year; and

WHEREAS, Ann Strother has been awarded the Naismith Award, given to the top player in the nation, was selected as the Women's Basketball Coaches Association's national player of the year, and was chosen to play in the first McDonald's All-America girls game; and

WHEREAS, Through hard work and team play, the Falcons not only won the state championship for the third year in a row, but also achieved a 23-2 record for the season; and

WHEREAS, The Falcons' coach, Caryn Jarocki, guided them throughout their exceptional season, keeping them sharp and focused as their opponents tried to knock them out of the competition; and

Whereas, Caryn Jarocki was selected as the Rocky Mountain News' All-Colorado girls basketball coach of the year; and

WHEREAS, Winning the state championship title for the Class 5A division represents the fulfillment of a season-long goal for the team's members; now, therefore,

*Be It Resolved by the House of Representatives of the Sixty-third General Assembly of the State of Colorado, the Senate concurring herein:*

That we, the members of the Sixty-third General Assembly, hereby

1 honor the hard work and team unity that propelled the members of the  
2 Highlands Ranch Falcons girls basketball team to the Class 5A state  
3 championship.

4  
5  
6

7 On motion of Representative Spradley, **HB02-1421, 1422, 1423, 1424,**  
8 **1425, 1426, 1427, 1428, 1429, 1430, 1431, 1432, 1433, 1434, 1435,**  
9 **1436, 1437, 1438, 1441, 1442, 1443, 1444, 1445, 1446** were made  
10 Special Orders on Friday, April 12, 2002, at 9:59 a.m.

11  
12

13 The hour of 9:59 a.m., having arrived, on motion of Representative  
14 Rhodes, the House resolved itself into Committee of the Whole for  
15 consideration of Special Orders and she was called to the Chair to act as  
16 Chairman.

17  
18

### 19 **SPECIAL ORDERS--SECOND READING OF BILLS**

20

21 The Committee of the Whole having risen, the Chairman reported the  
22 titles of the following bills had been read (reading at length had been  
23 dispensed with by unanimous consent), the bills considered and action  
24 taken thereon as follows:

25

26 (Amendments to the committee amendment are to the printed committee  
27 report which was printed and placed in the members' bill file.)

28

29 **HB02-1421** by Representative(s) Young, Berry, Saliman; also Sen-  
30 ator(s) Reeves, Tate, Owen--Concerning a supplemental  
31 appropriation to the department of agriculture.

32

33 Ordered engrossed and placed on the Calendar for Third Reading and  
34 Final Passage.

35

36 **HB02-1422** by Representative(s) Young, Berry, Saliman; also Sen-  
37 ator(s) Reeves, Tate, Owen--Concerning a supplemental  
38 appropriation to the department of corrections.

39

40 Ordered engrossed and placed on the Calendar for Third Reading and  
41 Final Passage.

42

43 **HB02-1423** by Representative(s) Young, Berry, Saliman; also Sen-  
44 ator(s) Reeves, Tate, Owen--Concerning a supplemental  
45 appropriation to the department of education.

46

47 Ordered engrossed and placed on the Calendar for Third Reading and  
48 Final Passage.

49

50 **HB02-1424** by Representative(s) Young, Berry, Saliman; also Sen-  
51 ator(s) Reeves, Tate, Owen--Concerning a supplemental  
52 appropriation to the offices of the governor, lieutenant  
53 governor, and state planning and budgeting.

54

55 Ordered engrossed and placed on the Calendar for Third Reading and  
56 Final Passage.

- 1 **HB02-1425** by Representative(s) Young, Berry, Saliman; also Sen-  
2 ator(s) Reeves, Tate, Owen--Concerning a supplemental  
3 appropriation to the department of health care policy and  
4 financing.  
5  
6 Ordered engrossed and placed on the Calendar for Third Reading and  
7 Final Passage.  
8  
9 **HB02-1426** by Representative(s) Young, Berry, Saliman; also Sen-  
10 ator(s) Reeves, Tate, Owen--Concerning a supplemental  
11 appropriation to the department of higher education.  
12  
13 Ordered engrossed and placed on the Calendar for Third Reading and  
14 Final Passage.  
15  
16 **HB02-1427** by Representative(s) Young, Berry, Saliman; also Sen-  
17 ator(s) Reeves, Tate, Owen--Concerning a supplemental  
18 appropriation to the department of human services.  
19  
20 Ordered engrossed and placed on the Calendar for Third Reading and  
21 Final Passage.  
22  
23 **HB02-1428** by Representative(s) Young, Berry, Saliman; also Sen-  
24 ator(s) Reeves, Tate, Owen--Concerning a supplemental  
25 appropriation to the department of law.  
26  
27 Ordered engrossed and placed on the Calendar for Third Reading and  
28 Final Passage.  
29  
30 **HB02-1429** by Representative(s) Young, Berry, Saliman; also Sen-  
31 ator(s) Reeves, Tate, Owen--Concerning a supplemental  
32 appropriation to the department of local affairs.  
33  
34 Ordered engrossed and placed on the Calendar for Third Reading and  
35 Final Passage.  
36  
37 **HB02-1430** by Representative(s) Young, Berry, Saliman; also Sen-  
38 ator(s) Reeves, Tate, Owen--Concerning a supplemental  
39 appropriation to the department of military affairs.  
40  
41 Ordered engrossed and placed on the Calendar for Third Reading and  
42 Final Passage.  
43  
44 **HB02-1431** by Representative(s) Young, Berry, Saliman; also Sen-  
45 ator(s) Reeves, Tate, Owen--Concerning a supplemental  
46 appropriation to the department of natural resources.  
47  
48 Ordered engrossed and placed on the Calendar for Third Reading and  
49 Final Passage.  
50  
51 **HB02-1432** by Representative(s) Young, Berry, Saliman; also Sen-  
52 ator(s) Reeves, Tate, Owen--Concerning a supplemental  
53 appropriation to the department of personnel.  
54  
55 Ordered engrossed and placed on the Calendar for Third Reading and  
56 Final Passage.

- 1 **HB02-1433** by Representative(s) Young, Berry, Saliman; also Sen-  
2 ator(s) Reeves, Tate, Owen--Concerning a supplemental  
3 appropriation to the department of public health and  
4 environment.  
5  
6 Ordered engrossed and placed on the Calendar for Third Reading and  
7 Final Passage.  
8  
9 **HB02-1434** by Representative(s) Young, Berry, Saliman; also Sen-  
10 ator(s) Reeves, Tate, Owen--Concerning a supplemental  
11 appropriation to the department of public safety.  
12  
13 Ordered engrossed and placed on the Calendar for Third Reading and  
14 Final Passage.  
15  
16 **HB02-1435** by Representative(s) Young, Berry, Saliman; also Sen-  
17 ator(s) Reeves, Tate, Owen--Concerning a supplemental  
18 appropriation to the department of regulatory agencies.  
19  
20 Ordered engrossed and placed on the Calendar for Third Reading and  
21 Final Passage.  
22  
23 **HB02-1436** by Representative(s) Young, Berry, Saliman; also Sen-  
24 ator(s) Reeves, Tate, Owen--Concerning a supplemental  
25 appropriation to the department of revenue.  
26  
27 Ordered engrossed and placed on the Calendar for Third Reading and  
28 Final Passage.  
29  
30 **HB02-1437** by Representative(s) Young, Berry, Saliman; also Sen-  
31 ator(s) Reeves, Tate, Owen--Concerning a supplemental  
32 appropriation to the department of transportation.  
33  
34 Ordered engrossed and placed on the Calendar for Third Reading and  
35 Final Passage.  
36  
37 **HB02-1438** by Representative(s) Young, Berry, Saliman; also Sen-  
38 ator(s) Reeves, Tate, Owen--Concerning funding for  
39 capital construction, and making supplemental appropri-  
40 ations in connection therewith.  
41  
42 Ordered engrossed and placed on the Calendar for Third Reading and  
43 Final Passage.  
44  
45 **HB02-1441** by Representative(s) Saliman, Young, Berry; also Sen-  
46 ator(s) Owen, Reeves, Tate--Concerning the requirement  
47 that the state controller release the portion of moneys that  
48 has been restricted by the controller based on an estimate  
49 of the amount a department may need for an over-  
50 expenditure that exceeds the actual amount of the  
51 overexpenditure.  
52  
53 Ordered engrossed and placed on the Calendar for Third Reading and  
54 Final Passage.  
55



1 **HB02-1442** by Representative(s) Saliman, Young, Berry; also Sen-  
2 ator(s) Owen, Reeves, Tate--Concerning the designation of  
3 state moneys to constitute the state emergency reserve for  
4 the 2001-02 state fiscal year, and, in connection therewith,  
5 specifying that the principal credited to the unclaimed  
6 property trust fund constitutes state fiscal year spending so  
7 that moneys in said trust fund may be designated as part of  
8 the state emergency reserve, and designating moneys in the  
9 wildlife cash fund and the unclaimed property trust fund as  
10 part of the state emergency reserve.

11  
12 Amendment No. 1, Appropriations Report, dated April 11, 2002, and  
13 placed in member's bill file; Report also printed in House Journal,  
14 April 11, pages 1257-1258.

15  
16 As amended, ordered engrossed and placed on the Calendar for Third  
17 Reading and Final Passage.

18  
19 **HB02-1443** by Representative(s) Young, Berry, Saliman; also Sen-  
20 ator(s) Reeves, Tate, Owen--Concerning reductions in the  
21 revenues available to fund capital projects for purposes of  
22 addressing the anticipated revenue shortfall for the 2001-02  
23 and 2002-03 fiscal years.

24  
25 Amendment No. 1, Appropriations Report, dated April 11, 2002, and  
26 placed in member's bill file; Report also printed in House Journal,  
27 April 11, page 1258.

28  
29 As amended, ordered engrossed and placed on the Calendar for Third  
30 Reading and Final Passage.

31  
32 **HB02-1444** by Representative(s) Young, Berry, Saliman; also Sen-  
33 ator(s) Reeves, Tate, Owen--Concerning the augmentation  
34 of the general fund through transfers of certain moneys in  
35 the 2001-02 state fiscal year.

36  
37 Ordered engrossed and placed on the Calendar for Third Reading and  
38 Final Passage.

39  
40 **HB02-1445** by Representative(s) Berry, Young, Saliman; also Sen-  
41 ator(s) Tate, Reeves, Owen--Concerning the fiscal policy  
42 of the state for the 2001-02 and 2002-03 state fiscal years  
43 in relation to the statutorily required general fund reserve  
44 in the event of a revenue shortfall.

45  
46 Amendment No. 1, Appropriations Report, dated April 11, 2002, and  
47 placed in member's bill file; Report also printed in House Journal,  
48 April 11, pages 1258-1259.

49  
50 Amendment No. 2, by Representative Berry.

51  
52 Amend printed bill, page 4, line 26, strike "CASH" and substitute "TRUST".

53  
54 As amended, ordered engrossed and placed on the Calendar for Third  
55 Reading and Final Passage.

56

1 **HB02-1446** by Representative(s) Saliman, Young, Berry; also Sen-  
 2 ator(s) Owen, Reeves, Tate--Concerning a modification to  
 3 the restoration of moneys transferred from the controlled  
 4 maintenance trust fund in the 2001-02 state fiscal year by  
 5 restoring a portion of the moneys in the 2003-04 state fiscal  
 6 year and restoring the remainder of the moneys in the  
 7 2004-05 state fiscal year.  
 8  
 9 Ordered engrossed and placed on the Calendar for Third Reading and  
 10 Final Passage.  
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 13  
 14 **ADOPTION OF COMMITTEE OF THE WHOLE REPORT**

15  
 16 Passed Second Reading: **HB02-1421, 1422, 1423, 1424, 1425, 1426,**  
 17 **1427, 1428, 1429, 1430, 1431, 1432, 1433, 1434, 1435, 1436, 1437,**  
 18 **1438, 1441, 1442 amended, 1443 amended, 1444, 1445 amended, 1446.**  
 19

20 The Chairman moved the adoption of the Committee of the Whole  
 21 Report. As shown by the following roll call vote, a majority of those  
 22 elected to the House voted in the affirmative, and the Report was  
 23 **adopted.**  
 24

	YES 61	NO 0	EXCUSED 4	ABSENT 0			
27 Alexander	Y	Groff	Y	Marshall	Y	Spence	Y
28 Bacon	Y	Grossman	Y	Miller	Y	Spradley	Y
29 Berry	Y	Harvey	Y	Mitchell	Y	Stafford	Y
30 Borodkin	Y	Hefley	Y	Paschall	Y	Stengel	Y
31 Boyd	Y	Hodge	Y	Plant	Y	Swenson	Y
32 Cadman	Y	Hoppe	Y	Ragsdale	Y	Tapia	Y
33 Chavez	Y	Jahn	Y	Rhodes	Y	Tochtrop	Y
34 Clapp	E	Jameson	Y	Rippy	Y	Veiga	Y
35 Cloer	Y	Johnson	Y	Romanoff	Y	Vigil	Y
36 Coleman	Y	Kester	Y	Saliman	Y	Webster	Y
37 Crane	Y	King	Y	Sanchez	Y	Weddig	Y
38 Daniel	Y	Larson	Y	Schultheis	Y	White	Y
39 Decker	Y	Lawrence	Y	Scott	Y	Williams S.	Y
40 Fairbank	E	Lee	Y	Sinclair	E	Williams T.	E
41 Fritz	Y	Mace	Y	Smith	Y	Witwer	Y
42 Garcia	Y	Madden	Y	Snook	Y	Young	Y
43						Mr. Speaker	Y

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 48 **MESSAGE FROM THE SENATE**

49 Mr. Speaker:

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 51 The Senate has adopted and transmits herewith: SJR02-024.  
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**INTRODUCTION OF BILLS**  
**First Reading**

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The following bills were read by title and referred to the committees indicated:

**SB02-019** by Senator(s) Lamborn; also Representative(s) Grossman--  
Concerning DNA testing of all felons.  
Committee on Criminal Justice

**SB02-027** by Senator(s) Hernandez; also Representative(s) Stafford,  
Mace, Romanoff--Concerning the creation of in-home  
support services, and making an appropriation in  
connection therewith.  
Committee on Health, Environment, Welfare, & Institutions  
Committee on Appropriations

**SB02-053** by Senator(s) Hernandez; also Representative(s) Mace--  
Concerning the designation of the thirty-first day of March  
as a legal holiday for the observation of the birthday of  
Cesar Estrada Chavez as "Cesar Chavez day".  
Committee on State, Veterans, & Military Affairs

**SB02-063** by Senator(s) Hanna; also Representative(s) Groff--  
Concerning assistance to licensed educators in obtaining  
national credentials, and making an appropriation in  
connection therewith.  
Committee on Finance  
Committee on Appropriations

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**INTRODUCTION OF RESOLUTIONS**

The following resolution was read by title and referred to the committee indicated:

**HJR02-1051** by Representative(s) Alexander--Concerning opposition to  
the federal Recreational Fee Demonstration Program.  
Committee on Agriculture, Livestock, & Natural Resources

WHEREAS, In 1996 Congress authorized the Recreational Fee  
Demonstration Program, which allows the United States Forest Service  
and Bureau of Land Management to charge visitors daily and yearly fees  
for recreation on publicly owned land under their management; and

WHEREAS, The Recreational Fee Demonstration Program has  
been implemented on selected public lands in Colorado and one might  
reasonably expect that the program will be extended to include many  
more public lands throughout the state; and

WHEREAS, Recreational fees constitute double taxation and bear  
no relationship to the actual costs of recreation such as hiking, picnicking,  
observing wildlife, or scenic driving on state and county roads and public  
rights of way; and

1 WHEREAS, The concept of paying fees to use public lands is  
2 contrary to the idea that public lands belong to the American people and  
3 are places where everyone is granted access and is welcome, a concept  
4 that has been and should remain in place; and

5  
6 WHEREAS, The original intent of the Recreational Fee  
7 Demonstration Program was to improve the public lands, public facilities,  
8 and visitor services, but instead the program has served only to limit  
9 access to public lands and has garnered strong and widespread public  
10 criticism; and

11  
12 WHEREAS, Public land agencies have been underfunded and  
13 Congress should restore funding to these agencies; and

14  
15 WHEREAS, While the controversy over the Recreational Fee  
16 Demonstration Program continues, the issues that the fees were meant to  
17 resolve, such as poorly signed trails, bridges in disrepair, and the scarcity  
18 of picnic areas and campsites, of which many are in disrepair or  
19 vandalized, remain inadequately addressed; and

20  
21 WHEREAS, The purchase of a pass to enter public lands under the  
22 Recreational Fee Demonstration Program demonstrates support to the  
23 program, but the limited means of expressing opposition to the program  
24 raises the concern that some citizens may be deterred from visiting and  
25 enjoying public lands in Colorado and throughout the United States; and

26  
27 WHEREAS, Tourism is an important industry to Colorado and  
28 recreational fees will have a negative impact on the state and local  
29 economies; now, therefore,

30  
31 *Be It Resolved by the House of Representatives of the Sixty-third*  
32 *General Assembly of the State of Colorado, the Senate concurring*  
33 *herein:*

34  
35 That the General Assembly recommends that the Recreational Fee  
36 Demonstration Program be abolished and Congress restore funding to the  
37 public land agencies within Colorado, and that no recreational fees be  
38 imposed on federal lands within the State of Colorado under the  
39 Recreational Fee Demonstration Program.

40  
41 *Be It Further Resolved,* That copies of this resolution be sent to  
42 the Governor of Colorado, to the Bureau of Land Management, the  
43 United States Forest Service, the President of the United States, the  
44 Speaker of the United States House of Representatives, the majority and  
45 minority leadership of the United States Senate, and to each member of  
46 the Colorado Congressional Delegation.

47  
48  
49 The following resolution was read by title and laid over one day under the  
50 rules:

51  
52 **HJR02-1052** by Representative(s) Johnson, Bacon, Fritz, Harvey,  
53 Jameson, Plant, Rippy, Snook, Spence, Tapia, Webster,  
54 Young; also Senator(s) Reeves--Concerning honoring the  
55 intercollegiate athletics program at Colorado State  
56 University.

1 WHEREAS, The intercollegiate athletics program at Colorado  
2 State University has developed a national reputation for the quality of its  
3 coaching, the achievements of its student-athletes, and the  
4 competitiveness of its teams; and

5  
6 WHEREAS, The Colorado State University Rams football team  
7 played in a school-record third consecutive bowl game in 2001, winning  
8 the first-ever New Orleans Bowl; and

9  
10 WHEREAS, Under Head Coach Sonny Lubick, the Rams have  
11 played in six bowl games and won five conference titles since 1993; and

12  
13 WHEREAS, Colorado State University's football team has played  
14 in more bowl games and has been featured in more nationally and  
15 regionally televised games than any other team in the Mountain West  
16 Conference; and

17  
18 WHEREAS, Coach Tom Collen led the Rams women's basketball  
19 team to the Mountain West Conference regular season title and its second  
20 consecutive trip to the NCAA tournament, the team's fourth trip in the  
21 past five years and sixth in school history; and

22  
23 WHEREAS, Coach Tom Hilbert guided the Rams women's  
24 volleyball team to a pair of victories in the first and second rounds of the  
25 NCAA tournament, and the team advanced to the Sweet 16 for the third  
26 consecutive year; and

27  
28 WHEREAS, Colorado State University's intercollegiate athletics  
29 program was ranked among the top 30 programs nationally in the fall  
30 standings for the Sears Director's Cup, an annual ranking of all NCAA  
31 programs based on success in individual sports; and

32  
33 WHEREAS, Approximately 85% of Colorado State University  
34 student-athletes who complete their athletic eligibility and remain  
35 enrolled at the institution obtain undergraduate degrees; and

36  
37 WHEREAS, In addition to the success of Colorado State  
38 University's intercollegiate athletics program, CSU club sports teams have  
39 also earned national honors, with the men's club lacrosse team winning  
40 the United States Intercollegiate National Championship twice in the past  
41 three years and the CSU club ice hockey team finishing the season ranked  
42 8<sup>th</sup> nationally in the American Collegiate Hockey Association Division II;  
43 now, therefore,

44  
45 *Be It Resolved by the House of Representatives of the Sixty-third*  
46 *General Assembly of the State of Colorado, the Senate concurring*  
47 *herein:*

48  
49 That we, the members of the Sixty-third General Assembly, honor  
50 the hard work and competitive spirit displayed by the student-athletes and  
51 coaches of the Colorado State University intercollegiate athletics program  
52 and congratulate them for their achievements.

53  
54 *Be It Further Resolved,* That copies of this resolution be sent to  
55 Dr. Albert Yates, CSU President and Chancellor; Dr. Reginald  
56 Washington, President of the State Board of Agriculture; Head Coach

1 Sonny Lubick and the CSU football team; Coach Tom Hilbert and the  
 2 CSU women's volleyball team; Coach Tom Collen and the CSU women's  
 3 basketball team; Jeff Hathaway, CSU Athletics Director; Mike Davis,  
 4 CSU Director of Alumni Relations; Dr. Charles Vail, President of the  
 5 CSU Alumni Association; the *CSU Collegian* staff; the *Coloradoan* staff;  
 6 and the staff of KOA radio.

7  
 8  
 9 The following resolution was read by title and referred to the committee  
 10 indicated:

11  
 12 **SJR02-024** by Senator(s) Pascoe, Anderson, Cairns, Evans, Fitz-  
 13 Gerald, Matsunaka, Owen, Reeves, Tupa, Windels; also  
 14 Representative(s) Spence, Bacon, Berry, Daniel, Decker,  
 15 Groff, Hefley, King, Lawrence, Lee, Saliman, Stengel,  
 16 White, Williams S., Williams T., Witwer, Young--  
 17 Concerning approval of the performance contract between  
 18 the Colorado School of Mines and the Colorado  
 19 Commission on Higher Education.

20 Committee on Education

21  
 22  
 23  
 24 On motion of Representative Rhodes, the House resolved itself into  
 25 Committee of the Whole for consideration of General Orders, and she  
 26 was called to the Chair to act as Chairman.

27  
 28  
 29 **GENERAL ORDERS--SECOND READING OF BILLS**

30  
 31 The Committee of the Whole having risen, the Chairman reported the  
 32 titles of the following bills had been read (reading at length had been  
 33 dispensed with by unanimous consent), the bills considered and action  
 34 taken thereon as follows:

35  
 36 (Amendments to the committee amendment are to the printed committee  
 37 report which was printed and placed in the members' bill file.)

38  
 39 On motion of Representative Spradley, Consideration of **HB02-1015,**  
 40 **SB02-064, HB02-1309, 1242, 1292, 1046, 1297** was laid over until  
 41 April 15, retaining place on Calendar.

42  
 43 **HB02-1247** by Representative(s) Decker, Jameson, Mace, Schultheis,  
 44 Swenson, Webster; also Senator(s) Epps, Hernandez--  
 45 Concerning the penalty for theft of motor fuel.

46  
 47 Amendment No. 1, Civil Justice & Judiciary Report, dated February 21,  
 48 2002, and placed in member's bill file; Report also printed in House  
 49 Journal, February 22, pages 499-500.

50  
 51 Amendment No. 2, Appropriations Report, dated April 3, 2002, and  
 52 placed in member's bill file; Report also printed in House Journal,  
 53 April 4, page 1140.

54  
 55 As amended, ordered engrossed and placed on the Calendar for Third  
 56 Reading and Final Passage.

- 1 **HB02-1293** by Representative(s) Sanchez, Boyd, Romanoff, Tochtrop;  
2 also Senator(s) Owen--Concerning a study of the access of  
3 children to health care.  
4
- 5 Amendment No. 1, Health, Environment, Welfare, & Institutions Report,  
6 dated February 13, 2002, and placed in member's bill file; Report also  
7 printed in House Journal, February 14, pages 401-402.  
8
- 9 Amendment No. 2, Appropriations Report, dated April 3, 2002, and  
10 placed in member's bill file; Report also printed in House Journal,  
11 April 4, page 1142.  
12
- 13 Amendment No. 3, by Representative Sanchez.  
14
- 15 Amend the Health, Environment, Welfare, & Institutions Committee  
16 Report, dated February 13, 2002, page 1, line 5, strike "CHILDREN." and  
17 substitute "CHILDREN."";  
18  
19 after line 5, insert the following:  
20 "line 15, after "C.R.S."; insert "AND";  
21  
22 strike lines 16 through 18;  
23  
24 line 19, strike "(c)" and substitute "(b)".".  
25
- 26 As amended, ordered engrossed and placed on the Calendar for Third  
27 Reading and Final Passage.  
28
- 29 **HB02-1415** by Representative(s) Hoppe, Swenson, Cloer, Garcia,  
30 Harvey, Johnson, Kester, Miller, Smith, Snook, Spradley;  
31 also Senator(s) Isgar, Chlouber, Entz, Owen, Phillips,  
32 Taylor--Concerning net metering by electric utilities.  
33
- 34 Amendment No. 1, Transportation & Energy Report, dated April 3, 2002,  
35 and placed in member's bill file; Report also printed in House Journal,  
36 April 4, page 1145.  
37
- 38 Amendment No. 2, by Representative Hoppe.  
39
- 40 Amend printed bill, page 5, line 5, after the period, insert "THE AVERAGE  
41 COST OF POWER SHALL NOT INCLUDE THE UTILITY'S OWN TRANSMISSION,  
42 METERING, AND DISTRIBUTION COSTS. THE AVERAGE COST OF POWER  
43 SHALL INCLUDE THE CAPITAL AND EXPENSE COSTS ASSOCIATED WITH  
44 GENERATION FACILITIES FOR THOSE UTILITIES THAT GENERATE SOME OR  
45 ALL OF THEIR OWN POWER NEEDS AS WELL AS PURCHASED CAPACITY AND  
46 ENERGY COSTS.".  
47
- 48 As amended, ordered engrossed and placed on the Calendar for Third  
49 Reading and Final Passage.  
50
- 51 **HB02-1009** by Representative(s) Stafford--Concerning civil restraining  
52 orders.  
53
- 54 Amendment No. 1, Civil Justice & Judiciary Report, dated January 29,  
55 2002, and placed in member's bill file; Report also printed in House  
56 Journal, January 30, pages 229-230.

1 Amendment No. 2, Appropriations Report, dated April 4, 2002, and  
 2 placed in member's bill file; Report also printed in House Journal,  
 3 April 5, page 1175.

4  
 5 Amendment No. 3, by Representatives Stafford, Mitchell.

6  
 7 Amend the Civil Justice & Judiciary Committee Report, dated January  
 8 29, 2002, page 1, line 5, strike "OFFENSE,;" and substitute  
 9 "MISDEMEANOR THAT FORMED THE BASIS FOR THE ISSUANCE OF THE  
 10 RESTRAINING ORDER,;"

11  
 12 line 6 of the committee report, strike "OFFENSE," and substitute  
 13 "OFFENSE, IF";

14  
 15 after line 7 of the committee report, insert the following:

16  
 17 "strike line 23;

18  
 19 line 24, strike "ORDER,;"

20  
 21 As amended, ordered engrossed and placed on the Calendar for Third  
 22 Reading and Final Passage.

23  
 24 **HB02-1067** by Representative(s) Mace; also Senator(s) Hernandez--  
 25 Concerning implementation of the family caregiver  
 26 support program.

27  
 28 Ordered engrossed and placed on the Calendar for Third Reading and  
 29 Final Passage.

30  
 31 **HB02-1113** by Representative(s) Stengel; also Senator(s) Hagedorn--  
 32 Concerning the crime of posting the personal information  
 33 of a peace officer on the internet, and making an  
 34 appropriation therefor.

35  
 36 Amendment No. 1, Information & Technology Report, dated January 30,  
 37 2002, and placed in member's bill file; Report also printed in House  
 38 Journal, January 31, pages 257-258.

39  
 40 As amended, ordered engrossed and placed on the Calendar for Third  
 41 Reading and Final Passage.

42  
 43 On motion of Representative Spradley, the remainder of the General  
 44 Orders Calendar (**HB02-1044, 1125, 1237, 1283, 1295, 1298, 1301,**  
 45 **1303, 1363, 1396, 1405, SB02-168, HB02-1027, 1112, 1266, 1276,**  
 46 **1402, 1417, 1317, 1361, SB02-185, HB02-1398, 1401, HCR02-1003**)  
 47 was laid over until April 15, retaining place on Calendar.

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48  
 49  
 50  
 51 **ADOPTION OF COMMITTEE OF THE WHOLE REPORT**

52  
 53 Passed Second Reading: **HB02-1247 amended, 1293 amended,**  
 54 **1415 amended, 1009 amended, 1067, 1113 amended.**

55



1 Laid over until date indicated retaining place on Calendar: **HB02-1015,**  
 2 **SB02-064, HB02-1309, 1242, 1044, 1292, 1046, 1125, 1237, 1283,**  
 3 **1295, 1297, 1298, 1301, 1303, 1363, 1396, 1405, SB02-168,**  
 4 **HB02-1027, 1112, 1266, 1276, 1402, 1417, 1317, 1361, SB02-185,**  
 5 **HB02-1398, 1401, HCR02-1003--April 15, 2002.**  
 6

7 The Chairman moved the adoption of the Committee of the Whole  
 8 Report. As shown by the following roll call vote, a majority of those  
 9 elected to the House voted in the affirmative, and the Report was  
 10 **adopted.**  
 11

	YES 60	NO 0	EXCUSED 5	ABSENT 0				
14	Alexander	Y	Groff	Y	Marshall	Y	Spence	E
15	Bacon	Y	Grossman	Y	Miller	Y	Spradley	Y
16	Berry	Y	Harvey	Y	Mitchell	Y	Stafford	Y
17	Borodkin	Y	Hefley	Y	Paschall	Y	Stengel	Y
18	Boyd	Y	Hodge	Y	Plant	Y	Swenson	Y
19	Cadman	Y	Hoppe	Y	Ragsdale	Y	Tapia	Y
20	Chavez	Y	Jahn	Y	Rhodes	Y	Tochtrop	Y
21	Clapp	E	Jameson	Y	Rippy	Y	Veiga	Y
22	Cloer	Y	Johnson	Y	Romanoff	Y	Vigil	Y
23	Coleman	Y	Kester	Y	Saliman	Y	Webster	Y
24	Crane	Y	King	Y	Sanchez	Y	Weddig	Y
25	Daniel	Y	Larson	Y	Schultheis	Y	White	Y
26	Decker	Y	Lawrence	Y	Scott	Y	Williams S.	Y
27	Fairbank	E	Lee	Y	Sinclair	E	Williams T.	E
28	Fritz	Y	Mace	Y	Smith	Y	Witwer	Y
29	Garcia	Y	Madden	Y	Snook	Y	Young	Y
30							Mr. Speaker	Y

### 34 35 **SIGNING OF BILLS - RESOLUTIONS - MEMORIALS**

36  
37 The Speaker has signed: **SJR02-022, 030.**  
 38  
39

### 40 41 **MESSAGE FROM THE SENATE**

42 Mr. Speaker:  
 43

44 The Senate has passed on Third Reading and returns herewith  
 45 HB02-1322.  
 46

47 The Senate has voted not to concur in House Amendments to SB02-113  
 48 and requests that a Conference Committee be appointed. The President  
 49 appointed Senators Epps, Chm., and Tupa and Nichol as members of the  
 50 First Conference Committee on the part of the Senate. The bill is  
 51 transmitted herewith. The Senate granted permission to members of the  
 52 First Conference Committee on SB02-113 to consider matters not at  
 53 issue between the two houses.  
 54  
 55

1 The Senate has voted not to concur in House Amendments to SB02-099  
2 and requests that a Conference Committee be appointed. The President  
3 appointed Senators Nichol, Chm., Takis and Entz as members of the First  
4 Conference Committee on the Part of the Senate. The bill is transmitted  
5 herewith.

6  
7 The Senate voted to concur in House amendments to SB02-114, 020, 128,  
8 151, 132, and 182 and repassed the bills as amended.

---

10  
11  
12 **INTRODUCTION OF BILL**  
13 **First Reading**  
14

15 The following bill was read by title and referred to the committee  
16 indicated:

17  
18 **HB02-1448** by Representative(s) Lee, Harvey, Alexander, Cadman,  
19 Clapp, Crane, Dean, Decker, Fairbank, Fritz, Hefley,  
20 Hoppe, Johnson, Kester, King, Mitchell, Paschall, Rhodes,  
21 Schultheis, Scott, Smith, Spence, Stafford, Swenson,  
22 Webster, White, Williams T.; also Senator(s) Arnold--  
23 Concerning provisions to enforce laws regulating aliens.  
24 Committee on State, Veterans, & Military Affairs

---

26  
27  
28 **LAY OVER OF CALENDAR ITEMS**  
29

30 On motion of Representative Spradley, the following items on the  
31 Calendar were laid over until April 15, retaining place on Calendar:

32  
33 Consideration of Resolutions--**SJR02-008, HJR02-1037, 1038, 1032,**  
34 **HR02-1010, SJR02-018, 028, 029, HR02-1011, 1012, HJR02-1049.**  
35 Consideration of Senate Amendments--**HB02-1064, 1089, 1141, 1333,**  
36 **1245, 1191, 1225, 1146, 1013, 1287, 1218, 1269, 1221, 1135, 1139,**  
37 **1336, 1210.**

38  
39  
40 On motion of Representative Spradley, the House adjourned until  
41 10:00 a.m., April 15, 2002.

42  
43 Approved:

44  
45  
46  
47 DOUG DEAN,  
48 Speaker

49 Attest:

50  
51 JUDITH RODRIGUE,  
52 Chief Clerk