

SENATE JOURNAL
Sixty-third General Assembly
STATE OF COLORADO
Second Regular Session

Thirty-seventh Legislative Day

Thursday, February 14, 2002

Prayer	By the chaplain, Reverend Clyde Miller, 6 th Avenue United Church of Christ.	1
Call to Order	By the President at 9:00 a.m.	2
Roll Call	Present--Total, 32. Absent/Excused--Evans, Phillips, Taylor--Total, 3. Present later--Phillips, Taylor.	3
Quorum	The President announced a quorum present.	4
Reading of Journal	On motion of Senator McElhany, reading of the Journal of Wednesday, February 13, was dispensed with and the Journal was approved as corrected by the Secretary.	5

COMMITTEE OF THE REFERENCE REPORTS

Business Labor, and Finance	After consideration on the merits, the committee recommends that SB02-073 be amended as follows and, as so amended be referred to the Committee of the Whole with favorable recommendation.	6
	Amend printed bill, page 3, line 10, after "YEARS;", insert "EXCEPT THAT FOR HIGH-COST HOME LOANS THAT ARE SUBORDINATE TO ANY OTHER MORTGAGE, DEED OF TRUST, OR OTHER SECURITY, THE TRIGGER RATE EQUALS OR EXCEEDS TEN PERCENTAGE POINTS ABOVE THE WEEKLY AVERAGE YIELD ON UNITED STATES TREASURY SECURITIES, ADJUSTED TO A CONSTANT MATURITY OF FIVE YEARS;"	7
	line 14, strike "THREE" and substitute "FIVE";	8
	line 18, strike "DOLLARS;" and substitute "DOLLARS OR SIX PERCENT OF THE LOAN AMOUNT;"	9
	Page 4, line 5, strike "MORTGAGE OR DEED OF TRUST" and substitute "MORTGAGE, DEED OF TRUST, OR OTHER SECURITY";	10
	line 10, after "HOME", insert "OR OTHER HOME".	11
	Page 6, line 26, strike "BORROWER." and substitute "BORROWER; EXCEPT THAT A CREDITOR MAY COLLECT PREPAYMENT FEES AND PENALTIES NOT TO EXCEED SIX MONTHS' INTEREST FOR PREPAYMENT WITHIN THE FIRST THREE YEARS OF THE LOAN."	12
	Page 10, line 12, after "A", insert "HIGH-COST";	13
	line 22, strike "NO HOME", and substitute "NO HIGH-COST HOME".	14
	Page 11, line 1, after "FEE", insert "IN CONNECTION WITH A HIGH-COST HOME LOAN".	15
	Page 12, strike lines 12 through 27.	16
	Strike page 13.	17
	Page 14, strike lines 1 through 14.	18
	Re-number succeeding C.R.S. sections accordingly.	19
	Page 15, line 9, strike "VOID." and substitute "VOID BUT DOES NOT CANCEL THE DEBT.";	20
	line 24, after "COLLECTION ACTION,", insert "FORCIBLE ENTRY AND	21

SB02-073

DETAINER ACTION,";

line 25, after "A", insert "HIGH-COST".

Page 16, line 10, after "MAKES A", insert "HIGH-COST";

line 20, after "BORROWER", insert "OR ANY GOVERNMENTAL AGENCY".

Page 17, strike lines 2 through 4.

Renumber succeeding subsection accordingly.

Page 17, strike lines 23 through 27 and substitute the following:

"SECTION 2. 5-6-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

5-6-104. Powers of administrator - harmony with federal regulations - reliance on rules. (1.5) FOR PURPOSES OF THIS ARTICLE, "CODE" SHALL NOT BE DEEMED TO REFER TO PART 6 OF ARTICLE 3 OF THIS TITLE.

SECTION 3. Effective date - applicability. (1) This act shall take effect January 1, 2003, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall take effect on the specified date only if approved by the people."

Page 18, strike lines 1 through 4.

Business,
Labor, and
Finance

After consideration on the merits, the committee recommends that **SB02-130** be amended as follows and, as so amended be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 3, line 5, strike "GOVERNMENT AGENCY OR";

line 6, strike "BODY,".

Page 9, after line 14, insert the following:

"(c) ALLOWING A LABOR ORGANIZATION OR ITS REPRESENTATIVE WHO REPRESENTS EMPLOYEES AT AN EMPLOYER'S FACILITY ACCESS TO SUCH EMPLOYER'S FACILITY OR PROPERTY.".

Page 1, line 101, after "RESOURCES", insert "BY STATE CONTRACTORS".

Business
Labor, and
Finance

After consideration on the merits, the committee recommends that **SB02-013** be amended as follows and, as so amended be referred to the Committee of the Whole with favorable recommendation.

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

"SECTION 1. Part 1 of article 16 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

10-16-106.3. Uniform claims - billing codes - electronic claim forms. (1) ON OR BEFORE JULY 1, 2002, THE COMMISSIONER, IN COMPLIANCE WITH FEDERAL LAW, SHALL ADOPT:

(a) THE CENTERS FOR MEDICARE AND MEDICAID SERVICES' CLAIM FORMS CMS-1500, OR ITS SUCCESSOR, AND CMS-1450, OTHERWISE

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SB02-013

KNOWN AS FORM UB92, OR ITS SUCCESSOR, AS THE UNIFORM HEALTH CARE CLAIM FORMS FOR USE BY ALL HEALTH CARE PROVIDERS AND CARRIERS IN THE STATE;

(b) A UNIFORM LIST OF REQUIRED DATA ELEMENTS TO BE USED IN ORDER FOR A CLAIM TO BE CONSIDERED A CLEAN CLAIM.

(2) ON OR BEFORE OCTOBER 1, 2002, ALL CARRIERS SHALL ACCEPT THE UNIFORM HEALTH INSURANCE CLAIM FORMS ADOPTED PURSUANT TO THIS SECTION FROM HEALTH CARE PROVIDERS IN ELECTRONIC FORM AND SHALL NOT REQUIRE THE SUBMISSION OF HEALTH CARE CLAIMS IN HARD COPY FORM.

SECTION 2. 10-16-106.5 (2), (4) (b), and (5) (b), Colorado Revised Statutes, are amended, and the said 10-16-106.5 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

10-16-106.5. Prompt payment of claims - legislative declaration. (2) As used in this section, "clean claim" means a claim for payment of health care expenses that is submitted to a carrier on the carrier's standard UNIFORM claim form ADOPTED PURSUANT TO SECTION 10-16-106.3 with all required fields completed with correct and complete information. ~~in accordance with the carrier's published filing requirements.~~ "Clean claim" does not include a claim for payment of expenses incurred during a period of time for which premiums are delinquent, except to the extent otherwise required by law.

(2.7) (a) A POLICYHOLDER, INSURED, OR PROVIDER MAY SUBMIT A CLAIM:

(I) BY UNITED STATES MAIL, FIRST CLASS, OR BY OVERNIGHT DELIVERY SERVICE;

(II) ELECTRONICALLY;

(III) BY FACSIMILE (FAX); OR

(IV) BY HAND DELIVERY.

(b) (I) IF A CLAIM IS SUBMITTED BY MAIL, THE CLAIM IS PRESUMED TO HAVE BEEN RECEIVED BY THE CARRIER ON THE FIFTH DAY AFTER THE DATE THE CLAIM IS MAILED, OR, IF THE CLAIM IS MAILED USING OVERNIGHT SERVICE OR RETURN RECEIPT REQUESTED, ON THE DATE THE DELIVERY RECEIPT IS SIGNED.

(II) IF THE CLAIM IS SUBMITTED ELECTRONICALLY, THE CLAIM IS PRESUMED TO HAVE BEEN RECEIVED ON THE DATE OF THE ELECTRONIC VERIFICATION OF RECEIPT BY THE CARRIER OR THE CARRIER'S CLEARINGHOUSE. THE CARRIER'S CLEARINGHOUSE SHALL PROVIDE A CONFIRMATION WITHIN TWENTY-FOUR HOURS OF SUBMISSION BY A PROVIDER.

(III) IF THE CLAIM IS FAXED, THE CLAIM IS PRESUMED TO HAVE BEEN RECEIVED ON THE DATE OF THE TRANSMISSION ACKNOWLEDGMENT.

(IV) IF THE CLAIM IS HAND DELIVERED, THE CLAIM IS PRESUMED TO HAVE BEEN RECEIVED ON THE DATE THE DELIVERY RECEIPT IS SIGNED.

(4) (b) If the resolution of a claim OR COMPLETION OF THE UNIFORM CLAIM FORM requires additional information, the carrier shall, within thirty calendar days after receipt of the claim, give the provider, policyholder, insured, or patient, as appropriate, a full explanation IN WRITING of what additional information is needed to COMPLETE THE UNIFORM CLAIM FORM, INCLUDING ANY ADDITIONAL MEDICAL INFORMATION RELATED TO THE CLAIM. The person receiving a request for SUCH additional information shall submit all additional information requested by the carrier within thirty calendar days after receipt of such request. Notwithstanding any provision of an indemnity policy to the contrary, the carrier may deny a claim if a provider RECEIVES A REQUEST FOR ADDITIONAL INFORMATION AND fails to timely submit additional

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information requested under this paragraph (b), SUBJECT TO RESUBMITTAL OF THE CLAIM OR THE APPEALS PROCESS. IF SUCH PERSON HAS PROVIDED ALL SUCH INFORMATION TO COMPLETE THE UNIFORM CLAIM FORM, THE CLAIM SHALL BE TREATED AS A CLEAN CLAIM. AFTER THE SUBMISSION OF THE REQUESTED INFORMATION, THE CLAIM SHALL BE PAID, DENIED, OR SETTLED BY THE CARRIER WITHIN THE APPLICABLE TIME PERIOD SET FORTH IN PARAGRAPH (c) OF THIS SUBSECTION (4).

(5) (b) A carrier that fails to pay, deny, or settle a claim in accordance with subsection (4) of this section within ninety days after receiving the claim shall pay to the insured or health care provider, with proper assignment, a penalty in an amount equal to ~~three~~ TEN percent of the total amount ultimately allowed on the claim. Such penalty shall be due on the ninety-first day after receipt of the claim by the carrier.

(7) IF A CARRIER DELEGATES ITS CLAIMS PROCESSING FUNCTIONS TO A THIRD PARTY, THE DELEGATION AGREEMENT SHALL PROVIDE THAT THE CLAIMS PROCESSING ENTITY SHALL COMPLY WITH THE REQUIREMENTS OF THIS SECTION. ANY DELEGATION BY THE CARRIER SHALL NOT BE CONSTRUED TO LIMIT THE CARRIER'S RESPONSIBILITY TO COMPLY WITH THIS SECTION OR ANY OTHER APPLICABLE SECTION OF THIS ARTICLE.

(8) THIS SECTION SHALL NOT APPLY TO CLAIMS FILED PURSUANT TO THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8, C.R.S.

SECTION 3. 10-16-106.5 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

10-16-106.5. Prompt payment of claims - legislative declaration. (4) (d) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), IF THE CARRIER INTENDS TO CONDUCT A CHARGE AUDIT, SUCH CARRIER SHALL PAY THE CHARGES SUBMITTED BY ANY INSTITUTIONAL PROVIDER AT A RATE OF AT LEAST EIGHTY-FIVE PERCENT OF THE CONTRACTED RATE ON THE CLAIM NOT LATER THAN THE FORTY-FIFTH DAY AFTER THE DATE THAT THE CARRIER RECEIVES THE CLAIM. THE CARRIER SHALL COMPLETE THE AUDIT, AND MAKE ANY ADDITIONAL PAYMENT NOT LATER THAN THE NINETIETH DAY AFTER RECEIPT OF A CLAIM.

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

Business
Labor, and
Finance

After consideration on the merits, the committee recommends that **SB02-151** be amended as follows and, as so amended be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 3, line 10, strike "NINETY" and substitute "ONE HUNDRED TWENTY";

line 24, strike "NINETY-DAY NOTIFICATION PERIOD," and substitute "PERIOD OF ONE HUNDRED TWENTY DAYS AFTER NOTICE IS GIVEN TO THE DIVISION,";

line 26, strike "MAKE AN OFFER TO PURCHASE THE";

line 27, strike "PROJECT OR".

Page 4, after line 2, insert the following:

"(d) IF THE DIVISION DETERMINES THAT THE REQUIREMENT TO GIVE NOTICE OF ONE HUNDRED TWENTY DAYS PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) WOULD CAUSE UNDUE HARDSHIP TO THE OWNER OF A PUBLICLY-ASSISTED HOUSING PROJECT, THE DIVISION MAY ELIMINATE OR REDUCE THE LENGTH OF THE NOTIFICATION PERIOD.

(e) IF THE OWNER OF A PUBLICLY-ASSISTED HOUSING PROJECT DOES NOT TAKE THE ACTION THAT MAKES THE PROJECT NO LONGER AFFORDABLE

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SB02-151

WITHIN THIRTY DAYS AFTER THE END OF THE PERIOD OF ONE HUNDRED TWENTY DAYS AFTER THE NOTICE IS GIVEN TO THE DIVISION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), THE NOTICE SHALL EXPIRE. AFTER THE EXPIRATION OF THE NOTICE, THE OWNER OF THE PUBLICLY-ASSISTED HOUSING PROJECT SHALL AGAIN GIVE THE NOTICE REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (2) BEFORE TAKING ANY ACTION THAT WILL MAKE THE PROJECT NO LONGER AFFORDABLE." .

Business, Labor, and Finance

After consideration on the merits, the committee recommends that **SB02-097** be amended as follows and, as so amended be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 6, strike lines 20 through 27.

Page 7, strike lines 1 through 9 and substitute the following:

"SECTION 8. Applicability. Sections 5, 6, and 7 of this act shall apply only with respect to taxable years beginning after December 31, 2000."

Business, Labor, and Finance

After consideration on the merits, the committee recommends that **SB02-121** be amended as follows and, as so amended be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 2, line 3, strike "THE FOLLOWING" and substitute "A";

line 4, strike "PARAGRAPHS" and substitute "PARAGRAPH";

strike lines 16 through 20.

Page 3, line 19, strike "39-22-104 (4) (n) AND (4) (o)." and substitute "39-22-104 (4) (n)."

Business, Labor, and Finance

After consideration on the merits, the committee recommends that **SB02-098** be referred favorably to the Committee on Appropriations

Business, Labor, and Finance

After consideration on the merits, the committee recommends that **SB02-135** be postponed indefinitely.

Agriculture and Natural Resources

The Committee on has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:

COLORADO WATER CONSERVATION BOARD

for terms expiring February 12, 2005:

Raymond B. Wright of Monte Vista, Colorado, to serve as a representative from the Rio Grande drainage basin and as a Republican, reappointed;

Harold E. Miskel of Colorado Springs, Colorado, to serve as a representative from the Arkansas drainage basin and as a Republican, reappointed;

Donald W. Schwindt of Cortez, Colorado, to serve as a representative from the San Miguel-Dolores-San Juan drainage basin and as a Democrat, reappointed.

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Agriculture and Natural Resources

After consideration on the merits, the committee recommends that **SB02-046** be postponed indefinitely.

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Agriculture and Natural Resources

After consideration on the merits, the committee recommends that **HJR02-1005** be referred favorably to the Senate for final action.

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Agriculture and Natural Resources

After consideration on the merits, the committee recommends that **HJR02-1004** be referred favorably to the Senate for final action and with a recommendation that it be placed on the Consent Calendar.

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Agriculture and Natural Resources

After consideration on the merits, the committee recommends that **SB02-075** be amended as follows and, as so amended be referred to the Committee on Appropriations with favorable recommendation.

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Amend printed bill, page 2, line 2, strike "24-1-125 (2)," and substitute "24-1-123 (4),";

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strike lines 4 through 6 and substitute the following

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"24-1-123. Department of agriculture - creation. (4) The department of agriculture shall consist of the following divisions:"

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line 7, strike "(m)" and substitute "(j)";

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line 8, strike "PART 33 OF ARTICLE 32 OF THIS TITLE," and substitute "PART 2 OF ARTICLE 1 OF TITLE 35, C.R.S.,".

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Page 3, line 1, strike "Article 32 of title 24," and substitute "Article 1 of title 35,";

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strike line 3 and substitute "PART 2";

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line 6, strike "24-32-3301." and substitute "35-1-201.", strike "33" and substitute "2";

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line 9, strike "24-32-3302." and substitute "35-1-202.", strike "33," and substitute "2,";

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line 12, strike "33." and substitute "2.";

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line 13, strike "24-32-3303." and substitute "35-1-203.";

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line 18, strike "33" and substitute "2";

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line 22, strike "THIS TITLE." and substitute "TITLE 24, C.R.S.";

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line 26, strike "MEMBERS" and substitute "MEMBERS, AT LEAST ONE OF WHOM SHALL BE ACTIVELY INVOLVED IN AGRICULTURAL PRODUCTION,".

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Page 4, line 1, strike "MEMBERS" and substitute "MEMBERS, AT LEAST ONE OF WHOM SHALL BE ACTIVELY INVOLVED IN AGRICULTURAL PRODUCTION,";

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strike lines 7 through 12 and substitute the following:

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"(d) TWO MEMBERS, AT LEAST ONE OF WHOM SHALL BE ACTIVELY INVOLVED IN AGRICULTURAL PRODUCTION AND AT LEAST ONE OF WHOM SHALL BE A COUNTY COMMISSIONER FROM A RURAL COUNTY IN WHICH AGRICULTURE IS A SIGNIFICANT PART OF SUCH COUNTY'S ECONOMY, SHALL BE APPOINTED BY THE GOVERNOR."

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Page 5, line 3, strike "24-32-3304." and substitute "35-1-204.";

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strike lines 9 and 10 and substitute the following:

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SB02-075

"U.S.C.A. SEC. 5301.";

line 27, strike "COMMITTEE;" and substitute "COMMITTEE AND THE HOUSE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEE AT A JOINT MEETING OF SUCH COMMITTEES;" .

Page 6, line 3, strike "24-32-3305." and substitute "35-1-205.", strike "33" and substitute "2".

Education

After consideration on the merits, the committee recommends that SB02-136 be amended as follows and, as so amended be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, strike line 5 and substitute the following:

"(3) (a) IN ADDITION, ALL SCHOOLS, PUBLIC AND PRIVATE, ARE ENCOURAGED TO INCLUDE AGE-APPROPRIATE INSTRUCTION ON PATRIOTISM, AS DEFINED BY THE LOCAL SCHOOL DISTRICT, INCLUDING";

line 8, strike "AMERICAN, SHALL BE" and substitute "AMERICAN.";

strike lines 9 and 10 and substitute the following:

"(b) SCHOOLS MAY INCLUDE, AS PART OF THE INSTRUCTION ON PATRIOTISM DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3), A RECITATION BY TEACHERS AND STUDENTS OF THE PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA; EXCEPT THAT NOTHING IN THIS PARAGRAPH (b) SHALL BE CONSTRUED TO REQUIRE THE RECITATION OF THE PLEDGE OF ALLEGIANCE WHEN THE TEACHER OR STUDENT OBJECTS TO THE RECITATION OF THE PLEDGE ON RELIGIOUS GROUNDS. " .

Education

After consideration on the merits, the committee recommends that SB02-145 be amended as follows and, as so amended be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, line 2, strike "(1) The" and substitute "The";

strike lines 21 through 23.

Strike page 3 and substitute the following:

"SECTION 2. 22-32-109 (1) (f), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

22-32-109. Board of education - specific duties - repeal. (1) In addition to any other duty required to be performed by law, each board of education shall have and perform the following specific duties:

(f) (III) (A) IF A SCHOOL DISTRICT DETERMINES THAT, DUE TO AN INSUFFICIENT NUMBER OF ELIGIBLE APPLICANTS FOR TEACHERS, IT IS UNABLE TO HIRE THE NUMBER OF TEACHERS NECESSARY FOR THE BOARD TO MEET ITS DUTY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (f), THE BOARD OF EDUCATION MAY ADOPT A RESOLUTION DECLARING A CRITICAL SHORTAGE OF TEACHERS. THE RESOLUTION SHALL BE EFFECTIVE FOR NO MORE THAN ONE YEAR AFTER ADOPTION. IN ORDER FOR THE SCHOOL DISTRICT TO DECLARE A CRITICAL SHORTAGE, THE DISTRICT MUST HAVE POSTED THE VACANCY FOR A TEACHING POSITION FOR AT LEAST ONE MONTH, MUST HAVE SOLICITED APPLICATIONS THROUGH LOCAL NEWSPAPERS, AND MUST HAVE DETERMINED THAT THERE IS AN INSUFFICIENT NUMBER OF ELIGIBLE APPLICANTS FOR TEACHING POSITIONS. FOLLOWING ADOPTION OF THE RESOLUTION, ANY PERSON WHO IS RECEIVING RETIREMENT BENEFITS PURSUANT TO PART 6 OF ARTICLE 51 OF TITLE 24, C.R.S., AND WHO IS HIRED BY THE SCHOOL DISTRICT AS A TEACHER, MAY RECEIVE A SALARY FROM THE SCHOOL DISTRICT WITHOUT REDUCTION IN RETIREMENT BENEFITS AS PROVIDED IN SECTION 24-51-1101 (1.7), C.R.S., AND SECTIONS 22-64-111 (4) (a) AND 22-64-211 (4) (a). ANY SUCH TEACHER SHALL BE ELIGIBLE TO PARTICIPATE IN THE SCHOOL

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SB02-145

DISTRICT'S HEALTH PLAN WHILE EMPLOYED AS A TEACHER.

(B) THIS SUBPARAGRAPH (III) IS REPEALED, EFFECTIVE JULY 1, 2005.

SECTION 3. The introductory portion to section 24-51-1101 (1), Colorado Revised Statutes, is amended, and the said 24-51-1101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-1101. Employment after service retirement - repeal. (1) Except as otherwise provided in ~~subsection (1.5)~~ SUBSECTION (1.5) OR (1.7) of this section, a service retiree from any division may be employed by an employer, whether or not in a position subject to membership, and receive a salary without reduction in benefits if the service retiree has not worked for any employer, as defined in section 24-51-101 (20), during the month of the effective date of retirement, and if:

(1.7) (a) A SERVICE RETIREE WHO IS HIRED AS A TEACHER AT AN ELIGIBLE SCHOOL IN A SCHOOL DISTRICT IN WHICH THE DISTRICT BOARD OF EDUCATION HAS ADOPTED A RESOLUTION DECLARING A CRITICAL SHORTAGE OF TEACHERS PURSUANT TO SECTION 22-32-109 (1) (f) (III) (A), C.R.S., MAY RECEIVE A SALARY FROM THE SCHOOL DISTRICT WITHOUT REDUCTION IN BENEFITS, REGARDLESS OF THE NUMBER OF HOURS OR DAYS WORKED IN THE CALENDAR YEAR, IF THE SERVICE RETIREE HAS NOT WORKED FOR ANY EMPLOYER, AS DEFINED IN SECTION 24-51-101 (20), DURING THE MONTH OF THE EFFECTIVE DATE OF RETIREMENT. A SERVICE RETIREE DESCRIBED IN THIS PARAGRAPH (a) WHO WORKS FOR ANY EMPLOYER, AS DEFINED IN SECTION 24-51-101 (20), DURING THE MONTH OF THE EFFECTIVE DATE OF RETIREMENT SHALL BE SUBJECT TO A REDUCTION IN BENEFITS AS PROVIDED IN SECTION 24-51-1102 (2).

(b) UPON THE ADOPTION BY A SCHOOL DISTRICT OF A RESOLUTION DECLARING A CRITICAL SHORTAGE FOR A DURATION OF A PERIOD OF NO LONGER THAN ONE YEAR PURSUANT TO SECTION 22-32-109 (1) (f) (III) (A), C.R.S., THE SCHOOL DISTRICT SHALL NOTIFY THE ASSOCIATION OF THE RESOLUTION, AND EMPLOYER CONTRIBUTIONS SHALL COMMENCE ON SALARY PAID TO SERVICE RETIREES FROM EMPLOYMENT AS TEACHERS.

(c) ANY SERVICE RETIREE WHO IS EMPLOYED AS A TEACHER PURSUANT TO THIS SUBSECTION (1.7) SHALL NOT BE REQUIRED TO RESUME MEMBERSHIP. UPON TERMINATION OF SUCH SERVICE RETIREE'S EMPLOYMENT, THERE SHALL BE NO BENEFIT CALCULATION REFLECTING ADDITIONAL SERVICE CREDIT ACCUMULATED OR ANY INCREASE IN THE HIGHEST AVERAGE SALARY OF SUCH PERSON.

(d) A SERVICE RETIREE WHO IS EMPLOYED PURSUANT TO THIS SUBSECTION (1.7) SHALL NOT RECEIVE A HEALTH CARE PREMIUM SUBSIDY PURSUANT TO SECTION 24-51-1206 DURING SUCH EMPLOYMENT.

(e) FOR PURPOSES OF THIS SUBSECTION (1.7):

(I) "ELIGIBLE SCHOOL" MEANS A SCHOOL:

(A) THAT IS LOCATED IN A MUNICIPALITY OR AN UNINCORPORATED PORTION OF A COUNTY WHERE THE POPULATION OF SUCH MUNICIPALITY OR UNINCORPORATED PORTION OF THE COUNTY HAS A POPULATION OF LESS THAN FIFTY THOUSAND; AND

(B) THAT HAS NOT OFFERED AN EXPERIENCE AND LONGEVITY PLAN OR OTHER RETIREMENT INCENTIVE PLAN ENCOURAGING RETIREMENT DURING THE CURRENT AND TWO PREVIOUS CALENDAR YEARS.

(II) "TEACHER" MEANS A PERSON WHO IS LICENSED TO TEACH PURSUANT TO ARTICLE 60.5 OF TITLE 22, C.R.S., AND IS PRIMARILY ENGAGED IN TEACHING DURING THE MAJORITY OF A SCHOOL DAY.

(f) THIS SUBSECTION (1.7) IS REPEALED, EFFECTIVE JULY 1, 2005."

Renumber succeeding sections accordingly.

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SB02-145

Strike page 4.

Page 5, strike lines 1 through 7.

Education

After consideration on the merits, the committee recommends that **SB02-125** be amended as follows and, as so amended be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 4, line 2, strike "AT LEAST EVERY TWO YEARS" and substitute "ANNUALLY".

Education

After consideration on the merits, the committee recommends that **SB02-124** be referred favorably to the Committee of the Whole.

Education

After consideration on the merits, the committee recommends that **SB02-096** be postponed indefinitely.

MESSAGE FROM THE HOUSE

February 13, 2002

Mr. President:

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB02-1164, amended as printed in House Journal, February 8, page 352.

MESSAGE FROM THE REVISOR

We herewith transmit:

With comment, as amended, HB02-1164.

INTRODUCTION OF BILLS--FIRST READING

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

HB02-1089

by Representative(s) Kester; also Senator(s) Entz--Concerning the standards for approval of simulcast facilities by the Colorado racing commission.
Business, Labor, and Finance
Public Policy and Planning

HB02-1106

by Representative(s) Chavez; also Senator(s) Tate--Concerning the admissibility of testimony concerning prior statements made by persons incapable of testifying.
Judiciary

HB02-1111

by Representative(s) White; also Senator(s) Nichol--Concerning the terms of future advances secured by mortgages.
Business, Labor, and Finance

HB02-1163

by Representative(s) Stafford, Mitchell; also Senator(s) Hernandez--Concerning health insurance for employers with fewer than fifty-one employees.
Business, Labor, and Finance

HB02-1145

by Representative(s) Rippy, Groff; also Senator(s) Linkhart--Concerning a prohibition against installing as a component of an air bag system any object that is not designed in accordance with federal safety regulations for a particular vehicle.
Government, Veterans and Military Relations, and Transportation

HB02-1169

by Representative(s) Groff; also Senator(s) Perlmutter--Concerning the notice given by an intrastate telecommunications provider prior to making changes affecting customer costs.
Business, Labor, and Finance

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HB02-1181 by Representative(s) Romanoff, Stafford; also Senator(s) Thiebaut--Concerning statutory modifications related to the education of homeless children to comply with federal law. Education

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SENATE SERVICES REPORT

Senate Correctly printed: SB02-165; SJR02-005.

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Services Correctly enrolled: SR02-005.

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Committee On motion of Senator Fitz-Gerald, the Senate resolved itself into Committee of the Whole for consideration of General Orders and Senator Fitz-Gerald was called to the Chair to act as Chairman.

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GENERAL ORDERS--SECOND READING OF BILLS

The Committee of the Whole having risen, the Chairman reported that the following bills, reading at length having been dispensed with by unanimous consent, had been considered and action taken thereon as follows:

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SB02-141 by Senator Perlmutter; also Representative Williams T.--Concerning the determination of royalty payments from oil and gas leases.

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Amendment No. 1, Business, Labor, and Finance Committee Amendment.
(Printed in Senate Journal, February 3, page 178 and placed in members' bill file.)

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Amendment No. 2(L.004), by Senator Perlmutter.

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Strike the Business, Labor, and Finance Committee Report, dated February 4, 2002, and substitute the following:

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"Amend printed bill, page 3, line 5, after the period add "THESE AMENDMENTS ARE INTENDED TO CLARIFY AND REAFFIRM THE LAW RELATED TO ALLOCATION OF COSTS BETWEEN PAYOR AND PAYEE EXISTING PRIOR TO THE COLORADO SUPREME COURT'S DECISION IN *ROGERS V. WESTERMAN FARM COMPANY*, 29 P.3d 887 (COLO. 2001) AND AS REFLECTED IN THE HISTORICAL PRACTICES OF THE OIL AND GAS INDUSTRY AND THE PRIOR DECISIONS OF THE COURTS.";

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strike lines 25 through 27.

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Page 4, strike lines 1 through 9 and substitute the following:

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"(1.5) "AT THE WELL", "AT THE MOUTH OF THE WELL", OR SIMILAR PHRASES, UNLESS OTHERWISE AGREED BY THE PARTIES IN WRITING, AND WHEN USED IN REFERENCE TO ROYALTY PAYMENT OBLIGATIONS TO LESSORS, OVERRIDING ROYALTY INTEREST OWNERS, OR OTHER SIMILARLY SITUATED PARTIES, MEAN THAT COSTS INCURRED AFTER INITIAL SEPARATION AND DELIVERY OF THE OIL OR GAS PRODUCTION TO A TANK OR METER FOR INITIAL MEASUREMENT, INCLUDING, BUT NOT LIMITED TO, GATHERING, COMPRESSION, DEHYDRATION, PROCESSING, AND TRANSPORTATION COSTS, ARE DEDUCTED FROM THE SALES PRICE OF THE PRODUCTION IN ORDER TO DETERMINE THE SALES PROCEEDS, MARKET VALUE, OR WELLHEAD VALUE OF SUCH PRODUCTION.";

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line 13, strike "SUCH OBLIGATION SHALL NOT, EXCEPT AS TO";

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strike lines 14 through 20 and substitute the following:

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"UNLESS OTHERWISE AGREED BY THE PARTIES IN WRITING, ROYALTIES AND OVERRIDING ROYALTIES WILL BE CALCULATED ON THE VALUE OF THE PRODUCTION AT THE WELL, AS DEFINED IN SUBSECTION (1.5) OF THIS SECTION. THE OBLIGATION SHALL NOT BE".

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Page 5, line 8, after "UNLESS", insert "RELATED TO ERRORS AND OMISSIONS IN REPORTING PRODUCTION AMOUNTS, OR";

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strike line 27.

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Page 6, strike line 1 and substitute the following:

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SB02-141

"SHALL APPLY SUCH TERMS IN ACCORDANCE WITH THEIR DEFINITION."."

Amendment No. 3(L.005), by Senator Perlmutter.

(Floor Amendment was severed. Part 1: page 1, lines 1-8 and lines 11-15; page 2, lines 1-10 was declared adopted. Part 2: page 1, lines 9-10 was declared lost.

Strike the Business, Labor, and Finance Committee Report, dated February 4, 2002, and substitute the following:

"Amend printed bill, page 2, strike lines 5 through 7 and substitute the following:

"ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT THE PURPOSE OF THE AMENDMENTS TO THIS ARTICLE ENACTED IN SENATE BILL 02-141, ENACTED AT THE SECOND REGULAR SESSION OF".

Page 3, strike lines 6 through 19.

Page 4, line 3, strike "CONTRACT TERMS" and substitute "CONTRACT TERMS, UNLESS OTHERWISE AGREED TO IN WRITING,";

strike lines 24 through 27.

Page 5, strike lines 1 through 9 and substitute the following:

"SECTION 3. 34-60-115, Colorado Revised Statutes, is amended to read:

34-60-115. Limitation on actions. No action or other proceeding based upon a violation of this article or any rule, regulation, or order of the commission shall be commenced or maintained unless it has been commenced within one year from the date of the alleged violation. ALL OTHER CLAIMS FOR DAMAGES OR OTHER RELIEF FOR THE UNDERPAYMENT OF ROYALTIES OR OVERRIDING ROYALTIES OR FOR THE IMPROPER REPORTING OF ROYALTIES, WHETHER PURSUED BEFORE A COURT UNDER THIS ARTICLE OR UNDER OTHER STATUTORY OR COMMON LAW BASIS, ARE SUBJECT TO THE LIMITATION PERIOD SET FORTH IN SECTION 13-80-101, C.R.S. REPEATED ACTS OF THE SAME UNDERPAYMENT OR REPORTING VIOLATIONS DO NOT START NEW LIMITATION PERIODS."."

On motion of Senator Isgar, a new fiscal note was requested under Senate Rule 25(e).

Laid over until Friday, February 15, retaining its place on the calendar.

On motion of Senator Thiebaut, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the General Orders--Second Reading of Bills calendar (SB02-064 as amended, SB02-042, SB01-127, SB02-015, SB02-102, HB02-1007, HB02-1033, HB02-1008, HB02-1110, SB02-085, SB02-086, SB02-099, SB02-104, SB02-120, SB02-161, SB02-110, SB02-105, SB02-143, SB02-054) of Thursday, February 14, was laid over until Friday, February 15, retaining its place on the calendar.

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator Fitz-Gerald, the Report of the Committee of the Whole was adopted and, a majority of all members elected having voted in the affirmative, the following action was taken:

Laid over until Friday, February 15: SB02-141 as amended, SB02-064 as amended, SB02-042, SB01-127, SB02-015, SB02-102, HB02-1007, HB02-1033, HB02-1008, HB02-1110, SB02-085, SB02-086, SB02-099, SB02-104, SB02-120, SB02-161, SB02-110, SB02-105, SB02-143, SB02-054.

COMMITTEE OF REFERENCE REPORTS

Judiciary

After consideration on the merits, the committee recommends that SB02-039 be amended as follows and, as so amended be referred to the Committee on Appropriations with favorable recommendation.

SB02-039

Amend printed bill, page 4, line 20, after "LESS", insert "OF ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT CONTAINS ANY QUANTITY".

Page 7, line 21, after "POSSESSION", insert "OF ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION WEIGHING ONE GRAM OR LESS THAT CONTAINS ANY QUANTITY";

line 23, strike "IN AN AMOUNT WEIGHING ONE GRAM OR LESS".

Page 10, strike lines 3 through 27.

Strike pages 11 through 15.

Page 16, strike lines 1 through 22;

after line 22, insert the following:

"SECTION 4. 18-19-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

18-19-103. Source of revenues - allocation of moneys.

(5.5) THERE IS HEREBY CREATED IN THE STATE TREASURY A DRUG OFFENDER TREATMENT FUND THAT SHALL CONSIST OF MONEYS APPROPRIATED THERETO. THE FUND MAY ACCEPT GIFTS, GRANTS, AND DONATIONS. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY MONEYS NOT APPROPRIATED BY THE GENERAL ASSEMBLY SHALL REMAIN IN THE DRUG OFFENDER TREATMENT FUND AND SHALL NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE AT THE END OF ANY FISCAL YEAR. ALL MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE STATE JUDICIAL DEPARTMENT FOR ALLOCATION TO THE STATE DRUG OFFENDER TREATMENT BOARD, TO COVER THE COSTS ASSOCIATED WITH SUBSTANCE ABUSE ASSESSMENT, TESTING, EDUCATION, AND TREATMENT.

SECTION 5. Article 19 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:".

Page 19, line 7, strike "probation; EXCEPT THAT" and substitute "probation.";

strike line 8;

line 9, strike "SECTION 18-18-405 (2.3), C.R.S., MAY BE ELIGIBLE FOR PROBATION.";

after line 14, insert the following:

"(B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2) AND SUBSECTION (4) OF THIS SECTION, AN OFFENDER CONVICTED OF A VIOLATION OF SECTION 18-18-405 (2.3), C.R.S., MAY BE ELIGIBLE FOR PROBATION UPON RECOMMENDATION OF THE DISTRICT ATTORNEY."

Reletter succeeding paragraph accordingly.

Page 20, strike lines 11 through 27.

Page 21, strike lines 1 through 8.

Renumber succeeding sections accordingly.

Page 21, line 27, strike "4, 7, and 8" and substitute "4 and 7".

Judiciary

After consideration on the merits, the committee recommends that **SB02-048** be amended as follows and, as so amended be referred to the Committee on Appropriations with favorable recommendation.

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SB02-048

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

"SECTION 1. 18-1-1001 (1), Colorado Revised Statutes, is amended to read:

18-1-1001. Restraining order against defendant. (1) (a) There is hereby created a mandatory restraining order against any person charged with a violation of any of the provisions of this title, which order shall remain in effect from the time that the person is advised of his or her rights at arraignment or the person's first appearance before the court and informed of such order until final disposition of the action. Such order shall restrain the person charged from harassing, molesting, intimidating, retaliating against, or tampering with any witness to or victim of the acts charged. The restraining order issued pursuant to this section shall be on a standardized form prescribed by the judicial department and a copy shall be provided to the protected parties.

(b) IN ANY CASE IN WHICH CHARGES ARE BROUGHT UNDER SECTION 18-9-202, THE MANDATORY RESTRAINING ORDER SHALL, IN ADDITION TO COMPLYING WITH THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (1), RESTRAIN THE DEFENDANT FROM HARASSING, MOLESTING, INTIMIDATING, RETALIATING AGAINST, OR TAMPERING WITH:

(I) ANY ANIMAL THAT IS THE SUBJECT OF THE CHARGES; AND

(II) THE OWNER OR CUSTODIAN, OTHER THAN THE DEFENDANT, OF SUCH ANIMAL.

SECTION 2. 18-9-201, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

18-9-201. Definitions. As used in sections 18-9-202 and 18-9-202.5, unless the context otherwise requires:

(3.5) "NEEDLESSLY" MEANS UNNECESSARY, INESSENTIAL, OR NOT REQUIRED.

(5) "SERIOUS PHYSICAL HARM" MEANS ANY OF THE FOLLOWING:

(a) ANY PHYSICAL HARM THAT CARRIES A SUBSTANTIAL RISK OF DEATH;

(b) ANY PHYSICAL HARM THAT CAUSES PERMANENT MAIMING OR THAT INVOLVES SOME TEMPORARY, SUBSTANTIAL MAIMING; OR

(c) ANY PHYSICAL HARM THAT CAUSES ACUTE PAIN OF DURATION THAT RESULTS IN SUBSTANTIAL SUFFERING.

SECTION 3. 18-9-201.7 (4), Colorado Revised Statutes, is amended to read:

18-9-201.7. Animal cruelty prevention fund - control of fund - repeal. (4) Not more than five percent of the aggregate amount of the moneys in the fund shall be used to administer the fund. The remaining moneys in the fund shall be used by the division of criminal justice to assist with costs associated with the care, treatment, or shelter of any animal that is the subject of cruelty, and to pay the costs of court-ordered ~~anger management~~ treatment programs ADDRESSING ANIMAL ABUSE AND ANIMAL CRUELTY PREVENTION and other psychological evaluations and counseling for juveniles supervised pursuant to section 19-2-303, C.R.S., and for indigent persons convicted or adjudicated as juvenile delinquents for acts of cruelty to animals. No moneys from the fund shall be paid to an offender.

SECTION 4. Part 2 of article 9 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

18-9-201.8. Cruelty to animals - legislative declaration.

(1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

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SB02-048

(a) ANIMAL CRUELTY ENCOMPASSES A RANGE OF BEHAVIORS HARMFUL TO ANIMALS, FROM NEGLIGENCE TO MALICIOUS KILLING. ANIMAL CRUELTY IS OF GREAT CONCERN TO THE GENERAL ASSEMBLY BECAUSE IT CAN BE ONE OF THE MOST DRAMATIC INDICATORS THAT A PERSON IS DEVELOPING A DETRIMENTAL PATTERN OF BEHAVIOR IN WHICH POWER AND CONTROL IS SOUGHT BY INFLECTING INJURY UPON OTHERS.

(b) MANY NATIONAL RESEARCH STUDIES IN PSYCHOLOGY, SOCIOLOGY, AND CRIMINOLOGY DEMONSTRATE THAT VIOLENT OFFENDERS OFTEN HAVE CHILDHOOD AND ADOLESCENT HISTORIES OF SERIOUS AND REPEATED ANIMAL CRUELTY. THE RESEARCH SHOWS CONSISTENT PATTERNS OF ANIMAL CRUELTY AMONG PERPETRATORS OF MORE COMMON FORMS OF VIOLENCE, INCLUDING CHILD ABUSE, SPOUSAL ABUSE, AND ELDER ABUSE.

(c) MANY ANIMAL ABUSERS ARE ADOLESCENTS OR YOUNG ADULTS, ALTHOUGH CHILDREN AS YOUNG AS FOUR YEARS OF AGE HAVE BEEN KNOWN TO HARM ANIMALS. STUDIES SHOW THAT ANIMAL CRUELTY IS OFTEN ASSOCIATED WITH CHILDREN WHO PERFORM POORLY IN SCHOOL AND HAVE LOW SELF-ESTEEM.

(d) IT IS IMPORTANT TO STOP ANIMAL ABUSERS WHEN THEY ARE YOUNG. EARLY INTERVENTION IS MORE LIKELY TO REDUCE ADULT CRIME THAN CRIMINAL SANCTIONS APPLIED LATER IN LIFE. IT IS ALSO IMPORTANT TO SEND A MESSAGE TO ADULT OFFENDERS THAT ACTS OF ANIMAL CRUELTY IN THIS STATE SHALL RESULT IN CONSEQUENCES MORE HARSH THAN THOSE PREVIOUSLY IN EFFECT.

(2) THE GENERAL ASSEMBLY, THEREFORE, DETERMINES THAT IT IS NECESSARY TO ENACT COMPREHENSIVE LEGISLATION TO ADDRESS ANIMAL CRUELTY BY AMENDING SECTION 18-9-202 AND ADDING NEW STATUTORY PROVISIONS TO REFLECT THE INCREASING SOCIAL AWARENESS OF ANIMAL CRUELTY AND TO ADDRESS ITS MANY ASSOCIATED PROBLEMS. IN DOING SO, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO:

(a) IDENTIFY ANIMAL CRUELTY PERPETRATORS BEFORE THEIR VIOLENCE IS DIRECTED AGAINST HUMANS;

(b) REQUIRE TIMELY TREATMENT REFERRALS FOR ANIMAL CRUELTY PERPETRATORS SO AS TO MAXIMIZE THE EFFECTIVENESS OF THERAPEUTIC INTERVENTION;

(c) IMPROVE CURRENT TREATMENT PROGRAMS FOR ANIMAL CRUELTY PERPETRATORS BY SHIFTING THE FOCUS FROM ANGER MANAGEMENT TREATMENT PROGRAMS TO TREATMENT PROGRAMS CONCERNING ANIMAL ABUSE AND ANIMAL CRUELTY PREVENTION THAT EMPHASIZE BEHAVIOR MODIFICATION IN THE AREAS OF SELF-IMAGE, POWER AND CONTROL, ANIMAL TREATMENT, AND ANIMAL ABUSE; AND

(d) CREATE THE FELONY OFFENSE OF AGGRAVATED CRUELTY TO ANIMALS IN ORDER TO SUFFICIENTLY PUNISH HEINOUS ACTS OF ANIMAL CRUELTY INCLUDING, BUT NOT LIMITED TO, THE TORTURE OF AN ANIMAL, THE NEEDLESS INFLECTION OF SERIOUS PHYSICAL HARM ON AN ANIMAL, AND THE NEEDLESS MUTILATION OR KILLING OF AN ANIMAL.

SECTION 5. 18-9-202, Colorado Revised Statutes, is amended to read:

18-9-202. Cruelty to animals - aggravated cruelty to animals - offender registry - repeal. (1) (a) A person commits cruelty to animals if he OR SHE knowingly or with criminal negligence overdrives, overloads, overworks, ~~tortures,~~ torments, deprives of necessary sustenance, unnecessarily or cruelly beats, ~~needlessly mutilates,~~ ~~needlessly kills,~~ carries or confines in or upon any vehicles in a cruel or reckless manner, PERFORMS BESTIALITY WITH, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather, or abandons it.

(b) ~~Any person who intentionally abandons a dog or cat commits the offense of cruelty to animals.~~ CRUELTY TO ANIMALS IS A CLASS 1

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SB02-048

MISDEMEANOR; EXCEPT THAT A SECOND OR SUBSEQUENT CONVICTION FOR THE OFFENSE OF CRUELTY TO ANIMALS IS A CLASS 6 FELONY.

(1.5) FOR PURPOSES OF THIS SECTION, "SECOND OR SUBSEQUENT CONVICTION" MEANS ANY CONVICTION UNDER THIS SECTION INCURRED BY A PERSON WHO HAS PREVIOUSLY BEEN CONVICTED OF A FELONY OR MISDEMEANOR OFFENSE INVOLVING ANIMAL CRUELTY OR ANIMAL ABUSE:

(I) UNDER THIS SECTION;

(II) IN A MUNICIPAL COURT SITTING IN THIS STATE; OR

(III) UNDER THE LAWS OF ANOTHER STATE OR OF THE UNITED STATES.

(2) (a) ~~Cruelty to animals is a class 1 misdemeanor.~~ A PERSON COMMITS AGGRAVATED CRUELTY TO ANIMALS IF HE OR SHE KNOWINGLY TORTURES AN ANIMAL, KNOWINGLY AND NEEDLESSLY INFLECTS SERIOUS PHYSICAL HARM ON AN ANIMAL, KNOWINGLY AND NEEDLESSLY MUTILATES AN ANIMAL, KNOWINGLY AND NEEDLESSLY KILLS AN ANIMAL, OR CAUSES OR PROCURES ANY SUCH ACT TO BE DONE.

(a.3) AGGRAVATED CRUELTY TO ANIMALS IS A CLASS 6 FELONY; EXCEPT THAT A SECOND OR SUBSEQUENT CONVICTION FOR THE OFFENSE OF AGGRAVATED CRUELTY TO ANIMALS IS A CLASS 5 FELONY.

(a.5) (I) (A) In addition to the sentence imposed pursuant to SUBSECTION (1) OF THIS SECTION OR THIS SUBSECTION (2), any person convicted of committing cruelty to animals OR AGGRAVATED CRUELTY TO ANIMALS pursuant to subsection (1) of this section OR THIS SUBSECTION (2), the underlying factual basis of which has been found by the court to include the knowing or intentional torture or torment of an animal that needlessly injures, mutilates, or kills an animal shall pay a surcharge of up to four hundred dollars to the clerk of the court in the county in which the conviction occurs or in which a deferred sentence is entered. Each clerk shall transmit the moneys to the court administrator of the judicial district in which the offense occurred for credit to the fund.

(B) This subparagraph (I) is repealed, effective July 1, 2005.

(II) In addition to the sentence imposed pursuant to subparagraph (I) of this paragraph (a.5), any person convicted of committing cruelty to animals OR AGGRAVATED CRUELTY TO ANIMALS pursuant to subsection (1) of this section OR THIS SUBSECTION (2), the underlying factual basis of which has been found by the court to include the knowing or intentional torture or torment of an animal that needlessly injures, mutilates, or kills an animal, ~~may~~ SHALL be ordered to complete ~~an anger management~~ A treatment program ~~or~~ ADDRESSING ANIMAL ABUSE AND ANIMAL CRUELTY PREVENTION AND any other appropriate treatment program.

(III) IN ANY CASE WHERE A PERSON IS CONVICTED OF CRUELTY TO ANIMALS OR AGGRAVATED CRUELTY TO ANIMALS PURSUANT TO SUBSECTION (1) OF THIS SECTION OR THIS SUBSECTION (2), the court shall order an OFFENSE-SPECIFIC evaluation to be conducted prior to sentencing to assist the court in determining an appropriate sentence. The person ordered to undergo an evaluation shall be required to pay the cost of the evaluation, unless the person qualifies for a public defender, then the cost will be paid by the judicial district. IN CASES OTHER THAN THOSE DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a.5), if the evaluation results in a recommendation of treatment and if the court so finds, the person shall be ordered to complete ~~an anger management~~ A treatment program ~~or~~ ADDRESSING ANIMAL ABUSE AND ANIMAL CRUELTY PREVENTION AND any other treatment program that the court may deem appropriate.

(IV) Upon successful completion of ~~an anger management~~ A treatment program ~~or~~ ADDRESSING ANIMAL ABUSE AND ANIMAL CRUELTY PREVENTION AND any other treatment program deemed appropriate by the court, the court may suspend any fine imposed, except for a ~~five hundred~~ ONE THOUSAND dollar mandatory minimum fine which shall be imposed at the time of sentencing.

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SB02-048

(V) In addition to any other sentence imposed upon a person for a violation of any criminal law under this title, any person convicted of a second or subsequent conviction for any crime, the underlying factual basis of which has been found by the court to include ~~an act of cruelty to animals~~, ANY ACT DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION OR PARAGRAPH (a) OF THIS SUBSECTION (2), shall be required to pay a mandatory minimum fine of ~~one~~ TWO thousand dollars and shall be required to complete ~~an anger management~~ A treatment program ~~or~~ ADDRESSING ANIMAL ABUSE AND ANIMAL CRUELTY PREVENTION AND any other appropriate treatment program.

(VI) Nothing in this paragraph (a.5) shall preclude the court from ordering treatment in any appropriate case.

(VII) This paragraph (a.5) does not apply to ANY PERSON CONVICTED OF AN OFFENSE PURSUANT TO THIS SECTION, WHICH INVOLVED the treatment of:

(A) Pack or draft animals by negligently overdriving, overloading, or overworking them; ~~or the treatment of~~

(B) Livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural products when such treatment is in accordance with accepted agricultural animal husbandry practices; ~~the treatment of~~

(C) Animals involved in activities regulated pursuant to article 60 of title 12, C.R.S.; ~~the treatment of~~

(D) Animals involved in research if such research facility is operating under rules set forth by the state or federal government; ~~the treatment of~~

(E) Animals involved in rodeos WHEN SUCH TREATMENT IS IN ACCORDANCE WITH ACCEPTED ANIMAL HUSBANDRY PRACTICES FOR SUCH ANIMALS; ~~the treatment of~~

(F) Dogs used for legal hunting activities WHEN SUCH TREATMENT IS IN ACCORDANCE WITH ACCEPTED ANIMAL HUSBANDRY PRACTICES FOR SUCH ANIMALS; OR

(G) WILD ANIMALS IN RELATION TO wildlife nuisances or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

~~(b) (I) (A) In the case of any person incurring a second or subsequent conviction under the provisions of paragraph (a) of this subsection (2), a sentence of imprisonment within the minimum and maximum terms for a class 1 misdemeanor as provided in section 18-1-106 shall be mandatory and shall not be subject to suspension, nor shall such person be eligible for probation or parole for any part of such period. A plea of nolo contendere accepted by the court shall be considered a conviction for the purposes of this section. EXCEPT AS OTHERWISE PROVIDED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (I), ANY PERSON CONVICTED OF A CLASS 6 FELONY FOR CRUELTY TO ANIMALS UNDER SUBSECTION (1) OF THIS SECTION OR CONVICTED OF A CLASS 6 FELONY FOR AGGRAVATED CRUELTY TO ANIMALS UNDER THIS SUBSECTION (2) SHALL BE SENTENCED TO PROBATION. THE COURT, IN ADDITION TO ANY OTHER CONDITIONS IMPOSED BY THIS SECTION OR BY SECTION 16-11-204, C.R.S., SHALL IMPOSE AS A CONDITION OF PROBATION THAT SUCH PERSON PERFORM A MINIMUM OF FIVE HUNDRED HOURS OF USEFUL PUBLIC SERVICE.~~

(B) THE PROVISIONS OF SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I) SHALL APPLY ONLY TO FIRST-TIME FELONY OFFENDERS. THE PROVISIONS OF SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I) SHALL NOT APPLY TO ANY PERSON WHO HAS ONE OR MORE PRIOR FELONY CONVICTIONS OF ANY KIND ON HIS OR HER CRIMINAL RECORD. THE PROVISIONS OF SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I) ALSO SHALL NOT APPLY TO ANY CASE IN WHICH THE COURT IS REQUIRED BY ANY OTHER PROVISION OF LAW TO IMPOSE A SENTENCE OTHER THAN

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PROBATION.

(II) IN ANY CASE WHERE A PERSON CONVICTED OF VIOLATING THE PROVISIONS OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION OR PARAGRAPH (a) OF THIS SUBSECTION (2) IS SENTENCED TO PROBATION, THE COURT, IN ADDITION TO ANY OTHER CONDITIONS IMPOSED PURSUANT TO SECTION 16-11-204, C.R.S., SHALL IMPOSE AS CONDITIONS OF PROBATION THAT THE PERSON NOT OWN OR POSSESS ANY ANIMALS AND THAT THE PERSON HAVE NO CONTACT WITH ANIMALS. IN NO EVENT SHALL THE COURT ORDER AS A CONDITION OF PROBATION THAT SUCH PERSON PERFORM USEFUL PUBLIC SERVICE AT AN ANIMAL SHELTER, ANIMAL IMPOUNDMENT FACILITY, OR ANY OTHER FACILITY WHERE ANIMALS ARE KEPT.

(III) IN ANY CASE WHERE A PERSON CONVICTED OF VIOLATING THE PROVISIONS OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION OR PARAGRAPH (a) OF THIS SUBSECTION (2) IS SENTENCED TO IMPRISONMENT IN THE DEPARTMENT OF CORRECTIONS, THE STATE BOARD OF PAROLE, IN ADDITION TO ANY OTHER CONDITIONS IMPOSED PURSUANT TO SECTION 17-2-201, C.R.S., SHALL IMPOSE AS CONDITIONS OF PAROLE THE REQUIREMENTS THAT THE PERSON NOT OWN OR POSSESS ANY ANIMALS AND THAT THE PERSON HAVE NO CONTACT WITH ANIMALS.

(3) Nothing in this part 2 shall be construed to amend or in any manner change the authority of the wildlife commission, as established in title 33, C.R.S., or to prohibit any conduct therein authorized or permitted.

(4) AT THE TIME OF ARRAIGNMENT OR THE DEFENDANT'S FIRST APPEARANCE BEFORE THE COURT ON A CHARGE BROUGHT UNDER THIS SECTION, THE COURT SHALL, PURSUANT TO SECTION 18-1-1001 (1), INFORM THE DEFENDANT OF THE MANDATORY RESTRAINING ORDER AGAINST HIM OR HER. SUCH ORDER SHALL BE ENTERED BY THE COURT IN ACCORDANCE WITH SECTION 18-1-1001 (1) (b).

(5) (a) IN ANY CASE IN WHICH AN ANIMAL IS INJURED OR DESTROYED, THE COURT SHALL ORDER ANY PERSON CONVICTED OF AN OFFENSE UNDER THIS SECTION OR ANY PERSON WHO ENTERS INTO A DEFERRED JUDGMENT OR DEFERRED PROSECUTION CONCERNING THE COMMISSION OF AN OFFENSE UNDER THIS SECTION TO MAKE RESTITUTION TO ANY OWNER OR CUSTODIAN OF THE ANIMAL, OTHER THAN THE DEFENDANT, PURSUANT TO THIS SUBSECTION (5) AND THE PROVISIONS OF ARTICLE 18.5 OF TITLE 16, C.R.S.

(b) RESTITUTION SHALL BE EQUAL TO THE GREATER OF THE FAIR MARKET VALUE OR THE REPLACEMENT COST OF THE ANIMAL ON THE DATE, BUT BEFORE THE TIME, THE ANIMAL WAS INJURED OR DESTROYED PLUS ANY REASONABLE AND NECESSARY MEDICAL EXPENSES INCURRED IN TREATING THE ANIMAL AND ANY ACTUAL COSTS INCURRED IN REPLACING THE INJURED OR DESTROYED ANIMAL.

SECTION 6. Part 2 of article 9 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

18-9-202.2. Cruelty to animals - fingerprinting. (1) IN ANY INSTANCE WHERE AN ADULT IS ARRESTED AND DETAINED AT A LAW ENFORCEMENT FACILITY PENDING THE INVESTIGATION OF ALLEGATIONS THAT THE ADULT VIOLATED THE PROVISIONS OF SECTION 18-9-202 (1) (a) OR (2) (a), THE ADULT SHALL BE PROMPTLY FINGERPRINTED AND PHOTOGRAPHED. IN THE EVENT AN ADULT IS NOT ARRESTED AND HAS NOT BEEN FINGERPRINTED AND PHOTOGRAPHED FOR CHARGES BEFORE THE COURT BROUGHT UNDER SECTION 18-9-202, THE ADULT SHALL BE FINGERPRINTED AND PHOTOGRAPHED IN ACCORDANCE WITH SECTION 16-21-104, C.R.S.

(2) IN ANY INSTANCE WHERE A JUVENILE IS CHARGED WITH COMMITTING OR IS SUMMONED OR HELD IN DETENTION FOR COMMITTING A DELINQUENT ACT THAT WOULD CONSTITUTE A FELONY OR A CLASS 1 MISDEMEANOR UNDER SECTION 18-9-202 IF COMMITTED BY AN ADULT, THE JUVENILE SHALL BE FINGERPRINTED IN ACCORDANCE WITH SECTION 19-2-503.5, C.R.S.

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SECTION 7. 19-2-918.5, Colorado Revised Statutes, is amended to read:

19-2-918.5. Sentencing - animal cruelty - treatment for animal abuse and animal cruelty prevention - probation. (1) In addition to any sentence imposed pursuant to this section, any juvenile who has been adjudicated a juvenile delinquent for the commission of cruelty to animals OR AGGRAVATED CRUELTY TO ANIMALS, as described in section 18-9-202 (1) (a) OR (2) (a), C.R.S., ~~in which the underlining~~ WHERE THE UNDERLYING factual basis of ~~which~~ THE OFFENSE has been found by the court to include the knowing or intentional torture or torment of an animal which needlessly injures, mutilates, or kills an animal, ~~may~~ SHALL be ordered to complete ~~an anger management~~ A treatment program ~~or~~ ADDRESSING ANIMAL ABUSE AND ANIMAL CRUELTY PREVENTION AND any other treatment program deemed appropriate by the court.

(2) IN ANY CASE WHERE A JUVENILE IS ADJUDICATED A JUVENILE DELINQUENT FOR THE COMMISSION OF CRUELTY TO ANIMALS OR AGGRAVATED CRUELTY TO ANIMALS PURSUANT TO SECTION 18-9-202 (1) (a) OR (2) (a), C.R.S., the court ~~may~~ SHALL order an OFFENSE-SPECIFIC evaluation to be conducted prior to disposition if an evaluation would assist the court in determining an appropriate disposition. The parents or legal guardian of the juvenile ordered to undergo an evaluation shall be required to pay the cost of the evaluation. IN CASES OTHER THAN THOSE DESCRIBED IN SUBSECTION (1) OF THIS SECTION, if the evaluation results in a recommendation of treatment and if the court so finds, the juvenile shall be ordered to complete ~~an anger management~~ A treatment program ~~or~~ ADDRESSING ANIMAL ABUSE AND ANIMAL CRUELTY PREVENTION AND any other treatment program deemed appropriate by the court.

(3) The disposition for any juvenile who has been adjudicated a juvenile delinquent a second or subsequent time FOR THE COMMISSION OF ANY OFFENSE, the underlying factual basis of which has been found by the court to include an act of cruelty to animals OR AGGRAVATED CRUELTY TO ANIMALS, as described in section 18-9-202 (1) (a) OR (2) (a), C.R.S., shall include the completion of ~~an anger management~~ A treatment program ~~or~~ ADDRESSING ANIMAL ABUSE AND ANIMAL CRUELTY PREVENTION AND any other treatment program deemed appropriate by the court.

(4) (a) Nothing in this section shall preclude the court from ordering treatment in any appropriate case.

(b) IN ANY CASE IN WHICH A JUVENILE IS ORDERED BY THE COURT UNDER THIS SECTION TO COMPLETE A TREATMENT PROGRAM ADDRESSING ANIMAL ABUSE AND ANIMAL CRUELTY PREVENTION, THE COURT SHALL ALSO ORDER THE PARENTS OR LEGAL GUARDIAN OF THE JUVENILE TO PARTICIPATE WITH THE JUVENILE IN THE TREATMENT PROGRAM.

(5) This section does not apply to ANY JUVENILE ADJUDICATED FOR AN OFFENSE INVOLVING the treatment of:

(a) Pack or draft animals by negligently overdriving, overloading, or overworking them; ~~or the treatment of~~

(b) Livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural products when such treatment is in accordance with accepted animal husbandry practices; ~~the treatment of~~

(c) Animals involved in activities regulated pursuant to article 60 of title 12, C.R.S.; ~~the treatment of~~

(d) Animals involved in research if such research facility is operating under rules and regulations set forth by the state or federal government; ~~the treatment of~~

(e) Animals involved in rodeos WHEN SUCH TREATMENT IS IN ACCORDANCE WITH ACCEPTED ANIMAL HUSBANDRY PRACTICES FOR SUCH ANIMALS; ~~the treatment of~~

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(f) Dogs used for legal hunting activities WHEN SUCH TREATMENT IS IN ACCORDANCE WITH ACCEPTED ANIMAL HUSBANDRY PRACTICES FOR SUCH ANIMALS; or

(g) WILD ANIMALS IN RELATION TO NUISANCES OR to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

(6) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), IF ANY JUVENILE IS ADJUDICATED A JUVENILE DELINQUENT FOR THE FIRST TIME AND SUCH ADJUDICATION IS EITHER FOR THE COMMISSION OF A FIRST OFFENSE OF CRUELTY TO ANIMALS UNDER SECTION 18-9-202 (1), C.R.S., OR FOR THE COMMISSION OF A FIRST OFFENSE OF AGGRAVATED CRUELTY TO ANIMALS UNDER SECTION 18-9-202 (2), C.R.S., THEN SUCH JUVENILE SHALL BE SENTENCED TO PROBATION. THE COURT, IN ADDITION TO ANY OTHER CONDITIONS OF PROBATION, SHALL IMPOSE AS A CONDITION OF PROBATION THAT SUCH JUVENILE PERFORM A MINIMUM OF FIVE HUNDRED HOURS OF USEFUL PUBLIC SERVICE.

(II) (A) NOTHING IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL BE CONSTRUED TO ALTER OR AMEND THE PROVISIONS OF SECTION 19-2-516, 19-2-908, OR ANY OTHER PROVISION OF LAW THAT GOVERNS THE SENTENCING OF A JUVENILE WHO HAS BEEN ADJUDICATED A JUVENILE DELINQUENT ON ONE OR MORE PRIOR OCCASIONS.

(B) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL NOT APPLY IN ANY CASE IN WHICH THE COURT IS REQUIRED BY ANY OTHER PROVISION OF LAW TO IMPOSE A SENTENCE OTHER THAN PROBATION UPON THE JUVENILE.

(b) IN ANY CASE IN WHICH A JUVENILE WHO HAS BEEN ADJUDICATED A JUVENILE DELINQUENT FOR THE COMMISSION OF CRUELTY TO ANIMALS OR AGGRAVATED CRUELTY TO ANIMALS, AS DESCRIBED IN SECTION 18-9-202 (1) (a) OR (2) (a), C.R.S., IS SENTENCED TO PROBATION, THE COURT, IN ADDITION TO ANY OTHER CONDITIONS OF PROBATION, MAY IMPOSE AS CONDITIONS OF PROBATION THAT THE JUVENILE NOT OWN OR POSSESS ANY ANIMALS AND THAT THE JUVENILE HAVE NO CONTACT WITH ANIMALS. IN NO EVENT SHALL THE COURT ALLOW SUCH JUVENILE TO PERFORM USEFUL PUBLIC SERVICE OR PARTICIPATE IN A SUPERVISED WORK PROGRAM AT AN ANIMAL SHELTER, ANIMAL IMPOUNDMENT FACILITY, OR ANY OTHER FACILITY WHERE ANIMALS ARE KEPT.

(c) IN ANY CASE WHERE A JUVENILE WHO HAS BEEN ADJUDICATED A JUVENILE DELINQUENT FOR THE COMMISSION OF CRUELTY TO ANIMALS OR AGGRAVATED CRUELTY TO ANIMALS, AS DESCRIBED IN SECTION 18-9-202 (1) (a) OR (2) (a), C.R.S., IS COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES, THE JUVENILE'S CONDITIONS OF PAROLE MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE REQUIREMENTS THAT HE OR SHE NOT OWN OR POSSESS ANY ANIMALS AND THAT THE JUVENILE HAVE NO CONTACT WITH ANIMALS.

SECTION 8. Part 1 of article 1 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

17-1-139. Appropriation to comply with section 2-2-703.

(1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT S.B. 02-048, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY:

(a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

(b) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2003, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,

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C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

(II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2003, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

(c) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2004, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

(II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2004, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

(d) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2005, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

(II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2005, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

(e) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2006, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

(II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2006, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

SECTION 9. The introductory portion to 24-75-302 (2) and 24-75-302 (2) (o), (2) (p), (2) (q), and (2) (r) are amended, and the said 24-75-302 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

24-75-302. Capital construction fund - capital assessment fees - calculation. (2) As of July 1, 1988, and July 1 of each year thereafter through July 1, ~~2005~~ 2006, a sum as specified in this subsection (2) shall accrue to the capital construction fund. The state treasurer and the controller shall transfer such sum out of the general fund and into the capital construction fund as moneys become available in the general fund during the fiscal year beginning on said July 1. Transfers between funds pursuant to this subsection (2) shall not be deemed to be appropriations subject to the limitations of section 24-75-201.1. The amount which shall accrue pursuant to this subsection (2) shall be as follows:

(o) On July 1, 2002, one hundred million dollars, plus thirteen thousand nine hundred sixty-two dollars pursuant to S.B. 98-021, enacted at the second regular session of the sixty-first general assembly; plus eight million three hundred seven thousand five hundred nine dollars pursuant to H.B. 98-1156, enacted at the second regular session of the sixty-first general assembly; plus three hundred ninety-seven thousand nine hundred twenty-three dollars pursuant to H.B. 98-1160, enacted at the second regular session of the sixty-first general assembly; plus fifty thousand three hundred sixty-four dollars pursuant to H.B. 00-1107, enacted at the second regular session of the sixty-second general assembly; plus one hundred twenty-one thousand five hundred sixty-seven dollars pursuant to H.B. 00-1201, enacted at the second regular session of the sixty-second general assembly; plus two hundred fifty thousand eighty-one dollars pursuant to H.B. 00-1214, enacted at the

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second regular session of the sixty-second general assembly; plus forty thousand five hundred twenty-two dollars pursuant to H.B. 00-1247, enacted at the second regular session of the sixty-second general assembly; plus one million seven hundred sixty-eight thousand two hundred twenty-five dollars pursuant to H.B. 01-1205, enacted at the first regular session of the sixty-third general assembly; plus one hundred thirty-eight thousand nine hundred thirty-four dollars pursuant to H.B. 01-1242, enacted at the first regular session of the sixty-third general assembly; PLUS _____ DOLLARS PURSUANT TO S.B. 02-048, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

(p) On July 1, 2003, one hundred million dollars, plus twenty-six thousand six hundred twenty-nine dollars pursuant to H.B. 01-1204, enacted at the first regular session of the sixty-third general assembly; plus one hundred thirty-eight thousand nine hundred thirty-four dollars pursuant to H.B. 01-1242, enacted at the first regular session of the sixty-third general assembly; PLUS _____ DOLLARS PURSUANT TO S.B. 02-048, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

(q) On July 1, 2004, one hundred million dollars, plus two hundred thirty-three thousand eight hundred seventy-two dollars pursuant to H.B. 00-1201, enacted at the second regular session of the sixty-second general assembly; plus seventy-nine thousand eight hundred eighty-seven dollars pursuant to H.B. 01-1242, enacted at the first regular session of the sixty-third general assembly; PLUS _____ DOLLARS PURSUANT TO S.B. 02-048, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

(r) On July 1, 2005, one hundred million dollars; PLUS _____ DOLLARS PURSUANT TO S.B. 02-048, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

(s) ON JULY 1, 2006, _____ DOLLARS PURSUANT TO S.B. 02-048, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY.

SECTION 10. Effective date - applicability. This act shall take effect July 1, 2002, and shall apply to offenses committed on or after said date.

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

Judiciary

After consideration on the merits, the committee recommends that **SB02-156** be amended as follows and, as so amended be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 2, line 12, after "rights", insert "for flow augmentation".

Page 3, line 3, strike "instream" and substitute "flow augmentation";

line 23, strike "INSTREAM" and substitute "FLOW AUGMENTATION.";

line 24, strike "USE."

Page 5, line 9, strike "INSTREAM USE." and substitute "FLOW AUGMENTATION.";

line 23, strike "INSTREAM" and substitute "FLOW AUGMENTATION";

line 24, strike "INSTREAM USE." and substitute "FLOW AUGMENTATION.";

line 25, strike "INSTREAM USE"" and substitute "FLOW AUGMENTATION"".

Page 6, line 9, strike "INSTREAM USE," and substitute "FLOW AUGMENTATION,";

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line 27, strike "INSTREAM USE," and substitute "FLOW AUGMENTATION,".
Page 7, line 12, strike "**instream use.**" and substitute "**flow augmentation.**";
line 18, strike "INSTREAM USE," and substitute "FLOW AUGMENTATION,".
Page 8, line 4, strike "INSTREAM USE," and substitute "FLOW AUGMENTATION,";
line 23, strike "INSTREAM" and substitute "FLOW AUGMENTATION,";
line 24, strike "USE,".
Page 9, line 2, strike "INSTREAM" and substitute "FLOW AUGMENTATION,";
line 3, strike "USE,";
line 4, strike "INSTREAM" and substitute "AUGMENTATION";
line 10, strike "INSTREAM USES" and substitute "FLOW AUGMENTATION".
Page 10, line 16, strike "INSTREAM USE," and substitute "FLOW AUGMENTATION,".
Page 11, line 8, strike "INSTREAM USE," and substitute "FLOW AUGMENTATION,";
line 25, strike "INSTREAM USE" and substitute "FLOW AUGMENTATION".
Page 12, line 27, strike "INSTREAM USE," and substitute "FLOW AUGMENTATION,".
Page 13, line 10, strike "INSTREAM" and substitute "FLOW AUGMENTATION";
line 11, strike "USE".
Page 14, line 3, strike "INSTREAM USE." and substitute "FLOW AUGMENTATION.";
line 4, strike "INSTREAM USE," and substitute "FLOW AUGMENTATION,";
line 9, strike "INSTREAM USE," and substitute "FLOW AUGMENTATION,";
line 14, strike "INSTREAM" and substitute "FLOW AUGMENTATION";
line 15, strike "INSTREAM USE" and substitute "FLOW AUGMENTATION";
line 21, strike "INSTREAM" and substitute "FLOW AUGMENTATION".
Page 1, line 102, strike "INSTREAM USE." and substitute "**FLOW AUGMENTATION.**".

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Judiciary

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Judiciary

After consideration on the merits, the committee recommends that **SB02-155** be postponed indefinitely.

After consideration on the merits, the committee recommends that **SB02-116** be postponed indefinitely.

After consideration on the merits, the committee recommends that **SB02-123** be postponed indefinitely.

Judiciary	After consideration on the merits, the committee recommends that SB02-060 be postponed indefinitely.	1 2 3 4 5
Government, Veterans and Military Relations and Transportation	After consideration on the merits, the committee recommends that SB02-119 be amended as follows and, as so amended be referred to the Committee on Appropriations with favorable recommendation. Amend printed bill, page 6, line 11, strike the second "LIBRARY" and substitute "LIBRARY, WITH THE EXCEPTION OF A LAW LIBRARY,"; line 12, strike "MEDICAL" and substitute "MENTAL HEALTH"; line 23, after "INCOME.", insert "A "LEGAL SERVICE AREA" SHALL BE DEFINED IN TERMS OF GEOGRAPHIC UNITS FOR WHICH OFFICIAL POPULATION ESTIMATES CAN BE OBTAINED OR DERIVED ANNUALLY FROM EITHER THE UNITED STATES CENSUS BUREAU OR THE COLORADO STATE DATA CENTER.". Page 7, line 19, strike "STATISTICAL"; line 20, strike "STATISTICAL". Page 8, strike line 25 and substitute the following: "publicly-supported MEMBER libraries,". Page 9, strike lines 1 through 3 and substitute the following: "GOVERNED BY AN INDEPENDENT BOARD.". Page 10, strike lines 16 through 18 and substitute the following: "and (1) (j), Colorado Revised Statutes, are amended to read:"; line 23, strike "part 4" and substitute " part 4 PARTS 2, 3, 4, AND 5". Page 11, line 4, strike "LIBRARIES;" and substitute "LIBRARIES, AND TO MAKE REASONABLE RULES FOR THE ESTABLISHMENT, MAINTENANCE, AND OPERATION OF INSTITUTIONAL LIBRARIES; EXCEPT THAT ANY SUCH RULES SHALL NOT CONFLICT WITH ANY RULES PROMULGATED PURSUANT TO SECTION 17-1-103, C.R.S."; strike line 21. Page 12, line 13, after "LIBRARIES;", insert "EXCEPT THAT ANY SUCH STANDARDS SHALL NOT CONFLICT WITH ANY STANDARDS PROMULGATED PURSUANT TO SECTION 17-1-103, C.R.S."; line 19, strike "state;" and substitute "state"; line 20, strike " education; " and substitute " education LIBRARIAN;". Page 13, line 7, strike " libraries and library districts. " and substitute " libraries. ". Page 23, strike lines 11 and 12 and substitute the following: "INCLUDE LESS THAN THE ENTIRE AREA OF ANY SEPARATE COUNTY, BUT SHALL NOT BE LESS THAN THE ENTIRE AREA OF ANY MUNICIPALITY OR LIBRARY DISTRICTS, FORMING THE AUTHORITY, AND MAY BE". Page 26, line 5, after "AREA", insert "DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (g)"; strike lines 9 through 18 and substitute the following: "IMPOSED PURSUANT TO THIS PARAGRAPH (g) IS IN ADDITION TO ANY OTHER SALES OR USE TAX IMPOSED PURSUANT TO LAW AND IS EXEMPT FROM THE LIMITATION IMPOSED BY SECTION 29-2-108, C.R.S. THE	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72

SB02-119

EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL COLLECT, ADMINISTER, AND ENFORCE THE SALES OR USE TAX, TO THE EXTENT FEASIBLE, IN THE MANNER PROVIDED IN SECTION 29-2-106, C.R.S. HOWEVER, THE EXECUTIVE DIRECTOR SHALL NOT BEGIN THE COLLECTION, ADMINISTRATION, AND ENFORCEMENT OF A SALES AND USE TAX UNTIL SUCH TIME AS THE FINANCIAL OFFICER OF THE AUTHORITY AND THE EXECUTIVE DIRECTOR HAVE AGREED ON ALL NECESSARY MATTERS PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (f) OF SUBSECTION (2) OF THIS SECTION. THE EXECUTIVE";

after line 21, insert the following:

"(II) THE AREA IN WHICH THE SALES OR USE TAX AUTHORIZED BY THIS PARAGRAPH (g) IS LEVIED SHALL NOT INCLUDE LESS THAN THE ENTIRE AREA OF ANY MUNICIPALITY OR LIBRARY DISTRICT LOCATED WITHIN THE AREA IN WHICH SAID TAX WILL BE LEVIED. SUCH AREA MAY ALSO INCLUDE PORTIONS OF UNINCORPORATED AREAS LOCATED WITHIN A COUNTY."

Renumber succeeding subparagraphs accordingly.

Page 46, line 1, strike "FIVE" and substitute "TEN";

line 5, after "WITH", insert "THE CENTER FOR";

line 6, strike "LIBRARY." and substitute "LIBRARY; OR";

strike lines 7 through 13;

line 14, strike "(c)" and substitute "(b)".

Page 49, line 12, strike "FACILITY" and substitute "FACILITIES";

line 26, strike "AN AREA" and substitute "A FACILITIES DISTRICT".

Page 50, line 25, strike "AREAS" and substitute "FACILITIES DISTRICTS".

Page 52, strike lines 14 through 19 and substitute the following:

"OF ANY COUNTY IN WHICH THE LIBRARY DISTRICT IS LOCATED, THE TOTAL VALUATION FOR ASSESSMENT OF THE TAXABLE PROPERTY LOCATED WITHIN THE PROPOSED LIBRARY CAPITAL FACILITIES AREA."

Page 54, line 17, strike "SIXTY" and substitute "THIRTY".

Page 55, line 25, strike "AREA" and substitute "FACILITIES DISTRICT";

line 27, strike "AREA" and substitute "FACILITIES DISTRICT".

Page 57, line 1, strike "AREA" and substitute "FACILITIES DISTRICT".

Page 61, line 16, strike "AREA" and substitute "FACILITIES DISTRICT".

Page 62, after line 21, insert the following:

SECTION 27. 29-2-108 (3), Colorado Revised Statutes, is amended to read:

29-2-108. Limitation on amount. (3) Any tax imposed pursuant to sections 29-1-204.5 (3) (f.1), 30-11-107.5, and 30-11-107.7, AND 24-90-110.7 (3) (g), C.R.S., and the additional tax authorized by section 30-20-604.5, C.R.S., if imposed, shall be exempt from the six and ninety one-hundredths percent limitation imposed by subsection (1) of this section."

Renumber succeeding sections accordingly.

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Government,
Veterans and
Military
Relations and
Transportation

After consideration on the merits, the committee recommends that **SB02-139** be amended as follows and, as so amended be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, line 6, after "OFFICIAL", insert "FOR A COUNTY OR OTHER POLITICAL SUBDIVISION, AS APPLICABLE, THAT MEETS THE REQUIREMENTS SPECIFIED IN RULES PROMULGATED BY THE SECRETARY OF STATE PURSUANT TO SUBSECTION (3) OF THIS SECTION";

line 13, after "(2)", insert "(a)".

Page 3, after line 1, insert the following:

"(b) ANY ELECTOR WHO RECEIVES AN ABSENTEE BALLOT PURSUANT TO THIS SECTION SHALL BE INFORMED IN THE INSTRUCTIONS FOR COMPLETING SAID BALLOT THAT THE BALLOT IS NOT A CONFIDENTIAL BALLOT.

(c) IN HANDLING A RETURNED BALLOT PURSUANT TO THIS SECTION, ALL REASONABLE MEANS SHALL BE TAKEN TO ENSURE THAT ONLY THE RECEIVING JUDGE IS AWARE OF INFORMATION CONNECTING THE ELECTOR TO THE RETURNED BALLOT."

Government,
Veterans and
Military
Relations, and
Transportation

After consideration on the merits, the committee recommends that **SB02-158** be referred favorably to the Committee of the Whole.

Government,
Veterans and
Military
Relations, and
Transportation

After consideration on the merits, the committee recommends that **SB02-001** be referred favorably to the Committee on Appropriations.

Government,
Veterans and
Military
Relations, and
Transportation

After consideration on the merits, the committee recommends that **SB02-164** be postponed indefinitely.

On motion of Senator Thiebaut, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the calendar of Thursday, February 14, was laid over until Friday, February 15, retaining its place on the calendar.

Consideration of Resolutions: **HJR02-1003, HJR02-1009, HJR02-1008, HJR02-1014, SJR02-004, SJR02-005.**

On motion of Senator Thiebaut, the Senate adjourned until 9:00 a.m., Friday, February 15, 2002.

Approved:

Stan Matsunaka
President of the Senate

Attest:

Karen Goldman
Secretary of the Senate

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