NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

HOUSE BILL 02S-1006

BY REPRESENTATIVE(S) Alexander, Kester, Boyd, Coleman, Dean, Fairbank, Fritz, Garcia, Groff, Hefley, Hoppe, Jahn, Jameson, Johnson, King, Lawrence, Miller, Romanoff, Scott, Snook, Spence, Spradley, Stafford, Tapia, Veiga, Webster, White, Williams S., Mace, and Weddig; also SENATOR(S) Anderson, Andrews, Chlouber, Entz, Epps, Evans, Gordon, Hernandez, Isgar, Musgrave, Nichol, Perlmutter, Taylor, Teck, and Tupa.

CONCERNING WILDFIRES, AND, IN CONNECTION THEREWITH, INCREASING THE PENALTIES FOR STARTING FIRES, AND PROVIDING LOCAL AUTHORITIES WITH THE POWER TO CONTROL AND LIMIT FIRES, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. The introductory portion to 18-9-117 (1) and 18-9-117 (1) (g) and (3), Colorado Revised Statutes, are amended to read:

18-9-117. Unlawful conduct on public property. (1) It is unlawful for any person to enter or remain in any public building or on any public property or to conduct himself OR HERSELF in or on the same in violation of any order, rule, or regulation concerning any matter prescribed in this subsection (1), limiting or prohibiting the use or activities or conduct in

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Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

such public building or on such public property, issued by any officer or agency having the power of control, management, or supervision of the building or property. In addition to any authority granted by any other law, each such officer or agency may adopt such orders, rules, or regulations as are reasonably necessary for the administration, protection, and maintenance of such public buildings and property, specifically, orders, rules, and regulations upon the following matters:

(g) Control and limitation of fires, INCLUDING BUT NOT LIMITED TO THE PROHIBITION, RESTRICTION, OR BAN ON FIRES OR OTHER REGULATION OF FIRES TO AVERT THE START OF OR LESSEN THE LIKELIHOOD OF WILDFIRE, and THE designation of places where fires are permitted, RESTRICTED, PROHIBITED, OR BANNED.

(3) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (3), any person who violates subsection (1) of this section is guilty of a class 3 misdemeanor.

(b) ANY PERSON WHO VIOLATES ANY ORDER, RULE, OR REGULATION ADOPTED PURSUANT TO PARAGRAPH (g) OF SUBSECTION (1) OF THIS SECTION IS GUILTY OF A CLASS 2 MISDEMEANOR AND SHALL BE ASSESSED A FINE OF NOT LESS THAN TWO HUNDRED FIFTY DOLLARS AND NOT GREATER THAN ONE THOUSAND DOLLARS. THE FINE IMPOSED BY THIS PARAGRAPH (b) SHALL BE MANDATORY AND NOT SUBJECT TO SUSPENSION. NOTHING IN THIS PARAGRAPH (b) SHALL BE CONSTRUED TO LIMIT THE COURT'S DISCRETION IN EXERCISING OTHER AVAILABLE SENTENCING ALTERNATIVES IN ADDITION TO THE MANDATORY FINE.

SECTION 2. 18-13-109, Colorado Revised Statutes, is amended to read:

18-13-109. Firing woods or prairie. (1) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, any person who, WITHOUT LAWFUL AUTHORITY AND knowingly, RECKLESSLY, ~~and without lawful authority~~ or with criminal negligence, sets on fire, or causes to be set on fire, any woods, prairie, or grounds of any description, other than his OR HER own, or who, knowingly, RECKLESSLY, or with criminal negligence, permits a fire, set or caused to be set by ~~him~~ SUCH PERSON, to pass from his OR HER own grounds to the injury of any other person commits a class 2 misdemeanor.

(b) ANY PERSON CONVICTED UNDER PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE ASSESSED A FINE OF NOT LESS THAN TWO HUNDRED FIFTY DOLLARS AND NOT GREATER THAN ONE THOUSAND DOLLARS. THE FINE IMPOSED BY THIS PARAGRAPH (b) SHALL BE MANDATORY AND NOT SUBJECT TO SUSPENSION. NOTHING IN THIS PARAGRAPH (b) SHALL BE CONSTRUED TO LIMIT THE COURT'S DISCRETION IN EXERCISING OTHER AVAILABLE SENTENCING ALTERNATIVES IN ADDITION TO THE MANDATORY FINE.

(2) (a) ANY PERSON WHO KNOWINGLY VIOLATES PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION AND WHO KNOWS OR REASONABLY SHOULD KNOW THAT HE OR SHE VIOLATES ANY APPLICABLE ORDER, RULE, OR REGULATION LAWFULLY ISSUED BY A GOVERNMENTAL AUTHORITY THAT PROHIBITS, BANS, RESTRICTS, OR OTHERWISE REGULATES FIRES DURING PERIODS OF EXTREME FIRE HAZARD AND THAT IS DESIGNED TO PROMOTE THE SAFETY OF PERSONS AND PROPERTY, COMMITS A CLASS 6 FELONY.

(b) THE FOLLOWING ACTIVITIES SHALL NOT BE OFFENSES UNDER THIS SUBSECTION (2):

(I) OPEN BURNING LAWFULLY CONDUCTED IN THE COURSE OF AGRICULTURAL OPERATIONS;

(II) STATE, MUNICIPALITY, OR COUNTY FIRE MANAGEMENT OPERATIONS;

(III) PRESCRIBED OR CONTROLLED FIRES CONDUCTED WITH WRITTEN AUTHORITY FROM THE STATE FORESTER;

(IV) LAWFUL ACTIVITIES CONDUCTED PURSUANT TO RULES, REGULATIONS, OR POLICIES ADOPTED BY THE RELEVANT STATE, TRIBAL, OR FEDERAL REGULATORY AGENCY OR AGENCIES.

SECTION 3. Article 13 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

18-13-109.5. Intentionally setting wildfire. (1) A PERSON COMMITS THE CRIME OF INTENTIONALLY SETTING A WILDFIRE IF HE OR SHE:

(a) (I) INTENTIONALLY AND WITHOUT LAWFUL AUTHORITY SETS ON FIRE, OR CAUSES TO BE SET ON FIRE, ANY WOODS, PRAIRIE, OR GROUNDS OF

ANY DESCRIPTION, OTHER THAN HIS OR HER OWN; OR

(II) INTENTIONALLY PERMITS A FIRE, SET OR CAUSED TO BE SET BY SUCH PERSON, TO PASS FROM HIS OR HER OWN GROUNDS TO THE GROUNDS OF ANOTHER; AND

(b) BY SO DOING, PLACES ANOTHER IN DANGER OF DEATH OR SERIOUS BODILY INJURY OR PLACES ANY BUILDING OR OCCUPIED STRUCTURE OF ANOTHER IN DANGER OF DAMAGE.

(2) INTENTIONALLY SETTING A WILDFIRE IS A CLASS 3 FELONY.

(3) FOR PURPOSES OF THIS SECTION, "BUILDING" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 18-4-101 (1) AND "OCCUPIED STRUCTURE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 18-4-101 (2).

SECTION 4. 31-15-401 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

31-15-401. General police powers. (1) In relation to the general police power, the governing bodies of municipalities have the following powers:

(q) (I) TO CONTROL AND LIMIT FIRES, INCLUDING BUT NOT LIMITED TO THE PROHIBITION, BANNING, RESTRICTION, OR OTHER REGULATION OF FIRES AND THE DESIGNATION OF PLACES WHERE FIRES ARE PERMITTED, RESTRICTED, OR PROHIBITED.

(II) NOTHING IN THIS PARAGRAPH (q) SHALL BE CONSTRUED TO PREEMPT OR SUPERCEDE STATE, TRIBAL, OR FEDERAL LAW CONCERNING THE CONTROL, LIMITATION, OR OTHER REGULATION OF FIRES DESCRIBED IN THIS PARAGRAPH (q).

SECTION 5. 31-15-601 (1) (j), Colorado Revised Statutes, is amended, and the said 31-15-601 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

31-15-601. Building and fire regulations - emission performance standards required. (1) The governing bodies of municipalities have the

following powers in relation to building and fire regulations:

(j) To regulate or prevent the storage and transportation of gunpowder, tar, pitch, resin, coal oil, benzine, turpentine, hemp, cotton, gasoline, nitroglycerine, petroleum, or any of the products thereof, and other combustible or explosive material within the municipal limits and to prescribe the limits within which any such regulations shall apply; to regulate the use of lights in garages, shops, and other places; ~~to prevent the building of bonfires;~~ to regulate or prevent the storage of gunpowder and other high explosives within the municipal limits or within one mile of the outer boundaries thereof; and to regulate and restrain the use of fireworks, firecrackers, torpedoes, roman candles, skyrockets, and other pyrotechnic displays;

(j.5) TO REGULATE FIRES CONSISTENT WITH THE PROVISIONS OF SECTION 31-15-401 (1) (q);

SECTION 6. 33-15-106 (2), Colorado Revised Statutes, is amended to read:

33-15-106. Fires. (2) (a) Any person who violates paragraph (a) of subsection (1) of this section is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of fifty dollars.

(b) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (2), any person who violates paragraph (b) of subsection (1) of this section is guilty of a CLASS 2 misdemeanor and, upon conviction thereof, shall be punished by a fine of ~~one hundred dollars~~ NOT LESS THAN TWO HUNDRED FIFTY DOLLARS AND NOT GREATER THAN ONE THOUSAND DOLLARS. THE FINE IMPOSED BY THIS PARAGRAPH (b) SHALL BE MANDATORY AND NOT SUBJECT TO SUSPENSION. NOTHING IN THIS PARAGRAPH (b) SHALL BE CONSTRUED TO LIMIT THE COURT'S DISCRETION IN EXERCISING OTHER AVAILABLE SENTENCING ALTERNATIVES IN ADDITION TO THE MANDATORY FINE.

(c) ANY PERSON WHO KNOWINGLY VIOLATES PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION AND WHO KNOWS OR REASONABLY SHOULD KNOW THAT HE OR SHE VIOLATES ANY ORDER DESCRIBED IN SUCH PARAGRAPH THAT PROHIBITS, BANS, OR REGULATES FIRES COMMITS A CLASS 6 FELONY.

SECTION 7. Part 2 of article 33 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-33-203. State forester - authority to permit controlled burns during drought conditions - criminal. THE STATE FORESTER MAY PROVIDE WRITTEN AUTHORITY TO PERSONS SEEKING TO CONDUCT PRESCRIBED OR CONTROLLED FIRES, SUCH AS GRASSLAND, FOREST, OR HABITAT MANAGEMENT ACTIVITIES, AS SPECIFIED IN SECTION 18-13-109 (2) (b) (III), C.R.S. IN ISSUING WRITTEN AUTHORITY FOR PRESCRIBED OR CONTROLLED FIRES, THE STATE FORESTER SHALL BE IN CONFORMITY WITH AND SHALL NOT SUPERSEDE ANY STATE OR LOCAL BANS ON FIRES.

SECTION 8. 39-29-110 (1) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

39-29-110. Local government severance tax fund - creation - administration - energy impact assistance advisory committee created. (1) (b) (IV) IN ADDITION TO THE DISTRIBUTION OF MONEYS AUTHORIZED UNDER SUBPARAGRAPHS (I), (II), AND (III) OF THIS PARAGRAPH (b), THE EXECUTIVE DIRECTOR MAY DISTRIBUTE MONEYS TO THOSE PRIVATELY ORGANIZED VOLUNTEER FIRE DEPARTMENTS SERVING AREAS SOCIALLY OR ECONOMICALLY IMPACTED BY THE DEVELOPMENT, PROCESSING, OR ENERGY CONVERSION OF MINERALS AND MINERAL FUELS SUBJECT TO TAXATION UNDER THIS ARTICLE, FOR THE PURPOSE OF PURCHASING EQUIPMENT TO FIGHT FIRES.

SECTION 9. Part 1 of article 1 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

17-1-144. Appropriation to comply with section 2-2-703 - HB 02S-1006. (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 SECTIONS 1, 2, 4, 5, 6, 7, AND 8 OF H.B. 02S-1006, ENACTED AT THE THIRD EXTRAORDINARY 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 FIFTY-SIX THOUSAND SEVEN HUNDRED THIRTY-ONE DOLLARS ($56,731).

(b) 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 TWENTY-TWO THOUSAND TWO HUNDRED FIFTY-FIVE DOLLARS ($22,255).

(e) 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 TWENTY-TWO THOUSAND TWO HUNDRED FIFTY-FIVE DOLLARS ($22,255).

SECTION 10. 24-75-302 (2) (o), Colorado Revised Statutes, is amended 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, 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, nine million four hundred eighty-nine thousand dollars; plus four hundred eighty-six thousand two hundred sixty-nine dollars pursuant to S.B. 02-050, enacted at the second regular session of the sixty-third general assembly; plus four hundred eighty-six thousand two hundred sixty-nine dollars pursuant to H.B. 02-1038, enacted at the second regular session of the sixty-third general assembly; plus sixty-nine thousand four hundred sixty-seven dollars pursuant to H.B. 02-1283, enacted at the second regular session of the sixty-third general assembly; plus sixty-nine thousand four hundred sixty-seven dollars pursuant to H.B. 02-1396, enacted at the second regular session of the sixty-third general assembly; PLUS FIFTY-SIX THOUSAND SEVEN HUNDRED THIRTY-ONE DOLLARS PURSUANT

TO SECTIONS 1, 2, 4, 5, 6, 7, AND 8 OF H.B. 02S-1006, ENACTED AT THE THIRD EXTRAORDINARY SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

SECTION 11. Part 1 of article 1 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

17-1-144. Appropriation to comply with section 2-2-703 - HB 02S-1006. (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 SECTION 3 OF H.B. 02S-1006, ENACTED AT THE THIRD EXTRAORDINARY SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY:

(a) 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 FOUR THOUSAND TWELVE DOLLARS ($4,012).

(b) 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 ONE THOUSAND FIVE HUNDRED SEVENTY-FOUR DOLLARS ($1,574).

(c) (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 TWENTY-TWO THOUSAND NINE HUNDRED TWENTY-FOUR DOLLARS ($22,924).

(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 TEN THOUSAND FIVE HUNDRED SIXTY-SEVEN DOLLARS ($10,567).

SECTION 12. The introductory portion to 24-75-302 (2) and 24-75-302 (2) (q), Colorado Revised Statutes, 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:

(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 four hundred eighty-six thousand two hundred sixty-nine dollars pursuant to S.B. 02-050, enacted at the second regular session of the sixty-third general assembly; plus nine hundred seventy-two thousand five hundred thirty-eight dollars pursuant to H.B. 02-1038, enacted at the second regular session of the sixty-third general assembly; PLUS FOUR THOUSAND TWELVE DOLLARS PURSUANT TO SECTION 3 OF H.B. 02S-1006 ENACTED AT THE THIRD EXTRAORDINARY SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

(s) ON JULY 1, 2006, TWENTY-TWO THOUSAND NINE HUNDRED TWENTY-FOUR DOLLARS PURSUANT TO SECTION 3 OF H.B. 02S-1006, ENACTED AT THE THIRD EXTRAORDINARY SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY.

SECTION 13. Appropriation - adjustment in 2002 long bill. For the implementation of this act, appropriations made in the annual appropriations act for the fiscal year beginning July 1, 2002, shall be adjusted as follows:

(a) The general fund appropriation for the department of corrections, institutions, housing and security subprogram, personal services is

decreased by fifty-six thousand seven hundred thirty-one dollars ($56,731).

SECTION 14. Effective date - applicability. This act shall take effect upon passage and shall apply to offenses committed on or after said date.

SECTION 15. 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.

_____	_____
Doug Dean	Ed Perlmutter
SPEAKER OF THE HOUSE OF REPRESENTATIVES	PRESIDENT PRO TEM OF THE SENATE
_____	_____
Judith Rodrigue	Karen Goldman
CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES	SECRETARY OF THE SENATE

APPROVED_____

_____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO