

HOUSE JOURNAL
SIXTY-FOURTH GENERAL ASSEMBLY
STATE OF COLORADO
First Regular Session

Fifteenth Legislative Day

Wednesday, January 22, 2003

1 Prayer by Dr. Gene Selander, Cherry Creek Community Church, Denver.

2

3 The Speaker called the House to order at 9:00 a.m.

4

5 On motion of Representative King, House Rule 6(b) was suspended to
6 allow Liberty Day students to lead the pledge.

7

8 Pledge of Allegiance led by Karen Vidrio and Colby Bolger, Maddox
9 Elementary School, Englewood.

10

11 The roll was called with the following result:

12

13 Present--61.

14 Excused--Representative Sinclair--1.

15 Absent--Representatives Mitchell, Pommer, Weddig--3.

16 Present after roll call--Representatives Mitchell, Pommer, Weddig.

17

18 The Speaker declared a quorum present.

19

20

21 On motion of Representative Butcher, the reading of the journal of
22 January 21, 2003, was declared dispensed with and approved as corrected
23 by the Chief Clerk.

24

25

26

27

THIRD READING OF BILLS--FINAL PASSAGE

28

29 The following bills were considered on Third Reading. The titles were
30 publicly read. Reading of the bill at length was dispensed with by
31 unanimous consent.

32

33 **HB03-1083** by Representative(s) Spence, Paccione; also Senator(s)
34 Arnold, Anderson, Dyer, Hanna, Johnson S.--Concerning
35 repeal of the requirement that transfer rules shall not
36 prohibit a student's participation in extracurricular
37 activities if the student enrolls in the transfer school within
38 fifteen days after the school year begins and prior to
39 participating in the activity during the same school year at
40 the prior school of enrollment.

41

42 The question being "Shall the bill pass?".

43 A roll call vote was taken. As shown by the following recorded vote, a

1 majority of those elected to the House voted in the affirmative and the bill
2 was declared **passed**.

	YES	53	NO	11	EXCUSED	01	ABSENT	00
5	Berry	Y	Groff	Y	McCluskey	Y	Sinclair	E
6	Borodkin	Y	Hall	N	McFadyen	Y	Smith	Y
7	Boyd	Y	Harvey	N	Merrifield	Y	Spence	Y
8	Briggs	Y	Hefley	Y	Miller	Y	Stafford	Y
9	Brophy	N	Hodge	Y	Mitchell	N	Stengel	N
10	Butcher	Y	Hoppe	Y	Paccione	Y	Tochtrop	Y
11	Cadman	Y	Jahn	Y	Plant	Y	Veiga	Y
12	Clapp	N	Johnson	Y	Pommer	Y	Vigil	Y
13	Cloer	Y	Judd	Y	Ragsdale	Y	Weddig	Y
14	Coleman	Y	King	Y	Rhodes	N	Weissmann	Y
15	Crane	Y	Larson	Y	Rippy	Y	White	Y
16	Decker	Y	Lee	Y	Romanoff	Y	Wiens	Y
17	Fairbank	Y	Lundberg	N	Rose	Y	Williams S.	Y
18	Frangas	Y	Madden	Y	Salazar	Y	Williams T.	Y
19	Fritz	Y	Marshall	Y	Sanchez	Y	Witwer	Y
20	Garcia	Y	May	N	Schultheis	Y	Young	N
21							Speaker	N

22 Co-sponsors added: Representatives Borodkin, Boyd, Briggs, Coleman, Decker,
23 Frangas, Groff, Jahn, King, Madden, McFadyen, Merrifield, Plant, Pommer,
24 Ragsdale, Salazar, Vigil, Weddig, Williams S.

25
26 **HB03-1009** by Representative(s) Fritz, Cadman, Rhodes; also
27 Senator(s) Hanna, Phillips--Concerning a statewide health
28 care defined benefit plan for police officers and
29 firefighters.

30
31 The question being "Shall the bill pass?".
32 A roll call vote was taken. As shown by the following recorded vote, a
33 majority of those elected to the House voted in the affirmative and the bill
34 was declared **passed**.

	YES	64	NO	00	EXCUSED	01	ABSENT	00
37	Berry	Y	Groff	Y	McCluskey	Y	Sinclair	E
38	Borodkin	Y	Hall	Y	McFadyen	Y	Smith	Y
39	Boyd	Y	Harvey	Y	Merrifield	Y	Spence	Y
40	Briggs	Y	Hefley	Y	Miller	Y	Stafford	Y
41	Brophy	Y	Hodge	Y	Mitchell	Y	Stengel	Y
42	Butcher	Y	Hoppe	Y	Paccione	Y	Tochtrop	Y
43	Cadman	Y	Jahn	Y	Plant	Y	Veiga	Y
44	Clapp	Y	Johnson	Y	Pommer	Y	Vigil	Y
45	Cloer	Y	Judd	Y	Ragsdale	Y	Weddig	Y
46	Coleman	Y	King	Y	Rhodes	Y	Weissmann	Y
47	Crane	Y	Larson	Y	Rippy	Y	White	Y
48	Decker	Y	Lee	Y	Romanoff	Y	Wiens	Y
49	Fairbank	Y	Lundberg	Y	Rose	Y	Williams S.	Y
50	Frangas	Y	Madden	Y	Salazar	Y	Williams T.	Y
51	Fritz	Y	Marshall	Y	Sanchez	Y	Witwer	Y
52	Garcia	Y	May	Y	Schultheis	Y	Young	Y
53							Speaker	Y

54 Co-sponsors added: Representatives Coleman, Frangas, Groff, Hodge, Jahn,
55 Madden, Marshall, Miller, Paccione, Plant, Romanoff, Rose, Sanchez, Stafford,
56 Williams S.

1 **HB03-1048** by Representative(s) Vigil, Coleman, White, Williams T.;
 2 also Senator(s) Taylor, Anderson, Tupa--Concerning
 3 authorization to move moneys from the Colorado student
 4 obligation bond authority fund to funds established for the
 5 future payment of higher education expenses.
 6

7 The question being "Shall the bill pass?".
 8 A roll call vote was taken. As shown by the following recorded vote, a
 9 majority of those elected to the House voted in the affirmative and the bill
 10 was declared **passed**.
 11

	YES	64	NO	00	EXCUSED	01	ABSENT	00
13	Berry	Y	Groff	Y	McCluskey	Y	Sinclair	E
14	Borodkin	Y	Hall	Y	McFadyen	Y	Smith	Y
15	Boyd	Y	Harvey	Y	Merrifield	Y	Spence	Y
16	Briggs	Y	Hefley	Y	Miller	Y	Stafford	Y
17	Brophy	Y	Hodge	Y	Mitchell	Y	Stengel	Y
18	Butcher	Y	Hoppe	Y	Paccione	Y	Tochtrop	Y
19	Cadman	Y	Jahn	Y	Plant	Y	Veiga	Y
20	Clapp	Y	Johnson	Y	Pommer	Y	Vigil	Y
21	Cloer	Y	Judd	Y	Ragsdale	Y	Weddig	Y
22	Coleman	Y	King	Y	Rhodes	Y	Weissmann	Y
23	Crane	Y	Larson	Y	Rippy	Y	White	Y
24	Decker	Y	Lee	Y	Romanoff	Y	Wiens	Y
25	Fairbank	Y	Lundberg	Y	Rose	Y	Williams S.	Y
26	Frangas	Y	Madden	Y	Salazar	Y	Williams T.	Y
27	Fritz	Y	Marshall	Y	Sanchez	Y	Witwer	Y
28	Garcia	Y	May	Y	Schultheis	Y	Young	Y
29							Speaker	Y

30 Co-sponsors added: Representatives Boyd, Frangas, Groff, Hodge, Jahn,
 31 Merrifield, Paccione, Plant, Pommer, Ragsdale, Williams S.
 32

33 **HB03-1028** by Representative(s) Rose; also Senator(s) Teck--
 34 Concerning the continuation of the statewide pilot
 35 program for teen pregnancy and dropout prevention.
 36

37 The question being "Shall the bill pass?".
 38 A roll call vote was taken. As shown by the following recorded vote, a
 39 majority of those elected to the House voted in the affirmative and the bill
 40 was declared **passed**.
 41

	YES	64	NO	00	EXCUSED	01	ABSENT	00
43	Berry	Y	Groff	Y	McCluskey	Y	Sinclair	E
44	Borodkin	Y	Hall	Y	McFadyen	Y	Smith	Y
45	Boyd	Y	Harvey	Y	Merrifield	Y	Spence	Y
46	Briggs	Y	Hefley	Y	Miller	Y	Stafford	Y
47	Brophy	Y	Hodge	Y	Mitchell	Y	Stengel	Y
48	Butcher	Y	Hoppe	Y	Paccione	Y	Tochtrop	Y
49	Cadman	Y	Jahn	Y	Plant	Y	Veiga	Y
50	Clapp	Y	Johnson	Y	Pommer	Y	Vigil	Y
51	Cloer	Y	Judd	Y	Ragsdale	Y	Weddig	Y
52	Coleman	Y	King	Y	Rhodes	Y	Weissmann	Y
53	Crane	Y	Larson	Y	Rippy	Y	White	Y
54	Decker	Y	Lee	Y	Romanoff	Y	Wiens	Y
55	Fairbank	Y	Lundberg	Y	Rose	Y	Williams S.	Y
56	Frangas	Y	Madden	Y	Salazar	Y	Williams T.	Y

1	Fritz	Y	Marshall	Y	Sanchez	Y	Witwer	Y
2	Garcia	Y	May	Y	Schultheis	Y	Young	Y
3							Speaker	Y

4 Co-sponsors added: Representatives Berry, Borodkin, Boyd, Brophy, Cloer,
 5 Coleman, Frangas, Fritz, Groff, Hall, Hefley, Hodge, Hoppe, Jahn, Johnson,
 6 Larson, Lee, Merrifield, Miller, Paccione, Pommer, Ragsdale, Romanoff,
 7 Schultheis, Stafford, Veiga, Weissmann.

8
 9 **HB03-1091** by Representative(s) Hefley, Groff, Mitchell; also
 10 Senator(s) Evans, Gordon--Concerning the enactment of
 11 Colorado Revised Statutes 2002 as the positive and
 12 statutory law of the state of Colorado.

13
 14 The question being "Shall the bill pass?".
 15 A roll call vote was taken. As shown by the following recorded vote, a
 16 majority of those elected to the House voted in the affirmative and the bill
 17 was declared **passed**.

19	YES	64	NO	00	EXCUSED	01	ABSENT	00
20	Berry	Y	Groff	Y	McCluskey	Y	Sinclair	E
21	Borodkin	Y	Hall	Y	McFadyen	Y	Smith	Y
22	Boyd	Y	Harvey	Y	Merrifield	Y	Spence	Y
23	Briggs	Y	Hefley	Y	Miller	Y	Stafford	Y
24	Brophy	Y	Hodge	Y	Mitchell	Y	Stengel	Y
25	Butcher	Y	Hoppe	Y	Paccione	Y	Tochtrop	Y
26	Cadman	Y	Jahn	Y	Plant	Y	Veiga	Y
27	Clapp	Y	Johnson	Y	Pommer	Y	Vigil	Y
28	Cloer	Y	Judd	Y	Ragsdale	Y	Weddig	Y
29	Coleman	Y	King	Y	Rhodes	Y	Weissmann	Y
30	Crane	Y	Larson	Y	Rippy	Y	White	Y
31	Decker	Y	Lee	Y	Romanoff	Y	Wiens	Y
32	Fairbank	Y	Lundberg	Y	Rose	Y	Williams S.	Y
33	Frangas	Y	Madden	Y	Salazar	Y	Williams T.	Y
34	Fritz	Y	Marshall	Y	Sanchez	Y	Witwer	Y
35	Garcia	Y	May	Y	Schultheis	Y	Young	Y
36							Speaker	Y

37 Co-sponsors added: Representatives Coleman, Smith.

38
 39 **HB03-1071** by Representative(s) Larson, Smith; also Senator(s) Teck,
 40 Entz, May--Concerning a requirement that enforcement
 41 officials who perform commercial vehicle safety
 42 inspections be certified by the commercial vehicle safety
 43 alliance to perform level I inspections.

44
 45 The question being "Shall the bill pass?".
 46 A roll call vote was taken. As shown by the following recorded vote, a
 47 majority of those elected to the House voted in the affirmative and the bill
 48 was declared **passed**.

50	YES	64	NO	00	EXCUSED	01	ABSENT	00
51	Berry	Y	Groff	Y	McCluskey	Y	Sinclair	E
52	Borodkin	Y	Hall	Y	McFadyen	Y	Smith	Y
53	Boyd	Y	Harvey	Y	Merrifield	Y	Spence	Y
54	Briggs	Y	Hefley	Y	Miller	Y	Stafford	Y
55	Brophy	Y	Hodge	Y	Mitchell	Y	Stengel	Y
56	Butcher	Y	Hoppe	Y	Paccione	Y	Tochtrop	Y

1	Cadman	Y	Jahn	Y	Plant	Y	Veiga	Y
2	Clapp	Y	Johnson	Y	Pommer	Y	Vigil	Y
3	Cloer	Y	Judd	Y	Ragsdale	Y	Weddig	Y
4	Coleman	Y	King	Y	Rhodes	Y	Weissmann	Y
5	Crane	Y	Larson	Y	Rippy	Y	White	Y
6	Decker	Y	Lee	Y	Romanoff	Y	Wiens	Y
7	Fairbank	Y	Lundberg	Y	Rose	Y	Williams S.	Y
8	Frangas	Y	Madden	Y	Salazar	Y	Williams T.	Y
9	Fritz	Y	Marshall	Y	Sanchez	Y	Witwer	Y
10	Garcia	Y	May	Y	Schultheis	Y	Young	Y
11							Speaker	Y

12 Co-sponsors added: Representatives Borodkin, Borphy, Decker, Merrifield,
13 Rose, Stafford, Speaker.

14
15 **HB03-1025** by Representative(s) Frangas; also Senator(s) Keller--
16 Concerning the option of addressing any special education
17 history in a juvenile adjudication proceeding.

18
19 The question being "Shall the bill pass?".

20 A roll call vote was taken. As shown by the following recorded vote, a
21 majority of those elected to the House voted in the affirmative and the bill
22 was declared **passed**.

23	YES	64	NO	00	EXCUSED	01	ABSENT	00
24								
25	Berry	Y	Groff	Y	McCluskey	Y	Sinclair	E
26	Borodkin	Y	Hall	Y	McFadyen	Y	Smith	Y
27	Boyd	Y	Harvey	Y	Merrifield	Y	Spence	Y
28	Briggs	Y	Hefley	Y	Miller	Y	Stafford	Y
29	Brophy	Y	Hodge	Y	Mitchell	Y	Stengel	Y
30	Butcher	Y	Hoppe	Y	Paccione	Y	Tochtrop	Y
31	Cadman	Y	Jahn	Y	Plant	Y	Veiga	Y
32	Clapp	Y	Johnson	Y	Pommer	Y	Vigil	Y
33	Cloer	Y	Judd	Y	Ragsdale	Y	Weddig	Y
34	Coleman	Y	King	Y	Rhodes	Y	Weissmann	Y
35	Crane	Y	Larson	Y	Rippy	Y	White	Y
36	Decker	Y	Lee	Y	Romanoff	Y	Wiens	Y
37	Fairbank	Y	Lundberg	Y	Rose	Y	Williams S.	Y
38	Frangas	Y	Madden	Y	Salazar	Y	Williams T.	Y
39	Fritz	Y	Marshall	Y	Sanchez	Y	Witwer	Y
40	Garcia	Y	May	Y	Schultheis	Y	Young	Y
41							Speaker	Y

42 Co-sponsors added: Representatives Boyd, Coleman, Groff, Hodge, Jahn, Lee,
43 Madden, Merrifield, Mitchell, Paccione, Pommer, Ragsdale, Romanoff, Vigil,
44 Weddig, Wiens, Williams S.

45
46 **HB03-1109** by Representative(s) Marshall; also Senator(s) Dyer--
47 Concerning the creation of a definition for a juvenile
48 "status offender" for purposes of compliance with federal
49 law.

50
51 The question being "Shall the bill pass?".

52 A roll call vote was taken. As shown by the following recorded vote, a
53 majority of those elected to the House voted in the affirmative and the bill
54 was declared **passed**.

55

	YES	64	NO	00	EXCUSED	01	ABSENT	00
1	Berry	Y	Groff	Y	McCluskey	Y	Sinclair	E
2	Borodkin	Y	Hall	Y	McFadyen	Y	Smith	Y
3	Boyd	Y	Harvey	Y	Merrifield	Y	Spence	Y
4	Briggs	Y	Hefley	Y	Miller	Y	Stafford	Y
5	Brophy	Y	Hodge	Y	Mitchell	Y	Stengel	Y
6	Butcher	Y	Hoppe	Y	Paccione	Y	Tochtrop	Y
7	Cadman	Y	Jahn	Y	Plant	Y	Veiga	Y
8	Clapp	Y	Johnson	Y	Pommer	Y	Vigil	Y
9	Cloer	Y	Judd	Y	Ragsdale	Y	Weddig	Y
10	Coleman	Y	King	Y	Rhodes	Y	Weissmann	Y
11	Crane	Y	Larson	Y	Rippy	Y	White	Y
12	Decker	Y	Lee	Y	Romanoff	Y	Wiens	Y
13	Fairbank	Y	Lundberg	Y	Rose	Y	Williams S.	Y
14	Frangas	Y	Madden	Y	Salazar	Y	Williams T.	Y
15	Fritz	Y	Marshall	Y	Sanchez	Y	Witwer	Y
16	Garcia	Y	May	Y	Schultheis	Y	Young	Y
17							Speaker	Y

18
19 Co-sponsors added: Representatives Borodkin, Frangas, Jahn, Paccione,
20 Williams S.

21
22

23 **HB03-1006** by Representative(s) Fairbank; also Senator(s) Anderson--
24 Concerning provisional ballots.

25

26 The question being "Shall the bill pass?".

27 A roll call vote was taken. As shown by the following recorded vote, a
28 majority of those elected to the House voted in the affirmative and the bill
29 was declared **passed**.

30

	YES	43	NO	21	EXCUSED	01	ABSENT	00
31	Berry	Y	Groff	Y	McCluskey	Y	Sinclair	E
32	Borodkin	N	Hall	Y	McFadyen	N	Smith	Y
33	Boyd	N	Harvey	Y	Merrifield	Y	Spence	Y
34	Briggs	Y	Hefley	N	Miller	Y	Stafford	Y
35	Brophy	Y	Hodge	Y	Mitchell	Y	Stengel	Y
36	Butcher	N	Hoppe	Y	Paccione	N	Tochtrop	N
37	Cadman	Y	Jahn	N	Plant	N	Veiga	N
38	Clapp	Y	Johnson	Y	Pommer	N	Vigil	N
39	Cloer	Y	Judd	Y	Ragsdale	Y	Weddig	N
40	Coleman	N	King	Y	Rhodes	Y	Weissmann	N
41	Crane	Y	Larson	Y	Rippy	Y	White	Y
42	Decker	Y	Lee	Y	Romanoff	Y	Wiens	Y
43	Fairbank	Y	Lundberg	Y	Rose	Y	Williams S.	Y
44	Frangas	N	Madden	N	Salazar	N	Williams T.	Y
45	Fritz	Y	Marshall	N	Sanchez	N	Witwer	Y
46	Garcia	N	May	Y	Schultheis	Y	Young	Y
47							Speaker	Y

48
49 Co-sponsors added: Representatives Briggs, Brophy, Cadman, Crane, Fritz,
50 Hall, Harvey, Hoppe, King, Lee, May, Miller, Rhodes, Rose, Schultheis,
51 Spence, Stafford, Stengel, White, Wiens, Williams T., Young, Speaker.

52

53

54 **HB03-1070** by Representative(s) Ragsdale, Williams S.; also
55 Senator(s) Takis--Concerning the clarification of existing
56 statutory provisions to specify that the regional

1 transportation district may annex certain areas upon the
 2 affirmative vote of a majority of the registered electors
 3 voting upon such question.
 4

5 The question being "Shall the bill pass?".
 6 A roll call vote was taken. As shown by the following recorded vote, a
 7 majority of those elected to the House voted in the affirmative and the bill
 8 was declared **passed**.
 9

	YES	53	NO	11	EXCUSED	01	ABSENT	00
11	Berry	Y	Groff	Y	McCluskey	Y	Sinclair	E
12	Borodkin	Y	Hall	Y	McFadyen	Y	Smith	Y
13	Boyd	Y	Harvey	Y	Merrifield	Y	Spence	Y
14	Briggs	Y	Hefley	N	Miller	Y	Stafford	Y
15	Brophy	N	Hodge	Y	Mitchell	N	Stengel	Y
16	Butcher	Y	Hoppe	Y	Paccione	Y	Tochtrop	Y
17	Cadman	N	Jahn	Y	Plant	Y	Veiga	Y
18	Clapp	Y	Johnson	N	Pommer	Y	Vigil	Y
19	Cloer	N	Judd	Y	Ragsdale	Y	Weddig	Y
20	Coleman	Y	King	Y	Rhodes	N	Weissmann	Y
21	Crane	Y	Larson	Y	Rippy	Y	White	Y
22	Decker	Y	Lee	N	Romanoff	Y	Wiens	Y
23	Fairbank	Y	Lundberg	N	Rose	Y	Williams S.	Y
24	Frangas	Y	Madden	Y	Salazar	Y	Williams T.	Y
25	Fritz	N	Marshall	Y	Sanchez	Y	Witwer	Y
26	Garcia	Y	May	Y	Schultheis	N	Young	Y
27							Speaker	Y

28 Co-sponsors added: Representatives Borodkin, Briggs, Coleman, Harvey,
 29 Marshall, May, Pommer, Vigil, Weddig.
 30
 31
 32

33 **REPORTS OF COMMITTEES OF REFERENCE**

34 **JUDICIARY**

35 After consideration on the merits, the Committee recommends the
 36 following:
 37

38
 39 **HB03-1020** be amended as follows, and as so amended, be referred to
 40 the Committee on Information & Technology with
 41 favorable recommendation:
 42

43 Amend printed bill, page 2, line 9, after "SECTION.", add "THE
 44 REQUESTING AGENCY SHALL PRESENT AN OFFICIAL WRITTEN REQUEST FOR
 45 THE INFORMATION ON AGENCY LETTERHEAD TO THE INTERNET PROVIDER."
 46
 47
 48

49 **HB03-1030** be amended as follows, and as so amended, be referred to
 50 the Committee on Appropriations with favorable
 51 recommendation:
 52

53 Amend printed bill, page 5, line 17, strike "IN";
 54

55 strike lines 18 through 20;
 56

1 line 25, strike "IN ADDITION, THE";

2

3 strike lines 26 and 27.

4

5 Page 6, strike line 1.

6

7

8

9 **HB03-1034** be referred to the Committee of the Whole with favorable
10 recommendation.

11

12

13 **HB03-1148** be amended as follows, and as so amended, be referred to
14 the Committee of the Whole with favorable
15 recommendation:

16

17 Amend printed bill, page 2, line 14, strike "AN AFFIRMATIVE DEFENSE"
18 and substitute "A DEFENSE.";

19

20 strike lines 15 and 16;

21

22 line 17, strike "AN AFFIRMATIVE DEFENSE" and substitute "A DEFENSE";

23

24 line 19, strike "HOWEVER SLIGHT,".

25

26

27

28

29 **STATE, VETERANS, & MILITARY AFFAIRS**

30 After consideration on the merits, the Committee recommends the
31 following:

32

33 **HB03-1041** be postponed indefinitely.

34

35

36 **HB03-1052** be postponed indefinitely.

37

38

39 **HB03-1129** be referred to the Committee of the Whole with favorable
40 recommendation.

41

42

43

44

45

LAY OVER OF CALENDAR ITEMS

46 On motion of Representative King, the following items on the Calendar
47 were laid over until January 23, retaining place on Calendar:

48

49 Consideration of General Orders--**HB03-1098, 1047, 1027, 1161.**

50 Consideration of Resolutions--**SJR03-006, 007, 008.**

51

52

53

54

House in recess. House reconvened.

55

56

REPORTS OF COMMITTEES OF REFERENCE**BUSINESS AFFAIRS & LABOR**

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

HB03-1007 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

Amend printed bill, page 3, after line 24, insert the following:

"SECTION 3. 13-64-102, Colorado Revised Statutes, is amended to read:

13-64-102. Legislative declaration. (1) The general assembly determines and declares that it is in the best interests of the citizens of this state to assure the continued availability of adequate health care services to the people of this state by containing the significantly increasing costs of malpractice insurance for medical care institutions and licensed medical care professionals, and that such is rationally related to a legitimate state interest. To attain this goal and in recognition of the exodus of professionals from health care practice or from certain portions or specialties thereof, the general assembly finds it necessary to enact this article limited to the area of medical malpractice to preserve the public peace, health, and welfare.

(2) THE GENERAL ASSEMBLY FURTHER DETERMINES AND DECLARES:

(a) THE PURPOSE OF ENACTING THE "HEALTH CARE AVAILABILITY ACT" AND AMENDMENTS THERETO IS TO CLEARLY AND UNEQUIVOCALLY STATE THE INTENT OF THE GENERAL ASSEMBLY THAT, IN ORDER TO PROMOTE THE PURPOSES SET FORTH IN SUBSECTION (1) OF THIS SECTION, THE LIMITATIONS OF LIABILITY SET FORTH IN SECTION 13-64-302 ARE HEREBY REAFFIRMED; AND

(b) ALL NONECONOMIC DAMAGES OF ANY KIND WHATSOEVER, WHETHER DIRECT OR DERIVATIVE, INCLUDING BUT NOT LIMITED TO GRIEF, LOSS OF COMPANIONSHIP, PAIN AND SUFFERING, INCONVENIENCE, EMOTIONAL STRESS, IMPAIRMENT OF QUALITY OF LIFE, PHYSICAL IMPAIRMENT, DISFIGUREMENT, AND DAMAGES FOR ANY OTHER NONPECUNIARY HARM AWARDED IN A MEDICAL MALPRACTICE ACTION, SHALL NOT EXCEED THE LIMITATIONS ON NONECONOMIC LOSS OR INJURY SPECIFIED IN SECTION 13-64-302."

Renumber succeeding sections accordingly.

HB03-1012 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:

1 **"SECTION 1. Legislative declaration.** The general assembly
2 hereby finds, determines, and declares that the purpose of enacting
3 HB03-1012 is to state clearly and unequivocally the legislative intent of
4 the general assembly to restore and reinstate the corporate practice of
5 medicine doctrine in this state so that no individual or entity, other than
6 a patient's physician, may be held liable or vicariously liable in any action
7 for the physician's professional negligence or other tortious conduct. The
8 general assembly further declares that the Colorado Supreme Court's
9 decision in Pediatric Neurosurgery, P.C. v. Russell, 44 P.3d 1063 (Colo.
10 2002), no longer reflects current statute, as amended by HB03-1012.

11
12 **SECTION 2.** The introductory portion to 12-36-134 (1),
13 12-36-134 (1) (b) and (1) (f), the introductory portion to 12-36-134 (1)
14 (g), and 12-36-134 (3) and (7), Colorado Revised Statutes, are amended
15 to read:

16
17 **12-36-134. Professional service corporations, limited liability**
18 **companies, and registered limited liability partnerships for the**
19 **practice of medicine - definitions.** (1) Persons licensed to practice
20 medicine by the board may form professional service corporations for ~~the~~
21 SUCH PERSONS' practice of medicine under the "Colorado Corporation
22 Code", if such corporations are organized and operated in accordance
23 with the provisions of this section. The articles of incorporation of such
24 corporations shall contain provisions complying with the following
25 requirements:

26
27 (b) The corporation shall be organized solely for the ~~purposes of~~
28 ~~conducting the practice of medicine only through persons licensed by the~~
29 ~~board to practice medicine in the state of Colorado~~ PURPOSE OF
30 PERMITTING INDIVIDUALS TO CONDUCT THE PRACTICE OF MEDICINE
31 THROUGH A CORPORATE ENTITY, SO LONG AS ALL THE INDIVIDUALS ARE
32 ACTIVELY LICENSED BY THE BOARD TO PRACTICE MEDICINE IN THE STATE
33 OF COLORADO.

34
35 (f) The president shall be a shareholder and a director and, to the
36 extent possible, all other directors and officers shall be persons having the
37 qualifications described in paragraph (d) of this subsection (1). Lay
38 directors and officers shall not exercise any authority whatsoever over
39 ~~professional matters~~ THE INDEPENDENT MEDICAL JUDGMENT OF PERSONS
40 LICENSED BY THE BOARD TO PRACTICE MEDICINE IN THIS STATE.
41 Notwithstanding sections 7-108-103 to 7-108-106, C.R.S., relating to the
42 terms of office and classification of directors, a professional service
43 corporation for the practice of medicine may provide in the articles of
44 incorporation or the bylaws that the directors may have terms of office of
45 up to six years and that the directors may be divided into either two or
46 three classes, each class to be as nearly equal in number as possible, with
47 the terms of each class staggered to provide for the periodic, but not LESS
48 THAN annual, election of less than all the directors. NOTHING IN THIS
49 ARTICLE SHALL BE CONSTRUED TO CAUSE A PROFESSIONAL SERVICE
50 CORPORATION TO BE VICARIOUSLY LIABLE TO A PATIENT OR THIRD PERSON
51 FOR THE PROFESSIONAL NEGLIGENCE OR OTHER TORTIOUS CONDUCT OF A
52 PHYSICIAN WHO IS A SHAREHOLDER OR EMPLOYEE OF A PROFESSIONAL
53 SERVICE CORPORATION.

54
55 (g) The articles of incorporation shall provide and all shareholders
56 of the corporation shall agree that all shareholders of the corporation shall

1 be jointly and severally liable for all acts, errors, and omissions of the
2 employees of the corporation or that all shareholders of the corporation
3 shall be jointly and severally liable for all acts, errors, and omissions of
4 the employees of the corporation except during periods of time when
5 each person licensed by the board to practice medicine in Colorado who
6 is a shareholder or any employee of the corporation has a professional
7 liability policy insuring himself OR HERSELF and all employees who are
8 not licensed to practice medicine who act at his OR HER direction in the
9 amount of fifty thousand dollars for each claim and an aggregate top limit
10 of liability per year for all claims of one hundred fifty thousand dollars
11 or the corporation maintains in good standing professional liability
12 insurance which shall meet the following minimum standards:

13
14 (3) The corporation shall do nothing which, if done by a person
15 licensed to practice medicine in the state of Colorado employed by it,
16 would violate the standards of professional conduct as provided for in
17 section 12-36-117. Any violation by the corporation of this section shall
18 be grounds for the board to terminate or suspend ~~its right to practice~~
19 ~~medicine~~ THE PERSON OR PERSONS RESPONSIBLE FOR THE VIOLATION FROM
20 THE PRACTICE OF MEDICINE.

21
22 (7) (a) ~~Except as provided in this section,~~ Corporations shall not
23 practice medicine. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
24 ALLOW ANY PROFESSIONAL SERVICE CORPORATION WHICH EMPLOYS A
25 PHYSICIAN TO LIMIT OR OTHERWISE EXERCISE CONTROL OVER THE
26 PHYSICIAN'S INDEPENDENT PROFESSIONAL JUDGMENT CONCERNING THE
27 PRACTICE OF MEDICINE OR DIAGNOSIS OR TREATMENT. ANY
28 PROFESSIONAL SERVICE CORPORATION THAT KNOWINGLY OR RECKLESSLY
29 SO LIMITS OR CONTROLS A PHYSICIAN IN SUCH MANNER OR ATTEMPTS TO
30 DO SO MAY BE HELD LIABLE TO THE PATIENT OR THE PHYSICIAN, OR BOTH,
31 FOR SUCH VIOLATIONS, INCLUDING PROXIMATELY CAUSED DAMAGES.
32 NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT ANY
33 PROFESSIONAL SERVICE CORPORATION'S DECISIONS WITH RESPECT TO THE
34 AVAILABILITY OF SERVICES, TECHNOLOGY, EQUIPMENT, FACILITIES, OR
35 TREATMENT PROGRAMS, OR AS REQUIRING ANY SUCH PROFESSIONAL
36 SERVICE CORPORATION TO MAKE AVAILABLE TO PATIENTS OR PHYSICIANS
37 ADDITIONAL SERVICES, TECHNOLOGY, EQUIPMENT, FACILITIES, OR
38 TREATMENT PROGRAMS.

39
40 (b) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS
41 SECTION NOT ABROGATE THE CORPORATE PRACTICE OF MEDICINE
42 DOCTRINE IN THIS STATE. NOTWITHSTANDING ANY OTHER PROVISION OF
43 LAW TO THE CONTRARY, THIS SECTION SHALL BE CONSTRUED TO PRECLUDE
44 A PROFESSIONAL SERVICES CORPORATION FROM CONTROLLING THE
45 INDEPENDENT MEDICAL JUDGMENT OF A PHYSICIAN AND FROM BEING
46 LIABLE FOR THE TORTS OF PHYSICIAN EMPLOYEES, EXCEPT AS OTHERWISE
47 PROVIDED IN PARAGRAPH (a) OF THIS SUBSECTION (7).

48
49 (c) Employment of a physician in accordance with section
50 25-3-103.7, C.R.S., shall not be considered the corporate practice of
51 medicine.

52
53 **SECTION 3.** 12-36-117 (1) (m), Colorado Revised Statutes, is
54 amended to read:

55
56 **12-36-117. Unprofessional conduct.** (1) "Unprofessional

1 conduct" as used in this article means:

2
3 (m) (I) Except as otherwise provided in section 25-3-103.7 and
4 section 25-3-314, C.R.S., practicing medicine as the partner, agent, or
5 employee of, or in joint adventure with, any person who does not hold a
6 license to practice medicine within this state, or practicing medicine as an
7 employee of, or in joint adventure with, any partnership or association
8 any of whose partners or associates do not hold a license to practice
9 medicine within this state, or practicing medicine as an employee of or
10 in joint adventure with any corporation other than a professional service
11 corporation for the practice of medicine as ~~defined~~ DESCRIBED in section
12 12-36-134. Any licensee holding a license to practice medicine in this
13 state may accept employment from any person, partnership, association,
14 or corporation to examine and treat the employees of such person,
15 partnership, association, or corporation.

16
17 (II) (A) NOTHING IN THIS PARAGRAPH (m) SHALL BE CONSTRUED
18 TO PERMIT A PROFESSIONAL SERVICES CORPORATION FOR THE PRACTICE OF
19 MEDICINE, AS DESCRIBED IN SECTION 12-36-134, TO PRACTICE MEDICINE.

20
21 (B) NOTHING IN THIS PARAGRAPH (m) SHALL BE CONSTRUED TO
22 OTHERWISE CREATE AN EXCEPTION TO THE CORPORATE PRACTICE OF
23 MEDICINE DOCTRINE.

24
25 **SECTION 4.** 13-64-202 (4), Colorado Revised Statutes, is
26 amended to read:

27
28 **13-64-202. Definitions.** As used in this part 2, unless the context
29 otherwise requires:

30
31 (4) (a) "Health care professional" means any person licensed in
32 this state or any other state to practice medicine, chiropractic, nursing,
33 physical therapy, podiatry, dentistry, pharmacy, optometry, or other
34 healing arts. The term includes any professional corporation or other
35 professional entity comprised of such health care providers as permitted
36 by the laws of this state.

37
38 (b) Repealed.

39
40 (c) NOTHING IN THIS SUBSECTION (4) SHALL BE CONSTRUED TO
41 CREATE AN EXCEPTION TO THE CORPORATE PRACTICE OF MEDICINE
42 DOCTRINE.

43
44 **SECTION 5.** 13-64-403 (12) (a), Colorado Revised Statutes, is
45 amended to read:

46
47 **13-64-403. Agreement for medical services - alternative**
48 **arbitration procedures - form of agreement - right to rescind.**
49 (12) For the purposes of this section:

50
51 (a) (I) "Health care provider" means any person licensed or
52 certified by the state of Colorado to deliver health care and any clinic,
53 health dispensary, or health facility licensed by the state of Colorado.
54 The term includes any professional corporation or other professional
55 entity comprised of such health care providers as permitted by the laws
56 of this state.

1 (II) (A) NOTHING IN THIS PARAGRAPH (a) SHALL BE CONSTRUED TO
2 PERMIT A PROFESSIONAL SERVICE CORPORATION, AS DESCRIBED IN
3 SECTION 12-36-134, C.R.S., TO PRACTICE MEDICINE.
4

5 (B) NOTHING IN THIS PARAGRAPH (a) SHALL BE CONSTRUED TO
6 OTHERWISE CREATE AN EXCEPTION TO THE CORPORATE PRACTICE OF
7 MEDICINE DOCTRINE.
8

9 **SECTION 6. Effective date - applicability.** This act shall take
10 effect July 1, 2003, and shall apply to acts or omissions occurring on or
11 after said date.
12

13 **SECTION 7. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety."
16

17
18
19 **HB03-1045** be referred to the Committee of the Whole with favorable
20 recommendation.
21

22
23 **HB03-1064** be postponed indefinitely.
24

25
26
27
28 **HEALTH, ENVIRONMENT, WELFARE, & INSTITUTIONS**

29 After consideration on the merits, the Committee recommends the
30 following:
31

32 **HB03-1013** be amended as follows, and as so amended, be referred to
33 the Committee of the Whole with favorable
34 recommendation:
35

36 Amend printed bill, page 3, strike lines 4 through 13 and substitute the
37 following:
38

39 "(B) A CARRIER MAY ADJUST RATES UNIFORMLY FOR ALL
40 INDIVIDUALS UNDER A SMALL EMPLOYER POLICY BASED ON TOBACCO USE
41 OR A SMALL EMPLOYER CARRIER MAY APPLY AN INCREASE OR DECREASE
42 OF FIFTEEN PERCENT RATING ADJUSTMENT TO PARTICULAR INDIVIDUALS
43 RELATED TO TOBACCO USE. ANY INDIVIDUAL WHO DOES NOT QUALIFY FOR
44 A LOWER RATE SHALL BE OFFERED THE OPTION OF PARTICIPATING IN A
45 BONA FIDE WELLNESS PROGRAM AS DEFINED UNDER THE FEDERAL
46 "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996",
47 AS AMENDED. ANY INDIVIDUAL WHO PARTICIPATES IN A BONA FIDE
48 WELLNESS PROGRAM SHALL BE ALLOWED THE LOWER RATE. ANY
49 TOBACCO RATING ADJUSTMENT AND BONA FIDE WELLNESS PROGRAM
50 SHALL BE DISCLOSED TO EACH POTENTIAL INSURED.";

51
52 line 14, strike "SUCH ADJUSTMENTS" and substitute "ADJUSTMENTS MADE
53 PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a)";
54

55 line 18, after "ADJUSTMENTS", insert "PURSUANT TO SUB-SUBPARAGRAPH
56 (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a)";

1 line 24, after "STATUS," insert "STANDARD INDUSTRIAL CLASSIFICATION,
2 TOBACCO USE,";

3
4 line 25, strike "POLICY." and substitute "POLICY PURSUANT TO
5 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).".

6
7 Page 4, after line 13, insert the following:

8
9 **"SECTION 3. Repeal.** 10-16-108.5 (2), Colorado Revised
10 Statutes, is repealed as follows:

11
12 **10-16-108.5. Fair marketing standards.** (2) ~~(a) Except as~~
13 ~~provided in paragraph (b) of this subsection (2), no carrier or producer~~
14 ~~shall, directly or indirectly, engage in the following activities:~~

15
16 ~~(I) Encouraging or directing individuals or small employers to~~
17 ~~refrain from filing an application for coverage with the individual or~~
18 ~~small employer carrier because of the health status, claims experience,~~
19 ~~industry, occupation, or geographic location of the individual or small~~
20 ~~employer;~~

21
22 ~~(H) Encouraging or directing individuals or small employers to~~
23 ~~seek coverage from another carrier because of the health status, claims~~
24 ~~experience, industry, occupation, or geographic location of the individual~~
25 ~~or small employer.~~

26
27 ~~(b) The provisions of paragraph (a) of this subsection (2) shall not~~
28 ~~apply with respect to information provided by a carrier or producer to an~~
29 ~~individual or a small employer regarding the established geographic~~
30 ~~service area or a restricted network provision of a carrier."~~

31
32 Renumber succeeding sections accordingly.

33
34 Page 5, line 5, strike "2004," and substitute "2003,";

35
36 line 8, strike "2005." and substitute "2004.";

37
38 line 11, strike "SMALL EMPLOYER PLANS IN CONJUNCTION" and substitute
39 "A SMALL EMPLOYER OPTION THAT QUALIFIES FOR USE";

40
41 line 13, strike "OTHER" and substitute "SIMILAR".

42
43
44
45 **HB03-1037** be amended as follows, and as so amended, be referred to
46 the Committee of the Whole with favorable
47 recommendation:

48
49 Amend printed bill, page 2, strike lines 2 through 17 and substitute the
50 following:

51 **"SECTION 1.** 19-3-304 (2) (m), Colorado Revised Statutes, is
52 amended to read:

53
54 **19-3-304. Persons required to report child abuse or neglect.**
55 (2) Persons required to report such abuse or neglect or circumstances or
56 conditions shall include any:

1 WHEREAS, Based on the 2000 Federal Decennial Census,
2 Colorado was the 3rd fastest growing state in the country from 1990 to
3 2000; and
4

5 WHEREAS, The state's population is projected to grow by more
6 than 800,000 people over the next decade; and
7

8 WHEREAS, A large percentage of the state's current and projected
9 growth has been and will be in the Front Range area from Pueblo to Fort
10 Collins; and
11

12 WHEREAS, The increased population growth and related
13 economic activity of the Front Range area has prompted new and
14 ever-increasing uses of public highways, roads, and other transportation
15 infrastructure, and the existing transportation infrastructure cannot
16 accommodate such greatly increased uses; and
17

18 WHEREAS, The stress on the transportation infrastructure of the
19 Front Range area will only increase as the state continues to grow
20 rapidly; and
21

22 WHEREAS, Finding ways to address the long-term transportation
23 needs of the Front Range area is critical to the continued growth of the
24 state's economy and the maintenance of its citizens' quality of life; and
25

26 WHEREAS, One potential part of the solution to the transportation
27 needs of the Front Range area is a passenger rail service from Pueblo to
28 Fort Collins; and
29

30 WHEREAS, It is necessary to undertake a feasibility study to
31 determine the advantages and disadvantages of a passenger rail service
32 along the Front Range area prior to public policy decisions regarding
33 investment in such a service; and
34

35 WHEREAS, The Colorado Department of Transportation has
36 previously adopted a rail corridor preservation policy and has the
37 technical experience necessary to cause a feasibility study of a passenger
38 rail service along the Front Range area to be undertaken; now, therefore,
39

40 *Be It Resolved by the House of Representatives of the Sixty-fourth*
41 *General Assembly of the State of Colorado, the Senate concurring*
42 *herein:*
43

44 (1) That we, the members of the General Assembly, encourage the
45 Colorado Department of Transportation to study, review, and analyze the
46 feasibility of a passenger rail service along the Front Range area from
47 Pueblo to Fort Collins, including, without limitation, the following:
48

49 (a) An overview of the benefits and drawbacks of the service,
50 including whether the service would be a safe, efficient, or convenient
51 way to travel along the Front Range area;
52

53 (b) The potential ridership of the service;
54

55 (c) The economic impact of the service;
56

1 (d) An examination of the possible alignments for the service and
2 the availability of existing rights-of-way for the addition of trackage for
3 the service on the alignments;

4
5 (e) A financial analysis of the costs of establishing the service;

6
7 (f) A general overview of the management and ownership options
8 that might be available for establishing the service, including the type of
9 public sponsorship for the service and the potential for a public-private
10 partnership;

11
12 (g) The potential impact of the service on the state's highways,
13 including the effect on traffic congestion, delays, hazards, injuries, and
14 fatalities; and

15
16
17 (h) The availability of federal funds for the construction and
18 maintenance of the service.

19
20 (2) That the feasibility study of a passenger rail service along the
21 Front Range area from Pueblo to Fort Collins be initiated no later than
22 January 1, 2004.

23
24 *Be It Further Resolved*, That a copy of this Joint Resolution be
25 distributed to the Governor and the executive director of the Colorado
26 Department of Transportation.

27
28
29
30 The following resolution was read by title and laid over one day under the
31 rules:

32
33 **HJR03-1011** by Representative(s) Harvey; also Senator(s) Lamborn--
34 Concerning identifying, claiming, and putting to beneficial
35 use Colorado's share of Colorado River compact water .

36
37 WHEREAS, Adequate water supplies are essential to the health,
38 economy, and quality of life of Colorado citizens; and

39
40 WHEREAS, Colorado is a headwaters state and is a primary
41 source of water in the Colorado River; and

42
43 WHEREAS, Protecting Colorado's water rights is a fundamental
44 obligation of the state; and

45
46 WHEREAS, Colorado is an arid state and must claim its legal
47 share of Colorado River Compact water; and

48
49 WHEREAS, Colorado does not use its full entitlement to Colorado
50 River water and, according to reliable estimates, is entitled to upwards of
51 one million acre-feet of water; and

52
53 WHEREAS, Colorado is experiencing a historic drought that has
54 damaged the economy, harmed Colorado's quality of life, and
55 significantly increased the cost of water; and

56

1 WHEREAS, Colorado is among the fastest-growing states in the
2 nation, with more than one million new people since 1990; and
3

4 WHEREAS, The United States Department of the Interior has
5 required the state of California to end its over-appropriation of Colorado
6 River water and forego use of approximately 800,000 acre-feet of water;
7 and
8

9 WHEREAS, The Colorado Department of Natural Resources and
10 the Colorado Attorney General have primary policy and legal
11 responsibility to protect Colorado water rights; now, therefore,
12

13 *Be It Resolved by the House of Representatives of the Sixty-fourth*
14 *General Assembly of the State of Colorado, the Senate concurring*
15 *herein:*
16

17 That the State of Colorado, and specifically the Colorado
18 Department of Natural Resources and the Colorado Attorney General of
19 the State of Colorado, take all steps necessary to identify, claim, and put
20 to beneficial use Colorado's full legal entitlement to water from the
21 Colorado River.
22

23 *Be It Further Resolved,* That copies of this Joint Resolution be
24 provided to the Colorado Department of Natural Resources, the Colorado
25 Attorney General, the Secretary of the United States Department of the
26 Interior, and each member of the Colorado Congressional delegation.
27

28
29
30 On motion of Representative King, the House adjourned until 9:00 a.m.,
31 January 23, 2003.
32

33 Approved:
34
35

36
37 LOLA SPRADLEY,
38 Speaker
39

40 Attest:

41 JUDITH RODRIGUE,
42 Chief Clerk