

SENATE JOURNAL
Sixty-fourth General Assembly
STATE OF COLORADO
First Regular Session

Thirty-seventh Legislative Day

Thursday, February 13, 2003

Prayer	By the chaplain, Reverend David Peters, Genesis Presbyterian Church.	10
Pledge	By Senator Tupa.	11
Call to Order	By the President at 9:00 a.m.	12
Roll Call	Present-- 33. Absent/Excused--2; Nichol, Tate. Present later--Nichol, Tate.	13
Quorum	The President announced a quorum present.	14
Reading of Journal	On motion of Senator Sandoval, reading of the Journal of February 12, 2003, was dispensed with and the Journal was approved as corrected by the Secretary.	15

COMMITTEE OF REFERENCE REPORTS

Health, Environment, Welfare & Institutions	After consideration on the merits, the Committee recommends that SB03-018 be referred to the Committee on <u>Appropriations</u> with favorable recommendation.	16
Education	The Committee on <u>Education</u> has had under consideration and has had a hearing on the following appointments and recommends that the appointments be favorably referred to the Committee on <u>Agriculture, Livestock, and Natural Resources</u> :	17

**MEMBER OF THE
BOARD OF GOVERNORS OF THE
COLORADO STATE UNIVERSITY SYSTEM**

for a term expiring January 17, 2004:

Pat D. Broe of Denver, Colorado, to fill the vacancy occasioned by the resignation of Ronald Pettigrew, appointed.

for a term expiring January 20, 2005:

Connie L. Calaway of Carbondale, Colorado, to fill the vacancy occasioned by the resignation of Paula E. Sandoval, appointed.

for a term expiring January 15, 2007:

Donald A. Hamstra of Brighton, Colorado, reappointed;
Jeff Shoemaker of Denver, Colorado, reappointed.

INTRODUCTION OF BILLS--FIRST READING

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

SB03-235 by Senator(s) Lamborn; also Representative(s) Mitchell--Concerning the right to display national symbols.
State Veterans & Military Affairs

HB03-1117 by Representative(s) Veiga; also Senator(s) Anderson--Concerning protection orders.
Judiciary

On motion of Senator Anderson, and with a majority of those elected to the Senate having voted in the affirmative, the Senate proceeded out of order for Consideration of Resolutions.

CONSIDERATION OF RESOLUTION

SJR03-016 by Senator(s) Andrews; also Representative(s) Spradley--Concerning honoring President Bush's leadership in his effort to protect the United States against Saddam Hussein.

On motion of Senator Andrews, the resolution was read at length and **adopted** by the following roll call vote:

YES	33	NO	2	EXCUSED	0	ABSENT	0
Anderson	Y	Grossman	Y	Lamborn	Y	Takis	Y
Arnold	Y	Hagedorn	Y	Linkhart	N	Tapia	Y
Cairns	Y	Hanna	Y	May	Y	Tate	N
Chlouber	Y	Hillman	Y	McElhany	Y	Taylor	Y
Dyer	Y	Isgar	Y	Nichol	Y	Teck	Y
Entz	Y	Johnson	Y	Owen	Y	Tupa	Y
Evans	Y	Jones	Y	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Keller	Y	Reeves	Y	Mr. President	Y
Gordon	Y	Kester	Y	Sandoval	Y		

Co-sponsors added: Anderson, Arnold, Cairns, Chlouber, Dyer, Entz, Evans, Grossman, Hagedorn, Hillman, Isgar, Johnson, Jones, Kester, Lamborn, May, McElhany, Nichol, Owen, Sandoval, Taylor, Teck.

CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS

SB03-179 by Senator(s) Owen, Reeves, Teck; also Representative(s) Witwer, Plant, Young-- Concerning transfers of moneys related to capital construction, and making an appropriation in connection therewith.

Senator Owen moved that the Senate concur in House amendments to **SB03-179**, as printed in House Journal, February 6, pages 324-325. The motion was **passed** by the following roll call vote:

YES	35	NO	0	EXCUSED	0	ABSENT	0
Anderson	Y	Grossman	Y	Lamborn	Y	Takis	Y
Arnold	Y	Hagedorn	Y	Linkhart	Y	Tapia	Y
Cairns	Y	Hanna	Y	May	Y	Tate	Y
Chlouber	Y	Hillman	Y	McElhany	Y	Taylor	Y
Dyer	Y	Isgar	Y	Nichol	Y	Teck	Y
Entz	Y	Johnson	Y	Owen	Y	Tupa	Y
Evans	Y	Jones	Y	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Keller	Y	Reeves	Y	Mr. President	Y
Gordon	Y	Kester	Y	Sandoval	Y		

The question being "Shall the bill, as amended, pass?", the roll call was taken with the following result:

YES	35	NO	0	EXCUSED	0	ABSENT	0
Anderson	Y	Grossman	Y	Lamborn	Y	Takis	Y
Arnold	Y	Hagedorn	Y	Linkhart	Y	Tapia	Y
Cairns	Y	Hanna	Y	May	Y	Tate	Y
Chlouber	Y	Hillman	Y	McElhany	Y	Taylor	Y
Dyer	Y	Isgar	Y	Nichol	Y	Teck	Y
Entz	Y	Johnson	Y	Owen	Y	Tupa	Y
Evans	Y	Jones	Y	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Keller	Y	Reeves	Y	Mr. President	Y
Gordon	Y	Kester	Y	Sandoval	Y		

SB03-179

A majority of all members elected to the Senate having voted in the affirmative, the bill, as amended, was declared **repassed**.

SB03-182

by Senator(s) Teck, Owen, Reeves; also Representative(s) Witwer, Plant, Young--
Concerning the consolidation of programs implemented by the department of local affairs that pertain to the regulation of construction, and, in connection therewith, consolidating programs for the regulation of factory-built structures, multi-family structures where no standards exist, manufactured home installations, and sellers of manufactured homes.

Senator Teck moved that the Senate concur in House amendments to **SB03-182**, as printed in House Journal, February 6, pages 325-326. The motion was **passed** by the following roll call vote:

YES	35	NO	0	EXCUSED	0	ABSENT	0
Anderson	Y	Grossman	Y	Lamborn	Y	Takis	Y
Arnold	Y	Hagedorn	Y	Linkhart	Y	Tapia	Y
Cairns	Y	Hanna	Y	May	Y	Tate	Y
Chlouber	Y	Hillman	Y	McElhany	Y	Taylor	Y
Dyer	Y	Isgar	Y	Nichol	Y	Teck	Y
Entz	Y	Johnson	Y	Owen	Y	Tupa	Y
Evans	Y	Jones	Y	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Keller	Y	Reeves	Y	Mr. President	Y
Gordon	Y	Kester	Y	Sandoval	Y		

The question being "Shall the bill, as amended, pass?", the roll call was taken with the following result:

YES	35	NO	0	EXCUSED	0	ABSENT	0
Anderson	Y	Grossman	Y	Lamborn	Y	Takis	Y
Arnold	Y	Hagedorn	Y	Linkhart	Y	Tapia	Y
Cairns	Y	Hanna	Y	May	Y	Tate	Y
Chlouber	Y	Hillman	Y	McElhany	Y	Taylor	Y
Dyer	Y	Isgar	Y	Nichol	Y	Teck	Y
Entz	Y	Johnson	Y	Owen	Y	Tupa	Y
Evans	Y	Jones	Y	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Keller	Y	Reeves	Y	Mr. President	Y
Gordon	Y	Kester	Y	Sandoval	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill, as amended, was declared **repassed**.

SB03-175

by Senator(s) Owen, Reeves, Teck; also Representative(s) Young, Plant, Witwer--
Concerning prescribing the use of the nursing home penalty cash fund, and making an appropriation in connection therewith.

Senator Owen moved that the Senate not concur in House amendments to **SB03-175**, as printed in House Journal, February 7, pages 591-592, and that a Conference Committee be appointed.

A majority of all members elected to the Senate having voted in the affirmative, the motion was **adopted**.

The President appointed Senators Owen, Chairman, Reeves, and Teck as Senate Conferees on the First Conference Committee on **SB03-175**.

SB03-183

by Senator(s) Reeves, Owen, Teck; also Representative(s) Plant, Witwer, Young--
Concerning the modification of certain preschool through twelfth grade public education programs, and making appropriations in connection therewith.

Senators Reeves moved that the Senate not concur in House amendments to **SB03-183**, as printed in House Journal, February 7, pages 592-594, and that a Conference Committee be appointed.

A majority of all members elected to the Senate having voted in the affirmative, the motion was **adopted**.

The President appointed Senators Owen, Chairman, Reeves, and Teck as Senate Conferees on the First Conference Committee on **SB03-183**.

SB03-185 by Senator(s) Teck, Owen, Reeves; also Representative(s) Plant, Witwer, Young--
Concerning the establishment of a tax amnesty program whereby taxpayers may pay
overdue tax liabilities without penalty for a limited time, and making an appropriation in
connection therewith.

Senator Teck moved that the Senate not concur in House amendments to **SB03-185**, as
printed in House Journal, February 7, pages 595-598, and that a Conference Committee be
appointed.

A majority of all members elected to the Senate having voted in the affirmative, the motion
was **adopted**.

The President appointed Senators Owen, Chairman, Reeves, and Teck as Senate Conferes
on the First Conference Committee on **SB03-185**.

SB03-189 by Senator(s) Teck, Owen, Reeves; also Representative(s) Young, Plant, Witwer--
Concerning the annual allowable cash funds for state-supported institutions of higher
education, and, in connection therewith, adding funds received from student financial aid,
tuition assistance, and scholarships to the maximum amount of cash funds that may be
raised, spent, or transferred to reserves by such institutions, and making an appropriation in
connection therewith.

Senator Teck moved that the Senate concur in House amendments to **SB03-189**, as printed
in House Journal, February 7, page 594. The motion was **passed** by the following roll call
vote:

YES	35	NO	0	EXCUSED	0	ABSENT	0
Anderson	Y	Grossman	Y	Lamborn	Y	Takis	Y
Arnold	Y	Hagedorn	Y	Linkhart	Y	Tapia	Y
Cairns	Y	Hanna	Y	May	Y	Tate	Y
Chlouber	Y	Hillman	Y	McElhany	Y	Taylor	Y
Dyer	Y	Isgar	Y	Nichol	Y	Teck	Y
Entz	Y	Johnson	Y	Owen	Y	Tupa	Y
Evans	Y	Jones	Y	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Keller	Y	Reeves	Y	Mr. President	Y
Gordon	Y	Kester	Y	Sandoval	Y		

The question being "Shall the bill, as amended, pass?", the roll call was taken with the
following result:

YES	35	NO	0	EXCUSED	0	ABSENT	0
Anderson	Y	Grossman	Y	Lamborn	Y	Takis	Y
Arnold	Y	Hagedorn	Y	Linkhart	Y	Tapia	Y
Cairns	Y	Hanna	Y	May	Y	Tate	Y
Chlouber	Y	Hillman	Y	McElhany	Y	Taylor	Y
Dyer	Y	Isgar	Y	Nichol	Y	Teck	Y
Entz	Y	Johnson	Y	Owen	Y	Tupa	Y
Evans	Y	Jones	Y	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Keller	Y	Reeves	Y	Mr. President	Y
Gordon	Y	Kester	Y	Sandoval	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill, as
amended, was declared **repassed**.

SB03-191 by Senator(s) Owen, Reeves, Teck; also Representative(s) Young, Plant, Witwer--
Concerning the augmentation of the general fund through transfers of certain moneys in the
2002-03 fiscal year.

Senator Owen moved that the Senate concur in House amendments to **SB03-191**, as
printed in House Journal, February 10, page 617. The motion was **passed** by the
following roll call vote:

SB03-191

YES	35	NO	0	EXCUSED	0	ABSENT	0
Anderson	Y	Grossman	Y	Lamborn	Y	Takis	Y
Arnold	Y	Hagedorn	Y	Linkhart	Y	Tapia	Y
Cairns	Y	Hanna	Y	May	Y	Tate	Y
Chlouber	Y	Hillman	Y	McElhany	Y	Taylor	Y
Dyer	Y	Isgar	Y	Nichol	Y	Teck	Y
Entz	Y	Johnson	Y	Owen	Y	Tupa	Y
Evans	Y	Jones	Y	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Keller	Y	Reeves	Y	Mr. President	Y
Gordon	Y	Kester	Y	Sandoval	Y		

The question being "Shall the bill, as amended, pass?", the roll call was taken with the following result:

YES	34	NO	1	EXCUSED	0	ABSENT	0
Anderson	Y	Grossman	Y	Lamborn	Y	Takis	Y
Arnold	Y	Hagedorn	Y	Linkhart	Y	Tapia	Y
Cairns	Y	Hanna	Y	May	Y	Tate	Y
Chlouber	Y	Hillman	Y	McElhany	Y	Taylor	Y
Dyer	Y	Isgar	Y	Nichol	Y	Teck	Y
Entz	Y	Johnson	N	Owen	Y	Tupa	Y
Evans	Y	Jones	Y	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Keller	Y	Reeves	Y	Mr. President	Y
Gordon	Y	Kester	Y	Sandoval	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill, as amended, was declared **repassed**.

SB03-192

by Senator(s) Teck, Owen, Reeves; also Representative(s) Plant, Witwer, Young--
Concerning restoration fees for persons who have lost the privilege to operate a motor vehicle, and making an appropriation therefor.

Senator Teck moved that the Senate concur in House amendments to **SB03-192**, as printed in House Journal, February 10, page 618. The motion was **passed** by the following roll call vote:

YES	35	NO	0	EXCUSED	0	ABSENT	0
Anderson	Y	Grossman	Y	Lamborn	Y	Takis	Y
Arnold	Y	Hagedorn	Y	Linkhart	Y	Tapia	Y
Cairns	Y	Hanna	Y	May	Y	Tate	Y
Chlouber	Y	Hillman	Y	McElhany	Y	Taylor	Y
Dyer	Y	Isgar	Y	Nichol	Y	Teck	Y
Entz	Y	Johnson	Y	Owen	Y	Tupa	Y
Evans	Y	Jones	Y	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Keller	Y	Reeves	Y	Mr. President	Y
Gordon	Y	Kester	Y	Sandoval	Y		

The question being "Shall the bill, as amended, pass?", the roll call was taken with the following result:

YES	35	NO	0	EXCUSED	0	ABSENT	0
Anderson	Y	Grossman	Y	Lamborn	Y	Takis	Y
Arnold	Y	Hagedorn	Y	Linkhart	Y	Tapia	Y
Cairns	Y	Hanna	Y	May	Y	Tate	Y
Chlouber	Y	Hillman	Y	McElhany	Y	Taylor	Y
Dyer	Y	Isgar	Y	Nichol	Y	Teck	Y
Entz	Y	Johnson	Y	Owen	Y	Tupa	Y
Evans	Y	Jones	Y	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Keller	Y	Reeves	Y	Mr. President	Y
Gordon	Y	Kester	Y	Sandoval	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill, as amended, was declared **repassed**.

COMMITTEE OF REFERENCE REPORTS

Business Affairs and Labor

The Committee on Business Affairs and Labor has had under consideration and has had a hearing on the following appointment and recommends that the appointment be confirmed:

MEMBER OF THE STATE PERSONNEL BOARD

effective June 30, 2002 for a term expiring June 30, 2007:

Diedra A. Garcia of Lakewood, Colorado, appointed.

Business Affairs and Labor

After consideration on the merits, the Committee recommends that **SB03-106** 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 21, strike "INJURY," and substitute "INJURY";

strike line 22;

line 23, strike "NONECONOMIC." and substitute "FOR ALL ECONOMIC DAMAGES, TEMPORARY DISABILITY, PERMANENT DISABILITY, PHYSICAL IMPAIRMENT, MEDICAL BENEFITS, AND DISFIGUREMENT.".

Page 4, line 19, after the period, insert "SUCH WRITTEN APPROVAL SHALL NOT BE UNREASONABLY WITHHELD.";

line 20, after "SUCH", insert "WRITTEN".

Page 5, line 23, after "GIVE", insert "WRITTEN".

Page 6, strike lines 19 and 20 and substitute the following:

"(d) IF THE EMPLOYEE OR DEPENDENTS FAIL TO PROVIDE WRITTEN NOTICE REQUIRED PURSUANT TO PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (4):";

line 23, strike "PARTY," and substitute "PARTY FOR ALL ECONOMIC DAMAGES, TEMPORARY DISABILITY, PERMANENT DISABILITY, PHYSICAL IMPAIRMENT, MEDICAL BENEFITS, AND DISFIGUREMENT,".

Business Affairs and Labor

After consideration on the merits, the Committee recommends that **SB03-226** be referred to the Committee of the Whole with favorable recommendation.

Business Affairs and Labor

After consideration on the merits, the Committee recommends that **SB03-157** be postponed indefinitely.

Business Affairs and Labor

After consideration on the merits, the Committee recommends that **SB03-142** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 3, line 23, strike "(a)";

line 27, strike "THAT:" and substitute "THAT".

Page 4, line 1, strike "(I) CONTAINS" and substitute "CONTAINS";

line 4, strike "SERVICES;" and substitute "SERVICES.";

strike lines 5 through 12.

Page 5, line 2, strike "BOARD AND THE " and substitute "BOARD.";

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SB03-142

line 3, strike "COMMISSIONER.";

strike lines 15 through 17 and substitute the following:

"PART 7."

Page 6, line 9, after "C.R.S.", insert "THE BOARD SHALL TAKE TESTIMONY FROM PHARMACY BENEFIT MANAGERS, THE BUSINESS COMMUNITY, INCLUDING, BUT NOT LIMITED TO, SMALL BUSINESSES, INSURERS, AND ANY OTHER INTERESTED PARTY IN PROMULGATING THE RULES PURSUANT TO THIS SECTION."

Page 9, line 1, after the period, add "NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, A PHARMACY SHALL NOT FIX THE PHARMACY REIMBURSEMENT RATES TO A PHARMACY BENEFIT MANAGER.";

strike lines 16 through 20.

Renumber succeeding subsections accordingly.

Agriculture,
Natural
Resources
and Energy

After consideration on the merits, the Committee recommends that **SB03-114** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 2, line 6, strike "IN A MANNER THAT MAY LURE" and substitute "WITH THE INTENT OF LURING";

line 7, strike "WASTE KNOWING THAT SUCH ACT" and substitute "WASTE.";

strike lines 8 and 9;

line 15, after "SECTION", insert "SHALL BE GIVEN A WARNING. UPON A SECOND OR SUBSEQUENT VIOLATION OF THIS SECTION, SUCH PERSON".

Agriculture,
Natural
Resources
and Energy

After consideration on the merits, the Committee recommends that **SB03-087** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The continuing growth and development and the viability of established economies place increasing demands on Colorado's water resources;

(b) Although the "Water Conservation Act of 1991" fostered a state policy of enhancing urban water use efficiency, the act now requires an amendment to meet the heightened need of bringing human water demands into balance with the available water supply.

(2) It is therefore the purpose and intent of this act and the policy of this state to require municipal water providers and state and local governments to maximize the efficient use of existing urban water supplies through implementation, at the local level, of greater conservation measures and creative supply-side options.

SECTION 2. 37-60-126, Colorado Revised Statutes, is amended to read:

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SB03-087

37-60-126. Water use efficiency - urban water use efficiency programs - relationship to state assistance for water facilities. (1) As used in this section, unless the context otherwise requires:

(a) "Covered entity" OR "WATER PROVIDER" means ~~each~~ A municipality, agency, utility, including any privately owned utility, or other publicly owned entity ~~with~~ THAT HAS a legal obligation to supply, distribute, or otherwise provide water at retail to domestic, commercial, industrial, or public facility customers and ~~which~~ THAT has a total demand for such customers of ~~two thousand~~ SIX THOUSAND acre-feet or more in calendar years ~~1989~~ 2001 or thereafter.

(b) "Public facility" means any facility operated by an instrument of government for the benefit of the public, including, but not limited to, a government building, park or other recreational facility, school, college, university, or other educational institution, highway, hospital, or stadium.

(c) "SINGLE-FAMILY RESIDENTIAL PER CAPITA WATER USE" MEANS THE TOTAL WATER SOLD TO SINGLE-FAMILY RESIDENTIAL ACCOUNTS DIVIDED BY THE NUMBER OF SINGLE-FAMILY ACCOUNTS DIVIDED BY THE AVERAGE SINGLE-FAMILY HOUSEHOLD OCCUPANCY IN THE SERVICE AREA.

(d) "SYSTEMWIDE PER CAPITA WATER USE" MEANS THE TOTAL TREATED WATER DIVIDED BY THE SERVICE AREA POPULATION.

(e) "UNACCOUNTED-FOR WATER" MEANS THE DIFFERENCE BETWEEN THE TOTAL TREATED WATER AND THE TOTAL RETAIL WATER SOLD.

(f) "WATER USE EFFICIENCY" MEANS STRETCHING EXISTING WATER SUPPLIES TO MEET A LARGER PORTION OF FUTURE URBAN WATER NEEDS, TAKING INTO ACCOUNT ECONOMIC, SOCIAL, AND ENVIRONMENTAL COSTS.

(2) Within ~~five~~ TWO years after June 4, ~~1991~~ 2003, each covered entity ~~which~~ THAT does not have a water use efficiency plan satisfying the provisions of subsections (4) ~~and (5)~~ TO (9) of this section, shall, subject to section 37-60-127, develop, adopt, make publicly available, and implement a plan pursuant to which such covered entity shall encourage its domestic, commercial, industrial, and public facility customers to use water more efficiently. Any covered entity that makes an initial determination that it has satisfied subsections (4) ~~and (5)~~ TO (9) of this section shall, within ~~five~~ TWO years ~~of~~ AFTER June 4, ~~1991~~ 2003, give public notice of such determination at an official meeting of the appropriate governing body of the covered entity.

(3) The manner in which the covered entity develops, adopts, makes publicly available, and implements a plan established pursuant to subsection (2) of this section shall be determined by the covered entity. The plan shall be accompanied by a program for its implementation.

(4) IN DEVELOPING A PLAN PURSUANT TO SUBSECTION (2) OF THIS SECTION, EACH COVERED ENTITY SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING:

(a) A DETERMINATION OF THE WATER PROVIDER'S HISTORIC DEMAND CALCULATED BY THE ANNUAL AVERAGE DURING THE PERIOD FROM 1994 THROUGH 2001, FOR BOTH SINGLE-FAMILY RESIDENTIAL PER CAPITA WATER USE AND SYSTEMWIDE PER CAPITA WATER USE;

(b) A DETERMINATION OF THE WATER PROVIDER'S ANTICIPATED URBAN WATER DEMAND OVER THE PLANNING PERIOD, INCLUDING CONSIDERATION OF ANY EXISTING LOCAL LAND USE PLANS AND THE ASSUMPTIONS UPON WHICH SUCH PLANS ARE BASED;

(c) A PLAN TO IDENTIFY AND REPAIR DISTRIBUTION SYSTEM LEAKS AND INDIVIDUAL SERVICE LEAKS WITH A GOAL OF BRINGING THE LEVEL OF UNACCOUNTED-FOR WATER LOSS TO TEN PERCENT OR LESS OF THE TOTAL TREATED WATER ON OR BEFORE JULY 1, 2008;

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SB03-087

(d) A PLAN TO DECREASE AVERAGE ANNUAL SINGLE-FAMILY RESIDENTIAL PER CAPITA WATER USE BY TWENTY PERCENT OF THE HISTORIC AMOUNT DETERMINED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4) OR, IN THE ALTERNATIVE, DECREASE SINGLE-FAMILY RESIDENTIAL WATER USE TO A MAXIMUM AVERAGE OF ONE HUNDRED FORTY GALLONS PER CAPITA PER DAY ON OR BEFORE JULY 1, 2008; AND

(e) A PLAN TO DECREASE AVERAGE ANNUAL SYSTEMWIDE PER CAPITA WATER USE BY TWENTY PERCENT OF THE HISTORIC AMOUNT AS DETERMINED BY PARAGRAPH (a) OF THIS SUBSECTION (4) OR, IN THE ALTERNATIVE, DECREASE SYSTEM-WIDE WATER USE TO A MAXIMUM AVERAGE OF ONE HUNDRED NINETY GALLONS PER CAPITA PER DAY ON OR BEFORE JULY 1, 2008.

(5) A WATER PROVIDER MAY PROPOSE LESSER OR GREATER EFFICIENCY STANDARDS THAN OTHERWISE REQUIRED BY PARAGRAPHS (d) AND (e) OF SUBSECTION (4) OF THIS SECTION FOR GOOD CAUSE BASED ON A SHOWING OF HARDSHIP OR UNIQUE CIRCUMSTANCES. A SHOWING OF GOOD CAUSE SHALL BE MADE THROUGH A RECORD OF DECISION BY THE WATER PROVIDER AFTER A HEARING AND PUBLIC COMMENT.

~~(4)~~ (6) In developing a plan pursuant to subsection (2) of this section, each covered entity shall consider at least the following water-saving measures:

(a) Water-efficient fixtures and appliances, including toilets, urinals, showerheads, and faucets;

(b) Low water use landscapes and efficient irrigation;

(c) Water-efficient industrial and commercial water-using processes;

(d) Water reuse systems, both potable and nonpotable;

(e) Distribution system leak repair;

(f) Dissemination of information regarding water use efficiency measures, including by public education, customer water use audits, and water-saving demonstrations;

(g) Water rate structures designed to encourage water use efficiency in a fiscally responsible manner;

(h) Regulatory measures, including standards for the use of water use efficiency fixtures and landscapes, and ordinances, codes, or other law designed to encourage water use efficiency;

(i) Incentives to implement water use efficiency techniques, including rebates to customers or others to encourage the installation of water use efficiency measures;

(j) INSTALLATION OF WATER METERS TO MEASURE DELIVERY TO ANY UNMETERED CUSTOMERS;

(k) BEST MANAGEMENT PRACTICES FOR COMMERCIAL AND INDUSTRIAL WATER USE;

(l) INTERRUPTIBLE SUPPLY ARRANGEMENTS, INCLUDING DRY-YEAR LEASING;

(m) COORDINATED USE OF SURFACE WATER AND GROUND WATER;

(n) SYSTEM INTEGRATION WITH OTHER WATER PROVIDERS; AND

(o) SENDING WATER BILLS AT LEAST MONTHLY.

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SB03-087

(7) IN DEVELOPING A PLAN PURSUANT TO SUBSECTION (2) OF THIS SECTION, EACH COVERED ENTITY SHALL GIVE CONSIDERATION TO HOW THE COVERED ENTITY MAY USE SUCH SAVED WATER AS A WATER SUPPLY IN A DROUGHT.

(8) IN DEVELOPING A PLAN PURSUANT TO SUBSECTION (2) OF THIS SECTION, A COVERED ENTITY SHALL ALSO CONSIDER MEASURES THAT MAY APPLY DURING A GOVERNOR-DECLARED DROUGHT EMERGENCY, INCLUDING AT LEAST THE FOLLOWING PLANNING ELEMENTS:

(a) LIMITING THE NUMBER OF NEW TAPS ADDED TO THE WATER DISTRIBUTION SYSTEM;

(b) REQUIRING BEST AVAILABLE TECHNOLOGY FOR THE INSTALLATION OF NEW INDOOR WATER APPLIANCES; AND

(c) Limiting the extent of new outdoor plant and turf installation.

~~(5)~~ (9) The plan to be adopted under subsection (2) of this section shall contain a section stating the covered entity's best judgment of the role of water use efficiency plans in the covered entity's water supply planning.

~~(6)~~ (10) Except for the elements of a water use efficiency plan which THAT a covered entity has already implemented prior to June 4, 1991 2003, the plan required under subsection (2) of this section shall set forth results of the consideration of the water-efficient measures and techniques set forth in subsection ~~(4)~~ (6) of this section and adopted by the covered entity after June 4, 1991 2003.

~~(7)~~ (11) (a) Except for the elements of a water use efficiency plan which THAT a covered entity has already implemented prior to June 4, 1991 2003, before adopting any other major elements of a plan under subsections (2), and (4), AND (6) of this section, each covered entity shall publish a draft plan, give public notice of the plan, make such plan publicly available, and solicit comments from the public for a period of not less than sixty days after the date on which the draft plan is made publicly available. Reference shall be made in the public notice to the elements of a plan that has already been implemented.

(b) A LONG-TERM PLAN SHALL BE UPDATED AND RESUBMITTED TO THE BOARD AT LEAST EVERY FIVE YEARS. A WATER PROVIDER MAY MAKE CHANGES TO AN EXISTING PLAN AT ANY TIME BUT SHALL GIVE PUBLIC NOTICE AND OPPORTUNITY FOR COMMENT ON ANY MAJOR CHANGES, CONSISTENT WITH THE NOTICE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (10).

~~(8)~~ (12) A covered entity may at any time adopt changes to the plan. If the proposed changes are major, the covered entity shall give public notice of the changes, make the changes available in draft form, and provide the public an opportunity to comment on such changes before adopting them.

~~(9)~~ (13) (a) ~~After five years following June 4, 1991~~ ON AND AFTER JANUARY 1, 2006, neither the board nor the Colorado water resources and power development authority shall accept an application from a covered entity for financial assistance, EITHER IN THE FORM OF TAX REVENUES OR STATE-BACKED BONDS, in the construction of any water diversion, storage, conveyance, water treatment, or wastewater treatment facility unless such covered entity includes a copy of the water use efficiency plan adopted pursuant to this section and a copy of other such plans, if any, otherwise adopted by the covered entity THAT COMPLIES WITH THE PROVISIONS OF SUBSECTIONS (4) TO (6) OF THIS SECTION.

(b) ~~After five years from June 4, 1991~~ ON AND AFTER JANUARY 1, 2006, the board and the Colorado water resources and power development authority, to which any covered entity has applied for financial assistance for the construction of a water diversion, storage,

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SB03-087

conveyance, water treatment, or wastewater treatment facility, shall consider any water use efficiency plan filed pursuant to paragraph (a) of this subsection ~~(9)~~ (12) in determining whether to render financial assistance to such entity. Such consideration shall be carried out within the discretion accorded the board and the Colorado water resources and power development authority pursuant to which such board and authority render such financial assistance to such covered entity.

(c) The board and the Colorado water resources and power development authority may enter into a memorandum of understanding with each other for the purposes of avoiding delay in the processing of applications for financial assistance covered by this section and avoiding duplication in the consideration required by paragraph (b) of this subsection ~~(9)~~ (12).

~~(10) Repealed.~~

(14) EFFECTIVE JULY 1, 2003, ANY NEW COVENANT OR OTHER LAND USE REGULATION OR POLICY THAT PROHIBITS OR LIMITS THE INSTALLATION OR USE OF DROUGHT-TOLERANT LANDSCAPES IS PROHIBITED.

(15) ON OR BEFORE JULY 1, 2003, WATER PROVIDERS SHALL:

(a) INFORM CITIZENS OF METHODS TO MAXIMIZE OUTDOOR WATER USE EFFICIENCY;

(b) DISCOURAGE OUTDOOR LANDSCAPE WATERING DURING HOURS WHEN EVAPORATIVE LOSS IS AT A MAXIMUM;

(c) PLACE AN APPROPRIATE LIMIT ON THE PERCENTAGE OF TURF IN NEW LANDSCAPE DEVELOPMENT; AND

(d) REQUIRE SUBSURFACE IRRIGATION ON ALL NEW PUBLIC MEDIANS LESS THAN FOUR FEET WIDE.

SECTION 3. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund created in section 37-60-121, Colorado Revised Statutes, not otherwise appropriated, to the department of natural resources, for allocation to the Colorado water conservation board, for the fiscal year beginning July 1, 2003, the sum of _____ dollars (\$) and _____ FTE, and the sum of _____ dollars (\$) to fund technical assistance and grants to water providers to complete efficiency plans, or so much thereof as may be necessary, for the implementation of this act.

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."

Agriculture,
Natural
Resources
and Energy

The Committee on Agriculture, Natural Resources, and Energy has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:

MEMBERS OF THE
OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

for terms expiring July 1, 2006:

Michael W. Klish of Grand Junction, Colorado, to serve as an Unaffiliated member west of the continental divide who has substantial experience with land reclamation and is not employed by the oil and gas industry, reappointed;

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Peter M. Mueller of Littleton, Colorado, to serve as an Unaffiliated member with substantial experience in the oil and gas industry, reappointed;

J. Thomas Reagan of Littleton, Colorado, to serve as a Republican member with substantial experience in the oil and gas industry, appointed.

Judiciary After consideration on the merits, the Committee recommends that **SB03-012** be postponed indefinitely.

Judiciary After consideration on the merits, the Committee recommends that **SB03-003** 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 15, before "SUCH", insert "A BENEFIT IS NOT OTHERWISE COVERED UNDER THE PLAN IF THE HEALTH BENEFIT PLAN CONTRACTUALLY EXCLUDES COVERAGE FOR MENTAL HEALTH SERVICES RENDERED PURSUANT TO A COURT ORDER, FOR USE IN COURT PROCEEDINGS, AS A CONDITION OF PAROLE OR PROBATION, OR FOR ANY PURPOSE OTHER THAN MENTAL HEALTH TREATMENT.".

Judiciary After consideration on the merits, the Committee recommends that **SB03-231** be referred to the Committee of the Whole with favorable recommendation.

SENATE SERVICES REPORT

Senate Services Correctly printed: SB03-233, 234; SJR03-016.

Correctly engrossed: SJR03-015.

Correctly reengrossed: SB03-135.

COMMITTEE OF REFERENCE REPORTS

Trans- portation After consideration on the merits, the Committee recommends that **SB03-095** be postponed indefinitely.

Trans- portation After consideration on the merits, the Committee recommends that **SB03-138** be postponed indefinitely.

Trans- portation After consideration on the merits, the Committee recommends that **SB03-132** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 2, line 6, strike "FOR" and substitute "EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, FOR";

line 8, after "ALLOCATED", insert "BETWEEN AND CREDITED TO THE GENERAL FUND AND THE HIGHWAY USERS TAX FUND AS A PORTION OF THE SALES AND USE TAX ATTRIBUTABLE TO SALES OR USE OF VEHICLES AND RELATED ITEMS";

strike lines 9 through 19 and substitute the following:

"(a) FOR THE FISCAL YEAR COMMENCING JULY 1, 2003, ELEVEN PERCENT OF THE NET REVENUE OF ALL RECEIPTS COLLECTED UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE CREDITED TO THE HIGHWAY USERS TAX FUND AND FOUR PERCENT THEREOF TO THE GENERAL FUND.

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SB03-132

(b) FOR THE FISCAL YEAR COMMENCING JULY 1, 2004, TWELVE PERCENT OF THE NET REVENUE OF ALL RECEIPTS COLLECTED UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE CREDITED TO THE HIGHWAY USERS TAX FUND AND THREE PERCENT THEREOF TO THE GENERAL FUND.

(c) FOR THE FISCAL YEAR COMMENCING JULY 1, 2005, THIRTEEN PERCENT OF THE NET REVENUE OF ALL RECEIPTS COLLECTED UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE CREDITED TO THE HIGHWAY USERS TAX FUND AND TWO PERCENT THEREOF TO THE GENERAL FUND.

(d) FOR THE FISCAL YEAR COMMENCING JULY 1, 2006, FOURTEEN PERCENT OF THE NET REVENUE OF ALL RECEIPTS COLLECTED UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE CREDITED TO THE HIGHWAY USERS TAX FUND AND ONE PERCENT THEREOF TO THE GENERAL FUND.

(e) FOR EACH FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2007, FIFTEEN PERCENT OF ALL RECEIPTS COLLECTED UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE CREDITED TO THE HIGHWAY USERS TAX FUND.

(2) (a) FOR EACH FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2003, BEFORE ALLOCATING AND CREDITING FIFTEEN PERCENT OF THE NET REVENUE OF ALL RECEIPTS COLLECTED UNDER THE PROVISIONS OF THIS ARTICLE BETWEEN AND TO THE GENERAL FUND AND THE HIGHWAY USERS TAX FUND AS REQUIRED BY SUBSECTION (1) OF THIS SECTION, THE STATE TREASURER SHALL CREDIT:

(I) TWO MILLION DOLLARS OF THE NET REVENUE TO THE OLDER COLORADANS CASH FUND CREATED IN SECTION 26-11-205.5 (5), C.R.S., AS PROVIDING ADDITIONAL SERVICES TO COLORADANS SIXTY YEARS OF AGE AND OLDER; AND

(II) ONE MILLION DOLLARS OF THE NET REVENUE TO THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE FUND CREATED IN SECTION 26-2-117 (3), C.R.S.

(b) COMMENCING WITH STATE FISCAL YEAR 2000-2001, AND ENDING WITH STATE FISCAL YEAR 2006-07, THE AMOUNT OF THE NET REVENUE ALLOCATED TO THE HIGHWAY USERS TAX FUND SHALL BE INCREASED AND THE AMOUNT ALLOCATED TO THE GENERAL FUND SHALL BE DECREASED IN ACCORDANCE WITH SECTION 24-75-216, C.R.S., IN ORDER TO OFFSET LOWER MOTOR VEHICLE REGISTRATION FEES PURSUANT TO THE APPLICATION OF THE FEE REDUCTIONS ENACTED BY HOUSE BILL 00-1227, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SECOND GENERAL ASSEMBLY."

Renumber succeeding subsection accordingly.

Page 3, line 25, strike "(c)," and substitute "AND (2) (b),".

Page 4, line 11, strike "(c)," and substitute "AND (2) (b),".

Page 5, line 21, strike "(1) (b)," and substitute "(2) (a) (II),".

Page 6, strike line 14;

line 15, strike "39-26-123 (1) (a)," and substitute "provisions of section 39-26-123 (2) (a) (I), ~~(A.6) and (4)~~";

line 25, strike "(6.5)," and substitute "(6.5) (a),";

line 27, strike "(a) Except as provided in" and substitute "(a) Except as provided in".

Strike page 7.

Page 8, strike lines 1 through 9 and substitute the following:

SB03-132

"paragraphs (c) and (d) of this subsection (6.5), the revenues credited to the highway users tax fund pursuant to ~~section 39-26-123 (2)~~; SECTION 39-26-123 (1) AND (2) (b), C.R.S., or appropriated to the highway users tax fund pursuant to House Bill 02-1389, enacted during the second regular session of the sixty-third general assembly, shall be paid to the state highway fund for allocation to the department of transportation and shall be expended as provided in section 43-4-206 (2).";

line 15, strike "(c)," and substitute "AND (2) (b),";

strike line 27.

Page 9, strike lines 1 through 16 and substitute the following:

"SECTION 8. 24-75-216 (1) (b), Colorado Revised Statutes, is amended to read:

24-75-216. Transfers to highway users tax fund. (1) (b) For each month, commencing in March 2001, AND ENDING IN JUNE 2007, the state controller shall adjust the allocation of moneys between the highway users tax fund and the general fund required by section 39-26-123 (2) (a) (I) (A), C.R.S., OR, AFTER JULY 1, 2003, REQUIRED BY SECTION 39-26-123 (1), C.R.S., so that the allocations to the highway users tax fund are increased, and the allocations to the general fund correspondingly decreased, in an amount equal to the reduction in receipts from vehicle registration fees as reported by the executive director of the department of revenue pursuant to section 42-3-134 (31), C.R.S., during the immediately preceding month. As soon as possible after receiving the report of the amount of registration fees not collected due to said fee reductions, the state controller shall adjust the allocation for the previous month to reflect such amount. Such adjustment shall be based upon the written reports from the executive director of the department of revenue submitted pursuant to section 42-3-134 (31), C.R.S."

Senate in recess.

Senate reconvened.

COMMITTEE OF REFERENCE REPORTS

Finance After consideration on the merits, the Committee recommends that **SB03-168** be postponed indefinitely.

Finance After consideration on the merits, the Committee recommends that **SB03-105** be postponed indefinitely.

Finance After consideration on the merits, the Committee recommends that **SB03-091** 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 11, strike "(B)," and substitute "(B) and (2.5) (g),";

line 12, strike "is" and substitute "are";

after line 20, insert the following:

"(g) WITH RESPECT TO TAX YEARS COMMENCING ON OR AFTER JULY 1, 1998, BUT PRIOR TO JULY 1, 2000, for a motor vehicle that was not used solely and exclusively for business purposes during the tax year for which a credit is claimed, the amount of the credit allowed pursuant to

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SB03-091

this subsection (2.5) shall be prorated in proportion to the percentage of time during the tax year that the motor vehicle was used for business purposes.".

MESSAGE FROM THE HOUSE

February 13, 2003

Mr. President:

In response to the request of the Senate, the Speaker has appointed Representatives Young, chairman, Witwer, and Plant as House conferees on the First Conference Committee on SB03-175.

In response to the request of the Senate, the Speaker has appointed Representatives Young, chairman, Plant & Witwer as House conferees on the First Conference Committee on SB03-183.

In response to the request of the Senate, the Speaker has appointed Representatives Young, chairman, Witwer, and Plant as House conferees on the First Conference Committee on SB03-185.

MESSAGE FROM THE HOUSE

February 13, 2003

Mr. President:

The House has adopted and returns herewith SJR03-011.

The House has adopted and transmits herewith HJR03-1015, as printed in House Journal, February 7, pages 605-606, and amended as printed in House Journal, February 13.

INTRODUCTION OF RESOLUTIONS

The following resolutions were read by title:

SJR03-017 by Senator(s) Entz; also Representative(s) Stengel--Concerning requesting that the congressional delegation of the state of Colorado work to permanently repeal the death tax.

Laid over one day under Senate Rule 30(b).

HJR03-1015 by Representative(s) Wiens, May M., Cadman, Harvey, Lee, McCluskey, Rhodes, Rippey, White; also Senator(s) Evans, Hillman, Andrews, Dyer, Entz, Isgar, Johnson S.-- Concerning the elimination of legal impediments regarding the use of water conservation measures.

Laid over one day under Senate Rule 30(e).

SR03-011 by Senator(s) Anderson; --Concerning clarification of the definition of "undue influence" in the Senate ethics rule.

Laid over one day under Senate Rule 30(c).

INTRODUCTION OF BILL--FIRST READING

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

SB03-236 by Senator(s) Dyer, Andrews, Hagedorn, Hillman; also Representative(s) Hoppe, Briggs,

SB03-236

Brophy, Cadman, Clapp, Decker, Fritz, Hall, Harvey, Hefley, Johnson R., King,
 McCluskey, Sinclair, Stengel, Weddig--Concerning an authorization of the issuance of
 voter-approved revenue bonds for the purpose of financing water infrastructure projects by
 the state, and, in connection therewith, excluding revenues derived from bond proceeds
 and projects financed by bonds from state fiscal year spending.
 State Veterans & Military Affairs

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On motion of Senator Anderson, and with a majority of those elected to the Senate having
 voted in the affirmative, the balance of the calendar of February 13, 2003, was laid over
 until February 14, 2003, retaining its place on the calendar.

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Second Reading--General Orders: SB03-098, SB03-154, SB03-133, SB03-055, SB03-025,
 SB03-074, HB03-1018, SB03-053, SB03-117, SB03-153, SB03-158, SB03-126,
 SB03-118, SB03-079, SB03-112, SB03-130, SB03-099, SB03-096, SB03-050, SB03-045,
 SB03-052, SB03-042, SB03-013, SB03-108, SB03-116, HB03-1161.
 Consideration of Governor's Appointments:
 Members of the State Electrical Board.

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On motion of Senator Anderson, the Senate adjourned until 9:00 a.m., February 14, 2003.

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Approved:

John Andrews
 President of the Senate

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Attest:

Mona Heustis
 Secretary of the Senate

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