

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

Thirtieth Legislative Day Thursday, February 6, 2003

Prayer By the chaplain, Reverend Paul Kottke, University Park United Methodist Church.

Pledge By the President.

Call to Order By the President at 9:00 a.m.

Roll Call Present-- 32.
Absent/Excused--3; Owen, Phillips, Tate.
Present later--Owen, Phillips, Tate.

Quorum The President announced a quorum present.

Reading of Journal On motion of Senator Kester, reading of the Journal of February 5, 2003, was dispensed with and the Journal was approved as corrected by the Secretary.

COMMITTEE OF REFERENCE REPORTS

Health, Environment, Welfare & Institutions After consideration on the merits, the Committee recommends that **SB03-021** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 4, line 5, strike "~~shall~~ IS ENCOURAGED TO" and substitute "shall".

Health, Environment, Welfare & Institutions After consideration on the merits, the Committee recommends that **SB03-037** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 3, line 19, after "PERCENTAGE.", add "FOR ANY STATE FISCAL YEAR, THE SUM OF ALL COUNTIES' MAINTENANCE OF EFFORT SHALL BE EQUAL TO OR GREATER THAN THE TOTAL STATEWIDE COUNTY MAINTENANCE OF EFFORT ESTABLISHED FOR THE STATE FISCAL YEAR 1996-97 FOR EMPLOYMENT-RELATED CHILD CARE.".

Health, Environment, Welfare & Institutions After consideration on the merits, the Committee recommends that **SB03-003** be amended as follows, and as so amended, be referred to the Committee on Judiciary with favorable recommendation.

Amend printed bill, page 2, line 11, strike "CONTACT WITH" and substitute "THE COURT'S JURISDICTION WITHIN";

line 14, strike "NECESSARY AND" and substitute "NECESSARY,";

line 15, strike "PLAN." and substitute "PLAN, AND ARE RENDERED BY PARTICIPATING PROVIDERS.".

Agriculture, Natural Resources and Energy	After consideration on the merits, the Committee recommends that SB03-110 be amended as follows, and as so amended, be referred to the Committee on <u>Appropriations</u> with favorable recommendation.	1
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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 confirmed:	21
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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 confirmed:	41
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Education	After consideration on the merits, the Committee recommends that SB03-117 be referred to the Committee of the Whole with favorable recommendation.	61
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Education After consideration on the merits, the Committee recommends that **SB03-153** 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 18, strike the third "THE";

 strike line 19 and substitute the following:

 "FOR PRESCHOOL SERVICES FOR THE CHILD."

 Page 5, strike line 5 and substitute the following:

 "reasonable allocation of district".

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 RESOLUTIONS

SJR03-010 by Senator(s) Andrews; also Representative(s) Spradley--Concerning recognizing Ronald Reagan Day in Colorado.

On motion of Senator Chlouber, the resolution was read at length and **adopted** 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		

Co-sponsors added: Anderson, Arnold, Cairns, Chlouber, Dyer, Entz, Evans, Fitz-Gerald, Gordon, Grossman, Hagedorn, Hanna, Hillman, Isgar, Johnson, Jones, Keller, Kester, Lamborn, May, McElhany, Nichol, Owen, Phillips, Reeves, Sandoval, Takis, Tapia, Tate, Taylor, Teck, Tupa, Windels.

SJR03-012 by Senator(s) Entz; also Representative(s) Salazar--Concerning extending the naming of the "Korean War Veterans Memorial Highway".

On motion of Senator Entz, the resolution was read at length and **adopted** 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		

Co-sponsors added: Anderson, Andrews, Arnold, Cairns, Chlouber, Dyer, Evans, Fitz-Gerald, Gordon, Grossman, Hagedorn, Hanna, Hillman, Isgar, Johnson, Jones, Keller, Kester, Lamborn, Linkhart, May, McElhany, Nichol, Owen, Phillips, Reeves, Sandoval, Takis, Tapia, Tate, Taylor, Teck, Tupa, Windels.

SR03-010by Senator(s) Anderson, Andrews, Chlouber, Evans, Hillman; --Concerning amendments to senate rules.

On motion of Senator Anderson, the resolution was adopted 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		

COMMITTEE OF REFERENCE REPORTS

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

MEMBERS OF THE
BOARD OF REAL ESTATE APPRAISERS

for terms expiring July 1, 2005:

Joseph B. O’Dorisio of Arvada, Colorado, to serve as an officer or employee of a commercial bank experienced in real estate lending, appointed;

Mark S. Weston of Castle Rock, Colorado, to serve as a licensed or certified appraiser, reappointed;

John L. VanderMiller of Denver, Colorado, to serve as a licensed or certified appraiser, appointed;

Keren L. Prior of Pagosa Springs, Colorado, to serve as a county assessor in office, appointed.

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

MEMBER OF THE
WORKERS' COMPENSATION COST
CONTAINMENT BOARD

for a term expiring December 13, 2005:

Henry Hahne of Littleton, Colorado, to serve as an executive with risk management experience in the insurance industry, reappointed.

BusinessAfter consideration on the merits, the Committee recommends that SB03-223 be referred to the Committee of the Whole with favorable recommendation.
Affairs and
Labor

BusinessAfter consideration on the merits, the Committee recommends that SB03-224 be referred to the Committee of the Whole with favorable recommendation.
Affairs and
Labor

Business
Affairs and
Labor

After consideration on the merits, the Committee recommends that **SB03-225** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 2, line 12, strike "THAT PRESENTS A CONFLICT OF INTEREST".

Page 6, line 8, strike "AND";

line 9, strike "MAINTAINING".

Business
Affairs and
Labor

After consideration on the merits, the Committee recommends that **SB03-107** be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation.

Amend printed bill, page 2, strike lines 4 through 17 and substitute the following:

"12-60-602. Simulcast facilities and simulcast races - unlawful act - repeal. (5) (a) (I) An in-state simulcast facility THAT IS NOT LOCATED ON THE PREMISES OF A GREYHOUND TRACK THAT IS CURRENTLY CONDUCTING A RACE MEET OF AT LEAST NINETY LIVE RACE DAYS may receive ~~only special event~~ UP TO A TOTAL OF ONE HUNDRED TWENTY DAYS OF SIMULCAST greyhound races from an out-of-state host track ~~and, in addition,~~ WHILE THE LIVE RACE MEET IS ACTIVE. SUCH TOTAL INCLUDES, AND IS NOT IN ADDITION TO, THE DAYS ON WHICH LIVE RACING IS HELD.

(II) On any day on which an in-state simulcast facility receives greyhound simulcast races from an out-of-state host track and on which one or more in-state host tracks are running live greyhound races, such in-state simulcast facility shall receive and conduct pari-mutuel wagering on the broadcast signal of simulcast greyhound races ~~from at least one such~~ CONDUCTED AT THE in-state host ~~track~~ TRACKS, if such broadcast signal is made available to it on usual and customary terms and conditions, including price. ~~The commission shall approve no more than fifteen special events per year.~~

(III) AN IN-STATE SIMULCAST FACILITY THAT IS NOT LOCATED ON THE PREMISES OF A GREYHOUND TRACK CONDUCTING A RACE MEET OF AT LEAST NINETY LIVE RACE DAYS MAY ONLY RECEIVE A BROADCAST SIGNAL OF SIMULCAST GREYHOUND RACES AND CONDUCT PARI-MUTUEL WAGERING ON THE BROADCAST SIGNAL OF SUCH GREYHOUND RACES CONDUCTED AT AN OUT-OF-STATE HOST TRACK THROUGH AN IN-STATE SIMULCAST FACILITY THAT IS LOCATED ON THE PREMISES OF A GREYHOUND TRACK CONDUCTING A RACE MEET OF AT LEAST NINETY LIVE RACE DAYS. IF MORE THAN ONE GREYHOUND TRACK IS CONDUCTING A LIVE RACE MEET OF AT LEAST NINETY DAYS CONCURRENTLY, AN IN-STATE SIMULCAST FACILITY MAY ONLY RECEIVE THE BROADCAST SIGNAL FROM AN OUT-OF-STATE HOST TRACK AND CONDUCT PARI-MUTUEL WAGERING ON SUCH SIGNAL THROUGH AN IN-STATE SIMULCAST FACILITY LOCATED ON THE PREMISES OF A GREYHOUND TRACK IN THE SAME CIRCUIT AS THE IN-STATE SIMULCAST FACILITY.

(IV) FIVE PERCENT OF THE GROSS RECEIPTS FROM PARI-MUTUEL WAGERS PLACED AT AN IN-STATE SIMULCAST FACILITY ON SIMULCAST GREYHOUND RACES SHALL BE DEPOSITED INTO THE PURSE FUND AT THE TRACK HOSTING THE CURRENT LIVE GREYHOUND MEET THROUGH WHICH IT RECEIVES THE BROADCAST SIGNAL AND DISTRIBUTED CONSISTENTLY WITH SECTION 12-60-702 (1) (d.5), (1) (e) (I), and (1) (e) (II).";

strike lines 26 and 27 and substitute the following:

"SECTION 3. Effective date. This act shall take effect June 1, 2003.

SB03-107

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.".

Page 3, strike lines 1 through 7.

MESSAGE FROM THE GOVERNOR

Appointment A letter of designation and appointment from Governor Owens was read and assigned to Committees as follows:

January 17, 2003

To the Honorable
Colorado Senate
Colorado General Assembly
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, reappoint and submit to your consideration, the following:

MEMBERS OF THE
BOARD OF GOVERNORS OF THE
COLORADO STATE UNIVERSITY SYSTEM

for a term expiring January 15, 2007:

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

Sincerely,
(signed)
Bill Owens
Governor

Rec'd: 01/21/03
Mona Heustis, Secretary of the Senate

Committees on Education and Agriculture, Natural Resources & Energy

SENATE SERVICES REPORT

Senate
Services

- Correctly printed: SB03-226, 227, 228.
- Correctly engrossed: SJR03-011, 013.
- Correctly revised: HJR03-1007, 1008, 1014.
- Correctly enrolled: SJR03-006, 007, 008, 009;
SR03-008, 009.

Senate in recess.
Senate reconvened.

COMMITTEE OF REFERENCE REPORTS

- Judiciary
- After consideration on the merits, the Committee recommends that **SB03-131** be referred to the Committee on Appropriations with favorable recommendation.
- Judiciary
- After consideration on the merits, the Committee recommends that **SB03-141** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.
- Amend printed bill, page 3, line 13, strike "A NEW SUBSECTION" and substitute "THE FOLLOWING NEW SUBSECTIONS";
- strike lines 15 and 16 and substitute the following:
- "**provider charges - state hospitals.** (1.3) A PROVIDER OF MEDICAL CARE THAT RECEIVES ANY STATE MONEY, INCLUDING BUT NOT LIMITED TO PROVIDERS THAT RECEIVE MONEY FROM THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED IN ARTICLE 4 OF TITLE 26, C.R.S., OR THE PROGRAM FOR THE MEDICALLY INDIGENT ESTABLISHED IN ARTICLE 15 OF TITLE 26, C.R.S., SHALL CHARGE A COUNTY FOR MEDICAL CARE PROVIDED TO A PERSON IN CUSTODY IN A COUNTY JAIL;
- (a) AT THE SAME RATE THAT THE PROVIDER IS REIMBURSED FOR SUCH SERVICES BY THE MEDICAL ASSISTANCE PROGRAM; OR
- (b) IF THE PROVIDER IS NOT REIMBURSED BY THE MEDICAL ASSISTANCE PROGRAM, AT THE HIGHEST RATE THAT THE PROVIDER IS REIMBURSED IN WHOLE OR IN PART WITH STATE MONEYS IN ANY OTHER PROGRAM.
- (1.5) (a) IF ECONOMICAL, A COUNTY SHERIFF MAY TRANSPORT A PERSON HELD IN CUSTODY IN A COUNTY JAIL TO THE COLORADO MENTAL HEALTH INSTITUTE AT PUEBLO FOR MEDICAL TREATMENT. WITHIN THE CAPACITY OF THE MEDICAL FACILITY, THE COLORADO";
- after line 23, insert the following:
- "(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1.5), THE MENTAL HEALTH INSTITUTE AT PUEBLO SHALL CHARGE A COUNTY THE ACTUAL COSTS OF THE MEDICAL CARE PROVIDED TO A PERSON HELD IN CUSTODY. THE CHARGES SHALL COVER THE FULL DIRECT AND INDIRECT COSTS OF THE CARE PROVIDED AS DETERMINED BY GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. THE GENERAL ASSEMBLY SHALL INCLUDE WITHIN THE APPROPRIATION FOR THE GENERAL MEDICAL DIVISION OF THE INSTITUTE AN AMOUNT EQUAL TO THE ESTIMATED REIMBURSEMENTS TO BE RECEIVED FROM COUNTIES PURSUANT TO THIS PARAGRAPH (b).";
- strike lines 24 through 27.
- Strike pages 4 and 5.
- Page 6, strike lines 1 through 10.
- Renumber succeeding section accordingly.
- Page 1, line 102, after "FEES," insert "ESTABLISHING REIMBURSEMENT RATES FOR MEDICAL CARE, AND";
- strike lines 103 through 105 and substitute the following:
- "CARE AT STATE HOSPITALS."

Finance	After consideration on the merits, the Committee recommends that SB03-227 be referred to the Committee of the Whole with favorable recommendation.	1 2 3 4
Finance	After consideration on the merits, the Committee recommends that SB03-228 be referred to the Committee of the Whole with favorable recommendation.	5 6 7 8
Finance	After consideration on the merits, the Committee recommends that SB03-001 be referred to the Committee on <u>Education</u> with favorable recommendation.	9 10 11 12

MESSAGE FROM THE HOUSE

February 6, 2003
Mr. President:

The House has adopted and returns herewith SJR03-013.
The House has adopted and returns herewith SJR03-010.

INTRODUCTION OF BILLS--FIRST READING

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

HB03-1003	by Representative(s) Brophy; also Senator(s) Taylor--Concerning civil liability for certain agricultural recreation activities. Agriculture, Natural Resources & Energy	23 24 25 26 27 28 29 30 31 32
HB03-1005	by Representative(s) Hoppe, Hodge, Miller, Rippy, White; also Senator(s) Entz, Isgar, Phillips, Taylor--Concerning the extension of the implementation dates for certain water augmentation requirements. Agriculture, Natural Resources & Energy	33 34 35 36 37
HB03-1008	by Representative(s) Spradley; also Senator(s) Kester--Concerning conservation easements for appurtenant water rights. Agriculture, Natural Resources & Energy	38 39 40 41
HB03-1036	by Representative(s) Groff; also Senator(s) Dyer--Concerning the application of lottery winnings to offset restitution owed in criminal cases. Judiciary	42 43 44 45
HB03-1066	by Representative(s) Larson; also Senator(s) Teck--Concerning frivolous requests for hearings before the executive director of the department of revenue. Finance	46 47 48 49
HB03-1103	by Representative(s) Briggs; also Senator(s) Chlouber--Concerning an increase of the service required to be provided by qualified private businesses pursuant to competitively negotiated contracts to fifty percent of the regional transportation district service that involves transporting the general public by means of any self-propelled vehicle that is designed primarily for travel on the public highways. Transportation	50 51 52 53 54 55 56
HB03-1129	by Representative(s) Rhodes, Harvey, Schultheis, Brophy, Cadman, Crane, Larson, May M.; also Senator(s) Lamborn--Concerning a prohibition on discrimination by public entities against contractors on the basis of labor organization affiliation. State Veterans & Military Affairs	57 58 59 60 61
HB03-1148	by Representative(s) Cloer, Schultheis, Cadman, Crane, Fairbank, Hall, Hefley, King, Lee, Lundberg, McFadyen, Mitchell, Stengel, White; also Senator(s) Hillman--Concerning restoration of self-defense as a defense in criminal cases. Judiciary	62 63 64 65 66
HB03-1156	by Representative(s) Romanoff; also Senator(s) Johnson S.--Concerning the Colorado state board of medical examiners' ability to fine a licensee for certain unprofessional conduct. Health, Environment, Welfare & Institutions	67 68 69

HB03-1185	by Representative(s) Brophy; also Senator(s) Entz--Concerning the maximum gross weight of a vehicle combination operated by an electric utility.	1
	Transportation	2
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	On motion of Senator Anderson, and with a majority of those elected to the Senate having	8
	voted in the affirmative, the balance of the calendar of February 6, 2003, was laid over	9
	until February 7, 2003, retaining its place on the calendar.	10
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	Third Reading -- Final Passage: SB03-203, SB03-205, SB03-204.	12
	Second Reading -- General Orders: SB03-202, SB03-036, SB03-100, SB03-025,	13
	SB03-051, SB03-070, SB03-074, SB03-086, HB03-1018, SB03-115, SB03-053,	14
	HB03-1091, SB03-098, SB03-143, SB03-113, SB03-078, SB03-089, SB03-119,	15
	SB03-120, SB03-44, SB03-154, SB03-109, SB03-155.	16
	Consideration of Governor's Appointments:	17
	Members of the Colorado Banking Board.	18
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	On motion of Senator Anderson, the Senate adjourned until 9:00 a.m., February 7, 2003.	22
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	Approved:	24
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	John Andrews	27
	President of the Senate	28
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	Attest:	30
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	Mona Heustis	33
	Secretary of the Senate	34
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