

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

Twenty-first Legislative Day

Tuesday, January 28, 2003

Prayer	By the chaplain, Father Dennis Woerter, St. Dominic's Catholic Parish.	10
Pledge	By Senator Sandoval.	11
Call to Order	By the President at 9:00 a.m.	12
Roll Call	Present-- 33. Absent/Excused--2; Grossman, Tate. Present later--Grossman.	13
Quorum	The President announced a quorum present.	14
Reading of Journal	On motion of Senator Keller, reading of the Journal of January 27, 2003, was dispensed with and the Journal was approved as corrected by the Secretary.	15

INTRODUCTION OF BILLS--FIRST READING

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

HB03-1014	by Representative(s) Ragsdale; also Senator(s) Takis--Concerning the clarification of terms relating to the court-appointed special advocate (CASA) program. Health, Environment, Welfare & Institutions	16
HB03-1027	by Representative(s) Harvey; also Senator(s) Hillman--Concerning interlocutory appellate review of class certification orders in class action lawsuits. Judiciary	17
HB03-1045	by Representative(s) Clapp, Madden, Romanoff, Stafford; also Senator(s) Hagedorn--Concerning penalties relating to unauthorized insurance policies. Business Affairs & Labor	18
HB03-1047	by Representative(s) Sinclair; also Senator(s) Takis--Concerning the acceptance of contract terms by a public establishment. Business Affairs & Labor	19
HB03-1098	by Representative(s) White, Marshall, Berry, Groff, Larson, Paccione, Rippey, Romanoff, Salazar, Stengel, Wiens, Williams T., Young; also Senator(s) Chlouber--Concerning the addition of wireless telephone service subscribers to the Colorado no-call list. Business Affairs & Labor	20

THIRD READING--FINAL PASSAGE OF BILLS

On Third Reading, the titles of the following bills were publicly read, the reading at length having been dispensed with by unanimous consent:

SB03-016	by Senator(s) Lamborn; also Representative(s) Wiens--Concerning the prohibition of certain persons controlling an industrial bank.	21
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The question being "Shall the bill pass?", the roll call was taken with the following result:

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SB03-016

YES	34	NO	0	EXCUSED	1	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	E
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 was declared **passed**.

Co-sponsors added: Evans, Grossman, Isgar, Kester, Nichol.

SB03-067

by Senator(s) Johnson S.; also Representative(s) Stengel--Concerning procedures to be followed by county governments in connection with the merging of parcels of land.

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

YES	23	NO	11	EXCUSED	1	ABSENT	0
Anderson	Y	Grossman	N	Lamborn	Y	Takis	N
Arnold	Y	Hagedorn	Y	Linkhart	N	Tapia	Y
Cairns	Y	Hanna	N	May	Y	Tate	E
Chlouber	Y	Hillman	Y	McElhany	Y	Taylor	Y
Dyer	Y	Isgar	Y	Nichol	Y	Teck	Y
Entz	Y	Johnson	Y	Owen	Y	Tupa	N
Evans	Y	Jones	Y	Phillips	N	Windels	N
Fitz-Gerald	N	Keller	N	Reeves	N	Mr. President	Y
Gordon	N	Kester	Y	Sandoval	Y		

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

Co-sponsors added: Anderson, Andrews, Arnold, Cairns, Entz, Evans, Hillman, Jones, Lamborn, May, Taylor, Teck.

SB03-002

by Senator(s) Owen; also Representative(s) Smith--Concerning a nonsubstantive recodification of statutes relating to the powers of the department of public health and environment.

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

YES	34	NO	0	EXCUSED	1	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	E
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 was declared **passed**.

Co-sponsors added: Evans.

SB03-009

by Senator(s) Tupa, Anderson, Takis; also Representative(s) Coleman, Vigil, White, Williams T.--Concerning fingerprint-based criminal history record checks for emergency medical technician certificate applicants.

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

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SB03-009

YES	34	NO	0	EXCUSED	1	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	E
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 was declared **passed**.

Co-sponsors added: Arnold, Fitz-Gerald, Hanna, May, Nichol, Sandoval, Tapia.

SB03-072

by Senator(s) Arnold, Anderson, Jones, Kester, Owen, Taylor; also Representative(s) Marshall--Concerning information for schools regarding sex offenders.

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

YES	34	NO	0	EXCUSED	1	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	E
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 was declared **passed**.

Co-sponsors added: Chlouber, Evans, Fitz-Gerald, Grossman, Hanna, Nichol, Sandoval, Tapia, Teck.

SENATE SERVICES REPORT

Senate Services

Correctly printed: SB03-152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168.

Correctly engrossed: SB03-002, 009, 016, 067, 072.

Correctly reengrossed: SB03-023, 034, 035, 046, 054, 057, 059, 065, 066, 071.

Senate in recess.

Senate reconvened.

COMMITTEE OF REFERENCE REPORTS

State, Veterans and Military Affairs

After consideration on the merits, the Committee recommends that **SB03-020** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 4, line 17, after "DENTIST," insert "REGISTERED DENTAL HYGIENIST,";

line 18, strike "PSYCHIATRIST,".

SB03-020

Page 5, line 8, after "A", insert "LICENSING BOARD, LAW ENFORCEMENT AGENCY,";

line 25, after "PARTICIPATION.", insert "THIS SECTION SHALL NOT BE CONSTRUED TO APPLY TO THE LICENSING ACTIVITIES OF ANY BOARD RESPONSIBLE FOR LICENSING HEALTH CARE PROFESSIONALS.".

Page 6, line 21, strike "FIVE" and substitute "SIX".

Page 7, line 7, strike "AND";

line 10, strike "SPECIALISTS." and substitute "SPECIALISTS; AND";

after line 10, insert the following:

"(VI) ONE MEMBER WHO IS A REPRESENTATIVE OF A COLORADO-BASED MEDICAL CREDENTIALS VERIFICATION ORGANIZATION.".

Page 8, line 6, strike "2013." and substitute "2008.";

line 15, strike "2013:" and substitute "2008:".

State,
Veterans and
Military
Affairs

After consideration on the merits, the Committee recommends that **SB03-028** be referred to the Committee on Judiciary with favorable recommendation.

State,
Veterans and
Military
Affairs

After consideration on the merits, the Committee recommends that **SB03-044** be amended as follows, and as so amended, be referred to the Committee on Business Affairs and Labor with favorable recommendation.

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

"SECTION 1. 24-18-106, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-18-106. Rules of conduct for members of the general assembly. (3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO MEMBER OF THE GENERAL ASSEMBLY WHO IS IN THE FINAL YEAR OF HIS OR HER TENURE IN THE GENERAL ASSEMBLY BY HIS OR HER OWN PUBLICLY ANNOUNCED DECISION OR AS A RESULT OF THE OPERATION OF SECTION 3 OF ARTICLE V OF THE STATE CONSTITUTION SHALL LOBBY, SOLICIT LOBBYING BUSINESS OR CONTRACTS, OR OTHERWISE ESTABLISH A LOBBYING BUSINESS OR PRACTICE PRIOR TO THE EXPIRATION OF HIS OR HER TERM. WHERE THE MEMBER TENDERS HIS OR HER RESIGNATION PRIOR TO THE EXPIRATION OF HIS OR HER TERM, THE REQUIREMENTS OF THIS SUBSECTION (3) SHALL APPLY UP THROUGH THE DATE OF THE MEMBER'S RESIGNATION FROM OFFICE.

SECTION 2. Effective date. This act shall take effect July 1, 2003.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety."

Business
Affairs and
Labor

After consideration on the merits, the Committee recommends that **SB03-041** be referred to the Committee on Appropriations with favorable recommendation.

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Business
Affairs and
Labor

After consideration on the merits, the Committee recommends that **SB03-051** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

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

"SECTION 1. 10-16-423, Colorado Revised Statutes, is amended to read:

10-16-423. Confidentiality of health information. Any data or information pertaining to the diagnosis, treatment, or health of any enrollee or applicant obtained from such person or from any provider by any health maintenance organization shall be held in confidence and shall not be disclosed to any person except to the extent that it may be necessary to carry out the purposes of part 1 of this article or this part 4; or upon the express consent of the enrollee or applicant; or pursuant to statute or court order for the production of evidence or the discovery thereof; or in the event of claim or litigation between such person and the health maintenance organization wherein such data or information is pertinent; OR AS OTHERWISE REQUIRED OR PERMITTED BY SECTION 25-1-1204, C.R.S. A health maintenance organization shall be entitled to claim any statutory privileges against such disclosure ~~which~~ THAT the provider, who furnished such information to the health maintenance organization, is entitled to claim.

SECTION 2. 18-4-412 (1), Colorado Revised Statutes, is amended to read:

18-4-412. Theft of medical records or medical information - penalty. (1) EXCEPT FOR THE USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION PERMITTED PURSUANT TO SECTION 25-1-1204, C.R.S., OR AS OTHERWISE PERMITTED OR REQUIRED BY STATE LAW, any person who, without proper authorization, knowingly obtains a medical record or medical information with the intent to appropriate the medical record or medical information to his OR HER own use or to the use of another, who steals or discloses to an unauthorized person a medical record or medical information, or who, without authority, makes or causes to be made a copy of a medical record or medical information commits theft of a medical record or medical information.

SECTION 3. 25-1-801 (1) (a), Colorado Revised Statutes, is amended to read:

25-1-801. Patient records in custody of health care facility. (1) (a) Every patient record in the custody of a health facility licensed or certified pursuant to section 25-1-107 (1) or article 3 of this title, or both, or any entity regulated under title 10, C.R.S., providing health care services, as defined in section 10-16-102 (22), C.R.S., directly or indirectly through a managed care plan, as defined in section 10-16-102 (26.5), C.R.S., or otherwise shall be available for inspection to the patient or the patient's designated representative through the attending health care provider or such provider's designated representative ~~at reasonable times and upon reasonable notice~~ WITHIN THIRTY DAYS AFTER THE DATE OF THE REQUEST FOR INSPECTION, except records pertaining to mental health problems or notes by a physician that, in the opinion of a licensed physician who practices psychiatry and is an independent third party, would have significant negative psychological impact upon the patient. Such independent third-party physician shall consult with the attending physician prior to making a determination with regard to the availability for inspection of any patient record and shall report in writing findings to the attending physician and to the custodian of said record. A summary of records pertaining to a patient's mental health problems may, upon written request and signed and dated authorization, be made available to the patient or the patient's designated representative following termination of the treatment program.

SECTION 4. 25-1-802 (1) (a), Colorado Revised Statutes, is amended to read:

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SB03-051

25-1-802. Patient records in custody of individual health care providers. (1) (a) Every patient record in the custody of a podiatrist, chiropractor, dentist, doctor of medicine, doctor of osteopathy, nurse, optometrist, audiologist, acupuncturist, direct-entry midwife, or physical therapist required to be licensed under title 12, C.R.S., or a person practicing psychotherapy under the provisions of article 43 of title 12, C.R.S., except records pertaining to mental health problems, shall be available to the patient upon submission of a written authorization-request for inspection of records, dated and signed by the patient, ~~at reasonable times and upon reasonable notice~~ WITHIN THIRTY DAYS AFTER THE DATE OF THE REQUEST FOR INSPECTION. A summary of records pertaining to a patient's mental health problems may, upon written request and signed and dated authorization, be made available to the patient or the patient's designated representative following termination of the treatment program.

SECTION 5. 25-1-1201, Colorado Revised Statutes, is amended to read:

25-1-1201. Legislative declaration. The general assembly hereby finds, determines, and declares that maintaining the confidentiality of medical records is of the utmost importance to the state and of critical importance to patient privacy for high quality medical care. Most people in the United States consider confidentiality of health information important and worry that the increased computerization of health records may result in inappropriate disclosure of such records. Patients have a strong interest in preserving the privacy of their personal health information, but they also have an interest in medical research and other efforts by health care organizations to improve the medical care they receive. How best to preserve confidentiality within a state health information infrastructure is an important discussion that is affected by recent regulations promulgated by the federal department of health and human services related to the electronic storage of health information. ~~The~~ A purpose of this part 12 is to index the provisions that govern medical record confidentiality to facilitate locating the law concerning the confidentiality of medical records and health information. ~~It is not intended to expand, narrow, or clarify existing provisions.~~

SECTION 6. 25-1-1202 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25-1-1202. Index of statutory sections regarding medical record confidentiality and health information. (1) Statutory provisions concerning policies, procedures, and references to the release, sharing, and use of medical records and health information include the following:

(vv.5) SECTION 25-1-1204, CONCERNING THE USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION;

SECTION 7. Repeal. 25-1-1203, Colorado Revised Statutes, is repealed as follows:

~~**25-1-1203. Electronic storage of medical records.** Health plans, health care clearinghouses, and health care providers shall develop policies, procedures, and systems to comply with federal regulations promulgated by the federal department of health and human services related to electronic storage and maintenance of medical record information pursuant to federal law.~~

SECTION 8. Part 12 of article 1 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25-1-1204. Use and disclosure of protected health information. (1) EXCEPT FOR THE USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION WHERE AUTHORIZATION OR AN OPPORTUNITY TO AGREE OR OBJECT IS REQUIRED BY THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SEC. 1320d TO 1320d-8, AS AMENDED, AND THE REGULATIONS PROMULGATED THEREUNDER, AND NOTWITHSTANDING ANY OTHER PROVISIONS OF COLORADO LAW, A HEALTH CARE PROVIDER, HEALTH PLAN, OR HEALTH CARE CLEARINGHOUSE MAY

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USE AND DISCLOSE PROTECTED HEALTH INFORMATION, INCLUDING INCIDENTAL USE AND DISCLOSURE, WITHOUT THE CONSENT, AUTHORIZATION, OR OTHER FORM OF LEGAL PERMISSION OF THE INDIVIDUAL WHO IS THE SUBJECT OF SUCH INFORMATION OR HIS OR HER LEGAL REPRESENTATIVE, AS PROVIDED IN THIS SECTION OR AS OTHERWISE PERMITTED BY STATE LAW:

(a) A HEALTH CARE PROVIDER, HEALTH PLAN, OR HEALTH CARE CLEARINGHOUSE MAY USE OR DISCLOSE PROTECTED HEALTH INFORMATION FOR THE TREATMENT, PAYMENT, AND HEALTH CARE OPERATIONS OF SUCH HEALTH CARE PROVIDER, HEALTH PLAN, OR HEALTH CARE CLEARINGHOUSE;

(b) A HEALTH CARE PROVIDER, HEALTH PLAN, OR HEALTH CARE CLEARINGHOUSE MAY DISCLOSE PROTECTED HEALTH INFORMATION TO ANOTHER HEALTH CARE PROVIDER FOR THE TREATMENT ACTIVITIES OF THAT HEALTH CARE PROVIDER;

(c) A HEALTH CARE PROVIDER, HEALTH PLAN, OR HEALTH CARE CLEARINGHOUSE MAY DISCLOSE PROTECTED HEALTH INFORMATION TO A HEALTH CARE PROVIDER, HEALTH PLAN, OR HEALTH CARE CLEARINGHOUSE FOR THE PAYMENT ACTIVITIES OF THE ENTITY THAT RECEIVES SUCH INFORMATION;

(d) A HEALTH CARE PROVIDER, HEALTH PLAN, OR HEALTH CARE CLEARINGHOUSE MAY DISCLOSE PROTECTED HEALTH INFORMATION TO ANOTHER HEALTH CARE PROVIDER, HEALTH CARE PLAN, OR HEALTH CARE CLEARINGHOUSE FOR THE HEALTH CARE OPERATIONS OF THE ENTITY THAT RECEIVES SUCH INFORMATION IF:

(I) THE ENTITY THAT RECEIVES SUCH INFORMATION HAS OR HAS HAD A RELATIONSHIP WITH THE INDIVIDUAL WHO IS THE SUBJECT OF SUCH INFORMATION AND SUCH INFORMATION PERTAINS TO SUCH RELATIONSHIP;

(II) THE ENTITY THAT RECEIVES THE INFORMATION IS A COVERED ENTITY; AND

(III) THE DISCLOSURE IS FOR THE PURPOSE OF HEALTH CARE OPERATIONS AS DEFINED PURSUANT TO 45 CFR 164.501 (1) OR (2), OR FOR THE PURPOSE OF HEALTH CARE FRAUD AND ABUSE DETECTION OR COMPLIANCE;

(e) AN ORGANIZED HEALTH CARE ARRANGEMENT PARTICIPANT OR AN AFFILIATED COVERED ENTITY PARTICIPANT MAY DISCLOSE PROTECTED HEALTH INFORMATION TO ANOTHER ORGANIZED HEALTH CARE ARRANGEMENT PARTICIPANT OR AFFILIATED COVERED ENTITY PARTICIPANT FOR THE HEALTH CARE OPERATIONS OF SUCH ORGANIZED HEALTH CARE ARRANGEMENT OR AFFILIATED COVERED ENTITY;

(f) A COVERED ENTITY MAY USE AND DISCLOSE PROTECTED HEALTH INFORMATION FOR RESEARCH PURPOSES AS PERMITTED PURSUANT TO 45 CFR 164.512 (i);

(g) A HEALTH CARE PROVIDER, HEALTH PLAN, OR HEALTH CARE CLEARINGHOUSE MAY DISCLOSE PROTECTED HEALTH INFORMATION TO THE INDIVIDUAL WHO IS THE SUBJECT OF THE INFORMATION;

(h) A COVERED ENTITY MAY USE AND DISCLOSE PROTECTED HEALTH INFORMATION FOR WORKERS' COMPENSATION PURPOSES AS PERMITTED PURSUANT TO 45 CFR 164.512 (l).

(2) AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE SAME MEANINGS AS SET FORTH IN THE REGULATIONS (45 CFR PARTS 160 AND 164) PROMULGATED PURSUANT TO THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SEC. 1320d TO 1320d-8, AS AMENDED:

(a) "COVERED ENTITY";

(b) "DISCLOSURE";

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- (c) "HEALTH CARE CLEARINGHOUSE";
- (d) "HEALTH CARE OPERATIONS";
- (e) "HEALTH CARE PROVIDER";
- (f) "HEALTH INFORMATION";
- (g) "HEALTH PLAN";
- (h) "INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION";
- (i) "ORGANIZED HEALTH CARE ARRANGEMENT";
- (j) "PAYMENT";
- (k) "PROTECTED HEALTH INFORMATION";
- (l) "TREATMENT"; AND
- (m) "USE".

(3) THIS SECTION SHALL NOT BE CONSTRUED TO PREEMPT THE REQUIREMENTS FOR THE USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION PURSUANT TO THE FOLLOWING STATUTORY PROVISIONS:

(a) SECTION 10-3-1104.5, C.R.S., CONCERNING THE CONFIDENTIALITY AND USE OF HIV TESTING INFORMATION;

(b) SECTION 10-3-1104.7, C.R.S., CONCERNING THE CONFIDENTIALITY AND USE OF GENETIC TESTING INFORMATION;

(c) SECTION 12-43-218, C.R.S., CONCERNING THE DISCLOSURE OF CONFIDENTIAL COMMUNICATIONS BY A MENTAL HEALTH PROFESSIONAL;

(d) SECTION 19-1-308, C.R.S., CONCERNING THE USE AND DISCLOSURE OF PARENTAGE AND GENETIC TESTING INFORMATION;

(e) SECTION 19-4-106, C.R.S., CONCERNING THE CONFIDENTIALITY AND USE OF ARTIFICIAL INSEMINATION INFORMATION;

(f) SECTION 25-1-122.5, CONCERNING THE CONFIDENTIALITY OF GENETIC TESTING RECORDS;

(g) SECTION 25-1-308, CONCERNING THE DISCLOSURE OF HEALTH INFORMATION REGARDING TREATMENT FOR ALCOHOLICS;

(h) SECTION 25-1-312, CONCERNING THE TREATMENT RECORDS OF INTOXICATED PERSONS;

(i) SECTION 25-1-1108, CONCERNING THE TREATMENT RECORDS OF DRUG ABUSERS;

(j) SECTIONS 27-10-120 AND 27-10-120.5, C.R.S., CONCERNING RECORDS RELATED TO MENTAL HEALTH SERVICES FOR MINOR CHILDREN;

(k) SECTION 42-4-1301.1, C.R.S., CONCERNING THE RELEASE OF THE RESULT OF A TEST CONDUCTED TO DETERMINE THE LEVEL OF ALCOHOL IN A BLOOD, BREATH, URINE, OR SALIVA SAMPLE.

(4) THIS SECTION SHALL NOT BE CONSTRUED TO AUTHORIZE THE USE AND DISCLOSURE OF ANY PROTECTED HEALTH INFORMATION OTHER THAN FOR THE PURPOSES OF TREATMENT, PAYMENT, OR OPERATIONS, OR AS OTHERWISE REQUIRED OR PERMITTED BY STATE LAW, OR AS PERMITTED PURSUANT TO PARAGRAPHS (f) TO (h) OF SUBSECTION (1) OF THIS SECTION.

SECTION 9. 42-4-1301.1 (2) (a) (I) and (2) (b) (I), Colorado Revised Statutes, are amended to read:

42-4-1301.1. Expressed consent for the taking of blood, breath, urine, or saliva sample - testing. (2) (a) (I) Any person who drives any

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SB03-051

motor vehicle upon the streets and highways and elsewhere throughout this state shall be required to take and complete, and to cooperate in the taking and completing of, any test or tests of such person's breath or blood for the purpose of determining the alcoholic content of the person's blood or breath when so requested and directed by a law enforcement officer having probable cause to believe that the person was driving a motor vehicle in violation of the prohibitions against DUI, DUI per se, DWAI, habitual user, or UDD. Except as otherwise provided in this section, if a person who is twenty-one years of age or older requests that said test be a blood test, then the test shall be of his or her blood; but, if such person requests that a specimen of his or her blood not be drawn, then a specimen of such person's breath shall be obtained and tested. A person who is under twenty-one years of age shall be entitled to request a blood test unless the alleged violation is UDD, in which case a specimen of such person's breath shall be obtained and tested, except as provided in subparagraph (II) of this paragraph (a). THE PERSON OR PERSONS WHO CONDUCT THE TEST OR TESTS PURSUANT TO THIS SUBPARAGRAPH (I) SHALL RELEASE THE RESULTS OF SUCH TEST OR TESTS TO AUTHORIZED LAW ENFORCEMENT PERSONNEL UPON REQUEST.

(b) (I) Any person who drives any motor vehicle upon the streets and highways and elsewhere throughout this state shall be required to submit to and to complete, and to cooperate in the completing of, a test or tests of such person's blood, saliva, and urine for the purpose of determining the drug content within the person's system when so requested and directed by a law enforcement officer having probable cause to believe that the person was driving a motor vehicle in violation of the prohibitions against DUI, DWAI, or habitual user and when it is reasonable to require such testing of blood, saliva, and urine to determine whether such person was under the influence of, or impaired by, one or more drugs, or one or more controlled substances, or a combination of both alcohol and one or more drugs, or a combination of both alcohol and one or more controlled substances. THE PERSON OR PERSONS WHO CONDUCT THE TEST OR TESTS PURSUANT TO THIS SUBPARAGRAPH (I) SHALL RELEASE THE RESULTS OF SUCH TEST OR TESTS TO AUTHORIZED LAW ENFORCEMENT PERSONNEL UPON REQUEST.

SECTION 10. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety. "

Business Affairs and Labor

After consideration on the merits, the Committee recommends that **SB03-070** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

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

"SECTION 1. Article 26 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

38-26-109. Moneys for verified claims made - trust funds - disbursements - penalty. (1) ALL FUNDS DISBURSED TO ANY CONTRACTOR OR SUBCONTRACTOR UNDER ANY CONTRACT OR PROJECT SUBJECT TO THE PROVISIONS OF THIS ARTICLE SHALL BE HELD IN TRUST FOR THE PAYMENT OF ANY PERSON THAT HAS:

(a) FURNISHED LABOR, MATERIALS, TEAM HIRE, SUSTENANCE, PROVISIONS, PROVENDER, OR OTHER SUPPLIES USED OR CONSUMED BY THE CONTRACTOR OR HIS OR HER SUBCONTRACTOR IN THE PERFORMANCE OF THE WORK CONTRACTED TO BE DONE AND WHERE THE PERSON HAS:

(I) FILED OR MAY FILE A VERIFIED STATEMENT OF A CLAIM ARISING FROM THE PROJECT; OR

(II) ASSERTED OR MAY ASSERT A CLAIM AGAINST A PRINCIPAL OR SURETY UNDER THE PROVISIONS OF THIS ARTICLE AND FOR WHOM OR WHICH SUCH DISBURSEMENT WAS MADE; OR

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SB03-070

(b) SUPPLIED LABORERS, RENTAL MACHINERY, TOOLS, OR EQUIPMENT TO THE EXTENT USED IN THE PROSECUTION OF THE WORK AND WHERE THE PERSON HAS:

(I) FILED OR MAY FILE A VERIFIED STATEMENT OF A CLAIM ARISING FROM THE PROJECT; OR

(II) ASSERTED OR MAY ASSERT A CLAIM AGAINST A PRINCIPAL OR SURETY UNDER THE PROVISIONS OF THIS ARTICLE AND FOR WHOM OR WHICH SUCH DISBURSEMENT WAS MADE.

(2) THE REQUIREMENTS OF THIS SECTION SHALL NOT BE CONSTRUED SO AS TO REQUIRE A CONTRACTOR OR SUBCONTRACTOR TO HOLD IN TRUST ANY FUNDS THAT HAVE BEEN DISBURSED TO HIM OR HER FOR ANY PERSON THAT HAS FURNISHED LABOR, MATERIALS, TEAM HIRE, SUSTENANCE, PROVISIONS, PROVENDER, OR OTHER SUPPLIES USED OR CONSUMED BY THE CONTRACTOR OR HIS OR HER SUBCONTRACTOR IN THE PERFORMANCE OF THE WORK CONTRACTED TO BE DONE; SUPPLIED LABORERS, RENTAL MACHINERY, TOOLS, OR EQUIPMENT TO THE EXTENT USED IN THE PROSECUTION OF THE WORK; FILED OR MAY FILE A VERIFIED STATEMENT OF A CLAIM ARISING FROM THE PROJECT; OR HAS ASSERTED OR MAY ASSERT A CLAIM AGAINST A PRINCIPAL OR SURETY THAT HAS FURNISHED A BOND UNDER THE PROVISIONS OF THIS ARTICLE IF:

(a) THE CONTRACTOR OR SUBCONTRACTOR HAS A GOOD FAITH BELIEF THAT THE VERIFIED STATEMENT OF A CLAIM OR BOND CLAIM IS NOT VALID; OR

(b) THE CONTRACTOR OR SUBCONTRACTOR, IN GOOD FAITH, CLAIMS A SETOFF, TO THE EXTENT OF SUCH SETOFF.

(3) EACH CONTRACTOR OR SUBCONTRACTOR SHALL MAINTAIN SEPARATE RECORDS OF ACCOUNT OF EACH PROJECT OR ACCOUNT; EXCEPT THAT NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE A CONTRACTOR OR SUBCONTRACTOR TO DEPOSIT TRUST FUNDS FROM A SINGLE PROJECT IN A SEPARATE BANK ACCOUNT SOLELY FOR THAT PROJECT AS LONG AS THE TRUST FUNDS ARE NOT DISBURSED IN A MANNER THAT CONFLICTS WITH THE REQUIREMENTS OF THIS SECTION.

(4) ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBSECTIONS (1) AND (2) OF THIS SECTION COMMITS THEFT WITHIN THE MEANING OF SECTION 18-4-401, C.R.S.

38-26-110. Excessive amounts claimed. (1) ANY PERSON WHO FILES A VERIFIED STATEMENT OF A CLAIM OR ASSERTS A CLAIM AGAINST A PRINCIPAL OR SURETY THAT HAS FURNISHED A BOND UNDER THIS ARTICLE FOR AN AMOUNT GREATER THAN THE AMOUNT DUE WITHOUT A REASONABLE POSSIBILITY THAT THE AMOUNT CLAIMED IS DUE AND WITH THE KNOWLEDGE THAT THE AMOUNT CLAIMED IS GREATER THAN THE AMOUNT DUE, AND THAT FACT IS DEMONSTRATED IN ANY PROCEEDINGS UNDER THIS ARTICLE, SHALL FORFEIT ALL RIGHTS TO THE AMOUNT CLAIMED AND SHALL BE LIABLE TO:

(a) THE PERSON TO WHOM OR WHICH A DISBURSEMENT WOULD BE MADE BUT FOR THE VERIFIED STATEMENT OF A CLAIM OR BOND CLAIM; OR

(b) THE PRINCIPAL OR SURETY ON THE BOND IN AN AMOUNT EQUAL TO ALL COSTS AND ALL ATTORNEY FEES REASONABLY INCURRED IN BONDING OVER, CONTESTING, OR OTHERWISE RESPONDING IN ANY WAY TO THE EXCESSIVE VERIFIED STATEMENT OF A CLAIM OR EXCESSIVE BOND CLAIM.

SECTION 2. Effective date - applicability. (1) This act shall take effect September 1, 2003.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and

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SB03-070

shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to verified statements of claim or claims asserted against a bond furnished under the provisions of this article on or after the applicable effective date of this act."

MESSAGE FROM THE HOUSE

January 28, 2003

Mr. President:

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB03-1015, 1034, 1067.

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB03-1037, amended as printed in House Journal, January 27, page 200.

HB03-1084, amended as printed in House Journal, January 27, page 200.

HB03-1095, amended as printed in House Journal, January 27, page 200.

The House has adopted and transmits herewith HJR03-1013, as printed in House Journal, January 28.

MESSAGE FROM THE REVISOR OF STATUTES

January 28, 2003

We herewith transmit:

Without comment, HB03-1015, 1034, and 1067.

Without comment, as amended, HB03-1037, 1084, and 1095.

INTRODUCTION OF BILLS--FIRST READING

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

- SB03-169** by Senator(s) Teck, Owen, Reeves; also Representative(s) Plant, Witwer, Young--
Concerning the elimination of limits on revenues related to the indirect costs incurred by certain entities within the department of agriculture, and, in connection therewith, making a supplemental appropriation.
Agriculture, Natural Resources & Energy
- SB03-170** by Senator(s) Teck, Owen, Reeves; also Representative(s) Plant, Witwer, Young--
Concerning the appropriation of moneys for the support of Metropolitan state college of Denver and Fort Lewis college in the 2002-03 general appropriation bill as a direct appropriation to the board of trustees for each such institution.
Education
- SB03-171** by Senator(s) Teck, Owen, Reeves; also Representative(s) Plant, Witwer, Young--
Concerning the authority of the general assembly to appropriate moneys from the highway users tax fund to the department of revenue for license plate funding, and making an appropriation therefor.
Transportation
- SB03-172** by Senator(s) Reeves, Owen, Teck; also Representative(s) Young, Plant, Witwer--
Concerning docket fees transferred to the family stabilization services fund.
Health, Environment, Welfare & Institutions

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SB03-173	by Senator(s) Owen, Reeves, Teck; also Representative(s) Young, Plant, Witwer-- Concerning the repeal of specified nursing facility provider payments, and making an appropriation in connection therewith. Health, Environment, Welfare & Institutions	1 2 3 4 5
SB03-174	by Senator(s) Teck, Owen, Reeves; also Representative(s) Plant, Witwer, Young-- Concerning the reduction of the amount that vendors are allowed to retain as payment for the collection of taxes imposed by the state. Business Affairs & Labor	6 7 8 9 10
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. Health, Environment, Welfare & Institutions	11 12 13 14 15
SB03-176	by Senator(s) Owen, Reeves, Teck; also Representative(s) Witwer, Plant, Young-- Concerning the repeal of eligibility under the "Colorado Medical Assistance Act" for specified legal immigrants, and making an appropriation in connection therewith. Health, Environment, Welfare & Institutions	16 17 18 19 20
SB03-177	by Senator(s) Reeves, Owen, Teck; also Representative(s) Young, Plant, Witwer-- Concerning a reduction in the percentage amount of the community corrections appropriation that the entities administering community corrections may spend on administrative costs, and modifying an appropriation in connection therewith. Judiciary	21 22 23 24 25 26
SB03-178	by Senator(s) Reeves, Owen, Teck; also Representative(s) Plant, Witwer, Young-- Concerning the deposit of revenues from charges for communications services in the telecommunications revolving fund. State, Veterans & Military Affairs	27 28 29 30 31
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. Appropriations	32 33 34 35 36
SB03-180	by Senator(s) Owen, Reeves, Teck; also Representative(s) Plant, Witwer, Young-- Concerning the authority of the department of agriculture to expend moneys from the mandatory fruit and vegetable inspection fund for purposes other than the direct costs of mandatory inspections, and, in connection therewith, making a supplementary appropriation. Agriculture, Natural Resources & Energy	37 38 39 40 41 42 43
SB03-181	by Senator(s) Reeves, Owen, Teck; also Representative(s) Witwer, Plant, Young-- Concerning increased fees to be credited to the ground water management cash fund, and, in connection therewith, making a supplemental appropriation. Agriculture, Natural Resources & Energy	44 45 46 47 48
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, changing the division of housing from a type 1 to a type 2 agency and consolidating programs for the regulation of factory-built structures, multi-family structures where no standards exist, manufactured home installations, and sellers of manufactured homes. Business Affairs & Labor	49 50 51 52 53 54 55 56
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. Education	57 58 59 60 61
SB03-184	by Senator(s) Teck, Owen, Reeves; also Representative(s) Witwer, Plant, Young-- Concerning the authority of the state treasurer to assess a fee for performing a cash management transaction affecting a cash balance on behalf of a state department, and making an appropriation in connection therewith. Finance	62 63 64 65 66 67
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. Finance	68 69 70 71 72

SB03-186	by Senator(s) Owen, Reeves, Teck; also Representative(s) Young, Plant, Witwer-- Concerning an increase in fees collected by the judicial department, and making an appropriation in connection therewith. Judiciary	1 2 3 4 5
SB03-187	by Senator(s) Reeves, Owen, Teck; also Representative(s) Plant, Witwer, Young-- Concerning the elimination of specified responsibilities of the department of health care policy and financing during the medicaid enrollment process, and making an appropriation in connection therewith. Health, Environment, Welfare & Institutions	6 7 8 9 10 11
SB03-188	by Senator(s) Teck, Owen, Reeves; also Representative(s) Witwer, Plant, Young-- Concerning the elimination of the presidential primary election. State, Veterans & Military Affairs	12 13 14 15
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. Education	16 17 18 19 20 21 22 23
SB03-190	by Senator(s) Owen, Reeves, Teck; also Representative(s) Witwer, Plant, Young-- Concerning tobacco litigation settlement moneys received by the state, and, in connection therewith, reallocating the moneys for the 2002-03 fiscal year for the purpose of augmenting the state general fund, providing authorization for the state treasurer to invest moneys transferred on July 5, 2002, from the tobacco litigation settlement trust fund to the general fund in any manner in which the trust fund moneys may be invested, and modifying appropriations for the 2002-03 fiscal year. Health, Environment, Welfare & Institutions	24 25 26 27 28 29 30 31 32
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. Finance	33 34 35 36 37
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. Transportation	38 39 40 41 42
SB03-193	by Senator(s) Reeves, Owen, Teck; also Representative(s) Young, Plant, Witwer-- Concerning the state historical fund, and making an appropriation in connection therewith. Transportation	43 44 45 46
SB03-194	by Senator(s) Reeves, Owen, Teck; also Representative(s) Young, Plant, Witwer-- Concerning state aid to school districts that have entered into business incentive agreements with taxpayers that reduce the amount of property tax revenues the district would otherwise have available to fund the district's share of total program, and making an appropriation in connection therewith. State Veterans & Military Affairs	47 48 49 50 51 52 53
SB03-195	by Senator(s) Owen, Reeves, Teck; also Representative(s) Young, Plant, Witwer-- Concerning the amount of the general fund appropriation for the state's share of districts' total program funding required to be made to be in compliance with section 17 (5) of article IX of the Colorado constitution, and making appropriations in connection therewith. Education	54 55 56 57 58 59
SB03-196	by Senator(s) Teck, Owen, Reeves; also Representative(s) Witwer, Plant, Young-- Concerning the utilization of the cash system of accounting for the financial administration of specified medical services provided under the "Colorado Medical Assistance Act", and, in connection therewith, creating an exception to the requirement that the determination of the general fund surplus be based upon the accrual system of accounting for certain reimbursements made in accordance with said act. Finance	60 61 62 63 64 65 66 67

SB03-197 by Senator(s) Owen, Reeves, Teck; also Representative(s) Young, Plant, Witwer--
 Concerning the payment of monthly salaries of state employees, and, in connection
 therewith, specifying that monthly salaries of state employees for the month of June shall be
 paid on the first working day of July and creating an exception to the requirement that the
 determination of the general fund surplus be based upon the accrual system of accounting
 for payment of monthly salaries of state employees for the month of June.
 State Veterans & Military Affairs

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SB03-198 by Senator(s) Owen, Reeves, Teck; also Representative(s) Witwer, Plant, Young--
 Concerning the elimination of the technology learning grant and revolving loan program.
 Education

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INTRODUCTION OF RESOLUTION

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

HJR03-1013 by Representative(s) Stengel, Young, Witwer, Plant; also Senator(s) Taylor, Owen, Teck,
 Reeves--Concerning the certification by the general assembly of its estimate of state
 general fund revenues and allowable state general fund appropriations for the 2003-04
 budget year.
 Finance

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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 January 28, 2003, was laid over
 until January 29, 2003, retaining its place on the calendar.

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Second Reading of Bills--General Orders: SB03-036, SB03-100, SB03-025.
 Consideration of Resolutions: SJR03-009, HJR03-1011.

Consideration of Governor's Appointments:

- Executive Director, Department of Labor and Employment;
- Members of the Broad of Assessment Appeals;
- Members of the Board of Parks and Outdoor Recreation;
- Members of the Colorado Water Resources and Power Development Authority;
- Chief Medical Officer;
- Executive Director of the Department of Public Health and Environment;
- Executive Director of the Department of Revenue;
- Member of the Board of Trustees of the State Colleges in Colorado.

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On motion of Senator Anderson, the Senate adjourned until 9:00 a.m., January 29, 2003.

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Approved:

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John Andrews
 President of the Senate

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Attest:

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Mona Heustis
 Secretary of the Senate

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