

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

Fifty-seventh Legislative Day

Wednesday, March 5, 2003

Prayer By the chaplain, Reverend David Peters.

Pledge By Senator Entz.

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

Roll Call Present-- 33.
Absent/Excused--2; Evans, Phillips.
Present later--Evans, Phillips.

Quorum The President announced a quorum present.

Reading of Journal On motion of Senator Johnson, reading of the Journal of March 4, 2003 was dispensed with and the Journal was approved as corrected by the Secretary.

INTRODUCTION OF BILLS--FIRST READING

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

HB03-1050 by Representative(s) Coleman; also Senator(s) Kester--Concerning the creation of the business enterprise program cash fund for the state's vending facility program.
Finance

HB03-1053 by Representative(s) Ragsdale, Borodkin, Coleman; also Senator(s) Teck, Entz, May, Takis--Concerning emissions testing for diesel vehicles.
Transportation

HB03-1130 by Representative(s) Witwer, Cloer, Brophy, Hefley, Paccione, Romanoff, Rose, Salazar, Williams S.; also Senator(s) Kester, Entz, Keller, Windels--Concerning the addition of a line to Colorado state individual income tax return forms whereby individual taxpayers may make a voluntary contribution to the family resource centers fund, and making an appropriation in connection therewith.
Finance
Appropriations

HB03-1241 by Representative(s) Fairbank; also Senator(s) McElhany--Concerning signature verification on election ballots.
State Veterans & Military Affairs

HB03-1263 by Representative(s) Plant; also Senator(s) Owen, Teck--Concerning the granting of parole to special needs offenders.
Judiciary
Appropriations

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 Governor's Appointments.

CONSIDERATION OF GOVERNOR'S APPOINTMENTS

On motion of Senator Entz, the following Governor's appointment was confirmed by a roll call vote:

**MEMBER OF THE
COAL MINE BOARD OF EXAMINERS**

for a term expiring July 1, 2004:

Karl C. Koehler of Hayden, Colorado, to fill the vacancy occasioned by the resignation of Frank A. Self and to serve as a Colorado coal mine owner, operator, manager, or other mine official actively engaged in the surface mining industry, appointed.

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

On motion of Senator Arnold, the following Governor's appointments were confirmed by a roll call vote:

**MEMBERS OF THE
READ-TO-ACHIEVE BOARD**

for terms expiring July 1, 2005:

Darlene H. Medina of Alamosa, Colorado, to serve as a third grade teacher whom works in a rural school district and as a Democrat, reappointed;

Sheryl L. Weitzel of Greeley, Colorado, to serve as an elementary school principal whom works in a rural school district and as an Unaffiliated, reappointed;

Tina C. Leone of Colorado Springs, Colorado, to serve as an elementary school principal and as a Republican, appointed.

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

On motion of Senator May, the following Governor's appointments were confirmed by a roll call vote:

**MEMBERS OF THE
COLORADO AERONAUTICAL BOARD**

for terms expiring December 19, 2005:

Corinne C. Nystrom of Mesa, Colorado, to serve as a representative of a statewide association of airport managers, reappointed;

E. Patrick Wiesner of Castle Rock, Colorado, to serve as a representative of a statewide association of pilots, reappointed.

for a term expiring December 19, 2003:

Harold Jay Felderman of Greeley, Colorado, to serve as a representative of local government from the western slope, appointed;

for a term expiring December 19, 2004:

Larry Romrell of Franktown, Colorado, to serve as a representative familiar with and supportive of the state's aviation issues, interests, and concerns, appointed.

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

On motion of Senator Entz, the following Governor's appointments were confirmed by a roll call vote:

MEMBERS OF THE
GROUND WATER COMMISSION

for terms expiring May 1, 2006:

Ralph G. Curtis of Alamosa, Colorado, to serve as a representative from Division 3, appointed;

Frank P. Jaeger of Elizabeth, Colorado, to serve as a representative of municipal and industrial users, appointed.

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

On motion of Senator Johnson, the following Governor's appointments were confirmed by a roll call vote:

MEMBERS OF THE
COLORADO CHILDREN'S TRUST FUND BOARD

for terms expiring November 7, 2004:

Thomas H. McMillen of Golden, Colorado, to serve as a representative with knowledge of child abuse prevention, reappointed;

Cynthia S. Honssinger of Denver, Colorado, to fill the vacancy occasioned by the resignation of Brian E. Williamson and to serve as a member knowledgeable in the area of law, appointed.

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

On motion of Senator Johnson, the following Governor's appointments were confirmed by a roll call vote:

MEMBERS OF THE
HAZARDOUS WASTE COMMISSION

for terms expiring August 1, 2005:

Christina M. Aguilera of Westminster, Colorado, to serve as a representative of the academic community and as Unaffiliated, appointed;

Diane M. Johnson of Arvada, Colorado, to serve as a representative of the regulated community and as a Democrat, reappointed;

William J. Kelso of Centennial, Colorado, to serve as a representative of the public and as a Republican, appointed.

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

On motion of Senator Johnson, the following Governor's appointments were confirmed by a roll call vote:

MEMBERS OF THE
MEDICAL SERVICES BOARD

for terms expiring July 1, 2006:

Michael Oliva of Parker, Colorado, to serve as a Republican from the Sixth Congressional District, reappointed;

Joan M. Johnson of Denver, Colorado, to serve as a Democrat from the Seventh Congressional District, appointed.

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

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 House Amendments to Senate Bills.

CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS

SB03-143

by Senator(s) Taylor; also Representative(s) White--Concerning the transfer of certain existing employees from the Colorado office of economic development to the Colorado tourism office.

SB03-143

Senator Taylor moved that the Senate concur in House amendments to **SB03-143**, as printed in House Journal, February 28, pages 970-973. The motion was **passed** by the following roll call vote:

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

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

SB03-066

by Senator(s) Takis; also Representative(s) McCluskey--Concerning the repeal of the motor vehicle air conditioning fee, and, in connection therewith, repealing the ozone protection fund.

Senator Takis moved that the Senate concur in House amendments to **SB03-066**, as printed in House Journal, March 4, page 998. The motion was **passed** by the following roll call vote:

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

Finance

After consideration on the merits, the Committee recommends that SB03-233 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. Part 3 of article 51 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-51-305.5. Employees of district attorneys. (1) (a) AN ASSISTANT DISTRICT ATTORNEY, CHIEF DEPUTY DISTRICT ATTORNEY, OR DEPUTY DISTRICT ATTORNEY MAY MAKE A ONE-TIME IRREVOCABLE WRITTEN ELECTION TO BECOME A MEMBER OF THE ASSOCIATION OR TO PARTICIPATE IN A DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO THE PROVISIONS OF PART 2 OF ARTICLE 52 OF THIS TITLE.

(b) AN ASSISTANT DISTRICT ATTORNEY, CHIEF DEPUTY DISTRICT ATTORNEY, OR DEPUTY DISTRICT ATTORNEY HIRED PRIOR TO NOVEMBER 1, 2003, SHALL MAKE ANY ELECTION PURSUANT TO THIS SUBSECTION (1) ON OR BEFORE JANUARY 1, 2004. IN THE ABSENCE OF SUCH ELECTION, SUCH PERSON SHALL CONTINUE TO PARTICIPATE IN HIS OR HER EXISTING RETIREMENT SYSTEM.

(c) AN ASSISTANT DISTRICT ATTORNEY, CHIEF DEPUTY DISTRICT ATTORNEY, OR DEPUTY DISTRICT ATTORNEY HIRED ON OR AFTER NOVEMBER 1, 2003, SHALL MAKE AN ELECTION PURSUANT TO THIS SUBSECTION (1) WITHIN SIXTY DAYS OF COMMENCING EMPLOYMENT. IN THE ABSENCE OF SUCH ELECTION, SUCH PERSON SHALL BE A MEMBER OF THE ASSOCIATION.

(2) (a) THE BOARDS OF COUNTY COMMISSIONERS OF THE COUNTIES WITHIN A JUDICIAL DISTRICT, IN CONSULTATION WITH THE DISTRICT ATTORNEY FOR THE JUDICIAL DISTRICT, MAY ELECT TO HAVE THE EMPLOYEES OF THE DISTRICT ATTORNEY BECOME MEMBERS OF THE ASSOCIATION OR PARTICIPATE IN A DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO THE PROVISIONS OF PART 2 OF ARTICLE 52 OF THIS TITLE. THE ELECTION SHALL BE APPROVED BY NOT LESS THAN SIXTY-FIVE PERCENT OF THE EMPLOYEES OF THE DISTRICT ATTORNEY. AN ELECTION PURSUANT TO THIS PARAGRAPH (a) SHALL BE MADE PRIOR TO JANUARY 1, 2004, UNLESS THE BOARDS OF COUNTY COMMISSIONERS MAKE A FINDING THAT IT WAS NOT FISCALLY APPROPRIATE TO MAKE THE ELECTION PRIOR TO SUCH DATE.

(b) IF AN ELECTION IS MADE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), THE BOARDS OF COUNTY COMMISSIONERS, IN CONSULTATION WITH THE DISTRICT ATTORNEY, SHALL FURTHER DETERMINE WHETHER TO HAVE THE EMPLOYEES EITHER BECOME MEMBERS OF THE ASSOCIATION OR PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN. THE DETERMINATION SHALL BE APPROVED BY NOT LESS THAN SIXTY-FIVE PERCENT OF THE EMPLOYEES OF THE DISTRICT ATTORNEY.

(c) IF EITHER THE ELECTION SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (2) OR THE DETERMINATION SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (2) IS NOT APPROVED AS PROVIDED IN SAID PARAGRAPHS, THEN THE EMPLOYEES OF THE DISTRICT ATTORNEY SHALL NOT BECOME MEMBERS OF THE ASSOCIATION OR PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN. NO MORE THAN ONE ELECTION MAY BE MADE IN A JUDICIAL DISTRICT IN ANY CALENDAR YEAR. IF THE BOARDS OF COUNTY COMMISSIONERS DETERMINE THAT THE EMPLOYEES SHALL BECOME MEMBERS OF THE ASSOCIATION, THEN NO EMPLOYEE OF THE DISTRICT ATTORNEY SHALL PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN. IF

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SB03-233

THE BOARDS DETERMINE THAT THE EMPLOYEES SHALL PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN, THEN NO EMPLOYEE SHALL BECOME A MEMBER OF THE ASSOCIATION.

(d) AN EMPLOYEE OF A DISTRICT ATTORNEY HIRED PRIOR TO THE DATE UPON WHICH THE EMPLOYEES OF THE DISTRICT ATTORNEY APPROVE THE DETERMINATION OF THE BOARDS OF COUNTY COMMISSIONERS PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2) SHALL HAVE SIXTY DAYS FROM SUCH DATE TO MAKE A ONE-TIME IRREVOCABLE ELECTION TO BECOME A MEMBER OF THE ASSOCIATION OR TO PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN IN ACCORDANCE WITH THE DETERMINATION. IN THE ABSENCE OF SUCH ELECTION, SUCH PERSON SHALL CONTINUE TO PARTICIPATE IN HIS OR HER EXISTING RETIREMENT PLAN.

(e) AN EMPLOYEE OF A DISTRICT ATTORNEY HIRED ON OR AFTER THE DATE UPON WHICH THE EMPLOYEES OF THE DISTRICT ATTORNEY APPROVE THE DETERMINATION OF THE BOARDS OF COUNTY COMMISSIONERS PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2) SHALL BECOME A MEMBER OF THE ASSOCIATION OR PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN IN ACCORDANCE WITH THE DETERMINATION.

(f) THE BOARDS OF COUNTY COMMISSIONERS OF THE COUNTIES WITHIN A JUDICIAL DISTRICT, IN CONSULTATION WITH THE DISTRICT ATTORNEY FOR THE JUDICIAL DISTRICT, MAY MAKE APPLICATION TO THE BOARD TO TERMINATE AFFILIATION WITH THE ASSOCIATION OR TO THE COMMITTEE ADMINISTERING A DEFINED CONTRIBUTION PLAN PURSUANT TO THE PROVISIONS OF PART 2 OF ARTICLE 52 OF THIS TITLE TO TERMINATE PARTICIPATION IN THE PLAN. SAID APPLICATION SHALL BE MADE BY SUBMITTING A RESOLUTION ADOPTED BY THE BOARDS OF COUNTY COMMISSIONERS THAT HAS BEEN APPROVED BY AT LEAST SIXTY-FIVE PERCENT OF THE EMPLOYEES OF THE DISTRICT ATTORNEY WHO ARE MEMBERS OR WHO PARTICIPATE IN THE PLAN. APPLICATIONS TO THE BOARD SHALL BE MADE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-51-313. APPLICATIONS TO THE COMMITTEE ADMINISTERING A DEFINED CONTRIBUTION PLAN SHALL BE APPROVED BY AND MEET ANY REQUIREMENTS SET FORTH BY THE COMMITTEE.

(g) FOR PURPOSES OF THIS SUBSECTION (2), THE TERM "EMPLOYEE OF A DISTRICT ATTORNEY" SHALL NOT INCLUDE AN ASSISTANT DISTRICT ATTORNEY, CHIEF DEPUTY DISTRICT ATTORNEY, OR DEPUTY DISTRICT ATTORNEY.

SECTION 2. Repeal. 24-51-310 (1) (g), Colorado Revised Statutes, is repealed as follows:

24-51-310. Persons not eligible for membership. (1) Persons not eligible for membership in the association include:

~~(g) Employees in any office of a district attorney but not including such district attorney;~~

SECTION 3. 24-52-202 (3), Colorado Revised Statutes, is amended to read:

24-52-202. Definitions. As used in this part 2, unless the context otherwise requires:

(3) "Eligible employee" means a member of the general assembly, the governor, the lieutenant governor, the attorney general, the chief deputy attorney general, the solicitor general, the secretary of state, the deputy secretary of state, the state treasurer, the deputy state treasurer, a district attorney, AN ASSISTANT DISTRICT ATTORNEY, A CHIEF DEPUTY DISTRICT ATTORNEY, A DEPUTY DISTRICT ATTORNEY, OR OTHER EMPLOYEE OF A DISTRICT ATTORNEY, a member of the public utilities commission, an executive director of a department of state appointed by the governor, an employee of the senate or the house of representatives, and a nonclassified employee of the office of the governor, for whom a defined

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contribution plan has been established pursuant to the provisions of this part 2.

SECTION 4. 24-52-205, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-52-205. Participation. (5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 2, PARTICIPATION OF AN ASSISTANT DISTRICT ATTORNEY, A CHIEF DEPUTY DISTRICT ATTORNEY, A DEPUTY DISTRICT ATTORNEY, OR OTHER EMPLOYEE OF A DISTRICT ATTORNEY SHALL BE GOVERNED BY THE PROVISIONS OF SECTION 24-51-305.5.

SECTION 5. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-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; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor."

Finance

After consideration on the merits, the Committee recommends that **HB03-1301** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 2, line 4, strike "a check returned as unpaid." and substitute "unpaid checks. (1)";

line 6, strike "FORTY-DOLLAR" and substitute "FIFTY-DOLLAR";

line 7, strike "for insufficient funds AS" and substitute "for insufficient funds";

line 8, strike "UNPAID FOR ANY REASON CAUSED BY THE MAKER" and substitute "ANY OF THE REASONS SET FORTH IN SUBSECTION (2) OF THIS SECTION";

after line 17, insert the following:

"(2) THE PENALTY IN SUBSECTION (1) SHALL APPLY TO A CHECK THAT IS RETURNED TO THE DEPARTMENT OF REVENUE WITHOUT PAYMENT BECAUSE OF INSUFFICIENT FUNDS, A CLOSED ACCOUNT, OR A STOP PAYMENT ORDER ON THE CHECK."

Local Government

After consideration on the merits, the Committee recommends that **HB03-1081** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 3, strike line 7 and substitute the following:

"ANOTHER COUNTY DEPARTMENT OR TO A CHILD PLACEMENT AGENCY. UNLESS OTHERWISE PROHIBITED, THE COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY TO WHICH";

line 10, after the second "THE", insert "COUNTY-CERTIFIED".

Page 5, strike lines 15 through 27 and substitute the following:

"26-6-118. Child placement agencies - information sharing - investigations by state department - recovery of moneys. (4) (a) THE STATE DEPARTMENT, IN COLLABORATION WITH THE FEDERAL DEPARTMENT OF HUMAN SERVICES AND OTHER FEDERAL AGENCIES AND WITH COUNTY

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HB03-1081

DEPARTMENTS, SHALL SEEK RECOVERY FROM A CHILD PLACEMENT AGENCY OF ANY PUBLIC FUNDS THAT HAVE BEEN MISUSED BY THE CHILD PLACEMENT AGENCY, AS THE TERM "MISUSE" IS DEFINED BY RULES PROMULGATED PURSUANT TO SECTION 26-6-108 (2) (n).

(b) ANY COUNTY AND CHILD PLACEMENT AGENCY ENTERING INTO A CONTRACT FOR THE PROVISION OF FOSTER CARE SERVICES SHALL INCLUDE A PROVISION IN THE CONTRACT THAT RECOGNIZES A RIGHT OF THE COUNTY TO WITHHOLD SUBSEQUENT PAYMENTS TO RECOVER ANY FUNDS MISUSED BY THE CHILD PLACEMENT AGENCY. THE PROVISION IN THE CONTRACT SHALL PROVIDE FOR AN APPEAL OF THE DECISION TO RECOVER THE FUNDS THAT SHALL INCLUDE AN ADMINISTRATIVE HEARING AFTER REASONABLE NOTICE TO THE CHILD PLACEMENT AGENCY."

Page 6, strike lines 1 through 6.

Local Government

After consideration on the merits, the Committee recommends that **HB03-1194** be referred to the Committee of the Whole with favorable recommendation.

SENATE SERVICES REPORT

Senate Services

Correctly printed: SB03-241, 242, 243.

Correctly engrossed: SJR03-022.

Correctly reengrossed: SB03-041, 110, 234.

Correctly rerevised: HB03-1009, 1037, 1066, 1071, 1084, 1124, 1157, 1185, 1192, 1193, 1204.

Senate in recess.

Senate reconvened.

COMMITTEE OF REFERENCE REPORTS

Judiciary

After consideration on the merits, the Committee recommends that **SB03-076** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 2, line 2, strike "(I), (6) (b) (II), (6) (b) (II.5) (B)," and substitute "(I) and";

strike line 3;

strike lines 12 through 26.

Page 3, strike lines 1 through 16.

Page 4, strike lines 5 through 27.

Page 5, strike lines 1 through 6.

Renumber succeeding sections accordingly.

Page 6, strike line 5, and substitute the following:

"date; except that section 1 of the act shall only take effect if Senate Bill 03-192, as enacted in the first regular session of the sixty-fourth general assembly, becomes law."

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Judiciary

After consideration on the merits, the Committee recommends that **HB03-1025** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 2, strike lines 11 through 22 and substitute the following:

"SECTION 2. 19-2-905 (1) (a), Colorado Revised Statutes, is amended to read:

19-2-905. Presentence investigation. (1) (a) Prior to the sentencing hearing, the juvenile probation department for the judicial district in which the juvenile is adjudicated shall conduct a presentence investigation unless waived by the court on its own determination or on recommendation of the prosecution or the juvenile. The presentence investigation shall take into consideration and build on the intake assessment performed by the screening team. The presentence investigation may address, but is not limited to, the following:

- (I) The details of the offense;
- (II) Statements made by the victims of the offense;
- (III) The amount of restitution, if any, that should be imposed on the juvenile or the juvenile's parent, guardian, or legal custodian;
- (IV) The juvenile's previous criminal record, if any, if the juvenile has not been adjudicated for an act that constitutes unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S.;
- (V) Any history of substance abuse by the juvenile;
- (VI) The juvenile's education ~~and employment~~ history, INCLUDING ANY SPECIAL EDUCATION HISTORY AND ANY CURRENT INDIVIDUAL EDUCATION PROGRAM THE JUVENILE MAY HAVE PURSUANT TO SECTION 22-20-108, C.R.S.;
- (VI.5) THE JUVENILE'S EMPLOYMENT HISTORY;
- (VII) The juvenile's family;
- (VIII) The juvenile's peer relationships;
- (IX) The status of juvenile programs and community placements in the juvenile's judicial district of residence;
- (X) Other related material;
- (XI) Review of placement and commitment criteria adopted pursuant to section 19-2-212, which shall be the criteria for any sentencing recommendations included in the presentence investigation;
- (XII) Assessment of the juvenile's needs; and
- (XIII) Recommendations and a proposed treatment plan for the juvenile."

Business Affairs and Labor

After consideration on the merits, the Committee recommends that **HB03-1299** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 2, strike lines 7 through 18 and substitute the following:

"(a) (I) BEGINNING JULY 1, 2006, with respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments

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HB03-1299

shall be equal to an accumulation up to such time at a rate of interest of three percent per annum of percentages of the net considerations, as defined in subsection (2) of this section, paid prior to such time, decreased by the sum of any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent per annum and the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract.

(II) (A) WITH RESPECT TO CONTRACTS PROVIDING FOR FLEXIBLE CONSIDERATIONS, THE MINIMUM NONFORFEITURE AMOUNT AT ANY TIME AT OR PRIOR TO THE COMMENCEMENT OF ANY ANNUITY PAYMENTS SHALL BE EQUAL TO AN ACCUMULATION UP TO SUCH TIME AT A RATE OF INTEREST OF ONE AND ONE-HALF PERCENT PER ANNUM OF PERCENTAGES OF THE NET CONSIDERATIONS, AS DEFINED IN SUBSECTION (2) OF THIS SECTION, PAID PRIOR TO SUCH TIME, DECREASED BY THE SUM OF ANY PRIOR WITHDRAWALS FROM OR PARTIAL SURRENDERS OF THE CONTRACT ACCUMULATED AT A RATE OF INTEREST OF ONE AND ONE-HALF PERCENT PER ANNUM AND THE AMOUNT OF ANY INDEBTEDNESS TO THE COMPANY ON THE CONTRACT, INCLUDING INTEREST DUE AND ACCRUED, AND INCREASED BY ANY EXISTING ADDITIONAL AMOUNTS CREDITED BY THE COMPANY TO THE CONTRACT.

(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2006."

State, Veterans and Military Affairs After consideration on the merits, the Committee recommends that **HB03-1290** be referred to the Committee of the Whole with favorable recommendation.

State, Veterans and Military Affairs After consideration on the merits, the Committee recommends that **HB03-1143** be referred to the Committee of the Whole with favorable recommendation.

State, Veterans and Military Affairs After consideration on the merits, the Committee recommends that **HB03-1224** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 2, line 17, after "JURISDICTION", insert "OR RECOGNIZED BY THE UNITED STATES GOVERNMENT AND".

Health, Environment, Welfare & Institutions After consideration on the merits, the Committee recommends that **HB03-1028** be referred to the Committee of the Whole with favorable recommendation.

Health, Environment, Welfare & Institutions After consideration on the merits, the Committee recommends that **HB03-1246** be referred to the Committee of the Whole with favorable recommendation.

Health, Environment, Welfare & Institutions After consideration on the merits, the Committee recommends that **HB03-1095** be referred to the Committee of the Whole with favorable recommendation.

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MESSAGE FROM THE HOUSE

March 5, 2003

Mr. President:

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB03-1010.

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB03-1089, amended as printed in House Journal, March 4, pages 1026-1027.

The House has passed on Third Reading and transmitted to the Revisor of Statutes; SB03-057, amended as printed in House Journal, March 4, page 979.

MESSAGE FROM THE REVISOR OF STATUTES

March 5, 2003

We herewith transmit:

Without comment, HB03-1010.

Without comment, as amended, HB03-1089 and SB03-057.

INTRODUCTION OF BILLS--FIRST READING

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

HB03-1001 by Representative(s) Hoppe; also Senator(s) Johnson S.--Concerning increased flexibility in the use of water resources.
State Veterans & Military Affairs

HB03-1010 by Representative(s) Salazar; also Senator(s) Entz--Concerning the frequency of applications necessary to qualify for disabled veteran license plates.
Transportation

SIGNING OF BILLS--RESOLUTIONS--MEMORIALS

The President has signed: SB03-061, 071.

The President has signed: HJR03-1018, 1019, 1021.

TRIBUTE

Honoring Dr. and Mrs. Jan Strickland -- by Senator Nichol.

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 March 5, was laid over until Thursday, March 6, retaining its place on the calendar.

Second Reading--General Orders: SB03-222, SB03-073, HB03-1026, HB03-1117, HB03-1079, HB03-1109, HB03-1156, HB03-1104, HB03-1014, HB03-1101, HB03-1063, HB03-1038, HB03-1281, HB03-1077, HB03-1032, SB03-149, HB03-1003, SB03-101, SB03-134, SB03-114, SB03-068, SB03-027, SB03-132, SB03-001, SB03-225, HB03-1070, HB03-1103, SB03-235, HB03-1006, SB03-232.

Consideration of Governor's Appointments:

Member of the Board of Governors of the Colorado State University System.

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On motion of Senator Anderson, the Senate adjourned until 9:00 a.m., Thursday,
March 6, 2003.

Approved:

John Andrews
President of the Senate

Attest:

Mona Heustis
Secretary of the Senate

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