

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

38th Legislative Day Friday, February 13, 2009

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Prayer	By the chaplain, Rev. John Thompson, Park Hill United Methodist Church, Denver.	11
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Pledge	By Senator Keller.	13
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Call to Order	By the President at 9:00 a.m.	15
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Roll Call	Present--33	18
	Absent--1, Williams.	19
	Excused--1, Foster.	20
	Present later--1, Williams.	21
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Quorum	The President announced a quorum present.	23
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Reading of Journal	On motion of Senator White, reading of the Journal of Thursday, February 12, 2009, was dispensed with and the Journal was approved as corrected by the Secretary.	25
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COMMITTEE OF REFERENCE REPORTS

Trans- portation	After consideration on the merits, the Committee recommends that SB09-143 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	32 33 34 35
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Amend printed bill, page 2, line 18, strike "amended" and substitute "amended, and the said 42-4-110.5 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH,".

Page 3, strike lines 11 through 19 and substitute the following:

"MILES PER HOUR.

~~(II) For purposes of this paragraph (g), unless the context otherwise requires, "residential neighborhood" means any block on which a majority of the improvements along both sides of the street are residential dwellings and the speed limit is thirty-five miles per hour or less.~~

(h) ANY REVENUE RECEIVED BY THE STATE, A COUNTY, A CITY AND COUNTY, OR A MUNICIPALITY FROM THE USE OF AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM SHALL ONLY BE USED BY THE STATE, COUNTY, CITY AND COUNTY, OR MUNICIPALITY TO PAY FOR TRAFFIC REGULATION OR TRAFFIC SAFETY."

Trans- portation	After consideration on the merits, the Committee recommends that SB09-029 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	57 58 59 60
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Amend printed bill, page 2, strike lines 2 and 3 and substitute the following:

"SECTION 1. 42-4-237 (2), the introductory portion to 42-4-237 (3), and 42-4-237 (7), Colorado Revised Statutes, are amended to read:"

line 13, strike "THE DRIVER SHALL MAKE A REASONABLE" and substitute

"THE DRIVER OF A SCHOOL BUS SHALL BE IMMUNE FROM ANY PENALTY IMPOSED FOR A VIOLATION OF THIS PARAGRAPH (b) WHILE IN THE COURSE AND SCOPE OF THE DRIVER'S DUTIES.";

strike line 14;

after line 22, insert the following:

"(7) Evidence of failure to comply with the requirement of subsection (2) of this section shall be admissible to mitigate damages with respect to any person who was involved in a motor vehicle accident and who seeks in any subsequent litigation to recover damages for injuries resulting from the accident. Such mitigation shall be limited to awards for pain and suffering and shall not be used for limiting recovery of economic loss and medical payments. SUCH MITIGATION SHALL NOT APPLY TO ANY MINOR UNDER THE AGE OF EIGHTEEN WHO IS A PASSENGER IN A SCHOOL BUS."

Page 3, line 1, strike "**buses.**" and substitute "**buses - rules.**";

line 2, strike "(a)";

strike lines 7 through 11;

strike lines 16 through 18 and substitute the following:

"(3) THE DEPARTMENT OF EDUCATION SHALL PROMULGATE RULES REQUIRING SCHOOL BUS DRIVERS TO ATTEND ANNUAL SAFETY BELT SYSTEM TRAINING. THE TRAINING SHALL INCLUDE, WITHOUT LIMITATION, MANDATORY USE OF SCHOOL BUS SAFETY BELT SYSTEMS, ADJUSTING SAFETY BELT HEIGHT, AND BUCKLING AND UNBUCKLING A SAFETY BELT, WHICH SHALL BE SUPPLIED WITH THE GENERAL SCHOOL BUS TRAINING. THE DEPARTMENT OF EDUCATION SHALL PROMULGATE RULES REQUIRING SCHOOL BUS OPERATORS TO BIANNUALLY INSTRUCT PASSENGERS ON SAFETY BELT SYSTEM USAGE."

State, Veterans, & Military Affairs

After consideration on the merits, the Committee recommends that **SB09-146** be postponed indefinitely.

State, Veterans, & Military Affairs

After consideration on the merits, the Committee recommends that **SB09-152** be postponed indefinitely.

State, Veterans, & Military Affairs

After consideration on the merits, the Committee recommends that **SB09-087** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 4, strike lines 5 through 8 and substitute the following:

"BY FILING A REQUEST WITH THE COUNTY CLERK AND RECORDER OF THE COUNTY IN WHICH THE DISTRICT IS WHOLLY OR PARTIALLY LOCATED OR WITH THE DESIGNATED ELECTION OFFICIAL OF THE DISTRICT IN ACCORDANCE WITH SECTION 1-8-104.5 (1), C.R.S.";

line 23, strike "JANUARY" and substitute "MARCH".

Page 5, strike lines 20 through 22 and substitute the following:

"(h) A STATEMENT THAT AN APPLICATION TO REQUEST PERMANENT MAIL-IN VOTER STATUS CAN BE OBTAINED FROM THE COUNTY CLERK AND RECORDER, OR ON-LINE FROM THE OFFICE OF THE SECRETARY OF STATE, AND CAN BE RETURNED EITHER TO THE DISTRICT OFFICE OR TO

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THE COUNTY CLERK AND RECORDER OF THE COUNTY OR COUNTIES IN WHICH THE DISTRICT IS WHOLLY OR PARTIALLY LOCATED; AND";

line 26, after "ONE", insert "OR MORE".

Page 6, line 4, after "INSERT,", insert "BILLING STATEMENT,";

line 7, strike "OR";

line 10, strike "DIVISION." and substitute "DIVISION; OR

(d) FOR ANY DISTRICT THAT IS A MEMBER OF A STATEWIDE ASSOCIATION OF SPECIAL DISTRICTS FORMED PURSUANT TO SECTION 29-1-401, C.R.S., BY MAILING OR ELECTRONICALLY TRANSMITTING THE NOTICE TO THE STATEWIDE ASSOCIATION OF SPECIAL DISTRICTS, WHICH ASSOCIATION SHALL POST THE NOTICE ON A PUBLICLY ACCESSIBLE SECTION OF THE ASSOCIATION'S WEB SITE.";

strike lines 22 through 27.

Page 7, strike lines 1 through 18;

Renumber succeeding sections accordingly.

line 19, strike "38-35.7-101," and substitute "38-35.7-101 (1),";

strike lines 20 through 27.

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

"amended to read:

38-35.7-101. Disclosure - special taxing districts - general obligation indebtedness. (1) Every contract for the purchase and sale of residential real property shall contain a disclosure statement in bold-faced type which is clearly legible and in substantially the following form:

SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND EXCESSIVE TAX BURDENS TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. PURCHASERS SHOULD INVESTIGATE THE DEBT FINANCING REQUIREMENTS OF THE AUTHORIZED GENERAL OBLIGATION INDEBTEDNESS OF SUCH DISTRICTS, EXISTING MILL LEVIES OF SUCH DISTRICT SERVICING SUCH INDEBTEDNESS, AND THE POTENTIAL FOR AN INCREASE IN SUCH MILL LEVIES BUYERS SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY, AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR."

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Business,
Labor, &
Technology

After consideration on the merits, the Committee recommends that **SB09-091** 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. 12-6-120 (1) (l) (I) (A), Colorado Revised Statutes, is amended to read:

12-6-120. Unlawful acts. (1) It shall be unlawful and a violation of this part 1 for any manufacturer, distributor, or manufacturer representative:

(l) (I) To fail to pay to a motor vehicle dealer, within ninety days after the termination, cancellation, or nonrenewal of a franchise, all of the following:

(A) The dealer cost, plus any charges made by the manufacturer for distribution, delivery, and taxes, less all allowances paid or credited to the motor vehicle dealer by the manufacturer, of unused, undamaged, and unsold motor vehicles in the motor vehicle dealer's inventory that were acquired from the manufacturer or from another motor vehicle dealer of the same line-make IN THE ORDINARY COURSE OF BUSINESS within the previous twelve months;

SECTION 2. 12-6-120 (1) (i) and (1) (k), Colorado Revised Statutes, are amended, and the said 12-6-120 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

12-6-120. Unlawful acts. (1) It shall be unlawful and a violation of this part 1 for any manufacturer, distributor, or manufacturer representative:

(i) (I) TO FAIL TO PROVIDE WITHIN TWENTY DAYS TO A MOTOR VEHICLE DEALER THE LIST OF DOCUMENTS AND INFORMATION NECESSARY TO APPROVE THE SALE OR TRANSFER OF THE OWNERSHIP OF A DEALERSHIP BY SALE OF THE BUSINESS OR BY STOCK TRANSFER OR THE CHANGE IN EXECUTIVE MANAGEMENT OF THE DEALERSHIP;

(II) TO FAIL TO CONFIRM WITHIN TWENTY DAYS AFTER RECEIPT OF ALL DOCUMENTS AND INFORMATION LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (i) THAT SUCH DOCUMENTATION AND INFORMATION HAS BEEN RECEIVED;

(III) To refuse to approve, unreasonably, the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer WITHIN SIXTY DAYS AFTER THE MANUFACTURER CONFIRMS IT HAS RECEIVED ALL DOCUMENTS AND INFORMATION NECESSARY TO APPROVE THE SALE OR TRANSFER OF OWNERSHIP, or to refuse to approve, unreasonably, the change in executive management of the dealership WITHIN SIXTY DAYS AFTER THE MANUFACTURER CONFIRMS IT HAS RECEIVED ALL INFORMATION NECESSARY TO APPROVE THE CHANGE IN MANAGEMENT; except that nothing in this part 1 shall authorize the sale, transfer, or assignment of a franchise or a change of the principal operator without the approval of the manufacturer or distributor UNLESS THE MANUFACTURER OR DISTRIBUTOR FAILS TO SEND NOTICE OF THE DISAPPROVAL WITHIN SIXTY DAYS AFTER RECEIVING THE REQUEST; OR

(IV) TO CONDITION THE SALE, TRANSFER, RELOCATION, OR RENEWAL OF A FRANCHISE AGREEMENT, OR TO CONDITION SALES, SERVICES, PARTS, OR FINANCE INCENTIVES, UPON SITE CONTROL OR AN

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AGREEMENT TO RENOVATE OR MAKE IMPROVEMENTS TO A FACILITY;
EXCEPT THAT VOLUNTARY ACCEPTANCE OF SUCH CONDITIONS BY THE
DEALER SHALL NOT CONSTITUTE A VIOLATION;

(k) To require, coerce, or attempt to coerce any motor vehicle
dealer to refrain from participation in the management of, investment in,
or acquisition of any other line-make of new motor vehicles or related
products; except that this paragraph (k) shall not apply unless the motor
vehicle dealer:

(I) Maintains a reasonable line of credit for each make or line of
new motor vehicle; and

(II) Remains in compliance with reasonable capital standards and
reasonable facilities requirements specified by the manufacturer; EXCEPT
THAT "reasonable facilities requirements" shall not include any A
requirement that a motor vehicle dealer establish or maintain exclusive
facilities, personnel, or display space; ~~unless such a requirement is
justified by reasonable business considerations.~~ AND

(III) PROVIDES WRITTEN NOTICE TO THE MANUFACTURER,
DISTRIBUTOR, OR MANUFACTURER'S REPRESENTATIVE, NO LESS THAN
NINETY DAYS PRIOR TO THE DEALER'S INTENT TO PARTICIPATE IN THE
MANAGEMENT OF, INVESTMENT IN, OR ACQUISITION OF ANOTHER
LINE-MAKE OF NEW MOTOR VEHICLES OR RELATED PRODUCTS;

(p) TO DISCRIMINATE BETWEEN OR REFUSE TO OFFER TO ITS SAME
LINE-MAKE FRANCHISED DEALERS ALL MODELS MANUFACTURED FOR THAT
LINE-MAKE BASED UPON UNREASONABLE SALES AND SERVICE STANDARDS;

(q) TO FAIL TO MAKE PRACTICALLY AVAILABLE ANY INCENTIVE,
REBATE, BONUS, OR OTHER SIMILAR BENEFIT TO A MOTOR VEHICLE DEALER
THAT IS OFFERED TO ANOTHER MOTOR VEHICLE DEALER OF THE SAME
LINE-MAKE WITHIN THIS STATE;

(r) TO FAIL TO PAY TO A MOTOR VEHICLE DEALER, WITHIN NINETY
DAYS AFTER THE TERMINATION, CANCELLATION, OR NONRENEWAL OF A
FRANCHISE FOR A FAILURE OF A DEALER TO MEET PERFORMANCE SALES
AND SERVICE OBLIGATIONS OR AFTER THE TERMINATION, CANCELLATION,
OR NONRENEWAL OF A LINE-MAKE:

(I) THE COST OF THE LEASE FOR THE FACILITIES USED FOR THE
FRANCHISE FOR THE UNEXPIRED TERM OF THE LEASE, NOT TO EXCEED ONE
YEAR; EXCEPT THAT, IF THE MOTOR VEHICLE DEALER OWNS THE
FACILITIES, THE VALUE OF RENTING SUCH FACILITIES FOR ONE YEAR,
PRORATED FOR EACH LINE-MAKE BASED UPON TOTAL SALES VOLUME FOR
THE PREVIOUS TWELVE MONTHS BEFORE THE INVOLUNTARY TERMINATION;
AND

(II) THE FAIR MARKET VALUE OF THE MOTOR VEHICLE DEALER'S
GOODWILL PRIOR TO TERMINATION AS DETERMINED BY AN INDEPENDENT
CERTIFIED PUBLIC ACCOUNTANT, NOT INCLUDING ANY AMOUNTS PAID
UNDER SUB-SUBPARAGRAPHS (A) TO (E) OF SUBPARAGRAPH (I) OF
PARAGRAPH (I) OF THIS SUBSECTION (1); AND

(s) TO CONDITION A FRANCHISE AGREEMENT ON IMPROVEMENTS
TO A FACILITY UNLESS REASONABLY REQUIRED BY THE TECHNOLOGY OF
A MOTOR VEHICLE BEING SOLD AT THE FACILITY.

SECTION 3. 12-6-120.3, Colorado Revised Statutes, is amended
BY THE ADDITION OF A NEW SUBSECTION to read:

**12-6-120.3. New, reopened, or relocated dealer - notice
required - grounds for refusal of dealer license - definitions - rules.**

(1.5) A MANUFACTURER SHALL REASONABLY APPROVE OR DISAPPROVE
OF A MOTOR VEHICLE DEALER FACILITY INITIAL SITE LOCATION OR
RELOCATION REQUEST WITHIN SIXTY DAYS AFTER THE REQUEST OR AFTER

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SENDING THE NOTICE REQUIRED BY SUBSECTION (1) OF THIS SECTION TO ALL OF ITS FRANCHISED DEALERS, WHICHEVER IS LATER, BUT NOT TO EXCEED ONE HUNDRED DAYS.

SECTION 4. 12-6-120.5 (1) and (2) (a), Colorado Revised Statutes, are amended, and the said 12-6-120.5 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-6-120.5. Independent control of dealer - definitions.

(1) Except as otherwise provided in this section, no manufacturer shall own, operate, or control any motor vehicle dealer OR USED MOTOR VEHICLE DEALER in Colorado.

(2) Notwithstanding subsection (1) of this section, the following activities are not prohibited:

(a) Operation of a dealer for a temporary period, not to exceed ~~two years~~ TWELVE MONTHS, during the transition from one owner or operator to another, EXCEPT THAT THE EXECUTIVE DIRECTOR MAY EXTEND THE PERIOD, NOT TO EXCEED TWENTY-FOUR MONTHS, UPON SHOWING THE MANUFACTURER OR DISTRIBUTOR OF THE NEED TO OPERATE THE DEALERSHIP FOR SUCH TIME TO ACHIEVE A TRANSITION FROM AN OWNER OR OPERATOR TO ANOTHER INDEPENDENT THIRD-PARTY OWNER OR OPERATOR;

(e) OWNERSHIP, OPERATION, OR CONTROL OF A USED MOTOR VEHICLE DEALER IF THE MANUFACTURER OWNED, OPERATED, OR CONTROLLED THE USED MOTOR VEHICLE DEALER ON JANUARY 1, 2009, AND HAS CONTINUOUSLY OPERATED OR CONTROLLED THE USED MOTOR VEHICLE FACILITIES AFTER JANUARY 1, 2009.

SECTION 5. Part 1 of article 6 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

12-6-126. Audit reimbursement limitations - dealer claims.

(1) (a) A MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE SHALL HAVE THE RIGHT TO AUDIT WARRANTY, SALES, OR INCENTIVE CLAIMS OF A MOTOR VEHICLE DEALER FOR FIFTEEN MONTHS AFTER THE DATE THE CLAIM WAS SUBMITTED.

(b) A MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE SHALL NOT REQUIRE DOCUMENTATION FOR WARRANTY, SALES, OR INCENTIVE CLAIMS OR AUDIT WARRANTY, SALES, OR INCENTIVE CLAIMS OF A MOTOR VEHICLE DEALER MORE THAN TWENTY-FOUR MONTHS AFTER THE DATE THE CLAIM WAS SUBMITTED, NOR SHALL THE MANUFACTURER REQUIRE A CHARGE BACK, REIMBURSEMENT, OR CREDIT AGAINST A FUTURE TRANSACTION ARISING OUT OF AN AUDIT OR REQUEST FOR DOCUMENTATION ARISING MORE THAN FIFTEEN MONTHS AFTER THE DATE THE CLAIM WAS SUBMITTED.

(2) THE MOTOR VEHICLE DEALER SHALL HAVE FIFTEEN MONTHS AFTER MAKING A SALE OR PROVIDING SERVICE TO SUBMIT WARRANTY, SALES, OR INCENTIVE CLAIMS TO THE MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER'S REPRESENTATIVE.

(3) SUBSECTION (1) OF THIS SECTION SHALL NOT LIMIT ANY ACTION FOR FRAUD INSTITUTED IN A COURT OF COMPETENT JURISDICTION.

(4) A MOTOR VEHICLE DEALER MAY REQUEST A DETERMINATION FROM THE EXECUTIVE DIRECTOR, WITHIN THIRTY DAYS, THAT A CHARGE BACK, REIMBURSEMENT, OR CREDIT REQUIRED VIOLATES SUBSECTION (1) OF THIS SECTION. IF A DETERMINATION IS REQUESTED WITHIN THE THIRTY-DAY PERIOD THEN THE CHARGE BACK, REIMBURSEMENT, OR CREDIT SHALL BE STAYED PENDING THE DECISION OF THE EXECUTIVE DIRECTOR. IF THE EXECUTIVE DIRECTOR DETERMINES AFTER A HEARING THAT THE CHARGE BACK, REIMBURSEMENT, OR CREDIT VIOLATES

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SUBSECTION (1) OF THIS SECTION, THE CHARGE BACK, REIMBURSEMENT, OR CREDIT SHALL BE VOID.

12-6-127. Reimbursement for right of first refusal. A MANUFACTURER OR DISTRIBUTOR SHALL PAY REASONABLE ATTORNEY FEES, NOT TO EXCEED THE USUAL AND CUSTOMARY FEES CHARGED FOR THE TRANSFER OF A FRANCHISE, AND REASONABLE EXPENSES THAT ARE INCURRED BY THE PROPOSED OWNER OR TRANSFEREE BEFORE THE MANUFACTURER OR DISTRIBUTOR EXERCISED ITS RIGHT OF FIRST REFUSAL IN NEGOTIATING AND IMPLEMENTING THE CONTRACT FOR THE PROPOSED CHANGE OF OWNERSHIP OR THE TRANSFER OF ASSETS. PAYMENT OF ATTORNEY FEES AND EXPENSES IS NOT REQUIRED IF THE CLAIMANT HAS FAILED TO SUBMIT AN ACCOUNTING OF ATTORNEY FEES AND EXPENSES WITHIN TWENTY DAYS AFTER THE RECEIPT OF THE MANUFACTURER'S OR DEALER'S WRITTEN REQUEST FOR AN ACCOUNTING. AN EXPENSE ACCOUNTING MAY BE REQUESTED BY THE MANUFACTURER OR DISTRIBUTOR BEFORE EXERCISING ITS RIGHT OF FIRST REFUSAL.

SECTION 6. 12-6-523 (1) (I) (I), Colorado Revised Statutes, is amended to read:

12-6-523. Unlawful acts. (1) It shall be unlawful and a violation of this part 5 for any powersports vehicle manufacturer, distributor, or manufacturer representative:

(I) To fail to pay to a powersports vehicle dealer, within ninety days after the termination, cancellation, or nonrenewal of a franchise, all of the following:

(I) The dealer cost, plus any charges made by the powersports vehicle manufacturer for distribution, delivery, and taxes, less all allowances paid or credited to the powersports vehicle dealer by the powersports vehicle manufacturer, of unused, undamaged, and unsold powersports vehicles in the powersports vehicle dealer's inventory that were acquired from the powersports vehicle manufacturer or from another powersports vehicle dealer of the same line-make IN THE ORDINARY COURSE OF BUSINESS within the previous twelve months;

SECTION 7. 12-6-523 (1) (i) and (1) (k), Colorado Revised Statutes, are amended, and the said 12-6-523 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

12-6-523. Unlawful acts. (1) It shall be unlawful and a violation of this part 5 for any powersports vehicle manufacturer, distributor, or manufacturer representative:

(i) (I) TO FAIL TO PROVIDE WITHIN TWENTY DAYS TO A POWERSPORTS VEHICLE DEALER THE LIST OF DOCUMENTS AND INFORMATION NECESSARY TO APPROVE THE SALE OR TRANSFER OF THE OWNERSHIP OF A DEALERSHIP BY SALE OF THE BUSINESS OR BY STOCK TRANSFER OR THE CHANGE IN EXECUTIVE MANAGEMENT OF THE DEALERSHIP;

(II) TO FAIL TO CONFIRM WITHIN TWENTY DAYS AFTER RECEIPT OF ALL DOCUMENTS AND INFORMATION LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (i) THAT SUCH DOCUMENTATION AND INFORMATION HAS BEEN RECEIVED;

(III) To refuse to approve, unreasonably, the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer WITHIN SIXTY DAYS AFTER THE MANUFACTURER CONFIRMS IT HAS RECEIVED ALL DOCUMENTS AND INFORMATION NECESSARY TO APPROVE THE SALE OR TRANSFER OF OWNERSHIP, or to refuse to approve, unreasonably, the change in executive management of the dealership WITHIN SIXTY DAYS AFTER THE MANUFACTURER CONFIRMS IT HAS

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RECEIVED ALL INFORMATION NECESSARY TO APPROVE THE CHANGE IN MANAGEMENT; except that nothing in this part 5 shall authorize the sale, transfer, or assignment of a franchise or a change of the principal operator without the approval of the powersports vehicle manufacturer or distributor UNLESS THE MANUFACTURER OR DISTRIBUTOR FAILS TO SEND NOTICE OF THE DISAPPROVAL WITHIN SIXTY DAYS AFTER RECEIVING THE REQUEST; OR

(IV) TO CONDITION THE SALE, TRANSFER, RELOCATION, OR RENEWAL OF A FRANCHISE AGREEMENT OR TO CONDITION SALES, SERVICES, PARTS, OR FINANCE INCENTIVES UPON SITE CONTROL OR AN AGREEMENT TO RENOVATE OR MAKE IMPROVEMENTS TO A FACILITY; EXCEPT THAT VOLUNTARY ACCEPTANCE OF SUCH CONDITIONS BY THE DEALER SHALL NOT CONSTITUTE A VIOLATION;

(k) To require, coerce, or attempt to coerce any powersports vehicle dealer to refrain from participation in the management of, investment in, or acquisition of another line-make of new powersports vehicles or related products; except that this paragraph (k) shall not apply unless the powersports vehicle dealer:

(I) Maintains a reasonable line of credit for each make or line of new powersports vehicle; and

(II) Remains in compliance with reasonable capital standards and reasonable facilities requirements specified by the powersports vehicle manufacturer; but "reasonable facilities requirements" shall not include a requirement that a powersports vehicle dealer establish or maintain exclusive facilities, personnel, or display space; ~~unless the requirement is justified by reasonable business considerations~~; AND

(III) PROVIDES WRITTEN NOTICE TO THE MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER'S REPRESENTATIVE, NO LESS THAN NINETY DAYS PRIOR TO THE DEALER'S INTENT TO PARTICIPATE IN THE MANAGEMENT OF, INVESTMENT IN, OR ACQUISITION OF ANOTHER LINE-MAKE OF NEW POWERSPORTS VEHICLES OR RELATED PRODUCTS;

(p) TO DISCRIMINATE BETWEEN OR REFUSE TO OFFER TO ITS SAME LINE-MAKE FRANCHISED DEALERS ALL MODELS MANUFACTURED FOR THAT LINE-MAKE BASED UPON UNREASONABLE SALES AND SERVICE STANDARDS;

(q) TO FAIL TO MAKE PRACTICALLY AVAILABLE AN INCENTIVE, REBATE, BONUS, OR OTHER SIMILAR BENEFIT TO A POWERSPORTS VEHICLE DEALER THAT IS OFFERED TO ANOTHER POWERSPORTS VEHICLE DEALER OF THE SAME LINE-MAKE WITHIN THIS STATE;

(r) TO FAIL TO PAY TO A POWERSPORTS VEHICLE DEALER, WITHIN NINETY DAYS AFTER THE TERMINATION, CANCELLATION, OR NONRENEWAL OF A FRANCHISE, FOR A FAILURE OF A DEALER TO MEET PERFORMANCE SALES AND SERVICE OBLIGATIONS OR AFTER THE TERMINATION, CANCELLATION, OR NONRENEWAL OF A LINE-MAKE:

(I) THE COST OF THE LEASE FOR THE FACILITIES USED FOR THE FRANCHISE AGREEMENT FOR THE UNEXPIRED TERM OF THE LEASE, NOT TO EXCEED ONE YEAR; EXCEPT THAT, IF THE POWERSPORTS VEHICLE DEALER OWNS THE FACILITIES, THE VALUE OF RENTING SUCH FACILITIES FOR ONE YEAR, PRORATED FOR EACH LINE-MAKE BASED UPON TOTAL SALES VOLUME FOR THE PREVIOUS TWELVE MONTHS BEFORE THE INVOLUNTARY TERMINATION; AND

(II) THE FAIR MARKET VALUE OF THE POWERSPORTS VEHICLE DEALER'S GOODWILL PRIOR TO TERMINATION AS DETERMINED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT, NOT INCLUDING ANY AMOUNTS PAID UNDER SUBPARAGRAPHS (I) TO (V) OF PARAGRAPH (1) OF THIS SUBSECTION (1); AND

(s) TO CONDITION A FRANCHISE AGREEMENT ON IMPROVEMENTS

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TO A FACILITY UNLESS REASONABLY REQUIRED BY THE TECHNOLOGY OF A POWERSPORTS VEHICLE BEING SOLD AT THE FACILITY.

SECTION 8. 12-6-524, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-6-524. New, reopened, or relocated dealer - notice required - grounds for refusal of dealer license - definitions - rules. (1.5) A POWERSPORTS VEHICLE MANUFACTURER SHALL REASONABLY APPROVE OR DISAPPROVE OF A POWERSPORTS VEHICLE DEALER FACILITY INITIAL SITE LOCATION OR RELOCATION REQUEST WITHIN SIXTY DAYS AFTER THE REQUEST OR AFTER SENDING THE NOTICE REQUIRED BY SUBSECTION (1) OF THIS SECTION TO ALL OF ITS FRANCHISED POWERSPORTS VEHICLE DEALERS, WHICHEVER IS LATER, BUT NOT TO EXCEED ONE HUNDRED DAYS.

SECTION 9. 12-6-525 (1) and (2) (a), Colorado Revised Statutes, are amended to read:

12-6-525. Independent control of dealer - definitions. (1) Except as otherwise provided in this section, no powersports vehicle manufacturer shall own, operate, or control a ANY powersports vehicle dealer OR USED POWERSPORTS VEHICLE DEALER in Colorado.

(2) Notwithstanding subsection (1) of this section, the following activities are not prohibited:

(a) Operation of a powersports vehicle dealer for a temporary period, not to exceed ~~two years~~ TWELVE MONTHS, during the transition from one owner or operator to another; EXCEPT THAT THE EXECUTIVE DIRECTOR MAY EXTEND THE PERIOD, NOT TO EXCEED TWENTY-FOUR MONTHS, UPON SHOWING THE MANUFACTURER OR DISTRIBUTOR OF THE NEED TO OPERATE THE DEALERSHIP FOR SUCH TIME TO ACHIEVE A TRANSITION FROM AN OWNER OR OPERATOR TO ANOTHER INDEPENDENT THIRD-PARTY OWNER OR OPERATOR;

SECTION 10. Part 5 of article 6 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

12-6-526.5. Audit reimbursement limitations - dealer claims. (1) (a) A MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE SHALL HAVE THE RIGHT TO AUDIT WARRANTY, SALES, OR INCENTIVE CLAIMS OF A POWERSPORTS VEHICLE DEALER FOR FIFTEEN MONTHS AFTER THE DATE THE CLAIM WAS SUBMITTED.

(b) A MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE SHALL NOT REQUIRE DOCUMENTATION FOR WARRANTY, SALES, OR INCENTIVE CLAIMS OR AUDIT WARRANTY, SALES, OR INCENTIVE CLAIMS OF A POWERSPORTS VEHICLE DEALER MORE THAN TWENTY-FOUR MONTHS AFTER THE DATE THE CLAIM WAS SUBMITTED, NOR SHALL THE MANUFACTURER REQUIRE A CHARGE BACK, REIMBURSEMENT, OR CREDIT AGAINST A FUTURE TRANSACTION ARISING OUT OF AN AUDIT OR REQUEST FOR DOCUMENTATION ARISING MORE THAN FIFTEEN MONTHS AFTER THE DATE THE CLAIM WAS SUBMITTED.

(2) THE POWERSPORTS VEHICLE DEALER SHALL HAVE FIFTEEN MONTHS AFTER MAKING A SALE OR PROVIDING SERVICE TO SUBMIT WARRANTY, SALES, OR INCENTIVE CLAIMS TO THE MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER'S REPRESENTATIVE.

(3) SUBSECTION (1) OF THIS SECTION SHALL NOT LIMIT ANY ACTION FOR FRAUD INSTITUTED IN A COURT OF COMPETENT JURISDICTION.

(4) A POWERSPORTS VEHICLE DEALER MAY REQUEST A DETERMINATION FROM THE EXECUTIVE DIRECTOR, WITHIN THIRTY DAYS, THAT A CHARGE BACK, REIMBURSEMENT, OR CREDIT REQUIRED VIOLATES SUBSECTION (1) OF THIS SECTION. IF A DETERMINATION IS REQUESTED

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WITHIN THE THIRTY-DAY PERIOD THEN THE CHARGE BACK, REIMBURSEMENT, OR CREDIT SHALL BE STAYED PENDING THE DECISION OF THE EXECUTIVE DIRECTOR. IF THE EXECUTIVE DIRECTOR DETERMINES AFTER A HEARING THAT THE CHARGE BACK, REIMBURSEMENT, OR CREDIT VIOLATES SUBSECTION (1) OF THIS SECTION, THE CHARGE BACK, REIMBURSEMENT, OR CREDIT SHALL BE VOID.

12-6-526.7. Reimbursement for disapproving sale. A MANUFACTURER OR DISTRIBUTOR SHALL PAY REASONABLE ATTORNEY FEES, NOT TO EXCEED THE USUAL AND CUSTOMARY FEES CHARGED FOR THE TRANSFER OF A FRANCHISE, AND REASONABLE EXPENSES THAT ARE INCURRED BY THE PROPOSED OWNER OR TRANSFEREE BEFORE THE MANUFACTURER OR DISTRIBUTOR EXERCISED ITS RIGHT OF FIRST REFUSAL IN NEGOTIATING AND IMPLEMENTING THE CONTRACT FOR THE PROPOSED CHANGE OF OWNERSHIP OR THE TRANSFER OF ASSETS. PAYMENT OF ATTORNEY FEES AND EXPENSES IS NOT REQUIRED IF THE CLAIMANT HAS FAILED TO SUBMIT AN ACCOUNTING OF ATTORNEY FEES AND EXPENSES WITHIN TWENTY DAYS AFTER THE RECEIPT OF THE MANUFACTURER'S OR DEALER'S WRITTEN REQUEST FOR AN ACCOUNTING. AN EXPENSE ACCOUNTING MAY BE REQUESTED BY THE MANUFACTURER OR DISTRIBUTOR BEFORE EXERCISING ITS RIGHT OF FIRST REFUSAL.

SECTION 11. Effective date. This act shall take effect July 1, 2009.

SECTION 12. 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."

Finance

After consideration on the merits, the Committee recommends that **SB09-022** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 2, line 16, strike "YEAR AND EACH STATE FISCAL" and substitute "YEAR, UP TO THREE";

line 17, strike "YEAR THEREAFTER, UP TO FIVE".

Page 3, after line 5, insert the following:

"(C) FOR THE 2010-11 STATE FISCAL YEAR, UP TO FOUR MILLION DOLLARS OF ROYALTIES AND OTHER PAYMENTS FOR THE DEPLETION OR EXTRACTION OF A NATURAL RESOURCE ON SAID LANDS, OTHER THAN ROYALTIES AND OTHER PAYMENTS ALLOCATED TO THE STATE LAND BOARD TRUST ADMINISTRATION FUND PURSUANT TO SECTION 36-1-145 (3) OR CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED IN SECTION 22-43.7-104 (1), C.R.S., PURSUANT TO SECTION 22-43.7-104 (2) (b) (I), C.R.S., SHALL BE CREDITED TO THE STATE BOARD OF LAND COMMISSIONERS INVESTMENT AND DEVELOPMENT FUND CREATED IN SECTION 36-1-153.

(D) FOR THE 2011-12 STATE FISCAL YEAR AND EACH STATE FISCAL YEAR THEREAFTER, UP TO FIVE MILLION DOLLARS OF ROYALTIES AND OTHER PAYMENTS FOR THE DEPLETION OR EXTRACTION OF A NATURAL RESOURCE ON SAID LANDS, OTHER THAN ROYALTIES AND OTHER PAYMENTS ALLOCATED TO THE STATE LAND BOARD TRUST ADMINISTRATION FUND PURSUANT TO SECTION 36-1-145 (3) OR CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED IN SECTION 22-43.7-104 (1), C.R.S., PURSUANT TO SECTION 22-43.7-104 (2) (b) (I), C.R.S., SHALL BE CREDITED TO THE STATE BOARD OF LAND COMMISSIONERS INVESTMENT AND DEVELOPMENT FUND CREATED IN SECTION 36-1-153."

Page 4, after line 9, insert the following:

"SECTION 4. 36-1-152, Colorado Revised Statutes, is amended

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to read:

36-1-152. Public school districts - charter schools - lease, purchase, or other use of state lands. (1) The state board of land commissioners shall provide opportunities for public school districts within which school trust lands are located to lease, purchase, or otherwise use such lands or portions thereof as are necessary for school building sites, at an amount to be determined by the board, which shall not exceed the appraised fair market value, which amount may be paid over time.

(2) THE STATE BOARD OF LAND COMMISSIONERS MAY PROVIDE OPPORTUNITIES FOR CHARTER SCHOOLS THAT ARE AUTHORIZED BY SCHOOL DISTRICTS PURSUANT TO PART 1 OF ARTICLE 30.5 OF TITLE 22, C.R.S., OR CHARTER SCHOOLS THAT ARE AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO PART 5 OF ARTICLE 30.5 OF TITLE 22, C.R.S., TO LEASE, PURCHASE, OR OTHERWISE USE SCHOOL TRUST LANDS, OR PORTIONS THEREOF, FOR SCHOOL BUILDING SITES. THE BOARD SHALL DETERMINE THE AMOUNT A CHARTER SCHOOL SHALL BE REQUIRED TO PAY TO LEASE, PURCHASE, OR OTHERWISE USE SAID LANDS, WHICH AMOUNT SHALL NOT EXCEED THE APPRAISED FAIR MARKET VALUE AND MAY BE PAID OVER TIME."

Renumber succeeding sections accordingly.

Finance

After consideration on the merits, the Committee recommends that **SB09-121** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, strike line 27.

Page 3, strike lines 1 through 9 and substitute the following:

"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."

Finance

After consideration on the merits, the Committee recommends that **HB09-1002** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.

Amend reengrossed bill, page 9, line 20, strike "AUDITOR," and substitute "AUDITOR EMPLOYED BY A CERTIFIED PUBLIC ACCOUNTANT FIRM,";

line 23, strike "AUDITOR." and substitute "AUDITOR EMPLOYED BY A CERTIFIED PUBLIC ACCOUNTANT FIRM."

Finance

After consideration on the merits, the Committee recommends that **SB09-052** be referred to the Committee on Appropriations with favorable recommendation.

Finance

After consideration on the merits, the Committee recommends that **SB09-016** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 3, strike lines 9 through 22 and substitute the following:

"(3) (a) TO CLAIM THE EXEMPTION PROVIDED IN SUBSECTION (2) OF THIS SECTION, THE TAXPAYER MUST UNDERTAKE, AND SUBSTANTIALLY COMPLETE AS AGREED, RESEEDING OR OTHER FOREST RESTORATION EFFORTS, AS DESCRIBED IN A FOREST STEWARDSHIP PLAN APPROVED BY THE COLORADO STATE FOREST SERVICE, WITHIN THE TIME PERIOD SPECIFIED IN SUCH PLAN."

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Page 5, line 24, after the period, insert "THE STATE TREASURER MAY ACCEPT GIFTS, GRANTS, AND DONATIONS FOR DEPOSIT IN THE FUND."

Finance After consideration on the merits, the Committee recommends that SB09-124 be referred to the Committee on Appropriations with favorable recommendation.

CONSIDERATION OF RESOLUTIONS -- CONSENT CALENDAR

SJR09-012 by Senator(s) Scheffel, Penry, Kopp, Cadman, King K., White, Harvey, Schultheis, Groff, Brophy, Kester, Lundberg, Renfroe; also Representative(s) McNulty--Concerning the 200th anniversary of the birth of former President Abraham Lincoln.

On motion of Senator Shaffer, the resolution was adopted by the following roll call vote:

Table with 8 columns: YES (34), NO (0), EXCUSED (1), ABSENT (0). Rows list names and their corresponding votes (Y, N, E).

Co-sponsors added: Bacon, Boyd, Carroll M., Gibbs, Heath, Hodge, Hudak, Isgar, Keller, Mitchell, Morse, Newell, Romer, Sandoval, Schwartz, Shaffer B., Spence, Tapia, Tochtrop, Veiga and Williams.

Committee of the Whole On motion of Senator Morse, the Senate resolved itself into the Committee of the Whole for consideration of General Orders--Second Reading of Bills--Consent Calendar and Senator Morse was called to the Chair to act as Chairman.

GENERAL ORDERS -- SECOND READING OF BILLS -- CONSENT CALENDAR

The Committee of the Whole having risen, the Chairman reported that the following bills, reading at length having been dispensed with by unanimous consent, had been considered and action taken thereon as follows:

SB09-150 by Senator(s) Heath; also Representative(s) Levy--Concerning the priority of a purchase-money lien for a motor vehicle.

Ordered engrossed and placed on the calendar for Third Reading and Final Passage.

SB09-139 by Senator(s) Shaffer B.; also Representative(s) McGihon--Concerning the adoption of recent changes to the "Uniform Principal and Income Act" proposed by the national conference of commissioners on uniform state laws.

Amendment No. 1, Finance Committee Amendment.

(Printed in Senate Journal, February 6, page 187 and placed in members' bill files.)

As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage.

SB09-115 by Senator(s) Brophy, Hodge, Isgar; also Representative(s) Curry--Concerning the continuation of the regulation of public livestock markets.

Amendment No. 1, Agriculture & Natural Resources Committee Amendment.

(Printed in Senate Journal, February 6, page 198-199 and placed in members' bill files.)

As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage.

SB09-109 by Senator(s) Newell, Morse; also Representative(s) Schafer S.--Concerning continuation of provisions related to the fire service training and certification advisory board.

- Ordered engrossed and placed on the calendar for Third Reading and Final Passage. 1
- SB09-048** by Senator(s) Schwartz, Isgar, Schultheis, Tochtrop; also Representative(s) Primavera, Kerr 2
J., McNulty--Concerning the financial audit of the office of the child's representative. 3
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- Ordered engrossed and placed on the calendar for Third Reading and Final Passage. 6
- SB09-107** by Senator(s) Kester; also Representative(s) Looper--Concerning the time during which a 7
notarized bill of sale will exempt a vehicle that is at least twenty-five years old from being 8
required to have a bonded title. 9
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- Amendment No. 1, Transportation Committee Amendment. 11
(Printed in Senate Journal, February 11, page 247 and placed in members' bill files.) 12
As amended, ordered engrossed and placed on the calendar for Third Reading and Final 13
Passage. 14
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- SB09-126** by Senator(s) Newell, Hodge, Spence, Tochtrop; also Representative(s) Apuan, Gagliardi, 16
Swalm--Concerning the voluntary contribution designation benefiting the multiple sclerosis 17
fund that appears on the state individual income tax return forms, and, in connection 18
therewith, extending the period for the contribution designation. 19
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- Ordered engrossed and placed on the calendar for Third Reading and Final Passage. 22
- SB09-104** by Senator(s) Sandoval; also Representative(s) Gagliardi--Concerning the provision of 23
verifiable documents to youth leaving foster care. 24
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- Amendment No. 1, Local Government & Energy Committee Amendment. 27
(Printed in Senate Journal, February 6, page 193 and placed in members' bill files.) 28
As amended, ordered engrossed and placed on the calendar for Third Reading and Final 29
Passage. 30
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- SB09-114** by Senator(s) Kester, Hodge, Isgar; also Representative(s) Sonnenberg--Concerning the 32
continuation of the authority of the department of agriculture to regulate the sale of 33
agricultural products, and, in connection therewith, regulating farm products and commodity 34
warehouses. 35
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- Ordered engrossed and placed on the calendar for Third Reading and Final Passage. 37
- SB09-127** by Senator(s) Schwartz, Hodge, Isgar; also Representative(s) Fischer--Concerning the 38
continuation of the regulation of egg quality. 39
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- Amendment No. 1, Agriculture & Natural Resources Committee Amendment. 42
(Printed in Senate Journal, February 6, page 199 and placed in members' bill files.) 43
As amended, ordered engrossed and placed on the calendar for Third Reading and Final 44
Passage. 45
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- SB09-113** by Senator(s) Brophy, Hodge, Isgar; also Representative(s) Sonnenberg--Concerning the 47
continuation of the authority of the department of agriculture to regulate measurement 48
standards. 49
Upon request of Senator Brophy, SB09-113 was removed from the General Orders--Second 50
Reading of Bills Consent Calendar of February 13 and placed at the end of the General 51
Orders -- Second Reading of Bills calendar of February 13. 52
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- SB09-013** by Senator(s) Gibbs and Schwartz, Penry; also Representative(s) Levy and King S.-- 54
Concerning the extension of civil immunity to persons engaged in emergency response 55
activities. 56
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- Amendment No. 1, Judiciary Committee Amendment. 58
(Printed in Senate Journal, February 11, pages 236-237 and placed in members' bill files.) 59
As amended, ordered engrossed and placed on the calendar for Third Reading and Final 60
Passage. 61
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**ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE --
CONSENT CALENDAR**

On motion of Senator Morse, the Report of the Committee of the Whole was adopted by
the following roll call vote:

YES	34	NO	0	EXCUSED	1	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Shaffer B.	Y
Boyd	Y	Hudak	Y	Newell	Y	Spence	Y
Brophy	Y	Isgar	Y	Penry	Y	Tapia	Y
Cadman	Y	Keller	Y	Renfroe	Y	Tochtrop	Y
Carroll M.	Y	Kester	Y	Romer	Y	Veiga	Y
Foster	E	King K.	Y	Sandoval	Y	White	Y
Gibbs	Y	Kopp	Y	Scheffel	Y	Williams	Y
Harvey	Y	Lundberg	Y	Schultheis	Y	President	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

The Committee of the Whole took the following action:

Passed on Second Reading: SB09-150, SB09-139 as amended, SB09-115 as amended, SB09-109, SB09-048, SB09-107 as amended, SB09-126, SB09-104 as amended, SB09-114, SB09-127 as amended, SB09-013 as amended.

Removed from the General Orders Second Reading of Bills Consent Calendar and placed on the General Orders Second Reading of Bills Calendar for Tuesday, February 13: SB09-113.

Committee of the Whole

On motion of Senator Morse, the Senate resolved itself into the Committee of the Whole for consideration of General Orders--Second Reading of Bills and Senator Morse was called to the Chair to act as Chairman.

GENERAL ORDERS -- SECOND READING OF BILLS

The Committee of the Whole having risen, the Chairman reported that the following bills, reading at length having been dispensed with by unanimous consent, had been considered and action taken thereon as follows:

SB09-064 by Senator(s) King K., Romer, Bacon, Groff, Heath, Hudak, Kopp, Spence, Williams; also Representative(s) Massey, Merrifield, Baumgardner, Benefield, Gardner B., Middleton, Murray, Peniston, Priola, Scanlan, Schafer S., Solano, Summers, Todd--Concerning building inspections relating to utilities.

Laid over until Monday, February 16, retaining its place on the calendar.

SB09-100 by Senator(s) Newell, Mitchell, Carroll M., Foster, Heath, Hodge, Morse; also Representative(s) Frangas, Primavera, Rice--Concerning amending the definition of "noncustodial parent" in the "Colorado Works Program Act" to enable a noncustodial parent to receive employment assistance regardless of whether the noncustodial parent's child is receiving assistance under the Colorado works program.

Ordered engrossed and placed on the calendar for Third Reading and Final Passage.

SB09-092 by Senator(s) Kopp, Romer, Brophy, White, King K., Penry, Renfroe; also Representative(s) Marostica, King S., Sonnenberg, Stephens, Waller--Concerning the requirement that state-owned motor vehicles operate on compressed natural gas.

Amendment No. 1(L.004), by Senators Romer and Kopp.

Amend printed bill, page 3, line 2, after "requirement.", insert "DURING THE SECOND REGULAR SESSION OF THE SIXTY-SEVENTH GENERAL ASSEMBLY IN 2010, THE EXECUTIVE DIRECTOR SHALL REPORT SIMULTANEOUSLY TO THE TRANSPORTATION COMMITTEE OF THE SENATE AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, DETAILING THE KEY FINANCIAL DECISION POINTS AND ANALYSIS THAT LED TO THE EXECUTIVE DIRECTOR'S DETERMINATION TO PURCHASE OR DECLINE TO PURCHASE MOTOR VEHICLES THAT OPERATE ON NATURAL GAS AS REQUIRED BY THIS SUBPARAGRAPH (II).".

Amendment No. 2(L.003), by Senators Kopp and Brophy.

Amend printed bill, page 2, line 19, strike "AVAILABILITY," and substitute "THEIR AVAILABILITY AND THE AVAILABILITY OF ADEQUATE FUEL AND

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- FUELING INFRASTRUCTURE," and, after "INCREASED", insert "BASE";
- line 20, strike "VEHICLES" and substitute "VEHICLE OR THE INCREASED LIFE CYCLE COST OF SUCH VEHICLE" and strike "COMPARABLE";
- line 21, strike "VEHICLES THAT DO NOT OPERATE ON COMPRESSED NATURAL GAS." and substitute "A COMPARABLE NONFLEXIBLE FUEL VEHICLE."
- As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage.
- SB09-030** by Senator(s) Keller; also Representative(s) Schafer S.--Concerning the "Child Mental Health Treatment Act".
- Amendment No. 1(L.002), by Senator Keller.
- Amend printed bill, page 3, strike lines 19 through 21 and substitute the following:
- "department the following information, AND EACH BEHAVIORAL HEALTH ORGANIZATION, FOR THOSE CHILDREN ELIGIBLE TO RECEIVE MEDICAID BENEFITS WHOSE PARENT OR LEGAL GUARDIAN REQUESTS RESIDENTIAL TREATMENT, SHALL REPORT TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING THE FOLLOWING INFORMATION:".
- As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage.
- SB09-151** by Senator(s) Isgar, Hodge; also Representative(s) Curry--Concerning the regulation of slaughterers of livestock through the department of agriculture, and, in connection therewith, allowing such function to expire on schedule and reassigning certain regulatory functions to the state board of stock inspection commissioners.
- Amendment No. 1, Agriculture & Natural Resources Committee Amendment. (Printed in Senate Journal, February 6, page 198 and placed in members' bill files.)
- As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage.
- HB09-1014** by Representative(s) Judd; also Senator(s) Isgar--Concerning the provision of additional resources to the division of real estate to provide oversight of conservation easements for which a state income tax credit is claimed.
- Ordered revised and placed on the calendar for Third Reading and Final Passage.
- SB09-111** by Senator(s) Bacon, Boyd, Schultheis; also Representative(s) Court--Concerning continuation of the "Notaries Public Act".
- Amendment No. 1(L.002), by Senators Cadman and Foster.
- Amend printed bill, page 3, strike lines 22 and 23 and substitute the following:
- "amended BY THE ADDITION OF A NEW PARAGRAPH, to read:".
- Page 4, strike lines 4 through 7 and substitute the following:
- "RELATIVES."

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Amendment No. 2(L.001), by Senator Cadman.

Amend printed bill, page 3, line 27, after, "public" insert "WHO".

Page 4, strike line 1, and substitute the following:

"connection with ~~which~~ notarial services ~~are requested if he~~ INCLUDES, BUT IS NOT LIMITED TO, A NOTARY PUBLIC WHO:";

line 2, strike "DOMESTIC PARTNER,".

As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage.

SB09-148

by Senator(s) Brophy, Gibbs; also Representative(s) Merrifield, Carroll T., Kerr A., Marostica, McNulty--Concerning revisions to the rules governing the safe interaction of bicycles with other vehicles on roadways.

Amendment No. 1, Transportation Committee Amendment.

(Printed in Senate Journal, February 11, page 246 and placed in members' bill files.)

Amendment No. 2(L.005), by Senator Brophy.

Strike the Transportation Committee Report, dated February 10, 2009, and substitute the following:

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

"SECTION 4. Part 10 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-1008.5. Crowding or threatening bicyclist. (1) THE DRIVER OF A MOTOR VEHICLE SHALL NOT INTENTIONALLY DRIVE THE VEHICLE UNNECESSARILY CLOSE TO A BICYCLIST OR IN A THREATENING OR DANGEROUS MANNER TOWARD OR NEAR A BICYCLIST.

(2) ANY PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION COMMITS CARELESS DRIVING AS DESCRIBED IN SECTION 42-4-1402."

Renumber succeeding sections accordingly.

Page 6, strike lines 5 through 17 and substitute the following:

"SECTION 6. 18-9-116, Colorado Revised Statutes, is amended to read:

18-9-116. Throwing missiles at vehicles - harassment of bicyclists. (1) Any person who knowingly projects any missile at or against any vehicle or equipment designed for the transportation of persons or property, OTHER THAN A BICYCLE, commits a class 1 petty offense.

(2) ANY PERSON WHO KNOWINGLY PROJECTS ANY MISSILE AT OR AGAINST A BICYCLIST OR WHO HARASSES OR TAUNTS A BICYCLIST COMMITS A CLASS 2 MISDEMEANOR.

(3) AS USED IN THIS SECTION, "MISSILE" MEANS ANY OBJECT OR SUBSTANCE."

Renumber succeeding section accordingly."

Amendment No. 3(L.003), by Senator Brophy.

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Amend printed bill, page 3, after line 16, insert the following:

"**SECTION 3.** 42-4-1004, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

42-4-1004. When overtaking on the right is permitted.

(1.5) THE DRIVER OF A VEHICLE UPON A ONE-WAY ROADWAY WITH TWO OR MORE MARKED TRAFFIC LANES, WHEN OVERTAKING A BICYCLIST PROCEEDING IN THE SAME DIRECTION AND RIDING ON THE LEFT-HAND SIDE OF THE ROAD, SHALL ALLOW THE BICYCLIST AT LEAST A THREE-FOOT SEPARATION BETWEEN THE LEFT SIDE OF THE DRIVER'S VEHICLE, INCLUDING ALL MIRRORS OR OTHER PROJECTIONS, AND THE RIGHT SIDE OF THE BICYCLIST AT ALL TIMES."

Renumber succeeding sections accordingly.

As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage.

SB09-101 by Senator(s) White; also Representative(s) Levy--Concerning the requirement for the creation of an independent historic preservation commission by any city receiving moneys from the state historical fund for historic preservation purposes when the city is not a certified local government, and, in connection therewith, establishing the composition and operation of such a commission.

Amendment No. 1, Local Government & Energy Committee Amendment.
(Printed in Senate Journal, February 11, page 253-254 and placed in members' bill files.)

As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage.

SB09-113 by Senator(s) Brophy, Hodge, Isgar; also Representative(s) Sonnenberg--Concerning the continuation of the authority of the department of agriculture to regulate measurement standards.

Amendment No. 1, Agriculture & Natural Resources Committee Amendment.
(Printed in Senate Journal, February 6, page 199-213 and placed in members' bill files.)

Amendment No. 2(L.002), by Senator Brophy.

Amend the Agriculture and Natural Resources Committee Report, dated February 5, 2009, page 17, line 17, strike "DEVICES." and substitute "DEVICES."";

after line 17, insert the following:

"Page 6, after line 8, insert the following:";

line 18, strike "(c)" and substitute ""(c)";

line 23, strike "commission." and substitute "commission.";

strike line 24;

line 25, strike ""(11)" and substitute "(11)".

As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage.

SB09-035 by Senator(s) Renfroe; also Representative(s) Sonnenberg--Concerning a penalty for a violation of certain proscribed acts for government officials.

Amendment No. 1, Judiciary Committee Amendment.
(Printed in Senate Journal, January 29, page 130 and placed in members' bill files.)

As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage.

SB09-057

by Senator(s) Harvey, Kopp; also Representative(s) Stephens--Concerning searchable budget database web sites containing public education financial information, and, in connection therewith, enacting the "Public School Financial Transparency Act".

Amendment No. 1(L.011), by Senator Harvey.

Amend printed bill, page 3, line 21, strike "SEARCH AND" and substitute "REVIEW";

line 22, strike "AGGREGATE".

Page 4, strike line 19 and substitute the following:

"MONTHLY. THE FINANCIAL DATA SHALL BE PROVIDED IN A STRUCTURED FORMAT";

line 24, strike "TEN" and substitute "FIVE";

after line 24, insert the following:

"(3) THE PROVISIONS OF THIS PART 3 SHALL NOT APPLY TO A LOCAL EDUCATION PROVIDER THAT, AS OF JANUARY 1, 2009, DOES NOT HAVE AN EXISTING WEB SITE, OTHER THAN A SEARCHABLE BUDGET DATABASE WEB SITE, THAT PROVIDES INFORMATION CONCERNING THE LOCAL EDUCATION PROVIDER. AT SUCH TIME AS A LOCAL EDUCATION PROVIDER HAS A WEB SITE THAT PROVIDES INFORMATION CONCERNING THE LOCAL EDUCATION PROVIDER, THE LOCAL EDUCATION PROVIDER SHALL COMPLY WITH THE PROVISIONS OF THIS PART 3."

Amendment No. 2(L.009), by Senator Kopp.

Amend printed bill, page 4, line 11, strike "2010," and substitute "2011,".

Amendment No. 3(L.017), by Senator Schwartz.

Amend the Harvey floor amendment, (SB057_L.011), page 1, line 13, strike "PROVIDER." and substitute "PROVIDER AND IS ROUTINELY MAINTAINED BY THE LOCAL EDUCATION PROVIDER."

As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage.

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator Morse, the Report of the Committee of the Whole was adopted by the following roll call vote:

YES	34	NO	0	EXCUSED	1	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Shaffer B.	Y
Boyd	Y	Hudak	Y	Newell	Y	Spence	Y
Brophy	Y	Isgar	Y	Penry	Y	Tapia	Y
Cadman	Y	Keller	Y	Renfroe	Y	Tochtrop	Y
Carroll M.	Y	Kester	Y	Romer	Y	Veiga	Y
Foster	E	King K.	Y	Sandoval	Y	White	Y
Gibbs	Y	Kopp	Y	Scheffel	Y	Williams	Y
Harvey	Y	Lundberg	Y	Schultheis	Y	President	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

The Committee of the Whole took the following action:

Passed on Second Reading: SB09-100, SB09-092 as amended, SB09-030 as amended, SB09-151 as amended, SB09-111 as amended, SB09-148 as amended, SB09-101 as amended, SB09-113 as amended, SB09-035 as amended, SB09-057 as amended, HB09-1014.
Laid over until Monday, February 16: SB09-064.

MESSAGE FROM THE GOVERNOR

Appointment Letters of designation and appointment from Governor Ritter were read and assigned to Committees as follows:

October 7, 2008

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, appoint, reappoint and submit to your consideration, the following:

**MEMBERS OF THE
SOLID AND HAZARDOUS WASTE COMMISSION**

for terms expiring August 1, 2011:

Roger L. Freeman of Denver, Colorado, to serve as a representative of the academic community and as a Democrat, appointed;

Lynn M. Kornfeld of Denver, Colorado, to serve as a representative of the regulated community and as a Democrat, reappointed;

Aleksandr "Alek" M. Orloff of Denver, Colorado, to serve as a public member and as an unaffiliated, appointed.

Sincerely,
(signed)
Bill Ritter, Jr.
Governor
Rec'd: 10/15/08
Karen Goldman, Secretary of the Senate

Committee on Health and Human Services

November 13, 2008

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, appoint, reappoint and submit to your consideration, the following:

**MEMBERS OF THE
COVERCOLORADO BOARD OF DIRECTORS**

for a term expiring July 1, 2011:

Jayne R. Howard of Columbine Valley, Colorado, an individual who is currently insured or who has been insured under the program, to fill the vacancy occasioned by the resignation of Susan McIntosh-Hutton of Littleton, Colorado, appointed;

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for terms expiring July 1, 2012: 1

Dr. Christine M. Gilroy of Denver, Colorado, a medical professional specializing in 2
chronic disease, reappointed; 3

Daryl W. Edmonds of Highlands Ranch, Colorado, a representative of an insurance carrier, 4
reappointed. 5

Sincerely, 6
(signed) 7
Bill Ritter, Jr. 8
Governor 9
Rec'd: 11/21/08 10
Karen Goldman, Secretary of the Senate 11

Committee on Health and Human Services 12
December 12, 2008 13

To the Honorable 14
Colorado Senate 15
Colorado General Assembly 16
State Capitol Building 17
Denver, CO 80203 18

Ladies and Gentlemen: 19

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of 20
Colorado, I have the honor to designate, appoint, reappoint and submit to your 21
consideration, the following: 22

MEMBERS OF THE 23
COLORADO SCHOOL OF MINES, BOARD OF TRUSTEES 24

effective January 1, 2009 for terms expiring December 31, 2012: 25

Maria Teresa Fox of Wheat Ridge, Colorado, a graduate of the Colorado School of Mines 26
and a Democrat, appointed; 27

L. Roger Hutson of Englewood, Colorado, a graduate of the Colorado School of Mines 28
and a Republican, reappointed. 29

Sincerely, 30
(signed) 31
Bill Ritter, Jr. 32
Governor 33
Rec'd: 1/5/09 34
Karen Goldman, Secretary of the Senate 35

Committee on Education 36
September 19, 2008 37

To the Honorable 38
Colorado Senate 39
Colorado General Assembly 40
State Capitol Building 41
Denver, CO 80203 42

Ladies and Gentlemen: 43

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of 44
Colorado, I have the honor to designate, reappoint and submit to your consideration, the 45
following: 46

MEMBERS OF THE
BOARD OF TRUSTEES FOR THE COLORADO
SCHOOL FOR THE DEAF AND THE BLIND

for terms expiring July 1, 2012:

John C. Dickinson of Longmont, Colorado, a Democrat, reappointed;

David S. Ek of Colorado Springs, Colorado, an Unaffiliated, reappointed;

Dr. Morris D. Ververs of Simla, Colorado, a Republican, reappointed;

David Dawson of Boulder, Colorado, a Democrat, reappointed.

Sincerely,
(signed)

Bill Ritter, Jr.
Governor

Rec'd: 9/25/08

Chris McGowne, Reading Clerk

Committee on Education

CONSIDERATION OF GOVERNOR'S APPOINTMENTS

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

MEMBERS OF THE
BOARD OF ASSESSMENT APPEALS

effective July 2, 2008 for terms expiring July 1, 2009:

James R. Meurer of Golden, Colorado, reappointed;

MaryKay Kelley of Silverthorne, Colorado, reappointed;

Diane M. DeVries of Wheat Ridge, Colorado, reappointed;

Lyle D. Hansen of Denver, Colorado, reappointed.

YES	34	NO	0	EXCUSED	1	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Shaffer B.	Y
Boyd	Y	Hudak	Y	Newell	Y	Spence	Y
Brophy	Y	Isgar	Y	Penry	Y	Tapia	Y
Cadman	Y	Keller	Y	Renfroe	Y	Tochtrop	Y
Carroll M.	Y	Kester	Y	Romer	Y	Veiga	Y
Foster	E	King K.	Y	Sandoval	Y	White	Y
Gibbs	Y	Kopp	Y	Scheffel	Y	Williams	Y
Harvey	Y	Lundberg	Y	Schultheis	Y	President	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

COMMITTEE OF REFERENCE REPORTS

Local
Government
and Energy

After consideration on the merits, the Committee recommends that **SB09-149** 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 13, after "COMMISSION.", insert "IN APPOINTING THE CHARTER COMMISSION, THE BOARD OF COUNTY COMMISSIONERS SHALL GIVE CONSIDERATION AND PREFERENCE TO THOSE

POTENTIAL APPOINTEES WHO WOULD PROVIDE BROAD POLITICAL AND GEOGRAPHIC REPRESENTATION TO THE CHARTER COMMISSION IF APPOINTED."

Page 7, line 12, strike "CHARTER AND SHALL DETERMINE WHETHER TO" and substitute "CHARTER. UPON FINAL ACCEPTANCE OF THE CHARTER BY THE BOARD OF COUNTY COMMISSIONERS, THE BOARD SHALL".

Local Government and Energy

After consideration on the merits, the Committee recommends that **SB09-020** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

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

"SECTION 1. Title 29, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

**Article 22.5
Wild Land Fire Planning**

29-22.5-101. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(a) WILD LAND FIRES, ESPECIALLY FIRES OCCURRING IN WILD LAND-URBAN INTERFACE AREAS, POSE A SERIOUS THREAT TO LIFE, PROPERTY, CRITICAL INFRASTRUCTURE, AND THE ENVIRONMENT;

(b) A SYSTEMATIC, PROACTIVE APPROACH TO THE MANAGEMENT OF WILD LAND FIRE INCIDENTS, REGARDLESS OF CAUSE, SIZE, LOCATION, OR COMPLEXITY, IS NEEDED IN ORDER TO PROTECT LIFE, PROPERTY, CRITICAL INFRASTRUCTURE, AND THE ENVIRONMENT;

(c) THE NATIONAL INCIDENT MANAGEMENT SYSTEM PROVIDES A CONSISTENT, NATIONWIDE TEMPLATE ENABLING FEDERAL, STATE, TRIBAL, AND LOCAL GOVERNMENTS, THE PRIVATE SECTOR, AND NONGOVERNMENTAL ORGANIZATIONS TO WORK TOGETHER TO PREPARE FOR, PREVENT, RESPOND TO, RECOVER FROM, AND MITIGATE THE EFFECTS OF ALL INCIDENTS REGARDLESS OF TYPE, CAUSE, SIZE, LOCATION, OR COMPLEXITY, AND SHOULD BE THE FOUNDATION FOR THE MANAGEMENT OF WILD LAND FIRE INCIDENTS;

(d) THE DEVELOPMENT OF A COUNTY WILD LAND FIRE PLAN, IN COOPERATION BETWEEN THE SHERIFF AND THE FIRE CHIEFS OF THE COUNTY AND BASED ON THE RESOURCE CAPABILITIES SPECIFIC TO THE COUNTY, WILL ASSIST IN CLARIFYING THE ROLES AND RESPONSIBILITIES OF LOCAL EMERGENCY RESPONSE AGENCIES, IN THE MANAGEMENT OF WILD LAND FIRE INCIDENTS AND, FOR THESE REASONS, THE DEVELOPMENT OF SUCH A PLAN IS ENCOURAGED;

(e) MANY OF THE ELEMENTS OF A COUNTY WILD LAND FIRE PLAN MAY ALREADY EXIST IN COMMUNITY WILDFIRE PROTECTION PLANS, OTHER COUNTY FIRE PLANS, COUNTY ALL-HAZARDS PREPAREDNESS PLANS, OR ANNUAL OPERATING PLANS, AND THESE ELEMENTS SHOULD BE BROUGHT TOGETHER, IN COOPERATION BETWEEN THE SHERIFF AND THE FIRE CHIEFS OF THE COUNTY, INTO A COUNTY WILD LAND FIRE PLAN; AND

(f) THE PROVISIONS OF THIS ARTICLE ARE INTENDED TO CLARIFY AND IDENTIFY SPECIFIC STATE AND LOCAL ROLES, RESPONSIBILITIES, AND AUTHORITIES FOR MANAGING PRAIRIE, FOREST, OR WILD LAND FIRE INCIDENTS THAT RANGE FROM THE SMALL SCALE LOCAL TO LARGE SCALE MULTI-JURISDICTIONAL OR CATASTROPHIC FIRES IN ORDER TO PROTECT LIFE, PROPERTY, CRITICAL INFRASTRUCTURE, AND THE ENVIRONMENT.

29-22.5-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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(1) "FOREST SERVICE" MEANS THE COLORADO STATE FOREST SERVICE IDENTIFIED IN SECTION 23-31-302, C.R.S.

(2) "INCIDENT COMMAND SYSTEM" MEANS A STANDARDIZED, ON-SCENE, ALL-HAZARD INCIDENT MANAGEMENT CONCEPT THAT IS AN INTEGRAL PART OF THE NATIONAL INCIDENT MANAGEMENT SYSTEM.

(3) "INCIDENT COMMANDER" MEANS THE INDIVIDUAL RESPONSIBLE FOR THE OVERALL MANAGEMENT OF THE INCIDENT INCLUDING DEVELOPING INCIDENT OBJECTIVES AND MANAGING ALL INCIDENT OPERATIONS, BY VIRTUE OF EXPLICIT LEGAL, AGENCY, OR DELEGATED AUTHORITY.

(4) "LOCAL INCIDENT MANAGEMENT TEAM" MEANS A SINGLE OR MULTI-AGENCY TEAM OF CAPABLE INDIVIDUALS FORMED AND MANAGED AT THE LOCAL OR COUNTY LEVEL AND CREATED OR ACTIVATED WHEN NECESSARY TO PROVIDE THE COMMAND AND CONTROL INFRASTRUCTURE REQUIRED TO MANAGE A MAJOR OR COMPLEX INCIDENT REQUIRING A SIGNIFICANT NUMBER OF LOCAL AND MUTUAL AID RESOURCES.

(5) "MUTUAL AID AGREEMENT" MEANS A WRITTEN AGREEMENT BETWEEN OR AMONG FEDERAL, STATE, AND LOCAL AGENCIES IN WHICH THE AGENCIES AGREE TO ASSIST ONE ANOTHER UPON REQUEST BY FURNISHING SUCH RESOURCES AS PERSONNEL AND EQUIPMENT.

(6) "NATIONAL INCIDENT MANAGEMENT SYSTEM" OR "NIMS" MEANS THE NATIONAL COMMAND AND MANAGEMENT SYSTEM DEVELOPED BY THE U.S. DEPARTMENT OF HOMELAND SECURITY. NIMS PROVIDES A UNIFIED APPROACH TO INCIDENT MANAGEMENT; STANDARD COMMAND AND MANAGEMENT STRUCTURES; AND EMPHASIS ON PREPAREDNESS, MUTUAL AID, AND RESOURCE MANAGEMENT.

(7) "PRESCRIBED FIRE" MEANS ANY FIRE IGNITED BY FEDERAL, STATE, OR LOCAL FOREST OR LAND MANAGERS OR PRIVATE PROPERTY OWNERS TO MEET SPECIFIC FIRE PROTECTION OR MITIGATION OBJECTIVES.

(8) "UNIFIED COMMAND" MEANS THE INCIDENT COMMANDERS REPRESENTING AGENCIES OR JURISDICTIONS THAT SHARE RESPONSIBILITY FOR THE INCIDENT MANAGE THE RESPONSE FROM A SINGLE INCIDENT COMMAND POST, ALLOWING AGENCIES WITH DIFFERENT LEGAL, GEOGRAPHIC, AND FUNCTIONAL AUTHORITIES AND RESPONSIBILITIES TO WORK TOGETHER EFFECTIVELY WITHOUT AFFECTING INDIVIDUAL AGENCY AUTHORITY, RESPONSIBILITY, OR ACCOUNTABILITY.

(9) "WILD LAND AREA" MEANS AN AREA IN WHICH DEVELOPMENT IS ESSENTIALLY NONEXISTENT, EXCEPT FOR ROADS, RAILROADS, POWER LINES, AND SIMILAR INFRASTRUCTURE, AND IN WHICH STRUCTURES, IF PRESENT, ARE WIDELY SCATTERED.

(10) "WILD LAND FIRE" MEANS AN UNPLANNED OR UNWANTED FIRE IN A WILD LAND AREA, INCLUDING UNAUTHORIZED HUMAN-CAUSED FIRES, OUT-OF-CONTROL PRESCRIBED FIRES, AND ALL OTHER FIRES IN WILD LAND AREAS WHERE THE OBJECTIVE IS TO EXTINGUISH THE FIRE.

29-22.5-103. Wild land fires – general authority and responsibilities.

(1) THE CHIEF OF THE FIRE DEPARTMENT IN EACH FIRE PROTECTION DISTRICT IN THE STATE IS RESPONSIBLE FOR THE MANAGEMENT OF WILD LAND FIRES THAT OCCUR WITHIN THE BOUNDARIES OF HIS OR HER DISTRICT AND THAT ARE WITHIN THE CAPABILITY OF THE FIRE DISTRICT TO CONTROL OR EXTINGUISH IN ACCORDANCE WITH THE PROVISIONS OF SECTION 32-1-1002 (3) (a), C.R.S.

(a) THE FIRE CHIEF MAY UTILIZE MUTUAL AID AGREEMENTS AND UNIFIED COMMAND WITH NEIGHBORING FIRE PROTECTION DISTRICTS TO SUPPRESS AND CONTROL FIRES THAT CROSS OR THREATEN TO CROSS THE

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BOUNDARIES OF THE DISTRICT.

(b) THE FIRE CHIEF MAY TRANSFER ANY DUTY OR RESPONSIBILITY THE FIRE CHIEF MAY ASSUME UNDER THIS SECTION TO THE COUNTY SHERIFF WITH THE CONCURRENCE OF THE SHERIFF.

(c) THE FIRE CHIEF SHALL NOT SEEK REIMBURSEMENT FROM THE COUNTY FOR EXPENSES INCURRED BY THE DISTRICT FOR THEIR OWN APPARATUS, EQUIPMENT, AND PERSONNEL USED IN CONTAINING OR SUPPRESSING A WILDFIRE THAT OCCURS ON PRIVATE PROPERTY WITHIN THE BOUNDARIES OF THE DISTRICT.

(2) (a) THE SHERIFF IS THE FIRE WARDEN OF THE COUNTY AND IS RESPONSIBLE FOR THE PLANNING FOR, AND THE COORDINATION OF, EFFORTS TO SUPPRESS WILDFIRES THAT OCCUR IN UNINCORPORATED AREAS OF THE COUNTY OUTSIDE THE BOUNDARIES OF A FIRE PROTECTION DISTRICT OR THAT EXCEED THE CAPABILITIES OF THE FIRE PROTECTION DISTRICT TO CONTROL OR EXTINGUISH IN ACCORDANCE WITH THE PROVISIONS OF SECTION 30-10-513, C.R.S.

(b) IN THE CASE OF A WILDFIRE THAT EXCEEDS THE CAPABILITIES OF THE FIRE PROTECTION DISTRICT TO CONTROL OR EXTINGUISH AND THAT REQUIRES MUTUAL AID AND OUTSIDE RESOURCES, THE SHERIFF SHALL APPOINT A LOCAL INCIDENT MANAGEMENT TEAM TO PROVIDE THE COMMAND AND CONTROL INFRASTRUCTURE REQUIRED TO MANAGE THE FIRE. THE SHERIFF SHALL ASSUME FINANCIAL RESPONSIBILITY FOR FIRE FIGHTING EFFORTS ON BEHALF OF THE COUNTY AND THE AUTHORITY FOR THE ORDERING AND MONITORING OF RESOURCES.

(c) IN THE CASE OF A WILDFIRE THAT EXCEEDS THE CAPABILITY OF THE COUNTY TO CONTROL OR EXTINGUISH, THE SHERIFF SHALL BE RESPONSIBLE FOR SEEKING THE ASSISTANCE OF THE STATE, BY REQUESTING ASSISTANCE FROM THE FOREST SERVICE. THE SHERIFF AND THE STATE FORESTER SHALL ENTER INTO AN AGREEMENT CONCERNING THE TRANSFER OF AUTHORITY AND RESPONSIBILITY FOR FIRE SUPPRESSION AND THE RETENTION OF RESPONSIBILITIES UNDER A UNIFIED COMMAND STRUCTURE.

(3) (a) THE FOREST SERVICE SHALL BE THE LEAD STATE AGENCY FOR WILD LAND FIRE SUPPRESSION AS IDENTIFIED IN THE COLORADO STATE EMERGENCY OPERATIONS PLAN AND IN ACCORDANCE WITH THE PROVISIONS OF SECTION 23-31-301, C.R.S.

(b) THE FOREST SERVICE MAY PROVIDE LAND MANAGEMENT AND WILD LAND FIRE MANAGEMENT SERVICES TO OTHER STATE AGENCIES BY MEANS OF MEMORANDA OF UNDERSTANDING OR RELATED FORMS OF COOPERATIVE AGREEMENTS.

(c) IN CASE OF A WILD LAND FIRE THAT EXCEEDS THE CAPABILITY OF THE COUNTY TO CONTROL OR EXTINGUISH, THE FOREST SERVICE MAY ASSIST THE SHERIFF IN CONTROLLING OR EXTINGUISHING SUCH FIRES, AND MAY ASSUME COMMAND OF SUCH INCIDENTS WITH THE CONCURRENCE OF THE SHERIFF UNDER A UNIFIED COMMAND STRUCTURE.

(d) AT THE REQUEST OF THE SHERIFF, THE FOREST SERVICE MAY ASSIST IN THE DEVELOPMENT OR MODIFICATION OF THE COUNTY WILDFIRE PREPAREDNESS PLAN.

(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND SUBJECT TO THE PROVISIONS OF ANY LOCAL OR REGIONAL MUTUAL AID AGREEMENTS OR PLANS FOR WILD LAND FIRE RESPONSE, THE FIRST EMERGENCY RESPONSE AGENCY TO ARRIVE AT THE SCENE OF A WILD LAND FIRE, REGARDLESS OF WHETHER THE INCIDENT OCCURS WITHIN ITS JURISDICTION, SHALL ACT AS INCIDENT COMMANDER AND BE RESPONSIBLE FOR THE INITIAL EMERGENCY ACTION NECESSARY TO CONTROL THE WILD LAND FIRE OR TO PROTECT LIFE OR PROPERTY UNTIL THE EMERGENCY RESPONSE AGENCY THAT HAS JURISDICTION OVER THE INCIDENT SITE

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ARRIVES.

29-22.5-104. County wildfire preparedness plan. (1) THE SHERIFF OF EACH COUNTY MAY DEVELOP AND UPDATE AS NECESSARY A WILDFIRE PREPAREDNESS PLAN FOR THE UNINCORPORATED AREA OF THE COUNTY IN COOPERATION WITH ANY FIRE DISTRICT WITH JURISDICTION OVER SUCH UNINCORPORATED AREA. ANY SUCH PLAN SHALL:

(a) IDENTIFY ALL PARTICIPANTS IN THE PLAN AND THEIR WILD LAND FIRE ROLES AND RESPONSIBILITIES, INCLUDING THEIR JURISDICTIONAL BOUNDARIES, THEIR FISCAL AND OPERATIONAL AUTHORITY AND RESPONSIBILITIES, A GENERAL DESCRIPTION OF THEIR WILD LAND FIRE RESPONSE CAPABILITIES, AND INCIDENT COMMAND STRUCTURE;

(b) DESCRIBE AVAILABLE EMERGENCY RESPONSE RESOURCES AND MUTUAL AID AND OTHER AGREEMENTS RELATED TO THE PLAN;

(c) DESCRIBE THE PROCEDURES FOR COOPERATION AND COORDINATION BETWEEN OR AMONG FEDERAL, STATE, COUNTY, AND LOCAL EMERGENCY RESPONSE AUTHORITIES; AND

(d) SPECIFY REIMBURSEMENT AND BILLING PROCEDURES.

(2) IT IS RECOGNIZED THAT MANY OF THE ELEMENTS DESCRIBED IN SUBSECTION (1) OF THIS SECTION MAY ALREADY EXIST IN COMMUNITY WILDFIRE PROTECTION PLANS, OTHER COUNTY FIRE PLANS, COUNTY ALL-HAZARDS PREPAREDNESS PLANS, OR ANNUAL OPERATING PLANS, AND THESE ELEMENTS COULD BE INTEGRATED, IN COOPERATION BETWEEN THE SHERIFF AND THE FIRE CHIEFS OF THE COUNTY, INTO A COUNTY WILD LAND FIRE PLAN.

(3) THE PLAN DEVELOPED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE AGREED TO BY ALL PARTICIPANTS IN THE PLAN TO THE EXTENT PRACTICABLE.

(4) THE AUTHORIZATION TO DEVELOP A WILDFIRE PREPAREDNESS PLAN PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE THE SHERIFF TO PROVIDE AND MAINTAIN THE CAPABILITY FOR THE RESPONSE. THE SHERIFF MAY PROVIDE AND MAINTAIN RESPONSE CAPABILITY AS DESCRIBED IN THE PLAN DIRECTLY OR THROUGH MUTUAL AID OR OTHER AGREEMENTS.

(5) AT THE REQUEST OF THE SHERIFF, THE FOREST SERVICE MAY ASSIST IN THE DEVELOPMENT OR UPDATING OF THE COUNTY WILDFIRE PREPAREDNESS PLAN PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(6) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT THE PROVISIONS OF SECTION 30-15-401.7, C.R.S., OR THE COMMUNITY WILDFIRE PROTECTION PLAN DEVELOPED PURSUANT TO SUCH SECTION.

SECTION 2. 23-31-303 (1), Colorado Revised Statutes, is amended to read:

23-31-303. Funds available. (1) The governor's emergency fund, or other funds available to the Colorado state forest service, may be used for the purpose of preventing and suppressing forest AND WILDLAND fires, in accordance with the provisions of part 21 of article 32 of title 24, C.R.S.

SECTION 3. 23-31-304, Colorado Revised Statutes, is amended to read:

23-31-304. State responsibility determined. The state forester shall determine, in consultation with local authorities and with the approval of the governor, geographic areas of the state, including wild land-urban interface areas, in which the state has a financial responsibility

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for managing forest AND WILD LAND fires. The management of fires in all other areas is primarily the responsibility of local or federal agencies, as the case may be. The state forester may exclude all lands owned or controlled by the federal government or any agency thereof, and the state forester shall exclude all lands within the exterior boundaries of incorporated cities or towns.

SECTION 4. 30-10-512, Colorado Revised Statutes, is amended to read:

30-10-512. Sheriff to act as fire warden. The sheriff of every county, in addition to other duties, shall act as fire warden of his OR HER respective county AND IS RESPONSIBLE FOR THE COORDINATION OF FIRE SUPPRESSION EFFORTS in case of prairie, or forest fires, OR WILD LAND FIRES THAT OCCUR IN UNINCORPORATED AREAS OF THE COUNTY OUTSIDE THE BOUNDARIES OF A FIRE PROTECTION DISTRICT, OR THAT EXCEED THE CAPABILITIES OF THE FIRE PROTECTION DISTRICT TO CONTROL OR EXTINGUISH.

SECTION 5. 30-10-513, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

30-10-513. Duties of sheriff - coordination of fire suppression efforts for forest prairie, or wild land fire - expenses. (1) (a) IT IS THE DUTY OF THE SHERIFF TO ASSUME THE RESPONSIBILITY FOR COORDINATING FIRE SUPPRESSION EFFORTS IN CASE OF ANY PRAIRIE, FOREST, OR WILD LAND FIRE THAT OCCURS IN UNINCORPORATED AREAS OF THE COUNTY OUTSIDE THE BOUNDARIES OF A FIRE PROTECTION DISTRICT OR THAT EXCEED THE CAPABILITIES OF THE FIRE PROTECTION DISTRICT TO CONTROL OR EXTINGUISH.

(b) IN THE CASE OF A PRAIRIE, FOREST, OR WILD LAND FIRE OCCURRING WITHIN THE BOUNDARIES OF ONE OR MORE FIRE PROTECTION DISTRICTS AND THAT DO NOT EXCEED THE CAPABILITIES OF THE FIRE PROTECTION DISTRICT TO CONTROL OR EXTINGUISH, THE SHERIFF MAY ASSIST THE CHIEF OF THE FIRE PROTECTION DISTRICT IN CONTROLLING OR EXTINGUISHING SUCH FIRES, AND, IN CONNECTION WITH SUCH ASSISTANCE, THE SHERIFF MAY SOLICIT SUCH ADDITIONAL ASSISTANCE FROM SUCH PERSONS AS THE SHERIFF AND THE FIRE CHIEF DEEM NECESSARY. THE SHERIFF MAY ASSUME COMMAND OF SUCH INCIDENTS WITH THE CONCURRENCE OF THE FIRE CHIEF.

(c) IN THE CASE OF A PRAIRIE, FOREST, OR WILD LAND FIRE THAT EXCEEDS THE CAPABILITIES OF THE FIRE PROTECTION DISTRICT TO CONTROL OR EXTINGUISH AND THAT REQUIRES MUTUAL AID AND OUTSIDE RESOURCES, THE SHERIFF SHALL APPOINT A LOCAL INCIDENT MANAGEMENT TEAM TO PROVIDE THE COMMAND AND CONTROL INFRASTRUCTURE REQUIRED TO MANAGE THE FIRE. THE SHERIFF SHALL ASSUME FINANCIAL RESPONSIBILITY FOR FIRE FIGHTING EFFORTS ON BEHALF OF THE COUNTY AND THE AUTHORITY FOR THE ORDERING AND MONITORING OF RESOURCES.

(d) WHEN A WILDFIRE EXCEEDS THE CAPABILITY OF THE COUNTY TO CONTROL OR EXTINGUISH, THE SHERIFF SHALL BE RESPONSIBLE FOR SEEKING THE ASSISTANCE OF THE STATE BY REQUESTING ASSISTANCE FROM THE FOREST SERVICE. THE SHERIFF AND THE STATE FORESTER SHALL ENTER INTO AN AGREEMENT CONCERNING THE TRANSFER OF AUTHORITY AND RESPONSIBILITY FOR FIRE SUPPRESSION AND THE RETENTION OF RESPONSIBILITIES UNDER A UNIFIED COMMAND STRUCTURE.

(2) THE STATE FORESTER MAY ASSUME ANY DUTY OR RESPONSIBILITY GIVEN TO THE SHERIFF UNDER THIS SECTION WITH THE CONCURRENCE OF THE SHERIFF.

(3) THE BOARD OF COUNTY COMMISSIONERS OF ANY COUNTY MAY ALLOW THE SHERIFF, UNDERSHERIFFS, DEPUTIES, MUNICIPAL, OR COUNTY FIRE DEPARTMENTS, FIRE PROTECTION DISTRICTS, FIRE AUTHORITIES, AND

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SUCH OTHER PERSONS AS MAY BE CALLED UPON TO ASSIST IN CONTROLLING OR EXTINGUISHING A PRAIRIE, FOREST, OR WILD LAND FIRE SUCH COMPENSATION AND REIMBURSEMENT FOR OTHER EXPENSES NECESSARILY INCURRED AS THE BOARD DEEMS JUST.

(4) THE BOARD OF COUNTY COMMISSIONERS OF ANY COUNTY IN THE STATE MAY MAKE SUCH APPROPRIATION AS IT MAY DEEM PROPER FOR THE PURPOSE OF CONTROLLING FIRES IN ITS COUNTY. THE BOARD OF COUNTY COMMISSIONERS IS AUTHORIZED TO LEVY A SPECIAL TAX SUBJECT TO APPROVAL OF THE VOTERS UPON EVERY DOLLAR OF VALUATION OF ASSESSMENT OF THE TAXABLE PROPERTY WITHIN THE COUNTY FOR THE PURPOSE OF CREATING A FUND THAT SHALL BE APPROPRIATED, AFTER CONSULTATION WITH REPRESENTATIVES OF FIRE DEPARTMENTS, FIRE PROTECTION DISTRICTS, AND FIRE AUTHORITIES IN THE COUNTY, TO PREVENT, CONTROL, OR EXTINGUISH SUCH FIRES ANYWHERE IN THE COUNTY AND TO FIX THE RATE OF LEVY; EXCEPT THAT THE AMOUNT RAISED FROM THE LEVY IN ANY ONE YEAR IS LIMITED TO THE AMOUNT RAISED BY ONE MILL OR FIVE HUNDRED THOUSAND DOLLARS, WHICHEVER IS LESS.

SECTION 6. 32-1-1002 (3) (a), Colorado Revised Statutes, is amended to read:

32-1-1002. Fire protection districts - additional powers and duties. (3) (a) The chief of the fire department in each fire protection district in the state of Colorado, by virtue of such office so held by him, shall have authority over the supervision of all fires within the district; ~~except as otherwise provided by law~~ EXCEPT THAT RESPONSIBILITY FOR COORDINATING FIRE SUPPRESSION EFFORTS IN CASE OF ANY PRAIRIE, FOREST, OR WILD LAND FIRE THAT EXCEEDS THE CAPABILITIES OF THE DISTRICT TO CONTROL OR EXTINGUISH SHALL BE TRANSFERRED TO THE COUNTY SHERIFF IN ACCORDANCE WITH SECTION 30-10-513, C.R.S., subject to the duties and obligations imposed by this subsection (3). ~~and~~ THE CHIEF shall be vested with such other express authority as is contained in this subsection (3), including commanding the fire department of such district.

SECTION 7. Effective date. This act shall take effect upon passage; except that portion of section 1 of this act containing new subsection 29-22.5-104 (6), Colorado Revised Statutes, shall only take effect if Senate Bill 09-001 is enacted at the First Regular Session of the Sixty-seventh General Assembly and becomes law.

SECTION 8. 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."

Health & Human Services

After consideration on the merits, the Committee recommends that **SB09-134** be postponed indefinitely.

Health & Human Services

After consideration on the merits, the Committee recommends that **SB09-153** be postponed indefinitely.

Health & Human Services

After consideration on the merits, the Committee recommends that **SB09-144** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 8, strike line 24 and substitute the following:

"MAY ARISE."

Health & Human

After consideration on the merits, the Committee recommends that **SB09-129** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable

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Services

recommendation.

Amend printed bill, page 2, line 7, strike "who:" and substitute "who, WITHIN THE SCOPE OF THE PERSON'S EDUCATION, TRAINING, AND EXPERIENCE:";

line 15, strike "CASTS;" and substitute "CASTS FOR THE PURPOSE OF FABRICATING A PERMANENT RECORD OF THE PATIENT'S PRESENT CONDITION; AS A VISUAL AID FOR PATIENT EDUCATION, DENTAL HYGIENE DIAGNOSIS, AND DENTAL HYGIENE TREATMENT PLANNING; AND TO PROVIDE ASSISTANCE DURING FORENSIC EXAMINATION;";

line 21, strike "AND SECTION 12-35-125".

Page 3, line 1, strike "ORDERS AND ADMINISTERS" and substitute "ADMINISTERS";

after line 2, insert the following:

"SECTION 2. 12-35-124, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-35-124. What constitutes practicing unsupervised dental hygiene. (1.5) A DENTAL HYGIENIST SHALL STATE IN WRITING AND REQUIRE A PATIENT TO ACKNOWLEDGE BY SIGNATURE THAT ANY DIAGNOSIS OR ASSESSMENT IS FOR THE PURPOSE OF DETERMINING NECESSARY DENTAL HYGIENE SERVICES ONLY AND THAT IT IS RECOMMENDED BY THE AMERICAN DENTAL ASSOCIATION, OR ANY SUCCESSOR ORGANIZATIONS, THAT A THOROUGH DENTAL EXAMINATION BE PERFORMED BY A DENTIST TWICE EACH YEAR."

Renumber succeeding sections accordingly.

Page 4, line 3, strike "ORDERS AND ADMINISTERS" and substitute "ADMINISTERS";

after line 4, insert the following:

"SECTION 4. 12-35-127, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-35-127. Dental hygienist examinations - license - endorsement - liability insurance. (4) A DENTAL HYGIENIST SHALL PROVIDE PROOF OF PROFESSIONAL LIABILITY INSURANCE IN THE AMOUNT OF NOT LESS THAN FIFTY THOUSAND DOLLARS PER CLAIM AND AN AGGREGATE LIABILITY LIMIT FOR ALL CLAIMS DURING A CALENDAR YEAR OF NOT LESS THAN THREE HUNDRED THOUSAND DOLLARS."

Renumber succeeding sections accordingly.

Page 4, line 16, strike "ORDER AND".

Health & Human Services

After consideration on the merits, the Committee recommends that **SB09-012** 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. 25-3-109 (1), (2), (3), (5), (5.5) (a), and (12), Colorado Revised Statutes, are amended to read:

25-3-109. Quality management functions - confidentiality and immunity. (1) The general assembly hereby finds and declares that the implementation of quality management functions to evaluate and improve patient and resident care is essential to the operation of health care

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facilities licensed or certified by the department of public health and environment pursuant to section 25-1.5-103 (1) (a) OR DESIGNATED BY THE DEPARTMENT AS TRAUMA CARE FACILITIES PURSUANT TO SECTION 25-3.5-704 (2) (d). For this purpose, it is necessary that the collection of information and data by ~~such~~ licensed or certified health care facilities AND DESIGNATED TRAUMA CARE FACILITIES be reasonably unfettered so a complete and thorough evaluation and improvement of the quality of patient and resident care can be accomplished. To this end, quality management information relating to the evaluation or improvement of the quality of health care services shall be confidential, subject to the provisions of subsection (4) of this section, and persons performing such functions shall be granted qualified immunity. It is the intent of the general assembly that nothing in this section revise, amend, or alter article 36 or part 1 of article 36.5 of title 12, C.R.S.

(2) For purposes of this section: a

(a) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(b) "DESIGNATED TRAUMA CARE FACILITY" MEANS A FACILITY DESIGNATED AS A SPECIFIC LEVEL TRAUMA FACILITY PURSUANT TO SECTION 25-3.5-704 (2) (d).

(c) "Quality management program" means a program ~~which~~ THAT includes quality assurance and risk management activities, the peer review of licensed health care professionals not otherwise provided for in part 1 of article 36.5 of title 12, C.R.S., and other quality management functions ~~which are~~ described by a facility OR DESIGNATED TRAUMA CARE FACILITY in a quality management program approved by the department. ~~of public health and environment.~~ A QUALITY MANAGEMENT PROGRAM OF A DESIGNATED TRAUMA CARE FACILITY INCLUDES PREHOSPITAL CARE PROVIDED BY SERVICE AGENCIES, AS DEFINED IN SECTION 25-3.5-103, PRECEDING A PATIENT'S ENTRY INTO THE DESIGNATED TRAUMA CARE FACILITY. Nothing in this section shall revise, amend, or alter article 36 or part 1 of article 36.5 of title 12, C.R.S.

(3) Except as otherwise provided in this section, any records, reports, or other information of a licensed or certified health care facility OR DESIGNATED TRAUMA CARE FACILITY that are part of a quality management program designed to identify, evaluate, and reduce the risk of patient or resident injury associated with care or to improve the quality of patient care shall be confidential information; except that such information shall be subject to the provisions of subsection (4) of this section.

(5) Nothing in this section shall affect the voluntary release of any quality management record or information by a health care facility OR DESIGNATED TRAUMA CARE FACILITY; except that no patient-identifying information shall be released without the patient's consent.

(5.5) (a) The confidentiality of information provided for in this section shall in no way be impaired or otherwise adversely affected solely by reason of the submission of the information to a nongovernmental entity to conduct studies that evaluate, develop, and analyze information about health care operations, practices, or any other function of health care facilities OR DESIGNATED TRAUMA CARE FACILITIES. The records, reports, and other information collected or developed by a nongovernmental entity shall remain protected as provided in subsections (3) and (4) of this section. In order to adequately protect the confidentiality of such information, no findings, conclusions, or recommendations contained in such studies conducted by any such nongovernmental entity shall be deemed to establish a standard of care for health care facilities OR DESIGNATED TRAUMA CARE FACILITIES.

(12) (a) Nothing in this section shall affect a person's access to his OR HER medical record as provided in section 25-1-801, nor shall it affect

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the right of any family member or any other person to obtain A medical record information upon the consent of the patient or his OR HER authorized representative.

(b) IF, DURING THE COURSE OF A QUALITY MANAGEMENT REVIEW BY A DESIGNATED TRAUMA CARE FACILITY, A TRAUMA CARE PROVIDER DETERMINES THAT HE OR SHE MADE A FACTUAL ERROR IN THE MEDICAL RECORD, THE TRAUMA CARE PROVIDER SHALL CORRECT THE FACTUAL ERROR.

SECTION 2. 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 1, strike line 101 and substitute the following:

"CONCERNING PROFESSIONAL REVIEW OF FACILITIES DESIGNATED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AS TRAUMA CARE FACILITIES."

Health & Human Services

After consideration on the merits, the Committee recommends that **SB09-132** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

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

"SECTION 1. 25.5-2.5-102, Colorado Revised Statutes, is amended to read:

25.5-2.5-102. Legislative declaration. (1) The general assembly finds that:

(a) Uninsured, underinsured, and older Coloradans pay a disproportionately greater share of their income for prescription drugs. In many cases, current drug prices have the effect of denying residents access to necessary medical care, thereby threatening their health and safety.

(b) Prescription drugs play an increasingly important role in improving or stabilizing a person's health and in reducing overall health care costs;

(c) Additionally, the new medicare prescription drug benefit restricts persons from purchasing insurance in order to fully cover their prescription drug needs. This restriction on a person's ability to purchase adequate coverage may threaten the person's health and safety.

~~(d) Currently, there is no limit on the amount that a pharmacy may charge for a generic or nonpatented drug, and, although some retail pharmacies are offering some generic and nonpatented drugs at discounted prices, there are no guarantees that the pharmacies will continue to do so.~~

(2) The general assembly, therefore, declares that it is ~~necessary to provide a mechanism for persons~~ IMPORTANT TO MAKE INFORMATION AVAILABLE TO THE PUBLIC CONCERNING WAYS to purchase lower-cost generic and nonpatented prescription drugs through the implementation of "Colorado Cares Rx Act" in order to protect the health of uninsured, underinsured, and older Coloradans. ~~while at the same time protecting pharmacies from bearing the cost of providing the drugs to such persons.~~ THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE STATE SHOULD CONTINUE TO ACTIVELY RESEARCH COST-EFFECTIVE MECHANISMS OR PROGRAMS THAT MAY PROVIDE ADDITIONAL OPTIONS TO ADDRESS THIS NEED IN COLORADO.

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SECTION 2. 25.5-2.5-103, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

25.5-2.5-103. Lower-cost prescription drugs - information - research - reporting. (1) THE STATE DEPARTMENT SHALL MAKE INFORMATION AVAILABLE TO THE PUBLIC CONCERNING LOWER-COST PRESCRIPTION DRUG PROGRAMS. THE INFORMATION SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

(a) WAYS IN WHICH LOW-INCOME, UNINSURED PERSONS CAN OBTAIN LOWER-COST PRESCRIPTION DRUGS; AND

(b) CONTACT INFORMATION CONCERNING PROGRAMS FOR LOWER-COST PRESCRIPTION DRUGS.

(2) THE STATE DEPARTMENT SHALL RESEARCH COST-EFFECTIVE PROGRAMS OR MECHANISMS BY WHICH LOW-INCOME, UNINSURED PERSONS MAY PURCHASE LOWER-COST PRESCRIPTION DRUGS.

(3) THE STATE DEPARTMENT SHALL REPORT ANNUALLY TO THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, CONCERNING THE PROVISIONS OF THIS ARTICLE.

SECTION 3. Repeal. 25.5-2.5-104, 25.5-2.5-105, and 25.5-2.5-106, Colorado Revised Statutes, are repealed."

Renumber succeeding sections accordingly.

Page 1, line 104, strike "REPEALING" and substitute "MODIFYING".

Health &
Human
Services

After consideration on the merits, the Committee recommends that **SB09-167** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 7, line 13, after the period, insert ""CHIROPRACTIC" DOES NOT INCLUDE COLONIC IRRIGATION THERAPY."

Page 8, after line 2, insert the following:

SECTION 7. 12-33-112.5 (2) and (3), Colorado Revised Statutes, are amended, and the said 12-33-112.5 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-33-112.5. Temporary licensure. (1.5) AN APPLICANT WHO LAWFULLY PRACTICES CHIROPRACTIC IN ANOTHER STATE OR TERRITORY MAY BE GRANTED A TEMPORARY LICENSE TO PRACTICE CHIROPRACTIC IN THIS STATE FOR THE LIMITED PURPOSE OF TREATING MEMBERS, COACHES, AND STAFF OF A VISITING SPORTS TEAM WHILE IN COLORADO.

(2) A temporary license issued pursuant to SUBSECTION (1) OF this section shall remain in effect only as long as the licensee provides chiropractic services at the invitation of the United States olympic committee. In no event, however, shall such a license remain in effect after the period certified by the committee pursuant to paragraph (b) of subsection (1) of this section, unless the board has granted an extension. The board shall not grant an extension in excess of ninety days.

(3) A temporary licensee ISSUED PURSUANT TO SUBSECTION (1) OF THIS SECTION shall provide chiropractic services only to athletes or team personnel who are registered to train at the olympic training center or compete in an event sanctioned by the United States olympic committee."

Renumber succeeding sections accordingly.

Page 8, line 20, strike "A NEW SECTION" and substitute "THE FOLLOWING NEW SECTIONS".

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Page 14, after line 1, insert the following:

"12-33-128. Chiropractic assistants. A CHIROPRACTOR MAY SUPERVISE UP TO FIVE UNLICENSED PERSONS AS CHIROPRACTIC ASSISTANTS IF SUCH PERSONS HAVE RECEIVED APPROPRIATE TRAINING AS ESTABLISHED BY THE BOARD BY RULE PROMULGATED PURSUANT TO SECTION 12-33-107. A CHIROPRACTIC ASSISTANT MAY PERFORM HIS OR HER DUTIES ONLY UNDER THE DIRECT SUPERVISION OF A CHIROPRACTOR AND ONLY IN THOSE AREAS IN WHICH THE CHIROPRACTIC ASSISTANT HAS THE REQUISITE SKILL AND TRAINING. A CHIROPRACTIC ASSISTANT SHALL NOT PERFORM A DIAGNOSIS, AN ADJUSTMENT, OR ACUPUNCTURE."

Health & Human Services

After consideration on the merits, the Committee recommends that **SB09-056** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 2, line 24, strike "THE" and substitute "ON OR BEFORE AUGUST 1, 2009, AN OUTSIDE, INDEPENDENT GROUP SHALL CONDUCT A FEASIBILITY STUDY OF THE ALTERNATIVES CONCERNING THE OPERATIONS OF THE TRINIDAD STATE NURSING HOME. THERE SHALL BE NO OBLIGATION TO CONDUCT THE STUDY IF ADEQUATE GIFTS, GRANTS, AND DONATIONS ARE NOT RECEIVED TO FUND THE COSTS OF THE STUDY. IF THE STUDY RESULTS IN AN EXPRESS FINDING THAT NO VIABLE ALTERNATIVE TO TRANSFERRING TITLE TO THE TRINIDAD STATE NURSING HOME EXISTS, THE".

Page 3, line 3, after "SHALL", insert "WORK IN CONSULTATION WITH THE BOARD OF COUNTY COMMISSIONERS FOR LAS ANIMAS COUNTY AND SHALL".

Education

After consideration on the merits, the Committee recommends that **SB09-123** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, strike line 11.

Page 3, strike lines 1 through 6;

line 7, strike "(II)" and substitute "(a) (I)";

line 9, strike "(III)" and substitute "(II)";

line 15, strike "ET SEQ.;" and substitute "ET SEQ.";

strike lines 16 through 22.

Re-number succeeding subparagraphs accordingly.

Page 5, strike lines 24 through 27 and substitute the following:

"application form - selection of grant recipients. (1) A SCHOOL".

Page 6, line 3, strike "THE DEPARTMENT AND SCHOOL DISTRICTS" and substitute "IN APPLYING FOR A GRANT FROM THE PROGRAM, A SCHOOL DISTRICT";

line 23, strike the first "AND" and substitute "AND, SUBJECT TO AVAILABLE APPROPRIATIONS,".

Page 7, line 18, strike "(2), (3)," and substitute "(2) AND (3)";

line 19, strike "AND (4)";

line 20, strike "(2), (3), AND (4)" and substitute "(2) AND (3)";

line 22, strike "(2), (3), OR (4)" and substitute "(2) OR (3)";

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	strike line 27.	1
	Renumber succeeding subsection accordingly.	2
	Page 8, strike lines 1 through 5.	3
	Page 9, strike lines 12 and 13.	4
	Reletter succeeding paragraphs accordingly.	5
	Page 12, line 9, strike "THE DEPARTMENT SHALL SOLICIT AND" and substitute "A SCHOOL DISTRICT MAY APPLY FOR A GRANT FROM THE PROGRAM ON BEHALF OF AN AT-RISK SCHOOL PURSUANT TO SECTION 22-82.3-103 (1)";	6
	strike lines 10 and 11.	7
	Page 14, strike lines 12 through 21.	8
	Renumber succeeding section accordingly.	9
	Page 1, strike lines 102 and 103 and substitute "ADOLESCENT STUDENTS."	10
Education	After consideration on the merits, the Committee recommends that SB09-130 be amended as follows, and as so amended, be referred to the Committee on <u>Appropriations</u> with favorable recommendation.	11
	Amend printed bill, page 2, line 5, strike "SCHOLARSHIPS" and substitute "STIPENDS";	12
	line 8, strike "SCHOLARSHIPS" and substitute "STIPENDS".	13
	Page 3, line 4, strike "PARTICIPATING PRIVATE SCHOOLS" and substitute "THE INSTITUTE CHARTER SCHOOL.";	14
	strike line 5;	15
	line 20, strike "SCHOLARSHIP" and substitute "STIPEND";	16
	after line 21, insert the following:	17
	"(4) "INSTITUTE CHARTER SCHOOL" MEANS A CHARTER SCHOOL AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE TO SERVE ELIGIBLE CHILDREN PURSUANT TO THIS PART 2."	18
	Renumber succeeding subsections accordingly.	19
	Page 4, strike lines 13 through 17.	20
	Renumber succeeding subsections accordingly.	21
	Page 4, line 21, strike "SCHOLARSHIPS" and substitute "STIPENDS";	22
	line 24, strike ""SCHOLARSHIP"" and substitute ""STIPEND" and, strike "A" and substitute "AN";	23
	line 25, strike "PARTICIPATING PRIVATE" and substitute "INSTITUTE CHARTER".	24
	Page 5, line 2, strike "SCHOLARSHIPS" and substitute "STIPENDS";	25
	line 6, strike " scholarship " and substitute " stipend ";	26
	line 9, strike "SCHOLARSHIP" and substitute "STIPEND";	27
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line 10, strike "A PARTICIPATING PRIVATE" and substitute "AN INSTITUTE CHARTER";

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line 22, strike "A PARTICIPATING PRIVATE" and substitute "AN INSTITUTE CHARTER";

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line 25, strike "SCHOLARSHIP" and substitute "STIPEND";

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line 27, strike "PARTICIPATING PRIVATE" and substitute "INSTITUTE CHARTER".

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Page 6, line 3, strike "SCHOLARSHIP" and substitute "STIPEND";

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line 5, strike "REENROLLS IN A PUBLIC" and substitute "WITHDRAWS FROM THE INSTITUTE CHARTER";

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strike lines 8 through 27.

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Re-number succeeding C.R.S. sections accordingly.

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Page 7, strike lines 1 through 19;

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line 23, strike "SCHOLARSHIP" and substitute "STIPEND";

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line 25, strike "PARTICIPATING PRIVATE" and substitute "INSTITUTE CHARTER";

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line 26, strike "SCHOLARSHIP" and substitute "STIPEND".

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Page 8, line 11, strike "A PARTICIPATING PRIVATE" and substitute "AN INSTITUTE CHARTER";

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line 15, strike "PARTICIPATING PRIVATE" and substitute "INSTITUTE CHARTER";

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line 17, strike "SCHOLARSHIP." and substitute "STIPEND.";

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strike lines 18 through 27.

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Page 9, strike lines 1 through 13.

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Re-number succeeding C.R.S. sections accordingly.

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Page 9, line 14, strike "**scholarship**" and substitute "**stipend**";

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line 15, strike "SCHOLARSHIP" and substitute "STIPEND";

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line 17, strike "YEAR AND THE TUITION RESPONSIBILITY OF THE PILOT" and substitute "YEAR AND THE STIPEND FROM SECTION 22-54-109.5; EXCEPT THAT THE AMOUNT SHALL NOT EXCEED THIRTY THOUSAND DOLLARS.";

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strike lines 18 through 20 and substitute "THE STIPENDS";

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line 24, strike "SCHOLARSHIP" and substitute "STIPEND";

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strike line 27.

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Strike page 10.

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Page 11, strike lines 1 through 4.

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Re-number succeeding sections accordingly.

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Page 11, line 7, strike "**scholarships**" and substitute "**stipends**";

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line 9, strike "**scholarship**" and substitute "**stipend**";

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line 13, strike "22-20-209" and substitute "22-20-207";
 line 14, strike "HEREINAFTER";
 line 15, after "TO", insert "IN THIS SECTION";
 line 20, strike "22-20-209" and substitute "22-20-207";
 line 27, strike "SCHOLARSHIP" and substitute "STIPEND".
 Page 12, line 1, strike "PARTICIPATING PRIVATE" and substitute
 "INSTITUTE CHARTER";
 line 4, strike "SCHOLARSHIPS" and substitute "STIPENDS";
 line 6, strike "HEREINAFTER" and, after "TO", insert "IN THIS SECTION";
 line 7, strike "SCHOLARSHIP" and substitute "STIPEND";
 line 9, strike "A PARTICIPATING" and substitute "AN INSTITUTE CHARTER";
 line 12, strike "PARTICIPATING PRIVATE" and substitute "INSTITUTE
 CHARTER";
 strike line 15 and substitute "SECOND INSTITUTE CHARTER SCHOOL. THE
 SECOND INSTITUTE CHARTER";
 line 16, strike "PRIVATE";
 line 17, strike "PARTICIPATING PRIVATE" and substitute "INSTITUTE
 CHARTER";
 line 18, strike "SCHOLARSHIP" and substitute "STIPEND";
 line 22, strike "PARTICIPATING PRIVATE" and substitute "INSTITUTE
 CHARTER";
 line 23, strike "PARTICIPATING" and substitute "INSTITUTE CHARTER";
 line 24, strike "PRIVATE";
 line 25, strike "SCHOLARSHIP" and substitute "STIPEND";
 line 27, strike "SCHOLARSHIP" and substitute "STIPEND".
 Page 13, line 1, strike "YEAR OR THE AMOUNT OF" and substitute "YEAR;
 EXCEPT THAT THE AMOUNT SHALL NOT EXCEED THIRTY THOUSAND
 DOLLARS.";
 strike line 2;
 line 5, strike the second "A" and substitute "AN";
 line 6, strike "PARTICIPATING PRIVATE" and substitute "INSTITUTE
 CHARTER" and, strike "SCHOLARSHIP" and substitute "STIPEND";
 line 11, strike "A PARTICIPATING PRIVATE" and substitute "an INSTITUTE
 CHARTER";
 line 16, strike "PARTICIPATING PRIVATE" and substitute "INSTITUTE
 CHARTER" and, strike "ON SCHOLARSHIPS" and substitute "AND RECEIVING
 STIPENDS";
 line 18, strike "A PARTICIPATING PRIVATE" and substitute "AN INSTITUTE
 CHARTER";
 line 22, strike "PARTICIPATING PRIVATE" and substitute "INSTITUTE

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CHARTER" and strike "SCHOLARSHIPS" and substitute "STIPENDS".
 Page 14, line 2, strike "A PARTICIPATING PRIVATE" and substitute "AN INSTITUTE CHARTER";
 line 6, strike "SCHOLARSHIPS" and substitute "STIPENDS";
 line 17, strike "SCHOLARSHIP" and substitute "STIPEND";
 line 19, strike "SCHOLARSHIP" and substitute "STIPEND";
 line 21, strike "SCHOLARSHIP" and substitute "STIPEND";
 line 25, strike "PARTICIPATING PRIVATE" and substitute "INSTITUTE CHARTER".

Page 15, line 1, strike "PARTICIPATING PRIVATE" and substitute "INSTITUTE CHARTER";
 line 5, strike "SCHOLARSHIP" and substitute "STIPEND";
 line 12, strike "PARTICIPATING PRIVATE" and substitute "INSTITUTE CHARTER".

Page 31, after line 3, insert the following:

"SECTION 25. 22-30.5-504, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-30.5-504. Institute chartering authority - institute charter schools - exclusive authority - retention - recovery - revocation.

(11) (a) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE INSTITUTE SHALL SOLICIT CHARTER APPLICATIONS FOR UP TO THREE PILOT INSTITUTE CHARTER SCHOOLS TO SERVE ELIGIBLE STUDENTS THROUGH THE COLORADO STIPENDS FOR CHILDREN WITH AUTISM PILOT PROGRAM CREATED IN PART 2 OF ARTICLE 20 OF THIS TITLE. BASED ON THE APPLICATIONS RECEIVED, THE INSTITUTE SHALL AUTHORIZE UP TO THREE PILOT INSTITUTE CHARTER SCHOOLS PURSUANT TO THIS SUBSECTION (11), WHICH MAY BE LOCATED IN ANY SCHOOL DISTRICT IN THE STATE REGARDLESS OF WHETHER THE SCHOOL DISTRICT HAS EXCLUSIVE AUTHORITY TO AUTHORIZE CHARTER SCHOOLS WITHIN THE GEOGRAPHIC BOUNDARIES OF THE SCHOOL DISTRICT.

(b) FOR PURPOSES OF THIS SUBSECTION (11), "ELIGIBLE STUDENT" MEANS AN ELEMENTARY OR SECONDARY STUDENT IN THE STATE WHOSE SCHOOL DISTRICT OF RESIDENCE HAS IDENTIFIED THE STUDENT AS HAVING AUTISM OR AUTISM SPECTRUM DISORDER AND WHO HAS AN INDIVIDUALIZED EDUCATION PROGRAM IN EFFECT PURSUANT TO PART 1 OF ARTICLE 20 OF THIS TITLE."

Re-number succeeding section accordingly.

Page 1, line 101, strike "SCHOLARSHIPS" and substitute "STIPENDS";
 line 102, after "AUTISM", insert "WHO ARE ENROLLED IN NON-PRIVATE SCHOOLS".

Agriculture and Natural Resources

After consideration on the merits, the Committee recommends that **SB09-125** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 3, strike lines 26 and 27 and substitute the following:

"appropriations."

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Agriculture
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After consideration on the merits, the Committee recommends that **SB09-024** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

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

"SECTION 1. 33-3-103 (1) (d) and (2), Colorado Revised Statutes, are amended to read:

33-3-103. No liability for damage - when. (1) The state shall not be liable for:

(d) Damages, if the division has furnished to the claimant sufficient and appropriate damage prevention materials and the claimant has refused to accept or use such materials exclusively for game damage prevention, and if the provisions of subsection (2) of this section 33-3-103.5 have been complied with by the division and the claimant;

~~(2) (a) The provisions of this subsection (2) shall be applicable in determining the liability of the state under paragraph (d) of subsection (1) of this section.~~

~~(b) The division shall be responsible for providing to landowners such sufficient and appropriate damage prevention materials prior to September 1 of each year, if the claimant has given at least a thirty-day notice to the division in writing.~~

~~(c) The division shall deliver such materials to the specific sites as directed by the claimant, if such delivery may be made by truck.~~

~~(d) When agreed upon by the claimant or landowner, the division may construct permanent stackyards or orchard fencing in those areas of high wildlife damage potential within the limitations of appropriation by the general assembly for that purpose.~~

~~(e) If the division does not provide sufficient and appropriate damage prevention materials by September 1 when so requested by the claimant, the division shall have the sole responsibility to supply and erect such damage prevention materials. If the division does not provide such damage prevention materials by September 1 of the year in question or if the division, having failed to supply such materials by said date, has failed to supply and erect sufficient and appropriate damage prevention materials subsequent to September 1, when requested by the claimant, the division shall not refuse to pay any wildlife damages caused by the lack of damage prevention materials.~~

~~(f) When erecting damage prevention materials, the division may use division employees, individuals under contract to the division, or voluntary workers. If the division uses voluntary workers to assist in erecting damage prevention materials as provided in this subsection (2); the division shall keep in force workers' compensation insurance as necessary to protect the claimant and the landowner from liability resulting from injuries or death of said voluntary workers while engaged in the erection of such damage prevention materials as provided in this subsection (2). If the division uses contract workers to assist in erecting damage prevention materials as provided in this subsection (2), the division shall require the contractor to provide evidence of workers' compensation insurance as necessary to protect the claimant and the landowner from liability resulting from injuries or death of said contract workers while engaged in the erection of such damage prevention materials as provided in this subsection (2).~~

~~(g) The division has the responsibility to supply useable and appropriate damage prevention materials to the claimant, and the claimant shall keep such materials in good repair throughout their normal life, if such materials have not been destroyed or damaged by wildlife.~~

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SECTION 2. Article 3 of title 33, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

33-3-103.5. Game damage prevention materials. (1) THIS SECTION SHALL BE APPLICABLE IN DETERMINING THE LIABILITY OF THE STATE UNDER PARAGRAPH (e) OF SUBSECTION (2) OF THIS SECTION AND SECTIONS 33-3-103 (1) (d) AND (1) (e).

(2) (a) (I) EVERY LANDOWNER SHALL BE ELIGIBLE TO RECEIVE SUFFICIENT AND APPROPRIATE TEMPORARY GAME DAMAGE PREVENTION MATERIALS PURSUANT TO THIS SECTION.

(II) PERMANENT GAME DAMAGE PREVENTION MATERIALS SHALL BE AVAILABLE ONLY TO A LANDOWNER:

(A) WHO CHARGES NOT MORE THAN ONE HUNDRED DOLLARS PER PERSON, PER SEASON, FOR BIG GAME HUNTING ACCESS ON OR ACROSS THE LANDOWNER'S PROPERTY; OR

(B) WHO CHARGES A FEE IN EXCESS OF ONE HUNDRED DOLLARS PER PERSON, PER SEASON, FOR BIG GAME HUNTING ACCESS ON OR ACROSS THE LANDOWNER'S PROPERTY, IF THE LANDOWNER HAS REQUESTED AND BEEN DENIED GAME DAMAGE PREVENTION MATERIALS FROM THE HABITAT PARTNERSHIP PROGRAM CREATED IN SECTION 33-1-110 (8) AND THE DIVISION DETERMINES THAT EXCESSIVE GAME DAMAGE IS OCCURRING, AND MAY CONTINUE TO OCCUR IN THE FUTURE.

(b) THE DIVISION HAS THE RESPONSIBILITY TO SUPPLY USEABLE, SUFFICIENT, AND APPROPRIATE GAME DAMAGE PREVENTION MATERIALS TO A REQUESTING LANDOWNER, AND THE LANDOWNER SHALL KEEP SUCH MATERIALS IN GOOD REPAIR THROUGHOUT THEIR NORMAL LIFE, IF SUCH MATERIALS HAVE NOT BEEN DESTROYED OR DAMAGED BY WILDLIFE.

(3) (a) THE DIVISION SHALL RESPOND TO A LANDOWNER MAKING AN INQUIRY RELATED TO GAME DAMAGE WITHIN TWO BUSINESS DAYS AFTER RECEIVING THE INQUIRY.

(b) (I) WITHIN FIVE BUSINESS DAYS AFTER RECEIVING A REQUEST FOR GAME DAMAGE PREVENTION MATERIALS, THE DIVISION SHALL CONSULT WITH THE LANDOWNER TO DISCUSS THE SUFFICIENT AND APPROPRIATE MATERIALS TO PREVENT OR MITIGATE THE GAME DAMAGE. TEMPORARY GAME DAMAGE PREVENTION MATERIALS SHALL BE DELIVERED TO THE LANDOWNER WITHIN FIFTEEN BUSINESS DAYS AFTER THE CONSULTATION, UNLESS OTHERWISE AGREED TO BY THE DIVISION AND THE LANDOWNER.

(II) FOR A LANDOWNER ELIGIBLE TO RECEIVE PERMANENT GAME DAMAGE PREVENTION MATERIALS PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (2), SUCH MATERIALS SHALL BE PROVIDED WITHIN FORTY-FIVE DAYS AFTER THE DATE THAT THE LANDOWNER MAKES THE INITIAL REQUEST FOR THE MATERIALS.

(c) THE DIVISION SHALL DELIVER GAME DAMAGE PREVENTION MATERIALS TO THE SPECIFIC SITE AS DIRECTED BY THE LANDOWNER, IF SUCH DELIVERY MAY BE MADE BY TRUCK.

(d) WHEN AGREED UPON BY THE LANDOWNER, THE DIVISION MAY CONSTRUCT PERMANENT STACKYARDS OR ORCHARD FENCING IN THOSE AREAS OF HIGH WILDLIFE DAMAGE POTENTIAL WITHIN THE LIMITATIONS OF APPROPRIATION BY THE GENERAL ASSEMBLY FOR THAT PURPOSE.

(e) (I) IF THE DIVISION DOES NOT PROVIDE GAME DAMAGE PREVENTION MATERIALS WITHIN THE AMOUNT OF TIME ESTABLISHED BY PARAGRAPH (b) OF THIS SUBSECTION (3), THE DIVISION SHALL HAVE THE SOLE RESPONSIBILITY TO SUPPLY AND ERECT THE DAMAGE PREVENTION MATERIALS, AND THE STATE SHALL BE LIABLE FOR GAME DAMAGES INCURRED ON AND AFTER THE DATE BY WHICH THE DIVISION SHOULD HAVE

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PROVIDED THE GAME DAMAGE PREVENTION MATERIALS.

(II) WHEN ERECTING GAME DAMAGE PREVENTION MATERIALS PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (e), THE DIVISION MAY USE DIVISION EMPLOYEES, INDIVIDUALS UNDER CONTRACT TO THE DIVISION, OR VOLUNTARY WORKERS. IF THE DIVISION USES VOLUNTARY WORKERS TO ASSIST IN ERECTING GAME DAMAGE PREVENTION MATERIALS, THE DIVISION SHALL KEEP IN FORCE WORKERS' COMPENSATION INSURANCE AS NECESSARY TO PROTECT THE LANDOWNER FROM LIABILITY RESULTING FROM INJURIES OR DEATH OF SAID VOLUNTARY WORKERS WHILE ENGAGED IN THE ERECTION OF SUCH GAME DAMAGE PREVENTION MATERIALS. IF THE DIVISION USES CONTRACT WORKERS TO ASSIST IN ERECTING GAME DAMAGE PREVENTION MATERIALS AS PROVIDED IN THIS SECTION, THE DIVISION SHALL REQUIRE THE CONTRACTOR TO PROVIDE EVIDENCE OF WORKERS' COMPENSATION INSURANCE AS NECESSARY TO PROTECT THE LANDOWNER FROM LIABILITY RESULTING FROM INJURIES OR DEATH OF SAID CONTRACT WORKERS WHILE ENGAGED IN THE ERECTION OF SUCH GAME DAMAGE PREVENTION MATERIALS.

(4) IF THE GAME DAMAGE PREVENTION MATERIALS THAT THE DIVISION PROVIDES TO A LANDOWNER FAIL TO PREVENT GAME DAMAGE DUE TO INSUFFICIENCY OR INAPPROPRIATENESS OF SUCH MATERIALS, OR IF THE DIVISION'S INSUFFICIENT OR INAPPROPRIATE ERECTION OF SUCH MATERIALS FAIL TO PREVENT GAME DAMAGE, THE STATE SHALL BE LIABLE FOR DAMAGES CAUSED BY SUCH MATERIALS OR ERECTION.

SECTION 3. The introductory portion to 33-3-104 (1), Colorado Revised Statutes, is amended to read:

33-3-104. State shall be liable - when. (1) Subject to the limitations contained in ~~section~~ SECTIONS 33-3-103 (1) AND 33-3-103.5, and in part 2 of this article, the state shall be liable only for:

SECTION 4. Act subject to petition - effective date - applicability. (1) 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, (August 4, 2009, if adjournment sine die is on May 6, 2009); 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.

(2) The provisions of this act shall apply to inquiries related to game damage and requests for game damage prevention materials received by the division of wildlife on or after the applicable effective date of this act."

Agriculture and Natural Resources

After consideration on the merits, the Committee recommends that **SB09-141** 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 24, after "DRAINAGE," insert "SEDIMENTATION, WATER QUALITY, WATER QUANTITY,".

Page 3, line 3, after "FOUNTAIN," insert "MANITOU SPRINGS,";

line 4, strike "MONUMENT, AND MANITOU";

line 5, strike "SPRINGS," and substitute "AND MONUMENT,";

line 15, after "DRAINAGE," insert "SEDIMENTATION, WATER QUALITY, WATER QUANTITY,";

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line 16, after "PROBLEMS", insert "AND RECREATIONAL OPPORTUNITIES";

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line 22, after "WATERSHED", insert "AND THE FOUNTAIN CREEK WATERSHED MANAGEMENT AREA";

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line 23, strike "MITIGATE" and substitute "PREVENT AND MITIGATE";

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line 24, strike "ADDRESS WATER QUALITY" and substitute "IMPROVE WATER QUALITY AND OTHERWISE ADDRESS WATER QUALITY AND WATER QUANTITY";

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line 26, strike "PROTECTION OF OPEN SPACE; AND" and substitute "ACQUISITION AND PROTECTION OF OPEN SPACE";

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Page 4, strike line 1 and substitute the following:

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"PARKS, TRAILS, AND OPEN SPACE; AND

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(VI) IMPROVE WILDLIFE AND AQUATIC HABITAT AND RESTORE, ENHANCE, ESTABLISH, AND PRESERVE WETLANDS.";

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line 16, strike "DISTRICT." and substitute "DISTRICT;

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(d) ALL LEGAL AND AVAILABLE FUNDING SOURCES SHALL BE AVAILABLE TO THE DISTRICT, INCLUDING, BUT NOT LIMITED TO, MILL LEVIES, SERVICE FEES, SPECIAL ASSESSMENTS, AND GIFTS, GRANTS, AND DONATIONS FROM PUBLIC, PRIVATE, AND NOT-FOR-PROFIT SOURCES."

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Page 6, after line 1, insert the following:

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"(9) (a) "CORRIDOR" MEANS AN AREA GENERALLY NORTHERLY TO SOUTHERLY ALONG FOUNTAIN CREEK THAT CONSISTS OF THE PORTION OF THE ONE-HUNDRED-YEAR FLOODPLAIN OF FOUNTAIN CREEK, AS DEFINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY AND FURTHER IDENTIFIED ON MAPS PROMULGATED BY THE AGENCY, HEREINAFTER REFERRED TO AS THE "FEMA ONE-HUNDRED-YEAR FLOODPLAIN", CONSISTING OF FLOODPLAINS IN EL PASO COUNTY THAT LIE SOUTH OF THE MUNICIPAL LIMITS OF THE CITY OF FOUNTAIN AND THE FLOODPLAIN IN PUEBLO COUNTY THAT LIES NORTH OF THE MUNICIPAL LIMITS OF THE CITY OF PUEBLO.

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(b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (9), PUBLIC BODIES NOT REPRESENTED ON THE BOARD, THROUGH THEIR GOVERNING BODIES, MAY CONSENT TO THE JURISDICTION OF THE DISTRICT AND ADD PROPERTY TO THE CORRIDOR. THE REPRESENTED PUBLIC BODIES SHALL ALSO HAVE THE OPTION OF ADDING ADDITIONAL SECTIONS OF THE WATERSHED WITHIN THEIR RESPECTIVE JURISDICTIONAL BOUNDARIES TO THE CORRIDOR AND CONSENT TO THE JURISDICTION OF THE DISTRICT."

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Renumber succeeding subsections accordingly.

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Page 6, line 4, strike "32-11.5-201." and substitute "32-11.5-201, THE BOUNDARY OF WHICH IS DEFINED IN SECTION 32-11.5-202.";

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line 11, strike "A WIDE AND FAVORABLE REPUTATION FOR";

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line 25, strike "DRAINAGE,"

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line 26, strike "AND FLOOD CONTROL" and substitute "DRAINAGE, FLOOD CONTROL, AND RECREATIONAL".

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Page 7, line 2, strike "DRAINAGE AND FLOOD CONTROL," and substitute "DRAINAGE, FLOOD CONTROL, AND RECREATION,";

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line 4, after "TO,", insert "WATER RIGHTS FOR RECREATIONAL OR FLOOD CONTROL USES, OR BOTH,";

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line 21, strike the first "AND";

line 22, after "FACILITIES,", insert "TRAILS, OPEN SPACE,".

Page 8, after line 5, insert the following:

"(18) "FOUNTAIN CREEK WATERSHED MANAGEMENT AREA" OR "WATERSHED MANAGEMENT AREA" MEANS THAT PORTION OF THE DISTRICT THAT CONSISTS OF TOWNSHIPS WITHIN THE WATERSHED AND OTHER TOWNSHIPS THAT WILL BENEFIT FROM IMPROVEMENTS TO THE WATERSHED AND THAT IS LEGALLY DESCRIBED AS TOWNSHIPS 11S68W, 11S67W, 11S66W, 12S68W, 12S67W, 12S66W, 12S65W, 13S68W, 13S67W, 13S66W, 13S65W, 14S68W, 14S67W, 14S66W, 14S65W, 14S64W, 15S67W, 15S66W, 15S65W, 15S64W, 16S67W, 16S66W, 16S65W, 16S64W, 17S66W, 17S65W, 17S64W, 18S66W, 18S65W, 18S64W, 19S66W, 19S65W, 19S64W, 20S66W, 20S65W, 20S64W, 21S66W, 21S65W, 21S64W OF THE 6TH PRINCIPAL MERIDIAN.".

Renumber succeeding subsections accordingly.

Page 8, line 6, after "COUNCIL,", insert "BOARD OF TOWN TRUSTEES,";

line 14, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA";

line 21, after "ONE", insert "OR";

line 26, strike "LAST-KNOWN OWNER" and substitute "OWNER OF RECORD";

line 27, strike "OR OTHER DESIGNATED PERSON AT HIS OR".

Page 9, line 1, strike "HER LAST KNOWN ADDRESS, BY DEPOSIT AT LEAST TWENTY" and substitute "BY DEPOSIT AT LEAST FOURTEEN";

line 10, strike "THREE CONSECUTIVE";

strike lines 11 and 12 and substitute the following:

"ONE PUBLICATION AT LEAST FOURTEEN DAYS PRIOR TO THE DATE OF A HEARING OR EVENT IN EACH OFFICIAL NEWSPAPER DESIGNATED BY THE DISTRICT PURSUANT TO SECTION 32-11.5-205 (1) (I).";

line 26, strike "GREEN";

strike line 27 and substitute the following:

"THE TOWN OF GREEN MOUNTAIN FALLS, THE CITY OF MANITOU SPRINGS, THE TOWN OF MONUMENT, AND THE TOWN OF PALMER LAKE,".

Page 10, line 19, after "DEFINITE", insert "LEGAL".

Page 11, line 1, after "IN", insert "THE STATE CONSTITUTION OR".

Page 12, line 2, after "ARTICLE.", add "THIS ARTICLE SHALL NOT BE CONSTRUED AS REPEALING, MODIFYING, OR AMENDING ANY EXISTING LAW OR COURT DECREE CONCERNING THE DETERMINATION OR ADMINISTRATION OF WATER RIGHTS.";

line 7, strike "PUBLIC";

line 22, strike "RESOLUTION." and substitute "RESOLUTION, EXCEPT AS LIMITED BY THE SUPERMAJORITY REQUIREMENTS SPECIFIED IN SECTION 32-11.5-204 (1) (b) (II).".

Page 13, line 16, strike "DIRECTOR" and substitute "CITY OF PUEBLO CITY COUNCIL MEMBER OR THE MAYOR OF THE CITY OF PUEBLO";

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line 18, strike "DIRECTOR" and substitute "CITY OF COLORADO SPRINGS CITY COUNCIL MEMBER OR THE MAYOR OF THE CITY OF COLORADO SPRINGS";

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line 20, strike "DIRECTOR" and substitute "CITY OF FOUNTAIN CITY COUNCIL MEMBER OR THE MAYOR OF THE CITY OF FOUNTAIN";

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line 23, after "IS", insert "EITHER".

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Page 14, line 2, strike "A GROUP OF AT LEAST TWO";

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line 3, strike "JOINTLY";

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line 4, strike "TWO CANDIDATES, IS" and substitute "ONE CANDIDATE, THEN";

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line 8, strike "LARGE;" and substitute "LARGE AND RESIDES IN PUEBLO COUNTY;"

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Page 17, line 2, strike "RESOLUTIONS" and substitute "RESOLUTIONS, INCLUDING, BUT NOT LIMITED TO, RESOLUTIONS THAT, SUBJECT TO APPLICABLE VOTER APPROVAL REQUIREMENTS, ESTABLISH OR INCREASE TAXES LEVIED OR FEES IMPOSED AND COLLECTED BY THE DISTRICT OR MULTIPLE-FISCAL YEAR FINANCIAL OBLIGATIONS TO BE INCURRED BY THE DISTRICT, AND PUBLIC POLICY RESOLUTIONS, INCLUDING BUT NOT LIMITED TO RESOLUTIONS THAT INITIATE CONDEMNATION PROCEEDINGS AND RESOLUTIONS TO INITIATE OR VOLUNTARILY PARTICIPATE IN LITIGATION,"

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Page 18, line 3, strike "RESOLUTION." and substitute "RESOLUTION, WHICH MAY REQUIRE APPROVAL BY A SUPERMAJORITY VOTE AS SPECIFIED IN SUBPARAGRAPH (II) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION.";

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line 27, after "PLACE", insert "WITHIN THE DISTRICT".

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Page 19, strike line 14 and substitute the following:

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"PROFESSIONALS.";

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line 24, strike "AS A DIRECTOR OR".

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Page 20, line 22, strike "THE";

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line 23, strike "DISTRICT" and substitute "EL PASO COUNTY AND AN OFFICIAL NEWSPAPER PUBLISHED IN PUEBLO COUNTY";

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line 24, after "NEWSPAPER", insert "OR NEWSPAPERS";

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line 27, strike "THEREOF;" and substitute "THEREOF OR WITH THE FEDERAL GOVERNMENT;"

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Page 21, line 8, strike "FACILITY," and substitute "FACILITY OR ANY PARK OR UTILITY FACILITY OWNED OR OPERATED BY A PUBLIC BODY OR AN ENTERPRISE OF A PUBLIC BODY,";

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line 9, strike "REIMBURSE" and substitute "COOPERATE WITH THE PUBLIC BODY TO DETERMINE THE NECESSITY OF THE REMOVAL AND RELOCATION AND, IF NECESSARY, THE APPROPRIATE REIMBURSEMENT TO";

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line 10, before "PUBLIC", insert "PARK OR";

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line 12, strike "LAND." and substitute "LAND AND ANY OTHER RESULTING COSTS.";

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line 22, after "TO", insert "PREVENT AND";

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strike lines 23 and 24 and substitute the following:

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"IMPROVE DRAINAGE AND WATER QUALITY, ADDRESS WATER QUANTITY, PROVIDE A HEALTHY RIPARIAN HABITAT WITH RECREATIONAL AMENITIES, INCLUDING, BUT NOT LIMITED TO, OPEN SPACE AND TRAILS, IMPROVE WILDLIFE AND AQUATIC HABITAT, AND RESTORE, ENHANCE, ESTABLISH, AND PRESERVE WETLANDS;"

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line 25, strike "AND POSITION";

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line 26, strike "STATEMENTS".

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Page 22, line 12, after "CHARGES", insert "WITHIN THE WATERSHED MANAGEMENT AREA";

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line 20, strike "DONATIONS; AND" and substitute "DONATIONS FROM PUBLIC, PRIVATE, AND NOT-FOR-PROFIT SOURCES;

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(E) CERTIFICATES OF PARTICIPATION; AND".

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Reletter succeeding sub-subparagraph accordingly.

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Page 23, line 23, strike "LIMITATION SPECIFIED IN" and substitute "LIMITATIONS SPECIFIED IN PART 3 OF THIS ARTICLE AND".

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Page 24, line 4, strike "WATERSHED." and substitute "WATERSHED MANAGEMENT AREA.".

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Page 25, line 1, strike "DEMAND" and substitute "REQUEST";

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line 3, strike "SHALL" and substitute "MAY";

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line 10, after "TO", insert "ANNUAL";

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line 23, strike "(a)";

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strike line 25 and substitute the following:

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(a) WITHIN THE CORRIDOR, TO";

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strike line 26;

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line 27, strike "WATERSHED AND TO".

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Page 26, line 1, strike "(II) OUTSIDE OF THE CORRIDOR," and substitute "(b) OUTSIDE OF THE CORRIDOR, BUT WITHIN THE WATERSHED MANAGEMENT AREA,";

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line 5, strike "CORRIDOR" and substitute "CORRIDOR, BUT WITHIN THE WATERSHED MANAGEMENT AREA,";

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line 10, strike "THE" and substitute "ITS";

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after line 13, insert the following:

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(c) THROUGHOUT THE WATERSHED MANAGEMENT AREA, INCLUDING WITHIN THE CORRIDOR, THE DISTRICT HAS THE AUTHORITY TO ACCEPT AND MANAGE FUNDING FOR THE MANAGEMENT AND CONSTRUCTION OF ANY STREAM IMPROVEMENT AUTHORIZED BY THE REPRESENTED PUBLIC BODY OR BODIES WITH JURISDICTION OVER THE AREA IN WHICH THE IMPROVEMENT WILL BE LOCATED.";

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strike lines 14 through 27.

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Page 27, strike lines 1 through 3;

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line 8, after "AGENCIES,", insert "LOCAL AND";

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line 11, strike "ACQUISITION";

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strike line 12 and substitute the following:

"ACQUISITION, CONSTRUCTION, OPERATION, AND MAINTENANCE OF FACILITIES;"

line 14, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA";

strike line 17 and substitute the following:

"A PUBLIC BODY SUBJECT TO FIRST OBTAINING CONSENT FROM THE PUBLIC";

line 18, strike "SAME." and substitute "SAME, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD, BUT MAY BE CONTINGENT UPON REASONABLE CONDITIONS BEING MET.";

line 22, strike "PERMANENTLY IMPAIR COMPLETELY";

line 23, strike "OR UNNECESSARILY" and substitute "ADVERSELY AFFECT";

line 27, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA".

Page 28, line 10, strike "FACILITIES" and substitute "INFRASTRUCTURE";

line 12, strike "AREA" and substitute "AREA, WHETHER DIRECTLY OR THROUGH AN ENTERPRISE,";

line 19, strike "REGARDING".

Page 29, line 1, strike "DRAINAGE AND FLOOD CONTROL" and substitute "DRAINAGE, FLOOD CONTROL, OR RECREATIONAL";

line 23, strike "ARBITRATE" and substitute "MEDIATE".

Page 30, line 2, strike "ON" and substitute "SUBJECT TO THE LIMITATIONS SPECIFIED IN SECTION 32-11.5-205 (3), ON";

line 5, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA";

line 20, strike "DRAINAGE OR FLOOD CONTROL" and substitute "DRAINAGE, FLOOD CONTROL, OR RECREATIONAL";

line 21, after "IMPROVEMENT", insert "WITHIN THE WATERSHED MANAGEMENT AREA";

line 27, strike "DRAINAGE OR FLOOD CONTROL" and substitute "DRAINAGE, FLOOD CONTROL, OR RECREATIONAL".

Page 31, line 5, strike "DRAINAGE OR FLOOD CONTROL" and substitute "DRAINAGE, FLOOD CONTROL, OR RECREATIONAL";

line 6, after "IMPROVEMENT", insert "WITHIN THE WATERSHED MANAGEMENT AREA".

Page 32, line 14, strike "OR EQUIP" and substitute "EQUIP, OPERATE, OR MAINTAIN";

line 27, strike "CHARGES" and substitute "CHARGES, OR SPECIAL FEES AS DEFINED BY COLORADO LAW,".

Page 33, line 3, after "SERVICES.", add "SUCH SERVICE CHARGES MAY ONLY BE CHARGED WITHIN THE WATERSHED MANAGEMENT AREA.";

line 6, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT

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AREA";

line 25, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA".

Page 34, line 20, after "TO," insert "LOCATION WITHIN THE WATERSHED,";

line 22, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA".

Page 35, line 5, strike "MAY" and substitute "SHALL";

line 6, strike "SERVICE CHARGES." and substitute "ANY SERVICE CHARGES IT IMPOSES OR COLLECTS.".

Page 36, line 6, strike "AND SECTION 39-10-111";

line 7, strike "(11),".

Page 38, line 20, after "ANY", insert "LAWFUL".

Page 40, line 15, strike "PROCEDURAL,";

line 16, strike "ELECTION," and substitute "ELECTION REQUIREMENTS SPECIFIED IN SECTION 32-11.5-205 (2) (c) (II) AND THE PROCEDURAL".

Page 41, line 8, strike "RESOLUTION," and substitute "RESOLUTION APPROVED BY A SUPERMAJORITY VOTE AS SPECIFIED IN SECTION 32-11.5-204 (1) (b) (II),".

Page 44, line 26, strike "RESOLUTION";

line 27, strike "AND PUBLISHES NOTICE OF THE".

Page 45, line 20, strike "AN ARBITRARY AND AN UNREASONABLE" and substitute "ARBITRARY AND CAPRICIOUS ACTION OR".

Page 46, line 18, strike "MAIL." and substitute "MAIL TO ALL OWNERS OF RECORD OF THE TRACTS TO BE ASSESSED.".

Page 47, line 7, strike "PROJECT," and substitute "PROJECT AND".

Page 49, line 22, before "A", insert "IN".

Page 50, line 5, after "of", insert "**improvement**";

line 7, after the second "AND", insert "ARE";

line 10, strike "32-11.5-508," and substitute "32-11.5-508 AND ANY REQUIRED ELECTION HAS BEEN HELD,".

Page 51, line 1, after "THE", insert "IMPROVEMENT";

line 23, strike "**district.**" and substitute "**watershed management area.**";

line 24, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA".

Page 52, line 11, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA";

line 14, strike "DISTRICT." and substitute "WATERSHED MANAGEMENT AREA.".

Page 53, line 14, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA";

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line 16, strike "DISTRICT;" and substitute "WATERSHED MANAGEMENT AREA;"

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line 18, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA".

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Page 54, line 19, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA".

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Page 55, line 1, strike "DISTRICT." and substitute "WATERSHED MANAGEMENT AREA.";

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line 6, strike "DISTRICT;" and substitute "WATERSHED MANAGEMENT AREA;"

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Page 56, line 18, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA";

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line 19, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA";

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line 22, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA".

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Page 57, line 1, strike "DISTRICT," and substitute "WATERSHED MANAGEMENT AREA,";

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line 10, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA";

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line 11, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA";

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line 21, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA";

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line 25, strike "DISTRICT." and substitute "WATERSHED MANAGEMENT AREA.";

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line 26, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA".

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Page 58, line 2, strike "FOR THE ENTIRE DISTRICT" and substitute "WITHIN THE WATERSHED MANAGEMENT AREA";

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line 5, strike "DISTRICT" and substitute "WATERSHED MANAGEMENT AREA".

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Page 59, line 8, strike "OR THE";

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line 9, strike "EFFECTIVE DATE THEREOF, WHICHEVER OCCURS FIRST,".

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Education

After consideration on the merits, the Committee recommends that **SB09-089** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

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Amend printed bill, page 5, strike lines 18 through 27.

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Page 6, strike lines 1 through 24.

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Renumber succeeding sections accordingly.

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Page 6, line 25, strike "(j)," and substitute "(j) and (4) (k)," and, strike "is" and substitute "are";

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line 27, strike "THE FOLLOWING NEW PARAGRAPHS," and

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substitute "A NEW PARAGRAPH,".

Page 7, strike lines 7 through 10 and substitute the following:

"(k) To promulgate rules in accordance with article 4 of title 24, C.R.S., for the administration of this part 5; AND";

line 11, strike "(m)" and substitute "(l)";

strike lines 14 through 27.

Strike pages 8 and 9.

Page 10, strike lines 1 through 9.

Re-number succeeding sections accordingly.

page 10, line 10, strike "(3) (b) and (4) (a)," and substitute "(4) (a) and (5),";

line 13, strike "funding -" and substitute "funding.";

strike lines 14 through 27 and substitute the following:

"(4) (a) (I) For each institute charter school, the department shall withhold from the state equalization payments of the institute charter school's accounting district an amount equal to one hundred percent of the accounting district's adjusted per pupil revenues multiplied by the number of pupils enrolled in the institute charter school who are not on-line pupils plus an amount equal to one hundred percent of the accounting district's per pupil on-line funding multiplied by the number of on-line pupils enrolled in the institute charter school. The department shall forward to the institute the amount withheld minus an amount not to exceed two ONE percent of the amount withheld that ~~may be retained by the department~~ MAY RETAIN as reimbursement for the reasonable and necessary costs to the department to implement the provisions of this part 5.

(I.5) The institute shall forward to each institute charter school an amount equal to the institute charter school's pupil enrollment multiplied by the accounting district's adjusted per pupil revenues of the institute charter school's accounting district, minus:".

Page 11, strike lines 1 through 10;

line 11, after "WITHHELD", insert "NOT TO EXCEED ONE PERCENT RETAINED";

line 17, strike "GRANT";

after line 18, insert the following:

"(C) ANY AMOUNT AGREED TO BY THE INSTITUTE AND THE INSTITUTE CHARTER SCHOOL FOR REPAYMENT OF A LOAN TO THE INSTITUTE CHARTER SCHOOL FROM THE INSTITUTE CHARTER SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED IN SECTION 22-30.5-515.5;".

Reletter succeeding sub-subparagraphs accordingly.

Page 11, strike lines 20 and 21 and substitute the following:

"FOR THE DIRECT PAYMENTS MADE BY THE STATE TREASURER OF PRINCIPAL AND INTEREST DUE ON BONDS ISSUED ON BEHALF OF THE INSTITUTE CHARTER SCHOOL BY A GOVERNMENTAL ENTITY FOR THE PURPOSE OF FINANCING INSTITUTE CHARTER SCHOOL CAPITAL CONSTRUCTION;".

Page 12, after line 1, insert the following:

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~~"(5) For the 2004-05 budget year and budget years thereafter, and in accordance with section 22-30.5-406, the funding provided by the institute to an institute charter school pursuant to this section shall be reduced by the amount of any direct payments of principal and interest due on bonds issued on behalf of an institute charter school by a governmental entity for the purpose of financing institute charter school capital construction that were made by the state treasurer on behalf of the institute charter school.";~~

line 2, after "2009,", insert "AND ON OR BEFORE DECEMBER 1 EACH YEAR THEREAFTER,";

line 14, after "2010,", insert "AND ON OR BEFORE JANUARY 15 EACH YEAR THEREAFTER,";

line 19, strike "LEVEL OF INSTITUTE FUNDING." and substitute "OPERATIONS OF THE INSTITUTE.";

strike line 20 and substitute the following:

"(c) THE PROVISIONS OF THIS SUBSECTION (10) SHALL NOT BE INTERPRETED AS LIMITING THE AUTHORITY OF THE INSTITUTE OR THE INSTITUTE BOARD IN MAKING DECISIONS CONCERNING OPERATIONS OF THE INSTITUTE OR THE USE OF INSTITUTE MONEYS.";

line 22, strike "THE FOLLOWING NEW" and substitute "A NEW SECTION";

line 23, strike "SECTIONS";

strike lines 24 through 27.

Strike pages 13 and 14.

Page 15, strike lines 1 through 9;

line 11, strike "grant" and, after "grants -", insert "loans -";

line 13, strike "GRANT";

line 14, strike "'GRANT FUND'," and substitute "'FUND',";

line 17, strike "GRANT";

line 20, after "GRANTS", insert "AND INTEREST-FREE LOANS".

Page 16, line 1, strike "GRANT";

line 4, strike "GRANT";

line 5, strike "GRANT";

line 6, strike "GRANT";

line 7, strike "GRANT";

line 9, after "GRANT", insert "OR AN INTEREST-FREE LOAN";

line 14, after "GRANT", insert "OR AN INTEREST-FREE LOAN".

Page 17, line 3, after "GRANT", insert "OR AN INTEREST-FREE LOAN";

line 16, after "GRANT", insert "OR AN INTEREST-FREE LOAN".

Page 18, line 2, strike "GRANTS" and substitute "MONEYS";

strike line 3 and substitute the following:

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"SECTION, WHETHER THE MONEYS SHOULD BE AWARDED IN THE FORM OF GRANTS OR INTEREST-FREE LOANS, AND THE AMOUNTS OF THE GRANTS OR INTEREST-FREE LOANS. IN MAKING ITS";

line 5, strike "IDENTIFY THOSE" and substitute "PRIORITIZE APPLICATIONS BASED ON THE APPLICANT'S LEVEL OF ECONOMIC NEED AND THE VIABILITY AND MERIT OF THE CAPITAL CONSTRUCTION PROJECT.";

strike lines 6 and 7;

strike lines 10 and 11 and substitute the following:

"AND INTEREST-FREE LOANS PURSUANT TO THIS SECTION TO ASSIST INSTITUTE CHARTER SCHOOLS BASED ON THE LEVEL OF ECONOMIC NEED DEMONSTRATED BY AN APPLICANT AND THE VIABILITY AND MERIT OF THE CAPITAL CONSTRUCTION PROJECT PROPOSED IN THE APPLICATION.

(b) IF THE INSTITUTE BOARD AWARDS AN INTEREST-FREE LOAN TO AN INSTITUTE CHARTER SCHOOL PURSUANT TO THIS SECTION, IT SHALL SET THE TERMS OF REPAYMENT WITH THE INSTITUTE CHARTER SCHOOL."

Reletter succeeding paragraphs accordingly.

Page 18, line 13, after "GRANT", insert "OR AN INTEREST-FREE LOAN";

line 21, after "GRANT", insert "OR AN INTEREST-FREE LOAN".

Page 19, line 3, strike "A GRANT" and substitute "AN";

after line 4, insert the following:

"(6) NOTHING IN THIS SECTION SHALL BE INTERPRETED AS CREATING AN ENTITLEMENT IN AN INSTITUTE CHARTER SCHOOL FOR RECEIPT OF A GRANT OR AN INTEREST-FREE LOAN FROM THE FUND, BUT AWARDS OF GRANTS AND INTEREST-FREE LOANS SHALL BE AT THE SOLE DISCRETION OF THE INSTITUTE BOARD."

Page 26, strike lines 2 through 27.

Strike pages 27 through 34.

Page 35, strike lines 1 through 23.

Renumber succeeding section accordingly.

INTRODUCTION OF RESOLUTIONS

SJR09-013 by Senator(s) Keller; also Representative(s) Gerou--Concerning awareness day for individuals with disabilities.

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

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INTRODUCTION AND CONSIDERATION OF RESOLUTIONS

SR09-012 by Senator(s) Shaffer B., Groff, Penry; --Concerning the appointment of an employee for the Senate of the Sixty-seventh General Assembly.

On motion of Senator Shaffer, the resolution was **adopted** by the following roll call vote:

YES	34	NO	0	EXCUSED	1	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Shaffer B.	Y
Boyd	Y	Hudak	Y	Newell	Y	Spence	Y
Brophy	Y	Isgar	Y	Penry	Y	Tapia	Y
Cadman	Y	Keller	Y	Renfroe	Y	Tochtrop	Y
Carroll M.	Y	Kester	Y	Romer	Y	Veiga	Y
Foster	E	King K.	Y	Sandoval	Y	White	Y
Gibbs	Y	Kopp	Y	Scheffel	Y	Williams	Y
Harvey	Y	Lundberg	Y	Schultheis	Y	President	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

INTRODUCTION OF BILLS -- FIRST READING

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

SB09-181 by Senator(s) Tapia, Keller, White; also Representative(s) Marostica, Ferrandino, Pommer-- Concerning the elimination of the annual resolution to certify the amount of moneys in the state education fund that are available for appropriation in the next fiscal year.
Finance

SB09-182 by Senator(s) Penry; also Representative(s) Stephens--Concerning the use of state parks by certain search and rescue organizations for training activities.
Agriculture and Natural Resources

HB09-1143 by Representative(s) Swalm, Acree, Balmer, Bradford, Court, Gardner B., Labuda, Liston, Looper, Lundberg, Massey, McFadyen, McNulty, Priola, Scanlan, Summers; also Senator(s) Schwartz--Concerning the authority of a health maintenance organization to offer basic health services through a limited benefit plan.
Health and Human Services

SENATE SERVICES REPORT

Correctly Engrossed: SJR09-008.
Correctly Revised: HJR09-1010 and 1011.

SIGNING OF BILLS -- RESOLUTIONS -- MEMORIALS

The President has signed: **HJR09-1004**.

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On motion of Senator Shaffer, the Senate adjourned until 10:00 a.m., Monday, February 16, 2009.

Approved:

Peter C. Groff
President of the Senate

Attest:

Karen Goldman
Secretary of the Senate

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