

**HOUSE JOURNAL**  
**SIXTY-FOURTH GENERAL ASSEMBLY**  
**STATE OF COLORADO**  
**Second Regular Session**

Seventh Legislative Day

Tuesday, January 13, 2004

1 Prayer by Pastor Craig Peterson, Mountain View Community Church,  
2 Aurora.

3  
4 The Speaker called the House to order at 9:00 a.m.

5  
6 Pledge of Allegiance led by Representative Boyd.

7  
8 The roll was called with the following result:

9  
10 Present--60.

11 Excused--Representatives Plant, Young--2.

12 Absent--Representatives Coleman, Johnson, Witwer--3.

13 Present after roll call--Representatives Coleman, Johnson, Witwer,  
14 Young.

15  
16 The Speaker declared a quorum present.

17  
18  
19 On motion of Representative Cerbo, the reading of the journal of January  
20 12, 2004, was declared dispensed with and approved as corrected by the  
21 Chief Clerk.

22  
23  
24 House in recess. House reconvened.  
25  
26

27  
28 **REPORTS OF COMMITTEES OF REFERENCE**

29  
30 **BUSINESS AFFAIRS & LABOR**

31 After consideration on the merits, the Committee recommends the  
32 following:

33  
34 **SB04-011** be amended as follows, and as so amended, be referred  
35 to the Committee of the Whole with favorable  
36 recommendation:

37  
38 Amend reengrossed bill, page 2, line 2, strike "(c)" and substitute "(b),  
39 (13) (c),";

40  
41 after line 7, insert the following:

42  
43 "(b) Reasonable costs and expenses of managing and operating

1 the certified capital company, including an annual management fee in an  
2 amount that does not exceed two and one-half percent of certified capital;  
3 except that:

4  
5 (I) No such cost or expense shall be paid to a certified investor or  
6 affiliate of a certified investor;

7  
8 (II) NO SUCH COST OR EXPENSE SHALL BE PAID FOR FEDERAL OR  
9 STATE TAXES, INCLUDING PENALTIES AND INTEREST RELATED TO STATE  
10 AND FEDERAL INCOME TAXES, OF THE EQUITY OWNERS OF A CERTIFIED  
11 CAPITAL COMPANY RESULTING FROM A TAX LIABILITY OF THE CERTIFIED  
12 CAPITAL COMPANY; and ~~that~~

13  
14 (III) Such costs and expenses in the aggregate shall not exceed  
15 five percent of certified capital in any one year;".

16  
17  
18  
19  
20 **EDUCATION**

21 After consideration on the merits, the Committee recommends the  
22 following:

23  
24 **HB04-1007** be amended as follows, and as so amended, be referred  
25 to the Committee of the Whole with favorable  
26 recommendation:

27  
28 Amend printed bill, page 3, strike line 6 and substitute the following:

29  
30 "SPONSORS OF OPTIONAL RETIREMENT PLANS AVAILABLE TO PUBLIC".

31  
32  
33  
34 **HB04-1010** be referred to the Committee of the Whole with  
35 favorable recommendation.

36  
37  
38 **HB04-1011** be amended as follows, and as so amended, be referred  
39 to the Committee of the Whole with favorable  
40 recommendation:

41  
42 Amend printed bill, page 7, line 4, after "(3)", insert "(a)";

43  
44 line 9, after "ESTABLISHMENT", insert "OR IDENTIFICATION";

45  
46 strike line 11 and substitute the following:

47  
48 "EMPLOYEES. THE";

49  
50 line 19, strike "(6)" and substitute "(5)";

51  
52 after line 19, insert the following:

53  
54 "(b) IN DETERMINING WHETHER TO WITHDRAW EMPLOYEES FROM  
55 THE STATE PERSONNEL SYSTEM, EACH GOVERNING BOARD SHALL PROVIDE  
56 OPPORTUNITY FOR THE EXISTING STATE PERSONNEL SYSTEM EMPLOYEES

1 OF THE GOVERNING BOARD AND THE INSTITUTIONS OF HIGHER EDUCATION  
2 THAT ARE UNDER THE SUPERVISION AND CONTROL OF THE GOVERNING  
3 BOARD TO HAVE INPUT DURING THE DEVELOPMENT OF AN ALTERNATIVE  
4 PERSONNEL SYSTEM AND PRIOR TO ADOPTION OF THE RESOLUTION TO  
5 WITHDRAW ADOPTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION  
6 (3).";

7  
8 strike lines 20 through 27.

9  
10 Renumber succeeding subsections accordingly.

11  
12 Page 8, strike lines 1 through 9;

13  
14 line 20, strike "PURSUANT TO SUBSECTION (4) OF THIS SECTION";

15  
16 line 21, after the period, add "IF THE GOVERNING BOARD OR STATE  
17 INSTITUTION OF HIGHER EDUCATION ESTABLISHES AN OPTIONAL  
18 RETIREMENT PLAN PURSUANT TO THE PROVISIONS OF ARTICLE 54.5 OF  
19 TITLE 24, C.R.S., AN EMPLOYEE OF THE GOVERNING BOARD OR STATE  
20 INSTITUTION OF HIGHER EDUCATION WHO IS HIRED ON OR AFTER THE  
21 WITHDRAWAL DATE SHALL EITHER PARTICIPATE IN THE OPTIONAL  
22 RETIREMENT PLAN OR, IF ALLOWED BY THE GOVERNING BOARD OR  
23 OTHERWISE ALLOWED PURSUANT TO THE PROVISIONS OF SECTION  
24 24-54.5-105 (2) (b), C.R.S, CHOOSE WHETHER TO PARTICIPATE IN THE  
25 OPTIONAL RETIREMENT PLAN OR PERA. IF THE GOVERNING BOARD OR  
26 STATE INSTITUTION OF HIGHER EDUCATION DOES NOT ESTABLISH AN  
27 OPTIONAL RETIREMENT PLAN, AN EMPLOYEE OF THE GOVERNING BOARD OR  
28 STATE INSTITUTION OF HIGHER EDUCATION WHO IS HIRED ON OR AFTER THE  
29 WITHDRAWAL DATE SHALL PARTICIPATE IN PERA.".

30  
31 Page 9, line 19, strike "PROMOTION";

32  
33 strike lines 20 through 22.

34  
35 Page 10, line 3, strike "SYSTEM." and substitute "SYSTEM; EXCEPT THAT,  
36 IF THE DISPUTE INVOLVES AN EMPLOYEE IN THE STATE PERSONNEL SYSTEM  
37 AND AN EMPLOYEE OF THE GOVERNING BOARD OR STATE INSTITUTION OF  
38 HIGHER EDUCATION, RESOLUTION OF THE DISPUTE SHALL BE GOVERNED BY  
39 THE RULES AND PROCEDURES OF THE ALTERNATIVE PERSONNEL SYSTEM  
40 ADOPTED BY THE GOVERNING BOARD.";

41  
42 line 14, strike "DECIDE" and substitute "MAKE AN IRREVOCABLE CHOICE";

43  
44 line 15, strike "ADOPTED BY" and substitute "IF THE GOVERNING BOARD  
45 HAS ADOPTED ONE.";

46  
47 line 16, strike "THE GOVERNING BOARD.".

48  
49 Page 20, after line 13, insert the following:

50  
51 "SECTION 11. 24-54.5-105 (2) (a) and (2) (d), Colorado Revised  
52 Statutes, are amended, and the said 24-54.5-105 is further amended BY  
53 THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to  
54 read:

55  
56 **24-54.5-105. Participation.** (2) (a) EXCEPT AS OTHERWISE

1 PROVIDED IN SUBSECTION (3.5) OF THIS SECTION, any eligible employee  
2 who is not a member or inactive member of the association and who is  
3 initially appointed to an eligible position on or after the effective date of  
4 the establishment of one or more optional retirement plans at such eligible  
5 employee's employing institution shall participate in an optional  
6 retirement plan established by the eligible employee's employing  
7 institution pursuant to the provisions of this article.  
8

9 (d) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3.5) OF THIS  
10 SECTION, any eligible employee who is a member or inactive member of  
11 the association with less than one year of service credit and who is  
12 initially appointed to an eligible position on or after the effective date of  
13 the establishment of one or more optional retirement plans at such eligible  
14 employee's employing institution shall participate in an optional  
15 retirement plan established by the eligible employee's employing  
16 institution pursuant to the provisions of this article. Within ninety days  
17 after such appointment, the association shall pay to the employing  
18 institution's retirement plan on behalf of such eligible employee an  
19 amount equal to such eligible employee's member contributions, if any,  
20 plus interest on such contributions from the date of contribution to the  
21 date of payment at the rate specified for members in section 24-51-101  
22 (28) (a) through June 30, 1991, and at the rate specified in section  
23 24-51-101 (28) (c) after June 30, 1991.  
24

25 (3.5) (a) WITH REGARD TO AN ELIGIBLE EMPLOYEE, AS DEFINED IN  
26 SECTION 24-54.5-102 (2) (c), WHO IS NOT A MEMBER OR INACTIVE  
27 MEMBER OF THE ASSOCIATION OR WHO IS A MEMBER OR INACTIVE MEMBER  
28 OF THE ASSOCIATION WITH LESS THAN ONE YEAR OF SERVICE CREDIT, THE  
29 GOVERNING BOARD OF THE EMPLOYING INSTITUTION, IN SETTING THE  
30 TERMS AND CONDITIONS OF THE OPTIONAL RETIREMENT PLAN THAT IS  
31 AVAILABLE TO SAID ELIGIBLE EMPLOYEE, SHALL SPECIFY WHETHER SAID  
32 ELIGIBLE EMPLOYEE IS REQUIRED TO PARTICIPATE IN THE OPTIONAL  
33 RETIREMENT PLAN OR WHETHER SAID ELIGIBLE EMPLOYEE SHALL ELECT  
34 EITHER:  
35

36 (I) TO JOIN THE ASSOCIATION IN ACCORDANCE WITH THE  
37 PROVISIONS OF THE LAWS APPLICABLE THERETO; OR  
38

39 (II) TO PARTICIPATE IN THE OPTIONAL RETIREMENT PLAN  
40 ESTABLISHED BY THE EMPLOYING INSTITUTION PURSUANT TO THE  
41 PROVISIONS OF THIS ARTICLE.  
42

43 (b) IF SAID ELIGIBLE EMPLOYEE, AS DESCRIBED IN PARAGRAPH (a)  
44 OF THIS SUBSECTION (3.5), IS A MEMBER OR AN INACTIVE MEMBER OF THE  
45 ASSOCIATION WITH LESS THAN ONE YEAR OF SERVICE CREDIT, AND IS  
46 REQUIRED OR ELECTS TO PARTICIPATE IN THE OPTIONAL RETIREMENT PLAN,  
47 WITHIN NINETY DAYS AFTER SAID ELIGIBLE EMPLOYEE'S APPOINTMENT, THE  
48 ASSOCIATION SHALL PAY TO THE EMPLOYING INSTITUTION'S RETIREMENT  
49 PLAN ON BEHALF OF SAID ELIGIBLE EMPLOYEE AN AMOUNT EQUAL TO SAID  
50 ELIGIBLE EMPLOYEE'S MEMBER CONTRIBUTIONS, IF ANY, PLUS INTEREST ON  
51 THE CONTRIBUTIONS FROM THE DATE OF CONTRIBUTION TO THE DATE OF  
52 PAYMENT AT THE RATE SPECIFIED FOR MEMBERS IN SECTION 24-51-101  
53 (28) (c).  
54

55 (3.7) IF AN ELIGIBLE EMPLOYEE, AS DEFINED IN SECTION  
56 24-54.5-102 (2) (c) OR (2) (d), ELECTS TO PARTICIPATE IN AN OPTIONAL

1 RETIREMENT PLAN ESTABLISHED BY THE ELIGIBLE EMPLOYEE'S EMPLOYING  
2 INSTITUTION PURSUANT TO THE PROVISIONS OF THIS ARTICLE AND THE  
3 ELIGIBLE EMPLOYEE IS A MEMBER OR AN INACTIVE MEMBER OF THE  
4 ASSOCIATION WITH AT LEAST ONE YEAR OF SERVICE CREDIT, SAID ELIGIBLE  
5 EMPLOYEE SHALL SPECIFY ONE OF THE FOLLOWING OPTIONS:

6  
7 (a) TO TERMINATE FUTURE ASSOCIATION CONTRIBUTIONS  
8 BEGINNING ON THE DATE OF ELECTION WHILE MAINTAINING RIGHTS AS  
9 PROVIDED BY THE LAWS APPLICABLE TO THE ASSOCIATION RELATIVE TO  
10 ANY CONTRIBUTIONS OR BENEFITS ACCRUED PRIOR TO SUCH ELECTION;

11  
12 (b) TO TERMINATE MEMBERSHIP IN THE ASSOCIATION AND TO  
13 REQUIRE PAYMENT BY THE ASSOCIATION OF ALL EMPLOYEE  
14 CONTRIBUTIONS AND ANY ACCRUED INTEREST ON SUCH CONTRIBUTIONS.  
15 SUCH ELECTION SHALL CONSTITUTE A WAIVER OF ALL RIGHTS AND  
16 BENEFITS PROVIDED BY THE ASSOCIATION EXCEPT AS OTHERWISE  
17 PROVIDED BY THE PROVISIONS OF THIS ARTICLE. WITHIN NINETY DAYS  
18 AFTER RECEIPT OF NOTICE OF AN ELECTION TO TERMINATE MEMBERSHIP  
19 PURSUANT TO THE PROVISIONS OF THIS PARAGRAPH (b), THE ASSOCIATION  
20 SHALL PAY TO THE EMPLOYING INSTITUTION'S RETIREMENT PLAN ON  
21 BEHALF OF THE ELIGIBLE EMPLOYEE AN AMOUNT EQUAL TO THE  
22 EMPLOYEE'S MEMBER CONTRIBUTIONS PLUS ACCRUED INTEREST ON SUCH  
23 CONTRIBUTIONS AT THE RATE SPECIFIED IN SECTION 24-51-101 (28) (c).".

24  
25 Renumber succeeding section accordingly.

## 26 27 28 29 **PRINTING REPORT**

30  
31 The Chief Clerk reports the following bills have been correctly printed:  
32 **HB04-1112, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121,**  
33 **1122, 1123, 1124.**

## 34 35 36 37 **INTRODUCTION OF BILLS** 38 **First Reading**

39  
40 The following bills were read by title and referred to the committees  
41 indicated:

42  
43 **HB04-1125** by Representative(s) McFadyen--Concerning a deceptive  
44 trade practice for violations of federal law related to  
45 unsolicited facsimiles.

46 Committee on Information & Technology

47  
48 **HB04-1126** by Representative(s) McCluskey, Coleman, Harvey,  
49 Hodge, Hoppe, Larson, Marshall, Paccione, Rhodes,  
50 White, Wiens, Williams T.; also Senator(s) Taylor--  
51 Concerning the continued regulation of institutions by the  
52 division of financial services, and, in connection  
53 therewith, extending the division of financial services.

54 Committee on Business Affairs & Labor  
55

- 1 **HB04-1127** by Representative(s) Johnson R., Larson, Tochtrop; also  
2 Senator(s) Johnson S.--Concerning a limitation on the use  
3 of the professional title of "nurse".  
4 Committee on Health, Environment, Welfare, & Institutions  
5
- 6 **HB04-1128** by Representative(s) Salazar, Frangas, Hodge, Madden,  
7 McGihon, Romanoff, Vigil; also Senator(s) Kester--  
8 Concerning the bulk purchasing of pharmaceuticals.  
9 Committee on Health, Environment, Welfare, & Institutions  
10 Committee on Appropriations  
11
- 12 **HB04-1129** by Representative(s) Stafford; also Senator(s) Entz--  
13 Concerning property taken by a county for delinquent  
14 taxes.  
15 Committee on Finance  
16
- 17 **HB04-1130** by Representative(s) Brophy; also Senator(s) Tapia--  
18 Concerning health insurance issued to members of a  
19 foreign valid multistate association.  
20 Committee on Business Affairs & Labor  
21
- 22 **HB04-1131** by Representative(s) Salazar, McFadyen, Judd, Madden,  
23 Tochtrop, Vigil; also Senator(s) Entz--Concerning the  
24 regulation of seeds.  
25 Committee on Agriculture, Livestock, & Natural Resources  
26 Committee on Finance  
27
- 28 **HB04-1132** by Representative(s) Vigil, Coleman, Frangas, Salazar;  
29 also Senator(s) Tapia, Sandoval--Concerning in-state  
30 tuition for a student who has attended school in Colorado  
31 for a specified period of time as of the date the student  
32 receives a secondary school certificate.  
33 Committee on Education  
34 Committee on Appropriations  
35
- 36 **HB04-1133** by Representative(s) Vigil--Concerning a requirement that  
37 a mortgage deed contain provisions for servicers of  
38 residential real estate mortgages to pay interest at least  
39 annually on amounts maintained in escrow accounts.  
40 Committee on Business Affairs & Labor  
41
- 42 **HB04-1134** by Representative(s) Miller; also Senator(s) Arnold--  
43 Concerning a prohibition against using identity  
44 information for an unlawful purpose, and, in connection  
45 therewith, making an appropriation.  
46 Committee on Information & Technology  
47 Committee on Appropriations  
48
- 49 **HB04-1135** by Representative(s) Weissmann, Madden--Concerning  
50 the regulation of wildlife, and, in connection therewith,  
51 authorizing wildlife sanctuaries.  
52 Committee on Agriculture, Livestock, & Natural Resources  
53 Committee on Finance  
54
- 55 **HB04-1136** by Representative(s) Hall, Schultheis, Briggs, Cadman,  
56 Crane, Fairbank, Jahn, King, May M., McCluskey, Rose,

- 1 Spradley, White, Williams T.; also Senator(s) Lamborn--  
2 Concerning an increase in the exemption from property  
3 taxation for personal property established in section 39-3-  
4 119.5, Colorado Revised Statutes.  
5 Committee on Finance  
6
- 7 **HB04-1137** by Representative(s) Frangas, Cloer, Jahn, King, Paccione,  
8 Pommer, Vigil, White--Concerning the creation of a  
9 public school student's right to have a guardian present  
10 when the student signs a statement that could result in  
11 expulsion.  
12 Committee on Education  
13
- 14 **HB04-1138** by Representative(s) Lundberg, Brophy, Schultheis,  
15 Cadman, Crane, Fairbank, Harvey, May M., Mitchell,  
16 Welker; also Senator(s) Lamborn, Cairns--Concerning the  
17 creation of a revenue shortfall relief fund, and, in  
18 connection therewith, requiring the general assembly to  
19 annually appropriate general fund moneys to the revenue  
20 shortfall relief fund unless total state general fund  
21 appropriations fall below a specified level and authorizing  
22 transfers from the revenue shortfall relief fund to the  
23 general fund if total state general fund appropriations fall  
24 below that level.  
25 Committee on Finance  
26 Committee on Appropriations  
27
- 28 **HB04-1139** by Representative(s) Carroll, Cerbo, Frangas, Judd,  
29 McFadyen, Plant, Weissmann--Concerning the creation of  
30 an economic self-sufficiency standard.  
31 Committee on State, Veterans, & Military Affairs  
32 Committee on Appropriations  
33
- 34 **HB04-1140** by Representative(s) Smith; also Senator(s) Johnson S.--  
35 Concerning a requirement to record identifying  
36 information when alcohol beverages are purchased in bulk  
37 for off-premises consumption.  
38 Committee on Business Affairs & Labor  
39
- 40 **HB04-1141** by Representative(s) King, Briggs, Cadman, Carroll,  
41 Clapp, Cloer, Crane, Decker, Fairbank, Frangas, Hall,  
42 Harvey, Hefley, Jahn, Johnson R., Lee, Lundberg, May  
43 M., Miller, Mitchell, Rhodes, Rose, Schultheis, Sinclair,  
44 Spence, Spradley, Stafford, Welker, White, Wiens,  
45 Witwer--Concerning charter schools, and, in connection  
46 therewith, providing for the creation of state charter  
47 schools.  
48 Committee on Education  
49
- 50 **HB04-1142** by Representative(s) Crane; also Senator(s) Lamborn--  
51 Concerning crimes involving the unauthorized use of  
52 communication devices.  
53 Committee on Information & Technology  
54  
55

- 1 **HB04-1143** by Representative(s) Judd, Borodkin, Butcher, Cerbo,  
2 Salazar--Concerning limited personal liability for  
3 corporate wages.  
4 Committee on Information & Technology  
5
- 6 **HB04-1144** by Representative(s) Judd, Decker, Jahn, McGihon--  
7 Concerning the interception of the payment of specified  
8 claims to satisfy certain obligations of the claimant.  
9 Committee on Information & Technology  
10 Committee on Finance  
11
- 12 **HB04-1145** by Representative(s) Larson, Brophy, Hodge, Rippy,  
13 Rose, Briggs, Miller, Harvey; also Senator(s) Hillman,  
14 Teck, Chlouber, Entz, Johnson S., Kester, Owen, Takis--  
15 Concerning a limitation of liability for persons other than  
16 consumers who work with liquefied petroleum gas.  
17 Committee on Information & Technology  
18
- 19 **HB04-1146** by Representative(s) Merrifield, Madden, Vigil--  
20 Concerning standards of conduct for persons involved in  
21 government.  
22 Committee on State, Veterans, & Military Affairs  
23
- 24 **HB04-1147** by Representative(s) Hall, Brophy, Briggs, Hoppe,  
25 Johnson R., King, McCluskey, Rose; also Senator(s)  
26 Hillman--Concerning the creation of an environmental  
27 management system permit pilot program.  
28 Committee on Agriculture, Livestock, & Natural Resources  
29 Committee on Appropriations  
30
- 31 **HB04-1148** by Representative(s) Rippy--Concerning the crime of  
32 defacing a cave.  
33 Committee on Judiciary  
34
- 35 **HB04-1149** by Representative(s) Jahn, Boyd, Carroll, Clapp, Cloer,  
36 Frangas, Hefley, Lee, McGihon, Williams S.--Concerning  
37 the use of criminal history records information in adoption  
38 proceedings.  
39 Committee on Judiciary  
40
- 41 **HB04-1150** by Representative(s) Hefley, Mitchell, Harvey, Brophy,  
42 Decker, Fairbank, Hoppe, Jahn, King, May M., Rippy,  
43 Salazar, Schultheis, Weddig, White, Williams S.; also  
44 Senator(s) Hillman--Concerning the creation of the  
45 "Commonsense Consumption Act".  
46 Committee on Judiciary  
47
- 48 **HB04-1151** by Representative(s) Wiens, Plant--Concerning the ability  
49 of the state of Colorado to respond to the initial attack of  
50 a wildfire.  
51 Committee on Agriculture, Livestock, & Natural Resources  
52  
53  
54  
55
-



**LAY OVER OF CALENDAR ITEM**

On motion of Representative King, the following item on the Calendar was laid over until January 14, retaining place on Calendar:

Consideration of Resolution--**HJR04-1002.**

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On motion of Representative King, the House adjourned until 9:00 a.m., January 14, 2004.

Approved:

LOLA SPRADLEY,  
Speaker

Attest:

JUDITH RODRIGUE,  
Chief Clerk