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SENATE JOURNAL Sixty-fifth General Assembly STÁTE OF COLORADO Second Regular Session

44th Legislative Day

Thursday, February 23, 2006

Prayer By the chaplain, Rev. Arlyn Tolzmann, Holy Cross Lutheran Church, Wheat Ridge.

Pledge By Senator Tapia.

Call to Order

Journal

By the President at 9:00 a.m.

Roll Call Present--34.

Excused--1; Wiens.

Quorum The President announced a quorum present.

On motion of Senator Sandoval, reading of the Journal of February 22, 2006 was Reading of

INTRODUCTION OF RESOLUTIONS

dispensed with and the Journal was approved as corrected by the Secretary.

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

SJR06-011 by Senator(s) Traylor; also Representative(s) Gardner--Concerning support for the President's medical malpractice reform. **Judiciary**

INTRODUCTION OF BILLS -- FIRST READING

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

- SB06-194 by Senator(s) Tochtrop; also Representative(s) McFadyen--Concerning the authority of the wildlife commission to issue youth hunting licenses. Agriculture, Natural Resources & Energy
- **SB06-195** by Senator(s) Veiga; also Representative(s) Coleman--Concerning modifications to the 'Colorado Employment Security Act" to conform with the requirements of federal law. Business, Labor and Technology
- by Representative(s) Carroll T.; also Senator(s) Grossman--Concerning authorizing HB06-1080 forensically trained doctoral level mental health professionals to conduct competency examinations for adults charged with crimes. Judiciary
- HB06-1159 by Representative(s) Paccione; also Senator(s) Johnson--Concerning the annexation of enclave areas. Local Government

HB06-1177

by Representative(s) McGihon; also Senator(s) Shaffer--Concerning the regulation of asbestos abatement activities, and, in connection therewith, continuing the asbestos control program.

Health and Human Services

HB06-1179 by Representative(s) Hall; also Senator(s) Tapia--Concerning peace officer authority in Colorado for certain federal law enforcement officers. **Judiciary**

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HB06-1181 by Representative(s) Cerbo; also Senator(s) Tochtrop--Concerning county sheriffs, and, in connection therewith, limiting the power of a sheriff to revoke the appointment of a deputy at will and modifying the liability of a sheriff for certain acts.

Local Government

HB06-1187 by Representative(s) Paccione, Borodkin, Butcher, Carroll M., Cerbo, Coleman, Liston, Marshall; also Senator(s) Veiga--Concerning the continuation of the utility consumers'

Business, Labor and Technology

HB06-1195 by Representative(s) Gallegos; also Senator(s) Traylor--Concerning the length of suspension from work for state-employed supervisors who fail to annually evaluate subordinate employees in the state personnel system. State, Veterans & Military Affairs

HB06-1250 by Representative(s) Lindstrom, Buescher, Curry, Garcia, Larson, Liston, Penry, Plant, White; also Senator(s) Entz, Evans, Fitz-Gerald, Groff, Grossman, Isgar, Taylor, Teck-Concerning an increase in fines under the "Ski Safety Act of 1979" for skiers who violate existing skier duties.

Local Government

- by Representative(s) Benefield, Crane, Hodge, Lindstrom, Massey, Merrifield, Soper, Todd; HB06-1242 also Senator(s) Windels--Concerning the one dollar surcharge collected on documents received by a county clerk and recorder. Local Government
- **HB06-1265** by Representative(s) Frangas; also Senator(s) Sandoval--Concerning additional requirements pertaining to lead-based paint abatement. Health and Human Services
- by Representative(s) Todd, Marshall, Benefield, Borodkin, Carroll T., Cerbo, Garcia, HB06-1285 White, Weissmann, Paccione, Pommer, Kerr, Vigil, Green, Hodge, Knoedler, Liston, Massey, McCluskey, Merrifield, Solano; also Senator(s) Williams, Windels, Bacon, Entz, Kester, Spence, Traylor, Gordon, Evans--Concerning authorizing the university of Colorado to implement an accountable student program for students in health sciences professions. Education
- HB06-1288 by Representative(s) Todd, Benefield, Massey, Merrifield, Penry, Solano; also Senator(s) Windels--Concerning the election of nonpartisan school directors. Education
- by Representative(s) Vigil; also Senator(s) Teck--Concerning the renewal of licenses for HB06-1319 real estate appraisers. Business, Labor and Technology

THIRD READING OF BILLS -- FINAL PASSAGE

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

by Senator(s) Williams, Hagedorn, Shaffer, Evans, Isgar, Kester; also Representative(s) **SB06-102** Larson, Benefield, Berens, Madden, McCluskey, Merrifield, Todd, Massey, White--Concerning limited criminal immunity for licensed medical caregivers who with consent provide palliative care to terminally ill patients.

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

YES	34	NO	0	EXCUSED	1	ABSENT	0
Bacon	Y	Hanna	Y	Mitchell		Y Tochtrop	Y
Brophy	Y	Isgar	Y	Owen		Y Traylor	Y
Dyer	Y	Johnson	Y	Sandoval		Y Tupa	Y
Entz	Y	Jones	Y	Shaffer		Y Veiga	Y
Evans	Y	Keller	Y	Spence		Y Wiens	E
Gordon	Y	Kester	Y	Takis		Y Williams	Y
Groff	Y	Lamborn	Y	Tapia		Y Windels	Y
Grossman	Y	May R.	Y	Taylor		Y President	Y
Hagedorn	Y	McElhany	Y	Teck		Y	

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

Co-sponsors added: Bacon, Fitz-Gerald, Groff, Grossman, Hanna, Jones, Keller, Sandoval, Tapia, Tochtrop, Tupa and Veiga.

On motion of Senator Gordon, and with a majority of those elected to the Senate having voted in the affirmative, SB06-171 and SB06-180 were removed from the General Orders -- Second Reading of Bills -- Consent Calendar of February 23 and placed at the end of the General Orders -- Second Reading of Bills calendar of Friday, February 24.

On motion of Senator Gordon, and with a majority of those elected to the Senate having voted in the affirmative, the General Orders -- Second Reading of Bills -- Consent Calendar (HB06-1027, HB06-1051, HB06-1002, HB06-1140, HB06-1040) of February 23 was laid over until Friday, February 24, retaining its place on the calendar.

Committee of the Whole

On motion of Senator Hanna, the Senate resolved itself into the Committee of the Whole for consideration of General Orders--Second Reading of Bills and Senator Hanna 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:

SB06-153 by Senator(s) Windels; also Representative(s) Madden--Concerning higher education.

Laid over until May 11, 2006.

SB06-159 by Senator(s) Traylor, Spence, Williams, Windels; also Representative(s) King--Concerning information about persons employed in public schools.

Amendment No. 1, Education Committee Amendment. (Printed in Senate Journal, February 17, pages 247-253 and placed in members' bill files.)

Amendment No. 2(L.006), by Senator Traylor.

Amend Education Committee Report, dated February 16, 2006, page 4, strike line 30 and substitute "CHARTER SCHOOL, OR THE".

Page 5, line 6, strike "Any" and substitute "EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), any";

strike lines 14 through 21, and substitute the following:

"THIS SUBSECTION (4), A CHARTER SCHOOL SHALL FORWARD THE FINGERPRINTS SUBMITTED PURSUANT TO SUBSECTION (1) OF THIS SECTION TO THE SCHOOL DISTRICT UNLESS THE SCHOOL DISTRICT AND THE CHARTER SCHOOL HAVE AN AGREEMENT THAT REQUIRES THE CHARTER SCHOOL TO SUBMIT THE FINGERPRINTS DIRECTLY TO THE COLORADO BUREAU OF INVESTIGATION.".

Page 6, strike line 4, and substitute "school district, TO THE CHARTER SCHOOL,";

line 5, strike "SCHOOL DISTRICT,";

strike lines 16 through 23 and substitute the following:

"THIS SUBSECTION (6), A CHARTER SCHOOL SHALL FORWARD THE FINGERPRINTS SUBMITTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6) TO THE SCHOOL DISTRICT UNLESS THE SCHOOL DISTRICT AND THE CHARTER SCHOOL HAVE AN AGREEMENT THAT REQUIRES THE CHARTER SCHOOL TO SUBMIT THE FINGERPRINTS DIRECTLY TO THE COLORADO BUREAU OF INVESTIGATION.".

SB06-156

SB06-068

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Page 7, line 21, strike "INSTITUTE" and substitute "THE", and after "SCHOOL", insert "INSTITUTE"; line 29, strike the second "THE" and substitute "AN"; line 32, strike "INSTITUTE" and substitute "THE", and after "SCHOOL", insert "INSTITUTE"; line 34, strike the second "THE" and substitute "AN". As amended, laid over until Friday, February 24, retaining its place on the calendar. by Senator(s) Lamborn; also Representative(s) Harvey--Concerning the determination of whether a district charge is a special fee that does not constitutionally require prior voter approval. <u>Amendment No. 1, Local Government Committee Amendment</u>. (Printed in Senate Journal, February 17, page 256 and placed in members' bill files.) As amended, declared **LOST** on Second Reading. by Senator(s) Sandoval; also Representative(s) Frangas--Concerning additional authority of a local licensing authority over alcohol beverage licenses. Amendment No. 1, Local Government Committee Amendment. (Printed in Senate Journal, February 10, page 175 and placed in members' bill files.) Amendment No. 2(L.003), by Senator Sandoval. Amend the Local Government Committee Report, dated February 7, 2006, page 1, line 1, strike ""12-47-307;"" and substitute ""12-47-307; EXCEPT THAT""; line 4, strike "RULE;";" and substitute "RULE, AND IN CONNECTION WITH SUCH CONSIDERATION";"; line 6, strike the second "THAT"; line 7, strike "DO NOT CONFLICT WITH STATE STATUTES". As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage. by Senator(s) Isgar; also Representative(s) Curry--Concerning the adjudication of recreational in-channel diversions. 47 48 49 50 51 52 53 54 55 56 57 58 59 Laid over until Friday, February 24, retaining its place on the calendar. limitations for civil actions alleging unlawful sexual conduct. Laid over until Friday, February 24, retaining its place on the calendar. by Senator(s) Windels; --Concerning on-line education programs. Laid over until Friday, February 24, retaining its place on the calendar. 60 61 62 63

SB06-143

SB06-037

by Senator(s) Fitz-Gerald; also Representative(s) Madden--Concerning the statute of

SB06-125

by Senator(s) Hanna; also Representative(s) Rose--Concerning the use of electric personal **SB06-168** assistive mobility devices on public rights of way used for traffic.

Laid over until Monday, February 27, retaining its place on the calendar.

SB06-154 by Senator(s) May R.; also Representative(s) Pommer--Concerning the creation of a central statutory reference for statutes that authorize the use of the power of eminent domain.

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

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SB06-071 by Senator(s) Veiga; also Representative(s) Massey--Concerning the increased regulation of agreements offered to a home owner in connection with foreclosure of the home owner's residence.

Laid over until Monday, February 27, retaining its place on the calendar.

HB06-1063 by Representative(s) Cadman; also Senator(s) McElhany--Concerning clarifying a court's ability to impose global position monitoring on persons involved in criminal matters.

Ordered revised 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 Hanna, the Report of the Committee of the Whole was adopted and. a majority of all members elected to the Senate having voted in the affirmative, the following action was taken:

Passed on Second Reading: SB06-068 as amended, SB06-154, HB06-1063.

Lost on Second Reading: SB06-156 as amended. Laid over until Friday, February 24: SB06-037, SB06-143, SB06-125, SB06-159 as amended.

Laid over until Monday, February 27: SB06-168, SB06-071. Laid over until May 11, 2006: SB06-153.

COMMITTEE OF REFERENCE REPORTS

After consideration on the merits, the Committee recommends that SB06-186 be Judiciary postponed indefinitely.

After consideration on the merits, the Committee recommends that **SB06-185** be referred Judiciary to the Committee of the Whole with favorable recommendation.

Judiciary After consideration on the merits, the Committee recommends that **SB06-177** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

> Amend printed bill, page 3, line 13, strike "C.R.S." and substitute "C.R.S.; SEXUAL ASSAULT ON A CHILD, IN VIOLATION OF SECTION 18-3-405, C.R.S.; SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF TRUST, IN VIOLATION OF SECTION 18-3-405.3, C.R.S.; OR SEXUAL ASSAULT ON A CLIENT BY A PSYCHOTHERAPIST, IN VIOLATION OF SECTION 18-3-405.5, C.R.S.":

line 14, strike "(k.5)" and substitute "(k.5), (2) (k.7),".

Page 4, strike lines 2 and 3 and substitute the following:

"(k.7) The request for any release from probation supervision prior to the expiration of the original DEFENDANT'S sentence;";

line 15, after "REPORTED", insert "TO LAW ENFORCEMENT".

Page 5, line 15, strike "JAIL." and substitute "JAIL, IS PAROLED, ESCAPES FROM A SECURE OR NONSECURE CORRECTIONAL FACILITY OR PROGRAM, OR ABSCONDS FROM PROBATION OR PAROLE.";

strike lines 16 through 18 and substitute the following:

"(II) WITH RESPECT TO THE RELEASE OR DISCHARGE OF A PERSON FROM A COUNTY JAIL OR CORRECTIONAL FACILITY, THE PROVISIONS OF Subparagraph (I) of this paragraph (c) shall apply when the PERSON RELEASED OR DISCHARGED".

Page 6, strike lines 1 through 5.

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- Page 7, line 2, strike "OR WRITTEN VICTIM IMPACT".

 Page 8, line 16, strike "UNLESS THE";

 strike line 17 and substitute the following:

 "UPON WRITTEN REQUEST OF THE VICTIM, THE LAW".

 Page 9, line 15, after "(2)", insert "(a) "TO (2) (j)".

 Page 10, strike line 26 and substitute the following:

 "SECTION 10, 24-4,1-303 (14.7) and (15), Colorado Revised

 Statutes, are".

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 Page 12, after line 9, insert the following:

 "(15) (a) Unless specifically stated otherwise, the requirements of this section to provide information to the victim may be satisfied by either written or oral communication with the victim or the victim's designee.

 20, the page 12, after line 9, insert the following:

 "(15) (a) Unless specifically stated otherwise, the requirements of this section to provide information to the victim may be satisfied by either written or oral communication with the victim or the victim's designee.

 20, the page 12, after line 9, insert the following:

 "(15) (a) Unless specifically stated otherwise, the requirements of this section to provide information to the victims of the victim's designee.

 21, the page 12, after line 9, insert the following:

 12, the page 12, after line 9, insert the following:

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line 17, strike "SEX OFFENSE;" and substitute "UNLAWFUL SEXUAL BEHAVIOR;".

Judiciary

After consideration on the merits, the Committee recommends that **HB06-1175** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 11, line 4, after the semicolon, add "OR";

line 7, strike "DOLLARS; OR" and substitute "DOLLARS.";

strike lines 8 and 9.

Business, Labor, & Technology

The Committee on Business, Labor and Technology has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:

MEMBERS OF THE
BOARD OF ASSESSMENT APPEALS

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In BOARD OF ASSESSMENT APPEALS

Judith A. Nuechter of Salida, Colorado, reappointed;

Steffen A. Brown of Highlands Ranch, Colorado, reappointed;

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Business, Labor, & Technology

LETTER FROM THE PRESIDENT

February 22, 2006

Ms. Karen Goldman Secretary of the Senate Colorado Senate Chambers State Capitol Building Denver, CO 80203

Dear Karen:

We have received the attached communication from Senator Gordon which sets out a complaint under Senate Rule 43 and alleges an ethical violation by Senator Deanna Hanna.

Pursuant to Senate Rule 43, we are directed to appoint a Committee on Ethics of at least five Senate members. The five members shall be three majority party members appointed by the Senate President from among the chairmen of committees of reference and two minority party members appointed by the Senate Minority Leader from among members of the Senate who are senior in service and experience.

Accordingly, the appointees of the President are Senators Grossman, Veiga, and Windels. The appointees of the Minority Leader are Senators Johnson and Teck. The President designates Senator Veiga as chairman and Senator Johnson as vice-chairman.

In addition, we are asking the Legislative Council to staff the Committee on Ethics and the Office of Legislative Legal Services to provide any legal assistance requested by the Committee.

We request that you deliver copies of this letter and the attached complaint to Senator Deanna Hanna and to the chairman of the Committee on Ethics, Senator Veiga. This letter shall serve as formal notice of the initiation of the procedure set out in Senate Rule 43. As provided for in Senate Rule 43 (c), Senator Hanna may submit a written answer to the Committee on Ethics within ten days after today's date, February 22, 2006. The Committee shall proceed in accordance with Senate Rule 43.

Sincerely,

(Signed)
Joan Fitz-Gerald
President of the Senate

(Signed)
Andrew McElhany
Senate Minority Leader

MESSAGE FROM THE HOUSE

February 23, 2006 Madame President:

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB06-1192, 1244, 1189, 1237.

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB06-1090, amended as printed in House Journal, February 22, pages 474-475. HB06-1123, amended as printed in House Journal, February 22, page 475. HB06-1268, amended as printed in House Journal, February 22, pages 475-476. HB06-1271, amended as printed in House Journal, February 22, page 477. HB06-1191, amended as printed in House Journal, February 22, page 477. HB06-1198, amended as printed in House Journal, February 22, page 477. HB06-1072, amended as printed in House Journal, February 22, page 478. HB06-1086, amended as printed in House Journal, February 22, page 478. HB06-1147, amended as printed in House Journal, February 22, pages 478. HB06-1185, amended as printed in House Journal, February 22, pages 478-479. HB06-1240, amended as printed in House Journal, February 22, page 479. HB06-1260, amended as printed in House Journal, February 22, page 479.

HB06-1190, amended as printed in House Journal, February 22, pages 479-480.

On motion of Senator Gordon, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the calendar of February 23 was laid over until Friday, February 24 retaining its place on the calendar.

Notice of Intent to Reconsider: SB06-167. Conference Committee to Report: HB06-1215.

On motion of Senator Gordon, the Senate adjourned until 9:00 a.m., Friday, February 24, 2006.

Approved:

Joan Fitz-Gerald President of the Senate

Attest:

Karen Goldman Secretary of the Senate