

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

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38th Legislative Day

Friday, February 17, 2006

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Prayer By the chaplain, Dr. Paul Martin, Macedonia Baptist Church, Denver. 10  
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Pledge By Senator Jones. 13  
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Call to By the President at 9:00 a.m. 15  
Order 16  
17  
Roll Call Present--29. 18  
Absent--5; Bacon, Evans, Grossman, Takis, Windels. 19  
Excused--1; Traylor. 20  
Present later--Bacon, Evans, Grossman, Takis, Traylor, Windels. 21  
22  
Quorum The President announced a quorum present. 23  
24  
Reading of On motion of Senator Hanna, reading of the Journal of February 16, 2006 was 25  
Journal dispensed with and the Journal was approved as corrected by the Secretary. 26  
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**COMMITTEE OF REFERENCE REPORTS**

Finance After consideration on the merits, the Committee recommends that **SB06-182** be amended 32  
as follows, and as so amended, be referred to the Committee on Appropriations with 33  
favorable recommendation. 34

Amend printed bill, page 17, after line 20, insert the following: 35  
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**"SECTION 19. Appropriation.** In addition to any other 37  
appropriation, there is hereby appropriated, out of any moneys in the 38  
judicial stabilization cash fund created in section 13-32-101 (1.5), 39  
Colorado Revised Statutes, not otherwise appropriated, to the judicial 40  
department, for the fiscal year beginning July 1, 2006, the sum of twenty 41  
four million three hundred and sixty thousand dollars (\$24,360,000), or 42  
so much thereof as may be necessary, for the implementation of this act." 43  
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Renumber succeeding sections accordingly. 45  
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Page 1, line 103, strike "**FUND.**" and substitute "**FUND, AND MAKING AN** 47  
**APPROPRIATION IN CONNECTION THEREWITH.**". 48  
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Finance After consideration on the merits, the Committee recommends that **SB06-129** be amended 53  
as follows, and as so amended, be referred to the Committee on Appropriations with 54  
favorable recommendation. 55

Amend printed bill, page 2, line 6, strike "**services. (†)**" and substitute 56  
"**services - rules. (1)**"; 57  
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line 12, strike "**ACT.**" and substitute "**ACT**", EXCEPT FOR EXPENDITURES 59  
UNDER THE PROGRAM FOR THE MEDICALLY INDIGENT, ARTICLE 15 OF THIS 60  
TITLE."; 61  
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after line 16, insert the following: 63  
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"(2) THE EXECUTIVE DIRECTOR SHALL PROMULGATE RULES TO 65  
IDENTIFY THE PROGRAMS UTILIZING THE CASH SYSTEM OF ACCOUNTING." 66  
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Page 3, line 5, strike "ACT"." and substitute "ACT", EXCEPT FOR EXPENDITURES UNDER THE PROGRAM FOR THE MEDICALLY INDIGENT, ARTICLE 15 OF TITLE 26, C.R.S."

Finance

After consideration on the merits, the Committee recommends that **SB06-188** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 2, line 15, strike "statement" and substitute "~~statement~~ RECORD".

Page 17, line 2, after "PARTY", insert "IDENTIFIED IN AN EFFECTIVE FINANCING STATEMENT";

line 5, after "STATEMENT", insert "WITH RESPECT TO SUCH EFFECTIVE FINANCING STATEMENT";

line 13, strike "FILE" and substitute "TERMINATE SUCH EFFECTIVE FINANCING STATEMENT BY FILING";

line 15, strike "SECTION 4-9-513" and substitute "ARTICLE 9 OF THIS TITLE.";

strike line 16.

Page 22, line 2, strike "upon" and substitute "ninety days following";

line 4, strike "06-";

line 5, strike "\_\_\_\_," and substitute "06-188,";

line 7, strike "but in no event earlier than May 27, 2008." and substitute "and the secretary of state has implemented the necessary computer system to publish and distribute the master list electronically and is able to do so.".

Appropriations

After consideration on the merits, the Committee recommends that **SB06-100** be referred to the Committee of the Whole with favorable recommendation.

Appropriations

After consideration on the merits, the Committee recommends that **SB06-080** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 5, after line 3, insert the following:

**SECTION 4. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the license plate cash fund created in section 42-3-301 (1) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for allocation to the motor vehicle division, for the fiscal year beginning July 1, 2006, the sum of sixteen thousand eighty dollars (\$16,080), or so much thereof as may be necessary, for the implementation of this act."

Renumber succeeding section accordingly.

Page 1, line 102, strike "**VEHICLES.**" and substitute "**VEHICLES, AND MAKING AN APPROPRIATION THEREFOR.**".

Appropriations

After consideration on the merits, the Committee recommends that **SB06-028** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, after line 20, insert the following:

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**"SECTION 3. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the license plate cash fund created in section 42-3-301 (1) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for allocation to the motor vehicle division, for the fiscal year beginning July 1, 2006, the sum of one thousand six hundred eight dollars (\$1,608), or so much thereof as may be necessary, for the implementation of this act."

Renumber succeeding section accordingly.

Page 1, line 102, strike "PLATE." and substitute "PLATE, AND MAKING AN APPROPRIATION THEREFOR."

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

**SB06-140** by Senator(s) Taylor; also Representative(s) White--Concerning changing the name of the division of minerals and geology to the Colorado division of reclamation, mining, and safety.

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

**SB06-142** by Senator(s) Tapia, Keller, Owen; also Representative(s) Hall, Buescher, Plant--Concerning the cap on the unobligated portion of the oil and gas conservation and environmental response fund.

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

**HB06-1015** by Representative(s) Carroll T., Hefley, King, Marshall, McGihon; also Senator(s) Dyer, Groff, Grossman, Mitchell, Veiga--Concerning the enactment of Colorado Revised Statutes 2005 as the positive and statutory law of the state of Colorado.

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

**SB06-132** by Senator(s) Brophy; also Representative(s) Hodge--Concerning continuation of the domestic wastewater treatment grant program.

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

**SB06-163** by Senator(s) Kester; also Representative(s) Jahn--Concerning the date on which a lien on a motor vehicle is perfected.

Upon request of Senator Owen, **SB06-163** was moved from the Consent Calendar of February 17 and placed at the end of the General Orders -- Second Reading of Bills calendar on Monday, February 20.

**SB06-116** by Senator(s) Takis, Hanna, Spence, Taylor; also Representative(s) Schultheis, Coleman, Vigil, White--Concerning replacement of the requirement that the state auditor perform a program review and evaluation of each tobacco settlement program at least once every three years in accordance with a schedule designed by the legislative audit committee with a requirement that the state auditor perform such program reviews and evaluations as deemed necessary by the legislative audit committee after consultation with the state auditor.

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

**SB06-145** by Senator(s) Shaffer, Hagedorn; also Representative(s) McCluskey, Butcher--Concerning the authority of a local government to impose a fee on certain medical providers for purposes of obtaining federal financial participation under medicaid for unreimbursed medicaid costs.

Amendment No. 1, Local Government Committee Amendment.  
(Printed in Senate Journal, February 15, page 210 and placed in members' bill files.)

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 --  
CONSENT CALENDAR**

On motion of Senator Veiga, 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: SB06-140, SB06-142, HB06-1015, SB06-132, SB06-116, SB06-145 as amended.  
Laid over to the end of the General Orders -- Second Reading of Bills calendar, Monday, February 20: SB06-163.

On motion of Senator Gordon, and with a majority of those elected to the Senate having voted in the affirmative, (HB06-1213, HB06-1214, HB06-1215, HB06-1216, HB06-1217, HB06-1218, HB06-1219, HB06-1220, HB06-1221, HB06-1222, HB06-1223, HB06-1224, HB06-1225, HB06-1226, HB06-1227, HB06-1228, HB06-1229, HB06-1230, HB06-1231, HB06-1232, HB06-1233, HB06-1234, HB06-1235) were advanced to the beginning of the General Orders -- Second Reading of Bills calendar.

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

**HB06-1213** by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen-- Concerning a supplemental appropriation to the department of agriculture.

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

**HB06-1214** by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen-- Concerning a supplemental appropriation to the department of corrections.

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

**HB06-1216** by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen-- Concerning a supplemental appropriation to the offices of the governor, lieutenant governor, and state planning and budgeting.

Amendment No. 1, Appropriations Committee Amendment.  
(Printed in Senate Journal, February 15, page 211 and placed in members' bill files.)

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

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- HB06-1217** by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--  
Concerning a supplemental appropriation to the department of health care policy and  
financing. 1  
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Amendment No. 1, Appropriations Committee Amendment. 5  
(Printed in Senate Journal, February 15, page 211 and placed in members' bill files.) 6  
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As amended, ordered revised and placed on the calendar for Third Reading and Final 8  
Passage. 9  
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- HB06-1218** by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--  
Concerning a supplemental appropriation to the department of higher education. 11  
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Amendment No. 1, Appropriations Committee Amendment. 14  
(Printed in Senate Journal, February 15, page 212 and placed in members' bill files.) 15  
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As amended, ordered revised and placed on the calendar for Third Reading and Final 17  
Passage. 18  
(For further action, see Amendments to the Report of the Committee of the Whole.) 19  
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- HB06-1219** by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--  
Concerning a supplemental appropriation to the department of human services. 21  
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Ordered revised and placed on the calendar for Third Reading and Final Passage. 24  
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- HB06-1220** by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--  
Concerning a supplemental appropriation to the judicial department. 26  
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Ordered revised and placed on the calendar for Third Reading and Final Passage. 29  
(For further action, see Amendments to the Report of the Committee of the Whole.) 30  
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- HB06-1221** by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--  
Concerning a supplemental appropriation to the department of labor and employment. 32  
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Ordered revised and placed on the calendar for Third Reading and Final Passage. 35  
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- HB06-1222** by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--  
Concerning a supplemental appropriation to the department of law. 37  
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Ordered revised and placed on the calendar for Third Reading and Final Passage. 40  
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- HB06-1223** by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--  
Concerning a supplemental appropriation to the department of legislature. 42  
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Ordered revised and placed on the calendar for Third Reading and Final Passage. 45  
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- HB06-1224** by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--  
Concerning a supplemental appropriation to the department of local affairs. 47  
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Amendment No. 1(J.004), by Senator Tapia. 50  
51  
Amend reengrossed bill, page 18, line 11, in the GENERAL FUND 52  
column, strike "\$8,656,868" and substitute "\$8,656,868<sup>a</sup>". 53  
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As amended, ordered revised and placed on the calendar for Third Reading and Final 56  
Passage. 57  
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- HB06-1225** by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--  
Concerning a supplemental appropriation to the department of military and veterans affairs. 59  
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Ordered revised and placed on the calendar for Third Reading and Final Passage. 62  
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- HB06-1226** by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--  
Concerning a supplemental appropriation to the department of natural resources. 64  
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Ordered revised and placed on the calendar for Third Reading and Final Passage. 67  
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| <b>HB06-1227</b> | by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--<br>Concerning a supplemental appropriation to the department of personnel and<br>administration.   | 1<br>2<br>3<br>4           |
|                  | Ordered revised and placed on the calendar for Third Reading and Final Passage.  | 5<br>6                     |
| <b>HB06-1228</b> | by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--<br>Concerning a supplemental appropriation to the department of public health and<br>environment.  | 7<br>8<br>9<br>10          |
|                  | Ordered revised and placed on the calendar for Third Reading and Final Passage.  | 11<br>12                   |
| <b>HB06-1229</b> | by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--<br>Concerning a supplemental appropriation to the department of public safety.   | 13<br>14<br>15             |
|                  | Ordered revised and placed on the calendar for Third Reading and Final Passage.  | 16<br>17                   |
| <b>HB06-1230</b> | by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--<br>Concerning a supplemental appropriation to the department of regulatory agencies.   | 18<br>19<br>20             |
|                  | Ordered revised and placed on the calendar for Third Reading and Final Passage.  | 21<br>22                   |
| <b>HB06-1231</b> | by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--<br>Concerning a supplemental appropriation to the department of revenue.   | 23<br>24<br>25             |
|                  | Ordered revised and placed on the calendar for Third Reading and Final Passage.  | 26<br>27                   |
| <b>HB06-1232</b> | by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--<br>Concerning a supplemental appropriation to the department of state.   | 28<br>29<br>30             |
|                  | Ordered revised and placed on the calendar for Third Reading and Final Passage.  | 31<br>32                   |
| <b>HB06-1233</b> | by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--<br>Concerning a supplemental appropriation to the department of transportation.  | 33<br>34<br>35             |
|                  | Ordered revised and placed on the calendar for Third Reading and Final Passage.<br>(For further action, see Amendments to the Report of the Committee of the Whole.)   | 36<br>37<br>38             |
| <b>HB06-1234</b> | by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--<br>Concerning a supplemental appropriation to the department of the treasury.  | 39<br>40<br>41             |
|                  | Ordered revised and placed on the calendar for Third Reading and Final Passage.  | 42<br>43                   |
| <b>HB06-1235</b> | by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--<br>Concerning funding for capital construction, and making supplemental appropriations in<br>connection therewith.   | 44<br>45<br>46<br>47       |
|                  | <u>Amendment No. 1, Appropriations Committee Amendment.</u><br>(Printed in Senate Journal, February 15, pages 213-215 and placed in members' bill files.)  | 48<br>49<br>50             |
|                  | As amended, ordered revised and placed on the calendar for Third Reading and Final<br>Passage.   | 51<br>52<br>53             |
| <b>SB06-106</b>  | by Senator(s) Grossman, Groff, Veiga; also Representative(s) McGihon, Carroll T., Hefley,<br>King, Marshall--Concerning implementation of recommendations of the committee on legal<br>services in connection with legislative review of rules and regulations of state agencies.                      | 54<br>55<br>56<br>57       |
|                  | Ordered engrossed and placed on the calendar for Third Reading and Final Passage.  | 58<br>59<br>60             |
| <b>SB06-093</b>  | by Senator(s) Tupa, Groff, Jones, Spence; also Representative(s) Madden, Cadman, Decker,<br>Hefley, Knoedler, Lindstrom, Schultheis, Stafford, Crane, Green, Liston, Lundberg, Todd--<br>Concerning property used for parking related to services provided by the regional<br>transportation district. | 61<br>62<br>63<br>64<br>65 |
|                  | <u>Amendment No. 1, Transportation Committee Amendment.</u><br>(Printed in Senate Journal, February 10, pages 169-170 and placed in members' bill files.)  | 66<br>67<br>68<br>69       |

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

Amend the Transportation Committee Report, dated February 9, 2006, page 2, line 19, strike "EMPLOYEES." and substitute "EMPLOYEES OR MEMBERS OF THE BOARD."

(3) THIS SECTION SHALL NOT APPLY TO A PARKING FACILITY FOR WHICH A LEASE WAS ENTERED INTO BY THE DISTRICT PRIOR TO JANUARY 1, 2006, OR A PARKING FACILITY WHERE THE DISTRICT CHARGED FOR PARKING PRIOR TO JANUARY 1, 2006."

Renumber succeeding subsection accordingly.

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

**SB06-036** by Senator(s) Hagedorn; also Representative(s) Boyd--Concerning the types of health benefit plans required to be offered by small employer carriers to small employers in the state.

Amendment No. 1, Health and Human Services Committee Amendment.

(Printed in Senate Journal, February 10, pages 172-175 and placed in members' bill files.)

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

**SB06-121** by Senator(s) Sandoval; also Representative(s) Riesberg--Concerning surrogate decision-makers for health care benefits.

Amendment No. 1(L.001), by Senator Sandoval.

Amend printed bill, page 8, line 1, strike "LIABILITY." and substitute "LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF SAID CERTIFICATE."

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

Amend printed bill, page 7, line 20, strike "DECISIONS." and substitute "DECISIONS; EXCEPT THAT ANY BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION, OR INSURANCE COMPANY REGULATED UNDER ANY LAWS OF THIS STATE OR THE UNITED STATES AND ANY OFFICER, EMPLOYEE, AGENT OR AFFILIATE OF ANY OF THE FOREGOING ENTITIES SHALL BE EXEMPT FROM ANY REQUIREMENT TO PROVIDE FINANCIAL INFORMATION TO A SURROGATE DECISION-MAKER UNDER THE PROVISIONS OF THIS SECTION."

Page 9, line 9, strike "MADE)." and substitute "MADE), AS PROVIDED FOR IN SECTION 15-18.5-104, C.R.S."

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

**SB06-068** by Senator(s) Sandoval; also Representative(s) Frangas--Concerning additional authority of a local licensing authority over alcohol beverage licenses.

Laid over until Monday, February 20, retaining its place on the calendar.

**SB06-055** by Senator(s) Jones; also Representative(s) Garcia--Concerning reports of assaults in schools.

Amendment No. 1, Education Committee Amendment.

(Printed in Senate Journal, February 10, pages 178-180 and placed in members' bill files.)

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

Amend the Education Committee Report, dated February 8, 2006, page 2, line 10, after "not", insert "incidents of".

Page 4, strike line 3 and substitute the following:

"SECTION 18-3-204, C.R.S., DISORDERLY CONDUCT, AS DESCRIBED IN SECTION 18-9-106 (1) (a), (1) (c), OR (1) (d), C.R.S., BUT NOT DISORDERLY CONDUCT INVOLVING FIREARMS OR OTHER DEADLY WEAPONS, AS DESCRIBED IN SECTION 18-9-106 (1) (e) AND (1) (f), C.R.S.;".

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

**SB06-066** by Senator(s) Groff; also Representative(s) Carroll T.--Concerning parental involvement in kindergarten through twelfth grade education.

Amendment No. 1(L.002), by Senator Williams.

Amend printed bill, page 5, line 3, strike "THE EARLIEST POSSIBLE";

line 4, strike "LEAVE, INCLUDING" and substitute "LEAVE AT LEAST THREE DAYS IN ADVANCE OF THE LEAVE. IN THE CASE OF AN EMERGENCY WHERE THE EMPLOYEE IS NOT AWARE OF THE NEED FOR THE LEAVE THREE DAYS IN ADVANCE, THE EMPLOYEE SHALL PROVIDE THE EMPLOYER WITH NOTICE OF THE LEAVE AS SOON AS POSSIBLE ONCE HE OR SHE BECOMES AWARE OF THE NEED FOR THE LEAVE. THE NOTICE SHALL INCLUDE".

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

On motion of Senator Gordon, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the General Orders -- Second Reading of Bills Calendar (HB06-1215, SB06-134, SB06-037, SB06-075, SB06-143, HB06-1094, SB06-102, SB06-178, SB06-109, SB06-091, SB06-125) of February 17, was laid over until Monday, February 20, retaining its place on the calendar.

**AMENDMENTS TO THE REPORT OF THE COMMITTEE OF THE WHOLE**

**HB06-1218** by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen-- Concerning a supplemental appropriation to the department of higher education.

Senator Mitchell moved to amend the Report of the Committee of the Whole to show that the following amendment to HB 06-1218 did pass.

Amend reengrossed bill, page 10, line 3, in the ITEM & SUBTOTAL column, strike "208,281,542" and substitute "~~208,281,542~~" and, in the GENERAL FUND column, strike "208,281,542" and substitute "~~208,281,542~~";

after line 3, in the ITEM & SUBTOTAL column, insert "213,281,542" and, in the GENERAL FUND column, insert "213,281,542";

line 5, in the TOTAL column, strike "498,818,342" and substitute "~~498,818,342~~";

after line 5, in the TOTAL column, insert "503,818,342".

Page 16, line 5, strike "**Colleges**<sup>54, 55</sup>" and substitute "**Colleges**<sup>54, 55</sup> **Colleges**<sup>54, 55, 55a</sup>", in the ITEM & SUBTOTAL column, strike "237,303,250" and substitute "~~237,303,250~~", and, in the CASH FUNDS EXEMPT column, strike "237,303,250<sup>a</sup>" and substitute "~~237,303,250<sup>a</sup>~~";

after line 5, in the ITEM & SUBTOTAL column, insert "242,303,250" and, in the CASH FUNDS EXEMPT column, insert "242,303,250<sup>a</sup>";

line 8, strike "\$105,942,015(T)" and substitute "~~\$105,942,015(T)~~

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\$110,942,015(T)";

line 10, strike "\$16,645,215" and substitute "\$16,645,215  
\$21,645,215";

line 13, in the TOTAL column, strike "1,437,487,471" and substitute  
"1,442,487,471".

Page 22, line 14, in the TOTAL column, strike "\$2,128,650,498" and  
substitute "\$2,138,650,498", in the GENERAL FUND column, strike  
"\$598,002,561" and substitute "\$603,002,561", and, in the CASH  
FUNDS EXEMPT column, strike \$1,489,628,494<sup>aa</sup> and substitute  
"\$1,494,628,494<sup>aa</sup>".

Page 23, line 1, strike "\$540,800,203" and substitute "\$545,800,203".

Page 26, after line 7, insert the following:

55a Department of Higher Education, Governing Boards,  
State Board for Community Colleges and Occupational  
Education State System Community Colleges -- It is the  
intent of the General Assembly that of the money  
appropriated to the Community Colleges for fee-for-  
service contracts, \$5,000,000 shall be used for English as  
a Second Language programs."

The amendment to the Report of the Committee of the Whole was declared LOST by the  
following roll call vote:

| YES      | 15 | NO       | 20 | EXCUSED  | 0 | ABSENT    | 0 |
|----------|----|----------|----|----------|---|-----------|---|
| Bacon    | N  | Hanna    | N  | Mitchell | Y | Tochtrop  | N |
| Brophy   | Y  | Isgar    | N  | Owen     | N | Traylor   | Y |
| Dyer     | Y  | Johnson  | Y  | Sandoval | N | Tupa      | N |
| Entz     | Y  | Jones    | Y  | Shaffer  | N | Veiga     | N |
| Evans    | Y  | Keller   | N  | Spence   | Y | Wiens     | Y |
| Gordon   | N  | Kester   | Y  | Takis    | N | Williams  | N |
| Groff    | N  | Lamborn  | Y  | Tapia    | N | Windels   | N |
| Grossman | N  | May R.   | Y  | Taylor   | Y | President | N |
| Hagedorn | N  | McElhany | Y  | Teck     | N |           |   |

**HB06-1220** by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--  
Concerning a supplemental appropriation to the judicial department.

Senator Brophy moved to amend the Report of the Committee of the Whole to show that  
the following Brophy floor amendment, (J.005) to HB 06-1220, did pass and that the  
following Brophy floor amendment, (J.003) to HB 06-1224, did pass.

**J.005**

Amend reengrossed bill, page 5, line 10, in the ITEM & SUBTOTAL  
column, strike "816,045" and substitute "634,545" and, in the GENERAL  
FUND column, strike "503,314" and substitute "321,814".

Page 6, line 10, in the ITEM & SUBTOTAL column, strike "7,954,584"  
and substitute "7,773,084".

Page 12, line 6, in the TOTAL column, strike "35,402,872" and substitute  
"35,221,372".

Page 23, line 9, in the TOTAL column, strike "\$306,604,491" and  
substitute "\$306,422,991" and, in the GENERAL FUND column, strike  
"\$236,983,530" and substitute "\$236,802,030".

**J.003**

Amend reengrossed bill, page 16, line 15, strike "Training" and substitute  
"TRAINING<sup>103c</sup>" and, in the ITEM & SUBTOTAL column, strike  
"40,530,888" and substitute "40,530,888";

after line 15, in the ITEM & SUBTOTAL column, insert "40,712,388"

and, in the GENERAL FUND column, insert "181,500".

Page 17, line 1, in the ITEM & SUBTOTAL column, strike "45,829,250" and substitute "~~45,829,250~~";

after line 1, in the ITEM & SUBTOTAL column, insert "46,010,750".

Page 18, line 7, in the TOTAL column, strike "184,617,577" and substitute "~~184,617,577~~";

after line 7, in the TOTAL column, insert "184,799,077";

line 11, in the TOTAL column, strike "\$219,918,266" and substitute "\$220,099,766" and, in the GENERAL FUND column, strike "\$8,656,868" and substitute "\$8,838,368".

Page 20, after line 1, insert the following:

"103c DEPARTMENT OF LOCAL AFFAIRS, DIVISION OF LOCAL GOVERNMENT, DIVISION OF EMERGENCY MANAGEMENT, PREPAREDNESS GRANTS AND TRAINING -- IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE \$181,500 GENERAL FUND APPROPRIATED FOR PREPAREDNESS GRANTS AND TRAINING BE USED TO SUPPORT RURAL EMERGENCY MEDICAL SERVICES.".

The amendment to the Report of the Committee of the Whole was declared LOST by the following roll call vote:

| YES      | 15 | NO       | 20 | EXCUSED  | 0 | ABSENT    | 0 |
|----------|----|----------|----|----------|---|-----------|---|
| Bacon    | N  | Hanna    | N  | Mitchell | Y | Tochtrop  | N |
| Brophy   | Y  | Isgar    | N  | Owen     | N | Traylor   | Y |
| Dyer     | Y  | Johnson  | Y  | Sandoval | N | Tupa      | N |
| Entz     | Y  | Jones    | Y  | Shaffer  | N | Veiga     | N |
| Evans    | Y  | Keller   | N  | Spence   | Y | Wiens     | Y |
| Gordon   | N  | Kester   | Y  | Takis    | N | Williams  | N |
| Groff    | N  | Lamborn  | Y  | Tapia    | N | Windels   | N |
| Grossman | N  | May R.   | Y  | Taylor   | Y | President | N |
| Hagedorn | N  | McElhany | Y  | Teck     | N |           |   |

**HB06-1233** by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen-- Concerning a supplemental appropriation to the department of transportation.

Senator McElhany moved to amend the Report of the Committee of the Whole to show that the following amendment to HB 06-1233 did pass.

Amend reengrossed bill, page 6, line 3, in the TOTAL column, strike "784,976,117" and substitute "784,976,117";

after line 3, in the TOTAL column, insert "864,976,117" and, in the GENERAL FUND column, insert "80,000,000".

Page 7, line 8, in the TOTAL column, strike "\$820,376,668" and substitute "\$900,376,668" and, in the GENERAL FUND column, insert "\$80,000,000".

The amendment to the Report of the Committee of the Whole was declared LOST by the following roll call vote:

| YES      | 13 | NO       | 22 | EXCUSED  | 0 | ABSENT    | 0 |
|----------|----|----------|----|----------|---|-----------|---|
| Bacon    | N  | Hanna    | N  | Mitchell | Y | Tochtrop  | N |
| Brophy   | Y  | Isgar    | N  | Owen     | N | Traylor   | Y |
| Dyer     | Y  | Johnson  | N  | Sandoval | N | Tupa      | N |
| Entz     | Y  | Jones    | Y  | Shaffer  | N | Veiga     | N |
| Evans    | Y  | Keller   | N  | Spence   | Y | Wiens     | Y |
| Gordon   | N  | Kester   | N  | Takis    | N | Williams  | N |
| Groff    | N  | Lamborn  | Y  | Tapia    | N | Windels   | N |
| Grossman | N  | May R.   | Y  | Taylor   | Y | President | N |
| Hagedorn | N  | McElhany | Y  | Teck     | N |           |   |

**HB06-1220** by Representative(s) Plant, Buescher, Hall; also Senator(s) Tapia, Keller, Owen--  
Concerning a supplemental appropriation to the judicial department.

Senator Kester moved to amend the Report of the Committee of the Whole to show that the following amendment to HB 06-1220 did pass.

Amend reengrossed bill, page 21, line 7, in the ITEM & SUBTOTAL column, strike "~~12,135,702~~" and substitute "12,135,702" and, in the GENERAL FUND column, strike "~~12,135,702~~" and substitute "12,135,702";

strike line 8;

line 9, in the ITEM & SUBTOTAL column, strike "~~1,254,271~~" and substitute "1,254,271" and, in the GENERAL FUND column, strike "~~1,254,271~~" and substitute "1,254,271";

strike line 10;

line 12, in the TOTAL column, strike "14,746,841" and substitute "13,928,497".

Page 23, line 9, in the TOTAL column, strike "\$306,604,491" and substitute "\$305,786,147" and, in the GENERAL FUND column, strike "\$236,983,530" and substitute "\$236,165,186".

The amendment to the Report of the Committee of the Whole was declared LOST by the following roll call vote:

| YES      | 15 | NO       | 20 | EXCUSED  | 0 | ABSENT    | 0 |
|----------|----|----------|----|----------|---|-----------|---|
| Bacon    | N  | Hanna    | N  | Mitchell | Y | Tochtrop  | N |
| Brophy   | Y  | Isgar    | N  | Owen     | N | Traylor   | Y |
| Dyer     | Y  | Johnson  | Y  | Sandoval | N | Tupa      | N |
| Entz     | Y  | Jones    | Y  | Shaffer  | N | Veiga     | N |
| Evans    | Y  | Keller   | N  | Spence   | Y | Wiens     | Y |
| Gordon   | N  | Kester   | Y  | Takis    | N | Williams  | N |
| Groff    | N  | Lamborn  | Y  | Tapia    | N | Windels   | N |
| Grossman | N  | May R.   | Y  | Taylor   | Y | President | N |
| Hagedorn | N  | McElhany | Y  | Teck     | N |           |   |

**ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE**

On motion of Senator Veiga, 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: HB06-1213, HB06-1214, HB06-1216 as amended, HB06-1217 as amended, HB06-1218 as amended, HB06-1219, HB06-1220, HB06-1221, HB06-1222, HB06-1223, HB06-1224 as amended, HB06-1225, HB06-1226, HB06-1227, HB06-1228, HB06-1229, HB06-1230, HB06-1231, HB06-1232, HB06-1233, HB06-1234, HB06-1235 as amended, SB06-106, SB06-093 as amended, SB06-036 as amended, SB06-121 as amended, SB06-055 as amended, SB06-066 as amended.  
Laid over until Monday, February 20: SB06-068, HB06-1215, SB06-134, SB06-037, SB06-075, SB06-143, HB06-1094, SB06-102, SB06-178, SB06-109 as amended, SB06-091, SB06-125.

**COMMITTEE OF REFERENCE REPORTS**

Trans-  
portation

After consideration on the merits, the Committee recommends that **SB06-115** 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 19, strike "SHALL FILE" and substitute "SHALL, WITHIN SIX MONTHS AFTER THE DATE OF ITS INCORPORATION, FILE

AND RECORD".

Page 3, line 8, after "FILE", insert "AND RECORD".

Trans-  
portation

After consideration on the merits, the Committee recommends that **SB06-010** 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.** 42-4-505 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**42-4-505. Longer vehicle combinations.** (1) (c) THE DEPARTMENT SHALL PROVIDE THE OPTION TO A COMPANY FILING FOR A PERMIT UNDER THIS SECTION TO FILE AN EXPRESS CONSENT WAIVER THAT ENABLES THE COMPANY TO DESIGNATE A COMPANY REPRESENTATIVE TO BE A PARTY OF INTEREST FOR A VIOLATION OF THIS SECTION. THE APPEARANCE OF THE COMPANY REPRESENTATIVE IN A COURT HEARING WITHOUT THE OPERATOR WHEN THE OPERATOR HAS SIGNED SUCH WAIVER SHALL NOT BE DEEMED THE PRACTICE OF LAW IN VIOLATION OF ARTICLE 5 OF TITLE 12, C.R.S.

**SECTION 2.** 42-4-510 (1.5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**42-4-510. Permits for excess size and weight and for manufactured homes.** (1.5) (c) THE DEPARTMENT SHALL PROVIDE THE OPTION TO A COMPANY FILING FOR A PERMIT UNDER THIS SUBSECTION (1.5) TO FILE AN EXPRESS CONSENT WAIVER THAT ENABLES THE COMPANY TO DESIGNATE A COMPANY REPRESENTATIVE TO BE A PARTY OF INTEREST FOR A VIOLATION OF THIS SECTION. THE APPEARANCE OF THE COMPANY REPRESENTATIVE IN A COURT HEARING WITHOUT THE OPERATOR WHEN THE OPERATOR HAS SIGNED SUCH WAIVER SHALL NOT BE DEEMED THE PRACTICE OF LAW IN VIOLATION OF ARTICLE 5 OF TITLE 12, C.R.S.

**SECTION 3.** 42-20-202 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**42-20-202. Transportation permit - application fee.** (1) (d) THE PUBLIC UTILITIES COMMISSION SHALL PROVIDE THE OPTION TO A COMPANY FILING FOR A PERMIT UNDER THIS SUBSECTION (1) TO FILE AN EXPRESS CONSENT WAIVER THAT ENABLES THE COMPANY TO DESIGNATE A COMPANY REPRESENTATIVE TO BE A PARTY OF INTEREST FOR A VIOLATION OF THIS SECTION. THE APPEARANCE OF THE COMPANY REPRESENTATIVE IN A COURT HEARING WITHOUT THE OPERATOR WHEN THE OPERATOR HAS SIGNED SUCH WAIVER SHALL NOT BE DEEMED THE PRACTICE OF LAW IN VIOLATION OF ARTICLE 5 OF TITLE 12, C.R.S.

**SECTION 4. Effective date - applicability.** This act shall take effect July 1, 2006, and shall apply to offenses committed on or after said date.

**SECTION 5. 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."

Trans-  
portation

After consideration on the merits, the Committee recommends that **SB06-133** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 3, strike line 11 and substitute the following:

"fund TO THE DEPARTMENT OF PUBLIC SAFETY FOR THE COLORADO STATE PATROL for any purpose or purposes in a total amount that is more than a ~~six~~ FIVE";

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strike line 13;

line 14, strike "~~the ports of entry division.~~" and substitute "safety for the Colorado state patrol and to the department of revenue for the ports of entry division IN THE IMMEDIATELY PRECEDING FISCAL YEAR.".

Trans-  
portation

After consideration on the merits, the Committee recommends that **SB06-168** be referred to the Committee of the Whole with favorable recommendation.

Health &  
Human  
Services

After consideration on the merits, the Committee recommends that **SB06-164** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

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

**SECTION 1.** Part 1 of article 16 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**10-16-122.5. Pharmacy benefit manger - duties - enforcement - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COVERED ENTITY" MEANS A NONPROFIT HOSPITAL OR MEDICAL SERVICE ORGANIZATION; A HEALTH INSURER; A HEALTH COVERAGE PLAN OR HEALTH MAINTENANCE ORGANIZATION; A HEALTH PROGRAM ADMINISTERED BY THIS STATE IN THE CAPACITY OF PROVIDER OF HEALTH COVERAGE; OR AN EMPLOYER, LABOR UNION, OR OTHER GROUP OF PERSONS ORGANIZED IN THIS STATE THAT PROVIDES HEALTH COVERAGE TO COVERED INDIVIDUALS WHO ARE EMPLOYED OR RESIDE IN THIS STATE. "COVERED ENTITY" DOES NOT INCLUDE A HEALTH PLAN THAT PROVIDES COVERAGE ONLY FOR ACCIDENTAL INJURY, SPECIFIED DISEASE, HOSPITAL INDEMNITY, MEDICARE SUPPLEMENT, DISABILITY INCOME, LONG-TERM CARE, OR OTHER LIMITED BENEFIT HEALTH INSURANCE POLICIES AND CONTRACTS.

(b) "COVERED INDIVIDUAL" MEANS A MEMBER, PARTICIPANT, ENROLLEE, CONTRACT HOLDER, POLICYHOLDER, OR BENEFICIARY OF A COVERED ENTITY WHO IS PROVIDED HEALTH COVERAGE BY THE COVERED ENTITY. "COVERED ENTITY" INCLUDES A DEPENDENT OR OTHER PERSON PROVIDED COVERAGE THROUGH A POLICY, CONTRACT, OR PLAN FOR A COVERED INDIVIDUAL.

(c) "GENERIC DRUG" MEANS A DRUG THAT IS CHEMICALLY EQUIVALENT TO A BRAND-NAME DRUG FOR WHICH THE PATENT HAS EXPIRED.

(d) "LABELER" MEANS AN ENTITY OR PERSON THAT RECEIVES PRESCRIPTION DRUGS FROM A MANUFACTURER OR WHOLESALER AND REPACKAGES THOSE DRUGS FOR LATER RETAIL SALE AND THAT HAS A LABELER CODE FROM THE FEDERAL FOOD AND DRUG ADMINISTRATION UNDER 21 CFR 207.20.

(e) "PHARMACY BENEFIT MANAGEMENT" MEANS THE PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED RATE FOR DISPENSATION WITHIN THIS STATE TO COVERED INDIVIDUALS, THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG BENEFITS PROVIDED BY A COVERED ENTITY FOR THE BENEFIT OF COVERED INDIVIDUALS, OR ANY OF THE FOLLOWING SERVICES PROVIDED WITH REGARD TO THE ADMINISTRATION OF PHARMACY BENEFITS:

(I) MAIL SERVICE PHARMACY;

(II) CLAIMS PROCESSING, RETAIL NETWORK MANAGEMENT, AND PAYMENT OF CLAIMS TO PHARMACIES FOR PRESCRIPTION DRUGS

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DISPENSED TO COVERED INDIVIDUALS;

(III) CLINICAL FORMULARY DEVELOPMENT AND MANAGEMENT SERVICES;

(IV) REBATE CONTRACTING AND ADMINISTRATION;

(V) CERTAIN PATIENT COMPLIANCE, THERAPEUTIC INTERVENTION, AND GENERIC SUBSTITUTION PROGRAMS; OR

(VI) DISEASE MANAGEMENT PROGRAMS.

(f) (I) "PHARMACY BENEFIT MANAGER" MEANS AN ENTITY THAT PERFORMS PHARMACY BENEFIT MANAGEMENT. "PHARMACY BENEFIT MANAGER" INCLUDES A PERSON OR ENTITY ACTING FOR A PHARMACY BENEFIT MANAGER IN A CONTRACTUAL OR EMPLOYMENT RELATIONSHIP IN THE PERFORMANCE OF PHARMACY BENEFIT MANAGEMENT FOR A COVERED ENTITY AND INCLUDES MAIL SERVICE PHARMACY.

(II) "PHARMACY BENEFIT MANAGER" DOES NOT INCLUDE:

(A) A LICENSED OR CERTIFIED HOSPITAL;

(B) A PUBLIC SELF-FUNDED POOL OR A PRIVATE SINGLE-EMPLOYER SELF-FUNDED PLAN THAT PROVIDES BENEFITS OR SERVICES DIRECTLY TO ITS BENEFICIARIES; OR

(C) A HEALTH CARRIER OR HEALTH MAINTENANCE ORGANIZATION LICENSED UNDER THIS TITLE IF THE HEALTH CARRIER OR HEALTH MAINTENANCE ORGANIZATION IS PROVIDING MANAGED PHARMACY BENEFITS TO ITS INSUREDS, MEMBERS, OR ENROLLEES.

(2) A PHARMACY BENEFIT MANAGER OWES A FIDUCIARY DUTY TO A COVERED ENTITY AND SHALL DISCHARGE THAT DUTY IN ACCORDANCE WITH THE PROVISIONS OF STATE AND FEDERAL LAW.

(3) A PHARMACY BENEFIT MANAGER SHALL PERFORM ITS DUTIES WITH CARE, SKILL, PRUDENCE, AND DILIGENCE AND IN ACCORDANCE WITH THE STANDARDS OF CONDUCT APPLICABLE TO A FIDUCIARY IN AN ENTERPRISE OF A LIKE CHARACTER AND WITH LIKE AIMS.

(4) A PHARMACY BENEFIT MANAGER SHALL NOTIFY THE COVERED ENTITY IN WRITING OF ANY ACTIVITY, POLICY, OR PRACTICE OF THE PHARMACY BENEFIT MANAGER THAT DIRECTLY OR INDIRECTLY PRESENTS ANY CONFLICT OF INTEREST WITH THE DUTIES REQUIRED BY THIS SECTION.

(5) A PHARMACY BENEFIT MANAGER SHALL PROVIDE TO A COVERED ENTITY ALL FINANCIAL AND UTILIZATION INFORMATION REQUESTED BY THE COVERED ENTITY RELATING TO THE PROVISION OF BENEFITS TO COVERED INDIVIDUALS THROUGH THE COVERED ENTITY AND ALL FINANCIAL AND UTILIZATION INFORMATION RELATING TO SERVICES TO THE COVERED ENTITY. A PHARMACY BENEFIT MANAGER PROVIDING INFORMATION PURSUANT TO THIS SUBSECTION (5) MAY DESIGNATE THE INFORMATION AS CONFIDENTIAL. INFORMATION DESIGNATED AS CONFIDENTIAL BY A PHARMACY BENEFIT MANAGER AND PROVIDED TO A COVERED ENTITY MAY NOT BE PROVIDED BY THE COVERED ENTITY TO ANY PERSON WITHOUT THE CONSENT OF THE PHARMACY BENEFIT MANAGER; EXCEPT THAT DISCLOSURE MAY BE MADE WHEN ORDERED BY A COURT FOR GOOD CAUSE SHOWN OR MADE IN A COURT FILING UNDER SEAL UNLESS OR UNTIL OTHERWISE ORDERED BY A COURT. NOTHING IN THIS SUBSECTION (5) SHALL LIMIT THE AUTHORITY OF THE STATE ATTORNEY GENERAL TO INVESTIGATE VIOLATIONS OF THIS SECTION.

(6) WITH REGARD TO THE DISPENSATION OF A SUBSTITUTE PRESCRIPTION DRUG FOR A PRESCRIBED DRUG TO A COVERED INDIVIDUAL, THE FOLLOWING SHALL APPLY:

(a) IF A PHARMACY BENEFIT MANAGER MAKES A SUBSTITUTION IN WHICH THE SUBSTITUTE DRUG COSTS MORE THAN THE PRESCRIBED DRUG,

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THE PHARMACY BENEFIT MANAGER SHALL DISCLOSE TO THE COVERED ENTITY THE COST OF BOTH DRUGS AND ANY BENEFIT OR PAYMENT DIRECTLY OR INDIRECTLY ACCRUING TO THE PHARMACY BENEFIT MANAGER AS A RESULT OF THE SUBSTITUTION.

(b) THE PHARMACY BENEFIT MANAGER SHALL TRANSFER IN FULL TO THE COVERED ENTITY ANY BENEFIT OR PAYMENT RECEIVED IN ANY FORM BY THE PHARMACY BENEFIT MANAGER EITHER AS A RESULT OF A PRESCRIPTION DRUG SUBSTITUTION UNDER PARAGRAPH (a) OF THIS SUBSECTION (6) OR AS A RESULT OF THE PHARMACY BENEFIT MANAGER SUBSTITUTING A LOWER-PRICED GENERIC AND THERAPEUTICALLY EQUIVALENT DRUG FOR A HIGHER-PRICED PRESCRIBED DRUG.

(7) A PHARMACY BENEFIT MANAGER THAT DERIVES ANY PAYMENT OR BENEFIT FOR THE DISPENSATION OF PRESCRIPTION DRUGS WITHIN THIS STATE BASED ON VOLUME OF SALES FOR CERTAIN PRESCRIPTION DRUGS OR CLASSES OR BRANDS OF DRUGS WITHIN THIS STATE SHALL PASS THAT PAYMENT OR BENEFIT ON IN FULL TO THE COVERED ENTITY.

(8) A PHARMACY BENEFIT MANAGER SHALL DISCLOSE TO THE COVERED ENTITY ALL FINANCIAL TERMS AND ARRANGEMENT FOR REMUNERATION OF ANY KIND THAT APPLY BETWEEN THE PHARMACY BENEFIT MANAGER AND ANY PRESCRIPTION DRUG MANUFACTURER OR LABELER, INCLUDING, WITHOUT LIMITATION, FORMULARY MANAGEMENT AND DRUG-SWITCH PROGRAMS, EDUCATIONAL SUPPORT, CLAIMS PROCESSING, AND PHARMACY NETWORK FEES THAT ARE CHARGED FROM RETAIL PHARMACIES AND DATA SALES FEES. A PHARMACY BENEFIT MANAGER DISCLOSING INFORMATION PURSUANT TO THIS SUBSECTION (8) MAY DESIGNATE THE INFORMATION AS CONFIDENTIAL. INFORMATION DESIGNATED AS CONFIDENTIAL BY A PHARMACY BENEFIT MANAGER AND DISCLOSED TO A COVERED ENTITY MAY NOT BE DISCLOSED BY THE COVERED ENTITY TO ANY PERSON WITHOUT THE CONSENT OF THE PHARMACY BENEFIT MANAGER; EXCEPT THAT DISCLOSURE MAY BE MADE WHEN ORDERED BY A COURT FOR GOOD CAUSE SHOWN OR MADE IN A COURT FILING UNDER SEAL UNLESS OR UNTIL OTHERWISE ORDERED BY A COURT. NOTHING IN THIS SUBSECTION (8) LIMITS THE AUTHORITY OF THE STATE ATTORNEY GENERAL TO INVESTIGATE VIOLATIONS OF THIS SECTION.

(9) A VIOLATION OF THIS SECTION IS A VIOLATION OF THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6, C.R.S.

**SECTION 2.** 6-1-105 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**6-1-105. Deceptive trade practices.** (1) A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person:

(xx) VIOLATES ANY PROVISION OF SECTION 10-16-122.5, C.R.S.

**SECTION 3. Applicability.** This act shall apply to contracts entered into by a pharmacy benefit manager or a covered entity on or after the effective date of this act.

**SECTION 4. 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 **SB06-092** be postponed indefinitely.

Health & Human Services

After consideration on the merits, the Committee recommends that **SB06-158** be postponed indefinitely.

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Health &  
Human  
Services

After consideration on the merits, the Committee recommends that **SB06-027** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 2, line 3, strike "THE FOLLOWING NEW SUBSECTIONS" and substitute "A NEW SUBSECTION";

strike lines 15 through 18;

line 19, strike "(1), (2)," and substitute "(2)";

strike lines 22 through 25.

Page 3, strike lines 1 through 4;

line 5, before "(2)", insert "**25-4-1611. Violation - penalties.**".

Page 5, line 7, strike "OR";

line 8, strike "HEALTH VIOLATION," and substitute "HEALTH VIOLATION, AND THAT THE VIOLATION IS SUFFICIENT TO PERMIT THE DEPARTMENT OR LOCAL BOARD OF HEALTH TO ESTABLISH A DATE AND TIME FOR CORRECTION,";

line 9, strike "MAY" and substitute "SHALL";

line 10, after "NOTIFICATION", insert "OF THE SPECIFIC VIOLATIONS LISTED ON THE INSPECTION REPORT";

line 15, strike "AGAIN PROVIDE" and substitute "PROVIDE A SECOND WRITTEN NOTIFICATION OF NONCOMPLIANCE ON THE INSPECTION REPORT AND ESTABLISH";

line 19, strike "FIVE HUNDRED DOLLARS AND NOT MORE THAN ONE" and substitute "TWO HUNDRED FIFTY DOLLARS AND NOT MORE THAN";

line 20, strike "THOUSAND" and substitute "FIVE HUNDRED";

line 25, strike "IS AGAIN IN VIOLATION OF SECTION";

line 26, strike "25-4-1610 (1) (c)," and substitute "HAS NOT CORRECTED THE SPECIFIC VIOLATION OR VIOLATIONS LISTED ON THE INSPECTION REPORT,";

line 27, strike "ONE THOUSAND" and substitute "FIVE HUNDRED".

Page 6, line 1, strike "FIVE HUNDRED";

line 7, strike "IS AGAIN IN VIOLATION OF SECTION";

line 8, strike "25-4-1610 (1) (c)," and substitute "HAS NOT CORRECTED THE SPECIFIC VIOLATION OR VIOLATIONS LISTED ON THE INSPECTION REPORT,";

line 9, strike "ONE THOUSAND FIVE HUNDRED" and substitute "SEVEN HUNDRED FIFTY";

line 10, strike "TWO" and substitute "ONE";

strike line 15 and substitute the following:

"(2.5) HAS CORRECTED THE SPECIFIC VIOLATION OR VIOLATIONS LISTED ON THE INSPECTION REPORT, THE";

line 17, strike "NONCOMPLIANCE WITH SECTION 25-4-1610 (1) (c)" and substitute "A VIOLATION OR VIOLATIONS";

line 18, after "INSPECTION", insert "THAT ARE THE SAME AS A VIOLATION OR VIOLATIONS LISTED IN THE INSPECTION REPORT";

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after line 19, insert the following:

"(e) THE DEPARTMENT OR LOCAL BOARD OF HEALTH SHALL MAIL ANY WRITTEN NOTIFICATION OF A VIOLATION OR VIOLATIONS PROVIDED BY THE DEPARTMENT OR LOCAL BOARD OF HEALTH PURSUANT TO THIS SUBSECTION (2.5) TO THE LICENSEE OF THE ESTABLISHMENT WHERE THE VIOLATION OCCURRED OR CONTINUES TO OCCUR."

Reletter succeeding paragraph accordingly.

Page 6, line 22, strike "SUSTAINED";

line 23, strike "WITH SECTION 25-4-1610 (1) (c),".

Education The Committee on Education 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 TRUSTEES FOR THE COLORADO SCHOOL FOR THE DEAF AND THE BLIND

for a term expiring July 1, 2006:

Kay A. Ferrell of Greeley, Colorado, to fill the vacancy occasioned by the resignation of Ronald E. Harlow of Highlands Ranch, Colorado, and to serve as a Republican, appointed;

for a term expiring July 1, 2008:

David N. Dawson of Boulder, Colorado, to fill the vacancy occasioned by the resignation of Douglas J. Miles of Manitou Springs, Colorado, and to serve as representative of the blind community and as a Democrat, appointed.

Education After consideration on the merits, the Committee recommends that **SB06-153** 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 21, strike "party," and substitute "party AND";

line 22, strike "senate," and substitute "senate AND ONE OF WHOM SHALL BE FROM THE MINORITY PARTY AND APPOINTED BY THE MINORITY LEADER,";

line 23, strike "party," and substitute "party AND";

line 24, strike "representatives." and substitute "representatives AND ONE OF WHOM SHALL BE FROM THE MINORITY PARTY AND APPOINTED BY THE MINORITY LEADER.".

Page 6, line 3, after the period, insert "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE TERMS OF MEMBERS SERVING ON THE BOARD OF GOVERNORS AS OF THE EFFECTIVE DATE OF THIS ACT SHALL EACH BE EXTENDED TO EXPIRE ON DECEMBER 31 OF THE CALENDAR YEAR OF THE ORIGINAL EXPIRATION OF THE MEMBER'S APPOINTED TERM. FOR TERMS ENDING ON OR AFTER DECEMBER 31, 2006, THE GOVERNOR SHALL APPOINT A SUCCEEDING MEMBER ON OR BEFORE MARCH 1 IMMEDIATELY FOLLOWING THE EXPIRATION OF THE TERM. MEMBERS APPOINTED ON OR AFTER JANUARY 1, 2007, SHALL SERVE TERMS OF UP TO FOUR YEARS, EXPIRING DECEMBER 31 OF THE THIRD CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE MEMBER WAS APPOINTED.".

Page 7, line 2, after the period, insert "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE TERMS OF MEMBERS SERVING ON THE BOARD OF TRUSTEES AS OF THE EFFECTIVE DATE OF THIS ACT SHALL EACH BE EXTENDED TO EXPIRE ON DECEMBER 31 OF THE CALENDAR YEAR OF THE ORIGINAL EXPIRATION OF THE MEMBER'S APPOINTED TERM. FOR TERMS ENDING ON OR AFTER DECEMBER 31, 2006, THE GOVERNOR SHALL

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APPOINT A SUCCEEDING MEMBER ON OR BEFORE MARCH 1 IMMEDIATELY FOLLOWING THE EXPIRATION OF THE TERM. MEMBERS APPOINTED ON OR AFTER JANUARY 1, 2007, SHALL SERVE TERMS OF UP TO FOUR YEARS, EXPIRING DECEMBER 31 OF THE THIRD CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE MEMBER WAS APPOINTED."

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Page 8, line 12, after the period, insert "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE TERMS OF MEMBERS SERVING ON THE BOARD OF TRUSTEES AS OF THE EFFECTIVE DATE OF THIS ACT SHALL EACH BE EXTENDED TO EXPIRE ON DECEMBER 31 OF THE CALENDAR YEAR OF THE ORIGINAL EXPIRATION OF THE MEMBER'S APPOINTED TERM. FOR TERMS ENDING ON OR AFTER DECEMBER 31, 2006, THE GOVERNOR SHALL APPOINT A SUCCEEDING MEMBER ON OR BEFORE MARCH 1 IMMEDIATELY FOLLOWING THE EXPIRATION OF THE TERM. MEMBERS APPOINTED ON OR AFTER JANUARY 1, 2007, SHALL SERVE TERMS OF UP TO FOUR YEARS, EXPIRING DECEMBER 31 OF THE THIRD CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE MEMBER WAS APPOINTED."

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Page 9, line 3, after "Members", insert "INITIALLY";

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line 13, after the period, insert "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE TERMS OF MEMBERS SERVING ON THE BOARD OF TRUSTEES AS OF THE EFFECTIVE DATE OF THIS ACT SHALL EACH BE EXTENDED TO EXPIRE ON DECEMBER 31 OF THE CALENDAR YEAR OF THE ORIGINAL EXPIRATION OF THE MEMBER'S APPOINTED TERM. FOR TERMS ENDING ON OR AFTER DECEMBER 31, 2006, THE GOVERNOR SHALL APPOINT A SUCCEEDING MEMBER ON OR BEFORE MARCH 1 IMMEDIATELY FOLLOWING THE EXPIRATION OF THE TERM. MEMBERS APPOINTED ON OR AFTER JANUARY 1, 2007, SHALL SERVE TERMS OF UP TO FOUR YEARS, EXPIRING DECEMBER 31 OF THE THIRD CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE MEMBER WAS APPOINTED."

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Page 10, line 10, after the period, insert "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE TERMS OF MEMBERS SERVING ON THE BOARD OF TRUSTEES AS OF THE EFFECTIVE DATE OF THIS ACT SHALL EACH BE EXTENDED TO EXPIRE ON DECEMBER 31 OF THE CALENDAR YEAR OF THE ORIGINAL EXPIRATION OF THE MEMBER'S APPOINTED TERM. FOR TERMS ENDING ON OR AFTER DECEMBER 31, 2006, THE GOVERNOR SHALL APPOINT A SUCCEEDING MEMBER ON OR BEFORE MARCH 1 IMMEDIATELY FOLLOWING THE EXPIRATION OF THE TERM. MEMBERS APPOINTED ON OR AFTER JANUARY 1, 2007, SHALL SERVE TERMS OF UP TO FOUR YEARS, EXPIRING DECEMBER 31 OF THE THIRD CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE MEMBER WAS APPOINTED."

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Page 11, line 8, after the period, insert "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE TERMS OF MEMBERS SERVING ON THE BOARD OF TRUSTEES AS OF THE EFFECTIVE DATE OF THIS ACT SHALL EACH BE EXTENDED TO EXPIRE ON DECEMBER 31 OF THE CALENDAR YEAR OF THE ORIGINAL EXPIRATION OF THE MEMBER'S APPOINTED TERM. FOR TERMS ENDING ON OR AFTER DECEMBER 31, 2006, THE GOVERNOR SHALL APPOINT A SUCCEEDING MEMBER ON OR BEFORE MARCH 1 IMMEDIATELY FOLLOWING THE EXPIRATION OF THE TERM. MEMBERS APPOINTED ON OR AFTER JANUARY 1, 2007, SHALL SERVE TERMS OF UP TO FOUR YEARS, EXPIRING DECEMBER 31 OF THE THIRD CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE MEMBER WAS APPOINTED.";

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line 25, after the period, insert "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE TERMS OF MEMBERS SERVING ON THE BOARD OF TRUSTEES AS OF THE EFFECTIVE DATE OF THIS ACT SHALL EACH BE EXTENDED TO EXPIRE ON DECEMBER 31 OF THE CALENDAR YEAR OF THE ORIGINAL EXPIRATION OF THE MEMBER'S APPOINTED TERM. FOR TERMS ENDING ON OR AFTER DECEMBER 31, 2006, THE GOVERNOR SHALL APPOINT A SUCCEEDING MEMBER ON OR BEFORE MARCH 1 IMMEDIATELY FOLLOWING THE EXPIRATION OF THE TERM. MEMBERS APPOINTED ON OR AFTER JANUARY 1, 2007, SHALL SERVE TERMS OF UP TO FOUR YEARS, EXPIRING DECEMBER 31 OF THE THIRD CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE MEMBER WAS APPOINTED."

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Page 12, line 18, after the period, insert "NOTWITHSTANDING ANY OTHER

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PROVISION OF THIS SECTION, THE TERMS OF MEMBERS SERVING ON THE BOARD OF TRUSTEES AS OF THE EFFECTIVE DATE OF THIS ACT SHALL EACH BE EXTENDED TO EXPIRE ON DECEMBER 31 OF THE CALENDAR YEAR OF THE ORIGINAL EXPIRATION OF THE MEMBER'S APPOINTED TERM. FOR TERMS ENDING ON OR AFTER DECEMBER 31, 2006, THE GOVERNOR SHALL APPOINT A SUCCEEDING MEMBER ON OR BEFORE MARCH 1 IMMEDIATELY FOLLOWING THE EXPIRATION OF THE TERM. MEMBERS APPOINTED ON OR AFTER JANUARY 1, 2007, SHALL SERVE TERMS OF UP TO FOUR YEARS, EXPIRING DECEMBER 31 OF THE THIRD CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE MEMBER WAS APPOINTED."

Page 14, line 18, after the period, insert "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE TERMS OF MEMBERS SERVING ON THE BOARD OF TRUSTEES AS OF THE EFFECTIVE DATE OF THIS ACT SHALL EACH BE EXTENDED TO EXPIRE ON DECEMBER 31 OF THE CALENDAR YEAR OF THE ORIGINAL EXPIRATION OF THE MEMBER'S APPOINTED TERM. FOR TERMS ENDING ON OR AFTER DECEMBER 31, 2006, THE GOVERNOR SHALL APPOINT A SUCCEEDING MEMBER ON OR BEFORE MARCH 1 IMMEDIATELY FOLLOWING THE EXPIRATION OF THE TERM. MEMBERS APPOINTED ON OR AFTER JANUARY 1, 2007, SHALL SERVE TERMS OF UP TO FOUR YEARS, EXPIRING DECEMBER 31 OF THE THIRD CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE MEMBER WAS APPOINTED.";

after line 26, insert the following:

"SECTION 13. Article 5 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**23-5-133. Appointments to governing boards - considerations.**

(1) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE GOVERNOR CONSIDER, WHEN APPOINTING MEMBERS TO GOVERNING BOARDS OF INSTITUTIONS OF HIGHER EDUCATION, AN INDIVIDUAL'S:

- (a) COMMITMENT TO PUBLIC EDUCATION;
- (b) RECORD OF PUBLIC OR COMMUNITY SERVICE;
- (c) KNOWLEDGE OF COMPLEX ORGANIZATIONS AND ACADEMIC INSTITUTIONS;
- (d) DEMONSTRATED COLLABORATIVE LEADERSHIP;
- (e) COMMITMENT TO OPEN-MINDED, NONPARTISAN DECISION-MAKING; AND
- (f) RECORD OF INTEGRITY AND CIVIC VIRTUE."

Renumber succeeding section accordingly.

Education

After consideration on the merits, the Committee recommends that **SB06-159** 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. The introductory portion to 22-32-109.7 (1) and 22-32-109.7 (1) (b), (1) (c), (1.5), (2), (3), (3.5), and (4), Colorado Revised Statutes, are amended to read:

**22-32-109.7. Board of education - specific duties - employment of personnel.** (1) Prior to the employment of any person by a school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL, the board of education, THE GOVERNING BOARD OF THE CHARTER SCHOOL WITH THE APPROVAL OF THE SCHOOL DISTRICT, OR THE GOVERNING BOARD OF THE INSTITUTE CHARTER SCHOOL shall make an inquiry concerning such person to the department of education for the purpose of determining:

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(b) Whether such person has been dismissed by, or has resigned from, a school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, ~~which~~ THAT was supported by a preponderance of the evidence according to information provided to the department by a school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL pursuant to subsection (3) of this section and confirmed by the department pursuant to the provisions of section 22-2-119 (1) (b);

(c) If a holder of a license or authorization issued pursuant to the provisions of article 60.5 of this title, whether such person's license or authorization has ever been DENIED, annulled, suspended, or revoked pursuant to the provisions of section 22-60-110 (2) (b), AS SAID SECTION EXISTED PRIOR TO JULY 1, 1999, OR PURSUANT TO THE PROVISIONS OF ARTICLE 60.5 OF THIS TITLE following a conviction, a plea of nolo contendere, or a deferred sentence for a crime involving unlawful sexual behavior or unlawful behavior involving children.

(1.5) During the employment of any person by a school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL, the board of education, THE GOVERNING BOARD OF THE CHARTER SCHOOL WITH THE APPROVAL OF THE SCHOOL DISTRICT, OR THE GOVERNING BOARD OF THE INSTITUTE CHARTER SCHOOL may make an inquiry concerning such person to the department of education for the purposes described in subsection (1) of this section.

(2) (a) The board of education, THE GOVERNING BOARD OF THE CHARTER SCHOOL WITH THE APPROVAL OF THE SCHOOL DISTRICT, OR THE GOVERNING BOARD OF THE INSTITUTE CHARTER SCHOOL shall also contact previous employers of such applicant for the purpose of obtaining information or recommendations which may be relevant to such person's fitness for employment.

(b) Any previous employer of an applicant for employment who provides information to a school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL or who makes a recommendation concerning an applicant, whether at the request of the school district, CHARTER SCHOOL, INSTITUTE CHARTER SCHOOL, or the applicant, shall be immune from civil liability unless:

(I) The information is false and the previous employer knows such information is false or acts with reckless disregard concerning the veracity of such information; and

(II) The school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL acts upon such information to the detriment of:

(A) The applicant because the school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL refused to employ such person based, in whole or in part, on negative information concerning such person later determined to be false; or

(B) The school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL because the school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL employed the applicant based, in whole or in part, on positive information concerning such person later determined to be false.

(c) Any school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL ~~which~~ THAT relies on information provided by or a recommendation made by a previous employer in making an employment decision shall be immune from civil liability unless the information is false and such school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL knows the information is false or acts with reckless disregard concerning the veracity of such information.

(3) If an employee of a school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL is dismissed or resigns as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, ~~which~~ THAT is supported by a preponderance of the

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evidence, the board of education of such school district OR THE GOVERNING BOARD OF SUCH CHARTER SCHOOL OR INSTITUTE CHARTER SCHOOL shall notify the department of education and provide any information requested by the department concerning the circumstances of the dismissal or resignation. ~~The~~ SUCH district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL shall also notify the employee that information concerning the employee's dismissal or resignation is being forwarded to the department of education unless such notice would conflict with the confidentiality requirements of the "Child Protection Act of 1987", part 3 of article 3 of title 19, C.R.S.

(3.5) Whenever a school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL learns from a source other than the department of education that a current or past employee of the school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL has been convicted of, pled nolo contendere to, or has received a deferred sentence or deferred prosecution for a felony or a misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children, the school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL shall notify the department of education.

(4) Any information received by a board of education OR A GOVERNING BOARD OF A CHARTER SCHOOL OR INSTITUTE CHARTER SCHOOL pursuant to subsection (1) or (2) of this section shall be confidential information and not subject to the provisions of part 2 of article 72 of title 24, C.R.S. Any person who releases information obtained pursuant to the provisions of said subsections or who makes an unauthorized request for information from the department shall be subject to the penalties set forth in section 24-72-206, C.R.S.; except that any person who releases information received from the department of education concerning information contained in the records and reports of child abuse or neglect maintained by the state department of human services shall be deemed to have violated section 19-1-307 (4), C.R.S.

**SECTION 2.** 22-32-109.8 (1), the introductory portion to 22-32-109.8 (2), and 22-32-109.8 (3), (4), (5), (6), (8) (b), (9), (10) (a), (11) (a), (11) (c), and (11) (d), Colorado Revised Statutes, are amended to read:

**22-32-109.8. Applicants selected for nonlicensed positions - submittal of form and fingerprints - prohibition against employing persons failing to comply - department database.** (1) Except as otherwise provided in paragraph (a) of subsection (10) of this section, any person applying to any school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL for any position of employment for which a license issued pursuant to article 60.5 of this title is not required and who is selected for such position of employment by such school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL shall submit a complete set of fingerprints of such applicant taken by a qualified law enforcement agency or authorized employee of such school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL and a notarized, completed form as specified in subsection (2) of this section. Said fingerprints and form shall be submitted to the school district, THE CHARTER SCHOOL WITH THE APPROVAL OF THE SCHOOL DISTRICT, OR THE INSTITUTE CHARTER SCHOOL at the time requested by such school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL.

(2) On a form provided by the school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL, a selected applicant shall certify, under penalty of perjury, either:

(3) In addition to any other requirements established by law, the submittal of fingerprints and the form pursuant to subsection (1) of this section shall be a prerequisite to the employment of any person in a ~~noncertificated~~ NONLICENSED position in a school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL, and no person shall be so employed who has not complied with the provisions of subsection (1) of this section.

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(4) (a) Any school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL to which fingerprints are submitted pursuant to subsection (1) of this section shall forward such fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (4), WITH THE APPROVAL OF THE SCHOOL DISTRICT, A CHARTER SCHOOL MAY FORWARD THE FINGERPRINTS SUBMITTED PURSUANT TO SUBSECTION (1) OF THIS SECTION TO THE SCHOOL DISTRICT, AND THE SCHOOL DISTRICT SHALL FORWARD THE FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING A STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING THE RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION.

(5) A school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL may employ any person in a ~~noncertificated~~ NONLICENSED position in such school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL prior to receiving the results regarding such selected applicant's fingerprints; however, the school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL may terminate the employment of such person if the results are inconsistent with the information provided by the person in the form submitted pursuant to subsection (1) of this section. The school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL shall notify the proper district attorney of such inconsistent results for purposes of action or possible prosecution.

(6) (a) When any school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL finds good cause to believe that any nonlicensed personnel employed by such school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL has been convicted of any felony or misdemeanor other than a misdemeanor traffic offense or traffic infraction subsequent to such employment, such school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL shall ~~require such person~~ NOTIFY THE PERSON IN WRITING THAT HE OR SHE IS REQUIRED to submit to the school district, TO THE CHARTER SCHOOL WITH THE APPROVAL OF THE SCHOOL DISTRICT, OR TO THE INSTITUTE CHARTER SCHOOL, a complete set of his or her fingerprints taken by a qualified law enforcement agency. Said fingerprints shall be submitted within twenty days of receipt of written notification from the school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL. The school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL shall forward the fingerprints of such person to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation.

(a.5) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (6), WITH THE APPROVAL OF THE SCHOOL DISTRICT, A CHARTER SCHOOL MAY FORWARD THE FINGERPRINTS SUBMITTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6) TO THE SCHOOL DISTRICT, AND THE SCHOOL DISTRICT SHALL FORWARD THE FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING A STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING THE RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION.

(b) School districts, CHARTER SCHOOLS, AND INSTITUTE CHARTER SCHOOLS shall not charge ~~noncertificated~~ NONLICENSED personnel any fees for the direct and indirect costs of such school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL for fingerprint processing performed pursuant to the provisions of this subsection (6).

(8) For purposes of this section:

(b) "Position of employment" means any job or position in which

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any person may be engaged in the service of a school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL for salary or hourly wages, whether full-time or part-time and whether temporary or permanent.

(9) All costs arising from the taking of fingerprints and from any fingerprint processing performed by the Colorado bureau of investigation pursuant to the provisions of this section shall be borne by THE EMPLOYING school districts, CHARTER SCHOOLS, OR INSTITUTE CHARTER SCHOOLS. Except as otherwise provided in paragraph (b) of subsection (6) of this section, school districts, CHARTER SCHOOLS, OR INSTITUTE CHARTER SCHOOLS may charge such selected applicants a nonrefundable fee in an amount equal to the direct and indirect costs of such school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL for the administration of this section. SAID FEE MAY BE PAID BY THE SELECTED APPLICANT OVER A PERIOD OF SIXTY DAYS AFTER EMPLOYMENT. Said fees shall be credited to the fingerprint processing account and shall be used for the purposes set forth in this section and may not be expended by the school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL for any other purpose; ~~however,~~ EXCEPT THAT said fees shall not be used for the purposes set forth in subsection (6) of this section. Any moneys in said account ~~which~~ THAT are not expended during a budget year shall be carried forward and budgeted for the purposes set forth in this section in the next budget year. ~~Such fee may be paid by the selected applicant over a period of sixty days after employment.~~

(10) (a) The provisions of this section shall not apply to any person who is enrolled as a student in any school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL and who is applying to the same school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL in which such student is enrolled for a position of employment for which a license issued pursuant to article 60.5 of this title is not required.

(11) (a) Each school district AND INSTITUTE CHARTER SCHOOL shall submit to the department of education the name, date of birth, and social security number from the human resource electronic data communications and reporting system required by section 22-44-105 (4) (a) for each nonlicensed person employed by the district, A CHARTER SCHOOL AUTHORIZED BY THE DISTRICT, OR THE INSTITUTE CHARTER SCHOOL.

(c) At the beginning of each semester, a EACH school district OR INSTITUTE CHARTER SCHOOL shall notify the department of education when a nonlicensed employee is no longer employed by the school district OR A CHARTER SCHOOL AUTHORIZED BY THE SCHOOL DISTRICT OR BY THE INSTITUTE CHARTER SCHOOL, and the department shall purge at least annually the ~~employees'~~ EMPLOYEE information from the database created pursuant to paragraph (b) of this subsection (11).

(d) On or before November 15, 2004, and on or before August 30 each year thereafter, the department of education shall submit a list of all persons employed by each school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL in the state for the preceding school year to the Colorado bureau of investigation. The list shall include each employee's name and date of birth.

**SECTION 3.** Part 1 of article 30.5 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**22-30.5-111.5. Charter schools - specific duties - employment of personnel.** PRIOR TO AND DURING THE EMPLOYMENT OF PERSONNEL, EACH CHARTER SCHOOL SHALL COMPLY WITH THE PROVISIONS OF SECTIONS 22-32-109.7 AND 22-32-109.8.

**SECTION 4.** Part 5 of article 30.5 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**22-30.5-512.5. Institute charter schools - specific duties -**

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**employment of personnel.** PRIOR TO AND DURING THE EMPLOYMENT OF PERSONNEL, EACH INSTITUTE CHARTER SCHOOL SHALL COMPLY WITH THE PROVISIONS OF SECTIONS 22-32-109.7 AND 22-32-109.8.

**SECTION 5.** 22-30.5-104 (6) (b), Colorado Revised Statutes, is amended to read:

**22-30.5-104. Charter school - requirements - authority.** (6) (b) The state board shall promulgate rules identifying state statutes and state rules that are automatically waived for all charter schools. A school district, on behalf of a charter school, may apply to the state board for a waiver of a state statute or state rule that is not automatically waived for charter schools by rule. Notwithstanding any provision of this subsection (6) to the contrary, the state board ~~may~~ SHALL not waive any statute or rule relating to the assessments required to be administered pursuant to section 22-7-409, any statute or rule necessary to prepare the school accountability reports pursuant to part 6 of article 7 of this title, ANY STATUTE OR RULE RELATING TO FINGERPRINTING OR CRIMINAL HISTORY RECORD CHECKS OF PERSONS EMPLOYED BY A CHARTER SCHOOL, ANY REPORTING OR INQUIRY REQUIREMENTS SPECIFIED IN SECTION 22-32-109.7 RELATING TO PERSONS EMPLOYED BY A CHARTER SCHOOL, any statute or rule necessary to implement the provisions of the "Public School Finance Act of 1994", article 54 of this title, or any statute or rule relating to the "Children's Internet Protection Act", article 87 of this title.

**SECTION 6.** 22-30.5-507 (7), Colorado Revised Statutes, is amended to read:

**22-30.5-507. Institute charter school - requirements - authority.** (7) Pursuant to the charter contract, an institute charter school may operate free from specified statutes and state board rules. The state board may waive state statutory requirements or rules promulgated by the state board; except that the state board ~~may~~ SHALL not waive any state statute or rule relating to the assessments required to be administered pursuant to section 22-7-409, any state statute or rule necessary to prepare the school accountability reports pursuant to part 6 of article 7 of this title, ANY STATE STATUTE OR RULE RELATING TO FINGERPRINTING OR CRIMINAL HISTORY RECORD CHECKS OF PERSONS EMPLOYED BY AN INSTITUTE CHARTER SCHOOL, ANY REPORTING OR INQUIRY REQUIREMENTS SPECIFIED IN SECTION 22-32-109.7 RELATING TO PERSONS EMPLOYED BY AN INSTITUTE CHARTER SCHOOL, or any STATE statute or rule necessary to implement the provisions of the "Public School Finance Act of 1994", article 54 of this title, or any state statute or rule relating to the "Children's Internet Protection Act", article 87 of this title. Any waiver of state statute or state board rule made pursuant to this subsection (7) shall be for the term of the contract for which the waiver is made. A request for a waiver may be submitted to the institute as a part of the application for an institute charter school.

**SECTION 7.** 22-1-121 (1) (b), Colorado Revised Statutes, is amended to read:

**22-1-121. Nonpublic schools - employment of personnel - notification by department of education.** (1) Prior to the employment of any person by a nonpublic school in this state, the governing board of such school may make an inquiry concerning such person to the department of education for the purpose of determining:

(b) Whether such person has been dismissed by, or has resigned from, a school district, A CHARTER SCHOOL, OR AN INSTITUTE CHARTER SCHOOL as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, ~~which~~ THAT was supported by a preponderance of the evidence according to information provided to the department by a school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL pursuant to section 22-32-109.7 and confirmed by the department pursuant to the provisions of section 22-2-119 (1) (b);

**SECTION 8.** The introductory portions to 22-2-119 (1) and (1) (a) and 22-2-119 (1) (b) (I), (1) (b) (II), and (2), Colorado Revised

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Statutes, are amended to read:

**22-2-119. Department of education - inquiries by boards of education concerning prospective employees.** (1) When an inquiry is made by a board of education of a school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL pursuant to the provisions of section 22-32-109.7 (1) or (1.5) or by the governing board of a nonpublic school pursuant to the provisions of section 22-1-121 concerning a prospective or current employee, the department shall provide the following information concerning such person:

(a) Whether according to the records of the department such person has been convicted of, has pled nolo contendere to, or has received a deferred sentence OR DEFERRED PROSECUTION for:

(b) (I) Whether such person has been dismissed by, or has resigned from, a school district, A CHARTER SCHOOL, OR AN INSTITUTE CHARTER SCHOOL as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, ~~which~~ THAT was supported by a preponderance of the evidence according to information required to be provided to the department by the school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL pursuant to the provisions of section 22-32-109.7 (3);

(II) The department of education shall not disclose to any prospective employer any information reported to the department from a school district, CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL pursuant to section 22-32-109.7 (3) unless and until the department confirms that the allegation resulted in a finding of a confirmed report of child abuse or neglect. The department shall request a check of the records and reports of child abuse or neglect maintained by the state department of human services pursuant to the provisions of section 19-1-307 (2) (1), C.R.S.

(2) Except for authorized inquiries made by boards of education, CHARTER SCHOOLS, OR INSTITUTE CHARTER SCHOOLS, the department shall consider information held by the department to be confidential information and not subject to the provisions of part 2 of article 72 of title 24, C.R.S. Any person who releases such information in violation of this subsection (2) shall be subject to the penalties set forth in section 24-72-206, C.R.S.; except that any person who releases information received by the department concerning information contained in the records and reports of child abuse or neglect maintained by the state department of human services shall be deemed to have violated section 19-1-307 (4), C.R.S.

**SECTION 9. Effective date.** This act shall take effect July 1, 2006.

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

Education After consideration on the merits, the Committee recommends that **SB06-151** be postponed indefinitely.

Education After consideration on the merits, the Committee recommends that **SB06-117** be postponed indefinitely.

Education After consideration on the merits, the Committee recommends that **SB06-073** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 2, before line 1, insert the following:

**"SECTION 1. Legislative declaration.** (1) The general

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assembly hereby declares that:

(a) The minimum age for compulsory school attendance in Colorado shall be six years of age;

(b) The maximum age for compulsory school attendance in Colorado shall be eighteen years of age;

(c) Students who are being instructed under a nonpublic home-based educational program pursuant to section 22-33-104.5, C.R.S., shall not be subject to the minimum age requirement for compulsory school attendance and, so long as such students continue to be instructed under a nonpublic home-based educational program, shall not be subject to the maximum age requirement for compulsory school attendance; and

(d) The provisions in section 22-33-104, C.R.S., concerning the minimum and maximum ages for compulsory school attendance shall not apply to a child who is temporarily ill or injured or whose absence is approved by the administrator of the school of attendance."

Renumber succeeding sections accordingly.  
Page 2, strike lines 1 and 2 and substitute the following:

**"SECTION 2.** 22-33-104 (1), (1.5), (2) (j), and (5) (a), Colorado Revised Statutes, are amended, and the said 22-33-104 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH, to read:";

line 6, strike "SEVENTEEN" and substitute "EIGHTEEN".

Page 3, after line 5, insert the following:

"(2) (j) Who is enrolled in a school where the state board of education has approved a lesser number of days; OR

(k) WHO IS SEVENTEEN YEARS OF AGE AND HAS ENLISTED IN MILITARY SERVICE.";

line 18, strike "SEVENTEEN" and substitute "EIGHTEEN".

Page 4, line 1, strike "SEVENTEEN" and substitute "EIGHTEEN";

line 11, strike "or who are sixteen SEVENTEEN years of age and satisfy the" and substitute "or who are ~~sixteen years of age and satisfy the~~";

line 12, strike "requirements of section 22-33-104.7" and substitute "~~requirements of section 22-33-104.7~~";

line 21, strike "SEVENTEEN" and substitute "EIGHTEEN";

line 26, strike "SEVENTEEN" and substitute "EIGHTEEN".

Page 5, line 10, strike "SEVENTEEN" and substitute "EIGHTEEN";

line 16, strike "SEVENTEEN" and substitute "EIGHTEEN";

line 25, strike "SEVENTEEN" and substitute "EIGHTEEN".

Page 6, line 2, strike "2006." and substitute "2007.".

Education

After consideration on the merits, the Committee recommends that **SB06-136** 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 8 and 9 and substitute the following:

"(1) COLLEGEINVEST" MEANS THE AUTHORITY TRANSFERRED TO

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THE DEPARTMENT OF HIGHER EDUCATION PURSUANT TO SECTION 23-3.1-203.";

after line 9, insert the following:

"(2) "PARTICIPATING PRIVATE INSTITUTION OF HIGHER EDUCATION" MEANS A COLLEGE OR UNIVERSITY THAT IS PARTICIPATING IN THE COLLEGE OPPORTUNITY FUND PROGRAM CREATED IN ARTICLE 18 OF THIS TITLE."

Renumber succeeding subsections accordingly.

Page 2, strike line 17 and substitute "EARNING A MASTER'S DEGREE IN NURSING OR A DOCTORAL DEGREE IN NURSING OR RELATED FIELD FROM A PUBLIC OR PARTICIPATING PRIVATE";

line 20, after "PUBLIC", insert "OR PARTICIPATING PRIVATE";

line 21, strike "OBTAIN" and substitute "EARN";

line 24, strike "THE COMMISSION" and substitute "COLLEGEINVEST".

Page 3, line 5, strike "OBTAINED" and substitute "EARNED";

line 9, strike the second "THE" and substitute "COLLEGEINVEST";

line 10, strike "COMMISSION";

line 11, after "DONATIONS", insert "OR MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY", and strike "ONLY";

strike lines 12 through 14.

Page 4, line 2, strike "THE" and substitute "COLLEGEINVEST,";

line 3, strike "COMMISSION,";

line 4, strike "OBTAIN" and substitute "EARN", strike "MASTERS" and substitute "MASTER'S", and strike "DOCTORATE" and substitute "DOCTORAL";

strike line 17 and substitute the following:

"INTEREST; EXCEPT THAT, IF THE NURSING TEACHER LEAVES THE QUALIFIED POSITION INVOLUNTARILY, THE NURSING TEACHER SHALL NOT BE LIABLE TO REPAY THE AMOUNT PAID OR FORGIVEN, BUT SHALL BE RESPONSIBLE FOR PAYING THE AMOUNT REMAINING DUE ON A QUALIFIED LOAN."

strike line 24 and substitute the following:

"ON OR BEFORE DECEMBER 15 EVERY TWO YEARS THEREAFTER, COLLEGEINVEST SHALL";

line 25, strike "AN ANNUAL" and substitute "A".

Page 5, line 1, strike "THE COMMISSION" and substitute "COLLEGEINVEST" and strike "NOTICE" and substitute "THE REPORT";

line 3, strike "COMMITTEES, THAT THE REPORT";

strike line 4 and substitute the following:

"COMMITTEES. SAID COMMITTEES SHALL REVIEW THE REPORT AND MAY RECOMMEND LEGISLATION ON THE PROGRAM."

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Local  
Government

After consideration on the merits, the Committee recommends that **SB06-156** 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 7 through 10 and substitute the following:

"CONTEXT OTHERWISE REQUIRES, "PRIOR VOTER APPROVAL REQUIREMENT" MEANS AN ELECTION";

line 14, strike "DISTRICT," and substitute "MUNICIPALITY,";

strike lines 17 and 18.

Reletter succeeding paragraphs accordingly.

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**MESSAGE FROM THE HOUSE**

February 17, 2006  
Madame President:

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB06-1115.

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB06-1152, amended as printed in House Journal, February 15, page 341.  
HB06-1084, amended as printed in House Journal, February 16, page 357.  
HB06-1204, amended as printed in House Journal, February 16, pages 357-358.  
HB06-1030, amended as printed in House Journal, February 16, page 358.  
HB06-1055, amended as printed in House Journal, February 16, page 358.  
HB06-1119, amended as printed in House Journal, February 16, pages 359-360.  
HB06-1174, amended as printed in House Journal, February 16, page 360.

The House has passed on Third Reading and returns herewith SB06-034.

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**MESSAGE FROM THE REVISOR OF STATUTES**

February 17, 2006

We herewith transmit:

Without comment, HB06-1115.

Without comment, as amended, HB06-1030, 1055, 1084, 1119, 1152, 1174, and 1204.

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**INTRODUCTION OF BILLS -- FIRST READING  
CORRECTED**

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

**HB06-1148** by Representative(s) Vigil, Hefley, Benefield, Berens, Carroll M., Coleman, Crane, Frangas, Gallegos, Green, McKinley, Merrifield, Ragsdale, Soper, Welker; also Senator(s) Tapia, Bacon, Entz, Hanna, Keller, Kester, Teck, Williams, Windels--Concerning a prohibition against the shifting of financial responsibility for negligence in construction agreements. State, Veterans, and Military Affairs

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**SENATE SERVICES REPORT**

**Correctly Printed:** SB06-191  
**Correctly Engrossed:** SJR06-009  
**Correctly Reengrossed:** SB06-108

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On motion of Senator Isgar, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the calendar of February 17 was laid over until Monday, February 20, retaining its place on the calendar.

Consideration of Governor's Appointments:  
Members of the Transportation Commission.

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On motion of Senator Isgar, the Senate adjourned until 10:00 a.m., Monday, February 20, 2006.

Approved:

Joan Fitz-Gerald  
President of the Senate

Attest:

Karen Goldman  
Secretary of the Senate

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