

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

106th Legislative Day

Wednesday, April 26, 2006

Prayer By Senator Fitz-Gerald.

Pledge By Senator May.

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

Roll Call Present--34.
Absent--1; Evans.
Present later--Evans.

Quorum The President announced a quorum present.

Reading of Journal On motion of Senator Johnson, reading of the Journal of April 25, 2006 was dispensed with and the Journal was approved as corrected by the Secretary.

COMMITTEE OF REFERENCE REPORTS

Finance After consideration on the merits, the Committee recommends that **HB06-1058** be referred to the Committee on Appropriations with favorable recommendation.

Finance After consideration on the merits, the Committee recommends that **HB06-1312** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend reengrossed bill, page 5, line 16, after "2011.", add "PRIOR TO SUCH REPEAL, THE INFORMATION LETTER AND PRIVATE LETTER RULING FUNCTION OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.";

after line 16, insert the following:

"SECTION 2. 24-34-104 (42), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.

(42) The following agencies, functions, or both, shall terminate on July 1, 2011:

(j) THE ISSUANCE OF INFORMATION LETTERS AND PRIVATE LETTER RULINGS BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE IN ACCORDANCE WITH SECTION 24-35-103.5."

Renumber succeeding sections accordingly.

Finance The Committee on Finance has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:

STATE BOARD OF EQUALIZATION

for a term expiring September 2, 2009:

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Charles S. Brown of Littleton, Colorado, to fill the vacancy occasioned by the resignation of JoAnn Groff of Westminster, Colorado, and to serve as a person with knowledge of property taxation, appointed.

Finance After consideration on the merits, the Committee recommends that **SCR06-005** be postponed indefinitely.

Finance After consideration on the merits, the Committee recommends that **HB06-1304** be referred to the Committee on Appropriations with favorable recommendation.

MESSAGE FROM THE HOUSE

April 25, 2006
Madame President:

The House has adopted and transmits herewith HJR06-1023, and amended as printed in House Journal, April 25.

INTRODUCTION OF RESOLUTIONS

The following resolution was read by title:

HJR06-1023 by Representative(s) Madden, Borodkin, Carroll T., Coleman, Jahn, Marshall, Larson, Massey, Romanoff, Witwer; also Senator(s) Grossman, Groff--Concerning the Colorado general assembly's endorsement of the Western Governors' Association policy resolution on United States - Mexico border security and illegal immigration.

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

On motion of Senator Gordon, and with a majority of those elected to the Senate having voted in the affirmative, the Senate proceeded out of order for Consideration of Resolutions -- SJR06-047.

CONSIDERATION OF RESOLUTIONS

SJR06-047 by Senator(s) Johnson; also Representative(s) McGihon, Romanoff, Stafford, Berens, Cloer, Frangas, Green, Kerr A., Kerr J., Riesberg, Soper, Weissmann--Concerning the declaration of the week commencing May 1, 2006, as "Cover the Uninsured Week".

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

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

Co-sponsors added: Bacon, Boyd, Entz, Fitz-Gerald, Gordon, Groff, Grossman, Hagedorn, Isgar, Jones, Kester, Sandoval, Shaffer, Spence, Tapia, Taylor, Tochtrop, Traylor, Tupa, Veiga, Williams and Windels.

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:

SB06-001 by Senator(s) Hagedorn; also Representative(s) Madden--Concerning a reduction in the cost of prescription drugs, and making an appropriation therefor.

A majority of those elected to the Senate having voted in the affirmative, Senator Hagedorn was given permission to offer a Third Reading amendment.

Third Reading Amendment No. 1(L.009), by Senator Hagedorn.

Amend engrossed bill, page 5, line 20, after "DEPARTMENT", insert "DETERMINES THE PRESCRIPTION DRUGS ARE MEDICALLY NECESSARY OR IF THE STATE DEPARTMENT".

A majority of all members elected to the Senate having voted in the affirmative, the amendment was declared **adopted**.

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

YES	25	NO	10	EXCUSED	0	ABSENT	0
Bacon	Y	Hagedorn	Y	Mitchell	N	Tochtrop	Y
Boyd	Y	Isgar	Y	Owen	N	Traylor	N
Brophy	N	Johnson	Y	Sandoval	Y	Tupa	Y
Dyer	N	Jones	N	Shaffer	Y	Veiga	Y
Entz	Y	Keller	Y	Spence	N	Wiens	Y
Evans	Y	Kester	Y	Takis	Y	Williams	Y
Gordon	Y	Lamborn	N	Tapia	Y	Windels	Y
Groff	Y	May R.	N	Taylor	Y	President	Y
Grossman	Y	McElhany	N	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, Boyd, Fitz-Gerald, Isgar, Johnson, Keller, Shaffer, Taylor, Tochtrop, Tupa, Wiens, Williams and Windels.

SB06-138 by Senator(s) Shaffer, Entz, Fitz-Gerald, Kester; also Representative(s) Gardner, Gallegos, Hodge, Rose--Concerning the requirement that gasoline contain at least a specified percentage of ethanol by volume.

Laid over until Thursday, April 27, retaining its place on the calendar.

SB06-031 by Senator(s) Jones; also Representative(s) Merrifield--Concerning authorizing payment of college opportunity fund stipends for education programs on military bases.

Laid over until Thursday, April 27, retaining its place on the calendar.

HB06-1281 by Representative(s) Pommer; also Senator(s) Gordon--Concerning the establishment of a program to demonstrate the use of breakthrough advanced coal technology to promote low-emitting coal-fueled electricity generation, and, in connection therewith, making an appropriation.

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

YES	31	NO	4	EXCUSED	0	ABSENT	0
Bacon	Y	Hagedorn	Y	Mitchell	Y	Tochtrop	Y
Boyd	Y	Isgar	Y	Owen	Y	Traylor	Y
Brophy	Y	Johnson	Y	Sandoval	Y	Tupa	Y
Dyer	N	Jones	N	Shaffer	Y	Veiga	Y
Entz	Y	Keller	Y	Spence	Y	Wiens	Y
Evans	Y	Kester	Y	Takis	Y	Williams	Y
Gordon	Y	Lamborn	Y	Tapia	Y	Windels	Y
Groff	Y	May R.	N	Taylor	Y	President	Y
Grossman	Y	McElhany	N	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, Boyd, Fitz-Gerald, Groff, Keller, Mitchell, Sandoval, Shaffer, Tapia, Taylor, Tochtrop, Tupa, Veiga, Williams and Windels.

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 (HB06-1323) of April 26 was laid over until Thursday, April 27, retaining its place on the calendar.

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

On motion of Senator Gordon, and with a majority of those elected to the Senate having voted in the affirmative, (HB06-1090) was advanced to the beginning of the General Orders -- Second Reading of Bills calendar.

HB06-1090 by Representative(s) Green; also Senator(s) Tupa--Concerning unlawful sexual behavior.

(Amended in General Orders as printed in Senate Journal, April 25, pages 1031-1032.)

Amendment No. 6(L.048), by Senator FitzGerald.

Amend the State, Veterans & Military Affairs Committee Report, dated March 27, 2006, page 5, line 32, strike "void." and substitute "void - applicability. (1)".

Page 6 of the committee report, after line 14, insert the following:

"(2) THE PROVISIONS OF THIS SECTION SHALL TAKE EFFECT JULY 1, 2006, AND SHALL APPLY TO AGREEMENTS ENTERED INTO ON OR AFTER SAID DATE."

Amendment No. 7(L.052), by Senator FitzGerald.

Amend the State, Veterans & Military Affairs Committee Report, dated March 27, 2006, page 1, strike line 4 and substitute the following:

"SECTION 4. Legislative declaration. (1) The general assembly finds that:

(a) Sexual abuse is a reprehensible social wrong that often occurs as a series of separate incidents over a period of time;

(b) Sexual abuse victims, particularly child victims, frequently delay reporting sexual abuse for reasons such as repressed memory, fear of ridicule, fear of retaliation, concern for or guilt toward the perpetrator or an institution in which the abuse occurred, and an institution's denial and concerted and veiled efforts to protect the perpetrator;

(c) For these reasons, some victims ultimately report sexual abuse years or even decades after the abuse occurred, but by then are either

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completely precluded by the statute of limitations from seeking civil relief or are restricted to relatively minimal damages;

(d) The statute of limitations in Colorado for bringing a civil claim for sexual abuse is a procedural and remedial mechanism governing the time period in which the claim must be brought. Among other things, the statute:

(I) Limits a sexual abuse victim to bringing a claim for sexual assault or sexual offense against a child within six years after the cause of action accrues or within six years after a disability has been removed from a plaintiff with a disability;

(II) Exempts vicarious liability claims from the six-year period, thereby invoking a substantially shorter statute of limitations for institutional or individual defendants who may be vicariously liable;

(III) Restricts a sexual abuse victim who brings a sexual abuse claim fifteen years or more after the victim turns eighteen years of age to recovering only treatment and counseling expenses; and

(IV) Prohibits a victim from bringing a sexual abuse claim against a defendant who is deceased or incapacitated.

(e) The current statute of limitations does not take into account the frequently and understandably delayed reporting of sexual abuse incidents, and it disproportionately applies a substantially shorter time period to vicarious liability claims compared to the time period allowed for a sexual abuse claim asserted directly against a perpetrator;

(f) Consequently, many sexual abuse claims that were once viable, whether directly against a perpetrator or vicariously against an institution or another individual, are no longer actionable, and persons victimized by sexual abuse are without justice;

(g) Providing victims with a temporary time window within which to bring claims for past sexual abuse without the imposition of a statute of limitations is a legitimate government interest and legitimate exercise of the state's police power, because it advances the overriding public interest in protecting the health, safety, and welfare of children and persons who by reason of their position, environment, job, age, disability, status, or other circumstances have been unable to bring timely sexual abuse claims.

(2) The general assembly, therefore, determines and declares that it is necessary to enact a bill that addresses past sexual abuse injustices, including but not limited to childhood sexual abuse, that will assist sexual abuse victims who are currently without a remedy to vindicate their dignity and obtain justice by:

(a) Providing a procedural and remedial measure in the form of a one-year statute of limitations window that will retroactively apply to sexual abuse incidents that occurred within thirty-five years before the effective date of this act and within which a victim may bring a civil claim for sexual assault or sexual offense against a child against a perpetrator or an institution or another individual who may be directly or indirectly liable;

(b) Permanently eliminating the exemption vicarious liability claims have from the statute of limitations applicable to direct claims, thus putting vicarious liability claims and other claims against third parties on an even footing with direct claims; and

(c) Expanding the statute of limitations for causes of action alleging liability for injuries arising from commission of a sexual offense against a child to thirty-five years after the cause of action accrues.

(3) It is the intent of the general assembly in enacting this bill to advance the public interest by:

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(a) Exposing child molesters and other sexual abuse actors, holding those that enable them accountable, and shifting at least a portion of the costs incurred by victims from the Colorado taxpayers to the responsible parties;

(b) Ensuring that those who protect child molesters do not have a bona fide interest or reasonable expectation in an arbitrary time limit that removes all civil liability for their acts; and

(c) Aiding longstanding sexual abuse victims whose claims are foreclosed by a statute of limitations that, when enacted, failed to take into account the difficulties associated with victims coming forward to report sexual misconduct and with piercing the institutional veil to achieve justice.

SECTION 5. 13-80-103.7, Colorado Revised Statutes, is".

Page 4 of the committee report, after line 34, insert the following:

"(9) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A CLAIM ALLEGING LIABILITY FOR INJURIES ARISING FROM COMMISSION OF A SEXUAL OFFENSE AGAINST A CHILD THAT WAS COMMITTED ON OR AFTER JULY 1, 1971, AND THAT WOULD OTHERWISE BE BARRED AS OF JULY 1, 2006, SOLELY BECAUSE THE APPLICABLE STATUTE OF LIMITATIONS HAS EXPIRED, IS HEREBY REVIVED AND MAY BE COMMENCED ON OR AFTER JANUARY 1, 2007, BUT NO LATER THAN JANUARY 1, 2008. NOTHING IN THIS SUBSECTION (9) SHALL BE CONSTRUED TO ALTER THE APPLICABLE STATUTE OF LIMITATIONS PERIOD FOR A CIVIL ACTION THAT IS NOT TIME-BARRED AS OF JULY 1, 2006.

(b) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, A PLAINTIFF WHO PREVAILS IN A CLAIM BROUGHT PURSUANT TO THIS SUBSECTION (9) SHALL BE LIMITED TO THE AMOUNT OF ACTUAL DAMAGES, PLUS ECONOMIC DAMAGES AND EXEMPLARY DAMAGES NOT TO EXCEED A TOTAL OF ONE HUNDRED FIFTY THOUSAND DOLLARS, PLUS SUCH COSTS AND ATTORNEY FEES AS THE COURT MAY AWARD.

(c) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE PROVISIONS OF THIS SUBSECTION (9) BEAR A RATIONAL RELATIONSHIP TO THE LEGITIMATE GOVERNMENT INTEREST OF PROTECTING SEXUAL ABUSE VICTIMS, EXPOSING PERPETRATORS, HOLDING INSTITUTIONS ACCOUNTABLE FOR THE PREVENTION OF SEXUAL ABUSE, AND PROVIDING SEXUAL ABUSE VICTIMS WITH CIVIL JUSTICE.";

line 35 of the committee report, strike "5." and substitute "6."

Amendment No. 8(L.056), by Senator Tupa.

Amend reengrossed bill, page 15, after line 15, insert the following:

"SECTION 8. Effective date. This act shall take effect upon passage; except that sections 2 and 3 of this act shall not take effect if Senate Bill 06-022 is enacted and becomes law."

Renumber succeeding section accordingly.

Amendment No. 9(L.060), by Senator Tupa.

Amend reengrossed bill, page 15, after line 15, insert the following:

"SECTION 8. Title 6, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 2.7

Internet Evidence for Law Enforcement Investigations

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6-2.7-101. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "INTERNET ACCESS PROVIDER" MEANS AN ENTITY THAT PROVIDES TO CUSTOMERS IN COLORADO ELECTRONIC COMMUNICATIONS OR REMOTE COMPUTING SERVICE TO THE PUBLIC, AS DEFINED IN CHAPTERS 119 AND 121 OF TITLE 18 OF THE UNITED STATES CODE, AS AMENDED.

6-2.7-102. Internet evidence for law enforcement - preserve and release evidence - reports - training materials. (1) **Requirement to preserve evidence.** (a) AN INTERNET ACCESS PROVIDER, UPON THE REQUEST OF A LAW ENFORCEMENT AGENCY, SHALL TAKE ALL NECESSARY STEPS TO PRESERVE RECORDS AND OTHER EVIDENCE IN ITS POSSESSION PENDING THE ISSUANCE OF A COURT ORDER OR OTHER LEGAL PROCESS. THE INTERNET ACCESS PROVIDER SHALL COMPLY WITH THE REQUEST AS SOON AS PRACTICABLE FOLLOWING RECEIPT.

(b) RECORDS PRESERVED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE RETAINED FOR A PERIOD OF NINETY DAYS, WHICH SHALL BE EXTENDED FOR AN ADDITIONAL NINETY-DAY PERIOD UPON A RENEWED REQUEST BY THE LAW ENFORCEMENT AGENCY.

(2) **Requirement to release evidence.** UPON RECEIPT OF A LAWFULLY ISSUED SUBPOENA, COURT ORDER, OR SEARCH WARRANT SEEKING EVIDENCE IN CONNECTION WITH A CRIMINAL INVESTIGATION REGARDING UNLAWFUL SEXUAL CONDUCT INVOLVING A MINOR, AN INTERNET ACCESS PROVIDER SHALL RELEASE, WITHIN TEN BUSINESS DAYS AFTER RECEIVING THE SUBPOENA, COURT ORDER, OR WARRANT, ALL CATEGORIES OF INFORMATION IDENTIFIED IN 18 U.S.C. SEC. 2703 (c) (2) THAT ARE IN ITS POSSESSION. IF AN INTERNET ACCESS PROVIDER IN GOOD FAITH IS UNABLE TO PRODUCE THE INFORMATION WITHIN TEN BUSINESS DAYS, THE PROVIDER SHALL PROMPTLY NOTIFY THE LAW ENFORCEMENT AGENCY THAT SERVED THE SUBPOENA, COURT ORDER, OR WARRANT AND SHALL PRODUCE THE INFORMATION IN THE MOST EXPEDIENT MANNER POSSIBLE.

(3) **Authority to seek release of evidence in emergency circumstances.** IN CONNECTION WITH A CRIMINAL INVESTIGATION REGARDING UNLAWFUL SEXUAL CONDUCT WITH A MINOR, A LAW ENFORCEMENT AGENCY IN THIS STATE MAY ISSUE A REQUEST, WITHOUT COMPULSORY LEGAL PROCESS, TO AN INTERNET ACCESS PROVIDER TO DISCLOSE, CONSISTENT WITH 18 U.S.C. SEC. 2702 (c) (4), THE INFORMATION IDENTIFIED IN SUBSECTION (2) OF THIS SECTION IF AN EMERGENCY INVOLVING IMMEDIATE DANGER OF DEATH OR SERIOUS PHYSICAL INJURY TO A PERSON REQUIRES DISCLOSURE WITHOUT DELAY OF INFORMATION RELATING TO THE EMERGENCY.

(4) **Reports to the national center for missing and exploited children.** AN INTERNET ACCESS PROVIDER DOING BUSINESS IN THIS STATE SHALL REPORT INCIDENTS OF APPARENT CHILD PORNOGRAPHY TO THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN PURSUANT TO 42 U.S.C. SEC. 13032. A REPORT SHALL INCLUDE, WHERE APPLICABLE AND AVAILABLE, THE INTERNET PROTOCOL ADDRESS AND CITY, STATE, AND POSTAL CODE INFORMATION PERTAINING TO THE SUBSCRIBER INVOLVED IN THE REPORT.

(5) **Training materials.** EACH INTERNET ACCESS PROVIDER THAT SERVES MORE THAN FIFTEEN THOUSAND SUBSCRIBERS WHO ARE RESIDENTS OF THIS STATE SHALL, UPON REQUEST COORDINATED THROUGH THE OFFICE OF THE ATTORNEY GENERAL, PROVIDE TRAINING MATERIALS TO LAW ENFORCEMENT AGENCIES IN THIS STATE REGARDING BEST PRACTICES FOR INVESTIGATING INTERNET-RELATED CRIMES INVOLVING SEXUAL EXPLOITATION OF CHILDREN, THE INTERNET ACCESS PROVIDER'S LAW ENFORCEMENT COMPLIANCE PRACTICES, AND CONTACT INFORMATION FOR THE INTERNET ACCESS PROVIDER.

6-2.7-103. Internet evidence - failure to release or preserve - civil penalty. (1) AN INTERNET ACCESS PROVIDER THAT KNOWINGLY AND WILLFULLY FAILS TO COMPLY WITH THE REQUIREMENTS SPECIFIED IN

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SECTION 6-2.7-102 (1) TO (4) SHALL BE LIABLE FOR PAYMENT OF A CIVIL PENALTY OF UP TO TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH INCIDENCE OF NONCOMPLIANCE; EXCEPT THAT THE INTERNET SERVICE PROVIDER SHALL BE LIABLE FOR PAYMENT OF UP TO TEN THOUSAND DOLLARS FOR THE THIRD AND EACH SUBSEQUENT INCIDENCE OF NONCOMPLIANCE THAT OCCURS WITHIN A TWELVE-MONTH PERIOD. THE STATE ATTORNEY GENERAL HAS THE EXCLUSIVE AUTHORITY TO BRING SUIT TO ENFORCE THE PROVISIONS OF SECTION 6-2.7-102 (1) TO (4) IN A COURT OF COMPETENT JURISDICTION.

(2) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, AN INTERNET ACCESS PROVIDER SHALL NOT BE LIABLE UNDER SUBSECTION (1) OF THIS SECTION IF IT CAN DEMONSTRATE IN GOOD FAITH ITS INABILITY TO PROVIDE THE INFORMATION REQUESTED.

(3) EXCEPT AS PROVIDED IN SUBSECTION (1) OF THIS SECTION, AN INTERNET ACCESS PROVIDER'S FAILURE TO COMPLY WITH THE REQUIREMENTS SPECIFIED IN SECTION 6-2.7-102 SHALL NOT RESULT IN FURTHER CIVIL, CRIMINAL, OR OTHER LIABILITY.

6-2.7-104. Applicability of article. THE PROVISIONS OF THIS ARTICLE SHALL TAKE EFFECT OCTOBER 1, 2006, AND SHALL APPLY TO INFORMATION DESCRIBED IN SECTION 6-2.7-102 COLLECTED ON OR AFTER SAID DATE. SECTION 6-2.7-102 (1) AND (2) SHALL BE INTERPRETED CONSISTENT WITH THE REQUIREMENTS OF FEDERAL LAW THAT APPLY TO THE INTERNET ACCESS PROVIDER, INCLUDING BUT NOT LIMITED TO CHAPTER 121, 18 U.S.C. SEC. 2701 ET SEQ., AND 42 U.S.C. SEC. 13032."

Renumber succeeding section accordingly.

Amendment No. 10(L.065), by Senator FitzGerald.

Amend the Fitz-Gerald floor amendment, (HB1090_L.052), page 4, after line 5, insert the following:

"(b) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A CLAIM ALLEGING LIABILITY FOR NEGLIGENT SUPERVISION RESULTING IN INJURIES ARISING FROM COMMISSION OF A SEXUAL OFFENSE AGAINST A CHILD THAT WAS COMMITTED ON OR AFTER JULY 1, 1971, AND THAT WOULD OTHERWISE BE BARRED AGAINST A PUBLIC ENTITY AS DEFINED IN 24-10-103 (5), C.R.S., AS OF JULY 1, 2006, DUE TO IMMUNITY UNDER SECTION 24-10-106, C.R.S., FAILURE TO FILE NOTICE PURSUANT TO SECTION 24-10-109, C.R.S., AND EXPIRATION OF THE APPLICABLE STATUTE OF LIMITATIONS, IS HEREBY REVIVED AND MAY BE COMMENCED ON OR AFTER JANUARY 1, 2007, BUT NO LATER THAN JANUARY 1, 2008."

Reletter succeeding paragraphs accordingly.

Amendment No. 11(L.067), by Senator Mitchell.

Amend the Fitz-Gerald amendment, (HB1090_L.065), line 4, strike "NEGLIGENT SUPERVISION RESULTING IN";

line 7, strike "BARRED AGAINST A PUBLIC ENTITY AS DEFINED IN";

line 8, strike "24-10-103 (5), C.R.S.," and substitute "BARRED,".

As amended, ordered revised and placed on the calendar for Third Reading and Final Passage.
(For further action, see Amendments to the Report of the Committee of the Whole.)

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 (SB06-221, SB06-169, HB06-1018, SB06-143, HB06-1157, HB06-1086,

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HB06-1161, HB06-1127, HB06-1293, HB06-1124, HB06-1072, SB06-225, HB06-1277, HB06-1147, HB06-1294, HB06-1046, HB06-1054) of April 26, was laid over until Thursday, April 27, retaining its place on the calendar.

AMENDMENTS TO THE REPORT OF THE COMMITTEE OF THE WHOLE

HB06-1090 by Representative(s) Green; also Senator(s) Tupa--Concerning unlawful sexual behavior.

Senator Mitchell moved to amend the Report of the Committee of the Whole to show that the following Mitchell floor amendment, (L.057) to HB 06-1090, did pass, and that HB 06-1090, as amended, did pass.

Amend the State, Veterans, and Military Affairs Committee Report, dated March 27, 2006, page 8, strike lines 8 through 13 and substitute the following:

"(d) NOTWITHSTANDING THE PROVISIONS OF SECTIONS 24-10-114 AND 24-10-118 (1) (b), (1) (c), AND (1) (d), C.R.S., A PERSON WHO BRINGS AN ACTION PURSUANT TO THIS SUBSECTION (2) MAY RECOVER AGAINST A PUBLIC ENTITY AND AGAINST A PUBLIC EMPLOYEE ACTUAL DAMAGES, NONECONOMIC DAMAGES AS PROVIDED IN SECTION 13-21-102.5, AND EXEMPLARY DAMAGES AS PROVIDED IN SECTION 13-21-102."

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

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

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator Shaffer, 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: HB06-1090 as amended.
Laid over until Thursday, April 27: SB06-221, SB06-169, HB06-1018, SB06-143, HB06-1157, HB06-1086, HB06-1161, HB06-1127, HB06-1293, HB06-1124, HB06-1072, SB06-225, HB06-1277, HB06-1147, HB06-1294, HB06-1046, HB06-1054.

COMMITTEE OF REFERENCE REPORTS

- Appropriations After consideration on the merits, the Committee recommends that **SB06-184** be postponed indefinitely.
- Appropriations After consideration on the merits, the Committee recommends that **HB06-1006** be referred to the Committee of the Whole with favorable recommendation.
- Appropriations After consideration on the merits, the Committee recommends that **HB06-1278** be referred to the Committee of the Whole with favorable recommendation.

Appropriations	After consideration on the merits, the Committee recommends that HB06-1360 be referred to the Committee of the Whole with favorable recommendation.	1 2 3 4
Appropriations	After consideration on the merits, the Committee recommends that HB06-1347 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	5 6 7 8
	Amend reengrossed bill, page 1, line 102, strike "ACT"." and substitute "ACT", AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH."	9 10 11 12 13
Appropriations	After consideration on the merits, the Committee recommends that HB06-1339 be referred to the Committee of the Whole with favorable recommendation.	14 15 16 17
Appropriations	After consideration on the merits, the Committee recommends that HB06-1361 be postponed indefinitely.	18 19 20 21
Appropriations	After consideration on the merits, the Committee recommends that HB06-1176 be referred to the Committee of the Whole with favorable recommendation.	22 23 24 25
Appropriations	After consideration on the merits, the Committee recommends that HB06-1337 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	26 27 28 29
	Amend reengrossed bill, page 3, after line 17, insert the following:	30 31
	"(1.3) IN REACHING A SETTLEMENT OR COLLECTION OF ANY CIVIL PENALTY UNDER THIS SECTION, THE DIVISION SHALL CONSIDER THE VIOLATOR'S ABILITY TO PAY."	32 33 34 35 36
Appropriations	After consideration on the merits, the Committee recommends that SB06-227 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	37 38 39 40
	Amend printed bill, page 7, after line 3, insert the following:	41 42
	"SECTION 2. Adjustments to 2006 long bill. (1) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2006, shall be adjusted as follows:	43 44 45 46 47
	(a) The general fund appropriation to the department of health care policy and financing, department of human services medicaid-funded programs, office of information technology services-medicaid funding, for the Colorado benefits management system, is increased by fifty-one thousand eight hundred fifty dollars (\$51,850). Said sum shall be subject to the "(M)" notation as defined in the general appropriation act. In addition to said appropriation, the general assembly anticipates that, for the fiscal year beginning July 1, 2006, the department of health care policy and financing will receive the sum of fifty-one thousand eight hundred fifty dollars (\$51,850) in federal funds for the implementation of this act. Although these federal funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds.	48 49 50 51 52 53 54 55 56 57 58 59 60
	(b) The cash funds exempt appropriation to the department of human services, office of information technology services, for the Colorado benefits management system, is increased by one hundred three thousand seven hundred dollars (\$103,700). Said sum shall be Medicaid cash funds that are transferred from the department of health care policy and financing.	61 62 63 64 65 66 67
	(c) The general fund appropriation to the department of labor,	68 69

division of employment and training, employment and training programs, for state operations, is increased by three thousand one hundred twenty-five dollars (\$3,125).".

Renumber succeeding section accordingly.

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

Appropriations

After consideration on the merits, the Committee recommends that **HB06-1344** be referred to the Committee of the Whole with favorable recommendation.

Appropriations

After consideration on the merits, the Committee recommends that **HB06-1330** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 4, line 26, after "**SECTION 3.**", insert "**Appropriation.**".

Appropriations

After consideration on the merits, the Committee recommends that **HB06-1317** be referred to the Committee of the Whole with favorable recommendation.

Appropriations

After consideration on the merits, the Committee recommends that **HB06-1024** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend the Senate Education Committee Report, dated April 20, 2006, page 1, line 5, strike "A NEW SECTION" and substitute "THE FOLLOWING NEW SECTIONS".

Page 2 of the committee report, line 3, strike "2007." and substitute "2007.";

after line 3 of the committee report, insert the following:

"23-5-134. Governing boards - on-line textbook program.
 EACH GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER EDUCATION SHALL CONSIDER CREATION AND IMPLEMENTATION OF AN ON-LINE TEXTBOOK LIBRARY AT THE INSTITUTION TO ALLOW STUDENTS TO PURCHASE ONLY THOSE MATERIALS NEEDED FOR THE APPLICABLE COURSE WORK. IN CONSIDERING THE PROGRAM, THE GOVERNING BOARD, AT A MINIMUM, SHALL TAKE INTO ACCOUNT BOTH THE COSTS TO THE INSTITUTION OF HIGHER EDUCATION AND THE POTENTIAL FOR REDUCED COSTS TO STUDENTS. WHETHER AN INSTITUTION OF HIGHER EDUCATION CREATES AN ON-LINE TEXTBOOK LIBRARY SHALL BE AT THE SOLE DISCRETION OF THE INSTITUTION'S GOVERNING BOARD.".

Page 2 of the committee report, after line 4, insert the following:

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

MESSAGE FROM THE HOUSE

April 26, 2006
 Madame President:

The Speaker announced that Representative Harvey has replaced Representative May as the House prime sponsor on SB06-193.

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INTRODUCTION OF BILLS -- FIRST READING

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

SB06-235 by Senator(s) Sandoval; also Representative(s) Marshall--Concerning public employees' retirement benefit plans.
State, Veterans & Military Affairs

SB06-236 by Senator(s) Isgar; also Representative(s) Curry--Concerning an exclusion from the definition of exploration for a construction material for activities occurring within a limited area.
Agriculture, Natural Resources & Energy

MESSAGE FROM THE GOVERNOR

April 24, 2006

To the Honorable
Senate
Sixty-fifth General Assembly
Second Regular Session
Denver, CO 80203

Ladies and Gentlemen:

I have the honor to inform you that I have approved and filed with the Secretary of State the following Acts:

S.B. 06-013 – Concerning Extension Of The Surcharge Associated With The Security Features Found On Drivers’ Licenses.

Approved April 24, 2006 at 6:45 p.m.

S.B. 06-021 – Concerning Identification Cards Issued By The State Department Of Revenue To Certain Individuals.

Approved April 24, 2006 at 3:00 p.m.

S.B. 06-042 – Concerning Technical Revisions To Provisions Affecting Funding For Certain Charter Schools.

Approved April 24, 2006 at 3:01 p.m.

S.B. 06-060 – Concerning The Assertion By A Garnishee Of An Exemption On Behalf Of A Judgment Debtor.

Approved April 24, 2006 at 3:02 p.m.

S.B. 06-062 – Concerning Electronic Voting By Certain Electors Who Are Absent From The State On Election Day.

Approved April 24, 2006 at 3:03 p.m.

S.B. 06-083 – Concerning Authorization For An Alternate Person To Supervise A Holder Of A Driver’s Permit Issued To A Minor Who Is Under Sixteen Years Of Age.

Approved April 24, 2006 at 3:04 p.m.

S.B. 06-091 – Concerning A Prohibition Against Using Telephone Records Without Authorization.

Approved April 24, 2006 at 3:04 p.m.

S.B. 06-112 – Concerning A Prohibition On Increases In An Insured’s Liability To Pay For Health Care Services Due To A Change In A Provider’s Network Status.

Approved April 24, 2006 at 3:07 p.m.

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S.B. 06-115 – Concerning The Rights Of A Local Government With Regard To the Construction Of A Private Toll Road Or Toll Highway.

Approved April 24, 2006 at 9:17 a.m.

S.B. 06-119 – Concerning An Increase In The Aggregate Outstanding Principal Amount Of Bonds That May Be Secured By The State’s Moral Obligation To The Colorado Educational And Cultural Facilities Authority.

Approved April 24, 2006 at 3:09 p.m.

S.B. 06-134 – Concerning Resource Limitations As A Condition Of Eligibility For The Colorado Works Program.

Approved April 24, 2006 at 3:10 p.m.

S.B. 06-137 – Concerning The Elimination Of Outdated Provisions Of Law Related To The Elementary And Secondary Education System Resulting From The Law’s Obsolescence Or Infrequency Of Use, And, In Connection Therewith, Repealing Or Amending Various Provisions Of Law.

Approved April 24, 2006 at 3:11 p.m.

S.B. 06-163 – Concerning The Date On Which A Lien On A Motor Vehicle Is Perfected.

Approved April 24, 2006 at 3:16 p.m.

S.B. 06-177 – Concerning Modifications To The Statutory Requirements Of Part 3 Of Article 4.1 Of Title 24, Colorado Revised Statutes.

Approved April 24, 2006 at 3:17 p.m.

S.B. 06-192 – Concerning A Task Force On Drunk Driving.

Approved April 24, 2006 at 9:21 a.m.

S.B. 06-194 – Concerning The Authority Of The Wildlife Commission To Issue Youth Hunting Licenses.

Approved April 24, 2006 at 3:19 p.m.

S.B. 06-195 – Concerning Modifications To The “Colorado Employment Security Act” To Conform With The Requirements Of Federal Law.

Approved April 24, 2006 at 3:22 p.m.

S.B. 06-196 – Concerning The Authority Of The Governor To Appoint A Nurse In Good Standing To The State Board Of Nursing When There Is Not A Candidate Available Who Meets The Existing Requirements For Appointment.

Approved April 24, 2006 at 3:25 p.m.

Sincerely,
(signed)
Bill Owens
Governor
Rec'd 4/25/06, 2:90 p.m.
Karen Kuhlmann, Asst. Secy. of the Senate

SENATE SERVICES REPORT

Correctly Printed: SB06-234; SJM06-004.
Correctly Engrossed: SB06-031; SJR06-031, 032, 034, 035, 046, 048, and 050.
Correctly Revised: HB06-1281; HJR06-1032.

SIGNING OF BILLS -- RESOLUTIONS -- MEMORIALS

The President has signed: SB06-002 and 090.



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 April 26 was laid over until Thursday, April 27, retaining its place on the calendar.

- Consideration of Resolutions: SJR06-019, SJR06-022, SJR06-015, SJR06-029, HJR06-1016, SR06-010, SJR06-033, SJR06-036, SJR06-038, SJR06-039, SJR06-040, SJR06-041, SJR06-042, SJR06-043, SJR06-044, SJR06-045, SJR06-049, SR06-012.
- Consideration of Memorials: SJM06-001, HJM06-1002, SJM06-004.
- Consideration of House Amendments to Senate Bills: SB06-014, SB06-041, SB06-204, SB06-209, SB06-066, SB06-080, SB06-047.
- Consideration of House Adherence: HB06-1159.
- Consideration of Governor's Appointments:
 - Members of the Read-To-Achieve Board.
 - Members of the Financial Services Board.
 - Members of the Colorado Banking Board.
 - Member of the Board of Trustees for Western State College of Colorado.
 - Executive Director of the Colorado Commission on Higher Education.
 - Member of the Colorado State Fair Authority Board of Commissioners.
 - Member of the CoverColorado Board of Directors.
 - Members of the Examining Board of Plumbers.
 - Members of the Colorado Tourism Office Board of Directors.
- Consideration of Conference Committee Reports: HB06-1288, HB06-1209.
- Conference Committees to Report: HB06-1121, HB06-1169, SB06-051.



On motion of Senator Gordon, the Senate adjourned until 9:00 a.m., Thursday, April 27, 2006.

Approved:

Joan Fitz-Gerald
President of the Senate

Attest:

Karen Goldman
Secretary of the Senate

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