

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

16th Legislative Day Thursday, January 27, 2011

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Prayer	By the chaplain, Rev. Paul Kottke, University Park United Methodist Church, Denver.	11
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Call to Order	By the President at 9:00 a.m.	13
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Pledge	By Senator Morse.	15
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Roll Call	Present--31	17
	Absent--1, Mitchell.	18
	Excused--3, Aguilar, Boyd, Shaffer B.	19
	Present later--2, Mitchell, Shaffer B.	20
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Quorum	The President announced a quorum present.	23
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Reading of Journal	On motion of Senator Grantham, reading of the Journal of Wednesday, January 26, 2011, was dispensed with and the Journal was approved as corrected by the Secretary.	25
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COMMITTEE OF REFERENCE REPORTS

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Agriculture & Natural Resources	The Committee on <u>Agriculture and Natural Resources</u> has had under consideration and has had a hearing on the following appointment and recommends that the appointment be confirmed:	34
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COMMISSIONER OF AGRICULTURE

for a term expiring at the pleasure of the Governor:

John T. Salazar, of Manassa, Colorado.

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Business, Labor, & Technology	The Committee on <u>Business Labor and Technology</u> has had under consideration and has had a hearing on the following appointment and recommends that the appointment be confirmed:	47
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EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES

for a term expiring at the pleasure of the Governor:

Barbara J. Kelley, of Denver, Colorado.

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Business, Labor, & Technology	After consideration on the merits, the Committee recommends that SB11-002 be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.	61
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Health & Human Services

The Committee on Health and Human Services has had under consideration and has had a hearing on the following appointment and recommends that the appointment be confirmed:

EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES

effective January 24, 2011, for a term expiring at the pleasure of the Governor.

Reginald L. Bicha of Janesville, Wisconsin.

State, Veterans, & Military Affairs

After consideration on the merits, the Committee recommends that **SB11-033** be postponed indefinitely.

State, Veterans, & Military Affairs

After consideration on the merits, the Committee recommends that **SB11-018** be postponed indefinitely.

Judiciary

After consideration on the merits, the Committee recommends that **SB11-013** 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 14 insert:

"(2) The general assembly encourages and supports the use of all forms of dispute resolution and mediation."

Page 2, strike line 17 and substitute "ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:".

Page 2, line 26, strike "VOLUNTARY," and substitute "VOLUNTARY PROCESS,".

Page 3, line 1, strike "PROCESS BY" and substitute "BY A TRAINED INDIVIDUAL, THROUGH".

Page 3, after line 12 insert:

"(94.1) "RESTORATIVE JUSTICE" MEANS THOSE PRACTICES THAT EMPHASIZE REPAIRING THE HARM TO THE VICTIM AND THE COMMUNITY CAUSED BY CRIMINAL ACTS. RESTORATIVE JUSTICE PRACTICES MAY INCLUDE VICTIM-OFFENDER CONFERENCES ATTENDED VOLUNTARILY BY THE VICTIM, A VICTIM ADVOCATE, THE OFFENDER, COMMUNITY MEMBERS, AND SUPPORTERS OF THE VICTIM OR THE OFFENDER THAT PROVIDE AN OPPORTUNITY FOR THE OFFENDER TO ACCEPT RESPONSIBILITY FOR THE HARM CAUSED TO THOSE AFFECTED BY THE CRIME AND TO PARTICIPATE IN SETTING CONSEQUENCES TO REPAIR THE HARM. CONSEQUENCES RECOMMENDED BY THE PARTICIPANTS MAY INCLUDE, BUT NEED NOT BE LIMITED TO, APOLOGIES, COMMUNITY SERVICE, RESTORATION, AND COUNSELING. THE SELECTED CONSEQUENCES ARE INCORPORATED INTO AN AGREEMENT THAT SETS TIME LIMITS FOR COMPLETION OF THE CONSEQUENCES AND IS SIGNED BY ALL PARTICIPANTS.

SECTION 3. 13-22-307 (4), Colorado Revised Statutes, is amended to read:

13-22-307. Confidentiality. (4) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), nothing in this section shall prevent the discovery or admissibility of any evidence that is otherwise discoverable, merely because the evidence was presented in the course of a mediation service proceeding or dispute resolution proceeding.

(b) IN ANY CIVIL ACTION OR ARBITRATION PROCEEDING BROUGHT BY OR ON BEHALF OF A PARTY TO THE MEDIATION, ANY STATEMENT, AFFIRMATION, GESTURE, OR CONDUCT THAT EXPRESSES FAULT, APOLOGY, SYMPATHY, COMMISERATION, CONDOLENCE, COMPASSION, OR A GENERAL SENSE OF BENEVOLENCE AND THAT IS MADE BY A PARTY TO THE MEDIATION OR THE

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PARTY'S REPRESENTATIVE SHALL BE INADMISSIBLE AS EVIDENCE OF AN ADMISSION OF LIABILITY OR AS EVIDENCE OF AN ADMISSION AGAINST INTEREST IN THE CIVIL ACTION OR ARBITRATION PROCEEDING."

Renumber succeeding sections accordingly.

Page 4, line 1, after "resolution." insert "PRIOR TO THE DETERMINATION OF RESPONSIBILITY IN A CASE, THE COURT SHALL NOT REFER A CASE TO A RESTORATIVE JUSTICE OR RESTORATIVE MEDIATION PROCESS WITHOUT THE WRITTEN, INFORMED CONSENT OF ALL PARTIES."

Page 4, line 7, strike "relief" and substitute "relief,".

Page 4, line 8, strike "and" and substitute "and", and strike "successful." and substitute "successful, OR THE COURT HAS REFERRED THE CASE TO A RESTORATIVE JUSTICE OR RESTORATIVE MEDIATION PROCESS AND ANY PARTY IS UNWILLING TO PARTICIPATE IN THE PROCESS."

Page 4, after line 19 insert:

"SECTION 6. Part 3 of article 22 of title 13 is amended BY THE ADDITION OF A NEW SECTION to read:

13-22-314. Participation in restorative justice and restorative mediation. PARTICIPATION IN A RESTORATIVE JUSTICE OR RESTORATIVE MEDIATION PROCESS SHALL BE VOLUNTARY. IF, PRIOR TO A DETERMINATION OF RESPONSIBILITY IN A CASE, THE COURT REFERS THE CASE TO A RESTORATIVE JUSTICE OR RESTORATIVE MEDIATION PROCESS, THE PROCESS SHALL NOT TAKE PLACE WITHOUT THE WRITTEN, INFORMED CONSENT OF ALL PARTIES. IF A PARTY IS REPRESENTED BY AN ATTORNEY, PRIOR TO GIVING WRITTEN CONSENT, THE PARTY SHALL BE GIVEN THE OPPORTUNITY TO DISCUSS WITH HIS OR HER ATTORNEY WHETHER IT IS ADVISABLE FOR THE PARTY TO PARTICIPATE IN A RESTORATIVE JUSTICE OR RESTORATIVE MEDIATION PROCESS."

Renumber succeeding section accordingly.

Finance

After consideration on the merits, the Committee recommends that **HJR11-1007** be referred to the Senate for final action.

MESSAGE FROM THE HOUSE

January 26, 2011

Mr. President:

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB11-1011, 1009, 1018.

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB11-1015, amended as printed in House Journal, January 25, page 95.

HB11-1023, amended as printed in House Journal, January 25, page 95.

HB11-1006, amended as printed in House Journal, January 25, pages 95-96.

HB11-1022, amended as printed in House Journal, January 25, page 96.

MESSAGE FROM THE REVISOR OF STATUTES

January 26, 2011

To: Senate

Message From Revisor of Statutes

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We herewith transmit:

Without comment, HB11-1009, 1011, and 1018.
Without comment, as amended, HB11-1006, 1015, 1022, and 1023.

INTRODUCTION OF BILLS -- FIRST READING

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

SB11-080 by Senator(s) Hudak, Bacon, Giron, Guzman, Morse, Newell, Nicholson, Steadman; also
Representative(s) Todd, Lee--Concerning expanding strategies for school turnaround plans.
Education

On motion of Senator Morse, and with a majority of those elected to the Senate having
voted in the affirmative, the balance of the calendar of Thursday, January 26 was laid over
until Friday, January 27, retaining its place on the calendar.

General Orders -- Second Reading of Bills -- Consent Calendar: SB11-020, SB11-028.
General Orders -- Second Reading of Bills: SB11-029, SB11-009, SB11-024.
Consideration of Governor's Appointments:
Executive Director of the Department of Personnel and Administration.

On motion of Senator Morse, the Senate adjourned until 9:00 a.m., Friday, January 28,
2011.

Approved:

Bob Bacon
Senior Senator

Attest:

Cindi Markwell
Secretary of the Senate

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