

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

Fifty-first Legislative Day

Thursday, February 26, 2004

Prayer	By the chaplain, Reverend Kelby Cotton, South Suburban Christian Church.	1
Pledge	By Senator Groff.	2
Call to Order	By the President at 9:00 a.m.	3
Roll Call	Present--35.	4
Quorum	The President announced a quorum present.	5
Reading of Journal	On motion of Senator Tapia, reading of the Journal of February 25, 2004, was dispensed with and the Journal was approved as corrected by the Secretary.	6

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COMMITTEE OF REFERENCE REPORTS

Business Affairs & Labor	The Committee on <u>Business Affairs and Labor</u> has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:	7
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**MEMBER OF THE
COVERCOLORADO BOARD OF DIRECTORS**

for a term expiring July 1, 2007:

Susan "Scotti" Hutton of Littleton, Colorado, to serve as a member who is or has been insured by CoverColorado and who is otherwise uninsurable, appointed.

Business Affairs & Labor	The Committee on <u>Business Affairs and Labor</u> has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:	8
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**MEMBER OF THE
BOARD OF REAL ESTATE APPRAISERS**

for a term expiring July 1, 2006:

Arthur Victor Gallegos of Colorado Springs, Colorado, to serve as a member of the public, reappointed.

Business Affairs & Labor	After consideration on the merits, the Committee recommends that HB04-1008 be referred to the Committee of the Whole with favorable recommendation.	9
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Business Affairs & Labor	After consideration on the merits, the Committee recommends that HB04-1115 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	10
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Amend reengrossed bill, page 5, line 8, strike "surveying," and substitute "surveying".

Page 7, line 25, strike "(b)" and substitute "(b), (1) (d), (1) (e) (II) (A),".

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Page 8, after line 5, insert the following:

~~"(d) Prepare an annual fiscal year report;~~

(e) (II) Make available through printed or electronic means the following:

~~(A) The annual fiscal year report prepared by the board;"~~;

line 27, strike "(2) (b) (I) (A), (2) (b) (II),".

Page 9, strike lines 17 through 25.

Page 11, line 3, strike "and" and, after "(IX),", insert "(1) (b) (I), and (2),";

after line 13, insert the following:

"(b) With respect to engineer-interns:

~~(I) Certification as an engineer-intern;~~

(2) All moneys collected by the board shall be transmitted to the state treasurer, who shall credit the same pursuant to section 24-34-105, C.R.S., and the general assembly shall make annual appropriations pursuant to said section for expenditures of the board required to perform its duties under this part 1, which expenditures shall be made from such appropriations upon vouchers and warrants drawn pursuant to law. The board DIVISION shall employ, subject to section 13 of article XII of the state constitution, such clerical or other assistants as are necessary for the proper performance of its work."

Page 17, line 25, after "(2) (a),", insert "(2) (c),".

Page 18, after line 13, insert the following:

"(c) Upon passing the examination the applicant shall be certified ENROLLED as a land surveyor-intern if the applicant is otherwise qualified pursuant to section 12-25-211."

Page 20, line 25, strike "and" and, after "(V)," insert "(1) (b) (I), (1) (b) (V), and (2),";

line 26, strike "amended" and substitute "amended, and the said 12-25-216 (1) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH,".

Page 21, after line 9, insert the following:

"(IX) LISTING AS A RETIRED PROFESSIONAL LAND SURVEYOR.

(b) With respect to land surveyor-interns:

~~(I) Certification as a land surveyor-intern;~~

(V) Application for certification ENROLLMENT as a land surveyor-intern by endorsement.

(2) All moneys collected by the board in administering this part 2 shall be transmitted to the state treasurer, who shall credit the same pursuant to section 24-34-105, C.R.S., and the general assembly shall make annual appropriations pursuant to said section for expenditures required for the administration of this part 2, which expenditures shall be made from such appropriations upon vouchers and warrants drawn pursuant to law. The board DIVISION shall employ, subject to section 13 of article XII of the state constitution, such clerical or other assistants as are necessary for the performance of its duties."

Page 46, line 17, after "IF", insert "ANY";

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strike lines 19 through 23 and substitute the following:

"CORNER, THE PROFESSIONAL LAND SURVEYOR SHALL DESCRIBE THE PHYSICAL EVIDENCE USED TO ESTABLISH OR RESTORE THE MONUMENT.".

MESSAGES FROM THE HOUSE

February 25, 2004
Mr. President:

The House has adopted and transmits herewith HJR04-1021, and amended as printed in House Journal, February 25.

The House has adopted and returns herewith SJR04-019.

February 25, 2004
Mr. President:

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB04-1224,1356,1175,1369.

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB04-1305, amended as printed in House Journal, February 24, page 619.
HB04-1230, amended as printed in House Journal, February 24, page 619.
HB04-1357, amended as printed in House Journal, February 24, pages 619-620.
HB04-1348, amended as printed in House Journal, February 24, pages 629-630.
HB04-1210, amended as printed in House Journal, February 24, pages 620-621.
HB04-1196, amended as printed in House Journal, February 24, page 630.
HB04-1093, amended as printed in House Journal, February 24, page 630.
HB04-1121, amended as printed in House Journal, February 24, pages 626-627.
HB04-1218, amended as printed in House Journal, February 24, page 627.
HB04-1153, amended as printed in House Journal, February 24, page 628.
HB04-1270, amended as printed in House Journal, February 24, pages 628-629.
HB04-1353, amended as printed in House Journal, February 24, page 629.
HB04-1241, amended as printed in House Journal, February 24, page 629.
HB04-1248, amended as printed in House Journal, February 24, page 629.

The House has passed on Third Reading and transmitted to the Revisor of Statutes; HB04-1067, amended as printed in House Journal, February 24, pages 618-619, and amended on Third Reading as printed in House Journal, February 25.

The House has adopted and transmits herewith HJR04-1015.

The House has adopted and returns herewith SJR04-018.

MESSAGE FROM THE REVISOR OF STATUTES

February 25, 2004

We herewith transmit:

Without comment, HB04-1224, 1356, 1175, 1369.
Without comment, as amended, HB04-1067, 1305, 1230, 1357, 1348, 1210, 1093, 1121, 1218, 1153, 1270, 1353, 1241, 1248.
With comment, as amended, HB04-1196.

INTRODUCTION OF RESOLUTIONS

The following resolutions were read by title:

HJR04-1015 by Representative(s) Carroll, Garcia, Marshall, Paccione, Salazar, Vigil, Weissmann, Cloer, Romanoff, Smith, Stafford, Stengel; also Senator(s) Groff, Grossman, Jones, Phillips, Tapia, Tupa--Concerning the recognition of Black History Month.
Laid over one day under Senate Rule 30(e).

HJR04-1021 by Representative(s) Williams S., Berry, Boyd, Carroll, Cloer, Hefley, Jahn, Judd, Madden, Merrifield, Rippy, Rose, Salazar, Spence, Vigil, Weddig, Witwer; also Senator(s) Groff--Concerning support for self-determination for people with disabilities.
Laid over one day under Senate Rule 30(e).

INTRODUCTION OF BILLS--FIRST READING

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

SB04-195 by Senator(s) Evans, Dyer, Gordon, Jones; also Representative(s) Lee, Hefley, Judd, Marshall, Smith--Concerning implementation of recommendations of the committee on legal services in connection with legislative review of rules and regulations of state agencies.
Legal Services

HB04-1236 by Representative(s) McCluskey; also Senator(s) Cairns--Concerning notice requirements to be made by an insurer to an applicant for homeowner's insurance.
Business Affairs & Labor

HB04-1292 by Representative(s) Clapp, Stengel, Cadman, Fairbank, Jahn, Lee, May M., Rose, Stafford, Welker, White, Young; also Senator(s) Hagedorn--Concerning requirements of an insurer regarding factors that may negatively affect an insured's ability to obtain homeowner's insurance.
Business Affairs & Labor

HB04-1298 by Representative(s) Madden, Young; also Senator(s) Hillman, Kester--Concerning adjustments to the fees deposited into the wholesale food manufacturing and storage protection cash fund.
Agriculture, Natural Resources & Energy

HB04-1354 by Representative(s) Hefley, Clapp, Stafford, Tochtrop, Witwer; also Senator(s) Johnson S., Hanna--Concerning enactment of the "Health Care Credentials Uniform Application Act".
Business Affairs & Labor

THIRD READING--FINAL PASSAGE OF BILLS

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

SB04-118 by Senator(s) Entz, Taylor, Isgar; --Concerning the exclusion of lands within a designated ground water basin from a water conservancy district.

Laid over until Monday, March 1, retaining its place on the calendar.

SB04-115 by Senator(s) Dyer; also Representative(s) Mitchell--Concerning a limitation on the recovery of noneconomic damages in breach of contract claims.

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

YES	18	NO	17	EXCUSED	0	ABSENT	0
Anderson	Y	Groff	N	Kester	Y	Takis	N
Arnold	Y	Grossman	N	Lamborn	Y	Tapia	N
Cairns	Y	Hagedorn	N	May	Y	Taylor	Y
Chlouber	Y	Hanna	N	McElhany	Y	Teck	Y
Dyer	Y	Hillman	Y	Nichol	N	Tupa	N
Entz	Y	Isgar	N	Owen	Y	Veiga	N
Evans	Y	Johnson	Y	Phillips	N	Windels	N
Fitz-Gerald	N	Jones	Y	Reeves	N	Mr. President	Y
Gordon	N	Keller	N	Sandoval	N		

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

Co-sponsors added: Andrews, Arnold, Chlouber, and McElhany.

IMMEDIATE RECONSIDERATION OF SB04-115

SB04-115 by Senator(s) Dyer; also Representative(s) Mitchell--Concerning a limitation on the recovery of noneconomic damages in breach of contract claims.

Having voted on the prevailing side, Senator Dyer moved for reconsideration of the last Senate action, Third Reading -- Final Passage and reversal of the roll call vote, on SB04-115. The roll call was taken with the following result:

YES	17	NO	18	EXCUSED	0	ABSENT	0
Anderson	N	Groff	Y	Kester	N	Takis	Y
Arnold	N	Grossman	Y	Lamborn	N	Tapia	Y
Cairns	N	Hagedorn	Y	May	N	Taylor	N
Chlouber	N	Hanna	Y	McElhany	N	Teck	N
Dyer	N	Hillman	N	Nichol	Y	Tupa	Y
Entz	N	Isgar	Y	Owen	N	Veiga	Y
Evans	N	Johnson	N	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Jones	N	Reeves	Y	Mr. President	N
Gordon	Y	Keller	Y	Sandoval	Y		

Less than a majority of all members elected to the Senate having voted in the affirmative, reconsideration was defeated.

On motion of Senator Hillman, and with a two-thirds majority of those elected to the Senate having voted in the affirmative, the rules were suspended for Immediate Consideration of Resolution -- HJR04-1015.

IMMEDIATE CONSIDERATION OF RESOLUTION

HJR04-1015 by Representative(s) Carroll, Garcia, Marshall, Paccione, Salazar, Vigil, Weissmann, Cloer, Romanoff, Smith, Stafford, Stengel; also Senator(s) Groff, Grossman, Jones, Phillips, Tapia, Tupa--Concerning the recognition of Black History Month.

On motion of Senator Groff, the resolution was read at length and **adopted** by the following roll call vote:

YES	35	NO	0	EXCUSED	0	ABSENT	0
Anderson	Y	Groff	Y	Kester	Y	Takis	Y
Arnold	Y	Grossman	Y	Lamborn	Y	Tapia	Y
Cairns	Y	Hagedorn	Y	May	Y	Taylor	Y
Chlouber	Y	Hanna	Y	McElhany	Y	Teck	Y
Dyer	Y	Hillman	Y	Nichol	Y	Tupa	Y
Entz	Y	Isgar	Y	Owen	Y	Veiga	Y
Evans	Y	Johnson	Y	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Jones	Y	Reeves	Y	Mr. President	Y
Gordon	Y	Keller	Y	Sandoval	Y		

Co-sponsors added: Anderson, Andrews, Arnold, Cairns, Chlouber, Dyer, Entz, Evans, Fitz-Gerald, Gordon, Hagedorn, Hanna, Hillman, Isgar, Johnson, Keller, Kester, Lamborn, May, McElhany, Nichol, Owen, Reeves, Sandoval, Takis, Taylor, Teck, Veiga, and Windels.

On motion of Senator Hillman, and with a two-thirds majority of those elected to the Senate having voted in the affirmative, HB04-1363, HB04-1129, SB04-070 were made Special Orders at 9:25 a.m.

Committee of the Whole The hour of 9:25 a.m. having arrived, Senator Johnson moved that the Senate resolve itself into the Committee of the Whole for consideration of Special Orders--Second Reading of Bills and Senator Johnson was called to the Chair to act as Chairman.

SPECIAL 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:

- HB04-1363** by Representative(s) King, Spradley; also Senator(s) Kester--Concerning participation in activities not offered within a student's school district. 1
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Ordered revised and placed on the calendar for Third Reading and Final Passage. 4
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- HB04-1129** by Representative(s) Stafford; also Senator(s) Entz--Concerning property taken by a county for delinquent taxes. 6
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Laid over until Friday, February 27, retaining its place on the calendar. 9
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- SB04-070** by Senator(s) Lamborn; also Representative(s) Williams T.--Concerning the enactment of the "Colorado Uniform Trust Code". 11
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Laid over until May 6, 2004. 14
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ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE 17

On motion of Senator Johnson, 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: 18
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Passed on Second Reading: HB04-1363. 22
Laid over until Friday, February 27: HB04-1129. 23
Laid over until May 6, 2004: SB04-070. 24
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COMMITTEE OF REFERENCE REPORTS 27
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- Education After consideration on the merits, the Committee recommends that **HB04-1166** be referred to the Committee of the Whole with favorable recommendation. 30
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- Education After consideration on the merits, the Committee recommends that **HB04-1039** be referred to the Committee on Appropriations with favorable recommendation. 34
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The President has signed: HB04-1206. 41
The President has signed: SB04-106. 42
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Correctly Reengrossed: SB04-166, 180 48
Correctly Rerevised: HB04-1027, 1029, 1076, 1087, 1197 and 1212. 49
Correctly Enrolled: SJR04-018 and 019. 50
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TRIBUTES 53
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Honoring Ben Kafka -- by Senator Mark Hillman and Representative Diane Hoppe. 56
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On motion of Senator Hillman, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the calendar of February 26, 2004, was laid over until Friday, February 27, 2004, retaining its place on the calendar. 60
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Second Reading -- General Orders: HB04-1047. 64
Consideration of Resolutions: SJR04-011, SJR04-013, SJR04-014, SJR04-017, SJR04-020, SJR04-021. 65
Consideration of Memorial: SJM04-001. 66
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On motion of Senator Hillman, the Senate adjourned until 9:00 a.m., Friday, February 27, 2004.

Approved:

John Andrews
President of the Senate

Attest:

Mona Heustis
Secretary of the Senate

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