

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

One-hundred-fifth Legislative Day

Tuesday, April 20, 2004

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Prayer	By the chaplain, Father Chris Misuira.	11
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Pledge	By the President.	13
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Call to Order	By the President at 9:00 a.m.	15
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Roll Call	Present--34.	17
	Absent/Excused--1; Gordon.	18
	Present later--Gordon.	19
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Quorum	The President announced a quorum present.	21
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Reading of Journal	On motion of Senator Sandoval, reading of the Journal of April 19, 2004, was dispensed with and the Journal was approved as corrected by the Secretary.	23
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COMMITTEE OF REFERENCE REPORTS

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Business Affairs & Labor	After consideration on the merits, the Committee recommends that SB04-226 be amended as follows, and as so amended, be referred to the Committee on <u>Appropriations</u> with favorable recommendation.	31
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	Amend printed bill, page 3, after line 8, insert the following:	35
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	" SECTION 3. 9-7-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:	37
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	9-7-103. Definitions. As used in this article, unless the context otherwise requires:	39
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	(1.5) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND EMPLOYMENT."	41
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	Renumber succeeding section accordingly.	46
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Business Affairs & Labor	After consideration on the merits, the Committee recommends that SB04-229 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	49
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	Amend printed bill, page 5, line 10, strike "CALLING ATTENTION TO NEW";	53
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	line 11, strike "FILINGS, CHANGES, AND TERMINATIONS SINCE THE LAST LIST,";	55
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	line 12, strike "AND MADE AVAILABLE".	58
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Business Affairs & Labor	After consideration on the merits, the Committee recommends that SB04-237 be referred to the Committee of the Whole with favorable recommendation.	61
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Business Affairs & Labor	After consideration on the merits, the Committee recommends that HB04-1254 be referred to the Committee on <u>Appropriations</u> with favorable recommendation.	65
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State,
Veterans, &
Military
Affairs

After consideration on the merits, the Committee recommends that **HB04-1390** be referred to the Committee of the Whole with favorable recommendation.

State,
Veterans, &
Military
Affairs

After consideration on the merits, the Committee recommends that **SB04-232** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 4, line 17, strike "COUNTY, TOWN," and substitute "PUBLIC CORPORATION.";

strike lines 18 through 22 and substitute the following:

(9) "PUBLIC CORPORATION" MEANS A COUNTY, CITY, TOWN, CITY AND COUNTY, SPECIAL DISTRICT, OTHER POLITICAL SUBDIVISION, OR ENTERPRISE AS DEFINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION.

(10) "SERVICE AREA" MEANS:

(a) A DEFINED GEOGRAPHIC AREA FOR WHICH A CONTRACT TO RECEIVE WATER SERVICES HAS BEEN ENTERED INTO BY AND BETWEEN A PERSON OR A PUBLIC CORPORATION AND A WATER PROVIDER; OR

(b) AN AREA THAT WAS PREVIOUSLY LOCATED WITHIN THE BOUNDARIES OF A PUBLIC CORPORATION BUT THAT HAS BEEN EXCLUDED OR DE-ANNEXED FROM THE PUBLIC CORPORATION AND CONTINUES TO BE PROVIDED WITH WATER PURSUANT TO RESOLUTION, ORDINANCE, AGREEMENT, OR COURT ORDER.

(11) "WATER PROVIDER" MEANS A PUBLIC CORPORATION THAT IS AUTHORIZED TO PROVIDE WATER BY CONTRACT OR ANY OTHER MEANS TO ANY PERSON OR TO ANY OTHER PUBLIC CORPORATION OR THAT OWNS OR LEASES WATER RIGHTS FOR IRRIGATION PURPOSES."

Renumber succeeding subsection accordingly.

Page 6, line 4, strike "2005." and substitute "2005; EXCEPT THAT A MUNICIPALITY WITH A POPULATION OF TWO HUNDRED FIFTY THOUSAND PEOPLE OR MORE THAT IS LOCATED IN WHOLE OR PART IN A COUNTY LISTED IN SUBSECTION (1) OF THIS SECTION MAY BE INCLUDED IN THE DISTRICT AT ANY TIME IF THE GOVERNING BODY OTHERWISE COMPLIES WITH THIS SUBSECTION (2).";

line 5, strike "AN" and substitute "SUBJECT TO SUBSECTION (2) OF THIS SECTION, AN".

Page 8, line 5, strike "(a)." and substitute "(b).".

Page 19, line 22, strike "OR A SUBDISTRICT";

line 23, strike "THEREOF" and strike "OR";

line 24, strike "SUBDISTRICT".

Page 20, line 2, strike "REDEVELOPMENT." and substitute "REDEVELOPMENT, AND THE DISTRICT SHALL NEITHER HAVE NOR EXERCISE THE POWER OF EMINENT DOMAIN AGAINST THE STATE, STATE AGENCIES, OR POLITICAL SUBDIVISIONS OF THE STATE NOR ACQUIRE THROUGH EMINENT DOMAIN ANY ELECTRIC GENERATION FACILITIES, ELECTRIC TRANSMISSION OR DISTRIBUTION LINES, OR CONDITIONAL OR ABSOLUTE DECREES FOR THE USE OF WATER.".

Page 25, line 17, strike "WITHOUT AN";

line 18, strike "ELECTION";

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line 19, strike "BORROWED." and substitute "BORROWED IN ACCORDANCE WITH SECTION 20 (4) OF ARTICLE X OF THE STATE CONSTITUTION.";

Page 27, strike lines 2 through 4 and substitute the following:

"ANY PUBLIC CORPORATION IN THE DISTRICT."

Page 52, line 14, after "DIRECTORS", insert ",IN ACCORDANCE WITH SECTION 20 (4) OF ARTICLE X OF THE STATE CONSTITUTION,".

MESSAGE FROM THE HOUSE

April 19, 2004
Mr. President:

Upon reconsideration the House has voted not to concur in the Senate amendments to HB04-1279 and requests that a conference committee be appointed. The Speaker has appointed Representatives Stafford, chairman, Lee, and Tochtrop as House conferees on the First Conference Committee on HB04-1279. The House has granted authorization to go beyond the scope of differences. The bill is transmitted herewith.

INTRODUCTION OF RESOLUTIONS

The following resolutions were read by title:

- HJR04-1057** by Representative(s) Borodkin, Garcia, Madden, McFadyen, Paccione, Plant, Ragsdale, Romanoff, Salazar, Weddig; also Senator(s) Gordon--Concerning the commemoration of the 132nd anniversary of B'nai B'rith Denver.
Laid over one day under Senate Rule 30(e).
- HJR04-1077** by Representative(s) Jahn, Boyd, Hefley, Hodge, Romanoff, Rose, Stafford; also Senator(s) Anderson--Concerning National Crime Victims' Rights Week.
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:

- SB04-241** by Senator(s) Evans; also Representative(s) May M.--Concerning treatment of individuals in a hospital for procedures that require more than twenty-three consecutive hours of care, and, in connection therewith, restricting the ability of a licensed ambulatory surgical center to transfer or discharge a patient to a convalescent center or a similar recovery facility when the patient requires more than twenty-three hours of care.
State Veterans & Military Affairs
- HB04-1256** by Representative(s) Hodge, Brophy, Harvey, Hoppe, Johnson R., Madden, Rose, Tochtrop; also Senator(s) Hillman--Concerning an expansion of the period during which an interruptible water supply agreement may operate, and making an appropriation therefor.
Agriculture, Natural Resources & Energy
Appropriations

On motion of Senator Hillman, and with a two-thirds majority of those elected to the Senate having voted in the affirmative, Senate Rule 4 was suspended for Special Orders--Second Reading of Bills and the Special Orders--Second Reading of Bills calendar was laid over to Wednesday, April 21.

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:

HB04-1098 by Representative(s) Young, Witwer, Plant; also Senator(s) Owen, Teck, Reeves-- Concerning the disposition of moneys received by the state, and, in connection therewith, creating a definition of "custodial moneys".

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

Third Reading Amendment No. 1(L.014), by Senator Andrews.

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

"SECTION 1. 24-75-201, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-75-201. General fund - general fund surplus - custodial moneys. (3)(a) CUSTODIAL MONEYS DO NOT INCLUDE MONEYS GRANTED BY THE FEDERAL GOVERNMENT TO THE STATE FOR THE SUPPORT OF GENERAL OR ESSENTIAL STATE GOVERNMENT SERVICES OF THE TYPE FOR WHICH EXPENDITURES ARE MADE IN THE MOST RECENTLY APPROVED ANNUAL GENERAL APPROPRIATION ACT, INCLUDING, BUT NOT LIMITED TO, ADDITIONAL PAYMENTS RECEIVED BY THE STATE UNDER THE FEDERAL "JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003", AS AMENDED, (P.L. No. 108-27), RECEIVED BY THE STATE ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3).

(b) NOTHING IN THIS SUBSECTION (3) SHALL CAUSE FEDERAL RELIEF PAYMENTS UNDER THE FEDERAL "JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003", AS AMENDED, (P.L. No. 108-27), RECEIVED BY THE STATE PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (3) TO BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND OF THE STATE OR TO BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY.

(c) ALL FEDERAL MONEYS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL BE CREDITED AND PAID TO THE GENERAL FUND UNLESS OTHERWISE PROVIDED BY LAW AND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY.

SECTION 2. 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."

Page 1, line 101, strike "STATE," and substitute "STATE.";

Strike lines 102 and 103.

Third Reading Amendment No. 1(L.014) was severed. Severed section 1: Page 1, lines 15 through 21 was declared PASSED. Severed section 2: Page 1, lines 1 through 14 and lines 22-23 and page 2 was declared PASSED.

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

YES	34	NO	1	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	N	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		

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

Co-sponsors added: Arnold.

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 Wednesday, April 21, retaining its place on the calendar.

SB04-213 by Senator(s) Arnold, Cairns, Hillman, Jones, Lamborn; also Representative(s) Crane-- Concerning voter identification.

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

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		

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

HB04-1398 by Representative(s) Williams T.; also Senator(s) Dyer--Concerning statutory provisions governing business entities contained in title 7 of the Colorado Revised Statutes.

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

Laid over until later in the day, April 20, retaining its place on the calendar.

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

SB04-164 by Senator(s) Owen; also Representative(s) Berry--Concerning the retention of state revenues in excess of the constitutional limitation on state fiscal year spending for the purposes of funding state infrastructure needs, and, in connection therewith, requiring excess state revenues retained to be used first to fund state and local transportation needs and next to fund other state capital construction needs.

Laid over until Friday, April 23, retaining its place on the calendar.

HB04-1242 by Representative(s) Sinclair, Cadman, Schultheis, Berry, Crane, Fairbank, Harvey, Hefley, Johnson R., King, Lee, May M., McCluskey, Rhodes, Spence, Young; also Senator(s) McElhany--Concerning a meeting of a school district board of education at which employment contracts are negotiated.

Laid over until Friday, April 23, retaining its place on the calendar.

SB04-190 by Senator(s) Johnson S.; also Representative(s) Harvey--Concerning the creation of liens for health care providers on moneys collected by an injured person.

Laid over until Friday, April 23, retaining its place on the calendar.

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- SB04-151** by Senator(s) Evans, Hillman, Kester, Arnold, Cairns, Johnson S., Jones, Lamborn, May R.; also Representative(s) Lee, Clapp, Decker, Hefley, King, May M., Spence, Stengel--Concerning judicial evaluations by commissions on judicial performance. 1
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As amended, Senate Journal, March 26, pages 644-647. 5
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Laid over until Friday, April 23, retaining its place on the calendar. 7
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- SB04-215** by Senator(s) Entz, Chlouber, Dyer, Evans, Hillman, Isgar, May R., McElhany, Owen, Tapia, Taylor, Teck; also Representative(s) Rippey, Briggs, Hall, Miller, White--Concerning the applicability of section 29-20-107, Colorado Revised Statutes, of the "Local Government Land Use Control Enabling Act". 9
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Laid over until Wednesday, April 21, retaining its place on the calendar. 14
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- SCR04-010** by Senator(s) Anderson; also Representative(s) Berry--Submitting to the registered electors of the state of Colorado an amendment to section 20 (7) of article X of the constitution of the state of Colorado, concerning a requirement that the fiscal year spending limits be calculated based upon prior fiscal year spending limits, with adjustments for inflation and growth, without being subject to reduction due to declines in revenues. 16
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As amended, Senate Journal, April 16, page 854. 22
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Laid over until Thursday, April 22, retaining its place on the calendar. 24
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- SCR04-009** by Senator(s) Anderson; also Representative(s) Berry--Submitting to the registered electors of the state of Colorado an amendment to section 17 (1) and (4) (b) of article IX of the constitution of the state of Colorado, concerning modifications to the required increases in certain state education funding, and, in connection therewith, requiring the statewide base per pupil funding and the total state funding for all categorical programs to annually increase by the lesser of inflation or the percentage change in general fund revenues, and requiring an additional one percent increase in the statewide base per pupil funding and total state funding for all categorical programs when state revenues exceed the limitation on state fiscal year spending. 26
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Laid over until Thursday, April 22, retaining its place on the calendar. 36
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- SCR04-012** by Senator(s) Andrews; --Submitting to the registered electors of the state of Colorado amendments to section 17 of article IX and section 20 of article X of the constitution of the state of Colorado, concerning a modification of constitutional restrictions affecting the ability of the general assembly to make adjustments to state spending in response to changing levels of state revenues, and, in connection therewith, restricting the growth in the statewide base per pupil funding for the 2005-06 and 2006-07 state fiscal years to the rate of inflation plus one additional percentage point; reducing by one hundred million dollars the amount of moneys required to be spent on public school funding in the 2005-06 and 2006-07 state fiscal years; for the 2005-06 state fiscal year, requiring the state to retain up to one hundred million dollars of excess state revenues; for the 2006-07 state fiscal year, requiring the state to retain up to the sum of one hundred million dollars of excess state revenues and one hundred million dollars of such revenues as adjusted for specified factors; and, for the 2007-08 and all succeeding state fiscal years, requiring the state to retain up to the amount of excess state revenues retained in the 2006-07 state fiscal year as adjusted for specified factors. 38
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Laid over until Thursday, April 22, retaining its place on the calendar. 54
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- HCR04-1005** by Representative(s) Marshall, Jahn, Coleman, Carroll, Crane, Hefley, King, Lee, Miller, Mitchell, Paccione, Romanoff, Rose, Schultheis, Spence, Stengel, Weddig, Welker, White, Williams S.; also Senator(s) Anderson, Andrews, Groff, Grossman, Hillman, Sandoval, Takis--Submitting to the registered electors of the state of Colorado an amendment to sections 13, 14, and 15 of article XII, section 22 of article IV, and section 49 (3) of article V of the constitution of the state of Colorado, concerning reform of the state civil service system, and, in connection therewith, modifying the merit principle, exempting certain positions from the system, modifying the number of eligible applicants from which an appointment is to be made, modifying the residency requirement, expanding the duration of temporary employment, specifying the rule-making authority of the state personnel board and the state personnel director, authorizing a modification to the veterans' preference calculation, repealing the requirement that the state auditor's staff be included in the state personnel system, and making conforming amendments. 56
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Amendment No. 1, State, Veterans and Military Affairs Committee Amendment.
(Printed in Senate Journal, April 14, pages 809-810 and placed in members' bill files.)

Amendment No. 2(L.026), by Senator Hagedorn.

Strike the State, Veterans, and Military Affairs Committee Report, dated April 13, 2004.

Amend reengrossed concurrent resolution, page 4, strike lines 1 through 8.

Page 5, strike lines 1 through 14.

Page 5, strike everything below the resolving clause and substitute the following:

"SECTION 1. At the next election at which such question may be submitted, there shall be submitted to the registered electors of the state of Colorado, for their approval or rejection, the following amendment to the constitution of the state of Colorado, to wit:

Section 13 of article XII of the constitution of the state of Colorado is amended to read:

Section 13. State personnel system - merit system.

(1) Appointments and promotions to offices and employments in the STATE personnel system ~~of the state~~ shall be made according to merit, ~~and fitness,~~ to be ascertained by ~~competitive tests of competence~~ COMPARATIVE ASSESSMENTS OF QUALIFICATIONS AS PROVIDED BY LAW, without regard to race, creed, ~~or~~ color, or political affiliation, AND WITHOUT REGARD TO SEX OR AGE EXCEPT AS OTHERWISE PERMITTED BY LAW.

(2) The personnel system of the state shall comprise all appointive public officers and employees of the state, except the following: ~~Members of the public utilities commission, the industrial commission of Colorado, the state board of land commissioners, the Colorado tax commission, the state parole board, and the state personnel board~~ HEADS OF PRINCIPAL DEPARTMENTS; members of any board or commission; ~~servng without compensation except for per diem allowances provided by law and reimbursement of expenses,~~ the employees in the offices of the governor and the lieutenant governor whose functions are confined to such offices and whose duties are concerned only with the administration thereof; appointees to fill vacancies in elective offices; one deputy of each elective officer other than the governor and lieutenant governor specified in section 1 of article IV of this constitution; officers otherwise specified in this constitution; OTHER OFFICERS RESPONSIBLE FOR DIRECTLY CONTROLLING SIGNIFICANT SEGMENTS OF PRINCIPAL DEPARTMENTS AND EMPLOYEES IN THE OFFICES OF THE HEADS OF PRINCIPAL DEPARTMENTS WHOSE FUNCTIONS ARE CONFINED TO SUCH OFFICES AND WHOSE DUTIES ARE CONCERNED ONLY WITH THE ADMINISTRATION OF SUCH OFFICES, THE NUMBER OF WHICH SHALL NOT EXCEED ONE-HALF PERCENT OF THE TOTAL NUMBER OF CERTIFIED EMPLOYEES IN THE STATE PERSONNEL SYSTEM; OFFICERS AND faculty members of educational institutions and departments not reformatory or charitable in character, and such administrators thereof as may be exempt by law; students and inmates ~~in~~ EMPLOYED BY state educational or other institutions; ~~employed therein;~~ attorneys at law ~~servng as assistant attorneys~~ APPOINTED BY THE ATTORNEY general; and members, officers, and employees of the legislative and judicial departments of the state, unless otherwise specifically provided in this constitution.

(3) Officers and employees within the judicial department, other than judges and justices, may be included within the STATE personnel system ~~of the state~~ upon determination by the supreme court, sitting en banc, that such would be in the best interests of the state.

(4) ~~Where authorized by law, any political subdivision of this state may contract with the state personnel board for personnel services.~~

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(5) ~~The person to be appointed to any position under the STATE personnel system shall be one of the three persons ranking highest on the eligible list for such position, or such lesser number as qualify, as determined from competitive tests of competence, subject to limitations set forth in rules of the state personnel board applicable to multiple appointments from any such list.~~ A LIMITED NUMBER OF QUALIFIED APPLICANTS NOT TO EXCEED SIX, AS PROVIDED BY LAW. ANY PERSON WHO MAKES AN APPOINTMENT IN VIOLATION OF THIS SECTION SHALL BE SUBJECT TO CIVIL AND CRIMINAL LIABILITY, AS PROVIDED BY LAW.

(6) All appointees shall reside IN THE UNITED STATES, AND SHALL RESIDE in the state ~~but applications need not be limited to residents of the state as to those positions found by the state personnel board to require special education or training or special professional or technical qualifications and which cannot be readily filled from among residents of this state~~ EXCEPT AS OTHERWISE PROVIDED BY LAW.

(7) ~~The head of each principal department shall be the appointing authority for the employees of his office and for heads of divisions, within the personnel system, ranking next below the head of such department. Heads of such divisions shall be the appointing authorities for all positions in the personnel system within their respective divisions. Nothing in this subsection shall be construed to affect the supreme executive powers of the governor prescribed in section 2 of article IV of this constitution.~~

(8) (a) ~~Persons~~ CERTIFIED EMPLOYEES in the STATE personnel system ~~of the state~~ shall hold their respective positions during efficient service or ~~until reaching retirement age~~ PERFORMANCE UNTIL SEPARATION FOR RETIREMENT, RESIGNATION, OR CAUSE, as provided by law. ~~They shall be graded and compensated according to standards of efficient service which shall be the same for all persons having like duties.~~ ALL CERTIFIED EMPLOYEES HAVING SIMILAR DUTIES SHALL RECEIVE SIMILAR SALARIES, AS PROVIDED BY LAW. ~~A person certified to any class or position in the personnel system~~ CERTIFIED EMPLOYEE may be dismissed; ~~suspended, or otherwise disciplined by the appointing authority upon written findings of failure to comply with standards of efficient service or competence, or for~~ PERFORM, willful misconduct, willful failure or ~~inability to perform his duties, or final conviction of a felony or any other offense, which involves moral turpitude, or written charges thereof may be filed by any person with the appointing authority, which shall be promptly determined~~ AS PROVIDED BY LAW.

(b) ~~Any action of the appointing authority taken under this subsection shall be subject to appeal to the state personnel board, with the right to be heard thereby in person or by counsel, or both.~~

(9) ~~The state personnel director may authorize the~~ NO temporary employment of persons, ~~not to~~ APPOINTMENT OR SUCCESSION OF TEMPORARY APPOINTMENTS SHALL exceed six NINE months ~~during which time an eligible list shall be provided for permanent positions~~ IN ANY TWELVE-MONTH PERIOD, AS PROVIDED BY LAW. TEMPORARY APPOINTMENTS FOR VACANT PERMANENT POSITIONS SHALL BE PERMITTED UNTIL AN ELIGIBLE LIST IS AVAILABLE AND A PERMANENT APPOINTMENT IS MADE, AS PROVIDED BY LAW. No other temporary ~~or emergency~~ employment shall be permitted under the STATE personnel system.

(10) ~~The state personnel board shall establish~~ Probationary periods for all persons initially appointed ~~but~~ SHALL not to exceed twelve months. ~~for any class or position.~~ After satisfactory completion of any such PROBATIONARY period, the person shall be certified to ~~such class or position~~ THE APPLICABLE CLASSIFICATION within the STATE personnel system, but unsatisfactory performance DURING ANY PROBATIONARY PERIOD shall be grounds for dismissal ~~by the appointing authority during such period~~ without right of appeal.

(11) ~~Persons certified to classes and positions~~ CLASSIFICATIONS under ~~the classified civil service of the state~~ immediately PERSONNEL SYSTEM prior to July 1, 1971, ~~persons having served for six months or~~

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~~more as provisional or acting provisional employees in such positions immediately prior to such date, and all persons having served six months or more in positions not within the classified civil service immediately prior to such date but included in the personnel system by this section JULY 1, 2005, shall be certified to comparable positions, and grades and classifications under the personnel system, and shall not be subject to ADDITIONAL probationary periods. of employment. All other persons in positions CLASSIFICATIONS under the STATE personnel system shall be subject to the provisions of this section concerning initial appointment on or after such date.~~

Section 14 of article XII of the constitution of the state of Colorado is amended to read:

Section 14. State personnel board - state personnel director.

(1) There is hereby created a state personnel board to consist of five members, three of whom shall be appointed by the governor with the consent of the senate, and two of whom shall be elected by persons certified to ~~classes and positions~~ in the state personnel system in the manner prescribed by law. Each member shall be appointed or elected for a term of five years and ~~may succeed himself, but of the members first selected, the members appointed by the governor shall serve for terms of one, two, and three years, respectively, and the members elected shall serve for terms of four and five years, respectively~~ SHALL NOT SERVE MORE THAN TWO CONSECUTIVE TERMS OF OFFICE. Each member of the board shall be a qualified elector of the state, but shall not be otherwise an officer or employee ~~of the state or of any state employee organization,~~ and shall receive such compensation as shall be fixed by law.

(2) Any member of the board may be removed by the governor for willful misconduct in office, ~~willful failure or inability to perform his OR HER duties, OR final conviction of a felony or of any other offense, involving moral turpitude, or by reason of permanent disability interfering with the performance of his duties~~ AS PROVIDED BY LAW, which removal shall be subject to judicial review. Any vacancy ~~in office~~ shall be filled in the same manner as the selection of the person vacating the office, and for the unexpired term.

(3) The state personnel board shall ~~adopt and may from time to time amend or repeal,~~ rules to implement the provisions of this section and ~~sections 13 and 15 of this article, as amended, and laws enacted pursuant thereto~~ LAWS ENACTED PURSUANT TO THIS SECTION AND SECTIONS 13 AND 15 OF THIS ARTICLE, including but not limited to rules concerning ~~standardization of positions, determination of grades of positions, standards of efficient and competent service, the conduct of competitive examinations of competence,~~ grievance procedures, DISCIPLINE, INVOLUNTARY SEPARATIONS, ~~appeals from actions by appointing authorities~~ TO THE BOARD, and THE conduct of hearings. ~~by hearing officers where authorized by law.~~

(4) ~~There is hereby created the department of personnel, which shall be one of the principal departments of the executive department, the head of which shall be The state personnel director, who shall be appointed under qualifications established by law, The state personnel director shall be responsible for~~ ADMINISTER THE STATE PERSONNEL SYSTEM AND ADOPT RULES TO IMPLEMENT THE LAWS ENACTED PURSUANT TO THIS SECTION AND SECTIONS 13 AND 15 OF THIS ARTICLE FOR the administration of the STATE personnel system, ~~of the state under this constitution and laws enacted pursuant thereto and the rules adopted thereunder by the state personnel board.~~ INCLUDING BUT NOT LIMITED TO RULES CONCERNING APPOINTMENTS AND PROMOTIONS, STANDARDIZATION OF POSITIONS, COMPENSATION, VOLUNTARY SEPARATIONS, AND STANDARDS OF PERFORMANCE.

(5) ~~Adequate appropriations shall be made to carry out the purposes of this section and section 13 of this article.~~ NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (3) AND (4) OF THIS SECTION, THE GENERAL ASSEMBLY, ACTING BY BILL, MAY ALTER THE ALLOCATION OF THE RULE-MAKING AUTHORITY OF THE STATE PERSONNEL BOARD AND THE

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STATE PERSONNEL DIRECTOR AS SPECIFIED IN THOSE SUBSECTIONS.

(6) ADEQUATE APPROPRIATIONS SHALL BE MADE TO CARRY OUT THE PURPOSES OF THIS SECTION AND SECTION 13 OF THIS ARTICLE.

Section 15 of article XII of the constitution of the state of Colorado is amended to read:

Section 15. Veterans' preference. (1) (a) (I) ~~The passing grade on each competitive examination~~ THE MINIMUM REQUIREMENTS FOR EACH ASSESSMENT OF QUALIFICATIONS shall be the same for each ~~candidate~~ APPLICANT for appointment or employment in the STATE personnel system ~~of the state~~ or in any comparable civil service or merit system of any agency or political subdivision of the state, including any municipality chartered or to be chartered under article XX of this constitution.

(II) A NUMERICAL OR NONNUMERICAL METHOD MAY BE USED FOR ASSESSING THE QUALIFICATIONS OF APPLICANTS FOR APPOINTMENT OR EMPLOYMENT IN THE STATE PERSONNEL SYSTEM. IF A NUMERICAL ASSESSMENT METHOD IS USED, APPLICANTS ENTITLED TO PREFERENCE UNDER THIS SECTION SHALL BE GIVEN PREFERENCE IN ACCORDANCE WITH PARAGRAPHS (b) TO (e) OF THIS SUBSECTION (1). IF A NONNUMERICAL ASSESSMENT METHOD IS USED, APPLICANTS ENTITLED TO PREFERENCE UNDER THIS SECTION SHALL BE GIVEN AN INTERVIEW.

(b) Five PERCENTAGE points shall be added to the ~~passing grade~~ SCORE of each ~~candidate~~ APPLICANT on each such ~~examination~~ ASSESSMENT OF QUALIFICATIONS, except any promotional ~~examination~~ ASSESSMENT, who is SERVING OR WAS separated under honorable conditions and who ~~other than for training purposes~~, (i) served in any branch of the armed forces of the United States during any period of any declared war or any undeclared war or other armed hostilities against an armed foreign enemy, or (ii) served on active duty in any such branch in any campaign or expedition for which a campaign badge is authorized.

(c) Ten PERCENTAGE points shall be added to the ~~passing grade~~ SCORE of any ~~candidate~~ of APPLICANT ON each such ~~examination~~ ASSESSMENT OF QUALIFICATIONS, except any promotional ~~examination~~ ASSESSMENT, who has so served ~~other than for training purposes~~, and who, because of disability incurred in the line of duty, is receiving monetary compensation or disability retired benefits by reason of public laws administered by the department of defense or the veterans administration, or any successor thereto.

(d) Five PERCENTAGE points shall be added to the ~~passing grade~~ SCORE of any ~~candidate~~ of APPLICANT ON each such ~~examination~~ ASSESSMENT OF QUALIFICATIONS, except any promotional ~~examination~~ ASSESSMENT, who is the surviving spouse of any person who was or would have been entitled to ~~additional points~~ A PREFERENCE under paragraph (b) or (c) of this subsection (1) or of any person who died during such service or as a result of service-connected cause while on ~~active duty in any such branch. other than for training purposes.~~

(e) No more than a total of ten PERCENTAGE points shall be added to the ~~passing grade~~ SCORE of any such ~~candidate~~ APPLICANT pursuant to this subsection (1).

(2) The certificate of the department of defense, OF A STATE NATIONAL GUARD, or of the veterans administration, or any successor thereto, shall be conclusive proof of service under honorable conditions or of disability or death incurred in the line of duty during such service.

(3) (a) When a reduction in the work force of the state or any such political subdivision thereof becomes necessary because of lack of work or curtailment of funds, employees not eligible for ~~added points~~ PREFERENCE under subsection (1) of this section shall be separated before those so entitled who have the same or more service in the employment of the state or such political subdivision, counting both military service

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for which such ~~points are added~~ PREFERENCE IS GIVEN and such employment with the state or such political subdivision, as the case may be, from which the employee is to be separated.

(b) In the case of such a person eligible for ~~added points~~ PREFERENCE who has completed twenty or more years of active military service, no military service shall be counted in determining length of service in respect to such retention rights. In the case of such a person who has completed less than twenty years of such military service, no more than ten years of service under subsection (1) (b) (i) and (ii) shall be counted in determining such length of service for such retention rights.

(4) The state personnel ~~board~~ DIRECTOR and each comparable supervisory or administrative ~~board~~ PERSON OR ENTITY of any such civil service or merit system of any agency of the state or any such political subdivision thereof, shall implement the provisions of this section to assure that all persons entitled to ~~added points and preference in examinations and retention~~ shall enjoy their full privileges and rights granted by this section.

(5) ~~Any examination which is a promotional examination, but which~~ ANY PROMOTIONAL ASSESSMENT THAT is also open to persons other than employees for whom such appointment would be a promotion shall be considered a promotional ~~examination~~ ASSESSMENT for the purposes of this section.

(6) ~~Any other provision of this section to the contrary~~ Notwithstanding ANY OTHER PROVISION OF THIS SECTION, no person shall be entitled to ~~the addition of points under this section~~ PREFERENCE for more than one appointment or employment with the same jurisdiction, personnel system, civil service, or merit system.

(7) This section ~~shall be in full force and effect on and after July 1, 1971,~~ and shall grant veterans' preference to all persons who have served in the armed forces of the United States in any declared or undeclared war, conflict, engagement, expedition, or campaign for which a campaign badge has been authorized, and who meet the requirements of service or disability, or both, as provided in this section. This section shall apply to all public employment ~~examinations~~ ASSESSMENTS, except promotional ~~examinations~~ ASSESSMENTS, conducted on or after ~~such date~~ JULY 1, 2005, and it shall be in all respects self-executing.

Section 22 of article IV of the constitution of the state of Colorado is amended to read:

Section 22. Principal departments. All executive and administrative offices, agencies, and instrumentalities of the executive department of state government and their respective functions, powers, and duties, except for the office of governor and lieutenant-governor, shall be allocated by law among and within not more than twenty departments. ~~by no later than June 30, 1968. Subsequently, all new powers or functions shall be assigned to departments, divisions, sections, or units in such manner as will tend to provide an orderly arrangement in the administrative organization of state government. Temporary commissions may be established by law and need not be allocated within a principal department. Nothing in this section shall supersede the provisions of section 13, article XII, of this constitution. except that the classified civil service of the state shall not extend to heads of principal departments established pursuant to this section.~~

SECTION 2. Each elector voting at said election and desirous of voting for or against said amendment shall cast a vote as provided by law either "Yes" or "No" on the proposition: "AMENDMENTS TO SECTIONS 13, 14, AND 15 OF ARTICLE XII AND SECTION 22 OF ARTICLE IV OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING REFORM OF THE STATE CIVIL SERVICE SYSTEM, AND, IN CONNECTION THEREWITH, MODIFYING THE MERIT PRINCIPLE, EXEMPTING CERTAIN POSITIONS FROM THE SYSTEM, MODIFYING THE NUMBER OF ELIGIBLE APPLICANTS FROM WHICH AN APPOINTMENT IS TO BE MADE, MODIFYING THE RESIDENCY

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REQUIREMENT, EXPANDING THE DURATION OF TEMPORARY EMPLOYMENT,
 SPECIFYING THE RULE-MAKING AUTHORITY OF THE STATE PERSONNEL
 BOARD AND THE STATE PERSONNEL DIRECTOR, ALLOWING THE GENERAL
 ASSEMBLY TO REALLOCATE THE RULE-MAKING AUTHORITY OF THE STATE
 PERSONNEL BOARD AND THE STATE PERSONNEL DIRECTOR, AUTHORIZING
 A MODIFICATION TO THE VETERANS' PREFERENCE, AND MAKING
 CONFORMING AMENDMENTS."

SECTION 3. The votes cast for the adoption or rejection of said amendment shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress, and if a majority of the electors voting on the question shall have voted "Yes", the said amendment shall become a part of the state constitution."

Page 1, line 102, strike "AN AMENDMENT" and substitute "AMENDMENTS";

strike line 103 and substitute the following:

"ARTICLE XII AND SECTION 22 OF ARTICLE IV";

line 104, strike "OF ARTICLE V";

line 113, after "DIRECTOR," insert "ALLOWING THE GENERAL ASSEMBLY TO REALLOCATE THE RULE-MAKING AUTHORITY OF THE STATE PERSONNEL BOARD AND THE STATE PERSONNEL DIRECTOR,".

Page 2, strike lines 101 and 102 and substitute the following:

"VETERANS' PREFERENCE,";

line 103, strike "IN THE STATE PERSONNEL SYSTEM,".

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

HB04-1373 by Representative(s) Marshall, Jahn, Miller; also Senator(s) Anderson--Concerning modifications to the "State Personnel System Act".

Amendment No. 1, State, Veterans and Military Affairs Committee Amendment.
 (Printed in Senate Journal, April 14, pages 808-809 and placed in members' bill files.)

Amendment No. 2(L.022), by Senator Hagedorn.

Amend State, Veterans, and Military Affairs Committee Report, dated April 13, 2004, page 2, strike line 12.

Amend reengrossed bill, page 11, line 16, after "AN", insert "EXEMPT".

Page 12, line 1, strike "AUDITOR HIRED PRIOR TO JULY 1, 2005." and substitute "AUDITOR.".

Page 13, line 12, after "FOR", insert "OFFICERS AND".

Page 14, line 5, strike "assistants" and substitute "assistants OFFICERS".

Page 15, line 1, strike "of the state or" and substitute "~~of the state or~~";

strike lines 10 and 11 and substitute the following:

"SERVE MORE THAN TWO CONSECUTIVE TERMS OF OFFICE.".

Page 18, line 24, strike "(5) (a), (5) (c), (5) (d)," and substitute "(5),".

Page 22, after line 5, insert the following:

"(b) No employee in any pay plan may exceed an established

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maximum salary amount for such plan, except as provided in paragraph (e) of subsection (1) of this section. The maximum monthly salary for any employee whose position is assigned to a nonmedical pay plan in effect prior to July 1, 1991, shall be calculated based on the 1991 maximum of five thousand seven hundred ninety-four dollars, plus the subsequent adjustments made under this paragraph (b) since July 1, 1991; except that classes in the medical pay plan requiring licensure as a physician or dentist shall be subject to a maximum monthly salary calculated on the basis of the 1991 maximum of seven thousand eight hundred twelve dollars, plus the subsequent adjustments made under this paragraph (b) since July 1, 1991. Such amounts shall be adjusted by the state personnel director in accordance with the change in the consumer price index for the Denver-Boulder metropolitan statistical area for the preceding calendar year or the percentage increase in state general fund appropriations in relation to such appropriations for the preceding fiscal year, whichever is less. ~~The maximum monthly salary for the senior executive service plan shall not exceed the maximum monthly salary of any nonmedical pay plan by more than twenty-five percent.~~

Page 23, line 27, strike "age," and substitute "age-".

Page 24, line 1, strike "sex" and substitute "sex, AGE,";

line 2, strike "provided" and substitute "provided PERMITTED";

line 3, strike "STATE UNLESS" and substitute "UNITED STATES, AND SHALL RESIDE IN THE STATE UNLESS:

(I) THE POSITION IS IN AN INSTITUTION OF HIGHER EDUCATION AND IS FUNDED THROUGH RESEARCH GRANTS OR FEDERAL FUNDS;

(II) THE POSITION IS FOR A PERSON TO PERFORM FIELD AUDITS OUTSIDE THE STATE; OR

(III) THE STATE PERSONNEL DIRECTOR DETERMINES THAT, UNDER THE";

strike line 4.

Page 26, strike lines 22 and 23 and substitute the following:

"shall be established within ~~the six-month period~~ THREE MONTHS following the TEMPORARY appointment."

Page 28, line 2, after "authority.", add "FOR PURPOSES OF SECTION 13 (8) OF ARTICLE XII OF THE STATE CONSTITUTION AND THIS PART 1, "EFFICIENT SERVICE" AND "PERFORMANCE" SHALL HAVE THE SAME MEANING.";

after line 10, insert the following:

SECTION 13. Part 1 of article 50 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-50-123.5. Separation for cause. EMPLOYEES IN THE STATE PERSONNEL SYSTEM MAY BE SEPARATED FOR CAUSE PURSUANT TO SECTION 13 (8) OF ARTICLE XII OF THE STATE CONSTITUTION THROUGH EITHER A REDUCTION IN FORCE IN ACCORDANCE WITH SECTION 24-50-124 OR A DISCIPLINARY PROCEEDING IN ACCORDANCE WITH SECTION 24-50-125."

Renumber succeeding sections accordingly.

Page 28, line 20, after "that", insert "ORDINARY ATTRITION AND VACANT POSITIONS BE TAKEN INTO ACCOUNT BEFORE EMPLOYEES ARE DISPLACED AND THAT".

Page 29, line 5, strike "director BOARD" and substitute "director".

Page 33, line 3, strike "BOARD" and substitute "STATE PERSONNEL DIRECTOR";

line 9, strike "board" and substitute "board STATE PERSONNEL DIRECTOR";

after line 11, insert the following:

"SECTION 17. 24-50-129, Colorado Revised Statutes, is amended to read:

24-50-129. Appointing authority's liability for improper appointment. If any AN appointment is willfully made contrary to the provisions of this part 1, the appointing authority shall be:

(1) Personally responsible for any salary liability incurred;

(2) SUBJECT TO PROSECUTION PURSUANT TO SECTION 18-8-405, C.R.S., FOR SECOND DEGREE OFFICIAL MISCONDUCT; AND

(3) UPON FINAL CONVICTION OF SECOND DEGREE OFFICIAL MISCONDUCT, SUBJECT TO DISCIPLINE PURSUANT TO SECTION 13 (8) OF ARTICLE XII OF THE STATE CONSTITUTION."

Renumber succeeding sections accordingly.

Page 33, strike lines 14 through 27 and substitute the following:

"24-50-135. Exemptions from state personnel system.

(3) (a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL AND ADMINISTRATION MAY DESIGNATE OR RESCIND THE DESIGNATION OF A POSITION AS AN OFFICER OR EMPLOYEE EXEMPT FROM THE STATE PERSONNEL SYSTEM IN ACCORDANCE WITH SECTION 13 (2) OF ARTICLE XII OF THE STATE CONSTITUTION."

Reletter succeeding paragraphs accordingly.

Page 34, strike line 1;

line 2, strike "PROMOTION.";

line 3, strike "AN OFFICER" and substitute "EXEMPT";

line 4, after "RIGHTS", insert "OR PROTECTIONS";

line 5, after "SYSTEM.", add "ANY EXEMPT OFFICER OR EMPLOYEE MAY BE DISMISSED WITH OR WITHOUT CAUSE UPON SIXTY DAYS' WRITTEN NOTICE BY THE HEAD OF THE PRINCIPAL DEPARTMENT.";

strike lines 6 through 14.

Page 40, line 25, strike "officers, assistants," and substitute "officers";

line 26, strike "officers, assistants," and substitute "officers assistants,".

Page 41, line 20, before "employees", insert "OFFICERS AND".

Page 42, line 22, strike "THIRTY" and substitute "NINETY".

Page 44, line 12, strike "EDUCATION." and substitute "EDUCATION OR SERVICE AS A MEMBER OF A PART-TIME BOARD OR COMMISSION.".

Page 47, strike lines 26 and 27 and substitute the following:

"24-50-503.5. Contracting requirements. (1) A CONTRACT FOR PERSONAL SERVICES OR AN AMENDMENT TO SUCH CONTRACT MAY BE AUTHORIZED UNDER THIS PART 5 ONLY IF THE DEPARTMENT HEAD DETERMINES THAT:".

Page 48, strike line 1;

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line 2, strike "WHETHER, DUE" and substitute "DUE"; 1

line 3, strike "POSES" and substitute "DOES NOT POSE"; 2

line 5, strike "WHETHER ACCOUNTABILITY" and substitute 3
"ACCOUNTABILITY"; 4

line 15, strike "AND"; 5

strike line 18 and substitute the following: 6

"DELIVERY SYSTEM; AND 7

(V) THE EXTENT TO WHICH THE DEPARTMENT HAS SUFFICIENT 8
RESOURCES AND EXPERTISE TO MONITOR, MEASURE, AND ENFORCE 9
PERFORMANCE OF THE CONTRACT."; 10

strike lines 19 through 21 and substitute the following: 11

"(c) (I) THE CONTRACT PROVIDES THE BEST VALUE IN THE 12
DELIVERY OF GOVERNMENT SERVICES AS DETERMINED BY BALANCING THE 13
ACTUAL COSTS SAVINGS AND IMPROVED QUALITY OVER THE TERM OF THE 14
CONTRACT." 15

Page 49, line 1, after "ANY", insert "FIXED AND VARIABLE"; 16

strike line 4 and substitute the following: 17

"SAVINGS;"; 18

line 6, strike "COSTS." and substitute "COSTS; AND"; 19

after line 6, insert the following: 20

"(E) THE EXTENT TO WHICH THE DEPARTMENT HAS UNDERTAKEN 21
SPECIFIC MEASURES TO IMPROVE QUALITY OR REDUCE COSTS DURING THE 22
PRECEDING YEAR."; 23

line 7, strike "CONSIDER" and substitute "EVALUATE"; 24

line 24, strike "CONTRACTOR;" and substitute "CONTRACTOR, SUCH AS 25
BONDING REQUIREMENTS OR OTHER APPROPRIATE MEASURES;"; 26

Page 50, line 2, strike "PERFORMANCE; AND" and substitute 27
"PERFORMANCE, SUCH AS LIQUIDATED DAMAGES OR OTHER APPROPRIATE 28
MEASURES;"; 29

line 5, strike "CONTRACT." and substitute "CONTRACT;"; 30

after line 5, insert the following: 31

"(h) PROVISIONS REQUIRING THE CONTRACTOR TO CERTIFY THAT 32
THE PERSONAL SERVICES TO BE PROVIDED UNDER THE CONTRACT WILL BE 33
PERFORMED WITHIN THE UNITED STATES; AND 34

(i) PROVISIONS RESERVING THE RIGHT TO THE STATE TO AUDIT THE 35
CONTRACTOR'S BOOKS AND RECORDS FOR UP TO THREE YEARS AFTER THE 36
EXPIRATION OR TERMINATION OF THE CONTRACT TO VALIDATE THE 37
PERMISSIBILITY OF COSTS PAID UNDER THE CONTRACT." 38

after line 10, insert the following: 39

"(6) (a) THE DEPARTMENT SHALL MAKE ALL DATA AND OTHER 40
INFORMATION RELEVANT TO THE CONTRACT AND THE APPLICATION OF THE 41
STANDARDS OF THIS PART 5 AVAILABLE TO THE PUBLIC, INCLUDING 42
INFORMATION FROM THE CONTRACTOR'S BOOKS AND RECORDS, 43
CONSISTENT WITH SECTION 24-72-204. 44

(b) THE DIRECTOR SHALL MAINTAIN A CURRENT, CENTRAL LISTING 45
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OF ALL NOTICES OF CONTRACTS AND IMPLEMENTATION PLANS ISSUED PURSUANT TO SECTION 24-50-504.5 (5) (a) DURING THE PAST TWELVE MONTHS AND SHALL MAKE THE LISTING AVAILABLE TO THE PUBLIC.";

after line 14, insert the following:

"(2) CONTRACTS FOR PERSONAL SERVICES THAT WILL BE PERFORMED AT A SITE OUTSIDE THE UNITED STATES ARE PROHIBITED.".

Renumber succeeding subsections accordingly.

Page 51, strike lines 8 through 10 and substitute the following:

"CONTRACT IS EXECUTED.";

line 17, after "EXECUTED.", add "THE CONTRACT SHALL BE EFFECTIVE NO SOONER THAN TEN DAYS AFTER IT IS EXECUTED.";

strike lines 18 through 22.

Reletter succeeding paragraph accordingly.

Page 52, line 2, strike "(d)." and substitute "(c).";

line 3, after "24-4-106 (4).", add "ANY REMEDIES PROVIDED SHALL BE CONSISTENT WITH SECTION 24-109-403.";

line 12, strike "OR";

after line 12, insert the following:

"(c) ARE FOR AN EXISTING STATE PROGRAM THAT HAS NEVER BEEN PERFORMED BY EMPLOYEES IN THE STATE PERSONNEL SYSTEM OR FOR AN EXISTING STATE PROGRAM THAT INVOLVES DUTIES SIMILAR TO DUTIES CURRENTLY OR PREVIOUSLY PERFORMED BY CERTIFIED EMPLOYEES BUT ARE DIFFERENT IN SCOPE OR POLICY OBJECTIVES FROM THE PROGRAMS CARRIED OUT BY SUCH CERTIFIED EMPLOYEES; EXCEPT THAT THE DEPARTMENT HEAD SHALL MAKE THE DETERMINATIONS REQUIRED BY SECTION 24-50-503.5 (1) (a) AND (1) (b); OR".

Reletter succeeding paragraph accordingly.

Page 54, before line 1, insert the following:

"SECTION 42. 24-109-105 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-109-105. Debarment and suspension. (2) A person may be debarred for any of the following reasons:

(f) VIOLATION OF THE PROVISIONS OF SECTION 7-108-401, C.R.S.".

Renumber succeeding sections accordingly.

Page 56, line 27, strike "26 through 44" and substitute "29 through 34".

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

SB04-001 by Senator(s) Cairns, Hillman, Andrews, Lamborn; also Representative(s) Spradley, Schultheis, Crane, Harvey, Lundberg, May M., Mitchell, Welker, Williams T.--Concerning the exemption of business personal property from property taxation.

Laid over until Wednesday, April 21, retaining its place on the calendar.

SB04-203 by Senator(s) Anderson, Andrews; also Representative(s) Young, Fairbank--Concerning tobacco litigation settlement moneys, and, in connection therewith, creating a tobacco

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litigation settlement financing corporation for the purpose of securitizing tobacco settlement revenues scheduled to be received by the state, creating a state rainy day fund, and requiring securitization proceeds to be credited to the fund and expended for specified purposes.

Laid over until Wednesday, April 21, retaining its place on the calendar.

SB04-210 by Senator(s) Andrews; --Concerning the performance of the functions of immigration officers by state personnel.

Laid over until Wednesday, April 21, retaining its place on the calendar.

SB04-227 by Senator(s) Lamborn; also Representative(s) Clapp--Concerning the incorporation of the elements of the federal definition cited in 42 United States Code section 710 (b) (2) in certain health-related education programs.

Amendment No. 1, State, Veterans and Military Affairs Committee Amendment.
(Printed in Senate Journal, April 15, page 838 and placed in members' bill files.)

Amendment No. 2(L.004), by Senator Lamborn.

Amend the State, Veterans, and Military Affairs Committee Report, dated April 14, 2004, page 1, strike lines 1 and 2 and substitute the following:

"Amend printed bill, page 2, strike lines 2 through 10.

Renumber succeeding sections accordingly.";

line 3, before "line", insert "Page 2,".

As amended, declared **lost** on Second Reading.

(For further action, see Amendments to the Report of the Committee of the Whole.)

Senator Hillman moved that the Committee of the Whole rise, report progress, and beg leave to sit again. A majority of those elected to the Senate having voted in the affirmative, the motion was adopted.

AMENDMENTS TO THE REPORT OF THE COMMITTEE OF THE WHOLE

Senator Lamborn moved to amend the Report of the Committee of the Whole to show that SB04-227, as amended, was laid over to the general orders calendar of April 21, 2004, retaining its place on the calendar.

A majority of all members elected to the Senate having voted in the affirmative, the amendment to the Report of the Committee of the Whole was declared PASSED.

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator McElhany, 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: HCR04-1005 as amended, HB04-1373 as amended.

Laid over until Wednesday, April 21: SB04-215, SB04-001, SB04-203, SB04-210, SB04-227 as amended.

Laid over until Thursday, April 22: SCR04-010 as amended, SCR04-009, SCR04-012.

Laid over until Friday, April 23: SB04-164, HB04-1242, SB04-190, SB04-151 as amended.

The Committee of the Whole reported it would sit again at 4:00 p.m.

COMMITTEE OF REFERENCE REPORTS

Judiciary

After consideration on the merits, the Committee recommends that HB04-1134 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

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

"SECTION 1. Part 2 of article 1 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-1-222. Motor vehicle investigations unit. THE DEPARTMENT SHALL ESTABLISH A MOTOR VEHICLE INVESTIGATIONS UNIT TO INVESTIGATE AND PREVENT FRAUD CONCERNING THE USE OF DRIVER'S LICENSES, IDENTIFICATION CARDS, MOTOR VEHICLE TITLES AND REGISTRATIONS, AND OTHER MOTOR VEHICLE DOCUMENTS ISSUED BY THE DEPARTMENT. SUCH UNIT SHALL ALSO ASSIST VICTIMS OF IDENTITY THEFT BY MEANS OF SUCH DOCUMENTS.

SECTION 2. Part 1 of article 5 of title 16, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

16-5-103. Identity theft victims. (1) (a) A PERSON WHOSE IDENTIFYING INFORMATION HAS BEEN MISTAKENLY ASSOCIATED WITH AN ARREST, SUMMONS, SUMMONS AND COMPLAINT, FELONY COMPLAINT, INFORMATION, INDICTMENT, OR CONVICTION IS A VICTIM OF IDENTITY THEFT FOR THE PURPOSES OF THIS SECTION.

(b) IF A CRIMINAL CHARGE IS NOT PENDING, A VICTIM OF IDENTITY THEFT MAY, WITH NOTICE TO THE PROSECUTOR, PETITION THE COURT WITH JURISDICTION OVER THE ARREST, SUMMONS, SUMMONS AND COMPLAINT, FELONY COMPLAINT, INFORMATION, INDICTMENT, OR CONVICTION TO JUDICIALLY DETERMINE THE PERSON'S FACTUAL INNOCENCE. ALTERNATIVELY, THE COURT, ON ITS OWN MOTION, MAY MAKE SUCH A DETERMINATION IN THE CASE. IF A CRIMINAL CHARGE IS PENDING, THE PROSECUTING ATTORNEY MAY REQUEST THE COURT TO MAKE SUCH A DETERMINATION. A JUDICIAL DETERMINATION OF FACTUAL INNOCENCE MADE PURSUANT TO THIS SECTION MAY BE DETERMINED, WITH OR WITHOUT A HEARING, UPON DECLARATIONS, AFFIDAVITS, OR POLICE REPORTS OR UPON ANY OTHER RELEVANT, MATERIAL, RELIABLE INFORMATION SUBMITTED BY THE PARTIES AND RECORDS OF THE COURT.

(c) IF THE COURT DETERMINES THAT THERE IS NO REASONABLE CAUSE TO BELIEVE THAT A VICTIM OF IDENTITY THEFT COMMITTED THE OFFENSE FOR WHICH THE VICTIM'S IDENTITY HAS BEEN MISTAKENLY ASSOCIATED WITH AN ARREST, SUMMONS, SUMMONS AND COMPLAINT, FELONY COMPLAINT, INFORMATION, INDICTMENT, OR CONVICTION, THE COURT SHALL FIND THE VICTIM FACTUALLY INNOCENT OF THAT OFFENSE. IF THE VICTIM IS FOUND FACTUALLY INNOCENT, THE COURT SHALL ISSUE AN ORDER CERTIFYING THIS DETERMINATION.

(2) AFTER THE COURT HAS DETERMINED THAT A PERSON IS FACTUALLY INNOCENT, THE COURT MAY ORDER THE NAME AND ASSOCIATED IDENTIFYING INFORMATION CONTAINED IN COURT RECORDS, FILES, OR A CRIMINAL JUSTICE RECORD TO BE LABELED TO SHOW THAT THE INFORMATION IS NOT ACCURATE AND DOES NOT REFLECT THE PERPETRATOR'S IDENTITY BECAUSE THE VICTIM OF IDENTITY THEFT WAS IMPERSONATED.

(3) A PERSON WHO KNOWS OR REASONABLY SUSPECTS THAT HIS OR HER IDENTIFYING INFORMATION HAS BEEN UNLAWFULLY USED BY ANOTHER PERSON MAY INITIATE A LAW ENFORCEMENT INVESTIGATION BY CONTACTING THE LOCAL LAW ENFORCEMENT AGENCY THAT HAS JURISDICTION OVER THE VICTIM'S RESIDENCE OR OVER THE PLACE WHERE A CRIME WAS COMMITTED. SUCH AGENCY SHALL TAKE A POLICE REPORT

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OF THE MATTER, PROVIDE THE COMPLAINANT WITH A COPY OF THAT REPORT, AND BEGIN AN INVESTIGATION OF THE FACTS. IF THE SUSPECTED CRIME WAS COMMITTED IN A DIFFERENT JURISDICTION, THE LOCAL LAW ENFORCEMENT AGENCY MAY REFER THE MATTER TO THE LOCAL LAW ENFORCEMENT AGENCY WHERE THE SUSPECTED CRIME WAS COMMITTED FOR INVESTIGATION OF THE FACTS.

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(4) A COURT THAT HAS ISSUED A DETERMINATION OF FACTUAL INNOCENCE PURSUANT TO THIS SECTION MAY AT ANY TIME VACATE THAT DETERMINATION IF THE PETITION, OR INFORMATION SUBMITTED IN SUPPORT OF THE PETITION, CONTAINS A MATERIAL MISREPRESENTATION OR FRAUD. IF THE COURT VACATES A DETERMINATION OF FACTUAL INNOCENCE, THE COURT SHALL ISSUE AN ORDER RESCINDING ANY ORDERS MADE PURSUANT TO SUBSECTION (2) OF THIS SECTION.

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(5) FOR THE PURPOSES OF THIS SECTION:

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(a) "BIOMETRIC DATA" MEANS DATA, SUCH AS FINGERPRINTS, VOICE PRINTS, OR RETINA AND IRIS PRINTS, THAT CAPTURE, REPRESENT, OR ENABLE THE REPRODUCTION OF THE UNIQUE PHYSICAL ATTRIBUTES OF AN INDIVIDUAL.

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(b) "IDENTIFYING INFORMATION" MEANS INFORMATION THAT, ALONE OR IN CONJUNCTION WITH OTHER INFORMATION, IDENTIFIES AN INDIVIDUAL, INCLUDING BUT NOT LIMITED TO SUCH INDIVIDUAL'S:

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(I) NAME;

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(II) ADDRESS;

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(III) BIRTH DATE;

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(IV) TELEPHONE, SOCIAL SECURITY, TAXPAYER IDENTIFICATION, DRIVER'S LICENSE, IDENTIFICATION CARD, ALIEN REGISTRATION, GOVERNMENT PASSPORT, OR CHECKING, SAVINGS, OR DEPOSIT ACCOUNT NUMBER;

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(V) BIOMETRIC DATA;

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(VI) UNIQUE ELECTRONIC IDENTIFICATION DEVICE;

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(VII) TELECOMMUNICATION IDENTIFYING DEVICE.

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(c) "TELECOMMUNICATION IDENTIFYING DEVICE" MEANS A NUMBER, CODE, OR MAGNETIC OR ELECTRONIC DEVICE THAT ENABLES THE HOLDER TO USE TELECOMMUNICATIONS TECHNOLOGY TO ACCESS AN ACCOUNT; OBTAIN MONEY, GOODS, OR SERVICES; OR TRANSFER FUNDS.

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SECTION 3. 18-1-202 (7) (c) (I), Colorado Revised Statutes, is amended to read:

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18-1-202. Place of trial. (7) (c) (I) For an indictment or information that includes an offense described in article 5 of this title, the offender may be tried in a county where the offense occurred, or IN A COUNTY WHERE an act in furtherance of the offense occurred, or in a county where a bank, savings and loan, or credit union, OR GOVERNMENT AGENCY processed a document or transaction related to the offense.

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SECTION 4. Effective date. This act shall take effect July 1, 2004.

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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."

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Judiciary

After consideration on the merits, the Committee recommends that **SB04-224** be referred to the Committee of the Whole with favorable recommendation.

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MESSAGE FROM THE HOUSE

April 20, 2004
Mr. President:

The House has adopted and transmits herewith HJR04-1082

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--HJR04-1082.

IMMEDIATE CONSIDERATION OF RESOLUTION--HJR04-1082

HJR04-1082 by Representative(s) Butcher, Salazar, McFadyen, Cerbo, Frangas, Borodkin, Carroll, Hodge, Madden, Marshall, Merrifield, Miller, Ragsdale, Romanoff, Spradley, Tochtrop, Weddig, Weissmann, Young; also Senator(s) Tapia, Chlouber, Kester--Concerning the 90th anniversary of the Ludlow Massacre.

On motion of Senator Tapia, the resolution was **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, Dyer, Entz, Evans, Fitz-Gerald, Gordon, Groff, Grossman, Hagedorn, Hanna, Hillman, Isgar, Johnson, Jones, Keller, Lamborn, May, McElhany, Nichol, Owen, Phillips, Reeves, Sandoval, Takis, Taylor, Teck, Tupa, Veiga, and Windels.

MESSAGE FROM THE GOVERNOR

April 19, 2004

To the Honorable Senate
Sixty-fourth 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 act:

S.B.04-095 – Concerning Certificates Of Stillbirth.

Approved April 19, 2004 at 10:28 A.M.

Sincerely,
(signed)
Bill Owens
Governor

Rec'd 4-19-04 2:35 p.m.
Renee White, Senate Calendar Clerk

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SENATE SERVICES REPORTS

Correctly Printed: SB04-240 and 241, and SJR04-056.
Correctly Engrossed: SB04-213.
Correctly Reengrossed: SB04-220, 221, and 228.
Correctly Revised: HB04-1398.
Correctly Rerevised: HB04-1028, 1048, 1079, 1150, 1237, 1400, and 1404.
Correctly Enrolled: SR04-009.

CONFERENCE COMMITTEE GRANTED FURTHER POWERS

SB04-094 by Senator(s) Hagedorn; also Representative(s) Spradley, Hall--Concerning the implementation of health savings accounts, and, in connection therewith, eliminating medical savings accounts for basic health benefit plans for small employers and converting the tax provisions for medical savings accounts to apply to health savings accounts.

Senator Hagedorn moved that the Senate Conferees on the First Conference Committee on **SB04-094** be given the powers to go beyond the scope of the differences between the two Houses.

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

Senate in recess.

Senate reconvened.

Senator Hillman moved a Call of the Senate.

Senator Jones moved the Call of the Senate be raised.

COMMITTEE OF REFERENCE REPORTS

Local Government After consideration on the merits, the Committee recommends that **HB04-1157** be referred to the Committee on Appropriations with favorable recommendation.

Local Government After consideration on the merits, the Committee recommends that **SB04-236** be referred to the Committee of the Whole with favorable recommendation.

MESSAGES FROM THE HOUSE

April 20, 2004

Mr. President:

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB04-1428, amended as printed in House Journal, April 19, page 1408.

The House has passed on Third Reading and returns herewith SB04-185, 205, 132, 198, 059.

The House has passed on Third Reading and transmitted to the Revisor of Statutes; SB04-168, amended as printed in House Journal, April 19, page 1406.
 SB04-111, amended as printed in House Journal, April 19, pages 1406-1407.
 SB04-171, amended as printed in House Journal, April 19, page 1407.
 SB04-186, amended as printed in House Journal, April 19, pages 1407-1408.

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The House has voted to authorize the House conferees on the First Conference Committee on SB04-094 to consider matters not at issue between the two houses.

April 20, 2004
Mr. President:

The House has voted to concur in the Senate amendments to HB04-1098 and has repassed the bill as so amended.

The Speaker has appointed Representatives Rhodes, chairman, Hoppe, and Marshall as House conferees on the First Conference Committee on HB04-1115.

The Speaker has appointed Representatives Rose, chairman, Larson, and Frangas as House conferees on the First Conference Committee on HB04-1361.

In response to the request of the Senate, the Speaker has appointed Representatives McCluskey, chairman, Wiens, and Plant as House conferees on the First Conference Committee on SB04-108.

MESSAGE FROM THE REVISOR OF STATUTES

April 20, 2004

We herewith transmit:

Without comment, as amended, HB04-1428 and SB04-168, 111, 171, and 186.

INTRODUCTION OF CONCURRENT RESOLUTION--FIRST READING

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

SCR04-022 by Senator(s) Hagedorn, Fitz-Gerald, Gordon, Groff, Grossman, Hanna, Isgar, Keller, Nichol, Phillips, Reeves, Tapia, Tupa, Veiga, Windels; --Submitting to the registered electors of the state of Colorado amendments to sections 13, 14, and 15 of article XII and section 22 of article IV of the constitution of the state of Colorado, concerning modifications to the state civil service system, and, in connection therewith, modifying the merit principle, exempting certain positions from the system, modifying the number of eligible applicants from which an appointment is to be made, modifying the residency requirement, expanding the duration of temporary employment, specifying the rule-making authority of the state personnel board and the state personnel director, allowing the general assembly to reallocate the rule-making authority of the state personnel board and the state personnel director, authorizing a modification to the veterans' preference, and making conforming amendments.
State Veterans & Military Affairs

INTRODUCTION OF BILLS--FIRST READING

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

SB04-242 by Senator(s) Andrews; --Concerning the ability for eligible electors within the boundaries of the regional transportation district to vote to be excluded from the district.
State Veterans & Military Affairs

SB04-243 by Senator(s) Andrews; --Concerning the creation of an incentive for a state agency to achieve cost savings by allowing the agency to keep a portion of the cost savings for the purpose of paying performance-based bonuses to the employees of the agency.
State Veterans & Military Affairs

HB04-1428 by Representative(s) Spradley, King; also Senator(s) May R.--Concerning a moratorium on the granting of permits to create a landfill in which to dispose only of tires.
Local Government

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:

HB04-1398 by Representative(s) Williams T.; also Senator(s) Dyer--Concerning statutory provisions governing business entities contained in title 7 of the Colorado Revised Statutes.

A majority of those elected to the Senate having voted in the affirmative, Senator Dyer was given permission (Senate Journal, page 887) to offer a Third Reading amendment.

Third Reading Amendment No. 1(L.005), by Senator Dyer.

Amend revised bill, page 35, line 26, strike "CORPORATION" and substitute "COOPERATIVE".

Page 110, strike lines 10 through 27.

Strike pages 111 through 113.

Page 114, strike lines 1 through 24.

ReNUMBER succeeding sections accordingly.

Page 115, strike lines 14 through 27.

Page 116, strike lines 1 through 21.

ReNUMBER succeeding sections accordingly.

Page 125, line 11, after "(6)", insert "(7)";

line 15, after "(6)", insert "(7)".

Page 127, after line 12, insert the following:

"(7) "Constituent operating document" means articles of incorporation, operating agreement, or partnership agreement, and bylaws of a corporation, a nonprofit corporation, cooperative, or limited partnership association."

Page 161, line 2, after "'l.l.c.'", insert "'LLC'".

Page 171, line 4, strike "mailed a" and substitute "~~mailed a~~";

line 5, strike "copy of the statement of change" and substitute "~~copy of the statement~~ DELIVERED NOTICE of THE change".

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	34	NO	0	EXCUSED	1	ABSENT	0
Anderson	Y	Groff	Y	Kester	Y	Takis	Y
Arnold	Y	Grossman	Y	Lamborn	E	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		

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

Committee of the Whole

On motion of Senator McElhany, the Senate resolved itself into the Committee of the Whole for consideration of General Orders--Second Reading of Bills and Senator McElhany was called to the Chair to act as Chairman.

GENERAL ORDERS--SECOND READING OF BILLS--continued

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 Hillman, and with a majority of those elected to the Senate having voted in the affirmative, that SB04-219 and SB04-206 be advanced to the beginning of the Second Reading Calendar.

SB04-219

by Senator(s) Kester, May R., Chlouber, Fitz-Gerald, Groff, Hanna, Hillman, Johnson S., Jones, Takis, Taylor, Veiga; also Representative(s) Berry--Concerning the electronic filing system for documents received by a county clerk and recorder.

Amendment No. 1, Appropriations Committee Amendment.

(Printed in Senate Journal, April 16, pages 861-862 and placed in members' bill files.)

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

SB04-206

by Senator(s) McElhany, Hanna, Anderson, Andrews, Chlouber, Dyer, Fitz-Gerald, Groff, Grossman, Hagedorn, Johnson S., Keller, Kester, Phillips, Reeves, Sandoval, Teck; also Representative(s) Witwer, Hefley, Harvey, Boyd, Carroll, Clapp, Coleman, Fairbank, Frangas, Hall, Johnson R., King, Mitchell, Plant, Rhodes, Romanoff, Spradley, Stafford, Tochtrop, Young--Concerning hospice care for persons who are eligible under the "Colorado Medical Assistance Act".

Amendment No. 1, Appropriations Committee Amendment.

(Printed in Senate Journal, April 16, page 863 and placed in members' bill files.)

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

On motion of Senator Hillman, and with a majority of those elected to the Senate having voted in the affirmative, that SB04-222 be advanced on the Second Reading Calendar.

SB04-222

by Senator(s) Entz; also Representative(s) Smith--Concerning the authority of the state engineer to administer underground water use in water division 3, and, in connection therewith, protecting senior water rights, preventing unreasonable underground water level declines, maintaining sustainable underground water supplies, and encouraging the use of ground water management subdistricts in water division 3.

Amendment No. 1, Agriculture, Natural Resources and Energy Committee Amendment.

(Printed in Senate Journal, April 12, page 777 and placed in members' bill files.)

Amendment No. 2(L.001), by Senator Entz.

Amend printed bill, page 2, line 10, strike "A";

line 11, strike "REASONABLELESSENING OF" and substitute "PREVENTING".

Page 5, line 12, after the period, add "THE WATER JUDGE SHALL RETAIN JURISDICTION OVER THE WATER MANAGEMENT PLAN FOR THE PURPOSE OF

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ENSURING THE PLAN IS OPERATED, AND INJURY IS PREVENTED, IN CONFORMITY WITH THE TERMS OF THE COURT'S DECREE APPROVING THE WATER MANAGEMENT PLAN."

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

On motion of Senator Hillman, and with a majority of those elected to the Senate having voted in the affirmative, that SB04-208 be advanced on the Second Reading Calendar.

SB04-208 by Senator(s) Andrews; also Representative(s) Spence--Concerning persistently dangerous public schools.

As amended, Senate Journal, April 19, pages 878-879.

Amendment No. 3(L.006), by Senator Groff.

Amend the Education Committee Report, dated April 14, 2004, page 2, strike line 22 and substitute the following:

"THAT, FOR AT LEAST TWO CONSECUTIVE YEARS, REPORTS TO THE DEPARTMENT OF EDUCATION AN ANNUAL TOTAL NUMBER OF";

line 25, strike "THE" and substitute "EACH";

after line 25, insert the following:

"(3) IN DETERMINING THE NUMBER OF INCIDENTS TO REPORT FROM A SINGLE OCCURRENCE THAT INVOLVES MULTIPLE STUDENTS WHO COMMIT VIOLATIONS, A SCHOOL DISTRICT SHALL REPORT:

(a) ONE INCIDENT FROM THE OCCURRENCE IF THE OCCURRENCE INVOLVES FEWER THAN FIVE STUDENTS;

(b) A NUMBER OF INCIDENTS FROM THE OCCURRENCE THAT IS EQUAL TO THE NUMBER OF STUDENTS WHO COMMIT VIOLATIONS IN THE COURSE OF THE OCCURRENCE IF THE OCCURRENCE INVOLVES FIVE OR MORE STUDENTS."

Renumber succeeding subsections accordingly.

Page 2, line 26, before "FOLLOWING", insert "(a)";

line 34, strike "PRESIDENT" and substitute "MEMBERS".

Page 3, after line 3, insert the following:

"(b) FOLLOWING SUBMISSION OF THE SAFE SCHOOL REPORT REQUIRED PURSUANT TO SECTION 22-32-109.1 (2) (b), THE DEPARTMENT OF EDUCATION SHALL IDENTIFY EACH PUBLIC SCHOOL THAT, IN THE FOLLOWING YEAR, WILL BE IDENTIFIED AS A PERSISTENTLY DANGEROUS SCHOOL IF IT REPORTS AN EQUAL OR GREATER NUMBER OF INCIDENTS IN THE FOLLOWING YEAR. THE DEPARTMENT SHALL NOTIFY THE SCHOOL PRINCIPAL AND SUPERINTENDENT OF EACH PUBLIC SCHOOL SO IDENTIFIED THAT THE PUBLIC SCHOOL WILL BE IDENTIFIED AS A PERSISTENTLY DANGEROUS SCHOOL IF IT REPORTS AN EQUAL OR GREATER NUMBER OF INCIDENTS IN THE FOLLOWING YEAR. THE PRINCIPAL AND SUPERINTENDENT OF EACH PUBLIC SCHOOL THAT RECEIVES NOTICE PURSUANT TO THIS PARAGRAPH (b) SHALL SUBMIT TO THE DEPARTMENT OF EDUCATION AND IMPLEMENT WITHIN THE SCHOOL A PLAN TO REDUCE THE NUMBER OF INCIDENTS REPORTED PURSUANT TO SECTION 22-32-109.1 (2) (b)."

As amended, declared **LOST** on Second Reading.
(For further action, see Roll Call Vote on SB04-208.)

Senator Hillman moved that the Committee of the Whole rise, report progress, and beg leave to sit again. A majority of those elected to the Senate having voted in the affirmative, the motion was adopted.

ROLL CALL VOTE ON SB04-208

SB04-208 by Senator(s) Andrews; also Representative(s) Spence--Concerning persistently dangerous public schools.

Senator Jones requested a roll call vote on **SB04-208**.

YES	14	NO	20	EXCUSED	1	ABSENT	0
Anderson	N	Groff	Y	Kester	N	Takis	N
Arnold	Y	Grossman	N	Lamborn	E	Tapia	N
Cairns	Y	Hagedorn	N	May	Y	Taylor	N
Chlouber	Y	Hanna	N	McElhany	Y	Teck	N
Dyer	Y	Hillman	Y	Nichol	Y	Tupa	N
Entz	N	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		

SB04-208, as amended, declared **LOST** on Second Reading.

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator McElhany, 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: SB04-219 as amended, SB04-206 as amended, SB04-222 as amended.

Lost on Second Reading: SB04-208 as amended.

APPOINTMENTS TO CONFERENCE COMMITTEE

HB04-1279 by Representative(s) Stafford, Rose; also Senator(s) Hillman, Kester--Concerning liability regarding the behavior of dogs.

The President appointed Senators Hillman, Chairman, Chlouber, and Grossman as Senate Conferees on the First Conference Committee on **HB04-1279**.

HB04-1311 by Representative(s) Frangas, Cloer, Schultheis, Hefley, Jahn, Lundberg, May M., Tochtrop, Weissmann; also Senator(s) Jones--Concerning identity theft.

The President appointed Senators Jones, Chairman, Lamborn, and Hanna as Senate Conferees on the First Conference Committee on **HB04-1311**.

HB04-1263 by Representative(s) Lundberg, Schultheis, May M., Brophy, Cloer, Frangas, Hall, Harvey, Lee, Miller, Rippy, Rose, Spradley, Tochtrop, Welker; also Senator(s) Cairns--Concerning the removal of the requirement under Colorado law for submission of a social security number on an application for a license issued by the division of wildlife.

The President appointed Senators Cairns, Chairman, Chlouber, and Grossman as Senate Conferees on the First Conference Committee on **HB04-1263**.

HB04-1397 by Representative(s) King; also Senator(s) Anderson--Concerning the financing of public schools, and making an appropriation therefor.

The President appointed Senators Anderson, Chairman, Arnold, and Windels as Senate Conferees on the First Conference Committee on **HB04-1397**.

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HB04-1387 by Representative(s) Hefley; also Senator(s) Dyer--Concerning changes to the procedural criminal laws. 1
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The President appointed Senators Dyer, Chairman, Johnson, and Isgar as Senate Conferees on the First Conference Committee on **HB04-1387**. 3
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CONFERENCE COMMITTEE GRANTED FURTHER POWERS 7
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HB04-1279 by Representative(s) Stafford, Rose; also Senator(s) Hillman, Kester--Concerning liability regarding the behavior of dogs. 10
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Senator Hillman moved that the Senate Conferees on the First Conference Committee on **HB04-1279** be given the powers to go beyond the scope of the differences between the two Houses. 13
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A majority of all members elected to the Senate having voted in the affirmative, the motion was declared **adopted**. 17
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Committee of the Whole On motion of Senator McElhany, the Senate resolved itself into the Committee of the Whole for consideration of General Orders--Second Reading of Bills and Senator McElhany was called to the Chair to act as Chairman. 21
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GENERAL ORDERS--SECOND READING OF BILLS--continued 26
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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: 28
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SB04-217 by Senator(s) Cairns; also Representative(s) Stengel, Crane--Concerning the protection of victims. 32
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Laid over until Wednesday, April 21, retaining its place on the calendar. 35
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HB04-1016 by Representative(s) Johnson R.; also Senator(s) Dyer--Concerning the addition of certain obscenity offenses to the "Colorado Sex Offender Registration Act" that requires registration upon conviction of the offense, and making an appropriation therefor. 38
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Ordered revised and placed on the calendar for Third Reading and Final Passage. 43
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HB04-1189 by Representative(s) Romanoff; also Senator(s) Dyer--Concerning changes to decrease the disparity between the time sentenced and the time served by individuals who are convicted of violent crimes, and making an appropriation in connection therewith. 45
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Amendment No. 1, Judiciary Committee Amendment.
(Printed in Senate Journal, April 16, page 859 and placed in members' bill files.) 49
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Amendment No. 2(L.010), by Senator Gordon. 53
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Amend the Judiciary Committee Report, dated April 14, 2004, page 1, line 3, after "OF", insert "A CRIME LISTED IN PARAGRAPH (a) OF THIS SUBSECTION (2.5) THAT IS A"; 55
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line 4, strike "OFFENSES.;" and substitute "OFFENSE.;" 58
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line 8, after "OF", insert "A CRIME LISTED IN PARAGRAPH (a) OF THIS SUBSECTION (3.5) THAT IS A"; 61
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line 9, strike "OFFENSES.;" and substitute "OFFENSE.;" 64
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after line 9, insert the following: 66
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"Page 5, strike lines 6 through 10 and substitute the following: 68
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"SECTION 3. 24-75-302 (2) (s), Colorado Revised States, as it will become effective July 1, 2004, is amended to read:". "

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

SB04-218 by Senator(s) May R., Andrews; also Representative(s) Sinclair--Concerning the clarification of individual negligence for construction contracts.

Amendment No. 1, State, Veterans and Military Affairs Committee Amendment.
(Printed in Senate Journal, April 15, page 839 and placed in members' bill files.)

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

HB04-1358 by Representative(s) Spradley, Hoppe, Paccione, Salazar, Wiens; also Senator(s) Kester--Concerning an income tax checkoff for the Colorado state fair and industrial exposition.

Amendment No. 1, Appropriations Committee Amendment.
(Printed in Senate Journal, April 16, page 862 and placed in members' bill files.)

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

HB04-1017 by Representative(s) Berry, Borodkin, Larson, McFadyen, Pommer, Spence, Stafford, Welker, Williams S.; also Senator(s) May R., Isgar--Concerning the age at which a person may lawfully drive a motor vehicle, and making an appropriation in connection therewith.

Amendment No. 1, Appropriations Committee Amendment.
(Printed in Senate Journal, April 16, pages 862-863 and placed in members' bill files.)

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

HB04-1006 by Representative(s) Hefley; also Senator(s) McElhany--Concerning the classification of a dependent of a member of the armed forces for purposes of determining tuition at public institutions of higher education.

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

HB04-1089 by Representative(s) McCluskey; also Senator(s) Hillman--Concerning a preference for the purchase of Colorado agricultural products by governmental entities.

Amendment No. 1, Agriculture, Natural Resources and Energy Committee Amendment.
(Printed in Senate Journal, March 11, page 491 and placed in members' bill files.)

Amendment No. 2, Appropriations Committee Amendment.
(Printed in Senate Journal, April 16, page 861 and placed in members' bill files.)

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

HB04-1225 by Representative(s) Berry, Spradley, Romanoff, Boyd, Cloer, Stafford; also Senator(s) Sandoval, Jones--Concerning the "Low-income Energy Assistance Act".

Laid over until Wednesday, April 21, retaining its place on the calendar.

HB04-1309 by Representative(s) Brophy, Briggs, Merrifield; also Senator(s) Tupa, Chlouber--Concerning the creation of a safe routes to school program, and making an appropriation in connection therewith.

Laid over until Wednesday, April 21, retaining its place on the calendar.

HB04-1107 by Representative(s) Berry; also Senator(s) Reeves--Concerning the transfer of the office of homeless youth services from the department of public health and environment to the department of human services, and making an appropriation in connection therewith.

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Amendment No. 1, Appropriations Committee Amendment.

(Printed in Senate Journal, April 16, page 863 and placed in members' bill files.)

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

HB04-1219 by Representative(s) Witwer, Plant, Young; also Senator(s) Reeves, Owen, Teck--
Concerning community transition services for eligible persons under the "Home- and
Community-based Services for the Elderly, Blind, and Disabled Act", and making an
appropriation in connection therewith.

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

HB04-1414 by Representative(s) Witwer, Plant, Young; also Senator(s) Reeves, Owen, Teck--
Concerning the distribution of the excess of the amount set aside from federal revenues
earned by the state pursuant to Title IV-E of the federal "Social Security Act", as amended,
and making an appropriation therefor.

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

HB04-1423 by Representative(s) Witwer, Plant, Young; also Senator(s) Teck, Owen, Reeves--
Concerning the indirect costs of programs administered by the state of Colorado, which are
funded by moneys other than state general fund moneys appropriated by the general
assembly.

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

HB04-1283 by Representative(s) Boyd; also Senator(s) Taylor--Concerning a study to determine the
quality of education provided in Colorado's public high schools.

Amendment No. 1, Appropriations Committee Amendment.

(Printed in Senate Journal, April 16, page 864 and placed in members' bill files.)

Amendment No. 2(L.015), by Senator Taylor.

Amend reengrossed bill, page 4, after line 20, insert the following:

"(3) THE COMMISSION SHALL CONSIDER THE RECOMMENDATIONS
OF ANY COMMISSION FORMED BY A SCHOOL DISTRICT BOARD OF
EDUCATION THAT IS FOCUSED ON HIGH SCHOOL REFORM. THE COMMISSION
SHALL AVOID DUPLICATION OF EFFORT OF ANY SUCH LOCAL HIGH SCHOOL
REFORM COMMISSION."

Page 4, line 21, strike "(3)" and substitute "(4)";

line 22, strike "(3)" and substitute "(4)".

Page 6, line 10, strike "(4)" and substitute "(5)";

line 11, strike "(3)" and substitute "(4)";

line 19, strike "(5)" and substitute "(6)";

line 24, strike "(7)" and substitute "(8)".

Page 7, line 8, strike "(5)" and substitute "(6)".

Amend the Appropriations Committee Report, dated April 16, 2004, page
1, line 3, strike "18;" and substitute "18.";

strike line 4 of the committee report;

line 6 of the committee report, strike ""(7)" and substitute ""(8)";

line 12 of the committee report, strike "(6)" and substitute "(7)";

line 20 of the committee report, strike "(7)" and substitute "(8)".

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

"Renumber succeeding subsections accordingly."

Amendment No. 3(L.013), by Senator Keller.

Amend reengrossed bill, page 4, after line 20, insert the following:

"(3) THE DEPARTMENT OF EDUCATION AND EACH SCHOOL DISTRICT SHALL PROVIDE ACCESS TO, AND THE COMMISSION IS AUTHORIZED TO RECEIVE, INFORMATION AND RECORDS RELATING TO DROP-OUT RATES AND MOBILITY RATES OF HIGH SCHOOL STUDENTS FOR THE PURPOSES OF IMPLEMENTING THIS SECTION."

Renumber succeeding subsections accordingly.

Page 4, line 22, strike "(3)." and substitute "(4)."

Page 6, line 11, strike "(3)" and substitute "(4)";

line 24, strike "(7)" and substitute "(8)".

Page 7, line 8, strike "(5)" and substitute "(6)".

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

On motion of Senator Hillman, 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 (HB04-1141) of April 20, was laid over until Wednesday, April 21, retaining its place on the calendar.

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator McElhany, 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: HB04-1016, HB04-1189 as amended, SB04-218 as amended, HB04-1358 as amended, HB04-1017 as amended, HB04-1006, HB04-1089 as amended, HB04-1107 as amended, HB04-1219, HB04-1414, HB04-1423, HB04-1283 as amended. Laid over until Wednesday, April 21: SB04-217, HB04-1225, HB04-1309, HB04-1141.

**FIRST REPORT OF FIRST CONFERENCE COMMITTEE
ON HB04-1279**

**THIS REPORT AMENDS THE
REREVISED BILL**

To the President of the Senate and the Speaker of the House of Representatives:

Your first conference committee appointed on HB04-1279, concerning liability regarding the behavior of dogs, has met and reports that it has agreed upon the following:

1. That the House accede to the Senate amendments made to the bill, as said amendments appear in the rerevised bill.

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2. That, under the authority granted the committee to consider matters not at issue between the two houses, the following amendments be recommended:

Amend rerevised bill, page 5, after line 18, insert the following:

"(c) NO MUNICIPALITY OR COUNTY MAY DESTROY OR DISPOSE OF A DOG THAT IS AWAITING DESTRUCTION OR DISPOSITION AS OF THE EFFECTIVE DATE OF HOUSE BILL 04-1279 IN CONNECTION WITH A VIOLATION OR CHARGED VIOLATION OF A MUNICIPAL OR COUNTY BAN ON ONE OR MORE SPECIFIC DOG BREEDS.";

line 22, strike "July 1, 2004," and substitute "upon passage";

line 23, after "date.", add "Section 3 of this act shall also apply to dogs awaiting destruction or disposition as of said date in connection with a violation or charged violation of a municipal or county ban on one or more specific dog breeds.".

Respectfully submitted,

House Committee:	Senate Committee:
(signed)	(signed)
Representative Stafford	Senator Hillman
Representative Lee	Senator Chlouber
Representative Tochtrop	Senator Grossman

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 Conference Committee Report--HB04-1279.

IMMEDIATE CONSIDERATION OF CONFERENCE COMMITTEE REPORTS

HB04-1279 by Representative(s) Stafford, Rose; also Senator(s) Hillman, Kester--Concerning liability regarding the behavior of dogs.

Senator Hillman moved for the adoption of the First Report of the First Conference Committee on **HB04-1279**, as printed in Senate Journal, April 20, pages 912-913. The motion was **adopted**.

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

YES	28	NO	6	EXCUSED	1	ABSENT	0
Anderson	N	Groff	N	Kester	Y	Takis	Y
Arnold	N	Grossman	Y	Lamborn	E	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	N	Isgar	Y	Owen	Y	Veiga	N
Evans	N	Johnson	Y	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Jones	Y	Reeves	Y	Mr. President	Y
Gordon	Y	Keller	Y	Sandoval	Y		

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

Co-sponsors added: Chlouber, Gordon, Grossman, Jones, Phillips, and Tupa.

COMMITTEE OF REFERENCE REPORTS

Trans- portation	After consideration on the merits, the Committee recommends that HB04-1231 be referred to the Committee of the Whole with favorable recommendation.	1 2 3 4 5 6 7 8
Trans- portation	After consideration on the merits, the Committee recommends that SB04-230 be referred to the Committee of the Whole with favorable recommendation.	9 10 11 12
Trans- portation	After consideration on the merits, the Committee recommends that HB04-1386 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	13 14 15 16
	Amend reengrossed bill, page 3, line 7, after "ON", insert "THE BODY POST TO WHICH THE DRIVER'S DOOR LATCHES, ALSO KNOWN AS".	17 18 19
	Page 4, line 8, strike "ITS PREDAMAGED" and substitute "A ROADWORTHY".	20 21 22 23
Finance	After consideration on the merits, the Committee recommends that HB04-1144 be referred to the Committee on <u>Appropriations</u> with favorable recommendation.	24 25 26 27
Finance	After consideration on the merits, the Committee recommends that SCR04-020 be postponed indefinitely.	28 29 30 31

INTRODUCTION OF RESOLUTION

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

SB04-244 by Senator(s) May R.; also Representative(s) Rippy--Concerning the statewide internet portal.
Business Affairs & Labor

SIGNING OF BILLS--RESOLUTIONS--MEMORIALS

The President has signed: HB04-1266, 1274, 1353, 1366.
The President has signed: HB04-1098.

On motion of Senator Owen, and with a majority of those elected to the Senate having voted in the affirmative, SB04-231 was referred to the Committee on Appropriations.

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 April 20, 2004, was laid over until Wednesday, April 21, 2004, retaining its place on the calendar.

Consideration of Resolutions: SJR04-013, SJR04-014, SJR04-022, SJR04-010, SJR04-017, HJR04-1045, SJR04-032, HJR04-1037, SJR04-035, SJR04-038, SJR04-039, SJR04-040, SJR04-042, SJR04-043, SJR04-044, HJR04-1038, SJR04-046, SJR04-047, SJR04-048, SJR04-049, SJR04-051, SJR04-052, SR04-010, SJR04-053, SJR04-055, SR04-011.

Consideration of Memorials: SJM04-004, SJM04-003.

Consideration of Conference Committees Reports: HB04-1061, SB04-082.

Conference Committees to Report: HB04-1117, HB04-1236, HB04-1177, SB04-131, SB04-094, SB04-024.

Requests for Conference Committees: SB04-125, HB04-1376.

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On motion of Senator Hillman, the Senate adjourned until 9:00 a.m., Wednesday, April 21, 2004.

Approved:

John Andrews
President of the Senate

Attest:

Mona Heustis
Secretary of the Senate

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