

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

Forty-five Legislative Day

Friday, February 20, 2004

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Prayer	By the chaplain, Father Chris Misuira.	11
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Pledge	By Senator Cairns.	13
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Call to Order	By Senator Arnold at 9:00 a.m.	15
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Roll Call	Present--27.	18
	Absent/Excused--8; Andrews, Chlouber, Entz, Grossman, Johnson, Nichol, Owen, Takis.	19
	Present later--Grossman, Nichol, Owen, Takis.	20
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Quorum	Senator Arnold announced a quorum present.	22
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Reading of Journal	On motion of Senator Sandoval, reading of the Journal of February 19, 2004, was dispensed with and the Journal was approved as corrected by the Secretary.	24
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COMMITTEE OF REFERENCE REPORTS

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Finance	After consideration on the merits, the Committee recommends that HB04-1212 be referred to the Committee of the Whole with favorable recommendation.	31
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Finance	After consideration on the merits, the Committee recommends that HB04-1192 be postponed indefinitely.	34
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Trans- portation	After consideration on the merits, the Committee recommends that HB04-1076 be referred to the Committee of the Whole with favorable recommendation.	37
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Trans- portation	After consideration on the merits, the Committee recommends that HB04-1197 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	40
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Amend reengrossed bill, page 2, strike lines 11 through 14 and substitute the following:

"(b) A PERSON SHALL NOT OPERATE A MOTOR VEHICLE WITH AN AFFIXED DEVICE OR A SUBSTANCE THAT CAUSES ALL OR A PORTION OF A LICENSE PLATE TO BE UNREADABLE BY A SYSTEM USED TO AUTOMATICALLY IDENTIFY A MOTOR VEHICLE. SUCH A DEVICE INCLUDES, WITHOUT";

line 20, strike "INTENTIONALLY VIOLATES" and substitute "VIOLATES PARAGRAPH (b) OF".

MESSAGE FROM THE HOUSE

February 19, 2004
Mr. President:

The House has voted to concur in the Senate amendments to HB04-1206 and has repassed the bill as so amended.

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INTRODUCTION OF RESOLUTIONS

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

SJR04-017 by Senator(s) Andrews; --Concerning the recognition of the importance of Western civilization.
Laid over one day under Senate Rule 30(b).

SJR04-018 by Senator(s) Taylor, Entz, Anderson; also Representative(s) Miller--Concerning support for the "HEALTHY Vets Act of 2004".
Laid over one day under Senate Rule 30(b).

On motion of Senator Hillman, and with a majority of those elected to the Senate having voted in the affirmative, the Senate proceeded out of order for Consideration of Resolution.

CONSIDERATION OF RESOLUTION

SJR04-015 by Senator(s) Hagedorn; also Representative(s) McGihon--Concerning honoring Dr. Abraham J. Kauvar, affectionately referred to as "Dr. Abe".

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

YES	30	NO	0	EXCUSED	5	ABSENT	0
Anderson	Y	Groff	Y	Kester	Y	Takis	E
Arnold	Y	Grossman	Y	Lamborn	Y	Tapia	Y
Cairns	Y	Hagedorn	Y	May	Y	Taylor	Y
Chlouber	E	Hanna	Y	McElhany	Y	Teck	Y
Dyer	Y	Hillman	Y	Nichol	Y	Tupa	Y
Entz	E	Isgar	Y	Owen	Y	Veiga	Y
Evans	Y	Johnson	E	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Jones	Y	Reeves	Y	Mr. President	E
Gordon	Y	Keller	Y	Sandoval	Y		

Co-sponsors added: Anderson, Arnold, Cairns, Dyer, Evans, Fitz-Gerald, Gordon, Groff, Grossman, Hanna, Hillman, Isgar, Jones, Keller, Kester, Lamborn, May, McElhany, Nichol, Owen, Phillips, Reeves, Sandoval, Tapia, Taylor, Teck, Tupa, Veiga, and Windels.

Senate in recess.

Senate reconvened.

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.

IMMEDIATE CONSIDERATION OF RESOLUTION

SJR04-018 by Senator(s) Taylor, Entz, Anderson; also Representative(s) Miller--Concerning support for the "HEALTHY Vets Act of 2004".

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

YES	31	NO	0	EXCUSED	4	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	E	Hanna	Y	McElhany	Y	Teck	Y
Dyer	Y	Hillman	Y	Nichol	Y	Tupa	Y
Entz	E	Isgar	Y	Owen	Y	Veiga	Y
Evans	Y	Johnson	E	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Jones	Y	Reeves	Y	Mr. President	E
Gordon	Y	Keller	Y	Sandoval	Y		

Co-sponsors added: Arnold, Cairns, Dyer, Evans, Fitz-Gerald, Gordon, Groff, Grossman, Hagedorn, Hanna, Hillman, Isgar, Jones, Keller, Kester, Lamborn, May, McElhany, Nichol, Owen, Phillips, Reeves, Sandoval, Takis, Tapia, Teck, Tupa, Veiga, and Windels.

On motion of Senator Hillman, and with a majority of those elected to the Senate having voted in the affirmative, the Senate proceeded out of order to the beginning of the calendar for General Orders--Second Reading.

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

SB04-151 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.

Laid over until Monday, February 23, retaining its place on the calendar.

SB04-166 by Senator(s) Lamborn; also Representative(s) Stengel--Concerning a one-time adjustment for inflation to the one-million-dollar damages limitation contained in the statute governing medical negligence recovery in accordance with the consumer price index of the United States bureau of labor statistics.

Laid over until Monday, February 23, retaining its place on the calendar.

SB04-174 by Senator(s) Tupa, Arnold, Cairns, Dyer, Entz, Fitz-Gerald, Gordon, Groff, Grossman, Hillman, Keller, Lamborn, Phillips, Takis, Tapia, Veiga, Windels; also Representative(s) Sinclair--Concerning a limitation on benefits that may be accepted by certain public officials.

Amendment No. 1(L.007), by Senator Tupa.

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

"SECTION 1. 24-6-203 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-6-203. Reporting by incumbents and elected candidates - gifts, honoraria, and other benefits - penalty. (1) (c) AS USED IN THIS SECTION, THE TERM "STATEWIDE ELECTED OFFICE" MEANS THE OFFICE OF GOVERNOR, LIEUTENANT GOVERNOR, SECRETARY OF STATE, ATTORNEY GENERAL, STATE TREASURER, STATE BOARD OF EDUCATION, REGENTS OF THE UNIVERSITY OF COLORADO, MEMBERS OF THE GENERAL ASSEMBLY, OR DISTRICT ATTORNEYS".

Renumber succeeding sections accordingly.

Page 2, strike lines 9 through 11 and substitute the following:

"(a) SUBJECT TO THE REQUIREMENTS OF SUBSECTION (3.5) OF THIS SECTION, any money, including but not limited to a loan, pledge, or advance of money or a guarantee of a loan of money, with a value of twenty-five dollars or more;"

line 12, strike "PUBLIC" and substitute "STATEWIDE ELECTED";

Page 3, line 12, after "CONSTITUTION," insert "IN THE CASE OF EACH INCUMBENT SERVING IN OR A CANDIDATE ELECTED TO STATEWIDE ELECTED OFFICE,";

strike line 14 and substitute the following:

"THE INCUMBENT OR ELECTED CANDIDATE FOR THE";

line 18, after "CANDIDATE", insert "EITHER";

line 19, after "CONTRIBUTIONS", insert "OR TO ACCEPT GIFTS, HONORARIA,
OR OTHER BENEFITS";

line 22, strike "2" and substitute "3".

Amendment No. 2(L.009), by Senator Isgar.

Amend printed bill, page 3, line 12, strike "INCLUDES" and substitute
"MEANS";

line 13, strike "OR ANYTHING OF VALUE GIVEN, DIRECTLY OR
INDIRECTLY,".

As amended, declared **lost** on Second Reading.
(For further action, see Amendments to the Report of the Committee of the Whole.)

SB04-172 by Senator(s) Entz; also Representative(s) Sinclair--Concerning authorization of persons
qualified to use disabled veteran license plates to park in parking reserved for persons with
disabilities.

Laid over until Monday, February 23, retaining its place on the calendar.

SB04-125 by Senator(s) Kester; also Representative(s) Mitchell--Concerning the prompt payment of
auto insurance benefits.

Amendment No. 1, Business Affairs and Labor Committee Amendment.
(Printed in Senate Journal, February 12, pages 249-250 and placed in members' bill files.)

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

Amend the Business Affairs and Labor Committee Report, dated
February 11, 2004, page 1, strike lines 7 and 8 and substitute the
following:

"(b) "CLEAN CLAIM" MEANS:

(I) A CLAIM THAT IS SUBMITTED TO AN INSURER";

after line 18, insert the following:

"(II) A CLAIM THAT IS SUBMITTED WITH OR AFTER A PROPERLY
EXECUTED APPLICATION FORM FOR BENEFITS IS SUBMITTED BY THE
POLICYHOLDER, INSURED, OR INJURED PERSON ENTITLED TO BENEFITS.
THE COMMISSIONER MAY ADOPT A UNIFORM APPLICATION FORM FOR
MEDICAL PAYMENT BENEFITS."

Page 4, line 3, strike "AS DETERMINED BY THE PROVIDER, THE INSURER
SHALL" and substitute "THE INSURER MAY";

line 4, strike "RECEIVED." and substitute "RECEIVED OR THE INSURER MAY
ACKNOWLEDGE THE RECEIPT OF THE CLAIM ELECTRONICALLY, BY
FACSIMILE, OR IN WRITING. IF AN ACKNOWLEDGMENT IS SENT BY THE
INSURER, IT SHALL BE BY THE SAME OR FASTER METHOD AS SUBMITTED.";

line 18, strike "THE INSURER";

strike lines 19 and 20 and substitute the following:

"IF A CLAIM IS SUBMITTED BY FACSIMILE, IT IS PRESUMED TO HAVE BEEN
RECEIVED BY THE INSURER OR THE INSURER'S CLEARINGHOUSE ON THE
DATE OF THE FACSIMILE TRANSMISSION ACKNOWLEDGMENT. IF THE CLAIM
IS SUBMITTED BY MAIL IT IS PRESUMED TO HAVE BEEN RECEIVED BY THE
INSURER OR THE INSURER'S CLEARINGHOUSE THREE BUSINESS DAYS AFTER
THE DATE OF MAILING. IF THE CLAIM IS SUBMITTED BY OVERNIGHT
DELIVERY SERVICE OR BY HAND DELIVERY, THE CLAIM IS RECEIVED ON THE
DATE OF DELIVERY.

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(c) EVERY INSURER SHALL MAINTAIN CLAIM DATA THAT IS ACCESSIBLE AND RETRIEVABLE FOR EXAMINATION FOR THE CURRENT YEAR AND FOR THE TWO PRECEDING YEARS. FOR EACH CLAIM, AN INSURER SHALL PROVIDE A CLAIM NUMBER, DATE OF LOSS, DATE OF AUTO ACCIDENT, DATE OF RECEIPT OF AN APPLICATION FOR BENEFITS, DATE OF RECEIPT OF A CLAIM, DATE OF PAYMENT OF A CLAIM, AND DATE OF DENIAL OR DATE CLOSED WITHOUT PAYMENT. AN INSURER SHALL DETAIL ALL ACTIVITIES RELATIVE TO A CLAIM. A CLAIM FILE SHALL HAVE ALL DOCUMENTATION RELATIVE TO A CLAIM. EACH DOCUMENT WITHIN A CLAIM FILE SHALL BE NOTED AS TO DATE RECEIVED, DATE PROCESSED, OR DATE SENT. DETAILED DOCUMENTATION SHALL BE CONTAINED IN EACH CLAIM FILE TO PERMIT RECONSTRUCTION OF THE INSURER'S ACTIVITIES RELATIVE TO EACH CLAIM.";

line 21, after "(4)", insert "(a)";

line 23, strike "(a)" and substitute "(I)";

line 24, strike "(b)" and substitute "(II)";

line 25, strike "(c)" and substitute "(III)".

Page 5, after line 1, insert the following:

"(b) EVERY INSURER SHALL, WITHIN FIFTEEN CALENDAR DAYS AFTER RECEIPT OF A NOTIFICATION OF A LOSS, APPLICATION FOR BENEFITS, OR A CLAIM, PROVIDE NECESSARY APPLICATION OR CLAIM FORMS, INSTRUCTIONS, AND REASONABLE ASSISTANCE SO THAT THE SUBMITTING POLICYHOLDER, INSURED, INJURED PERSON ENTITLED TO BENEFITS, OR PROVIDER CAN COMPLY WITH THE POLICY CONDITIONS AND THE INSURER'S REASONABLE REQUIREMENTS.".

Page 6, strike lines 1 through 20 and substitute the following:

"(d) NO INSURER SHALL DENY A CLAIM ON THE GROUNDS OF A SPECIFIC POLICY PROVISION, CONDITION, OR EXCLUSION UNLESS REFERENCE TO SUCH PROVISION, CONDITION, OR EXCLUSION IS INCLUDED IN THE DENIAL. THE DENIAL SHALL BE IN THE SAME OR FASTER METHOD THAT THE CLAIM WAS RECEIVED AND THE CLAIM FILE SHALL CONTAIN DOCUMENTATION OF THE DENIAL.

(e) EVERY INSURER SHALL ADOPT AND IMPLEMENT REASONABLE STANDARDS FOR THE PROMPT INVESTIGATION OF CLAIMS AND THE PROMPT SETTLEMENT OF CLAIMS, WHERE LIABILITY HAS BECOME REASONABLY CLEAR.";

line 9 of the committee report, change the period to a semicolon;

after line 9, insert the following:

"strike lines 14 through 17.";

Strike line 10 of the committee report and substitute the following:

"Page 8, after line 4, insert the following:

"(10) THE COMMISSIONER MAY IMPOSE, AFTER PROPER NOTICE AND HEARING, ANY OTHER PENALTIES SET FORTH IN THIS TITLE AGAINST AN INSURER WHO HAS A PATTERN AND PRACTICE OF VIOLATIONS OF THIS SECTION.";

line 6, strike "2006," and substitute "2005,";

line 14, strike "FORM." and substitute "FORM OR FACSIMILE FORM. ON OR BEFORE JANUARY 1, 2006, ALL INSURERS SHALL ACCEPT SUCH CLAIM FORMS FROM HEALTH CARE PROVIDERS IN ELECTRONIC FORM.".

Amendment No. 3(L.002), by Senator Kester.

Amend the Business Affairs and Labor Committee Report, dated February 11, 2004, page 1, strike lines 7 and 8 and substitute the

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following:

"(b) "CLEAN CLAIM" MEANS:

(I) A CLAIM THAT IS SUBMITTED TO AN INSURER";

after line 18, insert the following:

"(II) A CLAIM THAT IS SUBMITTED WITH OR AFTER A PROPERLY EXECUTED APPLICATION FORM FOR BENEFITS IS SUBMITTED BY THE POLICYHOLDER, INSURED, OR INJURED PERSON ENTITLED TO BENEFITS. THE COMMISSIONER MAY ADOPT A UNIFORM APPLICATION FORM FOR MEDICAL PAYMENT BENEFITS."

Page 4, line 3, strike "AS DETERMINED BY THE PROVIDER,";

line 4, strike "RECEIVED." and substitute "RECEIVED OR THE INSURER SHALL ACKNOWLEDGE THE RECEIPT OF THE CLAIM ELECTRONICALLY, BY FACSIMILE, OR IN WRITING. IF AN ACKNOWLEDGMENT IS SENT BY THE INSURER, IT SHALL BE BY THE SAME OR FASTER METHOD AS SUBMITTED.";

line 18, strike "THE INSURER";

strike lines 19 and 20 and substitute the following:

"IF A CLAIM IS SUBMITTED BY FACSIMILE, IT IS PRESUMED TO HAVE BEEN RECEIVED BY THE INSURER OR THE INSURER'S CLEARINGHOUSE ON THE DATE OF THE FACSIMILE TRANSMISSION ACKNOWLEDGMENT. IF THE CLAIM IS SUBMITTED BY MAIL IT IS PRESUMED TO HAVE BEEN RECEIVED BY THE INSURER OR THE INSURER'S CLEARINGHOUSE THREE BUSINESS DAYS AFTER THE DATE OF MAILING. IF THE CLAIM IS SUBMITTED BY OVERNIGHT DELIVERY SERVICE OR BY HAND DELIVERY, THE CLAIM IS RECEIVED ON THE DATE OF DELIVERY.

(c) EVERY INSURER SHALL MAINTAIN CLAIM DATA THAT IS ACCESSIBLE AND RETRIEVABLE FOR EXAMINATION FOR THE CURRENT YEAR AND FOR THE TWO PRECEDING YEARS. FOR EACH CLAIM, AN INSURER SHALL PROVIDE A CLAIM NUMBER, DATE OF LOSS, DATE OF AUTO ACCIDENT, DATE OF RECEIPT OF AN APPLICATION FOR BENEFITS, DATE OF RECEIPT OF A CLAIM, DATE OF PAYMENT OF A CLAIM, AND DATE OF DENIAL OR DATE CLOSED WITHOUT PAYMENT. AN INSURER SHALL DETAIL ALL ACTIVITIES RELATIVE TO A CLAIM. A CLAIM FILE SHALL HAVE ALL DOCUMENTATION RELATIVE TO A CLAIM. EACH DOCUMENT WITHIN A CLAIM FILE SHALL BE NOTED AS TO DATE RECEIVED, DATE PROCESSED, OR DATE SENT. DETAILED DOCUMENTATION SHALL BE CONTAINED IN EACH CLAIM FILE TO PERMIT RECONSTRUCTION OF THE INSURER'S ACTIVITIES RELATIVE TO EACH CLAIM.";

line 21, after "(4)", insert "(a)";

line 23, strike "(a)" and substitute "(I)";

line 24, strike "(b)" and substitute "(II)";

line 25, strike "(c)" and substitute "(III)".

Page 5, after line 1, insert the following:

"(b) EVERY INSURER SHALL, WITHIN FIFTEEN CALENDAR DAYS AFTER RECEIPT OF A NOTIFICATION OF A LOSS, APPLICATION FOR BENEFITS, OR A CLAIM, PROVIDE NECESSARY APPLICATION OR CLAIM FORMS, INSTRUCTIONS, AND REASONABLE ASSISTANCE SO THAT THE SUBMITTING POLICYHOLDER, INSURED, INJURED PERSON ENTITLED TO BENEFITS, OR PROVIDER CAN COMPLY WITH THE POLICY CONDITIONS AND THE INSURER'S REASONABLE REQUIREMENTS."

Page 6, strike lines 1 through 20 and substitute the following:

"(d) NO INSURER SHALL DENY A CLAIM ON THE GROUNDS OF A SPECIFIC POLICY PROVISION, CONDITION, OR EXCLUSION UNLESS REFERENCE TO SUCH PROVISION, CONDITION, OR EXCLUSION IS INCLUDED IN THE DENIAL. THE DENIAL SHALL BE IN THE SAME OR FASTER METHOD

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THAT THE CLAIM WAS RECEIVED AND THE CLAIM FILE SHALL CONTAIN DOCUMENTATION OF THE DENIAL.

(e) EVERY INSURER SHALL ADOPT AND IMPLEMENT REASONABLE STANDARDS FOR THE PROMPT INVESTIGATION OF CLAIMS AND THE PROMPT SETTLEMENT OF CLAIMS, WHERE LIABILITY HAS BECOME REASONABLY CLEAR." .";

line 9 of the committee report, change the period to a semicolon;

after line 9, insert the following:

"strike lines 14 through 17.";

Strike line 10 of the committee report and substitute the following:

"Page 8, after line 4, insert the following:

"(10) THE COMMISSIONER MAY IMPOSE, AFTER PROPER NOTICE AND HEARING, ANY OTHER PENALTIES SET FORTH IN THIS TITLE AGAINST AN INSURER WHO HAS A PATTERN AND PRACTICE OF VIOLATIONS OF THIS SECTION.";

line 6, strike "2006," and substitute "2005,";

line 14, strike "FORM." and substitute "FORM OR FACSIMILE FORM. ON OR BEFORE JANUARY 1, 2006, ALL INSURERS SHALL ACCEPT SUCH CLAIM FORMS FROM HEALTH CARE PROVIDERS IN ELECTRONIC FORM." .".

Amendment No. 4(L.003), by Senator Lamborn.

Amend printed bill, page 7, line 3, after "SECTION.", add "IF THERE IS ANY LEGAL ACTION AGAINST THE INSURER RELATED TO THE SETTLEMENT OF THE CLAIM, THE INSURER SHALL ALSO PAY ANY REASONABLE ATTORNEY FEES AND COURTS COSTS RELATED TO THE ACTION.";

line 13, after "PAID.", add "IF THERE IS ANY LEGAL ACTION AGAINST THE INSURER RELATED TO THE SETTLEMENT OF THE CLAIM, THE INSURER SHALL ALSO PAY ANY REASONABLE ATTORNEY FEES AND COURTS COSTS RELATED TO THE ACTION." .

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

SB04-179 by Senator(s) Dyer; --Concerning collection of moneys for the costs incurred by the judicial department.

Amendment No. 1, Judiciary Committee Amendment.

(Printed in Senate Journal, February 12, pages 256-257 and placed in members' bill files.)

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

Amend the Judiciary Committee Report, dated February 11, 2004, page 2, line 12, strike ""13-32-115."." and substitute ""13-32-115.";"

after line 12, insert the following:

"line 25, strike "JULY 1, 2004," and substitute "JANUARY 1, 2005,";"

strike line 13 and substitute the following:

"Page 4, line 7, strike "JULY 1, 2004," and substitute "JANUARY 1, 2005,";

line 14, strike "IN ADDITION TO ANY OTHER";";

strike line 15 and substitute the following:

"EFFECTIVE JULY"" and substitute "EFFECTIVE JANUARY";";

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after line 15, insert the following:

"line 16, strike "JULY 1, 2004," and substitute "JANUARY 1, 2005,";"

strike lines 17 and 18 and substitute the following:

"line 26, strike "SURCHARGES PRESCRIBED IN THIS ARTICLE, EFFECTIVE JULY 1, 2004" and substitute "EFFECTIVE JANUARY 1, 2005".";

strike line 21 and substitute the following:

"line 9, strike "EFFECTIVE JULY 1, 2004" and substitute "EFFECTIVE JANUARY 1, 2005,";"

Page 3, strike line 2 and substitute the following:

"line 18, strike "EFFECTIVE JULY 1, 2004" and substitute "EFFECTIVE JANUARY 1, 2005,";"

line 6, strike "JULY" and substitute "JANUARY";

line 7, strike "2004," and substitute "2005,".

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, the balance of the General Orders -- Second Reading of Bills Calendar (HB04-1055, HB04-1088, HB04-1019) of February 20, was laid over until Monday, February 23, to follow SB04-164 on the General Orders -- Second Reading of Bills Calendar.

AMENDMENTS TO THE REPORT OF THE COMMITTEE OF THE WHOLE

SB04-174 by Senator(s) Tupa, Arnold, Cairns, Dyer, Entz, Fitz-Gerald, Gordon, Groff, Grossman, Hillman, Keller, Lamborn, Phillips, Takis, Tapia, Veiga, Windels; also Representative(s) Sinclair--Concerning a limitation on benefits that may be accepted by certain public officials.

Senator Tupa moved to amend the Report of the Committee of the Whole to show that SB 04-174, as amended, did pass.

The amendment to the Report of the Committee of the Whole was declared **passed** on the following roll call vote.

YES	25	NO	5	EXCUSED	5	ABSENT	0
Anderson	N	Groff	Y	Kester	Y	Takis	Y
Arnold	Y	Grossman	Y	Lamborn	Y	Tapia	Y
Cairns	Y	Hagedorn	Y	May	N	Taylor	Y
Chlouber	E	Hanna	Y	McElhany	Y	Teck	N
Dyer	N	Hillman	Y	Nichol	Y	Tupa	Y
Entz	E	Isgar	Y	Owen	N	Veiga	Y
Evans	E	Johnson	E	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Jones	Y	Reeves	Y	Mr. President	E
Gordon	Y	Keller	Y	Sandoval	Y		

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

SB04-125 by Senator(s) Kester; also Representative(s) Mitchell--Concerning the prompt payment of auto insurance benefits.

Senator Kester moved to amend the Report of the Committee of the Whole to show that the following Kester floor amendment, (L.002) to SB 04-125, did not pass.

Amend the Business Affairs and Labor Committee Report, dated

February 11, 2004, page 1, strike lines 7 and 8 and substitute the following:

"(b) "CLEAN CLAIM" MEANS:

(I) A CLAIM THAT IS SUBMITTED TO AN INSURER";

after line 18, insert the following:

"(II) A CLAIM THAT IS SUBMITTED WITH OR AFTER A PROPERLY EXECUTED APPLICATION FORM FOR BENEFITS IS SUBMITTED BY THE POLICYHOLDER, INSURED, OR INJURED PERSON ENTITLED TO BENEFITS. THE COMMISSIONER MAY ADOPT A UNIFORM APPLICATION FORM FOR MEDICAL PAYMENT BENEFITS.".

Page 4, line 3, strike "AS DETERMINED BY THE PROVIDER,";

line 4, strike "RECEIVED." and substitute "RECEIVED OR THE INSURER SHALL ACKNOWLEDGE THE RECEIPT OF THE CLAIM ELECTRONICALLY, BY FACSIMILE, OR IN WRITING. IF AN ACKNOWLEDGMENT IS SENT BY THE INSURER, IT SHALL BE BY THE SAME OR FASTER METHOD AS SUBMITTED.";

line 18, strike "THE INSURER";

strike lines 19 and 20 and substitute the following:

"IF A CLAIM IS SUBMITTED BY FACSIMILE, IT IS PRESUMED TO HAVE BEEN RECEIVED BY THE INSURER OR THE INSURER'S CLEARINGHOUSE ON THE DATE OF THE FACSIMILE TRANSMISSION ACKNOWLEDGMENT. IF THE CLAIM IS SUBMITTED BY MAIL IT IS PRESUMED TO HAVE BEEN RECEIVED BY THE INSURER OR THE INSURER'S CLEARINGHOUSE THREE BUSINESS DAYS AFTER THE DATE OF MAILING. IF THE CLAIM IS SUBMITTED BY OVERNIGHT DELIVERY SERVICE OR BY HAND DELIVERY, THE CLAIM IS RECEIVED ON THE DATE OF DELIVERY.

(c) EVERY INSURER SHALL MAINTAIN CLAIM DATA THAT IS ACCESSIBLE AND RETRIEVABLE FOR EXAMINATION FOR THE CURRENT YEAR AND FOR THE TWO PRECEDING YEARS. FOR EACH CLAIM, AN INSURER SHALL PROVIDE A CLAIM NUMBER, DATE OF LOSS, DATE OF AUTO ACCIDENT, DATE OF RECEIPT OF AN APPLICATION FOR BENEFITS, DATE OF RECEIPT OF A CLAIM, DATE OF PAYMENT OF A CLAIM, AND DATE OF DENIAL OR DATE CLOSED WITHOUT PAYMENT. AN INSURER SHALL DETAIL ALL ACTIVITIES RELATIVE TO A CLAIM. A CLAIM FILE SHALL HAVE ALL DOCUMENTATION RELATIVE TO A CLAIM. EACH DOCUMENT WITHIN A CLAIM FILE SHALL BE NOTED AS TO DATE RECEIVED, DATE PROCESSED, OR DATE SENT. DETAILED DOCUMENTATION SHALL BE CONTAINED IN EACH CLAIM FILE TO PERMIT RECONSTRUCTION OF THE INSURER'S ACTIVITIES RELATIVE TO EACH CLAIM.";

line 21, after "(4)", insert "(a)";

line 23, strike "(a)" and substitute "(I)";

line 24, strike "(b)" and substitute "(II)";

line 25, strike "(c)" and substitute "(III)".

Page 5, after line 1, insert the following:

"(b) EVERY INSURER SHALL, WITHIN FIFTEEN CALENDAR DAYS AFTER RECEIPT OF A NOTIFICATION OF A LOSS, APPLICATION FOR BENEFITS, OR A CLAIM, PROVIDE NECESSARY APPLICATION OR CLAIM FORMS, INSTRUCTIONS, AND REASONABLE ASSISTANCE SO THAT THE SUBMITTING POLICYHOLDER, INSURED, INJURED PERSON ENTITLED TO BENEFITS, OR PROVIDER CAN COMPLY WITH THE POLICY CONDITIONS AND THE INSURER'S REASONABLE REQUIREMENTS.".

Page 6, strike lines 1 through 20 and substitute the following:

"(d) NO INSURER SHALL DENY A CLAIM ON THE GROUNDS OF A SPECIFIC POLICY PROVISION, CONDITION, OR EXCLUSION UNLESS REFERENCE TO SUCH PROVISION, CONDITION, OR EXCLUSION IS INCLUDED

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IN THE DENIAL. THE DENIAL SHALL BE IN THE SAME OR FASTER METHOD THAT THE CLAIM WAS RECEIVED AND THE CLAIM FILE SHALL CONTAIN DOCUMENTATION OF THE DENIAL.

(e) EVERY INSURER SHALL ADOPT AND IMPLEMENT REASONABLE STANDARDS FOR THE PROMPT INVESTIGATION OF CLAIMS AND THE PROMPT SETTLEMENT OF CLAIMS, WHERE LIABILITY HAS BECOME REASONABLY CLEAR."."

line 9 of the committee report, change the period to a semicolon;

after line 9, insert the following:

"strike lines 14 through 17.";

Strike line 10 of the committee report and substitute the following:

"Page 8, after line 4, insert the following:

"(10) THE COMMISSIONER MAY IMPOSE, AFTER PROPER NOTICE AND HEARING, ANY OTHER PENALTIES SET FORTH IN THIS TITLE AGAINST AN INSURER WHO HAS A PATTERN AND PRACTICE OF VIOLATIONS OF THIS SECTION.";

line 6, strike "2006," and substitute "2005,";

line 14, strike "FORM." and substitute "FORM OR FACSIMILE FORM. ON OR BEFORE JANUARY 1, 2006, ALL INSURERS SHALL ACCEPT SUCH CLAIM FORMS FROM HEALTH CARE PROVIDERS IN ELECTRONIC FORM."."

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

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator Hagedorn, 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: SB04-174 as amended, SB04-125 as amended, SB04-179 as amended.

Laid over until Monday, February 23: SB04-151, SB04-166, SB04-172, SB04-137.

Laid over until Monday, February 23, to follow SB04-164 on the General Orders -- Second Reading of Bills Calendar: HB04-1055, HB04-1088, HB04-1019.

COMMITTEE OF REFERENCE REPORTS

Local Government After consideration on the merits, the Committee recommends that **HB04-1182** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 3, line 16, after "25-18.5-102.", insert "EXCEPT THAT A PROPERTY OWNER MAY, AT HIS OR HER OPTION, ELECT INSTEAD TO DEMOLISH THE CONTAMINATED PROPERTY.".

Local Government After consideration on the merits, the Committee recommends that **HB04-1129** be referred to the Committee of the Whole with favorable recommendation.

Health, Environment, Welfare, & Institutions The Committee on Health, Environment, Welfare, and Institutions has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:

COLORADO HEALTH FACILITIES AUTHORITY

for terms expiring June 30, 2007:

Mary A. Fairchild of Denver, Colorado, reappointed;

Katherine Spines of Boulder, Colorado, reappointed.

Health,
Environment,
Welfare, &
Institutions

The Committee on Health, Environment, Welfare, and Institutions has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:

MEMBER OF THE
COLORADO COMMISSION ON THE AGING

for a term expiring July 1, 2006:

Kathleen B. McSheehy of Arvada, Colorado, to serve as a Democrat from the Seventh Congressional District, appointed.

for a term expiring when she is no longer a legislator:

The Honorable Paula E. Sandoval of Denver, Colorado, to serve as a representative of the Colorado State Senate and as a Democrat, appointed.

Health,
Environment,
Welfare, &
Institutions

The Committee on Health, Environment, Welfare, and Institutions has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:

MEMBERS OF THE
STATE BOARD OF NURSING

for a term expiring July 1, 2006:

Judith A. Burke of Denver, Colorado, to serve as an advanced practice nurse, appointed.

Health,
Environment,
Welfare, &
Institutions

After consideration on the merits, the Committee recommends that **SB04-099** be postponed indefinitely.

Health,
Environment,
Welfare, &
Institutions

After consideration on the merits, the Committee recommends that **HB04-1029** be referred to the Committee of the Whole with favorable recommendation.

Health,
Environment,
Welfare, &
Institutions

After consideration on the merits, the Committee recommends that **HB04-1027** be referred to the Committee of the Whole with favorable recommendation.

Health,
Environment,
Welfare, &
Institutions

After consideration on the merits, the Committee recommends that **HB04-1047** be referred to the Committee of the Whole with favorable recommendation.

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MESSAGE FROM THE HOUSE

February 20, 2004
Mr. President:

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB04-1306, 1222.

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB04-1187, amended as printed in House Journal, February 19, page 559.
HB04-1102, amended as printed in House Journal, February 19, page 559.
HB04-1363, amended as printed in House Journal, February 19, page 559.
HB04-1285, amended as printed in House Journal, February 19, page 560 .
HB04-1108, amended as printed in House Journal, February 19, page 560 .
HB04-1054, amended as printed in House Journal, February 19, pages 560-561 .
HB04-1267, amended as printed in House Journal, February 19, page 564.
HB04-1200, amended as printed in House Journal, February 19, pages 561-562 .

The House has passed on Third Reading and returns herewith SB04-018.

SENATE SERVICES REPORT

Correctly Printed: SB04-189.
Correctly Revised: HJR04-1014 and 1016.
Correctly Enrolled: SB04-005.

TRIBUTES

Honoring Jack Annan -- by Senator Mark Hillman and Representative Diane Hoppe.

Journal correction:

Page 317, line 22, strike "The President" and substitute "Senator Arnold".

On motion of Senator Hillman, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the calendar of February 20, 2004, was laid over until Monday, February 23, 2004, retaining its place on the calendar.

Consideration of Resolutions: SJR04-011, SJR04-013, SJR04-014.
Consideration of Memorial: SJM04-001.
Consideration of Governor's Appointments:
Members of the Transportation Commission.

On motion of Senator Hillman, the Senate adjourned until 10:00 a.m., Monday, February 23, 2004.

Approved:

John Andrews
President of the Senate

Attest:

Mona Heustis
Secretary of the Senate

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