

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

Eighty-sixth Legislative Day

Thursday, April 1, 2004

Prayer By the chaplain, Reverend Jewell Richardson, Master's Touch Ministries.

Pledge By the President.

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

Roll Call Present--31.
Absent/Excused--4; Groff, Grossman, Phillips, Tapia.
Present later--Groff, Grossman, Phillips, Tapia.

Quorum The President announced a quorum present.

Reading of Journal On motion of Senator Jones, reading of the Journal of March 31, 2004, was dispensed with and the Journal was approved as corrected by the Secretary.

Senator Lamborn moved a Call of the Senate.

Senator Lamborn moved the Call of the Senate be raised.

COMMITTEE OF REFERENCE REPORTS

Business Affairs & Labor After consideration on the merits, the Committee recommends that **HB04-1080** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 4, line 4, strike "SUBSECTIONS (2) AND (3)" and substitute "SUBSECTION (2)";

strike lines 10 and 11.

Page 5, line 11, strike "(1) OR (3)," and substitute "(1),";

line 15, strike "COMMERCIAL ENTITIES," and substitute "A GOVERNMENT, GOVERNMENTAL SUBDIVISION, GOVERNMENTAL AGENCY, GOVERNMENTAL INSTRUMENTALITY, PUBLIC CORPORATION, OR ANY COMMERCIAL ENTITY,".

Page 9, strike line 15 and substitute the following:

"IF ALL PARTIES IN THE ARBITRATION PROCEEDINGS CONSENT AND:".

Page 16, line 16, strike "TAKE ACTION AGAINST" and substitute "REFER";

strike lines 17 and 18 and substitute the following:

"NON-COMPLYING PARTY TO THE COURT TO RESOLVE COMPLIANCE ISSUES.".

Page 19, strike lines 21 through 25 and substitute the following:

"REMEDIES AS ARE AUTHORIZED BY LAW IN A CIVIL ACTION INVOLVING THE SAME CLAIM OR BY THE AGREEMENT OF THE PARTIES TO THE ARBITRATION PROCEEDING.".

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Business Affairs & Labor	After consideration on the merits, the Committee recommends that SB04-216 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	1 2 3 4 5 6 7 8 9
	Amend printed bill, page 4, line 13, strike "SHALL NOT" and substitute "NEED NOT".	6 7 8 9
Business Affairs & Labor	After consideration on the merits, the Committee recommends that HB04-1399 be referred to the Committee of the Whole with favorable recommendation.	10 11 12 13
Business Affairs & Labor	After consideration on the merits, the Committee recommends that HB04-1394 be referred to the Committee of the Whole with favorable recommendation.	14 15 16 17
Business Affairs & Labor	After consideration on the merits, the Committee recommends that HB04-1307 be postponed indefinitely.	18 19 20 21
Business Affairs & Labor	After consideration on the merits, the Committee recommends that SJR04-029 be postponed indefinitely.	22 23 24 25
State, Veterans, & Military Affairs	After consideration on the merits, the Committee recommends that HB04-1196 be postponed indefinitely.	26 27 28 29 30
State, Veterans, & Military Affairs	After consideration on the merits, the Committee recommends that HB04-1283 be referred to the Committee on <u>Appropriations</u> with favorable recommendation.	31 32 33 34 35
<hr/> MESSAGE FROM THE HOUSE		36 37 38
	March 31, 2004	39
	Mr. President:	40 41
	The House has adopted and transmits herewith HJR04-1034, and amended as printed in House Journal, March 31.	42 43 44 45
<hr/> INTRODUCTION OF RESOLUTIONS		46 47 48
	The following resolutions were read by title:	49 50
SJR04-030	by Senator(s) Anderson; also Representative(s) Romanoff--Concerning commendation of the Boys & Girls Clubs of Colorado. Laid over one day under Senate Rule 30(b).	51 52 53 54
HJR04-1034	by Representative(s) Frangas, Coleman, Butcher, Borodkin, Carroll, Cerbo, Judd, Marshall, McGihon, Paccione, Ragsdale, Romanoff, Salazar, Tochtrop, Vigil, Weissmann, Williams S.; also Senator(s) Sandoval, Tapia--Concerning recognition of "Cesar Chavez Day". Laid over one day under Senate Rule 30(e).	55 56 57 58 59 60 61
<hr/> INTRODUCTION OF BILLS--FIRST READING		62 63 64
	The following bills were read by title and referred to the committees indicated:	65 66
SB04-217	by Senator(s) Cairns; also Representative(s) Stengel, Crane--Concerning the protection of victims. State Veterans & Military Affairs	67 68 69

- SB04-218** by Senator(s) May R., Andrews; also Representative(s) Sinclair--Concerning the clarification of individual negligence for construction contracts. State Veterans & Military Affairs 1-3
- 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. Local Government 4-8
- HB04-1279** by Representative(s) Stafford, Rose; also Senator(s) Hillman, Kester--Concerning liability regarding the behavior of dogs. Local Government 9-12
- HB04-1386** by Representative(s) Stengel, Spradley; also Senator(s) Kester--Concerning physical notice through a salvage brand to potential purchasers that a motor vehicle has been salvaged. Transportation 13-16

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 Resolutions--SJR04-030 and HJR04-1034.

**IMMEDIATE CONSIDERATION OF RESOLUTIONS--
SJR04-030 and HJR04-1034**

- SJR04-030** by Senator(s) Anderson; also Representative(s) Romanoff--Concerning commendation of the Boys & Girls Clubs of Colorado. 29-30

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

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

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

- HJR04-1034** by Representative(s) Frangas, Coleman, Butcher, Borodkin, Carroll, Cerbo, Judd, Marshall, McGihon, Paccione, Ragsdale, Romanoff, Salazar, Tochtrop, Vigil, Weissmann, Williams S.; also Senator(s) Sandoval, Tapia--Concerning recognition of "Cesar Chavez Day". 51-54

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

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

Co-sponsors added: Anderson, Andrews, Arnold, Cairns, Chlouber, Dyer, Entz, Evans, Fitz-Gerald, Gordon, Groff, Grossman, Hagedorn, Hanna, Hillman, Isgar, Johnson, Jones, Keller, Kester, Lamborn, May, McElhany, Nichol, Owen, Phillips, Reeves, Takis, Taylor, 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 proceed to the beginning of the calendar for Consideration of Third Reading of Bills-Final Passage.

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:

HB04-1393 by Representative(s) White, Cadman, Garcia, Merrifield, Miller, Rippy, Rose, Spradley; also Senator(s) Taylor, Andrews, Chlouber, Entz, Fitz-Gerald, Isgar, Lamborn, McElhany-- Concerning amendments to the Colorado "Ski Safety Act of 1979" to reflect evolution in the sport of skiing.

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.

Co-sponsors added: Groff, Grossman, Johnson, Jones, May, and Teck.

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

GENERAL ORDERS--SECOND READING OF BILLS

The Committee of the Whole having risen, the Chairman reported that the following bills, reading at length having been dispensed with by unanimous consent, had been considered and action taken thereon as follows:

On motion of Senator Hillman, and with a majority of those elected to the Senate having voted in the affirmative, the Senate proceeded out of order to SB04-189.

SB04-189 by Senator(s) Anderson; also Representative(s) King--Concerning institutions of higher education.

Amendment No. 1, Education Committee Amendment.
(Printed in Senate Journal, March 4, pages 411-413 and placed in members' bill files.)

Amendment No. 2, Appropriations Committee Amendment.
(Printed in Senate Journal, March 29, pages 656-657 and placed in members' bill files.)

Amendment No. 3(L.017), by Senator Anderson.

- Amend the Education Committee Report, dated March 3, 2004, page 2, line 22, after "EACH", insert "STATE".
- Amend the Appropriations Committee Report, dated March 26, 2004, page 2, line 26, strike "13" and substitute "14".
- Page 3 of the Appropriations Committee Report, line 1, strike "14" and substitute "15".
- Amend printed bill, page 11, strike lines 10 through 15.
- Renumber succeeding paragraph accordingly.
- Page 13, line 2, after "STUDENTS", insert "WHO PARTICIPATE IN THE COLLEGE OPPORTUNITY FUND PROGRAM";
- line 18, after "PURPOSES", insert "AT A STATE INSTITUTION OF HIGHER EDUCATION".
- Page 14, line 11, strike "LOAN SERVICES" and substitute "LOAN ORIGINATION AND DISBURSEMENT SERVICES".
- Page 17, line 2, strike "AN INSTITUTION" and substitute "A STATE INSTITUTION OF HIGHER EDUCATION".
- Page 18, line 9, strike "LENGTH OF TIME" and substitute "NUMBER OF CREDIT HOURS";
- strike lines 10 and 11 and substitute the following:
- "UNDERGRADUATE STUDENT HAS EARNED."
- Page 21, after line 2, insert the following:
- "23-18-204. College opportunity fund - advertisement - disclosure.** IF AN INSTITUTION OF HIGHER EDUCATION ADVERTISES, IN THE FORM OF DIRECT MAIL, PRINT, RADIO, TELEVISION, OR VIA THE INTERNET, A STUDENT'S ABILITY TO RECEIVE A STIPEND FROM THE COLLEGE OPPORTUNITY FUND, THE INSTITUTION OF HIGHER EDUCATION SHALL INCLUDE IN THE ADVERTISEMENT THE TOTAL COST OF ATTENDING THE INSTITUTION, INCLUDING A STUDENT'S TOTAL TUITION COST PLUS APPLICABLE FEES."
- Renumber succeeding C.R.S. sections accordingly.
- Page 23, line 21, strike "COLLEGES AND AREA" and substitute "COLLEGES,";
- line 22, strike "VOCATIONAL SCHOOLS,".
- Page 29, strike line 12 and substitute the following:
- "DEVELOPMENT OPPORTUNITIES IN THE STATE, INCLUDING COURSES TO ASSIST STUDENTS IN CAREER DEVELOPMENT AND RETRAINING; AND".
- Page 30, strike line 12 and substitute the following:
- "DEVELOPMENT OPPORTUNITIES IN THE STATE, INCLUDING COURSES TO ASSIST STUDENTS IN CAREER DEVELOPMENT AND RETRAINING; AND".
- 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.)

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AMENDMENTS TO THE REPORT OF THE COMMITTEE OF THE WHOLE

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SB04-189	by Senator(s) Anderson; also Representative(s) King--Concerning institutions of higher education.	3
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	Senator Tupa moved to amend the Report of the Committee of the Whole to show that the following Tupa floor amendment, (L.025) to SB 04-189, did pass.	6
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	Amend printed bill, page 9, line 9, strike "MEANS:" and substitute "MEANS";	9
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	line 10, strike "(I) A" and substitute "A";	11
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	line 12, strike "PURPOSES; OR" and substitute "PURPOSES.";	13
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	strike lines 13 through 22.	15
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	Page 10, line 2, strike "A PARTICIPATING";	17
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	line 3, strike "PRIVATE INSTITUTION OF HIGHER EDUCATION OR";	19
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	strike lines 5 through 18.	21
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	Re-number succeeding subsections accordingly.	23
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	Page 12, line 14, strike "OR";	25
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	line 15, strike "PARTICIPATING PRIVATE";	27
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	line 18, strike "OR";	29
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	line 19, strike "PARTICIPATING PRIVATE";	31
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	strike lines 21 through 27.	33
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	Page 13, strike lines 1 through 7.	35
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	Re-number succeeding subsections accordingly.	37
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	Page 13, line 15, strike "AND PARTICIPATING PRIVATE".	39
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	Page 14, line 9, strike "AND PARTICIPATING";	41
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	line 10, strike "PRIVATE INSTITUTION OF HIGHER EDUCATION";	43
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	line 17, strike "BOARDS AND PARTICIPATING" and substitute "BOARDS,";	45
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	line 18, strike "PRIVATE INSTITUTIONS,";	47
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	strike line 21.	49
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	Page 15, strike line 19 and substitute the following:	51
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	"BOARDS,";	53
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	line 20, strike "EDUCATION,";	55
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	line 23, strike "BOARDS AND PARTICIPATING" and substitute "BOARDS,";	57
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	line 24, strike "PRIVATE INSTITUTIONS,".	59
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	Page 16, strike lines 4 through 10.	61
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	Page 17, line 9, strike "OR PARTICIPATING PRIVATE".	63
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	Page 19, line 21, strike "OR PARTICIPATING PRIVATE".	65
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	Page 20, line 14, strike "AND PARTICIPATING";	67
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line 15, strike "PRIVATE";
 line 23, strike "AND PARTICIPATING PRIVATE".
 Page 22, strike lines 8 and 9.
 Reletter succeeding paragraphs accordingly.
 Page 22, line 11, strike "(12)" and substitute "(10);"
 strike lines 26 and 27.
 Page 23, strike lines 1 through 6.
 Reletter succeeding paragraphs accordingly.
 Page 24, strike lines 11 and 12 and substitute the following:
 "(B) CAPITAL CONSTRUCTION;"
 Page 25, line 2, strike "OR PRIVATE".
 Page 26, line 2, strike "OR";
 line 3, strike "PRIVATE".
 Page 28, line 17, strike "(12)" and substitute "(10)".

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 Senator Anderson moved a Call of the Senate.
 Senator Anderson moved the Call of the Senate be raised.

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

YES	14	NO	21	EXCUSED	0	ABSENT	0
Anderson	N	Groff	N	Kester	N	Takis	Y
Arnold	N	Grossman	Y	Lamborn	N	Tapia	Y
Cairns	N	Hagedorn	Y	May	N	Taylor	N
Chlouber	N	Hanna	Y	McElhany	N	Teck	N
Dyer	N	Hillman	N	Nichol	N	Tupa	Y
Entz	N	Isgar	Y	Owen	N	Veiga	Y
Evans	N	Johnson	N	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Jones	N	Reeves	Y	Mr. President	N
Gordon	Y	Keller	Y	Sandoval	N		

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Senator Windels moved to amend the Report of the Committee of the Whole to show that the following Windels floor amendment, (L.023) to SB 04-189, did pass.

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Strike the Appropriations Committee Report, dated March 26, 2004.
 Strike the Education Committee Report, dated March 3, 2004.
 Amend printed bill, strike everything below the enacting clause and substitute the following:

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SECTION 1. Article 5 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

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23-5-101.7. Enterprise status of institutions of higher education. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "INSTITUTION OF HIGHER EDUCATION" OR "INSTITUTION" MEANS THE COLORADO STATE UNIVERSITY - PUEBLO,

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ADAMS STATE COLLEGE, MESA STATE COLLEGE, METROPOLITAN STATE COLLEGE OF DENVER, FORT LEWIS COLLEGE, WESTERN STATE COLLEGE OF COLORADO, THE UNIVERSITY OF NORTHERN COLORADO, COLORADO SCHOOL OF MINES, THE UNIVERSITY OF COLORADO, COLORADO STATE UNIVERSITY, AND ALL COMMUNITY COLLEGES GOVERNED BY THE STATE BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION.

(2) AN INSTITUTION OF HIGHER EDUCATION, OR A GROUP OF INSTITUTIONS OF HIGHER EDUCATION THAT IS MANAGED BY A SINGLE GOVERNING BOARD, MAY BE DESIGNATED AS AN ENTERPRISE FOR THE PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS THE GOVERNING BOARD OF THE INSTITUTION OR GROUP OF INSTITUTIONS RETAINS AUTHORITY TO ISSUE REVENUE BONDS ON BEHALF OF THE INSTITUTION OR GROUP OF INSTITUTIONS AND THE INSTITUTION OR GROUP OF INSTITUTIONS RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUES IN GRANTS FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT IS DESIGNATED AS AN ENTERPRISE PURSUANT TO THE PROVISIONS OF THIS SECTION, AN INSTITUTION OR GROUP OF INSTITUTIONS SHALL NOT BE SUBJECT TO ANY OF THE PROVISIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(3) IN PLEDGING REVENUES FOR THE REPAYMENT OF REVENUE BONDS ISSUED ON BEHALF OF AN INSTITUTION OF HIGHER EDUCATION OR GROUP OF INSTITUTIONS OF HIGHER EDUCATION THAT IS DESIGNATED AS AN ENTERPRISE, THE INSTITUTION OR GROUP OF INSTITUTIONS MAY PLEDGE INTERNAL REVENUES ONLY IF THE INSTITUTION OR GROUP OF INSTITUTIONS:

(a) IS ACCOUNTED FOR SEPARATELY IN INSTITUTIONAL FINANCIAL RECORDS; AND

(b) ENGAGES IN THE TYPE OF ACTIVITIES THAT ARE COMMONLY CARRIED ON FOR PROFIT OUTSIDE THE PUBLIC SECTOR.

(4) (a) THE GOVERNING BOARD OF AN INSTITUTION OF HIGHER EDUCATION MAY, BY RESOLUTION, DESIGNATE AN INSTITUTION OF HIGHER EDUCATION OR GROUP OF INSTITUTIONS OF HIGHER EDUCATION MANAGED BY THE GOVERNING BOARD AS AN ENTERPRISE SO LONG AS THE INSTITUTION OR GROUP OF INSTITUTIONS MEETS THE REQUIREMENTS FOR AN ENTERPRISE STATED IN SUBSECTION (2) OF THIS SECTION. EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), ANY SUCH ENTERPRISE DESIGNATION SHALL NOT TERMINATE, EXPIRE, OR BE RESCINDED AS LONG AS THE INSTITUTION OR GROUP OF INSTITUTIONS MEETS THE REQUIREMENTS FOR AN ENTERPRISE.

(b) ALL RESOLUTIONS ADOPTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4) SHALL BE SUBMITTED BY THE ADOPTING GOVERNING BOARD TO THE OFFICE OF THE STATE AUDITOR IN THE FORM AND MANNER PRESCRIBED BY THE LEGISLATIVE AUDIT COMMITTEE. THE DESIGNATIONS SHALL BE REVIEWED BY THE OFFICE OF THE STATE AUDITOR TO DETERMINE WHETHER THE DESIGNATIONS ARE WITHIN THE AUTHORITY OF THE ADOPTING GOVERNING BOARD PURSUANT TO THE PROVISIONS OF THIS SECTION. THE LEGISLATIVE AUDIT COMMITTEE SHALL ALSO REVIEW THE DESIGNATIONS TO DETERMINE WHETHER THE DESIGNATIONS CONFORM WITH THE PROVISIONS OF THIS SECTION. THE OFFICIAL CERTIFICATE OF THE STATE AUDITOR AS TO THE FACT OF SUBMISSION OR THE DATE OF SUBMISSION OF A DESIGNATION AS SHOWN BY THE RECORDS OF THE OFFICE OF THE STATE AUDITOR, AS WELL AS TO THE FACT OF NONSUBMISSION AS SHOWN BY THE NONEXISTENCE OF SUCH RECORDS, SHALL BE RECEIVED AND HELD IN ALL CIVIL CASES AS COMPETENT EVIDENCE OF THE FACTS CONTAINED THEREIN. A DESIGNATION ADOPTED BY A GOVERNING BOARD OF AN INSTITUTION OR GROUP OF INSTITUTIONS OF HIGHER EDUCATION WITHOUT BEING SUBMITTED WITHIN TWENTY DAYS AFTER ADOPTION TO THE OFFICE OF THE STATE AUDITOR FOR REVIEW BY THE OFFICE AND BY THE LEGISLATIVE AUDIT COMMITTEE SHALL BE VOID.

(5) NOTWITHSTANDING ANY PROVISION OF SECTION 23-1-106 OR SECTION 24-75-303 (3), C.R.S., TO THE CONTRARY, THE GOVERNING

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BOARD OF AN INSTITUTION OF HIGHER EDUCATION OR GROUP OF INSTITUTIONS OF HIGHER EDUCATION THAT HAS BEEN DESIGNATED AS AN ENTERPRISE PURSUANT TO SUBSECTION (4) OF THIS SECTION SHALL HAVE THE EXCLUSIVE AUTHORITY TO APPROVE CASH FUNDED CAPITAL EXPENDITURES WITHIN THE INSTITUTION OR GROUP OF INSTITUTIONS FOR PROJECTS THAT ARE TO BE CONSTRUCTED, OPERATED, AND MAINTAINED SOLELY FROM STUDENT FEES, WHOLLY ENDOWED GIFTS AND BEQUESTS, RESEARCH BUILDING REVOLVING FUNDS, OR A COMBINATION OF SUCH SOURCES.

SECTION 2. 23-5-101.5 (2) (b) (II), Colorado Revised Statutes, is amended to read:

23-5-101.5. Enterprise status of auxiliary facilities. (2) As used in this ~~article~~ SECTION AND SECTIONS 23-5-101.7 TO 23-5-105.5:

(b) (II) "Grant" does not include:

(A) Any indirect benefit conferred upon an auxiliary facility, OR GROUP OF AUXILIARY FACILITIES OR AN INSTITUTION OR GROUP OF INSTITUTIONS from the state or any local government in Colorado, INCLUDING ANY INTEREST IN OR USE OF EXISTING FACILITIES OWNED, FUNDED, OR FINANCED BY THE GOVERNING BOARD OF AN INSTITUTION, THE STATE, OR ANY LOCAL GOVERNMENT IN COLORADO;

(B) Any revenues resulting from rates, fees, assessments, TUITION, or other charges imposed by an auxiliary facility, OR GROUP OF AUXILIARY FACILITIES OR BY AN INSTITUTION OR GROUP OF INSTITUTIONS for the provision of goods or services by such auxiliary facility, GROUP OF AUXILIARY FACILITIES, INSTITUTION OR GROUP OF INSTITUTIONS, including SERVICES TO THE STATE OR A LOCAL GOVERNMENT IN COLORADO AND fees paid to the auxiliary facility OR GROUP OF AUXILIARY FACILITIES for internal services provided to the institution of higher education with which the auxiliary facility is associated;

(C) Any federal funds, regardless of whether such federal funds pass through the state or any local government in Colorado prior to receipt by an auxiliary facility, GROUP OF AUXILIARY FACILITIES, INSTITUTION, OR GROUP OF INSTITUTIONS;

SECTION 3. 23-5-102, Colorado Revised Statutes, is amended to read:

23-5-102. Funding for auxiliary facilities - institutions of higher education - loans - bonds. (1) For the purpose of obtaining funds for constructing, otherwise acquiring, and equipping auxiliary facilities for the use of students and employees at any state educational institution or any branch thereof OR FACILITIES FOR USE BY ANY INSTITUTION OR GROUP OF INSTITUTIONS THAT IS DESIGNATED AS AN ENTERPRISE PURSUANT TO SECTION 23-5-101.7 and for the acquisition of land for such purposes, the governing board of any state educational institution is authorized, after notification to the commission on higher education, to enter into contracts with any person, corporation, or state or federal government agency for the advancement of money for such purposes and providing for the repayment of such advancements with interest at a specified net effective interest rate.

(2) The governing ~~body~~ BOARD of any institution of higher education by resolution may issue revenue bonds on behalf of any auxiliary facility or group of auxiliary facilities OR ON BEHALF OF ANY INSTITUTION OR GROUP OF INSTITUTIONS managed by such governing ~~body~~ BOARD for the purpose of obtaining funds for constructing, otherwise acquiring, equipping, or operating such auxiliary facility or group of auxiliary facilities OR FOR FACILITIES FOR SUCH INSTITUTION OR GROUP OF INSTITUTIONS. Any bonds issued on behalf of any auxiliary facility or group of auxiliary facilities, other than housing facilities, dining facilities, recreational facilities, health facilities, parking facilities, research facilities ~~which~~ THAT are funded from a revolving fund, or designated enterprise auxiliary facilities listed in section 23-5-101.5 (4) may be

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issued only after approval by both houses of the general assembly either by bill or by joint resolution and after approval by the governor in accordance with section 39 of article V of the state constitution. THE GOVERNING BOARD OF AN INSTITUTION OR GROUP OF INSTITUTIONS THAT ISSUES BONDS ON BEHALF OF THE INSTITUTION OR GROUP OF INSTITUTIONS, WHICH IS DESIGNATED AS AN ENTERPRISE PURSUANT TO SECTION 23-5-101.7, SHALL FILE NOTICE OF SUCH ISSUANCE WITH THE COLORADO COMMISSION ON HIGHER EDUCATION. Bonds issued pursuant to this subsection (2) shall be payable only from revenues generated by the auxiliary facility or group of auxiliary facilities OR BY THE INSTITUTION OR GROUP OF INSTITUTIONS on behalf of which such bonds are issued; except that, subject to section 23-1-123 (5) (a) (III) and (5) (b) (II), revenues generated by a designated enterprise ~~auxiliary facility~~ that is associated with the university of Colorado may be pledged for the repayment of bonds issued by another designated enterprise auxiliary facility ~~which~~ THAT is not part of the same enterprise. Such bonds shall be issued in accordance with the provisions of section 23-5-103 (2). The termination, rescission, or expiration of the enterprise designation of any auxiliary facility or group of auxiliary facilities pursuant to section 23-5-101.5 (3) OR OF ANY INSTITUTION OR GROUP OF INSTITUTIONS shall not adversely affect the validity of or security for any revenue bonds issued on behalf of ~~such~~ ANY auxiliary facility or group of auxiliary facilities OR ON BEHALF OF ANY INSTITUTION OR GROUP OF INSTITUTIONS.

SECTION 4. 23-5-103 (1), Colorado Revised Statutes, is amended to read:

23-5-103. Pledge of income. (1) The governing board of any one or more state educational institutions, including, but not limited to, the state colleges under the control and operation of their respective boards of trustees, ~~which~~ THAT enters into such a contract for the advancement of moneys is authorized, in connection with or as a part of such contract, to pledge the net income derived or to be derived from such land or facilities so constructed, acquired, and equipped as security for the repayment of the moneys advanced therefor, together with interest thereon, and for the establishment and maintenance of reserves in connection therewith; and, for the same purpose, any such governing board is also authorized, subject to the limitations specified in section 23-1-123 (5), to pledge the net income derived or to be derived from ~~other auxiliary facilities which are not individually designated as enterprises and which~~ FACILITIES THAT ARE INCLUDED IN A DESIGNATED ENTERPRISE OR, IF NOT INCLUDED, OTHER FACILITIES THAT are not acquired and not to be acquired with moneys appropriated to the institution by the state of Colorado, and to pledge the net income, fees, and revenues derived from such sources, if unpledged, or, if pledged, the net income, fees, and revenues currently in excess of the amount required to meet principal, interest, and reserve requirements in connection with outstanding obligations to which such net income, fees, and revenues have theretofore been pledged. If the contract for the advancement of moneys is entered into by the university of Colorado on behalf of a designated enterprise auxiliary facility that is associated with the university of Colorado, the board of regents is authorized to pledge only the net income, including fees and revenues derived or to be derived from the designated enterprise auxiliary facility and any other designated enterprise auxiliary facilities.

SECTION 5. 23-1-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

23-1-104. Financing the system of postsecondary education - repeal. (2.5) THE GENERAL ASSEMBLY RETAINS THE AUTHORITY TO ANNUALLY SET THE LEVEL OF APPROPRIATIONS OF GENERAL FUND MONEYS AND CASH FUNDS RECEIVED AS TUITION INCOME FOR THE GOVERNING BOARD OF AN INSTITUTION OR GROUP OF INSTITUTIONS THAT IS DESIGNATED AS AN ENTERPRISE PURSUANT TO SECTION 23-5-101.7.

SECTION 6. 24-77-102 (16) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

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24-77-102. Definitions - repeal. As used in this article, unless the context otherwise requires:

(16) (b) "State" does not include:

(I.5) AN INSTITUTION OR GROUP OF INSTITUTIONS OF HIGHER EDUCATION THAT HAS BEEN DESIGNATED AS AN ENTERPRISE PURSUANT TO SECTION 23-5-101.7, C.R.S.;

SECTION 7. Effective date. This act shall take effect July 1, 2004.

SECTION 8. 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."

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

YES	13	NO	22	EXCUSED	0	ABSENT	0
Anderson	N	Groff	N	Kester	N	Takis	Y
Arnold	N	Grossman	N	Lamborn	N	Tapia	Y
Cairns	N	Hagedorn	N	May	N	Taylor	N
Chlouber	N	Hanna	Y	McElhany	N	Teck	N
Dyer	N	Hillman	N	Nichol	Y	Tupa	Y
Entz	N	Isgar	Y	Owen	N	Veiga	Y
Evans	N	Johnson	N	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Jones	N	Reeves	Y	Mr. President	N
Gordon	Y	Keller	Y	Sandoval	N		

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 (SB04-190, SB04-136 as amended, SB04-151 as amended, HB04-1141, SB04-203) of April 1, was laid over until Friday, April 2, retaining its place on the calendar.

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator Teck, 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: SB04-189 as amended.
Laid over until Friday, April 2: SB04-190, SB04-136 as amended, SB04-151 as amended, HB04-1141, SB04-203.

COMMITTEE OF REFERENCE REPORTS

Education

After consideration on the merits, the Committee recommends that **HB04-1380** be referred to the Committee of the Whole with favorable recommendation.

MESSAGE FROM THE HOUSE

April 1, 2004
Mr. President:

The House has voted not to concur in the Senate amendments to HB04-1177 and requests that a conference committee be appointed. The Speaker has appointed Representatives Spradley, chairman, T. Williams, and Miller as House conferees on the First Conference Committee on HB04-1177. The bill is transmitted herewith.

INTRODUCTION OF RESOLUTION

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

SJR04-031 by Senator(s) Entz; also Representative(s) Hoppe--Concerning the species conservation eligibility list.
Agriculture, Natural Resources & Energy

INTRODUCTION OF BILL--FIRST READING

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

SB04-220 by Senator(s) Owen; also Representative(s) Stengel--Concerning leveraged leasing agreements involving qualified state capital assets.
Finance

SIGNING OF BILLS--RESOLUTIONS--MEMORIALS

The President has signed: HB04-1369.
The President has signed: HB04-1020, 1022, 1026, 1058, 1069, 1110, 1125, 1149, 1194, 1197, 1213, 1215, 1218, 1228, 1255, 1306, 1343, 1356.
The President has signed: HB04-1402.
The President has signed: SB04-042, 047, 063, 089, 147, 180, and 182.

SENATE SERVICES REPORTS

Correctly Reengrossed: SB04-078, 134, 154, 165 and 178.
Correctly Revised: HB04-1393.
Correctly Rerevised: HB04-1351.

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 1, 2004, was laid over until Friday, April 2, 2004, retaining its place on the calendar.

Consideration of Resolutions: SJR04-011, SJR04-013, SJR04-014, SJR04-022, SJR04-010, HJR04-1020, SJR04-017, SJR04-028, HJR04-1045.
Consideration of House Amendments to Senate Bills: SB04-108, SB04-137, SB04-115, SB04-125, SB04-013, SB04-105, SB04-024, SB04-094, SB04-045, SB04-188.
Consideration of Governor's Appointments:
Members of the Water Quality Control Commission.
Consideration of Conference Committee Reports: HB04-1102.
Conference Committees to Report: HB04-1072, HB04-1117, SB04-082.
Requests for Conference Committee: HB04-1236, SB04-131.

On motion of Senator Hillman, the Senate adjourned until 9:00 a.m., Friday, April 2, 2004.

Approved:

John Andrews
President of the Senate

Attest:

Mona Heustis
Secretary of the Senate

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