

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

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Thirtieth Legislative Day

Thursday, February 5, 2004

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Prayer	By the chaplain, Reverend Paul Kottke, University Park United Methodist Church.	11
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Pledge	By Senator Andrews.	13
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Call to Order	By the President at 9:00 a.m.	15
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Roll Call	Present--31.	18
	Absent/Excused--4; Evans, Gordon, Owen, Windels.	19
	Present later--Evans, Gordon, Owen, Windels.	20
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Quorum	The President announced a quorum present.	22
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Reading of Journal	On motion of Senator Keller, reading of the Journal of February 4, 2004, was dispensed with and the Journal was approved as corrected by the Secretary.	24
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	On motion of Senator Hillman, and with a two-thirds majority of those elected to the Senate having voted in the affirmative, SB04-127, HB04-1206, and HB04-1098 were made Special Orders at 9:12 a.m.	29
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Committee of the Whole	The hour of 9:12 a.m. having arrived, Senator McElhany moved that the Senate resolve itself into the Committee of the Whole for consideration of Special Orders--Second Reading of Bills and Senator McElhany was called to the Chair to act as Chairman.	34
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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:	40
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<b>SB04-127</b>	by Senator(s) Veiga; --Concerning prohibited conduct of notaries public.	44
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	<u>Amendment No. 1, Judiciary Committee Amendment.</u>	46
	(Printed in Senate Journal, February 4, page 176 and placed in members' bill files.)	47
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	As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage.	49
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<b>HB04-1206</b>	by Representative(s) Mitchell, Butcher, Clapp, Coleman, Decker, Frangas, Hall, Harvey, Judd, Marshall, May M., McFadyen, Pommer, Rose, Salazar, Stafford, Tochtrop, Williams T.; also Senator(s) Hillman--Concerning the second pool of premium tax credits available under the "Certified Capital Company Act", and, in connection therewith, creating an insurance premium tax credit for contributions to CoverColorado by an insurance company.	52
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	Ordered revised and placed on the calendar for Third Reading and Final Passage.	58
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<b>HB04-1098</b>	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".	60
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	Ordered revised and placed on the calendar for Third Reading and Final Passage.	64
	(For further action, see Amendments to the Report of the Committee of the Whole.)	65
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AMENDMENTS TO THE REPORT OF THE COMMITTEE OF THE WHOLE

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".

Senator Owen requested a roll call vote on HB04-1098.

Senator Owen moved a Call of the Senate.

Senator Owen moved the Call of the Senate be raised.

HB04-1098 was declared passed on the following roll call vote:

ROLL CALL VOTE ON HB04-1098

Table with columns: YES (32), NO (3), EXCUSED (0), ABSENT (0). Rows list names and their corresponding votes (Y/N).

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: SB04-127 as amended, HB04-1206, HB04-1098.

COMMITTEE OF REFERENCE REPORTS

Health, Environment, Welfare, & Institutions After consideration on the merits, the Committee recommends that SB04-095 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 3, strike lines 14 and 15 and substitute the following:

"SECTION 3. Effective date - applicability. This act shall take effect July 1, 2004, and shall apply to stillbirths occurring prior to, on, or after said date."

Health, Environment, Welfare, & Institutions After consideration on the merits, the Committee recommends that SB04-103 be amended as follows, and as so amended, be referred to the Committee on State, Veterans, and Military Affairs with favorable recommendation.

Amend printed bill, page 3, strike lines 4 and 5 and substitute the following:

"SCHOOL DISTRICT SHALL MEET THE CRITERIA SET FORTH IN SUBSECTION (7) OF THIS SECTION.";

line 6, strike "JANUARY 1, 2005," and substitute "THE EFFECTIVE DATE OF THIS SECTION,";

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69

line 8, strike "NONHEALTHFUL";

line 9, strike "NONHEALTHFUL";

strike line 14 and substitute the following:

"SALE OF FOODS AND BEVERAGES WHICH MEET THE CRITERIA SET FORTH IN SUBSECTION (7) OF THIS SECTION.";

strike lines 15 through 25 and substitute the following:

"(4) A SCHOOL SHALL REPORT TO THE SCHOOL DISTRICT ANY VIOLATIONS OF THIS SECTION OR OF THE SCHOOL DISTRICT POLICY ADOPTED PURSUANT TO SUBSECTION (2) OF THIS SECTION. THE SCHOOL DISTRICT SHALL REPORT SAID VIOLATIONS TO THE DEPARTMENT. THE SCHOOL DISTRICT SHALL PAY TO THE STATE TREASURER AN AMOUNT EQUAL TO THE ESTIMATED PROFITS ATTRIBUTABLE TO THE SCHOOL DISTRICT FROM THE SALES IN VIOLATION OF THIS SECTION OR THE SCHOOL DISTRICT POLICY. THE STATE TREASURER SHALL CREDIT THE AMOUNT TO THE".

Page 5, strike lines 6 through 12 and substitute the following:

"(7) (a) FOODS AND BEVERAGES SOLD THROUGH SCHOOL VENDING MACHINES THAT MEET ACCEPTABLE NUTRITIONAL STANDARDS SHALL CONSIST OF THE FOLLOWING:";

line 20, strike "AND";

line 23, strike the period and substitute a semicolon;

strike line 24;

line 25, strike "(I)" and substitute "(V)".

Page 6, strike "(II)" and substitute "(VI)";

after line 6, insert the following:

"(b) FOR PURPOSES OF THIS SECTION, "ADDITIONAL SWEETENER" MEANS AN ADDITIVE THAT ENHANCES THE SWEETNESS OF A FOOD OR BEVERAGE, INCLUDING BUT NOT LIMITED TO SUGAR. "ADDITIONAL SWEETENER" DOES NOT INCLUDE THE NATURAL SUGAR OR SUGARS THAT ARE CONTAINED IN ANY FRUIT JUICE THAT IS A COMPONENT OF THE FOOD OR BEVERAGE.".

Health,  
Environment,  
Welfare, &  
Institutions

After consideration on the merits, the Committee recommends that **SB04-019** be referred to the Committee of the Whole with favorable recommendation.

Judiciary

After consideration on the merits, the Committee recommends that **SB04-069** be postponed indefinitely.

Judiciary

After consideration on the merits, the Committee recommends that **SB04-130** be referred to the Committee of the Whole with favorable recommendation.

Judiciary

After consideration on the merits, the Committee recommends that **SB04-159** be referred to the Committee of the Whole with favorable recommendation.

Judiciary

After consideration on the merits, the Committee recommends that **SB04-049** be postponed indefinitely.

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Judiciary After consideration on the merits, the Committee recommends that **SB04-046** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, line 5, strike "IN A CASE";

strike line 6 through 18 and substitute the following:

"IN A CRIMINAL PROSECUTION INCLUDING AN OFFENSE DESCRIBED IN SUBSECTION (2) OF THIS SECTION, THE COURT MAY, AT ANY TIME UPON MOTION OF THE PROSECUTION OR ON THE COURT'S OWN MOTION, ISSUE A PROTECTIVE ORDER PURSUANT TO THE COLORADO RULES OF CRIMINAL PROCEDURE CONCERNING DISCLOSURE OF INFORMATION RELATING TO THE VICTIM OR A WITNESS. THE COURT MAY PUNISH A VIOLATION OF A PROTECTIVE ORDER BY CONTEMPT OF COURT.

(b) THE VICTIM WHO WOULD BE THE SUBJECT OF THE PROTECTIVE ORDER MAY OBJECT TO THE MOTION FOR A PROTECTIVE ORDER."

Judiciary After consideration on the merits, the Committee recommends that **HB04-1052** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 2, line 11, strike "CUSTODY, OR VISITATION" and substitute "ALLOCATION OF PARENTAL RESPONSIBILITIES, OR PARENTING TIME".

Page 3, line 12, strike "A" and substitute "AN ACTION CONCERNING" and, strike "CUSTODY, OR VISITATION" and substitute "ALLOCATION OF PARENTAL RESPONSIBILITIES, OR PARENTING TIME,";

line 13, strike "ACTION,";

line 14, after "THE", insert "ACTION CONCERNING" and, strike "CUSTODY, OR" and substitute "ALLOCATION OF PARENTAL RESPONSIBILITIES, OR PARENTING TIME.";

strike line 15.

Judiciary After consideration on the merits, the Committee recommends that **HB04-1100** 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 7, strike "SHALL" and substitute "MAY".

MESSAGE FROM THE HOUSE

February 5, 2004  
Mr. President:

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB04-1212.

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB04-1177, amended as printed in House Journal, February 4, pages 289-291.  
HB04-1004, amended as printed in House Journal, February 4, page 291.  
HB04-1080, amended as printed in House Journal, February 4, page 291.  
HB04-1109, amended as printed in House Journal, February 4, page 292.  
HB04-1115, amended as printed in House Journal, February 4, page 292.

**SENATE SERVICES REPORT**

**Correctly Printed:** SB04-175 and 176.  
**Correctly Reengrossed:** SB04-117.

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**TRIBUTES**

Honoring:

Neil Pye -- by Senator Isgar and Representative Larson;  
The Owners and Staff of the First National Bank of the Rockies -- by Senator Teck.

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On motion of Senator Hillman, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the calendar of February 5, 2004, was laid over until Friday, February 6, 2004, retaining its place on the calendar.

General Orders -- Second Reading of Bills: SB04-116, HB04-1007, SB04-091, SB04-115, HB04-1072, SB04-047, SB04-098, SB04-128, SB04-045, SB04-001.  
Consideration of Resolutions: SJR04-008, SJR04-009, SJR04-011, SJR04-012, SJR04-013.  
Consideration of Governor's Appointments:  
Members of the Hazardous Waste Commission;  
Members of the State Board of Nursing.

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On motion of Senator Hillman, the Senate adjourned until 9:00 a.m., Friday, February 6, 2004.

Approved:

John Andrews  
President of the Senate

Attest:

Mona Heustis  
Secretary of the Senate

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