

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

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Tenth Legislative Day Friday, January 16, 2004

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Prayer	By the chaplain, Pastor Stan Reeder, Westminster Church of the Nazarene.	1
Pledge	By Senator Nichol.	2
Call to Order	By the President at 9:00 a.m.	3
Roll Call	Present--33. Absent/Excused--2; Entz, Owen.	4
Quorum	The President announced a quorum present.	5
Reading of Journal	On motion of Senator Grossman, reading of the Journal of January 15, 2004, was dispensed with and the Journal was approved as corrected by the Secretary.	6

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**COMMITTEE OF REFERENCE REPORTS**

State, Veterans, & Military Affairs	After consideration on the merits, the Committee recommends that <b>SB04-056</b> be postponed indefinitely.	7
State, Veterans, & Military Affairs	After consideration on the merits, the Committee recommends that <b>SB04-043</b> be postponed indefinitely.	8
Local Government	After consideration on the merits, the Committee recommends that <b>SB04-018</b> be referred to the Committee of the Whole with favorable recommendation.	9
Local Government	After consideration on the merits, the Committee recommends that <b>SB04-002</b> be referred to the Committee of the Whole with favorable recommendation.	10

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**MESSAGE FROM THE HOUSE**

January 15, 2004  
Mr. President:

The House has passed on Third Reading and transmitted to the Revisor of Statutes  
 HB04-1098, amended as printed in House Journal, Jan. 14, page 63.  
 HB04-1002, amended as printed in House Journal, Jan. 14, page 64.  
 HB04-1007, amended as printed in House Journal, Jan. 14, page 64.  
 HB04-1010, amended as printed in House Journal, Jan. 14, page 64.  
 HB04-1011, amended as printed in House Journal, Jan. 14, pages 64-65 and on Third  
 Reading as printed in House Journal Jan. 15.  
 SB04-011, amended as printed in House Journal January 14, page 63.

MESSAGE FROM THE REVISOR OF STATUTES

January 15, 2004

We herewith transmit:

Without comment, as amended, HB04-1098, 1002, 1007, 1010, and 1011 and SB04-011.

INTRODUCTION OF BILLS--FIRST READING

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

- HB04-1002** by Representative(s) Crane; also Senator(s) Lamborn--Concerning conforming amendments to the pledge of allegiance statute to make the statute constitutional as required by the United States court of appeals for the seventh circuit in the 1992 decision entitled Sherman versus Community Consolidated School District 21 of Wheeling Township.  
State Veterans & Military Affairs
- HB04-1010** by Representative(s) King, Spradley; also Senator(s) Reeves--Concerning the elimination of certain education advisory boards.  
Education
- HB04-1007** by Representative(s) Williams T., Coleman, Rhodes; also Senator(s) Takis, Anderson, Taylor, Tupa--Concerning the obligations of a governing body of an institution of higher education that establishes an optional retirement plan.  
Education
- HB04-1011** by Representative(s) King; also Senator(s) Anderson, Andrews--Concerning the employment status of persons employed within the state system of higher education.  
State Veterans & Military Affairs

THIRD READING--FINAL PASSAGE OF BILLS

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

- SB04-004** by Senator(s) May R.; also Representative(s) Spence--Concerning the statewide tolling enterprise, and, in connection therewith, clarifying the division of responsibilities between the board of the enterprise and the transportation commission with respect to the operation of the enterprise.

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

YES	33	NO	0	EXCUSED	2	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	E	Isgar	Y	Owen	E	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: Andrews, Arnold, Cairns, Chlouber, and Jones.

- SB04-012** by Senator(s) May R.; also Representative(s) Ragsdale, Welker--Concerning the types of records necessary for the department of revenue to administratively revoke a driver's license for tampering with an interlock device.

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

YES	33	NO	0	EXCUSED	2	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	E	Hillman	Y	Nichol	Y	Tupa	Y
Entz	Y	Isgar	Y	Owen	E	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, Chlouber, Hagedorn, Jones, Phillips, Taylor, and Veiga.

**SB04-021**

by Senator(s) Takis; also Representative(s) Hodge--Concerning eliminating the requirement that motor vehicle insurance coverage indemnify loss that occurs outside of the areas controlled by the United States.

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

YES	33	NO	0	EXCUSED	2	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	E	Isgar	Y	Owen	E	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, Gordon, Groff, Hagedorn, Jones, Kester, Nichol, and Sandoval.

On motion of Senator Chlouber, and with a two-thirds majority of those elected to the Senate having voted in the affirmative, SB04-026, 030, 061, 016, 009, 003, 063, 005, 044, 042, 007 were made Special Orders at 9:15 a.m.

Committee of the Whole

The hour of 9:15 a.m. having arrived, Senator Chlouber moved that the Senate resolve itself into the Committee of the Whole for consideration of Special Orders--Second Reading of Bills and Senator Chlouber was called to the Chair to act as Chairman.

**SPECIAL ORDERS--SECOND READING OF BILLS**

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

**SB04-026**

by Senator(s) Jones; also Representative(s) Welker--Concerning increasing the time period in which the insurance commissioner must hold a hearing about the cancellation of motor vehicle insurance.

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

**SB04-030**

by Senator(s) Arnold; also Representative(s) Mitchell--Concerning crimes that make an inmate ineligible for participation in the regimented inmate training program.

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

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**SB04-061** by Senator(s) Evans, Dyer, Gordon, Grossman, Jones; also Representative(s) Lee, Hefley, Judd, Marshall, Smith--Concerning the enactment of Colorado Revised Statutes 2003 as the positive and statutory law of the state of Colorado. 1  
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Ordered engrossed and placed on the calendar for Third Reading and Final Passage. 5  
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**SB04-016** by Senator(s) Anderson, Takis, Taylor, Tupa; also Representative(s) Coleman, Rhodes, Williams T.--Concerning the disposition of property by the division of correctional industries. 7  
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Amendment No. 1, Finance Committee Amendment. 11

(Printed in Senate Journal, January 14, page 59 and placed in members' bill files.) 12  
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As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage. 14  
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**SB04-009** by Senator(s) Taylor, Anderson, Takis, Tupa; also Representative(s) Vigil, Coleman, Rhodes, Williams T.--Concerning the repeal of the requirement that the Colorado state fair authority not accept contributions from nonstate entities in any budget year that the authority would qualify as an enterprise under section 20 of article X of the state constitution that would cause the authority to receive more than ten percent of its annual revenues from all Colorado state and local governments combined. 17  
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Amendment No. 1, Finance Committee Amendment. 24

(Printed in Senate Journal, January 14, page 59 and placed in members' bill files.) 25  
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As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage. 27  
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**SB04-003** by Senator(s) Taylor, Anderson, Takis, Tupa; also Representative(s) Williams T., Coleman, Rhodes--Concerning certain reporting requirements regarding enterprise zones. 30  
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Ordered engrossed and placed on the calendar for Third Reading and Final Passage. 33  
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**SB04-063** by Senator(s) Teck; also Representative(s) May M.--Concerning court review of the rejection of a claim for certain tax refunds. 35  
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Ordered engrossed and placed on the calendar for Third Reading and Final Passage. 38  
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**SB04-005** by Senator(s) Reeves; also Representative(s) Witwer, King, Romanoff, Spradley, Young--Concerning the presentation of information by each principal department of the executive branch of state government to legislative committees of reference at the beginning of every regular session of the general assembly. 40  
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Ordered engrossed and placed on the calendar for Third Reading and Final Passage. 45  
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**SB04-044** by Senator(s) Fitz-Gerald; --Concerning authorization of an owner of a retail gaming tavern to own an interest in a hotel and restaurant establishment licensed to sell alcohol beverages. 47  
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Ordered engrossed and placed on the calendar for Third Reading and Final Passage. 50  
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**SB04-042** by Senator(s) Arnold; also Representative(s) Mitchell, Carroll, Rose--Concerning the student loan advisory committee. 52  
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Laid over until Monday, January 19, retaining its place on the calendar. 55  
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**SB04-007** by Senator(s) Anderson, Taylor; also Representative(s) Williams T., Rhodes--Concerning the determination of which higher education employees are exempt from the state personnel system. 57  
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Ordered engrossed and placed on the calendar for Third Reading and Final Passage. 61  
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#### **ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE** 64 65

On motion of Senator Chlouber, 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: 66  
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Passed on Second Reading: SB04-026, SB04-030, SB04-061, SB04-016 as amended, SB04-009 as amended, SB04-003, SB04-063, SB04-005, SB04-044, SB04-007. 70  
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Laid over until Monday, January 19: SB04-042. 72

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 House Amendments to **SB04-011**.

**CONSIDERATION OF HOUSE AMENDMENTS TO SB04-011**

**SB04-011** by Senator(s) Anderson, Taylor, Tupa; also Representative(s) Coleman, Rhodes, Williams T.--Concerning limitations on allowable qualified distributions pursuant to the "Certified Capital Company Act".

Senator Anderson moved that the Senate concur in House amendments to **SB04-011**, as printed in House Journal, January 14, page 63. The motion was **passed** by the following roll call vote:

YES	33	NO	0	EXCUSED	2	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	E	Isgar	Y	Owen	E	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		

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

YES	33	NO	0	EXCUSED	2	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	E	Isgar	Y	Owen	E	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, as amended, was declared **repassed**.

Co-sponsors added: Evans, Hanna, Keller, and Windels.

**SENATE SERVICES REPORT**

**Correctly Printed:** SB04-113, 114, 115, and 116.  
**Correctly Engrossed:** SB04-004, 012, and 021.

**COMMITTEE OF REFERENCE REPORTS**

Health,  
 Environment,  
 Welfare, &  
 Institutions

After consideration on the merits, the Committee recommends that **SB04-051** 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 16, strike "A PERIOD OF".

Health, Environment, Welfare, & Institutions      After consideration on the merits, the Committee recommends that **SB04-035** be referred to the Committee of the Whole with favorable recommendation.

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Health, Environment, Welfare, & Institutions      After consideration on the merits, the Committee recommends that **SB04-028** be referred to the Committee on Appropriations with favorable recommendation.

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Health, Environment, Welfare, & Institutions      After consideration on the merits, the Committee recommends that **SB04-017** be referred to the Committee of the Whole with favorable recommendation.

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Agriculture, Natural Resources, & Energy      The Committee on Agriculture, Natural Resources, and Energy has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:

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MEMBERS OF THE  
OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

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for terms expiring July 1, 2007:

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Brian J. Cree of Littleton, Colorado, to serve as a member with experience in the oil and gas industry, reappointed;

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John B. Ashby, Jr. of Boulder, Colorado, to fill the vacancy occasioned by the resignation of Stephen A. Sonnenberg, and to serve a member with a college degree in geological engineering and experience in the oil and gas industry, appointed.

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Agriculture, Natural Resources, & Energy      The Committee on Agriculture, Natural Resources, and Energy has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:

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MEMBERS OF THE  
COLORADO WATER CONSERVATION BOARD

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for terms expiring February 12, 2006:

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Eric W. Wilkinson of Fort Collins, Colorado, to serve as a representative from the South Platte drainage basin and as a Republican, reappointed;

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Robert O. Burr of Walden, Colorado, to serve as a representative from the North Platte drainage basin and as a Republican, reappointed;

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Marcus Keith Catlin of Montrose, Colorado, to serve as a representative from the Gunnison-Uncompahgre basin and as a Democrat, reappointed.

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Agriculture, Natural Resources, & Energy      The Committee on Agriculture, Natural Resources, and Energy has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:

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EXECUTIVE DIRECTOR  
OF THE  
DEPARTMENT OF NATURAL RESOURCES

effective January 12, 2004, for a term expiring at the pleasure of the Governor:

Russell George of Rifle, Colorado, be and he is hereby appointed.

Agriculture,  
Natural  
Resources, &  
Energy

After consideration on the merits, the Committee recommends that **SB04-032** 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 3, strike "(2) (b) (V),";

line 24, strike "MATERIAL";

line 26, strike "MATERIAL".

Page 3, strike lines 4 through 15;

line 18, strike "material" and substitute "material";

line 19, strike "SUBSECTION (1)" and substitute "PARAGRAPH (a)";

line 20, strike "SECTION," and substitute "SUBSECTION (2),".

Page 4, after line 5, insert the following:

**"SECTION 2. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the ground water management cash fund created in section 37-80-111.5, Colorado Revised Statutes, not otherwise appropriated, to the department of natural resources, for allocation to division of water resources, for the fiscal year beginning July 1, 2004, the sum of three hundred dollars (\$300), or so much thereof as may be necessary, for the implementation of this act."

Renumber succeeding sections accordingly.

Page 1, line 102, strike "RIGHTS." and "RIGHTS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH."

Judiciary

The Committee on Judiciary 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 PAROLE

effective July 1, 2003 for a term expiring July 1, 2006:

Allan F. Stanley of Littleton, Colorado, to serve as a law enforcement representative, reappointed;

effective July 1, 2003 for a term expiring July 1, 2004:

David L. Paul of Westminster, Colorado, to fill the vacancy occasioned by the resignation of Donald E. Van Pelt, and to serve as a citizen representative, appointed.

Judiciary

After consideration on the merits, the Committee recommends that **SB04-067** be referred to the Committee of the Whole with favorable recommendation.

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Judiciary

After consideration on the merits, the Committee recommends that **SB04-052** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 2, line 25, after "TITLE", insert "FOR DRIVERS WHO ARE AGE TWENTY-ONE YEARS OR OLDER".

Page 3, line 1, strike "YEARS." and substitute "YEARS, UNLESS THE DRIVER POSSESSES A COMMERCIAL DRIVERS' LICENSE ISSUED PURSUANT TO PART 4 OF ARTICLE 2 OF THIS TITLE, OR UNLESS THE DRIVER IS A VOLUNTEER DRIVER FOR A NON-PROFIT OR FOR-PROFIT AGENCY.";

strike lines 5 through 7 and substitute the following:

**"SECTION 2. Effective date.** (1) This act shall take effect January 1, 2005.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later."

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 January 16, 2004, was laid over until Monday, January 19, 2004, retaining its place on the calendar.

Second Reading--General Orders of Bills: SB04-020, SB04-040, SB04-013.  
Consideration of Resolution: HJR04-1002.  
Consideration of Governor's Appointments:  
Members of the Special Funds Board for Workers' Compensation Self Insurers;  
Member of the State Electrical Board.

On motion of Senator Hillman, the Senate adjourned until 1:30 p.m., Monday, January 19, 2004.

Approved:

John Andrews  
President of the Senate

Attest:

Mona Heustis  
Secretary of the Senate

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