

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

Fifty-seventh Legislative Day

Wednesday, March 3, 2004

Prayer By Senator Johnson.

Pledge By the President.

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

Roll Call Present--33.
Absent/Excused--2; Groff, McElhany.
Present later--Groff, McElhany.

Quorum The President announced a quorum present.

Reading of Journal On motion of Senator Veiga, reading of the Journal of March 2, 2004, was dispensed with and the Journal was approved as corrected by the Secretary.

COMMITTEE OF REFERENCE REPORTS

Business Affairs & Labor After consideration on the merits, the Committee recommends that **HB04-1125** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 1, strike line 2 and substitute the following:

"SECTION 1. 6-1-702, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:".

Page 2, strike lines 1 and 2;

line 3, strike "**6-1-712.**" and substitute "**6-1-702.**".

Page 3, line 13, strike "6-1-712." and substitute "6-1-702.".

Business Affairs & Labor After consideration on the merits, the Committee recommends that **SB04-094** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

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

"SECTION 1. Repeal. 10-16-105 (7.2) (b) (II), (7.3) (c) (II), and (7.3) (c) (III), Colorado Revised Statutes, are repealed as follows:

10-16-105. Small group sickness and accident insurance - guaranteed issue - mandated provisions for basic and standard health benefit plans - rules. (7.2) The commissioner shall promulgate rules to implement a basic health benefit plan and a standard health benefit plan to be offered by each small employer carrier as a condition of transacting business in this state. The commissioner shall survey small group carriers to determine the range of health benefit plans available annually. The commissioner shall implement a basic plan that approximates the lowest level of coverage offered in small group health benefit plans and shall implement a standard plan that approximates the average level of coverage offered in small group health benefit plans. In determining such

levels of coverage, the commissioner shall consider such factors as coinsurance, copayments, deductibles, out-of-pocket maximums, and covered benefits. The commissioner shall amend the rules to implement the basic and standard plans no more frequently than once every two years. Such rules shall be in conformity with the provisions of article 4 of title 24, C.R.S., and shall incorporate the following:

(b) (II) ~~In addition to the basic plan pursuant to subparagraph (I) of this paragraph (b), a basic health benefit plan may reflect one of the following options in addition to the requirements of subparagraph (I) of this paragraph (b):~~

~~(A) Coverage that meets the requirements for a high deductible health plan for the purposes of qualifying for a federal medical savings account; except that health maintenance organization basic health benefit plans shall reflect a sharing of higher consumer costs through higher copayments instead of deductible amounts. Such health insurance shall be offered in conjunction with a medical savings account, as defined in section 39-22-504.7, C.R.S., or an account or other mechanism as defined in federal law that is comparable to a medical savings account, which account or mechanism shall reflect an employer contribution of not less than one hundred percent of the amount of the premium paid by the employer for each individual employee up to seventy-five percent of the amount of the deductible; except that a business group of one may not contribute more than the business group of one's net income to a medical savings account or more than sixty-five percent of the deductible amount of the plan. A medical savings account may be accessed through a debit card system.~~

~~(B) Coverage that meets the requirements for a high deductible health plan for the purposes of qualifying for a federal medical savings account; except that a health maintenance organization may reflect a sharing of higher consumer costs through higher copayments instead of deductible amounts. Such high deductible health plan shall include all of the mandated benefits required pursuant to section 10-16-104 and may be offered in conjunction with a medical savings account or other mechanism as defined in federal law that is comparable to a medical savings account.~~

~~(7.3) (c) (II) In the case of a small employer carrier that establishes more than one class of business, as defined in sections 10-8-602 (3.5) and 10-16-102 (11), the small employer carrier shall offer to eligible small employers at least one basic health benefit plan and at least one standard health benefit plan for each type of plan it offers in the general market, including traditional indemnity, preferred provider, and health maintenance organization in each class of business so established. In addition to basic and standard plans, a small employer carrier may offer a high deductible plan that may be a traditional indemnity plan, a preferred provider plan, a health maintenance organization plan, or a point of service plan in each class of business established. High deductible plans offered by a small employer carrier may be offered in conjunction with a medical savings account. A small employer carrier may apply reasonable criteria in determining whether to accept a small employer into a class of business if:~~

~~(A) The criteria are not intended to discourage or prevent acceptance of small employers applying for a basic or standard health benefit plan;~~

~~(B) The criteria are not related to the health status or claim experience of the small employer;~~

~~(C) The criteria are applied consistently to all small employers applying for coverage in the class of business; and~~

~~(D) The small employer carrier provides for the acceptance of all eligible small employers into one or more classes of business.~~

~~(III) The provisions of subparagraph (II) of this paragraph (c) shall not apply to a class of business into which the small employer carrier is no longer enrolling new small businesses.~~

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SECTION 2. Part 1 of article 16 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

10-16-129. Health savings accounts. ANY CARRIER AUTHORIZED TO CONDUCT BUSINESS IN THIS STATE THAT OFFERS COVERAGE PURSUANT TO PART 2, 3, OR 4 OF THIS ARTICLE MAY OFFER A HIGH DEDUCTIBLE HEALTH PLAN THAT WOULD QUALIFY FOR AND MAY BE OFFERED IN CONJUNCTION WITH A HEALTH SAVINGS ACCOUNT PURSUANT TO 26 U.S.C. SEC. 223, AS AMENDED. A CARRIER OFFERING A HIGH DEDUCTIBLE HEALTH PLAN THAT MAY BE OFFERED IN CONJUNCTION WITH A HEALTH SAVINGS ACCOUNT MAY APPLY THE DEDUCTIBLE TO MANDATORY HEALTH BENEFITS MAMMOGRAPHY, PROSTATE CANCER SCREENING, AND CHILD HEALTH SUPERVISION SERVICES PURSUANT TO SECTION 10-16-104 (4), (10), AND (11), IF SUCH MANDATORY BENEFITS ARE NOT CONSIDERED PREVENTIVE BY THE FEDERAL DEPARTMENT OF TREASURY.

SECTION 3. 24-50-605, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-50-605. Group benefit plans - specifications - contracts.
(5) THE DIRECTOR SHALL EVALUATE THE FEASIBILITY OF OFFERING A HIGH DEDUCTIBLE HEALTH PLAN THAT WOULD QUALIFY FOR A HEALTH SAVINGS ACCOUNT AS DESCRIBED IN 26 U.S.C. 223, AS AMENDED, FOR STATE EMPLOYEES. THE DIRECTOR SHALL FORWARD THE FINDINGS BASED ON SUCH EVALUATION TO THE MEMBERS OF THE HEALTH, ENVIRONMENT, AND INSTITUTIONS AND BUSINESS AFFAIRS AND LABOR COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE NO LATER THAN OCTOBER 1, 2004. IN THE DIRECTOR'S FINDINGS, THE DIRECTOR SHALL LIST ANY IMPEDIMENTS TO IMPLEMENTING SUCH HIGH DEDUCTIBLE HEALTH PLANS AND ANY MEASURES TAKEN TO IMPLEMENT SUCH PLANS FOR STATE EMPLOYEES.

SECTION 4. 24-51-101 (42), Colorado Revised Statutes, is amended to read:

24-51-101. Definitions. As used in this article, unless the context otherwise requires:

(42) (a) "Salary" means compensation for services rendered to an employer and includes: Regular salary or pay; any pay for administrative, sabbatical, annual, sick, vacation, or personal leave; pay for compensatory time or holidays; payments by an employer from grants; amounts deducted from pay pursuant to tax-sheltered savings or retirement programs; AMOUNTS DEDUCTED FROM PAY FOR A HEALTH SAVINGS ACCOUNT AS DEFINED IN 26 U.S.C. SEC. 223, AS AMENDED, OR ANY OTHER TYPE OF RETIREMENT HEALTH SAVINGS ACCOUNT PROGRAM; performance or merit payments, if approved by the board; special pay for work-related injuries paid by the employer prior to termination of membership; and retroactive salary payments pursuant to court orders, arbitration awards, or litigation and grievance settlements.

(b) "Salary" does not include: Commissions; compensation for unused sick leave converted at any time to cash payments; COMPENSATION FOR UNUSED SICK, ANNUAL, VACATION, ADMINISTRATIVE, OR OTHER ACCUMULATED PAID LEAVE CONTRIBUTED TO A HEALTH SAVINGS ACCOUNT AS DEFINED IN 26 U.S.C. SEC. 223, AS AMENDED, OR A RETIREMENT HEALTH SAVINGS PROGRAM; housing allowances; uniform allowances; automobile usage; insurance premiums; dependent care assistance; reimbursement for expenses incurred; tuition or any other fringe benefits, regardless of federal taxation; bonuses for services not actually rendered, including, but not limited to, early retirement inducements, Christmas bonuses, cash awards, honorariums and severance pay, damages, except for retroactive salary payments paid pursuant to court orders or arbitration awards or litigation and grievance settlements, or payments beyond the date of a member's death.

SECTION 5. Effective date - applicability. This act shall take effect July 1, 2004, and shall apply to basic health benefit plans issued or renewed and health savings accounts established on or after said date.

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SECTION 6. 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."

Trans- After consideration on the merits, the Committee recommends that **HB04-1173** be postponed indefinitely.

Trans- After consideration on the merits, the Committee recommends that **HB04-1017** be referred to the Committee on Appropriations with favorable recommendation.

Trans- After consideration on the merits, the Committee recommends that **HB04-1025** be referred to the Committee of the Whole with favorable recommendation.

MESSAGE FROM THE HOUSE

March 2, 2004
Mr. President:

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB04-1083, amended as printed in House Journal, February 27, pages 680-681.
HCR04-1004, amended as printed in House Journal, March 1, pages 699-700.

The House has passed on Third Reading and returns herewith SB04-127,128,009,013,022,023.

The House has passed on Third Reading and transmitted to the Revisor of Statutes; SB04-110, amended as printed in House Journal, March 1, pages 698-699.
SB04-116, amended as printed in House Journal, March 1, page 700.

MESSAGE FROM THE REVISOR OF STATUTES

March 2, 2004

We herewith transmit:

Without comment, as amended, HB04-1083, HCR04-1004, and SB04-110 and 116.

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 Resolutions.

CONSIDERATION OF RESOLUTIONS

SJR04-017 by Senator(s) Andrews; also Representative(s) Harvey--Concerning the recognition of the importance of Western civilization.

On motion of Senator Hillman, and with a majority of those elected to the Senate having voted in the affirmative, the Senate referred SJR04-017 to the Committee on Education.

SJR04-020 by Senator(s) Windels; also Representative(s) Briggs--Concerning the designation of March 6, 2004, as Colorado Humane Society Day.

Senator Hillman moved to proceed out of order for consideration of SJR04-020.

On motion of Senator Windels, 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, Sandoval, Takis, Tapia, Taylor, Teck, Tupa, and Veiga.

COMMITTEE OF REFERENCE REPORTS

- Finance After consideration on the merits, the Committee recommends that **SB04-181** be postponed indefinitely.
- Finance After consideration on the merits, the Committee recommends that **HB04-1222** be referred to the Committee of the Whole with favorable recommendation.
- Finance After consideration on the merits, the Committee recommends that **HB04-1009** be referred to the Committee of the Whole with favorable recommendation.
- Finance After consideration on the merits, the Committee recommends that **HB04-1067** be referred to the Committee of the Whole with favorable recommendation.

SENATE SERVICES REPORT

Correctly Rerevised: HB04-1182.
Correctly Enrolled: SJR04-003 and 004.

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 March 3, 2004, was laid over until Thursday, March 4, 2004, retaining its place on the calendar.

General Orders--Second Reading: SB04-132, SB04-001, SB04-164, SB04-151, HB04-1273, HB04-1008, HB04-1115, HB04-1037, HB04-1137, HB04-1194, HB04-1022, HB04-1071, HB04-1049, HB04-1215, HB04-1214, HB04-1211, HB04-1155, SB04-028, SB04-059, SB04-097, SB04-176, SB04-111, SB04-148, SB04-171, HB04-1069.

Consideration of Resolutions: SJR04-011, SJR04-013, SJR04-014, SJR04-021, HJR04-1021, SJR04-022.

Consideration of Memorial: SJM04-001.

Consideration of House Amendments to Senate Bills: SB04-035, SB04-062.

Consideration of House Amendments to Senate Joint Resolution: SJR04-009.

Consideration of Governor's Appointments:

Members of the Air Quality Control Commission.

Requests for Conference Committee: HB04-1112, HB04-1072.

On motion of Senator Hillman, the Senate adjourned until 9:00 a.m., Thursday, March 4, 2004.

Approved:

John Andrews
President of the Senate

Attest:

Mona Heustis
Secretary of the Senate

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