

**Colorado Department of Education**

# **LEGISLATIVE**

# **SUMMARY**

# **2005**



**Sixty-Fifth General Assembly, First Regular Session**

**COLORADO DEPARTMENT OF EDUCATION**

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**High Standards  
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A summary of the legislation affecting education  
that passed the Sixty-Fifth General Assembly,  
First Regular Session in 2005,  
along with the statutory citations

Prepared annually for Colorado public school superintendents, principals, school board presidents, private schools, education agencies, Colorado Department of Education staff and other interested persons.

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August 2005

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The following are summaries of 2005 bills as prepared by the General Assembly's Office of Legislative Legal Services with selected clarification or notation by the Colorado Department of Education.

## APPROPRIATIONS

**S.B. 05-209 General appropriation - long bill.** Makes appropriations for the payment of expenses of the executive, legislative, and judicial departments of the state of Colorado, and of its agencies and institutions, for and during the fiscal year beginning July 1, 2005. Sets the grand total for the operating budget at \$14,872,135,387 of which \$6,219,413,983 is from the general fund, \$525,894,429 is from cash funds, \$4,559,351,196 is from cash funds exempt, and \$3,567,475,779 is from federal funds.

Appropriates \$303,316,705, of which \$51,727,197 is from capital construction fund exempt, \$19,750,000 is from cash funds, \$222,859,642 is from cash funds exempt, and \$8,979,866 is from federal funds.

Makes additional changes in appropriations for the 2004-2005 fiscal year.

EFFECTIVE May 2, 2005  
 PORTIONS VETOED May 2, 2005

### A SUMMARY OF FEDERAL AND STATE FUNDING FOR EDUCATION IS AS FOLLOWS:

	2004-05 Appropriation	2005-06 Appropriation
General Fund	\$ 2,514,557,579	\$ 2,698,318,712
Cash Funds	14,762,022	15,308,970
Cash Funds Exempt	491,370,395	386,898,611
Federal Funds	413,104,463	498,839,917
<b><u>Grand Total</u></b>	<b>\$ 3,433,794,459</b>	<b>\$ 3,599,366,210</b>

## CHILDREN AND DOMESTIC MATTERS

**H.B. 05-1280 Child fatality prevention - state and local review teams - creation.** Authorizes each judicial district to establish a local child fatality prevention review team. Specifies that the district attorney of the judicial district shall call the first meeting of a local review team. Requires each local review team established to consist of specified representatives of public and nonpublic agencies in the judicial district that provide services to children and their families and of other individuals who represent the community. Authorizes local review teams to include representatives from additional entities or groups in the judicial district. Requires local review teams to review specified cases of death of children 18 years of age and younger in the judicial district and specifies the local review team's duties with respect to each case reviewed. Authorizes local review teams, within existing appropriations and community resources, to promote continuing education for professionals and to promote public education related to preventing child deaths.

Creates the Colorado state child fatality prevention review team in the department of public health and environment. On or before September 1, 2005, requires the governor to appoint the 17 voting members of the state review team. Requires the executive directors of the departments of human services, public health and environment, and public safety, and the commissioner of education to appoint 16 specific ex officio nonvoting members representing the departments. Authorizes the voting and nonvoting appointees to appoint an additional 12 nonvoting public and nonpublic agency and community members to the state review team by majority vote. Specifies the duties of the state review team. Subject to available appropriations and community resources, authorizes the state review team to distribute information to the public concerning risks to children and recommendations for promoting the safety and well-being of children.

Grants the state review team and the local review teams access to specified records and information, subject to the requirements of applicable federal law. States that meetings of the state review team and the local review teams are subject to open meetings requirements.

Requires each member of the state review team, each member of a local review team, and each invited participant at a meeting to sign a statement indicating an understanding of

confidentiality requirements. Specifies that a knowing violation of confidentiality requirements is a class 3 misdemeanor. Authorizes specified release of information by members of the state review team and the local review teams to governmental agencies. Specifies limitations for examining a member of the state review team, a local review team, or a person who presents information to a review team in any civil or criminal proceeding and limitations for subpoenaing, discovering, or introducing into evidence information, documents, and records of the state review team or a local review team.

EFFECTIVE June 2, 2005

Added 25-20.5-400 (entire part 4).

## CRIMINAL LAW AND PROCEDURE

**H.B. 05-1014 Substantive criminal changes - drug lab restitution - credible threats made towards someone at a school - bias-motivated crimes.** For purposes of the definition of restitution, adds costs incurred as a result of a drug lab clean-up. For purposes of the definition of falsely completing a written instrument in the fraud statutes, removes language that makes it a question of law as to whether information used in completing a written instrument is material. Makes it a class 1 misdemeanor to make a credible threat to cause bodily injury with a deadly weapon or death to a person the actor believes to be a student, school official, or employee of an education institution or an invitee on the premises of an educational institution. Changes the crime of ethnic intimidation to bias-motivated crime by adding physical or mental disability and sexual orientation to the classes of victims against which such a crime may be committed.

EFFECTIVE July 1, 2005

PORTIONS EFFECTIVE July 1, 2006

Added 18-1.3-602(3)(c); 18-1.3-602(4)(a)(VI); amended 18-5-101(3)(b); 18-9-109(5); added 18-9-109(6); amended 18-9-121; added 18-9-121(3.5); 18-9-121(5); amended 24-4.1-302(1)(cc.3); added 18-18-203(2)(c)(IV.5); 18-18-203(2)(c)(VIII.5).

## EDUCATION – PUBLIC SCHOOLS

**S.B. 05-019 Educational data advisory committee - data reporting requirements.** Directs the state board of education to form the

educational data advisory committee consisting of representatives from 5 volunteer school districts, 2 volunteer boards of cooperative services, and a volunteer charter school. Directs the committee to work with the department of education to review school district data reporting requirements.

Directs the committee, at the request of a school district, a board of cooperative services, or the state charter school institute, or on its own initiative, to review the statutory and regulatory data reporting requirements to determine whether the benefits derived from the reports are outweighed by the administrative cost of the reports. Specifies the procedure for submitting a data reporting review request.

Allows the committee to recommend to the state board the repeal or amendment of statutory and regulatory data reporting requirements, and directs the state board to forward to the general assembly any recommendations for statutory changes. Requires the committee to review each data reporting request that is not required by statute or by rule and notify school districts, boards of cooperative services, and the state charter school institute whether compliance with the request is mandatory or voluntary.

EFFECTIVE June 2, 2005.

Amended 22-2-116

**S.B. 05-032 Preschool program - preschool-age children with disabilities - enrollment count date.** For budget years beginning on or after July 1, 2005, allows a school district to determine the enrollment of 3- and 4-year-old children with disabilities who are receiving education services and the enrollment of children in the Colorado preschool program on November 1, rather than October 1. For purposes of the pilot program for community consolidated child care services, prohibits the department of human services from waiving the date for determining preschool enrollment.

EFFECTIVE June 2, 2005

Amended 22-54-103(9.5)(a); 22-54-103(10)(d); 22-54-112(2)(a); 26-6.5-104(3).

**S.B. 05-050 School districts - authority to decline federal funding.** Permits a school district to decline federal funding and thereby be exempt from certain requirements of the federal "No Child Left Behind Act of 2001". Specifies that declining funding under the federal act shall not

affect a school district's accreditation status. Prohibits the department of education and the state board of education from imposing any sanctions on a school district that declines funding under the federal act.

EFFECTIVE May 7, 2005

Added 22-32-110.6.

**S.B. 05-081 School districts - nutritional policies.** Encourages each school district board of education to adopt a policy insuring a child's access to:

- Healthful food and beverages on the school premises;
- Nutritional information;
- Daily physical activity; and
- Instruction regarding proper nutrition and health.

Encourages each district board to adopt rules regarding competitive food availability and also to adopt a local wellness policy as provided for in the federal "Child Nutrition and WIC Reauthorization Act of 2004". Allows for the sale or distribution of any food or beverage item through periodic fundraisers if the item is for sale after school hours.

EFFECTIVE August 8, 2005

Added 22-32-136.

**S.B. 05-088 Kindergarten - mandatory.** Requires each school district to provide a kindergarten program for all children who are 5 years of age.

EFFECTIVE March 25, 2005

Amended 22-32-119(1); 22-1-102(1); 22-1-115.

**S.B. 05-091 Accreditation indicators - statewide formulas - disaggregation - audits.** For purposes of accreditation, requires the state board of education to promulgate rules establishing statewide formulas for calculating:

- Continuing education rates;
- Dropout rates;
- Graduation rates;
- Mobility rates; and
- Promotion rates.

Specifies factors that the state board is to take into consideration in developing the formulas, and directs the state board to solicit input both

before and after the development of the formulas.

Adds to the accreditation indicators continuing education rates and mobility rates. Includes students enrolled in international baccalaureate programs and taking higher education courses in the accreditation indicator pertaining to students taking advanced placement courses.

Requires school districts and the state charter school institute to report disaggregated data based on specific criteria. Permits the state board to audit accreditation data.

**EFFECTIVE June 6, 2005**

Added 22-11-104.5; amended 22-11-104(2)(e); 22-11-104(2)(j); added 22-11-104(2)(l); 22-11-104(2)(m); amended 22-11-104(5); added 22-11-104(6).

**S.B. 05-156 Student asthma or severe allergies - self-administration of prescribed medication - approved treatment plan.** Authorizes a student with asthma, severe allergies, or another related, life-threatening condition to possess and self-administer prescribed medications during school, while at school-sponsored activities, or while in transit to or from school or school-sponsored activities, if there is an approved treatment plan. Requires a public school to approve a treatment plan that meets specified conditions. If there is an approved treatment plan, eliminates a school's, school district's, volunteer's, or employee's civil liability except in cases of willful or wanton conduct or disregard of the criteria in the plan. Authorizes the state board of education to promulgate rules covering treatment plans. Authorizes the department of public health and environment to audit school records to determine asthma and severe allergic reaction rates within schools.

**EFFECTIVE April 14, 2005**

Added legislative declaration; 22-1-119.5.

**S.B. 05-164 School districts - parental notification of high school student dropout status.** Requires the board of education of each school district to adopt and implement policies to provide notification to the parent or parents with custody or decision-making responsibility with respect to education or the legal guardian or the legal custodian of a student who drops out of high school. Makes the written notification policy apply only to those students

who are not subject to the compulsory education laws.

**EFFECTIVE April 27, 2005**

Added 22-33-107.1.

**S.B. 05-170 School districts - health - automated external defibrillators.** Encourages each school district to acquire and maintain an automated external defibrillator (AED) on school grounds. Requires a school district to accept the donation of a working, maintained AED and to accept a monetary or in-kind donation designated for the purpose of acquiring an AED or for inspection, maintenance, or training in the use of an AED. Requires a school district that obtains an AED to meet statutory training, maintenance, inspection, and physician involvement requirements. Limits the liability of a good-faith user or good-samaritan user of an AED kept in a public school.

Requires an entity that acquires an AED to provide training that meets national standards in cardiopulmonary resuscitation and AED use.

**EFFECTIVE August 8, 2005**

Added 22-1-125; amended 13-21-108.1(3)(a)(l).

**S.B. 05-191 Teacher loan forgiveness pilot program - high-poverty elementary schools in rural school districts.** Allows a teacher who contracts to teach at least half-time in a high-poverty elementary public school, or in a facility school, in a rural school district to qualify for the teacher loan forgiveness pilot program. Extends the time by which a first-year or experienced teacher must contract to teach in a qualified position to participate in the program. Adds eligibility criteria for the program. Allows a teacher to continue participating in the program even if the school at which he or she teaches subsequently fails to meet the qualifying criteria as a high-poverty elementary school in a rural school district. Requires a participating teacher at a high-poverty elementary school in a rural school district who subsequently transfers to a non-qualifying school to forfeit the right to participate in the program. Directs the department of education to identify annually the elementary schools that qualify as high-poverty public schools in rural school districts.

Extends the repeal date of the program to July 1, 2013.

**EFFECTIVE August 8, 2005**



Added 23-3.9-101(3.5); amended 23-3.9-101(4); added 23-3.9-101(5); amended 23-3.9-102(2)(c)(II); 23-3.9-102(2)(d); added 23-3.9-102(2)(e); 23-3.9-102(2)(f); 23-3.9-102(4); 23-3.9-102(5); 23-3.9-102(6); amended 23-3.9-104.

**S.B. 05-200 School finance - at-risk funding - full-day kindergarten program - vocational education programs provided by BOCES - funding for civics education and teacher credentials - Colorado preschool program slots - rescissions in state aid for business incentive agreements.** Amends the "Public School Finance Act of 1994" in the following respects:

- For the 2005-06 budget year, increases the statewide base per pupil funding to \$4,717.62, which is an amount equal to \$4,666.29 supplemented by \$51.33 to account for a 0.1% inflation increase plus one percentage point.
- For the 2005-06 budget year and future budget years, adds to the definition of "at-risk pupils" district pupils whose dominant language is not English, increases the at-risk factor to 12%, and authorizes the use of state education fund moneys to fund the increases in at-risk funding.

Allows each school district board of education to establish and maintain a full-day kindergarten educational program to serve students who attend a school that receives an "unsatisfactory" academic performance rating for the previous school year. Authorizes the local board to contract with a public or private entity to provide the kindergarten educational program and requires any such entity to comply with all applicable state and federal laws.

For increasing enrollment school districts that are allowed an alternative limit on bonded indebtedness, eliminates the requirement that the exception only applies to bonded indebtedness approved at an election held before July 1, 2005.

For the 2006-07 budget year and budget years thereafter, eliminates the requirement that school districts receive the same level of funding from the state education fund that charter schools receive for capital construction.

Allows boards of cooperative services (BOCES) to receive state funds directly from the state board for community colleges and occupational education, rather than from participating school districts, to fund the cost of providing an approved vocational education program.

Requires the department of education to assist school districts in developing and promoting programs for elementary and secondary students that address the state model content standards for civics and promote best practices in civic education. Authorizes the use of state education fund moneys for such programs on the basis that they assist students in meeting state academic standards.

Appropriates funds to be used by the department of education to provide fee assistance to public school teachers seeking national credentials.

For the 2005-06 budget year and budget years thereafter, increases the number of Colorado preschool program slots from 11,050 to 12,360, and funds the increase from the state education fund. Allows an additional 500 children, for a total of 1,500 children, to be served through a full-day kindergarten component of a school district's preschool program.

For the 2005-06 budget year and budget years thereafter, specifies that, if the general assembly does not appropriate an amount sufficient to fully fund the additional state aid needed for locally negotiated business incentive agreements (BIAs), the state aid for only those districts that have entered into BIAs is to be reduced proportionately.

**EFFECTIVE April 29, 2005**

Added and amended various parts of 22-1, 22-2, 22-5, 22-28, 22-32, 22-42, 22-54, and 23-8.

**H.B. 05-1024 Dropout prevention activity grant program - creation - voluntary tax contribution - repeal.** Creates the dropout prevention activity grant program to fund before- and after-school arts-based and vocational activity programs, with the goal of reducing the student dropout rate. Requires that, for income tax years commencing on and after January 1, 2005, but before January 1, 2008, a voluntary contributor designation line for the program shall appear on individual income tax forms. Repeals the requirement for the voluntary contribution designation line, effective January 1, 2009, unless the general assembly adopts a bill to continue the designation line in the preceding regular session.

Restricts the program to public schools that include any of grades 6 through 12 and to community organizations acting in partnership with qualified schools. Directs a qualified school

that seeks funding for an arts-based or vocational activity program to apply to the board of education of the school district in which the qualified school is located for permission to apply to the department of education for a grant. If the district board grants permission, directs the qualified school to submit a grant application to the department of education in accordance with rules adopted by the state board of education.

Directs a community organization that seeks funding for an arts-based or vocational activity program to enter into a partnership agreement with a qualified school to provide the program to students in any of grades 6 through 12. Makes the qualified school's participation subject to approval of the qualified school's district board.

Directs the qualified community organization to submit a grant application to the department in accordance with rules adopted by the state board.

Directs the state board to promulgate rules for implementation of the program. Directs the department to review each grant application received and to make recommendations to the state board regarding the awarding of program grants. Establishes a priority and minimum considerations for awarding program grants. Requires the state board to award program grants in any year that moneys are received in the dropout prevention activity grant fund.

Requires the department annually to notify school districts of the amount of money credited to the fund and to post the notice on its web-site for qualified community organizations. Creates the fund, identifies the source of moneys for the fund as moneys received through the voluntary tax contribution and any gifts, grants, or donations received by the department for implementation of the program. Authorizes the department to accept gifts, grants, and donations, and allows the department to keep up to 2% of the moneys annually appropriated from the fund to offset the administrative costs incurred in implementing the program. Directs the general assembly annually to appropriate from the fund to the department of revenue an amount equal to the department of revenue's costs incurred in administering the voluntary contributions to the fund.

Requires each qualified school and qualified community organization that receives a program grant to report to the department, for each year in which it receives a grant, specified information concerning the arts-based or vocational activity program and the number of

participating students. Directs the department to submit an annual report to the education committees of the general assembly and to the governor concerning the program, the arts-based and vocational activity programs that receive funding, the number of students that participate in the programs, and the dropout rates for the qualified schools that receive grants.

**EFFECTIVE May 24, 2005**

Added 22-27.5.0 (entire article); 39-22-2800 (entire part 28).

**H.B. 05-1026 Educator licensure - endorsements - complaint procedure - renewal - authorizations - terminology changes - alternative teacher licensees.** Rather than requiring an applicant for a license endorsement in special education to complete a program in special education, requires the applicant to complete the course work and assessments identified by rule of the state board of education.

Authorizes the state board to adopt rules to create a procedure for receiving complaints against persons applying for or holding educator licenses and certificates.

For purposes of professional development activities required for license renewal, authorizes the department to accept course work from any community, technical, or junior college, not just those in the statewide system. Requires a license holder to demonstrate that any educational travel he or she submits as a professional development activity is related to the license holder's endorsement area. Clarifies the professional development goal pertaining to use of assessments. Authorizes the state board to adopt rules requiring professional development activities to be related to the license holder's endorsement area knowledge or delivery skills in the license holder's endorsement area or in literacy.

With regard to a person who converts his or her professional educator license to inactive status because he or she is called into active military duty, instructs the department, when reactivating the license, to reactivate it for a period equal to the time remaining on the license when converted to inactive status plus the time the person spent in active military duty.

Makes a temporary teacher eligibility authorization valid for one year, and allows the department to renew the authorization twice. Expands the criteria for a temporary

authorization to make it available to a person who is eligible to hold a certificate or license as an educator in another state. Changes the name of the temporary authorization to the interim authorization.

Changes the name of the provisional educator license to the initial educator license. Encourages school districts to hire persons with alternative teacher licenses, and clarifies the school districts' authority to do so.

**EFFECTIVE April 7, 2005**

Added, amended and repealed various parts of 22-60.5; 22-1, 22-2, 22-32, 22-63, and 23-1.

**H.B. 05-1036 Safe school plan - internet safety plan.** Encourages each school district, as part of the safe school plan, to adopt an internet safety plan consisting of comprehensive, age-appropriate topics to teach the safe and legal use of the internet. Suggests the minimum topics that may be included in the plan. Encourages school districts to incorporate the plan topics into the regular classroom curricula. Encourages each school district to use existing internet safety resources available from nonprofit organizations in adopting the topics for the plan and to work with local law enforcement agencies and parents and teachers in adopting the topics for the plan.

Encourages each school district to implement the plan beginning with the 2005-06 school year and annually to review the plan and revise it as necessary. Suggests that each school district identify a person who is responsible for overseeing implementation of the plan. Encourages the identified person to submit an annual internet safety plan implementation report to the school district board of education. Suggests that the school district board of education submit to the department of education and post on the school district web site a summary of the annual internet safety plan implementation report.

**EFFECTIVE April 14, 2005**

Added legislative declaration; 22-32-109.1(2)(c).

**H.B. 05-1057 Postsecondary educational opportunities - notice to students and parents - reporting by college preparation programs operating within school districts and charter schools.** Beginning in spring 2006, requires the Colorado commission on higher education to provide notice to the parents or legal guardians

of all eighth-grade students enrolled in public schools in the state regarding postsecondary education issues. Specifies the minimum contents of the notice.

Directs each school district board of education and the state charter school institute board to adopt a policy by October 1, 2005, to:

- Provide to the commission the names and mailing addresses of students enrolled in the eighth grade; and
- To include a provision in any contract entered into on or after August 10, 2005, with a college preparation program that the program shall provide to the commission a report on participation and outcomes for the program.

Further directs each school district board of education to adopt a policy to provide to the parent or legal guardian of each student enrolled in the eighth grade, a list of courses the school district has available that satisfy the commission's higher education admission guidelines.

**EFFECTIVE August 8, 2005**

Added 22-32-109(1)(ff); 22-32-109(1)(gg); 23-1-119.1; 22-30-516.

**H.B. 05-1088 Data related to inmates with children attending school - collection by department of corrections.** Directs the department of corrections to obtain information from each inmate related to whether the inmate has a child in Colorado and, if so, whether the child is enrolled in school and the school district or state charter school in which the child is enrolled. Requires the department to collect and compile information related to programs that assist students whose parents are incarcerated.

**EFFECTIVE June 2, 2005**

Added 17-1-119.5.

**H.B. 05-1191 School districts - transportation fee - imposition.** Allows a school district board of education, without voter approval, to impose a fee for the payment of excess transportation costs. Requires the board to solicit and consider recommendations concerning the imposition of the fee and the fee schedule from the school district accountability committee and from teachers, parents, and students, including any statewide or local organization representing parents, teachers, and students in the school district. Requires the board to ensure that only

those pupils who use transportation services are required to pay the fee.

If a board chooses to impose a transportation fee on charter school students, requires the board to solicit input from the charter school parents and to ensure that the full amount of the transportation fee collected from charter school students is used to offset the costs of providing transportation to the charter school students. Allows a charter school to seek from its authorizing board authority to impose a transportation fee on the students enrolled in the charter school.

**EFFECTIVE June 9, 2005**

Amended 22-32-113(5); 22-30.5-105(2)(c)(III)(B); 22-30.5-105(2)(c)(IV); added 22-30.5(2)(c)(V); amended 22-30.5-106(1)(k).

**H.B. 05-1217 Assessments - sufficient academic growth - calculation.** For purposes of calculating sufficient academic growth, allows the department of education to select intermediate grade levels at which to project a student's rate of academic growth, with the goal of achieving proficiency in reading, writing, and mathematics by the conclusion of the tenth grade.

Repeals the requirement that the department of education annually contract for an audit of the school accountability reports.

**EFFECTIVE June 2, 2005**

Amended 22-7-604.3(4)(a)(I); 22-11-305(1)(a); repealed 22-7-606(4).

**H.B. 05-1238 School-readiness quality improvement program.** Changes the name of the "school-readiness child care subsidization program" to the "school-readiness quality improvement program". Recognizes the early success of the program on a geographic pilot basis, and expands the program to include additional eligible communities. Clarifies that the program will be a continuing program.

Allows for the identification or establishment of early childhood care and education councils comprised of representatives from various public and private stakeholders in the local early childhood community who are committed to supporting the preparedness of young children for school. Specifies that a community may identify a community consolidated child care pilot site agency or other existing entity to serve as an early childhood care and education council

or establish a new early childhood care and education council. Changes the program by having school-readiness quality improvement funding flow through the early childhood care and education councils to local early care and education providers, rather than through county departments of social services to such providers. Clarifies that the program is not intended to create an entitlement. Includes school districts in the definition of early care and education providers.

Expands the program to target the school readiness of young children who will ultimately attend eligible elementary schools that have received certain declining academic improvement ratings and that have, for that school year, received a specified overall academic performance rating.

Directs the early childhood care and education councils receiving school-readiness quality improvement funding through the program to report certain information to the department of human services. Directs the department of human services to report regularly to the education committees of the general assembly.

Expands the child care voluntary credentialing system, which was previously limited to the community consolidated child care services pilot site agencies, statewide to further enhance the school readiness of young children throughout the state of Colorado.

**EFFECTIVE June 2, 2005**

Legislative declaration; amended 26-6.5-106; 26-6.5-103(3.5); 26-6.5-103(3.7); 26-6.5-103(8).

**H.B. 05-1246 Students with IEPs - calculating academic performance ratings for part-time students - study group - repeal.** For a student with an individual educational program whose score is used to calculate academic performance ratings and who attends part-time a school or program located away from the school in which the student is enrolled, allows the school district in which the student is enrolled or, in the case of a board of cooperative services, the administrative unit, to designate the school or program to which the student's scores will be assigned to calculate academic performance ratings.

Establishes a study group in the department of education to evaluate the use of assessments for students who have individual educational programs but who are not eligible to take the CSAP-A assessment. Specifies membership for

the study group. Requires a report on or before December 31, 2005. Repeals the section effective January 1, 2006.

**EFFECTIVE May 10, 2005**

Amended 22-7-409(1.2)(d)(II); 22-7-604.5(3); added 22-7-413.

**H.B. 05-1311 Expelled and at-risk student services grant program - evaluation - reporting.** Authorizes the department of education to retain up to 1% of any appropriation for the expelled and at-risk student services grant program to evaluate the program. Requires the department to report annually the evaluation findings to the education committees of the house of representatives and the senate beginning January 1, 2006.

**EFFECTIVE June 2, 2005**

Added 22-33-205(4).

**S.J.R. (Senate Joint Resolution) 05-027 National Library Week.**

WHEREAS, our nation's libraries are modern community centers for education, information, and entertainment and play a vital role in providing millions of people with the resources they need to live, learn, and work in the 21st century.

Libraries are unique and enable their patrons, both in person and online, to access nearly anything on the internet or in print; they provide personal service and assistance in finding whatever information a person may seek.

Librarians must be included in public policy discussions on key issues such as intellectual freedom, equity of access, and narrowing the digital divide.

More individuals must be recruited to the profession of librarianship to maintain its vitality in today's changing workplace.

Be it resolved that April 11-15, 2005 be proclaimed National Library Week in Colorado, and all Coloradans be encouraged to take advantage of the wonderful library resources available in this state and to thank their librarians for making information available to all who walk through the library's doors.

Adopted by the General Assembly April 22, 2005.

**S.J.R. 05-039 Recognition of kindergarten through 12th-grade public education and the teachers who work in public schools.**

WHEREAS, although Thomas Jefferson was committed to the economic philosophy of free enterprise, he maintained that public education, crucial to educating the people and preserving a free society, could survive only if held under public control.

Horace Mann, Henry Barnard, and other supporters of the "common school movement" in the 19th century argued for the necessity of tax-supported, nondenominational, and publicly controlled schools for American children.

These early proponents of public education asserted that if the public did not control the common school, then sectarian interests would rule and impose their particular political, economic, or religious doctrines on the students, forcing some to withdraw in order to preserve their rights of conscience, and the schools would no longer be equal and open to all.

A first-rate public education system depends on a network of partnerships involving parents, teachers, children, and communities.

In addition to a child's family, knowledgeable and skillful teachers can have a profound impact on a child's success in school and throughout life.

More than 92% of all school-age children, or 757,668 students, are enrolled in 1,728 Colorado public schools.

Tuesday, May 3, 2005, is National Teacher Day, a day to honor and acknowledge the lasting contributions that all teachers have made to our lives.

Be it resolved that the Colorado General Assembly expresses its appreciation to Colorado school teachers for what they do and encourages all Coloradans to continue supporting those individuals who educate our children, as well as the system of public schools that is the bedrock of every community in the state.

Adopted by the General Assembly May 4, 2005.

**S.J.R. 05-042 Recognition of the Colorado Civic Canopy and the Colorado Campaign for the Civic Mission of Schools.**

WHEREAS, the Colorado revised statutes identify enabling each student "to become an effective citizen of Colorado and the United States" as a main goal of public education.

In recent decades, increasing numbers of Americans have disengaged from many aspects of civic and political life, including civic institutions, voluntary associations, community-based organizations, and political and electoral activities such as voting and being informed about public issues.

The Colorado Civic Canopy, a nonpartisan coalition of people concerned with declining participation in civic life and the American political process, promotes increased civic engagement for all Coloradans.

The Colorado Campaign for the Civic Mission of Schools, a bipartisan, statewide campaign initiated by the Colorado Civic Canopy, believes that civic learning in schools is the most effective way to prepare young people for effective citizenship. They have joined similar coalitions in 17 other states in a long-term effort to improve the quality of and expand access to the civic learning opportunities available in their states' schools.

The Colorado Campaign for the Civic Mission of Schools recognizes that civic learning occurs not only through instruction in government, history, law and democracy. It also includes discussion of issues, service-learning understood as community service linked to classroom instruction, extracurricular activities that involve young people in their communities, opportunities for students to participate in school governance, and simulations of democratic processes and procedures.

Colorado is one of six states to receive grants from the national campaign for the Civic Mission of Schools.

Be it resolved that the members of the General Assembly of Colorado, encourage the Colorado Civic Canopy and the Colorado Campaign for the Civic Mission of Schools in their attempts to better prepare Colorado's young people for effective citizenship, support their work to strengthen civic learning in Colorado, and commend their efforts to inspire all Coloradans to greater civic involvement in our state and our nation.

Be it further resolved that the members of the General Assembly pledge to become more personally involved in local and statewide civic learning activities in a effort to directly involve more students in understanding law, government, the political process, and other aspects of state government and support effective practices.

Adopted by the General Assembly April 27, 2005.

H.J.R. (House Joint Resolution) 05-1010 "No Name-Calling Week" in Colorado.

WHEREAS, over 30 education, mental health, youth advocacy, and social justice organizations have joined forces to form a coalition to address the problem of name-calling and verbal bullying in American schools. Creates the "No Name-Calling Week" project to provide students and educators with the tools and inspiration to eliminate name-calling in their communities.

Though often dismissed as "harmless teasing", name-calling is verbal bullying that can have the power to make students feel unsafe to the point where they are no longer able to perform in school or live normal lives.

Those who are targeted because they somehow don't fit in, due to body size, social or academic standing, race, ethnicity, religion, physical or mental ability, sexual orientation, gender identity or expression, or some other attribute, spend an inordinate amount of time trying to cope with name-calling.

A 2001 study by the American Association of University Women found that 83% of girls and 79% of boys report having experienced harassment at school, with more than one in four students experiencing it "often".

A 2001 study funded by the National Institute of Child Health and Human Development reported that almost 1/3 of the students in grades six through ten have experienced some kind of bullying.

In August, 1999, CNN reported that four of five middle school students admit that they act like bullies at least once a month.

Students who regularly experience verbal and non-verbal forms of bullying report hurt feelings, low self-esteem, depression, living in fear and torment, poor academic achievement, and emotional turmoil.

Victims of bullying are not the only one affected. Bystanders often suffer from feelings of helplessness and powerlessness and develop poor coping and problem-solving skills.

Bullies themselves demonstrate poor social and emotional adjustment, social isolation, lack of success in school, and problem behavior.

While a certain amount of conflict and harassment is typical of student social relations, it is clear that the prevalence of bullying among young people presents a serious threat to healthy youth development, and that threat may extend well into adulthood.

“No Name-Calling Week” was inspired by a young adult novel entitled “The Misfits” by author James Howe. The book tells the story of four best friends who, after experiencing repeated taunting, decide to run for student council on a “no name-calling” platform and to institute a “No name-calling day” at their school.

Motivated by this simple yet powerful idea, schools across the nation will organize actual “No Name-Calling Weeks”, beginning January 24 through January 28, 2005. The project is aimed at focusing national attention on the problem of name-calling in schools and will target grades five through eight, years when the problem is especially acute.

Be it resolved that the members of the general assembly hereby commend the efforts of the national “No Name-Calling Week” coalition, and encourage and remind the schools of this state to implement a program consistent with the requirements of section 22-32-109.1(2)(a)(X) C.R.S., and work to eliminate verbal bullying in Colorado schools.

Adopted by the General Assembly Jan. 25, 2005.

**H.J.R. 05-1018 Recognition of the Year of Languages.**

WHEREAS, our community and communities across the United States are welcoming many new neighbors, friends, employees, and citizens from countries and cultures throughout the world, for whom English is not their native language.

Americans have growing social, cultural, and economic ties to the global community, offering great opportunities but presenting new challenges as we seek to communicate with and understand our international partners from different language and cultural backgrounds.

Studying other languages has been shown to contribute to increased cognitive skills, better academic performance, and a greater understanding of others, while also providing life-long learning opportunities for people beyond school age.

Proficiency in other languages enhances Americans’ career opportunities and provides

employers with a workforce with the necessary skills for an international marketplace.

Foreign language educators are working cooperatively to promote the benefits of language learning to students; parents; business, industry, health, and social services professionals; and policy makers throughout the nation.

Language education in the 21<sup>st</sup> century includes a commitment to life-long study of world languages, beginning in the early grades to enable students to develop the levels of proficiency needed to effectively communicate with people from other cultures whether at home or abroad.

Language educators are urging the public to recognize the value of delivering better education to our students, expanding the cultural and literary horizons of adult learners, and strengthening America’s position and security around the world.

Be it resolved that the members of the general assembly proclaim 2005 as the Year of Languages in Colorado and urge all citizens to become familiar with the services and benefits offered by language education programs in our state and communities and to support and participate in these programs to gain proficiency not only in English but in other languages as well.

Adopted by the General Assembly March 10, 2005.

**H.J.R. 05-1022 Recognition of Read Across America Day.**

WHEREAS, research has shown that children who are motivated to read and spend more time reading do better in school.

The citizens of Colorado stand firmly committed to promoting reading as the catalyst for our children’s academic success, their preparation for America’s jobs of the future, and their ability to compete in a global economy.

Coloradans support the importance of the education of our youth, grounded in the principle that educational investment is key to Colorado’s well-being and long-term quality of life.

The National Education Association (NEA) launched the Read Across America program in 1998 which is epitomized by beloved children’s author Dr. Seuss, whose use of rhyme makes his books an effective tool for teaching young

children the basic reading skills they need to be successful.

The NEA's Read Across America Day is a national celebration of Dr. Seuss's birthday, March 2, and promotes reading and adult involvement in the education of Colorado's children.

In cities and towns across the nation, teachers, teenagers, librarians, politicians, actors, athletes, parents, grandparents, and others develop NEA's Read Across America activities to bring reading excitement to children of all ages.

Celebrating Dr. Seuss and reading sends a clear message to our children that reading is both fun and important.

Be it resolved that the members of the general assembly proclaim March 2 as Read Across America Day in Colorado and call upon the citizens of Colorado to read with a child on March 3, 2005 and every day.

The members also endorse the goals of Read Across America and commit the state to engage in programs and activities to make Colorado's children the best readers in America.

Adopted by the General Assembly March 2, 2005.

**H.J.R. 05-1030 Recognition of Liberty Day and Liberty Month in Colorado.**

WHEREAS, we as Americans enjoy our liberties as a result of the documents that our founding fathers created, those documents being the Declaration of Independence and the United States Constitution with its Bill of Rights.

James Madison was a contributing author of the Virginia Plan, the model and the basis of discussion for the forming of a new constitution in the Constitutional Convention of 1787, and the new constitution established our new form of government, replacing the Articles of Confederation.

James Madison kept written records of the debates in the Federal Convention of 1787, which debates and compromises finally produced the Constitution of the United States.

Such records were not made public until the last signer, James Madison, died and his wife, Dolley Madison, sold the records to the United States government, and they were published around 1840.

James Madison wrote many of the newspaper articles that outlined the reasons that the states should endorse the new constitution.

These articles, which were co-written with Alexander Hamilton and John Jay, became known as the Federalist Papers and still stand as some of the best arguments for our form of government, a representative republic.

James Madison served in the United States House of Representatives from 1789 until 1797, during which time he introduced into Congress the Bill of Rights, which was ratified by the states in 1791.

James Madison served as Secretary of State from 1801 until 1809 and as President of the United States from 1809 until 1817.

Wednesday, March 16, 2005, is the birthday of James Madison.

Be it resolved that the members of the House of Representatives, the Senate concurring therein:

That Wednesday, March 16, 2005, be proclaimed Liberty Day in Colorado and that the month of March 2005 be proclaimed Liberty Month in Colorado.

Adopted by the General Assembly March 16, 2005.

**H.J.R. 05-1036 Recognition of the month of April as Child Abuse Prevention Month.**

WHEREAS, Colorado's children are the key to this state's future; and

Every child has the right to a happy and healthy childhood, to a loving and nurturing upbringing, and to safety and security at home, at school, and at play; and

Child abuse is a serious problem that has far-reaching effects on individuals and on society as a whole, robbing children of the chance for a normal childhood and undermining the foundation of communities by destroying family relationships.

Each innocent victim of child abuse will carry the scars of trauma for life.

Programs to prevent child abuse succeed when partnerships are created between and among local governments, social service agencies, schools, religious and civic organizations, law enforcement agencies, health care providers, the



media, the business community, and especially, parents themselves.

All citizens must work to prevent child abuse within their communities by becoming aware of the scope of child abuse and its negative impacts, working to protect children, and giving parents the support they need to raise their children in a safe, nurturing environment.

Be it resolved that the members of the general assembly proclaim the month of April, 2005 as Child Abuse Prevention Month in the state of Colorado; urge each Colorado adult to perform some positive act each day on behalf of a child.

The general assembly calls upon all citizens, community and faith-based organizations, businesses, and government agencies to create alliances and increase their efforts to prevent child abuse, thereby strengthening the communities of this state.

Adopted by the General Assembly April 18, 2005.

H.J.R. 05-1040 Recognition of home education in the state of Colorado.

WHEREAS, the state of Colorado is committed to excellence in education.

The state recognizes the importance of parental choices in pursuit of educational excellence and the significance of family involvement in education.

The state of Colorado recognizes the right of parents to direct the education and upbringing of their children.

Home education demonstrates the vital importance of parental involvement in the education of children.

Home education is an inextricable part of our national heritage, playing an important role in the formative years of such Americans as George Washington, Thomas Jefferson, John Quincy Adams, Abraham Lincoln, Theodore Roosevelt, Franklin D. Roosevelt, Abigail Adams, Patrick Henry, John Jay, Booker T. Washington, Andrew Carnegie, Thomas Edison, Mark Twain, and Ansel Adams.

Home education is the fastest growing educational alternative in this country, and a growing number of parents in Colorado have chosen to teach their children at home.

Recent scientific studies have found that home-education students, on average, score between

the 75th and 90th percentile on nationally standardized tests administered in grades 1 through 12.

Home-educated students captured four of the top six positions in the 2005 Colorado State Spelling Bee, including first place. Home-educated young men and women regularly serve as interns and aides in the Colorado House and Senate.

Home-educating parents ought to be commended for the extraordinary sacrifice and commitment they bring to the education of their children.

It is appropriate that Colorado home educators and home-educated children be recognized for their contribution to the diversity and quality of education in the great state.

Volunteer organizations such as Christian Home Educators of Colorado, Concerned Parents of Colorado, and hundreds of home-education support groups throughout the state provide a network of support, resources, and encouragement to thousands of home-education families around the state.

Be it resolved by the House of Representatives with the Senate concurring herein, honor, thank, and celebrate home educators and the home-educated youth of this state, and recognize April 8, 2005 as Home Education Day in Colorado.

Adopted by the General Assembly April 8, 2005.

H.J.R. 05-1047 The federal "No Child Left Behind Act of 2001".

WHEREAS, in order for the United States of America to remain competitive internationally, all of its citizens must have a world-class education.

Too many children in America and Colorado are leaving the elementary and secondary education system without the necessary skills to compete in higher education or the workforce.

Congress has mandated, through the "No Child Left Behind Act of 2001", P.L. 107-110, commonly referred to as "NCLB", the expectation that our elementary and secondary education system must be reformed to assure that all students, regardless of race, ethnicity, disability, or socio-economic status, are educated to their highest potential, which would result in closing the achievement gap for our most vulnerable students.

The Colorado General Assembly supports efforts to close the achievement gap because it is a moral imperative to do so.

In order for states to meet this objective, certain flexibility in the implementation of NCLB is needed, particularly in the area of determining adequate yearly progress for schools and school districts in Colorado.

Utilizing the combined resources of technology and the outstanding teachers across our state, Colorado will continue to strive to close the achievement gap, develop and implement reliable and valid assessment tools, and implement the goals of NCLB.

In addition to an individual student identifier system, Colorado currently has in place high academic content standards and a rigorous state assessment system aligned to those standards.

Colorado currently has the ability to track the achievement of an individual student and the effectiveness of each student's school and school district.

A system of longitudinal analysis, coupled with minimum baseline expectations for each required student subpopulation, would assure that every student in each required subgroup is making appropriate academic progress, versus only those students in subgroups farthest from meeting the current baseline adequate yearly progress goals.

A system of longitudinal analysis can be valid and reliable for accountability purposes, can ensure fairness and clarity, and can lead to the implementation of promising practices and focus on progress and growth as well as status performance.

Under a rigorous system of longitudinal analysis, all students will be expected to make academic progress annually.

Colorado has the ability to determine adequate yearly progress by developing and implementing a system of longitudinal analysis with the expectation that all students will make academic progress on an annual basis.

Colorado will continue to expect that all student subgroups make adequate yearly progress and reach one hundred percent proficiency in reading and mathematics by 2013-2014, or reduce the number of students in the nonproficient category by ten percent annually.

Colorado is positioned to assist the nation in assuring that all students become proficient in reading and mathematics.

Colorado supports national efforts to raise the alternative assessment cap for certain special needs students from one percent to three percent to mitigate the issues associated with the so-called "gap" students.

Approximately two percent of all students with persistent academic disabilities can make substantial progress toward grade-level academic achievement, given the proper instruction and adequate time.

The Colorado general assembly would like to see further alignment between the "No Child Left Behind Act" and the "Individuals with Disabilities Education Act".

Be it resolved by the House of Representatives with the Senate concurring herein; that Colorado hereby requests that the Secretary of Education and Congress:

- (1) allow states the flexibility to implement a system of longitudinal analysis to determine adequate yearly progress for schools and school districts;
- (2) further align the provisions of the "No Child Left Behind Act" with the "Individuals with Disabilities Education Act; and
- (3) raise the alternative assessment cap for certain special needs students from one percent to three percent.

Adopted by the General Assembly May 9, 2005.

## **EDUCATION – UNIVERSITIES AND COLLEGES**

**S.B. 05-003 Colorado achievement scholarship program.** Creates the Colorado achievement scholarship program for the purposes of promoting pre-collegiate curriculum and increasing access to postsecondary education. Directs collegeinvest to administer the program. Specifies who is eligible to receive a scholarship under the program. Creates the college achievement scholarship trust for payment of the direct and indirect costs of implementing, marketing, and administering the program.

Requires the board of directors of collegeinvest to adopt any policies necessary for the implementation and administration of the

program. Specifies that the policies adopted by the board shall be approved by the executive director of the Colorado commission on higher education. Directs the board to provide annual reports to the education committees of the senate and house of representatives on the status of the program.

Authorizes the board to organize and transfer funds to nonprofit entities for the purpose of investing the moneys in the fund and in any other trusts and funds under collegeinvest's control.

**EFFECTIVE July 1, 2005**

Added 23-3.1-206.9; amended 23-3.1-206(1)(t); added 23-3.1-206(1)(v); 23-3.1-206(1)(w); 23-3.1-206(1)(x).

**H.B. 05-1027 Colorado commission on higher education - higher education admission guidelines - college preparatory courses - notice.**

Directs the Colorado commission on higher education to adopt a policy to obtain the names and addresses of students enrolled in Colorado public high schools who took the standardized college entrance exam or the precollegiate exam. Further directs the commission to send annual notice to the parent or legal guardian of each of those students concerning the scores required by the higher education admission guidelines, the availability of precollegiate skills courses, and the availability of a course work plan to address the guidelines. Requires each school district board of education and the state charter school institute board to provide, upon request of a student's parent or legal guardian, the opportunity for a student to develop a plan for academic remediation.

**EFFECTIVE May 24, 2005**

Added 23-1-119.2; 22-32-109(1)(hh); 22-30.5-505(3)(l).

## **ELECTIONS**

**S.B. 05-31 False or reckless statements relating to candidates or questions submitted to electors - penalties - definitions.**

Expands the existing election offense governing false statements, which currently proscribes certain conduct performed knowingly, to prohibit any person from recklessly making, publishing, broadcasting, or circulating or causing to make, publish, broadcast, or circulate in any form of communication any false statement designed to

affect the vote on any issue submitted to the electors at any election or relating to any candidate for election to public office. Specifies that, for purposes of the act, a person acts recklessly when he or she acts in conscious disregard of the truth or falsity of the statement made, published, broadcasted, or circulated.

Expands the existing election offense proscribing the knowing circulation of false statements in any writing to include any form of communication. Expands the existing election offense to include knowingly broadcasting or causing to be broadcast false statements among the means of disseminating information that must be shown to prove the commission of a violation under the offense.

Increases the existing penalty for committing knowing violations of the offense from a class 2 to a class 1 misdemeanor.

Specifies that any person who recklessly disseminates a false statement in violation of the act commits a class 2 misdemeanor.

**EFFECTIVE September 1, 2005**

Amended 1-13-109.

## **GOVERNMENT – COUNTY**

**S.B. 05-141 Public improvements - solid waste disposal limitations.** Prohibits the land disposal of lead-acid batteries as of July 1, 2007.

Establishes a collection system for the batteries. Requires waste haulers to notify customers that the land disposal of the batteries is prohibited. Allows a retailer selling replacement batteries to accept from customers used batteries of the same general type and collect a deposit of at least \$10 on the sale of a replacement battery that is not accompanied by the return of a used battery of the same general type.

Prohibits the land disposal of used oil. Specifies that every quart of improperly disposed of used oil constitutes a separate violation. Conditionally allows the disposal of an item or substance that contains de minimis quantities of used oil. Establishes a collection system for used oil. Requires waste haulers to notify customers that the land disposal of used oil is prohibited.

Prohibits the land disposal of waste tires. Specifies that each waste tire improperly disposed of constitutes a separate violation. Establishes a collection system for waste tires. Requires waste haulers to notify customers that

the land disposal of waste tires is prohibited. Allows a retailer selling replacement tires in the state to accept from customers waste tires of the same general type and in a quantity at least equal to the number of new tires purchased. Allows a wholesaler selling tires to accept from customers waste tires of the same general type and in a quantity at least equal to the number of new tires purchased.

**Specifies provisions governing inspection, enforcement, nuisances, violations, and civil penalties applicable to the provisions of the act.**

**EFFECTIVE August 8, 2005**

Legislative declaration; added 30-20-1000 (entire part 10); 30-20-113(1)(c); amended 30-20-113(3); 30-20-113(4); 30-20-113(5)(b); 30-20-113(6); 30-20-113(9).

## **GOVERNMENT – LOCAL**

### **S.B. 05-152 Provision of communications services - limitation on local governments.**

Prohibits a local government from providing cable television service, telecommunications service, and high speed internet access (advanced) service to subscribers, as well as taking specified actions related to providing the services. Allows such services to be supplied if a local government calls an election in accordance with certain requirements on whether or not the local government shall be allowed to provide the proposed service, and a majority of those voting approve the ballot proposition.

Creates an exemption that allows a local government to provide such services if no private provider supplies the service within the boundaries of the local government, the governing body of the local government has submitted a written request to supply the service to a provider of the service, and the provider has not agreed to supply or commenced supplying the service within certain deadlines.

Requires a local government that provides cable television, telecommunications, or advance service to comply with all state and federal laws governing provision of the service by a private provider. Prohibits a local government from granting preferences to itself or any provider of services and requires a local government to apply its ordinances, rules, and policies without discrimination as to itself and private providers

of services. Specifies enforcement and appeal provisions.

**EFFECTIVE June 3, 2005**

Added 29-27-0 (entire article).

**NOTE:** It appears that S.B.-152 will not have an adverse affect on Colorado school districts. There are several school districts that have built, or are considering building high speed data networks capable of providing excess bandwidth; which could be used to provide services outside of the school district uses. At this time, no district is considering offering services to subscribers addressed in SB152. Additionally, the exemption created in SB152, will allow for current projects to be fully implemented; and for future projects to be considered by school districts.

**H.B. 05-1210 Inclusion of a governmental unit into an existing library district.** Authorizes any governmental unit sharing at least one common boundary with an existing library district to become part of the district upon a resolution executed by the board of trustees of the district and the adoption of an ordinance or resolution by the legislative body of the governmental unit approving the inclusion of the governmental unit into the district. Requires the electors to approve the tax levy imposed by the district before the governmental unit may be included in the district unless the levy has been previously approved by the registered electors of the governmental unit. Specifies that the election shall be held in conformity with existing election law procedures. Specifies the dates on which the election shall be held.

Requires the legislative body of the governmental unit and the board of trustees of the district to enter into a written agreement setting forth the rights, obligations, and responsibilities, financial and otherwise, of the parties to the agreement upon the approval by the electors of the inclusion of a governmental unit into a district.

Authorizes the governmental unit to follow the procedures specified in the act to bring about the inclusion of the entire governmental unit into the district when only a portion of the governmental unit is included in the district.

Specifies that only the registered electors residing within the portion of the governmental unit that is not included within the district at the time of the commencement of the inclusion proceedings shall be allowed to vote to approve the district tax levy.

**EFFECTIVE April 20, 2005**

Added 24-90-106.3.

**H.B. 05-1230 Public utility facility siting - compliance with local government zoning rules.**

**Subject to existing statutory provisions governing the siting of major utility facilities, prohibits a public utility from constructing or installing any new facility, plant, or system within the territorial boundaries of any local government unless the construction or installation complies with the zoning rules, resolutions, or ordinances of the local government applicable to the property on which the facility, plant, or system is to be constructed or installed. Specifies that nothing in the act shall be construed to either prohibit a local government from granting a variance from its zoning rules, resolutions, or ordinances for such uses of the property or to grant the public utilities commission any additional authority to restrict a siting application.**

**EFFECTIVE August 8, 2005**

Added 40-5-101(3).

## **GOVERNMENT – STATE**

**S.B. 05-073 Public employees' retirement association - employment of service retirees.**

**Specifies that amounts paid in connection with the employment of a service retiree of the public employees' retirement association (PERA) by a PERA employer be included in the employer's payroll for purposes of calculating the amortization equalization disbursement. Specifies that the salary of a service retiree who is serving in a state elected official's position shall not be subject to employer contributions.**

**Requires each employer to provide a copy of any tax related information on its employees or other individuals or firms from which the employer receives services and, upon request by PERA, to provide a copy of any agreement, contract, or other document whereby the employer receives services.**

**Defines the nature of the employment relationship between a retiree of PERA and an employer for purposes of determining any reduction of a service retirement benefit for employment after service retirement.**

**Specifies that a retiree of PERA serving in a state elected official's position shall be eligible to participate in the PERA defined contribution plan and the public officials' and employees' defined contribution plan.**

**EFFECTIVE June 2, 2005**

Amended 24-51-411(2); 24-51-1101(2); added 24-51-1102(3); 24-51-1102(4); amended 24-51-1502(2)(a); 24-52-202(3); 24-52-205(2.5)(b).

**S.B. 05-93 Public pension benefits - misconduct in connection with public property - attachment of benefits permitted.**

**States that public pension or retirement benefits or payments are included in the definition of "earnings" for the purpose of writs of garnishment that are the result of a judgment taken for restitution for theft, embezzlement, misappropriation, or wrongful conversion of public property or, for a willful and intentional violation of fiduciary duty to a public pension plan where the offender or a related party received a direct financial gain.**

**Allows for the attachment of a public pension participant's pension benefits if the participant is required to pay restitution for theft, embezzlement, misappropriation, or wrongful conversion of public property or if the participant is in a fiduciary position with the public pension plan, for a willful and intentional violation of fiduciary duties to the plan where the participant or a related party received a direct financial gain.**

**EFFECTIVE August 8, 2005**

Amended 13-54-104 IP(1)(b)(II); 13-54-104(1)(b)(II)(B); 13-54.5-101 IP(2)(b); 13-54.5-101(2)(b)(II); 22-64-120; 22-64-212; 24-51-212; 24-52-105; 24-52-208; 24-54-111; 24-54.5-107; 24-54.6-106; 31-30.5-208; 31-31-203.

**S.B. 05-131 Open records - specialized details of security arrangements or investigations - names of utility customers - criminal justice records.**

**Repeals the provision that records received by or provided to the office of preparedness, security, and fire safety or any state agency or political subdivision from or on behalf of the office shall constitute specialized details of security arrangements, which shall not be disclosed under the open records law.**

**For purposes of the provision of the open records law that allows the custodian of a record to deny the right of inspection of the record if its**

disclosure would be contrary to the public interest:

- States that records of the expenditure of public moneys on security arrangements or investigations, including contracts for security arrangements and records related to the procurement of, budgeting for, or expenditures on security systems, shall be open for inspection, except to the extent they contain specialized details of security arrangements or investigations. Authorizes the custodian of a public record to deny the right of inspection of only the portions of such record that contain specialized details of security arrangements or investigations, and requires the custodian to allow inspection of the remaining portions of the record.
- States that if an official custodian has custody of a public record provided by another public entity that contains specialized details of security arrangements or investigations, the official custodian shall refer a request to inspect that public record to the official custodian of the public entity that provided the record and shall disclose to the person making the request the names of the public entity and its official custodian to which the request is referred.

Prohibits the disclosure of the names of persons who are past or present users of public utilities, public facilities, or recreational or cultural services owned by the state or a political subdivision, in addition to the existing prohibition on disclosure of addresses, telephone numbers, and personal financial information. States that a custodian of a record is not prohibited from disclosing this information to an agent of an investigative branch of a federal agency or any criminal justice agency who asserts that the request is reasonably related to an investigation within the scope of the agency's authority and duties.

States that the allowance or denial of the right to inspect criminal justice records that contain specialized details of security arrangements or investigations shall be governed by the provisions of the open records law on the disclosure of specialized details of security arrangements or investigations.

**EFFECTIVE July 1, 2005**

Added 24-72-204(2)(a)(VIII); amended 24-72-204(3)(a)(IX); added 24-72-305(8); amended 24-

33.5-1604(2)(b)(II); 24-33.5-1604(3)(c); repealed 24-72-204(3)(a)(XVII).

**H.B. 05-1231 State employees - defined contribution retirement plans - eligibility - administration.** For the purpose of determining which state employees are eligible to be members of the defined contribution retirement plan created by the public employees' retirement association (PERA), clarifies that an "eligible employee" is an employee of the state, the general assembly, the office of a district attorney in a judicial district, and any state department. Specifies that "eligible employee" does not include a retiree of PERA or a retiree of PERA who has suspended benefits.

Eliminates the provisions that allow members of PERA's defined contribution plan or members of the public officials' and employees' defined contribution plan created by the state deferred compensation committee (committee's defined contribution plan) to be eligible to continue such membership upon commencing employment in a different state position for which PERA's defined contribution plan or the committee's defined contribution plan is not available.

Specifies that an employee who begins employment with an employer on or after January 1, 2006, and who was a member of PERA's defined contribution or defined benefit plan or the committee's defined contribution plan at any time during the prior 12 months shall automatically continue to be a member of such plan upon commencing employment.

For the purpose of determining which state employees are eligible to participate in the committee's defined contribution plan, clarifies that "eligible employee" includes an employee who has been a member of the committee's defined contribution plan during the 12 months prior to the date that the employee commences employment, but does not include a retiree of PERA or a retiree of PERA who has suspended benefits.

Allows the state deferred compensation committee to retain professional advisors and independent consultants or experts to advise it regarding the proper discharge of the committee's fiduciary duty.

States that upon termination of employment by which an employee is eligible to participate in the committee's defined contribution plan, the participant's accrued benefit under the plan shall remain fully vested and the participant may

rollover, request distribution, transfer, or retain his or her balance in the plan.

**EFFECTIVE April 7, 2005**

Amended 24-51-1502(1); 24-51-1502(2)(a); 24-51-1503(2); 24-52-202(3); 24-52-203(3)(c); 24-52-205(1); 24-52-205(2.5).

## **HUMAN SERVICES – SOCIAL SERVICES**

### **H.B. 05-1324 Food distribution programs - commodities - monthly administrative fee.**

Authorizes the department of human services to charge an administrative fee for commodities delivered to eligible agencies that receive the commodities through food distribution programs authorized by federal law. Specifies that the department will collect the administrative fee on a monthly basis.

**EFFECTIVE June 1, 2005**

Added 26-1-121(4).

## **MOTOR VEHICLES AND TRAFFIC REGULATION**

### **S.B. 05-036 Minor driver's license restrictions - minor passengers - curfew.**

Prohibits a minor driver who has held a license less than 6 months from transporting a passenger who is under 21 years of age. Prohibits a minor driver who has held a license for less than one year from transporting more than one person under 21 years of age. Allows the following exceptions to this prohibition:

- If the motor vehicle also contains the minor's parent or legal guardian or other responsible adult;
- If the motor vehicle also contains a 21-year-old driver or a driving instructor;
- If the passenger is in the vehicle on account of a medical emergency;
- If all the passengers are members of the driver's immediate family.

Prohibits a minor driver who has held a license for less than one year from driving between 12 midnight and 5 a.m. Allows the following exceptions to this curfew:

- If the motor vehicle contains the minor's parent, legal guardian, or other responsible adult;
- If the motor vehicle contains a 21-year-old driver or a driving instructor;
- If the driving is on account of a medical emergency;
- If the driving is on account of school or a school-authorized activity when the school does not provide adequate transportation;
- If the driving is on account of employment when necessary;
- If the minor is emancipated.

Imposes punishment for violating such prohibitions, including community service, fines, and license suspension points.

**EFFECTIVE April 21, 2005**

Added 42-4-116; amended 42-2-127(5)(gg); added 42-2-127(5)(kk); repealed 42-2-105.5(2); added 42-1-102(43.5).

### **H.B. 05-1137 Permitted drivers - prohibition against cell phone use.**

Makes driving a motor vehicle by a person holding a temporary instruction permit or a minor's instruction permit while using a cellular telephone or other mobile communication device a secondary traffic offense. Establishes exemptions and a penalty assessment for infractions.

**EFFECTIVE April 14, 2005**

Added 42-4-239; 42-2-127(5)(jj); amended 42-4-1701(4)(a)(I)(D).

### **H.B. 05-1187 Emergency vehicle - stationary - failure to yield right-of-way - penalty.**

Requires drivers of vehicles to yield the right-of-way to stationary authorized emergency vehicles. Specifies that a driver who fails to yield the right-of-way to a stationary authorized emergency vehicle commits the offense of careless driving.

**EFFECTIVE July 1, 2005**

Amended 42-4-705.