

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

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Fourteenth Legislative Day

Tuesday, January 23, 2002

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Prayer By President Matsunaka.

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

Roll Call Present--Total, 35.

Quorum The President announced a quorum present.

Reading of Journal On motion of Senator Taylor, reading of the Journal of Friday, January 18, was dispensed with and the Journal was approved as corrected by the Secretary.

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**MESSAGE FROM THE HOUSE**

January 18, 2002

Mr. President:

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB02-1007,1031,1008.

The House has adopted and transmits herewith HJR02-1006, as printed in House Journal, January 15, pages 97-98.

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**MESSAGE FROM THE REVISOR**

We herewith transmit:

Without comment, HB02-1007, 1031, and 1008.

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**MESSAGE FROM THE GOVERNOR**

Appointment A letter of designation and appointment from Governor Owens was read and assigned to Committees as follows:

November 1, 2001

To the Honorable  
Colorado Senate  
Colorado General Assembly  
State Capitol Building  
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint and submit to your consideration, the following:

STATE BOARD OF EQUALIZATION

for terms serving at the pleasure of the Governor:

JoAnn Groff of Westminster, Colorado, reappointed;

Lyle C. Kyle of Denver, Colorado, reappointed

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Sincerely,  
(signed)  
Bill Owens  
Governor

Rec'd: 11/13/01  
K. Goldman, Secretary of the Senate

Committee on Business, Labor and Finance.

June 13, 2001

To the Honorable  
Colorado Senate  
Colorado General Assembly  
State Capitol Building  
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint and submit to your consideration, the following:

MEMBER OF THE  
COLORADO LIMITED GAMING  
CONTROL COMMISSION

for a term expiring July 1, 2005:

Phil K. Walter of Glenwood Springs, Colorado to serve as a member from the Third Congressional with experience in law enforcement and as a Republican, reappointed.

Sincerely,  
(signed)  
Bill Owens  
Governor

Rec'd: 07/05/01  
H. Horvath, Asst. Secretary

Committee on Business, Labor and Finance.

October 12, 2001

To the Honorable  
Colorado Senate  
Colorado General Assembly  
State Capitol Building  
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint and submit to your consideration, the following:

MEMBER OF THE  
SECURITIES BOARD

for a term expiring July 1, 2004:

Joseph M. Wojteczko of Littleton, Colorado to serve as a representative of certified public accountants, appointed.

Sincerely,  
(signed)  
Bill Owens  
Governor

Rec'd: 10/18/01  
H. Horvath, Asst. Secretary

Committee on Business, Labor and Finance.

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July 16, 2001

To the Honorable  
Colorado Senate  
Colorado General Assembly  
State Capitol Building  
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint and submit to your consideration, the following:

MEMBERS OF THE  
FIRE AND POLICE PENSION ASSOCIATION  
BOARD OF DIRECTORS

for terms expiring September 1, 2005:

Joseph G. Ortiz of Sedalia, Colorado, to serve as a retired police officer, appointed;

Todd A. Bower of Denver, Colorado, to serve as a full-time paid firefighter, appointed.

Sincerely,  
(signed)  
Bill Owens  
Governor

Rec'd: 7/30/01  
H. Horvath, Asst. Secretary

Committee on Government, Veterans and Military Relations, and Transportation.

January 7, 2002

To the Honorable  
Colorado Senate  
Colorado General Assembly  
State Capitol Building  
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I hereby withdraw the nomination of the following:

MEMBER OF THE  
FIRE AND POLICE PENSION ASSOCIATION

effective February 1, 2002:

Joseph G. Ortiz of Sedalia, Colorado, is hereby withdrawn.

Sincerely,  
(signed)  
Bill Owens  
Governor

Rec'd: 1/11/02  
H. Horvath, Asst. Secretary

October 12, 2001

To the Honorable  
Colorado Senate  
Colorado General Assembly  
State Capitol Building  
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint, reappoint, and submit to your consideration, the following:

MEMBERS OF THE  
MINED LAND RECLAMATION BOARD

for a term expiring March 1, 2005:

Catherine Kraeger-Rovey, Ph.D. of Denver, Colorado to serve as a representative with substantial experience in conservation, reappointed.

Sincerely,  
(signed)  
Bill Owens  
Governor

Rec'd: 10/25/01  
K. Goldman, Secretary of the Senate

Committee on Agriculture and Natural Resources.

September 12, 2001

To the Honorable  
Colorado Senate  
Colorado General Assembly  
State Capitol Building  
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint and submit to your consideration, the following:

MEMBERS OF THE  
COLORADO WATER RESOURCES  
AND POWER DEVELOPMENT AUTHORITY

for terms expiring October 1, 2005:

Thomas R. Sharp of Steamboat Springs, Colorado, to serve as a member from the Yampa-White drainage basins and as a member experienced in the engineering aspects of water projects and as a Republican, reappointed;

Ann E. Nichols of Manitou Springs, Colorado, to serve as a member from the Arkansas drainage basin and as a Republican, reappointed.

Sincerely,  
(signed)  
Bill Owens  
Governor

Rec'd: 09/18/01  
K. Goldman, Secretary

Committee on Agriculture and Natural Resources.

**SENATE SERVICES REPORT**

Senate  
Services

Correctly printed: SB02-107, 108.  
SR02-005, 006.

Correctly engrossed: SR02-006.

Correctly enrolled: SR02-006.

On motion of Senator Thiebaut, and with the unanimous consent of those elected to the Senate, the Senate stood in recess to hear remarks in honor of Dr. Martin Luther King by Senator Tate and Minority Leader Andrews.

Senator Tate's Remarks:

It has been an interesting weekend, and I want to just start a little differently by saying thank you to this body. Thank you for paying tribute, not by passing a resolution, not by allowing speeches to be made, but thank you for honoring the life and works of Dr. Martin Luther King Jr., by for the first time in the history of this General Assembly, not

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convening on the day that is a national holiday and a state holiday in recognition of his birthday and his work.

Thanks to several of my colleagues that showed up at City Park in Senate District 33 for the program. Senator Matsunaka, Senator Linkhart, Senator Andrews -- Thank you so much for being there. And I hope that we all can take something out of the day given these difficult times.

Let me simply offer a couple of things - First the reason why I think the show and the vote by this Senate was so important. Understand, please, the history of this holiday not just nationally, but in this state. There are several people who still inhabit this building and this body who did not vote in support of such a holiday. And in all candor, in many segments of the community the fact that this General Assembly would not take off the day or part of the day in recognition has been continually perceived by many as an ongoing 'no' vote or an act of defiance and quite frankly a snub, or, as the kids would say, you were "dissin" the man for no good reason, he is dead and can't defend himself and it was deemed unnecessary. I have been in the General Assembly for six years and I have seen us take days off for Good Friday, and on other holidays and other occasions. I have seen us on some of our best days when we have stayed till midnight and beyond. And I have seen us on some of our worst days, when we have rushed in, said roll and left for the balance of the day. And I know that each day is not promised to us and what we do with it is special and has meaning, and I guess I would offer this as we reflect on the life of Dr. King that some things may have more meaning than others.

I am disappointed that the House didn't follow our lead. I looked at the House journal and saw that they considered three bills, a resolution and called it a day. That hardly brings to mind to me the fact that they had such urgent or pressing business that they could not join their Senate colleagues in a day of observance. But part of what Dr. King stood for is as Americans we have certain inalienable rights and one of them is freedom of speech, freedom of expression and freedom of thought and that we should respect different religions, different cultural backgrounds, different philosophies. And as it is the philosophy of the House to not acknowledge that holiday in that fashion, so be it, that is their prerogative.

We are in a difficult time in this county. The events of September 11, I would not say have changed it, but I would say have awakened certain things in this country that we have dealt with before. Many of us here, including myself, were not here when Pearl Harbor happened. Many of us don't remember or weren't here when there was World War I or World War II. Some of us barely remember Korea. And some of us remember quite vividly Vietnam, because we had cousins, relatives and friends who went there and never came back. And so there was an appreciation of what this country stands for.

I would simply close by saying in the tradition of Dr. Martin Luther King, we talk about him as a civil rights advocate, but also remember at the time of this death, one of the things I think in the minds of most people made him controversial was that he was a peace advocate on all fronts. He promoted civil disobedience, but he also had some concerns about the conflict in Vietnam and I have no doubt that he would have some concern with our continued activities overseas, regardless of what we perceive to see as the justification or motivation for the thing. But simply know this, one thing that I believe he pushed for was the consistency of ideals and philosophies. If you are going to fight for democracy abroad, you have an obligation to ensure that all your citizens domestically have that same opportunity for freedom and equality.

Thank you.

Senator Andrew's Remarks:

Senator Tate thank you.

Let me just share a couple of observations that moved me deeply from being at the pre-parade ceremonies with you at city park yesterday morning. The grand marshals at the march were the four or five heads of law enforcement and emergency services for the city and county of Denver, the Director of Public Safety, the Fire Chief, the Sheriff of the City and County of Denver, the head of Corrections and the head of the Paramedics for Denver General. They represented a spectrum of racial and ethnic background, but what was striking to me was that law enforcement and public safety agencies - who have in the past sometimes been perceived as unfriendly or unfair to the minority communities, particularly our African-American community - were honored. You should have heard the warmth of the applause as they were announced as grand marshals. That does not diminish some of what we have to reflect on sorrowfully about imperfections in the history of our nation and our state, but it says good things about where we are after September 11<sup>th</sup>. It says good

things about the progress we have made as a state and as a nation in fulfilling the idea of justice for all - all created equal.

I was struck with the prayerful spirit of the event yesterday morning before the march It reminded me that Dr. King was a man of God and that his crusade for racial equality and justice was conducted under God's law as our founding fathers of this country understood it and as he understood it. Several Senators from both sides of the aisle heard Benjamin Netanyahu, the former and perhaps future Prime Minister of Israel, speak in Denver to an overflow crowd last week. He talked about the fallacy that some grievances are so great that terrorism attacks on innocent civilians, wanton bloodshed unrelated to the grievance and those kinds of horrors are justified. He said it's fallacious, partly by the illustration of the American civil rights movement - which was entirely conducted with non-violence, because that is the way Dr. King insisted that it be. Were there scattered acts of violence by whites and by blacks? Yes, there were, and we grieve those. But there was that principle of non-violence.

I was reminded of that yesterday, when Mayor Webb announced that the rebuilding of the King statue in City Park will depict Dr. King on the shoulders of four who went before him; Frederick Douglass, Sojourner Truth, Rosa Parks, and Mahatma Gandhi. So there is Gandhi, saying that we are going to work for justice, but we are going to do it non-violently.

This is something that I think we can reflect on with great gratitude and pride, the ability of our society to correct its worst evils, even though the work of that correction is never finished. It is not finished in relation to racial justice and a lot of other issues. But, it was an occasion that I was very grateful to participate in yesterday morning with my Senate colleagues.

Senate Reconvened.

On motion of Senator Thiebaut, and with the unanimous consent of those elected to the Senate, the remarks of Senator Tate and Minority Leader Andrews were ordered spread upon the pages of the journal.

COMMITTEE OF REFERENCE REPORTS

Education

After consideration on the merits, the committee recommends that **SB02-004** be amended as follows and, as so amended be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, line 12, strike "TITLE." and substitute "TITLE, PROVIDED THAT THE INSTITUTION OR GOVERNING BOARD DOES NOT, AS A CONDITION OF RECEIVING SUCH FINANCIAL OR IN-KIND ASSISTANCE, ENTER INTO AN AGREEMENT OR ARRANGEMENT TO BUY, SELL, DISPENSE, OR HANDLE THE PRODUCT OF THE PERSON OR PARTY PROVIDING SUCH FINANCIAL OR IN-KIND ASSISTANCE.";

strike lines 13 through 20 and substitute the following:

**"SECTION 2. Effective date.** This act shall take effect July 1, 2002.

**SECTION 3. 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."

Education

After consideration on the merits, the committee recommends that **SB02-059** be amended as follows and, as so amended be referred to Appropriations with favorable recommendation.

Amend printed bill, page 3, line 9, strike "SECTION." and substitute "SECTION AND SCALE SCORES, WHERE APPROPRIATE.";

after line 18, insert the following:

**"(V) THE BOARD SHALL PROMULGATE RULES TO ENSURE THAT APPROPRIATE PERSONNEL IN EACH SCHOOL DISTRICT SHARE WITH AND**

**SB02-059**

EXPLAIN TO THE PARENT OR LEGAL GUARDIAN OF EACH STUDENT  
ENROLLED IN THE SCHOOL DISTRICT THE STUDENT'S ASSESSMENT RESULTS  
AND DIAGNOSTIC REPORTING RETURNED TO THE STUDENT'S PUBLIC SCHOOL  
PURSUANT TO SUBPARAGRAPH (I.5) OF THIS PARAGRAPH (a)."

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On motion of Senator Thiebaut, and with a majority of those elected to the Senate having  
voted in the affirmative, the balance of the calendar of Tuesday, January 22, was laid over  
until Wednesday, January 23, retaining its place on the calendar.

General Orders--Second Reading of Bills: **SB02-058, SB02-052, SB02-032, SB02-002.**  
Consideration of Resolutions: **HJR02-1003.**

On motion of Senator Thiebaut, the Senate adjourned until 9:00 a.m., Wednesday, January  
23, 2002.

Approved:

Stan Matsunaka  
President of the Senate

Attest:

Karen Goldman  
Secretary of the Senate