

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

Sixty-fourth Legislative Day

Wednesday, March 12, 2003

Prayer	By the chaplain, Father Chris Masuira.	10
Pledge	By Senator Hagedorn.	11
Call to Order	By the President at 9:00 a.m.	12
Roll Call	Present-- 34. Absent/Excused--1; Evans. Present later--Evans.	13 14 15 16 17 18 19 20 21
Quorum	The President announced a quorum present.	22 23
Reading of Journal	On motion of Senator Jones, reading of the Journal of March 11, 2003 was dispensed with and the Journal was approved as corrected by the Secretary.	24 25 26 27

MESSAGE FROM THE HOUSE

March 11, 2003

Mr. President:

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB03-1320, amended as printed in House Journal, March 10, page 1089.
HB03-1305, amended as printed in House Journal, March 10, page 1091.
HB03-1303, amended as printed in House Journal, March 10, pages 1089-1090.

The House has passed on Third Reading and transmitted to the Revisor of Statutes; HB03-1313, amended as printed in House Journal, March 7, pages 1071-1072, and amended on Third Reading as printed in House Journal, March 11.

The House has passed on Third Reading and returns herewith SB03-148,035,139.

The House has passed on Third Reading and transmitted to the Revisor of Statutes; SB03-053, amended as printed in House Journal, March 10, page 1088.
SB03-164, amended as printed in House Journal, March 10, page 1089.
SB03-135, amended as printed in House Journal, March 10, page 1090.

The House has passed on Third Reading and transmitted to the Revisor of Statutes SB03-065, amended on Third Reading as printed in House Journal March 11.

The House has adopted and returns herewith SJR03-017, 025.

The House has adopted and returns herewith SJR03-012, amended as printed in House Journal, March 11.

The House has adopted and transmits herewith HJR03-1016, as printed in House Journal, February 27, pages 952-953.

The House has adopted and transmits herewith HJR03-1017, as printed in House Journal, February 27, pages 952-953, and amended as printed in House Journal, March 11.

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MESSAGE FROM THE REVISOR OF STATUTES

March 11, 2003

We herewith transmit:

Without comment, as amended, HB03-1320, 1305, 1303, and 1313 and SB03-053, 164, 135, and 065.

INTRODUCTION OF RESOLUTIONS

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

SJR03-026 by Senator(s) Anderson, Andrews, Fitz-Gerald; also Representative(s) King, Spradley, Veiga--Concerning the 50TH Anniversary of the Colorado Legislative Council.

Laid over one day under Senate Rule 30(b).

HJR03-1016 by Representative(s) Wiens; also Senator(s) Evans, Entz, McElhany, Owen--Concerning urging federal land management agencies to work with appropriate state agencies in Colorado to establish an immediate plan of action to improve unnatural forest conditions in the state in order to reduce the threat of wildfires. Agriculture, Natural Resources & Energy

HJR03-1017 by Representative(s) Harvey; also Senator(s) Dyer--Concerning support for a partial reallocation of existing Chatfield Reservoir storage capacity for municipal use. Agriculture, Natural Resources & Energy

INTRODUCTION OF BILLS--FIRST READING

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

HB03-1159 by Representative(s) Paccione, Groff, Merrifield, Pommer, Spence, Williams S.; also Senator(s) Johnson S.--Concerning certification of education paraprofessionals. Education

HB03-1303 by Representative(s) Crane; also Senator(s) Lamborn--Concerning crimes involving the unauthorized use of communication devices, and, in connection therewith, making an appropriation. State Veterans & Military Affairs

HB03-1305 by Representative(s) Stafford; also Senator(s) Johnson S.--Concerning standards of conduct regarding dead human bodies. Health, Environment, Welfare & Institutions

HB03-1312 by Representative(s) Larson, Decker, Groff, Jahn, Judd, Lee, Marshall, Romanoff, Rose, Smith, Stengel, White, Witwer; also Senator(s) Anderson--Concerning the authority to direct the disposition of a person's last remains. Health, Environment, Welfare & Institutions

HB03-1313 by Representative(s) Wiens, May M., Harvey; also Senator(s) Evans, Lamborn--Concerning the exclusion of particular regions from the motor vehicle emissions program area by rule promulgated by the air quality control commission. Transportation

HB03-1320 by Representative(s) Rippey; also Senator(s) McElhany--Concerning the state engineer's authority to administer temporary instream flows held by the Colorado water conservation board, and, in connection therewith, requiring the state engineer to determine whether such temporary instream flows would injure existing water rights. Agriculture, Natural Resources & Energy

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COMMITTEE OF REFERENCE REPORTS

Local Government After consideration on the merits, the Committee recommends that **HB03-1221** be referred to the Committee of the Whole with favorable recommendation.

Local Government After consideration on the merits, the Committee recommends that **HB03-1207** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

- Amend reengrossed bill, page 3, line 6, strike "OR MUNICIPALITIES";
- line 8, strike "MUNICIPALITY OR MUNICIPALITIES." and substitute "MUNICIPALITY.";
- line 13, strike "MUNICIPALITY OR";
- line 14, strike "MUNICIPALITIES," and substitute "MUNICIPALITY,".

Local Government After consideration on the merits, the Committee recommends that **HB03-1306** be referred to the Committee of the Whole with favorable recommendation.

THIRD READING--FINAL PASSAGE OF BILL

On Third Reading, the title of the following bill was publicly read, the reading at length having been dispensed with by unanimous consent:

SB03-149 by Senator(s) Arnold; also Representative(s) Spence--Concerning practices relating to school districts' budgets.

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

YES	33	NO	2	EXCUSED	0	ABSENT	0
Anderson	Y	Groff	N	Kester	Y	Sandoval	Y
Arnold	Y	Grossman	Y	Lamborn	Y	Takis	Y
Cairns	Y	Hagedorn	Y	Linkhart	Y	Tapia	Y
Chlouber	Y	Hanna	Y	May	Y	Taylor	Y
Dyer	Y	Hillman	Y	McElhany	Y	Teck	Y
Entz	Y	Isgar	Y	Nichol	N	Tupa	Y
Evans	Y	Johnson	Y	Owen	Y	Windels	Y
Fitz-Gerald	Y	Jones	Y	Phillips	Y	Mr. President	Y
Gordon	Y	Keller	Y	Reeves	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill was declared **passed**.

On motion of Senator Anderson, and with a majority of those elected to the Senate having voted in the affirmative, the Senate proceeded out of order for Consideration of Governor's Appointments.

CONSIDERATION OF GOVERNOR'S APPOINTMENTS

On motion of Senator McElhany, the following Governor's appointments was confirmed by a roll call vote:

COMMISSIONER OF INSURANCE

effective January 7, 2003, for a term expiring at the pleasure of the Governor:

Douglas Dean of Denver, Colorado, appointed.

YES	21	NO	14	EXCUSED	0	ABSENT	0
Anderson	Y	Groff	Y	Kester	Y	Sandoval	Y
Arnold	Y	Grossman	N	Lamborn	Y	Takis	N
Cairns	Y	Hagedorn	Y	Linkhart	N	Tapia	N
Chlouber	Y	Hanna	N	May	Y	Taylor	Y
Dyer	Y	Hillman	Y	McElhany	Y	Teck	Y
Entz	Y	Isgar	N	Nichol	N	Tupa	N
Evans	Y	Johnson	Y	Owen	Y	Windels	N
Fitz-Gerald	N	Jones	Y	Phillips	N	Mr. President	Y
Gordon	N	Keller	N	Reeves	N		

On motion of Senator Grossman, the appointments to the Wildlife Commission were severed.

On motion of Senator Entz, the following Governor's appointments were confirmed by a roll call vote:

MEMBERS OF THE WILDLIFE COMMISSION

for terms expiring March 1, 2006:

Jeffrey Alan Crawford of Englewood, Colorado, to serve as a public at large member from the Wildlife District 5 and as a Republican, appointed.

The Honorable Robert N. Shoemaker of Canon City, Colorado, to serve as a representative of agricultural or produce growers from the Wildlife District 4 and as a Democrat, reappointed;

Philip J. James of Fort Collins, Colorado, to serve as a public at large member from the Wildlife District 3 and as a Republican, reappointed.

for terms expiring March 1, 2007:

The Honorable Ken M. Torres of Weston, Colorado, to serve as a county commissioner from Wildlife District 4 and as a Republican, appointed;

YES	35	NO	0	EXCUSED	0	ABSENT	0
Anderson	Y	Groff	Y	Kester	Y	Sandoval	Y
Arnold	Y	Grossman	Y	Lamborn	Y	Takis	Y
Cairns	Y	Hagedorn	Y	Linkhart	Y	Tapia	Y
Chlouber	Y	Hanna	Y	May	Y	Taylor	Y
Dyer	Y	Hillman	Y	McElhany	Y	Teck	Y
Entz	Y	Isgar	Y	Nichol	Y	Tupa	Y
Evans	Y	Johnson	Y	Owen	Y	Windels	Y
Fitz-Gerald	Y	Jones	Y	Phillips	Y	Mr. President	Y
Gordon	Y	Keller	Y	Reeves	Y		

On motion of Senator Entz, the following Governor's appointment was confirmed by a roll call vote:

MEMBER OF THE WILDLIFE COMMISSION

for terms expiring March 1, 2007:

Rick M. Enstrom of Lakewood, Colorado, to serve as a representative of sportsmen from Wildlife District 5 and as an Unaffiliated, reappointed.

YES	22	NO	13	EXCUSED	0	ABSENT	0
Anderson	Y	Groff	N	Kester	Y	Sandoval	Y
Arnold	Y	Grossman	N	Lamborn	Y	Takis	Y
Cairns	Y	Hagedorn	N	Linkhart	N	Tapia	N
Chlouber	Y	Hanna	N	May	Y	Taylor	Y
Dyer	Y	Hillman	Y	McElhany	Y	Teck	Y
Entz	Y	Isgar	Y	Nichol	Y	Tupa	N
Evans	Y	Johnson	Y	Owen	Y	Windels	N
Fitz-Gerald	N	Jones	Y	Phillips	N	Mr. President	Y
Gordon	N	Keller	N	Reeves	N		

On motion of Senator Dyer, the following Governor's appointments were confirmed by a roll call vote:

MEMBERS OF THE
JUVENILE PAROLE BOARD

for a term expiring at the pleasure of the Governor:

Jacklyne A. Herbst of Lakewood, Colorado, to serve as the local elected official, reappointed.

Michael R. Ramirez of Littleton, Colorado, to fill the vacancy occasioned by the resignation of Arti W. Winston, to serve as a representative of the Department of Education, appointed.

YES	35	NO	0	EXCUSED	0	ABSENT	0
Anderson	Y	Groff	Y	Kester	Y	Sandoval	Y
Arnold	Y	Grossman	Y	Lamborn	Y	Takis	Y
Cairns	Y	Hagedorn	Y	Linkhart	Y	Tapia	Y
Chlouber	Y	Hanna	Y	May	Y	Taylor	Y
Dyer	Y	Hillman	Y	McElhany	Y	Teck	Y
Entz	Y	Isgar	Y	Nichol	Y	Tupa	Y
Evans	Y	Johnson	Y	Owen	Y	Windels	Y
Fitz-Gerald	Y	Jones	Y	Phillips	Y	Mr. President	Y
Gordon	Y	Keller	Y	Reeves	Y		

On motion of Senator Johnson, the following Governor's appointments were confirmed by a roll call vote:

MEMBERS OF THE
COLORADO COMMISSION FOR THE
DEAF AND HARD OF HEARING

for terms expiring July 1, 2004:

Russell Herman of Molina, Colorado, to fill the vacancy occasioned by the resignation of Jill E. Boice as a member who is a professional in the field of deafness who is knowledgeable in and has experience with other types of disabilities, appointed;

Terry M. Sims of Colorado Springs, Colorado, to fill the vacancy occasioned by the resignation of Harriet H. Tupler as a member of the public, appointed.

YES	35	NO	0	EXCUSED	0	ABSENT	0
Anderson	Y	Groff	Y	Kester	Y	Sandoval	Y
Arnold	Y	Grossman	Y	Lamborn	Y	Takis	Y
Cairns	Y	Hagedorn	Y	Linkhart	Y	Tapia	Y
Chlouber	Y	Hanna	Y	May	Y	Taylor	Y
Dyer	Y	Hillman	Y	McElhany	Y	Teck	Y
Entz	Y	Isgar	Y	Nichol	Y	Tupa	Y
Evans	Y	Johnson	Y	Owen	Y	Windels	Y
Fitz-Gerald	Y	Jones	Y	Phillips	Y	Mr. President	Y
Gordon	Y	Keller	Y	Reeves	Y		

On motion of Senator Arnold, the following Governor's appointments were confirmed by a roll call vote:

MEMBERS OF THE STATE BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION

for terms expiring July 1, 2006:

Jerry L. Heimlicher of Colorado Springs, Colorado, to serve as a Republican from the Fifth Congressional District, appointed;

Tamra J. Ward of Denver, Colorado, to serve as a Republican from the First Congressional District, appointed;

Stephen A. Chapman of Lakewood, Colorado, to serve as an Unaffiliated from the Seventh Congressional District, appointed."

YES	35	NO	0	EXCUSED	0	ABSENT	0
Anderson	Y	Groff	Y	Kester	Y	Sandoval	Y
Arnold	Y	Grossman	Y	Lamborn	Y	Takis	Y
Cairns	Y	Hagedorn	Y	Linkhart	Y	Tapia	Y
Chlouber	Y	Hanna	Y	May	Y	Taylor	Y
Dyer	Y	Hillman	Y	McElhany	Y	Teck	Y
Entz	Y	Isgar	Y	Nichol	Y	Tupa	Y
Evans	Y	Johnson	Y	Owen	Y	Windels	Y
Fitz-Gerald	Y	Jones	Y	Phillips	Y	Mr. President	Y
Gordon	Y	Keller	Y	Reeves	Y		

INTRODUCTION OF BILLS--FIRST READING

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

SB03-248 by Senator(s) Anderson; also Representative(s) King--Concerning the financing of public schools.

Education
Appropriations

SB03-249 by Senator(s) Owen, Anderson; also Representative(s) Stengel--Concerning authority for the state to enter into leveraged leasing agreements.

Finance

SENATE SERVICES REPORT

Senate Services

Correctly printed: SB03-247.

Correctly reengrossed: SB03-068, 235.

Correctly rerevised: HB03-1006, 1109.

Correctly enrolled: SB03-047, 052, 062, 066, 096, 118;
SJR03-017, 025.

To the Governor for signature on Tuesday, March 11, 2003, 11:40 a.m.,
SB03-054, 059, 072, 100, 109.

SIGNING OF BILLS--RESOLUTIONS--MEMORIALS

The President has signed: SB03-047, 052, 062, 066, 096, 118.

On motion of Senator Anderson, and with a majority of those elected to the Senate having voted in the affirmative, the Senate proceeded out of order for Consideration of Resolutions.

CONSIDERATION OF RESOLUTION

HJR03-1011 by Representative(s) Harvey; also Senator(s) Lamborn--Concerning identifying, claiming, and putting to beneficial use Colorado's share of Colorado River compact water.

Amendment No. 1, Agriculture, Natural Resources and Energy Committee Amendment.
(Printed in Senate Journal, March 6, page 560 and placed in members' bill files.)

On motion of Senator Lamborn, the resolution, as amended, was **adopted** by the following roll call vote:

YES	35	NO	0	EXCUSED	0	ABSENT	0
Anderson	Y	Groff	Y	Kester	Y	Sandoval	Y
Arnold	Y	Grossman	Y	Lamborn	Y	Takis	Y
Cairns	Y	Hagedorn	Y	Linkhart	Y	Tapia	Y
Chlouber	Y	Hanna	Y	May	Y	Taylor	Y
Dyer	Y	Hillman	Y	McElhany	Y	Teck	Y
Entz	Y	Isgar	Y	Nichol	Y	Tupa	Y
Evans	Y	Johnson	Y	Owen	Y	Windels	Y
Fitz-Gerald	Y	Jones	Y	Phillips	Y	Mr. President	Y
Gordon	Y	Keller	Y	Reeves	Y		

Co-sponsors added: Anderson, Andrews, Arnold, Cairns, Chlouber, Entz, Evans, Fitz-Gerald, Groff, Grossman, Hanna, Hillman, Johnson, Kester, Owen, Phillips, Sandoval, Tapia, Taylor, and Teck.

MESSAGE FROM THE HOUSE

March 12, 2003

Mr. President:

The House has adopted and transmits herewith HJR03-1028, as printed in House Journal, March 11, pages 1111-1113.

INTRODUCTION AND CONSIDERATION OF RESOLUTION

HJR03-1028 by Representative(s) Miller, White, Rippey; also Senator(s) Chlouber, Taylor, Tapia--Concerning recognition of the contribution of the mining industry in Colorado.

Senator Anderson moved to suspend the rules for immediate consideration of **HJR03-1028**.

A two-thirds majority of those elected to the Senate having voted in the affirmative, the rules were suspended and immediate consideration was granted.

On motion of Senator Chlouber, the resolution was read at length and **adopted** by the following roll call vote:

HJR03-1028

YES	35	NO	0	EXCUSED	0	ABSENT	0
Anderson	Y	Groff	Y	Kester	Y	Sandoval	Y
Arnold	Y	Grossman	Y	Lamborn	Y	Takis	Y
Cairns	Y	Hagedorn	Y	Linkhart	Y	Tapia	Y
Chlouber	Y	Hanna	Y	May	Y	Taylor	Y
Dyer	Y	Hillman	Y	McElhany	Y	Teck	Y
Entz	Y	Isgar	Y	Nichol	Y	Tupa	Y
Evans	Y	Johnson	Y	Owen	Y	Windels	Y
Fitz-Gerald	Y	Jones	Y	Phillips	Y	Mr. President	Y
Gordon	Y	Keller	Y	Reeves	Y		

Co-sponsors added: Anderson, Andrews, Arnold, Cairns, Dyer, Entz, Evans, Fitz-Gerald, Gordon, Groff, Grossman, Hagedorn, Hanna, Hillman, Isgar, Johnson, Jones, Keller, Kester, Lamborn, Linkhart, May, McElhany, Nichol, Owen, Phillips, Reeves, Sandoval, Takis, Teck, Tupa, and Windels.

COMMITTEE OF REFERENCE REPORTS

Judiciary

The Committee on Judiciary has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:

**MEMBERS OF THE
JUVENILE PAROLE BOARD**

for a term expiring at the pleasure of the Governor:

George E. Epp of Boulder, Colorado, to serve as the member of the public, reappointed.

Judiciary

After consideration on the merits, the Committee recommends that **HB03-1244** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 2, line 17, strike "ALL" and substitute "FIFTY PERCENT OF THE";

line 19, after "C.R.S.", add "AND FIFTY PERCENT OF THE FINES COLLECTED PURSUANT TO THIS PARAGRAPH (a) SHALL BE CREDITED TO THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY FOR JUVENILE DIVERSION PROGRAMS PURSUANT TO SECTION 19-2-303, C.R.S.";

strike lines 26 and 27 and substitute the following:

"PROPERTY BUT MAY LIMIT SUCH COMPENSATION TO TWO THOUSAND FIVE HUNDRED DOLLARS.

(c) In addition, upon each conviction for defacing property pursuant to PARAGRAPH (b) OF ~~this~~ subsection (2) (1) OF THIS SECTION, or adjudication as a juvenile delinquent for an act that would constitute defacing property pursuant to PARAGRAPH (b) OF ~~this~~ subsection (2) (1) OF THIS SECTION if committed by an adult, the offender's driver's license shall be revoked as provided in section 42-2-125, C.R.S."

Page 3, strike lines 1 through 4;

strike lines 16 through 27 and substitute the following:

"(b) Had a license revoked pursuant to section 42-2-125 (1) (n), C.R.S., or had a license suspended pursuant to section 42-2-127.5, C.R.S. or been denied a license pursuant to section 42-2-104 (3) (f), C.R.S., based upon a conviction or adjudication under section 18-4-501 (2) or 18-4-509, (2); C.R.S.

SECTION 3. Repeal. 18-4-501 (2), Colorado Revised Statutes, is repealed as follows:

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HB03-1244

18-4-501. Criminal mischief. (2) If the court determines on the record that the underlying factual basis for any conviction of criminal mischief pursuant to subsection (1) of this section, or adjudication as a juvenile delinquent for an act that would constitute criminal mischief pursuant to subsection (1) of this section if committed by an adult, involves defacing property as described in section 18-4-509, ~~(2)~~; the offender's driver's license shall be revoked as provided in section 42-2-125, C.R.S."

Page 4, strike lines 1 through 3;

strike lines 15 through 24 and substitute the following:

"conviction; except that, if the person has been convicted of defacing property in violation of section 18-4-509, ~~(2)~~; C.R.S., or convicted of criminal mischief in violation of section 18-4-501, C.R.S., where the court finds that the underlying factual basis of the offense involves defacing property as described in section 18-4-509, ~~(2)~~; C.R.S., or any counterpart municipal charter or ordinance offense to either of said sections, the person may not be granted a license until the entire period for which the person's license would have been revoked, as determined pursuant to section 42-2-125 (3) and (7), has passed, as measured from the person's sixteenth birthday."

Page 5, strike lines 4 through 9 and substitute the following:

"(n) Been convicted of defacing property in violation of section 18-4-509, ~~(2)~~; C.R.S., or convicted of criminal mischief in violation of section 18-4-501, C.R.S., where the court finds that the underlying factual basis of the offense involves defacing property as described in section 18-4-509, ~~(2)~~; C.R.S., or any counterpart municipal charter or ordinance offense to either of said sections.";

line 23, strike "m, or ~~(1)-(n)~~," and substitute "m or (1) (n)";

line 25, strike "OR";

strike lines 26 and 27 and substitute the following:

"or denied pursuant to section 42-2-104 (3) (f) based upon a conviction under section 18-4-509, ~~(2)~~; C.R.S., or a conviction under section 18-4-501, C.R.S., where the underlying factual basis involved defacing property, or any counterpart municipal charter or ordinance offense to either of said sections, shall not be required to file proof of financial responsibility in order to be relicensed."

Page 6, strike lines 1 through 25.

Renumber succeeding sections accordingly.

Judiciary After consideration on the merits, the Committee recommends that **HB03-1186** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 2, line 5, strike "PASSAGE";

line 6, strike "OF SIXTY DAYS FOLLOWING THE".

Judiciary After consideration on the merits, the Committee recommends that **HB03-1243** be referred to the Committee of the Whole with favorable recommendation.

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On motion of Senator Anderson, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the calendar of March 12, was laid over until Thursday, March 13, retaining its place on the calendar.

Second Reading--General Orders: HB03-1003, SB03-232, HB03-1237, HB03-1081, HB03-1299, HB03-1290, HB03-1143, HB03-1224, HB03-1298, HB03-1005, HB03-1008, HB03-1100, HB03-1175, HB03-1045, HB03-1212, HB03-1288, SB03-236, HB03-1266, HB03-1239, HB03-1226, HB03-1127, HB03-1197, SB03-243, HB03-1015, HB03-1007, HB03-1232, HB03-1097, HB03-1035.

Consideration of House Amendments to Senate Bills: SB03-060, SB03-117, SB03-147, SB03-097.

Request for Conference Committee: HB03-1161.

On motion of Senator Anderson, the Senate adjourned until 9:00 a.m., Thursday, March 13, 2003.

Approved:

John Andrews
President of the Senate

Attest:

Mona Heustis
Secretary of the Senate

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