

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

Eighty-third Legislative Day

Monday, March 31, 2003

Prayer By the chaplain, Father Chris Masuira.

Pledge By Senator May.

Call to Order By the President at 10:00 a.m.

Roll Call Present-- 32.
Absent/Excused--3; Keller, Lamborn, Linkhart.
Present later--Keller, Lamborn, Linkhart.

Quorum The President announced a quorum present.

Reading of Journal On motion of Senator Sandoval, reading of the Journal of March 28, 2003 was dispensed with and the Journal was approved as corrected by the Secretary.

Senate in recess.

Senate reconvened.

Senator Anderson moved a Call of the Senate.

COMMITTEE OF REFERENCE REPORTS

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

**MEMBERS OF THE
STATE AGRICULTURAL COMMISSION**

for terms expiring March 1, 2007:

Mark A. Arndt of Ft. Morgan, Colorado, to serve as a Republican and at large member, appointed;

Michael K. Deardorff of Brighton, Colorado, to serve as a Republican from the First Agricultural District, appointed;

Vickie I. Ford of Center, Colorado, to serve as a Democrat from the Third Agricultural District, appointed;

Penny H. Lewis of Kremmling, Colorado, to serve as a Republican from the Fourth Agricultural District, reappointed;

Steven D. Ela of Hotchkiss, Colorado, to serve as a Democrat from the Fourth Agricultural District, reappointed.

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Agriculture,
Natural
Resources
and Energy

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

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MEMBERS OF THE
MINED LAND RECLAMATION BOARD

for terms expiring March 1, 2007:

Daniel R. Ellison of Steamboat Springs, Colorado to serve as a member with experience in conservation, appointed;

Ira J. Paulin of Holly, Colorado to serve as a member with experience in agriculture, reappointed.

MESSAGE FROM THE HOUSE

March 31, 2003

Mr. President:

The House has adopted and transmits herewith HJR03-1039, as printed in House Journal, March 27, pages 1291-293.

INTRODUCTION OF BILL--FIRST READING

The following bill was read by title and referred to the committee indicated:

SB03-258

by Senator(s) Owen, Teck, Reeves; also Representative(s) Young, Witwer, Plant--
Concerning the provision for payment of the 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, 2003, except as otherwise noted.
Appropriations

INTRODUCTION AND CONSIDERATION OF RESOLUTION

HJR03-1039

by Representative(s) Sinclair; also Senator(s) Lamborn--Concerning the recognition of
Military Appreciation Day.

Senator Anderson moved to suspend the rules for immediate consideration of
HJR03-1039.

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

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

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

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

SR03-014 by Senator(s) Anderson, Andrews; --Concerning consideration of amendments to the FY 2003-04 general appropriation bill on second reading.

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

YES	21	NO	14	EXCUSED	0	ABSENT	0
Anderson	Y	Groff	N	Kester	Y	Sandoval	Y
Arnold	Y	Grossman	Y	Lamborn	Y	Takis	N
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	N	Nichol	N	Tupa	N
Evans	Y	Johnson	Y	Owen	Y	Windels	N
Fitz-Gerald	N	Jones	Y	Phillips	N	Mr. President	Y
Gordon	Y	Keller	N	Reeves	N		

THIRD READING--FINAL PASSAGE OF BILLS

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

HB03-1237 by Representative(s) Judd; also Senator(s) Lamborn--Concerning technical modifications to the statutes enforced by the administrator of the "Uniform Consumer Credit Code", and, in connection therewith, amending or repealing obsolete, inconsistent, and conflicting provisions of law.

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

YES	24	NO	11	EXCUSED	0	ABSENT	0
Anderson	Y	Groff	N	Kester	Y	Sandoval	N
Arnold	Y	Grossman	N	Lamborn	Y	Takis	Y
Cairns	Y	Hagedorn	Y	Linkhart	N	Tapia	Y
Chlouber	Y	Hanna	N	May	Y	Taylor	Y
Dyer	Y	Hillman	Y	McElhany	Y	Teck	Y
Entz	Y	Isgar	N	Nichol	Y	Tupa	N
Evans	Y	Johnson	Y	Owen	Y	Windels	N
Fitz-Gerald	N	Jones	Y	Phillips	N	Mr. President	Y
Gordon	Y	Keller	Y	Reeves	N		

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

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.

Laid over until Monday, April 7, retaining its place on the calendar.

Senate in recess.

Senate reconvened.

Senator Anderson moved a Call of the Senate.

MESSAGE FROM THE HOUSE

March 31, 2003

Mr. President:

The House has adopted and transmits herewith HJR03-1041, as printed in House Journal, March 28, pages 1324-1325.

The House has voted to concur in the Senate amendments to HB03-1160 and has repassed the bill as so amended.

The House has adopted and transmits herewith HJR03-1035, as printed in House Journal, March 24, pages 1237-1239.

INTRODUCTION AND CONSIDERATION OF RESOLUTION

HJR03-1035 by Representative(s) Frangas, Borodkin, Boyd, Butcher, Carroll, Coleman, Garcia, Hodge, Jahn, Judd, Madden, McFadyen, Merrifield, Miller, Paccione, Plant, Pommer, Ragsdale, Romanoff, Salazar, Tochtrop, Veiga, Vigil, Weddig, Weissmann, Williams S.; also Senator(s) Sandoval, Groff, Tapia--Concerning recognition of "Cesar Chavez Day".

Senator Anderson moved to suspend the rules for immediate consideration of HJR03-1035.

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

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

Table with 4 columns: YES (35), NO (0), EXCUSED (0), ABSENT (0). Rows list names of representatives and senators with their respective votes (Y for Yes).

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

INTRODUCTION OF BILL--FIRST READING

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

SB03-303 by Senator(s) Dyer; --Concerning an exclusion of the provision of telecommunications services for inmates in penal institutions from the jurisdiction of the public utilities commission. Judiciary

SB03-304 by Senator(s) Arnold, Evans, Hillman, McElhany; also Representative(s) Lee--Concerning provisions that govern the operations of state-supported institutions of higher education. Education

SB03-305 by Senator(s) Anderson, Andrews, Fitz-Gerald; also Representative(s) King, Spradley, Veiga--Concerning payment of expenses of the legislative department, and making an appropriation in connection therewith. Appropriations

MESSAGE FROM THE GOVERNOR

March 28, 2003

To the Honorable Senate
Sixty-fourth General Assembly
First Regular Session
Denver, CO 80203

Ladies and Gentlemen:

I have the honor to inform you that I have approved and filed with the Secretary of State the following acts:

S.B. 03-029 – Concerning A Flexible Pay Schedule That Allows Certain County Employees To Be Paid More Often Than One Time Each Month.

Approved March 28, 2003 at 11:24 a.m.

S.B. 03-035 – Concerning The Categorization Of Alamosa County For Purposes Of Establishing Salaries Of County Officers.

Approved March 28, 2003 at at 11:26 a.m.

S.B. 03-060 – Concerning The Authority Of A Fleet Owner To Process The Registration Renewal For A Fleet Vehicle In The County In Which The Fleet Owner’s Principal Office Is Located Instead Of In The County In Which The Fleet Vehicle Is Located At The Time Of Registration.

Approved March 28, 2003 at 11:27 a.m.

S.B. 03-097 – Concerning Reconsideration Of The Parole Application Of A Person Convicted Of Certain Crimes Of Violence.

Approved March 28, 2003 at 11:29 a.m.

S.B. 03-164 – Concerning Creation Of A Post-Conviction DNA Evidence Procedure.

Approved March 28, 2003 at 11:32a.m.

Sincerely,
(signed)
Bill Owens
Governor
Rec'd 03-28-03 2:30 p.m.
Mona Heustis, Secretary of the Senate

APPOINTMENTS TO CONFERENCE COMMITTEES

The President appointed Senators Johnson, Chairman, Kester, and Tupa as Senate Conferees on the First Conference Committee on SB03-009.

The President appointed Senators Arnold, Chairman, Anderson, and Phillips as Senate Conferees on the First Conference Committee on SB03-098.

The President appointed Senators Kester, Chairman, Johnson, and Isgar as Senate Conferees on the First Conference Committee on SB03-226.

Senate in recess.

Senate reconvened.

Committee of the Whole

On motion of Senator Kester, the Senate resolved itself into the Committee of the Whole for consideration of General Orders--Second Reading of Bills and Senator Kester was called to the Chair to act as Chairman.

GENERAL ORDERS--SECOND READING OF BILLS

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

SB03-154

by Senator(s) Hillman; also Representative(s) Rhodes--Concerning a prohibition on local governments from requiring an owner of a private residential property to sell the property below its fair market value.

Amendment No. 1, State, Veterans and Military Affairs Committee Amendment.
(Printed in Senate Journal, February 4, page 243 and placed in members' bill files.)

Amendment No. 2(L.007), by Senator Hillman.

Strike the State Veterans & Military Affairs Committee Report, dated February 3, 2003, and substitute the following:

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

"SECTION 1. 38-12-301, Colorado Revised Statutes, is amended to read:

38-12-301. Control of rents and sales prices by counties and municipalities prohibited. (1) The general assembly finds and declares that the imposition of rent control AND SALES PRICE RESTRICTIONS on private residential housing units is a matter of statewide concern.

(2) ~~therefore,~~ No county or municipality may enact any ordinance or resolution ~~which~~ THAT would control rents on private residential property. This ~~section~~ SUBSECTION (2) is not intended to impair the right of any state agency, county, or municipality to manage and control any property in which it has an interest through a housing authority or similar agency.

(3) NO COUNTY OR MUNICIPALITY MAY ENACT ANY ORDINANCE OR RESOLUTION THAT WOULD REQUIRE AN OWNER OF PRIVATE RESIDENTIAL PROPERTY TO SELL THE PROPERTY BELOW ITS FAIR MARKET VALUE. THIS SUBSECTION (3) SHALL NOT APPLY TO ANY REAL PROPERTY OWNED BY THE STATE OR ANY COUNTY OR MUNICIPALITY. THIS SUBSECTION (3) IS NOT INTENDED TO IMPAIR:

(a) THE RIGHT OF AN OWNER OF PRIVATE RESIDENTIAL PROPERTY TO VOLUNTARILY ENTER INTO AN AGREEMENT ON HIS OR HER BEHALF OR ON BEHALF OF ANY SUCCESSORS IN INTEREST, WHICH MAY RESULT IN AN ORDINANCE OR RESOLUTION, WITH A COUNTY OR MUNICIPALITY TO SELL THE PROPERTY BELOW ITS FAIR MARKET VALUE; OR

(b) ANY RESTRICTIVE COVENANTS ENCUMBERING PRIVATE RESIDENTIAL PROPERTY THAT ARE RECORDED PRIOR TO THE EFFECTIVE DATE OF THIS PARAGRAPH (b).

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor." "

As amended, declared **LOST** on Second Reading.
(For further action, see Roll Call Vote on the Report of the Committee of the Whole.)

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- SB03-073** by Senator(s) Owen; also Representative(s) Hoppe--Concerning an increase in the state engineer's authority to approve the use of water. 1
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Laid over until Tuesday, April 1, retaining its place on the calendar. 4
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- SB03-232** by Senator(s) Chlouber; --Concerning the office of consumer counsel. 6
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Laid over until Tuesday, April 1, retaining its place on the calendar. 8
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- SB03-001** by Senator(s) Cairns; also Representative(s) Lee--Concerning property tax credits to support education in the state. 10
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Laid over until Tuesday, April 1, retaining its place on the calendar. 13
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- SB03-236** by Senator(s) Dyer, Andrews, Hagedorn, Hillman; also Representative(s) Hoppe, Briggs, Brophy, Cadman, Clapp, Decker, Fritz, Hall, Harvey, Hefley, Johnson R., King, McCluskey, Sinclair, Stengel, Weddig--Concerning an authorization of the issuance of voter-approved revenue bonds for the purpose of financing water infrastructure projects by the state, and, in connection therewith, excluding revenues derived from bond proceeds and projects financed by bonds from state fiscal year spending. 15
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Laid over until Tuesday, April 1, retaining its place on the calendar. 22
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- HB03-1197** by Representative(s) May M., Judd; also Senator(s) Taylor, Anderson--Concerning the use of confidential communications between certified public accountants and clients in proceedings relating to the attest activities of certified public accountants, and, in connection therewith, creating an exception to the Colorado accountant-client privilege for purposes of disciplinary functions of the state board of accountancy related to attest services. 24
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(Amended in General Orders as printed in Senate Journal, March 14, pages 655-656.) 31
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Amendment No. 3(L.012), by Senators Taylor and Isgar. 33
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Strike the Finance Committee Report, dated March 6, 2003, and substitute the following: 35
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"Amend reengrossed bill, strike everything below the enacting clause and substitute the following: 38
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"SECTION 1. 13-90-107 (1) (f), Colorado Revised Statutes, is amended to read: 41
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13-90-107. Who may not testify without consent. (1) There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person shall not be examined as a witness in the following cases: 44
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(f) (I) A certified public accountant shall not be examined without the consent of his OR HER client as to any communication made by the client to him OR HER in person or through the media of books of account and financial records or his OR HER advice, reports, or working papers given or made thereon in the course of professional employment; nor shall a secretary, stenographer, clerk, or assistant of a certified public accountant be examined without the consent of the client concerned concerning any fact, the knowledge of which he OR SHE has acquired in such capacity. 49
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(II) No certified public accountant in the employ of the state auditor's office shall be examined as to any communication made in the course of professional service to the legislative audit committee either in person or through the media of books of account and financial records or advice, reports, or working papers given or made thereon; nor shall a secretary, clerk, or assistant of a certified public accountant who is in the employ of the state auditor's office be examined concerning any fact, the knowledge of which such secretary, clerk, or assistant acquired in such capacity, unless such information has been made open to public inspection by a majority vote of the members of the legislative audit committee. 59
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HB03-1197

(III) (A) **Subpoena powers for public entity audit and reviews.**
 SUBPARAGRAPH (I) OF THIS PARAGRAPH (f) SHALL NOT APPLY TO THE COLORADO STATE BOARD OF ACCOUNTANCY, NOR TO A PERSON OR GROUP AUTHORIZED BY THE BOARD TO MAKE AN INVESTIGATION ON THE BOARD'S BEHALF, CONCERNING AN ACCOUNTANT'S REPORTS, WORKING PAPERS, OR ADVICE TO A PUBLIC ENTITY THAT RELATE TO AUDIT OR REVIEW ACCOUNTING ACTIVITIES OF THE CERTIFIED PUBLIC ACCOUNTANT OR CERTIFIED PUBLIC ACCOUNTING FIRM BEING INVESTIGATED.

(B) FOR THE PURPOSES OF THIS SUBPARAGRAPH (III), A "PUBLIC ENTITY" SHALL INCLUDE A GOVERNMENTAL AGENCY OR ENTITY; QUASI-GOVERNMENTAL ENTITY; NONPROFIT ENTITY; OR PUBLIC COMPANY THAT IS CONSIDERED AN "ISSUER", AS DEFINED IN SECTION 2 OF THE FEDERAL "SARBANES-OXLEY ACT OF 2002", 15 U.S.C. SEC. 7201.

(IV) (A) **Subpoena powers for private entity audit and reviews.**
 SUBPARAGRAPH (I) OF THIS PARAGRAPH (f) SHALL NOT APPLY TO THE COLORADO STATE BOARD OF ACCOUNTANCY, NOR TO A PERSON OR GROUP AUTHORIZED BY THE BOARD TO MAKE AN INVESTIGATION ON THE BOARD'S BEHALF, CONCERNING AN ACCOUNTANT'S REPORTS OR WORKING PAPERS OF A PRIVATE ENTITY THAT IS NOT PUBLICLY TRADED AND RELATE TO AUDIT OR REVIEW ATTEST ACTIVITIES OF THE CERTIFIED PUBLIC ACCOUNTANT OR CERTIFIED PUBLIC ACCOUNTING FIRM BEING INVESTIGATED. THIS SUBPARAGRAPH (IV) SHALL NOT BE CONSTRUED TO AUTHORIZE THE COLORADO STATE BOARD OF ACCOUNTANCY OR ITS AGENT TO SUBPOENA OR EXAMINE INCOME TAX RETURNS.

(B) AT THE REQUEST OF EITHER THE CLIENT OF THE CERTIFIED PUBLIC ACCOUNTANT OR CERTIFIED PUBLIC ACCOUNTING FIRM OR THE CERTIFIED PUBLIC ACCOUNTANT OR CERTIFIED PUBLIC ACCOUNTING FIRM SUBJECT TO THE SUBPOENA PURSUANT TO THIS SUBPARAGRAPH (IV), A SECOND CERTIFIED PUBLIC ACCOUNTING FIRM OR CERTIFIED PUBLIC ACCOUNTANT WITH NO INTEREST IN THE MATTER MAY REVIEW THE REPORT OR WORKING PAPERS FOR COMPLIANCE WITH THE PROVISIONS OF ARTICLE 2 OF TITLE 12, C.R.S. THE SECOND CERTIFIED PUBLIC ACCOUNTING FIRM OR CERTIFIED PUBLIC ACCOUNTANT CONDUCTING THE REVIEW MUST BE APPROVED BY THE BOARD PRIOR TO BEGINNING ITS REVIEW. THE APPROVAL OF THE SECOND CERTIFIED PUBLIC ACCOUNTING FIRM OR CERTIFIED PUBLIC ACCOUNTANT SHALL BE IN GOOD FAITH. THE WRITTEN REPORT ISSUED BY A SECOND CERTIFIED PUBLIC ACCOUNTING FIRM OR CERTIFIED PUBLIC ACCOUNTANT SHALL BE IN LIEU OF A REVIEW BY THE BOARD. SUCH REPORT SHALL BE LIMITED TO MATTERS DIRECTLY RELATED TO THE WORK PERFORMED BY THE CERTIFIED PUBLIC ACCOUNTANT OR CERTIFIED PUBLIC ACCOUNTING FIRM BEING INVESTIGATED AND SHOULD EXCLUDE SPECIFIC REFERENCES TO CLIENT FINANCIAL INFORMATION. THE PARTY REQUESTING THAT A SECOND CERTIFIED PUBLIC ACCOUNTING FIRM OR CERTIFIED PUBLIC ACCOUNTANT REVIEW THE REPORTS AND WORKING PAPERS SHALL PAY ANY ADDITIONAL EXPENSES RELATED TO RETAINING THE SECOND CERTIFIED PUBLIC ACCOUNTING FIRM OR CERTIFIED PUBLIC ACCOUNTANT BY THE PARTY WHO MADE THE REQUEST. THE WRITTEN REPORT OF THE SECOND CERTIFIED PUBLIC ACCOUNTING FIRM OR CERTIFIED PUBLIC ACCOUNTANT SHALL BE SUBMITTED TO THE BOARD. THE BOARD MAY USE THE FINDINGS OF THE SECOND CERTIFIED PUBLIC ACCOUNTING FIRM OR CERTIFIED PUBLIC ACCOUNTANT AS GROUNDS FOR DISCIPLINE PURSUANT TO ARTICLE 2 OF TITLE 12, C.R.S.

(V) DISCLOSURE OF INFORMATION UNDER SUBPARAGRAPH (III) OR (IV) OF THIS PARAGRAPH (f) SHALL NOT WAIVE OR OTHERWISE LIMIT THE CONFIDENTIALITY AND PRIVILEGE OF SUCH INFORMATION NOR RELIEVE ANY CERTIFIED PUBLIC ACCOUNTANT, ANY CERTIFIED PUBLIC ACCOUNTING FIRM, THE COLORADO STATE BOARD OF ACCOUNTANCY, OR A PERSON OR GROUP AUTHORIZED BY SUCH BOARD, OF THE OBLIGATION OF CONFIDENTIALITY. DISCLOSURE WHICH IS NOT IN GOOD FAITH OF SUCH INFORMATION SHALL SUBJECT THE BOARD, A MEMBER THEREOF, OR ITS AGENT TO CIVIL LIABILITY PURSUANT TO SECTION 12-2-103 (6), C.R.S.

(VI) ANY CERTIFIED PUBLIC ACCOUNTANT OR CERTIFIED PUBLIC ACCOUNTING FIRM THAT RECEIVES A SUBPOENA FOR REPORTS OR ACCOUNTANT'S WORKING PAPERS RELATED TO THE AUDIT OR REVIEW ATTEST ACTIVITIES OF THE ACCOUNTANT OR ACCOUNTING FIRM PURSUANT TO SUBPARAGRAPH (III) OR (IV) OF THIS PARAGRAPH (f) SHALL NOTIFY HIS

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OR HER CLIENT OF THE SUBPOENA WITHIN THREE BUSINESS DAYS AFTER THE DATE OF SERVICE OF THE SUBPOENA.

(VII) SUBPARAGRAPH (III) OR (IV) OF THIS PARAGRAPH (f) SHALL NOT OPERATE AS A WAIVER, ON BEHALF OF ANY THIRD PARTY OR THE CERTIFIED PUBLIC ACCOUNTANT OR CERTIFIED PUBLIC ACCOUNTING FIRM, OF DUE PROCESS REMEDIES AVAILABLE UNDER THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., THE OPEN RECORDS LAWS, ARTICLE 72 OF TITLE 24, C.R.S., OR ANY OTHER PROVISION OF LAW.

(VIII) PRIOR TO THE DISCLOSURE OF INFORMATION PURSUANT TO SUBPARAGRAPH (III) OR (IV) OF THIS PARAGRAPH (f), THE CERTIFIED PUBLIC ACCOUNTANT, CERTIFIED PUBLIC ACCOUNTING FIRM, OR CLIENT THEREOF SHALL HAVE THE OPPORTUNITY TO DESIGNATE REPORTS OR WORKING PAPERS RELATED TO THE ATTEST FUNCTION UNDER SUBPOENA AS PRIVILEGED AND CONFIDENTIAL PURSUANT TO THIS PARAGRAPH (f) OR THE OPEN RECORDS LAWS, ARTICLE 72 OF TITLE 24, C.R.S., IN ORDER TO ASSURE THAT THE REPORT OR WORKING PAPERS SHALL NOT BE DISSEMINATED OR OTHERWISE REPUBLISHED AND SHALL ONLY BE REVIEWED PURSUANT TO LIMITED AUTHORITY GRANTED TO THE BOARD UNDER SUBPARAGRAPH (III) OR (IV) OF THIS PARAGRAPH (f).

(IX) NO LATER THAN THIRTY DAYS AFTER THE BOARD OF ACCOUNTANCY COMPLETES THE INVESTIGATION FOR WHICH RECORDS OR WORKING PAPERS ARE SUBPOENAED PURSUANT TO SUBPARAGRAPH (III) OR (IV) OF THIS PARAGRAPH (f), THE BOARD SHALL RETURN ALL ORIGINAL RECORDS, WORKING PAPERS, OR COPIES THEREOF TO THE CERTIFIED PUBLIC ACCOUNTANT OR CERTIFIED PUBLIC ACCOUNTING FIRM.

(X) NOTHING IN SUBPARAGRAPHS (III) AND (IV) OF THIS PARAGRAPH (f) SHALL CAUSE THE ACCOUNTANT-CLIENT PRIVILEGE TO BE WAIVED AS TO CUSTOMER FINANCIAL AND ACCOUNT INFORMATION OF DEPOSITORY INSTITUTIONS OR TO THE REGULATORY EXAMINATIONS AND OTHER REGULATORY INFORMATION RELATING TO DEPOSITORY INSTITUTIONS.

(XI) FOR THE PURPOSES OF SUBPARAGRAPHS (III) TO (X) OF THIS PARAGRAPH (f), "ENTITY" SHALL HAVE THE SAME MEANING AS IN SECTION 7-90-102 (20), C.R.S.

SECTION 2. 12-2-103 (6), Colorado Revised Statutes, is amended to read:

12-2-103. State board of accountancy - subject to termination.

(6) (a) Any member of the board, any person acting as a consultant to the board, any witness testifying in a proceeding authorized under this article, and any person who lodges a complaint pursuant to this article shall be immune from liability in any civil action brought against him OR HER for acts occurring while acting in his OR HER capacity as a board member, consultant, witness, or complainant, respectively, if such individual was acting in good faith within the scope of his OR HER respective capacity, made a reasonable effort to obtain the facts of the matter as to which he OR SHE acted, and acted in the reasonable belief that the action taken by him OR HER was warranted by the facts.

(b) THE DISCLOSURE OF REPORTS OR WORKING PAPERS SUBPOENAED BY THE BOARD OR ANY PERSON OR GROUP AUTHORIZED BY THE BOARD TO CONDUCT AN INVESTIGATION INTO AUDIT OR REVIEW ATTEST ACTIVITIES OF A CERTIFIED PUBLIC ACCOUNTANT OR CERTIFIED PUBLIC ACCOUNTING FIRM PURSUANT TO SECTION 13-90-107 (1) (f) (III) OR (1) (f) (IV), C.R.S., WHICH IS NOT IN GOOD FAITH SHALL SUBJECT THE MEMBER OF THE BOARD, PERSON, OR GROUP TO CIVIL LIABILITY FOR DAMAGES TO BE DETERMINED BY A COURT OF COMPETENT JURISDICTION.

SECTION 3. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition

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HB03-1197

is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to attest functions completed on or after the applicable effective date of this act."."

Amendment No. 4(L.013), by Senator Lamborn.

Amend the Taylor second reading amendment (HB1197_L.012), page 5, after line 6, insert the following:

"(XI) NOTHING IN THIS PARAGRAPH (f) SHALL CAUSE THE ACCOUNTANT-CLIENT PRIVILEGE TO BE WAIVED AS TO PRIVATE COMPANIES, INDIVIDUALS, OR PRIVATE NONPROFIT ENTITIES."

Renumber succeeding subparagraph accordingly.

As amended, declared **LOST** on Second Reading.
(For further action, see Amendments to the Report of the Committee of the Whole.)

HB03-1142 by Representative(s) Crane, Clapp, Fairbank, Fritz, Harvey, Hefley, King, Lee, May M., Mitchell, Rhodes, Schultheis, Spence, Stafford, White; also Senator(s) Chlouber, Lamborn-- Concerning minor political parties.

Amendment No. 1(L.005), by Senator Tupa.

Amend reengrossed bill, page 9, strike line 27.

Page 10, strike lines 1 and 2 and substitute the following:

"(b) (I) A MINOR POLITICAL PARTY MAY NOMINATE CANDIDATES FOR OFFICES TO BE FILLED AT A GENERAL ELECTION BY ASSEMBLY. AN ASSEMBLY SHALL BE HELD NO LATER THAN SIXTY-FIVE DAYS PRECEDING THE PRIMARY ELECTION."

As amended, declared **LOST** on Second Reading.
(For further action, see Amendments to the Report of the Committee of the Whole.)

SB03-121 by Senator(s) McElhany; also Representative(s) Williams T.--Concerning the preparation of a cost-benefit analysis of rules proposed for adoption by state agencies under the "State Administrative Procedure Act" to determine the impact of the proposed rules on the state's economy.

Laid over until Tuesday, April 1, retaining its place on the calendar.

SB03-246 by Senator(s) Owen, Reeves, Teck; also Representative(s) Witwer, Plant, Young-- Concerning the authority of the department of human services to charge a monthly administrative fee to specified public assistance recipients receiving benefits via the electronic benefits transfer service.

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

HB03-1121 by Representative(s) Wiens, King, May M., McCluskey, White; also Senator(s) Evans, Chlouber--Concerning offers of settlement in civil actions.

Laid over until Tuesday, April 1, retaining its place on the calendar.

HB03-1140 by Representative(s) Larson, Tochtrop, Young, Harvey, Hodge, Hoppe, Rippey, White; also Senator(s) Entz, Chlouber, Taylor, Isgar, Kester--Concerning the classification of state noxious weeds, and, in connection therewith, implementing management programs for such classified noxious weeds.

Laid over until Tuesday, April 1, retaining its place on the calendar.

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HB03-1256 by Representative(s) Spradley, Fairbank, Fritz, Hefley, McFadyen, Miller, Rippy, Rose, Veiga, Boyd, Briggs, Garcia, Hall, Hoppe, Jahn, Mitchell, Stengel, Weddig, White, Wiens; also Senator(s) Anderson, Kester, Chlouber, Entz, Dyer--Concerning the authority of the state to enter into lease-purchase agreements, and, in connection therewith, authorizing lease-purchase agreements for a high-custody correctional facility and for the university of Colorado health sciences center at Fitzsimons.

Laid over until Tuesday, April 1, retaining its place on the calendar.

HB03-1214 by Representative(s) Harvey; also Senator(s) Cairns--Concerning not requiring notification to a parent that the parent's minor child is seeking an abortion in a case of a medical emergency.

Laid over until Tuesday, April 1, retaining its place on the calendar.

HB03-1128 by Representative(s) Stafford, Crane, Harvey, Rhodes, Schultheis, Sinclair; also Senator(s) Cairns, Andrews, Arnold, Hillman, Johnson S., Kester, Lamborn, May R.--Concerning the required display of the national motto in public buildings in the state.

Laid over until Tuesday, April 1, retaining its place on the calendar.

SB03-240 by Senator(s) McElhany; also Representative(s) McCluskey--Concerning the selection process for an independent medical examiner in workers' compensation cases.

Amendment No. 1, Business Affairs and Labor Committee Amendment.

(Printed in Senate Journal, March 27, pages 777-778 and placed in members' bill files.)

As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage.

HB03-1001 by Representative(s) Hoppe; also Senator(s) Johnson S.--Concerning increased flexibility in the use of water resources.

(Amended in General Orders as printed in Senate Journal, March 21, page 699.)

Amendment No. 2(L.008), by Senators Isgar, Taylor, Entz, Chlouber, and Teck.

Strike the State, Veterans, and Military Affairs Committee Report, dated March 10, 2003.

As amended, ordered revised and placed on the calendar for Third Reading and Final Passage.

(For further action, see Amendments to the Report of the Committee of the Whole.)

AMENDMENTS TO THE REPORT OF THE COMMITTEE OF THE WHOLE

HB03-1142 by Representative(s) Crane, Clapp, Fairbank, Fritz, Harvey, Hefley, King, Lee, May M., Mitchell, Rhodes, Schultheis, Spence, Stafford, White; also Senator(s) Chlouber, Lamborn--Concerning minor political parties.

Senator Chlouber moved to amend the Report of the Committee of the Whole to show that **HB03-1142**, as amended, did pass.

The motion was declared **passed** by the following roll call vote:

YES	18	NO	17	EXCUSED	0	ABSENT	0
Anderson	Y	Groff	N	Kester	Y	Sandoval	N
Arnold	Y	Grossman	N	Lamborn	Y	Takis	N
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	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		

HB03-1197 by Representative(s) May M., Judd; also Senator(s) Taylor, Anderson--Concerning the use of confidential communications between certified public accountants and clients in proceedings relating to the attest activities of certified public accountants, and, in connection therewith, creating an exception to the Colorado accountant-client privilege for purposes of disciplinary functions of the state board of accountancy related to attest services.

Senator Taylor moved to amend the Report of the Committee of the Whole to show that the Lamborn floor amendment (L.013) to **HB03-1197**, did not pass, and that **HB03-1197** as amended, did pass:

Amend the Taylor second reading amendment (HB1197_L.012), page 5, after line 6, insert the following:

"(XI) NOTHING IN THIS PARAGRAPH (f) SHALL CAUSE THE ACCOUNTANT-CLIENT PRIVILEGE TO BE WAIVED AS TO PRIVATE COMPANIES, INDIVIDUALS, OR PRIVATE NONPROFIT ENTITIES."

Renumber succeeding subparagraph accordingly.

The motion was declared **passed** by the following roll call vote:

YES	23	NO	12	EXCUSED	0	ABSENT	0
Anderson	Y	Groff	N	Kester	Y	Sandoval	N
Arnold	Y	Grossman	Y	Lamborn	N	Takis	N
Cairns	N	Hagedorn	Y	Linkhart	Y	Tapia	Y
Chlouber	N	Hanna	Y	May	Y	Taylor	Y
Dyer	N	Hillman	Y	McElhany	N	Teck	Y
Entz	Y	Isgar	Y	Nichol	Y	Tupa	Y
Evans	Y	Johnson	Y	Owen	N	Windels	Y
Fitz-Gerald	Y	Jones	N	Phillips	Y	Mr. President	N
Gordon	N	Keller	Y	Reeves	Y		

ROLL CALL VOTE ON SB03-154

SB03-154 by Senator(s) Hillman; also Representative(s) Rhodes--Concerning a prohibition on local governments from requiring an owner of a private residential property to sell the property below its fair market value.

Senator Hillman moved for a roll call vote on **SB03-154**, as amended.

YES	15	NO	20	EXCUSED	0	ABSENT	0
Anderson	N	Groff	N	Kester	Y	Sandoval	N
Arnold	Y	Grossman	N	Lamborn	Y	Takis	N
Cairns	Y	Hagedorn	N	Linkhart	N	Tapia	N
Chlouber	Y	Hanna	N	May	Y	Taylor	N
Dyer	Y	Hillman	Y	McElhany	Y	Teck	Y
Entz	N	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		

SB03-154, as amended, declared **LOST** on Second Reading.

AMENDMENTS TO THE REPORT OF THE COMMITTEE OF THE WHOLE

HB03-1001 by Representative(s) Hoppe; also Senator(s) Johnson S.--Concerning increased flexibility in the use of water resources.

Senators Johnson and Reeves moved to amend the Report of the Committee of the Whole to show that the following Isgar, Taylor, Entz, Chlouber, and Teck floor amendment (L.008) to **HB03-1001**, did not pass.

Strike the State, Veterans, and Military Affairs Committee Report, dated March 10, 2003.

HB03-1001

The motion was declared **passed** by the following roll call vote:

YES	18	NO	17	EXCUSED	0	ABSENT	0
Anderson	N	Groff	Y	Kester	N	Sandoval	N
Arnold	N	Grossman	N	Lamborn	Y	Takis	Y
Cairns	Y	Hagedorn	Y	Linkhart	Y	Tapia	N
Chlouber	N	Hanna	Y	May	Y	Taylor	N
Dyer	Y	Hillman	Y	McElhany	Y	Teck	N
Entz	N	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	Y	Keller	N	Reeves	Y		

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator Kester, the Report of the Committee of the Whole was adopted and, a majority of all members elected to the Senate having voted in the affirmative, the following action was taken:

Passed on Second Reading: SB03-246, SB03-240 as amended, HB03-1001 as amended, HB03-1142 as amended, HB03-1197 as amended.

Lost on Second Reading: SB03-154 as amended.

Laid over until Tuesday, April 1: SB03-073, SB03-232, SB03-001, SB03-236, SB03-121, HB03-1121, HB03-1140, HB03-1256, HB03-1214, HB03-1128.

SENATE SERVICES REPORT

Senate Services

Correctly printed: SB03-259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302; SJR03-032; SR03-014, 015.

Correctly reengrossed: SB03-242, 245, 248.

Correctly revised: HJR03-1012, 1025, 1031.

Correctly rerevised: HB03-1012, 1020, 1051, 1092, 1159, 1236, 1251, 1263, 1305.

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 31, was laid over until Tuesday, April 1, retaining its place on the calendar.

Consideration of Resolutions: SJR03-030, SJR03-027, SJR03-032, HJR03-1032, HJR03-1034.

Consideration of Memorial: SJM03-002.

Consideration of House Amendments to Senate Bills: SB03-117, SB03-067.

Consideration of Governor's Vetoes: SB03-207.

Consideration of Governor's Appointments:

Members of the State Housing Board;

Members of the Pinnacol Assurance Board of Directors.

Conference Committees to Report: HB03-1161, HB03-1103, HB03-1301, HB03-1025, HB03-1224, HB03-1003, HB03-1005.

Request for Conference Committees: SB03-065, HB03-1111.

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On motion of Senator Anderson, the Senate adjourned until 9:00 a.m., Tuesday, April 1, 2003.

Approved:

John Andrews
President of the Senate

Attest:

Mona Heustis
Secretary of the Senate

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