

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

Thirty-sixth Legislative Day

Wednesday, February 12, 2003

Prayer By the chaplain, Pastor Chris Taylor, St. James Presbyterian Church.

Pledge By Senator Tupa.

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

Roll Call Present-- 33.
Absent/Excused--2; Evans, Phillips.
Present later--Evans, Phillips.

Quorum The President announced a quorum present.

Reading of Journal	On motion of Senator Sandoval, reading of the Journal of February 11, 2003, was dispensed with and the Journal was approved as corrected by the Secretary.
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COMMITTEE OF REFERENCE REPORTS

Business Affairs and After consideration on the merits, the Committee recommends that **SB03-151** be referred to the Committee on Appropriations with favorable recommendation.

Business Affairs and Labor After consideration on the merits, the Committee recommends that **SB03-129** be postponed indefinitely.

Local Government After consideration on the merits, the Committee recommends that **SB03-152** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 3, strike lines 1 through 5.

Reletter succeeding paragraph accordingly.

Page 3, line 8, after "A", insert "VOLUNTARY".

Page 4, after line 1, insert the following:

"(2) "COMPREHENSIVE PLAN" MEANS A MASTER PLAN AS DESCRIBED IN SECTION 30-28-106, C.R.S.".

Renumber succeeding subsections accordingly.

Page 4, strike lines 7 through 11.

Renumber succeeding subsections accordingly.

Page 5, line 20, strike "AND" and substitute "OR".

Page 8, line 19, strike "OR";

after line 19, insert the following:

SB03-152

"(b) INTERFERE WITH ANY AGREEMENT OR INITIATIVE ENTERED INTO BY A LOCAL GOVERNMENT PRIOR TO THE EFFECTIVE DATE OF THIS PART 3, WHETHER THE AGREEMENT OR INITIATIVE AFFECTS LAND WITHIN THE TERRITORIAL BOUNDARIES OF THE LOCAL GOVERNMENT PURSUANT TO THE COMPREHENSIVE PLAN OF THE LOCAL GOVERNMENT OR OUTSIDE SUCH BOUNDARIES BY MEANS OF AN INTERGOVERNMENTAL AGREEMENT IN CONFORMITY WITH STATE OR LOCAL LAW; OR".

Reletter succeeding paragraph accordingly.

Local Government After consideration on the merits, the Committee recommends that SB03-146 be postponed indefinitely.

INTRODUCTION AND CONSIDERATION OF RESOLUTION

SJR03-015 by Senator(s) Reeves, Johnson S.; also Representative(s) Paccione, Fritz, Lundberg, McCluskey--Concerning honoring the intercollegiate athletics program at Colorado State University.

Senator Anderson moved to suspend the rules for immediate consideration of SJR03-015.

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 Reeves, the resolution was read at length and adopted by the following roll call vote:

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

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

Senate in recess.

On motion of Senator Anderson and with the unanimous consent of those elected to the Senate, the Senate stood in recess to hear the remarks of former State Senator Bill Schroeder to honor President Abraham Lincoln. The text of his remarks follows:

Lincoln Day Speech, February 12, 2003
"First Brush with Politics"

It is an Honor to be invited back to celebrate the 194th birthday of our 16th President, Abraham Lincoln. My comments are from my latest book "LINCOLN" by David Herbert Donald, a two-time winner of the Pulitzer Prize.

Mr. Donald started tracing the life of Abraham Lincoln asking at every stage of Lincoln's career, what he knew, how he evaluated the evidence, and how he reached his decisions. It is based largely on Lincoln's own words from the Lincoln library. What is interesting, Lincoln's papers were sealed until 1947 and therefore could not be consulted for the major biographies by Albert Beveridge, William Barton, Carl Sandburg and J.G. Randall's first two volumes.

What I would like to share with you today is Lincoln’s **“First Brush with Politics”**.

The family bible told him he had been born on the 12th Day of February 1809. Abe’s political experience came early in 1830’s when he helped the family move from Spencer County, Indiana, into Macon County, Illinois. He felt at home in Illinois and signed a petition, along with forty-four other "qualified voters," asking for a change of polling place for elections-- even though he had not lived in the state the six months required to qualify as an elector.

That summer he made his first political speech, addressing a campaign meeting in front of Renshaw's store in Decatur. Two established politicians and candidates for the state legislature, made addresses, and when they failed to follow custom of offering the crowd something to drink, Lincoln was urged to reply.

He surprised his audience at Decatur, which had been expecting some rude political humor, with a plea for improving the Sangamon River for transportation. Showing no evidence of stage fright except for frequently shifting his position to ease his feet, he ended with an eloquent picture of the future of Illinois.

Lincoln was now a man ready to leave the family nest. He went to work for Denton Offutt, a bustling, none-too-scrupulous businessman, who asked Abe and John Hanks to take a flatboat loaded with provisions down to New Orleans. Lincoln, having nothing better to do, promptly accepted.

In July of 1831 Lincoln arrived in New Salem, on a promise by Denton Offutt to set up a store and make Lincoln the manager. This fell through and Lincoln had to take odd jobs to tide him over until Offutt fulfilled his promise. Everyone grew fond of this hardworking and accommodating young man. They were all struck by Lincoln's unabashed eagerness to read and learn everything. The community reflected "he was attentive to his business, was kind, considerate and always treated them with great tenderness, kindness and honesty".

He participated in the New Salem debating club. When he first took the floor, both hands were thrust deeply into his pockets, Lincoln spoke timidly, but as he proceeded, his voice grew more assured, he started using his hands with awkward gestures. One participant remembered, "He pursued the question with reason and argument so concise and forcible that all were amazed."

He took great interest in town affairs. He regularly attended the sessions of the local court, over which the plump, justice of the peace, Bowling Green presided. Green initially allowed Lincoln to make informal comments on cases before the court because he told anecdotes that, as one contemporary recalled, produced a spasmodic shaking of the jolly sides of Green. But soon he came to recognize that Lincoln had not merely a sense of humor but a strong, logical mind. Neighbors began to rely on him for legal advice, and following a book of forms; he was able to draft simple legal documents.

In the spring of 1832, James Rutledge Green, the president of the debating club, and several other residents suggested that Lincoln run for the state legislature. Their choice was not as extraordinary as it might initially appear. The future of New Salem was linked to the Sangamon River.

The river was used to transport bacon, corn, and wheat of the area, just the commodities that Lincoln's flatboat had carried and if the sluggish stream was improved steamboats could bring manufactured goods, salt, iron, and the dozens of other commodities up the river.

But the prospect that New Salem, becoming a commercial port for central Illinois, was threatened by a plan to build a railroad from the Illinois River to Jacksonville and Springfield, bypassing New Salem altogether, New Salem needed a man in the legislature to represent its interests, and nobody could do that better than Lincoln.

He was now settled in New Salem, but, at the age of twenty-three, he was only a clerk in a small country store, a young man with less than a year of formal education and with no experience in the workings of government.

At his friends' urging, Lincoln in March 1832 announced his candidacy for the state legislature. Candidates did not have to have the backing of a strong political party or powerful patrons, as Illinois politics was in a state of flux. Nevertheless, Lincoln's decision

to run for the state legislature was a revealing one. Less than a year earlier he had been, in his own words, a "friendless, uneducated, penniless, working on a flatboat at ten dollars per month" individual.

As someone remarked, "Lincoln had nothing, only plenty of friends." Hardly known outside of his little community, he would have to compete for votes in the entire county, contesting with men of far greater age and experience.

Other candidates had influential politicians present their names to the electorate, but Lincoln, lacking such support, appealed directly to the public in an announcement published in Springfield's Sangamo Journal. Lincoln began by challenging the proposed railroad project. "However high our imaginations may be heated at thoughts of it," he warned, there was "a heart appalling shock accompanying the account of its cost." As an alternative he urged the improvement of the Sangamon River, which he reflected would be, "vastly important and highly desirable to the people of this county," and he vouched for the viability of this project by reflecting on his experience on the river, which was as extensive as that of any other person in the country.

Regarding other issues, Lincoln spoke for the New Salem community. A community frequently short of cash and needing credit, its businessmen were obliged to borrow at very high interest rates, and Lincoln pledged to support a law against such usury, stating "this baneful and corroding system." But Lincoln recognized that usury legislation might have a useful symbolic effect, but he noted wryly, it would not materially injure anyone because "in cases of extreme necessity there could always be means found to cheat the law." Like other New Salem residents, he favored improving education, indicating that "the most important subject which we as a people can be engaged in," though he offered no plan or program.

In Lincoln closing remarks he spoke for himself, rather than for his community, and here he employed his distinctive style, avoiding high falutin language in favor of simplicity and directness. He declared that his only object was that of being truly esteemed of his fellow men, by rendering himself worthy of their esteem. "I was born and have ever remained in the most humble walks of life," he reminded voters. On at least thirty-five other public occasions before 1860 he referred to himself as the "Humble Abraham Lincoln". If elected, he would work hard for the people. But defeat would not be unbearable, because he was "too familiar with disappointments to be very much chagrined."

Lincoln's announcement was timely; because within days of its publication news spread that the splendid, upper cabin steamer "Talisman" had left Cincinnati on a voyage to demonstrate the navigability of the Sangamon River. After traveling down the Ohio and up the Mississippi and Illinois rivers to Beardstown, the vessel would push up the Sangamon to the Portland Landing, about six miles from both New Salem and Springfield.

Lincoln, along with several other residents of Springfield and New Salem, went to Beardstown and worked hard for several days cutting back the brush that overhung the river and removing obstructions where it flowed into the Illinois. When the Talisman arrived at Beardstown, Lincoln took charge, and he triumphantly piloted the steamer upstream to the Portland Landing on March 24.

News that the Sangamon was rapidly dropping put an end to the celebrations, and within a week the Talisman, with Lincoln again at the helm, beat a hasty retreat down the river. The water level was so low that a portion of the milldam at New Salem had to be destroyed to allow the vessel to pass. The whole Talisman adventure impressively boosted Lincoln's reputation; it both demonstrated his skill as a river pilot and proved his political shrewdness in urging that if the Sangamon was going to be navigable it would have to be improved with state support.

But Lincoln's promising political career was interrupted by the collapse of Offutt's business ventures, and left without a job, Lincoln was saved by the outbreak of the Black Hawk War. The Sauk and Fox Indians, returned to Illinois with about 450 warriors and 1,500 women and children, to reclaim their tribal homeland.

When Governor John Reynolds called for volunteers to assist the federal troops, men rushed to offer their services, some out of patriotism, some out of long-cherished animosity toward Indians, and some who knew that military service would aid their political careers. In Lincoln's case all these motives were at work with the added inducement that the pay of a militiaman would be very welcome to a man with no means of support.

On April 21 he was sworn into service. As was customary, the men of the company elected their own officers. William Kirkpatrick, the owner of a sawmill, announced his candidacy, but some of the Clary Grove gang proposed Lincoln. Both candidates stepped on to the village green and the men formed a line behind their favorite. To Lincoln's delight, two thirds of the groups fell in behind him, and most of the others present deserted Kirkpatrick and joined them. The election was one of the proudest moments of Lincoln's life.

Lincoln tried with moderate success to secure some discipline in his company. He learned a little about close order drills, but not enough to master the complicated commands. Once when he found his company marching directly into a fence, he could not remember how to order them to pass through the narrow gate. With considerable presence of mind he called a halt, dismissed the company for two minutes, and ordered them to re-form on the other side of the fence.

The most immediate benefit Lincoln derived from his brief military service was his compensation of about \$110, plus the \$14 he received for enlisting. This was the total extent of his resources as he returned to New Salem, in time for a brief campaign before the election for the state legislature on August 6.

The campaign was an informal one, and Lincoln, like the other twelve candidates, traveled about Sangamon County, introducing himself and soliciting votes. He was an odd looking figure, his swarthy complexion now deeply sunburned, he was almost as red as those men he had been chasing through the prairies and forests on the Rivers of Illinois. On the campaign trail, as one observer remembered, he wore a mixed jeans coat; claw hammer style, short in the sleeves and bob-tail, in fact it was so short in the tail he could not sit on it.

When he attended political rallies, members of the Clary Grove gang often accompanied him. At his maiden speech, in Pappsville, a village eleven miles west of Springfield, a fight broke out in the crowd, and Lincoln saw one of his supporters attacked. Leaving the platform, he strode into the audience, seized the assailant by the neck and the seat of his trousers, and, as one witness recalled, threw him twelve feet away. As usual, memory is elastic, but there is no doubt that Lincoln, who now stood six feet and four inches tall, was strong enough to intimidate any rival.

In his speeches Lincoln made no attempt to conceal the fact that he was, as he said, "a stanch anti-Jackson, or Clay man." But for the most part he discussed local issues, like the need to improve the Sangamon River, and avoided larger questions by announcing, "My politics are short and sweet, like the old woman's dance."

When the votes were counted, Lincoln ran eighth in a field of thirteen candidates, the top four of whom were elected. He was, of course, disappointed, but he could take comfort, from the returns from his own New Salem precinct, where he received 277 of 300 votes cast.

Many years later, Lincoln had served four terms in the state legislature, had been elected to Congress, and had twice been nominated for the United States Senate, Lincoln said the election as militia captain was "a success which gave me more pleasure than any I have had since."

HAPPY BIRTHDAY MR. PRESIDENT!!

Senate reconvened.

CONSIDERATION OF GOVERNOR'S APPOINTMENTS

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

MEMBER OF THE
COLORADO BANKING BOARD

for a term expiring July 1, 2005:

Adam P. Coyle of Parker, Colorado, to fill the vacancy occasioned by the resignation of Karen J. Rodriguez and to serve as the representative of an executive officer of an industrial bank and as a Democrat, appointed.

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

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

MEMBERS OF THE
ADVISORY COMMITTEE TO THE PROPERTY
TAX ADMINISTRATOR

for terms expiring September 1, 2006:

Edward G. Bosier of Englewood, Colorado, to serve as an assessor from a county with seventy-five thousand or more in population and as a Republican, reappointed;

Donald R. Bain of Hugo, Colorado, to serve as a non-assessor from a county with less than seventy-five thousand in population and as a Republican and as Chairman, reappointed.

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

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

MEMBERS OF THE
EXAMINING BOARD OF PLUMBERS:

for terms expiring July 1, 2005:

Ronald L. Kinning of Arvada, Colorado, to serve as a master plumber and as a Republican, appointed;

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

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

MEMBER OF THE
COLORADO RACING COMMISSION

effective July 1, 2002 for a term expiring July 1, 2006:

Marilyn G. Alkire of Denver, Colorado, to serve as a representative of the racing industry as an Unaffiliated member from the First Congressional District, appointed.

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

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

MEMBER OF THE
COLORADO LIMITED GAMING CONTROL COMMISSION

effective July 1, 2002 for a term expiring July 1, 2006:

Natalie Meyer of Denver, Colorado to serve as a member from the First Congressional District with experience in business in a management-level capacity and as a Republican, reappointed.

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

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

MEMBERS OF THE
SECURITIES BOARD

effective July 1, 2002 for terms expiring July 1, 2005:

Roscoe Walker, III of Englewood, Colorado, to serve as a member of the public at large, reappointed;

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

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

MEMBERS OF THE
BOARD OF TRUSTEES OF
METROPOLITAN STATE COLLEGE OF DENVER

effective July 1, 2002 for terms expiring July 1, 2003:

Virginia Butler of Denver, Colorado, appointed;
E. Patrick Wiesner of Castle Rock, Colorado, appointed;

effective July 1, 2002 for terms expiring July 1, 2004:

Mark J. Martinez of Arvada, Colorado, appointed;
Adele Phelan of Denver, Colorado, appointed;

effective July 1, 2002 for terms expiring July 1, 2006:

Bruce D. Benson of Denver, Colorado, appointed;
Alex M. Cranberg of Greenwood Village, Colorado, appointed;
Ann C. Rice of Englewood, Colorado, appointed.

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

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

MEMBER OF THE:
COLORADO EDUCATIONAL AND CULTURAL
FACILITIES AUTHORITY BOARD OF DIRECTORS

effective June 30, 2002 for a term expiring June 30, 2006:

Frances L. Schoneck of Greeley, Colorado, appointed.

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

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

MEMBERS OF THE
BOARD OF REAL ESTATE APPRAISERS

for terms expiring July 1, 2005:

Joseph B. O'Dorisio of Arvada, Colorado, to serve as an officer or employee of a commercial bank experienced in real estate lending, appointed;

Mark S. Weston of Castle Rock, Colorado, to serve as a licensed or certified appraiser, reappointed;

John L. VanderMiller of Denver, Colorado, to serve as a licensed or certified appraiser, appointed;

Keren L. Prior of Pagosa Springs, Colorado, to serve as a county assessor in office, appointed.

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

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

MEMBER OF THE
WORKERS' COMPENSATION COST
CONTAINMENT BOARD

for a term expiring December 13, 2005:

Henry Hahne of Littleton, Colorado, to serve as an executive with risk management experience in the insurance industry, reappointed.

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

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

MEMBERS OF THE
PRIVATE OCCUPATIONAL SCHOOL BOARD

for terms expiring July 1, 2006:

Ryan L. Frazier of Denver, Colorado, to serve as a member of the public, appointed;

Ronald R. O'Dwyer of Englewood, Colorado, to serve as a member of the public, appointed;

Jonathan J. Ament of Littleton, Colorado, to serve as a member employed by a lending institution located in Colorado, appointed;

Gary A. Upton, Ph.D., of Evergreen, Colorado, to serve as a member of the public, reappointed.

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

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

MEMBERS OF THE
COLORADO COMMISSION ON HIGHER EDUCATION

effective July 1, 2002 for terms expiring July 1, 2006:

Judith Altenberg of Englewood, Colorado, to serve as a Democrat from the Sixth Congressional District, reappointed;

Terrance L. Farina of Grand Junction, Colorado, to serve as a member from west of the continental divide and as a Democrat from the Third Congressional District, reappointed.

For a term expiring July 1, 2005:

Gully Stanford of Denver, Colorado, to serve as a representative of the First Congressional District and as a Democrat, appointed.

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

COMMITTEE OF REFERENCE REPORTS

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

MEMBERS OF THE
COLORADO LOTTERY COMMISSION

effective July 1, 2002 for terms expiring July 1, 2006:

Timothy D. Bachicha of Alamosa, Colorado, to serve as a certified public accountant and as a Republican, reappointed;

Michael F. Bennet of Denver, Colorado, to serve as a representative of the public and as a Democrat, appointed.

Finance After consideration on the merits, the Committee recommends that HB03-1048 be referred to the Committee of the Whole with favorable recommendation.

Finance After consideration on the merits, the Committee recommends that SB03-107 be referred to the Committee of the Whole with favorable recommendation.

Finance	After consideration on the merits, the Committee recommends that SB03-167 be amended as follows, and as so amended, be referred to the Committee on <u>Appropriations</u> with favorable recommendation.	1 2 3 4 5
	Amend printed bill, page 2, line 27, after "COMMISSIONERS", insert "OTHER THAN LAND LEASED PURSUANT TO SECTION 36-1-120.5, C.R.S.,".	6 7 8 9
Judiciary	After consideration on the merits, the Committee recommends that SB03-111 be postponed indefinitely.	10 11 12
Judiciary	After consideration on the merits, the Committee recommends that SB03-028 be postponed indefinitely.	13 14 15 16
Judiciary	After consideration on the merits, the Committee recommends that SB03-128 be referred to the Committee on <u>Appropriations</u> with favorable recommendation.	17 18 19 20
Judiciary	After consideration on the merits, the Committee recommends that SB03-164 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	21 22 23 24 25
	Amend printed bill, page 2, line 8, strike "FACTUAL INNOCENCE." and substitute "CLEAR AND CONVINCING EVIDENCE SUCH THAT NO REASONABLE JUROR WOULD HAVE CONVICTED THE DEFENDANT.";	26 27 28 29
	after line 8, insert the following:	30 31
	"(2) "ACTUAL OR CONSTRUCTIVE POSSESSION" MEANS THE BIOLOGICAL EVIDENCE IS MAINTAINED OR STORED ON THE PREMISES OF THE LAW ENFORCEMENT AGENCY OR AT ANOTHER LOCATION OR FACILITY UNDER THE CUSTODY OR CONTROL OF THE LAW ENFORCEMENT AGENCY, INCLUDING PURSUANT TO AN AGREEMENT OR CONTRACT WITH THE LAW ENFORCEMENT AGENCY AND A THIRD-PARTY SERVICE PROVIDER, IN COLORADO OR ELSEWHERE.";	32 33 34 35 36 37 38 39
	line 9, strike "(2)" and substitute "(3)";	40 41
	line 10, strike "(3)" and substitute "(4)".	42 43
	Page 3, line 4, strike "APPLY," and substitute "APPLY";	44 45
	strike line 5 and substitute the following:	46 47
	"TO THE";	48 49
	line 19, after the period, add "THE COURT MAY DENY A SECOND OR SUBSEQUENT MOTION REQUESTING RELIEF PURSUANT TO THIS SECTION.".	50 51 52
	Page 4, line 18, strike "REASONABLE PROBABILITY" and substitute "PREPONDERANCE OF THE EVIDENCE";	53 54 55
	line 26, strike "OR" and substitute "AND".	56 57
	Page 5, line 2, strike "EXCUSE" and substitute "EXCUSE, INEFFECTIVE ASSISTANCE OF COUNSEL,";	58 59 60
	strike lines 6 through 14 and substitute the following:	61 62
	"18-1-414. Preservation of evidence. (1) A PETITIONER SHALL NOT BE ENTITLED TO RELIEF BASED SOLELY ON AN ALLEGATION THAT A LAW ENFORCEMENT AGENCY FAILED TO PRESERVE BIOLOGICAL EVIDENCE.	63 64 65 66
	(2) A COURT GRANTING A MOTION FOR HEARING PURSUANT TO SECTION 18-1-412 SHALL ORDER THE APPROPRIATE LAW ENFORCEMENT AGENCY TO PRESERVE EXISTING BIOLOGICAL EVIDENCE FOR DNA TESTING.	67 68 69

SB03-164

(3) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION, THIS SECTION DOES NOT CREATE A DUTY TO PRESERVE BIOLOGICAL EVIDENCE NOR DOES IT CREATE A LIABILITY ON THE PART OF A LAW ENFORCEMENT AGENCY FOR FAILING TO PRESERVE BIOLOGICAL EVIDENCE.";

line 17, after "INDIGENT," ,insert "AND WITH THE APPROVAL OF THE PUBLIC DEFENDER OR THE ALTERNATIVE DEFENSE COUNSEL,";

line 18, strike "THE BUDGET OF THE PUBLIC" and substitute "THEIR BUDGET.";

strike line 19.

INTRODUCTION OF BILL--FIRST READING

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

SB03-233 by Senator(s) Hillman; also Representative(s) Fairbank--Concerning the inclusion of employees of a district attorney in specified retirement plans.
Finance

THIRD READING--FINAL PASSAGE OF BILLS

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

SB03-135 by Senator(s) Lamborn; also Representative(s) Smith--Concerning the elimination of outdated provisions of law resulting from the law's obsolescence, infrequency of use, or inapplicability to current society, and, in connection therewith, repealing or amending various provisions of law.

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

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

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

SENATE SERVICES REPORT

Senate Services Correctly printed: SB03-231, 232.
Correctly reengrossed: SB03-051, 056, 097, 109, 147, 148, 155, 202, 203, 204, 205, 223, 224.

SIGNING OF BILLS--RESOLUTIONS--MEMORIALS

The President has signed: HB03-1091.

Senate in recess.

Senate reconvened.

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:

MEMBER OF THE
STATE BOARD OF PAROLE

effective July 1, 2002 for terms expiring July 1, 2005:

Richard A. Martinez, O.D. of Pueblo, Colorado, to serve as a citizen representative, reappointed;

Sharon K. Bartlett Walker of Grand Junction, Colorado, to serve as a former parole or probation officer, reappointed.

effective August 1, 2002 for a term expiring July 1, 2005:

The Honorable Deborah C. Allen of Aurora, Colorado, to serve as a citizen representative, appointed.

Legal After consideration on the merits, the Committee recommends that **SB03-088** be referred Services to the Committee of the Whole with favorable recommendation.

MESSAGE FROM THE HOUSE

February 11, 2003

Mr. President:

The House has adopted and returns herewith SJR03-015 .

INTRODUCTION OF RESOLUTION

The following resolution was read by title:

SJR03-016 by Senator(s) Andrews; also Representative(s) Spradley--Concerning honoring President Bush's leadership in his effort to protect the United States against Saddam Hussein.

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

INTRODUCTION OF BILLS--FIRST READING

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

SB03-234 by Senator(s) Kester; also Representative(s) Hall--Concerning the date that refund interest begins to accrue where property tax was erroneously levied as a result of an error by the taxpayer in completing statements relating to oil and gas property.
Business Affairs & Labor

HB03-1079 by Representative(s) Veiga; also Senator(s) Arnold--Concerning mandatory juvenile parole.
Judiciary

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TRIBUTES	3
Honoring James Otis -- by Senator Johnson	4
Honoring Nathan Benes -- by Senator Johnson	5
Honoring Dick Katte -- by Senator Hillman	6
Honoring Clif Sams -- by Senators Andrews, Cairns, and Dyer	7
Honoring Jose Rios -- by Senator Andrews	8
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	10
On motion of Senator Anderson, and with the unanimous consent of those elected to the	11
Senate, the remarks of former State Senator Bill Schroeder were ordered spread upon the	12
pages of the journal.	13
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On motion of Senator Anderson, and with a majority of those elected to the Senate having	17
voted in the affirmative, the balance of the calendar of February 12, 2003, was laid over	18
until February 13, 2003, retaining its place on the calendar.	19
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Second Reading--General Orders: SB03-098, SB03-154,SB03-133, SB03-055, SB03-025,	21
SB03-074, HB03-1018, SB03-053, SB03-117, SB03-153, SB03-158, SB03-126,	22
SB03-118, SB03-079, SB03-112, SB03-130, SB03-099, SB03-096, SB03-050, SB03-045,	23
SB03-052, SB03-042, SB03-013.	24
Consideration of House Amendments to Senate Bills: SB03-179, SB03-182, SB03-175,	25
SB03-183, SB03-185, SB03-189, SB03-191, SB03-192.	26
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On motion of Senator Anderson, the Senate adjourned until 9:00 a.m., February 13, 2003.	30
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Approved:	32
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John Andrews	35
President of the Senate	36
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Attest:	38
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Mona Heustis	41
Secretary of the Senate	42
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