

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

One Hundredth Legislative Day

Thursday, April 17, 2003

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Prayer	By the chaplain, Reverend Rob Knight.	11
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Pledge	By Senator Teck.	13
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Call to Order	By the President at 9:00 a.m.	15
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Roll Call	Present-- 31.	18
	Absent/Excused--4; McElhany, Nichol, Phillips, Taylor.	19
	Present later--Nichol, Phillips, Taylor.	20
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Quorum	The President announced a quorum present.	22
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Reading of Journal	On motion of Senator Grossman, reading of the Journal of April 16, 2003 was dispensed with and the Journal was approved as corrected by the Secretary.	24
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INTRODUCTION OF RESOLUTION

The following resolution was read by title:

SJR03-042 by Senator(s) May R.; --Concerning a request that the Congress of the United States return responsibility for surface transportation policy to the states by allowing the states to retain federal fuel tax revenues.

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

INTRODUCTION OF MEMORIAL

The following memorial was read by title:

SM03-001 by Senator(s) Teck; --Memorializing former senator Dan D. Noble.

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

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 Resolution: **SJR03-035**.

CONSIDERATION OF RESOLUTION

SJR03-035 by Senator(s) Grossman, Andrews, Gordon, Groff, Johnson S., McElhany, Sandoval; also Representative(s) Merrifield--Concerning the recognition of Patriots Day.

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

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SJR03-035

YES	34	NO	0	EXCUSED	1	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	E	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, Arnold, Cairns, Chlouber, Dyer, Entz, Evans, Fitz-Gerald, Hagedorn, Hanna, Hillman, Isgar, Jones, Keller, Kester, Lamborn, Linkhart, May, Nichol, Owen, Phillips, Reeves, Takis, Tapia, Taylor, Teck, Tupa, and Windels.

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:

SB03-131 by Senator(s) Arnold; also Representative(s) Berry--Concerning continuation of the use of electronic hearings regarding motor vehicle regulation by the department of revenue.

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

YES	34	NO	0	EXCUSED	1	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	E	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		

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

SB03-150 by Senator(s) Evans, Keller; also Representative(s) Stafford, Coleman--Concerning the creation of a special district to provide mental health care services to eligible persons residing in certain counties in the state, and, in connection therewith, authorizing the district to seek voter approval to impose a sales tax in the district to provide mental health care services to children and families residing in the district.

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

YES	29	NO	5	EXCUSED	1	ABSENT	0
Anderson	Y	Groff	Y	Kester	Y	Sandoval	Y
Arnold	N	Grossman	Y	Lamborn	N	Takis	Y
Cairns	N	Hagedorn	Y	Linkhart	Y	Tapia	Y
Chlouber	Y	Hanna	Y	May	Y	Taylor	Y
Dyer	Y	Hillman	N	McElhany	E	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	N
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**.

Co-sponsors added: Hanna, Isgar, Linkhart, and Windels.

SB03-083 by Senator(s) Keller, Arnold; also Representative(s) Romanoff--Concerning the "Child Mental Health Treatment Act".

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

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SB03-083

YES	34	NO	0	EXCUSED	1	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	E	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		

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

Co-sponsors added: Gordon, Groff, Grossman, Hagedorn, Hanna, Isgar, Linkhart, Nichol, Tapia, Tupa, and Windels.

SB03-128

by Senator(s) Grossman; also Representative(s) Hefley--Concerning authority for a local law enforcement agency to administer DNA tests to felony arrestees.

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

YES	30	NO	4	EXCUSED	1	ABSENT	0
Anderson	Y	Groff	N	Kester	Y	Sandoval	Y
Arnold	Y	Grossman	Y	Lamborn	N	Takis	Y
Cairns	N	Hagedorn	Y	Linkhart	Y	Tapia	Y
Chlouber	Y	Hanna	Y	May	Y	Taylor	Y
Dyer	Y	Hillman	Y	McElhany	E	Teck	Y
Entz	Y	Isgar	Y	Nichol	Y	Tupa	Y
Evans	Y	Johnson	Y	Owen	Y	Windels	Y
Fitz-Gerald	N	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**.

Co-sponsors added: Arnold, Chlouber, Dyer, Hagedorn, Hanna, Nichol, Phillips, and Tupa.

SB03-011

by Senator(s) Hagedorn, Hanna; also Representative(s) Spradley, Jahn, Tochtrop--Concerning prescription medications under the "Colorado Medical Assistance Act".

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

YES	34	NO	0	EXCUSED	1	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	E	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		

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

Co-sponsors added: Groff.

SB03-010

by Senator(s) Tupa, Anderson, Takis, Taylor; also Representative(s) White, Coleman, Vigil, Williams T.--Concerning the criminal history record check requirement for persons who apply to work in positions involving direct contact with vulnerable persons.

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

SB03-010

YES	34	NO	0	EXCUSED	1	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	E	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		

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

Co-sponsors added: Arnold, Chlouber, Entz, Fitz-Gerald, Groff, Nichol, Phillips, and Windels.

SB03-030

by Senator(s) Cairns; also Representative(s) Lee--Concerning the disclosure to each individual taxpayer of the average amount of certain taxes paid by the taxpayer in the previous calendar year.

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

YES	31	NO	3	EXCUSED	1	ABSENT	0
Anderson	Y	Groff	Y	Kester	Y	Sandoval	Y
Arnold	Y	Grossman	Y	Lamborn	Y	Takis	Y
Cairns	Y	Hagedorn	Y	Linkhart	N	Tapia	Y
Chlouber	Y	Hanna	Y	May	Y	Taylor	Y
Dyer	Y	Hillman	Y	McElhany	E	Teck	Y
Entz	Y	Isgar	Y	Nichol	Y	Tupa	N
Evans	Y	Johnson	Y	Owen	Y	Windels	Y
Fitz-Gerald	N	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**.

Co-sponsors added: Andrews, Entz, Hillman, and Lamborn.

Committee of the Whole

On motion of Senator Johnson, the Senate resolved itself into the Committee of the Whole for consideration of General Orders--Second Reading of Bills and Senator Johnson 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:

SB03-073

by Senator(s) Owen; also Representative(s) Hoppe--Concerning an increase in the state engineer's authority to approve the use of water.

Amendment No. 1, Agriculture, Natural Resources and Energy Committee Amendment.
(Printed in Senate Journal, February 17, pages 393-397 and placed in members' bill files.)

Amendment No. 2, Appropriations Committee Amendment.
(Printed in Senate Journal, February 24, page 455 and placed in members' bill files.)

Amendment No. 3(L.012), by Senator Owen.

Strike the Appropriations Committee Report, dated February 21, 2003.

Strike the Agriculture, Natural Resources & Energy Committee Report, dated February 13, 2003, and substitute the following:

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

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SB03-073

"SECTION 1. 37-92-308 (1) (c), (2), (3), (6), and (7), Colorado Revised Statutes, are amended to read:

37-92-308. Substitute water supply plans - special procedures for review. (1) The general assembly hereby finds, determines, and declares that:

(c) (I) Prior to January 1, 2002 2003, the general assembly gave the state engineer administrative authority to regulate wells upon promulgation of rules for a river basin or aquifer, subject to the review of the water judge as provided in section 37-92-501 (3). ~~and nothing in this section shall be construed to modify such authority.~~ THE GENERAL ASSEMBLY HEREBY RATIFIES THE AMENDED RULES GOVERNING THE DIVERSION AND USE OF TRIBUTARY GROUND WATER IN THE ARKANSAS RIVER BASIN OF COLORADO, AS APPROVED BY THE WATER JUDGE FOR WATER DIVISION 2, THAT BECAME EFFECTIVE ON JUNE 1, 1996.

(II) ON AND AFTER JANUARY 1, 2003, THE STATE ENGINEER SHALL HAVE THE AUTHORITY IN WATER DIVISION 2 TO PROMULGATE AND AMEND WELL ADMINISTRATION RULES PURSUANT TO SECTIONS 37-80-104 AND 37-92-501 THAT INCLUDE THE AUTHORITY TO APPROVE REPLACEMENT PLANS THAT ALLOW THE CONTINUING OPERATION OF WELLS CAUSING OUT-OF-PRIORITY DEPLETIONS WITHOUT REQUIRING A PLAN FOR AUGMENTATION APPROVED BY THE WATER JUDGE.

(III) ON AND AFTER JANUARY 1, 2003, THE STATE ENGINEER SHALL NOT HAVE ANY AUTHORITY IN WATER DIVISION 1 TO APPROVE PLANS FOR, OR TO OTHERWISE ALLOW, THE OPERATION OF WELLS, INCLUDING AUGMENTATION WELLS, THAT CAUSE OUT-OF-PRIORITY DEPLETIONS UNLESS THE WELLS ARE OPERATED IN ACCORDANCE WITH PLANS FOR AUGMENTATION APPROVED BY THE WATER JUDGE OR AS ALLOWED IN THIS SECTION.

(2) In addition to the authority previously granted to the state engineer, listed in subsection (1) of this section, the state engineer is authorized to review and approve substitute water supply plans ~~that allow out-of-priority diversions~~ only under the circumstances and pursuant to the procedures set forth in this section.

(3) (a) ~~For substitute water supply plans approved by the state engineer in writing prior to January 1, 2002, the state engineer may approve one renewal of such plan on the same or similar terms as those contained in the previous approval of such plan. The renewal plan request may include amendments to the previously approved plan so long as the amendments address the same water uses or projects as were included in the previously approved plan. Such renewal may not extend past December 31, 2002. After such date, the plan shall comply with the provisions of subsection (4) or (5) of this section in order to continue operation as a substitute water supply plan. Renewal of a previously approved substitute water supply plan pursuant to this subsection (3) shall not require notice to other water users. Neither the approval nor the denial of a substitute water supply plan by the state engineer shall create any presumptions, shift the burden of proof, or be a defense in any legal action that may be initiated concerning a renewed substitute water supply plan.~~ TO PROVIDE SUFFICIENT TIME TO FULLY INTEGRATE CERTAIN WELLS INTO THE WATER COURT ADJUDICATION PROCESS FOR AUGMENTATION PLANS, DURING 2003, 2004, AND 2005 THE STATE ENGINEER MAY APPROVE ANNUAL SUBSTITUTE WATER SUPPLY PLANS FOR WELLS OPERATING IN THE SOUTH PLATTE RIVER BASIN THAT HAVE BEEN OPERATING PURSUANT TO SUBSTITUTE WATER SUPPLY PLANS APPROVED BEFORE 2003, OR FOR AUGMENTATION WELLS, USING THE PROCEDURES AND STANDARDS SET FORTH IN THIS SUBSECTION (3). AFTER DECEMBER 31, 2005, ALL SUCH WELLS SHALL COMPLY WITH THE PROVISIONS OF SUBSECTION (4) OF THIS SECTION IN ORDER TO CONTINUE OPERATION UNDER A SUBSTITUTE WATER SUPPLY PLAN. THE GENERAL ASSEMBLY FINDS THAT THIS THREE-YEAR PERIOD IS A SUFFICIENT AMOUNT OF TIME TO DEVELOP AUGMENTATION PLAN APPLICATIONS FOR THESE WELLS, AND THERE SHALL BE NO SUBSEQUENT EXTENSIONS OF THIS DEADLINE. BEGINNING JANUARY 1, 2006, GROUNDWATER DIVERSIONS FROM ALL SUCH WELLS SHALL BE CONTINUOUSLY CURTAILED UNLESS THE WELLS ARE INCLUDED IN A PLAN FOR AUGMENTATION APPROVED BY THE WATER JUDGE FOR WATER

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SB03-073

DIVISION 1, A SUBSTITUTE WATER SUPPLY PLAN APPROVED PURSUANT TO SUBSECTION (4) OF THIS SECTION, OR CAN BE OPERATED UNDER THEIR OWN PRIORITIES WITHOUT AUGMENTATION.

(b) BEGINNING JANUARY 1, 2003, THE STATE ENGINEER MAY APPROVE THE OPERATION OF A WELL DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3) UNDER A SUBSTITUTE WATER SUPPLY PLAN IF THE FOLLOWING CONDITIONS ARE MET:

(I) THE WELL IS TRIBUTARY TO THE SOUTH PLATTE RIVER, HAS BEEN INCLUDED IN A SUBSTITUTE WATER SUPPLY PLAN PREVIOUSLY APPROVED BY THE STATE ENGINEER OR IS AN AUGMENTATION WELL, AND IS INCLUDED IN A NEW WRITTEN REQUEST FOR APPROVAL OF A SUBSTITUTE WATER SUPPLY PLAN FILED WITH THE STATE ENGINEER AFTER JANUARY 1 OF EACH CALENDAR YEAR FROM 2003-2005. THE WRITTEN REQUEST SHALL BE SIGNED BY A PERSON WITH LEGAL AUTHORITY TO REPRESENT ALL OF THE OWNERS OF THE WELLS SUBJECT TO THE REQUEST AND SHALL CONTAIN ACKNOWLEDGMENTS THAT THE OPERATION OF ALL WELLS IN THE SUBSTITUTE WATER SUPPLY PLAN PURSUANT TO THIS SUBSECTION (3) SHALL CEASE NO LATER THAN DECEMBER 31, 2005, AND THAT THE WELLS SHALL BE INCLUDED IN AN APPLICATION FOR APPROVAL OF A PLAN FOR AUGMENTATION FILED IN THE DISTRICT COURT FOR WATER DIVISION 1 NO LATER THAN DECEMBER 31, 2005, IN ORDER TO CONTINUE SUBSEQUENT PUMPING, UNLESS THE WELLS CAN BE OPERATED UNDER THEIR OWN PRIORITIES WITHOUT AUGMENTATION. THE REQUEST SHALL ALSO IDENTIFY FOR EACH WELL, INCLUDING ANY AUGMENTATION WELLS: THE PERMIT NUMBER AND LOCATION; THE PROJECTED USE AND VOLUME OF PUMPING; FOR ALL WELLS USING THE MODIFIED BLANEY-CRIDDLER METHOD TO DETERMINE CONSUMPTIVE USE, THE PROJECTED NUMBER OF ACRES AND CROPS TO BE IRRIGATED; THE ANTICIPATED STREAM DEPLETIONS THAT AFFECT THE RIVER AFTER OCTOBER 31, 2002, UNTIL EIGHTEEN MONTHS AFTER THE DATE OF THE REQUEST IN TIME, LOCATION, AND AMOUNT, INCLUDING A DETAILED DESCRIPTION OF HOW SUCH DEPLETIONS WERE CALCULATED, AND SHALL LIST THE IDENTITY, PRIORITY, LOCATION, AND AMOUNT OF ALL REPLACEMENT WATER SOURCES TO BE USED TO REPLACE STREAM DEPLETIONS, INCLUDING BOTH ACCRETIONS AND DEPLETIONS ATTRIBUTABLE TO ANY AUGMENTATION WELLS. UPON THE REQUEST OF ANY PARTY WHO HAS SUBSCRIBED TO THE SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST FOR WATER DIVISION 1, THE APPLICANT FOR A SUBSTITUTE WATER SUPPLY PLAN SHALL ALSO PROVIDE THE MODEL USED TO CALCULATE STREAM DEPLETIONS AND THE ASSUMPTIONS, INPUT DATA, AND OUTPUT DATA USED BY THE APPLICANT IN SUCH MODEL.

(II) THE APPLICANT HAS PROVIDED WRITTEN NOTICE OF THE REQUEST FOR APPROVAL OF THE SUBSTITUTE WATER SUPPLY PLAN BY FIRST-CLASS MAIL OR ELECTRONIC MAIL TO ALL PARTIES WHO HAVE SUBSCRIBED TO THE SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST FOR WATER DIVISION 1, AND PROOF OF SUCH NOTICE IS FILED WITH THE STATE ENGINEER. THE APPLICANT SHALL ALSO PROVIDE A COMPLETE COPY OF THE REQUEST AND ALL ACCOMPANYING INFORMATION BY EMAIL TO ALL PARTIES THAT HAVE PROVIDED EMAIL ADDRESSES FOR SAID NOTIFICATION LIST.

(III) THE STATE ENGINEER HAS GIVEN THE OWNERS OF WATER RIGHTS AND DECREED CONDITIONAL WATER RIGHTS THIRTY DAYS AFTER THE DATE OF MAILING OF SUCH NOTICE TO FILE COMMENTS ON THE SUBSTITUTE WATER SUPPLY PLAN. SUCH COMMENTS SHALL INCLUDE ANY CLAIM OF INJURY, ANY TERMS AND CONDITIONS THAT SHOULD BE IMPOSED UPON THE PLAN TO PREVENT INJURY TO A PARTY'S WATER RIGHTS OR DECREED CONDITIONAL WATER RIGHTS, AND ANY OTHER INFORMATION THE OPPOSER WISHES THE STATE ENGINEER TO CONSIDER IN REVIEWING THE SUBSTITUTE WATER SUPPLY PLAN REQUEST.

(IV) THE STATE ENGINEER, AFTER CONSIDERATION OF THE COMMENTS, HAS DETERMINED THAT THE OPERATION AND ADMINISTRATION OF SUCH PLAN WILL REPLACE ALL OUT-OF-PRIORITY STREAM DEPLETIONS IN TIME, LOCATION, AND AMOUNT IN A MANNER THAT WILL PREVENT INJURY TO OTHER WATER RIGHTS AND DECREED CONDITIONAL WATER RIGHTS, INCLUDING WATER QUALITY AND CONTINUITY TO MEET THE REQUIREMENTS OF USE TO WHICH THE SENIOR APPROPRIATION HAS

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SB03-073

NORMALLY BEEN PUT PURSUANT TO SECTION 37-80-120(3), AND WILL NOT IMPAIR COMPLIANCE WITH THE SOUTH PLATTE RIVER COMPACT. THE STATE ENGINEER SHALL IMPOSE SUCH TERMS AND CONDITIONS AS ARE NECESSARY TO ENSURE THAT THESE STANDARDS ARE MET. IN MAKING THE DETERMINATIONS SPECIFIED IN THIS SUBPARAGRAPH (IV), THE STATE ENGINEER SHALL HOLD A PUBLIC HEARING TO ADDRESS THE ISSUES. THE PUBLIC HEARING SHALL BE HELD NO SOONER THAN THIRTY-FIVE DAYS AND NO LATER THAN FIFTY DAYS AFTER THE DATE OF MAILING OF NOTICE OF THE REQUEST FOR APPROVAL OF THE SUBSTITUTE WATER SUPPLY PLAN. NOTICE OF THE TIME AND PLACE OF THE HEARING SHALL BE PROVIDED NO LATER THAN TWENTY DAYS PRIOR TO THE HEARING TO ALL PARTIES WHO HAVE SUBSCRIBED TO THE SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST FOR WATER DIVISION 1. AT THE HEARING, EVERY PARTY SHALL BE ALLOTTED A REASONABLE AMOUNT OF TIME BY THE STATE ENGINEER TO PRESENT ITS CASE OR DEFENSE BY ORAL AND DOCUMENTARY EVIDENCE AND TO CONDUCT CROSS EXAMINATION. AT ITS OWN EXPENSE, ANY PARTY MAY CAUSE THE HEARING TO BE RECORDED BY A COURT REPORTER OR BY AN ELECTRONIC RECORDING DEVICE. ADDITIONALLY, IN MAKING THE DETERMINATIONS SPECIFIED IN THIS SUBPARAGRAPH (IV), THE STATE ENGINEER SHALL USE THE STANDARDS LISTED IN PARAGRAPH (c) OF THIS SUBSECTION (3) FOR EVALUATING SUCH PLANS. IT IS THE LEGISLATIVE INTENT THAT THE ADOPTION OF THESE STANDARDS IS ONLY AN INTERIM COMPROMISE, TO GIVE GREATER CERTAINTY TO SENIOR SURFACE WATER USERS IN COLORADO THAN PAST PRACTICES OF THE STATE ENGINEER HAVE GIVEN, UNTIL AUGMENTATION PLANS FOR THESE WELLS HAVE BEEN APPROVED BY THE WATER JUDGE FOR WATER DIVISION 1 AND FINAL DETERMINATIONS ABOUT THE METHODOLOGIES FOR CALCULATING THE AMOUNT AND TIMING OF STREAM DEPLETIONS HAVE BEEN MADE BY THE WATER JUDGE. THESE INTERIM STANDARDS SHALL NOT CREATE ANY PRESUMPTIONS, SHIFT THE BURDEN OF PROOF, OR SERVE AS A DEFENSE IN ANY APPLICATION FOR APPROVAL OF A PLAN FOR AUGMENTATION.

(c) (I) FOR THOSE IRRIGATION WELLS WHERE DIVERSIONS ARE ACTUALLY MEASURED USING WATER METERS OR VERIFIED POWER CONVERSION MEASUREMENTS, THE PRESUMED AMOUNT OF CONSUMPTIVE USE FROM WELLS USED FOR FLOOD IRRIGATION SHALL NOT BE LESS THAN FIFTY PERCENT OF DIVERSIONS, AND THE PRESUMED AMOUNT OF CONSUMPTIVE USE FROM WELLS USED FOR SPRINKLER IRRIGATION SHALL NOT BE LESS THAN SEVENTY-FIVE PERCENT OF DIVERSIONS. FOR THOSE IRRIGATION WELLS WHERE DIVERSIONS ARE NOT ACTUALLY MEASURED, THE STATE ENGINEER SHALL DETERMINE THE AMOUNT OF STREAM DEPLETIONS USING ACTUAL DATA FOR THE CROPS GROWN, ACRES IRRIGATED, SURFACE WATER DELIVERIES, AND THE MODIFIED BLANEY-CRIDDLE METHOD.

(II) THE STATE ENGINEER SHALL DETERMINE THE TIMING OF ALL STREAM DEPLETIONS CAUSED BY PUMPING WELLS INCLUDED IN THE PLAN USING THE UNITED STATES GEOLOGICAL SURVEY STREAM DEPLETION FACTOR METHOD FOR ALL AREAS COVERED BY SUCH FACTORS. IN OTHER AREAS, THE STATE ENGINEER SHALL USE APPROPRIATE GROUND WATER MODELS OR OTHER METHODS ACCEPTABLE TO THE STATE ENGINEER, BASED ON THE LOCATION OF THE WELL, THE RATE OF PUMPING, THE USE BEING MADE OF THE GROUND WATER, AND THE AQUIFER CHARACTERISTICS.

(III) A SUBSTITUTE WATER SUPPLY PLAN APPROVED PURSUANT TO THIS SUBSECTION (3) SHALL REQUIRE REPLACEMENT OF THE FOLLOWING OUT-OF-PRIORITY STREAM DEPLETIONS THAT RESULT FROM THE PUMPING OF WELLS IN THE PLAN: OUT-OF-PRIORITY STREAM DEPLETIONS THAT AFFECT THE RIVER AFTER OCTOBER 31, 2002, FROM PUMPING THAT TOOK PLACE AFTER JANUARY 1, 1974, BUT BEFORE THE DATE OF THE REQUEST; AND THOSE OUT-OF-PRIORITY STREAM DEPLETIONS THAT WILL AFFECT THE RIVER FOR THE EIGHTEEN MONTHS AFTER THE DATE OF THE REQUEST; EXCEPT THAT OUT-OF-PRIORITY STREAM DEPLETIONS AFFECTING THE RIVER FROM NOVEMBER 1, 2002, THROUGH JUNE 15, 2003, MAY BE REMEDIED PURSUANT TO AGREEMENTS WITH ALL INJURED PARTIES THAT ARE NOTICED IN THE REQUEST AND APPROVED AS A PART OF THE SUBSTITUTE WATER SUPPLY PLAN OR AN AMENDMENT THERETO. THE AMOUNT OF SUCH DEPLETIONS SHALL BE SEPARATELY SET FORTH IN ANY PLAN APPROVAL ISSUED BY THE STATE ENGINEER. A SUBSTITUTE WATER SUPPLY PLAN APPROVED PURSUANT TO THIS SUBSECTION (3) SHALL

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REQUIRE THAT THE STATE ENGINEER CURTAIL ALL DIVERSIONS, THE OUT-OF-PRIORITY DEPLETIONS FROM WHICH ARE NOT REPLACED AS REQUIRED BY THE PLAN.

(IV) EXISTING SURFACE WATER RIGHTS MAY BE USED AS A REPLACEMENT WATER SOURCE IN PLANS REQUESTED PURSUANT TO THIS SUBSECTION (3), EVEN IF SUCH RIGHTS HAVE NOT BEEN DECREED FOR SUCH USE, BUT THE SUBSTITUTE WATER SUPPLY PLAN SHALL PREVENT EXPANDED USE OF SUCH RIGHTS BY IMPOSING APPROPRIATE LIMITATIONS, INCLUDING, WHERE APPROPRIATE, VOLUMETRIC LIMITATIONS ON DIRECT FLOW RIGHTS AND SHALL REQUIRE REPLACEMENT OF THE HISTORICAL RETURN FLOWS, INCLUDING DITCH SEEPAGE LOSSES, FROM THE USE OF SUCH SURFACE WATER RIGHTS IN THE TIME, LOCATION, AND AMOUNT IN WHICH THEY OCCURRED SO THAT OTHER WATER RIGHTS WILL NOT BE INJURED. A REQUEST SEEKING TO USE EXISTING SURFACE WATER RIGHTS THAT HAVE NOT BEEN DECREED FOR AUGMENTATION USE SHALL INCLUDE A CALCULATION OF THE HISTORICAL DIVERSIONS AND RETURN FLOWS, INCLUDING ESTIMATED DITCH SEEPAGE LOSSES, ATTRIBUTABLE TO SUCH RIGHTS. THE PRESUMED AMOUNT OF ON-FARM CONSUMPTIVE USE FROM IRRIGATION WATER RIGHTS SHALL NOT BE MORE THAN FIFTY PERCENT OF THE AMOUNT DELIVERED TO THE FARMS; EXCEPT THAT IF A WATER COURT APPLICATION HAS BEEN FILED AND THE PROPOSED CHANGE OF WATER RIGHT IS APPROVED AS A SEPARATE SUBSTITUTE WATER SUPPLY PLAN PURSUANT TO THIS SECTION, SUCH WATER RIGHTS SHALL BE USED IN ACCORDANCE WITH THEIR OWN SUBSTITUTE WATER SUPPLY PLAN.

(V) REPLACEMENT WATER DELIVERIES REQUIRED BY THE SUBSTITUTE WATER SUPPLY PLAN SHALL BE PROVIDED AT THE TIME AND LOCATION NECESSARY TO SATISFY THE LAWFUL REQUIREMENTS OF A SENIOR DIVERTER. IN DETERMINING THE ADEQUACY OF THE SUBSTITUTE WATER SUPPLY PLAN TO PREVENT INJURY TO WATER RIGHTS AND DECREED CONDITIONAL WATER RIGHTS, THE STATE ENGINEER SHALL DETERMINE THE AMOUNT OF REPLACEMENT WATER REQUIRED FOR AND AVAILABLE TO THE PLAN BASED UPON CURRENT AND PROJECTED HYDROLOGIC CONDITIONS.

(VI) IF A SUBSTITUTE WATER SUPPLY PLAN COVERS WELLS, INCLUDING AUGMENTATION WELLS, THAT ARE ALSO COVERED BY A DECREED PLAN FOR AUGMENTATION OR A SEPARATE SUBSTITUTE WATER SUPPLY PLAN, THE ACCOUNTING METHODOLOGIES REQUIRED BY THE DECREE OR THE SEPARATE PLAN SHALL CONTROL.

(VII) SUBSTITUTE WATER SUPPLY PLANS THAT INCLUDE OR ALLOW THE USE OF AUGMENTATION WELLS SHALL INCLUDE THE TERMS AND CONDITIONS NEEDED TO ACCOUNT FOR AND REPLACE ALL OUT-OF-PRIORITY STREAM DEPLETIONS THAT WILL RESULT FROM THEIR USE, INCLUDING POST-PUMPING DEPLETIONS. BEGINNING JANUARY 1, 2006, GROUNDWATER DIVERSIONS FROM ALL SUCH AUGMENTATION WELLS SHALL BE CONTINUOUSLY CURTAILED UNLESS THE WELLS ARE INCLUDED IN A PLAN FOR AUGMENTATION APPROVED BY THE WATER JUDGE FOR WATER DIVISION 1, A SUBSTITUTE WATER SUPPLY PLAN APPROVED PURSUANT TO SUBSECTION (4) OF THIS SECTION, OR CAN BE OPERATED UNDER THEIR OWN PRIORITIES WITHOUT AUGMENTATION.

(VIII) IF AMENDMENTS, INCLUDING BUT NOT LIMITED TO THE ADDITION OF MORE WELLS OR THE ADDITION OF DIFFERENT REPLACEMENT WATER SOURCES, ARE PROPOSED TO A SUBSTITUTE WATER SUPPLY PLAN AFTER THE INITIAL WRITTEN NOTICE OF THE PLAN WAS GIVEN, THE NOTICE, COMMENT AND HEARING PROCESS DESCRIBED IN THIS PARAGRAPH (c) SHALL BE REPEATED FOR SUCH AMENDMENTS. IF, IN THE OPINION OF THE STATE ENGINEER, AN AMENDMENT IS NECESSARY TO PREVENT IMMEDIATE INJURY TO OTHER WATER RIGHTS THAT WILL OCCUR PRIOR TO THE EXPIRATION OF THE THIRTY-DAY COMMENT PERIOD PROVIDED IN SUBPARAGRAPH (III) OF PARAGRAPH (b) OF THIS SUBSECTION (3), THE THIRTY-DAY COMMENT PERIOD SHALL BE SHORTENED TO FIFTEEN DAYS, THE PUBLIC HEARING SHALL BE HELD NO LATER THAN TWENTY-FIVE DAYS AFTER THE DATE OF THE MAILING OF NOTICE OF THE REQUEST FOR THE AMENDMENT, AND THE AMENDMENT MAY BE IMPLEMENTED BEFORE THE COMMENT DEADLINE AND THE PUBLIC HEARING. FOR AMENDMENTS IMPLEMENTED PRIOR TO A PUBLIC HEARING, THE STATE ENGINEER SHALL ISSUE A DECISION APPROVING OR DENYING THE AMENDMENT NO LATER

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THAN SEVEN DAYS AFTER THE CONCLUSION OF THE PUBLIC HEARING. THE STATE ENGINEER MAY REVOKE OR FURTHER CONDITION THE APPROVAL OF ANY AMENDMENT AFTER THE COMMENT AND HEARING PROCESS.

(IX) A SUBSTITUTE WATER SUPPLY PLAN APPROVED PURSUANT TO THIS SUBSECTION (3) SHALL INCLUDE A REQUIREMENT FOR MONTHLY ACCOUNTING TO BE COMPILED FOR EVERY MONTH OF EACH YEAR. SUCH ACCOUNTING SHALL STATE THE AMOUNT AND LOCATION OF THE CALCULATED DEPLETIONS FROM ALL WELLS INCLUDED IN THE PLAN, THE AMOUNT, LOCATION, AND SOURCE OF ALL REPLACEMENT WATER ACTUALLY PROVIDED, AND SHALL DESCRIBE ANY OTHER PLAN OPERATIONS FOR THAT MONTH. AFTER THE END OF THE WATER YEAR, AND NO LATER THAN DECEMBER 31 OF EACH CALENDAR YEAR OF PLAN OPERATION, AN ANNUAL ACCOUNTING OF ALL ACTUAL PLAN OPERATIONS FOR THE PREVIOUS WATER YEAR SHALL BE COMPILED. COPIES OF BOTH THE MONTHLY AND ANNUAL ACCOUNTING SHALL BE PROVIDED TO ALL PARTIES THAT FILED WRITTEN COMMENTS CONCERNING THE PLAN PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (3).

(d) A SUBSTITUTE WATER SUPPLY PLAN APPROVED PURSUANT TO THIS SUBSECTION (3) SHALL NOT BE APPROVED FOR A PERIOD OF MORE THAN ONE YEAR; EXCEPT THAT AN APPLICANT MAY REQUEST THE RENEWAL OF A PLAN BY REPEATING THE APPLICATION PROCESS DESCRIBED IN THIS SUBSECTION (3); EXCEPT THAT IN NO CASE SHALL A PLAN APPROVED PURSUANT TO THIS SUBSECTION (3) BE RENEWED BEYOND DECEMBER 31, 2005.

(e) WHEN THE STATE ENGINEER APPROVES OR DENIES A SUBSTITUTE WATER SUPPLY PLAN, THE STATE ENGINEER SHALL SERVE A COPY OF THE DECISION ON ALL PARTIES TO THE APPLICATION BY FIRST-CLASS MAIL OR, IF SUCH PARTIES HAVE SO ELECTED, BY ELECTRONIC MAIL. EVERY DECISION OF THE STATE ENGINEER SHALL PROVIDE A DETAILED STATEMENT OF THE BASIS AND RATIONALE FOR THE DECISION, INCLUDING A COMPLETE EXPLANATION OF HOW ALL STREAM DEPLETIONS WERE CALCULATED, THE LOCATION WHERE THEY OCCUR, HOW ALL REPLACEMENT WATER SOURCES WERE QUANTIFIED, AND WHAT TERMS AND CONDITIONS WERE IMPOSED TO PREVENT INJURY TO OTHER WATER RIGHTS AND WHY THEY WERE IMPOSED. THE DECISION SHALL ALSO INCLUDE A DESCRIPTION OF THE CONSIDERATION GIVEN TO ANY WRITTEN COMMENTS THAT WERE FILED BY OTHER PARTIES. NEITHER THE APPROVAL NOR THE DENIAL BY THE STATE ENGINEER SHALL CREATE ANY PRESUMPTIONS, SHIFT THE BURDEN OF PROOF, OR SERVE AS A DEFENSE IN ANY LEGAL ACTION THAT MAY BE INITIATED CONCERNING THE SUBSTITUTE WATER SUPPLY PLAN. ANY APPEAL OF A DECISION MADE BY THE STATE ENGINEER CONCERNING A SUBSTITUTE WATER SUPPLY PLAN PURSUANT TO THIS SUBSECTION (3) SHALL BE MADE TO THE WATER JUDGE IN WATER DIVISION 1 WITHIN THIRTY DAYS AFTER THE DATE OF SERVICE OF THE DECISION. THE WATER JUDGE SHALL HEAR AND DETERMINE SUCH APPEAL USING THE PROCEDURES AND STANDARDS SET FORTH IN SECTIONS 37-92-304 AND 37-92-305 FOR DETERMINATION OF MATTERS REFERRED TO THE WATER JUDGE BY THE REFEREE. THE PROPONENT OF THE SUBSTITUTE WATER SUPPLY PLAN SHALL BE DEEMED TO BE THE APPLICANT FOR PURPOSES OF APPLICATION OF SUCH PROCEDURES AND STANDARDS. THE FILING FEE FOR THE APPEAL SHALL BE TWO HUNDRED SEVENTY-ONE DOLLARS FOR THE PROPONENT OF THE SUBSTITUTE WATER SUPPLY PLAN AND SEVENTY DOLLARS FOR ANY OTHER PARTY TO THE APPEAL. MONEYS FROM SUCH FEE SHALL BE TRANSMITTED TO THE STATE TREASURER AND DEPOSITED IN THE EXPEDITED WATER ADJUDICATION CASH FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEYS IN THE FUND FOR THE JUDICIAL DEPARTMENT'S EXPEDITED ADJUDICATIONS PURSUANT TO THIS SUBSECTION (3).

(f) THE STATE ENGINEER MAY ACCEPT FOR FILING AND CONSIDERATION A WRITTEN REQUEST FOR APPROVAL OF A SUBSTITUTE WATER SUPPLY PLAN PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (3), AS AMENDED, SUBJECT TO SUCH REQUEST MEETING ALL REQUIREMENTS OF THIS SUBSECTION (3) PRIOR TO THE DATE OF APPROVAL. NO APPROVAL OF SUCH REQUEST MAY BE ISSUED PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (3), AS AMENDED.

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(g) THE STATE ENGINEER, IN CONSULTATION WITH INTERESTED PARTIES, SHALL EXAMINE WHETHER ADDITIONAL LEGISLATION IS NEEDED TO PROVIDE COMPENSATION TO INJURED WATER USERS IN THE CASE THAT A SUBSTITUTE WATER SUPPLY PLAN FAILS TO PREVENT INJURY TO WATER USERS. THE STATE ENGINEER SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 1, 2003, THAT SUMMARIZES THE CONCLUSIONS REACHED IN THE STATE ENGINEER'S CONSULTATION WITH INTERESTED PARTIES.

(6) The state engineer shall establish a substitute water supply plan notification list for each water division for the purposes of notifying interested parties pursuant to SUBPARAGRAPH (III) OF PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION AND subparagraph (II) of paragraph (a) of subsection (5) of this section. Beginning in July 2002, and in January of each year thereafter, in order to establish such notification list, the water clerks in each division shall include in the water court resume an invitation to be included on such notification list for the applicable water division. Persons on the substitute water supply plan notification list shall receive notice of all substitute water supply plans filed in that water division pursuant to ~~subsection~~ SUBSECTIONS (3) AND (5) of this section by either first-class mail or, if a person so requests, by electronic mail. Persons may be required to pay a fee, not to exceed twelve dollars per year, to be placed on the notification list.

(7) Beginning January 1, 2002, the state engineer may approve a substitute water supply plan if the state engineer determines such plan is needed to address an emergency situation and that the plan will not cause injury to the vested water rights or decreed conditional water rights of others or impair compliance with any interstate compact. Such plan shall not be implemented for more than ninety days. For purposes of this section, "emergency situation" means a situation affecting public health or safety where a substitute water supply plan needs to be implemented more quickly than the other procedures set forth in this section allow. FOR 2003, AN "EMERGENCY SITUATION" MAY ALSO MEAN AN IMMEDIATE NEED FOR THE USE OF AUGMENTATION WELLS NECESSITATED BY EXTREME DROUGHT CONDITIONS IF SUCH AUGMENTATION WELLS ARE ALSO INCLUDED IN A REQUEST FILED PREVIOUSLY, OR FILED SIMULTANEOUSLY WITH A REQUEST UNDER THIS SUBSECTION (7), FOR APPROVAL OF A SUBSTITUTE WATER SUPPLY PLAN UNDER SUBSECTION (3) OR (4) OF THIS SECTION. APPROVAL PURSUANT TO THIS SECTION OF THE USE OF AUGMENTATION WELLS SHALL INCLUDE THE TERMS AND CONDITIONS NEEDED TO ACCOUNT FOR AND REPLACE ALL OUT-OF-PRIORITY STREAM DEPLETIONS THAT WILL RESULT FROM SUCH USE, INCLUDING POST-PUMPING DEPLETIONS. WITHIN FIVE DAYS AFTER THE DATE OF APPROVAL OF THE USE OF AN AUGMENTATION WELL UNDER THIS SUBSECTION (7), THE STATE ENGINEER SHALL GIVE NOTICE OF THE APPROVAL TO ALL PARTIES WHO HAVE SUBSCRIBED TO THE SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST FOR WATER DIVISION 1. In ~~such situation~~ ALL OTHER SITUATIONS, notice to other water users shall not be required. Neither the approval nor the denial by the state engineer shall create any presumptions, shift the burden of proof, or be a defense in any legal action that may be initiated concerning an emergency substitute water supply plan OR IN ANY PROCEEDINGS UNDER SUBSECTION (3) OR (4) OF THIS SECTION.

SECTION 2. 37-90-103 (21) (a), Colorado Revised Statutes, is amended to read:

37-90-103. Definitions - repeal. As used in this article, unless the context otherwise requires:

(21) (a) "Well" means any structure or device used for the purpose or with the effect of obtaining ground water for beneficial use from an aquifer. WELL INCLUDES AN AUGMENTATION WELL THAT DIVERTS GROUND WATER TRIBUTARY TO THE SOUTH PLATTE RIVER AND DELIVERS IT TO A SURFACE STREAM, DITCH, CANAL, RESERVOIR, OR RECHARGE FACILITY TO REPLACE OUT-OF-PRIORITY STREAM DEPLETIONS, OR TO MEET SOUTH PLATTE RIVER COMPACT OBLIGATIONS, EITHER DIRECTLY OR BY RECHARGE ACCRETIONS, AS PART OF A PLAN FOR AUGMENTATION APPROVED BY THE WATER JUDGE FOR WATER DIVISION 1 OR A SUBSTITUTE WATER SUPPLY PLAN APPROVED PURSUANT TO SECTION 37-92-308.

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SECTION 3. 37-92-103 (14) (a), Colorado Revised Statutes, is amended to read:

37-92-103. Definitions. As used in this article, unless the context otherwise requires:

(14) (a) "Well" means any structure or device used for the purpose or with the effect of obtaining ground water for beneficial use from an aquifer. WELL INCLUDES AN AUGMENTATION WELL THAT DIVERTS GROUND WATER TRIBUTARY TO THE SOUTH PLATTE RIVER AND DELIVERS IT TO A SURFACE STREAM, DITCH, CANAL, RESERVOIR OR RECHARGE FACILITY TO REPLACE OUT-OF-PRIORITY STREAM DEPLETIONS, OR TO MEET SOUTH PLATTE RIVER COMPACT OBLIGATIONS, EITHER DIRECTLY OR BY RECHARGE ACCRETIONS, AS PART OF A PLAN FOR AUGMENTATION APPROVED BY THE WATER JUDGE FOR WATER DIVISION 1 OR A SUBSTITUTE WATER SUPPLY PLAN APPROVED PURSUANT TO SECTION 37-92-308.

SECTION 4. 37-90-137, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

37-90-137. Permits to construct wells outside designated basins - fees - permit no ground water right - evidence - time limitation - well permits - repeal. (14) THE STATE ENGINEER MAY ISSUE PERMITS FOR AUGMENTATION WELLS ONLY IN ACCORDANCE WITH PLANS FOR AUGMENTATION APPROVED BY THE WATER JUDGE FOR WATER DIVISION 1 AND SUBSTITUTE WATER SUPPLY PLANS APPROVED PURSUANT TO SECTION 37-92-308 THAT INCLUDE SUCH WELLS.

SECTION 5. 37-92-305 (8), Colorado Revised Statutes, is amended to read:

37-92-305. Standards with respect to rulings of the referee and decisions of the water judge. (8) In reviewing a proposed plan for augmentation and in considering terms and conditions that may be necessary to avoid injury, the referee or the water judge shall consider the depletions from an applicant's use or proposed use of water, in quantity and in time, the amount and timing of augmentation water that would be provided by the applicant, and the existence, if any, of injury to any owner of or persons entitled to use water under a vested water right or a decreed conditional water right. A plan for augmentation shall be sufficient to permit the continuation of diversions when curtailment would otherwise be required to meet a valid senior call for water, to the extent that the applicant shall provide replacement water necessary to meet the lawful requirements of a senior diverter at the time and location and to the extent the senior would be deprived of his or her lawful entitlement by the applicant's diversion. A proposed plan for augmentation that relies upon a supply of augmentation water which, by contract or otherwise, is limited in duration shall not be denied solely upon the ground that the supply of augmentation water is limited in duration, so long as the terms and conditions of the plan prevent injury to vested water rights. Said terms and conditions shall require replacement of out-of-priority depletions that occur after any groundwater diversions cease. Decrees approving plans for augmentation shall require that the state engineer curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to vested water rights. A PLAN FOR AUGMENTATION MAY PROVIDE PROCEDURES TO ALLOW ADDITIONAL OR ALTERNATIVE SOURCES OF REPLACEMENT WATER, INCLUDING WATER LEASED ON A YEARLY OR LESS FREQUENT BASIS, TO BE USED IN THE PLAN AFTER THE INITIAL DECREE IS ENTERED IF THE USE OF SAID ADDITIONAL OR ALTERNATIVE SOURCES IS PART OF A SUBSTITUTE WATER SUPPLY PLAN APPROVED PURSUANT TO SECTION 37-92-308 OR IF SUCH SOURCES ARE DECREED FOR SUCH USE.

SECTION 6. Applicability. This act shall apply to requests for approval of substitute water supply plans filed on or after January 1, 2003.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety." .".

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

Amend proposed committee amendment (SB073_L.012), page 11, line 5, strike "(III)" and substitute "(II)".

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

On motion of Senator Anderson, and with a majority of the Committee of the Whole having voted in the affirmative, the Committee of the Whole proceeded out of order for consideration of **SB03-087** and **HB03-1322**.

SB03-087

by Senator(s) Linkhart; also Representative(s) Romanoff--Concerning the improvement of urban water use efficiency, and making an appropriation in connection therewith.

As amended in General Orders in Senate Journal, April 16, pages 1057-1061.

Amendment No. 5(L.013), by Senator Linkhart.

Amend the Linkhart floor amendment (SB087_L.012), page 1, line 2, strike, "FOR INCORPORATED AREAS WHERE THE" and substitute "IN THE CASE WHERE A";

after line 3, insert the following:

"Page 8, line 1, after "2003," insert "EXCEPT IN THE CASE WHERE A SERVICE AREA LIES IN MORE THAN ONE WATER DIVISION,""."

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

HB03-1322

by Representative(s) Mitchell; also Senator(s) Kester--Concerning changes in the procedures for workers' compensation hearings.

Amendment No. 1, Business Affairs and Labor Committee Amendment.
(Printed in Senate Journal, April 15, page 2003 and placed in members' bill files.)

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

The remaining bills on the Second Reading--General Orders calendar were laid over until Friday, April 18, retaining their place: SB03-232, SB03-244, HB03-1314, SB03-236, SB03-312, SB03-077.

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator Johnson, 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: SB03-073 as amended, SB03-087 as amended, HB03-1322 as amended.

Laid over until Friday, April 18: SB03-232, SB03-244, HB03-1314, SB03-236, SB03-312, SB03-077.

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 House Amendments to Senate Bill: **SB03-275**.

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CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILL

SB03-275 by Senator(s) Teck, Owen, Reeves; also Representative(s) Witwer, Plant, Young--
Concerning the distribution of school accountability reports, and making an appropriation in
connection therewith.

Senator Teck moved that the Senate not concur in House amendments to **SB03-275**, as
printed in House Journal, April 15, page 1665, and that a Conference Committee be
appointed.

A majority of all members elected to the Senate having voted in the affirmative, the motion
was **adopted**.

The President appointed Senators Teck, Chairman, Owen, and Reeves as Senate Conferees
on the First Conference Committee on **SB03-275**.

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
Resolution: **HJR03-1056**.

CONSIDERATION OF RESOLUTION

HJR03-1056 by Representative(s) King; also Senator(s) Anderson--Concerning setting the convening
date for the 2004 regular session of the General Assembly.

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

YES	34	NO	0	EXCUSED	1	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	E	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: Chlouber.

COMMITTEE OF REFERENCE REPORTS

State,
Veterans and
Military
Affairs

After consideration on the merits, the Committee recommends that **SB03-251** be amended
as follows, and as so amended, be referred to the Committee of the Whole with favorable
recommendation.

Amend printed bill, page 4, line 5, strike "ADULTS-ONLY" and substitute
"SEXUALLY-ORIENTED";

line 6, strike the first and second "ADULTS-ONLY" and substitute
"SEXUALLY-ORIENTED".

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
COLORADO CIVIL RIGHTS COMMISSION

for terms expiring March 13, 2007:

Richard O. Schroeder of Highlands Ranch, Colorado, to serve as a representative of the business community, appointed;

Lisa M. Dowdney of Leadville, Colorado, to serve as a representative of a local government entity, appointed.

Judiciary After consideration on the merits, the Committee recommends that **HB03-1138** be referred to the Committee on Appropriations with favorable recommendation.

Judiciary After consideration on the merits, the Committee recommends that **HB03-1004** be referred to the Committee on Appropriations with favorable recommendation.

Judiciary After consideration on the merits, the Committee recommends that **HB03-1191** be referred to the Committee of the Whole with favorable recommendation.

Judiciary After consideration on the merits, the Committee recommends that **SB03-310** be referred to the Committee of the Whole with favorable recommendation.

APPOINTMENTS TO CONFERENCE COMMITTEE

The President appointed Senators Cairns, Chairman, Lamborn, and Nichol as Senate Conferees on the First Conference Committee on **HB03-1290**.

SENATE SERVICES REPORT

Senate Services Correctly printed: SB03-329, 330, 331; SJR03-038, 039, 040, 041; SCR03-003, 004;

Correctly engrossed: SB03-010, 011, 030, 083, 128, 131, 150.

Correctly reengrossed: SB03-304, 317.

Correctly rerevised: HB03-1333.

Senate in recess.

Senate reconvened.

Senator Anderson moved a Call of the Senate.

COMMITTEE OF REFERENCE REPORTS

FIRST REPORT OF FIRST CONFERENCE COMMITTEE ON SB03-290

THIS REPORT AMENDS THE
REREVISED BILL

To the President of the Senate and the Speaker of the House of Representatives:

Your first conference committee appointed on SB03-290, concerning the authority of the board of parks and outdoor recreation regarding its budget, and, in connection therewith, allowing the board to establish fees by rule, creating a stores revolving fund, and making an appropriation, has met and reports that it has agreed upon the following:

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SB03-290

That the Senate accede to the House amendments made to the bill, as said amendments appear in the rerevised bill, with the following changes:

Amend rerevised bill, page 3, line 2, strike "2004." and substitute "2007.";

line 25, strike "2004." and substitute "2007."

Respectfully submitted,

Senate Committee:
(signed)
Senator Owen, Chairman
Senator Teck
Senator Reeves

House Committee:
(signed)
Representative Young, Chairman
Representative Witwer
Representative Plant

Appropriations

After consideration on the merits, the Committee recommends that **HB03-1292** be referred to the Committee of the Whole with favorable recommendation.

Appropriations

After consideration on the merits, the Committee recommends that **HB03-1249** be referred to the Committee of the Whole with favorable recommendation.

Appropriations

After consideration on the merits, the Committee recommends that **SB03-255** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, strike lines 21 through 23 and substitute the following:

"REGISTRATION COMPLIANCE. THE STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION MAY REQUIRE THE PERSON TO PROVIDE APPROPRIATE DOCUMENTATION IN ORDER TO VERIFY THE PERSON'S SWORN STATEMENT OF REGISTRATION COMPLIANCE."

Page 3, line 1, strike "THE PERSON AND GIVE HIM" and substitute "THE PERSON SHALL BE GIVEN";

line 3, strike "THE AGENT" and substitute "AN AGENT OF THE STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION".

Appropriations

After consideration on the merits, the Committee recommends that **SB03-324** be referred to the Committee of the Whole with favorable recommendation.

Appropriations

After consideration on the merits, the Committee recommends that **HB03-1089** be referred to the Committee of the Whole with favorable recommendation.

Appropriations

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

Appropriations

After consideration on the merits, the Committee recommends that **HB03-1130** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 4, line 8, strike "FAMILY RESOURCE CENTER";

strike lines 9 through 11 and substitute the following:

"DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT. THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL DISTRIBUTE THE MONEYS TO FAMILY RESOURCE".

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Appropriations 1
 After consideration on the merits, the Committee recommends that **HB03-1137** be referred 2
 to the Committee of the Whole with favorable recommendation. 3
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Appropriations 5
 After consideration on the merits, the Committee recommends that **SB03-315** be referred 6
 to the Committee of the Whole with favorable recommendation. 7
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Appropriations 9
 After consideration on the merits, the Committee recommends that **HB03-1021** be 10
 amended as follows, and as so amended, be referred to the Committee of the Whole with 11
 favorable recommendation. 12
 Amend reengrossed bill, page 13, line 21, strike "may, in the governor's 13
 discretion," and substitute "~~may, in the governor's discretion~~, SHALL". 14
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Appropriations 17
 After consideration on the merits, the Committee recommends that **HB03-1170** be referred 18
 to the Committee of the Whole with favorable recommendation. 19
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Appropriations 21
 After consideration on the merits, the Committee recommends that **SB03-309** be amended 22
 as follows, and as so amended, be referred to the Committee of the Whole with favorable 23
 recommendation. 24
 Amend printed bill, page 6, after line 16, insert the following: 25
 26

**"SECTION 7. Appropriation - adjustments to the 2003 long 27
 bill.** For the implementation of this act, appropriations made in the 28
 annual general appropriation act for the fiscal year beginning July 1, 29
 2003, shall be adjusted as follows: The general fund appropriation to the 30
 department of education, management and administration, for the 31
 Colorado student assessment program, is decreased by four million eight 32
 hundred twenty-four thousand six hundred dollars (\$4,824,600)". 33
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Renumber succeeding section accordingly. 35
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Page 1, line 102, strike "**WRITING.**" and substitute "**WRITING, AND 37
 MAKING AN APPROPRIATION THEREFOR.**". 38
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MESSAGES FROM THE HOUSE 40
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April 17, 2003 44
 Mr. President: 45
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The House has voted to concur in the Senate amendments to HB03-1001,1121, and has 47
 repassed the bills as so amended. 48
 49

The House has voted not to concur in the Senate amendments to HB03-1147 and requests 50
 that a conference committee be appointed. The bill is transmitted herewith. 51
 52

In response to the request of the Senate, the Speaker has appointed Representatives 53
 Witwer, chairman, Young, and Plant as House conferees on the First Conference 54
 Committee on SB03-275. 55
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The House has failed to grant permission to go beyond the scope of differences on 59
 SB03-098. 60
 61

The House has adopted the First Report of the First Conference Committee on SB03-305, 62
 as printed in House Journal, April 16, pages 1703-1704 and has repassed the bill as so 63
 amended. The bill is returned herewith. 64
 65

The House has voted to authorize the House conferees on the First Conference Committee 66
 on SB03-300 to consider matters not at issue between the two houses. 67
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The Speaker has appointed Representatives Mitchell, chairman, Crane, and Vigil as House conferees on the First Conference Committee on SB03-235. The House has granted authorization to go beyond the scope of the differences.

The House has voted to authorize the House conferees on the First Conference Committee on SB03-258 to consider matters not at issue between the two houses.

The Speaker has appointed Representatives Young, chairman, Witwer, and Plant as House conferees on the First Conference Committee on SB03-290.

April 17, 2003
Mr. President:

The House has adopted the First Report of the First Conference Committee on HB03-1161, as printed in House Journal, April 17, and has repassed the bill as amended.

INTRODUCTION OF RESOLUTIONS AND MEMORIALS

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

SJM03-007 by Senator(s) Tupa, Andrews, Arnold, Dyer, Entz, Fitz-Gerald, Grossman, Hanna, Hillman, Isgar, Lamborn, Tapia, Windels; also Representative(s) Fairbank--Memorializing Congress and the President to address the issue of unfunded and underfunded federal mandates.

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

SJM03-008 by Senator(s) Tupa, Cairns, Arnold, Evans; also Representative(s) Cadman--Memorializing Congress to propose an amendment to the United States Constitution requiring that the total amount of all federal appropriations made by Congress for any fiscal year shall not exceed the total of all estimated federal revenues for that fiscal year.

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

SJR03-043 by Senator(s) Tupa, Tapia, Hanna, Fitz-Gerald, Isgar; --Concerning the use of inmates to mitigate, prevent, and fight forest fires.
Agriculture, Natural Resources & Energy
Judiciary

SJR03-044 by Senator(s) Grossman; --Concerning the creation of an interim committee to review the state income tax credits that are allowed to certain taxpayers who own businesses in an enterprise zone.
Finance

SJR03-045 by Senator(s) Hanna, Tapia, Linkhart, Fitz-Gerald, Gordon, Groff, Grossman, Jones, Kester, Sandoval, Windels; also Representative(s) Plant--Concerning recognizing the importance of physical activity for children, and, in connection therewith, declaring every Wednesday as Colorado Walking Wednesday and recognizing the Feet First program.
Health, Environment, Welfare & Institutions

SJR03-046 by Senator(s) Entz; --Concerning the military personnel from Colorado who have served in Operation Iraqi Freedom.

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

SJR03-047 by Senator(s) Gordon, Isgar; --Concerning the intention of the General Assembly to convene a special session during the 2003 interim in the event that the June 2003 revenue forecast indicates continued state revenue shortfalls for the 2003-04 fiscal year.
State Veterans & Military Affairs

INTRODUCTION OF CONCURRENT RESOLUTIONS

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

SCR03-005 by Senator(s) Tupa, Groff, Lamborn, Windels, Grossman, Hanna, Nichol, Hillman, Entz, Andrews, Dyer, Cairns, Fitz-Gerald, Reeves; also Representative(s) Plant--Submitting to the registered electors of the state of Colorado an amendment to section 20 of article X of the constitution of the state of Colorado, concerning the exclusion of tuition paid to public institutions of higher education from the definition of "fiscal year spending", and, in connection therewith, limiting the effect of the exclusion on state fiscal year spending limits by requiring such limits to be calculated based upon prior state fiscal year spending limits, with adjustments for inflation and population growth, without being subject to reduction due to declines in state revenues.
State Veterans & Military Affairs

SCR03-006 by Senator(s) Isgar; --Submitting to the registered electors of the state of Colorado an amendment to article X of the constitution of the state of Colorado, concerning the creation of a state rainy day fund, and, in connection therewith, requiring a portion of excess state revenues to be credited to the fund, authorizing the state to retain and expend such revenues, and specifying the circumstances in which moneys may be expended from the fund.
State Veterans & Military Affairs

INTRODUCTION OF BILL--FIRST READING

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

SB03-332 by Senator(s) Owen; also Representative(s) White--Concerning the inclusion of Pinnacol Assurance as an insurer subject to premium tax.
Business Affairs & Labor

COMMITTEE OF REFERENCE REPORTS

**FIRST REPORT OF FIRST CONFERENCE COMMITTEE
ON SB03-284**

**THIS REPORT ADOPTS THE
REREVISED BILL**

To the President of the Senate and the
Speaker of the House of Representatives:

Your first conference committee appointed on SB03-284, concerning the reduction of the period of mandatory juvenile parole, and making an appropriation in connection therewith, has met and reports that it has agreed upon the following:

That the Senate accede to the House amendments made to the bill and that the rerevised bill be adopted without change.

Respectfully submitted,

Senate Committee: (signed) Senator Teck, Chairman Senator Owen Senator Reeves	House Committee: (signed) Representative Young, Chairman Representative Witwer Representative Plant
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APPOINTMENTS TO CONFERENCE COMMITTEES

The President appointed Senators Dyer, Chairman, Jones, and Tupa as Senate Conferees on the First Conference Committee on **HB03-1172**.

The President appointed Senators Dyer, Chairman, Hillman, and Hagedorn as Senate Conferees on the First Conference Committee on **HB03-1240**.

The President appointed Senators Dyer, Chairman, Hillman, and Gordon as Senate Conferees on the First Conference Committee on **HB03-1228**.

SIGNING OF BILLS--RESOLUTIONS--MEMORIALS

The President has signed: SB03-015, 044, 056, 079, 102, 107, 120, 233, 241.

On motion of Senator Anderson, and with a two-thirds majority of those elected to the Senate having voted in the affirmative, the rules were suspended for immediate Consideration of Conference Committee Report to **SB03-305**.

CONSIDERATION OF CONFERENCE COMMITTEE REPORTS

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.

Senator Anderson moved for the adoption of the First Report of the First Conference Committee on **SB03-305**, as printed in Senate Journal, April 16, pages 1065-1066. A majority of all members elected to the Senate having voted in the affirmative, the motion was declared **adopted**.

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

YES	30	NO	0	EXCUSED	4	ABSENT	1
Anderson	Y	Groff	Y	Kester	Y	Sandoval	Y
Arnold	Y	Grossman	Y	Lamborn	Y	Takis	Y
Cairns	Y	Hagedorn	Y	Linkhart	A	Tapia	Y
Chlouber	E	Hanna	Y	May	Y	Taylor	Y
Dyer	Y	Hillman	Y	McElhany	E	Teck	Y
Entz	Y	Isgar	Y	Nichol	Y	Tupa	Y
Evans	E	Johnson	Y	Owen	Y	Windels	Y
Fitz-Gerald	Y	Jones	Y	Phillips	Y	Mr. President	E
Gordon	Y	Keller	Y	Reeves	Y		

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

Co-sponsors added: Cairns and Phillips.

CONFERENCE COMMITTEE GRANTED FURTHER POWERS

HB03-1253 by Representative(s) Stengel, Briggs, Coleman, Larson, Ragsdale, Stafford; also Senator(s) Kester--Concerning the prevention of discriminatory trade practices in the payment of motor vehicle insurance claims for the repair of damaged motor vehicles.

Senator Kester moved that the Senate Conferees on the First Conference Committee on **HB03-1253** be given the powers to go beyond the scope of the differences between the two Houses.

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

Senate in recess.

Senate reconvened.

Senator Anderson moved a Call of the Senate.

TRIBUTES

Honoring Kathy Deniro -- by Senator Tapia.

Honoring Timothy James Bradney -- by Senator Hagedorn.

Honoring Pastor Bill A. Long -- by Senator Andrews.

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 April 17, was laid over until Friday, April 18, retaining its place on the calendar.

Consideration of Resolutions: SJR03-032, HJR03-1033, SJR03-033, SJR03-036, HJR03-1017, HJR03-1016, SR03-017, SJR03-038, HJR03-1027, HJR03-1043, HJR03-1050, SJR03-040, SJR03-041.

Consideration of Memorial: SJM03-006.

Consideration of House Amendments to Senate Bill: SB03-248.

Consideration of Governor's Vetoes: SB03-207.

Consideration of Governor's Appointment:

Member of the Mines Land Reclamation Board;

Member of the State Housing Board.

Conference Committees to Report: HB03-1025, SB03-098, HB03-1111, SB03-009, SB03-065, HB03-1218, HB03-1305, HB03-1253, SB03-088, SB03-007, HB03-1092, HB03-1237, HB03-1007, SB03-038, HB03-1219, SB03-113, SB03-106, SB03-291, SB03-300, SB03-282, SB03-268, SB03-258, SB03-297.

Request for Conference Committees: HB03-1240, HB03-1172, SB03-126, HB03-1228, SB03-235, SB03-290.

On motion of Senator Anderson, the Senate adjourned until 9:00 a.m., Friday, April 18, 2003.

Approved:

John Andrews
President of the Senate

Attest:

Mona Heustis
Secretary of the Senate

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