

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

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Sixty-third Legislative Day

Tuesday, March 11, 2003

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Prayer	By the chaplain, Reverend Dr. Kathryn Towne.	10
Pledge	By Senator Hagedorn.	11
Call to Order	By the President at 9:00 a.m.	12
Roll Call	Present-- 32. Absent/Excused--3; Linkhart, Phillips, Windels. Present later-- Linkhart, Phillips.	13
Quorum	The President announced a quorum present.	14
Reading of Journal	On motion of Senator Jones, reading of the Journal of March 10, 2003 was dispensed with and the Journal was approved as corrected by the Secretary.	15

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**COMMITTEE OF REFERENCE REPORTS**

Business Affairs and Labor	After consideration on the merits, the Committee recommends that <b>HB03-1111</b> be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	16
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Amend reengrossed bill, page 3, strike lines 5 and 6 and substitute the following:

"COMMISSIONERS UNDER THE AUTHORITY OF THIS PART 2. ANY PERSON, FIRM, OR";

strike line 19 and substitute the following:

"PART 2. ANY".

Page 4, line 2, strike "30-28-205" and substitute "30-28-205, OR ANY INSPECTOR EMPLOYED BY AN INTERGOVERNMENTAL ENTITY CREATED IN ACCORDANCE WITH THE REQUIREMENTS OF PART 2 OF ARTICLE 1 OF TITLE 29, C.R.S., WHO EXERCISES THE FUNCTIONS OF A COUNTY BUILDING INSPECTOR,".

Page 5, strike lines 16 through 26.

Page 6, strike lines 1 and 2 and substitute the following:

**"SECTION 2. Effective date - applicability.** (1) This act shall take effect October 1, 2003.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the

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**HB03-1111**

governor, whichever is later.

(3) The provisions of this act shall apply to offenses committed on or after the applicable effective date of this act."

Business  
Affairs and  
Labor

After consideration on the merits, the Committee recommends that **SB03-121** 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 17 and 18 and substitute the following:

"BUSINESSES CURRENTLY OPERATING IN COLORADO TO CREATE NEW JOBS AND RAISE PRODUCTIVITY.";

strike line 21, and substitute the following:

**"SECTION 3.** 24-4-103 (6), (8) (d), (8.1) (b) (V), and (11) (b), Colorado Revised Statutes, are";

line 24, strike "**procedure.**" and substitute "**procedure - repeal.**".

Page 5, line 15, strike "AN AGENCY" and substitute "THE DEPARTMENT OF REVENUE";

after line 17, insert the following:

"(d) IF THE AGENCY HAS MADE A GOOD FAITH EFFORT TO COMPLY WITH THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (2.5), THE RULE OR AMENDMENT SHALL NOT BE INVALIDATED ON THE GROUND THAT THE CONTENTS OF THE COST-BENEFIT ANALYSIS ARE INSUFFICIENT OR INACCURATE.

(e) THIS SUBSECTION (2.5) SHALL NOT APPLY TO ORDERS, LICENSES, PERMITS, ADJUDICATION, OR RULES AFFECTING THE DIRECT REIMBURSEMENT OF VENDORS OR PROVIDERS WITH STATE FUNDS.

(f) (I) THIS SUBSECTION (2.5) IS REPEALED, EFFECTIVE JULY 1, 2006.

(II) PRIOR TO SUCH REPEAL, THE PROVISIONS REGARDING THE PREPARATION OF A COST-BENEFIT ANALYSIS PURSUANT TO THIS SUBSECTION (2.5) SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

(6) A temporary or emergency rule may be adopted without compliance with the procedures prescribed in subsection (4) of this section and with less than the twenty days' notice prescribed in subsection (3) of this section (or where circumstances imperatively require, without notice) only if the agency finds that immediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for the preservation of public health, safety, or welfare and compliance with the requirements of this section would be contrary to the public interest and makes such a finding on the record. Such findings and a statement of the reasons for the action shall be published with the rule. A TEMPORARY OR EMERGENCY RULE MAY BE ADOPTED WITHOUT COMPLIANCE WITH SUBSECTION (2.5) OF THIS SECTION, BUT SHALL NOT BECOME PERMANENT WITHOUT COMPLIANCE WITH SUCH SUBSECTION. A temporary or emergency rule shall become effective on adoption or on such later date as is stated in the rule, shall be published promptly, and shall have effect for not more than three months from the adoption thereof or for such shorter period as may be specifically provided by the statute governing such agency, unless made permanent by compliance

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SB03-121

with subsections (3) and (4) of this section. The period of effectiveness provided by this subsection (6) does not apply to temporary or emergency rules adopted by the public utilities commission under section 40-2-108 (2), C.R.S.

(8) (d) All rules adopted or amended, ~~on or after July 1, 1976,~~ including temporary or emergency rules, AND ANY COST-BENEFIT ANALYSIS PREPARED PURSUANT TO SUBSECTION (2.5) OF THIS SECTION, shall be submitted by the adopting agency to the office of legislative legal services in the form and manner prescribed by the committee on legal services. Said rules and amendments to existing rules shall be filed by and in such office and shall be first reviewed by the staff of said committee to determine whether said rules and amendments are within the agency's rule-making authority and for later review by the committee on legal services for its opinion as to whether the rules conform with paragraph (a) of this subsection (8). The committee on legal services shall direct the staff of the committee to review the rules submitted by adopting agencies using graduated levels of review based on criteria established by the committee. The criteria developed by the committee shall provide that every rule shall be reviewed as to form and compliance with filing procedures and that, upon request of any member of the committee or any other member of the general assembly, the staff shall provide full legal review of any rule during the time period that such rule is subject to review by the committee. The official certificate of the director of the office of legislative legal services as to the fact of submission or the date of submission of a rule as shown by the records of his OR HER office, as well as to the fact of nonsubmission as shown by the nonexistence of such records, shall be received and held in all civil cases as competent evidence of the facts contained therein. Records regarding the review of rules pursuant to this section shall be retained by the office of legislative legal services in accordance with policies established pursuant to section 2-3-303 (2), C.R.S. Any such rule or amendment to an existing rule issued by any agency without being so submitted within twenty days after the date of the attorney general's opinion rendered thereon to the office of legislative legal services for review by the committee on legal services shall be void. The staff's findings shall be presented to said committee at a public meeting held after timely notice to the public and affected agencies. The committee on legal services shall, on affirmative vote, submit such rules, comments, and proposed legislation at the next regular session of the general assembly. The committee on legal services shall be the committee of reference for any bill introduced pursuant to this paragraph (d). Any member of the general assembly may introduce a bill ~~which~~ THAT rescinds or deletes portions of the rule. Rejection of such a bill does not constitute legislative approval of the rule. Only that portion of any rule specifically disapproved by bill shall no longer be effective, and that portion of the rule ~~which~~ THAT remains after deletion of a portion thereof shall retain its character as an administrative rule. Each agency shall revise its rules to conform with the action taken by the general assembly. A rule ~~which~~ THAT has been allowed to expire by action of the general assembly pursuant to the provisions of paragraph (c) of this subsection (8) because such rule, in the opinion of the general assembly, is not authorized by the state constitution or statute shall not be repromulgated by an agency unless the authority to promulgate such rule has been granted to such agency by a statutory amendment or by the state constitution or by a judicial determination that statutory or constitutional authority exists. Any rule so repromulgated shall be void. Such revision shall be transmitted to the secretary of state for publication pursuant to subsection (11) of this section. Passage of a bill repealing a rule does not result in revival of a predecessor rule. This paragraph (d) and subsection (4.5) of this section do not apply to rules of agency organization or general statements of policy ~~which~~ THAT are not meant to be binding as rules. For the purpose of performing the functions assigned it by this paragraph (d), the committee on legal services, with the approval of the speaker of the house of representatives and the president of the senate, may appoint

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**SB03-121**

subcommittees from the membership of the general assembly.

(8.1) (b) The agency rule-making record shall contain:

(V) A copy of any regulatory analysis OR COST-BENEFIT ANALYSIS prepared for the proceeding upon which the rule was based, if applicable, AND ANY FORMAL STATEMENT MADE TO THE AGENCY PROMULGATING THE RULE BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES REGARDING SUCH COST-BENEFIT ANALYSIS;"

Page 6, after line 2, insert the following:

"SECTION 4. 24-34-104 (37), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (37) The following agencies, functions, or both, shall terminate on July 1, 2006:

(e) THE REQUIREMENTS AND PROCEDURES REGARDING THE PREPARATION OF A COST-BENEFIT ANALYSIS IN ACCORDANCE WITH SECTION 24-4-103 (2.5)."

Renumber succeeding section accordingly.

Business  
Affairs and  
Labor

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

**MEMBERS OF THE  
COLORADO TOURISM OFFICE BOARD OF DIRECTORS**

for terms expiring June 1, 2006:

Sarah L. MacQuiddy of Greeley, Colorado, to serve as a representative of the destination marketing industry, reappointed;

Robert A. Kunkel of Durango, Colorado, to serve as a representative of the ski industry, appointed;

Kathy Palmeri of Estes Park, Colorado, to serve as a representative of other outdoor recreation industries, reappointed.

**MESSAGE FROM THE REVISOR OF STATUTES**

March 10, 2003

We herewith transmit:

Without comment, as amended, HB03-1312, 1250, 1251, and 1236 and SB03-117, 147, and 097.

**INTRODUCTION OF BILLS--FIRST READING**

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

**SB03-247** by Senator(s) Dyer; --Concerning changes to parole requirements.  
Judiciary

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- HB03-1236
by Representative(s) Hefley; also Senator(s) Dyer--Concerning strengthening Colorado's substantive criminal law.
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- Judiciary 2
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- HB03-1251
by Representative(s) Boyd; also Senator(s) Cairns--Concerning the creation of the auto theft prevention authority.
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- Judiciary 6
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**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:

- SB03-149
by Senator(s) Arnold; also Representative(s) Spence--Concerning practices relating to school districts' budgets.
16

Laid over until Wednesday, March 12, retaining its place on the calendar.

- SB03-068
by Senator(s) Hagedorn; also Representative(s) Brophy--Concerning the creation of the commission on mandated health insurance benefits to assess the impact of mandated health insurance benefits in Colorado, and, in connection therewith, making an appropriation.
21

A majority of those elected to the Senate having voted in the affirmative, Senator Hagedorn was given permission to offer a Third Reading amendment.

Third Reading Amendment No. 1(L.005), by Senator Hagedorn.

Amend engrossed bill, page 3, line 16, strike "COMMITTEE;" and substitute "COMMITTEE, AFTER CONSULTATION WITH THE PRESIDENT OF THE SENATE;"

strike line 19, and substitute "COMMITTEE, AFTER CONSULTATION WITH THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;"

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

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

YES	24	NO	9	EXCUSED	2	ABSENT	0
Anderson	Y	Groff	Y	Kester	Y	Sandoval	Y
Arnold	Y	Grossman	Y	Lamborn	N	Takis	Y
Cairns	Y	Hagedorn	Y	Linkhart	N	Tapia	Y
Chlouber	Y	Hanna	Y	May	Y	Taylor	Y
Dyer	Y	Hillman	Y	McElhany	N	Teck	Y
Entz	Y	Isgar	Y	Nichol	N	Tupa	N
Evans	Y	Johnson	Y	Owen	N	Windels	E
Fitz-Gerald	N	Jones	Y	Phillips	E	Mr. President	Y
Gordon	N	Keller	Y	Reeves	N		

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

Co-sponsors added: Evans and Hillman.

- SB03-235
by Senator(s) Lamborn; also Representative(s) Mitchell--Concerning the right to display national symbols.
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The question being "Shall the bill pass?", the roll call was taken with the following result:

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**SB03-235**

YES	30	NO	3	EXCUSED	2	ABSENT	0
Anderson	Y	Groff	N	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	Y	Teck	Y
Entz	Y	Isgar	Y	Nichol	Y	Tupa	N
Evans	Y	Johnson	Y	Owen	Y	Windels	E
Fitz-Gerald	Y	Jones	Y	Phillips	E	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, Arnold, Chlouber, Evans, Jones, May, and Nichol.

**HB03-1006** by Representative(s) Fairbank; also Senator(s) Anderson--Concerning provisional ballots.

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

YES	22	NO	12	EXCUSED	1	ABSENT	0
Anderson	Y	Groff	Y	Kester	Y	Sandoval	Y
Arnold	Y	Grossman	N	Lamborn	Y	Takis	N
Cairns	Y	Hagedorn	N	Linkhart	N	Tapia	N
Chlouber	Y	Hanna	N	May	Y	Taylor	Y
Dyer	Y	Hillman	Y	McElhany	Y	Teck	Y
Entz	Y	Isgar	Y	Nichol	Y	Tupa	N
Evans	Y	Johnson	Y	Owen	Y	Windels	E
Fitz-Gerald	N	Jones	Y	Phillips	N	Mr. President	Y
Gordon	N	Keller	N	Reeves	N		

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

Co-sponsors added: Andrews, Arnold, Cairns, Dyer, Entz, Evans, Hillman, Jones, Kester, Lamborn, May, Nichol, and Owen.

**HB03-1109** by Representative(s) Marshall; also Senator(s) Dyer--Concerning the creation of a definition for a juvenile "status offender" for purposes of compliance with federal law.

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	Y	Teck	Y
Entz	Y	Isgar	Y	Nichol	Y	Tupa	Y
Evans	Y	Johnson	Y	Owen	Y	Windels	E
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**.

**MESSAGE FROM THE GOVERNOR**

March 10, 2003

To the Honorable  
Senate  
First Regular Session  
Denver, CO 80203

Ladies and Gentlemen:

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

S.B. 03-199 – Concerning A Supplemental Appropriation To The Department Of Agriculture.

Approved March 10, 2003 at 1:40 p.m.

S.B. 03-202 - Concerning A Supplemental Appropriation To The Offices Of The Governor, Lieutenant Governor, And State Planning And Budgeting.

Approved March 10, 2003 at 1:40 p.m.

Sincerely,  
(Signed)  
Bill Owens  
Governor

Rec'd 3-10-03 3:00 p.m.  
Mona Heustis, Secretary of the Senate

March 10, 2003

The Honorable Colorado Senate  
Sixty-Fourth Colorado General Assembly  
First Regular Session  
Denver, CO 80203

Ladies and Gentlemen:

I am filing with the Secretary of State Senate Bill 03-207, "Concerning a Supplemental Appropriation to the Department of Labor and Employment." I approved in part and disapproved in part this bill as of 1:40 p.m. today and this letter sets forth my reasons for doing so.

While I have approved Senate Bill 03-207 as a whole, I have vetoed footnote 156a within the bill because this footnote violates the separation of powers by attempting to administer the appropriation.

Sincerely,  
(Signed)  
Bill Owens  
Rec'd 3-10-03 3:00 p.m.

Mona Heustis, Secretary of the Senate

**SENATE SERVICES REPORT**

Senate  
Services

Correctly printed: SB03-245, 246.

Correctly engrossed: SB03-068, 149, 235.

Correctly reengrossed: SB03-027, 101, 114, 134, 222, 225, 233.

Correctly revised: HB03-1006, 1109.

Correctly rerevised: HB03-1014, 1025, 1026, 1027, 1028, 1032, 1034, 1038, 1063,  
1047, 1070, 1077, 1079, 1095, 1101,1103, 1104, 1117, 1148, 1156,  
1165, 1194, 1222, 1246, 1257, 1272, 1273, 1281, 1287, 1301.

COMMITTEE OF REFERENCE REPORTS

Judiciary

After consideration on the merits, the Committee recommends that **HB03-1286** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 3, line 12, strike "AGENCY;" and substitute "AGENCY OR THE COUNTY DEPARTMENT OF SOCIAL SERVICES IN THE COUNTY WHERE SUCH PARENT RESIDES;"

Page 4, line 5, after "AGENCY", insert "OR COUNTY DEPARTMENT OF SOCIAL SERVICES IN THE COUNTY WHERE SUCH PARENT RESIDES";

line 20, after the second "BE", insert "EITHER";

line 22, strike "CONTRACTED." and substitute "CONTRACTED OR A REPRESENTATIVE OF THE COUNTY DEPARTMENT OF SOCIAL SERVICES IN THE COUNTY WHERE SUCH PARENT RESIDES, WHICHEVER IS ASSISTING THE PARENT.";

line 23, after "WITH", insert "EITHER";

line 24, after "AGENCY", insert "OR THE COUNTY DEPARTMENT OF SOCIAL SERVICES IN THE COUNTY WHERE SUCH PARENT RESIDES, WHICHEVER IS ASSISTING THE PARENT,"

Page 5, line 15, after "AGENCY", insert "OR THE COUNTY DEPARTMENT OF SOCIAL SERVICES";

line 21, after "AGENCY," insert "OR THE COUNTY DEPARTMENT OF SOCIAL SERVICES ASSISTING THE RELINQUISHING PARENT".

Page 6, line 26, after "AGENCY", insert "OR THE COUNTY DEPARTMENT OF SOCIAL SERVICES ASSISTING THE RELINQUISHING PARENT".

Page 7, line 19, after "AGENCY", insert "OR THE COUNTY DEPARTMENT OF SOCIAL SERVICES ASSISTING THE RELINQUISHING PARENT".

Page 8, line 12, after "AGENCY", insert "OR THE COUNTY DEPARTMENT OF SOCIAL SERVICES".

Page 9, line 13, after "AGENCY", insert "OR THE COUNTY DEPARTMENT OF SOCIAL SERVICES".

Judiciary

After consideration on the merits, the Committee recommends that **HB03-1240** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 2, strike lines 4 through 9 and substitute the following:

**"19-1-108. Magistrates - qualifications - duties.** (3) (b) In proceedings under article 2 of this title, THE RIGHT TO REQUIRE A HEARING BEFORE A JUDGE SHALL BE DEEMED WAIVED unless a request is made by a ANY party at the outset of a hearing that the hearing be held before the judge, such right where applicable shall be deemed waived THAT THE HEARING BE HELD BEFORE A JUDGE AT THE TIME THE MATTER IS SET FOR HEARING."

Page 3, after line 1, insert the following:

**"SECTION 3.** 19-2-204 (4) (a), Colorado Revised Statutes, is amended to read:

**19-2-204. Juvenile probation departments or divisions - service agreements.** (4) (a) The juvenile court judges are authorized to enter

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**HB03-1240**

into agreements with the department of human services, county departments of social services, other public agencies, private nonprofit agencies, or with other juvenile courts to provide supervision or other services for juveniles placed on probation by the court.

**SECTION 4.** 19-2-508 (3) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

**19-2-508. Detention and shelter - hearing - time limits - findings - review - confinement with adult offenders - restrictions.**

(3) (a) (III.5) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (a), THERE SHALL BE NO PRESUMPTION THAT A JUVENILE IS A DANGER TO HIMSELF OR HERSELF OR THE COMMUNITY IF THE ITEM IN THE POSSESSION OF THE JUVENILE IS ALLEGED TO BE A BEE-BEE GUN, A PELLETT GUN, OR A GAS GUN."

Renumber succeeding sections accordingly.

Judiciary After consideration on the merits, the Committee recommends that **HB03-1304** be referred to the Committee of the Whole with favorable recommendation.

Judiciary After consideration on the merits, the Committee recommends that **HB03-1297** be referred to the Committee of the Whole with favorable recommendation.

On motion of Senator Anderson, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the calendar of March 11, was laid over until Wednesday, March 12, retaining its place on the calendar.

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

Consideration of Resolution: HJR03-1011.

Consideration of House Amendments to Senate Bills: SB03-060.

Consideration of Governor's Appointments:

Commissioner of Insurance;

Members of the Wildlife Commission;

Member of the Juvenile Parole Board;

Members of the Colorado Commission for the Deaf and Hard of Hearing.

Request for Conference Committee: HB03-1161.

On motion of Senator Anderson, the Senate adjourned until 9:00 a.m., Wednesday, March 12, 2003.

Approved:

John Andrews  
President of the Senate

Attest:

Mona Heustis  
Secretary of the Senate

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