

SENATE JOURNAL
 Sixty-eighth General Assembly
STATE OF COLORADO
 Second Regular Session

78th Legislative Day Wednesday, March 28, 2012

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Prayer	By the chaplain, Pastor Vern Rempel, First Mennonite Church, Denver.	11
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Call to Order	By the President at 9:00 a.m.	13
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Pledge	By Senator Grantham.	15
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Roll Call	Present--35	17
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Quorum	The President announced a quorum present.	19
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Reading of Journal	On motion of Senator Guzman, reading of the Journal of Tuesday, March 27, 2012, was dispensed with and the Journal was approved as corrected by the Secretary.	21
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COMMITTEE OF REFERENCE REPORTS

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State, Veterans, & Military Affairs	The Committee on <u>State, Veterans, and Military Affairs</u> has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:	30
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MEMBERS OF THE COLORADO BOARD OF VETERANS AFFAIRS

for terms expiring June 30, 2015:

Franklin DB Jackson of Denver, Colorado, a Democrat and a veteran who has been honorably released or separated from the armed forces of the United States, reappointed;

Kathleen N. Dunemn of Littleton, Colorado, a Republican and a veteran who has been honorably released or separated from the armed forces of the United States, appointed.

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State, Veterans, & Military Affairs	After consideration on the merits, the Committee recommends that SM12-003 be referred to the Senate for final action.	48
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Local Government	After consideration on the merits, the Committee recommends that HB12-1017 be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the consent calendar.	56
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Local Government	After consideration on the merits, the Committee recommends that HB12-1237 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the consent calendar.	61
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Amend reengrossed bill, page 2, line 11, change the comma to a semicolon.

Page 2, strike lines 12 through 14 and substitute:

"(b) RECORDS OF CLAIMS FOR CONSTRUCTION DEFECTS AND AMOUNTS RECEIVED PURSUANT TO SETTLEMENT OF THOSE CLAIMS;"

Reletter succeeding paragraphs accordingly.

Page 2, line 21, after "BOARD" insert "WITHOUT A MEETING".

Page 3, line 1, strike "(d)" and substitute "(e)".

Page 3, line 25, strike everything after the semicolon.

Page 3, strike lines 26 and 27.

Page 4, strike line 1.

Page 5, after line 11 insert:

"(a) ARCHITECTURAL DRAWINGS, PLANS, AND DESIGNS, UNLESS RELEASED UPON THE WRITTEN CONSENT OF THE LEGAL OWNER OF THE DRAWINGS, PLANS, OR DESIGNS;"

Reletter succeeding paragraphs accordingly.

Page 5, line 13, strike "OTHER".

Page 5, line 14, strike "SIMILAR COMMERCIAL".

Local Government

After consideration on the merits, the Committee recommends that **SB12-158** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.

Amend printed bill, page 10, strike lines 25 through 27.

Strike page 11 and substitute:

"SECTION 8. 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."

Local Government

After consideration on the merits, the Committee recommends that **HB12-1160** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, strike everything below the enacting clause and substitute:

"SECTION 1. In Colorado Revised Statutes, 40-2-123, amend (3.3) as follows:

40-2-123. New energy technologies - consideration by commission - incentives - demonstration projects - definitions - legislative declaration - repeal. (3.3) In its consideration of generation acquisitions for electric utilities, the commission may give the fullest possible consideration to the cost-effective implementation of new energy technologies for the generation of electricity from methane produced biogenically in geologic strata as a result of human intervention AND FROM COAL MINE METHANE GAS CAPTURED FROM ACTIVE AND INACTIVE COAL MINES.

SECTION 2. In Colorado Revised Statutes, add 40-2-124.5 as follows:

40-2-124.5. Greenhouse gas mitigation projects - coal mine methane gas - legislative declaration - definitions. (1) THE GENERAL

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ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT THE MITIGATION OF GREENHOUSE GAS EMISSIONS IS ESSENTIAL TO THE LONG-TERM HEALTH AND WELL-BEING OF COLORADO CITIZENS. REDUCING GREENHOUSE GAS EMISSIONS INTO THE ATMOSPHERE PROVIDES BENEFITS TO THE STATE'S AIR QUALITY AND TO ITS ECONOMIC HEALTH BY PROVIDING NEW JOBS FOR COLORADANS AND REVENUE TO LOCAL COMMUNITIES. THE CAPTURE OF THE POTENT GREENHOUSE GAS METHANE FOR THIS PURPOSE REDUCES GREENHOUSE GAS EMISSIONS, IMPROVES AIR QUALITY, AND PROVIDES A LOCAL, CLEAN ENERGY SOURCE.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COAL MINE METHANE GAS" MEANS THE GREENHOUSE GAS METHANE CAPTURED FROM ACTIVE AND INACTIVE COAL MINES, WHERE IT IS DETERMINED THAT THE METHANE IS ESCAPING TO THE ATMOSPHERE. AT ACTIVE MINES, ONLY METHANE VENTED IN THE NORMAL COURSE OF MINE OPERATIONS AND SAFETY PROCEDURES, AND, AT INACTIVE MINES, ONLY METHANE THAT IS NATURALLY ESCAPING TO THE ATMOSPHERE, IS COAL MINE METHANE GAS. THE CAPTURE AND COMBUSTION OF COAL MINE METHANE GAS AS A CLEAN ENERGY SOURCE MAY BE VERIFIED BY A QUALIFIED THIRD PARTY FOLLOWING ESTABLISHED CARBON OFFSET PROTOCOLS FOR CLIMATE PROTECTION.

(b) "GREENHOUSE GAS MITIGATION" MAY INCLUDE THE COLLECTION AND USE OF COAL MINE METHANE GAS FOR ELECTRICITY GENERATION.

(3) EACH KILOWATT-HOUR OF ELECTRICITY GENERATED FROM COAL MINE METHANE GAS RESOURCES IN COLORADO MAY BE COUNTED AS THREE-FOURTHS OF ONE KILOWATT HOUR FOR PURPOSES OF COMPLIANCE WITH THE RENEWABLE ENERGY CREDIT UNDER SECTION 40-2-124 AS A RENEWABLE ENERGY RESOURCE.

(4) ONLY GENERATION FACILITIES WITH A NAMEPLATE RATING OF THIRTY MEGAWATTS OR LESS ARE ELIGIBLE FOR THE RENEWABLE ENERGY CREDIT UNDER SUBSECTION (3) OF THIS SECTION.

SECTION 3. In Colorado Revised Statutes, 39-29-105, **amend** (1) (b) as follows:

39-29-105. Tax on severance of oil and gas. (1) (b) In addition to any other tax, there shall be levied, collected, and paid for each taxable year commencing on or after January 1, 2000, a tax upon the gross income attributable to the sale of oil and gas severed from the earth in this state; except that oil produced from any wells that produce fifteen barrels per day or less of oil and gas produced from wells that produce ninety thousand cubic feet or less of gas per day for the average of all producing days for such oil or gas production during the taxable year, AND ANY METHANE GAS CAPTURED FROM ACTIVE OR INACTIVE COAL MINES, shall be exempt from the tax. The tax for oil and gas shall be at the following rates of the gross income:

Under \$25,000	2%
\$25,000 and under \$100,000	3%
\$100,000 and under \$300,000	4%
\$300,000 and over	5%

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor."

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Judiciary After consideration on the merits, the Committee recommends that **SCR12-001** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed concurrent resolution, page 2, strike lines 7 through 20.

Page 3, strike lines 1 through 3.

Trans- After consideration on the merits, the Committee recommends that **HB12-1275** be referred to the Committee on Finance with favorable recommendation.

Trans- After consideration on the merits, the Committee recommends that **HB12-1131** be referred to the Committee on Finance with favorable recommendation.

SENATE SERVICES REPORT

Correctly Reengrossed: SB12-044 and 078.

Correctly Rerevised: HB12-1053, 1144, 1168, 1220, 1239, 1244, 1276 and 1307.

MESSAGE FROM THE HOUSE

March 27, 2012

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB12-1080, 1108.

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB12-1162, amended as printed in House Journal, March 23, page 767.

HB12-1297, amended as printed in House Journal, March 23, page 767, and amended on Third Reading as printed in House Journal, March 27.

HB12-1068, amended as printed in House Journal, March 23, pages 769-770.

HB12-1303, amended as printed in House Journal, March 23, pages 770-771.

The House has passed on Third Reading and returns herewith SB12-148, 022, 057, 095.

The House has passed on Third Reading and transmitted to the Revisor of Statutes; SB12-074, amended as printed in House Journal, March 23, pages 767-768.

SB12-131, amended as printed in House Journal, March 23, page 768.

SB12-040, amended as printed in House Journal, March 23, page 769.

SB12-045, amended as printed in House Journal, March 23, page 769.

SB12-091, amended as printed in House Journal, March 23, page 769.

SB12-056, amended as printed in House Journal, March 23, page 771.

SB12-061, amended as printed in House Journal, March 23, page 771.

The House has passed on Third Reading and transmitted to the Revisor of Statutes SB12-092, amended on Third Reading as printed in House Journal March 27.

The House has adopted and transmits herewith HJR12-1016.

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MESSAGE FROM THE REVISOR OF STATUTES

March 27, 2012

We herewith transmit:

- Without comment, HB12-1080 and 1108.
- Without comment, as amended, HB12-1068, 1162, 1297, and 1303.
- Without comment, as amended, SB12-040, 045, 056, 061, 074, 091, 092, and 131.

INTRODUCTION OF BILLS -- FIRST READING

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

HB12-1238 by Representative(s) Massey and Hamner, Fields, Pabon, Priola, Casso, Gerou, Lee, Murray, Pace, Sonnenberg, Swerdfeger; also Senator(s) Johnston and Spence, Bacon, Giron, Jahn, Newell--Concerning literacy education for students enrolled in kindergarten through third grade, and, in connection therewith, creating the "Colorado Early Literacy Act" and making and reducing appropriations.
State, Veterans & Military Affairs

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

GENERAL ORDERS -- SECOND READING OF BILLS -- CONSENT CALENDAR

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:

HB12-1083 by Representative(s) Sonnenberg; also Senator(s) Schwartz--Concerning maintenance of the current fee structure on certain feeding operations under the "Colorado Water Quality Control Act".

Ordered revised and placed on the calendar for third reading and final passage.

SB12-121 by Senator(s) King K.; also Representative(s) Massey--Concerning charter schools.

Amendment No. 1, Education Committee Amendment.
(Printed in Senate Journal, February 23, pages 231-232 and placed in members' bill files.)

As amended, ordered engrossed and placed on the calendar for third reading and final passage.

HB12-1012 by Representative(s) Williams A.; also Senator(s) Guzman and White--Concerning authorization for reimbursement for up to fifty thousand dollars of actual, reasonable, and necessary business reestablishment expenses to be paid by a state agency in connection with the reestablishment of an operation displaced by a department of transportation project or a project with department of transportation oversight.

Amendment No. 1, Transportation Committee Amendment.
(Printed in Senate Journal, March 14, page 486 and placed in members' bill files.)

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As amended, ordered revised and placed on the calendar for third reading and final passage.

HB12-1215 by Representative(s) Gerou, Becker, Levy; also Senator(s) Hodge, Steadman, Lambert-- Concerning changes to the "Nonadmitted Insurance Act" to conform it to the requirements of the federal "Nonadmitted and Reinsurance Reform Act of 2010".

Ordered revised and placed on the calendar for third reading and final passage.

HB12-1246 by Representative(s) Becker, Gerou, Levy; also Senator(s) Hodge, Steadman, Lambert-- Concerning a reversal of the annual payday shift as it applies to state employees paid on a biweekly basis, and making an appropriation in connection therewith.

Ordered revised and placed on the calendar for third reading and final passage.

**ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE --
CONSENT CALENDAR**

On motion of Senator Nicholson, the report of the Committee of the Whole was **adopted** on the following roll call vote:

YES	35	NO	0	EXCUSED	0	ABSENT	0
Aguilar	Y	Guzman	Y	Lambert	Y	Scheffel	Y
Bacon	Y	Harvey	Y	Lundberg	Y	Schwartz	Y
Boyd	Y	Heath	Y	Mitchell	Y	Spence	Y
Brophy	Y	Hodge	Y	Morse	Y	Steadman	Y
Cadman	Y	Hudak	Y	Neville	Y	Tochtrop	Y
Carroll	Y	Jahn	Y	Newell	Y	White	Y
Foster	Y	Johnston	Y	Nicholson	Y	Williams S.	Y
Giron	Y	King K.	Y	Renfroe	Y	President	Y
Grantham	Y	King S.	Y	Roberts	Y		

The Committee of the Whole took the following action:

Passed on second reading: SB12-121 as amended, HB12-1083, HB12-1012 as amended, HB12-1215, HB12-1246.

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

SB12-001 by Senator(s) Hudak, Bacon, Boyd, Foster, Heath, Shaffer B., Steadman; also Representative(s) Duran and Ryden--Concerning contracting preferences for persons who employ at least a specified percentage of Colorado residents to perform the requirements of a government contract.

Laid over until Thursday, March 29, retaining its place on the calendar.

- SB12-155** by Senator(s) Heath and White; also Representative(s) Court and Murray--Concerning procedures to protect transparency in elections while preserving the integrity of ballots in connection with a request for public inspection of ballots under the "Colorado Open Records Act".
Laid over until Thursday, March 29, retaining its place on the calendar.
- SB12-070** by Senator(s) Aguilar; also Representative(s) Wilson, Solano--Concerning residential landlords and tenants, and, in connection therewith, enacting the "Uniform Residential Landlord and Tenant Act".
Laid over until Thursday, March 29, retaining its place on the calendar.
- SB12-086** by Senator(s) Cadman, Shaffer B.; --Concerning a study of the cost of regulatory compliance for businesses in Colorado.
Laid over until Thursday, March 29, retaining its place on the calendar.
- SB12-132** by Senator(s) Grantham, Cadman, Scheffel, Brophy, Harvey, King S., Lambert, Lundberg, Neville, Renfroe, Roberts, Spence; also Representative(s) Becker--Concerning timely issuance of environmental control permits.
Laid over until Thursday, March 29, retaining its place on the calendar.
- SB12-149** by Senator(s) Steadman; also Representative(s) Priola--Concerning the circumstances in which the board of a defined benefit plan or system created by a local government may modify retirement benefit provisions of the plan or system.
Amendment No. 1(L.001), by Senator Steadman.
Amend printed bill, page 4, afer line 5 insert:
"(5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2017."
As amended, ordered engrossed and placed on the calendar for third reading and final passage.
- HB12-1204** by Representative(s) McCann, Kefalas, Young; also Senator(s) Boyd--Concerning the continuation of the regulation of hemodialysis technicians, and, in connection therewith, implementing the sunset review recommendations of the department of regulatory agencies.
Ordered revised and placed on the calendar for third reading and final passage.
- HB12-1009** by Representative(s) Gerou; also Senator(s) Lambert--Concerning a report related to the federal moneys received by the executive branch.
Ordered revised and placed on the calendar for third reading and final passage.
- SB12-004** by Senator(s) Foster, Shaffer B.; also Representative(s) Miklosi--Concerning the creation of a procurement preference to be granted for materials manufactured in the United States.
Laid over until Thursday, March 29, retaining its place on the calendar.

HB12-1052 by Representative(s) Summers; also Senator(s) Boyd and Roberts--Concerning the collection of health care work force data from health care professionals, and, in connection therewith, making an appropriation.

Amendment No. 1, Health & Human Services Committee Amendment.
(Printed in Senate Journal, March 15, pages 492-493 and placed in members' bill files.)

Amendment No. 2, Finance Committee Amendment.
(Printed in Senate Journal, March 21, page 541 and placed in members' bill files.)

As amended, ordered revised and placed on the calendar for third reading and final passage.

SB12-150 by Senator(s) Schwartz, Bacon, Renfroe; also Representative(s) Sonnenberg, Brown, Vigil-- Concerning the state treasurer's authority to manage state public financing, and, in connection therewith, reducing an appropriation.

Amendment No. 1, Finance Committee Amendment.
(Printed in Senate Journal, March 14, page 487 and placed in members' bill files.)

Amendment No. 2, Appropriations Committee Amendment.
(Printed in Senate Journal, March 23, page 558 and placed in members' bill files.)

As amended, ordered engrossed and placed on the calendar for third reading and final passage.

SB12-068 by Senator(s) Guzman; also Representative(s) Massey--Concerning prohibiting the inclusion of industrially produced trans fats in foods made available to students by public schools.

Amendment No. 1, Agriculture, Natural Resources, and Energy Committee Amendment.
(Printed in Senate Journal, February 20, pages 214-215, was **lost**.)

Amendment No. 2, Appropriations Committee Amendment.
(Printed in Senate Journal, March 23, page 559 and placed in members' bill files.)

As amended, laid over until Thursday, March 29, retaining its place on the calendar.

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator Nicholson the report of the Committee of the Whole was **adopted** on the following roll call vote:

YES	35	NO	0	EXCUSED	0	ABSENT	0
Aguilar	Y	Guzman	Y	Lambert	Y	Scheffel	Y
Bacon	Y	Harvey	Y	Lundberg	Y	Schwartz	Y
Boyd	Y	Heath	Y	Mitchell	Y	Spence	Y
Brophy	Y	Hodge	Y	Morse	Y	Steadman	Y
Cadman	Y	Hudak	Y	Neville	Y	Tochtrop	Y
Carroll	Y	Jahn	Y	Newell	Y	White	Y
Foster	Y	Johnston	Y	Nicholson	Y	Williams S.	Y
Giron	Y	King K.	Y	Renfroe	Y	President	Y
Grantham	Y	King S.	Y	Roberts	Y		

The Committee of the Whole took the following action:

Passed on second reading: SB12-149 as amended, SB12-150 as amended, HB12-1204, HB12-1009, HB12-1052 as amended.

Laid over until Thursday, March 29: SB12-001, SB12-155, SB12-070, SB12-086, SB12-132, SB12-004, SB12-068 as amended.

RECONSIDERATION OF HB12-1168

HB12-1168 by Representative(s) Young, Fischer, Kerr A., Levy; also Senator(s) Morse--Concerning clarification of provisions authorizing ignition interlock devices.

Having voted on the prevailing side, Senator Morse moved for reconsideration of the last Senate action, Third Reading of Bills -- Final Passage -- Consent Calendar, on HB12-1168.

A majority of all members elected to the Senate having voted in the affirmative, reconsideration was granted.

**THIRD READING OF BILLS -- FINAL PASSAGE --
CONSENT CALENDAR**

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

HB12-1168 by Representative(s) Young, Fischer, Kerr A., Levy; also Senator(s) Morse--Concerning clarification of provisions authorizing ignition interlock devices.

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

YES	35	NO	0	EXCUSED	0	ABSENT	0
Aguilar	Y	Guzman	Y	Lambert	Y	Scheffel	Y
Bacon	Y	Harvey	Y	Lundberg	Y	Schwartz	Y
Boyd	Y	Heath	Y	Mitchell	Y	Spence	Y
Brophy	Y	Hodge	Y	Morse	Y	Steadman	Y
Cadman	Y	Hudak	Y	Neville	Y	Tochtrop	Y
Carroll	Y	Jahn	Y	Newell	Y	White	Y
Foster	Y	Johnston	Y	Nicholson	Y	Williams S.	Y
Giron	Y	King K.	Y	Renfroe	Y	President	Y
Grantham	Y	King S.	Y	Roberts	Y		

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

On motion of Senator Morse, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the calendar of Wednesday, March 28 was laid over until Thursday, March 29, retaining its place on the calendar.

Consideration of Resolutions: SJR12-006, HJR12-1004.

Consideration of Memorials: SJM12-001.

Consideration of Governor's Appointments:

Members of the Oil and Gas Conservation Commission of the State of Colorado.

Conference Committees to Report: SB12-020.

MESSAGE FROM THE HOUSE

March 28, 2012

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB12-1282.

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The House has passed on Third Reading and transmitted to the Revisor of Statutes
HB12-1258, amended as printed in House Journal, March 23, page 768.
HB12-1295, amended as printed in House Journal, March 27, page 820.

The House has passed on Third Reading and returns herewith SB12-034, 102
152, 059.

The House has passed on Third Reading and transmitted to the Revisor of Statutes;
SB12-127, amended as printed in House Journal, March 27, pages 820-821.

TRIBUTES

Honoring:

- The 2012 Aspen High School Women's Nordic & Alpine Ski Teams, for Winning the
2012 Colorado High School State Ski Championship - by Senator Schwartz.
- The 2012 Aspen High School Men's Nordic & Alpine Ski Teams for Winning the 2012
Colorado High School State Ski Championship - by Senator Schwartz.
- Jake Marsing, for early completion of the GED - by Senator Shaffer.
- Mike Shaw, TIME Magazine Auto Dealer of the Year - by Senator Cadman.
- The opening of the Basalt Hydro Plant - by Senator Schwartz.

On motion of Senator Morse, the Senate adjourned until 9:00 a.m., Thursday, March 29,
2012.

Approved:

Brandon C. Shaffer
President of the Senate

Attest:

Cindi L. Markwell
Secretary of the Senate

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