

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

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85th Legislative Day Wednesday, April 4, 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 Guzman.	16
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Roll Call	Present--34	18
	Absent--1, Williams S.	19
	Present later--1, Williams S.	20
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Quorum	The President announced a quorum present.	22
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Reading of Journal	On motion of Senator White, reading of the Journal of Tuesday, April 3, 2012, was dispensed with and the Journal was approved as corrected by the Secretary.	24
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**COMMITTEE OF REFERENCE REPORTS**

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Trans- portation	After consideration on the merits, the Committee recommends that <b>HB12-1153</b> be referred to the Committee on <u>Appropriations</u> with favorable recommendation.	32
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Local Government	After consideration on the merits, the Committee recommends that <b>HB12-1105</b> 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.	36
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Amend reengrossed bill, page 3, line 1, strike everything after "LOCATED."

Page 3, strike lines 2 through 4 and substitute "THE WIND ENERGY AGREEMENT OR NOTICE OR MEMORANDUM EVIDENCING A WIND ENERGY AGREEMENT MUST INCLUDE THE NAME OF THE OWNER OF THE SURFACE ESTATE, THE NAME OF THE LESSEE, EASEMENT HOLDER, LICENSEE, OR CONTRACTING PARTY UNDER THE WIND ENERGY AGREEMENT, AND THE LEGAL DESCRIPTION OF THE PROPERTY. THE WIND ENERGY AGREEMENT OR NOTICE OR MEMORANDUM EVIDENCING A WIND ENERGY AGREEMENT MUST BE INDEXED IN BOTH THE GRANTOR AND GRANTEE INDICES UNDER THE NAME OF THE OWNER OF THE SURFACE ESTATE AND THE LESSEE, EASEMENT HOLDER, LICENSEE, OR CONTRACTING PARTY UNDER THE WIND ENERGY AGREEMENT."

Page 3, line 5, after "(3)" insert "(a)".

Page 3, line 7, after "AGREEMENT" insert "OR NOTICE OR MEMORANDUM EVIDENCING A WIND ENERGY AGREEMENT".

Page 3, line 9, after "LOCATED." insert "THE RELEASE MUST INCLUDE THE NAME OF THE OWNER OF THE SURFACE ESTATE, THE NAME OF THE LESSEE, EASEMENT HOLDER, LICENSEE, OR CONTRACTING PARTY UNDER THE WIND ENERGY AGREEMENT, THE LEGAL DESCRIPTION OF THE PROPERTY, AND THE ORIGINAL RECEPTION NUMBER OR BOOK AND PAGE NUMBER OF THE WIND ENERGY AGREEMENT. THE RELEASE MUST BE INDEXED IN BOTH THE

GRANTOR AND GRANTEE INDICES UNDER THE NAME OF THE OWNER OF THE SURFACE ESTATE AND THE LESSEE, EASEMENT HOLDER, LICENSEE, OR CONTRACTING PARTY UNDER THE WIND ENERGY AGREEMENT."

Page 3, line 10, after "ESTATE" insert "OR THE OWNER'S DESIGNEE".

Page 3, strike lines 11 and 12 and substitute "AND DELIVER IT PERSONALLY OR BY CERTIFIED MAIL, FIRST CLASS POSTAGE PREPAID, RETURN RECEIPT REQUESTED, TO THE WIND ENERGY".

Page 3, line 15, strike everything after "REQUEST."

Page 3, strike lines 16 through 21 and substitute:

"(b) THE WIND ENERGY DEVELOPER SHALL RECORD THE RELEASE WITHIN NINETY DAYS AFTER THE RECEIPT OF THE REQUEST. IF THE WIND ENERGY DEVELOPER FAILS TO RECORD THE RELEASE WITHIN NINETY DAYS AFTER THE RECEIPT OF THE REQUEST, THE WIND ENERGY DEVELOPER IS LIABLE TO THE OWNER OF THE SURFACE ESTATE FOR ANY DAMAGES CAUSED BY THE WIND ENERGY DEVELOPER'S FAILURE TO RECORD THE RELEASE. A COPY OF THE WRITTEN REQUEST HAS THE SAME FORCE AND EFFECT AS THE ORIGINAL REQUEST IN AN ACTION FOR DAMAGES."

Page 4, strike lines 7 through 16 and substitute:

**"38-30.7-104. Reversion of easements.** (1) UNLESS THE OWNER OF THE SURFACE ESTATE AND WIND ENERGY DEVELOPER OTHERWISE AGREE, ALL EASEMENT INTERESTS ACQUIRED AFTER JULY 1, 2012, FOR THE PURPOSE OF PRODUCING WIND ENERGY REVERT TO THE OWNER OF THE SURFACE ESTATE IF WIND ENERGY PRODUCTION HAS CEASED FOR A CONTINUOUS PERIOD OF FIFTEEN YEARS OR IF THE GENERATION OF ELECTRICITY BY A TURBINE HAS NOT COMMENCED WITHIN FIFTEEN YEARS AFTER THE EXECUTION OF A WIND ENERGY AGREEMENT. REVERSION OF AN INTEREST UNDER THIS SECTION DOES NOT TRANSFER ANY OBLIGATION TO RESTORE OR RECLAIM THE SURFACE ESTATE.

(2) THE LESSEE, EASEMENT HOLDER, LICENSEE, OR CONTRACTING PARTY UNDER THE WIND ENERGY AGREEMENT SHALL RECORD IN THE OFFICE OF THE COUNTY CLERK AND RECORDER WHERE THE LAND SUBJECT TO THE WIND ENERGY AGREEMENT IS LOCATED AN AFFIDAVIT STATING THAT THE GENERATION OF ELECTRICITY BY A TURBINE HAS COMMENCED. IF NO SUCH AFFIDAVIT IS RECORDED, THEN THE WIND ENERGY AGREEMENT EXPIRES BY ITS OWN TERMS. IF NO TERMS ARE GIVEN, THE WIND ENERGY AGREEMENT EXPIRES NO MORE THAN FIFTEEN YEARS AFTER THE EXECUTION OF THE WIND ENERGY AGREEMENT. THE AFFIDAVIT MUST INCLUDE THE NAME OF THE OWNER OF THE SURFACE ESTATE, THE NAME OF THE LESSEE, EASEMENT HOLDER, LICENSEE, OR CONTRACTING PARTY UNDER THE WIND ENERGY AGREEMENT, THE LEGAL DESCRIPTION OF THE PROPERTY, AND THE ORIGINAL RECEPTION NUMBER OR BOOK AND PAGE NUMBER OF THE WIND ENERGY AGREEMENT. THE AFFIDAVIT MUST BE INDEXED IN BOTH THE GRANTOR AND GRANTEE INDICES UNDER THE NAME OF THE OWNER OF THE SURFACE ESTATE AND THE LESSEE, EASEMENT HOLDER, LICENSEE, OR CONTRACTING PARTY UNDER THE WIND ENERGY AGREEMENT."

Finance

After consideration on the merits, the Committee recommends that **SB12-168** 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 10, after "IN" insert "ANNUAL".

Page 4, line 12, after "NEXT" insert "CALENDAR YEAR THEREAFTER".

Page 4, line 23, after "IN" insert "ANNUAL".

Page 4, line 25, after "NEXT" insert "CALENDAR YEAR THEREAFTER".

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Page 6, strike lines 2 through 11 and substitute:

"**SECTION 3. 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.".

**SENATE SERVICES REPORT**

Correctly Revised: HJR12-1016.  
 Correctly Rerevised: HB12-1228, 1318 and 1323.  
 Correctly Enrolled: SB12-061.

**INTRODUCTION AND CONSIDERATION OF RESOLUTIONS**

**SJR12-028** by Senator(s) Newell and White; also Representative(s) Nikkel and McCann--Concerning recognition of April 2012 as Child Abuse Prevention Month in Colorado.

On motion of Senator Newell, the resolution was read at length and **adopted** by 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		

Co-sponsor added: Aguilar, Bacon, Boyd, Brophy, Cadman, Carroll, Foster, Giron, Grantham, Guzman, Harvey, Heath, Hodge, Hudak, Jahn, Johnston, King K., King S., Lambert, Lundberg, Mitchell, Morse, Neville, Nicholson, Renfroe, Roberts, Scheffel, Schwartz, Shaffer B., Spence, Steadman, Tochtrop and Williams S.

On motion of Senator Morse, and with a two-thirds majority of those elected to the Senate having voted in the affirmative, HB12-1295 was made Special Orders at 9:20 a.m.

Committee of the Whole The hour of 9:20 a.m. having arrived, Senator Heath moved that the Senate resolve itself into the Committee of the Whole for consideration of Special Orders -- Second Reading of Bills and Senator Heath was called to the chair to act as Chairman.

**SPECIAL ORDERS -- SECOND READING OF BILLS**

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

**HB12-1295** by Representative(s) Priola; also Senator(s) Tochtrop--Concerning the creation of a Colorado Rockies license plate, and, in connection therewith, making an appropriation.

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

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**ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE**

On motion of Senator Heath, 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: HB12-1295.

On motion of Senator Morse, and with a majority of those elected to the Senate having voted in the affirmative, the Senate proceeded out of order for an expression of personal privilege.

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

**SB12-161** by Senator(s) Nicholson, King S.; also Representative(s) Bradford--Concerning measures to reduce health care costs in correctional facilities.

Ordered engrossed 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 Heath, the report of the Committee of the Whole was **adopted** on the following roll call vote:

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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: SB12-161.

Committee of the Whole

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

**HB12-1271** by Representative(s) Nikkel and McCann, Levy; also Senator(s) Giron and Neville-- Concerning charging of juveniles by direct file of information or indictment in district court.

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

On motion of Senator Morse, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the General Orders -- Second Reading of Bills Calendar (SB12-001, SB12-155, SB12-070, SB12-086, SB12-132, SB12-004, SB12-068, HB12-1160, SCR12-001, HB12-1017, HB12-1237, HB12-1304, HCR12-1001, HB12-1146, SB12-160) of Wednesday, April 4 was laid over until Thursday, April 5, retaining its place on the calendar.

**ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE**

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

YES	24	NO	11	EXCUSED	0	ABSENT	0
Aguilar	Y	Guzman	Y	Lambert	N	Scheffel	N
Bacon	Y	Harvey	Y	Lundberg	Y	Schwartz	Y
Boyd	Y	Heath	Y	Mitchell	N	Spence	Y
Brophy	N	Hodge	Y	Morse	Y	Steadman	Y
Cadman	N	Hudak	Y	Neville	Y	Tochtrop	Y
Carroll	Y	Jahn	Y	Newell	Y	White	N
Foster	Y	Johnston	Y	Nicholson	Y	Williams S.	Y
Giron	Y	King K.	N	Renfroe	N	President	Y
Grantham	N	King S.	N	Roberts	N		

The Committee of the Whole took the following action:

Passed on second reading: HB12-1271.

Laid over until Thursday, April 5: SB12-001, SB12-155, SB12-070, SB12-086, SB12-132, SB12-004, SB12-068, HB12-1160, SCR12-001, HB12-1017, HB12-1237, HB12-1304, HCR12-1001, HB12-1146, SB12-160.

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**MESSAGE FROM THE HOUSE**

April 4, 2012

The House has adopted and returns herewith SJM12-001.  
The House has adopted and returns herewith SJR12-028.

The House has passed on Third Reading and transmitted to the Revisor of Statutes  
HB12-1110, amended as printed in House Journal, April 2, pages 873-874.  
HB12-1272, amended as printed in House Journal, April 2, page 874.  
HB12-1043, amended as printed in House Journal, April 2, page 874.

The House has voted not to concur in the Senate amendments to HB12-1002 and requests  
that a conference committee be appointed. The Speaker has appointed Representatives  
Sonnenberg, chairman, Waller, and Williams as House conferees on the First Conference  
Committee on HB12-1002. The House has granted authorization to go beyond the scope  
of the differences. The bill is transmitted herewith.

The House has voted not to concur in the Senate amendments to HB12-1053 and requests  
that a conference committee be appointed. The Speaker has appointed Representatives  
Gardner, chairman, Barker, and Pace as House conferees on the First Conference  
Committee on HB12-1053. The bill is transmitted herewith.

The House has voted not to concur in the Senate amendments to HB12-1168 and requests  
that a conference committee be appointed. The Speaker has appointed Representatives  
Young, chairman, Barker, and Gardner as House conferees on the First Conference  
Committee on HB12-1168. The bill is transmitted herewith.

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**MESSAGE FROM THE REVISOR OF STATUTES**

April 4, 2012

We herewith transmit:

Without comment, as amended, HB12-1043, 1110, and 1272.

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**SIGNING OF BILLS -- RESOLUTIONS -- MEMORIALS**

The President has signed: SJR12-026 and 027; SB12-040, 045, 056, 061, 074, 091, 092  
and 131.

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### INTRODUCTION OF RESOLUTIONS

The following resolutions were read by title:

**SJR12-029** by Senator(s) Williams S., Bacon, Spence; also Representative(s) Todd, Court, Hamner, Kerr A., Massey, Peniston, Schafer S., Solano--Concerning a world language roadmap for Colorado.

Laid over until Wednesday, April 25, retaining its place on the calendar.

**SJR12-030** by Senator(s) Morse, King S.; also Representative(s) Barker--Concerning declaring the week of May 13 - 19, 2012, as Police Week, and, in connection therewith, declaring May 15, 2012, as Peace Officers' Memorial Day.

Laid over until Wednesday, April 25, retaining its place on the calendar.

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### INTRODUCTION OF MEMORIALS

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

**SJM12-002** by Senator(s) Hudak; also Representative(s) Szabo and Pabon--Memorializing former Senator Jim Congrove.

Laid over until Tuesday, April 17, retaining its place on the calendar.

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### INTRODUCTION OF BILLS -- FIRST READING

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

**HB12-1014** by Representative(s) Baumgardner; also Senator(s) Neville--Concerning modification of the fee for late registration of a vehicle, and, in connection therewith, making an appropriation.  
Transportation

**HB12-1240** by Representative(s) Kerr A.; also Senator(s) Bacon and King K.--Concerning statutory changes to K-12 education.  
Education

**HB12-1261** by Representative(s) Solano, Massey, Todd; also Senator(s) Bacon--Concerning effective educators in low-performing, high-needs schools, and, in connection therewith, making an appropriation.  
Education

**HB12-1324** by Representative(s) Massey and Scott; also Senator(s) Johnston and King S., Bacon, Heath--Concerning Colorado Mesa university.  
Education

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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, April 4 was laid over until Thursday, April 5, retaining its place on the calendar.

Consideration of Resolutions: SJR12-006, SJR12-024, HJR12-1004.  
Consideration of Memorials: SM12-003.  
Conference Committees to Report: SB12-020.

**TRIBUTES**

Honoring:

- Alexis Gerk, Boettcher Scholarship Winner -- by Senator Renfroe.
- McKenzie Ramirez, Boettcher Scholarship Winner -- by Senator Renfroe.
- Eagle Scout Jason Neil McAllister -- by Senator Cadman.
- Eagle Scout John Logan Dally - by Senator Cadman.
- Eagle Scout Scott Savage -- by Senator Cadman.
- The Women's Foundation -- by Senator Hudak.
- The Women and Family Action Network -- by Senator Hudak.
- The Economic Opportunity and Poverty Reduction Task Force -- by Senator Hudak.
- Amanda Komoczi of Prospect Valley Elementary, outstanding performance in the Wheat Ridge 6th Grade Essay Contest -- by Senator Jahn.
- Alexis Lombardi of Maple Grove Elementary, outstanding performance in the Wheat Ridge 6th Grade Essay Contest -- by Senator Jahn.
- Jacob Raache of Pennington Elementary, outstanding performance in the Wheat Ridge 6th Grade Essay Contest -- by Senator Jahn.
- Breanna Blucher of Stober Elementary, outstanding performance in the Wheat Ridge 6th Grade Essay Contest -- by Senator Jahn.
- John Potter of Kullerstrand Elementary, outstanding performance in the Wheat Ridge 6th Grade Essay Contest -- by Senator Jahn.
- McKinnley Bartels of Wilmore-Davis Elementary, outstanding performance in the Wheat Ridge 6th Grade Essay Contest -- by Senator Jahn.
- Dante Salamone of Wilmore-Davis Elementary, outstanding performance in the Wheat Ridge 6th Grade Essay Contest -- by Senator Jahn.

On motion of Senator Morse, the Senate adjourned until 9:00 a.m., Thursday, April 5, 2012.

Approved:

Brandon C. Shaffer  
President of the Senate

Attest:

Cindi L. Markwell  
Secretary of the Senate

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