

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

104th Legislative Day

Monday, April 23, 2012

Prayer By the chaplain, Father Eustace Sequeira, Regis University Jesuit Community, Denver.

Call to Order By the President at 10:00 a.m.

Posting of the Colors Members of the Denver Area Civil Air Patrol:
Cadet 2nd Lt. Joseph Leavitt - Forward Rifle.
Cadet Senior Master Sergeant Nolan Gray, United States Flag Bearer.
Cadet Master Sergeant Caleb Lawrence, Colorado Flag Bearer.
Cadet Technical Sergeant Nathanael Lawrence - Rear Rifle.

Pledge By Senator Lambert.

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.

Roll Call Present--35

Quorum The President announced a quorum present.

Reading of Journal On motion of Senator Aguilar, reading of the Journal of Friday, April 20, 2012, was dispensed with and the Journal was approved as corrected by the Secretary.

SENATE SERVICES REPORT

Correctly Printed: SB12-174 and 175; SCR12-003; SJR12-045 and 046.
Correctly Engrossed: SJR12-033, 045 and 046.
Correctly Enrolled: SB12-134.

On motion of Senator Morse, and with a majority of those elected to the Senate having voted in the affirmative, the Third Reading of Bills -- Final Passage Calendar (SB12-129, HCR12-1001) of Monday, April 23 was laid over until Tuesday, April 24, retaining its place on the calendar.

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 Consideration of Resolutions.

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CONSIDERATION OF RESOLUTIONS

SJR12-042 by Senator(s) Guzman and White; also Representative(s) Murray and Pabon--Concerning the designation of April as "Donate Life Colorado" month.

On motion of Senators Guzman and White, the resolution was read at length and adopted by the following roll call vote:

Table with 4 columns: YES (35), NO (0), EXCUSED (0), ABSENT (0). Rows list names and their corresponding votes (Y for Yes).

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

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.

Upon request of Senator Morse, HB12-1258 and SB12-166 were removed from the General Orders--Second Reading of Bills Consent Calendar of Monday, April 23 and were placed at the beginning of the General Orders--Second Reading of Bills Calendar of Monday, April 23.

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

HB12-1153 by Representative(s) Soper; also Senator(s) Lambert--Concerning the creation of a special license plate commemorating recipients of the distinguished flying cross, and, in connection therewith, making an appropriation.

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

HB12-1131 by Representative(s) Labuda; also Senator(s) Tochtrop--Concerning the creation of a child loss awareness 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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- HB12-1162** by Representative(s) Todd, Labuda, Looper, Solano, Soper, Ryden, Fields, Hullinghorst, McCann, Young; also Senator(s) Heath, Williams S.--Concerning the creation of an operation desert storm license plate, and, in connection therewith, making an appropriation. 1
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Ordered revised and placed on the calendar for third reading and final passage. 5
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- HB12-1275** by Representative(s) Pace; also Senator(s) White--Concerning the encouragement of outdoor recreational opportunities, and, in connection therewith, creating the wildlife sporting license plate and making an appropriation. 8
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Amendment No. 1, Finance Committee Amendment. 12
(Printed in Senate Journal, April 13, page 731 and placed in members' bill files.) 13
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Amendment No. 2, Appropriations Committee Amendment. 15
(Printed in Senate Journal, April 17, page 762 and placed in members' bill files.) 16
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As amended, ordered revised and placed on the calendar for third reading and final passage. 18
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- HB12-1258** by Representative(s) DelGrosso; also Senator(s) Jahn--Concerning regulation of public utilities in terms of alternative fuel vehicles. 21
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Ordered revised and placed on the calendar for third reading and final passage. 25
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- SB12-166** by Senator(s) Giron and Roberts; also Representative(s) Priola and Williams A.-- Concerning the coordination of various economic development reports, and, in connection therewith, requiring the Colorado office of economic development to report annually to the general assembly regarding the programs it administers. 28
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Ordered engrossed and placed on the calendar for third reading and final passage. 33
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- 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". 36
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Laid over until Tuesday, April 24, retaining its place on the calendar. 41
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- 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". 44
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Laid over until Tuesday, April 24, retaining its place on the calendar. 48
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- SB12-086** by Senator(s) Cadman, Shaffer B.; --Concerning a study of the cost of regulatory compliance for businesses in Colorado. 51
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Laid over until Tuesday, April 24, retaining its place on the calendar. 54
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- 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. 57
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Laid over until Tuesday, April 24, retaining its place on the calendar. 61
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- HB12-1160** by Representative(s) Baumgardner; also Senator(s) Schwartz--Concerning methane gas captured from active and inactive coal mines. 64
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Laid over until Tuesday, April 24, retaining its place on the calendar. 67
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- SCR12-001** by Senator(s) Steadman; also Representative(s) Ferrandino--Submitting to the registered electors of the state of Colorado an amendment to the Colorado constitution repealing provisions deemed obsolete on account of a determination of the unconstitutionality of said provisions by a court of competent jurisdiction. 1
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Laid over until Tuesday, April 24, retaining its place on the calendar. 6
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- HB12-1237** by Representative(s) Williams A.; also Senator(s) Harvey--Concerning the records kept by the unit owners' association of a common interest community. 9
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Laid over until Tuesday, April 24, retaining its place on the calendar. 12
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- SB12-144** by Senator(s) Heath and Scheffel; also Representative(s) Summers and Ryden, Kerr A.--Concerning efforts by the Colorado office of economic development to grow the state's key industries. 15
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Amendment No. 1, Appropriations Committee Amendment. 19
(Printed in Senate Journal, April 3, page 644 and placed in members' bill files.) 20
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As amended, ordered engrossed and placed on the calendar for third reading and final passage. 22
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- SB12-005** by Senator(s) Newell; also Representative(s) Massey--Concerning the creation of the Colorado business retention and expansion program. 26
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Amendment No. 1, Business, Labor, and Technology Committee Amendment. 29
(Printed in Senate Journal, January 31, pages 60-61 and placed in members' bill files.) 30
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Amendment No. 2, Appropriations Committee Amendment. 32
(Printed in Senate Journal, April 3, page 644 and placed in members' bill files.) 33
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As amended, ordered engrossed and placed on the calendar for third reading and final passage. 35
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- SB12-139** by Senator(s) Boyd; also Representative(s) Fields and Summers--Concerning the "Colorado Job Support Act", and, in connection therewith, requiring a post-enactment review of the implementation of this act. 39
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Amendment No. 1, Health & Human Services Committee Amendment. 43
(Printed in Senate Journal, March 30, pages 626-629 and placed in members' bill files.) 44
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As amended, ordered engrossed and placed on the calendar for third reading and final passage. 46
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- SB12-047** by Senator(s) King K. and Bacon; also Representative(s) Massey and Holbert--Concerning the use of assessment results for students enrolled in grades nine through twelve to assist students in graduating from high school without needing subsequent remedial educational services, and, in connection, therewith, making an appropriation. 50
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Amendment No. 1, Education Committee Amendment. 55
(Printed in Senate Journal, February 16, pages 190-191 and placed in members' bill files.) 56
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As amended, ordered engrossed and placed on the calendar for third reading and final passage. 58
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- SB12-159** by Senator(s) Hudak, Aguilar, Nicholson, Shaffer B., Williams S.; also Representative(s) Kerr J., Massey, Schafer S., Peniston, Summers--Concerning the evaluation of home- and community-based services for children with autism under the medicaid waiver program, and, in connection therewith, making an appropriation. 62
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Amendment No. 1, Health and Human Services Committee Amendment. 67
(Printed in Senate Journal, April 13, pages 731-733 and placed in members' bill files.) 68
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Amendment No. 2, Appropriations Committee Amendment. 70
(Printed in Senate Journal, April 17, pages 761-762 and placed in members' bill files.) 71
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Amendment No. 3(L.002), by Senator Hudak.

Amend Health and Human Services Committee Report, dated April 12, 2012, page 1, strike lines 19 through 22 and substitute "WITHOUT HOME- AND COMMUNITY-BASED SERVICES. SO LONG AS CHILDREN WHO ARE DETERMINED ELIGIBLE FOR THE AUTISM WAIVER PROGRAM ARE ON A WAIT LIST TO RECEIVE SERVICES, THE STATE DEPARTMENT'S PRIORITY SHALL BE TO MOVE OFF OF THE WAIT LIST THOSE CHILDREN WHO HAVE SIGNIFICANT IMPAIRMENT IN INTELLECTUAL ABILITY OR SIGNIFICANT IMPAIRMENT IN ADAPTIVE BEHAVIOR IN ADDITION TO A DIAGNOSIS OF AUTISM.".

Page 2 of the committee report, strike line 1.

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

SB12-164 by Senator(s) Heath and King K.; also Representative(s) Massey and Todd--Concerning the operation of private postsecondary institutions in Colorado, and, in connection therewith, making an appropriation.

Amendment No. 1, Education Committee Amendment.

(Printed in Senate Journal, April 9, page 682 and placed in members' bill files.)

Amendment No. 2, Appropriations Committee Amendment.

(Printed in Senate Journal, April 17, page 762 and placed in members' bill files.)

Amendment No. 3(L.005), by Senators King K. and Heath.

Amend the Education Committee report, dated April 5, 2012, page 1, line 1, strike "17" and substitute "23".

Page 1 of the committee report, after line 17, insert:

"Page 14 of the bill, line 24, strike "23-2-103.8." and substitute "23-2-103.8, IF APPLICABLE."."

Page 2 of the committee report, after line 16, add:

"Page 22 of the bill, line 26, after "(b)" insert "(I)" and strike "HAS" and substitute "MAY DEMONSTRATE".

Page 22 of the bill, line 27, strike "IF IT MEETS ALL OF" and substitute "BY MEETING".

Page 23 of the bill, line 1, strike "(I)" and substitute "(A)".

Page 23 of the bill, line 4, strike "(II)" and substitute "(B)".

Page 23 of the bill, line 6, strike "(III)" and substitute "(C)".

Page 23 of the bill, line 9, strike "(IV)" and substitute "(D)".

Page 23 of the bill, line 12, strike "(V)" and substitute "(E)".

Page 23 of the bill, after line 16, insert:

"(II) NOTWITHSTANDING ANY PROVISION OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) TO THE CONTRARY, A PRIVATE COLLEGE OR UNIVERSITY IS NOT REQUIRED TO MEET THE CRITERIA SPECIFIED IN SUB-SUBPARAGRAPHS (A) AND (B) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) IF THE INSTITUTION IS PART OF A GROUP OF PRIVATE COLLEGES AND UNIVERSITIES THAT ARE OWNED AND OPERATED BY A COMMON OWNER, SO LONG AS ALL OF THE OTHER INSTITUTIONS IN THE GROUP MEET THE CRITERIA SPECIFIED IN SUB-SUBPARAGRAPHS (A) AND (B) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b).".

Amendment No. 4(L.006), by Senators King K. and Heath.

Amend printed bill, page 22, line 20, strike "ALL OF".

Page 22, line 21, after "(b)" insert "OR (c)".

Page 22, line 24, strike "ALL OF" and after "(b)" insert "OR (c)".

Page 23, line 16, strike "HAVE BEEN APPROVED BY ITS" and substitute "COMPLY WITH THE REQUIREMENTS OF THE INSTITUTION'S".

Page 23, before line 17, insert:

"(c) A PRIVATE COLLEGE OR UNIVERSITY MAY DEMONSTRATE FINANCIAL INTEGRITY BY MEETING THE FOLLOWING CRITERIA:

(I) THE INSTITUTION HAS RECEIVED AND MAINTAINS FULL ACCREDITATION WITHOUT SANCTION FROM AN ACCREDITING AGENCY THAT IS RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION, WHICH ACCREDITING AGENCY REQUIRES THE INSTITUTION TO MAINTAIN SURETY OR AN ESCROW ACCOUNT OR HAS AFFIRMATIVELY WAIVED OR OTHERWISE REMOVED THE REQUIREMENT FOR THE INSTITUTION;

(II) THE INSTITUTION HAS BEEN CONTINUOUSLY AUTHORIZED BY THE COMMISSION FOR AT LEAST FIVE YEARS;

(III) THE INSTITUTION OWNS AND OPERATES A PERMANENT INSTRUCTIONAL FACILITY IN THE STATE;

(IV) THE INSTITUTION ANNUALLY PROVIDES TO THE COMMISSION AUDITED FINANCIAL STATEMENTS FOR THE MOST RECENT FISCAL YEAR THAT DEMONSTRATE THAT THE INSTITUTION MAINTAINS POSITIVE EQUITY AND PROFITABILITY;

(V) THE INSTITUTION MAINTAINS A COMPOSITE SCORE OF AT LEAST 1.5 ON ITS EQUITY, PRIMARY RESERVE, AND NET INCOME RATIOS, AS REQUIRED IN 34 CFR 668.172; AND

(VI) THE INSTITUTION MEETS OR EXCEEDS THE PRO RATA REFUND POLICIES REQUIRED BY THE FEDERAL DEPARTMENT OF EDUCATION IN 34 CFR 668 OR, IF THE INSTITUTION DOES NOT PARTICIPATE IN FEDERAL FINANCIAL AID PROGRAMS, THE INSTITUTION'S REFUND AND TERMINATION PROCEDURES COMPLY WITH THE REQUIREMENTS OF THE INSTITUTION'S ACCREDITING BODY."

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

SB12-165 by Senator(s) Schwartz, Giron; also Representative(s) Baumgardner--Concerning the funding of Colorado water conservation board projects, and making appropriations in connection therewith.

Amendment No. 1, Agriculture, Natural Resources, and Energy Committee Amendment.
(Printed in Senate Journal, April 5, page 663 and placed in members' bill files.)

Amendment No. 2, Appropriations Committee Amendment.
(Printed in Senate Journal, April 17, page 762 and placed in members' bill files.)

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

HB12-1304 by Representative(s) Barker; also Senator(s) Newell--Concerning measures to prevent organized retail theft.

Amendment No. 1, Business, Labor & Technology Committee Amendment.
(Printed in Senate Journal, March 29, pages 605-606 and placed in members' bill files.)

As amended, laid over until Tuesday, April 24, retaining its place on the calendar.

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 (HB12-1041, HB12-1081, HB12-1059, SB12-101, SB12-027, SB12-028, SB12-106, HB12-1140, SB12-135, SB12-002, HB12-1267) of Monday, April 23 was laid over until April 24, retaining its place on the calendar.

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator Hudak, 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: SB12-166, SB12-144 as amended, SB12-005 as amended, SB12-139 as amended, SB12-047 as amended, SB12-159 as amended, SB12-164 as amended, SB12-165 as amended, HB12-1153, HB12-1131, HB12-1162, HB12-1275 as amended, HB12-1258.

Laid over until Tuesday, April 24: SB12-155, SB12-070, SB12-086, SB12-132, HB12-1160, SCR12-001, HB12-1237, HB12-1304 as amended, HB12-1041, HB12-1081, HB12-1059, SB12-101, SB12-027, SB12-028, SB12-106, HB12-1140, SB12-135, SB12-002, HB12-1267.

MESSAGE FROM THE HOUSE

April 23, 2012

The House has adopted and returns herewith SJR12-042.

INTRODUCTION OF CONCURRENT RESOLUTIONS

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

SCR12-004 by Senator(s) Lambert; also Representative(s) Swalm--Submitting to the registered electors of the state of Colorado an amendment to the Colorado constitution concerning public access to certain information regarding the public employees' retirement association.
State, Veterans & Military Affairs

INTRODUCTION OF RESOLUTIONS

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

SJR12-047 by Senator(s) Mitchell; --Concerning an application to the Congress of the United States to call a convention for proposing amendments to the Constitution of the United States to provide that an increase in the federal debt requires approval from a majority of the legislatures of the separate states.
State, Veterans & Military Affairs

INTRODUCTION OF MEMORIALS

The following memorial was read by title:

SJM12-004 by Senator(s) Mitchell; also Representative(s) Priola--Memorializing former Senator Ted L. Strickland.

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

SIGNING OF BILLS -- RESOLUTIONS -- MEMORIALS

The President has signed: SB12-013, 110, 124, 134, 156 and 158.

MESSAGE FROM THE GOVERNOR

April 20, 2012

To the Honorable Senate
Sixty-Eighth General Assembly
Second Regular Session
State Capitol
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 Act:

SB12-133: CONCERNING THE DIVERSION OF ELECTRONIC DEVICES FROM LANDFILLS.

Approved April 20, 2012 at 3:19 p.m.

Sincerely,
(signed)
John W. Hickenlooper
Governor

April 19, 2012

To the Honorable Senate
Sixty-Eighth General Assembly
Second Regular Session
State Capitol
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 Act:

SB12-035: CONCERNING LIMITED LIABILITY FOR SPACEFLIGHT ACTIVITIES.
Approved April 19, 2012 at 1:19 p.m.

Sincerely,
(signed)
John W. Hickenlooper
Governor

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RECONSIDERATION OF SJM12-004

SJM12-004 by Senator(s) Mitchell; also Representative(s) Priola--Memorializing former Senator Ted L. Strickland.

Having voted on the prevailing side, Senator Morse moved for reconsideration of the last Senate action, laying over **SJM12-004**.

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

INTRODUCTION OF MEMORIALS

The following memorial was read by title:

SJM12-004 by Senator(s) Mitchell; also Representative(s) Priola--Memorializing former Senator Ted L. Strickland.

Laid over until Wednesday, May 2, retaining its place on the calendar.

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 Monday, April 23 was laid over until Tuesday, April 24, retaining its place on the calendar.

Consideration of Resolutions: SJR12-023, SJR12-036, SJR12-038, SJR12-039, SJR12-040, SJR12-041, SJR12-043, SJR12-044, HJR12-1017.

Consideration of Memorials: SM12-003.

Consideration of House Amendments to Senate Bills: SB12-128, SB12-036.

Consideration of Governor's Appointments:

Members of the Colorado Tourism Board of Directors.

Conference Committees to Report: SB12-020, HB12-1053, HB12-1002, HB12-1335, HB12-1336, HB12-1337, HB12-1338, HB12-1339, HB12-1340, HB12-1344.

Requests for Conference Committee: HB12-1168.

On motion of Senator Morse, the Senate adjourned until 9:00 a.m., Tuesday, April 24, 2012.

Approved:

Brandon C. Shaffer
President of the Senate

Attest:

Cindi L. Markwell
Secretary of the Senate

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