

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

44th Legislative Day

Thursday, February 24, 2011

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Prayer	By the chaplain, Reverend Paul Kottke, University Park United Methodist Church, Denver.	11
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Call to Order	By the President at 9:00 a.m.	14
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Pledge	By Senator Giron.	17
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Roll Call	Present--33	19
	Excused--2, Harvey, Hodge.	20
		21
Quorum	The President announced a quorum present.	22
		23
Reading of Journal	On motion of Senator King S., reading of the Journal of Wednesday, February 23, 2011, was dispensed with and the Journal was approved as corrected by the Secretary.	24
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MESSAGE FROM THE HOUSE

February 23, 2011

Mr. President:

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB11-1260, 1203, 1226, 1183.

The House has passed on Third Reading and transmitted to the Revisor of Statutes
 HB11-1188, amended as printed in House Journal, February 22, pages 383-384.
 HB11-1042, amended as printed in House Journal, February 22, page 384.
 HB11-1144, amended as printed in House Journal, February 22, page 385.
 HB11-1186, amended as printed in House Journal, February 22, page 385.
 HB11-1101, amended as printed in House Journal, February 22, page 385.
 HB11-1155, amended as printed in House Journal, February 22, pages 385-386.
 HB11-1178, amended as printed in House Journal, February 22, page 386.
 HB11-1189, amended as printed in House Journal, February 22, page 387.
 HB11-1210, amended as printed in House Journal, February 22, page 388.
 HB11-1071, amended as printed in House Journal, February 22, page 388.
 HB11-1181, amended as printed in House Journal, February 22, page 388.

MESSAGE FROM THE REVISOR OF STATUTES

February 23, 2011

To: Senate

Message From Revisor of Statutes

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We herewith transmit:

Without comment, HB11-1203, 1226, and 1260.

Without comment, as amended, HB11-1042, 1071, 1101, 1144, 1155, 1178, 1181, 1186, 1188, 1189, and 1210.

MESSAGE FROM THE GOVERNOR

Appointment Letters of designation and appointment from Governor Bill Ritter, Jr., were read and assigned to committee as follows:

January 4, 2011

To the Honorable
Colorado Senate
Colorado General Assembly
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint, reappoint and submit to your consideration, the following:

MEMBERS OF THE
BOARD OF TRUSTEES FOR
ADAMS STATE COLLEGE

for terms expiring December 31, 2014:

Liane "Buffie" McFadyen of Pueblo West, Colorado, a Democrat, appointed;

Timothy L. Walters of Alamosa, Colorado, a Republican, reappointed.

Sincerely,
(signed)
Bill Ritter, Jr.
Governor
Rec'd: 1/10/11
Cindi Markwell, Secretary of the Senate

Committee on Education

August 16, 2010

To the Honorable
Colorado Senate
Colorado General Assembly
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint, and submit to your consideration, the following:

MEMBER OF THE
COLLEGEINVEST BOARD OF DIRECTORS

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for a term expiring July 31, 2014:

David L. Stevens of Denver, Colorado, appointed.

Sincerely,
(signed)
Bill Ritter, Jr.
Governor
Rec'd: 8/25/10
Cindi Markwell, Asst. Secretary

Committee on Education

January 4, 2011

To the Honorable
Colorado Senate
Colorado General Assembly
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint, and submit to your consideration, the following:

MEMBER OF THE
COLLEGEINVEST BOARD OF DIRECTORS

for a term expiring July 31, 2014:

Charles W. Kercheval of Parker, Colorado, appointed.

Sincerely,
(signed)
Bill Ritter, Jr.
Governor
Rec'd: 1/10/11
Cindi Markwell, Secretary of the Senate

Committee on Education

November 12, 2010

To the Honorable
Colorado Senate
Colorado General Assembly
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint, and submit to your consideration, the following:

MEMBER OF THE
COLLEGEINVEST BOARD OF DIRECTORS

for a term expiring July 31, 2014:

Courtney Cowgill of Centennial, Colorado, appointed.

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Sincerely,
(signed)
Bill Ritter, Jr.
Governor
Rec'd: 11/29/10
Cindi Markwell, Secretary of the Senate

Committee on Education

December 20, 2010

To the Honorable
Colorado Senate
Colorado General Assembly
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint, and submit to your consideration, the following:

MEMBER OF THE
COLLEGEINVEST BOARD OF DIRECTORS

for a term expiring July 31, 2012:

Angela A. Gripenstraw of Greenwood Village, Colorado, appointed.

Sincerely,
(signed)
Bill Ritter, Jr.
Governor
Rec'd: 1/3/11
Cindi Markwell, Secretary of the Senate

Committee on Education

January 4, 2011

To the Honorable
Colorado Senate
Colorado General Assembly
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, reappoint and submit to your consideration, the following:

MEMBERS OF THE
BOARD OF TRUSTEES FOR FORT LEWIS COLLEGE

for terms expiring December 31, 2014:

Peter R. Decker of Ridgway, Colorado, a Democrat, reappointed;

Matthew S. Wassam of Sedalia, Colorado, a Republican, appointed.

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Sincerely,
(signed)
Bill Ritter, Jr.
Governor
Rec'd: 1/10/11
Cindi Markwell, Secretary of the Senate

Committee on Education

December 20, 2010

To the Honorable
Colorado Senate
Colorado General Assembly
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint, reappoint and submit to your consideration, the following:

MEMBERS OF THE
BOARD OF TRUSTEES FOR MESA STATE COLLEGE

effective December 31, 2010, for terms expiring December 31, 2014:

- Honorable Jose D.L. Marquez of Englewood, Colorado, a Democrat, reappointed;
- Kathleen S. Eck of Edwards, Colorado, a Republican, appointed.

Sincerely,
(signed)
Bill Ritter, Jr.
Governor
Rec'd: 1/3/11
Cindi Markwell, Secretary of the Senate

Committee on Education

January 4, 2011

To the Honorable
Colorado Senate
Colorado General Assembly
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint, reappoint, and submit to your consideration, the following:

MEMBERS OF THE
BOARD OF TRUSTEES OF METROPOLITAN
STATE COLLEGE OF DENVER

for terms expiring December 31, 2014:

- Terrance D. Carroll of Denver, Colorado, a Democrat, appointed;
- Ellen S. Robinson of Denver, Colorado, a Democrat, reappointed;
- Michelle M. Lucero of Littleton, Colorado, a Democrat, reappointed.

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Sincerely,
(signed)
Bill Ritter, Jr.
Governor
Rec'd: 1/10/11
Cindi Markwell, Secretary of the Senate

Committee on Education

November 12, 2010

To the Honorable
Colorado Senate
Colorado General Assembly
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint, reappoint and submit to your consideration, the following:

MEMBERS OF THE
COLORADO SCHOOL OF MINES, BOARD OF TRUSTEES

for a term expiring December 31, 2012:

Frances M. Vallejo of Houston, Texas, a Republican who is a graduate of the Colorado School of Mines, to fill the vacancy occasioned by the resignation of Maria T. Fox of Wheat Ridge, Colorado, appointed;

for a term expiring December 31, 2014:

Richard H. Truly of Golden, Colorado, an Unaffiliated who is not a graduate of the Colorado School of Mines, reappointed.

Sincerely,
(signed)
Bill Ritter, Jr.
Governor
Rec'd: 11/29/10
Cindi Markwell, Secretary of the Senate

Committee on Education

January 4, 2011

To the Honorable
Colorado Senate
Colorado General Assembly
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint, and submit to your consideration, the following:

MEMBERS OF THE
BOARD OF TRUSTEES FOR
WESTERN STATE COLLEGE OF COLORADO

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for terms expiring December 31, 2014:

Linda A. Clark of Denver, Colorado, a Democrat, appointed;

Todd M. Wheeler of Castle Rock, Colorado, a Republican, appointed.

Sincerely,
 (signed)
 Bill Ritter, Jr.
 Governor
 Rec'd: 1/11/10
 Cindi Markwell, Secretary of the Senate

Committee on Education

SIGNING OF BILLS -- RESOLUTIONS -- MEMORIALS

The President has signed: SB11-135, 140, 143, 145, 146, 147, 148, 149, 151, 152, 153, 154, 155, 157, 160, 161 and 163.

SENATE SERVICES REPORT

Correctly Printed: SJR11-017.

INTRODUCTION AND CONSIDERATION OF RESOLUTIONS

SJR11-018 by Senator(s) Schwartz; also Representative(s) Bradford--Concerning recognition of the Ice Age discovery in Snowmass Village.

On motion of Senator Schwartz, the resolution was read at length.

Amendment No. 1(L.001), by Senator Schwartz.

Amend printed joint resolution, page 4, line 21, after "Construction;" insert "Paul Jacobson, Project Manager on the Ziegler Reservoir project;".

The amendment was **passed** on the following roll call vote:

YES	33	NO	0	EXCUSED	2	ABSENT	0
Aguilar	Y	Guzman	Y	Kopp	Y	Scheffel	Y
Bacon	Y	Harvey	E	Lambert	Y	Schwartz	Y
Boyd	Y	Heath	Y	Lundberg	Y	Spence	Y
Brophy	Y	Hodge	E	Mitchell	Y	Steadman	Y
Cadman	Y	Hudak	Y	Morse	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		

Senate in recess. Senate reconvened.

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

YES	33	NO	0	EXCUSED	2	ABSENT	0
Aguilar	Y	Guzman	Y	Kopp	Y	Scheffel	Y
Bacon	Y	Harvey	E	Lambert	Y	Schwartz	Y
Boyd	Y	Heath	Y	Lundberg	Y	Spence	Y
Brophy	Y	Hodge	E	Mitchell	Y	Steadman	Y
Cadman	Y	Hudak	Y	Morse	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-sponsors added: Aguilar, Bacon, Boyd, Brophy, Cadman, Carroll, Foster, Giron, Grantham, Guzman, Heath, Hudak, Jahn, Johnston, King K., King S., Kopp, Lambert, Lundberg, Mitchell, Morse, Newell, Nicholson, Renfroe, Roberts, Scheffel, Shaffer B., Spence, Steadman, Tochtrop, White and Williams S.

SJR11-017 by Senator(s) Brophy; also Representative(s) Sonnenberg--Concerning the designation of the week of February 19 through 26 as "National FFA Week".

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

YES	33	NO	0	EXCUSED	2	ABSENT	0
Aguilar	Y	Guzman	Y	Kopp	Y	Scheffel	Y
Bacon	Y	Harvey	E	Lambert	Y	Schwartz	Y
Boyd	Y	Heath	Y	Lundberg	Y	Spence	Y
Brophy	Y	Hodge	E	Mitchell	Y	Steadman	Y
Cadman	Y	Hudak	Y	Morse	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-sponsors added: Aguilar, Bacon, Boyd, Cadman, Carroll, Foster, Giron, Grantham, Guzman, Heath, Hudak, Jahn, Johnston, King K., King S., Kopp, Lambert, Lundberg, Mitchell, Morse, Newell, Nicholson, Renfroe, Roberts, Scheffel, Schwartz, Shaffer B., Spence, Steadman, Tochtrop, White and Williams S.

COMMITTEE OF REFERENCE REPORTS

Business,
Labor, &
Technology

After consideration on the merits, the Committee recommends that **HB11-1115** be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation.

Amend reengrossed bill, page 2, strike lines 11 through 18.

Re-number succeeding sections accordingly.

Page 3, line 14, strike "PARAGRAPH (d) OR (e)" and substitute "SUBPARAGRAPH (II) OF PARAGRAPH (c)".

Page 3, strike lines 19 through 23 and substitute:

"(c) (I) IF THE PUBLIC ENTITY OCCUPIES OR BEGINS TO USE THE WORK, IMPROVEMENT, OR CONSTRUCTION FOR ITS INTENDED PURPOSE AFTER IT IS SUBSTANTIALLY COMPLETED BUT BEFORE THE CONTRACT IS FINALLY ACCEPTED BY THE PUBLIC ENTITY, THE PUBLIC ENTITY SHALL RELEASE THE WITHHELD PERCENTAGE IN ACCORDANCE WITH".

Page 3, line 25, strike "PARAGRAPH (d) OF THIS SUBSECTION (1)." and substitute "SUBPARAGRAPH (II) OF THIS PARAGRAPH (c)".

Page 4, line 3, strike "(d)" and substitute "(II)".

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Page 4, line 4, strike "PARAGRAPH (c) OF THIS SUBSECTION (1)" and substitute "SUBPARAGRAPH (I) OF THIS PARAGRAPH (c)".

Page 4, line 10, strike "(e)" and substitute "(d)".

Page 4, line 11, strike "may SHALL," and substitute "may,".

Agriculture,
Natural
Resources,
and Energy

After consideration on the merits, the Committee recommends that **HB11-1040** be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.

Business,
Labor, &
Technology

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

MEMBERS OF THE
PINNACOL ASSURANCE BOARD OF DIRECTORS

for a term expiring January 1, 2013:

John N. Cevette of Platteville, Colorado, an employee of an employer whose liability is insured by Pinnacol, to fill the vacancy occasioned by the resignation of Holman F. Carter of Boulder, Colorado, appointed;

for terms expiring January 1, 2016:

John C. Plotkin of Lakewood, Colorado, an employer whose liability is insured by Pinnacol, appointed.

Blair E. Richardson of Denver, Colorado, to serve as an employee of an employer whose liability is insured by Pinnacol, appointed.

Health &
Human
Services

After consideration on the merits, the Committee recommends that **SB11-128** be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation.

Amend printed bill, page 3, line 4, after "COURT" insert "OR ADMINISTRATIVE".

Page 3, strike lines 14 and 15 and substitute "AT LEAST ONE CHILD-ONLY PLAN. THE CARRIER SHALL ISSUE EVERY CHILD-ONLY PLAN PURSUANT TO THIS SECTION. A CARRIER SHALL ACCEPT AN".

Page 3, strike lines 20 through 27.

Page 4, strike lines 1 through 4.

Renumber succeeding subsections accordingly.

Page 4, line 5, strike "SUBSECTION (4)" and substitute "SUBSECTION (3)".

Page 4, strike lines 10 and 11 and substitute "AFTER THE EFFECTIVE DATE OF THIS SECTION. IN EACH YEAR THEREAFTER, THE OPEN ENROLLMENT PERIODS SHALL BE IN JANUARY AND JULY. EACH PERIOD MUST LAST ONE".

Page 4, line 16, strike "BASIS, WITHOUT LIMITATIONS OR".

Page 4, strike line 17 and substitute "BASIS".

Page 5, strike lines 18 through 21 and substitute:

"(4) EACH CARRIER THAT PARTICIPATES IN THE INDIVIDUAL

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MARKET IN COLORADO SHALL SUBMIT TO THE COMMISSIONER THE FOLLOWING INFORMATION AT THE TIME THE CARRIER SUBMITS THE INFORMATION REQUIRED IN SECTION 10-16-111 (4) (a):".

Education After consideration on the merits, the Committee recommends that **HB11-1017** be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.

Education After consideration on the merits, the Committee recommends that **SB11-069** be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation.

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

SECTION 1. The introductory portion to 22-30.5-104.5 (3) and 22-30.5-104.5 (3) (f), Colorado Revised Statutes, are amended, and the said 22-30.5-104.5 (3) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

22-30.5-104.5. Charter school and charter authorizer standards review committee - creation - duties - repeal. (3) On or before August 1, 2011, the committee shall complete its work and submit recommendations to the state board and the education committees of the house of representatives and the senate, or any successor committees, concerning the following issues related to standards for charter schools and charter school authorizers, including standards for individual schools and ~~charter~~ EDUCATIONAL management organizations:

(f) Ethical issues, including but not limited to excess benefits, executive compensation, nepotism, and conflicts of interest in charter school governance; and

(h) WHETHER THE EDUCATIONAL MANAGEMENT ORGANIZATIONS OPERATING IN THE STATE SHOULD BE SUBJECT TO STATE-LEVEL REGULATION; AND

(i) BEST PRACTICES FOR CONTRACTING WITH EDUCATIONAL MANAGEMENT ORGANIZATIONS.

SECTION 2. 22-30.5-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-30.5-103. Definitions. As used in this part 1, unless the context otherwise requires:

(3.5) "EDUCATIONAL MANAGEMENT ORGANIZATION", COMMONLY REFERRED TO AS AN "EDUCATION SERVICES PROVIDER", MEANS A NONPROFIT, NOT-FOR-PROFIT, OR FOR-PROFIT ENTITY, OTHER THAN A CHARTER SCHOOL, THAT CONTRACTS WITH A SCHOOL DISTRICT, THE STATE CHARTER SCHOOL INSTITUTE, A BOARD OF COOPERATIVE SERVICES, OR A CHARTER SCHOOL TO DIRECTLY OPERATE ONE OR MORE PUBLIC SCHOOLS.

SECTION 3. Part 1 of article 2 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-2-140. Educational management organizations - report.

(1) ON OR BEFORE JANUARY 15, 2012, AND ON OR BEFORE JANUARY 15 EACH YEAR THEREAFTER, THE DEPARTMENT SHALL POST ON ITS WEB SITE A REPORT CONCERNING EDUCATIONAL MANAGEMENT ORGANIZATIONS, WHICH REPORT SHALL SPECIFY, BUT NEED NOT BE LIMITED TO, THE FOLLOWING INFORMATION:

(a) THE NAME OF EACH EDUCATIONAL MANAGEMENT ORGANIZATION THAT OPERATED IN THE STATE IN THE PREVIOUS CALENDAR YEAR;

(b) WITH REGARD TO EACH EDUCATIONAL MANAGEMENT ORGANIZATION, THE NAME OF THE PUBLIC SCHOOLS OPERATED BY THE EDUCATIONAL MANAGEMENT ORGANIZATION, IDENTIFYING FOR EACH PUBLIC SCHOOL:

(I) EITHER THE SCHOOL DISTRICT OF WHICH IT IS A PART OR THAT IT IS AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE; AND

(II) THE NUMBER OF STUDENTS ENROLLED IN THE PUBLIC SCHOOL.

(2) FOR PURPOSES OF THIS SECTION, "EDUCATIONAL MANAGEMENT ORGANIZATION" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 22-30.5-103 (3.5).

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SECTION 4. 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."

Judiciary After consideration on the merits, the Committee recommends that **SB11-165** be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.

Trans-Portation The Committee on Transportation has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:

EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION

effective February 14, 2011, for a term expiring at the pleasure of the Governor:

Don Hunt, of Denver, Colorado.

State, Veterans, & Military Affairs After consideration on the merits, the Committee recommends that **HB11-1089** be referred to the Committee on Education with favorable recommendation.

CONFERENCE COMMITTEE GRANTED FURTHER POWERS

SB11-164 by Senator(s) Hodge, Steadman, Lambert; also Representative(s) Gerou, Becker, Ferrandino--Concerning the augmentation of the general fund through transfers of certain moneys.

Senator Steadman moved that the Senate conferees on the first conference committee on **SB-164** be granted permission 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 **adopted**.

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 Thursday, February 24 was laid over until Friday, February 25, retaining its place on the calendar.

General Orders -- Second Reading of Bills -- Consent Calendar: HB11-1077, HB11-1041, HB11-1051, HB11-1035, HB11-1110.

General Orders -- Second Reading of Bills: SB11-019, SB11-055, SB11-049, SB11-082, SB11-115, SB11-084, SB11-015, SB11-050, SB11-120.

Consideration of Resolutions: SJR11-005.

Consideration of Governor's Appointments:

Executive Director of the Department of Local Affairs

Conference Committees to Report: SB11-159, SB11-164, SB11-144, SB11-137, SB11-141, SB11-136, SB11-142.

Senator Foster requested her name be removed as co-prime sponsor on HB11-1220 and will abstain from any votes on said bill under Senate Rule 17(c).

Upon announcement of President Shaffer, Senator Foster was removed as Senate co-prime sponsor on HB11-1220. Senator Williams S. will remain as Senate prime sponsor for HB11-1220.

On motion of Senator Morse, the Senate adjourned until 9:00 a.m., Friday, February 25, 2011.

Approved:

Brandon C. Shaffer
President of the Senate

Attest:

Cindi Markwell
Secretary of the Senate

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