HOUSE JOURNAL SIXTY-EIGHTH GENERAL ASSEMBLY STATE OF COLORADO First Regular Session

Seventeenth Legislative Day

Friday, January 28, 2011

The Speaker called the House to order at 9:00 a.m. 1 2 3 Prayer by the Reverend Brad Meuli, Denver Rescue Mission. 4 5 Pledge of Allegiance led by Tate Reynolds, Limon Elementary School. 6 7 The roll was called with the following result: 8 9 Present--64. 10 Excused--Representative(s) Miklosi--1. 11 12 The Speaker declared a quorum present. 13 14 On motion of Representative Beezley, the reading of the journal of 15 January 27, 2011, was declared dispensed with and approved as corrected 16 by the Chief Clerk. 17 18 19 20 21 **MESSAGE(S) FROM THE SENATE** 22 23 The Senate has adopted and transmits herewith: 24 25 SJR11-006 amended as printed in Senate Journal, January 28, 2011. 26 27 28 INTRODUCTION AND CONSIDERATION OF RESOLUTION 29 On motion of Representative Stephens, the rules were suspended and the 30 following resolution was given immediate consideration. 31 32 33 SJR11-006 by Senator(s) King K.; also Representative(s) Massey--Concerning recognition of School Choice Week in 34 35 Colorado. 36 (Printed and placed in member's file). 37 38 On motion of Representative Massey, the resolution was read at length 39 40 and **adopted** by **viva voce** vote. 41 42 Current Roll Call added as co-sponsor(s): Representative(s) Acree, Balmer, Barker, Baumgardner, Becker, Beezley, Bradford, Brown, Casso, Conti, Coram, 43

Court, DelGrosso, Duran, Ferrandino, Fields, Fischer, Gardner B., Gardner D., 1 2 Gerou, Hamner, Holbert, Hullinghorst, Jones, Joshi, Kagan, Kefalas, Kerr A., 3 Kerr J., Labuda, Lee, Levy, Liston, Looper, McCann, McKinley, Murray, 4 Nikkel, Pabon, Pace, Peniston, Priola, Ramirez, Riesberg, Ryden, Schafer S., Scott, Solano, Sonnenberg, Soper, Stephens, Summers, Swalm, Swerdfeger, 5 6 Szabo, Todd, Tyler, Vaad, Vigil, Waller, Williams A., Wilson, McNulty. 7 8 9 On motion of Representative DelGrosso, the House resolved itself into 10 Committee of the Whole for consideration of General Orders, and he was 11 called to the Chair to act as Chairman. 12 13 **GENERAL ORDERS--SECOND READING OF BILLS** 14 15 16 The Committee of the Whole having risen, the Chairman reported the titles of the following bills had been read (reading at length had been 17 dispensed with by unanimous consent), the bills considered and action 18 19 taken thereon as follows: 20 21 (Amendments to the committee amendment are to the printed committee 22 report which was printed and placed in the members' bill file.) 23 by Representative(s) Riesberg, Gardner B., McCann, 24 HB11-1041 25 Swalm; also Senator(s) Harvey--Concerning the Colorado 26 insurance guaranty association. 27 Amendment No. 1, Economic & Business Development Report, dated 28 29 January 20, 2011, and placed in member's bill file; Report also printed in 30 House Journal, January 21, page 76. 31 32 As amended, ordered engrossed and placed on the Calendar for Third 33 Reading and Final Passage. 34 35 HB11-1001 by Representative(s) Gardner B.; also Senator(s) Morse--Concerning the enactment of Colorado Revised Statutes 36 2010 as the positive and statutory law of the state of 37 38 Colorado. 39 40 Ordered engrossed and placed on the Calendar for Third Reading and 41 Final Passage. 42 43 by Representative(s) Todd; also Senator(s) Steadman, <u>HB11-1021</u> 44 Cadman--Concerning the fiscal year of the Colorado 45 channel authority. 46 47 Ordered engrossed and placed on the Calendar for Third Reading and 48 Final Passage. 49 by Representative(s) Court; also Senator(s) Carroll--50 HB11-1035 Concerning an informative statement to be included in the 51 52 ballot information booklet preceding each measure that is 53 to appear on the ballot. 54 55 Ordered engrossed and placed on the Calendar for Third Reading and 56 Final Passage.

1 HB11-1019 by Representative(s) Kagan; also Senator(s) Boyd--2 Concerning the waiver of copayments and deductibles by 3 school-based health centers. 4 5 Ordered engrossed and placed on the Calendar for Third Reading and 6 Final Passage. 7 <u>HB11-1040</u> by Representative(s) Brown; also Senator(s) Tochtrop--8 9 Concerning an increase in the length of terms served by 10 members of the state conservation board. 11 Ordered engrossed and placed on the Calendar for Third Reading and 12 13 Final Passage. 14 <u>HB11-1017</u> 15 by Representative(s) Duran; also Senator(s) Steadman--Concerning the manner in which a member of an advisory 16 17 committee of the board of directors of the Auraria higher 18 education center is replaced. 19 20 Ordered engrossed and placed on the Calendar for Third Reading and 21 Final Passage. 22 by Representative(s) Todd, Acree, Hamner, Massey, Murray, Peniston, Priola, Riesberg, Schafer S., Solano, 23 HB11-1060 24 25 Summers; also Senator(s) Renfroe, Bacon, Heath, Hudak, 26 King K., Kopp, Spence--Concerning term lengths for the 27 governor appointments to the board of trustees of the 28 university of northern Colorado. 29 Ordered engrossed and placed on the Calendar for Third Reading and 30 31 Final Passage. 32 33 by Representative(s) Peniston, Massey, Hamner, Murray, HB11-1077 Ramirez, Schafer S., Solano, Summers, Todd; also Senator(s) Spence--Concerning the "Exceptional 34 35 Children's Educational Act" as it refers to gifted children. 36 37 38 Amendment No. 1, Education Report, dated January 24, 2011, and placed 39 in member's bill file; Report also printed in House Journal, January 25, pages 92-93. 40 41 42 <u>Amendment No. 2</u>, by Representative(s) Peniston. 43 44 Amend printed bill, page 2, line 20, strike "MAY SERVE". 45 46 Page 11, line 9, strike "MAY". 47 48 Page 11, line 10, strike "SERVE". 49 As amended, ordered engrossed and placed on the Calendar for Third 50 Reading and Final Passage. 51 52 53 54 55 56

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ADOPTION OF COMMITTEE OF THE WHOLE REPORT

Passed Second Reading: HB11-1041 amended, 1001, 1021, 1035, 1019, 1040, 1017, 1060, 1077 amended.

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6 The Chairman moved the adoption of the Committee of the Whole 7 Report. As shown by the following roll call vote, a majority of those 8 elected to the House voted in the affirmative, and the Report was 9 **adopted**.

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11	YES	62	NO	0	EXCUSED	2	ABSENT	1
12	Acree	Y	Fischer	Y	Liston	Y	Scott	Y
13	Balmer	Y	Gardner B.	Y	Looper	Y	Solano	Y
14	Barker	Y	Gardner D.	Y	Massey	Y	Sonnenberg	Y
15	Baumgardner	Y	Gerou	Y	McCann	Y	Soper	Y
16	Becker	Y	Hamner	Y	McKinley	E	Stephens	Y
17	Beezley	Y	Holbert	Y	Miklosi	E	Summers	Y
18	Bradford	Y	Hullinghorst	Y	Murray	-	Swalm	Y
19	Brown	Y	Jones	Y	Nikkel	Y	Swerdfeger	Y
20	Casso	Y	Joshi	Y	Pabon	Y	Szabo	Y
21	Conti	Y	Kagan	Y	Pace	Y	Todd	Y
22	Coram	Y	Kefalas	Y	Peniston	Y	Tyler	Y
23	Court	Y	Kerr A.	Y	Priola	Y	Vaad	Y
24	DelGrosso	Y	Kerr J.	Y	Ramirez	Y	Vigil	Y
25	Duran	Y	Labuda	Y	Riesberg	Y	Waller	Y
26	Ferrandino	Y	Lee	Y	Ryden	Y	Williams A.	Y
27	Fields	Y	Levy	Y	Schafer S.	Y	Wilson	Y
28			-				Speaker	Y
29							-	

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- 30 31 32

REPORT(S) OF COMMITTEE(S) OF REFERENCE

33 34 ECONOMIC & BUSINESS DEVELOPMENT

After consideration on the merits, the Committee recommends the
 following:
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HB11-1044 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

42 Amend printed bill, page 3, line 6, strike "JANUARY" and substitute 43 "JULY".

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- 45 Page 4, line 17, after "(b)" insert "OR (c)".
- 4647 Page 4, line 20, strike "JANUARY" and substitute "JULY".
- 4849 Page 4, line 27, strike "JANUARY" and substitute "JULY".'
- 50 51 Page 5, line 7, strike "TWENTY-SIX" and substitute "THIRTY-SIX".
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- 53 Page 5, strike lines 24 through 27.
- 55 Page 6, strike lines 1 through 3 and substitute:
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1 "(c) If the department receives a proposal to regulate a 2 professional or occupational group indicating, based on documentation 3 verified by the department, that the unregulated professional or occupational group poses an imminent threat to public health, safety, or 4 welfare, the department shall promptly notify the proponents of the 5 proposed regulation and the LEGISLATIVE COUNCIL OF THE general 6 7 assembly of the imminent threat and shall recommend that the 8 professional or occupational group be regulated by the state AND SHALL 9 SUBMIT TO THE LEGISLATIVE COUNCIL THE DOCUMENTATION ON WHICH IT 10 BASES ITS FINDING OF IMMINENT THREAT. WITHIN THIRTY DAYS AFTER 11 RECEIPT OF THE NOTICE AND DOCUMENTATION FROM THE DEPARTMENT, 12 THE LEGISLATIVE COUNCIL SHALL CONDUCT A HEARING TO EXAMINE THE 13 DOCUMENTATION AND DETERMINE WHETHER IT CONCURS WITH THE 14 DEPARTMENT'S FINDING THAT AN IMMINENT THREAT EXISTS. IN 15 CONDUCTING ITS EXAMINATION, THE LEGISLATIVE COUNCIL SHALL 16 CONSIDER WHETHER REGULATION OF THE PROFESSIONAL OR 17 OCCUPATIONAL GROUP WITHOUT FIRST OBTAINING AN ANALYSIS AND 18 EVALUATION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) WILL 19 SUBSTANTIALLY ALTER THE IMPACT ON PUBLIC HEALTH, SAFETY, OR 20 WELFARE. THE DEPARTMENT MAY FOREGO THE ANALYSIS AND 21 EVALUATION ONLY IF THE LEGISLATIVE COUNCIL NOTIFIES THE 22 DEPARTMENT THAT THE LEGISLATIVE COUNCIL CONCURS WITH THE 23 DEPARTMENT'S FINDING OF IMMINENT THREAT TO PUBLIC HEALTH, SAFETY, 24 OR WELFARE.". 25 26 Page 6, line 14, strike "CONSIDER THE REGULATION OF" and substitute 27 "ENACT LEGISLATION PROPOSING TO REGULATE". 28 29 Page 6, line 15, strike "FIVE NEW" and substitute "THREE PREVIOUSLY 30 UNREGULATED". 31 32 Page 6, line 17, strike "or (c)" and substitute "or (c)". 33 34 Page 6, strike lines 20 through 23 and substitute "occupational group AND 35 REISSUES A PRIOR REPORT ON THE PROPOSED REGULATION OF THE SAME 36 PROFESSIONAL OR OCCUPATIONAL GROUP, or finds that the unregulated 37 professional or occupational group poses an imminent threat to public health, safety, or welfare, AS CONFIRMED BY THE LEGISLATIVE COUNCIL OF 38 39 THE GENERAL ASSEMBLY, the supporters of the". 40 41 Page 7, line 1, strike "regulation." and substitute "regulation". 42 43 Page 7, line 5, strike "session." and substitute "session OR THE DATE ON 44 WHICH THE LEGISLATIVE COUNCIL NOTIFIES THE DEPARTMENT THAT IT 45 CONCURS IN A FINDING OF IMMINENT THREAT PURSUANT TO PARAGRAPH 46 (c) OF SUBSECTION (3) OF THIS SECTION.". 47 48 Page 7, line 8, strike "January" and substitute "July". 49 50 51 be referred to the Committee of the Whole with favorable HB11-1050 52 53 recommendation. 54

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House Journal--17th Day--January 28, 2011 Page 114 1 HB11-1102 be amended as follows, and as so amended, be referred to 2 the Committee of the Whole with favorable 3 recommendation: 4 5 Amend printed bill, page 3, line 5, after "ENTITY," insert "INCLUDING A 6 SCHOOL DISTRICT,". 7 8 9 10 11 **FINANCE** After consideration on the merits, the Committee recommends the 12 13 following: 14 <u>HB11-1010</u> be referred favorably to the Committee on Appropriations. 15 16 17 <u>HB11-1028</u> be amended as follows, and as so amended, be referred to 18 the Committee of the Whole with favorable 19 20 recommendation: 21 22 Amend printed bill, page 3, line 16, strike "2021," and substitute "2016,". 23 Page 3, line 24, "2022," and substitute "2017,". 24 25 26 27 HB11-1037 be amended as follows, and as so amended, be referred to 28 Committee of the Whole with favorable the 29 recommendation: 30 31 32 Amend printed bill, page 2, line 6, strike "2021," and substitute "2016,". 33 34 Page 2, line 14, strike "2022," and substitute "2017,". 35 36 37 38 **HEALTH & ENVIRONMENT** 39 After consideration on the merits, the Committee recommends the 40 41 following: 42 be amended as follows, and as so amended, be referred to 43 HB11-1016 the Committee of the Whole with favorable 44 45 recommendation: 46 Amend printed bill, strike everything below the enacting clause and 47 48 substitute: 49 "SECTION 1. 18-13-121 (5), Colorado Revised Statutes, is 50 51 amended to read: 52 Furnishing cigarettes or tobacco products to 53 18-13-121. 54 **minors.** (5) (a) As used in this section, "tobacco product" means: 55 56 (I) Any product that contains NICOTINE OR TOBACCO or is derived

from tobacco and is intended to be ingested or inhaled by or applied to the 1 2 skin of an individual; except that OR 3 (II) ANY CARTRIDGE THAT IS DESIGNED TO DELIVER INHALED 4 5 DOSES OF ANY SUBSTANCE CONTAINING ANY AMOUNT OF NICOTINE. 6 7 (b) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS SUBSECTION (5) TO THE CONTRARY, "tobacco product" does not mean any 8 9 product that the food and drug administration of the United States 10 department of health and human services has approved as a tobacco use 11 cessation product. 12 13 **SECTION 2.** 24-35-502 (6), Colorado Revised Statutes, is amended to read: 14 15 16 **24-35-502. Definitions.** As used in this part 5, unless the context 17 otherwise requires: 18 (6) "Tobacco products PRODUCT" has the same meaning as 19 20 provided in section 39-28.5-101 (5) SECTION 18-13-121, C.R.S. 21 22 **SECTION 3.** 24-35-508, Colorado Revised Statutes, is amended 23 to read: 24 25 **24-35-508.** Repeal of part. This part 5 is repealed, effective July 26 1, 2011 JULY 1, 2016. 27 28 **SECTION 4.** 25-14-103.5 (1), Colorado Revised Statutes, is 29 amended to read: 30 31 **25-14-103.5.** Prohibition against the use of tobacco products 32 on school property - legislative declaration - education program special account. (1) The general assembly finds that many of the 33 schools in this state permit the use of tobacco PRODUCTS in and around 34 school property. The general assembly further finds that secondhand 35 smoke generated by such activity and the negative example set and 36 frequently imitated by our school children are detrimental to the health 37 and well-being of such children as well as to school teachers, staff, and 38 39 visitors. Accordingly, the general assembly finds and declares that it is appropriate to create a safe and healthy school environment by prohibiting 40 41 the use of tobacco products on all school property. 42 43 **SECTION 5. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate 44 preservation of the public peace, health, and safety.". 45 46 47 Page 1, strike line 101 and substitute: 48 49 **"CONCERNING PROHIBITIONS AGAINST FURNISHING TOBACCO** 50 **PRODUCTS TO MINORS.**". 51 52 53 54 HB11-1058 be amended as follows, and as so amended, be referred to 55 the Committee of the Whole with favorable 56 recommendation:

Amend printed bill, page 3, line 3, strike "CLUB," and substitute "CLUB
 OR".

4 Page 3, line 5, strike "C.R.S., OR" and substitute "C.R.S.;".

5 6 Page 3, line 6, strike everything before "or".

78 Page 3, line 19, strike everything after "service.".

10 Page 3, strike lines 20 and 21.

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Page 3, line 22, strike everything before "ON" and substitute "THE STATE
DEPARTMENT SHALL DEVELOP A MEANS TO IDENTIFY THE BUSINESSES
REFERENCED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a). THE STATE
DEPARTMENT SHALL CONTACT THE BUSINESSES TO INFORM THEM OF THE
PROHIBITIONS ESTABLISHED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH
(a) AND SHALL REQUEST THEIR COOPERATION IN THE IMPLEMENTATION OF
THAT PROHIBITION. THE STATE DEPARTMENT SHALL OFFER ASSISTANCE
OR GUIDANCE ON HOW THE BUSINESSES CAN ASSURE THAT ACCESS IS
DISABLED FOR CLIENTS TO ACCESS CASH BENEFITS THROUGH AUTOMATED
TELLER MACHINES LOCATED IN THE BUSINESSES.".
Page 3, line 24, after the period add "THE STATE DEPARTMENT SHALL
REPORT BACK TO THE GENERAL ASSEMBLY ON THE RESULTS AND
COST-EFFECTIVENESS OF IMPLEMENTING THE REQUIREMENTS OF
SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) ON OR BEFORE JANUARY 1,

27 2012.".

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3132 JUDICIARY

After consideration on the merits, the Committee recommends the following:

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 36 <u>HB11-1051</u> be referred to the Committee of the Whole with favorable recommendation.
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42 STATE, VETERANS, & MILITARY AFFAIRS

43 After consideration on the merits, the Committee recommends the 44 following:

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46 **<u>HB11-1070</u>** be postponed indefinitely.

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49 <u>HB11-1080</u> be amended as follows, and as so amended, be referred to 50 the Committee of the Whole with favorable 51 recommendation:

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53 Amend printed bill, page 2, strike lines 18 through 23 and substitute:

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- 55 **"24-21-209. Disclosure of actual address prohibited -**56 **notification to custodians of records.** (5.5) (a) (I) IT IS UNLAWFUL FOR

1 A CUSTODIAN OF RECORDS TO KNOWINGLY AND INTENTIONALLY DISCLOSE 2 A PROGRAM PARTICIPANT'S ACTUAL ADDRESS ON THE INTERNET IF THE 3 CUSTODIAN OF RECORDS HAS RECEIVED NOTIFICATION FROM THE 4 PROGRAM PARTICIPANT THAT HE OR SHE DOES NOT WANT HIS OR HER 5 ACTUAL ADDRESS TO BE DISCLOSED ON THE INTERNET, AS DESCRIBED IN 6 PARAGRAPH (b) OF THIS SUBSECTION (5.5), AND THE CUSTODIAN HAS NOT 7 RECEIVED NOTICE FROM THE PROGRAM PARTICIPANT OR FROM THE 8 SECRETARY OF STATE THAT THE PROGRAM PARTICIPANT HAS WITHDRAWN 9 FROM THE PROGRAM. 10 11 (II) A CUSTODIAN OF RECORDS WHO DISCLOSES ON THE INTERNET 12 THE ACTUAL ADDRESS OF A PERSON WITHOUT KNOWLEDGE OR 13 NOTIFICATION THAT THE PERSON IS A PROGRAM PARTICIPANT SHALL NOT 14 BE DEEMED TO HAVE COMMITTED A VIOLATION UNDER THIS SUBSECTION 15 (5.5).16 17 (b) A PROGRAM PARTICIPANT MAY NOTIFY A CUSTODIAN OF 18 RECORDS THAT THE PROGRAM PARTICIPANT DOES NOT WANT HIS OR HER 19 ACTUAL ADDRESS TO BE DISCLOSED ON THE INTERNET. IF A PROGRAM 20 PARTICIPANT NOTIFIES A CUSTODIAN OF RECORDS THAT THE PROGRAM 21 PARTICIPANT DOES NOT WANT HIS OR HER ACTUAL ADDRESS TO BE 22 DISCLOSED ON THE INTERNET, THE PROGRAM PARTICIPANT SHALL ALSO: 23 24 (I) SUBMIT A CURRENT AND VALID ADDRESS CONFIDENTIALITY 25 PROGRAM AUTHORIZATION CARD FOR THE CUSTODIAN OF RECORDS TO 26 EXAMINE FOR THE PURPOSE OF CONFIRMING THE PERSON IS A PROGRAM 27 PARTICIPANT; AND 28 29 (II) UPON THE PROGRAM PARTICIPANT'S WITHDRAWAL FROM THE 30 PROGRAM, NOTIFY THE CUSTODIAN OF RECORDS OF SUCH WITHDRAWAL ON 31 OR BEFORE THIRTY DAYS AFTER THE DATE OF SAID WITHDRAWAL. 32 33 IF A PROGRAM PARTICIPANT NOTIFIES A CUSTODIAN OF (c) 34 RECORDS THAT THE PROGRAM PARTICIPANT DOES NOT WANT HIS OR HER 35 ACTUAL ADDRESS TO BE DISCLOSED ON THE INTERNET, AND THE PROGRAM 36 PARTICIPANT LATER WITHDRAWS FROM THE PROGRAM BUT FAILS TO 37 NOTIFY THE CUSTODIAN OF RECORDS OF SUCH WITHDRAWAL ON OR BEFORE 38 THIRTY DAYS AFTER THE DATE OF SAID WITHDRAWAL AS DESCRIBED IN 39 SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (5.5), THE 40 SECRETARY OF STATE MAY NOTIFY THE CUSTODIAN OF RECORDS OF SUCH 41 WITHDRAWAL. 42 43 (d) AS USED IN THIS SECTION, "CUSTODIAN OF RECORDS" MEANS: 44 (I) A COUNTY ASSESSOR; 45 (II) A COUNTY TREASURER; 46 (III) A COUNTY CLERK AND RECORDER; AND 47 (IV) A PUBLIC TRUSTEE.". 48 49 50 **PRINTING REPORT** 51 52 53 The Chief Clerk reports the following bills have been correctly printed: 54 HB11-1148, 1149, 1150, 1151, 1152, 1153, 1154. 55 56

1	SIGNING OF BILLS - RESOLUTIONS - MEMORIALS							
2 3 4 5	The Speaker has signed: HJR11-1001, 1002, 1003, 1004, 1005, 1006; HR11-1001, 1002, 1003, 1004.							
6								
7 8 9 10								
10 11 12 13								
14 15 16 17	<u>HB11-1155</u>	by Representative(s) McNulty and Pace, Swerdfeger; also Senator(s) Shaffer B. and KoppConcerning the lieutenant governor of the state of Colorado serving concurrently as the head of a principal department in state government.						
18 19								
20 21 22 23 24 25	HB11-1156 Committee of	by Representative(s) Becker, Gerou, Ferrandino; also Senator(s) Hodge, Steadman, LambertConcerning an extension of conservation district grant funding with severance tax revenues. Agriculture, Livestock, & Natural Resources						
26 27								
28 29	LAY OVER OF CALENDAR ITEM(S)							
30 31 32 33	On motion of Representative Stephens, the following item(s) on the Calendar (was)were laid over until January 31, retaining place on Calendar:							
34 35 36 37	Consideration of General OrdersHB11-1007, 1030.							
38 39 40	On motion of Representative Stephens, the House adjourned until 10:00 a.m., January 31, 2011.							
41 42 43		Approved: FRANK McNULTY, Speaker						
44 45 46	Attest: MARILYN E Chief Clerk	EDDINS,						