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

79th Legislative Day

Thursday, March 31, 2011

Prayer By the chaplain, Reverend Timothy Tyler, Shorter Community AME Church, Denver.

Call to Order

By the President at 9:00 a.m.

Pledge By Senator Cadman.

Roll Call Present--32

Absent--1, King S. Excused--2, Johnston, Kopp. Present later--1, King S.

Quorum The President announced a quorum present.

Reading of Journal

On motion of Senator Giron, reading of the Journal of Thursday, March 30, 2011, was dispensed with and the Journal was approved as corrected by the Secretary.

MESSAGE FROM THE HOUSE

March 30, 2011

Mr. President:

The House has postponed indefinitely SB11-013. The bill is returned herewith.

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB11-1116, amended as printed in House Journal, March 28, page 775. HB11-1219, amended as printed in House Journal, March 29, page 787. HB11-1251, amended as printed in House Journal, March 29, page 788.

The House has passed on Third Reading and returns herewith SB11-198, 082.

The House has passed on Third Reading and transmitted to the Revisor of Statutes; SB11-119, amended as printed in House Journal, March 29, page 787. SB11-062, amended as printed in House Journal, March 29, page 787.

MESSAGE FROM THE REVISOR OF STATUTES

March 30, 2011

We herewith transmit:

Without comment, as amended, HB11-1116, 1219, and 1251. Without comment, as amended, SB11-062 and 119.

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CONSIDERATION OF RESOLUTIONS

SJR11-030 by Senator(s) Giron and Guzman; also Representative(s) Pabon and Vigil--Concerning recognition of "César Chávez Day".

On motion of Senator Giron, the resolution was read at length and **adopted** by the following roll call vote:

YES	33	NO	0	EXCUSED	2	ABSENT	0
Aguilar	Y	Guzman	Y	Kopp]	E Scheffel	Y
Bacon	Y	Harvey	Y	Lambert	•	Y Schwartz	Y
Boyd	Y	Heath	Y	Lundberg	•	Y Spence	Y
Brophy	Y	Hodge	Y	Mitchell	•	Y Steadman	Y
Cadman	Y	Hudak	Y	Morse	•	Y Tochtrop	Y
Carroll	Y	Jahn	Y	Newell		Y White ¹	Y
Foster	Y	Johnston	Е	Nicholson	•	Y Williams S.	Y
Giron	Y	King K.	Y	Renfroe	•	Y President	Y
Grantham		King S.	Y	Roberts	7	Y	

Co-sponsors added: Aguilar, Bacon, Boyd, Carroll, Foster, Heath, Hodge, Hudak, Jahn, King K., King S., Morse, Newell, Nicholson, Roberts, Scheffel, Schwartz, Shaffer B., Spence, Steadman, Tochtrop and Williams S.

SJR11-029 by Senator(s) Williams S. and Spence; also Representative(s) Labuda and Looper-Concerning the recognition of National Women's History Month, and, in connection therewith, designating March as Colorado Women's History Month.

On motion of Senator Williams S., the resolution was read at length and **adopted** by the following roll call vote:

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

CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS

SB11-165 by Senator(s) Guzman; also Representative(s) Kerr A.--Concerning the "Colorado Uniform Estate Tax Apportionment Act".

Senator Guzman moved that the Senate not concur in House amendments to **SB11-165**, as printed in House journal, March 28, page 777, and that a conference committee be appointed.

A majority of all members elected to the Senate having voted in the affirmative, the motion was **adopted** on the following roll call vote:

Y

Y

Y

Y

NO

Guzman

Harvey

Heath

Hodge

Hudak

Johnston

King K.

King S.

Jahn

ABSENT

Scheffel Schwartz

Spence Steadman

Tochtrop

President

Williams S.

White

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Y

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The President appointed Senators Guzman, Chair, Carroll, and Roberts as Senate co on the first conference committee on SB11-165.

EXCUSED

Kopp

Lambert Lundberg

Mitchell

Morse

Newell

Nicholson

Renfroe

Roberts

MESSAGE FROM THE GOVERNOR

0

Y

March 11, 2011

YES

Aguilar

Bacon

Boyd

Brophy

Cadman

Carroll

Foster

Giron

Grantham

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 WILDLIFE COMMISSION

for terms expiring March 1, 2015:

Honorable Robert D. Wingfield of Vernon, Colorado, to serve as a county commissioner, as a member from Wildlife District 3, and as a Democrat, reappointed;

Gaspar F. Perricone of Denver, Colorado, to serve as a representative of sportsmen or outfitters and to serve as a member from Wildlife District 1, and as a Democrat, appointed.

Sincerely, (signed)

John W. Hickenlooper

Governor Rec'd: 3/11/11

Cindi L. Markwell, Secretary of the Senate

Committee on Agriculture, Natural Resources, & Energy

SENATE SERVICES REPORT

Correctly Printed: SJR11-030. Correctly Rerevised: HB11-1181. Correctly Enrolled: SB11-007, 110 and 175.

SIGNING OF BILLS -- RESOLUTIONS -- MEMORIALS

The President has signed: HB11-1189, SB11-008, 025, 039, 083 and 120.

MESSAGE FROM THE GOVERNOR

March 29th, 2011

To the Honorable Senate Sixty-eighth General Assembly First 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 Acts:

SB11-040 CONCERNING THE REQUIREMENT THAT A COACH OF AN ORGANIZED YOUTH ATHLETIC ACTIVITY FOLLOW CONCUSSION GUIDELINES, AND, IN CONNECTION THEREWITH, CREATING THE "JAKE SNAKENBERG YOUTH CONCUSSION ACT".

Approved March 29th, 2011 at 2:20PM

<u>\$B11-010</u> CONCERNING THE TRADE READJUSTMENT ALLOWANCE PROGRAM.

Approved March 29th, 2011 at 3:45PM

SB11-016 CONCERNING INCREASES IN THE AMOUNTS ALLOCATED TO CERTAIN FAMILY MEMBERS DURING THE ADMINISTRATION OF A DECEDENT'S ESTATE.

Approved March 29th, 2011 at 3:46PM

SB11-019 CONCERNING FREE STATE PARKS ADMISSION FOR VETERANS, AND, IN CONNECTION THEREWITH, ESTABLISHING FREE ADMISSION ON A SPECIFIED DAY EACH YEAR FOR VETERANS AND FREE STATE PARKS ADMISSION FOR MEMBERS OF THE UNITED STATES ARMED SERVICES WOUNDED WARRIOR PROGRAMS WHO HAVE SUSTAINED SEVERE COMBATRELATED INJURIES WHILE SERVING IN POST-SEPTEMBER 11, 2001, OVERSEAS CONTINGENCY OPERATIONS.

Approved March 29th, 2011 at 3:48PM

<u>SB11-024</u> CONCERNING MOTOR VEHICLES VALUED AS COLLECTOR'S ITEMS FOR HISTORICAL REASONS.

Approved March 29th, 2011 at 3:50PM

<u>SB11-087</u> CONCERNING AUTHORITY FOR THE PUBLIC UTILITIES COMMISSION TO CREATE AN EXEMPTION FROM TIERED ELECTRICITY RATE PLANS BASED ON A CUSTOMER'S MEDICAL CONDITION.

Approved March 29th, 2011 at 3:53PM

Sincerely, (signed) John W. Hickenlooper Governor

COMMITTEE OF REFERENCE REPORTS

Business, Labor, & Technology After consideration on the merits, the Committee recommends that **SB11-194** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 3, line 13, strike the second "A".

Page 3, line 14, strike "SQUARE FOOTAGE" and substitute "RETAIL SPACE".

Page 4, after line 22 insert:

"(9) "TOTAL RETAIL SPACE" MEANS THE AREA OF A LICENSED PREMISES THAT IS ACCESSIBLE TO THE PUBLIC, INCLUDING ENCLOSED REFRIGERATED UNITS AND SPACE LOCATED BEHIND THE POINT OF SALE AREA WHERE PRODUCTS ARE AVAILABLE FOR PURCHASE. "TOTAL RETAIL SPACE" DOES NOT INCLUDE ANY AREA OF THE LICENSED PREMISES USED FOR STORAGE, OFFICE SPACE, OR RESTROOMS.".

Page 5, after line 20 insert:

- "(III) ANY LICENSEE HOLDING A FERMENTED MALT BEVERAGE RETAILER'S LICENSE THAT WAS ISSUED PRIOR TO THE EFFECTIVE DATE OF THIS PARAGRAPH (c), AS AMENDED, IS ELIGIBLE TO AUTOMATICALLY CONVERT THAT LICENSE TO A MALT LIQUOR RETAILER'S LICENSE WITHOUT ADDITIONAL APPLICATION OR FEE IF THE FOLLOWING CONDITIONS ARE MET ON THE DATE OF ANNUAL RENEWAL OF THE FERMENTED MALT BEVERAGE RETAILER'S LICENSE:
- (A) THE FERMENTED MALT BEVERAGE RETAILER'S LICENSE HAS NOT EXPIRED;
- (B) THE LICENSEE TIMELY FILES A RENEWAL APPLICATION AND APPLICABLE RENEWAL FEES AND INCLUDES WITH THE APPLICATION A STATEMENT THAT THE LICENSEE ELECTS TO CONVERT THE FERMENTED MALT BEVERAGE RETAILER'S LICENSE, ONCE RENEWED, TO A MALT LIQUOR RETAILER'S LICENSE;
- (C) THE LICENSEE IS A CONVENIENCE STORE AND SATISFIES THE REQUIREMENTS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (c) AND THE APPLICABLE REQUIREMENTS SET FORTH IN PART 3 OF ARTICLE 47 OF THIS TITLE; AND
- (D) THE CONVENIENCE STORE LOCATION IS NOT WITHIN FIVE HUNDRED FEET OF A PUBLIC OR PAROCHIAL SCHOOL OR THE PRINCIPAL CAMPUS OF ANY COLLEGE, UNIVERSITY, OR SEMINARY, UNLESS THE LOCAL LICENSING AUTHORITY OR APPROPRIATE GOVERNING BODY HAS REDUCED OR ELIMINATED THE DISTANCE REQUIREMENT PURSUANT TO SECTION 12-47-313 (1) (d)."

Page 7, line 14, strike "The introductory portion to" and strike "(1) and".

Page 7, line 15, strike "12-46-107 (1) (c)," and strike "are" and substitute "is".

Page 7, strike lines 18 through 27.

Page 8, strike lines 1 through 3 and substitute "fermented malt beverage RETAILER'S licenses:

- (a) Sales for consumption off the premises of the licensee. A PERSON LICENSED PURSUANT TO THIS PARAGRAPH (a) MAY DELIVER AT RETAIL FERMENTED MALT BEVERAGES IN FACTORY-SEALED CONTAINERS IN CONJUNCTION WITH THE DELIVERY OF FOOD PRODUCTS IF THE PERSON HAS OBTAINED A PERMIT FROM THE STATE LICENSING AUTHORITY FOR THE DELIVERY OF FERMENTED MALT BEVERAGES.
 - (b) Sales for consumption on the premises of the licensee;
- (c) Sales for consumption both on and off the premises of the licensee. A person licensed pursuant to this paragraph (c) may deliver at retail fermented malt beverages in factory-sealed containers in conjunction with the delivery of food products if such THE person has

obtained a permit for the delivery of fermented malt beverages from the state licensing authority. The state licensing authority shall promulgate rules as are necessary for the proper delivery of fermented malt beverages pursuant to this paragraph (c) and shall have the authority to issue a permit to any person who is licensed pursuant to and delivers fermented malt beverages under this paragraph (c)

malt beverages under this paragraph (c).

(2) The local licensing authority shall issue a malt liquor retailer's license, which permits only sales of malt liquor for consumption off the licensed premises. A person licensed pursuant to this subsection (2) may deliver at retail malt liquor in factory-sealed containers in conjunction with the delivery of food products if the person has obtained a permit from the state licensing authority for the delivery of malt liquor.

(2)(3) The local licensing authority shall collect an annual license fee of twenty-five dollars if the licensed premises is located in a municipality or city and county and fifty dollars if the licensed premises is located outside the corporate limits of a municipality or city and county."

Page 8, line 5, strike "amended" and substitute "amended, and the said 12-47-103 is further amended BY THE ADDITION OF A NEW SUBSECTION,".

Page 8, after line 7 insert:

- "(5.5) "CAFFEINATED ALCOHOL BEVERAGE" MEANS A FERMENTED MALT BEVERAGE OR MALT LIOUOR:
- (a) CONTAINING AT LEAST ONE-HALF OF ONE PERCENT ALCOHOL BY VOLUME;
- (b) TO WHICH IS ADDED, OR WHICH IS INFUSED WITH, CAFFEINE OR OTHER STIMULANTS, INCLUDING GUARANA, GINSENG, OR TAURINE; AND
 - (c) THAT IS SOLD OR DISTRIBUTED IN A PRE-MIXED CONTAINER.".

Page 8, line 23, strike "or fermented malt beverage" and substitute "or fermented malt beverage".

Page 9, strike lines 1 through 22 and substitute:

"SECTION 9. 12-47-901 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

- **12-47-901. Unlawful acts exceptions.** (1) Except as provided in section 18-13-122, C.R.S., it is unlawful for any person:
- (n) TO IMPORT, PRODUCE, MANUFACTURE, DISTRIBUTE, SELL AT WHOLESALE OR AT RETAIL, GIVE AWAY, OR SERVE A CAFFEINATED ALCOHOL BEVERAGE.".

Education

After consideration on the merits, the Committee recommends that **HB11-1201** be amended as follows, and as so amended, be referred to the Committee on <u>Appropriations</u> with favorable recommendation.

Amend reengrossed bill, page 2, after line 1 insert:

"SECTION 1. 22-60.5-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read: 22-60.5-103. Applicants - licenses - authorizations - submittal

22-60.5-103. Applicants - licenses - authorizations - submittal of form and fingerprints - failure to comply constitutes grounds for denial. (7) It is the intent of the general assembly that the processing time for issuing an educator license is six weeks or less from the date on which the applicant submits the license application to the department.

SECTION 2. 22-60.5-110, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read: **22-60.5-110. Renewal of licenses.** (6) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE PROCESSING TIME FOR RENEWING AN EDUCATOR LICENSE IS SIX WEEKS OR LESS FROM THE DATE ON WHICH THE APPLICANT SUBMITS THE RENEWAL APPLICATION TO THE DEPARTMENT.".

Renumber succeeding sections accordingly.

Judiciary

After consideration on the merits, the Committee recommends that **SB11-193** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 3, strike lines 5 and 6 and substitute "C.R.S., BY A CAREGIVER.".

Page 3, line 8, strike "IMMUNE FROM" and substitute "NOT SUBJECT TO".

Page 4, strike line 4 and substitute "THE CAREGIVER.".

Page 4, line 6, after "INDIVIDUAL" insert "CURRENTLY OR FORMERLY".

Page 4, line 7, strike "DISABILITY." and insert "DISABILITY OR A PERSON WHO PROVIDES HOST HOME SERVICES BY CONTRACT AS PART OF RESIDENTIAL SERVICES AND SUPPORTS AS DESCRIBED IN SECTION 27-10.5-104, (1) (f), C.R.S.".

Judiciary

After consideration on the merits, the Committee recommends that **SB11-201** be referred to the Committee of the Whole with favorable recommendation.

State, Veterans, & Military Affairs After consideration on the merits, the Committee recommends that **SB11-189** be amended as follows, and as so amended, be referred to the Committee on with favorable recommendation.

Amend printed bill, page 3, strike lines 14 through 27.

Page 4, strike lines 1 through 7 and substitute:

"SECTION 4. 1-4-303 (1), Colorado Revised Statutes, is amended to read:

1-4-303. Nomination of unaffiliated candidates. (1) No later than one hundred forty days ONE HUNDRED FIFTY-FIVE DAYS before the general election, a person who desires to be an unaffiliated candidate for the office of president or vice president of the United States shall submit to the secretary of state either a notarized candidate's statement of intent together with a nonrefundable filing fee of five hundred dollars or a petition for nomination pursuant to the provisions of section 1-4-802 and shall include either on the petition or with the filing fee the names of registered electors who are thus nominated as presidential electors. The acceptance of each of the electors shall be endorsed as appended to the first or last page of the nominating petition or the filing fee.

SECTION 5. 1-4-401 (1), Colorado Revised Statutes, is amended

SECTION 5. 1-4-401 (1), Colorado Revised Statutes, is amended to read:

1-4-401. Time of congressional vacancy elections. (1) Except as provided in section 1-4-401.5, when any vacancy occurs in the office of representative in congress from this state, the governor shall set a day to hold an election to fill the vacancy and cause notice of the election to be given as required in part 2 of article 5 of this title; but no congressional vacancy election shall be held during the ninety days prior to a general election or less than seventy-five days EIGHTY-FIVE DAYS or more than ninety days ONE HUNDRED DAYS after the vacancy occurs.

SECTION 6. 1-4-403 (2), Colorado Revised Statutes, is amended to read:

1-4-403. Nomination of unaffiliated candidates for congressional vacancy election. (2) Petitions must be filed by 3 p.m. on the thirtieth day TWENTIETH DAY after the date of the order issued by

the governor.".

Renumber succeeding sections accordingly.

Page 4, line 13, strike "EIGHTY-FOUR" and substitute "SEVENTY-THREE".

Page 4, line 19, strike "TWENTY" and substitute "TWENTY-FIVE".

Page 5, line 14, strike "SECOND" and substitute "FIRST".

Page 5, line 15, strike "EIGHTY-NINE" and substitute "EIGHTY-FIVE".

Page 5, line 17, strike "(II)".

Page 5, after line 24 insert:

"(d) (I) No petition to nominate an unaffiliated candidate, except petitions for candidates for vacancies to unexpired terms of representatives in congress and for presidential electors, shall be circulated or any signatures obtained thereon earlier than one hundred eighty-six days TWO HUNDRED ELEVEN DAYS before the general election.".

Page 5, line 25, strike "(d)".

Page 5, line 27, strike "SECOND" and substitute "FIRST".

Page 6, line 4, strike "SEVENTY-NINTH" and substitute "FIFTY-FIFTH".

Page 6, strike lines 4 and 5 and substitute "day ONE HUNDRED SEVENTY-NINTH DAY before the general election or, FOR A CONGRESSIONAL VACANCY ELECTION, NO LATER THAN 3 p.m. on the fifty-fifth day preceding the congressional vacancy election TWENTIETH DAY AFTER THE DATE OF THE ORDER ISSUED BY THE GOVERNOR."

Page 6, line 7, strike "EIGHTY-NINE" and substitute "EIGHTY-FIVE".

Page 6, line 17, strike "TWENTY-ONE DAYS BEFORE THE PRIMARY ELECTION." and substitute "ONE HUNDRED THIRTY-FOUR DAYS BEFORE THE GENERAL ELECTION.".

Page 6, line 26, strike "FORTY-FOURTH" and substitute "TWENTY-THIRD".

Page 6, strike line 27 and substitute "before the general election 3 p.m. on the fifty-fifth day preceding a".

Page 7, line 1, strike "congressional vacancy election," and substitute "congressional vacancy election,".

Page 7, line 6, strike "THIRTY-THIRD" and substitute "THIRTEENTH".

Page 7, after line 14 insert:

"SECTION 14. 1-4-1302 (1), Colorado Revised Statutes, is amended to read:

1-4-1302. Petition to qualify as a minor political party. (1) A petition to qualify as a minor political party shall be signed by at least ten thousand registered electors and shall be submitted to the secretary of state no later than March 1 THE SECOND FRIDAY IN THE JANUARY of the election year for which the minor political party seeks to qualify."

Renumber succeeding sections accordingly.

Page 7, line 20, strike "EIGHTY-FOUR" and substitute "SEVENTY-THREE".

Page 8, line 22, strike "election" and substitute "election, WITHIN THIRTY-ONE DAYS AFTER A GENERAL ELECTION,".

Page 9, strike line 17 and substitute "completed no later than the THIRTY-SEVENTH DAY AFTER A GENERAL ELECTION AND NO LATER THAN

THE thirtieth day after the ANY OTHER election.".

State, Veterans, & Military Affairs After consideration on the merits, the Committee recommends that **HB11-1237** be amended as follows, and as so amended, be referred to the Committee on <u>Finance</u> with favorable recommendation.

Amend reengrossed bill, page 3, strike lines 3 through 11.

Renumber succeeding section accordingly.

Page 1, strike lines 102 and 103 and substitute "BILLETING CASH FUND.".

Health & Human Services

After consideration on the merits, the Committee recommends that **SB11-206** be referred to the Committee of the Whole with favorable recommendation.

Agriculture, Natural Resources, and Energy After consideration on the merits, the Committee recommends that **SB11-203** be amended as follows, and as so amended, be referred to the Committee on <u>Appropriations</u> with favorable recommendation.

Amend printed bill, page 3, line 21, strike "Purchase" and substitute "Lease".

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, March 31 was laid over until April 1, retaining its place on the calendar.

General Orders -- Second Reading of Bills -- Consent Calendar: HB11-1164. General Orders -- Second Reading of Bills: SB11-107, SB11-180, SB11-052, SB11-126, SB11-168, SB11-179, HB11-1126, SB11-173, HB11-1185, HB11-1160. Consideration of Resolutions: SJR11-005, SJR11-009, SJR11-015, SJR11-023, SJR11-024, SJR11-026.

Consideration of House Amendments to Senate Bills: SCR11-001. Conference Committees to Report: HB11-1258.

On motion of Senator Morse, the Senate adjourned until 9:00 a.m., Friday, April 1, 2011.

Approved:

Brandon C. Shaffer President of the Senate

Attest:

Cindi L. Markwell Secretary of the Senate