

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

97th Legislative Day

Monday, April 18, 2011

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Prayer	By the chaplain, Father Eustace Sequeira, St. Ignatius Loyola Catholic Church, Denver.	11
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Call to Order	By the President at 10:00 a.m.	13
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Pledge	By Senator Guzman.	16
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Roll Call	Present--33	18
	Absent--2, Johnston, Williams S.	19
	Present later--2, Johnston, 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 Lambert, reading of the Journal of Friday, April 15, 2011, was dispensed with and the Journal was approved as corrected by the Secretary.	24
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INTRODUCTION AND CONSIDERATION OF RESOLUTIONS

SR11-005 by Senator(s) Boyd; --Concerning Adolescent Sexual and Reproductive Health Month in Colorado.

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

On motion of Senator Morse, and with a majority of those elected to the Senate having voted in the affirmative, the resolution was laid over to the end of the Consideration of Resolutions Calendar for Monday, April 18.

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.

CONSIDERATION OF RESOLUTIONS

HJR11-1016 by Representative(s) Labuda; also Senator(s) Hudak--Concerning recognition of the role of libraries in empowering citizens through access to computer technology, and, in connection therewith, celebrating National Library Week.

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

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YES	35	NO	0	EXCUSED	0	ABSENT	0
Aguilar	Y	Guzman	Y	Kopp	Y	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	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, Carroll, Foster, Giron, Guzman, Heath, Hodge, Jahn, King K., Morse, Newell, Nicholson, Roberts, Schwartz, Shaffer B., Spence, Steadman, Tochtrop and Williams S.

SR11-005 by Senator(s) Boyd; --Concerning Adolescent Sexual and Reproductive Health Month in Colorado.

Laid over until Tuesday, April 19, retaining its place on the calendar.

THIRD READING OF BILLS -- FINAL PASSAGE

On third reading, the titles of the following bills were publicly read, the reading at length having been dispensed with by unanimous consent:

SB11-126 by Senator(s) Giron and Johnston, Bacon, Foster, Guzman, Heath, Hodge, Morse, Nicholson, Shaffer B., Steadman, Williams S.; also Representative(s) Miklosi and Williams A., Duran, Fields, Hullinghorst, Levy, Pabon, Solano--Concerning classification as an unsubsidized in-state student for tuition purposes at state institutions of higher education.

The question being "Shall the bill pass?", the roll call was taken with the following result:

YES	20	NO	15	EXCUSED	0	ABSENT	0
Aguilar	Y	Guzman	Y	Kopp	N	Scheffel	N
Bacon	Y	Harvey	N	Lambert	N	Schwartz	Y
Boyd	Y	Heath	Y	Lundberg	N	Spence	N
Brophy	N	Hodge	Y	Mitchell	N	Steadman	Y
Cadman	N	Hudak	Y	Morse	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		

A majority of all members elected to the Senate having voted in the affirmative, the bill was **passed**.

Co-sponsors added: Aguilar, Boyd and Schwartz.

SB11-220 by Senator(s) Hodge, Steadman, Lambert; also Representative(s) Ferrandino, Becker, Gerou--Concerning a reduction in the mileage allowance for the use of a personal motor vehicle for official state business, and making an appropriation therefor.

Laid over until Tuesday, April 19, retaining its place on the calendar.

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--Consent Calendar and Senator Hudak 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:

HB11-1251 by Representative(s) Conti, Acree, Balmer, Brown, Kerr J., Summers, Swerdfeger; also Senator(s) Tochtrop--Concerning an exemption from the restrictions on window tinting for public safety vehicles.

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

HB11-1286 by Representative(s) Sonnenberg and Becker, Baumgardner, Brown, Coram, DelGrosso, Fischer, Hullinghorst, Joshi, McKinley, McNulty, Pace, Priola, Ramirez, Scott, Swalm, Wilson; also Senator(s) Schwartz, Brophy, Giron, Grantham, Guzman, Hodge, Jahn, Renfroe, Tochtrop--Concerning the state engineer's rule-making authority in the case of dewatering of geologic formations by withdrawing nontributary ground water to facilitate the mining of minerals.

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

SB11-231 by Senator(s) Steadman; also Representative(s) Nikkel--Concerning operation of the Colorado channel authority, and, in connection therewith, allowing the authority to make available via the internet audio recordings of proceedings of the general assembly and requiring certain members of the board of directors of the authority to be serving members of the general assembly and to represent the major political parties in each house.

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 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	Kopp	Y	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	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: SB11-231, HB11-1251, HB11-1286.

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:

- SB11-052** by Senator(s) Heath, Bacon, King K.; also Representative(s) Massey, Ferrandino--
Concerning expectations for higher education institutions in Colorado.
Laid over until Tuesday, April 19, retaining its place on the calendar.
- SB11-168** by Senator(s) Aguilar, Bacon, Carroll, Foster, Giron, Guzman, Heath, Johnston, Morse, Nicholson, Steadman, Tochtrop; also Representative(s) Kefalas, Court, Fields, Fischer, Gardner D., Hullinghorst, Jones, Kagan, Levy, McCann, Miklosi, Pace, Solano, Tyler--
Concerning the creation of the Colorado health care authority for the purpose of designing a health care cooperative.
Laid over until Friday, April 29, retaining its place on the calendar.
- HB11-1160** by Representative(s) Gerou; also Senator(s) Jahn--Concerning the establishment of a green building incentive pilot program administered by the governor's energy office to incentivize the making of energy efficiency improvements to existing residences with current home energy ratings below minimum standards for people who purchase highly efficient new residential construction.
Ordered revised and placed on the calendar for third reading and final passage.
- HB11-1109** by Representative(s) Liston, Balmer, Bradford, DelGrosso, Holbert, Kerr J., Looper, Nikkel, Priola, Ramirez, Schafer S., Stephens; also Senator(s) Giron--Concerning the authority for a local government to create an exemption from local sales tax for the sale of equipment used directly in the provision of telecommunications services.
Laid over until Tuesday, April 19, retaining its place on the calendar.
- HB11-1268** by Representative(s) Levy; also Senator(s) Nicholson--Concerning penalties for traffic offenses involving alcohol and drugs.
Laid over until Tuesday, April 19, retaining its place on the calendar.
- SB11-194** by Senator(s) Boyd; --Concerning the regulation of alcohol beverages.
Laid over until Tuesday, April 19, retaining its place on the calendar.
- HB11-1138** by Representative(s) Gardner B., Barker, Casso, Waller; also Senator(s) Morse, Bacon, Boyd, Jahn, King S.--Concerning the sex offender management board, and making an appropriation therefor.
Laid over until Tuesday, April 19, retaining its place on the calendar.
- HB11-1267** by Representative(s) McCann; also Senator(s) Mitchell--Concerning an expansion of the circumstances in which a court may order further restrictions as conditions of a protection order against a defendant.
Laid over until Tuesday, April 19, retaining its place on the calendar.

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- SB11-208** by Senator(s) Schwartz and Hodge, Bacon, Boyd, Brophy, Cadman, Foster, Giron, Grantham, Guzman, Heath, Hudak, Jahn, King S., Kopp, Lambert, Newell, Nicholson, Shaffer B., Spence, Steadman, Tochtrop, White, Williams S.; also Representative(s) Sonnenberg and Gerou, Acree, Barker, Baumgardner, Becker, Beezley, Bradford, Coram, Ferrandino, Gardner B., Hamner, Holbert, Joshi, Labuda, Looper, Massey, McCann, Miklosi, Murray, Nikkel, Priola, Ramirez, Ryden, Schafer S., Scott, Stephens, Summers, Swalm, Swerdfeger, Waller, Wilson--Concerning the consolidation of wildlife entities with parks and outdoor recreation entities under the department of natural resources. 1
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- Amendment No. 1, General Orders Amendment. 10
(Printed in Senate Journal, April 12, page 719 and placed in members' bill files.) 11
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- Amendment No. 2(L.013), by Senator Schwartz. 13
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- Amend the Agriculture, Natural Resources, and Energy Committee Report, dated March 31, 2011, page 2, strike lines 2 through 4 and substitute: 15
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- "Page 12, after line 15 insert: 19
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- "(4) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), IN PROMULGATING A RULE TO INCREASE OR DECREASE A PARK FEE OR CHARGE UNDER ARTICLES 10 TO 32 OF THIS TITLE, THE BOARD SHALL CONSIDER THE EFFECT THAT THE CHANGE IN THE FEE OR CHARGE WOULD HAVE ON PARK USAGE, THE DEMAND FOR THE SERVICE FOR WHICH THE FEE OR CHARGE IS USED, AND OPPORTUNITIES TO IMPLEMENT DIFFERENTIAL PRICING. 21
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- (b) THE BOARD MAY RAISE OR LOWER PARK FEES AND CHARGES DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (4) IF THE BOARD REASONABLY ANTICIPATES THAT THE TOTAL ANNUAL REVENUES REALIZED FROM SUCH FEES AND CHARGES WILL NOT INCREASE BY MORE THAN TWENTY PERCENT OVER THE ANNUAL AMOUNT EARNED FROM FEES AND CHARGES AS THEY EXISTED ON JULY 1, 2011."." 28
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- As amended, ordered engrossed and placed on the calendar for third reading and final passage. 36
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- HB11-1196** by Representative(s) Summers; also Senator(s) Foster--Concerning measures to increase flexibility in funding services for families. 40
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- Amendment No. 1, Local Government Committee Amendment. 43
(Printed in Senate Journal, April 14, pages 751-752 and placed in members' bill files.) 44
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- As amended, ordered revised and placed on the calendar for third reading and final passage. 46
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- SB11-166** by Senator(s) Johnston; also Representative(s) Wilson--Concerning the "Uniform Disclaimer of Property Interests Act". 50
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- Amendment No. 1, Judiciary Committee Amendment. 53
(Printed in Senate Journal, April 14, pages 752-753 and placed in members' bill files.) 54
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- As amended, ordered engrossed and placed on the calendar for third reading and final passage. 56
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- SB11-227** by Senator(s) Hudak, Bacon, Boyd, Heath, Williams S.; also Representative(s) Vaad and Ryden--Concerning a repeal of the exception to the child restraint system law for children weighing more than forty pounds who are being transported in a motor vehicle with a rear seat that was not equipped with combination belts at the time of manufacture. 60
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- Laid over until Tuesday, April 19, retaining its place on the calendar. 65
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SB11-199 by Senator(s) Tochtrop; also Representative(s) Riesberg--Concerning workers' compensation.

Amendment No. 1, Business, Labor & Technology Committee Amendment.
(Printed in Senate Journal, April 14, page 755 and placed in members' bill files.)

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

SB11-182 by Senator(s) Carroll, Cadman, Giron, Guzman, Spence; also Representative(s) Liston, Barker, Court, Massey, Pabon, Pace--Concerning the establishment of an insurable interest requirement for life insurance policies.

Laid over until Tuesday, April 19, 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	Kopp	Y	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	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: SB11-208 as amended, SB11-166 as amended, SB11-199 as amended, HB11-1160, HB11-1196 as amended.
Laid over until April 19: SB11-052, HB11-1109, HB11-1268, SB11-194, HB11-1138, HB11-1267, SB11-227, SB11-182.
Laid over until April 29: SB11-168.

CONSIDERATION OF GOVERNOR'S APPOINTMENTS

On motion of Senator Carroll, the following Governor's appointments were confirmed by a roll call vote:

MEMBERS OF THE JUVENILE PAROLE BOARD

for terms expiring at the pleasure of the Governor:

Paula Ramaekers-Mattas of Grand Junction, Colorado, to fill the vacancy occasioned by the resignation of Mary Beth Buescher of Grand Junction, Colorado, and to serve as a public at-large member from the Western Slope, appointed;

Charles F. Garcia of Denver, Colorado, to fill the vacancy occasioned by Allison A. Brittsan of Denver, Colorado, and to serve as a public member, appointed;

Carmen Q. Nelson of Denver, Colorado, to fill the vacancy occasioned by the resignation of Suzanne S. Ageton of Boulder, Colorado, and to serve as a public member, appointed.

James A. Keown of Thornton, Colorado, to fill the vacancy occasioned by the resignation of Dean J. Conder of Denver, Colorado, and to serve as a representative from the Colorado Department of Labor and Employment, appointed.

YES	35	NO	0	EXCUSED	0	ABSENT	0
Aguilar	Y	Guzman	Y	Kopp	Y	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	Y	Nicholson	Y	Williams S.	Y
Giron	Y	King K.	Y	Renfroe	Y	President	Y
Grantham	Y	King S.	Y	Roberts	Y		

SENATE SERVICES REPORT

Correctly Engrossed: SB11-126.
Correctly Enrolled: SB11-062 and 094.

CONSIDERATION OF CONFERENCE COMMITTEE REPORTS

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

Laid over until Tuesday, April 19, retaining its place on the calendar.

COMMITTEE OF REFERENCE REPORTS

Business,
 Labor, &
 Technology

After consideration on the merits, the Committee recommends that **HB11-1120** be referred to the Committee on Appropriations with favorable recommendation.

MEMORANDUM FROM THE COMMITTEE ON ETHICS

April 15, 2011

Dear Mr. President:

The Ethics Committee appointed pursuant to Senate Rule 43 has met to consider the Complaint against Senator John Morse filed by Ms. Stephanie Cegielski on behalf of the Colorado Government Accountability Project. The Ethics Committee met on March 25, 2011, March 31, 2011, and April 12, 2011. Minutes of the discussions and actions taken at those meetings, along with the evidentiary information, are maintained by the Legislative Council staff and may be reviewed at that office.

At the meeting on April 12, 2011, the Ethics Committee, by a unanimous vote, found that there was no probable cause to believe that a violation had occurred. It is the understanding of the Ethics Committee members that the Complaint is dismissed pursuant to Senate Rule 43 (c).

As the Ethics Committee undertook its responsibilities in this matter, it considered certain perceived shortcomings related to the per diem statute. By means of this letter,

the members of the Ethics Committee respectfully request that you take the following recommendations to the Executive Committee for its consideration of possible legislation to address these issues. Specifically, the Committee found that section 2-2-307 (3) (a) (III), C.R.S., provides very little guidance to members of legislative leadership who seek compensation for "matters pertaining to the general assembly". This general statement not only fails to provide specific guidance to a member of leadership requesting per diem compensation, it also fails to require even a minimum amount of information that would provide citizens of the state with any indication of the matters to which the legislative leader attended. For these reasons, the Ethics Committee makes the following two recommendations for the Executive Committee's consideration:

1. The Ethics Committee recommends that section 2-2-307 (3) (a) (III), C.R.S., be amended to require that, for each day claimed, legislative leaders seeking compensation pursuant to this section provide a brief explanation with sufficient detail that a reasonable person could ascertain the nature of the legislative activity for which the compensation is claimed.

2. The Ethics Committee further recommends that section 2-2-307 (3) (a) (III), C.R.S., be amended to clarify that the legislative activity forming the basis for the per diem claim by a member of leadership be changed from matters pertaining to the general assembly to specifically address *legislative leadership* matters pertaining to the general assembly.

In addition to these specific recommendations, the Ethics Committee also discussed other observations related to section 2-3-307 (3), C.R.S. Specifically, the Ethics Committee considered what it viewed as a possible disparity in the treatment between members of legislative leadership and non-leadership members. The Committee observed that members of leadership may claim compensation under the statute for certain legislative activities that may also be undertaken by other members of the General Assembly over the course of the year, but for which the latter are not entitled to claim compensation. The Committee, however, also recognized the financial reality that the commitments of legislative leaders make it difficult for them to have income-generating work during the interim and that leadership positions are essentially full-time jobs. Furthermore, for those leaders whose primary residences are outside the Denver metropolitan area, they must maintain a secondary residence in order to attend to early-morning, late-day, and frequent leadership activities in the metro area.

The members of the Committee recognize the need for flexibility and the importance of allowing for judgment and discretion in claiming per diem compensation in accordance with section 2-2-307 (3) (a), C.R.S. However, since this is not the first time a member's claim of leadership per diem has been questioned, we believe the issues raised in this letter warrant consideration and possible action by the Executive Committee.

Respectfully submitted,
 (signed)
 Morgan Carroll, Chair
 Bob Bacon
 Pat Steadman

(signed)
 Nancy Spence, Vice-chair
 Shawn Mitchell

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 18 was laid over until Tuesday, April 19, retaining its place on the calendar.

- Consideration of Resolutions: SJR11-005, SJR11-015, SJR11-023, SJR11-024, SJR11-032, SJR11-035, SJR11-036, SJR11-037, SJR11-039.
- Consideration of Memorials: SJM11-002, SJM11-003.
- Consideration of House Amendments to Senate Bills: SCR11-001, SB11-213, SB11-188.
- Consideration of Conference Committee Reports: SB11-165.
- Conference Committees to Report: HB11-1209.
- Requests for Conference Committee: SB11-209, SB11-226, SB11-219.

On motion of Senator Morse, the Senate adjourned until 9:00 a.m., Tuesday, April 19, 2011.

Approved:

Brandon C. Shaffer
President of the Senate

Attest:

Cindi L. Markwell
Secretary of the Senate

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