

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

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28th Legislative Day Tuesday, February 8, 2011

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- Prayer 10  
 By the chaplain, Rabbi Eliot J. Baskin, Jewish Family Services of Colorado, Denver. 11
- Call to Order 12  
 By the President at 9:00 a.m. 13
- Pledge 14  
 By Senator Guzman. 15
- Roll Call 16  
 Present--26 17  
 Excused--9, Boyd, Carroll, Johnston, King S., Mitchell, Nicholson, Renfroe, Tochtrop, Williams S. 18
- Present later--9, Boyd, Carroll, Johnston, King S., Mitchell, Nicholson, Renfroe, Tochtrop, Williams S. 19
- Quorum 20  
 The President announced a quorum present. 21
- Reading of Journal 22  
 On motion of Senator Lambert, reading of the Journal of Monday, February 7, 2011, was dispensed with and the Journal was approved as corrected by the Secretary. 23

**CONSIDERATION OF GOVERNOR'S APPOINTMENTS**

On motion of Senator Heath, the following Governor's appointment was confirmed by a roll call vote:

EXECUTIVE DIRECTOR OF THE DEPARTMENT OF  
 MILITARY AND VETERANS AFFAIRS

for a term expiring at the pleasure of the Governor:

Howard Michael Edwards, of Parker, Colorado.

YES	32	NO	0	EXCUSED	3	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	E	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.	E
Giron	Y	King K.	Y	Renfroe	Y	President	Y
Grantham	Y	King S.	Y	Roberts	Y		

On motion of Senator Tochtrop, the following Governor's appointment was confirmed by a roll call vote:

EXECUTIVE DIRECTOR OF THE DEPARTMENT OF  
 PERSONNEL AND ADMINISTRATION

effective January 25, 2011, for a term expiring at the pleasure of the Governor:

Kathryn Nesbitt, of Highlands Ranch, Colorado.

YES	32	NO	0	EXCUSED	3	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	E	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.	E
Giron	Y	King K.	Y	Renfroe	Y	President	Y
Grantham	Y	King S.	Y	Roberts	Y		

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 Tuesday, February 8 was laid over until Wednesday, February 9, retaining its place on the calendar.

General Orders -- Second Reading of Bills -- Consent Calendar: SB11-002, SB11-021, SB11-062, HB11-1009.

General Orders -- Second Reading of Bills: SB11-013, SB11-010, SB11-039, SB11-012, SB11-019, SB11-034, SB11-043.

Consideration of Governor's Appointments:

Executive Director of the Department of Corrections

Executive Director of the Department of Health Care Policy and Financing

**COMMITTEE OF REFERENCE REPORTS**

State, Veterans, & Military Affairs

After consideration on the merits, the Committee recommends that **SB11-038** be postponed indefinitely.

State, Veterans, & Military Affairs

After consideration on the merits, the Committee recommends that **SJR11-005** be referred to the Senate for final action.

State, Veterans, & Military Affairs

After consideration on the merits, the Committee recommends that **SB11-035** be postponed indefinitely.

Judiciary

After consideration on the merits, the Committee recommends that **HB11-1001** be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.

Judiciary

After consideration on the merits, the Committee recommends that **SB11-004** 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.** 18-9-121 (1), the introductory portion to 18-9-121 (2), and 18-9-121 (5), Colorado Revised Statutes, are amended to read:

**18-9-121. Bias-motivated crimes.** (1) The general assembly hereby finds and declares that it is the right of every person, regardless of race, color, ancestry, religion, national origin, physical or mental disability, HOMELESS STATUS, or sexual orientation to be secure and

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protected from fear, intimidation, harassment, and physical harm caused by the activities of individuals and groups. The general assembly further finds that the advocacy of unlawful acts against persons or groups because of a person's or group's race, color, ancestry, religion, national origin, physical or mental disability, HOMELESS STATUS, or sexual orientation for the purpose of inciting and provoking bodily injury or damage to property poses a threat to public order and safety and should be subject to criminal sanctions.

(2) A person commits a bias-motivated crime if, with the intent to intimidate or harass another person because of that person's actual or perceived race, color, religion, ancestry, national origin, physical or mental disability, HOMELESS STATUS, or sexual orientation, he or she:

(5) For purposes of this section:

(a) "HOMELESS STATUS" MEANS A PERSON WHO:

(I) LACKS A FIXED, REGULAR, AND ADEQUATE NIGHTTIME RESIDENCE; OR

(II) HAS A PRIMARY NIGHTTIME RESIDENCE THAT IS:

(A) A SUPERVISED PUBLICLY OR PRIVATELY OPERATED SHELTER DESIGNED TO PROVIDE TEMPORARY LIVING ACCOMMODATIONS; OR

(B) A PUBLIC OR PRIVATE PLACE NOT DESIGNED FOR, OR ORDINARILY USED AS, A REGULAR SLEEPING ACCOMMODATION FOR HUMAN BEINGS.

(a) (b) "Physical or mental disability" refers to a disability as used in the definition of the term "person with a disability" in section 18-6.5-102 (3).

(b) (c) "Sexual orientation" means a person's actual or perceived orientation toward heterosexuality, homosexuality, bisexuality, or transgender status.

**SECTION 2.** Article 18 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**17-18-108. Appropriation to comply with section 2-2-703 - SB 11-004 - repeal.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT SENATE BILL 11-004, ENACTED IN 2011:

(a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2011, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF \_\_\_\_\_ DOLLARS (\$ ).

(b) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2012, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF \_\_\_\_\_ DOLLARS (\$ ).

(II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2012, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF \_\_\_\_\_ DOLLARS (\$ ).

(c) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2013, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF \_\_\_\_\_ DOLLARS (\$ ).

(II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2013, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF \_\_\_\_\_ DOLLARS (\$ ).

(d) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF \_\_\_\_\_ DOLLARS (\$ ).

(II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF \_\_\_\_\_ DOLLARS (\$ ).

(e) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2015, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM

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THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF \_\_\_\_\_ DOLLARS (\$ ).

(II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2015, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF \_\_\_\_\_ DOLLARS (\$ ).

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.

**SECTION 3.** The introductory portion to 24-75-302 (2) and 24-75-302 (2) (x) and (2) (y), Colorado Revised Statutes, are amended, and the said 24-75-302 (2) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

**24-75-302. Capital construction fund - capital assessment fees - calculation.** (2) As of July 1, 1988, and July 1 of each year thereafter through July 1, ~~2012~~ 2015, a sum as specified in this subsection (2) shall accrue to the capital construction fund. The state treasurer and the controller shall transfer such sum out of the general fund and into the capital construction fund as moneys become available in the general fund during the fiscal year beginning on said July 1. Transfers between funds pursuant to this subsection (2) shall not be deemed to be appropriations subject to the limitations of section 24-75-201.1. The amount that shall accrue pursuant to this subsection (2) shall be as follows:

(x) On July 1, 2011, seven hundred fifty thousand nine hundred ninety dollars pursuant to S.B. 07-096, enacted at the first regular session of the sixty-sixth general assembly; plus three hundred seventy-five thousand four hundred ninety-five dollars pursuant to S.B. 08-239, enacted at the second regular session of the sixty-sixth general assembly; PLUS \_\_\_\_\_ DOLLARS PURSUANT TO S.B. 11-004, ENACTED IN 2011;

(y) On July 1, 2012, one hundred twelve thousand six hundred forty-nine dollars pursuant to H.B. 08-1115, enacted at the second regular session of the sixty-sixth general assembly; plus three hundred seventy-five thousand four hundred ninety-five dollars pursuant to S.B. 08-239, enacted at the second regular session of the sixty-sixth general assembly; plus eighty-three thousand eight hundred sixty-one dollars pursuant to S.B. 10-128, enacted at the second regular session of the sixty-seventh general assembly; PLUS \_\_\_\_\_ DOLLARS PURSUANT TO S.B. 11-004, ENACTED IN 2011;

(z) ON JULY 1, 2013, \_\_\_\_\_ DOLLARS PURSUANT TO S.B. 11-004, ENACTED IN 2011;

(aa) ON JULY 1, 2014, \_\_\_\_\_ DOLLARS PURSUANT TO S.B. 11-004, ENACTED IN 2011;

(bb) ON JULY 1, 2015, \_\_\_\_\_ DOLLARS PURSUANT TO S.B. 11-004, ENACTED IN 2011;

**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."

Business,  
Labor, &  
Technology

After consideration on the merits, the Committee recommends that **HB11-1022** 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

After consideration on the merits, the Committee recommends that **HB11-1015** 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

After consideration on the merits, the Committee recommends that **HB11-1023** be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.

Senate in recess.

Senate reconvened.

**MESSAGE FROM THE HOUSE**

February 8, 2011

Mr. President:

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB11-1128.

The House has passed on Third Reading and transmitted to the Revisor of Statutes; HB11-1110, amended as printed in House Journal, February 7, pages 175-176, and amended on Third Reading as printed in House Journal, February 8.

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB11-1074, amended as printed in House Journal, February 7, page 176. HB11-1031, amended as printed in House Journal, February 7, page 176.

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**MESSAGE FROM THE REVISOR OF STATUTES**

February 8, 2011

To: Senate

Message From Revisor of Statutes

We herewith transmit:

Without comment, HB11-1128.  
Without comment, as amended, HB11-1031, 1074, and 1110.

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**SENATE SERVICES REPORT**

**Correctly Printed:** SB11-135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163 and 164.  
**Correctly Reengrossed:** SB11-076.  
**Correctly Enrolled:** SJR11-010.

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**INTRODUCTION OF RESOLUTIONS**

The following resolutions were read by title:

**SJR11-011** by Senator(s) Morse, Shaffer B., Kopp; also Representative(s) Massey, Vaad, Court, Williams A.--Concerning the authority of the Senate to exceed the maximum number of legislative aide hours allowed per Senator to the extent certain moneys are available in the Senate's budget to fund additional hours.

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

**SR11-003** by Senator(s) Morse; --Concerning changes to the rules of the Senate regarding committees of reference.

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

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**INTRODUCTION OF BILLS -- FIRST READING**

The following bills were read by title and referred to the committees indicated:

- SB11-165** by Senator(s) Guzman; --Concerning the "Colorado Uniform Estate Tax Apportionment Act".  
Judiciary
- SB11-166** by Senator(s) Johnston; --Concerning the "Uniform Disclaimer of Property Interests Act".  
Judiciary
- SCR11-001** by Senator(s) Shaffer B. and Spence, Kopp, Brophy, Heath, Jahn, King S., Morse, Roberts, Schwartz, Steadman, Tochtrop, White; also Representative(s) Murray and Court, McNulty, Acree, Barker, Baumgardner, Becker, Brown, Casso, Conti, Coram, Duran, Ferrandino, Fields, Fischer, Gardner D., Hamner, Hulinghorst, Kagan, Kefalas, Kerr A., Labuda, Lee, Levy, Liston, Massey, McCann, McKinley, Miklosi, Pace, Peniston, Priola, Riesberg, Ryden, Schafer S., Scott, Solano, Sonnenberg, Soper, Summers, Swerdfeger, Todd, Tyler, Vigil, Williams A., Wilson--Submitting to the registered electors of the state of Colorado an amendment to the Colorado constitution concerning ballot measures, and, in connection therewith, increasing the number of votes needed to pass a constitutional amendment from a majority to at least sixty percent of the votes cast; allowing a constitutional amendment passed prior to 2013 to be repealed by a majority of the votes cast; adding a requirement that a minimum number of petition signatures for a citizen-initiated constitutional amendment be gathered from voters who reside in each Colorado congressional district; and increasing the requirement from a majority to a two-thirds vote of the state legislature to change, repeal, or supersede a citizen-initiated law for three years after it becomes effective.  
State, Veterans & Military Affairs
- HB11-1051** by Representative(s) Swerdfeger, Waller; also Senator(s) King S.--Concerning clarification that a DNA sample expungement is never available for a felony conviction.  
Judiciary
- HB11-1089** by Representative(s) Conti, Kerr J., Acree, Balmer, Baumgardner, Becker, Beezley, DelGrosso, Holbert, Looper, Massey, Ramirez, Scott, Swerdfeger; also Senator(s) King K., Spence, Harvey, King S., Lundberg--Concerning the authority of the state charter school institute to act as a local education agency for charter schools that apply for grant programs.  
State, Veterans & Military Affairs
- HB11-1113** by Representative(s) Holbert; also Senator(s) Foster--Concerning the provision of information pertaining to impact fees imposed by local governments.  
Local Government and Energy

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

Approved:

Brandon C. Shaffer  
President of the Senate

Attest:

Cindi L. Markwell  
Secretary of the Senate

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