

**SENATE JOURNAL**  
 Sixty-fourth General Assembly  
**STATE OF COLORADO**  
 Second Regular Session

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Twenty-second Legislative Day Wednesday, January 28, 2004

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- Prayer 10  
 By the chaplain, Pastor Brett Ferguson, Riverside Baptist Church. 11
- Pledge 12  
 By Senator Fitz-Gerald. 13
- Call to 14  
 Order 15  
 By the President at 9:00 a.m. 16
- Roll Call 17  
 Present--29. 18  
 Absent/Excused--6; Gordon, Hagedorn, Johnson, Keller, Tupa, Windels. 19  
 Present later--Gordon, Keller, Tupa, Windels. 20
- Quorum 21  
 The President announced a quorum present. 22
- Reading of 23  
 Journal 24  
 On motion of Senator Jones, reading of the Journal of January 27, 2004, was 25  
 dispensed with and the Journal was approved as corrected by the Secretary. 26

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**MESSAGE FROM THE HOUSE**

January 27, 2004 27  
 Mr. President: 28

The House has passed on Third Reading and transmitted to the Revisor of Statutes 29  
 HB04-1053, 1043, 1027, 1047, 1061, 1074, 1118, 1152, 1037, 30  
31

The House has passed on Third Reading and transmitted to the Revisor of Statutes 32  
 HB04-1078, amended as printed in House Journal, January 23, page 136. 33  
 HB04-1057, amended as printed in House Journal, January 23, pages 136-137. 34  
 HB04-1127, amended as printed in House Journal, January 26, page 154. 35  
 HB04-1050, amended as printed in House Journal, January 26, page 150. 36  
 HB04-1119, amended as printed in House Journal, January 26, page 155. 37

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**MESSAGE FROM THE REVISOR OF STATUTES**

January 27, 2004 38  
 We herewith transmit: 39

Without comment, HB04-1053, 1043, 1027, 1047, 1061, 1074, 1118, 1152, 1037. 40  
 Without comment, as amended, HB04-1078, 1057, 1127, 1050, 1119. 41

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**INTRODUCTION OF BILLS--FIRST READING**

The following bills were read by title and referred to the committees indicated: 42

**SB04-171** by Senator(s) Teck, Owen, Reeves; also Representative(s) Plant, Witwer, Young-- 43  
 Concerning contingency-based contracts, and, in connection therewith, allowing a state 44  
 agency to enter into a contingency-based contract only when specifically authorized to do 45  
 so by law or when the office of state planning and budgeting approves the contract. 46  
 Business Affairs & Labor 47

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- SB04-172** by Senator(s) Entz; also Representative(s) Sinclair--Concerning authorization of persons qualified to use disabled veteran license plates to park in parking reserved for persons with disabilities.  
State Veterans & Military Affairs
- HB04-1027** by Representative(s) Vigil, Coleman, Rhodes, Williams T.; also Senator(s) Takis, Anderson, Taylor, Tupa--Concerning the role of the comprehensive primary and preventive care grant program's advisory council.  
Health, Environment, Welfare & Institutions
- HB04-1037** by Representative(s) Hodge; also Senator(s) Keller--Concerning the treatment of American sign language as a foreign language in education.  
Education
- HB04-1043** by Representative(s) Fairbank; also Senator(s) Lamborn--Concerning mandatory criteria to be used by courts in determining congressional district boundaries.  
State Veterans & Military Affairs
- HB04-1047** by Representative(s) Rose; also Senator(s) Hagedorn--Concerning the authority of a county to require certain persons who receive child care assistance to cooperate with child support enforcement efforts.  
Health, Environment, Welfare & Institutions
- HB04-1050** by Representative(s) Butcher; also Senator(s) Tapia--Concerning a prohibition against changing an inscription on a burial memorial without required permission.  
Judiciary
- HB04-1053** by Representative(s) Hall; also Senator(s) Groff--Concerning allowing the loss of a license if a person licensed to sell motor vehicles does not timely notify a consumer regarding the outcome of an attempt to secure financing for the purchase of a motor vehicle.  
Business Affairs & Labor
- HB04-1057** by Representative(s) Miller; also Senator(s) Taylor--Concerning newspaper theft.  
State Veterans & Military Affairs
- HB04-1074** by Representative(s) Lee; also Senator(s) Gordon--Concerning a department of corrections reentry program.  
Judiciary
- HB04-1118** by Representative(s) Johnson R., Borodkin, Cerbo, Fairbank, Hall, Hodge, Marshall, McCluskey, McGihon, Paccione, Pommer, Rhodes, Rippy, Rose, Schultheis, Sinclair; also Senator(s) Lamborn--Concerning the ramifications of making false reports concerning at-risk adults.  
Judiciary
- HB04-1119** by Representative(s) Hefley, Witwer, Boyd, Butcher, Carroll, Cerbo, Cloer, Crane, Frangas, Johnson R., Larson, McCluskey, McFadyen, Paccione, Pommer, Rippy, Romanoff, Welker, Williams S., Williams T., Briggs, Hall, King, May M., White; also Senator(s) Taylor, Chlouber, Arnold, Groff, Hagedorn, Hanna, Isgar, Johnson S., Keller, Lamborn, Reeves, Tapia, Veiga, Windels--Concerning the income tax credit for child care facilities, and, in connection therewith, clarifying the meaning of the term "child care facility" and extending the credit for five additional years.  
Finance
- HB04-1127** by Representative(s) Johnson R., Larson, Tochtrop; also Senator(s) Johnson S.--Concerning a limitation on the use of the professional title of "nurse".  
Health, Environment, Welfare & Institutions
- HB04-1152** by Representative(s) Hoppe, Rose, Salazar, White; also Senator(s) Entz--Concerning membership requirements for the water resources review committee.  
Agriculture, Natural Resources & Energy

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### THIRD READING--FINAL PASSAGE OF BILLS

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

- SB04-036** by Senator(s) Takis, Sandoval; also Representative(s) Garcia, Borodkin, Ragsdale, Williams S., Sinclair, Merrifield--Concerning the prevention of spilling of material from certain motor vehicles.

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

YES	30	NO	2	EXCUSED	3	ABSENT	0
Anderson	Y	Groff	Y	Kester	Y	Takis	Y
Arnold	Y	Grossman	Y	Lamborn	Y	Tapia	Y
Cairns	Y	Hagedorn	E	May	Y	Taylor	Y
Chlouber	Y	Hanna	Y	McElhany	Y	Teck	Y
Dyer	Y	Hillman	N	Nichol	Y	Tupa	E
Entz	N	Isgar	Y	Owen	Y	Veiga	Y
Evans	Y	Johnson	E	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Jones	Y	Reeves	Y	Mr. President	Y
Gordon	Y	Keller	Y	Sandoval	Y		

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

Co-sponsors added: Cairns, Chlouber, Fitz-Gerald, Groff, Hanna, Jones, and May.

Committee of the Whole

On motion of Senator Chlouber, the Senate resolved itself into the Committee of the Whole for consideration of General Orders--Second Reading of Bills and Senator Chlouber 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:

**SB04-106**

by Senator(s) Teck; also Representative(s) Stengel--Concerning a repeal of the second pool of premium tax credits available under the "Certified Capital Company Act", and, in connection therewith, creating tax credits for contributions to a venture capital program.

Amendment No. 1, Finance Committee Amendment.

(Printed in Senate Journal, January 22, page 101 and placed in members' bill files.)

Amendment No. 2(L.004), by Senator Teck.

Amend printed bill, page 14, line 3, after "(9)", insert "(a)" and, strike "MEANS" and substitute "MEANS, SUBJECT TO PARAGRAPH (b) OF THIS SUBSECTION (9),";

after line 13, insert the following:

"(b) A FUND MANAGER SHALL NOT MAKE A LOAN TO A QUALIFIED BUSINESS OR QUALIFIED RURAL BUSINESS UNLESS THE BUSINESS HAS RECEIVED TWO WRITTEN LOAN REJECTION LETTERS FROM TWO DIFFERENT COMMERCIAL BANKS HEADQUARTERED OR CHARTERED IN COLORADO THAT MAKE SMALL BUSINESS LOANS, ONE OF WHICH SHALL BE A PREFERRED LENDER DESIGNATED BY THE FEDERAL SMALL BUSINESS ADMINISTRATION. ANY SUCH LOAN BY A FUND MANAGER SHALL NOT BE MADE THROUGH OR IN CONNECTION WITH ANY GUARANTEED LOAN PROGRAM."

Amendment No. 3(L.005), by Senator Teck.

Amend printed bill, page 11, line 10, after the period, add "A FUND MANAGER SHALL HAVE AT LEAST TWO YEARS OF MONEY MANAGEMENT EXPERIENCE IN THE VENTURE CAPITAL INDUSTRY OR THE EQUIVALENT AS DETERMINED BY THE AUTHORITY."

Page 13, line 24, after "ANNUALLY", insert "OF THE TOTAL AMOUNT".

Page 14, line 12, strike "APPLICABLE, UNLESS OTHERWISE" and substitute "APPLICABLE; EXCEPT THAT THE AUTHORITY MAY ALLOW A QUALIFIED INVESTMENT IN A QUALIFIED RURAL BUSINESS THAT IS NOT A SEED OR EARLY-STAGE INVESTMENT IF THE INVESTMENT IS APPROPRIATE AND LATER-STAGE CAPITAL INVESTMENTS ARE NOT OTHERWISE AVAILABLE TO THE QUALIFIED RURAL BUSINESS.";

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strike line 13.

Page 15, strike lines 21 through 23 and substitute the following:

"(12) "SEED AND EARLY-STAGE INVESTMENT" MEANS THE FIRST INVESTMENT FROM A PROFESSIONAL VENTURE CAPITAL FIRM TO A QUALIFIED BUSINESS. A SEED INVESTMENT IS MADE TO A QUALIFIED BUSINESS THAT HAS NOT YET FULLY ESTABLISHED COMMERCIAL OPERATIONS OR THAT INVOLVES CONTINUED RESEARCH AND PRODUCT DEVELOPMENT. AN EARLY-STAGE INVESTMENT IS MADE TO A QUALIFIED BUSINESS FOR PRODUCT DEVELOPMENT OR INITIAL MARKETING, MANUFACTURING, OR SALES ACTIVITIES."

Page 16, strike lines 23 through 27.

Page 17, strike lines 1 through 16 and substitute the following:

"(b) (I) THE GOVERNING BODY OF THE AUTHORITY SHALL BE A BOARD OF DIRECTORS CONSISTING OF NINE MEMBERS APPOINTED BY THE GOVERNOR WITH THE CONSENT OF THE SENATE. BOARD MEMBERS SHALL HAVE EXPERIENCE IN VENTURE CAPITAL, INVESTMENT BANKING, MONEY MANAGEMENT, OR BANKING. EACH MEMBER SHALL SERVE UNTIL A SUCCESSOR HAS BEEN APPOINTED AND QUALIFIED. ANY MEMBER SHALL BE ELIGIBLE FOR REAPPOINTMENT. THE GOVERNOR SHALL FILL ANY VACANCY BY APPOINTMENT FOR THE REMAINDER OF AN UNEXPIRED TERM.

(II) (A) SUBJECT TO SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (II), THE MEMBERS OF THE BOARD SHALL SERVE FOUR-YEAR TERMS, EXPIRING ON MAY 5 OF EACH YEAR.

(B) THE GOVERNOR SHALL MAKE INITIAL APPOINTMENTS AS FOLLOWS: THREE MEMBERS WITH AN INITIAL TERM OF TWO YEARS, THREE MEMBERS WITH AN INITIAL TERM OF THREE YEARS, AND THREE MEMBERS WITH AN INITIAL TERM OF FOUR YEARS. THE GOVERNOR SHALL MAKE THESE INITIAL APPOINTMENTS AS SOON AS PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS ACT, AND THE SENATE'S CONSIDERATION OF CONFIRMATION OF THE APPOINTMENTS SHALL OCCUR BY MAY 5, 2004.

(c) ANY MEMBER OF THE BOARD MAY BE REMOVED BY THE GOVERNOR FOR MISFEASANCE,".

Page 22, line 9, after the period, add "THE AUTHORITY SHALL SELECT FUND MANAGERS BY DECEMBER 31, 2004, AND THEREAFTER AS NECESSARY."

Amendment No. 4(L.006), by Senator Teck.

Amend printed bill, page 18, strike lines 12 and 13 and substitute the following:

"FROM THE ENTERPRISE FUND."

Page 21, line 10, strike "TO" and substitute "AS A REVOLVING, EVERGREEN FUND TO";

line 16, strike "2." and substitute "2, INCLUDING REPAYMENT OF REVENUE BONDS."

Page 25, after line 5, insert the following:

"(II) THE NUMBER OF JOBS CREATED IN COLORADO FROM QUALIFIED INVESTMENTS MADE BY THE FUND MANAGER AND THE AMOUNT OF PROCEEDS, IF ANY, RECEIVED BY THE FUND MANAGER FROM THE INVESTMENTS;"

Renumber succeeding subparagraphs accordingly.

Page 28, line 7, after "REQUESTED," insert "WHICH CONTRIBUTION SHALL BE NO LESS THAN EIGHTY PERCENT OF THE REQUESTED AMOUNT OF TAX CREDITS,".

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Amendment No. 5(L.002), by Senators Sandoval and Groff.

Amend printed bill, page 11, after line 2, insert the following:

"(3) (a) "DISTRESSED URBAN COMMUNITY" MEANS AN AREA WITHIN A CITY OR CITY AND COUNTY:

(I) WHERE A QUALIFIED BUSINESS WOULD NOT BE A QUALIFIED RURAL BUSINESS; AND

(II) THAT HAS BEEN DESIGNATED AS AN ENTERPRISE ZONE PURSUANT TO ARTICLE 30 OF TITLE 39, C.R.S.

(b) IF A DISTRESSED URBAN COMMUNITY'S ENTERPRISE ZONE STATUS IS TERMINATED PURSUANT TO ARTICLE 30 OF TITLE 39, C.R.S., A CERTIFIED INVESTMENT SHALL NEVERTHELESS CONTINUE TO BE CONSIDERED AN INVESTMENT IN A QUALIFIED BUSINESS THAT HAS ITS PRINCIPAL BUSINESS OPERATION LOCATED IN A DISTRESSED URBAN COMMUNITY IF THE LOCATION WAS IN AN ENTERPRISE ZONE AT THE TIME OF THE FIRST QUALIFIED INVESTMENT BY THE FUND MANAGER IN THE BUSINESS."

Renumber succeeding subsections accordingly.

Page 11, line 22, strike "(7)," and substitute "(8),".

Page 12, line 8, strike "(7)" and substitute "(8)".

Page 13, line 4, strike "(7)," and substitute "(8),";

line 17, strike "(7)" and substitute "(8)".

Page 15, line 8, strike "(7)" and substitute "(8)";

line 25, strike "FUNDS" and substitute "FUNDS, ONE OR MORE DISTRESSED URBAN COMMUNITY VENTURE CAPITAL FUNDS,".

Page 22, line 14, strike "AND";

line 15, strike "SEVENTY-FIVE" and substitute "FIFTY";

line 18, strike "BUSINESSES." and substitute "BUSINESSES; AND";

after line 18, insert the following:

"(c) TWENTY-FIVE PERCENT OF CERTIFIED CAPITAL TO ONE OR MORE FUND MANAGERS FOR THE ESTABLISHMENT AND MANAGEMENT OF ONE OR MORE DISTRESSED URBAN COMMUNITY VENTURE CAPITAL FUNDS FOR THE PURPOSE OF MAKING QUALIFIED INVESTMENTS IN QUALIFIED BUSINESSES WHOSE PRINCIPAL BUSINESS OPERATIONS ARE LOCATED IN A DISTRESSED URBAN COMMUNITY.";

line 27, after "INVEST", insert "IS LOCATED IN A DISTRESSED URBAN COMMUNITY OR".

Page 23, line 2, after "WHETHER", insert "THE BUSINESS IS LOCATED IN A DISTRESSED URBAN COMMUNITY OR";

line 8, after "BE", insert "LOCATED IN A DISTRESSED URBAN COMMUNITY OR TO BE".

Amendment No. 6(L.008), by Senator Keller.

Amend printed bill, page 14, line 13, after the period, add "AN INVESTMENT SHALL BE DEEMED TO BE A QUALIFIED INVESTMENT ONLY IF THE QUALIFIED BUSINESS OR QUALIFIED RURAL BUSINESS IN WHICH THE INVESTMENT IS MADE EXPENDS THE QUALIFIED INVESTMENT WITHIN COLORADO; EXCEPT THAT THIS LIMITATION SHALL NOT BE DEEMED TO

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PRECLUDE THE PURCHASE OF SERVICES OR GOODS FROM OUTSIDE OF COLORADO IF SUCH SERVICES ARE PERFORMED AND SUCH GOODS ARE USED IN COLORADO."

Amendment No. 7(L.007), by Senator Hanna.

Amend printed bill, page 22, line 23, after the period, add "THE CONTRACT SHALL SPECIFY THAT THE FUND MANAGER SHALL MAKE QUALIFIED INVESTMENTS ACCORDING TO THE FOLLOWING SCHEDULE:

(a) BY JANUARY 1, 2006, THE FUND MANAGER SHALL HAVE MADE AT LEAST ONE QUALIFIED INVESTMENT.

(b) WITHIN THE PERIOD ENDING THREE YEARS AFTER AN ALLOCATION DATE, A FUND MANAGER SHALL HAVE MADE QUALIFIED INVESTMENTS CUMULATIVELY EQUAL TO AT LEAST THIRTY PERCENT OF THE CERTIFIED CAPITAL ALLOCATED TO IT ON SUCH ALLOCATION DATE.

(c) WITHIN THE PERIOD ENDING FIVE YEARS AFTER AN ALLOCATION DATE, A FUND MANAGER SHALL HAVE MADE QUALIFIED INVESTMENTS CUMULATIVELY EQUAL TO AT LEAST FIFTY PERCENT OF THE CERTIFIED CAPITAL ALLOCATED TO IT ON SUCH ALLOCATION DATE.

(d) WITHIN THE PERIOD ENDING TEN YEARS AFTER AN ALLOCATION DATE, A FUND MANAGER SHALL HAVE MADE QUALIFIED INVESTMENTS CUMULATIVELY EQUAL TO AT LEAST ONE HUNDRED PERCENT OF THE CERTIFIED CAPITAL ALLOCATED TO IT ON SUCH ALLOCATION DATE.

Amendment No. 8(L.013), by Senator Lamborn.

Amend the Teck floor amendment (SB 106\_L.005), page 2, line 10, after "MANAGEMENT,", insert "BUSINESS EXPERIENCE IN FORMING START-UP COMPANIES,".

As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage.

**ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE**

On motion of Senator Chlouber, the Report of the Committee of the Whole was adopted and, a majority of all members elected to the Senate having voted in the affirmative, the following action was taken:

Passed on Second Reading: SB04-106 as amended.  
Laid over until Thursday, January 29: SB04-115, SB04-022, SB04-034, SB04-110, SB04-025, SB04-117, SB04-014, SB04-057.

**COMMITTEE OF REFERENCE REPORTS**

Finance

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

MEMBERS OF THE  
FIRE AND POLICE PENSION ASSOCIATION  
BOARD OF DIRECTORS

for terms expiring September 1, 2006:

Ronald M. Lappi of Grand Junction, Colorado, to serve as a representative of Colorado municipal employers, reappointed;

Mark S. Sunderhuse of Evergreen, Colorado, to serve as a representative of corporate administration, reappointed;

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Monica Cortez-Sangster of Aurora, Colorado, to serve as a representative of the financial community with experience in insurance disability claims, appointed.

for terms expiring September 1, 2007:

Leo J. Johnson of Littleton, Colorado, to serve as a representative of special districts, reappointed;

John M. Bramble of Brighton, Colorado, to serve as a representative of Colorado municipal employers, reappointed.

Finance

After consideration on the merits, the Committee recommends that **SB04-015** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, line 24, strike "FAMILY SUPPORT REGISTRY" and substitute "DEPARTMENT OF HUMAN SERVICES";

strike line 26 and substitute the following:

"OBLIGATION FOR INDIVIDUALS RECEIVING SERVICES PURSUANT TO SECTION 26-13-106, C.R.S.; OR".

Page 3, line 12, strike "FAMILY SUPPORT REGISTRY" and substitute "DEPARTMENT OF HUMAN SERVICES";

strike lines 13 and 14 and substitute the following:

"INDIVIDUAL'S CHILD SUPPORT OBLIGATION FOR INDIVIDUALS RECEIVING SERVICES PURSUANT TO SECTION 26-13-106, C.R.S.; OR".

Finance

After consideration on the merits, the Committee recommends that **SB04-108** be referred to the Committee of the Whole with favorable recommendation.

Finance

After consideration on the merits, the Committee recommends that **SB04-120** be referred to the Committee of the Whole with favorable recommendation.

Trans-  
portation

After consideration on the merits, the Committee recommends that **SB04-053** be referred to the Committee of the Whole with favorable recommendation.

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### INTRODUCTION OF BILLS--FIRST READING

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

**SB04-173** by Senator(s) Keller, Entz, Anderson, Evans, Johnson S., Reeves; also Representative(s) Stafford, Boyd, Coleman, Jahn, Larson, Romanoff, Witwer--Concerning the authority of local governments to provide mental health care services to persons residing in the state.  
State Veterans & Military Affairs

**HB04-1078** by Representative(s) Harvey, Lundberg, Rhodes; also Senator(s) Lamborn--Concerning regulation of sexually explicit representations that are harmful to minors.  
State Veterans & Military Affairs

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**INTRODUCTION OF RESOLUTION**

The following resolution was read by title and referred to the committee indicated:

**SJR04-008** by Senator(s) Fitz-Gerald; also Representative(s) Romanoff--Concerning the discontinuation of the redistricting litigation.

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

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**SIGNING OF BILLS--RESOLUTIONS--MEMORIALS**

The President has signed: HJR04-1002.

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**SENATE SERVICES REPORT**

**Correctly Printed:** SB04-163, 164, 165, 166, 167, 168, 169 and 170.  
**Correctly Reengrossed:** SB04-041, 062, 072, 087 and 109.

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Journal correction:

Page 128, after line 39, insert the follow:

"Secretary of the Senate".

Page 134, after line 38, insert the following:

"Secretary of the Senate".

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On motion of Senator Hillman, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the calendar of January 28, 2004, was laid over until Thursday, January 29, 2004, retaining its place on the calendar.

Consideration of Governor's Appointments:  
Executive Director of the Department of Local Affairs.

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On motion of Senator Hillman, the Senate adjourned until 9:00 a.m., Thursday, January 29, 2004.

Approved:

John Andrews  
President of the Senate

Attest:

Mona Heustis  
Secretary of the Senate

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