

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

Forty-second Legislative Day

Tuesday, February 17, 2009

1 Prayer by Rajan Zed, President of the Universal Society of Hinduism.
2
3 The Speaker called the House to order at 9:00 a.m.
4
5 Pledge of Allegiance led by Bailey and Zachary Zulkoski, Pioneer
6 Elementary, Parker.
7
8 The roll was called with the following result:
9
10 Present--62.
11 Excused--Representative(s) Curry, McCann, Middleton--3.
12 Present after roll call--Representative(s) Middleton.
13

14 The Speaker declared a quorum present.
15
16

17 On motion of Representative Gerou, the reading of the journal of
18 February 16, 2009, was declared dispensed with and approved as
19 corrected by the Chief Clerk.
20

21
22
23 House in recess. House reconvened.
24
25
26

27 On motion of Representative Merrifield, the House resolved itself into
28 Committee of the Whole for consideration of General Orders, and he was
29 called to the Chair to act as Chairman.
30
31
32

GENERAL ORDERS--SECOND READING OF BILLS

33
34
35 The Committee of the Whole having risen, the Chairman reported the
36 titles of the following bills had been read (reading at length had been
37 dispensed with by unanimous consent), the bills considered and action
38 taken thereon as follows:
39

40 (Amendments to the committee amendment are to the printed committee
41 report which was printed and placed in the members' bill file.)
42
43

1 **HB09-1185** by Representative(s) Tipton; also Senator(s) Isgar--
2 Concerning requirements for documents related to water
3 rights applications.
4

5 Ordered engrossed and placed on the Calendar for Third Reading and
6 Final Passage.
7

8 **SB09-015** by Senator(s) Tochtrop, Brophy, Isgar, Hodge, Schwartz,
9 White; also Representative(s) Gardner C., Curry,
10 McKinley--Concerning removal of the White river
11 drainage basin from the jurisdiction of water division 5 to
12 water division 6.
13

14 Ordered revised and placed on the Calendar for Third Reading and Final
15 Passage.
16

17 **HB09-1257** by Representative(s) Scanlan; also Senator(s) Scheffel--
18 Concerning the requirement that the amount of public
19 funds invested in any one certificate of deposit may not
20 exceed the amount insured by the federal deposit
21 insurance corporation.
22

23 Ordered engrossed and placed on the Calendar for Third Reading and
24 Final Passage.
25

26 **SB09-040** by Senator(s) Hodge; also Representative(s) Soper--
27 Concerning the regulation of manufactured homes.
28

29 Ordered revised and placed on the Calendar for Third Reading and Final
30 Passage.
31

32 **HB09-1013** by Representative(s) Sonnenberg--Concerning an
33 exception to statutory requirements governing the
34 collection of excess property tax revenue by urban
35 renewal authorities in connection with tax increment
36 financing for certain special districts providing emergency
37 services.
38

39 Laid over until February 18, retaining place on Calendar.
40

41 **HB09-1197** by Representative(s) McNulty, Kerr J., Balmer,
42 Baumgardner, Frangas, Gardner C., Gerou, Looper, May,
43 Scanlan; also Senator(s) Harvey, Brophy, Kopp, Renfro,
44 Spence--Concerning a requirement that the division of
45 housing report data regarding home foreclosures in the
46 state.
47

48 Amendment No. 1, Local Government Report, dated February 10, and
49 placed in member's bill file; Report also printed in House Journal,
50 February 12, 2009, page 315.
51

52 As amended, ordered engrossed and placed on the Calendar for Third
53 Reading and Final Passage.
54
55

1 **HB09-1183** by Representative(s) Vaad; also Senator(s) Hodge--Con-
2 cerning violations of laws related to real estate appraisers.
3

4 Amendment No. 1, by Representative Levy.
5

6 Amend printed bill, page 2, line 1, after "12-61-712", insert "(1) (a) and",
7 and, strike "is" and substitute "are";
8

9 line 3, strike everything after "acts." and insert the following:
10

11 "(1) It is unlawful for any person to:
12

13 (a) Violate any provision of ~~this part 7 or, on and after July 1,~~
14 ~~1997, SECTION 12-61-710~~ (1) (c), (1) (e), OR (1) (f), OR to perform a real
15 estate appraisal in conjunction with a debt instrument that is federally
16 guaranteed or in the federal secondary market or regulated pursuant to
17 title 12, U.S.C., without first having obtained a registration, license, or
18 certificate from the board pursuant to this part 7;
19

20 (2) Any person who violates any".
21

22 As amended, ordered engrossed and placed on the Calendar for Third
23 Reading and Final Passage.
24

25 **HB09-1198** by Representative(s) McGihon; also Senator(s) Morse--
26 Concerning the "Uniform Power of Attorney Act".
27

28 Amendment No. 1, by Representative McGihon.
29

30 Amend introduced bill, page 2, line 1, strike "Article 1" and substitute
31 "Article 14";
32

33 line 3, strike "PART 15" and substitute "PART 7";
34

35 strike line 7, and substitute the following:
36

37 "**15-14-701. Short title.** THIS PART 7 MAY BE CITED AS THE";
38

39 strike line 9, and substitute the following:
40

41 "**15-14-702. Definitions.** IN THIS PART 7:".
42

43 Page 4, strike line 19, and substitute the following:
44

45 "**15-14-703. Applicability.** (1) THIS PART 7 APPLIES TO ALL".
46

47 Page 5, line 3, strike "**15-1-1504.**" and substitute "**15-14-704.**";
48

49 line 4, strike "PART 15" and substitute "PART 7";
50

51 line 6, after the period, add "A POWER OF ATTORNEY EXISTING ON THE
52 DAY BEFORE THE EFFECTIVE DATE OF THIS PART 7 IS DURABLE ONLY IF ON
53 THAT DAY THE POWER OF ATTORNEY IS DURABLE UNDER SECTIONS
54 15-14-501 AND 15-14-502.";
55

56 line 7, strike "**15-1-1505.**" and substitute "**15-14-705.**";

1 line 15, strike "**15-1-1506.**" and substitute "**15-14-706.**";
2
3 strike lines 17 and 18 and substitute the following:
4
5 "THIS PART 7 IS VALID IF ITS EXECUTION COMPLIES WITH SECTION
6 15-14-705.";
7
8 line 20, strike "PART 15" and substitute "PART 7";
9
10 line 27, strike "15-1-1507;" and substitute "15-14-707;"
11
12 Page 6, line 4, strike "PART 15," and substitute "PART 7,";
13
14 line 7, strike "**15-1-1507.**" and substitute "**15-14-707.**";
15
16 line 12, strike "**15-1-1508.**" and substitute "**15-14-708.**".
17
18 Page 7, line 1, strike "**15-1-1509.**" and substitute "**15-14-709.**";
19
20 line 18, strike "15-1-1502 (5) (a);" and substitute "15-14-702 (5) (a);";
21
22 line 21, strike "15-1-1502 (5) (b)." and substitute "15-14-702 (5) (b).".
23
24 Page 8, line 3, strike "**15-1-1510.**" and substitute "**15-14-710.**".
25
26 Page 9, line 18, strike "**15-1-1511.**" and substitute "**15-14-711.**".
27
28 Page 10, line 21, strike "**15-1-1512.**" and substitute "**15-14-712.**";
29
30 line 26, strike "**15-1-1513.**" and substitute "**15-14-713.**".
31
32 Page 11, line 4, strike "**15-1-1514.**" and substitute "**15-14-714.**".
33
34 Page 13, line 19, strike "**15-1-1515.**" and substitute "**15-14-715.**".
35
36 Page 14, line 2, strike "**15-1-1516.**" and substitute "**15-14-716.**";
37
38 line 26, strike "**15-1-1517.**" and substitute "**15-14-717.**";
39
40 line 27, strike "PART 15" and substitute "PART 7".
41
42 Page 15, line 7, strike "**15-1-1518.**" and substitute "**15-14-718.**";
43
44 line 21, strike "**15-1-1519.**" and substitute "**15-14-719.**";
45
46 line 23, strike "15-1-1520," and substitute "15-14-720".
47
48 Page 16, line 2, strike "15-1-1505" and substitute "15-14-705".
49
50 Page 17, line 2, strike "15-1-1520," and substitute "15-1-720,";
51
52 line 8, strike "**15-1-1520.**" and substitute "**15-14-720.**";
53
54 line 13, strike "15-1-1519 (4)" and substitute "15-14-719 (4)";
55
56 line 17, strike "15-1-1519 (4)" and substitute "15-14-719 (4)".

1 Page 18, line 8, strike "15-1-1519 (4)" and substitute "15-14-719 (4)";
2
3 line 12, strike "15-1-1519 (4)" and substitute "15-14-719 (4)".
4
5 Page 19, line 1, strike "**15-1-1521.**" and substitute "**15-14-721.**";
6
7 line 2, strike "PART 15" and substitute "PART 7";
8
9 line 3, strike "PART 15" and substitute "PART 7";
10
11 line 4, strike "**15-1-1522.**" and substitute "**15-14-722.**";
12
13 line 5, strike "PART 15" and substitute "PART 7";
14
15 line 7, strike "PART 15." and substitute "PART 7.";
16
17 line 8, strike "**15-1-1523.**" and substitute "**15-14-723.**";
18
19 line 9, strike "PART 15" and substitute "PART 7";
20
21 line 10, strike "PART 15." and substitute "PART 7.";
22
23 line 13, strike "**15-1-1524.**" and substitute "**15-14-724.**".
24
25 Page 20, line 4, strike "OR";
26
27 strike line 5, and substitute the following:
28
29 (h) DISCLAIM OR RELEASE PROPERTY OR A POWER OF
30 APPOINTMENT;
31
32 (i) EXCEPT FOR THE EXERCISE OF A GENERAL POWER OF
33 APPOINTMENT FOR THE BENEFIT OF THE PRINCIPAL, TO THE EXTENT THAT
34 THE AGENT IS AUTHORIZED AS PROVIDED IN SECTION 15-14-734, OR FOR
35 THE BENEFIT OF PERSONS OTHER THAN THE PRINCIPAL, TO THE EXTENT
36 THAT THE AGENT IS AUTHORIZED TO MAKE GIFTS AS PROVIDED IN SECTION
37 15-14-740, EXERCISE A POWER OF APPOINTMENT; OR
38
39 (j) EXCEPT WITH RESPECT TO AN ENTITY OWNED SOLELY BY THE
40 PRINCIPAL, EXERCISE POWERS, RIGHTS, OR AUTHORITY AS A PARTNER,
41 MEMBER, OR MANAGER OF A PARTNERSHIP, LIMITED LIABILITY COMPANY,
42 OR OTHER ENTITY THAT THE PRINCIPAL MAY EXERCISE ON BEHALF OF THE
43 ENTITY AND HAS AUTHORITY TO DELEGATE.";
44
45 line 18, strike "15-1-1527 TO 15-1-1539." and substitute "15-14-727 TO
46 15-14-739.";
47
48 line 20, strike "15-1-1540." and substitute "15-14-740".
49
50 Page 21, line 8, strike "**15-1-1525.**" and substitute "**15-14-725.**";
51
52 line 9, strike "PART 15" and substitute "PART 7";
53
54 line 11, strike "15-1-1527 TO 15-1-1540" and substitute "15-14-727 TO
55 15-14-740";
56

- 1 line 15, strike "15-1-1527 TO 15-1-1540" and substitute "15-14-727 TO
2 15-14-740";
3
4 line 16, strike "15-1-1527 TO 15-1-1540" and substitute "15-14-727 TO
5 15-14-740";
6
7 line 20, strike "**15-1-1526.**" and substitute "**15-14-726.**";
8
9 line 23, strike "15-1-1527 TO 15-1-1540" and substitute "15-14-727 TO
10 15-14-740";
11
12 line 25, strike "15-1-1524 (3)," and substitute "15-14-724 (3),".
13
14 Page 23, line 9, strike "**15-1-1527.**" and substitute "**15-14-727.**".
15
16 Page 25, line 9, strike "**15-1-1528.**" and substitute "**15-14-728.**".
17
18 Page 26, line 20, strike "**15-1-1529.**" and substitute "**15-14-729.**".
19
20 Page 27, line 7, strike "**15-1-1530.**" and substitute "**15-14-730.**";
21
22 line 16, strike "**15-1-1531.**" and substitute "**15-14-731.**".
23
24 Page 29, line 4, strike "**15-1-1532.**" and substitute "**15-14-732.**".
25
26 Page 31, line 12, strike "**15-1-1533.**" and substitute "**15-14-733.**".
27
28 Page 32, line 26, strike "**15-1-1534.**" and substitute "**15-14-734.**".
29
30 Page 34, line 9, strike "**15-1-1535.**" and substitute "**15-14-735.**".
31
32 Page 35, line 26, strike "**15-1-1536.**" and substitute "**15-14-736.**".
33
34 Page 37, line 25, strike "PART 15." and substitute "PART 7.";
35
36 line 26, strike "**15-1-1537.**" and substitute "**15-14-737.**".
37
38 Page 38, line 12, strike "15-1-1536" and substitute "15-14-736".
39
40 Page 39, line 6, strike "**15-1-1538.**" and substitute "**15-14-738.**".
41
42 Page 40, line 18, strike "**15-1-1539.**" and substitute "**15-14-739.**".
43
44 Page 41, line 14, strike "**15-1-1540.**" and substitute "**15-14-740.**".
45
46 Page 43, line 1, strike "**15-1-1541.**" and substitute "**15-14-741.**";
47
48 line 4, strike "PART 15." and substitute "PART 7.";
49
50 line 14, strike "PART 15 OF ARTICLE 1" and substitute "PART 7 OF ARTICLE
51 14".
52
53 Page 45, line 15, strike "PART 15 OF ARTICLE 1" and substitute "PART 7 OF
54 ARTICLE 14".
55
56 Page 47, line 3, strike "15-1-1540" and substitute "15-1-740".

1 Page 53, line 2, strike "PART 15 OF ARTICLE 1" and substitute "PART 7 OF
2 ARTICLE 14";

3
4 line 4, strike "PART 15 OF ARTICLE 1" and substitute "PART 7 OF ARTICLE
5 14";

6
7 line 10, strike "**15-1-1542.**" and substitute "**15-14-742.**".

8
9 Page 55, line 18, strike "**15-1-1543.**" and substitute "**15-14-743.**";
10
11 line 19, strike "PART 15," and substitute "PART 7,".

12
13 Page 56, line 2, strike "**15-1-1544.**" and substitute "**15-14-744.**";

14
15 line 3, strike "PART 15," and substitute "PART 7,";

16
17 line 10, strike "**15-1-1545.**" and substitute "**15-14-745.**";

18
19 line 11, strike "PART 15" and substitute "PART 7";

20
21 line 12, strike "PART 15:" and substitute "PART 7:";

22
23 line 13, strike "PART 15" and substitute "PART 7";

24
25 line 14, strike "PART 15;" and substitute "PART 7;";

26
27 line 15, strike "PART 15" and substitute "PART 7";

28
29 line 17, strike "PART 15;" and substitute "PART 7;";

30
31 line 18, strike "PART 15" and substitute "PART 7";

32
33 line 20, strike "PART 15" and substitute "PART 7";

34
35 line 21, strike "PART 15" and substitute "PART 7";

36
37 line 25, strike "PART 15" and substitute "PART 7";

38
39 line 26, strike "PART 15." and substitute "PART 7.";

40
41 after line 26, insert the following:

42
43 **SECTION 2.** 15-2-202, Colorado Revised Statutes, is amended
44 to read:

45
46 **15-2-202. Power may be released.** A power of appointment,
47 whether or not existing on July 1, 1967, may be released, wholly or
48 partially, by the donee thereof, or his or her attorney-in-fact or agent
49 acting under a power of attorney in accordance with ~~section 15-14-501,~~
50 ~~unless otherwise expressly provided in the instrument creating the power~~
51 PART 7 OF ARTICLE 14 OF THIS TITLE. As used in this part 2, the term
52 "release" includes a disclaimer or a renunciation of a power of
53 appointment.

54
55 **SECTION 3.** 15-2-203, Colorado Revised Statutes, is amended
56 to read:

1 **15-2-203. How power released.** A power releasable according
2 to section 15-2-202 may be released, wholly or partially, by the donee of
3 the power or his or her attorney-in-fact or agent acting under a power of
4 attorney in accordance with ~~section 15-14-501~~ PART 7 OF ARTICLE 14 OF
5 THIS TITLE, to any person who could be adversely affected by the exercise
6 of the power or, in the case of a power created by will, by the filing of a
7 written release in the district or probate court in which such will was
8 proved or allowed; but, wherever property subject to the power is then
9 held in trust, a written release must also be delivered to the trustee
10 holding such property. The execution of a partial release of a power shall
11 not prevent the execution and delivery of further partial releases from
12 time to time nor prevent the later execution and delivery of an instrument
13 wholly releasing such power.

14
15 **SECTION 4.** 15-2-301, Colorado Revised Statutes, is amended
16 to read:

17
18 **15-2-301. Extent of exercise.** Unless the instrument creating a
19 power of appointment expressly limits the right, interest, or estate which
20 can be appointed by exercise of that power, a donee of a power, or his or
21 her attorney-in-fact or agent acting under a power of attorney in
22 accordance with ~~section 15-14-501~~ PART 7 OF ARTICLE 14 OF THIS TITLE,
23 may exercise such power to pass to the appointee a fee or any lesser
24 estate, interest, or a power of appointment or to pass the property subject
25 to the power to a trustee for the benefit of one or more of the objects of
26 the power of appointment.

27
28 **SECTION 5.** Part 5 of article 14 of title 15, Colorado Revised
29 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
30 read:

31
32 **15-14-500.5. Definitions - excluded powers.** (1) (a) FOR
33 PURPOSES OF SECTIONS 15-14-501 AND 15-14-502, "POWER OF ATTORNEY"
34 MEANS A POWER TO MAKE HEALTH CARE DECISIONS GRANTED BY AN
35 INDIVIDUAL.

36
37 (b) FOR PURPOSES OF SECTION 15-14-502, "POWER OF ATTORNEY"
38 ALSO INCLUDES A POWER OF ATTORNEY SUBJECT TO PART 7 OF THIS
39 ARTICLE GRANTED BY AN INDIVIDUAL AND EXISTING ON THE DAY BEFORE
40 THE EFFECTIVE DATE OF THIS ACT.

41
42 (c) FOR PURPOSES OF PARTS 5 AND 6 OF THIS ARTICLE, "MEDICAL
43 DURABLE POWER OF ATTORNEY" AND "MEDICAL POWER OF ATTORNEY"
44 MEANS A POWER TO MAKE HEALTH CARE DECISIONS.

45
46 (2) A POWER AND DELEGATION THAT IS EXCLUDED FROM THE
47 APPLICATION OF PART 7 OF THIS ARTICLE BY SECTION 15-14-703, OTHER
48 THAN A POWER TO MAKE HEALTH CARE DECISIONS, MAY BE EXERCISED
49 DURING THE INCAPACITY OF THE PRINCIPAL TO THE EXTENT PROVIDED IN
50 THE POWER OR DELEGATION OR BY APPLICABLE PRINCIPLES OF LAW AND
51 EQUITY.

52
53 **SECTION 6.** 15-14-602 (2) and (4), Colorado Revised Statutes,
54 are amended to read:

55
56 **15-14-602. Definitions.** As used in this part 6:

1 (2) "Agency instrument" means the written power of attorney or
2 other written instrument of agency governing the relationship between the
3 principal and agent. An agency is subject to the provisions of this part 6
4 to the extent the agency relationship is established in writing and may be
5 controlled by the principal, excluding agencies and powers for the benefit
6 of the agent. This definition shall not apply to medical powers of attorney
7 drafted pursuant to the "Colorado Patient Autonomy Act", sections
8 15-14-503 to 15-14-509, A POWER OF ATTORNEY SUBJECT TO THE
9 "UNIFORM POWER OF ATTORNEY ACT", PART 7 OF ARTICLE 14, OR TO ANY
10 OTHER POWER OF ATTORNEY OR INSTRUMENT OF AGENCY GRANTED BY AN
11 INDIVIDUAL.

12
13 (4) "Principal" means ~~an individual~~, A corporation, trust,
14 partnership, limited liability company, or other entity, including, but not
15 limited to, an ~~individual~~ ENTITY acting as trustee, personal representative,
16 or other fiduciary, who signs a power of attorney or other instrument of
17 agency granting powers to an agent.

18
19 **SECTION 7.** 2-5-102, Colorado Revised Statutes, is amended BY
20 THE ADDITION OF A NEW SUBSECTION to read:

21
22 **2-5-102. Inclusions - nonstatutory.** (10) THERE SHALL BE
23 INCLUDED IN THE PUBLICATION OF THE "UNIFORM POWER OF ATTORNEY
24 ACT", AS NONSTATUTORY MATTER, FOLLOWING EACH SECTION OF THE
25 PART, THE FULL TEXT OF THE OFFICIAL COMMENTS TO THAT SECTION
26 CONTAINED IN THE OFFICIAL VOLUME CONTAINING THE 2006 OFFICIAL
27 TEXT OF THE "UNIFORM POWER OF ATTORNEY ACT" ISSUED BY THE
28 NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS,
29 WITH ANY CHANGES IN THE OFFICIAL COMMENTS OR COLORADO
30 COMMENTS TO CORRESPOND TO COLORADO CHANGES IN THE UNIFORM
31 ACT. THE COMMENTS SHALL BE PREPARED BY THE REVISOR OF STATUTES
32 AND APPROVED FOR PUBLICATION BY THE COMMITTEE ON LEGAL SERVICES.

33
34 **SECTION 8. Repeal.** 15-2-102 (2), Colorado Revised Statutes,
35 is repealed as follows:

36
37 **15-2-102. Power of appointment, donor, donee, objects,**
38 **appointees, takers in default defined.** (2) ~~A power to consume, invade,~~
39 ~~or appropriate property for the benefit of the donee of the power, which~~
40 ~~power is limited by an ascertainable standard related to the health,~~
41 ~~support, education, or maintenance of the donee, shall not be deemed a~~
42 ~~power of appointment.~~

43
44 **SECTION 9. Repeal.** 15-14-603 (2) (b), Colorado Revised
45 Statutes, is repealed as follows:

46
47 **15-14-603. Applicability.** (2) (b) ~~The statutory power of attorney~~
48 ~~for property form set forth in section 15-1-1302 does not limit the~~
49 ~~applicability of the provisions of this part 6. It is the general assembly's~~
50 ~~intent that every agency instrument, including but not limited to statutory~~
51 ~~agency instruments, shall have the benefit of and be governed by all of~~
52 ~~the general provisions of this part 6, except as otherwise provided in this~~
53 ~~part 6 or to the extent the terms of the agency instrument are inconsistent~~
54 ~~with the provisions of this part 6.~~

55

1 **SECTION 10. Repeal.** 15-14-604 (1), Colorado Revised
2 Statutes, is repealed as follows:

3
4 **15-14-604. Duration of agency - amendment and revocation -
5 effect of disability - resignation of agent.** (1) ~~Where an agency
6 instrument contains the language specified in section 15-14-501 (1) or
7 otherwise specifies that the agent designated therein may exercise the
8 authority conferred notwithstanding the principal's disability, such agent
9 may exercise such authority notwithstanding the principal's later disability
10 or incapacity or later uncertainty as to whether the principal is dead.~~

11
12 **SECTION 11. Repeal.** 15-14-605, Colorado Revised Statutes,
13 is repealed as follows:

14
15 **15-14-605. Dissolution of marriage.** ~~If an agency instrument
16 appoints the principal's spouse as agent and a court enters a decree of
17 dissolution of marriage or legal separation between the principal and
18 spouse after the agency instrument is signed, the spouse shall be deemed
19 to have died at the time of the decree for purposes of the agency.~~

20
21 **SECTION 12. Repeal.** 15-14-608, Colorado Revised Statutes,
22 is repealed as follows:

23
24 **15-14-608. Preservation of estate plan and trusts.** ~~(1) In
25 exercising any powers granted under the agency instrument, the agent
26 shall take the principal's estate plan into account, insofar as it is known
27 to the agent, and shall attempt to preserve the estate plan. Specifically,
28 the agent shall preserve the estate plan in exercising any powers of
29 amendment or revocation and any powers to expend or withdraw property
30 passing by trust, contract, or beneficiary designation at the principal's
31 death, including, but not limited to, specifically bequeathed property, joint
32 accounts, life insurance, trusts, and retirement plans. The agent shall be
33 liable to a beneficiary only for actions taken in bad faith.~~

34
35 ~~(2) An agent may not revoke or amend a trust that is revocable or
36 amendable by the principal without specific authority and specific
37 reference to the trust in the agency instrument. In addition, an agent may
38 not require the trustee of any trust for the benefit of the principal to pay
39 income or principal to the agent without specific authority and specific
40 reference to the trust in the agency instrument. The agent shall have
41 access to and the right to copy, but not to hold, the principal's will, trusts,
42 and other personal papers and records to the extent the agent deems
43 necessary for purposes of exercising the agency powers.~~

44
45 **SECTION 13. Repeal.** 15-14-609, Colorado Revised Statutes,
46 is repealed as follows:

47
48 **15-14-609. Agency - court relationship.** ~~(1) Upon petition by
49 any interested person, including the agent, after such notice to interested
50 persons as the court directs and upon a finding by the court that the
51 principal lacks the capacity to control or revoke the agency instrument:~~

52
53 ~~(a) If the court finds that the agent is not acting for the benefit of
54 the principal in accordance with the terms of the agency instrument or
55 that the agent's action or inaction has caused or threatens substantial harm
56 to the principal's person or property in a manner not authorized or~~

1 intended by the principal, the court may order a guardian of the principal's
2 person or a conservator of the principal's estate, or both, to exercise any
3 powers of the principal under the agency instrument, including the power
4 to revoke the agency, or may enter such other orders without appointment
5 of a guardian or conservator as the court deems necessary to provide for
6 the best interests of the principal; or

7
8 (b) ~~If the court finds that the agency instrument requires~~
9 ~~interpretation, the court may construe the agency instrument and instruct~~
10 ~~the agent to act in accordance with its construction; except that the court~~
11 ~~may not amend the agency instrument. A court may order a guardian or~~
12 ~~conservator, or both, to exercise powers of the principal under the agency~~
13 ~~instrument.~~

14
15 (2) ~~Proceedings under this section shall be commenced in the~~
16 ~~court where the guardian or conservator was appointed. If no Colorado~~
17 ~~guardian or conservator has been appointed, proceedings shall be~~
18 ~~commenced in the county where the principal resides. If the principal~~
19 ~~does not reside in Colorado, proceedings may be commenced in any~~
20 ~~county in the state.~~

21
22 (3)(a) ~~If a guardian or conservator is appointed for the principal,~~
23 ~~the agent shall consult with the guardian or conservator during the~~
24 ~~continuance of the appointment on matters concerning the principal's~~
25 ~~financial affairs.~~

26
27 (b) ~~A conservator has the same power to revoke, suspend, or~~
28 ~~terminate all or any part of the power of attorney or agency instrument as~~
29 ~~it relates to financial matters as the principal would have had if the~~
30 ~~principal were not disabled or incompetent.~~

31
32 (c) ~~Subject to any limitation or restriction included in the letters~~
33 ~~of guardianship, a guardian has the same power to revoke, suspend, or~~
34 ~~terminate all or any part of the power of attorney or agency instrument as~~
35 ~~it relates to matters concerning the principal's personal care that the~~
36 ~~principal would have had if the principal were not disabled or~~
37 ~~incompetent, except with respect to medical treatment decisions made by~~
38 ~~an agent pursuant to sections 15-14-506 to 15-14-509. The exception~~
39 ~~included in this paragraph (c) shall not preclude a court from removing~~
40 ~~an agent in the event the agent becomes incapacitated or is unwilling or~~
41 ~~unable to serve as an agent.~~

42
43 **SECTION 14. Repeal.** 15-14-610, Colorado Revised Statutes,
44 is repealed as follows:

45
46 **15-14-610. Statutory form agent's affidavit regarding power**
47 **of attorney.** (1) ~~The form specified in subsection (2) of this section shall~~
48 ~~be known as the "statutory agent's affidavit regarding power of attorney"~~
49 ~~and may be used to assure that an agent's authority under an agency~~
50 ~~instrument has not been altered or terminated. An agent's affidavit in~~
51 ~~substantially the following form shall have the meaning and effect~~
52 ~~prescribed in this part 6. Nothing in this part 6 shall invalidate or bar the~~
53 ~~use of any other or different form of agent affidavit.~~

54
55 (2) ~~The statutory agent's affidavit regarding power of attorney~~
56 ~~shall be in substantially the following form:~~

1 ~~COLORADO AGENT'S AFFIDAVIT REGARDING POWER OF~~
 2 ~~ATTORNEY~~
 3 ~~STATE OF COLORADO)~~
 4 _____) ss.
 5 County of _____)

6
 7 I, _____, whose address is _____,
 8 of lawful age, pursuant to sections 15-1-1302, 15-14-501, and 15-14-502,
 9 Colorado Revised Statutes, state upon my oath that I am the
 10 attorney-in-fact and agent for _____, principal, under the
 11 power of attorney dated _____, a copy of which is attached
 12 hereto and incorporated herein by this reference, that as of this date I have
 13 no actual knowledge of the [revocation or*] termination of the power of
 14 attorney by any act of the principal, or by the death, [disability, or
 15 incompetence*] of the principal, that my authority has not been
 16 terminated by a decree of dissolution of marriage or legal separation, and
 17 that to the best of my knowledge the power of attorney has not been so
 18 terminated and remains valid, in full force and effect.

19 Dated: _____
 20 _____
 21 _____

22 ~~Attorney-in-Fact~~
 23 ~~The foregoing Affidavit was subscribed and sworn to before me on~~
 24 _____, 20____, by _____, Agent. Witness my
 25 hand and official seal. My Commission expires:
 26 _____

27 _____ [SEAL]
 28 _____
 29 _____

30 _____
 31 _____ Notary Public
 32 *Strike "revocation or" and "disability or incompetence" if the power of
 33 attorney is durable and the principal is disabled or incompetent."
 34

35 Renumber succeeding sections accordingly.
 36
 37 As amended, ordered engrossed and placed on the Calendar for Third
 38 Reading and Final Passage.
 39

40 **HB09-1036** by Representative(s) King S.; also Senator(s) Morse--
 41 Concerning increasing the amount deposited into the peace
 42 officers standards and training board cash fund by
 43 increasing the registration fee for certain classes of
 44 personal property.
 45

46 Amendment No. 1, Appropriations Report, dated February 13, 2009, and
 47 placed in member's bill file; Report also printed in House Journal,
 48 February 13, pages 327-328.
 49

50 As amended, ordered engrossed and placed on the Calendar for Third
 51 Reading and Final Passage.
 52

53 **HB09-1065** by Representative(s) Benefield, Todd; also Senator(s)
 54 Spence--Concerning the quality teachers commission, and,
 55 in connection therewith, creating an educator identifier
 56 pilot program.

1 Amendment No. 1, Education Report, dated January 29, 2009, and placed
2 in member's bill file; Report also printed in House Journal, January 30,
3 page 328.

4
5 Amendment No. 2, Appropriations Report, dated February 13, 2009, and
6 placed in member's bill file; Report also printed in House Journal,
7 February 13, page 328.

8
9 As amended, ordered engrossed and placed on the Calendar for Third
10 Reading and Final Passage.

11
12 **HB09-1076** by Representative(s) Pace; also Senator(s) Tochtrop--
13 Concerning remuneration resulting from an employee's
14 separation from employment for the purpose of calculating
15 the postponement of unemployment insurance benefits.

16
17 Amendment No. 1, Business Affairs & Labor Report, dated
18 January 28, 2009, and placed in member's bill file; Report also printed in
19 House Journal, January 29, page 168.

20
21 As amended, ordered engrossed and placed on the Calendar for Third
22 Reading and Final Passage.

23
24 **HB09-1149** by Representative(s) Merrifield; also Senator(s)
25 Carroll M.--Concerning measures to encourage the
26 construction of new homes that make cost-effective use of
27 solar energy.

28
29 Amendment No. 1, Transportation & Energy Report, dated
30 February 5, 2009, and placed in member's bill file; Report also printed in
31 House Journal, February 6, page 284.

32
33 Amendment No. 2, by Representative Marostica.

34
35 Amend the Transportation and Energy Committee Report, dated February
36 5, 2009, page 1, line 6, strike the second "SYSTEM" and substitute
37 "SYSTEM, OR BOTH,";

38
39 line 9, strike "SYSTEM;" and substitute "SYSTEM, OR BOTH;"

40
41 line 13, strike "CONDUIT" and substitute "CONDUIT, OR BOTH,".

42
43 As amended, ordered engrossed and placed on the Calendar for Third
44 Reading and Final Passage.

45
46
47 **HB09-1150** by Representative(s) Todd, Benefield, Court, Labuda,
48 Miklosi, Ryden; also Senator(s) Williams, Boyd, Isgar,
49 Spence--Concerning the administrative duties of the
50 department of personnel.

51
52 Amendment No. 1, State, Veterans, & Military Affairs Report, dated
53 January 20, 2009, and placed in member's bill file; Report also printed in
54 House Journal, January 21, page 104.

55

1 Amendment No. 2, Appropriations Report, dated February 13, 2009, and
2 placed in member's bill file; Report also printed in House Journal,
3 February 13, pages 328-330.

4
5 As amended, ordered engrossed and placed on the Calendar for Third
6 Reading and Final Passage.

7
8 **HB09-1188** by Representative(s) Ryden; also Senator(s) Carroll M.--
9 Concerning modifications to the disclosure requirements
10 imposed on physicians under the "Michael Skolnik
11 Medical Transparency Act".
12

13 Amendment No. 1, Health & Human Services Report, dated
14 February 9, 2009, and placed in member's bill file; Report also printed in
15 House Journal, February 10, pages 303-304.

16
17 Amendment No. 2, by Representative Ryden.

18
19 Amend the Health and Human Services Committee Report, dated
20 February 9, 2009, page 1, line 4, strike "after "1988.", insert "THE" and
21 substitute "strike "JANUARY 1, 1988." and substitute "SEPTEMBER 1, 1990.
22 THE";
23

24 after line 9 of the committee report, insert the following:

25
26 "Page 4, line 5, strike "JANUARY" and substitute "SEPTEMBER";

27
28 line 6, strike "1988," and substitute "1990,"";

29
30 line 10 of the committee report, strike "Page 4,".
31

32 As amended, ordered engrossed and placed on the Calendar for Third
33 Reading and Final Passage.

34
35 **HB09-1135** by Representative(s) Judd; also Senator(s) White--
36 Concerning the adjustment of fees imposed by counties in
37 the state.
38

39 Amendment No. 1, Local Government Report, dated January 29, 2009,
40 and placed in member's bill file; Report also printed in House Journal,
41 January 30, pages 189-190.

42
43 Amendment No. 2, by Representative Judd.

44
45 Amend the Local Government Committee Report, dated January 29,
46 2009, page 1, strike lines 1 through 7 and substitute the following:

47
48 "Amend printed bill, page 4, line 1, strike "THE" and substitute "EXCEPT
49 FOR THE FEES SPECIFIED IN PARAGRAPHS (a), (b), (c), (m), AND (q) OF
50 SUBSECTION (1) OF THIS SECTION, THE";";
51

52 strike lines 12 through 14 of the committee report and substitute the
53 following:

54
55 "line 24, strike "EIGHT" and substitute "SIX".
56

1 Page 5, strike lines 25 through 27."

2

3 Page 2 of the committee report, strike lines 1 through 4 and substitute the
4 following:

5

6 "Page 6, strike lines 1 and 2 and substitute the following:

7

8 "(4) Documents";

9

10 line 13 of the committee report, strike "TITLE." and substitute "TITLE."";

11

12 strike line 14 of the committee report;

13

14 line 18 of the committee report, strike "'JANUARY 1";" and substitute
15 "'JANUARY 1'."";

16

17 strike lines 19 through 25 of the committee report and substitute "Page
18 13,".

19

20 Amendment No. 3, by Representative Judd.

21

22 Amend printed bill, page 4, line 5, strike "REFLECT" and substitute
23 "CORRELATE WITH".

24

25 Page 6, line 7, strike "REFLECT" and substitute "CORRELATE WITH".

26

27 Page 13, line 16, strike "REFLECT" and substitute "CORRELATE WITH".

28

29 As amended, ordered engrossed and placed on the Calendar for Third
30 Reading and Final Passage.

31

32

33

34 **AMENDMENTS TO THE COMMITTEE OF THE WHOLE REPORT**

35

36 Representatives Tipton and May moved to amend the Report of the
37 Committee of the Whole to reverse the action taken by the Committee in
38 not adopting the following Tipton amendment, to HB09-1135, to show
39 that said amendment passed, and that **HB09-1135**, as amended, passed.

40

41 Amend, Amendment No. 2, by Representative Judd, printed in House
42 Journal page 376, strike lines 45-55, and page 377, strike lines 1-18 and
43 substitute the following:

44

45 "Amend printed bill, strike everything below the enacting clause and
46 substitute the following:

47

48 **"SECTION 1.** Article 1 of title 30, Colorado Revised Statutes, is
49 amended BY THE ADDITION OF A NEW SECTION to read:

49

50 **30-1-104.5. Adjustment of fees.** ON AND AFTER JULY 1, 2009,
51 THE BOARD OF COUNTY COMMISSIONERS OF ANY COUNTY MAY BY
52 ORDINANCE MODIFY THE AMOUNT OF ANY FEE IMPOSED PURSUANT TO THIS
53 ARTICLE WITHIN THE COUNTY. THE AMOUNT OF ANY FEE MODIFIED
54 PURSUANT TO THIS SECTION SHALL BE SET FORTH IN A SCHEDULE THAT
55 SHALL BE MADE AVAILABLE TO THE PUBLIC AND PUBLISHED ON A WEB SITE
56 MAINTAINED BY THE COUNTY.

1 **SECTION 2. Act subject to petition - effective date.** This act
 2 shall take effect at 12:01 a.m. on the day following the expiration of the
 3 ninety-day period after final adjournment of the general assembly that is
 4 allowed for submitting a referendum petition pursuant to article V,
 5 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
 6 sine die is on May 6, 2009); except that, if a referendum petition is filed
 7 against this act or an item, section, or part of this act within such period,
 8 then the act, item, section, or part, if approved by the people, shall take
 9 effect on the date of the official declaration of the vote thereon by
 10 proclamation of the governor."."

11
 12 The amendment was declared **lost** by the following roll call vote:
 13

	YES	32	NO	29	EXCUSED	3	ABSENT	1
15	Acree	Y	Green	N	McFadyen	N	Roberts	Y
16	Apuan	Y	Hullinghorst	N	McGihon	N	Ryden	N
17	Balmer	Y	Judd	N	McKinley	N	Scanlan	N
18	Baumgardner	Y	Kefalas	Y	McNulty	Y	Schafer S.	-
19	Benefield	N	Kerr A.	N	Merrifield	N	Solano	N
20	Bradford	Y	Kerr J.	Y	Middleton	N	Sonnenberg	Y
21	Casso	N	King S.	Y	Miklosi	N	Soper	N
22	Court	N	Labuda	N	Murray	Y	Stephens	Y
23	Curry	E	Lambert	Y	Nikkel	Y	Summers	Y
24	Ferrandino	N	Levy	Y	Pace	N	Swalm	Y
25	Fischer	N	Liston	Y	Peniston	N	Tipton	Y
26	Frangas	N	Looper	Y	Pommer	Y	Todd	N
27	Gagliardi	N	Marostica	Y	Primavera	N	Vaad	Y
28	Gardner B.	Y	Massey	Y	Priola	Y	Vigil	N
29	Gardner C.	Y	May	Y	Rice	N	Waller	Y
30	Gerou	Y	McCann	E	Riesberg	N	Weissmann	Y
31							Speaker	E

32
 33
 34

ADOPTION OF COMMITTEE OF THE WHOLE REPORT

35
 36
 37 Passed Second Reading: **HB09-1185, SB09-015, HB09-1257, SB09-040,**
 38 **HB09-1197 amended, 1183 amended, 1198 amended, 1036 amended,**
 39 **1065 amended, 1076 amended, 1149 amended, 1150 amended,**
 40 **1188 amended, 1135 amended.**

41
 42 Laid over until date indicated retaining place on Calendar: **HB09-1013--**
 43 **February 18, 2009.**

44
 45 The Chairman moved the adoption of the Committee of the Whole
 46 Report. As shown by the following roll call vote, a majority of those
 47 elected to the House voted in the affirmative, and the Report was
 48 **adopted.**

	YES	62	NO	0	EXCUSED	3	ABSENT	0
51	Acree	Y	Green	Y	McFadyen	Y	Roberts	Y
52	Apuan	Y	Hullinghorst	Y	McGihon	Y	Ryden	Y
53	Balmer	Y	Judd	Y	McKinley	Y	Scanlan	Y
54	Baumgardner	Y	Kefalas	Y	McNulty	Y	Schafer S.	Y
55	Benefield	Y	Kerr A.	Y	Merrifield	Y	Solano	Y
56	Bradford	Y	Kerr J.	Y	Middleton	Y	Sonnenberg	Y

1	Casso	Y	King S.	Y	Miklosi	Y	Soper	Y
2	Court	Y	Labuda	Y	Murray	Y	Stephens	Y
3	Curry	E	Lambert	Y	Nikkel	Y	Summers	Y
4	Ferrandino	Y	Levy	Y	Pace	Y	Swalm	Y
5	Fischer	Y	Liston	Y	Peniston	Y	Tipton	Y
6	Frangas	Y	Looper	Y	Pommer	Y	Todd	Y
7	Gagliardi	Y	Marostica	Y	Primavera	Y	Vaad	Y
8	Gardner B.	Y	Massey	Y	Priola	Y	Vigil	Y
9	Gardner C.	Y	May	Y	Rice	Y	Waller	Y
10	Gerou	Y	McCann	E	Riesberg	Y	Weissmann	Y
11							Speaker	E

REPORTS OF COMMITTEES OF REFERENCE

EDUCATION

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

HB09-1214 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 9, before "PRIOR", insert "TO THE EXTENT PRACTICABLE";

line 20, strike "THE JUDICIAL INTERPRETATIONS OF AND";

line 25, strike "JUDICIAL";

line 26, strike "INTERPRETATIONS OF AND".

Page 5, line 9, after "(3)", insert "(a)";

after line 20, insert the following:

"(b) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS SUBSECTION (3) TO THE CONTRARY, IF FEDERALLY REQUIRED TIME LINES FOR IMPLEMENTING FEDERAL DATA REPORTING REQUIREMENTS CONFLICT WITH THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (3), THE DEPARTMENT, THE SCHOOL DISTRICTS, AND THE PUBLIC SCHOOLS SHALL COMPLY WITH THE FEDERALLY REQUIRED TIME LINES.";

line 21, after "(4)", insert "(a)".

Page 6, after line 4, insert the following:

"(b) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS SUBSECTION (4) TO THE CONTRARY, IF FEDERALLY REQUIRED TIME LINES FOR IMPLEMENTING FEDERAL DATA REPORTING REQUIREMENTS CONFLICT WITH THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (4), THE STATE BOARD, THE SCHOOL DISTRICTS, AND THE PUBLIC SCHOOLS SHALL COMPLY WITH THE FEDERALLY REQUIRED TIME LINES.";

line 11, strike "JUDICIAL INTERPRETATIONS OF AND THE";

1 line 16, strike "JUDICIAL INTERPRETATIONS OF AND";

2

3 line 21, strike "IS" and substitute "TAKES INTO CONSIDERATION";

4

5 line 22, strike "CONSISTENT WITH";

6

7 line 24, after "(3)", insert "(a)".

8

9 Page 7, line 2, strike "SAID" and substitute "THE STATE";

10

11 line 5, strike "REQUIREMENTS." and substitute "REQUIREMENTS; EXCEPT
12 THAT A PARTICIPATING SCHOOL DISTRICT, THE STATE CHARTER SCHOOL
13 INSTITUTE IF IT IS PARTICIPATING, OR A PARTICIPATING PUBLIC SCHOOL
14 SHALL COMPLY WITH REQUIREMENTS TO REPORT INFORMATION
15 CONCERNING THE ENTITY'S PARTICIPATION IN THE STATE PROGRAM
16 DURING THE PERIOD IN WHICH IT WAS FUNDED.";

17

18 after line 5, insert the following:

19 "(b) FOR PURPOSES OF THIS SUBSECTION (3), "STATE PROGRAM"
20 MEANS A PROGRAM SPECIFICALLY CREATED IN STATE STATUTE AND FOR
21 WHICH THE STATUTE CREATING THE PROGRAM SPECIFICALLY PROVIDES
22 FUNDING TO A PARTICIPATING SCHOOL DISTRICT, THE STATE CHARTER
23 SCHOOL INSTITUTE, OR A PUBLIC SCHOOL.".

24

25

26

27 **HB09-1229** be referred to the Committee of the Whole with favorable
28 recommendation.

29

30

31 **HB09-1264** be referred to the Committee of the Whole with favorable
32 recommendation.

33

34

35

36

37 **HEALTH & HUMAN SERVICES**

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

40

41 **HB09-1211** be postponed indefinitely.

42

43

44 **HB09-1237** be amended as follows, and as so amended, be referred to
45 the Committee on Appropriations with favorable
46 recommendation:

47

48 Amend printed bill, page 3, strike lines 22 through 25 and substitute the
49 following:

50

51 "preceding calendar year, OR BY SUCH ADDITIONAL AMOUNT TO BE EQUAL
52 TO THE INCREASE BY THE GENERAL ASSEMBLY TO THE ANNUAL
53 APPROPRIATED RATE TO SERVE ONE CHILD FOR ONE FISCAL YEAR IN THE
54 STATE-FUNDED EARLY INTERVENTION PROGRAM IF THAT INCREASE IS
55 MORE THAN THE CONSUMER PRICE INDEX INCREASE.".

56

1 Page 4, line 19, after the period, add "QUALIFIED EARLY INTERVENTION
 2 SERVICE PROVIDERS THAT RECEIVE REIMBURSEMENT IN ACCORDANCE
 3 WITH THIS PARAGRAPH (d.5) SHALL ACCEPT SUCH REIMBURSEMENT AS
 4 PAYMENT IN FULL FOR SERVICES PROVIDED UNDER THIS SUBSECTION (1.3)
 5 AND SHALL NOT SEEK ADDITIONAL REIMBURSEMENT FROM EITHER THE
 6 COVERED PERSON OR THE CARRIER.".

7
 8 Page 5, strike lines 3 through 6 and substitute the following:

9
 10 "A CARRIER SHALL NOT TERMINATE OR FAIL TO RENEW HEALTH COVERAGE
 11 ON THE BASIS THAT AN ELIGIBLE CHILD HAS ACCESSED OR WILL BE
 12 ACCESSING EARLY INTERVENTION SERVICES UNDER THIS SUBSECTION
 13 (1.3).".

14
 15
 16
 17
 18 **JUDICIARY**

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

21
 22 **HB09-1123** be amended as follows, and as so amended, be referred to
 23 the Committee on Appropriations with favorable
 24 recommendation:

25
 26 Amend printed bill, page 2, strike lines 11 through 18.

27
 28 Renumber succeeding sections accordingly.

29
 30
 31
 32 **HB09-1190** be referred to the Committee of the Whole with favorable
 33 recommendation.

34
 35
 36 **HB09-1251** be postponed indefinitely.

37
 38
 39 **HB09-1253** be amended as follows, and as so amended, be referred to
 40 the Committee of the Whole with favorable
 41 recommendation:

42
 43 Amend printed bill, page 2, after line 1, insert the following:

44
 45 "SECTION 1. 16-8.5-108 (1) (a) and (b), Colorado Revised
 46 Statutes, are amended to read:

47
 48 **16-8.5-108. Evidence.** (1) (a) Except as otherwise provided in
 49 this subsection (1), evidence acquired directly or indirectly for the first
 50 time from a communication derived from the defendant's mental
 51 processes during the course of a competency evaluation OR INVOLUNTARY
 52 MEDICATION PROCEEDING is not admissible against the defendant on the
 53 issues raised by a plea of not guilty, or, if the offense occurred before July
 54 1, 1995, a plea of not guilty by reason of impaired mental condition.
 55 Such evidence may be admissible at trial to rebut evidence introduced by
 56 the defendant of the defendant's mental condition to show incapacity of

1 the defendant to form a culpable mental state; and, in such case, the
2 evidence may only be considered by the trier of fact as bearing upon the
3 question of capacity to form a culpable mental state, and the jury shall be
4 so instructed at the request of either party.

5
6 (b) Evidence acquired directly or indirectly for the first time from
7 a communication derived from the defendant's mental processes during
8 the course of a competency evaluation OR INVOLUNTARY MEDICATION
9 PROCEEDING is admissible at any sentencing hearing held pursuant to
10 section 18-1.3-1201, 18-1.3-1302, or 18-1.4-102, C.R.S., only to prove
11 the existence or absence of any mitigating factor."

12
13 Renumber succeeding sections accordingly.

14
15 Page 2, line 11, after "defendant.", insert "THE DEPARTMENT SHALL, PRIOR
16 TO THE HEARING ON THE PETITION, DELIVER A COPY OF THE PETITION TO
17 THE COURT THAT COMMITTED THE DEFENDANT TO THE CUSTODY OF THE
18 DEPARTMENT, THE PROSECUTING ATTORNEY, AND THE DEFENDANT'S
19 LEGAL REPRESENTATION IN THE CRIMINAL CASE, IF SUCH REPRESENTATION
20 EXISTS, AND TO THE DEFENDANT DIRECTLY IF HE OR SHE DOES NOT HAVE
21 LEGAL REPRESENTATION.";

22
23 line 14, strike "may" and substitute "~~may~~ SHALL";

24
25 line 19, strike "ISSUING THE";

26
27 strike lines 20 through 24 and substitute the following:

28
29 "OF THE JURISDICTION WHERE THE DEFENDANT IS LOCATED. THE
30 DEPARTMENT SHALL PROMPTLY DELIVER A COPY OF THE ORDER GRANTING
31 OR DENYING THE PETITION TO THE COURT THAT COMMITTED THE
32 DEFENDANT TO THE CUSTODY OF THE DEPARTMENT, THE PROSECUTING
33 ATTORNEY, AND THE DEFENDANT'S LEGAL REPRESENTATION IN THE
34 CRIMINAL CASE, IF SUCH REPRESENTATION EXISTS, AND TO THE
35 DEFENDANT DIRECTLY IF HE OR SHE DOES NOT HAVE LEGAL
36 REPRESENTATION."

37
38 Page 4, after line 16, insert the following:

39
40 "(c) IN THE CASE OF A DEFENDANT WHO IS FOUND INCOMPETENT
41 TO PROCEED PURSUANT TO SECTION 16-8.5-103, C.R.S., AND WHO
42 REFUSES TO ACCEPT MEDICATION, THE JURISDICTION FOR THE PETITION
43 FOR INVOLUNTARY TREATMENT PROCEDURES SHALL BE AS SET FORTH IN
44 SECTION 16-8.5-112, C.R.S."

45
46
47
48 **HB09-1260** be amended as follows, and as so amended, be referred to
49 the Committee of the Whole with favorable
50 recommendation:

51
52 Amend printed bill, page 3, line 22, strike "FAILURE" and substitute "A
53 BODY OF LAW HAS BEEN ENACTED TO OPERATE BY DEFAULT IN SITUATIONS
54 IN WHICH INDIVIDUALS DO NOT PREPARE ESTATE PLANS. HOWEVER,
55 FAILURE".

56

1 Page 4, strike line 12 and substitute the following:

2

3 "(b) THE PURPOSES OF THIS ARTICLE ARE TO:

4

5 (I) MAKE EXISTING LAWS";

6

7 after line 16, insert the following:

8

9 "(II) ALLOW INDIVIDUALS TO ELECT TO HAVE CERTAIN DEFAULT
10 PROVISIONS IN STATE STATUTES PROVIDE RIGHTS, BENEFITS, AND
11 PROTECTIONS TO A DESIGNATED BENEFICIARY IN SITUATIONS IN WHICH NO
12 VALID AND ENFORCEABLE ESTATE PLANNING DOCUMENTS EXIST."

13

14 Page 5, line 5, after "THAT", insert "IS VALID AND ENFORCEABLE AND".

15

16 Page 6, line 19, strike "NOTARIZED;" and substitute "ACKNOWLEDGED;"

17

18 Page 9, after line 5, insert the following:

19

20 "(5) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO CREATE
21 EVIDENCE OF A PARTY'S INTENT TO FORM A COMMON LAW MARRIAGE."

22

23 Renumber succeeding subsection accordingly.

24

25 Page 9, after line 9, insert the following:

26

27 "(7) IN THE EVENT THAT A SUPERSEDING LEGAL DOCUMENT IS
28 FOUND TO BE INVALID OR UNENFORCEABLE, THE DESIGNATED
29 BENEFICIARY AGREEMENT SHALL CONTROL DESPITE THE ATTEMPT TO
30 SUPERSEDE ITS PROVISIONS."

31

32 Page 13, line 2, after "WAS", insert "SUBSCRIBED, SWORN TO, AND";

33

34 strike lines 19 and 20 and substitute the following:

35

36 "**fee.** (1) A SIGNED AND ACKNOWLEDGED DESIGNATED BENEFICIARY
37 AGREEMENT SHALL BE FILED";

38

39 line 21, strike "BENEFICIARY AGREEMENT";

40

41 line 26, strike "REGISTRATION FEE OF ____" and substitute "FILING FEE OF
42 THIRTY";

43

44 line 27, strike "REGISTERING" and substitute "RECORDING".

45

46 Page 16, line 5, strike "NOTARIZED." and substitute "ACKNOWLEDGED.";

47

48 line 11, strike "____" and substitute "TWENTY";

49

50 line 12, strike "FEE" and substitute "FEE, AS PROVIDED IN SECTION
51 30-1-103, C.R.S.,".

52

53 Page 17, line 13, after "WAS", insert "SUBSCRIBED, SWORN TO, AND".

54

55 Page 25, line 24, after "TITLE;", insert "EXCEPT THAT IF THE DECEDENT
56 HAS SURVIVING CHILDREN, THEN THE DESIGNATED BENEFICIARY SHALL

1 RECEIVE ONE-HALF OF THE INTESTATE ESTATE AND THE SURVIVING
2 CHILDREN SHALL RECEIVE ONE-HALF OF THE INTESTATE ESTATE;".

3
4 Page 33, after line 13, insert the following:

5
6 **"SECTION 18. Severability.** If any provision of this act or the
7 application thereof to any person or circumstance is held invalid, such
8 invalidity shall not affect other provisions or applications of the act that
9 can be given effect without the invalid provision or application, and to
10 this end the provisions of this act are declared to be severable."

11
12 Renumber succeeding sections accordingly.

16 PRINTING REPORT

17
18 The Chief Clerk reports the following bills have been correctly printed:
19 **HB09-1286, 1287, 1288, 1289; HCR09-1002.**

23 MESSAGE FROM THE SENATE

24
25 The Senate has passed on Third Reading and transmitted to the Revisor
26 of Statutes: SB09-150, SB09-109, SB09-048, SB09-126, SB09-114, and
27 SB09-100.

28
29 The Senate has passed on Third Reading and returns herewith
30 HB09-1014.

31
32 The Senate has passed on Third Reading and transmitted to the Revisor
33 of Statutes:

34
35 SB09-139 amended as printed in Senate Journal, February 13, 2009,
36 page 300,

37 SB09-115 amended as printed in Senate Journal, February 13, 2009,
38 page 300,

39 SB09-107 amended as printed in Senate Journal, February 13, 2009,
40 page 301,

41 SB09-104 amended as printed in Senate Journal, February 13, 2009,
42 page 301,

43 SB09-127 amended as printed in Senate Journal, February 13, 2009,
44 page 301

45 SB09-013 amended as printed in Senate Journal, February 13, 2009,
46 page 301,

47 SB09-092 amended as printed in Senate Journal, February 13, 2009,
48 pages 302-03,

49 SB09-030 amended as printed in Senate Journal, February 13, 2009,
50 page 303,

51 SB09-151 amended as printed in Senate Journal, February 13, 2009,
52 page 303,

53 SB09-111 amended as printed in Senate Journal, February 13, 2009,
54 pages 303-304,

55 SB09-148 amended as printed in Senate Journal, February 13, 2009,
56 pages 304-305,

1 SB09-101 amended as printed in Senate Journal, February 13, 2009,
2 page 305,
3 SB09-113 amended as printed in Senate Journal, February 13, 2009,
4 page 305,
5 SB09-035 amended as printed in Senate Journal, February 13, 2009,
6 pages 305-306.
7
8
9

10 **MESSAGE FROM THE REVISOR**

11
12 We herewith transmit:
13 Without comment, SB09-150, 109, 048, 126, 114, and 100.
14 Without comment, as amended, SB09-139, 115, 107, 104, 127, 013, 092,
15 030, 151, 111, 148, 101, 113, and 035.
16

17
18 On motion of Representative Weissmann, the following bill(s) will be
19 calendared for February 20, 2009: HB09-1214, 1229, 1264, 1190, 1253,
20 1260.
21

22
23 **LAY OVER OF CALENDAR ITEMS**

24
25
26 On motion of Representative Weissmann, the following items on the
27 Calendar were laid over until February 18, retaining place on Calendar:
28
29 Consideration of Resolution(s)--**HR09-1006, SJR09-012.**
30

31
32
33 On motion of Representative Weissmann, the House adjourned until
34 9:00 a.m., February 18, 2009.
35

36 Approved:
37 TERRANCE D. CARROLL,
38 Speaker

39 Attest:
40 MARILYN EDDINS,
41 Chief Clerk