

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

Thirty-seventh Legislative Day

Thursday, February 12, 2009

1 Prayer by Dr. Gary Bowser, First Baptist Church, Denver.

2

3 The Speaker called the House to order at 9:00 a.m.

4

5 Pledge of Allegiance led by Amber Tanaka, Denver School of Arts.

6

7 The roll was called with the following result:

8

9 Present--60.

10 Excused--Representative(s) McFadyen, Middleton, Priola, Swalm,

11

Vaad--5.

12

Present after roll call--Representative(s) Middleton, Swalm.

13

14 The Speaker declared a quorum present.

15

16

17 On motion of Representative Court, the reading of the journal of
18 February 11, 2009, was declared dispensed with and approved as
19 corrected by the Chief Clerk.

20

21

22

23

24

CONSIDERATION OF RESOLUTIONS

25

26 On motion of Representative Weissmann, the rules were suspended for
27 immediate consideration of the following resolutions.

28

29 **HJR09-1010** by Representative(s) Weissmann, May; also Senator(s)
30 Shaffer B., Penry--Concerning a Joint Session of the
31 House of Representatives and Senate of the Sixty-seventh
32 General Assembly for the purpose of presenting fiscal
33 information to the members of the General Assembly on
34 the state fiscal situation for the 2008-09 fiscal year.

35

36 (Printed and placed in members' files)

37

38 On motion of Representative Weissmann, the resolution was **adopted** by
39 **viva voce** vote.

40

41 Co-sponsor(s) added: Representative(s) Apuan, Balmer, Baumgardner,
42 Benefield, Bradford, Casso, Court, Curry, Ferrandino, Fischer, Frangas,
43 Gagliardi, Gardner B., Gerou, Green, Hullinghorst, Kefalas, Kerr A., Kerr J.,

1 Labuda, Lambert, Levy, Looper, Marostica, Massey, McNulty, Merrifield,
2 Middleton, Nikkel, Peniston, Pommer, Primavera, Roberts, Ryden, Scanlan,
3 Schafer S., Stephens, Tipton, Todd, Vigil, Waller, Speaker
4

5 **HJR09-1011** by Representative(s) Todd and McNulty, Acree, Apuan,
6 Balmer, Baumgardner, Benefield, Bradford, Casso,
7 Frangas, Gagliardi, Gardner B., Gardner C., Gerou, Judd,
8 Kefalas, Kerr A., Lambert, Liston, Looper, Merrifield,
9 Middleton, Murray, Nikkel, Priola, Riesberg, Roberts,
10 Ryden, Scanlan, Schafer S., Sonnenberg, Soper, Stephens,
11 Summers, Swalm, Tipton, Vaad, Waller, Kerr J., King S.,
12 Massey, May; also Senator(s) Harvey and Scheffel, Groff,
13 Kester, Kopp, Renfro, Schultheis, Schwartz, Williams--
14 Concerning the bicentennial celebration of Abraham
15 Lincoln's birth.
16

17 (Printed and placed in members' files)
18

19 On motion of Representative Todd, the resolution was read at length and
20 **adopted by viva voce** vote.
21

22 Co-sponsor(s) added: Representative(s) Court, Curry, Ferrandino, Fischer,
23 Green, Hulinghorst, Labuda, Levy, Marostica, McCann, McGihon, McKinley,
24 Miklosi, Pace, Peniston, Pommer, Primavera, Solano, Vigil, Weissmann,
25 Speaker
26

27 28 29 MESSAGE FROM THE SENATE

30
31 The Senate has adopted and transmits herewith: SJR09-008.
32

33 34 35 INTRODUCTION AND CONSIDERATION OF RESOLUTION

36
37 On motion of Representative Weissmann, the rules were suspended and
38 the following resolution was given immediate consideration.
39

40 **SJR09-008** by Senator(s) Veiga, Penry; also Representative(s)
41 Bradford--Concerning the recognition of Doug Phillips'
42 contributions to the Colorado legal system and the
43 development of Colorado's wine industry.
44

45 (Printed and placed in members' file)
46

47 On motion of Representative Bradford, the resolution was read at length.
48

49
50
51 House in recess. House reconvened.
52
53
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55

1 SJR09-008 was **adopted** by the following roll call vote:
2

	YES	61	NO	0	EXCUSED	4	ABSENT	0
4	Acree	Y	Green	Y	McFadyen	E	Roberts	Y
5	Apuan	Y	Hullinghorst	Y	McGihon	Y	Ryden	Y
6	Balmer	Y	Judd	Y	McKinley	Y	Scanlan	Y
7	Baumgardner	Y	Kefalas	Y	McNulty	Y	Schafer S.	Y
8	Benefield	Y	Kerr A.	Y	Merrifield	Y	Solano	Y
9	Bradford	Y	Kerr J.	Y	Middleton	Y	Sonnenberg	Y
10	Casso	Y	King S.	Y	Miklosi	Y	Soper	Y
11	Court	Y	Labuda	Y	Murray	Y	Stephens	Y
12	Curry	Y	Lambert	Y	Nikkel	Y	Summers	Y
13	Ferrandino	Y	Levy	Y	Pace	Y	Swalm	E
14	Fischer	Y	Liston	Y	Peniston	Y	Tipton	Y
15	Frangas	Y	Looper	Y	Pommer	Y	Todd	Y
16	Gagliardi	Y	Marostica	Y	Primavera	Y	Vaad	E
17	Gardner B.	Y	Massey	Y	Priola	Y	Vigil	Y
18	Gardner C.	Y	May	Y	Rice	E	Waller	Y
19	Gerou	Y	McCann	Y	Riesberg	Y	Weissmann	Y
20							Speaker	Y

21 Co-sponsor(s) added: Representative(s) Court, Curry, Ferrandino, Fischer,
22 Green, Hullinghorst, Labuda, Levy, Marostica, McGihon, McKinley, Miklosi,
23 Pace, Peniston, Pommer, Primavera, Solano, Vigil, Weissmann, Speaker
24

25 26 **REPORTS OF COMMITTEES OF REFERENCE**

27 28 **BUSINESS AFFAIRS & LABOR**

29 After consideration on the merits, the Committee recommends the
30 following:
31

32 **HB09-1061** be amended as follows, and as so amended, be referred to
33 the Committee on Finance with favorable
34 recommendation:
35

36 Amend printed bill, strike everything below the enacting clause and
37 substitute the following:

38 **"SECTION 1.** 10-16-705, Colorado Revised Statutes, is amended
39 **BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS** to
40 read:
41

42 **10-16-705. Requirements for carriers and participating**
43 **providers.** (6.5) A CARRIER THAT HAS ENTERED INTO A CONTRACT WITH
44 ONE OR MORE INTERMEDIARIES TO CONDUCT UTILIZATION MANAGEMENT,
45 UTILIZATION REVIEW, PROVIDER CREDENTIALING, ADMINISTRATION OF
46 HEALTH INSURANCE BENEFITS, SETTING OR NEGOTIATION OF
47 REIMBURSEMENT RATES, PAYMENT TO PROVIDERS, NETWORK
48 DEVELOPMENT, OR DISEASE MANAGEMENT PROGRAMS SHALL REQUIRE THE
49 INTERMEDIARY TO COMPLY WITH THE SAME STANDARDS, GUIDELINES,
50 MEDICAL POLICIES, AND BENEFIT TERMS OF THE CARRIER.
51

52 (10.5) (a) A CARRIER THAT HAS ENTERED INTO A CONTRACT WITH
53 ONE OR MORE INTERMEDIARIES TO CONDUCT UTILIZATION MANAGEMENT,
54 UTILIZATION REVIEW, PROVIDER CREDENTIALING, ADMINISTRATION OF
55 HEALTH INSURANCE BENEFITS, SETTING OR NEGOTIATION OF
56 REIMBURSEMENT RATES, PAYMENT TO PROVIDERS, NETWORK

1 DEVELOPMENT, OR DISEASE MANAGEMENT PROGRAMS, SHALL REQUIRE
 2 THE INTERMEDIARY TO INDICATE THE NAME OF THE INTERMEDIARY AND
 3 THE NAME OF THE CARRIER FOR WHICH IT IS CONDUCTING THE WORK WHEN
 4 MAKING ANY PAYMENT TO A HEALTH CARE PROVIDER ON BEHALF OF THE
 5 CARRIER.

6
 7 (b) (I) A VIOLATION OF SUBSECTION (6.5) OF THIS SECTION OR THIS
 8 SUBSECTION (10.5) IS AN UNFAIR OR DECEPTIVE ACT OR PRACTICE IN THE
 9 BUSINESS OF INSURANCE PURSUANT TO SECTION 10-3-1104.

10
 11 (II) THE COMMISSIONER MAY EXAMINE THE ACTIONS OF A CARRIER
 12 PURSUANT TO SUBSECTION (6.5) OF THIS SECTION AND THIS SUBSECTION
 13 (10.5) WHEN CONDUCTING A MARKET CONDUCT ANALYSIS PURSUANT TO
 14 PART 2 OF ARTICLE 1 OF THIS TITLE.

15
 16 **SECTION 2.** 10-3-1104 (1), Colorado Revised Statutes, is
 17 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

18
 19 **10-3-1104. Unfair methods of competition and unfair or**
 20 **deceptive acts or practices.** (1) The following are defined as unfair
 21 methods of competition and unfair or deceptive acts or practices in the
 22 business of insurance:

23
 24 (gg) VIOLATION OF SECTION 10-16-705 (6.5) OR (10.5).

25
 26 **SECTION 3. Act subject to petition - effective date.** This act
 27 shall take effect at 12:01 a.m. on the day following the expiration of the
 28 ninety-day period after final adjournment of the general assembly that is
 29 allowed for submitting a referendum petition pursuant to article V,
 30 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
 31 sine die is on May 6, 2009); except that, if a referendum petition is filed
 32 against this act or an item, section, or part of this act within such period,
 33 then the act, item, section, or part, if approved by the people, shall take
 34 effect on the date of the official declaration of the vote thereon by
 35 proclamation of the governor."

36
 37
 38
 39 **HB09-1257** be referred to the Committee of the Whole with favorable
 40 recommendation.

41
 42
 43 **SB09-040** be referred to the Committee of the Whole with favorable
 44 recommendation.

45
 46
 47
 48
 49 **FINANCE**
 50 After consideration on the merits, the Committee recommends the
 51 following:

52
 53 **HB09-1212** be postponed indefinitely.

54
 55
 56 **HB09-1239** be postponed indefinitely.

1 **HB09-1249** be referred favorably to the Committee on Agriculture,
2 Livestock, & Natural Resources.
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4
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6

7 **LOCAL GOVERNMENT**

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

10
11 **HB09-1197** be amended as follows, and as so amended, be referred to
12 the Committee of the Whole with favorable
13 recommendation:
14

15 Amend printed bill, page 2, line 6, strike "HOME" and substitute
16 "PROPERTY";

17
18 line 11, strike "**Home**" and substitute "**Property**";

19
20 line 12, strike "HOME" and substitute "PROPERTY";

21
22 line 16, strike "FORECLOSURE FILINGS" and substitute "NOTICES OF
23 ELECTION AND DEMAND";

24
25 line 17, strike "INITIATED" and substitute "RECORDED" and, strike
26 "QUARTER" and substitute "QUARTER, THE SAME QUARTER OF THE
27 PREVIOUS YEAR,";

28
29 line 19, strike "FORECLOSURE AUCTION";

30
31 line 20, strike "SALES THAT WERE COMPLETED" and substitute
32 "PROPERTIES SOLD AT AUCTION";

33
34 line 21, strike "QUARTER" and substitute "QUARTER, THE SAME QUARTER
35 OF THE PREVIOUS YEAR,";

36
37 strike line 22.

38
39 Page 3, strike lines 1 through 3 and substitute the following:

40
41 "(c) DATA REGARDING THE NUMBER OF INSTANCES IN THE
42 PREVIOUS QUARTER, THE SAME QUARTER OF THE PREVIOUS YEAR, AND THE
43 PREVIOUS YEAR IN WHICH A PROPERTY OWNER OR OTHER INTERESTED
44 PARTY CURED A DEFAULT ON A PROPERTY FOR WHICH A NOTICE OF
45 ELECTION AND DEMAND WAS RECORDED;"

46
47 line 6, strike "QUARTER" and substitute "QUARTER, THE SAME QUARTER OF
48 THE PREVIOUS YEAR,";

49
50 line 9, strike "QUARTER" and substitute "QUARTER, THE SAME QUARTER OF
51 THE PREVIOUS YEAR,";

52
53 line 24, strike "DIVISION, IN A MANNER TO BE DETERMINED BY THE";

54
55 line 25, strike "DIVISION," and substitute "DIVISION".

56

1 **TRANSPORTATION & ENERGY**

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

4
5 **HB09-1029** be amended as follows, and as so amended, be referred to
6 the Committee on Appropriations with favorable
7 recommendation:

8
9 Amend printed bill, page 2, line 8, after "(a)", insert "(I)";

10
11 strike lines 11 and 12 and substitute the following:

12
13 "carrier, AND CERTAIN MOBILE MACHINERY AS DEFINED IN SUBPARAGRAPH
14 (II) OF THIS PARAGRAPH (a), for";

15
16 after line 14, insert the following:

17
18 "(II) FOR PURPOSES OF THIS PARAGRAPH (a), "MOBILE
19 MACHINERY" MEANS ANY ITEM OF MOBILE MACHINERY AND
20 SELF-PROPELLED CONSTRUCTION EQUIPMENT OPERATED IN INTERSTATE
21 COMMERCE THAT:

22
23 (A) HAS A TITLE ISSUED ON RECORD WITH THE STATE;

24
25 (B) IS EQUIPPED TO BE OPERATED ON HIGHWAYS AND COMPLIES
26 WITH RULES AND REGULATIONS ISSUED BY THE DEPARTMENT OF PUBLIC
27 SAFETY AS SPECIFIED IN SECTION 42-4-235 (4) (a);

28
29 (C) HAS A MILEAGE DEVICE TO REGISTER MILEAGE; AND

30
31 (D) IS A PLATED VEHICLE."
32
33
34

35 **HB09-1096** be postponed indefinitely.

36 _____
37
38 House in recess. House reconvened.
39 _____
40

41
42 **REPORTS OF COMMITTEES OF REFERENCE**

43
44 **AGRICULTURE, LIVESTOCK, & NATURAL RESOURCES**

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

47
48 **HB09-1185** be referred to the Committee of the Whole with favorable
49 recommendation.

50
51
52 **SB09-015** be referred to the Committee of the Whole with favorable
53 recommendation.
54
55
56 _____

1 **FINANCE**

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

4
5 **HB09-1010** be amended as follows, and as so amended, be referred to
6 the Committee on Appropriations with favorable
7 recommendation:

8
9 Amend printed bill, page 11, line 5, strike "NATURE." and substitute
10 "NATURE AND DOCUMENTATION TO DEMONSTRATE THAT WITHOUT THE
11 CREDIT ALLOWED IN THIS SECTION THE PRODUCTION ACTIVITIES WOULD
12 NOT OCCUR IN COLORADO. SUCH DOCUMENTATION SHALL INCLUDE
13 INFORMATION INDICATING THAT THE TAXPAYER COULD REASONABLY AND
14 EFFICIENTLY LOCATE THE PRODUCTION ACTIVITIES OUTSIDE OF
15 COLORADO; THAT AT LEAST ONE OTHER STATE IS BEING CONSIDERED FOR
16 THE PRODUCTION ACTIVITIES; THAT RECEIPT OF THE CREDIT ALLOWED IN
17 THIS SECTION IS A MAJOR FACTOR IN THE TAXPAYER'S DECISION; AND THAT
18 WITHOUT THE CREDIT ALLOWED IN THIS SECTION, THE TAXPAYER IS NOT
19 LIKELY TO COMMENCE THE PRODUCTION ACTIVITIES IN COLORADO."

20
21 Page 13, line 1, strike "TWENTY" and substitute "TEN";

22
23 line 4, strike "SECTION, INCLUDING ANY CREDIT CARRIED" and substitute
24 "SECTION";

25
26 strike lines 5 and 6;

27
28 line 25, strike "(a)";

29
30 line 27, after "MAY", insert "NOT" and, after the second "BE", insert
31 "REFUNDED."

32
33 Strike pages 14 and 15.

34
35 Page 16, strike lines 1 through 10.

36
37 Renumber succeeding subsections accordingly.

38
39 Page 16, line 11, strike "(a)";

40
41 line 17, strike "(I)" and substitute "(a)";

42
43 line 18, strike "(II)" and substitute "(b)";

44
45 line 20, strike "(III)" and substitute "(c)";

46
47 line 22, strike "(IV)" and substitute "(d)";

48
49 strike lines 26 and 27.

50
51 Page 17, strike lines 1 through 12;

52
53 line 16, strike "C.R.S., AND SHALL BE" and substitute "C.R.S.";

54
55 strike line 17.

56

1 **LOCAL GOVERNMENT**

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

4
5 **HB09-1013** be referred to the Committee of the Whole with favorable
6 recommendation.

7
8
9 **HB09-1213** be amended as follows, and as so amended, be referred to
10 the Committee on Finance with favorable
11 recommendation:

12
13 Amend printed bill, page 2, line 6, strike "**creation.**" and substitute
14 "**creation - repeal.**";

15
16 line 10, strike "ALL" and, strike "IT" and substitute "THE FUND";

17
18 line 15, strike "FOUNDATIONS," and substitute "FOUNDATIONS AND ANY
19 INTEREST EARNINGS ON SUCH MONEYS,".

20
21 Page 3, line 5, after "(2)", insert "(a)";

22
23 line 7, after "HOUSING", insert "AND TO FINANCE FORECLOSURE
24 PREVENTION ACTIVITIES";

25
26 after line 7, insert the following:

27
28 "(b) THE AUTHORIZATION GRANTED TO THE DIVISION IN
29 PARAGRAPH (a) OF THIS SUBSECTION (2) TO MAKE A GRANT OR LOAN FROM
30 MONEYS IN THE FUND TO FINANCE FORECLOSURE PREVENTION ACTIVITIES
31 IN THE STATE IS REPEALED, EFFECTIVE JUNE 30, 2011.";

32
33 strike lines 16 through 25 and substitute the following:

34
35 "**SECTION 2. Effective date.** This act shall take effect June 30,
36 2009.

37
38 **SECTION 3. Safety clause.** The general assembly hereby finds,
39 determines, and declares that this act is necessary for the immediate
40 preservation of the public peace, health, and safety.".

41
42
43
44 **SB09-001** be referred favorably to the Committee on Agriculture,
45 Livestock, & Natural Resources.

46
47
48
49 On motion of Representative Weissmann, the following bill(s) will be
50 calendared for February 17, 2009: HB09-1185, SB09-015, HB09-1257,
51 SB09-040, HB09-1197, 1013.

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MESSAGE FROM THE SENATE

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The Senate voted to recall HJR09-1009 for purposes of reconsideration, and requests the return of the resolution.

The Senate has adopted and returns herewith: HJR09-1010, and 1011.

On motion of Representative Weissmann, the House adjourned until 9:00 a.m., February 13, 2009.

Approved:
TERRANCE D. CARROLL,
Speaker

Attest:
MARILYN EDDINS,
Chief Clerk