

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

Twenty-first Legislative Day

Tuesday, January 27, 2009

1 Prayer by Dr. Timothy Tyler, Shorter Community AME, Denver.

2

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

4

5 Pledge of Allegiance led by Kristina Moritis, University of Colorado
6 Denver.

7

8 The roll was called with the following result:

9

10 Present--58.

11 Excused--Representatives Hullinghorst, Merrifield, Murray,
12 Pommer, Scanlan, Stephens, Swalm--7.

13 Present after roll call--Representatives Hullinghorst, Murray,
14 Scanlan, Stephens, Swalm.

15

16 The Speaker declared a quorum present.

17

18

19 On motion of Representative Baumgardner, the reading of the journal of
20 January 26, 2009, was declared dispensed with and approved as corrected
21 by the Chief Clerk.

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25

CONSIDERATION OF RESOLUTION

26

27 **HJR09-1005** by Representative(s) Judd; also Senator(s) Sandoval--
28 Concerning the certification by the general assembly of its
29 estimate of state general fund revenues and allowable state
30 general fund appropriations for the 2009-10 fiscal year.

31

32 (Printed and placed in member's file)

33

34 On motion of Representative Judd, the resolution was **adopted** by the
35 following roll call vote:

36

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43

YES	41	NO	22	EXCUSED	2	ABSENT	0
Acree	N	Green	Y	McFadyen	Y	Roberts	Y
Apuan	Y	Hullinghorst	Y	McGihon	Y	Ryden	Y
Balmer	N	Judd	Y	McKinley	Y	Scanlan	Y
Baumgardner	N	Kefalas	Y	McNulty	N	Schafer S.	Y
Benefield	Y	Kerr A.	Y	Merrifield	E	Solano	Y
Bradford	N	Kerr J.	N	Middleton	Y	Sonnenberg	N

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

12 Co-sponsor(s) added: Representative(s) Apuan, Ferrandino, Kerr A., Labuda,
13 Ryden

17 THIRD READING OF BILLS--FINAL PASSAGE

19 The following bills were considered on Third Reading. The titles were
20 publicly read. Reading of the bill at length was dispensed with by
21 unanimous consent.

23 **HB09-1054** by Representative(s) Looper, Balmer, Rice, Stephens,
24 Todd; also Senator(s) Morse, King K.--Concerning
25 eligibility for unemployment insurance benefits for an
26 individual who leaves employment to relocate to a new
27 place of residence after the individual's active duty
28 military spouse is killed in combat.

30 The question being "Shall the bill pass?".

31 A roll call vote was taken. As shown by the following recorded vote, a
32 majority of those elected to the House voted in the affirmative and the bill
33 was declared **passed**.

35	YES	56	NO	7	EXCUSED	2	ABSENT	0
36	Acree	Y	Green	N	McFadyen	Y	Roberts	Y
37	Apuan	Y	Hullinghorst	Y	McGihon	N	Ryden	Y
38	Balmer	Y	Judd	N	McKinley	N	Scanlan	Y
39	Baumgardner	Y	Kefalas	Y	McNulty	Y	Schafer S.	Y
40	Benefield	Y	Kerr A.	Y	Merrifield	E	Solano	Y
41	Bradford	Y	Kerr J.	Y	Middleton	Y	Sonnenberg	Y
42	Casso	Y	King S.	Y	Miklosi	Y	Soper	Y
43	Court	Y	Labuda	N	Murray	Y	Stephens	Y
44	Curry	Y	Lambert	Y	Nikkel	Y	Summers	Y
45	Ferrandino	Y	Levy	N	Pace	Y	Swalm	Y
46	Fischer	Y	Liston	Y	Peniston	Y	Tipton	Y
47	Frangas	Y	Looper	Y	Pommer	E	Todd	Y
48	Gagliardi	Y	Marostica	Y	Primavera	Y	Vaad	Y
49	Gardner B.	Y	Massey	Y	Priola	Y	Vigil	Y
50	Gardner C.	Y	May	Y	Rice	Y	Waller	Y
51	Gerou	Y	McCann	Y	Riesberg	Y	Weissmann	N
52							Speaker	Y

53 Co-sponsor(s) added: Representative(s) Acree, Apuan, Baumgardner, Bradford,
54 Casso, Curry, Frangas, Gardner B., Gerou, Kefalas, Kerr A., Kerr J., King S.,
55 Lambert, Liston, Massey, May, McCann, McNulty, Middleton, Murray, Nikkel,
56 Pace, Priola, Ryden, Schafer S., Soper, Swalm, Tipton, Vaad, Waller

1 **HB09-1155** by Representative(s) Weissmann; also Senator(s)
 2 Carroll M.--Concerning title insurance, and, in connection
 3 therewith, requiring justifications to be filed with the
 4 commissioner of insurance.

5
 6 The question being "Shall the bill pass?".
 7 A roll call vote was taken. As shown by the following recorded vote, a
 8 majority of those elected to the House voted in the affirmative and the bill
 9 was declared **passed**.

	YES	59	NO	4	EXCUSED	2	ABSENT	0
12	Acree	Y	Green	Y	McFadyen	Y	Roberts	Y
13	Apuan	Y	Hullinghorst	Y	McGihon	Y	Ryden	Y
14	Balmer	Y	Judd	N	McKinley	Y	Scanlan	Y
15	Baumgardner	N	Kefalas	Y	McNulty	Y	Schafer S.	Y
16	Benefield	Y	Kerr A.	Y	Merrifield	E	Solano	Y
17	Bradford	Y	Kerr J.	Y	Middleton	Y	Sonnenberg	N
18	Casso	Y	King S.	Y	Miklosi	Y	Soper	Y
19	Court	Y	Labuda	Y	Murray	Y	Stephens	Y
20	Curry	Y	Lambert	Y	Nikkel	Y	Summers	Y
21	Ferrandino	Y	Levy	Y	Pace	Y	Swalm	Y
22	Fischer	Y	Liston	Y	Peniston	Y	Tipton	Y
23	Frangas	Y	Looper	N	Pommer	E	Todd	Y
24	Gagliardi	Y	Marostica	Y	Primavera	Y	Vaad	Y
25	Gardner B.	Y	Massey	Y	Priola	Y	Vigil	Y
26	Gardner C.	Y	May	Y	Rice	Y	Waller	Y
27	Gerou	Y	McCann	Y	Riesberg	Y	Weissmann	Y
28							Speaker	Y

29 Co-sponsor(s) added: Representative(s) Ryden

32 **REPORTS OF COMMITTEES OF REFERENCE**

35 **EDUCATION**

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

39 **HB09-1078** be referred to the Committee of the Whole with favorable
 40 recommendation.

43 **HB09-1082** be amended as follows, and as so amended, be referred to
 44 the Committee of the Whole with favorable
 45 recommendation:

47 Amend printed bill, page 2, line 13, strike "THE BOARD SHALL USE THE
 48 BEST" and substitute "THE BOARD, AT ITS DISCRETION, SHALL USE
 49 APPROPRIATE";

51 line 14, strike "TO" and substitute "WITHIN";

53 line 21, strike "TWO YEARS." and substitute "ONE YEAR.".

54
 55

1 **HB09-1099** be referred to the Committee of the Whole with favorable
2 recommendation.
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4
5
6

7 **JUDICIARY**

8 After consideration on the merits, the Committee recommends the
9 following:
10

11 **HB09-1075** be amended as follows, and as so amended, be referred to
12 the Committee on Appropriations with favorable
13 recommendation:
14

15 Amend printed bill, strike everything below the enacting clause and
16 substitute the following:
17

18 "SECTION 1. 27-1-110 (1), Colorado Revised Statutes, is
19 amended to read:
20

21 **27-1-110. Employment of personnel - screening of applicants**
22 **- disqualifications from employment.** (1) The general assembly hereby
23 recognizes that many of the individuals receiving services from persons
24 employed by the state department pursuant to this title or title 26, C.R.S.,
25 are unable to defend themselves and are therefore vulnerable to abuse or
26 assault. It is the intent of the general assembly to minimize the potential
27 for hiring and employing persons with a propensity toward abuse, assault,
28 or similar offenses against others. ~~for positions that would provide them~~
29 ~~with unsupervised access to vulnerable persons.~~ The general assembly
30 hereby declares that, in accordance with section 13 of article XII of the
31 state constitution, for purposes of terminating employees in the state
32 personnel system who are finally convicted of criminal conduct, offenses
33 involving moral turpitude include, but are not limited to, the disqualifying
34 offenses specified in subsection (7) of this section.
35

36 **SECTION 2.** 27-1-110, Colorado Revised Statutes, is amended
37 BY THE ADDITION OF A NEW SUBSECTION to read:
38

39 **27-1-110. Employment of personnel - screening of applicants**
40 **- disqualifications from employment.** (1.9) NOTWITHSTANDING THE
41 PROVISIONS OF SUBSECTION (1.7) OF THIS SECTION, THE EMPLOYMENT
42 SCREENING AND DISQUALIFICATIONS REQUIREMENTS IN THIS SECTION
43 SHALL APPLY TO ALL PERSONS HIRED BY THE STATE DEPARTMENT ON AND
44 AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1.9).
45

46 **SECTION 3.** 27-1-110 (1.5) (a), (1.5) (b), (2), (3), (7) (a), and (7)
47 (d), Colorado Revised Statutes are amended, and the said 27-1-110 is
48 further amended BY THE ADDITION OF A NEW SUBSECTION, to
49 read:
50

51 **27-1-110. Employment of personnel - definitions - screening**
52 **of applicants - disqualifications from employment.** (1.5) For purposes
53 of this section, unless the context otherwise requires:
54

55 (a) "Contracting employee" means a person who contracts with
56 the state department. ~~and who is designated by the executive director of~~

1 ~~the state department or the executive director's designee as serving in a~~
2 ~~contract position involving direct contact with vulnerable persons.~~

3
4 (b) "Conviction" means a verdict of guilty by a judge or jury or a
5 plea of guilty or nolo contendere that is accepted by the court. ~~or~~
6 ~~adjudication for an offense that would constitute a criminal offense if~~
7 ~~committed by an adult.~~ "Conviction" also includes having received a
8 deferred judgment and sentence or deferred adjudication; except that a
9 person shall not be deemed to have been convicted if the person has
10 successfully completed a deferred sentence or deferred adjudication.

11
12 (2) Prior to the state department's permanent employment of any
13 person, ~~in a position that would require that person to have direct contact~~
14 ~~with any vulnerable person,~~ the executive director or any division head of
15 the state department shall make an inquiry to the director of the Colorado
16 bureau of investigation to ascertain whether ~~such~~ THE person has a
17 criminal history. ~~Such~~ THE person's employment shall be conditional
18 upon a satisfactory criminal background check, INCLUDING BUT NOT
19 LIMITED TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.
20 Any criminal background check conducted pursuant to this subsection (2)
21 shall ALSO include but need not be limited to arrests, conviction records,
22 and the disposition of any criminal charges. The state department shall
23 require ~~said~~ THE person to have his or her fingerprints taken by a ~~local law~~
24 ~~enforcement~~ AN agency QUALIFIED TO TAKE FINGERPRINTS FOR USE IN
25 CONDUCTING CRIMINAL HISTORY RECORD CHECKS. The ~~local law~~
26 ~~enforcement~~ QUALIFIED agency shall forward those fingerprints to the
27 Colorado bureau of investigation for the purpose of ~~fingerprint processing~~
28 CONDUCTING A STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL
29 HISTORY RECORD CHECK, utilizing the files and records of the Colorado
30 bureau of investigation and the federal bureau of investigation. The state
31 department shall pay for the costs of criminal ~~background checks~~
32 HISTORY RECORD CHECKS conducted pursuant to this section out of
33 existing appropriations.

34
35 (2.5) EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (9) OF THIS
36 SECTION, PRIOR TO THE STATE DEPARTMENT'S EMPLOYMENT OF AN
37 EMPLOYEE OR CONTRACTING EMPLOYEE FOR A POSITION THAT WOULD NOT
38 REQUIRE THE EMPLOYEE OR CONTRACTING EMPLOYEE TO HAVE DIRECT
39 CONTACT WITH A VULNERABLE PERSON, THE STATE DEPARTMENT SHALL
40 MAKE AN INQUIRY TO THE DIRECTOR OF THE COLORADO BUREAU OF
41 INVESTIGATION TO ASCERTAIN WHETHER THE PROSPECTIVE EMPLOYEE OR
42 PROSPECTIVE CONTRACTING EMPLOYEE HAS A CRIMINAL HISTORY. IF THE
43 INQUIRY INDICATES THAT A PROSPECTIVE EMPLOYEE OR PROSPECTIVE
44 CONTRACTING EMPLOYEE WAS CONVICTED OF ANY OF THE DISQUALIFYING
45 OFFENSES SET FORTH IN PARAGRAPH (b) OR (c) OF SUBSECTION (7) OF THIS
46 SECTION, AN APPOINTING AUTHORITY MAY CONSIDER THE FOLLOWING
47 INFORMATION BEFORE MAKING THE HIRING DECISION:

48
49 (a) THE NATURE AND SERIOUSNESS OF THE OFFENSE FOR WHICH
50 THE PROSPECTIVE EMPLOYEE OR PROSPECTIVE CONTRACTING EMPLOYEE
51 WAS CONVICTED;

52
53 (b) THE NUMBER OF SUCH CONVICTIONS;

54
55 (c) WHETHER THE CONVICTIONS ARE RELATED TO THE POSITION
56 FOR WHICH THE PERSON IS APPLYING;

1 (d) ANY INFORMATION PROVIDED BY THE PROSPECTIVE EMPLOYEE
2 OR PROSPECTIVE CONTRACTING EMPLOYEE REGARDING HIS OR HER
3 CRIMINAL HISTORY RECORD, INCLUDING BUT NOT LIMITED TO EVIDENCE OF
4 REHABILITATION, CHARACTER REFERENCES, EDUCATIONAL
5 ACHIEVEMENTS, THE LENGTH OF TIME BETWEEN THE LAST CRIMINAL
6 CONVICTION AND THE EMPLOYMENT DECISION, AND ANY OTHER
7 EXTENUATING CIRCUMSTANCES; AND

8
9 (e) THE ACCURACY OF THE INFORMATION ON THE RECORD.

10
11 ~~(3) The executive director or any division head shall contact~~
12 ~~previous employers of any person who is one of the top three finalists for~~
13 ~~a position that would require that person to have direct contact with any~~
14 ~~vulnerable person, for the purpose of obtaining information and~~
15 ~~recommendations that may be relevant to such person's fitness for~~
16 ~~employment. Any previous employer of an applicant for employment~~
17 ~~who provides information to the executive director or a division head or~~
18 ~~who makes a recommendation concerning such person shall be immune~~
19 ~~from civil liability unless the information is false and the previous~~
20 ~~employer knows such information is false or acts with reckless disregard~~
21 ~~concerning the veracity of such information.~~

22
23 (7) (a) ~~If the criminal background check~~ CRIMINAL HISTORY
24 RECORD CHECK conducted pursuant to subsection (2) or (9) of this section
25 indicates that a prospective employee or prospective contracting
26 employee was convicted of any of the disqualifying offenses set forth in
27 paragraph (b) or (c) of this subsection (7), said person shall be
28 disqualified from employment either as an employee or as a contracting
29 employee in a position involving direct contact with vulnerable persons.
30 A person who is disqualified as a result of this section shall not be hired
31 or retained by the state department in a position involving direct contact
32 with vulnerable persons nor be eligible to contract for or continue in a
33 contract position designated by the executive director or the executive
34 director's designee as involving direct contact with vulnerable persons.

35
36 ~~(d) If a person was adjudicated a juvenile delinquent for the~~
37 ~~commission of any disqualifying offense set forth in either paragraph (b)~~
38 ~~or (c) of this subsection (7) and more than seven years have elapsed since~~
39 ~~the commission of the offense, the person may submit a written request~~
40 ~~to the executive director as provided in subsection (11) of this section for~~
41 ~~reconsideration of the disqualification.~~

42
43 **SECTION 4. Effective date - applicability.** This act shall take
44 effect July 1, 2009, and shall apply to employees of the department of
45 human services hired or entering into contracts with the department on or
46 after said date.

47
48 **SECTION 5. Safety clause.** The general assembly hereby finds,
49 determines, and declares that this act is necessary for the immediate
50 preservation of the public peace, health, and safety."

51
52
53
54 **HB09-1145** be postponed indefinitely.

55
56

1 **HB09-1157** be amended as follows, and as so amended, be referred to
2 the Committee on Appropriations with favorable
3 recommendation:
4

5 Amend printed bill, page 2, line 18, strike "2010," and substitute "2009,";
6
7 line 23, strike "2011," and substitute "2010,".
8

9 Page 3, line 1, strike "2011," and substitute "2010,";
10

11 line 5, strike "2012," and substitute "2011,";
12

13 line 10, strike "2012," and substitute "2011,";
14

15 line 14, strike "2013," and substitute "2012,";
16

17 line 19, strike "2013," and substitute "2012,";
18

19 line 23, strike "2014," and substitute "2013,".
20

21 Page 4, line 1, strike "2014," and substitute "2013,";
22

23 line 5, strike "2015." and substitute "2014.";
24

25 line 7, after "24-75-302", insert "(2) (v),";
26

27 line 12, strike "2014," and substitute "2013,";
28

29 after line 19, insert the following:
30

31 "(v) On July 1, 2009, five hundred twenty-three thousand one
32 hundred sixty-four dollars pursuant to S.B. 06-206, enacted at the second
33 regular session of the sixty-fifth general assembly; plus five hundred
34 twenty-three thousand one hundred sixty-four dollars pursuant to S.B.
35 06-207, enacted at the second regular session of the sixty-fifth general
36 assembly; plus forty-three thousand five hundred ninety-seven dollars
37 pursuant to H.B. 06-1145, enacted at the second regular session of the
38 sixty-fifth general assembly; plus five hundred twenty-three thousand one
39 hundred sixty-four dollars pursuant to H.B. 06-1011, enacted at the
40 second regular session of the sixty-fifth general assembly; plus one
41 hundred fifty thousand one hundred ninety-eight dollars pursuant to S.B.
42 07-096, enacted at the first regular session of the sixty-sixth general
43 assembly; plus seventy-five thousand ninety-nine dollars pursuant to H.B.
44 07-1326, enacted at the first regular session of the sixty-sixth general
45 assembly; plus one hundred twenty-five thousand one hundred sixty-five
46 dollars pursuant to S.B. 08-239, enacted at the second regular session of
47 the sixty-sixth general assembly; plus twelve thousand five hundred
48 seventeen dollars pursuant to H.B. 08-1194, enacted at the second regular
49 session of the sixty-sixth general assembly; PLUS _____ DOLLARS
50 PURSUANT TO H.B. 09-1157, ENACTED IN 2009;"

51
52 Page 6, line 1, strike "2009;" and substitute "2009.";
53

54 strike lines 2 through 16 and substitute the following:
55
56

1 On motion of Representative Curry, the House adjourned until 9:00 a.m.,
2 January 28, 2009.

3

4

5

6

7 Attest:

8 MARILYN EDDINS,

9 Chief Clerk

Approved:
TERRANCE D. CARROLL,
Speaker