

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

One hundred-fourth Legislative Day Monday, April 20, 2009

- 1 Prayer by the Reverend Brad Meuli, Denver Rescue Mission.
- 2
- 3 The Speaker called the House to order at 10:00 a.m.
- 4
- 5 Pledge of Allegiance led by Tyler Oldham, Christina Martinez, Shelby
- 6 Lind, Joshua Boschert, Murphy Creek Elementary, Aurora.
- 7
- 8 The roll was called with the following result:
- 9
- 10 Present--64.
- 11 Excused--Representative(s) Merrifield--1.
- 12 Present after roll call--Representative(s) Merrifield.
- 13

14 The Speaker declared a quorum present.

15 _____
16
17 On motion of Representative Swalm, the reading of the journal of
18 April 17, 2009, was declared dispensed with and approved as corrected
19 by the Chief Clerk.
20 _____
21

CONSIDERATION OF RESOLUTION(S)

22
23
24
25 **HJR09-1019** by Representative(s) Kerr J., Summers, Acree, Apuan,
26 Balmer, Baumgardner, Benefield, Bradford, Casso,
27 Ferrandino, Frangas, Gagliardi, Gardner B., Gardner C.,
28 Gerou, Green, Kagan, Kefalas, Kerr A., King S., Lambert,
29 Liston, Looper, Marostica, Massey, May, McCann,
30 McFadyen, McNulty, Merrifield, Middleton, Miklosi,
31 Nikkel, Pace, Peniston, Primavera, Priola, Roberts,
32 Scanlan, Schafer S., Solano, Sonnenberg, Soper,
33 Stephens, Todd, Vaad, Vigil, Waller, Weissmann; also
34 Senator(s) Kopp, Boyd, Brophy, Carroll M., Gibbs, Heath,
35 Kester, King K., Lundberg, Morse, Penry, Renfroe,
36 Romer, Scheffel, Schultheis, Spence, White--Concerning
37 Columbine High School triumph over tragedy 1999-2009.

38
39 (Printed and placed in members file)

40
41 On motion of Representative Kerr J., the resolution was read at length
42 and **adopted** by the following roll call vote:

43

	YES	65	NO	0	EXCUSED	0	ABSENT	0
1								
2	Acree	Y	Green	Y	McCann	Y	Roberts	Y
3	Apuan	Y	Hullinghorst	Y	McFadyen	Y	Ryden	Y
4	Balmer	Y	Judd	Y	McKinley	Y	Scanlan	Y
5	Baumgardner	Y	Kagan	Y	McNulty	Y	Schafer S.	Y
6	Benefield	Y	Kefalas	Y	Merrifield	Y	Solano	Y
7	Bradford	Y	Kerr A.	Y	Middleton	Y	Sonnenberg	Y
8	Casso	Y	Kerr J.	Y	Miklosi	Y	Soper	Y
9	Court	Y	King S.	Y	Murray	Y	Stephens	Y
10	Curry	Y	Labuda	Y	Nikkel	Y	Summers	Y
11	Ferrandino	Y	Lambert	Y	Pace	Y	Swalm	Y
12	Fischer	Y	Levy	Y	Peniston	Y	Tipton	Y
13	Frangas	Y	Liston	Y	Pommer	Y	Todd	Y
14	Gagliardi	Y	Looper	Y	Primavera	Y	Vaad	Y
15	Gardner B.	Y	Marostica	Y	Priola	Y	Vigil	Y
16	Gardner C.	Y	Massey	Y	Rice	Y	Waller	Y
17	Gerou	Y	May	Y	Riesberg	Y	Weissmann	Y
18							Speaker	Y

19 Current Roll Call added as Co-sponsor(s): Representative(s) Court, Curry,
 20 Fischer, Hullinghorst, Judd, Labuda, Levy, McKinley, Murray, Pommer, Rice,
 21 Riesberg, Ryden, Swalm, Tipton, Speaker

22
 23
 24 On motion of Representative Merrifield, the House resolved itself into
 25 Committee of the Whole for consideration of General Orders, and he was
 26 called to the Chair to act as Chairman.

27 28 29 **GENERAL ORDERS--SECOND READING OF BILLS**

30
 31 The Committee of the Whole having risen, the Chairman reported the
 32 titles of the following bills had been read (reading at length had been
 33 dispensed with by unanimous consent), the bills considered and action
 34 taken thereon as follows:

35
 36 (Amendments to the committee amendment are to the printed committee
 37 report which was printed and placed in the members' bill file.)

38
 39 **HB09-1327** by Representative(s) Hullinghorst, Court, Fischer,
 40 Gagliardi, Levy, McCann, Peniston, Pommer, Rice,
 41 Sonnenberg, Vigil, Weissmann; also Senator(s) Tochtrop,
 42 Heath--Concerning modifications to the urban renewal law
 43 to address impacts to specified taxing entities arising from
 44 the use of tax increment financing mechanisms to support
 45 urban renewal projects.

46
 47 Amendment No. 1, Local Government, dated March 31, 2009, and placed
 48 in member's bill file; Report also printed in House Journal, April 2,
 49 pages 1011-1012.

50
 51 Amendment No. 2, by Representative(s) Peniston.
 52 Amend the Local Government Committee Report, dated March 31, 2009,
 53 page 2, line 9, strike "January 1, 2010." and substitute "July 1, 2010."
 54

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

1 **SB09-251** by Senator(s) Romer; also Representative(s) Riesberg--
 2 Concerning the authority of a licensed health care provider
 3 to charge a fee for certain ophthalmic devices.
 4

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

8
 9
 10 **AMENDMENT(S) TO THE COMMITTEE OF THE WHOLE REPORT**

11
 12 Representative(s) May and Benefield moved to amend the Report of the
 13 Committee of the Whole to reverse the action taken by the Committee in
 14 not adopting the following Benefield and Massey amendment, to
 15 HB09-1327, to show that said amendment passed, and that **HB09-1327**,
 16 as amended, passed.
 17

18 Strike the Local Government Committee Report, dated March 31, 2009,
 19 and substitute the following:
 20

21 "Amend printed bill, page 3, strike lines 13 and 14 and substitute the
 22 following:
 23

24 "31-25-107 (3.5) is further amended BY THE ADDITION OF THE
 25 FOLLOWING NEW PARAGRAPHS, to read:"
 26

27 after line 25, insert the following:
 28

29 "(c) WITHIN TEN DAYS OF RECEIVING AN URBAN RENEWAL IMPACT
 30 REPORT, A TAXING ENTITY SHALL REQUEST A MEETING WITH THE
 31 AUTHORITY OR MUNICIPALITY TO DISCUSS THE REPORT. THE MEETING
 32 SHALL BE SCHEDULED IN ADVANCE OF THE HEARING. FAILURE OF THE
 33 TAXING ENTITY TO ATTEND THE MEETING SHALL NOT RESULT IN A DELAY
 34 IN THE HEARING. IF MORE THAN ONE TAXING ENTITY REQUESTS A
 35 MEETING, THE MEETINGS MAY BE CONSOLIDATED."
 36

37 Reletter succeeding paragraph accordingly.
 38

39 Page 4, strike lines 10 through 13 and substitute the following:
 40

41 "the urban renewal area for the";
 42

43 strike lines 20 through 27.
 44

45 Strike pages 5 and 6.
 46

47 Page 7, strike lines 1 through 5.
 48

49 Renumber succeeding sections accordingly."
 50

51 The amendment was declared **lost** by the following roll call vote:
 52

	YES	30	NO	35	EXCUSED	0	ABSENT	0
54	Acree	Y	Green	N	McCann	N	Roberts	Y
55	Apuan	N	Hullinghorst	N	McFadyen	Y	Ryden	N
56	Balmer	Y	Judd	N	McKinley	N	Scanlan	N

1	Baumgardner	Y	Kagan	N	McNulty	Y	Schafer S.	Y
2	Benefield	Y	Kefalas	N	Merrifield	N	Solano	N
3	Bradford	Y	Kerr A.	N	Middleton	Y	Sonnenberg	N
4	Casso	N	Kerr J.	Y	Miklosi	N	Soper	N
5	Court	N	King S.	Y	Murray	Y	Stephens	Y
6	Curry	N	Labuda	N	Nikkel	Y	Summers	Y
7	Ferrandino	N	Lambert	Y	Pace	Y	Swalm	Y
8	Fischer	N	Levy	N	Peniston	N	Tipton	Y
9	Frangas	N	Liston	Y	Pommer	N	Todd	N
10	Gagliardi	N	Looper	N	Primavera	N	Vaad	Y
11	Gardner B.	Y	Marostica	Y	Priola	N	Vigil	N
12	Gardner C.	Y	Massey	Y	Rice	Y	Waller	Y
13	Gerou	Y	May	Y	Riesberg	N	Weissmann	N
14							Speaker	N

ADOPTION OF COMMITTEE OF THE WHOLE REPORT

Passed Second Reading: **HB09-1327 amended, SB09-251.**

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

	YES	62	NO	3	EXCUSED	0	ABSENT	0
28	Acree	N	Green	Y	McCann	Y	Roberts	Y
29	Apuan	Y	Hullinghorst	Y	McFadyen	Y	Ryden	Y
30	Balmer	Y	Judd	Y	McKinley	Y	Scanlan	Y
31	Baumgardner	Y	Kagan	Y	McNulty	Y	Schafer S.	Y
32	Benefield	Y	Kefalas	Y	Merrifield	Y	Solano	Y
33	Bradford	Y	Kerr A.	Y	Middleton	Y	Sonnenberg	Y
34	Casso	Y	Kerr J.	Y	Miklosi	Y	Soper	Y
35	Court	Y	King S.	Y	Murray	Y	Stephens	Y
36	Curry	Y	Labuda	Y	Nikkel	Y	Summers	Y
37	Ferrandino	Y	Lambert	Y	Pace	Y	Swalm	Y
38	Fischer	Y	Levy	Y	Peniston	Y	Tipton	Y
39	Frangas	Y	Liston	N	Pommer	Y	Todd	Y
40	Gagliardi	Y	Looper	Y	Primavera	Y	Vaad	Y
41	Gardner B.	N	Marostica	Y	Priola	Y	Vigil	Y
42	Gardner C.	Y	Massey	Y	Rice	Y	Waller	Y
43	Gerou	Y	May	Y	Riesberg	Y	Weissmann	Y
44							Speaker	Y

ADHERENCE ON SB09-131

SB09-131 by Senator(s) Romer; also Representative(s) Massey--
Concerning the requirement that students in public schools
engage in a certain amount of physical activity each week.

(Amended as printed in House Journal, March 30, page 939.)

1 Representative Massey moved that the House **adhere** to its position on
 2 **SB09-131**. The motion was declared **passed** by the following roll call
 3 vote:

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

PRINTING REPORT

28 The Chief Clerk reports the following bills have been correctly printed:
 29 **HB09-1350, HCR09-1005**.

SIGNING OF BILLS - RESOLUTIONS - MEMORIALS

35 The Speaker has signed: **HB09-1061, 1089, 1214, 1285**.

DELIVERY OF BILLS TO GOVERNOR

41 The Chief Clerk of the House of Representatives reports the following
 42 bills have been delivered to the Office of the Governor:
 43 **HB09-1103** at 11:41 a.m. on April 17, 2009.
 44 **HB09-1061, 1089, 1214, 1285** at 11:53 a.m. on April 20, 2009.

MESSAGE(S) FROM THE SENATE

50 The Senate has passed on Third Reading and transmitted to the Revisor
 51 of Statutes:

53 **HB09-1180** amended as printed in Senate Journal, April 14, 2009,
 54 pages 1059-1062, and April 17, 2009.

1 The Senate has passed on Third Reading and returns herewith:
2 HB09-1120, HB09-1325, HB09-1315, HB09-1311.

3
4 The Senate has passed on Third Reading and transmitted to the Revisor
5 of Statutes:

6
7 SB09-258 amended as printed in Senate Journal, April 14, 2009,
8 page 1056,
9 SB09-239 amended as printed in Senate Journal, March 12, 2009,
10 pages 712-722, April 3, 2009, page 955, and
11 April 17, 2009, pages 1141-1143,
12 SB09-226 amended as printed in Senate Journal, February 27, 2009,
13 pages 535-536, April 3, 2009, page 955, and
14 April 17, 2009, pages 1143-1144.
15

16 The Senate has postponed indefinitely HB09-1116. The bill is returned
17 herewith.

MESSAGE(S) FROM THE REVISOR

21
22 We herewith transmit:
23 Without comment, as amended, HB09-1180.

24
25
26 We herewith transmit:
27 Without comment, as amended, SB09-258, 239, and 226.

INTRODUCTION OF BILLS First Reading

32
33 The following bills were read by title and referred to the committees
34 indicated:

35
36 **HB09-1351** by Representative(s) Pommer and Ferrandino, Marostica--
37 Concerning an increase in the amount of time an inmate
38 may have deducted from the inmate's sentence.

39 Committee on Judiciary

40
41 **HB09-1352** by Representative(s) Levy--Concerning adding
42 commission of certain proscribed acts by government
43 officials to the list of deceptive trade practices.

44 Committee on Judiciary

45
46 **HB09-1353** by Representative(s) Miklosi; also Senator(s) Foster,
47 Newell--Concerning legal immigrants' eligibility for public
48 medical benefits.

49 Committee on Health and Human Services

50
51 **HB09-1354** by Representative(s) McFadyen; also Senator(s) Schwartz-
52 -Concerning measures to encourage the construction of
53 new homes that make cost-effective use of renewable
54 energy.

55 Committee on Transportation & Energy

56

- 1 **SB09-226** by Senator(s) Sandoval; also Representative(s) Gagliardi--
 2 Concerning policies for the management of food allergies
 3 among school children, and making an appropriation in
 4 connection therewith.
 5 Committee on Education
 6
- 7 **SB09-239** by Senator(s) Tochtrop, Boyd; also Representative(s)
 8 Riesberg--Concerning the continuation of the state board
 9 of nursing, and making an appropriation therefor.
 10 Committee on Health and Human Services
 11
- 12 **SB09-258** by Senator(s) Veiga; also Representative(s) Scanlan--
 13 Concerning required acts of employee leasing companies
 14 by the department of labor and employment pursuant to
 15 the "Colorado Employment Security Act".
 16 Committee on Business Affairs and Labor
 17

18
 19
 20 House in recess. House reconvened.
 21
 22

23 MESSAGE(S) FROM THE SENATE

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 25
 26 The Senate has adopted HJR09-1019, as amended, and transmits
 27 herewith.
 28
- 29 The Senate has voted not to concur in House Amendments to SB09-259,
 30 and requests that a Conference Committee be appointed. The President
 31 appointed Senators Keller-Chair, Tapia and White, as members of the
 32 First Conference Committee on SB09-259 on the part of the Senate. The
 33 Senate granted members permission to go beyond the scope of differences
 34 between the two houses. The bill is transmitted herewith.
 35
- 36 The Senate has voted not to concur in House Amendments to SB09-275,
 37 and requests that a Conference Committee be appointed. The President
 38 appointed Senators Keller-Chair, Tapia and White, as members of the
 39 First Conference Committee on SB09-275 on the part of the Senate. The
 40 bill is transmitted herewith.
 41
- 42 The Senate voted to reject the First Report of the First Conference
 43 Committee on SB09-148, as printed in House Journal, April 13, 2009,
 44 pages 1146-1147, and dissolved the Conference Committee. The
 45 President appointed Senators Brophy-Chair, Gibbs and White as
 46 members of the Second Conference Committee on SB09-148. The Senate
 47 granted permission to the members of the Second Conference Committee
 48 on SB09-148 to consider matters not at issue between the two houses.
 49 The bill is transmitted herewith.
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- 53 Upon announcement of President Groff, Representatives Rice and Priola
 54 will replace Representative Lambert as joint prime sponsors on
 55 SB09-085.
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INTRODUCTION OF BILLS
First Reading

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

HB09-1355 by Representative(s) Pommer and Ferrandino, Marostica; also Senator(s) Tapia--Concerning the elimination of the state sales and use tax exemption for purchases of food through vending machines.

Committee on Finance

HB09-1356 by Representative(s) Pommer--Concerning the use of state education fund moneys in the college opportunity fund program to pay student stipends for higher education courses that further the purposes of the state education fund specified in the state constitution, and making an appropriation therefor.

Committee on Appropriations

HB09-1357 by Representative(s) Vigil; also Senator(s) Schwartz--Concerning a requirement that campaign finance reports required to be filed with the county clerk and recorder be filed instead with the secretary of state.

Committee on State, Veterans, & Military Affairs

HB09-1358 by Representative(s) Rice, Middleton, Peniston, Scanlan, Todd--Concerning the creation of a health care authority to develop and administer a health care system for Colorado.

Committee on Business Affairs and Labor

HB09-1359 by Representative(s) Kerr A.--Concerning the governance of common interest communities under the "Colorado Common Interest Ownership Act".

Committee on Local Government

INTRODUCTION OF MEMORIAL

The following memorial was read by title and laid over one day under the rules:

HM09-1005 by Representative(s) May--Memorializing former Representative James Aspinwall.

APPOINTMENTS TO CONFERENCE COMMITTEES

Pursuant to a request from the Senate, the Speaker appointed House conferees to the First Conference Committees as follows:

SB09-259--Representatives Pommer Chairman, Ferrandino and Marostica.

SB09-275--Representatives Ferrandino, Chairman, Pommer and Marostica

House in recess. House reconvened.

REPORT(S) OF COMMITTEE(S) OF REFERENCE

JUDICIARY

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

HB09-1344 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

Amend printed bill, page 7, before line 4, insert the following:

"SECTION 5. 10-3-207 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

10-3-207. Fees paid by insurance companies. (1) Every entity regulated by the division in this state shall pay the following fees to the division:

(g) (I) FOR THE PURPOSE OF PROVIDING ADEQUATE FUNDS TO THE DIVISION FOR RATES AND FORMS AND ACTUARIAL FOR REVIEW AND APPROVAL OF RATES FOR MEDICAL MALPRACTICE INSURERS AND RATE HEARINGS FOR SUCH INSURERS, IN ADDITION TO ANY OTHER FEE COLLECTED PURSUANT TO THIS SUBSECTION (1), EACH MEDICAL MALPRACTICE INSURER REGULATED BY THE DIVISION SHALL PAY A NONREFUNDABLE ANNUAL FEE ON OR BEFORE MARCH 1 OF EACH YEAR. THIS FEE SHALL BE ESTABLISHED BY THE COMMISSIONER IN AN AMOUNT SUFFICIENT TO COVER THE COSTS ASSOCIATED WITH THE REVIEW AND APPROVAL AND RATES AND RATE HEARINGS.

(II) NOTWITHSTANDING ANY PROVISIONS OF SECTION 10-1-103 OR 10-1-108 (9) TO THE CONTRARY, ALL FEES AND SURCHARGES COLLECTED PURSUANT TO THIS PARAGRAPH (g) SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL DEPOSIT THE SAME IN THE DIVISION OF INSURANCE CASH FUND CREATED IN SECTION 10-1-103, AND SHALL BE SUBJECT TO ANNUAL APPROPRIATION TO THE DIVISION AND TO THE DEPARTMENT OF LAW FOR THE PURPOSES SET FORTH IN THIS PARAGRAPH (g)."

Renumber succeeding sections accordingly.

Page 7, strike lines 4 through 27.

Strike page 8.

Page 9, strike lines 1 through 26.

Renumber succeeding sections accordingly.

Page 9, line 27, strike "Sections 1 through 4 of this" and substitute "This".

1 Page 1, strike lines 101 through 103 and substitute the following:

2

3 "**CONCERNING INCREASED REGULATORY OVERSIGHT OF**".

4

5

6

7 **HB09-1348** be referred to the Committee of the Whole with favorable
8 recommendation.

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12

LAY OVER OF CALENDAR ITEM(S)

13

14 On motion of Representative Weissmann, the following item(s) on the
15 Calendar were laid over until April 21, retaining place on Calendar:

16

17 Consideration of Special Orders--**HB09-1269, 1081, 1323.**

18 Consideration of Third Reading--**SB09-061, HB09-1274, SB09-276.**

19 Consideration of General Orders--**SB09-281.**

20 Consideration of Resolution(s)--**HJR09-1018, 1027, SJR09-034.**

21 Consideration of Memorial(s)--**SJM09-002.**

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24

25 On motion of Representative Weissmann, the House adjourned until
26 9:00 a.m., April 21, 2009.

27

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Approved:
TERRANCE D. CARROLL,
Speaker

30

31

32 Attest:
MARILYN EDDINS,

33 Chief Clerk