

SENATE JOURNAL
Sixty-seventh General Assembly
STATE OF COLORADO
First Regular Session

108th Legislative Day

Friday, April 24, 2009

Prayer By the chaplain, Rabbi Mitch Delcau, Congregation Temple Emanuel and Father Zaven Markoysan, Armenian Apostolic Church of Colorado.

Pledge By Senator Foster.

Call to Order By the President at 9:00 a.m.

Roll Call Present--33
Excused--2, Groff, Renfroe.
Present later--2, Groff, Renfroe.

Quorum The President announced a quorum present.

Reading of Journal On motion of Senator White, reading of the Journal of Thursday, April 23, 2009, was dispensed with and the Journal was approved as corrected by the Secretary.

COMMITTEE OF REFERENCE REPORTS

Business, Labor, & Technology After consideration on the merits, the Committee recommends that **SB09-285** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, strike lines 8 through 13;

line 16, strike "COLLEGE COURSES" and substitute "POSTSECONDARY COURSES, INCLUDING ACADEMIC".

Page 3, line 1, strike "COURSES" and substitute "COURSES,";

line 3, strike "QUALIFIED";

line 5, after "MORE", insert "SECONDARY";

strike lines 6 and 7 and substitute the following:

"COURSES.";

after line 7, insert the following:

"(8.5) "POSTSECONDARY CAREER AND TECHNICAL EDUCATION PROGRAM" MEANS A CAREER AND TECHNICAL EDUCATION PROGRAM THAT OFFERS POSTSECONDARY COURSES AND IS APPROVED BY THE STATE BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION PURSUANT TO SECTION 23-8-103, C.R.S.";

line 16, after "college," insert "local district college,";

strike lines 17 and 18 and substitute the following:

"(a.5) A POSTSECONDARY CAREER AND TECHNICAL EDUCATION PROGRAM; OR".

Page 4, strike line 2 and substitute the following:

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"in ~~college~~ POSTSECONDARY courses, INCLUDING ACADEMIC COURSES AND CAREER AND TECHNICAL EDUCATION COURSES.";

strike line 9 and substitute the following:

"concurrently enroll in ~~college~~ POSTSECONDARY courses, INCLUDING ACADEMIC OR CAREER AND TECHNICAL";

line 10, strike "COURSES" and substitute "COURSES,";

strike line 13 and substitute the following:

"(I) Six credit hours of ~~college~~ POSTSECONDARY courses, INCLUDING ACADEMIC COURSES AND CAREER AND TECHNICAL";

line 14, strike "COURSES" and substitute "COURSES,";

strike line 16 and substitute the following:

"(II) Three credit hours of ~~college~~ POSTSECONDARY courses, INCLUDING ACADEMIC COURSES AND CAREER AND";

line 17, strike "COURSES" and substitute "COURSES,";

strike line 21 and substitute the following:

"rule shall not limit the number of ~~college~~ POSTSECONDARY courses, INCLUDING ACADEMIC COURSES AND CAREER AND";

line 22, strike "COURSES" and substitute "COURSES,";

strike line 25 and substitute the following:

"a ~~college~~ POSTSECONDARY course, INCLUDING AN ACADEMIC COURSE OR A CAREER AND TECHNICAL EDUCATION COURSE, at an".

Page 5, strike line 2 and substitute the following:

"enrollment in a ~~college~~ POSTSECONDARY course, INCLUDING AN ACADEMIC COURSE OR A CAREER AND TECHNICAL EDUCATION";

line 3, strike "COURSE" and substitute "COURSE,";

strike line 7 and substitute the following:

"concurrently enroll in ~~college~~ POSTSECONDARY courses, INCLUDING ACADEMIC COURSES AND CAREER AND TECHNICAL";

line 8, strike "COURSES" and substitute "COURSES,";

strike lines 17 and 18 and substitute the following:

"education qualify as ~~academic credit~~ or basic skills credit OR CREDIT applicable toward earning a degree OR".

Page 6, strike lines 15 through 21;

strike line 23 and substitute the following:

"students who concurrently enroll in ~~college~~ POSTSECONDARY courses, INCLUDING ACADEMIC COURSES OR CAREER AND";

line 24, strike "COURSES" and substitute "COURSES,".

Page 7, strike line 5 and substitute the following:

"copy. IF THE COOPERATIVE AGREEMENT CONTEMPLATES THE PROVISION

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OF CAREER AND TECHNICAL EDUCATION COURSES TO QUALIFIED STUDENTS,";

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line 6, strike "PROGRAM PROVIDER,";

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line 10, strike "(9)" and substitute "(11)";

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line 12, after "A", insert "POSTSECONDARY";

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line 13, strike "PROVIDER";

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line 16, strike "(10)" and substitute "(12)";

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line 17, after "A", insert "POSTSECONDARY";

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line 18, strike "PROGRAM PROVIDER," and substitute "PROGRAM,";

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line 20, strike "ISSUED" and substitute "AUTHORIZED".

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Page 9, line 5, strike "has experience in the" and substitute "represents a local district college; and";

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strike line 6;

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line 11, after "OF", insert "POSTSECONDARY";

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strike lines 12 through 14 and substitute the following:

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EDUCATION PROGRAMS, ONE OF WHOM IS THE DIRECTOR OF CAREER AND TECHNICAL EDUCATION WITHIN THE STATE SYSTEM OF COMMUNITY AND TECHNICAL COLLEGES AND ONE OF WHOM REPRESENTS THE STATE SYSTEM OF ELEMENTARY AND SECONDARY EDUCATION AND IS APPOINTED BY THE STATE BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION."

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Page 10, strike line 3 and substitute the following:

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"enroll in ~~college~~ POSTSECONDARY courses, INCLUDING ACADEMIC COURSES AND CAREER AND TECHNICAL EDUCATION COURSES,";

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strike line 14 and substitute the following:

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"of qualified students in ~~college education~~ POSTSECONDARY courses, INCLUDING ACADEMIC COURSES AND CAREER AND".

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Page 11, strike line 5 and substitute the following:

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~~college~~ POSTSESECONDARY course, INCLUDING AN ACADEMIC COURSE OR A CAREER AND TECHNICAL EDUCATION COURSE, as a";

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line 7, strike "higher education courses" and substitute "~~higher education~~ POSTSECONDARY courses, INCLUDING ACADEMIC COURSES AND CAREER AND TECHNICAL EDUCATION COURSES, as of October 1 of the";

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strike line 8;

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line 11, strike "higher education" and substitute "~~higher education~~ POSTSECONDARY courses, INCLUDING ACADEMIC COURSES AND CAREER AND TECHNICAL EDUCATION COURSES, as of October";

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strike line 12;

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strike lines 15 through 26.

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Renumber succeeding sections accordingly.

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Finance	After consideration on the merits, the Committee recommends that SB09-287 be referred to the Committee of the Whole with favorable recommendation.	2
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Finance	After consideration on the merits, the Committee recommends that HB09-1094 be amended as follows, and as so amended, be referred to the Committee on <u>Appropriations</u> with favorable recommendation.	5
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	Amend reengrossed bill, page 3, strike lines 7 through 11.	9
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	Reletter succeeding paragraphs accordingly.	11
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Finance	After consideration on the merits, the Committee recommends that HB09-1298 be referred to the Committee on <u>Appropriations</u> with favorable recommendation.	14
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Trans- portation	After consideration on the merits, the Committee recommends that SB09-294 be referred to the Committee of the Whole with favorable recommendation.	17
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Education	The Committee on <u>Education</u> has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:	21
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	MEMBERS OF THE	24
	<u>COLORADO SCHOOL OF MINES, BOARD OF TRUSTEES</u>	25
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	effective January 1, 2009 for terms expiring December 31, 2012:	27
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	Maria Teresa Fox of Wheat Ridge, Colorado, a graduate of the Colorado School of Mines and a Democrat, appointed;	29
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	L. Roger Hutson of Englewood, Colorado, a graduate of the Colorado School of Mines and a Republican, reappointed.	32
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Education	The Committee on <u>Education</u> has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:	36
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	MEMBERS OF THE	39
	<u>BOARD OF TRUSTEES FOR THE COLORADO</u>	40
	<u>SCHOOL FOR THE DEAF AND THE BLIND</u>	41
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	for terms expiring July 1, 2012:	43
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	John C. Dickinson of Longmont, Colorado, a Democrat, reappointed;	45
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	David S. Ek of Colorado Springs, Colorado, an Unaffiliated, reappointed;	47
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	Dr. Morris D. Ververs of Simla, Colorado, a Republican, reappointed;	49
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	David Dawson of Boulder, Colorado, a Democrat, reappointed.	51
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Education	After consideration on the merits, the Committee recommends that HB09-1319 be amended as follows, and as so amended, be referred to the Committee on <u>Appropriations</u> with favorable recommendation.	53
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	Amend reengrossed bill, page 6, after line 17, insert the following:	58
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	"(8) "EARLY COLLEGE" MEANS A SECONDARY SCHOOL THAT PROVIDES ONLY A CURRICULUM THAT IS DESIGNED IN A MANNER THAT ENSURES THAT A STUDENT WHO SUCCESSFULLY COMPLETES THE CURRICULUM WILL HAVE COMPLETED EITHER AN ASSOCIATE'S DEGREE OR SIXTY CREDITS TOWARD THE COMPLETION OF A POSTSECONDARY CREDENTIAL. "EARLY COLLEGE" INCLUDES ONLY THE FOLLOWING:	60
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	(a) DOLORES HUERTA PREPARATORY HIGH SCHOOL IN PUEBLO;	67

(b) SOUTHWEST EARLY COLLEGE CHARTER HIGH SCHOOL IN DENVER;

(c) FRONT RANGE EARLY COLLEGE IN DENVER;

(d) COLORADO SPRINGS EARLY COLLEGES IN COLORADO SPRINGS;

(e) EARLY COLLEGE HIGH SCHOOL IN ARVADA;

(f) A SECONDARY SCHOOL THAT SATISFIES THE PROVISIONS OF THIS SUBSECTION (8) AND IDENTIFIES ITSELF AS AN "EARLY COLLEGE" ON THE EFFECTIVE DATE OF THIS ARTICLE; AND

(g) A SECONDARY SCHOOL THAT IS DESIGNATED, AFTER THE EFFECTIVE DATE OF THIS ARTICLE, AS AN EARLY COLLEGE BY THE STATE BOARD OF EDUCATION."

Renumber succeeding subsections accordingly.

Page 7, line 25, strike "THE NINTH, TENTH,";

line 26, strike "ELEVENTH, OR TWELFTH GRADE IN".

Page 12, line 6, strike "ACADEMIC CREDIT OR" and substitute "BASIC SKILLS CREDIT OR ACADEMIC CREDIT";

line 7, strike "BASIC SKILLS CREDIT".

Page 14, after line 14, insert the following:

"(10) ON OR BEFORE JANUARY 1, 2010, THE DEPARTMENT SHALL EXPLORE STRATEGIES BY WHICH THE STATE MAY PROVIDE OPPORTUNITIES FOR CHILDREN WHO ARE PARTICIPATING IN A HOME-BASED EDUCATIONAL PROGRAM PURSUANT TO SECTION 22-33-104.5 TO PARTICIPATE IN A CONCURRENT ENROLLMENT PROGRAM.";

strike line 15 and substitute the following:

"(11) ON AND AFTER JULY 1, 2012, EXCEPT AS PROVIDED IN SECTION 22-35-110 (4), THE CONCURRENT ENROLLMENT".

Page 18, line 7, strike "NINE" and substitute "TEN";

line 15, strike "THREE" and substitute "FOUR";

line 17, strike "ONE MEMBER" and substitute "TWO MEMBERS";

strike line 18 and substitute the following:

"WHO REPRESENT THE COLORADO COMMUNITY COLLEGE SYSTEM, ONE MEMBER WHO".

Page 19, line 23, strike "AND".

Page 20, strike line 3 and substitute the following:

"LEAST ONE COOPERATIVE AGREEMENT; AND

(d) ON OR BEFORE DECEMBER 1, 2010, CONSIDERING AND MAKING RECOMMENDATIONS TO THE STATE BOARD AND THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE, OR ANY SUCCESSOR COMMITTEES, REGARDING THE FEASIBILITY OF A WAIVER PROCESS WHEREBY A QUALIFIED STUDENT COULD APPLY TO THE DEPARTMENT FOR A WAIVER OF CERTAIN PROVISIONS OF SECTION 22-35-108, WHICH WAIVER WOULD ALLOW THE STUDENT TO BE DESIGNATED BY THE DEPARTMENT AS AN ASCENT PROGRAM PARTICIPANT IN THE SECOND YEAR FOLLOWING THE YEAR IN WHICH HE OR

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SHE WAS ENROLLED IN THE TWELFTH GRADE OF A HIGH SCHOOL OF A SCHOOL DISTRICT SO LONG AS HE OR SHE:

(I) WAS SO DESIGNATED IN THE YEAR DIRECTLY FOLLOWING THE YEAR IN WHICH HE OR SHE WAS ENROLLED IN THE TWELFTH GRADE OF A HIGH SCHOOL OF A SCHOOL DISTRICT;

(II) REQUIRES FIFTEEN OR FEWER CREDIT HOURS OF POSTSECONDARY COURSE WORK TO ACHIEVE A POSTSECONDARY CREDENTIAL; AND

(III) IS ELIGIBLE FOR FREE OR REDUCED-COST LUNCH PURSUANT TO THE FEDERAL "NATIONAL SCHOOL LUNCH ACT", 42 U.S.C. SEC. 1751 ET SEQ.";

strike lines 8 and 9;

line 10, strike "(b)" and substitute "(a)";

line 11, strike "(b)" and substitute "(a)";

strike line 12 and substitute the following:

"(b) ANY RECOMMENDATIONS THAT THE BOARD MAKES";

line 13, strike "(d)" and substitute "(c)".

Page 24, after line 18, insert the following:

"(4) THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO AN EARLY COLLEGE.".

Page 25, line 3, strike "**Reports.**" and substitute "**Reports - repeal.**".

Page 27, line 9, strike "AND";

strike line 13 and substitute the following:

"POSTSECONDARY DEGREE; AND

(k) (I) THE RESULTS OF THE DEPARTMENT'S EXPLORATION, PURSUANT TO SECTION 22-35-104 (10), OF STRATEGIES BY WHICH THE STATE MAY PROVIDE OPPORTUNITIES FOR CHILDREN WHO ARE PARTICIPATING IN A HOME-BASED EDUCATIONAL PROGRAM AS DESCRIBED IN SECTION 22-33-104.5 TO PARTICIPATE IN A CONCURRENT ENROLLMENT PROGRAM.

(II) THIS PARAGRAPH (k) IS REPEALED, EFFECTIVE FEBRUARY 2, 2011.".

Education

After consideration on the merits, the Committee recommends that **SB09-295** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 4, line 12, strike "COMMISSION" and substitute "COMMISSION AND THE GENERAL ASSEMBLY".

Page 20, line 6, after the period, add "ANY CAPITAL CONSTRUCTION PROJECT SUBJECT TO THIS PARAGRAPH (b) SHALL COMPLY WITH THE HIGH PERFORMANCE STANDARD CERTIFICATION PROGRAM ESTABLISHED PURSUANT TO SECTION 24-30-1305, C.R.S.";

strike line 27, and substitute the following:

"(10) (a) (I) THE COMMISSION SHALL REVIEW AND APPROVE ANY PLAN FOR A CAPITAL CONSTRUCTION PROJECT THAT IS ESTIMATED TO

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REQUIRE TOTAL EXPENDITURES EXCEEDING TWO MILLION DOLLARS AND THAT IS TO BE CONSTRUCTED, OPERATED, AND MAINTAINED SOLELY FROM STUDENT FEES, AUXILIARY FACILITY FUNDS, WHOLLY ENDOWED GIFTS AND BEQUESTS, RESEARCH BUILDING REVOLVING FUNDS, OR A COMBINATION OF SUCH SOURCES, AS PROVIDED IN SECTIONS 23-5-102, 23-5-103, 23-5-112, 23-20-124, 23-31-112, AND 23-41-117, AND SECTION 24-75-303 (3), C.R.S., THAT, IN WHOLE OR IN PART, ARE SUBJECT TO THE HIGHER EDUCATION REVENUE BOND INTERCEPT PROGRAM ESTABLISHED PURSUANT TO SECTION 23-5-139.

(II) The commission shall review and approve any plan for a".

Page 21, strike lines 3 and 4 and substitute the following:

"cash funds held by the institution other than those funds specified in SUBPARAGRAPH (I) OF THIS paragraph (a) of subsection (9) of this section THAT, IN WHOLE OR IN";

strike line 8 and substitute the following:

"appropriated for such purpose, or both. ANY CAPITAL CONSTRUCTION PROJECT SUBJECT TO THIS SUBPARAGRAPH (II) SHALL COMPLY WITH THE HIGH PERFORMANCE STANDARD CERTIFICATION PROGRAM ESTABLISHED PURSUANT TO SECTION 24-30-1305, C.R.S.

(III) Any plan for any such capital".

Page 23, strike lines 19 through 24 and substitute the following:

~~"(B) Is to be operated and maintained from such cash funds or from state moneys appropriated for such purpose, or both, and the plan for the project~~ IS TO BE CONSTRUCTED IN WHOLE OR IN PART USING MONEYS SUBJECT TO THE HIGHER EDUCATION REVENUE BOND INTERCEPT PROGRAM ESTABLISHED PURSUANT TO SECTION 23-5-139, C.R.S.; AND";

line 25, strike "(D)" and substitute "(C)".

Education

After consideration on the merits, the Committee recommends that **HB09-1267** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend reengrossed bill, page 9, after line 19, insert the following:

"SECTION 14. Effective date. This act shall take effect upon passage; except that section 11 of this act amending section 22-35-103 (2) (f), Colorado Revised Statutes, shall not take effect unless House Bill 09-1319 is not enacted and does not become law.".

Renumber succeeding section accordingly.

Education

After consideration on the merits, the Committee recommends that **HB09-1313** be referred to the Committee of the Whole with favorable recommendation.

Health & Human Services

After consideration on the merits, the Committee recommends that **HB09-1339** be referred to the Committee of the Whole with favorable recommendation.

Health & Human Services

After consideration on the merits, the Committee recommends that **HB09-1047** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend reengrossed bill, page 6, strike lines 6 through 14.

Renumber succeeding section accordingly.

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Health &
Human
Services

After consideration on the merits, the Committee recommends that **HB09-1332** be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.

MESSAGE FROM THE HOUSE

April 23, 2009

The House has adopted and returns herewith SJR09-052.

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB09-1081, amended as printed in House Journal, April 22, page 1342.

The House has passed on Third Reading and returns herewith SB09-025, 106, 252.

The House has passed on Third Reading and transmitted to the Revisor of Statutes; SB09-281, amended as printed in House Journal, April 22, pages 1396-1399.
SB09-022, amended as printed in House Journal, April 22, page 1348.
SB09-026, amended as printed in House Journal, April 22, pages 1348-1349.
SB09-067, amended as printed in House Journal, April 22, page 1349.
SB09-125, amended as printed in House Journal, April 22, pages 1349-1350.
SB09-138, amended as printed in House Journal, April 22, page 1350.
SB09-154, amended as printed in House Journal, April 22, pages 1350-1351.
SB09-174, amended as printed in House Journal, April 22, page 1351.
SB09-024, amended as printed in House Journal, April 22, pages 1399-1401.

MESSAGE FROM THE REVISOR OF STATUTES

April 23, 2009

We herewith transmit:

Without comment, as amended, HB09-1081.

Without comment, as amended, SB09-022, 024, 026, 067, 125, 138, 154, 174, and 281.

INTRODUCTION OF BILLS -- FIRST READING

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

SB09-296 by Senator(s) Boyd, Groff, Morse, Williams; also Representative(s) Ryden, Fischer, Green, Hullinghorst, Judd, Levy, McFadyen, Middleton, Pommer, Rice, Riesberg--Concerning the enforcement of offenses involving failure of certain persons in a vehicle to use an appropriate restraining device.
Transportation

HB09-1348 by Representative(s) Weissmann; also Senator(s) Carroll M.--Concerning activities resulting from the performance of legislative duties.
Judiciary

On motion of Senator Shaffer, and with a majority of those elected to the Senate having voted in the affirmative, the Senate proceeded out of order for Consideration of Resolutions--SJR09-041 and SJR09-037.

CONSIDERATION OF RESOLUTIONS

SJR09-041 by Senator(s) Tochtrop; also Representative(s) Ryden--Concerning remembrance of the Armenian Genocide on April 24, 2009, and, in connection therewith, designating every

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April 24 hereafter as "Colorado Day of Remembrance of the Armenian Genocide".

On motion of Senator Tochtrop, the resolution was read at length and **adopted** by the following roll call vote:

YES	33	NO	0	EXCUSED	2	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Shaffer B.	Y
Boyd	Y	Hudak	Y	Newell	Y	Spence	Y
Brophy	Y	Isgar	Y	Penry	Y	Tapia	Y
Cadman	Y	Keller	Y	Renfroe	E	Tochtrop	Y
Carroll M.	Y	Kester	Y	Romer	Y	Veiga	Y
Foster	Y	King K.	Y	Sandoval	Y	White	Y
Gibbs	Y	Kopp	Y	Scheffel	Y	Williams	Y
Harvey	Y	Lundberg	Y	Schultheis	Y	President	E
Heath	Y	Mitchell	Y	Schwartz	Y		

Co-sponsors added: Bacon, Boyd, Brophy, Cadman, Carroll M., Foster, Gibbs, Harvey, Heath, Hodge, Hudak, Isgar, Keller, Kester, King K., Kopp, Lundberg, Mitchell, Morse, Newell, Penry, Romer, Sandoval, Scheffel, Schultheis, Schwartz, Shaffer B., Spence, Tapia, Veiga, White and Williams.

SJR09-037 by Senator(s) Foster; also Representative(s) Todd--Concerning recognition of the national Court-appointed Special Advocates program and the sixteen Court-appointed Special Advocates programs in Colorado.

On motion of Senator Foster, the resolution was read at length and **adopted** by the following roll call vote:

YES	33	NO	0	EXCUSED	2	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Shaffer B.	Y
Boyd	Y	Hudak	Y	Newell	Y	Spence	Y
Brophy	Y	Isgar	Y	Penry	Y	Tapia	Y
Cadman	Y	Keller	Y	Renfroe	E	Tochtrop	Y
Carroll M.	Y	Kester	Y	Romer	Y	Veiga	Y
Foster	Y	King K.	Y	Sandoval	Y	White	Y
Gibbs	Y	Kopp	Y	Scheffel	Y	Williams	Y
Harvey	Y	Lundberg	Y	Schultheis	Y	President	E
Heath	Y	Mitchell	Y	Schwartz	Y		

Co-sponsors added: Bacon, Boyd, Brophy, Cadman, Carroll M., Gibbs, Harvey, Heath, Hodge, Hudak, Isgar, Keller, Kester, King K., Kopp, Lundberg, Mitchell, Morse, Newell, Penry, Romer, Sandoval, Scheffel, Schultheis, Schwartz, Shaffer B., Spence, Tapia, Tochtrop, Veiga, White and Williams.

THIRD READING OF BILLS -- FINAL PASSAGE

On Third Reading, the title of the following bill was publicly read, the reading at length having been dispensed with by unanimous consent:

SB09-250 by Senator(s) Tochtrop, Williams, Penry, Shaffer B., Boyd, Carroll M., Hodge, Hudak, Keller, Kester, Newell, Schwartz, Tapia; also Representative(s) Primavera, McNulty, Massey, Merrifield, Frangas, Gagliardi, Kefalas, Liston, Marostica, Green--Concerning health benefit plan coverage for oral anticancer medication.

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

YES	22	NO	11	EXCUSED	2	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Shaffer B.	Y
Boyd	Y	Hudak	Y	Newell	Y	Spence	Y
Brophy	N	Isgar	Y	Penry	Y	Tapia	Y
Cadman	N	Keller	Y	Renfroe	E	Tochtrop	Y
Carroll M.	Y	Kester	Y	Romer	N	Veiga	Y
Foster	Y	King K.	N	Sandoval	Y	White	N
Gibbs	Y	Kopp	N	Scheffel	N	Williams	Y
Harvey	N	Lundberg	N	Schultheis	N	President	E
Heath	Y	Mitchell	N	Schwartz	Y		

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

Upon request of Senator Shaffer, HB09-1322, was removed from the General Orders--Second Reading of Bills--Consent Calendar of April 24 and was placed at the beginning of the General Orders Second Reading of Bills Calendar of April 24.

Committee of the Whole

On motion of Senator White, the Senate resolved itself into the Committee of the Whole for consideration of General Orders--Second Reading of Bills and Senator White was called to the Chair to act as Chairman.

GENERAL ORDERS -- SECOND READING OF BILLS

The Committee of the Whole having risen, the Chairman reported that the following bills, reading at length having been dispensed with by unanimous consent, had been considered and action taken thereon as follows:

SB09-244

by Senator(s) Shaffer B.; also Representative(s) Primavera--Concerning health insurance benefits for the treatment of autism spectrum disorders.

Amendment No. 1, Health & Human Services Committee Amendment.

(Printed in Senate Journal, March 20, pages 812-815 and placed in members' bill files.)

Amendment No. 2, Appropriations Committee Amendment.

(Printed in Senate Journal, April 15, pages 1083-1085 and placed in members' bill files.)

Amendment No. 2(L.14), by Senator Shaffer.

Amend the Health and Human Services Committee Report, dated March 19, 2009, page 1, strike lines 6 through 18.

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

"strike lines 19 through 27.

Page 4 of the printed bill, strike lines 1 through 10 and substitute the following:

"(II) "AUTISM SERVICES PROVIDER" MEANS ANY PERSON WHO IS AN APPROPRIATELY QUALIFIED HEALTH CARE PROFESSIONAL AS DEFINED BY RULES OF THE COMMISSIONER AND WHO PROVIDES SERVICES AS DESCRIBED IN SUBPARAGRAPHS (IX) TO (XII) OF THIS PARAGRAPH (a) AS MEDICALLY NECESSARY FOR THE TREATMENT OF AUTISM SPECTRUM DISORDERS. THE COMMISSIONER SHALL ADOPT REASONABLE RULES THAT SET FORTH THE QUALIFICATIONS FOR AUTISM SERVICES PROVIDERS, INCLUDING THE EDUCATIONAL AND EXPERIENCE QUALIFICATIONS FOR PERSONS WHO PROVIDE DIAGNOSES OF AUTISM SPECTRUM DISORDERS AND PROVIDE TREATMENT FOR AUTISM SPECTRUM DISORDERS, INCLUDING APPLIED

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BEHAVIOR ANALYSIS.

(III) "AUTISM SPECTRUM DISORDERS" OR "ASD" INCLUDES THE FOLLOWING NEUROBIOLOGICAL DISORDERS: AUTISTIC DISORDER, ASPERGER'S DISORDER, AND ATYPICAL AUTISM AS A DIAGNOSIS WITHIN PERVASIVE DEVELOPMENTAL DISORDER NOT OTHERWISE SPECIFIED, AS DEFINED IN THE MOST RECENT EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, AT THE TIME OF THE DIAGNOSIS.";
strike lines 15 through 23 of the committee report and substitute the following:

"Strike page 6 and substitute the following:

"SERVICES PROVIDER WHO IS AN APPROPRIATELY QUALIFIED HEALTH CARE PROFESSIONAL AS DEFINED BY RULE OF THE COMMISSIONER. THERAPEUTIC CARE INCLUDES, BUT IS NOT LIMITED TO, SPEECH, OCCUPATIONAL, AND APPLIED BEHAVIOR ANALYTIC AND PHYSICAL THERAPIES.

(XII) "TREATMENT FOR AUTISM SPECTRUM DISORDERS" SHALL BE FOR TREATMENTS THAT ARE MEDICALLY NECESSARY, APPROPRIATE, EFFECTIVE, OR EFFICIENT. THE TREATMENTS LISTED IN THIS SUBPARAGRAPH (XII) ARE FOUND TO BE MEDICALLY NECESSARY, APPROPRIATE, EFFECTIVE, OR EFFICIENT. "TREATMENT FOR AUTISM SPECTRUM DISORDERS" SHALL INCLUDE, BUT IS NOT LIMITED TO THE FOLLOWING:

(A) EVALUATION AND ASSESSMENT SERVICES;

(B) BEHAVIOR TRAINING AND BEHAVIOR MANAGEMENT AND APPLIED BEHAVIOR ANALYSIS, INCLUDING BUT NOT LIMITED TO CONSULTATIONS, DIRECT CARE, SUPERVISION, OR TREATMENT, OR ANY COMBINATION THEREOF, FOR AUTISM SPECTRUM DISORDERS PROVIDED BY AUTISM SERVICES PROVIDERS."."

Page 3 of the committee report, strike line 6 and substitute the following:

"INDIVIDUAL BY AN APPROPRIATELY QUALIFIED HEALTH CARE PROFESSIONAL AS DEFINED BY RULE OF THE COMMISSIONER AND PRESCRIBED BY A LICENSED PHYSICIAN OR A LICENSED";

strike lines 9 through 11, and substitute the following:

"line 12, after the period, add "THE LICENSED PHYSICIAN, ACTING WITHIN THE SCOPE OF PRACTICE AS DEFINED IN ARTICLE 36 OF TITLE 12, C.R.S., OR THE LICENSED PSYCHOLOGIST, ACTING WITHIN THE SCOPE OF PRACTICE AS DEFINED IN PART 3 OF ARTICLE 43 OF TITLE 12, C.R.S., SHALL DETERMINE WHAT IS MEDICALLY NECESSARY OR IS A MEDICAL NECESSITY ON AN INDIVIDUAL BASIS. THE TREATMENT PLAN SHALL BE DEVELOPED IN ACCORDANCE WITH THE PATIENT-CENTERED MEDICAL HOME AS DEFINED IN SECTION 25.5-1-103 (5.5), C.R.S."";

line 16, strike "SEVENTY-FIVE" and substitute "SIXTY-FIVE";

line 19, strike "TWENTY-FIVE" and substitute "TWENTY";

line 20, strike "OLDER," and substitute "OLDER UNTIL THE PERSON IS ELIGIBLE FOR MEDICARE,";

strike lines 24 and 25 and substitute the following:

"strike line 27 and substitute the following:

"PSYCHOLOGIST."."

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

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(For further action, see Amendments to the Report of the Committee of the Whole.)

SB09-247 by Senator(s) Tochtrop; also Representative(s) Pace--Concerning the expansion of benefits for unemployed workers in Colorado.

Amendment No. 1, Business, Labor & Technology Committee Amendment.
(Printed in Senate Journal, March 26, pages 868-869 and placed in members' bill files.)

Amendment No. 2, Appropriations Committee Amendment.
(Printed in Senate Journal, April 15, page 1086 and placed in members' bill files.)

Amendment No. 3(L.004), by Senator Tochtrop.

Amend printed bill, page 3, line 27, after "AFFIDAVIT.", add "THE DIVISION SHALL VERIFY THE EMPLOYEE'S WAGE INFORMATION.".

Page 4, line 22, strike "FAMILY;" and substitute "FAMILY AND PROVIDES THE DIVISION WITH SUBSTANTIATING DOCUMENTATION AS DESCRIBED IN SUB-SUBPARAGRAPH (B) OR (C) OF THIS SUBPARAGRAPH (I);".

Page 6, line 12, strike "TO CARE FOR" and substitute "BECAUSE A MEMBER OF";

line 13, strike "MEMBER WHO", and strike "OR";

line 14, strike "DISABILITY";

after line 25, insert the following:

"(II) SEPARATING FROM A JOB BECAUSE A MEMBER OF THE WORKER'S IMMEDIATE FAMILY IS SUFFERING FROM A DISABILITY THAT REQUIRES THE WORKER TO CARE FOR THE IMMEDIATE FAMILY MEMBER FOR A PERIOD THAT EXCEEDS THE GREATER OF THE EMPLOYER'S MEDICAL LEAVE OF ABSENCE POLICY OR THE PROVISIONS OF THE FEDERAL "FAMILY AND MEDICAL LEAVE ACT OF 1993" IF THE WORKER MEETS THE FOLLOWING REQUIREMENTS:

(A) THE WORKER INFORMED HIS OR HER EMPLOYER, IF THE EMPLOYER HAS POSTED OR GIVEN ACTUAL ADVANCE NOTICE OF THE REQUIREMENT TO SO INFORM THE EMPLOYER, OF THE CONDITION OF THE WORKER'S IMMEDIATE FAMILY MEMBER; AND

(B) THE WORKER PROVIDES THE DIVISION, WHEN REQUESTED, A COMPETENT STATEMENT VERIFYING THE CONDITION OF THE WORKER'S IMMEDIATE FAMILY MEMBER.".

Renumber succeeding subparagraphs accordingly.

Page 12, after line 22, insert the following:

"SECTION 7. 8-75-101, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

8-75-101. Definitions. As used in this article, unless the context otherwise requires:

(4.5) "HIGH UNEMPLOYMENT PERIOD" MEANS A PERIOD IN WHICH THE SEASONALLY ADJUSTED TOTAL UNEMPLOYMENT RATE, AS DETERMINED BY THE UNITED STATES SECRETARY OF LABOR, FOR THE MOST RECENT THREE MONTHS FOR WHICH DATA FOR ALL STATES IS PUBLISHED, EQUALS OR EXCEEDS EIGHT PERCENT.

(9.5) "TOTAL UNEMPLOYMENT RATE" OR "TUR" MEANS THE PERCENTAGE DERIVED BY DIVIDING THE NUMBER OF ALL UNEMPLOYED PERSONS IN THE CIVILIAN LABOR FORCE BY THE NUMBER OF INDIVIDUALS

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COMPRISING THE TOTAL LABOR FORCE, INCLUDING BOTH EMPLOYED AND UNEMPLOYED INDIVIDUALS, AND THEN MULTIPLYING THAT NUMBER BY ONE HUNDRED.

SECTION 8. Article 75 of title 8, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

8-75-108. Total unemployment rate extended benefits.

(1) WITH RESPECT TO WEEKS OF UNEMPLOYMENT BEGINNING ON OR AFTER MARCH 22, 2009, AND ENDING ON DECEMBER 5, 2009, OR THREE WEEKS BEFORE THE LAST WEEK FOR WHICH FEDERAL SHARING IS AUTHORIZED BY SECTION 2005 (a) OF PUB.L. 111-5 AND ANY AMENDMENTS THERETO, WHICHEVER IS LATER:

(a) THERE IS AN "ON" INDICATOR FOR A WEEK OF TUR EXTENDED BENEFITS, IN THE AMOUNT DETERMINED PURSUANT TO SECTIONS 8-75-104 AND 8-75-105, IF ALL OF THE FOLLOWING APPLIES:

(I) THE SEASONALLY ADJUSTED TUR, AS DETERMINED BY THE UNITED STATES SECRETARY OF LABOR, FOR THE MOST RECENT THREE MONTHS FOR WHICH DATA FOR ALL STATES IS PUBLISHED, EQUALS OR EXCEEDS SIX AND ONE-HALF PERCENT; AND

(II) THE AVERAGE TUR IN THE STATE EQUALS OR EXCEEDS ONE HUNDRED TEN PERCENT OF THE TUR FOR EITHER OR BOTH OF THE CORRESPONDING THREE-MONTH PERIODS IN THE TWO PRECEDING CALENDAR YEARS.

(b) THERE IS AN "OFF" INDICATOR FOR WEEKS OF TUR EXTENDED BENEFITS IF ANY OF THE FOLLOWING APPLIES:

(I) THE TUR FALLS BELOW SIX AND ONE-HALF PERCENT; OR

(II) THE REQUIREMENTS DESCRIBED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (1) ARE NOT SATISFIED.

(2) THE TOTAL AMOUNT OF TUR EXTENDED BENEFITS PAYABLE IN A HIGH UNEMPLOYMENT PERIOD TO AN ELIGIBLE INDIVIDUAL WITH RESPECT TO HIS OR HER APPLICABLE BENEFIT YEAR SHALL BE THE LEAST OF THE FOLLOWING AMOUNTS:

(a) EIGHTY PERCENT OF THE TOTAL AMOUNT OF REGULAR BENEFITS THAT WERE PAYABLE TO THE ELIGIBLE INDIVIDUAL UNDER ARTICLES 70 TO 82 OF THIS TITLE IN THE APPLICABLE BENEFIT YEAR; OR

(b) TWENTY TIMES THE WEEKLY BENEFIT AMOUNT THAT WAS PAYABLE TO THE ELIGIBLE INDIVIDUAL UNDER ARTICLES 70 TO 82 OF THIS TITLE FOR A WEEK OF TOTAL UNEMPLOYMENT IN THE APPLICABLE BENEFIT YEAR."

Renumber succeeding sections accordingly.

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

SB09-241 by Senator(s) Morse; also Representative(s) King S. and Tipton--Concerning DNA testing of adults arrested for a felony.

Amendment No. 1, Judiciary Committee Amendment.
(Printed in Senate Journal, March 12, page 723 and placed in members' bill files.)

Amendment No. 2, Appropriations Committee Amendment.
(Printed in Senate Journal, April 15, pages 1095-1099 and placed in members' bill files.)

Amendment No. 3(L.011), by Senator Morse.

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Amend printed bill, page 2, line 26, strike "PERSON" and substitute "ADULT".

Page 3, line 5, strike "PERSON" and substitute "ADULT";

line 15, strike "PERSON" and substitute "ADULT";

line 16, strike "PERSON'S" and substitute "ADULT'S";

line 18, strike "PERSON" and substitute "ADULT";

line 25, strike "PERSON'S" and substitute "ADULT'S".

Page 4, line 2, strike "PERSON" and substitute "ADULT";

line 4, strike "PERSON," and substitute "ADULT,".

Amendment No. 4(L.010), by Senator Morse.

Amend printed bill, page 3, after line 21, insert the following:

"(2) AT THE PERSON'S FIRST APPEARANCE IN COURT FOLLOWING THE FILING OF CHARGES, THE COURT SHALL ADVISE THE PERSON THAT THE BIOLOGICAL SUBSTANCE SAMPLE COLLECTED PURSUANT TO THIS SECTION SHALL BE DESTROYED AND THE RESULTS OF THE TESTING OF THE SAMPLE SHALL BE EXPUNGED FROM THE FEDERAL COMBINED DNA INDEX SYSTEM AND ANY STATE INDEX SYSTEM PURSUANT TO THE CIRCUMSTANCES DESCRIBED IN SECTION 16-23-105."

Renumber succeeding subsections accordingly.

Amendment No. 5(L.016), by Senator Morse.

Amend printed bill, page 4, strike lines 25 through 27 and substitute the following:

16-23-105. Expungement. (1) EXCEPT AS PROVIDED IN SUBSECTION (7) OF THIS SECTION, A PERSON WHOSE BIOLOGICAL SUBSTANCE SAMPLE IS COLLECTED PURSUANT TO SECTION 16-23-103 QUALIFIES FOR EXPUNGEMENT IF:

(a) IN THE CASE OF A SAMPLE COLLECTED BASED UPON THE FILING OF A CHARGE OR BASED UPON A FINAL COURT ORDER, EACH FELONY CHARGE STEMMING FROM THE CHARGES HAS, BY FINAL COURT ORDER, BEEN DISMISSED, RESULTED IN AN ACQUITTAL, OR RESULTED IN A CONVICTION FOR AN OFFENSE OTHER THAN A FELONY OFFENSE;

(b) IN THE CASE OF A SAMPLE COLLECTED BASED UPON AN ARREST:

(I) A FELONY CHARGE WAS NOT FILED WITHIN NINETY DAYS OF THE ARREST; OR

(II) EACH FELONY CHARGE STEMMING FROM THE ARREST HAS, BY FINAL COURT ORDER, BEEN DISMISSED, RESULTED IN AN ACQUITTAL, OR RESULTED IN A CONVICTION FOR AN OFFENSE OTHER THAN A FELONY OFFENSE.

(2) A PERSON WHO QUALIFIES FOR EXPUNGEMENT UNDER SUBSECTION (1) OF THIS SECTION MAY SUBMIT A WRITTEN REQUEST FOR EXPUNGEMENT TO THE COLORADO BUREAU OF INVESTIGATION. THE REQUEST SHALL INCLUDE THE ITEMS LISTED IN THIS SUBSECTION (2) AND MAY INCLUDE ANY ADDITIONAL INFORMATION THAT MAY ASSIST THE BUREAU IN LOCATING THE RECORDS OF ARREST OR CHARGES OR THE BIOLOGICAL SUBSTANCE SAMPLE OR TESTING RESULTS. THE FOLLOWING INFORMATION SHALL BE INCLUDED IN THE SUBMITTED REQUEST:

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(a) THE PERSON'S NAME, DATE OF BIRTH, AND MAILING ADDRESS;

(b) THE NAME OF THE AGENCY THAT COLLECTED THE BIOLOGICAL SUBSTANCE SAMPLE;

(c) THE DATE OF ARREST OR OTHER DATE WHEN THE SAMPLE WAS TAKEN;

(d) WHETHER ANY CHARGES WERE FILED STEMMING FROM THE ARREST FOR WHICH A BIOLOGICAL SUBSTANCE SAMPLE WAS COLLECTED, THE IDENTITY OF THE COURT, AND THE CASE NUMBER OF EACH CASE IN WHICH CHARGES WERE FILED; AND

(e) A DECLARATION THAT, TO THE BEST OF THE PERSON'S KNOWLEDGE, HE OR SHE QUALIFIES FOR EXPUNGEMENT.

(3) UPON RECEIPT OF A REQUEST SATISFYING THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION, THE COLORADO BUREAU OF INVESTIGATION SHALL PROMPTLY SUBMIT A WRITTEN INQUIRY TO THE DISTRICT ATTORNEY IN THE JURISDICTION IN WHICH THE PERSON'S BIOLOGICAL SUBSTANCE SAMPLE WAS COLLECTED, CONCERNING THE OUTCOME OF THE ARREST OR CHARGES.

(4) WITHIN NINETY DAYS AFTER RECEIVING THE REQUEST SUBMITTED PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE COLORADO BUREAU OF INVESTIGATION SHALL DESTROY THE BIOLOGICAL SUBSTANCE SAMPLE COLLECTED PURSUANT TO SECTION 16-23-103 AND EXPUNGE THE RESULTS OF THE TESTING OF THE SAMPLE FROM THE FEDERAL COMBINED DNA INDEX SYSTEM AND ANY STATE INDEX SYSTEM, UNLESS THE BUREAU RECEIVES WRITTEN NOTIFICATION FROM THE APPLICABLE DISTRICT ATTORNEY THAT THE PERSON DOES NOT QUALIFY FOR EXPUNGEMENT AND THE REASONS THE PERSON DOES NOT QUALIFY.

(5) WITHIN THIRTY DAYS AFTER RECEIVING A NOTICE FROM A DISTRICT ATTORNEY PURSUANT TO SUBSECTION (4) OF THIS SECTION, OR AT THE END OF THE NINETY-DAY PERIOD IDENTIFIED IN SUBSECTION (4) OF THIS SECTION, WHICHEVER IS EARLIER, THE COLORADO BUREAU OF INVESTIGATION SHALL SEND NOTIFICATION BY FIRST CLASS MAIL TO THE PERSON ARRESTED OR CHARGED, EITHER STATING THAT THE BUREAU HAS DESTROYED THE BIOLOGICAL SUBSTANCE SAMPLE AND EXPUNGED THE RESULTS OF THE TESTING OF THE SAMPLE OR STATING WHY THE BUREAU HAS NOT DESTROYED THE SAMPLE AND EXPUNGED THE TEST RESULTS.

(6) A DATA BANK OR DATABASE MATCH SHALL NOT BE ADMITTED AS EVIDENCE AGAINST A PERSON IN A CRIMINAL PROSECUTION AND SHALL NOT BE USED AS A BASIS TO IDENTIFY A PERSON IF THE MATCH IS:

(a) DERIVED FROM A BIOLOGICAL SUBSTANCE SAMPLE THAT IS REQUIRED TO BE DESTROYED OR EXPUNGED PURSUANT TO THIS SECTION; AND

(b) OBTAINED AFTER THE REQUIRED DATE OF DESTRUCTION OR EXPUNGEMENT.

(7) THIS SECTION SHALL NOT APPLY IF THE PERSON HAS BEEN ARRESTED FOR, CHARGED WITH, OR CONVICTED OF SOME OTHER OFFENSE ON THE BASIS OF WHICH A BIOLOGICAL SUBSTANCE SAMPLE WAS OR COULD HAVE BEEN COLLECTED UNDER STATE STATUTE.

(8) FOR PURPOSES OF THIS SECTION, A COURT ORDER SHALL NOT BE DEEMED FINAL IF TIME REMAINS FOR AN APPEAL OR APPLICATION FOR DISCRETIONARY REVIEW WITH RESPECT TO THE ORDER."

Strike page 5.

Page 6, strike lines 1 and 2.

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Amendment No. 6(L.017), by Senator Carroll.

Amend printed bill, page 4, after line 11, insert the following:

"(6) UPON MOTION OF THE DEFENDANT OR HIS COUNSEL, THE COURT SHALL ORDER A DATABASE SEARCH BY A LAW ENFORCEMENT AGENCY IF THE COURT DETERMINES THAT A REASONABLE PROBABILITY EXISTS THAT THE DATABASE SEARCH WILL PRODUCE EXCULPATORY OR MITIGATING EVIDENCE RELEVANT TO A CLAIM OF WRONGFUL CONVICTION OR SENTENCING."

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

(For further action, see Amendments to the Report of the Committee of the Whole.)

On motion of Senator Shaffer, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the General Orders -- Second Reading of Bills Calendar (SB09-253, SB09-232, SB09-291, HB09-1322, HB09-1026, HB09-1299, HB09-1170, HB09-1303, HB09-1250, HB09-1305, HB09-1015, HB09-1316, HB09-1076, HB09-1056, HB09-1085, HB09-1100, HB09-1136, HB09-1244, HB09-1275, HB09-1318) of Friday, April 24, was laid over until Monday, April 27, retaining its place on the calendar.

AMENDMENTS TO THE REPORT OF THE COMMITTEE OF THE WHOLE

SB09-244 by Senator(s) Shaffer B.; also Representative(s) Primavera--Concerning health insurance benefits for the treatment of autism spectrum disorders.

Senator Mitchell moved to amend the Report of the Committee of the Whole to show that the Appropriations Committee amendment to SB 09-244 did not pass.

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the Report of the Committee of the Whole was declared **lost** on the following roll call vote:

YES	13	NO	20	EXCUSED	2	ABSENT	0
Bacon	N	Hodge	N	Morse	N	Shaffer B.	N
Boyd	N	Hudak	Y	Newell	N	Spence	Y
Brophy	Y	Isgar	N	Penry	Y	Tapia	N
Cadman	Y	Keller	N	Renfroe	E	Tochtrop	N
Carroll M.	N	Kester	Y	Romer	N	Veiga	N
Foster	N	King K.	Y	Sandoval	N	White	N
Gibbs	N	Kopp	Y	Scheffel	Y	Williams	N
Harvey	Y	Lundberg	Y	Schultheis	Y	President	E
Heath	N	Mitchell	Y	Schwartz	N		

SB09-241 by Senator(s) Morse; also Representative(s) King S. and Tipton--Concerning DNA testing of adults arrested for a felony.

Senator Schultheis moved to amend the Report of the Committee of the Whole to show that the following amendment to SB 09-241 did pass.

Amend printed bill, page 4, strike lines 25 through 27 and substitute the following:

"16-23-105. Expungement. (1) A PERSON WHOSE BIOLOGICAL SUBSTANCE SAMPLE IS COLLECTED PURSUANT TO SECTION 16-23-103 QUALIFIES FOR EXPUNGEMENT IF:

(a) IN THE CASE OF A SAMPLE COLLECTED BASED UPON THE FILING OF A CHARGE OR BASED UPON A FINAL COURT ORDER, EACH FELONY CHARGE STEMMING FROM THE CHARGES HAS, BY FINAL COURT ORDER, BEEN DISMISSED, RESULTED IN AN ACQUITTAL, OR RESULTED IN A CONVICTION FOR AN OFFENSE OTHER THAN A FELONY OFFENSE;

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(b) IN THE CASE OF A SAMPLE COLLECTED BASED UPON AN ARREST:

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(I) A FELONY CHARGE WAS NOT FILED WITHIN NINETY DAYS OF THE ARREST;
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(II) EACH FELONY CHARGE STEMMING FROM THE ARREST HAS, BY FINAL COURT ORDER, BEEN DISMISSED, RESULTED IN AN ACQUITTAL, OR RESULTED IN A CONVICTION FOR AN OFFENSE OTHER THAN A FELONY OFFENSE.

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(2) IF THE ADULT QUALIFIES FOR EXPUNGEMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION AND THE ADULT SIGNS A STATEMENT THAT HE OR SHE WANTS HIS OR HER RECORD EXPUNGED, THE LAW ENFORCEMENT AGENCY THAT ARRESTED THE ADULT SHALL HAVE NINETY DAYS FROM THE DATE OF THE EVENT SPECIFIED IN SUBSECTION (1) TO NOTIFY THE COLORADO BUREAU OF INVESTIGATION THAT THE ADULT'S BIOLOGICAL SUBSTANCE SAMPLE COLLECTED PURSUANT TO SECTION 16-23-103 SHALL BE DESTROYED AND THE RESULTS EXPUNGED FROM THE FEDERAL COMBINED DNA INDEX SYSTEM AND ANY STATE INDEX SYSTEM. THE FOLLOWING INFORMATION SHALL BE INCLUDED IN THE SUBMITTED REQUEST:

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(a) THE PERSON'S NAME, DATE OF BIRTH, AND MAILING ADDRESS;

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(b) THE NAME OF THE AGENCY THAT COLLECTED THE BIOLOGICAL SUBSTANCE SAMPLE;

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(c) THE DATE OF ARREST OR OTHER DATE WHEN THE SAMPLE WAS TAKEN;
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(d) WHETHER ANY CHARGES WERE FILED STEMMING FROM THE ARREST FOR WHICH A BIOLOGICAL SUBSTANCE SAMPLE WAS COLLECTED, THE IDENTITY OF THE COURT, AND THE CASE NUMBER OF EACH CASE IN WHICH CHARGES WERE FILED.

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(3) WITHIN NINETY DAYS AFTER RECEIVING THE REQUEST SUBMITTED PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE COLORADO BUREAU OF INVESTIGATION SHALL DESTROY THE BIOLOGICAL SUBSTANCE SAMPLE COLLECTED PURSUANT TO SECTION 16-23-103 AND EXPUNGE THE RESULTS OF THE TESTING OF THE SAMPLE FROM THE FEDERAL COMBINED DNA INDEX SYSTEM AND ANY STATE INDEX SYSTEM AND SHALL SEND NOTIFICATION BY FIRST-CLASS MAIL TO THE ADULT ARRESTED OR CHARGED, EITHER STATING THAT THE BUREAU HAS DESTROYED THE BIOLOGICAL SUBSTANCE SAMPLE AND EXPUNGED THE RESULTS OF THE TESTING OF THE SAMPLE OR STATING WHY THE BUREAU HAS NOT DESTROYED THE SAMPLE AND EXPUNGED THE TEST RESULTS.

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(4) A DATA BANK OR DATABASE MATCH SHALL NOT BE ADMITTED AS EVIDENCE AGAINST A PERSON IN A CRIMINAL PROSECUTION AND SHALL NOT BE USED AS A BASIS TO IDENTIFY A PERSON IF THE MATCH IS:

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(a) DERIVED FROM A BIOLOGICAL SUBSTANCE SAMPLE THAT IS REQUIRED TO BE DESTROYED OR EXPUNGED PURSUANT TO THIS SECTION; AND

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(b) OBTAINED AFTER THE REQUIRED DATE OF DESTRUCTION OR EXPUNGEMENT.

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(5) THIS SECTION SHALL NOT APPLY IF THE PERSON HAS BEEN ARRESTED FOR, CHARGED WITH, OR CONVICTED OF SOME OTHER OFFENSE ON THE BASIS OF WHICH A BIOLOGICAL SUBSTANCE SAMPLE WAS OR COULD HAVE BEEN COLLECTED UNDER STATE STATUTE.

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(6) FOR PURPOSES OF THIS SECTION, A COURT ORDER SHALL NOT BE DEEMED FINAL IF TIME REMAINS FOR AN APPEAL OR APPLICATION FOR DISCRETIONARY REVIEW WITH RESPECT TO THE ORDER.

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(7) IF A LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH SUBSECTION (2) OF THIS SECTION OR THE COLORADO BUREAU OF INVESTIGATION FAILS TO COMPLY WITH SUBSECTION (3) OF THIS SECTION, THE LAW ENFORCEMENT AGENCY OR THE COLORADO BUREAU OF INVESTIGATION SHALL PAY A FINE OF TWENTY-FIVE THOUSAND DOLLARS TO THE ADULT WHO REQUESTED EXPUNGEMENT PURSUANT TO SUBSECTION (2) OF THIS SECTION."

Strike page 5.

Page 6, strike lines 1 and 2.

A majority of all members elected to the Senate having voted in the affirmative, the amendment to the Report of the Committee of the Whole was declared **passed** on the following roll call vote:

YES	18	NO	15	EXCUSED	2	ABSENT	0
Bacon	N	Hodge	N	Morse	N	Shaffer B.	N
Boyd	N	Hudak	Y	Newell	N	Spence	Y
Brophy	Y	Isgar	N	Penry	Y	Tapia	Y
Cadman	Y	Keller	N	Renfroe	E	Tochtrop	Y
Carroll M.	Y	Kester	Y	Romer	N	Veiga	N
Foster	N	King K.	Y	Sandoval	Y	White	Y
Gibbs	N	Kopp	Y	Scheffel	Y	Williams	N
Harvey	Y	Lundberg	Y	Schultheis	Y	President	E
Heath	N	Mitchell	Y	Schwartz	N		

Senator Carroll moved to amend the Report of the Committee of the Whole to show that SB 09-241, as amended, did not pass.

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the Report of the Committee of the Whole was declared **lost** on the following roll call vote:

YES	10	NO	23	EXCUSED	2	ABSENT	0
Bacon	N	Hodge	N	Morse	N	Shaffer B.	N
Boyd	N	Hudak	Y	Newell	N	Spence	N
Brophy	N	Isgar	N	Penry	N	Tapia	N
Cadman	Y	Keller	N	Renfroe	E	Tochtrop	N
Carroll M.	Y	Kester	Y	Romer	N	Veiga	N
Foster	N	King K.	Y	Sandoval	Y	White	N
Gibbs	N	Kopp	N	Scheffel	Y	Williams	N
Harvey	N	Lundberg	Y	Schultheis	Y	President	E
Heath	N	Mitchell	Y	Schwartz	N		

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator White, the Report of the Committee of the Whole was adopted on the following roll call vote:

YES	29	NO	4	EXCUSED	2	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Shaffer B.	Y
Boyd	Y	Hudak	Y	Newell	Y	Spence	Y
Brophy	Y	Isgar	Y	Penry	Y	Tapia	Y
Cadman	N	Keller	Y	Renfroe	E	Tochtrop	Y
Carroll M.	N	Kester	Y	Romer	Y	Veiga	Y
Foster	Y	King K.	N	Sandoval	Y	White	Y
Gibbs	Y	Kopp	Y	Scheffel	Y	Williams	Y
Harvey	Y	Lundberg	N	Schultheis	Y	President	E
Heath	Y	Mitchell	Y	Schwartz	Y		

The Committee of the Whole took the following action:

Passed on Second Reading: SB09-244 as amended, SB09-247 as amended, SB09-241 as amended.

Laid over until Monday, April 27 retaining their place on the Calendar: SB09-253, SB09-232, SB09-291, HB09-1322, HB09-1026, HB09-1299, HB09-1170, HB09-1303, HB09-1250, HB09-1305, HB09-1015, HB09-1316, HB09-1076, HB09-1056, HB09-1085, HB09-1100, HB09-1136, HB09-1244, HB09-1275, HB09-1318.

On motion of Senator Shaffer, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the calendar of Friday, April 24 was laid over until Monday, April 27, retaining its place on the calendar.

Consideration of Resolutions: SR09-015, SJR09-039, SJR09-040, SJR09-042, SJR09-044, SJR09-045, SJR09-046, SJR09-047, SJR09-048, HJR09-1014, HJR09-1016, HJR09-1021, SJR09-050, SJR09-051, SJR09-054, SJR09-055.

Consideration of Memorials: SJM09-003, SJM09-004, SJM09-005, SJM09-006, SJM09-009.

Consideration of House Amendments to Senate Bills: SB09-276, SB09-144.

Consideration of House Adherence: SB09-131.

Consideration of Governor's Veto: SB09-050.

Consideration of Governor's Appointments:

Member of the Colorado Limited Gaming Control Commission

Member of the Oil and Gas Conservation Commission of the State of Colorado

Members of the Coal Mine Board of Examiners

Members of the Pinnacle Assurance Board of Directors

Members of the Colorado Children's Trust Fund Board

Members of the State Board of Stock Inspection Commissioners

Members of the State Agricultural Commission

Consideration of Conference Committee Reports: SB09-101, SB09-013, HB09-1057, SB09-094, SB09-148.

Conference Committees to Report: SB09-275, SB09-269, SB09-271, SB09-279.

COMMITTEE OF REFERENCE REPORTS

Agriculture and Natural Resources After consideration on the merits, the Committee recommends that **SB09-293** 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 1, strike "SIX" and substitute "FIVE";

line 2, strike "NINE HUNDRED" and substitute "SEVEN HUNDRED SEVENTY-FIVE";

strike lines 25 through 27 and substitute the following:

"THREE million TWO HUNDRED FIFTY THOUSAND dollars as follows: ~~Twenty five percent~~ ONE MILLION SIX HUNDRED TWENTY-FIVE THOUSAND DOLLARS to the department of human services low-income energy assistance fund created in section 40-8.7-112 (1), C.R.S. AND".

Page 4, line 1, after "~~twenty-five percent~~", insert, "ONE MILLION SIX HUNDRED TWENTY-FIVE THOUSAND DOLLARS".

Agriculture and Natural Resources After consideration on the merits, the Committee recommends that **HB09-1317** be referred to the Committee of the Whole with favorable recommendation.

Agriculture and Natural Resources After consideration on the merits, the Committee recommends that **HB09-1330** be referred to the Committee on Appropriations with favorable recommendation.

Resources

Appropriations

After consideration on the merits, the Committee recommends that **HB09-1164** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 2, after line 1, insert the following:

"SECTION 1. Legislative declaration. The general assembly hereby finds and declares that, for the purpose of post-enactment review pursuant to section 5 of this act and section 2-2-1201, Colorado Revised Statutes, the desired result and benefit of this act is to raise sufficient revenues from a surcharge on the breast cancer awareness special license plate imposed pursuant to section 42-3-217.5 (3) (c), Colorado Revised Statutes, enacted by section 2 of this act, to expand eligibility for low-income persons who are screened by a provider as described in section 25.5-5-308 (2) (a) (I) (B), Colorado Revised Statutes, enacted by section 4 of this act, to participate in the breast and cervical cancer prevention and treatment program under the "Colorado Medical Assistance Act"."

Renumber succeeding sections accordingly.

Page 2, line 18, after "C.R.S.", add "THE DEPARTMENT SHALL ENSURE IMPLEMENTATION OF THIS PARAGRAPH (c) NO LATER THAN OCTOBER 31, 2009."

Page 3, line 26, strike "PROGRAM; EXCEPT THAT THIS" and substitute "PROGRAM BUT WHOSE SCREENING ACTIVITIES ARE RECOGNIZED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AS PART OF SCREENING ACTIVITIES UNDER THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S NATIONAL BREAST AND CERVICAL CANCER EARLY DETECTION PROGRAM. THIS".

Page 7, strike lines 13 through 15 and substitute the following:

"SECTION 5. Accountability. Five years after this act becomes law and in accordance with section 2-2-1201, Colorado Revised Statutes, the legislative service agencies of the Colorado General Assembly shall conduct a post-enactment review of the implementation of this act utilizing the information contained in the legislative declaration set forth in section 1 of this act."

Renumber succeeding section accordingly.

Page 1, line 106, strike "ACT" and substitute "ACT", AND REQUIRING A POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THIS ACT."

Appropriations

After consideration on the merits, the Committee recommends that **HB09-1199** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 16, line 3, strike "(1)";

strike lines 11 through 18.

Appropriations

After consideration on the merits, the Committee recommends that **HB09-1173** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 7, line 14, strike "sixty-seven thousand five hundred" and substitute "seventy-five thousand forty-three dollars (\$75,043) cash funds and 0.8 FTE, for the";

strike line 15.

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Appropriations	After consideration on the merits, the Committee recommends that HB09-1133 be referred to the Committee of the Whole with favorable recommendation.	1 2 3 4
Appropriations	After consideration on the merits, the Committee recommends that HB09-1329 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	5 6 7 8
	Amend reengrossed bill, page 4, line 11, strike "\$350,000" and insert "three hundred fifty thousand dollars (\$350,000)";	9 10 11
	line 21, strike "\$439,500" and insert "four hundred thirty-nine thousand five hundred dollars (\$439,500)".	12 13 14
Appropriations	After consideration on the merits, the Committee recommends that HB09-1243 be referred to the Committee of the Whole with favorable recommendation.	15 16 17
Appropriations	After consideration on the merits, the Committee recommends that HB09-1289 be referred to the Committee of the Whole with favorable recommendation.	18 19 20
Appropriations	After consideration on the merits, the Committee recommends that HB09-1035 be referred to the Committee of the Whole with favorable recommendation.	21 22 23
Appropriations	After consideration on the merits, the Committee recommends that HB09-1043 be referred to the Committee of the Whole with favorable recommendation.	24 25 26
Appropriations	After consideration on the merits, the Committee recommends that HB09-1022 be referred to the Committee of the Whole with favorable recommendation.	27 28 29
Appropriations	After consideration on the merits, the Committee recommends that HB09-1196 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	30 31 32 33
	Amend reengrossed bill, page 9, line 13, strike "AND SHALL NOT" and substitute "BUT MAY".	34 35 36
Appropriations	After consideration on the merits, the Committee recommends that HB09-1282 be referred to the Committee of the Whole with favorable recommendation.	37 38 39
Appropriations	After consideration on the merits, the Committee recommends that HB09-1119 be referred to the Committee of the Whole with favorable recommendation.	40 41 42
Appropriations	After consideration on the merits, the Committee recommends that HB09-1065 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	43 44 45 46
	Amend the Senate Education Committee Report, dated April 15, 2009, page 1, strike " PROGRAM, AND MAKING AN APPROPRIATION. " and substitute " PROGRAM. ".	47 48 49 50
	Page 7, strike lines 15 through 22;	51 52
	line 23, strike " 6. " and substitute " 5. ".	53 54
Health & Human Services	The Committee on <u>Health and Human Services</u> has had under consideration and has had a hearing on the following appointment and recommends that the appointment be confirmed:	55 56 57
	<u>MEMBER OF THE</u> <u>COLORADO CHILDREN'S TRUST FUND BOARD</u>	58 59
	for a term expiring November 7, 2011:	60 61 62
	Jesse F. Wolff of Englewood, Colorado, to fill a vacancy occasioned by the resignation of Theresa Rapstine of Denver, Colorado, and to serve as a representative with knowledge of child abuse prevention, appointed.	63 64 65 66 67

Health & Human Services

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

MEMBERS OF THE COVERCOLORADO BOARD OF DIRECTORS

for a term expiring July 1, 2011:

Jayne R. Howard of Columbine Valley, Colorado, an individual who is currently insured or who has been insured under the program, to fill the vacancy occasioned by the resignation of Susan McIntosh-Hutton of Littleton, Colorado, appointed.

for terms expiring July 1, 2012:

Dr. Christine M. Gilroy of Denver, Colorado, a medical professional specializing in chronic disease, reappointed.

Appropriations

After consideration on the merits, the Committee recommends that **HB09-1312** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 3, strike lines 26 and 27 and substitute the following:

"ENERGY PROJECTS OR ENERGY-EFFICIENT BUS PROJECTS."

Page 4, strike lines 3 and 4 and substitute the following:

"(1) "ENERGY-EFFICIENT BUS PROJECT" MEANS A PROJECT TO HELP A QUALIFIED";

line 6, after "GAS,", insert "PROPANE GAS,".

Page 5, line 14, strike the second "A" and substitute "AN ENERGY-EFFICIENT";

strike line 15;

strike line 23 and substitute the following:

"PROJECTS AND ENERGY-EFFICIENT";

line 24, strike "HYBRID-ELECTRIC".

Page 6, line 9, strike the second "A" and substitute "AN";

strike line 10 and substitute the following:

"ENERGY-EFFICIENT".

Page 7, strike line 23 and substitute the following:

"ENERGY-EFFICIENT".

Page 8, strike line 4 and substitute the following:

"PROJECTS AND ENERGY-EFFICIENT";

line 5, strike "HYBRID-ELECTRIC";

strike line 9 and substitute the following:

"PROJECT OR ENERGY-EFFICIENT";

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line 10, strike "HYBRID-ELECTRIC".

Page 10, strike line 16 and substitute the following:

"ENERGY-EFFICIENT";

strike line 24 and substitute the following:

"PROJECT OR ENERGY-EFFICIENT";

line 25, strike "HYBRID-ELECTRIC".

Page 12, strike line 1 and substitute the following:

"PROJECT OR ENERGY-EFFICIENT BUS PROJECT THAT".

FIRST REPORT OF FIRST CONFERENCE COMMITTEE
ON SB09-275

THIS REPORT AMENDS THE
REENGROSSED BILL

To the President of the Senate and the
Speaker of the House of Representatives:

Your first conference committee appointed on SB09-275,
concerning the temporary elimination of the ability of any vendor to retain
any amount of state sales tax revenues to compensate for the vendor's
expenses incurred in the collection and remittance of the tax revenues to
the state, and making an appropriation in connection therewith, has met
and reports that it has agreed upon the following:

That the House recede from its amendments made to the bill, as the
amendments appear in the rerevised bill, and that the following
amendment be substituted therefor:

Amend reengrossed bill, page 3, line 10, strike "COMMENCING" and
substitute "FOR PERIODS COMMENCING ON OR AFTER".

Respectfully submitted,

Senate Committee:

House Committee:

(signed)
Senator Keller, Chair
Senator Tapia
Senator White

(signed)
Representative Ferrandino, Chair
Representative Pommer
Representative Marostica

MESSAGE FROM THE HOUSE

April 24, 2009

The House has passed on Third Reading and transmitted to the Revisor of Statutes;
SB09-052, amended as printed in House Journal, April 23, page 1423.
SB09-068, amended as printed in House Journal, April 23, page 1424.
SB09-090, amended as printed in House Journal, April 23, pages 1424-1425.

The House has adopted and returns herewith SJR09-041, SJR09-037.

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MESSAGE FROM THE REVISOR OF STATUTES

April 24, 2009

We herewith transmit:

Without comment, as amended, SB09-052, SB09-068, and SB09-090.

SENATE SERVICES REPORT

Correctly Engrossed: SJM09-010; SJR052 and SJR053.

Correctly Reengrossed: SB09-006, 021, 164, 234, 255, 282, 283 and 284.

Correctly Rerevised: HB09-1036, 1064, 1129, 1150, 1160, 1183, 1205, 1237, 1242, 1252 and 1307.

SIGNING OF BILLS -- RESOLUTIONS -- MEMORIALS

The President has signed: SB09-263, 265 and 274.

DELIVERY TO THE GOVERNOR

To the Governor for signature on Thursday, April 23, 2009, at 1:30 p.m.:
SB09-020, 062, 100, 105, 141, 169, 263, 265 and 274.

On motion of Senator Shaffer, the Senate adjourned until 10:00 a.m., Monday, April 27, 2009.

Approved:

Betty Boyd
President *pro tem* of the Senate

Attest:

Karen Goldman
Secretary of the Senate

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