

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

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71st Legislative Day Wednesday, March 18, 2009

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Prayer	By the chaplain, Rev. Vern Rempel, First Mennonite Church of Denver.	11
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Pledge	By Senator Scheffel.	13
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Call to Order	By the President at 9:00 a.m.	15
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		17
Roll Call	Present--34	18
	Excused--1, Veiga.	19
	Present later--1, Veiga.	20
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Quorum	The President announced a quorum present.	22
		23
Reading of Journal	On motion of Senator Hudak, reading of the Journal of Tuesday, March 17, 2009, was dispensed with and the Journal was approved as corrected by the Secretary.	24
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**COMMITTEE OF REFERENCE REPORTS**

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Finance	The Committee on <u>Finance</u> has had under consideration and has had a hearing on the following appointment and recommends that the appointment be confirmed:	32
		33

**MEMBER OF THE  
 COLORADO BANKING BOARD**

for a term expiring July 1, 2012:

Dennis F. Reece of Ouray, Colorado, to serve as a representative of bankers, reappointed.

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Finance	After consideration on the merits, the Committee recommends that <b>HB09-1034</b> be referred to the Committee of the Whole with favorable recommendation.	45
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Trans- portation	After consideration on the merits, the Committee recommends that <b>HB09-1089</b> be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.	49
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		51

Amend reengrossed bill, page 6, strike lines 11 and 12 and substitute the following:

"except in the case of trailer coaches; truck tractors; MULTIPURPOSE TRAILERS, IF KNOWN WHEN FILED; and motor homes, ~~which~~ THAT are subject to the provisions of".

Page 7, strike lines 6 and 7 and substitute the following:

~~"same as in other cases.~~ If any mortgage other than one on a trailer coach; truck tractor; MULTIPURPOSE TRAILER, IF KNOWN WHEN FILED; or motor home, ~~which~~ THAT has".

Page 9, strike lines 8 through 19 and substitute the following:

**"SECTION 8. Act subject to petition - effective date - applicability.** (1) This act shall take effect October 1, 2009.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to applications or filings made on or after the applicable effective date of this act."

Trans-  
portation

After consideration on the merits, the Committee recommends that **HB09-1042** be referred to the Committee of the Whole with favorable recommendation.

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 Memorials.

**CONSIDERATION OF MEMORIALS**

**SM09-001** by Senator(s) Renfroe; --Memorializing former Senator James Kadlecek.

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

YES	35	NO	0	EXCUSED	0	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	Y	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	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

Co-sponsors added: Bacon, Boyd, Brophy, Cadman, Carroll M., Foster, Gibbs, Groff, 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.

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.

**CONSIDERATION OF RESOLUTIONS**

**SJR09-023** by Senator(s) Schwartz, Gibbs, Isgar, Tochtrop, White; also Representative(s) Curry-- Concerning the general assembly's continuing support for existing terms of the Colorado river compact.

On motion of Senator Schwartz, the resolution was read at length and **adopted** by the

following roll call vote:

YES	35	NO	0	EXCUSED	0	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	Y	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	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

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

**SJR09-024** by Senator(s) Penry, Isgar; also Representative(s) Sonnenberg, Curry, Gardner C.-- Concerning the recognition of March 18, 2009, as "National Agriculture Day".

On motion of Senator Penry, the resolution was **adopted** by the following roll call vote:

YES	35	NO	0	EXCUSED	0	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	Y	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	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

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

**HJR09-1012** by Representative(s) Carroll T. and May, Todd; also Senator(s) Groff and Penry-- Concerning the construction of a stand-alone veterans hospital at the Fitzsimons medical campus.

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

YES	35	NO	0	EXCUSED	0	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	Y	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	Y
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, Renfroe, Romer, Sandoval, Scheffel, Schultheis, Schwartz, Shaffer B., Spence, Tapia, Tochtrop, Veiga, White and Williams.

Senate in recess. Senate reconvened.

THIRD READING OF BILLS -- FINAL PASSAGE

On Third Reading, the titles of the following bills were publicly read, the reading at length having been dispensed with by unanimous consent:

HB09-1254 by Representative(s) Judd, Rice; also Senator(s) Harvey--Concerning additional consumer protections relating to like-kind exchanges facilitated by exchange facilitators.

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

Table with 8 columns: YES (35), NO (0), EXCUSED (0), ABSENT (0). Rows list members: Bacon, Boyd, Brophy, Cadman, Carroll M., Foster, Gibbs, Harvey, Heath and Hodge, Morse, Newell, Penry, Renfroe, Romer, Sandoval, Scheffel, Schultheis, Schwartz, Shaffer B., Spence, Tapia, Tochtrop, Veiga, White, Williams, President.

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

Co-sponsors added: Carroll M., Hodge and Penry.

HB09-1233 by Representative(s) Vigil; also Senator(s) Schwartz--Concerning the recognition of acequias, and, in connection therewith, authorizing acequia ditch corporations.

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

Table with 8 columns: YES (35), NO (0), EXCUSED (0), ABSENT (0). Rows list members: Bacon, Boyd, Brophy, Cadman, Carroll M., Foster, Gibbs, Harvey, Heath and Hodge, Morse, Newell, Penry, Renfroe, Romer, Sandoval, Scheffel, Schultheis, Schwartz, Shaffer B., Spence, Tapia, Tochtrop, Veiga, White, Williams, President.

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

Co-sponsors added: Bacon, Foster, Gibbs, Groff, Heath, Hodge, Newell, Romer, Sandoval and Tapia.

HB09-1229 by Representative(s) Kerr J., Miklosi, Primavera; also Senator(s) Isgar, Tochtrop--Concerning the designation of auxiliary facilities of institutions of higher education as enterprises.

On a substitute motion, Senator Shaffer moved that the Senate refer HB09-1229 to the Committee on Finance. More than a majority of all members elected to the Senate having voted in the affirmative, the motion was declared Adopted.

HB09-1125 by Representative(s) Merrifield, Massey, Benefield, Gagliardi, Middleton, Pace, Peniston,

Priola, Scanlan, Solano, Summers, Weissmann; also Senator(s) Hudak--Concerning limitations on the incentives local education providers may provide for participation in public educational programs.

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

YES	33	NO	2	EXCUSED	0	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	Y	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	N	President	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

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

Co-sponsors added: Boyd, Gibbs, Groff, Heath, King K., Newell, Romer, Tapia, Tochtrop and Williams.

**HB09-1053** by Representative(s) Balmer; also Senator(s) Romer--Concerning the regulation of financial institutions under the authority of the banking board, and making an appropriation therefor.

A majority of those elected to the Senate having voted in the affirmative, Senator Romer was given permission to offer a Third Reading amendment.

Third Reading Amendment No. 1(L.009), by Senator Romer.

Amend revised bill, page 4, line 27, strike "POSSESSES" and substitute "SECURES THE DEPOSIT WITH".

The amendment was declared **passed** on the following roll call vote:

YES	35	NO	0	EXCUSED	0	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	Y	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	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

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

YES	35	NO	0	EXCUSED	0	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	Y	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	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

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

**HB09-1186** by Representative(s) Levy; also Senator(s) Carroll M.--Concerning the delivery of a mail-in ballot to the designated election official by the elector.

On a substitute motion, Senator Cadman moved that the Senate refer **HB09-1186** to the Committee on Appropriations. Less than a majority of all members elected to the Senate having voted in the affirmative, the motion was declared **LOST** on the following roll call vote.

YES	15	NO	20	EXCUSED	0	ABSENT	0
Bacon	N	Hodge	N	Morse	N	Shaffer B.	N
Boyd	N	Hudak	N	Newell	N	Spence	Y
Brophy	Y	Isgar	N	Penry	Y	Tapia	N
Cadman	Y	Keller	N	Renfroe	Y	Tochtrop	N
Carroll M.	N	Kester	Y	Romer	Y	Veiga	N
Foster	N	King K.	Y	Sandoval	N	White	Y
Gibbs	N	Kopp	Y	Scheffel	Y	Williams	N
Harvey	Y	Lundberg	Y	Schultheis	Y	President	N
Heath	N	Mitchell	Y	Schwartz	N		

On a substitute motion, Senator Cadman moved that the Senate refer **HB09-1186** to the Committee on Finance. Less than a majority of all members elected to the Senate having voted in the affirmative, the motion was declared **LOST** on the following roll call vote.

YES	14	NO	21	EXCUSED	0	ABSENT	0
Bacon	N	Hodge	N	Morse	N	Shaffer B.	N
Boyd	N	Hudak	N	Newell	N	Spence	Y
Brophy	Y	Isgar	N	Penry	Y	Tapia	N
Cadman	Y	Keller	N	Renfroe	Y	Tochtrop	N
Carroll M.	N	Kester	Y	Romer	N	Veiga	N
Foster	N	King K.	Y	Sandoval	N	White	Y
Gibbs	N	Kopp	Y	Scheffel	Y	Williams	N
Harvey	Y	Lundberg	Y	Schultheis	Y	President	N
Heath	N	Mitchell	Y	Schwartz	N		

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

YES	21	NO	14	EXCUSED	0	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Shaffer B.	Y
Boyd	Y	Hudak	Y	Newell	Y	Spence	N
Brophy	N	Isgar	Y	Penry	N	Tapia	Y
Cadman	N	Keller	Y	Renfroe	N	Tochtrop	Y
Carroll M.	Y	Kester	N	Romer	Y	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	Y
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**.

Co-sponsors added: Bacon, Boyd, Gibbs, Groff, Hodge, Hudak, Shaffer B., Tochtrop, Veiga and Williams.

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 Wednesday, March 18 was laid over until Thursday, March 19, retaining its place on the calendar.

Third Reading of Bills -- Final Passage: HB09-1139, HB09-1102, HB09-1227, HB09-1190.

General Orders -- Second Reading of Bills -- Consent Calendar: HB09-1061, SB09-018, SB09-098, HB09-1188.

General Orders -- Second Reading of Bills: SB09-095, SB09-067, HB09-1151, SB09-103, SB09-138, SB09-154, SB09-160, SB09-180, HB09-1110, HB09-1143, HB09-1057, SB09-176.

Consideration of House Amendments to Senate Bills: SB09-114. 1  
 Consideration of Governor's Appointments: 2  
     Members of the State Board of Nursing 3  
     Members of the Board of Trustees for Western State College of Colorado 4  
 Consideration of Conference Committee Reports: SB09-208, SB09-215. 5  
 Conference Committees to Report: SB09-210, HB09-1153, HB09-1108, HB09-1058. 6

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**COMMITTEE OF REFERENCE REPORTS**

Legal  
Services

After consideration on the merits, the Committee recommends that **HB09-1292** be referred to the Committee of the Whole with favorable recommendation. 11

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**SENATE SERVICES REPORT**

**Correctly Printed:** SJR09-024. 17  
**Correctly Reengrossed:** SB09-228. 18  
**Correctly Rerevised:** HB09-1118 and 1191. 19

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**SIGNING OF BILLS -- RESOLUTIONS -- MEMORIALS**

**The President has signed:** SB09-017, 065, 115, 116 and 127. 24  
**The President has signed:** SJR09-020, 021 and 022. 25

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**DELIVERY TO THE GOVERNOR**

To the Governor for signature on Tuesday, March 17, 2009, at 1:31p.m.: SB09-010, 033, 034, 041, 044, 070, 079, 096 and 140. 31

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**MESSAGE FROM THE HOUSE**

March 18, 2009 37

The House has voted to concur in the Senate amendments to HB09-1198, 1197, 1272, 1207, 1118, and has repassed the bills as so amended. 39

The House has voted not to concur in the Senate amendments to HB9-1162 and requests that a conference committee be appointed. The Speaker has appointed Representatives Gerou, chairman, Curry, and Scanlan as House conferees on the First Conference Committee on HB09-1162. The House has granted authorization to go beyond the scope of the differences. The bill is transmitted herewith. 42

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB09-1294. 48

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB09-1026, amended as printed in House Journal, March 17, pages 754-760. 51

The House has adopted and returns herewith SJR09-024. 54

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Senate in recess.                      Senate reconvened.

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**MESSAGE FROM THE REVISOR OF STATUTES**

March 18, 2009 64

Without comment, HB09-1294. 66  
 Without comment, as amended, HB09-1026. 67

**INTRODUCTION OF BILLS -- FIRST READING**

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

- SB09-251** by Senator(s) Romer; also Representative(s) Riesberg--Concerning the authority of a licensed health care provider to charge a fee for certain ophthalmic devices.  
Health and Human Services
- SB09-252** by Senator(s) Boyd, Carroll M., Lundberg, Morse, Newell, Spence; also Representative(s) Frangas, Gagliardi, Green, Kefalas, Kerr J., Primavera, Riesberg, Swalm--Concerning mail order prescription drugs for medicaid recipients who have third-party insurance.  
Health and Human Services
- HB09-1295** by Representative(s) Todd and Massey, Carroll T., Benefield, Merrifield, Middleton, Casso, Frangas, Hulinghorst, Kerr A., Labuda, McGihon, Miklosi, Murray, Scanlan; also Senator(s) Heath, Bacon, King K., Veiga, Spence--Concerning authorizing Metropolitan state college of Denver to offer master's degree programs.  
Education
- HB09-1299** by Representative(s) Kerr A., Benefield, Carroll T., Casso, Court, Curry, Ferrandino, Frangas, Green, Hulinghorst, Kefalas, McCann, Middleton, Miklosi, Pommer, Rice, Scanlan, Schafer S., Solano, Todd, Vigil; also Senator(s) Romer, Bacon, Groff, Veiga--Concerning adoption of an agreement among the states to elect the president of the United States by national popular vote.  
State, Veterans & Military Affairs

On motion of Senator Shaffer, the Senate adjourned until 9:00 a.m., Thursday, March 19, 2009.

Approved:

Betty Boyd  
President *pro tem* of the Senate

Attest:

Karen Goldman  
Secretary of the Senate

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