

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

51st Legislative Day Thursday, February 26, 2009

Prayer	By the chaplain, Rev. Paul Kottke, University Park United Methodist Church, Denver.	1
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Pledge	By Senator Kopp.	3
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Call to Order	By the President at 9:00 a.m.	5
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Roll Call	Present--35	7
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Quorum	The President announced a quorum present.	9
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Reading of Journal	On motion of Senator Newell, reading of the Journal of Wednesday, February 25, 2009, was dispensed with and the Journal was approved as corrected by the Secretary.	11
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COMMITTEE OF REFERENCE REPORTS

Business, Labor, & Technology	After consideration on the merits, the Committee recommends that HB09-1141 be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.	27
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Business, Labor, & Technology	After consideration on the merits, the Committee recommends that HB09-1109 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.	29
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	Amend reengrossed bill, page 2, strike lines 6 through 26 and substitute the following:	38
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	"(8) "Residence in foreclosure" means a residence or dwelling, as defined in sections 5-1-201 and 5-1-301, C.R.S., that is occupied as the home owner's principal place of residence and against which any type of foreclosure action has been commenced THAT IS ENCUMBERED BY A RESIDENTIAL MORTGAGE LOAN THAT IS AT LEAST THIRTY DAYS DELINQUENT OR IN DEFAULT.	41
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	SECTION 2. Effective date - applicability. This act shall take effect July 1, 2009, and shall apply to residential properties subject to mortgage loans that are delinquent or in default on or after said date.	48
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	SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety."	52
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MESSAGE FROM THE HOUSE

February 25, 2009

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB09-1252, 1262, 1263.

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB09-1233, amended as printed in House Journal, February 24, page 507.
HB09-1061, amended as printed in House Journal, February 24, pages 507-508.
HB09-1253, amended as printed in House Journal, February 24, page 508.
HB09-1200, amended as printed in House Journal, February 24, page 508.

HB09-1216, amended as printed in House Journal, February 24, page 508. 1
 HB09-1001, amended as printed in House Journal, February 24, pages 508-509. 2
 HB09-1053, amended as printed in House Journal, February 24, page 514. 3
 HB09-1100, amended as printed in House Journal, February 24, page 514. 4
 HB09-1110, amended as printed in House Journal, February 24, pages 514-515. 5
 HB09-1116, amended as printed in House Journal, February 24, page 515. 6
 HB09-1191, amended as printed in House Journal, February 24, page 515. 7
 HB09-1227, amended as printed in House Journal, February 24, page 516. 8
 HB09-1281, amended as printed in House Journal, February 24, page 516. 9
 HB09-1234, amended as printed in House Journal, February 24, pages 516-517. 10
 HB09-1085, amended as printed in House Journal, February 24, pages 517-518. 11
 HB09-1180, amended as printed in House Journal, February 24, page 518. 12

The House has passed on Third Reading and returns herewith SB09-209, 214, 218, 183, 14
 184, 186, 187, 188, 189, 190, 191, 192, 193, 194, 196, 197, 198, 199, 200, 201, 202, 15
 203, 001, 086. 16

The House has passed on Third Reading and transmitted to the Revisor of Statutes; 18
 SB09-108, amended as printed in House Journal, February 24, pages 518-525, and 19
 amended on Third Reading as printed in House Journal, February 25. 20

In response to the request of the Senate, the Speaker has appointed Representatives 22
 Ferrandino, chairman, Pommer, and Marostica as House conferees on the First 23
 Conference Committee on SB09-215. 24

In response to the request of the Senate, the Speaker has appointed Representatives 26
 Ferrandino, chairman, Pommer, and Marostica as House conferees on the First 27
 Conference Committee on SB09-208. 28

In response to the request of the Senate, the Speaker has appointed Representatives 30
 Ferrandino, chairman, Pommer, and Marostica as House conferees on the First 31
 Conference Committee on SB09-217. 32

In response to the request of the Senate, the Speaker has appointed Representatives 34
 Ferrandino, chairman, Pommer, and Marostica as House conferees on the First 35
 Conference Committee on SB09-185. 36

In response to the request of the Senate, the Speaker has appointed Representatives 38
 Ferrandino, chairman, Pommer, and Marostica as House conferees on the First 39
 Conference Committee on SB09-210. 40

The House has adopted and returns herewith SJR09-014. 41
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The House has voted to concur in the Senate amendments to HB09-1002, HB09-1091 44
 and has repassed the bills as so amended. 45

MESSAGE FROM THE REVISOR OF STATUTES 48

February 25, 2009 49

We herewith transmit: 50

Without comment, HB09-1252, 1262, and 1263. 51

Without comment, as amended, HB09-1001, 1053, 1061, 1085, 1100, 1110, 1116, 1180, 54
 1191, 1200, 1216, 1227, 1233, 1234, 1253, and 1281 . 55

Without comment, as amended, SB09-108. 56
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GENERAL ORDERS -- SECOND READING OF BILLS -- 59
CONSENT CALENDAR 60

HB09-1155 by Representative(s) Weissmann; also Senator(s) Carroll M.--Concerning title insurance, 61
 and, in connection therewith, requiring justifications to be filed with the commissioner of 62
 insurance. 63

Laid over until Friday, February 27, retaining its place on the calendar. 64
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HB09-1030 by Representative(s) Labuda, Benefield, Gardner B., King S., Liston, Peniston, Rice, 66
 Riesberg; also Senator(s) Tochtrop, Morse, Williams--Concerning firefighter and police 67
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	officer pension plan compliance with requirements set forth in the internal revenue code.	1
	Laid over until Friday, February 27, retaining its place on the calendar.	2
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HB09-1044	by Representative(s) Roberts; also Senator(s) Morse--Concerning expungement of records relating to a criminal matter for which a juvenile is sentenced as a juvenile after being charged by the direct filing of charges in a district court.	4
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	Laid over until Friday, February 27, retaining its place on the calendar.	8
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HB09-1121	by Representative(s) King S.; also Senator(s) Renfroe--Concerning the disposition of evidence collected in criminal cases.	10
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	Laid over until Friday, February 27, retaining its place on the calendar.	13
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HB09-1021	by Representative(s) Solano; also Senator(s) Boyd--Concerning the extension of the study of the treatment of persons with mental illness who are involved in the criminal and juvenile justice systems.	15
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	Laid over until Friday, February 27, retaining its place on the calendar.	19
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SB09-222	by Senator(s) Lundberg, Cadman, Schultheis, Harvey, Renfroe, Scheffel; --Concerning standards for a sign required to notify drivers that an automated vehicle identification device is being used to detect traffic violations.	21
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	Upon request of Senator Lundberg, SB09-222 was removed from the General Orders - Second Reading of Bills Consent Calendar of February 25 and was placed at the end of the General Orders -- Second Reading of Bills calendar of Thursday, February 26.	26
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	GENERAL ORDERS -- SECOND READING OF BILLS	32
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SB09-122	by Senator(s) Gibbs; also Representative(s) Scanlan--Concerning the release of security assessment reports to the county sheriff of the county in which a critical state infrastructure is located.	34
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	Laid over until Friday, February 27, retaining its place on the calendar.	38
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HB09-1093	by Representative(s) Levy, McGihon, Benefield, Judd, Miklosi, Ferrandino, Fischer, Gagliardi, Green, Merrifield, Pommer, Solano; also Senator(s) Veiga, Carroll M.--Concerning additional income tax reporting requirements for a corporate taxpayer.	40
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	Laid over until Friday, February 27, retaining its place on the calendar.	44
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HB09-1101	by Representative(s) Benefield, Todd, Apuan, Ferrandino, Kefalas, Merrifield, Murray, Stephens; also Senator(s) Veiga, Hudak--Concerning the administration of sales tax collections by the department of revenue.	46
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	Laid over until Friday, February 27, retaining its place on the calendar.	50
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SB09-131	by Senator(s) Romer; --Concerning the requirement that students in public schools engage in a certain amount of physical activity each week.	52
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	Laid over until Friday, February 27, retaining its place on the calendar.	55
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HB09-1052	by Representative(s) Waller; also Senator(s) Heath--Concerning limitations on the solicitation of donated items that will be sold for profit.	57
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	Laid over until Friday, February 27, retaining its place on the calendar.	60
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HB09-1122	by Representative(s) Roberts, Levy, Merrifield; also Senator(s) Morse--Concerning increasing the age of persons eligible for sentencing to the youthful offender system.	62
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	Laid over until Friday, February 27, retaining its place on the calendar.	65
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HB09-1080	by Representative(s) Marostica; also Senator(s) Williams--Concerning a grant of qualified immunity to building code officials rendering assistance during a disaster emergency.	67
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	Laid over until Friday, February 27, retaining its place on the calendar.	70
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CONSIDERATION OF RESOLUTIONS

SJR09-015 by Senator(s) Gibbs; also Representative(s) Scanlan--Concerning stewardship contracting.

On motion of Senator Gibbs, 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, Isgar, Keller, Kester, King K., Kopp, Lundberg, Mitchell, Morse, Newell, Penry, Renfroe, Romer, Sandoval, Scheffel, Schultheis, Schwartz, Shaffer B., Spence, Tapia, Tochtrop, Veiga, White and Williams.

CONSIDERATION OF GOVERNOR'S APPOINTMENTS

On motion of Senator Veiga, the following Governor's appointment was confirmed by a roll call vote:

**MEMBER OF THE
STATEWIDE INTERNET PORTAL AUTHORITY**

for a term expiring June 1, 2012:

Jack R. Arrowsmith of Highlands Ranch, Colorado to serve as a representative of local government, reappointed.

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		

On motion of Senator Veiga, the following Governor's appointment was confirmed by a roll call vote:

**MEMBER OF THE
EXAMINING BOARD OF PLUMBERS**

for a term expiring July 1, 2012:

Michael K. Trapp of Colorado Springs, Colorado, a plumbing contractor engaged in the construction of residential or commercial buildings, appointed.

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		

On motion of Senator Vegia, the following Governor's appointments were confirmed by a roll call vote:

**MEMBERS OF THE
STATE ELECTRICAL BOARD**

for terms expiring July 1, 2011:

Loren R. Priest of Parker, Colorado, to serve as a representative of the public at large, reappointed;

Scott W. Berg of Highlands Ranch, Colorado, to serve as a building official from a political subdivision of the state performing electrical inspections, appointed;

Terry L. Schneider of Colorado Springs, Colorado, to serve as master electrician who is not an electrical contractor, reappointed;

Jose A. Amaya of Parker, Colorado, to serve as a general contractor actively engaged in the building industry, appointed;

Robin L. Kittel of Highlands Ranch, Colorado, to serve as a representative of private, municipal, or cooperative electric utilities rendering electric service to the ultimate public, appointed;

Rory J. Berumen of Aurora, Colorado, to serve as a journeyman electrician who is not an electrical contractor, appointed.

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		

COMMITTEE OF REFERENCE REPORTS

State, Veterans, & Military Affairs: After consideration on the merits, the Committee recommends that **HB09-1088** be referred to the Committee of the Whole with favorable recommendation.

State, Veterans, & Military Affairs: After consideration on the merits, the Committee recommends that **HB09-1008** be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.

Judiciary: After consideration on the merits, the Committee recommends that **HB09-1090** be referred to the Committee of the Whole with favorable recommendation.

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Judiciary

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

MEMBERS OF THE
COLORADO CIVIL RIGHTS COMMISSION

for a term expiring March 13, 2011:

Raju Jairam of Fort Collins, Colorado, an Unaffiliated member of the business community, to fill the vacancy occasioned by the resignation of Antonio M. Arguello of Greeley, Colorado, appointed.

for terms expiring March 13, 2012:

Isaiah "Ike" Kelley, Jr. of Denver, Colorado, to serve as a representative of small business and as a Republican, appointed;

Diann L. Rice of Fruita, Colorado, to serve as a representative of state (or local) government entities, and as an Unaffiliated, appointed.

Judiciary

After consideration on the merits, the Committee recommends that **HB09-1151** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend reengrossed bill, page 16, line 25, strike "24-33.5-1213.5," and substitute "24-33.5-1213.7,".

Page 18, line 19, after "WITH", insert "SECTIONS".

Page 19, line 6, after "SCHOOL", insert "AND JUNIOR COLLEGE";

line 20, strike "SCHOOL" and substitute "PUBLIC SCHOOL AND JUNIOR COLLEGE".

Page 21, line 5, after "SCHOOL", insert "AND JUNIOR COLLEGE";

line 6, after "SCHOOL", insert "AND JUNIOR COLLEGE";

line 21, after "SCHOOL", insert "AND JUNIOR COLLEGE".

Page 25, line 6, strike the first "PLAN" and substitute "PLANS";

line 11, strike "PLAN" and substitute "PLANS";

line 12, strike "PLAN" and substitute "PLANS".

Judiciary

After consideration on the merits, the Committee recommends that **SB09-237** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, line 14, after "BRANDISHING", insert "OR CARRYING ON HIS OR HER PERSON".

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
COLORADO COMMISSION ON THE AGING

for terms expiring July 1, 2012:

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Debera K. Stewart of Silt, Colorado, a Republican from the Third Congressional District, appointed; 1
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Sheila Casey of Durango, Colorado, a Democrat from the Third Congressional District, reappointed; 4
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Stephen M. Bender of Colorado Springs, Colorado, a Democrat from the Fifth Congressional District, reappointed; 7
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Gretchen G. Cerveny of Wheat Ridge, Colorado, a Republican from the Seventh Congressional District, reappointed; 10
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Mark N. Shelton of Fort Collins, Colorado, a Democrat from the Fourth Congressional District, reappointed; 13
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Karyn P. Leible, M.D. of Thornton, Colorado, a Democrat from the Second Congressional District, to fill the vacancy occasioned by the resignation of Harriet L. Edelstein of Boulder, Colorado, appointed. 16
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Health &
Human
Services

The Committee on Health and Human Services has had under consideration and has had a hearing on the following appointment and recommends that the appointment be confirmed: 21
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**MEMBER OF THE
STATE BOARD OF NURSING** 24
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for a term expiring July 1, 2009: 28
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Deborah L. Archuleta of Pueblo, Colorado to fill the vacancy occasioned by the resignation of Sharon H. Pappas of Arvada, Colorado, and to serve as a licensed professional nurse who is engaged in nursing service administration, appointed. 30
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Health &
Human
Services

After consideration on the merits, the Committee recommends that **HB09-1004** be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar. 34
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Health &
Human
Services

After consideration on the merits, the Committee recommends that **HB09-1023** be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar. 38
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Health &
Human
Services

After consideration on the merits, the Committee recommends that **HB09-1025** be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar. 42
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Education

After consideration on the merits, the Committee recommends that **SB09-236** be postponed indefinitely. 46
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INTRODUCTION OF RESOLUTIONS 52
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SJR09-016 by Senator(s) Bacon and Romer; also Representative(s) Kefalas--Concerning the recognition of the Peace Corps on the occasion of its forty-eighth anniversary. 54
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Laid over one day under Senate Rule 30(b). 57
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INTRODUCTION OF BILLS -- FIRST READING 60
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The following bills were read by title and referred to the committees indicated: 62
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HB09-1076 by Representative(s) Pace; also Senator(s) Tochtrop--Concerning remuneration resulting from an employee's separation from employment for the purpose of calculating the postponement of unemployment insurance benefits. 64
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HB09-1108	by Representative(s) Kerr A.; also Senator(s) Boyd--Concerning the failure of an employer's bank to honor an employee's paycheck upon presentment. Business, Labor and Technology	1 2 3 4
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. State, Veterans & Military Affairs	5 6 7 8
HB09-1190	by Representative(s) Levy; also Senator(s) Mitchell--Concerning the enactment of the "Uniform Unsworn Foreign Declarations Act". Judiciary	9 10 11 12
HB09-1214	by Representative(s) Benefield, Massey, Middleton, Miklosi, Scanlan, Schafer S., Summers, Todd; also Senator(s) Bacon--Concerning education data reporting requirements. Education	13 14 15 16
HB09-1217	by Representative(s) Murray; also Senator(s) Scheffel--Concerning the creation of local improvement districts for the purpose of improving public utilities. Local Government and Energy	17 18 19 20
HB09-1218	by Representative(s) Soper, Marostica; also Senator(s) Bacon--Concerning capital lease agreements entered into by the state. Finance	21 22 23 24
HB09-1220	by Representative(s) Scanlan; also Senator(s) Gibbs--Concerning an amendment to the "Colorado Common Interest Ownership Act" to permit a unit owner to prescribe specified conditions in connection with the use of such owner's property that promote affordable housing. Local Government and Energy	25 26 27 28 29 30
HB09-1224	by Representative(s) Schafer S., McGihon, Labuda, Frangas, Ryden, Green, Ferrandino, Court, Hullinghorst, Kefalas, Middleton, Peniston, Solano, Todd, Vigil; also Senator(s) Carroll M., Hodge--Concerning a prohibition on the consideration of gender in setting rates for individual health benefit plans, and, in connection therewith, directing the health care task force during the 2009 interim to study issues related to such prohibition. State, Veterans & Military Affairs	31 32 33 34 35 36 37
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. Education Finance	38 39 40 41 42 43
HB09-1236	by Representative(s) Primavera, Casso, Peniston; also Senator(s) Hodge--Concerning the distance at which an operator of a motor vehicle shall stop when a school bus signals a stop. Transportation	44 45 46 47
HB09-1249	by Representative(s) Pommer, Ferrandino, Marostica; also Senator(s) White, Keller, Tapia--Concerning the consolidation of certain cash funds created for the department of agriculture. Finance	48 49 50 51
HB09-1254	by Representative(s) Judd, Rice; also Senator(s) Harvey--Concerning additional consumer protections relating to like-kind exchanges facilitated by exchange facilitators. Judiciary	52 53 54 55
HB09-1260	by Representative(s) Ferrandino; also Senator(s) Veiga--Concerning designated beneficiary agreements. Judiciary	56 57 58 59
HB09-1264	by Representative(s) Benefield, Apuan, Court, Gardner B., Kerr A., Levy, McCann, Miklosi, Pace, Roberts, Ryden, Solano; also Senator(s) Hudak--Concerning the costs associated with college-level academic programs for state inmates. Education	60 61 62 63 64

SENATE SERVICES REPORT

Correctly Reengrossed: SB09-025, 026, 031, 061, 068, 076, 132, 159, 165, 171, 175, 179, 181 and 182.

Correctly Rerevised: HB09-1024 and 1037.

SIGNING OF BILLS -- RESOLUTIONS -- MEMORIALS

The President has signed: SB09-212.

The President has signed: SB09-015, 206, and 207.

DELIVERY TO THE GOVERNOR

To the Governor for signature on Wednesday, February 25, 2009, at 8:19 a.m.:
SB09-211 and 213.

To the Governor for signature on Wednesday, February 25, 2009, at 3:45 p.m.:
SB09-212.

On motion of Senator Shaffer, the Senate adjourned until 9:00 a.m., Friday, February 27, 2009.

Approved:

Peter C. Groff
President of the Senate

Attest:

Karen Goldman
Secretary of the Senate

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