

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

23rd Legislative Day

Thursday, January 29, 2009

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Prayer	By the chaplain, Rev. Paul Kottke, University Park United Methodist church, Denver.	11
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Pledge	By Senator Heath.	13
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Call to Order	By the President at 9:00 a.m.	15
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Roll Call	Present--29	18
	Absent--2, Romer, Schwartz.	19
	Excused--4, Cadman, Isgar, Keller, Mitchell.	20
	Present later--5, Isgar, Keller, Mitchell, Romer, Schwartz.	21
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Quorum	The President announced a quorum present.	23
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Reading of Journal	On motion of Senator Foster, reading of the Journal of Wednesday, January 28, 2009, was dispensed with and the Journal was approved as corrected by the Secretary.	25
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COMMITTEE OF REFERENCE REPORTS

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Finance	After consideration on the merits, the Committee recommends that SB09-041 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	32
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	Amend printed bill, page 2, strike lines 17 through 25.	36
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	Page 3, strike lines 1 through 21 and substitute the following:	38
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	" SECTION 2. The introductory portion to 24-32-1705 (1) (a) and 24-32-1705 (2), Colorado Revised Statutes, are amended to read:"	40
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	Renumber succeeding sections accordingly.	43
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	Page 3, after line 26, insert the following:	45
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	"(2) State issuing authorities may assign amounts of their allocations to any issuing authority, and any assignment shall be effective upon receipt by the department of written notification of the assignment.	47
	The notification shall include the amounts assigned, the names of the assignor and the assignee, a representation by the assignor that the assignment was made by the assignor without receipt of monetary consideration OTHER THAN REIMBURSEMENT FROM THE ASSIGNEE OF ANY PROPORTIONATE SHARE OF THE DIRECT ALLOCATION FEE SPECIFIED IN SECTION 24-32-1709.5 (1) (a), the date of the assignment, and a copy of the executed assignment. No assignee may elect to treat all or any portion of an assignment of an allocation from a state issuing authority as an allocation for a project with a carryforward purpose or make a mortgage credit certificate election with respect to all or any portion of such an assignment without the prior written consent of the assignor to the election. A record of each assignment shall be maintained by the assignee for each bond issued by the assignee for which the assignment applies.";	48
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	strike line 27 and substitute the following:	64
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	" SECTION 3. 24-32-1706 (1) and (2), Colorado Revised Statutes, are".	66
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Page 4, after line 12, insert the following:

"(2) Designated local issuing authorities may assign the amounts of their allocations pursuant to this section to any issuing authority, and any assignment shall be effective upon receipt by the department of written notification of the assignment. The notification shall include the amounts assigned, the names of the assignor and assignee, a representation by the assignor that the assignment was made by the assignor without receipt of monetary consideration OTHER THAN REIMBURSEMENT FROM THE ASSIGNEE OF ANY PROPORTIONATE SHARE OF THE DIRECT ALLOCATION FEE SPECIFIED IN SECTION 24-32-1709.5 (1) (a), the date of the assignment, and a copy of the executed assignment. No assignee may elect to treat all or any portion of an assignment of an allocation from a designated local issuing authority as an allocation for a project with a carryforward purpose or make a mortgage credit certificate election with respect to all or any portion of such an assignment without the prior written consent of the assignor to such election. A record of each assignment shall be maintained by the assignee for each bond issued by the assignee for which the assignment applies."

Page 5, strike lines 16 through 27.

Page 6, strike lines 1 through 9 and substitute the following:

~~"(6) (a) No application for an allocation shall be complete unless it is accompanied by an application fee. The amount of such fee shall be determined and collected by the executive director. All fees collected pursuant to this paragraph (a) shall be transmitted to the state treasurer, who shall credit the same to the private activity bond allocations fund created in paragraph (b) of this subsection (6). The general assembly shall make annual appropriations from the general fund for expenditures of the executive director incurred in the performance of his or her duties under this article.~~

~~(b) (I) In addition to the application fee required pursuant to paragraph (a) of this subsection (6), the department may charge an administrative fee to entities other than local governments that receive bonding authority from the committee. The executive director shall determine the amount of the fee annually based on the costs associated with the administration of this article and shall be responsible for the collection of the fee. The fees collected pursuant to this paragraph (b) shall be transmitted to the state treasurer, who shall credit the same to the private activity bond allocations fund, which fund is hereby created in the state treasury. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of the administration of this article:"~~

strike line 14 and substitute the following:

"REVIEW OF APPLICATIONS FOR BONDING AUTHORITY FROM THE STATEWIDE BALANCE FOR INDUSTRIAL DEVELOPMENT BONDS.

SECTION 5. Part 17 of article 32 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-32-1709.5. Administrative costs of the department - private activity bond allocation fund - creation - rule. (1) THE DEPARTMENT MAY CHARGE AND COLLECT THE FOLLOWING ADMINISTRATIVE FEES FOR THE COSTS ASSOCIATED WITH THE ADMINISTRATION OF THIS PART 17:

(a) **The direct allocation fee.** THE DEPARTMENT MAY CHARGE AN ADMINISTRATIVE FEE TO ENTITIES THAT RECEIVE DIRECT ALLOCATIONS OF BONDING AUTHORITY AS SPECIFIED IN SECTION 24-32-1704. THE EXECUTIVE DIRECTOR SHALL ANNUALLY DETERMINE THE AMOUNT OF THE FEE. IN NO EVENT SHALL THE AMOUNT OF THE FEE SPECIFIED IN THIS PARAGRAPH (a) BE SET SO AS TO REIMBURSE THE DEPARTMENT FOR MORE

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THAN THIRTY PERCENT OF THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THIS PART 17. NO FEE SHALL BE CHARGED TO ENTITIES THAT RECEIVE DIRECT ALLOCATIONS OF BONDING AUTHORITY AS SPECIFIED IN SECTION 24-32-1704 UNLESS AND UNTIL THE ALLOCATION IS USED BY THOSE ENTITIES TO ISSUE PRIVATE ACTIVITY BONDS.

(b) **The statewide balance application fee.** NO APPLICATION FOR AN ALLOCATION REQUIRED BY SECTION 24-32-1707 SHALL BE COMPLETE UNLESS IT IS ACCOMPANIED BY AN APPLICATION FEE. THE EXECUTIVE DIRECTOR SHALL DETERMINE THE AMOUNT OF THE FEE.

(c) **The statewide balance issuance fee.** THE DEPARTMENT MAY CHARGE AN ADMINISTRATIVE FEE TO ENTITIES THAT RECEIVE BONDING AUTHORITY FROM THE STATEWIDE BALANCE AS SPECIFIED IN SECTION 24-32-1707. THE EXECUTIVE DIRECTOR SHALL ANNUALLY DETERMINE THE AMOUNT OF THE FEE BASED ON THE COSTS ASSOCIATED WITH THE ADMINISTRATION OF THIS PART 17. THE FEE SHALL NOT BE CHARGED TO ENTITIES USING THE BONDING AUTHORITY TO ISSUE MORTGAGE CREDIT CERTIFICATES IN CONNECTION WITH A QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM WITHIN THE MEANING OF SECTION 25 (a) (2) OF THE CODE.

(2) (a) THE FEES COLLECTED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE FEES TO THE PRIVATE ACTIVITY BOND ALLOCATIONS FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY AND REFERRED TO IN THIS SUBSECTION (2) AS THE "FUND". THE MONEYS IN THE FUND SHALL BE SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE ADMINISTRATION OF THIS PART 17. ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

(b) THE FUND IS EXCLUDED FROM THE LIMITATIONS SPECIFIED IN SECTION 24-75-402. THE FUND'S TARGET RESERVE SHALL BE THREE TIMES THE LEVEL OF THE PRIOR YEAR'S SPENDING AUTHORITY FROM THE FUND. THE UNCOMMITTED RESERVES OF THE FUND SHALL NOT EXCEED THE TARGET RESERVE. IF THE AMOUNT OF UNCOMMITTED RESERVES OF THE FUND AT THE CONCLUSION OF ANY GIVEN FISCAL YEAR EXCEEDS THE TARGET RESERVE, THE EXECUTIVE DIRECTOR SHALL REDUCE THE AMOUNT OF ONE OR MORE OF THE FEES SPECIFIED IN SUBSECTION (1) OF THIS SECTION TO AN AMOUNT CALCULATED TO RESULT IN AN AMOUNT OF UNCOMMITTED RESERVES OF THE FUND FOR THE CURRENT FISCAL YEAR THAT DOES NOT EXCEED THE TARGET RESERVE. IN CALCULATING THE REDUCTION IN FEES, THE EXECUTIVE DIRECTOR MAY TAKE INTO ACCOUNT ANY INCREASES IN SPENDING AUTHORITY FROM THE FUND. IF THE EXECUTIVE DIRECTOR REDUCES THE AMOUNT OF A FEE PURSUANT TO THIS PARAGRAPH (b), THE EXECUTIVE DIRECTOR MAY SUBSEQUENTLY RAISE THE AMOUNT OF THE FEE SO LONG AS THE PROJECTED AMOUNT OF UNCOMMITTED RESERVES OF THE FUND DOES NOT EXCEED THE TARGET RESERVE. THE EXECUTIVE DIRECTOR SHALL NOT INCREASE THE FEE BEYOND ANY LIMITS SPECIFIED IN SUBSECTION (1) OF THIS SECTION.

(3) THE EXECUTIVE DIRECTOR MAY PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE TO THE EXTENT NECESSARY FOR THE ADMINISTRATION OF THIS PART 17.

SECTION 6. 24-75-402 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-75-402. Cash funds - limit on uncommitted reserves - reduction in amount of fees - exclusions. (5) Notwithstanding any provision of this section to the contrary, the following cash funds are excluded from the limitations specified in this section:

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(w) THE PRIVATE ACTIVITY BOND ALLOCATIONS FUND CREATED IN SECTION 24-32-1709.5 (2).".

Renumber succeeding section accordingly.

State, Veterans, & Military Affairs

After consideration on the merits, the Committee recommends that **SB09-008** be postponed indefinitely.

State, Veterans, & Military Affairs

After consideration on the merits, the Committee recommends that **SB09-082** be postponed indefinitely.

State, Veterans, & Military Affairs

After consideration on the merits, the Committee recommends that **SB09-083** be postponed indefinitely.

State, Veterans, & Military Affairs

After consideration on the merits, the Committee recommends that **SB09-065** be referred to the Committee of the Whole with favorable recommendation.

Judiciary

After consideration on the merits, the Committee recommends that **09-035** 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 3, strike " VIOLATES A PROVISION OF" and substitute "KNOWINGLY COMMITS AN ACT PROSCRIBED IN".

Judiciary

After consideration on the merits, the Committee recommends that **SB09-060** be referred to the Committee of the Whole with favorable recommendation.

GENERAL ORDERS -- SECOND READING OF BILLS -- CONSENT CALENDAR

SB09-059

by Senator(s) Schwartz, Brophy, Mitchell, Shaffer B., Veiga; also Representative(s) Gardner B., Labuda, Levy, McGihon, Roberts--Concerning the enactment of Colorado Revised Statutes 2008 as the positive and statutory law of the state of Colorado.

Laid over until Friday, January 30, retaining its place on the calendar.

SB09-047

by Senator(s) Newell; also Representative(s) Roberts--Concerning the oversight of crime victim services, and, in connection therewith, creating the crime victim services advisory board and repealing the victims compensation and assistance coordinating committee and the victims assistance and law enforcement advisory board.

Laid over until Friday, January 30, retaining its place on the calendar.

SB09-017

by Senator(s) Tochtrop, Morse; also Representative(s) Riesberg, Benefield, Labuda, Peniston, Rice--Concerning firefighter and police officer disability and survivor benefits.

Laid over until Friday, January 30, retaining its place on the calendar.

GENERAL ORDERS -- SECOND READING OF BILLS

- SB09-064** by Senator(s) King K., Romer, Bacon, Groff, Heath, Hudak, Kopp, Spence, Williams; also Representative(s) Massey, Merrifield, Baumgardner, Benefield, Gardner B., Middleton, Murray, Peniston, Priola, Scanlan, Schafer S., Solano, Summers, Todd--Concerning building inspections relating to utilities.
Laid over until Friday, January 30, retaining its place on the calendar.
- SB09-038** by Senator(s) Hudak, Boyd, Morse, Shaffer B.; also Representative(s) Marostica--Concerning technical changes to judicial fees.
Laid over until Friday, January 30, retaining its place on the calendar.
- SB09-007** by Senator(s) Veiga; also Representative(s) Riesberg--Concerning making certain duties related to the involuntary commitment process for substance abusers solely the authority of a licensed physician.
Laid over until Friday, January 30, retaining its place on the calendar.
- SB09-043** by Senator(s) Isgar, Kester, Tapia; also Representative(s) Roberts, Massey, McFadyen, Pace, Tipton--Concerning the merger of Pueblo community college and San Juan basin area vocational school, and, in connection therewith, clarifying the two-year authority of Fort Lewis college and making an appropriation.
Laid over until Friday, January 30, retaining its place on the calendar.
- SB09-080** by Senator(s) Isgar, Romer, White; also Representative(s) Looper--Concerning limited exemptions for water collected from certain residential rooftops.
Laid over until Friday, January 30, retaining its place on the calendar.
- SB09-084** by Senator(s) Scheffel; also Representative(s) Scanlan--Concerning documents related to the role of the office of the secretary of state as filing office for secured transactions.
Laid over until Friday, January 30, retaining its place on the calendar.
- SB09-040** by Senator(s) Hodge; also Representative(s) Soper--Concerning the regulation of manufactured homes.
Laid over until Friday, January 30, retaining its place on the calendar.

CONSIDERATION OF RESOLUTIONS

- HJR09-1005** by Representative(s) Judd; also Senator(s) Sandoval--Concerning the certification by the general assembly of its estimate of state general fund revenues and allowable state general fund appropriations for the 2009-10 fiscal year.
Amendment No. 1(L.001), by Senator Brophy.
Amend engrossed joint resolution, page 3, line 6, strike "\$7,260.8 million." and substitute "\$7,110.0 million."

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

YES	12	NO	22	EXCUSED	1	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	E	Keller	N	Renfroe	Y	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	N
Heath	N	Mitchell	Y	Schwartz	N		

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

YES	22	NO	12	EXCUSED	1	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	E	Keller	Y	Renfroe	N	Tochtrop	Y
Carroll M.	Y	Kester	N	Romer	Y	Veiga	Y
Foster	Y	King K.	N	Sandoval	Y	White	Y
Gibbs	Y	Kopp	N	Scheffel	N	Williams	Y
Harvey	N	Lundberg	N	Schultheis	N	President	Y
Heath	Y	Mitchell	N	Schwartz	Y		

SR09-008 by Senator(s) Newell; --Concerning A Season for Nonviolence.

Laid over until Friday, January 30, retaining its place on the calendar.

SENATE SERVICES REPORT

Correctly Printed: SB09-154, 155, 156 and 157; SR09-008.

On motion of Senator Shaffer, the Senate adjourned until 9:00 a.m., Friday, January 30, 2009.

Approved:

Peter C. Groff
President of the Senate

Attest:

Karen Goldman
Secretary of the Senate

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