

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

One hundred-seventh Legislative Day Thursday, April 29, 2010

1 Prayer by Dr. Gary Bowser, First Baptist Church, Denver.
2
3 The Speaker called the House to order at 9:00 a.m.
4
5 Pledge of Allegiance led by Kerry McCauley, Flynn Elementary,
6 Westminster.
7
8 The roll was called with the following result:
9
10 Present--58.
11 Excused--Representative(s) Acree, Kagan, Merrifield, Scanlan,
12 Stephens, Swalm, Todd--7.
13 Present after roll call--Representative(s) Acree, Kagan,
14 Merrifield, Scanlan, Stephens, Swalm.

15
16 The Speaker declared a quorum present.

17 _____
18
19 On motion of Representative Murray, the reading of the journal of
20 April 28, 2010, was declared dispensed with and approved as corrected
21 by the Chief Clerk.

22 _____
23
24
25 style="text-align:center">**CONSIDERATION OF RESOLUTION(S)**

26
27 **HJR10-1029** by Representative(s) Fischer, Kefalas, Levy; also
28 Senator(s) Bacon--Concerning the intent of the general
29 assembly to prevent distracted driving.

30
31 (Printed and placed in members' file)

32
33 On motion of Representative Fischer, the resolution was **adopted by viva**
34 **voce** vote.

35
36 Co-sponsor(s) added: Representative(s) Apuan, Benefield, Court, Hullinghorst,
37 Kerr A., Labuda, Miklosi, Pace, Peniston, Rice, Riesberg, Ryden, Schafer S.,
38 Weissmann.

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1 **THIRD READING OF BILL(S)--FINAL PASSAGE**

2
3 The following bill(s) was(were) considered on Third Reading. The
4 title(s) was(were) publicly read. Reading of the bill at length was
5 dispensed with by unanimous consent.

6
7 **HB10-1404** by Representative(s) McCann; also Senator(s) Steadman--
8 Concerning the administration of the independent ethics
9 commission.

10
11 The question being "Shall the bill pass?".
12 A roll call vote was taken. As shown by the following recorded vote, a
13 majority of those elected to the House voted in the affirmative and the bill
14 was declared **passed**.

	YES	62	NO	0	EXCUSED	3	ABSENT	0
17	Acree	Y	Gerou	Y	McFadyen	Y	Ryden	Y
18	Apuan	Y	Hullinghorst	Y	McKinley	Y	Scanlan	Y
19	Balmer	Y	Judd	Y	McNulty	Y	Schafer S.	Y
20	Baumgardner	Y	Kagan	E	Merrifield	Y	Solano	Y
21	Benefield	Y	Kefalas	Y	Middleton	Y	Sonnenberg	Y
22	Bradford	Y	Kerr A.	Y	Miklosi	Y	Soper	Y
23	Casso	Y	Kerr J.	Y	Murray	Y	Stephens	E
24	Court	Y	King S.	Y	Nikkel	Y	Summers	Y
25	Curry	Y	Labuda	Y	Pace	Y	Swalm	Y
26	DelGrosso	Y	Lambert	Y	Peniston	Y	Tipton	Y
27	Ferrandino	Y	Levy	Y	Pommer	Y	Todd	E
28	Fischer	Y	Liston	Y	Primavera	Y	Tyler	Y
29	Frangas	Y	Looper	Y	Priola	Y	Vaad	Y
30	Gagliardi	Y	Massey	Y	Rice	Y	Vigil	Y
31	Gardner B.	Y	May	Y	Riesberg	Y	Waller	Y
32	Gardner C.	Y	McCann	Y	Roberts	Y	Weissmann	Y
33							Speaker	Y

34 Co-sponsor(s) added: Representative(s) Court, Labuda, Ryden, Solano, Vigil.

35
36 **HB10-1405** by Representative(s) Vaad and Pommer, Baumgardner,
37 King S., Liston, Looper, May, McKinley, McNulty,
38 Primavera, Swalm; also Senator(s) Spence and Tochtrop--
39 Concerning a study of the options for devolution of state
40 highways that are commuter highways to local
41 governments.

42
43 The question being "Shall the bill pass?".
44 A roll call vote was taken. As shown by the following recorded vote, a
45 majority of those elected to the House voted in the affirmative and the bill
46 was declared **passed**.

	YES	59	NO	3	EXCUSED	3	ABSENT	0
49	Acree	Y	Gerou	Y	McFadyen	Y	Ryden	Y
50	Apuan	Y	Hullinghorst	Y	McKinley	Y	Scanlan	Y
51	Balmer	Y	Judd	Y	McNulty	Y	Schafer S.	Y
52	Baumgardner	Y	Kagan	E	Merrifield	Y	Solano	Y
53	Benefield	Y	Kefalas	Y	Middleton	Y	Sonnenberg	Y
54	Bradford	Y	Kerr A.	Y	Miklosi	Y	Soper	Y
55	Casso	Y	Kerr J.	Y	Murray	Y	Stephens	E
56	Court	Y	King S.	Y	Nikkel	Y	Summers	Y

1	Curry	Y	Labuda	N	Pace	Y	Swalm	Y
2	DelGrosso	Y	Lambert	Y	Peniston	Y	Tipton	Y
3	Ferrandino	Y	Levy	Y	Pommer	Y	Todd	E
4	Fischer	N	Liston	Y	Primavera	Y	Tyler	Y
5	Frangas	N	Looper	Y	Priola	Y	Vaad	Y
6	Gagliardi	Y	Massey	Y	Rice	Y	Vigil	Y
7	Gardner B.	Y	May	Y	Riesberg	Y	Waller	Y
8	Gardner C.	Y	McCann	Y	Roberts	Y	Weissmann	Y
9							Speaker	Y

10 Co-sponsor(s) added: Representative(s) Bradford, Ferrandino, Gerou,
 11 Hullinghorst, Kerr J., Lambert, McFadyen, Murray, Pace, Priola, Tipton, Vigil,
 12 Weissmann.

13
 14
 15
 16 **MESSAGE(S) FROM THE SENATE**

17
 18 The Senate has adopted and transmits herewith: SJR10-041.
 19

20
 21
 22 **INTRODUCTION AND CONSIDERATION OF RESOLUTION**

23
 24 On motion of Representative Weissmann, the rules were suspended and
 25 the following resolution was given immediate consideration.

26
 27 **SJR10-041** by Senator(s) Boyd, Hodge, Tochtrop; also
 28 Representative(s) Riesberg, Gagliardi, Priola--Concerning
 29 the designation of University of Colorado Hospital as a
 30 magnet hospital by the American Nurses Credentialing
 31 Center, which recognizes nursing excellence.

32
 33 (Printed and placed in member's file).

34
 35 On motion of Representative Riesberg, the resolution was read at length
 36 and **adopted** by **viva voce** vote.

37
 38 Current Roll Call added as co-sponsor(s): Representative(s) Acree, Apuan,
 39 Balmer, Baumgardner, Benefield, Bradford, Casso, Court, Curry, DelGrosso,
 40 Ferrandino, Fischer, Frangas, Gardner B., Gardner C., Gerou, Hullinghorst,
 41 Judd, Kefalas, Kerr A., Kerr J., King S., Labuda, Lambert, Levy, Liston,
 42 Looper, Massey, May, McCann, McFadyen, McKinley, McNulty, Merrifield,
 43 Middleton, Miklosi, Murray, Nikkel, Pace, Peniston, Pommer, Primavera, Rice,
 44 Roberts, Ryden, Scanlan, Schafer S., Solano, Sonnenberg, Soper, Summers,
 45 Swalm, Tipton, Tyler, Vaad, Vigil, Waller, Weissmann, Speaker.

46
 47
 48
 49
 50 On motion of Representative Riesberg, the House resolved itself into
 51 Committee of the Whole for consideration of General Orders, and he was
 52 called to the Chair to act as Chairman.

53
 54
 55
 56

GENERAL ORDERS--SECOND READING OF BILLS

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

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

HB10-1217 by Representative(s) McKinley, McFadyen, Looper, Pace, Vigil; also Senator Kester--Concerning the repeal of the authority of the executive director of the department of human services to sell the Trinidad state nursing home.

Amendment No. 1, by Representative(s) Kerr J., McKinley.

Amend printed bill, strike everything below the enacting clause and substitute the following:

"SECTION 1. 26-12-112 (5), Colorado Revised Statutes, is amended to read:

26-12-112. Powers and duties of state department - repeal.

(5) (a) The executive director shall have the authority, ON AND AFTER APRIL 30, 2011, to transfer title to any real or personal property at the Trinidad state nursing home, established pursuant to section 26-12-201, on terms and conditions he or she deems appropriate. In the process of transferring the property pursuant to this subsection (5), the executive director shall work in consultation with the board of county commissioners for Las Animas county and shall encourage and entertain bids that include an assurance of continuity of care for residents and an employee retention plan. In making a decision, the state department shall consider any independent feasibility study that may be conducted by or on behalf of any Trinidad or Las Animas county organization and shall make available upon request any nonconfidential information concerning the Trinidad state nursing home that may be needed for such feasibility study.

(b) Any proceeds from the sale of property pursuant to paragraph (a) of this subsection (5) shall be deposited in the central fund and applied toward projects and programs for state nursing homes.

(c) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JULY 1, 2012.

SECTION 2. Repeal. 26-12-201 (1) (b), Colorado Revised Statutes, is repealed.

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."

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

1 **HB10-1113** by Representative(s) McFadyen, Sonnenberg, Vaad; also
2 Senator(s) Hodge, Kester--Concerning the modification of
3 agencies that perform oversight of the commercial vehicle
4 industry through a transfer of the ports of entry section in
5 the department of revenue to the Colorado state patrol in
6 the department of public safety by a type 2 transfer.
7

8 Amendment No. 1, by Representative(s) McFadyen.
9 Amend printed bill, strike everything below the enacting clause and
10 substitute:
11

12 **"SECTION 1. Legislative declaration - intent.** (1) The general
13 assembly hereby finds and declares that:
14

15 (a) Although the ports of entry section is currently operated by the
16 department of revenue, many duties and functions of the ports of entry
17 section are also performed by the Colorado state patrol in the department
18 of public safety;
19

20 (b) The motor carrier safety assistance program of the port of
21 entry section of the department of revenue would operate more efficiently
22 if consolidated within the Colorado state patrol in the department of
23 public safety;
24

25 (c) Such a transfer would promote operational efficiency and
26 programmatic consolidation of state safety inspection and enforcement
27 responsibilities by assigning program administration to a single agency;
28

29 (d) Such a transfer would improve traffic safety by implementing
30 a broader and more effective commercial vehicle safety enforcement
31 program because more state troopers would be strategically located
32 throughout the state; and
33

34 (e) Certain statutory changes are required to clarify the authority
35 of the department of revenue and the Colorado state patrol in the
36 department of public safety as the authority of those departments relate
37 to the ports of entry.
38

39 (2) Therefore, it is the intent of the general assembly that:
40

41 (a) Such a transfer be completed prior to the implementation of
42 the "CSA 2010" initiative by the federal motor carrier safety
43 administration; and
44

45 (b) That the department of public safety, in coordination with the
46 department of revenue and the department of transportation, initiate a
47 study to examine additional efficiencies within the port of entry section,
48 as specified in section 2 of this act.
49

50 **SECTION 2.** Part 1 of article 33.5 of title 24, Colorado Revised
51 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
52 read:
53

54 **24-33.5-111. Motor carrier safety assistance - study.** (1) ON
55 AUGUST 15, 2010, THE MOTOR CARRIER SAFETY INSPECTION PROGRAM OF
56 THE PORTS OF ENTRY SECTION IN THE DEPARTMENT OF REVENUE IS HEREBY

1 TRANSFERRED TO THE DEPARTMENT OF PUBLIC SAFETY AND ALLOCATED
2 TO THE COLORADO STATE PATROL.

3
4 (2) NO LATER THAN JULY 1, 2010, THE DEPARTMENT OF PUBLIC
5 SAFETY, IN COLLABORATION WITH THE DEPARTMENT OF TRANSPORTATION
6 AND THE DEPARTMENT OF REVENUE, SHALL ISSUE A REQUEST FOR
7 PROPOSAL FOR A PERFORMANCE STUDY TO BE CONDUCTED BY AN
8 INDEPENDENT PRIVATE VENDOR, SUBJECT TO AVAILABLE APPROPRIATIONS.
9 THE DEPARTMENTS SHALL WORK COOPERATIVELY TO DETERMINE THE
10 SCOPE OF THE STUDY AND THE INDEPENDENT PRIVATE VENDOR SHALL
11 REQUEST AND CONSIDER INPUT FROM POTENTIALLY IMPACTED PARTIES
12 DURING THE COURSE OF THE STUDY. THE STUDY SHALL INCLUDE, BUT NOT
13 BE LIMITED TO, AN EXAMINATION OF THE PORTS OF ENTRY OPERATIONS,
14 INFRASTRUCTURE, MANAGEMENT, POTENTIAL COST SAVINGS OR
15 EFFICIENCIES, AS WELL AS HOW THE PORT OF ENTRY SECTION MAY
16 MAXIMIZE RESOURCES AND TECHNOLOGY. THE STUDY SHALL ALSO
17 DETERMINE WHICH PRINCIPAL DEPARTMENT IS MOST APPROPRIATE FOR
18 OPERATING THE PORTS OF ENTRY SECTION IN A COST-EFFECTIVE MANNER.
19 THE INDEPENDENT PRIVATE VENDOR SHALL COMPLETE THE PERFORMANCE
20 REVIEW AND REPORT ITS FINDINGS TO THE TRANSPORTATION COMMITTEES
21 OF THE SENATE AND THE HOUSE OF REPRESENTATIVES NO LATER THAN
22 JUNE 1, 2011.

23
24 **SECTION 3.** 42-8-104 (2), Colorado Revised Statutes, is
25 amended to read:

26
27 **42-8-104. Powers and duties.** (2) The personnel of a port of
28 entry weigh station, during the time that they are actually engaged in
29 performing their duties as such and while acting under proper orders or
30 regulations issued by the executive director of the department of revenue,
31 shall have and exercise all the powers invested in peace officers in
32 connection with the enforcement of the provisions of this article, ~~articles~~
33 ~~2 and 20~~ ARTICLE 2, PARTS 2, 3, AND 5 OF ARTICLE 20 of this title, part 5
34 of article 4 of this title, and sections 42-3-107 (17), 42-4-225 (1.5), and
35 42-4-235; except that they shall not have the power to serve civil writs
36 and process and, in the exercise of their duties, such personnel shall have
37 the authority to restrain and detain persons or vehicles and may impound
38 any vehicle until any tax or license fee imposed by law is paid or until
39 compliance is had with any tax or regulatory law or regulation issued
40 thereunder.

41
42 **SECTION 4.** 42-8-111 (2) (b) (II), Colorado Revised Statutes, is
43 amended to read:

44
45 **42-8-111. Cooperative agreements with contiguous states for**
46 **operations of ports of entry - regulations.** (2) An agreement with a
47 contiguous state or contiguous states for the operation of ports of entry at
48 the borders between Colorado and such contiguous state or states entered
49 into under the provisions of this section may include, but shall not be
50 limited to, the following provisions:

51
52 (b) A grant of authority to the port of entry employees and
53 officials of Colorado and to the port of entry employees and officials of
54 each other state which is a party to such agreement to:

55
56 (II) Take actions to enforce the laws of other states ~~which~~ THAT

1 are parties to the agreement, including, but not limited to, the monitoring
2 of licenses and other credential usage, the enforcement of tax restraint,
3 distraint, or levy orders, the issuance of civil citations, and the conduct of
4 any necessary safety and equipment inspections. PORT OF ENTRY
5 PERSONNEL SHALL HAVE AND MAINTAIN THE AUTHORITY TO ENFORCE THE
6 PROVISIONS OF SECTION 42-4-1414 REGARDING THE PROHIBITION ON THE
7 USE OF DYED FUEL ON COLORADO HIGHWAYS.

8
9 **SECTION 5.** 42-20-404, Colorado Revised Statutes, is amended
10 to read:

11
12 **42-20-404. Inspections.** All vehicles carrying nuclear materials
13 entering the state on the public highways shall be inspected by ~~port of~~
14 ~~entry personnel or~~ Colorado state patrol officers at the ~~port of entry weigh~~
15 ~~station~~ nearest the point at which the shipment enters the state or at a
16 location specified by the Colorado state patrol. For all shipments
17 originating within the state, inspection shall be made at the point of
18 origination by Colorado state patrol officers. All such inspections
19 conducted by ~~port of entry weigh station personnel and~~ Colorado state
20 patrol officers shall be in accordance with the rules promulgated pursuant
21 to sections 42-4-235, 42-20-108 (2), and 42-20-403.

22
23 **SECTION 6.** 42-20-406 (1) and (2), Colorado Revised Statutes,
24 are amended to read:

25
26 **42-20-406. Violations - civil penalties - motor vehicles.**
27 (1) Any person who violates any provision of this part 4 or part 5 of this
28 article or a rule or regulation promulgated by the chief pursuant to this
29 part 4 and part 5 of this article, except for the violations enumerated in
30 subsection (3) of this section and section 42-20-505, shall be subject to
31 a civil penalty of not more than ten thousand dollars per day for each day
32 during which such violation occurs. The penalty shall be assessed by the
33 chief upon receipt of a complaint by any investigative personnel of the
34 commission ~~port of entry personnel~~, or Colorado state patrol officer and
35 after written notice and an opportunity for a hearing pursuant to section
36 24-4-105, C.R.S. Payment of a civil penalty under this section shall not
37 relieve any person from liability pursuant to article 11 of title 25, part 3
38 of article 15 of title 25, or article 22 of title 29, C.R.S. Any person who
39 is assessed a penalty pursuant to this subsection (1) shall have the right
40 to appeal the chief's decision by filing a notice of appeal with the court
41 of appeals as specified in section 24-4-106 (11), C.R.S.

42
43 (2) Any person who commits any of the acts enumerated in
44 subsection (3) of this section shall be subject to the civil penalty listed in
45 said subsection (3). ~~Ports of entry personnel~~, Investigative personnel of
46 the commission, and officers of the Colorado state patrol shall have the
47 authority to issue civil penalty assessments for the enumerated violations.
48 At any time that a person is cited for a violation enumerated in subsection
49 (3) of this section, the person in charge of or operating the motor vehicle
50 involved shall be given a notice in the form of a civil penalty assessment
51 notice. Such notice shall be tendered by the enforcement official and
52 shall contain the name and address of such person, the license number of
53 the motor vehicle involved, if any, the number of such person's driver's
54 license, the nature of the violation, the amount of the penalty prescribed
55 for such violation, the date of the notice, a place for such person to
56 execute a signed acknowledgment of his or her receipt of the civil

1 penalty assessment notice, a place for such person to execute a signed
2 acknowledgment of liability for the cited violation, and such other
3 information as may be required by law to constitute such notice as a
4 complaint to appear in court should the prescribed penalty not be paid
5 within ten days. Every cited person shall execute the signed
6 acknowledgment of his or her receipt of the civil penalty assessment
7 notice. The acknowledgment of liability shall be executed at the time the
8 cited person pays the prescribed penalty. The person cited shall pay the
9 civil penalty specified in subsection (3) of this section for the violation
10 involved at the office of the department of revenue either in person or by
11 postmarking such payment within ten days of the citation. The
12 department of revenue shall accept late payment of any penalty
13 assessment up to twenty days after such payment becomes due. If the
14 person cited does not pay the prescribed penalty within ten days of the
15 notice, the civil penalty assessment notice shall constitute a complaint to
16 appear in court unless payment for such penalty assessment has been
17 accepted by the department of revenue as evidenced by receipt, and the
18 person cited shall, within the time specified in the civil penalty
19 assessment notice, file an answer to this complaint with the county court
20 for the county in which the penalty assessment was issued. The attorney
21 general shall represent the state agency that issued the civil penalty
22 assessment notice if so requested by the agency.
23

24 **SECTION 7. Appropriation - adjustments to the 2010 long**
25 **bill.** (1) In addition to any other appropriation, there is hereby
26 appropriated, out of any moneys in the highway users tax fund pursuant
27 to section 43-4-201 (3) (a) (III) (C), Colorado Revised Statutes, not
28 otherwise appropriated, to the department of public safety, for allocation
29 to the Colorado state patrol, for the fiscal year beginning July 1, 2010, the
30 sum of two hundred fifty-five thousand eleven dollars (\$255,011) cash
31 funds, or so much thereof as may be necessary, for the implementation of
32 this act.
33

34 (2) For the implementation of this act, appropriations made in the
35 annual general appropriation act for the fiscal year beginning July 1,
36 2010, shall be adjusted as follows:
37

38 (a) The appropriation to the department of public safety, executive
39 directors office, for centrally appropriated line items, is increased by nine
40 thousand six hundred twenty-five dollars (\$9,625) cash funds. Said cash
41 funds shall be from the highway users tax fund pursuant to section
42 43-4-201 (3) (a) (III) (C), Colorado Revised Statutes.
43

44 (b) The appropriation to the department of public safety, Colorado
45 state patrol, is increased by eight hundred thousand eight hundred
46 ninety-one dollars (\$800,891) total funds and 8.8 FTE. Of said sum,
47 thirty thousand seven hundred seventy dollars (\$30,770) shall be cash
48 funds from the highway users tax fund pursuant to section 43-4-201 (3)
49 (a) (III) (C), Colorado Revised Statutes, twenty-nine thousand one
50 hundred seventy-six dollars (\$29,176) shall be cash funds from the
51 nuclear materials transportation fund created in section 42-20-511,
52 Colorado Revised Statutes, seventy-three thousand three hundred
53 sixty-four dollars (\$73,364) shall be reappropriated funds from the motor
54 carrier safety assistance program, and six hundred sixty-seven thousand
55 five hundred eighty-one dollars (\$667,581) shall be federal funds from
56 the motor carrier safety assistance program grant.

1 (c) The appropriation to the department of revenue, executive
2 directors office, for centrally appropriated line items, is decreased by nine
3 thousand six hundred twenty-five dollars (\$9,625) cash funds. These
4 funds shall be from the highway users tax fund pursuant to section
5 43-4-201 (3) (a) (III) (C), Colorado Revised Statutes.

6
7 (d) The appropriation to the department of revenue, motor carrier
8 services division, is decreased by eight hundred thousand eight hundred
9 ninety-one dollars (\$800,891) total funds and 8.8 FTE. Of said sum,
10 thirty thousand seven hundred seventy dollars (\$30,770) shall be cash
11 funds from the highway users tax fund pursuant to section 43-4-201 (3)
12 (a) (III) (C), Colorado Revised Statutes, twenty-nine thousand one
13 hundred seventy-six dollars (\$29,176) shall be cash funds from the
14 nuclear materials transportation fund created in section 42-20-511,
15 Colorado Revised Statutes, seventy-three thousand three hundred
16 sixty-four dollars (\$73,364) shall be reappropriated funds from the motor
17 carrier safety assistance program, and six hundred sixty-seven thousand
18 five hundred eighty-one dollars (\$667,581) shall be federal funds from
19 the motor carrier safety assistance program grant.

20
21 **SECTION 8. Specified effective date.** This act shall take effect
22 July 1, 2010.

23
24 **SECTION 9. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety."

27
28 Page 1, strike lines 103 through 105 and substitute "A TRANSFER OF THE
29 MOTOR CARRIER SAFETY ASSISTANCE PROGRAM OF THE PORTS OF
30 ENTRY SECTION IN THE DEPARTMENT OF REVENUE TO THE COLORADO
31 STATE PATROL IN THE DEPARTMENT OF PUBLIC SAFETY, AND MAKING
32 AN APPROPRIATION IN CONNECTION THEREWITH."

33
34 As amended, ordered engrossed and placed on the Calendar for Third
35 Reading and Final Passage.

36
37 **HB10-1425** by Representative(s) Miklosi; also Senator Foster--
38 Concerning the exemption from the postretirement
39 employment limit for certain employees of the Denver
40 public school district who are retirees of the public
41 employees' retirement association.

42
43 Ordered engrossed and placed on the Calendar for Third Reading and
44 Final Passage.

45
46 **HB10-1408** by Representative(s) Weissmann; also Senator(s) Morse--
47 Concerning the repeal of statutory directions concerning
48 congressional districts.

49
50 Amendment No. 1, State, Veterans, & Military Affairs Report, dated
51 April 27, 2010, and placed in member's bill file; Report also printed in
52 House Journal, April 28, pages 1478-1479.

53
54 Amendment No. 2, by Representative(s) Weissmann.

55
56 Amend the State, Veterans, and Military Affairs Committee Report, dated

1 April 27, 2010, page 1, strike line 1 and substitute:

2

3 "Amend printed bill, page 2, line 2, strike "**Repeal**".

4

5 Page 2 of the bill, line 3, strike "repealed as follows:" and substitute
6 "amended to read:".

7

8 Page 2 of the bill, strike lines 5 through 7 and substitute:".

9

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

12

13 **HB10-1401** by Representative(s) Ferrandino; also Senator Carroll M.--
14 Concerning the management of information technology in
15 state agencies.

16

17 Amendment No. 1, State, Veterans, & Military Affairs Report, dated
18 April 27, 2010, and placed in member's bill file; Report also printed in
19 House Journal, April 28, pages 1477-1478.

20

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

23

24 On motion of Representative Weissmann, the remainder of the General
25 Orders Calendar (**SB10-028, 178, 126, 189, 186**) was laid over until
26 April 30, retaining place on Calendar.

27

28

29

30 **AMENDMENT(S) TO THE COMMITTEE OF THE WHOLE REPORT**

31

32 Representative Gardner B. moved to amend the Report of the Committee
33 of the Whole to reverse the action taken by the Committee in not adopting
34 the following Gardner B. amendment, to HB10-1408, to show that said
35 amendment passed, and that **HB10-1408**, as amended, passed.

36

37 Amend the State, Veterans, and Military Affairs Committee Report, dated
38 April 27, 2010, page 1, line 1, strike "7" and substitute "11".

39

40 Page 1, after line 4 insert:

41

42 "(a) Not utilize nonneutral factors. For purposes of this section,
43 "nonneutral factors" include political party registration, political party
44 election performance, and other factors that invite the court to speculate
45 about the outcome of an election."

46

47 Page 1, line 5, strike "(a)" and substitute "(b)".

48

49 Page 1, line 14, strike "(b)" and substitute "(c)".

50

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

52

	YES	28	NO	36	EXCUSED	1	ABSENT	0
54	Acree	Y	Gerou	Y	McFadyen	N	Ryden	N
55	Apuan	N	Hullinghorst	N	McKinley	N	Scanlan	N
56	Balmer	Y	Judd	N	McNulty	Y	Schafer S.	N

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

16 Representative Waller moved to amend the Report of the Committee of
 17 the Whole to reverse the action taken by the Committee in not adopting
 18 the following Murray amendment, to HB10-1408, to show that said
 19 amendment passed, and that **HB10-1408**, as amended, passed.

20
 21 Amend the State, Veterans, and Military Affairs Committee Report, dated
 22 April 27, 2010, page 1, line 14, strike "MAY," and substitute "SHALL,".

23
 24 The amendment was declared **lost** by the following roll call vote:

26	YES	28	NO	36	EXCUSED	1	ABSENT	0
27	Acree	Y	Gerou	Y	McFadyen	N	Ryden	N
28	Apuan	N	Hullinghorst	N	McKinley	N	Scanlan	N
29	Balmer	Y	Judd	N	McNulty	Y	Schafer S.	N
30	Baumgardner	Y	Kagan	N	Merrifield	N	Solano	N
31	Benefield	N	Kefalas	N	Middleton	N	Sonnenberg	Y
32	Bradford	Y	Kerr A.	N	Miklosi	N	Soper	N
33	Casso	N	Kerr J.	Y	Murray	Y	Stephens	Y
34	Court	N	King S.	Y	Nikkel	Y	Summers	Y
35	Curry	Y	Labuda	N	Pace	N	Swalm	Y
36	DelGrosso	Y	Lambert	Y	Peniston	N	Tipton	Y
37	Ferrandino	N	Levy	N	Pommer	N	Todd	E
38	Fischer	N	Liston	Y	Primavera	N	Tyler	N
39	Frangas	N	Looper	Y	Priola	Y	Vaad	Y
40	Gagliardi	N	Massey	Y	Rice	N	Vigil	N
41	Gardner B.	Y	May	Y	Riesberg	N	Waller	Y
42	Gardner C.	Y	McCann	N	Roberts	Y	Weissmann	N
43							Speaker	N

44
 45
 46
 47 **ADOPTION OF COMMITTEE OF THE WHOLE REPORT**

48
 49 Passed Second Reading: **HB10-1217 amended, 1113 amended, 1425,**
 50 **1408 amended, 1401 amended.**

51
 52 Laid over until date indicated retaining place on Calendar: **SB10-028,**
 53 **178, 126, 189, 186--April 30, 2010.**

54
 55 The Chairman moved the adoption of the Committee of the Whole
 56 Report. As shown by the following roll call vote, a majority of those

1 elected to the House voted in the affirmative, and the Report was
2 **adopted.**

	YES	39	NO	25	EXCUSED	1	ABSENT	0
5	Acree	N	Gerou	N	McFadyen	Y	Ryden	Y
6	Apuan	Y	Hullinghorst	Y	McKinley	Y	Scanlan	Y
7	Balmer	N	Judd	Y	McNulty	Y	Schafer S.	Y
8	Baumgardner	N	Kagan	Y	Merrifield	Y	Solano	Y
9	Benefield	Y	Kefalas	Y	Middleton	Y	Sonnenberg	N
10	Bradford	N	Kerr A.	Y	Miklosi	Y	Soper	Y
11	Casso	Y	Kerr J.	N	Murray	N	Stephens	N
12	Court	Y	King S.	N	Nikkel	N	Summers	N
13	Curry	Y	Labuda	Y	Pace	Y	Swalm	N
14	DelGrosso	N	Lambert	N	Peniston	Y	Tipton	N
15	Ferrandino	Y	Levy	Y	Pommer	Y	Todd	E
16	Fischer	Y	Liston	N	Primavera	Y	Tyler	Y
17	Frangas	Y	Looper	N	Priola	N	Vaad	N
18	Gagliardi	Y	Massey	Y	Rice	Y	Vigil	Y
19	Gardner B.	N	May	N	Riesberg	Y	Waller	N
20	Gardner C.	N	McCann	Y	Roberts	N	Weissmann	Y
21							Speaker	Y

22
23
24 House in recess. House reconvened.
25

26 **REPORT(S) OF COMMITTEE(S) OF REFERENCE**

27 **BUSINESS AFFAIRS & LABOR**

28
29 After consideration on the merits, the Committee recommends the
30 following:
31

32
33 **HB10-1417** be amended as follows, and as so amended, be referred to
34 the Committee of the Whole with favorable
35 recommendation:
36

37 Amend printed bill, page 3, line 1, strike "APPOINTED BY THE GOVERNOR".
38

39 Page 3, strike lines 2 through 24 and substitute:

40 "(I) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR
41 AND EMPLOYMENT OR HIS OR HER DESIGNEE;
42

43 (II) THE DIRECTOR OF THE CIVIL RIGHTS DIVISION IN THE
44 DEPARTMENT OF REGULATORY AGENCIES OR HIS OR HER DESIGNEE;
45

46 (III) ONE MEMBER REPRESENTING HIGHER EDUCATION WHO HAS
47 EXPERTISE IN PAY EQUITY ISSUES, APPOINTED BY THE GOVERNOR;
48

49 (IV) TWO MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE
50 AS FOLLOWS:
51

52 (A) ONE MEMBER REPRESENTING A STATEWIDE LABOR UNION
53 FEDERATION THAT INCLUDES PRIVATE AND PUBLIC SECTOR UNIONS; AND
54

55 (B) ONE MEMBER REPRESENTING A NATIONAL ORGANIZATION
56 THAT SERVES MINORITY COMMUNITIES AND COMMUNITIES OF COLOR;

1 (V) TWO MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF
2 REPRESENTATIVES AS FOLLOWS:

3
4 (A) ONE MEMBER OF A WOMEN'S NATIONAL ASSOCIATION OR
5 ORGANIZATION; AND

6
7 (B) ONE MEMBER WHO IS AN ATTORNEY WITH EXPERIENCE IN
8 LABOR AND EMPLOYMENT ISSUES, IS AN ACTIVE MEMBER OF A STATEWIDE
9 ASSOCIATION OF ATTORNEYS, AND REPRESENTS EMPLOYEES;

10
11 (VI) ONE MEMBER REPRESENTING A BUSINESS ASSOCIATION,
12 APPOINTED BY THE MINORITY LEADER OF THE SENATE;

13
14 (VII) ONE MEMBER REPRESENTING A CHAMBER OF COMMERCE OR
15 A CONSORTIUM OF CHAMBERS OF COMMERCE, APPOINTED BY THE
16 MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES;

17
18 (VIII) ONE MEMBER WHO IS A PRIVATE, FOR-PROFIT EMPLOYER
19 WITH FEWER THAN FIFTEEN EMPLOYEES, APPOINTED JOINTLY BY THE
20 MINORITY LEADERS OF THE SENATE AND HOUSE OF REPRESENTATIVES; AND

21
22 (IX) ONE MEMBER WHO IS A PRIVATE, FOR-PROFIT EMPLOYER WITH
23 FIFTEEN OR MORE EMPLOYEES, APPOINTED JOINTLY AND WITH THE
24 UNANIMOUS CONSENT OF THE PRESIDENT AND MINORITY LEADER OF THE
25 SENATE AND THE SPEAKER AND MINORITY LEADER OF THE HOUSE OF
26 REPRESENTATIVES.

27
28 (b) (I) THE INITIAL APPOINTMENTS TO THE COMMISSION SHALL BE
29 MADE WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.
30 IF THE APPOINTING AUTHORITY FOR A PARTICULAR POSITION ON THE
31 COMMISSION FAILS TO APPOINT A PERSON TO FILL THE POSITION BY THE
32 NINETIETH DAY AFTER THE EFFECTIVE DATE OF THIS SECTION, THE
33 COMMISSION, BY A MAJORITY VOTE OF THE MEMBERS APPOINTED BY SUCH
34 DATE, SHALL SELECT A QUALIFIED PERSON TO FILL THE POSITION.
35 MEMBERS OF THE COMMISSION SHALL".

36
37 Page 4, line 1, strike "GOVERNOR" and substitute "APPOINTING AUTHORITY
38 FOR THAT POSITION ON THE COMMISSION".

39
40 Page 4, line 2, strike "GOVERNOR" and substitute "APPOINTING
41 AUTHORITY".

42
43 Page 5, line 17, strike "THE BUSINESS, LABOR, AND TECHNOLOGY".

44
45 Page 5, strike lines 18 and 19.

46
47 Page 5, line 20, strike "COMMITTEES,".

48
49 Page 5, line 27, after "INFORMATION." add "THE EXECUTIVE DIRECTOR OF
50 THE DEPARTMENT SHALL PRESENT THE WRITTEN REPORT TO THE BUSINESS,
51 LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE AND THE BUSINESS
52 AFFAIRS AND LABOR COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR
53 THEIR SUCCESSOR COMMITTEES. FOLLOWING PRESENTATION OF THE
54 REPORT TO THE LEGISLATIVE COMMITTEES, THE DEPARTMENT SHALL POST
55 THE REPORT ON ITS WEB SITE.".

56

1 **EDUCATION**

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

4
5 **HB10-1345** be amended as follows, and as so amended, be referred to
6 the Committee of the Whole with favorable
7 recommendation:

8
9 Amend printed bill, strike everything below the enacting clause and
10 substitute:

11
12 **"SECTION 1.** 22-2-113 (1), Colorado Revised Statutes, is
13 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

14
15 **22-2-113. Commissioner - powers.** (1) Subject to the
16 supervision of the state board, the commissioner has the following
17 powers:

18
19 (i) TO ISSUE EMERGENCY ORDERS CONCERNING A CHARTER
20 SCHOOL PURSUANT TO SECTION 22-30.5-603.

21
22 **SECTION 2.** Article 30.5 of title 22, Colorado Revised Statutes,
23 is amended BY THE ADDITION OF A NEW PART to read:

24
25 **PART 6**
26 **EMERGENCY POWERS**

27
28 **22-30.5-601. Short title.** THIS PART 6 SHALL BE KNOWN AND MAY
29 BE CITED AS THE "CHARTER SCHOOL EMERGENCY POWERS ACT".

30
31 **22-30.5-602. Definitions.** AS USED IN THIS PART 6, UNLESS THE
32 CONTEXT OTHERWISE REQUIRES:

33
34 (1) "AUTHORIZER" MEANS A SCHOOL DISTRICT BOARD OF
35 EDUCATION THAT AUTHORIZES A CHARTER SCHOOL PURSUANT TO PART 1
36 OF THIS ARTICLE OR THE STATE CHARTER SCHOOL INSTITUTE ESTABLISHED
37 PURSUANT TO SECTION 22-30.5-503.

38
39 (2) "CHARTER MANAGEMENT ORGANIZATION" MEANS THE
40 COLORADO OPERATIONS OF AN ENTITY THAT OPERATES ONE OR MORE
41 CHARTER SCHOOLS.

42
43 (3) "CHARTER RESPONDENT" MEANS A CHARTER SCHOOL OR
44 CHARTER MANAGEMENT ORGANIZATION THAT IS THE SUBJECT OF A
45 REQUEST FOR OR AN ORDER GRANTING EMERGENCY POWERS PURSUANT TO
46 THIS PART 6.

47
48 (4) "CHARTER SCHOOL" MEANS A CHARTER SCHOOL AS DEFINED IN
49 SECTION 22-30.5-103 (2) OR AN INSTITUTE CHARTER SCHOOL AS DEFINED
50 IN SECTION 22-30.5-502 (6).

51
52 (5) "COMMISSIONER" MEANS THE OFFICE OF THE COMMISSIONER
53 OF EDUCATION CREATED AND EXISTING PURSUANT TO SECTION 1 OF
54 ARTICLE IX OF THE STATE CONSTITUTION.

55
56 (6) "EMERGENCY" MEANS A SITUATION THAT:

1 (a) PRESENTS A SIGNIFICANT THREAT, AS DETERMINED BY THE
2 COMMISSIONER, TO THE HEALTH OR SAFETY OF THE STUDENTS, STAFF, OR
3 OTHER INDIVIDUALS INVOLVED WITH A CHARTER SCHOOL;
4

5 (b) PRESENTS A SIGNIFICANT THREAT, AS DETERMINED BY THE
6 COMMISSIONER, TO SUBSTANTIAL PROPERTY RIGHTS OF AN AUTHORIZER
7 OR A SIGNIFICANT RISK, AS DETERMINED BY THE COMMISSIONER, TO A
8 CHARTER RESPONDENT'S SOLVENCY;
9

10 (c) INDICATES A SUBSTANTIAL DIVERSION, AS DETERMINED BY THE
11 COMMISSIONER, OF CHARTER SCHOOL MONEYS THROUGH ONE OR MORE
12 EXCESS BENEFIT TRANSACTIONS; OR
13

14 (d) IS DEFINED BY RULE OF THE STATE BOARD AS ONE THAT
15 JUSTIFIES ACTION PURSUANT TO THIS PART 6.
16

17 (7) "EXCESS BENEFIT" MEANS A FINANCIAL BENEFIT ARISING
18 DIRECTLY OR INDIRECTLY FROM A TRANSACTION WITH A CHARTER SCHOOL
19 THAT WOULD BE CONSIDERED AN EXCESS BENEFIT UNDER SECTION 4958
20 (c) (1) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
21 AMENDED, AND REGULATIONS ADOPTED THEREUNDER; EXCEPT THAT THE
22 DEFINITION OF EXCESS BENEFIT SHALL EXTEND TO ALL CHARTER SCHOOLS
23 REGARDLESS OF WHETHER THEY HAVE APPLIED FOR OR RECEIVED
24 NONPROFIT STATUS UNDER SECTION 501 (c) (3) OF THE FEDERAL
25 "INTERNAL REVENUE CODE OF 1986", AS AMENDED. THE SALARIES OF
26 ADMINISTRATORS IN COMPARABLE POSITIONS AT OTHER COLORADO
27 CHARTER SCHOOLS, CHARTER MANAGEMENT ORGANIZATIONS, BOARDS OF
28 COOPERATIVE SERVICES, AND SCHOOL DISTRICTS SERVING A REASONABLY
29 COMPARABLE NUMBER OF STUDENTS SHALL SERVE AS THE COMPARISON
30 FOR DETERMINING WHETHER THE SALARIES OF CHARTER SCHOOL OR
31 CHARTER MANAGEMENT ORGANIZATION ADMINISTRATORS ARE
32 REASONABLE OR EXCESSIVE FOR THE PURPOSES OF THIS PART 6.
33

34 (8) "FIDUCIARY" MEANS A PERSON WHO MEETS THE
35 REQUIREMENTS OF THE "UNIFORM FIDUCIARIES LAW", PART 1 OF ARTICLE
36 1 OF TITLE 15, C.R.S., AND ANY OTHER APPLICABLE LAW OR RULE.
37

38 (9) "ORGANIC DOCUMENTS" MEANS THE ARTICLES OF
39 INCORPORATION, ARTICLES OF ORGANIZATION, CONSTITUTION, BYLAWS,
40 OR OTHER DOCUMENTS, HOWEVER DENOMINATED, THAT DEFINE THE BASIC
41 GOVERNANCE STRUCTURE FOR A CHARTER SCHOOL AND THE BODY OR
42 BODIES THAT HAVE GOVERNING AUTHORITY FOR A CHARTER SCHOOL.
43

44 (10) "STATE BOARD" MEANS THE STATE BOARD OF EDUCATION
45 CREATED AND EXISTING PURSUANT TO SECTION 1 OF ARTICLE IX OF THE
46 STATE CONSTITUTION.
47

48 **22-30.5-603. Emergency powers - request - orders - process.**

49 (1) AN AUTHORIZER MAY REQUEST THAT THE COMMISSIONER PERMIT
50 EXTERNAL CONTROL OVER CERTAIN FUNCTIONS OF A CHARTER SCHOOL OR
51 CHARTER MANAGEMENT ORGANIZATION BY SUBMITTING TO THE
52 COMMISSIONER AND THE CHARTER SCHOOL OR CHARTER MANAGEMENT
53 ORGANIZATION A CONCISE WRITTEN STATEMENT IDENTIFYING THE
54 EMERGENCY THAT JUSTIFIES EXTERNAL CONTROL AND THE FORM OR
55 FORMS OF EXTERNAL CONTROL REQUESTED. THE AUTHORIZER SHALL
56 STATE CLEARLY IF IT IS REQUESTING AN ORDER OF REORGANIZATION. THE

1 COMMISSIONER MAY AUTHORIZE EXTERNAL CONTROL OVER A CHARTER
2 SCHOOL OR CHARTER MANAGEMENT ORGANIZATION BY ISSUING A
3 TEMPORARY ORDER AS PROVIDED IN SUBSECTION (2) OF THIS SECTION OR
4 A PRELIMINARY ORDER AS PROVIDED IN SUBSECTION (3) OF THIS SECTION.
5

6 (2) THE COMMISSIONER MAY ISSUE A TEMPORARY ORDER IN THE
7 EVENT THAT IMMEDIATE AND IRREPARABLE INJURY, LOSS, OR DAMAGE
8 WILL RESULT FROM THE IDENTIFIED EMERGENCY BEFORE THE CHARTER
9 RESPONDENT IS ABLE TO STATE ITS OPPOSITION AND BEFORE THE
10 AUTHORIZER'S ATTORNEY CERTIFIES IN WRITING OR IN PERSON TO THE
11 COMMISSIONER THE EFFORTS THAT HAVE BEEN MADE TO GIVE NOTICE TO
12 THE CHARTER RESPONDENT. A TEMPORARY ORDER ISSUED PURSUANT TO
13 THIS SUBSECTION (2) SHALL STATE THE DATE AND HOUR OF ISSUANCE,
14 DEFINE THE INJURY, STATE WHY THE INJURY IS IRREPARABLE, AND STATE
15 WHY THE TEMPORARY ORDER WAS GIVEN WITHOUT NOTICE. A
16 TEMPORARY ORDER ISSUED UNDER THIS SUBSECTION (2) SHALL BE VALID
17 FOR TEN DAYS AND MAY BE EXTENDED FOR UP TO AN ADDITIONAL TEN
18 DAYS FOR GOOD CAUSE SHOWN. THE AUTHORIZER SHALL IMMEDIATELY
19 PROVIDE THE CHARTER RESPONDENT WITH A COPY OF ANY TEMPORARY
20 ORDER ISSUED PURSUANT TO THIS SUBSECTION (2). A CHARTER
21 RESPONDENT SHALL PROVIDE AN AUTHORIZER TWO BUSINESS DAYS'
22 NOTICE PRIOR TO REQUESTING THAT THE COMMISSIONER DISSOLVE A
23 TEMPORARY ORDER ISSUED PURSUANT TO THIS SUBSECTION (2).
24

25 (3) THE COMMISSIONER SHALL ISSUE A PRELIMINARY ORDER ONLY
26 IF:
27

28 (a) THE CHARTER RESPONDENT RECEIVED TWO BUSINESS DAYS'
29 WRITTEN NOTICE THAT THE AUTHORIZER HAS REQUESTED EXTERNAL
30 CONTROL OVER CERTAIN FUNCTIONS OF THE CHARTER RESPONDENT AND
31 THE BASIS FOR THE REQUEST;
32

33 (b) IN THE CASE OF A CHARTER RESPONDENT THAT IS A CHARTER
34 MANAGEMENT ORGANIZATION, AUTHORIZERS OF EACH OF THE AFFECTED
35 CHARTER SCHOOLS HAVE RECEIVED TWO BUSINESS DAYS' WRITTEN NOTICE
36 OF THE REQUEST FOR EXTERNAL CONTROL;
37

38 (c) THE AUTHORIZER REQUESTING EXTERNAL CONTROL AND ALL
39 PARTIES THAT RECEIVED NOTICE HAVE HAD THE OPPORTUNITY TO MEET
40 WITH THE COMMISSIONER TO PRESENT SUCH EVIDENCE AND ARGUMENT AS
41 THE COMMISSIONER FINDS APPROPRIATE UNDER THE CIRCUMSTANCES. IN
42 ANY MEETING HELD BEFORE ISSUING A PRELIMINARY ORDER PURSUANT TO
43 THIS SUBSECTION (3), THE COMMISSIONER MAY ACCEPT EVIDENCE AND
44 ARGUMENTS FROM THE PARTIES INVOLVED AS HE OR SHE DEEMS
45 APPROPRIATE, BUT NEITHER A FORMAL ADVERSARIAL HEARING NOR
46 APPLICATION OF THE RULES OF EVIDENCE SHALL BE REQUIRED.
47

48 (d) FOLLOWING A MEETING HELD PURSUANT TO PARAGRAPH (c) OF
49 THIS SUBSECTION (3), THE COMMISSIONER FINDS AND DETERMINES THAT
50 THE AUTHORIZER HAS DEMONSTRATED AN EMERGENCY AND THE RISK OF
51 IRREPARABLE INJURY RESULTING FROM THE EMERGENCY JUSTIFIES AN
52 INTRUSION ON THE INTERNAL OPERATIONS OF THE CHARTER RESPONDENT.
53

54 (4) THE COMMISSIONER MAY DEMAND PRODUCTION OF PUBLIC
55 RECORDS AS OTHERWISE PROVIDED FOR IN SECTION 24-72-203, C.R.S.,
56 MAY ISSUE SUBPOENAS AS OTHERWISE PROVIDED FOR IN SECTION 24-4-105

1 (5), C.R.S., AND MAY DRAW APPROPRIATE INFERENCES FROM FAILURE OF
2 ANY PARTY TO PROMPTLY COMPLY WITH SUCH REQUESTS.

3
4 (5) A PRELIMINARY ORDER ISSUED PURSUANT TO SUBSECTION (3)
5 OF THIS SECTION SHALL BE VALID FOR ONE HUNDRED TWENTY DAYS AND
6 MAY BE EXTENDED FOR UP TO AN ADDITIONAL ONE HUNDRED TWENTY
7 DAYS, UPON GOOD CAUSE SHOWN.

8
9 (6) (a) A TEMPORARY OR PRELIMINARY ORDER MAY APPOINT THE
10 AUTHORIZER OR ANOTHER ENTITY OR PERSON TO ACT AS A FIDUCIARY;
11 EXCEPT THAT, IF MORE THAN ONE AUTHORIZER IS A PARTY TO THE
12 PROCEEDING OR IF THE AUTHORIZER IS REQUESTING AN ORDER OF
13 REORGANIZATION, THE COMMISSIONER SHALL APPOINT A SEPARATE
14 PERSON OR ENTITY THAT IS NOT A PARTY TO THE PROCEEDING TO ACT AS
15 A FIDUCIARY. THE FIDUCIARY MAY EXERCISE, SUBJECT TO THE
16 LIMITATIONS SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (6), THE
17 POWERS OVER AND FOR THE CHARTER RESPONDENT THAT ARE ORDINARILY
18 EXERCISED BY THE CHARTER RESPONDENT'S BOARD OF DIRECTORS AND
19 MAY TAKE ACTION RESPECTING EXCESS BENEFITS AS AUTHORIZED
20 PURSUANT TO SECTION 22-30.5-604.

21
22 (b) A TEMPORARY OR PRELIMINARY ORDER SHALL NOT AUTHORIZE,
23 NOR BE CONSTRUED TO PERMIT, A FIDUCIARY TO:

24
25 (I) CONCLUDE, DISSOLVE, RELINQUISH, OR SURRENDER THE
26 CHARTER CONTRACT;

27
28 (II) EFFECT NONRENEWAL OR REVOCATION OF THE CHARTER
29 CONTRACT;

30
31 (III) NEGOTIATE, RENEGOTIATE, OR AMEND THE CHARTER
32 CONTRACT;

33
34 (IV) EXERCISE THE LEGAL STANDING OF THE CHARTER
35 RESPONDENT IN ANY ADMINISTRATIVE OR COURT PROCEEDING OTHER
36 THAN ONE BROUGHT PURSUANT TO THIS SECTION; EXCEPT THAT THE
37 FIDUCIARY MAY SEEK RECOVERY OF UNPAID MONEYS DUE TO THE
38 CHARTER RESPONDENT FROM AN AUTHORIZER;

39
40 (V) TRANSFER INTO A TRUST THE ASSETS OF THE CHARTER
41 RESPONDENT;

42
43 (VI) REPEAL, ALTER, AMEND, RESTATE, OR IN ANY FASHION
44 MODIFY THE CHARTER RESPONDENT'S ORGANIC DOCUMENTS;

45
46 (VII) REMOVE, RECALL, OR APPOINT ANY MEMBER OF THE
47 CHARTER RESPONDENT'S GOVERNING BOARD OR OFFICERS;

48
49 (VIII) TAKE ANY ACTION THAT IS RESERVED FOR THE
50 MEMBERSHIP OF A CHARTER RESPONDENT THAT IS ORGANIZED AS A
51 MEMBERSHIP ORGANIZATION; OR

52
53 (IX) TAKE ANY ACTION THAT IS NOT WITHIN THE POWER OF THE
54 CHARTER RESPONDENT'S GOVERNING BOARD.

55
56 (7) THE COMMISSIONER MAY REQUIRE A FIDUCIARY TO PROVIDE

1 EVIDENCE OF APPROPRIATE INSURANCE COVERAGE, INCLUDING BUT NOT
2 LIMITED TO APPROPRIATE CERTIFICATES OF INSURANCE. THE INSURANCE
3 COVERAGE SHALL BE REASONABLY ADEQUATE TO PROTECT AGAINST RISKS
4 OF LIABILITY FOR ANY ACTIONS TAKEN UNDER AN ORDER GRANTED
5 PURSUANT TO THIS SECTION.

6
7 (8) (a) IF AN AUTHORIZER HAS REQUESTED AN ORDER OF
8 REORGANIZATION AND THE COMMISSIONER, AFTER APPROPRIATE
9 PROCEEDINGS PURSUANT TO THIS SECTION, HAS APPOINTED A FIDUCIARY
10 OTHER THAN THE AUTHORIZER TO EXERCISE CERTAIN POWERS, THE
11 FIDUCIARY SHALL INDEPENDENTLY DETERMINE WHETHER TO CONTINUE TO
12 REQUEST THE ORDER OF REORGANIZATION. AN ORDER OF
13 REORGANIZATION SHALL BE AUTHORIZED ONLY IF IT IS ISSUED IN
14 COMPLIANCE WITH THE PROCESSES, STANDARDS, AND PURPOSES SET
15 FORTH IN THIS SECTION.

16
17 (b) A FIDUCIARY OTHER THAN AN AUTHORIZER MAY REQUEST AN
18 ORDER OF REORGANIZATION AT ANY TIME WHILE A PRELIMINARY ORDER
19 OR AN EXTENSION OF A PRELIMINARY ORDER IS PENDING, SO LONG AS THE
20 FIDUCIARY PROVIDES AT LEAST TEN DAYS' NOTICE TO THE CHARTER
21 RESPONDENT, THE AUTHORIZER, AND THE COMMISSIONER. THE FIDUCIARY
22 SHALL SPECIFICALLY STATE IN THE NOTICE THE POWERS OF
23 REORGANIZATION HE OR SHE IS REQUESTING AND THE REASONS JUSTIFYING
24 THE REQUEST. NOTWITHSTANDING THE LIMITATIONS PLACED ON THE
25 POWERS OF A FIDUCIARY ACTING UNDER A TEMPORARY OR PRELIMINARY
26 ORDER, AS SET FORTH IN SUBSECTION (6) OF THIS SECTION, THE POWERS OF
27 REORGANIZATION SHALL ONLY INCLUDE ONE OR MORE OF THE FOLLOWING
28 POWERS:

29
30 (I) TO FILL ONE OR MORE BOARD VACANCIES, NOTWITHSTANDING
31 THE CHARTER RESPONDENT'S ORGANIC DOCUMENTS;

32
33 (II) TO REMOVE ONE OR MORE BOARD DIRECTORS OR OFFICERS,
34 NOTWITHSTANDING THE CHARTER RESPONDENT'S ORGANIC DOCUMENTS;
35 OR

36
37 (III) TO MAKE SPECIFIC, STATED MODIFICATIONS TO THE CHARTER
38 RESPONDENT'S ORGANIC DOCUMENTS, NOTWITHSTANDING THE PROCESS
39 FOR AMENDMENT OR RESTATEMENT OTHERWISE PRESCRIBED IN THOSE
40 DOCUMENTS.

41
42 (c) THE COMMISSIONER MAY ISSUE AN ORDER OF REORGANIZATION
43 ONLY AFTER GIVING THE AUTHORIZER AND THE CHARTER RESPONDENT A
44 REASONABLE OPPORTUNITY TO BE HEARD, AND THEN ONLY IF THE
45 COMMISSIONER FINDS THAT THE RISKS CREATED BY THE EMERGENCY TO
46 THE CHARTER RESPONDENT AND THE AUTHORIZER CANNOT BE RESOLVED
47 BY ANY LESS RESTRICTIVE MEANS. IN ANY MEETING HELD BEFORE ISSUING
48 AN ORDER OF REORGANIZATION, THE COMMISSIONER MAY ACCEPT
49 EVIDENCE AND ARGUMENT FROM THE PARTIES INVOLVED AS HE OR SHE
50 DEEMS APPROPRIATE, BUT NEITHER A FORMAL ADVERSARIAL HEARING NOR
51 APPLICATION OF THE RULES OF EVIDENCE SHALL BE REQUIRED.

52
53 (d) AN ORDER OF REORGANIZATION SHALL BE VALID FOR THE
54 BALANCE OF THE TERM OF ANY PENDING PRELIMINARY ORDER OR FOR
55 SIXTY DAYS, WHICHEVER IS GREATER, AND MAY BE RENEWED FOR AN
56 ADDITIONAL THIRTY DAYS UPON GOOD CAUSE SHOWN. AN ORDER OF

1 REORGANIZATION SHALL BE VALID FOR NO MORE THAN NINETY DAYS.

2
3 (9) THE FIDUCIARY SHALL SUBMIT APPROPRIATE FINANCIAL
4 INFORMATION TO THE COMMISSIONER AND THE DIRECTOR OF PUBLIC
5 SCHOOL FINANCE WITHIN THE DEPARTMENT OF EDUCATION AND PROVIDE
6 COPIES TO THE CHARTER RESPONDENT AND AUTHORIZER. THE CHARTER
7 RESPONDENT AND AUTHORIZER MAY SUBMIT ADDITIONAL INFORMATION
8 TO THE DIRECTOR OF PUBLIC SCHOOL FINANCE. AFTER RECEIPT OF ALL
9 PERTINENT FINANCIAL INFORMATION, THE DIRECTOR OF PUBLIC SCHOOL
10 FINANCE SHALL MAKE A WRITTEN RECOMMENDATION TO THE
11 COMMISSIONER.

12
13 (10) A TEMPORARY OR PRELIMINARY ORDER OR AN ORDER FOR
14 REORGANIZATION GRANTED PURSUANT TO THIS SECTION SHALL STATE THE
15 REASONS FOR ISSUANCE; BE SPECIFIC IN ITS TERMS; AND DESCRIBE IN
16 REASONABLE DETAIL, WITHOUT REFERENCE TO THE REQUEST OR OTHER
17 DOCUMENTS, THE ACT OR ACTS AUTHORIZED. AN ORDER GRANTED
18 PURSUANT TO THIS SECTION IS BINDING ONLY UPON THE FIDUCIARY AND
19 THE PARTIES TO THE PROCEEDING, THEIR OFFICERS, AGENTS, SERVANTS,
20 EMPLOYEES, AND ATTORNEYS AND UPON THOSE PERSONS IN ACTIVE
21 CONCERT OR PARTICIPATION WITH THEM OR WHO RECEIVE ACTUAL NOTICE
22 OF THE ORDER. AN ORDER APPOINTING A FIDUCIARY MAY SPECIFY OR
23 LIMIT THE FIDUCIARY'S POWERS AND MAY DIRECT THE FIDUCIARY TO ACT
24 ONLY UPON PARTICULAR ISSUES OR ONLY TO EXERCISE CERTAIN POWERS.

25
26 (11) EXPENSES INCURRED BY AN AUTHORIZER IN PURSUING A
27 PROCEEDING PURSUANT TO THIS SECTION SHALL BE BORNE BY THE
28 AUTHORIZER, AND EXPENSES INCURRED BY A CHARTER RESPONDENT IN
29 DEFENDING ANY PROCEEDING PURSUANT TO THIS SECTION SHALL BE
30 BORNE BY THE CHARTER RESPONDENT. EXPENSES INCURRED BY A
31 FIDUCIARY SHALL BE SUBMITTED TO THE CHARTER RESPONDENT AND
32 COMMISSIONER FOR APPROVAL AND, AFTER THE COMMISSIONER RESOLVES
33 ANY DISPUTED CHARGES, SHALL BE BORNE BY THE CHARTER RESPONDENT.

34
35 (12) NOTWITHSTANDING ANY OTHER PROVISION OF COLORADO
36 LAW, INCLUDING BUT NOT LIMITED TO THE "COLORADO REVISED
37 NONPROFIT CORPORATION ACT", ARTICLES 121 TO 137 OF TITLE 7, C.R.S.,
38 OR ANY PROVISION OF A CHARTER CONTRACT TO THE CONTRARY, THE
39 POWERS GRANTED PURSUANT TO THIS PART 6 SHALL BE EFFECTIVE AND
40 VALID AS A MATTER OF LAW.

41
42 (13) NOTHING IN THIS PART 6 SHALL LIMIT THE AUTHORITY OF AN
43 AUTHORIZER TO EXERCISE ANY CONTRACTUAL RIGHTS, INCLUDING ANY
44 REMEDIES, EMERGENCY OR OTHERWISE, FOR BREACH OF A CHARTER
45 CONTRACT. A CHARTER CONTRACT PROVISION THAT PURPORTS TO GRANT
46 AUTHORITY TO AN AUTHORIZER TO EXERCISE EMERGENCY POWERS AS
47 DESCRIBED IN THIS PART 6 SHALL BE CONSTRUED, IF POSSIBLE, TO BE
48 CONSISTENT WITH THIS PART 6. A PROVISION CONSTRUED TO BE
49 INCONSISTENT WITH THIS PART 6 SHALL BE DEEMED CONTRARY TO PUBLIC
50 POLICY, VOID, UNENFORCEABLE, AND OF NO LEGAL EFFECT. THE BURDEN
51 SHALL BE ON THE CHARTER RESPONDENT TO DEMONSTRATE THAT SUCH A
52 PROVISION IS INCONSISTENT WITH THIS PART 6.

53
54 (14) AN ORDER ISSUED PURSUANT TO THIS SECTION SHALL BE
55 FINAL AND BINDING AND NOT SUBJECT TO APPEAL. A CHARTER
56 RESPONDENT MAY SEEK JUDICIAL REVIEW OF AN ORDER ISSUED PURSUANT

1 TO THIS SECTION UNDER RULE 106 (a) (4) OF THE COLORADO RULES OF
2 CIVIL PROCEDURE; EXCEPT THAT A TEMPORARY ORDER SHALL NOT BE
3 SUBJECT TO JUDICIAL REVIEW. A CHARTER RESPONDENT MAY FILE AN
4 ACTION FOR JUDICIAL REVIEW IN THE DISTRICT COURT FOR THE CITY AND
5 COUNTY OF DENVER OR THE DISTRICT COURT IN THE COUNTY IN WHICH
6 THE CHARTER RESPONDENT IS LOCATED.

7
8 (15) AN ORDER ISSUED PURSUANT TO THIS SECTION SHALL NOT BE
9 DEEMED TO BE AN APPOINTMENT OF A TRUSTEE OR RECEIVER UNDER THE
10 TERMS OF ANY FINANCING OF A CHARTER SCHOOL FACILITY OR OTHER
11 INSTRUMENT.

12
13 (16) THE COMMISSIONER MAY FILL ANY VACANCY CREATED BY
14 THE DEATH OR INABILITY OF A FIDUCIARY OR, FOR GOOD CAUSE SHOWN,
15 MAY REMOVE A FIDUCIARY THAT IS EXERCISING POWERS PURSUANT TO A
16 PRELIMINARY ORDER OR ORDER OF REORGANIZATION AND APPOINT A NEW
17 FIDUCIARY.

18
19 (17) A MEETING CONDUCTED BY THE COMMISSIONER PURSUANT TO
20 THIS SECTION SHALL BE OPEN TO ALL PARTIES TO THE PROCEEDING. AN
21 ORDER OF THE COMMISSIONER ISSUED PURSUANT TO THIS SECTION AND
22 ALL REQUESTS FOR ORDERS, BY ANY PARTY, SHALL BE CONSIDERED PUBLIC
23 DOCUMENTS.

24
25 **22-30.5-604. Excess benefits - cancellation of contracts - civil**
26 **action and penalty.** (1) IF A FIDUCIARY OTHER THAN AN AUTHORIZER,
27 OPERATING UNDER THE AUTHORITY OF A PRELIMINARY ORDER OR AN
28 ORDER FOR REORGANIZATION, DETERMINES THAT A CHARTER RESPONDENT
29 HAS ENGAGED IN AN EXCESS BENEFIT TRANSACTION, THE FIDUCIARY MAY:

30
31 (a) CANCEL IN WRITING AND WITHOUT PENALTY ANY CONTRACT
32 ENTERED INTO BY THE CHARTER SCHOOL THAT AWARDS THE EXCESS
33 BENEFIT TO AN INDIVIDUAL OR ANOTHER ENTITY AND CANCEL ANY
34 FURTHER COMPENSATION TO THE PARTY THAT RECEIVED THE EXCESS
35 BENEFIT. THE FIDUCIARY MAY DEMAND THE RETURN, WITHIN TEN
36 BUSINESS DAYS, TO THE CHARTER RESPONDENT OF ALL EXCESS BENEFITS
37 PAID WITHIN THE PRECEDING THREE YEARS OR, IF THE EXCESSIVE
38 PAYMENT HAS BEEN CONCEALED FROM THE CHARTER RESPONDENT'S FULL
39 GOVERNING BOARD, THE PRECEDING SIX YEARS.

40
41 (b) IF PAYMENT IS NOT MADE AS DEMANDED PURSUANT TO
42 PARAGRAPH (a) OF THIS SUBSECTION (1), FILE IN THE NAME OF THE
43 CHARTER RESPONDENT, A CIVIL ACTION FOR RECOVERY OF THE EXCESS
44 BENEFIT AND IMPOSITION OF A CIVIL PENALTY. IF THE COURT FINDS THAT
45 THE CHARTER RESPONDENT PAID THE EXCESS BENEFIT AND THE PERSON
46 RECEIVING THE EXCESS BENEFIT DID NOT REPAY THE AMOUNT WITHIN TEN
47 BUSINESS DAYS FOLLOWING THE DEMAND FOR REPAYMENT, THE COURT
48 SHALL DEEM THE EXCESS BENEFIT AN UNAUTHORIZED PAYMENT OF
49 CHARTER SCHOOL MONEYS AND AWARD THE CHARTER RESPONDENT,
50 THROUGH THE FIDUCIARY, AN AMOUNT FIXED IN THE COURT'S DISCRETION
51 AND BASED ON ALL THE CIRCUMSTANCES. HOWEVER, THE AMOUNT SHALL
52 NOT BE LESS THAN THE EXCESS BENEFIT PAID AND SHALL NOT BE MORE
53 THAN DOUBLE THE EXCESS BENEFIT PAID PLUS ALL REASONABLE
54 ATTORNEY FEES AND COSTS. IF THE COURT FINDS THAT THE FIDUCIARY
55 DID NOT HAVE A REASONABLE BASIS IN LAW AND FACT FOR CLAIMING AN
56 EXCESS BENEFIT AND FILING THE ACTION, IT MAY AWARD THE PARTY

1 DEFENDING THE ACTION ATTORNEY FEES AND COSTS.

2

3 **SECTION 3. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety."

6

7

8

9 **HB10-1412** be amended as follows, and as so amended, be referred to
10 the Committee of the Whole with favorable
11 recommendation:

12

13 Amend printed bill, page 5, line 10, strike "AND".

14

15 Page 5, line 11, strike "GOVERNANCE." and substitute "GOVERNANCE, THE
16 NECESSITY THAT CHARTER SCHOOLS AND PROPOSED CHARTER SCHOOLS
17 ADHERE TO THE REQUIREMENTS OF THE SEPARATION OF CHURCH AND
18 STATE, AND PREVENTION OF DISCRIMINATION AGAINST STUDENTS ON THE
19 BASIS OF DISABILITY, RACE, CREED, COLOR, SEX, SEXUAL ORIENTATION,
20 NATIONAL ORIGIN, RELIGION, ANCESTRY, OR NEED FOR SPECIAL
21 EDUCATION SERVICES."

22

23 Page 5, line 12, strike "JUNE 30, 2012." and substitute "AUGUST 30,
24 2011."

25

26 Page 5, line 19, strike "To" and substitute "ON OR BEFORE JANUARY 15,
27 2012, TO".

28

29

30

31 **HB10-1419** be postponed indefinitely.

32

33

34 **SB10-039** be postponed indefinitely.

35

36

37

38

39 **HEALTH & HUMAN SERVICES**

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

42

43 **HB10-1414** be amended as follows, and as so amended, be referred to
44 the Committee of the Whole with favorable
45 recommendation:

46

47 Amend printed bill, page 2, line 11, strike "RESPONSIBLE FOR".

48

49 Page 2, line 12, strike "THE DIVERSION OF" and substitute "WHO
50 DIVERTED".

51

52

53

54 **HB10-1415** be amended as follows, and as so amended, be referred to
55 the Committee on Appropriations with favorable
56 recommendation:

- 1 Amend printed bill, page 3, line 5, strike "WORKS UNDER".
2
3 Page 3, strike lines 6 through 8.
4
5 Page 3, line 9, strike "BY PERFORMING" and substitute "PERFORMS".
6
7 Page 3, strike line 13 and substitute "HEMOSTASIS;".
8
9 Page 3, line 22, strike "WORKS".
10
11 Page 3, strike lines 23 through 25.
12
13 Page 3, line 26, strike "PATIENT SAFETY BY PERFORMING" and substitute
14 "PERFORMS".
15
16 Page 5, line 24, strike "DISCIPLINARY" and substitute "CIVIL, CRIMINAL, OR
17 ADMINISTRATIVE".
18
19 Page 6, line 2, strike "DISCIPLINARY" and substitute "CIVIL, CRIMINAL, OR
20 ADMINISTRATIVE".
21
22 Page 6, line 6, strike everything after "TO" and substitute "DRUGS OR
23 ALCOHOL".
24
25 Page 6, line 7, strike everything before "OR".
26
27 Page 7, line 15, strike "ANY INFORMATION" and substitute "INFORMATION
28 KNOWN".
29
30 Page 7, line 17, strike everything after "PATIENT ABUSE," and substitute
31 "VIOLATION OF DRUG OR ALCOHOL POLICIES,".
32
33 Page 9, line 27, strike everything after the second "TO" and substitute
34 "DRUGS OR ALCOHOL".
35
36 Page 10, line 1, strike everything before the second "OR".
37
38
39
40

41 **TRANSPORTATION & ENERGY**

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

44
45 **HB10-1281** be amended as follows, and as so amended, be referred to
46 the Committee on Appropriations with favorable
47 recommendation:
48

49 Amend printed bill, strike everything below the enacting clause and
50 substitute:

51
52 "SECTION 1. 40-15-102, Colorado Revised Statutes, is amended
53 BY THE ADDITION OF A NEW SUBSECTION to read:

54
55 **40-15-102. Definitions.** As used in this article, unless the context
56 otherwise requires:

1 (10.5) "INTERCONNECTED VOICE-OVER-INTERNET-PROTOCOL
2 (VOIP) SERVICE" MEANS A SERVICE THAT:

3
4 (a) ENABLES REAL-TIME, TWO-WAY VOICE COMMUNICATIONS;

5
6 (b) REQUIRES A BROADBAND CONNECTION FROM THE USER'S
7 LOCATION;

8
9 (c) REQUIRES INTERNET PROTOCOL-COMPATIBLE CUSTOMER
10 PREMISES EQUIPMENT (CPE); AND

11
12 (d) PERMITS USERS GENERALLY TO RECEIVE CALLS THAT
13 ORIGINATE ON THE PUBLIC SWITCHED TELEPHONE NETWORK AND TO
14 TERMINATE CALLS TO THE PUBLIC SWITCHED TELEPHONE NETWORK.

15
16 **SECTION 2. Repeal.** 40-15-201 (2) (a), (2) (f), (2) (g), Colorado
17 Revised Statutes, are repealed as follows:

18
19 **40-15-201. Regulation by commission.** (2) The following
20 products, services, and providers are declared to be subject to regulation
21 pursuant to this part 2 and subject to potential reclassification under
22 section 40-15-207:

23
24 ~~(a) Basic local exchange service;~~

25
26 ~~(f) New products and services included in the definition of basic
27 local exchange service;~~

28
29 ~~(g) Dual tone multifrequency signaling;~~

30
31 **SECTION 3.** 40-15-301 (2), Colorado Revised Statutes, is
32 amended BY THE ADDITION OF THE FOLLOWING NEW
33 PARAGRAPHS to read:

34
35 **40-15-301. Regulation by the commission.** (2) The following
36 telecommunications products, services, and providers are declared to be
37 initially subject to regulation pursuant to this part 3 and subject to
38 potential deregulation under section 40-15-305:

39
40 (h) BASIC LOCAL EXCHANGE SERVICE; AND

41
42 (i) NEW PRODUCTS AND SERVICES INCLUDED IN THE DEFINITION OF
43 BASIC LOCAL EXCHANGE SERVICE.

44
45 **SECTION 4.** 40-15-401 (1), Colorado Revised Statutes, is
46 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

47
48 **40-15-401. Services, products, and providers exempt from
49 regulation.** (1) The following products, services, and providers are
50 exempt from regulation under this article or under the "Public Utilities
51 Law" of the state of Colorado:

52
53 (q) INTERCONNECTED VOICE-OVER-INTERNET-PROTOCOL (VOIP)
54 SERVICE."

55
56 **SECTION 5.** 40-15-502 (2), Colorado Revised Statutes, is

1 amended to read:

2

3 **40-15-502. Expressions of state policy. (2) Basic service.**

4 (a) Basic service is the availability of high quality, minimum elements of
5 telecommunications services, as defined by the commission, at just,
6 reasonable, and affordable rates to all people of the state of Colorado.
7 The commission shall conduct a proceeding when appropriate, but no
8 later than July 1, 1999, and no less frequently than every three years to
9 consider the revision of the definition of basic service, with the goal that
10 every citizen of this state shall have access to a wider range of services at
11 rates that are reasonably comparable as between urban and rural areas.

12

13 (b) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE,
14 THE COMMISSION MAY REQUIRE A PROVIDER TO CHARGE UNIFORM RATES
15 FOR BASIC LOCAL EXCHANGE SERVICES THROUGHOUT A PROVIDER'S
16 SERVICE TERRITORY.

17

18 **SECTION 6. Act subject to petition - effective date.** This act
19 shall take effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly (August
21 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
22 referendum petition is filed pursuant to section 1 (3) of article V of the
23 state constitution against this act or an item, section, or part of this act
24 within such period, then the act, item, section, or part shall not take effect
25 unless approved by the people at the general election to be held in
26 November 2010 and shall take effect on the date of the official
27 declaration of the vote thereon by the governor."

28

29

30

31 **HB10-1418** be amended as follows, and as so amended, be referred to
32 the Committee of the Whole with favorable
33 recommendation:

34

35 Amend printed bill, page 2, line 2, strike everything after "1."

36

37 Page 2, line 3, strike "and" and strike "are amended" and substitute "is
38 amended, and the said 40-2-124 (1) (c) is further amended BY THE
39 ADDITION OF A NEW SUBPARAGRAPH,"

40

41 Page 2, line 19, strike "~~one~~" and substitute "one".

42

43 Page 2, strike line 20 and substitute "and one-half kilowatt-hours".

44

45 Page 3, strike lines 1 through 3.

46

47 Page 3, line 4, strike everything before "For".

48

49 Page 3, line 7, strike everything after "That".

50

51 Page 3, strike line 8.

52

53 Page 3, line 9, strike everything before "is".

54

55 Page 3, after line 12 insert:

56

1 "(IX) FOR PURPOSES OF STIMULATING RURAL ECONOMIC
2 DEVELOPMENT AND FOR PROJECTS UP TO THIRTY MEGAWATTS OF
3 NAMEPLATE CAPACITY, EACH KILOWATT HOUR OF ELECTRICITY
4 GENERATED FROM RENEWABLE ENERGY RESOURCES THAT INTERCONNECTS
5 TO ELECTRIC TRANSMISSION OR DISTRIBUTION FACILITIES OWNED BY A
6 COOPERATIVE ELECTRIC ASSOCIATION OR MUNICIPALLY OWNED UTILITY
7 COUNTS AS TWO KILOWATT HOURS FOR COMPLIANCE WITH THE
8 REQUIREMENTS OF THIS PARAGRAPH (c) BY QUALIFYING RETAIL UTILITIES.
9 THIS MULTIPLIER SHALL NOT BE CLAIMED FOR INTERCONNECTIONS THAT
10 FIRST OCCUR AFTER DECEMBER 31, 2014, AND SHALL NOT BE USED IN
11 CONJUNCTION WITH ANOTHER COMPLIANCE MULTIPLIER. TO THE EXTENT
12 THAT A QUALIFYING RETAIL UTILITY CLAIMS THE BENEFIT DESCRIBED IN
13 THIS SUBPARAGRAPH (IX), THOSE KILOWATT-HOURS OF ELECTRICITY DO
14 NOT QUALIFY FOR SATISFACTION OF THE DISTRIBUTED GENERATION
15 REQUIREMENT OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (c). THE
16 COMMISSION SHALL SUBMIT A REPORT TO THE SENATE LOCAL
17 GOVERNMENT AND ENERGY COMMITTEE AND THE HOUSE OF
18 REPRESENTATIVES COMMITTEE ON TRANSPORTATION AND ENERGY, OR
19 THEIR SUCCESSOR COMMITTEES, BY DECEMBER 31, 2012, REGARDING
20 IMPLEMENTATION OF THIS SUBPARAGRAPH (IX), INCLUDING HOW MANY
21 MEGAWATTS OF ELECTRICITY HAVE BEEN CLAIMED PURSUANT TO THIS
22 SUBPARAGRAPH (IX) AND WHETHER THE COMMISSION RECOMMENDS THAT
23 THE MULTIPLIER ESTABLISHED BY THIS SUBPARAGRAPH (IX) SHOULD BE
24 CONTINUED."

WITHDRAWAL OF BILL(S)

25
26
27
28
29
30 Representative Court has withdrawn **HB10-1423, 1424** from further
31 consideration in the Second Regular Session of the Sixty-seventh General
32 Assembly.

PRINTING REPORT

33
34
35
36
37 The Chief Clerk reports the following bills have been correctly printed:
38 **HB10-1427, 1428, 1429.**

SIGNING OF BILLS - RESOLUTIONS - MEMORIALS

39
40
41
42
43
44 The Speaker has signed: **HB10-1042, 1208, 1220, 1242, 1378, 1379,**
45 **1381, 1384, 1385, 1387.**

DELIVERY OF BILL TO GOVERNOR

46
47
48
49
50
51 The Chief Clerk of the House of Representatives reports the following
52 bill has been delivered to the Office of the Governor: **HB10-1101** at
53 2:14 p.m. on April 29, 2010.

MESSAGE(S) FROM THE SENATE

1
2
3 The President has announced that Senator Penry has been added as a joint
4 prime sponsor on SB10-003, and that Representatives Middleton and May
5 will replace Representative Ferrandino as joint prime sponsors on
6 SB10-003.

INTRODUCTION OF BILL
First Reading

7
8
9
10
11
12
13 The following bill was read by title and referred to the committee
14 indicated:

15
16 **HB10-1430** by Representative(s) Solano and Scanlan, Benefield,
17 Ferrandino, Fischer, Massey, Merrifield, Middleton,
18 Peniston, Ryden, Schafer S., Todd, Vigil; also Senator(s)
19 Hudak--Concerning assessments in the elementary and
20 secondary education system.
21 Committee on Education

LAY OVER OF CALENDAR ITEM(S)

22
23
24
25
26
27 On motion of Representative Weissmann, the following item(s) on the
28 Calendar (was)were laid over until April 30, retaining place on Calendar:

29
30 Consideration of Third Reading--**SB10-006, 061, 103, 106, 108, 120,**
31 **169, 171, 183, 181, HCR10-1004, SB10-156.**
32 Consideration of Conference Committee Report(s)---**HB10-1021,**
33 **SB10-109, HB10-1383, 1388.**
34 Consideration of Resolution(s)--**HJR10-1020, SJR10-025, HJR10-1023,**
35 **1019, 1024, 1025, 1026, 1027, 1028, 1032, 1022, 1033, 1034.**
36 Consideration of Senate Amendment(s)--**HB10-1133, 1060, 1221, 1342,**
37 **1035, 1053, 1106, 1125, 1224, 1260, 1330, 1333, 1335, 1362.**
38 Consideration of Adherence--**HB10-1098.**

39
40
41 On motion of Representative Weissmann, the House adjourned until
42 9:00 a.m., April 30, 2010.

43
44
45
46
47
48
49
Approved:
TERRANCE D. CARROLL,
Speaker

Attest:
MARILYN EDDINS,
Chief Clerk