

HOUSE JOURNAL
SIXTY-EIGHTH GENERAL ASSEMBLY
STATE OF COLORADO
First Regular Session

Seventy-second Legislative Day

Thursday, March 24, 2011

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 Taylor Hayward and Kristin Zandarski from
6 Ann M Rudy Elementary, Colorado Springs.

7

8 The roll was called with the following result:

9

10 Present--63.

11 Excused--Representative(s) Massey, McKinley--2.

12

13 The Speaker declared a quorum present.

14

15

16 On motion of Representative Holbert, the reading of the journal of
17 March 23, 2011, was declared dispensed with and approved as corrected
18 by the Chief Clerk.

19

20

21

22 **CONSIDERATION OF RESOLUTION(S)**

23

24 **HJR11-1012** by Representative(s) Stephens, Swerdfeger, Pace, Vigil;
25 also Senator(s) Scheffel--Concerning the designation of a
26 portion of State Highway 105 as "Medal of Honor Master
27 Sergeant William J. Crawford Highway".

28

29 (Printed and placed in members' file)

30

31 On motion of Representative Stephens, the resolution was **adopted** by
32 **viva voce** vote.

33

34 Current roll Call added as co-sponsor(s): Representative(s) Acree, Balmer,
35 Barker, Baumgardner, Becker, Beezley, Bradford, Brown, Casso, Conti, Coram,
36 Court, DelGrosso, Duran, Ferrandino, Fields, Fischer, Gardner B., Gardner D.,
37 Gerou, Hamner, Holbert, Hullinghorst, Jones, Joshi, Kagan, Kefalas, Kerr A.,
38 Kerr J., Labuda, Lee, Levy, Liston, Looper, McCann, Miklosi, Murray, Nikkel,
39 Pabon, Peniston, Priola, Ramirez, Riesberg, Ryden, Schafer S., Scott, Solano,
40 Sonnenberg, Soper, Summers, Swalm, Szabo, Todd, Tyler, Vaad, Waller,
41 Williams A., Wilson, Speaker.

42

43

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 **HB11-1146** by Representative(s) Massey; also Senator(s) Steadman--
8 Concerning a requirement that a residence be integral to an
9 agricultural operation in determining whether two acres or
10 less associated with the residence satisfies the definition of
11 agricultural land for property tax purposes.

12
13 Laid over until March 25, retaining place on Calendar.

14
15 **HB11-1268** by Representative(s) Levy; also Senator(s) Nicholson--
16 Concerning penalties for traffic offenses involving alcohol
17 and drugs.

18
19 The question being "Shall the bill pass?".

20 A roll call vote was taken. As shown by the following recorded vote, a
21 majority of those elected to the House voted in the affirmative and the bill
22 was declared **passed**.

	YES	52	NO	11	EXCUSED	2	ABSENT	0
25	Acree	Y	Fischer	Y	Liston	Y	Scott	Y
26	Balmer	N	Gardner B.	Y	Looper	N	Solano	Y
27	Barker	Y	Gardner D.	Y	Massey	E	Sonnenberg	N
28	Baumgardner	N	Gerou	Y	McCann	Y	Soper	Y
29	Becker	N	Hamner	Y	McKinley	E	Stephens	Y
30	Beezley	N	Holbert	N	Miklosi	Y	Summers	Y
31	Bradford	Y	Hullinghorst	Y	Murray	Y	Swalm	Y
32	Brown	Y	Jones	Y	Nikkel	N	Swerdfeger	Y
33	Casso	Y	Joshi	N	Pabon	Y	Szabo	Y
34	Conti	Y	Kagan	Y	Pace	Y	Todd	Y
35	Coram	N	Kefalas	Y	Peniston	Y	Tyler	Y
36	Court	Y	Kerr A.	Y	Priola	Y	Vaad	Y
37	DelGrosso	Y	Kerr J.	N	Ramirez	Y	Vigil	Y
38	Duran	Y	Labuda	Y	Riesberg	Y	Waller	Y
39	Ferrandino	Y	Lee	Y	Ryden	Y	Williams A.	Y
40	Fields	Y	Levy	Y	Schafer S.	Y	Wilson	Y
41							Speaker	Y

42 Co-sponsor(s) added: Representative(s) Fields, Fischer, Labuda, Pace, Ryden,
43 Schafer S., Solano, Todd, Vigil, Wilson.

44
45
46
47
48 **CONSIDERATION OF SENATE AMENDMENTS TO HOUSE BILLS**

49
50 **HB11-1180** by Representative(s) Levy; also Senator(s) Guzman--
51 Concerning using individualized assessments to aid judges
52 in imposing criminal sentences that reduce the likelihood
53 of criminal offenders committing additional criminal acts.

54
55 (Amended as printed in Senate Journal, March 21, page 522.)

56

1 Representative Levy moved that the House **concur** in Senate
 2 amendments. The motion was declared **passed** by the following roll call
 3 vote:

	YES	63	NO	0	EXCUSED	2	ABSENT	0
6	Acree	Y	Fischer	Y	Liston	Y	Scott	Y
7	Balmer	Y	Gardner B.	Y	Looper	Y	Solano	Y
8	Barker	Y	Gardner D.	Y	Massey	E	Sonnenberg	Y
9	Baumgardner	Y	Gerou	Y	McCann	Y	Soper	Y
10	Becker	Y	Hamner	Y	McKinley	E	Stephens	Y
11	Beezley	Y	Holbert	Y	Miklosi	Y	Summers	Y
12	Bradford	Y	Hullinghorst	Y	Murray	Y	Swalm	Y
13	Brown	Y	Jones	Y	Nikkel	Y	Swerdfeger	Y
14	Casso	Y	Joshi	Y	Pabon	Y	Szabo	Y
15	Conti	Y	Kagan	Y	Pace	Y	Todd	Y
16	Coram	Y	Kefalas	Y	Peniston	Y	Tyler	Y
17	Court	Y	Kerr A.	Y	Priola	Y	Vaad	Y
18	DelGrosso	Y	Kerr J.	Y	Ramirez	Y	Vigil	Y
19	Duran	Y	Labuda	Y	Riesberg	Y	Waller	Y
20	Ferrandino	Y	Lee	Y	Ryden	Y	Williams A.	Y
21	Fields	Y	Levy	Y	Schafer S.	Y	Wilson	Y
22							Speaker	Y

23
 24 The question being, "Shall the bill, as amended, pass?".
 25 A roll call vote was taken. As shown by the following recorded vote, a
 26 majority of those elected to the House voted in the affirmative, and the
 27 bill, as amended, was declared **repassed**.

	YES	63	NO	0	EXCUSED	2	ABSENT	0
30	Acree	Y	Fischer	Y	Liston	Y	Scott	Y
31	Balmer	Y	Gardner B.	Y	Looper	Y	Solano	Y
32	Barker	Y	Gardner D.	Y	Massey	E	Sonnenberg	Y
33	Baumgardner	Y	Gerou	Y	McCann	Y	Soper	Y
34	Becker	Y	Hamner	Y	McKinley	E	Stephens	Y
35	Beezley	Y	Holbert	Y	Miklosi	Y	Summers	Y
36	Bradford	Y	Hullinghorst	Y	Murray	Y	Swalm	Y
37	Brown	Y	Jones	Y	Nikkel	Y	Swerdfeger	Y
38	Casso	Y	Joshi	Y	Pabon	Y	Szabo	Y
39	Conti	Y	Kagan	Y	Pace	Y	Todd	Y
40	Coram	Y	Kefalas	Y	Peniston	Y	Tyler	Y
41	Court	Y	Kerr A.	Y	Priola	Y	Vaad	Y
42	DelGrosso	Y	Kerr J.	Y	Ramirez	Y	Vigil	Y
43	Duran	Y	Labuda	Y	Riesberg	Y	Waller	Y
44	Ferrandino	Y	Lee	Y	Ryden	Y	Williams A.	Y
45	Fields	Y	Levy	Y	Schafer S.	Y	Wilson	Y
46							Speaker	Y

47 Co-sponsor(s) added: Representative(s) Fields, Gardner B., Hullinghorst, Pace.

48
 49 **HB11-1186** by Representative(s) Ryden, Kerr A., McCann, Vigil; also
 50 Senator(s) Guzman--Concerning reimbursement by health
 51 insurance carriers for acupuncture services.

52
 53 (Amended as printed in Senate Journal, March 21, page 521.)

54
 55 Laid over until March 25, retaining place on Calendar.

56

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

2
3 **FINANCE**

4 After consideration on the merits, the Committee recommends the
5 following:

6
7 **HB11-1195** be referred favorably to the Committee on Appropriations.
8

9
10 **HB11-1269** be amended as follows, and as so amended, be referred to
11 the Committee of the Whole with favorable
12 recommendation:

13
14 Amend printed bill, page 2, line 21, after "(II)" insert "(A)".

15
16 Page 3, after line 5 insert:

17
18 "(B) FOR PURPOSES OF THIS SUBPARAGRAPH (II), "FEE" INCLUDES
19 ANY MONEYS RECEIVED FROM CHARGES OR ASSESSMENTS, THE AMOUNT
20 OF WHICH ARE NOT DETERMINED BY THE ENTITY.".

21
22 Page 3, after line 13 insert:

23
24 "**SECTION 3.** 39-2-117 (8), Colorado Revised Statutes, is
25 amended to read:

26
27 **39-2-117. Applications for exemption - review - annual reports**
28 **- procedures - rules.** (8) (a) All fees collected pursuant to this section
29 shall be transmitted to the state treasurer who shall credit such revenues
30 to the property tax exemption fund, which fund is hereby created in the
31 state treasury. The moneys in the fund shall be subject to annual
32 appropriation by the general assembly for the direct and indirect costs of
33 the administration of this article.

34
35 (b) FOR THE 2010-11 FISCAL YEAR AND FOR EACH FISCAL YEAR
36 THEREAFTER, THE ALTERNATIVE RESERVE BALANCE FOR THE PROPERTY
37 TAX EXEMPTION FUND, FOR PURPOSES OF THE APPLICATION OF SECTION 24-
38 75-402, C.R.S., SHALL BE EQUAL TO THE LEVEL OF THE PRIOR YEAR'S
39 APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND
40 INDIRECT COSTS OF THE ADMINISTRATION OF THIS ARTICLE FROM THE
41 FUND.".

42
43 Renumber succeeding section accordingly.
44

45
46
47 **SB11-081** be amended as follows, and as so amended, be referred to
48 the Committee of the Whole with favorable
49 recommendation:

50
51 Amend reengrossed bill, page 2, line 6, strike "2014," and substitute
52 "2016,".

53
54 Page 2, line 14, strike "2015," and substitute "2017,".
55
56

1 **SB11-115** be amended as follows, and as so amended, be referred to
2 the Committee of the Whole with favorable
3 recommendation:
4

5 Amend reengrossed bill, page 2, strike lines 19 through 25 and substitute
6 "POSTAUDITS THEREOF, EXCEPT FOR:
7

8 (I) ANY SPECIAL PURPOSE AUTHORITY OR STATE ENTITY WHOSE
9 GOVERNING BODY INCLUDES THE STATE AUDITOR AS AN EX OFFICIO
10 MEMBER;
11

12 (II) ANY HOSPITAL THAT IS SUBJECT TO AUDIT UNDER THE
13 "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4 TO 6 OF TITLE 25.5,
14 C.R.S., OR MEDICARE, TITLE XVIII OF THE FEDERAL "SOCIAL SECURITY
15 ACT", AS AMENDED; OR
16

17 (III) ANY SPECIAL PURPOSE AUTHORITY OR STATE ENTITY WHERE
18 THE AUTHORITY OR ENTITY'S ACTIONS ARE SUBJECT TO A PERFORMANCE
19 AUDIT, OR SUCH SIMILAR AUDIT, BY THE FEDERAL GOVERNMENT. UPON
20 COMPLETION OF SUCH A FEDERAL PERFORMANCE AUDIT, A COPY OF THE
21 AUDIT SHALL BE SHARED WITH THE STATE AUDITOR."
22
23
24
25

26 **JUDICIARY**

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

30 **HB11-1278** be amended as follows, and as so amended, be referred to
31 the Committee on Appropriations with favorable
32 recommendation:
33

34 Amend printed bill, page 4, after line 11 insert:
35

36 "SECTION 4. 16-22-102 (5.7), Colorado Revised Statutes, is
37 amended, and the said 16-22-102 is further amended BY THE
38 ADDITION OF A NEW SUBSECTION, to read:
39

40 **16-22-102. Definitions.** As used in this article, unless the context
41 otherwise requires:
42

43 (5.7) (a) "Residence" means a place or dwelling that is used,
44 intended to be used, or usually used for habitation by a person who is
45 required to register pursuant to section 16-22-103. "Residence" may
46 include, but is not limited to, a temporary shelter or institution, if the
47 owner of the shelter or institution consents to the person utilizing the
48 shelter or institution as his or her registered address as required by section
49 16-22-106 (4) or 16-22-107 (4) (a) and if the residence of the person at
50 the shelter or institution is capable of verification as required by section
51 16-22-109 (3.5). A person may establish multiple residences by residing
52 in more than one place or dwelling.
53

54 (b) "RESIDENCE" FOR A TRANSIENT MEANS THE LOCATION WHERE
55 THE TRANSIENT CAN BE FOUND FOR A SIGNIFICANT PERIOD OF EACH DAY.
56

1 (8.5) "TRANSIENT" MEANS A PERSON WHO HAS NO RESIDENCE."
2
3 Renumber succeeding sections accordingly.
4
5 Page 6, line 2, strike "(4)" and substitute "(3) (a.5), (4),".
6
7 Page 6, after line 19 insert:
8
9 "(a.5) Changes the address at which a VEHICLE, trailer, or motor
10 home is located, if the VEHICLE, trailer, or motor home is the person's
11 place of residence, regardless of whether the new address is within the
12 jurisdiction of the law enforcement agency with which such person
13 previously registered;"
14
15 Page 12, line 12, strike "JUVENILE" and substitute "DEPARTMENT OF
16 HUMAN SERVICES".
17
18 Page 12, line 14, strike "REGISTERED" and substitute "REGISTERED, THE
19 JUVENILE PAROLE BOARD,".
20
21 Page 12, strike lines 20 through 24 and substitute "THIS SECTION AND IS
22 UNDER THE CUSTODY OF THE DEPARTMENT OF HUMAN SERVICES AND YET
23 TO BE RELEASED ON PAROLE BY THE JUVENILE PAROLE BOARD, THE
24 DEPARTMENT OF HUMAN SERVICES MAY PETITION THE COURT TO SET A
25 HEARING PURSUANT TO PARAGRAPH (e) OF SUBSECTION (1) OF THIS
26 SECTION AT LEAST SIXTY DAYS BEFORE THE JUVENILE IS SCHEDULED TO
27 APPEAR BEFORE THE JUVENILE PAROLE BOARD.
28
29 (III) IF A JUVENILE IS ELIGIBLE TO PETITION TO DISCONTINUE HIS
30 OR HER REGISTRATION PURSUANT TO PARAGRAPH (e) OF SUBSECTION (1)
31 OF THIS SECTION AND IS UNDER THE CUSTODY OF THE DEPARTMENT OF
32 HUMAN SERVICES AND YET TO BE RELEASED ON PAROLE BY THE JUVENILE
33 PAROLE BOARD, THE DEPARTMENT OF HUMAN SERVICES, PRIOR TO SETTING
34 THE MATTER FOR HEARING, SHALL MODIFY THE JUVENILE'S PAROLE PLAN
35 OR PAROLE HEARING TO ACKNOWLEDGE THE COURT ORDER OR PETITION
36 UNLESS IT IS ALREADY INCORPORATED IN THE PAROLE PLAN."
37
38 Page 13, line 21, after "(1.5)" insert "(a)".
39
40 Page 13, line 24, strike "(a)" and substitute "(I)".
41
42 Page 13, line 26, strike "(b)" and substitute "(II)".
43
44 Page 14, line 2, strike "(c)" and substitute "(III)".
45
46 Page 14, after line 3 insert:
47
48 "(b) IN ORDER TO ASSERT THE AFFIRMATIVE DEFENSE PURSUANT
49 TO THIS SUBSECTION (1.5), THE DEFENDANT SHALL PROVIDE NOTICE TO
50 THE PROSECUTING ATTORNEY AS SOON AS PRACTICABLE, BUT NOT LATER
51 THAN THIRTY DAYS PRIOR TO TRIAL, OF HIS OR HER NOTICE OF INTENT TO
52 RELY UPON THE AFFIRMATIVE DEFENSE. THE NOTICE SHALL INCLUDE A
53 DESCRIPTION OF THE UNCONTROLLABLE CIRCUMSTANCE OR
54 CIRCUMSTANCES AND THE DATES THE UNCONTROLLABLE CIRCUMSTANCES
55 BEGAN AND CEASED TO EXIST IN ADDITION TO THE NAMES AND ADDRESSES
56 OF ANY WITNESSES THE DEFENDANT PLANS TO CALL TO SUPPORT THE

1 AFFIRMATIVE DEFENSE. THE PROSECUTING ATTORNEY SHALL ADVISE THE
 2 DEFENDANT OF THE NAMES AND ADDRESSES OF ANY ADDITIONAL
 3 WITNESSES WHO MAY BE CALLED TO REFUTE SUCH AFFIRMATIVE DEFENSE
 4 AS SOON AS PRACTICABLE AFTER THEIR NAMES BECOME KNOWN. UPON
 5 THE REQUEST OF THE PROSECUTION, THE COURT SHALL FIRST RULE AS A
 6 MATTER OF LAW WHETHER THE CLAIMED FACTS AND CIRCUMSTANCES
 7 WOULD, IF ESTABLISHED, CONSTITUTE SUFFICIENT EVIDENCE TO SUPPORT
 8 SUBMISSION TO THE JURY.".

9

10

11

12 **SB11-165** be referred to the Committee of the Whole with favorable
 13 recommendation.

14

15

16 **SB11-175** be referred to the Committee of the Whole with favorable
 17 recommendation.

18

19

20

21

22 **LOCAL GOVERNMENT**

23 After consideration on the merits, the Committee recommends the
 24 following:

25

26 **SB11-110** be referred to the Committee of the Whole with favorable
 27 recommendation.

28

29

30

31

32 **TRANSPORTATION**

33 After consideration on the merits, the Committee recommends the
 34 following:

35

36 **HB11-1279** be amended as follows, and as so amended, be referred to
 37 the Committee on Appropriations with favorable
 38 recommendation:

39

40 Amend printed bill, page 2, line 1, strike "(B)," and substitute "(B) and
 41 the introductory portion to 42-4-510 (11) (a) (VII),".

42

43 Page 2, line 2, strike "is" and substitute "are".

44

45 Page 2, after line 11 insert:

46

47 "(11) (a) The department of transportation, the motor carrier
 48 services division of the department of revenue, or the Colorado state
 49 patrol may charge permit applicants permit fees as follows:

50

51 (VII) For overweight permits for vehicle combinations with a
 52 ~~tandem or triple axle grouping~~ TRAILER THAT HAS TWO OR THREE AXLES
 53 for divisible vehicles or loads exceeding legal weight limits established
 54 pursuant to sub-subparagraph (B) of subparagraph (II) of paragraph (b)
 55 of subsection (1) of this section:".

56

1 **SB11-045** be amended as follows, and as so amended, be referred to
 2 the Committee on Legislative Council with favorable
 3 recommendation:
 4

5 Amend reengrossed bill, page 4, line 2, strike "SIXTEEN" and substitute
 6 "SEVENTEEN".
 7

8 Page 5, strike lines 6 and 7 and substitute:
 9

10 "(VII) TWO LANDOWNERS REPRESENTING AGRICULTURAL
 11 INTERESTS WHO RESIDE IN DIFFERENT GEOGRAPHIC AREAS OF THE STATE."
 12
 13
 14

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

16
 17 The Speaker has signed: **HB11-1079, 1118, 1151, 1153, 1167, 1210,**
 18 **1226, 1239.**
 19
 20

21 **MESSAGE(S) FROM THE SENATE**

22
 23
 24 The Senate has passed on Third Reading and returns herewith: HB11-
 25 1236, and HB11-1111.
 26

27 The Senate has passed on Third Reading and transmitted to the Revisor
 28 of Statutes:
 29

30 HB11-1033 amended as printed in Senate Journal, March 22, 2011,
 31 page 535.
 32 HB11-1101 amended as printed in Senate Journal, March 22, 2011,
 33 page 535.
 34 HB11-1159 amended as printed in Senate Journal, March 22, 2011,
 35 pages 535-536.
 36 HB11-1258 amended as printed in Senate Journal, March 21, 2011,
 37 page 522, amended on Third Reading, March 23, 2011, as
 38 printed in the Senate Journal.
 39 SB11-198 amended as printed in Senate Journal, March 22, 2011,
 40 pages 536-537.
 41
 42

43 The Senate has postponed indefinitely HB11-1205, HB11-1128, and
 44 HB-1059. The bills are returned herewith.
 45
 46
 47

48 **MESSAGE(S) FROM THE REVISOR**

49
 50
 51 We herewith transmit:
 52 Without comment, as amended, HB11-1033, 1101, 1159, and 1258.
 53 Without comment, as amended, SB11-198.
 54
 55
 56

INTRODUCTION OF BILLS
First Reading

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39

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

SB11-072 by Senator(s) Carroll, Bacon, Boyd, Giron, Hodge, Hudak, Morse, Steadman, Tochtrop, Aguilar, Guzman, Johnston; also Representative(s) Levy, Court, Fields, Tyler-- Concerning the creation of remedies in employment discrimination cases brought under state law.
Committee on State, Veterans, & Military Affairs

SB11-198 by Senator(s) Morse, Shaffer B., Kopp; also Representative(s) Stephens, McNulty, Pace--Concerning payment of expenses of the legislative department.
Committee on Appropriations

LAY OVER OF CALENDAR ITEM(S)

On motion of Representative Stephens, the following item(s) on the Calendar (was)were laid over until March 25, retaining place on Calendar:

Consideration of General Orders--**HB11-1116, 1005, 1286.**

On motion of Representative Stephens, the House adjourned until 9:00 a.m., March 25, 2011.

Approved:
FRANK McNULTY,
Speaker

Attest:
MARILYN EDDINS,
Chief Clerk

