

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

Thirty-first Legislative Day

Friday, February 6, 2009

1 Prayer by Father Curtiss Dwyer, St. John Vianney Theological Seminary,
2 Denver.

3
4 The Speaker called the House to order at 9:00 a.m.

5
6 Pledge of Allegiance led by Beau Matthews and Dominic Gutierrez, Blue
7 Heron Elementary, Littleton.

8
9 The roll was called with the following result:

10
11 Present--63.
12 Excused--Representatives Levy, Solano--2.
13 Present after roll call--Representative Solano.

14
15 The Speaker declared a quorum present.

16 _____
17
18
19 On motion of Representative Bradford, the reading of the journal of
20 February 5, 2009, was declared dispensed with and approved as corrected
21 by the Chief Clerk.

22
23 _____
24
25
26 On motion of Representative Ferrandino, the House resolved itself into
27 Committee of the Whole for consideration of General Orders, and he was
28 called to the Chair to act as Chairman.

29
30 _____
31
32
33 **GENERAL ORDERS--SECOND READING OF BILLS**

34
35 The Committee of the Whole having risen, the Chairman reported the
36 titles of the following bills had been read (reading at length had been
37 dispensed with by unanimous consent), the bills considered and action
38 taken thereon as follows:

39
40 (Amendments to the committee amendment are to the printed committee
41 report which was printed and placed in the members' bill file.)

42

1 **HB09-1088** by Representative(s) Balmer, Benefield, Looper, Todd;
2 also Senator(s) Newell--Concerning certification of public
3 benefit nonprofit entities as local public procurement
4 units.

5
6 Amendment No. 1, by Representative Balmer.

7
8 Amend printed bill, page 2, line 7, strike everything after
9 "ORGANIZATION" and substitute the following:

10
11 "THAT:

12
13 (a) IS EXEMPT FROM FEDERAL TAXATION UNDER 26 U.S.C. SEC.
14 501 (c) (3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
15 AMENDED;

16
17 (b) DOES NOT POSSESS 501 (c) (4) STATUS UNDER THE FEDERAL
18 "INTERNAL REVENUE CODE OF 1986", AS AMENDED, 26 U.S.C. SEC. 501
19 (c) (4); AND

20
21 (c) RECEIVES FUNDS FROM FEDERAL, STATE, OR LOCAL
22 GOVERNMENTAL SOURCES.";

23
24 strike lines 8 through 10;

25
26 line 12, strike "amended" and substitute "amended, and the said
27 24-110-207.5 is further amended BY THE ADDITION OF A NEW
28 SUBSECTION,";

29
30 line 14, strike "**rules.**" and substitute "**rules - report - repeal.**".

31
32 Page 3, after line 5, insert the following:

33
34 "(3) (a) ON OR BEFORE FEBRUARY 1, 2011, THE DEPARTMENT OF
35 PERSONNEL SHALL REPORT TO THE HOUSE AND SENATE STATE, VETERANS,
36 AND MILITARY AFFAIRS COMMITTEES, OR THEIR SUCCESSOR COMMITTEES,
37 ON THE NUMBER OF PUBLIC BENEFIT NONPROFIT ENTITIES THAT WERE
38 CERTIFIED AS LOCAL PUBLIC PROCUREMENT UNITS, AND THE TOTAL
39 SPENDING BY SUCH ENTITIES UNDER STATE COOPERATIVE PURCHASING
40 AGREEMENTS, BETWEEN JULY 1, 2009, AND NOVEMBER 1, 2010.

41
42 (b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1, 2011.".

43
44 As amended, ordered engrossed and placed on the Calendar for Third
45 Reading and Final Passage.

46
47 **HB09-1019** by Representative(s) Peniston; also Senator(s) Foster--
48 Concerning cat identification.

49
50 Laid over until June 9, 2009. Deemed lost.

51
52 **HB09-1059** by Representative(s) Primavera; also Senator M. Carroll
53 --Concerning the continuation of health care coverage
54 while participating in a clinical trial.

55
56 Laid over until February 13, retaining place on Calendar.

1 **HB09-1103** by Representative(s) Riesberg; also Senator(s) Newell--
2 Concerning presumptive eligibility under the medical
3 assistance program for persons in need of long-term care.
4

5 Amendment No. 1, Health & Human Services Report, dated
6 February 2, 2009, and placed in member's bill file; Report also printed in
7 House Journal, February 3, page 232.
8

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

12 **HB09-1151** by Representative(s) Todd, Labuda, Lundberg, Ryden,
13 Solano; also Senator(s) Heath--Concerning designating the
14 department of public safety as the agency responsible for
15 oversight of school building inspections.
16

17 Amendment No. 1, Judiciary Report, dated February 2, 2009, and placed
18 in member's bill file; Report also printed in House Journal, February 3,
19 pages 229-231.
20

21 As amended, ordered engrossed and placed on the Calendar for Third
22 Reading and Final Passage.
23

24 **HB09-1174** by Representative(s) Riesberg; also Senator(s) Hodge,
25 Brophy--Concerning the exemption of depletions from
26 pumping that occurred prior to 1974.
27

28 Ordered engrossed and placed on the Calendar for Third Reading and
29 Final Passage.
30

31 **HB09-1162** by Representative(s) Gerou; also Senator(s) Kopp--
32 Concerning intergovernmental cooperation for the purpose
33 of mitigating wildfires.
34

35 Amendment No. 1, Local Government Report, dated February 3, 2009,
36 and placed in member's bill file; Report also printed in House Journal,
37 February 4, page 250.
38

39 As amended, ordered engrossed and placed on the Calendar for Third
40 Reading and Final Passage.
41

42 **HB09-1008** by Representative(s) Miklosi; also Senator(s) Williams--
43 Concerning the expansion of the ability to transfer annual
44 leave between employees in the state personnel system.
45

46 Ordered engrossed and placed on the Calendar for Third Reading and
47 Final Passage.
48

49 **HB09-1112** by Representative(s) Kerr J.--Concerning the information
50 provided to the staff of the legislative council in
51 connection with the preparation of fiscal notes for
52 legislative measures.
53

54 Laid over until February 13, retaining place on Calendar.
55
56

1 **HB09-1118** by Representative(s) Murray; also Senator(s) Kester--
 2 Concerning the manner in which the records of certain
 3 governmental entities are kept.
 4

5 Amendment No. 1, State, Veterans, & Military Affairs Report, dated
 6 February 3, 2009, and placed in member's bill file; Report also printed in
 7 House Journal, February 4, page 253.
 8

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

12 **HB09-1092** by Representative(s) Peniston, Gagliardi; also Senator(s)
 13 Kester--Concerning the risk of damage to underground
 14 facilities caused by excavation.
 15

16 Amendment No. 1, Transportation & Energy Report, dated
 17 February 3, 2009, and placed in member's bill file; Report also printed in
 18 House Journal, February 4, page 252.
 19

20 Amendment No. 2, by Representative Peniston.
 21

22 Amend printed bill, page 2, line 23, after the period, add "MECHANICAL
 23 EQUIPMENT USED FOR ROUTINE MAINTENANCE TASKS SHALL BE DEFINED
 24 AS AERATORS, HAND-HELD ROTOTILLERS, SOIL INJECTION NEEDLES, LAWN
 25 EDGERS, OVERSEEDERS, AND HAND TOOLS."
 26

27 As amended, ordered engrossed and placed on the Calendar for Third
 28 Reading and Final Passage.
 29

30 **HB09-1057** by Representative(s) Kerr A., Carroll T., Apuan; also
 31 Senator(s) Bacon, Groff--Concerning parental involve-
 32 ment in kindergarten through twelfth grade education.
 33

34 Amendment No. 1, Education Report, dated February 5, 2009, and
 35 placed in member's bill file; Report also printed in House Journal,
 36 February 5, pages 265-267.
 37

38 As amended, ordered engrossed and placed on the Calendar for Third
 39 Reading and Final Passage.
 40

41
 42
 43 **ADOPTION OF COMMITTEE OF THE WHOLE REPORT**
 44

45 Passed Second Reading: **HB09-1088 amended, 1103 amended, 1151**
 46 **amended, 1174, 1162 amended, 1008, 1118 amended, 1092 amended,**
 47 **1057 amended.**
 48

49 Laid over until date indicated retaining place on Calendar:

50 **HB09-1019**--June 9, 2009. Deemed lost.

51 **HB09-1059, 1112**--February 13, 2009.
 52

53 The Chairman moved the adoption of the Committee of the Whole
 54 Report. As shown by the following roll call vote, a majority of those
 55 elected to the House voted in the affirmative, and the Report was
 56 **adopted.**

	YES	64	NO	0	EXCUSED	1	ABSENT	0
1								
2	Acree	Y	Green	Y	McFadyen	Y	Roberts	Y
3	Apuan	Y	Hullingerhorst	Y	McGihon	Y	Ryden	Y
4	Balmer	Y	Judd	Y	McKinley	Y	Scanlan	Y
5	Baumgardner	Y	Kefalas	Y	McNulty	Y	Schafer S.	Y
6	Benefield	Y	Kerr A.	Y	Merrifield	Y	Solano	Y
7	Bradford	Y	Kerr J.	Y	Middleton	Y	Sonnenberg	Y
8	Casso	Y	King S.	Y	Miklosi	Y	Soper	Y
9	Court	Y	Labuda	Y	Murray	Y	Stephens	Y
10	Curry	Y	Lambert	Y	Nikkel	Y	Summers	Y
11	Ferrandino	Y	Levy	E	Pace	Y	Swalm	Y
12	Fischer	Y	Liston	Y	Peniston	Y	Tipton	Y
13	Frangas	Y	Looper	Y	Pommer	Y	Todd	Y
14	Gagliardi	Y	Marostica	Y	Primavera	Y	Vaad	Y
15	Gardner B.	Y	Massey	Y	Priola	Y	Vigil	Y
16	Gardner C.	Y	May	Y	Rice	Y	Waller	Y
17	Gerou	Y	McCann	Y	Riesberg	Y	Weissmann	Y
18							Speaker	Y
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REPORTS OF COMMITTEES OF REFERENCE

EDUCATION

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

HB09-1009 be postponed indefinitely.

HB09-1125 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

Amend printed bill, page 2, strike lines 7 through 14 and substitute the following:

"(a) "ITEM OF VALUE" MEANS AN ITEM, CASH, OR AN INSTRUMENT OR DEVICE THAT CAN BE USED TO OBTAIN CASH, CREDIT, PROPERTY, SERVICES, OR ANY OTHER THING OF VALUE, WHICH ITEM, CASH, OR INSTRUMENT OR DEVICE EXCEEDS TWENTY DOLLARS IN VALUE."

Reletter succeeding paragraphs accordingly.

Page 3, strike lines 7 through 27 and substitute the following:

"(2) A LOCAL EDUCATION PROVIDER SHALL NOT OFFER OR PROVIDE TO A SCHOOL-AGED CHILD OR THE CHILD'S PARENT AN ITEM OF VALUE PRIOR TO, UPON, OR AFTER ENROLLING IN OR ATTENDING AN EDUCATIONAL PROGRAM OPERATED BY THE LOCAL EDUCATION PROVIDER UNLESS:

(a) THE LOCAL EDUCATION PROVIDER MAKES THE ITEM OF VALUE AVAILABLE TO THE CHILD CONTINUOUSLY OR AT REGULAR INTERVALS THROUGHOUT THE SCHOOL YEAR AND ONLY SO LONG AS THE CHILD REMAINS ENROLLED IN AN EDUCATION PROGRAM OPERATED BY THE LOCAL EDUCATION PROVIDER; OR

1 (b) THE LOCAL EDUCATION PROVIDER AWARDS THE ITEM OF VALUE
 2 ONLY AT THE END OF THE SCHOOL YEAR OR UPON MATRICULATION IN
 3 RECOGNITION OF STUDENT PERFORMANCE.".

4
 5 Page 4, strike lines 1 through 4.

6

7

8

9

10 **HEALTH & HUMAN SERVICES**

11 After consideration on the merits, the Committee recommends the
 12 following:

13

14 **HB09-1028** be amended as follows, and as so amended, be referred to
 15 the Committee of the Whole with favorable
 16 recommendation:

17

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

20

21 **"SECTION 1. Legislative declaration.** The general assembly
 22 hereby finds and declares that Colorado has limited economic resources
 23 available to meet the significant need for medical services that exists in
 24 communities within the state. Accordingly, state-funded health care
 25 programs should be monitored to ensure that quality care is being
 26 provided and resources are not lost to waste, fraud, neglect, indifference,
 27 or abuse. The general assembly further finds that, by allowing a health
 28 care provider or network of providers to create an accountability system
 29 to review grievances submitted by medically indigent persons receiving
 30 services through the Colorado indigent care program, the state may better
 31 monitor the intended care that providers have a duty to provide under the
 32 program and that has been paid for with taxpayers' money. Moreover,
 33 medically indigent persons receiving care under the program should have
 34 a voice in helping to ensure that the program is providing the type of
 35 medical care and the quality of medical care that the program is intended
 36 to provide.

37

38 **SECTION 2.** 25.5-3-205 (2), Colorado Revised Statutes, is
 39 amended, and the said 25.5-3-205 is further amended BY THE
 40 ADDITION OF A NEW SUBSECTION, to read:

41

42 **25.5-3-205. Grant-making process.** (2) Service grants awarded
 43 to qualified providers shall be used by such providers only to:

44

45 (a) Increase access to comprehensive primary care services for
 46 uninsured or medically indigent patients who are served by such
 47 providers;

48

49 (b) Create new services or augment existing services provided to
 50 uninsured or medically indigent patients; ~~or~~

51

52 (c) Establish new sites that offer comprehensive primary care
 53 services in medically underserved areas of the state or to medically
 54 underserved populations; OR

55

1 (d) ESTABLISH AN ACCOUNTABILITY BOARD PURSUANT TO
 2 SUBSECTION (2.5) OF THIS SECTION TO REVIEW GRIEVANCES FROM
 3 UNINSURED OR MEDICALLY INDIGENT PATIENTS WHO ARE SERVED BY SUCH
 4 PROVIDERS THROUGH THE COLORADO INDIGENT CARE PROGRAM
 5 ESTABLISHED PURSUANT TO PART 1 OF THIS ARTICLE.

6
 7 (2.5) (a) A QUALIFIED PROVIDER, GROUP OF QUALIFIED PROVIDERS,
 8 OR A STATEWIDE ASSOCIATION THAT REPRESENTS QUALIFIED PROVIDERS
 9 MAY SUBMIT A GRANT APPLICATION PURSUANT TO SUBSECTION (1) OF THIS
 10 SECTION FOR THE AWARD OF A SERVICE GRANT TO ESTABLISH AN
 11 ACCOUNTABILITY BOARD TO REVIEW AND RESOLVE GRIEVANCES
 12 SUBMITTED BY UNINSURED OR MEDICALLY INDIGENT PATIENTS WHO
 13 RECEIVE CARE THROUGH THE COLORADO INDIGENT CARE PROGRAM
 14 ESTABLISHED PURSUANT TO PART 1 OF THIS ARTICLE.

15
 16 (b) THE GRANT APPLICATION SHALL INCLUDE, BUT NEED NOT BE
 17 LIMITED TO:

18
 19 (I) AN OUTLINE OF THE STRUCTURE OF THE ACCOUNTABILITY
 20 BOARD, WHICH BOARD SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, THE
 21 FOLLOWING MEMBERS:

22
 23 (A) A CONSUMER OF MEDICAL SERVICES WHO, AT THE TIME OF HIS
 24 OR HER APPOINTMENT TO THE ACCOUNTABILITY BOARD, HAS RECEIVED
 25 SERVICES THROUGH THE COLORADO INDIGENT CARE PROGRAM
 26 ESTABLISHED PURSUANT TO PART 1 OF THIS ARTICLE WITHIN THE
 27 PRECEDING THIRTY-SIX MONTHS;

28
 29 (B) AN ADVOCATE FOR THE UNINSURED OR MEDICALLY INDIGENT;
 30 AND

31
 32 (C) A LICENSED HEALTH CARE PROFESSIONAL;

33
 34 (II) A DETAILED DESCRIPTION OF THE PROCESS FOR THE
 35 SUBMISSION, SELECTION, REVIEW, AND RESOLUTION OF GRIEVANCES BY
 36 THE ACCOUNTABILITY BOARD; AND

37
 38 (III) THE PROVISIONS FOR MAINTAINING ETHICAL STANDARDS,
 39 INCLUDING BUT NOT LIMITED TO STANDARDS RELATING TO CLIENT
 40 PRIVACY AND CONFLICT OF INTEREST CONCERNS.

41
 42 (c) A GRANT RECIPIENT AWARDED A GRANT TO ESTABLISH AN
 43 ACCOUNTABILITY BOARD PURSUANT TO THIS SUBSECTION (2.5) SHALL
 44 MAKE RECOMMENDATIONS TO THE STATE DEPARTMENT REGARDING
 45 METHODS FOR IMPROVING THE COLORADO INDIGENT CARE PROGRAM
 46 ESTABLISHED PURSUANT TO PART 1 OF THIS ARTICLE TO REDUCE
 47 GRIEVANCES BY UNINSURED OR MEDICALLY INDIGENT PATIENTS.

48
 49 **SECTION 3. 25.5-3-108, Colorado Revised Statutes, is amended**
 50 **BY THE ADDITION OF A NEW SUBSECTION to read:**

51
 52 **25.5-3-108. Responsibility of the department of health care**
 53 **policy and financing - provider reimbursement. (17) THE STATE**
 54 **DEPARTMENT SHALL ESTABLISH ANY PROCEDURES NECESSARY TO**
 55 **COORDINATE WITH AN ACCOUNTABILITY BOARD ESTABLISHED PURSUANT**
 56 **TO SECTION 25.5-3-205 (2) (d).**

1 **SECTION 4. Act subject to petition - effective date.** This act
2 shall take effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly that is
4 allowed for submitting a referendum petition pursuant to article V,
5 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
6 sine die is on May 6, 2009); except that, if a referendum petition is filed
7 against this act or an item, section, or part of this act within such period,
8 then the act, item, section, or part, if approved by the people, shall take
9 effect on the date of the official declaration of the vote thereon by
10 proclamation of the governor."

11
12
13
14 **HB09-1084** be postponed indefinitely.

15
16
17 **HB09-1097** be postponed indefinitely.

18
19
20 **HB09-1111** be referred favorably to the Committee on Appropriations.

21
22
23 **HB09-1119** be amended as follows, and as so amended, be referred to
24 the Committee on Appropriations with favorable
25 recommendation:

26
27 Amend printed bill, strike everything below the enacting clause and
28 substitute the following:

29
30 **"SECTION 1.** Part 2 of article 1 of title 25, Colorado Revised
31 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
32 read:

33
34 **25-1-216. Rural youth alcohol and substance abuse prevention**
35 **and treatment program - creation - administration - definitions - cash**
36 **fund - repeal.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
37 OTHERWISE REQUIRES:

38
39 (a) "PROGRAM" MEANS THE RURAL YOUTH ALCOHOL AND
40 SUBSTANCE ABUSE PREVENTION AND TREATMENT PROGRAM CREATED
41 PURSUANT TO SUBSECTION (2) OF THIS SECTION.

42
43 (b) "RURAL AREA" MEANS A COUNTY WITH A POPULATION OF LESS
44 THAN THIRTY THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY
45 AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF
46 THE CENSUS.

47
48 (c) "YOUTH" MEANS AN INDIVIDUAL WHO IS AT LEAST EIGHT
49 YEARS OF AGE BUT WHO IS LESS THAN EIGHTEEN YEARS OF AGE.

50
51 (2) (a) THERE IS HEREBY CREATED THE RURAL YOUTH ALCOHOL
52 AND SUBSTANCE ABUSE PREVENTION AND TREATMENT PROGRAM WITHIN
53 THE DIVISION TO PROVIDE PREVENTION AND TREATMENT SERVICES TO
54 YOUTH IN RURAL AREAS, WHICH SERVICES MAY INCLUDE, BUT NEED NOT
55 BE LIMITED TO, PROVIDING ALTERNATIVE ACTIVITIES FOR YOUTH. THE
56 DIVISION SHALL ADMINISTER THE PROGRAM PURSUANT TO RULES ADOPTED

1 BY THE STATE BOARD OF HUMAN SERVICES AS OF THE EFFECTIVE DATE OF
2 THIS SECTION OR AS AMENDED BY THE STATE BOARD THEREAFTER.

3
4 (b) THE DIVISION SHALL INCORPORATE PROVISIONS TO IMPLEMENT
5 THE PROGRAM INTO ITS REGULAR CONTRACTING MECHANISM FOR THE
6 PURCHASE OF PREVENTION AND TREATMENT SERVICES PURSUANT TO
7 SECTION 25-1-206. THE DIVISION SHALL DEVELOP A METHOD TO
8 EQUITABLY DISTRIBUTE AND PROVIDE ADDITIONAL MONEYS THROUGH
9 CONTRACTS TO PROVIDE FOR PREVENTION SERVICES FOR AND TREATMENT
10 OF YOUTH IN RURAL AREAS.

11
12 (c) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
13 CONTRARY, THE DIVISION SHALL IMPLEMENT THE PROGRAM ON OR AFTER
14 JANUARY 1, 2011, SUBJECT TO THE AVAILABILITY OF SUFFICIENT MONEYS
15 TO OPERATE AN EFFECTIVE PROGRAM, AS DETERMINED BY THE DIVISION.

16
17 (3) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
18 RURAL YOUTH ALCOHOL AND SUBSTANCE ABUSE CASH FUND, REFERRED
19 TO IN THIS SECTION AS THE "FUND". THE FUND SHALL BE COMPRISED OF
20 MONEYS COLLECTED FROM SURCHARGES ASSESSED PURSUANT TO
21 SECTIONS 18-19-103.5, 42-4-1301 (7) (d) (IV), AND 42-4-1701 (4) (f),
22 C.R.S., AND ANY MONEYS CREDITED TO THE FUND PURSUANT TO
23 PARAGRAPH (b) OF THIS SUBSECTION (3). THE MONEYS IN THE FUND
24 SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
25 ASSEMBLY TO THE DIVISION FOR THE PURPOSE OF IMPLEMENTING THE
26 PROGRAM. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT
27 OF MONEYS IN THE FUND SHALL REMAIN IN THE FUND. ANY UNEXPENDED
28 OR UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A
29 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE
30 TRANSFERRED OR CREDITED TO THE GENERAL FUND OR ANOTHER FUND;
31 EXCEPT THAT ANY UNEXPENDED AND UNENCUMBERED MONEYS
32 REMAINING IN THE FUND AS OF JUNE 30, 2016, SHALL BE CREDITED TO THE
33 GENERAL FUND.

34
35 (b) THE DIVISION IS AUTHORIZED TO ACCEPT ANY GRANTS, GIFTS,
36 OR DONATIONS FROM ANY PRIVATE OR PUBLIC SOURCE ON BEHALF OF THE
37 STATE FOR THE PURPOSE OF THE PROGRAM. THE DIVISION SHALL
38 TRANSMIT ALL PRIVATE AND PUBLIC MONEYS RECEIVED THROUGH GRANTS,
39 GIFTS, OR DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT THE
40 SAME TO THE FUND.

41
42 (4) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.

43
44 (b) PRIOR TO SUCH REPEAL, THE PROGRAM SHALL BE REVIEWED AS
45 PROVIDED IN SECTION 24-34-104, C.R.S.

46
47 **SECTION 2.** 24-34-104 (47), Colorado Revised Statutes, is
48 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

49
50 **24-34-104. General assembly review of regulatory agencies**
51 **and functions for termination, continuation, or reestablishment.**
52 (47) The following agencies, functions, or both, shall terminate on July
53 1, 2016:

54
55 (c) THE RURAL YOUTH ALCOHOL AND SUBSTANCE ABUSE
56 PREVENTION AND TREATMENT PROGRAM CREATED PURSUANT TO SECTION

1 25-1-216, C.R.S., WITHIN THE DIVISION OF ALCOHOL AND DRUG ABUSE IN
2 THE DEPARTMENT OF HUMAN SERVICES.

3
4 **SECTION 3.** 42-4-1301 (7) (d), Colorado Revised Statutes, is
5 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

6
7 **42-4-1301. Driving under the influence - driving while**
8 **impaired - driving with excessive alcoholic content - definitions -**
9 **penalties - repeal. (7) Penalties.** (d) In addition to the penalties
10 prescribed in this subsection (7):

11
12 (IV) (A) PERSONS CONVICTED OF DUI, DUI PER SE, DWAI, AND
13 HABITUAL USER, ARE SUBJECT TO AN ADDITIONAL PENALTY SURCHARGE
14 OF NOT LESS THAN ONE DOLLAR AND NOT MORE THAN TEN DOLLARS FOR
15 PROGRAMS TO ADDRESS ALCOHOL AND SUBSTANCE ABUSE PROBLEMS
16 AMONG YOUTH IN RURAL AREAS. THE MINIMUM PENALTY SURCHARGE
17 SHALL BE MANDATORY, AND THE COURT SHALL HAVE NO DISCRETION TO
18 SUSPEND OR WAIVE THE SURCHARGE; EXCEPT THAT THE COURT MAY
19 SUSPEND OR WAIVE THE SURCHARGE FOR A DEFENDANT DETERMINED BY
20 THE COURT TO BE INDIGENT. ANY MONEYS COLLECTED FOR THE
21 SURCHARGE SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO
22 SHALL CREDIT THE SAME TO THE RURAL YOUTH ALCOHOL AND SUBSTANCE
23 ABUSE CASH FUND CREATED IN SECTION 25-1-216 (3), C.R.S.

24
25 (B) THIS SUBPARAGRAPH (IV) IS REPEALED, EFFECTIVE JULY 1,
26 2016, UNLESS THE GENERAL ASSEMBLY EXTENDS THE REPEAL OF THE
27 RURAL YOUTH ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND
28 TREATMENT PROGRAM CREATED IN SECTION 25-1-216, C.R.S.

29
30 **SECTION 4.** 42-4-1701 (4), Colorado Revised Statutes, is
31 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

32
33 **42-4-1701. Traffic offenses and infractions classified -**
34 **penalties - penalty and surcharge schedule - repeal.** (4) (f) (I) IN
35 ADDITION TO THE SURCHARGE SPECIFIED IN SUB-SUBPARAGRAPH (N) OF
36 SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (4), AN
37 ADDITIONAL SURCHARGE OF FIVE DOLLARS SHALL BE ASSESSED FOR A
38 VIOLATION OF SECTION 42-4-1301 (2) (a.5). MONEYS COLLECTED
39 PURSUANT TO THIS PARAGRAPH (f) SHALL BE TRANSMITTED TO THE STATE
40 TREASURER WHO SHALL DEPOSIT SUCH MONEYS IN THE RURAL YOUTH
41 ALCOHOL AND SUBSTANCE ABUSE CASH FUND CREATED IN SECTION
42 25-1-216 (3), C.R.S., WITHIN FOURTEEN DAYS AFTER THE END OF EACH
43 QUARTER, TO BE USED FOR THE PURPOSES SET FORTH IN SECTION 25-1-216,
44 C.R.S.

45
46 (II) IF THE ADDITIONAL SURCHARGE IS COLLECTED BY A COUNTY
47 OR MUNICIPAL COURT, THE ADDITIONAL SURCHARGE SHALL BE SIX
48 DOLLARS OF WHICH ONE DOLLAR SHALL BE RETAINED BY THE COUNTY OR
49 MUNICIPALITY AND THE REMAINING FIVE DOLLARS SHALL BE
50 TRANSMITTED TO THE STATE TREASURER AND CREDITED TO THE RURAL
51 YOUTH ALCOHOL AND SUBSTANCE ABUSE CASH FUND CREATED IN SECTION
52 25-1-216 (3), C.R.S., WITHIN FOURTEEN DAYS AFTER THE END OF EACH
53 QUARTER, TO BE USED FOR THE PURPOSES SET FORTH IN SECTION 25-1-216,
54 C.R.S.

55
56

1 (III) THIS PARAGRAPH (f) IS REPEALED, EFFECTIVE JULY 1, 2016,
2 UNLESS THE GENERAL ASSEMBLY EXTENDS THE REPEAL OF THE RURAL
3 YOUTH ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT
4 PROGRAM CREATED IN SECTION 25-1-216, C.R.S.

5
6 **SECTION 5.** 18-19-102 (1), Colorado Revised Statutes, is
7 amended, and the said 18-19-102 is further amended BY THE
8 ADDITION OF A NEW SUBSECTION, to read:

9
10 **18-19-102. Definitions.** As used in this article, unless the context
11 otherwise requires:

12
13 ~~(1) "Convicted" and "conviction" means a plea of guilty, including~~
14 ~~a plea of guilty entered pursuant to a deferred sentence under section~~
15 ~~18-1.3-102, or a verdict of guilty by a judge or jury, and includes a plea~~
16 ~~of no contest accepted by the court. "ALCOHOL- OR DRUG-RELATED~~
17 ~~OFFENDER" MEANS A PERSON CONVICTED OF ANY OF THE FOLLOWING~~
18 ~~OFFENSES OR OF ATTEMPT TO COMMIT ANY OF THE FOLLOWING OFFENSES:~~

19
20 (a) VIOLATION OF A PROTECTION ORDER AS DESCRIBED IN SECTION
21 18-1-1001 (4), IF THE PROTECTION ORDER PROHIBITED THE POSSESSION OR
22 CONSUMPTION OF ALCOHOL OR CONTROLLED SUBSTANCES AND THE
23 VIOLATION RELATED TO SUCH PROVISIONS;

24
25 (b) VEHICULAR HOMICIDE AS DESCRIBED IN SECTION 18-3-106 (1)
26 (b);

27
28 (c) VEHICULAR ASSAULT AS DESCRIBED IN SECTION 18-3-205 (1)
29 (b);

30
31 (d) BRINGING ALCOHOL BEVERAGES INTO THE MAJOR LEAGUE
32 STADIUM AS DESCRIBED IN SECTION 18-9-123 (1) (a) (I); OR

33
34 (e) ILLEGAL POSSESSION OR CONSUMPTION OF ETHYL ALCOHOL BY
35 AN UNDERAGE PERSON AS DESCRIBED IN SECTION 18-13-122.

36
37 (1.5) "CONVICTED" AND "CONVICTION" MEANS A PLEA OF GUILTY,
38 INCLUDING A PLEA OF GUILTY ENTERED PURSUANT TO A DEFERRED
39 SENTENCE UNDER SECTION 18-1.3-102, OR A VERDICT OF GUILTY BY A
40 JUDGE OR JURY, AND INCLUDES A PLEA OF NO CONTEST ACCEPTED BY THE
41 COURT.

42
43 **SECTION 6.** Article 19 of title 18, Colorado Revised Statutes, is
44 amended BY THE ADDITION OF A NEW SECTION to read:

45
46 **18-19-103.5. Rural youth alcohol and substance abuse**
47 **surcharge.** (1) IN ADDITION TO THE SURCHARGES ESTABLISHED IN
48 SECTION 18-19-103, EACH DRUG OFFENDER AND EACH ALCOHOL- OR
49 DRUG-RELATED OFFENDER WHO IS CONVICTED, OR RECEIVES A DEFERRED
50 SENTENCE PURSUANT TO SECTION 18-1.3-102, SHALL BE REQUIRED TO PAY
51 A SURCHARGE TO THE CLERK OF THE COURT IN THE COUNTY IN WHICH THE
52 CONVICTION OCCURS OR IN WHICH THE DEFERRED SENTENCE IS ENTERED.
53 THE SURCHARGE SHALL BE IN AN AMOUNT DETERMINED BY THE JUDGE BUT
54 SHALL BE NOT LESS THAN ONE DOLLAR NOR MORE THAN TEN DOLLARS.

1 (2) THE CLERK OF THE COURT SHALL DISBURSE THE SURCHARGE
2 REQUIRED BY SUBSECTION (1) OF THIS SECTION AS FOLLOWS:
3

4 (a) FIVE PERCENT SHALL BE RETAINED BY THE CLERK FOR
5 PURPOSES OF ADMINISTERING THE DISBURSAL OF THE SURCHARGE
6 PURSUANT TO THIS SUBSECTION (2);
7

8 (b) NINETY-FIVE PERCENT SHALL BE DISBURSED TO THE STATE
9 TREASURER WHO SHALL CREDIT THE SAME TO THE RURAL YOUTH ALCOHOL
10 AND SUBSTANCE ABUSE CASH FUND CREATED IN SECTION 25-1-216 (3),
11 C.R.S.
12

13 (3) THE MINIMUM PENALTY SURCHARGE SHALL BE MANDATORY,
14 AND THE COURT SHALL HAVE NO DISCRETION TO SUSPEND OR WAIVE THE
15 SURCHARGE; EXCEPT THAT THE COURT MAY SUSPEND OR WAIVE THE
16 SURCHARGE FOR A DEFENDANT DETERMINED BY THE COURT TO BE
17 INDIGENT.
18

19 (4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016, UNLESS
20 THE GENERAL ASSEMBLY EXTENDS THE REPEAL OF THE RURAL YOUTH
21 ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT PROGRAM
22 CREATED IN SECTION 25-1-216, C.R.S.
23

24 **SECTION 7. Effective date - applicability.** This act shall take
25 effect January 1, 2010, and shall apply to offenses committed on or after
26 said date.
27

28 **SECTION 8. Safety clause.** The general assembly hereby finds,
29 determines, and declares that this act is necessary for the immediate
30 preservation of the public peace, health, and safety."
31

32
33
34

35 **JUDICIARY**

36 After consideration on the merits, the Committee recommends the
37 following:
38

39 **HB09-1132** be amended as follows, and as so amended, be referred to
40 the Committee on Appropriations with favorable
41 recommendation:
42

43 Amend printed bill, page 2, line 18, strike "a statement" and substitute "a
44 ~~statement~~";
45

46 line 21, strike "is under fifteen years of age, describing" and substitute "is
47 TO BE under fifteen years of age ~~describing~~ AND, IN THAT
48 COMMUNICATION OR IN ANY SUBSEQUENT COMMUNICATION BY
49 COMPUTER, COMPUTER NETWORK, TELEPHONE NETWORK, DATA NETWORK,
50 TEXT MESSAGE, OR INSTANT MESSAGE, DESCRIBES";
51

52 line 23, strike "the communication," and substitute "~~the communication~~
53 THAT DESCRIPTION,".
54

55 Page 3, strike lines 2 through 7 and substitute the following:
56

1 **"18-3-405.4. Internet sexual exploitation of a child.** (1) A
 2 ~~person~~ AN ACTOR commits internet sexual exploitation of a child if a
 3 ~~person, who is at least four years older than a child who is under fifteen~~
 4 ~~years of age,~~ THE ACTOR knowingly importunes, invites, or entices the
 5 ~~child~~ through communication via a computer network or system,
 6 TELEPHONE NETWORK, OR DATA NETWORK OR BY A TEXT MESSAGE OR
 7 INSTANT MESSAGE, A PERSON WHOM THE ACTOR KNOWS OR BELIEVES TO
 8 BE UNDER FIFTEEN YEARS OF AGE AND AT LEAST FOUR YEARS YOUNGER
 9 THAN THE ACTOR, to:";

10
 11 line 8, strike "child's" and substitute "child's PERSON'S";

12
 13 line 9, strike "person" and substitute "person ACTOR";

14
 15 strike lines 12 through 14 and substitute the following:

16
 17 "(b) Observe the ~~person's~~ ACTOR'S intimate parts ~~while~~
 18 ~~communicating with the person~~ via a computer network or system,
 19 TELEPHONE NETWORK, OR DATA NETWORK OR BY A TEXT MESSAGE OR
 20 INSTANT MESSAGE."

21
 22
 23 **HB09-1163** be amended as follows, and as so amended, be referred to
 24 the Committee on Appropriations with favorable
 25 recommendation:

26
 27 Amend printed bill, page 3, strike lines 13 through 25 and substitute the
 28 following:

29
 30 "(V) When a person acts knowingly or recklessly and the child
 31 abuse results in any injury other than serious bodily injury, it is a class 1
 32 misdemeanor; except that, if ~~the underlying factual basis of the child~~
 33 ~~abuse, which would constitute a misdemeanor, has been found by the trier~~
 34 ~~of fact to include one of the acts~~ IT IS COMMITTED UNDER THE
 35 CIRCUMSTANCES described in paragraph (e) of this subsection (7),
 36 subsequent to a prior conviction under this section, then it is a class 5
 37 felony.";

38
 39 strike lines 26 and 27.

40
 41 Page 4, strike lines 1 through 11 and substitute the following:

42
 43 "(VI) When a person acts with criminal negligence and the child
 44 abuse results in any injury other than serious bodily injury to the child, it
 45 is a class 2 misdemeanor; except that, if ~~the underlying factual basis of~~
 46 ~~the child abuse, which would constitute a misdemeanor, has been found~~
 47 ~~by the trier of fact to include one of the acts~~ IT IS COMMITTED UNDER THE
 48 CIRCUMSTANCES described in paragraph (e) of this subsection (7),
 49 subsequent to a prior conviction under this section, then it is a class 5
 50 felony.";

51
 52 strike lines 13 through 27 and substitute the following:

53
 54 "(I) An act of child abuse when a person acts knowingly or
 55 recklessly is a class 2 misdemeanor; except that, if ~~the underlying factual~~
 56 ~~basis of the child abuse, which would constitute a misdemeanor, has been~~

1 ~~found by the trier of fact to include one of the acts~~ IT IS COMMITTED
 2 UNDER THE CIRCUMSTANCES described in paragraph (e) of this subsection
 3 (7), subsequent to a prior conviction under this section, then it is a class
 4 5 felony.

5
 6 (II) An act of child abuse when a person acts with criminal
 7 negligence is a class 3 misdemeanor; except that, if ~~the underlying factual~~
 8 ~~basis of the child abuse, which would constitute a misdemeanor, has been~~
 9 ~~found by the trier of fact to include one of the acts~~ IT IS COMMITTED
 10 UNDER THE CIRCUMSTANCES described in paragraph (e) of this subsection
 11 (7), subsequent to a prior conviction under this section, then it is a class
 12 5 felony."

13
 14 Page 5, strike lines 1 through 18 and substitute the following:

15
 16 "(e) ~~If~~ A person WHO HAS PREVIOUSLY BEEN CONVICTED OF A
 17 VIOLATION OF THIS SECTION OR OF AN OFFENSE IN ANY OTHER STATE, THE
 18 UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE
 19 UNITED STATES THAT WOULD CONSTITUTE CHILD ABUSE IF COMMITTED IN
 20 THIS STATE AND WHO commits child abuse ~~by engaging in one of the~~
 21 ~~following acts, then such person shall be punished for a second or~~
 22 ~~subsequent conviction~~ as provided in subparagraph (V) or (VI) of
 23 paragraph (a) of this subsection (7) or as provided in subparagraph (I) or
 24 (II) of paragraph (b) of this subsection (7) COMMITS A CLASS 5 FELONY IF
 25 THE TRIER OF FACT FINDS THAT THE NEW OFFENSE INVOLVED ANY OF THE
 26 FOLLOWING ACTS:"

27
 28
 29
 30
 31 **STATE, VETERANS, & MILITARY AFFAIRS**

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

34
 35 **HB09-1124** be amended as follows, and as so amended, be referred to
 36 the Committee of the Whole with favorable
 37 recommendation:

38
 39 Amend printed bill, page 2, strike lines 2 through 4 and substitute the
 40 following:

41
 42 "SECTION 1. 24-6-402 (2) (d.5) (I) (B) and (3) (a) (II), Colorado
 43 Revised Statutes, are amended to read:

44
 45 **24-6-402. Meetings - open to public - definitions.** (2) (d.5) (I)
 46 (B) If, in the opinion of the attorney who is representing ~~the state public~~
 47 ~~body~~ A GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER
 48 EDUCATION, INCLUDING THE REGENTS OF THE UNIVERSITY OF COLORADO,
 49 and is in attendance at an executive session that has been properly
 50 announced pursuant to paragraph (a) of subsection (3) of this section, all
 51 or a portion of the discussion during the executive session constitutes a
 52 privileged attorney-client communication, no record or electronic
 53 recording shall be required to be kept of the part of the discussion that
 54 constitutes a privileged attorney-client communication. The electronic
 55 recording of said executive session discussion shall reflect that no further
 56 record or electronic recording was kept of the discussion based on the

1 opinion of the attorney representing the ~~state public body~~ GOVERNING
2 BOARD OF A STATE INSTITUTION OF HIGHER EDUCATION, INCLUDING THE
3 REGENTS OF THE UNIVERSITY OF COLORADO, as stated for the record
4 during the executive session, that the discussion constituted a privileged
5 attorney-client communication, or the attorney representing the ~~state~~
6 ~~public body~~ GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER
7 EDUCATION, INCLUDING THE REGENTS OF THE UNIVERSITY OF COLORADO,
8 may provide a signed statement attesting that the portion of the executive
9 session that was not recorded constituted a privileged attorney-client
10 communication in the opinion of the attorney.

11

12 (3) (a) The".

13

14

15

16 **HB09-1153** be amended as follows, and as so amended, be referred to
17 the Committee of the Whole with favorable
18 recommendation:

19

20 Amend printed bill, page 3, strike lines 16 through 18 and substitute the
21 following:

22

23 "SECTION, EACH ISSUE COMMITTEE SHALL REGISTER WITH THE
24 APPROPRIATE OFFICER WITHIN TEN CALENDAR DAYS OF ACCEPTING OR
25 MAKING A CONTRIBUTION OR EXPENDITURE IN EXCESS OF TWO";

26

27 line 27, after "ISSUE", insert "OR BALLOT QUESTION".

28

29 Page 4, line 17, after "ISSUE", insert "OR BALLOT QUESTION".

30

31 Page 5, line 1, after "ISSUE", insert "OR BALLOT QUESTION".

32

33

34

35

36 **TRANSPORTATION & ENERGY**

37 After consideration on the merits, the Committee recommends the
38 following:

39

40 **HB09-1098** The committee returns herewith HB09-1098 and reports
41 that said bill has been considered on its merits and voted
42 upon by the committee in accordance with House Rules,
43 that the deadline applicable to committees under Joint
44 Rule 23 (a) (1) has passed, that final action has not been
45 taken by this committee within said deadline, and that the
46 Committee on Delayed Bills has not waived said deadline.
47 Pursuant to Joint Rule 23 (a) (3) (A), said bill is deemed to
48 be postponed indefinitely.

49

50

51 **HB09-1100** be referred favorably to the Committee on Appropriations.

52

53

54 **HB09-1107** be postponed indefinitely.

55

56

1 **HB09-1133** be amended as follows, and as so amended, be referred to
2 the Committee on Appropriations with favorable
3 recommendation:
4

5 Amend printed bill, page 3, line 6, after the period, add "ON OR BEFORE
6 MARCH 1, 2010, AND ON OR BEFORE MARCH 1 EVERY FIVE YEARS
7 THEREAFTER, THE DIRECTOR OF THE DIVISION SHALL FILE A WRITTEN
8 REPORT WITH THE TRANSPORTATION AND ENERGY COMMITTEE OF THE
9 HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEE, AND THE
10 TRANSPORTATION COMMITTEE OF THE SENATE, OR ANY SUCCESSOR
11 COMMITTEES, CONCERNING ANY CHANGE WITHIN THE PRECEDING FIVE
12 YEARS IN THE AMOUNT OF THE FEE IMPOSED PURSUANT TO SUBSECTION (1)
13 OF THIS SECTION AND THE REASON FOR THE CHANGE IN THE FEE."
14

15
16

17 **HB09-1149** be amended as follows, and as so amended, be referred to
18 the Committee on Appropriations with favorable
19 recommendation:
20

21 Amend printed bill, page 2, strike lines 5 through 12 and substitute the
22 following:
23

24 "(1) (a) EVERY PERSON THAT BUILDS A NEW SINGLE-FAMILY
25 DETACHED RESIDENCE FOR WHICH A BUYER IS UNDER CONTRACT SHALL
26 OFFER THE BUYER THE OPPORTUNITY TO HAVE THE RESIDENCE'S
27 ELECTRICAL SYSTEM OR PLUMBING SYSTEM INCLUDE ONE OF THE
28 FOLLOWING:
29

30 (I) A RESIDENTIAL PHOTOVOLTAIC SOLAR GENERATION SYSTEM OR
31 A RESIDENTIAL SOLAR THERMAL SYSTEM;
32

33 (II) UPGRADES OF WIRING OR PLUMBING, OR BOTH, PLANNED BY
34 THE BUILDER TO ACCOMMODATE FUTURE INSTALLATION OF SUCH
35 SYSTEMS; OR
36

37 (III) A CHASE OR CONDUIT CONSTRUCTED TO ALLOW EASE OF
38 FUTURE INSTALLATION OF THE NECESSARY WIRING OR PLUMBING FOR SUCH
39 SYSTEMS.
40

41 (b) THE OFFER REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION
42 (1) SHALL BE MADE IN ACCORDANCE WITH THE BUILDER'S CONSTRUCTION
43 SCHEDULE FOR THE RESIDENCE."
44

45 Page 3, after line 10, insert the following:
46

47 "(5) THE GOVERNOR'S ENERGY OFFICE OR ITS DESIGNEES SHALL
48 OFFER PERIODIC TRAINING SESSIONS ON RESIDENTIAL PHOTOVOLTAIC
49 SOLAR GENERATION SYSTEMS OR SOLAR THERMAL SYSTEMS TO PERSONS
50 THAT BUILD NEW SINGLE-FAMILY DETACHED RESIDENCES. THE
51 GOVERNOR'S ENERGY OFFICE MAY ASSESS AND COLLECT FROM
52 PARTICIPANTS A REGISTRATION FEE, NOT TO EXCEED THE ACTUAL COSTS
53 OF PROVIDING SUCH TRAINING."
54

55 Renumber succeeding subsections accordingly.
56

1 On motion of Representative Weissmann, the House adjourned until
2 10:00 a.m., February 9, 2009.

3

4

5

6

7 Attest:

8 MARILYN EDDINS,

9 Chief Clerk

Approved:

TERRANCE D. CARROLL,

Speaker