

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

Thirty-sixth Legislative Day

Wednesday, February 11, 2009

1 Prayer by the Reverend Doctor Cynthia Cearley, Montview Presbyterian
2 Church, Denver.

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

5
6 Pledge of Allegiance led by Anya Epstein, South High School, Denver.

7
8 The roll was called with the following result:

9
10 Present--61.

11 Excused--Representative(s) Green, McFadyen, Pommer,
12 Weissmann--4.

13 Present after roll call--Representative(s) Pommer, Weissmann.

14
15 The Speaker declared a quorum present.

16
17
18 On motion of Representative Court, the reading of the journal of
19 February 10, 2009, was declared dispensed with and approved as
20 corrected by the Chief Clerk.

21
22
23
24
25 **REPORTS OF COMMITTEES OF REFERENCE**

26
27 **AGRICULTURE, LIVESTOCK, & NATURAL RESOURCES**

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

30
31 **HB09-1167** be postponed indefinitely.

32
33
34
35
36 **LOCAL GOVERNMENT**

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

39
40 **HB09-1171** be referred to the Committee of the Whole with favorable
41 recommendation.

42
43

1 **HB09-1203** be referred to the Committee of the Whole with favorable
 2 recommendation.
 3

4 _____
 5 House in recess. House reconvened.
 6 _____
 7

8
 9 **REPORTS OF COMMITTEES OF REFERENCE**

10
 11 **FINANCE**

12 After consideration on the merits, the Committee recommends the
 13 following:
 14

15 **HB09-1215** be amended as follows, and as so amended, be referred to
 16 the Committee of the Whole with favorable
 17 recommendation:
 18

19 Amend printed bill, page 2, line 13, strike "FROM RECIPIENTS DUE TO
 20 OVERPAYMENT" and substitute "DUE TO OVERPAYMENT OF RECIPIENTS,
 21 INCLUDING REGULAR, FRAUD, AND INTERIM ASSISTANCE REIMBURSEMENT
 22 RECOVERIES,".
 23

24 Page 3, line 15, strike "THE DATE OF ANY EXPENDITURES, THE" and
 25 substitute "THE AGGREGATE MONTHLY".
 26
 27

28
 29 **HB09-1219** be amended as follows, and as so amended, be referred to
 30 the Committee of the Whole with favorable
 31 recommendation:
 32

33 Amend printed bill, page 2, line 9, after the period, add "FOR PURPOSES
 34 OF THIS SUBSECTION (1.5), THE FOLLOWING BURDENS OF PROOF SHALL
 35 APPLY:
 36

37 (a) IF A TAXPAYER'S TOTAL PAYMENTS ARE LESS THAN OR EQUAL
 38 TO TWICE THE AMOUNT OF THE ACTUAL TAX LIABILITY, THEN THE
 39 DEPARTMENT SHALL BEAR THE BURDEN OF PROVING, BY A
 40 PREPONDERANCE OF THE EVIDENCE, THAT SUCH PAYMENTS WERE NOT
 41 MADE INCIDENT TO A BONA FIDE AND ORDERLY DISCHARGE OF AN ACTUAL
 42 LIABILITY OR A LIABILITY REASONABLY ASSUMED TO BE IMPOSED BY LAW;
 43 AND
 44

45 (b) IF A TAXPAYER'S TOTAL PAYMENTS ARE MORE THAN TWICE THE
 46 AMOUNT OF THE ACTUAL TAX LIABILITY, THEN THE TAXPAYER SHALL BEAR
 47 THE BURDEN OF PROVING, BY A PREPONDERANCE OF THE EVIDENCE, THAT
 48 SUCH PAYMENTS WERE MADE INCIDENT TO A BONA FIDE AND ORDERLY
 49 DISCHARGE OF AN ACTUAL LIABILITY OR A LIABILITY REASONABLY
 50 ASSUMED TO BE IMPOSED BY LAW.";
 51

52 strike lines 10 through 21 and substitute the following:
 53

54 **"SECTION 2. Repeal.** 39-22-604 (9), Colorado Revised
 55 Statutes, is repealed as follows:
 56

1 **39-22-604. Withholding tax - requirement to withhold - tax**
 2 **lien - exemption from lien - definitions.** (9) ~~The department, after an~~
 3 ~~audit of the annual income tax return of the employee, as otherwise~~
 4 ~~provided for in this section, or in cases of returns which take longer than~~
 5 ~~normal to process for reasons specified in section 39-22-622 (4), shall~~
 6 ~~refund the amount deducted or withheld in excess of the tax liability of~~
 7 ~~the employee, together with interest thereon at the rate imposed under~~
 8 ~~section 39-21-110.5 from the fifteenth day of the seventh month~~
 9 ~~following the close of the employee's taxable year for which the income~~
 10 ~~tax return is filed.";~~

11
 12 line 22, strike "(2)," and substitute "(2) and (4)," and, strike "is" and
 13 substitute "are".

14
 15 Page 3, after line 17, insert the following:

16
 17 "(4) The provisions of subsection (2) of this section shall not
 18 apply to any return that is being audited or to any return that may take
 19 longer than normal to process due to the mathematical or clerical errors
 20 contained in said return or to unforeseen delays caused by the failure of
 21 processing equipment. Such determination shall be made in good faith
 22 by the department. ~~Any refund attributable to a return which takes longer~~
 23 ~~than normal to process for reasons specified in this subsection (4) shall~~
 24 ~~be subject to the requirements of section 39-22-604 (9)."~~

25
 26
 27
 28 **HB09-1265** be referred to the Committee of the Whole with favorable
 29 recommendation.

30
 31
 32
 33
 34 **STATE, VETERANS, & MILITARY AFFAIRS**

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

37
 38 **HB09-1168** be referred to the Committee of the Whole with favorable
 39 recommendation.

40
 41
 42 **HB09-1169** be referred to the Committee of the Whole with favorable
 43 recommendation.

44
 45
 46 **HB09-1179** be referred to the Committee of the Whole with favorable
 47 recommendation.

48
 49
 50 **MESSAGE FROM THE SENATE**

51
 52 The Senate has passed on Third Reading and transmitted to the Revisor
 53 of Statutes:

54
 55 SB09-097 amended as printed in Senate Journal, February 9, 2009,
 56 page 219.

1 The Senate has failed to adopt HJR09-1009, and returns the Resolution
2 herewith.

3
4
5 **MESSAGE FROM THE REVISOR**

6
7 We herewith transmit:
8 Without comment, SB09-097.

9
10
11 **INTRODUCTION OF BILL**
12 **First Reading**

13
14 The following bill was read by title and referred to the committee
15 indicated:

16
17 **SB09-097** by Senator(s) Cadman; also Representative(s) Pace--
18 Concerning clarifying changes to provisions pertaining to
19 institutional peace officers.
20 Committee on Judiciary

21
22
23 **INTRODUCTION OF RESOLUTIONS**

24
25 The following resolutions were read by title and laid over one day under
26 the rules:

27
28 **HJR09-1010** by Representative(s) Weissmann, May; also Senator(s)
29 Shaffer B., Penry--Concerning a Joint Session of the
30 House of Representatives and Senate of the Sixty-seventh
31 General Assembly for the purpose of presenting fiscal
32 information to the members of the General Assembly on
33 the state fiscal situation for the 2008-09 fiscal year.

34
35 **HJR09-1011** by Representative(s) Todd and McNulty, Acree, Apuan,
36 Balmer, Baumgardner, Benefield, Bradford, Casso,
37 Frangas, Gagliardi, Gardner B., Gardner C., Gerou, Judd,
38 Kefalas, Kerr A., Lambert, Liston, Looper, Merrifield,
39 Middleton, Murray, Nikkel, Priola, Riesberg, Roberts,
40 Ryden, Scanlan, Schafer S., Sonnenberg, Soper, Stephens,
41 Summers, Swalm, Tipton, Vaad, Waller, Kerr J., King S.,
42 Massey, May; also Senator(s) Harvey and Scheffel, Groff,
43 Kester, Kopp, Renfro, Schultheis, Schwartz, Williams--
44 Concerning the bicentennial celebration of Abraham
45 Lincoln's birth.

46
47
48 On motion of Representative Weissmann, the House adjourned until
49 9:00 a.m., February 12, 2009.

50
51 Approved:
52 TERRANCE D. CARROLL,
53 Speaker

54 Attest:
55 MARILYN EDDINS,
56 Chief Clerk