

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

Fifty-sixth Legislative Day

Tuesday, March 9, 2010

1 Prayer by Dr. C. Gene Selander, Crystal Clear Ministries, Denver.

2

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

4

5 Pledge of Allegiance led by Chase Penry, Pomona Elementary School,
6 Grand Junction.

7

8 The roll was called with the following result:

9

10 Present--57.

11 Excused--Representative(s) Bradford, Ferrandino, Gardner B.,
12 Gardner C., Kerr J., Lambert, McCann, Pommer--8.

13 Present after roll call--Representative(s) Bradford, Ferrandino,
14 Gardner B., Kerr J., Lambert, Pommer.

15

16 The Speaker declared a quorum present.

17

18

19 On motion of Representative Kagan, the reading of the journal of
20 March 8, 2010, was declared dispensed with and approved as corrected
21 by the Chief Clerk.

22

23

24

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

26

27 The following bill(s) was(were) considered on Third Reading. The
28 title(s) was(were) publicly read. Reading of the bill at length was
29 dispensed with by unanimous consent.

30

31 **HB10-1330** by Representative(s) Kefalas and Kagan, Apuan, Court,
32 Fischer, Gagliardi, Levy, Miklosi, Pace, Primavera, Rice,
33 Riesberg, Solano, Tyler, Vigil; also Senator(s) Morse--
34 Concerning the creation of an advisory committee to make
35 recommendations regarding the creation of a Colorado all-
36 payer health claims database for the purpose of transparent
37 public reporting of health care information.

38

39 The question being "Shall the bill pass?".

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

43

	YES	45	NO	17	EXCUSED	3	ABSENT	0
1								
2	Acree	N	Gerou	Y	McFadyen	Y	Ryden	Y
3	Apuan	Y	Hullinghorst	Y	McKinley	Y	Scanlan	Y
4	Balmer	N	Judd	Y	McNulty	N	Schafer S.	Y
5	Baumgardner	N	Kagan	Y	Merrifield	Y	Solano	Y
6	Benefield	Y	Kefalas	Y	Middleton	Y	Sonnenberg	N
7	Bradford	E	Kerr A.	Y	Miklosi	Y	Soper	Y
8	Casso	Y	Kerr J.	N	Murray	N	Stephens	Y
9	Court	Y	King S.	N	Nikkel	Y	Summers	Y
10	Curry	Y	Labuda	Y	Pace	Y	Swalm	Y
11	DelGrosso	N	Lambert	N	Peniston	Y	Tipton	N
12	Ferrandino	Y	Levy	Y	Pommer	Y	Todd	Y
13	Fischer	Y	Liston	N	Primavera	Y	Tyler	Y
14	Frangas	Y	Looper	N	Priola	N	Vaad	N
15	Gagliardi	Y	Massey	Y	Rice	Y	Vigil	Y
16	Gardner B.	Y	May	N	Riesberg	Y	Waller	N
17	Gardner C.	E	McCann	E	Roberts	Y	Weissmann	Y
18							Speaker	Y

19 Co-sponsor(s) added: Representative(s) Casso, Curry, Frangas, Gerou, Labuda,
20 Massey, Pommer, Roberts.

21
22 **HB10-1009** by Representative(s) Miklosi, Pace, Ryden; also Senator(s)
23 Hodge, Carroll M., Tochtrop--Concerning the board of
24 directors of Pinnacle Assurance.

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

	YES	33	NO	29	EXCUSED	3	ABSENT	0
31								
32	Acree	N	Gerou	N	McFadyen	Y	Ryden	Y
33	Apuan	N	Hullinghorst	Y	McKinley	Y	Scanlan	Y
34	Balmer	N	Judd	Y	McNulty	N	Schafer S.	Y
35	Baumgardner	N	Kagan	N	Merrifield	Y	Solano	Y
36	Benefield	Y	Kefalas	Y	Middleton	Y	Sonnenberg	N
37	Bradford	E	Kerr A.	Y	Miklosi	Y	Soper	Y
38	Casso	Y	Kerr J.	N	Murray	N	Stephens	N
39	Court	Y	King S.	N	Nikkel	N	Summers	N
40	Curry	Y	Labuda	Y	Pace	Y	Swalm	N
41	DelGrosso	N	Lambert	N	Peniston	Y	Tipton	N
42	Ferrandino	Y	Levy	N	Pommer	Y	Todd	Y
43	Fischer	Y	Liston	N	Primavera	Y	Tyler	Y
44	Frangas	Y	Looper	N	Priola	N	Vaad	N
45	Gagliardi	Y	Massey	N	Rice	N	Vigil	Y
46	Gardner B.	N	May	N	Riesberg	Y	Waller	N
47	Gardner C.	E	McCann	E	Roberts	N	Weissmann	Y
48							Speaker	Y

49 Co-sponsor(s) added: Representative(s) Frangas, Hullinghorst, Labuda,
50 Pommer, Primavera.

51
52 **HB10-1288** by Representative(s) Nikkel, Rice, Ferrandino, Kerr J.,
53 Lambert, Liston, McNulty, Merrifield, Peniston,
54 Primavera, Priola, Scanlan, Waller; also Senator(s)
55 Williams, Kopp, Penry, Tochtrop--Concerning the ability
56 of a commercial real estate broker to secure payment of

1 commissions earned, and, in connection therewith,
2 enacting the "Commercial Real Estate Brokers
3 Commission Security Act".
4

5 The question being "Shall the bill pass?".
6 A roll call vote was taken. As shown by the following recorded vote, a
7 majority of those elected to the House voted in the affirmative and the bill
8 was declared **passed**.
9

	YES	46	NO	16	EXCUSED	3	ABSENT	0
11	Acree	Y	Gerou	N	McFadyen	Y	Ryden	N
12	Apuan	Y	Hullinghorst	N	McKinley	N	Scanlan	Y
13	Balmer	Y	Judd	N	McNulty	Y	Schafer S.	Y
14	Baumgardner	Y	Kagan	Y	Merrifield	Y	Solano	N
15	Benefield	N	Kefalas	Y	Middleton	Y	Sonnenberg	Y
16	Bradford	E	Kerr A.	Y	Miklosi	Y	Soper	Y
17	Casso	Y	Kerr J.	Y	Murray	Y	Stephens	Y
18	Court	Y	King S.	Y	Nikkel	Y	Summers	Y
19	Curry	Y	Labuda	N	Pace	Y	Swalm	N
20	DelGrosso	Y	Lambert	Y	Peniston	Y	Tipton	Y
21	Ferrandino	Y	Levy	N	Pommer	Y	Todd	Y
22	Fischer	Y	Liston	Y	Primavera	N	Tyler	Y
23	Frangas	Y	Looper	N	Priola	Y	Vaad	Y
24	Gagliardi	N	Massey	Y	Rice	Y	Vigil	Y
25	Gardner B.	Y	May	N	Riesberg	Y	Waller	Y
26	Gardner C.	E	McCann	E	Roberts	Y	Weissmann	N
27							Speaker	N

28 Representative Primavera requested her name be removed as sponsor.
29 Co-sponsor(s) added: Representative(s) Frangas, Massey, Roberts.
30

31 **HB10-1182** by Representative(s) Solano, Benefield, Casso, Fischer,
32 Frangas, Hullinghorst, Kerr A., Looper, McFadyen,
33 Merrifield, Pace, Primavera, Todd, Tyler; also Senator(s)
34 Schwartz, Steadman--Concerning a limited expansion of
35 the powers of the Colorado clean energy development
36 authority to finance electric transmission facilities, and, in
37 connection therewith, allowing the authority to make
38 commercial loans only for electric power interconnection
39 projects connecting clean energy resources to the
40 transmission grid.
41

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

	YES	46	NO	16	EXCUSED	3	ABSENT	0
48	Acree	N	Gerou	N	McFadyen	Y	Ryden	Y
49	Apuan	Y	Hullinghorst	Y	McKinley	Y	Scanlan	Y
50	Balmer	N	Judd	Y	McNulty	Y	Schafer S.	Y
51	Baumgardner	N	Kagan	Y	Merrifield	Y	Solano	Y
52	Benefield	Y	Kefalas	Y	Middleton	Y	Sonnenberg	N
53	Bradford	E	Kerr A.	Y	Miklosi	Y	Soper	Y
54	Casso	Y	Kerr J.	N	Murray	Y	Stephens	N
55	Court	Y	King S.	Y	Nikkel	N	Summers	Y
56	Curry	Y	Labuda	Y	Pace	Y	Swalm	N

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

9 Co-sponsor(s) added: Representative(s) Apuan, Kefalas, Labuda, Middleton,
 10 Pommer, Ryden, Schafer S., Soper, Summers, Vigil.

11
 12 **SB10-034** by Senator(s) Whitehead; also Representative(s) Looper--
 13 Concerning the administration of laws regulating
 14 pesticides, and, in connection therewith, amending the
 15 "Pesticide Act" to authorize the commissioner of the
 16 department of agriculture to inspect refillers, impose
 17 residue removal and record-keeping requirements, and set
 18 expiration dates for pesticide and device registrations by
 19 rule.

20
 21 Laid over until March 10, retaining place on Calendar.

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 25 **IMMEDIATE RECONSIDERATION OF HB10-1009**

26
 27 Having voted on the prevailing side, Representative Middleton moved for
 28 immediate reconsideration. As shown by the following recorded vote less
 29 than a two-thirds majority of those elected to the House voted in the
 30 affirmative and the motion was declared **lost**:

31	YES	39	NO	23	EXCUSED	3	ABSENT	0
33	Acree	Y	Gerou	Y	McFadyen	Y	Ryden	N
34	Apuan	Y	Hullinghorst	N	McKinley	N	Scanlan	Y
35	Balmer	Y	Judd	N	McNulty	Y	Schafer S.	N
36	Baumgardner	Y	Kagan	Y	Merrifield	Y	Solano	N
37	Benefield	N	Kefalas	N	Middleton	Y	Sonnenberg	Y
38	Bradford	E	Kerr A.	Y	Miklosi	N	Soper	N
39	Casso	Y	Kerr J.	Y	Murray	Y	Stephens	Y
40	Court	N	King S.	Y	Nikkel	Y	Summers	Y
41	Curry	N	Labuda	N	Pace	N	Swalm	Y
42	DelGrosso	Y	Lambert	Y	Peniston	N	Tipton	Y
43	Ferrandino	Y	Levy	Y	Pommer	N	Todd	Y
44	Fischer	N	Liston	Y	Primavera	N	Tyler	N
45	Frangas	N	Looper	Y	Priola	Y	Vaad	Y
46	Gagliardi	N	Massey	Y	Rice	Y	Vigil	N
47	Gardner B.	Y	May	Y	Riesberg	N	Waller	Y
48	Gardner C.	E	McCann	E	Roberts	Y	Weissmann	Y
49							Speaker	Y

50
 51
 52
 53 On motion of Representative Kefalas, the House resolved itself into
 54 Committee of the Whole for consideration of General Orders, and he was
 55 called to the Chair to act as Chairman.

GENERAL ORDERS--SECOND READING OF BILLS

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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.)

HB10-1252 by Representative(s) Primavera, Massey; also Senator(s) Boyd and Schwartz--Concerning health care services for breast cancer screening.

Amendment No. 1, Health & Human Services Report, dated March 4, 2010, and placed in member's bill file; Report also printed in House Journal, March 5, page 687.

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

HB10-1160 by Representative(s) Rice and Stephens; also Senator(s) Mitchell--Concerning the ability of health insurance carriers to offer incentives for participation in wellness programs based on satisfaction of a standard related to a health factor.

Amendment No. 1, Health & Human Services Report, dated February 11, 2010, and placed in member's bill file; Report also printed in House Journal, February 12, pages 315-318.

Amendment No. 2, by Representative(s) Rice.

Amend the Health and Human Services Committee Report, dated February 11, 2010, page 4, line 10, after "AND" insert "IS GRANTED A WAIVER OR".

Page 5 of the committee report, after line 3, insert:

"SECTION 2. 10-16-136 (7), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

10-16-136. Wellness and prevention programs - individual and small group health coverage plans - voluntary participation - incentives or rewards - definitions - legislative declaration. (7) As used in this section:

(a.5) "HEALTH RISK FACTOR" INCLUDES, WITHOUT LIMITATION, HEALTH BEHAVIORS SUCH AS SMOKING, DIET, ALCOHOL CONSUMPTION, EXERCISE, AND EXPOSURE TO UV RADIATION, THAT ARE KNOWN TO BE ASSOCIATED WITH INCREASED MORTALITY AND MORBIDITY FOR A NUMBER OF CONDITIONS."

Page 5, line 4, strike "2." and substitute "3."

1 Amendment No. 3, by Representative(s) Rice.

2
3 Amend the Health and Human Services Committee Report, dated
4 February 11, 2010, page 4, strike line 14 and substitute:

5
6 "(III) IF THE CARRIER DENIES".

7
8 Page 4, line 15, strike "AN UNREASONABLE DENIAL OF".

9
10 Page 4, strike line 18 and substitute "PROGRAM, THE INDIVIDUAL MAY
11 REQUEST AN INDEPENDENT EXTERNAL REVIEW PURSUANT TO SECTION 10-
12 16-113.5".

13
14 Amendment No. 4, by Representative(s) Rice.

15
16 Amend the Health and Human Services Committee Report, dated
17 February 11, 2010, page 1, line 4, strike "A NEW".

18
19 Page 1, strike line 5 and substitute "THE FOLLOWING NEW
20 SUBSECTIONS,".

21
22 Page 4, after line 32 insert:

23
24 "(3.7) PRIOR TO OFFERING OR PROVIDING AN INCENTIVE OR
25 REWARD BASED UPON SATISFACTION OF A STANDARD RELATED TO A
26 HEALTH RISK FACTOR IN ACCORDANCE WITH SUBSECTION (3.5) OF THIS
27 SECTION, A CARRIER SHALL SUBMIT ITS PROPOSAL FOR THE INCENTIVE OR
28 REWARD TO THE CONSUMER INSURANCE COUNCIL, CREATED IN SECTION
29 10-1-133, FOR REVIEW. THE COUNCIL SHALL REVIEW AND MAKE
30 RECOMMENDATIONS TO THE COMMISSIONER REGARDING THE PROPOSED
31 INCENTIVES OR REWARDS AND WHETHER THE PROPOSED INCENTIVES OR
32 REWARDS SATISFY THE REQUIREMENTS OF SUBSECTION (3.5) OF THIS
33 SECTION. ADDITIONALLY, THE COUNCIL MAY REVIEW AND MAKE
34 RECOMMENDATIONS TO THE COMMISSIONER REGARDING ANY COMPLAINTS
35 FILED WITH THE DIVISION REGARDING SUCH INCENTIVES OR REWARDS."

36
37 Page 5, line 2, strike "health care task force created in section".

38
39 Page 5, line 3, strike "10-16-221" and substitute "~~health care task force~~
40 ~~created in section 10-16-221~~ HEALTH AND HUMAN SERVICES COMMITTEES
41 OF THE SENATE AND HOUSE OF REPRESENTATIVES, THE BUSINESS, LABOR,
42 AND TECHNOLOGY COMMITTEE OF THE SENATE, AND THE BUSINESS
43 AFFAIRS AND LABOR COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR
44 THEIR SUCCESSOR COMMITTEES,".

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

48
49 **SB10-052** by Senator(s) Brophy, Hodge; also Representative(s)
50 Curry--Concerning the ability of the groundwater
51 commission to alter the boundaries of a designated
52 groundwater basin.

53
54 Declared **lost** on Second Reading.
55 (For change in action, see Amendments to Report, page 719.)

1 On motion of Representative Weissmann, the remainder of the General
2 Orders Calendar (**SB10-083, HB10-1020, 1035, 1083, 1101, 1119, 1210,**
3 **1221, 1228, 1250, 1267, 1164, 1340, 1249, 1328**) was laid over until
4 March 10, retaining place on Calendar.

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7
8 **AMENDMENT(S) TO THE COMMITTEE OF THE WHOLE REPORT**
9

10 Representatives Sonnenberg and Curry moved to amend the Report of the
11 Committee of the Whole to reverse the action taken by the Committee in
12 not adopting SB10-052, to show that **SB10-052** passed.

13
14 The amendment was declared **passed** by the following roll call vote:
15

	YES	33	NO	30	EXCUSED	2	ABSENT	0
17	Acree	Y	Gerou	Y	McFadyen	N	Ryden	Y
18	Apuan	N	Hullinghorst	Y	McKinley	N	Scanlan	N
19	Balmer	N	Judd	N	McNulty	Y	Schafer S.	N
20	Baumgardner	Y	Kagan	Y	Merrifield	N	Solano	N
21	Benefield	N	Kefalas	Y	Middleton	N	Sonnenberg	Y
22	Bradford	Y	Kerr A.	N	Miklosi	N	Soper	Y
23	Casso	Y	Kerr J.	N	Murray	Y	Stephens	Y
24	Court	N	King S.	Y	Nikkel	Y	Summers	Y
25	Curry	Y	Labuda	N	Pace	N	Swalm	N
26	DelGrosso	Y	Lambert	Y	Peniston	N	Tipton	Y
27	Ferrandino	N	Levy	Y	Pommer	N	Todd	N
28	Fischer	Y	Liston	Y	Primavera	N	Tyler	N
29	Frangas	Y	Looper	N	Priola	Y	Vaad	Y
30	Gagliardi	N	Massey	Y	Rice	Y	Vigil	N
31	Gardner B.	Y	May	N	Riesberg	Y	Waller	Y
32	Gardner C.	E	McCann	E	Roberts	Y	Weissmann	N
33							Speaker	N

34
35
36
37 **ADOPTION OF COMMITTEE OF THE WHOLE REPORT**
38

39 Passed Second Reading: **HB10-1252 amended, 1160 amended, SB10-**
40 **052.**

41
42 Laid over until date indicated retaining place on Calendar: **SB10-083,**
43 **HB10-1020, 1035, 1083, 1101, 1119, 1210, 1221, 1228, 1250, 1267,**
44 **1164, 1340, 1249, 1328--**March 10, 2010.
45

46 The Chairman moved the adoption of the Committee of the Whole
47 Report. As shown by the following roll call vote, a majority of those
48 elected to the House voted in the affirmative, and the Report was
49 **adopted.**
50

	YES	63	NO	0	EXCUSED	2	ABSENT	0
52	Acree	Y	Gerou	Y	McFadyen	Y	Ryden	Y
53	Apuan	Y	Hullinghorst	Y	McKinley	Y	Scanlan	Y
54	Balmer	Y	Judd	Y	McNulty	Y	Schafer S.	Y
55	Baumgardner	Y	Kagan	Y	Merrifield	Y	Solano	Y
56	Benefield	Y	Kefalas	Y	Middleton	Y	Sonnenberg	Y

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

House in recess. House reconvened.

REPORT(S) OF COMMITTEE(S) OF REFERENCE

APPROPRIATIONS

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

SB10-146 be referred to the Committee of the Whole with favorable recommendation.

HEALTH & HUMAN SERVICES

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

SB10-010 be referred to the Committee of the Whole with favorable recommendation.

SB10-082 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

Amend reengrossed bill, page 2, line 16, strike "**Repeal.** 25-7-1309 (1) (c)," and substitute "25-7-1309 (1),".

Page 2, line 17, strike "repealed as follows:" and substitute " amended to read:".

Page 2, after line 19 insert:

"(a) Termination of the intergovernmental agreement by either the tribe or the state; OR

(b) Enactment of an explicit repeal by the general assembly, acting by separate bill. or".

1 **JUDICIARY**

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

4
5 **HB10-1234** 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, page 2, line 2, strike "(1) and".

10
11 Page 2, line 3, strike "are" and substitute "is".

12
13 Page 2, strike lines 5 through 16.

14
15 Page 3, strike lines 1 through 10.

16
17 Page 3, strike line 11 and substitute:

18
19 "- **severability.** (2) Notwithstanding section 10-3-1113 (3), for the
20 purposes of an".

21
22 Page 3, line 13, strike "PRESUMED".

23
24 Page 3, strike line 14 and substitute:

25
26 "(a) The".

27
28 Page 3, line 19, strike "OR THIRD-PARTY".

29
30 Page 3, strike lines 26 and 27.

31
32 Page 4, strike lines 1 through 7.

33
34 Renumber succeeding section accordingly.

35
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37
38 **HB10-1259** be referred to the Committee of the Whole with favorable
39 recommendation.

40
41
42 **HB10-1276** be referred to the Committee of the Whole with favorable
43 recommendation.

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45
46 **HB10-1351** be amended as follows, and as so amended, be referred to
47 the Committee of the Whole with favorable
48 recommendation:

49
50 Amend printed bill, page 2, strike lines 9 through 12 and substitute
51 "thirty-six percent. Therefore, it is the intent of the general assembly to
52 limit the maximum authorized interest rate for a payday loan charged to
53 a consumer by a lender to a maximum rate of thirty-six percent per year."

54
55 Page 4, strike lines 10 through 23 and substitute:

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MESSAGE(S) FROM THE REVISOR

We herewith transmit:
Without comment, as amended, HB10-1080, 1112 and 1049.
Without comment, as amended, SB10-062 and 076.

NOTICE OF CALENDARED ITEM(S)

On motion of Representative Weissmann, the following bill(s) will be calendared for Second Reading on March 10: **HB10-1351, SB10-146.**

On motion of Representative Weissmann, the following bill(s) will be calendared for Second Reading on March 12: **HB10-1234, 1259, 1276, SB10-010, 082.**

On motion of Representative Weissmann, the House adjourned until 9:00 a.m., March 10, 2010.

Approved:
TERRANCE D. CARROLL,
Speaker

Attest:
MARILYN EDDINS,
Chief Clerk

