

SENATE JOURNAL
Sixty-seventh General Assembly
STATE OF COLORADO
Second Regular Session

22nd Legislative Day Wednesday, February 3, 2010

- Prayer 1
By the chaplain, Reverend Vern Rempel, First Mennonite Church of Denver. 2
- Call to Order 3
By the President at 9:00 a.m. 4
- Pledge 5
By Senator Williams. 6
- Roll Call 7
Present--32. 8
Absent--2, Gibbs, Penry. 9
Excused--1, Foster. 10
Present later--2, Gibbs, Penry. 11
- Quorum 12
The President announced a quorum present. 13
- Reading of Journal 14
On motion of Senator Lundberg, reading of the Journal of Tuesday, February 2, 2010, was dispensed with and the Journal was approved as corrected by the Secretary. 15

COMMITTEE OF REFERENCE REPORTS

- Judiciary 16
After consideration on the merits, the Committee recommends that **SB10-099** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation. 17

Amend printed bill, page 4, after line 21 insert:

"SECTION 3. 24-6-203 (3) (f) and (4) (d), Colorado Revised Statutes are amended, and the said 24-6-203 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

24-6-203. Reporting by incumbents and elected candidates - gifts, honoraria, and other benefits - prohibition on monetary gifts - penalty - definitions. (3) The reports required by subsection (2) of this section shall include the following:

(f) Payment of or reimbursement for actual and necessary expenditures for travel and lodging for attendance at a convention or other meeting at which the incumbent or elected candidate is scheduled to participate, unless the payment of or reimbursement for such expenditures is made from public funds ~~from the funds of an organization declared to be a joint governmental agency by section 2-3-311, C.R.S.~~; or from the funds of any association of public officials or public entities whose membership includes the incumbent's or elected candidate's office or the governmental entity in which such office is held;

(h) PAYMENT OF OR REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES FOR TRAVEL, BOARD, AND LODGING FROM AN ORGANIZATION DECLARED TO BE A JOINT GOVERNMENTAL AGENCY BY SECTION 2-3-311, C.R.S.

(4) The reports required by subsection (2) of this section need not include the following:

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(d) Payment of or reimbursement for actual and necessary expenditures for travel and lodging for attendance at a convention or other meeting at which the incumbent or elected candidate is scheduled to participate, if the payment of or reimbursement for such expenditures is made from public funds ~~from the funds of an organization declared to be a joint governmental agency by section 2-3-311, C.R.S.~~, or from the funds of any association of public officials or public entities whose membership includes the incumbent's or elected candidate's office or the governmental entity in which such office is held;"

Renumber succeeding sections accordingly.

Judiciary

After consideration on the merits, the Committee recommends that **SB10-114** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, line 9, strike "OR" and substitute "AND".

Page 2, line 13, strike "OR" and substitute "AND".

Page 2, line 19, strike "LEGALLY AUTHORIZED TO".

Page 2, line 20, strike "UNDERTAKE" and substitute "CURRENTLY UNDERTAKING OR HAS PREVIOUSLY UNDERTAKEN".

Page 3, after line 5 insert:

"(III) NOTHING IN THIS PARAGRAPH (a.5) SHALL BE CONSTRUED TO REQUIRE A CUSTODIAN TO MAKE ANY PUBLIC RECORDS AVAILABLE FOR INSPECTION THAT THE CUSTODIAN IS OTHERWISE AUTHORIZED TO DENY INSPECTION OF PURSUANT TO SECTION 24-72-204."

Page 3, strike lines 12 through 16 and substitute:

"OTHER PUBLIC FUNCTION SHALL SPECIFY:

(a) THAT THE RECORDS AND FILES RELATING TO THE COSTS OR ANY PERFORMANCE MEASURES UNDER THE CONTRACT THAT ARE MADE, MAINTAINED, OR KEPT BY ANY ENTITY THAT IS A PARTY TO THE CONTRACT SHALL BE OPEN TO INSPECTION, WITH UNFETTERED ACCESS, BY ANY PUBLIC AGENCY THAT IS A PARTY TO THE CONTRACT; AND

(b) THE OFFICIAL CUSTODIAN FOR SUCH RECORDS AND FILES."

Page 3, after line 26 insert:

"(c) "PUBLIC AGENCY" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 24-72-202 (6) (a.5) (I) (C)."

Trans-
portation

After consideration on the merits, the Committee recommends that **SB10-075** be referred to the Committee on Appropriations with favorable recommendation.

Trans-
portation

After consideration on the merits, the Committee recommends that **SB10-040** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, after line 1 insert:

SECTION 1. Legislative declaration. This act is not intended to authorize an increase in the amount of the fees collected pursuant to sections 42-2-114 (2) (b) and (4) (b), 42-2-118 (1) (b) (II), and 42-3-304 (4), C.R.S."

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Renumber succeeding sections accordingly.

INTRODUCTION OF BILLS -- FIRST READING

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

- SB10-133** by Senator(s) Heath and Romer; --Concerning the creation of an income tax credit to incentivize Colorado businesses to rehire laid-off workers sooner.
Business, Labor and Technology
- HB10-1110** by Representative(s) Weissmann; also Senator(s) Morse--Concerning payment of expenses of the legislative department.
Appropriations

**THIRD READING OF BILLS -- FINAL PASSAGE --
CONSENT CALENDAR**

On third reading, the titles of the following bill was publicly read, the reading at length having been dispensed with by unanimous consent:

- SB10-041** by Senator(s) Bacon; also Representative(s) Nikkel--Concerning technical modifications to statutory provisions governing campaign finance.

The question being "Shall the bill pass?", the roll call was taken with the following result:

YES	33	NO	1	EXCUSED	1	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Spence	Y
Boyd	Y	Hudak	Y	Newell	Y	Steadman	Y
Brophy	N	Johnston	Y	Penry	Y	Tapia	Y
Cadman	Y	Keller	Y	Renfroe	Y	Tochtrop	Y
Carroll M.	Y	Kester	Y	Romer	Y	White	Y
Foster	E	King K.	Y	Sandoval	Y	Whitehead	Y
Gibbs	Y	Kopp	Y	Scheffel	Y	Williams	Y
Harvey	Y	Lundberg	Y	Schultheis	Y	President	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill was passed.

Co-sponsors added: Romer

THIRD READING OF BILLS -- FINAL PASSAGE

On Third Reading, the titles of the following bills were publicly read, the reading at length having been dispensed with by unanimous consent:

- SB10-009** by Senator(s) Sandoval, Boyd, Hudak; also Representative(s) Gagliardi, Kefalas--Concerning the duties of the economic opportunity poverty reduction task force.

The question being "Shall the bill pass?", the roll call was taken with the following result:

YES	26	NO	8	EXCUSED	1	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Spence	Y
Boyd	Y	Hudak	Y	Newell	Y	Steadman	Y
Brophy	Y	Johnston	Y	Penry	Y	Tapia	Y
Cadman	N	Keller	Y	Renfroe	N	Tochtrop	Y
Carroll M.	Y	Kester	Y	Romer	Y	White	Y
Foster	E	King K.	N	Sandoval	Y	Whitehead	Y
Gibbs	Y	Kopp	N	Scheffel	N	Williams	Y
Harvey	Y	Lundberg	N	Schultheis	N	President	Y
Heath	Y	Mitchell	N	Schwartz	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill was passed.

Co-sponsors added: Carroll M., Gibbs, Newell, Romer, Schwartz, Steadman and Tochtrop.

SB10-115 by Senator(s) Tochtrop, Bacon, Carroll M., Williams; also Representative(s) Primavera-- Concerning the authority of licensed health care facilities to redispense unused medications.

The question being "Shall the bill pass?", the roll call was taken with the following result:

YES	34	NO	0	EXCUSED	1	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Spence	Y
Boyd	Y	Hudak	Y	Newell	Y	Steadman	Y
Brophy	Y	Johnston	Y	Penry	Y	Tapia	Y
Cadman	Y	Keller	Y	Renfroe	Y	Tochtrop	Y
Carroll M.	Y	Kester	Y	Romer	Y	White	Y
Foster	E	King K.	Y	Sandoval	Y	Whitehead	Y
Gibbs	Y	Kopp	Y	Scheffel	Y	Williams	Y
Harvey	Y	Lundberg	Y	Schultheis	Y	President	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill was passed.

Co-sponsors added: Boyd, Heath, Hodge, Hudak, Johnston, Kester, Morse, Newell, Schwartz, Shaffer B., Steadman, Tapia, White and Whitehead.

SB10-046 by Senator(s) Gibbs; also Representative(s) Levy--Concerning the boundaries of forest improvement districts.

The question being "Shall the bill pass?", the roll call was taken with the following result:

YES	34	NO	0	EXCUSED	1	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Spence	Y
Boyd	Y	Hudak	Y	Newell	Y	Steadman	Y
Brophy	Y	Johnston	Y	Penry	Y	Tapia	Y
Cadman	Y	Keller	Y	Renfroe	Y	Tochtrop	Y
Carroll M.	Y	Kester	Y	Romer	Y	White	Y
Foster	E	King K.	Y	Sandoval	Y	Whitehead	Y
Gibbs	Y	Kopp	Y	Scheffel	Y	Williams	Y
Harvey	Y	Lundberg	Y	Schultheis	Y	President	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill was passed.

Co-sponsors added: Johnston, Kester, Newell, Schwartz and Whitehead.

Committee of the Whole On motion of Senator Tochtrop, the Senate resolved itself into the Committee of the Whole for consideration of General Orders--Second Reading of Bills and Senator Tochtrop was called to the chair to act as Chairman.

GENERAL ORDERS -- SECOND READING OF BILLS

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

SB10-016 by Senator(s) Williams, Romer, Spence; also Representative(s) Vaad, Fischer, Frangas, King S., McFadyen, McNulty, Merrifield, Tyler--Concerning modification of the manner in which a civil penalty assessment notice of toll evasion evidenced by automatic vehicle

identification technology is provided to the owner of a vehicle so identified.

Amendment No. 1(L.004), by Senator Williams.

Amend printed bill, page 3, line 10, after "PENALTY" insert "AS".

Page 3, line 11, strike the first "NOTICE" and substitute "COMPLAINT AND REQUEST A HEARING" and strike the third "THE".

Page 3, strike lines 12 through 15 and substitute:

"A FINAL ORDER OF LIABILITY SHALL BE ENTERED AGAINST THE REGISTERED OWNER OF THE VEHICLE FOR THE PURPOSES OF ENABLING THE REGISTERED OWNER TO APPEAL PURSUANT TO PARAGRAPH (f) OF SUBSECTION (4) OF THIS SECTION AND ALLOWING AN AUTHORITY TO PROCEED TO JUDGMENT PURSUANT TO PARAGRAPH (e) OF SUBSECTION (4) OF THIS SECTION."

Page 5, line 15, after "PENALTY" insert "AS".

Page 5, line 16, strike the first "NOTICE" and substitute "COMPLAINT AND REQUEST A HEARING" and strike the third "THE".

Page 5, strike lines 17 through 20 and substitute:

"A FINAL ORDER OF LIABILITY SHALL BE ENTERED AGAINST THE REGISTERED OWNER OF THE VEHICLE FOR THE PURPOSES OF ENABLING THE REGISTERED OWNER TO APPEAL PURSUANT TO SUBPARAGRAPH (VI) OF PARAGRAPH (d) OF THIS SUBSECTION (2) AND ALLOWING THE TRANSPORTATION ENTERPRISE TO PROCEED TO JUDGMENT PURSUANT TO SUBPARAGRAPH (V) OF PARAGRAPH (d) OF THIS SUBSECTION (2)."

As amended, laid over until Thursday, February 4, retaining its place on the calendar.

SB10-100 by Senator(s) Schwartz, Carroll M., Foster, Gibbs, Heath, Newell, Romer; also Representative(s) Miklosi--Concerning greater financing flexibility for local districts organized for purposes related to energy.

Laid over until Thursday, February 4, retaining its place on the calendar.

SB10-019 by Senator(s) Schwartz, Brophy, Hodge, White, Whitehead; also Representative(s) Fischer, Baumgardner, Curry, Gardner C., McKinley--Concerning the valuation of new hydroelectric energy facilities for the purpose of property taxation.

Amendment No. 1, Local Government & Energy Committee Amendment.
(Printed in Senate Journal, January 22, page 65 and 66 and placed in members' bill files.)

Amendment No. 2(L.008), by Senator Schwartz.

Amend the Local Government and Energy Committee Report, dated January 21, 2010, page 1, strike line 1 and substitute "Amend printed bill, page 2, line 6, strike "(2.7) HYDROELECTRIC" and substitute "(3.3) (a) SMALL OR LOW IMPACT HYDROELECTRIC".

Page 1 of the report, strike line 2 and substitute:

"Page 2 of the bill, line 11, strike "IN EXCESS OF FIVE MEGAWATTS".

Page 1 of the report, strike line 3 and substitute:

"Page 2 of the bill, line 12, strike "WATER AND THAT" and substitute "WATER, THAT".

Page 2 of the bill, line 13, strike "SITE." and substitute "SITE, AND THAT IS:

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(I) A NEW FACILITY THAT IS A SMALL FACILITY THAT HAS A NAMEPLATE RATING OF TEN MEGAWATTS OR LESS; OR

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(II) A NEW FACILITY THAT HAS A NAMEPLATE RATING OF MORE THAN TEN MEGAWATTS AND THAT:

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(A) IS AN ADDITION TO WATER INFRASTRUCTURE SUCH AS A RESERVOIR, A DITCH, OR A PIPELINE THAT EXISTED BEFORE JANUARY 1, 2010;

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(B) DOES NOT RESULT IN ANY CHANGE IN THE QUANTITY OR TIMING OF DIVERSIONS OR RELEASES FOR PURPOSES OF PEAK POWER GENERATION;

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(C) INCLUDES MEASURES TO PREVENT FISH ENTRAINMENT IN ON-STREAM RESERVOIRS AND NATURAL WATERWAYS; AND

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(D) DOES NOT CAUSE ANY VIOLATION OF STATE WATER QUALITY STANDARDS WHEN OPERATED; OR

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(III) A NEW FACILITY THAT HAS A NAMEPLATE RATING OF MORE THAN TEN MEGAWATTS AND THAT:

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(A) IS PLACED INTO PRODUCTION AS PART OF NEW WATER INFRASTRUCTURE SUCH AS A RESERVOIR, A DITCH, OR A PIPELINE CONSTRUCTED ON OR AFTER JANUARY 1, 2010, FOR BENEFICIAL USES OF WATER OTHER THAN THE PRODUCTION OF ELECTRICITY;

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(B) INCLUDES MEASURES TO PREVENT FISH ENTRAINMENT IN RESERVOIRS AND NATURAL WATERWAYS;

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(C) PRODUCES ELECTRICITY ONLY AS A SECONDARY USE OF WATER USED FOR OTHER BENEFICIAL PURPOSES; AND

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(D) DOES NOT CAUSE ANY VIOLATION OF STATE WATER QUALITY STANDARDS WHEN OPERATED."

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Page 1 of the report, line 4, strike ""(b)" and substitute "(b)".

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Page 2 of the report, line 1, strike "MEGAWATTS." and substitute "MEGAWATTS."."

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Page 2 of the report, after line 1 insert:

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"Page 3 of the bill, line 3, before "HYDROELECTRIC" insert "SMALL OR LOW IMPACT".

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Page 3 of the bill, line 21, after "a" insert "SMALL OR LOW IMPACT".

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Page 3 of the bill, line 24, before "HYDROELECTRIC" insert "SMALL OR LOW IMPACT".

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Page 4 of the bill, line 9, after "VALUE" insert "SMALL OR LOW IMPACT".

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Page 4 of the bill, line 14, after "a" insert "SMALL OR LOW IMPACT".

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Page 4 of the bill, line 17, after "a" insert "SMALL OR LOW IMPACT".

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Page 4 of the bill, line 22, before "HYDROELECTRIC" insert "SMALL OR LOW IMPACT".

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Page 4 of the bill, line 23, after "the" insert "SMALL OR LOW IMPACT".

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Page 5 of the bill, line 1, after "a" insert "SMALL OR LOW IMPACT".

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Page 5 of the bill, line 6, after "a" insert "SMALL OR LOW IMPACT".

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Page 5 of the bill, line 11, after "a" insert "SMALL OR LOW IMPACT".
 Page 5 of the bill, line 15, after "no" insert "SMALL OR LOW IMPACT".
 Page 5 of the bill, line 24, after "to" insert "SMALL OR LOW IMPACT".
 Page 6 of the bill, line 2, strike "new" and substitute "small or low impact".

Amendment No. 3(L.009), by Senator Brophy.

Amend the Schwartz floor amendment (SB019_L.008), page 2, line 13, after "WATERWAYS;" insert "AND".
 Page 2, strike lines 14 and 15.
 Page 2, line 16, strike "(D)" and substitute "(C)".

As amended, ordered engrossed and placed on the calendar for third reading and final passage.

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator Tochtrop, the report of the Committee of the Whole was **adopted** on the following roll call vote:

YES	34	NO	0	EXCUSED	1	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Spence	Y
Boyd	Y	Hudak	Y	Newell	Y	Steadman	Y
Brophy	Y	Johnston	Y	Penry	Y	Tapia	Y
Cadman	Y	Keller	Y	Renfroe	Y	Tochtrop	Y
Carroll M.	Y	Kester	Y	Romer	Y	White	Y
Foster	E	King K.	Y	Sandoval	Y	Whitehead	Y
Gibbs	Y	Kopp	Y	Scheffel	Y	Williams	Y
Harvey	Y	Lundberg	Y	Schultheis	Y	President	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

The Committee of the Whole took the following action:

Passed on second reading: SB10-019 as amended.
 Laid over until Thursday, February 4 retaining their place on the Calendar: SB10-016 as amended, SB10-100.

CONSIDERATION OF RESOLUTIONS

SJR10-004 by Senator(s) Whitehead; also Representative(s) Fischer--Concerning approval of water project revolving fund eligibility lists administered by the Colorado water resources and power development authority.

Amendment No. 1(L.004), by Senator Penry.

Amend printed joint resolution, page 27, after line 2 insert:
 "7. The we, the members of the Colorado General Assembly, urge Colorado's Congressional delegation to oppose the application of Davis-Bacon prevailing wage requirements to future water projects funded in whole or part by the federal government."

The amendment was **lost** on the following roll call vote:

YES	14	NO	20	EXCUSED	1	ABSENT	0
Bacon	N	Hodge	N	Morse	N	Spence	Y
Boyd	N	Hudak	N	Newell	N	Steadman	N
Brophy	Y	Johnston	N	Penry	Y	Tapia	N
Cadman	Y	Keller	N	Renfroe	Y	Tochtrop	N
Carroll M.	N	Kester	Y	Romer	N	White	Y
Foster	E	King K.	Y	Sandoval	N	Whitehead	N
Gibbs	N	Kopp	Y	Scheffel	Y	Williams	N
Harvey	Y	Lundberg	Y	Schultheis	Y	President	N
Heath	N	Mitchell	Y	Schwartz	N		

On motion of Senator Whitehead, the resolution was **adopted** by the following roll call vote:

YES	20	NO	14	EXCUSED	1	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Spence	N
Boyd	Y	Hudak	Y	Newell	Y	Steadman	Y
Brophy	N	Johnston	Y	Penry	N	Tapia	Y
Cadman	N	Keller	Y	Renfroe	N	Tochtrop	Y
Carroll M.	Y	Kester	N	Romer	Y	White	N
Foster	E	King K.	N	Sandoval	Y	Whitehead	Y
Gibbs	Y	Kopp	N	Scheffel	N	Williams	Y
Harvey	N	Lundberg	N	Schultheis	N	President	Y
Heath	Y	Mitchell	N	Schwartz	Y		

Co-sponsors added: Bacon, Carroll M., Gibbs, Heath, Hodge, Johnston, Keller, Romer, Shaffer B., Tapia, Tochtrop and Williams.

MESSAGE FROM THE HOUSE

February 3, 2010

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB10-1190, amended as printed in House Journal, January 29, pages 140-142 and February 1, pages 145-146, and amended on Third Reading as printed in House Journal February 3.

COMMITTEE OF REFERENCE REPORTS

Local Government and Energy

After consideration on the merits, the Committee recommends that **SB10-097** be referred to the Committee of the Whole with favorable recommendation.

SENATE SERVICES REPORT

Correctly Engrossed: SB10-009, 041, 046 and 115.
Correctly Reengrossed: SB10-015, 034, 042 and 055.

TRIBUTES

Honoring:

- Colorado School Counselor Association - - By Senator Steadman and Representative Middleton
- Alex Besancon - - By Senator Kopp

On motion of Senator Morse, the Senate adjourned until 9:00 a.m., Thursday, February 4, 2010.

Approved:

Brandon C. Shaffer
President of the Senate

Attest:

Karen Goldman
Secretary of the Senate

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