

**SENATE JOURNAL**

Sixty-seventh General Assembly

**STATE OF COLORADO**

Second Regular Session

24th Legislative Day

Friday, February 5, 2010

|                    |   |                      |
|--------------------|---|----------------------|
| Prayer             | By the chaplain, Reverend John Thompson, Park Hill United Methodist Church, Denver.   | 11                   |
| Call to Order      | By the President at 9:00 a.m.   | 13                   |
| Pledge             | By Senator Williams.  | 16                   |
| Roll Call          | Present--33.<br>Absent--1, Sandoval.<br>Excused--1, Foster.<br>Present later--1, Sandoval.  | 18<br>19<br>20<br>21 |
| Quorum             | The President announced a quorum present.   | 23                   |
| Reading of Journal | On motion of Senator Lundberg, reading of the Journal of Thursday, February 4, 2010, was dispensed with and the Journal was approved as corrected by the Secretary. | 25<br>26             |

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**COMMITTEE OF REFERENCE REPORTS**

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|----------------|---|----------------------------------|
| Appropriations | After consideration on the merits, the Committee recommends that <b>SB10-027</b> be referred to the Committee of the Whole with favorable recommendation.   | 33<br>34                         |
| Appropriations | After consideration on the merits, the Committee recommends that <b>HB10-1189</b> be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.<br><br>Amend reengrossed bill, page 2, line 13, after "2010," insert "THROUGH JUNE 30, 2013,". | 37<br>38<br>39<br>40<br>41<br>42 |
| Appropriations | After consideration on the merits, the Committee recommends that <b>SB10-008</b> be referred to the Committee of the Whole with favorable recommendation.   | 44<br>45                         |
| Appropriations | After consideration on the merits, the Committee recommends that <b>HB10-1195</b> be referred to the Committee of the Whole with favorable recommendation.  | 47<br>48                         |
| Appropriations | After consideration on the merits, the Committee recommends that <b>HB10-1199</b> be referred to the Committee of the Whole with favorable recommendation.  | 49<br>50<br>51                   |
| Appropriations | After consideration on the merits, the Committee recommends that <b>HB10-1196</b> be referred to the Committee of the Whole with favorable recommendation.  | 53<br>54<br>55                   |
| Appropriations | After consideration on the merits, the Committee recommends that <b>HB10-1191</b> be referred to the Committee of the Whole with favorable recommendation.  | 56<br>57<br>58                   |
| Appropriations | After consideration on the merits, the Committee recommends that <b>HB10-1194</b> be referred to the Committee of the Whole with favorable recommendation.  | 59<br>60<br>61                   |
| Appropriations | After consideration on the merits, the Committee recommends that <b>SB10-058</b> be referred to the Committee of the Whole with favorable recommendation.   | 62<br>63<br>64                   |
| Finance        | After consideration on the merits, the Committee recommends that <b>HB10-1192</b> be amended as follows, and as so amended, be referred to the Committee on <u>Appropriations</u> with favorable recommendation.  | 65<br>66<br>67                   |

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

**"SECTION 1. Legislative declaration.** (1) The general assembly hereby finds and declares that House Bill 10-1192, enacted in 2010, is not intended to:

(a) Tax separately stated information technology services or separately stated custom software that is a part of what is known in the industry as "modified off-the-shelf software"; and

(b) Tax information technology services or custom software where those services or software constitute what is known in the industry as "pure" custom software, including software designed and developed for a developer's own use.

(2) The general assembly further finds and declares that House Bill 10-1192, enacted in 2010, is intended to allow developers of standardized software to take advantage of the exemption for machinery and machine tools contained in section 39-26-709, C.R.S.

(3) The general assembly further finds and declares that House Bill 10-1192, enacted in 2010, is not intended to alter, other than the designation of standardized software as tangible personal property, the tax treatment of what is known in the industry as "digital goods", "application service providers", "software as a service", or "cloud computing". Nothing contained in said House Bill 10-1192, including the repeal of Special Regulation 7 or the requirement that tax be apportioned in the case of a business purchase of software for its own users operating both within and outside of the state, shall be read as expressing the general assembly's intent regarding the treatment of such methods of transacting business."

Renumber succeeding sections accordingly.

Page 3, line 1, after "(II)" insert "(A)".

Page 3, line 2, strike "TO ANY DEGREE".

Page 3, strike lines 5 through 7 and substitute:

"SOFTWARE IS A DE MINIMIS COMPONENT OF SUCH SOFTWARE.

(B) "STANDARDIZED SOFTWARE" SHALL NOT INCLUDE SOFTWARE OR INFORMATION TECHNOLOGY SERVICES THAT MODIFY OR ENHANCE STANDARDIZED SOFTWARE IF THERE IS A".

Page 3, line 9, after "SOFTWARE" insert "OR INFORMATION TECHNOLOGY SERVICES".

Page 3, line 10, strike "MODIFIES OR ENHANCES" and substitute "MODIFY OR ENHANCE".

Page 3, after line 10 insert:

"(C) PRIOR TO JANUARY 1, 2011, IT SHALL BE SUFFICIENT IF THE REASONABLE, SEPARATELY STATED CHARGE, INVOICE, OR OTHER STATEMENT OF PRICE REFERRED TO IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (II) IS SEPARATELY IDENTIFIABLE BASED ON THE BOOKS AND RECORDS OF THE VENDOR AND NEED NOT BE SEPARATELY STATED."

Page 3, after line 15 insert:

"(V) "STANDARDIZED SOFTWARE" SHALL NOT INCLUDE SOFTWARE DEVELOPED FOR A PERSON'S OR AFFILIATE'S OWN USE. HOWEVER, IF SUCH SOFTWARE IS SUBSEQUENTLY SOLD, SUCH SOFTWARE SOLD SHALL BE CONSIDERED STANDARDIZED SOFTWARE."

Page 4, strike lines 1 through 9 and substitute:

"(b) (I) "TANGIBLE PERSONAL PROPERTY" INCLUDES STANDARDIZED SOFTWARE WITHOUT REGARD TO HOW SUCH

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STANDARDIZED SOFTWARE IS ACQUIRED BY THE PURCHASER OR DOWNLOADED TO THE PURCHASER'S COMPUTER.

(II) THE DEPARTMENT OF REVENUE MAY PROMULGATE RULES FOR APPORTIONING TAX IN THOSE INSTANCES IN WHICH STANDARDIZED SOFTWARE IS TRANSFERRED FOR USE IN MORE THAN ONE STATE. SUCH RULES SHALL BE BASED ONLY ON THOSE EMPLOYEES OR USERS BASED PERMANENTLY IN THE STATE.

**SECTION 4.** 39-26-709 (1) (c) (III), Colorado Revised Statutes, is amended to read:

**39-26-709. Machinery and machine tools.** (1) (c) As used in this subsection (1):

(III) "Manufacturing" means the operation of producing a new product, article, substance, or commodity, OR PRODUCING STANDARDIZED SOFTWARE AS DEFINED IN SECTION 39-26-102 (13.5) (a), different from and having a distinctive name, character, or use from raw or prepared materials. "

Renumber succeeding sections accordingly.

Finance

After consideration on the merits, the Committee recommends that **HB10-1193** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend reengrossed bill, page 2, line 4, strike "**Definitions.**" and substitute "**Definitions - rules.**".

Page 2, line 15, after "other" insert "CONSTITUTIONAL".

Page 3, strike line 4 and substitute "AN AGREEMENT WITH A NONEXEMPT AFFILIATE UNDER WHICH THE NONEXEMPT AFFILIATE, FOR A".

Page 3, line 7, before "AFFILIATE" insert "NONEXEMPT".

Page 3, line 12, before "AFFILIATES" insert "NONEXEMPT".

Page 3, line 15, before "AFFILIATE" insert "NONEXEMPT".

Page 3, strike lines 22 through 25 and substitute:

"(B) IN THE EVENT THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE DETERMINES AN EXEMPT AFFILIATE IS OPERATING AS A NONEXEMPT AFFILIATE FOR PURPOSES OF ITS RELATIONSHIP WITH ONE OR MORE RETAILERS, THE EXECUTIVE DIRECTOR SHALL ISSUE A WRITTEN NOTICE NOTIFYING THE EXEMPT AFFILIATE THAT, FOR PURPOSES OF ITS RELATIONSHIP WITH A PARTICULAR RETAILER, IT IS IN VIOLATION OF ITS EXEMPT STATUS. THE EXECUTIVE DIRECTOR SHALL PROVIDE A COPY OF THE NOTICE TO SUCH RETAILER AT THE SAME TIME. THE EXEMPT AFFILIATE SHALL HAVE THIRTY DAYS AFTER RECEIPT OF THE NOTICE TO SUBMIT EVIDENCE TO THE DEPARTMENT ESTABLISHING THAT, FOR PURPOSES OF THE RELATIONSHIP WITH THE RETAILER, THE EXEMPT AFFILIATE DID NOT VIOLATE THE EXEMPT STATUS. IF THE EXEMPT AFFILIATE FAILS TO RESPOND TO THE NOTICE OR REMAINS IN VIOLATION OF THE EXEMPT STATUS, THE EXECUTIVE DIRECTOR SHALL GIVE NOTICE TO THE RETAILER OF THE NAME AND ADDRESS OF SUCH EXEMPT AFFILIATE THAT FAILED TO RESPOND OR THAT REMAINS IN VIOLATION OF THE EXEMPT STATUS, AND THE RETAILER MAY TERMINATE THE RELATIONSHIP WITH THE EXEMPT AFFILIATE WITHIN THIRTY DAYS AFTER THE RETAILER'S RECEIPT OF THE DEPARTMENT'S NOTICE. IN THE EVENT THE RETAILER DOES NOT TERMINATE THE RELATIONSHIP WITH THE PREVIOUSLY NOTIFIED EXEMPT AFFILIATE WITHIN THE THIRTY-DAY PERIOD, THE RETAILER SHALL BE DEEMED TO BE DOING BUSINESS IN THIS STATE. AN EXEMPT AFFILIATE WITH EXEMPT STATUS FOR PURPOSES OF ITS RELATIONSHIPS WITH ONE OR MORE RETAILERS MAY SIMULTANEOUSLY BE A NONEXEMPT AFFILIATE FOR PURPOSES OF ITS RELATIONSHIPS WITH ONE OR MORE DIFFERENT RETAILERS.

(C) FOR PURPOSES OF THIS SUBPARAGRAPH (II), "NONEXEMPT AFFILIATE" MEANS A PERSON RESIDING IN THIS STATE THAT PUBLICLY

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SOLICITS BUSINESS FOR A RETAILER OTHER THAN FOR ITSELF BY MEANS OF ITS PHYSICAL PRESENCE IN THIS STATE AND SHALL NOT INCLUDE AN EXEMPT AFFILIATE.

(D) FOR PURPOSES OF THIS SUBPARAGRAPH (II), "EXEMPT AFFILIATE" MEANS ANY NONEXEMPT AFFILIATE THAT, FOR PURPOSES OF ITS RELATIONSHIP WITH A PARTICULAR RETAILER, UTILIZES ELECTRONIC MEDIA TO A DEGREE GREATER THAN EIGHTY PERCENT TO SOLICIT BUSINESS FOR A RETAILER.

(E) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE MAY PROMULGATE RULES AS MAY BE NECESSARY TO ADMINISTER AND ENFORCE ANY PROVISION OF THIS SUBPARAGRAPH (II). THE RULES SHALL BE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S."

Page 4, line 5, strike "OUT-OF-STATE RETAILER" and substitute "RETAILER THAT DOES NOT COLLECT COLORADO SALES TAX".

Page 4, line 11, strike "OUT-OF-STATE".

Page 4, line 12, strike "OUT-OF-STATE".

Page 4, line 14, strike "OUT-OF-STATE".

Page 4, line 19, strike "OUT-OF-STATE".

Page 4, after line 25 insert:

"(c) ALL RETAILERS THAT DO NOT COLLECT COLORADO SALES TAX SHALL NOTIFY COLORADO PURCHASERS THAT SALES OR USE TAX IS DUE ON ALL PURCHASES MADE FROM THE RETAILER AND THAT THE COLORADO DEPARTMENT OF REVENUE REQUIRES THE PURCHASER TO FILE A SALES OR USE TAX RETURN.

(d) ALL RETAILERS THAT DO NOT COLLECT COLORADO SALES TAX SHALL SEND NOTIFICATION TO ALL COLORADO PURCHASERS BY JANUARY 31 OF EACH YEAR SHOWING THE TOTAL AMOUNT PAID BY THE PURCHASER FOR COLORADO PURCHASES MADE FROM THE RETAILER IN THE PREVIOUS CALENDAR YEAR. THE NOTIFICATION SHALL STATE THAT THE COLORADO DEPARTMENT OF REVENUE REQUIRES A SALES OR USE TAX RETURN TO BE FILED AND SALES OR USE TAX PAID ON THE COLORADO PURCHASES MADE BY THE PURCHASER FROM THE RETAILER."

Finance

After consideration on the merits, the Committee recommends that **HB10-1190** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend reengrossed bill, page 4, after line 10 insert:

"SECTION 5. Part 1 of article 26 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**39-26-127. Legislation modifying the state sales tax base - no impact on local government sales tax bases - no expansion of local authority to levy sales tax.** (1) NOTWITHSTANDING THE PROVISIONS OF SECTION 29-2-105 (1) (d), C.R.S., ANY PROVISION OF TITLE 32, C.R.S., OR ANY OTHER PROVISION OF LAW, THE LEVYING OF SALES TAX ON, EXEMPTION FROM SALES TAX FOR, OR LOCAL OPTION TO LEVY SALES TAX ON OR PROVIDE AN EXEMPTION FROM SALES TAX FOR ANY TANGIBLE PERSONAL PROPERTY OR SERVICES UNDER THE SALES TAX ORDINANCE OR RESOLUTION OF ANY COUNTY, MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE SHALL NOT BE AFFECTED IN ANY WAY BY THE ELIMINATION, SUSPENSION, OR MODIFICATION OF ANY SALES TAX EXEMPTION OR ANY OTHER LEGISLATIVE MODIFICATION OF THE STATE SALES TAX BASE RESULTING FROM THE ENACTMENT OF ANY OF THE FOLLOWING BILLS:

(a) HOUSE BILL 10-1190, ENACTED IN 2010.

(2) THIS SECTION DOES NOT CREATE OR EXPAND, AND SHALL NOT

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BE CONSTRUED TO CREATE OR EXPAND, ANY AUTHORITY OF ANY COUNTY, MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE TO LEVY SALES TAX.

**SECTION 6.** Part 2 of article 26 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**39-26-212. Legislation modifying the state use tax base - no impact on local government use tax bases - no expansion of local authority to levy use tax.** (1) NOTWITHSTANDING THE PROVISIONS OF SECTION 29-2-105 (1)(d), C.R.S., ANY PROVISION OF TITLE 32, C.R.S., OR ANY OTHER PROVISION OF LAW, THE LEVYING OF USE TAX ON, EXEMPTION FROM USE TAX FOR, OR LOCAL OPTION TO LEVY USE TAX ON OR PROVIDE AN EXEMPTION FROM USE TAX FOR ANY TANGIBLE PERSONAL PROPERTY OR SERVICES UNDER THE USE TAX ORDINANCE OR RESOLUTION OF ANY COUNTY, MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE SHALL NOT BE AFFECTED IN ANY WAY BY THE ELIMINATION, SUSPENSION, OR MODIFICATION OF ANY USE TAX EXEMPTION OR ANY OTHER LEGISLATIVE MODIFICATION OF THE STATE USE TAX BASE RESULTING FROM THE ENACTMENT OF ANY OF THE FOLLOWING BILLS:

(a) HOUSE BILL 10-1190, ENACTED IN 2010.

(2) THIS SECTION DOES NOT CREATE OR EXPAND, AND SHALL NOT BE CONSTRUED TO CREATE OR EXPAND, ANY AUTHORITY OF ANY COUNTY, MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE TO LEVY USE TAX."

Renumber succeeding sections accordingly.

**INTRODUCTION OF RESOLUTIONS**

The following resolution was read by title:

**SJR10-011** by Senator(s) Boyd; also Representative(s) Stephens--Concerning opposition to the recommendations issued by the United States Preventive Services Task Force regarding breast cancer screening.

Laid over until Tuesday, February 9, retaining its place on the calendar.

**INTRODUCTION OF BILLS -- FIRST READING**

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

**SB10-165** by Senator(s) Hodge; also Representative(s) Hullinghorst--Concerning implementation of the incorporation of oil and gas wells into the prior appropriation system. Agriculture and Natural Resources

**SENATE SERVICES REPORT**

**Correctly Printed:** SB10-134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163 and 164.

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

The President has signed: SJR10-006, 008 and 009.

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Senate in recess. Senate reconvened.

Call of the Senate. Call raised.

COMMITTEE OF REFERENCE REPORTS

Health & Human Services

After consideration on the merits, the Committee recommends that SB10-061 be referred to the Committee on Appropriations with favorable recommendation.

Health & Human Services

After consideration on the merits, the Committee recommends that SB10-082 be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.

Health & Human Services

After consideration on the merits, the Committee recommends that SB10-006 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 4, strike lines 21 through 27 and substitute:

"SECTION 4. 13-15-101, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

13-15-101. Petition - proceedings. (3) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION, THE COURT MAY GRANT A PETITION FOR A CHANGE OF NAME OF A PETITIONER WHO WAS PREVIOUSLY CONVICTED OF A FELONY IN THIS STATE OR ANY OTHER STATE OR ADJUDICATED A JUVENILE DELINQUENT FOR AN OFFENSE THAT WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT IN THIS STATE OR ANY OTHER STATE OR UNDER FEDERAL LAW IF THE COURT FINDS THAT THE PETITIONER MUST HAVE A LEGAL NAME CHANGE IN ORDER TO BE ISSUED IN THAT NAME A DRIVER'S LICENSE OR IDENTIFICATION CARD FROM THE DEPARTMENT OF REVENUE AND IF ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

(a) THE PETITIONER MEETS ALL OF THE REQUIREMENTS OF SUBSECTIONS (1) AND (1.5) OF THIS SECTION AND PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION; AND

(b) PRIOR TO FILING THE PETITION, THE NAME CHANGE APPLICANT:

(I) (A) SUBMITS HIS OR HER FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION FOR PURPOSES OF OBTAINING A FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK ALONG WITH A WRITTEN REQUEST TO ADD HIS OR HER PROPOSED NAME AS AN ALIAS TO THE NAME CHANGE APPLICANT'S CRIMINAL HISTORY RECORD.

(B) THE COLORADO BUREAU OF INVESTIGATION IS AUTHORIZED TO ADD AN ALIAS TO A NAME CHANGE APPLICANT'S CRIMINAL HISTORY RECORD UPON REQUEST;

(II) (A) NOTIFIES THE DISTRICT ATTORNEY'S OFFICE IN ANY DISTRICT IN WHICH THE APPLICANT WAS CONVICTED OF A FELONY THAT HE OR SHE IS REQUESTING A NAME CHANGE PURSUANT TO THIS SUBSECTION (3).

(B) IF THE DISTRICT ATTORNEY'S OFFICE HAS A RECORD OF ANY VICTIM OF THE APPLICANT'S CRIME, THE DISTRICT ATTORNEY'S OFFICE SHALL SEND NOTICE OF THE PROPOSED NAME CHANGE TO THE VICTIM; AND

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(III) PROVIDES THE COURT WITH A COPY OF HIS OR HER CRIMINAL HISTORY RECORD FROM BOTH THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION AND THE CRIMINAL HISTORY REPORT FROM THE COLORADO BUREAU OF INVESTIGATION REFLECTS THE ADDITION OF THE PROPOSED CHANGED NAME AS AN ALIAS; AND

(c) THE COURT FINDS THAT:

(I) THE NAME CHANGE IS NOT FOR THE PURPOSE OF FRAUD, TO AVOID THE CONSEQUENCES OF A CRIMINAL CONVICTION, OR TO FACILITATE A CRIMINAL ACTIVITY; AND

(II) THE DESIRED NAME CHANGE WOULD BE PROPER AND NOT DETRIMENTAL TO THE INTERESTS OF ANY OTHER PERSON.

(4) THE DEPARTMENT OF REVENUE SHALL NOT ISSUE A DRIVER'S LICENSE OR AN IDENTIFICATION CARD IN THE NEW NAME OF A NAME CHANGE APPLICANT UNLESS THE NAME CHANGE APPLICANT SUBMITS A COURT ORDER CHANGING THE APPLICANT'S NAME PURSUANT TO THIS SECTION."

Page 5, strike lines 1 through 25.

Health & Human Services

After consideration on the merits, the Committee recommends that **SB10-068** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 3, line 3, strike "APPLICANTS." and substitute "APPLICANTS, INCLUDING THE EXEMPTIONS LISTED IN SECTION 25-4-903, C.R.S."

Page 8, line 17, before "STANDARD" insert "STATEWIDE".

Page 9, line 12, after "DISREGARD" insert "PURSUANT TO SECTION 26-2-709".

Appropriations

After consideration on the merits, the Committee recommends that **HB10-1190** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 4, line 5, after "ANY" insert "ESTIMATED".

Appropriations

After consideration on the merits, the Committee recommends that **HB10-1193** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 5, strike lines 18 through 24.

Renumber succeeding section accordingly.

Page 1, line 102, strike "RETAILERS, AND MAKING AN", and substitute "RETAILERS."

Page 1, strike line 103.

Appropriations

After consideration on the merits, the Committee recommends that **HB10-1192** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 4, line 26, after "ANY" insert "ESTIMATED".

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**REFERRAL TO COMMITTEE**

**HB10-1193** by Representative(s) Pommer; also Senator(s) Heath--Concerning the collection of sales and use taxes on sales made by out-of-state retailers, and making an appropriation therefor.

Senator Morse moved to refer HB10-1193 back to the Committee on Appropriations.

A majority of all members elected to the Senate having voted in the affirmative, the motion was **adopted**.

On motion of Senator Morse, and with a two-thirds majority of those elected to the Senate having voted in the affirmative, HB10-1189, HB10-1191, HB10-1194, HB10-1196, HB10-1199, HB10-1195, HB10-1192, HB10-1190 were made Special Orders at 1:40 p.m.

Committee of the Whole The hour of 1:40 p.m. having arrived, Senator Boyd moved that the Senate resolve itself into the Committee of the Whole for consideration of Special Orders -- Second Reading of Bills and Senator Boyd was called to the chair to act as Chairman.

**SPECIAL 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:

**HB10-1189** by Representative(s) Pommer; also Senator(s) Heath--Concerning the elimination of the state sales and use tax exemption for direct mail advertising materials, and making an appropriation therefor.

Amendment No. 1, Finance Committee Amendment.  
(Printed in Senate Journal, February 4, pages 160-161 and placed in members' bill files.)

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

**HB10-1191** by Representative(s) Pommer; also Senator(s) Heath--Concerning the narrowing of the existing exemption from the state sales and use taxes for food, and, in connection therewith, subjecting candy and soft drinks to the state sales and use taxes, and making an appropriation therefor.

Amendment No. 1, Finance Committee Amendment.  
(Printed in Senate Journal, February 4, pages 158-160 and placed in members' bill files.)

Amendment No. 2(L.036), by Senator Steadman.

Amend the Finance Committee Report, dated February 3, 2010, page 1, strike lines 6 and 7 and substitute "THIS SUBSECTION (1), ON AND AFTER MAY 1, 2010, SALES OF CANDY AND SOFT DRINKS SHALL BE".

Page 2, line 2, strike "FOR THE PERIOD COMMENCING" and substitute "ON AND AFTER".

Page 2, strike line 3 and substitute "2010,".

Page 2, strike lines 10 through 12.

Page 2, strike lines 14 and 15.

As amended, laid over until Monday, February 8, retaining its place on the calendar.

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Senator Morse moved that the Committee of the Whole rise, report progress, and beg leave to sit again at 10:00 a.m., Monday, February 8. A majority of those elected to the Senate having voted in the affirmative, the motion was adopted.

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Committee of the Whole in recess.

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On motion of Senator Morse, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the calendar of Friday, February 5, was laid over until Monday, February 8, retaining its place on the calendar.

Special Orders -- Second Reading of Bills: HB10-1191, as amended, HB10-1194, HB10-1196, HB10-1199, HB10-1195, HB10-1192, HB10-1190.  
 Third Reading of Bills -- Final Passage: SB10-019.  
 General Orders -- Second Reading of Bills: SB10-016, SB10-100, SB10-099, SB10-114, SB10-040, SB10-097.

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On motion of Senator Morse, the Senate adjourned until 10:00 a.m., Monday, February 8, 2010.

Approved:

Brandon C. Shaffer  
 President of the Senate

Attest:

Karen Goldman  
 Secretary of the Senate

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