

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

27th Legislative Day Monday, February 8, 2010

- Prayer 11
By the chaplain, Reverend Bill Calhoun, Retired, Montview Blvd. Presbyterian Church, Denver. 12
- Call to Order 13
By the President at 10:00 a.m. 14
- Pledge 15
By Senator Schultheis. 16
- Roll Call 17
Present--35. 18
- Quorum 19
The President announced a quorum present. 20
- Reading of Journal 21
On motion of Senator Johnston, reading of the Journal of Friday, February 5, 2010, was dispensed with and the Journal was approved as corrected by the Secretary. 22

COMMITTEE OF REFERENCE REPORTS

- Agriculture and Natural Resources 23
After consideration on the merits, the Committee recommends that be **SB10-025** referred to the Committee on Appropriations with favorable recommendation. 24
- Agriculture and Natural Resources 25
After consideration on the merits, the Committee recommends that **SB10-072** be referred to the Committee on Appropriations with favorable recommendation. 26
- Agriculture and Natural Resources 27
The Committee on Agriculture and Natural Resources has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed: 28

MEMBER OF THE
COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY
BOARD OF DIRECTORS

for a term expiring June 30, 2013:

Randall A. Wilks of Burlington, Colorado, a Democrat, to serve as a member with knowledge of agricultural activity in the state, and who shall represent the various agriculture operations and geographical regions of the state, appointed.

On motion of Senator Boyd, and with a two-thirds majority of those elected to the Senate having voted in the affirmative, HB10-1191, HB10-1194, HB10-1196, HB10-1199, HB10-1195, HB10-1192, HB10-1190 were made Special Orders at 10:08 a.m.

- Committee of the Whole 29
The hour of 10:08 a.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. 30

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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:

HB10-1191 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, Special Orders Amendment.
(Printed in Senate Journal, February 5, page 176 and placed in members' bill files.)

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

(For further action, see amendments to the report of the Committee of the Whole.)

HB10-1194 by Representative(s) Ferrandino; also Senator(s) Heath--Concerning the narrowing of the existing exemptions from the state sales and use taxes for articles sold to sellers of items intended for human consumption that are furnished by the sellers to their customers with such items without the addition of a separate charge, and making an appropriation therefor.

Amendment No. 1, Finance Committee Amendment.
(Printed in Senate Journal, February 4, pages 161-162 and placed in members' bill files.)

(For further action, see amendments to the report of the Committee of the Whole.)

Senator Morse moved that the Committee of the Whole rise, report progress, and beg leave to sit again at 1:00 p.m. A majority of those elected to the Senate having voted in the affirmative, the motion was adopted.

Committee of the Whole in Recess

MESSAGE FROM THE HOUSE

February 8, 2010

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB10-1064, 1059, 1065.

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB10-1023, amended as printed in House Journal, February 4, page 194.
HB10-1090, amended as printed in House Journal, February 4, page 194.
HB10-1117, amended as printed in House Journal, February 4, page 195.
HB10-1116, amended as printed in House Journal, February 4, page 195.
HB10-1004, amended as printed in House Journal, February 4, page 195.
HB10-1112, amended as printed in House Journal, February 4, page 204.
HB10-1107, amended as printed in House Journal, February 4, page 204.
HB10-1202, amended as printed in House Journal, February 4, pages 204-205 and amended on Third Reading, as printed in House Journal, February 8.

The House has adopted and transmits herewith HJR10-1010, as printed in House Journal, February 8.

MESSAGE FROM THE REVISOR OF STATUTES

February 8, 2010

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We herewith transmit:

Without comment, HB10-1059, 1064, and 1065.

Without comment, as amended, HB10-1004, 1023, 1090, 1107, 1112, 1116, 1117, and 1202.

COMMITTEE OF REFERENCE REPORTS

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.

Strike the Appropriations Committee Report, dated February 5, 2010, and substitute:

"Strike the Finance Committee Report, dated February 4, 2010, and substitute:

"Amend reengrossed bill, page 3, strike lines 3 through 25 and substitute:

"(II) COMMENCING MARCH 1, 2010, IF A RETAILER THAT DOES NOT COLLECT COLORADO SALES TAX IS PART OF A CONTROLLED GROUP OF CORPORATIONS, AND THAT CONTROLLED GROUP HAS A COMPONENT MEMBER THAT IS A RETAILER WITH PHYSICAL PRESENCE IN THIS STATE, THE RETAILER THAT DOES NOT COLLECT COLORADO SALES TAX IS PRESUMED TO BE DOING BUSINESS IN THIS STATE. FOR PURPOSES OF THIS SUBPARAGRAPH (II), "CONTROLLED GROUP OF CORPORATIONS" HAS THE SAME MEANING AS SET FORTH IN SECTION 1563 (a) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND "COMPONENT MEMBER" HAS THE SAME MEANING AS SET FORTH IN SECTION 1563 (b) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED. THIS PRESUMPTION MAY BE REBUTTED BY PROOF THAT DURING THE CALENDAR YEAR IN QUESTION, THE COMPONENT MEMBER THAT IS A RETAILER WITH PHYSICAL PRESENCE IN THIS STATE DID NOT ENGAGE IN ANY CONSTITUTIONALLY SUFFICIENT SOLICITATION IN THIS STATE ON BEHALF OF THE RETAILER THAT DOES NOT COLLECT COLORADO SALES TAX."

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) (I) EACH RETAILER THAT DOES 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.

(II) FAILURE TO PROVIDE THE NOTICE REQUIRED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) SHALL SUBJECT THE RETAILER TO A PENALTY OF FIVE DOLLARS FOR EACH SUCH FAILURE, UNLESS THE RETAILER SHOWS REASONABLE CAUSE FOR SUCH FAILURE.

(d) (I) (A) EACH RETAILER THAT DOES 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

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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.

(B) THE NOTIFICATION SPECIFIED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I) SHALL BE SENT SEPARATELY TO ALL COLORADO PURCHASERS BY FIRST-CLASS MAIL AND SHALL NOT BE INCLUDED WITH ANY OTHER SHIPMENTS. THE NOTIFICATION SHALL INCLUDE THE WORDS "IMPORTANT TAX DOCUMENT ENCLOSED" ON THE EXTERIOR OF THE MAILING. THE NOTIFICATION SHALL INCLUDE THE NAME OF THE RETAILER.

(II) (A) EACH RETAILER THAT DOES NOT COLLECT COLORADO SALES TAX SHALL FILE AN ANNUAL STATEMENT FOR EACH PURCHASER TO THE DEPARTMENT OF REVENUE ON SUCH FORMS AS ARE PROVIDED OR APPROVED BY THE DEPARTMENT SUMMARIZING THE TOTAL COLORADO PURCHASES OF SUCH PURCHASERS DURING THE PRECEDING CALENDAR YEAR OR ANY PORTION THEREOF, AND SUCH ANNUAL STATEMENT SHALL BE FILED ON OR BEFORE MARCH 1 OF EACH YEAR.

(B) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE MAY REQUIRE ANY RETAILER THAT DOES NOT COLLECT COLORADO SALES TAX THAT MAKES TOTAL COLORADO SALES OF MORE THAN ONE HUNDRED THOUSAND DOLLARS IN A YEAR TO FILE THE ANNUAL STATEMENT DESCRIBED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) BY MAGNETIC MEDIA OR ANOTHER MACHINE-READABLE FORM FOR THAT YEAR.

(III) (A) FAILURE TO SEND THE NOTIFICATION REQUIRED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) SHALL SUBJECT THE RETAILER TO A PENALTY OF TEN DOLLARS FOR EACH SUCH FAILURE, UNLESS THE RETAILER SHOWS REASONABLE CAUSE FOR SUCH FAILURE.

(B) FAILURE TO FILE THE ANNUAL STATEMENT REQUIRED IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (d) SHALL SUBJECT THE RETAILER TO A PENALTY OF TEN DOLLARS FOR EACH PURCHASER THAT SHOULD HAVE BEEN INCLUDED IN SUCH ANNUAL STATEMENT, UNLESS THE RETAILER SHOWS REASONABLE CAUSE FOR SUCH FAILURE."

Page 5, line 17, strike "EMPLOYEES." and substitute "EMPLOYEES, EXCEPT FOR ANY FULL TIME EQUIVALENT STATE EMPLOYEES NECESSARY TO ENFORCE THE PROVISIONS OF SAID HOUSE BILL 10-1193."

Page 5, strike lines 18 through 24 and substitute:

"SECTION 5. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of revenue, for allocation to the taxation business group, for the fiscal year beginning July 1, 2010, the sum of one hundred thirty-one thousand five hundred eighty-four dollars (\$131,584) and 1.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2010, the sum of forty thousand dollars (\$40,000), or so much thereof as may be necessary, for the provision of legal services to the department of revenue related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of revenue out of the appropriation made in subsection (1) of this section."."

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On motion of Senator Morse, and with a two-thirds majority of those elected to the Senate having voted in the affirmative, HB10-1193 was placed at the end of Special Orders -- Second Reading of Bills calendar of Monday, February 8.

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SPECIAL ORDERS -- SECOND READING OF BILLS -- con't

HB10-1194 by Representative(s) Ferrandino; also Senator(s) Heath--Concerning the narrowing of the existing exemptions from the state sales and use taxes for articles sold to sellers of items intended for human consumption that are furnished by the sellers to their customers with such items without the addition of a separate charge, and making an appropriation therefor.

Amendment No. 2(L.023), by Senator Steadman.

Amend the Finance Committee Report, dated February 3, 2010, page 1, strike lines 4 through 14.

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

(For further action, see amendments to the report of the Committee of the Whole.)

HB10-1196 by Representative(s) Ferrandino; also Senator(s) Heath--Concerning the disqualification of category 7 motor vehicles from the state income tax credit for the purchase of vehicles using alternative fuels.

Ordered revised and placed on the calendar for third reading and final passage.

(For further action, see amendments to the report of the Committee of the Whole.)

HB10-1199 by Representative(s) Ferrandino; also Senator(s) Heath--Concerning a temporary limit on the state income tax deduction for a net operating loss.

Amendment No. 1, Finance Committee Amendment.

(Printed in Senate Journal, February 4, page 166 and placed in members' bill files.)

Amendment No. 2(L.021), by Senator Heath.

Amend the Finance Committee Report, dated February 4, 2010, page 1, strike lines 1 through 13 and substitute the following:

"Amend reengrossed bill, page 3, strike lines 13 through 22 and substitute:".

Amend reengrossed bill, page 2, line 24, strike "(I)".

Page 3 of the bill, strike lines 2 and 3 and substitute:

"INCOME MULTIPLIED BY A RATE OF INTEREST EQUAL TO THREE AND ONE-QUARTER PERCENT PER ANNUM FOR THE PERIOD DURING".

Page 3 of the bill, strike lines 8 through 12.

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

(For further action, see amendments to the report of the Committee of the Whole.)

HB10-1195 by Representative(s) Ferrandino; also Senator(s) Heath--Concerning the suspension of the exemption from the state sales and use taxes for certain items used in agricultural production, and making an appropriation therefor.

Amendment No. 1, Finance Committee Amendment.

(Printed in Senate Journal, February 4, pages 166-167 and placed in members' bill files.)

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

passage.

(For further action, see amendments to the report of the Committee of the Whole.)

HB10-1192 by Representative(s) Pommer; also Senator(s) Heath--Concerning the state sales and use tax of standardized software, and making an appropriation therefor.

Amendment No. 1, Finance Committee Amendment.

(Printed in Senate Journal, February 5, and placed in members' bill files.)

Amendment No. 2, Appropriations Committee Amendment.

(Printed in Senate Journal, February 5, and placed in members' bill files.)

Amendment No. 3(L.034), by Senator Steadman.

Amend reengrossed bill, page 5, line 5, strike "AND NOT" and substitute "OR".

Amendment No. 4(L.040), by Senator Heath.

Amend reengrossed bill, page 2, line 7, strike "10- ____," and substitute "10-1192,".

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

(For further action, see amendments to the report of the Committee of the Whole.)

HB10-1190 by Representative(s) Pommer; also Senator(s) Heath--Concerning the suspension of the exemption from the state sales and use taxes for fuels used for industrial purposes, and making an appropriation therefor.

Amendment No. 1, Finance Committee Amendment.

(Printed in Senate Journal, February 5, and placed in members' bill files.)

Amendment No. 2, Appropriations Committee Amendment.

(Printed in Senate Journal, February 5, and placed in members' bill files.)

Amendment No. 3(L.068), by Senators Tapia and Johnston.

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

Page 2, line 6, after "(21)" insert "(a)".

Page 2, line 12, strike "part 1; EXCEPT THAT" and substitute "part 1."

Page 2, strike lines 13 through 21 and substitute:

"(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (21), SALES AND PURCHASES OF ELECTRICITY, COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL, NOT INCLUDING DIESEL FUEL PURCHASED FOR OFF-ROAD USE OR ELECTRICITY, COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL PURCHASED FOR AGRICULTURAL PURPOSES, FOR USE IN PROCESSING, MANUFACTURING, MINING, REFINING, IRRIGATION, CONSTRUCTION, TELEGRAPH, TELEPHONE, AND RADIO COMMUNICATION, STREET TRANSPORTATION SERVICES, AND ALL INDUSTRIAL USES SHALL NOT BE DEEMED TO BE WHOLESALE SALES AND SHALL NOT BE EXEMPT FROM STATE SALES TAXATION FOR THE PERIOD COMMENCING MARCH 1, 2010, AND ENDING JUNE 30, 2012; EXCEPT THAT THIS PARAGRAPH (b) SHALL NOT APPLY TO SALES AND PURCHASES OF COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL FOR USE IN GENERATING ELECTRICITY. THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2012."

Page 3, line 2, strike "**oil.**" and substitute "**oil - repeal.**"

Page 3, line 4, after "(b)" insert "(I)".

Page 3, strike line 8 and substitute "all industrial uses."

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Page 3, strike lines 9 through 13 and substitute:

"(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), THE STORAGE, USE, OR CONSUMPTION DESCRIBED IN SAID SUBPARAGRAPH (I), NOT INCLUDING STORAGE, USE, OR CONSUMPTION FOR RAILROAD TRANSPORTATION SERVICES, OR OF DIESEL FUEL PURCHASED FOR OFF-ROAD USE OR ELECTRICITY, COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL PURCHASED FOR AGRICULTURAL PURPOSES, SHALL NOT BE EXEMPT FROM STATE USE TAXATION FOR THE PERIOD COMMENCING MARCH 1, 2010, AND ENDING JUNE 30, 2012; EXCEPT THAT THIS SUBPARAGRAPH (II) SHALL NOT APPLY TO THE STORAGE, USE, AND CONSUMPTION OF COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL FOR USE IN GENERATING ELECTRICITY. THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2012."

Amendment No. 4(L.069), by Senator White.

Amend reengrossed bill, page 3, strike lines 25 through 27.

Page 4, strike lines 1 through 10.

Renumber succeeding sections accordingly.

Amendment No. 5(L.070), by Senator Johnston.

Strike the Tapia and Johnston floor amendment (HB1190_L.068) and substitute:

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

Page 2, line 6, after "(21)" insert "(a)".

Page 2, line 12, strike "part 1; EXCEPT THAT" and substitute "part 1."

Page 2, strike lines 13 through 21 and substitute:

"(b) (I) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (21), SALES AND PURCHASES OF ELECTRICITY, COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL FOR USE IN PROCESSING, MANUFACTURING, MINING, REFINING, IRRIGATION, CONSTRUCTION, TELEGRAPH, TELEPHONE, AND RADIO COMMUNICATION, STREET TRANSPORTATION SERVICES, AND ALL INDUSTRIAL USES SHALL NOT BE DEEMED TO BE WHOLESALE SALES AND SHALL NOT BE EXEMPT FROM STATE SALES TAXATION FOR THE PERIOD COMMENCING MARCH 1, 2010, AND ENDING JUNE 30, 2012; EXCEPT THAT THIS PARAGRAPH (b) SHALL NOT APPLY TO SALES AND PURCHASES OF:

(A) DIESEL FUEL PURCHASED FOR OFF-ROAD USE;

(B) ELECTRICITY, COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL PURCHASED FOR AGRICULTURAL PURPOSES; OR

(C) COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL FOR USE IN GENERATING ELECTRICITY.

(II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2012."

Page 3, line 2, strike **"oil."** and substitute **"oil - repeal."**

Page 3, line 4, after "(b)" insert "(I)".

Page 3, strike line 8 and substitute "all industrial uses."

Page 3, strike lines 9 through 13 and substitute:

"(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), THE STORAGE, USE, OR CONSUMPTION DESCRIBED IN SAID SUBPARAGRAPH (I), SHALL NOT BE EXEMPT FROM STATE USE

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TAXATION FOR THE PERIOD COMMENCING MARCH 1, 2010, AND ENDING JUNE 30, 2012; EXCEPT THAT THIS SUBPARAGRAPH (II) SHALL NOT APPLY TO THE STORAGE, USE, AND CONSUMPTION:

(A) FOR RAILROAD TRANSPORTATION SERVICES;

(B) OF DIESEL FUEL PURCHASED FOR OFF-ROAD USE;

(C) OF ELECTRICITY, COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL PURCHASED FOR AGRICULTURAL PURPOSES; OR

(D) OF COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL FOR USE IN GENERATING ELECTRICITY.

(III) SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) AND THIS SUBPARAGRAPH (III) ARE REPEALED, EFFECTIVE JULY 1, 2012."."

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

(For further action, see amendments to the report of the Committee of the Whole.)

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.

Amendment No. 1, Finance Committee Amendment.

(Printed in Senate Journal, February 5, pages 171-172 and placed in members' bill files.)

Amendment No. 2, Appropriations Committee Amendment.

(Printed in Senate Journal, February 8, page 175 and placed in members' bill files.)

Amendment No. 3, Appropriations Committee Amendment.

(Printed in Senate Journal, February 8, pages 181-182 and placed in members' bill files.)

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

(For further action, see amendments to the report of the Committee of the Whole.)

AMENDMENTS TO THE REPORT OF THE COMMITTEE OF THE WHOLE

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.

Senator King moved to amend the Report of the Committee of the Whole to show that the Appropriations Committee amendment to HB 10-1189, did pass.

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	17	NO	18	EXCUSED	0	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	N	King K.	Y	Sandoval	Y	Whitehead	Y
Gibbs	N	Kopp	Y	Scheffel	Y	Williams	N
Harvey	Y	Lundberg	Y	Schultheis	Y	President	N
Heath	N	Mitchell	Y	Schwartz	Y		

Senator Penry moved to amend the Report of the Committee of the Whole to show that the following amendment to HB 10-1189 did pass.

Amend reengrossed bill, page 3, after line 27 insert:

"SECTION 3. Part 1 of article 26 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-26-102.3. Inclusion of direct mail advertising materials in state sales tax base - use revenues generated for education. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE GENERAL ASSEMBLY SHALL APPROPRIATE AT LEAST FORTY PERCENT OF THE AMOUNT OF ANY INCREASE IN NET STATE SALES TAX REVENUES RESULTING FROM THE AMENDMENT OF THE DEFINITION OF TANGIBLE PERSONAL PROPERTY SET FORTH IN SECTION 39-26-102 (15) BY HOUSE BILL 10-1189, ENACTED IN 2010, TO INCLUDE DIRECT MAIL ADVERTISING MATERIALS FOR THE PURPOSE OF FUNDING PRESCHOOL THROUGH TWELFTH GRADE PUBLIC EDUCATION. SUCH FUNDING SHALL SUPPLEMENT AND NOT SUPPLANT ANY OTHER MONEYS USED FOR SAID PURPOSE."

Renumber succeeding sections accordingly.

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	15	NO	20	EXCUSED	0	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	N	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	Y		

HB10-1190

by Representative(s) Pommer; also Senator(s) Heath--Concerning the suspension of the exemption from the state sales and use taxes for fuels used for industrial purposes, and making an appropriation therefor.

Senator Penry moved to amend the Report of the Committee of the Whole to show that the following White floor amendment, (L.069) to HB 10-1190, did not pass.

Amend reengrossed bill, page 3, strike lines 25 through 27.

Page 4, strike lines 1 through 10.

Renumber succeeding sections accordingly.

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	13	NO	21	EXCUSED	0	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	N
Foster	N	King K.	Y	Sandoval	N	Whitehead	N
Gibbs	N	Kopp	*	Scheffel	Y	Williams	N
Harvey	Y	Lundberg	Y	Schultheis	Y	President	N
Heath	N	Mitchell	Y	Schwartz	Y		

* Abstaining from voting under Senate Rule 17(c) -- Senator Kopp.

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.

Senator Penry moved to amend the Report of the Committee of the Whole to show that the following amendment to HB 10-1191 did pass.

Amend reengrossed bill, page 7, after line 27 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:

39-26-102.3. Inclusion of candy and soft drinks in state sales tax base - use revenues generated for education. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE GENERAL ASSEMBLY SHALL APPROPRIATE AT LEAST FORTY PERCENT OF THE AMOUNT OF ANY INCREASE IN NET STATE SALES TAX REVENUES RESULTING FROM THE ADDITION OF THE DEFINITIONS OF "CANDY" AND "SOFT DRINKS" SET FORTH IN SECTION 39-26-707 BY HOUSE BILL 10-1191, ENACTED IN 2010, TO INCLUDE CANDY AND SOFT DRINKS FOR THE PURPOSE OF FUNDING PRESCHOOL THROUGH TWELFTH GRADE PUBLIC EDUCATION. SUCH FUNDING SHALL SUPPLEMENT AND NOT SUPPLANT ANY OTHER MONEYS USED FOR SAID PURPOSE."

Renumber succeeding sections accordingly.

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	15	NO	20	EXCUSED	0	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	N	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	Y		

Senator King moved to amend the Report of the Committee of the Whole to show that the following Steadman floor amendment, (L.036) to HB 10-1191, did not pass.

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.

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	17	NO	18	EXCUSED	0	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	N	King K.	Y	Sandoval	Y	Whitehead	Y
Gibbs	N	Kopp	Y	Scheffel	Y	Williams	N
Harvey	Y	Lundberg	Y	Schultheis	Y	President	N
Heath	N	Mitchell	Y	Schwartz	Y		

Senator Penry moved to amend the Report of the Committee of the Whole to show that the following Steadman floor amendment, (L.039) to HB 10-1191, did pass.

Amend reengrossed bill, page 4, after line 25 insert:

"(4) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (e) OF SUBSECTION (1) AND PARAGRAPH (d) OF SUBSECTION (2) OF THIS SECTION, THE SALE OR STORAGE, USE, OR CONSUMPTION OF CANDY AND SOFT DRINKS, AS DEFINED IN SAID PARAGRAPHS (e) AND (d), BY ANY BUSINESS THAT HAS TOTAL ANNUAL GROSS SALES AT ALL BUSINESS LOCATIONS IN THE STATE OF TWO HUNDRED FIFTY THOUSAND DOLLARS OR LESS SHALL CONTINUE TO BE EXEMPT FROM STATE SALES AND USE TAXATION FOR THE PERIOD COMMENCING MAY 1, 2010, AND ENDING JUNE 30, 2013".

Page 6, after line 16 insert:

"(6) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (2) AND (3) OF THIS SECTION, THE SALE OR STORAGE, USE, OR CONSUMPTION OF CANDY AND SOFT DRINKS PURCHASED BY OR THROUGH VENDING MACHINES BY ANY BUSINESS THAT HAS TOTAL ANNUAL GROSS SALES AT ALL BUSINESS LOCATIONS IN THE STATE OF TWO HUNDRED FIFTY THOUSAND DOLLARS OR LESS SHALL CONTINUE TO BE EXEMPT FROM STATE SALES AND USE TAXATION FOR THE PERIOD COMMENCING MAY 1, 2010, AND ENDING JUNE 30, 2013".

Renumber succeeding subsection accordingly.

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	17	NO	18	EXCUSED	0	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	N	King K.	Y	Sandoval	Y	Whitehead	Y
Gibbs	N	Kopp	Y	Scheffel	Y	Williams	N
Harvey	Y	Lundberg	Y	Schultheis	Y	President	N
Heath	N	Mitchell	Y	Schwartz	Y		

HB10-1192 by Representative(s) Pommer; also Senator(s) Heath--Concerning the state sales and use tax of standardized software, and making an appropriation therefor.

Senator Penry moved to amend the Report of the Committee of the Whole to show that the following Steadman floor amendment, (L.034) to HB 10-1192, did not pass.

Amend reengrossed bill, page 5, line 5, strike "AND NOT" and substitute "OR".

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	14	NO	21	EXCUSED	0	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	N
Foster	N	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	Y		

Senator King moved to amend the Report of the Committee of the Whole to show that the following King floor amendment, (L.042) to HB 10-1192, did pass.

Amend the Finance Committee Report, dated February 4, 2010, page 3, line 3, strike ""TANGIBLE" and substitute "COMMENCING JULY 1, 2010, THROUGH JUNE 30, 2013, "TANGIBLE".

Page 3 of the report, after line 21 insert:

"Page 5 of the reengrossed bill, line 24, strike "March" and substitute "July"."

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	17	NO	18	EXCUSED	0	ABSENT	0
Bacon	N	Hodge	N	Morse	N	Spence	Y
Boyd	N	Hudak	N	Newell	Y	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	N	King K.	Y	Sandoval	Y	Whitehead	N
Gibbs	N	Kopp	Y	Scheffel	Y	Williams	N
Harvey	Y	Lundberg	Y	Schultheis	Y	President	N
Heath	N	Mitchell	Y	Schwartz	Y		

Senator White moved to amend the Report of the Committee of the Whole to show that the following Steadman floor amendment, (L.034) to HB 10-1192, did not pass, and that the following new amendment did pass.

L.034

Amend reengrossed bill, page 5, line 5, strike "AND NOT" and substitute "OR".

New Amendment

Amend reengrossed bill, page 4, strike lines 20 through 27.

Page 5, strike lines 1 through 6.

Renumber succeeding sections accordingly.

More than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **passed** on the following roll call vote:

YES	35	NO	0	EXCUSED	0	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	Y	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		

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 Penry moved to amend the Report of the Committee of the Whole to show that the following amendment to HB 10-1193 did pass.

Amend reengrossed bill, page 5, line 3, strike "**department.**"and substitute "**department - inclusion of sales made by retailers in that do not collect Colorado sales tax state sales tax base - use revenues generated for education. (1)**".

Page 3, after line 21 insert:

"(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE GENERAL ASSEMBLY SHALL APPROPRIATE AT LEAST FORTY PERCENT OF THE AMOUNT OF ANY INCREASE IN NET STATE SALES TAX REVENUES RESULTING FROM THE AMENDMENTS CONCERNING SALES MADE BY RETAILERS THAT DO NOT COLLECT COLORADO SALES TAX RESULTING FROM THE PASSAGE OF HOUSE BILL 10-1193, ENACTED IN 2010, TO INCLUDE SALES MADE BY RETAILERS THAT DO NOT COLLECT COLORADO SALES TAX FOR THE PURPOSE OF FUNDING PRESCHOOL THROUGH TWELFTH GRADE PUBLIC EDUCATION. SUCH FUNDING SHALL SUPPLEMENT AND NOT SUPPLANT ANY OTHER MONEYS USED FOR SAID PURPOSE."

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	14	NO	21	EXCUSED	0	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	N
Foster	N	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	Y		

HB10-1195 by Representative(s) Ferrandino; also Senator(s) Heath--Concerning the suspension of the exemption from the state sales and use taxes for certain items used in agricultural production, and making an appropriation therefor.

Senator Penry moved to amend the Report of the Committee of the Whole to show that the following Penry floor amendment, (L.022) to HB 10-1195, did pass.

Amend reengrossed bill, page 3, line 19, strike "2013." and substitute:

"2013; EXCEPT THAT ALL SALES AND PURCHASES OF THE ITEMS DESCRIBED IN PARAGRAPH (d) OR (e) OF SUBSECTION (2) OR PARAGRAPH (d) OR (e) OF SUBSECTION (3) OF THIS SECTION ON THE PART OF ANY INDIVIDUAL OR BUSINESS WITH AN ANNUAL INCOME OF TWO HUNDRED FIFTY THOUSAND DOLLARS OR LESS SHALL CONTINUE TO BE EXEMPT FROM STATE SALES AND USE TAXATION ON AND AFTER MARCH 1, 2010."

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	17	NO	18	EXCUSED	0	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	N	King K.	Y	Sandoval	Y	Whitehead	Y
Gibbs	N	Kopp	Y	Scheffel	Y	Williams	N
Harvey	Y	Lundberg	Y	Schultheis	Y	President	N
Heath	N	Mitchell	Y	Schwartz	Y		

HB10-1194 by Representative(s) Ferrandino; also Senator(s) Heath--Concerning the narrowing of the existing exemptions from the state sales and use taxes for articles sold to sellers of items intended for human consumption that are furnished by the sellers to their customers with such items without the addition of a separate charge, and making an appropriation therefor.

Senator King moved to amend the Report of the Committee of the Whole to show that the following Steadman floor amendment, (L.023) to HB 10-1194, did not pass.

Amend the Finance Committee Report, dated February 3, 2010, page 1, strike lines 4 through 14.

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	17	NO	18	EXCUSED	0	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	N	King K.	Y	Sandoval	Y	Whitehead	Y
Gibbs	N	Kopp	Y	Scheffel	Y	Williams	N
Harvey	Y	Lundberg	Y	Schultheis	Y	President	N
Heath	N	Mitchell	Y	Schwartz	Y		

Senator Penry moved to amend the Report of the Committee of the Whole to show that the following amendment to HB 10-1194 did pass.

Amend reengrossed bill, page 5, after line 1 insert:

"SECTION 4. Part 1 of article 26 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-26-102.3. Inclusion of nonessential articles in state sales tax base - use revenues generated for education. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE GENERAL ASSEMBLY SHALL APPROPRIATE AT LEAST FORTY PERCENT OF THE AMOUNT OF ANY INCREASE IN NET STATE SALES TAX REVENUES RESULTING FROM THE AMENDMENT CONCERNING NONESSENTIAL ARTICLES SET FORTH IN SECTION 39-26-707 (1) (c), (1) (d), (2) (b), and (2) (c) BY HOUSE BILL 10-1194, ENACTED IN 2010, TO INCLUDE NONESSENTIAL ARTICLES FOR THE PURPOSE OF FUNDING PRESCHOOL THROUGH TWELFTH GRADE PUBLIC EDUCATION. SUCH FUNDING SHALL SUPPLEMENT AND NOT SUPPLANT ANY OTHER MONEYS USED FOR SAID PURPOSE."

Renumber succeeding sections accordingly.

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	14	NO	21	EXCUSED	0	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	N
Foster	N	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	Y		

HB10-1195 by Representative(s) Ferrandino; also Senator(s) Heath--Concerning the suspension of the exemption from the state sales and use taxes for certain items used in agricultural production, and making an appropriation therefor.

Senator Penry moved to amend the Report of the Committee of the Whole to show that the following amendment to HB 10-1195 did pass.

Amend reengrossed bill, page 3, line 24, strike "**department.**"and substitute "**department - inclusion of certain items used in agricultural production in state sales tax base - use revenues generated for education. (1)**".

Page 3, after line 21 insert:

"(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE GENERAL ASSEMBLY SHALL APPROPRIATE AT LEAST FORTY PERCENT OF THE AMOUNT OF ANY INCREASE IN NET STATE SALES TAX REVENUES RESULTING FROM THE AMENDMENT CONCERNING CERTAIN ITEMS USED IN AGRICULTURAL PRODUCTION SET FORTH IN SECTION 39-26-716 (5) BY HOUSE BILL 10-1195, ENACTED IN 2010, TO INCLUDE CERTAIN ITEMS USED IN

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AGRICULTURAL PRODUCTION FOR THE PURPOSE OF FUNDING PRESCHOOL THROUGH TWELFTH GRADE PUBLIC EDUCATION. SUCH FUNDING SHALL SUPPLEMENT AND NOT SUPPLANT ANY OTHER MONEYS USED FOR SAID PURPOSE."

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	14	NO	21	EXCUSED	0	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	N
Foster	N	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	Y		

HB10-1196 by Representative(s) Ferrandino; also Senator(s) Heath--Concerning the disqualification of category 7 motor vehicles from the state income tax credit for the purchase of vehicles using alternative fuels.

Senator Penry moved to amend the Report of the Committee of the Whole to show that the following amendment to HB 10-1196 did pass.

Amend reengrossed bill, page 3, line 16, strike "**department.**"and substitute "**department - inclusion of category 7 vehicles in state sales tax base - use revenues generated for education. (1)**".

Page 3, after line 21 insert:

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE GENERAL ASSEMBLY SHALL APPROPRIATE AT LEAST FORTY PERCENT OF THE AMOUNT OF ANY INCREASE IN NET STATE SALES TAX REVENUES RESULTING FROM THE AMENDMENT CONCERNING CATEGORY 7 VEHICLES SET FORTH IN SECTION 39-22-516(2.6) (b) (III) BY HOUSE BILL 10-1196, ENACTED IN 2010, TO INCLUDE CATEGORY 7 VEHICLES FOR THE PURPOSE OF FUNDING PRESCHOOL THROUGH TWELFTH GRADE PUBLIC EDUCATION. SUCH FUNDING SHALL SUPPLEMENT AND NOT SUPPLANT ANY OTHER MONEYS USED FOR SAID PURPOSE."

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	15	NO	20	EXCUSED	0	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.	Y	Kester	Y	Romer	N	White	N
Foster	N	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	Y		

HB10-1199 by Representative(s) Ferrandino; also Senator(s) Heath--Concerning a temporary limit on the state income tax deduction for a net operating loss.

Senator Penry moved to amend the Report of the Committee of the Whole to show that the following amendment to HB 10-1199 did pass.

Amend reengrossed bill, page 2, line 5, strike "**department.**"and substitute "**department - inclusion of net operating loss in state sales tax base - use revenues generated for education. (1)**".

Page 2, after line 10 insert:

"(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE GENERAL ASSEMBLY SHALL APPROPRIATE AT LEAST FORTY PERCENT OF THE AMOUNT OF ANY INCREASE IN NET STATE SALES TAX REVENUES RESULTING FROM THE AMENDMENT CONCERNING NET OPERATING LOSSES SET FORTH IN SECTION 39-22-504 (6) BY HOUSE BILL 10-1199, ENACTED IN 2010, TO INCLUDE NET OPERATING LOSSES FOR THE PURPOSE OF FUNDING PRESCHOOL THROUGH TWELFTH GRADE PUBLIC EDUCATION. SUCH FUNDING SHALL SUPPLEMENT AND NOT SUPPLANT ANY OTHER MONEYS USED FOR SAID PURPOSE."

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	15	NO	20	EXCUSED	0	ABSENT	0
Bacon	N	Hodge	N	Morse	N	Spence	Y
Boyd	N	Hudak	N	Newell	Y	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	N
Foster	N	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	Y		

HB10-1190 by Representative(s) Pommer; also Senator(s) Heath--Concerning the suspension of the exemption from the state sales and use taxes for fuels used for industrial purposes, and making an appropriation therefor.

Senator Harvey moved to amend the Report of the Committee of the Whole to show that HB 10-1190, as amended, did not pass.

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	16	NO	18	EXCUSED	0	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	N	King K.	Y	Sandoval	Y	Whitehead	Y
Gibbs	N	Kopp	*	Scheffel	Y	Williams	N
Harvey	Y	Lundberg	Y	Schultheis	Y	President	N
Heath	N	Mitchell	Y	Schwartz	Y		

* Abstaining from voting under Senate Rule 17(c) -- Senator Kopp.

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.

Senator Harvey moved to amend the Report of the Committee of the Whole to show that HB 10-1191, as amended, did not pass.

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	17	NO	18	EXCUSED	0	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	N	King K.	Y	Sandoval	Y	Whitehead	Y
Gibbs	N	Kopp	Y	Scheffel	Y	Williams	N
Harvey	Y	Lundberg	Y	Schultheis	Y	President	N
Heath	N	Mitchell	Y	Schwartz	Y		

HB10-1192 by Representative(s) Pommer; also Senator(s) Heath--Concerning the state sales and use tax of standardized software, and making an appropriation therefor.

Senator Harvey moved to amend the Report of the Committee of the Whole to show that HB 10-1192, as amended, did not pass.

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	17	NO	18	EXCUSED	0	ABSENT	0
Bacon	N	Hodge	N	Morse	N	Spence	Y
Boyd	N	Hudak	N	Newell	Y	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	N	King K.	Y	Sandoval	Y	Whitehead	N
Gibbs	N	Kopp	Y	Scheffel	Y	Williams	N
Harvey	Y	Lundberg	Y	Schultheis	Y	President	N
Heath	N	Mitchell	Y	Schwartz	Y		

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 Harvey moved to amend the Report of the Committee of the Whole to show that HB 10-1193, as amended, did not pass.

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	15	NO	20	EXCUSED	0	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	N	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	Y		

HB10-1195 by Representative(s) Ferrandino; also Senator(s) Heath--Concerning the suspension of the exemption from the state sales and use taxes for certain items used in agricultural production, and making an appropriation therefor.

Senator Harvey moved to amend the Report of the Committee of the Whole to show that HB 10-1195, as amended, did not pass.

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	17	NO	18	EXCUSED	0	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	N	King K.	Y	Sandoval	Y	Whitehead	Y
Gibbs	N	Kopp	Y	Scheffel	Y	Williams	N
Harvey	Y	Lundberg	Y	Schultheis	Y	President	N
Heath	N	Mitchell	Y	Schwartz	Y		

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

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

YES	21	NO	14	EXCUSED	0	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	Y	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		

The Committee of the Whole took the following action:

Passed on second reading: HB10-1189 as amended, HB10-1191 as amended, HB10-1194 as amended, HB10-1196, HB10-1199 as amended, HB10-1195 as amended, HB10-1192 as amended, HB10-1190 as amended, HB10-1193 as amended.

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 Monday, February 8, was laid over until Tuesday, February 9, retaining its place on the calendar.

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, SB10-056.

Consideration of Governor's Appointments:

- Members of the Board of Governors of the Colorado State University System
- Members of the Higher Education Competitive Research Authority Board of Directors
- Members of the Board of Real Estate Appraisers
- Members of the Colorado Lottery Commission
- Members of the Ground Water Commission

On motion of Senator Morse, the Senate adjourned until 1:00 p.m., Tuesday, February 9, 2010.

Approved:

Brandon C. Shaffer
President of the Senate

Attest:

Karen Goldman
Secretary of the Senate

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