

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

37th Legislative Day Thursday, February 18, 2010

- Prayer 10
By the chaplain, Rabbi Mitch Delcau, Congregation Temple Emanuel, Denver. 11
- Call to Order 12
By the President at 9:00 a.m. 13
- Pledge 14
By Senator Sandoval. 15
- Roll Call 16
Present--35. 17
- Quorum 18
The President announced a quorum present. 19
- Reading of Journal 20
On motion of Senator Hudak, reading of the Journal of Wednesday, February 17, 2010, 21
was dispensed with and the Journal was approved as corrected by the Secretary. 22

MESSAGE FROM THE HOUSE

February 17, 2010

The House has adopted and returns herewith SJR10-014.

The Speaker announced the following sponsor change, Representative Gagliardi to replace Representative Ferrandino as prime sponsor on SB10-058.

COMMITTEE OF REFERENCE REPORTS

Health & Human Services 39
After consideration on the merits, the Committee recommends that **SB10-106** be amended 40
as follows, and as so amended, be referred to the Committee on Appropriations with 41
favorable recommendation. 42

Amend printed bill, strike everything below the enacting clause and 43
substitute: 44

"SECTION 1. Title 24, Colorado Revised Statutes, is amended 45
BY THE ADDITION OF A NEW ARTICLE to read: 46

ARTICLE 37.3
Colorado Food Systems Advisory Council

24-37.3-101. Legislative declaration. (1) THE GENERAL 47
ASSEMBLY HEREBY FINDS AND DECLARES THAT: 48

(a) IN SEPTEMBER 2009, THE FEDERAL CENTERS FOR DISEASE 49
CONTROL AND PREVENTION REPORTED THAT NO STATE IN THE UNITED 50
STATES WAS MEETING NATIONAL GOALS FOR THE AMOUNT OF FRUITS AND 51
VEGETABLES THAT AMERICANS SHOULD BE EATING. AS A RESULT, THE 52
CENTERS FOR DISEASE CONTROL AND PREVENTION IDENTIFIED THE 53
CREATION OF FOOD POLICY COUNCILS, CONSISTING OF 54
MULTI-STAKEHOLDER ORGANIZATIONS, AS AN EFFECTIVE WAY TO 55
SUPPORT SYSTEM CHANGES TO IMPROVE LOCAL FOOD ECONOMIES. 56

(b) FOOD COUNCILS FORMED IN OTHER STATES HAVE BEEN 57
EFFECTIVE IN BRINGING TOGETHER A BROAD ARRAY OF FOOD-RELATED 58
GOVERNMENT AND NONGOVERNMENT CONSTITUENCIES TO EMPLOY A 59
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FOOD SYSTEMS APPROACH THAT FACILITATES EVALUATION AND PROGRAM DEVELOPMENT AT EVERY STAGE OF THE FOOD PROCESS FROM FARM TO TABLE;

(c) FORMATION OF A STATE FOOD ADVISORY COUNCIL WILL BENEFIT COLORADO AGRICULTURISTS AND OTHERS INVOLVED IN ALL ASPECTS OF AGRICULTURAL PRODUCTION;

(d) CREATION OF A STATE FOOD ADVISORY COUNCIL WILL PROVIDE INCREASED FOCUS ON THE ECONOMIC DEVELOPMENT OPPORTUNITIES OF COLORADO'S FOOD SYSTEM ALONG WITH IMPROVEMENTS TO AGRICULTURAL PRODUCTION, COMMUNITY WELL-BEING, AND PUBLIC HEALTH.

(2) THE GENERAL ASSEMBLY FURTHER FINDS THAT BUILDING LOCAL FOOD ECONOMIES WILL CREATE JOBS, STIMULATE STATEWIDE ECONOMIC DEVELOPMENT, AND CIRCULATE MONEY FROM LOCAL FOOD SALES WITHIN LOCAL COMMUNITIES. THE GENERAL ASSEMBLY FINDS THAT BUILDING ROBUST, RESILIENT, AND LONG-TERM LOCAL FOOD ECONOMIES IN COLORADO WILL PRESERVE AND PROTECT THE NATURAL ENVIRONMENT, INCREASE CONSUMER ACCESS TO FRESH, HEALTHY, AND SAFE FOODS, AND PROVIDE GREATER FOOD SECURITY FOR ALL COLORADANS.

24-37.3-102. Colorado food systems advisory council - created - membership - terms - vacancies. (1) THERE IS HEREBY CREATED THE COLORADO FOOD SYSTEMS ADVISORY COUNCIL, REFERRED TO IN THIS ARTICLE AS THE "COUNCIL". THE COUNCIL IS CREATED AS AN ADVISORY COMMITTEE TO FOSTER A HEALTHY FOOD SUPPLY AVAILABLE TO ALL COLORADO RESIDENTS WHILE ENHANCING THE STATE'S AGRICULTURAL AND NATURAL RESOURCES, ENCOURAGING ECONOMIC GROWTH, EXPANDING THE VIABILITY OF AGRICULTURE, AND IMPROVING THE HEALTH OF OUR COMMUNITIES AND RESIDENTS. THE COUNCIL'S ROLE IS TO MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY AND TO THE APPROPRIATE REGULATORY AGENCIES, NOT TO CREATE POLICY. THE COUNCIL SHALL USE A METHOD OF DIALOGUE AND CONSENSUS DECISION-MAKING TO ARRIVE AT ITS RECOMMENDATIONS.

(2) THE COUNCIL CONSISTS OF THIRTEEN MEMBERS AS FOLLOWS:

(a) THE EXECUTIVE DIRECTOR, OR HIS OR HER DESIGNEE, OF EACH OF THE FOLLOWING STATE DEPARTMENTS:

(I) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

(II) THE DEPARTMENT OF AGRICULTURE;

(III) THE DEPARTMENT OF HUMAN SERVICES;

(IV) THE DEPARTMENT OF EDUCATION;

(b) NINE MEMBERS APPOINTED BY THE GOVERNOR WHO REPRESENT AND HAVE EXPERTISE IN ONE OF FIVE FUNCTIONAL AREAS OF FOOD SYSTEMS, AS FOLLOWS:

(I) TWO MEMBERS WHO REPRESENT NUTRITION AND HEALTH;

(II) THREE MEMBERS WHO REPRESENT AGRICULTURAL PRODUCTION;

(III) TWO MEMBERS WHO REPRESENT FOOD WHOLESALERS OR FOOD RETAILERS;

(IV) ONE MEMBER WHO REPRESENTS ANTI-HUNGER AND FOOD ASSISTANCE PROGRAMS;

(V) ONE MEMBER WHO REPRESENTS ECONOMIC DEVELOPMENT.

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(3) IN MAKING APPOINTMENTS TO THE COUNCIL, THE GOVERNOR SHALL ENSURE THAT THE MEMBERSHIP OF THE COUNCIL INCLUDES GEOGRAPHIC REPRESENTATION FROM ALL AREAS OF THE STATE. THE GOVERNOR SHALL ALSO CONSIDER APPOINTING PERSONS WHO HAVE EXPERTISE IN MORE THAN ONE FUNCTIONAL AREA. NO MORE THAN FIVE MEMBERS OF THE COUNCIL APPOINTED BY THE GOVERNOR SHALL BE MEMBERS OF THE SAME POLITICAL PARTY.

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(4) EACH MEMBER OF THE COUNCIL WHO IS APPOINTED PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL SERVE AT THE PLEASURE OF THE APPOINTING AUTHORITY WHO APPOINTED THE MEMBER. EACH MEMBER OF THE COUNCIL SHALL SERVE A THREE-YEAR TERM; EXCEPT THAT THE GOVERNOR SHALL APPOINT FOUR MEMBERS TO SERVE TWO-YEAR TERMS.

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(5) THE APPOINTING AUTHORITIES SHALL MAKE THEIR INITIAL APPOINTMENTS TO THE COUNCIL NO LATER THAN OCTOBER 1, 2010.

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(6) ANY VACANCY ON THE COUNCIL SHALL BE FILLED IN THE SAME MANNER IN WHICH THE ORIGINAL APPOINTMENT WAS MADE, AND THE TERM SHALL BE FOR THE BALANCE OF THE UNEXPIRED TERM OF THE MEMBER WHOSE TERM IS VACANT.

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(7) A MAJORITY OF THE MEMBERS OF THE COUNCIL SHALL ELECT A CHAIR AND A VICE-CHAIR WHO SHALL SERVE FOR TWO-YEAR TERMS.

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(8) EACH MEMBER OF THE COUNCIL SHALL SERVE WITHOUT COMPENSATION, BUT MAY BE REIMBURSED FROM THE FOOD SYSTEMS ADVISORY COUNCIL FUND CREATED IN SECTION 24-37.3-105 FOR ACTUAL AND NECESSARY SUBSISTENCE AND TRAVEL EXPENSES INCURRED IN THE PERFORMANCE OF HIS OR HER DUTIES AS A MEMBER OF THE COUNCIL.

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(9) THE CHAIR SHALL CALL THE MEETINGS AND NOTIFY THE MEMBERS OF EACH MEETING BEING CALLED AT LEAST SEVEN DAYS IN ADVANCE. MEETINGS SHALL BE HELD AS OFTEN AS THE CHAIR DEEMS NECESSARY, BUT NOT LESS THAN FOUR TIMES EACH CALENDAR YEAR. A QUORUM FOR THE TRANSACTION OF BUSINESS CONSISTS OF SEVEN MEMBERS OF THE COUNCIL.

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24-37.3-103. Council - purpose and duties. (1) THE PURPOSE OF THE COUNCIL IS TO:

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(a) IDENTIFY AND USE EXISTING STUDIES OF THE FOOD SYSTEM AND EXAMPLES OF BEST PRACTICES, WHENEVER POSSIBLE;

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(b) WORK WITH OTHER TASK FORCES, COMMITTEES, OR ORGANIZATIONS THAT ARE PURSUING INITIATIVES OR STUDIES SIMILAR TO THE PURPOSES AND DUTIES OUTLINED IN THIS ARTICLE AND DEVELOP RELATIONSHIPS WITH OTHER TASK FORCES, COMMITTEES, OR ORGANIZATIONS TO COLLABORATE ON SIMILAR EFFORTS;

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(c) DEVELOP LOCAL FOOD RECOMMENDATIONS THAT PROMOTE THE BUILDING OF ROBUST, RESILIENT, AND LONG-TERM LOCAL FOOD ECONOMIES;

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(d) DEVELOP RECOMMENDATIONS REGARDING HUNGER AND FOOD ACCESS;

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(e) COLLABORATE WITH, SERVE AS A RESOURCE TO, AND RECEIVE INPUT FROM LOCAL AND REGIONAL FOOD POLICY COUNCILS IN THE STATE;

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(f) COLLABORATE WITH THE DEPARTMENT OF AGRICULTURE IN PROMOTING THE MARKETING PROGRAM KNOWN AS "COLORADO PROUD", WHICH HELPS CONSUMERS, RESTAURANTS, AND RETAILERS TO IDENTIFY AND PURCHASE COLORADO FOOD AND AGRICULTURAL PRODUCTS; AND

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(g) DEVELOP RECOMMENDATIONS FOR ACTIONS THAT STATE AND

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LOCAL GOVERNMENTS, BUSINESSES, AGRICULTURISTS, AND CONSUMERS CAN TAKE TO BUILD ROBUST, RESILIENT, AND LONG-TERM LOCAL FOOD ECONOMIES.

(2) IN DEVELOPING ITS RECOMMENDATIONS, THE COUNCIL SHALL CONSIDER, BUT NOT BE LIMITED TO, THE FOLLOWING AREAS OF INTEREST:

(a) (I) AN EXAMINATION OF FOODS MADE AVAILABLE TO CHILDREN, INCLUDING THOSE IN PUBLIC SCHOOLS, AND CONSIDERATION OF WAYS TO IMPROVE THE NUTRITIONAL QUALITY OF THOSE FOODS AND INCREASE CHILDREN'S ACCESS TO LOCALLY GROWN FOODS.

(II) IN DESIGNING RECOMMENDATIONS TO IMPROVE SCHOOL NUTRITION AND INCREASE ACCESS TO LOCALLY GROWN FOODS, THE COUNCIL SHALL INCORPORATE INPUT FROM, AND COORDINATE WITH THE WORK OF, THE COLORADO CAMPAIGN TO END CHILDHOOD HUNGER BY 2015, INITIATED BY EXECUTIVE ORDER OF THE GOVERNOR.

(b) A STUDY OF EFFORTS TO MAKE LOCAL, HEALTHY, AND SAFE FOODS AVAILABLE UNDER PUBLIC ASSISTANCE PROGRAMS, INCLUDING THE POSSIBILITY OF USING FOOD STAMPS AT LOCAL FARMERS' MARKETS;

(c) AN IN-DEPTH EXAMINATION OF LOCAL AND REGIONAL EFFORTS TO STRENGTHEN AND DEVELOP ROBUST, RESILIENT, AND LONG-TERM LOCAL FOOD ECONOMIES BY SUPPORTING AND PROMOTING URBAN, SUBURBAN, AND RURAL AGRICULTURAL PRODUCTION; IDENTIFYING AND DEVELOPING SOLUTIONS TO REGULATORY AND POLICY BARRIERS; AND STRENGTHENING LOCAL INFRASTRUCTURE AND ENTREPRENEURIAL EFFORTS;

(d) THE POTENTIAL IMPACTS THAT THE PRODUCTION OF LOCAL, HEALTHY, AND SAFE FOODS WOULD HAVE ON ECONOMIC DEVELOPMENT IN COLORADO, INCLUDING BOTH THE DIRECT IMPACTS FOR THE PRODUCERS OF LOCAL FOOD AND THE ACTUAL AND POTENTIAL INDIRECT IMPACTS, SUCH AS ENCOURAGING RESTAURANTS TO FEATURE LOCALLY RAISED AGRICULTURAL PRODUCTS AND PROMOTING FOOD AND WINE TOURISM; AND

(e) ANY OTHER ISSUES THE COUNCIL CONSIDERS PERTINENT.

24-37.3-104. Subcommittees of the council. (1) (a) THE COUNCIL MAY CREATE SUBCOMMITTEES, AS THE COUNCIL DEEMS NECESSARY, TO CARRY OUT THE WORK OF THE COUNCIL. THESE SUBCOMMITTEES MAY INCLUDE BUT ARE NOT LIMITED TO:

(I) LOCAL AND REGIONAL FOOD COUNCILS;

(II) LOCAL GOVERNMENT;

(III) SCHOOL DISTRICTS, THE MEMBERS OF WHICH SHALL INCLUDE PERSONS WITH EXPERTISE IN NUTRITION AND IN SCHOOL FINANCING; AND

(IV) A COORDINATION SUBCOMMITTEE TO COLLABORATE WITH OTHER TASK FORCES, COMMITTEES, AND ORGANIZATIONS, INCLUDING THE INTERAGENCY FARM-TO-SCHOOL COORDINATION TASK FORCE CREATED IN SECTION 22-82.6-104, C.R.S.

(b) THE SUBCOMMITTEES SHALL INCLUDE REPRESENTATIVES OF THE COUNCIL AND MAY INCLUDE PERSONS APPOINTED BY THE CHAIR AND THE VICE-CHAIR OF THE COUNCIL WHO ARE NOT MEMBERS OF THE COUNCIL.

(2) THE COUNCIL MAY ENGAGE IN ANY OTHER ACTIVITY THE COUNCIL DETERMINES IS NECESSARY TO ACCOMPLISH THE PURPOSES OUTLINED IN THIS ARTICLE.

24-37.3-105. Fund - acceptance of gifts, grants, or donations.

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(1) FOR THE PURPOSES OF CARRYING OUT THE DUTIES OF THE COUNCIL, THE COUNCIL IS AUTHORIZED TO SEEK AND ACCEPT GIFTS, GRANTS, OR DONATIONS, INCLUDING IN-KIND DONATIONS, FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS ARTICLE; EXCEPT THAT THE COUNCIL MAY NOT ACCEPT A GIFT, GRANT, OR DONATION THAT IS SUBJECT TO CONDITIONS THAT ARE INCONSISTENT WITH THIS ARTICLE OR ANY OTHER LAW OF THE STATE. THE COUNCIL IS ALSO AUTHORIZED TO ACCEPT AND EXPEND FEDERAL FUNDS AVAILABLE FOR FOOD POLICY COUNCILS. THE COUNCIL SHALL TRANSMIT ALL PRIVATE AND PUBLIC MONEYS RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FOOD SYSTEMS ADVISORY COUNCIL FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AS THE "FUND". THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE COUNCIL FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH IMPLEMENTING THIS ARTICLE. ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS ARTICLE MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT OR BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND; EXCEPT THAT, IF, AT THE TIME THIS ARTICLE IS REPEALED PURSUANT TO SECTION 24-37.3-107, THE FUND CONTAINS A BALANCE OF UNENCUMBERED AND UNEXPENDED MONEYS, THOSE MONEYS SHALL REVERT TO THE GENERAL FUND.

(2) MONEYS IN THE FUND MAY BE USED FOR THE FOLLOWING PURPOSES:

(a) THE ACTUAL AND NECESSARY EXPENSES INCURRED BY MEMBERS OF THE COUNCIL FOR SERVING ON THE COUNCIL;

(b) THE COSTS OF STAFFING THE COUNCIL; AND

(c) THE COSTS OF PREPARING AND SUBMITTING THE ANNUAL REPORT REQUIRED BY SECTION 24-37.3-106.

(3) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT NO MONEYS FROM THE GENERAL FUND BE APPROPRIATED FOR THE COUNCIL.

(4) IF THE COUNCIL DOES NOT RECEIVE SUFFICIENT MONEYS THROUGH GIFTS, GRANTS, AND DONATIONS PURSUANT TO SUBSECTION (1) OF THIS SECTION TO CARRY OUT THE DUTIES OF THE COUNCIL, THE COUNCIL SHALL NOT MEET AND SHALL NOT PREPARE AN ANNUAL REPORT PURSUANT TO SECTION 24-37.3-106 UNTIL SUCH TIME AS SUFFICIENT MONEYS BECOME AVAILABLE.

24-37.3-106. Reports - recommendations. COMMENCING OCTOBER 1, 2011, AND ON OR BEFORE OCTOBER 1 OF EACH YEAR THEREAFTER, THE COUNCIL SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS, INCLUDING ANY LEGISLATIVE PROPOSALS OR PROPOSALS FOR ADMINISTRATIVE ACTION, TO THE GENERAL ASSEMBLY, THE GOVERNOR, AND THE COMMISSIONER OF AGRICULTURE PURSUANT TO SECTION 24-1-136 (9). NO LATER THAN JANUARY 31, 2012, AND EVERY JANUARY THEREAFTER, THE COUNCIL SHALL ALSO REPORT ITS FINDINGS AND RECOMMENDATIONS, INCLUDING ANY LEGISLATIVE PROPOSALS, TO THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE; THE SENATE HEALTH AND HUMAN SERVICES COMMITTEE; THE HOUSE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEE; AND THE SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE OR THEIR SUCCESSOR COMMITTEES.

24-37.3-107. Repeal of article. THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 2013. PRIOR TO SUCH REPEAL, THE FOOD SYSTEMS ADVISORY COUNCIL SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

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SECTION 2. 2-3-1203 (3) (z), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(z) July 1, 2013:

(VI) THE COLORADO FOOD SYSTEMS ADVISORY COUNCIL CREATED IN SECTION 24-37.3-102, C.R.S.

SECTION 3. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor."

Health & Human Services After consideration on the merits, the Committee recommends that **SB10-073** be referred to the Committee on Appropriations with favorable recommendation.

Health & Human Services After consideration on the merits, the Committee recommends that **SB10-129** be referred to the Committee of the Whole with favorable recommendation.

Health & Human Services After consideration on the merits, the Committee recommends that **SB10-152** be referred to the Committee of the Whole with favorable recommendation.

State, Veterans, & Military Affairs After consideration on the merits, the Committee recommends that **SB10-086** be postponed indefinitely.

State, Veterans, & Military Affairs After consideration on the merits, the Committee recommends that **SB10-085** be postponed indefinitely.

State, Veterans, & Military Affairs After consideration on the merits, the Committee recommends that **SB10-119** be referred to the Committee on Appropriations with favorable recommendation.

State, Veterans, & Military Affairs After consideration on the merits, the Committee recommends that **HB10-1063** be referred to the Committee of the Whole with favorable recommendation.

State, Veterans, & Military Affairs After consideration on the merits, the Committee recommends that **SB10-136** be postponed indefinitely.

State, Veterans, & Military Affairs After consideration on the merits, the Committee recommends that **SB10-164** be postponed indefinitely.

State, Veterans, & Military Affairs After consideration on the merits, the Committee recommends that **SB10-164** be postponed indefinitely.

State, Veterans, & Military Affairs After consideration on the merits, the Committee recommends that **SB10-164** be postponed indefinitely.

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Judiciary	After consideration on the merits, the Committee recommends that HB10-1065 be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.	1 2 3 4
Judiciary	After consideration on the merits, the Committee recommends that SB10-140 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	5 6 7 8
	Amend printed bill, page 2, line 9, strike "BY MEANS OF".	9 10
	Page 2, line 10, strike "FORCE, FRAUD, OR COERCION".	11 12
	Page 2, line 22, strike "BY MEANS OF FORCE,".	13 14
	Page 2, line 23, strike "FRAUD, OR COERCION".	15 16
	Page 3, line 8, strike "BY MEANS OF FORCE OR FRAUD".	17 18
	Page 3, strike line 16 and substitute:	19 20
	"(d) Means of a scheme, plan, or pattern intended to cause".	21 22
	Page 3, line 17, strike "CAUSING".	23 24 25
Judiciary	After consideration on the merits, the Committee recommends that SB10-147 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.	26 27 28 29
	Amend printed bill, page 2, line 2, strike "(I)," and substitute "(I) (I (A)),".	30 31 32
	Page 2, strike lines 6 through 26 and substitute:	33 34
	"(I) (I) (A) The cash surrender value of policies or certificates of life insurance to the extent of fifty ONE HUNDRED thousand dollars for writs of attachment or writs of execution issued against the insured; except that there is no exemption for increases in cash value from moneys contributed to a policy or certificate of life insurance during the forty-eight months prior to the issuance of such THE writ of attachment or writ of execution; and".	35 36 37 38 39 40 41 42 43
Education	After consideration on the merits, the Committee recommends that SB10-108 be amended as follows, and as so amended, be referred to the Committee on <u>Appropriations</u> with favorable recommendation.	44 45 46 47
	Amend printed bill, page 2, line 16, strike "EDUCATION, AS DEFINED IN SECTION" and substitute "EDUCATION".	48 49 50
	Page 2, line 17, strike "23-3.7-102 (3),".	51 52
	Page 3, after line 17 insert:	53 54
	"(c) AS USED IN THIS SUBSECTION (5), "NONPUBLIC INSTITUTION OF HIGHER EDUCATION" MEANS AN EDUCATIONAL INSTITUTION OPERATING IN THIS STATE THAT:	55 56 57
	(I) DOES NOT RECEIVE STATE GENERAL FUND MONEYS IN SUPPORT OF ITS OPERATING COSTS;	58 59 60 61
	(II) ADMITS AS REGULAR STUDENTS ONLY PERSONS HAVING A HIGH SCHOOL DIPLOMA OR THE RECOGNIZED EQUIVALENT OF A HIGH SCHOOL DIPLOMA;	62 63 64
	(III) IS ACCREDITED BY A REGIONAL ACCREDITING AGENCY OR ASSOCIATION;	65 66 67

(IV) PROVIDES AN EDUCATIONAL PROGRAM FOR WHICH IT AWARDS A BACHELOR'S DEGREE OR A GRADUATE DEGREE;

(V) IS AUTHORIZED BY THE DEPARTMENT OF HIGHER EDUCATION TO DO BUSINESS IN COLORADO PURSUANT TO SECTION 23-2-103.3;

(VI) MAINTAINS A PHYSICAL CAMPUS OR INSTRUCTIONAL FACILITY IN COLORADO; AND

(VII) HAS BEEN DETERMINED BY THE UNITED STATES DEPARTMENT OF EDUCATION TO BE ELIGIBLE TO ADMINISTER FEDERAL FINANCIAL AID PROGRAMS PURSUANT TO TITLE IV OF THE FEDERAL "HIGHER EDUCATION ACT OF 1965", AS AMENDED."

Education

After consideration on the merits, the Committee recommends that SB10-111 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.

Amend printed bill, page 2, strike lines 2 through 13.

Strike pages 3 and 4.

Page 5, strike line 1.

Renumber succeeding sections accordingly.

Page 5, strike lines 15 through 25.

Renumber succeeding sections accordingly.

Page 12, after line 15 insert:

"SECTION 11. Repeal. 24-101-105 (1) (c), Colorado Revised Statutes, is repealed as follows:

~~24-101-105. Application of this code. (1) (c) The state charter school institute, established in section 22-30.5-503, C.R.S., may, by formal action of the governing board of the state charter school institute, elect to be exempt from the provisions of this code and may enter into contracts independent of the terms specified in this code.~~

SECTION 12. 24-101-301 (10), Colorado Revised Statutes, is amended to read:

24-101-301. Definitions. The terms defined in this section shall have the following meanings whenever they appear in this code, unless the context in which they are used clearly requires a different meaning or a different definition is prescribed for a particular article or portion thereof:

(10) "Governmental body" means any department, commission, council, board, bureau, committee, institution of higher education, agency, government corporation, or other establishment or official, other than an elected official, of the executive branch of state government in this state; except that:

(a) The governing board of each institution of higher education, by formal action of the board, and the Colorado commission on higher education, by formal action of the commission, may elect to be excluded from the meaning of "governmental body". and

~~(b) The state charter school institute, established in section 22-30.5-503, C.R.S., may, by formal action of the governing board of the state charter school institute, elect to be excluded from the meaning of "governmental body".~~

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SECTION 13. 22-30.5-505 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-30.5-505. State charter school institute - institute board - appointment - powers and duties - rules. (3) The mission of the institute board shall be to foster high-quality public school choices offered through institute charter schools, including particularly schools that are focused on closing the achievement gap for at-risk students. In discharging its duties pursuant to this part 5, the institute shall:

(d.5) MEET AT LEAST ONCE EACH YEAR WITH THE SCHOOL ACCOUNTABILITY COMMITTEES OF THE INSTITUTE CHARTER SCHOOLS TO DISCUSS ISSUES CONCERNING ACCOUNTABILITY AND ACCREDITATION OF INSTITUTE CHARTER SCHOOLS;"

Renumber succeeding section accordingly.

Education After consideration on the merits, the Committee recommends that **SB10-088** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.

Amend printed bill, page 3, line 10, strike "**Degrees.**" and substitute "**Degrees.** (1)".

Page 3, line 13, after the period insert "A TWO-YEAR DEGREE PROGRAM WITH ACADEMIC DESIGNATION SHALL ONLY BE FOR A DEGREE PROGRAM THAT HAS A VALID STUDENT TRANSFER AGREEMENT PURSUANT TO SECTION 23-1-108 (7)".

Page 3, after line 21 insert:

"(2) SUCCESSFUL COMPLETION OF AN ASSOCIATE OF ARTS OR ASSOCIATE OF SCIENCE DEGREE WITH ACADEMIC DESIGNATION DOES NOT GUARANTEE THE DEGREE HOLDER ADMISSION TO A FOUR-YEAR STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION; NOR DOES IT GUARANTEE THE DEGREE HOLDER AUTOMATIC TRANSFER OF CREDITS UNLESS THE DEGREE HOLDER HAS FULFILLED THE REQUIREMENTS OF AN EXISTING STATEWIDE TRANSFER AGREEMENT."

Page 4, line 6, strike "TRUSTEES." and substitute "TRUSTEES AND BY THE COLORADO COMMISSION ON HIGHER EDUCATION."

Education After consideration on the merits, the Committee recommends that **SB10-064** be referred to the Committee on Appropriations with favorable recommendation.

Education After consideration on the merits, the Committee recommends that **SB10-101** be referred to the Committee of the Whole with favorable recommendation.

Business, Labor, & Technology The Committee on Business Labor and Technology has had under consideration and has had a hearing on the following appointment and recommends that the appointment be confirmed:

EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES

for a term expiring at the pleasure of the Governor:

Barbara J. Kelley, Esq., of Denver, Colorado

Business, Labor, & Technology The Committee on Business Labor and Technology has had under consideration and has had a hearing on the following appointment and recommends that the appointment be confirmed:

MEMBER OF THE
COLORADO RACING COMMISSION

for a term expiring July 1, 2013:

Daniel J. Kester of Denver, Colorado, a Democrat and resident of the 1st Congressional District, who has been engaged in business in a management-level capacity for at least five years, appointed.

Business,
Labor, &
Technology

After consideration on the merits, the Committee recommends that **SB10-094** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, strike everything below the enacting clause and substitute:

"SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

- (a) Art in public places is an amenity accessible to all;
- (b) Art in public places has a positive impact on morale, encourages creative problem-solving, and creates a sense of respect and pride;
- (c) Having art in public places stimulates the donation of moneys to purchase additional works of art and assists recruitment efforts on college campuses while also contributing to student learning;
- (d) The selected artwork for the art in public places program reflects upon Colorado's landscape and environment, cultural history, and heritage and together forms a visual interpretation and expression of the spirit of Colorado.

(2) The general assembly further finds and declares that the statutory provision pertaining to the art in public places program has been interpreted to not include capital construction projects initiated for the benefit of the state because of the focus on the statutory language that each capital construction "appropriation" is to include an allocation for the acquisition of works of art.

(3) The general assembly further declares that it is necessary to clarify the meaning of a capital construction appropriation for purposes of the art in public places program in order to ensure that art continues to be located in publicly accessible spaces inside and outside of state buildings.

SECTION 2. 24-80.5-101 (3) (a), Colorado Revised Statutes, is amended to read:

24-80.5-101. Works of art in public places - allocations therefor from capital construction costs - guidelines - fund created.

(3) (a) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH (a), each capital construction appropriation for a public construction project shall include as a nondeductible item an allocation of not less than one percent of the STATE FUNDED PORTION OF THE TOTAL capital construction costs to be used for the acquisition of works of art. ~~except that the requirements specified in this subparagraph (I) shall not apply to:~~

~~(A) Capital construction appropriations covered by section 24-80.5-102;~~

~~(B) Agricultural facilities where livestock are housed or agricultural products are grown;~~

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~~(C) The diagnostic center located in the city and county of Denver;~~

~~(D) The facilities authorized by section 1 of Senate Bill No. 101, enacted at the second regular session of the fifty-fifth general assembly;~~

~~(E) The Front Range community college - Larimer campus, Mount Antero and Blanca Peak buildings renovation, phase 2 of 2;~~

~~(F) The Pueblo community college - industrial technology/technical education renovation, phase 1 of 2 and phase 2 of 2;~~

~~(G) The Morgan community college - automotive programs relocation, phase 1 of 2 and phase 2 of 2;~~

~~(H) The Fort Lewis college - exercise science/athletic facilities, phase 1 of 2 and phase 2 of 2;~~

~~(I) Department of public safety - Colorado state patrol, Grand Junction troop office construction;~~

~~(J) Department of public safety - Colorado state patrol, Castle Rock troop office construction - office portion only; and~~

~~(K) Department of personnel - North campus upgrades.~~

~~(H) and (HH) Repealed.~~

~~(IV) Notwithstanding the provisions of subparagraph (I) of this paragraph (a), the percentage of the capital construction costs for the juvenile detention and juvenile commitment beds authorized by sections 15 and 16 of House Bill 94-1340, enacted at the second regular session of the fifty-ninth general assembly, and sections 25, 26, and 27 of House Bill 95-1352, enacted at the first regular session of the sixtieth general assembly, allocated to acquisition of works of art shall be one-tenth of one percent. It is the intent of the general assembly that these allocations be utilized to acquire artworks produced by residents of the state's juvenile facilities.~~

(II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH (a), COMMENCING ON OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (a), AS AMENDED, ANY LEASE-PURCHASE AGREEMENT, AS DEFINED IN SECTION 24-82-801 (4), EXECUTED BY THE STATE OR A GOVERNING BOARD OF A STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION THAT PROVIDES FOR ANNUAL LEASE PAYMENTS ON A CAPITAL CONSTRUCTION PROJECT, FUNDS FOR WHICH HAVE BEEN APPROPRIATED IN FULL OR IN PART BY THE STATE, SHALL INCLUDE A TERM REQUIRING THAT NOT LESS THAN ONE PERCENT OF THE TOTAL CONSTRUCTION COSTS BE USED FOR THE ACQUISITION OF WORKS OF ART AND THAT ANY SUCH ART BE TRANSFERRED TO THE STATE OR THE GOVERNING BOARD OF THE APPLICABLE STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION ENTITLED TO RECEIVE FEE TITLE TO ALL REAL AND PERSONAL PROPERTY THAT IS THE SUBJECT OF THE LEASE-PURCHASE AGREEMENT AT THE TIME FEE TITLE IS TRANSFERRED TO THE STATE OR THE GOVERNING BOARD. UPON TRANSFER OF ANY ART ACQUIRED PURSUANT TO THIS SUBPARAGRAPH (II) TO THE STATE OR THE GOVERNING BOARD OF THE APPLICABLE STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION, SUCH ART SHALL BECOME A PART OF THE STATE ART COLLECTION DEVELOPED, ADMINISTERED, AND OPERATED BY THE STATE COUNCIL ON THE ARTS PURSUANT TO THIS SECTION.

(III) EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH (a), EACH CAPITAL CONSTRUCTION APPROPRIATION MADE ON OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (a), AS AMENDED, FOR A PUBLIC CONSTRUCTION PROJECT TO BE INITIATED BY A GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER EDUCATION PURSUANT TO

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SECTION 23-1-106 (9) OR (10), C.R.S., FOR A BUILDING TO BE CONSTRUCTED, OPERATED, AND MAINTAINED FROM STUDENT FEES SHALL INCLUDE AS A NONDEDUCTIBLE ITEM AN ALLOCATION OF NOT LESS THAN ONE PERCENT OF THE TOTAL CONSTRUCTION COSTS TO BE USED FOR THE ACQUISITION OF WORKS OF ART.

(IV) THE REQUIREMENTS SPECIFIED IN THIS PARAGRAPH (a) SHALL NOT APPLY TO:

(A) CAPITAL CONSTRUCTION APPROPRIATIONS COVERED BY SECTION 24-80.5-102;

(B) AGRICULTURAL FACILITIES WHERE LIVESTOCK ARE HOUSED OR AGRICULTURAL PRODUCTS ARE GROWN;

(C) CAPITAL CONSTRUCTION APPROPRIATIONS FOR CONTROLLED MAINTENANCE AS DEFINED IN SECTION 24-30-1301 (2); AND

(D) ANY LEASE-PURCHASE AGREEMENTS ENTERED INTO BY THE STATE TREASURER ON BEHALF OF THE STATE PURSUANT TO ARTICLE 43.7 OF TITLE 22, C.R.S.

SECTION 3. 24-82-801, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-82-801. Lease-purchase agreements for acquisition of real or personal property. (8) ALL LEASE-PURCHASE AGREEMENTS DESCRIBED IN SECTION 24-80.5-101 (3) (a) (II) SHALL INCLUDE THE TERMS SPECIFIED IN SAID SECTION.

SECTION 4. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor."

Business,
Labor, &
Technology

After consideration on the merits, the Committee recommends that **SB10-116** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, strike line 26 and substitute "NOTWITHSTANDING THE PROVISIONS OF THIS PARAGRAPH (c), STATE PUBLIC WORKS CONTRACTS SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 24-30-202."

Page 3, strike lines 1 and 2.

Business,
Labor, &
Technology

After consideration on the merits, the Committee recommends that **SB10-158** be referred to the Committee of the Whole with favorable recommendation.

Business,
Labor, &
Technology

After consideration on the merits, the Committee recommends that **SB10-155** be referred to the Committee of the Whole with favorable recommendation.

Agriculture
and Natural
Resources

After consideration on the merits, the Committee recommends that **SB10-165** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, strike line 2 and substitute:

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"SECTION 1. The introductory portion to 37-90-137 (7) and 37-90-137 (7) (a) and (7) (b), Colorado Revised Statutes, are".

Page 2, line 7, strike "ground water" and substitute "~~ground water~~ GROUNDWATER".

Page 2, strike lines 10 through 15 and substitute "be IS required unless the nontributary ~~ground water~~ GROUNDWATER being removed will be beneficially used. EXCEPT FOR COAL BED METHANE WELLS, NO WELL PERMIT IS REQUIRED IF THE NONTRIBUTARY GROUNDWATER BEING REMOVED WILL BE USED ONLY FOR USES ANCILLARY TO OR DIRECTLY ASSOCIATED WITH THE MINING OF MINERALS, INCLUDING: INJECTION INTO A PROPERLY PERMITTED DISPOSAL WELL; EVAPORATION OR PERCOLATION IN A PROPERLY PERMITTED PIT; DISPOSAL AT A PROPERLY PERMITTED COMMERCIAL FACILITY; ROADSPREADING OR REUSE FOR ENHANCED RECOVERY, DRILLING, OR OTHER APPROVED USE IN ACCORDANCE WITH THE "OIL AND GAS CONSERVATION ACT", ARTICLE 60 OF TITLE 34, C.R.S., AND THE RULES PROMULGATED UNDER THAT ACT; DISCHARGE INTO STATE WATERS IN ACCORDANCE WITH THE "COLORADO WATER QUALITY CONTROL ACT", ARTICLE 8 OF TITLE 25, C.R.S., AND THE RULES PROMULGATED UNDER THAT ACT; EVAPORATION AT A PROPERLY PERMITTED CENTRALIZED EXPLORATION AND PRODUCTION WASTE MANAGEMENT FACILITY; OR PROVIDING AN ALTERNATIVE DOMESTIC WATER SUPPLY TO SURFACE OWNERS WITHIN THE OIL AND GAS FIELD IN ACCORDANCE WITH THE "OIL AND GAS CONSERVATION ACT" AND THE RULES PROMULGATED UNDER THAT ACT; and

(b) In the issuance of any well permit pursuant to this subsection (7), ~~the provisions of~~ subsection (4) of this section ~~shall~~ DOES not apply ~~The provisions of~~ AND subsections (1), (2), and (3) of this section ~~shall~~ apply; except that, in considering whether the permit shall issue, the requirement that the state engineer find that there is unappropriated water available for withdrawal and the six-hundred-foot spacing requirement in subsection (2) of this section ~~shall~~ DO not apply. The state engineer shall allow the rate of withdrawal stated by the applicant to be necessary to dewater the mine; except that, if the state engineer finds that the proposed dewatering will cause material injury to the vested water rights of others, the applicant may propose, and the permit shall contain, terms and conditions ~~which~~ THAT will prevent such injury. The reduction of hydrostatic pressure level or water level alone does not constitute material injury. THE ISSUANCE OF A PERMIT UNDER THIS SUBSECTION (7) DOES NOT CONFER AN ADJUDICATED NONTRIBUTARY GROUNDWATER RIGHT."

Page 3, line 6, after the period add "FOR AN OIL AND GAS WELL IN EXISTENCE ON THE EFFECTIVE DATE OF THIS SUBSECTION (2), AS AMENDED, FOR WHICH A WELL PERMIT IS REQUIRED BY THIS SECTION, A WELL PERMIT APPLICATION SHALL BE SUBMITTED TO THE STATE ENGINEER ON OR BEFORE APRIL 30, 2010. FOR AN OIL AND GAS WELL TO BE CONSTRUCTED BETWEEN THE EFFECTIVE DATE OF THIS SUBSECTION (2), AS AMENDED, AND AUGUST 1, 2010, FOR WHICH A WELL PERMIT IS REQUIRED BY THIS SECTION, A WELL PERMIT APPLICATION SHALL BE SUBMITTED TO THE STATE ENGINEER ON OR BEFORE JUNE 15, 2010. ALL OIL AND GAS WELLS TO BE CONSTRUCTED AFTER AUGUST 1, 2010, FOR WHICH A WELL PERMIT IS REQUIRED BY THIS SECTION SHALL HAVE A WELL PERMIT PRIOR TO PRODUCING GROUNDWATER."

Page 3, line 15, after the period insert "UNTIL JULY 31, 2010, COAL BED METHANE WELLS MAY CONTINUE TO OPERATE WITHOUT A SUBSTITUTE WATER SUPPLY PLAN IF THE OIL AND GAS OPERATOR SUBMITS A REQUEST FOR APPROVAL OF A SUBSTITUTE WATER SUPPLY PLAN PURSUANT TO THIS SUBSECTION (11) BY APRIL 30, 2010."

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MESSAGE FROM THE GOVERNOR

Appointment A letter of designation and appointment from Governor Ritter was read and assigned to committee as follows:

February 3, 2010

To the Honorable
Colorado Senate
Colorado General Assembly
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint and submit to your consideration, the following:

**MEMBER OF THE
COLORADO WATER RESOURCES
AND POWER DEVELOPMENT AUTHORITY**

for a term expiring October 1, 2012:

Don C. Carlson of Loveland, Colorado, to fill the vacancy occasioned by the resignation of Steve O. Sims of Greeley, Colorado, and to serve as a representative of the South Plate Drainage Basin, and as a representative of water project financing, appointed.

Sincerely,
(signed)
Bill Ritter, Jr.
Governor
Rec'd: 2/9/10
Karen Goldman, Secretary of the Senate

Committee on Agriculture and Natural Resources

SENATE SERVICES REPORT

Correctly Engrossed: SJR10-014.

SIGNING OF BILLS -- RESOLUTIONS -- MEMORIALS

The President has signed: HJR10-1010, 1012; SJR10-011 and 012; HB10-1039.

DELIVERY TO THE GOVERNOR

To the Governor for signature on Wednesday, February 17, 2010, at 9:57 a.m.:
SB10-001 and 035.

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 Thursday, February 18, was laid over until Friday, February 19, retaining its place on the calendar.

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Third Reading of Bills -- Final Passage: SB10-060. 1
 General Orders -- Second Reading of Bills -- Consent Calendar: SB10-102, SB10- 2
 123, SB10-163. 3
 General Orders -- Second Reading of Bills: SB10-114, SB10-081, SB10-118, SB10- 4
 007, SB10-076, SB10-150, HB10-1110, SB10-149, SB10-151, SB10-146, SB10- 5
 103, SB10-075, SB10-059, SB10-063, SB10-066, SB10-093. 6
 Consideration of Resolutions: SJR10-010, SJR10-013. 7

On motion of Senator Morse, the Senate adjourned until 9:00 a.m., Friday, February 20, 2010. 8
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Approved: 13
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Brandon C. Shaffer 15
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President of the Senate

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Karen Goldman
Secretary of the Senate