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SENATE JOURNAL Sixty-eighth General Assembly **STATE OF COLORADO** First Regular Session

24th Legislative DayFriday, February 4, 2011

Prayer By Senator Foster. Call to By the President at 9:00 a.m. Order By Equally Delinquent barbershop quartet, Maury Kramer, Steve Schwartzkoph, Dan Musical Kafka, and Chris Garcia. Presentation Pledge By Senator White. Roll Call Present--32 Excused--3, Renfroe, Spence, Williams. Present later--2, Spence, Williams. Quorum The President announced a quorum present. Reading of On motion of Senator Nicholson, reading of the Journal of Thursday, February 3, 2011, was dispensed with and the Journal was approved as corrected by the Secretary. Journal

CONSIDERATION OF RESOLUTIONS

SJR11-010 by Senator(s) Williams S.; also Representative(s) Todd--Concerning the designation of February 4, 2011, as "National Wear Red Day".

On motion of Senator Williams S., the resolution was read at length and **adopted** by the following roll call vote:

YES	33	NO	0	EXCUSED	2	ABSENT	0
Aguilar	Y	Guzman	Y	Kopp		Y Scheffel	Y
Bacon	Y	Harvey	Y	Lambert		Y Schwartz	Y
Boyd		Heath	Y	Lundberg		Y Spence	E
Brophy	Y	Hodge		Mitchell		Y Steadman	Y
Cadman		Hudak	Y	Morse		Y Tochtrop	Y
Carroll	Y	Jahn	Y	Newell		Y White	Y
Foster	Y	Johnston	Y	Nicholson		Y Williams S.	Y
Giron	Y	King K.	Y	Renfroe		E President	Y
Grantham	Y	King S.	Y	Roberts		Y	

Co-sponsors added: Aguilar, Bacon, Boyd, Brophy, Cadman, Carroll, Foster, Giron, Grantham, Guzman, Harvey, Heath, Hodge, Hudak, Jahn, Johnston, King K., King S., Kopp, Lambert, Lundberg, Mitchell, Morse, Newell, Nicholson, Roberts, Scheffel, Schwartz, Shaffer B., Steadman, Tochtrop and White.

SENATE SERVICES REPORT

Correctly Printed: SB11-133 and 134; SJR11-010.

COMMITTEE OF REFERENCE REPORTS

Education After consideration on the merits, the Committee recommends that **SB11-012** 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.** 22-1-119.5 (2) (a) and (3), Colorado Revised Statutes, are amended to read:

22-1-119.5. Asthma, food allergy, and anaphylaxis health management - self-administered medication. (2) (a) A student with asthma, a food allergy, other severe allergies, or a related, life-threatening condition may possess and self-administer medication to treat the student's asthma, food or other allergy, anaphylaxis, or other related, life-threatening condition if the student has a treatment plan approved pursuant to this subsection (2) OR THE STUDENT'S SCHOOL DISTRICT BOARD OF EDUCATION HAS ADOPTED A POLICY FOR STUDENT POSSESSION AND ADMINISTRATION OF PRESCRIPTION MEDICATION PURSUANT TO SECTION 22-1-119.3.

(3) A student with a treatment plan approved pursuant to subsection (2) of this section OR WHOSE SCHOOL DISTRICT BOARD OF EDUCATION HAS ADOPTED A POLICY FOR STUDENT POSSESSION AND ADMINISTRATION OF PRESCRIPTION MEDICATION PURSUANT TO SECTION 22-1-119.3 may possess and self-administer his or her medication while in school, while at school-sponsored activities, and while in transit to or from school or school-sponsored activities.

SECTION 2. Article 1 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read: 22-1-119.3. Policy for student possession and administration

22-1-119.3. Policy for student possession and administration of prescription medication - rules. (1) A SCHOOL DISTRICT BOARD OF EDUCATION MAY ADOPT AND IMPLEMENT A POLICY WHEREBY, EXCEPT AS DESCRIBED IN SUBSECTION (3) OF THIS SECTION, A STUDENT ENROLLED IN A SCHOOL OF THE SCHOOL DISTRICT MAY POSSESS AND SELF-ADMINISTER ON SCHOOL GROUNDS, UPON A SCHOOL BUS, OR AT ANY SCHOOL-SPONSORED EVENT ANY MEDICATION THAT IS PRESCRIBED BY A PHYSICIAN TO BE USED BY THE STUDENT.

(2) A PARENT OR LEGAL GUARDIAN OF A STUDENT WHO IS ENROLLED IN A SCHOOL OF A SCHOOL DISTRICT AND FOR WHOM MEDICATION IS PRESCRIBED BY A PHYSICIAN SHALL NOTIFY THE SCHOOL'S ADMINISTRATION OF THE STUDENT'S MEDICAL NEEDS AND OF THE FACT THAT THE STUDENT MAY BE IN POSSESSION OF HIS OR HER PRESCRIBED MEDICATIONS AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION. THE NOTIFICATION, WHEN APPROPRIATE, SHALL INCLUDE THE TREATMENT PLAN THAT HAS BEEN DEVISED FOR THE STUDENT BY A LICENSED HEALTH CARE PRACTITIONER.

(3) (a) A SCHOOL DISTRICT BOARD OF EDUCATION MAY ADOPT AND IMPLEMENT A POLICY THAT RESTRICTS A STUDENT FROM POSSESSING AND SELF-ADMINISTERING ON SCHOOL GROUNDS, UPON A SCHOOL BUS, OR AT A SCHOOL-SPONSORED EVENT A MEDICATION THAT IS PRESCRIBED BY A PHYSICIAN TO BE USED BY THE STUDENT. IF A SCHOOL DISTRICT BOARD OF EDUCATION ADOPTS SUCH A POLICY, THE POLICY SHALL:

(I) REQUIRE THE SCHOOL DISTRICT BOARD OF EDUCATION TO MAKE A DETERMINATION AS TO WHETHER A STUDENT'S POSSESSION OR SELF-ADMINISTRATION OF A PRESCRIPTION MEDICATION POSES A SIGNIFICANT RISK OF HARM TO THE STUDENT OR TO OTHER STUDENTS, WHICH RISK OF HARM OUTWEIGHS THE RISK POSED TO THE STUDENT BY THE ENFORCEMENT OF THE POLICY; AND

(II) ENSURE THAT IF A STUDENT HAS MEDICATION PRESCRIBED FOR A LIFE-THREATENING CONDITION, A SUFFICIENT SUPPLY OF THE MEDICATION IS PROVIDED TO THE SCHOOL BY THE STUDENT'S PARENT OR LEGAL GUARDIAN, STORED SAFELY AT THE SCHOOL, AND KEPT READILY AVAILABLE TO BE ADMINISTERED TO THE STUDENT IN A TIMELY FASHION IN THE EVENT OF A HEALTH EMERGENCY.

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(b) A STUDENT ATTENDING A SCHOOL-SPONSORED EVENT MAY POSSESS ONLY ENOUGH OF HIS OR HER PRESCRIBED MEDICINE TO RENDER A SUFFICIENT DOSAGE TO THE STUDENT TO ADEQUATELY TREAT THE STUDENT'S CONDITION FOR THE LENGTH OF THE ENTIRE EVENT.

(c) A STUDENT SHALL NOT POSSESS OR SELF-ADMINISTER MEDICAL MARIJUANA ON SCHOOL GROUNDS, UPON A SCHOOL BUS, OR AT ANY SCHOOL-SPONSORED EVENT.

(4) THE STATE BOARD OF EDUCATION MAY PROMULGATE RULES FOR THE IMPLEMENTATION OF THIS SECTION.

SECTION 3. 22-2-135 (3) (c), Colorado Revised Statutes, is amended to read:

22-2-135. Food allergy and anaphylaxis management - rules. (3) (c) The notice required by paragraph (b) of this subsection (3) shall include language that encourages parents and legal guardians of students for whom medication has been prescribed for treatment of a food allergy or anaphylaxis to give to the school nurse or other administrator of the student's school a supply of the medication. unless the student has an approved treatment plan pursuant to section 22-1-119.5 that authorizes the student to self-administer the medication.

SECTION 4. 22-30.5-518 (2) (b), Colorado Revised Statutes, is amended to read:

22-30.5-518. Institute charter school food allergy and anaphylaxis management policy required. (2) (b) The notice required by paragraph (a) of this subsection (2) shall include language that encourages parents and legal guardians of students for whom medication has been prescribed for treatment of a food allergy or anaphylaxis to give to the school nurse or other administrator of the student's school a supply of the medication. unless the student has an approved treatment plan pursuant to section 22-1-119.5 that authorizes the student to self-administer the medication.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.".

- Appropriations After consideration on the merits, the Committee recommends that **SB11-076** be referred to the Committee of the Whole with favorable recommendation.
- Finance After consideration on the merits, the Committee recommends that **SB11-051** be amended as follows, and as so amended, be referred to the Committee on <u>Appropriations</u> with favorable recommendation.

Amend printed bill, page 5, line 20, after "(e)" insert "(I)".

Page 5, strike lines 21 through 25 and substitute:

"THE CONTRARY, IF, IN ADDITION TO OWING AN OUTSTANDING DEBT, A LOTTERY WINNER OWES EITHER RESTITUTION AS DESCRIBED IN SECTION 24-35-212.5 OR A CHILD SUPPORT DEBT OR ARREARAGES OR CHILD SUPPORT COSTS AS DESCRIBED IN THIS SUBSECTION (5), ANY LOTTERY WINNINGS OFFSET AGAINST SUCH RESTITUTION OR CHILD SUPPORT DEBT OR ARREARAGES OR CHILD SUPPORT COSTS SHALL TAKE PRIORITY AND BE APPLIED FIRST. IF, IN SUCH INSTANCE, THE LOTTERY WINNER OWES BOTH TYPES OF DEBTS, BOTH OFFSETS SHALL TAKE PRIORITY AND THE PROVISIONS OF SECTION 24-35-212.5 (3) SHALL APPLY.

(II) THE REMAINING LOTTERY WINNING MONEYS, IF ANY, AFTER THE OFFSETS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e) SHALL BE APPLIED TOWARD THE PAYMENT OF OUTSTANDING DEBT AND PROCESSED IN ACCORDANCE WITH THIS SECTION.".

Finance After consideration on the merits, the Committee recommends that **SB11-041** be referred to the <u>Legislative Council Committee</u> with favorable recommendation.

Finance After consideration on the merits, the Committee recommends that **SB11-003** be referred to the Committee on <u>Appropriations</u> with favorable recommendation.

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- Finance After consideration on the merits, the Committee recommends that **SB11-037** be referred to the Committee on <u>Appropriations</u> with favorable recommendation.
- Health & After consideration on the merits, the Committee recommends that **SB11-006** be postponed indefinitely.

Health & After consideration on the merits, the Committee recommends that **SB11-019** 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. 10-16-105.2, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

10-16-105.2. Small employer health insurance availability program. (1.5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A SMALL EMPLOYER THAT DOES NOT HAVE, AND HAS NOT HAD IN THE PREVIOUS TWELVE MONTHS, A SMALL GROUP HEALTH BENEFIT PLAN PROVIDING COVERAGE TO ITS EMPLOYEES UNDER THIS ARTICLE MAY REIMBURSE AN EMPLOYEE, WHETHER THROUGH WAGE ADJUSTMENTS OR HEALTH REIMBURSEMENT ARRANGEMENTS, FOR ANY PORTION OF THE PREMIUM FOR A HEALTH COVERAGE PLAN.

SECTION 2. Effective date - applicability. This act shall take effect upon passage and shall apply to payments or reimbursements to employees of small employers for the costs of health insurance premiums on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.".

Health & After consideration on the merits, the Committee recommends that **SB11-034** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, after line 9 insert:

"SECTION 2. 19-1-307 (2) (e.5) (I) (L) and (2) (e.5) (I) (M), Colorado Revised Statutes, are amended, and the said 19-1-307 (2) (e.5) (I) is further amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH, to read:

19-1-307. Dependency and neglect records and information - access - fee - rules - records and reports fund - misuse of information - penalty. (2) Records and reports - access to certain persons - agencies. Except as otherwise provided in section 19-1-303, only the following persons or agencies shall be given access to child abuse or neglect records and reports:

(e.5) (I) A mandatory reporter specified in this subparagraph (I) who is and continues to be officially and professionally involved in the ongoing care of the child who was the subject of the report, but only with regard to information that the mandatory reporter has a need to know in order to fulfill his or her professional and official role in maintaining the child's safety. A county department may request written affirmation from a mandatory reporter stating that the reporter continues to be officially and professionally involved in the ongoing care of the child who was the subject of the report and describing the nature of the involvement. This subparagraph (I) shall apply to:

(L) Victim's advocates, as defined in section 13-90-107 (1) (k) (II), C.R.S.; and

(M) Clergy members, as defined in section 19-3-304 (2) (aa) (III); AND

(N) EDUCATORS PROVIDING SERVICES THROUGH A FEDERAL SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND

CHILDREN, AS PROVIDED FOR IN 42 U.S.C. SEC. 1786.".

Page 2, strike lines 10 through 14 and substitute:

"SECTION 3. Effective date. This act shall take effect January 1,2012

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 10, 2011, if adjournment sine die is on May 11, 2011); 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 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.".

Health & After consideration on the merits, the Committee recommends that SB11-043 be amended Human as follows, and as so amended, be referred to the Committee of the Whole with favorable Services recommendation.

> Amend printed bill, page 2, line 6, strike "exceptions." and substitute exceptions - consultation with interested parties.".

> Page 2, line 11, after "SHARPS," insert "AND ANY MANUFACTURER OF HYPODERMIC NEEDLES, PEN NEEDLES, INTRAVENOUS NEEDLES, AND OTHER SIMILAR DEVICES THAT SELLS OR DISTRIBUTES SUCH DEVICES IN THE STATE,".

Page 2, line 21, strike "THE HOME PAGE OF".

Page 3, line 7, strike "IDENTIFICATION" and substitute "FOR A PHARMACEUTICAL MANUFACTURER, IDENTIFICATION".

Page 4, strike lines 2 and 3.

Page 4, line 4, strike "(4)" and substitute "(3)".

Page 4, line 5, before "MANUFACTURER" insert "OR DEVICE".

Page 4, line 10, strike "MEDICATIONS," and substitute "MEDICATIONS OR ITS DEVICES,".

Page 4, after line 14 insert:

State,

Military

Affairs

THE GENERAL ASSEMBLY HEREBY AUTHORIZES AND "(4) ENCOURAGES THE DEPARTMENT TO CONVENE A TASK FORCE OR WORKING GROUP, OR OTHERWISE CONSULT WITH PERSONS WHO ARE INTERESTED IN OR AFFECTED BY HOME-GENERATED SHARPS PLANS, FOR THE PURPOSE OF EVALUATING THE EFFECTIVENESS OF THIS SECTION. ANY SUCH CONSULTATION OR EVALUATION MUST BE DONE WITHIN EXISTING APPROPRIATIONS."

The Committee on State, Veterans, and Military Affairs has had under consideration and Veterans, & has had a hearing on the following appointment and recommends that the appointment be confirmed:

EXECUTIVE DIRECTOR OF THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

for a term expiring at the pleasure of the Governor:

Howard Michael Edwards, of Parker, Colorado.

Agriculture After consideration on the merits, the Committee recommends that **SB11-017** be postponed indefinitely.

On motion of Senator Morse, and with a two-thirds majority of those elected to the Senate having voted in the affirmative, **SB11-076** was made Special Orders at 9:30 a.m.

Committee of the Whole The hour of 9:30 a.m. having arrived, Senator Johnston moved that the Senate resolve itself into the Committee of the Whole for consideration of Special Orders -- Second Reading of Bills and Senator Johnston 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:

SB11-076 by Senator(s) Steadman, Hodge, Lambert; also Representative(s) Becker, Gerou, Ferrandino--Concerning the continuation of a temporary modification to the contribution rates for certain divisions of the public employees' retirement association.

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

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

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

YES	34	NO	0	EXCUSED	1	ABSENT	0
Aguilar	Y	Guzman	Y	Kopp		Y Scheffel	Y
Bacon	Y	Harvey		Lambert		Y Schwartz	Y
Boyd	Y	Heath	Y	Lundberg		Y Spence	Y
Brophy	Y	Hodge	Y	Mitchell		Y Steadman	Y
Cadman	Y	Hudak	Y	Morse		Y Tochtrop	Y
Carroll	Y	Jahn	Y	Newell		Y White	Y
Foster	Y	Johnston	Y	Nicholson		Y Williams S.	Y
Giron	Y	King K.	Y	Renfroe		E President	Y
Grantham	Y	King S.	Y	Roberts		Y	

The Committee of the Whole took the following action:

Passed on second reading: SB11-076.

SENATE ADHERE ON HJR11-1007

HJR11-1007 by Representative(s) DelGrosso; also Senator(s) Johnston--Concerning the certification by the general assembly of its estimate of state general fund revenues and allowable state general fund appropriations for the 2011-12 fiscal year.

Senator Johnston moved that the conference committee on **HJR11-1007** be dissolved, that the Senate conference be discharged, and that the Senate adhere to its position. The motion was **adopted** by the following roll call vote:

YES	21	NO	13	EXCUSED	1	ABSENT	0
Aguilar	Y	Guzman	Y	Kopp]	N Scheffel	Ν
Bacon	Y	Harvey	Ν	Lambert]	N Schwartz	Y
Boyd		Heath	Y	Lundberg]	N Spence	Ν
Brophy	Y	Hodge	Y	Mitchell]	N Steadman	Y
Cadman	Ν	Hudak	Y	Morse		Y Tochtrop	Y
Carroll	Y	Jahn	Y	Newell		Y White	Ν
Foster	Y	Johnston	Y	Nicholson		Y Williams S.	Y
Giron	Y	King K.	Ν	Renfroe]	E President	Y
Grantham	Ν	King S.	Ν	Roberts]	N	

CONSIDERATION OF GOVERNOR'S APPOINTMENTS

On motion of Senator Schwartz, the following Governor's appointment was confirmed by a roll call vote:

COMMISSIONER OF AGRICULTURE

for a term expiring at the pleasure of the Governor:

John T. Salazar, of Manassa, Colorado.

YES	34	NO	0	EXCUSED	1	ABSENT	0
Aguilar	Y	Guzman	Y	Kopp		Y Scheffel	Y
Bacon	Y	Harvey	Y	Lambert		Y Schwartz	Y
Boyd	Y	Heath	Y	Lundberg		Y Spence	Y
Brophy	Y	Hodge		Mitchell		Y Steadman	Y
Cadman	Y	Hudak	Y	Morse	•	Y Tochtrop	Y
Carroll	Y	Jahn	Y	Newell		Y White	Y
Foster	Y	Johnston	Y	Nicholson	•	Y Williams S.	Y
Giron	Y	King K.	Y	Renfroe]	E President	Y
Grantham	Y	King S.	Y	Roberts		Y	

MESSAGE FROM THE HOUSE

February 4, 2011

Mr. President:

The House has adopted and transmits herewith HJR11-1009, as printed in House Journal.

CONSIDERATION OF GOVERNOR'S APPOINTMENTS

On motion of Senator Carroll, the following Governor's appointments was confirmed by a roll call vote:

EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY

effective February 1, 2011, for a term expiring at the pleasure of the Governor:

James Davis, of Westminster, Colorado.

YES	34	NO	0	EXCUSED	1	ABSENT	0
Aguilar	Y	Guzman	Y	Kopp		Y Scheffel	Y
Bacon	Y	Harvey	Y	Lambert		Y Schwartz	Y
Boyd	Y	Heath	Y	Lundberg		Y Spence	Y
Brophy	Y	Hodge	Y	Mitchell		Y Steadman	Y
Cadman	Y	Hudak	Y	Morse		Y Tochtrop	Y
Carroll	Y	Jahn	Y	Newell		Y White	Y
Foster	Y	Johnston	Y	Nicholson		Y Williams S.	Y
Giron	Y	King K.	Y	Renfroe	I	E President	Y
Grantham	Y	King S.	Y	Roberts		Y	

INTRODUCTION AND CONSIDERATION OF RESOLUTIONS

HJR11-1009 by Representative(s) Holbert, Beezley; also Senator(s) Harvey and Grantham--Concerning the recognition of February 6, 2011, as "Ronald Reagan Day" in Colorado.

On motion of Senator Harvey, the resolution was read at length and was **adopted** by the following roll call vote:

YES	34	NO	0	EXCUSED	1	ABSENT	0
Aguilar	Y	Guzman	Y	Kopp	Y	Scheffel	Y
Bacon	Y	Harvey	Y	Lambert	Y	Schwartz	Y
Boyd		Heath	Y	Lundberg	Y	Spence	Y
Brophy	Y	Hodge		Mitchell	Y	Steadman	Y
Cadman	Y	Hudak	Y	Morse	Y	Tochtrop	Y
Carroll	Y	Jahn	Y	Newell		White	Y
Foster	Y	Johnston	Y	Nicholson	Y	Williams S.	Y
Giron	Y	King K.	Y	Renfroe	E	President	Y
Grantham	Y	King S.	Y	Roberts	Y		

Co-sponsors added: Bacon, Boyd, Brophy, Cadman, Heath, Hodge, Jahn, Johnston, King K., King S., Kopp, Lambert, Lundberg, Mitchell, Morse, Roberts, Scheffel, Shaffer B., Spence, Tochtrop, White and Williams S.

MESSAGE FROM THE HOUSE

February 4, 2011 Mr. President:

The House has adopted and returns herewith SJR11-010.

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB11-1051.

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB11-1089, amended as printed in House Journal, February 3, page 146. HB11-1113, amended as printed in House Journal, February 3, page 147.

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 4 was laid over until Monday, February 7, retaining its place on the calendar.

General Orders -- Second Reading of Bills -- Consent Calendar: SB11-002, SB11-021, SB11-062.

General Orders -- Second Reading of Bills: SB11-013, SB11-009, SB11-010, SB11-007, SB11-016.

Consideration of Governor's Appointments:

Executive Director of the Department of Personnel and Administration Executive Director of the Department of Corrections On motion of Senator Morse, the Senate adjourned until 10:00 a.m., Monday, February 7, 2011.

Approved:

Brandon C. Shaffer President of the Senate

Attest:

Cindi Markwell Secretary of the Senate