

CALIFORNIA LEGISLATURE
2005–06 REGULAR SESSION

SENATE DAILY JOURNAL

TWENTY-FIFTH LEGISLATIVE DAY

IN SENATE

Senate Chamber, Sacramento
Thursday, February 10, 2005

The Senate met at 9 a.m.
Hon. Don Perata, of the 9th District, presiding.
Secretary Greg Schmidt at the Desk.
Assistant Secretary Kipchoge Randall reading.

QUORUM CALL OF THE SENATE

Without objection, a quorum call was placed upon the Senate.
The President directed the Sergeant at Arms to close the doors and to bring in the absent Members.

PROCEEDINGS UNDER QUORUM CALL OF THE SENATE ROLL CALL

The roll was called and the following Senators answered to their names:
Aanestad, Ackerman, Alarcón, Alquist, Ashburn, Battin, Bowen, Campbell, Cedillo, Chesbro, Cox, Denham, Dunn, Dutton, Figueroa, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Morrow, Perata, Pochigian, Romero, Runner, Scott, Speier, and Torlakson—32.

Quorum present.

(NOTE: Senators Ducheny, Escutia, Florez, Murray, Soto, and Vincent will be excused this day on legislative business, Senator Simitian will be excused this day on personal business, and Senator Ortiz will be excused this day due to illness.)



PRAYER

Upon invitation of the President, the following prayer was offered by the Rev. Dr. David Thompson of the Westminster Presbyterian Church:

Great Loving God of Us All, We pray for the elected representatives of this Senate and their support staffs this day. Give us all courage when under fire and the ability to resist those whose agendas are not in the best interests of this state, its people, its ecology, or its governance. Help us to always hold before us the highest ideals of this republic, and to respond from our hearts and consciences to the issues before us. Help us to go beyond ideology and unexamined assumptions to the truths that will set all Californians free, so that this Chamber may be a light where there is darkness, and a place of refuge for those who need its protection.

We pray for the homeless in our streets, for those without employment, for the sick and the lonely, all those who are in need of Your Great Grace, and especially for those in this Chamber whose task is to govern fairly and wisely the State of California.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Senator Romero led the Senate in the pledge of allegiance to the Flag.

**CONSIDERATION OF DAILY FILE
THIRD READING OF SENATE BILLS**

Senate Bill 22—An act relating to DNA identification, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

Bill read third time and presented by Senator Migden.

Urgency Clause

Urgency clause read and adopted by the following vote:

AYES (29)—Senators Aanestad, Ackerman, Alquist, Ashburn, Bowen, Campbell, Cedillo, Chesbro, Cox, Denham, Dunn, Dutton, Figueroa, Hollingsworth, Kehoe, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Morrow, Perata, Poochigian, Romero, Runner, Scott, Speier, and Torlakson.

NOES (0)—None.

Roll Call

The roll was called and the bill was passed by the following vote:

AYES (29)—Senators Aanestad, Ackerman, Alquist, Ashburn, Bowen, Campbell, Cedillo, Chesbro, Cox, Denham, Dunn, Dutton, Figueroa, Hollingsworth, Kehoe, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Morrow, Perata, Poochigian, Romero, Runner, Scott, Speier, and Torlakson.

NOES (0)—None.

Bill ordered transmitted to the Assembly.



UNFINISHED BUSINESS**Consideration of Assembly Amendments**

Senate Concurrent Resolution 9—Relative to heart disease.

Resolution presented by Senator Kehoe.

The question being: Shall the Senate concur in the Assembly amendments to SCR 9?

Roll Call

The roll was called and the Senate concurred in Assembly amendments by the following vote:

AYES (31)—Senators Aanestad, Ackerman, Alarcón, Alquist, Ashburn, Bowen, Campbell, Cedillo, Chesbro, Cox, Denham, Dunn, Dutton, Figueroa, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Morrow, Perata, Poochigian, Romero, Runner, Scott, Speier, and Torlakson.

NOES (0)—None.

Above resolution ordered enrolled.

THIRD READING OF SENATE BILLS (RESUMED)

Senate Bill 50—An act to amend Section 24357 of, and to add Section 17206 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

Bill read third time and presented by Senator Campbell.

Roll Call

The roll was called and the bill was passed by the following vote:

AYES (31)—Senators Aanestad, Ackerman, Alarcón, Alquist, Ashburn, Bowen, Campbell, Cedillo, Chesbro, Cox, Denham, Dunn, Dutton, Figueroa, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Morrow, Perata, Poochigian, Romero, Runner, Scott, Speier, and Torlakson.

NOES (0)—None.

Bill ordered transmitted to the Assembly.

Senator Speier Presiding**UNFINISHED BUSINESS (RESUMED)****Consideration of Governor's Appointment**

Senator Perata placed the following Governor's appointment before the Senate:

Michael L. Brown, Commissioner, California Highway Patrol.

The President put the question: "Will the Senate advise and consent to the appointment by the Governor?"



Roll Call

The roll was called and the appointment was confirmed by the following vote:

AYES (31)—Senators Aanestad, Ackerman, Alarcón, Alquist, Ashburn, Bowen, Campbell, Cedillo, Chesbro, Cox, Denham, Dunn, Dutton, Figueroa, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Morrow, Perata, Poochigian, Romero, Runner, Scott, Speier, and Torlakson.

NOES (0)—None.

Consideration of Governor's Appointment

Senator Perata placed the following Governor's appointment before the Senate:

Patrick W. Henning, Director, Department of Employment Development.

The President put the question: "Will the Senate advise and consent to the appointment by the Governor?"

Roll Call

The roll was called and the appointment was confirmed by the following vote:

AYES (27)—Senators Ackerman, Alarcón, Alquist, Ashburn, Bowen, Cedillo, Chesbro, Denham, Dunn, Figueroa, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Morrow, Perata, Poochigian, Romero, Runner, Scott, Speier, and Torlakson.

NOES (0)—None.

Consideration of Governor's Appointments

Senator Perata placed the following Governor's appointments before the Senate:

Ruth E. Green, Member, State Board of Education.

Glee Johnson, Member, State Board of Education.

Johnathan X. Williams, Member, State Board of Education.

The President put the question: "Will the Senate advise and consent to the appointments by the Governor?"

Roll Call

The roll was called and the appointments were confirmed by the following vote:

AYES (31)—Senators Aanestad, Ackerman, Alarcón, Alquist, Ashburn, Bowen, Campbell, Cedillo, Chesbro, Cox, Denham, Dunn, Dutton, Figueroa, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Morrow, Perata, Poochigian, Romero, Runner, Scott, Speier, and Torlakson.

NOES (0)—None.



LEAVES OF ABSENCE FOR THE DAY

The following Senators were granted leaves of absence for the day due to legislative business: Senators Ducheny, Escutia, Florez, Murray, Soto, and Vincent.

The following Senator was granted leave of absence for the day due to personal business: Senator Simitian.

The following Senator was granted leave of absence for the day due to illness: Senator Ortiz.

FURTHER PROCEEDINGS UNDER QUORUM CALL OF THE SENATE DISPENSED WITH

At 9:20 a.m., on motion of Senator Perata, further proceedings under the quorum call of the Senate were dispensed with.

MOTION TO ADJOURN

Senator Perata moved that the Senate stand in recess until the hour of 3:30 p.m. The Desk shall remain open to receive communications and to conduct the business of the day. At 3:30 p.m., the Senate will adjourn until Tuesday, February 15, 2005.

Motion carried.

MESSAGES FROM THE GOVERNOR

Governor’s Office, State Capitol
February 10, 2005

To the Senate of the State of California:

I hereby respectfully withdraw from consideration, effective February 10, 2005, the nomination of the following appointees heretofore submitted and now before your honorable body for confirmation.

- Mark C. Battey Member of the Teachers’ Retirement Board
- James H. Gray Member of the Teachers’ Retirement Board
- Miguel A. Pulido Member of the Teachers’ Retirement Board

Sincerely,

ARNOLD SCHWARZENEGGER, Governor

Above transmitted to the Committee on Rules.

Governor’s Office, State Capitol
February 10, 2005

To the Senate of the State of California:

I hereby respectfully withdraw from consideration, effective February 10, 2005, the nomination of the following appointee heretofore submitted and now before your honorable body for confirmation.

- Gloria S. Hom Member, of the Teachers’ Retirement board

Sincerely,

ARNOLD SCHWARZENEGGER, Governor

Above transmitted to the Committee on Rules.



Governor's Office, State Capitol
February 10, 2005

To the Senate of the State of California:

I hereby respectfully withdraw from consideration, effective February 10, 2005, the nomination of the following appointee heretofore submitted and now before your honorable body for confirmation.

Marilyn Hendrickson Member, Fish and Game Commission
Sincerely,

ARNOLD SCHWARZENEGGER, Governor

Above transmitted to the Committee on Rules.

Governor's Office, State Capitol
February 10, 2005

To the Senate of the State of California:

I have the honor to transmit to you herewith the following appointments heretofore made by me to offices which by law are to be filled by the Governor. These appointments are subject to Senate confirmation and consent. I hereby nominate these appointees to you and request your confirmation and consent.

Sincerely,

ARNOLD SCHWARZENEGGER, Governor

Michael C. Genest, former Chief Deputy Director of Finance, former Director of the Senate Republican Fiscal Office and former Assistant Deputy Director of Prevention Services for the Department of Health Services. Appointed 02/01/05. Effective 02/09/05:

Deputy Secretary, Health and Human Services Agency vice Glen A. Rosselli, resigned, term ending at the pleasure of the Governor.

Louise Kirkbride, former Founder and Chief Executive Officer of Broad Daylight and former Founder of Answer Systems. Appointed 01/24/05. Effective 02/10/05:

Member, Contractors' State License Board, Department of Consumer Affairs vice Benny Y. Yee, term expired, term ending 06/01/08.

Donald A. Zampa, Business Manager, Iron Workers Union Local 378, Benicia. Appointed 01/24/05. Effective 02/04/05:

Member, Contractors' State License Board, Department of Consumer Affairs vice John J. O'Rourke, term expired, term ending 06/01/08.

William Douglas Jackson, retired real estate agent and equipment rental yard operator. Appointed 01/18/05. Effective 02/07/05.

Member, California Veterans Board vice Larry S. Lattman, term expired, term ending 01/15/08.

Above appointments referred to the Committee on Rules.



REPORTS OF STANDING COMMITTEES**Committee on Rules**

State Capitol, February 9, 2005

Madam President: The Committee on Rules has considered the following appointment by the Governor and reports the same back with the recommendation that he be confirmed:

Thomas J. Campbell, Director of Finance (5-0)

PERATA, Chair

Above appointment ordered placed on unfinished business file.

Committee on Rules

State Capitol, February 9, 2005

The Committee on Rules has referred the following measures to committee:

Banking, Finance and Insurance—SB 120.**Education**—SB 136.**Elections, Reapportionment and Constitutional Amendments**—
SB 117, SB 145.**Energy, Utilities and Communications**—SB 107.**Government Modernization, Efficiency, and Accountability**—SB 115.**Governmental Organization**—SB 124, SB 127.**Health**—SB 103, SB 131.**Human Services**—SB 112, SB 141.**Judiciary**—SB 116, SB 119, SB 125, SB 130, SB 137.**Labor and Industrial Relations**—SB 101, SB 102, SB 146.**Local Government**—SB 121, SB 122, SB 123, SB 135, SB 140, SB 142.**Natural Resources and Water**—SB 113.**Public Employment and Retirement**—SB 105.**Public Safety**—SB 104, SB 111, SB 128, SB 129, SB 138.**Revenue and Taxation**—SB 139.**Rules**—SB 100, SB 118, SB 132, SB 133, SB 134.**Transportation and Housing**—SB 106, SB 114.

The Committee on Rules has re-referred the following measures to committee:

Transportation and Housing—SCR 10, SCR 11, SCR 12.

The Committee on Rules has referred the following measures to two committees:

Budget and Fiscal Review and Elections, Reapportionment and Constitutional Amendments—SCA 5.

Environmental Quality and Public Safety—SB 109.

Public Safety and Judiciary—SB 126.

Transportation and Housing and Revenue and Taxation—SB 110.

INTRODUCTION AND FIRST READING OF SENATE MEASURES

The following measures were introduced, read the first time and transmitted to the Committee on Rules for assignment:

Senate Bill 184: By Senator Murray—An act to amend Section 1700.15 of the Labor Code, relating to talent agencies.

Senate Bill 185: By Senator Battin—An act to amend Section 11011.18 of the Government Code, relating to state property.

Senate Bill 186: By Senator Battin—An act to add Section 1363.01 to the Civil Code, relating to common interest developments.

Senate Bill 187: By Senator Soto—An act to amend Section 13304 of the Water Code, relating to water.

Senate Bill 188: By Senator Simitian—An act to add Section 11008.21 to the Welfare and Institutions Code, relating to aid and medical assistance, and making an appropriation therefor.

Senate Bill 189: By Senator Chesbro—An act to amend Section 1367.2 of the Health and Safety Code, and to amend Section 10123.6 of the Insurance Code, relating to health care coverage.

Senate Bill 190: By Senator Cedillo—An act to amend Section 17581.5 of the Government Code, relating to state mandates.

Senate Bill 191: By Senator Cedillo—An act to amend Section 2146 of the Elections Code, relating to voter registration.

Senate Bill 192: By Senator Scott—An act relating to annuities.

Senate Bill 193: By Senator Maldonado—An act to amend Section 6380 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

Senate Bill 194: By Senator Maldonado—An act to amend Section 7582.2 of the Business and Professions Code, relating to private patrol operators.



Senate Bill 195: By Senator Maldonado—An act to add and repeal Sections 17053.77 and 23677 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

Senate Bill 196: By Senator Maldonado—An act to amend Section 5907 of the Revenue and Taxation Code, relating to county assessors.

Senate Bill 197: By Senator Cox (Coauthor: Assembly Member Leslie)—An act to amend Section 115842 of the Health and Safety Code, relating to reservoirs.

Senate Bill 198: By Senator Lowenthal—An act to add Section 18871.1 to, to add Article 2.1 (commencing with Section 18615) to, and to repeal the heading of Article 2.5 of, Chapter 5 of Part 2.1 of Division 13 of, the Health and Safety Code, relating to manufactured homes.

Senate Bill 199: By Senator Murray—An act relating to employment.

Senate Bill 200: By Senator Machado—An act to amend Section 31100.5 of, and to add Chapter 4.6 (commencing with Section 31180) to Division 21 of, the Public Resources Code, relating to coastal resources.

Senate Bill 201: By Senator Simitian—An act to amend Section 10609 of, and to add Section 4010.5 to, the Welfare and Institutions Code, relating to social services.

Senate Bill 202: By Senator Simitian—An act to amend Section 11465.5 of the Welfare and Institutions Code, relating to public social services.

Senate Bill 203: By Senator Simitian—An act to amend Section 11325.9 of the Welfare and Institutions Code, relating to public social services.

Senate Bill 204: By Senator Bowen—An act to add Section 303.5 to the Public Utilities Code, relating to the Public Utilities Commission.

Senate Bill 205: By Senator Cox—An act to amend Section 769 of the Insurance Code, relating to insurance agents and brokers.

Senate Bill 206: By Senator Dunn—An act relating to Medi-Cal.

Senate Bill 207: By Senator Scott—An act to add Section 14602.8 to the Vehicle Code, relating to vehicles.

Senate Bill 208: By Senator Alquist—An act to amend Section 14529.23 of the Government Code, relating to transportation.

Senate Bill 209: By Senator Alquist—An act to add Section 104142 to the Health and Safety Code, relating to strokes.

Senate Bill 210: By Senator Bowen—An act to amend Section 1442.5 of the Health and Safety Code, relating to county medical facilities.



Senate Bill 211: By Senator Ackerman—An act to amend Section 6500 of the Government Code, relating to public agencies.

Senate Bill 212: By Senator Lowenthal—An act to amend Section 103900 of, and to add Section 103902 to, the Health and Safety Code, and to add Section 12803.5 to the Vehicle Code, relating to public health.

Senate Bill 213: By Senator Dutton—An act to amend Section 6051.45 of the Revenue and Taxation Code, relating to taxation.

Senate Bill 214: By Senator Dutton—An act to amend Section 17041 of the Revenue and Taxation Code, relating to taxation.

Senate Bill 215: By Senator Dutton—An act to amend Section 201 of the Revenue and Taxation Code, relating to taxation.

Senate Bill 216: By Senator Dutton—An act to add Section 15627 to, and to repeal Part 10 (commencing with Section 15700) of Division 3 of Title 2 of, the Government Code, and to add Section 20.5 to the Revenue and Taxation Code, relating to governmental organization.

Senate Bill 217: By Senator Dutton—An act to amend Section 205 of the Revenue and Taxation Code, relating to taxation.

Senate Bill 218: By Senator Scott—An act to amend Section 366.26 of the Welfare and Institutions Code, relating to termination of parental rights.

Senate Bill 219: By Senator Alquist—An act to add Chapter 17 (commencing with Section 43100) to Part 24 of the Education Code, relating to school finance.

Senate Concurrent Resolution 18: By Senator Battin—Relative to California Indian Heritage Month.

Senate Concurrent Resolution 19: By Senator Chesbro—Relative to the Robert Mondavi Highway.

REQUESTS TO ADJOURN IN MEMORIAM

Senator Bowen requested that when the Senate adjourns this day it do so in memory of Cpt. Sean Lee Brock of Redondo Beach.

Senator Chesbro requested that when the Senate adjourns this day it do so in memory of Michael Fleschner of Trinidad.

Senator Kuehl requested that when the Senate adjourns this day it do so in memory of Marjorie Braude of Los Angeles.

Senator Poochigian requested that when the Senate adjourns this day it do so in memory of Knox LaRue of Stockton, James Richard Luppino of Fresno and Joe Fenton Lusk II of Reedley.



ADJOURNMENT

At 3:30 p.m., on motion of Senator Perata, the Senate adjourned pursuant to the Senators' requests until 2 p.m., Tuesday, February 15, 2005.

PAULA K. ROSSETTO, Minute Clerk



└