

CALIFORNIA LEGISLATURE

2005–06 REGULAR SESSION

SENATE DAILY JOURNAL

ONE HUNDRED FIFTY-EIGHTH LEGISLATIVE DAY

IN SENATE

Senate Chamber, Sacramento

Monday, March 6, 2006

The Senate met at 2 p.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, Cedillo, Chesbro, Cox, Denham, Ducheny, Dunn, Dutton, Figueroa, Florez, Hollingsworth, Kehoe, Kuehl, Lowenthal, Machado, Maldonado, Margett, McClintock, Migden, Murray, Ortiz, Perata, Poochigian, Romero, Runner, Scott, Simitian, Soto, Speier, Torlakson, and Vincent—36.

Quorum present.

(NOTE: Senator Morrow will be excused this day on legislative business, Senator Bowen will be excused this day on personal business, and Senator Escutia will be excused this day due to a family illness.)



PRAYER

Prayer was offered by the Chaplain, Rev. Canon James Richardson:

Holy and Gracious God, We give thanks this day for the resources You have given us; for our forests and deserts, our rivers and bays, and the bountiful land and the air we breath. Give us the wisdom to use these resources rightly and keep us ever mindful of those who will come after us.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

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

MESSAGES FROM THE GOVERNOR

Governor's Office, State Capitol
March 3, 2006

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

Ann L. Boynton, former Chief Deputy Cabinet Secretary, Office of the Governor; and former Deputy Director for External Affairs, Department of Toxic Substances Control. Appointed 02/16/06. Effective 02/16/06.

Undersecretary, Health and Human Services Agency vice Michael C. Genest, re-assigned, term ending at the Pleasure of the Governor

Therese Marie Delgadillo, former Deputy Secretary, Health and Human Services Agency; former Deputy Director, Department of Health Services; former Acting Undersecretary and Deputy Secretary, Youth and Adult Correctional Agency. Appointed 02/17/06. Effective 02/17/06.

Chief Deputy Director, Department of Developmental Services vice Paul D. Carleton, retired, term ending at the Pleasure of the Governor.

Randal J. Hernandez, Senior Government Relations Executive for California, Bank of America; and former Appointments Secretary, Office of the Governor. Appointed 02/22/06. Effective 02/28/06.

Member, Board of Governors of the California Community Colleges vice Anthony John Alvarado, resigned, term ending 01/15/08.

Above appointments referred to the Committee on Rules.



REPORTS OF STANDING COMMITTEES**Committee on Rules**

State Capitol, March 6, 2006

Mr. President: The Senate Rules Committee has appointed Senator Cox as a member of the Senate Committee on Budget and Fiscal Review to replace Senator Runner. Senator Cox will also replace Senator Runner as a member of Subcommittee #3.

PERATA, Chair

Senate Chamber, March 6, 2006

Mr. President: The Chair of the Committee on Rules, to which was referred:

SB 1119

Reports the same back with author's amendments with the recommendation: Amend, and re-refer to the committee.

PERATA, Chair

Second Reading of Bills—Author's Amendments

Senate Bill 1119—An act to add Section 4801.5 to the Penal Code relating to reprieves, pardons and commutations of sentence.

Bill read second time.

The amendments were read and adopted and the measure ordered printed and re-referred to the committee.

Committee on Education

Senate Chamber, March 6, 2006

Mr. President: The Chair of the Committee on Education, to which was referred:

SB 1217

Reports the same back with author's amendments with the recommendation: Amend, and re-refer to the committee.

SCOTT, Chair

Second Reading of Bills—Author's Amendments

Senate Bill 1217—An act to add and repeal Section 52128.7 of the Education Code, relating to class size.

Bill read second time.

The amendments were read and adopted and the measure ordered printed and re-referred to the committee.

Committee on Rules

Senate Chamber, March 6, 2006

Mr. President: The Chair of the Committee on Rules, to which was referred:

SCR 69



Reports the same back with author's amendments with the recommendation: Amend, and re-refer to the committee.

PERATA, Chair

Second Reading of Bills—Author's Amendments

Senate Concurrent Resolution 69—Relative to the California Surf Museum.

Resolution read second time.

The amendments were read and adopted and the measure ordered printed and re-referred to the committee.

Committee on Public Safety

Senate Chamber, March 6, 2006

Mr. President: The Chair of the Committee on Public Safety, to which were referred:

AB 120

AB 167

AB 828

Reports the same back with author's amendments with the recommendation: Amend, and re-refer to the committee.

MIGDEN, Chair

Second Reading of Bills—Author's Amendments

Assembly Bill 120—An act to amend Section 1109 of the Evidence Code, relating to evidence.

Bill read second time.

Assembly Bill 167—An act to amend Section 653m of the Penal Code, relating to crime.

Bill read second time.

Assembly Bill 828—An act to amend Section 1204.5 of the Penal Code, relating to criminal proceedings.

Bill read second time.

The amendments were read and adopted and the measures ordered printed and re-referred to the committee.

CONSIDERATION OF DAILY FILE

SECOND READING OF ASSEMBLY BILLS

Assembly Bill 1333—An act to add Section 374.5 to the Penal Code, and to add Division 12.4 (commencing with Section 16050) to the Public Resources Code, relating to grease waste haulers.

Bill read second time and ordered to third reading.

RE-REFERENCE TO COMMITTEE

Pursuant to Senate Rule 29.10, the issue raised by the Assembly amendments to **SB 288** was referred to the Committee on Rules.



MEASURES WITHDRAWN FROM COMMITTEE

Without objection, **SCR 67, SCR 77, SCR 92, SCR 94, ACR 101, ACR 109, ACR 110, and ACR 113** were withdrawn from Committee and placed on the Special Consent Calendar.

LEAVES OF ABSENCE FOR THE DAY

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

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

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

FURTHER PROCEEDINGS UNDER QUORUM CALL OF THE SENATE DISPENSED WITH

At 2:30 p.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, March 7, 2006.

Motion carried.

REPORTS OF STANDING COMMITTEES**Committee on Rules**

Senate Chamber, March 6, 2006

Mr. President: The Chair of the Committee on Rules, to which was referred:

SCR 97

Reports the same back with author's amendments with the recommendation: Amend, and re-refer to the committee.

PERATA, Chair

Second Reading of Bills—Author's Amendments

Senate Concurrent Resolution 97—Relative to Child Abuse Prevention Month.

Resolution read second time.

The amendments were read and adopted and the measure ordered printed and re-referred to the committee.

INTRODUCTION AND FIRST READING OF SENATE MEASURES

The following measure was introduced, read the first time and transmitted to the Committee on Rules:

Senate Joint Resolution 25: By Senator Figueroa—Relative to international trade agreements and pharmaceutical drug programs.



LETTERS OF TRANSMITTAL

The following communications were ordered printed in the Journal:

A report dated: January 2006, relating to Indoor Mold, was received from the California State Library and transmitted to the Committee on Health.

An Annual report dated: January 2006, relating to the Statewide Automated Welfare System, was received from the Office of Systems Integration and transmitted to the Committee on Budget and Fiscal Review.

A report dated: January 3, 2006, relating to Services for Infants And Toddlers Who Are Deaf Or Hard Of Hearing, (Salinas), was received from the California Department of Education and transmitted to the Committee on Education.

A report dated: January 11, 2006, relating to the 2004–05 Small Business/DVOBE's Contract Activity was received from the Military Department Adjutant General and transmitted to the Committee on Government Modernization, Efficiency and Accountability.

A report dated: January 12, 2006, relating to the Notification of Proposition 98 Determinations for Fiscal Years 1995–1996 through 2003–2004 was received from the Department of Finance and transmitted to the Committee on Budget and Fiscal Review.

A report dated: January 25, 2006, relating to the 2005 Integrated Energy Policy, was received from the California Energy Commission and transmitted to the Committee on Energy, Utilities and Communications.

A report dated: January 26, 2006, relating to the Preservation Interim Loan Programs was received from the Department of Housing and Community Development and transmitted to the Committee on Government Modernization, Efficiency and Accountability.

An audit report dated: January 26, 2006, relating to CalPERS Basic Financial Statements was received from CalPERS and transmitted to the Committee on Public Employment and Retirement.

A Title Summary report dated: January 27, 2006, relating to Water Quality, Safety and Supply. Flood Control. Natural Resources Protection. Park Improvements. Bonds. Initiative Statute, was received from the Department of Justice and transmitted to the Committee on Rules.



A report dated: January 30, 2006, relating to the Performance Standards for Ballast Water Discharges in California Waters, was received from the California State Lands Commission and transmitted to the Committee on Local Government.

A third quarter report dated: January 30, 2006, relating to the Non-Toll Seismic Retrofit Program was received from the Department of Transportation and transmitted to the Committee on Transportation and Housing.

A report dated: January 30, 2006, relating to Holocaust Victims was received from the Department of Insurance and transmitted to the Committee on Insurance.

A report dated: January 30, 2006, relating to the San Francisco Public Utilities Commission was received from the San Francisco Public Utilities Commission and transmitted to the Committee on Energy, Utilities and Communications.

An annual report dated: January 31, 2006, relating to the Conservation, Recycling and Ground Water Recovery, was received from the Metropolitan Water District of Southern California and transmitted to the Committee on Environmental Quality.

An annual report dated: January 31, 2006, relating to complaints and communications, was received from the Metropolitan Water District of Southern California and transmitted to the Committee on Environmental Quality.

A report dated: January 31, 2006, relating to Open Software in Voting Systems, was received from the California Secretary of State and transmitted to the Committee on Elections, Reapportionment and Constitutional Amendments.

An annual report dated: January 31, 2006, relating to the Placer County DNA Fund, for year 2005, was received from the County of Placer and transmitted to the Committee on Public Safety.

A report dated: January 31, 2006, relating to the 2004–05 Small Business/DVOBE's Contract Activity was received from the Department of Food and Agriculture (Kern County) and transmitted to the Committee on Government Modernization, Efficiency and Accountability.



A report dated: January 31, 2006, relating to the 2004–05 Small Business/DVOBE's Contract Activity was received from the Department of Fair Employment and Housing and transmitted to the Committee on Government Modernization, Efficiency and Accountability.

An audit report dated: January 31, 2006, relating to California K–12 High-Speed Network, was received from the California State Auditor and transmitted to the Committee on Rules.

A report dated: February 1, 2006, relating to the New Foster Care Group Home Requirements/Increase in Industry Costs (delayed), was received from the Department of Social Services and transmitted to the Committee on Human Services.

A report dated: January 31, 2006, relating to the 2004–05 Small Business/DVOBE's Contract Activity was received from the State Public Defender and transmitted to the Committee on Government Modernization, Efficiency and Accountability.

A report dated: February 1, 2006, relating to school districts that have not adopted budgets for Fiscal Year 2005–06, was received from the California Department of Education and transmitted to the Committee on Education.

A report dated: February 1, 2006, relating to the CalWORKS Sanction Report, was received from the Department of Social Services, and transmitted to the Committee on Human Services.

A Title Summary report dated: February 3, 2005, relating to Waiting Period and Parental Notification Before Termination of Minor's Pregnancy. Initiative Constitutional Amendment Amdt. #1-S, was received from the Department of Justice and transmitted to the Committee on Rules.

A report dated: February 3, 2006, relating to Effects of the Implementation of Proposition 227 on the Education of English Learners, K–12, was received from the California Department of Education and transmitted to the Committee on Education.

A quarterly report dated: February 6, 2006, relating to the second quarter Efficiencies Achieved Through Reorganization July 2005 through December 2005, was received from the Department of Corrections and Rehabilitation and transmitted to the Committee on Budget and Fiscal Review.



An annual report dated: February 6, 2006, relating to the Mariposa County EMS Fund, FY 2004–05, was received from the Mariposa County Public Health Department and transmitted to the Committee on Health.

A Title Summary report dated: February 6, 2006, relating to Open Multiple Listing Service. Initiative Statute, was received from the Department of Justice and transmitted to the Committee on Rules.

A Title Summary report dated: February 6, 2006, relating to Product Liability. Immunity From Punitive Damages. Initiative Statute, was received from the Department of Justice and transmitted to the Committee on Rules.

An audit dated: February 7, 2006, relating to the Department of Education management of the California American Indian Education Center Program, was received from the California State Auditor and transmitted to the Committee on Rules.

An audit report dated: February 9, 2006, relating to the San Francisco Oakland Bay Bridge Worker Safety, was received from the California State Auditor and transmitted to the Committee on Rules.

A report dated: February 14, 2006, relating to the 2004–05 Small Business/DVOBE's Contract Activity was received from the Department of Forestry and Fire Protection and transmitted to the Committee on Government Modernization, Efficiency and Accountability.

An annual report dated: February 14, 2006, relating to the Motor Vehicle Service Information Rulemaking Status, was received from the Air Resources Board and transmitted to the Committee on Environmental Quality.

A report dated: February 15, 2006, relating to Denied Mandates was received from the Commission on State Mandates and transmitted to the Committee on Budget and Fiscal Review.

An annual report dated: February 17, 2006, relating to the Sonoma County DNA Fund, for year 2005, was received from the County of Sonoma and transmitted to the Committee on Public Safety.

An annual report dated: February 17, 2006, relating to the Revise Sonoma County DNA Fund, for year 2004, was received from the County of Sonoma and transmitted to the Committee on Public Safety.



REQUESTS TO ADJOURN IN MEMORIAM

Senator Ashburn requested that when the Senate adjourns this day it do so in memory of LCpl. Adam J. Vanalstine of Twentynine Palms.

Senator Cedillo requested that when the Senate adjourns this day it do so in memory of Bertha (Cuevas) Osuna of Los Angeles.

Senator Chesbro requested that when the Senate adjourns this day it do so in memory of Gladys M. Strope of Eureka.

Senator Ducheny requested that when the Senate adjourns this day it do so in memory of Pedro DeLara of Bermuda Dunes.

Senator Kuehl requested that when the Senate adjourns this day it do so in memory of Hon. Rob Sandoval Glendale.

Senator McClintock requested that when the Senate adjourns this day it do so in memory of Col. Robert M. Neiman (USMCR) of Indian Wells.

Senator Migden requested that when the Senate adjourns this day it do so in memory of Ricardo Cruz, Carlos Manuel Jimenez and Tanya Neiman of San Francisco, Eugene Phillips of Los Angeles, and Gregory Moon Roberts of White Earth Reservation.

Senator Ortiz requested that when the Senate adjourns this day it do so in memory of Patrick J. Monahan, III of Sacramento.

Senator Perata requested that when the Senate adjourns this day it do so in memory of Sheila M. Krotinger of La Mirada.

Senator Soto requested that when the Senate adjourns this day it do so in memory of Officer Gregory John Bailey (CHP).

Senator Speier requested that when the Senate adjourns this day it do so in memory of Helen Vacura of Fairbanks, Alaska and Marie Zone White Connolly of Burlingame.

ADJOURNMENT

At 3:30 p.m., on motion of Senator Perata, the Senate adjourned pursuant to the Senators' requests until 9 a.m., Tuesday, March 7, 2006.

PAULA K. ROSSETTO, Minute Clerk

