

CALIFORNIA LEGISLATURE

2009–10 REGULAR SESSION

SENATE DAILY JOURNAL

ONE HUNDRED THIRTY-SIXTH LEGISLATIVE DAY

IN SENATE

Senate Chamber, Sacramento
Tuesday, November 3, 2009

The Senate met at 2:44 p.m.
Hon. S. Joseph Simitian, of the 11th District, presiding.
Secretary Greg Schmidt at the Desk.
Assistant Secretary Zach Twilla 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:

Alquist, Ashburn, Benoit, Calderon, Cedillo, Cogdill, Corbett, Correa (waiving per diem), Cox, Denham, DeSaulnier, Ducheny, Dutton, Florez, Hancock, Harman, Hollingsworth, Huff, Kehoe, Leno, Liu, Lowenthal, Maldonado, Negrete McLeod, Padilla, Pavley, Price, Romero, Simitian, Steinberg, Strickland, Walters, Wiggins, Wolk, Wright, Wyland, and Yee—37.

Quorum present.

(NOTE: Senators Aanestad, Oropenza, and Runner will be excused this day on personal business.)



PRAYER

Upon invitation of the President, the following prayer was offered by Senator Mark Leno:

We pray to the Holy One, Ha'Shem, the Creator of us all.

We give thanks for the many blessings in our lives, the blessings of good health and strength, energy and well-being.

We thank you for the opportunity to learn, to serve and to share for the betterment of our families and our communities.

May your favor rest upon this land, be with those who work to bring harmony, peace and prosperity to all its inhabitants.

Be our inspiration and our light, guiding us to act with kindness, thoughtfulness, clarity and compassion.

(She'he'che yanu) . . .

Baruch atah adonoi, eloheynu melech ha'olom, she'he'che yanu, V'Ke'yeh manu, v'he ge yanu, la'z'man hazeh.

Blessed are you creator of the universe, who has given us life, sustained us and brought us to this time and place.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

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

MESSAGES FROM THE GOVERNOR

Governor's Office, State Capitol
November 3, 2009

To the Senate of the State of California:

I have the honor to transmit to you herewith the following appointments or reappointments 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

LINDA BRISKMAN, is retired from serving the city of Beverly Hills as a city council member from 2001 to 2009 and was mayor in 2005. While on the city council, she served on the Westside Cities Council of Governments as chair from 2007 to 2008 and as co-chair of the Transportation Committee from 2006 to 2009. Briskman was a member and served as chair of the Beverly Hills Planning Commission from 1996 to 2001, the Beverly Hills Traffic and Parking Commission from 1992 to 1996, a member of the Beverly Hills Solicitations Commission from 1990 to 1992 and served as co-chair of the Beverly Hills Solid Waste Committee from 1988 to 1999. Appointed 10/19/09. Effective 10/28/09.

Member, State Park and Recreation Commission, vice, Jack A. Baylis, resigned, term ending 01/15/10.



MAUREEN F. GORSEN, is a partner in environmental and land use practice for Alston and Bird since March 2009. She was director of the California Department of Toxic Substances Control from 2006 to 2009 and deputy secretary for law enforcement and general counsel for the California Environmental Protection Agency from 2003 to 2006. Gorsen was a partner for Weston, Benshoof, Rochefort, Rubalcava and MacCuish from 1999 to 2003 and served the California Natural Resources Agency as general counsel from 1996 to 1999. Appointed 10/19/09. Effective 11/02/09.

Member, State Park and Recreation Commission, vice, Sophia D. Scherman, term expired, term ending 01/15/13.

Above appointments referred to the Committee on Rules.

RECESS

At 2:48 p.m., the Senate recessed in order to convene in Seventh Extraordinary Session.

REASSEMBLED

At 2:50 p.m., the Senate reconvened.

Hon. Gloria Romero, of the 24th District, presiding.

CONSIDERATION OF DAILY FILE UNFINISHED BUSINESS

Consideration of Assembly Amendments

Senate Bill 68—An act to amend Sections 33690 and 33690.5 of the Health and Safety Code, relating to community redevelopment, and declaring the urgency thereof, to take effect immediately.

Bill presented by Senator Ducheny.

The question being: Shall the Senate concur in the Assembly amendments to SB 68?

The roll was called.

CALL OF THE SENATE

Pending the announcement of the vote, Senator Ducheny moved a call of the Senate.

Motion carried.

UNFINISHED BUSINESS (RESUMED)

Consideration of Assembly Amendments

Senate Bill 69—An act to add Section 12300.3 to the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

Bill presented by Senator Ducheny.

The question being: Shall the Senate concur in the Assembly amendments to SB 69?

The roll was called.



CALL OF THE SENATE

Pending the announcement of the vote, Senator Ducheny moved a call of the Senate.

Motion carried.

**FURTHER PROCEEDINGS UNDER CALL OF THE SENATE
DISPENSED WITH (SB 68)**

On motion of Senator Ducheny, further proceedings under the call of the Senate were dispensed with.

Urgency Clause

The names of the absentees were called and the urgency clause to SB 68 was adopted by the following vote:

AYES (30)—Senators Alquist, Benoit, Calderon, Cedillo, Cogdill, Corbett, Denham, DeSaulnier, Ducheny, Florez, Hancock, Huff, Kehoe, Leno, Liu, Lowenthal, Maldonado, Negrete McLeod, Padilla, Pavley, Price, Romero, Simitian, Steinberg, Strickland, Wiggins, Wolk, Wright, Wyland, and Yee.

NOES (5)—Senators Ashburn, Cox, Dutton, Hollingsworth, and Walters.

Roll Call

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

AYES (30)—Senators Alquist, Benoit, Calderon, Cedillo, Cogdill, Corbett, Denham, DeSaulnier, Ducheny, Florez, Hancock, Huff, Kehoe, Leno, Liu, Lowenthal, Maldonado, Negrete McLeod, Padilla, Pavley, Price, Romero, Simitian, Steinberg, Strickland, Wiggins, Wolk, Wright, Wyland, and Yee.

NOES (5)—Senators Ashburn, Cox, Dutton, Hollingsworth, and Walters.

Above bill ordered enrolled.



IN SENATE

Senate Chamber, Sacramento
Wednesday, November 4, 2009

**FURTHER PROCEEDINGS UNDER CALL OF THE SENATE
DISPENSED WITH (SB 69)**

On motion of Senator Ducheny, further proceedings under the call of the Senate were dispensed with.

Urgency Clause

The names of the absentees were called and the urgency clause to SB 69 was refused adoption by the following vote:

AYES (23)—Senators Alquist, Calderon, Cedillo, Corbett, DeSaulnier, Ducheny, Florez, Hancock, Kehoe, Leno, Liu, Lowenthal, Negrete McLeod, Padilla, Pavley, Price, Romero, Simitian, Steinberg, Wiggins, Wolk, Wright, and Yee.

NOES (12)—Senators Ashburn, Benoit, Cogdill, Cox, Denham, Dutton, Hollingsworth, Huff, Maldonado, Strickland, Walters, and Wyland.

RECESS

At 12:01 a.m., on motion of Senator Steinberg the Senate recessed in order to convene in seventh extraordinary session.

REASSEMBLED

At 12:09 a.m., the Senate reconvened.

Hon. Gloria Romero, of the 24th District, presiding.

MOTION TO PRINT IN JOURNAL

Senator Huff moved that the following letter be printed in the Journal.
Motion carried.

November 3, 2009

Mr. Gregory Schmidt
Secretary of the Senate

Dear Mr. Schmidt:

As the joint-authors of Senate Bill 680 (Romero & Huff, Chapter 198, Statutes of 2009), we write this letter to the Senate Daily Journal to clarify the intent of certain provisions of the bill regarding the School Districts of Choice program in terms of both the letter and spirit of the law. We refer specifically to the provisions found in Section 48307 of the Education Code, which authorize school districts of residence to voluntarily choose to restrict district of choice student transfer requests based on the number



of transfers, in contrast to the voluntary limitations on transfers based on the racial and ethnic characteristics of students.

As is stated in subdivision (a) of Section 48307, the one percent annual threshold for transfers that applies to school districts with an average daily attendance (ADA) greater than 50,000 serves as both an annual trigger based on current year ADA and effectively as a cumulative cap over the duration of the program, depending on annual enrollment fluctuations for those large districts.

On the other hand, subdivision (b) of Section 48307 specifies both a three percent annual maximum threshold and a ten percent cumulative cap on the number of students who may transfer, thereby establishing two separate triggers which could authorize restrictions on current year student transfers from medium-sized and smaller school districts. The operation of the three percent maximum threshold is straightforward and pertains to student transfers only in the current school year.

The ten percent provision, however, is an additional threshold measure a district may utilize to restrict the number of student transfers. Measuring the cumulative number of student transfers is intended to account for prior year actual student transfers under the program and establishes another trigger—in addition to the 3 percent annual threshold to authorize voluntary limitations.

The ten percent value is calculated based on two factors: 1) The district of residence current year estimated ADA, similar to the one percent and three percent threshold triggers; and 2) the total number of resident district student transfers currently enrolled in a school district of choice. Accordingly, the estimated value of the ten percent trigger may fluctuate from year to year based on annual enrollment in the district of residence and the cumulative number of students that actually transferred in the past under the program and are still actively in attendance.

In addition to reasons associated with racial and ethnic balance, specified financial distress, and specified annual numerical transfer thresholds, a school district of residence with an ADA under 50,000 has authority to restrict the number of additional resident students from transferring out of the district until the number of actual resident students enrolled under this program falls below the cumulative ten percent trigger, based on its current year estimated ADA.

As California school districts move forward with the School Districts of Choice program, this letter should provide clarification on the restrictions on student transfers contained in SB 680.

Sincerely,

GLORIA ROMERO
Senator, 24th District

BOB HUFF
Senator, 29th District

RECESS

At 12:09 a.m., the Senate recessed in order to convene in Seventh Extraordinary Session.



REASSEMBLED

At 5:59 a.m., the Senate reconvened.

Hon. Gloria Romero, of the 24th District, presiding.

LEAVES OF ABSENCE FOR THE DAY

The following Senators were granted leaves of absence for the day due to personal business: Senators Aanestad, Oropeza, and Runner.

**FURTHER PROCEEDINGS UNDER QUORUM CALL OF THE
SENATE DISPENSED WITH**

At 5:59 a.m., on motion of Senator Steinberg, further proceedings under the quorum call of the Senate were dispensed with.

REQUESTS TO ADJOURN IN MEMORIAM

Senator Alquist requested that when the Senate adjourns this day it do so in memory of Jack Siadek of Napa, Gregory Hawkins of Santa Clara, Rosemary Stasek of Mountain View, and Gloria Martinez Lopez of San Antonio, TX.

Senator Cogdill requested that when the Senate adjourns this day it do so in memory of Kyle Coumas of Lockeford.

Senator DeSaulnier requested that when the Senate adjourns this day it do so in memory of Kayla Shepard of Brentwood.

Senator Simitian requested that when the Senate adjourns this day it do so in memory of Morgan Flagg of Atherton.

Senator Wolk requested that when the Senate adjourns this day it do so in memory of Herbert Lee Thomas, Levi Jacob Bonham, Norma Lorraine Dougherty, Aurora R. Guerra, Isao Jim Nakaoka, Delbert L. Wells, Bernice Maria Pais, and Boris Breiger of Stockton.

ADJOURNMENT

At 6:59 a.m., the President declared the Senate adjourned until Monday, January 4, 2010 at 12 p.m.

PAULA K. ROSSETTO, Minute Clerk

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