

CALIFORNIA LEGISLATURE  
2011–12 REGULAR SESSION

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# ASSEMBLY DAILY JOURNAL

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**Monday, January 3, 2011**

**SECOND SESSION DAY**

**TWENTY-NINTH CALENDAR DAY**

**AT SACRAMENTO, CALIFORNIA**



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**NOTE:** Official record of roll call votes; all amendments considered by the Assembly on this day are on file with the Chief Clerk of the Assembly and available on request. A list of all measures amended and on which amendments were offered is shown on the final page of this day's Assembly Journal.

## PROCEEDINGS OF THE ASSEMBLY

### IN ASSEMBLY

Assembly Chamber, Sacramento  
Monday, January 3, 2011

The Assembly met at 2 p.m.

Hon. John A. Pérez, Speaker of the Assembly, presiding.

Chief Clerk E. Dotson Wilson at the Desk.

File Clerk Russell C. Tomas reading.

#### ROLL CALL

The roll was called.

#### Quorum Call of the Assembly

Assembly Member Cook moved a quorum call of the Assembly.

Motion carried. Time, 2:01 p.m.

The Speaker directed the Sergeant at Arms to close the doors, and to bring in the absent Members.

#### Quorum Present

At 2:07 p.m., Speaker Pérez declared a quorum of the Assembly present.

The roll call was completed, and the following answered to their names—78:

Achadjian	Dickinson	Hernández	Norby
Alejo	Donnelly	Hill	Olsen
Allen	Eng	Huber	Pan
Ammiano	Feuer	Hueso	Perea
Atkins	Fletcher	Huffman	Pérez, V. Manuel
Beall	Fong	Jeffries	Portantino
Berryhill	Fuentes	Jones	Silva
Block	Furutani	Knight	Skinner
Blumenfield	Gaines	Lara	Smyth
Bonilla	Galgiani	Logue	Solorio
Bradford	Garrick	Lowenthal	Swanson
Brownley	Gatto	Ma	Torres
Buchanan	Gordon	Mansoor	Valadao
Butler	Gorell	Mendoza	Wagner
Calderon	Grove	Miller	Wieckowski
Campos	Hagman	Mitchell	Williams
Carter	Halderman	Monning	Yamada
Cedillo	Hall	Morrell	Mr. Speaker
Conway	Harkey	Nestande	
Cook	Hayashi	Nielsen	

**PRAYER**

Upon invitation of Speaker Pérez, the following prayer was offered by Assembly Chaplain Rev. Constantine C. Pappademos:

*Lord, You are always looking to take us to higher levels. You want us to grow and increase in faith. Yet, You will “stir us” out of comfortable situations and stretch us, because You love us too much to allow us to live in mediocrity. Lord, be with us this day and direct our every step, for we embrace Your seasons of change and we thank You for helping us to grow.—AMEN.*

**PLEDGE OF ALLEGIANCE TO THE FLAG**

Upon request of Speaker Pérez, Assembly Member Conway then led the Assembly in the pledge of allegiance to the Flag.

**MOTION TO DISPENSE WITH READING OF THE JOURNAL**

Further reading of the Journal of the previous legislative day was dispensed with on motion of Assembly Member Calderon, seconded by Assembly Member Conway.

**LEAVES OF ABSENCE FOR THE DAY**

By unanimous consent, the following Assembly Members were granted leaves of absence for the day:

*On legislative business: Assembly Member Davis.*

*On personal business, and waiving per diem: Assembly Member Chesbro.*

**EXPLANATIONS OF ABSENCE**

Pursuant to the Assembly Rules, the following explanation of absence was ordered printed in the Journal:

January 3, 2011

*The Honorable John A. Pérez  
Speaker of the Assembly  
State Capitol, Room 219  
Sacramento, California*

Dear Mr. Speaker: I am planning to attend the swearing-in ceremony of the new Attorney General which is from 1 p.m. until 3 p.m. today. I respectfully request to be excused from the Floor Session today on legislative business. If you have any questions, please contact Esther Park at 319-3219. I appreciate your consideration of this request.

Sincerely,

MIKE DAVIS, Assembly Member  
Forty-eighth District

**COMMUNICATIONS**

The following communication was presented by the Chief Clerk, and ordered printed in the Journal:

December 16, 2010

*E. Dotson Wilson  
Chief Clerk of the Assembly  
State Capitol, Room 3196  
Sacramento, California*

RE: Reappointment of John Perez  
to California Postsecondary Education Commission

Dear Mr. Wilson: Please be advised I have reappointed Mr. John Perez to the California Postsecondary Education Commission. This is a term appointment starting December 31, 2010 and the expiration date is December 31, 2016.

Sincerely,

JOHN A. PÉREZ  
Speaker of the Assembly

**REPORTS**

The following letters of transmittal were presented by the Chief Clerk and ordered printed in the Journal:

California State Auditor

2011-601  
December 21, 2010

*The Honorable Speaker of the Assembly  
The Honorable Members of the Assembly  
of the Legislature of California  
State Capitol, Room 3196  
Sacramento, California*

Members of the Assembly: The California State Auditor presents its evaluation of California's American Recovery and Reinvestment Act of 2009 (Recovery Act), Section 1512 reporting on jobs created and retained (jobs data). This report is another in a series of reports we have issued regarding the State's implementation of the Recovery Act.

Our report concludes that although the federal Office of Management and Budget (OMB) and the California Recovery Task Force (task force) provide explicit guidance to Recovery Act recipients on how to calculate the jobs data each quarter—as mandated by the Recovery Act—state agencies do not always report their jobs data accurately. Of the five state agencies we reviewed that reported recipient-level jobs data, two did not follow this guidance. For example, one state agency reported triple the actual number of jobs created and retained, which resulted in an overstatement of 71 full-time equivalent positions. In addition, that same state agency calculated its jobs data using incorrect months. Further, three of the five state agencies did not include paid time off in the total number of hours worked as specified in the task force guidance.

Additionally, we found that although OMB advises recipients to be prepared to justify their jobs data estimates and the task force provides recommendations to state agencies on how to ensure that data submitted by their subrecipients is accurate and supported, state agencies do not follow the guidance completely. Specifically, all of the state agencies conducted an analysis for reasonableness of their subrecipients' data, whereas only one state agency reviewed their subrecipients' jobs data calculation methodology, and none of the state agencies reviewed supporting documentation to ensure the accuracy of the jobs data. In one example, a state agency tripled the number of actual jobs reported by its subrecipient in addition to other errors, which resulted in a net overstatement of 545 jobs for the quarter. Furthermore, we identified jobs data errors for two of the five local subrecipients we reviewed.

Respectfully submitted,

ELAINE M. HOWLE, CPA  
State Auditor

Above report referred to the Committee on Business and Professions.

California State Auditor

2010-002.1  
December 14, 2010

*The Honorable Speaker of the Assembly  
The Honorable Members of the Assembly  
of the Legislature of California  
State Capitol, Room 3196  
Sacramento, California*

Members of the Assembly: Pursuant to guidance issued by the U.S. Office of Management and Budget (OMB), the California State Auditor's Office (State Auditor's Office) presents its interim report concerning various state departments' administration of federal programs during fiscal year 2009–10. With the passage of the American Recovery and Reinvestment Act of 2009 (Recovery Act) comes a renewed emphasis on accountability and public transparency to ensure federal funds are spent properly. A key component of such accountability and transparency is the annual report from the State Auditor's Office on internal control and compliance with federal laws and regulations. OMB's June 2010 guidance stresses the importance of auditors communicating promptly any identified internal control deficiencies to management and those charged with governance. In addition, the guidance states that it is imperative that deficiencies in internal control be corrected by management as soon as possible to ensure proper accountability and transparency for expenditures of Recovery Act awards.

This interim report summarizes audit results pertaining to 20 federal programs administered by eight departments. Five of the eight departments received Recovery Act funding through nine programs during fiscal year 2009–10. The State Auditor's Office has currently identified 17 findings regarding the eight departments' administration of these federal programs during fiscal year 2009–10. In many cases the findings are recurring issues we identified in past audits. The findings focused on various federal requirements including those regarding allowable costs, reporting, and monitoring subrecipients'—such as counties—use of funds. We also reported that the departments fully

corrected 28 findings that we included in last year's annual audit report. The specific federal programs, and their administering state departments, are listed in the table of contents.

Respectfully submitted,

ELAINE M. HOWLE, CPA  
State Auditor

Above report referred to the Committee on Business and Professions.

California State Auditor

2010-106  
November 18, 2010

*The Honorable Speaker of the Assembly  
The Honorable Members of the Assembly  
of the Legislature of California  
State Capitol, Room 3196  
Sacramento, California*

Members of the Assembly: As requested by the Joint Legislative Audit Committee, the California State Auditor presents this audit report concerning state and local agencies' compliance with the Dymally-Alatorre Bilingual Services Act (Act).

This report concludes that the State Personnel Board (Personnel Board) is not meeting most of its responsibilities under the Act. The Personnel Board has not informed all state agencies of their responsibilities under the Act and has not ensured that state agencies conduct language surveys to assess their clients' language needs. In addition, the Personnel Board does not obtain necessary information from state agencies that would allow it to evaluate their compliance with the Act and does not order deficient agencies to take the necessary actions to ensure they have sufficient qualified bilingual staff and translated written materials to address the language needs of their substantial populations of limited-English-proficient (LEP) clients. Moreover, the Personnel Board's complaint process needs improvement because it does not ensure that complaints are resolved in a timely manner and its report to the Legislature does not adequately address whether state agencies are complying with the Act.

We also found that state agencies are not fully complying with the Act. Although nine of the 10 agencies we reviewed conducted language surveys in 2008, four reported inaccurate survey results for one or more of their local offices, and two did not have sufficient documentation to support their survey results. In addition, only one of the state agencies we reviewed formally analyzed its survey results to determine whether the use of other available options, in addition to qualified bilingual staff in public contact positions, was serving the language needs of its clients as the Act requires. Further, none of the state agencies we reviewed had adequate procedures in place to determine whether they met the Act's requirements to translate certain written materials for their substantial LEP populations. Furthermore, most of the state agencies we reviewed have not developed plans to address their staffing deficiencies and translated written materials deficiencies. We also found that some state agencies are not maximizing opportunities to reduce their costs of providing bilingual services by leveraging existing state contracts for interpretation and translation services.

Finally, our survey of local government administrators and department managers in 25 counties and cities throughout California found that some are not fully addressing their clients' bilingual needs. As a result, their clients may not be receiving the government services to which they are entitled.

Respectfully submitted,

ELAINE M. HOWLE, CPA  
State Auditor

Above report referred to the Committees on Local Government and Public Employees, Retirement and Social Security.

#### FIRST READING OF ASSEMBLY BILLS

The following bills were read the first time:

**ASSEMBLY BILL NO. 59—Swanson.** An act to amend Section 12945.2 of the Government Code, relating to family and medical leave.

**ASSEMBLY BILL NO. 60—Jeffries (Principal coauthor: Nestande) (Principal coauthor: Senator Emmerson) (Coauthors: Cook and Miller).** An act to amend Section 1192.7 of the Penal Code, relating to sentencing.

**ASSEMBLY BILL NO. 61—Jeffries.** An act to add and repeal Chapter 6.2 (commencing with Section 1962) of Division 2.5 of the Streets and Highways Code, and to amend Sections 21251 and 21260 of the Vehicle Code, relating to neighborhood electric vehicles.

**ASSEMBLY BILL NO. 62—Monning.** An act to add Article 5.227 (commencing with Section 14168) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

**ASSEMBLY BILL NO. 63—Donnelly.** An act to amend Sections 68074, 68075, and 68130.5 of the Education Code, and to repeal Section 1 of Chapter 814 of the Statutes of 2001, relating to public postsecondary education.

**ASSEMBLY BILL NO. 64—Jeffries.** An act to add Section 5080.42 to the Public Resources Code, relating to state parks.

**ASSEMBLY BILL NO. 65—Gatto.** An act to amend Section 9087 of the Elections Code, and to amend Section 88003 of the Government Code, relating to elections.

**ASSEMBLY BILL NO. 66—Chesbro (Principal coauthor: Galgiani) (Principal coauthors: Senators Rubio and Wolk) (Coauthors: Bradford, Monning, V. Manuel Pérez, Solorio, Torres, Wieckowski, and Yamada) (Coauthor: Senator Evans).** An act to amend Section 10752.2 of the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

**ASSEMBLY BILL NO. 67—Huber.** An act to add Section 1203.077 to the Penal Code, relating to sentencing.

**ASSEMBLY BILL NO. 68—Beall.** An act to amend Section 98 of the Revenue and Taxation Code, relating to local government finance.

**ASSEMBLY BILL NO. 69—Beall.** An act to add Section 18924 to the Welfare and Institutions Code, relating to public social services.

**ASSEMBLY BILL NO. 70—Monning.** An act to add Chapter 5 (commencing with Section 127640) to Part 2 of Division 107 of the Health and Safety Code, relating to public health.

**ASSEMBLY BILL NO. 71—Huber.** An act to amend Sections 86109.5 and 86116 of, and to add Section 86119 to, the Government Code, relating to the Political Reform Act of 1974.

**ASSEMBLY BILL NO. 72—Eng.** An act to amend Section 1373.10 of the Health and Safety Code, and to amend Sections 10127.3 and 10176 of the Insurance Code, relating to health care coverage.

**ASSEMBLY BILL NO. 73—Feuer.** An act relating to juveniles.

**ASSEMBLY BILL NO. 74—Ma.** An act to add Section 421 to the Penal Code, relating to public events.

**ASSEMBLY BILL NO. 75—Hill.** An act to amend Sections 17533.6 and 17537.9 of the Business and Professions Code, to amend Section 1195 of the Civil Code, to amend Section 3505 of the Commercial Code, and to amend Sections 8205, 8208, 8211, and 27287 of, and to add Section 12181 to, the Government Code, relating to documents.

**ASSEMBLY BILL NO. 76—Harkey.** An act to add Chapter 20.1 (commencing with Section 2704.30) to Division 3 of the Streets and Highways Code, relating to high-speed rail.

**ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 9—Gatto.** A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 8 and 10 of Article II thereof, relating to initiatives.

**ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 10—Gatto.** A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 10 of Article II thereof, relating to initiatives.

**ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 11—Gatto.** A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 8 of Article II thereof, relating to initiatives.

**ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 12—Gatto.** A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 8 of, and by adding Section 8.5 to, Article II thereof, relating to initiatives.

**ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 13—Nestande.** A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 12 of Article IV thereof, relating to the state budget.

**At 2:09 p.m., Speaker pro Tempore Fiona Ma, 12th District, presiding**

**ASSEMBLY BILL NO. 1 TAKEN UP BY UNANIMOUS CONSENT  
FOR SECOND READING**

Assembly Member Calderon was granted unanimous consent to take up Assembly Bill No. 1 without reference to committee or file, for the purpose of reading the bill a second time.

**ASSEMBLY BILL NO. 1—**An act relating to education finance, and making an appropriation therefor, to take effect immediately as an appropriation for the usual and current expenses of the state.

Bill read second time, and ordered to third reading.



**ADJOURN IN MEMORY**

Assembly Member Knight was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Specialist Matthew W. Ramsey, United States Army, resident of Quartz Hill.

(Assembly Rule 45.5 suspended.)

**ADJOURN IN MEMORY**

Assembly Member Nestande was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Officer Ryan Bonaminio, Riverside Police Department, resident of Riverside.

(Assembly Rule 45.5 suspended.)

**ADJOURN IN MEMORY**

Assembly Members Nielsen, Calderon, and Wieckowski were granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Hon. Alister McAlister, Member of the Assembly from 1970 to 1984, resident of Wilton.

(Assembly Rule 45.5 suspended.)

**ADJOURN IN MEMORY**

Assembly Member Nielsen was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Specialist Derek Todd Simonetta, United States Army, resident of Shasta Lake.

(Assembly Rule 45.5 suspended.)

**ADJOURN IN MEMORY**

Assembly Member Nielsen was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Hon. Virgil O'Sullivan, California State Senator from 1958 to 1966, resident of Colusa.

(Assembly Rule 45.5 suspended.)

**ADJOURN IN MEMORY**

Assembly Member Eng was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Deputy Probation Officer Christopher Kuk, Los Angeles County Office of Probation, resident of Arcadia.

(Assembly Rule 45.5 suspended.)

**ADJOURN IN MEMORY**

Assembly Member Lowenthal was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Don Foltz of Long Beach.

(Assembly Rule 45.5 suspended.)

**ADJOURN IN MEMORY**

Assembly Member Calderon was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Hon. Jenny Oropeza, California State Senator from 2007 to 2010 and Member of the Assembly from 2000 to 2006, resident of Long Beach.

(Assembly Rule 45.5 suspended.)

**ADJOURN IN MEMORY**

Assembly Member Hagman was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Joyce Butler of Chino Hills.

(Assembly Rule 45.5 suspended.)

**ANNOUNCEMENTS**

Speaker pro Tempore Ma announced the following session schedule:  
Tuesday, January 4, 2011, Check-in Session, 7 a.m.–3 p.m.;  
Wednesday, January 5, 2011, Check-in Session, 7 a.m.–3 p.m.;  
Thursday, January 6, 2011, Floor Session, 9 a.m.

**COMMITTEE MEETING ANNOUNCEMENTS**

Speaker pro Tempore Ma announced that the Committee on Rules would meet today, upon adjournment of Floor Session, in the Tom Bane Rules Committee Room.

**ADJOURN IN MEMORY**

Assembly Member Butler was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Paula Schulman Lucks of Los Angeles and Jim Deutsch of Hermosa Beach.

Assembly Member Bradford was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Roderick Jones of Gardena.

Assembly Member Dickinson was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Marvion Dashawn Barksdale, Monique Roxanne Nelson, and Ivan Jay King of Sacramento, and Carolyn Ann Martinez (Hall) of Roseville.

Assembly Member Feuer was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Lester Ziffren of Beverly Hills and Virginia Knight of Hancock Park.

Assembly Member Gordon was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Hon. Egon Jensen, resident and former Mayor of Los Gatos.

Assembly Member Lowenthal was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Layne Kevin Johnson, Rita Mary Boyd, and Jack Kyser of Long Beach.

Assembly Member Solorio was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Robert Balen of Lake Forest and Maryann Martinez of Long Beach.

Assembly Member Portantino was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Anthony “Tony” Stewart of Altadena and Jacob Maarse of Pasadena.

**MOTION TO ADJOURN**

At 2:30 p.m., Assembly Member Calderon moved that the Assembly do now adjourn.

Assembly Member Hagman seconded the motion.

Motion carried.

**INTRODUCTION AND FIRST READING OF  
ASSEMBLY BILLS**

The following bills were introduced and read the first time:

**ASSEMBLY BILL NO. 77—Gorell.** 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.

**ASSEMBLY BILL NO. 78—Mendoza.** An act to submit an advisory question to the voters relating to immigration, calling an election, to take effect immediately.

**ASSEMBLY BILL NO. 79—Beall.** An act to add Article 7 (commencing with Section 92170) to Chapter 2 of Part 57 of Division 9 of Title 3 of the Education Code, and to add Sections 17053.49 and 23649 to the Revenue and Taxation Code, relating to qualified research expenses.

**ASSEMBLY BILL NO. 80—Fong.** An act to amend Sections 340, 1000, 1001, and 1202 of the Elections Code, relating to elections.

**INTRODUCTION OF GUESTS**

Assembly Member Calderon, of the 58th Assembly District, introduced Hon. Howard Berman, U.S. Representative for California's 28th Congressional District and former Member of the Assembly from 1973 to 1982.

Speaker pro Tempore Ma, of the 12th Assembly District, introduced Hon. Jim Costa, U.S. Representative for California's 20th Congressional District, former Member of the Assembly from 1978 to 1994 and State Senator from 1994 to 2002.

**ADJOURNMENT**

At 3 p.m., pursuant to the motion by Assembly Member Calderon, the Assembly adjourned until 7 a.m., Tuesday, January 4, 2011, out of respect to the memory of Specialist Matthew W. Ramsey on motion of Assembly Member Knight; out of respect to the memory of Officer Ryan Bonaminio on motion of Assembly Member Nestande; out of respect to the memory of Hon. Alistair McAlister on motion of Assembly Members Nielsen, Calderon, and Wieckowski; out of respect to the memory of Derek Todd Simonetta on motion of Assembly Member Nielsen; out of respect to the memory of Hon. Virgil O’Sullivan on motion of Assembly Member Nielsen; out of respect to the memory of Deputy Probation Officer Christopher Kuk on motion of Assembly Member Eng; out of respect to the memory of Don Foltz on motion of Assembly Member Lowenthal; out of respect to the memory of Hon. Jenny Oropeza on motion of Assembly Member Calderon; out of respect to the memory of Joyce Butler on motion of Assembly Member Hagman; out of respect to the memory of Paula Schulman Lucks and Jim Deutsch on motion of Assembly Member Butler; out of respect to the memory of Roderick Jones on motion of Assembly Member Bradford; out of respect to the memory of Marvion Dashawn Barksdale, Monique Roxanne Nelson, Ivan Jay King, and Carolyn Ann Martinez (Hall) on motion of Assembly Member Dickinson; out of respect to the memory of Lester Ziffren and Virginia Knight on motion of Assembly Member Feuer; out of respect to the memory of Hon. Egon Jensen on motion of Assembly Member Gordon; out of respect to the memory of Layne Kevin Johnson, Rita Mary Boyd, and Jack Kyser on motion of Assembly Member Lowenthal; out of respect to the memory of Robert Balen and Maryann Martinez on motion of Assembly Member Solorio; and out of respect to the memory of Anthony “Tony” Stewart and Jacob Maarse on motion of Assembly Member Portantino.

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JOHN A. PÉREZ, Speaker

AMY LEACH, Minute Clerk