

CALIFORNIA LEGISLATURE
2005–06 REGULAR SESSION

ASSEMBLY DAILY JOURNAL

Monday, January 10, 2005

SIXTH SESSION DAY

THIRTY-SIXTH CALENDAR DAY

AT SACRAMENTO, CALIFORNIA



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 10, 2005

The Assembly met at 12:01 p.m.
Hon. Leland Y. Yee, Speaker pro Tempore of the Assembly,
presiding.
Chief Clerk E. Dotson Wilson at the Desk.
Assistant Clerk Brian Ebbert reading.

ROLL CALL

The roll was called.

Quorum Call of the Assembly

Assembly Member Frommer moved a quorum call of the Assembly.

Quorum Present

At 12:03 p.m., Speaker pro Tempore Yee declared a quorum of the Assembly present.

The roll call was completed, and the following answered to their names—77:

Aghazarian	Dymally	Laird	Richman
Arambula	Emmerson	Leno	Ridley-Thomas
Baca	Evans	Leslie	Ruskin
Bass	Frommer	Levine	Saldaña
Benoit	Garcia	Lieber	Salinas
Berg	Goldberg	Liu	Spitzer
Bermúdez	Gordon	Matthews	Strickland
Blakeslee	Hancock	Maze	Torrico
Bogh	Haynes	McCarthy	Tran
Calderon	Horton, Jerome	Montañez	Umberg
Canciamilla	Horton, Shirley	Mountjoy	Vargas
Chan	Houston	Mullin	Villines
Chavez	Huff	Nakanishi	Walters
Chu	Jones	Nation	Wolk
Cogdill	Karnette	Nava	Wyland
Cohn	Keene	Negrete McLeod	Yee
Coto	Klehs	Niello	Mr. Speaker
Daucher	Koretz	Parra	
De La Torre	La Malfa	Pavley	
DeVore	La Suer	Plescia	

PRAYER

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

Lord, Your righteousness endures forever, yet it is easy for us to seek false pursuits. How easy it is for us to pray for a winning lottery ticket, yet difficult to thank You for the joy You have already given us. Help us, Lord, to trust You in our life, to appreciate the abundance of blessings You provide. Keep us safe as we conduct the business set before us this day and always.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker pro Tempore Yee, Assembly Member Benoit 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 Frommer, seconded by Assembly Member Cogdill.

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 Runner.

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

Because of illness: Assembly Member Oropeza.

EXPLANATIONS OF ABSENCE

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

January 5, 2005

*The Honorable Fabian Núñez
Speaker of the Assembly
State Capitol, Room 219
Sacramento, California*

Dear Speaker Núñez: I am writing to request an excused absence for January 10, 2005. I will be in my district on legislative business, speaking at the BRAC Commission Meeting being held in Lancaster that day.

Should you have any questions regarding this request, please contact Aaron Bone in my office at 319-2036.

Sincerely,

SHARON RUNNER, Assembly Member
Thirty-sixth District

MESSAGES FROM THE SENATE

Senate Chamber, January 6, 2005

Mr. Speaker: I am directed to inform your honorable body that the Senate on this day adopted:

Senate Concurrent Resolution No. 3

GREGORY P. SCHMIDT, Secretary of the Senate
By David Valverde, Assistant Secretary

FIRST READING OF SENATE BILLS

The following resolution was read:

SENATE CONCURRENT RESOLUTION NO. 3—Relative to Dr. Martin Luther King, Jr. Day.

COMMUNICATIONS

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

January 7, 2005

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

RE: Appointment of Wilma Chan and Greg Aghazarian to Health Care Quality Improvement and Cost Containment Commission

Dear Mr. Wilson: Please be advised I have appointed Assemblymember Wilma Chan and Assemblymember Greg Aghazarian to the Health Care Quality Improvement and Cost Containment Commission. This is a pleasure appointment starting January 7, 2005.

Sincerely,

FABIAN NUÑEZ
Speaker of the Assembly

PROPOSED INITIATIVES

The following communication was presented by the Chief Clerk from:

Tricia Knight, Initiative Coordinator, Department of Justice, Office of the Attorney General, Sacramento, dated January 4, 2005, transmitting copies of the title, summary, and text of the following proposed initiative, pursuant to Section 9007, Elections Code:

**Public Schools. Restrictions on Sex-Related Instruction.
Initiative Statute. SA 2004RF0033**

Referred by the Speaker to the Committee on Education.

REPORTS

The following reports were presented by the Chief Clerk:

**2003–04 Consulting Services Contract Report
(Pursuant to Public Contract Code Section 10369)**

Above transmitted report, together with letter of transmittal from Ann Barsotti, Acting Director, Office of Stephen P. Teale Data Center, dated December 16, 2004, referred by the Speaker to the Committee on Business and Professions.

**Department of Corporations Continuation of Fee Reductions
(Pursuant to Senate Bill 742, Chapter 118, Statutes of 2001)**

Above transmitted report, together with letter of transmittal from Janice Lumsden, Acting Chief Deputy Commissioner, Department of Corporations, dated November 22, 2004, referred by the Speaker to the Committee on Budget.

**Findings of Pilot Program on
Civil Settlement Offers and Attorney Fees Conducted in
the Superior Court of Riverside County
(Pursuant to Code of Civil Procedure Section 1021.1)**

Above transmitted report, together with letter of transmittal from William C. Vickrey, Administrative Director of the Courts, Judicial Council of California, dated December 9, 2004, referred by the Speaker to the Committee on Judiciary.

**Report on Purchase and Lease of Recording Equipment by Superior Courts
(Pursuant to Senate Bill 1102, Chapter 227, Statutes of 2004)**

Above transmitted report, together with letter of transmittal from William C. Vickrey, Administrative Director of the Courts, Judicial Council of California, dated December 20, 2004, referred by the Speaker to the Committee on Budget.

**Annual Staff Report on the Management of State Schools Lands
Fiscal Year 2003–04 (Pursuant to Public Resources Code Section 6477)**

Above transmitted report, together with letter of transmittal from Paul D. Thayer, Executive Officer, California State Lands Commission, dated December 21, 2004, referred by the Speaker to the Committee on Natural Resources.

**2003 Status Report on the Pesticide Contamination Prevention Act
(Pursuant to Food and Agricultural Code Section 13144 (b))**

Above transmitted report, together with letter of transmittal from Paul Helliker, Director, Department of Pesticide Regulation, referred by the Speaker to the Committee on Environmental Safety and Toxic Materials.

**San Diego Consolidated Transportation Agency: Annual Report
(Pursuant to Senate Bill 1703, Chapter 743, Statutes of 2002)**

Above transmitted report, together with letter of transmittal from Hon. Mickey Cafagna, Chairman, SANDAG, Board of Directors, Mayor, City of Poway, San Diego Association of Governments (SANDAG), dated December 17, 2004, referred by the Speaker to the Committee on Transportation.

**Financial Statements for the Year Ended June 30, 2004 and
Independent Auditor's Report
(Pursuant to Government Code Section 20228)**

Above transmitted report, together with letter of transmittal from Sean Harrigan, President, Board of Administration, California Public Employees' Retirement System, dated December 29, 2004, referred by the Speaker to the Committee on Public Employees, Retirement and Social Security.

**2004 Report to the California Legislature
(Pursuant to Government Code Sections 14535–14536)**

Above transmitted report, together with letter of transmittal from Joseph Tavaglione, Chair, California Transportation Commission, dated January 3, 2005, referred by the Speaker to the Committee on Transportation.

**2002–03 Emergency Medical Services Fund (EMS) Report
(Pursuant to Health and Safety Code Section 1797.98a) from:**

Napa County, Health and Human Services, Molly Rattigan, Staff Services Analyst, dated December 30, 2004.

Referred by the Speaker to the Committee on Health.

**2003–04 Emergency Medical Services Fund (EMS) Report
(Pursuant to Health and Safety Code Section 1797.98a) from:**

Siskiyou County, Ann Cameron, Assistant Auditor Controller, dated December 21, 2004;

Alameda County, Health Care Services Agency, Ricardo E. Naval, Financial Services Specialist, Public Health Department, Budgets and Contracts, dated January 4, 2005.

Referred by the Speaker to the Committee on Health.

ENGROSSMENT AND ENROLLMENT REPORTS

Assembly Chamber, January 10, 2005

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:

Assembly Concurrent Resolution No. 4

And reports the same correctly engrossed.

E. DOTSON WILSON, Chief Clerk

Above resolution ordered on file.

SPECIAL COMMITTEE MEETINGS

By unanimous consent, the following committees were permitted to meet:

Joint Legislative Audit Committee, on Thursday, January 20, 2005, upon adjournment of Floor Session, in Room 4202.

REQUEST FOR PHOTOGRAPHER

Assembly Member Frommer was granted unanimous consent that a photographer be permitted on the Floor of the Assembly.

CONSIDERATION OF DAILY FILE

THIRD READING OF ASSEMBLY BILLS

ASSEMBLY CONCURRENT RESOLUTION NO. 4 (Chu)—Relative to Korean-American Day.

Resolution read.

**Members Made Coauthors of
Assembly Concurrent Resolution No. 4**

Assembly Member Chu was granted unanimous consent to open the roll for the purpose of permitting Members to add as coauthors of Assembly Concurrent Resolution No. 4.

Roll Call

The following Assembly Members indicated a desire to become coauthors:

Aghazarian, Arambula, Baca, Benoit, Berg, Bermúdez, Blakeslee, Bogh, Calderon, Chavez, Cogdill, Cohn, Coto, Daucher, De La Torre, DeVore, Dymally, Emmerson, Evans, Garcia, Goldberg, Gordon, Hancock, Jerome Horton, Houston, Huff, Jones, Karnette, Keene, Klehs, Koretz, La Malfa, La Suer, Leno, Leslie, Levine, Lieber, Matthews, Maze, McCarthy, Mountjoy, Mullin, Nation, Nava, Negrete McLeod, Niello, Parra, Pavley, Plescia, Richman, Ruskin, Saldaña, Salinas, Strickland, Umberg, Vargas, Villines, Walters, Wolk, and Wyland.

Request for Unanimous Consent

Assembly Member Chu was granted unanimous consent to take up Assembly Concurrent Resolution No. 4, as amended, without reference to print or file, and that the same be considered engrossed.

Consideration of Assembly Concurrent Resolution No. 4, as Amended

ASSEMBLY CONCURRENT RESOLUTION NO. 4—Relative to Korean-American Day.

Resolution read, as amended, and adopted.

Resolution ordered printed, and transmitted to the Senate.

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following resolution was referred to committee:

Senate Concurrent

Resolution No.

Committee

3 ----- Rls.

RECESS

By unanimous consent, at 12:16 p.m., Speaker pro Tempore Yee declared the Assembly recessed to permit the introduction of special guests.

Assembly Member Chu introduced Steven Koh, President, Korean American Foundation, William P. Min, Vice President, Korean American Foundation, and Eunji Seo, Consul, Korean Consulate General of San Francisco.

Assembly Member Chu then presented a resolution to the Korean American Foundation.

RECONVENED

At 12:18 p.m., the Assembly reconvened.

Hon. Leland Yee, Speaker pro Tempore of the Assembly, presiding.

COMMITTEE MEETING ANNOUNCEMENTS

Assembly Member Montañez announced that the Committee on Rules would meet immediately, in the Tom Bane Rules Committee Room.

MEMBERS EXCUSED FOR COMMITTEE MEETING

At 12:19 p.m., by unanimous consent, the members of the Committee on Rules were excused for the purpose of attending a meeting of the committee at this time, in the Tom Bane Rules Committee Room, and without objection, the House was permitted to continue in Floor session.

ANNOUNCEMENTS

Speaker pro Tempore Yee announced the following session schedule:

- Tuesday, January 11, 2005, Check-in Session, 7 a.m.–3 p.m.;
- Wednesday, January 12, 2005, Check-in Session, 7 a.m.–3 p.m.;
- Thursday, January 13, 2005, Check-in Session, 7 a.m.–3 p.m.;
- Friday, January 14, 2005, Floor Session, 9:30 a.m.

ADJOURN IN MEMORY

Assembly Member Cohn was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Madge Overhouse, of Los Gatos.

(Assembly Rule 45.5 suspended.)

ADJOURN IN MEMORY

Assembly Member De La Torre was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Rosemary Kennedy, of Jefferson, Wisconsin.

(Assembly Rule 45.5 suspended.)

ADJOURN IN MEMORY

Assembly Member Koretz was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Makgatho Mandela, of South Africa.

(Assembly Rule 45.5 suspended.)

ADJOURN IN MEMORY

Assembly Member Negrete McLeod was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Cecilia Lowe-Venable, of San Bernardino.

(Assembly Rule 45.5 suspended.)

ADJOURN IN MEMORY**Moment of Silence Observed**

Assembly Member Tran was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Dr. Henry Tran, of Stockton, and that the Assembly observed a moment of silence in his honor.

(Assembly Rule 45.5 suspended.)

ADJOURN IN MEMORY

Assembly Member Hancock was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Prof. Martin Laudeau, of Berkeley.

(Assembly Rule 45.5 suspended.)

ADJOURN IN MEMORY

Assembly Member Aghazarian was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Sgt. Howard Stevenson, of the Ceres Police Department.

Assembly Member Berg was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Joan Jane Klopp, of Arcata; Joyce Jane Ingebretsen, of Eureka; Brian King, of McKinleyville; and Joshua Cullen Heston, of Ukiah.

Assembly Member Bogh was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Raymond Lewis, of Beaumont.

Assembly Member Shirley Horton was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Ernie Flores, Jr., of San Diego.

Assembly Member Wolk was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Shirley Mae Stotts, of Davis; Max E. Jones, of Dixon; Carol Jeanne Adkins, Frederic A. Glidden, Harry W. Lim, Shirley J. Locke, and Davis M. Venegas, of Fairfield; Esther May Campbell and Emilee J. Wilson, of Vacaville; and Maurice G. Philleo, of Woodland.

REPORTS OF STANDING COMMITTEES
Committee on Rules

Date of Hearing: January 10, 2005

Mr. Speaker: Your Committee on Rules reports:

Senate Concurrent Resolution No. 3

With the recommendation: Be adopted.

MONTAÑEZ, Chair

SENATE CONCURRENT RESOLUTION NO. 3 TAKEN UP
BY UNANIMOUS CONSENT

Assembly Member Dymally was granted unanimous consent to take up Senate Concurrent Resolution No. 3, without reference to file.

SENATE CONCURRENT RESOLUTION NO. 3—Relative to Dr. Martin Luther King, Jr. Day.

Resolution read.

Members Made Coauthors of
Senate Concurrent Resolution No. 3

Assembly Member Dymally was granted unanimous consent to open the roll for the purpose of permitting Members to add as coauthors of Senate Concurrent Resolution No. 3.

Roll Call

The following Assembly Members indicated a desire to become coauthors:

Aghazarian, Arambula, Baca, Benoit, Berg, Bermúdez, Blakeslee, Bogh, Calderon, Canciamilla, Chan, Chavez, Chu, Cogdill, Cohn, Coto, Daucher, De La Torre, DeVore, Emmerson, Evans, Frommer, Garcia, Goldberg, Gordon, Hancock, Shirley Horton, Houston, Huff, Jones, Karnette, Keene, Klehs, Koretz, La Malfa, La Suer, Laird, Leno, Leslie, Levine, Lieber, Liu, Matthews, Maze, McCarthy, Montañez, Mountjoy, Mullin, Nakanishi, Nation, Nava, Negrete McLeod, Niello, Núñez, Parra, Pavley, Plescia, Richman, Ruskin, Saldaña, Salinas, Strickland, Torrico, Tran, Umberg, Vargas, Villines, Walters, Wolk, Wyland, and Yee.

Request for Unanimous Consent

Assembly Member Dymally was granted unanimous consent to take up Senate Concurrent Resolution No. 3, as amended, without reference to print or file, and that the same be considered engrossed.

Consideration of Senate Concurrent Resolution No. 3, as Amended

SENATE CONCURRENT RESOLUTION NO. 3—Relative to Dr. Martin Luther King, Jr. Day.

Resolution read, as amended, and adopted.

Resolution ordered transmitted to the Senate immediately.

MOTION TO ADJOURN

At 12:41 p.m., Assembly Member Frommer moved that the Assembly do now adjourn.

Assembly Member Cogdill seconded the motion.

Motion carried.

QUORUM CALL OF THE ASSEMBLY DISPENSED WITH

At 12:42 p.m., Speaker pro Tempore Yee declared the quorum call of the Assembly dispensed with.

MESSAGES FROM THE GOVERNOR

The following message from the Governor was received and ordered printed in the Journal:

Governor's Office, Sacramento
January 10, 2005

To the Senate and Assembly of the Legislature of California:

In a difficult fiscal environment, this balanced budget provides a 4.2 percent increase in General Fund spending over last year to protect essential programs like education and social services. It does not raise taxes on working families and businesses that create jobs. And, it lays the groundwork for fundamental budget reform that our state desperately needs.

Just one year ago, California was facing economic ruin. We were staring at a budget gap of more than \$14 billion and a cash crisis of \$14 billion in June that would have sent the state into bankruptcy.

We chose a different path. We joined together to take action and began turning around years of fiscal mismanagement. Republicans and Democrats put Propositions 57 and 58 before the people of California, who gave it their solid approval. And, Republicans and Democrats passed a budget that began to bring spending in line with revenues—without raising taxes.

Last year, we stopped the bleeding. This year, we must begin to heal the patient.

Because of our formula-driven system of budgeting, we face a budget gap of more than \$9 billion if we do nothing. The budget I send to you today will close that gap, and do so again without raising taxes.

But unless we act to fundamentally change the laws that put so much of our spending on automatic pilot, we will continue to face huge deficits—year after year after year. We must fix a budget system that is broken. We must change the way that state government spends the people's money. That is why budget reform is a critical part of the reform agenda I will ask you to approve in a Special Session.

The California recovery is underway, bringing with it more jobs and growing revenues. However, if we leave in place a budget system that forces us to spend more money than we take in, we will fail to solve one of the most critical problems the people of California sent us to Sacramento to fix—the state budget.

Last year, we worked as partners to begin to make change. I ask you to continue our partnership this year to make even greater progress for the people.

Therefore, in accordance with Article IV, Section 12 of the California Constitution, I submit to you the Governor's Budget for 2005–06.

Sincerely,

ARNOLD SCHWARZENEGGER

Accompanying CD-Rom of the Budget and Budget Summary ordered filed with the Secretary of State.

MESSAGES FROM THE SENATE

Senate Chamber, January 10, 2005

Mr. Speaker: I am directed to inform your honorable body that the Senate on this day concurred in Assembly amendments to:

Senate Concurrent Resolution No. 3

GREGORY P. SCHMIDT, Secretary of the Senate
By David Valverde, Assistant Secretary

**INTRODUCTION AND FIRST READING OF
ASSEMBLY BILLS**

The following bills were introduced and read the first time:

ASSEMBLY BILL NO. 89—Jerome Horton. An act to add Division 1.7 (commencing with Section 1190) to the Health and Safety Code, and to add Chapter 17 (commencing with Section 12694) to Part 6.2 of Division 2 of the Insurance Code, relating to health care coverage.

ASSEMBLY BILL NO. 90—Laird. An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, and declaring the urgency thereof, to take effect immediately.

ASSEMBLY BILL NO. 91—Bogh and Garcia. An act to amend Section 148 of the Penal Code, relating to arrests.

ASSEMBLY BILL NO. 92—Leslie. An act to amend Section 9900 of the Government Code, relating to the Legislature.

ASSEMBLY BILL NO. 93—Jerome Horton. An act to amend Sections 60510 and 60511 of the Education Code, relating to instructional materials.

ASSEMBLY BILL NO. 94—Haynes. An act to add Section 11091.5 to the Government Code, relating to state agency finances.

ASSEMBLY BILL NO. 95—Koretz (Coauthors: Bass, Chan, Evans, and Pavley). An act to add Division 112 (commencing with Section 140000) to the Health and Safety Code, relating to prescription drugs.

ADJOURNMENT

At 3 p.m., pursuant to the motion by Assembly Member Frommer, the Assembly adjourned until 7 a.m., Tuesday, January 11, 2005, out of respect to the memory of Madge Overhouse, on motion of Assembly Member Cohn; out of respect to the memory of Rosemary Kennedy, on motion of Assembly Member De La Torre; out of respect to the memory of Makgatho Mandela, on motion of Assembly Member Koretz; out of respect to the memory of Cecilia Lowe-Venable, on motion of Assembly Member Negrete McLeod; out of respect to the memory of Dr. Henry Tran, on motion of Assembly Member Tran; out of respect to the memory of Prof. Martin Laudeau, on motion of Assembly Member Hancock; out of respect to the memory of Sgt. Howard Stevenson, on motion of Assembly Member Aghazarian; out of respect to the memory of Joan Jane Klopp, Joyce Jane Ingebretsen, Brian King, and Joshua Cullen Heston, on motion of Assembly Member Berg; out of respect to the memory of Raymond Lewis, on motion of Assembly Member Bogh; out of respect to the memory of Ernie Flores, Jr., on motion of Assembly Member Shirley Horton; and out of respect to the memory of Shirley Mae Stotts, Max E. Jones, Carol Jeanne Adkins, Frederic A. Glidden, Harry W. Lim, Shirley J. Locke, Davis M. Venegas, Esther May Campbell, Emilee J. Wilson, and Maurice G. Philleo, on motion of Assembly Member Wolk.

FABIAN NUÑEZ, Speaker

SUE PARKER, Minute Clerk