

CALIFORNIA LEGISLATURE

2005-06 REGULAR SESSION

ASSEMBLY DAILY JOURNAL

Thursday, February 3, 2005

NINETEENTH SESSION DAY

SIXTIETH 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.

(Please Direct Any Inquiries and Report Any Omissions or Errors to Minute Clerk: Phone 319-2360)

1-MB (1-5)

PROCEEDINGS OF THE ASSEMBLY

IN ASSEMBLY

Assembly Chamber, Sacramento
Thursday, February 3, 2005

The Assembly met at 9:30 a.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 Maze moved a quorum call of the Assembly.

At 9:31 a.m., Speaker pro Tempore Yee placed a quorum call upon
the Assembly.

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

Quorum Present

At 9:34 a.m., Speaker pro Tempore Yee declared a quorum of the
Assembly present.

The roll call was completed, and the following answered to their
names—69:

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

PRAYER

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

Lord, It seems at times that there is nothing a good person can do when everything falls apart. But when we remember that You have Your throne in heaven and that You watch people everywhere and know what they are doing, we are assured that even in the face of failure You can be our help. You are a righteous God and You love good deeds. So even when it may seem like everything is falling apart, help us to seek to do good, so that we will always live in Your presence.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker pro Tempore Yee, Assembly Member Runner 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 Members Leslie, Ridley-Thomas, and Saldaña.

On personal business, and waiving per diem: Assembly Members Keene and Liu.

Because of illness: Assembly Members Bermúdez, Evans, Nation, Negrete McLeod, Oropeza, and Wyland.

EXPLANATIONS OF ABSENCE

Pursuant to the Assembly Rules, the following explanations of absence were ordered printed in the Journal:

January 18, 2005

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

Dear Mr. Speaker: I am requesting approval to be absent from Floor Session on February 3, 2005 due to legislative business.

I will be in Washington D.C. for critical meetings regarding my district with Members of the House of Representatives and the U.S. Senate. I will also be attending a meeting with President Bush.

Thank you for your consideration and if you have any questions, please contact my office at (916) 319-2004.

Sincerely,

TIM LESLIE, Assembly Member
Fourth District

January 26, 2005

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

Dear Mr. Speaker: I write to request permission to be excused from Session on Thursday, February 3. I have Legislative commitments in my District.

Thank you for your assistance in this matter. If you have questions or need more information, please do not hesitate to contact me or to have your designated staff person contact Lourdes Machado, at (916) 319-2048.

With hope,

MARK RIDLEY-THOMAS, Assembly Member
Forty-eighth District

January 27, 2005

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

Dear Mr. Speaker: I respectfully request to be excused from floor session on Thursday, February 3, 2005. I will be in my district conducting legislative business.

Sincerely,

LORI SALDAÑA, Assembly Member
Seventy-sixth District

COMMUNICATIONS

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

February 2, 2005

*Ms. Clarenca Stephen
MedImmune, Inc.
1 MedImmune Way
Gaithersburg, Maryland*

Dear Ms. Stephen: On behalf of the California State Legislature, we are very pleased to accept your generous gift to the Legislature. The flu clinic is to be held on Wednesday, February 2, 2005 in the State Capitol building. The clinic will be available to all legislative staff and to all Capitol employees as well as to any member of the public who wishes to participate.

In accordance with the Ethics in Government Act, the Senate and Assembly Rules Committees are required to send this letter to you as formal acceptance of the gift for use by the Senate and Assembly as a public agency. Also, in accordance with the Act, a public file regarding this gift is available in the Secretary of the Senate office and the Assembly Rules Committee office. It is our understanding that the staff

who will administer the dose are volunteer nurses. This is our formal acceptance of the gift and our acknowledgement of the value (\$79,200) of the FluMist dose and various incidental items.

Again, we are deeply grateful to you for your gift.

Sincerely,

GREG SCHMIDT
Secretary of the Senate

JON WALDIE
Assembly Chief Administrative
Officer

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bills were referred to committee:

Assembly

<i>Bill No.</i>	<i>Committee</i>
18 -----	Rev. & Tax. and L. Gov.
159 -----	L. Gov.
174 -----	L. Gov. and Jud.
179 -----	Hum. S. and Aging & L.T.C.
190 -----	Rev. & Tax.
192 -----	Jud.
193 -----	W.,P. & W. and B. & P.
194 -----	L. Gov.
196 -----	Higher Ed.

Assembly Concurrent

<i>Resolution No.</i>	<i>Committee</i>
6 -----	Ed.

Assembly Joint

<i>Resolution No.</i>	<i>Committee</i>
4 -----	Rev. & Tax.

Senate Concurrent

<i>Resolution No.</i>	<i>Committee</i>
6 -----	Rls.
9 -----	Rls.

SPECIAL COMMITTEE MEETINGS

Assembly Member Frommer was granted unanimous consent that the Committee on Rules be permitted to hold a special meeting at this time, in the Tom Bane Rules Committee Room, for the purpose of setting Senate Concurrent Resolution No. 9 for hearing.

By unanimous consent, the following committee was permitted to meet:

Revenue and Taxation, on Monday, February 7, 2005, at 1:30 p.m., in Room 126.

RECESS

By unanimous consent, at 9:38 a.m., Speaker pro Tempore Yee declared the Assembly recessed.

RECONVENED

At 9:45 a.m., the Assembly reconvened.

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

REPORTS OF STANDING COMMITTEES
Committee on Rules

Date of Hearing: February 3, 2005

Mr. Speaker: Your Committee on Rules reports:

Senate Concurrent Resolution No. 9

With the recommendation: Be adopted.

MONTAÑEZ, Chair

Above resolution ordered to third reading.

Date of Hearing: February 3, 2005

Mr. Speaker: Your Committee on Rules reports:

Assembly Concurrent Resolution No. 9

House Resolution No. 5

With the recommendation: Be adopted.

MONTAÑEZ, Chair

Above resolutions ordered to third reading.

**SENATE CONCURRENT RESOLUTION NO. 9 TAKEN UP
BY UNANIMOUS CONSENT**

Assembly Member Montañez was granted unanimous consent to take up Senate Concurrent Resolution No. 9 without reference to file, for purpose of consideration.

SENATE CONCURRENT RESOLUTION NO. 9 (Kehoe)—Relative to heart disease.

Resolution read.

Members Made Coauthors of Senate Concurrent Resolution No. 9

Assembly Member Montañez was granted unanimous consent to open the roll for the purpose of permitting Members to add as coauthors of Senate Concurrent Resolution No. 9.

Roll Call

The following Assembly Members indicated a desire to become coauthors:

Aghazarian, Arambula, Baca, Bass, Benoit, Berg, Blakeslee, Bogh, Calderon, Canciamilla, Chavez, Chu, Cogdill, Cohn, Coto, Daucher, De La Torre, DeVore, Dymally, Emmerson, Frommer, Garcia, Goldberg, Gordon, Hancock, Harman, Jerome Horton, Shirley Horton, Houston, Jones, Karnette, Klehs, Koretz, La Malfa, La Suer, Laird, Leno, Levine, Lieber, Matthews, Maze, McCarthy, Montañez, Mountjoy, Mullin, Nakanishi, Nava, Niello, Núñez, Parra, Pavley, Plescia, Richman, Runner, Ruskin, Salinas, Strickland, Torrico, Tran, Umberg, Vargas, Villines, Walters, Wolk, and Yee.

Request for Unanimous Consent

Assembly Member Montañez was granted unanimous consent to take up Senate Concurrent Resolution No. 9, as amended, without reference to print or file.

Consideration of Senate Concurrent Resolution No. 9, as Amended

SENATE CONCURRENT RESOLUTION NO. 9—Relative to heart disease.

Resolution read, as amended, and adopted.

Resolution ordered printed, and transmitted to the Senate.

SPECIAL RECOGNITION

The Members of the Assembly joined in extending best wishes to Assembly Member Parra on the occasion of her birthday.

ANNOUNCEMENTS

Speaker pro Tempore Yee announced that the Joint Legislative Audit Committee hearing scheduled for today has been postponed until Tuesday, February 22, 2005, upon adjournment of Floor Session.

ADJOURN IN MEMORY

Assembly Member Dymally was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Rosamond Bolden, of Richmond.

(Assembly Rule 45.5 suspended.)

ADJOURN IN MEMORY**Moment of Silence Observed**

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 the victims of Auschwitz, in honor of the 60th anniversary of the concentration camp's liberation, and that the Assembly observe a moment of silence in their honor.

(Assembly Rule 45.5 suspended.)

ADJOURN IN MEMORY

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. Paul Berger, of Fountain Valley.

(Assembly Rule 45.5 suspended.)

ADJOURN IN MEMORY

Assembly Member Laird was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of LCpl. Joseph Spence, of Scotts Valley.

(Assembly Rule 45.5 suspended.)

ADJOURN IN MEMORY

Assembly Members Mullin and Ruskin were granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Susan Jean Caldwell and Nina Garrison, of South San Francisco.

(Assembly Rule 45.5 suspended.)

ADJOURN IN MEMORY

Assembly Member DeVore was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Lieutenant Commander Kenneth E. Taylor, of Irvine.

(Assembly Rule 45.5 suspended.)

ADJOURN IN MEMORY

Assembly Member Leno was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Stan Warren, of San Francisco.

Assembly Member Nakanishi was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Shigeya Kihara, of Monterey.

Assembly Member Parra was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Jessica Govea Thorbourne, of Bakersfield.

Assembly Member Pavley was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Pfc. Kevin M. Luna, of Oxnard.

Assembly Member Spitzer was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of James E. Mizell, II, of Rancho Santa Margarita.

Assembly Member Umberg was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Paul Berger, of Costa Mesa.

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 Deborah S. Matheson, Naum J. Phleger, and Allan M. Reinhart, of Davis; Albert Bishop, Priscilla Hibbs Cerveri, and Lynn Diann Dugoni, of Fairfield; Ambrose Mickey Reguera, of Vacaville; Duane Carlyn Coe, of West Sacramento; Doris Anne Barker, Frieda Wineva Buchholz, Michael Gary Clark, and Glenna B. Sorenson, of Woodland.

VOTE ADDS

The following Assembly Members were granted unanimous consent to record their votes on the following item:

Senate Concurrent Resolution No. 9, Coauthors: De La Torre, Houston, and Umberg—Aye.

MOTION TO ADJOURN

At 10:04 a.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 10:05 a.m., Speaker pro Tempore Yee declared the quorum call of the Assembly dispensed with.

**INTRODUCTION AND FIRST READING OF
ASSEMBLY BILLS**

The following bills were introduced and read the first time:

ASSEMBLY BILL NO. 213—Liu. An act to add Section 1367.666 to the Health and Safety Code, and to add Section 10123.175 to the Insurance Code, relating to health care coverage.

ASSEMBLY BILL NO. 214—Richman. An act to add Section 20037.1 to the Government Code, relating to retirement benefits.

ASSEMBLY BILL NO. 215—Oropeza. An act to amend Section 13307 of, and to add Section 9093.5 to, the Elections Code, relating to elections.

ASSEMBLY BILL NO. 216—Oropeza. An act to amend Section 12241 of the Elections Code, relating to elections.

ASSEMBLY BILL NO. 217—Vargas. An act to add Article 6.5 (commencing with Section 1312) to Chapter 2 of Division 2 of the Health and Safety Code, relating to sex offenders.

ASSEMBLY BILL NO. 218—Maze. An act to add and repeal Section 17053.19 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

ASSEMBLY BILL NO. 219—Nakanishi. An act to add Section 12812 to the Government Code, relating to state agencies.

ASSEMBLY BILL NO. 220—Committee on Public Safety (Leno (Chair), Cohn, Dymally, Goldberg, Ruskin, and Spitzer). An act to amend Sections 4801, 5075.5, and 13823.9 of the Penal Code, to amend Section 3030 of the Family Code, and to amend Section 340.3 of the Code of Civil Procedure, relating to domestic violence.

ASSEMBLY BILL NO. 221—Bogh. An act to add Section 2933.7 to the Penal Code, relating to crimes.

ASSEMBLY BILL NO. 222—Bogh. An act to amend Sections 17250.30 and 81704 of the Education Code, to amend Section 6531 of, and to repeal Section 61620.1 of, the Government Code, to add Section 1771.3 to, and to repeal Sections 1771.5, 1771.7, 1771.8, and 1771.9 of, the Labor Code, and to amend Sections 20133, 20175.1, 20209.7, and 20919.3 of the Public Contract Code, relating to public contracts.

ASSEMBLY BILL NO. 223—Negrete McLeod (Coauthors: Shirley Horton, Matthews, and Maze). An act to amend Section 10170.5 of the Business and Professions Code, relating to real estate.

ASSEMBLY BILL NO. 224—Negrete McLeod. An act to amend Sections 20352, 20638, 31453, 31461.3, 31700, 31831, 31831.2, 31833, 31834, 31835, and 31837 of, and to repeal Sections 20355, 20356, 31835.02, 31837.1, 31840.4, 31840.15, 31840.6, and 31840.7 of, the Government Code, relating to county employees' retirement.

ASSEMBLY BILL NO. 225—Negrete McLeod. An act to amend Section 650 of the Business and Professions Code, relating to healing arts.

ASSEMBLY BILL NO. 226—Negrete McLeod. An act to amend Section 473.4 of the Business and Professions Code, relating to regulatory programs.

ASSEMBLY BILL NO. 227—Daucher. An act to add Section 4656.5 to the Labor Code, relating to workers' compensation.

ASSEMBLY BILL NO. 228—Koretz (Principal coauthor: Pavley) (Coauthors: Goldberg, Laird, Leno, and Lieber) (Coauthor: Senator Kuehl). An act to add Section 1374.17 to the Health and Safety Code, and to add Section 10123.21 to the Insurance Code, relating to health care coverage.

RESOLUTIONS

The following resolutions were offered:

ASSEMBLY CONCURRENT RESOLUTION NO. 12—Chavez. Relative to California Museum Month.

ASSEMBLY CONCURRENT RESOLUTION NO. 13—Wolk and Koretz (Coauthors: Canciamilla, Chan, Chavez, Cohn, Hancock, Shirley Horton, Huff, Jones, Maze, Nakanishi, Niello, Pavley, Salinas, Spitzer, Umberg, and Yee) (Coauthors: Senators Bowen, Chesbro, Kuehl, Scott, and Soto). Relative to Spay Day USA 2005.

ASSEMBLY JOINT RESOLUTION NO. 6—Koretz. Relative to Darfur.

AUTHOR'S AMENDMENTS
Committee on Public Safety

February 3, 2005

Mr. Speaker: The Chair of your Committee on Public Safety reports:

Assembly Bill No. 35

Assembly Bill No. 59

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

LENO, Chair

ASSEMBLY BILL NO. 35—An act to amend Section 290.46 of the Penal Code, relating to sex offenders.

Bill read second time; author's amendments, presented pursuant to Assembly Rules, read and adopted; bill ordered reprinted, and to be re-referred to the committee.

ASSEMBLY BILL NO. 59—An act to add Section 273.55 to the Penal Code, relating to domestic violence.

Bill read second time; author's amendments, presented pursuant to Assembly Rules, read and adopted; bill ordered reprinted, and to be re-referred to the committee.

AUTHOR'S AMENDMENTS
Committee on Health

February 3, 2005

Mr. Speaker: The Chair of your Committee on Health reports:

Senate Bill No. 29

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

CHAN, Chair

SENATE BILL NO. 29—An act relating to public health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

Bill read second time; author's amendments, presented pursuant to Assembly Rules, read and adopted; bill ordered reprinted, and to be re-referred to the committee.

AUTHOR'S AMENDMENTS
Committee on Rules

February 3, 2005

Mr. Speaker: The Chair of your Committee on Rules reports:

Senate Concurrent Resolution No. 6

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

MONTAÑEZ, Chair

SENATE CONCURRENT RESOLUTION NO. 6—Relative to the 60th anniversary of the World War II invasion of the Island of Iwo Jima.

Resolution read; author's amendments, presented pursuant to Assembly Rules, read and adopted; resolution ordered reprinted, and to be re-referred to the committee.

MESSAGES FROM THE SENATE

Senate Chamber, February 3, 2005

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

Senate Bill No. 16

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

Senate Chamber, February 3, 2005

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

Senate Concurrent Resolution No. 2

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

FIRST READING OF SENATE BILLS

The following bill was read the first time:

SENATE BILL NO. 16—An act to repeal and add Section 803 of the Penal Code, relating to criminal procedure, and declaring the urgency thereof, to take effect immediately.

The following resolution was read:

SENATE CONCURRENT RESOLUTION NO. 2—Relative to Arts Education Month.

ADJOURNMENT

At 3 p.m., pursuant to the motion by Assembly Member Frommer, the Assembly adjourned until 12 p.m., Monday, February 7, 2005, out of respect to the memory of Rosamond Bolden, on motion of Assembly Member Dymally; out of respect to the memory of victims of Auschwitz, on motion of Assembly Member Koretz; out of respect to the memory of Dr. Paul Berger, on motion of Assembly Member Tran; out of respect to the memory of Lance Corporal Joseph Spence, on motion of Assembly Member Laird; out of respect to the memory of Susan Jean Caldwell and Nina Garrison, on motion of Assembly Members Mullin and Ruskin; out of respect to the memory of Stan Warren, on motion of Assembly Member Leno; out of respect to the memory of Lieutenant Commander Kenneth E. Taylor, on motion of Assembly Member DeVore; out of respect to the memory of Shigeya Kihara, on motion of Assembly Member Nakanishi; out of respect to the memory of Jessica Govea Thorbourne, on motion of Assembly Member Parra; out of respect to the memory of Pfc. Kevin M. Luna, on motion of Assembly Member Pavley; out of respect to the memory of James E. Mizell, II, on motion of Assembly Member Spitzer; out of respect to the memory of Paul Berger, on motion of Assembly Member Umberg; out of respect to the memory of Deborah S. Matheson, Naum J. Phleger, Allan M. Reinhart, Albert Bishop, Priscilla Hibbs Cerveri, Lynn Diann Dugoni, Ambrose Mickey Reguera, Duane Carlyn Coe, Doris Anne Barker, Frieda Wineva Buchholz, Michael Gary Clark, and Glenna B. Sorenson, on motion of Assembly Member Wolk.

FABIAN NUÑEZ, Speaker

SUE PARKER, Minute Clerk

**AMENDMENTS CONSIDERED BY THE
ASSEMBLY ON FEBRUARY 3, 2005**

The following measures were amended in the Assembly on this day:

AB RN

35 0507885

59 0506797

SB RN

29 0508328

SCR RN

6 0508363

Daily Total: 4

Cumulative Total: 7

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