

CALIFORNIA LEGISLATURE
1999-2000 REGULAR SESSION

ASSEMBLY DAILY JOURNAL

Thursday, August 26, 1999

**ONE HUNDRED FIFTH SESSION DAY
TWO HUNDRED SIXTY-THIRD 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
Thursday, August 26, 1999

The Assembly met at 8:30 a.m.
Hon. Fred Keeley, Speaker pro Tempore of the Assembly,
presiding.
Chief Clerk E. Dotson Wilson at the Desk.
Assistant Clerk Sue Parker reading.

ROLL CALL

The roll was called.

Quorum Call of the Assembly

Assembly Member Reyes moved a quorum call of the Assembly.
Motion carried. Time, 8:31 a.m.
The Speaker pro Tempore directed the Sergeant at Arms to close the
doors, and to bring in the absent Members.

Quorum Present

At 8:45 a.m., Speaker pro Tempore Keeley declared a quorum of the
Assembly present.

The roll call was completed, and the following answered to their
names—80:

Aanestad	Cunneen	Leach	Romero
Ackerman	Davis	Lempert	Runner
Alquist	Dickerson	Leonard	Scott
Aroner	Ducheny	Longville	Shelley
Ashburn	Dutra	Lowenthal	Soto
Baldwin	Firebaugh	Machado	Steinberg
Bates	Florez	Maddox	Strickland
Battin	Floyd	Maldonado	Strom-Martin
Baugh	Frusetta	Margett	Thompson
Bock	Gallegos	Mazzoni	Thomson
Brewer	Granlund	McClintock	Torlakson
Briggs	Havice	Migden	Vincent
Calderon	Hertzberg	Nakano	Washington
Campbell	Honda	Olberg	Wayne
Cardenas	House	Oller	Wesson
Cardoza	Jackson	Pacheco, Robert	Wiggins
Cedillo	Kaloogian	Pacheco, Rod	Wildman
Corbett	Keeley	Papan	Wright
Correa	Knox	Pescetti	Zettel
Cox	Kuehl	Reyes	Mr. Speaker

PRAYER

Upon invitation of Speaker pro Tempore Keeley, the following prayer was offered by Assembly Chaplain Rabbi Mona Alfi:

An ancient sage pondered the reason why the Book of Genesis teaches that all of humanity is descended from a single person. The sage taught that:

Humanity was created single for the sake of peace amongst humankind, so that no one might say to another: "My father was greater than yours."

(Mishna Sanhedrin 4:5)

It is human nature to try to explain our good fortune by looking at our family tree and saying "I come from something better than you." We are often prone to doing the same thing when suffering from ill fortune; we try to make ourselves the moral superior to those more fortunate than ourselves by taking solace in the mythical greatness of our ancestry.

The Bible reminds us that each of us comes from the same humble beginning. We all come from just a handful of clay that had the spirit of life breathed into it. From that single being, which was simultaneously miraculous and simple, we are all descended.

May the Holy One of Blessing enable us to see and understand how we are all connected to one another in one family of humanity, so that we can live in harmony and peace. May this be God's will.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker pro Tempore Keeley, Assembly Member Strickland 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 Shelley, seconded by Assembly Member Leonard.

COMMUNICATIONS

The following communications were presented by the Speaker, and ordered printed in the Journal:

August 23, 1999

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

Dear Mr. Wilson: Please be advised that pursuant to Penal Code, § 13810 (Created/Amended by: Ch. 155 of 1996, SB 842—Marks); I have appointed Assemblymember Mike Honda to the California Council on Criminal Justice. This is a pleasure appointment starting immediately. Assemblymember Honda will be replacing Assemblymember Robert Hertzberg.

Sincerely,

ANTONIO R. VILLARAIGOSA
Speaker of the Assembly

August 23, 1999

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

Dear Mr. Wilson: Please be advised that pursuant to Government Code § 15431 (Amended by: Ch. 1737 of 1984, SB 2142—Keene); (Created/Amended by: Ch.885 of 1980), I have reappointed Mr. George D. Monardo to the California Health Facilities Financing Authority. This is a term appointment effective immediately and expiring 3/31/2003.

Sincerely,

ANTONIO R. VILLARAIGOSA
Speaker of the Assembly

August 24 1999

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

Dear Mr. Wilson: Please be advised that pursuant to Business and Professions Code §6710 et seq (Amended by: Chapter 676 of 1982); (Amended by: Chapter 150 of 1983, SB 427); (Amended by: Chapter 908 of 1994, SB 2036), I have reappointed Mr. Andrew J. Hopwood. This is a term appointment starting immediately and expiring June 1, 2003.

Sincerely,

ANTONIO R. VILLARAIGOSA
Speaker of the Assembly

August 26, 1999

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

Dear Dotson: Please be advised that I have made the following appointments to the Elections, Reapportionment and Constitutional Amendments Committee for today's hearing, only:

Assemblymember Dick Ackerman in place of Assemblymember Peter Frusetta;

Assemblymember Bruce Thompson to serve as Vice-Chair.

Sincerely,

ANTONIO R. VILLARAIGOSA
Speaker of the Assembly

AUTHOR'S AMENDMENTS
Committee on Insurance

August 26, 1999

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

Senate Bill No. 898

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

SCOTT, Chairman

SENATE BILL NO. 898—An act to amend Section 10236 of, and to add Sections 10236.1 and 10236.2 to, the Insurance Code, relating to long-term care insurance.

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 Appropriations

August 26, 1999

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

Senate Bill No. 110

Senate Bill No. 1196

Senate Bill No. 129

Senate Bill No. 1249

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

MIGDEN, Chairwoman

SENATE BILL NO. 110—An act to amend Sections 25305, 25308.5, 25309, 25520, 25523, 25524, 25540.6, and 25541 of, and to add Sections 25009 and 25543 to, and to repeal Section 25523.5 of, and repeal and add Section 25541.5 of, the Public Resources Code, relating to energy.

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.

SENATE BILL NO. 129—An act to add Title 1.81 (commencing with Section 1798.88) to Part 4 of Division 3 of the Civil Code, relating to privacy.

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.

SENATE BILL NO. 1196—An act to amend Section 77212.5 of, to add Sections 69915 and 72114.2 to, to repeal Sections 26603.1, 26666, 26669, 26670, 72114, and 73803 of, and to repeal Article 25.5 (commencing with Section 74361) of chapter 10 of Title 8 of, the Government Code, relating to court services, 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.

SENATE BILL NO. 1249—An act to amend Sections 8202, 8208, 8223, and 8350 of, to amend and renumber Sections 8220 and 8220.6 to, the Education Code, and to amend Sections 11253.5, 11322.6, 11322.8, 11323.2, and 11325.2 of the Welfare and Institutions Code, relating to public social services.

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 Transportation

August 26, 1999

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

Senate Bill No. 387

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

TORLAKSON, Chairman

SENATE BILL NO. 387—An act to amend Sections 63.6 and 663.7 of the Harbors and Navigation Code, relating to boating.

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.

REPORTS OF STANDING COMMITTEES
Committee on Appropriations

Date of Hearing: August 25, 1999

Mr. Speaker: Your Committee on Appropriations reports:

Senate Bill No. 59

Senate Bill No. 480

Senate Bill No. 66

Senate Bill No. 567

Senate Bill No. 172

Senate Bill No. 623

Senate Bill No. 182

Senate Bill No. 700

Senate Bill No. 218

Senate Bill No. 762

Senate Bill No. 249

Senate Bill No. 827

Senate Bill No. 252

Senate Bill No. 948

Senate Bill No. 315

Senate Bill No. 1119

Senate Bill No. 450

With the recommendation: Do pass.

MIGDEN, Chairwoman

Above bills ordered to second reading.

Date of Hearing: August 25, 1999

Mr. Speaker: Your Committee on Appropriations reports:

Senate Constitutional Amendment No. 3

With the recommendation: Be adopted.

MIGDEN, Chairwoman

Above resolution ordered to second reading.

Date of Hearing: August 25, 1999

Mr. Speaker: Your Committee on Appropriations reports:

Senate Bill No. 225

Senate Bill No. 1003

Senate Bill No. 538

Senate Bill No. 1074

Senate Bill No. 563

Senate Bill No. 1083

Senate Bill No. 807

Senate Bill No. 1307

Senate Bill No. 941

With the recommendation: Do pass.

Pursuant to the provisions of Joint Rules Nos. 22.1, 22.2, and 22.3, the committee recommends that the above bills be placed on the Consent Calendar.

MIGDEN, Chairwoman

Above bills ordered to second reading.

Date of Hearing: August 25, 1999

Mr. Speaker: Your Committee on Appropriations reports:

Senate Bill No. 621
Senate Bill No. 1091
Senate Bill No. 1118

Senate Bill No. 1121
Senate Bill No. 1308

With amendments with the recommendation: Amend, and do pass, as amended.

MIGDEN, Chairwoman

Above bills ordered to second reading.

Date of Hearing: August 25, 1999

Mr. Speaker: Your Committee on Appropriations reports:

Senate Bill No. 798
Senate Bill No. 808
Senate Bill No. 810

With the recommendation: Do pass, as amended.

Pursuant to the provisions of Joint Rules Nos. 22.1, 22.2, and 22.3, the committee recommends that the above bills be placed on the Consent Calendar.

MIGDEN, Chairwoman

Above bills ordered to second reading.

Date of Hearing: August 25, 1999

Mr. Speaker: Your Committee on Appropriations reports:

Senate Concurrent Resolution No. 36

With the recommendation: Be adopted.

Pursuant to the provisions of Joint Rules Nos. 22.1, 22.2, and 22.3, the committee recommends that the above resolution be placed on the Consent Calendar.

MIGDEN, Chairwoman

Above resolution is ordered to the Consent Calendar.

Committee on Water, Parks and Wildlife

Date of Hearing: August 25, 1999

Mr. Speaker: Your Committee on Water, Parks and Wildlife reports:

Senate Bill No. 57
Senate Bill No. 1114

With the recommendation: Do pass, and be re-referred to the Committee on Appropriations.

MACHADO, Chairman

Above bills re-referred to the Committee on Appropriations.

MESSAGES FROM THE SENATE

Senate Chamber, August 25, 1999

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

Assembly Bill No. 99
Assembly Bill No. 243
Assembly Bill No. 295
Assembly Bill No. 378
Assembly Bill No. 501
Assembly Bill No. 519
Assembly Bill No. 634
Assembly Bill No. 818
Assembly Bill No. 884
Assembly Bill No. 919

Assembly Bill No. 1149
Assembly Bill No. 1178
Assembly Bill No. 1218
Assembly Bill No. 1274
Assembly Bill No. 1290
Assembly Bill No. 1318
Assembly Bill No. 1502
Assembly Bill No. 1546
Assembly Bill No. 1559

And respectfully requests the Assembly to concur in said amendments.

GREG P. SCHMIDT, Secretary of the Senate
By John W. Rovane, Assistant Secretary

Above bills ordered to unfinished business file.

Senate Chamber, August 25, 1999

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

Assembly Bill No. 563

GREG P. SCHMIDT, Secretary of the Senate
By John W. Rovane, Assistant Secretary

Above bill ordered enrolled.

August 25, 1999

Hon. E. Dotson Wilson
Chief Clerk of the Assembly
Assembly Chamber

Dear Dotson: By direction of the Senate I am returning Senate Bill 938 to the Assembly for further action.

Sincerely,

GREGORY SCHMIDT
Secretary of the Senate

Above bill held at the Desk.

MESSAGES FROM THE SENATE

Senate Chamber, August 25, 1999

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

Senate Bill No. 105
Senate Bill No. 130

GREG P. SCHMIDT, Secretary of the Senate
By John W. Rovane, Assistant Secretary

REQUEST TO SUSPEND JOINT RULES

The following requests were received, and read:

Assembly Chamber, August 26, 1999

Mr. Speaker: I request permission to suspend Joint Rule 61(a)(10) and (a)(11) as it relates to Senate Bill No. 1221.

CAROLE MIGDEN

Assembly Chamber, August 26, 1999

Mr. Speaker: I request permission to suspend Joint Rule 61(a)(9), (a)(10), and (a)(11) as it relates to Senate Bill No. 1220.

EDWARD VINCENT

Above requests ordered transmitted to the Committee on Rules.

REQUEST FOR PHOTOGRAPHER

Assembly Member Shelley was granted unanimous consent that photographers and guests be permitted on the Floor of the Assembly.

BILLS REMOVED FROM CONSENT CALENDAR

The following bills were removed from the Consent Calendar, and placed on the third reading file, pursuant to Joint Rule 22.2:

Senate Bills Nos. 598 and 646, on request of Assembly Member Shelley.

**ACTION RESCINDED ON SENATE BILL NO. 213
AND BILL PLACED UPON INACTIVE FILE**

Assembly Member Shelley was granted unanimous consent to rescind the action whereby the Assembly, on August 19, 1999 (Assembly Journal, page 3310), adopted the urgency clause and passed Senate Bill No. 213, and whereby the bill was ordered transmitted to the Senate; and that the bill be placed upon the Inactive File.

ACTION RESCINDED ON SENATE BILL NO. 542

Assembly Member Shelley was granted unanimous consent to rescind the action whereby the Assembly, on July 15, 1999 (Assembly Journal, page 3097), passed Senate Bill No. 542, and whereby the bill was ordered transmitted to the Senate.

BILLS RETURNED TO SENATE

Upon request of Assembly Member Shelley, Assembly Member Florez was granted unanimous consent that Assembly Bill No. 1596 be returned to the Senate for further action.

Upon request of Assembly Member Shelley, Assembly Member Wright was granted unanimous consent that Assembly Bill No. 1393 be returned to the Senate for further action.

**BILLS REMOVED FROM SPECIAL CONSENT CALENDAR
AND RETURNED TO THE SENATE**

Upon request of Assembly Member Shelley, Assembly Member Wesson was granted unanimous consent that Assembly Bill No. 1407 be removed from the Special Consent Calendar and returned to the Senate for further action.

Upon request of Assembly Member Shelley, Assembly Member Scott was granted unanimous consent that Assembly Bill No. 957 be removed from the Special Consent Calendar and returned to the Senate for further action.

ASSEMBLY BILL NO. 637 RETURNED TO ENROLLMENT

Upon request of Assembly Member Shelley, Assembly Member Migden was granted unanimous consent that Assembly Bill No. 637 be ordered returned to Enrollment.

RECESS

By unanimous consent, at 8:54 a.m., Speaker pro Tempore Keeley declared the Assembly recessed to permit the introduction of special guests.

Assembly Members Cox and Pescetti acknowledged the following members of the Jesuit High School Rugby Club: Zack Abbott, Colby Abe, Daunish Aboobaker, Dan Adams, Anthony Andrews, Joe Androvich, Adam Baker, Robert Banford, Michael Barton, Quinn Beekwilder, Glair Bonucelli, Brendon Brownfield, Billy Bunfill, Alex Carl, Angelo Christie, Philip Claar, Keith Corcoran, Marcus Cortez, Chris Davila, Josh Day, Robert DeFazio, Michael DeGross, Damon Doynos, Pat Dunnigan, Matt Eiferle, Matt Foster, Ed Gebing, Justin Gettings, Brad Giles, John Gilmour, Elliot Grogan, Andrew Hamilton, Matt Hedges, Andrew Jenks, Dante Jordan, Tony Kafouros, Danny Kaufman, Kyle Khasigian, Jason Klier, Brent Knabke, Daniel Lehman, Jeffre Lovell, Mike Luca, Matthew McCarthy, Alexander Meckley, Mike Meissner, Kelly Micco, Kyle Miller, Rory Miller, Taylor O'Connor, Patrick O'Sullivan, Chris Oseguedo, Gary Prudler, Jeff

Reiman, Mark Rodriquez, Josh Rojas, Anthony Sardon, James Sehr, Frank Sharpe, Jared Siegel, Lance Stenhouse, Michael Stewart, Sanjay Stokes, Patrick Strahl, Michael Troughton, Michael Turpen, Robbie Westall, Michael Wenig, and Casey Young; and Coaches John Storey, Fred Khasigian, Dan Ingoglia, Tom Janus, Greg Joseph, and Eric Miller.

Assembly Members Cox and Pescetti then presented a resolution acknowledging the superb achievement of the Jesuit High School Rugby Team in winning the 1999 USA High School National Rugby Championship.

RECONVENED

At 8:56 a.m., the Assembly reconvened.

Hon. Fred Keeley, Speaker pro Tempore of the Assembly, presiding.

BILLS REMOVED FROM CONSENT CALENDAR

The following bill was removed from the Consent Calendar, and placed on the third reading file, pursuant to Joint Rule 22.2:

Senate Bill No. 874, on request of Assembly Member Kuehl.

BILLS REMOVED FROM SPECIAL CONSENT CALENDAR

The following bill was removed from the Special Consent Calendar, and placed on the unfinished business file, pursuant to Joint Rule 22.2:

Assembly Bill No. 1152, on request of Assembly Member Ackerman.

CONSIDERATION OF CONSENT CALENDAR

The Speaker pro Tempore announced that the next roll call would be on the Consent Calendar.

Consent Calendar—Assembly Bills

ASSEMBLY CONCURRENT RESOLUTION NO. 68 (Oiler)—Relative to the Officer Bill C. Bean, Jr. Memorial Highway.

Resolution read.

Reading of Consent Calendar Deferred

Further reading of this day's Consent Calendar was deferred until later this day.

CONSIDERATION OF DAILY FILE SECOND READING OF SENATE BILLS

SENATE BILL NO. 433—An act to amend Section 3111 of, and to add Section 3110.5 to, the Family Code, relating to family law.

Bill read second time; amendments proposed by the Committee on Judiciary read and adopted, bill ordered reprinted and to be re-referred to the Committee on Appropriations.

SENATE BILL NO. 630—An act to add and repeal Section 1011.7 of, and to add Chapter 2 (commencing with Section 1100) to Division 5 of, the Military and Veterans Code, relating to veterans homes, by providing the funds necessary therefor through an election for, and the issuance and sale of, bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

Bill read second time; amendments proposed by the Committee on Veterans Affairs read and adopted, bill ordered reprinted and to be re-referred to the Committee on Appropriations.

SENATE BILL NO. 390—An act to amend Sections 13269 and 13350 of the Water Code, relating to water.

Bill read second time; amendments proposed by the Committee on Environmental Safety and Toxic Materials read and adopted, bill ordered reprinted and to be re-referred to the Committee on Appropriations.

SENATE BILL NO. 177—An act to add Sections 625 and 626 to, and to repeal and add Section 616 of, the Public Utilities Code, relating to public utilities.

Bill read second time; amendments proposed by the Committee on Utilities and Commerce read and adopted, bill ordered reprinted and to be re-referred to the Committee on Appropriations.

SENATE BILL NO. 914—An act to amend Sections 7071.5, 7071.10, and 7071.11 of the Business and Professions Code, to amend Sections 3089, 3097, 3098, and 3111 of, to add Article 8 (commencing with Section 3155) to Chapter 2 of Title 15 of Part 4 of Division 3 of, and to repeal Section 3111.5 of, the Civil Code, and to amend Section 1204 of the Code of Civil Procedure, relating to contractors.

Bill read second time; amendments proposed by the Committee on Consumer Protection, Governmental Efficiency and Economic Development read and adopted, bill ordered reprinted and to be re-referred to the Committee on Appropriations.

SENATE BILL NO. 1206—An act to add Division 10 (commencing with Section 27000) to the Business and Professions Code, and to amend Section 39007 of the Vehicle Code, relating to bicycles.

Bill read second time; amendments proposed by the Committee on Consumer Protection, Governmental Efficiency and Economic Development read and adopted, bill ordered reprinted and to be re-referred to the Committee on Appropriations.

SENATE BILL NO. 1101—An act to amend Sections 130051.12 and 130110 of, and to add Section 130051.24 to, the Public Utilities Code, relating to transportation.

Bill read second time; amendments proposed by the Committee on Transportation read and adopted, bill ordered reprinted and to be re-referred to the Committee on Appropriations.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

ASSEMBLY BILL NO. 41 (Wesson)—An act to add Section 19041.5 to the Revenue and Taxation Code, relating to taxation.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—75

Aanestad	Dickerson	Lempert	Scott
Ackerman	Ducheny	Leonard	Shelley
Alquist	Dutra	Longville	Soto
Aroner	Firebaugh	Lowenthal	Steinberg
Ashburn	Florez	Machado	Strickland
Bates	Floyd	Maddox	Strom-Martin
Battin	Frusetta	Maldonado	Thompson
Bock	Gallegos	Margett	Thomson
Briggs	Granlund	Mazzoni	Torlakson
Calderon	Havice	McClintock	Vincent
Campbell	Hertzberg	Migden	Washington
Cardenas	Honda	Nakano	Wayne
Cardoza	House	Olberg	Wesson
Cedillo	Jackson	Pacheco, Robert	Wiggins
Corbett	Kaloogian	Papan	Wildman
Correa	Keeley	Pescetti	Wright
Cox	Knox	Reyes	Zettel
Cunneen	Kuehl	Romero	Mr. Speaker
Davis	Leach	Runner	

NOES—1

Baldwin

Above bill ordered enrolled.

ASSEMBLY BILL NO. 1485 (Granlund)—An act to amend Sections 13370 and 13376 of the Vehicle Code, relating to vehicles.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—79

Aanestad	Davis	Lempert	Runner
Ackerman	Dickerson	Leonard	Scott
Alquist	Ducheny	Longville	Shelley
Aroner	Dutra	Lowenthal	Soto
Ashburn	Firebaugh	Machado	Steinberg
Baldwin	Florez	Maddox	Strickland
Bates	Floyd	Maldonado	Strom-Martin
Battin	Frusetta	Margett	Thompson
Bock	Gallegos	Mazzoni	Thomson
Brewer	Granlund	McClintock	Torlakson
Briggs	Havice	Migden	Vincent
Calderon	Hertzberg	Nakano	Washington
Campbell	Honda	Olberg	Wayne
Cardenas	House	Oller	Wesson
Cardoza	Jackson	Pacheco, Robert	Wiggins
Cedillo	Kaloogian	Pacheco, Rod	Wildman
Corbett	Keeley	Papan	Wright
Correa	Knox	Pescetti	Zettel
Cox	Kuehl	Reyes	Mr. Speaker
Cunneen	Leach	Romero	

NOES—None

Above bill ordered enrolled.

ASSEMBLY BILL NO. 1499 (Lowenthal)—An act to add Section 15655 to the Welfare and Institutions Code, relating to human services.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—79

Aanestad	Davis	Lempert	Runner
Ackerman	Dickerson	Leonard	Scott
Alquist	Ducheny	Longville	Shelley
Aroner	Dutra	Lowenthal	Soto
Ashburn	Firebaugh	Machado	Steinberg
Baldwin	Florez	Maddox	Strickland
Bates	Floyd	Maldonado	Strom-Martin
Battin	Frusetta	Margett	Thompson
Bock	Gallegos	Mazzoni	Thomson
Brewer	Granlund	McClintock	Torlakson
Briggs	Havice	Migden	Vincent
Calderon	Hertzberg	Nakano	Washington
Campbell	Honda	Olberg	Wayne
Cardenas	House	Oller	Wesson
Cardoza	Jackson	Pacheco, Robert	Wiggins
Cedillo	Kaloogian	Pacheco, Rod	Wildman
Corbett	Keeley	Papan	Wright
Correa	Knox	Pescetti	Zettel
Cox	Kuehl	Reyes	Mr. Speaker
Cunneen	Leach	Romero	

NOES—None

Above bill ordered enrolled.

ASSEMBLY BILL NO. 422 (Steinberg)—An act to add Section 67302 to the Education Code, relating to instructional materials.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—75

Aanestad	Cunneen	Leonard	Scott
Ackerman	Davis	Longville	Shelley
Alquist	Dickerson	Lowenthal	Soto
Aroner	Ducheny	Machado	Steinberg
Ashburn	Dutra	Maddox	Strickland
Baldwin	Firebaugh	Maldonado	Strom-Martin
Bates	Florez	Margett	Thompson
Battin	Floyd	Mazzoni	Thomson
Bock	Frusetta	Migden	Torlakson
Brewer	Granlund	Nakano	Vincent
Briggs	Havice	Olberg	Washington
Calderon	Hertzberg	Oller	Wayne
Campbell	Honda	Pacheco, Robert	Wesson
Cardenas	Jackson	Pacheco, Rod	Wiggins
Cardoza	Keeley	Papan	Wildman
Cedillo	Knox	Pescetti	Wright
Corbett	Kuehl	Reyes	Zettel
Correa	Leach	Romero	Mr. Speaker
Cox	Lempert	Runner	

NOES—4

Gallegos	House	Kaloogian	McClintock
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Above bill ordered enrolled.

ASSEMBLY BILL NO. 560 (Oller)—An act to amend Section 4801 of the Fish and Game Code, relating to wildlife, and declaring the urgency thereof, to take effect immediately.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—78

Aanestad	Dickerson	Leonard	Scott
Ackerman	Ducheny	Longville	Shelley
Alquist	Dutra	Lowenthal	Soto
Aroner	Firebaugh	Machado	Steinberg
Ashburn	Florez	Maddox	Strickland
Baldwin	Floyd	Maldonado	Strom-Martin
Bates	Frusetta	Margett	Thompson
Battin	Gallegos	Mazzoni	Thomson
Brewer	Granlund	McClintock	Torlakson
Briggs	Havice	Migden	Vincent
Calderon	Hertzberg	Nakano	Washington
Campbell	Honda	Olberg	Wayne
Cardenas	House	Oller	Wesson
Cardoza	Jackson	Pacheco, Robert	Wiggins
Cedillo	Kaloogian	Pacheco, Rod	Wildman
Corbett	Keeley	Papan	Wright
Correa	Knox	Pescetti	Zettel
Cox	Kuehl	Reyes	Mr. Speaker
Cunneen	Leach	Romero	
Davis	Lempert	Runner	

NOES—None

Above bill ordered enrolled.

ASSEMBLY BILL NO. 840 (Kuehl)—An act to add Section 3044 to the Family Code, relating to family law.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—66

Ackerman	Dutra	Lowenthal	Soto
Alquist	Firebaugh	Machado	Steinberg
Aroner	Florez	Maddox	Strickland
Bates	Floyd	Maldonado	Strom-Martin
Bock	Frusetta	Margett	Thomson
Brewer	Gallegos	Mazzoni	Torlakson
Calderon	Granlund	McClintock	Vincent
Campbell	Havice	Migden	Washington
Cardenas	Hertzberg	Nakano	Wayne
Cardoza	Honda	Olberg	Wesson
Cedillo	Jackson	Oller	Wiggins
Corbett	Keeley	Papan	Wildman
Correa	Knox	Pescetti	Wright
Cunneen	Kuehl	Reyes	Zettel
Davis	Leach	Romero	Mr. Speaker
Dickerson	Lempert	Scott	
Ducheny	Longville	Shelley	

NOES—9

Baldwin	Kaloogian	Pacheco, Rod
Cox	Leonard	Runner
House	Pacheco, Robert	Thompson

Above bill ordered enrolled.

ASSEMBLY BILL NO. 1234 (Shelley)—An act to amend Sections 11125, 11125.4, 11125.5, 11130, and 11130.3 of the Government Code, relating to open meetings.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—79

Aanestad	Davis	Lempert	Runner
Ackerman	Dickerson	Leonard	Scott
Alquist	Ducheny	Longville	Shelley
Aroner	Dutra	Lowenthal	Soto
Ashburn	Firebaugh	Machado	Steinberg
Baldwin	Florez	Maddox	Strickland
Bates	Floyd	Maldonado	Strom-Martin
Battin	Frusetta	Margett	Thompson
Bock	Gallegos	Mazzoni	Thomson
Brewer	Granlund	McClintock	Torlakson
Briggs	Havice	Migden	Vincent
Calderon	Hertzberg	Nakano	Washington
Campbell	Honda	Olberg	Wayne
Cardenas	House	Oller	Wesson
Cardoza	Jackson	Pacheco, Robert	Wiggins
Cedillo	Kaloogian	Pacheco, Rod	Wildman
Corbett	Keeley	Papan	Wright
Correa	Knox	Pescetti	Zettel
Cox	Kuehl	Reyes	Mr. Speaker
Cunneen	Leach	Romero	

NOES—None

Above bill ordered enrolled.

ASSEMBLY BILL NO. 1328 (Cardenas)—An act to amend Section 5019.5 of, to add Article 4 (commencing with Section 72040) to Chapter 1 of Part 45 of, and to amend and renumber Section 72031 of, the Education Code, relating to postsecondary education.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—59

Aanestad	Ducheny	Leach	Shelley
Alquist	Dutra	Lempert	Soto
Aroner	Firebaugh	Leonard	Steinberg
Battin	Florez	Longville	Strom-Martin
Bock	Floyd	Lowenthal	Thomson
Calderon	Gallegos	Machado	Torlakson
Campbell	Granlund	Mazzoni	Vincent
Cardenas	Havice	McClintock	Washington
Cardoza	Hertzberg	Migden	Wayne
Cedillo	Honda	Nakano	Wesson
Corbett	House	Olberg	Wiggins
Correa	Jackson	Pacheco, Robert	Wildman
Cunneen	Keeley	Papan	Wright
Davis	Knox	Reyes	Mr. Speaker
Dickerson	Kuehl	Romero	

NOES—18

Ackerman	Briggs	Maldonado	Strickland
Ashburn	Cox	Oller	Thompson
Baldwin	Frusetta	Pacheco, Rod	Zettel
Bates	Kaloogian	Pescetti	
Brewer	Maddox	Runner	

Vote Changes

By unanimous consent, the following vote change was permitted on concurrence in Senate amendments to Assembly Bill No. 1328: Assembly Member Pescetti, from “Aye” to “No”.

Above bill ordered enrolled.

ASSEMBLY BILL NO. 1477 (Committee on Agriculture)—An act to amend, repeal, and add Section 6723 of the Food and Agricultural Code, relating to agriculture.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—71

Aanestad	Davis	Leach	Shelley
Ackerman	Dickerson	Lempert	Soto
Alquist	Ducheny	Leonard	Steinberg
Aroner	Dutra	Longville	Strickland
Ashburn	Firebaugh	Lowenthal	Strom-Martin
Bates	Florez	Machado	Thompson
Battin	Floyd	Maldonado	Thomson
Bock	Frusetta	Mazzoni	Torlakson
Briggs	Gallegos	Migden	Vincent
Calderon	Granlund	Olberg	Washington
Campbell	Hertzberg	Oller	Wayne
Cardenas	Honda	Pacheco, Robert	Wesson
Cardoza	House	Pacheco, Rod	Wiggins
Cedillo	Jackson	Papan	Wildman
Corbett	Kaloogian	Pescetti	Wright
Correa	Keeley	Reyes	Zettel
Cox	Knox	Romero	Mr. Speaker
Cunneen	Kuehl	Scott	

NOES—5

Baldwin	Havice	McClintock
Brewer	Maddox	

Vote Changes

By unanimous consent, the following vote change was permitted on concurrence in Senate amendments to Assembly Bill No. 1477: Assembly Member Havice, from “Aye” to “No”.

Above bill ordered enrolled.

ASSEMBLY BILL NO. 1620 (Torlakson)—An act to add Section 101087 to the Health and Safety Code, relating to environmental protection.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—53

Alquist	Firebaugh	Machado	Strom-Martin
Aroner	Florez	Maldonado	Thomson
Bock	Floyd	Mazzoni	Torlakson
Calderon	Gallegos	Migden	Vincent
Cardenas	Havice	Nakano	Washington
Cardoza	Hertzberg	Oller	Wayne
Cedillo	Honda	Papan	Wesson
Corbett	Jackson	Pescetti	Wiggins
Correa	Keeley	Reyes	Wildman
Cox	Knox	Romero	Wright
Cunneen	Kuehl	Scott	Mr. Speaker
Davis	Lempert	Shelley	
Ducheny	Longville	Soto	
Dutra	Lowenthal	Steinberg	

NOES—25

Aanestad	Briggs	Leonard	Runner
Ackerman	Campbell	Maddox	Strickland
Ashburn	Dickerson	Margett	Thompson
Baldwin	Frusetta	McClintock	Zettel
Bates	Granlund	Olberg	
Battin	House	Pacheco, Robert	
Brewer	Kaloogian	Pacheco, Rod	

Vote Changes

By unanimous consent, the following vote change was permitted on concurrence in Senate amendments to Assembly Bill No. 1620: Assembly Member Pescetti, from “No” to “Aye”.

Above bill ordered enrolled.

ASSEMBLY BILL NO. 1676 (Committee on Judiciary)—An act to amend Section 128 of the Code of Civil Procedure, relating to judgments.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—47

Alquist	Firebaugh	Lowenthal	Strom-Martin
Aroner	Floyd	Machado	Thomson
Bock	Gallegos	Mazzoni	Torlakson
Calderon	Havice	Migden	Vincent
Cardenas	Hertzberg	Nakano	Washington
Cardoza	Honda	Papan	Wayne
Cedillo	Jackson	Reyes	Wesson
Corbett	Keeley	Romero	Wiggins
Correa	Knox	Scott	Wildman
Davis	Kuehl	Shelley	Wright
Ducheny	Lempert	Soto	Mr. Speaker
Dutra	Longville	Steinberg	

NOES—31

Aanestad	Campbell	Leach	Pacheco, Robert
Ackerman	Cox	Leonard	Pacheco, Rod
Ashburn	Cunneen	Maddox	Pescetti
Baldwin	Dickerson	Maldonado	Runner
Bates	Frusetta	Margett	Strickland
Battin	Granlund	McClintock	Thompson
Brewer	House	Olberg	Zettel
Briggs	Kaloogian	Oller	

Above bill ordered enrolled.

BILL REMOVED FROM INACTIVE FILE AND RETURNED TO SENATE

Assembly Member Olberg was granted unanimous consent that Assembly Bill No. 1244 be removed from the Inactive File and returned to the Senate for further action.

**CONSIDERATION OF DAILY FILE (RESUMED)
UNFINISHED BUSINESS (RESUMED)**

CONSIDERATION OF SENATE AMENDMENTS

ASSEMBLY BILL NO. 61 (Cardoza)—An act to add Section 15365.11 to the Government Code, relating to international trade, and making an appropriation therefor.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—76

Aanestad	Davis	Lempert	Runner
Ackerman	Dickerson	Leonard	Scott
Alquist	Ducheny	Longville	Shelley
Aroner	Dutra	Lowenthal	Soto
Ashburn	Firebaugh	Machado	Steinberg
Bates	Florez	Maddox	Strickland
Battin	Floyd	Maldonado	Strom-Martin
Bock	Frusetta	Margett	Thompson
Brewer	Gallegos	Mazzoni	Thomson
Briggs	Granlund	Migden	Torlakson
Calderon	Havice	Nakano	Vincent
Campbell	Hertzberg	Olberg	Washington
Cardenas	Honda	Oller	Wayne
Cardoza	House	Pacheco, Robert	Wesson
Cedillo	Jackson	Pacheco, Rod	Wiggins
Corbett	Keeley	Papan	Wildman
Correa	Knox	Pescetti	Wright
Cox	Kuehl	Reyes	Zettel
Cunneen	Leach	Romero	Mr. Speaker

NOES—3

Baldwin	Kaloogian	McClintock
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Above bill ordered enrolled.

ASSEMBLY BILL NO. 118 (Washington)—An act to amend Section 911.4 of the Government Code, to amend Section 1527.6 of the Health and Safety Code, and to amend Section 396 of the Welfare and Institutions Code, relating to foster care.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—65

Alquist	Firebaugh	Maldonado	Strickland
Aroner	Florez	Mazzoni	Strom-Martin
Ashburn	Floyd	Migden	Thompson
Bates	Frusetta	Nakano	Thomson
Battin	Gallegos	Olberg	Torlakson
Boek	Granlund	Oller	Vincent
Calderon	Havice	Pacheco, Robert	Washington
Cardenas	Hertzberg	Pacheco, Rod	Wayne
Cardoza	Honda	Papan	Wesson
Cedillo	Jackson	Pesetti	Wiggins
Corbett	Keeley	Reyes	Wildman
Correa	Knox	Romero	Wright
Cox	Kuehl	Runner	Zettel
Cunneen	Leonard	Scott	Mr. Speaker
Davis	Longville	Shelley	
Ducheny	Lowenthal	Soto	
Dutra	Machado	Steinberg	

NOES—12

Aanestad	Briggs	House	Maddox
Aekerman	Campbell	Kaloogian	Margett
Baldwin	Dickerson	Leach	McClintock

Above bill ordered enrolled.

(NOTE: Later this day, the action was rescinded whereby the Assembly concurred in Senate amendments to Assembly Bill No. 118 and whereby the bill was ordered enrolled. See page 3488.)

ASSEMBLY BILL NO. 166 (Washington)—An act to amend the heading of Article 3.6 (commencing with Section 32228) of Chapter 2 of Part 19 of, to amend Section 32228.1 of, and to add Section 32228.3 to, the Education Code, relating to school safety, and declaring the urgency thereof, to take effect immediately.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

Urgency Clause

Urgency clause read, and adopted by the following vote:

AYES—65

Alquist	Floyd	Maddox	Strickland
Aroner	Frusetta	Maldonado	Strom-Martin
Bates	Gallegos	Margett	Thompson
Bock	Granlund	Mazzoni	Thomson
Calderon	Havice	Migden	Torlakson
Campbell	Hertzberg	Nakano	Vincent
Cardenas	Honda	Pacheco, Robert	Washington
Cardoza	Jackson	Pacheco, Rod	Wayne
Cedillo	Keeley	Papan	Wesson
Corbett	Knox	Pescetti	Wiggins
Correa	Kuehl	Reyes	Wildman
Cunneen	Leach	Romero	Wright
Davis	Lempert	Runner	Zettel
Ducheny	Leonard	Scott	Mr. Speaker
Dutra	Longville	Shelley	
Firebaugh	Lowenthal	Soto	
Florez	Machado	Steinberg	

NOES—13

Ackerman	Brewer	House	Oller
Ashburn	Briggs	Kaloogian	
Baldwin	Cox	McClintock	
Battin	Dickerson	Olberg	

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

AYES—65

Alquist	Floyd	Maddox	Strickland
Aroner	Frusetta	Maldonado	Strom-Martin
Bates	Gallegos	Margett	Thompson
Bock	Granlund	Mazzoni	Thomson
Calderon	Havice	Migden	Torlakson
Campbell	Hertzberg	Nakano	Vincent
Cardenas	Honda	Pacheco, Robert	Washington
Cardoza	Jackson	Pacheco, Rod	Wayne
Cedillo	Keeley	Papan	Wesson
Corbett	Knox	Pescetti	Wiggins
Correa	Kuehl	Reyes	Wildman
Cunneen	Leach	Romero	Wright
Davis	Lempert	Runner	Zettel
Ducheny	Leonard	Scott	Mr. Speaker
Dutra	Longville	Shelley	
Firebaugh	Lowenthal	Soto	
Florez	Machado	Steinberg	

NOES—13

Ackerman	Brewer	House	Oller
Ashburn	Briggs	Kaloogian	
Baldwin	Cox	McClintock	
Battin	Dickerson	Olberg	

Above bill ordered enrolled immediately.

ASSEMBLY BILL NO. 315 (Wright)—An act to amend Sections 19412 and 19601 of, and to add Section 19610.8 to, the Business and Professions Code, relating to horse racing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

Urgency Clause

Urgency clause read, and adopted by the following vote:

AYES—70

Ackerman	Dickerson	Lowenthal	Scott
Alquist	Ducheny	Machado	Shelley
Aroner	Dutra	Maddox	Soto
Ashburn	Firebaugh	Maldonado	Strickland
Bates	Florez	Margett	Strom-Martin
Battin	Floyd	Mazzoni	Thomson
Brewer	Frusetta	McClintock	Torlakson
Briggs	Gallegos	Migden	Vincent
Calderon	Granlund	Nakano	Washington
Campbell	Hertzberg	Olberg	Wayne
Cardenas	Honda	Oller	Wesson
Cardoza	Kaloogian	Pacheco, Robert	Wiggins
Cedillo	Keeley	Pacheco, Rod	Wildman
Corbett	Knox	Papan	Wright
Correa	Kuehl	Pescetti	Zettel
Cox	Leach	Reyes	Mr. Speaker
Cunneen	Lempert	Romero	
Davis	Longville	Runner	

NOES—5

Baldwin	House	Thompson
Havice	Leonard	

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

AYES—70

Ackerman	Dickerson	Lowenthal	Scott
Alquist	Ducheny	Machado	Shelley
Aroner	Dutra	Maddox	Soto
Ashburn	Firebaugh	Maldonado	Strickland
Bates	Florez	Margett	Strom-Martin
Battin	Floyd	Mazzoni	Thomson
Brewer	Frusetta	McClintock	Torlakson
Briggs	Gallegos	Migden	Vincent
Calderon	Granlund	Nakano	Washington
Campbell	Hertzberg	Olberg	Wayne
Cardenas	Honda	Oller	Wesson
Cardoza	Kaloogian	Pacheco, Robert	Wiggins
Cedillo	Keeley	Pacheco, Rod	Wildman
Corbett	Knox	Papan	Wright
Correa	Kuehl	Pescetti	Zettel
Cox	Leach	Reyes	Mr. Speaker
Cunneen	Lempert	Romero	
Davis	Longville	Runner	

NOES—5

Baldwin	House	Thompson
Havice	Leonard	

Above bill ordered enrolled.

ASSEMBLY BILL NO. 486 (Wayne)—An act to amend Sections 11342, 11343, 11346.1, 11346.9, 11349.1, 11349.3, 11349.4, 11349.5, and 11356 of, and to add Article 10 (commencing with Section 11360.010) and Article 11 (commencing with Section 11365.010) to Chapter 3.5 of Part 1 of Division 3 of Title 2 of, the Government Code, and to amend Section 1198.4 of the Labor Code, relating to administrative law.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—72

Ackerman	Dickerson	Lempert	Scott
Alquist	Ducheny	Leonard	Shelley
Aroner	Dutra	Longville	Soto
Bates	Firebaugh	Lowenthal	Steinberg
Battin	Florez	Machado	Strickland
Bock	Floyd	Maddox	Strom-Martin
Brewer	Frusetta	Maldonado	Thompson
Briggs	Gallegos	Margett	Thomson
Calderon	Granlund	Mazzoni	Torlakson
Campbell	Havice	Nakano	Vincent
Cardenas	Hertzberg	Olberg	Washington
Cardoza	Honda	Oller	Wayne
Cedillo	House	Pacheco, Robert	Wesson
Corbett	Jackson	Papan	Wiggins
Correa	Keeley	Pescetti	Wildman
Cox	Knox	Reyes	Wright
Cunneen	Kuehl	Romero	Zettel
Davis	Leach	Runner	Mr. Speaker

NOES—5

Ashburn	Kaloogian	Pacheco, Rod
Baldwin	McClintock	

Above bill ordered enrolled.

ASSEMBLY BILL NO. 526 (Zettel)—An act to add Section 1380 to the Evidence Code, relating to evidence.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—74

Aanestad	Davis	Lempert	Shelley
Ackerman	Dickerson	Leonard	Soto
Alquist	Ducheny	Longville	Steinberg
Aroner	Dutra	Lowenthal	Strickland
Ashburn	Firebaugh	Machado	Strom-Martin
Bates	Florez	Maddox	Thompson
Battin	Floyd	Maldonado	Thomson
Bock	Frusetta	Margett	Torlakson
Brewer	Gallegos	Nakano	Vincent
Briggs	Granlund	Olberg	Washington
Calderon	Havice	Oller	Wayne
Campbell	Hertzberg	Pacheco, Robert	Wesson
Cardenas	Honda	Pacheco, Rod	Wiggins
Cardoza	House	Papan	Wildman
Cedillo	Jackson	Pescetti	Wright
Corbett	Keeley	Reyes	Zettel
Correa	Knox	Romero	Mr. Speaker
Cox	Kuehl	Runner	
Cunneen	Leach	Scott	

NOES—5

Baldwin	Mazzoni	Migden
Kaloogian	McClintock	

Above bill ordered enrolled.

ASSEMBLY BILL NO. 669 (Vincent)—An act to amend Section 3018 of the Elections Code, relating to elections.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—78

Aanestad	Dickerson	Leonard	Scott
Alquist	Ducheny	Longville	Shelley
Aroner	Dutra	Lowenthal	Soto
Ashburn	Firebaugh	Machado	Steinberg
Baldwin	Florez	Maddox	Strickland
Bates	Floyd	Maldonado	Strom-Martin
Battin	Frusetta	Margett	Thompson
Bock	Gallegos	Mazzoni	Thomson
Brewer	Granlund	McClintock	Torlakson
Briggs	Havice	Migden	Vincent
Calderon	Hertzberg	Nakano	Washington
Campbell	Honda	Olberg	Wayne
Cardenas	House	Oller	Wesson
Cardoza	Jackson	Pacheco, Robert	Wiggins
Cedillo	Kaloogian	Pacheco, Rod	Wildman
Corbett	Keeley	Papan	Wright
Correa	Knox	Pescetti	Zettel
Cox	Kuehl	Reyes	Mr. Speaker
Cunneen	Leach	Romero	
Davis	Lempert	Runner	

NOES—1

Ackerman

Above bill ordered enrolled.

ASSEMBLY BILL NO. 734 (Romero)—An act relating to community colleges.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—68

Alquist	Dickerson	Leonard	Scott
Aroner	Ducheny	Longville	Shelley
Ashburn	Dutra	Lowenthal	Soto
Bates	Firebaugh	Machado	Steinberg
Battin	Florez	Maddox	Strom-Martin
Bock	Frusetta	Maldonado	Thompson
Briggs	Gallegos	Margett	Thomson
Calderon	Granlund	Mazzoni	Torlakson
Campbell	Havice	Migden	Vincent
Cardenas	Hertzberg	Nakano	Washington
Cardoza	Honda	Pacheco, Robert	Wayne
Cedillo	Jackson	Pacheco, Rod	Wesson
Corbett	Keeley	Papan	Wiggins
Correa	Knox	Pescetti	Wildman
Cox	Kuehl	Reyes	Wright
Cunneen	Leach	Romero	Zettel
Davis	Lempert	Runner	Mr. Speaker

NOES—10

Aanestad	Brewer	McClintock	Strickland
Ackerman	House	Olberg	
Baldwin	Kaloogian	Oller	

Above bill ordered enrolled.

ASSEMBLY BILL NO. 802 (Dutra)—An act to add Section 778.3 to the Insurance Code, relating to insurance.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—74

Aanestad	Dickerson	Longville	Scott
Alquist	Ducheny	Lowenthal	Shelley
Aroner	Dutra	Machado	Soto
Ashburn	Firebaugh	Maddox	Steinberg
Bates	Florez	Maldonado	Strom-Martin
Battin	Frusetta	Margett	Thompson
Bock	Gallegos	Mazzoni	Thomson
Brewer	Granlund	McClintock	Torlakson
Briggs	Havice	Migden	Vincent
Calderon	Hertzberg	Nakano	Washington
Campbell	Honda	Olberg	Wayne
Cardenas	House	Oller	Wesson
Cardoza	Jackson	Pacheco, Robert	Wiggins
Cedillo	Keeley	Pacheco, Rod	Wildman
Corbett	Knox	Papan	Wright
Correa	Kuehl	Pescetti	Zettel
Cox	Leach	Reyes	Mr. Speaker
Cunneen	Lempert	Romero	
Davis	Leonard	Runner	

NOES—4

Ackerman	Baldwin	Kaloogian	Strickland
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Above bill ordered enrolled.

ASSEMBLY BILL NO. 819 (Committee on Public Employees, Retirement and Social Security)—An act to add Section 22164 to, to add Chapter 27.5 (commencing with Section 24250) to Part 13 of, and to repeal Sections 22315, 22316, and 22317 of, the Education Code, relating to the State Teachers’ Retirement System, and making an appropriation therefor.

Bill presented by Assembly Member Correa.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—75

Aanestad	Dickerson	Longville	Scott
Ackerman	Ducheny	Lowenthal	Shelley
Alquist	Dutra	Machado	Soto
Aroner	Firebaugh	Maddox	Steinberg
Ashburn	Florez	Maldonado	Strickland
Bates	Frusetta	Margett	Strom-Martin
Battin	Gallegos	Mazzoni	Thompson
Bock	Granlund	McClintock	Thomson
Briggs	Havice	Migden	Torlakson
Calderon	Hertzberg	Nakano	Vincent
Campbell	Honda	Olberg	Washington
Cardenas	House	Oller	Wayne
Cardoza	Jackson	Pacheco, Robert	Wesson
Cedillo	Keeley	Pacheco, Rod	Wiggins
Corbett	Knox	Papan	Wildman
Correa	Kuehl	Pescetti	Wright
Cox	Leach	Reyes	Zettel
Cunneen	Lempert	Romero	Mr. Speaker
Davis	Leonard	Runner	

NOES—2

Baldwin Kaloogian

Above bill ordered enrolled.

ASSEMBLY BILL NO. 868 (Cardoza)—An act to amend Sections 9712 and 9740 of, to add Section 9710.5 to, and to add Article 6 (commencing with Section 9745) to Chapter 11 of Division 8.5 of, the Welfare and Institutions Code, relating to elderly persons.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—76

Aanestad	Cunneen	Lempert	Romero
Ackerman	Davis	Leonard	Runner
Alquist	Dickerson	Longville	Scott
Aroner	Ducheny	Lowenthal	Shelley
Ashburn	Dutra	Machado	Soto
Baldwin	Firebaugh	Maddox	Steinberg
Bates	Florez	Maldonado	Strickland
Battin	Frusetta	Margett	Strom-Martin
Bock	Gallegos	Mazzoni	Thompson
Brewer	Granlund	McClintock	Thomson
Briggs	Havice	Migden	Torlakson
Calderon	Hertzberg	Nakano	Vincent
Campbell	Honda	Olberg	Washington
Cardenas	House	Oller	Wayne
Cardoza	Jackson	Pacheco, Robert	Wesson
Cedillo	Kaloogian	Pacheco, Rod	Wiggins
Corbett	Knox	Papan	Wildman
Correa	Kuehl	Pescetti	Wright
Cox	Leach	Reyes	Zettel

NOES—None

Above bill ordered enrolled.

ASSEMBLY BILL NO. 991 (Papan)—An act to add Section 709.7 to the Public Utilities Code, relating to telecommunications.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—63

Alquist	Ducheny	Longville	Shelley
Aroner	Dutra	Lowenthal	Soto
Battin	Firebaugh	Machado	Steinberg
Bock	Florez	Maldonado	Strom-Martin
Briggs	Floyd	Margett	Thomson
Calderon	Gallegos	Mazzoni	Torlakson
Campbell	Granlund	Migden	Vincent
Cardenas	Havice	Nakano	Washington
Cardoza	Hertzberg	Oller	Wayne
Cedillo	Honda	Pacheco, Robert	Wesson
Corbett	Jackson	Pacheco, Rod	Wiggins
Correa	Keeley	Papan	Wildman
Cox	Knox	Pescetti	Wright
Cunneen	Kuehl	Reyes	Zettel
Davis	Leach	Romero	Mr. Speaker
Dickerson	Lempert	Scott	

NOES—15

Aanestad	Bates	Leonard	Runner
Ackerman	Brewer	Maddox	Strickland
Ashburn	House	McClintock	Thompson
Baldwin	Kaloogian	Olberg	

Above bill ordered enrolled.

ASSEMBLY BILL NO. 1334 (Lowenthal)—An act to amend Section 13500 of the Penal Code, relating to law enforcement.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—70

Aanestad	Ducheny	Longville	Runner
Alquist	Dutra	Lowenthal	Scott
Aroner	Firebaugh	Machado	Shelley
Bates	Florez	Maddox	Soto
Battin	Floyd	Maldonado	Steinberg
Bock	Frusetta	Margett	Strickland
Briggs	Gallegos	Mazzoni	Strom-Martin
Calderon	Granlund	McClintock	Thomson
Campbell	Havice	Migden	Torlakson
Cardenas	Hertzberg	Nakano	Wayne
Cardoza	Honda	Olberg	Wesson
Cedillo	House	Oller	Wiggins
Corbett	Jackson	Pacheco, Robert	Wildman
Correa	Keeley	Pacheco, Rod	Wright
Cox	Knox	Papan	Zettel
Cunneen	Kuehl	Pescetti	Mr. Speaker
Davis	Leach	Reyes	
Dickerson	Lempert	Romero	

NOES—7

Ackerman	Baldwin	Kaloogian	Thompson
Ashburn	Brewer	Leonard	

Above bill ordered enrolled.

ASSEMBLY BILL NO. 1375 (House)—An act to add Section 17537.10 to the Business and Professions Code, relating to advertising.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—68

Aanestad	Cunneen	Kuehl	Reyes
Alquist	Davis	Leach	Romero
Aroner	Dickerson	Lempert	Runner
Ashburn	Ducheny	Longville	Scott
Bates	Dutra	Lowenthal	Shelley
Battin	Firebaugh	Machado	Soto
Bock	Florez	Maddox	Steinberg
Brewer	Frusetta	Maldonado	Strom-Martin
Briggs	Gallegos	Margett	Torlakson
Calderon	Granlund	Mazzoni	Washington
Campbell	Havice	Migden	Wayne
Cardenas	Hertzberg	Nakano	Wesson
Cardoza	Honda	Oller	Wiggins
Cedillo	House	Pacheco, Robert	Wildman
Corbett	Jackson	Pacheco, Rod	Wright
Correa	Keeley	Papan	Zettel
Cox	Knox	Pescetti	Mr. Speaker

NOES—8

Ackerman	Kaloogian	McClintock	Strickland
Baldwin	Leonard	Olberg	Thompson

Above bill ordered enrolled.

BILLS PLACED ON INACTIVE FILE

The following bill was placed upon the inactive file:

Assembly Bill No. 1387, on request of Assembly Member Florez.

CONSIDERATION OF DAILY FILE (RESUMED)**UNFINISHED BUSINESS (RESUMED)****CONSIDERATION OF SENATE AMENDMENTS**

ASSEMBLY BILL NO. 1506 (Florez)—An act to amend Sections 16430, 16753, 16754, and 16754.3 of the Government Code, relating to state finance.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—63

Aanestad	Davis	Kuehl	Soto
Ackerman	Dickerson	Lempert	Steinberg
Alquist	Ducheny	Longville	Strickland
Aroner	Dutra	Lowenthal	Strom-Martin
Bates	Firebaugh	Machado	Thomson
Bock	Florez	Maldonado	Torlakson
Briggs	Floyd	Mazzoni	Vincent
Calderon	Frusetta	Migden	Washington
Campbell	Gallegos	Nakano	Wayne
Cardenas	Granlund	Oller	Wesson
Cardoza	Havice	Papan	Wiggins
Cedillo	Hertzberg	Pescetti	Wildman
Corbett	Honda	Reyes	Wright
Correa	Jackson	Romero	Zettel
Cox	Keeley	Scott	Mr. Speaker
Cunneen	Knox	Shelley	

NOES—16

Ashburn	House	Maddox	Pacheco, Robert
Baldwin	Kaloogian	Margett	Pacheco, Rod
Battin	Leach	McClintock	Runner
Brewer	Leonard	Olberg	Thompson

Above bill ordered enrolled.

ASSEMBLY BILL NO. 1564 (Strom-Martin)—An act to add and repeal Chapter 11 (commencing with Section 15399.45) of Part 6.7 of Division 3 of Title 2 of, and to repeal Chapter 1.9 (commencing with Section 65055) of Division 1 of Title 7 of, the Government Code, and to amend Sections 50832 and 50834 of the Health and Safety Code, relating to economic development, and making an appropriation therefor.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—62

Aanestad	Dutra	Longville	Soto
Alquist	Firebaugh	Lowenthal	Steinberg
Aroner	Florez	Machado	Strom-Martin
Battin	Floyd	Maldonado	Thomson
Bock	Frusetta	Mazzoni	Torlakson
Calderon	Gallegos	Migden	Vincent
Cardenas	Havice	Nakano	Washington
Cardoza	Hertzberg	Oller	Wayne
Cedillo	Honda	Pacheco, Rod	Wesson
Corbett	House	Papan	Wiggins
Correa	Jackson	Pescetti	Wildman
Cox	Keeley	Reyes	Wright
Cunneen	Knox	Romero	Zettel
Davis	Kuehl	Runner	Mr. Speaker
Dickerson	Leach	Scott	
Ducheny	Lempert	Shelley	

NOES—17

Ackerman	Briggs	Maddox	Strickland
Ashburn	Campbell	Margett	Thompson
Baldwin	Granlund	McClintock	
Bates	Kaloogian	Olberg	
Brewer	Leonard	Pacheco, Robert	

Above bill ordered enrolled.

ASSEMBLY BILL NO. 1655 (Hertzberg)—An act to amend Section 62.9 of the Labor Code, relating to occupational safety and health.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—54

Alquist	Firebaugh	Lowenthal	Strickland
Aroner	Florez	Machado	Strom-Martin
Bock	Floyd	Maldonado	Thomson
Calderon	Gallegos	Mazzoni	Torlakson
Cardenas	Havice	Migden	Vincent
Cardoza	Hertzberg	Nakano	Washington
Cedillo	Honda	Papan	Wayne
Corbett	House	Reyes	Wesson
Correa	Jackson	Romero	Wiggins
Cunneen	Keeley	Runner	Wildman
Davis	Knox	Scott	Wright
Dickerson	Kuehl	Shelley	Mr. Speaker
Ducheny	Lempert	Soto	
Dutra	Longville	Steinberg	

NOES—24

Aanestad	Brewer	Kaloogian	Olberg
Ackerman	Briggs	Leach	Pacheco, Robert
Ashburn	Campbell	Leonard	Pacheco, Rod
Baldwin	Cox	Maddox	Pescetti
Bates	Frusetta	Margett	Thompson
Battin	Granlund	McClintock	Zettel

Above bill ordered enrolled.

MOTION TO RECONSIDER SENATE BILL NO. 767 CONTINUED

By unanimous consent, the motion to reconsider the vote on Senate Bill No. 767 was continued until the next legislative day.

BILLS PLACED ON INACTIVE FILE

The following resolution was placed upon the inactive file:

Assembly Constitutional Amendment No. 2, on request of Assembly Member Papan.

CONSIDERATION OF DAILY FILE (RESUMED)**THIRD READING OF ASSEMBLY BILLS**

ASSEMBLY CONCURRENT RESOLUTION NO. 81 (Reyes)—Relative to California Grown Certified Farmers' Market Month.

Resolution read.

**Members Made Coauthors of
Assembly Concurrent Resolution No. 81**

Assembly Member Reyes was granted unanimous consent to open the roll for the purpose of permitting Members to add as coauthors of Assembly Concurrent Resolution No. 81.

Roll Call

The following Assembly Members indicated a desire to become coauthors:

Aanestad, Ackerman, Alquist, Aroner, Ashburn, Baldwin, Bates, Battin, Bock, Brewer, Briggs, Campbell, Cardenas, Cedillo, Corbett, Correa, Cox, Cunneen, Davis, Dickerson, Ducheny, Dutra, Firebaugh, Florez, Frusetta, Gallegos, Granlund, Havice, Hertzberg, Honda, House, Jackson, Kaloogian, Keeley, Knox, Kuehl, Leach, Lempert, Leonard, Longville, Lowenthal, Machado, Maddox, Maldonado, Margett, Mazzoni, McClintock, Migden, Nakano, Olberg, Oller, Robert Pacheco, Rod Pacheco, Papan, Pescetti, Romero, Runner, Scott, Shelley, Soto, Steinberg, Strickland, Strom-Martin, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wesson, Wiggins, Wildman, and Zettel.

Request for Unanimous Consent

Assembly Member Reyes was granted unanimous consent to take up Assembly Concurrent Resolution No. 81, as amended, without reference to print or file, and that the same be considered engrossed.

Consideration of Assembly Concurrent Resolution No. 81, as Amended

ASSEMBLY CONCURRENT RESOLUTION NO. 81—Relative to California Grown Certified Farmers' Market Month.

Resolution read, as amended, and adopted.

Resolution ordered printed, and transmitted to the Senate immediately.

BILLS PLACED ON INACTIVE FILE

The following bill was placed upon the inactive file:

Senate Bill No. 383, on request of Assembly Member Ackerman.

**CONSIDERATION OF DAILY FILE (RESUMED)
THIRD READING OF SENATE BILLS (RESUMED)**

SENATE BILL NO. 622 (Speier)—An act to add Section 2071.5 to the Insurance Code, relating to insurance.

Bill read third time.

Motion to Amend

Assembly Member Knox moved the adoption of amendments.

Amendments read and adopted; bill ordered reprinted, and to be returned to the third reading file.

SENATE BILL NO. 120 (Ortiz)—An act relating to hazardous substances.

Bill read third time.

Motion to Amend

Assembly Member Steinberg moved the adoption of amendments.

Amendments read and adopted; bill ordered reprinted, and to be returned to the third reading file.

SENATE BILL NO. 555 (Karnette)—An act to amend Sections 451.5 and 457.1 of the Penal Code, relating to arson.

Bill read third time.

Motion to Amend

Assembly Member Honda moved the adoption of amendments.

Amendments read and adopted; bill ordered reprinted, and to be returned to the third reading file.

SENATE BILL NO. 1019 (Vasconcellos)—An act to amend Section 831.5 of the Penal Code, relating to crime prevention.

Bill read third time.

Motion to Amend

Assembly Member Honda moved the adoption of amendments.

Amendments read and adopted; bill ordered reprinted, and to be returned to the third reading file.

SENATE BILL NO. 408 (Alpert)—An act to amend Section 12208 of the Government Code, relating to the Secretary of State.

Bill read third time, and presented by Assembly Member Ackerman.

Bill passed by the following vote:

AYES—54

Ackerman	Dutra	Longville	Strickland
Alquist	Firebaugh	Machado	Strom-Martin
Aroner	Florez	Maddox	Thomson
Bock	Frusetta	Maldonado	Torlakson
Calderon	Gallegos	Mazzoni	Vincent
Cardenas	Granlund	Migden	Washington
Cardoza	Hertzberg	Papan	Wayne
Cedillo	Honda	Reyes	Wesson
Corbett	Jackson	Romero	Wiggins
Correa	Keeley	Runner	Wildman
Cunneen	Knox	Scott	Wright
Davis	Kuehl	Shelley	Mr. Speaker
Dickerson	Leach	Soto	
Ducheny	Lempert	Steinberg	

NOES—22

Aanestad	Briggs	Leonard	Pacheco, Rod
Ashburn	Campbell	Margett	Pescetti
Baldwin	Cox	McClintock	Thompson
Bates	Havice	Olberg	Zettel
Battin	House	Oller	
Brewer	Kaloogian	Pacheco, Robert	

Bill ordered transmitted to the Senate.

SENATE BILL NO. 534 (Dunn)—An act to amend Sections 1102, 1102.1, 1102.2, and 1102.9 of, and to add Sections 798.75.5, 1102.3a and 1102.6d to, the Civil Code, and to amend Sections 18025 and 18046 of the Health and Safety Code, relating to mobilehomes and manufactured homes.

Bill read third time, and presented by Assembly Member Dutra.

Bill passed by the following vote:

AYES—48

Alquist	Firebaugh	Leonard	Soto
Aroner	Florez	Longville	Steinberg
Bock	Floyd	Lowenthal	Strom-Martin
Calderon	Gallegos	Machado	Thomson
Cardenas	Havice	Mazzoni	Torlakson
Cardoza	Hertzberg	Migden	Vincent
Cedillo	Honda	Nakano	Washington
Corbett	Jackson	Papan	Wesson
Correa	Keeley	Reyes	Wiggins
Davis	Knox	Romero	Wildman
Ducheny	Kuehl	Scott	Wright
Dutra	Lempert	Shelley	Mr. Speaker

NOES—28

Aanestad	Briggs	Kaloogian	Pacheco, Robert
Ackerman	Campbell	Leach	Pacheco, Rod
Ashburn	Cox	Maldonado	Pescetti
Baldwin	Dickerson	Margett	Runner
Bates	Frusetta	McClintock	Strickland
Battin	Granlund	Olberg	Thompson
Brewer	House	Oller	Zettel

Bill ordered transmitted to the Senate.

At 9:37 a.m., Assistant Speaker pro Tempore Helen Thomson, 8th District, presiding

SENATE BILL NO. 1223 (Burton)—An act to amend Section 84305.5 of the Government Code, relating to the Political Reform Act of 1974.

Bill read third time, and presented by Assembly Member Migden.

Bill passed by the following vote:

AYES—76

Aanestad	Davis	Leonard	Runner
Alquist	Dickerson	Longville	Scott
Aroner	Ducheny	Lowenthal	Shelley
Ashburn	Dutra	Machado	Soto
Baldwin	Firebaugh	Maddox	Steinberg
Bates	Florez	Maldonado	Strickland
Battin	Floyd	Margett	Strom-Martin
Bock	Gallegos	Mazzoni	Thompson
Brewer	Havice	McClintock	Thomson
Briggs	Hertzberg	Migden	Torlakson
Calderon	Honda	Nakano	Vincent
Campbell	House	Olberg	Washington
Cardenas	Jackson	Oller	Wayne
Cardoza	Kaloogian	Pacheco, Robert	Wesson
Cedillo	Keeley	Pacheco, Rod	Wiggins
Corbett	Knox	Papan	Wildman
Correa	Kuehl	Pescetti	Wright
Cox	Leach	Reyes	Zettel
Cunneen	Lempert	Romero	Mr. Speaker

NOES—2

Ackerman Granlund

Vote Changes

By unanimous consent, the following vote changes were permitted on Senate Bill No. 1223: Assembly Members Ackerman and Granlund, from “Aye” to “No”.

Bill ordered transmitted to the Senate.

BILLS PLACED ON INACTIVE FILE

The following bill was placed upon the inactive file:

Senate Bill No. 406, on request of Assembly Member Steinberg.

**CONSIDERATION OF DAILY FILE (RESUMED)
THIRD READING OF SENATE BILLS (RESUMED)**

SENATE BILL NO. 971 (Baca)—An act to amend, repeal, and add Sections 35923 and 35925 to the Food and Agricultural Code, relating to milk.

Bill read third time, and presented by Assembly Member Cardoza.

Bill passed by the following vote:

AYES—74

Aanestad	Davis	Lempert	Shelley
Ackerman	Dickerson	Leonard	Soto
Alquist	Ducheny	Longville	Steinberg
Aroner	Dutra	Lowenthal	Strickland
Ashburn	Firebaugh	Machado	Strom-Martin
Bates	Florez	Maddox	Thompson
Battin	Floyd	Maldonado	Thomson
Bock	Frusetta	Margett	Torlakson
Brewer	Gallegos	Mazzoni	Vincent
Briggs	Granlund	Migden	Washington
Calderon	Havice	Nakano	Wayne
Campbell	Hertzberg	Pacheco, Robert	Wesson
Cardenas	Honda	Pacheco, Rod	Wiggins
Cardoza	House	Papan	Wildman
Cedillo	Jackson	Pescetti	Wright
Corbett	Keeley	Reyes	Zettel
Correa	Knox	Romero	Mr. Speaker
Cox	Kuehl	Runner	
Cunneen	Leach	Scott	

NOES—5

Baldwin	McClintock	Oller
Kaloogian	Olberg	

Vote Changes

By unanimous consent, the following vote changes were permitted on Senate Bill No. 971: Assembly Members Ackerman, Bates, Brewer, and Rod Pacheco, from “No” to “Aye”.

Bill ordered transmitted to the Senate.

SENATE BILL NO. 6 (Rainey)—An act to amend Sections 14205 and 14206 of the Penal Code, relating to reports of missing persons.

Bill read third time, and presented by Assembly Member Leach.

Bill passed by the following vote:

AYES—78

Aanestad	Davis	Leonard	Scott
Ackerman	Dickerson	Longville	Shelley
Alquist	Ducheny	Lowenthal	Soto
Aroner	Dutra	Machado	Steinberg
Ashburn	Firebaugh	Maddox	Strickland
Baldwin	Florez	Maldonado	Strom-Martin
Bates	Frusetta	Margett	Thompson
Battin	Gallegos	Mazzoni	Thomson
Bock	Granlund	McClintock	Torlakson
Brewer	Havice	Migden	Vincent
Briggs	Hertzberg	Nakano	Washington
Calderon	Honda	Olberg	Wayne
Campbell	House	Oller	Wesson
Cardenas	Jackson	Pacheco, Robert	Wiggins
Cardoza	Kaloogian	Pacheco, Rod	Wildman
Cedillo	Keeley	Papan	Wright
Corbett	Knox	Pescetti	Zettel
Correa	Kuehl	Reyes	Mr. Speaker
Cox	Leach	Romero	
Cunneen	Lempert	Runner	

NOES—None

Bill ordered transmitted to the Senate.

SENATE BILL NO. 111 (Figuroa)—An act to add Section 14005.235 to the Welfare and Institutions Code, relating to children, and making an appropriation therefor.

Bill read third time, and presented by Assembly Member Cedillo.

Bill passed by the following vote:

AYES—49

Alquist	Floyd	Maldonado	Thomson
Aroner	Gallegos	Mazzoni	Torlakson
Bock	Havice	Migden	Vincent
Calderon	Hertzberg	Nakano	Washington
Cardenas	Honda	Pacheco, Robert	Wayne
Cardoza	Jackson	Papan	Wesson
Cedillo	Keeley	Reyes	Wiggins
Corbett	Knox	Romero	Wildman
Correa	Kuehl	Scott	Wright
Davis	Lempert	Shelley	Mr. Speaker
Ducheny	Longville	Soto	
Dutra	Lowenthal	Steinberg	
Firebaugh	Machado	Strom-Martin	

NOES—28

Aanestad	Briggs	Kaloogian	Oller
Ackerman	Campbell	Leach	Pacheco, Rod
Ashburn	Cox	Leonard	Pescetti
Baldwin	Dickerson	Maddox	Runner
Bates	Frusetta	Margett	Strickland
Battin	Granlund	McClintock	Thompson
Brewer	House	Olberg	Zettel

Bill ordered transmitted to the Senate.

SENATE BILL NO. 114 (Escutia)—An act to add Section 1358.22 to the Health and Safety Code, and to add Section 10194.9 to the Insurance Code, relating to health coverage.

Bill read third time.

Motion to Amend

Assembly Member Reyes moved the adoption of amendments.

Amendments read and adopted; bill ordered reprinted, and to be returned to the third reading file.

SENATE BILL NO. 816 (Escutia)—An act to amend Sections 2836.1, 2836.2, 3502.1, 4040, 4060, and 4174 of the Business and Professions Code, and to amend Sections 11026 and 11150 of the Health and Safety Code, relating to health care practitioners.

Bill read third time, and presented by Assembly Member Cedillo.

Bill passed by the following vote:

AYES—78

Aanestad	Davis	Lempert	Runner
Ackerman	Dickerson	Leonard	Scott
Alquist	Ducheny	Longville	Shelley
Aroner	Dutra	Lowenthal	Soto
Ashburn	Firebaugh	Machado	Steinberg
Baldwin	Florez	Maddox	Strickland
Bates	Floyd	Maldonado	Strom-Martin
Battin	Frusetta	Margett	Thompson
Bock	Gallegos	Mazzoni	Torlakson
Brewer	Granlund	McClintock	Vincent
Briggs	Havice	Migden	Washington
Calderon	Hertzberg	Nakano	Wayne
Campbell	Honda	Olberg	Wesson
Cardenas	House	Oller	Wiggins
Cardoza	Jackson	Pacheco, Robert	Wildman
Cedillo	Kaloogian	Pacheco, Rod	Wright
Corbett	Keeley	Papan	Zettel
Correa	Knox	Pescetti	Mr. Speaker
Cox	Kuehl	Reyes	
Cunneen	Leach	Romero	

NOES—None

Bill ordered transmitted to the Senate.

At 9:51 a.m., Speaker pro Tempore Fred Keeley, 27th District, presiding

SENATE BILL NO. 378 (Kelley)—An act to amend Sections 7500.3, 7502.1, 7502.2, 7503.10, 7504, 7506.3, 7506.5, 7506.9, 7506.11, 7506.13, 7506.14, 7507.2, 7510.1, and 7511 of the Business and Professions Code, and to amend Sections 615, 22850.5, and 27907 of the Vehicle Code, relating to collateral recovery.

Bill read third time, and presented by Assembly Member Ackerman.

Bill passed by the following vote:

AYES—78

Aanestad	Davis	Lempert	Scott
Ackerman	Dickerson	Leonard	Shelley
Alquist	Ducheny	Longville	Soto
Aroner	Dutra	Lowenthal	Steinberg
Ashburn	Firebaugh	Machado	Strickland
Baldwin	Florez	Maddox	Strom-Martin
Bates	Floyd	Maldonado	Thompson
Battin	Frusetta	Margett	Thomson
Bock	Gallegos	Mazzoni	Torlakson
Brewer	Granlund	McClintock	Vincent
Briggs	Havice	Migden	Washington
Calderon	Hertzberg	Nakano	Wayne
Campbell	Honda	Olberg	Wesson
Cardenas	House	Pacheco, Robert	Wiggins
Cardoza	Jackson	Pacheco, Rod	Wildman
Cedillo	Kaloogian	Papan	Wright
Corbett	Keeley	Pescetti	Zettel
Correa	Knox	Reyes	Mr. Speaker
Cox	Kuehl	Romero	
Cunneen	Leach	Runner	

NOES—None

Bill ordered transmitted to the Senate.

SENATE BILL NO. 809 (O'Connell)—An act to add Sections 2960.05, 3750.51, 4982.05, and 4992.31 to the Business and Professions Code, relating to counselors.

Bill read third time, and presented by Assembly Member Gallegos.

Bill passed by the following vote:

AYES—79

Aanestad	Davis	Lempert	Runner
Ackerman	Dickerson	Leonard	Scott
Alquist	Ducheny	Longville	Shelley
Aroner	Dutra	Lowenthal	Soto
Ashburn	Firebaugh	Machado	Steinberg
Baldwin	Florez	Maddox	Strickland
Bates	Floyd	Maldonado	Strom-Martin
Battin	Frusetta	Margett	Thompson
Bock	Gallegos	Mazzoni	Thomson
Brewer	Granlund	McClintock	Torlakson
Briggs	Havice	Migden	Vincent
Calderon	Hertzberg	Nakano	Washington
Campbell	Honda	Olberg	Wayne
Cardenas	House	Oller	Wesson
Cardoza	Jackson	Pacheco, Robert	Wiggins
Cedillo	Kaloogian	Pacheco, Rod	Wildman
Corbett	Keeley	Papan	Wright
Correa	Knox	Pescetti	Zettel
Cox	Kuehl	Reyes	Mr. Speaker
Cunneen	Leach	Romero	

NOES—None

Bill ordered transmitted to the Senate.

SENATE BILL NO. 119 (Ortiz)—An act to amend Section 8483.7 of, to add and repeal Section 8484.7 of, and to repeal Article 22.5 (commencing with Section 8482) of Chapter 2 of Part 6 of, the Education Code, relating to after school programs.

Bill read third time.

Motion to Amend

Assembly Member Steinberg moved the adoption of amendments.

Amendments read and adopted; bill ordered reprinted, and to be returned to the third reading file.

SENATE BILL NO. 939 (Monteith)—An act to amend Section 76104 of the Government Code, relating to emergency medical services.

Bill read third time, and presented by Assembly Member Cardoza.

Bill passed by the following vote:

AYES—79

Aanestad	Davis	Lempert	Runner
Ackerman	Dickerson	Leonard	Scott
Alquist	Ducheny	Longville	Shelley
Aroner	Dutra	Lowenthal	Soto
Ashburn	Firebaugh	Machado	Steinberg
Baldwin	Florez	Maddox	Strickland
Bates	Floyd	Maldonado	Strom-Martin
Battin	Frusetta	Margett	Thompson
Bock	Gallegos	Mazzoni	Thomson
Brewer	Granlund	McClintock	Torlakson
Briggs	Havice	Migden	Vincent
Calderon	Hertzberg	Nakano	Washington
Campbell	Honda	Olberg	Wayne
Cardenas	House	Oller	Wesson
Cardoza	Jackson	Pacheco, Robert	Wiggins
Cedillo	Kaloogian	Pacheco, Rod	Wildman
Corbett	Keeley	Papan	Wright
Correa	Knox	Pescetti	Zettel
Cox	Kuehl	Reyes	Mr. Speaker
Cunneen	Leach	Romero	

NOES—None

Bill ordered transmitted to the Senate.

SENATE BILL NO. 419 (Speier)—An act to add and repeal Article 11 (commencing with Section 61581) to Chapter 1 of Part 3 of Division 21 of the Food and Agricultural Code, relating to agriculture.

Bill read third time.

Motion to Amend

Assembly Member Cardoza moved the adoption of amendments.

Amendments read and adopted; bill ordered reprinted, and to be returned to the third reading file.

SENATE BILL NO. 481 (Baca)—An act to add and repeal Section 15330.05 of the Government Code, relating to commerce, and making an appropriation therefor.

Bill read third time.

Motion to Amend

Assembly Member Soto moved the adoption of amendments.

Amendments read and adopted; bill ordered reprinted, and to be returned to the third reading file.

SENATE BILL NO. 529 (Bowen)—An act to add Section 43830.9 to, and to repeal and add Section 43830.8 of, the Health and Safety Code, relating to motor vehicle fuel.

Bill read third time, and presented by Assembly Member Shelley.

Bill passed by the following vote:

AYES—79

Aanestad	Davis	Lempert	Runner
Ackerman	Dickerson	Leonard	Scott
Alquist	Ducheny	Longville	Shelley
Aroner	Dutra	Lowenthal	Soto
Ashburn	Firebaugh	Machado	Steinberg
Baldwin	Florez	Maddox	Strickland
Bates	Floyd	Maldonado	Strom-Martin
Battin	Frusetta	Margett	Thompson
Bock	Gallegos	Mazzoni	Thomson
Brewer	Granlund	McClintock	Torlakson
Briggs	Havice	Migden	Vincent
Calderon	Hertzberg	Nakano	Washington
Campbell	Honda	Olberg	Wayne
Cardenas	House	Oller	Wesson
Cardoza	Jackson	Pacheco, Robert	Wiggins
Cedillo	Kaloojian	Pacheco, Rod	Wildman
Corbett	Keeley	Papan	Wright
Correa	Knox	Pescetti	Zettel
Cox	Kuehl	Reyes	Mr. Speaker
Cunneen	Leach	Romero	

NOES—None

Bill ordered transmitted to the Senate.

(NOTE: Later this day, the action was rescinded whereby Senate Bill No. 529 was passed, and whereby the bill was ordered transmitted to the Senate. See page 3488.)

ASSEMBLY BILL NO. 541 (Johnston)—An act to amend Sections 2551.3, 54743, 54744, 54745, 54746, 54748, 54749, and 54749.5 of the Education Code, and to amend Section 13 of Chapter 1078 of the Statutes of 1998, relating to education.

Bill read third time, and presented by Assembly Member Shelley.

Bill passed by the following vote:

AYES—78

Aanestad	Davis	Lempert	Scott
Ackerman	Dickerson	Leonard	Shelley
Alquist	Ducheny	Longville	Soto
Aroner	Dutra	Lowenthal	Steinberg
Ashburn	Firebaugh	Machado	Strickland
Baldwin	Florez	Maddox	Strom-Martin
Bates	Floyd	Maldonado	Thompson
Battin	Frusetta	Margett	Thomson
Bock	Gallegos	Mazzoni	Torlakson
Brewer	Granlund	Migden	Vincent
Briggs	Havice	Nakano	Washington
Calderon	Hertzberg	Olberg	Wayne
Campbell	Honda	Oller	Wesson
Cardenas	House	Pacheco, Robert	Wiggins
Cardoza	Jackson	Pacheco, Rod	Wildman
Cedillo	Kaloojian	Papan	Wright
Corbett	Keeley	Pescetti	Zettel
Correa	Knox	Reyes	Mr. Speaker
Cox	Kuehl	Romero	
Cunneen	Leach	Runner	

NOES—1

McClintock

Bill ordered transmitted to the Senate.

SENATE BILL NO. 543 (Bowen)—An act to amend Section 16010 of, and to add Section 369.5 to, the Welfare and Institutions Code, relating to children.

Bill read third time, and presented by Assembly Member Shelley.

Bill passed by the following vote:

AYES—79

Aanestad	Davis	Lempert	Runner
Ackerman	Dickerson	Leonard	Scott
Alquist	Ducheny	Longville	Shelley
Aroner	Dutra	Lowenthal	Soto
Ashburn	Firebaugh	Machado	Steinberg
Baldwin	Florez	Maddox	Strickland
Bates	Floyd	Maldonado	Strom-Martin
Battin	Frusetta	Margett	Thompson
Bock	Gallegos	Mazzoni	Thomson
Brewer	Granlund	McClintock	Torlakson
Briggs	Havice	Migden	Vincent
Calderon	Hertzberg	Nakano	Washington
Campbell	Honda	Olberg	Wayne
Cardenas	House	Oller	Wesson
Cardoza	Jackson	Pacheco, Robert	Wiggins
Cedillo	Kaloogian	Pacheco, Rod	Wildman
Corbett	Keeley	Papan	Wright
Correa	Knox	Pescetti	Zettel
Cox	Kuehl	Reyes	Mr. Speaker
Cunneen	Leach	Romero	

NOES—None

Bill ordered transmitted to the Senate.

SENATE BILL NO. 631 (Kelley)—An act to amend Sections 4733 and 6489 of the Health and Safety Code and to amend Sections 10631 and 20200 of the Water Code, relating to water.

Amendments Withdrawn

Without objection, Assembly Member Battin withdrew his amendments to Senate Bill No. 631.

Bill read third time, and presented by Assembly Member Wayne.

Bill passed by the following vote:

AYES—77

Aanestad	Dickerson	Leonard	Shelley
Ackerman	Ducheny	Longville	Soto
Alquist	Dutra	Lowenthal	Steinberg
Aroner	Firebaugh	Machado	Strickland
Baldwin	Florez	Maddox	Strom-Martin
Bates	Floyd	Maldonado	Thompson
Battin	Frusetta	Margett	Thomson
Bock	Gallegos	Mazzoni	Torlakson
Brewer	Granlund	Migden	Vincent
Briggs	Havice	Nakano	Washington
Calderon	Hertzberg	Olberg	Wayne
Campbell	Honda	Oller	Wesson
Cardenas	House	Pacheco, Robert	Wiggins
Cardoza	Jackson	Pacheco, Rod	Wildman
Cedillo	Kaloogian	Papan	Wright
Corbett	Keeley	Pescetti	Zettel
Correa	Knox	Reyes	Mr. Speaker
Cox	Kuehl	Romero	
Cunneen	Leach	Runner	
Davis	Lempert	Scott	

NOES—1

McClintock

Vote Changes

By unanimous consent, the following vote change was permitted on Senate Bill No. 631: Assembly Member Ashburn, from "Aye" to "Not Voting".

Bill ordered transmitted to the Senate.

SENATE BILL NO. 750 (Johnston)—An act to amend Section 29725 of the Public Resources Code, relating to environmental quality.

Bill read third time, and presented by Assembly Member Torlakson.

Bill passed by the following vote:

AYES—55

Aanestad	Dutra	Lowenthal	Soto
Alquist	Firebaugh	Machado	Steinberg
Aroner	Florez	Maldonado	Strom-Martin
Bock	Floyd	Margett	Thomson
Calderon	Gallegos	Mazzoni	Torlakson
Cardenas	Havice	Migden	Vincent
Cardoza	Hertzberg	Nakano	Washington
Cedillo	Honda	Pacheco, Robert	Wayne
Corbett	Jackson	Papan	Wesson
Correa	Keeley	Reyes	Wiggins
Cunneen	Knox	Romero	Wildman
Davis	Kuehl	Runner	Wright
Dickerson	Lempert	Scott	Mr. Speaker
Ducheny	Longville	Shelley	

NOES—23

Ackerman	Campbell	Leach	Pacheco, Rod
Ashburn	Cox	Leonard	Pescetti
Baldwin	Frusetta	Maddox	Strickland
Battin	Granlund	McClintock	Thompson
Brewer	House	Olberg	Zettel
Briggs	Kaloogian	Oller	

Bill ordered transmitted to the Senate.

SENATE BILL NO. 1005 (Escutia)—An act to add Sections 11325.26 and 16206.1 to the Welfare and Institutions Code, relating to social services.

Bill read third time.

Motion to Amend

Assembly Member Honda moved the adoption of amendments.

Amendments read and adopted; bill ordered reprinted, and to be returned to the third reading file.

SENATE BILL NO. 1016 (Bowen)—An act to add Section 1198.6 to the Labor Code, relating to employee records.

Bill read third time, and presented by Assembly Member Steinberg.

Bill passed by the following vote:

AYES—65

Alquist	Dutra	Lowenthal	Soto
Aroner	Firebaugh	Machado	Steinberg
Baldwin	Floyd	Maddox	Strickland
Bates	Frusetta	Maldonado	Strom-Martin
Battin	Gallegos	Margett	Thomson
Bock	Granlund	Mazzoni	Torlakson
Briggs	Havice	Migden	Vincent
Calderon	Hertzberg	Nakano	Washington
Cardenas	Honda	Olberg	Wesson
Cardoza	House	Pacheco, Robert	Wiggins
Cedillo	Jackson	Pacheco, Rod	Wildman
Corbett	Keeley	Papan	Wright
Correa	Knox	Pescetti	Zettel
Cunneen	Kuehl	Romero	Mr. Speaker
Davis	Leach	Runner	
Dickerson	Lempert	Scott	
Ducheny	Longville	Shelley	

NOES—11

Aanestad	Brewer	Florez	Oller
Ackerman	Campbell	Kaloogian	Thompson
Ashburn	Cox	McClintock	

Vote Changes

By unanimous consent, the following vote change was permitted on Senate Bill No. 1016: Assembly Member Kaloogian, from “Aye” to “No”.

Bill ordered transmitted to the Senate.

SENATE BILL NO. 1195 (Hayden)—An act to amend Section 40451 of, and to add Sections 39047.2, 40451.5, and 40471 to, the Health and Safety Code, relating to air pollution.

Bill read third time.

Motion to Amend

Assembly Member Knox moved the adoption of amendments.

Amendments read and adopted; bill ordered reprinted, and to be returned to the third reading file.

SENATE BILL NO. 1268 (Committee on Health and Human Services)—An act to amend Section 130110 of the Health and Safety Code, relating to early childhood development.

Bill read third time, and presented by Assembly Member Reyes.

Bill passed by the following vote:

AYES—76

Aanestad	Davis	Lempert	Runner
Ackerman	Dickerson	Leonard	Scott
Alquist	Ducheny	Longville	Shelley
Aroner	Dutra	Lowenthal	Soto
Ashburn	Firebaugh	Machado	Steinberg
Bates	Florez	Maddox	Strickland
Battin	Floyd	Maldonado	Strom-Martin
Bock	Frusetta	Margett	Thompson
Brewer	Gallegos	Mazzoni	Thomson
Briggs	Granlund	Migden	Torlakson
Calderon	Havice	Nakano	Vincent
Campbell	Hertzberg	Olberg	Washington
Cardenas	Honda	Oller	Wayne
Cardoza	House	Pacheco, Robert	Wesson
Cedillo	Jackson	Pacheco, Rod	Wiggins
Corbett	Keeley	Papan	Wildman
Correa	Knox	Pescetti	Wright
Cox	Kuehl	Reyes	Zettel
Cunneen	Leach	Romero	Mr. Speaker

NOES—3

Baldwin	Kaloogian	McClintock
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Bill ordered transmitted to the Senate.

SENATE BILL NO. 188 (Leslie)—An act to amend Sections 4056 and 4074 of the Business and Professions Code, relating to drugs, and declaring the urgency thereof, to take effect immediately.

Bill read third time.

Motion to Amend

Assembly Member Aanestad moved the adoption of amendments.

Amendments read and adopted; bill ordered reprinted, and to be returned to the third reading file.

SENATE CONCURRENT RESOLUTION NO. 26 (Costa)—Relative to a friendship state relationship with Inner Mongolia.

Resolution read, presented by Assembly Member Honda, and adopted by the following vote:

AYES—70

Alquist	Ducheny	Longville	Soto
Aroner	Dutra	Lowenthal	Steinberg
Ashburn	Firebaugh	Machado	Strickland
Bates	Florez	Maldonado	Strom-Martin
Battin	Floyd	Margett	Thompson
Bock	Frusetta	Mazzoni	Thomson
Brewer	Gallegos	Migden	Torlakson
Calderon	Granlund	Nakano	Vincent
Campbell	Havice	Olberg	Washington
Cardenas	Hertzberg	Oller	Wayne
Cardoza	Honda	Pacheco, Robert	Wesson
Cedillo	Jackson	Papan	Wiggins
Corbett	Keeley	Pescetti	Wildman
Correa	Knox	Reyes	Wright
Cox	Kuehl	Romero	Zettel
Cunneen	Leach	Runner	Mr. Speaker
Davis	Lempert	Scott	
Dickerson	Leonard	Shelley	

NOES—6

Ackerman	House	Maddox
Baldwin	Kaloogian	McClintock

Resolution ordered transmitted to the Senate.

BILLS REMOVED FROM SPECIAL CONSENT CALENDAR

The following bill was removed from the Special Consent Calendar, pursuant to Joint Rule 22.2, and returned to the Senate for further action:

Assembly Bill No. 370, on request of Assembly Member Wright.

BILLS REMOVED FROM CONSENT CALENDAR

The following bills were removed from the Consent Calendar, and placed on the third reading file, pursuant to Joint Rule 22.2:

Senate Bills Nos. 1270 and **832**, on request of Assembly Member Shelley.

At 10:25 a.m., Hon. Hannah-Beth Jackson, 35th District, presiding

**CONSIDERATION OF DAILY FILE (RESUMED)
THIRD READING OF SENATE BILLS (RESUMED)**

SENATE BILL NO. 332 (Sher)—An act to amend Section 12701 of the Business and Professions Code, to amend Sections 14513.4, 14515.5, 14536, 14549, 14549.6, 14550, 14551, 14560.5, 14561, 14571, 14571.8, 14573, 14573.5, 14574, 14580, 14581, and 14591.1 of, to amend, repeal, and add Sections 14504 and 14549.5 of, to add Sections 14514.4.1, 14514.7, 14519.5, 14525.5.1, 14585, and 40511 to, to add Chapter 7.5 (commencing with Section 14588) to Division 12.1 of, to add and repeal Sections 14549.1 and 14549.7 of, to repeal Section 14542 of, to repeal and add Sections 14551.5, 14560, and 14575 of, the Public Resources Code, relating to beverage containers, and making an appropriation therefor.

Bill read third time, and presented by Assembly Member Villaraigosa.

Bill passed by the following vote:

AYES—57

Alquist	Dutra	Lowenthal	Soto
Aroner	Firebaugh	Machado	Steinberg
Bock	Floyd	Maddox	Strom-Martin
Brewer	Gallegos	Margett	Thomson
Calderon	Granlund	Mazzoni	Torlakson
Cardenas	Havice	Migden	Vincent
Cardoza	Hertzberg	Nakano	Washington
Cedillo	Honda	Olberg	Wayne
Corbett	Jackson	Pacheco, Rod	Wesson
Correa	Keeley	Papan	Wiggins
Cox	Knox	Pescetti	Wildman
Cunneen	Kuehl	Reyes	Mr. Speaker
Davis	Leach	Romero	
Dickerson	Lempert	Scott	
Ducheny	Longville	Shelley	

NOES—17

Aanestad	Campbell	Maldonado	Strickland
Ackerman	Florez	McClintock	Thompson
Ashburn	Frusetta	Oller	
Baldwin	Kaloogian	Pacheco, Robert	
Briggs	Leonard	Runner	

Bill ordered transmitted to the Senate immediately.

SENATE BILL NO. 794 (Speier)—An act to add Section 11163 to the Government Code, and to add Section 7210 to the Public Contract Code, relating to state employment.

Bill read third time, and presented by Assembly Member Shelley.

Bill passed by the following vote:

AYES—78

Aanestad	Davis	Leonard	Scott
Ackerman	Dickerson	Longville	Shelley
Alquist	Ducheny	Lowenthal	Soto
Aroner	Dutra	Machado	Steinberg
Ashburn	Firebaugh	Maddox	Strickland
Baldwin	Florez	Maldonado	Strom-Martin
Bates	Floyd	Margett	Thompson
Battin	Frusetta	Mazzoni	Thomson
Bock	Gallegos	McClintock	Torlakson
Brewer	Granlund	Migden	Vincent
Briggs	Havice	Nakano	Washington
Calderon	Hertzberg	Olberg	Wayne
Campbell	Honda	Oller	Wesson
Cardenas	House	Pacheco, Robert	Wiggins
Cardoza	Jackson	Pacheco, Rod	Wildman
Cedillo	Keeley	Papan	Wright
Corbett	Knox	Pescetti	Zettel
Correa	Kuehl	Reyes	Mr. Speaker
Cox	Leach	Romero	
Cunneen	Lempert	Runner	

NOES—1

Kaloogian

Bill ordered transmitted to the Senate.

SENATE BILL NO. 1252 (Peace)—An act to amend Section 7582.22 of the Business and Professions Code, relating to private security services.

Bill read third time, and presented by Assembly Member Davis.

Bill passed by the following vote:

AYES—75

Aanestad	Davis	Lempert	Scott
Ackerman	Dickerson	Leonard	Shelley
Alquist	Ducheny	Longville	Soto
Aroner	Dutra	Lowenthal	Steinberg
Ashburn	Firebaugh	Machado	Strickland
Bates	Florez	Maddox	Strom-Martin
Battin	Floyd	Maldonado	Thompson
Bock	Frusetta	Mazzoni	Thomson
Brewer	Gallegos	Migden	Torlakson
Briggs	Granlund	Nakano	Vincent
Calderon	Havice	Olberg	Washington
Campbell	Hertzberg	Oller	Wayne
Cardenas	Honda	Pacheco, Robert	Wesson
Cardoza	House	Pacheco, Rod	Wiggins
Cedillo	Jackson	Papan	Wildman
Corbett	Keeley	Pescetti	Wright
Correa	Knox	Reyes	Zettel
Cox	Kuehl	Romero	Mr. Speaker
Cunneen	Leach	Runner	

NOES—3

Baldwin

Kaloogian

McClintock

Bill ordered transmitted to the Senate.

At 10:56 a.m., Speaker pro Tempore Fred Keeley, 27th District, presiding

SENATE BILL NO. 275 (Committee on Local Government)—An act to amend Section 13.5 of the Elections Code, to amend Sections 27000.8, 27000.9, 27063, 30063, 37361, 56332, 56853, 56857, 61107, 65307, 65850, 65850.4, 65956, 66451.2, 66458, 66498.1, 66498.2, and 66498.3 of, and to repeal Section 77202.5 of, the Government Code, to amend Sections 4730.6, 13114.2, and 13890 of the Health and Safety Code, and to amend Sections 98.02, 99, 4986.3, and 11005 of the Revenue and Taxation Code, relating to local agencies, and declaring the urgency thereof, to take effect immediately.

Bill read third time, and presented by Assembly Member Longville.

Urgency Clause

Urgency clause read, and adopted by the following vote:

AYES—74

Aanestad	Dickerson	Longville	Shelley
Ackerman	Ducheny	Lowenthal	Soto
Aroner	Dutra	Machado	Steinberg
Ashburn	Firebaugh	Maddox	Strickland
Baldwin	Florez	Maldonado	Strom-Martin
Bates	Frusetta	Margett	Thompson
Battin	Gallegos	Mazzoni	Thomson
Bock	Granlund	McClintock	Torlakson
Briggs	Havice	Migden	Vincent
Calderon	Hertzberg	Nakano	Washington
Campbell	Honda	Olberg	Wayne
Cardenas	House	Pacheco, Robert	Wesson
Cardoza	Jackson	Pacheco, Rod	Wiggins
Cedillo	Kaloogian	Papan	Wildman
Corbett	Keeley	Pescetti	Wright
Correa	Knox	Reyes	Zettel
Cox	Kuehl	Romero	Mr. Speaker
Cunneen	Leach	Runner	
Davis	Lempert	Scott	

NOES—1

Leonard

The question being on the passage of the bill.

Bill passed by the following vote:

AYES—74

Aanestad	Dickerson	Longville	Shelley
Ackerman	Ducheny	Lowenthal	Soto
Aroner	Dutra	Machado	Steinberg
Ashburn	Firebaugh	Maddox	Strickland
Baldwin	Florez	Maldonado	Strom-Martin
Bates	Frusetta	Margett	Thompson
Battin	Gallegos	Mazzoni	Thomson
Bock	Granlund	McClintock	Torlakson
Briggs	Havice	Migden	Vincent
Calderon	Hertzberg	Nakano	Washington
Campbell	Honda	Olberg	Wayne
Cardenas	House	Pacheco, Robert	Wesson
Cardoza	Jackson	Pacheco, Rod	Wiggins
Cedillo	Kaloogian	Papan	Wildman
Corbett	Keeley	Pescetti	Wright
Correa	Knox	Reyes	Zettel
Cox	Kuehl	Romero	Mr. Speaker
Cunneen	Leach	Runner	
Davis	Lempert	Scott	

NOES—1

Leonard

Bill ordered transmitted to the Senate.

SENATE BILL NO. 152 (Johannessen)—An act to add Section 79.2 to the Military and Veterans Code, relating to veterans.

Bill read third time, and presented by Assembly Member Baldwin.

Bill passed by the following vote:

AYES—78

Aanestad	Davis	Lempert	Scott
Ackerman	Dickerson	Leonard	Shelley
Alquist	Ducheny	Longville	Soto
Aroner	Dutra	Lowenthal	Steinberg
Ashburn	Firebaugh	Machado	Strickland
Baldwin	Florez	Maddox	Strom-Martin
Bates	Floyd	Maldonado	Thompson
Battin	Frusetta	Margett	Thomson
Bock	Gallegos	Mazzoni	Torlakson
Brewer	Granlund	Migden	Vincent
Briggs	Havice	Nakano	Washington
Calderon	Hertzberg	Olberg	Wayne
Campbell	Honda	Oller	Wesson
Cardenas	House	Pacheco, Robert	Wiggins
Cardoza	Jackson	Pacheco, Rod	Wildman
Cedillo	Kaloogian	Papan	Wright
Corbett	Keeley	Pescetti	Zettel
Correa	Knox	Reyes	Mr. Speaker
Cox	Kuehl	Romero	
Cunneen	Leach	Runner	

NOES—None

Bill ordered transmitted to the Senate.

SENATE BILL NO. 211 (Solis)—An act to amend Sections 12926 and 12960 of the Government Code, relating to discrimination.

Bill read third time, and presented by Assembly Member Kuehl.

Bill passed by the following vote:

AYES—57

Alquist	Dutra	Lowenthal	Strom-Martin
Ashburn	Firebaugh	Machado	Thomson
Bock	Florez	Maddox	Torlakson
Calderon	Floyd	Maldonado	Vincent
Campbell	Gallegos	Margett	Washington
Cardenas	Granlund	Mazzoni	Wayne
Cardoza	Havice	Migden	Wesson
Cedillo	Hertzberg	Nakano	Wiggins
Corbett	Honda	Pescetti	Wildman
Correa	Jackson	Reyes	Wright
Cox	Keeley	Romero	Zettel
Cunneen	Knox	Scott	Mr. Speaker
Davis	Kuehl	Shelley	
Dickerson	Lempert	Soto	
Ducheny	Longville	Steinberg	

NOES—19

Aanestad	Brewer	Leach	Pacheco, Robert
Ackerman	Briggs	Leonard	Runner
Baldwin	Frusetta	McClintock	Strickland
Bates	House	Olberg	Thompson
Battin	Kaloogian	Oller	

Bill ordered transmitted to the Senate.

SENATE BILL NO. 355 (Hughes)—An act to amend Section 6240 of, and add Section 6250.5 to, the Family Code, and to amend Sections 646.91, 12028.5, 13519, 13700, and 13710 of the Penal Code, relating to peace officers.

Bill read third time, and presented by Assembly Member Scott.

Bill passed by the following vote:

AYES—74

Aanestad	Dickerson	Leonard	Shelley
Ackerman	Ducheny	Longville	Soto
Alquist	Dutra	Lowenthal	Steinberg
Ashburn	Firebaugh	Machado	Strickland
Bates	Florez	Maddox	Strom-Martin
Battin	Floyd	Maldonado	Thompson
Bock	Frusetta	Margett	Thomson
Brewer	Gallegos	Mazzoni	Torlakson
Briggs	Granlund	McClintock	Vincent
Calderon	Havice	Migden	Washington
Campbell	Hertzberg	Nakano	Wayne
Cardenas	Honda	Olberg	Wesson
Cardoza	House	Oller	Wiggins
Cedillo	Jackson	Pacheco, Robert	Wildman
Corbett	Keeley	Pescetti	Wright
Correa	Knox	Reyes	Zettel
Cox	Kuehl	Romero	Mr. Speaker
Cunneen	Leach	Runner	
Davis	Lempert	Scott	

NOES—None

Bill ordered transmitted to the Senate.

SENATE BILL NO. 565 (Costa)—An act to add and repeal Section 14669.7 of the Government Code, relating to state property.

Bill read third time, and presented by Assembly Member Shelley.

Bill passed by the following vote:

AYES—72

Aanestad	Davis	Leach	Runner
Ackerman	Dickerson	Lempert	Scott
Alquist	Ducheny	Leonard	Shelley
Ashburn	Dutra	Longville	Soto
Bates	Firebaugh	Lowenthal	Steinberg
Battin	Florez	Machado	Strickland
Bock	Floyd	Maddox	Strom-Martin
Brewer	Frusetta	Maldonado	Thompson
Briggs	Gallegos	Margett	Thomson
Calderon	Granlund	Mazzoni	Torlakson
Campbell	Havice	Nakano	Vincent
Cardenas	Hertzberg	Olberg	Wayne
Cardoza	Honda	Oller	Wesson
Cedillo	House	Pacheco, Robert	Wiggins
Corbett	Jackson	Pacheco, Rod	Wildman
Correa	Keeley	Papan	Wright
Cox	Knox	Reyes	Zettel
Cunneen	Kuehl	Romero	Mr. Speaker

NOES—4

Baldwin	Kaloogian	McClintock	Pescetti
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Bill ordered transmitted to the Senate.

SENATE BILL NO. 205 (Perata)—An act to add Section 1367.665 to the Health and Safety Code, and to add Section 10123.20 to the Insurance Code, relating to health coverage.

Bill read third time, and presented by Assembly Member Torlakson.

Bill passed by the following vote:

AYES—70

Aanestad	Dueheny	Longville	Shelley
Alquist	Dutra	Lowenthal	Soto
Aroner	Firebaugh	Machado	Steinberg
Ashburn	Florez	Maddox	Strickland
Bates	Floyd	Maldonado	Strom-Martin
Battin	Frusetta	Mazzoni	Thomson
Boek	Gallegos	Migden	Torlakson
Brewer	Granlund	Nakano	Vincent
Briggs	Havice	Olberg	Washington
Calderon	Hertzberg	Oller	Wayne
Cardenas	Honda	Pacheco, Robert	Wesson
Cardoza	House	Pacheco, Rod	Wiggins
Cedillo	Jackson	Papan	Wildman
Corbett	Keeley	Pescetti	Wright
Correa	Knox	Reyes	Zettel
Cox	Kuehl	Romero	Mr. Speaker
Cunneen	Leach	Runner	
Davis	Lempert	Seott	

NOES—8

Ackerman	Campbell	Kaloogian	McClintock
Baldwin	Dickerson	Leonard	Thompson

Bill ordered transmitted to the Senate.

(NOTE: Later this day, the action was rescinded whereby Senate Bill No. 205 was passed, and whereby the bill was ordered transmitted to the Senate. See page 3488.)

RECESS

By unanimous consent, at 11:05 a.m., Speaker pro Tempore Keeley declared the Assembly recessed to permit the introduction of a special guest.

Assembly Member Reyes introduced Mexican-American poet Gary Soto and presented a resolution congratulating him upon his selection by the Hispanic Heritage Awards Foundation as the recipient of its Literature Award.

Gary Soto then addressed the assemblage.

RECONVENED

At 11:08 a.m., the Assembly reconvened.

Hon. Fred Keeley, Speaker pro Tempore of the Assembly, presiding.

BILLS REMOVED FROM CONSENT CALENDAR

The following bills were removed from the Consent Calendar, and placed on the third reading file, pursuant to Joint Rule 22.2:

Senate Bills Nos. 1053 and 537, on request of Assembly Member Shelley;

Senate Bill No. 836, on request of Assembly Member Gallegos.

ADJOURN IN MEMORY

Assembly Member Correa was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Police Officer Hank Oviedo, of Santa Ana.

[Assembly Rule 45.5 suspended.]

Assembly Member Pescetti was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Erick Eugene McDaniel, of Elk Grove.

[Assembly Rule 45.5 suspended.]

BILLS PLACED ON INACTIVE FILE

The following bill was placed upon the inactive file.

Senate Bill No. 377, on request of Assembly Member Keeley.

CONSIDERATION OF DAILY FILE (RESUMED) THIRD READING OF SENATE BILLS (RESUMED)

SENATE BILL NO. 652 (Speier)—An act to amend Sections 1808.47, 4750, 16020, 16025, 16028, 16029, 16030, 16033, 16070, 16071, 16457, and 40611 of, to add Sections 1808.24 and 4000.38 to, to repeal and add Section 4000.37 of, and to repeal Sections 1680, 16020, 16070, 16071, 16457, and 40611 of, the Vehicle Code, relating to vehicles.

Bill read third time, and presented by Assembly Member Scott.

Bill passed by the following vote:

AYES—71

Aanestad	Davis	Lempert	Scott
Ackerman	Dickerson	Leonard	Shelley
Alquist	Ducheny	Longville	Soto
Ashburn	Dutra	Lowenthal	Steinberg
Bates	Firebaugh	Machado	Strickland
Battin	Florez	Maldonado	Strom-Martin
Bock	Floyd	Mazzoni	Thompson
Brewer	Frusetta	Migden	Thomson
Briggs	Gallegos	Nakano	Torlakson
Calderon	Granlund	Olberg	Vincent
Campbell	Havice	Oller	Washington
Cardenas	Hertzberg	Pacheco, Robert	Wayne
Cardoza	House	Pacheco, Rod	Wesson
Cedillo	Jackson	Papan	Wiggins
Corbett	Keeley	Pescetti	Wildman
Correa	Knox	Reyes	Zettel
Cox	Kuehl	Romero	Mr. Speaker
Cunneen	Leach	Runner	

NOES—5

Baldwin	Maddox	Wright
Kaloogian	McClintock	

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS (RESUMED) CONSIDERATION OF SENATE AMENDMENTS

ASSEMBLY BILL NO. 327 (Gallegos)—An act to amend Sections 3071 and 3072 of the Civil Code, relating to vehicles.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—71

Aanestad	Ducheny	Longville	Shelley
Ackerman	Dutra	Lowenthal	Soto
Alquist	Firebaugh	Machado	Steinberg
Bates	Florez	Maddox	Strickland
Battin	Floyd	Maldonado	Strom-Martin
Bock	Frusetta	Mazzoni	Thompson
Brewer	Gallegos	Migden	Thomson
Calderon	Granlund	Nakano	Torlakson
Campbell	Havice	Olberg	Vincent
Cardenas	Hertzberg	Oller	Washington
Cardoza	Honda	Pacheco, Robert	Wayne
Cedillo	Jackson	Pacheco, Rod	Wesson
Corbett	Keeley	Papan	Wiggins
Correa	Knox	Pescetti	Wildman
Cox	Kuehl	Reyes	Wright
Cunneen	Leach	Romero	Zettel
Davis	Lempert	Runner	Mr. Speaker
Dickerson	Leonard	Scott	

NOES—5

Baldwin	House	McClintock
Briggs	Kaloogian	

Above bill ordered enrolled.

ASSEMBLY BILL NO. 74 (Strom-Martin)—An act to amend Section 14036 of the Government Code, relating to transportation.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—50

Alquist	Firebaugh	Lowenthal	Strom-Martin
Bock	Florez	Machado	Thomson
Calderon	Gallegos	Maldonado	Torlakson
Cardenas	Havice	Mazzoni	Vincent
Cardoza	Hertzberg	Migden	Washington
Cedillo	Honda	Nakano	Wayne
Corbett	Jackson	Papan	Wesson
Correa	Keeley	Reyes	Wiggins
Cunneen	Knox	Romero	Wildman
Davis	Kuehl	Scott	Wright
Dickerson	Leach	Shelley	Mr. Speaker
Ducheny	Lempert	Soto	
Dutra	Longville	Steinberg	

NOES—26

Aanestad	Briggs	Leonard	Pescetti
Ackerman	Campbell	Maddox	Runner
Ashburn	Cox	McClintock	Strickland
Baldwin	Frusetta	Olberg	Thompson
Bates	Granlund	Oller	Zettel
Battin	House	Pacheco, Robert	
Brewer	Kaloogian	Pacheco, Rod	

Above bill ordered enrolled.

ASSEMBLY BILL NO. 106 (Scott)—An act to add Article 4.5 (commencing with Section 12087) to Chapter 1 of Title 2 of Part 4 of the Penal Code, relating to firearm safety devices.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—53

Alquist	Floyd	Maldonado	Strom-Martin
Bock	Gallegos	Mazzoni	Thomson
Calderon	Havice	Migden	Torlakson
Cardenas	Hertzberg	Nakano	Vincent
Cardoza	Honda	Pacheco, Robert	Washington
Cedillo	Jackson	Pacheco, Rod	Wayne
Corbett	Keeley	Papan	Wesson
Correa	Knox	Pescetti	Wiggins
Cunneen	Kuehl	Reyes	Wildman
Davis	Lempert	Romero	Wright
Ducheny	Longville	Scott	Mr. Speaker
Dutra	Lowenthal	Shelley	
Firebaugh	Machado	Soto	
Florez	Maddox	Steinberg	

NOES—15

Aanestad	Brewer	Dickerson	Olberg
Ackerman	Briggs	Kaloogian	Oller
Ashburn	Campbell	Leonard	Thompson
Baldwin	Cox	McClintock	

Above bill ordered enrolled immediately.

ASSEMBLY BILL NO. 154 (Cunneen)—An act to amend Section 1424 of the Penal Code, relating to criminal law.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—77

Aanestad	Dickerson	Leonard	Shelley
Ackerman	Ducheny	Longville	Soto
Alquist	Dutra	Lowenthal	Steinberg
Ashburn	Firebaugh	Machado	Strickland
Baldwin	Florez	Maddox	Strom-Martin
Bates	Floyd	Maldonado	Thompson
Battin	Frusetta	Mazzoni	Thomson
Bock	Gallegos	McClintock	Torlakson
Brewer	Granlund	Migden	Vincent
Briggs	Havice	Nakano	Washington
Calderon	Hertzberg	Olberg	Wayne
Campbell	Honda	Oller	Wesson
Cardenas	House	Pacheco, Robert	Wiggins
Cardoza	Jackson	Pacheco, Rod	Wildman
Cedillo	Kaloogian	Papan	Wright
Corbett	Keeley	Pescetti	Zettel
Correa	Knox	Reyes	Mr. Speaker
Cox	Kuehl	Romero	
Cunneen	Leach	Runner	
Davis	Lempert	Scott	

NOES—None

Above bill ordered enrolled.

ASSEMBLY BILL NO. 1279 (Scott)—An act relating to postsecondary education, and declaring the urgency thereof, to take effect immediately.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—76

Aanestad	Davis	Leach	Runner
Ackerman	Dickerson	Lempert	Scott
Alquist	Ducheny	Leonard	Shelley
Ashburn	Dutra	Longville	Soto
Baldwin	Firebaugh	Lowenthal	Steinberg
Bates	Florez	Machado	Strickland
Battin	Floyd	Maddox	Strom-Martin
Bock	Frusetta	Maldonado	Thompson
Brewer	Gallegos	Mazzoni	Thomson
Briggs	Granlund	McClintock	Torlakson
Calderon	Havice	Nakano	Vincent
Campbell	Hertzberg	Olberg	Washington
Cardenas	Honda	Oller	Wayne
Cardoza	House	Pacheco, Robert	Wesson
Cedillo	Jackson	Pacheco, Rod	Wiggins
Corbett	Kaloogian	Papan	Wildman
Correa	Keeley	Pescetti	Wright
Cox	Knox	Reyes	Zettel
Cunneen	Kuehl	Romero	Mr. Speaker

NOES—None

Above bill ordered enrolled.

ASSEMBLY BILL NO. 1456 (Scott)—An act to amend Section 779.36 of the Insurance Code, relating to credit insurance.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—48

Alquist	Florez	Longville	Steinberg
Bock	Floyd	Lowenthal	Strom-Martin
Calderon	Gallegos	Machado	Thomson
Cardenas	Havice	Mazzoni	Torlakson
Cardoza	Hertzberg	Migden	Vincent
Cedillo	Honda	Nakano	Washington
Corbett	House	Papan	Wayne
Correa	Jackson	Reyes	Wesson
Davis	Keeley	Romero	Wiggins
Ducheny	Knox	Scott	Wildman
Dutra	Kuehl	Shelley	Wright
Firebaugh	Lempert	Soto	Mr. Speaker

NOES—29

Aanestad	Campbell	Leonard	Pescetti
Ackerman	Cox	Maddox	Runner
Ashburn	Cunneen	Maldonado	Strickland
Baldwin	Dickerson	McClintock	Thompson
Bates	Frusetta	Olberg	Zettel
Battin	Granlund	Oller	
Brewer	Kaloogian	Pacheco, Robert	
Briggs	Leach	Pacheco, Rod	

Above bill ordered enrolled.

OBJECTION TO VOTE ADDS AND CHANGES

Assembly Member Romero withheld unanimous consent on any requests for vote adds or vote changes on the roll call vote taken on this day on Assembly Bill No. 106.

At 11:22 a.m., Hon. Hannah-Beth Jackson, 35th District, presiding

CONSIDERATION OF DAILY FILE (RESUMED)

UNFINISHED BUSINESS (RESUMED)

CONSIDERATION OF SENATE AMENDMENTS

ASSEMBLY BILL NO. 71 (Cunneen)—An act to amend, repeal, and add Section 40000.13 of, and to add and repeal Sections 5205.5 and 21655.9 of, the Vehicle Code, relating to vehicles.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—78

Aanestad	Davis	Lempert	Scott
Ackerman	Dickerson	Leonard	Shelley
Alquist	Ducheny	Longville	Soto
Aroner	Dutra	Lowenthal	Steinberg
Ashburn	Firebaugh	Machado	Strickland
Baldwin	Florez	Maddox	Strom-Martin
Bates	Floyd	Maldonado	Thompson
Battin	Frusetta	Mazzoni	Thomson
Bock	Gallegos	McClintock	Torlakson
Brewer	Granlund	Migden	Vincent
Briggs	Havice	Nakano	Washington
Calderon	Hertzberg	Olberg	Wayne
Campbell	Honda	Oller	Wesson
Cardenas	House	Pacheco, Robert	Wiggins
Cardoza	Jackson	Pacheco, Rod	Wildman
Cedillo	Kaloogian	Papan	Wright
Corbett	Keeley	Pescetti	Zettel
Correa	Knox	Reyes	Mr. Speaker
Cox	Kuehl	Romero	
Cunneen	Leach	Runner	

NOES—None
Vote Changes

By unanimous consent, the following vote change was permitted on concurrence in Senate amendments to Assembly Bill No. 71: Assembly Member Ackerman, from “No” to “Aye”.

Above bill ordered enrolled.

At 11:27 a.m., Speaker pro Tempore Fred Keeley, 27th District, presiding

CONSIDERATION OF GOVERNOR’S VETO—ASSEMBLY BILL NO. 79

ASSEMBLY BILL NO. 79 (Baldwin)—An act to amend Section 48915 of the Education Code, relating to pupil expulsions.

Governor’s message stating his objections appears at page 3168 of the Assembly Journal for August 16, 1999.

CAUCUS ANNOUNCEMENTS

At 11:28 a.m., by unanimous consent, the Democratic Caucus was permitted to meet in the Assembly Lounge, and the Republican Caucus was permitted to meet in the Tom Bane Rules Committee Room.

RECESS

By unanimous consent, at 11:29 a.m., Speaker pro Tempore Keeley declared the Assembly recessed.

RECONVENED

At 12:35 p.m., the Assembly reconvened.

Hon. Fred Keeley, Speaker pro Tempore of the Assembly, presiding.

ENGROSSMENT AND ENROLLMENT REPORTS

Assembly Chamber, August 26, 1999

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

Assembly Concurrent Resolution No. 53

Assembly Concurrent Resolution No. 77

Assembly Joint Resolution No. 27

And reports the same correctly enrolled, and presented to the Secretary of State on the 26th day of August, 1999, at 10:15 a.m.

E. DOTSON WILSON, Chief Clerk

Assembly Chamber, August 26, 1999

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

Assembly Bill No. 106

And reports the same correctly enrolled, and presented to the Governor at 11:45 a.m., August 26, 1999.

E. DOTSON WILSON, Chief Clerk

MESSAGES FROM THE SENATE

Senate Chamber, August 26, 1999

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

Assembly Bill No. 188

GREG P. SCHMIDT, Secretary of the Senate
By John W. Rovane, Assistant Secretary

Above bill ordered enrolled.

Senate Chamber, August 26, 1999

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

Assembly Bill No. 92
Assembly Bill No. 151
Assembly Bill No. 178
Assembly Bill No. 254
Assembly Bill No. 321
Assembly Bill No. 423
Assembly Bill No. 471
Assembly Bill No. 476
Assembly Bill No. 535
Assembly Bill No. 580
Assembly Bill No. 655
Assembly Bill No. 670
Assembly Bill No. 685

Assembly Bill No. 791
Assembly Bill No. 794
Assembly Bill No. 855
Assembly Bill No. 925
Assembly Bill No. 963
Assembly Bill No. 1142
Assembly Bill No. 1188
Assembly Bill No. 1236
Assembly Bill No. 1284
Assembly Bill No. 1370
Assembly Bill No. 1487
Assembly Bill No. 1497
Assembly Bill No. 1549

And respectfully requests the Assembly to concur in said amendments.

GREG P. SCHMIDT, Secretary of the Senate
By John W. Rovane, Assistant Secretary

Above bills ordered to unfinished business file.

Senate Chamber, August 26, 1999

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

Senate Bill No. 72
Senate Bill No. 208
Senate Bill No. 331
Senate Bill No. 391
Senate Bill No. 430
Senate Bill No. 531
Senate Bill No. 665

Senate Bill No. 831
Senate Bill No. 1077
Senate Bill No. 1162
Senate Bill No. 1226
Senate Bill No. 1304
Senate Concurrent Resolution No. 8

GREG P. SCHMIDT, Secretary of the Senate
By John W. Rovane, Assistant Secretary

BILLS PLACED ON SPECIAL CONSENT CALENDAR

The following bills were placed upon the Special Consent Calendar:

Assembly Bills Nos. 178, 476, 655, 791, 794, 963, 1188, 1236, 1284, and 1487.

BILLS ORDERED ENROLLED IMMEDIATELY

Assembly Member Cunneen was granted unanimous consent that Assembly Bills Nos. 154 and 71 be ordered enrolled immediately.

**FURTHER CONSIDERATION OF GOVERNOR'S VETO—
ASSEMBLY BILL NO. 79**

ASSEMBLY BILL NO. 79 (Baldwin)—An act to amend Section 48915 of the Education Code, relating to pupil expulsions.

The question being: Shall Assembly Bill No. 79 become a law notwithstanding the objections of the Governor?

The roll was opened.

Call of the Assembly

Pending the announcement of the vote, Assembly Member Thompson moved a call of the Assembly.

Motion carried. Time, 12:52 p.m.

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

CAUCUS ANNOUNCEMENTS

At 12:53 p.m., Assembly Member Thompson was granted unanimous consent that the Republican Caucus be permitted to meet in the Tom Bane Rules Committee Room.

RECESS

By unanimous consent, at 12:53 p.m., Speaker pro Tempore Keeley declared the Assembly recessed.

RECONVENED

At 1:49 p.m., the Assembly reconvened.

Hon. Fred Keeley, Speaker pro Tempore of the Assembly, presiding.

ENGROSSMENT AND ENROLLMENT REPORTS

Assembly Chamber, August 26, 1999

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

- | | |
|-----------------------|-----------------------|
| Assembly Bill No. 89 | Assembly Bill No. 467 |
| Assembly Bill No. 116 | Assembly Bill No. 479 |
| Assembly Bill No. 160 | Assembly Bill No. 503 |
| Assembly Bill No. 164 | Assembly Bill No. 556 |
| Assembly Bill No. 168 | Assembly Bill No. 623 |
| Assembly Bill No. 292 | Assembly Bill No. 637 |
| Assembly Bill No. 341 | Assembly Bill No. 652 |
| Assembly Bill No. 342 | Assembly Bill No. 822 |
| Assembly Bill No. 381 | Assembly Bill No. 880 |
| Assembly Bill No. 396 | Assembly Bill No. 969 |

And reports the same correctly enrolled, and presented to the Governor at 1:30 p.m., August 26, 1999.

E. DOTSON WILSON, Chief Clerk

Assembly Chamber, August 26, 1999

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

- | | |
|------------------------|------------------------|
| Assembly Bill No. 1041 | Assembly Bill No. 1440 |
| Assembly Bill No. 1137 | Assembly Bill No. 1465 |
| Assembly Bill No. 1336 | Assembly Bill No. 1490 |
| Assembly Bill No. 1395 | Assembly Bill No. 1540 |
| Assembly Bill No. 1399 | Assembly Bill No. 1578 |
| Assembly Bill No. 1413 | Assembly Bill No. 1692 |

And reports the same correctly enrolled, and presented to the Governor at 1:30 p.m., August 26, 1999.

E. DOTSON WILSON, Chief Clerk

Assembly Chamber, August 26, 1999

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

Assembly Bill No. 166

Assembly Bill No. 518

And reports the same correctly enrolled, and presented to the Governor at 1:30 p.m., August 26, 1999.

E. DOTSON WILSON, Chief Clerk

ACTION RESCINDED ON ASSEMBLY BILL NO. 118

Assembly Member Washington was granted unanimous consent to rescind the action whereby the Assembly, earlier this day (Assembly Journal, page 3447), concurred in Senate amendments to Assembly Bill No. 118, and whereby the bill was ordered enrolled; and that the bill be returned to the Senate for further action.

RE-REFERENCE OF BILLS

Assembly Member Shelley was granted unanimous consent that Senate Bill No. 387 be re-referred from the Committee on Transportation to the Committee on Natural Resources.

ASSEMBLY BILL NO. 94 WITHDRAWN FROM ENROLLMENT

Upon request of Assembly Member Shelley, Assembly Member Cedillo was granted unanimous consent that Assembly Bill No. 94 be withdrawn from enrollment and that the bill be held at the Desk.

ACTION RESCINDED ON SENATE BILL NO. 529

Assembly Member Shelley was granted unanimous consent to rescind the action whereby the Assembly, earlier this day (Assembly Journal, page 3468), passed Senate Bill No. 529, and whereby the bill was ordered transmitted to the Senate, and that the bill be placed upon the inactive file.

ACTION RESCINDED ON SENATE BILL NO. 205

Upon request of Assembly Member Shelley, Assembly Member Torlakson was granted unanimous consent to rescind the action whereby the Assembly, earlier this day (Assembly Journal, page 3479), passed Senate Bill No. 205, and whereby the bill was ordered transmitted to the Senate.

**NOTICE OF INTENTION TO REMOVE BILL
FROM INACTIVE FILE**

Pursuant to Assembly Rule 78, Assembly Member Torlakson announced his intention to request that Senate Bill No. 436 be removed from the inactive file.

**CONSIDERATION OF SENATE AMENDMENTS BY UNANIMOUS CONSENT
AND ASSEMBLY RULE 77 SUSPENDED**

Upon request of Assembly Member Shelley, Assembly Member Corbett was granted unanimous consent to suspend Assembly Rule 77 to permit consideration of Senate amendments to Assembly Bill No. 295, without reference to file.

ASSEMBLY BILL NO. 295 (Corbett)—An act to amend Sections 171b and 12071.1 of, and to add Section 12071.4 to, the Penal Code, relating to firearms.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—67

Alquist	Ducheny	Longville	Shelley
Aroner	Dutra	Lowenthal	Soto
Bates	Firebaugh	Machado	Steinberg
Bock	Florez	Maddox	Strom-Martin
Brewer	Floyd	Maldonado	Thompson
Briggs	Gallegos	Mazzoni	Thomson
Calderon	Granlund	Migden	Torlakson
Campbell	Havice	Nakano	Vincent
Cardenas	Hertzberg	Olberg	Washington
Cardoza	Honda	Oller	Wayne
Cedillo	Jackson	Pacheco, Robert	Wesson
Corbett	Keeley	Pacheco, Rod	Wiggins
Correa	Knox	Papan	Wildman
Cox	Kuehl	Pescetti	Wright
Cunneen	Leach	Reyes	Zettel
Davis	Lempert	Romero	Mr. Speaker
Dickerson	Leonard	Scott	

NOES—10

Aanestad	Baldwin	House	Runner
Ackerman	Battin	Kaloogian	
Ashburn	Baugh	McClintock	

Above bill ordered enrolled immediately.

**CONSIDERATION OF DAILY FILE (RESUMED)
THIRD READING OF SENATE BILLS (RESUMED)**

SENATE JOINT RESOLUTION NO. 15 (Sher)—Relative to gasoline.

Resolution read, presented by Assembly Member Romero, and adopted by the following vote:

AYES—76

Ackerman	Davis	Lempert	Runner
Alquist	Dickerson	Leonard	Scott
Aroner	Ducheny	Longville	Shelley
Ashburn	Dutra	Lowenthal	Soto
Baldwin	Firebaugh	Machado	Steinberg
Bates	Florez	Maddox	Strickland
Battin	Floyd	Maldonado	Strom-Martin
Baugh	Gallegos	Mazzoni	Thompson
Brewer	Granlund	McClintock	Thomson
Briggs	Havice	Migden	Torlakson
Calderon	Hertzberg	Nakano	Vincent
Campbell	Honda	Olberg	Washington
Cardenas	House	Oller	Wayne
Cardoza	Jackson	Pacheco, Robert	Wesson
Cedillo	Kaloogian	Pacheco, Rod	Wiggins
Corbett	Keeley	Papan	Wildman
Correa	Knox	Pescetti	Wright
Cox	Kuehl	Reyes	Zettel
Cunneen	Leach	Romero	Mr. Speaker

NOES—None

Resolution ordered transmitted to the Senate.

SENATE BILL NO. 994 (Bowen)—An act to amend Section 1203.10 of the Penal Code, and to amend Section 3201 of the Welfare and Institutions Code, relating to narcotic addicts.

Bill read third time, and presented by Assembly Member Migden.

The roll was opened.

Call of the Assembly

Pending the announcement of the vote, Assembly Member Migden moved a call of the Assembly.

Motion carried. Time, 2:05 p.m.

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

**SENATE BILL NO. 1025 REMOVED FROM CONSENT
CALENDAR AND TAKEN UP**

Upon request of Assembly Member Shelley, Assembly Member Ackerman was granted unanimous consent that Senate Bill No. 1025 be removed from the Consent Calendar, and to take the bill up at this time, without reference to file, for purpose of amendment.

SENATE BILL NO. 1025 (Johnson)—An act to amend Section 84200.5 of, and add Section 86109.5 to, the Government Code, relating to the Political Reform Act of 1974.

Bill read third time.

Motion to Amend

Assembly Member Ackerman moved the adoption of amendments.

Amendments read and adopted; bill ordered reprinted, and to be returned to the third reading file.

**CONSIDERATION OF DAILY FILE (RESUMED)
THIRD READING OF SENATE BILLS (RESUMED)**

SENATE BILL NO. 879 (Speier)—An act to amend Section 8289 of the Education Code, relating to child care.

Bill read third time, and presented by Assembly Member Romero.

Bill passed by the following vote:

AYES—73

Aanestad	Davis	Longville	Soto
Ackerman	Dickerson	Lowenthal	Steinberg
Alquist	Ducheny	Machado	Strickland
Aroner	Dutra	Maddox	Strom-Martin
Baldwin	Firebaugh	Maldonado	Thompson
Bates	Florez	Mazzoni	Thomson
Battin	Floyd	Migden	Torlakson
Bock	Gallegos	Nakano	Vincent
Brewer	Granlund	Olberg	Washington
Briggs	Havice	Oller	Wayne
Calderon	Hertzberg	Pacheco, Robert	Wesson
Campbell	Honda	Pacheco, Rod	Wiggins
Cardenas	Jackson	Papan	Wildman
Cardoza	Kaloogian	Pescetti	Wright
Cedillo	Keeley	Reyes	Zettel
Corbett	Knox	Romero	Mr. Speaker
Correa	Kuehl	Runner	
Cox	Leach	Scott	
Cunneen	Lempert	Shelley	

NOES—1

McClintock

Bill ordered transmitted to the Senate.

**UNFINISHED BUSINESS (RESUMED)
CONSIDERATION OF SENATE AMENDMENTS**

ASSEMBLY BILL NO. 207 (Thomson)—An act to add Section 633.6 to the Penal Code, relating to crime.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—78

Aanestad	Cunneen	Lempert	Scott
Ackerman	Davis	Leonard	Shelley
Alquist	Dickerson	Longville	Soto
Aroner	Ducheny	Lowenthal	Steinberg
Ashburn	Dutra	Machado	Strickland
Baldwin	Firebaugh	Maddox	Strom-Martin
Bates	Florez	Maldonado	Thompson
Battin	Floyd	Mazzoni	Thomson
Baugh	Gallegos	McClintock	Torlakson
Bock	Granlund	Migden	Vincent
Brewer	Havice	Nakano	Washington
Briggs	Hertzberg	Olberg	Wayne
Calderon	Honda	Oller	Wesson
Campbell	House	Pacheco, Robert	Wiggins
Cardenas	Jackson	Pacheco, Rod	Wildman
Cardoza	Kaloogian	Papan	Wright
Cedillo	Keeley	Pescetti	Zettel
Corbett	Knox	Reyes	Mr. Speaker
Correa	Kuehl	Romero	
Cox	Leach	Runner	

NOES—None

Above bill ordered enrolled.

ASSEMBLY BILL NO. 754 (Aroner)—An act to amend Section 14087.3 of the Welfare and Institutions Code, relating to health.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—78

Aanestad	Cunneen	Lempert	Scott
Ackerman	Davis	Leonard	Shelley
Alquist	Dickerson	Longville	Soto
Aroner	Ducheny	Lowenthal	Steinberg
Ashburn	Dutra	Machado	Strickland
Baldwin	Firebaugh	Maddox	Strom-Martin
Bates	Florez	Maldonado	Thompson
Battin	Floyd	Mazzoni	Thomson
Baugh	Gallegos	McClintock	Torlakson
Bock	Granlund	Migden	Vincent
Brewer	Havice	Nakano	Washington
Briggs	Hertzberg	Olberg	Wayne
Calderon	Honda	Oller	Wesson
Campbell	House	Pacheco, Robert	Wiggins
Cardenas	Jackson	Pacheco, Rod	Wildman
Cardoza	Kaloogian	Papan	Wright
Cedillo	Keeley	Pescetti	Zettel
Corbett	Knox	Reyes	Mr. Speaker
Correa	Kuehl	Romero	
Cox	Leach	Runner	

NOES—None

Above bill ordered enrolled.

ASSEMBLY BILL NO. 1106 (Committee on Human Services)—An act to repeal Section 4669.8 of the Welfare and Institutions Code, relating to public social services.

Bill presented by Assembly Member Aroner.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—77

Aanestad	Cunneen	Lempert	Scott
Ackerman	Davis	Leonard	Shelley
Alquist	Dickerson	Longville	Soto
Aroner	Ducheny	Lowenthal	Steinberg
Ashburn	Dutra	Machado	Strickland
Baldwin	Firebaugh	Maddox	Strom-Martin
Bates	Florez	Maldonado	Thomson
Battin	Floyd	Mazzoni	Torlakson
Baugh	Gallegos	McClintock	Vincent
Bock	Granlund	Migden	Washington
Brewer	Havice	Nakano	Wayne
Briggs	Hertzberg	Olberg	Wesson
Calderon	Honda	Oller	Wiggins
Campbell	House	Pacheco, Robert	Wildman
Cardenas	Jackson	Pacheco, Rod	Wright
Cardoza	Kaloogian	Papan	Zettel
Cedillo	Keeley	Pescetti	Mr. Speaker
Corbett	Knox	Reyes	
Correa	Kuehl	Romero	
Cox	Leach	Runner	

NOES—1

Thompson

Above bill ordered enrolled.

ASSEMBLY BILL NO. 1108 (Committee on Human Services)—An act to add Section 1507.3 to the Health and Safety Code, relating to care facilities.

Bill presented by Assembly Member Aroner.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—72

Aanestad	Cunneen	Leonard	Runner
Ackerman	Davis	Longville	Scott
Alquist	Dickerson	Lowenthal	Shelley
Aroner	Ducheny	Machado	Soto
Ashburn	Dutra	Maddox	Steinberg
Bates	Firebaugh	Maldonado	Strickland
Battin	Florez	Mazzoni	Strom-Martin
Bock	Floyd	McClintock	Thomson
Brewer	Gallegos	Migden	Torlakson
Briggs	Granlund	Nakano	Vincent
Calderon	Havice	Olberg	Washington
Campbell	Hertzberg	Oller	Wayne
Cardenas	Jackson	Pacheco, Robert	Wesson
Cardoza	Keeley	Pacheco, Rod	Wiggins
Cedillo	Knox	Papan	Wildman
Corbett	Kuehl	Pescetti	Wright
Correa	Leach	Reyes	Zettel
Cox	Lempert	Romero	Mr. Speaker

NOES—4

Baldwin	House	Kaloogian	Thompson
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Above bill ordered enrolled.

ASSEMBLY BILL NO. 1361 (Aroner)—An act to amend Section 116.910 of the Code of Civil Procedure, relating to small claims.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—42

Alquist	Floyd	Machado	Thomson
Aroner	Gallegos	Mazzoni	Torlakson
Bock	Hertzberg	Migden	Vincent
Calderon	Honda	Papan	Washington
Cardenas	Jackson	Reyes	Wesson
Cardoza	Keeley	Romero	Wiggins
Cedillo	Knox	Scott	Wildman
Corbett	Kuehl	Shelley	Wright
Ducheny	Lempert	Soto	Mr. Speaker
Dutra	Longville	Steinberg	
Firebaugh	Lowenthal	Strom-Martin	

NOES—34

Aanestad	Campbell	Kaloogian	Pacheco, Robert
Ackerman	Correa	Leach	Pescetti
Ashburn	Cox	Leonard	Runner
Baldwin	Cunneen	Maddox	Strickland
Bates	Dickerson	Maldonado	Thompson
Battin	Florez	McClintock	Wayne
Baugh	Granlund	Nakano	Zettel
Brewer	Havice	Olberg	
Briggs	House	Oller	

Above bill ordered enrolled.

ASSEMBLY JOINT RESOLUTION NO. 23 (Runner)—Relative to the California film industry.

The question being: Shall the Assembly concur in the Senate amendments to the above resolution?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—77

Aanestad	Cunneen	Lempert	Shelley
Ackerman	Davis	Leonard	Soto
Alquist	Dickerson	Longville	Steinberg
Aroner	Ducheny	Lowenthal	Strickland
Ashburn	Dutra	Machado	Strom-Martin
Baldwin	Firebaugh	Maddox	Thompson
Bates	Florez	Maldonado	Thomson
Battin	Floyd	Mazzoni	Torlakson
Baugh	Gallegos	Migden	Vincent
Bock	Granlund	Nakano	Washington
Brewer	Havice	Olberg	Wayne
Briggs	Hertzberg	Oller	Wesson
Calderon	Honda	Pacheco, Robert	Wiggins
Campbell	House	Pacheco, Rod	Wildman
Cardenas	Jackson	Papan	Wright
Cardoza	Kaloogian	Pescetti	Zettel
Cedillo	Keeley	Reyes	Mr. Speaker
Corbett	Knox	Romero	
Correa	Kuehl	Runner	
Cox	Leach	Scott	

NOES—None

Above resolution ordered enrolled.

ASSEMBLY BILL NO. 806 (Keeley)—An act to amend Section 10160 of, and to add Section 7201 to, the Public Contract Code, relating to public contracts.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

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

AYES—77

Aanestad	Cunneen	Lempert	Shelley
Ackerman	Davis	Leonard	Soto
Alquist	Dickerson	Longville	Steinberg
Aroner	Ducheny	Lowenthal	Strickland
Ashburn	Dutra	Machado	Strom-Martin
Baldwin	Firebaugh	Maddox	Thompson
Bates	Florez	Maldonado	Thomson
Battin	Floyd	Mazzoni	Torlakson
Baugh	Gallegos	McClintock	Vincent
Bock	Granlund	Migden	Washington
Brewer	Havice	Nakano	Wayne
Briggs	Hertzberg	Olberg	Wesson
Calderon	Honda	Oller	Wiggins
Campbell	House	Pacheco, Robert	Wildman
Cardenas	Jackson	Pacheco, Rod	Wright
Cardoza	Kaloogian	Papan	Zettel
Cedillo	Keeley	Pescetti	Mr. Speaker
Corbett	Knox	Romero	
Correa	Kuehl	Runner	
Cox	Leach	Scott	

NOES—None

Above bill ordered enrolled.

At 2:18 p.m., Speaker pro Tempore Fred Keeley, 27th District, presiding

At 2:26 p.m., Assistant Speaker pro Tempore Helen Thomson, 8th District, presiding

THIRD READING OF SENATE BILLS (RESUMED)

SENATE BILL NO. 675 (Sher)—An act to amend Sections 13100, 13101.5, 13101.6, 13102, 13103, and 13104 of the Government Code, relating to state projects.

Bill read third time, and presented by Assembly Member Romero.

Bill passed by the following vote:

AYES—75

Ackerman	Cunneen	Lempert	Scott
Alquist	Davis	Leonard	Shelley
Aroner	Dickerson	Longville	Soto
Ashburn	Ducheny	Lowenthal	Steinberg
Baldwin	Dutra	Machado	Strickland
Bates	Firebaugh	Maddox	Strom-Martin
Battin	Florez	Maldonado	Thompson
Baugh	Floyd	Mazzoni	Thomson
Bock	Gallegos	McClintock	Torlakson
Brewer	Havice	Nakano	Vincent
Briggs	Hertzberg	Olberg	Washington
Calderon	Honda	Oller	Wayne
Campbell	House	Pacheco, Robert	Wesson
Cardenas	Jackson	Pacheco, Rod	Wiggins
Cardoza	Kaloogian	Papan	Wildman
Cedillo	Keeley	Pescetti	Wright
Corbett	Knox	Reyes	Zettel
Correa	Kuehl	Romero	Mr. Speaker
Cox	Leach	Runner	

NOES—None

Bill ordered transmitted to the Senate.

POINT OF ORDER

Assembly Member Jackson arose to the following point of order:

Senate Bill No. 1107 has been passed temporarily on file three times awaiting Assembly Member Battin’s presentation of amendments and it is the intention of the author to take the bill up for consideration today.

Ruling by Speaker pro Tempore Keeley

The Speaker pro Tempore ruled the point of order well-taken; that the Chair advises that the Minority Leader designate a Member to present Assembly Member Battin’s proposed amendments.

MEMBERS EXCUSED FOR COMMITTEE MEETING

At 2:24 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.

**CONSIDERATION OF DAILY FILE (RESUMED)
THIRD READING OF SENATE BILLS (RESUMED)**

SENATE BILL NO. 645 (Burton)—An act to amend Sections 3583 and 3585 of, and to add Sections 3583.5 and 3584 to, the Government Code, relating to higher education labor relations.

Bill read third time, and presented by Assembly Member Villaraigosa.

**At 2:26 p.m., Assistant Speaker pro Tempore Helen Thomson,
8th District, presiding**

Demand for Previous Question

Assembly Members Keeley, Washington, Reyes, Wayne, and Shelley demanded the previous question.

Roll Call Demanded

Assembly Members Thompson, Campbell, and McClintock, demanded a roll call.

The roll was called, and the demand for the previous question was sustained by the following vote:

AYES—49

Alquist	Firebaugh	Lowenthal	Thomson
Aroner	Florez	Machado	Torlakson
Bock	Floyd	Mazzoni	Vincent
Calderon	Gallegos	Migden	Washington
Cardenas	Havice	Nakano	Wayne
Cardoza	Hertzberg	Papan	Wesson
Cedillo	Honda	Reyes	Wiggins
Corbett	Jackson	Romero	Wildman
Correa	Keeley	Scott	Wright
Davis	Knox	Shelley	Mr. Speaker
Dickerson	Kuehl	Soto	
Ducheny	Lempert	Steinberg	
Dutra	Longville	Strom-Martin	

NOES—28

Aanestad	Brewer	Leach	Pacheco, Robert
Ackerman	Briggs	Leonard	Pacheco, Rod
Ashburn	Campbell	Maddox	Pescetti
Baldwin	Cox	Maldonado	Runner
Bates	Cunneen	McClintock	Strickland
Battin	House	Olberg	Thompson
Baugh	Kaloogian	Oller	Zettel

The question being on the passage of the bill.

Bill passed by the following vote:

AYES—51

Alquist	Florez	Lowenthal	Steinberg
Aroner	Floyd	Machado	Strom-Martin
Bock	Gallegos	Maddox	Thomson
Calderon	Granlund	Mazzoni	Torlakson
Cardenas	Havice	Migden	Vincent
Cardoza	Hertzberg	Nakano	Washington
Cedillo	Honda	Papan	Wayne
Corbett	Jackson	Pescetti	Wesson
Correa	Keeley	Reyes	Wiggins
Davis	Knox	Romero	Wildman
Ducheny	Kuehl	Scott	Wright
Dutra	Lempert	Shelley	Mr. Speaker
Firebaugh	Longville	Soto	

NOES—25

Ackerman	Campbell	Leonard	Runner
Ashburn	Cox	Maldonado	Strickland
Baldwin	Cunneen	McClintock	Thompson
Bates	Dickerson	Olberg	Zettel
Battin	House	Oller	
Baugh	Kaloogian	Pacheco, Robert	
Brewer	Leach	Pacheco, Rod	

Bill ordered transmitted to the Senate.

SENATE BILL NO. 371 (Solis)—An act to amend Section 12801.5 of, and to repeal Section 12801.8 of, the Vehicle Code, relating to the Department of Motor Vehicles.

Bill read third time, and presented by Assembly Member Keeley.

Bill passed by the following vote:

AYES—49

Alquist	Dutra	Maldonado	Steinberg
Aroner	Firebaugh	Mazzoni	Strom-Martin
Bock	Floyd	McClintock	Thomson
Calderon	Gallegos	Migden	Torlakson
Campbell	Hertzberg	Nakano	Vincent
Cardenas	Honda	Olberg	Washington
Cardoza	House	Pacheco, Robert	Wesson
Cedillo	Keeley	Papan	Wiggins
Corbett	Knox	Reyes	Wildman
Correa	Lempert	Romero	Mr. Speaker
Cunneen	Longville	Scott	
Dickerson	Lowenthal	Shelley	
Ducheny	Machado	Soto	

NOES—16

Ackerman	Baugh	Kaloogian	Runner
Ashburn	Brewer	Maddox	Strickland
Baldwin	Cox	Oller	Thompson
Bates	Havice	Pescetti	Wayne

Vote Changes

By unanimous consent, the following vote change was permitted on Senate Bill No. 371: Assembly Member House, from “No” to “Aye”.

Bill ordered transmitted to the Senate.

At 2:31 p.m., Speaker pro Tempore Fred Keeley, 27th District, presiding

REFERENCE OF BILLS TO COMMITTEE

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

Assembly Concurrent

Resolution No.

Committee

85 ----- **Jud.**

REPORTS OF STANDING COMMITTEES

Committee on Rules

August 26, 1999

Mr. Speaker: Your Committee on Rules recommends that the request to suspend Joint Rule 61(a)(10), (11), as it relates to the following bills be granted:

Senate Bills Nos. 4, 7, 14, 18, 19, 21, 25, 30, 32, 33, 42, 43, 45, 46, 48, 54, 64, 70, 73, 78, 80, 81, 82, 83, 86, 87, 90, 94, 95, 106, 110, 112, 115, 117, 129, 131, 146, 151, 156, 157, 159, 161, 163, 174, 180, 189, 192, 194, 195, 197, 204, 215, 216, 227, 234, 243, 246, 247, 251, 253, 259, 260, 267, 274, 280, 281, 284, 291, 297, 298, 299, 303, 305, 315, 316, 320, 323, 325, 327, 334, 335, 339, 341, 343, 347, 354, 355, 358, 367, 372, 386, 393, 399, 400, 401, 402, 405, 410, 417, 424, 425, 435, 437, 449, 460, 467, 468, 470, 474, 475, 477, 482, 496, 504, 508, 514, 524, 525, 546, 559, 568, 569, 570, 571, 578, 584, 586, 589, 592, 595, 599, 600, 606, 613, 618, 632, 638, 644, 649, 655, 656, 661, 669, 673, 678, 679, 680, 698, 702, 703, 717, 738, 741, 746, 753, 755, 756, 764, 771, 774, 780, 781, 792, 800, 821, 833, 835, 845, 847, 848, 856, 857, 867, 868, 869, 887, 888, 895, 900, 903, 908, 915, 919, 926, 927, 928, 934, 940, 955, 974, 982, 986, 1011, 1013, 1037, 1038, 1039, 1041, 1047, 1079, 1099, 1104, 1105, 1108, 1111, 1125, 1126, 1128, 1129, 1131, 1137, 1147, 1156, 1176, 1191, 1196, 1203, 1210, 1221, 1239, 1246, 1249, 1253, 1254, 1255, 1258, 1261, 1279, 1283, 1287, 1302, 1310, 1312; Senate Constitutional Amendment No. 9; and Senate Concurrent Resolution No. 38.

HERTZBERG, Chairman

August 26, 1999

Mr. Speaker: Your Committee on Rules recommends that the request to suspend Joint Rule 61(a)(9), as it relates to the following bill be granted:

Senate Bill No. 1220

HERTZBERG, Chairman

August 26, 1999

Mr. Speaker: Your Committee on Rules recommends that the requests to suspend Joint Rule 61(a)(9), as it relates to the following bills be granted:

Senate Bills Nos. 80, 1186, and 1228.

HERTZBERG, Chairman

RESOLUTIONS

The following resolutions were offered:

Resolutions to Suspend Joint Rules

By Assembly Member Migden:

Resolved, That Joint Rule 61(a)(10)(11) be suspended to permit the Committee on Appropriations to meet, consider, and report Senate Bills Nos. 4, 7, 14, 18, 19, 21, 25, 30, 32, 33, 42, 43, 45, 46, 48, 54, 64, 70, 73, 78, 80, 81, 82, 83, 86, 87, 90, 94, 95, 106, 110, 112, 115, 117, 129, 131, 146, 151, 156, 157, 159, 161, 163, 174, 180, 189, 192, 194, 195, 197, 204, 215, 216, 227, 234, 243, 246, 247, 251, 253, 259, 260, 267, 274, 280, 281, 284, 291, 297, 298, 299, 303, 305, 315, 316, 320, 323, 325, 327, 334, 335, 339, 341, 343, 347, 354, 355, 358, 367, 372, 386, 393, 399, 400, 401, 402, 405, 410, 417, 424, 428, 435, 437, 449, 460, 467, 468, 470, 474, 475, 477, 482, 496, 504, 508, 514, 524, 525, 546, 559, 568, 569, 570, 571, 578, 584, 586, 589, 592, 595, 599, 600, 606, 613, 618, 632, 638, 644, 649, 655, 656, 661, 669, 673, 678, 679, 680, 698, 702, 703, 717, 738, 741, 746, 753, 755, 756, 764, 771, 774, 780, 781, 792, 800, 821, 833, 835, 845, 847, 848, 856, 857, 867, 868, 869, 887, 888, 895, 900, 903, 908, 915, 919, 926, 927, 928, 934, 940, 974, 955, 982, 986, 1011, 1013, 1037, 1038, 1039, 1041, 1047, 1079, 1099, 1104, 1105, 1108, 1111, 1125, 1126, 1128, 1129, 1131, 1137, 1147, 1156, 1176, 1191, 1196, 1203, 1210, 1221, 1239, 1246, 1249, 1253, 1254, 1255, 1258, 1261, 1279, 1283, 1287, 1302, 1310, and 1312; Senate Constitutional Amendment No. 9; and Senate Concurrent Resolution No. 38 for further action.

By Assembly Member Honda:

Resolved, That Joint Rule 61(a)(9) be suspended to permit the Committee on Public Safety to meet, consider, and report Senate Bill No. 80 for further action.

By Assembly Member Wayne:

Resolved, That Joint Rule 61(a)(9) be suspended to permit the Committee on Natural Resources to meet, consider, and report Senate Bill No. 1186 for further action.

By Assembly Member Kuehl:

Resolved, That Joint Rule 61(a)(9) be suspended to permit the Committee on Judiciary to meet, consider, and report Senate Bill No. 1228 for further action.

By Assembly Member Vincent:

Resolved, That Joint Rule 61(a)(9) be suspended to permit the Committee on Elections, Reapportionment and Constitutional Amendments to meet, consider, and report Senate Bill No. 1220 for further action.

Resolutions read, and adopted by the following vote:

AYES—74

Ackerman	Davis	Lempert	Scott
Alquist	Dickerson	Leonard	Shelley
Aroner	Ducheny	Longville	Soto
Ashburn	Dutra	Lowenthal	Steinberg
Baldwin	Firebaugh	Machado	Strickland
Bates	Florez	Maddox	Strom-Martin
Battin	Floyd	Maldonado	Thomson
Baugh	Gallegos	Mazzoni	Torlakson
Bock	Granlund	McClintock	Vincent
Brewer	Havice	Migden	Washington
Briggs	Hertzberg	Nakano	Wayne
Calderon	Honda	Olberg	Wesson
Campbell	House	Oller	Wiggins
Cardenas	Jackson	Pacheco, Robert	Wildman
Cardoza	Kaloogian	Papan	Wright
Cedillo	Keeley	Pescetti	Zettel
Corbett	Knox	Reyes	Mr. Speaker
Correa	Kuehl	Romero	
Cunneen	Leach	Runner	

NOES—1

Thompson

SPECIAL COMMITTEE MEETINGS

Assembly Member Shelley was granted unanimous consent that the following committees be permitted to hold special meetings today, upon adjournment of Floor session, and that Joint Rule 62(a) be waived as noted:

Transportation, to hear Senate Bill No. 664;

Judiciary, to hear Senate Bill No. 1228;

Elections, Reapportionment and Constitutional Amendments, to hear Senate Bill No. 1220 and Senate Constitutional Amendment No. 4;

Public Safety, to hear Senate Bill No. 80;

Utilities and Commerce, to hear Senate Bill No. 1132; and

Natural Resources, to hear Senate Bill No. 1186.

**CALL OF THE ASSEMBLY DISPENSED WITH ON
CONSIDERATION OF GOVERNOR'S VETO OF
ASSEMBLY BILL NO. 79**

At 2:46 p.m., on motion of Assembly Member Thompson, and in the absence of any objection, further proceedings under the call of the Assembly were dispensed with.

The Governor's Veto of Assembly Bill No. 79 was sustained by the following vote:

AYES—30

Ackerman	Briggs	Leach	Pacheco, Rod
Ashburn	Campbell	Leonard	Pescetti
Baldwin	Cox	Maddox	Runner
Bates	Cunneen	Maldonado	Strickland
Battin	Dickerson	McClintock	Thompson
Baugh	Granlund	Olberg	Zettel
Bock	House	Oller	
Brewer	Kaloogian	Pacheco, Robert	

NOES—33

Alquist	Gallegos	Mazzoni	Washington
Aroner	Havice	Migden	Wesson
Calderon	Honda	Papan	Wiggins
Cardoza	Keeley	Reyes	Wildman
Cedillo	Knox	Scott	Wright
Corbett	Kuehl	Shelley	Mr. Speaker
Davis	Lempert	Thomson	
Dutra	Longville	Torlakson	
Floyd	Machado	Vincent	

Vote Changes

By unanimous consent, the following vote changes were permitted on consideration of Governor's Veto of Assembly Bill No. 79: Assembly Members Bock and House, from "No" to "Aye"; Assembly Members Nakano and Soto, from "No" to "Not Voting".

**Motion to Reconsider Consideration of
Governor's Veto of Assembly Bill No. 79
on Next Legislative Day**

Assembly Member Baldwin moved to reconsider on the next legislative day the vote whereby the Governor's Veto of Assembly Bill No. 79 was sustained.

Governor's Veto of Assembly Bill No. 79 ordered to the unfinished business file.

**CALL OF THE ASSEMBLY DISPENSED WITH ON
SENATE BILL NO. 994**

At 2:47 p.m., on motion of Assembly Member Migden, and in the absence of any objection, further proceedings under the call of the Assembly were dispensed with.

Senate Bill No. 994 passed by the following vote:

AYES—41

Alquist	Firebaugh	Mazzoni	Torlakson
Aroner	Floyd	Migden	Vincent
Bock	Gallegos	Papan	Washington
Calderon	Hertzberg	Reyes	Wesson
Campbell	House	Romero	Wiggins
Cardenas	Keeley	Scott	Wildman
Cedillo	Knox	Shelley	Wright
Corbett	Kuehl	Soto	Mr. Speaker
Davis	Lempert	Steinberg	
Ducheny	Longville	Strom-Martin	
Dutra	Machado	Thomson	

NOES—33

Ackerman	Correa	Leach	Pescetti
Ashburn	Cox	Leonard	Runner
Baldwin	Cunneen	Maddox	Strickland
Bates	Dickerson	Maldonado	Thompson
Battin	Florez	McClintock	Wayne
Baugh	Granlund	Olberg	Zettel
Brewer	Havice	Oller	
Briggs	Jackson	Pacheco, Robert	
Cardoza	Kaloogian	Pacheco, Rod	

Bill ordered transmitted to the Senate.

CONSIDERATION OF SPECIAL CONSENT CALENDAR

The Speaker pro Tempore announced that the next roll call would be on the Special Consent Calendar.

Consideration of Senate Amendments to Assembly Bills

ASSEMBLY BILL NO. 184 (Davis)—An act to amend Section 6394 of, and to add and repeal Section 6394.5 of, the Labor Code, relating to hazardous substances.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 417 (Floyd)—An act to amend Section 97.2 of the Revenue and Taxation Code, relating to local government finance.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 487 (Margett)—An act to amend Section 5164 of the Public Resources Code, relating to parks and recreation.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 810 (Thomson)—An act to amend Section 35160.5 of the Education Code, relating to school finance.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 933 (Keeley)—An act to amend Sections 2554 and 6303 of the Family Code, relating to domestic violence.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 1471 (Havice)—An act to add Section 27317 to, and to amend the heading of Article 3 (commencing with Section 27302) of Chapter 5 of Division 12 of, the Vehicle Code, relating to vehicles.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 124 (Ackerman)—An act to amend Sections 2530.2, 2530.5, 2531, and 2532.6 of, and to add Sections 2532.7 and 2532.8 to, the Business and Professions Code, relating to the Speech-Language Pathology and Audiology Board, and making an appropriation therefor.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 131 (Runner)—An act to amend Section 4751 of the Penal Code, relating to prisoners.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 186 (Hertzberg)—An act to amend Section 21620 of, and to add Sections 21500.1, 21601.1, and 21620.1 to, the Elections Code, relating to local elections.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 198 (Ackerman)—An act to amend Sections 160, 168, 174.5, 175, 181, 1001, 1100, 1101, 1101.1, 1109, 1113, 1200, 1201, 6010, 6020, 6021, 6022, 8010, 8020, 8021, 8022, 9640, 12530, 12550, 12551, 12552, 15679.1, 16901, 16911, 16914, 16915, 16916, and 17600 of, and to add Sections 5063.5, 5064.5, 6019.1, 8019.1, 12242.5, 12242.6, and 12540.1 to, the Corporations Code, relating to legal entities.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 241 (Cunneen)—An act to amend Section 25160.1 of the Health and Safety Code, relating to hazardous waste.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 261 (Lempert)—An act to amend Section 4052 of the Business and Professions Code, relating to pharmacists.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 339 (Runner)—An act to add Section 33204.4 to the Public Resources Code, relating to parks and open space.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 390 (Scott)—An act to amend Sections 16118, 16119, 16120.05, and 16121.05 of the Welfare and Institutions Code, relating to human services.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 405 (Knox)—An act to add and repeal Article 6.5 (commencing with Section 217) of Chapter 1 of Division 1 of the Streets and Highways Code, relating to highways, and declaring the urgency thereof, to take effect immediately.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 583 (Papan)—An act to amend Sections 17005.6, 17200, 17400, 17403.1, 17403.2, 17403.3, and 17403.4 of, to amend and renumber Section 17005.5 of, to add Sections 17004.5, 17005.5, and 17215 to, and to repeal Section 17401 of, the Financial Code, relating to escrow.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 653 (Hertzberg)—An act to amend Section 10133.1 of the Business and Professions Code, and to amend Section 50707 of, and to repeal Section 50704 of, the Financial Code, relating to residential mortgage lending.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 762 (Briggs)—An act to amend Sections 194.2, 194.4, 194.5, and 195.1 of, and to repeal Section 194.6 of, the Revenue and Taxation Code, relating to disaster relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 893 (Alquist)—An act to amend Section 1422.5 of the Health and Safety Code, relating to care facilities, and making an appropriation therefor.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 1062 (Margett)—An act to add Chapter 4.1 (commencing with Section 56375) to Part 30 of the Education Code, relating to special education.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 1170 (Frusetta)—An act to amend Section 19630 of the Business and Professions Code, and to amend Section 4155 of the Food and Agricultural Code, relating to fairs, and making an appropriation therefor.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 1202 (Firebaugh)—An act to amend Sections 1247.4, 1247.63, 1247.64, 1247.66, and 1300 of, and to repeal Section 1247.95 of, the Business and Professions Code, relating to hemodialysis technicians.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 1215 (Thomson)—An act to amend Sections 1797.172 and 1798.200 of the Health and Safety Code, relating to emergency medical services, and declaring the urgency thereof, to take effect immediately.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 1251 (Committee on Agriculture)—An act to amend Sections 9562 and 10721 of, to amend and renumber Sections 10782 and 10783 of, and to add Sections 10704, 10782, 10783, and 10784 to, the Food and Agricultural Code, relating to agriculture.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 1364 (Migden)—An act to amend Sections 42002 and 42010 of, and to add and repeal Sections 42023.1, 42023.2, 42023.3, 42023.4, 42023.5, and 42023.6 of, the Public Resources Code, relating to solid waste.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 1433 (Granolund)—An act to amend Section 680 of the Business and Professions Code, relating to certified nurse assistants.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 1659 (Committee on Human Services)—An act to amend Sections 7911 and 7911.1 of the Family Code, to amend Sections 1522, 1569.17, and 1596.871 of the Health and Safety Code, and to amend Sections 361.21, 727.1, and 11466.21 of the Welfare and Institutions Code, relating to community care, and declaring the urgency thereof, to take effect immediately.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 1687 (Committee on Banking and Finance)—An act to amend Sections 5222, 5237, 5819, 6018, 6211, 6611, 7222, 7236, 8011, 8018, 8211, 8611, 8723, 9222, 9245, 12362, 12376, 12531, 12539, 12571, 12631, and 12662 of, and to add Sections 6325, 7122.3, 8325, 12302.1, and 12594 to, the Corporations Code, relating to corporations.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY CONCURRENT RESOLUTION NO. 57 (Hertzberg)—Relative to commemorative state seals.

The Assembly concurred in the above Senate amendments; resolution ordered enrolled.

*(For the vote on the above resolution, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 577 (Honda)—An act to amend Section 14157 of, and to add and repeal Section 14160 of, the Financial Code, relating to credit unions.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 939 (Brewer)—An act to amend and renumber Section 39619 of, and to add Section 17584.1 to, the Education Code, relating to school facilities.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 1557 (Migden)—An act to amend Sections 1242, 1242.5, 1246, and 1269 of the Business and Professions Code, and to amend Section 120580 of the Health and Safety Code, relating to clinical laboratories.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY BILL NO. 1616 (Havice)—An act to amend Section 15331 of the Government Code, relating to international trade and economic development.

The Assembly concurred in the above Senate amendments; bill ordered enrolled.

*(For the vote on the above bill, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY CONCURRENT RESOLUTION NO. 67 (Wildman)—Relative to the Charles A. Lazzaretto Memorial Freeway.

The Assembly concurred in the above Senate amendments; resolution ordered enrolled.

*(For the vote on the above resolution, see this day's
Special Consent Calendar roll call.)*

ASSEMBLY JOINT RESOLUTION NO. 26 (Honda)—Relative to Asian Pacific Americans.

The Assembly concurred in the above Senate amendments; resolution ordered enrolled.

*(For the vote on the above resolution, see this day's
Special Consent Calendar roll call.)*

Special Consent Calendar Roll Call

The roll was called, and the above bills on the Special Consent Calendar passed, and any urgency clauses to the bills adopted, by the following vote:

AYES—76

Ackerman	Cunneen	Lempert	Runner
Alquist	Davis	Leonard	Scott
Aroner	Dickerson	Longville	Shelley
Ashburn	Ducheny	Lowenthal	Soto
Baldwin	Dutra	Machado	Steinberg
Bates	Florez	Maddox	Strickland
Battin	Floyd	Maldonado	Strom-Martin
Baugh	Gallegos	Mazzoni	Thompson
Bock	Granlund	McClintock	Thomson
Brewer	Havice	Migden	Torlakson
Briggs	Hertzberg	Nakano	Vincent
Calderon	Honda	Olberg	Washington
Campbell	House	Oller	Wayne
Cardenas	Jackson	Pacheco, Robert	Wesson
Cardoza	Kaloogian	Pacheco, Rod	Wiggins
Cedillo	Keeley	Papan	Wildman
Corbett	Knox	Pescetti	Wright
Correa	Kuehl	Reyes	Zettel
Cox	Leach	Romero	Mr. Speaker

NOES—None

CONSENT CALENDAR READ

The following measures on the Consent Calendar were read:

ASSEMBLY CONCURRENT RESOLUTION NO. 68 (Oiler)—Relative to the Officer Bill C. Bean, Jr. Memorial Highway.

Resolution read, adopted, and ordered transmitted to the Senate.

*(For the vote on the above resolution, see this day's
Consent Calendar roll call.)*

HOUSE RESOLUTION NO. 31 (Pescetti)—Relative to children.

Resolution read and adopted.

*(For the vote on the above resolution, see this day's
Consent Calendar roll call.)*

ASSEMBLY CONCURRENT RESOLUTION NO. 74 (Lowenthal)—Relative to the Year of the Child.

Resolution read, adopted, and ordered transmitted to the Senate.

*(For the vote on the above resolution, see this day's
Consent Calendar roll call.)*

ASSEMBLY CONCURRENT RESOLUTION NO. 76 (Campbell)—Relative to honoring the family.

Resolution read, adopted, and ordered transmitted to the Senate.

*(For the vote on the above resolution, see this day's
Consent Calendar roll call.)*

ASSEMBLY CONCURRENT RESOLUTION NO. 79 (Hertzberg)—Relative to Retinoblastoma Awareness Month.

Resolution read, adopted, and ordered transmitted to the Senate.

*(For the vote on the above resolution, see this day's
Consent Calendar roll call.)*

ASSEMBLY BILL NO. 1698 (Campbell)—An act to add Sections 36424.1 and 37207.1 to the Water Code, relating to water, and declaring the urgency thereof, to take effect immediately.

Bill read third time, urgency clause adopted, bill passed, and ordered transmitted to the Senate.

*(For the vote on the above bill and urgency clause, see this day's
Consent Calendar roll call.)*

Consent Calendar—Senate Bills

SENATE CONCURRENT RESOLUTION NO. 34 (Peace)—Relative to the Donna De Neal Bridge.

Resolution read, adopted, and ordered transmitted to the Senate.

*(For the vote on the above resolution, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 176 (Knight)—An act to amend Section 48209.16 of, and to add Section 48209.17 to, the Education Code, relating to school attendance.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 134 (Kelley)—An act to amend Sections 402 and 12174 of the Government Code, relating to state government.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 164 (Johnston)—An act to add Section 69505 to the Education Code, to add Section 17156.5 to the Revenue and Taxation Code, and to amend Section 11008.17 of the Welfare and Institutions Code, relating to reparation payments, and declaring the urgency thereof, to take effect immediately.

Bill read third time, urgency clause adopted, bill passed, and ordered transmitted to the Senate.

(For the vote on the above bill and urgency clause, see this day's Consent Calendar roll call.)

SENATE BILL NO. 317 (Leslie)—An act to add and repeal Section 205 of the Financial Code, relating to banking.

Bill read third time, passed, and ordered transmitted to the Senate.

(For the vote on the above bill, see this day's Consent Calendar roll call.)

SENATE BILL NO. 340 (Baca)—An act to amend Sections 25658, 25658.1, and 25658.4 of the Business and Professions Code, relating to alcoholic beverages.

Bill read third time, passed, and ordered transmitted to the Senate.

(For the vote on the above bill, see this day's Consent Calendar roll call.)

SENATE BILL NO. 361 (Dunn)—An act to amend Sections 66755 and 66756 of the Education Code, relating to cross-enrollment.

Bill read third time, passed, and ordered transmitted to the Senate.

(For the vote on the above bill, see this day's Consent Calendar roll call.)

SENATE BILL NO. 374 (Lewis)—An act to amend Sections 1033, 11535.1, 11537.3, and 11538 of, to add Section 10489.94 to, and to repeal Section 10509.976 of, the Insurance Code, relating to insurance.

Bill read third time, passed, and ordered transmitted to the Senate.

(For the vote on the above bill, see this day's Consent Calendar roll call.)

SENATE BILL NO. 490 (Kelley)—An act to add Section 4857 to the Business and Professions Code, and to amend Section 121690 of the Health and Safety Code, relating to veterinary medicine.

Bill read third time, passed, and ordered transmitted to the Senate.

(For the vote on the above bill, see this day's Consent Calendar roll call.)

SENATE BILL NO. 520 (Johnson)—An act to add and repeal Section 127 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), relating to the Metropolitan Water District of Southern California.

Bill read third time, passed, and ordered transmitted to the Senate.

(For the vote on the above bill, see this day's Consent Calendar roll call.)

SENATE BILL NO. 526 (Kelley)—An act to amend Sections 33500, 33501, 33502, 33503, 33601, 33700, and 33702 of the Public Resources Code, relating to conservation.

Bill read third time, passed, and ordered transmitted to the Senate.

(For the vote on the above bill, see this day's Consent Calendar roll call.)

SENATE BILL NO. 583 (Baca)—An act to amend Sections 20303, 20894, and 21754 of, and to add Sections 20225.5 and 20815.5 to, the Government Code, relating to public employees' retirement.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 636 (Sher)—An act to add Section 25141.6 to, and to repeal Section 25170.5 of, the Health and Safety Code, relating to hazardous waste.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 637 (Baca)—An act to amend Section 18979 of the Government Code, and to amend Section 891 of, and to repeal Section 891 of, the Military and Veterans Code, relating to veterans.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 658 (Karnette)—An act to amend Sections 84200.3, 84602, 84603, 84604, 84605, 84606, and 84610 of the Government Code, relating to the Political Reform Act of 1974, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

Senate Bill No. 658 Passed and Retained

By unanimous consent Senate Bill No. 658 was passed on file, to retain its place on file.

SENATE BILL NO. 662 (Figueroa)—An act to amend Section 2105 of the Corporations Code and to add Section 1524.2 to the Penal Code, relating to search warrants.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 668 (Sher)—An act to add Section 3135 to, and to repeal and add Part 3 (commencing with Section 3400) of Division 8 of, the Family Code, relating to child custody.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 681 (Speier)—An act to amend Sections 20002 and 23113 of the Vehicle Code, relating to vehicles.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 737 (Committee on Insurance)—An act to amend Sections 1357 and 1357.50 of the Health and Safety Code, and to amend Section 10700 of the Insurance Code, relating to small employer health insurance.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 858 (Hughes)—An act to add Section 12554 to the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 965 (Leslie)—An act to add Section 35021.2 of the Education Code, relating to school volunteers.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 997 (Brulte)—An act to amend Sections 16731, 16733, 16754.3, and 16781 of the Government Code, relating to state bonds.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 1001 (Bowen)—An act to amend Sections 39011 and 42311.2 of the Health and Safety Code, and to amend Sections 4464 and 4475 of the Public Resources Code, relating to resources.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 1031 (Hughes)—An act to amend Sections 69522, 69529, 69761, 69763, 69766, 69766.1, 69767, and 69768 of the Education Code, relating to student financial aid, and making an appropriation therefor.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 1090 (Schiff)—An act to amend Sections 2340, 2341, and 2342 of, and to add Section 15604 to, the Probate Code, relating to trusts.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 1199 (Costa)—An act to amend Section 3058.6 of, and to add Sections 3058.4 and 3058.9 to, the Penal Code, relating to child protective services.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 1200 (Poochigian)—An act to amend Section 65091 of the Government Code, relating to accessibility standards.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 532 (Committee on Transportation)—An act to amend Section 65080 of the Government Code, to amend Section 830.14 of the Penal Code, to amend Sections 20321 and 20341 of, and to repeal Section 20231 of, the Public Contract Code, to amend Sections 102222, 130232, and 180051 of, and to add Sections 99315.7 and 102223 to, the Public Utilities Code, to amend Section 7232 of the Revenue and Taxation Code, and to add Sections 391.3 and 517.1 to the Streets and Highways Code, and to amend Sections 28, 246, 5201, 9255, 12517.5, 16560, 21059, 21211, 22522, 22658, 34501.13, and 34520.5 of, the Vehicle Code, relating to transportation, and making an appropriation therefor.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 533 (Committee on Transportation)—An act to amend Sections 465, 666, 2503, 12800.7, 12811, 12815, 13000, 13003, 22110, 34501.5, 34501.12, 34601, 38010, 38246, 40802, and 41501 of, and to repeal Sections 13551.1, 14908, and 15310 of, the Vehicle Code, relating to vehicles.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 550 (Johnston)—An act to amend Sections 11055, 11056, 11350, 11351, 11352, 11353, 11354, and 11355 of the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

Bill read third time, urgency clause adopted, bill passed, and ordered transmitted to the Senate.

*(For the vote on the above bill and urgency clause, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 654 (Schiff)—An act to amend Section 76104.5 of the Government Code, and to amend Sections 290.7, 296, 297, 299.5, 299.6, 3060.5, and 11170 of the Penal Code, relating to DNA and forensic identification.

Bill read third time, passed, and ordered transmitted to the Senate.

*(For the vote on the above bill, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 981 (Polanco)—An act to amend Section 4420.5 of, and to repeal and add Section 4420 of, the Government Code, relating to public construction, and declaring the urgency thereof, to take effect immediately.

Bill read third time, urgency clause adopted, bill passed, and ordered transmitted to the Senate.

*(For the vote on the above bill and urgency clause, see this day's
Consent Calendar roll call.)*

SENATE BILL NO. 1282 (Lewis)—An act to amend Sections 20001 and 23612 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

Bill read third time, urgency clause adopted, bill passed, and ordered transmitted to the Senate.

*(For the vote on the above bill and urgency clause, see this day's
Consent Calendar roll call.)*

Consent Calendar Roll Call

The roll was called, and the above bills on the Consent Calendar passed, and any urgency clauses to the bills adopted, by the following vote:

AYES—77

Aanestad	Davis	Leonard	Scott
Ackerman	Dickerson	Longville	Shelley
Alquist	Ducheny	Lowenthal	Soto
Aroner	Dutra	Machado	Steinberg
Ashburn	Firebaugh	Maddox	Strickland
Baldwin	Floyd	Maldonado	Strom-Martin
Bates	Frusetta	Margett	Thompson
Battin	Gallegos	Mazzoni	Thomson
Bock	Granlund	McClintock	Torlakson
Brewer	Havice	Migden	Vincent
Briggs	Hertzberg	Nakano	Washington
Calderon	Honda	Olberg	Wayne
Campbell	House	Oller	Wiggins
Cardenas	Jackson	Pacheco, Robert	Wildman
Cardoza	Kaloogian	Pacheco, Rod	Wright
Cedillo	Keeley	Papan	Zettel
Corbett	Knox	Pescetti	Mr. Speaker
Correa	Kuehl	Reyes	
Cox	Leach	Romero	
Cunneen	Lempert	Runner	

NOES—None**OBJECTION WITHDRAWN**

Assembly Member Romero withdrew her objection to any requests for vote adds or vote changes on the roll call vote taken on this day on Assembly Bill No. 106.

ANNOUNCEMENTS

Speaker pro Tempore Keeley announced that commencing next week those measures not taken up on the Daily File would be passed on file, and those measures passed on file on two successive days would be placed upon the inactive file.

SESSION SCHEDULE ANNOUNCEMENTS

Speaker pro Tempore Keeley announced the following session schedule:

Monday, August 30, 1999, Floor Session, 10:30 a.m.;
 Tuesday, August 31, 1999, Floor Session, 9:30 a.m.;
 Wednesday, September 1, 1999, Floor Session, 9:30 a.m.;
 Thursday, September 2, 1999, Floor Session, 9:30 a.m.;
 Friday, September 3, 1999, Floor Session, 8:30 a.m.

ADJOURN IN MEMORY

Assembly Member Alquist was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Joshua Smurphat, of Sunnyvale.

Assembly Member Dutra was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Gene Rhodes, of Fremont.

Assembly Member Frusetta was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Vince Kovacich, of Watsonville.

Assembly Member Machado was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Annette Ruhstaller, of Stockton.

Assembly Member Reyes was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Howard James Harmon, of Waukena.

Assembly Member Wildman was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Paul Sutton, of Burbank, and Mr. Shannon Pedlow, of Glendale.

VOTE ADDS

The following Assembly Members were granted unanimous consent to record their votes on the following items (shown in sequential order):

Consent Calendar: Aroner, Baldwin, Battin, Bock, Briggs, Campbell, Cardoza, Correa, Cunneen, Ducheny, Firebaugh, Gallegos, Havice, Hertzberg, Kaloogian, Maddox, Olberg, Scott, and Wildman—Aye.

Assembly Bill No. 41, Concurrence: Aroner, Ashburn, Bock, Campbell, Cox, Cunneen, Dickerson, Firebaugh, Havice, Kaloogian, Knox, Lempert, Olberg, Reyes, and Scott—Aye; Baldwin—No.

Assembly Bill No. 1485, Concurrence: Ackerman, Aroner, Baldwin, Bock, Campbell, Cunneen, Dutra, Firebaugh, Gallegos, Havice, Kaloogian, Knox, Lempert, Maldonado, Olberg, Scott, Strom-Martin, and Wiggins—Aye.

Assembly Bill No. 1499, Concurrence: Ackerman, Aroner, Baldwin, Battin, Bock, Campbell, Cardenas, Cunneen, Firebaugh, Granlund, Hertzberg, Kaloogian, Knox, Leach, Maddox, McClintock, Olberg, Runner, Scott, and Shelley—Aye.

Assembly Bill No. 422, Concurrence: Aroner, Bock, Campbell, Correa, Cunneen, Firebaugh, Granlund, Hertzberg, Knox, Maddox, Olberg, and Scott—Aye; Kaloogian—No.

Assembly Bill No. 560, Concurrence: Aroner, Cunneen, Firebaugh, Granlund, Kaloogian, Knox, Kuehl, Maddox, Scott, and Soto—Aye.

Assembly Bill No. 840, Concurrence: Aroner, Bock, Cunneen, Firebaugh, Granlund, Knox, and Scott—Aye; Kaloogian and Runner—No.

Assembly Bill No. 1234, Concurrence: Aroner, Bock, Cunneen, Firebaugh, Kaloogian, Knox, and Scott—Aye.

Assembly Bill No. 1328, Concurrence: Aroner, Bock, Cunneen, Firebaugh, Knox, Robert Pacheco, and Shelley—Aye; Baldwin, Kaloogian, and Runner—No.

Assembly Bill No. 1477, Concurrence: Aroner, Bock, Cardenas, Cunneen, Firebaugh, Granlund, Scott, and Shelley—Aye; Baldwin and Maddox—No.

Assembly Bill No. 1620, Concurrence: Aroner, Bock, Cedillo, Cunneen, Firebaugh, and Scott—Aye; Ashburn, Granlund, and Olberg—No.

Assembly Bill No. 1676, Concurrence: Aroner, Bock, Firebaugh, and Scott—Aye; Cunneen—No.

Assembly Bill No. 61, Concurrence: Aroner, Bock, Campbell, Cunneen, Firebaugh, Olberg, and Scott—Aye.

Assembly Bill No. 118, Concurrence: Aroner, Battin, Bock, Cunneen, Firebaugh, Granlund, Olberg, and Scott—Aye; Campbell and Maddox—No.

Assembly Bill No. 166, Urgency and Concurrence: Aroner, Bates, Bock, Campbell, Cunneen, Firebaugh, Granlund, Lowenthal, and Scott—Aye; Olberg—No.

Assembly Bill No. 315, Urgency and Concurrence: Aroner, Campbell, Cunneen, Firebaugh, Kuehl, Olberg, and Scott—Aye.

Assembly Bill No. 486, Concurrence: Aroner, Bock, Briggs, Campbell, Cunneen, Firebaugh, Granlund, Olberg, and Scott—Aye.

Assembly Bill No. 526, Concurrence: Aroner, Bock, Campbell, Cunneen, Firebaugh, Havice, Olberg, and Scott—Aye; Migden—No.

Assembly Bill No. 669, Concurrence: Aroner, Bock, Briggs, Campbell, Cunneen, Firebaugh, Granlund, Maddox, McClintock, Nakano, Olberg, and Scott—Aye.

Assembly Bill No. 734, Concurrence: Aroner, Bock, Briggs, Campbell, Cunneen, Firebaugh, Granlund, Migden, and Scott—Aye; Olberg—No.

Assembly Bill No. 802, Concurrence: Aroner, Bock, Campbell, Cunneen, Firebaugh, McClintock, Olberg, and Scott—Aye.

Assembly Bill No. 819, Concurrence: Aroner, Bock, Campbell, Cunneen, Firebaugh, Honda, Knox, Machado, McClintock, Olberg, and Scott—Aye.

Assembly Bill No. 868, Concurrence: Aroner, Bock, Campbell, Cunneen, Dutra, Firebaugh, Jackson, Olberg, Runner, and Scott—Aye.

Assembly Bill No. 991, Concurrence: Aroner, Bock, Campbell, Cunneen, Davis, Firebaugh, Kuehl, Robert Pacheco, and Scott—Aye; Bates, Maddox, Olberg, and Runner—No.

Assembly Bill No. 1334, Concurrence: Aroner, Bates, Bock, Campbell, Cunneen, Firebaugh, Jackson, Olberg, and Scott—Aye.

Assembly Bill No. 1375, Concurrence: Aroner, Bock, Campbell, Cunneen, Firebaugh, Runner, and Scott—Aye; Olberg—No.

Assembly Bill No. 1506, Concurrence: Alquist, Aroner, Bates, Bock, Briggs, Campbell, Cunneen, Firebaugh, Granlund, Scott, and Wiggins—Aye; Maddox and Olberg—No.

Assembly Bill No. 1564, Concurrence: Aroner, Bock, Cunneen, Firebaugh, and Scott—Aye; Campbell, Granlund, Maddox, McClintock, and Olberg—No.

Assembly Bill No. 1655, Concurrence: Aroner, Bock, Cardenas, Cunneen, Firebaugh, Knox, and Scott—Aye; Campbell, Granlund, Maddox, and Olberg—No.

Assembly Concurrent Resolution No. 81, Coauthors: Aanestad, Bock, Cunneen, Firebaugh, Gallegos, Knox, Machado, Olberg, Scott, and Wiggins—Aye.

Senate Bill No. 408: Aroner, Bock, Cunneen, and Firebaugh—Aye; Campbell, Olberg, and Zettel—No.

Senate Bill No. 534: Bock, Correa, Davis, Firebaugh, and Hertzberg—Aye; Granlund and Robert Pacheco—No.

Senate Bill No. 1223: Bock, Cunneen, Firebaugh, Knox, and McClintock—Aye.

Senate Bill No. 971: Bock, Cunneen, Firebaugh, Runner, and Zettel—Aye; Olberg—No.

Senate Bill No. 6: Bock, Cunneen, and Firebaugh—Aye.

Senate Bill No. 111: Bock, Cardoza, and Firebaugh—Aye; Runner—No.

Senate Bill No. 816: Aanestad, Battin, Bock, Cunneen, Dutra, Firebaugh, and Zettel—Aye.

Senate Bill No. 378: Aanestad, Bock, Corbett, Cunneen, Firebaugh, Knox, Kuehl, Soto, and Wright—Aye.

Senate Bill No. 809: Ackerman, Bock, Cunneen, Ducheny, Firebaugh, and Knox—Aye.

Senate Bill No. 939: Bock, Cunneen, Firebaugh, Gallegos, Knox, Machado, and McClintock—Aye.

Senate Bill No. 529: Bock, Campbell, Cunneen, Firebaugh, Gallegos, Knox, and Torlakson—Aye.

Senate Bill No. 541: Bock, Cunneen, Firebaugh, and Knox—Aye.

Senate Bill No. 543: Bock, Cardenas, Cunneen, Firebaugh, and Knox—Aye.

Senate Bill No. 631: Bock, Cunneen, Dickerson, Firebaugh, Jackson, and Knox—Aye.

Senate Bill No. 750: Bock, Cunneen, Firebaugh, and Wright—Aye.

Senate Bill No. 1016: Bock, Cardoza, Corbett, Cunneen, Firebaugh, Knox, Olberg, and Soto—Aye.

Senate Bill No. 1268: Bock, Cunneen, Firebaugh, Gallegos, and Machado—Aye.

Senate Concurrent Resolution No. 26: Bock, Cunneen, Dickerson, Firebaugh, Gallegos, Machado, Wiggins, and Wright—Aye; Maddox and McClintock—No.

Senate Bill No. 332: Brewer, Dickerson, and Papan—Aye; Campbell, Frusetta, and Maldonado—No.

Senate Bill No. 794: Brewer, Campbell, Dickerson, Frusetta, Knox, Olberg, Robert Pacheco, Papan, Runner, Wiggins, and Wright—Aye.

Senate Bill No. 1252: Dickerson, Frusetta, Knox, and Papan—Aye.

Senate Bill No. 275 and Urgency: Firebaugh, Frusetta, Knox, and Papan—Aye.

Senate Bill No. 152: Firebaugh, Frusetta, Knox, and Papan—Aye.

Senate Bill No. 211: Bock, Knox, Maldonado, and Zettel—Aye; Frusetta—No.

Senate Bill No. 355: Bock, Frusetta, and Knox—Aye.

Senate Bill No. 565: Bock, Correa, Ducheny, Frusetta, Hertzberg, Knox, and Oller—Aye.

Senate Bill No. 205: Cardenas, Correa, Frusetta, Granlund, Hertzberg, and Knox—Aye.

Senate Bill No. 652: Battin, Bock, Firebaugh, Frusetta, Granlund, Knox, and Zettel—Aye; Maddox—No.

Assembly Bill No. 327, Concurrence: Bock, Cedillo, Firebaugh, Frusetta, Granlund, Knox, Maddox, and Nakano—Aye.

Assembly Bill No. 74, Concurrence: Firebaugh and Knox—Aye; Frusetta, Granlund, Maddox, and Olberg—No.

Assembly Bill No. 106, Concurrence: Bock, Firebaugh, Knox, and Maddox—Aye; Olberg—No.

Assembly Bill No. 154, Concurrence: Battin, Bock, Correa, Firebaugh, Frusetta, Granlund, Hertzberg, Knox, Maddox, and Zettel—Aye.

Assembly Bill No. 1279, Concurrence: Battin, Correa, Firebaugh, Frusetta, Granlund, Hertzberg, Knox, Maddox, and Zettel—Aye.

Assembly Bill No. 1456, Concurrence: Firebaugh, Knox, and Wiggins—Aye; Frusetta—No.

Assembly Bill No. 71, Concurrence: Firebaugh, Frusetta, and Knox—Aye.

Assembly Bill No. 295, Concurrence: Briggs—Aye.

Senate Joint Resolution No. 15: Battin, Longville, Maddox, and Strom-Martin—Aye.

Senate Bill No. 879: Dickerson and Machado—Aye; McClintock—No.

Assembly Bill No. 207, Concurrence: Briggs—Aye.

Assembly Bill No. 754, Concurrence: Knox and Lempert—Aye.

Assembly Bill No. 1106, Concurrence: Soto and Strickland—Aye.

Assembly Bill No. 1361, Concurrence: Knox—Aye; Correa and McClintock—No.

Assembly Bill No. 806, Concurrence: Briggs, Knox, and McClintock—Aye.

Senate Bill No. 675: Havice, Knox, Maddox, Olberg, and Pescetti—Aye.

Senate Bill No. 645, Demand for Previous Question: Dickerson—Aye.

Senate Bill No. 645: Davis and Maddox—Aye; Zettel—No.

Senate Bill No. 371: Lowenthal, Olberg, Robert Pacheco, and Wiggins—Aye; Bates and Pescetti—No.

Resolution to Suspend Joint Rule 61: Pescetti—Aye.

Assembly Bill No. 79, Consideration of Governor's Veto: Havice—No.

Senate Bill No. 994: Correa—No.

MOTION TO ADJOURN

At 2:57 p.m., Assembly Member Washington moved that the Assembly do now adjourn.

Assembly Member Shelley seconded the motion.

Motion carried.

QUORUM CALL OF THE ASSEMBLY DISPENSED WITH

At 2:57 p.m., Speaker pro Tempore Keeley declared the quorum call of the Assembly dispensed with.

**INTRODUCTION AND FIRST READING OF
ASSEMBLY BILLS**

The following resolution was introduced and read the first time:

ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 22—Floyd. A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 19 of Article IV thereof, relating to gambling.

RESOLUTIONS

The following resolutions were offered:

ASSEMBLY CONCURRENT RESOLUTION NO. 85—Kuehl. Relative to trial court unification.

ASSEMBLY CONCURRENT RESOLUTION NO. 86—Aroner (Coauthor: Kuehl) (Coauthors: Senators Escutia and Schiff). Relative to Court Adoption and Permanency Month.

HOUSE RESOLUTION NO. 35—Machado. Relative to a media code of conduct.

ENGROSSMENT AND ENROLLMENT REPORTS

Assembly Chamber, August 26, 1999

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

Assembly Bill No. 295

And reports the same correctly enrolled, and presented to the Governor at 2:30 p.m. August 26, 1999.

E. DOTSON WILSON, Chief Clerk

REPORTS OF STANDING COMMITTEES

Committee on Public Employees, Retirement and Social Security

Date of Hearing: August 18, 1999

Mr. Speaker: Your Committee on Public Employees, Retirement and Social Security reports:

Senate Bill No. 739

With amendments with the recommendation: Amend, do pass, as amended, and be re-referred to the Committee on Appropriations.

CORREA, Chairman

Above bill ordered to second reading.

Committee on Local Government

Date of Hearing: August 25, 1999

Mr. Speaker: Your Committee on Local Government reports:

Senate Bill No. 3

With amendments with the recommendation: Amend, and do pass, as amended.

LONGVILLE, Chairman

Above bill ordered to second reading.

Committee on Utilities and Commerce

Date of Hearing: August 23, 1999

Mr. Speaker: Your Committee on Utilities and Commerce reports:

Senate Bill No. 418

With amendments with the recommendation: Amend, do pass, as amended, and be re-referred to the Committee on Appropriations.

WRIGHT, Chairman

Above bill ordered to second reading.

Committee on Rules

Date of Hearing: August 26, 1999

Mr. Speaker: Your Committee on Rules reports:

Senate Concurrent Resolution No. 2

With the recommendation: Be adopted.

Pursuant to the provisions of Joint Rules Nos. 22.1, 22.2, and 22.3, the committee recommends that the above resolution be placed on the Consent Calendar.

HERTZBERG, Chairman

Above resolution ordered on file.

Committee on Transportation

Date of Hearing: August 26, 1999

Mr. Speaker: Your Committee on Transportation reports:

Senate Bill No. 664

With the recommendation: Do pass, and be re-referred to the Committee on Appropriations.

TORLAKSON, Chairman

Above bill re-referred to the Committee on Appropriations.

Committee on Local Government

Date of Hearing: August 25, 1999

Mr. Speaker: Your Committee on Local Government reports:

Assembly Bill No. 258

With amendments with the recommendation: Amend, do pass, as amended, and be re-referred to the Committee on Appropriations.

LONGVILLE, Chairman

Above bill ordered to second reading.

Committee on Transportation

Date of Hearing: August 26, 1999

Mr. Speaker: Your Committee on Transportation reports:

Assembly Concurrent Resolution No. 82

With the recommendation: Be adopted, and re-refer to the Committee on Appropriations with recommendation: To Consent Calendar.

TORLAKSON, Chairman

Above resolution re-referred to the Committee on Appropriations.

Committee on Rules

Date of Hearing: August 26, 1999

Mr. Speaker: Your Committee on Rules reports:

Assembly Concurrent Resolution No. 51

With the recommendation: Be adopted.

Pursuant to the provisions of Joint Rules Nos. 22.1, 22.2, and 22.3, the committee recommends that the above resolution be placed on the Consent Calendar.

HERTZBERG, Chairman

Above resolution ordered on file.

Committee on Transportation

Date of Hearing: August 26, 1999

Mr. Speaker: Your Committee on Transportation reports:

Assembly Joint Resolution No. 33

With the recommendation: Be adopted, as amended.

Pursuant to the provisions of Joint Rules Nos. 22.1, 22.2, and 22.3, the committee recommends that the above resolution be placed on the Consent Calendar.

TORLAKSON, Chairman

Above resolution ordered to second reading.

Committee on Elections, Reapportionment and Constitutional Amendments

Date of Hearing: August 26, 1999

Mr. Speaker: Your Committee on Elections, Reapportionment and Constitutional Amendments reports:

Senate Constitutional Amendment No. 4

With the recommendation: Be adopted.

VINCENT, Chairman

Above resolution ordered on file.

Committee on Health

Date of Hearing: August 24, 1999

Mr. Speaker: Your Committee on Health reports:

Assembly Concurrent Resolution No. 73

Assembly Joint Resolution No. 32

With the recommendation: Be adopted, as amended.

Pursuant to the provisions of Joint Rules Nos. 22.1, 22.2, and 22.3, the committee recommends that the above resolutions be placed on the Consent Calendar.

GALLEGOS, Chairman

Above resolutions ordered to second reading.

Committee on Judiciary

Date of Hearing: August 26, 1999

Mr. Speaker: Your Committee on Judiciary reports:

Assembly Concurrent Resolution No. 85

With the recommendation: Be adopted, and be re-referred to the Committee on Appropriations.

KUEHL, Chairwoman

Above resolution re-referred to the Committee on Appropriations.

**Report of Assembly Committee on Judiciary
on Senate Bill No. 45**

In order to indicate more fully its intent with respect to Senate Bill No. 45, the Assembly Committee on Judiciary makes the following report.

Senate Bill No. 45 was introduced to effectuate the recommendation of the California Commission on Uniform State Laws that Revised Article 9 of the Uniform Commercial Code promulgated by the National Conference of Commissioners on Uniform State Laws be adopted in California as Division 9 of the Uniform Commercial Code. Except for the new and revised comments set forth below, the Comments of the National Conference of Commissioners on Uniform State Laws with respect to Revised Article 9 reflect the intent of the Assembly Committee on Judiciary in approving Senate Bill No. 45.

Section 9102 of the Commercial Code

California Comment

1. Source. All terms that are defined in Division 9 and used in more than one section are consolidated in this section. Note that the definition of "security interest" is found in Section 1201, not in this Division, and has been revised. See Appendix I. Many of the definitions in this section are new; many others derive from those in former

Section 9105. The following Comments also indicate other sections of former Division 9 that defined (or explained) terms.

2. Parties to Secured Transactions.

a. **“Debtor”**; **“Obligor”**; **“Secondary Obligor.”** Determining whether a person was a “debtor” under former Section 9105(1)(d) required a close examination of the context in which the term was used. To reduce the need for this examination, this Division redefines “debtor” and adds new defined terms, “secondary obligor” and “obligor.” In the context of Chapter 6 (default and enforcement), these definitions distinguish among three classes of persons: (i) those persons who may have a stake in the proper enforcement of a security interest by virtue of their non-lien property interest (typically, an ownership interest) in the collateral, (ii) those persons who may have a stake in the proper enforcement of the security interest because of their obligation to pay the secured debt, and (iii) those persons who have an obligation to pay the secured debt but have no stake in the proper enforcement of the security interest. Persons in the first class are debtors. Persons in the second class are secondary obligors if any portion of the obligation is secondary or if the obligor has a right of recourse against the debtor or another obligor with respect to an obligation secured by collateral. One must consult the law of suretyship to determine whether an obligation is secondary. The Restatement (3d), Suretyship and Guaranty § 1 (1996), contains a useful explanation of the concept. Obligor in the third class are neither debtors nor secondary obligors. With one exception (Section 9616, as it relates to a consumer obligor), the rights and duties in provided by Chapter 6 affect non-debtor obligors only if they are “secondary obligors.”

By including in the definition of “debtor” all persons with a property interest (other than a security interest in or other lien on collateral), the definition includes transferees of collateral, whether or not the secured party knows of the transfer or the transferee’s identity. Exculpatory provisions in Chapter 6 protect the secured party in that circumstance. See Sections 9605 and 9628. The definition renders unnecessary former Section 9112, which governed situations in which collateral was not owned by the debtor. The definition also includes a “consignee,” as defined in this section, as well as a seller of accounts, chattel paper, payment intangibles, or promissory notes.

Secured parties and other lienholders are excluded from the definition of “debtor” because the interests of those parties normally derive from and encumber a debtor’s interest. However, if in a *separate* secured transaction a secured party grants, *as debtor*, a security interest in its own interest (i.e., its security interest and any obligation that it secures), the secured party is a debtor *in that transaction*. This typically occurs when a secured party with a security interest in specific goods assigns chattel paper.

Consider the following examples:

Example 1: Behnfeldt borrows money and grants a security interest in her Miata to secure the debt. Behnfeldt is a debtor and an obligor.

Example 2: Behnfeldt borrows money and grants a security interest in her Miata to secure the debt. Bruno co-signs a negotiable note as maker. As before, Behnfeldt is the debtor and an obligor. As an accommodation party (see Section 3419), Bruno is a secondary

obligor. Bruno has this status even if the note states that her obligation is a primary obligation and that she waives all suretyship defenses.

Example 3: Behnfeldt borrows money on an unsecured basis. Bruno co-signs the note and grants a security interest in her Honda to secure her obligation. Inasmuch as Behnfeldt does not have a property interest in the Honda, Behnfeldt is not a debtor. Having granted the security interest, Bruno is the debtor. Because Behnfeldt is a principal obligor, she is not a secondary obligor. Whatever the outcome of enforcement of the security interest against the Honda or Bruno's secondary obligation, Bruno will look to Behnfeldt for her losses. The enforcement will not affect Behnfeldt's aggregate obligations.

When the principal obligor (borrower) and the secondary obligor (surety) each has granted a security interest in different collateral, the status of each is determined by the collateral involved.

Example 4: Behnfeldt borrows money and grants a security interest in her Miata to secure the debt. Bruno co-signs the note and grants a security interest in her Honda to secure her obligation. When the secured party enforces the security interest in Behnfeldt's Miata, Behnfeldt is the debtor, and Bruno is a secondary obligor. When the secured party enforces the security interest in the Honda, Bruno is the "debtor." As in Example 3, Behnfeldt is an obligor, but not a secondary obligor.

b. **"Secured Party."** The secured party is the person in whose favor the security interest has been created, as determined by reference to the security agreement. This definition controls, among other things, which person has the duties and potential liability that Chapter 6 imposes upon a secured party. The definition of "secured party" also includes a "consignee," a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold, and the holder of an agricultural lien.

The definition of "secured party" clarifies the status of various types of representatives. Consider, for example, a multi-bank facility under which Bank A, Bank B, and Bank C are lenders and Bank A serves as the collateral agent. If the security interest is granted to the banks, then they are the secured parties. If the security interest is granted to Bank A as collateral agent, then Bank A is the secured party.

c. **Other Parties.** A "consumer obligor" is defined as the obligor in a consumer transaction. Definitions of "new debtor" and "original debtor" are used in the special rules found in Sections 9326 and 9508.

3. Definitions Relating to Creation of a Security Interest.

a. **"Collateral."** As under former Section 9105, "collateral" is the property subject to a security interest and includes accounts and chattel paper that have been sold. It has been expanded in this Division. The term now explicitly includes proceeds subject to a security interest. It also reflects the broadened scope of the Division. It includes property subject to an agricultural lien as well as payment intangibles and promissory notes that have been sold.

b. **"Security Agreement."** The definition of "security agreement" is substantially the same as under former Section 9105—an agreement that creates or provides for a security interest. However, the

term frequently was used colloquially in former Division 9 to refer to the document or writing that contained a debtor's security agreement. This Division eliminates that usage, reserving the term for the more precise meaning specified in the definition.

Whether an agreement creates a security interest depends not on whether the parties intend that the law *characterize* the transaction as a security interest but rather on whether the transaction falls within the definition of "security interest" in Section 1201. Thus, an agreement that the parties characterize as a "lease" of goods may be a "security agreement," notwithstanding the parties' stated intention that the law treat the transaction as a lease and not as a secured transaction.

4. Goods-Related Definitions.

a. **"Goods"; "Consumer Goods"; "Equipment"; "Farm Products"; "Farming Operation"; "Inventory."** The definition of "goods" is substantially the same as the definition in former Section 9105. This Division also retains the four mutually-exclusive "types" of collateral that consist of goods: "consumer goods," "equipment," "farm products," and "inventory." The revisions are primarily for clarification.

The classes of goods are mutually exclusive. For example, the same property cannot simultaneously be both equipment and inventory. In borderline cases—a physician's car or a farmer's truck that might be either consumer goods or equipment—the principal use to which the property is put is determinative. Goods can fall into different classes at different times. For example, a radio may be inventory in the hands of a dealer and consumer goods in the hands of a consumer. As under former Division 9, goods are "equipment" if they do not fall into another category.

The definition of "consumer goods" follows former Section 9109. The classification turns on whether the debtor uses or bought the goods for use "primarily for personal, family, or household purposes."

Goods are inventory if they are leased by a lessor or held by a person for sale or lease. The revised definition of "inventory" makes clear that the term includes goods leased by the debtor to others as well as goods held for lease. (The same result should have obtained under the former definition.) Goods to be furnished or furnished under a service contract, raw materials, and work in process also are inventory. Implicit in the definition is the criterion that the sales or leases are or will be in the ordinary course of business. For example, machinery used in manufacturing is equipment, not inventory, even though it is the policy of the debtor to sell machinery when it becomes obsolete or worn. Inventory also includes goods that are consumed in a business (e.g., fuel used in operations). In general, goods used in a business are equipment if they are fixed assets or have, as identifiable units, a relatively long period of use, but are inventory, even though not held for sale or lease, if they are used up or consumed in a short period of time in producing a product or providing a service.

Goods are "farm products" if the debtor is engaged in farming operations with respect to the goods. Animals in a herd of livestock are covered whether the debtor acquires them by purchase or as a result of natural increase. Products of crops or livestock remain farm products as long as they have not been subjected to a manufacturing process. The

terms “crops” and “livestock” are not defined. The new definition of “farming operations” is for clarification only.

Crops, livestock, and their products cease to be “farm products” when the debtor ceases to be engaged in farming operations with respect to them. If, for example, they come into the possession of a marketing agency for sale or distribution or of a manufacturer or processor as raw materials, they become inventory. Products of crops or livestock, even though they remain in the possession of a person engaged in farming operations, lose their status as farm products if they are subjected to a manufacturing process. What is and what is not a manufacturing operation is not specified in this Division. At one end of the spectrum, some processes are so closely connected with farming—such as pasteurizing milk or boiling sap to produce maple syrup or sugar—that they would not constitute manufacturing. On the other hand an extensive canning operation would be manufacturing. Once farm products have been subjected to a manufacturing operation, they normally become inventory.

The revised definition of “farm products” clarifies the distinction between crops and standing timber and makes clear that aquatic goods produced in aquacultural operations may be either crops or livestock. Although aquatic goods that are vegetable in nature often would be crops and those that are animal would be livestock, this Division leaves the courts free to classify the goods on a case-by-case basis. See Section 9324, Comment 11.

b. **“Accession”; “Manufactured Home”; “Manufactured-Home Transaction.”** Other specialized definitions of goods include “accession” (see the special priority and enforcement rules in Section 9335), and “manufactured home” (see Section 9515, permitting a financing statement in a “manufactured-home transaction” to be effective for 30 years). The definition of “manufactured home” borrows from the federal Manufactured Housing Act, 42 U.S.C. §§ 5401 *et seq.*, and is intended to have the same meaning.

c. **“As-Extracted Collateral.”** Under this Division, oil, gas, and other minerals that have not been extracted from the ground are treated as real property, to which this Division does not apply. Upon extraction, minerals become personal property (goods) and eligible to be collateral under this Division. See the definition of “goods,” which excludes “oil, gas, and other minerals before extraction.” To take account of financing practices reflecting the shift from real to personal property, this Division contains special rules for perfecting security interests in minerals which attach upon extraction and in accounts resulting from the sale of minerals at the wellhead or minehead. See, e.g., Sections 9301(6) (law governing perfection and priority); 9501 (place of filing), 9502 (contents of financing statement), 9519 (indexing of records). The new term, “as-extracted collateral,” refers to the minerals and related accounts to which the special rules apply. The term “at the wellhead” encompasses arrangements based on a sale of the produce at the moment that it issues from the ground and is measured, without technical distinctions as to whether title passes at the “Christmas tree” of a well, the far side of a gathering tank, or at some other point. The term “at . . . the minehead” is comparable.

The following examples explain the operation of these provisions.

Example 5: Debtor owns an interest in oil that is to be extracted. To secure Debtor's obligations to Lender, Debtor enters into an authenticated agreement granting Lender an interest in the oil. Although Lender may acquire an interest in the oil under real property law, Lender does not acquire a security interest under this Division until the oil becomes personal property, i.e., until is extracted and becomes "goods" to which this Division applies. Because Debtor had an interest in the oil before extraction and Lender's security interest attached to the oil as extracted, the oil is "as-extracted collateral."

Example 6: Debtor owns an interest in oil that is to be extracted and contracts to sell the oil to Buyer at the wellhead. In an authenticated agreement, Debtor agrees to sell to Lender the right to payment from Buyer. This right to payment is an account that constitutes "as-extracted collateral." If Lender then resells the account to Financer, Financer acquires a security interest. However, inasmuch as the debtor-seller in that transaction, Lender, had no interest in the oil before extraction, Financer's collateral (the account it owns) is not "as-extracted collateral."

Example 7: Under the facts of Example 6, before extraction, Buyer grants a security interest in the oil to Bank. Although Bank's security interest attaches when the oil is extracted, Bank's security interest is not in "as-extracted collateral," inasmuch as its debtor, Buyer, did not have an interest in the oil before extraction.

d. **"Certificate of Title."** The uniform version of Division 9 did not previously include a definition of "certificate of title." Section 9103(2)(a) of prior Commercial Code Division 9, which was non-uniform, provided that it applied to goods covered by a certificate of title issued under the laws of any jurisdiction that required, for perfection of a security interest in the goods, that the security interest be noted on the certificate, "whether such certificate is designated a 'certificate of title,' 'certificate of ownership,' or otherwise." The adoption by California, in paragraph (10) of subdivision (a) of Section 9102, of the uniform definition of "certificate of title" is not intended to result in a different conclusion being reached as to whether a given certificate constitutes a "certificate of title" than would have been reached under prior law.

5. Receivables-related Definitions.

a. **"Account"; "Health-Care-Insurance Receivable"; "As-Extracted Collateral."** The definition of "account" has been expanded and reformulated. It is no longer limited to rights to payment relating to goods or services. Many categories of rights to payment that were classified as general intangibles under former Division 9 are accounts under this Division. Thus, if they are sold, a financing statement must be filed to perfect the buyer's interest in them. Among the types of property that are expressly excluded from the definition is "a right to payment for money or funds advanced or sold." As defined in Section 1201, "money" is limited essentially to currency. As used in

the exclusion from the definition of “account,” however, “funds” is a broader concept (although the term is not defined). For example, when a bank- lender credits a borrower’s deposit account for the amount of a loan, the bank’s advance of funds is not a transaction giving rise to an account.

The definition of “health-care-insurance receivable” is new. It is a subset of the definition of “account.” However, the rules generally applicable to account debtors on accounts do not apply to insurers obligated on health-care-insurance receivables. See Sections 9404(e), 9405(d), 9406(i).

Note that certain accounts also are “as-extracted collateral.” See Comment 4.c., Examples 6 and 7.

b. **“Chattel Paper”**; **“Electronic Chattel Paper”**; **“Tangible Chattel Paper.”** “Chattel paper” consists of a monetary obligation together with a security interest in or a lease of specific goods if the obligation and security interest or lease are evidenced by “a record or records.” The definition has been expanded from that found in former Division 9 to include records that evidence a monetary obligation and a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, or a lease of specific goods and license of software used in the goods. Charters of vessels are expressly excluded from the definition of chattel paper; they are accounts. The term “charter” as used in this section includes bareboat charters, time charters, successive voyage charters, contracts of affreightment, contracts of carriage, and all other arrangements for the use of vessels. Under former Section 9105, only if the evidence of an obligation consisted of “a writing or writings” could an obligation qualify as chattel paper. In this Division, traditional, written chattel paper is included in the definition of “tangible chattel paper.” “Electronic chattel paper” is chattel paper that is stored in an electronic medium instead of in tangible form. The concept of an electronic medium should be construed liberally to include electrical, digital, magnetic, optical, electromagnetic, or any other current or similar emerging technologies.

The definition of electronic chattel paper does not dictate that it be created in any particular fashion. For example, a record consisting of a tangible writing may be converted to electronic form (e.g., by creating electronic images of a signed writing). Or, records may be initially created and executed in electronic form (e.g., a lessee might authenticate an electronic record of a lease that is then stored in electronic form). In either case the resulting records are electronic chattel paper.

c. **“Instrument”**; **“Promissory Note.”** The definition of “instrument” includes a negotiable instrument. As under former Section 9105, it also includes any other right to payment of a monetary obligation that is evidenced by a writing of a type that in ordinary course of business is transferred by delivery (and, if necessary, an indorsement or assignment). Except in the case of chattel paper, the fact that an instrument is secured by a security interest or encumbrance on property does not change the character of the instrument as such or convert the combination of the instrument and collateral into a separate classification of personal property. The definition makes clear that rights to payment arising out of credit-card transactions are not

instruments. The definition of “promissory note” is new, necessitated by the inclusion of sales of promissory notes within the scope of Division 9. It explicitly excludes obligations arising out of “orders” to pay (e.g., checks) as opposed to “promises” to pay. See Section 3104.

d. **“General Intangible”**; **“Payment Intangible.”** “General intangible” is the residual category of personal property, including things in action, that is not included in the other defined types of collateral. Examples are various categories of intellectual property and the right to payment of a loan of funds that is not evidenced by chattel paper or an instrument. The definition has been revised to exclude commercial tort claims, deposit accounts, and letter-of-credit rights. Each of the three is a separate type of collateral. One important consequence of this exclusion is that tortfeasors (commercial tort claims), banks (deposit accounts), and persons obligated on letters of credit (letter-of-credit rights) are not “account debtors” having the rights and obligations set forth in Sections 9404, 9405, and 9406. In particular, tortfeasors, banks, and persons obligated on letters of credit are not obligated to pay an assignee (secured party) upon receipt of the notification described in Section 9404(a). See Comment 5.h. Another important consequence relates to the adequacy of the description in the security agreement. See Section 9108.

“Payment intangible” is a subset of the definition of “general intangible.” The sale of a payment intangible is subject to this Division. See Section 9109(a)(3). Virtually any intangible right could give rise to a right to payment of money once one hypothesizes, for example, that the account debtor is in breach of its obligation. The term “payment intangible,” however, embraces only those general intangibles “under which the account debtor’s *principal* obligation is a monetary obligation.” (Emphasis added.)

In classifying intangible collateral, a court should begin by identifying the particular rights that have been assigned. The account debtor (promisor) under a particular contract may owe several types of monetary obligations as well as other, nonmonetary obligations. If the promisee’s right to payment of money is assigned separately, the right is an account or payment intangible, depending on how the account debtor’s obligation arose. When all the promisee’s rights are assigned together, an account, a payment intangible, and a general intangible all may be involved, depending on the nature of the rights.

A right to the payment of money is frequently buttressed by ancillary covenants, such as covenants in a purchase agreement, note, or mortgage requiring insurance on the collateral or forbidding removal of the collateral, or covenants to preserve the creditworthiness of the promisor, such as covenants restricting dividends and the like. This Division does not treat these ancillary rights separately from the rights to payment to which they relate. For example, attachment and perfection of an assignment of a right to payment of a monetary obligation, whether it be an account or payment intangible, also carries these ancillary rights.

Every “payment intangible” is also a “general intangible.” Likewise, “software” is a “general intangible” for purposes of this Division. See

Comment 25. Accordingly, except as otherwise provided, statutory provisions applicable to general intangibles apply to payment intangibles and software.

e. **“Letter-of-Credit Right.”** The term “letter-of-credit right” embraces the rights to payment and performance under a letter of credit (defined in Section 5102). However, it does not include a beneficiary’s right to demand payment or performance. Transfer of those rights to a transferee beneficiary is governed by Division 5. See Sections 9107, Comment 4, and 9329, Comments 3 and 4.

f. **“Supporting Obligation.”** This new term covers the most common types of credit enhancements—suretyship obligations (including guarantees) and letter-of-credit rights that support one of the types of collateral specified in the definition. As explained in Comment 2.a., suretyship law determines whether an obligation is “secondary” for purposes of this definition. Section 9109 generally excludes from this Division transfers of interests in insurance policies. However, the regulation of a secondary obligation as an insurance product does not necessarily mean that it is a “policy of insurance” for purposes of the exclusion in Section 9109. Thus, this Division may cover a secondary obligation (as a supporting obligations), even if the obligation is issued by a regulated insurance company and the obligation is subject to regulation as an “insurance” product.

This Division contains rules explicitly governing attachment, perfection, and priority of security interests in supporting obligations. See Sections 9203, 9308, 9310, and 9322. These provisions reflect the principle that a supporting obligation is an incident of the collateral it supports.

Collections of or other distributions under a supporting obligation are “proceeds” of the supported collateral as well as “proceeds” of the supporting obligation itself. See Section 9102 (defining “proceeds”) and Comment 13.b. As such, the collections and distributions are subject to the priority rules applicable to proceeds generally. See Section 9322. However, under the special rule governing security interests in a letter-of-credit right, a secured party’s failure to obtain control (Section 9107) of a letter-of-credit right supporting collateral may leave its security interest exposed to a priming interest of a party who does take control. See Section 9329 (security interest in a letter-of-credit right perfected by control has priority over a conflicting security interest).

g. **“Commercial Tort Claim.”** This term is new. A tort claim may serve as original collateral under this Division only if it is a “commercial tort claim.” See Section 9109(d). Although security interests in commercial tort claims are within its scope, this Division does not override other applicable law restricting the assignability of a tort claim. See Section 9401. A security interest in a tort claim also may exist under this Division if the claim is proceeds of other collateral.

h. **“Account Debtor.”** An “account debtor” is a person obligated on an account, chattel paper, or general intangible. The account debtor’s obligation often is a monetary obligation; however, this is not always the case. For example, if a franchisee uses its rights under a franchise agreement (a general intangible) as collateral, then the franchisor is an “account debtor.” As a general matter, Division 3, and not Division 9, governs obligations on negotiable instruments. Accordingly, the

definition of “account debtor” excludes obligors on negotiable instruments constituting part of chattel paper. The principal effect of this change from the definition in former Division 9 is that the rules in Sections 9403, 9404, 9405, and 9406, dealing with the rights of an assignee and duties of an account debtor, do not apply to an assignment of chattel paper in which the obligation to pay is evidenced by a negotiable instrument. (Section 9406(d), however, does apply to promissory notes, including negotiable promissory notes.) Rather, the assignee’s rights are governed by Division 3. Similarly, the duties of an obligor on a nonnegotiable instrument are governed by non-Division 9 law unless the nonnegotiable instrument is a part of chattel paper, in which case the obligor is an account debtor.

I. Receivables Under Government Entitlement Programs.

This Division does not contain a defined term that encompasses specifically rights to payment or performance under the many and varied government entitlement programs. Depending on the nature of a right under a program, it could be an account, a payment intangible, a general intangible other than a payment intangible, or another type of collateral. The right also might be proceeds of collateral (e.g., crops).

6. Investment-Property-Related Definitions: “Commodity Account”; “Commodity Contract”; “Commodity Customer”; “Commodity Intermediary”; “Investment Property.” These definitions are substantially the same as the corresponding definitions in former Section 9115. “Investment property” includes securities, both certificated and uncertificated, securities accounts, security entitlements, commodity accounts, and commodity contracts. The term investment property includes a “securities account” in order to facilitate transactions in which a debtor wishes to create a security interest in all of the investment positions held through a particular account rather than in particular positions carried in the account. Former Section 9115 was added in conjunction with Revised Article 8 and contained a variety of rules applicable to security interests in investment property. These rules have been relocated to the appropriate sections of Division 9. See, e.g., Sections 9203 (attachment), 9314 (perfection by control), 9328 (priority).

The terms “security,” “security entitlement,” and related terms are defined in Section 8102, and the term “securities account” is defined in Section 8501. The terms “commodity account,” “commodity contract,” “commodity customer,” and “commodity intermediary” are defined in this section. Commodity contracts are not “securities” or “financial assets” under Division 8. See Section 8103(f). Thus, the relationship between commodity intermediaries and commodity customers is not governed by the indirect-holding-system rules of Chapter 5 of Division 8. For securities, Division 9 contains rules on security interests, and Division 8 contains rules on the rights of transferees, including secured parties, on such matters as the rights of a transferee if the transfer was itself wrongful and gives rise to an adverse claim. For commodity contracts, Division 9 establishes rules on security interests, but questions of the sort dealt with in Division 8 for securities are left to other law.

The indirect-holding-system rules of Division 8 are sufficiently flexible to be applied to new developments in the securities and financial markets, where that is appropriate. Accordingly, the definition

of “commodity contract” is narrowly drafted to ensure that it does not operate as an obstacle to the application of the Division 8 indirect-holding-system rules to new products. The term “commodity contract” covers those contracts that are traded on or subject to the rules of a designated contract market and foreign commodity contracts that are carried on the books of American commodity intermediaries. The effect of this definition is that the category of commodity contracts that are excluded from Division 8 but governed by Division 9 is essentially the same as the category of contracts that fall within the exclusive regulatory jurisdiction of the federal Commodity Futures Trading Commission.

Commodity contracts are different from securities or other financial assets. A person who enters into a commodity futures contract is not buying an asset having a certain value and holding it in anticipation of increase in value. Rather the person is entering into a contract to buy or sell a commodity at set price for delivery at a future time. That contract may become advantageous or disadvantageous as the price of the commodity fluctuates during the term of the contract. The rules of the commodity exchanges require that the contracts be marked to market on a daily basis; that is, the customer pays or receives any increment attributable to that day’s price change. Because commodity customers may incur obligations on their contracts, they are required to provide collateral at the outset, known as “original margin,” and may be required to provide additional amounts, known as “variation margin,” during the term of the contract.

The most likely setting in which a person would want to take a security interest in a commodity contract is where a lender who is advancing funds to finance an inventory of a physical commodity requires the borrower to enter into a commodity contract as a hedge against the risk of decline in the value of the commodity. The lender will want to take a security interest in both the commodity itself and the hedging commodity contract. Typically, such arrangements are structured as security interests in the entire commodity account in which the borrower carries the hedging contracts, rather than in individual contracts.

One important effect of including commodity contracts and commodity accounts in Division 9 is to provide a clearer legal structure for the analysis of the rights of commodity clearing organizations against their participants and futures commission merchants against their customers. The rules and agreements of commodity clearing organizations generally provide that the clearing organization has the right to liquidate any participant’s positions in order to satisfy obligations of the participant to the clearing corporation. Similarly, agreements between futures commission merchants and their customers generally provide that the futures commission merchant has the right to liquidate a customer’s positions in order to satisfy obligations of the customer to the futures commission merchant.

The main property that a commodity intermediary holds as collateral for the obligations that the commodity customer may incur under its commodity contracts is not other commodity contracts carried by the customer but the other property that the customer has posted as margin. Typically, this property will be securities. The commodity intermediary’s security interest in such securities is governed by the

rules of this Division on security interests in securities, not the rules on security interests in commodity contracts or commodity accounts.

Although there are significant analytic and regulatory differences between commodities and securities, the development of commodity contracts on financial products in the past few decades has resulted in a system in which the commodity markets and securities markets are closely linked. The rules on security interests in commodity contracts and commodity accounts provide a structure that may be essential in times of stress in the financial markets. Suppose, for example that a firm has a position in a securities market that is hedged by a position in a commodity market, so that payments that the firm is obligated to make with respect to the securities position will be covered by the receipt of funds from the commodity position. Depending upon the settlement cycles of the different markets, it is possible that the firm could find itself in a position where it is obligated to make the payment with respect to the securities position before it receives the matching funds from the commodity position. If cross-margining arrangements have not been developed between the two markets, the firm may need to borrow funds temporarily to make the earlier payment. The rules on security interests in investment property would facilitate the use of positions in one market as collateral for loans needed to cover obligations in the other market.

7. Consumer-Related Definitions: “Consumer Debtor”; “Consumer Goods”; “Consumer-goods transaction”; “Consumer Obligor”; “Consumer Transaction.” The definition of “consumer goods” (discussed above) is substantially the same as the definition in former Section 9109. The definitions of “consumer debtor,” “consumer obligor,” “consumer-goods transaction,” and “consumer transaction” have been added in connection with various new (and old) consumer-related provisions and to designate certain provisions that are inapplicable in consumer transactions.

“Consumer-goods transaction” is a subset of “consumer transaction.” Under each definition, both the obligation secured and the collateral must have a personal, family, or household purpose. However, “mixed” business and personal transactions also may be characterized as a consumer-goods transaction or consumer transaction. Subparagraph (A) of the definition of consumer-goods transactions and clause (i) of the definition of consumer transaction are primary purposes tests. Under these tests, it is necessary to determine the primary purpose of the obligation or obligations secured. Subparagraph (B) and clause (iii) of these definitions are satisfied if any of the collateral is consumer goods, in the case of a consumer-goods transaction, or “is held or acquired primarily for personal, family, or household purposes,” in the case of a consumer transaction. The fact that some of the obligations secured or some of the collateral for the obligation does not satisfy the tests (e.g., some of the collateral is acquired for a business purpose) does not prevent a transaction from being a “consumer transaction” or “consumer-goods transaction.”

8. Filing-Related Definitions: “Continuation Statement”; “File Number”; “Filing Office”; “Filing-office Rule”; “Financing Statement”; “Fixture Filing”; “Manufactured-Home Transaction”; “New Debtor”; “Original Debtor”; “Public-Finance Transaction”; “Termination Statement”;

“Transmitting Utility.” These definitions are used exclusively or primarily in the filing-related provisions in Chapter 5. Most are self-explanatory and are discussed in the Comments to Chapter 5. A financing statement filed in a manufactured-home transaction or a public-finance transaction may remain effective for 30 years instead of the 5 years applicable to other financing statements. See Section 9515(b). The definitions relating to medium neutrality also are significant for the filing provisions. See Comment 9.

The definition of “transmitting utility” has been revised to embrace the business of transmitting communications generally to take account of new and future types of communications technology. The term designates a special class of debtors for whom separate filing rules are provided in Chapter 5, thereby obviating the many local fixture filings that would be necessary under the rules of Section 9501 for a far-flung public-utility debtor. A transmitting utility will not necessarily be regulated by or operating as such in a jurisdiction where fixtures are located. For example, a utility might own transmission lines in a jurisdiction, although the utility generates no power and has no customers in the jurisdiction.

9. Definitions Relating to Medium Neutrality.

a. **“Record.”** In many, but not all, instances, the term “record” replaces the term “writing” and “written.” A “record” includes information that is in intangible form (e.g., electronically stored) as well as tangible form (e.g., written on paper). Given the rapid development and commercial adoption of modern communication and storage technologies, requirements that documents or communications be “written,” “in writing,” or otherwise in tangible form do not necessarily reflect or aid commercial practices.

A “record” need not be permanent or indestructible, but the term does not include any oral or other communication that is not stored or preserved by any means. The information must be stored on paper or in some other medium. Information that has not been retained other than through human memory does not qualify as a record. Examples of current technologies commercially used to communicate or store information include, but are not limited to, magnetic media, optical discs, digital voice messaging systems, electronic mail, audio tapes, and photographic media, as well as paper. “Record” is an inclusive term that includes all of these methods of storing or communicating information. Any “writing” is a record. A record may be authenticated. See Comment 9.b. A record may be created without the knowledge or intent of a particular person.

Like the terms “written” or “in writing,” the term “record” does not establish the purposes, permitted uses, or legal effect that a record may have under any particular provision of law. Whatever is filed in the Division 9 filing system, including financing statements, continuation statements, and termination statements, whether transmitted in tangible or intangible form, would fall within the definition. However, in some instances, statutes or filing-office rules may require that a paper record be filed. In such cases, even if this Division permits the filing of an electronic record, compliance with those statutes or rules is necessary.

Similarly, a filer must comply with a statute or rule that requires a particular type of encoding or formatting for an electronic record.

This Division sometimes uses the terms “for record,” “of record,” “record or legal title,” and “record owner.” Some of these are terms traditionally used in real property law. The definition of “record” in this Division now explicitly excepts these usages from the defined term. Also, this Division refers to a record that is filed or recorded in real property recording systems to record a mortgage as a “record of a mortgage.” This usage recognizes that the defined term “mortgage” means an interest in real property; it does not mean the record that evidences, or is filed or recorded with respect to, the mortgage.

b. **“Authenticate”;** **“Communicate”;** **“Send.”** The terms “authenticate” and “authenticated” generally replace “sign” and “signed.” “Authenticated” replaces and broadens the definition of “signed,” in Section 1201, to encompass authentication of all records, not just writings. (References to authentication of, e.g., an agreement, demand, or notification mean, of course, authentication of a record containing an agreement, demand, or notification.) The terms “communicate” and “send” also contemplate the possibility of communication by nonwritten media. These definitions include the act of transmitting both tangible and intangible records. The definition of “send” replaces, for purposes of this Division, the corresponding term in Section 1201. The reference to “usual means of communication” in that definition contemplates an inquiry into the appropriateness of the method of transmission used in the particular circumstances involved.

10. Scope-Related Definitions.

a. **Expanded Scope of Division: “Agricultural Lien”;** **“Consignment”;** **“Payment Intangible”;** **“Promissory Note.”** These new definitions reflect the expanded scope of Division 9, as provided in Section 9109(a).

b. **Reduced Scope of Exclusions: “Governmental Unit”;** **“Health-Care-Insurance Receivable”;** **“Commercial Tort Claims.”** These new definitions reflect the reduced scope of the exclusions, provided in Section 9109(c) and (d), of transfers by governmental debtors and assignments of interests in insurance policies and commercial tort claims.

11. Choice-of-Law-Related Definitions: “Certificate of Title”; **“Governmental Unit”;** **“Jurisdiction of Organization”;** **“Registered Organization”;** **“State.”** These new definitions reflect the changes in the law governing perfection and priority of security interests and agricultural liens provided in Chapter 3.

Not every organization that may provide information about itself in the public records is a “registered organization.” For example, a general partnership is not a “registered organization,” even if it files a statement of partnership authority under Section 303 of the Uniform Partnership Act (1994) or an assumed name (“dba”) certificate. This is because the State under whose law the partnership is organized is not required to maintain a public record showing that the partnership has been organized. In contrast, corporations, limited liability companies, and limited partnerships are “registered organizations.”

12. Deposit-Account-Related Definitions: “Deposit Account”; **“Bank.”** The revised definition of “deposit account” incorporates the definition of “bank,” which is new. The definition derives from the

definitions of “bank” in Sections 4105(1) and 11105(a)(2), which focus on whether the organization is “engaged in the business of banking.”

Deposit accounts evidenced by Division 9 “instruments” are excluded from the term “deposit account.” In contrast, former Section 9105 excluded from the former definition “an account evidenced by a certificate of deposit.” The revised definition clarifies the proper treatment of nonnegotiable or uncertificated certificates of deposit. Under the definition, an uncertificated certificate of deposit would be a deposit account (assuming there is no writing evidencing the bank’s obligation to pay) whereas a nonnegotiable certificate of deposit would be a deposit account only if it is not an “instrument” as defined in this section (a question that turns on whether the nonnegotiable certificate of deposit is “of a type that in ordinary course of business is transferred by delivery with any necessary endorsement or assignment.”)

A deposit account evidenced by an instrument is subject to the rules applicable to instruments generally. As a consequence, a security interest in such an instrument cannot be perfected by “control” (see Section 9104), and the special priority rules applicable to deposit accounts (see Sections 9327 and 9340) do not apply.

The term “deposit account” does not include “investment property,” such as securities and security entitlements. Thus, the term also does not include shares in a money-market mutual fund, even if the shares are redeemable by check.

13. Proceeds-Related Definitions: “Cash Proceeds”; “Noncash Proceeds”; “Proceeds.” The revised definition of “proceeds” expands the definition beyond that contained in former Section 9306 and resolves ambiguities in the former section.

a. **Distributions on Account of Collateral.** The phrase “whatever is collected on, or distributed on account of, collateral,” in subparagraph (B), is broad enough to cover cash or stock dividends distributed on account of securities or other investment property that is original collateral. Compare former Section 9306 (“Any payments or distributions made with respect to investment property collateral are proceeds.”). This section rejects the holding of *Hastie v. FDIC*, 2 F.3d 1042 (10th Cir. 1993) (*postpetition cash dividends on stock subject to a prepetition pledge are not “proceeds” under Bankruptcy Code Section 552(b)*), to the extent the holding relies on the Article 9 definition of “proceeds.”

b. **Distributions on Account of Supporting Obligations.** Under subparagraph (B), collections on and distributions on account of collateral consisting of various credit-support arrangements (“supporting obligations,” as defined in Section 9102) also are proceeds. Consequently, they are afforded treatment identical to proceeds collected from or distributed by the obligor on the underlying (supported) right to payment or other collateral. Proceeds of supporting obligations also are proceeds of the underlying rights to payment or other collateral.

c. **Proceeds of Proceeds.** The definition of “proceeds” no longer provides that proceeds of proceeds are themselves proceeds. That idea is expressed in the revised definition of “collateral” in Section 9102. No change in meaning is intended.

d. **Proceeds Received by Person Who Did Not Create Security Interest.** When collateral is sold subject to a security interest and the buyer then resells the collateral, a question arose under former Division 9 concerning whether the “debtor” had “received” what the buyer received on resale and, therefore, whether those receipts were “proceeds” under former Section 9306(2). This Division contains no requirement that property be “received” by the debtor for the property to qualify as proceeds. It is necessary only that the property be traceable, directly or indirectly, to the original collateral.

e. **Cash Proceeds and Noncash Proceeds.** The definition of “cash proceeds” is substantially the same as the corresponding definition in former Section 9306. The phrase “and the like” covers property that is functionally equivalent to “money, checks, or deposit accounts,” such as some money-market accounts that are securities or part of securities entitlements. Proceeds other than cash proceeds are noncash proceeds.

14. Consignment-Related Definitions: “Consignee”; “Consignment”; “Consignor.” The definition of “consignment” excludes, in subparagraphs (B) and (C), transactions for which filing would be inappropriate or of insufficient benefit to justify the costs. A consignment excluded from the application of this Division by one of those subparagraphs may still be a true consignment; however, it is governed by non-Division 9 law. The definition also excludes, in subparagraph (D), what have been called “consignments intended for security.” These “consignments” are not bailments but secured transactions. Accordingly, all of Division 9 applies to them. See Sections 1201(37), 9109(a)(1). The “consignor” is the person who delivers goods to the “consignee” in a consignment.

The definition of “consignment” requires that the goods be delivered “to a merchant for the purpose of sale.” If the goods are delivered for another purpose as well, such as milling or processing, the transaction is a consignment nonetheless because a purpose of the delivery is “sale.” On the other hand, if a merchant-processor-bailee will not be selling the goods itself but will be delivering to buyers to which the owner-bailor agreed to sell the goods, the transaction would not be a consignment.

15. “Accounting.” This definition describes the record and information that a debtor is entitled to request under Section 9210.

16. “Document.” The definition of “document” is unchanged in substance from the corresponding definitions in former Section 9105. See Section 1201(15) and Comment 15.

17. “Encumbrance”; “Mortgage.” The definitions of “encumbrance” and “mortgage” are unchanged in substance from the corresponding definitions in former Section 9105. They are used primarily in the special real property-related priority and other provisions relating to crops, fixtures, and accessions.

18. “Fixtures.” This definition is unchanged in substance from the corresponding definition in former Section 9313. See Section 9334 (priority of security interests in fixtures and crops).

19. “Good Faith.” This Division expands the definition of “good faith” to include “the observance of reasonable commercial standards of fair dealing.” The definition in this section applies when the term is

used in this Division, and the same concept applies in the context of this Division for purposes of the obligation of good faith imposed by Section 1203. See subdivision (c).

20. “Lien Creditor.” This definition is unchanged in substance from the corresponding definition in former Section 9301.

21. “New Value.” This Division deletes former Section 9108. Its broad formulation of new value, which embraced the taking of after-acquired collateral for a pre-existing claim, was unnecessary, counterintuitive, and ineffective for its original purpose of sheltering after-acquired collateral from attack as a voidable preference in bankruptcy. The new definition derives from Bankruptcy Code Section 547(a). The term is used with respect to temporary perfection of security interests in instruments, certificated securities, or negotiable documents under Section 9312(e) and with respect to chattel paper priority in Section 9330.

22. “Person Related To.” Section 9615 provides a special method for calculating a deficiency or surplus when “the secured party, a person related to the secured party, or a secondary obligor” acquires the collateral at a foreclosure disposition. Separate definitions of the term are provided with respect to an individual secured party and with respect to a secured party that is an organization. The definitions are patterned on the corresponding definition in Section 1.301(32) of the Uniform Consumer Credit Code (1974).

23. “Proposal.” This definition describes a record that is sufficient to propose to retain collateral in full or partial satisfaction of a secured obligation. See Sections 9620, 9621, 9622.

24. “Pursuant to Commitment.” This definition is unchanged in substance from the corresponding definition in former Section 9105. It is used in connection with special priority rules applicable to future advances. See Section 9323.

25. “Software.” The definition of “software” is used in connection with the priority rules applicable to purchase-money security interests. See Sections 9103, 9324. Software, like a payment intangible, is a type of general intangible for purposes of this Division.

26. Terminology: “Assignment” and “Transfer.” In numerous provisions, this Division refers to the “assignment” or the “transfer” of property interests. These terms and their derivatives are not defined. This Division generally follows common usage by using the terms “assignment” and “assign” to refer to transfers of rights to payment, claims, and liens and other security interests. It generally uses the term “transfer” to refer to other transfers of interests in property. Except when used in connection with a letter-of-credit transaction (see Section 9107, Comment 4), no significance should be placed on the use of one term or the other. Depending on the context, each term may refer to the assignment or transfer of an outright ownership interest or to the assignment or transfer of a limited interest, such as a security interest.

Section 9108 of the Commercial Code

California Comment

1. Source. Former Sections 9110, 9115(3).

2. General Rules. Subdivision (a) retains substantially the same formulation as former Section 9110. Subdivision (b) expands upon

subdivision (a) by indicating a variety of ways in which a description might reasonably identify collateral. Whereas a provision similar to subdivision (b) was applicable only to investment property under former Section 9115(3), subdivision (b) applies to all types of collateral, subject to the limitation in subdivision (d). Subdivision (b) is subject to subdivision (c), which follows prevailing case law and adopts the view that an “all assets” or “all personal property” description for purposes of a *security agreement* is *not* sufficient. Note, however, that under Section 9504, a *financing statement* sufficiently indicates the collateral if it “covers all assets or all personal property.”

The purpose of requiring a description of collateral in a security agreement under Section 9203 is evidentiary. The test of sufficiency of a description under this section, as under former Section 9110, is that the description do the job assigned to it: make possible the identification of the collateral described. This section rejects any requirement that a description is insufficient unless it is exact and detailed (the so-called “serial number” test).

3. After-Acquired Collateral. Much litigation has arisen over whether a description in a security agreement is sufficient to include after-acquired collateral if the agreement does not explicitly so provide. This question is one of contract interpretation and is not susceptible to a statutory rule (other than a rule to the effect that it is a question of contract interpretation). Accordingly, this section contains no reference to descriptions of after-acquired collateral.

4. Investment Property. Under subdivision (d), the use of the wrong Division 8 terminology does not render a description invalid (e.g., a security agreement intended to cover a debtor’s “security entitlements” is sufficient if it refers to the debtor’s “securities”). Note also that given the broad definition of “securities account” in Section 8501, a security interest in a securities account also includes all other rights of the debtor against the securities intermediary arising out of the securities account. For example, a security interest in a securities account would include credit balances due to the debtor from the securities intermediary, whether or not they are proceeds of a security entitlement. Moreover, describing collateral as a securities account is a simple way of describing all of the security entitlements carried in the account.

5. Consumer Investment Property; Commercial Tort Claims. Subdivision (e) requires greater specificity of description in order to prevent debtors from inadvertently encumbering certain property. Subdivision (e) requires that a description by defined “type” of collateral alone of a commercial tort claim or, in a consumer transaction, of a security entitlement, securities account, or commodity account, is not sufficient. For example, “all existing and after-acquired investment property” or “all existing and after-acquired security entitlements,” without more, would be insufficient in a consumer transaction to describe a security entitlement, securities account, or commodity account. Moreover, if the collateral consists of a securities account or commodity account, a description of the account is sufficient to cover all existing and future security entitlements or commodity contracts carried in the account. See Section 9203(h), (i).

Under Section 9204, an after-acquired collateral clause in a security agreement will not reach future commercial tort claims. It follows that when an effective security agreement covering a commercial tort claim is entered into the claim already will exist. Subdivision (e) does not require a description to be specific. For example, a description such as "all tort claims arising out of the explosion of debtor's factory" would suffice, even if the exact amount of the claim, the theory on which it may be based, and the identity of the tortfeasor(s) are not described. (Indeed, those facts may not be known at the time.)

6. Subdivision (f) requires a description of investment property collateral also to meet the applicable requirements of Section 1799.103 of the Civil Code, and requires a description of consumer goods also to meet the applicable requirements of Section 1799.100 of the Civil Code. Those additional Civil Code requirements deal generally with security interests created in connection with consumer credit contracts.

Section 9109 of the Commercial Code

California Comment

1. Source. Former Sections 9102, 9104.

2. Basic Scope Provision. Subdivision (a)(1) derives from former Section 9102(1) and (2). These subdivisions have been combined and shortened. No change in meaning is intended. Under subdivision (a)(1), all consensual security interests in personal property and fixtures are covered by this Division, except for transactions excluded by subdivisions (c) and (d). As to which transactions give rise to a "security interest," the definition of that term in Section 1201 must be consulted. When a security interest is created, this Division applies regardless of the form of the transaction or the name that parties have given to it.

3. Agricultural Liens. Subdivision (a)(2) is new. It expands the scope of this Division to cover agricultural liens, as defined in Section 9102.

4. Sales of Accounts, Chattel Paper, Payment Intangibles, Promissory Notes, and Other Receivables. Under subdivision (a)(3), as under former Section 9102, this Division applies to sales of accounts and chattel paper. This approach generally has been successful in avoiding difficult problems of distinguishing between transactions in which a receivable secures an obligation and those in which the receivable has been sold outright. In many commercial financing transactions the distinction is blurred.

Subdivision (a)(3) expands the scope of this Division by including the sale of a "payment intangible" (defined in Section 9102 as "a general intangible under which the account debtor's principal obligation is a monetary obligation") and a "promissory note" (also defined in Section 9102). To a considerable extent, this Division affords these transactions treatment identical to that given sales of accounts and chattel paper. In some respects, however, sales of payment intangibles and promissory notes are treated differently from sales of other receivables. See, e.g., Sections 9309 (automatic perfection upon attachment), 9408 (effect of restrictions on assignment). By virtue of the expanded definition of "account" (defined in Section 9102), this Division now covers sales of (and other security interests in) "health-care-insurance receivables" (also defined in Section 9102). Although this Division occasionally distinguishes between outright

sales of receivables and sales that secure an obligation, neither this Division nor the definition of “security interest” (Section 1201(37)) delineates how a particular transaction is to be classified. That issue is left to the courts.

5. Transfer of Ownership in Sales of Receivables. A “sale” of an account, chattel paper, a promissory note, or a payment intangible includes a sale of a right in the receivable, such as a sale of a participation interest. The term also includes the sale of an enforcement right. For example, a “[p]erson entitled to enforce” a negotiable promissory note (Section 3301) may sell its ownership rights in the instrument. See Section 3203, Comment 1 (“Ownership rights in instruments may be determined by principles of the law of property, independent of Article 3, which do not depend upon whether the instrument was transferred under Section 3-203.”). Also, the right under Section 3309 to enforce a lost, destroyed, or stolen negotiable promissory note may be sold to a purchaser who could enforce that right by causing the seller to provide the proof required under that section. This Division rejects decisions reaching a contrary result, e.g., *Dennis Joslin Co. v. Robinson Broadcasting*, 977 F. Supp. 491 (D.D.C. 1997).

Nothing in this section or any other provision of Division 9 prevents the transfer of full and complete ownership of an account, chattel paper, an instrument, or a payment intangible in a transaction of sale. However, as mentioned in Comment 4, neither this Division nor the definition of “security interest” in Section 1201 provides rules for distinguishing sales transactions from those that create a security interest securing an obligation. This Division applies to both types of transactions. The principal effect of this coverage is to apply this Division’s perfection and priority rules to these sales transactions. Use of terminology such as “security interest,” “debtor,” and “collateral” is merely a drafting convention adopted to reach this end, and its use has no relevance to distinguishing sales from other transactions. See PEB Commentary No. 14.

Following a debtor’s outright sale and transfer of ownership of a receivable, the debtor-seller retains no legal or equitable rights in the receivable that has been sold. See Section 9318(a). This is so whether or not the buyer’s security interest is perfected. (A security interest arising from the sale of a promissory note or payment intangible is perfected upon attachment without further action. See Section 9309.) However, if the buyer’s interest in accounts or chattel paper is unperfected, a subsequent lien creditor, perfected secured party, or qualified buyer can reach the sold receivable and achieve priority over (or take free of) the buyer’s unperfected security interest under Section 9317. This is so not because the seller of a receivable retains rights in the property sold; it does not. Nor is this so because the seller of a receivable is a “debtor” and the buyer of a receivable is a “secured party” under this Division (they are). It is so for the simple reason that Sections 9318(b), 9317, and 9322 make it so, as did former Sections 9301 and 9312. Because the buyer’s security interest is unperfected, for purposes of determining the rights of creditors of and purchasers for value from the debtor-seller, under Section 9318(b) the debtor-seller is deemed to have the rights and title it sold. Section 9317 subjects the buyer’s unperfected interest in

accounts and chattel paper to that of the debtor-seller's lien creditor and other persons who qualify under that section.

6. Consignments. Subdivision (a)(4) is new. This Division applies to every "consignment." The term, defined in Section 9102, includes many but not all "true" consignments (i.e., bailments for the purpose of sale). If a transaction is a "sale or return," as defined in revised Section 2326, it is not a "consignment." In a "sale or return" transaction, the buyer becomes the owner of the goods, and the seller may obtain an enforceable security interest in the goods only by satisfying the requirements of Section 9203.

Under common law, creditors of a bailee were unable to reach the interest of the bailor (in the case of a consignment, the consignor-owner). Like former Section 2326 and former Division 9, this Division changes the common-law result; however, it does so in a different manner. For purposes of determining the rights and interests of third-party creditors of, and purchasers of the goods from, the consignee, but not for other purposes, such as remedies of the consignor, the consignee is deemed to acquire under this Division whatever rights and title the consignor had or had power to transfer. See Section 9319. The interest of a consignor is defined to be a security interest under revised Section 1201(37), more specifically, a purchase-money security interest in the consignee's inventory. See Section 9103(d). Thus, the rules pertaining to lien creditors, buyers, and attachment, perfection, and priority of competing security interests apply to consigned goods. The relationship between the consignor and consignee is left to other law. Consignors also have no duties under Chapter 6. See Section 9601(g).

Sometimes parties characterize transactions that secure an obligation (other than the bailee's obligation to returned bailed goods) as "consignments." These transactions are not "consignments" as contemplated by Section 9109(a)(4). See Section 9102. This Division applies also to these transactions, by virtue of Section 9109(a)(1). They create a security interest within the meaning of the first sentence of Section 1201(37).

This Division does not apply to bailments for sale that fall outside the definition of "consignment" in Section 9102 and that do not create a security interest that secures an obligation.

7. Security Interest in Obligation Secured by Non-Division 9 Transaction. Subdivision (b) is unchanged in substance from former Section 9102(3). The following example provides an illustration.

Example 1: O borrows \$10,000 from M and secures its repayment obligation, evidenced by a promissory note, by granting to M a mortgage on O's land. This Division does not apply to the creation of the real property mortgage. However, if M sells the promissory note to X or gives a security interest in the note to secure M's own obligation to X, this Division applies to the security interest thereby created in favor of X. The security interest in the promissory note is covered by this Division even though the note is secured by a real property mortgage. Also, X's security interest in the note gives X an attached security interest in the mortgage lien that secures the note and, if the security interest in the note is

perfected, the security interest in the mortgage lien likewise is perfected. See Sections 9203, 9308.

It also follows from subdivision (b) that an attempt to obtain or perfect a security interest in a secured obligation by complying with non-Division 9 law, as by an assignment of record of a real property mortgage, would be ineffective. Finally, it is implicit from subdivision (b) that one cannot obtain a security interest in a lien, such as a mortgage on real property, that is not also coupled with an equally effective security interest in the secured obligation. This Division rejects cases such as *In re Maryville Savings & Loan Corp.*, 743 F.2d 413 (6th Cir. 1984), clarified on reconsideration, 760 F.2d 119 (1985).

8. Federal Preemption. Former Section 9104(a) excluded from Division 9 “a security interest subject to any statute of the United States, to the extent that such statute governs the rights of parties to and third parties affected by transactions in particular types of property.” Some (erroneously) read the former section to suggest that Division 9 sometimes deferred to federal law even when federal law did not preempt Division 9. Subdivision (c)(1) recognizes explicitly that this Division defers to federal law only when and to the extent that it must—i.e., when federal law preempts it.

9. Governmental Debtors. Former Section 9104(e) excluded transfers by governmental debtors. It has been revised and replaced by the exclusions in new paragraphs (2) and (3) of subdivision (c). These paragraphs reflect the view that Division 9 should apply to security interests created by a State, foreign country, or a “governmental unit” (defined in Section 9102) of either except to the extent that another statute governs the issue in question. Under paragraph (2), this Division defers to all statutes of the forum State. (A forum cannot determine whether it should consult the choice-of-law rules in the forum’s UCC unless it first determines that its UCC applies to the transaction before it.) The second sentence of Section 9109(c)(2) is intended to make clear that security interests created by this State or any governmental unit in this State securing bonds, notes, bond anticipation notes, commercial paper, or other evidences of indebtedness, or lease, installment purchase, or other agreements, or certificates of participation therein, are to be governed by other statutes of this State that pertain to pledges, liens, or security interests securing those obligations unless there is no such other statute. Those other statutes do not have to use the terminology of Division 9, such as “perfection” and “priority,” or cover each subject of “creation,” “perfection,” “priority,” and “enforcement,” to come within the coverage of the first sentence. Paragraph (3) defers to statutes of another State or a foreign country only to the extent that those statutes contain rules applicable specifically to security interests created by the governmental unit in question.

Example 2: A New Jersey state commission creates a security interest in favor of a New York bank. The validity of the security interest is litigated in New York. The relevant security agreement provides that it is governed by New York law. To the extent that a New Jersey statute contains rules peculiar to creation of security interests by governmental units generally, to creation of security interests by state commissions, or to creation of security interests

by this particular state commission, then that law will govern. On the other hand, to the extent that New Jersey law provides that security interests created by governmental units, state commissions, or this state commission are governed by the law generally applicable to secured transactions (i.e., New Jersey's Article 9), then New York's Article 9 will govern.

Example 3: An airline that is an instrumentality of a foreign country creates a security interest in favor of a New York bank. The analysis used in the previous example would apply here. That is, if the matter is litigated in New York, New York law would govern except to the extent that the foreign country enacted a statute applicable to security interests created by governmental units generally or by the airline specifically.

The fact that New York law applies does not necessarily mean that perfection is accomplished by filing in New York. Rather, it means that the court should apply New York's Article 9, including its choice-of-law provisions. Under New York's Section 9-301, perfection is governed by the law of the jurisdiction in which the debtor is located. Section 9-307 determines the debtor's location for choice-of-law purposes.

If a transaction does not bear an appropriate relation to the forum State, then that State's Article 9 will not apply, regardless of whether the transaction would be excluded by paragraph (3).

Example 4: A Belgian governmental unit grants a security interest in its equipment to a Swiss secured party. The equipment is located in Belgium. A dispute arises and, for some reason, an action is brought in a New Mexico state court. Inasmuch as the transaction bears no "appropriate relation" to New Mexico, New Mexico's UCC, including its Article 9, is inapplicable. See Section 1105(1). New Mexico's Section 9-109(c) on excluded transactions should not come into play. Even if the parties agreed that New Mexico law would govern, the parties' agreement would not be effective because the transaction does not bear a "reasonable relation" to New Mexico. See Section 1105(1).

Conversely, Division 9 will come into play only if the litigation arises in a UCC jurisdiction or if a foreign choice-of-law rule leads a foreign court to apply the law of a UCC jurisdiction. For example, if issues concerning a security interest granted by a foreign airline to a New York bank are litigated overseas, the court may be bound to apply the law of the debtor's jurisdiction and not New York's Article 9.

10. Certain Statutory and Common-Law Liens; Interests in Real Property. With few exceptions (nonconsensual agricultural liens being one), this Division applies only to consensual security interests in personal property. Following former Section 9104(b) and (j), paragraphs (1) and (11) of subdivision (d) exclude landlord's liens and leases and most other interests in or liens on real property. These exclusions generally reiterate the limitations on coverage (i.e., "by contract," "in personal property and fixtures") made explicit in subdivision (a)(1). Similarly, most jurisdictions provide special liens to suppliers of many types of services and materials, either by statute or by common law. With the exception of agricultural liens, it is not necessary for this Division to provide general codification of this lien structure, which is determined in large part by local conditions and which is far removed from ordinary commercial financing. As under former

Section 9104(c), subdivision (d)(2) excludes these suppliers' liens (other than agricultural liens) from this Division. However, Section 9333 provides a rule for determining priorities between certain possessory suppliers' liens and security interests covered by this Division.

11. Wage and Similar Claims. As under former Section 9104(d), subdivision (d)(3) excludes assignments of claims for wages and the like from this Division. These assignments present important social issues that other law addresses. The Federal Trade Commission has ruled that, with some exceptions, the taking of an assignment of wages or other earnings is an unfair act or practice under the Federal Trade Commission Act. See 16 C.F.R. Part 444. State statutes also may regulate such assignments.

12. Certain Sales and Assignments of Receivables; Judgments. In general this Division covers security interests in (including sales of) accounts, chattel paper, payment intangibles, and promissory notes. Paragraphs (4), (5), (6), and (7) of subdivision (d) exclude from the Division certain sales and assignments of receivables that, by their nature, do not concern commercial financing transactions. These paragraphs add to the exclusions in former Section 9104(f) analogous sales and assignments of payment intangibles and promissory notes. For similar reasons, subdivision (d)(9) retains the exclusion of assignments of judgments under former Section 9104(h) (other than judgments taken on a right to payment that itself was collateral under this Division).

13. Insurance. The uniform version of Section 9109(d)(8) carries forward the exclusion from coverage of security interests in insurance policies, except for receivables under health insurance policies. The drafters of revised Article 9 believe that other law adequately addresses the creation of security interests in insurance policies. Because California has permitted the creation and perfection of security interests in insurance policies under the former version of Division 9 for some 30 years now, coopting the development of other law governing such matters, satisfactory industry practice should not be disturbed and California's former rule has been carried forward into revised Division 9. Given that the effect of the uniform version of Article 9 is to let the laws of individual states govern the issue, it should not disturb the structure of the uniform statute if California chooses to retain its version of the Uniform Commercial Code as the applicable governing law for this issue. This variation, therefore, is not incompatible with commercial law uniformity.

14. Set-Off. Subdivision (d)(10) adds two exceptions to the general exclusion of set-off rights from Division 9 under former Section 9104(i). The first takes account of new Section 9340, which regulates the effectiveness of a set-off against a deposit account that stands as collateral. The second recognizes Section 9404, which affords the obligor on an account, chattel paper, or general intangible the right to raise claims and defenses against an assignee (secured party).

15. Tort Claims. Subdivision (d)(12) narrows somewhat the broad exclusion of transfers of tort claims under former Section 9104(k). This Division now applies to assignments of "commercial tort claims" (defined in Section 9102) as well as to security interests in tort claims that constitute proceeds of other collateral (e.g., a right to payment for negligent destruction of the debtor's inventory). Note that once a claim

arising in tort has been settled and reduced to a contractual obligation to pay (as in, but not limited to, a structured settlement) the right to payment becomes a payment intangible and ceases to be a claim arising in tort.

This Division contains two special rules governing creation of a security interest in tort claims. First, a description of collateral in a security agreement as “all tort claims” is insufficient to meet the requirement for attachment. See Section 9108(e). Second, no security interest attaches under an after-acquired property clause to a tort claim. See Section 9204(b). In addition, this Division does not determine whom the tortfeasor must pay to discharge its obligation. Inasmuch as a tortfeasor is not an “account debtor,” the rules governing waiver of defenses and discharge of an obligation by an obligor (Sections 9403, 9404, 9405, and 9406) are inapplicable to tort-claim collateral.

16. Deposit Accounts. Unlike the former uniform version of Article 9, the former version of Division 9 had long provided that deposit accounts could be taken as original collateral and were within the scope of Division 9. Revised Article 9 now also recognizes that deposit accounts may be taken as original collateral, but with a limitation: Section 9-109(d)(13) excludes the assignment of a deposit account in a consumer transaction from the scope of Article 9. Revised Division 9 does likewise. By excluding deposit accounts from the Division’s scope as original collateral in consumer transactions, subdivision (d)(13) leaves those transactions to law other than this Division. However, in both consumer and non-consumer transactions, Sections 9315 and 9322 apply to deposit accounts as proceeds and with respect to priorities in proceeds.

This Division contains several safeguards to protect debtors against inadvertently encumbering deposit accounts and to reduce the likelihood that a secured party will realize a windfall from a debtor’s deposit accounts. For example, because “deposit account” is a separate type of collateral, a security agreement covering general intangibles will not adequately describe deposit accounts. Rather, a security agreement must reasonably identify the deposit accounts that are the subject of a security interest, e.g., by using the term “deposit accounts.” See Section 9108. To perfect a security interest in a deposit account as original collateral, a secured party (other than the bank with which the deposit account is maintained) must obtain “control” of the account either by obtaining the bank’s authenticated agreement or by becoming the bank’s customer with respect to the deposit account. See Sections 9312(b)(1), 9104. Either of these steps requires the debtor’s consent.

This Division also contains new rules that determine which State’s law governs perfection and priority of a security interest in a deposit account (Section 9304), priority of conflicting security interests in and set-off rights against a deposit account (Sections 9327, 9340), the rights of transferees of funds from an encumbered deposit account (Section 9332), the obligations of the bank (Section 9341), enforcement of security interests in a deposit account (Section 9607(c)), and the duty of a secured party to terminate control of a deposit account (Section 9208(b)).

17. Public Construction Benefits. Subdivision (d)(14) retains the exclusion relating to public construction contracts under the Improvement Act of 1911 under former Section 9104(1).

18. Transition Property. Subdivision (d)(15) retains the exclusion under former Section 9104(m) for transition property, as defined in Section 840 of the Public Utilities Code, except to the extent that the provisions of Division 9 are referred to in Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code.

Section 9206 of the Commercial Code

California Comment

1. Source. Former 9116.

2. Codification of “Broker’s Lien.” Depending upon a securities intermediary’s arrangements with its entitlement holders, the securities intermediary may treat the entitlement holder as entitled to financial assets before the entitlement holder has actually made payment for them. For example, many brokers permit retail customers to pay for financial assets by check. The broker may not receive final payment of the check until several days after the broker has credited the customer’s securities account for the financial assets. Thus, the customer will have acquired a security entitlement prior to payment. Subdivision (a) provides that, in such circumstances, the securities intermediary has a security interest in the entitlement holder’s security entitlement. Under subdivision (b) the security interest secures the customer’s obligation to pay for the financial asset in question. Subdivisions (a) and (b) codify and adapt to the indirect holding system the so-called “broker’s lien,” which has long been recognized. See Restatement, Security § 12.

3. Financial Assets Delivered Against Payment. Subdivision (c) creates a security interest in favor of persons who deliver certificated securities or other financial assets in physical form, such as money market instruments, if the agreed payment is not received. In some arrangements for settlement of transactions in physical financial assets, the seller’s securities custodian will deliver physical certificates to the buyer’s securities custodian and receive a timestamped delivery receipt. The buyer’s securities custodian will examine the certificate to ensure that it is in good order, and that the delivery matches a trade in which the buyer has instructed the seller to deliver to that custodian. If all is in order, the receiving custodian will settle with the delivering custodian through whatever funds settlement system has been agreed upon or is used by custom and usage in that market. The understanding of the trade, however, is that the delivery is conditioned upon payment, so that if payment is not made for any reason, the security will be returned to the deliverer. Subdivision (c) clarifies the rights of persons making deliveries in such circumstances. It provides the person making delivery with a security interest in the securities or other financial assets; under subdivision (d), the security interest secures the seller’s right to receive payment for the delivery. Section 8301 specifies when delivery of a certificated security occurs; that section should be applied as well to other financial assets as well for purposes of this section.

4. Automatic Attachment and Perfection. Subdivisions (a) and (c) refer to attachment of a security interest. Attachment under this

section has the same incidents (enforceability, right to proceeds, etc.) as attachment under Section 9203. This section overrides the general attachment rules in Section 9203. See Section 9203(c). A securities intermediary's security interest under subdivision (a) is perfected by control without further action. See Section 8106 (control); 9314 (perfection). Security interests arising under subdivision (c) are automatically perfected. See Section 9309(9).

Section 9310 of the Commercial Code

California Comment

1. Source. Former Section 9302(1), (2).

2. General Rule. Subdivision (a) establishes a central Division 9 principle: Filing a financing statement is necessary for perfection of security interests and agricultural liens. However, filing is not necessary to perfect a security interest that is perfected by another permissible method, see subdivision (b), nor does filing ordinarily perfect a security interest in a deposit account, letter-of-credit right, or money. See Section 9312(b). Chapter 5 of the Division deals with the office in which to file, mechanics of filing, and operations of the filing office.

3. Exemptions from Filing. Subdivision (b) lists the security interests for which filing is not required as a condition of perfection, because they are perfected automatically upon attachment (subdivisions (b)(2) and (b)(9)) or upon the occurrence of another event (subdivisions (b)(1), (b)(5), and (b)(9)), because they are perfected under the law of another jurisdiction (subdivision (b)(10)), or because they are perfected by another method, such as by the secured party's taking possession or control (subdivisions (b)(3), (b)(4), (b)(5), (b)(6), (b)(7), (b)(8), and (b)(11)).

4. Assignments of Perfected Security Interests. Subdivision (c) concerns assignment of a perfected security interest or agricultural lien. It provides that no filing is necessary in connection with an assignment by a secured party to an assignee in order to maintain perfection as against creditors of and transferees from the original debtor.

Example 1: Buyer buys goods from Seller, who retains a security interest in them. After Seller perfects the security interest by filing, Seller assigns the perfected security interest to X. The security interest, in X's hands and without further steps on X's part, continues perfected against *Buyer's* transferees and creditors.

Example 2: Dealer creates a security interest in specific equipment in favor of Lender. After Lender perfects the security interest in the equipment by filing, Lender assigns the chattel paper (which includes the perfected security interest in Dealer's equipment) to X. The security interest in the equipment, in X's hands and without further steps on X's part, continues perfected against *Dealer's* transferees and creditors. However, regardless of whether Lender made the assignment to secure Lender's obligation to X or whether the assignment was an outright sale of the chattel paper, the assignment creates a security interest in the chattel paper in favor of X. Accordingly, X must take whatever steps may be

required for perfection in order to be protected against *Lender's* transferees and creditors with respect to the chattel paper.

Subdivision (c) applies not only to an assignment of a security interest perfected by filing but also to an assignment of a security interest perfected by a method other than by filing, such as by control or by possession. Although subdivision (c) addresses explicitly only the absence of an additional filing requirement, the same result normally will follow in the case of an assignment of a security interest perfected by a method other than by filing. For example, as long as possession of collateral is maintained by an assignee or by the assignor or another person on behalf of the assignee, no further perfection steps need be taken on account of the assignment to continue perfection as against creditors and transferees of the original debtor. Of course, additional action may be required for perfection of the assignee's interest as against creditors and transferees of the *assignor*.

Similarly, subdivision (c) applies to the assignment of a security interest perfected by compliance with a statute, regulation, or treaty under Section 9311(b), such as a certificate-of-title statute. Unless the statute expressly provides to the contrary, the security interest will remain perfected against creditors of and transferees from the original debtor, even if the assignee takes no action to cause the certificate of title to reflect the assignment or to cause its name to appear on the certificate of title. See PEB Commentary No. 12, which discusses this issue under former Section 9302(3). Compliance with the statute is "equivalent to filing" under Section 9311(b).

Section 9312 of the Commercial Code

California Comment

1. Source. Former Section 9304, with additions and some changes.

2. Instruments. Under subdivision (a), a security interest in instruments may be perfected by filing. This rule represents an important change from former Division 9, under which the secured party's taking possession of an instrument was the only method of achieving long-term perfection. The rule is likely to be particularly useful in transactions involving large number of notes that a debtor uses as collateral but continues to collect from the makers. A security interest perfected by filing is subject to defeat by certain subsequent purchasers (including secured parties). Under Section 9330(d), purchasers for value who take possession of an instrument without knowledge that the purchase violates the rights of the secured party generally would achieve priority over a security interest in the instrument perfected by filing. In addition, Section 9331 provides that filing a financing statement does not constitute notice that would preclude a subsequent purchaser from becoming a holder in due course and taking free of all claims under Section 3306.

3. Chattel Paper; Negotiable Documents. Subdivision (a) further provides that filing is available as a method of perfection for security interests in chattel paper and negotiable documents. Tangible chattel paper is sometimes delivered to the assignee, and sometimes left in the hands of the assignor for collection. Subdivision (a) allows the assignee to perfect its security interest by filing in the latter case.

Alternatively, the assignee may perfect by taking possession. See Section 9313(a). An assignee of electronic chattel paper may perfect by taking control. See Sections 9314(a), 9105. The security interest of an assignee who takes possession or control may qualify for priority over a competing security interest perfected by filing. See Section 9330.

Negotiable documents may be, and usually are, delivered to the secured party. The secured party's taking possession will suffice as a perfection step. See Section 9313(a). However, as is the case with chattel paper, a security interest in a negotiable document may be perfected by filing.

4. Investment Property. A security interest in investment property, including certificated securities, uncertificated securities, security entitlements, and securities accounts, may be perfected by filing. However, security interests created by brokers, securities intermediaries, or commodity intermediaries are automatically perfected; filing is of no effect. See Section 9309(10), (11). A security interest in all kinds of investment property also may be perfected by control, see Sections 9314, 9106, and a security interest in a certificated security also may be perfected by the secured party's taking delivery under Section 8301. See Section 9313(a). A security interest perfected only by filing is subordinate to a conflicting security interest perfected by control or delivery. See Section 9328(1), (5). Thus, although filing is a permissible method of perfection, a secured party who perfects by filing takes the risk that the debtor has granted or will grant a security interest in the same collateral to another party who obtains control. Also, perfection by filing would not give the secured party protection against other types of adverse claims, since the Division 8 adverse claim cut-off rules require control. See Section 8510.

5. Deposit Accounts. Under new subdivision (b)(1), the only method of perfecting a security interest in a deposit account as original collateral is by control. Filing is ineffective, except as provided in Section 9315 with respect to proceeds. As explained in Section 9104, "control" can arise as a result of an agreement among the secured party, debtor, and bank, whereby the bank agrees to comply with instructions of the secured party with respect to disposition of the funds on deposit, even though the debtor retains the right to direct disposition of the funds. Thus, subdivision (b)(1) takes an intermediate position between certain non-UCC law, which conditions the effectiveness of a security interest on the secured party's enjoyment of such dominion and control over the deposit account that the debtor is unable to dispose of the funds, and the approach this Division takes to securities accounts, under which a secured party who is unable to reach the collateral without resort to judicial process may perfect by filing. By conditioning perfection on "control," rather than requiring the secured party to enjoy absolute dominion to the exclusion of the debtor, subdivision (b)(1) permits perfection in a wide variety of transactions, including those in which the secured party actually relies on the deposit account in extending credit and maintains some meaningful dominion over it, but does not wish to deprive the debtor of access to the funds altogether.

6. Letter-of-Credit Rights. Letter-of-credit rights commonly are "supporting obligations," as defined in Section 9102. Perfection as to the related account, chattel paper, document, general intangible, instrument, or investment property will perfect as to the letter-of-credit

rights. See Section 9308(d). Subdivision (b)(2) provides that, in other cases, a security interest in a letter-of-credit right may be perfected only by control. "Control," for these purposes, is explained in Section 9107.

6.5. Policies of Insurance. Except with respect to health care insurance receivables in which a security interest is normally perfected by the filing of a financing statement and cannot be perfected by notice to the insurer, subdivision (b)(4) provides that a security interest in, or claim in or under, any policy of insurance, including unearned premiums, may be perfected only by giving written notice of the security interest or claim to the insurer.

7. Goods Covered by Document of Title. Subdivision (c) applies to goods in the possession of a bailee who has issued a negotiable document covering the goods. Subdivision (d) applies to goods in the possession of a bailee who has issued a nonnegotiable document of title, including a document of title that is "non-negotiable" under Section 7104. Section 9313 governs perfection of a security interest in goods in the possession of a bailee who has not issued a document of title.

Subdivision (c) clarifies the perfection and priority rules in former Section 9304(2). Consistently with the provisions of Division 7, subdivision (c) takes the position that, as long as a negotiable document covering goods is outstanding, title to the goods is, so to say, locked up in the document. Accordingly, a security interest in goods covered by a negotiable document may be perfected by perfecting a security interest in the document. The security interest also may be perfected by another method, e.g., by filing. The priority rule in subdivision (c) governs only priority between (i) a security interest in goods which is perfected by perfecting in the document and (ii) a security interest in the goods which becomes perfected by another method while the goods are covered by the document.

Example 1: While wheat is in a grain elevator and covered by a negotiable warehouse receipt, Debtor creates a security interest in the wheat in favor of SP-1 and SP-2. SP-1 perfects by filing a financing statement covering "wheat." Thereafter, SP-2 perfects by filing a financing statement describing the warehouse receipt. Subdivision (c)(1) provides that SP-2's security interest is perfected. Subdivision (c)(2) provides that SP-2's security interest is senior to SP-1's

Example 2: The facts are as in Example 1, but SP-1's security interest attached and was perfected before the goods were delivered to the grain elevator. Subdivision (c)(2) does not apply, because SP-1's security interest did not become perfected during the time that the wheat was in the possession of a bailee. Rather, the first-to-file-or-perfect priority rule applies. See Section 9322.

A secured party may become "a holder to whom a negotiable document of title has been duly negotiated" under Section 7501. If so, the secured party acquires the rights specified by Division 7. Division 9 does not limit those rights, which may include the right to priority over an earlier-perfected security interest. See Section 9331(a).

Subdivision (d) takes a different approach to the problem of goods covered by a nonnegotiable document. Here, title to the goods is not looked on as being locked up in the document, and the secured party

may perfect its security interest directly in the goods by filing as to them. The subdivision provides two other methods of perfection: issuance of the document in the secured party's name (as consignee of a straight bill of lading or the person to whom delivery would be made under a non-negotiable warehouse receipt) and receipt of notification of the secured party's interest by the bailee. Perfection under subdivision (d) occurs when the bailee receives notification of the secured party's interest in the goods, regardless of who sends the notification. Receipt of notification is effective to perfect, regardless of whether the bailee responds. Unlike former Section 9304(3), from which it derives, subdivision (d) does not apply to goods in the possession of a bailee who has not issued a document of title. Section 9313(c) covers that case and provides that perfection by possession as to goods not covered by a document requires the bailee's acknowledgment.

8. Temporary Perfection Without Having First Otherwise Perfected. Subdivision (e) follows former Section 9304(4) in giving perfected status to security interests in certificated securities, instruments, and negotiable documents for a short period (reduced from 21 to 20 days, which is the time period generally applicable in this Division), although there has been no filing and the collateral is in the debtor's possession. The 20-day temporary perfection runs from the date of attachment. There is no limitation on the purpose for which the debtor is in possession, but the secured party must have given "new value" (defined in Section 9102) under an authenticated security agreement.

9. Maintaining Perfection After Surrendering Possession. There are a variety of legitimate reasons—many of them are described in subdivisions (f) and (g)—why certain types of collateral must be released temporarily to a debtor. No useful purpose would be served by cluttering the files with records of such exceedingly short term transactions.

Subdivision (f) affords the possibility of 20-day perfection in negotiable documents and goods in the possession of a bailee but not covered by a negotiable document. Subdivision (g) provides for 20-day perfection in certificated securities and instruments. These subdivisions derive from former Section 9305(5). However, the period of temporary perfection has been reduced from 21 to 20 days, which is the time period generally applicable in this Division, and "enforcement" has been added in subdivision (g) as one of the special and limited purposes for which a secured party can release an instrument or certificated security to the debtor and still remain perfected. The period of temporary perfection runs from the date a secured party who already has a perfected security interest turns over the collateral to the debtor. There is no new value requirement, but the turnover must be for one or more of the purposes stated in subdivision (f) or (g). The 20-day period may be extended by perfecting as to the collateral by another method before the period expires. However, if the security interest is not perfected by another method until after the 20-day period expires, there will be a gap during which the security interest is unperfected.

Temporary perfection extends only to the negotiable document or goods under subdivisions (f) and only to the certificated security or

instrument under subdivision (g). It does not extend to proceeds. If the collateral is sold, the security interest will continue in the proceeds for the period specified in Section 9315.

Subdivisions (f) and (g) deal only with perfection. Other sections of this Division govern the priority of a security interest in goods after surrender of the document covering them. In the case of a purchase-money security interest in inventory, priority may be conditioned upon giving notification to a prior inventory financier. See Section 9324.

Section 9315 of the Commercial Code

California Comment

1. Source. Former Section 9306.

2. Continuation of Security Interest or Agricultural Lien Following Disposition of Collateral. Subdivision (a)(1), which derives from former Section 9306(2), contains the general rule that a security interest survives disposition of the collateral. In these cases, the secured party may repossess the collateral from the transferee or, in an appropriate case, maintain an action for conversion. The secured party may claim both any proceeds and the original collateral but, of course, may have only one satisfaction.

In many cases, a purchaser or other transferee of collateral will take free of a security interest, and the secured party's only right will be to proceeds. For example, the general rule does not apply, and a security interest does not continue in collateral, if the secured party authorized the disposition, in the agreement that contains the security agreement or otherwise. Subdivision (a)(1) adopts the view of PEB Commentary No. 3 and makes explicit that the authorized disposition to which it refers is an authorized disposition "free of" the security interest or agricultural lien. The secured party's right to proceeds under this section or under the express terms of an agreement does not in itself constitute an authorization of disposition. The change in language from former Section 9306(2) is not intended to address the frequently litigated situation in which the effectiveness of the secured party's consent to a disposition is conditioned upon the secured party's receipt of the proceeds. In that situation, subdivision (a) leaves the determination of authorization to the courts, as under former Division 9.

This Division contains several provisions under which a transferee takes free of a security interest or agricultural lien. For example, Section 9317 states when transferees take free of unperfected security interests; Sections 9320 and 9321 on goods, 9321 on general intangibles, 9330 on chattel paper and instruments, and 9331 on negotiable instruments, negotiable documents, and securities state when purchasers of such collateral take free of a security interest, even though perfected and even though the disposition was not authorized. Section 9332 enables most transferees (including non-purchasers) of funds from a deposit account and most transferees of money to take free of a perfected security interest in the deposit account or money.

Likewise, the general rule that a security interest survives disposition does not apply if the secured party entrusts goods collateral to a merchant who deals in goods of that kind and the merchant sells the collateral to a buyer in ordinary course of business. Section 2403(2) gives the merchant the power to transfer all the secured party's rights to

the buyer, even if the sale is wrongful as against the secured party. Thus, under subdivision (a)(1), an entrusting secured party runs the same risk as any other entruster.

3. Secured Party's Right to Identifiable Proceeds. Under subdivision (a)(2), which derives from former Section 9306(2), a security interest attaches to any identifiable "proceeds," as defined in Section 9102. See also Section 9203(f). Subdivision (b) is new. It indicates when proceeds commingled with other property are identifiable proceeds and permits the use of whatever methods of tracing other law permits with respect to the type of property involved. Among the "equitable principles" whose use other law may permit is the "lowest intermediate balance rule." See Restatement (2d), Trusts § 202.

4. Automatic Perfection in Proceeds: General Rule. Under subdivision (c), a security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected. This Division extends the period of automatic perfection in proceeds from ten days to 20 days. Generally, a security interest in proceeds becomes unperfected on the 21st day after the security interest attaches to the proceeds. See subdivision (d). The loss of perfected status under subdivision (d) is prospective only. Compare, e.g., Section 9515(c) (deeming security interest unperfected retroactively).

5. Automatic Perfection in Proceeds: Proceeds Acquired with Cash Proceeds. Subdivision (d)(1) derives from former Section 9306(3)(a). It carries forward the basic rule that a security interest in proceeds remains perfected beyond the period of automatic perfection if a filed financing statement covers the original collateral (e.g., inventory) and the proceeds are collateral in which a security interest may be perfected by filing in the office where the financing statement has been filed (e.g., equipment). A different rule applies if the proceeds are acquired with cash proceeds, as is the case if the original collateral (inventory) is sold for cash (cash proceeds) that is used to purchase equipment (proceeds). Under these circumstances, the security interest in the equipment proceeds remains perfected only if the description in the filed financing indicates the type of property constituting the proceeds (e.g., "equipment").

This section reaches the same result but takes a different approach. It recognizes that the treatment of proceeds acquired with cash proceeds under former Section 9306(3)(a) essentially was superfluous. In the example, had the filing covered "equipment" as well as "inventory," the security interest in the proceeds would have been perfected under the usual rules governing after-acquired equipment (see former Sections 9302, 9303); paragraph (3)(a) added only an exception to the general rule. Subdivision (d)(1)(C) of this section takes a more direct approach. It makes the general rule of continued perfection inapplicable to proceeds acquired with cash proceeds, leaving perfection of a security interest in those proceeds to the generally applicable perfection rules under subdivision (d)(3).

Example 1: Lender perfects a security interest in Debtor's inventory by filing a financing statement covering "inventory." Debtor sells the inventory and deposits the buyer's check into a deposit account. Debtor draws a check on the deposit account and uses it to pay for equipment. Under the "lowest intermediate

balance rule,” which is a permitted method of tracing in the relevant jurisdiction, see Comment 3, the funds used to pay for the equipment were identifiable proceeds of the inventory. Because the proceeds (equipment) were acquired with cash proceeds (deposit account), subdivision (d)(1) does not extend perfection beyond the 20-day automatic period.

Example 2: Lender perfects a security interest in Debtor’s inventory by filing a financing statement covering “all debtor’s property.” As in Example 1, Debtor sells the inventory, deposits the buyer’s check into a deposit account, draws a check on the deposit account, and uses the check to pay for equipment. Under the “lowest intermediate balance rule,” which is a permitted method of tracing in the relevant jurisdiction, see Comment 3, the funds used to pay for the equipment were identifiable proceeds of the inventory. Because the proceeds (equipment) were acquired with cash proceeds (deposit account), subdivision (d)(1) does not extend perfection beyond the 20-day automatic period. However, because the financing statement is sufficient to perfect a security interest in debtor’s equipment, under subdivision (d)(3) the security interest in the equipment proceeds remains perfected beyond the 20-day period.

6. Automatic Perfection in Proceeds: Lapse or Termination of Financing Statement During 20-Day Period; Perfection Under Other Statute or Treaty. Subdivision (e) provides that a security interest in proceeds perfected under subdivision (d)(1) ceases to be perfected when the financing statement covering the original collateral lapses or is terminated. If the lapse or termination occurs before the 21st day after the security interest attaches, however, the security interest in the proceeds remains perfected until the 21st day. Section 9311(b) provides that compliance with the perfection requirements of a statute or treaty described in Section 9311(a) “is equivalent to the filing of a financing statement.” It follows that collateral subject to a security interest perfected by such compliance under Section 9311(b) is covered by a “filed financing statement” within the meaning of Section 9315(d) and (e).

7. Automatic Perfection in Proceeds: Continuation of Perfection in Cash Proceeds. Former Section 9306(3)(b) provided that if a filed financing statement covered original collateral, a security interest in identifiable cash proceeds of the collateral remained perfected beyond the ten-day period of automatic perfection. Former Section 9306(3)(c) contained a similar rule with respect to identifiable cash proceeds of investment property. Subdivision (d)(2) extends the benefits of former Sections 9306(3)(b) and (3)(c) to identifiable cash proceeds of all types of original collateral in which a security interest is perfected by any method. Under subdivision (d)(2), if the security interest in the original collateral was perfected, a security interest in identifiable cash proceeds will remain perfected indefinitely, regardless of whether the security interest in the original collateral remains perfected. In many cases, however, a purchaser or other transferee

of the cash proceeds will take free of the perfected security interest. See, e.g., Sections 9330(d) (purchaser of check), 9331 (holder in due course of check), 9332 (transferee of money or funds from a deposit account).

8. Insolvency Proceedings; Returned and Repossessed Goods.

This Division deletes former Section 9306(4), which dealt with proceeds in insolvency proceedings. Except as otherwise provided by the Bankruptcy Code, the debtor's entering into bankruptcy does not affect a secured party's right to proceeds.

This Division also deletes former Section 9306(5), which dealt with returned and repossessed goods. Section 9330, Comments 9 to 11 explain and clarify the application of priority rules to returned and repossessed goods as proceeds of chattel paper.

9. Proceeds of Collateral Subject to Agricultural Lien.

This Division does not determine whether a lien extends to proceeds of farm products encumbered by an agricultural lien. If, however, the proceeds are themselves farm products on which an "agricultural lien" (defined in Section 9102) arises under other law, then the agricultural lien provisions of this Division apply to the agricultural lien on the proceeds in the same way in which they would apply had the farm products not been proceeds.

10. Cash Proceeds: Retention of Character.

Subdivision (f) retains former Section 9306(6) providing that cash proceeds retain their character as cash proceeds while in the possession of a levying officer pursuant to provisions of the Code of Civil Procedure.

Section 9316 of the Commercial Code

California Comment

1. Source. Former Section 9103(1)(d), (2)(b), (3)(e), as modified.

2. Continued Perfection. This section deals with continued perfection of security interests that have been perfected under the law of another jurisdiction. The fact that the law of a particular jurisdiction ceases to govern perfection under Sections 9301 through 9307 does not necessarily mean that a security interest perfected under that law automatically becomes unperfected. To the contrary: This section generally provides that a security interest perfected under the law of one jurisdiction remains perfected for a fixed period of time (four months or one year, depending on the circumstances), even though the jurisdiction whose law governs perfection changes. However, cessation of perfection under the law of the original jurisdiction cuts short the fixed period. The four-month and one-year periods are long enough for a secured party to discover in most cases that the law of a different jurisdiction governs perfection and to reperfect (typically by filing) under the law of that jurisdiction. If a secured party properly reperfects a security interest before it becomes unperfected under subdivision (a), then the security interest remains perfected continuously thereafter. See subdivision (b).

Example 1: Debtor is a general partnership whose chief executive office is in Pennsylvania. Lender perfects a security interest in Debtor's equipment by filing in Pennsylvania on May 15, 2002. On April 1, 2005, without Lender's knowledge,

Debtor moves its chief executive office to New Jersey. Lender's security interest remains perfected for four months after the move. See subdivision (a)(2).

Example 2: Debtor is a general partnership whose chief executive office is in Pennsylvania. Lender perfects a security interest in Debtor's equipment by filing in Pennsylvania on May 15, 2002. On April 1, 2007, without Lender's knowledge, Debtor moves its chief executive office to New Jersey. Lender's security interest remains perfected only through May 14, 2007, when the effectiveness of the filed financing statement lapses. See subdivision (a)(1). Although, under these facts, Lender would have only a short period of time to discover that Debtor had relocated and to reperfect under New Jersey law, Lender could have protected itself by filing a continuation statement in Pennsylvania before Debtor relocated. By doing so, Lender would have prevented lapse and allowed itself the full four months to discover Debtor's new location and refile there or, if Debtor is in default, to perfect by taking possession of the equipment.

Example 3: Under the facts of Example 2, Lender files a financing statement in New Jersey before the effectiveness of the Pennsylvania financing statement lapses. Under subdivision (b), Lender's security interest is continuously perfected beyond May 14, 2007, for a period determined by New Jersey's Division 9.

Subdivision (a)(3) allows a one-year period in which to reperfect. The longer period is necessary, because, even with the exercise of due diligence, the secured party may be unable to discover that the collateral has been transferred to a person located in another jurisdiction.

Example 4: Debtor is a Pennsylvania corporation. Lender perfects a security interest in Debtor's equipment by filing in Pennsylvania. Debtor's shareholders decide to "reincorporate" in Delaware. They form a Delaware corporation (Newcorp) into which they merge Debtor. The merger effectuates a transfer of the collateral from Debtor to Newcorp, which thereby becomes a debtor and is located in another jurisdiction. Under subdivision (a)(3), the security interest remains perfected for one year after the merger. If a financing statement is filed in Delaware against Newcorp within the year following the merger, then the security interest remains perfected thereafter for a period determined by Delaware's Article 9.

Note that although Newcorp is a "new debtor" as defined in Section 9102, the application of subdivision (a)(3) is not limited to transferees who are new debtors. Note also that, under Section 9507, the financing statement naming Debtor remains effective even though Newcorp has become the debtor.

This section addresses security interests that are perfected (i.e., that have attached and as to which any required perfection step has been taken) before the debtor changes its location. It does not apply to security interests that have not attached before the location changes.

Example 5: Debtor is a Pennsylvania corporation. Debtor grants to Lender a security interest in Debtor's existing and after-acquired inventory. Lender perfects by filing in Pennsylvania. Debtor's shareholders decide to "reincorporate" in Delaware. They form a

Delaware corporation (Newcorp) into which they merge Debtor. By virtue of the merger, Newcorp becomes bound by Debtor's security agreement. See Section 9203. After the merger, Newcorp acquires inventory to which Lender's security interest attaches. Because Newcorp is located in Delaware, Delaware law governs perfection of a security interest in Newcorp's inventory. See Sections 9301, 9307. Having failed to perfect under Delaware law, Lender holds an unperfected security interest in the inventory acquired by Newcorp after the merger. The same result follows regardless of the name of the Delaware corporation (i.e., even if the Delaware corporation and Debtor have the same name).

3. Retroactive Unperfection. Subdivision (b) sets forth the consequences of the failure to reperfect before perfection ceases under subdivision (a): the security interest becomes unperfected prospectively and, as against purchasers for value, including buyers and secured parties, but not as against donees or lien creditors, retroactively. The rule applies to agricultural liens, as well. See also Section 9515 (taking the same approach with respect to lapse). Although this approach creates the potential for circular priorities, the alternative—retroactive unperfection against lien creditors—would create substantial and unjustifiable preference risks.

Example 6: Under the facts of Example 4, six months after the merger, Buyer bought from Newcorp some equipment formerly owned by Debtor. At the time of the purchase, Buyer took subject to Lender's perfected security interest, of which Buyer was unaware. See Section 9315(a)(1). However, subdivision (b) provides that if Lender fails to reperfect in Delaware within a year after the merger, its security interest becomes unperfected and is deemed never to have been perfected against Buyer. Having given value and received delivery of the equipment without knowledge of the security interest and before it was perfected, Buyer would take free of the security interest. See Section 9317(b).

Example 7: Under the facts of Example 4, one month before the merger, Debtor created a security interest in certain equipment in favor of Financer, who perfected by filing in Pennsylvania. At that time, Financer's security interest is subordinate to Lender's. See Section 9322(a)(1). Financer reperfects by filing in Delaware within a year after the merger, but Lender fails to do so. Under subdivision (b), Lender's security interest is deemed never to have been perfected against Financer, a purchaser for value. Consequently, under Section 9322(a)(2), Financer's security interest is now senior.

Of course, the expiration of the time period specified in subdivision (a) does not of itself prevent the secured party from later reperfecting under the law of the new jurisdiction. If the secured party does so, however, there will be a gap in perfection, and the secured party may lose priority as a result. Thus, in Example 7, if Lender perfects by filing in Delaware more than one year under the merger, it will have a new date of filing and perfection for purposes of Section 9322(a)(1).

Financer's security interest, whose perfection dates back to the filing in Pennsylvania under subdivision (b), will remain senior.

4. Possessory Security Interests. Subdivision (c) deals with continued perfection of possessory security interests. It applies not only to security interests perfected solely by the secured party's having taken possession of the collateral. It also applies to security interests perfected by a method that includes as an element of perfection the secured party's having taken possession, such as perfection by taking delivery of a certificated security in registered form, see Section 9313(a) and perfection by obtaining control over a certificated security. See Section 9314(a).

5. Goods Covered by Certificate of Title. Subdivisions (d) and (e) address continued perfection of a security interest in goods covered by a certificate of title. The following examples explain the operation of those subdivisions.

Example 8: Debtor's automobile is covered by a certificate of title issued by Illinois. Lender perfects a security interest in the automobile by complying with Illinois' certificate-of-title statute. Thereafter, Debtor applies for a certificate of title in Indiana. Six months thereafter, Creditor acquires a judicial lien on the automobile. Under Section 9303(b), Illinois law ceases to govern perfection; rather, once Debtor delivers the application and applicable fee to the appropriate Indiana authority, Indiana law governs. Nevertheless, under Indiana's Section 9-316(d), Lender's security interest remains perfected until it would become unperfected under Illinois law had no certificate of title been issued by Indiana. (For example, Illinois' certificate-of-title statute may provide that the surrender of an Illinois certificate of title in connection with the issuance of a certificate of title by another jurisdiction causes a security interest noted thereon to become unperfected.) If Lender's security interest remains perfected, it is senior to Creditor's judicial lien.

Example 9: Under the facts in Example 8, five months after Debtor applies for an Indiana certificate of title, Debtor sells the automobile to Buyer. Under subdivision (e)(2), because Lender did not reperfect within the four months after the goods became covered by the Indiana certificate of title, Lender's security interest is deemed never to have been perfected against Buyer. Under Section 9317(b), Buyer is likely to take free of the security interest. Lender could have protected itself by perfecting its security interest either under Indiana's certificate-of-title statute, see Section 9311, or, if it had a right to do so under an agreement or Section 9610, by taking possession of the automobile. See Section 9313(b).

The results in Examples 8 and 9 do not depend on the fact that the original perfection was achieved by notation on a certificate of title. Subdivision (d) applies regardless of the method by which a security interest is perfected under the law of another jurisdiction when the goods became covered by a certificate of title from this State.

Section 9337 affords protection to a limited class of persons buying or acquiring a security interest in the goods while a security interest is perfected under the law of another jurisdiction but after this State has issued a clean certificate of title.

6. Deposit Accounts, Letter-of-Credit Rights, and Investment Property. Subdivisions (f) and (g) address changes in the jurisdiction of a bank, issuer of an uncertificated security, issuer of or nominated person under a letter of credit, securities intermediary, and commodity intermediary. The provisions are analogous to those of subdivisions (a) and (b).

7. Agricultural Liens. This section does not apply to agricultural liens.

Example 10: Supplier holds an agricultural lien on corn. The lien arises under an Iowa statute. Supplier perfects by filing a financing statement in Iowa, where the corn is located. See Section 9302. Debtor stores the corn in Missouri. Assume the Iowa agricultural lien survives or an agricultural lien arises under Missouri law (matters that this Division does not govern). Once the corn is located in Missouri, Missouri becomes the jurisdiction whose law governs perfection. See Section 9302. Thus, the agricultural lien will not be perfected unless Supplier files a financing statement in Missouri.

8. Application to Licenses. Section 9316(a)(3) provides that if a secured party has perfected a security interest by the filing of a financing statement and the debtor “transfers” the “collateral” to a person “located” (Section 9307) in another jurisdiction, the secured party becomes unperfected as to that “collateral” one year after the “transfer” unless the secured party perfects against the transferee in the other jurisdiction. This rule does not apply unless there is a “transfer” of the “collateral.” For purposes of Section 9316, and notwithstanding any contrary implication that may exist by virtue of the United States Copyright Act, where an owner of a general intangible has granted a security interest in the general intangible, the grant of a license (exclusive or nonexclusive) by the owner of the general intangible in favor of a licensee to use the general intangible does not “transfer” the general intangible (the “collateral”) itself. It only gives the licensee the right to use the general intangible. The licensee’s right to use the general intangible does not create in the licensee an ownership or property interest in the general intangible itself. Thus where an owner of a general intangible has granted to its secured party a security interest in the general intangible and the owner later licenses the use of the general intangible to a person located in another state, the licensee does not constitute a “transfer” of the “collateral” (the general intangible) for purposes of Section 9316(a)(3). Accordingly, Section 9316(a)(3) would not oblige the secured party of the licensor to perfect its security interest in the state where the licensee is located, if different from the state where the licensor is located. Of course, for example, if the license is a disguised outright transfer of ownership of the general intangible itself and all exclusive rights therein, then a “transfer” of “collateral” may have occurred.

Section 9317 of the Commercial Code

California Comment

1. Source. Former Sections 9301, 10307(2).

2. Scope of This Section. As did former Section 9301, this section lists the classes of persons who take priority over, or take free of, a security interest. Section 9308 explains when a security interest or

agricultural lien is “perfected.” A security interest that has attached (see Section 9203) but as to which a required perfection step has not been taken is “unperfected.” Certain provisions have been moved from former Section 9301. The definition of “lien creditor” now appears in Section 9102, and the rules governing priority in future advances are found in Section 9323.

3. Competing Security Interests. Section 9322 states general rules for determining priority among conflicting security interests and refers to other sections that state special rules of priority in a variety of situations. The security interests given priority under Section 9322 and the other sections to which it refers take priority in general even over a perfected security interest. *A fortiori* they take priority over an unperfected security interest. Paragraph (a)(1) of this section so states.

4. Filed but Unattached Security Interest vs. Lien Creditor. Under former Section 9301(1)(b), a lien creditor’s rights had priority over an unperfected security interest. Perfection required attachment (former Section 9303) and attachment required the giving of value (former Section 9203). It followed that, if a secured party had filed a financing statement but had not yet given value, an intervening lien creditor whose lien arose after filing but before attachment of the security interest acquired rights that are senior to those of the secured party who later gives value. This result comported with the *nemo dat* concept: When the security interest attached, the collateral was already subject to the judicial lien.

On the other hand, this result treated the first secured advance differently from all other advances. The special rule for future advances in former Section 9301(4) (substantially reproduced in Section 9323(b)) afforded priority to a discretionary advance made by a secured party within 45 days after the lien creditor’s rights arose as long as the secured party was “perfected” when the lien creditor’s lien arose—i.e., as long as the advance was not the first one and an earlier advance had been made.

Subdivision (a)(2) revises former Section 9301(1)(b) and treats the first advance the same as subsequent advances. That is, a judicial lien that arises after a financing statement is filed and before the security interest attaches and becomes perfected is subordinate to all advances secured by the security interest, even the first advance, except as otherwise provided in Section 9323(b). However, if the security interest becomes unperfected (e.g., because the effectiveness of the filed financing statement lapses) before the judicial lien arises, the security interest is subordinate. If a financing statement is filed but a security interest does not attach, then no priority contest arises. The lien creditor has the only claim to the property.

5. Security Interest of Consignor or Receivables Buyer vs. Lien Creditor. Section 1201(37) defines “security interest” to include the interest of most true consignors of goods and the interest of most buyers of certain receivables (accounts, chattel paper, payment intangibles, and promissory notes). A consignee of goods or a seller of accounts or chattel paper each is deemed to have rights in the collateral which a lien creditor may reach, as long as the competing security interest of the consignor or buyer is unperfected. This is so even though, as between the consignor and the debtor-consignee, the latter has only limited rights, and, as between the buyer and debtor-seller, the latter

does not have any rights in the collateral. See Sections 9318 (seller), 9319 (consignee). Security interests arising from sales of payment intangibles and promissory notes are automatically perfected. See Section 9309. Accordingly, a subsequent judicial lien always would be subordinate to the rights of a buyer of those types of receivables.

6. Purchasers Other Than Secured Parties. Subdivisions (b), (c), and (d) afford priority over an unperfected security interest to certain purchasers (other than secured parties) of collateral. They derive from former Sections 9301(1)(c), 10307(2), and 9301(d). Former Section 9301(1)(c) and (1)(d) provided that unperfected security interests are “subordinate” to the rights of certain purchasers. But, as former Comment 9 suggested, the practical effect of subordination in this context is that the purchaser takes free of the security interest. To avoid any possible misinterpretation, subdivisions (b) and (d) of this section use the phrase “takes free.”

Subdivision (b) governs goods, as well as intangibles of the type whose transfer is effected by physical delivery of the representative piece of paper (tangible chattel paper, documents, instruments, and security certificates). To obtain priority, a buyer must both give value and receive delivery of the collateral without knowledge of the existing security interest and before perfection. Even if the buyer gave value without knowledge and before perfection, the buyer would take subject to the security interest if perfection occurred before physical delivery of the collateral to the buyer. Subdivision (c) contains a similar rule with respect to lessees of goods. Note that a lessee of goods in ordinary course of business takes free of all security interests created by the lessor, even if perfected. See Section 9321.

Normally, there will be no question when a buyer of chattel paper, documents, instruments, or security certificates “receives delivery” of the property. See Section 1201 (defining “delivery”). However, sometimes a buyer or lessee of goods, such as complex machinery, takes delivery of the goods in stages and completes assembly at its own location. Under those circumstances, the buyer or lessee “receives delivery” within the meaning of subdivisions (b) and (c) when, after an inspection of the portion of the goods remaining with the seller or lessor, it would be apparent to a potential lender to the seller or lessor that another person might have an interest in the goods.

The rule of subdivision (b) obviously is not appropriate where the collateral consists of intangibles and there is no representative piece of paper whose physical delivery is the only or the customary method of transfer. Therefore, with respect to such intangibles (accounts, electronic chattel paper, general intangibles, and investment property other than certificated securities), subdivision (d) gives priority to any buyer who gives value without knowledge, and before perfection, of the security interest. A licensee of a general intangible takes free of an unperfected security interest in the general intangible under the same circumstances. Note that a licensee of a general intangible in ordinary course of business takes rights under a nonexclusive license free of security interests created by the licensor, even if perfected. See Section 9321.

Unless Section 9109 excludes the transaction from this Division, a buyer of accounts, chattel paper, payment intangibles, or promissory notes is a “secured party” (defined in Section 9102), and subdivisions

(b) and (d) do not determine priority of the security interest created by the sale. Rather, the priority rules generally applicable to competing security interests apply. See Section 9322.

7. Agricultural Liens. Subdivisions (a), (b), and (c) subordinate unperfected agricultural liens in the same manner in which they subordinate unperfected security interests.

8. Purchase-Money Security Interests. Subdivision (e) derives from former Section 9301(2). It provides that, if a purchase-money security interest is perfected by filing no later than 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of buyers, lessees, or lien creditors which arise between the time the security interest attaches and the time of filing. Subdivision (e) differs from former Section 9301(2) in two significant respects. First, subdivision (e) protects a purchase-money security interest against all buyers and lessees, not just against transferees in bulk. Second, subdivision (e) conditions this protection on filing within 20, as opposed to ten, days after delivery.

Section 9311(b) provides that compliance with the perfection requirements of a statute or treaty described in Section 9311(a) “is equivalent to the filing of a financing statement.” It follows that a person who perfects a security interest in goods covered by a certificate of title by complying with the perfection requirements of an applicable certificate-of-title statute “files a financing statement” within the meaning of subdivision (e).

Section 9320 of the Commercial Code

California Comment

1. Source. Former Section 9307.

2. Scope of This Section. This section states when buyers of goods take free of a security interest even though perfected. Of course, a buyer who takes free of a perfected security interest takes free of an unperfected one. Section 9317 should be consulted to determine what purchasers, in addition to the buyers covered in this section, take free of an unperfected security interest. Division 2 states general rules on purchase of goods from a seller with defective or voidable title (Section 2403).

3. Buyers in Ordinary Course. Subdivision (a) derives from former Section 9307(1). The definition of “buyer in ordinary course of business” in Section 1201 restricts its application to buyers “from a person, other than a pawnbroker, in the business of selling goods of that kind.” Thus subdivision (a) applies primarily to inventory collateral. The buyer in ordinary course of business is defined as one who buys goods “in good faith, without knowledge that the sale violates the rights of another person and in the ordinary course.” Subdivision (a) provides that such a buyer takes free of a security interest, even though perfected, and even though the buyer knows the security interest exists. Reading the definition together with the rule of law results in the buyer’s taking free if the buyer merely knows that a security interest covers the goods but taking subject if the buyer knows, in addition, that the sale violates a term in an agreement with the secured party.

As did former Section 9307(1), subdivision (a) applies only to security interests created by the seller of the goods to the buyer in ordinary course. However, under certain circumstances a buyer in

ordinary course who buys goods that were encumbered with a security interest created by a person other than the seller may take free of the security interest, as Example 2 explains. See also Comment 6, below.

Example 1: Manufacturer, who is in the business of manufacturing appliances, owns manufacturing equipment subject to a perfected security interest in favor of Lender. Manufacturer sells the equipment to Dealer, who is in the business of buying and selling used equipment. Buyer buys the equipment from Dealer. Even if Buyer qualifies as a buyer in the ordinary course of business, Buyer does not take free of Lender's security interest under subdivision (a), because Dealer did not create the security interest; Manufacturer did.

Example 2: Manufacturer, who is in the business of manufacturing appliances, owns manufacturing equipment subject to a perfected security interest in favor of Lender. Manufacturer sells the equipment to Dealer, who is in the business of buying and selling used equipment. Lender learns of the sale but does nothing to assert its security interest. Buyer buys the equipment from Dealer. Inasmuch as Lender's acquiescence constitutes an "entrusting" of the goods to Dealer within the meaning of Section 2403(3) Buyer takes free of Lender's security interest under Section 2403(2) if Buyer qualifies as a buyer in ordinary course of business.

4. Buyers of Consumer Goods. Subdivision (b), which derives from former Section 9307(2), deals with buyers of collateral that the debtor-seller holds as "consumer goods" (defined in Section 9102). Under Section 9309(1), a purchase-money interest in consumer goods, except goods that are subject to a statute or treaty described in Section 9311(a) (such as automobiles that are subject to a certificate-of-title statute), is perfected automatically upon attachment. There is no need to file to perfect. Under subdivision (b) a buyer of consumer goods takes free of a security interest, even though perfected, if the buyer buys (1) without knowledge of the security interest, (2) for value, (3) primarily for the buyer's own personal, family, or household purposes, and (4) before a financing statement is filed.

As to purchase money security interests which are perfected without filing under Section 9309(1): A secured party may file a financing statement, although filing is not required for perfection. If the secured party does file, all buyers take subject to the security interest. If the secured party does not file, a buyer who meets the qualifications stated in the preceding paragraph takes free of the security interest.

As to security interests for which a perfection step is required: This category includes all non-purchase-money security interests, and all security interests, whether or not purchase-money, in goods subject to a statute or treaty described in Section 9311(a), such as automobiles covered by a certificate-of-title statute. As long as the required perfection step has not been taken and the security interest remains unperfected, not only the buyers described in subdivision (b) but also the purchasers described in Section 9317 will take free of the security interest. After a financing statement has been filed or the perfection requirements of the applicable certificate-of-title statute have been complied with (compliance is the equivalent of filing a financing

statement; see Section 9311(b)), all subsequent buyers, under the rule of subdivision (b), are subject to the security interest.

The rights of a buyer under subdivision (b) turn on whether a financing statement has been filed against consumer goods. Occasionally, a debtor changes his or her location after a filing is made. Subdivision (c), which derives from former Section 9103(1)(d)(iii), deals with the continued effectiveness of the filing under those circumstances. It adopts the rules of Sections 9316(a) and (b). These rules are explained in the Comments to that section.

5. Authorized Dispositions. The limitations that subdivisions (a) and (b) impose on the persons who may take free of a security interest apply of course only to unauthorized sales by the debtor. If the secured party authorized the sale in an express agreement or otherwise, the buyer takes free under Section 9315(a) without regard to the limitations of this section. (That section also states the right of a secured party to the proceeds of a sale, authorized or unauthorized.) Moreover, the buyer also takes free if the secured party waived or otherwise is precluded from asserting its security interest against the buyer. See Section 1103.

6. Oil, Gas, and Other Minerals. Under subdivision (d), a buyer in ordinary course of business of minerals at the wellhead or minehead or after extraction takes free of a security interest created by the seller. Specifically, it provides that qualified buyers take free not only of Division 9 security interests but also of interests “arising out of an encumbrance.” As defined in Section 9102, the term “encumbrance” means “a right, other than an ownership interest, in real property.” Thus, to the extent that a mortgage encumbers minerals not only before but also after extraction, subdivision (d) enables a buyer in ordinary course of the minerals to take free of the mortgage. This subdivision does not, however, enable these buyers to take free of interests arising out of ownership interests in the real property. This issue is significant only in a minority of states. Several of them have adopted special statutes and nonuniform amendments to Article 9 to provide special protections to mineral owners, whose interests often are highly fractionalized in the case of oil and gas. See Terry I. Cross, *Oil and Gas Product Liens—Statutory Security Interests for Producers and Royalty Owners Under the Statutes of Kansas, New Mexico, Oklahoma, Texas and Wyoming*, 50 Consumer Fin. L. Q. Rep. 418 (1996). Inasmuch as a complete resolution of the issue would require the addition of complex provisions to this Division, and there are good reasons to believe that a uniform solution would not be feasible, this Division leaves its resolution to other legislation.

7. Possessory Security Interests. Subdivision (e) is new. It rejects the holding of *Tanbro Fabrics Corp. v. Deering Milliken, Inc.*, 350 N.E.2d 590 (N.Y. 1976) and, together with Section 9317(b), prevents a buyer of goods collateral from taking free of a security interest if the collateral is in the possession of the secured party. “The secured party” referred in subdivision (e) is the holder of the security interest referred to in subdivision (a) or (b). Section 9313 determines whether a secured party is in possession for purposes of this section.

Under some circumstances, Section 9313 provides that a secured party is in possession of collateral even if the collateral is in the physical possession of a third party.

Section 9321 of the Commercial Code

California Comment

1. Source. Derived from Sections 10103(1)(o), 10307(3).

2. Licensee in Ordinary Course. Like the analogous rules in Section 9320(a) with respect to buyers in ordinary course and subdivision (c) with respect to lessees in ordinary course, the new rule in subdivision (b) reflects the expectations of the parties and the marketplace: a licensee under a nonexclusive license takes subject to a security interest unless the secured party authorizes the license free of the security interest or other, controlling law such as that of this section (protecting ordinary-course licensees) dictates a contrary result. See Sections 9201, 9315. The definition of “licensee in ordinary course of business” in subdivision (a) is modeled upon that of “buyer in ordinary course of business.” Subdivisions (a) and (b) are effective until January 1, 2004.

3. Lessee in Ordinary Course. Subdivision (c) contains the rule formerly found in Section 10307(3). The rule works in the same way as that of Section 9320(a).

4. Application of Section. Section 9321(c) pertains only to licenses that are nonexclusive. In this context, nonexclusivity is determined through examination of the actual terms of the license. A license is nonexclusive where the licensee does not have the sole or exclusive right to exploit the general intangible in the territory, period, and manner specified in the license, and the licensor is free to grant the identical rights to exploitation, in the same territory, period, and manner, to a competing licensee. This is a functional analysis, which cannot be defeated by recitations of nonexclusivity where the agreement or practice between the licensor and the licensee indicates otherwise. In the event of dispute whether a given license is nonexclusive, the party seeking the benefit of that status—for example, a licensee arguing that its license is not subject to a security interest granted by the licensor—bears the burden of proof concerning the licensee’s nonexclusive status. Moreover, the nonexclusive licensee takes free only of security interests granted by its licensor. For example, assume a master licensor grants a security interest to a secured party and then the master licensor licenses rights on an exclusive basis to a primary licensee, who in turn licenses identical rights on a nonexclusive basis to several sublicensees. The sublicensees might take free of any security interest granted by the primary licensee, but would not take free of a security interests granted by the master licensor.

Section 9323 of the Commercial Code

California Comment

1. Source. Former Sections 9312(7), 9301(4), 9307(3), 10307(4).

2. Scope of This Section. A security agreement may provide that collateral secures future advances. See Section 9204(c). This section collects all of the special rules dealing with the priority of advances made by a secured party after a third party acquires an interest in the

collateral. Subdivision (a) applies when the third party is a competing secured party. It replaces and clarifies former Section 9312(7). Subdivision (b) deals with lien creditors and replaces former Section 9301(4). Subdivisions (d) and (e) deal with buyers and replace former Section 9307(3). Subdivisions (f) and (g) deal with lessees and replace former Section 10307(4).

3. Competing Security Interests. Under a proper reading of the first-to-file-or-perfect rule of Section 9322(a)(1) (and former Section 9312(5)), it is abundantly clear that the time when an advance is made plays no role in determining priorities among conflicting security interests except when a financing statement was not filed and the advance is the giving of value as the last step for attachment and perfection. Thus, a secured party takes subject to all advances secured by a competing security interest having priority under Section 9322(a)(1). This result generally obtains regardless of how the competing security interest is perfected and regardless of whether the advances are made “pursuant to commitment” (Section 9102). Subdivision (a) of this section states the only other instance when the time of an advance figures in the priority scheme in Section 9322: when the security interest is perfected only automatically under Section 9309 or temporarily under Section 9312(e), (f), or (g), and the advance is not made pursuant to a commitment entered into while the security interest was perfected by another method. Thus, an advance has priority from the date it is made only in the rare case in which it is made without commitment and while the security interest is perfected only temporarily under Section 9312.

The new formulation in subdivision (a) clarifies the result when the initial advance is paid and a new (“future”) advance is made subsequently. Under former Section 9312(7), the priority of the new advance turned on whether it was “made while a security interest is perfected.” This section resolves any ambiguity by omitting the quoted phrase.

Example 1: On February 1, A makes an advance secured by machinery in the debtor’s possession and files a financing statement. On March 1, B makes an advance secured by the same machinery and files a financing statement. On April 1, A makes a further advance, under the original security agreement, against the same machinery. A was the first to file and so, under the first-to-file-or-perfect rule of Section 9322(a)(1), A’s security interest has priority over B’s, B both as to the February 1 and as to the April 1 advance. It makes no difference whether A knows of B’s intervening advance when A makes the second advance. Note that, as long as A was the first to file or perfect, A would have priority with respect to both advances if either A or B had perfected by taking possession of the collateral. Likewise, A would have priority if A’s April 1 advance was not made under the original agreement with the debtor, but was under a new agreement.

Example 2: On October 1, A acquires a temporarily perfected (20-day) security interest, unfiled, in a negotiable document in the debtor’s possession under Section 9312(e) or (f). The security interest secures an advance made on that day as well as future advances. On October 5, B files and thereby perfects a security interest that previously had attached to the same document. On

October 8, A makes an additional advance. On October 10, A files. Under Section 9322(a)(1), because A was the first to perfect and maintained continuous perfection or filing since the start of the 20-day period, A has priority, even after the 20-day period expires. See Section 9322, Comment 4, Example 3. However, under this section, for purposes of Section 9322(a)(1), to the extent A's security interest secures the October 8 advance, the security interest was perfected on October 8. Inasmuch as B perfected on October 5, B has priority over the October 8 advance.

The rule in subdivision (a) is more liberal toward the priority of future advances than the corresponding rules applicable to intervening lien creditors (subdivision (b)), buyers (subdivisions (d) and (e)), and lessees (subdivisions (f) and (g)).

4. Competing Lien Creditors. Subdivision (b) replaces former Section 9301(4). It addresses the problem considered by PEB Commentary No. 2 and removes the ambiguity that necessitated the Commentary. Former Section 9301(4) appeared to state a general rule that a lien creditor has priority over a perfected security interest and is "subject to" the security interest "only" in specified circumstances. Because that section spoke to the making of an "advance," it arguably implied that to the extent a security interest secured non-advances (expenses, interest, etc.), it was junior to the lien creditor's interest. Under Section 9317(a)(2), a perfected security interest is senior to the rights of a subsequent lien creditor. Subdivision (b) of this section eliminates the erroneous implication of former law by providing that a security interest is subordinate to the extent that the specified circumstances occur.

As under former Section 9301(4), a secured party's knowledge does not cut short the 45-day period during which future advances can achieve priority over an intervening lien creditor's interest. Rather, because of the impact of the rule in subdivision (b) on the question whether the security interest for future advances is "protected" under Section 6323(c)(2) and (d) of the Internal Revenue Code as amended by the Federal Tax Lien Act of 1966, the priority of the security interest for future advances over a lien creditor is made absolute for 45 days regardless of knowledge of the secured party concerning the lien. If, however, the advance is made after the 45 days, the advance will not have priority unless it was made or committed without knowledge of the lien.

5. Sales of Receivables; Consignments. Subdivisions (a) and (b) do not apply to outright sales of accounts, chattel paper, payment intangibles, or promissory notes, nor do they apply to consignments.

6. Competing Buyers and Lessees. Under subdivisions (d) and (e), a buyer will not take subject to a security interest to the extent it secures advances made after the secured party has knowledge that the buyer has purchased the collateral or more than 45 days after the purchase unless the advances were made pursuant to a commitment entered into before the expiration of the 45-day period and without knowledge of the purchase. Subdivisions (f) and (g) provide an analogous rule for lessees. Of course, a buyer in ordinary course who takes free of the security interest under Section 9320 and a lessee in ordinary course who takes free under Section 9321 are not subject to any future advances. Subdivisions (d) and (e) replace former

Section 9307(3), and subdivisions (f) and (g) replace former Section 10307(d). No change in meaning is intended.

Section 9334 of the Commercial Code

California Comment

1. Source. Former Section 9313.

2. Scope of This Section. This section contains rules governing the priority of security interests in fixtures and crops as against persons who claim an interest in real property. Priority contests with other Division 9 security interests are governed by the other priority rules of this Division. The provisions with respect to fixtures follow those of former Section 9313. However, they have been rewritten to conform to Section 10309 and to prevailing style conventions. Subdivisions (i) and (j), which apply to crops, are new.

3. Security Interests in Fixtures. Certain goods that are the subject of personal-property (chattel) financing become so affixed or otherwise so related to real property that they become part of the real property. These goods are called "fixtures." See Section 9102 (definition of "fixtures"). Some fixtures retain their personal-property nature: a security interest under this Division may be created in fixtures and may continue in goods that become fixtures. See subdivision (a). However, if the goods are ordinary building materials incorporated into an improvement on land, no security interest in them exists. Rather, the priority of claims to the building materials are determined by the law governing claims to real property. (Of course, the fact that no security interest exists in ordinary building materials incorporated into an improvement on land does not prejudice any rights the secured party may have against the debtor or any other person who violated the secured party's rights by wrongfully incorporating the goods into real property.)

Thus, this section recognizes three categories of goods: (1) those that retain their chattel character entirely and are not part of the real property; (2) ordinary building materials that have become an integral part of the real property and cannot retain their chattel character for purposes of finance; and (3) an intermediate class that has become real property for certain purposes, but as to which chattel financing may be preserved.

To achieve priority under certain provisions of this section, a security interest must be perfected by making a "fixture filing" (defined in Section 9102) in the real property records. Because the question whether goods have become fixtures often is a difficult one under applicable real property law, a secured party may make a fixture filing as a precaution. Courts should not infer from a fixture filing that the secured party concedes that the goods are or will become fixtures.

4. Priority in Fixtures: General. In considering priority problems under this section, one must first determine whether real property claimants per se have an interest in the crops or fixtures as part of real property. If not, it is immaterial, so far as concerns real property parties as such, whether a security interest arising under this Division is perfected or unperfected. In no event does a real property claimant (e.g., owner or mortgagee) acquire an interest in a "pure" chattel just because a security interest therein is unperfected. If on the other hand

real property law gives real property parties an interest in the goods, a conflict arises and this section states the priorities.

5. Priority in Fixtures: Residual Rule. Subdivision (c) states the residual priority rule, which applies only if one of the other rules does not: A security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

6. Priority in Fixtures: First to File or Record. Subdivision (e)(1), which follows former Section 9313(4)(b), contains the usual priority rule of conveyancing, that is, the first to file or record prevails. In order to achieve priority under this rule, however, the security interest must be perfected by a “fixture filing” (defined in Section 9102), i.e., a filing for record in the real property records and indexed therein, so that it will be found in a real property search. The condition in subdivision (e)(1)(B), that the security interest must have had priority over any conflicting interest of a predecessor in title of the conflicting encumbrancer or owner, appears to limit to the first-in-time principle. However, this apparent limitation is nothing other than an expression of the usual rule that a person must be entitled to transfer what he has. Thus, if the fixture security interest is subordinate to a mortgage, it is subordinate to an interest of an assignee of the mortgage, even though the assignment is a later recorded instrument. Similarly if the fixture security interest is subordinate to the rights of an owner, it is subordinate to a subsequent grantee of the owner and likewise subordinate to a subsequent mortgagee of the owner.

7. Priority in Fixtures: Purchase-Money Security Interests. Subdivision (d), which follows former Section 9313(4)(a), contains the principal exception to the first-to-file-or-record rule of subdivision (e)(1). It affords priority to purchase-money security interests in fixtures as against *prior* recorded real property interests, provided that the purchase-money security interest is filed as a fixture filing in the real property records before the goods become fixtures or within 20 days thereafter. This priority corresponds to the purchase-money priority under Section 9324(a). (Like other 10-day periods in former Division 9, the 10-day period in this section has been changed to 20 days.)

It should be emphasized that this purchase-money priority with the 20-day grace period for filing is limited to rights against real property interests that arise *before* the goods become fixtures. There is no such priority with the 20-day grace period as against real property interests that arise subsequently. The fixture security interest can defeat subsequent real property interests only if it is filed first and prevails under the usual conveyancing rule in subdivision (e)(1) or one of the other rules in this section.

8. Priority in Fixtures: Readily Removable Goods. Subdivision (e)(2), which derives from Section 10309 and former Section 9313(4)(c), contains another exception to the usual first-to-file-or-rule. It affords priority to the holders of security interests in certain types of readily removable goods—factory and office machines and (as discussed below) certain replacements of domestic appliances. This rule is made necessary by the confusion in the law as to whether certain machinery and appliances become fixtures.

It protects a secured party who, perhaps in the mistaken belief that the readily removable goods will not become fixtures, makes a UCC filing (or otherwise perfects under this Division) rather than making a fixture filing.

Frequently, under applicable law, goods of the type described in subdivision (e)(2) will not be considered to have become part of the real property. In those cases, the fixture security interest does not conflict with a real property interest, and resort to this section is unnecessary. However, if the goods have become part of the real property, subdivision (e)(2) enables a fixture secured party to take priority over a conflicting real property interest if the fixture security interest is perfected by a fixture filing. Note, however, that unlike the purchase-money priority rule in subdivision (d), the priority rules in subdivision (e) override the priority given to a construction mortgage under subdivision (h).

The rule in subdivision (e)(2) is limited to readily removable replacements of domestic appliances. It does not apply to original installations. Moreover, it is limited to appliances that are “consumer goods” (defined in Section 9102) in the hands of the debtor. The principal effect of the rule is to make clear that a secured party financing occasional replacements of domestic appliances in noncommercial, owner-occupied contexts need not concern itself with real property descriptions or records; indeed, for a purchase-money replacement of consumer goods, perfection without any filing will be possible. See Section 9309(1).

9. Priority in Fixtures: Judicial Liens. Subdivision (e)(3), which follows former Section 9313(4)(d), adopts a first-in-time rule applicable to conflicts between a fixture security interest and a lien on the real property obtained by legal or equitable proceedings. Such a lien is subordinate to an earlier-perfected security interest, regardless of the method by which the security interest was perfected. Judgment creditors generally are not reliance creditors who search real property records. Accordingly, a perfected fixture security interest takes priority over a subsequent judgment lien or other lien obtained by legal or equitable proceedings, even if no evidence of the security interest appears in the relevant real property records. Subdivision (e)(3) thus protects a perfected fixture security interest from avoidance by a trustee in bankruptcy under Bankruptcy Code Section 544(a), regardless of the method of perfection.

10. Priority in Fixtures: Manufactured Homes. A manufactured home may become a fixture. New subdivision (e)(4) contains a special rule granting priority to certain security interests created in a “manufactured home” as part of a “manufactured-home transaction” (both defined in Section 9102). Under this rule, a security interest in a manufactured home that becomes a fixture has priority over a conflicting interest of an encumbrancer or owner of the real property if the security interest is perfected under a certificate-of-title statute (see Section 9311). Subdivision (e)(4) is only one of the priority rules applicable to security interests in a manufactured home that becomes a fixture. Thus, a security interest in a manufactured home which does not qualify for priority under this subdivision may qualify under another.

11. Priority in Fixtures: Construction Mortgages. The purchase-money priority presents a difficult problem in relation to

construction mortgages. The latter ordinarily will have been recorded even before the commencement of delivery of materials to the job, and therefore would take priority over fixture security interests were it not for the purchase-money priority. However, having recorded first, the holder of a construction mortgage reasonably expects to have first priority in the improvement built using the mortgagee's advances. Subdivision (g) expressly gives priority to the construction mortgage recorded before the filing of the purchase-money security interest in fixtures. A refinancing of a construction mortgage has the same priority as the construction mortgage itself. The phrase "an obligation incurred for the construction of an improvement" covers both optional advances and advances pursuant to commitment. Both types of advances have the same priority under subdivision (g).

The priority under this subdivision applies only to goods that become fixtures during the construction period leading to the completion of the improvement. The construction priority will not apply to additions to the building made long after completion of the improvement, even if the additions are financed by the real property mortgagee under an open-end clause of the construction mortgage. In such case, subdivisions (d), (e), and (f) govern.

Although this subdivision affords a construction mortgage priority over a purchase-money security interest that otherwise would have priority under subdivision (d), the subdivision is subject to the priority rules in subdivisions (e) and (f). Thus, a construction mortgage may be junior to a fixture security interest perfected by a fixture filing before the construction mortgage was recorded. See subdivision (e)(1).

12. Crops. Growing crops are "goods" in which a security interest may be created and perfected under this Division. In some jurisdictions, a mortgage of real property may cover crops, as well. In the event that crops are encumbered by both a mortgage and a Division 9 security interest, subdivision (i) provides that the security interest has priority. States whose real property law provides otherwise should either amend that law directly or override it by enacting subdivision (j).

Section 9528 of the Commercial Code

California Comment

1. Source. Former Section 9409.

2. Combined Certificate. This section requires the Secretary of State, upon request of any person, to issue a combined certificate showing the information as to financing statements as specified in Section 9523, state tax liens as specified in Section 7226 of the Government Code, attachment liens as specified in Sections 488.375 and 488.405 of the Code of Civil Procedure, judgment liens as specified in Section 697.580 of the Code of Civil Procedure, and federal liens as specified in Section 2103 of the Code of Civil Procedure.

Section 9603 of the Commercial Code

California Comment

1. Source. Former Section 9501(3).

2. Limitation on Ability to Set Standards. Subdivision (a), like former Section 9501(3), permits the parties to set standards for compliance with the rights and duties under this Chapter if the standards

are not “manifestly unreasonable.” Under subdivision (b), the parties are not permitted to set standards measuring fulfillment of the secured party’s duty to take collateral without breaching the peace.

3. In considering whether a standard is “manifestly reasonable,” the court may consider the sophistication and relative bargaining power of the parties. However, the parties’ agreement may not eliminate or reduce the obligation of the party disposing of the collateral to act in a commercially reasonable manner. A non-waivable item under Section 9602 cannot be waived through a definition of standard under Section 9603.

Section 9604 of the Commercial Code

California Comment

1. **Source.** Former Section 9501(4).
2. **Real Property-Related Collateral.** This section retains former Section 9504(4) without substantive change.

Section 9605 of the Commercial Code

California Comment

1. **Source.** New.
2. **Duties to Unknown Persons.** This section relieves a secured party from duties owed to a debtor or obligor, if the secured party does not know about the debtor or obligor. Similarly, it relieves a secured party from duties owed to a secured party or lienholder who has filed a financing statement against the debtor, if the secured party does not know about the debtor. For example, a secured party may be unaware that the original debtor has sold the collateral subject to the security interest and that the new owner has become the debtor. If so, the secured party owes no duty to the new owner (debtor) or to a secured party who has filed a financing statement against the new owner. This section should be read in conjunction with the exculpatory provisions in Section 9628. This section does not permit a secured party to ignore information, for example, a changed address of the debtor, and then assert that it had no duty because it did not know how to communicate with that debtor.

Section 9608 of the Commercial Code

California Comment

1. **Source.** Subdivision (a) is new; subdivision (b) derives from former Section 9502(2).
2. **Modifications of Prior Law.** Subdivisions (a) and (b) modify former Section 9502(2) by explicitly providing for the application of proceeds recovered by the secured party in substantially the same manner as provided in Section 9615(a) and (e) for dispositions of collateral.
3. **Surplus and Deficiency.** Subdivisions (a)(4) and (b) omit, as unnecessary, the references contained in former Section 9502(2) to agreements varying the baseline rules on surplus and deficiency. The parties are always free to agree that an obligor will not be liable for a deficiency, even if the collateral secures an obligation, and that an obligor is liable for a deficiency, even if the transaction is a sale of receivables. For parallel provisions, see Section 9615(d) and (e).

4. Noncash Proceeds. Subdivision (a)(3) addresses the situation in which an enforcing secured party receives noncash proceeds.

Example: An enforcing secured party receives a promissory note from an account debtor who is unable to pay an account when it is due. The secured party accepts the note in exchange for extending the date on which the account debtor's obligation is due. The secured party may wish to credit its debtor (the assignor) with the principal amount of the note upon receipt of the note, but probably will prefer to credit the debtor only as and when the note is paid.

Under subdivision (a)(3), the secured party is under no duty to apply the note or its value to the outstanding obligation unless its failure to do so would be commercially unreasonable. If the secured party does apply the note to the outstanding obligation, however, it must do so in a commercially reasonable manner. The parties may provide for the method of application of noncash proceeds by agreement, if the method is not manifestly unreasonable. See Section 9603. This section does not explain when the failure to apply noncash proceeds would be commercially unreasonable; it leaves that determination to case-by-case adjudication. In the example, the secured party appears to have accepted the account debtor's note in order to increase the likelihood of payment and decrease the likelihood that the account debtor would dispute its obligation. Under these circumstances, it may well be commercially reasonable for the secured party to credit its debtor's obligations only as and when cash proceeds are collected from the account debtor, especially given the uncertainty that attends the account debtor's eventual payment. For an example of a secured party's receipt of noncash proceeds in which it may well be commercially unreasonable for the secured party to delay crediting its debtor's obligations with the value of noncash proceeds, see Section 9615, Comment 3.

When the secured party is not required to "apply or pay over for application noncash proceeds," the proceeds nonetheless remain collateral subject to this Division. If the secured party were to dispose of them, for example, appropriate notification would be required (see Section 9611), and the disposition would be subject to the standards provided in this Chapter (see Section 9610). Moreover, a secured party in possession of the noncash proceeds would have the duties specified in Section 9207.

5. No Effect on Priority of Senior Security Interest. The application of proceeds required by subdivision (a) does not affect the priority of a security interest in collateral which is senior to the interest of the secured party who is collecting or enforcing collateral under Section 9607. Although subdivision (a) imposes a duty to apply proceeds to the enforcing secured party's expenses and to the satisfaction of the secured obligations owed to it and to subordinate secured parties, that duty applies only among the enforcing secured party and those persons. Concerning the priority of a junior secured party who collects and enforces collateral, see Section 9607, Comment 5.

Section 9610 of the Commercial Code

California Comment

1. **Source.** Former Section 9504(1), (3)
2. **Commercially Reasonable Dispositions.** Subdivision (a) follows former Section 9504 by permitting a secured party to dispose of collateral in a commercially reasonable manner following a default. Although subdivision (b) permits both public and private dispositions, “every aspect of a disposition . . . must be commercially reasonable.” This section encourages private dispositions on the assumption that they frequently will result in higher realization on collateral for the benefit of all concerned. Subdivision (a) does not restrict dispositions to sales; collateral may be sold, leased, licensed, or otherwise disposed. Section 9627 provides guidance for determining the circumstances under which a disposition is “commercially reasonable.” For a discussion of the obligation of a seller of goods to make a resale in good faith and in a commercially reasonable manner, see Official Comment 2 to Uniform Commercial Code Section 2706.
3. **Time of Disposition.** This Division does not specify a period within which a secured party must dispose of collateral. This is consistent with this Division’s policy to encourage private dispositions through regular commercial channels. It may, for example, be prudent not to dispose of goods when the market has collapsed. Or, it might be more appropriate to sell a large inventory in parcels over a period of time instead of in bulk. Of course, under subdivision (b) every aspect of a disposition of collateral must be commercially reasonable. This requirement explicitly includes the “method, manner, time, place and other terms.” For example, if a secured party does not proceed under Section 9620 and holds collateral for a long period of time without disposing of it, and if there is no good reason for not making a prompt disposition, the secured party may be determined not to have acted in a “commercially reasonable” manner. See also Section 1203 (general obligation of good faith).
4. **Pre-Disposition Preparation and Processing.** Former Section 9504(1) appeared to give the secured party the choice of disposing of collateral either “in its then condition or following any commercially reasonable preparation or processing.” Some courts held that the “commercially reasonable” standard of former Section 9504(3) nevertheless could impose an affirmative duty on the secured party to process or prepare the collateral prior to disposition. Subdivision (a) retains the substance of the quoted language. Although courts should not be quick to impose a duty of preparation or processing on the secured party, subdivision (a) does not grant the secured party the right to dispose of the collateral “in its then condition” under *all* circumstances. A secured party may not dispose of collateral “in its then condition” when, taking into account the costs and probable benefits of preparation or processing and the fact that the secured party would be advancing the costs at its risk, it would be commercially unreasonable to dispose of the collateral in that condition.
5. **Disposition by Junior Secured Party.** Disposition rights under subdivision (a) are not limited to first-priority security interests. Rather, any secured party as to whom there has been a default enjoys the right

to dispose of collateral under this subdivision. The exercise of this right by a secured party whose security interest is subordinate to that of another secured party does not of itself constitute a conversion or otherwise give rise to liability in favor of the holder of the senior security interest. Section 9615 addresses application of the proceeds of a disposition by a junior secured party. Under Section 9615(a), a junior secured party owes no obligation to apply the proceeds of disposition to the satisfaction of obligations secured by a senior security interest. Section 9615(g) builds on this general rule by protecting certain juniors from claims of a senior concerning cash proceeds of the disposition. Even if a senior were to have a non-Division 9 claim to proceeds of a junior's disposition, Section 9615(g) would protect a junior that acts in good faith and without knowledge that its actions violate the rights of a senior party. Because the disposition by a junior would not cut off a senior's security interest or other lien (see Section 9617), in many (probably most) cases the junior's receipt of the cash proceeds would not violate the rights of the senior.

The holder of a senior security interest is entitled, by virtue of its priority, to take possession of collateral from the junior secured party and conduct its own disposition, provided that the senior enjoys the right to take possession of the collateral from the debtor. See Section 9609. The holder of a junior security interest normally must notify the senior secured party of an impending disposition. See Section 9611. Regardless of whether the senior receives a notification from the junior, the junior's disposition does not of itself discharge the senior's security interest. See Section 9617. Unless the senior secured party has authorized the disposition free and clear of its security interest, the senior's security interest ordinarily will survive the disposition by the junior and continue under Section 9315(a). If the senior enjoys the right to repossess the collateral from the debtor, the senior likewise may recover the collateral from the transferee.

When a secured party's collateral is encumbered by another security interest or other lien, one of the claimants may seek to invoke the equitable doctrine of marshaling. As explained by the Supreme Court, that doctrine "rests upon the principle that a creditor having two funds to satisfy his debt, may not by his application of them to his demand, defeat another creditor, who may resort to only one of the funds." *Meyer v. United States*, 375 U.S. 233, 236 (1963), quoting *Sowell v. Federal Reserve Bank*, 268 U.S. 449, 456-57 (1925). The purpose of the doctrine is "to prevent the arbitrary action of a senior lienor from destroying the rights of a junior lienor or a creditor having less security." *Id.* at 237. Because it is an equitable doctrine, marshaling "is applied only when it can be equitably fashioned as to all of the parties" having an interest in the property. *Id.* This Division leaves courts free to determine whether marshaling is appropriate in any given case. See Section 1103.

6. Security Interests of Equal Rank. Sometimes two security interests enjoy the same priority. This situation may arise by contract, e.g., pursuant to "equal and ratable" provisions in indentures, or by operation of law. See Section 9328(6). This Division treats a security interest having equal priority like a senior security interest in many respects. Assume, for example, that SP-X and SP-Y enjoy equal priority, SP-W is senior to them, and SP-Z is junior. If SP-X disposes of the collateral under this section, then (i) SP-W's and SP-Y's security interests survive the disposition but SP-Z's does not, see Section 9617,

and (ii) neither SP-W nor SP-Y is entitled to receive a distribution of proceeds, but SP-Z is. See Section 9615(a)(3).

When one considers the ability to obtain possession of the collateral, a secured party with equal priority is unlike a senior secured party. As the senior secured party, SP-W should enjoy the right to possession as against SP-X. See Section 9609, Comment 5. If SP-W takes possession and disposes of the collateral under this section, it is entitled to apply the proceeds to satisfy its secured claim. SP-Y, however, should not have such a right to take possession from SP-X; otherwise, once SP-Y took possession from SP-X, SP-X would have the right to get possession from SP-Y, which would be obligated to redeliver possession to SP-X, and so on. Resolution of this problem is left to the parties and, if necessary, the courts.

7. Public vs. Private Dispositions. This Chapter maintains two distinctions between “public” and other dispositions: (i) the secured party may buy at the former, but normally not at the latter (Section 9610(c)), and (ii) the debtor is entitled to notification of “the time and place of a public disposition” and notification of “the time after which” a private disposition or other intended disposition is to be made (Section 9613(1)(E)). It does not retain the distinction under former Section 9504(4), under which transferees in a noncomplying public disposition could lose protection more easily than transferees in other noncomplying dispositions. Instead, Section 9617(b) adopts a unitary standard. Although the term is not defined, as used in this Division, a “public disposition” is one at which the price is determined after the public has had a meaningful opportunity for competitive bidding. “Meaningful opportunity” is meant to imply that some form of advertisement or public notice must precede the sale (or other disposition) and that the public must have access to the sale (disposition).

8. Investment Property. Dispositions of investment property may be regulated by the federal securities laws. Although a “public” disposition of securities under this Division may implicate the registration requirements of the Securities Act of 1933, it need not do so. A disposition that qualifies for a “private placement” exemption under the Securities Act of 1933 nevertheless may constitute a “public” disposition within the meaning of this section. Moreover, the “commercially reasonable” requirements of subdivision (b) need not prevent a secured party from conducting a foreclosure sale without the issuer’s compliance with federal registration requirements.

9. “Recognized Market.” A “recognized market,” as used in subdivision (c) and Section 9611(d), is one in which the items sold are fungible and prices are not subject to individual negotiation. For example, the New York Stock Exchange is a recognized market. A market in which prices are individually negotiated or the items are not fungible is not a recognized market, even if the items are the subject of widely disseminated price guides or are disposed of through dealer auctions.

10. Relevance of Price. While not itself sufficient to establish a violation of this Chapter, a low price suggests that a court should scrutinize carefully all aspects of a disposition to ensure that each aspect was commercially reasonable. Note also that even if the disposition is commercially reasonable, Section 9615(f) provides a special method for

calculating a deficiency or surplus if (i) the transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor, and (ii) the amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

11. Warranties. Subdivision (d) affords the transferee in a disposition under this section the benefit of any title, possession, quiet enjoyment, and similar warranties that would have accompanied the disposition by operation of non-Division 9 law had the disposition been conducted under other circumstances. For example, the Division 2 warranty of title would apply to a sale of goods, the analogous warranties of Division 10 would apply to a lease of goods, and any common-law warranties of title would apply to dispositions of other types of collateral. See, e.g., Restatement (2d), Contracts § 333 (warranties of assignor).

Subdivision (e) explicitly provides that these warranties can be disclaimed either under other applicable law or by communicating a record containing an express disclaimer. The record need not be written, but an oral communication would not be sufficient. See Section 9102 (definition of “record”). Subdivision (f) provides a sample of wording that will effectively exclude the warranties in a disposition under this section, whether or not the exclusion would be effective under non-Division 9 law.

The warranties incorporated by subdivision (d) are those relating to “title, possession, quiet enjoyment, and the like.” Depending on the circumstances, a disposition under this section also may give rise to other statutory or implied warranties, e.g., warranties of quality or fitness for purpose. Law other than this Division determines whether such other warranties apply to a disposition under this section. Other law also determines issues relating to disclaimer of such warranties. For example, a foreclosure sale of a car by a car dealer could give rise to an implied warranty of merchantability (Section 2314) unless effectively disclaimed or modified (Section 2316).

This section’s approach to these warranties conflicts with the former Comment to Section 2312. This Division rejects the baseline assumption that commercially reasonable dispositions under this section are out of the ordinary commercial course or peculiar. The Comment to Section 2312 has been revised accordingly.

Section 9614 of the Commercial Code

California Comment

1. Source. New.

2. Notification in Consumer-Goods Transactions.

Paragraph (1) sets forth the information required for a reasonable notification in a consumer-goods transaction. A notification that lacks any of the information set forth in paragraph (1) is insufficient as a matter of law. Compare Section 9613(2), under which the trier of fact may find a notification to be sufficient even if it lacks some information listed in paragraph (1) of that section.

3. Safe-Harbor Form of Notification; Errors in Information.

Although paragraph (2) provides that a particular phrasing of a notification is not required, paragraph (3) specifies a safe-harbor form

that, when properly completed, satisfies paragraph (1). Paragraphs (4), (5), and (6) contain special rules applicable to erroneous and additional information. Under paragraph (4), a notification in the safe-harbor form specified in paragraph (3) is not rendered insufficient if it contains additional information at the end of the form. Paragraph (5) provides that nonmisleading errors in information contained in a notification are permitted if the safe-harbor form is used *and if the errors are in information not required by paragraph (1)*. Finally, if a notification is in a form other than the paragraph (3) safe-harbor form, other law determines the effect of including in the notification information other than that required by paragraph (1).

4. This notice does not expand the rights of a secured party beyond those otherwise permitted by law.

Section 9615 of the Commercial Code

California Comment

1. Source. Former Section 9504(1), (2).

2. Application of Proceeds. This section contains the rules governing application of proceeds and the debtor's liability for a deficiency following a disposition of collateral. Subdivision (a) sets forth the basic order of application. The proceeds are applied first to the expenses of disposition, second to the obligation secured by the security interest that is being enforced, and third, in the specified circumstances, to interests that are subordinate to that security interest.

Subdivisions (a) and (d) also address the right of a consignor to receive proceeds of a disposition by a secured party whose interest is senior to that of the consignor. Subdivision (a) requires the enforcing secured party to pay excess proceeds first to subordinate secured parties or lienholders whose interests are senior to that of a consignor and, finally, to a consignor. Inasmuch as a consignor is the owner of the collateral, secured parties and lienholders whose interests are junior to the consignor's interest will not be entitled to any proceeds. In like fashion, under subdivision (d)(1) the debtor is not entitled to a surplus when the enforcing secured party is required to pay over proceeds to a consignor.

3. Noncash Proceeds. Subdivision (c) addresses the application of noncash proceeds of a disposition, such as a note or lease. The explanation in Section 9608, Comment 4, generally applies to this subdivision.

Example: A secured party in the business of selling or financing automobiles takes possession of collateral (an automobile) following its debtor's default. The secured party decides to sell the automobile in a private disposition under Section 9610 and sends appropriate notification under Section 9611. After undertaking its normal credit investigation and in accordance with its normal credit policies, the secured party sells the automobile on credit, on terms typical of the credit terms normally extended by the secured party in the ordinary course of its business. The automobile stands as collateral for the remaining balance of the price. The noncash proceeds received by the secured party are chattel paper. The secured party may wish to credit its debtor (the assignor) with the

principal amount of the chattel paper or may wish to credit the debtor only as and when the payments are made on the chattel paper by the buyer.

Under subdivision (c), the secured party is under no duty to apply the noncash proceeds (here, the chattel paper) or their value to the secured obligation unless its failure to do so would be commercially unreasonable. If a secured party elects to apply the chattel paper to the outstanding obligation, however, it must do so in a commercially reasonable manner. The facts in the example indicate that it would be commercially unreasonable for the secured party to fail to apply the value of the chattel paper to the original debtor's secured obligation. Unlike the example in Comment 4 to Section 9608, the noncash proceeds received in this example are of the type that the secured party regularly generates in the ordinary course of its financing business in nonforeclosure transactions. The original debtor should not be exposed to delay or uncertainty in this situation. Of course, there will be many situations that fall between the examples presented in the Comment to Section 9608 and in this Comment. This Division leaves their resolution to the court based on the facts of each case.

One would expect that where noncash proceeds are or may be material, the secured party and debtor would agree to more specific standards in an agreement entered into before or after default. The parties may agree to the method of application of noncash proceeds if the method is not manifestly unreasonable. See Section 9603.

When the secured party is not required to "apply or pay over for application noncash proceeds," the proceeds nonetheless remain collateral subject to this Division. See Section 9608, Comment 4.

4. Surplus and Deficiency. Subdivision (d) deals with surplus and deficiency. It revises former Section 9504(2) by imposing an explicit requirement that the secured party "pay" the debtor for any surplus except as provided in Section 701.040 of the Code of Civil Procedure, while retaining the secured party's duty to "account." Inasmuch as the debtor may not be an obligor, subdivision (d) provides that the obligor (not the debtor) is liable for the deficiency subject to Section 9626(b). The special rule governing surplus and deficiency when receivables have been sold likewise takes into account the distinction between a debtor and an obligor. Subdivision (d) also addresses the situation in which a consignor has an interest that is subordinate to the security interest being enforced.

5. Collateral Under New Ownership. When the debtor sells collateral subject to a security interest, the original debtor (creator of the security interest) is no longer a debtor inasmuch as it no longer has a property interest in the collateral; the buyer is the debtor. See Section 9102. As between the debtor (buyer of the collateral) and the original debtor (seller of the collateral), the debtor (buyer) normally would be entitled to the surplus following a disposition. Subdivision (d) therefore requires the secured party to pay the surplus to the debtor (buyer), not to the original debtor (seller) with which it has dealt. But, because this situation typically arises as a result of the debtor's wrongful act, this Division does not expose the secured party to the risk of determining ownership of the collateral. If the secured party does not know about the buyer and accordingly pays the surplus to the original

debtor, the exculpatory provisions of this Division exonerate the secured party from liability to the buyer. See Sections 9605, 9628(a), (b). If a debtor sells collateral *free* of a security interest, as in a sale to a buyer in ordinary course of business (see Section 9320(a)), the property is no longer collateral and the buyer is not a debtor.

6. Certain “Low-Price” Dispositions. Subdivision (f) provides a special method for calculating a deficiency or surplus when the secured party, a person related to the secured party (defined in Section 9102), or a secondary obligor acquires the collateral at a foreclosure disposition. It recognizes that when the foreclosing secured party or a related party is the transferee of the collateral, the secured party sometimes lacks the incentive to maximize the proceeds of disposition. As a consequence, the disposition may comply with the procedural requirements of this Division (e.g., it is conducted in a commercially reasonable manner following reasonable notice) but nevertheless fetch a low price.

Subdivision (f) adjusts for this lack of incentive. If the proceeds of a disposition of collateral to a secured party, a person related to the secured party, or a secondary obligor are “significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought,” then instead of calculating a deficiency (or surplus) based on the actual net proceeds, the calculation is based upon the amount that would have been received in a commercially reasonable disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor. Subdivision (f) thus rejects the view that the secured party’s receipt of such a price necessarily constitutes noncompliance with Chapter 6. However, such a price may suggest the need for greater judicial scrutiny. See Section 9610, Comment 10.

7. “Person Related To.” Section 9102 defines “person related to.” That term is a key element of the system provided in subdivision (f) for low-price dispositions. One part of the definition applies when the secured party is an individual, and the other applies when the secured party is an organization. The definition is patterned closely on the corresponding definition in Section 1.301(32) of the Uniform Consumer Credit Code.

Section 9616 of the Commercial Code

California Comment

1. Source. New.

2. Duty to Send Information Concerning Surplus or Deficiency. This section reflects the view that, in every consumer-goods transaction, the debtor or obligor is entitled to know the amount of a surplus or deficiency and the basis upon which the surplus or deficiency was calculated. Under subdivision (b)(1), a secured party is obligated to provide this information (an “explanation,” defined in subdivision (a)(1)) no later than the time that it accounts for and pays a surplus or the time of its first written attempt to collect the deficiency. The obligor need not make a request for an accounting in order to receive an explanation. A secured party who does not attempt to collect a deficiency in writing or account for and pay a surplus has no

obligation to send an explanation under subdivision (b)(1) and, consequently, cannot be liable for noncompliance.

A debtor or secondary obligor need not wait until the secured party commences written collection efforts in order to receive an explanation of how a deficiency or surplus was calculated. Subdivision (b)(2) obliges the secured party to send an explanation within 14 days after it receives a "request" (defined in subdivision (a)(2)).

3. Explanation of Calculation of Surplus or Deficiency. Subdivision (c) contains the requirements for how a calculation of a surplus or deficiency must be explained in order to satisfy subdivision (a)(1)(B). It gives a secured party some discretion concerning rebates of interest or credit service charges. The secured party may include these rebates in the aggregate amount of obligations secured, under subdivision (c)(1), or may include them with other types of rebates and credits under subdivision (c)(5). Rebates of interest or credit service charges are the only types of rebates for which this discretion is provided. If the secured party provides an explanation that includes rebates of pre-computed interest, its explanation must so indicate. The expenses and attorney's fees to be described pursuant to subdivision (c)(4) are those relating to the most recent disposition, not those that may have been incurred in connection with earlier enforcement efforts and which have been resolved by the parties.

4. Liability for Noncompliance. A secured party who fails to comply with subdivision (b)(2) is liable for any loss caused plus \$500. See Section 9625(b), (c), (e)(6). A secured party who fails to send an explanation under subdivision (b)(1) is liable for any loss caused plus, if the noncompliance was "part of a pattern, or consistent with a practice of noncompliance," \$500. See Section 9625(b), (c), (e)(5). However, a secured party who fails to comply with this section is not liable for statutory minimum damages under Section 9625(c)(2). See Section 9628(d).

5. This section does not expand the rights of a secured party beyond those otherwise permitted by law.

Section 9625 of the Commercial Code

California Comment

1. Source. Former Section 9507.

2. Remedies for Noncompliance; Scope. Subdivisions (a) and (b) provide the basic remedies afforded to those aggrieved by a secured party's failure to comply with this Division. Like all provisions that create liability, they are subject to Section 9628, which should be read in conjunction with Section 9605. The principal limitations under this Chapter on a secured party's right to enforce its security interest against collateral are the requirements that it proceed in good faith (Section 1203), in a commercially reasonable manner (Sections 9607 and 9610), and, in most cases, with reasonable notification (Sections 9611 through 9614). Following former Section 9507, under subdivision (a) an aggrieved person may seek injunctive relief, and under subdivision (b) the person may recover damages for losses caused by noncompliance. Unlike former Section 9507, however, subdivisions (a) and (b) are not limited to noncompliance with provisions of this Chapter of Division 9. Rather, they apply to noncompliance with any provision of this Division. The

change makes this section applicable to noncompliance with Sections 9207 (duties of secured party in possession of collateral), 9208 (duties of secured party having control over deposit account), 9209 (duties of secured party if account debtor has been notified of an assignment), 9210 (duty to comply with request for accounting, etc.), 9509(a) (duty to refrain from filing unauthorized financing statement), and 9513(a) or (c) (duty to provide termination statement). Subdivision (a) also modifies the first sentence of former Section 9507(1) by adding the references to "collection" and "enforcement." Subdivision (c)(2), which gives a minimum damage recovery in consumer-goods transactions, applies only to noncompliance with the provisions of this Chapter.

3. Damages for Noncompliance with This Division.

Subdivision (b) sets forth the basic remedy for failure to comply with the requirements of this Division: a damage recovery in the amount of loss caused by the noncompliance. Subdivision (c) identifies who may recover under subdivision (b). It affords a remedy to any aggrieved person who is a debtor or obligor. However, a principal obligor who is not a debtor may recover damages only for noncompliance with Section 9616, inasmuch as none of the other rights and duties in this Division run in favor of such a principal obligor. Such a principal obligor could not suffer any loss or damage on account of noncompliance with rights or duties of which it is not a beneficiary. Subdivision (c) also affords a remedy to an aggrieved person who holds a competing security interest or other lien, regardless of whether the aggrieved person is entitled to notification under Chapter 6. The remedy is available even to holders of senior security interests and other liens. The exercise of this remedy is subject to the normal rules of pleading and proof. A person who has delegated the duties of a secured party but who remains obligated to perform them is liable under this subdivision. The last sentence of subdivision (d) eliminates the possibility of double recovery or other over-compensation arising out of a reduction or elimination of a deficiency under Section 9626 in a transaction other than a consumer transaction, based on noncompliance with the provisions of this Chapter relating to collection, enforcement, disposition, or acceptance. Assuming no double recovery, a debtor whose deficiency is eliminated under Section 9626 may pursue a claim for a surplus.

Damages for violation of the requirements of this Division, including Section 9609, are those reasonably calculated to put an eligible claimant in the position that it would have occupied had no violation occurred. See Section 1106. Subdivision (b) supports the recovery of actual damages for committing a breach of the peace in violation of Section 9609, and principles of tort law supplement this subdivision. See Section 1103. However, to the extent that damages in tort compensate the debtor for the same loss dealt with by this Division, the debtor should be entitled to only one recovery.

4. Supplemental Damages.

Subdivisions (e) and (f) provide damages that supplement the recovery, if any, under subdivision (b). Subdivision (e) imposes an additional \$500 liability upon a person who fails to comply with the provisions specified in that subdivision, and subdivision (f) imposes like damages on a person who, without reasonable excuse, fails to comply with a request for an accounting or a

request regarding a list of collateral or statement of account under Section 9210. However, under subdivision (f), a person has a reasonable excuse for the failure if the person never claimed an interest in the collateral or obligations that were the subject of the request.

5. Estoppel. Subdivision (g) limits the extent to which a secured party who fails to comply with a request regarding a list of collateral or statement of account may claim a security interest.

Section 9626 of the Commercial Code

California Comment

1. Source. New.

2. Scope. The basic damage remedy under Section 9625(b) is subject to the special rules in this section. This section addresses situations in which the amount of a deficiency or surplus is in issue, i.e., situations in which the secured party has collected, enforced, disposed of, or accepted the collateral. It contains special rules applicable to a determination of the amount of a deficiency or surplus. Because this section affects a person's liability for a deficiency, it is subject to Section 9628, which should be read in conjunction with Section 9605. The rules in this section apply only to noncompliance in connection with the "collection, enforcement, disposition, or acceptance" under Chapter 6. For other types of noncompliance with Chapter 6, the general liability rule of Section 9625(b)—recovery of actual damages—applies. Consider, for example, a repossession that does not comply with Section 9609 for want of a default. The debtor's remedy is under Section 9625(b). In a proper case, the secured party also may be liable for conversion under non-UCC law. If the secured party thereafter disposed of the collateral, however, it would violate Section 9610 at that time, and this section would apply.

3. Rebuttable Presumption Rule. Subdivision (a) establishes the rebuttable presumption rule for transactions other than consumer transactions. Under paragraph (1), the secured party need not prove compliance with the relevant provisions of this Chapter as part of its prima facie case. If, however, the debtor or a secondary obligor raises the issue (in accordance with the forum's rules of pleading and practice), then the secured party bears the burden of proving that the collection, enforcement, disposition, or acceptance complied. In the event the secured party is unable to meet this burden, then paragraph (3) explains how to calculate the deficiency. Under this rebuttable presumption rule, the debtor or obligor is to be credited with the greater of the actual proceeds of the disposition or the proceeds that would have been realized had the secured party complied with the relevant provisions. If a deficiency remains, then the secured party is entitled to recover it. The references to "the secured obligation, expenses, and attorney's fees" in paragraphs (3) and (4) embrace the application rules in Sections 9608(a) and 9615(a).

Unless the secured party proves that compliance with the relevant provisions would have yielded a smaller amount, under paragraph (4) the amount that a complying collection, enforcement, or disposition

would have yielded is deemed to be equal to the amount of the secured obligation, together with expenses and attorney's fees. Thus, the secured party may not recover any deficiency unless it meets this burden.

4. Burden of Proof When Section 9615(f) Applies. In a non-consumer transaction, subdivision (a)(5) imposes upon a debtor or obligor the burden of proving that the proceeds of a disposition are so low that, under Section 9615(f), the actual proceeds should not serve as the basis upon which a deficiency or surplus is calculated. Were the burden placed on the secured party, then debtors might be encouraged to challenge the price received in every disposition to the secured party, a person related to the secured party, or a secondary obligor.

5. Delay in Applying This Section. There is an inevitable delay between the time a secured party engages in a noncomplying collection, enforcement, disposition, or acceptance and the time of a subsequent judicial determination that the secured party did not comply with Chapter 6. During the interim, the secured party, believing that the secured obligation is larger than it ultimately is determined to be, may continue to enforce its security interest in collateral. If some or all of the secured indebtedness ultimately is discharged under this section, a reasonable application of this section would impose liability on the secured party for the amount of any excess, unwarranted recoveries but would not make the enforcement efforts wrongful.

6. Consumer Transactions. Subdivision (b) provides that the debtor or any secondary obligor in a consumer transaction is liable for any deficiency only if certain specified conditions are met. In a consumer transaction in which a deficiency or surplus is an issue, a secured party has the burden of proving compliance with the provisions concerning collection, enforcement, disposition, and acceptance whether or not the debtor or a secondary obligor places compliance in issue. In a consumer transaction, where a deficiency or surplus is calculated under Section 9615(f), subdivision (b) imposes on the secured party the burden of proving that the amount of proceeds of a disposition is not significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

Section 9628 of the Commercial Code

California Comment

1. Source. New.

2. Exculpatory Provisions. Subdivisions (a), (b), and (c) contain exculpatory provisions that should be read in conjunction with Section 9605. Without this group of provisions, a secured party could incur liability to unknown persons and under circumstances that would not allow the secured party to protect itself. The broadened definition of the term "debtor" underscores the need for these provisions.

If a secured party reasonably, but mistakenly, believes that a consumer transaction or consumer-goods transaction is a non-consumer transaction or non-consumer-goods transaction, and if the secured party's belief is based on its reasonable reliance on a representation of the type specified in subdivision (c)(1) or (c)(2), then this Division should be applied as if the facts reasonably believed and reasonably relied upon were true. For example, if a secured party reasonably

believed that a transaction was a non-consumer transaction and its belief was based on reasonable reliance on the debtor's misrepresentation that the collateral secured an obligation incurred for business purposes, the rebuttable presumption rule would apply under Section 9626(b). Of course, if the secured party's belief is not reasonable or, even if reasonable, is not based on reasonable reliance on the debtor's misrepresentation, this limitation on liability is inapplicable.

3. Single Liability for Statutory Minimum Damages. Subdivision (e) ensures that a secured party will incur statutory damages only once in connection with any one secured obligation.

Section 9629 of the Commercial Code

California Comment

1. Source. New.

2. Renunciation or Modification of Rights. This section provides that no renunciation or modification by the debtor of any of his or her rights under this chapter as to consumer goods shall be valid or enforceable unless the renunciation or modification is in consideration of a waiver by the secured party of any right to a deficiency on the debt.

INTRODUCTION OF GUESTS

Assembly Member Battin, of the 80th Assembly District, introduced his son Christopher Battin.

ADJOURNMENT

At 3 p.m., pursuant to the motion by Assembly Member Washington, the Assembly adjourned until 10:30 a.m., Monday, August 30, 1999, out of respect to the memory of Officer Hank Oviedo, on motion of Assembly Member Correa; out of respect to the memory of Erick Eugene McDaniel, on motion of Assembly Member Pescetti; out of respect to the memory of Joshua Smurphat, on motion of Assembly Member Alquist; out of respect to the memory of Gene Rhodes, on motion of Assembly Member Dutra; out of respect to the memory of Vince Kovacich, on motion of Assembly Member Frusetta; out of respect to the memory of Annette Ruhstaller, on motion of Assembly Member Machado; out of respect to the memory of Howard James Harmon, on motion of Assembly Member Reyes; out of respect to the memory of Paul Sutton and Mr. Shannon Pedlow, on motion of Assembly Member Wildman.

ANTONIO R. VILLARAIGOSA, Speaker

PAM CAVILEER, Minute Clerk

AMENDMENTS CONSIDERED BY THE ASSEMBLY ON AUGUST 26, 1999

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

SB	RN
110	9920620
114	9920804
119	9920416
120	9919070
129	9920276
177	9920803
188	9919709
387	9920854
390	9920692
419	9920551
433	9920746
481	9920667
555	9920262
622	9920556
630	9920636
898	9919693
914	9920672
1005	9920504
1019	9920264
1025	9921021
1101	9920977
1195	9920607
1196	9920742
1206	9920687
1249	9920896

Daily Total:	25
Cumulative Total:	3197