

Journal

OF THE

ASSEMBLY OF THE STATE OF NEVADA

TWENTY-FIRST SPECIAL SESSION

THE FIRST DAY

CARSON CITY, (Wednesday), November 10, 2004

Pursuant to the provisions of the Constitution and Statutes, the Assembly was called to order by Secretary of State Dean Heller at 10:54 a.m.

Prayer by the Chaplain, Terry Sullivan.

Let us pray. We ask in this very difficult time that You provide this Body not only with the wisdom to reach the correct decision in the matters before us, but also with the ability to do it with understanding and compassion. And we pray that the newest members of this august Body, as well as the seasoned members, and all else who work here or participate in these functions, find fulfillment in the public service that they are about to render. We ask this in whose name we pray.

AMEN.

Pledge of Allegiance to the Flag.

Mr. Secretary of State requested Ms. Nancy S. Tribble to serve as temporary Chief Clerk of the Assembly.

Mr. Secretary of State requested that the temporary Chief Clerk call the roll of the 42 Assemblymen-elect.

Roll called.

Present: Assemblymen Allen, Anderson, Angle, Arberry, Atkinson, Buckley, Carpenter, Christensen, Claborn, Conklin, Denis, Gansert, Gerhardt, Giunchigliani, Goicoechea, Grady, Hardy, Hettrick, Hogan, Holcomb, Horne, Kirkpatrick, Koivisto, Leslie, Mabey, Manendo, Marvel,

McClain, McCleary, Mortenson, Munford, Ocegüera, Ohrenschall, Parks, Parnell, Perkins, Pierce, Seale, Sherer, Sibley, Smith, and Weber.

Mr. Secretary of State appointed Assemblymen Giunchigliani, Anderson, McClain, McCleary, Pierce, Smith, Christensen, Grady, Mabey, and Weber as a temporary Committee on Elections, Procedures, and Ethics.

Assembly in recess at 10:58 a.m.

ASSEMBLY IN SESSION

At 11:20 a.m.

Mr. Secretary of State presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. Secretary of State:

Your temporary Committee on Elections, Procedures, and Ethics has had the credentials of the respective Assemblymen-elect under consideration, and begs leave to report that the following persons have been and are duly elected and qualified members of the Assembly of the 21st Special Session of the Legislature of the State of Nevada: Assemblymen Allen, Anderson, Angle, Arberry, Atkinson, Buckley, Carpenter, Christensen, Claborn, Conklin, Denis, Gansert, Gerhardt, Giunchigliani, Goicoechea, Grady, Hardy, Hettrick, Hogan, Holcomb, Horne, Kirkpatrick, Koivisto, Leslie, Mabey, Manendo, Marvel, McClain, McCleary, Mortenson, Munford, Ocegüera, Ohrenschall, Parks, Parnell, Perkins, Pierce, Seale, Sherer, Sibley, Smith, and Weber.

CHRIS GIUNCHIGLIANI, *Chairman*

MOTIONS, RESOLUTIONS, AND NOTICES

Assemblywoman Giunchigliani moved the adoption of the report.

Motion carried unanimously.

Mr. Secretary of State appointed as a committee Assemblywoman Leslie and Assemblyman Hardy to escort Chief Justice Miriam Shearing of the Supreme Court of the State of Nevada to the rostrum to administer the oaths of office to the Assemblymen.

Chief Justice Shearing administered the oaths of office to the Assemblymen.

Mr. Secretary of State requested the temporary Chief Clerk call the roll of those Assemblymen listed in the report of the temporary Committee on Elections, Procedures, and Ethics.

Roll called.

Present: Assemblymen Allen, Anderson, Angle, Arberry, Atkinson, Buckley, Carpenter, Christensen, Claborn, Conklin, Denis, Gansert, Gerhardt, Giunchigliani, Goicoechea, Grady, Hardy, Hettrick, Hogan, Holcomb, Horne, Kirkpatrick, Koivisto, Leslie, Mabey, Manendo, Marvel, McClain, McCleary, Mortenson, Munford, Ocegüera, Ohrenschall, Parks, Parnell, Perkins, Pierce, Seale, Sherer, Sibley, Smith, and Weber.

Assemblyman Anderson moved that Chief Justice Shearing be given a unanimous vote of thanks for administering the oath.

Motion carried unanimously.

The appointed committee escorted the Chief Justice of the Supreme Court to the Bar of the Assembly.

Mr. Secretary of State announced that there would be no temporary organization of the Assembly, and that all nominations were in order for permanent appointment.

Mr. Secretary of State declared that nominations were in order for Speaker. Assemblywoman Buckley nominated Assemblyman Perkins for Speaker.

Assemblyman Ocegüera moved that nominations be closed.

Motion carried unanimously.

Mr. Secretary of State declared Assemblyman Perkins to be Speaker of the Assembly.

Mr. Secretary of State appointed Assemblywoman Buckley and Assemblyman Anderson as a committee to escort the Speaker to the rostrum.

Mr. Speaker presiding.

Assemblyman Parks moved that Secretary of State Heller be given a unanimous vote of thanks for his services to the Assembly.

Motion carried unanimously.

Mr. Speaker appointed Assemblyman Mortenson and Assemblyman Grady as a committee to escort the Secretary of State to the Bar of the Assembly.

The appointed committee escorted Secretary of State Heller to the Bar of the Assembly.

Remarks by Mr. Speaker.

Assemblywoman Buckley requested that the following remarks be entered in the Journal.

MR. SPEAKER:

Majority Leader Buckley, Minority Leader Hettrick, members of the Assembly, legislative staff, friends, and guests:

Good morning. I stand here today in a role no Speaker of the Assembly has ever been called upon to play: to preside over this Body's participation in the impeachment of a Constitutional Officer. It is a humbling experience. I hope each of you, whether new to the Nevada Legislature or a veteran of many sessions, appreciates the weighty decisions that lie ahead. None of us sought public office with this in mind, but circumstances dictate that we must rise to the occasion with the best of our abilities as individuals and as a collective legislative Body.

Let us remember that the very discussion of removal of a public official is as serious as it is historic, with long-range ramifications for our state. Controller Augustine and the people of Nevada deserve a fair, just, and open process. I call upon this Body, assembled in Special Session, to join me in fulfilling our constitutional responsibility with dignity and respect for all parties involved. Similarly, I call on the parties to this proceeding to respect these halls as a place reserved for doing the people's business.

I remind all of you that the constitutional and statutory process dictates separate roles for the two houses of the Legislature. The role of the Assembly, in its simplest terms, is to determine

probable cause and to transmit, if we find it appropriate, Articles of Impeachment to the Senate for that Body to carry out its constitutional duties in the form of a trial.

In the Assembly, we will complete our responsibilities necessary to convene a Special Session of the Nevada Legislature. We will pass a bill funding our activities, resolutions authorizing staff and other functions essential to our conducting the people's business, and complete those first day ceremonies. We will then take a short break to prepare for the duties the Governor called us here for. This afternoon, we will resolve ourselves into a Committee of the Whole and begin our hearings by establishing our process with those who will take part, primarily the witnesses who can shed some light on the activities of Controller Augustine. I hope to be able to conduct the Committee hearing efficiently over the course of the next few days. At the end of the Committee hearing, we would then rise back into the full Assembly, receive the Committee Report, and take any final action this Body deems necessary.

If history and the facts call upon us to take extraordinary action in this matter, we owe it to the people who elected us to do so in the most serious and dignified demeanor we can muster. We must move judiciously, but we should also move expeditiously. We are, after all, here at the taxpayers' expense. There is no room in this process for anything but the utmost attention to detail, and the utmost regard for the public trust. The Legislature is normally charged with the making of new laws, but we must be mindful in the coming days that our role has changed for this proceeding to that of carrying out the law as it is written. Thus we must be mindful of these words of Thomas Jefferson, "The execution of the laws is more important than the making of them."

Thank you for your service to our State.

Mr. Speaker declared that nominations were in order for Chief Clerk.

Assemblyman Horne nominated Ms. Nancy Tribble to be Chief Clerk.

Assemblyman Hettrick moved that nominations be closed.

Motion carried unanimously.

Mr. Speaker declared Ms. Nancy Tribble to be Chief Clerk of the Assembly.

Mr. Speaker appointed Assemblymen Giunchigliani, Ocegüera, and Gansert as a committee to inform the Senate that the Assembly was organized and ready for business.

Mr. Speaker appointed Assemblymen Buckley, Arberry, and Marvel as a committee to inform the Governor that the Assembly was organized and ready for business.

Mr. Speaker announced that if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:50 a.m.

ASSEMBLY IN SESSION

At 11:57 a.m.

Mr. Speaker presiding.

Quorum present.

A committee from the Senate composed of Senators Wiener, Rhoads, and Horsford appeared before the Bar of the Assembly and announced that the Senate was organized and ready for business.

MOTIONS, RESOLUTIONS, AND NOTICES

Assemblywoman Giunchigliani reported that her committee had informed the Senate that the Assembly was organized and ready for business.

Mr. Speaker announced that if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:58 a.m.

ASSEMBLY IN SESSION

At 12:24 p.m.

Mr. Speaker presiding.

Quorum present.

Assemblywoman Buckley reported that her committee had informed the Governor that the Assembly was organized and ready for business.

COMMUNICATIONS

MESSAGES FROM THE GOVERNOR

STATE OF NEVADA
OFFICE OF THE GOVERNOR
EXECUTIVE ORDER

A PROCLAMATION BY THE GOVERNOR

WHEREAS, Section 9 of Article V of the Constitution of the State of Nevada provides that “The Governor may on extraordinary occasions, convene the Legislature by Proclamation and shall state to both houses when organized, the purpose for which they have been convened, and the Legislature shall transact no legislative business, except that for which they were specially convened, or such other legislative business as the Governor may call to the attention of the Legislature while in Session”;

WHEREAS, believing that an extraordinary occasion now exists which requires action by the Legislature;

NOW, THEREFORE, I, KENNY C. GUINN, GOVERNOR OF THE STATE OF NEVADA, by virtue of the authority vested in me by the Constitution of the State of Nevada, do hereby convene the Legislature into a Special Session to begin at 10:00 a.m., on November 10, 2004, to consider all matters relating to the impeachment proceedings concerning State Controller Kathy Augustine.

The Legislature may also consider an appropriation to pay for the cost of the session and any other matters brought to the attention of the Legislature by the Governor during the Special Session.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the great seal of the state of Nevada to be affixed at the state capitol in Carson City this 9th day of November, in the year two thousand four.

Kenny C. Guinn
Governor

Dean Heller
Secretary of State

Renee Parker
Deputy Secretary of State

MOTIONS, RESOLUTIONS, AND NOTICES

Assemblywoman Buckley moved that persons as set forth on the Nevada Legislature's Press Accreditation List of November 10, 2004, be accepted as accredited press representatives, that they be assigned space at the press table in the Assembly Chambers, that they be allowed use of appropriate broadcasting facilities, and the list be included in this day's Journal: ASSOCIATED PRESS: Benjamin Kieckhefer, Brendan Riley, Ryan Pearson; BUREAU OF NATIONAL AFFAIRS: William Carlile; DAILY SPARKS TRIBUNE/KAME/KRXI-TV: Andrew Barbano; ELKO DAILY FREE PRESS: Jerry Blair, Samuel Brown; FOX 5 NEWS: Garrett Breit, John Huck; KLAS-TV: Matthew E. Adams, Richard Czarny, Brandon Eisenberg, George Knapp, Linsay Patterson, Victor Woodall; KLVX-TV: Tom Axtell; KNPB-TV: Erin Breen, Ali Herndon-Ortega, Jack Kelly, Bonnie Maclean, Dennis Myers, Ethan Salte, Dave Santina, Douglas Walters; KOLO-TV CHANNEL 8: Edward Barnett, Brent Boynton, Jean Casarez, Mark Andre Cronon, Jeff Deitch, Tim Ill, Justin Kanno, Josh Little, Vicky Nguyen, Habib Obi, Ed Pearce, Terri Russell, James Steiner, Karen Todd, Kara Tsuboi; KPTL-RADIO: Cheri D. Flynn, Scott Gahagen, Ron Harrison, Jarvis Kaler, Terrie Q. Sayre; KTNV-TV NEWS 13: Mark Sayre; KVBC-NEWS 3: Alyssa Anderson, Lisa Hidalgo, Zumi Hidalgo, Justin Rush, Kendall Tenney; KWNA-RADIO: Torrey Sheen; LAS VEGAS CITYLIFE: Matt O'Brien; LAS VEGAS REVIEW-JOURNAL: Kevin M. Cannon, Sean Whaley, Ed Vogel; LAS VEGAS SUN: Michael Campbell, David Clayton, Dana Gentry, Jeff German, Matt Huffman, Steve Kanigher, Jennifer Knight, Ed Koch, Aaron Mayes, Erin Neff, Judy Odierna, Angla Pilmer, Launce Rake, Jon Ralston, Emily Richmond, Cy Ryan, Susan Snyder; NEVADA APPEAL: Cathleen Allison, Brian Corley, Rhonda Costa-Landers, Geoff Dornan, Kelli Du Fresne, Ray Estrada, Rick Gunn, Brad Horan, Karl Horeis, Jill Keller, Francine Norton, Barry Smith, Teri Vance, Susan Vasquez; NEVADA BROADCASTERS' ASSOCIATION: Robert David Fisher; NEVADA NEWSMAKERS: Ande Engleman; KNPR NEVADA PUBLIC RADIO: Kyril Pluskon; NORTH LAKE TAHOE BONANZA: Rick Adair; NORTH LAKE TAHOE BONANZA: Kirk Caraway; NORTHERN NEVADA BUSINESS WEEKLY: Anne Knowles; RENO GAZETTE-JOURNAL: Anjeanette Damon; SAM SHAD PRODUCTIONS: Sam Breen, Ande Engleman, Samuel Shad; THE MEDIA CENTER: Don Alexander, Kim Anhalt, John Bankhead, Jeremy Baumann, Nancy Burgess, Carol Cizauskas, Kaye Crawford, Charles M. Evans, Fred Fichman, Mitch Fox, Henry King, David Kizler, John Ponzio, Earl Spriggs; THE UNLV REBEL YELL: Erik Ball, Nick Christensen, Angela Flores; UNIVISION-LAS VEGAS NEWS: Jorge Avila, Sol Binkier, Ricardo Fernandez, Janette Luviano, Joel Romo, Xochitl Sandoval, Johanna Suarez, Brenda Torres, Roger Velado; VARTEK: Marcia Cohen, Michael Vargas; VIRGINIA CITY REGISTER: Gary M. G. Deacon, Scott Phillips, Bill Sjovaugen, Sharon Truehill, Douglas Truehill, Ernst Wipple; WE THE PEOPLE: Shayne Del Cohen.

Motion carried.

By Assemblymen Perkins, Buckley, and Hettrick; Senators Raggio and Titus:

Assembly Concurrent Resolution No. 1—Adopting the Joint Rules of the Senate and Assembly for the 21st Special Session of the Legislature.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the following Joint Rules of the Senate and Assembly for the 21st Special Session of the Legislature are hereby adopted:

APPLICABILITY OF JOINT RULES

Rule No. 1. Generally.

The Joint Rules for the 21st Special Session of the Legislature are applicable only during the 21st Special Session of the Legislature.

CONFERENCE COMMITTEES

Rule No. 2. Procedure Concerning.

1. In every case of an amendment of a bill, or joint or concurrent resolution, agreed to in one House, dissented from in the other, and not receded from by the one making the amendment, each House shall appoint a committee to confer with a like committee to be appointed by the other; and the committee so appointed shall meet publicly at a convenient hour to be agreed upon by their respective chairmen and announced publicly, and shall confer upon the differences between the two Houses as indicated by the amendments made in one and rejected in the other and report as early as convenient the result of their conference to their respective Houses. The report shall be made available to all members of both Houses. The whole subject matter embraced in the bill or resolution shall be considered by the committee, and it may recommend recession by either House, new amendments, new bills or resolutions, or other changes as it sees fit. New bills or resolutions so reported shall be treated as amendments unless the bills or resolutions are composed entirely of original matter, in which case they shall receive the treatment required in the respective Houses for original bills, or resolutions, as the case may be.

2. The report of a conference committee may be adopted by acclamation, and such action may be considered equivalent to the adoption of amendments embodied therein. The report is not subject to amendment. If either House refuses to adopt the report, or if the first conference committee has so recommended, a second conference committee may be appointed. No member who served on the first committee may be appointed to the second.

3. There shall be but two conference committees on any bill or resolution. A majority of the members of a conference committee from each House must be members who voted for the passage of the bill or resolution.

MESSAGES

Rule No. 3. Procedure Concerning.

1. Proclamations by the Governor convening the Legislature in extra session shall, by direction of the presiding officer of each House, be read immediately after the convening thereof, filed and entered in full in the Journal of proceedings.

2. Whenever a message from the Governor is received, the Sergeant at Arms will announce: "Mr. President, or Mr. Speaker, the Secretary of the Governor is at the bar." The secretary will, upon being recognized by the presiding officer, announce: "Mr. President, or Mr. Speaker, a message from His Excellency, the Governor of Nevada, to the Honorable, the Senate or Assembly," and hand same to the Sergeant at Arms for delivery to the Secretary of the Senate or Chief Clerk of the Assembly. The presiding officer will direct any message from the Governor to be received, read and entered in full in the Journal of proceedings.

3. Messages from the Senate to the Assembly shall be delivered by the Secretary or Assistant Secretary, and messages from the Assembly to the Senate shall be delivered by the Chief Clerk or Assistant Chief Clerk.

*NOTICE OF FINAL ACTION**Rule No. 4. Communications.*

Each House shall communicate its final action on any bill or resolution, or matter in which the other may be interested, by written notice. Each such notice sent by the Senate must be signed by the Secretary of the Senate, or a person designated by the Secretary. Each such notice sent by the Assembly must be signed by the Chief Clerk of the Assembly, or a person designated by the Chief Clerk.

*BILLS AND JOINT RESOLUTIONS**Rule No. 5. Signature.*

Each enrolled bill or joint resolution shall be presented to the presiding officers of both Houses for signature. They shall, after an announcement of their intention to do so is made in open session, sign the bill or joint resolution and their signatures shall be followed by those of the Secretary of the Senate and Chief Clerk of the Assembly.

Rule No. 6. Joint Sponsorship.

1. A bill or resolution introduced by a committee of the Senate or Assembly may, at the direction of the chairman of the committee, set forth the name of a committee of the other House as a joint sponsor, if a majority of all members appointed to the committee of the other House votes in favor of becoming a joint sponsor of the bill or resolution. The name of the committee joint sponsor must be set forth on the face of the bill or resolution immediately below the date on which the bill or resolution is introduced.

2. The Legislative Counsel shall not cause to be printed the name of a committee as a joint sponsor on the face of a bill or resolution unless the chairman of the committee has signed his name next to the name of the committee on the colored back of the introductory copy of the bill or resolution that was submitted to the front desk of the House of origin or the statement required by subsection 4.

3. Upon introduction, any bill or resolution that sets forth the names of primary joint sponsors must be numbered in the same numerical sequence as other bills and resolutions of the same House of origin are numbered.

4. Once a bill or resolution has been introduced, a primary joint sponsor or nonprimary joint sponsor may only be added or removed by amendment of the bill or resolution. An amendment which proposes to add or remove a primary joint sponsor must not be considered by the House of origin of the amendment unless a statement requesting the addition or removal is attached to the copy of the amendment submitted to the front desk of the House of origin of the amendment. If the amendment proposes to add or remove a committee as a primary joint sponsor, the statement must be signed by the chairman of the committee. A copy of the statement must be transmitted to the Legislative Counsel if the amendment is adopted.

5. An amendment that proposes to add or remove a primary joint sponsor may include additional proposals to change the substantive provisions of the bill or resolution or may be limited only to the proposal to add or remove a primary joint sponsor.

*PRINTING**Rule No. 7. Ordering and Distribution.*

Each House may order the printing of bills introduced, reports of its own committees, and other matter pertaining to that House only; but no other printing may be ordered except by a concurrent resolution passed by both Houses. Each Senator is entitled to the free distribution of four copies of each bill introduced in each House, and each Assemblyman to such a distribution of two copies. Additional copies of such bills may be distributed at a charge to the person to whom they are addressed. The amount charged for distribution of the additional copies must be determined by the Director of the Legislative Counsel Bureau to approximate the cost of handling and postage for the entire session.

RESOLUTIONS*Rule No. 8. Types, Usage and Approval.*

1. A joint resolution must be used to:
 - (a) Propose an amendment to the Nevada Constitution.
 - (b) Ratify a proposed amendment to the United States Constitution.
 - (c) Address the President of the United States, Congress, either House or any committee or member of Congress, any department or agency of the Federal Government, or any other state of the Union.
2. A concurrent resolution must be used to:
 - (a) Amend these joint rules.
 - (b) Request the return from the Governor of an enrolled bill for further consideration.
 - (c) Resolve that the return of a bill from one House to the other House is necessary and appropriate.
 - (d) Express facts, principles, opinion and purposes of the Senate and Assembly.
 - (e) Establish a joint committee of the two Houses.
 - (f) Direct the Legislative Commission to conduct an interim study.
3. A concurrent resolution or a resolution of one House may be used to:
 - (a) Memorialize a former member of the Legislature or other notable or distinguished person upon his death.
 - (b) Congratulate or commend any person or organization for a significant and meritorious accomplishment.
 - (c) Address matters related to impeachment.

VETOES*Rule No. 9. Special Order.*

Bills which have passed a previous Legislature, and which are transmitted to the Legislature next sitting, accompanied by a message or statement of the Governor's disapproval, or veto of the same, shall become the subject of a special order; and when the special order for their consideration is reached and called, the said message or statement shall be read, together with the bill or bills so disposed or vetoed; and the message and bill shall be read in the Senate by the Secretary of the Senate and in the Assembly by the Chief Clerk of the Assembly, without interruption, consecutively, one following the other, and not upon separate occasions; and no such bill or message shall be referred to any committee, or otherwise acted upon, save as provided by law and custom; that is to say, that immediately following such reading the only question (except as hereinafter stated) which shall be put by the Chair is, "Shall the bill pass, notwithstanding the objections of the Governor?" It shall not be in order, at any time, to vote upon such vetoed bill without the same shall have first been read, from the first word of its title to and including the last word of its final section; and no motion shall be entertained after the Chair has stated the question save a motion for "The previous question," but the merits of the bill itself may be debated.

ADJOURNMENT*Rule No. 10. Limitations and Calculation of Duration.*

1. In calculating the permissible duration of an adjournment for 3 days or less, the day of adjournment must not be counted but the day of the next meeting must be counted, and Sunday must not be counted.
2. The Legislature may adjourn for more than 3 days by motion based on mutual consent of the Houses or by concurrent resolution. One or more such adjournments may be taken to permit a committee or the Legislative Counsel Bureau to prepare the matters respectively entrusted to them for the consideration of the Legislature as a whole.

*EXPENDITURES FROM THE LEGISLATIVE FUND**Rule No. 11. Manner of authorization.*

Except for routine salary, travel, equipment and operating expenses, no expenditures shall be made from the Legislative Fund without the authority of a concurrent resolution regularly adopted by the Senate and Assembly.

*RECORDS OF COMMITTEE PROCEEDINGS**Rule No. 12. Duties of Secretary of Committees and Director.*

- 1. Each committee shall cause a record to be made of the proceedings of its meetings.*
- 2. The secretary of a committee shall:*
 - (a) Label each record with the date, time and place of the meeting and also indicate on the label the numerical sequence in which the record was made;*
 - (b) Keep the records in chronological order; and*
 - (c) Deposit the records immediately following the final adjournment of the 21st Special Session of the Legislature with the Director of the Legislative Counsel Bureau.*
- 3. The Director of the Legislative Counsel Bureau shall, except as otherwise provided in subsection 4:*
 - (a) Index the records;*
 - (b) Make the records available for accessing by any person during office hours under such reasonable conditions as he may deem necessary;*
 - (c) Maintain a log as a public record containing the date, time, name and address of any person accessing any of the records and identifying the records accessed; and*
 - (d) Retain the records for two bienniums and at the end of that period keep some form or copy of the record in any manner he deems reasonable to ensure access to the record in the foreseeable future.*
- 4. Records of any meeting which is closed to the public do not become public records until the committee which held the closed meeting determines that the matters discussed no longer require confidentiality.*

*LIMITATIONS ON REQUESTS FOR DRAFTING OF LEGISLATIVE MEASURES**Rule No. 13. Germaneness Required for Amendments.*

- 1. The Legislative Counsel shall not honor a request for the drafting of an amendment to a bill or resolution if the subject matter of the amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of the bill or resolution.*
- 2. For the purposes of this rule, an amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of a bill or resolution if the amendment relates only to the general, single subject that is expressed in that title and not to the specific whole subject matter embraced in the bill or resolution.*

*CONTINUATION OF LEADERSHIP OF THE SENATE AND ASSEMBLY DURING THE INTERIM BETWEEN SESSIONS**Rule No. 14. Tenure and Performance of Statutory Duties.*

- 1. Except as otherwise provided in subsections 2 and 3, the tenure of the President Pro Tem, Majority Leader and Minority Leader of the Senate and the Speaker, Speaker Pro Tem, Majority Floor Leader and Minority Floor Leader of the Assembly extends during the interim between regular sessions of the Legislature.*
- 2. The Senators designated to be the President Pro Tem, Majority Leader and Minority Leader for the next succeeding regular session shall perform any statutory duty required in the period between the time of their designation after the general election and the organization of the next succeeding regular session of the Legislature if the Senator formerly holding the respective position is no longer a Legislator.*

3. *The Assemblymen designated to be the Speaker, Speaker Pro Tem, Majority Floor Leader and Minority Floor Leader for the next succeeding regular session shall perform any statutory duty required in the period between the time of their designation after the general election and the organization of the next succeeding regular session.*

**POLICY AND PROCEDURES REGARDING
SEXUAL HARASSMENT**

Rule No. 15. Maintenance of Working Environment; Procedure for Filing, Investigating and Taking Remedial Action on Complaints.

1. *The Legislature hereby declares its intention to maintain a working environment which is free from sexual harassment. This policy applies to all Legislators. Each member is responsible to conduct himself or herself in a manner which will ensure that others are able to work in such an environment.*

2. *In accordance with Title VII of the Civil Rights Act, for the purposes of this rule, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:*

(a) *Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment;*

(b) *Submission to or rejection of such conduct by a person is used as the basis for employment decisions affecting the person; or*

(c) *Such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.*

3. *Each Legislator must exercise his or her own good judgment to avoid engaging in conduct that may be perceived by others as sexual harassment. The following noninclusive list provides illustrations of conduct that the Legislature deems to be inappropriate:*

(a) *Verbal conduct such as epithets, derogatory comments, slurs or unwanted sexual advances, invitations or comments;*

(b) *Visual conduct such as derogatory posters, photography, cartoons, drawings or gestures;*

(c) *Physical conduct such as unwanted touching, blocking normal movement or interfering with the work directed at a person because of his sex;*

(d) *Threats and demands to submit to sexual requests to keep a person's job or avoid some other loss, and offers of employment benefits in return for sexual favors; and*

(e) *Retaliation for opposing, reporting or threatening to report sexual harassment, or for participating in an investigation, proceeding or hearing conducted by, or at the direction of, the Legislature, the Legislative Counsel Bureau or the Nevada Equal Rights Commission or the federal Equal Employment Opportunity Commission, when submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or submission to or rejection of such conduct by a person is used as the basis for employment decisions affecting the person or such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.*

4. *A person may have a claim of sexual harassment even if the person has not lost a job or some other economic benefit. Conduct that impairs a person's ability to work or his emotional well-being at work may constitute sexual harassment.*

5. *A Legislator who believes he or she is being sexually harassed on the job may file a written complaint with:*

(a) *The Speaker of the Assembly;*

(b) *The Majority Leader of the Senate; or*

(c) *The Director of the Legislative Counsel Bureau, if the complaint involves the conduct of the Speaker of the Assembly or the Majority Leader of the Senate.*

The complaint must include the details of the incident or incidents, the names of the persons involved and the names of any witnesses.

6. *Except as otherwise provided in subsection 7, the Speaker of the Assembly or the Majority Leader of the Senate, as appropriate, shall refer a complaint received pursuant to subsection 5 to a committee consisting of Legislators of the same House.*

7. *If the complaint involves the conduct of the Speaker of the Assembly or the Majority Leader of the Senate, the Director of the Legislative Counsel Bureau shall refer the complaint to*

the Committee of the Whole of the Assembly or the Committee of the Whole of the Senate, as appropriate. If the Speaker of the Assembly or the Majority Leader of the Senate is a member of one of these committees, the Speaker or the Majority Leader, as the case may be, shall not participate in the investigation and resolution of the complaint.

8. The committee to which the complaint is referred shall conduct a discreet investigation of the complaint. As a part of the investigation, the committee shall notify the accused of the allegations. Either party may request a hearing before the committee. The committee shall make its determination and inform the complainant and the accused of its determination as soon as practicable after it has completed its investigation.

9. If the investigation reveals that sexual harassment has occurred, the Legislature will take appropriate disciplinary or remedial action, or both. The committee shall inform the complainant of any action taken. The Legislature will also take any action necessary to deter any future harassment.

10. The Legislature will not retaliate against a person who files a complaint and will not knowingly permit any retaliation by any other person.

11. The Legislature encourages a person to report any incident of sexual harassment immediately so that the complaint can be quickly and fairly resolved.

12. Action taken by a complainant pursuant to this rule does not prohibit the complainant from also filing a complaint of sexual harassment with the Nevada Equal Rights Commission or the federal Equal Employment Opportunity Commission.

13. All Legislators are responsible for adhering to the provisions of this policy.

14. This policy does not create any enforceable legal rights in any person.

Assemblywoman Buckley moved the adoption of the resolution.

Remarks by Assemblywoman Buckley.

Resolution adopted

Assemblywoman Buckley moved that all rules be suspended and that Assembly Concurrent Resolution No. 1 be immediately transmitted to the Senate.

Motion carried unanimously.

By Assemblymen Perkins, Buckley, and Hettrick:

Assembly Resolution No. 1—Adopting the Rules of the Assembly for the 21st Special Session of the Nevada Legislature.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That the following Rules of the Assembly for the 21st Special Session of the Legislature are hereby adopted:

I. APPLICABILITY

Rule No. 1. Generally.

The Rules of the Assembly for the 21st Special Session of the Legislature are applicable only during the 21st Special Session of the Legislature.

II. OFFICERS AND EMPLOYEES

Rule No. 2. Speaker of the Assembly.

1. All officers of the Assembly are subordinate to the Speaker in all that relates to the prompt, efficient and correct discharge of their official duties under the Speaker's supervision.

2. Possessing the powers and performing the duties described in this rule, the Speaker shall:

(a) Take the chair at the hour to which the Assembly will be meeting, call the members to order and, upon the appearance of a quorum, proceed to business.

(b) Preserve order and decorum and have general direction of the Chamber of the Assembly and the approaches thereto. In the event of any disturbance or disorderly conduct therein, order the same to be cleared.

(c) *Decide all questions of order, subject to a member's right to appeal to the Assembly. On appeal from such decisions, the Speaker has the right, in the Speaker's place, to assign the reason for the decision.*

(d) *Have the right to name any member to perform the duties of the chair, but such substitution must not extend beyond one legislative day.*

(e) *If the Assembly resolves itself into a Committee of the Whole, preside as Chairman of the Committee or name a Chairman to preside thereover and call him to the chair.*

(f) *Have the power to accredit the persons who act as representatives of the news media and assign them seats.*

(g) *Sign all bills and resolutions passed by the Legislature as provided by law.*

(h) *Sign all subpoenas issued by the Assembly.*

(i) *Receive all messages and communications from other departments of the government and announce them to the Assembly.*

(j) *Represent the Assembly, declare its will and in all things obey its commands.*

(k) *Vote on final passage of a bill or resolution, but the Speaker shall not be required to vote in ordinary legislative proceedings except where the Speaker's vote would be decisive. In all yeas and nays votes, the Speaker's name must be called last.*

3. *If a vacancy occurs in the office of Speaker, through death, resignation or disability of the Speaker, the Speaker Pro Tempore shall temporarily and for the period of vacancy or disability conduct the necessary business of the Assembly.*

4. *If a permanent vacancy occurs in the office of Speaker, the Assembly shall select a new Speaker.*

Rule No. 3. *Reserved.*

Rule No. 4. *Reserved.*

Rule No. 5. *Reserved.*

Rule No. 6. *Reserved.*

The next rule is 10.

III. MEETINGS

Rule No. 10. *Reserved.*

Rule No. 11. *Open Meetings.*

1. *Except as otherwise provided in the Constitution of the State of Nevada and in subsection 2 of this rule, all meetings of the Assembly and the Committee of the Whole must be open to the public.*

2. *A meeting may be closed to consider the character, alleged misconduct, professional competence, or physical or mental health of a person.*

Rule No. 12. *Motion to Rise Committee of the Whole.*

A motion that the Committee of the Whole rise is always in order, and must be decided without debate.

The next rule is 20.

IV. DECORUM AND DEBATE

Rule No. 20. *Points of Order.*

If any member, in speaking or otherwise, transgresses the Rules of the Assembly, the Speaker shall, or any member may, call to order, in which case the member so called to order shall immediately sit down, unless permitted to explain; and if called to order by a member, such member shall immediately state the point of order. If the point of order be sustained by the presiding officer, the member shall not be allowed to proceed; but if it be not sustained, then he shall be permitted to go on. Every such decision from the presiding officer shall be subject to an appeal to the House; but no discussion of the question of order shall be allowed unless an appeal be taken from the decision of the presiding officer.

Rule No. 21. Portable electronic communication devices.

1. A person who is within the Assembly Chambers shall not engage in a telephone conversation via the use of a portable telephone.

2. Before entering the Assembly Chambers, any person who possesses a portable electronic communication device, such as a pager or telephone, that emits an audible alert, such as a ringing or beeping sound, to signal an incoming message or call shall turn the audible alert off. A device that contains a nonaudible alert, such as a silent vibration, may be operated in a nonaudible manner within the Assembly Chambers.

Rule No. 22. Reserved.

Rule No. 23. Reserved.

The next rule is 30.

V. QUORUM, VOTING, ELECTIONS

Rule No. 30. Manner of Voting.

1. The presiding officer shall declare all votes, but the yeas and nays must be taken when called for by three members present, and the names of those calling for the yeas and nays must be entered in the Journal by the Chief Clerk.

2. The presiding officer shall call for yeas and nays by a division or by a roll call, either electronic or oral.

3. When taking the yeas and nays on any question, the electronic roll call system may be used, and when so used shall have the force and effect of any roll call under these Rules.

4. When taking the yeas and nays by oral roll call, the Chief Clerk shall take the names of members alphabetically, except that the Speaker's name must be called last.

5. The electronic roll call system may be used to determine the presence of a quorum.

6. The yeas and nays must not be taken with the electronic roll call system until all members present are at their desks. The presiding officer may vote at the rostrum.

7. Only a member who is physically present within the Assembly Chambers may cast a vote in the Assembly.

8. A member shall not vote for another member on any roll call, either electronic or oral. Any member who votes for another member may be punished in any manner deemed appropriate by the Assembly.

Rule No. 31. Reserved.

Rule No. 32. Announcement of the Vote.

1. A member may change his vote at any time before the announcement of the vote if the voting is by voice, or at any time before the votes are electronically recorded if the voting is conducted electronically.

2. The announcement of the result of any vote shall not be postponed.

Rule No. 33. Voting by Division.

Upon a division and count of the Assembly on any question, no person without the bar shall be counted.

The next rule is 39.

VI. LEGISLATIVE BODIES

Rule No. 39. Committee of the Whole.

1. All bills and resolutions may be referred to the Committee of the Whole.

2. All amendments proposed by the Committee:

(a) Must first be approved by the Committee.

(b) Must be reported by the Chairman to the Assembly.

3. The minutes of the Committee's meeting must be entered in the final Journal.

Rule No. 40. Reserved.

Rule No. 41. Appointment of Committees.

All committees must be appointed by the Speaker, unless otherwise directed by the Assembly. The Speaker shall determine the appropriate number of members for each committee and shall designate the chairman and vice chairman of each committee.

Rule No. 42. Committee Action.

1. The committee shall have meetings in accordance with the direction of the Assembly leadership. A quorum of the committee is a majority of its appointed members and may transact business except as limited by this rule.

2. Except as limited by this rule, a simple majority of those present may move, second and pass a motion by voice vote.

3. Definite action on a bill or resolution will require a majority of the entire committee.

4. A two-thirds majority of the entire committee is required to reconsider action on a bill or resolution.

5. The chairman shall vote on all final action regarding bills or resolutions.

6. No member of the committee may vote by proxy under any circumstances.

7. A committee shall not take a vote on the question of whether to exercise its statutory authority to issue a legislative subpoena unless the chairman has informed the Speaker of the intention of the committee to consider such a question.

Rule No. 43. Subcommittees.

Subcommittees made up of committee members may be appointed by the chairman to consider and report back on specific subjects or bills.

Rule No. 44. Reserved.

Rule No. 45. Request for Drafting of Bill, Resolution or Amendment.

Except as otherwise provided in this rule, the Legislative Counsel shall not honor a request for the drafting of a bill, resolution or amendment to be introduced in the Assembly, unless it is submitted by the Committee of the Whole, a conference committee or the Governor. The Speaker may request the drafting of one bill for the 21st Special Session of the Legislature without seeking additional approval.

Rule No. 46. Committee Action on Reports.

Committee reports must be adopted at a committee session actually assembled and meeting as a committee with a quorum present. Every committee vote on a matter pertaining to a bill or resolution must be recorded. The vote may be taken by roll call at the discretion of the chairman.

Rule No. 47. Committee Records.

The chairman of each committee shall keep, or cause to be kept, a complete record of the committee proceedings in which there must be entered:

1. The time and place of each meeting;

2. The attendance and absence of members;

3. The names of all persons appearing before the committee, with the names of persons, firms, corporations or associations in whose behalf such appearance is made; and

4. The subjects or measures considered and action taken.

Rule No. 48. Disposition of Committee Records.

1. All minutes, records and documents in the possession of committees and their chairmen must be filed in the offices of the Legislative Counsel Bureau upon adjournment sine die.

2. Minutes, records and documents of any meeting which was closed to the public do not become public unless the committee which held the closed meeting determines that the matters discussed no longer require confidentiality.

Rule No. 49. Reserved.

Rule No. 50. Reserved.

Rule No. 51. *Reserved.*

Rule No. 52. *Reserved.*

The next rule is 60.

VII. RULES GOVERNING MOTIONS

A. PROCEDURE

Rule No. 60. *Entertaining.*

No motion may be debated until it is distinctly announced by the presiding officer. If desired by the presiding officer or any member, the motion must be reduced to writing and be read by the Chief Clerk before the motion is debated. A motion may be withdrawn by the maker at any time before amendment or before the motion is put to vote.

Rule No. 61. *Reserved.*

Rule No. 62. *Reserved.*

B. PARTICULAR MOTIONS

Rule No. 63. *Reserved.*

Rule No. 64. *Reserved.*

Rule No. 65. *Indefinite Postponement.*

When a question is postponed indefinitely, the same question must not be considered again during the 21st Special Session of the Legislature and the question is not subject to a motion for reconsideration.

Rule No. 66. *To Strike Enacting Clause.*

A motion to strike out the enacting clause of a bill or resolution does not take precedence over any other subsidiary motion. If the motion is carried, it shall be considered equivalent to the rejection of such bill or resolution.

Rule No. 67. *Division of Question.*

Any member may call for a division of the question, which shall be divided, if it comprehends propositions in substance so distinct that, one being taken away, a substantive proposition shall remain for the decision of the Assembly. A motion to strike out being lost shall preclude neither amendment nor a motion to strike out and insert. A motion to strike out and insert shall be deemed indivisible.

Rule No. 68. *To Reconsider.*

No motion to reconsider a vote is in order.

The next rule is 80.

VIII. DEBATE

Rule No. 80. *Speaking on Question.*

No member shall speak more than twice during the consideration of any one question, on the same day, and at the same stage of proceedings, without leave. Members who have once spoken shall not again be entitled to the floor (except for explanation) to the exclusion of others who have not spoken.

Rule No. 81. *Previous Question.*

The previous question shall be put only when demanded by three members. The previous question shall not be moved by the member last speaking on the question.

Rule No. 82. Privilege of Closing Debate.

The author of a bill, a resolution or a main question shall have the privilege of closing the debate, unless the previous question has been sustained.

The next rule is 90.

IX. CONDUCT OF BUSINESS

A. RULES AND PROCEDURE

Rule No. 90. Mason's Manual.

The rules of parliamentary practice contained in Mason's Manual of Legislative Procedure shall govern the Assembly and its committees in all cases in which they are applicable and in which they are not inconsistent with the rules and orders of the Assembly for the 21st Special Session of the Legislature, and the Joint Rules of the Senate and Assembly for the 21st Special Session of the Legislature.

Rule No. 91. Rescission, Change, or Suspension of Rule.

No rule or order of the Assembly for the 21st Special Session of the Legislature may be rescinded or changed without a vote of two-thirds of the members elected, and one day's notice being given of the motion therefor; but a rule or order may be suspended temporarily by a vote of two-thirds of the members present.

Rule No. 92. Notices of Bills, Topics, and Public Hearings.

1. Except as otherwise provided in subsection 3, all committees shall provide adequate notice of public hearings on bills, resolutions or other topics which are to come before the committees. The notice must include the date, time, place and agenda to be covered. To the extent practicable, the notice must be posted conspicuously in the legislative building, appear in the daily history and be made available to the news media. The daily history must include the most current version of the notice that is available at the time the daily history is created and an informational statement informing the public where more current information, if any, regarding such notices may be found.

2. The noticing requirements of this rule may be suspended for emergency situations but only after approval by a two-thirds vote of a committee.

3. Subsection 1 does not apply to:

(a) Committee meetings held on the floor of the Assembly during a recess; or

(b) Conference committee meetings.

Rule No. 93. Reserved.

Rule No. 94. Privilege of the Floor and Lobbying.

No person, except Senators, former Assemblymen and state officers, may be admitted at the bar of the Assembly, except by special invitation on the part of some member; but a majority may authorize the Speaker to have the Assembly cleared of all such persons. No person may do any lobbying upon the floor of the Assembly at any time, and it is the duty of the Sergeant at Arms to remove any person violating any of the provisions of this rule.

Rule No. 95. Material Placed on Legislators' Desks.

All papers, letters, notes, pamphlets and other written material placed upon an Assemblyman's desk shall contain the signature of the Legislator requesting the placement of such material on the desk or shall contain a designation of the origin of such material. This rule does not apply to books containing the legislative bills and resolutions, the legislative daily histories, the legislative daily journals or Legislative Counsel Bureau material.

Rule No. 96. Peddling, Begging and Soliciting.

1. Peddling, begging and soliciting are strictly forbidden in the Assembly Chamber, and in the lobby, gallery and halls adjacent thereto.

2. No part of the Assembly Chamber may be used for, or occupied by signs or other devices for any kind of advertising.

3. No part of the hallways adjacent to the Assembly Chambers may be used for or occupied by signs or other devices for any kind of advertising for commercial or personal gain. Notices for nonprofit, nonpartisan, civic or special legislative events may be posted in a designated area of the hallways adjacent to the Assembly Chambers with the approval of the Chief Clerk.

Rule No. 97. *Petitions and Memorials.*

Petitions, memorials and other papers addressed to the Assembly shall be presented by the Speaker, or by a member in the Speaker's place. A brief statement of the contents thereof shall be made by the introducer. They shall not be debated on the day of their being presented, but shall be on the table, or be referred, as the Assembly shall determine.

Rule No. 98. *Request of Purpose.*

A member may request the purpose of a bill or joint resolution upon its introduction.

Rule No. 99. *Remarks.*

It shall be in order for members to make remarks and to have such remarks entered in the Journal.

Rule No. 100. *Precedence of Parliamentary Authority.*

The precedence of parliamentary authority in the Assembly is:

1. *The Constitution of the State of Nevada.*
2. *The Rules of the Assembly for the 21st Special Session of the Legislature and the Joint Rules of the Senate and Assembly for the 21st Special Session of the Legislature.*
3. *The Statutes of the State of Nevada.*
4. *Mason's Manual of Legislative Procedure.*

Rule No. 101. *Reserved.*

Rule No. 102. *Privileged Questions.*

Privileged questions have precedence of all others in the following order:

1. *Motions to fix the time to which the Assembly shall adjourn.*
2. *Motions to adjourn.*
3. *Questions relating to the rights and privileges of the Assembly or any of its members.*
4. *A call of the House.*
5. *Motions for special orders.*

Rule No. 103. *Reserved.*

B. *BILLS*

Rule No. 104. *Reserved.*

Rule No. 105. *Substitute Bills.*

A substitute bill shall be deemed and held to be an amendment, and treated in all respects as such. However, a substitute bill may be amended after its adoption, in the same manner as if it were an original bill.

Rule No. 106. *Skeleton Bills.*

The introduction of skeleton bills is not authorized.

Rule No. 107. *Reserved.*

Rule No. 108. *Reserved.*

Rule No. 109. *Reading of Bills.*

The presiding officer shall announce at each reading of a bill whether it be the first, second or third reading. The first reading of a bill shall be for information. If there is objection, the question shall be, "Shall the bill be rejected?" If the question to reject fails to receive a majority vote by the members present, or if there is no objection, the bill shall take the proper course. No bill shall be referred to a committee until after the first reading, nor amended until after the second reading.

Rule No. 110. Second Reading and Amendment of Bills.

1. All bills must be read the second time after which they are reported by committee. Upon second reading, Assembly bills reported without amendments shall be placed on the General File and Senate bills reported without amendments shall be placed on the General File. Committee amendments reported with bills shall be considered upon their second reading, and such amendments may be adopted by a majority vote of the members present. Any amendment which is numbered, copied and made available to all members must be moved and voted upon by number unless any member moves that it be read in full. Assembly bills so amended must be reprinted, engrossed and placed on the General File. Senate bills so amended must be reprinted, then engrossed or reengrossed, as applicable, and placed on the General File.

2. Only amendments proposed by the Committee of the Whole or a conference committee may be considered on the floor of the Assembly. Such a motion to amend may be adopted on the floor of the Assembly by a majority vote of the members present. Bills so amended on second reading must be treated the same as bills with amendments proposed by a committee. Any bill so amended upon the General File must be reprinted and then engrossed or reengrossed, as applicable.

3. The reprinting of amended bills may be dispensed with only in accordance with the provisions of law.

Rule No. 111. Consent Calendar.

1. A committee may by unanimous vote of the members present report a bill with the recommendation that it be placed on the Consent Calendar. The question of recommending a bill for the Consent Calendar may be voted upon in committee only after the bill has been recommended for passage and only if no amendment is recommended.

2. The Chief Clerk shall maintain a list of bills recommended for the Consent Calendar. The list must be printed in the daily history and must include the summary of each bill and the date the bill is scheduled for consideration on final passage.

3. At any time before the presiding officer calls for a vote on the passage of the consent calendar, a member may give written notice to the Chief Clerk or state orally from the floor of the Assembly in session that he requests the removal of a particular bill from the consent calendar. If a member so requests, the Chief Clerk shall remove the bill from the consent calendar and transfer it to the second reading file. A bill removed from the consent calendar may not be restored to that calendar.

4. During floor consideration of the consent calendar, members may ask questions and offer explanations relating to the respective bills.

5. When the consent calendar is brought to a vote, the bills remaining on the consent calendar must be read by number and summary and the vote must be taken on their final passage as a group.

Rule No. 112. Reserved.

Rule No. 113. General File.

All bills reported to the Assembly, after receiving their second readings must be placed upon a General File, to be kept by the Chief Clerk. Bills must be taken from the General File and acted upon in the order in which they were reported, unless otherwise specially ordered by the Assembly. But engrossed bills shall be placed at the head of the file, in the order in which they are received. The Chief Clerk shall post a daily statement of the bills on the General File, setting forth the order in which they are filed and specifying the alterations arising from the disposal of business each day. The Chief Clerk shall likewise post notices of special orders as made.

Rule No. 114. Reserved.

Rule No. 115. Reserved.

Rule No. 116. Reserved.

Rule No. 117. Reserved.

C. RESOLUTIONS

Rule No. 118. *Treated as Bills—Joint Resolutions.*

The procedure of enacting joint resolutions must be identical to that of enacting bills. However, joint resolutions proposing amendments to the Constitution must be entered in the Journal in their entirety.

Rule No. 119. *Reserved.*

D. ORDER OF BUSINESS

Rule No. 120. *Order of Business.*

The Order of Business must be as follows:

1. *Call to Order.*
2. *Reading and Approval of Journal.*
3. *Presentation of Petitions.*
4. *Reports of the Standing Committees.*
5. *Reports of the Committee of the Whole.*
6. *Communications.*
7. *Messages from the Senate.*
8. *Motions, Resolutions and Notices.*
9. *Introduction, First Reading and Reference.*
10. *Consent Calendar.*
11. *Second Reading and Amendment.*
12. *General File and Third Reading.*
13. *Unfinished Business of Preceding Day.*
14. *Special Orders of the Day.*
15. *Remarks from the Floor, limited to 10 minutes.*

Rule No. 121. *Reserved.*

Rule No. 122. *Reserved.*

Rule No. 123. *Reserved.*

Rule No. 124. *Reserved.*

Rule No. 125. *Reserved.*

Rule No. 126. *Reserved.*

Rule No. 127. *Reserved.*

Rule No. 128. *Reserved.*

The next rule is 140.

X. MISCELLANEOUS

Rule No. 140. *Reserved.*

Rule No. 141. *Use of the Assembly Chamber.*

The Assembly Chamber shall not be used for any public or private business other than legislative, except by permission of the Assembly.

XI. PROCEDURE FOR CONSIDERATION OF ARTICLES OF IMPEACHMENT

Rule No. 142. *Organization.*

1. *The Committee of the Whole shall commence hearings at such time and place as determined by the Chairman of the Committee. Recesses and adjournments shall be determined by the Chairman.*

2. *The Committee shall study and investigate the alleged activities of the State Controller to determine whether to adopt Articles of Impeachment.*

3. *Upon conclusion of its investigation and at such other times as the Committee deems appropriate, the Committee shall report to the Assembly such resolutions, Articles of Impeachment or other recommendations that it deems proper.*

Rule No. 143. Powers.

The Committee of the Whole has all powers granted to the Legislature to investigate and conduct hearings. Pursuant to those powers, the Committee may issue subpoenas for witnesses, documents, records and any other relevant evidence, may administer oaths, take and record testimony, and hold a person in contempt for disobeying a subpoena.

Rule No. 144. Eligibility of Members of the Assembly.

1. *Notwithstanding the provisions of NRS 281.501, each member of the Assembly is, by virtue of his office, eligible to participate and vote in the impeachment proceedings, and no member of the Assembly is subject to disqualification.*

2. *Members of the Assembly must not be absent during a hearing of the Committee of the Whole concerning the Articles of Impeachment without permission of the Chairman.*

Rule No. 145. Hearings.

The Chairman of the Committee of the Whole shall determine whether, and the extent and manner to which, cameras or other audio or visual recording devices and ancillary lighting and electrical equipment will be allowed during the hearings.

Rule No. 146. Evidence.

1. *The Committee of the Whole may consider such evidence during its hearings as the Chairman of the Committee deems appropriate.*

2. *Formal rules of evidence do not apply to the hearings of the Committee.*

3. *The Chairman of the Committee shall rule on the admissibility of all evidence presented to the Committee.*

4. *If a member of the Committee wishes to receive additional relevant testimony or other evidence not presented, the member may submit a written request to the Chairman which describes the relevance of the other testimony or evidence. If additional testimony is requested, the request must also describe the nature and expectation of the testimony of the witness. The Chairman shall decide whether to grant the request.*

Rule No. 147. Witnesses.

1. *Witnesses will be allowed upon approval of the Chairman of the Committee of the Whole.*

2. *Only persons called as witnesses by the Committee may testify. Any other person who wishes to testify may petition the Committee for permission to testify by presenting a written statement of the substance of the proposed testimony. The Chairman shall determine whether to allow the person to testify.*

3. *Before any witness provides testimony or gives a statement, the Chairman, or a person designated by the Chairman, shall administer to the witness the following oath:*

“Do you solemnly swear that the testimony and any evidence you shall give in this matter shall be the truth, the whole truth, and nothing but the truth?”

4. *All questions posed to witnesses must be relevant to the investigation. The Chairman of the Committee shall rule on all questions of relevancy.*

5. *A witness, other than a party, who is called to testify before the Committee may have his attorney present only for the purposes of providing consultation and advice.*

Rule No. 148. Other rules.

Rules 1 to 141, inclusive, of the Rules of the Assembly for the 21st Special Session of the Legislature shall apply to proceedings of the Committee of the Whole concerning the Articles of Impeachment, except to the extent they conflict with any procedural rules for the consideration of Articles of Impeachment set forth in Rules 142 to 151, inclusive, of the Rules of the Assembly for the 21st Special Session of the Legislature.

Rule No. 149. Report by the Committee of the Whole.

1. Upon completion of its duties with respect to consideration of the Articles of Impeachment, the Committee of the Whole shall rise and the Assembly shall reconvene to receive the report from the Committee.

2. The Chairman of the Committee, or members of the Committee designated by the Chairman, shall present the report of the Committee to the Assembly.

Rule No. 150. Voting on Articles of Impeachment.

The Assembly shall vote on any proposed Article of Impeachment separately. If the Assembly approves any Article of Impeachment by the affirmative vote of the majority of the members elected to the Assembly, the Articles of Impeachment must be delivered by the Chief Clerk of the Assembly to the President of the Senate. The Speaker shall appoint a committee consisting of three members of the Assembly to present the Articles of Impeachment to the Senate.

Rule No. 151. Additional rulings on procedure.

The Chairman of the Committee of the Whole may adopt such additional procedures as the Chairman deems necessary for the conduct of the Committee hearings so long as such additional procedures do not conflict with Rules 142 to 150, inclusive, of the Rules of the Assembly for the 21st Special Session of the Legislature.

Assemblywoman Buckley moved the adoption of the resolution.

Remarks by Assemblywoman Buckley.

Resolution adopted.

By Assemblymen Perkins, Buckley, and Hettrick:

Assembly Resolution No. 2—Providing that no allowances will be paid for the 21st Special Session of the Nevada Legislature for periodicals, stamps, stationery or communications.

Assemblywoman Buckley moved the adoption of the resolution.

Remarks by Assemblywoman Buckley.

Resolution adopted.

By Assemblymen Perkins, Buckley, and Hettrick:

Assembly Resolution No. 3—Providing for the appointment of Assembly Attachés.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That the following persons are elected as attachés of the Assembly for the 21st Special Session of the Nevada Legislature: Rusty Aldrich, Mary Garcia, Carole Snider, Heidi Coker, Jerry Pieretti, Nancy Haywood, Matthew Baker, Harle Glover, Diane Keetch, Kathryn Fosnaugh, Lucinda Benjamin, Theresa Horgan, William E. Fowler, June Rigsby, Patricia Blackburn, Maxine Milabar, Jasmine Shackley, Victoria Thompson, Terry Sullivan, Robin Bates, Andrea Touyarot, Kathryn Alden, and Barbara Houger.

Assemblywoman Buckley moved the adoption of the resolution.

Remarks by Assemblywoman Buckley.

Resolution adopted.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:37 p.m.

ASSEMBLY IN SESSION

At 12:45 p.m.
Mr. Speaker presiding.
Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, November 10, 2004

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 1.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 1.

MARY JO MONGELLI
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS, AND NOTICES

Senate Concurrent Resolution No. 1.
Assemblywoman Buckley moved the adoption of the resolution.
Remarks by Assemblywoman Buckley.
Resolution adopted.

INTRODUCTION, FIRST READING, AND REFERENCE

Senate Bill No. 1
Assemblywoman Buckley moved that all rules be suspended, reading so far had considered first reading, rules further suspended, bill considered engrossed, declared an emergency measure under the Constitution, and placed on third reading and final passage.
Remarks by Assemblywoman Buckley.
Motion carried unanimously.

GENERAL FILE AND THIRD READING

Senate Bill No. 1
Bill read third time.
Remarks by Assemblywoman Buckley.
Roll call on Senate Bill No. 1:
YEAS—41
NAYS—0.
EXCUSED—Conklin.
Senate Bill No. 1 having received a constitutional majority, Mr. Speaker declared it passed.
Bill ordered transmitted to the Senate.
Assemblywoman Buckley moved that the Assembly recess until 2:00 p.m.
Motion carried.
Assembly in recess at 12:50 p.m.

ASSEMBLY IN SESSION

At 2:28 p.m.
Mr. Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS, AND NOTICES

Assemblywoman Buckley moved that it be noted for the record that Assemblyman Conklin had taken his oath of office and had been sworn in by the Chief Clerk.

Motion carried.

Assemblywoman Buckley moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Articles of Impeachment of Nevada State Controller Kathy Augustine, with Assemblyman Perkins as Chairman of the Committee of the Whole.

Motion carried.

IN COMMITTEE OF THE WHOLE

Assemblyman Perkins presiding.

Quorum present.

The impeachment of Nevada State Controller Kathy Augustine was considered.

Chairman Perkins announced that the following Exhibit List, as submitted by Chief Deputy Attorney General Gerald Gardner, would be made part of the record unless otherwise excluded:

1. Forensics Processing Report
2. Forensics Processing Report–Addendum
3. Encase Reports Q1–Q12
4. Encase Report “Volume E”
5. Calendars 2001, 2002, 2003
6. October 17 Running Total of Contributions
7. Report of Campaign Contributions of \$100 or less
8. Lobbyist List
9. In-Kind Contribution Reports
10. Report of Campaign Contributions of \$100 or more
11. Secretary of State Forms
12. “Committee to Elect” Documents, Endorsements, Invitations
13. “Committee to Elect” Fax covers, Candidacy Letters
14. Nevada Nurses Campaign Packet
15. Press Responses
16. Letters Soliciting Campaign Contributions
17. Envelope Addresses
18. Events Sheets for Meetings with Potential Contributors
19. June 9 Fundraiser Invite List
20. October 9 Fundraiser Invite List
21. Jewelry Show Mailing List
22. August 6 Fundraiser List
23. August 20 Fundraiser Invite List
24. Greenawalt Attendees List

25. Augustine Invite List Updated 11-20-01
26. RWR Membership List
27. "Alpha" List
28. Mailing Labels August 20 Fundraiser
29. Mailing Labels 10/9 Fundraiser
30. Mailing Labels June 9 Fundraiser
31. State Controller Employee Policies
32. Diagram of State Controller Offices
33. Contributions Envelope
34. Candidate Questions from City Life
35. Candidate Questions from SNEA
36. Invite Draft Cocktail Reception hosted by Mr. and Mrs. Knecht
37. Emails re: Cocktail Reception
38. Invitation to Cocktail Reception
39. Ethics Commission Report and Recommendation
40. Stipulation Before the Nevada Commission on Ethics
41. Attorney General's Investigative Report
42. Jim Wells emails

Chairman Perkins announced that the following Witness List, as submitted by Chief Deputy Attorney General Gerald Gardner, would be made part of the record:

Jennifer Normington, former executive assistant to Ms. Augustine
Susan Kennedy, former executive assistant to Ms. Augustine
Michele Miles, former Chief Accountant of Operations, Nevada State Controller's Office
Jeannie Coward, former Assistant Controller of the State of Nevada
Stacy Jennings, Executive Director of the Nevada Commission on Ethics
Sheri Valdez, Accounting Assistant III, Nevada State Controller's Office
Jeanette Supera, Chief Deputy Investigator, Nevada Department of Justice, Office of the Attorney General, Medicaid Fraud Control Unit
Jim Wells, former Chief Deputy Controller, Nevada State Controller's Office

Chairman Perkins announced the presence of John Arrascada, Legal Counsel, representing Nevada State Controller Kathy Augustine.

CHAIRMAN PERKINS:

As we move into this proceeding, let me just indicate to everybody that this is a legislative committee and not a court of law. The rules of evidence, as many of you well know, are much different in the legislative setting. The Committee will receive testimony from witnesses who have something to contribute to this specific issue. At some point, I will ask the Attorney General's Office to come forward and suggest witnesses, and also ask the attorney for Controller Augustine to come forward and suggest witnesses relevant to this case. They may also suggest additional evidence for this Committee to receive that may have some bearing on the Committee's decisions.

Any testimony given will need to be relevant to this proceeding and the actions of Controller Augustine. There will be no cross-examination, as you would find in a court of law. Again, this is a committee hearing. Committee members may ask questions or forward written questions to the Chair to be asked. I will ask the witnesses to direct their testimony to the Committee through the Chair as is their normal process. As we went through this, many of you will remember in the last special session, it is somewhat of an awkward setup in the Assembly Chambers. The witnesses will be facing the members and somewhat directing their comments to the Chair.

For witnesses, please do not approach Committee members or interact with them over the Bar of the Assembly, or the like. We will take breaks as are necessary. If you have a concern about the length of the proceeding and need to take a break, please send a note to the Chair. If you are not suggested to be a witness and think you should be a witness in this proceeding, under Rule

147 there is an opportunity for you to be a witness. You can also sign in and indicate why your testimony should be considered at the sign-in sheet; those sign-in sheets are found right outside the door of the Assembly Chambers. All witnesses, prior to delivering their testimony, will be sworn in by the Chief Clerk. Any exhibits provided to the Committee should be provided through the Front Desk and just remind those that want to provide exhibits that 60 copies are necessary: 42 for the members and then the additional copies for those who might need them.

With that, I think we will begin. Is there a representative from the Attorney General's Office to address this Committee? For the benefit of the witnesses, as you approach the table, please take your seat, identify yourself for the record, and indicate to us—at least for you, Mr. Gardner—what witnesses you suggest that this Committee should hear that would be relevant to our deliberations.

GERALD GARDNER, CHIEF DEPUTY ATTORNEY GENERAL:

Good afternoon, members of the Assembly, Mr. Speaker.

CHAIRMAN PERKINS:

Mr. Gardner, I am assuming that you are just suggesting witnesses at this point and not providing testimony. Is that correct?

GERALD GARDNER:

That is correct, Mr. Speaker.

CHAIRMAN PERKINS:

Okay. If you were providing testimony, we would have you sworn in, but at this point we will just let you continue.

GERALD GARDNER:

Thank you, Mr. Speaker. On behalf of the Attorney General's Office, we propose the following witnesses to testify in support of issuance of Articles of Impeachment. Those witnesses would be Gerald Gardner, myself, of the Attorney General's Office; Jeanette Supera of the Attorney General's Office; Jennifer Normington; Jeannine Coward; Susan Kennedy; Sherry Valdez; Michelle Miles; and Jim Wells.

CHAIRMAN PERKINS:

Is there any other evidence besides these witnesses that you think the Committee should receive, Mr. Gardner?

GERALD GARDNER:

Yes, Mr. Speaker. The Attorney General's Office has provided approximately 42 exhibits contained in blue binders that have been provided to the Assembly. Those are the sum total of the exhibits that the Attorney General's Office proposes to be admitted in support of issuance of Articles of Impeachment in this case. I realize there are also exhibits that have been provided from the Nevada Commission on Ethics, and there is raw data that is contained in three red binders. The data contained in the three red binders is where the exhibits contained in the blue binders are extracted from.

CHAIRMAN PERKINS:

Will you, during your testimony, be able to identify those exhibits and offer them for our record?

GERALD GARDNER:

Yes, I will, Mr. Speaker.

CHAIRMAN PERKINS:

Thank you. Questions from the Committee? At this point, how much time do you think the witnesses that you have suggested—I believe there are eight witnesses—will need to deliver their testimony?

GERALD GARDNER:

I believe that the eight witnesses will take until sometime late tomorrow. I would say we will be able to conclude the presentation by the end of tomorrow.

CHAIRMAN PERKINS:

It is 2:30 in the afternoon today. If we were to get three to four hours worth of testimony today, would you be able to conclude that by the lunch break tomorrow?

GERALD GARDNER:

We would certainly do our best, Mr. Speaker. I think that is a distinct possibility.

CHAIRMAN PERKINS:

Thank you, Mr. Gardner.

Mr. Arrascada, would you please come to the testimony table, and I would ask you the same question: Are there witnesses at this point that you are aware of that the Committee has not been—have not been suggested by Mr. Gardner that you think the Committee should have before it?

JOHN ARRASCADA, ESQ., LEGAL COUNSEL, NEVADA STATE CONTROLLER AUGUSTINE:

Thank you, Mr. Speaker. For the record, John Arrascada. I am the attorney representing Ms. Augustine, along with Dominic Gentile, who will be here shortly. Mr. Speaker, with your permission, I would like to address an issue preliminarily to addressing our witnesses.

CHAIRMAN PERKINS:

Go ahead.

JOHN ARRASCADA:

There is an issue I would like to address before providing you our statement regarding witnesses we may present.

CHAIRMAN PERKINS:

Please continue.

JOHN ARRASCADA:

Mr. Speaker, I would like the Body as a whole to take note of our November 7 letter brief and a November 8 reply letter to Legislative Counsel Bureau Director Lorne Malkiewich, regarding the participation of the Attorney General's Office in these matters. We were told yesterday that the Attorney General would not be presenting evidence, and I think I counted three, possibly five, occasions that the Attorney General present today stated he would be presenting a case and providing evidence and information. We would also ask that it is noted in our November 7 and November 8 letter briefs regarding the use of the evidence came from a purported criminal investigation that, under the laws of the state of Nevada, this is an improper dissemination of that information in evidence. With that having been said, Mr. Speaker, we appreciate the procedures that have been established by this Body, but, at this time, we would respectfully request that we defer from providing a witness list to this Body for the following reason: We were just provided today, as all of you were, witness lists, proposed evidence, and purported evidence against the State Controller, and we would like to have an opportunity to review that before providing a witness list. We would ask, though, that any time that is allotted for the presentation of evidence against Controller Augustine that we be accorded the same time limit during our presentation.

One other matter I need to bring up is that there is some uncertainty if, in the rules that were adopted, by this Body, everyone must testify potentially under oath, and that raises concerns for myself and Mr. Gentile regarding whether that would preclude us, since we have now become sworn witnesses, to present or represent Ms. Augustine should this matter proceed over to the Senate. And that is another issue that we need to have addressed and answered.

CHAIRMAN PERKINS:

Thank you, Mr. Arrascada. To address a couple of your issues, first let me ask you, is there a witness whom Mr. Gardner has suggested who is unfamiliar to you as it relates to previous issues in front of the State Controller, or the Ethics Commission, or previous events as such?

JOHN ARRASCADA:

No, there is not.

CHAIRMAN PERKINS:

You have probably not had an opportunity to read what is in the blue binders, so I cannot ask you the same about that. I appreciate your request for a deferral. We will certainly hold you to whatever time limit that we give to their side as well, but, in your preparation for tomorrow, I would probably bring it back and ask you the same question about witnesses, because I do not think there is anything in here that is of any surprise. We are just going over information, I think, that has already been presented to you in one fashion or another.

JOHN ARRASCADA:

I appreciate that, Mr. Speaker. I would ask that you or this Body also address the issues we have raised in our November 7 letter brief to this Body and also our November 8 letter regarding the inherent conflict of interest with the Attorney General's Office and whether Mr. Gardner can testify as a witness, which, in essence, would be vouching for his position and office, or if he can present any of the matters that he has alleged that he will present to this Body.

CHAIRMAN PERKINS:

It will be my ruling that he can. Many people who come before a legislative body have a conflict of one or another. Again, we do not follow the same rules of evidence that a court of law does, so it is my ruling that Mr. Gardner and any others on that witness list who may have some relationship with the Attorney General's Office may present their information.

JOHN ARRASCADA:

Thank you very much, Mr. Speaker.

CHAIRMAN PERKINS:

Thank you, and you had one more issue, and that was whether or not, if either you or Mr. Gentile were witnesses, that would create a conflict. We have our staff working on that. We have had some conversation with Senator Raggio about what would go on down the hall. Again, in the interest of this being a legislative setting, I do not believe that is going to be a problem, but I do not believe we will be crossing that bridge today, anyway.

JOHN ARRASCADA:

I appreciate that, and please understand we are just exercising an abundance of caution.

CHAIRMAN PERKINS:

Absolutely. Thank you for your information, Mr. Arrascada.

JOHN ARRASCADA:

Unless you have any other questions, I will return to my desk.

CHAIRMAN PERKINS:

Questions by the Committee? We have none. Thank you very much.

JOHN ARRASCADA:

Thank you, Mr. Speaker.

CHAIRMAN PERKINS:

Then at this point we will go ahead, and, unless there is a reason from the Committee for us not to, we will go ahead and start with our first witness in this proceeding. I would ask Mr. Gardner to come forward again.

If any of the witnesses have their testimony prepared prior to this hearing, we would appreciate it if you could share that with the Front Desk. It will help immensely when they prepare their minutes. Please go ahead; continue.

NANCY S. TRIBBLE, CHIEF CLERK OF THE ASSEMBLY:

Would you raise your right hand? Do you solemnly swear the testimony of evidence you are about to give in this case shall be the truth, the whole truth, and nothing but the truth?

GERALD GARDNER:

I do.

CHAIRMAN PERKINS:

Please take your seat at the table. Again, give us your name for the record and please spell your name for the record.

GERALD GARDNER:

Mr. Speaker, members of the Assembly, thank you very much for providing me the opportunity to be here today. Please let me congratulate the newly-elected members of the Assembly, as well as the re-elected members of the Assembly, and thank you again for providing the opportunity for us to speak today.

We are here today to uphold the Nevada Constitution. Article 7 of the Nevada Constitution provides that state officers shall be liable to impeachment for misdemeanors and malfeasance in office. "Malfeasance in office is the performance of an act by an officer in his or her official capacity that is wholly illegal and wrongful. Malfeasance refers to an illegal deed, the doing of that which one ought not to do. Malfeasance is the wrongful doing of an unofficial act" (*American Jurisprudence, Second Edition*). Malfeasance may best be understood by comparing it to misfeasance or nonfeasance, terms that we are familiar with. Misfeasance, as defined by Nevada law, is the doing, in a wrongful manner, something that the law authorizes a public official to do. Nonfeasance, as defined by the same Nevada law, is the substantial failure to perform a required legal duty.

State Controller Kathy Augustine's acts were not nonfeasance. They were not mere omissions or failure to perform required legal duties. Her acts were not misfeasance. They were not the doing in a wrongful manner something that she otherwise was authorized to do. Kathy Augustine had no authorization whatsoever to make state employees work on her private campaign on state time. She had no authorization to use state facilities and equipment and computers to run her campaign out of her state office. Kathy Augustine's acts fall squarely into the category of malfeasance: the commission of acts that are unlawful in themselves, which are completely unauthorized, illegal, and wrongful. Her acts violated the *Nevada Code of Ethical Standards*; they violated the *Nevada Administrative Code*; they violated the *Nevada Revised Statutes*. How can such acts be anything other than malfeasance? Kathy Augustine, from approximately October 2001 to November 2002, literally ran her campaign headquarters out of the Nevada State Capitol. Kathy Augustine used and misused state computers, used and misused state equipment and facilities, and used, misused, and abused state employees to promote her private, personal bid for re-election to the seat of State Controller.

Former and current employees of the Controller's Office, including Jennifer Normington, Jeannine Coward, Sherry Valdez, Susan Kennedy, Michelle Miles, and Jim Wells, will lay out this case for you. They will testify how state employees were directed to keep track of campaign donations, write campaign speeches, create invitations to fund-raisers, keep lists of lobbyists, attend campaign events, deliver campaign stump speeches, and hand out campaign literature, all on state time, all while their salaries were being paid out of the state treasury.

You will hear how one employee, Jennifer Normington, worked on Kathy Augustine's re-election campaign nearly every day of the year 2002, devoting, conservatively estimated, approximately three months of combined state hours to work on Kathy Augustine's bid for reelection. You will hear how Jeannine Coward was directed to draft fundraiser invitations, to draft and maintain campaign mailing lists, to make phone calls to potential campaign donors, to answer campaign-related surveys, and to assist in the preparation of campaign contribution reports. You will learn how Sherry Valdez was instructed to leave work early to attend a campaign envelope-stuffing party and to work on mailers at her state desk; how Susan Kennedy was required to log incoming contributions and make phone calls related to fundraiser events, all on state time; how Kathy Augustine caused state computers, faxes, telephones, printers, and the physical office space to be used for her campaign. You will hear how Kathy Augustine's demeanor and treatment of her employees caused them to believe that they had no choice but to obey her commands to do her campaign work; how employees who refused to comply with her demands to do her campaign tasks were berated, belittled, and, ultimately, shunned from Kathy Augustine's inner circle.

You will also have the opportunity to examine 42 exhibits compiled in two blue notebooks, copies of which have been provided to every member of the Assembly. These 42 exhibits provide documentary proof of the vast amounts of campaign work that was being done on state time by state employees. Nearly 1,200 pages of reports, letters, logs, lists, forms, labels, invitations, endorsements, candidate platforms, and press rebuttals, all created, edited, drafted, worked on, on state time.

As I stated in my introductory remarks, the red binders in front of you are the raw data that were taken from computer discs from the State Controller's Office. The blue binders are organized in a manner and are documents taken from the red binders that will allow you to easily, in an organized fashion, see the different documents that were created on state time: Exhibits 6 and 7, for example, in the blue binders—contribution reports; Exhibit 9—in-kind reports; Exhibit 11—Secretary of State filing forms; Exhibit 16—letters soliciting campaign contributions, hundreds and hundreds of pages of invitation lists, mailing labels for fundraisers, and attendee lists.

With the testimony of certified forensic specialist Jeanette Supera, an investigator with the Attorney General's Office, you will learn that these documents were taken from the Controller's computer system, and each document bears an electronic "fingerprint" proving that they were worked on state time during state working days.

Exhibit 5 in the blue binders is provided as a demonstrative exhibit. Exhibit 5 shows every day on which a campaign-related document was created or worked on in the State Controller's Office, more than 75 calendar days in which a campaign-related document was worked on during state hours. Other exhibits to take note of: Exhibit 31—the Controller's own policy manual prohibiting political activity in the office and during work hours; Exhibit 32—a diagram of the State Controller's Office showing that Jennifer Normington's office was virtually inside Kathy Augustine's office, in order for you to evaluate for yourself any claim that Kathy Augustine did not know Jennifer Normington was working on campaign functions literally every day; Exhibit 33—a sample of a campaign contribution envelope that Jennifer Normington and others were required to put on display at every event that they were required to attend during state hours; Exhibits 36, 37, and 38—various documents containing handwritten messages from Kathy Augustine directing Jeannine Coward and Jennifer Normington to do various campaign tasks or to do various work on these campaign documents; Exhibit 42—e-mails between Kathy Augustine and Chief Deputy Controller Jim Wells showing how Jim Wells was treated when he rightly declined to work on Kathy Augustine's campaign expenditure reports; Exhibit 40—Kathy Augustine's stipulation to three willful violations before the Nevada Commission on Ethics—three admissions to violating the *Nevada Revised Statutes*.

As Mr. Speaker stated, this proceeding is not a criminal trial. It does not require proof beyond a reasonable doubt. It simply requires that a majority of the Assembly believes that there is sufficient evidence to issue Articles of Impeachment to warrant a trial before the Senate. Kathy Augustine's stipulations are, in themselves, sufficient to support impeachment on three Articles of Impeachment. But you should not be limited to those three, and there may be as many as six proposed Articles of Impeachment at the conclusion of the testimony.

In the end, the totality of the testimony and evidence will leave you with little doubt that Kathy Augustine's misconduct in causing her employees to work on her campaign during state hours and using state equipment, computers, and facilities warrants referring this matter to the Senate for trial. Engaging in this willful misconduct, Kathy Augustine lost sight of her duty to the public trust. The people of Nevada deserve to have that public trust restored by seeing the Nevada Assembly issue Articles of Impeachment to send Kathy Augustine to the Senate for trial.

Mr. Speaker, at this time, I would move that the Assembly accept the Attorney General's, offered Exhibits 1 through 42. They will be referred to frequently throughout the testimony by other witnesses.

CHAIRMAN PERKINS:

Mr. Gardner, do you know how many of the exhibits you have touched on so far? I was not keeping track while you were naming them.

GERALD GARDNER:

Mr. Speaker, the testimony that will be provided by the next witness, Jeanette Supera, will include all 42 exhibits. If you prefer we wait until that time to make the motion, I would be happy to do so.

CHAIRMAN PERKINS:

Okay, and you will not need to make the motion. They can be offered to us by the next witness, and we can make the determination on acceptance at that point.

GERALD GARDNER:

Thank you, sir.

CHAIRMAN PERKINS:

Is there further information you have for the Committee?

GERALD GARDNER:

No, Mr. Speaker, that concludes my statement.

CHAIRMAN PERKINS:

Are there questions from the Committee? Unless there becomes some overwhelming need by the Committee or some other indication, it is my intention as the Chair to stick to the three issues that were stipulated to by the Controller and not venture too far afield of that. I think, as you have already pointed out, with the mountain of data we have in front of us, there is plenty of information to go through with those issues. So let me indicate to any other witnesses that will be coming forward that we really are looking for the information on the three issues that were stipulated to by the Controller.

Questions by the Committee? Mr. Seale?

ASSEMBLYMAN SEALE:

Mr. Speaker, will we have an opportunity to question, in the future, each of the witnesses?

CHAIRMAN PERKINS:

We may or may not. It depends on whether or not they are here. Your best opportunity is to ask a question of the witnesses while we have them at the table. Thank you, Mr. Seale. Thank you, Mr. Gardner.

GERALD GARDNER:

Thank you, Mr. Speaker.

CHAIRMAN PERKINS:

We would ask Jeanette Supera to come forward, please.

NANCY S. TRIBBLE, CHIEF CLERK OF THE ASSEMBLY:

Would you raise your right hand? Do you solemnly swear the testimony of evidence you are about to give in this case shall be the truth, the whole truth, and nothing but the truth?

JEANETTE SUPERA, CHIEF DEPUTY INVESTIGATOR, NEVADA DEPARTMENT OF JUSTICE,
OFFICE OF THE ATTORNEY GENERAL, MEDICAID FRAUD CONTROL UNIT:

I do.

CHAIRMAN PERKINS:

Mr. Arrascada, I am assuming that your concern about the witnesses from the Attorney General's Office extend to this witness as well, to make that known to the Committee.

JOHN ARRASCADA:

That is correct, Mr. Speaker.

CHAIRMAN PERKINS:

Thank you, Mr. Arrascada. Please continue.

JEANETTE SUPERA:

Thank you. My name is Jeanette Supera. I am currently employed as the Chief Deputy Investigator with the Nevada Department of Justice, Office of the Attorney General, the Medicaid Fraud Control Unit. I have been an investigator since 1983. I am also certified in computer forensics, which means that I am specially trained to examine computer systems for judicial purposes and maintain information contained on those systems in the exact format in which the information is written. I was certified by the International Association of Computer Investigative Specialists in 1995, and I was the first person in the state of Nevada to be certified in computer forensics.

On February 18, 2003, I was asked by Attorney General Investigator Dale Lieber to examine 12 computer floppy disks that had been provided to the Attorney General's Office by former employees of the State Controller's Office. I was also asked to examine a zip drive that had been obtained from the state computer system that contained backup data from the State Controller's Office.

CHAIRMAN PERKINS:

What date was that you were given those disks?

JEANETTE SUPERA:

February 18, 2003.

CHAIRMAN PERKINS:

Thank you.

JEANETTE SUPERA:

I examined all of these disks with the EnCase program. The EnCase program was created by Guidance Software, and this program is widely recognized by the industry and validated by courts as well as by testing conducted by the National Institute of Standards as the standard process used to collect, recover, and analyze computer evidence in a forensically sound manner.

The process begins with the creation of a bit stream drive image called an evidence file, which is then mounted as a read-only for analysis. The subject media is then analyzed in a read-only manner without querying the resident operating system. What this means is that when the native files are read by EnCase, the various metadata related to those files, such as the time stamps and the date stamps and other information, is not altered in any manner. It also allows the forensic processor to determine the names of all folders and files and the dates and times that these folders and files were created and worked on.

Exhibits 1 and 2 explain the findings of my examination. Before examining these disks, I knew absolutely nothing about this case. It took me approximately two weeks to conduct the full forensics examination. In examining all of these disks, I found dozens and dozens of documents that appeared to be related to a campaign and reelection for State Controller Kathy Augustine. These folders and files had names like "Contributions," "Running Totals for 2002 Campaign," "In-Kind Form.doc," "August Campaign Reports to the SOS," "Company Endorsements," "Campaign Letterhead," and "Contribution Fax Request," just to provide a small sampling.

The EnCase program also performs an extremely valuable function in that it shows the date and time that a particular file was created or was last worked on. In my examination, I found many, many times and many files that were last written to in 2001, 2002, and 2003.

Exhibits 3 and 4 are the tables created by EnCase program showing all the folders and files found in the examination and the dates and times that they were worked on. I have printed all of the documents and compiled them into notebooks. The majority of these files are now provided to the Assembly as exhibits in these notebooks. We cross-referenced the last written dates and times of all the campaign-related documents against yearly calendars for 2001, 2002, and 2003.

Exhibit 5 shows all of the workdays that a campaign-related document was written to. There were a number of days in which several campaign documents were written to on the same day. In all, there were approximately 75 workdays on which campaign-related documents were worked on during state hours.

CHAIRMAN PERKINS:

Do you know where those disks came from?

JEANETTE SUPERA:

The disks were given to me by Dale Lieber, the investigator on the case. He did not tell me at the time that he gave them to me where they came from. He just asked me to conduct an examination on the disks.

CHAIRMAN PERKINS:

Did you find out during the course of your examination where those disks came from?

JEANETTE SUPERA:

Yes, I did.

CHAIRMAN PERKINS:

Where did they come from?

JEANETTE SUPERA:

The Controller's Office.

CHAIRMAN PERKINS:

Was there somebody specifically in the Controller's Office who delivered them to your office?

JEANETTE SUPERA:

I did not have that information, no.

CHAIRMAN PERKINS:

How do you know that the information on those disks was generated by state computers? Or did you not say that?

JEANETTE SUPERA:

I did not say that they were generated by state computers, except No. 13, the analysis on No. 13, which came from the State Controller's network, and that is identified.

CHAIRMAN PERKINS:

You have identified Exhibits 1, 2, 3, 4, and 5; is that correct?

JEANETTE SUPERA:

Yes, sir.

CHAIRMAN PERKINS:

Are there other exhibits that you have personal knowledge of in here that are important for this Committee's consideration?

JEANETTE SUPERA:

All of the exhibits in the red binders were the raw data as they came off of the disks. As I did the examination for each disk, when there was a folder with files in it, I printed each of the files that was contained in a folder and identified that in those red binders—the raw data.

CHAIRMAN PERKINS:

And in the blue binder, where there are 30 or more exhibits, you have testified now to five of them; is that correct?

JEANETTE SUPERA:

Yes, sir.

CHAIRMAN PERKINS:

Are there any other exhibits in these binders that you can testify to?

JEANETTE SUPERA:

No, sir.

CHAIRMAN PERKINS:

Thank you. Questions from the Committee? Mr. Hettrick.

ASSEMBLYMAN LYNN HETTRICK:

Thank you, Mr. Speaker. Is the fact that you could determine that a part of this came off of the network that attached the Controller's Office to the . . . I presume the state computer, in some fashion. Does that prove that, in no way, these files could have been copied from a private computer onto this computer, or from a private computer onto the disks that were provided you?

JEANETTE SUPERA:

The network administrator for the Controller's Office could answer that question for you. It is my understanding that he directly made a backup of the Controller's Office network computer onto No. 13, which was that separate zip disk.

ASSEMBLYMAN HETTRICK:

I understand that the backup came off the Controller's computer. Could somebody have copied something onto the Controller's computer and then taken a copy off of the Controller's computer?

JEANETTE SUPERA:

Oh, absolutely, but that would have been indicated with the date and time stamp also.

ASSEMBLYMAN HETTRICK:

Okay, that was what I needed. Thank you.

CHAIRMAN PERKINS:

So you were given these disks, but we do not know how they were generated or where they were generated, they were just given to you for analysis; is that correct?

JEANETTE SUPERA:

Yes, sir. I think that witnesses who will follow me will probably be able to answer those questions.

CHAIRMAN PERKINS:

All right. Since you are the bona fide expert in computer forensics, I wanted to see if it was something you had knowledge about.

ASSEMBLYMAN MARCUS CONKLIN:

Thank you, Mr. Speaker. To you and through you to the witness, and to follow-up with a question that was already asked. If something were copied to the system, would you be able to tell the difference between something which was copied versus something which is an original document on the system?

JEANETTE SUPERA:

The way the EnCase program catalogues things gives you a last-accessed date and time, and it also gives you a date created, so the date created would remain the same.

ASSEMBLYMAN CONKLIN:

Thank you.

CHAIRMAN PERKINS:

Does that answer your question?

ASSEMBLYMAN CONKLIN:

I believe so, yes.

CHAIRMAN PERKINS:

Thank you. Mr. Hettrick.

ASSEMBLYMAN HETRICK:

I would like to clarify that, Mr. Speaker, if I may. If it were copied, the EnCase program would indicate that the last transaction on every single file was the same date. Is that correct?

JEANETTE SUPERA:

Yes, sir.

ASSEMBLYMAN HETRICK:

So the indication would be that, because they were all the same date, you would know they were copied.

JEANETTE SUPERA:

Yes, sir.

ASSEMBLYMAN HETRICK:

All right, thank you.

CHAIRMAN PERKINS:

Thank you, Mr. Hettrick, for clearing that up. Further questions from the Committee? We will accept Exhibits 1 through 5 as part of our record. Thank you for your testimony. Now I ask Jennifer Normington to come forward.

NANCY S. TRIBBLE, CHIEF CLERK OF THE ASSEMBLY:

Would you raise your right hand, please? Do you solemnly swear the testimony of evidence you are about to give in this case shall be the truth, the whole truth, and nothing but the truth?

JENNIFER NORMINGTON, FORMER EXECUTIVE ASSISTANT TO NEVADA STATE CONTROLLER

KATHY AUGUSTINE:

I do.

CHAIRMAN PERKINS:

Please offer any testimony that you think the Committee should hear.

JENNIFER NORMINGTON:

Thank you, Mr. Speaker. Mr. Speaker, members of the Assembly, fellow citizens, good afternoon. My name is Jennifer Normington of Reno, Nevada. I have lived in Nevada since graduating from the University of California in 1995, and I served as Kathy Augustine's executive assistant from October 4, 2001, through January 31, 2003. I am honored to appear before you today pursuant to the issue of Ms. Augustine's admission of willful violations and policies dealing with the behavior of elected officials when campaigning for reelection.

I must preface my remarks with the statement that I am not here today as a "disgruntled employee," as I have been characterized by Ms. Augustine in statements to the press. In fact, contrary to what she told reporters when first questioned about the charges several months ago, I did not file a complaint with the Attorney General's Office. Rather, I turned over documents, on the aforementioned 12 floppy disks, to be reviewed at the Attorney General's discretion. I did seek counsel from the State Department of Personnel in late summer of 2002 because I believed I was being forced to violate state ethics guidelines, but was informed by them that the only way they could provide assistance was to help me find another position, which ultimately led to my departure from the Controller's Office in February 2003.

In any case, my appearance is not as someone seeking retribution by a former supervisor, but as a former state employee who was forced to break the law under the implicit threat of loss of job. In an ideal world I would have simply resigned. Having not done so, the best I can do now is to assist the Legislature with deciding what to do about Ms. Augustine's behavior as a Constitutional Officer and the associated de facto theft of public resources.

I first met State Controller Kathy Augustine in December 2001 when I was giving a luncheon address on presentation skills and image management to the Carson City Republican Women's Club. Ms. Augustine was seated next to me at the head table, and, after the event, invited me back to her office to discuss joining the Controller's Office as her executive assistant. She indicated I would be performing conventional secretarial and administrative duties, but she was

also especially interested in using my public speaking and speechwriting skills to assist her in better representing the Controller's Office to external stakeholders. She made a formal job offer 24 hours later. Although I was already employed . . .

CHAIRMAN PERKINS:

Let me interrupt you just a second. Let the record reflect the presence of Mr. Gentile. It is good to have you here. Please continue.

JENNIFER NORMINGTON:

Thank you. Although I was already employed as a hotel supervisor for a Reno gaming property, I was excited about the prospect of what seemed to be a once-in-a-lifetime opportunity. I tendered my notice to my employer and joined the Controller's Office two weeks later.

When I first started work, Ms. Augustine was traveling in Europe. I was trained by her former assistant, Susan Kennedy, and then began familiarizing myself with the departmental people and procedures and organizing my office files. When Kathy returned to the office two weeks later, I was immediately asked to perform various campaign support duties, which I initially agreed to without question. Examples of such activities included rescheduling an event planned at the Palms Casino and notifying those guests and organizing a fundraiser at a Reno jewelry store the following month.

I do not recall whether or not the Controller initially asked me to perform the work on my own time or not, but, as a matter of practice, I tried to do so because my workday hours were busy with regular noncampaign-oriented duties. Within a short time, however, campaign-related activities grew more intense. In addition to organizing fundraisers, I began speaking on the Controller's behalf at various events when she was engaged elsewhere. I also began compiling a donor tracking report that needed to be submitted to Secretary Heller's office.

On occasion, the Controller did mention that campaign work should be performed on my own time, which is to say before 8:00 a.m. when I started work and after 5:00 p.m. But the increasing workload and increasingly short due dates imposed on me by the Controller meant I could no longer perform all of these duties in my so-called off time.

Moreover, the fact that I have a diabetic cat that requires insulin injections every 12 hours became problematic vis-à-vis the Controller's priorities. Often, I was forced to work on the campaign during my scheduled work hours, after which the Controller would tell me I could not go home until my regular state work was completed. Sometimes my father or friends could help me out by going to my house and taking care of the insulin shots for my cat. But when no one was available, the Controller became incensed if I told her that I had to be home by 7:00 p.m. that night. She told me, "That cat is interfering in your life. You need to kill it."

Gradually, I came to realize that I was spending most of my official hours working on the Controller's reelection campaign and unable to make up for it by skipping lunch and staying late. I became concerned that I was in gross violation of the law. I still tried to do what I could during off hours, but often the Controller would fax me handwritten notes from her Las Vegas office midmorning and want them fleshed out into full campaign speeches and faxed back by early afternoon. Or she would review a report that was due to the Secretary of State's Office and want it updated within a few hours or a few minutes.

Given the frequency with which the Controller gave me campaign work in the middle of my workday with a same-day deadline, it is clear that she was fully cognizant that I was working on her election campaign during state time and on state-owned office equipment. Campaign-related work I performed at Ms. Augustine's request on state time included, but was not limited to, writing campaign speeches; delivering campaign speeches; attending community and Republican events; organizing fundraisers; maintaining a database of potential contributors as is noted in Exhibits 8, 26, and 27 provided to you by the Attorney General's Office; creating invitation lists for fundraisers based on geographical location, Exhibits 19, 20, 21, 22, 23, 24, and 25; formatting request-for-contribution letters and mailing them all over the United States, Exhibit 16; designing fundraising invitations; stuffing envelopes and mailing them to contributors, Exhibits 17, 28, 29, 30, 36, and 38; preparing contribution reports for submission to the Secretary of State, Exhibits 7, 9, 10, and 11; maintaining a database of Controller Augustine's total campaign contributions in alphabetical and chronological order, Exhibit 6.

All of these documents and more are contained in these binders on the table. The additional exhibits in the binders were worked on by me, formatted by me, or designed by me, all on state time. At one point in early spring of 2002, a gentleman inquired about working in a paid position on Controller Augustine's reelection staff. I was very excited about this prospect of being able to spend 100 percent of my time in the Capitol working on state business. I asked the Controller how she wanted me to transfer all the campaign information to this gentleman. She first told me I would not have to transfer anything because he was only going to work on events in the Las Vegas area. We were still going to take care of everything in the North.

A few weeks passed, and I had not heard anything else about the man. When I asked the Controller when he would be starting, she told me, "I do not have enough money to hire any staff. We are going to run everything out of this office." Another time, the Controller asked me to begin emailing reminders of upcoming fundraising events to a database of prospective contributors. I suggested to her that it might not be appropriate to send such a message from the Controller's email address. She responded, "Are you refusing to do something I have told you to do?" I told her no, that I was just offering a concern about appearances. Ultimately, she agreed with me and told me to email the database and event schedule to her daughter to send out.

When giving campaign speeches on the Controller's behalf, I was instructed to always take copies of the Controller's popular report to hand out. She maintained a supply of these reports, which were printed with state funds by the State Printing Office, by holding back 2,000 copies of the quantity designated for delivery to libraries, municipalities, and other public entities. Copies of the popular report were always placed on campaign tables adjacent to her contribution envelopes. Moreover, when I was to merely represent the Controller's Office at a noncampaign event, I was specifically instructed by the Controller to always carry contribution envelopes and to remind the audience to vote for her in November. The one instance when I was not able to remind them to vote, I was chastised for it enormously.

As I grew more and more concerned about my involvement in what I believed to be unethical campaign practices, I began to consider what to do about it. About that time—I think it was somewhere in the June 2002 time frame—Judy Heatherington, from the Controller's Las Vegas office, told her she wanted to stop attending campaign events because she was uncomfortable doing so on state time. The Controller told us in the capitol office that, while that might be okay for the Las Vegas office, that was not the way it was going to work up here in the North. She told us that, since we were unclassified employees, our job security for the next four years depended on us helping her get re-elected.

Shortly thereafter, Chief Deputy Controller Jim Wells refused a request by the Controller to work on her contribution report to the Secretary of State. She became enraged by his refusal. She started yelling and throwing things around the office and said to me, "Jim is no longer in the circle. You, Jeannine, Sherry, Judy—you guys are in the circle. I just wish I could fire him now, but I will have to wait until after the election or it will look like retaliation." Fortunately for Jim, he located alternate employment and resigned on his own initiative. But, based on this event, I knew that, as a mere secretary, I would be fired in a heartbeat if I did not comply with the Controller's demands.

I did go to the State Personnel Department, as I mentioned earlier, to see what recourse I had. My contact there told me, after consulting with the Director of Personnel, that, as an unclassified employee, I had limited rights. Further, they had no authority over Constitutional Officers. They offered to help me find another position, but I was unable to secure a new job until the following January.

In addition to forcing employees to work on her campaign during state time, Ms. Augustine's breach of state ethical standards and campaign laws extends to her own personal behavior during work hours. The Controller herself campaigned during regular work hours, not just by giving speeches to groups of constituents, but by sitting at her desk midday calling donors to pressure them for more money. She routinely reviewed donation tracking reports filed by her main opponent in the election as well as the State Treasurer to see if they received larger donations than she did. If the donor made a larger contribution to either of these two people, she would call them asking for more money. She would then tell the contributor that if he or she expected access to the Controller's Office after the election, they needed to give her a larger donation. I

know this to be fact, because the Controller conducted these conversations in her office, over her speakerphone, with her door wide open.

She even filmed a campaign commercial in her office during state working hours, using two state employees—myself and Jeannine Coward—to fill the seats in a mock conference. When Ms. Coward suggested that would be a violation of campaign ethics laws, we were told to keep our backs to the camera so no one could identify us.

I loved working for the State of Nevada and serving the public in my own small way. However, what I had thought was a career breakthrough turned out to be just the opposite. My health suffered greatly as a result of the stress I faced between Ms. Augustine's oppressive management style and the ethical conflict I faced on a daily basis.

But the issue before this Body is not me. It is whether or not elected officials should be allowed to misuse public resources, as Ms. Augustine has, and still remain in office. Over the course of the 2002 year, I was forced to devote at least 75 percent of my state time to working on the State Controller's reelection campaign. If that is not an impeachable offense, I do not know what is, Mr. Speaker.

CHAIRMAN PERKINS:

Thank you, Ms. Normington, for your testimony. I suppose, fortunately or unfortunately for us, it is our judgment that will determine whether or not we will issue the suggested articles. You are no longer employed with the State Controller's Office, is that correct?

JENNIFER NORMINGTON:

Yes, it is.

CHAIRMAN PERKINS:

Were you before you left that office, or have you been since, retaliated against by the Controller?

JENNIFER NORMINGTON:

No. The Controller has briefly spoken to me. On the few occasions, I have seen her it has simply been a passing "hello," an acknowledgement.

CHAIRMAN PERKINS:

Who did you speak to at State Personnel?

JENNIFER NORMINGTON:

Kim Foster.

CHAIRMAN PERKINS:

You mentioned in your testimony that you felt threatened, and you mentioned a couple of potential examples. Can you describe how you felt threatened specifically? And, if you can remember the instances with some specificity, that would be helpful as well.

JENNIFER NORMINGTON:

Mr. Speaker, the threats were on a daily basis. If there was a mistake made in the office with a typographical error on a report, she would come out, throw it across my desk so it would slide across, hit me in the chest, and say, "You had better get this right." If she did not like the way my files were organized, she would say, "Do you not have any secretarial office skills at all?" to which I responded to her on one specific occasion, "I have office experience, but not as a secretary, just as a manager. You read my résumé."

CHAIRMAN PERKINS:

Our concern is primarily about the testimony you gave about being compelled to do campaign work on state time. Other than witnessing what you described as her being enraged over Mr. Wells' refusal, were there other things that made you feel threatened if you did not complete those tasks?

JENNIFER NORMINGTON:

She sent me an email once asking that I provide her with the salaries for the Chief Deputy Controller, the Assistant Controller, as well as my position. During that time, after Jim Wells had resigned and she was interviewing other candidates, I took that email to mean that she was also looking to replace myself as her assistant and Jeannine Coward as Assistant Controller. Repeatedly, throughout the entire time I worked with her, she reiterated to me that I had better do everything I could to get her reelected because, otherwise, I would not have a job.

CHAIRMAN PERKINS:

Did you take that to mean, if you did not work on her campaign, that she would fire you, or that if she was not Controller again, that she would not have a position for you?

JENNIFER NORMINGTON:

I took that to mean that if I did not work on her campaign whenever she told me to do it that I would not have a job.

CHAIRMAN PERKINS:

When she became enraged at Mr. Wells' refusal, you said something about becoming enraged and her statement that she made about firing him. Was there anybody else that witnessed that, both the becoming enraged and the statement that she made?

JENNIFER NORMINGTON:

No one else was a direct witness, but the door between her office and mine was open, as well as the door to the Capitol, and her voice was raised so loudly I have no doubt that the Assistant to the State Treasurer, as well as the Capitol Police, overheard part or all of the conversation.

CHAIRMAN PERKINS:

Further questions from the Committee? Mr. Seale.

ASSEMBLYMAN SEALE:

Mr. Speaker, to you and through you to the witness. In your testimony, you said that you did both campaign and non-campaign kinds of activities for the Controller. How did you determine which was which? What was your criteria in your own mind?

JENNIFER NORMINGTON:

My criteria for determining what a non-campaign activity was when there was, say, a Veterans' Day celebration and all constitutional law officers were invited to attend it. If the State Controller was not in Carson City, she would expect a representative from her office to attend these events. They were Chamber Mixers for the Reno-Sparks Chamber of Commerce, Chamber Breakfasts. At all of those occasions, if there was the opportunity for me to introduce myself to the group as a whole or individually, I was instructed to tell my name, where I worked, and to please remember to cast their vote for Kathy Augustine for State Controller in the November election, and to put out, if possible, campaign contribution envelopes whenever there was a candidate's table available.

CHAIRMAN PERKINS:

Any further questions? Mr. Hardy.

ASSEMBLYMAN HARDY:

Thank you, Mr. Speaker. Did I mishear, Ms. Normington, that you were the one who provided the 12 disks to the Attorney General's Office that were spoken of earlier, and if so, how did they come into your possession? Did you copy information while an employee or go back and retrieve information off a computer?

JENNIFER NORMINGTON:

No, sir, you did not mishear me. I copied the disks off of what was on the hard drive of my computer at the Controller's Office. And, I turned those disks over to Jeannine Coward, who had an appointment with Attorney General Sandoval so he could review them and decide if any action should be taken on them.

ASSEMBLYMAN HARDY:

So, you had access to the Controller's computer, used the Controller's computer, or in that office, to generate those disks and were the person who took those disks from one place to the other.

JENNIFER NORMINGTON:

It was not the Controller's specific computer; it was not the computer that sat on Controller Augustine's desk. It was the computer that sat on my desk in her office.

ASSEMBLYMAN HARDY:

And you shared information; your computer to her computer?

JENNIFER NORMINGTON:

If it was on the Controller's Office network, there are two different drives. The "C" drive was what was only on my computer. So, you had to physically sit at my desk and turn on my computer to access the "C" drive. The Controller's Office drive was what anyone who was in the Controller's Office could go and look at. All of the campaign documents that are provided in these exhibits were first on the "C" drive on my computer. The Controller knew that they were there because, on a regular basis, if I was editing something, she would stand over my shoulder and dictate things to me.

ASSEMBLYMAN HARDY:

Is it safe to say that your computer, as you refer to it, was the "state" computer?

JENNIFER NORMINGTON:

Absolutely. The Controller's Office IFS Unit (Integrated Financial System) purchased two new computers for the Controller's Office, installed one on the Controller's desk and one on my desk.

ASSEMBLYMAN HARDY:

Thank you.

CHAIRMAN PERKINS:

Ms. Normington, you made reference in your testimony to Exhibits 6, 7, 8, 9, 10, 11, 16, 17, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 36, and 38.

JENNIFER NORMINGTON:

Yes, sir.

CHAIRMAN PERKINS:

Did I miss any?

JENNIFER NORMINGTON:

No, you did not.

CHAIRMAN PERKINS:

And those are the ones that you testify to that you have personal knowledge of and came from the information that you created? Is that correct?

JENNIFER NORMINGTON:

Somewhat, sir. Those are the disks, documents that I created, had access to, knowledge of, that I referenced in my testimony. There is additional documentation in the exhibits that I did not reference in my testimony in the interest of being as concise as possible for this Body.

CHAIRMAN PERKINS:

But those, all of the exhibits that you referenced, you have some knowledge of. Is that correct?

JENNIFER NORMINGTON:

I had complete knowledge, sir.

CHAIRMAN PERKINS:

Thank you. Further questions from the Committee? Thank you, Mr. Hardy, for your question. Thank you, Ms. Normington, for your testimony.

JENNIFER NORMINGTON:

Thank you, Mr. Speaker.

CHAIRMAN PERKINS:

We will add those exhibits to our record. Now I ask Jeannine Coward to come forward to the testimony table.

NANCY S. TRIBBLE, CHIEF CLERK OF THE ASSEMBLY:

Please raise your right hand. Do you solemnly swear the testimony and evidence you are about to give in this case shall be the truth, the whole truth, and nothing but the truth?

JEANNINE COWARD, FORMER ASSISTANT CONTROLLER OF THE STATE OF NEVADA:

I do.

CHAIRMAN PERKINS:

Please take a seat at the witness table.

JEANNINE COWARD:

My name is Jeannine Coward, I am the former Assistant Controller of the State of Nevada, a position I held from February 8, 1999, to January 31, 2003. Before I start on my prepared testimony, I would like to answer Speaker Perkins and explain how the disks got to the Attorney General's Office. When I knew I was going to resign from the Controller's Office and I knew Jennifer was going to move over to another office in the state government, we had some serious discussions about what had taken place during the prior year-and-a-half and all of the campaign work that was done on state time. We seriously discussed, do we owe our loyalty to our boss, who hired us, or do we owe our loyalty to the citizens of this state? Ultimately, we decided we owed our loyalty to the citizens of this state, and it was our responsibility to report the misdeeds of the Controller.

I directed Jennifer to copy all of the campaign files that were on her computer, on the "C" drive; I copied all of the campaign material that was on my computer on the "C" drive. Those were the 12 disks that we delivered. I also found out, at that time, that every Friday night they would back up the "F" drive, which was the Controller network where we could access anyone's files in the Controller's Office. It was normal procedure, after about three weeks, to just copy over those files. The day I left, I instructed the person in the basement who made the file copy, not to destroy that file, not to copy it over. That, at some point, it might be very important because it would be the key evidence that would show that the computer files that we were going to give to the Attorney General's Office were not copied off of home files and transferred to our computers at home. That they were, in fact, files created at the Controller's Office that would show the time dates, the stamps, times that they were edited, and whose computer they were initiated on, and then whose they were transferred to. So, I was the one who delivered the disk to Brian Sandoval's office with the comment, "I think the State Controller may have broken the law, but I think it should be your decision to decide." And that was the last that I heard of it until I was called in for my first interview with them.

I am here today to testify regarding State Controller Kathy Augustine, who I believed deliberately, and with little regard for the ethical standards of an official elected by the citizens of this state, required and expected certain employees of the State Controller's Office to work on her 2002 reelection campaign during normal working hours and on their own personal time after work. I have listed the stipulations of the State Controller in the Ethics Commission; however, I believe that there are additional NRS that were violated. I will go into those later, so I am not going to read those. You are familiar with what she has already stipulated to. However, those stipulations only refer to Jennifer Normington's work in the Controller's Office. It does not take into account the time I spent, the time Susan Kennedy spent, Sherry Valdez spent, so I think that needs to be considered, too, when you judge whether she has been guilty of violations. I believe

the Controller has minimized the violations with the following statements that I indicated in bold on the prepared statement that you have.

The first: "During my 2002 reelection campaign, many of my staff volunteered to assist." This was in *The Las Vegas Review Journal*. The findings of the Executive Director of the Ethics Commission, Stacy Jennings, stated succinctly and accurately when she said, "Controller Augustine's directions to her staff regarding campaign work appeared duplicitous at best. She verbally directed employees to perform campaign tasks after work hours. However, witness statements indicate she frequently requested state work be put aside or demanded campaign tasks be performed immediately during state work hours. That Controller Augustine expected campaign work to be the top priority was understood by all."

Never did I consider myself a volunteer on her campaign, and I do not believe any others did. We were directed by her to do the tasks, and generally when she told us. That included drafting invitations; compiling mailing lists; making phone calls related to potential fundraisers' including long-distance calls; answering campaign questionnaires; and attending events, many of which were on our own time. Controller Augustine had a history and a reputation for losing her temper, throwing things, losing control by screaming and yelling when she was angry about something, which included anything from not being at your desk when she happened to phone you, to not liking the size of a label on an envelope, not liking the size of the font on a letter, and other equally immaterial things. Since the Controller's personnel had seen and been a victim of these tantrums, everyone tried to do exactly as they were told and when they were told so as not upset her. The yelling in her office was also heard by the Treasurer's Assistant and the Capitol Police on a regular basis.

Her second comment, "I should have known that some of them were expending state time on the campaign. However, I had not intention or actual knowledge that any ethics rule or law was being breached," also, *The Las Vegas Review Journal*. One of my jobs was to update the *Nevada State Controller Office Policies and Procedures Manual*, which, I believe, is 31 on your list of evidence. The changes were approved by the State Controller before the manual was disseminated to the employees. From the earliest revision in 1999, it always included Section F, Political Activity, which clearly said, "No employees should engage in political activity in or about the State Controller's Office during the hours of state employment." On page 34 of the "State of Nevada Employee Handbook, June 2001"—is the one I have—also states that "No employee may engage in political activity during the hours of state employ." There is absolutely no possibility the Controller could not know political activity on state time was forbidden.

Her third comment that, ". . . the employees were volunteers and no one was coerced to work on the campaign, and there was no real or implied threat that anyone could lose their job if they failed to work in the campaign." After former Deputy Controller Jim Wells refused to work on Augustine's reelection campaign, the working relationship between the two significantly changed, such that he subsequently left the Controller's Office, which reaffirmed to other employees that Controller Augustine was not to be confronted regarding campaign work on state time. Since Jennifer Normington was the one who most had to work on the campaign, I encouraged her to address the issue with the Controller. However, she felt certain that if she complained about the campaign work, she would lose her job and be ostracized . . . ostracized, as Jim.

Lastly, she said, "I want everyone to know that even my accusers admit I told them over and over again – I told them – do not do this on state time." In the year-and-a-half-plus of campaigning, there were only two occasions when the subject of campaign work on state time was addressed. The first was in August of 2001 when she directed me to call a secretary of a lobbyist who was going to host a fundraiser for her in Las Vegas. I was supposed to get the details of the event. I had been waiting for the issue to come up, so I was ready with an answer, which was, "I do not really think this is appropriate for me to do on state time, do you, Kathy?" Her response was I should do it at 5:00 p.m. then.

From that time on, I never questioned her again. Many times I took my office work home, since I was expected to do campaign work during the day. The second time the issue came up was when she told me to have two women who worked for me stay late and stuff envelopes. Both of these women were classified employees, and I was not going to ask them to stay after work. I did ask them to help us during the lunch hour, stuff some envelopes, and that is what

they did. The Controller did not mind interjecting herself and her campaign needs into our own time. I was told that she wanted Jennifer Normington, Sherry Valdez, and me to go to an Incline Village Republican candidate function, and then we could go to my house in Incline, spend the night. It was only later that I found out that she planned on us stuffing over 800 invitations.

The difficult thing about working for the Controller was her inconsistency and double standards concerning work and her campaign. She had no problem letting Sherry leave work early to go to the lake to stuff envelopes, nor did she have a problem when she asked Jennifer and Sherry to stop by a jewelry store, after an event in Reno honoring administrative assistants, to check on a fundraiser the owner of the jewelry store was having. But a year later, after the same event, when Sherry Valdez and Sherry Hudder returned late to the office, she screamed and yelled and told them that they had to take annual leave for going to the luncheon that she had directed me to take them to.

Lastly, she says, "In hindsight, I should have known that employees' time spent on my campaign crossed the line, that I admit . . ." Crossed the line, as far as I am concerned, is a gross understatement. I personally drafted invitations; helped Jennifer with the campaign contribution reports; wrote answers for campaign questionnaires; made personal phone calls related to potential fundraisers; and attended events during and after state hours. She also required me to fill out forms nominating her for awards. Also, the Controller wanted to have a presence at every event for which she received an invitation, including ribbon cuttings, award dinners, dedications, political functions, et cetera. The purpose of these events, I believe, was more related to her political ambitions and increasing her personal visibility than it was in representing the State Controller's Office. On the sheet that you received, it says that there were examples attached, and I did not attach those examples of proof of the statements that I am making. But if anyone would like to have copies, I can obtain them for you. The most important . . .

CHAIRMAN PERKINS:

What is on the sheets?

JEANNINE COWARD:

It was verification of emails, questionnaires that I filled out with direction from the State Controller, and the personal things that she asked me to do for the campaign.

CHAIRMAN PERKINS:

They are not in the exhibits in the blue binders?

JEANNINE COWARD:

I do not believe they are. Are they?

CHAIRMAN PERKINS:

How many copies . . .

JEANNINE COWARD:

There may be some of them because I noticed here 34 through 38 were some of the things that I worked on, which were candidate questions, drafting the Knecht invitation and the response, that was in there . . .

CHAIRMAN PERKINS:

Could you just pass what you have to me and let me take a look at it before you continue?

JEANNINE COWARD:

Okay.

CHAIRMAN PERKINS:

Go ahead and pass it back to the Chief Clerk and let me take a look at it.

JEANNINE COWARD:

Okay. The most important contributing factor for employees not being willing volunteers...

CHAIRMAN PERKINS:

I am sorry. I need you to pass that back to me now. Let me take a look at it, and we will see if it is . . .

JEANNINE COWARD:

I do not have it.

CHAIRMAN PERKINS:

You do not have it?

JEANNINE COWARD:

I do not have them all with me in any kind of order. They are in a bunch of folders . . .

CHAIRMAN PERKINS:

Okay. Then continue with your testimony.

JEANNINE COWARD:

The most important contributing factor for employees not being willing volunteers was the existing hostile work environment. In June of 2001 in prior, I went to Personnel and Risk Management regarding the situation. But before I went to them, I discussed the problem with the State Controller. I had researched the subject of hostile work environment and asked her to read the statement below and tell me if she thought it described our office atmosphere. This was June of 2001. It says:

“Unpleasant work environments are tremendously painful. They crush the spirit, demoralize employees, and deaden the willingness to go the extra mile for each other. The human toll of an unpleasant work environment is significant. Employees begin to dread coming to work. They go home drained, exhausted, and frustrated.” Her response was, “No.” She did not think that described our office and that she was not trying to win any popularity contests. I then suggested that she at least try to discipline employees in the privacy of her office instead of yelling at them in front of the entire staff and humiliating them. For a while she took my advice. I reported my conversation to our AG (Attorney General) representatives so that it would be on the record. Prior to my resigning, I engaged in conversations with both Risk Management and Personnel regarding the hostile work environment that existed, an environment that had contributed to the transferring or early retirement of key people. Turnover was rampant and I was concerned about the mental health of our employees. During my four years, there were four chief deputies, one of whom left to take a deputy position with the Treasurer.

I had many discussions with Don Miller from Risk Management. He teaches courses for the safety administrators and even added a class for dealing with hostile work environments. It is my understanding he tried to talk to the Controller and was told that, “Those who did not like it could leave.”

In November or December of 2002, I met with the Director of Personnel, Jeanne Greene, for 1^{1/2} hours to discuss the hostile work environment, as well as the political work done on state time. She called in her AG and I spent another 1^{1/2} hours discussing the situation. I had read that the director remembers our conversation regarding the hostile work environment but not the issue of using our employees for the Controller’s campaign. However, I did discuss both issues and was told that, “The State Controller was elected by the people of this state and, as such, answers only to the people.” They could not do one thing for us. Personnel did, however, help Susan Kennedy and Jennifer Normington find new positions.

Lastly, there have been comments by the Controller asserting that these proceedings might be only the result of a “disgruntled” employee. She has admitted reprimanding Jennifer Normington for not getting certain state work done. Work was not done by Ms. Normington because she was spending an inordinate amount of time on the campaign of Ms. Augustine. She was requiring so much of Jennifer’s time that her check-logging responsibilities had to be assigned to someone else.

In closing, I would like to make the point that even if the charges were brought about by a disgruntled employee, which they are not, it has no bearing on the charges or her guilt. Controller Augustine violated the law and the trust of the people who elected her by coercing her employees to work on her campaign during state working hours, and she deserves to be

impeached. The Ethics Commission findings and ultimate fine only addressed the time expended by Jennifer Normington. It does not address the other employees' time and compensation. A fine of \$15,000 is a small amount to pay for the in-kind contribution the state made for the reelection of Controller Augustine.

The stipulations from the Ethics Commission only address NRS 281.481(7). I believe that there is evidence that she also violated 281.481(2), which prohibits a public officer from using his position in government to secure or grant unwarranted privileges, preferences, exemptions, or advantages. It was not unusual for her to request "comp" hotel rooms or tickets to social or charity functions. In fact, she did that on a regular basis. Certainly, NRS 281.481(9) was violated, when, by using three state employees to work on her campaign, she benefited her personal interest with an unfair advantage over her opponent, John Lee, who had to pay for his campaign staff.

NRS 281.611(1), Disclosure of Improper Government Action, defines improper action as an abuse of authority and a gross waste of public money. In both cases, the Controller certainly violated the public's trust and wasted the public's money.

And in conclusion, I believe Controller Augustine does deserve a fair hearing for the charges against her. But I believe the people of this state, whose trust she has violated, also deserve a fair hearing.

CHAIRMAN PERKINS:

Thank you for your testimony. Did you ever see Controller Augustine lose her temper?

JEANNINE COWARD:

Many times.

CHAIRMAN PERKINS:

The reason I ask that is you mentioned that it was well known in the office that that happened. I wanted to see if it was something you had witnessed yourself.

JEANNINE COWARD:

It was well known. There were tantrums, as I said, about the size of labels or the size of a font on a letter. One time she came in and started throwing envelopes all over the place because she said . . . she picked up one and said somebody had died and somebody else was not in that position. There were 800 envelopes that went with personalized letters for a workshop that we were doing for accountants in the state. And, because she threw the envelopes all over the room, it took two hours the next day for the women who worked for me to match up the personalized letters with the envelopes. And that was just a typical day at our office.

One day I was talking to someone in Business and Industry in their attorney's office and she had been trying to get me on the phone. She came in and hit my "hold" button while I was talking to him. Those are just a few of the examples.

She would yell and scream. She ordered one of our chief deputies to get their "a _ _" back over to the Legislature one time, in the middle of the office, screaming at him. It was a regular occurrence. So, no one wanted to confront her on anything. So everybody tried to get along, tried to do their job, but no matter how hard they tried, it was impossible to please her because she would always find something that was wrong.

CHAIRMAN PERKINS:

Did you ever confront her about doing campaign work on state time?

JEANNINE COWARD:

Only to the extent that when I first asked her, the very first time, she asked me to do something, I told her it was not appropriate, and she told me to do it at 5:00 p.m. So from that moment on, I knew that it was a closed issue. Then, after Jim refused to do the work, there was no one at all who was going to bring up the issue with her.

CHAIRMAN PERKINS:

Was her response that you should do it after 5:00 p.m. just an indication that she did not want you to do it on state time?

JEANNINE COWARD:

I do not think so. I was going to have to do it whenever I did it. I think she just said that to appease me, because what she was telling me was, I was going to do it, whenever I did it, but I was going to do it.

CHAIRMAN PERKINS:

You mentioned the issue with Mr. Wells and that she was upset with him?

JEANNINE COWARD:

Yes.

CHAIRMAN PERKINS:

Was there anything else in Mr. Wells' employment or his performance in his employment that would have made her as upset at him?

JEANNINE COWARD:

Absolutely not.

CHAIRMAN PERKINS:

How many hours do you think you worked on campaign items on state time?

JEANNINE COWARD:

I do not know. I would guess, maybe with attending events, I probably spent maybe 80 hours. There was a lot of extra work that she expected me to do. And for about a year and a half . . . or two and a half years, I kept track of my time. I think the middle of 2002; I quit counting because I accumulated up to 160 hours, and figured I was never going to be compensated, so I just quit counting. After that I do not know how much was campaign time because it was so intermingled.

CHAIRMAN PERKINS:

You spent some time talking about a hostile work environment . . .

JEANNINE COWARD:

Yes.

CHAIRMAN PERKINS:

This is certainly not in and of itself the topic for our hearing today. Was that hostile work environment because of her management style and attitude, or was it because she was trying to have people do things that they were not supposed to do on state time?

JEANNINE COWARD:

No. She was hostile about state work as well as campaign work. She just had a way of losing her temper about things that she thought might reflect poorly on her, like the size of a font on an envelope.

CHAIRMAN PERKINS:

I guess what my question is why . . . how does a hostile work environment, if . . .

JEANNINE COWARD:

Because she is saying we were volunteers. In a hostile work environment, you are not particularly inclined to volunteer your time to work for someone who treats you like a slave.

CHAIRMAN PERKINS:

So, your point is that those employees that she is claiming were volunteering on her campaign would not have volunteered on a campaign for somebody who conducted himself or herself in the fashion that she did.

JEANNINE COWARD:

Exactly. I think if you asked them if they voted for her, they would tell you they did not. So, they hardly would be working on her campaign.

CHAIRMAN PERKINS:

When you were at the Department of Personnel and spoke to the Director, and after that her Deputy Attorney General, do you remember who the AG was?

JEANNINE COWARD:

Yes. It was Jim Spencer.

CHAIRMAN PERKINS:

Jim Simpson?

JEANNINE COWARD:

Spencer.

CHAIRMAN PERKINS:

And that is the person you talked to primarily about doing state work or campaign work on state time?

JEANNINE COWARD:

I did. However, he says he does not recall the conversation.

CHAIRMAN PERKINS:

Any further questions for her? Mr. Arberry.

ASSEMBLYMAN ARBERRY:

Jeannine, I know that you are a very strong woman. I have served with you in the Legislature. And for me to sit here and hear it come from you, from someone that is the Controller, it appears that she was trying to control. The question I have for you, other than just in the office environment, were there any other times that you might have attended an out-of-state function, or something to that effect, and found yourself put in the same position as an embarrassment to us, as a state? Or as a representative to the Controller?

JEANNINE COWARD:

Generally, when we traveled out of town, arrangements were made for us, but it appeared that every time we arrived at a hotel there was something wrong with the rooms that were provided. It seemed as if every time we went on a business trip and represented the state, we would end up being embarrassed because there would be a tantrum at the hotel registration desk because the rooms were not together, not on the right floor, not on the right side of the building or they did not have the right size bed. There was always something wrong. It was just very hard to do things that she would be pleased with, no matter how hard you tried.

ASSEMBLYMAN ARBERRY:

Thank you, Mr. Speaker.

CHAIRMAN PERKINS:

Thank you, Mr. Arberry. Ms. Buckley.

ASSEMBLYWOMAN BUCKLEY:

I am wondering if we could get some additional clarification on the amount of time that you spent during state hours for campaign-related work, and perhaps breaking it down to years, or percentages, just to get some better sense of the time?

JEANNINE COWARD:

I will try. It was so intermingled that it is really difficult to define exactly how many hours. Many times, I would do the initial work, say, for the campaign questionnaires that you all have to fill out; I would do the answers. Then I would send them over to Jennifer, who would finalize and prepare the final document to send in to whoever was requiring the information. So, sometimes it was a joint effort by both of us.

ASSEMBLYWOMAN BUCKLEY:

Recognizing that you might not have completed it all, can you give us an estimate of how much time that was?

JEANNINE COWARD:

I would estimate over the year and a half or two of the campaign part, it was probably 80 hours of preparing documents, talking to people about fund-raisers, making phone calls, making follow-up calls, talking to them, calling people that she thought were going to do fund-raisers for her, and trying to catch up with them and see if they actually wanted to do a fundraiser.

CHAIRMAN PERKINS:

And those 80 hours were on state time that you are talking about? Or were those off-duty time?

JEANNINE COWARD:

I would say that probably was mostly state time. I had helped Jennifer initially, trying to get some of the mailing lists together. I spent the better part of a day before one of the financial contribution reports was done because none of the numbers were totaling up, and I put together a new spreadsheet for Jennifer so she could go through all of the different reports and try to make the numbers balance.

ASSEMBLYWOMAN BUCKLEY:

Last question. You said, I think, a few minutes ago before start of questioning, that you got to 160 hours and then you stopped writing it down. What did that reflect?

JEANNINE COWARD:

That was just hours that, when I had to attend functions in the evenings, it was travel functions. When we went out of town one night, I think it was November 11 because it was Veterans' Day. In order to get a cheap ticket, she made us fly on a 10:30 p.m. "red-eye" to Florida, and we got there about 6:00 a.m. We were there at meetings all day Saturday and Sunday. We never were compensated for any of those weekends that we attended meetings.

CHAIRMAN PERKINS:

Mr. Hardy.

ASSEMBLYMAN HARDY:

A follow-up question, if I may, on that same issue. Are you a salaried employee or a punch-a-clock employee?

JEANNINE COWARD:

No. I was a salaried, unclassified employee, which means I was an at-will employee and could be terminated at any time.

ASSEMBLYMAN HARDY:

And Jim was likewise in the same position?

JEANNINE COWARD:

Jim was also an unclassified employee as the Chief Deputy.

ASSEMBLYMAN HARDY:

Where I am trying to go with that is the state time versus the personal time when you are a salaried employee. It seems like it has been more flexible traditionally.

JEANNINE COWARD:

It is. It is more flexible, but when you get to 160 hours, it is a little inflexible.

ASSEMBLYMAN HARDY:

Is that 160 hours over how many months?

JEANNINE COWARD:

That was a year and a half that I started counting to see how many extra hours I was putting in.

ASSEMBLYMAN HARDY:

Those 160 hours do not include hours that other people who were on an hourly wage were being involved?

JEANNINE COWARD:

No. That was work outside.

ASSEMBLYMAN HARDY:

Thank you.

CHAIRMAN PERKINS:

Thank you, Mr. Hardy. Mr. Seale.

ASSEMBLYMAN SEALE:

Ms. Coward, what were the circumstances of your departure from the state?

JEANNINE COWARD:

The State Controller told me in late December of 2002 that she thought that I was going to be too busy during the legislature session to handle the debt collection project, that she was going to turn it over to one of the accountants in the office. In December I told her that if she decided to do that, that I probably would resign because that was the only reason I had stayed in the position as long as I had. I had not been happy with the job description that I had started with, but once the debt collection project started, it was exciting and it was interesting and it was challenging. So I told her I would probably decide in January what I was going to do, if she made that decision. I told her at the time, "You are the boss and it is your decision to make, but I probably will not stay, if that is the decision." When I came back after Christmas, she told me she had decided she was going to turn over the project to one of the accountants. So, at that time, I told her I would probably be leaving the end of the month.

ASSEMBLYMAN SEALE:

So you did not resign because you were required to do campaign work?

JEANNINE COWARD:

No, I did not. I really loved the job I was doing and I enjoyed working with the people that worked under me. I still found it very stimulating and we had a lot of work I thought that we could still do. After the first year when the debt collection project was approved, the second legislative session, I was responsible for refining the process that we used and I really enjoyed that. I did not like the environment in the office. However, I have a very supportive husband, and I knew, unlike many of the people in the office, that, if one day I got fed up, I could walk out. I fully thought that probably some day I would get that fed up and just walk out and say I am never coming back. But I did not. I gave her my two weeks notice and left officially on January 31. After I turned in my resignation, she never spoke to me again.

CHAIRMAN PERKINS:

Mr. Mabey.

ASSEMBLYMAN MABEY:

Ms. Coward, a question. How many employees were in that department where you work?

JEANNINE COWARD:

I believe there were about 45.

ASSEMBLYMAN MABEY:

To your knowledge, were there any employees who were happy with Kathy Augustine?

JEANNINE COWARD:

As in all offices, there were always a few people.

CHAIRMAN PERKINS:

Thank you, Mr. Mabey. Ms. Giunchigliani.

ASSEMBLYWOMAN GIUNCHIGLIANI:

A couple questions, Ms. Coward. I am looking in Exhibits 36 and 37, which I think you said were some of yours, with your handwritten notes. Is that correct? One regarding Ron Knecht from Howarth & Associates, one about invitations, parties, and so forth. If you need the number...

JEANNINE COWARD:

I'm sorry. I did not hear your question.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Are these your handwritten notes on these documents? Exhibits 36 and 37?

JEANNINE COWARD:

Those were the Controller's notes. Are you talking about the ones that say to move the lines and the boundaries?

ASSEMBLYWOMAN GIUNCHIGLIANI:

Correct.

JEANNINE COWARD:

Those were all the Controller's.

ASSEMBLYWOMAN GIUNCHIGLIANI:

That is her handwriting?

JEANNINE COWARD:

That was my document that she was editing.

ASSEMBLYWOMAN GIUNCHIGLIANI:

So, for example, the e-mail on Exhibit 37, from Ms. Augustine to you at 4:00 in the afternoon was regarding a fundraiser for a cocktail party? Then, the notes that are actually written on that document would be . . .

JEANNINE COWARD:

I was having a little trouble deciding which ones were which, because all I have are the titles of those. Let me see here. I do not see Exhibit 37.

CHAIRMAN PERKINS:

Right after Exhibit 36.

JEANNINE COWARD:

Yes. If I had a math background I would know that. Those notes are mine. Those were when I was supposed to call Elise and Roger Norman. That is my handwriting about a cocktail party, and then notes to Ron Knecht about the fundraiser that he was going to have.

ASSEMBLYWOMAN GIUNCHIGLIANI:

I note the time on the email from her to you; that it is definitely within the workday.

JEANNINE COWARD

Right. Then the next one is the actual email I sent to Elise Norman asking about the fundraiser.

ASSEMBLYWOMAN GIUNCHIGLIANI:

That is an example, then, of a type of intermingling, as you use the term "intermingled activities"?

JEANNINE COWARD:

Yes. If she walked in and said, "Have you called Elise Norman yet?" Then if she walked out of the office, I would call Elise Norman. Or had I called John Medow at the Contractors or any of the other potential contributors to her campaign. If she said, "Have you called them yet?" then that meant I was supposed to get on the ball and call them.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Then, in addition to that you commented on traveling functions, that a great number of invitations came in from all over the state as well as outside of state, and that there was an assumption that someone needed to be present for that.

JEANNINE COWARD:

Yes.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Who made the decision that those were related to the Controller's position and needed to have staff there?

JEANNINE COWARD:

As far as the Controller was concerned, she expected to have a representative at every meeting. She did not try to discern any difference in a social gathering or a function that might pertain to the Controller's Office. Every event was to be attended, much the same way a congressman or senator's office, a federal office, runs.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Were you in your position at the time that the Legislature conducted an audit regarding the travel in this regard?

JEANNINE COWARD:

Yes. I was there when the first audit was done.

ASSEMBLYWOMAN GIUNCHIGLIANI:

The audit, I believe, if I recall, also dealt with the perception by the Controller that just because an invitation came, therefore, it meant it was state-related, not related otherwise.

JEANNINE COWARD:

That is true. Her position was that she would not have gotten the invitation if she was not the State Controller, therefore it was Controller-authorized.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Finally, I am concerned that in your conversations, as well as the young lady prior to you, with the Personnel Division, at no time, were any of you advised to file for whistleblower status. Not that it is strong, tough law, but any kind of hostile work environment, even though you were at-will, warrants some protections, but you were never told to do any of that?

JEANNINE COWARD:

They did tell us that we could file a complaint against the Controller, but nobody was going to do that while they were working in that office. There is one person that will testify, who is still working in that office, and she might be able to answer that for you.

ASSEMBLYWOMAN GIUNCHIGLIANI:

At no time did you, or any of the staff that worked with you, file any kind of leave request or compensation document, or request for making up for the time that you had . . .

JEANNINE COWARD:

No, because as an unclassified employee, we know that we are supposed to be available to do our job. So, I never really expected, even though I was keeping track of my hours, to be compensated for them.

ASSEMBLYWOMAN GIUNCHIGLIANI:

On the performance expectations, or your job descriptions, does it say, "Other Duties as Assigned"?

JEANNINE COWARD:

I think it probably does.

ASSEMBLYWOMAN GIUNCHIGLIANI:

So, the assumption was, regardless of whether you agree with those other duties, that you had to do what you were assigned to do.

JEANNINE COWARD:

Yes.

CHAIRMAN PERKINS:

Thank you, Ms. Giunchigliani. Mr. Anderson.

ASSEMBLYMAN ANDERSON:

Thank you, Mr. Speaker. My question is similar to that of Mr. or Doctor . . . relative to the makeup of the staff in the Controller's Office, and particularly the Carson City office. The number of employees, if I heard your response to Dr. Mabey's question, of 45, I presume, was the number of state staff? Or is it just the Carson City staff?

JEANNINE COWARD:

I am not sure now, almost a year and a half later, or almost two years later, what the number of staff is. When I left it was about 45 and, at the time, there was only one person in Las Vegas. I believe there are two now.

ASSEMBLYMAN ANDERSON:

Of the people who comprised the majority of the staff in Carson City, the salaried staff, what percentage falls into that category, appointed, just the five or six of you?

JEANNINE COWARD:

There were only three of us who were unclassified. It was Jennifer, the Chief Deputy, and the Assistant Controller.

ASSEMBLYMAN ANDERSON:

All of you were engaged in political activities for the office? None of you were on a full-time basis, at least, you had interaction with all of them on political questions only?

JEANNINE COWARD:

I am sorry, I did not understand your question.

ASSEMBLYMAN ANDERSON:

Those people were the only ones involved on the Controller's staff? Who were involved?

JEANNINE COWARD:

Except when Susan Kennedy was involved as her administrative assistant. She was classified at that point. During that legislative session it was changed from classified to unclassified, and Sherry Valdez is still a classified employee.

ASSEMBLYMAN ANDERSON:

Are there any other classified employees that you can think of, other than the ones you have identified already?

JEANNINE COWARD:

Those were the two that were classified.

ASSEMBLYMAN ANDERSON:

Thank you very much.

CHAIRMAN PERKINS:

Thank you, Mr. Anderson. Ms. Weber.

ASSEMBLYWOMAN WEBER:

I just wanted to get the timeline down in my head. The first term of the Controller was from 1998 to 2002?

JEANNINE COWARD:

She took office in January, 1999.

ASSEMBLYWOMAN WEBER:

I am trying to ascertain... you believe you would have been the second-in-command in the Division? Would that be correct?

JEANNINE COWARD:

Well, the Chief Deputy actually was the main person in the office who ran the accounting functions in the office. We were supposedly on the same level on the job chart; however, I answered directly to the Controller. So, I just did whatever she wanted me to do.

ASSEMBLYWOMAN WEBER:

If you can recall, with regards to the individuals that have been employed that are scheduled witnesses, were all these folks employed at the same time? Or some left and others took their place and had a similar complaint?

JEANNINE COWARD:

Yes. Jennifer Normington took Susan Kennedy's place. Susan will speak, I believe, after me.

ASSEMBLYWOMAN WEBER:

Thinking back, do you recall who was the first to notice or start a conversation with you or another appropriate individual regarding the allegations?

JEANNINE COWARD:

I am sure that Susan and I discussed her working on the campaign on the contribution reports before she left for her job at Benefits. Then from the minute Jennifer started working, it became a part of her job.

ASSEMBLYWOMAN WEBER:

I notice you both left the same day, January 31.

JEANNINE COWARD:

Yes.

CHAIRMAN PERKINS:

Thank you, Ms. Weber. Jeannine, you both left the same day. You are talking about Ms. Normington, right?

JEANNINE COWARD:

We did.

CHAIRMAN PERKINS:

You left state employment. She went to another job. Is that correct?

JEANNINE COWARD:

Correct.

CHAIRMAN PERKINS:

Ms. Gansert.

ASSEMBLYWOMAN GANSERT:

In your testimony you stated that you never considered yourself a volunteer on her campaign, and you did not believe anybody else did either. Had anybody volunteered for her in the past?

JEANNINE COWARD:
Not that I am aware of.

ASSEMBLYWOMAN GANSERT:
Had anybody been asked to volunteer?

JEANNINE COWARD:
We were never asked. We were told.

ASSEMBLYWOMAN GANSERT:
No one in the past had volunteered for her?

JEANNINE COWARD:
I think there might have been a couple of women in our office that did some voluntary work for her, but I do not know exactly what they might have done.

ASSEMBLYWOMAN GANSERT:
Thank you.

CHAIRMAN PERKINS:
Thank you, Ms. Gansert. Further questions from the Committee? Jeannine, you referenced Exhibits 31 and 37 when you were speaking, 31 in your testimony and 37 in your dialogue with Ms. Giunchigliani. Those are two documents that you have personal knowledge of?

JEANNINE COWARD:
Thirty one is the State Controller Employee Policy and Procedure Manual that I . . .

CHAIRMAN PERKINS:
That you worked on, correct?

JEANNINE COWARD:
That is the one I updated when I first came to the State Controller's Office because they did not have one that was official. So, I rewrote that whole policy.

CHAIRMAN PERKINS:
And 37?

JEANNINE COWARD:
Yes. That is the one that was related to the Knecht event and inquiring with Elise Norman, I believe.

CHAIRMAN PERKINS:
That is your handwriting on that. Right?

JEANNINE COWARD:
Yes. Those are emails to me, and it is also my writing on the Knecht email.

CHAIRMAN PERKINS:
That email says it is from Kathy Augustine to Jeannine Coward on March 25, 2002. Was that email sent to you in the office?

JEANNINE COWARD:
Yes.

CHAIRMAN PERKINS:
Are there other exhibits which you are personally familiar with?

JEANNINE COWARD:
All I had before I came was the list, so I was not sure just by looking at the list which ones applied to me.

CHAIRMAN PERKINS:

That is fine. We can take Exhibits 31 and 37 and add them to our legislative record.

JEANNINE COWARD:

I will go through the list and see which ones specifically were ones that I worked on.

CHAIRMAN PERKINS:

Let me also ask our staff to see if we can track down job descriptions for personnel that have been discussed this evening and will be testifying, and the job descriptions that were actually in effect during the time period in question.

JEANNINE COWARD:

I believe I have my job description with me today. I do not have it right here but. . .

CHAIRMAN PERKINS:

We will ask our staff to track that down. Thank you, Jeannine. Any further questions from the Committee? Thank you for your testimony.

Chairman Perkins announced if there were no objections, the Committee of the Whole would recess subject to the call of the Chair.

Committee of the Whole in recess at 4:22 p.m.

IN COMMITTEE OF THE WHOLE

At 4:46 p.m.

Chairman Perkins presiding.

Quorum present.

The impeachment of Controller Kathy Augustine considered.

CHAIRMAN PERKINS:

The Committee will come back to order. There are a number of exhibits in those two blue binders that have not been testified to by witnesses at this point. It is my understanding that Ms. Normington and Ms. Coward actually are the ones who are tied to those documents. So, we ask them, if they would, to come forward together and we will walk through the exhibits that we have not yet entered.

Also, let me indicate to this Body and to representatives for the Controller that after we complete the witness list that was suggested by the Attorney General's Office, it will be my intention to call the Executive Director of the Ethics Commission to testify in front of this Committee to talk about the stipulation that was entered into and those discussions.

Let me also caution the witnesses that the testimony should not be about personality conflicts or attitudes or the like. We want to hear about the activities that are in question, in particular, only accepting testimony relevant to the three violations stipulated to by Controller Augustine.

With that, ladies, would you please take a seat at the witness table together. Thank you. Whichever one of you wants to start, please state your name for the record and direct the Committee to the additional exhibits.

I believe, actually, we have 1 through 11 that the Committee has accepted. So that leaves Exhibits 12, 13, 14, 15 that we have not, 18, 32, 33, 34, 35, and 39 through 42.

JENNIFER NORMINGTON:

Beginning with Exhibit 12, entitled "Committee to Elect Kathy Augustine, Asian-American Political Action Committee," this was a questionnaire that was given to Controller Augustine by this political action committee, to fill out, which she did. The questions are in the first paragraph, next to the number; her response is the paragraph below. Not only did I type this out from her written notes, but I designed the mock letterhead because at the time they were asking for these I realized that everything that we were sending out was on Controller's Office stationery and that did not look appropriate.

CHAIRMAN PERKINS:

Ms. Normington, did you complete that on state time?

JENNIFER NORMINGTON:

Yes, I did, sir, on state time on my state-issued computer.

CHAIRMAN PERKINS:

Okay. Please continue.

JENNIFER NORMINGTON:

Exhibit 13 is a fax from Controller Augustine to Robert Seale, who was the then-Republican State Party Chairman.

CHAIRMAN PERKINS:

Sorry, Bob.(Referred to Assemblyman Seale).

JENNIFER NORMINGTON:

Again, I designed the fax cover sheet so that we did not have to fax things out on Controller's Office letterhead as we had done previously. Again, she handwrote out what was to be written. I typed it and faxed it for her.

CHAIRMAN PERKINS:

So, I am looking at all these facsimile cover sheets. Were all those created by you?

JENNIFER NORMINGTON:

Correct, sir. They were all created by me.

CHAIRMAN PERKINS:

Where were they faxed from?

JENNIFER NORMINGTON:

They were faxed from the machine inside the Controller's Office in the Capitol. I believe there was another fax machine that was in the Capitol Annex, but it was the fax machine located directly behind and to the right of my desk.

CHAIRMAN PERKINS:

Is that fax machine owned and maintained by the State of Nevada?

JENNIFER NORMINGTON:

Yes, it is.

CHAIRMAN PERKINS:

I do not know that you need to speak to each individual fax, whether or not you did it, if your answer was collective; that you handled all of those.

JENNIFER NORMINGTON:

There are two additional items in Exhibit 13. One is a letter to Mrs. Leah Roberts, who was then President of the Nevada Federation of Republican Women. Again, this was handwritten by Controller Augustine. I typed it and printed it on letterhead. I do not recall if the letterhead was State Controller's Office letterhead or her campaign letterhead that she brought up to the Controller's Office around April . . . early springtime period.

CHAIRMAN PERKINS:

But the work conducted on that letter was done on state time as well?

JENNIFER NORMINGTON:

Correct.

CHAIRMAN PERKINS:

Okay. And the last letter?

JENNIFER NORMINGTON:

The last letter is a contribution letter that I filled in the blank on who I was sending it to. And, again, that was handwritten by Controller Augustine, and I typed it and went through numerous revisions on it on state time using my state-issued computer.

CHAIRMAN PERKINS:

Okay.

JENNIFER NORMINGTON:

Exhibit 14, this is a collection of letters that are seeking endorsement and support from several organizations of which Neena Laxalt was a member. So, it goes through the Nevada Nurses Association, Nevada Propane Dealers Association, et cetera. Ms. Laxalt directed Controller Augustine to make a standard letter, which she scripted. I typed the letter on my computer, at my desk, and then changed the address to the different organizations, and Ms. Laxalt would then present them to the organizations she was affiliated with. After the letters, there is a table, which says: "Item, Donor, Value." This was a silent auction donation sheet I created for the State Controller to use at different fund-raising events when there were silent auction items. It was initially done for the December fundraiser at Tristan of Beverly Hills jewelry store, located in Park Lane Mall in Reno. This was done on state time using my state-issued computer.

CHAIRMAN PERKINS:

Is there anything in Exhibit 14 that is not campaign related?

JENNIFER NORMINGTON:

Let me review and I will tell you.

CHAIRMAN PERKINS:

I am looking at a biography, State of Nevada Controller's Office, Kathy Augustine Biography.

JENNIFER NORMINGTON:

That biography is what is posted on the State Controller's website. This was part of a press packet she had me put together to give out to the press at campaign functions. So it was used dually on her website, as her official biography, as well as handing out to campaign contributors, possible endorsement . . . people who would give her endorsements as well as the press.

CHAIRMAN PERKINS:

Were all of the things under Exhibit 14 used in the course of the Kathy Augustine campaign?

JENNIFER NORMINGTON:

Yes, they were, sir.

CHAIRMAN PERKINS:

And were all of them prepared by you? Or gathered together by you?

JENNIFER NORMINGTON:

The only one that was not prepared by me is the biography which is posted on the Controller's Office website by Barry Morgan, who was then in charge of the computer portion of the Controller's Office. I copied it and pasted the last entry where it has the Seal of the State of Nevada, it says, "Nevada State Controller Kathy Augustine: Biography." That one I cut and pasted the text but formatted the heading specifically for her use in press packets that were given out during her campaign.

CHAIRMAN PERKINS:

Okay.

JENNIFER NORMINGTON:

Exhibit 18 . . .

CHAIRMAN PERKINS:

And is Exhibit 15 not something you have knowledge of?

JEANNINE COWARD:

Fifteen is mine Mr. Speaker. Would you like us to go in order or do you want . . .

CHAIRMAN PERKINS:

No.

JEANNINE COWARD:

Or do you want Jennifer to finish hers?

CHAIRMAN PERKINS:

Yes, we can have Jennifer finish hers. I just did not know if Exhibit 15 was something she had knowledge of or not. Or if it might be more appropriate for you to talk about, Jeannine.

JENNIFER NORMINGTON:

There are portions of Exhibit 15 that I had knowledge of and there are portions that did not. If you turn to where it says, "Committee to Elect Kathy Augustine, *Las Vegas City Life*, Controller Q&A," I wrote the answers that the Controller scripted. She faxed them from her Las Vegas office to the Carson City office, and she also instructed Mrs. Coward to give her responses to some of the questions and to e-mail those responses to me to then incorporate into this document and send to the *Las Vegas City Life*. With your permission, I will continue to look through to see if there are other items.

CHAIRMAN PERKINS:

Please.

JENNIFER NORMINGTON:

The next item, that is a printout from *Las Vegas News and Culture Weekly*, titled "Monday, September 30, 2002: Candidate Question and Answer: State Controller." The Controller instructed me to type her written responses to this and for a more expedient format, sir, what I did was I went to the website, highlighted the article, and then pasted it onto a Word document so I did not have to retype everything, just the Controller's responses. That specific page is just a cut-and-paste from the website, and then following that are her responses.

Moving on to Exhibit 18, titled "Events Schedule," these are event sheets that I designed for the Controller. Whenever she had scheduled meetings with people, she wanted to know what the event was, the date, the time, the location, directions, the on-site contact, phone numbers, the appropriate dress code, and any special instructions. The first one, which says, "Meeting with Sylvia Samano, President of SBC Nevada Bell," that was an event, a meeting that was scheduled so the Controller could speak to her and, hopefully, get a large campaign contribution from Nevada Bell. The next one is a meeting with the state party.

CHAIRMAN PERKINS:

You do not need to go through . . .

JENNIFER NORMINGTON:

Okay. Under activities, it basically lists what everything is. But these are event sheets that I designed, and then another page of air travel. She wanted to have one sheet, wherever she went, that had all of the information that she needed.

CHAIRMAN PERKINS:

It seems to me that could have certainly been something she was doing while on official state business. Were any of these done as part of the campaign?

JENNIFER NORMINGTON:

Typically, sir, with any of the air travel that was done, if she could, she incorporated campaign work into the time she was spending on state business. So, a typical trip would include flying to Las Vegas to McCarran International Airport, going to the Controller's Office, from

there going to a Republican Women's luncheon, going to a fundraiser, seeing contributors, going back to the Controller's Office, and then flying back out.

CHAIRMAN PERKINS:

Let me interrupt you for a minute. The one that you have included in this exhibit is a flight from McCarran International Airport to, it looks like, Oklahoma City, Oklahoma. It does not appear to me that is a campaign-related function. Unless you can . . .

JENNIFER NORMINGTON:

I do not believe it was, sir. I believe it was included just as an example.

CHAIRMAN PERKINS:

All right.

JENNIFER NORMINGTON:

Mrs. Coward says she believes this is the trip to the National Association of State Controllers, Treasurers, and Auditors.

CHAIRMAN PERKINS:

Okay.

JENNIFER NORMINGTON:

The following is a calendar of Lincoln Day events. I did not create this. I was e-mailed this by Judy Cox, formerly with the Lieutenant Governor's Office, and she did it so I could keep track of where the Controller was supposed to be for her Lincoln Day events. The next page says, "Current On-Going Projects for the Week of 3 June 2002." These were my to-do lists that I kept on my computer as long as the Controller allowed me to do so. So, there is regular Controller's Office work on there and most of it has to do with campaign work. There are various examples of this. The Controller did not allow me, during my entire employment, to keep these records on my computer. She wanted them hand-written in a different format that she preferred.

CHAIRMAN PERKINS:

Were any of the items in Exhibit 18 created outside of the Controller's Office?

JENNIFER NORMINGTON:

No, sir.

CHAIRMAN PERKINS:

Thank you.

JENNIFER NORMINGTON:

With the possible exception of the Lincoln Day calendar; I do not know where that was created.

CHAIRMAN PERKINS:

But it was emailed to you in the Controller's Office?

JENNIFER NORMINGTON:

Correct. It was emailed to me from the Lieutenant Governor's Office upstairs to the Controller's Office downstairs.

CHAIRMAN PERKINS:

Thank you.

JENNIFER NORMINGTON:

Then the final exhibit that I need to address is Exhibit 33. It is a photocopy of the logo on her campaign contribution envelopes. Unfortunately, that was the only thing that was done in black and white; everything else for her reelection campaign was in her campaign colors of red and white. What was not photocopied is the inside flap as the envelope folded over. When you folded it up, there was a list of "Please accept my donation for . . ." and it had suggested incremental amounts and a box for "other." Down below it, it had a list of "Yes, count me in to

support Controller Augustine.” And then it had examples of “I will put up a yard sign,” “You can use my name for an endorsement,” “I will host a fundraiser.” And every envelope that she got back, the Controller asked me to keep track of: to keep a record of who would do what; whether it was personal endorsements; whether it was company endorsements; and just anything else; if they would do a yard sign; if they would do a fundraiser. It was my responsibility to follow up on all of those and, whenever possible, ensure that it was done.

CHAIRMAN PERKINS:

There is a return address on Maria Elena Drive in Las Vegas. That is not the Controller’s Office, is it?

JENNIFER NORMINGTON:

No, sir. That is Controller Augustine’s primary residence in Las Vegas. All of her campaign material that was printed had that office address on it, the only exception to that being she had stationery that was 8 1/2” x 11”.

CHAIRMAN PERKINS:

Why is this exhibit relevant to her conducting political activities on state business time?

JENNIFER NORMINGTON:

Because I kept the copies. All of those envelopes that came back, she brought into the office.

I kept in a file in my desk, along with the lists of people who were supporters, contributors, possible fundraisers. All of the information that was on that list, on those envelopes, was kept at my desk and put into different formats that she requested on my state-issued computer.

CHAIRMAN PERKINS:

Thank you.

JENNIFER NORMINGTON:

You are welcome.

CHAIRMAN PERKINS:

Are there any other exhibits that you have personal knowledge of?

JENNIFER NORMINGTON:

Not that I have not previously addressed, sir.

CHAIRMAN PERKINS:

Are there any questions from the Committee? Mr. Anderson.

ASSEMBLYMAN ANDERSON:

The State Controller is Controller twenty-four hours a day. There is never a time when she is not the Controller. Is it necessary for the office to track her time, to have a calendar of her events?

JENNIFER NORMINGTON:

Yes, sir, it is.

ASSEMBLYMAN ANDERSON:

It would be important for you but that is not necessarily, in and of itself, a political activity. In your opinion, was that a political activity, merely tracking her presence either here or there, furthering her political campaigns?

JENNIFER NORMINGTON:

The actual calendars that were kept in pencil were kept on the desk and are still the property of the Controller’s Office. There was not a separate calendar that delineated regular events, just as attending Controller functions for national associations, versus campaign functions. Everything was on the same calendar.

CHAIRMAN PERKINS:

I think, Mr. Anderson, the point you are making is a good one in that you know mingling political-type calendars with state responsibility calendars is not necessarily a campaign activity. Because the office has a need to track the Controller's whereabouts in order to ensure that she is where she needs to be for the official events.

JENNIFER NORMINGTON:

I asked the Controller about it; she said it was not a problem. I spoke with Linda Frederickson, who is the State Treasurer's executive assistant, and she told me that the policy in that office was to keep two separate calendars, and she only kept track of the events that were strictly related to that office.

CHAIRMAN PERKINS:

Ms. Weber.

ASSEMBLYWOMAN WEBER:

Per Exhibit 33, I am assuming that what you are saying is that when the Controller flew to southern Nevada to that address, that the invitations or information received back was brought into the office to update?

JENNIFER NORMINGTON:

That is correct.

ASSEMBLYWOMAN WEBER:

I wanted to find out, since there is probably a northern Nevada residence, was that also involved as well?

JENNIFER NORMINGTON:

No. There were a few invitations that went out to fundraisers in the Reno-Sparks-Carson City area. Invitations had either the northern Nevada address in Reno; the southern Nevada invitations to fundraisers had the Las Vegas address. Her contribution envelopes only had the Las Vegas address.

CHAIRMAN PERKINS:

Thank you, Ms. Weber. Ms. Coward, did you have some of these exhibits you can clear up for us?

JEANNINE COWARD:

Yes. I will address Exhibit 15, I think Jennifer did Exhibit 15 as well. This first piece in here that starts, "And the \$143 million in outstanding debt," that is a paper I generated. And the second page, I am not really sure what we were addressing.

JENNIFER NORMINGTON:

Those were responses to . . . Mr. Speaker, may I?

CHAIRMAN PERKINS:

You know what? I think we are going to skip Exhibit 15.

JENNIFER NORMINGTON:

Okay.

JEANNINE COWARD:

Okay.

CHAIRMAN PERKINS:

I am not sure. There is a lot of information here that could be official types of things.

JEANNINE COWARD:

The only reason . . .

JENNIFER NORMINGTON:
Those were . . .

CHAIRMAN PERKINS:
I do not think we are going to accept Exhibit 15.

JEANNINE COWARD:
Oh, is that what that was? The reason I was going to mention Exhibit 15 is because that was the *City Life* questionnaire.

CHAIRMAN PERKINS:
Right. Jeannine, we are not going to review Exhibit 15. Is there another one you would like to point our attention to?

JEANNINE COWARD:
Right. But the point that I wanted to make was, Exhibits 33 and 34. The Exhibit 15 is directly related to Exhibit 34. If you see the *Las Vegas Press* on there, and it says *City Life* that was the email of the questionnaire that was sent to me, and there is a note, "Jeannine, how do you like these questions? It is a direct attack or something." The last page under 34 was my response to her about the questionnaire, *The City Life* questionnaire, which is in Exhibit 15. That was the only comment I wanted to make.

CHAIRMAN PERKINS:
Okay.

JEANNINE COWARD:
Exhibit 32, the first page, is just a map of the first floor of the Capitol Building, including the Controller's Office and her assistant. The other three pages are maps of the three floors of the Annex Building where the Controller's Office is housed. These maps were located in the Policy and Procedure Manual regarding safety and also posted on each floor for fire escape directions.

CHAIRMAN PERKINS:
I am not sure I understand why that is relevant to our proceeding.

JEANNINE COWARD:
I do not know why they are in there.

CHAIRMAN PERKINS:
Okay.

JEANNINE COWARD:
Unless because they were part of the Safety Manual. I am not sure. Or unless the map of the Controller's Office shows that the proximity of the Assistant Controller was right next door.

JENNIFER NORMINGTON:
Her executive assistant.

JEANNINE COWARD:
I mean her executive assistant and that she . . .

CHAIRMAN PERKINS:
We can skip Exhibit 32. I think the proximity has been testified to.

JEANNINE COWARD:
Okay. In Exhibit 34 I just addressed, Exhibit 35 was another questionnaire, I believe, from SNEA that was sent over to me. That is my handwriting on that questionnaire.

CHAIRMAN PERKINS:
Okay.

JEANNINE COWARD:

Right. It was sent from SNEA, I think I already addressed Exhibit 36.

CHAIRMAN PERKINS:

Exhibit 36 you have already addressed.

JEANNINE COWARD:

Exhibit 37 and 38.

CHAIRMAN PERKINS:

We have 37 and 38, which were also addressed.

JEANNINE COWARD:

Yes. And 36.

CHAIRMAN PERKINS:

Exhibits 39 through 42 were not.

JEANNINE COWARD:

Exhibit 39?

CHAIRMAN PERKINS:

Exhibit 39 has to do with the Ethics Commission, so it is probably not something for you.

JEANNINE COWARD:

Exhibit 40 is the stipulation of the Ethics Commission.

CHAIRMAN PERKINS:

Exhibit 41?

JEANNINE COWARD:

I believe that 41 is my interview.

CHAIRMAN PERKINS:

That is okay. We will have somebody from the Ethics Commission clear 41 up for us. Forty Two is the last exhibit. It seems to be an e-mail from Kathy Augustine to Jim Wells. Do either of you have personal knowledge to this exhibit?

JENNIFER NORMINGTON:

I was told about it, but I never saw it, sir.

CHAIRMAN PERKINS:

Okay.

JEANNINE COWARD:

I have never seen this exhibit, either.

CHAIRMAN PERKINS:

Questions from the Committee on the exhibits that have just been covered? I am going to disregard Exhibit 15 and Exhibit 32.

JEANNINE COWARD:

Oh, excuse me. I did read these before the Ethics Commission. We received a copy of our own personal interview with the Attorney General's Office. I believe this is a compilation of all of the interviews.

CHAIRMAN PERKINS:

Okay. Well, again, we will have the Ethics Commission, or a representative of theirs, look for us at some point. So what we are talking about now are Exhibits 12, 13, and 14; we are going to disregard 15. We are talking about 18, 33, 35, and I think that is it. Questions from the Committee on those exhibits? Okay, we have none. Thank you, ladies. We will enter those

exhibits into our record as well. The next witness that we need to come to the testimony table is Susan Kennedy.

NANCY S. TRIBBLE, CHIEF CLERK OF THE ASSEMBLY:

Would you raise your right hand, ma'am? Do you solemnly swear the testimony and evidence you are about to give in this case shall be the truth, the whole truth, and nothing but the truth?

SUSAN KENNEDY, FORMER EXECUTIVE ASSISTANT TO NEVADA STATE CONTROLLER KATHY AUGUSTINE:

I do.

NANCY S. TRIBBLE, CHIEF CLERK OF THE ASSEMBLY:

Thank you. Please have a seat.

CHAIRMAN PERKINS:

Please offer the testimony to the Committee that you think is relevant to our proceeding.

SUSAN KENNEDY:

Thank you, Mr. Speaker. Good evening, ladies and gentlemen of the Assembly. My name is Susan Kennedy. I am currently employed with the State of Nevada as a Management Analyst with the Department of Human Resources, the Division of Welfare. I was with Controller Augustine's Office, as an executive assistant to her, from February of 2000 to September of 2001. From February of 2000 through February of 2001, I was in a probationary status, and I did fear for my job, during that period of time. In June of 2001, my position moved from a classified status to an unclassified status, and, again, I felt my job was in jeopardy every day. During my time with the State Controller's Office, I was directed by Controller Augustine on at least three occasions to perform functions related to her campaign for reelection. I estimate this time frame occurred from October of 2000 throughout the remainder of my employment and resulted in about 16 hours of work. I was told by Controller Augustine to call specific people within the construction industry during regular business hours.

CHAIRMAN PERKINS:

Ms. Kennedy, can I interrupt you for a minute? Do you have copies of the testimony you are reading from?

SUSAN KENNEDY:

Yes, I do.

CHAIRMAN PERKINS:

Can you share them with us, please?

SUSAN KENNEDY:

Yes. Absolutely.

CHAIRMAN PERKINS:

Mr. Bates will take those from you and, if we can get copies for the members and for the representatives for Controller Augustine as well, please. Thank you, Robin. Please continue.

SUSAN KENNEDY:

Thank you. Thank you, Speaker. I was told by Controller Augustine to call specific people within the construction industry during regular business hours in relation to a campaign fundraiser. She expected results of my calls within the same business day. I was also directed to work on campaign reports. Controller Augustine instructed me to always work on the campaign reports after 5:00 p.m. However, at no time did I consider myself a volunteer for Controller Augustine. I logged in campaign checks that were made out to the Committee to Elect Kathy Augustine. I was given a copy of the list of contributors and their contributions and instructed to login the contributor's name, the amount of their contribution, the date of their contribution, the type of the contribution, total all incoming checks, and enter totals onto the reports. Having

previously owned my own company, I was aware of upholding ethical standards. I knew that it was improper to assign tasks as working on the Controller's election to state employees on state time. I tried to do the campaign reports work after 5:00 p.m., as she had instructed, but this was not always possible because of my personal schedule. There was a day where my personal schedule, after 5:00 p.m., conflicted with what Controller Augustine expected done. I remember she was out of town and my work schedule permitted me extra time, so I did work on campaign reports during my regular work hours.

I was not originally paid overtime to stay after work. I reported my concerns always to Assistant Controller Coward and State Personnel throughout my entire employment with the Controller's Office regarding these issues and other issues relating to my employment there. I was paid months later for my overtime, as Assistant Controller Coward informed Controller Augustine that it was against the law not to pay me for my overtime.

CHAIRMAN PERKINS:

Thank you. You said you were directed on three specific occasions to do campaign work?

SUSAN KENNEDY:

That I remember.

CHAIRMAN PERKINS:

That was from October of 2000 until when?

SUSAN KENNEDY:

Until September 14, 2001, when I left the Controller's Office.

CHAIRMAN PERKINS:

Left the office. Do you know how many hours you spent doing campaign work?

SUSAN KENNEDY:

I believe it was around 16 hours.

CHAIRMAN PERKINS:

Sixteen?

SUSAN KENNEDY:

Yes.

CHAIRMAN PERKINS:

And how many of the 16 hours were done during your work time?

SUSAN KENNEDY:

That was usually done after hours.

CHAIRMAN PERKINS:

You said after you brought it to Ms. Coward's attention that you were paid overtime for the after-hours work.

SUSAN KENNEDY:

Yes.

CHAIRMAN PERKINS:

Was that after-hours work specifically campaign work?

SUSAN KENNEDY:

Yes. Most of the time it was.

CHAIRMAN PERKINS:

There was some that was not campaign work?

SUSAN KENNEDY:

Correct.

CHAIRMAN PERKINS:
Okay. Mr. Seale.

ASSEMBLYMAN SEALE:
Thank you, Mr. Speaker. Mrs. Kennedy, did you ever solicit campaign contributions for the Controller on state time?

SUSAN KENNEDY:
Yes, I did.

ASSEMBLYMAN SEALE:
Thank you.

CHAIRMAN PERKINS:
Thank you, Mr. Seale. Any further questions from the Committee? Ms. Giunchigliani.

ASSEMBLYWOMAN GIUNCHIGLIANI:
On the 16 hours that you projected, you said later that you were paid overtime. How many hours were you then compensated for overtime?

SUSAN KENNEDY:
I believe it was around 24.

ASSEMBLYWOMAN GIUNCHIGLIANI:
So you had some additional time that may have been work-related? Because I noticed in the Policies and Procedures, it says, "Overtime will be approved only for essential operations." Who would do the approval?

SUSAN KENNEDY:
Controller Augustine.

ASSEMBLYWOMAN GIUNCHIGLIANI:
So you have to put that in writing as a classified employee and then have it signed off by the Controller, so on your card, your overtime, would you have indicated campaign time?

SUSAN KENNEDY:
No.

ASSEMBLYWOMAN GIUNCHIGLIANI:
Were you directed not to?

SUSAN KENNEDY:
I was not directed not to, but I knew.

ASSEMBLYWOMAN GIUNCHIGLIANI:
Could you give us an example of what you might have worded on your overtime?

SUSAN KENNEDY:
Additional work or workload.

CHAIRMAN PERKINS:
Thank you, Ms. Giunchigliani. Any further questions from the Committee? Mr. Anderson.

ASSEMBLYMAN ANDERSON:
Thank you, Mr. Speaker. In your current position, do you have any ramifications from the actions that took place in Ms. Augustine's office at your current employment situation?

SUSAN KENNEDY:
No.

ASSEMBLYMAN ANDERSON:

You are not hearing about it from anybody, any questions relative to what took place during this time period?

SUSAN KENNEDY:

No.

ASSEMBLYMAN ANDERSON:

Thank you.

CHAIRMAN PERKINS:

Any further questions from the Committee? Thank you, Ms. Kennedy, for your testimony. Now I would like to call Sherry Valdez. Why does everybody have this really grim look on their face? We are really a friendly bunch of people.

NANCY S. TRIBBLE, CHIEF CLERK OF THE ASSEMBLY:

Would you raise your right hand, ma'am? Do you solemnly swear the testimony and evidence you are about to give in this case shall be the truth, the whole truth, and nothing but the truth?

SHERRY VALDEZ:

I do.

NANCY S. TRIBBLE, CHIEF CLERK OF THE ASSEMBLY:

Thank you. Please be seated.

CHAIRMAN PERKINS:

You have written testimony, as well? Okay, thank you, then please proceed with your testimony.

SHERRY VALDEZ:

I am currently employed as an Accounting Assistant III with the State Controller's Office.

I was hired by Jeannine Coward as her assistant in 2001, with debt collection. In 2002, I helped do a few campaign tasks for the Controller during work hours and also off-work hours.

I also witnessed Jennifer Normington and Jeannine Coward doing campaign work during work hours. I saw Jennifer Normington working on campaign tasks almost daily. On one occasion, Jennifer, Jeannine, and I stuffed envelopes for the campaign in the Controller's Office during work hours.

On another occasion, I was also asked to attend a function with Jeannine, Jennifer, and the Controller one evening in Incline Village. We were going to attend the event and stay at Jeannine's home in Incline and return to work the next day. I did not find out until later, after I agreed to attend, that we were going to be staying up late after the event to stuff campaign letters for the Controller. I left work early with Jeannine, Jennifer, and the Controller the day of the event, and I returned back to work late the next day.

On another occasion, the Controller assigned me a task working on some envelopes. At the time she assigned me the tasks, I did not know it was campaign-related. She brought the envelopes to my desk and gave me the instructions to black out with a marker some information on an envelope. I never questioned her. I always received different tasks from the Controller.

A few moments later, after she left, Jim Wells, who was the Chief Deputy Controller at the time, saw me working on the envelopes. He approached me. He seemed very upset and said, "You should not be doing that on state time." I explained that the Controller just told me to do this task. He then said he would discuss this with the Controller. A short time later, Jim returned looking very frustrated and went back to his office. I was never told by the Controller to stop. I completed the job as requested and returned the envelopes to the Controller.

In 2002, Jennifer and I were invited to attend an administrative assistant luncheon in Reno, with Jeannine Coward and the Controller. After the lunch was over, Jennifer told me we had to stop by a jewelry store for the Controller for something, for the fundraiser. We returned back to work late that day, and the Controller did not have a problem with that.

For the next year, I was invited again to the function and I returned back earlier than the prior year. The next day, when I got to work, I was called by the Controller and was informed I had to use two hours of annual leave. I was pretty upset and explained that I was back earlier this year than the prior year, but she said I was to take two hours of annual leave.

CHAIRMAN PERKINS:

Thank you. What time period did you work at the State Controller's Office? What time did you start with them? And you are still an employee there? Is that correct?

SUSAN KENNEDY:

Yes. I started in October of 2001.

CHAIRMAN PERKINS:

Okay. How many hours do you think that you spent on state time doing what you believe to be campaign work.

SUSAN KENNEDY:

I do not know. I did not spend very many hours. A few envelopes and not very many hours. I do not know exactly.

CHAIRMAN PERKINS:

Was it five? Ten?

SUSAN KENNEDY:

Very few. Yes.

CHAIRMAN PERKINS:

Okay. Did you ever suggest to the State Controller when she assigned those tasks to you that it would not be appropriate for you to do that on state time?

SUSAN KENNEDY:

No.

CHAIRMAN PERKINS:

Why not?

SUSAN KENNEDY:

The best way to explain that is to basically just do your job, what you are told. At the Controller's Office you do not question, or say no, about a task given to you by the Controller.

CHAIRMAN PERKINS:

So you are concerned about your employment?

SUSAN KENNEDY:

I was concerned about my employment, and I was also concerned about treatment after saying "No, I am not doing the task."

CHAIRMAN PERKINS:

Are you a classified or unclassified employee?

SUSAN KENNEDY:

I am a classified employee.

CHAIRMAN PERKINS:

The second time that you went to the function, I believe it was the second function, it was at the same jewelry store?

SUSAN KENNEDY:

Excuse me?

CHAIRMAN PERKINS:

Was the second function at the same jewelry store?

SUSAN KENNEDY:

The second function was not during campaign year. We did not have to stop. We came straight back from the luncheon.

CHAIRMAN PERKINS:

I understand. So, the second function that you reference in your testimony is the administrative assistants' luncheon?

SUSAN KENNEDY:

Yes.

CHAIRMAN PERKINS:

Were you sent to that luncheon by somebody in the Controller's Office?

SUSAN KENNEDY:

On both years, I was invited by the Controller and Jeannine Coward; like an administrative assistants' appreciation day.

CHAIRMAN PERKINS:

The second time, there was no campaign event afterwards?

SUSAN KENNEDY:

No.

CHAIRMAN PERKINS:

Ms. Ohrenschall.

ASSEMBLYWOMAN OHRENSCHALL:

On the envelopes that you blacked out, you said that you did not know at the time that they were campaign-related. How did you find out that they were? Or what made you feel that they were?

SUSAN KENNEDY:

When Mr. Jim Wells approached me and told me that I should not be doing that task on state time.

ASSEMBLYWOMAN OHRENSCHALL:

Did he say that it was because it was campaign-related and not state work?

SUSAN KENNEDY:

I think he did. Yes.

CHAIRMAN PERKINS:

Thank you, Ms. Ohrenschall. What were you blacking out with the marker?

SUSAN KENNEDY:

I do not remember. She just handed me a stack, had me black out some information, and I blacked out each row, the same row on every envelope. I do not know.

CHAIRMAN PERKINS:

Do you remember seeing a campaign logo, or a contribution area on it, or anything that would lead you to believe that it was campaign-related material?

SUSAN KENNEDY:

To be honest with you, when I first started with the Controller's Office, I do not have any idea what was campaign and what was not. I have no clue. I never read it. Whenever she gave me even things to stuff, I never read what it was. I did not know the difference. I was new, I had no idea.

CHAIRMAN PERKINS:

All right. Thank you. Any further questions from the Committee? Thank you for your testimony. Michelle Miles.

NANCY S. TRIBBLE, CHIEF CLERK OF THE ASSEMBLY:

Would you raise your right hand, ma'am? Do you solemnly swear the testimony and evidence you are about to give in this case shall be the truth, the whole truth, and nothing but the truth?

MICHELLE MILES, FORMER CHIEF ACCOUNTANT OF OPERATIONS, NEVADA STATE CONTROLLER'S OFFICE:

I do.

NANCY S. TRIBBLE, CHIEF CLERK OF THE ASSEMBLY:

Thank you. Please be seated.

CHAIRMAN PERKINS:

Ms. Miles' testimony is typed and being copied, as well.

MICHELLE MILES, FORMER CHIEF ACCOUNTANT OF OPERATIONS, NEVADA STATE CONTROLLER'S OFFICE:

I live in Carson City, Nevada. I retired from the Nevada Controller's Office on December 13, 2004, after serving for 27 and a half years in the Controller's Office. At the time of my retirement I was Chief Accountant of Operations, and my duties were to supervise the operation of the daily operation of the accounting system.

In the year 2002, during Kathy Augustine's run for reelection, it was a matter of common knowledge that state employees were working on the campaign during work hours. I personally saw state employees working on campaign envelopes for Kathy Augustine's reelection. I also learned from employees that they were being asked or told to work on Kathy Augustine's campaign. One of these employees was Jennifer Normington. Jennifer was Kathy Augustine's executive assistant during that time.

One of Jennifer's normal duties was to receive and route the mail and log the incoming checks. It was important that Jennifer do this job to maintain the proper separation of duties regarding the handling of the checks. The people I supervised were not allowed to login the checks. They would deposit the checks in the bank and then do the accounting for the checks. When I am talking about checks, I am talking about quarterly and monthly returns from all of the counties of the different revenues that they collect and send to the State.

Jennifer was a competent and hard-working employee. However, it became clear that Jennifer was having trouble keeping up with her duties. Jennifer became so bogged down with Kathy Augustine's campaign assignments that she was unable to keep up with processing the incoming checks. Checks that should have been processed and deposited on the same day were not being deposited on time.

Kathy had asked us to make sure we deposited all the checks every day, even though the state law says that unless the checks were for a certain amount of money accumulatively, they did not have to be deposited daily. We were three, four days behind on depositing our checks.

Jennifer came to me and complained that she could not keep up with the check responsibilities because she had too much campaign work to do for Kathy Augustine. Eventually, Kathy Augustine came to me and told me that Jennifer would no longer be processing the incoming checks because she was too busy with other work.

I had to reassign the work to another employee. This other employee was not the best person for the job because of separation of duties involving the employee's other job responsibilities. The other employee also had her own heavy workload to begin with.

It is my belief that taking Jennifer from these particular job duties was detrimental to the office. Jennifer told me the reason for her difficulty in doing her regular duties was because of the campaign work she was required to do.

CHAIRMAN PERKINS:

Thank you. You said, in 2002, during the reelection year, "It was common knowledge in the office." Did you have personal knowledge of those things that were going on?

MICHELLE MILES:

Mr. Speaker, I cannot remember specifics at this time, but I think if you would ask anyone who worked in the Controller's Office they would say that it was common knowledge that people were working on a campaign.

CHAIRMAN PERKINS:

In your testimony you said you personally saw employees who did these types of activities. Other than Jennifer Normington, who you have already referenced, which other employees do you recall?

MICHELLE MILES:

I think, Sherry Valdez, and, I think also, Sherry Hudder. I cannot remember the specific instances but I do remember times when they had to stuff envelopes.

CHAIRMAN PERKINS:

Did you ever have to do any campaign activities?

MICHELLE MILES:

No. I am happy to say that, because of President Richard Nixon, I changed my registration to Democrat, and I never bothered changing it back. Now I look back on that with a lot of gratefulness because I was never asked to work on Kathy's campaign.

CHAIRMAN PERKINS:

Okay. You said that Jennifer was bogged down with the campaign activities and not able to complete her work. How do you know she was bogged down with those activities and not just falling behind in her work?

MICHELLE MILES:

Well, as I told you before, I believe that Jennifer is a very conscientious and hard worker. She told me that she was working on the campaign. And I believed her. I had no reason to disbelieve her. If I had had more time to talk to her, I probably would have seen firsthand that she was working on the campaign, but I was very busy doing my own job at the time. We had very precious little time to talk about what was going on in the office.

CHAIRMAN PERKINS:

You also testified that you had to reassign her work to another employee. So, if I understand your testimony, what happened was that Jennifer became so busy with campaign issues that you had to move her work to another state employee. Is that correct?

MICHELLE MILES:

Yes. That is correct. During that time of year, we have a lot of different things going on in the office. We have closing of the books. Also, at that time of the year, all of the state agencies are preparing their budgets, including the Controller's Office. Jennifer was becoming more and more, I would say hurried, on the job. She had a lot of illnesses that were caused by stress. It became apparent that she could not handle both Kathy's personal campaign requests and the public job that Jennifer was performing for our office.

CHAIRMAN PERKINS:

Thank you. Mr. Horne.

ASSEMBLYMAN HORNE:

I have two questions. First, Ms. Miles, back to the area of it was a matter of common knowledge. Sorry. That has been said before. I am curious about the climate in the office. There are all types of common knowledge that goes on in an office, but what was the climate for the employees; they all knew that they were required, or may have felt required, to work on other

things besides state work? Was the feeling distressful or was it blasé? This is something that we do here. Or was it anger? Could you describe the climate in the office?

MICHELLE MILES:

I am very glad you asked me that question because it is my opinion that no one, maybe a few people out of the 44 people working at the Controller's Office, would have voluntarily worked on Kathy's campaign. The common knowledge to me included the idea that Kathy was "the Boss," and so, just like Sherry Valdez said, what she asked you to do, you did. My personal feeling is that if she had not wielded that power over the people in the office, she would not have had anybody working on the campaign.

ASSEMBLYMAN HORNE:

If I may, you had mentioned that Controller Augustine had told you that Ms. Normington would not be able to do work because she was too busy doing other things. I am curious, did Controller Augustine actually tell you that she is "too busy doing other work"? Or did she classify? Did she say she is "too busy doing campaign work"? Or was it just Ms. Normington that told you that she was busy doing campaign work?

MICHELLE MILES:

Kathy Augustine did not directly tell me that Jennifer Normington was doing campaign work. She did not directly tell me that. Instead, she took the approach that someone else could do it, that someone else needed to do the work.

There had been conflicts between the accountants, of which I include myself as one, and Kathy Augustine, in that she did not understand what accountants needed to do. She did not understand that there are separation of duties that were required in the office. And she continually misunderstood that concept and was always trying to get people, her executive assistants, to not do those jobs. But we usually could impress upon Kathy Augustine that we needed the executive assistant to do those jobs. But it came to a head around the reelection time.

CHAIRMAN PERKINS:

Thank you, Mr. Horne. Any further questions from the Committee? Mr. Denis.

ASSEMBLYMAN DENIS:

I wanted to clarify the record. On here it says that you retired from the Nevada Controller's Office on December 13, 2004, which is not until next month.

MICHELLE MILES:

Good catch. That is 2002.

ASSEMBLYMAN DENIS:

Did you at that time also retire from state employment?

MICHELLE MILES:

Yes, I did.

ASSEMBLYMAN DENIS:

Thank you, Mr. Speaker.

CHAIRMAN PERKINS:

Further questions? Thank you for your testimony, Ms. Miles.

MICHELLE MILES:

You are welcome.

CHAIRMAN PERKINS:

I now ask Jim Wells to come forward.

NANCY S. TRIBBLE, CHIEF CLERK OF THE ASSEMBLY:

Would you raise your right hand, sir? Do you solemnly swear the testimony and evidence you are about to give in this case shall be the truth, the whole truth, and nothing but the truth?

JIM WELLS:

I do.

NANCY S. TRIBBLE, CHIEF CLERK OF THE ASSEMBLY:

Thank you. Please be seated.

CHAIRMAN PERKINS:

Go ahead and proceed with your testimony.

JIM WELLS:

CHAIRMAN PERKINS:

Members of the Assembly, I am a licensed Certified Public Accountant and am currently employed as the accounting officer for the Public Employees' Benefits Program.

I joined the State Controller's Office in 1998 and served as the Chief Deputy Controller to Ms. Augustine from November 2001 to November 2002. My primary duties were to oversee the daily business of the operations, financial reporting, information technology, and financial systems sections of the Controller's Office.

During Ms. Augustine's campaign for reelection, during the summer of 2002, I frequently witnessed her executive assistant, Jennifer Normington, working on campaign-related matters during state hours. I observed Ms. Normington working on mailing lists for fundraisers, logging campaign contributions, and recording RSVPs for fundraisers. It was not uncommon to see Ms. Normington working on a stack of campaign fundraiser event invitations or other campaign-related materials in her office. To the common person it was obvious that Ms. Normington was working on campaign-related matters.

Ms. Normington was a dedicated and hard-working employee, and it was not uncommon for her to put in 50- to 60- hour workweeks. During peak periods of Ms. Augustine's reelection bid, I estimate that half of her time or more was spent on campaign-related activities.

I also witnessed Ms. Sherry Valdez, a debt collection accounting assistant, working on campaign envelopes emblazoned with the logo "Augustine for Controller." Ms. Valdez was working with several stacks of these materials at her desk in the center of the Capitol Annex. Due to the openness of this area and the undeniable appearance Ms. Valdez was working on campaign-related activities during working hours, I decided to confront Ms. Augustine.

Upon entering Ms. Augustine's office, I reminded her it was inappropriate for these activities to be conducted during normal business hours. Upon hearing this, she replied, "I did not tell her she had to do it on state time." However, at no time after I spoke with Ms. Augustine am I aware that she contacted Ms. Valdez, either in person or by telephone, to instruct her to cease working on those activities during business hours. To my knowledge, Ms. Valdez continued to work on that activity over the next several hours until it was completed.

In late July of 2002, Ms. Augustine came to my office, which was a routine occurrence when she was in the office in Carson City. However, on this occasion she asked me to complete her campaign expense reports for filing with the Secretary of State's Office. The request was worded as, "I need you to do something for me in your free time." And the tone of her request was that associated with delegating a work assignment, as opposed to requesting a favor. I was concerned at that time it was improper for me to complete the report, but I did take the work home with me and consider her request overnight.

After reviewing NRS 227.100, and considering the tone and manner of Ms. Augustine's request, I came to the conclusion it was inappropriate for me to complete the report on Ms. Augustine's behalf. The next day I drafted an email, which is listed as Exhibit 42, outlining my concerns about the assignment of such a task to an employee. The email also included a message meant to be a subtle reminder to Ms. Augustine regarding the prohibitions regarding campaign-related activities being conducted on work time that were included in both the Nevada Administrative Code and the Controller's Office Policy and Procedures. The email was an attempt to inform Ms. Augustine that not all the staff considered their campaign assignments as voluntary. Ms. Augustine responded to the email by portraying me as a disgruntled employee and criticizing my lack of commitment to her reelection campaign stating that others had had to pick up the slack on my behalf. To my knowledge, Ms. Augustine requested and

Ms. Normington completed the expenditure report for submission to the Secretary of State's office.

Ms. Augustine was clear in stating that the report should be completed on my free time, and I estimated that it would have taken 10 to 15 hours to complete. However, NRS 227.100 (2) requires the Chief Deputy Controller to "devote his entire time and attention to the business of his office, and shall not pursue any other business or occupation, or hold any other office of profit." I believed that completing this report for Ms. Augustine violated the provisions of this law, as the report related to Ms. Augustine's reelection campaign as opposed to the official business of the Office of the State Controller.

After I refused to complete the assignment, I knew my relationship with Ms. Augustine was finished. She barely spoke to me unless it was necessary for state business, and her frequent visits to my office all but ceased. She also reportedly stated to Ms. Normington that she would have fired me if she thought she could have gotten away with it. Our relationship was strained to the point where I felt no other option but to resign.

I had worked for the State of Nevada for ten years at the time these events took place. I worked my way up through the ranks and considered this to be an important position and a dream job for myself. I thoroughly enjoyed both the work and the staff of the State Controller's Office and took my fiduciary responsibility to the office and the citizens of this state very seriously. My official work frequently required me to work beyond the normal eight-to-five business hours, and my work was always completed timely, accurately, and with a high degree of quality. There were no complaints from Ms. Augustine relating to my work in these areas. However, as a result of these events, I resigned after the 2004 elections and took a cut in both pay and prestige in accepting a job with the City of Roanoke, Virginia.

On several occasions, Jeannine Coward, the Assistant Controller, and I, told Ms. Normington she should confront Ms. Augustine regarding the volume and issues relating to working on Ms. Augustine's reelection campaign. Unfortunately, Ms. Normington felt she had no choice other than to continue working on campaign-related activities, and believed she would have been fired if she had refused to do the campaign work. Ms. Normington, Ms. Coward, and I all resigned within a three-month time period from one another.

These proceedings today are the culmination of a series of unnecessary and avoidable events for which Ms. Augustine is both responsible and accountable for. Her actions were divisive to the office, and resulted in employees being put in the position of doing what they knew violated office policies and procedures or risk being resented and treated as an outcast by Ms. Augustine. Some employees continued to work on campaign-related assignments because they felt they had no choice, while others refused, accepting the consequences and falling out of Ms. Augustine's inner circle of confidants. Ms. Augustine was fully aware of the amount of work being conducted during business hours, and, even when confronted, refused to correct the situation. Had Ms. Augustine ensured that campaign-related activities were coordinated and performed outside the office and during non business hours, and had she maintained a clear distinction between her activities related to official state business and those related to her reelection campaign, we would not be sitting here today. Thank you.

CHAIRMAN PERKINS:

Thank you, Mr. Wells. Other than the campaign expense report she asked you to fill out, were there any other campaign activities she asked you to complete?

JIM WELLS:

I was preparing the biannual budget during this summer of 2002, so I did not have a whole lot of free time to work on campaign-related expenditures. This was coming up toward the latter part of the budget process.

CHAIRMAN PERKINS:

When she gave you the campaign reports, why do you think she asked you to do them on your own time?

JIM WELLS:

I think she knew very well doing political campaign-related activities during state time was a violation of the *Nevada Administrative Code* and our office policies and procedures. This was a way for her to ensure these activities were completed in our, "free time." However, as I stated in my testimony, my position does not have free time.

CHAIRMAN PERKINS:

Any questions from the committee?

ASSEMBLYMAN SEALE:

Mr. Speaker, thank you very much. You said in your testimony that you witnessed Sherry Valdez working on campaign-related activity. In your position in the Controller's Office, who did Ms. Valdez report to? Did she report to you?

JIM WELLS:

No, at that time she did not report to me. She reported to Ms. Coward, and Ms. Coward reported directly to Ms. Augustine.

ASSEMBLYMAN SEALE:

So that is why you did not tell her to discontinue that activity directly?

JIM WELLS:

That is correct. I had no direct supervision of that person.

CHAIRMAN PERKINS:

Thank you, Mr. Seale. Any further questions from the Committee? Thank you for your testimony, Mr. Wells.

JIM WELLS:

Thank you, Mr. Speaker.

CHAIRMAN PERKINS:

Mr. Gardner, that runs us to the end of your suggested witnesses. While I am sure they are still in the audience, let me ask the Committee if there are any witnesses we have heard from so far whom the Committee would like to come back for a short time to clear up anything that is confusing. It does not look like that is the case. Let me ask you to come forward again, Mr. Gardner, please. Then for our record, are there any other witnesses that you would suggest for this Committee?

GERALD GARDNER:

Mr. Speaker, I think your suggestion earlier that you intend to call Stacy Jennings from the Ethics Committee is a very well-taken suggestion. The only other matter that I would request is acceptance of Exhibit 41, which has not been introduced at this point.

CHAIRMAN PERKINS:

The email from Mr. Wells?

GERALD GARDNER:

I am sorry, that is Exhibit 42. It would be Exhibit 41, the Attorney General's Investigative Report, of which I have personal knowledge. It is merely a summary of the testimony that you have heard today, and I would like to thank you, Mr. Speaker, for the excellent way you handled the exhibits in this case, given the fact that this, the procedure that was going to take place today, was pretty much unknown until fairly recently. It was a difficult task and I appreciate the way you accommodated the admission of exhibits.

CHAIRMAN PERKINS:

I appreciate that, Mr. Gardner. It was kind of unknown to us, too. If the Committee is paging through Exhibit 41, Mr. Gardner seems to be the witness who could answer questions relative to that investigative report. Are there any questions relative to Exhibit 41? I think in many ways it

encapsulates much of the testimony we heard today. The committee will accept Exhibit 42 for its record as Mr. Wells has already described it. Mr. Anderson.

ASSEMBLYMAN ANDERSON:

For my clarification, has Exhibit 39 been admitted, Mr. Speaker?

CHAIRMAN PERKINS:

Thirty-nine has not, Mr. Anderson, but we will expect to hear from the Executive Director of the Ethics Commission first thing in the morning.

ASSEMBLYMAN ANDERSON:

All right.

CHAIRMAN PERKINS:

Any questions about Exhibit 41 from the Committee? Is this a report created by you, Mr. Gardner?

GERALD GARDNER:

It is a report that was created by Investigator Dale Liebherr with my supervision over the course of a one-year investigation, Mr. Speaker.

CHAIRMAN PERKINS:

I see at the conclusion that it is forwarded for further review. Is it an investigative report that you did review and believe to be accurate based upon your interaction within this case?

GERALD GARDNER:

Yes, it is, Mr. Speaker.

CHAIRMAN PERKINS:

Then the Committee will accept Exhibit 41 for its record as well. Any questions from the Committee for Mr. Gardner? We have none, so thank you for your time.

GERALD GARDNER:

Thank you, Mr. Speaker, and Members of the Assembly.

Chairman Perkins announced the presence of Dominic Gentile, Legal Counsel, representing Nevada State Controller Kathy Augustine.

CHAIRMAN PERKINS:

Let me ask Mr. Arrascada and Mr. Gentile if they would like to come forward. Given the witnesses that we have heard from, if it has jogged anything for you in terms of how we can schedule our day tomorrow? If there are witnesses whom you think that the Committee should hear from, I need you to put on the record, Mr. Gentile.

DOMINIC GENTILE, ESQ., LEGAL COUNSEL, NEVADA STATE CONTROLLER KATHY AUGUSTINE:

Mr. Speaker, with all due respect, especially in light of the letter that I sent to you on Monday, from my point of view, that you just had Mr. Gardner testify and present Exhibit 41 has totally polluted this matter. Exhibit 41 should not be a part of this record. Other than that, I have nothing more to say at this time.

CHAIRMAN PERKINS:

Okay, Mr. Gentile, I guess what I am trying to get at, in order for us to schedule our activities for tomorrow, is there anything in your representation of Controller Augustine, any witnesses that you would like us to hear from whom we have not already heard from?

MR. GENTILE:

Maybe I did not articulate it well enough. Given the pollution, I am not going to contribute anything to this record. We are done.

CHAIRMAN PERKINS:

I think that makes it fairly clear, Mr. Gentile. Ms. Buckley, can you make a motion to raise us from a Committee of the Whole?

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. May we have a one-minute recess?

Mr. Chairman announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 6:02 p.m.

IN COMMITTEE OF THE WHOLE

At 6:16 p.m.

Assemblyman Perkins presiding.

Quorum present.

On motion of Assemblywoman Buckley, the committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 6:16 p.m.

Mr. Speaker presiding.

Quorum present.

Assemblywoman Buckley moved that the Assembly adjourn until Thursday, November 11, 2004, at 8:30 a.m.

Motion carried.

Assembly adjourned at 6:17 p.m.

Approved:

RICHARD D. PERKINS
Speaker of the Assembly

Attest: NANCY S. TRIBBLE
Chief Clerk of the Assembly