

Journal
OF THE
SENATE OF THE STATE
OF NEVADA

TWENTY-FIRST SPECIAL SESSION

THE FIRST DAY

CARSON CITY (Wednesday), November 10, 2004

Senate called to order at 11:21 a.m.

President Hunt presiding.

Prayer by Senator Maurice E. Washington.

Dear God, we thank You for Your grace and Your goodness. Thank You for Your love and Your kindness. Thank You for this occasion for which we have to meet. We pray that You will give us insight and wisdom and guide us in our deliberations. Help us to make the right and correct judgment based on Your will, based on what is presented before us. After everything has been said, Dear God, thank You for those who have served and labored with us. We want You to know we appreciate all things in Christ Jesus' Name.

AMEN.

Pledge of allegiance to the Flag.

MOTIONS, RESOLUTIONS AND NOTICES

Madam President requested Mrs. Claire J. Clift to serve as temporary Secretary of the Senate and Mr. Sam A. Palazzolo to serve as temporary Sergeant at Arms.

Madam President instructed the temporary Secretary to call the roll of the holdover Senators.

Roll called.

All holdover Senators present except Senator Carlton, who was excused.

Madam President appointed Senators Hardy, Washington and Coffin as a temporary Committee on Credentials.

Madam President announced that if there were no objections the Senate would recess subject to the call of the Chair while the credentials of the newly-elected Senators were examined by the temporary Committee on Credentials.

Senate in recess at 11:23 a.m.

NOVEMBER 10, 2004 —Day 1

SENATE IN SESSION

At 11:28 a.m.
President Hunt presiding.
Quorum present.

REPORTS OF COMMITTEES

Madam President:

Your temporary Committee on Credentials has had the credentials of the respective Senators-elect under consideration and begs leave to report that the following persons have been and are duly elected and qualified members of the Senate of the Twenty-First Special Session of the Legislature of the State of Nevada: Senators Bob Beers, Joseph J. Heck, Steven A. Horsford, John J. Lee, Mike McGinness, William J. Raggio, Dean A. Rhoads, Michael A. Schneider, Dina Titus and Valerie Wiener.

SENATOR HARDY
SENATOR WASHINGTON
SENATOR COFFIN

MOTIONS, RESOLUTIONS AND NOTICES

Senator Hardy moved that the report of the temporary Committee on Credentials be adopted.

Motion carried.

Madam President appointed Senators Nolan, Tiffany and Care to escort Chief Justice Miriam Shearing of the Supreme Court of Nevada to the rostrum to administer the oath of office to the newly-elected Senators.

Madam President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 11:29 a.m.

SENATE IN SESSION

At 11:42 a.m.
President Hunt presiding.
Quorum present.

Chief Justice Shearing administered the oath of office to the newly-elected Senators.

Madam President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 11:46 a.m.

SENATE IN SESSION

At 11:51 a.m.
President Hunt presiding.
Quorum present.

Senator Townsend moved that the Chief Justice be extended a unanimous vote of thanks for administering the oath.

Motion carried unanimously.

Madam President instructed the temporary Secretary to call the roll of the Senators.

Roll called.

All Senators present except Senator Carlton, who was excused.

Madam President declared that nominations were in order for President pro Tempore.

Senator Cegavske nominated Senator Amodei for President pro Tempore.

Senator Mathews moved that the nominations be closed.

Motion carried.

Madam President declared Senator Amodei to be President pro Tempore of the Senate.

Madam President declared that nominations were in order for Secretary of the Senate.

Senator Raggio nominated Mrs. Claire J. Clift to be Secretary of the Senate.

Senator Titus moved that the nominations be closed.

Motion carried.

Madam President declared Mrs. Claire J. Clift to be the Secretary of the Senate.

Madam President appointed Senators Wiener, Rhoads and Horsford as a committee of three to inform the Assembly that the Senate is organized and ready for business.

Madam President appointed Senators McGinness, Lee and Heck as a committee of three to inform the Governor that the Senate is organized and ready for business.

Senator Raggio moved that the following persons be accepted as accredited press representatives, and that they be assigned space at the press table and allowed the use of appropriate media facilities: ASSOCIATED PRESS: Brendan Riley; ELKO FREE PRESS: Samuel Brown; KLAS-TV: Matthew E. Adams, Richard Czarny, Brandon Eisenberg, George Knapp, Lindsay Patterson; KOLO-TV: Edward Barnett, Mark Andre Cronon, Justin Kanno, Habib Obi, Ed Pearce, Terri Russell, James Steiner, Karen Todd, Kara Tsuboi; KVBC-TV: Lisa Hidalgo, Zumi Hidalgo; LAS VEGAS REVIEW-JOURNAL: Kevin M. Cannon, Sean Whaley, Ed Vogel; LAS VEGAS SUN: Cy Ryan; NEVADA APPEAL: Geoff Dornan; NEVADA NEWSMAKERS: Ande Engleman; RENO GAZETTE-JOURNAL: Anjeanette Damon.

Motion carried.

A committee from the Assembly composed of Assemblywomen Giunchigliani, Gansert and Assemblyman Ocegquera appeared before the bar

of the Senate and announced that the Assembly was organized and ready for business.

Madam President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 11:56 a.m.

SENATE IN SESSION

At 12:23 p.m.

President Hunt presiding.

Quorum present.

Senator Wiener reported that her committee had informed the Assembly that the Senate is organized and ready for business.

Senator McGinness reported that his committee had informed the Governor that the Senate is organized and ready for business.

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
Chief Deputy Secretary of State

MOTIONS, RESOLUTIONS AND NOTICES

By Senators Raggio and Titus:

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

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That the following Rules of the Senate for the 21st Special Session of the Legislature are hereby adopted.

I. APPLICABILITY

Rule No. 1. Generally.

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

II. OFFICERS AND EMPLOYEES
DUTIES OF OFFICERS

Rule No. 2. President.

The President shall take the chair and call the Senate to order precisely at the hour appointed for meeting. He shall preserve order and decorum, and in case of any disturbance or disorderly conduct within the Senate Chamber, shall order the Sergeant at Arms to suppress it, and may order the arrest of any person creating any disturbance within the Senate Chamber. He may speak to points of order in preference to members, rising from his seat for that purpose, and shall decide questions of order without debate, subject to an appeal to the Senate by two members, on which appeal no member may speak more than once without leave of the Senate. He shall sign all acts, addresses and joint resolutions, and all writs, warrants and subpoenas issued by order of the Senate; all of which must be attested by the Secretary. He has general direction of the Senate Chamber.

Rule No. 3. President Pro Tem.

The President Pro Tem has all the power and shall discharge all the duties of the President during his absence or inability to discharge the duties of his office. In the absence or inability of the President Pro Tem to discharge the duties of the President's office, the Senate shall elect one of its members as the presiding officer for that occasion.

Rule No. 4. Secretary.

1. *The Secretary of the Senate is elected by the Senate, and shall:*

(a) *Interview and recommend persons to be considered for employment to assist the Secretary.*

(b) *See that these employees perform their respective duties.*

(c) *Administer the daily business of the Senate, including the provision of secretaries as needed.*

(d) *Unless otherwise ordered by the Senate, transmit as soon as practicable those bills and resolutions upon which the next action is to be taken by the Assembly.*

2. *The Secretary is responsible to the Majority Leader.*

Rule No. 5. Sergeant at Arms.

1. *The Sergeant at Arms shall attend the Senate during its sittings, and execute its commands and all process issued by its authority. He must be sworn to keep the secrets of the Senate.*

2. *The Sergeant at Arms shall:*

(a) *Superintend the upkeep of the Senate's Chamber, private lounge, and meeting rooms.*

(b) *Interview and recommend persons to be considered for employment to assist the Sergeant at Arms.*

3. *The Sergeant at Arms is responsible to the Majority Leader.*

Rule No. 6. Assistant Sergeant at Arms.

The Assistant Sergeant at Arms shall be doorkeeper and shall preserve order in the Senate Chamber and shall assist the Sergeant at Arms. He shall be sworn to keep the secrets of the Senate.

III. SESSIONS AND MEETINGS

Rule No. 7. Call of Senate—Moved by Three Members.

A Call of the Senate may be moved by three Senators, and if carried by a majority of all present, the Secretary shall call the roll and note the absentees, after which the names of the

absentees shall again be called over. The doors shall then be closed and the Sergeant at Arms directed to take into custody all who may be absent without leave, and all Senators so taken into custody shall be presented at the bar of the Senate for such action as to the Senate may seem proper.

Rule No. 8. Absence—Leave Required.

No Senator shall absent himself from the service of the Senate without leave, except in case of accident or sickness, and, if any Senator or officer shall so absent himself, his per diem shall not be allowed him.

Rule No. 9. 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 Senate 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.

IV. DECORUM AND DEBATE

Rule No. 10. Points of Order.

1. If any Senator, in speaking or otherwise, transgresses the rules of the Senate, the President shall, or any Senator may, call him to order. If a Senator is so called to order, he shall not proceed without leave of the Senate. If such leave is granted, it must be upon the motion, "That he be allowed to proceed in order," and the Senator shall confine himself to the question under consideration and avoid personality.

2. Every decision of points of order made by the President is subject to appeal, and a discussion of a question of order may be allowed only upon the appeal of two Senators. In all cases of appeal, the question must be, "Shall the decision of the Chair stand as the judgment of the Senate?"

Rule No. 11. Breaches of Decorum.

1. In cases of breaches of decorum or propriety, any Senator, officer or other person is liable to such censure or punishment as the Senate may deem proper.

2. If any Senator is called to order for offensive or indecorous language or conduct, the person calling him to order shall report the offensive or indecorous language or conduct to the presiding officer. No member may be held to answer for any language used on the floor of the Senate if business has intervened before exception to the language was taken.

3. Indecorous conduct or boisterous or unbecoming language is not permitted in the Senate Chamber.

V. QUORUM, VOTING, ELECTIONS

Rule No. 12. Action Required to be Taken in Senate Chamber.

Any action taken by the Senate must be taken in the Senate Chamber.

Rule No. 13. Recorded Vote—Three Required to Call For.

1. A recorded vote must be taken upon final passage of a bill or joint resolution, and in any other case when called for by three members. Every Senator within the bar of the Senate shall vote "aye" or "no" or record himself as "not voting," unless excused by unanimous vote of the Senate.

2. The votes and names of those absent or recorded as "not voting" and the names of Senators demanding the recorded vote must be entered in the Journal.

Rule No. 14. President to Decide—Tie Vote.

A question is lost by a tie vote, but when the Senate is equally divided on any question except the passage of a bill or joint resolution, the President may give the deciding vote.

Rule No. 15. Manner of Election—Voting.

1. In all cases of election by the Senate, the vote must be taken viva voce. In other cases, if a vote is to be recorded, it may be taken by oral roll call or by electronic recording.

2. When a recorded vote is taken, no Senator may:

- (a) Vote except when at his seat;
- (b) Explain his vote or discuss the question while the voting is in progress; or
- (c) Change his vote after the result is announced.

3. The announcement of the result of any vote must not be postponed.

VI. LEGISLATIVE BODIES

Rule No. 16. Committee of the Whole.

1. All bills and resolutions may be referred only to the Committee of the Whole.
2. The Majority Leader shall preside as Chairman of the Committee or name a Chairman to preside.
3. Any meeting of the Committee of the Whole may be conducted outside the Senate Chamber, as designated by the Chairman of the Committee.
4. The Chairman may require any vote of the Committee to be recorded in the manner designated by the Chairman.
5. All amendments proposed by the Committee:
 - (a) Must first be approved by the Committee.
 - (b) Must be reported by the Chairman to the Senate.
6. The minutes of the Committee's meetings must be entered in the final Journal.

Rule No. 17. Rules Applicable to Committee of the Whole.

1. The Rules of the Senate shall apply to proceedings in Committee of the Whole, except that:
 - (a) The previous question shall not be ordered; and
 - (b) The Rules of the Senate for the 21st Special Session of the Legislature do not apply to the extent they conflict with any procedural rules adopted by the Senate for consideration of Articles of Impeachment when the Committee of the Whole is conducting proceedings on impeachment.
2. The rules of parliamentary practice contained in Mason's Manual of Legislative Procedure shall govern the Committee in all cases in which they are applicable and in which they are not inconsistent with the rules and orders of the Senate.

Rule No. 18. Motion to Rise Committee of the Whole.

A motion that the Committee rise shall always be in order, and shall be decided without debate.

VII. RULES GOVERNING MOTIONS

A. MOTIONS GENERALLY

Rule No. 19. Entertaining.

1. No motion may be debated until it is announced by the President.
2. By consent of the Senate, a motion may be withdrawn before amendment or decision.

Rule No. 20. Precedence of Motions.

When a question is under debate, no motion shall be received but the following, which shall have precedence in the order named:

1. To adjourn.
2. For a call of the Senate.
3. To lay on the table.
4. For the previous question.
5. To postpone to a day certain.
6. To commit.
7. To amend.
8. To postpone indefinitely.

The first four shall be decided without debate.

Rule No. 21. When Not Entertained.

1. When a motion to commit, to postpone to a day certain, or to postpone indefinitely has been decided, it must not be again entertained on the same day.
2. When a question has been postponed indefinitely, it must not again be introduced during the Special Session.
3. There must be no reconsideration of a vote on a motion to postpone indefinitely.

B. PARTICULAR MOTIONS

Rule No. 22. To Adjourn.

A motion to adjourn shall always be in order. The name of the Senator moving to adjourn, and the time when the motion was made, shall be entered in the Journal.

Rule No. 23. Lay on the Table.

A motion to lay on or take from the table shall be carried by a majority vote.

Rule No. 24. To Strike Enacting Clause.

A motion to strike out the enacting clause of a bill or resolution has precedence over a motion to commit or amend. If a motion to strike out the enacting clause of a bill or resolution is carried, the bill or resolution is rejected.

Rule No. 25. Division of Question.

1. *Any Senator may call for a division of a question.*
2. *A question must be divided if it embraces subjects so distinct that if one subject is taken away, a substantive proposition remains for the decision of the Senate.*
3. *A motion to strike out and insert must not be divided.*

Rule No. 26. Explanation of Motion.

Whenever a Senator moves to change the usual disposition of a bill or resolution, he shall describe the subject of the bill or resolution and state the reasons for his requesting the change in the processing of the bill or resolution.

VIII. DEBATE

Rule No. 27. Speaking on Question.

1. *Every Senator who speaks shall, standing in his place, address "Mr. or Madam President," in a courteous manner, and shall confine himself to the question before the Senate. When he has finished, he shall sit down.*
2. *Except as otherwise provided in Senate Rules Nos. 10 and 46 of the 21st Special Session of the Legislature, a Senator may speak only once on a question before the Senate, for a period of not more than 10 minutes, unless he is granted leave of the President to speak for a longer period or more than once. If a Senator is granted leave to speak for a longer period or more than once, the President may limit the length of additional time that the member may speak.*
3. *Incidental and subsidiary questions arising during debate shall not be considered the same question.*

Rule No. 28. Previous Question.

The previous question shall not be put unless demanded by three Senators, and it shall be in this form: "Shall the main question be now put?" When sustained by a majority of Senators present it shall put an end to all debate and bring the Senate to a vote on the question or questions before it, and all incidental questions arising after the motion was made shall be decided without debate. A person who is speaking on a question shall not while he has the floor move to put that question.

IX. CONDUCT OF BUSINESS

A. GENERALLY

Rule No. 29. Mason's Manual.

The rules of parliamentary practice contained in Mason's Manual of Legislative Procedure shall govern the Senate in all cases in which they are applicable and in which they are not inconsistent with the rules and orders of the Senate 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. 30. Suspension of Rule.

No rule or order of the Senate for the 21st Special Session of the Legislature shall be rescinded or changed without a majority vote of the Senate; but, except as otherwise provided in Senate Rule No. 39 of the 21st Special Session of the Legislature, a rule or order may be temporarily suspended for a special purpose by a majority vote of the members present. When the suspension of a rule is called for, and after due notice from the President no objection is offered, he can announce the rule suspended and the Senate may proceed accordingly; but this shall not apply to that portion of Senate Rule No. 39 of the 21st Special Session of the Legislature relating to the third reading of bills, which cannot be suspended.

Rule No. 31. Protest.

Any Senator, or Senators, may protest against the action of the Senate upon any question, and have such protest entered in the Journal.

Rule No. 32. Privilege of the Floor.

1. *To preserve decorum and facilitate the business of the Senate, only the following persons may be present on the floor of the Senate during formal sessions:*
 - (a) *State officers;*
 - (b) *Officers and members of the Senate;*

(c) *Employees of the Legislative Counsel Bureau;*

(d) *Attaches and employees of the Senate; and*

(e) *Members of the Assembly whose presence is required for the transaction of business.*

2. *Guests of Senators must be seated in a section of the upper or lower gallery of the Senate Chamber to be specially designated by the Sergeant at Arms. The Majority Leader may specify special occasions when guests may be seated on the floor of the Senate with a Senator.*

3. *A majority of Senators may authorize the President to have the Senate Chamber cleared of all persons except Senators and officers of the Senate.*

4. *The Senate Chamber may not be used for any business other than legislative business during a legislative session.*

Rule No. 33. Material Placed on Legislators' Desks.

1. *Only the Sergeant at Arms and officers and employees of the Senate may place papers, letters, notes, pamphlets and other written material upon a Senator's desk. Such material must contain the name of the Legislator requesting the placement of the material on the desk or a designation of the origin of the material.*

2. *This rule does not apply to books containing the legislative bills and resolutions, the daily histories and daily journals of the Senate or Assembly, or Legislative Counsel Bureau material.*

Rule No. 34. Petitions and Memorials.

The contents of any petition or memorial shall be briefly stated by the President or any Senator presenting it. It shall then lie on the table or be referred, as the President or Senate may direct.

Rule No. 35. Objection to Reading of Paper.

Where the reading of any paper is called for, and is objected to by any Senator, it shall be determined by a vote of the Senate, and without debate.

Rule No. 36. Questions Relating to Priority of Business.

All questions relating to the priority of business shall be decided without debate.

B. BILLS

Rule No. 37. Requests for the Drafting of Bills, Resolutions and Amendments.

The Legislative Counsel shall not honor a request for the drafting of a bill, resolution or amendment to be introduced in the Senate unless it is submitted by the Committee of the Whole, a conference committee or the Governor.

Rule No. 38. Introduction of Bills.

1. *Except as otherwise provided in this rule, no bill or resolution may be introduced in the Senate unless it is first approved by the Committee of the Whole.*

2. *The provisions of subsection 1 do not apply to a bill or resolution that is:*

(a) *Required to carry out the business of the Senate or the Legislature; or*

(b) *Requested by the Governor.*

3. *Skeleton bills may not be introduced.*

Rule No. 39. Reading of Bills.

1. *Every bill must receive three readings before its passage, unless, in case of emergency, this rule is suspended by a two-thirds vote of the members elected to the Senate.*

2. *The first reading of a bill is for information, and if there is opposition to the bill, the question must be, "Shall this bill receive no further consideration?" If there is no opposition to the bill, or if the question to reject is defeated, the bill must then take the usual course.*

3. *No bill may be committed until once read, nor amended until twice read.*

4. *The third reading of every bill must be by sections.*

Rule No. 40. Second Reading File—Consent Calendar.

1. *All bills or joint resolutions reported by the Committee of the Whole must be placed on a Second Reading File unless recommended for placement on the Consent Calendar.*

2. *The Committee of the Whole shall not recommend a bill or joint resolution for placement on the Consent Calendar if:*

(a) *An amendment of the bill or joint resolution is recommended;*

(b) *It contains an appropriation;*

(c) *It requires a two-thirds vote of the Senate; or*

(d) *It is controversial in nature.*

3. *A bill or joint resolution must be removed from the Consent Calendar at the request of any Senator. A bill or joint resolution so removed must be immediately placed on the Second Reading File for consideration in the usual order of business.*

4. *When the Consent Calendar is called, 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. 41. Reading of Bills—General File.

1. *Upon reading of bills on the Second Reading File, Senate and Assembly bills reported without amendments must be placed on the General File.*

2. *Only amendments proposed by the Committee of the Whole or a conference committee may be considered.*

3. *Amendments proposed by the Committee of the Whole and reported with bills may be adopted by a majority vote of the members present. Bills so amended must be reprinted, engrossed or reengrossed, and placed on the General File. The File must be posted in the Senate Chamber and made available to members of the public each day by the Secretary.*

Rule No. 42. Reconsideration of Vote on Bill.

No motion to reconsider a vote is in order.

C. RESOLUTIONS

Rule No. 43. Treated as Bills.

Resolutions addressed to Congress, or to either House thereof, or to the President of the United States, or the heads of any of the national departments, or proposing amendments to the State Constitution are subject, in all respects, to the foregoing rules governing the course of bills. A joint resolution proposing an amendment to the constitution shall be entered in the Journal in its entirety.

Rule No. 44. Treated as Motions.

Resolutions, other than those referred to in Senate Rule No. 43 of the 21st Special Session of the Legislature, and other than a resolution pronouncing judgment following proceedings on impeachment, shall be treated as motions in all proceedings of the Senate.

Rule No. 45. Order of Business.

1. *Roll Call.*
2. *Prayer and Pledge of Allegiance to the Flag.*
3. *Reading and Approval of the Journal.*
4. *Reports of the Committee of the Whole.*
5. *Messages from the Governor.*
6. *Messages from the Assembly.*
7. *Communications.*
8. *[Reserved.]*
9. *Motions, Resolutions and Notices.*
10. *Introduction, First Reading and Reference.*
11. *Consent Calendar.*
12. *Second Reading and Amendment.*
13. *General File and Third Reading.*
14. *Unfinished Business.*
15. *Special Orders of the Day.*
16. *Remarks from the Floor; Introduction of Guests. A member may speak under this order of business for a period of not more than 5 minutes each day.*

Rule No. 46. Privilege.

Any Senator may rise and explain a matter personal to himself by leave of the President, but he shall not discuss any pending question in such explanation.

Rule No. 47. Preference to Speak.

When two or more Senators rise at the same time the President shall name the one who may first speak—giving preference, when practicable, to the mover or introducer of the subject under consideration.

Rule No. 48. Special Order.

The President shall call the Senate to order on the arrival of the time fixed for the consideration of a special order, and announce that the special order is before the Senate, which

shall be considered, unless it be postponed by a two-thirds vote, and any business before the Senate at the time of the announcement of the special order shall go to Unfinished Business.

Senator Raggio moved the adoption of the resolution.

Remarks by Senator Raggio.

Senator Raggio requested that his remarks be entered in the Journal.

Senate Resolution No. 1 provides for the adoption of the Senate Rules for the Twenty-first Special Session of the Legislature. These rules have been drafted based on the rules of the Senate adopted for the Twentieth Special Session and the rules that apply to our regular sessions. The rules set forth the general procedures to be followed by the Senate for this special session, but do not address the procedures for the impeachment process that we may be required to address. I have asked the Legislative Counsel to draft rules for the impeachment proceedings separately because it is my intention that those rules be addressed at a later date, if so needed.

Specifically, the rules provide that the Senate will meet as a Committee of the Whole to hear all matters that the Senate may be required to consider. The rules of the Senate apply to proceedings in the Committee of the Whole, unless any rule conflicts with subsequent procedural rules adopted by the Senate for consideration of Articles of Impeachment.

Except for bills that are necessary to carry out the business of the Senate, a bill or resolution may not be introduced unless it is first approved by the Committee of the Whole, and the Committee must also approve any amendment to legislation that is being considered.

Finally, in order to complete our business in an expedient manner, there are certain limitations on the period of time a member of the Senate, when the Senate is in session, may speak on a question for a period of not more than ten minutes. However, the President of the Senate may extend the amount of time for discussion if required for a full understanding of an issue being addressed. As I previously indicated, this was the same procedure that we adopted for the Twentieth Special Session.

Resolution adopted unanimously.

By Senators Raggio and Titus:

Senate 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.

Senator Raggio moved the adoption of the resolution.

Remarks by Senator Raggio.

Resolution adopted unanimously.

By Senators Raggio and Titus:

Senate Resolution No. 3—Providing for the appointment of Senate attaches.

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That the following persons are elected as attaches of the Senate for the 21st Special Session of the Nevada Legislature: Mary Jo Mongelli, Ann-Berit Moyle, Mary R. Phillips, Molly Dondero, Susan Whitford, Lydia Lee, Sam A. Palazzolo, John D. Turner, Ronald Sandoval, Evelyn Matheus, Dorothy Souza, JoAnn Wessel and Jane Gill.

Senator Raggio moved the adoption of the resolution.

Remarks by Senator Raggio.

Resolution adopted unanimously.

By Senators Raggio, Titus; Assemblymen Perkins, Buckley and Hettrick:
Senate Concurrent Resolution No. 1—Expressing the mutual consent of the Senate and the Assembly to such adjournments as are necessary to carry out the business of the 21st Special Session of the Nevada Legislature.

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That in compliance with Section 15 of Article 4 of the Nevada Constitution, the Senate and the Assembly hereby each consent to the adjournment of the other house upon the conclusion of its legislative business on any legislative day of the 21st Special Session of the Nevada Legislature until such date and time as may be agreed upon by the members of that House or as indicated by the Presiding Officer of that House.

Senator Raggio moved the adoption of the resolution.

Remarks by Senator Raggio.

Senator Raggio requested that his remarks be entered in the Journal.

Section 15 of Article 4 of the Nevada Constitution provides that neither House of the Nevada Legislature may, without the consent of the other House, adjourn for more than three days. Because of the special circumstances of this special session, it may be necessary for the Assembly and the Senate to adjourn for a longer period of time. This resolution allows each House, with the consent of the other, to adjourn for such time as is necessary to carry out of the business of this Special Session.

Resolution adopted.

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

Motion carried unanimously.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, November 10, 2004

To the Honorable the Senate:

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

DIANE KEETCH

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

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.

Senator Raggio moved the adoption of the resolution.

Remarks by Senator Raggio.

Senator Raggio requested that his remarks be entered in the Journal.

Assembly Concurrent Resolution No. 1 sets forth the Joint Rules of the Senate and Assembly for the Twenty-first Special Session. These rules are based on the Joint Rules that were previously adopted for the Twentieth Special Session.

Briefly, the Joint Rules provide for the appointment of Conference Committees in the same manner as Conference Committees are appointed during a regular session of the Legislature. The rules also provide procedures for the joint sponsorship of bills and resolutions and rules for printing and distributing the bills that will be introduced during the Special Session. These Joint Rules contain limitations on requests for amendments that are the same as the limitations we have adopted for our regular sessions. That is, any amendment proposed to a bill or resolution must be germane to the subject matter embraced in the bill or resolution.

Finally, except for routine salary, travel, equipment and operating expenses, expenditures from the Legislative Fund that are necessary for the Special Session must be made by a concurrent resolution adopted by the Senate and the Assembly.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

INTRODUCTION, FIRST READING AND REFERENCE

By Senators Raggio and Titus:

Senate Bill No. 1—AN ACT making an appropriation to the Legislative Fund for the costs of the 21st Special Session; and providing other matters properly relating thereto.

Senator Raggio moved that all necessary rules be suspended, reading so far had considered first reading, rules further suspended, and that Senate Bill No. 1 be declared an emergency measure under the Constitution and placed on third reading and final passage.

Remarks by Senator Raggio.

Motion carried unanimously.

GENERAL FILE AND THIRD READING

Senate Bill No. 1.

Bill read third time.

Senator Care requested that his remarks be entered in the Journal.

Thank you, Madam President. We have never done this before in the State of Nevada with a State Constitutional Officer. Article 7 of the Constitution and NRS 283 address impeachment but give little guidance. I have had this discussion with the Legislative Council Bureau relating to several issues. Fifty years or a hundred years from now, the Legislature may have to do this again, and people will look back at this Special Session to see how we handled this situation.

I would like to see a legal opinion on my first question. Article 7, section 2, addresses impeachment for misdemeanor or malfeasance. We seem to be operating under NRS 283, which has the provision about the 10-day notice requirement and the temporary suspension of the State Constitutional officer during the course of the trial. It only discusses impeachment for any misdemeanor. I understand, from what I read in the newspapers, that we are not dealing with a misdemeanor. We will have to wait to see what is contained in the Articles of Impeachment to see if that is the case. When NRS 283 was enacted, I would think the drafters, if they had chosen to, could have said misdemeanor or malfeasance. I am not certain NRS 283 even applies to these proceedings. It is important, and there should be a legal memo addressing this issue before we go much further.

I would also like to see a legal memo regarding the statement in the Proclamation that we are to consider all matters relating to the impeachment. It does not say simply to consider the impeachment. I would like to know what that means. We do not have the Articles. We do not yet know what we are going to be considering during these proceedings. The scope in the Proclamation is quite broad. I would like the Legislative Council Bureau to give us an idea as to what that language means.

Senator Raggio requested that his remarks be entered in the Journal.

I am not certain that Senator Care's remarks are pertinent to this bill. This is the appropriations bill, but I am certain the Legislative Counsel is attuned to this. She is following the proceedings, and we will ask her to look into the matter.

Roll call on Senate Bill No. 1:

YEAS—20.

NAYS—None.

EXCUSED—Carlton.

Senate Bill No. 1 having received a constitutional majority, Madam President declared it passed.

Senator Raggio moved that all necessary rules be suspended and that Senate Bill No. 1 be immediately transmitted to the Assembly.

Motion carried unanimously.
Bill ordered transmitted to the Assembly.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, November 10, 2004

To the Honorable the Senate:

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

DIANE KEETCH
Assistant Chief Clerk of the Assembly

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Care, the privilege of the floor of the Senate Chamber for this day was extended to Dan Burns.

On request of Senator Horsford, the privilege of the floor of the Senate Chamber for this day was extended to Sonya Horsford.

On request of Senator McGinness, the privilege of the floor of the Senate Chamber for this day was extended to Dee McGinness.

Senator Raggio moved that the Senate adjourn until the call of the Chair for the purpose of allowing the Assembly to consider the matter of impeachment against Nevada State Controller Kathy Augustine, until such time that the Assembly brings forward Articles of Impeachment or dismisses consideration of impeachment of the State Controller as provided in Senate Concurrent Resolution No. 1.

Motion carried.

Senate adjourned at 12:49 p.m.

Approved:

LORRAINE T. HUNT
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate