

State of New Mexico
House of Representatives

FEB 07 2006


FORTY-SEVENTH LEGISLATURE
SECOND SESSION

February 6, 2006

Mr. Speaker:

Your **RULES AND ORDER OF BUSINESS COMMITTEE**, to whose Subcommittee has been referred the matter relating to the consideration of the impeachment of the State Treasurer, has had it under consideration, submits the attached final report from the Subcommittee adopted by the House Rules and Order of Business Committee and recommends that the report of the Subcommittee be adopted.

Respectfully submitted,


Nick L. Salazar, Chairman
House Rules and Order of Business
Committee

Adopted 
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date

2/7/06

The roll call vote was 14 For 0 Against

Yes: 14

No: 0

Excused: Begaye, Hobbs, Marquardt, Park, Stapleton

Absent: 0

HOUSE OF REPRESENTATIVES
FORTY-SEVENTH LEGISLATURE, SECOND SESSION

FINAL REPORT
OF THE SPECIAL SUBCOMMITTEE OF THE
RULES AND ORDER OF BUSINESS COMMITTEE

I. INTRODUCTION

This final report of the special subcommittee of the New Mexico House of Representatives Rules and Order of Business Committee summarizes the impeachment inquiry regarding the state treasurer, Robert Vigil. The subcommittee conducted that inquiry pursuant to authorization conferred on the subcommittee by the action of the house at the First Special Session of the Forty-Seventh Legislature convened in October 2005. The report is presented to the full committee for its approval, and is intended to close the matter of the impeachment inquiry, while providing an historical record of the inquiry for whatever benefit it might serve should the house be required to deal with such matters in the future.

This final report summarizes:

1. the subcommittee's charge from the House of Representatives;
2. the subcommittee's rules and procedures for this inquiry;
3. the investigation;
4. the standards for impeachment under the Constitution of New Mexico; and
5. the evidence presented by special counsel to the rules subcommittee along with recommendations.

II. SUBCOMMITTEE'S FORMATION AND MANDATE

The House of Representatives authorized the creation of this subcommittee as the first order of business at the opening of the First Special Session of the Forty-Seventh Legislature on Thursday, October 6, 2005.¹ Pursuant to that authorization, and in consultation with the majority and minority leaders, the speaker appointed this bipartisan subcommittee, made up of an equal number of members from the majority and the minority and co-chaired by a member of the majority and minority. The subcommittee had its initial meeting on that first day of the special session.

¹It should be noted at the outset that the inquiry into the conduct of the state treasurer came during a time when the legislature happened to be sitting in special session called by the governor with respect to other matters pursuant to the Constitution of New Mexico, Article 4, Section 6.

At the initial meeting, called by Co-chairs Representative W. Ken Martinez and Representative Eric A. Youngberg, the committee received its charge and heard a general presentation by Professor Michael Browde on the critical procedural steps facing the subcommittee in order to carry out its mandate in a deliberative, yet expeditious, manner. The subcommittee authorized the co-chairs to proceed immediately to engage a special counsel to aid and advise the committee in establishing procedures, collecting evidence and, if necessary, formulating and proffering articles of impeachment. The subcommittee also authorized the co-chairs to communicate with the United States Attorney for the District of New Mexico respecting the obligations of the subcommittee.

On October 7, 2005, the co-chairs retained the services of former New Mexico Supreme Court Justice Paul J. Kennedy to serve as special counsel to the subcommittee. The subcommittee met with special counsel on that day, and asked him to begin work on several preliminary questions, including:

1. the process of collecting evidence;
2. the appropriate standard of proof at the impeachment stage;
3. the meaning of the constitutional grounds for impeachment; and
4. the potential role for the state official being investigated in the subcommittee's process.

Special Counsel Kennedy met with the subcommittee and outlined a tentative schedule that might lead to completion of the work of the subcommittee and a final report to the House of Representatives by the end of October 2005.

On October 8, 2005, at the request of the subcommittee co-chairs, special counsel met with the respective house caucuses to keep them apprised of his tentative evaluation of possible processes, hear their concerns and answer their questions.

On October 9, 2005, the subcommittee met again to receive the special counsel's preliminary report on the questions previously propounded to him, and his recommendations concerning the process and timetable that would enable the subcommittee to complete its work and report expeditiously to the full committee and house.

One of the major concerns of the subcommittee was the timetable for the investigation and eventual hearings. It was not feasible for the subcommittee to complete its work during the special session.

However, the subcommittee asked that the house take whatever steps necessary to allow the subcommittee to continue its work after the adjournment of the special session and also to take whatever steps were necessary for the legislature to be able to call itself into extraordinary session at the end of October 2005 for receipt of the subcommittee's final report and the possible consideration of articles of impeachment.

Special counsel proposed, and the subcommittee agreed, that he be permitted from October 10 through October 25 to conduct his investigation, meeting with the subcommittee or the subcommittee co-chairs periodically or as necessary. The subcommittee contemplated meeting on or about October 26 and October 27, 2005 to consider the evidence gathered by special counsel and to consider his final report. It was also contemplated that certificates signed by legislators requesting an extraordinary session would be gathered and delivered to the governor in sufficient time to allow for the convening of the extraordinary session on October 28, 2005. That process would allow the House Rules and Order of Business Committee to receive the recommendations of the subcommittee, which would then be presented to the house through the co-chairs of the subcommittee.²

The compressed time frame was a major difficulty confronting the subcommittee. While recognizing that any future impeachment inquiry might benefit from an expanded investigative process, the subcommittee believed that the compressed time frame was required under the following exigent circumstances presented in of this case:

1. The Office of the State Treasurer is responsible for the investment of billions of dollars of state funds.
2. The state treasurer is currently under indictment by federal authorities for crimes that go to the very heart of his responsibilities as the custodian and investor of those state funds.
3. There exists a sense of need to reassure the public and the investment community that the integrity of the Office of the State

²All of those recommendations were followed. First, while the legislature was still in session, certificates were prepared, with sufficient signatures of house and senate members, to request that the governor convene the legislature in extraordinary session, pursuant to Article 4, § 6 of the New Mexico Constitution. Second, upon the adjournment of the special session on October 12, 2005, the Legislative Council authorized the subcommittee "to meet as necessary . . . and be paid per diem and mileage" in advance of the possible extraordinary session that was tentatively scheduled for October 28, 2005. Minutes of the Two Hundred Ninety-Eighth Meeting of the Legislative Council, October 12, 2005.

Treasurer is not compromised.³

In addition, the subcommittee was confident that the investigation and presentation of evidence could be fully and fairly completed in the time allowed.

The subcommittee met again on October 17, 2005 to receive an interim report from the special counsel on the progress of his investigation, and the anticipated processes and procedures that would be followed in the conduct of subcommittee proceedings. It was determined that special counsel would present the evidence and his recommendations for subcommittee action at a meeting to be held on October 26, 2005, so that the subcommittee could make a report to the House Rules and Order of Business Committee and from that committee to the House of Representatives in the extraordinary session to be called by the governor at the request of the legislature.

III. RULES AND PROCEDURES

The following rules and procedures were recommended to the subcommittee by special counsel and subsequently adopted by the full House Rules and Order of Business Committee.

1. The subcommittee shall give public notice of the date, time and place of its meetings as soon as practicable before the commencement of its meetings.
2. At the request of special counsel or a majority of the subcommittee, the subcommittee shall conduct appropriate proceedings in executive session. Only subcommittee members, a House Judiciary Committee staff member, an analyst for the majority, an analyst for the minority and designated Legislative Council Service staff may attend executive sessions. Staff members must sign confidentiality statements.
3. The task of gathering and presenting evidence to the subcommittee shall be the responsibility of special counsel. In that regard:
 - a. all documentary evidence from public records, including affidavits of investigative authorities, shall be presented in open, public sessions;
 - b. as other evidence is gathered, and at the request of special

³The governor and the attorney general had sought New Mexico Supreme Court authority for a negotiated interim solution that would have allowed the state treasurer to retain his compensation while an interim treasurer was appointed. The New Mexico Supreme Court found that their petition presented no justiciable controversy for it to decide. Although that effort did not involve the subcommittee, those documents may be of importance to the historical record and therefore the petition and the court's order are attached as an appendix to this report.

counsel, the subcommittee shall decide how that evidence is to be presented—i.e., through live witnesses, depositions or otherwise;

c. also at the request of special counsel, the subcommittee will decide whether that evidence is to be presented in public sessions, or whether respect for ongoing criminal proceedings or questions of privilege requires that such evidence is presented in executive session;

d. testimony by witnesses, whether presented in public session or otherwise, shall be under oath through direct questioning by special counsel. Members of the subcommittee shall, however, retain the right to question any witness presented. Members of the subcommittee may submit questions to special counsel regarding testimony by deposition;

e. these proceedings are investigative and charging in nature, and thus do not require an adversarial hearing. Nonetheless, the state treasurer shall be apprised of the evidence submitted by special counsel, and the state treasurer's response to that information shall be invited by way of:

i. his own testimony under oath provided through the questioning of special counsel; and

ii. through other means under terms and conditions deemed appropriate by the subcommittee, upon the recommendation of special counsel; and

f. special counsel is authorized to request the issuance of subpoenas on behalf of the subcommittee through the Legislative Finance Committee.

4. After the presentation of the evidence, the subcommittee, sitting in executive session, shall receive and consider the advice of special counsel with respect to any potential articles of impeachment.

5. The question presented to the subcommittee and the house is, "Is there clear evidence to warrant impeachment?". The subcommittee and the house will apply the following standard of proof:

There is clear evidence to warrant impeachment.

6. The subcommittee shall then make a report to the full committee. If the report recommends articles of impeachment, the subcommittee shall present the articles of impeachment to the full committee and through the committee to the whole house. The presentation shall include a summary of the supporting evidence with due regard for the nature of any evidence that was dealt with in a confidential manner to protect the integrity of the ongoing criminal proceedings.

7. If and when articles of impeachment are presented to the house, all house members shall be given access to all the evidence considered by the subcommittee, recognizing that it may be necessary to make some evidence available to house members on a confidential basis to protect

the integrity of the ongoing criminal proceedings.

In considering any proposed articles of impeachment, the subcommittee would recommend that the house apply the same standard of proof as that used by the subcommittee.⁴

IV. STANDARDS OF IMPEACHMENT

Special counsel and the subcommittee devoted considerable time and attention to the constitutional standards and burden of proof applicable to an impeachment proceeding in New Mexico, given the fact that no officer of New Mexico had ever been impeached. Article 4, Section 36 of the Constitution of New Mexico provides that all state officers shall be liable to impeachment for "crimes, misdemeanors and malfeasance in office", without further elaboration on the grounds for impeachment or what standard of proof should guide the subcommittee's deliberations and that of the house. The subcommittee was particularly mindful of the gravity of its actions because under the New Mexico constitution impeachment by the house not only requires the impeached officer to stand trial in the senate, article 4, § 35, but also precludes that officer from "exercise[ing] any powers or duties of his office . . . until he is acquitted [by the senate]" Article 4, § 36.

In order to highlight the fact that an impeachment proceeding is not a criminal proceeding designed under our system of justice to punish wrongdoing, nor a civil trial designed to provide compensation to wronged victims, the subcommittee decided that it was important to attempt to avoid, insofar as possible, highly technical procedures and concepts that are specially designed for use in the civil and criminal justice system. By the same token, however, the subcommittee was extremely sensitive to the need to remain respectful to the constitutional rights of the subject of the inquiry as well as the ongoing criminal case against him that was proceeding in the federal court.

A final consideration in the discussion over grounds for impeachment and the appropriate standard of proof was the constitutional reality that impeachment is a two-step process: the first being the obligation of the house to consider whether to "impeach"—i.e., proffer charges of impeachment. If the house does so,

⁴The publicly issued procedural rules, together with all other publicly issued statements and interim reports of the subcommittee, are appended to this report.

the Constitution of New Mexico then commands that such impeachment "shall be tried in the Senate", Article 4, Section 35 of the Constitution of New Mexico, and that conviction in the senate: shall not extend further than removal from office and disqualification to hold any office of honor, trust or profit, or to vote under the laws of this state; but such officer . . . , whether convicted or acquitted shall, nevertheless, be liable to prosecution, trial, judgment, punishment or civil action according to law. (Article 4, Section 36 of the Constitution of New Mexico).

The subcommittee was therefore cognizant that its function, and that of the house, was not to determine whether the state treasurer was guilty of an impeachable offense, but rather to determine whether there was sufficient evidence of impeachable offenses such that the subcommittee should recommend to the full committee that the house proffer such charges and require that the state treasurer face those charges in a senate trial.

Thus, with respect to the burden of proof at the impeachment stage, the subcommittee considered, but rejected, such standards of proof as "beyond a reasonable doubt", "clear and convincing", "preponderance of the evidence", and "probable cause". After much deliberation and consideration, the subcommittee decided that the standard of proof that would guide the subcommittee and comprise the recommendation for the house to apply would be: "There is clear evidence to warrant impeachment". It was the considered judgment of the subcommittee that this standard of proof took the impeachment proceedings out of the realm of a civil or criminal case while at the same time recognizing the serious nature of an impeachment proceeding. The subcommittee was satisfied that this standard expressed a significant burden of proof appropriate to the circumstances. Such a standard also emphasized that in making the judgment on impeachment, the house is not being called upon to make a civil or criminal judicial decision, but rather a quintessentially legislative and "political" decision that it deems necessary to cleanse the political process, and protect the integrity of governmental decisionmaking.

That left the question then of what the basis of an impeachment might be; in other words, for what acts could the state treasurer be impeached? In this regard, Article 4, Section 36 of the Constitution of New Mexico provides for impeachment for acts other than crimes by directing that: "All state officers . . . shall be liable to impeachment for crimes, misdemeanors and malfeasance in office".

(emphasis added) Mirroring the constitutional provision, a New Mexico statute specifically directed to the Office of the Treasurer entitled, "Malfeasance, neglect of duty, or unauthorized acts by treasurer or auditor; penalty", provides in pertinent part:

If the auditor or treasurer shall willfully neglect or refuse to perform any duty enjoined by law, or shall be guilty of any oppression or extortion in the performance of any legal duty, or shall receive any fee or reward for the performance of any legal duty not allowed by law, or by color of his office shall knowingly do any act not authorized by law, or in any other manner than is required by law, he shall, upon conviction upon indictment, be adjudged guilty of a misdemeanor in office and be fined any sum not exceeding \$1,000.00. (Section 8-6-6 NMSA 1978).

The statute provided further legal support for the proffering of charges against the state treasurer based on a definition of malfeasance and neglect of duty within the definition of extortion (the essential basis of the federal criminal indictment against the state treasurer), as well as the misdemeanor offense of the "receipt of a fee or reward for the performance of a legal duty".

While the investigation conducted by special counsel necessarily was rooted in, and stemmed from, the federal criminal indictment, it was not believed necessary for the house to allege, or find, that the state treasurer had violated every element of the federal Hobbs Act, as charged in the federal indictment. Facts supporting the government's case against the treasurer for Hobbs Act violations could also support an allegation of malfeasance or misdemeanor under Section 8-6-6 NMSA 1978. Violations of other New Mexico statutes and constitutional provisions might also support impeachment; for example, Article 8, Section 4 of the Constitution of New Mexico (misuse of public money), Section 30-41-1 NMSA 1978 (soliciting or receiving illegal kickback), Section 10-16-3 NMSA 1978 (ethical principles of public service) and Section 30-23-1 NMSA 1978 (demanding illegal fees).

V. THE INVESTIGATION

Special counsel identified a number of areas of inquiry. These areas all stemmed from the United States indictment of the state treasurer on Hobbs Act violations. The initial indictment was handed down on September 13, 2005, followed by two superseding indictments.

Accordingly, special counsel gathered the following documentary and testimonial evidence:

1. The first superseding indictment in United States of America v. Robert Vigil, in the United States District Court for the District of New Mexico, Criminal No. 052051.
2. The sworn testimony of Mr. Mitchell Elfers, deputy district court clerk for the District of New Mexico. During his testimony, Mr. Elfers authenticated a number of documents that are listed in this section of the final report.
3. Motion to Unseal Affidavit in Support of Search Warrant.
4. Order Unsealing Affidavit in Support of Search Warrant.
5. Search Warrant for the New Mexico State Treasurer's Office and Affidavit of FBI Special Agent Drew McCandless, including attachment "A" (items to be seized) and the evidence recovery log.
6. The plea agreement in United States of America v. Angelo Garcia, Criminal No. 051297.
7. Transcript of proceedings, felony plea hearing, in United States of America v. Angelo Garcia, CR No. 051297.
8. Information, United States of America v. Angelo Garcia, CR No. 051297.
9. Plea agreement in United States of America v. Kent Nelson, CR No. 052021.
10. Transcript of felony plea hearing in United States of America v. Kent Nelson, CR No. 052021.
11. Information in United States of America v. Kent Nelson, CR No. 052021.
12. Defendant's Motion for Bill of Particulars in United States of America v. Robert Vigil, CR No. 052051.
13. Government's Memorandum in Opposition to Motion for Bill of Particulars in United States of America v. Robert Vigil, CR No. 052051.
14. A supplement to Motion for Review of Release Order in United States of America v. Robert Vigil, CR No. 052051, which supplement included the following partial transcripts:
 - a. 02/28/04 conversation between Angelo Garcia and Leo Sandoval;
 - b. 03/16/04 conversation between Kent Nelson and Angelo Garcia;
 - c. 03/23/04 conversation between Robert Vigil and Angelo Garcia;
 - d. 04/07/04 conversation between Kent Nelson and Angelo Garcia;and
 - e. 08/11/04 conversation between Kent Nelson and Angelo Garcia.
15. Government's Motion to Review Release Order Pursuant to 18 U.S.C., § 3145 and Supporting Memorandum in United States of America v. Robert Vigil, CR No. 052051. This document included the following:

- a. Excerpt from transcript of recorded conversation between Kent Nelson and Robert Vigil on May 2, 2005.
16. Excerpt from transcript of recorded conversation between Kent Nelson and Robert Vigil on August 24, 2005.
17. Transcript of tape ID No. 26 of August 24, 2005, conversation between Kent Nelson and Robert Vigil in Albuquerque, New Mexico.
18. Transcript of motion hearing before the Honorable James A. Parker, United States District Judge, held in Albuquerque, New Mexico in United States of America v. Robert Vigil, CR No. 052051, commencing on October 14, 2005.
19. Order Modifying the Order Setting Conditions of Release in United States of America v. Robert Vigil, CR No. 052051.
20. Mr. Vigil's Motion to Dismiss Indictment Counts for Failure to Charge Crimes and for Defects in Indictment Under Rule 12 of the Federal Rules of Criminal Procedure (and supporting documentation) in United States of America v. Robert Vigil, CR No. 052051.
21. Government's Memorandum in Opposition to Motion to Dismiss Indictment for Failure to Charge Crimes and Defects in Indictment Under Rule 12 of the Federal Rules of Criminal Procedure, including Exhibits "1", "2", and "3". Exhibit "3" consists of a CD video with excerpts from the aforementioned May 2, 2005 and August 24, 2005 conversations.
22. Campaign Finance Report. Report of Expenditures and Contributions for Robert E. Vigil, New Mexico State Treasurer, filed May 6, 2005, in the Office of the Secretary of State.
23. Transcript of Ms. Martha Boersch's sworn statement taken October 20, 2005.
24. Transcript of Mr. Robert W. Doty's sworn statement taken October 19, 2005. Also included in this exhibit is an article from "The Bond Buyer OnLine" dated Tuesday, October 18, 2005, "New Mexico Proposes Set of Changes in the State Treasurer's Investment Policy".

In addition to gathering and reviewing all of the evidence in the public record from the federal criminal case and from the Office of the Secretary of State, special counsel obtained sworn statements from former Assistant United States Attorney Martha Boersch and certified independent public finance advisor, Mr. Robert Doty. Video recordings of Ms. Boersch and Mr. Doty were presented to the subcommittee in public on October 26, 2005.

Ms. Boersch discussed the procedures used by federal authorities to investigate, develop the facts and prosecute federal public corruption cases. She discussed the significance and import of the Hobbs Act. She reviewed many of the documents listed in the federal

criminal case against the state treasurer, and discussed their legal significance. She also reviewed the evidence against the backdrop of Section 8-6-6 NMSA 1978, and opined that the evidence that she had seen constituted malfeasance and neglect of duty under the terms of that statute.

Mr. Doty's testimony spoke to the significance of the investments being made by the state treasurer, the impact the indictment and arrest of the state treasurer was having on opinion in the investment community, including its effect on New Mexico's reputation in the investment community, potentially having and its adverse impact on New Mexico's investment opportunities.

During the course of the investigation, special counsel had several occasions to communicate with the state treasurer's attorney. Special counsel made it clear that the state treasurer was free to offer sworn testimony to the subcommittee, whether live, in a videorecorded deposition or in answers to written interrogatories. On all occasions, the state treasurer's attorney declined any invitation or opportunity for his client to testify. The state treasurer's attorney made it clear that his client would invoke his Fifth Amendment right to refrain from testifying should he be subpoenaed by the subcommittee. In view of the fact that the state treasurer's right to remain silent and to refuse to testify was unquestionable in light of the pending federal criminal indictment, it was thought to be neither useful nor fair for the state treasurer to be subpoenaed merely to go through the formality of invoking the Fifth Amendment to questions by the subcommittee or by special counsel.

Special counsel also requested that the state treasurer's attorney make available to the subcommittee discovery materials obtained from the United States attorney during the course of the criminal case. Among these materials were thought to be transcripts of tape-recorded conversations in excess of seven hundred pages. The state treasurer's attorney declined to make these available to special counsel.

VI. PRESENTATION OF THE EVIDENCE

Special counsel presented the evidence to the subcommittee on October 26, 2005. The focus of the presentation was on the evidence supporting the criminal indictment that by October 12, 2005 consisted of twenty-one counts alleging violation of the Hobbs Act, 18 U.S.C. § 1951 and a forfeiture count seeking \$265,410.00 representing the

amount of proceeds obtained as a result of the Hobbs Act offenses.

The evidence revealed the following. The treasurer of the state of New Mexico is entrusted with investing billions of dollars of the state's funds. The funds are invested in a variety of ways, including United States government securities, commercial paper, asset-backed obligations and repurchase agreements. Repurchase agreements are purchases of assets that are to be resold at a specified date and at a specified price. The difference between a purchase price and the resale price is the income generated by the transaction, often expressed as an interest rate relative to the purchase price. The state treasurer engaged in two types of repurchase agreements. The first type, called fixed repurchase agreements, allowed all of the relevant assets to be invested for the entire investment period. The second type, called flexible repurchase agreements, allowed for the assets to be drawn against during the investment period. The state treasurer entered into flexible repurchase agreements with brokerage firms. Brokerage firms competed against each other to offer the best rate of return by bidding on investments. The state treasurer obtained these bids from the brokerage firms through investment advisers. The investment advisers, who were not employees of the state, solicited bids from brokerage firms, and advised the state treasurer about the bids obtained.

The evidence presented also showed that the state treasurer then decided which brokerage firms would receive contracts for the flexible repurchase agreements. The winning brokerage firms would then be awarded contracts with the state treasurer, under which they committed to deliver the promised rates of return. The investment advisers were not paid by the state treasurer, but instead were paid commissions by the brokerage firms that won the repurchase agreements. The commissions were based upon the size and duration of the contracts.

The evidence showed that soon after he took office in January 2003, the state treasurer reappointed Mr. Kent Nelson as an outside investment adviser to the state treasurer, even though Mr. Nelson had been terminated as the investment adviser in November 2000. There was evidence presented that showed that between August 19, 2004, in concert with others, the state treasurer obtained funds from investment adviser Mr. Nelson with his consent, induced by wrongful use and threat of use of economic harm. In this regard, there was evidence presented that the state treasurer would authorize Mr. Nelson to obtain bids from brokerage firms on flexible repurchase agreements. The state treasurer would then enter into flexible repurchase

agreements with brokerage firms whose bids were obtained by Mr. Nelson. The state treasurer would apparently monitor Mr. Nelson's receipt of commissions from brokerage firms that won flexible repurchase agreements.

There was also evidence to suggest that the state treasurer required Mr. Nelson to share Mr. Nelson's commissions with others as a condition of doing business with the treasurer of the state of New Mexico. For example, there was evidence that the state treasurer directed Mr. Nelson to transfer substantial portions of his commission fees to bank accounts controlled by Mr. Angelo Garcia. The state treasurer would then direct the disbursement of funds received by Mr. Garcia. Mr. Garcia would himself share in the proceeds as his compensation for participation in the scheme. Mr. Garcia had no official position with the state of New Mexico.

The evidence also showed that on May 2, 2005, the state treasurer accepted United States currency in the approximate amount of \$11,500.00 directly from Mr. Nelson and that on August 24, 2005, the state treasurer accepted \$1,900.00 in United States currency directly from Mr. Nelson. The subcommittee was able to view video and hear audio recordings of the state treasurer and Mr. Nelson during the aforementioned cash transactions.

The subcommittee also reviewed multiple transcripts and excerpts of transcripts of conversations amongst the various implicated individuals. The presentation of evidence concluded with the videotaped depositions of Ms. Boersch and Mr. Doty, as described earlier in this report.

VII. CONCLUSION OF THE SUBCOMMITTEE'S WORK

After the completion of the subcommittee's evidentiary hearing on October 26, 2005, the subcommittee went into executive session to ask questions of its special counsel and to receive his recommendations concerning possible impeachment. Before that session began in earnest, however, the subcommittee was informed that State Treasurer Robert Vigil had resigned from office. After some considerable discussion, the subcommittee determined that no additional purpose would be served by continuing with its proceedings. In a public session on the morning of October 27, 2005, the subcommittee met and issued a statement explaining that it was suspending its proceedings in light of the state treasurer's

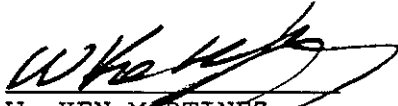
resignation; that it was recommending to the leadership that an extraordinary session was no longer warranted for consideration of impeachment; and that it would present its final report to the full committee when the legislature convened in its next regular session in January 2006.

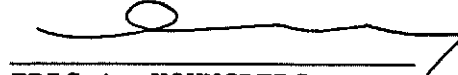
VIII. SUBCOMMITTEE RECOMMENDATION

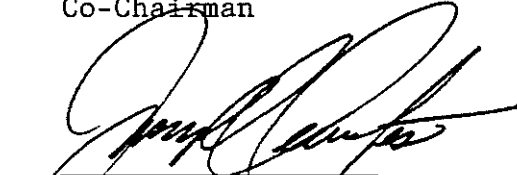
Because Mr. Vigil resigned prior to the subcommittee's final review and evaluation of the evidence, the subcommittee makes no recommendation with respect to what potential impeachment charges might have been brought, and whether the evidence was sufficient to meet the subcommittee's standard of "clear evidence to support impeachment". The subcommittee is satisfied that with the resignation of the state treasurer, no additional purposes would be served by any further legislative action with respect to his conduct.

The subcommittee requests, however, that the committee adopt this report as its report to the House of Representatives, and requests that this report be made a part of the journal.

Respectfully submitted,



W. KEN MARTINEZ
Co-Chairman

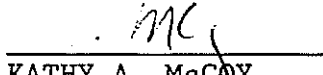

ERIC A. YOUNGBERG
Co-Chairman



JOSEPH CERVANTES
Member



ANNA M. CROOK
Member



LARRY A. LARRANAGA
Member


TERRY T. MARQUARDT
Member


KATHY A. MCCOY
Member


DEBBIE A. RODELLA
Member


DANIEL P. SILVA
Member


PETER WIRTH
Member

Date: 2/6/06