

Senate Resolution No. 5—Senators Raggio, Titus, Amodei, Beers, Care, Carlton, Cegavske, Hardy, Heck, Horsford, Lee, Mathews, McGinness, Nolan, Rhoads, Schneider, Tiffany, Townsend, Washington and Wiener

FILE NUMBER.....

SENATE RESOLUTION—Censuring Kathy Augustine, Controller of the State of Nevada, and pronouncing the judgment of the Senate in the matter of her impeachment.

WHEREAS, Each public officer and employee in the State of Nevada has a duty to uphold the ethical provisions established by statute; and

WHEREAS, The legislative intent set forth in statute concerning those ethical provisions provides that a public office is “[a] public trust and shall be held for the sole benefit of the people” and that a public officer or employee “must commit himself to avoid conflicts between his private interests and those of the general public whom he serves;” and

WHEREAS, In 2003, Kathy Augustine filed with the Nevada Commission on Ethics a statement acknowledging that she had received, read and understood those statutory ethical standards as required by law; and

WHEREAS, On September 22, 2004, Kathy Augustine stipulated before the Nevada Commission on Ethics that she willfully violated NRS 281.481(7) as she reasonably should have known that:

1. Causing state employee Jennifer Normington, on state time, to perform functions related to Kathy Augustine’s 2002 re-election campaign violated the provisions of NRS 281.481(7);

2. The act of causing computer equipment owned by the State of Nevada and located in the Office of the State Controller to be used for creating, maintaining, storing and printing documents relating to her 2002 re-election campaign violated the provisions of NRS 281.481(7); and

3. The act of causing equipment and facilities, provided by the State of Nevada for use by the Office of the State Controller, to be used for business and purposes related to her 2002 re-election campaign violated the provisions of NRS 281.481(7); and

WHEREAS, On November 11, 2004, Kathy Augustine was impeached by the unanimous vote of the Assembly of the State of Nevada based upon the aforementioned willful violations of NRS 281.481(7); and

WHEREAS, The Articles of Impeachment were presented to the Senate of the State of Nevada by representatives of the Assembly on November 12, 2004; and

WHEREAS, On that same day, the Senate adopted Senate Resolution No. 4 amending the Rules of the Senate for the 21st Special Session of the Nevada Legislature to include procedures for considering Articles of Impeachment; and

WHEREAS, Kathy Augustine answered the Articles of Impeachment on November 29, 2004, with a plea of not guilty and the impeachment trial was commenced in the Senate on December 1, 2004; and

WHEREAS, On December 4, 2004, the Senate dismissed Article I of the Articles of Impeachment; and

WHEREAS, On that same day, the Senate acquitted Kathy Augustine on the charges set forth in Article II of the Articles of Impeachment; and

WHEREAS, On that same day, the Senate also voted to convict Kathy Augustine of the charges set forth in Article III of the Articles of Impeachment; and

WHEREAS, By engaging in the conduct set forth in Article III of the Articles of Impeachment, Kathy Augustine willfully diverted equipment and facilities for use in her campaign for re-election rather than for the interests of the general public whom she has been elected to serve; and

WHEREAS, In addition to the willful violations set forth in the stipulation entered into before the Commission on Ethics, Kathy Augustine failed to clearly identify for her staff the difference between political activity that is improper to conduct on state time and the job duties for which they were employed; and

WHEREAS, Such conduct is unacceptable by a public officer and demonstrates disrespect for the laws of the State of Nevada; and

WHEREAS, The Senate finds that Kathy Augustine by her conduct has brought upon herself and fully deserves the judgment set forth herein; now, therefore, be it;

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That Kathy Augustine is convicted of Misdemeanor or Malfeasance in Office and the Senate of the State of Nevada hereby censures Kathy Augustine for such conduct; and be it further

RESOLVED, That this censure serve as a reminder to all public officers of their duty to uphold the laws of this State, to ensure that their staff understands the political activities which must not be conducted on governmental time and to carry out their service solely for the benefit of the general public whom they have been elected to serve; and be it further

RESOLVED, That this resolution shall be entered upon the Journal of the Senate; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Kathy Augustine, Controller of the State of Nevada, the Assembly, the Secretary of State and the Governor.