

THE TWENTY-FIFTH DAY

CARSON CITY (Saturday), December 4, 2004

Senate called to order at 9:09 a.m.

President Hunt presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

We thank You, Lord, that there is no weather in heaven. Let not the cold of this day get into our hearts or minds. May we be warm and cheerful, secure in the knowledge that You are still here, that no clouds can blot You out, no rain, sleet or snow drive You away.

As winter blows her icy breath along the city's streets, our love goes out to all who need encouragement, to all who lack food and clothing, to all who are cold and cheerless, to all who long for home and friendship.

Help us, in our blessedness, to be more willing to share the good things of life. Give us generosity and concern for others that shall mark us as Your disciples.

AMEN.

Pledge of allegiance to the Flag.

Senator Raggio moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that the following person be accepted as an accredited press representative, and that she be assigned space at the press table and allowed the use of appropriate media facilities: RENO GAZETTE-JOURNAL: Candice Towell.

Motion carried.

SPECIAL ORDERS OF THE DAY

Madam President announced that the motion to dismiss the charges in Article I of the Articles of Impeachment against State Controller Augustine is before the Senate.

Remarks by Senators Raggio and Townsend.

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

SENATOR RAGGIO:

Thank you, Madam President. This situation is too important for us not to make some remarks regarding these motions. It is important not only that we perform our obligation but that the public, who we represent, understands what we are doing.

First of all, as one Senator involved in this process I take my oath seriously. I am certain the others do as well. We are under oath in these proceedings to do justice and to decide the matter before us on the laws and the evidence under the Constitution.

A motion is before us today with respect to each of the Articles of Impeachment. At this time, we are dealing with Article I for a dismissal. If the motion carries, Article I is no longer before the Senate. It is my understanding the motion requires only a majority vote unlike a motion or

action for conviction which requires a two-thirds vote. Any motion before us is sustained by 11 votes, a majority of the full Senate. If we deny the motion, it is clear any action on the motion today is not a conviction of the Controller. The matter will then proceed and evidence will be presented by those representing the Controller. It is also important for the record to indicate we are not concerned with how this matter got here. We heard a great deal of testimony about how that happened. We heard testimony that persons in the Controller's Office and employees gathered what they felt was evidence and delivered it to the Attorney General. There were questions as to why it was delivered there and not elsewhere. There were questions as to why the Attorney General changed a decision to first file a criminal complaint after negotiations with the attorney representing the Controller to a decision instead to file an ethics complaint with the Ethics Commission. At some point, we heard that there was before the Ethics Commission, and not necessarily with the approval of the Attorney General, a stipulation which was entered into that avoided a hearing in the Ethics Commission where witnesses would have appeared and been subject to cross-examination. There was much comment about why witnesses had never been cross-examined before they appeared in these Senate proceedings. We heard that was by stipulation agreed to by both the Ethics Commission and the attorney's representing Controller Augustine. We learned the matter proceeded to the Assembly because of a law we ourselves had passed. Under the ethics law, once a willful violation is either proved or agreed to in the Ethics Commission, there is no alternative regardless of what action the Ethics Commission took on its own.

We have before us as evidence a stipulation entered into and signed by the Controller that there were three acts of willful violation of NRS 281.481, subsection 7, which applies to public employees. The law which this Legislature passed gave the Ethics Commission no option. As a result of a willful violation, the matter had to be referred to the Assembly. We may not approve of the manner in which the Assembly chose to vote for the Articles of Impeachment. I say that because an issue was made of that, but that is not the issue before this Senate.

Whatever occurred, the Articles of Impeachment were voted on and delivered to this Senate. Under the Constitution and the law of this State, the Governor was required to appoint a temporary Controller. We had to consent to that. We had no alternative but to begin a trial. Every effort has been made in the opinion of this Senator during these proceedings to ensure that substantive and procedural due process has been afforded to both sides. We heeded, not necessarily agreed to but we heeded, the concerns of the Counsel for the Controller that there may be a potential conflict with the Attorney General's Office who would ordinarily prosecute this matter. By vote of this Senate, we appointed Special Prosecutor Dan Greco, who in our opinion, had the necessary qualifications to perform this task. I believe we all agree that Mr. Greco, on short notice, has done so and has performed his job to the best of his ability. Likewise, the Controller has had the opportunity to have the advice and assistance of Counsel and they have done a credible job. We are at the point now where only a portion of this matter has been heard. We have heard only the case presented by the Special Prosecutor, and I am mindful as an attorney that a motion of this kind to dismiss under ordinary proceedings in a court would be decided only on the law and the evidence that is before it. We have not heard any of the Defense case other than the cross-examination of the witnesses provided by the Prosecution. I do not know what explanations or what evidence might be presented other than what they have set forth in their list of witnesses and exhibits which all have been stipulated to as admissible.

In our consideration, we are free to consider all the exhibits except those which were withdrawn. All of the exhibits, both those submitted by Controller Augustine and those submitted by the Special Prosecutor were by stipulation.

What am I looking to in furtherance of the oath which I took? The controlling law is NRS 281.481, subsection 7, that is the section which appears in each of the Articles of Impeachment. I will read into the record, "a public officer or employee other than a member of the Legislature," and the reason for that exclusion is because there is a separate section that deals with members of the Legislature, "shall not use government time, property, equipment or other facilities to benefit his personal or financial interest."

That is the controlling law. A violation of that would be a violation of that section and the code of ethical standards which this section establishes. However, there are exceptions. Based upon the stipulation, we have the evidence we have seen before us at this point, and as I said as

an attorney, I believe the evidence has to be looked at in a light most favorable to the party against whom the motion is directed. In a case at trial, that would mean that the party who makes the motion of evidence that is before the court or trier of fact has to be looked at in a light most favorable. That does not mean, we cannot give weight to the evidence. If a witness testifies, we may draw our own conclusions as to the bias or credibility of a witness's testimony. It still remains that is the evidence on which we must make a decision. The exclusion or exception, which I am going to read into the record, this subsection does not prohibit, "(1) A limited use of governmental property, equipment or other facility for personal purposes if," and there are four things that must happen. "The public officer responsible for and has authority to authorize the use of such property, equipment of other facilities, has established a policy allowing the use or the use as is necessary as a result of a emergency circumstance." I read that to mean there has to be a policy allowing the use. Without such a policy, the use is necessary as a result of emergency circumstances; "(2) the use does not interfere with the performance of his public duties, (3) the cost or value related to the use is nominal and; (4) the use does not create the appearance of impropriety." In order for the exception to apply, if we find there has been such an unlawful or unauthorized use, then those four exceptions must apply to be an exception. Having said that, I do not want to take all the time of the Senate but reviewing the evidence before us as I said we have not heard from the Controller and have not heard what she would say. We have not heard what others on the Defense list might say. We have heard from a number of witnesses who have confirmed in some matter the allegation in the first Article of Impeachment. That article refers to the fact that the Controller stipulated that she willfully violated as she, and I am underlining that, "reasonably should have known" that causing the state employees, Jennifer Normington on state time to perform functions relating to the reelection campaign of 2002, she violated that provision and further that the act of causing computer equipment in the office to be used for creating, maintaining, storing and printing documents violated the provisions and that the act of causing equipment and facilities provided by the State for use by the Controller violated the same section.

We all have our own opinions as to the testimony of Jennifer Normington. We can draw our own conclusions. There was some corroboration by other witnesses, and we can again draw our own conclusions as to whether or not they confirmed or shed light upon that conduct. We were aided during the course of the proceedings by an opinion we received from our Legislative Counsel. The act of compiling, preparing or filing campaign-expenditure reports of a public official would not be considered for these purposes. It deletes the so-called political activity that might be considered a violation. One witness, Jim Wells' testimony indicated he was asked to do a function that he believed to be a political activity. This opinion can be applied to the bulk of his testimony where he stated he declined to do an act that we, now, believe he probably should have done. He did testify that he saw other things such as stuffing envelopes and matters of that sort going on.

There is not a question in my mind that there was some political activity as a result of the witnesses' testimony in the Office of the Controller. There was use of computer equipment and time. Some of that was hard to distinguish as to whether or not some activities may have taken place off of state property during other than regular work hours. The question in my mind is whether or not the activity or employees time and use of state equipment and facilities itself comes within this exception.

With reference to Article I of the Articles of Impeachment, I am making this differentiation because I do not want to have to repeat these same arguments or comments when we consider the motion with respect to Article II or Article III. With respect to Jennifer Normington and Article I which centers mostly around her, I have difficulty accepting the fact that she did not consider herself a volunteer of Controller Augustine's campaign. There is sufficient evidence in my mind to indicate that she changed her employment not only as an opportunity to serve in state government but to serve someone who was politically active. Many of us within our own party attend political functions. I cannot fault anyone in a public office who attends political events. I do not look at that as an abuse of a public officer's responsibilities or duties. Something must have happened to cause Jennifer Normington, at some point, to decide that she no longer wanted to do political activities. I can only understand what I heard. We are not here to judge the personalities of the Controller unless those traits or acts somehow compel political activity. I am

going to vote to dismiss Article I in reference to the actions of Jennifer Normington as referenced in Article I.

SENATOR TOWNSEND:

Thank you, Madam President. The purpose of my rising this morning is to have the Senate refer itself to a legal opinion asked for by Senator Care. I appreciate his insight not only as a member of this body but also as an attorney. The opinion is dated November 29, in reference to all three articles. If you look at page 18, with regard to the conclusion, it has to do with standards of proof. It is an excellent opinion to which we should complement our Legal Counsel, Mrs. Erdoes, and her staff, particularity, Scott Wasserman and Kevin Powers for their work on this opinion.

As you go through the opinion and get to the conclusion, the most important part is from the last sentence of the paragraph before the end of the page, and I will quote, "If the Senate chooses not to adopt a specific standard of proof then each Senator may apply his/her own standard of proof as is necessary to 'do justice according to law.'" The purpose of bringing this out is that no matter how anyone decides today, it is my belief that this requires us to not only set our own standard but to set it consistently rather than pick and chose. I believe that would be unfair to the public, the Prosecution and to the Defense in this matter. It does not matter where you set the bar, preponderance, clear and convincing, or beyond a reasonable doubt, but that you do so consistently throughout the three articles.

Roll call on the motion to dismiss the charges in Article I of the Articles of Impeachment against State Controller Augustine.

YEAS—11.

NAYS—Amodei, Carlton, Horsford, Lee, Mathews, McGinness, Schneider, Titus, Wiener—9.

EXCUSED—Cegavske.

The motion having received a majority, Madam President declared it carried. Article I of the Articles of Impeachment dismissed.

Madam President announced that the motion to dismiss the charges in Article II of the Articles of Impeachment against State Controller Augustine is before the Senate.

Remarks by Senator Raggio.

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

Incorporating what I said previously, I am going to direct my attention in the same manner to Article II, which is a violation of the same section of NRS 281.481, subsection 7. The charges are that the Controller reasonably should have known the act of causing computer equipment owned by the State of Nevada and located in the Office of the Controller to be used for creating, maintaining, storing and printing documents relating to her reelection campaign violated that provision. There has been ample testimony of the Controller's knowledge that she should have known that items, such as, campaign lists; invitations; solicitation letters; and fundraising lists, were being compiled using the database, using the facilities and computers for this purpose. There may be explanations the Defense will put forward on this matter. Viewing the evidence put forward at this time, I cannot see where it comes within the exception stated under NRS 281.481. There was some testimony solicited that indicated the Controller told people to do things on their own time or do it, in some cases, after objection, after hours. Notwithstanding that, there was certainly actual knowledge, and I am excluding items such as campaign-contribution reports which I now believe do not constitute political activity. I do not believe the use comes within the exception. I am referring to the four items that I feel are necessary under that section to properly be considered an exception. I would call the use of the facilities and time, de-minimis time usage. I will not vote in support of the motion to dismiss Article II.

Roll call on the motion to dismiss the charges in Article II of the Articles of Impeachment against State Controller Augustine.

YEAS—5.

NAYS—Amodei, Care, Carlton, Hardy, Heck, Horsford, Lee, Mathews, Nolan, Raggio, Rhoads, Schneider, Titus, Townsend, Wiener—15.

EXCUSED—Cegavske.

The motion having failed to receive a majority, Madam President declared it lost.

Madam President announced that the motion to dismiss the charges in Article III of the Articles of Impeachment against State Controller Augustine is before the Senate.

Roll call on the motion to dismiss the charges in Article III of the Articles of Impeachment against State Controller Augustine.

YEAS—4.

NAYS—Amodei, Care, Carlton, Hardy, Heck, Horsford, Lee, Mathews, McGinness, Nolan, Raggio, Rhoads, Schneider, Titus, Townsend, Wiener—16.

EXCUSED—Cegavske.

The motion having failed to receive a majority, Madam President declared it lost.

Senator Raggio moved that the Senate resolve itself into a Committee of the Whole for the purpose of hearing the Articles of Impeachment against Nevada State Controller Kathy Augustine, with Senator Amodei as Chair of the Committee of the Whole.

Motion carried.

IN COMMITTEE OF THE WHOLE

At 10:50 a.m.

Senator Amodei presiding.

The Articles of Impeachment against State Controller Kathy Augustine considered.

SENATOR AMODEI:

We will open with the Defense on the Articles of Impeachment II and III.

JOHN L. ARRASCADA (Counsel for Controller Augustine):

The Defense rests.

SENATOR AMODEI:

Mr. Greco, please present your closing arguments.

DANIEL GRECO (Special Prosecutor):

It is an honor to appear before this body. Since Article I of Impeachment was dismissed, this will be brief.

There has been a great amount of computer-related exhibits placed before you. They were primarily generated from the computer of Jennifer Normington. Mr. Gentile will tell you, correctly, that many of those documents are either blank pages or things that are arguably political or maybe not political at all. Still, many other pages are clearly campaign or politically related. In the red exhibit books including the Defense exhibits, you will see they contain over a thousand pages. Many of them are not directly political, but many of them are.

You heard an extensive amount of testimony about the amount of time taken, the facility equipment such as facsimile machines, desks, tables, etc., and used for envelope stuffing and other campaign-related events. In our view, because of the massive size, these things are not de minimis or incidental. They are substantial.

The count involving the named victim is gone, but as to Articles of Impeachment II and III, the broader victim is the citizenry of the State. The citizens are the ones who are paying for that equipment and paying for those facilities used. We have indirect victims even though we no longer have any direct victims. They are the parties paying for the letterhead and fax forms and for all other paper and supplies used in furtherance of this campaign endeavor.

You should not ignore the obvious, which is the State's Exhibit P-40, the Nevada Commission on Ethics stipulation. In that stipulation, you can see she admitted to these same two violations. In an Ethics Commission hearing, the burden of proof is the preponderance of evidence. That is not the burden in this case, but she has admitted to these things. That is the strongest evidence before you.

We know from Exhibit P-45 when she took office the second time she was given a copy of an acknowledgement in which she states she has received the *Nevada Code of Ethics* including prohibitions on these activities. She understood it, and she signed that document. She should have known better.

I ask you consider all of the evidence but, particularly, the documentary exhibits in terms of Articles of Impeachment II. I ask you consider all of the evidence in terms of Articles of Impeachment III. I ask you to look at the constitutional language which sets forth the burden; then, do what you think is appropriate.

SENATOR AMODEI:

Mr. Gentile, please present your closing arguments.

DOMINIC GENTILE (Counsel for Controller Augustine):

Thank you. I do not want to repeat what I said at the time of the motion to dismiss, but all of that still applies here. The burden is to do justice according to law and evidence. I have to ask you to ask yourself what public trust or public interest is at stake here that needs to be protected—some space on a computer. The only evidence in this case that is truly believable to any extent at all, that you really have a foundation for, is the stipulation at the Ethics Commission. You now know, beyond any doubt, that it was engineered. What the State Controller conceded at that point was that she reasonably should have known there was something on her computer or whatever Articles II and III mean to you. But, if you look at the evidence before you here, what is the source of evidence there was any thing on the computer—discs, floppy discs? The Attorney General did not seize the computers and make a determination if this material was actually resident on the computers.

Whatever you have in these binders, that have been assailed by us in terms of being stuffed with a lot of extraneous material, you do not really have anything other than the credibility of Jennifer Normington to make a determination that that actually was ever resident on the computer. How could that possibly rise to the level of an impeachable offense? Do you think for one minute that if all that was before the Ethics Commission were those two counts, and only those two counts, that the Assembly would have ever suggested Articles of Impeachment on just those two counts. It was in the aggregate and, what happened was, it was essentially included. If you believe Jennifer Normington, then, you have got to believe Articles II and III. If you don't believe Jennifer Normington, how could you be comfortable in making the decision that this was truly resident to whatever level this proceeding means to you in terms of the standard of proof?

I suggest to you that if you return the verdict of guilty on the Articles of Impeachment that are based upon having personal information on your computer in a state office; then, you are going to have a new administrative agency that is going to be called the computer police. There is going to be monitoring, or there should be if you are going to apply this fairly and equally to every body in office. I ask you to think about that. The quality of evidence is floppy discs that were provided to Jeannine Coward by Jennifer Normington. That is the evidence that is undisputed. There is nothing more than that in this record. None of you can be sure, sure enough to find the verdict of guilty on the Articles of Impeachment, that that actually came from that computer. You have not seen nor have you heard any disinterested witness come before you and

tell you that it was. You have already resolved with respect to Article 1 your concerns with credibility. I submit to you that it is logically inconsistent to have any other decision with respect to Articles II and III. I ask that you return a verdict of "not guilty" as to Articles II and III.

SENATOR AMODEI:

Thank you, Mr. Gentile. Pursuant to the rules we established, there will be no rebuttal. There will be no questions from the Committee regarding closing arguments. The Chair will look for a motion, shortly, for the committee to dissolve and return to the floor of the Senate for the purpose of considering the issue of guilt or innocence on the Articles of Impeachment.

DOMINIC GENTILE:

Senator Amodei, may I have your indulgence on one more thing?

SENATOR AMODEI:

Yes, you can since you did not use all your time.

DOMINIC GENTILE:

I am not a parliamentarian. I have done what I could to study the rules. It is my understanding that the Senate can impose a censure on someone for any thing. You don't need to have it in front of you by way of Articles of Impeachment. If the Senate feels that it is appropriate to express this satisfaction with the conduct here, then, I would suggest to you that it is better for you to acquit on the Articles of Impeachment than to render a censure separate and apart from that.

On the motion of Senator Raggio, the Committee did rise, return and report back to the Senate Chamber.

SENATE IN SESSION

At 11:40 a.m.

President Hunt presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam President:

Your Committee of the Whole to which were referred the Articles of Impeachment begs leave to report back that it has completed receiving evidence and testimony.

MARK AMODEI, *Chairman*

REMARKS FROM THE FLOOR

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

We did not address one item before we dissolved when the Report of Committee was read, and I would like to take care of that issue now. The Committee of the Whole discussed computer equipment in the Controller's Office and the potential for us to seize that and doing further investigation. We asked the parties for both sides to provide input to Brenda J. Erdoes, Legislative Counsel. The deadline for providing that input was this morning. Mrs. Erdoes has informed me that she has received no input from either side. The requestor has withdrawn that request. There was no action taken on computer assets being seized nor regarding further investigation of the Controller's Office as a result of the lack of response from both sides.

SPECIAL ORDERS OF THE DAY

Article II of the Articles of Impeachment.

Article read.

Remarks by Senator Coffin.

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

Thank you Madam President. The process has been well handled by all concerned. The management of our Legislature has done remarkably in the Senate. I appreciate the rules laid

down. I did my best to adhere to them; though, at times, the temptation grew great and nearly caused me to burst.

The public does not know the difference between impeachment and conviction. We have put the stain of impeachment on Controller Augustine for the rest of her life. That is no small punishment. Forever, she will always be the "former State Controller" impeached in 2004 by the Nevada State Assembly. This will always be with her name. She is a young person who will spend the rest of her life with this impeachment hanging over her head. In the public's mind, it is the same as conviction.

I believe the impeachment process was not correct. The flaws are evident to all of us here that nearly every witness from the opposition was discredited in some fashion. Just as every witness who appears before us in an ordinary committee meeting for the ordinary business of the day to some degree or another is impeached or discredited partially in our minds or by their own mouths. We move on because in some cases we look at what the greater good is of an issue. It may be a simple issue or a complex issue. Our charge here is to act as human beings not automatons, not computers. If that were the case, we would not be elected by the imperfect people who are our constituents. They would not have knowingly elected the imperfect persons that we are if they had thought we were robots and if they thought they could control the process from their home computer. If we were perfect, most of us would not have had to be baptized. Most of us carry things in our minds and our hearts for far too long.

I have had serious political and issue differences with the State Controller long before she became State Controller. In 1994, I felt in her campaign for State Senate that she mistreated the incumbent Democrat, but we have all suffered and seen how this happens. We have all been either mistreated, or we have in some small way if not a large way mistreated someone else in our campaigns. None of us has been perfect angels in our campaigns as none of us is a perfect angel in our lives. That is why we are human beings and proud to serve. That is why we have been picked to be here. We did not hold ourselves up to such a high standard that we would then become like archangels. It cannot be bestowed on us. Now, we are being asked to set a standard for future behavior for all Constitutional Officers if we convict on any of these two Articles. The evidence and the testimony are so picayune that in the closing arguments it was stressed by Defense Counsel that there would have to be computer police watching over us if we had a standard set by the conviction in this case. What else could the courts look to? What could the lowest district court or the lowest justice of the peace look at? What would the district attorneys look at if they had to decide on what any of their local government officials or their agriculture boards did out in the field if what they did was remotely different from their little conservation job? Did Joe who was riding the ditch looking out for the people in Lyon County stop and do a little campaigning on the side at rancher John's house, or did he really ride the ditch all the way coming back and turning in all the mileage, mileage that was perfect, right down to the tenth on the odometer? We are not talking about just computers or office equipment. Let us take it out of the office to where real people live. Every little office, every television board in the smaller counties, the special improvement districts, places an image in your mind. You are now setting the standard for any district attorney or any group of two or three citizens who do not like you or the way you are running the television board to bring you up on an ethics complaint and get you kicked out. It is not that you misappropriated funds, not that you stole money, not that you were corrupt, but that you stopped and campaigned or discussed something not having to do with your job. A precedent is being set.

I have stated Controller Augustine and I have had our personal differences. The pressure put upon us starting in the summer was so strong; I thought she must be guilty. I was reading article after article in the press about how she was going to the Ethics Commission, coming from the Ethics Commission, but they did not have a vote, and I thought, "What did they do"? They had an agreement. What was that based on? A \$15,000 fine is a lot of money and represents time she used.

Some people said, "It is just the tip of the iceberg. They did not charge her with what she spent or what she really misappropriated or what she really used in terms of computer time or what she did we do not know about."

There is always that "we do not know." If someone has done something bad, there must be more that we do not know about. It turns out the investigation added up, including all of the

supposed evidence that was "ginned up," to \$9,900 in damages, or out of the \$15,000, that is what was reimbursed. The rest is the insult. She has reimbursed the State for the expense of her transgression. That is not the end of the financial hit now that it has gone this far. She is way into six figures in her expenses. The State has punished her quite a bit in the way only a state can do. It put the full weight of its pressure on an individual like you or I.

I became a bit worried about my own sentiments when, starting late in the summer, people were calling for her resignation. They said she should go. She did something wrong. She admitted it. I saw an editorial where a high public official said she should resign. I do not think any of those officials had ever considered resigning. They would take great umbrage at being told to resign when they were doing the same thing in their own offices. They cannot meet the standards either.

The mob grew larger. The newspapers, I am not certain about the television or radio who do not usually express opinions, based upon evidence they had not seen or if they had seen they had not investigated or if they had investigated they had not had the talent to look at it closely, they said she should resign. They said convict her after she was impeached. The people who control public opinion in our State said, "convict." I cannot think of one that did not say resign. Several said, "Convict her, convict her. Burn the witch." That is easy to do. They can do that to any one of us.

When you take someone who is a little unpopular and you single them out in a crowd, as her own party appears to be deserting her, it is easy to take these positions. It is a win-win situation. My friends are going to like it. She will not like it, but it does not matter because she is just one person I did not like anyway, and she will drift off into obscurity getting a job somewhere.

Conviction takes a job away. It could take your job and the jobs of your predecessors, the jobs of all the little people out there who try to figure out, then come to us and say, "What in the world have you done? You have set an impossible standard for serving in public office in the State of Nevada. Who said you were perfect, sir?" My position is that I am not perfect. I try to be good, a good journeyman Legislator; I know I am not perfect.

The mood of the public has been set by the media outside this building. Thanks to our leadership on both sides, Democrat and Republican, for protecting us from the outside influences. We were able to read a little and talk a little, but we did not have that much pressure. I thank you for that. It helped keep this process about as clean as you can because it is political. We thought of ourselves as a jury, but we realize we are not. We are political. This whole process has been political from beginning to end. I do not know who really started it all, but let us say, Controller Augustine did with the mistakes she made. Let us say, her abrasive personality, demanding attitude and her tossing a piece of paper on a desk sometimes was what did it. Is doing this to someone going to hurt? Is that not an insult? I would be insulted if someone did this to me. If it were done to me because I did not do something right, if I did not do my job right, I think I would say, "I hate you." Yet, I would finish the job and do it right this time. That may be the case here. After six years in office, this Officer has not gotten a black mark in terms of the operations of the Office. There is an annual audit being done and is almost complete.

For the five or six years for which she is accountable in the Office, there has never been a negative opinion about the Office, never had a qualified opinion. An audit is due out in another week or two, some of us will see the results, and there is nothing to indicate it will be different from the others before it. If it had been, we would have heard about it. Someone would have told a member of the press, and the information would be out there. They would say, "Augustine's sloppy work continues." They have not seen it. We have not seen that aspect of her job. That is her main aspect. She has watched out for the money. She has never been accused of corruption. She has not been accused of appropriating money in the sense we usually think of. That accusation was never made. Most of the accusations have been stopped by the dismissal of Article I.

I believe in acquittal. I believe in a clean judgment. If you cannot convict, I believe in acquittal. Some have discussed censure. I have suggested an apology. She owes an apology to employees who she throws a piece of paper at. But did she hurt anyone? Did she hit anyone? Did she threaten anyone physically? No. Did she say, "I will fire you"? No. Did she say, "If you do not do this, I will fire you"? No. Has she fired anyone in the six years she has been there? By

testimony, the answer is no. The street language is that maybe her bark is worse than her bite. The work of the Office is being done. Every two years, an undercurrent comes forth to get rid of the Office and to merge it into the Treasurer's Office. It could be that some of the resentment for this Controller comes from the fact that she opposes that. She believes her Office is a check. It is part of the checks and balances set up by the Founders of this State. The past seventy-two Legislatures have affirmed and for which I have voted. I cannot think of a reason to remove. I cannot think of a reason to censure despite the thoughts from the legal team that they might accept censure. Some people have never been around this process and do not know what some words mean in this political context versus the legal context in a courtroom for it is not the same. We have censured another woman public official, only one I can recall in my 23 years here. That woman was Attorney General Frankie Sue del Pappa. She was censured because she was trying to stop Yucca Mountain. She wanted a rogue county to stop going out there. We amended the law later to make certain that did not happen. We still censured her. She still lives on. Censure is not a death penalty, but it is a stain. A stain is a lot, it is evident, and I do not want to increase it. If so, we will stain everyone else who serves in a public office. It will stain those who are serving now. I applaud my colleagues for having deliberated in a calm atmosphere. Less attention has been paid to the media mob that was calling for her hanging. They should be embarrassed. The owners and editors of these newspapers, who call for the resignation and conviction of an individual before the evidence has been looked at and without looking at the evidence themselves, should be ashamed. What service were they providing to the public with that type of misinformation? Their opinions on this have been wrong. Some of the columnists have been wrong, too. One columnist even called her a bum. That is what columnists do. They do that because it is important for public opinion. They stir things up. The columnists can do that, but when an editorial does it, that says something to many people. That says to me as a citizen, the quarter of a million people who voted for Controller Augustine must have been wrong because the newspapers are always right. I leave that to you, ladies, gentlemen and colleagues. I am proud to serve with you. I am sorry we had to come up here at this time, but we did accomplish a lot and friendships were exchanged again. There has been profit for all of us. My daughter's birthday was yesterday. Her first soccer game was three hours ago, and they won 1-0. I will miss the second game, but hopefully, I will be able to see the third one tomorrow.

With that, I sit and thank you very much for the time, Madam President.

Roll call on Article II of the Articles of Impeachment.

SUSTAIN—11.

NOT SUSTAIN—Beers, Care, Cegavske, Coffin, Hardy, McGinness, Raggio, Rhoads, Tiffany, Washington—10.

Article II of the Articles of Impeachment having failed to receive a two-thirds majority, Madam President declared it dismissed.

Article III of the Articles of Impeachment.

Article read.

Roll call on Article III of the Articles of Impeachment.

SUSTAIN—14.

NOT SUSTAIN—Beers, Cegavske, Coffin, McGinness, Rhoads, Tiffany, Washington—7.

Article III of the Articles of Impeachment having received a two-thirds majority, Madam President declared Kathy Augustine, Controller of the State of Nevada, convicted of the charges contained in Article III.

SPECIAL ORDERS OF THE DAY

Senator Raggio moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering a judgment in the matter of

impeachment against Nevada State Controller Kathy Augustine, with Senator Amodei as Chair of the Committee of the Whole.

Motion carried.

IN COMMITTEE OF THE WHOLE

At 12:36 p.m.

Senator Amodei presiding.

The judgment in the matter of impeachment against State Controller Kathy Augustine considered.

SENATOR AMODEI:

In Senate Standing Rule No. 59, subsection 2, it indicates, "If the Senate votes to convict the defendant on any Articles of Impeachment by a vote of two-thirds of the Senators elected, the Senate shall proceed to consider whether any sanctions shall be imposed. Any such sanctions shall be included in the pronouncement of judgment in the form of the resolution adopted by the majority of vote which shall be entered upon the Journal of the Senate."

In accordance with our earlier procedural understandings, it is my intention to allow up to 20 minutes for each side to present arguments related to the sentencing in this matter. It is my further intention to start with Mr. Greco then to whatever member of the Defense team who will deliver their argument. There will be no questions from the Committee nor any rebuttal. Is that in accordance to everyone's understanding of the rules and the agreements? The record should reflect both Counsels indicated, "yes." Mr. Greco.

MR. GRECO:

At the beginning of this trial when all three counts were still in consideration, my intention was to ask for removal. That was based on the allegations contained in Article I of the Articles of Impeachment. Those allegations have not been sustained. Articles II and III of the Articles of Impeachment are much less serious than Article I. It would be unreasonable for me to ask for removal with Article III being the only count sustained. That would approach the ridiculous. I will not do that. I request a moderate penalty which should consist of a 60-day suspension without pay. This process is new to me. I concede you are in better position than I to come up with an appropriate sanction. I will leave it to your discretion.

SENATOR AMODEI:

Mr. Gentile.

MR. GENTILE:

It is not easy to follow that argument. I was not prepared to hear it, and I commend Mr. Greco. Clearly, removal is not in order. I will address that, though not as eloquently Senator Coffin did in the Senate. I have not heard a better presentation on behalf of someone who is accused.

You are here to do justice according to the law. Your job is to protect the public trust. You must protect their trust of you not just of Controller Augustine. You have established a zero tolerance for a public official or employee to use phones and facsimile machines. While I may not agree with what you have done, I do not disrespect it. The public's trust of you and your judgment has been validated by your decision in that regard. However, removing Controller Augustine from office for using phones and facsimile machines will not assist the public in trusting you. It would be a bizarre response. In the United States of America, justice has always been interpreted as the punishment must fit the transgression.

It is odd to use the term punishment in this type of a proceeding because if protecting the public trust is what this is about, it is not about punishment. It is about doing something that will insure that the public is safe and secure and that it will not happen again.

What was the context within which this happened? It was a reelection campaign. Controller Augustine is in her second term. She cannot run for reelection to this Office. Whatever you do to her is punitive. I am not suggesting there should not be some response made. It needs to be made to the conviction. She has been fined \$15,000, and you are the first

body who has ever heard the facts in a contested fashion. Fifteen thousand dollars is not chump change. It is a lot of money. You know what the annual salary of this office is. To suspend her for 60 days and to take two months of her pay when no one ever disputed she does a good job in that office would be causing harm to the public.

You may be teaching her an additional lesson, but she does not need more lessons. She has been fined \$15,000, and she has the scarlet letter of impeachment permanently emblazoned upon her. You have lesser ways of displaying your disapproval of what has occurred here. By suspending her for those 60 days, you make it even harder for her to pay that \$15,000 fine; a fine that with all due respect was engineered. In doing justice according to law and evidence as heard before you, today, I ask you to recognize that a component of justice is compassion and understanding. I believe that a nonpunitive response is more appropriate, particularly, because she does a good job as the State Controller. Why would we want to not have her there? The public does not benefit from that. I question whether it furthers the public trust and the public perception.

I agree with Mr. Greco. Mr. Greco is a fine man. I am surprised to hear his response from an adversary because it is not something I often hear. The 60-day suspension is overkill. Under these circumstances, it would amount to cruel-and-unusual punishment for sending a few faxes and using the telephone. I respectfully ask you to impose a requirement for an apology or a censure and nothing more than that.

SENATOR AMODEI:

This concludes the anticipated business of the Committee of the Whole. Unless something out of the ordinary occurs, the Committee will not be convening again. I will take this opportunity to thank the Counsels and their respective staffs for the manner in which they have conducted themselves, for their preparation and their presentations in helping us through a new and unknown process and for helping educate us as to what may need to be changed this next legislative session in the event someone follows in these footsteps to provide everyone concerned with a better idea of what is supposed to happen. My thanks and respect goes out to all of you.

On the motion of Senator Raggio, the Committee did rise, return and report back to the Senate Chamber.

SENATE IN SESSION

At 3:41 p.m.

President Hunt presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam President:

Your Committee of the Whole to which was referred the Judgment to Article III of Impeachment begs leave to report back that it has completed its consideration.

MARK AMODEI, *Chairman*

SPECIAL ORDERS OF THE DAY

Remarks by Senator Raggio.

Thank you, Madam President. You have heard the report of the Committee of the Whole indicating that we have risen and returned to the Senate for purposes of judgment. As a result of the comments of respective Counsels in their argument on the judgment phase of this situation, I am aware of the comments and concerns of many of the Senators who have participated in this process. It needs to be said that no one enjoyed being part of this process.

Each one of us has taken our duty seriously. We are at the point where we must consider a judgment. The Counsel for the Controller suggested censure. As one Senator, I believe that censure is an appropriate sanction. This process is one that has brought embarrassment to the State Controller. She has gone through the Ethics Commission complaint that brought with it a fine. The imposition of that fine is substantial based upon the salary paid to the State Controller

in her office. In considering the comment of the Special Prosecutor that suspension of 60 days be imposed, that would be tantamount to an additional fine.

We have drafted a resolution of censure. It is Senate Resolution No. 5. Copies are on the desks of each Senator. It is my intention to offer this resolution and in doing so the names of all Senators have been added to the proposed resolution. If any Senator does not wish to be included on the resolution as a sponsor, please indicate it now. Senator Coffin's name will be removed as he has requested.

Before offering this resolution, it is my purpose in doing this to offer this as the judgment of the Senate based upon the conviction of Article III of the Articles of Impeachment. I do not want to preclude others who may feel that additional sanctions, judgments or penalties should be imposed. I am inquiring before I offer the resolution for introduction through you, Madam President, if any other Senators wish to speak about any additional sanction or penalty.

By Senators Raggio, Titus, Amodei, Beers, Care, Carlton, Cegavske, Hardy, Heck, Horsford, Lee, Mathews, McGinness, Nolan, Rhoads, Schneider, Tiffany, Townsend, Washington and Wiener:

Senate Resolution No. 5—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.

Remarks by Senator Raggio:

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

Madam President, since this situation will be looked back upon, we wish to make certain that our efforts, our responsibilities, our duties are fully understood. This is a procedure in which none of us wanted to participate. We hoped it would not happen. Many of us know the Controller personally. We had the privilege of serving with her in this body. We are mindful of her years of public service given to this State. She has been elected to several offices including the Assembly, the Senate and the State Controller's position. We look upon this with much concern and with a full understanding of our responsibility.

It is distasteful for us to be here at this time, and it is distasteful for us to render judgment. However, based upon all that has been previously said, it is our understanding that a willful violation did occur. Our actions will be looked at in the future. We have performed our duty by finding conviction on one count. The judgment is not to further punish but to send a message. The resolution speaks for itself for it reminds other public officials that they should carefully delineate the difference between political activity in their offices and their official duties, and that they should be careful to do so with respect to their staff.

Roll call on Senate Resolution No. 5:

YEAS—20.

NAYS—None.

NOT VOTING—Coffin.

Senate Resolution No. 5 having received a majority, Madam President declared it adopted.

MOTIONS, RESOLUTIONS AND NOTICES

By Senators Raggio, Titus, Amodei, Beers, Care, Carlton, Cegavske, Coffin, Hardy, Heck, Horsford, Lee, Mathews, McGinness, Nolan, Rhoads, Schneider, Tiffany, Townsend, Washington and Wiener:

Senate Resolution No. 6—Expressing appreciation to Washoe County District Attorney Richard A. “Dick” Gammick for providing an experienced Special Prosecutor and other staff for the impeachment proceedings for State Controller Kathy Augustine.

WHEREAS, Richard A. “Dick” Gammick serves as the Washoe County District Attorney; and

WHEREAS, Dick Gammick made possible the appointment of Washoe County Chief Deputy District Attorney Dan Greco to serve as Special Prosecutor during the impeachment proceedings for State Controller Kathy Augustine; and

WHEREAS, Providing an experienced prosecutor and other staff on short notice to ensure a fair trial for the State Controller and the people of this State of Nevada was an extraordinary demonstration of intergovernmental cooperation; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That the members of the Senate of the 21st Special Session of the Nevada Legislature do hereby express their sincere appreciation to Dick Gammick for making available an experienced Prosecutor and other staff for the impeachment proceedings for State Controller Kathy Augustine; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Richard A. “Dick” Gammick.

Senator Raggio moved the adoption of the resolution.

Remarks by Senator Raggio.

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

These resolutions should be adopted with sincere gratitude as we go through them by this Senate. This resolution expresses our appreciation to the District Attorney of Washoe County, Richard A. Gammick, for providing an experienced Special Prosecutor and other staff on very short notice. We do appreciate that service.

Resolution adopted.

By Senators Raggio, Titus, Amodei, Beers, Care, Carlton, Cegavske, Hardy, Heck, Horsford, Lee, Mathews, McGinness, Nolan, Rhoads, Schneider, Tiffany, Townsend, Washington and Wiener:

Senate Resolution No. 7—Expressing appreciation to Washoe County Chief Deputy District Attorney Daniel Greco for serving as Special Prosecutor in the impeachment proceedings for State Controller Kathy Augustine.

WHEREAS, On November 12, 2004, Washoe County Chief Deputy District Attorney Daniel Greco was appointed to serve as Special Prosecutor for the impeachment trial of State Controller Kathy Augustine; and

WHEREAS, The appointment of Dan Greco was based upon his extensive experience as a prosecutor for the Washoe County District Attorney’s Office and his excellent reputation in the legal community for being dedicated, fair-minded and efficient in the pursuit of justice; and

WHEREAS, With only a short time to prepare for this trial, Special Prosecutor Greco undertook the enormous responsibility of ensuring that the State Controller and the people of Nevada received a fair trial; and

WHEREAS, In preparing for the impeachment trial, many demands were placed upon Special Prosecutor Greco causing him to work overtime through evenings, weekends and the

Thanksgiving holiday for which, as a professional employee of Washoe County, he will not be compensated; and

WHEREAS, The Special Prosecutor has performed his role admirably while commuting daily to a “courtroom” that is not a courtroom to prosecute a unique case that he and his staff neither investigated nor developed; and

WHEREAS, Throughout his tenure as Special Prosecutor, Dan Greco has demonstrated amazing personal fortitude and strength of character in carrying out his appointment in unfamiliar surroundings, with evolving rules of procedure and an impossibly short time to prepare; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That the members of the Senate of the 21st Special Session of the Nevada Legislature do hereby express their sincere appreciation to Dan Greco for serving as Special Prosecutor for these historic impeachment proceedings; and be it further

RESOLVED, That the members of the Senate hereby commend Dan Greco for a job well done; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Washoe County Chief Deputy District Attorney Daniel Greco and to his boss, Washoe County District Attorney Richard A. Gammick.

Senator Raggio moved the adoption of the resolution.

Remarks by Senator Raggio.

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

This resolution is inadequate to express the appreciation this Senate has for Special Prosecutor, Dan Greco. We owe him a debt of gratitude, and this is not to diminish our gratitude to the Defense Counsel. It is not easy to undertake any kind of situation on short notice, but this has taken place in unique forum with different rules of evidence and other differences as well. Thank you, Mr. Greco.

Resolution adopted.

By Senators Raggio, Titus, Amodei, Beers, Care, Carlton, Cegavske, Coffin, Hardy, Heck, Horsford, Lee, Mathews, McGinness, Nolan, Rhoads, Schneider, Tiffany, Townsend, Washington and Wiener:

Senate Resolution No. 8—Expressing appreciation to Cynthia Wyett, Investigator, with the Washoe County District Attorney’s Office for her assistance in preparing for the impeachment proceedings for State Controller Kathy Augustine.

WHEREAS, Cynthia Wyett serves as an Investigator with the Washoe County District Attorney’s Office; and

WHEREAS, With the appointment of Washoe County Chief Deputy District Attorney Dan Greco to act as Special Prosecutor during the impeachment proceedings for State Controller Kathy Augustine, Cynthia was asked to provide assistance to Special Prosecutor Greco; and

WHEREAS, Cynthia’s experience in prosecutorial investigations and excellent work on criminal trials for the Washoe County District Attorney’s Office made her an excellent choice to provide assistance to Special Prosecutor Greco; and

WHEREAS, In preparing for the impeachment trial, many demands were placed upon Cynthia in her role as an Investigator; and

WHEREAS, With only a short time to prepare for these historic impeachment proceedings, Cynthia worked conscientiously through weekends, nights and the Thanksgiving holiday; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That the members of the Senate of the 21st Special Session of the Nevada Legislature do hereby express their sincere appreciation to Cynthia Wyett for providing assistance to Special Prosecutor Dan Greco in preparing for the impeachment proceedings; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Cynthia Wyett and her boss, Washoe County District Attorney Richard A. Gammick.

Senator Raggio moved the adoption of the resolution.

Remarks by Senator Raggio.

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

This expresses our gratitude to Cynthia Wyett, Investigator. Ms. Wyett was at Mr. Greco's side during this matter. This resolution does not adequately address all her efforts on short notice. We also thank Mr. Gammick for so generously sharing his professional staff.

Resolution adopted.

By Senators Raggio, Titus, Amodei, Beers, Care, Carlton, Cegavske, Coffin, Hardy, Heck, Horsford, Lee, Mathews, McGinness, Nolan, Rhoads, Schneider, Tiffany, Townsend, Washington and Wiener:

Senate Resolution No. 9—Expressing appreciation for the services provided by the clergy to the Senate during the 21st Special Session of the Nevada Legislature.

WHEREAS, Religious services were provided on the floor of the Senate on the commencement of each day of the 21st Special Session of the Nevada Legislature; and

WHEREAS, The invocations offered by the clergy provided inspiration and guidance for the members of the Senate as they faced the challenges and demands presented by the 21st Special Session; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That the members of the Senate of the Nevada Legislature do hereby convey their sincere appreciation for the religious services that were rendered during the 21st Special Session.

Senator Raggio moved the adoption of the resolution.

Remarks by Senator Raggio.

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

In this case, we only have one pastor, and we want to thank him for being here with us. We wanted to adopt a resolution to pay him, but it would need to be a Joint Resolution. We want him to know he will be reimbursed for his services.

Resolution adopted.

By Senators Raggio, Titus, Amodei, Beers, Care, Carlton, Cegavske, Coffin, Hardy, Heck, Horsford, Lee, Mathews, McGinness, Nolan, Rhoads, Schneider, Tiffany, Townsend, Washington and Wiener:

Senate Resolution No. 10—Expressing appreciation to the staff of the Nevada Senate and of the Legislative Counsel Bureau.

WHEREAS, The commencement of the 21st Special Session of the Nevada Legislature represented uncharted territory for the Nevada Legislature as it embarked in the historic consideration of the impeachment of a state officer; and

WHEREAS, The 21st Special Session also presented unprecedented challenges to the staff of the Nevada Senate and of the Legislative Counsel Bureau; and

WHEREAS, The 21st Special Session commenced just one week after the general elections and a mere 3 months before the date scheduled for the commencement of the 73rd Regular Session of the Nevada Legislature; and

WHEREAS, This Special Session coincided with the busiest period of the biennium for the staff who were already working overtime to prepare for the Regular Session; and

WHEREAS, The staff of the Senate and of the Legislative Counsel Bureau rallied to meet the various challenges during this Special Session with unparalleled skill, resourcefulness, diligence and efficiency; and

WHEREAS, The staff of the Senate was called upon to prepare new procedures for activities on the floor of the Senate, managed the Committee of the Whole and the voluminous exhibits and copies thereof, and attended to all of the normal duties of the Senate while simultaneously continuing to prepare for the Regular Session; and

WHEREAS, In the Administrative Division of the Legislative Counsel Bureau, the Buildings Unit worked exceptionally hard to meet the challenge of completing construction projects ahead of deadlines and preparing the Legislative Building for the Special Session, the Legislative Police diligently served numerous subpoenas upon witnesses and processed identification badges while continuing to provide their regular services and security, the Grounds Unit shoveled snow, painted and prepared the parking garage, the Janitorial Unit prepared and cleaned the facilities, the Media Services Unit worked long hours to prepare audio/video systems and complete the new security and camera systems prior to the commencement of the Special Session, and provided technical support in the hearing room and on the floor during the Special Session, the General Services Unit quickly and efficiently moved furniture and prepared offices for newly elected Legislators, the Accounting Unit managed pay and travel during the unusual and busy schedule of the Special Session and the Information Systems Unit prepared all computer systems used during the Special Session; and

WHEREAS, The staff of the Legal Division worked long hours conducting extensive legal research, preparing legal opinions, drafting rules and preparing subpoenas in preparation for the Special Session, provided legal counsel to the Senate before and during the Special Session, serving as an intermediary between the Senate and the Special Prosecutor and counsel for the defendant, while continuing to prepare for the Regular Session, for which the Legal Division must draft hundreds of bills and resolutions; and

WHEREAS, The staff of the State Printing Office of the Legal Division worked hard to meet the needs of the Legislature during the 21st Special Session including assisting in the preparation of exhibits and printing of all bills, resolutions, histories, indices, journals and other official documents; and

WHEREAS, The staff of the Research Division, assisted by its Research Library, provided research and analysis of impeachment rules and proceedings throughout the country, responded to requests for research during the Special Session, while continuing to prepare for the Regular Session; and

WHEREAS, The staff of the Audit Division and the Fiscal Analysis Division, responded to additional requests before and during the Special Session while completing their preparations for the Regular Session; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That the members of the 21st Special Session of the Nevada Legislature do hereby express their sincere appreciation to the outstanding staff of the Senate and the Legislative Counsel Bureau and commend the dedication, cooperation and exceptional work of each person on the staff; and be it further

RESOLVED, That the Secretary of the Senate prepare and retain a copy of this resolution on behalf of the employees of the Senate, and prepare and transmit a copy of this resolution to Lorne Malkiewich, Director of the Legislative Counsel Bureau, on behalf of the employees of the Legislative Counsel Bureau.

Senator Raggio moved the adoption of the resolution.

Remarks by Senator Raggio.

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

We tried to include everyone who participated in these proceedings. The front desk staff and Sergeant-at-Arms staff performed an excellent job. Legislative Counsel Bureau provided professional assistance during these historic proceedings including Legal, Research, Fiscal and Audit staff. Many people behind the scenes have worked diligently for many months leading up to these proceedings. Your efforts are greatly appreciated.

Resolution adopted.

REMARKS FROM THE FLOOR

Senator Titus requested that her remarks be entered in the Journal.

Thank you Madam President. I want to commend the Senate on the way this proceeding has been conducted, and I respect the decision made by each of my colleagues after weighing the evidence and searching his or her soul for the right thing to do. But, I must put on the record that some of us are disappointed with the final outcome.

Senator Coffin was right when he said we are all human; we are not perfect. But, those of us who voted to sustain the three articles feel that elected officials should be held to the highest standard and that was not done today. We all know it is wrong to use taxpayer dollars to pay for our own campaigns, and we should not do it—whether it is \$1 or \$1 million; whether it is a classified or unclassified employee; whether it is 25 percent of the time or 95 percent. We do not need a law to tell us that. We do not need a handbook. We know it is wrong. We should not do it, and we should not tolerate it when others do it.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Amodei, the privilege of the floor of the Senate Chamber for this day was extended to Rose Feltner, Bill Feltner, William Feltner and David Feltner.

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

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

Madam President appointed Senators Tiffany, Heck and Carlton as a committee to wait upon the Assembly and to inform that honorable body that the Senate is ready to adjourn *sine die*.

Madam President appointed Senators Nolan, Washington and Lee as a committee to wait upon His Excellency, Kenny Guinn, Governor of the State of Nevada, and to inform his office that the Senate is ready to adjourn *sine die*.

A committee from the Assembly, consisting of Assemblywoman Smith, Assemblymen Hettrick and Marvel appeared before the bar of the Senate and announced that the Assembly is ready to adjourn *sine die*.

Senator Carlton reported that her committee had informed the Assembly that the Senate is ready to adjourn *sine die*.

Senator Nolan reported that his committee had informed the Governor's office that the Senate is ready to adjourn *sine die*.

Senator Raggio moved that the Twenty-first Special Session of the Senate of the Legislature of the State of Nevada adjourn *sine die*.

Motion carried

Senate adjourned *sine die* at 4:06 p.m.

Approved:

LORRAINE T. HUNT
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate