

SENATE RESOLUTION NO. 4—COMMITTEE OF THE WHOLE

OCTOBER 11, 2016

Read and Adopted

SUMMARY—Expresses and explains the public policy governing the legislative ethics provisions of the Rules of the Senate. (BDR R-15)

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

SENATE RESOLUTION—Expressing and explaining the public policy governing the legislative ethics provisions of the Rules of the Senate.

1 WHEREAS, It is a well-established principle of parliamentary
2 practice that every member of the Legislature has a duty to vote
3 unless prohibited or excused by the rules of the House (*Mason's*
4 *Manual of Legislative Procedure* §§ 521 & 522 (2010) (*Mason's*
5 *Manual*); Luther S. Cushing, *Elements of the Law & Practice of*
6 *Legislative Assemblies* §§ 1789-91 (1856) (*Cushing's Legislative*
7 *Assemblies*)); and

8 WHEREAS, Rule No. 11.5 of the Rules of the Senate for the 30th
9 Special Session of the Legislature provides that in determining
10 whether a Legislator has a conflict of interest, the Legislator should
11 consider whether the independence of judgment of a reasonable
12 person in his or her situation upon the matter in question would be
13 materially affected by the Legislator's acceptance of a gift or loan,
14 private economic interest or commitment to a member of his or her
15 household or immediate family; and

16 WHEREAS, Rule No. 11.5 provides that if a Legislator knows he
17 or she has a conflict of interest, the Legislator shall make a general
18 disclosure of the conflict of interest on the record in a meeting of a
19 committee or on the floor of the Senate, as applicable; and

20 WHEREAS, Rule No. 11.5 provides that in determining whether
21 to abstain from voting upon or advocating or opposing a matter
22 concerning which a Legislator has a conflict of interest, the
23 Legislator should consider whether the conflict impedes his



1 independence of judgment and whether his or her interest is greater
2 than the interests of an entire class of persons similarly situated; and

3 WHEREAS, Rule No. 11.5 must be interpreted and applied in
4 light of well-established principles of parliamentary practice that
5 have been shaped, developed and followed by national and state
6 legislatures for hundreds of years; and

7 WHEREAS, Rule No. 29 of the Rules of the Senate for the 30th
8 Special Session of the Legislature provides that “[t]he rules of
9 parliamentary practice contained in *Mason’s Manual of Legislative*
10 *Procedure* shall govern the Senate in all cases in which they are
11 applicable and in which they are not inconsistent with the rules and
12 orders of the Senate for the 30th Special Session of the Legislature,
13 and the Joint Rules of the Senate and Assembly for the 30th Special
14 Session of the Legislature”; and

15 WHEREAS, Section 522 of *Mason’s Manual* provides that “[t]he
16 right of members to represent their constituencies is of such major
17 importance that members should be barred from voting on matters
18 of direct personal interest only in clear cases and when the matter is
19 particularly personal”; and

20 WHEREAS, Section 1791 of *Cushing’s Legislative Assemblies*
21 provides that “[i]nterest in a question pending in the house, is good
22 cause for disallowing a vote; but such an interest must be a direct
23 pecuniary interest, belonging to a separate description of
24 individuals, and not such as also belongs to all the citizens, arising
25 out of any measure of state policy”; and

26 WHEREAS, Section 1791 of *Cushing’s Legislative Assemblies*
27 further provides that disqualification to vote generally “applies only
28 to private bills, or bills relating to individuals, such as estate bills,
29 inclosure bills, canals, joint-stock companies, etc., wherein only the
30 individual profit or loss is concerned . . . but does not apply to
31 questions of interest arising out of public measures, such as tax bills,
32 colonial regulations, domestic trades, and the like”; now, therefore,
33 be it

34 RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That the
35 fundamental purpose of representative government in this State is to
36 elect citizen Legislators who will advocate and vote on behalf of
37 their constituents so that those constituents are fully represented in
38 the people’s branch of government and their voices are effectively
39 heard regarding the most critical legislative measures that affect
40 both the general welfare and prosperity of this State and their
41 everyday lives; and be it further

42 RESOLVED, That there are legislative measures of immense
43 public importance, such as bills imposing taxes, raising revenue,
44 enabling public debt or financing large-scale infrastructure projects,
45 which have significant impacts on the general welfare and



1 prosperity of this State because such measures set the fiscal,
2 economic and social priorities of this State and thereby influence
3 and affect every aspect of our society; and be it further

4 RESOLVED, That the public policy of this State favors the right
5 of citizen Legislators to perform the duties for which they were
6 elected and to vote or otherwise act upon matters of immense public
7 importance which have significant impacts on the general welfare
8 and prosperity of this State; and be it further

9 RESOLVED, That because abstention by a Legislator disrupts the
10 normal course of representative government and deprives the public
11 and the Legislator's constituents of a voice in the most important
12 governmental affairs, Rule No. 11.5 is intended to require abstention
13 only in clear cases and when the matter is particularly personal; and
14 be it further

15 RESOLVED, That Rule No. 11.5 does not require any member of
16 the Senate to make disclosures regarding, abstain from voting upon
17 or refrain from advocating or opposing any legislative measures of
18 immense public importance which have significant impacts on the
19 general welfare and prosperity of this State because, in such cases,
20 the very nature of such legislative measures presumptively makes
21 the interests of every member of the Senate no greater than the
22 interests of every other citizen of this State, and therefore, the
23 independence of judgment of members is not impeded by those
24 interests and members must perform the duties for which they were
25 elected and must vote or otherwise act upon such matters of
26 immense public importance on behalf of their constituents; and be it
27 further

28 RESOLVED, That during the 30th Special Session of the
29 Legislature, the legislative measures of immense public importance
30 which have significant impacts on the general welfare and
31 prosperity of this State include any bills imposing taxes, raising
32 revenue, enabling public debt or financing large-scale infrastructure
33 projects; and be it further

34 RESOLVED, That this resolution shall be entered upon the
35 Journal of the Senate.

