

ASSEMBLY RESOLUTION NO. 2—COMMITTEE ON  
LEGISLATIVE OPERATIONS AND ELECTIONS

JULY 8, 2020

Read and Adopted

SUMMARY—Adopts Special Rules of the Assembly for the 31st Special Session of the Nevada Legislature concerning the use of remote-technology systems by members of the Assembly. (BDR R-16)

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

ASSEMBLY RESOLUTION—Adopting Special Rules of the Assembly for the 31st Special Session of the Nevada Legislature concerning the use of remote-technology systems by members of the Assembly.

1 WHEREAS, The 31st Special Session of the Nevada Legislature  
2 is being held amid the ongoing and widespread public-health crisis  
3 caused by the COVID-19 pandemic; and

4 WHEREAS, Because of the extraordinary danger, risk, harm,  
5 injury and peril posed by the COVID-19 pandemic, the Assembly  
6 must exercise its constitutional and inherent powers and privileges  
7 and must adopt these Special Rules concerning the use of remote-  
8 technology systems by members of the Assembly to:

9 1. Govern, control and regulate its membership and its internal  
10 organization, affairs and management;

11 2. Ensure its institutional self-protection and self-preservation;  
12 and

13 3. Establish a reasonable method for determining whether a  
14 member of the Assembly is present at legislative proceedings amid  
15 the ongoing and widespread public-health crisis caused by the  
16 COVID-19 pandemic in order to keep the legislative process as safe  
17 and free as reasonably possible from the extraordinary danger, risk,  
18 harm, injury and peril posed by the COVID-19 pandemic; now,  
19 therefore, be it



RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That the following Special Rules of the Assembly for the 31st Special Session of the Legislature are hereby adopted:

*Special Rule No. 1. Applicability and Precedence of Special Rules.*

*These Special Rules of the Assembly for the 31st Special Session of the Legislature:*

*1. Are applicable only during the 31st Special Session of the Legislature; and*

*2. Supersede, take precedence and control over any other rule, provision or principle of law to the extent of any conflict with these Special Rules.*

*Special Rule No. 2. Public Purposes and Construction of Special Rules.*

*1. These Special Rules are intended to serve the following public purposes:*

*(a) To protect the health, safety and welfare of Legislators, members of legislative staff and others who participate in the legislative process amid the ongoing and widespread public-health crisis caused by the COVID-19 pandemic, these Special Rules are intended to authorize necessary protective and safety measures intended to keep the legislative process as safe and free as reasonably possible from the extraordinary danger, risk, harm, injury and peril posed by the COVID-19 pandemic.*

*(b) To enable the members of the Assembly to represent their constituents and carry out their official powers, functions, duties and responsibilities in the legislative process amid the ongoing and widespread public-health crisis caused by the COVID-19 pandemic, these Special Rules are intended to authorize members of the Assembly, under certain circumstances, to use remote-technology systems to attend, participate, vote and take any other action in legislative proceedings when determined to be necessary as a protective or safety measure to keep the legislative process as safe and free as reasonably possible from the extraordinary danger, risk, harm, injury and peril posed by the COVID-19 pandemic.*

*(c) To safeguard the workings of the Legislative Department of Nevada's State Government and preserve and protect the continuity and efficacy of its legislative operations amid the ongoing and widespread public-health crisis caused by the COVID-19 pandemic, these Special Rules are intended to ensure that the Assembly may efficiently and effectively carry out its official powers, functions, duties and responsibilities which are*



1 *expressly and exclusively assigned to the Assembly by the Nevada*  
2 *Constitution and which cannot be exercised or performed by any*  
3 *other body or branch of Nevada's State Government.*

4 2. *Because of the extraordinary danger, risk, harm, injury*  
5 *and peril posed by the COVID-19 pandemic, these Special Rules*  
6 *must be liberally construed to achieve their intended public*  
7 *purposes, and if there is any uncertainty or doubt regarding the*  
8 *interpretation or application of these Special Rules, that*  
9 *uncertainty or doubt must be resolved in favor of carrying out the*  
10 *intended public purposes of these Special Rules.*

11  
12 ***Special Rule No. 3. Definitions Applicable to Special Rules.***

13 *As used in these Special Rules, unless the context otherwise*  
14 *requires, "remote-technology system" means any system or other*  
15 *means of communication that is:*

16 1. *Approved by the Speaker and uses any electronic, digital or*  
17 *other similar technology to enable a member of the Assembly from*  
18 *a remote location to attend, participate, vote and take any other*  
19 *action in any proceedings of the Assembly or the Committee of the*  
20 *Whole even though the member is not physically present within*  
21 *the Assembly Chambers or at a meeting of the Committee of the*  
22 *Whole.*

23 2. *Approved by the chair of a committee, other than the*  
24 *Committee of the Whole, and uses any electronic, digital or other*  
25 *similar technology to enable a member of the Assembly from a*  
26 *remote location to attend, participate, vote and take any other*  
27 *action in any proceedings of the committee even though the*  
28 *member is not physically present at a meeting of the committee.*

29  
30 ***Special Rule No. 4. Authorized Use of Remote-Technology***  
31 ***Systems to Carry Out Public Purposes of Special Rules.***

32 1. *Upon request by a member of the Assembly:*

33 (a) *The Speaker may authorize the member to use a remote-*  
34 *technology system to attend, participate, vote and take any other*  
35 *action in any proceedings of the Assembly or the Committee of the*  
36 *Whole if the Speaker determines that such use by the member is*  
37 *necessary as a protective or safety measure to carry out the public*  
38 *purposes of these Special Rules. If the Speaker grants such*  
39 *authorization, it must be entered in the Journal of the Assembly.*

40 (b) *The chair of a committee, other than the Committee of the*  
41 *Whole, may authorize the member to use a remote-technology*  
42 *system to attend, participate, vote and take any other action in any*  
43 *proceedings of the committee if the chair determines that such use*  
44 *by the member is necessary as a protective or safety measure to*  
45 *carry out the public purposes of these Special Rules. If the chair*



1 grants such authorization, it must be entered in the records of the  
2 committee.

3 2. If a member of the Assembly uses a remote-technology  
4 system to attend, participate, vote and take any other action in any  
5 proceedings pursuant to these Special Rules, the member shall be  
6 deemed to be present and in attendance at the proceedings for all  
7 purposes.

8 3. For the purposes of voting in proceedings of:

9 (a) The Assembly or the Committee of the Whole, the Chief  
10 Clerk, or an authorized assistant, shall call the roll of each  
11 member who is authorized to use a remote-technology system for  
12 the proceedings and, in accordance with the procedures of the  
13 Assembly, cause the member's vote to be entered into the record  
14 for the purposes of the Journal of the Assembly or the records of  
15 the Committee of the Whole, as applicable.

16 (b) A committee, other than the Committee of the Whole, the  
17 committee secretary shall call the roll of each member who is  
18 authorized to use a remote-technology system for the proceedings  
19 and, in accordance with the procedures of the committee, cause  
20 the member's vote to be entered into the record for the purposes of  
21 the records of the committee.

22  
23 *Special Rule No. 5. Authority to Adopt Special Rules.*

24 1. The Assembly hereby finds and declares that:

25 (a) The Nevada Constitution invests each House of the  
26 Legislature with certain plenary and exclusive constitutional  
27 powers which may be exercised only by that House and which  
28 cannot be usurped, infringed or impaired by the other House or by  
29 any other branch of Nevada's State Government. (Heller v.  
30 Legislature, 120 Nev. 456 (2004); Commission on Ethics v. Hardy,  
31 125 Nev. 285 (2009); Mason's Manual of Legislative Procedure §§  
32 2-3 & 560-564 (2010) (Mason's Manual))

33 (b) Section 6 of Article 4 of the Nevada Constitution invests  
34 each House with plenary and exclusive constitutional powers to  
35 determine the rules of its proceedings and to govern, control and  
36 regulate its membership and its internal organization, affairs and  
37 management, expressly providing that: "Each House shall judge  
38 of the qualifications, elections and returns of its own members,  
39 choose its own officers (except the President of the Senate),  
40 determine the rules of its proceedings and may punish its members  
41 for disorderly conduct, and with the concurrence of two thirds of  
42 all the members elected, expel a member."

43 (c) In addition to its plenary and exclusive constitutional  
44 powers, each House possesses certain inherent powers of  
45 institutional self-protection and self-preservation to govern,



1 control and regulate its membership and its internal organization,  
2 affairs and management. (In re Chapman, 166 U.S. 661, 668  
3 (1897); Mason's Manual § 2; Luther S. Cushing, Elements of the  
4 Law & Practice of Legislative Assemblies § 533 (1856) (Cushing's  
5 Legislative Assemblies))

6 (d) The inherent powers of each House are considered “so  
7 essential to the authority of a legislative assembly, that it cannot  
8 well exist without them; and they are consequently entitled to be  
9 regarded as belonging to every such assembly as a necessary  
10 incident.” (Cushing's Legislative Assemblies § 533)

11 (e) The inherent powers of each House authorize it to take all  
12 necessary and proper institutional actions that are “recognized by  
13 the common parliamentary law.” (Cushing's Legislative  
14 Assemblies § 684)

15 (f) Thus, it is well established that each House is “vested with  
16 all the powers and privileges which are necessary and incidental to  
17 a free and unobstructed exercise of its appropriate functions.  
18 These powers and privileges are derived not from the Constitution;  
19 on the contrary, they arise from the very creation of a legislative  
20 body, and are founded upon the principle of self-preservation.”  
21 (Ex parte McCarthy, 29 Cal. 395, 403 (1866))

22 (g) Under the Nevada Constitution, there are no constitutional  
23 provisions establishing a particular method for determining  
24 whether a member of either House is present at legislative  
25 proceedings.

26 (h) The United States Supreme Court has held that when there  
27 are no constitutional provisions establishing a particular method  
28 for determining whether a member of a legislative house is present  
29 at legislative proceedings, “it is therefore within the competency of  
30 the house to prescribe any method which shall be reasonably  
31 certain to ascertain the fact.” (United States v. Ballin, 144 U.S. 1,  
32 6 (1892))

33 (i) The United States Supreme Court has also held that when a  
34 legislative house adopts a rule establishing a reasonable method  
35 for determining whether a member is present at legislative  
36 proceedings, that rule must be given great deference by the courts  
37 because:

38 Neither do the advantages or disadvantages, the wisdom or  
39 folly, of such a rule present any matters for judicial  
40 consideration. With the courts the question is only one of  
41 power. The constitution empowers each house to determine  
42 its rules of proceedings. It may not by its rules ignore  
43 constitutional restraints or violate fundamental rights, and  
44 there should be a reasonable relation between the mode or  
45 method of proceeding established by the rule and the result



1     *which is sought to be attained. But within these limitations*  
2     *all matters of method are open to the determination of the*  
3     *house, and it is no impeachment of the rule to say that some*  
4     *other way would be better, more accurate, or even more just.*  
5     *It is no objection to the validity of a rule that a different one*  
6     *has been prescribed and in force for a length of time. The*  
7     *power to make rules is not one which once exercised is*  
8     *exhausted. It is a continuous power, always subject to be*  
9     *exercised by the house, and, within the limitations*  
10    *suggested, absolute and beyond the challenge of any other*  
11    *body or tribunal.*

12  
13    (United States v. Ballin, 144 U.S. 1, 5 (1892))

14    2. *The Assembly hereby exercises its constitutional and*  
15    *inherent powers and privileges and adopts these Special Rules to:*

16    (i) *Govern, control and regulate its membership and its*  
17    *internal organization, affairs and management;*

18    (ii) *Ensure its institutional self-protection and self-*  
19    *preservation; and*

20    (iii) *Establish a reasonable method for determining whether a*  
21    *member of the Assembly is present at legislative proceedings amid*  
22    *the ongoing and widespread public-health crisis caused by the*  
23    *COVID-19 pandemic in order to keep the legislative process as*  
24    *safe and free as reasonably possible from the extraordinary*  
25    *danger, risk, harm, injury and peril posed by the COVID-19*  
26    *pandemic.*

27  
28    And be it further

29    RESOLVED, That this resolution becomes effective upon  
30    adoption.

