

Senate Resolution No. 10—Committee on
Legislative Operations and Elections

FILE NUMBER.....

SENATE RESOLUTION—Expressing and explaining the public policy governing Rule No. 23 of the Standing Rules of the Senate for the 75th Session of the Legislature.

WHEREAS, It is a well-established principle of parliamentary practice that every member of the Legislature has a duty to vote unless prohibited or excused by the rules of the House (*Mason's Manual of Legislative Procedure* §§ 521 & 522 (2000) (*Mason's Manual*); Luther S. Cushing, *Elements of the Law & Practice of Legislative Assemblies* §§ 1789-91 (1856) (*Cushing's Legislative Assemblies*)); and

WHEREAS, Rule No. 23 of the Standing Rules of the Senate for the 75th Session of the Legislature provides that in determining whether a Legislator has a conflict of interest, the Legislator should consider whether the independence of judgment of a reasonable person in his position upon the matter in question would be materially affected by his acceptance of a gift or loan, his private economic interest or his commitment to a member of his household or his immediate family; and

WHEREAS, Rule No. 23 provides that if a Legislator knows he has a conflict of interest, the Legislator shall make a general disclosure of the conflict of interest on the record in a meeting of a committee or on the floor of the Senate, as applicable; and

WHEREAS, Rule No. 23 provides that in determining whether to abstain from voting upon or advocating or opposing a matter concerning which a Legislator has a conflict of interest, the Legislator should consider whether the conflict impedes his independence of judgment and whether his interest is greater than the interests of an entire class of persons similarly situated; and

WHEREAS, Rule No. 23 must be interpreted and applied in light of well-established principles of parliamentary practice that have been shaped, developed and followed by national and state legislatures for hundreds of years; and

WHEREAS, Rule No. 90 of the Standing Rules of the Senate for the 75th Session of the Legislature provides that “[t]he rules of parliamentary practice contained in *Mason's Manual of Legislative Procedure* shall govern the Senate in all cases in which they are applicable and in which they are not inconsistent with the standing rules and orders of the Senate, and the joint rules of the Senate and Assembly”; and



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

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

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

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

RESOLVED, That there are legislative measures of immense statewide importance, such as bills raising revenue and bills approving the budget of the State Government, which globally impact all citizens of this State because such measures set the fiscal, economic and social priorities of this State and thereby influence and affect every aspect of our society; and be it further

RESOLVED, That the public policy of this State favors the right of citizen Legislators to perform the duties for which they were elected and to vote or otherwise act upon a matter, provided they have properly disclosed any conflicts of interest; and be it further

RESOLVED, That because abstention by a Legislator disrupts the normal course of representative government and deprives the public and the Legislator's constituents of a voice in the most important governmental affairs, Rule No. 23 is intended to require abstention only in clear cases and when the matter is particularly personal; and be it further



RESOLVED, That Rule No. 23 does not require any member of the Senate to abstain from voting upon or advocating or opposing legislative measures of immense statewide importance which globally impact all citizens of this State because, in such cases, the very nature of such legislative measures presumptively makes the interests of every member of the Senate no greater than the interests of every other citizen of this State, and therefore, the independence of judgment of members is not impeded by those interests and they are not required to abstain; and be it further

RESOLVED, That during the 75th Session of the Legislature, the legislative measures of immense statewide importance which globally impact all citizens of this State include the General Appropriations Act, the Authorized Expenditures Act, the Unclassified Pay Act, the State Distributive School Account Act and any legislative measures that increase various taxes and revenue sources necessary to fund the State Budget, such as Senate Bill No. 429; and be it further

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

