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Rules Committee
January 07, 2011

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The Committee on Rules met at 1:00 p.m. on Friday, January 7, 2011, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a hearing on 2011 Proposed Rules 1 through 5. Senators present: Scott Lautenbaugh, Chairperson; Lydia Brasch; Annette Dubas; Steve Lathrop; Dennis Utter and Mike Flood, Ex Officio. Senators absent: None.

SENATOR LAUTENBAUGH: (Recorder malfunction)...Speaker Flood proceed with the first three as a group. So we'll call this meeting of the Rules Committee to order. Please shut off your cell phones. I'd like to introduce the members of the committee. We have Senator Lathrop; Senator Dubas; Senator Brasch; Speaker Flood is also an ex officio member; and we're anticipating Senator Utter joining us as we speak. Please proceed.

SENATOR FLOOD: Good afternoon, Chairman Lautenbaugh and members of the Rules Committee. For the record my name is Mike Flood, F-I-o-o-d. I represent District 19, which includes the city of Norfolk and all of Madison County. As has been my custom, my first two terms as Speaker of the Legislature, I worked with the Clerk over the summer and the fall and submit several rule changes that in our collective opinion would benefit the Legislature. I'm going to be discussing Rules 1 through 3 and would ask at the conclusion of my testimony and any questions from the committee that the Clerk be allowed to come up and further explore the concepts presented. The first rules proposal I have today would make a clarification to the Reconsideration Rule by adding to Rule 7, Section 7, the already existing language found in Rule 7, Section 3, the Motions Rule. This existing language spells out that a motion to reconsider may be withdrawn only with unanimous consent or a majority vote of the elected members. By adding the language to the Reconsideration Rule, it will ensure that anyone reading the rule will also know about the requirements for withdrawing a reconsideration motion. That's more of a housekeeping measure to make our rules uniform. The second rules proposal addresses the Final Reading of bills and their availability to the members. The proposed change would eliminate the requirements that "printed copies" of the bills in their Final Reading form be on each member's Chamber desk for one legislative day. By eliminating this requirement for printed copies and for placement on their desk, we will still provide for members to have copies of Final Reading bills for one legislative day prior to Final Reading; but the Final Reading copy will be available via computer and the computer copy, not a hard copy, will satisfy the requirements of this rule. The Clerk's Office will continue to place copies of Final Reading bills into the bill books on members' Chamber desk, but they will not have to rush around to meet the one-day requirement. I think this is a housekeeping change that will not affect the purpose of the rule in any manner. It will make the day-to-day, behind-the-scenes operation of the Legislature run more smoothly. The final proposal does have some meat on the bone and I want to be very clear this was brought to me originally by the Clerk of our Legislature following his experience in 2001 with the redistricting process. And I am sure there will be questions

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Rules Committee
January 07, 2011

about this and happy to take them. The first portion of this rule change was brought to my attention by the Clerk and mirrors the language that the Legislature adopted ten years ago to allow the Speaker to choose redistricting bills as Speaker's Major Proposals. The rule change proposed today is identical to the 2001 rule which would allow any of the redistricting bills to be chosen by me as Speaker as a Major Proposal, in addition to allowing the Speaker to choose the legislative redistricting bill as a sixth major proposal. Former Speaker Kristensen did not need to use this rule ten years ago, and it is my hope that it would not be needed this year, but thought it was worth consideration by the committee. Unfortunately, it is one of those things we will not know until the middle of May whether or not this rule change could be useful. By adopting this rule change now, it would allow for the tool to be available should it prove helpful if we would get bogged down during floor debate other redistricting bills. The second part of this proposed rule change would simply allow the Redistricting Committee to introduce legislation anytime during the session allowing the committee to introduce redistricting bills sometime in April or early May after they have put together their proposals. This will allow hearings to be held on the actual proposals rather than shell bills. Rule 3 I think is very important; we do the second part which allows them to put bills in so the citizens of this state at public hearings will know exactly what the bill does. I think that is very important. As to allowing the Speaker to have this become a Speaker's Major Proposal, the reality is, any priority bill today that is selected, as long as I get two-thirds consent from the Executive Board, I can make it a Speaker's Major Proposal. The only power that gives the Speaker, and it can be significant, is it allows the Speaker to order the amendments. So let's say we have somebody attempting to stop discussion in the Amendments 1 through 5 and we've got one that is a compromise that the rest of the Legislature wants and that is very subjective right there, what I just said, the Speaker, under a Speaker's Major Proposal, can order the amendments and put it to the top. It does not mean that the amendments 1 through 5 will not have to be considered or a cloture motion would be necessary to make that go away. It just allows the Speaker to order those amendments. It is a departure from the way we do business. We've had Speaker's Major Proposals for more than ten years. In my time in the Legislature I have only used it twice. In 2010 I did not use it. In 2009 I used it on LB545, which was the state aid to schools bill, and the only reason I used it then is that the bill had failed a cloture motion and would have been dead but for resurrecting it with a Speaker's Major Proposal. And that allowed the Legislature to make changes necessary to the TEEOSA formula. In 2008 I did not use it. And in my first year as Speaker, I did ask and did receive approval to name the bill for The Learning Community, LB641, as a Speaker's Major Proposal. And I don't believe...I did order the amendments, but at the end of the day it didn't prove to have been necessary because we found agreement on the floor. Those are the three rules changes. I'll answer any questions that you have and I'd also ask the Clerk to follow me. [PROPOSED RULE 1-3]

SENATOR LAUTENBAUGH: Are there any questions for Speaker Flood? Any questions for Mr. O'Donnell? [PROPOSED RULE 1-3]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Rules Committee
January 07, 2011

PATRICK O'DONNELL: Mr. Chairman, if I may very quickly, I just want to affirm what the Speaker has indicated to you. I won't even address my remarks with respect to changes 1 and 2. They're pretty self-explanatory, I think, and pretty easy to understand. The changes with respect to redistricting, though, I think are, as he indicated, significant. Please understand these were rules changes that were adopted and part of the rules during the last time the Legislature dealt with the redistricting process. And remember, if you will, that Major Proposals in the rules as configured today require, before the Speaker can even make a judgment about whether he wants to characterize the bills as a Major Proposal, that bill has to be a priority bill; has to be a member priority bill; a committee priority bill; or has to be part of the Appropriations language. That's the language of the rule today. So by allowing this to happen, we're giving the flexibility to the Speaker to include within that realm, or that pool of bills, the redistricting bills. Speaker Kristensen when he...when we did this in 2001 this was appropriate, he felt it was appropriate. The body actually talked about it on the floor at some length, but in the end, ultimately, agreed to do it. I think, my observations over the years, this is...it provides you some flexibility which may be useful to you and when you get into the redistricting process. The second provision relating to the introduction, again as the Speaker indicated, is simply...allows the committee to introduce bills when they've had the opportunity to deliberate and consider options and proposals. So rather than having multiple proposals out there in the form of bills, bills would come later in session. So, that's all I have to say, Mr. Chairman. Yes, sir. [PROPOSED RULE 1-3]

SENATOR LAUTENBAUGH: Are the two points kind of connected in that if the bills can come later they may very well come after someone could have designated it a priority which would then make it impossible to make it...give it the additional status?
[PROPOSED RULE 1-3]

PATRICK O'DONNELL: Well, I hadn't thought about that, but that's obviously true because your priority designation will probably...your deadline will fall before we'll see redistricting bills on the floor, I guess. I think that's right. Yes, sir. [PROPOSED RULE 1-3]

SENATOR LAUTENBAUGH: Do you have a question, Senator Lathrop? [PROPOSED RULE 1-3]

SENATOR LATHROP: Can you tell me, Mr. Clerk, what the evil is that we're trying to fix with Rule 3 and how this does that? [PROPOSED RULE 1-3]

PATRICK O'DONNELL: With Rule 3, Senator? [PROPOSED RULE 1-3]

SENATOR LATHROP: Yes. [PROPOSED RULE 1-3]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Rules Committee
January 07, 2011

PATRICK O'DONNELL: As the redistricting... [PROPOSED RULE 1-3]

SENATOR LATHROP: The Major Speaker... [PROPOSED RULE 1-3]

PATRICK O'DONNELL: Right. [PROPOSED RULE 1-3]

SENATOR LATHROP: ...on redistricting. [PROPOSED RULE 1-3]

PATRICK O'DONNELL: I think, Senator, the evil is this, that if we found ourselves...I should (inaudible)...when the Legislature could conceivably find itself in a position where you were dealing with multiple amendments from maybe a...I don't want to say a frustrated party, but a member who was upset with the plans as being proposed by the Redistricting Committee, and you could conceivably find yourself in a situation where the member chooses to filibuster or at least delay consideration. I think allowing the Speaker this flexibility would allow the Legislature ultimately to exercise its will. I can tell you again from my experiences with the Major Proposal, and it certainly this has been the case with Speaker Flood, that your attempt...your efforts in utilizing this rule were designed to consider only those proposals that are serious and deserve serious consideration. I, for example, can tell you with...when Senator Kristensen was Speaker and we were dealing with the TEEOSA formula bill, there were multiple amendments filed by multiple members, most of which could not have gotten five votes on the floor of the Legislature. And it allowed Speaker Kristensen, at that time, to order amendments that were serious, whether it was a significant number of members who felt strongly that that number should be not only considered, debated, but voted on. And it allowed the Speaker, at that time, to rearrange those amendments so you take the serious amendments, the ones where there is some modicum of support, okay, as opposed to a member who may be an individual frustrated because of whatever recommendations a committee may be making to you. Okay? Does the cloture rule still apply? Absolutely. But I think the Major Proposal Rule was designed primarily to allow for consideration of serious-minded proposals being offered by members on all sides of the question where there appeared to be some modicum of support for whatever that proposal is. Okay? I don't know if that answers your question? [PROPOSED RULE 1-3]

SENATOR LATHROP: Is the person...who is the person that is most likely to be affected by this? [PROPOSED RULE 1-3]

PATRICK O'DONNELL: The member whose... [PROPOSED RULE 1-3]

SENATOR LATHROP: Adversely affected by it? [PROPOSED RULE 1-3]

PATRICK O'DONNELL: The member whose district may be in jeopardy or may be moved or may be abolished who is so frustrated that...and essentially stands alone in that position and has no other alternative other than to file an amendment after

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Rules Committee
January 07, 2011

amendment after amendment after amendment. And, I mean that's...that's the best example I can give you. I mean, there could be more than one member obviously affected. I don't know where you...where redistricting will take us. I suspect nobody does at this point. But it precludes, I think, an individual member or a small group of members. When I say small, something less than five. [PROPOSED RULE 1-3]

SENATOR LATHROP: Why do you say something less than five? What if there's ten people that say this is a terrible plan? [PROPOSED RULE 1-3]

PATRICK O'DONNELL: I think that.... [PROPOSED RULE 1-3]

SENATOR LATHROP: Did we not just get to a...put a rule in place that, essentially, allows the greater number of senators to ignore the...ignore what that group of ten meet? [PROPOSED RULE 1-3]

PATRICK O'DONNELL: My definition of substantial would...any proposition that would have more than a half a dozen members supporting it would be a serious proposal that, at least my experiences in working with former Speakers, including Speaker Flood, would be taken as a serious proposal. But proposals that come from one or two members who are frustrated sometimes aren't that and you're not spending time on the serious proposals as opposed to the less serious proposals. [PROPOSED RULE 1-3]

SENATOR LATHROP: And maybe I could...maybe I can follow up with that. [PROPOSED RULE 1-3]

PATRICK O'DONNELL: Sure. [PROPOSED RULE 1-3]

SENATOR LATHROP: In employing the Speaker's Major Proposal Rule, if there are ten people that support an amendment, then it gets on the list? [PROPOSED RULE 1-3]

PATRICK O'DONNELL: It, you know, obviously it is a judgment factor, a judgment decision that the Speaker will make as to what that number is. All I can tell you is that in its application over the years, a factor of ten would be...would rise to the level of a substantial amendment that would be considered as a serious amendment and be scheduled, okay, ahead of amendments by a member who was operating in an individual capacity. [PROPOSED RULE 1-3]

SENATOR LATHROP: So as a practical matter, the person that this is going to affect adversely is the one person whose district may be eliminated or significantly... [PROPOSED RULE 1-3]

PATRICK O'DONNELL: I mean, inconceivably that's the most obvious scenario in my mind anyway. [PROPOSED RULE 1-3]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Rules Committee
January 07, 2011

SENATOR LATHROP: Okay. [PROPOSED RULE 1-3]

PATRICK O'DONNELL: Not that I...you know, but...I shouldn't say this, my...again my experiences in the redistricting process is that the Legislature will provide extraordinary opportunities to that adversely-affected member. I remember Ed Schrock, when Ed Schrock's district went away he was afforded a significant number of opportunities to provide alternatives to the plan that the Legislature approved at that time. That was also true of Senator Dierks when his district went away in 2001. He was afforded a significant number of opportunities to develop alternatives. He presented multiple options at that time. How you operate this year may differ. I'm just...based on our culture, our tradition, that would...I would expect that to happen again. [PROPOSED RULE 1-3]

SENATOR LATHROP: Okay. Thank you. [PROPOSED RULE 1-3]

SENATOR LAUTENBAUGH: Any other questions for the Clerk? Thank you, sir. [PROPOSED RULE 1-3]

PATRICK O'DONNELL: Thank you, Mr. Chairman. [PROPOSED RULE 1-3]

SENATOR LAUTENBAUGH: Any proponents for Rules 1 through 3? Other proponents? Any opponents for Rules 1 through 3? Let's move on to Rule 4. Senator Mello. [PROPOSED RULE 1-3]

SENATOR MELLO: Good afternoon, Chairman Lautenbaugh and members of the Rules Committee. For the record my name is Heath Mello, M-e-l-l-o, and I represent the 5th Legislative District which includes south Omaha and Bellevue. The purpose of my proposed rule change which would amend language in several sections is to ensure that our rules continue to reflect the longstanding tradition in the Nebraska Legislature of respecting the work of our standing committees. Currently Rule 3, Section 20, outlines a procedure by which a member of the Legislature can attempt to take a bill being held by a committee and have it brought to the floor. Out of respect to the Legislature's committee process, this rule provides that if a motion to take a bill from committee to be placed on General File fails, the bill is indefinitely postponed and cannot be subject to a motion to reconsider. To my knowledge this rule has not been invoked...or in my time in the Legislature and has rarely been invoked. Rule 3, Section 18 which contains a similar provision for bills which have been indefinitely postponed by committee was invoked by Senator Rich Pahls in 2009. Similar to the requirements of Rule 3, Section 18, Rule 6 provides that a bill which has been indefinitely postponed by committee cannot be brought as an amendment to a bill without a three-fifths vote. There is not, however, a similar rule for a bill which is being held by a committee. This means that under our current rules any senator can amend a bill which is being held by

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Rules Committee
January 07, 2011

a committee onto another bill by a simple majority vote without the risk of the bill being indefinitely postponed if that vote fails. Under my proposed rule change, the vote required to bring a bill out of committee in Rule 3, Section 20, would go from a simple majority vote to a three-fifths vote. In addressing the issue of bringing a bill out of committee as an amendment, it would add a new subsection to Rule 3, Section 17, which requires both a three-fifths vote and provides that a bill is indefinitely postponed if the amendment fails. The changes to Rule 6 simply harmonize these changes. As I mentioned earlier, the procedure for pulling a bill from committee when the committee has not yet taken action is rarely used and for good reason. And while every senator has had important legislation that they feel languished in committee without action, the longstanding position of the Nebraska Legislature has been that if a committee chooses not to advance a bill the appropriate response is to work with the committee. I believe that these changes further affirm our commitment to the committee process and are a commonsense way to fill what is a gap in our current rules. [PROPOSED RULE 4]

SENATOR LAUTENBAUGH: Thank you, Senator. Do you have any questions for Senator Mello? Speaker Flood. [PROPOSED RULE 4]

SENATOR FLOOD: Senator Mello, I reviewed your rule change and I guess on a one...what I appreciate about your rule change is that it supports and protects the committee system of the Legislature, which I think is very important. And I...to the extent that your proposal addresses that, I appreciate it. Two things that I think mitigate, maybe, my support, and I just want to share them with you and give you a chance to respond. [PROPOSED RULE 4]

SENATOR MELLO: Um-hum. [PROPOSED RULE 4]

SENATOR FLOOD: One is, I'm thinking about sitting in the Chair presiding over the Legislature and let's say a member has a bill that says, instead of 49 state senators we're going to do 45. Okay, and so that's the bill and so that senator comes on the floor, that bill is not advanced from committee, it's not killed, and the senator puts in there instead of 45 puts in there 44. I mean, that's a clear-cut example, but I think it calls into question the use of the word substantially similar. I'm worried about, as a presiding officer, making a decision about what bills are substantially similar. If Senator Fischer introduces a bill, it is sitting in committee and Senator Heidemann believes in the same concept of her bill, but he, you know, puts on an amendment, how much time is it going to take to decipher whether or not that concept was substantially similar? That's a practical one. And I guess the second point and my final point is I think that there is a remedy here to support the committee system and that is if the committee knows this is coming as an amendment, which is most often the case, the committee can meet in Executive Session or on an emergency basis and vote to IPP the bill which I think does give the committee a remedy to up...to take the vote from 25 to 30. And I've seen committees do that. They know that Senator Pahls, for instance, is coming out with a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Rules Committee
January 07, 2011

sales tax proposal and they will immediately go into Executive Session and IPP the bill which raises the vote standard. So those are my two issues. One is practical and one is, I think, there is another remedy. I do appreciate the discussion because I think what you brought up does value the committee system. That's my thoughts. [PROPOSED RULE 4]

SENATOR MELLO: I would say...not serving in the Chair, I should say, having in my two years not presided over the Legislature, being in that position to make the call as a presiding officer, we made sure the language, at least in my perspective, the amendment and discussing that, I know with the Clerk, we used "substantially the same." It's not "similar" because once again, I think there's a judgment call that can be made when you say...use the word "similar." And while I'm not an attorney, I think linguistics and language matters and "substantially the same," I would say, would be the equivalent of introducing the amendment which is the equivalent of the bill or almost equivalent to the bill. So if there was...for your example, the amendment says we will reduce the number of senators to 45, that's the amendment, that would be substantially, I say, the same as a bill that is currently being held in committee that has not been voted on. At the end of the day it's a question that resides within, I guess, the Presiding Chair and I trust the fact that this rule change would not only strengthen the committee process, I think, and provide strength still with what has been the longstanding tradition of the Legislature which is if the bill has not been voted out of committee, there shouldn't be a loophole which currently exists, in my opinion, for a senator to run a bill as an amendment instead of running it, essentially, as a three-fifths vote if it is IPPed. So, to some respect I don't know if there is a black or white answer to your first assessment, Speaker. I think it ultimately is a judgment call and...initial language changes, we did have the word, I think, "similar" used; we've changed it to "substantially the same" to try to provide more direction, I think, to the Clerk and to the presiding officer that essentially what the rule change is to stop is almost the identical bill that's being held in committee because that's, I think, the last thing committee Chairs and committees want to see is a loophole to get around them. Your second component, committees can do that. I guess that is a remedy that, I guess, you could say is available. I would say the question remains and is if that currently is available is that something that also needs to be considered in regards to allowing one senator to bypass the entire committee process? Because the fact is, right now that can be done. So a committee, essentially, you're pushing, I guess, you're pushing the hand of all committees then to determine whether or not they want to IPP a bill immediately to cause the three-fifths vote because they have not decided yet to vote up or down on a particular senator's bill. So I think in some respect I would say your second assessment raises, I think, even a bigger concern that senators right now the power of one has the ability to bypass the power of seven, eight, or nine, depending upon the committees, simply because the committee might not want to vote on that legislation yet. [PROPOSED RULE 4]

SENATOR LAUTENBAUGH: Did you have a follow-up question, Mr. Speaker?

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Rules Committee
January 07, 2011

[PROPOSED RULE 4]

SENATOR FLOOD: Well, and just reaction to that, and the power of one; the difference is they get 25 votes on the floor. So there is a majority of the 49 that do want whatever that is. As to my first point again, you know, I think if we adopt this as a rule, everybody has to be well-aware that the show isn't over yet because the first time the presiding officer rules on this, whether by their own motion if they see something, or on the motion of a member, the presiding officer is going to make a judgment call and then the body is going to make a judgment call if the ruling is challenged. And the only...and sometimes those challenging the Chair things are more about the substantive bill than they are the rule. Now it isn't always the case, but I mean if we adopt this today, the legislative policy will not be precedent until we go through a couple of key things. So it could take two or three rulings before the Clerk's Office and the (inaudible) has a real idea. You know, it reminds me, tangentially, a little bit of, confine your remarks to the bill that's under consideration. And I can sit in that chair all day long and I could stop a member from talking about this or that, you know, and stop the discussion. I don't think that's healthy for the Legislature to have that done. And I haven't had a member stand up and call the question on that, but I think you place the presiding officer in a point where suddenly we're trying to determine whether to set a...you know, right now I try to determine did the idea have a public hearing. We have pulled the carpet out from under a member before on that issue. But this one concerns me a little bit and I'm just offering that. But I think what you're trying to do is value the committee system which I think is in line with my interests. [PROPOSED RULE 4]

SENATOR LAUTENBAUGH: Does anyone have anything in the form of a question for Senator Mello? Senator Utter. [PROPOSED RULE 4]

SENATOR UTTER: Senator Mello, what precipitates this rule change? Can you point to instances where this rule change would have changed the course of legislation, or are you supposing that something may come up that will... [PROPOSED RULE 4]

SENATOR MELLO: Well, actually, I can point to one specific instance that involves both, I think, the Chairman of this committee and myself in regarding the campaign finance law. And ultimately, I think it kind of provided a view into this situation which ultimately the, I would say, one senator proposed an amendment that was substantially the same as a bill that was currently being held in the Government Committee. And to some extent the committee was not going to move that bill out of committee. I had a similar bill; I shouldn't say similar bill, I had a bill that was in the Government Committee as well that the committee had not moved as well and while I wanted, I essentially took...started to take a somewhat similar path as this other senator in regards to drafting that bill as an amendment to another bill which then, I think, prompted the Chairman of that committee to find a way, one, to get the bills out of committee to have a debate even though I think he kind of knew where the bills ultimately were going to land in the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Rules Committee
January 07, 2011

Legislature. But essentially, that was a process in which two senators, myself being one of them, and another senator being able to have substantially the same bill drafted as an amendment that the committee specifically had not taken an action on; they had not IPPed it, and they had not voted yes or no on the bill, to essentially we were allowed to run those bills as amendments until...I think the committee Chair wanted to try to be helpful in a sense of providing, I think, either a committee clerk...committee assistance to both senators so thus, I think he tried to just get both bills out of committee for debate purposes. But it opened my eyes up, in a sense that we don't have to essentially go by the committee process and we can just run bills as amendments regardless of what the committee does. [PROPOSED RULE 4]

SENATOR UTTER: But the way it turned out, nothing was impeded. [PROPOSED RULE 4]

SENATOR MELLO: Nothing...well, ultimately at the end of the day, I think, nothing...it didn't change because the committee Chair, I think, there was some frustration, I believe, on both ends of trying to get the committee's assistance in regards to these amendments and ultimately that, you're right, nothing changed at the end of the day. But it was, I think, a process question. And at the end of the day, I think this rule focuses more on process of how is it that we can maintain integrity with the committee process knowing that the committee chooses not to take action on a bill that a senator cannot run around that committee's decision and still be able to move their bill forward with, I should say, a simple majority vote and no repercussions if you simply go a simple majority vote. [PROPOSED RULE 4]

SENATOR LAUTENBAUGH: Any other questions for Senator Mello? Thank you, Senator. [PROPOSED RULE 4]

SENATOR MELLO: Thank you. [PROPOSED RULE 4]

SENATOR LAUTENBAUGH: Any proponents for the proposed rule change? Any opponents? Okay, we'll move on to the final proposed rule change with Senator Haar. [PROPOSED RULE 4]

SENATOR HAAR: Colleagues, thanks for your time. The rule change I'm proposing is really quite simple. I think I'm known for asking a lot of questions and taking a lot of notes and that's just the way I operate to make decisions and so I don't forget. And one of my committee Chairs said, fine, no problem; and another one said, nope, it's disrespectful to the people who are testifying if you have a computer and you're taking notes on a computer. And I guess I just...when I was on the Lincoln City Council in the early '90s...in the early '90s I started using my laptop computer for note taking and no one ever really came back to me and said, you know what, I feel like you're not paying attention. So I would just like to kind of get that argument off the board. Just say it's

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Rules Committee
January 07, 2011

okay. I mean, the other thing is, if we're worried about lobbyists sending questions in and all those other kind of concerns, we have this little device, you know we can twitter, tweet, skype, text, Google, take notes, all those kinds of things on this little device nowadays. Even if, you know, it may require...may make a Chair feel better to say at the beginning of a session please turn off your cell phones; some members will be taking notes on their computers or whatever, just to inform the audience. But you go into any classroom nowadays, you see people taking notes and I just think it's appropriate that it's okay to use laptops. The reason I like to use it, of course, is because of programs like OneNote which is a Microsoft Office program. You can take notes; you can file things; you can add electronic letters; all kinds of things, all in one place. Then I can walk home with my computer and, you know, study at home. It's just something we all do nowadays and I would like to see a rule change so that I don't have to argue with my committee Chairs. [PROPOSED RULE 5]

SENATOR LAUTENBAUGH: Senator, do you see any environmental or conservancy issues that this might address with having electronic devices? [PROPOSED RULE 5]

SENATOR HAAR: Well, certainly for one thing, it could cut down on the amount of paper we all get. I mean, in some of the committees now, our notebooks are two notebooks thick full of paper. Well, you walk in my office, it's very difficult to know how to file all that stuff, how to retrieve it. And I think electronic means, particularly nowadays, let us retrieve information by searching on key words and those kinds of things that could actually help at least some of us, you know, give us that choice to use that as a tool for coordinating our information. [PROPOSED RULE 5]

SENATOR LAUTENBAUGH: Thank you. Senator Dubas. [PROPOSED RULE 5]

SENATOR DUBAS: Thank you, Senator Lautenbaugh. Thank you, Senator Haar. Personally I don't have an issue with this. I don't do, take notes on the computer, but it might be something I would consider down the road especially with some of the things you just talked about. But I'd like to kind of go back to what we talked about in the previous...with the previous rule suggestion with the respecting of the committee process and the committee Chairperson's ability to run their committees however they want. So I guess I would like your response to how does this impinge on that Chairperson's ability to run the committees the way they see fit, if it makes them uncomfortable or if they think it's not appropriate for you to be doing that? You know, that kind of...we're basically telling the committee Chair, you don't have that right to tell your committee members what you'd like to see them do or not do. So I guess I'd just like your feedback on that. [PROPOSED RULE 5]

SENATOR HAAR: Well, I don't see that committee Chair as being somebody who gets to do whatever they want in committee. I mean, you know, people could tell me to wear a tie, I probably wouldn't. So I don't know what...I don't know what confrontation

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Rules Committee
January 07, 2011

happens here. We're talking about substantive things versus...kind of dress code really. I think members of the Legislature, even in committee, are...should be trusted a little bit beyond those kinds of dress code issues. [PROPOSED RULE 5]

SENATOR DUBAS: Thank you. I just wanted to know what your perception was for that. [PROPOSED RULE 5]

SENATOR HAAR: Yeah, and certainly committee Chairs have quite a bit of latitude and I respect that. [PROPOSED RULE 5]

SENATOR LAUTENBAUGH: Senator Lathrop. [PROPOSED RULE 5]

SENATOR LATHROP: Are we going to hear from the Clerk on this? [PROPOSED RULE 5]

PATRICK O'DONNELL: If you'd like. [PROPOSED RULE 5]

SENATOR LATHROP: Well, I...no, this is the question though, if I may, a year or two ago, I think Senator Rogert brought this up which was getting a machine to scan the exhibits and then getting the exhibits to the members on the computer so that we could sit, during committee hearings, and look at the exhibits on computers instead of getting a stack...I'm thinking Judiciary Committee we get a stack this big, and I think we were going to do a study of some kind or another and see if that was a viable alternative to the trees we're killing for these exhibits or handouts. [PROPOSED RULE 5]

PATRICK O'DONNELL: I remember the discussion very well and you're right, I made representations to you at that time that we would spend some time during the interim period in reviewing and looking at options. And to be totally candid with you, given the lack of resources, I've not spent a lot of time looking at this, okay? [PROPOSED RULE 5]

SENATOR LATHROP: Okay, okay. So when we talk about this, though, in terms of this particular rule, we're not equipped at this point in time to scan... [PROPOSED RULE 5]

PATRICK O'DONNELL: No. No. [PROPOSED RULE 5]

SENATOR LATHROP: ...and send electronically to the members all the documents and handouts? [PROPOSED RULE 5]

PATRICK O'DONNELL: No. No, because, you know, you have to remember things are coming from multiple places. I mean, you have citizens bringing things, lobbyists bringing things, committee staff bringing things, members bringing things, so, I mean, internally we could certainly manage that much easier. But it's when you plug in outside

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Rules Committee
January 07, 2011

elements, you know, those people who are coming to the hearings and bringing things with them that becomes a little more difficult. I don't want to (inaudible)...I think it's doable. And in fact, not that I don't want to take your time, Senator. [PROPOSED RULE 5]

SENATOR HAAR: No, that's fine. [PROPOSED RULE 5]

PATRICK O'DONNELL: Senator Adams visited with me when your rules change was being drafted and talked about exploring what we could do to replace those books that most of you have in your various committees. I assume that all the committees do that. I haven't...we will do that, but it takes resources and sometimes money to do those things. I spent a lot of time this summer working on budgets that didn't involve additional funds, Senator. [PROPOSED RULE 5]

SENATOR LATHROP: I'm not trying to put you on the spot with that question. [PROPOSED RULE 5]

PATRICK O'DONNELL: Yeah I know, I know. [PROPOSED RULE 5]

SENATOR LATHROP: But this would be a compelling rule change if we had the bizhubs to get the exhibits out. [PROPOSED RULE 5]

PATRICK O'DONNELL: Yeah, yeah. [PROPOSED RULE 5]

SENATOR LATHROP: Okay. [PROPOSED RULE 5]

SENATOR LAUTENBAUGH: And surely by way of a comment, Mr. Clerk, we could probably require registered lobbyists to submit things electronically as a condition of being registered lobbyists. [PROPOSED RULE 5]

PATRICK O'DONNELL: Yeah, I mean, I think there are some things we could do (inaudible). [PROPOSED RULE 5]

SENATOR LAUTENBAUGH: And limit the number of copies that are otherwise submitted. I mean, I have a scanner in my own personal office I can scan things in. I mean, there's no...it's not cost prohibitive, it's just a lack of...no, I don't want to say a lack of will, because that makes it sound like I'm saying it's your lack of will. I'm saying...it is certainly doable. [PROPOSED RULE 5]

PATRICK O'DONNELL: No, it's a discipline of getting it into the habit of...just the protocols that we use and apply. [PROPOSED RULE 5]

SENATOR LAUTENBAUGH: Yeah, absolutely. [PROPOSED RULE 5]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Rules Committee
January 07, 2011

PATRICK O'DONNELL: Absolutely, yeah. [PROPOSED RULE 5]

SENATOR LAUTENBAUGH: Senator Utter. [PROPOSED RULE 5]

SENATOR UTTER: Thank you, Mr. Chairman. Senator Haar, exploring just a little bit your...the control, if that's the appropriate word... [PROPOSED RULE 5]

SENATOR HAAR: Sure. [PROPOSED RULE 5]

SENATOR UTTER: ...that the Chairman has over the conduct of business in his committee, would it be appropriate for the Chairman to say to a disinterested committee member, maybe you ought to stop that game of solitaire he's playing while the hearing is going on or...how far does this go? [PROPOSED RULE 5]

SENATOR HAAR: Well, and that's a really good question because I think the concern about using any of these devices is that you can do so much on them, okay. And I guess I would just reply to that that you can't control everything. Unless we have a control cop that's going to, you know, cultural control cop that can walk behind and watch what you're doing on your computer. I mean, I was elected and I'm somewhat responsible. There are certain assumptions that just have to be made. And right now we know that if you walk around the Chamber while debate is going on, there are people using Google and they're answering their e-mail. Sure, some of that would happen, but you can't control all of that. And I think the more you try to control it, as devices get more and more complex, it becomes more and more difficult. You know, it's so interesting because that same kind of thing happens with dictatorships around the world. They're just having a very tough time controlling what people can do with their electronic instruments. [PROPOSED RULE 5]

SENATOR FLOOD: I think Senator Fischer is coming up next so we'll all be (inaudible). (laughter) [PROPOSED RULE 5]

SENATOR LATHRDP: Was that in response to the dictatorship comment? (Laughter) [PROPOSED RULE 5]

SENATOR DUBAS: She's gone from queen to dictator. [PROPOSED RULE 5]

SENATOR LAUTENBAUGH: Senator Haar, have you seen Senator Schumacher's iPad? [PROPOSED RULE 5]

SENATOR HAAR: Yeah, I've lusted after that. (Laughter) I've talked to my wife about an iPad and it's just not in the budget. [PROPOSED RULE 5]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Rules Committee
January 07, 2011

SENATOR LAUTENBAUGH: Has he shown you the note-taking ability on that where you can just hold it like a tablet and sit there with your finger and take notes?
[PROPOSED RULE 5]

SENATOR HAAR: Yeah. [PROPOSED RULE 5]

SENATOR LAUTENBAUGH: So instead of sitting there doing this, a person could just sit there and do that. Your attention would still be on the person testifying?
[PROPOSED RULE 5]

SENATOR HAAR: Oh sure, but you can do that with typing too. [PROPOSED RULE 5]

SENATOR LAUTENBAUGH: Sure. [PROPOSED RULE 5]

SENATOR HAAR: But yeah, I mean, if you do this properly it will translate it into a text and then you can really use it. [PROPOSED RULE 5]

SENATOR LAUTENBAUGH: Any other questions for Senator Haar? Thank you, Senator. [PROPOSED RULE 5]

SENATOR HAAR: Okay. Well thank you. I was just a little concerned with only one chair when the Clerk came up that he might have to sit on my lap, but that didn't happen. (Laughter) [PROPOSED RULE 5]

SENATOR LAUTENBAUGH: That would concern us all, I think. (Laughter) Any other proponents for the proposed rule change? Any proponents at all? Any opponents?
[PROPOSED RULE 5]

SENATOR FISCHER: Thank you, Mr. Chairman, Mr. Speaker, members of the committee. For the record my name is Deb Fischer, F-i-s-c-h-e-r, and I'm the senator representing the 43rd District here in the Nebraska Unicameral. Since my name was mentioned as a possible dictator, I just wanted to reaffirm that I am available for that position. (Laughter) [PROPOSED RULE 5]

SENATOR HAAR: I did not say that. (Laughter) [PROPOSED RULE 5]

SENATOR FISCHER: And I would also like to make note that I am not the Chair of the committee that Senator Haar serves on. However, as the Chair of a committee here in the Nebraska Unicameral, I will tell you that I believe that a decision on this should be left up to the individual committee Chair. It's been my experience as Chair for the past four years that the perception by the public if there's a computer that's being used by a member or if a member is texting on their personal device, the perception by the public is that we as senators are not paying attention. And they have spent the time to come

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Rules Committee
January 07, 2011

down here, come before us and present their opinions. I have, Senator Lautenbaugh knows as a member of my committee, he first...when he was first a member he did bring his laptop and I asked him not to and there was no problem with that then, that I've heard of. (Laughter) There's...I also ask that my committee members and the people who are in the audience at my committee hearings turn their cell phones off. And I've told members that if you do get a text or need to answer something, you know, leave the hearing room and go answer it. It seems to work. I think members can take notes. We can go back; we can give those notes to our staff; they can enter it into the computer. If a member would like to bring their computer to an Executive Session so that they have their notes on that computer, they are certainly welcome to do so. I would also like to close and say that every year my committee we do hear from individuals who come before us and they thank us for the respect that we show them when they do come before our committee because members are interested, they are making eye contact, as you are with me right now, and they're not typing on a computer or checking a text message. So I would ask that you not accept this proposed rule change. Thank you. [PROPOSED RULE 5]

SENATOR LAUTENBAUGH: Thank you, Senator Fischer. And to briefly clarify the record, I think I remember my first day you gently told me we don't bring our computers. And the second day when I showed up, you said, no, I mean none of us brings a computer including you. (Laughter) And I think we had a... [PROPOSED RULE 5]

SENATOR FISCHER: (Laugh) Said with love and affection. [PROPOSED RULE 5]

SENATOR LAUTENBAUGH: Yes. And we had a "My Cousin Vinny" moment where I said, you're serious about that? And you said, yes, and we moved on, so. Are there any questions for Chairman Fischer? [PROPOSED RULE 5]

SENATOR FISCHER: Thank you very much. [PROPOSED RULE 5]

SENATOR LAUTENBAUGH: Any other opponents? At this point I believe we'll cease the hearing and go to Exec Session. [PROPOSED RULE 5]