

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

Rules Committee
January 06, 2010

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The Committee on Rules met at 11:00 a.m. on Wednesday, January 6, 2010, in Room 1510 of the State Capitol, Lincoln, Nebraska. Senators present: Scott Lautenbaugh, Chairperson; Annette Dubas; Mike Flood; Steve Lathrop; Kent Rogert; and Dennis Utter. Senators absent: None.

SENATOR FLOOD: (Recorder malfunction--some testimony lost)...eight resolutions. In my first session, I discovered that serving as Speaker you are also responsible, as you should be, he or she as the Speaker should be responsible for protecting the institution, in addition to that, recognizing folks in NEBRASKAland Days, there are a number of different ceremonial duties that the Speaker has that are pretty important and that can fill up your eight resolutions pretty quickly. So this rule change basically takes it to 15 for the Speaker of the Legislature. In discussing my rule change proposal with our Clerk, he's advised me that, you know, given the other rule that I think was submitted by...I forget who, Senator Janssen, we should consider just doing away with the eight resolution rule. It does present trouble for the Clerk's staff to have to keep track of how many you've put in. In addition to that, they've been keeping track of how many you cosign and a lot of people don't realize that when they cosign, they're already doing that. The rule was put into place to kind of stop all of the resolutions that have, you know, at the time required debate. Now we have the system where they're referred directly to the agenda and they're adopted without formal debate or a vote on the floor. I think as long as people manage their resources and they don't go overboard, I don't think we hurt ourselves by eliminating the rule altogether. And that came about with the discussion with the Clerk, and he could certainly provide more information, but I wanted to kind of share that. Thank you.

SENATOR LAUTENBAUGH: So your suggestion is maybe that we just do away with any sort of limit and if it becomes a problem we could revise it again next year to put some kind of limit on it?

SENATOR FLOOD: Right. We don't want our Bill Drafters spending every waking hour on resolutions, but I don't know that it's become that big of a deal. You know, at some point we may have to limit who...how many copies we make of each one. It used to be I guess they just used to do one for the Norfolk Catholic boys basketball team and now the resolutions say the Norfolk Catholic boys basketball team and these 15 players, each of whom get a resolution. That gets a little...to be a little bit more paper than it's worth. But I guess if we police it in our own branch and make sure we don't go overboard, I think this is something we can do. And I think members would appreciate it because a lot of times, you know, for instance, when a constituent of mine passed away, it was toward the end of the session, he had a really incredible life in agriculture and I wanted to recognize him and I think Senator Dubas actually handled that resolution for me and it probably should have come from the Madison County state

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senator. So it would have been a nice deal. I couldn't even cosign it because I had reached my eight. So thank you.

SENATOR LAUTENBAUGH: Any other questions for the Speaker?

SENATOR ROBERT: No.

SENATOR LAUTENBAUGH: Any proponents? Any opponents? Did you want to make any closing comments?

SENATOR FLOOD: No, I waive.

SENATOR LAUTENBAUGH: We'll proceed to the second proposed rule. Senator Janssen.

SENATOR JANSSEN: Morning, Chairman Lautenbaugh, members of the committee. For the record, my name is Charlie Janssen, J-a-n-s-s-e-n, and I represent Legislative District 15. I appear today in front of you to introduce proposed rules change number two, dealing with the number of commemorative resolutions that each senator may introduce each legislative session. At present, each senator is limited to eight resolutions, as the Speaker just said, per session. Proposed rules change number two would clarify that each member is limited to eight resolutions as the principal introducer per session. I offered that...this proposed rule change...go off script here because I was kind of busy this morning and didn't even read the script, but I offered it basically for similar reasons that the Speaker had just spoken to, and I wasn't aware of his rules change as well. I ran into something similar last session where early on when I was a one-day veteran of the Legislature, I'd signed a couple of resolutions for people, not knowing really...sounded like a good deal, you know, let's, you know, pay homage to this person and, yeah, I'll sign on to that. Then it got toward the end of the session and, not that it's earth shattering but it was to the Fremont Bergan boys, you know, golf team for winning the state championship. And Senator Pahls was nice enough to let me use one of his resolutions to commend them and also an individual state champion golfer. I agree if I would have had eight, that wouldn't have been an issue at all as the principal sponsor, but having signed on to three or four others earlier in the session, I was stuck shopping around a little bit for that. I think they're great. They're a great reach-out tool for us as individuals senators and in many cases, as the Speaker said, they should come from a specific district and honoring specific people. I'm certain that the golfer, Andy Sajevic, in Fremont was wondering why Senator Pahls from Omaha was honoring him and I did catch up to him to explain how that worked, which he didn't really care, but...so that's why I offer it. I'd be happy to answer any questions. I think this is something obviously I don't know if it can be rolled into what the Speaker was talking about and added to that or whatnot, but I just wanted to bring it to your attention.

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SENATOR LAUTENBAUGH: Would you believe the Speaker's proposal that would take away any limits would pretty much address your concerns as well?

SENATOR JANSSEN: I believe it would entirely address that.

SENATOR LAUTENBAUGH: Any other questions for Senator Janssen?

SENATOR LATHROP: I do. Senator Janssen, thanks for proposing this and bringing this to our attention and allowing us an opportunity to consider the subject matter resolutions. You're talking about what I would call a kind of the honorary resolutions and last year we saw some that were introduced that were resolutions relating to something that's happening out in Washington, right? And it seems to me like having some limitation on what's getting offered...because those take up time. Those take up committees. And so if we have resolutions, and I think they would come within the changes in this rule, so that people could offer unlimited resolutions criticizing Mike Johanns or unlimited resolutions criticizing the Governor or any one of our federal delegation, and I do have a concern because those are substantive and they will take up time in the various committees. I don't...I really don't care how many honorary resolutions senators put in because they are dealt with, really it doesn't take up any time and I understand the constituents like to get those. I really do appreciate that. I do have some concern, however, if we are opening the door to a battle of resolutions on what's going on in Washington and now we're going to send something over to a committee to take up on whether or not, you know, something done on healthcare reform is a good idea or a bad idea or whether the Nebraska Legislature thinks it's a good idea or a bad idea. And we could potentially have a single senator offering 30 of these things, tying up Health Committee if it's a healthcare issue, Business and Labor if it's a business and labor issue, and I don't see much purpose in them to start with. But the honorary ones, I don't have a problem with.

SENATOR JANSSEN: Thanks for the question and comment, Senator Lathrop. I find your examples interesting of the particular federal delegation and the Governor, but I'm certain I agree with you, it should be honorary. We certainly would not have enough time, per se, to discuss all of the resolutions that people may have against Senator Nelson this session. We've only got 60 days so I agree that it...

SENATOR LATHROP: Which is exactly...your comment is exactly why I have concern.

SENATOR JANSSEN: That's exactly why I would agree that it goes honorary. I'm talking about, you know, I was talking about the boys basketball team. I'm not talking about saying that Senator Nelson did a bad or a good job, and I think that was even addressed earlier, when you weren't here, in the first rule that we looked at this morning.

SENATOR LATHROP: Okay.

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SENATOR LAUTENBAUGH: Any other questions for Senator Janssen? Thank you.

SENATOR JANSSEN: Thank you.

SENATOR LAUTENBAUGH: Any proponents? Any opponents? Looks like Senator Janssen is waiving closing from...thank you. Would the committee mind if I just proceeded from here? Seems kind of...do we have a Vice Chair, by the way?

PATRICK O'DONNELL: No, you don't. (Laugh) I was going to talk to you about that.

SENATOR LAUTENBAUGH: Well, with the committee's blessing, I'll proceed from here. Proposed rule number three is one of my own. It basically provides for the electronic submission of documents at committee hearings, be it a copy of the testimony or exhibits one may introduce. I realize, rightly or wrongly, I'm not perceived as environmental crusader but I am troubled by the staggering amount of paper that we, frankly, waste with every single committee hearing day in, day out. There may be technical problems with this rule, unless we're requiring the people to e-mail us the submissions. I don't know if the Clerk's Office is affixed with scanners or equipped with scanners that would be able to handle this starting in a couple of weeks. Maybe so. Maybe there's a way to do it, and maybe we can discuss that. But I do think that in this day and age it is...it's just, frankly, scandalous the amount of waste that we see in the amount of paper that we leave on the committee hearing tables after we're done, and this was my proposal to address that.

SENATOR LATHROP: Could I ask you a question?

SENATOR LAUTENBAUGH: Absolutely.

SENATOR LATHROP: Are we, as a Legislature, are we prepared to do this? Do we have the capacity to do the scanning and the...I think it's...I agree with you that over in Judiciary Committee we'll get done with hearings and there will be that much stuff and we could just as easily be looking at it on an electronic file as...

SENATOR LAUTENBAUGH: Um-hum.

SENATOR LATHROP: ...but now we're bringing computers into the committee rooms, which I really don't have a problem with. But if people can't get their stuff to us, can they scan it that fast? Maybe that's a question for the Clerk.

PATRICK O'DONNELL: May I, Mr. Chairman?

SENATOR LAUTENBAUGH: Please.

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PATRICK O'DONNELL: The one-word answer to your question is I can't deliver this today, okay? And I've talked to Senator Lautenbaugh and Senator Rogert has had an interest in this too. At this point, I've got a lot more questions than I can give you answers for. We do not have the scanning technology I think that we would need to be able to do this. I also need to think through if there's a human resource issue. In other words, do I need a Help Desk person down, working with those clerks when John Q. Citizen walks in with paper, okay? And I would think you all would want to think about, too, how we go about the business of notifying the public so that when they're showing up they at least have some...you know, they have some sense about what our expectations are of them. So the quick and the dirty is I don't...I can't give you a dollar figure today. I don't know. As I said, I've got a lot more questions at this point and I told Senator Lautenbaugh it would be difficult for us to try and implement something for this session certainly. Knowing what you're thinking, though, and what your attitudes are about this and where you want to go, I mean I could make the commitment to you that we'd spend some time postsession during the interim and maybe it becomes part of a budget request at some point, okay? And I'm not suggesting large dollar figures here but I just don't know. I mean purchasing scanners isn't of itself a big deal, but, you know, making sure you got enough people to help those clerks do what they need to do in the hearing rooms is more of an issue I think for me at this point.

SENATOR LATHROP: Can I ask another question then?

PATRICK O'DONNELL: Sure.

SENATOR LATHROP: When we sit in...and I'm thinking of Judiciary, where Scott and I serve, and we end up with a stack like this...

PATRICK O'DONNELL: Uh-huh.

SENATOR LATHROP: ...and what happens to that stuff? We got to be using a lot of resources or people...

PATRICK O'DONNELL: Yeah.

SENATOR LATHROP: ...or filing space or storage or paper to house all those documents that we might get electronically.

PATRICK O'DONNELL: Right. The committee chairs are...have a responsibility to turn over eventually to me all of the work product that comes from their committee so that when...the primary task of your clerk during the interim is to take those transcripts that we prepare, attach to them all the exhibits and handouts and what have you that you get, and when that stuff comes to us in final fashion we will then microfilm it. So we're

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actually microfilming the 2009 stuff right now. So what the process is, we'll spend the summer and early fall finalizing records, accumulating all that stuff, you sign off on it as a committee chair. We'll microfilm 2010 early next year, okay? And that microfilm becomes the vehicle by which we can create legislative histories for judges, lawyers, public, members, lobbyists. We have this year, just as a point of information, tried to start doing some stuff on-line and we actually have some real immediate past stuff available on-line. And I don't want to represent to you that we're going to do that tomorrow because there's some issues about certifications and official records and what have you, but we're clearly moving in that direction, okay? I'm not sure we're there now and I'm not sure we'll be there next year, but I think in the next three or four years you're going to see a lot of our stuff available on-line, which this rule would lend itself to helping us do. Okay? And that's kind of a long way to get to your question.

SENATOR LATHROP: Well, what it suggests to me, I have to tell you, I was the last guy in my law office to get to be electronic and digital and all that stuff...

PATRICK O'DONNELL: Uh-huh.

SENATOR LATHROP: ...but it is...those business hubs, they just, it "shoo-shoo-shoo-shoo" and, boom, it shows up on your computer...

PATRICK O'DONNELL: Um-hum.

SENATOR LATHROP: ...and it'd probably save us a lot on the microfilming in the interim. It seems to me like this could be a wash or it might even be a savings, but.

PATRICK O'DONNELL: Yeah.

SENATOR LATHROP: ...the fact that you can't do it now, and that's not a judgment about your office, just kind of where we're at technologywise, suggests that maybe this isn't something we can pass right now, but I share Senator Lautenbaugh's interest in the subject and it seems like it'd be a lot easier for us to be at our desks just scrolling through this stuff instead of accumulating ungodly amounts of documents times seven...

PATRICK O'DONNELL: Uh-huh.

SENATOR LATHROP: ...or eight or...

SENATOR UTTER: Is it appropriate for this committee to adopt something like this as a directive to the Clerk's Office to...or is that something the committee doesn't do?

SENATOR LAUTENBAUGH: I would...I would say not. I think we're pretty much the Rules Committee and I don't know that we can give directive.

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SENATOR LATHROP: We might be able to put a resolution in, perhaps we could have Senator Janssen do that, (laughter) put a resolution in and...

SENATOR LAUTENBAUGH: And I have to confess I didn't know anyone still microfilmed anything anymore.

PATRICK O'DONNELL: Yeah.

SENATOR LAUTENBAUGH: I thought that was an expensive and dead technology, so.

PATRICK O'DONNELL: It's a dying technology, you're absolutely right about that. We still do it because that's how we have stored all of our records in the past but, as I said, we're trying to move away from that. If I might suggest, Senator, you know maybe the better approach here would be for the Rules Committee to send a letter to the Executive Board, I mean the Executive Board is the management entity for the Council, directing the Clerk to explore and try and comply with what the Rules Committee has indicated their expressed intent here in terms of being able to do this at some point. That then forces me to report back to the board, identify what issues there are, identify money issues if there are going to be some, and let them react to it and ultimately you will all react to it, too, as far as the budget process, so.

SENATOR ROBERT: Well, to expand a little bit, I'd had several conversations over the last couple years with the Assistant Clerk in this process on what it would take, and with Chuck to try and to see where we would have to go. And when the money ran dry we just kind of said, well, it's something we're going to have to address in the future, we're not going to have...my early estimates were somewhere around probably \$100,000 to get started with this process. With the piping you need and the machine in every hearing room and having somebody there to run it, it's going to cost a little money. It would most likely save money in the future but it's an initial expense that you have to justify to the Executive Board and Legislative Council. So my comments this morning to the Clerk were this is a yearlong process to figure out the language that we need but we can do it, and we should explore it further...

SENATOR LAUTENBAUGH: Yeah.

SENATOR ROBERT: ...and with the intention of we need to put some money away to try and take care of this. So we're pulling out of the existing technology budget that is going to be towards forward with new stuff as we move on.

SENATOR LAUTENBAUGH: And the rule is purposely drafted as vague because I...

SENATOR ROBERT: Right.

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SENATOR LAUTENBAUGH: ...you know, we don't know what to do.

SENATOR ROBERT: Right.

SENATOR LAUTENBAUGH: So obviously we're probably not going to be adopting this, this year, certainly not as written, but it's something we need to look at.

SENATOR ROBERT: But I offer my, I guess, time to work on it if anybody wants me to. I would have no problem sitting, figuring out what we need to do.

SENATOR LATHROP: And I have no problem with the Chair sending a letter to the Exec Board and indicate our interest.

SENATOR LAUTENBAUGH: I do think we can make some of our own luck, too, by finding a mechanism to encourage the public to e-mail us things and not bring in hard copies, because a lot of people are equipped to do that now from the outside, sending it in.

PATRICK O'DONNELL: Yeah. Well, I mean if we make the kind of progress I'd hope to make this fall, I mean, you could start by sending out communications to all the lobby, you know, saying, you guys need to know from this point forward here's what the Legislature's expectation is. And that gets us a long ways down the road of...

SENATOR LATHROP: It seems like the biggest volume of paper comes from the nonlobbyists though. It's the...

PATRICK O'DONNELL: Yeah, sure it does, but...

SENATOR LATHROP: ...somebody that comes from...

PATRICK O'DONNELL: Yeah, of course it does and we're not going to be able to ever solve it all, I mean that would be unrealistic I think, but we could certainly go a long ways to getting to where I think you want to go with this thing.

SENATOR LATHROP: If we can do a short step where at least the lobby is sending us this stuff, then we need to change the rule and allow us to take a laptop into a committee hearing though, wouldn't we?

SENATOR ROBERT: There's no rule.

PATRICK O'DONNELL: There's not a rule.

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SENATOR LAUTENBAUGH: There's no rule.

SENATOR LATHROP: Oh, isn't there?

SENATOR ROBERT: It's up to the committee Chair.

PATRICK O'DONNELL: It's just the Chair's prerogative. That's the Chair's call.

SENATOR LAUTENBAUGH: Yeah. Well, we could do that tomorrow, if you like.

SENATOR LATHROP: Oh, I didn't know that. I thought there was a rule.

SENATOR LAUTENBAUGH: As a Chairman, you could...

SENATOR LATHROP: All right. Well,...

PATRICK O'DONNELL: There's no cell phones, but there's nothing about laptops.

SENATOR LATHROP: (Laugh)

SENATOR LAUTENBAUGH: Sounds like there are rules and there are rules,...

SENATOR LATHROP: Okay.

SENATOR LAUTENBAUGH: ...but that's neither here nor there, but.

SENATOR LATHROP: All right. Point well taken.

SENATOR LAUTENBAUGH: Any other questions for the Clerk? Any other testifiers? The other proposal I put out there deals with use of the light system during testimony to provide some sort of a structure and timing to committee hearings. And in thinking this through, I've been to many committee hearings where at some point a time limit is announced--we're going to have an hour's worth of testimony on this or we have several things to cover so we're going to work for three hours. And if you have...if you're not employing a light system to somehow limit the earlier testifiers, the later testifiers sometimes are cut off, and I don't think that's fair to the people who come down to the committee hearings. And we do have a problem sometimes of people showing up and submitting their written testimony so that we have that, and then sitting down and reading it to us so that we have it again, sitting through it. And this was just a proposal to try to give some structure to the committee process. It would mandate the use of the lights for timing, for testimony, unless a majority of the committee voted on some particular topic to forgo it for some reason, and that's the nub of the proposal, the long and the short of it.

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SENATOR FLOOD: My only objection to this proposal is that when you become a committee Chair I think you are elected to run the committee how you want to run it, and I think that does fly in the...this proposal would compromise a committee Chair's discretion which I guess I'm not comfortable taking away at this time. I understand. You make a very good point when you say everybody gets to talk at the beginning and then the folks that wait their time until the end get shortchanged. I think there is something fundamentally wrong with that, but I hate to take the discretion away from the elected Chairperson.

SENATOR ROBERT: I don't think we have enough of those.

SENATOR LAUTENBAUGH: Don't have enough light systems?

SENATOR ROBERT: No, I think we only have three, so we'd have to get some more, but.

SENATOR UTTER: We don't have any money.

SENATOR ROBERT: And we're broke, so I don't know what they cost. I'm sure they're not \$1,000, but they might be. It wouldn't surprise me. (Laugh)

SENATOR LATHROP: They look pretty complicated.

SENATOR ROBERT: Yeah. (Laugh)

SENATOR DUBAS: I guess I would agree with the comments that the Speaker made, I mean even though you put in here that the committee could, you know, adjust it accordingly. But, you know, that is the discretion of the committee Chair as to how he or she wants to run their committee. So maybe just trying to make those committee Chairs aware of everybody deserves that equal access to the committee if they're willing to come down and take time out of their schedule. But I would be a little hesitant, too, at mandating that this is what we should do.

SENATOR LAUTENBAUGH: Any other testifiers on this, proponents or opponents? Okay, proposed rule number five, Senator Nelson.

SENATOR FLOOD: Oh, I think we've got a testifier.

_____: I think Senator Loudon is...

SENATOR DUBAS: I think LeRoy wanted to come up and say something.

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SENATOR LAUTENBAUGH: Oh. I'm sorry, Senator.

SENATOR LOUDEN: Yeah. Well, thank you, senators and members of the Rules Committee. For the record, my name is LeRoy Louden from District 49. The reason I would be opposed to something like this is when you get in some of these areas and you have some testifiers that you want to shut down, and anybody that watched that deal about Whiteclay the other day out there in Chadron, why, we had one guy that got up there and proceeded to badmouth everybody and I shut him off, you know, lights or no lights. And I think you may compromise the Chairman's ability to have control of the committee, because really the Chairman of a committee is the one that has control. If he deems that someone is giving testimony that's derogatory or something like that, he can get them out of there. If this is in statutes then there would be some place in there where there would be some type of a argument or something like that. So I would, as being around and Chairman of committees and going on I guess legislative hearings out in the different parts of the state, I think that what we do at the present time works quite well. It isn't the best at times, but for the most part it's worked quite well to serve us.

SENATOR LAUTENBAUGH: Any questions for Senator Louden? Thank you, Senator.

SENATOR LOUDEN: Okay, thank you.

SENATOR LAUTENBAUGH: I'm sorry I didn't see you getting up there, but. Proposed rule number five, Nelson, I think this time.

SENATOR NELSON: All right. I won't get run over this time (laugh). Thank you, Senator Lautenbaugh and members of the Rules Committee. My name is John Nelson, spelled N-e-l-s-o-n, and I represent District 6 in Omaha. I'm here today to introduce a simple, commonsense, and bipartisan rule change related to the Redistricting Committee. The redistricting rule, as it is currently written, is generally based on methods first used during the 2001 redistricting process. Prior to 2001, the Legislature used very different procedures in redistricting. I think the redistricting process now outlined in the rules is good and I would offer only a minor change to that process. At present, the Redistricting Committee is comprised of nine members, three from each Congressional district, and no more than five members from the same political party. The change proposed would amend the partisanship requirements so that of the three members appointed for each Congressional district not more than two could be from the same political party. This bipartisan change will allow at least one member of both political parties to serve on each Congressional district caucus on the Redistricting Committee. The proposed rule change will add an additional level of fairness and bipartisanship to the Redistricting Committee. Under the precedent set in the 2001 redistricting process, lines drawn within a Congressional district were drawn almost exclusively by the three members on the Redistricting Committee from that Congressional district. As the rule is currently written, one or two of the three-member Congressional district caucuses could be entirely

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controlled by one party. For example, the three-member caucus from the 3rd Congressional District could be and probably would be comprised of three Republicans. Democrats would not have a seat at the table. Such a possibility should not be allowed. A process which allows one political party to draw maps without consulting the other party undermines the value of transparent government and will inevitably call into question the legitimacy of the maps themselves. My simple bipartisan rule change would require that one member from both political parties serve in each of the three Congressional district caucuses on the Redistricting Committee. This change will result in maps being drawn in a transparent and bipartisan manner. As a former deputy Douglas County election commissioner, I have a special interest in campaign and election procedures. Since being elected to the Legislature in 2006, I have introduced bills to improve election procedures in Nebraska. Many of these changes have become law. Some of these changes were initially greeted with some skepticism and questions of partisan motives. In time, all of the changes were recognized for what they were--a bipartisan approach to improve the electoral process in Nebraska. This proposed rule change is a continuation of my effort to bring additional transparency, clarity, and bipartisanship to election and redistricting procedures in Nebraska. Thank you for your consideration and I will answer any questions that you have.

SENATOR LAUTENBAUGH: Senator Rogert.

SENATOR ROBERT: I just have one. What if there was only one party available in that particular Congressional district? It could happen. Say there aren't any Democrats out in the 3rd Congressional District, not this time but maybe in the future.

SENATOR NELSON: Well, that could happen.

SENATOR ROBERT: Yeah.

SENATOR NELSON: But I think the answer, Senator Rogert, is that that's not the situation now. We're dealing with this particular redistricting here that begins in 2011 under this given set of circumstances, and we know who we have in each of the Congressional districts. Ten years from now there's a very good possibility that we may only have two Congressional districts...

SENATOR ROBERT: True.

SENATOR NELSON: ...here in Nebraska...

SENATOR ROBERT: We'll have to change the rule anyway.

SENATOR NELSON: ...and the rules are going to have to be changed at that time. So I think we could deal with that at that time.

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SENATOR ROBERT: Okay.

SENATOR NELSON: But that's an excellent question. Thank you.

SENATOR ROBERT: That's a good answer.

SENATOR LAUTENBAUGH: Senator Utter.

SENATOR UTTER: Senator Nelson, does anything in the proposed change that you're making, does anything preclude the membership of somebody who was independent on that Redistricting Committee?

SENATOR NELSON: Well, no, I don't think so. You mean they might be an Independent? We don't have any Independents now, so far as I know, here in the Legislature. We either have Democrats or Republicans, so...and I guess, I guess if that situation did arise then there would have to be a revision of some sort, but I don't think it's very likely.

SENATOR LATHROP: John, I do have a question. If the motive or the purpose of this is to make sure that minority parties are represented in each Congressional district and not to give anybody an advantage, is there a reason why we're striking out of there that no more than five appointed to the committee shall be affiliated with the same party? Couldn't we have both requirements and then we would achieve your bipartisan purpose?

SENATOR NELSON: You mean leave the existing language and then add what I have?

SENATOR LATHROP: Exactly. If we are...if we're going to appoint people from Congressional districts, we can achieve the balance that you're looking for in each Congressional district...

SENATOR NELSON: Well, I...

SENATOR LATHROP: ...but ensure that no more than five people on the committee are from the same political party. Wouldn't...

SENATOR NELSON: Well, I think...

SENATOR LATHROP: I don't think the two are inconsistent, in other words.

SENATOR NELSON: Well, I think maybe they are, Senator. A dichotomy would exist there because under my proposal there's a possibility that you could have six from one

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party, two, two, and two, you see. That doesn't make that much difference because it only takes five members of the nine-member committee to pass on what's being presented to the Legislature, so.

SENATOR LATHROP: Right, but couldn't we...I mean if we're having trouble coming up with two members from each Congressional district affiliated with the same political party, we could just put more Democrats from the 2nd District on there than we have Republicans, and more Republicans out in the 3rd. It doesn't seem like the two are inconsistent with one another and we would ensure that in the end that we have no more than five from any political party.

SENATOR NELSON: That...

SENATOR LATHROP: Wouldn't that be more bipartisan?

SENATOR NELSON: It...my goal, of course, is to be sure that there's representation from each party at least,...

SENATOR LATHROP: We could do that with...

SENATOR NELSON: ...if you called it a minority party, but I think there's a possibility. Let's look at this here. For instance, 3rd District could have three from the same party, 1st District could have three from the same party, and the other district then would be left with two and one. You'd have five and four under our...

SENATOR LATHROP: Well, if we still have three Congressional districts...

SENATOR NELSON: Yeah.

SENATOR LATHROP: ...and no more than two can be from the same political party, you could have...you could achieve that balance and still have no more than five from any one party on the committee. You might have to have...

SENATOR NELSON: Oh, you could.

SENATOR LATHROP: ...two Democrats on there.

SENATOR NELSON: Yeah, you could.

SENATOR LATHROP: Right?

SENATOR NELSON: Yeah. Yeah.

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SENATOR LATHROP: So would you be okay with leaving the existing language there and then putting your sentence in there to make sure that each of the Congressional districts have a certain level of bipartisanship?

SENATOR NELSON: I'm okay with...I'm okay with that so long as it...and I'd have to think that out a little more. Looking into the future here, it...we wouldn't be in the same situation as we do with our...you know, we passed a law in the Legislature that's...there's a stalemate between the Canadian courts and our courts now. Just as long as something like that would not happen here, I'd be okay with it. I don't think I see any inconsistency but that would probably work.

SENATOR LATHROP: Okay. Thank you.

SENATOR LAUTENBAUGH: It seems to me, thinking out loud here, that what you're proposing might allow one Congressional district to mandate the other Congressional district have a certain proportion, but I think that might be in the existing rule anyway. This is starting to turn into sort of a mathematical story problem here almost that...

SENATOR NELSON: Uh-huh.

SENATOR LAUTENBAUGH: ...I'm trying to think of all of the permutations.

SENATOR LATHROP: Well, you might have one Congressional district that has more people from the minority party, which is bipartisan, right?

SENATOR NELSON: Right.

SENATOR LATHROP: Okay.

SENATOR LAUTENBAUGH: Any further questions for Senator Nelson? Thank you, Senator.

SENATOR NELSON: Thank you very much. I'll waive any closing.

SENATOR LAUTENBAUGH: Any proponents? Any opponents? I think Senator Nelson waived the closing, so we'll proceed on to proposed rule number six. Senator Carlson.

SENATOR CARLSON: Senator Lautenbaugh and members of the Rules Committee, I'm Tom Carlson, spelled C-a-r-l-s-o-n, District 38, and hopefully you have this rule change in front of you. As I start through this I want to make it clear that this request for consideration is in no way a reflection on the work of the Appropriations Committee, and I want to go through, since it's not very long, the rule change itself: No bill may be reported by the Appropriations Committee that authorizes the transfer to the General

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Fund or to a different cash fund all or a portion of the balance of a cash fund that is a repository of revenues derived from licensure and inspection fees, excise taxes, or other similar assessment that, absent authorization for transfer to the General Fund or elsewhere, are authorized to be collected and expended only for a dedicated purpose or purposes described by the authorizing statutes imposing the fee, excise tax, or similar assessment. A motion to suspend this rule shall be made by the Chairman of the Appropriations Committee and such motion shall be approved by the Legislature prior to the reading of the bill on General File. Now we go back to our special session and LB3 inserted the wording in statute that allowed cash transfer. LB1 was the actual cash transfer. And I may be showing some ignorance here but I didn't really understand what we were doing. And I think that in the end result, to balance our budget, I'm going to say that we used some money that's not our money to balance the budget. Now the overwhelming majority of tax dollars that go into the General Fund are from sales and income taxes and cash funds, as I understand it, can be...there's three possibilities in a cash fund. Now what's here, and the reason I read it, I would call this a pure cash fund. This is a cash fund that only has dollars in it that are generated from fees, licensure, excise taxes and so forth, not sales and income tax. That would be, I think, an example of money that's not ours--but none of it is our money anyway; we're managing it--but it's not sales and income tax money. That's one form of a cash fund. A second form of cash fund would be one that's entirely generated by General Funds and I can look back to LB701 and the vegetation removal and we got appropriated \$4 million. Those were all General Fund dollars that went into the cash fund and we used those. The third example of a cash fund would be a blend of General Fund dollars and fees and other dollars. I think this is worded so it only applies to the...what I'm going to call the pure cash fund. Now in the process of what we did, we took 5 percent of the balance out of a lot of cash funds and I think those that were purely cash funds, as I've just discussed with you, we took somebody else's money. And I'm not saying that that's illegal or that we should never do it again, but I think when we do it we need to fully understand that's what we're doing and I believe to have a separate motion to that, voted on by the body, would make that very clear. Now let me give you an example of a blended fund that I don't think this applies to. We have the Commercial Dog and Cat Inspection Program Fund. You're smiling because you got some e-mails on that. (Laughter) And that...

SENATOR LATHROP: I was just thinking they probably didn't know you were going to bring that up today or we would have filled the room.

SENATOR CARLSON: Well, I'm bringing it up because it is an example. That's funded about one-third by licensure fees and two-thirds by General Fund dollars. Now you can argue it one of two ways. Whatever balance is in that fund, if a third of those dollars are generated by other than sales and income tax, it's okay to pull out 5 percent of the fund balance because you could say that 5 percent we're pulling out is all General Fund dollars anyway. Or if you want to define every dollar that's in that fund is one-third fees and two-thirds sales and income tax, then every dollar you take out, a portion of that is

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not our money. I'm not here to argue that, but I think that this applies to those funds that are pure cash funds. We need to understand what we're doing, and all of us will agree we've got a steep learning curve in the Legislature and I don't pretend to understand everything, but I think I wanted to better understand what we were really doing before we did it because once it's done it was too late. We had some groups that made a lot of noise early and they got their funds pulled. That was correct. There were others that made their noise too late. They probably had about the same rationale as those that ended up being exempt but they didn't get pulled out. So I think this clarification would help us be clear in what we're really doing, do we want to do it, and we vote yes, we proceed. That's my point. Try to answer any questions you might have.

SENATOR LAUTENBAUGH: Thank you, Senator. Any questions for Senator Carlson? Senator Utter.

SENATOR UTTER: I have one. Senator Carlson, you...there's no mention of checkoff funds here and is that intentional? Are you preparing some separate legislation with regard to that or is that included under one of these categories?

SENATOR CARLSON: Well, that would be...I would intend to include that because this is identifying those funds that are generated by other than sales and income tax.

SENATOR UTTER: And you say licensure, inspection fees, and excise taxes.

SENATOR CARLSON: I don't know if checkoff could be defined as an excise tax. It's a form of tax.

SENATOR UTTER: I think the folks that contribute to the checkoff funds wouldn't call it a tax maybe but maybe they would. I'm just curious.

SENATOR CARLSON: And, of course, the checkoff funds, they have a purpose of promoting a product. Now some of the cash funds have a purpose of enforcing a state regulation. That's a little different.

SENATOR UTTER: So my question is, in your mind, are they included in this resolution or not included?

SENATOR CARLSON: Absolutely. Absolutely.

SENATOR LAUTENBAUGH: Any other questions for Senator Carlson? Thank you, Senator.

SENATOR CARLSON: Okay. Thank you.

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SENATOR LAUTENBAUGH: Any proponents? Hello, again, Senator Louden.

SENATOR LOUDEN: Yes, members of the committee, my name is LeRoy Louden, District 49. I was supportive of what Senator Carlson is trying to do here and, of course, I worked with the funding for the Brand Committee and that was something that got set aside but it was in the original part of the appropriations bill. But one of them that didn't make the headlines and didn't get mixed up in there was the tourism and lodging tax funds and, of course, now these people are wondering if those can be raided. In fact, Kevin Howard that does a lot of work in western Nebraska, his concern was that the lodging tax funds and some of that was taken. I think to start with there was, if my memory serves me correctly or very nearly correctly, that there was like \$500,000 set aside for this golf tournament in Omaha come out of the tourism fund, and then when the rubber hit the road and whatever it was happened, they decided they weren't going to do that. So I think that money then was then channeled to the General Fund, if I remember correctly, and of course most of the people in the tourism industry decided the money was gone anyway so they didn't say much so they let it go. But the question is, is will it happen again and should it happen again and what can we do to not have that issue come up? Because the revenues are our promotion for tourism and the question then came up that some of that is local taxes that's implemented. Then if the state can start raiding those funds can some of those counties or cities start raiding those funds? So I think something has to be done along that line. And whether Senator Carlson's ruling here or what he's trying to do would address that, I keep asking people around here that's supposed to know that and they seem to think that it would address that. So that's the reason I'm in supportive of what Senator Carlson is trying to do, was to alleviate something in our tourism promotion funds, because I think this is something that's been quite worthwhile and it's done quite well for the state of Nebraska. Any...

SENATOR LAUTENBAUGH: Any questions for Senator Louden? Seeing none, thank you, Senator.

SENATOR LOUDEN: Thank you.

SENATOR LAUTENBAUGH: Any other proponents? Any opponents?

SENATOR HEIDEMANN: Chairman and members of the committee, my name is Lavon Heidemann, H-e-i-d-e-m-a-n-n, District 1. I don't do this very lightly because the majority of the time I agree with Senator Carlson, so this is a little bit unusual for me to come up here and oppose a position that he has, but on this one I need to. Each year, if you go back through the history of the Legislature and what the Appropriations Committee does, we have a funds transfer bill and it's just something that we do year in and year out, almost day in and day out, and not only from the Cash Reserve, which would be something that wouldn't be affected to this, but by from cash funds. And once you get into Appropriations, you begin to realize how much we count on cash transfers and we

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have done this for years. And a couple of them that I will have to bring up with and this would actually...it appears that it would affect this is the security funds that we lapse back every year and also insurance funds that we lapse back every year, and this amounts to tens of millions of dollars. And it's a practice that has gone on and it has made our process work to the point that we're able to, you know, do the things that we do in Appropriations. I also want to remind you, this would be a hurdle that the Appropriations Committee would have to jump over, not saying that, you know, we couldn't do that and hopefully we would be able to let our position known to the full body that, you know, this is what we need to do and they would be able to approve it. But each and every action that the Appropriations Committee takes still has to be approved by the full body in the end, so you get your say eventually what we do, if it is good or bad. You can still reject us if you think we have overstepped our balance by...overstepped what we should be able to do in these fund transfers out of these cash funds. This...I mean I go back to the point that this is what we do day in and day out. To me, this would be like telling the Education Committee, before you can change the state aid formula you have to get the approval of the full Legislature. This is how much we do this in Appropriations. Senator Loudon brought up a point with the tourism dollars and I believe this would even affect this. You can remember a couple years ago we had the Olympic swim trials in Omaha and the Appropriations Committee actually transferred money out of the tourism fund to help put on the swim trial funds in Omaha. We would not be able to do that unless we jumped through the hoops and hurdles to do this, just to let you know how far encompassing this would be. It also seems to appear to me that the Appropriations Committee is actually being blamed for something that we didn't propose--this all goes back to the last session--something that we didn't propose, that another branch of the government did. We corrected the majority of what was proposed but now we are going to be penalized for it, and that, to me, doesn't seem to be fair. I also want to point out just briefly that we haven't seen this except for the special session. This went on a little bit in the early 2000s, which was before all of our times. We seen it again in the special session. But you very seldom see any controversy on cash funds except for extraordinary times like this. So this very seldom ever comes up. With that, I would try to answer any questions.

SENATOR LAUTENBAUGH: Any questions for Senator Heidemann? Senator Dubas.

SENATOR DUBAS: Thank you, Senator Lautenbaugh. If you remember correctly during the special session, and I asked you this question on the floor about we had sunset dates in the bill on some of the funds and not on others, and I believe your answer to me was kind of what you've just talked about now, that there are some of those funds that on a regular basis the Legislature has gone to. Would those be specifically cash funds that we're going to...

SENATOR HEIDEMANN: Yes.

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SENATOR DUBAS: ...on a regular basis?

SENATOR HEIDEMANN: Yes, it's strictly cash funds.

SENATOR DUBAS: So there wouldn't be any sales or income tax in those funds at all.

SENATOR HEIDEMANN: No, not into securities, not into insurance. That's a strictly cash fund...

SENATOR DUBAS: Okay.

SENATOR HEIDEMANN: ...that we access yearly, yearly. And the majority of the cash funds that we went into we tried to sunset them at that time because that seemed to be a huge concern for everybody.

SENATOR DUBAS: Uh-huh.

SENATOR HEIDEMANN: There was actually a few amendments put on real late in the process that sunsetted some that we had forgot and actually, as we have gone through the process, there might be one or two more that in the appropriations bills that we see before us or actually it will be in a funds bill that we'll sunset anything that we have forgotten at this time.

SENATOR DUBAS: Well, I think the comment that Senator Carlson made about making sure that we as a legislative body understand what we're doing when we go in and lapse those cash funds, especially in light of term limits and as we have a continual parade of new senators coming in and still not fully up to speed on the process and what's going on, do we need something? I mean there already is the language in place on these cash funds that says these funds may not be transferred. And you know, I know I spoke out vehemently against the checkoff dollars but there were a lot of other organizations who said, you know, our dollars are doing the same things that checkoff dollars do. So should we go...you know, we have the language in place. So far we've been very cautious about taking that extraordinary step. Is there something else that we can put in place to make sure that all future legislative bodies understand what it is that they're doing when they step into the cash fund arena?

SENATOR HEIDEMANN: Everything is fairly...I mean any time that we have a fund transfer bill, everything is in that funds transfer. I mean there's nothing that is ever hidden. If you go through that, if you have questions, I mean there's always questions can be asked, but the majority of the time on the cash funds we don't go into them except certain ones, like I have mentioned securities and insurance, which are very important to us. Sometimes it can be a little complex and it's not as easy to understand, but once you're in Appropriations and you, you know, you understand what we do on a

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yearly basis, it isn't quite as scary. And I'm sure if there are concerns there through the years from the insurance companies and the securities, that where these fees are accessed and where we get this money from that we eventually lapse back to the General Fund, we would have heard that by now.

SENATOR DUBAS: Okay. Thank you.

SENATOR LAUTENBAUGH: Any other questions for Senator Heidemann? Thank you, Senator.

SENATOR HEIDEMANN: Thank you.

SENATOR LAUTENBAUGH: Any other opponents? Senator Carlson, did you wish to close?

SENATOR CARLSON: Thank you. I do just want to make a couple of comments here in listening to Senator Heidemann and Senator Louden. I think the tourism fund is all General Fund dollars, and so I would look at that a little different. I don't like the fact that tourism dollars can be taken out for some other purpose, but they're General Fund dollars. But what I'm concerned about are the pure cash funds and I would comment on what Senator Heidemann said, that as I hope we don't have a lot of these sessions in the future where we've got to make these big cuts in a budget but when we do I want to make very sure that on each one of those cash funds, is it a pure cash fund, is it a blend, or is it all General Fund dollars? And if possible, if it's not terribly difficult for Appropriations Committee, it'd be nice if they would be categorized that way as we look at them. I think that would make it a little bit easier to make a decision on. So if nothing is done in reaction to this request, I would ask Senator Heidemann if that's a possibility, that as these requests are made in the future that we have the information available to us so we don't each one of us have to dig that out, is it a pure cash fund, is it a blend, is it all General Fund dollars. Thank you.

SENATOR LAUTENBAUGH: Thank you, Senator. And with that, I believe the hearing is closed. I'd entertain a motion to go into Exec Session.