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Rules Committee
January 10, 2007

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The Committee on Rules met at 12:30 a.m. on Thursday, January 10, 2007, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing to discuss proposed changes to the legislative rules. Senators present: Carol Hudkins, Chairperson; Phil Erdman, Vice Chairperson; Annette Dubas; Steve Lathrop; and Tom White. Senators absent: None.

SENATOR HUDKINS: Okay, we are on tape now, and welcome to the Rules Committee. This hopefully will be the only meeting that we have, and just for the record, we'll introduce the people that are in the room on the committee. Senator Mike Flood on my left, Senator Annette Dubas, Senator Steve Lathrop...

SENATOR SCHIMEK: No.

SENATOR WHITE: I'm Tom White.

SENATOR HUDKINS: Tom White, I'm sorry. I knew that.

SENATOR WHITE: All of us look alike.

SENATOR HUDKINS: Well, it's taking me awhile. Tom White. The committee clerk is Shirley Bruhl. I'm Carol Hudkins. The legal counsel is Jim Ruby, Phil Erdman, and Steve Lathrop. So we have several rules changes to talk about today, and Senator Schimek is involved in a Judiciary Committee briefing, so to accommodate her schedule, we'll let you go first. Senator Schimek.

SENATOR SCHIMEK: Thank you very much, Senator Hudkins and members of the committee. Mine is a very short and sweet rule change. It really is a change that would bring us in compliance with what the practice is right now. Over the summer the Government Committee did an interim study on how we deal with gubernatorial appointments. There's been a lot of discussion about that in recent years, and I have distributed to you just the summary of the report that we did write in issue, and the recommendations are on the back page. There were five of them. Number one is the one I'm here about, and that is the one that allows the chair of the committee to make the decision on whether the appointee has good cause for not showing up personally. Our rules right now say the committee has to vote on it, and of course, we don't do that, and I'm just cleaning up the rules, basically, with this one. If you don't want to do anything about it, if there's no other rules change that you advance it with, that's fine, too. But just wanted to call it to your attention.

SENATOR HUDKINS: Okay, and this would be typically for reasons of distance, bad weather,...

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SENATOR SCHIMEK: Yes, and I'll tell you, the committee thought it was very important that first-time appointees be present at committee hearings on their appointment. If they're a reappointment, it's not as necessary. But recognizing that somebody in Harrison, Nebraska, might have trouble traveling clear to Lincoln for a five-minute interview, we also said that we ought to consider teleconferencing, we ought to consider that they write a letter extolling all the reasons that they would like to be on the particular commission or board that they're being appointed to. There can be exceptions, but we strongly encourage first-time appointees to be present.

SENATOR HUDKINS: All right. Are there any questions?

SENATOR SCHIMEK: And this came--I'm sorry.

SENATOR HUDKINS: Yes.

SENATOR SCHIMEK: This did come out of both meetings of all the committee chairs and a survey of all the committee chairs, so it's not my recommendation. It's a recommendation of all the chairs.

SENATOR HUDKINS: Okay. Senator Erdman, you had a question.

SENATOR ERDMAN: Senator Schimek, has this recommendation been distributed to the current committees, or do the current committees that were a part of this have a copy of the final report, as to make sure that any of these recommendations would be implemented in this session?

SENATOR SCHIMEK: That's a very good question, Senator Erdman, and of course, we file these with the committee clerk and I think Legislative Research gets a copy, also. I did not personally distribute them, so they...the outgoing committee chairs would have gotten copies. But that's a very good question. It probably should be distributed, I would hope.

SENATOR ERDMAN: Well, as a new committee chair who sat through a number of these, especially in the Health Committee where it seems like we have a day devoted to this,...

SENATOR SCHIMEK: Yes.

SENATOR ERDMAN: ...you know, it would probably be helpful to at least have this sent out, and for so many new chairs it might be an opportunity just to give the insight of previous chairs, to help them with their deliberations.

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SENATOR SCHIMEK: I agree with that.

SENATOR HUDKINS: And I think before the rules are deliberated on the floor, my office will send out copies of what we have done to everybody, so everybody is on the same page.

SENATOR SCHIMEK: That would be fine.

SENATOR HUDKINS: All right, any other questions for Senator Schimek? All right, seeing none, thank you very much.

SENATOR SCHIMEK: If that was a grilling, I'll come and talk to your committee any time. (Laugh)

SENATOR HUDKINS: (Laugh) And Senator Erdman, would you like to go next?

SENATOR ERDMAN: If you would like me to go next, Madam Chair, I would.

SENATOR HUDKINS: Please.

SENATOR ERDMAN: Senator Hudkins, fellow members of the Rules Committee, I appear before you today with two rules proposals. One is more substantive in nature; the other one, I believe, is more technical. But regardless, I still think there's probably a bit of discussion that would probably arise out of either one of the two proposals. Rule 2, Section 3, and Rule 7, Section 5 will be taken together on your agenda. They both deal with rules of procedure in our process, whether a member is in their seat or near their seat during Final Reading or under call of the house. The additional change or the exact changes in the rule is to strike the word "in" in both of those sections of our rules and replace it with the word "near." And in Section 5 of Rule 7, we add the additional language, "unless recognized or seeking to be recognized to speak by the presiding officer." In practice currently, members are to be in their seats during Final Reading or a call of the house. There is an exception in Rule 2, Section 3, for an individual to be able to move throughout the legislative environs as described, in the event that a bill is on Final Reading and has a motion to return the bill. That allows the member some freedom. They still must be confined or be present in these areas if they are checked in, but it provides some freedom. That was done prior and for probably some good reasons, as some of the debate on bills that need to be removed from Final Reading can be lengthy. The original intent was simply to clarify our rules; then in the event a member is seeking to be recognized that our rule reflects that. Obviously, if you have a parliamentary inquiry, a point of order, some activity that is governed under our rules of procedures, generally under Mason's, that you would be recognized. And in doing that and adding the language about being able to specify that you would be recognized to speak, logic was that adding the word "near" instead of "in" because you can't be in

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your seat and recognized to speak at the same time, because the microphones aren't at your seats. The other side of this that probably adds some additional discussion is whether or not we, as a Rules Committee, want to recommend for our permanent rules that members should remain in their seats during Final Reading and under a call of the house, or near their seats. Practically speaking, near their seats is probably easier to enforce and apply than in your seats, as there may be situations where you need to get out of your seat to visit with somebody across the aisle or something, but as long as you're near, that would be helpful. But I do think it would probably be a little harder to probably enforce than if you just simply told everybody that they had to be in their seats. Some members may not choose to be in their seats, which may make it hard to enforce, as well, and so it's simply an opportunity for us...at least my request is to clarify what the rules of procedure are, especially for the new members, because one of the struggles that we face is that we not only have our written rules, we have the Mason's that we follow as well, but then we also have traditions. And any time those two general guidelines of Mason's and our rules are in question, then you have to know the traditions of why things are being done that way. And sometimes those precedents have been set which allow things to happen maybe differently than the way they're exactly worded in our rules. And so this is simply one of the areas that came to mind one blizzardy day in December, and I thought I would share it with the committee for your discussion.

SENATOR HUDKINS: Are there questions, comments? All right, thank you.

SENATOR ERDMAN: Thank you. Would you like me to continue on...

SENATOR HUDKINS: Yes.

SENATOR ERDMAN: ...to the next one?

SENATOR HUDKINS: Um-hum.

SENATOR ERDMAN: This next one is noncontroversial. That's usually how people start things that actually are. Proposal number two is an amendment to our Section 10 of Rule 7, which deals specifically with the cloture rule. The cloture rule is a motion that is filed under our rules to cease all debate on a bill and to vote whether we will proceed with votes on all motions that are filed to that bill and advance the bill. Currently, our threshold for meeting that rule is 33 votes, or two-thirds. Under the rule change before you, that would now become three-fifths, or 30, the same number that we require to suspend the rules, the same number that we require to override the Governor, and a number of other provisions that are consistent with that. The other substantial change to this rule is at the end of Section 10, in which currently we have a prohibition on the length of time in which debate must resume prior to the offering of a second motion for cloture. The rule before you would simply remove the time limit and allow that any

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successive motion for cloture could be offered at any time, once the Speaker has agreed to resume debate. In the event that an individual would file for a motion now to seek cloture and would fail, the practical application is, is that you would have to have a two-hour period, a specific two-hour period of debate prolonging the discussion, and then you would be eligible to file the motion, and not always...that doesn't always happen. And the other thing is that sometimes bills aren't brought up for debate again because of the fact that you have this rigid two-hour time frame. A couple years ago we actually amended our cloture provision in our rules to state that you didn't have to have a specific time frame. Prior to that we had an eight-hour minimum of debate before a motion for cloture would be accepted. Currently, we have it structured in such a way that it's up to the presiding Chair, generally the Speaker, to determine whether or not there's been full and fair debate. So the rule before you relating to cloture would lower the threshold from 33 to 30 votes. It would also remove the restriction of requiring the two additional hours of debate after a failed motion for cloture and replace that simply with the opportunity to file that motion as soon or whenever would be the choice of the primary introducer, upon resuming debate on the bill.

SENATOR HUDKINS: Questions? You did a good job. Nobody has any questions.

SENATOR ERDMAN: Super.

SENATOR HUDKINS: All right, and the last one is my motion, and so Senator Erdman, if you would like to assume the chair.

SENATOR ERDMAN: I would love to, Madam Chairperson.

SENATOR HUDKINS: Senator Erdman and members of the Rules Committee, my name is Carol Hudkins, H-u-d-k-i-n-s, and my motion to change the rules really is noncontroversial. Last year we had a bill, and I don't know the name of it--number of it--but it had to do with the Legislative Research Division. And Senator Beutler had a bill to change the name of that to Office of Legislative Audit and Research, and so that is all we are doing is putting into the rules a bill that was passed last year. And that's the end of my introduction.

SENATOR ERDMAN: Very good. Any questions for Senator Hudkins? I see none.

SENATOR HUDKINS: All right. Thank you.

SENATOR ERDMAN: Madam Chair, you may resume your responsibilities.

SENATOR HUDKINS: Thank you, Senator Erdman. Those are the changes that have been brought to our attention. We have heard the hearings, and so now I would like to go into Executive Session so that we may decide what we would like to do with these

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particular changes.

SENATOR ERDMAN: So moved.

SENATOR HUDKINS: Is there a second?

SENATOR WHITE: Second.

SENATOR HUDKINS: All in favor say aye. 5-0.

Chairperson

Committee Clerk