

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

Floor Debate  
January 12, 2011

---

[LB84 LB123 LB145 LB200 LB230 LB282 LB283 LB284 LB285 LB286 LB287 LB288  
LB289 LB290 LB291 LB292 LB293 LB294 LB295 LB296 LB297 LB298 LB299 LB300  
LB301 LB302 LB303 LB304 LB305 LB306 LB307 LB308 LB309 LB310 LB311 LB312  
LB313 LB314 LB315 LB316 LB317 LB318 LB319 LB320 LB321 LB322 LB323 LB324  
LB325 LB326 LB327 LB328 LB329 LB330 LB331 LB332 LB333 LB334 LB335 LB336  
LB337 LB338 LB339 LB340 LB341 LB342 LB343 LB344 LB345 LB346 LB347 LR21  
LR22]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixth day of the One Hundred Second Legislature, First Session. Our chaplain for today is Senator Heidemann. Would you all please rise.

SENATOR HEIDEMANN: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Senator Heidemann. I call to order the sixth day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk.

CLERK: I have a quorum present, Mr. President.

PRESIDENT SHEEHY: Are there corrections for the Journal?

CLERK: I have no corrections.

PRESIDENT SHEEHY: Are there messages, reports, or announcements?

CLERK: Mr. President, I have a Reference report referring LB206 through LB230, as well as LR19CA. Hearing notices from the Government, Military and Veterans Affairs Committee, those signed by Senator Avery as its Chair. General Affairs, Senator Karpisek would like to announce that Senator Krist has been selected as Vice Chair of the committee. And that's all that I have at this time, Mr. President. (Legislative Journal pages 167-168.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now proceed to introduction of new bills.

CLERK: Mr. President, new bills. (Read LB282-283 by title for the first time. Legislative Journal page 169.) [LB282 LB283]

PRESIDENT SHEEHY: (Gavel)

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

Floor Debate  
January 12, 2011

---

CLERK: (Read LB284-286 by title for the first time.) That's all that I have at this time, Mr. President. (Legislative Journal page 169.) [LB284 LB285 LB286]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. (Doctor of the day introduced.) Mr. Clerk, we will now move to the motion for adoption of permanent rules.

CLERK: Mr. President, Senator Lautenbaugh, as Chair of the Rules Committee, would move for the adoption of the permanent rules for the One Hundred Second Legislature, First Session. Pursuant to that, Mr. President, I have a series of amendments as offered and proposed by the Rules Committee. Senator Lautenbaugh, the first change I have is Proposed Rules Change 1 regarding Rule 7, Section 3. I might indicate to the membership that copies of the changes have been distributed to your desk. This change is also found on page 135 of the Legislature Journal.

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Lautenbaugh, you're recognized to open on Proposed Rules Change 1.

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I would consider this Proposed Rule Change 1 to be more of a housekeeping measure. It was submitted by Speaker Flood, et al. And the language deals with the procedure and the effect of withdrawing a motion to reconsider. It just clarifies and relocates some language to clarify that some of the procedures and steps that apply for withdrawing other motions would also apply to withdrawing such a motion. And I would urge your approval of this modest rule change.

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You have heard the opening on Proposed Rule Change 1. The floor is open for discussion. Seeing no requests to speak, Senator Lautenbaugh, you're recognized to close. Senator Lautenbaugh waives closing. The question before the body is on the adoption of Proposed Rule Change 1. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 42 ayes, 0 nays, Mr. President, on the adoption of Proposed Change 1.

PRESIDENT SHEEHY: Proposed Rule Change 1 is adopted.

CLERK: Mr. President, Proposed Rules Change 2, offered by the Rules Committee, involves Rule 6, Section 7. In your packet it's on...it's number two, it's found on page 138 of the Journal.

PRESIDENT SHEEHY: Senator Lautenbaugh, you're recognized to open on Proposed Rule Change 2.

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

Floor Debate  
January 12, 2011

---

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Proposed Rules Change 2 deals with Final Reading bills and their availability to members. It removes the requirement that prior to Final Reading the bill would necessarily be available as a printed copy so that it will be available electronically. This is done to clear up some of the logjam or hurrying around we have at the end of session where we're trying to get a bill on Final Reading and perhaps get the printed copy out with not a lot of time to do it. Again, I believe it's a relatively modest change that would not change how we do what we do or impact what information is available to us. It would simply make life easier for the staff and the people that have to circulate the printed copies and prepare them. And I would urge your approval.

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You've heard the opening on the motion for adoption of permanent Rule 2. Senator Gloor, you're recognized.

SENATOR GLOOR: Thank you, Mr. President. Good morning, members. Would Senator Lautenbaugh yield to a question, please?

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield?

SENATOR LAUTENBAUGH: Yes, I will.

SENATOR GLOOR: Senator Lautenbaugh, I'm in support of this but wonder if the committee also engaged in any further discussion about moving us even more to being less paperless and more electronic?

SENATOR LAUTENBAUGH: It's funny you should ask that, Senator, because we had sort of a protracted discussion about that. And no one in the body or in the Clerk's Office or anywhere else is opposed to that kind of thing was the impression I received from our discussion we had. This also dovetailed into another proposed rule about bringing electronic devices to committee hearings that did not advance. But we do have a problem with that and I think it's something we all recognize. This really I don't think will conserve much paper in the short run. This was more of a...the timing of getting the printed copy distributed the day before as the prior rule...existing rule, excuse me, requires. But we did have a discussion about how it would not be, in my opinion, very onerous to require people to start submitting things electronically, to have a scanner available somewhere on premises. If people brought things in hard copy and those copies could then be scanned and e-mailed to the committee clerk in question who could then e-mail them to the members because I've never been accused of being what you would call an aggressive tree-hugger but I do recognize that the amount of waste we have is unconscionable. The amount of paper I end up with after a day in Judiciary, for instance, and I think we all know what happens to it, we all take it back to our offices, it stacks up, and it's really never seen again until it's shoved into the recycle bin probably. Submitting things electronically would be vastly more efficient. They can be

Floor Debate  
January 12, 2011

---

stored pretty much in perpetuity, downloaded to CDs, whatever, organized, accessible from wherever you are. Yes, that's something we need to move forward to. Even though I believe our discussion revealed that we could probably get by with one centralized scanner if we had to, as you know we're not looking for additional ways to spend money in this current environment so there was not a big push to get that done this year, even though I think it may in the long run be a savings and certainly, well, in a variety of ways. But, yes, we did have discussion about that. We did have discussion about bringing electronic devices to committees. I pointed out that some senators, like Senator Schumacher, have tablet PCs where you can sit and write notes with your fingers. And how does that materially differ from using a pad of paper? You're still just taking notes, but then you can save your notes, you can e-mail the notes to yourself, you don't lose the notes like I always do when I just take them on a piece of paper. There are a lot of things we could do to change the way we do things and eliminate some waste, I believe. That was certainly discussed. That's not really the purpose of this rule or embodied in this rule however...proposed rule change.

SENATOR GLOOR: Thank you, Senator Lautenbaugh. And I would also admit that I am not an IT wizard myself, although I have gone to a small hand PC myself or tablet. I'm trying to get there and in part because I realize what we do here is quite frequently a paper chase. I'm glad for the discussion. I'm glad it's been discussed and debated in committee and we've begun to kick that idea around. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Gloor. Any additional requests to speak? Seeing none, Senator Lautenbaugh, you're recognized to close on Proposed Rule Change 2. Senator Lautenbaugh waives closing. The question before the body is on the adoption of permanent Rule 2. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 45 ayes, 0 nays, Mr. President, on the adoption of Proposed Rules Change 3.

PRESIDENT SHEEHY: Proposed Rule Change 2 is adopted.

CLERK: Two, excuse me, Mr. President. Mr. President, Proposed Rules Change 3 involves Rule 1, Section 17. It's found on page 138 of the Legislative Journal.

PRESIDENT SHEEHY: Senator Lautenbaugh, you're recognized to open on Proposed Rules Change 3.

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I have been remiss in that I did not point out that the Rules Committee did meet and discuss these proposed changes last Friday. And all were unanimously supported, if you will, approved the four...that you have before you were at least unanimously voted out. I want to thank the Rules Committee members for their work on this. And I think we

Floor Debate  
January 12, 2011

---

accomplished it and gave everyone a fair hearing who did have suggested changes in mind. I would note that we neglected to elect a Vice Chair of the Rules Committee it occurs to me. So if anything happens to me the committee will be hopelessly adrift, so we better get through this. (Laugh) Proposed Rule Committee or Proposed Rule Change 3 deals with, and I apologize, my summary has wandered off of my desk here and that preamble was not long enough for me to find my summary of Proposed Rule Change 3. Did I drop it? H'm? I had it right in front of me. There was a statement of purpose and it just kind of wandered off. I just had it in my hand. Yeah, I just had it too. You brought it up. Yes, this has to do with the change in how...possibly using Speaker's major proposals on redistricting. And I apologize, the summary of the purpose has wandered off. I wonder if the Speaker would explain his thinking in proposing this while I try to find the summary of it here.

PRESIDENT SHEEHY: Speaker Flood, we are on Proposed Rule Change 3.

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. This rule change proposal was part of a discussion the Clerk and I have routinely before the start of each session. This year, unlike any other year in my legislative service, we're going to engage in redistricting, redrawing lines potentially for legislative, judicial, congressional boundaries. In 2001, prior to that session Speaker Doug Kristensen, at the time, asked that the rules allow him to pick any redistricting bill as a Speaker's major proposal. For your reference, a Speaker's major proposal, and the Speaker can ask for up to five of them, can be used on any committee or senator priority bill or any budget bill if the Speaker obtains two-thirds approval of the Executive Board of the Legislature. In the event it's named a Speaker's major proposal, the Speaker of the Legislature has the opportunity and right to order the amendments in any order the Speaker sees fit. The reason this authority was granted to the Speaker several years ago with certain checks and balances was to allow the Legislature to move through difficult bills. In my time as Speaker, I've only used this twice and I hope that I do not have to use it this year, in fact that would be my preference. In 2010 I did not name a Speaker's major proposal,...

PRESIDENT SHEEHY: (Gavel)

SPEAKER FLOOD: ...in 2009 I selected LB545 which was the K-12 TEEOSA bill after it failed to advance on a cloture motion. It allowed me to bring it back. In 2008, I did not use a Speaker's major proposal designation. And in 2007, I used the legislative procedure on LB641 which established the Learning Community. The rules currently do not allow the Speaker to use this procedure on a redistricting bill. This rule in its essence does two things--it makes these redistricting bills that come to the floor eligible for Speaker's major proposal. And you might ask, why is that important? It would be important in the event that we were at loggerheads and needed to move certain amendments to make the process work. I pledge to you that in the event--and I hope it does not happen--that I do ask for this to be named a Speaker's major proposal I will do

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

Floor Debate  
January 12, 2011

---

it fairly, I will do it in the manner that I think best suits the Legislature moving forward on these bills. You're not giving the Speaker any authority that I don't already have potentially on any other bill that comes in front of this body. Speaker Kristensen asked that this be a procedure in 2001, it was given to him and he did not use it at that time. The other part of this amendment does allow rule or redistricting bills to come in at any time during the legislative session. And I think that's good for the Legislature because we want members to be able to put their ideas in and we want those bills to have a public hearing. If you do not allow bills to come in, you're essentially saying whatever the Redistricting Committee puts out, you're going to have a hearing on that. And I think we have to value the public hearing system. And that's what this rule change does. Please know that I've visited with some of you about it. I recognize the attention paid to redistricting, but I'm not asking for anything here that wasn't already granted ten years ago to the prior Speaker. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Flood. Senator Lautenbaugh, you have just over 4 minutes.

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I did find the statement of purpose here moments after the Speaker gave us a much more thorough and clear one, and I appreciate that. And I will waive the rest of my time, yield the rest of my time.

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You have heard the opening on the motion to adopt permanent Rule 3. The floor is open for discussion. Senator Carlson, you're recognized.

SENATOR CARLSON: Mr. President and members of the Legislature, I'd like to address a question to Senator Lautenbaugh, if he would yield.

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield?

SENATOR LAUTENBAUGH: Yes, I will.

SENATOR CARLSON: Senator Lautenbaugh, I think this...this is simply for clarification. But on the second change down there, Section (h)...

SENATOR LAUTENBAUGH: Yes.

SENATOR CARLSON: Now in that we go back to Rule 3, Section 6, it's strictly for redistricting. And I'm sure that point (h) is strictly for redistricting. Would that be true?

SENATOR LAUTENBAUGH: Yes.

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

Floor Debate  
January 12, 2011

---

SENATOR CARLSON: And redistricting is not mentioned in the wording there and it is on most of the others in that section. But simply to clarify that that rule could not be used for anything other than redistricting, correct?

SENATOR LAUTENBAUGH: That's the purpose of this change, yes.

SENATOR CARLSON: Okay, thank you.

PRESIDENT SHEEHY: Any additional requests to speak? Seeing none, Senator Lautenbaugh, you're recognized to close. Senator Lautenbaugh waives closing. The question before the body is on the adoption of permanent Rules Change 3. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 43 ayes, 0 nays, Mr. President, on the adoption of Proposed Change 3.

PRESIDENT SHEEHY: Proposed Rule Change 3 is adopted.

CLERK: Mr. President, the fourth and final Proposed Rules Change I have is...involves an amendment to Rule 3, Section 20. It's found on page 140 of the Legislative Journal.

PRESIDENT SHEEHY: Senator Lautenbaugh, you're recognized to open on Proposed Rule Change 4.

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. Proposed Rule Change 4 was a product of the committee's, I guess, work to reach a compromise regarding a proposed rule change that had been introduced dealing with bringing a bill that's stuck in committee as an amendment to a bill that's on the floor. And it appeared to be the feeling of the committee that the proposed...proposal we had before us at the time probably went too far. So this was a compromise that simply states if you have a bill in committee, you cannot propose it on the floor as an amendment to another bill unless 20 calendar days have passed since the hearing on that bill. And this was designed to, I guess if you will, respect the committee process and give the committees time to act on the bills that have been referenced before them. We did have a fairly vigorous discussion about this because on the one hand, as I pointed out, we are, by saying we want to preserve tradition, we are being urged to make a change in the rules as they were. And there's a certain discord there or dissidence there in that statement for me at least. But others argued that we needed to do this because we've had attempts in the past, I've been one of the "attempters" in the past to bring a bill that's stuck in committee and attach it as an amendment on the floor to another bill. And I still believe that it is important that individual members have the right to do that kind of thing if a bill is stuck in committee. So the discussion we had was a tension between the rights of the individual members to try to get their bills out a committee that might not want to let it go versus the interest of preserving the committee process that has served

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

Floor Debate  
January 12, 2011

---

us well for many years in this body. This was the measure that we came up with that seemed to strike a balance between those two competing concerns. It does preserve the right of members to try to get a bill attached to another bill on the floor if it's stuck in committee, you simply have to wait 20 days after the hearing has occurred. With that, the committee voted unanimously to approve this rule change and we would urge your adoption of it.

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You've heard the opening to Proposed Rule Change 4. Members requesting to speak are Senator Fulton followed by Senator Pirsch. Senator Fulton.

SENATOR FULTON: Thank you, Mr. President. Members, good morning. Would Senator Mello yield to a question?

PRESIDENT SHEEHY: Senator Mello, would you yield to Senator Fulton?

SENATOR MELLO: Yes.

SENATOR FULTON: Senator, was this your proposal originally?

SENATOR MELLO: I proposed a rules change. This is a compromise version of what I proposed to the committee.

SENATOR FULTON: Okay. The...one of the arguments proffered here is that this would better preserve the tradition of our committee structures in the Legislature. Am I accurate? Am I putting words in your mouth there or was that one of the reasons you brought forward your proposal?

SENATOR MELLO: Yes. I would say it would...I would say it would ensure that our Rules Committee respects the longstanding tradition of committees and senators working together to get a bill out of committee and to the floor.

SENATOR FULTON: Can you respond to Senator Lautenbaugh's statement that in order to preserve tradition we're going to have to make a change to the rules?

SENATOR MELLO: Well, I think that line of argument or I think that logic is based on the simple fact that, as we discussed in the Rules Committee, there is just an apparent gap in our rules. The fact is this, a senator under our current rules that we're operating under right now before we adopt the permanent rules, a senator could introduce a bill and the next day run that bill as an amendment to another bill without the committee even meeting to discuss it. And in my perspective, I felt that that essentially is a gap within the existing rules that lay out how a senator pulls a bill from committee or how a senator worked with committees to get legislation out of that committee to General File

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

Floor Debate  
January 12, 2011

---

so that we can debate it as an entire body. So, I guess, to answer your question I would say I don't use, I guess, the same logic that Senator Lautenbaugh uses which to preserve the rules we have to change the rules.

SENATOR FULTON: Okay.

SENATOR MELLO: I use the logic that we have to...

SENATOR FULTON: Thank you, Senator.

SENATOR MELLO: ...we have a gap in our rules right now that we're trying to fill.

SENATOR FULTON: The existing rules, Rule 3, Section 20(b), "Any senator may move that a bill be placed on General File twenty calendar days or more after the committee hearing." If indeed the concern is that there is not adequate time from the time a bill is...so if someone were to introduce a bill and then, as you say, the next day try to pull it and bring it out to the floor, don't existing rules already address that? And again, I'm referencing Rule 3, Section 20(b), it's found on page 22 of the Rules for the One Hundred First Legislature.

SENATOR MELLO: Senator Fulton, not if it's an amendment to another bill, you're right if it's pulling the bill out of committee. But it has been done on the floor in my two years here and I actually admitted to the committee I did it as well with a campaign finance bill that was not kicked out of committee yet, pulled it out of committee essentially, drafted it as an amendment to Senator Karpisek's bill. And what this does is it essentially requires a time gap for senators if they choose to do the amendment route compared to what Senator Pahls did which was to try to pull an IPPed bill out of a committee,...

SENATOR FULTON: Okay.

SENATOR MELLO: ...which different...there are different rules regarding pulling a bill versus running a bill as an amendment.

SENATOR FULTON: Understood. Have any of those motions been successful? So that your concern is that one could run an amendment with a bill that has not made it out of committee, attaching it to some other bill. Has that ever been successful in the past? And the reason for me asking this question is I don't know that there's need for this rule change. I'm interested in preserving the committee structure also and the prerogative and the powers of our respective chairs and the respective committees over those particular jurisdictions and areas of interest. But I've seen attempts to move bills from committee and amend to other bills and they've failed. So do you have a concern about any particular bill...

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

Floor Debate  
January 12, 2011

---

PRESIDENT SHEEHY: One minute.

SENATOR FULTON: ...that might...where this may be tried?

SENATOR MELLO: Senator Fulton, as I reiterated in my previous statements, this was done multiple times over the last two years and I acknowledged to the Rules Committee and I acknowledge to the floor I was one of those senators who did that with a campaign finance bill. And so it's not so much a matter of choosing an ideological perspective on one bill or another or being concerned about one senator's bill or another. I think the thought is, is that it's been tried over the last two years. As far as people know of it's something that we normally haven't done with the exception of, I think, term limits have ushered in senators willingness of trying new routes to get a bill out of committee and that...and running those bills as amendments even though the committee has not taken action on that bill is what's happened over the last two years.

SENATOR FULTON: Were any of those efforts successful, Senator?

SENATOR MELLO: As far as I know, no.

SENATOR FULTON: Okay. I'll yield now, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Pirsch, you're recognized.

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I, too, rise questioning the need for this rule change. It seems like it's a solution in search of a problem. We have not had a problem of too weak of committees. As a matter of fact, our committees are very, very strong. And keep in mind our committees, many of them composed of seven members so a majority of a committee would be composed of four senators. And we're a body of 49 senators so effectively 4 senators control an awful lot as to the final outcome of a bill regardless of how the other 45 senators may feel about the bill. And so we are a differently composed body. Other legislatures have two houses, in some of the New England they have 500 and 450 members, two houses. I can see where there would be a need for a strong committee system there. We're unique, we are a one-house body with only a few senators, 49 senators, that's it. We don't have the need for that strength in committees. Historically speaking we haven't experienced that. I don't...as I think everyone acknowledges here it has never really been successful to my memory in pulling any bill out of committee where the committee was not willing to go with it. And so, again, I don't think there's a need for this. And the one question I have for Senator Lautenbaugh, if he'd yield to a quick question.

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Pirsch?

SENATOR LAUTENBAUGH: Yes, I will.

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

Floor Debate  
January 12, 2011

---

SENATOR PIRSCH: The solution that you found it's that you have to wait 20 days after the committee has heard the bill, is that correct, in committee?

SENATOR LAUTENBAUGH: That's correct.

SENATOR PIRSCH: It is up to the committee to schedule the bills though, correct, the date upon which the hearing is held, correct?

SENATOR LAUTENBAUGH: That is correct.

SENATOR PIRSCH: Is that logistically going to be hard for those bills that are very...that are scheduled very late in the year to ever have their, I guess, a chance to be heard by the floor then?

SENATOR LAUTENBAUGH: I could conceive of a situation, especially in a shorter session, where it might be difficult to find a bill that is germane in the time allotted if you have a very late hearing date.

SENATOR PIRSCH: Thank you. I guess, I would just conclude by saying I don't think that...I think, again, this is just a solution in search of a problem. And I can't support this rule. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Pirsch. Members requesting to speak are Senator Dubas followed by Senator Loudon, Senator Carlson, Senator Fulton, and others. Senator Dubas, you're recognized.

SENATOR DUBAS: Thank you, Mr. President. Good morning, members of the body. I am a members of the Rules Committee and we did have a very good discussion about this proposed rule change and worked to modify it into the condition that you see before you today. I had mixed feelings about this. As has been mentioned, this seems to maybe appear to be a solution looking for a problem but felt that it deserved full floor debate. And that was probably the most compelling reason for me to vote in support of advancing this to the body. It's been pointed out it's rarely used. As far as we can tell it hasn't been successful when it has been used. We certainly do value the importance of the committee structure and their decisionmaking process. But I think another compelling point that was raised in our discussion is this rule may not be so much for us here today or in this next, you know, several years or four years, whatever. I think this rule is for an extended out into the future type of issue. And as we are experiencing the term limits continuing to evolve and the fact that institutional memory isn't maybe as strong as it used to be, and I know the public maybe gets tired of hearing that, but it is an important component in how we operate down here and just understanding what's happened in the past and why we are at where we're at today. I think this rule is for that

Floor Debate  
January 12, 2011

---

future. This rule is being proposed to further emphasize the importance of the legislative process, how it works, why it is in my opinion one of the best structures as far as state government goes in the nation. I think it serves the citizens of Nebraska so well. And I think for future legislators to understand why the committee structure is in place the way it is, how we operate, why we do the things that we do and when you make a decision to either try to pull a bill as it is out of committee or take that bill and amend it on the floor it's not one you should take lightly. You should give very, very strong thought as to why you are going to do this because you are basically usurping the committee process by doing it. So I don't see that the adoption of this rule will do any harm, it will only further reinforce a rule that we have in place, clarify, help future bodies understand just how important this committee process is. Every one of us have been frustrated in here by trying to get a bill out of committee. It's up to us to be convincing to those committee members as to why we think that bill deserves to be advanced and we aren't always successful with that endeavor. But I just feel that this is a rule change that will only shore up our committee process and in return shore up our legislative process and the way we work. So I would encourage members to really give this some serious thought and consider giving it a yes vote. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Louden, you're recognized.

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the body. As I look at this rule change I do have some questions. I was wondering if Senator Lautenbaugh would yield for a question?

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Louden?

SENATOR LAUTENBAUGH: Yes, I will.

SENATOR LOUDEN: Senator, as I read this it said a bill requires a three-fifth vote of the elected members if offered within 20 calendar days of the committee hearing. Now does that have any effect on a bill that has been moved out of committee that's out there and the numbers it could be amended onto another bill? Does this ruling have any effect on that?

SENATOR LAUTENBAUGH: No, it does not. What this means, what this language is designed to do is parallel what it would take to pull a bill from committee or resuscitate a bill that had been IPPed. We're just saying you have to wait 20 days or this higher vote threshold would apply. It would not affect a bill that's been duly put out of committee and just waiting in line on the floor for anything.

SENATOR LOUDEN: Okay. And then in other words then it's the...if a bill is in committee the first 20 days is the only time that this has any effect, this rule has any effect on a bill?

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

Floor Debate  
January 12, 2011

---

SENATOR LAUTENBAUGH: Within the first 20 days after the hearing, yes.

SENATOR LOUDEN: After the hearing, yes. Now after the hearing and that bill is still in there then we work with the same rules that we've had before in order to get that bill out of committee?

SENATOR LAUTENBAUGH: Yes.

SENATOR LOUDEN: It would be the 25 votes.

SENATOR LAUTENBAUGH: Yes.

SENATOR LOUDEN: Okay. Well, then what was the reason to have this so that...does this...is the idea to give the committee 20 days in order to do something with the bill or is there a reason to have this rule change in there?

SENATOR LAUTENBAUGH: The thought process was it would show respect to the committee prerogatives by giving the committee 20 days to chew on the bill after the hearing.

SENATOR LOUDEN: Okay, thank you, Senator, and thank you, Lieutenant Governor.

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Carlson, you're recognized.

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. What we're doing today is an example, I've talked to several of the first-year people yesterday. And we have challenges as we serve on various committees and other committees are meeting and all of a sudden a bill comes to the floor and we're not familiar with it at all and yet we've got to make an intelligent vote. And that's what we want to do. And so today is even more an example of that because we're seeing this information right now. Once we vote on it, it's done, whereas a regular bill comes out and there's going to be three votes--General File, Select, and Final Reading, but today this is it. So I want to address another question to Senator Lautenbaugh if he would yield.

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Carlson?

SENATOR LAUTENBAUGH: Yes, I will.

SENATOR CARLSON: Now if I had memorized rules I wouldn't have to ask that but I haven't, so I'm going to ask because once we vote this is over. This says, "Any

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

Floor Debate  
January 12, 2011

---

amendment offered which is substantially the same as a pending bill shall require a three-fifths vote of the elected members if offered within 20 calendar days." I understand the reasoning on this. But this says "three-fifths vote of the elected members." Now we do have...and those of us that have been here a couple of years we experienced a vote, an important one where it was a percentage of the members present. But this says the elected members. So I take that, that's three-fifths of 49, which is 29.4 which is really 30. This would take 30 votes regardless of how many are present. Is that correct?

SENATOR LAUTENBAUGH: That is correct.

SENATOR CARLSON: Okay, thank you, Senator Lautenbaugh.

PRESIDENT SHEEHY: Thank you, Senator Carlson. Members requesting to speak on the adoption of permanent Rule 4, we have Senator Fulton followed by Senator Mello, Senator Flood, Senator Fischer, Senator Conrad, Senator Lathrop, and Senator Howard. Senator Fulton, you're recognized.

SENATOR FULTON: Thank you, Mr. President. It's entirely possibly I'm misunderstanding this but the...what I am reading here is a change to that which exists now. I don't believe there's a problem now, therefore I'm not going to support this because I don't think there's a problem in need of fixing. Now it's brought forward that it's possible to bring a bill that is in committee and offer it as an amendment to another bill presently, and it can be done without any time length. And so it's possible that one could bring a bill forward after it only being in the committee for a day and offer it as an amendment. While I concede that is a possibility, what has occurred in years past is an informed Legislature has made a decision as to whether such a motion is indeed appropriate. And if I'm not mistaken in the time that I have been down here there has never been such a motion that has succeeded. So those structures that we have in place now seem adequate and there are no more...there is no need for further rules. Would Senator Mello yield to a question, Mr. President?

PRESIDENT SHEEHY: Senator Mello, would you yield to Senator Fulton?

SENATOR MELLO: Yes.

SENATOR FULTON: And, Senator, were you able to hear what...the line of reasoning that I put forward?

SENATOR MELLO: Yes.

SENATOR FULTON: Has there indeed been an instance where a bill has successfully been offered as an amendment after only having been introduced for a day or so?

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

Floor Debate  
January 12, 2011

---

SENATOR MELLO: Senator Fulton, at least our research into this issue indicates that over the last two years there was four times that senators have tried this particular process or strategy instead of pulling a bill from committee according to our current rules that we're operating under. So I would say within the past two years there has been four instances where senators have moved a bill in committee as an amendment to a bill on the floor. All four has failed, but the point being prior to these past two years before term limits were in full effect no one can remember a time where senators actually even did this. So as I pointed out earlier, this essentially is trying to halt a new strategy that senators, myself included as being one of the perpetrators, are trying to stop and ensuring that we follow the previous rules that have been established, which is if you're going to pull a bill out of committee follow the current committee process rules that are laid out in our rules.

SENATOR FULTON: So, Senator, when you use the word perpetrator,...

SENATOR MELLO: (Laugh)

SENATOR FULTON: ...I assume you mean that this is a bad thing to offer as an amendment to the floor for consideration a bill that is still in the committee and that's why you're putting forward this rule change.

SENATOR MELLO: I...

SENATOR FULTON: My point is that if indeed what is being offered is a bad thing then we can leave that to the prerogative and to the decisionmaking of the 49 members and let them vote it down. Indeed, in all four instances that you are referencing where this was...where this tactic was utilized they were unsuccessful. So again, why is there a need to put forward this rule if indeed what you envision as being bad has never happened?

SENATOR MELLO: I...Senator Fulton, I can only, I guess, to some extent reiterate what I just explained to you, which is in the last two years this has been tried four times. Previous to the last two years no one can remember this even being done, which my logic would say is a new strategy for senators to essentially usurp the will of the majority of any standing committee by essentially introducing a bill, disregarding the public hearing, disregarding the committee process, and is simply running that bill as a committee amendment, depending obviously on the will of the body as a whole. And I feel that that usurps the committee majority and usurps essentially the committee process.

PRESIDENT SHEEHY: One minute.

SENATOR FULTON: Okay. Thank you, Senator Mello. That's...I can follow your

Floor Debate  
January 12, 2011

---

rationale. I just...I disagree. I think that we have in place a structure that has proven itself to work. We have an open body. While there is a certain amount of deference that we grant to our committees, and rightfully so, when that...when the committee structure is usurped then the senators already have the ability to vote something down. And by adding more rules I don't think we're actually...by changing existing rules I don't think we're doing anything more to uphold the traditions that have been found in this Legislature. And I'm not going to support this. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Mello, you're recognized.

SENATOR MELLO: Thank you, Mr. President, members of the body. I'd first like to draw attention to the Journal with the proposed rule change. I think Senator Loudon did a very ample job of explaining, unfortunately, I think what has been I think a misunderstanding of the rule. First off, it does not say, the proposed rule from the committee, that any senator has to wait 20 days, first off. It simply says that if you propose a bill that's in a committee now that has not been taken action on, and if you do that within a 20-day period of the bill's hearing in that committee you need a three-fifth vote to attach that amendment to another bill. It does not mean you have to wait 20 days. That has somehow...I don't know, I don't want to point fingers, maybe there was a misunderstanding as Senator Lautenbaugh explained the proposed change. There is no waiting period to do this. You could do it tomorrow if you so choose to, if we adopt these rules, a day after you introduce the bill in a hearing. But it requires...it changes the vote total essentially that you would need to do that. It changes it from a simple majority vote to a three-fifths vote to do that. I think that's very...I think that's...it's a much different argument than, I think, what Senator Fulton is portraying in the sense of needing and not needing to change these rules in theory to continue our longstanding belief in the committee process. Without trying to reiterate or repeat myself, the purpose of this amendment or this rule change, I should say, the initial one that I proposed is significantly different. Right now in our rules you can propose an amendment similar to the bill you have in a committee to another bill. You go the amendment route. There is no repercussions to a senator who chooses to do that. But if you choose to bring that bill out of committee under our current rules and you fail in that process your bill gets IPPed. Essentially, why would we ever have the existing rule then if we don't adopt this one? You would never need to pull your bill from committee because then you would risk not having to risk having that bill be indefinitely postponed. I think if we fail to adopt this compromise version of this amendment, and I still firmly believe that the initial rule change I made would have strengthened the process so that senators can't bypass the existing rules we can move towards ensuring that committees just essentially don't exist because senators can continually bring their bill as an amendment over and over and over and over again to every potential bill with no repercussions, no chance of that bill getting IPPed in the committee or on the floor. You have an unlimited, essentially, unlimited opportunities to amend your bill to any bill you so please as long as it falls under the rules presided by the Chair that's germane. And what we try to stop is to

Floor Debate  
January 12, 2011

---

make sure senators can't do that, that you have to work with committees to try to get your bill out of committee. And if you cannot do that then you need to do what Senator Pahls did, it's the only time it's been done in the two years I've been here, which is move to pull a bill from a committee that's been IPPed. That's simply what this amendment change essentially is trying to do or starting to move us down that path which is to follow the current rules instead of utilizing, and I will reiterate, yes, I am the perpetrator, I view that as a bad thing in hindsight of not working with the committee to try to find a way to get my bill out of committee so we could debate it on the floor and I could run it as an amendment to another senator's bill. That's the process that I learned coming down here. That's the process that other senators have learned, which is you try to work with committees to get your bill out of committee. And if you can't do that then you follow the appropriate rules to have the body take a motion on that. You don't simply run your bill as an amendment to another senators bill and the fact is hope it gets passed and if it doesn't, I'll take another run at that next week because that's essentially what we've done. I have been guilty of that and I acknowledge that. I'm trying to make sure that as we move forward in an era of term limits senators don't...

PRESIDENT SHEEHY: One minute.

SENATOR MELLO: ...use that same strategy, that we uphold the committee process, we work with committee chairs and committee members to get our bills out of committee and follow the process that Senator Loudon mentioned which is once your bill gets out of committee you can then run that as another amendment to another bill which is the process, as far as I've been educated, is the process as a longstanding tradition in the Nebraska Legislature. Thank you very much, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Mello. Senator Flood, you're recognized.

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. You know, I'm a member of the Rules Committee although I'm not allowed to vote on the committee. Senator Mello brought his initial proposal. And here's how I view it, and I think there are some issues that we need to work through this morning but we are a one-house Legislature. There is no House and Senate check and balance, we're a Unicameral. It has served us well. Have there been glaring problems? I can't point to any. When you look at this bill...when you look at this rule amendment it's easy to think about the hot-button issue of any given session and say, what about this, what about that? And they come from all corners of the Legislature and I acknowledge that. But I want to talk for a second about our Legislature as an institution as it relates to the professional committee staff that we have. We employ professional committee staff, legal councils, committee clerks. We have legislative aides and administrative assistants that a lot of states don't have. LB123 comes in, it has a public hearing. It's a complicated bill. Let's say it's a bill that makes changes to the aggregation of bad checks and creditors and debtors in the Judiciary Committee. And the senator really, really wants to pass it. And

Floor Debate  
January 12, 2011

---

the senator has to have it passed right away. We give it to the Judiciary Committee for a constitutionally required public hearing. The 20 days is designed to give the committee a chance to get its hands around the issue to understand what aggregation of bad checks means, to understand some of the issues that creditors may have. It could have 13 or 14 different provisions that handle different areas of criminal or conduct that relates to creditors and debtors. Give the Judiciary a chance to think on it, to come up and synthesize all of the issues and then present a committee amendment. Give them that opportunity because if this Legislature, and I'm not saying this is the issue, becomes about getting LB123 out in a week and I don't...okay, I've had my public hearing, the Speaker is not going to make me stop because I did that, I'm going to get this thing slapped on because there's another bill that's germane, I don't care about what the committee thinks anymore, I'm just going to get this bill passed because I want it passed because I told people I was going to have it passed. That's what can happen in other states. But they have another division, they have a House or a Senate across the hall. We don't have that. So I can...I think some good issues have been raised here by some of the opponents. But let's look at the broader picture. If you don't respect that committee system in a one-house Legislature you basically say, well, as a Legislature we're going to spend millions of dollars on this committee staff but we really don't need them because I know that LB123 can get passed and there's another way to do it, and I'm going to do it and it's going to be done in seven days--General File, Select File, Final Reading, bang, it's on the Governor's desk, we're going. You know, that's what made me think twice about where Senator Mello was coming from. I didn't like his original proposal because I didn't know how the presiding officer would have the opportunity to rule on substantially similar bills all the time and up the margin to 30 votes required. Now on the opposite side, I think there is an issue as it relates to bills that come out of committee with a committee amendment that include provisions from other bills that haven't been advanced. That is a worth...I mean, that was just presented to me. I heard some discussion about it on the floor. You know, the whole point here is if a committee does take an issue, pull from different bills under its direction and send it to the floor and those bills haven't been advanced out, have we created an issue here with upping the standard to 30 votes when that wasn't the intent?

PRESIDENT SHEEHY: One minute.

SPEAKER FLOOD: And is it a good idea for committees to kick out six bills that are part of a, pardon the term, Christmas tree and then have those bills languishing on General File where all sorts of things can happen? I mean I think about that as the Speaker. I think maybe we need to pay attention to that a little bit this morning. This is a good discussion. But let's not dismiss this rule change on its face simply because we're tying peoples hands. We're not tying peoples hands. It's 20 calendar days. Give the committee some time to think. And everybody has a priority bill designation. If it's that important you can get it to the floor. But passing 400 bills in a session is not the goal here, it's doing our job right. It's not moving so many things through the cattle gates that

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

Floor Debate  
January 12, 2011

---

you look back and you've got 40 bills that we passed this session. We should focus on doing it right. We should respect the committee system. And as much as you think this may tie your hands, some day some of you that aren't committee chairs are going to be sitting in that chair and you are going to want to get your hands around...

PRESIDENT SHEEHY: Time, Senator.

SPEAKER FLOOD: ...a difficult issue. This allows you to do it. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Flood. Senator Fischer, you're recognized.

SENATOR FISCHER: Thank you, Mr. President and members of the body. I appreciate the Speaker's comments. I think he's given us a lot of points that are appropriate for this discussion. I would like to follow those and enlarge upon them if I may. As a committee chair I have some concerns with this proposed rule change. It does apply to committee amendments. It would take a three-fifths vote in order to pass a committee amendment. You know that that's usually never a problem as we move bills through this process. But I also can see the situation being, as a committee chair, that instead of putting together a number of bills into a committee amendment on a bill that we advance to the floor we would instead send out six, eight bills probably instead of that amendment. What we're doing then is we're clogging up the process. We've just slowed it down as a former member of this body used to enjoy doing, and that's not always bad. But we will be clogging up the process if we send out those bills individually instead of putting them in as a committee amendment which would require the three-fifths vote under this proposed rule change. Also as a committee chair, in the last four years I have seen power being consolidated in the committees. Hey, you know, as a chair that's not all bad. But there's 49 of us in here and each member in this body is equal. I certainly respect the committee process. That's how I operate is under the committee process. But I think we also need to be cognizant that we are equals in here and we need to protect each others rights. At one time or another each of us will be in the minority. It will be because of our stand on an issue, our values, our beliefs, our philosophies. We will be in the minority, it's going to happen to each of you if it hasn't already. And you want to be able to at least address your position on an issue. You want to at least have a chance to address that issue. You want to have a chance to persuade your colleagues and get something done that you firmly believe in. So I think we need to be aware that we have to protect the system we have and the system of the committees that continues to grow in power. But we also need to protect individual senators rights and in so doing protect the rights of their constituents. I would ask if Senator Lautenbaugh would yield to a question?

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Fischer?

SENATOR LAUTENBAUGH: Yes, I will.

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

Floor Debate  
January 12, 2011

---

SENATOR FISCHER: Senator Lautenbaugh, in your discussions in committee did you discuss the possible impact this would have on committee amendments when they come to the floor?

SENATOR LAUTENBAUGH: I do not recall a discussion of that.

SENATOR FISCHER: Would you be open and...I'm going to ask Senator Mello next if he would yield. But I'm wondering if you would be open, as Chair of the Rules Committee, to a possibility of having an amendment that would exempt committee amendments from this rule and also shorten that 20 days down to maybe 5 days?

SENATOR LAUTENBAUGH: I would see no harm in considering either one of those.

SENATOR FISCHER: In your discussions on this rule change was it addressed that there was problems in the past that this rule was trying to...

PRESIDENT SHEEHY: One minute.

SENATOR FISCHER: ...correct in any way?

SENATOR LAUTENBAUGH: There was a suggestion that the reaction is what you do if...or the moving a bill out of committee as an amendment may be what you pursue if a chairman is holding a bill in committee. It was suggested that a chairman who did that would be replaced next time around. I suggested that's not...

SENATOR FISCHER: I won't be here next time around, so if I don't like your bill I can schedule it the last day of hearings and you won't get your 20 days then.

SENATOR LAUTENBAUGH: I don't recall you ever disliking one of my bills, Senator Fischer.

SENATOR FISCHER: I love your bills. (Laughter)

SENATOR LAUTENBAUGH: But hypothetically you could do that, yes.

SENATOR FISCHER: Okay, thank you. Quickly, Mr. President, would Senator Mello yield?

PRESIDENT SHEEHY: Senator Mello, would you yield?

SENATOR MELLO: Absolutely.

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

Floor Debate  
January 12, 2011

---

SENATOR FISCHER: Senator Mello, would you be interested maybe in talking about an amendment that would exempt the committee amendments from this rule and also making that time period a little shorter, from the 20 days to maybe 5 days?

SENATOR MELLO: I would be, I would be willing to chat about making sure...

PRESIDENT SHEEHY: Time, Senator.

SENATOR FISCHER: Thank you very much. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Fischer. Members requesting to speak on the Proposed Rule Change 4--Senator Howard followed by Senator Langemeier, Senator Pirsch, and Senator Mello. Senator Howard, you're recognized.

SENATOR HOWARD: Thank you, Mr. Speaker. My question is a pretty basic one. And I turned to Senator Louden, my good friend, and asked him. And he said, gosh, I don't know, you should ask that on the mike. And Speaker Flood did address this when he spoke, but I would like to ask Senator Lautenbaugh if he would yield to a question?

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Howard?

SENATOR LAUTENBAUGH: Yes, I will.

SENATOR HOWARD: Senator Lautenbaugh, just for a point of clarification, and there may be other people that really haven't either considered this or don't know the answer as well as Senator Louden and myself. When you refer to calendar days, are those the days that are commonly understood as calendar days and include the weekends or are those our calendar days here on the floor?

SENATOR LAUTENBAUGH: My understanding of those, the intention of those would be regular calendar days, not working days.

SENATOR HOWARD: Including the weekends?

SENATOR LAUTENBAUGH: Not session days, yes, we'd include weekends.

SENATOR HOWARD: All right, well that's very helpful. Thank you. Thank you, Mr. Speaker.

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Langemeier, you're recognized.

SENATOR LANGEMEIER: Mr. President, members of the body, shortly, soon as it's

Floor Debate  
January 12, 2011

---

drafted, I'm going to offer an amendment that would exclude out committee amendments, to talk what Senator Fischer and I have talked about off the floor, to make sure we don't as a committee...is...the last thing I want to do is offer a committee amendment that may have two or three bills in it and also kick those same bills out and get them on, those of you that have been here awhile, to plug up the worksheet order to get around this new rule. We're also going to offer an amendment that would take that from 20 days down to 10. And so I'll be back up as soon as that's drafted. So a couple of others are going to speak here a little bit, we're buying a little bit of time. We'll sign that amendment, we'll offer that and I'll do the full introduction in a moment. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Senator Langemeier, you're recognized.

SENATOR LANGEMEIER: Mr. President, members of the body, I guess I was the only light on. So we're going to have to buy a little time until they get it printed. My biggest concern with this is what happens on the committee amendment process about putting out extra bills just to get around this, to make sure we don't have any conflicts and fill up your worksheet. As we get into this session, for the new ones that are looking at me, that worksheet is going to become pretty important. Because as you have bills that are sitting on worksheet order and you're hoping to get them up there, then you have to start deciding what's going to be your priority bill because if you don't make it your priority bill then you're subject to working down that worksheet order. And so it gets pretty important to you that that worksheet stay as clean as it can. And so with that, I think we're close, we're close so, Mr. President, thank you.

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Senator Fulton, you're recognized.

SENATOR FULTON: Thank you, Mr. President. The proposal that's being offered here by Senators Langemeier and Fischer would be somewhat of a compromise to the compromise. And I'll probably support it. But there's still...what happens during a compromise is that one comes off of a position that one holds based on principle. And the principle at play here, and I'll go ahead and reiterate this with...I'll reiterate it deliberately, deliberately, is that we have in place a structure which has disallowed this practice from occurring at least in recent years. By putting forward a new rule, in effect, we would be limiting the tools, limiting the actions, limiting the alternatives that senators can utilize and in so doing utilizing...or, I'm sorry, limiting the choices that senators will have which I do not think is a good idea. That is the principle held. Now reducing the number down to ten days, or perhaps even five, represents a bit of a compromise from that principle, but hopefully it's a compromise that will draw the other side. And that, ladies and gentlemen, is what we do here in the Legislature, we collaborate and find ways to move forward. So with that, Mr. President, I will cease. Thank you, Mr.

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

Floor Debate  
January 12, 2011

---

President.

PRESIDENT SHEEHY: Thank you, Senator Fulton. Mr. Clerk, you have an amendment to Proposed Rule Change 4?

CLERK: I do, Mr. President. And I'll read it to the membership. Copies have been distributed. I apologize, initials are not on the copy but it's the blank piece of paper that starts at the top of the page, Amend change 4. After the word amendment in line 1 add the following "other than a committee amendment." And change "twenty" to "ten." That's the amendment as offered by Senator Langemeier, Mr. President.

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Langemeier, you're recognized to open your amendment to Proposed Rule Change 4.

SENATOR LANGEMEIER: Mr. President, members of the body, I've done it a couple of times. The Clerk very eloquently explained it. Again, it would exclude out committee amendments and it would change "twenty" days to "ten." And I would ask for the adoption of proposed change currently offered by myself to Rule 4. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You've heard the opening to the amendment to Rule Change 4. Are there members requesting to speak? Seeing none, Senator Langemeier, you're recognized to close. Senator Langemeier waives closing. The question before the body is on the Langemeier amendment to the Proposed Rule Change 4. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 38 ayes, 0 nays, Mr. President, on adoption of the amendment to Proposed Change 4.

PRESIDENT SHEEHY: Langemeier amendment to Rule 4 is adopted. We will return to discussion on Proposed Rule Change 4. Seeing...Senator Langemeier, or correction, Senator Lautenbaugh, you're recognized to close on Proposed Rules Change 4. Senator Lautenbaugh waives closing. The question before the body is on the adoption of Proposed Rule Change 4. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Proposed Change 5 or 4, excuse me.

PRESIDENT SHEEHY: Rule Change 4 is adopted.

CLERK: Mr. President, that completes the proposals from the Rules Committee. Senator Pahls would move to amend the permanent rules. Copies are being prepared

Floor Debate  
January 12, 2011

---

right now. I don't have them on the...okay, copies will be passed out right now. Thank you, Mr. President. Senator Pahls would move to amend.

PRESIDENT SHEEHY: Senator Pahls, you're recognized to open on your amendment.

SENATOR PAHLS: Thank you, Mr. President, members of the body. I move to amend the rules as follows: Rule 8, Section 2. And that is being handed out. I know a number of you don't have your gadgets up here so that should be coming to you. It is actually adding an additional piece of information under the Appropriations Committee's Report. And I'll talk a little bit about that as we move along. And some of this is just to demonstrate to some of the new individuals, you're going to realize soon you will be receiving a report such as this, it's called the Appropriations Committee Preliminary Report. And in a long session you should receive it sometime between 20 and 30 days. And in a short session you would receive it between 15 to 20 days. That's Rule 8, Section 3. The next one I want to talk a little bit about is the Appropriations Committee's final report to us, which is usually on the 70th day, on the 90th and 40th on the 60-day session. Now what I am proposing is adding one piece of information to that report which could consist of basically a page, very little more. And this is the rationale behind it. In 2006, a number of us served on a tax commission, consisted of ten senators, the State Tax Commissioner, the Director of the Department of Economic Development, an economist, a person in the area of agriculture, a person in the area of industry and manufacturing, a person in the area of telecommunications, and also someone representing the low-income sector, and also the labor sector. Now I'm going to read to you on page 7 of this report. The commission recommends that all exemptions from the sales tax be made part of the annual appropriation process. The foregone revenue from tax exemptions should be shown side-by-side with all other appropriations so that the legislators can better comprehend the magnitude of the exemptions compared to its spending needs. Again, this is not a bill. This is not saying whether your support or you are against any changes. This is actually to provide information. That was the intent of the commission. And I did review the number of individuals who did sit on that commission, it was a wide variety. And this was one of their recommendations is that everybody should have at their hands this information. Now I know the Department of Revenue provides this information. This is not new information that the Fiscal Office is going to have to dig up. It is simply information that we should be taking a look at when we make some of these decisions. And that is the primary reason for this. It has nothing to do with passing any legislation. It's when we take a look at certain areas we look at the whole picture, we look at all of the pieces of the puzzle. That's the purpose of adding this additional information. And if you take a look at this particular section there are six, seven, this would be the...I mean there would be eight of them, areas of information that the committee looks at. It would be fresh information every year. You would not have to search for it if you have a question. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Pahls. You have heard the opening to the

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

Floor Debate  
January 12, 2011

---

amendment of the permanent rules. Member requesting to speak, Senator Conrad, you're recognized.

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. I was wondering if Senator Lautenbaugh would yield to a question.

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Conrad?

SENATOR LAUTENBAUGH: Yes, I will.

SENATOR CONRAD: Good morning, Senator Lautenbaugh. I just have a process inquiry at this stage of debate on this potential amendment brought forward by Senator Pahls. Was this amendment or a similar proposal brought to the Rules Committee for consideration and subject to a public hearing?

SENATOR LAUTENBAUGH: No.

SENATOR CONRAD: Thank you, Senator Lautenbaugh. That concludes my question component in that regard. I think, colleagues, without question we can appreciate and fully understand Senator Pahls' passion for these issues and the importance of their underlying substantive nature to our work. But I think it's particularly important as we move through the development of our rules that we be very careful to not subvert the will of the people. And this proposal has not had a chance for public input or inquiry and I believe should have been proposed much, much earlier in the process and should not be advanced at this stage. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Conrad. Other members requesting to speak: Senator Langemeier followed by Senator Pahls. Senator Langemeier, you're recognized.

SENATOR LANGEMEIER: Mr. President, members of the body, I want to commend Senator Pahls for his tenacity on tax exemptions for the discussion in my four years in...or, excuse me, the last four years as he's brought that up in the Legislature. I am rising in opposition to the amendment. Senator Conrad had brought up some good points. But I think this is more something that would be a statute that would be brought to the Legislature in form of a bill asking the Department of Revenue to create this report annually and not tack it onto our big, thick budget books that we get now that we have a lot of reading to do. So at this time I rise in opposition. But, again, I want to commend him for his tenacity on this issue. He has been a forefront person on the discussion of tax exemptions in Nebraska. I just think it should be...if it's brought as a bill and a requirement for the Department of Revenue if this body chooses to go that direction. So with this time I can't support this amendment. Thank you.

Floor Debate  
January 12, 2011

---

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Senator Pahls, you're recognized.

SENATOR PAHLS: Good morning again. And I appreciate Senator Langemeier. This is more than tenacity. I'm going to ask Senator Lautenbaugh a question. May Senator Lautenbaugh yield to me?

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Pahls?

SENATOR LAUTENBAUGH: Yes, I will. Yes, I will.

SENATOR PAHLS: Thank you, Senator. I know there is some question that this did not hear a public hearing. And I know you've reviewed the rules. Is this amendment like this allowable?

SENATOR LAUTENBAUGH: Under the temporary rules that we're operating under currently, there is no provision that says this had to be brought to committee. That would have been the practice but it's not a requirement under the existing rules.

SENATOR PAHLS: Okay, thank you. See, that's why we have rules. No rule says that I can't do this. And I understand you would say, well, why didn't you go the other route? Well, number one, if you can recall, those of you who were around, remember how I woke up 40 lobbyists when I started talking about this? You know, that pressure would have been intense. They would (inaudible) it probably would affect our rules. And this is giving me an opportunity again to talk about tax exemptions. Nowhere have I ever said something should be done away with. You've never heard me say this one should be gone, this one should be gone. Now I've argued when we wanted new ones. But the purpose of this is to provide one piece of paper, basically, so you could have it right at your hands. Now I had somebody from Fiscal Office come up to me shaking a little bit. Said, well, Pahls, this is already being offered by the Department of Revenue. It has, it is. It means you have to go look for it. It is on their Web site. But it's really interesting after 40-some odd years they have switched it this year. Isn't that interesting. Now they say it's to make it easier for us and I'm not arguing that. I'm not arguing it at all. But all of a sudden I found out that they eliminated probably two of the largest ones, one is dealing with livestock and grain. I'm not saying they shouldn't have it but they eliminated that from their report and also rebates dealing with motor vehicles and motorboats. Four or five individuals in a Department of Revenue made that decision. Not saying it's wrong but the statute said that they should be reporting those things. But they said no, I'm assuming because I haven't talked to them. So, yes, the Department of Revenue did make a report and they...it's out there. You can see it. And they said they'd reorganized for it...be easier for the policy...for people such as you and I to look at it and under it. But I think it's really interesting they just automatically made the decision, well, really that shouldn't belong. But those exemptions were made a number of years ago. After so

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

Floor Debate  
January 12, 2011

---

many odd years it's changed, it's out of our hands. Is...again, I'm saying is I am not saying do away with any exemptions. I'm saying providing the information...and it's really interesting how you can excite people who are going to be in the decisionmaking process and are saying, oh, no, oh whoops. That's not the way it should be. I do think that throughout this session we are going to be probably doing some unbelievable cutting of programs and of individuals, something to think about. I appreciate those people who stood up and who supported the idea but what I'm trying to do, to especially some of the new people, there's...

PRESIDENT SHEEHY: One minute.

SENATOR PAHLS: Thank you, there's information out there that's very important, for example, when the Appropriations stuff comes in front. And some of these old commissions that are sitting around, that people have come up with some reasons why we should be doing this and now we're saying, h'm, maybe not. There are studies that, you know, sit on people's tables. And with that, I will withdraw my amendment.

PRESIDENT SHEEHY: Thank you, Senator Pahls. The Pahls' amendment is withdrawn. Anything further, Mr. Clerk?

CLERK: Mr. President, I have nothing further pending to the adoption of the motion to adopt permanent rules.

PRESIDENT SHEEHY: We will now move to the floor for discussion on adoption of permanent rules. Seeing no requests to speak, Senator Lautenbaugh, you're recognized to close.

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body and thank you, members of the Legislature. I think we had a good discussion today. I think our discussion on Rule 4 might do more to reinforce our practices than the amendment itself might do. I just pointed out to Senator Mello that if he and I promise to behave we could address 50 percent of the malfeasance that brought about the proposed rule in the first place. So that's progress. I would urge your adoption of these rules as amended. I thank the committee and the ex officio member, the Speaker, for his hard work on this. And I would urge you to vote green.

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You have heard the closing. The question before the body is on the adoption of permanent rules. All those in...

CLERK: Mr. President, the motion currently pending is to adopt permanent rules for the One Hundred Second Legislature, First Session and any special sessions held during the 2011 calendar year.

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

Floor Debate  
January 12, 2011

---

PRESIDENT SHEEHY: The question is now on the adoption of the motion for permanent rules as read by the Clerk. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 41 ayes, 0 nays, Mr. President, on adoption of permanent rules.

PRESIDENT SHEEHY: The permanent rules are adopted. Mr. Clerk, do you have any items for the record?

CLERK: I have new bills, Mr. President. (Read LB287-337 by title for the first time. Legislative Journal pages 171-179.) [LB287 LB288 LB289 LB290 LB291 LB292 LB293 LB294 LB295 LB296 LB297 LB298 LB299 LB300 LB301 LB302 LB303 LB304 LB305 LB306 LB307 LB308 LB309 LB310 LB311 LB312 LB313 LB314 LB315 LB316 LB317 LB318 LB319 LB320 LB321 LB322 LB323 LB324 LB325 LB326 LB327 LB328 LB329 LB330 LB331 LB332 LB333 LB334 LB335 LB336 LB337]

PRESIDENT SHEEHY: Members, this is just to give your notice that the intent is to stay in session today until 11:00. So if you're wanting to get bills introduced today please get them up to the Clerk's desk. Mr. Clerk, do you have new bills for introduction or items for the record?

CLERK: I do, Mr. President, new bills first of all. (Read LB338-347 by title for the first time.) In addition, Mr. President, I have new resolutions. Senator Janssen would offer LR21. Pursuant to the introduction, the Speaker has directed that LR21 be referred to the Reference Committee. LR22 is by Senator Fulton, that will be laid over. Hearing notices from the Revenue Committee and the Natural Resources Committee and the Retirement Systems Committee and Judiciary, all signed by the respective chairs. Series of name adds: Senator Conrad would like to add her name to LB200; Senator Conrad to LB145; Senator Heidemann to LB230; Senator Pankonin to LB84; Senator Nordquist, LB123; Senator Karpisek, LB286. Reminder, Referencing meets upon adjournment. (Legislative Journal pages 179-185.) [LB338 LB339 LB340 LB341 LB342 LB343 LB344 LB345 LB346 LB347 LR21 LR22 LB200 LB145 LB230 LB84 LB123 LB286]

And, Mr. President, a priority motion. Senator Heidemann would move to adjourn the body until Thursday morning, January 13 at 9:30 a.m.

PRESIDENT SHEEHY: You have heard the motion to adjourn until Thursday, January 13, 9:30 a.m. All those in favor say aye; opposed, nay. We are adjourned.