

## RULE 6 - BILLS AND RESOLUTIONS

### 6.7 - 1. FORM OF AMENDMENTS

House Rule 6.7(c) states in part that “a motion to adopt a simple or concurrent resolution shall be subject to amendment and debate. A motion to amend shall be in order immediately.”

**History** - Representative Kiesel moved to amend HR 1025 by inserting the language of HR 1015, which motion was ruled out of order because the amendment was not presented in written form.

The Presiding Officer ruled that it is necessary to have an amendment before the Clerk prepared [in order] to amend a resolution.

*H. Jour.*, 1244, 50th Leg., 1st Reg. Sess. (2005); *Daily H. Sess. Digi. Rec.*, 50th Leg., 1st Reg. Sess. 2:00:22-2:01:56 (April 14, 2005).

**Ruling** - It shall be the decision of the Chair that Rule 6.7(c) shall be interpreted to mean that all proposed amendments to simple resolutions, noting the page and the line, shall be submitted to the Clerk on a separate piece of paper before being taken up for consideration by the House.

**Reasoning** - House Rule 8.6(b) states, “The body of a bill or joint resolution shall not be defaced or interlined, but all proposed amendments, noting the page and line, shall be submitted on a separate piece of paper to the House staff for preparation and shall be filed with the Office of the Chief Clerk.” While this rule is not binding authority because it pertains only to bills and joint resolutions on General Order, it should be viewed as strong persuasive authority. If it is desirable to require that amendments to bills and joint resolutions be presented in written form, it is logical and

reasonable to impose the same requirement on proposed amendments to simple resolutions.

Also, House Rule 10.3 lends support in that it allows the Presiding Officer to require proposed motions be submitted in writing. If it is reasonable for the Presiding Officer to require that motions be presented in written form, it is not unreasonable for the Presiding Officer to interpret Rule 6.7(c) to impose the same requirement on amendments proposed to simple resolutions. However, more important than the persuasive authority provided in Rules 8.6(b) and 10.3, the custom of the House is to require that amendments be submitted to the clerk in written form.

Under other parliamentary authorities, there clearly exists support for the requirement that amendments be submitted in writing. Specifically, in Rule XVI, *Motions and Amendments*, Paragraph 1, the United States House of Representatives requires that all motions be submitted in writing upon the demand of a Member, Delegate or Resident Commissioner.<sup>1</sup> The precedents of the U.S. House explicitly hold that amendments should be submitted in writing.<sup>2</sup> Furthermore, *Mason’s Manual of Legislative Procedure* states that amendments to bills and resolutions must be submitted in writing.<sup>3</sup>

In addition to such other persuasive authorities as may be marshaled both from within House Rules and without from other sources, a healthy dose of common sense must also be applied. Specifically, in order for Members to have some idea of what an amendment may contain, it is clearly necessary for the clerk to have a copy of the proposed amendment so that the Presiding

<sup>1</sup> U.S. House Rule XVI, Par. 1 (109<sup>th</sup> Cong.).

<sup>2</sup> 8 Cannon Sec. 2826; Deschler Ch 27 § 1.2

<sup>3</sup> MASON’S MANUAL OF LEGISLATIVE PROCEDURE 273 § 400(3) (National Conference of State Legislatures 2000).

Officer may direct that it be read prior to its consideration.

**6.8 - 1. BILL UNAVAILABLE FOR FURTHER CONSIDERATION AFTER FINAL ACTION OCCURS**

House Rule 6.8(a) states that “the following action shall constitute final action on any bill or resolution: committee recommendation of ‘Do Not Pass.’”

**History** - Representative Hamilton moved to suspend House Rules 7.11 and 7.13 to withdraw HB 1699 from the Business and Economic Development Committee and send it directly to the calendar.

The Presiding Officer ruled the motion out of order pursuant to House Rule 6.8 since HB 1699 was reported “Do Not Pass” from the Business and Economic Development Committee which constitutes final action.

*H. Jour.*, 1020, 50th Leg., 1st Reg. Sess. (2005).

**Ruling** - It shall be the decision of the Chair that House Rule 6.8 shall be interpreted to mean that “final action” on any bill or resolution arising from a committee recommendation of “Do Not Pass” shall result in that bill being unavailable for retrieval out of committee by any method including a suspension of House rules.

**Reasoning** - In the above ruling, the underlying question is what does “final action” under House Rule 6.8 truly mean. Based on the record, it seems the appealing party interpreted the language of Rule 6.8(a)(1) to mean that by suspending the rule, the bill in question could merely be withdrawn from committee and then proceed through the legislative process. Immediately, two difficult and serious questions present themselves; first the question of finality within the House rules

and second the question of orderliness within the legislative process.

When considering the issue of finality one must remember that while it is true that most requirements or directives within House rules may be suspended by the requisite two-thirds majority under House Rule 14.1(c), there are certain actions that cannot be undone and are not therefore susceptible to suspension. Rule 6.8 is an example of one such provision.

Once final action occurs, the bill in question no longer exists. It is dead, final means final.

Besides the question of finality within House rules, the present ruling also implicates a more general, yet longstanding principle of orderliness within the legislative process. When compiling his *Manual of Parliamentary Practice* Thomas Jefferson stated:

*it is more material that there should be a rule to go by, than what that rule is; that there may be an uniformity of proceeding in business, not subject to the caprice of the Speaker, or captiousness of the members...it is very material that order, decency and regularity be preserved in a dignified public body.<sup>4</sup>*

Clearly, order is the seminal principle to be observed in all things pertaining to the legislative process.

The idea of suspending the rules in order to resurrect a bill that met its end for reasons provided in Rule 6.8, not only violates the supreme principle of order, but in fact, would create disorder in the immediate case in a very practical way. Specifically, where would the newly revived bill appear within the legislative process? While the appearance of HB 1699 on the House

<sup>4</sup> THOMAS JEFFERSON, A MANUAL OF PARLIAMENTARY PRACTICE 2 § 1 (WASHINGTON CITY: S. H. SMITH, 1801).

calendar by suspension of Rule 6.8 seems innocuous enough, the unavoidable implication of such an action would be that any bill, even after receiving final action, could be resurrected anywhere within the legislative cycle. Such a result would create unnecessary chaos in an already complex legislative process.

While many requirements in the House rules may be suspended, it is paramount that certain constraints remain firmly in place so that order and predictability might prevail over chaos and confusion. The ruling of the Chair regarding the “final action” provision of Rule 6.8 achieves just that.

## RULE 7 - COMMITTEES

### 7.12 - 1. FISCAL IMPACT STATEMENTS

House Rule 7.12(a) states in part that “All bills and resolutions whose adoption will have a fiscal impact, including the affecting of revenues, expenditures or fiscal liability shall not be scheduled for floor consideration unless accompanied by a fiscal analysis.”

**History** - Representative Wright raised a point of order pursuant to House Rule 7.12 that a fiscal impact statement is required for consideration of HB 1230.

The Speaker Pro Tempore Susan Winchester ruled the point well taken and pursuant to House Rule 7.12, HB 1230 would be laid over until a fiscal impact statement was distributed.

*H. Jour.*, 425, 50th Leg., 1st Reg. Sess. (2005).

**Ruling** - It shall be the decision of the Chair that the phrase “accompanied by a fiscal analysis” contained in House Rule 7.12(a) shall be interpreted to mean that the fiscal analysis prepared for a particular bill or resolution must be distributed on the House floor before that bill or resolution may be heard.

### 7.16 - 1. LAYOVER REQUIREMENT FOR SENATE CONFERENCE COMMITTEE REPORTS

House Rule 7.16(c) states “Prior to consideration, a conference committee report shall lie over thirty-six (36) hours after it is filed. No conference committee report shall be considered for adoption or rejection if Members of the House have not been provided a printed or electronically transmitted copy of the report twenty-four (24) hours before the consideration of the report. The report must be accompanied by

a separate summary of the changes made to the bill or resolution sent to conference. This subsection shall not apply on the last two (2) days of any legislative session once the date of the sine die adjournment has been set.”

**History** - Representative Gilbert raised a point of order citing House Rule 7.16(c) that the CCR on SB 556 had not lain over for thirty-six (36) hours prior to consideration.

The Presiding Officer ruled the point not well taken and House Rule 7.16(c) applies to the filing of House Conference Committee Reports.

*H. Jour.*, 1687, 50th Leg., 1st Reg. Sess. (2005).

**Ruling** - It shall be the decision of the Chair that the timing requirements delineated in Rule 7.16(c) shall be interpreted as to not apply to conference committee reports associated with Senate bills.

**Reasoning** - When any House rule is considered only in the sterile and isolated context of the House rules themselves, there exists the danger that the rule may be interpreted too narrowly. It is therefore incumbent upon the Speaker when exercising his expansive authority to interpret House rules that he not do so on a whim but employ a broadly encompassing view not only of the letter of the rules, but upon the publicly announced policies of the Speaker, the customs and precedents of the House and parliamentary law.

While House Rule 7.16(c) does not explicitly state that the rule only applies to House conference committee reports, it does strongly imply such a holding. In the first sentence of Rule 7.16(c) it states, “prior to consideration, a conference committee report shall lie over thirty-six (36) hours after it is filed.” The operative term for the question at hand is the word “filed” as it is used in Rule 7.16(c). On the basis of the broad authority given under Rule 3.1 to the Chief Clerk to

oversee the legislative process in the House, along with due consideration of the customs of the House, this means filed in the Chief Clerk's office within the House of Representatives.

The logical progression is as follows: if the generally understood meaning of the term "filed" as expressed in Rule 7.16(c) means filed in the Chief Clerk's office, then it is impossible for Senate conference committee reports to fall under the time requirements of 7.16(c) because they are never "filed" in the Chief Clerk's office. They are only filed in the Senate by whatever method the Senate prescribes.

From a practical perspective, a conference committee report pertaining to a Senate bill may be filed, considered and accepted on the Senate side and not be transmitted to the House for several days. Furthermore, upon arrival in the House, there is no readily ascertainable event on which to base the timing requirements imposed by Rule 7.16(c). At what point would a Senate conference committee report be considered "filed"? Would it be when the message arrives from the Senate notifying the House of the conference committee report's transmission to the House? Might it be when the message of submission is distributed to other House clerks for processing and inclusion in the bill tracking system, or perhaps would it be when the Senate measure was distributed on the House floor? Which event could reasonably be considered "filing" for the purposes of timing under Rule 7.16(c)? Put succinctly, there is no practical method of pinpointing when a Senate conference committee report is "filed" for the purposes of observing and calculating the timing requirements imposed by Rule 7.16(c).

Therefore, on the basis of practical considerations and the custom of the House, the time constraints imposed by House Rule 7.16(c) cannot and do not apply to Senate conference committee reports.

## RULE 8 - ORDER OF BUSINESS AND LEGISLATIVE BUSINESS

### 8.8 - 1. ADOPTION OF FLOOR SUBSTITUTE PRECLUDES FURTHER AMENDMENT OF A BILL

**History** - Representative Toure raised a point of order stating that suspension of House Rule 8.7 allowed amendment from the floor when the measure had not been advanced from General Order to Third Reading and that a motion to reconsider is not required.

The Presiding Officer ruled the point not well taken and the motion to suspend House Rule 8.7 and the motion to reconsider adoption of the floor substitute, out of order.

*H. Jour.*, 721, 50th Leg., 2nd Reg. Sess. (2006).

**Ruling** - It shall be the decision of the Chair that adoption of a floor substitute, a comprehensive amendment, shall upon adoption, preclude further amending of the bill under consideration.

**Reasoning** - The House adopted a floor substitute amending House Bill 2842. Subsequent to the adoption of the floor substitute, a House member attempted to lodge a motion to suspend House rules to further amend House Bill 2842. This attempt resulted in guidance from the Chair that such an amendment was out of order but that a motion to reconsider passage of the floor substitute was in order and upon passage of such a motion, a suspension of House rules for further amendment would be in order at that time. The motion to reconsider passage of the floor substitute was made and failed rendering further attempts to amend House Bill 2842 out of order.

After the failed motion to reconsider, a second attempt to suspend House rules for the purpose of offering further amendments to House Bill 2842 followed and was again ruled out of order by the Chair. Subsequent to this second attempt, a point of order was raised appealing the ruling of the Chair on the questions of repetitive amendment of the same language in bill or amendment as well as the renewal of a motion to reconsider.

Generally, once language in a bill or main floor amendment has been amended, that same language may not undergo further amendment unless the body assents to a motion to reconsider effectively rescinding the vote by which the amendment was adopted. In other words, the vote by which the amendment was passed is effectively erased, thus allowing a Member to propose further amendments aimed at changing language previously amended in a bill or main floor amendment. In this situation, due to the fact that the amendment was a comprehensive floor substitute, the House effectively amended every aspect of House Bill 2842 rendering it not susceptible to further amendment except upon reconsideration of the adoption of the floor substitute. Once the motion to reconsider failed of adoption, further amendment of the floor substitute or effectively the bill, was not in order.

While House Rule 8.8(d) allows multiple amendments to a section of a bill, House rules do not specifically address the issue of amending the same language over and over. As a result, such a question fell to the Presiding Officer who, as required in Rule 14.2, determined that such a practice should not be permitted. Besides being proper under House rules, the Chair's ruling clearly is supported by general American parliamentary law. For example, *Mason's Manual* states, "an amendment, once

adopted, may not be further amended...”<sup>5</sup>  
Earlier parliamentary authorities such as *Cushing’s Legislative Assemblies*<sup>6</sup> and *Reed’s Parliamentary Rules*<sup>7</sup> also articulate this same principle.

In addition to being well grounded in general parliamentary procedure, such a ruling rests squarely on principles that provide the tangible underpinnings of an orderly legislative process. First, when presiding, the Presiding Officer is charged with “enforcing, applying and interpreting”<sup>8</sup> the rules of the House. Secondly, the Presiding Officer must “maintain order and decorum”<sup>9</sup> during the daily sessions. Finally, the Speaker must rule on parliamentary questions not provided for in the House rules.<sup>10</sup> If parliamentary law is to be given any credence and if order is the “seminal principle,”<sup>11</sup> then the Speaker was correct in ruling that once an amendment is adopted, it cannot undergo further amending unless revisited via a successful motion to reconsider.

---

<sup>5</sup> MASON’S MANUAL OF LEGISLATIVE PROCEDURE 272 § 398(1) (National Conference of State Legislatures 2000).

<sup>6</sup> CUSHING, LUTHER STEARNS, ELEMENTS OF THE LAW AND PRACTICE OF LEGISLATIVE ASSEMBLIES OF THE UNITED STATES OF AMERICA 518 § 1307 (Little, Brown and Co. 1856).

<sup>7</sup> REED, THOMAS B., A MANUAL OF GENERAL PARLIAMENTARY LAW 106, 107 § 147 (Rand, McNally & Co., 1898).

<sup>8</sup> *Okla. H. Rules*, § 9.1 (50<sup>th</sup> Leg.).

<sup>9</sup> *Okla. H. Rules*, § 9.2 (50<sup>th</sup> Leg.).

<sup>10</sup> *Okla. H. Rules*, § 14.2 (50<sup>th</sup> Leg.).

<sup>11</sup> *Prec. H. of Rep.*, §6.8(1.), 50<sup>th</sup> Leg., 1st Reg. Sess., (March 17, 2005)

## RULE 9 - CHAMBER PROTOCOL

### 9.2 - 1. MANNER BY WHICH BUSINESS IS CONDUCTED ON HOUSE FLOOR

House Rule 9.2(a) states in part that “While in the [House] Chamber, the Presiding Officer shall preserve order and decorum...”

**History** - Representative Toure objected to the decision of the Presiding Officer that motions had to be scheduled through the Floor Leader.

The Presiding Officer ruled that the Floor Leader is charged by the Speaker with setting the agenda for the business of the House for every legislative day. Any motion that puts new business before the House must go through the Floor Leader or it is out of order. The agenda for the floor and introducing new business is within the exclusive authority of the Floor Leader.

*H. Jour.*, 1176, 50th Leg., 1st Reg. Sess. (2005).

**Ruling** - It shall be the decision of the Chair that the phrase “the Presiding Officer shall preserve order and decorum” contained in House Rule 9.2(a) shall be interpreted to mean that all motions affecting order and business of the day must first be presented to the Majority Floor Leader before the member desiring to make the motion will be recognized by the Presiding Officer.

**Reasoning** - In general terms, every legislative body must have some expression of procedural rules in order that business pending before the body may receive proper contemplation and consideration. Without clearly defined rules, the will of the majority cannot be determined and

presented in a coherent manner,<sup>12</sup> the rights of the minority are not protected and the majority is not protected from obstructive tactics on the part of the minority.<sup>13</sup>

In Oklahoma, the power to regulate and order the deliberative process is left to the discretion of the respective houses of the legislature under Article V, Section 30 of the Oklahoma Constitution. Specifically, Article V, Section 30 permits each house to determine its own rules. On this basis the Oklahoma House of Representatives passed its own set of procedural rules on February 7, 2005.<sup>14</sup>

Before examining the relevant rules, it must be noted that while the Speaker may honor the House custom of delegating the scheduling of floor action to the Majority Floor Leader, the authority of the Speaker is not absolute. In this situation the Speaker’s specific decision to require that all motions affecting order and introduction of new business be scheduled through the Floor Leader is subject to House Rule 9.2(e) which provides a means of appeal of the Chair’s ruling.

For the purposes of this case, the question of order is addressed several ways under House Rules. House Rules 1.2(a), and 9.2(a) charge the Speaker or the Speaker’s designee in the Chair with the task of actively maintaining order and decorum. Additionally, House Rule 8.1(a), impliedly provides the general framework for the daily order of business. House Rules 10.1 and 10.2 govern the order of presentation of motions.

Under Rules 1.2(a) and 9.2(a), the Presiding Officer is tasked with preserving “order and decorum” in the House. When Rules 1.2(a)

<sup>12</sup> MASON’S MANUAL OF LEGISLATIVE PROCEDURE 9 § 1(1) (National Conference of State Legislatures 2000).

<sup>13</sup> MASON’S MANUAL OF LEGISLATIVE PROCEDURE 10 § 1(3) (National Conference of State Legislatures 2000).

<sup>14</sup> *H. Jour.*, 57, 50<sup>th</sup> Leg, 1<sup>st</sup> Reg. Sess. (2005).

and 9.2(a) are read in conjunction with Rule 9.1 which empowers the Speaker to interpret the House Rules in all deliberations, it becomes clear that it is entirely appropriate for the Speaker to interpret the mandate of 9.2(a) to mean that all motions affecting order and business of the day must go through the Majority Floor Leader.

The responsibility of the presiding officer to maintain order and decorum has existed throughout Oklahoma's existence, first as a territory and later as a state. Such authority can be found in House Rules of the First Session of the 1890 Territorial Legislature.<sup>15</sup> Specifically, Rule 2 of the House of Representatives, First Oklahoma Territorial Legislature, contains the following language, "He [the Speaker] shall preserve order and decorum, and speak to 'points of order' in preference to other members...he shall decide questions of order subject to an appeal to the House..."<sup>16</sup> This authority continued in House Rules throughout the remainder of Oklahoma's territorial years, continued after statehood and has remained until the present time.

The authority of the Speaker to maintain order is not unique to Oklahoma, but is well established in the principles of general parliamentary procedure. The parliamentary authority, Luther S. Cushing, in his venerable work *Elements of the Law and Practice of Legislative Assemblies of the United States of America* includes among the duties of the presiding officer such provisions as, "To enforce the observance of order and decorum among members, to inform the assembly...in a point of order or practice, to decide in first instance, and subject to the revision of the house, all questions of order, that may arise,

<sup>15</sup> Okla. Terr. H. *House Rules*, 1<sup>st</sup> Leg. 2 (1890).

<sup>16</sup> *Id.*

or be submitted for his decision."<sup>17</sup> More recently, *Mason's Manual of Legislative Procedure* states that the presiding officer shall, "...preserve order and decorum," and shall "...guide and direct the proceedings of the body..."<sup>18</sup> All told, general parliamentary authorities, the historical rules of the Oklahoma House of Representatives and current House Rules indicate that the Speaker can and should take the initiative to preserve order in the House by any reasonable means.

Rule 10.1 establishes which motions receive precedence and can be offered even if unrelated to the business under consideration. Rule 10.2 provides that motions incidental to the business under consideration may be permitted at the time of consideration of that business. Again, even though it is a fundamental right both under House Rules and general parliamentary law for a member to present any proper proposal for consideration by the body, appropriate timing must be observed.<sup>19</sup>

Finally, in this case where the ruling of the Chair was sustained by the body of the House, the Speaker's decision that all motions affecting order and business of the day must go through the Majority Floor Leader became ratified as the will of the House.

## 9.6 - 1. VOTING AND DIVISION

House Rule 9.6(a) states in part that "every Member shall vote providing the Member is in the Chamber at the time the vote is in progress."

<sup>17</sup> CUSHING, LUTHER STEARNS, *ELEMENTS OF THE LAW AND PRACTICE OF LEGISLATIVE ASSEMBLIES OF THE UNITED STATES OF AMERICA* 113 § 291 (Little, Brown and Co. 1856).

<sup>18</sup> MASON'S MANUAL OF LEGISLATIVE PROCEDURE 416 § 575 (e), (k) (National Conference of State Legislatures 2000).

<sup>19</sup> MASON'S MANUAL OF LEGISLATIVE PROCEDURE 118 § 155 (1) (National Conference of State Legislatures 2000).

**History** - Representative Askins raised a point of order that House Rule 9.6(a) does not contain enforcement authority against Members who were in the Chamber but not voting.

The Presiding Officer ruled that a Member may raise a point of order pursuant to House Rule 9.6(a) against a Member, by name, who was in the Chamber but not voting which motion may be subject to a vote of the body.

*H. Jour.*, 1599, 1600, 50th Leg., 2nd Reg. Sess. (2006).

**Ruling** - It shall be the decision of the Chair that a Member may raise a point of order naming specific Member(s) who were present in the House chamber upon the closing of a vote, but did not cast their vote. In addition, it is in order for the House to consider a motion offered by a Member requesting that such information be included in the House Journal. Finally, in contrast, the Chair will not hear a motion that does not name offending Members by name due to the fact that such a “blanket” motion might implicate Members who could have been excused for the day or might be outside the House chamber conducting other business.

**Reasoning** - The historical roots of Rule 9.6(a) invite some examination before the parliamentary reasons for the present ruling are discussed. Throughout most of Oklahoma’s history, the rules of the House contained a provision requiring Members present to vote, and included a punitive provision for Members who were present in the Chamber but did not vote. Beginning in the 1931 House rules, a Member who refused to vote was recorded as voting “no.”<sup>20</sup> Specifically, § 59 of the 1931 House Rules states, in part, the following:

<sup>20</sup> *Journal of the House of Representatives*, 13th Leg., 1<sup>st</sup> Reg. Sess., Jan. 29, 1931, p. 453; *Okla. H. Rules*, § 59 (13<sup>th</sup> Leg.).

*Every member shall vote when his name is called...when a member refuses to vote, he shall be recorded as voting “No.”*

From the Thirteenth Oklahoma Legislature in 1931 through the beginning of the Forty-Seventh Oklahoma Legislature in 1999, each successive set of House rules contained language requiring that Members present in the Chamber should vote and upon failing to do would be recorded as voting “no.” Near the end of the first regular session of the Forty-Seventh Legislature, the House passed House Resolution 1007 which upon adoption, included an amendment removing the punitive requirement that a Member present in the House chamber but not voting would be recorded as voting “no.”<sup>21</sup> What remained was a provision identical to the present House Rule 9.6(a) holding that:

*Every Member shall vote providing the Member is in the Chamber at the time the vote is in progress.*<sup>22</sup>

While it is correct that House rules since April 29, 1999, have not included the punitive requirement that Members present but not voting should automatically be recorded as voting “no,” there is nothing under the current House rules or general parliamentary law to prevent a Member from raising a point of order for the purpose of pointing out those Members who, being present, did not vote in violation of Rule 9.6(a). Furthermore, a duly recognized Member, after the fact, could properly offer a motion requesting that the House Journal name the offending House Members.

Although the current House rules are silent on the question of a motion requesting inclusion of names in the Journal, such a motion is similar to other motions permitted

<sup>21</sup> *Journal of the House of Representatives*, 47th Leg., 1st Reg. Sess., April 29, 1999, p. 1380; 1999 Okla. Sess. Laws 2242.

<sup>22</sup> *Journal of the House of Representatives*, 47th Leg., 1st Reg. Sess., April 29, 1999, p. 1406; *Okla. H. Rules*, § 14(1)(a) (47<sup>th</sup> Leg.).

by the Oklahoma House of Representatives. Additionally, under general parliamentary principles, a motion not specifically named by House rules could still pass muster as a proper motion. By definition, a motion is merely a formal statement of a proposal submitted to a legislative body that certain actions be taken or a determination made.<sup>23</sup> There are literally hundreds of motions not listed in the House rules that, short of violating other provisions of the House rules, Oklahoma Statutes, the Oklahoma Constitution, federal law or the federal Constitution, would be appropriate for the House to consider.

On a more practical note, a motion to include in the House Journal the names of Members present in the Chamber but not voting upon the close of the vote is a motion subject to motions of higher rank and, as such, would be subject to debate. Importantly, it should be noted that it would not be appropriate for a Member to attempt to specifically name other Members not yet having voted before the close of the vote. The question of how to vote on a matter frequently results in a Member sitting at his or her desk contemplating how to proceed until the moment right before the vote is closed. While there is no apparent harm in requesting that the Presiding Officer generally remind Members of their duty to cast a vote, it could be a serious disruption to point out a specific Member who might be quietly deliberating on how he or she should vote immediately before the close of the vote. In conclusion, a motion to list Members by name in the House Journal on the basis of their failure to vote when present should be entertained only immediately after the close of the vote and before the House takes up another order of business.

---

<sup>23</sup> MASON'S MANUAL OF LEGISLATIVE PROCEDURE 111 § 144(1) (National Conference of State Legislatures 2000); STURGIS STANDARD CODE OF PARLIAMENTARY PROCEDURE, 2nd Ed., 11 Chap. 3 (McGraw-Hill 1966).

