

PRECEDENTS

OF THE

Oklahoma House of Representatives

HOUSE PRECEDENTS OF THE FIRST SESSION, FIFTY-SECOND
OKLAHOMA LEGISLATURE

CONTENTS

Rule 6 Bills and Resolutions

§ 6.1 DEFINITION OF THE TERM "BILL"

Precedent 6.1 - 1. (2009) FORM OF TITLE DURING STAGES OF LEGISLATION

§ 6.8 FINAL ACTION

Precedent 6.8 - 3. (2009) BILL RECEIVING FINAL ACTION MAY NOT BE OFFERED AS INSTRUCTIONS TO CONFERENCE COMMITTEE

Rule 7 Committees

§ 7.11 BILL SUMMARY

Precedent 7.11 - 4. (2009) NO REQUIREMENT FOR BILL SUMMARY FOR APPROPRIATION MEASURES

Precedent 7.11 - 5. (2009) SUMMARY FOR ADOPTED FLOOR SUBSTITUTE BECOMES BILL SUMMARY FOR BILL

§ 7.15 CONFERENCE COMMITTEE REPORTS

Precedent 7.15 - 2. (2009) GERMANENESS OF CONFERENCE COMMITTEE REPORT NOT OPEN TO QUESTION ONCE DEBATE IN PROGRESS

Rule 8 Order of Business and Legislative Process

§ 8.5 READING AND EXPLANATION

Precedent 8.5 - 1. (2009) REFERENCING DISCUSSION IN COMMITTEE DURING FLOOR CONSIDERATION

CONTENTS (Continued)

Rule 8 Order of Business and Legislative Process (Cont'd)

§ 8.6 AMENDMENTS

Precedent 8.6 - 5. (2009) AMENDMENTS OFFERED TO UNTIMELY FILED
MAIN FLOOR AMENDMENTS

Precedent 8.6 - 5.A. (2009) ADDITIONAL UNTIMELY MAIN FLOOR
AMENDMENTS OFFERED AFTER FIRST
RULE SUSPENSION

Precedent 8.6 - 6. (2009) VERBALIZATION OF MOTION TO STRIKE TITLE BY
APPROPRIATIONS CHAIR

§ 8.10 AMENDMENT SUMMARY

Precedent 8.10 - 2. (2009) DETERMINATION OF NEED FOR FISCAL
SUMMARY TO ACCOMPANY FLOOR AMENDMENT

§ 8.11 GERMANENESS OF HOUSE OR SENATE AMENDMENTS

Precedent 8.11 - 5. (2009) CONTROLLING FACTOR OF GERMANENESS IS
SUBJECT MATTER

Precedent 8.11 - 6. (2009) METHOD OF DETERMINING GERMANENESS OF
FLOOR AMENDMENTS

§ 8.12 AMENDMENTS OUT OF ORDER

Precedent 8.12 - 2. (2009) Floor AMENDMENTS MIRRORING HOUSE BILLS
IN POSSESSION OF SENATE

Precedent 8.12 - 3. (2009) HOUSE RULE 8.12 NOT APPLICABLE TO
CONFERENCE COMMITTEE SUBSTITUTES

§ 8.14 MOTION TO COMMIT

Precedent 8.14 - 1. (2009) MOTION TO COMMIT AFTER THIRD READING
DEADLINE

CONTENTS (Continued)

Rule 8 Order of Business and Legislative Process (Cont'd)

§ 8.16 CONSIDERATION AND DEBATE

Precedent 8.16 - 1.A. (2009) DEBATE IN OPPOSITION PERMITTED
EVEN IF DEBATE IN FAVOR NOT
REQUESTED

§ 8.18 CONSIDERATION OF EMERGENCY SECTION

Precedent 8.18 - 1. (2009) REQUEST FOR DEBATE IN OPPOSITION TO
EMERGENCY CLAUSE MUST GIVE RISE TO
ACTUAL DEBATE

Rule 9 Chamber Protocol

§ 9.2 QUESTIONS OF ORDER AND DECORUM

Precedent 9.2 - 4. (2009) IMPUGNING OTHER MEMBERS DURING DEBATE

Precedent 9.2 - 5. (2009) INTERRUPTION OF DEBATE NOT PERMITTED FOR
MOTION TO 'LAY THE BILL OVER'

Precedent 9.2 - 6. (2009) POINT OF ORDER PERTAINING TO AN
AMENDMENT MUST BE RAISED BEFORE
AMENDMENT IS ADOPTED

Precedent 9.2 - 7. (2009) CUSTOMARY DUTIES OF MAJORITY FLOOR
LEADER

Precedent 9.2 - 8. (2009) REGULATION OF QUESTIONS AND ANSWERS

Precedent 9.2 - 9. (2009) PRESIDING OFFICER MAY DEFER RULING ON
POINT OF ORDER

§ 9.4 DEBATE

Precedent 9.4 - 1. (2009) DEBATE MAY BE EXTENDED BUT NOT LIMITED

CONTENTS (Continued)

Rule 9 Chamber Protocol (Cont'd)

§ 9.7 CONDUCT DURING VOTING

Precedent 9.7 - 1. (2009) POINT OF ORDER MUST PERTAIN TO VOTE ITSELF
ONCE VOTE IS OPEN

Precedent 9.7 - 2. (2009) MOTION TO TABLE NOT IN ORDER ONCE VOTE IS
ORDERED

§ 9.8 PREVIOUS QUESTION

Precedent 9.8 - 1. (2009) PREVIOUS QUESTION APPLICABLE ONLY TO
IMMEDIATELY PENDING QUESTION

§ 9.10 RECONSIDERATION

Precedent 9.10 - 3. (2009) NOTICE TO RECONSIDER MEASURE ITSELF
MAY NOT BE LODGED ONCE EMERGENCY IS
UNDER CONSIDERATION

Precedent 9.10 - 4. (2009) USE AND DISTINCTION OF MOTION TO
RESCIND

Rule 10 Motions

§ 10.1 PRECEDENCE OF MOTIONS

Precedent 10.1 - 2. (2009) PRECEDENCE OF MAIN MOTIONS PERTAINING
TO DISPOSITION OF CONFERENCE COMMITTEE
REPORTS

§ 10.5 WITHDRAWAL OF MOTIONS

Precedent 10.5 - 1. (2009) WITHDRAWAL OF MEASURE BY AUTHOR

CONTENTS (Continued)

Rule 14 Rules

§ 14.2 PARLIAMENTARY AUTHORITIES

Precedent 14.2 - 1.A. (2009) CONSTITUTIONALITY OF MEASURE'S TITLE

Precedent 14.2 - 2. (2009) AUTHORITY TO PUBLISH RULINGS OF THE
CHAIR

General Precedents

GENERAL PRECEDENT - 1. (2009) ADOPTION OF HOUSE RULES

6.1 - 1. (2009) FORM OF TITLE DURING STAGES OF LEGISLATION

Rule – House Rule 6.1 states in part:

The term “bill”, as used in these Rules, shall mean proposed legislation which in order to become law must pass through the Legislature according to the procedures established by the Oklahoma Constitution...

History – While House Bill 1958 was under consideration, Speaker Bengel moved to amend House Bill 1958 by adopting a floor substitute in lieu of the bill. Representative Morrissette raised a point of order as to whether it was in order to consider the floor substitute because if adopted, the bill as amended would not meet the definition of a bill as established in House Rule 6.1. Specifically, if adopted, the floor substitute would not have a complete title rendering it constitutionally defective and out of order for the House to consider.

The presiding officer ruled the point not well taken and stated that the floor substitute did conform to the definition of a bill as provided in House Rule 6.1 and that it would be appropriate for the House to consider whether to adopt the amendment.¹

Ruling – It is the ruling of the Chair that a substitute amendment lacking a complete title does not violate House Rule 6.1 and may be considered by the House.

Reasoning – In defining the term “bill” in House Rule 6.1, the rule alludes to the fact that there are constitutional procedures that must be followed in order for proposed legislation to become law. Implied in the phrase “procedures established by the Oklahoma Constitution” is the idea that to

¹ *Okla. H. Jour.*, 721, 722, 52nd Leg., 1st Reg. Sess. (March 3, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:29, 1:12-7:41 (March 3, 2009).

be constitutionally sound a bill must have a full title.²

Article V, Section 57 says in relevant part:

Every act of the Legislature shall embrace but one subject, which shall clearly be expressed in its title...

When Section 57 uses the term “act”, it is speaking of proposed legislation that has proceeded through the required stages of legislation and upon the Governor’s approval, would become law.

As long as proposed legislation passed by the Legislature meets the requirement that “every act shall embrace...one subject...clearly...expressed in its title”, there is no Constitutional mandate that a proposed measure have a specific form of title or any title at all as it passes through the legislative process. The measure must only possess a full title when the measure has completely passed through the required stages of legislation and arrives at the Governor’s desk for consideration.³

On the question of what form the title must have as a measure passes through the stages of legislation, the applicable constitutional provision is Article V, Section 30. Section 30 says in relevant part, “Each House may determine the rules of its proceedings...” Although other adopted House rules do address the question of what form a title must have as a measure undergoes consideration in the House of Representatives,⁴ House Rule 6.1 expresses no requirements as to the form a measure’s title must possess as it passes through the stages of legislation, meaning that no violation of the rule occurred when the

² OK CONST Art. V § 57.

³ *Id.*; OK CONST Art. VI § 11.

⁴ For requirements at time of “introduction” see *Okla. H. Rules*, § 6.4 (52nd Leg.); when reported from House committees see *Okla. H. Rules*, § 7.5 (52nd Leg.); for amendments of title during General Order see *Okla. H. Rules*, § 8.6 (52nd Leg.).

House took up consideration of a substitute amendment thought to be lacking a full title.

Finally, it is not appropriate for the presiding officer neither to make a determination regarding the constitutionality of a proposed amendment nor to determine the constitutional sufficiency of the amendment's title.⁵

6.8 - 3. (2009) BILL RECEIVING FINAL ACTION MAY NOT BE OFFERED AS INSTRUCTIONS TO CONFERENCE COMMITTEE

Rule – House Rule 6.8, paragraph (a), subparagraph (1.) and paragraph (b) state:

The following action shall constitute final action on any bill or resolution:

1. committee recommendation of "Do Not Pass",

(b) If final action is such as to defeat a bill or resolution, no other bill or resolution having the same effect and covering the same specific subject matter shall be considered by the House during either session of the current Legislature.

History – During consideration of the Conference Committee Report on Senate Bill 135, Representative Brown moved to reject the conference committee report with the following instructions:

1. Replace the existing content of the entire measure with the content of the introduced version of HB 1312 of the First Session of the Fifty-second Oklahoma Legislature;

2. Amend the dollar figure in subsection G of Section 1 of HB 1312 from Fifty

⁵ MASON'S MANUAL OF LEGISLATIVE PROCEDURE 518, 519 § 729(3), (4) (National Conference of State Legislatures 2000).

Thousand Dollars (\$50,000.00) to Thirty-six Thousand Dollars (\$36,000.00).

Representative Sullivan raised a point of order stating that House Bill 1312 had been reported out of the Economic Development and Financial Services Committee with a "Do Not Pass" report and as such, Representative Brown's motion to reject the conference committee report on Senate Bill 135 with attached instructions was out of order. The presiding officer ruled the point of order well taken and the motion to reject with attached instructions out of order pursuant to House Rule 6.8, paragraph (b).⁶

Ruling – It is the ruling of the Chair that a bill that previously received final action may not be offered as attached instructions to a conference committee.

7.11 - 4. (2009) NO REQUIREMENT FOR BILL SUMMARY FOR APPROPRIATION MEASURES

Rule – House Rule 7.11, paragraph (a) states in part:

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 bill summary which shall include a fiscal analysis...

History – During consideration of the Conference Committee Report on Senate Bill 81, Representative Reynolds raised a point of inquiry as to whether consideration of the conference committee report should be postponed since no accompanying fiscal analysis had been published on the House Floor Calendar.

⁶ Okla. H. Jour., 1542, 1543, 52nd Leg., 1st Reg. Sess. (April 27, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:14, 3:13-9:42 (April 27, 2009).

The presiding officer stated that it has been the practice of the House not to require a published fiscal analysis for appropriation measures since the fiscal impact of the measure is plain on its face.⁷

Ruling – It is the ruling of the Chair that appropriation measures are not required to be accompanied by a published fiscal analysis because the fiscal impact of the measure is plain on its face.

7.11 - 5. (2009) SUMMARY FOR ADOPTED FLOOR SUBSTITUTE BECOMES BILL SUMMARY FOR BILL

Rule – House Rule 7.11, paragraph (a) says in relevant part:

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 bill summary which shall include a fiscal analysis...

History – During consideration of House Bill 1330, Representative Ritze moved to amend the measure by adopting a floor substitute in lieu of the bill itself. Representative Peters moved to advance the question which motion was adopted upon a roll call vote. Representative Ritze moved adoption of the floor substitute which was adopted upon a division of the question. Representative Peters then moved to advance the bill. Representative Brown raised a point of order as to whether a fiscal summary was available for the bill as amended by the floor substitute.

The presiding officer ruled the point not well taken and stated that a fiscal summary for the floor substitute was available on the

⁷ *Okla. H. Jour.*, 1793, 52nd Leg., 1st Reg. Sess. (May 20, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:10, 1:23-3:19 (May 20, 2009).

Floor Calendar and that upon adoption of the floor substitute, the fiscal summary prepared for the floor substitute became the fiscal summary for the bill itself.⁸

Ruling – It is the ruling of the Chair that upon adoption of a floor substitute, the fiscal summary prepared for the floor substitute becomes the fiscal summary for the bill itself.

7.15 - 2. (2009) GERMANENESS OF CONFERENCE COMMITTEE REPORT NOT OPEN TO QUESTION ONCE DEBATE IN PROGRESS

Rule – House Rule 7.15, paragraph (b) states in relevant part:

...A motion to adopt or reject a conference committee report shall be subject to debate. Such debate shall be limited to one (1) hour, equally divided between the proponents and the opponents of the motion...

History – During consideration of the 2nd Conference Committee Report on Senate Bill 1170 while in debate on the question of adoption of the conference committee report, Representative Sullivan raised a point of order as to whether Sections two (2) and three (3) of the conference committee report were limited to matters germane to Senate Bill 1170.

The presiding officer stated that because debate had already commenced, it was the opinion of the Chair that it would be disorderly to entertain a question of germaneness and as such, the point was not well taken.⁹

⁸ *Okla. H. Jour.*, 951, 952, 52nd Leg., 1st Reg. Sess. (March 11, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:56, 24:03-25:47 (March 11, 2009).

⁹ *Okla. H. Jour.*, 1928, 52nd Leg., 1st Reg. Sess. (May 22, 2009); *Daily H. Sess. Dig. Rec.*, 52nd

Ruling – It is the ruling of the Chair that once debate on adoption or rejection of a conference committee report is in progress, no point of order shall be recognized questioning the germaneness of the report.

8.5 - 1. (2009) REFERENCING DISCUSSION IN COMMITTEE DURING FLOOR CONSIDERATION

Rule – House Rule 8.5, paragraph (b) states:

The Member presenting a bill or joint resolution shall be allowed a reasonable length of time in which to explain same, but said explanations shall not include a discussion of the merits of the proposition.

History – During consideration on General Order of House Joint Resolution 1047, the presiding officer entertained the customarily allowed questions pertaining to House Joint Resolution 1047. Representative Reynolds raised a point of order as to whether it was in order to discuss what had previously occurred during consideration of the measure in committee.

The presiding officer ruled the point not well taken and the questions in order.¹⁰

Ruling – It is the ruling of the Chair that discussions which occurred in committee may properly be referenced during discussion of the measure on General Order.

8.6 - 5. (2009) AMENDMENTS OFFERED TO UNTIMELY FILED MAIN FLOOR AMENDMENTS

Leg., 1st Reg. Sess. Track 10:41, 17:57-19:33 (May 22, 2009).

¹⁰ *Okla. H. Jour.*, 1529, 52nd Leg., 1st Reg. Sess. (April 23, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:30, 1:32-2:26 (April 23, 2009).

Rule – House Rule 8.6, paragraphs (a) through (c) state the following:

(a) All House and Senate bills and joint resolutions when initially published on the Floor Calendar shall be subject to amendment beginning at the time of such publishing.

(b) A main floor amendment must be filed no later than twenty-four (24) hours after a bill or joint resolution is initially published on the Floor Calendar.

(c) An amendment to a main floor amendment must be filed no later than forty-eight (48) hours after a bill or joint resolution is initially published on the Floor Calendar.

History – While considering House Bill 1084, Representative Thomsen moved to suspend House Rule 8.6 for purposes of allowing consideration of an untimely filed amendment. The motion to suspend was adopted upon a roll call vote.

Upon suspension of House Rule 8.6, Representative Brown presented a proposed untimely main amendment to House Bill 1084. Prior to adoption of Representative Brown's main floor amendment, Representative John Wright moved to amend Representative Brown's main floor amendment with another amendment.

Representative Reynolds requested the presiding officer rule on the question of whether Representative Wright's proposed amendment to the untimely main floor amendment was in order without a second motion to suspend House Rules.

The presiding officer ruled that due to the first suspension of House Rules for consideration of the untimely main floor amendment offered by Representative Brown, it was not necessary to suspend the Rules a second time to consider an amendment proposed to an untimely main

floor amendment under consideration by the House of Representatives.¹¹

Ruling – It shall be the decision of the Chair that upon suspension of House Rules for purposes of considering an untimely filed main floor amendment, an amendment to the main floor amendment then under consideration may be offered without a second vote to suspend House Rules.

Reasoning – Notice, transparency and full consideration are essential to the amendment process; however, the immediate needs of the House as expressed in a successful motion to suspend House Rules to consider an untimely filed amendment may temporarily supersede such considerations. It is up to the House to decide what amendments deserve immediate consideration outside the parameters of House Rule 8.6.

As such, if the House is willing to suspend the Rules to consider an untimely main floor amendment, it is reasonable that the House would consider other amendments offered to that same untimely main floor amendment without having to suspend the Rules a second time.

8.6 - 5.A. (2009) ADDITIONAL UNTIMELY MAIN FLOOR AMENDMENTS OFFERED AFTER FIRST RULE SUSPENSION

Rule – House Rule 8.6, paragraphs (a) through (c) state the following:

(a) All House and Senate bills and joint resolutions when initially published on the Floor Calendar shall be subject to

¹¹ *Okla. H. Jour.*, 558, 52nd Leg., 1st Reg. Sess. (Feb. 18, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:22, 4:19-5:03 (Feb. 18, 2009).

amendment beginning at the time of such publishing.

(b) A main floor amendment must be filed no later than twenty-four (24) hours after a bill or joint resolution is initially published on the Floor Calendar.

(c) An amendment to a main floor amendment must be filed no later than forty-eight (48) hours after a bill or joint resolution is initially published on the Floor Calendar.

History – During consideration of House Bill 1604, Representative Sullivan moved to suspend House Rule 8.6 for purposes of considering an untimely amendment to Representative Ownbey’s timely filed main floor amendment. The House adopted the motion to suspend upon a roll call vote. Representative Ownbey then offered his untimely amendment to the main amendment. The House adopted the untimely amendment and then adopted the main floor amendment as amended.

Subsequently, Representative Reynolds raised a point of inquiry as to whether, under the motion to suspend House Rules, it would be in order to offer untimely main floor amendments not contemplated by the original motion to suspend House Rules for the purpose of considering the first untimely main floor amendment.

The presiding officer ruled that although a previous ruling permitted consideration of an untimely amendment offered to an untimely main floor amendment then under consideration by the House, it would not be in order to consider additional untimely main floor amendments without voting a second time to suspend House Rules for that purpose.

Representative Reynolds moved to suspend House Rule 8.6 for the purpose of allowing consideration of an untimely main floor

amendment, which failed of adoption upon a roll call vote.¹²

Ruling – It shall be the decision of the Chair that upon suspension of House Rules for purposes of considering an untimely filed main floor amendment, additional main floor amendments may not be offered without a second vote to suspend House Rules.

Reasoning – Under a ruling earlier this session, it is permissible to spontaneously offer untimely amendments to an untimely main floor amendment then under consideration without an additional motion to suspend House Rules. This means that once the Rules are suspended to allow the untimely main floor amendment, a member may merely lay an amendment to the main amendment on the table without abiding by the amendment process laid out in House Rule 8.6.¹³

In order to preserve the main components of the amendment cycle, namely notice, transparency and full consideration,¹⁴ one successful motion to suspend House Rules for purposes of offering one untimely filed main floor amendment should not be viewed as carte blanche to offer additional untimely main floor amendments on the same bill.

Consideration of other untimely main floor amendments should only arise as a result of individual motions to suspend the Rules for consideration of each individual untimely main floor amendment or if a member desires to offer multiple untimely main floor amendments, a motion to suspend the Rules for consideration of more than one untimely main floor amendment.

¹² *Okla. H. Jour.*, 783-785, 52nd Leg., 1st Reg. Sess. (March 4, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:30, 3:29-4:20 (March 4, 2009).

¹³ *Prec. Okla. H. of Rep.*, § 8.6(5.), 52nd Leg., 1st Reg. Sess. (Feb. 18, 2009).

¹⁴ *Id.*

Notice, transparency and full consideration¹⁵ are so fundamental to the amendment process in the House of Representatives that untimely main amendments should face the threshold requirement of a successful two-thirds (2/3) majority vote prior to consideration.

While the body has complete discretion to choose what ideas are so meritorious as to deserve immediate consideration outside the requirements of House Rule 8.6, the method for allowing such consideration should not automatically throw open the door to other untimely and potentially less meritorious proposals merely because the House voted to suspend the Rules in one instance.

8.6 - 6. (2009) VERBALIZATION OF MOTION TO STRIKE TITLE BY APPROPRIATIONS CHAIR

Rule – House Rule 8.6, paragraph (g) states in part:

The Chairperson of the Appropriations and Budget Committee ...shall be permitted to offer amendments to strike the Title... of measures affecting revenue or appropriations. Amendments offered under this subsection shall not be subject to the time constraints...

History – While House Bill 2027 was under consideration, the author, Representative Steele, moved to amend House Bill 2027 by adopting a floor substitute in lieu of the bill itself. The floor substitute was adopted by the House.

Representative Dorman raised a point of inquiry as to whether the chairperson of the Appropriations and Budget Committee is required to verbalize the motion to strike the title. The presiding officer ruled that it has been the practice of the House that when offered by the chairperson, an

¹⁵ *Id.*

amendment to strike the title is generally made by unanimous consent and put by the presiding officer without recognizing the chairperson offering the amendment.¹⁶

Ruling – It shall be the ruling of the Chair that in keeping with the practice of the House, the presiding officer may seek unanimous consent to strike the title on behalf of the Appropriations and Budget chairperson for measures affecting revenue or appropriations.

8.10 - 2. (2009) DETERMINATION OF NEED FOR FISCAL SUMMARY TO ACCOMPANY FLOOR AMENDMENT

Rule – House Rule 8.10, paragraph (a) states in part:

All proposed amendments to bills or joint resolutions whose adoption will have a fiscal impact, including the affecting of revenues, expenditures or fiscal liability, shall be accompanied by a written summary which shall contain a fiscal analysis upon being filed with the Chief Clerk's Office...

History – During consideration of House Bill 1928, Representative Terrill raised a point of order as to whether a fiscal summary had been published for a floor amendment offered by Representative Reynolds. The point of order was raised on the basis of House Rule 8.10.

The presiding officer determined that a fiscal summary had not been published and questioned Representative Reynolds as to whether adoption of the amendment would have a fiscal impact. Representative Reynolds stated that no fiscal summary was prepared by the fiscal division; therefore,

he did not feel that the amendment would have a fiscal impact.

The presiding officer noted that an individual member must request preparation of a fiscal summary and that a summary is not automatically prepared by the fiscal division.

Representative Blackwell then offered a motion to table the Reynolds amendment. Prior to consideration of the motion to table, Representative Terrill pressed his point of order and informed the presiding officer that he believed the amendment, if adopted, would have a fiscal impact.

The presiding officer undertook consideration of the point of order prior to presentation of the motion to table and ruled the point well taken. The presiding officer referred the question of whether the Reynolds amendment would have a fiscal impact to the chairperson of the House Appropriations and Budget Committee.

Upon recognition, the chairperson concurred that the Reynolds amendment would have a fiscal impact. The presiding officer then ruled the Reynolds amendment out of order on the basis of the opinion offered by the chairperson of the House Appropriations and Budget Committee.

Upon presentation of a second amendment offered by Representative Reynolds, Representative Terrill raised a second point of order questioning whether, under House Rule 8.10, the second Reynolds amendment should be accompanied by a fiscal summary.

As done previously, the presiding officer referred the question to the chairperson of the House Appropriations and Budget Committee. The Appropriations and Budget Chairperson stated that he concurred with the opinion of the chairperson of the House Appropriations and Budget Subcommittee on Public Safety and Judiciary who, as the relevant

¹⁶ *Okla. H. Jour.*, 502, 503, 52nd Leg., 1st Reg. Sess. (Feb. 12, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:07, 3:31-4:56 (Feb. 12, 2009).

subcommittee chairperson, believed the Reynolds amendment would have a fiscal impact.

As such, the presiding officer ruled the second Reynolds amendment out of order on the basis of the opinion of the chairperson of the House Appropriations and Budget Committee.¹⁷

Precedent – It shall be the decision of the Chair that questions arising under House Rule 8.10(a) pertaining to necessity of an accompanying fiscal summary for floor amendments shall be determined on the basis of the informed opinion of the chairperson of the House Appropriations and Budget Committee.

8.11 - 5. (2009) CONTROLLING FACTOR OF GERMANENESS IS SUBJECT MATTER

Rule – Section 8.11, paragraph (a) of the House Rules states in relevant part:

The House shall not consider any proposed amendment not germane to the subject of the original bill or resolution...

History – While House Bill 1508 was under consideration, Representative Blackwell moved to amend House Bill 1508 by adopting a floor substitute in lieu of the bill. Representative Thomsen then requested a ruling of the Chair as to whether the subject of the floor substitute was germane to the subject of House Bill 1508.

The presiding officer ruled the floor substitute not germane to the subject of

¹⁷ *Okla. H. Jour.*, 575, 577, 52nd Leg., 1st Reg. Sess. (Feb. 19, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:13, 1:25-16:54 (Feb. 19, 2009); affirmed at *Okla. H. Jour.*, 902, 903, 52nd Leg., 1st Reg. Sess. (March 10, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:66, 3:39-5:37 (March 10, 2009).

House Bill 1508. Representative Reynolds raised a point of inquiry as to what constitutes germaneness stating that the amendment ruled out of order included language contained in the same title of law as the bill itself.

The presiding officer ruled that subject matter is the determining factor of germaneness and not location in the same title of law. Representative Inman appealed the ruling of the Chair which was upheld upon roll call vote.¹⁸

Rule – It is the ruling of the Chair that subject matter and not location in the same title of law is the determining factor when deciding whether an amendment is germane to a bill.

8.11 - 6. (2009) METHOD OF DETERMINING GERMANENESS OF FLOOR AMENDMENTS

Rule – House Rule 8.11, paragraph (a) states:

The House shall not consider any proposed amendment not germane to the subject of the original bill or resolution. It shall be the duty of the Presiding Officer to enforce this Rule, regardless of whether or not a point of order is raised by a Member.

History – During consideration of Senate Bill 269, Representative McCullough moved to amend the bill by inserting a new section. Representative Shelton requested a ruling by the Chair as to whether the subject matter of the amendment was germane to the subject of Senate Bill 269.

In ruling on the question of germaneness, the presiding officer stated that the term

¹⁸ *Okla. H. Jour.*, 911, 912, 52nd Leg., 1st Reg. Sess. (March 11, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:11, 4:09-12:17 (March 11, 2009).

“germane”, contained in House Rule 8.11, was to be defined in accordance with the definition of germaneness articulated by the Oklahoma Supreme Court in *Campbell v. White* in 1993 and recently upheld in *Fent v. State ex rel. Office of State Finance*.¹⁹

The presiding officer stated that similar to the definition of germaneness given in *Campbell*, which defined germaneness as the existence of a common, closely akin subject or purpose that is plainly visible between the provisions of a bill, the term “germane”, as contained in House Rule 8.11, would be interpreted to mean the existence of a common, closely akin subject or purpose that is plainly visible between the provisions of a proposed floor amendment and the provisions of a bill or resolution.

The presiding officer held that when at issue, the question of germaneness would be considered a question of fact which would be determined by the Chair as the trier of fact and that when raised by a member the burden of proof would rest upon the member raising the point of order.

The presiding officer stated that the inquiring member would be expected to immediately and succinctly explain why he or she believed the amendment not to be germane after which, the presiding officer would determine by the preponderance of the evidence whether the amendment was germane to the measure to be amended. The presiding officer also stated that on the basis of the custom of the body, the only evidence that would be considered in a germaneness inquiry would be the amendment under consideration and the published bill or resolution to be amended, and that while still preserving the Chair’s prerogative, under Rule 8.11, to rule *sua sponte* on questions of germaneness, the Chair would presume that proposed floor

¹⁹ *Campbell v. White* 856 P.2d 255, 260 (1993); *Fent v. State ex rel. Office of State Finance* 184 P.3d 467, 476, 477 (2008).

amendments are in fact, germane until proven otherwise.

The presiding officer ruled the point well taken and the McCullough amendment not germane to the subject of Senate Bill 269 because the subject of the McCullough amendment, which dealt with the subject of allowing district attorneys or assistant district attorneys to carry concealed weapons, more likely than not did not have a common, closely akin subject or purpose that was plainly visible to the subject matter contained in Senate Bill 269 which dealt with the subject of the composition of a metropolitan area planning commission.²⁰

8.12 - 2. (2009) Floor AMENDMENTS MIRRORING HOUSE BILLS IN POSSESSION OF SENATE

Rule – Section 8.12 of the House Rules states in relevant part:

An amendment is out of order if it is the principal substance of a bill or resolution that has received an unfavorable committee report, has been withdrawn from further consideration by the principal author or has not been reported favorably by the committee of reference in either session of the current Legislature and may not be offered to a bill or resolution on the Floor Calendar and under consideration by the House...

²⁰ *Okla. H. Jour.*, 1286, 52nd Leg., 1st Reg. Sess. (April 13, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:22, 2:34-6:04 (April 13, 2009). See also *Okla. H. Jour.*, 1876, 52nd Leg., 1st Reg. Sess. (May 21, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:54, 0:30-5:32 (May 21, 2009). In this instance, a question was raised regarding the germaneness of the conference committee report on House Bill 1121. In ruling on the germaneness of the conference committee report, the presiding officer relied on the same method established in this precedent, *Prec. Okla. H. of Rep.*, § 8.11(6.), 52nd Leg., 1st Reg. Sess. (April 13, 2009).

History – During consideration of Senate Bill 1066, Representative Duncan offered a main floor amendment, a floor substitute, in lieu of the bill itself. Representative Morrissette requested a ruling of the presiding officer as to whether, under the constraints of House Rule 8.12, it was in order to consider the amendment because the language contained in the amendment appeared to be identical to language contained in a House measure in possession of the Senate which had not yet been considered by the Senate.

The presiding officer ruled that House Rule 8.12 does not apply to a House measure in possession of the Senate.²¹

Ruling – It is the ruling of the Chair that an amendment consisting of language also contained in a House measure in possession of the Senate is not prohibited by House Rule 8.12.

8.12 - 3. (2009) HOUSE RULE 8.12 NOT APPLICABLE TO CONFERENCE COMMITTEE SUBSTITUTES

Rule – House Rule 8.12 says:

An amendment is out of order if it is the principal substance of a bill or resolution that has received an unfavorable committee report, has been withdrawn from further consideration by the principal author or has not been reported favorably by the committee of reference in either session of the current Legislature and may not be offered to a bill or resolution on the Floor Calendar and under consideration by the House...

History – During consideration of the Conference Committee Report on House Bill 1121, Representative Reynolds

²¹ *Okla. H. Jour.*, 1443, 52nd Leg., 1st Reg. Sess. (April 22, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:26, 12:29-15:09 (April 22, 2009).

requested a ruling of the Chair as to whether the subject of the conference committee report was limited to matters germane to the subject of House Bill 1121. The presiding officer ruled the point well taken and the conference committee report not germane.

Representative Auffet moved to suspend House Rule 7.15(a) for the purpose of allowing consideration of the Conference Committee Report on House Bill 1121. The motion to suspend the rule prevailed upon a roll call vote. Representative Reynolds then raised a point of inquiry as to whether consideration of the conference committee report was in order since the language contained in the conference committee report appeared to be the same language contained in a measure which did not receive a committee hearing during General Order.

The presiding officer stated that pursuant to House Rule 8.12, a bill not reported from a House committee cannot be presented on the House Floor in the form of a floor amendment during General Order. The presiding officer ruled that a conference committee report is not a floor amendment and is not under consideration on General Order, meaning that language contained in a measure remaining in a House committee may be considered in the form of a conference committee substitute after the General Order deadlines. The presiding officer ruled the point not well taken.²²

Ruling – It is the decision of the Chair that the prohibitions applicable to floor amendments contained in House Rule 8.12 do not apply to conference committee substitutes.

²² *Okla. H. Jour.*, 1876, 1877, 52nd Leg., 1st Reg. Sess. (May 21, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:54, 0:30-11:27 (May 21, 2009).

8.14 – 1. (2009) MOTION TO COMMIT AFTER THIRD READING DEADLINE

Rule – House Rule 8.14 states:

A motion may be made during the reading or consideration of any bill or joint resolution on General Order to commit the bill to a standing or special committee, with or without instructions.

History – On Thursday, April 30, 2009, Representative Terrill offered a motion to withdraw Senate Bill 483 from the House General Order Calendar and recommit it to the Committee on Public Safety. Representative Brown raised a point of order as to whether the motion to recommit was out of order because it was offered subsequent to the deadline established for “third reading” of bills and joint resolutions in Senate Concurrent Resolution 97 from 2008.

The presiding officer ruled the point not well taken and the motion in order because the measure itself was not before the House for consideration on “third reading” and final passage and therefore not subject to the expired deadline. Representative Dorman appealed the ruling of the presiding officer and the decision of the Chair was upheld upon a roll call vote.²³

Ruling – It is the ruling of the Chair that a motion to recommit is in order after the expiration of third reading deadlines established in consultation between the House of Representatives and the Senate.

²³ *Okla. H. Jour.*, 1571, 1572, 52nd Leg., 1st Reg. Sess. (April 30, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:07, 0:00-11:21 (April 30, 2009); *Okla. H. Jour.*, 1573, 52nd Leg., 1st Reg. Sess. (April 30, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:08, 0:00-1:22 (April 30, 2009).

8.16 - 1.A. (2009) DEBATE IN OPPOSITION PERMITTED EVEN IF DEBATE IN FAVOR NOT REQUESTED*

Rule – House Rule 8.16 states in part:

On Third Reading or Fourth Reading... Before the vote is ordered, such question shall be subject to debate. Debate shall be limited to one (1) hour, equally divided between the proponents and opponents of the question...

History – During consideration of Senate Bill 481, Representative Reynolds moved adoption of his main floor amendment to Senate Bill 481. Prior to commencement of debate on the floor amendment, Representative Morgan raised a point of inquiry as to whether it was in order to entertain debate offered solely in opposition to adoption of the amendment since debate in favor of the amendment had not been requested.

The presiding officer clarified that only in the case where no debate in opposition is requested and only debate in favor is requested will the Chair refuse to entertain debate because to do so would be a waste of the House’s time.²⁴

Ruling – It is the ruling of the Chair that debate in opposition to a measure will be

* The ruling reflected in this precedent is based on House Precedent 8.17(1) from 2007. House Precedent 8.17(1) from 2007 interpreted House Rule 8.17 from 2007. The substance and language of House Rule 8.17 from 2007 continues to exist in House Rules for the 52nd Oklahoma Legislature (2009-2010) but is renumbered as House Rule 8.16. To avoid confusion, the above precedent is numbered as 8.16 - 1.A. (2009) to reflect the current House Rule it interprets, Rule 8.16, rather than the rule from 2007 which was identical but numbered as Rule 8.17 and was interpreted by House Precedent 8.17(1) from 2007.

²⁴ *Okla. H. Jour.*, 1421, 52nd Leg., 1st Reg. Sess. (April 21, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:41, 6:04-7:06 (April 21, 2009).

entertained regardless of whether or not debate in favor of a measure has also been requested.

Reasoning – When presenting a bill or resolution, the author is customarily recognized to offer explanation of the proposed legislation and if other members so desire, to spend significant time taking part in questions and answers to the reasonable satisfaction of the author.

If so little opposition to a proposed measure exists that no member requests debate in opposition, it would be a waste of the body's limited time to allow the author to consume an additional ten (10) minutes debating in favor of the bill or resolution after already having had the opportunity to offer explanation and to respond to follow-on questions.

If, on the other hand, debate in opposition is requested, it would be contrary to the deliberative characteristics of a legislative body to prevent such debate merely because no request was made for debate in favor of the measure. Unless the House takes some affirmative action to curtail debate on a question, within the strictures of House Rules, care should be taken to afford opportunity to express a dissenting point of view.

8.18 - 1. (2009) REQUEST FOR DEBATE IN OPPOSITION TO EMERGENCY CLAUSE MUST GIVE RISE TO ACTUAL DEBATE

Rule – House Rule 8.18 states:

When any bill or joint resolution is being considered on Third Reading or Fourth Reading, and such a bill or joint resolution contains an emergency section, the emergency section shall constitute a separate question, and shall be subject to debate.

History – After being read a fourth time, House Bill 1934 was passed by the House. Prior to the vote on the emergency clause, debate was requested on the question of adoption of the emergency clause. Although debate was requested in opposition to adoption of the emergency clause, the requesting member did not in fact offer any debate in opposition but yielded all of his allotted time back to the Chair.

Representative Morgan raised a point of order stating that since there was effectively no debate in opposition to adoption of the emergency clause, the presiding officer should not permit debate in favor of the emergency clause. The presiding officer ruled the point well taken and debate out of order pursuant to House precedent 8.17(1) of 2007.²⁵

Ruling – It is the ruling of the Chair that a request for debate in opposition to adoption of an emergency clause must in fact give rise to actual debate.

9.2 - 4. (2009) IMPUGNING OTHER MEMBERS DURING DEBATE

Rule – House Rule 9.2, paragraph (a) states:

While in the Chamber, the Presiding Officer shall preserve order and decorum, shall prevent personal reflections or the impugning of the motive of any Member, and shall confine Members in debate to the question under discussion.

History – While House Bill 2013 was under consideration, Representative Reynolds raised a point of order stating that

²⁵ *Okla. H. Jour.*, 1387, 52nd Leg., 1st Reg. Sess. (April 20, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:23, 40:06-43:24 (April 20, 2009); see also *Okla. H. Rules*, § 8.17 (51st Leg.); *Prec. Okla. H. of Rep.*, § 8.17(1.), 51st Leg., 1st Reg. Sess. (Feb. 27, 2007).

he had been impugned by another member in the course of that member's debate. The presiding officer ruled that while a member may not impugn the character of another member during debate, it is out of order to state an objection simply on the basis of the objecting member's perception of particular statements made during debate.²⁶

Ruling – It is the decision of the Chair that it is out of order to raise an objection simply on the basis of perceptions of particular statements made during debate and that differing perceptions of the question under consideration do not rise to the level of impugning.

Reasoning – By analogy, debate is regulated much like the closing arguments made at the conclusion of trial. The respective counsels offer differing and often contradictory perspectives or versions of the facts and unless one party violates some procedural rule, the judge would not sustain an objection raised simply on the basis of mere disagreement over how the facts of the case were characterized by opposing counsel. Ultimately, it is up to the finder of fact to decide which version of the story reflects the evidence and is closest to the truth.

Similarly, the House of Representatives itself is the trier of fact when the question before the House is passage of a bill. The author's representations, the questions and answers, the debate all provide the basis upon which the body as a whole decides which version of the narrative will ultimately prevail.

It is therefore out of order and improper to interrupt a member's debate merely because the debating member states a different point of view than the one favored by the objecting member. Moreover, differing

²⁶ *Okla. H. Jour.*, 570, 52nd Leg., 1st Reg. Sess. (Feb. 19, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:08, 31:37-32:37 (Feb. 19, 2009).

perceptions of the question under consideration does not give rise to impugning the motives of other members.

9.2 - 5. (2009) INTERRUPTION OF DEBATE NOT PERMITTED FOR MOTION TO 'LAY THE BILL OVER'

Rule – House Rule 9.2, paragraph (a) states in part:

While in the Chamber, the Presiding Officer shall preserve order and decorum, shall prevent personal reflections or the impugning of the motive of any Member, and shall confine Members in debate to the question under discussion.

History – In the course of debate on passage of House Bill 1823, Representative Morrissette moved to "lay the bill over". The presiding officer ruled the motion presently out of order because debate was underway but stated that the motion would be recognized at the conclusion of debate.²⁷

Ruling – It is the ruling of the Chair that a motion to "lay the bill over" or to otherwise temporarily postpone consideration of a measure is not in order during debate on final passage.

Reasoning – In order to promote an orderly debate process, a motion to temporarily postpone consideration of a measure, more commonly expressed as a motion to 'lay the bill over', should not be recognized during debate on final passage of a measure. Such a motion would properly be in order when debate is concluded and before the vote on final passage is opened.

²⁷ *Okla. H. Jour.*, 874, 52nd Leg., 1st Reg. Sess. (March 10, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:23, 7:10-7:54 (March 10, 2009).

**9.2 - 6. (2009) POINT OF ORDER
PERTAINING TO AN AMENDMENT
MUST BE RAISED BEFORE
AMENDMENT IS ADOPTED**

Rule – House Rule 9.2, paragraph (d) states:

Any Member may rise to a point of order against any other Member when, in the Member's opinion, such Member is proceeding out of order. Such point of order shall be decided by the Presiding Officer without debate.

History – During consideration of House Bill 2090, Representative Kirby moved to amend House Bill 2090 by striking the title. During a division on the question of adopting the amendment to strike title, Representative John Wright raised a point of inquiry as to the lack of a written analysis of the fiscal impact associated with a previously adopted amendment to House Bill 2090 and whether the chairperson of the Appropriations and Budget Committee should weigh in on the existence of a fiscal impact.

The presiding officer ruled the point not well taken because the House had already adopted the amendment in question and the point of order should have been raised during consideration and before adoption of the amendment.²⁸

Ruling – It is the decision of the Chair that a point of order pertaining to an amendment must be raised in a timely manner, meaning that it must be raised before the amendment is adopted by the House.

²⁸ *Okla. H. Jour.*, 949, 52nd Leg., 1st Reg. Sess. (March 11, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:53, 7:31-8:13 (March 11, 2009).

**9.2 - 7. (2009) CUSTOMARY DUTIES OF
MAJORITY FLOOR LEADER**

Rule – House Rule 8.1, paragraph (a) states in relevant part:

The following Order of Business shall be followed each day...

13. Consideration of Simple and Concurrent Resolutions.

14. Messages from the Senate and Senate Amendments to House Bills.

15. House and Senate Bills and Joint Resolutions on General Order.

16. House and Senate Bills and Joint Resolutions on Third Reading.

17. Consideration of Conference Committee Reports.

18. House and Senate Bills and Joint Resolutions on Fourth Reading.

19. Motions and Notices.

20. Unfinished business.

History – Representative Brown raised a point of inquiry as to what order of business the House would follow throughout the day's session. The presiding officer stated that it is the custom of the House for the Majority Floor Leader to establish the daily schedule.²⁹

Ruling – It is the ruling of the Chair that the custom of the House is for the Majority Floor Leader to establish the daily schedule of business for the House of Representatives.

²⁹ *Okla. H. Jour.*, 959, 960, 52nd Leg., 1st Reg. Sess. (March 12, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:02, 0:08-0:59, 3:26-3:51 (March 12, 2009).

Reasoning – It is the custom of the House to delegate scheduling of floor action and each legislative day’s agenda to the Majority Floor Leader.³⁰ This custom has its origins in the Speaker’s authority to preserve order in the House by any reasonable means.³¹ The Speaker’s authority to maintain order flows from both the House Rules³² and from long established practice.³³ As the Speaker’s appointee, the Majority Floor Leader’s authority to manage the legislative schedule is derived from the Speaker’s authority to maintain order in the House of Representatives.

9.2 - 8. (2009) REGULATION OF QUESTIONS AND ANSWERS

Rule – House Rule 9.2, paragraph (a) states in part:

While in the Chamber, the Presiding Officer shall preserve order and decorum...

History – During consideration of House Concurrent Resolution 1016, Representative Morrissette raised a point of inquiry as to whether the presiding officer would extend the question and answer period prior to the House proceeding to debate on adoption of the resolution.

The presiding officer stated that it is within the prerogative of the Chair to decide how much time will be permitted for questions and answers on a measure under consideration by the House. Upon announcement of the presiding officer’s ruling, Representative Kiesel appealed the ruling of the Chair. Upon consideration by

the full House, the decision of the presiding officer was upheld upon a roll call vote.³⁴

Ruling – It is the decision of the Chair that it is the prerogative of the presiding officer, under Rule 9.2, to determine how many individual questions to entertain while a pending question is under consideration.

Reasoning – Under general parliamentary law, it is the duty of the presiding officer to preserve order and decorum and to guide and direct the proceedings of the body, subject to the control and will of the body. Likewise, House Rule 9.2 charges the presiding officer with the duty of preserving order and decorum in the daily sessions of the House.³⁵ All the same, adopted House Rules frequently do not address every procedural question that may arise in the context of preserving “order and decorum”. For example, specific questions such as: may the presiding officer limit the number of questions posed to a measure’s author on the House floor frequently are not directly addressed in House Rules.

In the case that the House Rules do not address a particular procedural question, what must be done? In reality, much procedure has been and continues to be derived from established customs and usages rather than from adopted rules. When a question arises over something not addressed by a House Rule, the presiding officer may appropriately rely on customs and usages in much the same way he or she would look to adopted House Rules for guidance on questions directly addressed by specific House Rules.

Indeed, when no rule or precedent is on point, the customary practice, usage or precedent of the House governs until the House sets a precedent establishing a different procedure either through a

³⁰ *Prec. Okla. H. of Rep.*, § 9.2(1.), 50th Leg., 1st Reg. Sess. (April 7, 2005).

³¹ *Id.*

³² *Okla. H. Rules*, § 1.2 (52nd Leg.); *Okla. H. Rules*, §§ 9.1, 9.2 (52nd Leg.).

³³ *Okla. Terr. H. House Rules*, 1st Leg. 2 (1890).

³⁴ *Okla. H. Jour.*, 1180, 1181, 52nd Leg., 1st Reg. Sess. (March 31, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:09, 11:58-17:33 (March 31, 2009).

³⁵ *Okla. H. Rules*, § 9.2 (52nd Leg.).

decision of the presiding officer or by the body itself when deciding an appeal.

In the Oklahoma House of Representatives, it has been the practice of the body to permit individual questions directed to a measure's author, subject to recognition and control by the presiding officer. While House Rules do not directly speak to such a practice during Floor consideration, House Rules do address the practice in House committees.

The "committee rule" explicitly provides a measure's author or an amendment's presenter the opportunity to receive and answer questions in House committees.³⁶ This privilege or entitlement customarily has been tempered by two controlling yet unequal factors: the chairperson's nearly unqualified authority to grant or not grant recognition and the willingness of the presenting member to yield to individual questions. Under the committee rule and under the customs and practices of the House, exercise of the former always trumps the willingness of the latter.

While the chairperson should allow members of the committee reasonable opportunity to pose questions, the committee rule does not create an absolute right to ask individual questions in committee. Similarly, on the House Floor it is well-established custom and practice for the presiding officer to recognize members for individual questions on a pending question. That being said, this practice owes its existence to authority given to the presiding officer in House Rule 9.2, paragraph (a) to "preserve order and decorum" and the general nature of its mandate allows considerable latitude in interpreting the terms "order and decorum".

In practice, personal style often comes into play resulting in somewhat different approaches to preserving order during daily

³⁶ *Okla. H. Rules*, § 7.5(a) (52nd Leg.).

floor sessions. Nonetheless, the plenary nature of the presiding officer's authority allows exercise of direct control over how many members are recognized for questions, how many questions are permitted as well as what limits are ultimately imposed because of repetitive questioning or other types of dilatory activity.

9.2 - 9. (2009) PRESIDING OFFICER MAY DEFER RULING ON POINT OF ORDER

Rule – House Rule 9.2, paragraph (d) states:

Any Member may rise to a point of order against any other Member when, in the Member's opinion, such Member is proceeding out of order. Such point of order shall be decided by the Presiding Officer without debate.

History – During consideration of the Conference Committee Report on Senate Bill 244, Representative Reynolds requested a ruling of the Chair as to whether the subject of the conference committee report was limited to matters germane to Senate Bill 244 as required by House Rule 7.15(a).

Representative Blackwell then made what amounted to a unanimous consent request to temporarily postpone consideration of the conference committee report. Representative Reynolds raised a point of order as to whether it was in order for the presiding officer to defer ruling on a point of order. The presiding officer stated that it is the prerogative of the Chair to defer ruling on a point of order. The conference committee report on Senate Bill 244 was temporarily postponed.³⁷

³⁷ *Okla. H. Jour.*, 1893, 52nd Leg., 1st Reg. Sess. (May 21, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:78, 0:47-4:10 (May 21, 2009); see also MASON'S MANUAL OF

Ruling – It is the decision of the Chair that it is the prerogative of the presiding officer to defer ruling on a point of order.

9.4 - 1. (2009) DEBATE MAY BE EXTENDED BUT NOT LIMITED

Rule – House Rule 9.4, paragraph (b) states:

When a debatable question is before the House, any Member may move that the time for debate on such question be extended. For adoption, such motion need only receive a majority of those voting, a quorum being present.

History – The Conference Committee Report on Senate Bill 153 was considered and adopted. Upon fourth reading and final passage of Senate Bill 153, Representative John Wright moved that debate time be effectively limited to five (5) minutes to the opponents of the question and five (5) minutes to the proponents of the question.

The presiding officer ruled that pursuant to House Rule 9.4, paragraph (b), debate time may be extended but cannot be limited, and as such, ruled the motion out of order. Representative John Wright then moved to suspend House Rule 9.4 for purposes of limiting debate to five (5) minutes a side, which motion was declared adopted upon a roll call vote.³⁸

Ruling – It is the decision of the Chair that under the terms of House Rule 9.4, paragraph (b), debate may be extended by motion but may not undergo additional time restrictions without suspension of the rule.

LEGISLATIVE PROCEDURE 188, 189 § 244 (National Conference of State Legislatures 2000).

³⁸ *Okla. H. Jour.*, 1944, 1945, 52nd Leg., 1st Reg. Sess. (May 22, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:59, 10:45-16:40 (May 22, 2009).

9.7 - 1. (2009) POINT OF ORDER MUST PERTAIN TO VOTE ITSELF ONCE VOTE IS OPEN

Rule – House Rule 9.7, paragraph (a) states:

While a vote is in progress and until the completion of a vote, and the announcement of the result, no Member shall be recognized and no other business shall be transacted.

History – During consideration of House Bill 2090, Representative Proctor moved to amend House Bill 2090. During a division on the question of adopting the amendment, Representative Hickman raised a point of order and requested a ruling of the Chair as to whether the subject of the amendment was germane to the subject of House Bill 2090.

Representative McMullen then raised a point of order as to whether the question of germaneness should have been posed prior to opening of the vote on adoption of the amendment. The presiding officer ruled Representative McMullen's point of order to be well taken. Representative Proctor pressed adoption of the amendment which was adopted upon a roll call vote.³⁹

Ruling – It is the ruling of the Chair that once a vote is open, no point of order shall be recognized during the vote unless it pertains directly to the conduct of the vote itself.

³⁹ *Okla. H. Jour.*, 949, 52nd Leg., 1st Reg. Sess. (March 11, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:53, 4:59-6:41 (March 11, 2009); see also *Okla. H. Jour.*, 1542, 52nd Leg., 1st Reg. Sess. (April 27, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:14, 2:05-3:12 (April 27, 2009).

9.7 - 2. (2009) MOTION TO TABLE NOT IN ORDER ONCE VOTE IS ORDERED

Rule – House Rule 9.7, paragraph (a) states:

While a vote is in progress and until the completion of a vote, and the announcement of the result, no Member shall be recognized and no other business shall be transacted.

History – During consideration of Senate Bill 834, Representative Jones moved to amend Senate Bill 834 with a floor substitute in lieu of the bill itself. In the course of presenting the floor substitute to the House, Representative Jones moved to advance the question. After a division was ordered by the presiding officer on whether to advance the question, Representative Inman moved to table Representative Jones' motion to advance the question.

The presiding officer ruled the motion to table out of order because the division on Representative Jones' motion had already been ordered and was underway. Representative Jones pressed his motion to advance the question which was adopted upon a roll call vote.⁴⁰

Ruling – It is the ruling of the Chair that once a vote is ordered on a question by the presiding officer, a motion to table is not in order.

9.8 - 1. (2009) PREVIOUS QUESTION APPLICABLE ONLY TO IMMEDIATELY PENDING QUESTION

Rule – House Rule 9.8 states in relevant part:

⁴⁰ *Okla. H. Jour.*, 1346, 1347, 52nd Leg., 1st Reg. Sess. (April 15, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:33, 28:25-29:56 (April 15, 2009).

When a debatable question is before the House, any Member may move the Previous Question...If the motion for the Previous Question passes, the pending question shall be put immediately and no Member shall be heard to debate it further or seek to amend it.

History – During consideration of the Conference Committee Report on Senate Bill 810, Representative Terrill moved adoption of the conference committee report. Representative Sullivan then moved to put the previous question on the question of passing Senate Bill 810 itself.

The presiding officer ruled that pursuant to House Rule 9.8, the motion to put the previous question is only applicable to the pending question and that the question pending before the House was adoption of the conference committee report not final passage of Senate Bill 810. As such, the presiding officer did not entertain the motion to put the previous question on the question of passing the bill itself.⁴¹

Ruling – It is the decision of the Chair that the motion to put the previous question is only applicable to the question immediately pending before the House.

9.10 - 3. (2009) NOTICE TO RECONSIDER MEASURE ITSELF MAY NOT BE LODGED ONCE EMERGENCY IS UNDER CONSIDERATION

Rule – House Rule 9.10, paragraph (a) states in part:

The final vote on Third Reading or Fourth Reading on any bill or joint resolution, or on the Emergency Section thereof...may be reconsidered only if a Member serves notice immediately after such final vote is

⁴¹ *Okla. H. Jour.*, 1824, 52nd Leg., 1st Reg. Sess. (May 20, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:52, 39:45-41:38 (May 20, 2009).

taken, prior to the consideration of any other business, of said Member's intention to present a motion to reconsider such action...

History – Senate Bill 239 was read for the third time and passed by the House. On the question of adoption of the emergency clause, the emergency failed. Representative Sullivan immediately served notice of his intention to reconsider the vote whereby the emergency failed.

After Representative Sullivan served notice of his intention to reconsider the vote on the emergency clause, Representative Reynolds served notice of his intention to reconsider the vote whereby Senate Bill 239 passed the House. The presiding officer ruled that Representative Reynolds' attempt to serve notice on the bill itself was out of order at that time because the House had already moved on to the next order of business when it took up consideration of the emergency clause.⁴²

Ruling – It is the ruling of the Chair that once the House has moved from consideration of a measure to consideration of the emergency clause, notice to reconsider the measure itself may not be lodged.

Reasoning – In order to promote orderliness within the legislative process, consideration of a measure and consideration of a measure's emergency clause should constitute two distinct orders of business. This means that notice to reconsider the measure itself must be

⁴² *Okla. H. Jour.*, 1264, 52nd Leg., 1st Reg. Sess. (April 9, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:14, 47:45-49:40 (April 9, 2009); affirmed at *Okla. H. Jour.*, 1305, 1306, 52nd Leg., 1st Reg. Sess. (April 14, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:21, 00:00-6:31 (April 14, 2009); *Okla. H. Jour.*, 1910, 52nd Leg., 1st Reg. Sess. (May 22, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:19, 4:42-6:15 (May 22, 2009).

lodged prior to the House taking up the emergency clause for consideration. This approach reflects the guidance provided in House Rule 8.18 which says: "the emergency section shall constitute a separate question."

9.10 - 4. (2009) USE AND DISTINCTION OF MOTION TO RESCIND

Rule – House Rule 9.10, paragraph (f) states:

Except as otherwise specifically provided in these Rules, no question shall be subject to reconsideration in the House.

History – During consideration of the Conference Committee Report on Senate Bill 810, Representative Schwartz moved adoption of the conference committee report which failed upon a division of the question. Representative Terrill attempted to serve notice to reconsider the vote whereby the conference committee report failed of adoption.

The presiding officer ruled the motion out of order pursuant to House Rule 9.10(f). Representative Terrill then moved to reject the conference committee report and to request further conference with the Senate. Representative Sullivan moved to table Representative Terrill's motion to reject the conference committee report. The motion to table failed upon a division of the question. Representative Terrill withdrew his motion to reject the Conference Committee Report on Senate Bill 810.

Representative Terrill then moved to rescind the vote whereby adoption of the conference committee report had failed. The motion to rescind the vote was adopted upon a division of the question. Representative Terrill then, for a second time, moved to adopt the Conference Committee Report on Senate Bill 810.

Representative Reynolds raised a point of inquiry as to whether the second motion to adopt the Conference Committee Report on Senate Bill 810 was dilatory because the question of adopting the conference committee report had been previously considered and defeated by the House.

The presiding officer ruled that because the first vote to adopt the conference committee report, which had failed, had been rescinded, further consideration of the conference committee report was in order.⁴³

Ruling – It is the decision of the Chair that once a vote is rescinded, it is as if the vote never occurred and the question may be once again considered by the House.

Reasoning – While the motion to reconsider is similar in result to the motion to rescind, there are several characteristics distinguishing the one from the other. The motion to reconsider is governed by House Rules 8.13 and 9.10. Rule 8.13 is applicable to floor amendments and Rule 9.10 to bills and resolutions on final passage.

A successful motion to reconsider means that the vote is literally retaken on the amendment or measure in question.⁴⁴ In contrast, a successful motion to rescind means the vote is considered stricken or made ineffective as if it had never before been taken, as if the question were being considered for the first time.

When a motion to reconsider is lodged it has the effect of suspending the action previously taken until the reconsideration is decided by the House or until the time to reconsider expires by operation of House

⁴³ *Okla. H. Jour.*, 1823-1826, 52nd Leg., 1st Reg. Sess. (May 20, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:52, 35:06-48:46 (May 20, 2009).

⁴⁴ MASON’S MANUAL OF LEGISLATIVE PROCEDURE 317 § 468(2) (National Conference of State Legislatures 2000).

Rules.⁴⁵ On the other hand, the motion to rescind does not suspend actions previously taken. It is used to undo actions that are not susceptible to reconsideration either because a motion to reconsider is prohibited by House Rules or because the time to do so has expired. When a question may be reached by a motion to reconsider under House Rules, a motion to rescind is not in order.⁴⁶

10.1 - 2. (2009) PRECEDENCE OF MAIN MOTIONS PERTAINING TO DISPOSITION OF CONFERENCE COMMITTEE REPORTS

Rule – House Rule 10.1 states in relevant part:

When a question shall be under consideration, no motion shall be received except as hereinafter specified, which motion shall have precedence in the order stated...

To adopt a conference committee report (not amendable - debatable)

History – During consideration of the Conference Committee Report on Senate Bill 216, Representative Miller moved adoption of the conference committee report. Representative Smithson moved to reject the Conference Committee Report on Senate Bill 216 with attached instructions.

The presiding officer ruled that the motion to adopt the conference committee report would have to fail of adoption before the motion to reject the conference committee report with attached instructions would be in order for consideration. Representative Smithson then moved to table Representative Miller’s motion to adopt the

⁴⁵ Id. at 315-316 § 467; *Okla. H. Rules*, §§ 8.13, 9.10 (52nd Leg.).

⁴⁶ MASON’S MANUAL OF LEGISLATIVE PROCEDURE 321 § 480 (National Conference of State Legislatures 2000).

conference committee report. The motion to table failed of adoption upon a roll call vote.

Representative Inman raised a point of order stating that a motion to adopt the conference committee report should not be taken up prior to consideration of a motion to reject with instructions and that the House routinely entertained motions to reject with instructions ahead of motions to adopt the conference committee report.

The presiding officer ruled the point not well taken holding that a motion to reject the conference committee report with instructions would not be in order unless the pending motion to adopt the conference committee report failed of adoption. The presiding officer clarified that the Chair had not entertained other main motions such as a motion to reject with instructions when the motion to adopt was pending and that this has been the longstanding practice of the House of Representatives.

Representative Inman appealed the ruling of the presiding officer and the decision of the Chair was upheld upon a roll call vote.⁴⁷

Ruling – It is the decision of the Chair that the main motion to accept a conference committee report and the main motions to reject a conference committee report with or without attached instructions are all three of equal precedence and shall be taken up in the order they are offered upon recognition by the presiding officer.

Reasoning – When taking up consideration of a conference committee report, by custom the House observes a specific practice. The author of the measure, or his or her designee, is recognized to offer explanation of the report. Upon conclusion of the explanation,

⁴⁷ *Okla. H. Jour.*, 1865-1867, 52nd Leg., 1st Reg. Sess. (May 21, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:43, 0:00-3:23, 11:22-23:41 (May 21, 2009).

the author offers either a motion to adopt the report or a motion to reject the report and request further conference with the Senate. The author may offer either motion without seeking additional recognition from the presiding officer.

In the event the author forgets to offer a motion, the author has failed to put anything before the House for consideration,⁴⁸ thus becoming vulnerable to another main motion⁴⁹ such as a hostile motion to reject the conference committee report with attached instructions.

By custom there are only three main motions used by the Oklahoma Legislature when dealing with conference committee reports: the motion to adopt the report; the motion to reject the report and request further conference with the Senate with attached instructions; and the motion to reject the report and request further conference with the Senate without attached instructions.⁵⁰

In accordance with the customs of the House and general parliamentary law, each of the three main motions associated with disposition of a conference committee report are of equal standing or precedence and are taken up on the basis of which one was first offered upon recognition by the presiding officer.⁵¹

10.5 - 1. (2009) WITHDRAWAL OF MEASURE BY AUTHOR

Rule – House Rule 10.5 states “Prior to commencement of debate thereon, or prior to action being taken thereon if there be no debate, any motion may be withdrawn by the Member making same. Otherwise, such

⁴⁸ MASON’S MANUAL OF LEGISLATIVE PROCEDURE 109 § 140 (National Conference of State Legislatures 2000).

⁴⁹ MASON’S at 293 § 440; see also MASON’S at 295, 296 § 442.

⁵⁰ *Cf.* MASON’S at 293, 294 § 441.

⁵¹ MASON’S at 123 § 158.

motion may be withdrawn only upon adoption of a motion to withdraw same.”

History – During consideration of House Bill 2013, Representative Miller requested unanimous consent to “lay the bill over” after the bill had undergone Third Reading and debate but prior to the vote on final passage. An objection was lodged and the unanimous consent request was effectively refused. Representative Miller pressed his motion and the presiding officer restated the motion and the vote was taken viva voce. The presiding officer declared the motion adopted.

After adoption of the motion, Representative Blackwell raised a point of order as to whether it had been the tradition of the House of Representatives that the House would defer to the principal author of a bill on the question of withdrawing the bill from further consideration by the House.

The presiding officer agreed to take the question under advisement. Representative Brown then raised a point of inquiry as to whether the bill should be considered property of the House at this point in the legislative process rather than remaining within the sole custody of the author and asked whether the House should proceed with the vote on final passage of the bill.

The presiding officer ruled the point well taken except that the House had already adopted the motion by voice vote. At this time, several members requested that a recorded vote be taken on the motion to lay the bill over. The presiding officer stated that although in the opinion of the Chair the “ayes” prevailed on the question of adoption of the Miller motion, the presiding officer, as a courtesy, would proceed to order a recorded vote. The motion was again declared adopted subsequent to a roll call vote of the House.

The following legislative day, the presiding officer addressed the questions raised in the

points of order by Representative Blackwell and Representative Brown by saying that when an author wants to ‘lay a bill over’, and if the bill has not been amended or received debate, the author may withdraw the bill without the consent of the House.

If the bill has been amended or undergone any debate, the bill cannot be withdrawn from further consideration by the House except upon a successful unanimous consent request or upon a successful motion to request leave to withdraw the question.⁵²

Ruling – It shall be the decision of the Chair that House Rule 10.5 shall be interpreted to mean that a bill may not be unilaterally withdrawn from consideration by its principal author if amendment or other substantive action has taken place on the bill or if debate on the bill has already commenced.

Reasoning – In the Oklahoma House it is common to hear a member request that a measure be “laid over” when that member decides additional work needs to be completed on the measure. Under principles of parliamentary procedure, this effectively is a request to withdraw the bill from further consideration at that time.⁵³ Depending on the point in the legislative process this request is made, the member may or may not have an absolute right to withdraw the bill from further consideration by the House.

House Rule 10.5 states that a member making a motion may withdraw the motion at any time unless the House has started

⁵² *Okla. H. Jour.*, 570-571, 52nd Leg., 1st Reg. Sess. (Feb. 19, 2009); *Okla. H. Jour.*, 614, 52nd Leg., 1st Reg. Sess. (Feb. 23, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:08, 42:51-47:03 (Feb. 19, 2009); *H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:29, 1:31-3:01 (Feb. 23, 2009).

⁵³ MASON’S MANUAL OF LEGISLATIVE PROCEDURE 208 § 274 (National Conference of State Legislatures 2000).

debate on the motion or taken some other action on the motion.⁵⁴

When House Rule 10.5 speaks of “motions”, this term encompasses both bills and resolutions in addition to other proposals traditionally referred to as motions. A bill or resolution is included among the main questions or main motions considered by the House, and a bill or resolution is always presented with an implied motion that it be passed whether or not the measure’s author actually verbalizes the phrase “move adoption” after he or she is recognized to offer explanation of the bill’s purpose.⁵⁵

Typically, a member can tell the presiding officer that they desire to “lay over” or withdraw the measure without another member questioning their request. In fact, such a request is so commonly agreed to that members typically don’t frame their request as a unanimous consent request even though such a request may be required depending on where the measure is in the legislative process.

Under the terms of House Rule 10.5, when the author says he or she wants to “lay the bill over”, if the bill has not been amended or received debate, the author may withdraw the bill without consent of the House.

If the bill has been amended or undergone any debate, the bill cannot be withdrawn from further consideration by the House except by unanimous consent or if objection is heard, by a successful motion to request leave to withdraw the question.

The underlying purpose for Rule 10.5 is to protect the House. If the House has taken time to pursue action on or to debate a motion or in this case a bill, the author should not be permitted to take up the

⁵⁴ *Okla. H. Rules*, § 10.5 (52nd Leg.).

⁵⁵ MASON’S MANUAL OF LEGISLATIVE PROCEDURE 109 § 141; 117 § 150 (National Conference of State Legislatures 2000).

House’s time and then unilaterally withdraw the bill from further consideration without the House first agreeing to allow the author to do so.

In this case, Representative Miller requested to “lay over” House Bill 2013 after it was debated prior to the vote on final passage. This effectively was a unanimous consent request to withdraw the bill to which objection was heard. Because debate had already occurred and the unanimous consent request had been rejected, the presiding officer correctly put the motion to the House.

In conclusion, under House Rules, two threshold events, amendment or debate, result in a measure becoming property of the House.

14.2 - 1.A. (2009) CONSTITUTIONALITY OF MEASURE’S TITLE

Rule – House Rule 14.2 states in part:

Any parliamentary questions not provided for by the Oklahoma Constitution or these Rules shall be governed by the ruling of the Speaker...

History – While House Bill 1755 was under consideration, Representative Morrissette raised a point of order as to whether the title of House Bill 1755 met constitutional requirements. The presiding officer ruled the point not well taken pursuant to House Precedent 14.2-1.⁵⁶ Representative Morrissette appealed the ruling of the presiding officer. The decision of the presiding officer was upheld upon a roll call vote.⁵⁷

⁵⁶ *Prec. Okla. H. of Rep.*, § 14.2(1.), 51st Leg., 1st Reg. Sess. (March 6, 2007).

⁵⁷ *Okla. H. Jour.*, 693, 52nd Leg., 1st Reg. Sess. (March 2, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:29, 8:52-14:56 (March 2, 2009).

Ruling – It is the decision of the Chair that in reliance upon Precedent 14.2-1 the presiding officer will not rule on the constitutionality of a bill’s title.

Reasoning – It is not proper for the presiding officer to determine whether a measure’s title conforms to constitutional requirements. This question must be decided by the House itself.⁵⁸

14.2 - 2. (2009) AUTHORITY TO PUBLISH RULINGS OF THE CHAIR

Rule – House Rule 14.2 states in part:

Any parliamentary questions not provided for by the Oklahoma Constitution or these Rules shall be governed by the ruling of the Speaker. The Speaker may publish these substantive rulings in a volume of precedents.

History – During consideration of the Conference Committee Report on House Bill 1934, Representative Brown requested a ruling of the Chair as to whether the conference committee report was germane to the subject of House Bill 1934 as required by House Rule 7.15(a).

The presiding officer determined that the conference committee report was germane to the subject of House Bill 1934. Representative Brown appealed the ruling of the Chair and the decision of the presiding officer was upheld upon a roll call vote.

Subsequent to the ruling on the question of germaneness, Representative Brown moved that the ruling be included in the “book of precedents.” The presiding officer ruled the motion out of order pursuant to House Rule 14.2 which grants the Speaker discretion to

⁵⁸ MASON’S MANUAL OF LEGISLATIVE PROCEDURE 187 § 242(3) (National Conference of State Legislatures 2000).

determine which rulings are published as written precedents of the House.⁵⁹

Ruling – It is the ruling of the Chair that House Rules give exclusive authority to the Speaker to determine which rulings of the Chair are to be published in the “book of precedents”.

Reasoning – House Rule 14.2 grants authority to the Speaker to decide whether a ruling of the Chair is “substantive” and therefore should be published as a written precedent of the House. Because Rule 14.2 explicitly gives discretionary authority to the Speaker to make this determination, it would not be appropriate for the presiding officer to entertain a motion which would cause a ruling of the Chair to be placed in the “book of precedents” in a manner outside the procedure created by Rule 14.2.

A motion, such as the one offered in this instance, if adopted, would have had the effect of amending the House Rules without in fact following the requirements outlined in House Rule 14.1, paragraphs (a) and (b), for amending House Rules.

GENERAL PRECEDENT - 1. (2009) ADOPTION OF HOUSE RULES

History – In the course of considering House Resolution 1005 which contained proposed House Rules for the 52nd Oklahoma Legislature, Representative Morrisette raised a point of order as to what authority, statutorily or constitutionally, under which the House was proceeding when considering adoption of House Rules.

⁵⁹ *Okla. H. Jour.*, 1386, 52nd Leg., 1st Reg. Sess. (April 20, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:23, 00:38-08:04 (April 20, 2009); affirmed at *Okla. H. Jour.*, 1442, 1443, 52nd Leg., 1st Reg. Sess. (April 22, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:26, 7:31-12:15 (April 22, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:07, 11:23-12:21 (April 30, 2009).

Representative Morrisette inquired as to whether the House of Representatives should adopt temporary rules, as occurred previously in 2005, the 50th Oklahoma Legislature,⁶⁰ prior to adoption of permanent rules for the 52nd Oklahoma Legislature.

The presiding officer stated that the House of Representatives was operating under the customs of the House and that the custom and practice of the House has been to adopt its [permanent] rules on the first day of [regular] session. The presiding officer also ruled that based on the customs of the House, the House would proceed with the adoption of House Rules for the 52nd Oklahoma Legislature.⁶¹

Ruling – It is the ruling of the Chair that the customs and practices of the House will govern initial adoption of House Rules.

Reasoning – In Oklahoma, under what authority may the House of Representatives adopt procedural rules and in doing so, what is the most appropriate procedure to follow? Analysis of this ruling requires consideration of interrelated matters such as historical influences, constitutional authority, judicial interpretation and generally agreed upon standards of parliamentary procedure.

⁶⁰ An exhaustive search of all House Journals reveals adoption of only one set of temporary rules as a distinct set of rules in their own right. In all other cases, the House adopted “temporary” rules in the sense that it adopted the previous session’s rules for a short period prior to adoption of permanent rules for that two-year Legislature. Such an approach seems to indicate permanent rules were not prepared prior to the convening of the first session as is the current practice. See *Okla. H. Jour.*, 33, 50th Leg., 1st Reg. Sess. (Jan. 4, 2005); Daily H. Sess. Dig. Rec., 50th Leg., 1st Reg. Sess. Track 10:01, 0:00-44:48 (Jan. 4, 2005).

⁶¹ *Okla. H. Jour.*, 268, 52nd Leg., 1st Reg. Sess. (Feb. 2, 2009); Daily H. Sess. Dig. Rec., 52nd Leg., 1st Reg. Sess. Track 10:16, 2:40-8:04 (Feb. 2, 2009).

To begin with, the idea that internal rulemaking should be left to the legislature is a notion deeply rooted in American constitutional theory and history. Whether created as a royal colony, proprietary colony or by parliamentary charter, each British colony in North America maintained some form of representative assembly.⁶² To one degree or another, each colonial assembly perceived itself to possess equivalent “privileges” as those claimed by the British Parliament.⁶³ Among privileges claimed was the long-standing assertion that Parliament alone would decide matters of internal procedure.⁶⁴

⁶² Francis Newton Thorpe, *The Federal and State Constitutions, Charters and other Organic Laws of the States, Territories and Colonies Now or heretofore Forming the United States of America* [Connecticut] vol. I, 528, 531, [Delaware] vol. I, 559, [Georgia] vol. II, 768, [Maryland] vol. III, 1679, [Massachusetts] vol. III, 1853, 1854, 1864, 1878, 1886-1888, [New Hampshire] vol. IV, 2449, [New Jersey] vol. V, 2536-2538, 2565, 2566, 2574, 2575, [North Carolina] vol. V, 2758, 2781, [Pennsylvania] vol. V, 3037, 3047, 3048, [Rhode Island] vol. VI, 3214, [Virginia] vol. VII, 3810 (Government Printing Office 1909); for New York see Charles Lincoln, *The Constitutional History of New York* 429, 440 (The Lawyers Co-operative Publishing Company 1906); for South Carolina see Richard Middleton, *Colonial America, A History, 1565-1776*, at 184-187 (Blackwell Publishers Ltd. 2002).

⁶³ Mary Patterson Clarke, *Parliamentary Privilege in the American Colonies* 12, 13 (Yale University Press 1943); Donald S. Lutz, “The Colonial and Early State Legislative Process” in *Inventing Congress: Origins and Establishment of the First Federal Congress* 54 (Kenneth R. Bowling & Donald R. Kennon eds., Ohio University Press 1999).

⁶⁴ *The Parliament Rolls of Medieval England, 1275-1504* vol. VII, 64, 99, 100, vol. VIII, 232 [The Earl of Northumberland’s Case], vol. XII, 56 [Earl of Arundel’s Case, 27 Henry VI], vol. XII, 106 [Impeachment of Duke of Suffolk], vol. XII, 254-255 [Baron Thorpe’s Case, 31 Henry VI] (The Boydell Press 2005); Sir Edward Coke, *The Fourth Part of the Institutes of the Laws of England* 14, 15 (E. and R. Brooke 1797); Sir William Blackstone, *Commentaries on the Laws of England* vol. I, 163 (A. Strahan 1800); John Hatsell, *Precedents of the Proceedings of the*

After declaring independence, most American colonies codified this “privilege”, the notion that internal rulemaking should be conducted solely by the legislature, explicitly reserving it to the legislative branch in most of the early state constitutions.⁶⁵ Likewise, in 1789 the states ratified the current United States Constitution which itself contains a similar provision reserving creation and adoption of procedural rules to Congress.⁶⁶

Similar to other jurisdictions,⁶⁷ Article V, Section 30 of the Oklahoma Constitution contains a “textually demonstrable constitutional commitment of the issue”⁶⁸

House of Commons vol. IV, pref., vi-vii (Luke Hansard & Sons 1818)(modern reprint Irish University Press 1971); A. V. Dicey, *Introduction to the Study of the Law of the Constitution* 52-54 (MacMillan and Co., Ltd 1915).

⁶⁵ Thorpe, *The Federal and State Constitutions, Charters and other Organic Laws of the States* [Connecticut] vol. I, 540, [Delaware] vol. I, 571, [Georgia] vol. II, 779, 781 [Maryland] vol. III, 1695, [Massachusetts] vol. III, 1897, 1899, [New Hampshire] vol. IV, 2460, 2462, [New Jersey] vol. V, 2602, [New York] vol. V, 2640, [Pennsylvania] vol. V, 3094, [Rhode Island] vol. VI, 3227, [South Carolina] vol. VI., 3260, [Virginia] vol. VII, 3816 (Government Printing Office 1909).

⁶⁶ US CONST I, 5.

⁶⁷ Ala. IV, 53; Alaska II, 12; Ariz. IV, II, 8; Ark. V, 12; Cal. IV, 7(a); Colo. V, 12; Conn. III, 13; Del. II, 9; Fla. III, 4(a); Ga. III, Sec. IV, 4; Haw III, 12; Idaho III, 9; Ill. IV, 6(d); Ind. IV, 10; Iowa III, 9; Kan. II, 8; Ky. 39; La. III, 7(a); Me IV, Part III, 4; Md. III, 19; Mass. Part II, Ch. 1, Sec. II, 7, Sec. III, 10; Mich. IV, 16; Minn. IV, 7; Miss. IV, 55; Mo. III, 18; Mont. V, 10(1); Neb. III, 10; Nev. IV, 6; N.H. II, 22, 37; N.J. IV, Sec IV, Par. 3; N. M. IV, 11; N.Y. III, 9; N.D. IV, 12; Ohio II, 7; Okla. V, 30; Or. IV, 11; Pa. II, 11; R.I. VI, 7; S.C. III, 12; S.D. III, 9; Tenn. II, 12; Tex. III, 11; Utah VI, 12; Vt. II, 19; Va. IV, 7; Wash. II, 9; W.Va. VI, 24; Wis. IV, 8; Wyo. III, 12; Unincorporated, organized United States territories: Guam, 48 USCA § 1423a; Northern Mariana Islands, NMI CONST II, 14; Commonwealth of Puerto Rico, PR CONST III, 9; U.S. Virgin Islands, 48 USCA § 1572g; unincorporated, unorganized United States territory: American Samoa, RCAS II, 11.

⁶⁸ *In re INITIATIVE PETITION NO. 348*, 1991 OK 110, 820 P.2d 772, 780 (1991) footnote 21

to the respective chambers of the legislature.

Paragraph two (2) says in relevant part:

Each House may determine the rules of its proceedings...

That the constitution is referring to the houses of the legislature is beyond dispute. By definition the words “may”, “determine” and “rule” connote discretionary authority⁶⁹ to conclusively and authoritatively fix standards for orderly conduct of business.⁷⁰ From the plain, natural and ordinary meaning of the words, in the order of grammatical arrangement,⁷¹ it is clear that the people of Oklahoma intended for the Legislature to decide its own rules of procedure.⁷²

Even without “textual commitment” to the legislative branch, adoption of procedural rules is an inherently legislative function intrinsic to the powers of a legislative body⁷³ and thus falls under the protections of the separation of powers requirement.⁷⁴ This is so because the legislative branch could not function as a co-equal branch of state government if it lacked the authority

contains discussion of the Guaranty Clause, US CONST IV, 4, and adopts the factor of “textual commitment” when determining whether a question is political as set forth by the United States Supreme Court in *Baker v. Carr*, 369 U.S. 186, 217 (1962).

⁶⁹ *Shea v. Shea*, 537 P.2d 417, 418 (1975).

⁷⁰ WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 616, 1396 (ed. 1993); BLACK’S LAW DICTIONARY, 1357 (8th ed. 2004).

⁷¹ See *Shaw v. Grumbine*, 278 P. 311, 315 (1929); *Wimberly v. Deacon*, 144 P.2d 447, 450 (1943).

⁷² The will of the people is expressed in the various provisions of the state’s organic law. See *City of Sapulpa v. Land*, 101 Okla. 22, 223 P. 640, 644 (1924); *Dank v. Benson*, 5 P.3d 1088, 1090 (Okla. 2000).

⁷³ H. W. Dodds, *Procedure In State Legislatures* 12, 13 (The American Academy of Political and Social Science 1918);

⁷⁴ OK CONST IV, 1.

to organize itself and manage its own internal processes.

While the Oklahoma Constitution clearly grants authority to the House to adopt rules, besides requiring a quorum be present to conduct business,⁷⁵ there is little guidance on how exactly to adopt such rules. While there appears to be no Oklahoma case law directly on point, the Oklahoma Supreme Court has historically exercised restraint when asked to intervene in disputes arising over intracameral procedure or other activities of a recognizable legislative character.⁷⁶

Likewise, case law from other jurisdictions does not appear to speak to the specific question of how procedural rules should be initially or otherwise adopted. With great uniformity other jurisdictions hold that apart from violation of fundamental rights or other requirements within a jurisdiction's organic law, the legislature is empowered to determine for itself its own rules of procedure.⁷⁷

⁷⁵ OK CONST V, 30.

⁷⁶ The Court is without authority to interject itself into the legislative process [assigned by the Constitution to the House] by directing how that body shall conduct its business, *Dank v. Benson*, 5 P.3d 1088, 1092 (Okla. 2000).

Legislature has power and right to determine for itself when moment of time has arrived for adjournment of a legislative day, subject to the rule of reason, *Davis v. Thompson*, 721 P.2d 789, 792, 793 (Okla. 1986), *Bellmon v. Barker*, 760 P.2d 813, 814 (Okla. 1988).

The Legislature decides fiscal policy and the Court may not direct legislative decision making, *Calvey v. Daxon*, 997 P.2d 164, 171, 172 (Okla. 2000), *Oklahoma Education Association v. State ex rel. State Legislature*, 158 P.3d 1058, 1065 (Okla. 2007). The Legislature's policy-making power specifically includes determination of policies related to public education. *Id.* at 1065, 1066.

⁷⁷ With its rules Congress cannot ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained. Within these limitations all matters of method are open to the determination of

If Article V, Section 30 says the House may "determine the rules of its proceedings" and no case law provides additional, specific guidance, what is left to proceed under but the "customs and practices of the House"?⁷⁸ This being the case, what is meant by the terms "customs and practices of the House"? In this context it is the historical practices of the House as they pertain to adoption of rules.

The historical practice for adopting rules is as follows: in the opening days of the first session, a member, usually the Majority Floor Leader has sought recognition to

the house, and it is no impeachment of the rule to say that some other way would be better, more accurate, or even more just. Within the limitations suggested, the power to make rules is absolute and beyond the challenge of any other body or tribunal, *U.S. v. Ballin*, 144 U.S. 1, 5 (1892).

The courts accept as passed all bills authenticated in the manner provided by Congress, *Field v. Clark*, 143 U.S. 649, 672 (1892).

If the question of construction of Senate rules affects persons other than members of the Senate, the question presented may be decided by the courts, *U.S. v. Smith*, 286 U.S. 6, 33 (1932).

Conviction for perjury held to be violation of fundamental rights because committee rules required presence of quorum; committee lacked quorum at time perjured testimony was offered falling short of a "duly constituted tribunal," *Christoffel v. U.S.*, 338 U.S. 84, 90 (1949).

Conviction for contempt of Congress based on refusal to answer questions at a subcommittee hearing reversed because committee failed to comply with its own rules, *Yellin v. U.S.*, 374 U.S. 109, 123, 124 (1963).

Cf. Brown v. Hansen, 973 F.2d 1118 (C.A.3, V.I. 1992); *Birmingham-Jefferson Civic Center Authority v. City of Birmingham*, 912 So.2d 204 (Ala. 2005); *Mission Hospital Regional Medical Center v. Shewry*, 168 Cal.App.4th 460 (C.A. 3, Cal. 2008); Att'y Gen op. 05-1, 2005 WL 1378063 (HI).

⁷⁸ *MASON'S MANUAL OF LEGISLATIVE PROCEDURE* 36 § 39(6) (National Conference of State Legislatures 2000); *Cf. Hind's Prec., H. of Rep.*, Ch. 141 §§ 6758-6759, 887 (G.P.O. 1907); *Cannon's Prec., H. of Rep.*, Ch. 271 § 3386, 831 (G.P.O. 1936); *Deschler's Prec., H. of Rep.*, Ch. 1 § 1, 6 (G.P.O. 1976); Josef Redlich, *The Procedure of the House of Commons* vol. II, 4-6 (Archibald Constable & Co. Ltd. 1908).

present a motion to adopt House Rules, typically in the form of a simple resolution. Upon obtaining recognition, the Floor Leader provides a detailed explanation of the proposed rules and then yields to questions from other members. As consideration of the main question continues, members are recognized to offer amendments, both friendly and unfriendly. Proposed amendments are considered on their merits or disposed of procedurally. Finally, debate takes place unless curtailed by an appropriate procedural motion, followed by a vote on the question of adoption.⁷⁹ The actions taken in adopting

⁷⁹ Cf. *Okla. Terr. H. Jour.*, 49, 1st Sess. (1890); *Okla. Terr. H. Jour.*, 55, 1st Sess. (1893); *Okla. Terr. H. Jour.*, 294, 1st Sess. (1895); *Okla. Terr. H. Jour.*, 503, 1st Sess. (1897); *Okla. Terr. H. Jour.*, 18-19, 1st Sess. (1899); *Okla. Terr. H. Jour.*, 50, 1st Sess. (1901); *Okla. Terr. H. Jour.*, 85, 1st Sess. (1903); *Okla. Terr. H. Jour.*, 71, 1st Sess. (1905); *Okla. H. Jour.*, 47, 1st Leg., 1st Reg. Sess. (1907); *Okla. H. Jour.*, 58, 2nd Leg., 1st Reg. Sess. (1909); *Okla. H. Jour.*, 56, 3rd Leg., 1st Reg. Sess. (1911); *Okla. H. Jour.*, 339, 4th Leg., 1st Reg. Sess. (1913); *Okla. H. Jour.*, 203, 5th Leg., 1st Reg. Sess. (1915); *Okla. H. Jour.*, 18, 6th Leg., 1st Reg. Sess. (1917); *Okla. H. Jour.*, 91, 8th Leg., 1st Reg. Sess. (1921); *Okla. H. Jour.*, 135, 9th Leg., 1st Reg. Sess. (1923); *Okla. H. Jour.*, 300, 10th Leg., 1st Reg. Sess. (1925); *Okla. H. Jour.*, 454, 11th Leg., 1st Reg. Sess. (1927); *Okla. H. Jour.*, 158, 12th Leg., 1st Reg. Sess. (1929); *Okla. H. Jour.*, 480, 13th Leg., 1st Reg. Sess. (1931); *Okla. H. Jour.*, 338, 14th Leg., 1st Reg. Sess. (1933); *Okla. H. Jour.*, 204, 15th Leg., 1st Reg. Sess. (1935); *Okla. H. Jour.*, 602, 16th Leg., 1st Reg. Sess. (1937); *Okla. H. Jour.*, 233, 17th Leg., 1st Reg. Sess. (1939); *Okla. H. Jour.*, 263, 18th Leg., 1st Reg. Sess. (1941); *Okla. H. Jour.*, 492, 19th Leg., 1st Reg. Sess. (1943); *Okla. H. Jour.*, 118, 20th Leg., 1st Reg. Sess. (1945); *Okla. H. Jour.*, 20, 22nd Leg., 1st Reg. Sess. (1949); *Okla. H. Jour.*, 118, 23rd Leg., 1st Reg. Sess. (1951); *Okla. H. Jour.*, 7, 24th Leg., 1st Reg. Sess. (1953); *Okla. H. Jour.*, 7, 25th Leg., 1st Reg. Sess. (1955); *Okla. H. Jour.*, 12, 26th Leg., 1st Reg. Sess. (1957); *Okla. H. Jour.*, 11, 27th Leg., 1st Reg. Sess. (1959); *Okla. H. Jour.*, 9, 28th Leg., 1st Reg. Sess. (1961); *Okla. H. Jour.*, 9, 29th Leg., 1st Reg. Sess. (1963); *Okla. H. Jour.*, 6, 30th Leg., 1st Reg. Sess. (1965); *Okla. H. Jour.*, 6, 31st Leg., 1st Reg. Sess. (1967); *Okla. H. Jour.*, 10, 32nd Leg., 1st Reg. Sess. (1969); *Okla. H. Jour.*, 7, 33rd Leg., 1st Reg. Sess. (1971); *Okla. H. Jour.*,

House Rules for the 52nd Oklahoma Legislature complied not only with the requirements of the prior session's rules but with the requirements of any given set of procedural rules adopted by the House of Representatives since statehood.⁸⁰

Moreover, the ruling of the Chair parallels guidance provided in *Mason's Manual of Legislative Procedure*⁸¹ both for initial adoption of rules⁸² and for group decision making.⁸³

8, 34th Leg., 1st Reg. Sess. (1973); *Okla. H. Jour.*, 8, 35th Leg., 1st Reg. Sess. (1975); *Okla. H. Jour.*, 89, 36th Leg., 1st Reg. Sess. (1977); *Okla. H. Jour.*, 225, 37th Leg., 1st Reg. Sess. (1979); *Okla. H. Jour.*, 80, 38th Leg., 1st Reg. Sess. (1981); *Okla. H. Jour.*, 103, 39th Leg., 1st Reg. Sess. (1983); *Okla. H. Jour.*, 295, 40th Leg., 1st Reg. Sess. (1985); *Okla. H. Jour.*, 141, 41st Leg., 1st Reg. Sess. (1987); *Okla. H. Jour.*, 112, 42nd Leg., 1st Reg. Sess. (1989); *Okla. H. Jour.*, 316, 43rd Leg., 1st Reg. Sess. (1991); *Okla. H. Jour.*, 8, 44th Leg., 1st Reg. Sess. (1993); *Okla. H. Jour.*, 40, 45th Leg., 1st Reg. Sess. (1995); *Okla. H. Jour.*, 1383, 47th Leg., 1st Reg. Sess. (1999); *Okla. H. Jour.*, 24, 48th Leg., 1st Reg. Sess. (2001); *Okla. H. Jour.*, 23, 49th Leg., 1st Reg. Sess. (2003); *Okla. H. Jour.*, 54, 50th Leg., 1st Reg. Sess. (2005); *Okla. H. Jour.*, 256, 51st Leg., 1st Reg. Sess. (2007) .

⁸⁰ Id.

⁸¹ *Mason's Manual of Legislative Procedure* in creation, approach and function is a guidebook to parliamentary practice in the state legislatures of the United States and is updated on a decennial basis by a commission comprised of members representing a broad cross-section of state legislatures and professional experience; see also *Okla. H. Rules*, § 9.2 (32nd Leg.); *Okla. H. Rules*, § 9.2 (33rd Leg.); *Okla. H. Rules*, § 9.2 (34th Leg.); *Okla. H. Rules*, § 11.2 (35th Leg.); *Okla. H. Rules*, § 11.2 (36th Leg.); *Okla. H. Rules*, § 25.3 (37th Leg.); *Okla. H. Rules*, § 25.3 (38th Leg.); *Okla. H. Rules*, § 25.3 (39th Leg.); *Okla. H. Rules*, § 25.3 (40th Leg.); *Okla. H. Rules*, § 25.3 (41st Leg.); *Okla. H. Rules*, § 25.3 (42nd Leg.); *Okla. H. Rules*, § 25.3 (43rd Leg.); *Okla. H. Rules*, § 25.3 (44th Leg.); *Okla. H. Rules*, § 25.3 (45th Leg.); *Okla. H. Rules*, § 25.3 (46th Leg.); *Okla. H. Rules*, § 25.3 (47th Leg.); *Okla. H. Rules*, § 25.3 (48th Leg.); *Okla. H. Rules*, § 25.3 (49th Leg.); *Okla. H. Rules*, § 14.2 (50th Leg.); *Okla. H. Rules*, § 14.2 (51st Leg.).

⁸² *MASON'S MANUAL OF LEGISLATIVE PROCEDURE* 36 § 39(6) (National Conference of State Legislatures 2000); see also Cushing, Luther

For proper decision making, *Mason's Manual* says that the group attempting to make the decision must be legally constituted and must have the legal authority to exercise the powers it is attempting to exercise. Second, there must be a meeting of the group at which the decision is made.

Third, the group must be given proper notice of the meeting thus allowing opportunity to attend and participate. Fourth, a quorum must be present at the meeting. Fifth, there must be an explicit question for the group to decide. Sixth, when a question is under consideration, members of the group must be given the opportunity to debate the question under consideration. Seventh, in order to make a decision or take an action, the group must take a vote.

Eighth, to carry the proposed question, at least a majority of the group must vote in the affirmative. Ninth, there must not be fraud or deception with the decision-making process. Tenth, any decision made by the group must not be in violation of any laws, rules or decisions of higher authority. Eleventh and finally, there must be a record of the decision made by the group.

In comparison, the Oklahoma House of Representatives was duly constituted⁸⁴ and was constitutionally authorized to adopt procedural rules.⁸⁵ Second, the House assembled and convened on the date and at the time constitutionally mandated.⁸⁶ Third,

Stearns, *ELEMENTS OF THE LAW AND PRACTICE OF LEGISLATIVE ASSEMBLIES OF THE UNITED STATES OF AMERICA* 312 § 792, 793 (Little, Brown and Co. 1856); *U.S. H. Jour.*, 36, 27th Cong., 1st Sess. (June 3, 1841); *Cong. Globe*, 18, 27th Cong., 1st Sess. (June 3, 1841).

⁸³ *Mason's*, 37-40 §§ 42, 43.

⁸⁴ *Okla. H. Jour.*, 1-6, 52nd Leg., 1st Reg. Sess. (Jan. 6, 2009);

⁸⁵ OK CONST V, 30.

⁸⁶ *Okla. H. Jour.*, 35, 52nd Leg., 1st Reg. Sess. (Jan. 6, 2009); *Okla. H. Jour.*, 37, 52nd Leg., 1st

the constitutional provision establishing the day and time for convening the first day of regular session as well as the motion to adjourn until 12:00 noon, Monday, February 2, 2009 adopted by the House on "organizational day", the previous legislative day,⁸⁷ provided each member with explicit and proper notice of the date, time and location of the next daily session of the House.

Fourth, a quorum was established.⁸⁸ Fifth, a clear question came before the House to be decided when Representative Tad Jones, the Majority Floor Leader, moved adoption of House Resolution 1005 which contained proposed House Rules for the 52nd Oklahoma Legislature.⁸⁹ Sixth, upon consideration of House Resolution 1005, members of the House were afforded opportunity to offer debate on the merits of the proposed rules.⁹⁰ Seventh, the question before the House, adoption of House Resolution 1005, House Rules, was brought to a vote.⁹¹

Eighth, the question before the House passed with a majority of the House voting in the affirmative.⁹² Ninth, nothing fraudulent or deceptive occurred in the decision-making process. Tenth, neither the action of adopting House Rules nor the process by which the rules were adopted violates the federal constitution or federal law nor did it violate the Oklahoma Constitution or any known case law interpreting the Oklahoma Constitution.

Finally, the actions taken by the House in adopting House Rules were recorded in the

Reg. Sess. (Feb. 2, 2009); OK CONST Art. V § 26.

⁸⁷ *Id.*; *Okla. H. Jour.*, 35, 52nd Leg., 1st Reg. Sess. (Jan. 6, 2009).

⁸⁸ *Okla. H. Jour.*, 37, 52nd Leg., 1st Reg. Sess. (Feb. 2, 2009).

⁸⁹ *Id.* at 270

⁹⁰ Daily H. Sess. Dig. Rec., 52nd Leg., 1st Reg. Sess. Track 10:16, 32:18-55:29 (Feb. 2, 2009).

⁹¹ *Okla. H. Jour.*, 270, 52nd Leg., 1st Reg. Sess. (Feb. 2, 2009).

⁹² *Id.*

House Journal,⁹³ including a clear record of the motion to adopt House Resolution 1005, the proposed amendments offered to the main question and their disposition, the final roll call vote showing a majority of votes cast in the affirmative and a verbatim record of House Rules as adopted.⁹⁴

In conclusion, by ruling that the customs and practices of the House govern consideration and adoption of House Rules, the Chair abided by relevant constitutional requirements, the time-honored practices of the House and generally agreed upon standards of parliamentary procedure.

⁹³ OK CONST V, 30.

⁹⁴ *Okla. H. Jour.*, 268-295, 52nd Leg., 1st Reg. Sess. (Feb. 2, 2009).