

PRECEDENTS
OF THE
OKLAHOMA
HOUSE OF REPRESENTATIVES

HOUSE PRECEDENTS, FIFTIETH, FIFTY-FIRST, FIFTY-SECOND,
FIFTY-THIRD AND FIFTY-FOURTH (FIRST REGULAR SESSION
AND SPECIAL SESSION) OKLAHOMA LEGISLATURES
(2005-2013)

STARE DECISIS ET NON QUIETA MOVERE

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HOUSE PRECEDENTS

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RULE ONE

DUTIES AND RIGHTS OF THE SPEAKER

§1.2 PRESERVATION OF ORDER AND DECORUM

1.2 - 1. (2010) Distribution of Literature on House Floor

Rule – House Rule 1.2, paragraph (a) states:

The Speaker shall preserve order and decorum. In case of any disturbance or disorderly conduct in the House Chamber, halls or rooms belonging to the House, the Speaker shall have the power to order the same to be cleared or direct any other action necessary to preserve order and decorum.

History – Representative Sullivan raised a point of order as to whether it was in order for literature to be distributed on the House Floor when such literature did not display the distributing Member's name. The presiding officer stated

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that while no House Rule requires that a Member's name be placed on literature intended for distribution on the House Floor, it had been the practice of the House to require that this be done in order to provide notice to the members as to who had requested distribution of the material. As such the presiding officer ruled that all materials distributed on the House Floor must have the distributing member's name displayed on the material before such material would be approved for distribution.¹

Ruling – It is the decision of the Chair that all materials distributed on the House Floor must display the distributing member's name.

¹ *Okla. H. Jour.*, 404, 52nd Leg., 2nd Reg. Sess. (Feb. 10, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 01:03:24-01:06:40 (Feb. 10, 2010).

RULE FOUR

MEMBERS

§ 4.4 DECORUM

4.4 - 1. (2011) Discipline Determined by House of Representatives

Rule - House Rule 4.4, paragraph (d) states:

Profane, obscene or indecent language is prohibited in the House and in all committees and subcommittees of the House.

History - Representative Ortega moved that Representative Terrill be publicly reprimanded for the comments made in the office of the Majority Floor Leader.

Representative Ritze raised a point of order stating that pursuant to House Rule 4.4 the motion was out of order. The presiding officer ruled the point not well taken and the motion to be in order.

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Representative Terrill raised a point of inquiry pursuant to House Rule 4.4, paragraph (c) as to whether speech within private House offices is actionable. The presiding officer stated that it was up to the House to determine whether to reprimand a member and ruled the objection out of order.

Representative Blackwell raised a point of inquiry as to whether any conduct or speech in the House offices would be subject to reprimand on the House floor. The presiding officer stated that it would be up to the House to determine.¹

Ruling – It is the ruling of the Chair that the question of whether or not to discipline a member for conduct or speech is to be determined by the House of Representatives.

¹ *Okla. H. Jour.*, 577 53rd Leg., 1st Reg. Sess. (March 14, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *Motion to Reprimand*, 03:23:05-03:37:06 (March 14, 2011); *Okla. H. Jour.*, 578, 579 53rd Leg., 1st Reg. Sess. (March 14, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *Motion to Reprimand*, 03:37:11-04:11:47 (March 14, 2011); see also OK CONST V, 30; *Okla. H. Jour.*, 1195, 1196 53rd Leg., 1st Reg. Sess. (May 2, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *Motion to Reprimand*, 01:53:48-02:00:25 (May 2, 2011); *Okla. H. Jour.*, 1242, 54th Leg., 1st Reg. Sess. (May 13, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., located within video record of *HB 1313*, 01:25:11-01:35:37 (May 13, 2013).

RULE SIX

BILLS AND RESOLUTIONS

§ 6.1 DEFINITION OF THE TERM “BILL”

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 Bengé 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

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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 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

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).

² OK CONST Art. V § 57.

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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 House took up

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.).

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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

§ 6.4 INTRODUCTION

6.4 - 1. (2010) Appropriation Shell Bills Exempted from Eight-Bill Limit

Rule – House Rule 6.4, paragraphs (b) and (c) state:

(b) Except as provided in subsection (c) of this section, no Member of the House of Representatives shall be the principal author of more than eight (8) bills or joint resolutions during a session of the Legislature.

(c) The provisions of subsection (b) of this section shall not apply to:

- 1. bills containing appropriation matters of which the principal author is the Chair of the Appropriations and Budget Committee of the House...*

History – During consideration of House Bill 2350, Representative Morrisette raised a point of order that House

⁵ *Mason's Manual of Legislative Procedure* 518, 519 § 729(3), (4) (National Conference of State Legislatures 2000).

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Bill 2350 was not in order to consider pursuant to House Rule 6.4, paragraph (c) because it lacked published appropriations numbers thereby removing it from the exception to the eight (8) bill limit contained in paragraph (c). Representative Morrisette requested that the measure be withdrawn from consideration until specific appropriations were published in the measure.

The presiding officer stated that a shell bill styled as an appropriation bill falls within the exceptions enumerated in House Rule 6.4, paragraph (c). While House Bill 2350 did not yet contain actual appropriations, it was clearly intended for use as an appropriation measure and therefore would be in order for the House to consider. The presiding officer ruled the point not well taken. Representative Morrisette appealed the ruling of the presiding officer and the decision of the presiding officer was upheld upon a roll call vote.⁶

Ruling – It is the decision of the Chair that a shell bill styled as an appropriation bill falls within the exception enumerated in House Rule 6.4, paragraph (c) excepting appropriation bills authored by the Appropriations and Budget chairperson from the eight (8) bill limitation.

§ 6.6 PRINCIPAL SENATE AUTHOR OF A HOUSE BILL OR RESOLUTION

⁶ *Okla. H. Jour.*, 402, 403, 52nd Leg., 2nd Reg. Sess. (Feb. 10, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 0:47:51-1:03:15 (Feb. 10, 2010).

6.6 - 1. (2010) Consideration of Measures with Pending Principal Senate Author

Rule – House Rule 6.6 says in part:

...no bill or resolution lacking a principal Senate author shall be scheduled for floor consideration...

History – During the course of considering House Bill 2654, Representative Lamons raised a point of order inquiring whether House Bill 2654 was out of order for consideration by the House pursuant to House Rule 6.6 because the measure on its face did not reflect a Senate author.

The presiding officer stated that the Senate author was being held in the electronic author/coauthor system and the principal Senate author would be reflected once the measure had been considered and passed on Third Reading and final passage. The presiding officer ruled the point not well taken.⁷

Ruling – It is the ruling of the Chair that a measure may be taken up for consideration on the House Floor when the measure's principal Senate author has been designated and is pending in the House's electronic coauthor software.

⁷ *Okla. H. Jour.*, 439, 52nd Leg., 2nd Reg. Sess. (Feb. 15, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 1:33:58-1:35:32 (Feb. 15, 2010).

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§ 6.7 PROCEDURES GOVERNING SIMPLE AND CONCURRENT RESOLUTIONS

6.7 - 1. (2005) Form of Amendments

Rule – House Rule 6.7, paragraph (c) states in part:

A motion to adopt a simple or concurrent resolution shall be subject to amendment and debate. A motion to amend shall be in order immediately...

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

The presiding officer ruled that it is necessary to have an amendment before the Clerk prepared [in order] to amend a resolution.⁸

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

Reasoning – House Rule 8.6(b) states that, “The body of a bill or joint resolution shall not be defaced or interlined, but

⁸ *Okla. H. Jour.*, 1244, 50th Leg., 1st Reg. Sess. (2005); *Daily H. Sess. Dig. Rec.*, 50th Leg., 1st Reg. Sess. Track 10:25, 7:35-9:50 (April 14, 2005).

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all proposed amendments, noting the page and line, shall be submitted on a separate piece of paper to the House staff for preparation and shall be filed with the Office of the Chief Clerk.” While this rule is not binding authority because it pertains only to bills and joint resolutions on General Order, it should be viewed as strong persuasive authority. If it is desirable to require that amendments to bills and joint resolutions be presented in written form, it is logical and reasonable to impose the same requirement on proposed amendments to simple resolutions.

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

Under other parliamentary authorities, there clearly exists support for the requirement that amendments be submitted in writing. Specifically, in Rule XVI, *Motions and Amendments*, Paragraph 1, the United States House of Representatives requires that all motions be submitted in writing upon the demand of a Member, Delegate or Resident Commissioner.⁹ The precedents of the U.S. House explicitly

⁹ *U.S. House Rule XVI*, Par. 1 (109th Cong.).

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hold that amendments should be submitted in writing.¹⁰ Furthermore, *Mason's Manual of Legislative Procedure* states that amendments to bills and resolutions must be submitted in writing.¹¹

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

§ 6.8 FINAL ACTION

6.8 - 1. (2005) Bill Unavailable for "Further Consideration" After Final Action Occurs

Rule – House Rule 6.8, paragraph (a) states in part:

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

- 1. committee recommendation of "Do Not Pass"...*

¹⁰ 8 *Cannon* Sec. 2826; *Deschler* Ch 27 § 1.2.

¹¹ *Mason's Manual of Legislative Procedure* 273 § 400(3) (National Conference of State Legislatures 2000).

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

The presiding officer ruled the motion out of order pursuant to House Rule 6.8 since House Bill 1699 was reported “Do Not Pass from the Business and Economic Development Committee which constitutes final action.”¹²

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

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

¹² *Okla. H. Jour.*, 1020, 50th Leg., 1st Reg. Sess. (March 17, 2005); *Daily H. Sess. Dig. Rec.*, 50th Leg., 1st Reg. Sess. Track 10:13, 0:00-9:55 (March 17, 2005); affirmed at *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).

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rules and second the question of orderliness within the legislative process.

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

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

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

*...it is more material that there should be a rule to go by, than what that rule is; that there may be an uniformity of proceeding in business, not subject to the caprice of the Speaker, or captiousness of the members...it is very material that order, decency and regularity be preserved in a dignified public body.*¹³

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

¹³ Thomas Jefferson, *A Manual of Parliamentary Practice* 2 § 1 (Washington City: S.H. Smith, 1801).

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

While the appearance of House Bill 1699 on the House calendar by suspension of Rule 6.8 seems innocuous enough, the unavoidable implication of such an action would be that any bill, even after receiving final action, could be resurrected anywhere within the legislative cycle. Such a result would create unnecessary chaos in an already complex legislative process.

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

6.8 - 2. (2008) Veto by Governor not Final Action

Rule – House Rule 6.8, paragraph (a) states:

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

- 1. committee recommendation of “Do Not Pass”,*
- 2. if a motion to reconsider the vote on Third Reading or Fourth Reading fails to prevail,*
- 3. if a motion to table the motion to reconsider prevails, or*

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- 4. if a vote is taken on Third Reading or Fourth Reading and no notice is served to reconsider the vote.*

History – Representative Gilbert requested a ruling of the Chair as to whether or not, under the terms of House Rule 6.8, consideration of House Bill 2547 by the House was in order. According to Representative Gilbert, the measure contained the same subject matter as a measure vetoed by the Governor in the course of the previous legislative session.

The presiding officer ruled the point not well taken pursuant to House Rule 6.8 because the Rule only applies when the action taken was to defeat a measure within the legislative process of the House of Representatives and was not applicable in the case of a gubernatorial veto. As such, the presiding officer ruled consideration of House Bill 2547 in order. Representative Gilbert appealed the ruling of the Chair and the decision of the presiding officer was upheld by the House upon roll call.¹⁴

Ruling – It shall be the decision of the Chair that veto of a measure by the Chief Executive does not constitute final action under the terms of House Rule 6.8.

¹⁴ *Okla. H. Jour.*, 678, 51st Leg., 2nd Reg. Sess. (2008); *Daily H. Sess. Dig. Rec.*, 51st Leg., 2nd Reg. Sess. Track 10:16, 6:33-13:10 (March 6, 2008); affirmed at *Okla. H. Jour.*, 1593, 52nd Leg., 1st Reg. Sess. (May 4, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:27, 1:29-3:09 (May 4, 2009).

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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 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

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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).¹⁵

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.

6.8 - 4. (2010) Motion to Rescind May Not Be Used to Avoid Final Action

Rule – House Rule 6.8, paragraph (a) states in part:

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

...a motion to reconsider the vote on Third Reading or Fourth Reading [that] fails to prevail...

History – Representative Nelson moved to reconsider the vote whereby Senate Bill 2207 failed, which motion failed of adoption.

Representative Nelson moved to rescind the vote whereby the reconsideration motion failed.

¹⁵ *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).

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Representative Reynolds raised a point of order stating that the motion to rescind was dilatory.

The presiding officer stated that the motion to rescind the vote to reconsider was not in order because when a motion to reconsider fails on a measure which itself previously failed, the failed motion to reconsider constitutes final action on the measure and therefore is not in order to consider further.¹⁶

Ruling – It is the ruling of the Chair that a motion to rescind cannot be used to negate an action which would otherwise constitute final action.

6.8 - 5. (2010) Failure of Motion to Adopt Conference Committee Report Not Final Action

Rule – House Rule 6.8, paragraph (a) states:

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

- 1. committee recommendation of "Do Not Pass",*
- 2. if a motion to reconsider the vote on Third Reading or Fourth Reading fails to prevail,*
- 3. if a motion to table the motion to reconsider prevails, or*

¹⁶ *Okla. H. Jour.*, 1442, 52nd Leg., 2nd Reg. Sess. (April 22, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 1:54:57-2:01:10 (April 22, 2010).

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4. if a vote is taken on Third Reading or Fourth Reading and no notice is served to reconsider the vote.

History – The Conference Committee Report on Senate Bill 2033 was called up for consideration.

Representative Sears moved that the House adopt the conference committee report, which motion failed of adoption upon a roll call vote.

Later in the day, The Conference Committee Report on Senate Bill 2033 was again called up for consideration. Representative Reynolds raised a point of inquiry as to whether it was in order for the House to proceed with considering the conference committee report again since the motion to adopt the conference committee report had previously failed.

The presiding officer stated that failure of a motion to adopt a conference committee report did not constitute “final action” under House Rule 6.8 and therefore consideration of the report was in order.

Upon motion of Representative Sears, the conference committee report was adopted upon a division of the question.¹⁷

¹⁷ *Okla. H. Jour.*, 1753, 52nd Leg., 2nd Reg. Sess. (May 25, 2010); *Okla. H. Jour.*, 1772, 1773, 52nd Leg., 2nd Reg. Sess. (May 26, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 06:07:48-06:08:21; 06:18:07-06:19:04 (May 26, 2010).

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Ruling – It is the ruling of the Chair that failure of a motion to adopt a conference committee report does not constitute “final action”.

6.8 - 6. (2013) Failed ‘Do Pass’ Motion in Committee Not Final Action

Rule – House Rule 6.8, paragraph (a) states:

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

- 1. committee recommendation of “Do Not Pass”,*
- 2. if a motion to reconsider the vote on Third Reading or Fourth Reading fails to prevail,*
- 3. if a motion to table the motion to reconsider prevails, or*
- 4. if a vote is taken on Third Reading or Fourth Reading and no notice is served to reconsider the vote.*

History – During consideration of the Conference Committee Report on House Bill 2097, Representative Sherrer raised a point of order as to whether the Conference Committee Report on House Bill 2097 was in order pursuant to House Rule 8.12. Representative Sherrer stated that the language in the conference committee report was similar to the language present in Senate Bill 802 which failed in a House committee.

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The presiding officer stated that House Rule 8.12 governs consideration of floor amendments during the General Order phase of the legislative process and that the Conference Committee Report on House Bill 2097 was not presently on General Order and that no floor amendment was presently under consideration. The presiding officer stated further that Senate Bill 802 did not receive final action in a House committee but rather underwent a failed “Do Pass” motion. As such, the presiding officer ruled the point not well taken.¹⁸

Ruling – It is the ruling of the Chair that failure of a ‘Do Pass’ motion in a House committee does not constitute “final action”.

¹⁸ *Okla. H. Jour.*, 1321-1322, 54th Leg., 1st Reg. Sess. (May 21, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *CCR to SB 2097*, 01:44:55-01:53:54 (May 21, 2013); *Okla. H. Jour.*, 1322, 54th Leg., 1st Reg. Sess. (May 21, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *CCR to SB 2097*, 02:13:49-02:17:08 (May 21, 2013).

RULE SEVEN

COMMITTEES

§ 7.4 AUTHORITY OF THE CHAIR

7.4 - 1. (2008) Cognizance of Committee Procedures by Presiding Officer

Rule – House Rule 7.4, paragraph (b) states in part:

Except as otherwise provided in these Rules, the Chair has all authority necessary to ensure the efficient operation of the committee or subcommittees, including, but not limited to, presiding over the committee or subcommittees, establishing the agenda for the committee or subcommittees, recognition of members or presenters, deciding all questions of order in committee or subcommittees and determining the order in which matters are considered in committee or subcommittees...

History – Representative Covey raised a point of order pursuant to House Rules 7.2(a) and (b) concerning lack of notice for a committee meeting conducted on the previous

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day. Specifically, his point of order included a question of the Chair as to whether or not a meeting notice should include attached language for legislation to be considered at the committee meeting announced in the published notice.

The presiding officer, Representative Armes, held that it was not within the jurisdiction of the presiding officer on the House Floor to address a member's concerns regarding a possible violation of committee procedures and that such complaints or concerns should be taken up with the relevant committee chairperson. Representative Covey appealed the ruling of the Chair and the House upheld the ruling upon roll call.¹

Precedent – It shall be the decision of the Chair that the presiding officer will not take cognizance of or attempt to exercise jurisdiction over alleged violations of committee procedure while presiding on the House Floor.

Reasoning – In practical terms, the presiding officer is not in a position to effectively handle complaints pertaining to committee procedure. There are, however, other appropriate

¹ *Okla. H. Jour.*, 587, 588, 51st Leg., 2nd Reg. Sess. (March 4, 2008); *Daily H. Sess. Dig. Rec.*, 51st Leg., 2nd Reg. Sess. Track 10:20, 10:45-15:25 (March 4, 2008); affirmed at *Okla. H. Jour.*, 1077, 51st Leg. 2nd Reg. Sess. (April 2, 2008); *Daily H. Sess. Dig. Rec.*, 51st Leg., 2nd Reg. Sess. Track 10:19, 0:00-0:54 (April 2, 2008); *Okla. H. Jour.*, 1144, 54th Leg., 1st Reg. Sess. (May 1, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., 03:58:22-04:00:47 (May 1, 2013).

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ways for a member to raise concerns regarding committee procedure within the House.

Under the rules and traditions of the Oklahoma House of Representatives, the concerned member has several options available to them if they believe a committee chairperson is violating House rules pertaining to committee operations. First, the member may approach the offending chairperson directly. If this does not end in a positive result, the member may approach the Speaker directly and raise his or her concerns.

If this does not satisfy the member, House rules provide an outlet that is public and specifically designed for airing of complaints about procedures and processes within the House.² This is known colloquially as a “question of privilege of the House.” To be recognized for this purpose, the member should notify the Majority Floor Leader of his or her intention to seek recognition for a question of privilege of the House.³ At the appropriate time within the course of the day’s legislative business, unless a more privileged motion is lodged, the Majority Floor Leader must seek recognition on behalf of the requesting member. Upon receiving recognition, the member would approach the well of the House and notify the full House of his or her concerns regarding appropriate notice of committee meetings.

² *Okl. H. Rules*, § 9.5 (51st. Leg.).

³ *Prec. Okla. H. of Rep.*, § 9.2(1.), 50th Leg., 1st Reg. Sess. (April 7, 2005).

§ 7.11 BILL SUMMARY

7.11 - 1. (2005) Fiscal Impact Statements*

Rule – House Rule *7.12, 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 fiscal analysis.

History – Representative Wright raised a point of order pursuant to House Rule 7.12(a) that a fiscal impact statement is required for consideration of House Bill 1230.

The Speaker Pro Tempore Winchester ruled the point well taken and pursuant to House Rule *7.12(a), House Bill 1230 would be laid over until a fiscal impact statement was distributed.⁴

Ruling – It shall be the decision of the Chair that the phrase “accompanied by a fiscal analysis” contained in House Rule 7.12(a) shall be interpreted to mean that the fiscal analysis prepared for a particular bill or resolution must be distributed

* Interpreted Rule 7.12, 50th Leg., this rule was renumbered as Rule 7.11 in House Rules adopted for 51st Leg. and 52nd Leg.

⁴ *Okla. H. Jour.*, 425, 50th Leg., 1st Reg. Sess. (Feb. 24, 2005); *Daily H. Sess. Dig. Rec.*, 50th Leg., 1st Reg. Sess. Track 12:30, 8:27-11:48 (Feb. 24, 2005).

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on the House Floor before that bill or resolution may be heard.

7.11 - 2. (2007) Measures with No Fiscal Impact⁵

7.11 - 3. (2008) Availability of Fiscal Analysis in Second Session of Legislature

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

If any bill...is scheduled for floor consideration without a fiscal...analysis having been prepared, it shall be the right of any Member to raise a point of order on the Floor...

History – Representative Covey raised a question of the Chair pursuant to House Rule 7.11 as to whether or not it was proper for House Bill 1897 to be considered without the availability of a fiscal impact statement. House Bill 1897 was introduced in the First Session of the 51st Oklahoma Legislature. It received a favorable committee recommendation but was not scheduled for consideration by the full House. In the Second Session of the 51st Oklahoma Legislature, House Bill 1897 was scheduled for consideration and was taken up by the full House.

⁵ Tacitly overruled by the presiding officer in *Prec. Okla. H. of Rep.*, § 7.11(6), 53rd Leg., 2nd Reg. Sess. (Feb. 13, 2012); see *Okla. H. Jour.*, 202, 53rd Leg., 2nd Reg. Sess. (Feb. 13, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HB 2353*, 01:32:38-01:50:59 (Feb. 13, 2012).

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Although a proper fiscal analysis of the measure was drafted in anticipation of consideration by the full House in the First Session of the Legislature, the fiscal analysis had not been published on the House Floor Calendar at the time the measure was actually taken up in the Second Session of the Legislature.⁶

Precedent – In response to the question of the Chair, Speaker Pro Tempore Blackwell directed that House Bill 1897 be laid over until a fiscal impact statement was provided or the measure’s author provided additional information describing the parameters of the measure’s fiscal impact.

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

⁶ *Okla. H. Jour.*, 414, 51st Leg., 2nd Reg. Sess. (Feb. 19, 2008); *Daily H. Sess. Dig. Rec.*, 51st Leg., 2nd Reg. Sess. Track 10:02, 2:18-4:55 (Feb. 19, 2008).

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consideration of the conference committee report should be postponed since no accompanying fiscal analysis had been published on the House Floor Calendar.

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...

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); *Okla. H. Jour.*, 1224-1225, 54th Leg., 1st Reg. Sess. (May 9, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., 00:31:58-00:46:44 (May 9, 2013).

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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 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.

7.11 – 6. (2012) Determination of Need for Fiscal Summary to Accompany Measure

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

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).

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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 2353, Representative Reynolds requested a ruling of the presiding officer as to whether further consideration of the bill was in order because no fiscal summary for the measure was available.

The presiding officer ruled that questions arising under House Rule 7.11, paragraph (a) pertaining to necessity of an accompanying fiscal summary shall be determined on the basis of the informed opinion of the Chair of the House Appropriations and Budget Committee as established for floor amendments by *House Precedent 8.10-2 (2009)*.

The presiding officer referred the question of whether House Bill 2353 would have a fiscal impact to the Appropriations and Budget Chair who stated that a fiscal impact statement was presently available on the bill and that no fiscal impact would arise from passage of the measure.

Representative Reynolds attempted to appeal the ruling of the Chair but failed to receive the required fifteen (15) seconds.⁹

⁹ *Okl. H. Jour.*, 202, 53rd Leg., 2nd Reg. Sess. (Feb. 13, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HB 2353*, 01:32:38-01:50:59 (Feb. 13, 2012).

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Ruling – It shall be the decision of the Chair that questions arising under House Rule 7.11, paragraph (a) pertaining to necessity of an accompanying fiscal summary shall be determined on the basis of the informed opinion of the chairperson of the House Appropriations and Budget Committee.

7.11 – 7. (2012) Formatting of Bill Summary Irrelevant if Fiscal Analysis Present

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 the Conference Committee Report on House Bill 2645, Representative McPeak raised a point of order regarding availability of a fiscal summary within the House Floor Calendar.

The presiding officer stated that although there was a technical error in the format of the fiscal summary, the relevant information was available to the members.¹⁰

¹⁰ *Okla. H. Jour.*, 1178, 53rd Leg., 2nd Reg. Sess. (May 21, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HB 2645*, 03:21:00-04:11:11 (May 21, 2012).

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Ruling – It is the ruling of the Chair that a deviation in the format of a bill summary is irrelevant if the fiscal analysis is present in the bill summary.

§ 7.15 CONFERENCE COMMITTEE REPORTS

7.15 - 1. (2005) Layover Requirement for Senate Conference Committee Reports*

Rule – House Rule *7.16, paragraph (c) states:

Prior to consideration, a conference committee report shall lie over thirty-six (36) hours after it is filed. No conference committee report shall be considered for adoption or rejection if Members of the House have not been provided a printed or electronically transmitted copy of the report twenty-four (24) hours before the consideration of the report. The report must be accompanied by a separate summary of the changes made to the bill or resolution sent to conference. This subsection shall not apply on the last two (2) days of any legislative session once the date of the sine die adjournment has been set.

History – Representative Gilbert raised a point of order citing House Rule 7.16(c) that the conference committee

* Interpreted Rule 7.16, paragraph (c) from 2005; a variation of this rule was adopted and renumbered as Rule 7.15 in House Rules adopted in 2009; the required layover period for House conference committee reports is contained in paragraph (d) of Rule 7.15 of 2009.

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report on Senate Bill 556 had not lain over for thirty-six (36) hours prior to consideration.

The presiding officer ruled the point not well taken and House Rule 7.16(c) applies to the filing of Conference Committee Reports.¹¹

Ruling – It shall be the decision of the Chair that the timing requirements delineated in House Rule 7.16(c) shall be interpreted as to not apply to Conference Committee Reports associated with Senate bills.

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

While House Rule 7.16(c) does not explicitly state that the rule only applies to House Conference Committee Reports,

¹¹ *Okla. H. Jour.*, 1687, 50th Leg., 1st Reg. Sess. (May 18, 2005); *Daily H. Sess. Dig. Rec.*, 50th Leg., 1st Reg. Sess. Track 10:07, 0:23-2:39 (May 18, 2005); affirmed at *Okla. H. Jour.*, 1759, 52nd Leg., 1st Reg. Sess. (May 19, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:10, 0:39-4:30 (May 19, 2009); *Okla. H. Jour.*, 1713, 52nd Leg., 2nd Reg. Sess. (May 25, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 00:25:52-00:26:53 (May 25, 2010).

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it does strongly imply such a holding. In the first sentence of Rule 7.16(c) it states, “Prior to consideration, a conference committee report shall lie over thirty-six (36) hours after it is filed.” The operative term for the question at hand is the word “filed” as it is used in Rule 7.16(c). On the basis of the broad authority given under House Rule 3.1 to the Chief Clerk to oversee the legislative process in the House along with due consideration of the customs of the House, this means filed in the Chief Clerk’s office within the House of Representatives.

The logical progression is as follows, if the generally understood meaning of the term “filed” as expressed in House Rule 7.16(c) means filed in the Chief Clerk’s office, then it is impossible for Senate Conference Committee Reports to fall under the time requirements of Rule 7.16(c) because they are never “filed” in the Chief Clerk’s office. They are only filed in the Senate by whatever method the Senate prescribes.

From a practical perspective a conference committee report pertaining to a Senate bill may be filed, considered and accepted on the Senate side and not be transmitted to the House for several days. Furthermore, upon arrival in the House, there is no readily ascertainable event on which to base the timing requirements imposed by House Rule 7.16(c). At what point would a Senate conference committee report be considered “filed”? Would it be when the message arrives from the Senate notifying the House of the conference committee report’s transmission to the House? Might it be when the message of submission is distributed to other House clerks for processing and inclusion in the bill tracking system, or perhaps would it be when the Senate

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measure was distributed on the House Floor? Which event could reasonably be considered “filing” for the purposes of timing under Rule 7.16(c)? Put succinctly, there is no practical method of pinpointing when a Senate conference committee report is “filed” for the purposes of observing and calculating the timing requirements imposed by Rule 7.16(c).

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

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.

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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.¹²

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.

7.15 - 3. (2010) No Restriction on New Language in Conference Committee Reports

Rule – House Rule 7.15, paragraph (a) states:

A conference committee report shall be considered by the House only when a majority of both the House and Senate members of the committee have signed the report. The House shall consider the report only if it is limited to matters germane to the bill or resolution.

History – During consideration of the 2nd Conference Committee Report on House Bill 2659, Representative Reynolds requested a ruling of the presiding officer as to whether the conference committee report was in order for consideration.

¹² *Okla. H. Jour.*, 1928, 52nd Leg., 1st Reg. Sess. (May 22, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:41, 17:57-19:33 (May 22, 2009).

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Representative Reynolds raised a point of order stating that pursuant to *Mason's Manual of Legislative Procedure* a conference committee report shall be confined to the agreement reached between both Houses.¹³

The presiding officer ruled that the issues raised are addressed in House Rules 7.15 and 9.3 and the point not well taken.¹⁴

Ruling – It is the decision of the Chair that any limitations governing what language may be included in a conference committee report are contained within House Rules 7.15 and 9.3.

7.15 - 4. (2010) Conference Committee Report Considered Electronically Available at Time It Becomes Available in *BTO* Online

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

No House conference committee report shall be considered for adoption if Members of the House have not been provided a printed or electronically transmitted copy of the report twenty-four (24) hours before consideration of the report.

¹³ *Mason's Manual of Legislative Procedure* 560 § 771(2) (National Conference of State Legislatures 2000).

¹⁴ *Okla. H. Jour.*, 1779, 52nd Leg., 2nd Reg. Sess. (May 26, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 7:44:53-7:55:38 (May 26, 2010).

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History – When the 2nd Conference Committee Report on House Bill 2659 was called up for consideration, Representative Reynolds raised a point of order referencing the requirement in House Rule 7.15(d) that an electronic copy of a conference committee report must be made available to the members twenty-four (24) hours prior to consideration.

The presiding officer stated that a conference committee report becomes available electronically through *BTOOnline*¹⁵ at the time the report is filed with the Clerk's office and as such, the conference committee report in question had been available for twenty-four (24) hours.¹⁶

Ruling – It is the decision of the Chair that once a conference committee report becomes available through *BTOOnline*, it is considered electronically available to the members.

¹⁵ *BTOOnline* is the electronic bill tracking software used by the Oklahoma Legislature. *BTOOnline* is dynamically updated as a measure moves through the legislative process. In the case of a conference committee report for a House measure, the status of that House measure is updated when the conference committee report is physically filed with the Clerk's office meaning that an electronic copy of the report becomes available through *BTOOnline* once the physical copy of the report is filed with the Clerk's office.

¹⁶ *Okla. H. Jour.*, 1779, 52nd Leg., 2nd Reg. Sess. (May 26, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 7:56:00-7:58:51 (May 26, 2010).

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7.15 - 5. (2010) Germaneness Requirement Applicable Only to House Conference Committee Reports

Rule – House Rule 7.15, paragraph (a) states:

A conference committee report shall be considered by the House only when a majority of both the House and Senate members of the committee have signed the report. The House shall consider the report only if it is limited to matters germane to the bill or resolution.

History – Upon consideration of the 2nd Conference Committee Report on Senate Bill 481, Representative Morrissette requested a ruling of the presiding officer as to whether the conference committee report was in order for consideration pursuant to House Rule 8.11, paragraph (a).

The presiding officer stated that House Rule 8.11 pertains to measures on General Order and that Senate Bill 481 was at a later point in the legislative process. As such, the point was not well taken.

Representative Morrissette then requested a ruling as to whether the conference committee report was in order pursuant to House Rule 7.15.

The presiding officer ruled that House Rule 7.15 historically had been interpreted by the Chair to be applicable only to Conference Committee Reports filed for House bills but not to Conference Committee Reports associated with Senate bills and therefore ruled the point not well taken.

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Representative Morrisette appealed the ruling of the presiding officer and the decision of the Chair was upheld upon a roll call vote.¹⁷

Ruling – It is the ruling of the Chair that the germaneness requirement for Conference Committee Reports contained in House Rule 7.15 applies only to Conference Committee Reports filed for House measures.

§ 7.19 CONSIDERATION OF CONFERENCE COMMITTEE REPORTS

¹⁷ *Okla. H. Jour.*, 1845, 1846, 52nd Leg., 2nd Reg. Sess. (May 26, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 09:22:43-09:32:42 (May 26, 2010).

**7.19 - 1. (2013) Germaneness of CCR
Determined on Basis of Subject Matter, Not Title
of Law**

Rule – Section 7.19, paragraph (c) of the House Rules states:

The House shall not consider a House conference committee report or a joint committee report unless it is limited to matters germane to the bill or resolution.

History – During consideration of the Conference Committee Report on House Bill 2226, Representative McDaniel (Jeannie) raised a point of order as to whether the Conference Committee Report was limited to matters germane to the bill pursuant to House Rule 8.11, to which the presiding officer stated that the applicable House rule was contained in House Rule 7.19, paragraph (c).

Pursuant to House Rule 7.19, paragraph (c), the presiding officer determined that the conference committee report was germane to subject of Engrossed House Bill 2226.

Representative Inman raised a point of inquiry as to whether the precedent of the House was to determine the question of germaneness upon the basis of commonality in the same title of law, to which the presiding officer stated that the question of germaneness is determined upon the basis of subject matter rather than upon the title of law.¹⁸

¹⁸ *Okla. H. Jour.*, 1290, 54th Leg., 1st Reg. Sess. (May 16, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *CCR to HB 2226*, 01:59:30-

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Ruling – 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 a conference committee report is germane to the subject of an engrossed House measure.

§ 7.20 CONSIDERATION OF CONFERENCE COMMITTEE REPORTS

7.20 - 1. (2011) No Requirement to Republish Senate Amendments (SAs) Prior to Unanticipated Motion to Reject

Rule – House Rule 7.20, paragraph (a) says:

Motions to accept or reject Senate amendments or to adopt or reject conference committee reports may be arranged on a calendar or upon such calendars as may be directed by the Speaker of the House or the Speaker's designee.

History – Upon the Senate Amendments to House Bill 1468 being called up for consideration, Representative Terrill raised a point of order as to whether the Senate Amendments

02:10:56 (May 16, 2013); *Okl. H. Jour.*, 1349, 54th Leg., 1st Reg. Sess. (May 23, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., 2nd CCR to HB 1441, 02:18:03-02:23:53 (May 23, 2013).

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were germane to the original purpose of the measure pursuant to House Rule 8.11.

The presiding officer ruled the point well taken and ruled the amendments not germane. The Senate Amendments to House Bill 1468 were rejected and conference was requested upon the motion of Representative Johnson.

Representative Inman raised a point of order as to whether the Johnson motion to reject the Senate Amendments was in order without first being published on the “Rejections List” within the House Floor Agenda.

The presiding officer stated that no provision exists within House rules prohibiting a member from seeking recognition for a motion to reject Senate amendments if the motion to adopt the Senate amendments had previously failed.

Representative Terrill raised a point of order as to whether Senate amendments initially scheduled on the “Rejections List” would be susceptible to an unanticipated motion to accept offered by the author in lieu of the scheduled motion to reject the Senate amendments.

The presiding officer stated that House Rule 7.20 contains permissive language and that the “Rejections List” merely reflects a method of organizing the House Floor Agenda and as such, measures scheduled within one area of the Floor Agenda would not be required to be republished within

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another area of the House Floor Agenda as long as the requirements of Joint Rule 6 were observed.¹⁹

Ruling – It is the ruling of the Chair that a motion to reject Senate Amendments (SAs) initially scheduled as a motion to accept SAs in another area of the House Floor Agenda does not need to be republished when the author chooses to offer a motion to reject the SAs.

§ 7.21 TRANSPARENCY IN CONFERENCE

7.21 – 1. (2011) Determination of Need for Fiscal Summary to Accompany Conference Committee Report (CCR)

Rule – House Rule 7.21, paragraph (b) says:

All conference committee reports whose adoption will have a fiscal impact, shall be accompanied by a fiscal analysis.

History – When the Conference Committee Report (CCR) on House Bill 1953 was called up for consideration, Representative Terrill raised a point of order as to whether it was in order to continue consideration of the conference committee report on House Bill 1953 because a current, written fiscal analysis for the report was not available.

¹⁹ *Okla. H. Jour.*, 1201, 53rd Leg., 1st Reg. Sess. (May 2, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., SAs to *HB 1468*, 02:50:45-02:58:25 (May 2, 2011).

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The presiding officer stated that in a similar situation involving floor amendments, the Chair relied on the informed opinion of the Appropriations and Budget Chairperson to determine whether a fiscal impact existed and that the previous ruling was contained in *House Precedent 8.10-2 (2009)*.

In reliance on this precedent, the presiding officer ruled that the Chair would defer to the opinion of the Appropriations and Budget Chairperson as to whether a fiscal impact existed on the conference committee report (CCR).

Upon conclusion of the statement of the ruling by the presiding officer, a current, written fiscal analysis published by the House staff was made available and the presiding officer ruled that continued consideration of the Conference Committee Report on House Bill 1953 was in order.²⁰

Ruling – It shall be the decision of the Chair that questions arising under House Rule 7.21, paragraph (b) pertaining to necessity of an accompanying fiscal summary for conference committee reports shall be determined on the basis of the informed opinion of the chairperson of the House Appropriations and Budget Committee.

²⁰ *Okla. H. Jour.*, 1318, 53rd Leg., 1st Reg. Sess. (May 16, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *CCR to HB 1953*, 03:17:46-03:34:03 (May 16, 2011).

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7.21 - 2. (2012) Bill Summaries Not Required for Senate Conference Committee Reports

Rule - House Rule 7.21, paragraph (a) and paragraph (b) say:

(a) A summary of the changes contained in a conference committee report shall be made available prior to consideration of the report by the House.

(b) All Conference Committee Reports whose adoption will have a fiscal impact, shall be accompanied by a fiscal analysis.

History - When the Conference Committee Report on Senate Bill 1464 was called up for consideration, Representative Terrill raised a point of order stating that there was no bill summary available for the Conference Committee Report on Senate Bill 1464.

The presiding officer stated that the custom of the House is that bill summaries are not created for Senate Conference Committee Reports.

Representative Terrill raised a point of order stating that no written House precedent interprets House Rule 7.21, to which the presiding officer responded that the Chair was relying on the known practices of the House.

Representative Blackwell raised a point of order as to how practices of the House are identified, to which the presiding

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officer responded that the practices of the House arise from past proceedings of the House.²¹

Ruling – It is the ruling of the Chair that bill summaries are not required for Senate Conference Committee Reports.

Reasoning – The practice of the House has been to not require bill summaries for Conference Committee Reports on Senate Measures. This practice has arisen out of the practical problem of not knowing precisely when Senate Conference Committee Reports arrive in the House of Representatives and being able to quickly identify any changes incorporated in the proposed report.

Senate Conference Committee Reports tend to arrive late in the legislative session when House staff resources are under maximum strain as the end of the legislative session approaches. With little available time, the staff resources of the House must be focused on the measures and work product originating in the House of Representatives.

Ideally, each chamber should create and provide a bill summary identifying changes between the engrossed version of a measure and the proposed conference committee report. Such a practice would increase the overall transparency of the legislative process as well as consume staff resources in the most equitable fashion.

²¹ *Okl. H. Jour.*, 1202, 53rd Leg., 2nd Reg. Sess. (May 22, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *SB 1464*, 02:12:00-02:22:00 (May 22, 2012).

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§ 7.23 DUTIES

7.23 - 1. (2013) Scheduling Motions with Majority Floor Leader for New Business

Rule – House Rule 7.23, paragraphs (a) and (b) state in relevant part:

(a) At the beginning of each regular session of the biennium and at the beginning of any special session within the biennium or as needed at any other time, the Calendar Committee shall propose a regular order of business for the House of Representatives.

(b) On the next legislative day following publication of the proposed order of business, the proposed order of business shall be presented for consideration before the House of Representatives.

House Resolution 1004 was adopted by the House of Representatives on the next day following publication of the proposed order of business by the Calendar Committee. It says in relevant part:

THAT the following Order of Business shall be followed each day:

12. Motions placing new business before the House. The Majority Floor Leader shall schedule said motions upon the same legislative day, the timing of which shall be left to the discretion of the Majority Floor Leader.

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History – At the time House Resolution 1004 was called up for consideration by the House, Representative Sherrer raised a point of inquiry as to whether the Majority Floor Leader would recognize motions placing new business before the House.

The presiding officer stated that all motions placing new business before the House must be scheduled with the Majority Floor Leader and that those motions applicable to the question under consideration at that time would be entertained by the presiding officer.

Representative Dorman raised a point of inquiry as to whether the Majority Floor Leader had the discretion to either schedule or not schedule motions requested by a member that would place new business before the House.

The presiding officer stated that the Majority Floor Leader has the authority to determine when a motion placing new business before the House is to be scheduled but does not have discretion over whether a motion would be taken up for consideration and that a motion requested by a member would be scheduled on the same day as requested by the member.²²

²² *Okla. H. Jour.*, 275-276, 54th Leg., 1st Reg. Sess. (Feb. 5, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HR 1004*, 00:10:44-00:12:55 (Feb. 5, 2013); *Okla. H. Jour.*, 482-483, 54th Leg., 1st Reg. Sess. (March 4, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HB 1721*, 01:34:51-01:46:58 (March 4, 2013); *Okla. H. Jour.*, 659, 54th Leg., 1st Reg. Sess. (March 12, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg.

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Ruling – It is the ruling of the Chair that while the Majority Floor Leader may determine when new business is placed before the House, the Majority Floor Leader is required to schedule a motion placing new business before the House sometime during the same legislative day that the request is made by a member.

Reasoning – Previously, it was the custom of the House to delegate to the Majority Floor Leader the duty of scheduling of legislation on the House Floor as well as the duty of scheduling items of new business. This custom had its origins in the Speaker’s traditional authority to preserve order in the House by any reasonable means.²³ In House rules adopted

Sess., *HJR 1023*, 02:06:34-02:08:04 (March 12, 2013); *Okla. H. Jour.*, 678-679, 54th Leg., 1st Reg. Sess. (March 12, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HB 1243*, 10:13:05-10:13:25 (March 12, 2013); *Okla. H. Jour.*, 1228, 54th Leg., 1st Reg. Sess. (May 9, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., 04:19:23-04:26:54 (May 9, 2013); *Okla. H. Jour.*, 1347, 54th Leg., 1st Reg. Sess. (May 23, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *CCR to SB 1030*, 01:01:53-01:02:14 (May 23, 2013).

²³ *Prec. Okla. H. of Rep.*, § 9.2(1.), 50th Leg., 1st Reg. Sess. (April 7, 2005); *Prec. Okla. H. of Rep.*, § 9.2(5.), 52nd Leg., 1st Reg. Sess. (March 12, 2009). *Okla. H. Jour.*, 632-633, 53rd Leg., 1st Reg. Sess. (March 15, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., 04:08:00-04:28:40 (March 15, 2011); *Okla. H. Jour.*, 1193, 53rd Leg., 1st Reg. Sess. (May 2, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HCR 1018*, 00:52:32-00:56:56 (May 2, 2011); *Okla. H. Jour.*, 1040, 53rd Leg., 2nd Reg. Sess. (April 26, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., 02:39:23-02:42:06 (April 26, 2012); *Okla. H. Jour.*, 1044, 53rd

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for the 54th Oklahoma Legislature, 2013-2014, authority to schedule legislation, with two exceptions,²⁴ has been delegated to the House Calendar Committee.²⁵ For the 54th Oklahoma Legislature, the Majority Floor Leader was appointed by the Speaker to serve as the chair of the House Calendar Committee, thus uniting both roles.²⁶

Though as chairperson of the Calendar Committee, the Majority Floor Leader plays a significant role in guiding the scheduling of legislation on the House Floor, with the exception of the Consent Docket, current House rules do not contemplate a scenario where legislation may be unilaterally scheduled by the Majority Floor Leader, as in the past.²⁷ However, in establishing the ‘Order of Business’ for the House, House Resolution 1004, paragraph (12), partially codifies a custom and practice of the House by explicitly authorizing the Majority Floor Leader to exercise discretion as to when new business is scheduled on a given legislative day. In practical terms, this means that the Majority Floor

Leg., 2nd Reg. Sess. (April 30, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *SAs to HB 2643*, 00:06:10-00:17:12 (April 30, 2012).

²⁴ The two exceptions are the “discharge petition”, see *Okla. H. Rules*, § 7.12 (54th Leg.) and the House Consent Docket, see *Okla. H. Rules*, §§ 7.28, 8.19 (54th Leg.).

²⁵ *Okla. H. Rules*, § 7.22 (54th Leg.).

²⁶ *Okla. H. Jour.*, 14, 54th Leg., 1st Reg. Sess. (Jan. 8, 2013); *Okla. H. Jour.*, 273, 54th Leg., 1st Reg. Sess. (Feb. 4, 2013).

²⁷ Cf. *Prec. Okla. H. of Rep.*, § 9.2(1.), 50th Leg., 1st Reg. Sess. (April 7, 2005); *Prec. Okla. H. of Rep.*, § 9.2(5.), 52nd Leg., 1st Reg. Sess. (March 12, 2009).

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Leader cannot ultimately refuse to schedule a motion placing new business before the House and that such a motion must be scheduled at some point on the same legislative day. It is not a question of if, but rather a question of when.

7.23 - 2. (2013) Majority Floor Leader Determines Order of Consideration of Motions of Equal Rank

Rule – House Rule 7.23, paragraphs (a) and (b) state in relevant part:

(a) At the beginning of each regular session of the biennium and at the beginning of any special session within the biennium or as needed at any other time, the Calendar Committee shall propose a regular order of business for the House of Representatives.

(b) On the next legislative day following publication of the proposed order of business, the proposed order of business shall be presented for consideration before the House of Representatives.

House Resolution 1004 was adopted by the House of Representatives on the next day following publication of the proposed order of business by the Calendar Committee. It says in relevant part:

THAT the following Order of Business shall be followed each day:

12. Motions placing new business before the House. The Majority Floor Leader shall schedule said motions upon the

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same legislative day, the timing of which shall be left to the discretion of the Majority Floor Leader.

History – Representative Wright moved to reject the Conference Committee Report on Senate Bill 1030 and request further conference with instructions.

Representative Inman raised a point of order stating that he had electronically submitted another motion to reject the same Conference Committee Report with instructions prior to submission of Representative Wright’s motion to reject with instructions.

The presiding officer stated that all motions placing new business before the House must be scheduled through the Majority Floor Leader and that Representative Wright’s motion to reject with instructions was the motion brought before the House by the Majority Floor Leader and as such, the Wright motion was the motion presently under consideration.²⁸

Ruling – It is the ruling of the Chair that it is up to the discretion of the Majority Floor Leader to determine the order of consideration of motions proposing new business.

§ 7.24 NOTICE OF MEETINGS

²⁸ *Okla. H. Jour.*, 1366, 54th Leg., 1st Reg. Sess. (May 23, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *CCR to SB 1030*, 06:21:32-06:29:00 (May 23, 2013).

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7.24 - 1. (2013) Type of Notice Required for Meetings of Calendar Committee

Rule - House Rule 7.24, paragraph (a) states:

The Calendar Committee shall provide at least twenty-four (24) hours notice of a meeting. Notice of the meeting shall be published through an appropriate, public medium such as the House website or electronic mail. In case of emergency, with the approval of the Speaker, a meeting may be held with notice appropriate to the circumstances. The Speaker shall announce and describe the emergency in the same manner as notice is given.

History - At the beginning of the daily session on April 30, 2013, Representative Inman raised a point of order as to whether it was in order to proceed due to lack of required notice of the Calendar Committee meeting that convened earlier in the day on Tuesday, April 30, 2013, to which the presiding officer deferred ruling on the point of order for purposes of gathering additional facts.

Following several orders of business, Representative Morrisette raised a point of order as to what House rule the presiding officer was relying on when deferring his ruling on the point of order previously raised by Representative Inman,

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to which the presiding officer referenced House precedent and *Mason's Manual of Legislative Procedure*.²⁹

After several additional orders of business, in response to Representative Inman's point of order, the presiding officer ruled that a meeting notice had been sent to the entire House by electronic mail on Friday, April 26, 2013, at 2:52 p.m. providing notice of a meeting of the Calendar Committee scheduled for Tuesday, April 30, 2013, at 8:30 a.m. The presiding officer stated that there had been a glitch with the electronic mail server on the previous Friday which resulted in the temporary loss of some electronic mail sent on the previous Friday, including the e-mail in question. The presiding officer noted that the meeting notice in question still remained available on certain types of hand-held devices and had also been posted to the House website at the time it was sent on Friday, April 26, 2013.

Representative Inman appealed the ruling of the Chair, receiving the required fifteen (15) standing seconds and was recognized by the presiding officer to explain the appeal. The ruling of the Chair was upheld by the House upon a roll call vote.

At the conclusion of the day's business, Representative Peterson requested unanimous consent to adjourn to a time certain, to which objection was heard. Representative Inman raised an additional point of order regarding the procedures of the Calendar Committee which was not

²⁹ *Prec. Okla. H. of Rep.*, § 9.2(7.), 52nd Leg., 1st Reg. Sess. (May 21, 2009); *Mason's Manual of Legislative Procedure* 188 § 244 (National Conference of State Legislatures 2010).

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recognized. Representative Peterson pressed her motion, which motion was declared adopted upon a roll call vote.³⁰

Ruling – It is the ruling of the Chair that proper notice was provided for the Calendar Committee meeting held on Tuesday, April 30, 2013, at 8:30 a.m.

Reasoning – The applicable House Rule says in relevant part:

The Calendar Committee shall provide at least twenty-four (24) hours notice of a meeting. Notice of the meeting shall be published through an appropriate, public medium such as the House website or electronic mail... [emphasis added]

The Rule requires twenty-four hours public notice through “an appropriate, public medium”. An “appropriate, public medium” under the Rule, is at least one of two things, posting of notice on the House website or publication through electronic mail. Of note, there is no requirement that both methods be utilized together, though in practice, both methods are usually employed simultaneously.

In this instance, there was no dispute over whether notice was provided by publication on the House website. The discussion centered on whether notice of the Calendar Committee meeting was published to the House through electronic mail more than twenty-four (24) hours prior to the

³⁰ *Okla. H. Jour.*, 1132-1135, 1137 54th Leg., 1st Reg. Sess. (April 30, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., 00:35:57-01:59:00; 02:03:57-02:07:03 (April 30, 2013).

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meeting. Because the Rule says that either posting notice on the House website or publication through electronic mail qualify as appropriate notice, the requirement of the House rule in question was met when timely notice was posted to the House website, regardless of whether notice was simultaneously published via electronic mail.³¹

§ 7.26 ASSIGNMENT OF FLOOR RULES

Precedents, 8.8 - 1. (2010) and 8.8 - 2. (2010), interpret former Section 8.8 of House Rules, which dealt with the subject of “special rules”. With significant modifications, the same subject matter was relocated to Section 7.26 of House Rules for the 54th Oklahoma Legislature (2013-2014). Despite relocation and modification of the underlying language, the principles expressed in both precedents still remain valid under current House Rules. No requirement exists beyond a simple majority of those voting, a quorum being present, to adopt a special rule. In addition, the Calendar Committee may recommend a special rule that has applicability to more than one measure.

³¹ In making the ruling, the presiding officer mentioned that despite the technological glitch on Friday, April 26, 2013, evidence of a timely e-mail was available, as shown by an e-mail still visible within the handheld device of a member.

RULE EIGHT

ORDER OF BUSINESS AND LEGISLATIVE PROCESS

§ 8.5 READING AND EXPLANATION

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.

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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.³²

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 AMENDMENTS

8.6 - 1. (2007) Recommendation of Rules Committee and Motion to Strike Title

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

...amendments to strike the Title or the Enacting or Resolving Clause of a bill or joint resolution shall be in order only when offered by the principal author of such bill or resolution and upon receiving prior approval from the House Rules Committee...

³² *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).

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History – During consideration of House Bill 1507, Representative Nations, in his capacity as Vice Chair of the Rules Committee, reported to the full House that the Rules Committee recommended that the title be stricken from House Bill 1507. After announcing the recommendation of the Rules Committee, Representative Nations moved to amend the bill by striking the title.

While the author of the bill, Representative Adkins, did not personally offer the motion to “strike title,” he did not object to Representative Nations offering the motion on his behalf in conjunction with Representative Nations’ announcement of the recommendation of the Rules Committee.

Again, during consideration of House Bill 2108, Representative Nations, in his capacity as Vice Chair of the Rules Committee, reported to the full House that the Rules Committee recommended that the title be stricken from House Bill 2108. After announcing the recommendation of the Rules Committee, Representative Nations moved to amend the bill by striking the title.

While the author of the bill, Speaker Cargill, did not personally offer the motion to “strike title,” he did not object to Representative Nations offering the motion on his behalf in conjunction with Representative Nations’ announcement of the recommendation of the Rules Committee.³³

³³ *Okla. H. Jour.*, 877, 897, 51st Leg., 1st Reg. Sess. (March 14, 2007); *Daily H. Sess. Dig. Rec.*, 51st Leg., 1st Reg. Sess. Track 10:04, 6:04-7:19; Track 10:41, 1:11-1:27 (March 14, 2007).

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Precedent – It is the precedent of the Oklahoma House of Representatives under the terms of House Rule 8.6, paragraph (f), that it is permissible for the Vice Chair of the Rules Committee to announce the recommendation of the Rules Committee with regard to allowing an amendment to strike the title from a measure and for the Vice Chair to then offer the actual motion, on behalf of the measure’s author, to strike the title.

*8.6 - 2. (2008) Title of Floor Substitute Stricken*³⁴

8.6 - 3. (2008) Title Stricken Prior to Floor Consideration

Rule – House Rule 8.6, paragraphs (e), (f) and (g) state:

(e) No amendment purporting to strike the Title or the Enacting or Resolving Clause of any bill or joint resolution shall be in order except as provided in subsections (f) and (g) of this section.

(f) Beginning on the Monday falling two (2) weeks prior to a Third Reading deadline, amendments to strike the Title or the Enacting or Resolving Clause of a bill or joint resolution shall be in order only when offered by the principal author of such

³⁴ Effectively discarded upon adoption of *House Rules* for 53rd and 54th Oklahoma Legislatures. See Section 8.6, paragraphs (f) and (g) of *House Rules* for 53rd and 54th Oklahoma Legislatures.

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bill or resolution and upon receiving prior approval from the House Rules Committee. Amendments offered under this subsection shall not be subject to the time constraints mandated by subsections (b) and (c) of this section.

(g) The Chairperson of the Revenue and Taxation Committee and the Chairperson of the Appropriations and Budget Committee shall be permitted to offer amendments to strike the Title or the Enacting or Resolving Clause of measures affecting revenue or appropriations. Amendments offered under this subsection shall not be subject to the time constraints mandated by subsections (b) and (c) of this section.

History – During the author’s presentation of House Bill 3121, Representative Covey requested a ruling of the Chair as to whether or not it was in order for the House to consider House Bill 3121 with a stricken title under the terms of House Rule 8.6, paragraphs (e), (f) and (g). The presiding officer ruled the point not well taken noting that House Rule 8.6 applies solely to floor amendments and not to the measure itself and as such, consideration of House Bill 3121 was in order.³⁵

Ruling – It shall be the ruling of the Chair that House Rule 8.6, paragraphs (e), (f) and (g) are not applicable to a

³⁵ *Okla. H. Jour.*, 821, 51st Leg., 2nd Reg. Sess. (2008); *Daily H. Sess. Dig. Rec.*, 51st Leg., 2nd Reg. Sess. Track 10:40, 06:10-06:30 (March 12, 2008).

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measure itself but apply only to amendments offered to the measure on the House Floor.

8.6 - 4. (2008) Amendment Lacking Substantive Change Out of Order

Rule – House Rule 8.6, paragraph (a) states:

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.

History – During consideration of Senate Bill 163, Representative Terrill presented a comprehensive amendment, or “floor substitute,” to Senate Bill 163 followed by another floor substitute, an amendment to the first main floor amendment offered by Representative Terrill. The amendment to the main amendment contained the same substantive language as the main amendment but included a “preamble” explaining the legislative intent of the constitutional amendment proposed in Senate Bill 163.

Although the preambular language, once adopted, would be included in the Oklahoma Session Laws, it would not be included in the substantive language of the Oklahoma Constitution upon adoption of the proposed constitutional amendment by a vote of the people.

Representative Brown raised a point of order as to whether the Terrill amendment to the first floor substitute was in order on the basis of there being no substantive change in the language between the amendment to the floor substitute and the floor substitute itself.

Rule 8. Precedents

The presiding officer did not rule on Representative Brown's point of order. He referred to and quoted section 401, paragraph (5) of *Mason's Manual*³⁶ which says:

The presiding officer should never rule an amendment out of order unless certain that it is. In case of doubt the presiding officer should entertain the amendment, subject to the right of a member to raise a point of order, or the presiding officer should submit to the house the question of whether the amendment is in order.

The presiding officer exercised the prerogative of the Chair and put the following question to the House for a decision: "Shall the amendment to the amendment be considered a proper amendment?" The House ruled the Terrill amendment to the floor substitute improper upon roll call.³⁷

Ruling – It shall be the ruling of the House that an amendment to the main floor amendment containing the same substantive language as the main floor amendment shall be out of order.

³⁶ *Mason's Manual of Legislative Procedure* 274 § 401(5) (National Conference of State Legislatures 2000).

³⁷ *Okla. H. Jour.*, 1368-1369, 51st Leg., 2nd Reg. Sess. (2008); *Daily H. Sess. Dig. Rec.*, 51st Leg., 2nd Reg. Sess. Track 10:21, 5:27-51:33 (April 23, 2008). See also *Okla. H. Jour.*, 967, 53rd Leg., 1st Reg. Sess. (April 19, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 763*, 00:33:50-00:34:55 (April 19, 2011).

House Precedents

8.6 - 5. (2009) Amendments Offered to Untimely Filed Main Floor Amendments

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.

Rule 8. Precedents

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.³⁸

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

³⁸ *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); affirmed at *Okla. H. Jour.*, 1122-1123, 53rd Leg., 1st Reg. Sess. (April 26, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 939*, 01:41:00-01:44:05; 01:47:20-01:48:40 (April 26, 2011); *Okla. H. Jour.*, 659-660, 53rd Leg., 2nd Reg. Sess. (March 15, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HB 3076*, 02:10:20-02:11:41 (March 15, 2012).18, 2009).

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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 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

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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.³⁹

³⁹ *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).

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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 8.6.⁴⁰

In order to preserve the main components of the amendment cycle, namely notice, transparency and full consideration,⁴¹ 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

⁴⁰ *Prec. Okla. H. of Rep.*, § 8.6(5.), 52nd Leg., 1st Reg. Sess. (Feb. 18, 2009).

⁴¹ *Id.*

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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.

Notice, transparency and full consideration⁴² 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...

⁴² *Id.*

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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 amendment to strike the title is generally made by unanimous consent and put by the presiding officer without recognizing the chairperson offering the amendment.⁴³

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.

8.6 - 7. (2010) Authority to Strike Title on Retirement Measures Affecting Revenue

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

⁴³ *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).

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The Chairperson of the Appropriations and Budget Committee and the Chairperson of the Appropriations Subcommittee on Revenue and Taxation shall be permitted to offer amendments to strike the Title or the Enacting or Resolving Clause of measures affecting revenue or appropriations. Amendments offered under this subsection shall not be subject to the time constraints established by subsections (b) and (c) of this section.

History – While considering House Bill 2357, Representative Miller moved to amend House Bill 2357 by striking the title. Representative Reynolds raised a point of order that the motion to strike the title was out of order because the measure was a retirement measure and not an appropriation measure.

The presiding officer stated that House Rule 8.6, paragraph (g) permits the chairperson of the Appropriations and Budget Committee to offer amendments to strike the title on measures affecting revenue or appropriations and that it was the opinion of the Chair that this measure would affect how the State of Oklahoma utilizes certain types of revenue. As such, the presiding officer ruled the point not well taken and allowed presentation of the amendment to strike the title. 44

⁴⁴ *Okla. H. Jour.*, 409, 52nd Leg., 2nd Reg. Sess. (Feb. 10, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 1:25:46-1:36:00 (Feb. 10, 2010).

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Ruling – It shall be the decision of the Chair that retirement measures affecting revenue or appropriations fall within the authority of the Appropriations and Budget chairperson to offer amendments to strike the title as provided in House Rule 8.6, paragraph (g).

§ 8.7 CONSIDERATION AND PRESENTATION

8.7 - 1. (2006) Adoption of Floor Substitute Precludes Further Amendment of a Bill⁴⁵

8.7 - 2. (2007) Order of Presentation of Floor Amendments

Rule – House Rule 8.7, paragraph (a) states:

The House shall not consider more than one amendment at a time and amendments shall be taken up only as sponsors gain recognition from the Speaker to move their adoption.

History – During consideration of Senate Bill 507, Representative Morrissette raised a point of order

⁴⁵ Interpreted Rule 8.8, 50th Leg., this rule was renumbered as Rule 8.7 in House Rules adopted for the 51st and 52nd Legislatures. Effectively discarded upon adoption of *House Rules* for 53rd and 54th Oklahoma Legislatures. See Section 8.7, paragraph (c) of House Rules for the 53rd Oklahoma Legislature (2011-2012) and Section 8.8 of House Rules for the 54th Oklahoma Legislature (2013-2014).

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questioning the order by which proposed floor amendments came before the House for consideration. The presiding officer ruled that pursuant to House Rule 8.7, paragraph (a), the Chair has the prerogative and authority to determine the order of consideration of floor amendments.

Additionally, the presiding officer ruled that there is no requirement within House Rule 8.7 that the Chair announce a reason for the order of presentation that he chooses to follow when recognizing authors for presentation of their proposed floor amendments during floor sessions.⁴⁶

Ruling – It shall be the decision of the Chair that House Rule 8.7, paragraph (a) shall be interpreted to mean that the Chair has the prerogative and authority to determine the order of consideration of floor amendments and that the Chair is not required to announce a reason for the order of presentation that he chooses to follow when recognizing the authors for presentation.

8.7 - 3. (2011) Amendment of Language Previously Amended Prohibited

Rule – House Rule 8.7, paragraph (b) states:

The adoption of an amendment to a section shall not preclude further amendment of that section so long as subsequent

⁴⁶ *Okla. H. Jour.*, 1223, 51st Leg., 1st Reg. Sess. (April 17, 2007); *Daily H. Sess. Dig. Rec.*, 51st Leg., 1st Reg. Sess. Track 10:22, 21:26-27:20 (April 17, 2007).

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amendments do not purport to amend the same language previously amended. If a bill is being considered section by section or item by item, only amendments to the section or item under consideration shall be in order.

History – During consideration of House Bill 1541, Representative Shelton moved to amend House Bill 1541 by striking sections 2 through 38 of the bill.

After consideration of a procedural motion pertaining to the bill itself, Representative Murphey pressed adoption of the Shelton amendment, which amendment was adopted by the House.

Representative Murphey then moved to amend House Bill 1541 by deleting Sections 1 through 42 of the bill as constituted prior to adoption of the Shelton amendment and inserting new sections 1 through 64.

Representative Reynolds raised a point of order stating that the Murphey amendment was out of order because it amended the same section of law as the previously adopted Shelton amendment. The presiding officer ruled the point well taken pursuant to section 411 of *Mason's Manual of Legislative Procedure*.⁴⁷

⁴⁷ *Okla. H. Jour.*, 624, 53rd Leg., 1st Reg. Sess. (March 15, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1541*, 00:37:52-00:50:31 (March 15, 2011). See *Mason's Manual of Legislative Procedure* 279-280 § 411 (National Conference of State Legislatures 2000).

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Ruling – It is the decision of the Chair that language previously amended in a measure may not be amended again at that point in the legislative process.

Reasoning – Once the House has decided to remove or otherwise a section of a bill under consideration, it is not in order to amend that precise section again at that point in the legislative process. This issue could be avoided by a successful motion to reconsider the previously adopted amendment prior to the time the measure is advanced from General Order.

8.7 - 4. (2011) Determination Whether Amendment is Floor Substitute

Rule – House Rule 8.7, paragraph (e) states:

The House of Representatives shall not consider any floor amendments offered in the form of a floor substitute.

History – During consideration of House Bill 1953, Representative McNiel moved to amend the bill by deleting Section 2 and by inserting a new Section 2.

Representative Inman requested a ruling as to whether the McNiel amendment was a floor substitute and as such not in order for consideration pursuant to House Rule 8.7, paragraph (e).

The presiding officer stated that the amendment was not in the form of a floor substitute and ruled the point not well taken.

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Representative Inman appealed the ruling of the presiding officer. Representative Sullivan moved to table the Inman appeal of the ruling of the presiding officer, which tabling motion was declared adopted upon a roll call vote.

Representative Terrill raised a point of clarification as to whether the Chair would determine the existence of a floor substitute on the basis of the amendment's form rather than upon its substance.

The presiding officer stated that the Chair would make such a determination on the basis of whether the amendment purports to be a floor substitute.

The next day, during consideration of House Bill 1909, Representative Jackson moved to amend the bill by deleting all of Sections 1 and 2 and by inserting in lieu thereof new Sections 1-8.

Representative Reynolds raised a point of order as to whether the Jackson amendment constituted a floor substitute prohibited by House Rules.

The presiding officer stated that as the Chair ruled the day before, determining the existence of a floor substitute would be done on the basis of whether or not the amendment is styled as a floor substitute and has the procedural effect of preventing consideration of other main amendments. In the opinion of the Chair, this amendment was not styled as a floor substitute and would not prevent consideration of other main amendments.

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Representative Reynolds appealed the ruling of the Chair but failed to receive the required fifteen (15) seconds.⁴⁸

Ruling – It is the ruling of the Chair that determination of the existence of a floor substitute will be made on the basis of how the amendment is styled and whether it has the procedural effect of preventing consideration of other main amendments.

8.7 - 5. (2011) Presentation of Floor Amendment by Member other than Author of Amendment

Rule – House Rule 8.7, paragraph (a) states:

The House shall not consider more than one amendment at a time and amendments shall be taken up only as sponsors gain recognition from the presiding officer to move their adoption.

⁴⁸ *Okla. H. Jour.*, 663-665, 53rd Leg., 1st Reg. Sess. (March 16, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1953*, 00:37:50-00:50:30 (March 16, 2011); *Okla. Okla. H. Jour.*, 740, 53rd Leg., 1st Reg. Sess. (March 17, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1909*, 09:49:28-09:57:34 (March 17, 2011); *Okla. H. Jour.*, 1151-1152, 53rd Leg., 1st Reg. Sess. (April 27, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 722*, 01:04:47-01:18:48 (April 27, 2011); *Okla. H. Jour.*, 663, 53rd Leg., 2nd Reg. Sess. (March 15, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HB 2762*, 02:43:40-03:05:10 (March 15, 2012); *Okla. H. Jour.*, 673, 53rd Leg., 2nd Reg. Sess. (March 15, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HB 2525*, 05:45:35-05:46:41 (March 15, 2012).

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History – During consideration of Senate Bill 610, Representative Thomsen moved to accept all pending amendments offered to Senate Bill 610.

The presiding officer then recognized Representative Thomsen to present a timely filed amendment filed by Representative Osborn who was excused.

Representative Reynolds raised a point of order as to whether it was appropriate for Representative Thomsen to present the Osborn amendment when Representative Osborn had been excused and was not present.

The presiding officer stated that it was permissible for a member to present an amendment on behalf of another member. Representative Thomsen subsequently withdrew the Osborn amendment from further consideration.

The presiding officer recognized Representative Thomsen to present a timely filed amendment filed by Representative Morgan who was excused. Representative Thomsen declined. Representative Inman, the Minority Leader, sought recognition to present the Morgan amendment.

Representative Terrill raised a point of order as to whether any member could present an amendment previously filed by an excused member or would such a determination depend on the intent of the member who filed the amendment.

The presiding officer ruled that it would depend on the intent of the amendment's author except that the presiding officer would allow the Minority Leader of the House of Representatives to present an amendment on behalf of a member of the minority caucus who was excused.

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Representative Inman was then recognized to present Representative Morgan's amendment.⁴⁹

Ruling – It is the decision of the Chair that the question of whether to allow an amendment to be presented by a member other than an amendment's author will be based on the intent of an amendment's author; furthermore, the Minority Leader may, as a matter of course, present an amendment on behalf of a member of the minority caucus who is excused.

§ 8.8 FLOOR SUBSTITUTES PROHIBITED*

⁴⁹ *Okla. H. Jour.*, 1060-1061, 53rd Leg., 1st Reg. Sess. (April 25, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 610*, 00:34:00-00:54:32 (April 25, 2011); *Okla. H. Jour.*, 704-705, 54th Leg., 1st Reg. Sess. (March 13, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HB 2054*, 02:20:26-02:21:31 (March 13, 2013); *Okla. H. Jour.*, 726-727, 54th Leg., 1st Reg. Sess. (March 13, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HB 2193*, 05:23:40-05:24:01 (March 13, 2013); *Okla. H. Jour.*, 737-738, 54th Leg., 1st Reg. Sess. (March 14, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HB 1477*, 01:31:45-01:32:11 (March 14, 2013); *Okla. H. Jour.*, 831, 54th Leg., 1st Reg. Sess. (April 1, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *SB 817*, 00:48:21-00:49:28 (April 1, 2013).

* Previously, Section 8.8 of House Rules pertained to adoption of a "special rule". Language pertaining to "special rules" was relocated to Section 7.26 of House Rules for the 54th Oklahoma Legislature (2013-2014).

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8.8 - 1. (2013) Proposed Amendment Not Floor Substitute if a Section of Measure in Question Remains after Adoption of Amendment

Rule – House Rule 8.8 states:

The House of Representatives shall not consider any floor amendments offered in the form of a floor substitute. An amendment shall be deemed a floor substitute if adoption of the proposed amendment would result in replacement of all sections of the measure in question.

History – During consideration of Senate Bill 1062, a floor amendment authored by Speaker Shannon was offered which proposed to amend Senate Bill 1062 by deleting most sections of the bill but retaining Sections 142 and 143, though renumbered as Sections 119 and 120.

Representative Morrisette raised a point of order as to whether the Shannon amendment was in order for consideration pursuant to the requirements of Section 8.8 of House Rules.

The presiding officer ruled that Sections 142 and 143 of Senate Bill 1062 had been retained and had not been replaced but were renumbered as Sections 119 and 120 within the amendment and ruled the point not well taken.

Representative Morrisette appealed the ruling of the presiding officer, receiving the required fifteen (15) standing seconds and was recognized by the presiding officer to

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explain the appeal. The ruling of the Chair was upheld by the House upon a roll call vote.⁵⁰

Ruling – It is the ruling of the Chair that a proposed amendment shall not be considered a floor substitute, within the meaning of Section 8.8 of House Rules, when the amendment retains a section of the measure in question even though the retained section has been renumbered within the proposed amendment.

The following precedents, 8.8 - 1. (2010) and 8.8 - 2. (2010), interpret a Rule section that has been significantly modified and relocated to Section 7.26 of House Rules for the 54th Oklahoma Legislature (2013-2014). Nevertheless, the principles expressed in both precedents remain valid under current House Rules. No requirement exists beyond a simple majority of those voting, a quorum being present, to adopt a special rule. In addition, the Calendar Committee may recommend a special rule that has applicability to more than one measure.

[8.8 - 1. (2010) No Requirement Beyond Simple Majority to Adopt Special Rule]

Rule – House Rule 8.8, paragraph (a) states:

The Committee on Rules, with the approval of the Speaker, may by majority vote recommend that any bill be subject to a

⁵⁰ *Okla. H. Jour.*, 1085-1086, 54th Leg., 1st Reg. Sess. (April 24, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *SB 1062*, 00:17:33-00:24:50 (April 24, 2013).

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*Special Rule created by the Committee. The Committee shall submit the recommendation to the House for its approval.*⁵¹

History – As recommended by the House Rules Committee, Representative Blackwell, chairperson of the House Rules Committee, moved pursuant to House Rule 8.8 that the House adopt House Special Rule one (1).

Representative Reynolds raised a point of inquiry as to whether the adoption of the Special Rule would require sixty-eight (68) votes for passage since it purported to amend the House Rules.

The presiding officer stated that adoption of the Special Rule would require only a simple majority pursuant to House Rule 10.4.⁵²

Ruling – It is the decision of the Chair that a majority of those voting, a quorum being present, may adopt a Special Rule.

[8.8 - 2. (2010) Special Rule May Be Applied to More Than One Measure]

Rule – House Rule 8.8 states:

⁵¹ See also, *Okla. H. Rules*, § 10.4 (52nd Leg.).

⁵² *Okla. H. Jour.*, 1741, 52nd Leg., 2nd Reg. Sess. (May 25, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 6:46:11-6:48:10 (May 25, 2010).

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(a) The Committee on Rules, with the approval of the Speaker, may by majority vote recommend that any bill be subject to a Special Rule created by the Committee. The Committee shall submit the recommendation to the House for its approval.

(b) A Special Rule may limit or prohibit the offering of amendments, may prescribe the time and conditions of debate, may govern floor consideration on third or fourth reading of the bill, or may contain any other provisions deemed appropriate.

History – As recommended by the House Rules Committee, Representative Blackwell, chairperson of the House Rules Committee, moved pursuant to House Rule 8.8 that the House adopt House Special Rule one (1).

Representative Wright (John) raised a point of inquiry as to whether it was in order pursuant to House Rule 8.8(a) to consider a Special Rule affecting more than one measure as opposed to adopting individual, special rules specific to each measure.

The presiding officer ruled that the term “bill” in House Rule 8.8 means any method utilized by the Oklahoma Legislature to enact law or to express the will of the Legislature or of the House itself.

Specifically, Rule 8.8, paragraph (b), says that a special rule “may contain any...provisions deemed appropriate” and as such, it was appropriate for the House to proceed with consideration of House Special Rule one (1).

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Representative Blackwell pressed adoption of House Special Rule one (1) which was declared adopted upon a roll call vote.⁵³

Ruling – It is the decision of the Chair that under House Rule 8.8 a Special Rule may be applied to more than one measure.

§ 8.9 AMENDMENT OF GENERAL APPROPRIATIONS BILL

8.9 - 1. (2010) Amendments Offered to a Proposed Main Amendment to a General Appropriation Bill

Rule – House Rule 8.9 states:

Whenever an amendment is offered to a General Appropriations Bill that would increase any line item of such bill, such amendment shall show the amount by line item of the increase and shall decrease a line item or items within the same bill in an amount or amounts equivalent to or greater than the increase required by the amendment.

History – During consideration of House Bill 2366, Representative Reynolds moved to amend the bill with a

⁵³ *Okla. H. Jour.*, 1741, 1742, 52nd Leg., 2nd Reg. Sess. (May 25, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 6:50:19-7:00:00 (May 25, 2010).

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floor substitute to be adopted in lieu of the bill itself. Representative Collins then moved to amend the floor substitute by inserting a new Section 61 which if adopted, would change the amount of funds appropriated to a specific state agency.

Representative Reynolds requested a ruling of the Chair as to whether the proposed amendment to the floor substitute offered by Representative Collins was in order pursuant to House Rule 8.9. The presiding officer stated that House Rule 8.9 is applicable only to amendments in the first degree and not to amendments in the second degree such as the Collins amendment presently under consideration.

To apply the requirements of House Rule 8.9 to an amendment intended to amend a main amendment would potentially prevent the possibility of corrective action being taken which could bring a main amendment otherwise out of compliance with House Rule 8.9 into compliance with the requirements of the rule.

The presiding officer ruled the point not well taken and the proposed amendment to the floor substitute in order for consideration. Representative Collins then pressed adoption of his amendment to the floor substitute and his amendment was adopted.

Upon adoption of the Collins amendment to the main floor amendment, the floor substitute, Representative Terrill raised a point of order stating that the floor substitute as amended by the Collins amendment was out of order pursuant to House Rule 8.9.

The presiding officer stated that House Rule 8.9 requires that amendments offered to a general appropriation bill

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must reflect, line item by line item, the amounts to be increased versus the amounts to be decreased and that prior to adoption of the amendment to the amendment offered by Representative Collins to the floor substitute complied with the stated requirements of House Rule 8.9.

The presiding officer further stated that upon adoption of the Collins amendment to the floor substitute, the floor substitute, as amended, no longer complied with the requirements of House Rule 8.9 because the amount appropriated by the Collins amendment to the amendment was not reflected with a corresponding decrease anywhere within the floor substitute as amended. As such, the presiding officer ruled the floor substitute, as amended, out of order for further consideration.⁵⁴

§ 8.10 AMENDMENT SUMMARY

*8.10 - 1. (2008) Availability of Fiscal Analysis for Floor Amendment*⁵⁵

8.10 - 2. (2009) Determination of Need for Fiscal Summary to Accompany Floor Amendment

⁵⁴ *Okla. H. Jour.*, 413, 52nd Leg., 2nd Reg. Sess. (Feb. 10, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 3:09:09-3:15:10 (Feb. 10, 2010).

⁵⁵ Tacitly overruled by the presiding officer in *Prec. Okla. H. of Rep.*, § 8.10(2), 52nd Leg., 1st Reg. Sess. (Feb. 19, 2009); see *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).

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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

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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 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.⁵⁶

⁵⁶ *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.

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Precedent – It shall be the decision of the Chair that questions arising under House Rule 8.10, paragraph (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 GERMANENESS OF HOUSE OR SENATE AMENDMENTS

8.11 - 1. (2007) Germaneness of Committee Amendments

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

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

History – Upon beginning consideration of Senate Bill 507, a point of order was raised by Representative Morrisette requesting a ruling of the Chair as to whether a committee substitute adopted in committee for Senate Bill

(March 10, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:66, 3:39-5:37 (March 10, 2009); *Okla. H. Jour.*, 529, 53rd Leg., 1st Reg. Sess. (March 9, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1397*, 05:33:21-05:41:40 (March 9, 2011); *Okla. H. Jour.*, 1167, 53rd Leg., 1st Reg. Sess. (April 27, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 954*, 02:16:00-02:18:40 (April 27, 2011).

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507 met the requirements of the germaneness rule named in House Rule 8.11.

The presiding officer ruled that while a bill is in committee, it is the committee chair that rules on the germaneness of a committee substitute or other amendments offered in committee. Once the bill comes to the House floor for consideration, the bill is considered germane and any subsequent questions regarding the germaneness of floor amendments are decided by the presiding officer.

Subsequent to the presiding officer's ruling, Representative Morrisette appealed the ruling of the presiding officer. Upon consideration by the House, the decision of the presiding officer was upheld by the House.⁵⁷

Ruling – It shall be the ruling of the Chair that House Rule 8.11 shall be interpreted to mean that while a bill is under consideration in committee, it is the committee chairperson that rules upon the germaneness of amendments offered in that committee and that upon presentation of the bill to the full House, the bill, as reported from committee, is considered germane.

⁵⁷ *Okla. H. Jour.*, 1219, 51st Leg., 1st Reg. Sess. (March 17, 2007); *Daily H. Sess. Dig. Rec.*, 51st Leg., 1st Reg. Sess. Track 10:22, 00:10-01:22 (March 17, 2007); affirmed at *Okla. H. Jour.*, 1156, 51st Leg., 2nd Reg. Sess. (April 10, 2008); *Daily H. Sess. Dig. Rec.*, 51st Leg., 2nd Reg. Sess. Track 10:07, 00:00-20:34 (April 10, 2008); *Okla. H. Jour.*, 1212, 51st Leg., 2nd Reg. Sess. (April 15, 2008); *Daily H. Sess. Dig. Rec.*, 51st Leg., 2nd Reg. Sess. Track 10:31, 00:48-3:00 (April 15, 2008).

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8.11 - 2. (2007) Germaneness of Motion to Reject Senate 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 – Representative Martin, upon obtaining recognition by the presiding officer, offered a motion to reject Senate amendments to House Bill 1819. Prior to the presiding officer putting the Martin motion to a vote, Representative Wright requested that the Chair rule on the germaneness of the Senate amendments named in the motion to reject.

The presiding officer ruled that the question of germaneness was not relevant to consideration of a motion to reject Senate amendments to a House bill.

Additionally, the presiding officer informed Representative Wright that only upon the presentation of a motion to adopt Senate amendments to a House bill, would the question of germaneness become relevant.⁵⁸

⁵⁸ *Okla. H. Jour.*, 1450, 51st Leg., 1st Reg. Sess. (May 2, 2007); *Daily H. Sess. Dig. Rec.*, 51st Leg., 1st Reg. Sess. Track 10:29, 2:32-4:13 (May 2, 2007).

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Ruling – It shall be the decision of the Chair that House Rule 8.11, paragraph (a) shall be interpreted to mean that the question of germaneness is not relevant to consideration of a motion to reject Senate amendments to a House bill and that only upon the presentation of a motion to adopt Senate amendments to a House bill would the question of germaneness become relevant.

8.11 - 3. (2008) Germaneness of Floor Amendment Offered to Proposed Constitutional Amendment

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

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

History – Senate Bill 1987 contained a proposal directing the Secretary of State to refer for a vote of the people a proposal to amend the Oklahoma Constitution to impose term limits on certain executive branch officials elected statewide.

During consideration of Senate Bill 1987 on the House Floor, Representative Kiesel offered an amendment which proposed changes to certain election laws contained in Title 26 of the Oklahoma Statutes. The amendment contained language which, after passage by the legislature, would have been required to be presented to the Governor for his approval or disapproval under the requirements of Article VI, Section 11 of the Oklahoma Constitution.

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Representative Terrill requested a ruling of the Chair as to whether the Kiesel floor amendment was in order pursuant to House Rule 8.12. The presiding officer ruled that Rule 8.12 was not applicable to the question but held that the germaneness rule of House Rule 8.11 did apply. The presiding officer ruled that the amendment was not germane because the subject of Senate Bill 1987 was a proposed constitutional amendment and the subject of the floor amendment was multiple statutory changes. Representative Kiesel appealed the ruling of the Chair. Upon consideration by the full House, the decision of the presiding officer was upheld by the House.⁵⁹

Ruling – It shall be the ruling of the Chair that House Rule 8.11 shall be interpreted to mean that a floor amendment containing statutory changes is not germane to the subject of a bill that contains proposed amendments to the Oklahoma Constitution.

8.11 - 4. (2008) Germaneness of Legislation Itself

Rule – House Rule 8.11, paragraph (a) states in relevant part:

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

⁵⁹ *Okla. H. Jour.*, 1264, 1265, 51st Leg., 2nd Reg. Sess. (April 16, 2008); *Daily H. Sess. Dig. Rec.*, 51st Leg., 2nd Reg. Sess. Track 10:52, 3:39-17:00 (April 16, 2008).

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History – During consideration of Senate Bill 1943 on the House Floor, Representative Morrisette requested a ruling of the presiding officer as to whether Senate Bill 1943 itself was germane pursuant to House Rules 8.11 and 8.12. The presiding officer ruled that Rule 8.12 did not apply and that since there was no floor amendment under consideration, the point was not well taken under the terms of Rule 8.11.

Representative Morrisette appealed the ruling of the Chair. Upon consideration by the full House, the decision of the presiding officer was upheld by the House.⁶⁰

Ruling – It shall be the ruling of the Chair that House Rule 8.11 is applicable only to floor amendments under consideration on the House Floor.

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

⁶⁰ *Okl. H. Jour.*, 1348, 1349, 51st Leg., 2nd Reg. Sess. (April 22, 2008); *Daily H. Sess. Dig. Rec.*, 51st Leg., 2nd Reg. Sess. Track 10:49, 13:51-24:54 (April 22, 2008).

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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 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.⁶¹

Ruling – 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

⁶¹ *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); *Okla. H. Jour.*, 1290, 54th Leg., 1st Reg. Sess. (May 16, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *CCR to HB 2226*, 01:59:30-02:10:56 (May 16, 2013).

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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 “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*.⁶²

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

⁶² *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).

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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 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

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which dealt with the subject of the composition of a metropolitan area planning commission.⁶³

8.11 - 7. (2013) Proposed Amendment Containing Only Emergency Clause Germane to Subject of Measure

Rule – House Rule 8.11 states:

The House shall not consider any proposed amendment not germane to the subject of the House bill or resolution. An amendment to a main amendment must be germane to both the main amendment and the measure which it purports to amend.

History – During consideration of Senate Bill 408, a floor amendment was offered that said only the following:

By deleting the effective date beginning with the word “This” through the period “.” and inserting in lieu thereof, the following:

⁶³ *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).

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“It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.”

While the amendment was pending, Representative Kouplen requested a ruling of the Chair as to whether the subject of the pending amendment, which proposed only to add an emergency clause, was germane to the subject of Senate Bill 408.

The presiding officer ruled that the pending amendment was germane and that it would be up to the House to adopt or reject the amendment.

Representative McCullough pressed adoption of the amendment, which amendment was declared adopted upon a upon a roll call vote.⁶⁴

Ruling – It is the ruling of the Chair that a proposed amendment containing only an emergency clause is germane to the subject of the bill under consideration.

Reasoning – A recognizable “germaneness rule” first appears in the House Rules of 1957.⁶⁵ Why the House added this requirement is a matter of speculation. Perhaps, it was

⁶⁴ *Okla. H. Jour.*, 1104-1105, 54th Leg., 1st Reg. Sess. (April 25, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *SB 408*, 01:59:13-02:00:50 (April 25, 2013).

⁶⁵ *Okla. H. Jour.*, 18, 26th Leg. (Jan. 8, 1957); *Okla. H. Rules*, § 43 (26th Leg.).

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intended as a method of carrying out the constitutional mandate that “Every act of the Legislature shall embrace but one subject...”⁶⁶ or arose out of some other issue now unknown to us. Regardless of how it came to be, it remains a relevant provision in the House Rules as evidenced by its continued evocation in the 2013 regular session.⁶⁷ Its stated purpose is to ensure that proposed floor amendments don’t stray from the subject of the measure to which the amendment is offered.

On the other hand, an “emergency clause” as an operative feature in bills and some joint resolutions,⁶⁸ arises from the procedural apparatus created in Article V, Section 58 of the Oklahoma Constitution.⁶⁹ In relevant part, Section 58 establishes a process by which supermajorities in both chambers of the Legislature may set the effective date of legislation earlier than the default effective date of ninety days after sine die adjournment of the legislative session in which a measure was passed by the Legislature and signed subsequently by the Governor. House Rules provide the concrete procedural steps needed to bring the “emergency clause” feature to life within the day to day workings of the legislative process.⁷⁰

⁶⁶ OK CONST V, 57.

⁶⁷ *Okla. H. Jour.*, 878, 54th Leg., 1st Reg. Sess. (April 8, 2013); *Okla. H. Jour.*, 1051, 54th Leg., 1st Reg. Sess. (April 23, 2013)

⁶⁸ *Okla. H. Rules*, 86 § 8.18 (54th Leg.).

⁶⁹ OK CONST V, 58.

⁷⁰ *Okla. H. Rules*, 86 § 8.18; 95 § 9.6(h); 96-97 § 9.10(a), (g); 111 § 11.9(b)(3) (54th Leg.).

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Analysis of the “germaneness rule” and the “emergency clause” feature does not reveal an apparent conjunction of purpose nor even a direct effect, one upon the other. In fact, an amendment adding or removing only an emergency clause does not have a “subject” in the sense contemplated by the “germaneness rule”. It is policy-neutral and procedural in nature existing completely outside the realm of the germaneness analysis customarily relied on by the presiding officer.⁷¹ Stated differently, the timing of the effective date has no direct relevance to the subject of the measure under consideration. Therefore, amendments of this type can always be presumed to be germane to the subject of the measure which they purport to amend.⁷²

§ 8.12 AMENDMENTS OUT OF ORDER

8.12 - 1. (2007) Improper Floor Amendments

Rule – House Rule 8.12 states in part:

An amendment is out of order if it is the principal substance of a bill...that...has not been reported favorably by the committee of reference in either session of the current

⁷¹ *Prec. Okla. H. of Rep.*, § 8.11(6.), 52nd Leg., 1st Reg. Sess. (April 13, 2009).

⁷² The other policy-neutral, procedural-type amendments that do not have a “subject” in the sense contemplated by the “germaneness rule” of Section 8.18 are amendments that strike or restore a measure’s title or strike or restore a measure’s enacting or resolving clause.

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Legislature and may not be offered to a bill...on the Floor Calendar and under consideration by the House.

History – During consideration of House Bill 1765, Representative Reynolds offered a timely filed main floor amendment. A point of order was raised by Representative Worthen regarding whether or not the Reynolds amendment was out of order under the terms of House Rule 8.12.

The presiding officer ruled that the Worthen point of order was “well taken” and that under the provisions of House Rule 8.12, a floor amendment is out of order if the principal substance of the bill that has received an unfavorable committee report, has been withdrawn by the author or has not been reported favorably from the committee of reference.

After reviewing the bills authored by Representative Reynolds still residing in the standing committees of the House, the presiding officer ruled that in the case of the Reynolds amendment, the amendment contained identical language to House Bill 1013 which had not been favorably reported from the Rules Committee. As such, the Reynolds amendment could not be entertained by the House and was out of order.

Subsequent to the presiding officer’s ruling, Representative Reynolds indicated a desire to appeal the ruling of the

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presiding officer. Upon consideration by the full House, the decision of the presiding officer was upheld by the House.⁷³

Ruling – It shall be the decision of the Chair that House Rule 8.12 shall be interpreted to mean that bills not reported out of a House committee cannot be introduced as floor amendments to another bill during either session of the current Legislature.

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...

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

⁷³ *Okla. H. Jour.*, 812, 51st Leg., 1st Reg. Sess. (March 12, 2007); *Daily H. Sess. Dig. Rec.*, 51st Leg., 1st Reg. Sess. Track 11:30, 22:57-33:11 (March 12, 2007).

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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.⁷⁴

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...

⁷⁴ *Okl. 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).

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

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Order deadlines. The presiding officer ruled the point not well taken.⁷⁵

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.

§ 8.14 MOTION TO COMMIT

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

⁷⁵ *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); *Okla. H. Jour.*, 1321-1322, 54th Leg., 1st Reg. Sess. (May 21, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *CCR to SB 2097*, 01:44:55-01:53:54 (May 21, 2013).

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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.⁷⁶

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.

⁷⁶ *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 CONSIDERATION AND DEBATE

8.16 - 1. (2007) Recognition for Debate After Third Reading⁷⁷

Rule – House Rule 8.17 states in part:

...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 – After Third Reading and preceding final passage of House Bill 1432, Representative Reynolds requested recognition to debate in favor of final passage of the bill. No member requested recognition to present debate in opposition to final passage of House Bill 1432.

The presiding officer ruled that in the absence of a request to debate in opposition to final passage of House Bill 1432, debate offered only in favor of final passage was waived. Representative Reynolds raised a point of order regarding the presiding officer's ruling.

Upon the presiding officer's ruling Representative Reynolds' "point not well taken," Representative Reynolds indicated a desire to appeal the ruling of the presiding officer but did not obtain the required seconding of fifteen (15) other House members. The presiding officer declared

⁷⁷ In 2007, this precedent interpreted House Rule 8.17. The identical rule was adopted for the 52nd Oklahoma Legislature, 2009-2010, as House Rule 8.16.

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that an appeal was not in order due to the lack of fifteen (15) additional members to second the appeal of the ruling lodged by Representative Reynolds.⁷⁸

Ruling – It shall be the decision of the Chair that House Rule 8.17⁷⁹ shall be interpreted to mean that in the absence of House members requesting recognition to debate in opposition to final passage of a bill any debate offered only in favor of final passage is waived.

⁷⁸ *Okla. H. Jour.*, 585, 51st Leg., 1st Reg. Sess. (Feb. 27, 2007); *Daily H. Sess. Dig. Rec.*, 51st Leg., 1st Reg. Sess. Track 10:09, 3:22-4:30 (Feb. 27, 2007). See also *Okla. H. Jour.*, 1651, 52nd Leg., 2nd Reg. Sess. (May 21, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 06:26:50-06:26:57 (May 21, 2010). In this instance, the 2007 precedent is relied upon to disallow debate offered only in favor of adoption of the emergency section of Senate Bill 1267 after adoption of the bill itself on Fourth Reading; *Okla. H. Jour.*, 1676, 52nd Leg., 2nd Reg. Sess. (May 24, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 03:24:05-03:24:31 (May 24, 2010).

⁷⁹ See FN 40.

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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 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.

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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.⁸⁰

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

⁸⁰ *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).

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a question, within the strictures of House Rules, care should be taken to afford opportunity to express a dissenting point of view.

§ 8.18 CONSIDERATION OF EMERGENCY SECTION

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

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out of order pursuant to House precedent 8.17(1) of 2007.⁸¹

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.

8.18 - 2. (2010) Questions Must Pertain to Adoption of Emergency

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 – Subsequent to passage of House Bill 2658 on Fourth Reading, the question of adoption of the measure's emergency clause was under consideration by the House.

During consideration of the passage of the emergency clause, Representative Morrissette raised a point of order as to whether questions posed to the measure's author should be limited to adoption of the emergency clause rather than the merits of the measure itself.

⁸¹ *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).

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The presiding officer ruled the point well taken and cautioned the members to limit their questions to matters pertaining to the question of adoption of the emergency clause.⁸²

Ruling – It is the decision of the Chair that questions posed during consideration of an emergency clause must pertain to the question of adoption of the emergency clause rather than to the previously passed measure itself.

8.18 - 3. (2012) Appropriateness of Emergency Section Determined by House Itself

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 Senate Bill 1287 was passed by the House but before the Emergency Clause was taken up for consideration, Representative Morrisette raised a point of order as to whether consideration of the emergency clause on Senate Bill 1287 would be in violation of the Oklahoma Constitution and House Rules.

⁸² *Okl. H. Jour.*, 1611-1612, 52nd Leg., 2nd Reg. Sess. (May 18, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 40:29-41:20 (May 18, 2010).

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The presiding officer stated that it was up to the House itself to decide whether to adopt the emergency clause and the point was not well taken.⁸³

Ruling – It is the ruling of the Chair that it is up to the House itself to decide whether to adopt an emergency clause contained within a measure.

8.18 - 4. (2013) Consideration of Emergency Clause on Bill Erroneously Passed before Conclusion of Amendment Cycle

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 Senate Bill 1009 underwent Third Reading and final passage but prior to consideration of the emergency clause, Representative Reynolds lodged notice that he might choose to offer a motion to reconsider the vote on the bill itself at some future time.

⁸³ *Okla. H. Jour.*, 750-751, 53rd Leg., 2nd Reg. Sess. (April 3, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *SB 1287*, 00:29:26-00:34:00 (April 3, 2012); affirmed at *Okla. H. Jour.*, 856 53rd Leg., 2nd Reg. Sess. (April 12, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *SB 1913*, 01:41:17-01:58:35 (April 12, 2012); see also OK CONST V, 58.

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Prior to lodging notice, he stated that Senate Bill 1009 had been considered and passed prior to being eligible for consideration, meaning that the time period specified in House rules for possible submission of floor amendments had not concluded prior to the bill being taken up for consideration on the House Floor.

Representative Proctor raised a point of inquiry as to whether the emergency clause could be properly considered because the measure was not eligible to be considered by the House.

The presiding officer stated that if a point of inquiry had been raised prior to passage, the bill would have been withdrawn from further consideration until such time as the bill could be properly placed before the House for consideration. Because no point of inquiry was raised prior to final passage of the bill, in the opinion of the Chair, the most orderly manner in which to proceed was to continue with consideration of the emergency clause. Representative Reynolds then moved to reconsider the vote whereby measure itself passed.⁸⁴

Ruling – It is the ruling of the Chair that in the event a measure is passed by the House prior to the time, under House Rules, it was properly eligible for consideration and no point of order is raised prior to final passage, immediate consideration of the emergency clause is in order.

⁸⁴ *Okla. H. Jour.*, 869-871, 54th Leg., 1st Reg. Sess. (April 4, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *SB 1009*, 01:38:10-01:57:45 (April 4, 2013).

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Reasoning – An emergency clause is considered by the House as a separate question. Once passage of the bill itself occurred before the conclusion of the amendment cycle, the most orderly way in which to proceed was to move ahead with consideration of the emergency clause. Questions about whether the bill was eligible for consideration on the House Floor could have been properly raised prior to the time the House voted on final passage of the bill.

House Rules and general parliamentary law provide the procedural foundation for this ruling. First, House Rule 8.18 says that a measure and its emergency clause will be treated as two separate questions.⁸⁵ Second, Section 241, paragraph (1.) of *Mason's Manual of Legislative Procedure* says that “a point of order must be raised before the irregularity or occasion for raising the point of order has passed. On procedural questions, it is too late as soon as the particular point has been passed or the next business is taken up.”⁸⁶

The question of whether or not the bill had been eligible for consideration in the first place effectively became moot after the motion to advance the bill from General Order was adopted. Had the point been raised prior to this procedural step, the presiding officer, under Section 8.5, paragraph (c) of House Rules, would have been obligated to halt

⁸⁵ *Okla. H. Rules*, § 8.18 (54th Leg.).

⁸⁶ *Mason's Manual of Legislative Procedure* 185 § 241 (National Conference of State Legislatures 2010); Cf. *Proc. Okla. H. of Rep.*, § 9.2(10.), 52nd Leg., 2nd Reg. Sess. (April 20, 2010).

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consideration of the bill until such time as the bill could properly be brought before the House for consideration.

If the point was not raised until after Third Reading but prior to final passage, the House could then have voted to rescind the motion to advance from General Order, followed by the presiding officer ordering the measure to be withdrawn from further consideration until completion of the amendment cycle.⁸⁷

Certainly, once Third Reading and final passage of the bill occurred, the presiding officer could not unilaterally invalidate the vote cast by a majority of the members of the House – no such authority exists in House Rules nor under general parliamentary law.⁸⁸

To return to General Order status after final passage, the only proper actions to be taken would be a motion to reconsider the bill itself, followed by motions to rescind Third Reading and advancement from General Order.⁸⁹ This is in fact what took place. After adoption of the motion to reconsider, a motion to rescind Third Reading was adopted, followed by a

⁸⁷ *Mason's Manual of Legislative Procedure* 318-319 § 480-481 (National Conference of State Legislatures 2010).

⁸⁸ *Mason's Manual of Legislative Procedure* 55-56 § 65; 45 § 50 (National Conference of State Legislatures 2010).

⁸⁹ *Okla. H. Rules*, §§ 9.10, 10.1 (54th Leg.); *Mason's Manual of Legislative Procedure* 318 § 480(4) (National Conference of State Legislatures 2010).

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second motion to rescind the original motion to advance from General Order.⁹⁰

Upon being returned to General Order, no additional points were raised about the measure's newly reestablished lack of eligibility for consideration and the measure was recommitted to the Calendar Committee.⁹¹

⁹⁰ As in this case, if still within the physical possession of the House, a measure can be returned to a prior status through use of motions reversing the previously adopted steps of legislative procedure. Previously adopted procedural steps must be undone in the reverse order from which they were adopted.

⁹¹ *Okla. H. Jour.*, supra at 870-871; *Okla. H. Rules*, § 7.22(d) (54th Leg.); Cf. *Mason's Manual of Legislative Procedure* 24 § 15 (National Conference of State Legislatures 2010).

RULE NINE

CHAMBER PROTOCOL

§ 9.2 QUESTIONS OF ORDER AND DECORUM

9.2 - 1. (2005) Manner by Which Business is Conducted on House Floor¹

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

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

¹ Effectively modified upon adoption of House Rules for the 54th Oklahoma Legislature. Sections 7.22 and 7.23 of House Rules for the 54th Oklahoma Legislature (2013-2014) charge the House Calendar Committee with “scheduling” legislation on the House Floor. Section 7.23, paragraph (d) empowers the chairperson of the Calendar Committee, the Majority Floor Leader in 2013-2014, to determine the order that scheduled legislation is taken up on the House Floor. Notably, as recorded in this Precedent, the custom and practice of permitting the Majority Floor Leader to determine when to schedule new business that is not an item of legislation remains unchanged.

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History – Representative Toure objected to the decision of the presiding officer that motions had to be scheduled through the Floor Leader.

The presiding officer ruled that the Floor Leader is charged by the Speaker with setting the agenda for the business of the House for every legislative day. Any motion that puts new business before the House must go through the Floor Leader or it is out of order. The agenda for the floor and introducing new business is within the exclusive authority of the Floor Leader.²

² *Okla. H. Jour.*, 1175-1176, 50th Leg., 1st Reg. Sess. (April 7, 2005); *Daily H. Sess. Dig. Rec.*, 50th Leg., 1st Reg. Sess. Track 10:06, 6:10-11:04 (April 7, 2005); affirmed at *Okla. H. Jour.*, 562, 52nd Leg., 1st Reg. Sess. (Feb. 18, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:25, 15:30-18:16 (Feb. 18, 2009); *Okla. H. Jour.*, 629, 52nd Leg., 1st Reg. Sess. (Feb. 24, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:25, 6:37-8:01 (Feb. 24, 2009); *Okla. H. Jour.*, 1246-1247, 52nd Leg., 1st Reg. Sess. (April 8, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:11, 0:12-0:45 Track 10:12, 0:06-4:30 (April 8, 2009); *Okla. H. Jour.*, 664, 52nd Leg., 2nd Reg. Sess. (March 3, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 5:03:38-5:08:20 (March 3, 2010); *Okla. H. Jour.*, 1658, 52nd Leg., 2nd Reg. Sess. (May 21, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 8:39:45-8:40:16 (May 21, 2010); *Okla. H. Jour.*, 625, 53rd Leg., 1st Reg. Sess. (March 15, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1541*, 02:20:55-02:26:30 (March 15, 2011); *Okla. H. Jour.*, 632-633, 53rd Leg., 1st Reg. Sess. (March 15, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1283*, 04:08:06-04:28:40 (March 15, 2011); *Okla. H. Jour.*, 651-652, 53rd Leg., 1st Reg. Sess. (March 16, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 2128*, 02:23:38-02:34:02 (March 16, 2011); *Okla.*

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

Reasoning – In general terms, every legislative body must have some expression of procedural rules in order that business pending before the body may receive proper contemplation and consideration. Without clearly defined rules, the will of the majority cannot be determined and presented in a coherent manner,³ the rights of the minority are not protected and the majority is not protected from obstructive tactics on the part of the minority.⁴

H. Jour., 705-706, 53rd Leg., 1st Reg. Sess. (March 17, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1439*, 01:49:25-01:53:40 (March 17, 2011); *Okla. H. Jour.*, 876, 53rd Leg., 2nd Reg. Sess. (April 16, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HB 2296*, 02:26:55-02:31:55 (April 16, 2012); *Okla. H. Jour.*, 1000-1001, 53rd Leg., 2nd Reg. Sess. (April 25, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., SAs to *HB 2155*, 04:55:05-05:13:26 (April 25, 2012); *Okla. H. Jour.*, 1004, 53rd Leg., 2nd Reg. Sess. (April 25, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HJR 1116*, 05:27:48-05:28:08 (April 25, 2012).

³ *Mason’s Manual of Legislative Procedure* 9 § 1(1) (National Conference of State Legislatures 2000).

⁴ *Mason’s Manual of Legislative Procedure* 10 § 1(3) (National Conference of State Legislatures 2000).

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In Oklahoma, the power to regulate and order the deliberative process is left to the discretion of the respective houses of the legislature under Article V, Section 30 of the Oklahoma Constitution. Specifically, Article V, Section 30 permits each house to determine its own rules. On this basis the Oklahoma House of Representatives passed its own set of procedural rules on February 7, 2005.⁵

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

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

Under House Rules 1.2, paragraph (a) and 9.2, paragraph (a), the presiding officer is tasked with preserving "order and decorum" in the House. When Rules 1.2, paragraph (a)

⁵ *Okla. H. Jour.*, 57, 50th Leg., 1st Reg. Sess. (Feb. 7, 2005).

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

The responsibility of the presiding officer to maintain order and decorum has existed throughout Oklahoma's existence, first as a territory and later as a state. Such authority can be found in House Rules of the First Session of 1890 Territorial Legislature.⁶ Specifically, Rule 2 of the House of Representatives, First Oklahoma Territorial Legislature, contains the following language, "He [the Speaker] shall preserve order and decorum, and speak to 'points of order' in preference to other members...he shall decide questions of order subject to an appeal to the House..."⁷ This authority continued in House Rules throughout the remainder of Oklahoma's territorial years, continued after statehood and has remained until the present time.

The authority of the Speaker to maintain order is not unique to Oklahoma, but is well established in the principles of general parliamentary procedure. The parliamentary authority, Luther S. Cushing, in his venerable work *Elements of the Law and Practice of Legislative Assemblies of the United States of America* includes among the duties of the presiding officer such provisions as, "To

⁶ *Okl. Terr. H. House Rules*, 1st Sess. 2 (1890).

⁷ *Id.*

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enforce the observance of order and decorum among members, to inform the assembly...in a point of order or practice, to decide in first instance, and subject to the revision of the house, all questions of order, that may arise, or be submitted for his decision.”⁸ More recently, *Mason’s Manual of Legislative Procedure* states that the presiding officer shall,

“...preserve order and decorum,” and shall “...guide and direct the proceedings of the body...”⁹ All told, general parliamentary authorities, the historical rules of the Oklahoma House of Representatives and current House Rules indicate that the Speaker can and should take the initiative to preserve order in the House by any reasonable means.

House Rule 10.1 establishes which motions receive precedence and can be offered even if unrelated to the business under consideration. House Rule 10.2 provides that motions incidental to the business under consideration may be permitted at the time of consideration of that business. Again, even though it is a fundamental right both under House Rules and general parliamentary law for a

⁸ Cushing, Luther Stearns, *Elements of the Law and Practice of Legislative Assemblies of the United States of America* 113 § 291 (Little, Brown and Co. 1856).

⁹ *Mason’s Manual of Legislative Procedure* 416 § 575 (e), (k) (National Conference of State Legislatures 2000).

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member to present any proper proposal for consideration by the body, appropriate timing must be observed.¹⁰

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

9.2 - 2. (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 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

¹⁰ *Mason's Manual of Legislative Procedure* 118 § 155 (1) (National Conference of State Legislatures 2000).

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objection simply on the basis of the objecting member's perception of particular statements made during debate.¹¹

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.

¹¹ *Okl. 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).

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

9.2 - 3. (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.¹²

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.

¹² *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).

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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.

9.2 - 4. (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

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and the point of order should have been raised during consideration and before adoption of the amendment.¹³

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.

9.2 - 5. (2009) Customary Duties of Majority Floor Leader¹⁴

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.

¹³ *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); affirmed at *Okla. H. Jour.*, 1164, 53rd Leg., 1st Reg. Sess. (April 27, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 392*, 01:33:40-01:41:00 (April 27, 2011).

¹⁴ Effectively modified upon adoption of House Rules for the 54th Oklahoma Legislature. Sections 7.22 and 7.23 of House Rules for the 54th Oklahoma Legislature (2013-2014) charge the House Calendar Committee with “scheduling” legislation on the House Floor. Section 7.23, paragraph (d) empowers the chairperson of the Calendar Committee, the Majority Floor Leader in 2013-2014, to determine the order that scheduled legislation is taken up on the House Floor. Notably, as implied in this Precedent, the custom and practice of permitting the Majority Floor Leader to determine when to schedule new business that is not an item of legislation remains unchanged.

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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.¹⁵

¹⁵ *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); *Okla. H. Jour.*, 632-633, 53rd Leg., 1st Reg. Sess. (March 15, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., 04:08:00-04:28:40 (March 15, 2011); *Okla. H. Jour.*, 1193, 53rd Leg., 1st Reg. Sess. (May 2, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HCR 1018*, 00:52:32-00:56:56 (May 2, 2011); *Okla. H. Jour.*, 1040, 53rd Leg., 2nd Reg. Sess. (April 26, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., 00:58:14-00:59:16 (April 26, 2012); *Okla. H. Jour.*, 1044, 53rd Leg., 2nd Reg. Sess. (April 30, 2012); *Daily H. Sess. Video Rec.*,

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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.

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.¹⁶ This custom has its origins in the Speaker’s authority to preserve order in the House by any reasonable means.¹⁷ The Speaker’s authority to maintain order flows from both the House Rules¹⁸ and from long established practice.¹⁹ 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 - 6. (2009) Regulation of Questions and Answers

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

53rd Leg., 2nd Reg. Sess., *SAs to HB 2643*, 00:06:10-00:17:12 (April 30, 2012).).

¹⁶ *Prec. Okla. H. of Rep.*, § 9.2(1.), 50th Leg., 1st Reg. Sess. (April 7, 2005).

¹⁷ *Id.*

¹⁸ *Okla. H. Rules*, § 1.2 (52nd Leg.); *Okla. H. Rules*, §§ 9.1, 9.2 (52nd Leg.).

¹⁹ *Okla. Terr. H. House Rules*, 1st Sess. 2 (1890); see also *Okla. Terr. H. Jour.*, 47, 1st Sess. (Sept. 3, 1890).

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

History – During consideration of House Concurrent Resolution 1016, Representative Morrisette 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.²⁰

Ruling – It is the decision of the Chair that it is the prerogative of the presiding officer, under Rule 9.2, to

²⁰ *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); *Okla. H. Jour.*, 465, 52nd Leg., 2nd Reg. Sess. (Feb. 17, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 1:19:25-1:21:51 (Feb. 17, 2010); *Okla. H. Jour.*, 1651, 52nd Leg., 2nd Reg. Sess. (May 21, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 06:29:57-06:31:17 (May 21, 2010); *Okla. H. Jour.*, 1032-1033, 53rd Leg., 1st Reg. Sess. (April 20, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 923*, 03:31:20-03:41:04 (April 20, 2011); *Okla. H. Jour.*, 982, 54th Leg., 1st Reg. Sess. (April 17, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *SB 330*, 00:42:17-00:49:21 (April 17, 2013).

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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.²¹ 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

²¹ *Okl. H. Rules*, § 9.2 (52nd Leg.).

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different procedure either through a 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.²² 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

²² *Okla. H. Rules*, § 7.5(a) (52nd Leg.).

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“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 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 - 7. (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

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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.²³

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.

9.2 - 8. (2010) Temporary Postponement for Review of Amendment Not Previously Distributed

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

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

²³ *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 Legislative Procedure* 188, 189 § 244 (National Conference of State Legislatures 2000); *Okla. H. Jour.*, 1132-1135, 54th Leg., 1st Reg. Sess. (April 30, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., 00:35:58-00:38:22; 00:40:41-00:45:08 (April 30, 2013); a point of order was raised as to what House rule permits the presiding officer to defer ruling on a point of order to a subsequent day, to which the response was that no House Rule prohibits a presiding officer from deferring to a subsequent day, *Okla. H. Jour.*, 1144, 54th Leg., 1st Reg. Sess. (May 1, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., 03:58:22-04:01:11 (May 1, 2013).

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History – During consideration of House Resolution 1065, Representative Reynolds moved to amend the resolution by striking all language contained in the resolution and inserting in lieu thereof a floor substitute.

Representative Sullivan raised a point of order stating that because the Reynolds amendment was quite lengthy and had not been distributed to the members and as such, the amendment should not be considered until it was made available to the members.

The presiding officer stated that although the rules don't require that the amendment be distributed, the Chair would temporarily postpone consideration of the resolution as a courtesy to the members.²⁴

Precedent – It is the precedent of the House that the presiding officer may temporarily postpone consideration of a measure to allow review of an amendment that was not previously distributed to the members of the House.

9.2 - 9. (2010) Impugning Nonmembers in 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

²⁴ *Okla. H. Jour.*, 1154, 52nd Leg., 2nd Reg. Sess. (April 5, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 58:22-1:00:40 (April 5, 2010).

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impugning of the motive of any Member, and shall confine Members in debate to the question under discussion.

History – During consideration of Senate Amendments to House Bill 3202, Representative Denney raised a point of order stating that veterinarians had been impugned.

The presiding officer stated that House Rules only prohibit the impugning of members of the House of Representatives.²⁵

Reasoning – In Article V, Section 22, the Oklahoma Constitution says “Senators and Representatives...for any speech or debate in either House, shall not be questioned in any other place.”²⁶ Article V, Section 30, says “Each House may determine the rules of its proceedings...”²⁷

On the basis of Article V, Section 30, the House of Representatives has adopted House Rule 9.2 which requires the presiding officer to prevent personal attacks against other members of the House during debate on the House Floor.²⁸

In its rules, the House of Representatives has not extended the prohibition against impugning other members of the

²⁵ *Okla. H. Jour.*, 1199, 52nd Leg., 2nd Reg. Sess. (April 8, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 30:52-31:22 (April 8, 2010).

²⁶ OK CONST V, 22.

²⁷ OK CONST V, 30.

²⁸ *Okla. H. Rules*, § 9.2 (52nd Leg.).

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House during debate to persons not included in the membership of the House of Representatives.

Arguably, under the provisions of Article V, Section 22, a member of the House, as long as he or she is offering their comments within the recognized limits of the “speech and debate” privilege, can disparage or impugn veterinarians or for that matter, any other person without fear of having a civil suit successfully prosecuted against them.²⁹

Likely, the House has not acted to restrict disparaging remarks directed toward nonmembers because it has a duty to hold the executive branch agencies to account, to investigate certain persons or situations in the course of considering legislation as well as potentially pointing out any perceived shortcomings of judges or of the chief executive. To do so would have a “chilling effect” on essential characteristics of the legislative branch.

9.2 - 10. (2010) Point of Order Must Be Raised in Timely Manner

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

²⁹ Cf. *U. S. v. Gillock*, 445 U.S. 360, 100 S.Ct. 1185 (1980); *Lindley v. Life Investors Ins. Co. of America*, Slip Copy, 2009 WL 2245565 (N.D.Okla. 2009); *Brock v. Thompson*, 948 P.2d 279 (Okla. 1997); *Oklahoma State Senate ex rel. Roberts v. Hetherington*, 868 P.2d 708 (Okla. 1994); *State ex rel. Oklahoma Bar Ass’n v. Nix*, 295 P.2d 286 (Okla. 1956).

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proceeding out of order. Such point of order shall be decided by the Presiding Officer without debate.

History – After consideration on Third Reading and final passage, the emergency clause of Senate Bill 509 was considered and failed of adoption. Representative Coody served notice that at some future time she might choose to offer a motion to reconsider the vote whereby the emergency failed.

After Representative Coody served notice, Representative Lamons raised a point of order stating that Senate Bill 509 should be ruled out of order pursuant to House Rule 9.3(b).

The presiding officer ruled that the point should have been raised earlier and therefore the point was not well taken.

Representative Inman raised a point of order also stating that pursuant to House Rule 9.3(b) the presiding officer should have ruled the measure out of order. The presiding officer ruled the point not well taken.

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

Representative Lamons then moved to rescind the vote whereby Senate Bill 509 passed, which motion failed of adoption.³⁰

³⁰ *Okla. H. Jour.*, 1364-1367, 52nd Leg., 2nd Reg. Sess. (April 20, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 5:57:43-6:24:26 (April 20, 2010); *Okla. H. Jour.*, 1188, 53rd Leg., 1st Reg. Sess. (April 27, 2011);

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Ruling – It is the decision of the Chair that a point of order pertaining to a possible procedural violation must be raised prior to disposition of the underlying question.

Reasoning – When to entertain a point of order is a question of order to be decided by the presiding officer subject to appeal.

In this instance, a point of order was raised pertaining to a procedural question related to consideration of Senate Bill 509. However, the point of order was raised after passage of Senate Bill 509 had already occurred.

When the House passes the point where a procedural issue could be properly raised but is not, any perceived violation of the rules pertaining to that procedural question is moot

Daily H. Sess. Video Rec., 53rd Leg., 1st Reg. Sess., 08:28:50-08:30:54 (April 27, 2011); *Okla. H. Jour.*, 1219, 53rd Leg., 1st Reg. Sess. (May 3, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SAs to HB 1615*, 02:48:50-02:57:20 (May 3, 2011); *Okla. H. Jour.*, 554, 53rd Leg., 2nd Reg. Sess. (March 12, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., 02:29:25-02:37:16 (March 12, 2012); *Okla. H. Jour.*, 870, 54th Leg., 1st Reg. Sess. (April 4, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *SB 1009*, 01:41:42-01:54:44 (April 4, 2013); *Okla. H. Jour.*, 1002, 1003, 54th Leg., 1st Reg. Sess. (April 18, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *SB 167*, 00:56:48-00:57:37 (April 18, 2013); *Okla. H. Jour.*, 1160, 54th Leg., 1st Reg. Sess. (May 2, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *SAs to HB 1441*, 02:14:48-02:29:25; *SAs to HB 1908*, 02:37:35-02:38:29 (May 2, 2013); *Okla. H. Jour.*, 1332, 54th Leg., 1st Reg. Sess. (May 22, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *JCR to SB 1120*, 01:09:47-01:10:38 (May 22, 2013).

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and should not be entertained by the presiding officer.³¹ To do otherwise would be disorderly and would tend to waste the body's time.

In this case, after an appeal was lodged and decided in favor of the presiding officer's decision, a motion to rescind the passage of Senate Bill 509 was properly offered and considered by the House.

Although ultimately unsuccessful, this was the correct approach for bringing the underlying question back before the House for continued consideration and to raise a point of order pursuant to House Rule 9.3, paragraph (b).

9.2 - 11. (2010) Request for Full Reading Up To Discretion of Presiding Officer

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

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

History – When House Resolution 1087 was called up for consideration, Representative Kern requested that it be read in full.

Representative Lamons raised a point of inquiry stating that on a previous legislative day he had requested that an

³¹ *Mason's Manual of Legislative Procedure* 186 § 241(1) (National Conference of State Legislatures 2000); see also *Prec. Okla. H. of Rep.*, § 9.2(4.), 52nd Leg., 1st Reg. Sess. (March 11, 2009).

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amendment be read in full which request was denied by the presiding officer due to lack of time.³²

Representative Lamons inquired as to why a similar request that House Resolution 1087 be read in full be granted on this present day.

The presiding officer stated that it is up to the discretion of the presiding officer as to whether such a request is to be granted.³³

Ruling – It is the decision of the Chair that it is up to the discretion of the presiding officer as to whether to grant a request to have the clerk read an amendment or measure in full.

9.2 - 12. (2010) Delay or Obstruction of Business

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

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

³² *Okla. H. Jour.*, 1304, 52nd Leg., 2nd Reg. Sess. (April 19, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 44:03-49:25 (April 19, 2010).

³³ *Okla. H. Jour.*, 1535, 52nd Leg., 2nd Reg. Sess. (May 6, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 44:25-45:24 (May 6, 2010); *Okla. H. Jour.*, 1633, 52nd Leg., 2nd Reg. Sess. (May 20, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 02:25:30-02:26:17 (May 20, 2010).

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History – Representative Reynolds sought recognition to serve notice to reconsider the vote whereby Senate Bill 2124 passed, which notice was not recognized by the presiding officer.

Representative Reynolds raised a point of order stating that he had not been recognized as desired.

The presiding officer stated that pursuant to *Mason's Manual*, Section 180, paragraph 2,³⁴ the attempt to serve notice by Representative Reynolds was dilatory and would not be recognized.

Representative Reynolds appealed the ruling of the presiding officer receiving the required fifteen (15) standing seconds.

Representative Wright (Harold) moved to table the Reynolds appeal, which tabling motion prevailed upon a division of the question.

Later in the day, the Conference Committee Report on Senate Bill 1840 was called up for consideration. Upon motion of Representative Johnson, the conference committee report was adopted.

Senate Bill 1840, as amended in conference, was read at length for the fourth time and adopted upon a roll vote.

³⁴ *Mason's Manual of Legislative Procedure* 141 § 180(2) (National Conference of State Legislatures 2000).

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After adoption of the emergency clause, Representative Reynolds sought recognition to serve notice to reconsider the vote whereby Senate Bill 1840 passed.

The presiding officer stated that it was ruled earlier in the day that the repeated attempts to lodge notice to reconsider votes constituted dilatory activity. As such, at this time Representative Reynolds was not recognized to lodge notice of possible intent to reconsider.

Representative Reynolds raised a point of order pursuant to House Rule 9.10, paragraph (a) stating that a Member may serve notice immediately after a final vote is taken.

The presiding officer restated pursuant to *Mason's Manual*, Section 180 that every legislative body has a right to protect itself from dilatory behavior. The earlier ruling was put before the House in the form of an appeal. The appeal was tabled causing the ruling of the Chair to stand.³⁵

Representative Reynolds raised a point of inquiry as to what actions would be considered dilatory.

The presiding officer referenced *Mason's Manual*, quoting Section 180, which states that when it is evident to the Chair that a member is trying to obstruct the actions of the body, the presiding officer should not recognize that member, but should rule that person out of order.³⁶

Later, the Conference Committee Report on House Bill 2434 was called up for consideration. Representative

³⁵ Id. at 142

³⁶ Id.

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Liebmann moved adoption of the conference committee report.

Representative Reynolds moved to table the Liebmann motion, which tabling motion failed of adoption upon a roll call vote.

Representative Peters then moved to put the previous question.

Representative Reynolds moved to table the previous question motion and requested a recorded vote on the motion to table.

Pursuant to Section 180 of *Mason's Manual*, the presiding officer ruled as dilatory the request by Representative Reynolds for a recorded vote.³⁷

As it pertained to this member, the presiding officer ruled that repeated objections to unanimous consent requests on emergency sections as well as demands for recorded votes on every motion would be considered dilatory activity from this point forward and would not be entertained by the Chair.³⁸

³⁷ Id.

³⁸ *Okla. H. Jour.*, 1722, 1736, 1737, 1739, 52nd Leg., 2nd Reg. Sess. (May 25, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 03:22:36-03:26:25; 05:35:22-05:52:26; 06:09:18-06:21:39 (May 25, 2010); see also *Okla. H. Jour.*, 678-679, 54th Leg., 1st Reg. Sess. (March 12, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., HB 1243, 10:08:04-10:12:26 (March 12, 2013), Representative Shelton moved to rescind the vote whereby House Bill 1243 was advanced from General Order, which motion was not recognized by the presiding officer because the pending motion to put the previous question was of a higher rank under Section 10.1 of House

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Ruling – It is the ruling of the Chair that once satisfied that a member is using parliamentary tactics to obstruct business, subject to appeal in the first instance, the presiding officer will not continue to recognize that member.

9.2 - 13. (2011) Member Not Required to Explain Motion or Yield to Questions

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

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

History – When Representative Brumbaugh moved to reject the Senate Amendments to House Bill 1488, Representative Morrisette raised a point of order as to whether House rules require a member to yield to questions on a motion.

The presiding officer stated that it is at the discretion of the author as to whether he or she yields to questions.

Representative Terrill raised a point of order as to whether the principal author when offering a motion to reject Senate amendments, is required to offer an explanation of the subject matter contained in the Senate amendments.

rules. Representative Shelton appealed the ruling of the Chair, which appeal was ruled dilatory. Representative Shelton was then permitted to lodge an appeal on the question of whether the previous appeal was dilatory.

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The presiding officer stated that it is at the discretion of the author as to whether he or she offers an explanation.³⁹

Ruling – It is the ruling of the Chair that it is at the discretion of the author as to whether he or she offers an explanation of a motion and it is at the discretion of the author as to whether he or she yields to questions.

9.2 - 14. (2012) Presiding Officer May Put Question of Order Directly to Vote of the House

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

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

History – When Senate Bill 1971 was called up for further consideration, Representative Sears pressed his motion to adopt the Joint Committee Report (JCR) and requested permission to yield to Representative Cox for continued presentation of the Joint Committee Report (JCR), to which no objection was heard.

Representative Cox made additional explanation of the Joint Committee Report (JCR), including a description of his previous misunderstandings of the Joint Committee Report (JCR), and concluded with a request of the House to adopt the Joint Committee Report (JCR).

³⁹ *Okla. H. Jour.*, 1209-1210, 53rd Leg., 1st Reg. Sess. (May 3, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., SAs to *HB 1488*, 01:15:08-01:18:55 (May 3, 2011).

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Upon inquiry by the presiding officer, Representatives Sears waived the remainder of his debate time and the presiding officer put the question of adoption of the Joint Committee Report (JCR) to the House.

Representative Reynolds raised a point of order as to whether additional time for debate on the Joint Committee Report (JCR) should be permitted and whether the author of a bill may properly withdraw his or her measure from further consideration in the course of their own debate or during the debate of other members.

The presiding officer ruled that the author of a bill may choose to withdraw his or her bill from further consideration during their own debate or between the beginning and conclusion of debate of other members, but that the presiding officer would not recognize such a request made by the author during the debate of another member.

On the question of whether debate should be allowed again on the motion to adopt the Joint Committee Report (JCR) on Senate Bill 1971, the presiding officer did not rule on the question but relied upon Section 245 of *Mason's Manual of Legislative Procedure*,⁴⁰ putting the question directly to the House, which question was answered in the negative by the House upon a division of the question.⁴¹

⁴⁰ *Mason's Manual of Legislative Procedure* 189 § 245 (National Conference of State Legislatures 2000).

⁴¹ *Okla. H. Jour.*, 1279-1280, 53rd Leg., 2nd Reg. Sess. (May 25, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 1971*, 04:05:00-04:27:00 (May 25, 2012). See also *Okla. H. Jour.*, 1368, 1369, 51st Leg.,

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Precedent – It is the precedent of the House that the presiding officer may put a question of order directly to a vote of the House.

9.2 - 15. (2013) Proposed Action in Conflict with House Rule Treated as Dilatory Motion

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 Bill 1243, Representative Watson pressed his motion that House Bill 1243 be advanced from General Order, which motion was declared adopted upon a roll call vote. After Third Reading when debate was requested, Representative Watson then moved to put the previous question. Before the motion to put the previous question was considered by the House, Representative Dorman moved to table the Watson motion to put the previous question, which tabling motion failed of adoption upon a roll call vote.

After the motion to table the Watson motion failed, Representative Shelton moved to rescind the vote whereby House Bill 1243 had been advanced from General Order, which motion was not recognized by the presiding officer

2nd Reg. Sess. (2008); *Daily H. Sess. Dig. Rec.*, 51st Leg., 2nd Reg. Sess. Track 10:21, 5:27-51:33 (April 23, 2008).

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because the pending motion to put the previous question was of a higher rank under the provisions of House Rules.

Representative Shelton attempted to appeal the ruling of the Chair, which appeal was not recognized by the presiding officer as dilatory.

Representative Shelton then appealed the ruling of the Chair as to whether his previously attempted appeal was dilatory, receiving the required fifteen (15) standing seconds and was recognized by the presiding officer to explain the appeal. The ruling of the Chair was upheld by the House upon a roll call vote.⁴²

Precedent – It is the decision of the Chair that a proposed action in direct conflict with a House rule will not be recognized and will be treated as a dilatory motion.

Reasoning – The presiding officer ruled the proposed motion to rescind the vote whereby House Bill 1234 was “advanced from General Order” dilatory as a matter of the House rules relying on the following method of evaluation:

1. is the proposed action prohibited by House rule;
2. if not prohibited by House rule, is the proposed action prohibited by general parliamentary law;

⁴² *Okla. H. Jour.*, 678-679, 54th Leg., 1st Reg. Sess. (March 12, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HB 1243*, 10:06:58-10:12:26 (March 12, 2013); *Okla. H. Jour.*, 1224-1225, 54th Leg., 1st Reg. Sess. (May 9, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., 00:31:58-00:46:44 (May 9, 2013).

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3. if no direct prohibitions exist, is there an explicit procedural framework or scheme under which the proposed action must be considered;
4. if a direct procedural framework or scheme exists, is the proposed action in accordance with the explicit requirements of the procedural framework or scheme; and
5. if the proposed action is not in accordance with the framework or scheme established in House rules, is there reasonably another method by which the proposed action may be presented to the House without violating a House rule or general parliamentary law?

It is worth noting that parliamentary law adheres to the common law principle of ‘everything which is not forbidden is allowed’. For that reason, in the context of applying the House Rules, it is not typically a question of whether House rules specifically authorize a certain action but rather whether a House rule bars a proposed action, either because of an overt prohibition or because of an explicit procedural framework or scheme mandated within the House Rules.

Standing alone, the proposed motion to rescind is neither prohibited by House Rules nor is it banned under general parliamentary law. It is, however, subject to an explicit procedural scheme established in Section 10.1 of House Rules.⁴³

⁴³ *Okla. H. Rules* § 10.1 (54th Leg.).

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Under the plain meaning of Section 10.1, the pending motion to put the previous question is of higher rank and therefore entitled to go first.⁴⁴ Expressed even more succinctly, the motion to rescind would never be in order prior to the disposition of a pending previous question motion.

There is no other reasonable method by which the lower ranking motion to rescind may be presented while the higher ranking motion to put the previous question is pending without violating both Section 10.1 of House Rules and general parliamentary law.⁴⁵ An attempt to do so is dilatory *per se* and should not be recognized by the presiding officer. A follow-on appeal raised on the merits of the refused motion should likewise be rejected as an additional attempt to force a procedural scenario impossible under the terms of the applicable House Rule.⁴⁶

Best practices prevailed in this situation because the motion proposing an action in direct conflict with a House rule and the related appeal were refused as being dilatory. Also, in conformance with general parliamentary law, a separate

⁴⁴ *Id.* This comports with general parliamentary law as expressed in Section 158 of *Mason's Manual of Legislative Procedure* which says in relevant part, "when a motion is under consideration, motions of a higher precedence are in order, but motions having a lower precedence are not," *Mason's Manual of Legislative Procedure* 123 § 158(1) (National Conference of State Legislatures 2010).

⁴⁵ *Supra.*

⁴⁶ *Mason's Manual of Legislative Procedure* 142 § 180 (National Conference of State Legislatures 2010).

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appeal on the specific question of whether the refused actions were dilatory was permitted.⁴⁷

9.2 - 16. (2013) Member Permitted to Explain Purpose for Motion to Suspend Rules

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 Senate Bill 759, Representative Cleveland moved to suspend House Rule 8.6 for the purpose of allowing consideration of an untimely filed floor amendment. No explanation was offered as to why the suspension was necessary.

After the vote was ordered and in progress on the Cleveland motion to suspend House Rules, Representative Sherrer raised a point of inquiry as to whether the member offering the motion to suspend House Rules would have been afforded an opportunity to explain the underlying purpose of his motion prior to consideration by the House of the motion to suspend House Rules, to which the presiding officer responded in the affirmative.

The presiding officer also indicated that in this instance, since the vote was already in progress, the movant would be allowed to offer a short explanation after the vote, if the motion passed.

⁴⁷ Id.

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The Cleveland motion to suspend House Rules failed of adoption upon a roll call vote.⁴⁸

Ruling – It is the ruling of the Chair that a short explanation of a motion to suspend House rules is in order prior to the vote on the motion.

Reason – In the context of a nondebatable question, Section 85, paragraph 1 of *Mason’s Manual* says in relevant part, “The presiding officer may permit the author or sponsor of the proposition to explain briefly, and without argument, the nature of the proposal or what it is expected to accomplish.”⁴⁹

9.2 - 17. (2013) Prerogative of Chair to Determine Order of Recognition

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

When two (2) or more members seek recognition at the same time, the presiding officer shall name the one entitled to the floor.

⁴⁸ *Okla. H. Jour.*, 1053, 54th Leg., 1st Reg. Sess. (April 23, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *SB 759*, 00:54:27-00:57:32 (April 23, 2013).

⁴⁹ *Mason’s Manual of Legislative Procedure* 72 § 85 (National Conference of State Legislatures 2010).

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History – After Third Reading and final passage of Senate Bill 1122, Representative Derby served notice of possible reconsideration of the vote whereby Senate Bill 1122 passed. Representative Shelton raised a point of order inquiring as to why other Representatives had sought recognition but the presiding officer chose to recognize Representative Derby first, thus allowing him to lodge notice of possible intent to offer a motion to reconsider.

The presiding officer responded by stating that it is the prerogative of the Chair to determine the order in which members are recognized.

Representative Glenn then raised a point of inquiry as to why Representative Derby had been recognized first. The presiding officer stated that it is the prerogative of the Chair to determine the order in which members are recognized.⁵⁰

Ruling – It is the ruling of the Chair that it is the prerogative of the Chair to determine the order in which members are recognized.

⁵⁰ *Okla. H. Jour.*, 1332-1333, 54th Leg., 1st Reg. Sess. (May 22, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *JCR to SB 1122*, 00:39:54-00:43:21 (May 22, 2013).

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§ 9.4 DEBATE

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.⁵¹

⁵¹ *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).

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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.

9.4 -2. (2010) Debate Not in Progress Until First Member Recognized

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

Except as otherwise specifically provided in these Rules, when a debatable question is before the House, such debate shall be limited to fifteen (15) minutes, equally divided between the proponents and opponents of the question. Under no circumstances shall a Member debate twice on the same question, nor shall any Member speak longer than ten (10) minutes on the same question.

History – After Senate Bill 1901 was read at length for the third time, debate on the measure was requested.

Upon the request for debate, Representative Nelson moved to advance the question.

Representative Reynolds then raised a point of order stating that the motion to advance the question was out of order because debate was already in progress.

The presiding officer stated that debate is not in progress until the first member is recognized to begin their debate.

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In this case, no member had yet been recognized for debate and therefore the point was not well taken.⁵²

Ruling – It is the ruling of the Chair that debate has not commenced until the first member is recognized to begin their debate.

9.4 - 3. (2011) Motion to Extend Debate Immediately after Adoption of Motion to Limit Debate Not in Order

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 – After Third Reading of Senate Bill 923, Representative Peters moved to advance the question.

⁵² Okla. H. Jour., 1436-1437, 52nd Leg., 2nd Reg. Sess. (April 22, 2010); Daily H. Sess. Video Rec., 52nd Leg., 2nd Reg. Sess., 54:58-58:37 (April 22, 2010); Okla. H. Jour., 1677, 52nd Leg., 2nd Reg. Sess. (May 24, 2010); Daily H. Sess. Video Rec., 52nd Leg., 2nd Reg. Sess., 03:26:30-03:27:27 (May 24, 2010); *Okla. H. Jour.*, 687, 53rd Leg., 1st Reg. Sess. (March 16, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1593*, 02:03:18-02:06:00 (March 16, 2011); *Okla. H. Jour.*, 678, 53rd Leg., 2nd Reg. Sess. (March 15, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HJR 1071*, 07:05:48-07:06:30 (March 15, 2012).

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Representative Shelton moved to table the Peters motion, which tabling motion failed of adoption.

Representative Peters pressed his motion to advance the question, which motion was declared adopted upon a roll call vote.

Representative Shelton moved to table Senate Bill 923, which tabling motion failed upon a roll call vote.

Representative Inman moved to extend debate time by two and one-half (2 ½) minutes per side, which motion was not recognized. Representative Inman raised a point of order as to what House Rule prevented consideration of the motion.

The presiding officer ruled that because the House voted to limit debate it would be dilatory to recognize a motion to extend debate and as such, the motion was out of order.

Representative Inman moved to appeal the ruling of the presiding officer receiving the required fifteen (15) seconds. Representative Peters moved to table the Inman appeal of the presiding officer, which tabling motion was declared adopted upon a division of the question.

Representative Inman moved to suspend House Rule 8.15 for the purpose of extending debate time by two and one-half (2 1/2) minutes, which motion failed of adoption upon a roll call vote.⁵³

⁵³ *Okla. H. Jour.*, 1034-1035, 53rd Leg., 1st Reg. Sess. (April 20, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 923*, 03:51:16-04:26:54 (April 20, 2011). See also *Okla. H. Jour.*, 257-258, 53rd Leg., 1st

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Ruling – It is the ruling of the Chair that when the House votes to limit debate, a motion offered immediately afterward to extend debate is not in order.

9.4 - 4. (2012) Debate Must be Confined to Side of Question Requested by Debating Member

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

Except as otherwise specifically provided in these Rules, when a debatable question is before the House, such debate shall be limited to fifteen (15) minutes, equally divided between the proponents and opponents of the question.

History – The Senate Amendments to House Bill 2236 were called up for consideration. Upon the motion of Representative Faught, the House concurred in the Senate Amendments to House Bill 2236 upon a division of the question.

In the course of debate on whether to concur with the Senate Amendments, Representative Terrill raised a point of inquiry as to whether the author of a measure could request to debate in opposition to his or her measure.

Reg. Sess. (Feb. 7, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HR 1008*, 04:38:18-04:43:22 (Feb. 7, 2011); *Okla. H. Jour.*, 479-480, 54th Leg., 1st Reg. Sess. (March 4, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HB 1721*, 01:07:26-01:16:31 (March 4, 2013).

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The presiding officer stated that in the opinion of the Chair it would not be a good precedent for the House for a member to offer a motion to the House and then debate against the motion.

Representative Terrill raised a point of inquiry as to whether House Rules prohibit a member from requesting debate in opposition to a motion and then actually offering debate in favor of the motion.

The presiding officer ruled the point well taken and noted that a member should offer debate on the side to which they requested.

Representative Hickman raised a point of inquiry as to whether a member who is the author of a measure could, upon becoming opposed to their measure, just withdraw the measure from consideration. The presiding officer answered in the affirmative.

Representative Reynolds raised a point of inquiry as to whether the Chair was suggesting that a member must debate for a bill because they are the author of the bill.

The presiding officer stated that if a member proposes a bill to the House and then decides he or she is not in favor of the measure, the best procedure would be to withdraw the bill from further consideration.

Representative Terrill raised a point of order as to whether it would be appropriate to object to improper debate, to which the presiding officer answered in the affirmative.

Representative Nelson raised a point of order as to whether a member is allowed in their debate to acknowledge the

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strengths and weaknesses in their debate. The presiding officer responded in the affirmative.

Representative Nelson raised a point of inquiry as to how this would affect a member who requested time for debate because they had additional questions on the measure.

The presiding officer stated that if a member requests debate on a certain side of the question, the member should offer debate on the side indicated and that it would be appropriate to pose additional questions as long as the member frames the questions in the form of debate.⁵⁴

§ 9.6 VOTING AND DIVISION

9.6 - 1. (2006) Members Present in Chamber But Not Voting May Be Named Upon Closing of Vote

Rule – House Rule 9.6, paragraph (a) states in part:

Every Member shall vote providing the Member is in the Chamber at the time the vote is in progress.

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

⁵⁴ *Okla. H. Jour.*, 1084-1086, 53rd Leg., 2nd Reg. Sess. (May 3, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *SAs to HB 2236*, 01:52:10-02:09:10 (May 3, 2012).

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The presiding officer ruled that a Member may raise a point of order pursuant to House Rule 9.6(a) against a Member, by name, who was in the Chamber but not voting which motion may be subject to a vote of the body.⁵⁵

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

Reasoning – The historical roots of House Rule 9.6(a) invite some examination before the parliamentary reasons for the present ruling are discussed. Throughout most of Oklahoma’s history, the rules of the House contained a provision requiring Members present to vote and included a punitive provision for Members who were present in the Chamber but did not vote. Beginning in the 1931 House rules, a Member who refused to vote was recorded as voting

⁵⁵ *Okla. H. Jour.*, 1599, 1600, 50th Leg., 2nd Reg. Sess. (May 19, 2006); *Daily H. Sess. Dig. Rec.*, 50th Leg., 2nd Reg. Sess. Track 10:05, 5:25-13:09 (May 19, 2006).

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“no.”⁵⁶ Specifically, Section 59 of the 1931 House Rules states in part the following:

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

From the Thirteenth Oklahoma Legislature in 1931 through the beginning of the Forty-Seventh Oklahoma Legislature in 1999, each successive set of House rules contained language requiring that Members present in the Chamber should vote and upon failing to do would be recorded as voting “no.”⁵⁷ Near the end of the first regular session of the Forty-Seventh Legislature, the House passed *House Resolution 1007* which upon adoption, included an amendment removing the punitive requirement that a Member present in the House Chamber but not voting would be recorded as voting “no.” What remained was a provision identical to the present House Rule 9.6(a) holding that:

*Every Member shall vote providing the Member is in the Chamber at the time the vote is in progress.*⁵⁸

While it is correct that House rules since April 29, 1999, have not included the punitive requirement that Members present but not voting should automatically be recorded as

⁵⁶ *Okla. H. Jour.*, 453, 13th Leg., 1st Reg. Sess. (Jan. 29, 1931); *Okla. H. Rules*, § 59 (13th Leg.).

⁵⁷ *Okla. H. Jour.*, 1380, 47th Leg., 1st Reg. Sess. (April 29, 1999); 1999 *Okla. Sess. Laws* 2242.

⁵⁸ *Okla. H. Jour.*, 1406, 47th Leg., 1st Reg. Sess. (April 29, 1999); *Okla. H. Rules*, § 14(1)(a) (47th Leg.).

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voting “no,” there is nothing under the current House rules or general parliamentary law to prevent a Member from raising a point of order for the purpose of pointing out those Members who, being present, did not vote in violation of House Rule 9.6(a). Furthermore, a duly recognized Member after the fact could properly offer a motion requesting that the House Journal name the offending House Members.

Although the current House rules are silent on the question of a motion requesting inclusion of names in the Journal, such a motion is similar to other motions permitted by the Oklahoma House of Representatives. Additionally, under general parliamentary principles, a motion not specifically named by House rules could still pass muster as a proper motion. By definition, a motion is merely a formal statement of a proposal submitted to a legislative body that certain actions be taken or a determination made.⁵⁹ There are literally hundreds of motions not listed in the House rules that short of violating other provisions of the House rules, Oklahoma Statutes, the Oklahoma Constitution, federal law or the federal Constitution, would be appropriate for the House to consider.

On a more practical note, a motion to include in the House Journal the names of Members present in the Chamber but not voting upon the close of the vote is a motion subject to motions of higher rank and, as such, would be subject to

⁵⁹ *Mason's Manual of Legislative Procedure* 111 § 144(1) (National Conference of State Legislatures 2000); *Sturgis Standard Code of Parliamentary Procedure*, 2nd Ed., 11 Chap. 3 (McGraw-Hill 1966).

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debate. Importantly, it should be noted that it would not be appropriate for a Member to attempt to specifically name other Members not yet having voted before the close of the vote. The question of how to vote on a matter frequently results in a Member sitting at his or her desk contemplating how to proceed until the moment right before the vote is closed. While there is no apparent harm in requesting that the presiding officer generally remind Members of their duty to cast a vote, it could be a serious disruption to point out a specific Member who might be quietly deliberating on how he or she should vote immediately before the close of the vote.

In conclusion, a motion to list Members by name in the House Journal on the basis of their failure to vote when present should be entertained only immediately after the close of the vote and before the House takes up another order of business.

9.6 - 2. (2007) Correction of Vote Mistakenly Cast on Behalf of Member

Rule – House Rule 9.6, paragraph (e) states:

The Presiding Officer shall then lock the machine and instruct the Clerk to record the vote. The Clerk shall immediately activate the recording equipment and when the vote is completely recorded, shall advise the Presiding Officer of the result, and the Presiding Officer shall announce the result to the House. No vote may be changed after it has been recorded.

History – On March 8, 2007, House Bill 2019 upon final passage failed adoption. At that time, Representative

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Shelton lodged a motion to reconsider the vote whereby House Bill 2019 failed. On March 13, 2007, Representative Shelton moved to reconsider the final vote on House Bill 2019. The motion to reconsider prevailed. As such, House Bill 2019 underwent a second vote on final passage.

During the second vote on final passage, a member who was excused was mistakenly recorded as casting an “aye” vote. After realizing that an excused member had been mistakenly recorded as casting a vote, the House did not change the vote after the vote was closed and recorded.

Instead, the House voted to suspend House Rule 9.10(a). House Rule 9.10(a) permits only one motion to reconsider the final vote on a bill. Once House Rules were suspended for the purpose of allowing a second motion to reconsider, Representative Shelton offered a second motion to reconsider the final vote on House Bill 2019 which was adopted. On final passage, House Bill 2019 was passed without the excused member’s vote.⁶⁰

9.6 - 3. (2008) Division of the Question

Rule – House Rule 9.6, paragraph (g) states:

When a division is requested and ordered, those in the affirmative or the negative, as the case may be, shall cast their votes accordingly...

⁶⁰ *Okla. H. Jour.*, 766, 861-864, 867-869, 51st Leg., 1st Reg. Sess. (March 13, 2007); *Daily H. Sess. Dig. Rec.*, 51st Leg., 1st Reg. Sess. Track 10:49; Track 10:50 (March 13, 2007).

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History – Representative Morrisette moved to amend House Bill 2242 by striking the title. Prior to consideration of the amendment, Representative Ingmire offered a motion to table the amendment.

Prior to the vote, the presiding officer restated the motion to the full House and then proceeded with a viva voce or voice vote. Upon hearing the “yeas” and the “nays,” the presiding officer declared the tabling motion to be adopted. After the voice vote was taken and the result declared by the presiding officer, Representative Morrisette requested a division of the House. The presiding officer declined to order a division.

Representative Morrisette raised a point of order stating that he had requested a division on the tabling motion and as provided in House Rule 9.6(g), the presiding officer should have ordered a division of the question.

The presiding officer ruled the point not well taken on the basis of House Rule 9.6(g). Rule 9.6(g) states that a division must be both requested and ordered. In this instance, even though requested, the presiding officer had not ordered a division. Representative Morrisette appealed the ruling of the Chair which was upheld by the House upon roll call.⁶¹

⁶¹ *Okla. H. Jour.*, 565, 51st Leg., 2nd Reg. Sess. (March 3, 2008); *Daily H. Sess. Dig. Rec.*, 51st Leg., 2nd Reg. Sess. Track 10:07, 11:15-20:17 (March 3, 2008).

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Ruling – It shall be the decision of the Chair that under House Rule 9.6(g), it is within the sole discretion of the presiding officer whether or not to order a division on a question pending before the House.

Reasoning – The usual way to vote is by viva voce. This method is employed by the presiding officer because it is the fastest way to settle questions pending before the House. Many questions considered by the House are routine and easily attract large majorities.⁶²

The general rule as stated by *Mason's Manual of Legislative Procedure* and other parliamentary authorities is that a timely request for a division should be granted by the presiding officer.⁶³ However, as permitted by the Oklahoma Constitution,⁶⁴ the Oklahoma House of Representatives has adopted a rule which grants greater discretion to the presiding officer.⁶⁵ The discretionary authority of the

⁶² *Mason's Manual of Legislative Procedure* 374 § 532(1) (National Conference of State Legislatures 2000).

⁶³ *Mason's Manual of Legislative Procedure* 376 § 532 (7) (National Conference of State Legislatures 2000); *Sturgis Standard Code of Parliamentary Procedure*, 2nd Ed., 141 Chap. 17 (McGraw-Hill 1966); Cushing, Luther Stearns, *Elements of the Law and Practice of Legislative Assemblies of the United States of America* 698 § 1798 (Little, Brown and Co. 1856). Thomas Jefferson, *A Manual of Parliamentary Practice* 99 § 41 (Washington City: S.H. Smith, 1801); Petyt, George, *Lex Parliamentaria* 162 Chap. 15 (London: Tim Goodwin, 1690).

⁶⁴ OK CONST V, 30.

⁶⁵ *Okla. H. Rules* § 9.6 (g) (51st Leg.).

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presiding officer to decide whether or not to order a division is a long-standing rule which the Oklahoma House first adopted in 1975 for the Thirty-Fifth Oklahoma Legislature.⁶⁶

While no legislative history or record of debate exists relevant to the original adoption of this provision, the rule on its face is designed to prevent one or two members from wasting the body's time with a request for a division when it is apparent to the presiding officer that the motion under consideration clearly passed in the affirmative or in the negative. As always, the presiding officer should exercise great care when judging the "ayes" and the "nays" and if in doubt, should order a division whether requested or not.⁶⁷

§ 9.7 CONDUCT DURING VOTING

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.

⁶⁶ *Okl. H. Rules* § 13(1)(g) (35th Leg.).

⁶⁷ *Mason's Manual of Legislative Procedure* 375 § 532(4) (National Conference of State Legislatures 2000).

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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.⁶⁸

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.

9.7 - 2. (2009) Motion to Table Not in Order Once Vote is Ordered

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

⁶⁸ *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).

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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.⁶⁹

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.

⁶⁹ *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).

§ 9.8 PREVIOUS QUESTION

9.8 - 1. (2009) Previous Question Applicable Only to Immediately Pending Question

Rule – House Rule 9.8 states in relevant part:

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.⁷⁰

⁷⁰ *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).

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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.

9.8 - 2. (2011) Recognition of Previous Question after Adoption of Motion to Advance Question

Rule – House Rule 9.8 states:

When a debatable question is before the House, any member may move the Previous Question. It shall be put in the following form: "The Previous Question has been moved. The Question is, shall the pending Question now be put?" 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 – After Senate Bill 923 underwent Third Reading, Representative Peters moved to advance the question.

Representative Shelton moved to table the Peters motion, which tabling motion failed of adoption upon a roll call vote.

Representative Peters pressed his motion to advance the question, which motion was declared adopted upon a roll call vote.

Representative Shelton moved to table Senate Bill 923 itself, which tabling motion failed upon a roll call vote.

Representative Inman then moved to extend debate time by two and one-half (2 1/2) minutes per side, which motion was not recognized.

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Representative Inman raised a point of order as to what House Rule prevented consideration of his motion to extend debate. The presiding officer ruled that because the House had voted to limit debate it would be dilatory to recognize a motion to extend debate and as such, the motion was out of order.

Representative Inman moved to appeal the ruling of the Chair. Representative Peters moved to table the appeal of the Chair, which tabling motion was adopted upon a division of the question.

Representative Inman moved to suspend House Rules for the purpose of extending debate time, which motion failed of adoption upon a roll call vote.

Representative Proctor moved to suspend House Rules for the purpose of allowing consideration of an untimely filed floor amendment on Third Reading, which motion failed of adoption upon a roll call vote.

Representative Shelton moved to postpone indefinitely consideration of Senate Bill 923. Representative Peters moved to put the previous question on the Shelton motion to postpone indefinitely.

Representative Dorman moved to table the Peters motion to put the previous question, which tabling motion failed of adoption upon a roll call vote.

Representative Peters pressed his motion to put the previous question on the Shelton motion to postpone indefinitely, which motion was declared adopted upon a roll call vote.

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Representative Shelton then pressed his motion to postpone indefinitely, which motion failed of adoption upon a roll call vote.

Representative Peters moved to put the previous question on the question of passage of Senate Bill 923.

Representative Inman raised a point of order as to whether the motion to put the previous question was in order subsequent to adoption by the House of a motion to advance the question.

The presiding officer ruled that the motion to put the previous question was a different question and according to Section 361, Paragraph 2 of *Mason's Manual*, a legislative body may stop or prevent debate at any time.⁷¹ As such it would be in order for the House to consider the motion to put the previous question at any time prior to recognition of the first member for debate.

Representative Inman moved to appeal the ruling of the Chair. Representative Peters moved to table the Inman appeal of the Chair, which tabling motion was adopted upon a division of the question.

Representative Peters pressed his motion to put the previous question on Senate Bill 923, which motion was adopted upon a division of the question.⁷²

⁷¹ *Mason's Manual of Legislative Procedure* 252 § 361(2) (National Conference of State Legislatures 2000).

⁷² *Okla. H. Jour.*, 1033-1038 53rd Leg., 1st Reg. Sess. (April 20, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 923*, 04:39:44-

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Ruling – It is the ruling of the Chair that a motion to put the previous question is in order subsequent to adoption of a motion to advance the question.

§ 9.9 MOTION TO ADVANCE QUESTION

9.9 - 1. (2010) Adoption of Motion to Advance Question Must Have a Procedural Effect

Rule – House Rule 9.9 states:

When a debatable question is before the House, any Member may move to Advance the Question. If the motion to Advance the Question passes, no further amendments to the matter considered shall be allowed and debate shall be limited to fifteen (15) minutes, equally divided between the proponents and opponents of the question, provided that no Member may speak for more than five (5) minutes. After debate is concluded, the question shall be put immediately.

History – Upon consideration of the Conference Committee Report on House Bill 2941, Representative Denney moved that the House adopt the report, which motion failed of adoption upon a roll call vote.

05:00:42 (April 20, 2011); *Okl. H. Jour.*, 1394, 54th Leg., 1st Reg. Sess. (May 24, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *CCR to SB 1034*, 03:56:31-03:59:06 (May 24, 2013).

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Representative Denney then moved to reject the Conference Committee Report on House Bill 2941 and request further conference, which motion failed of adoption upon a roll call vote.

Representative Kiesel then moved to reject the Conference Committee Report on House Bill 2941 with attached instructions.

After the motion to reject the report with attached instructions offered by Representative Kiesel, Representative Reynolds moved to advance the question, which motion was ruled out of order.

Representative Reynolds raised a point of inquiry as to why the motion to advance the question was out of order.

The presiding officer stated that the motion to advance the question, if adopted, would limit debate to fifteen (15) minutes. The debate time allotted for a motion to reject a conference committee report with instructions was fifteen (15) minutes as well.⁷³ As such, the motion to advance the question was ruled out of order because it would have no procedural effect.⁷⁴

⁷³ *Okla. H. Rules*, § 9.4(a) (52nd Leg.).

⁷⁴ *Okla. H. Jour.*, 1632, 52nd Leg., 2nd Reg. Sess. (May 20, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 2:14:17-2:25:04 (May 20, 2010). See also *Okla. H. Jour.*, 1651, 52nd Leg., 2nd Reg. Sess. (May 21, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 06:28:50-06:29:19 (May 21, 2010). In this instance, the presiding officer did not allow debate on the question of adoption of the emergency section of Senate Bill 1267. Because debate had already been disallowed, the presiding officer refused to recognize a subsequent motion to put the

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Ruling – It is the decision of the Chair that a motion to advance the question is out of order when adoption of the motion would not have any meaningful procedural effect.

§ 9.10 RECONSIDERATION

9.10 - 1. (2007) Electronic Availability upon Motion to Reconsider

Rule – House Rule 9.10, paragraphs (a) through (f) provide the guidelines governing the motion to reconsider the final vote on bills, emergencies and resolutions.

History – Subsequent to a motion to reconsider the vote whereby House Bill 2019 failed adoption, Representative Sullivan raised a point of order regarding whether or not reconsideration of House Bill 2019 was in order under House Rules due to the fact that the bill under reconsideration was not electronically available on the House Floor Calendar.

The presiding officer ruled the Sullivan point of order “not well taken” on the basis that the bill under reconsideration was available to the members of the House on the Legislature’s electronic bill tracking system, BTOOnline. As

previous question because adoption of the motion would not have resulted in any procedural change. See also *Okla. H. Jour.*, 1892, 52nd Leg., 2nd Reg. Sess. (May 28, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 07:33:19-07:37:21 (May 28, 2010).

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such, the members had access to the bill even if the bill no longer was available on the House Floor Calendar.⁷⁵

Ruling – It shall be the decision of the Chair that House Rule 9.10 shall be interpreted to mean that a bill may be taken up on the House floor for reconsideration whether or not it is available on the House Floor Calendar if it is available from some other source such as *BTO*Online.

9.10 - 2. (2008) Consideration of Other Business Prior to Reconsideration Notice

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

The final vote on Third 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 taken, prior to the consideration of any other business...

History – Representative Covey attempted to serve notice, or “lodge a motion,” that on some future legislative date he might desire to offer a motion to reconsider the vote by which House Bill 2561 passed the full House.

Referring to House Rule 9.10(a), the presiding officer ruled the attempted notice not timely and out of order because Representative Covey had not served notice immediately

⁷⁵ *Daily H. Sess. Dig. Rec.*, 51st Leg., 1st Reg. Sess. Track 10:44, 9:12-11:43 (March 13, 2007).

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after the vote on “Third Reading” and final passage. Subsequent business had transpired.

Specifically, three other House bills, House Bill 2729, House Bill 2640 and House Bill 2764, had been considered and passed by the full House prior to the attempt to serve notice to reconsider House Bill 2561.⁷⁶

Ruling – It shall be the decision of the Chair that House Rule 9.10(a) shall be interpreted to mean that “other business” includes consideration of other bills and as such, the Chair will not recognize an attempt to serve notice of reconsideration once other bills have been taken up by 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

⁷⁶ *Okla. H. Jour.*, 716-719, 51st Leg., 2nd Reg. Sess. (March 10, 2008); *Daily H. Sess. Dig. Rec.*, 51st Leg., 2nd Reg. Sess. Track 10:26, 00:00-06:00 (March 10, 2008); See also *Okla. H. Jour.*, 1772, 52nd Leg., 2nd Reg. Sess. (May 26, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 05:13:12-05:13:44 (May 26, 2010); in this ruling, the presiding officer held that an introduction of guests constituted a different order of business resulting in a reconsideration motion offered subsequent to the introduction to constitute a new order of business to be scheduled through the Majority Floor Leader.

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be reconsidered only if a Member serves notice immediately after such final vote is 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.⁷⁷

⁷⁷ *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); *Okla. H. Jour.*, 1385, 52nd Leg., 2nd Reg. Sess. (April 20, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 9:42:24-9:53:32 (April 20, 2010); see also *Prec. Okla. H. of Rep.*, § 9.10(6.), 52nd Leg., 2nd Reg. Sess. (April 20, 2010); *Okla. H. Jour.*, 1246-1247, 53rd Leg., 2nd Reg. Sess.

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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 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.

(May 23, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *CCR to SB 1336*, 05:46:02-05:48:00 (May 23, 2012).

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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,

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had been rescinded, further consideration of the conference committee report was in order.⁷⁸

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.⁷⁹ 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

⁷⁸ *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); *Okla. H. Jour.*, 1405, 52nd Leg., 2nd Reg. Sess. (April 21, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 3:20:09-3:21:54 (April 21, 2010).

⁷⁹ *Mason's Manual of Legislative Procedure* 317 § 468(2) (National Conference of State Legislatures 2000).

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reconsider expires by operation of House Rules.⁸⁰ 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.⁸¹

9.10 - 5. (2010) Motion to Reconsider Must Be Exhausted Prior to Use of Motion to Rescind

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

The final vote on Third Reading or Fourth Reading on any bill or joint resolution, or on the Emergency Section thereof, or the final vote on adoption of a simple or concurrent resolution, may be reconsidered only if a Member serves notice immediately after such final vote is taken, prior to the consideration of any other business...the motion to reconsider a final vote shall not be presented or considered on the same day that such final vote was taken... Only one (1) reconsideration of the final vote on a bill, resolution or Emergency Section shall be allowed.

⁸⁰ Id. at 315-316 § 467; *Okla. H. Rules*, §§ 8.13, 9.10 (52nd Leg.).

⁸¹ *Mason's Manual of Legislative Procedure* 321 § 480 (National Conference of State Legislatures 2000).

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History – After passage of House Bill 2747 on Third Reading but before the vote was taken on the question of adoption of the measure’s emergency clause, Representative Cox requested unanimous consent that the Journal reflect that he had meant to vote ‘aye’ on House Bill 2747 but had accidentally voted ‘nay’.

Representative Morgan raised a point of inquiry as to whether it was permissible in a situation such as this to rescind the vote on the measure when a member had voted differently than they intended.

After quoting Section 480, paragraph four (4) of Mason’s Manual,⁸² the presiding officer stated that a member may lodge notice to reconsider the passage or failure of a measure, and once that approach had been exhausted they could offer a motion to rescind the vote by which the measure had passed or failed.

Representative Brown raised a point of order that since no one had served notice to reconsider the vote and the House had taken up consideration of the emergency clause, the motion to rescind would now be in order. The presiding officer declared the point not well taken.

Representative Wright (John) then requested unanimous consent to rescind the vote whereby House Bill 2747 passed.

The presiding officer readdressed the point of order previously raised by Representative Brown. The presiding

⁸² *Mason’s Manual of Legislative Procedure* 321 § 480(4) (National Conference of State Legislatures 2000).

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officer stated that upon further consideration Representative Brown was correct in stating that since the House had moved onto consideration of the emergency clause, the option of serving notice to reconsider the vote on the measure itself had been exhausted resulting in the motion to rescind the vote on passage of the measure itself to be in order.⁸³

Ruling – It is the decision of the Chair that if a motion to reconsider can properly be offered, the motion to reconsider must be exhausted before a motion to rescind will be entertained.

9.10 - 6. (2010) Principal Author Favored to Lodge Notice of Reconsideration

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

⁸³ *Okla. H. Jour.*, 645, 646 52nd Leg., 2nd Reg. Sess. (March 3, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 2:10:11-2:20:07 (March 3, 2010).

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History – House Bill 2363 was read for a fourth time and passed by the House. When the emergency clause for House Bill 2363 was considered, it failed of adoption.

The measure's principal author, Representative Miller, then served notice that he might choose at some future time to reconsider the vote whereby the emergency failed.

Immediately after Representative Miller lodged notice, Representative Blackwell raised a point of inquiry as to how much time a member would be granted for the purpose of serving notice of a possible future motion to reconsider as provided in House Rule 9.10.

The presiding officer stated that the member must seek recognition immediately upon the close of the vote.

Representative Blackwell raised an additional point of inquiry as to when the vote would be considered in progress.

The presiding officer stated that the vote is in progress once the presiding officer has ordered the vote and that it is within the discretion of the presiding officer whether to recognize or not recognize a member seeking recognition.

Representative Kiesel requested clarification as to when the vote would be actually considered in progress. Would it be at the beginning of the ordering of the vote or at the end of the ordering of the vote?

The presiding officer clarified that it would be at the end of the ordering of the vote and that it is within the discretion of the presiding officer whether to recognize or not recognize a member seeking recognition in the context of maintaining proper order.

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Representative Morgan then raised a point of clarification as to what would be the best method for a member to seek recognition to serve notice to reconsider as provided in House Rule 9.10.

The presiding officer stated that a member may activate their “request to speak button” or stand and address the presiding officer.

The presiding officer stated that it is the custom of the House to favor the measure’s author when several members are attempting to obtain recognition for the purpose of serving notice of reconsideration, but in the event the author did not seek recognition, other members would be recognized for the purpose of serving notice.⁸⁴

Ruling – It is the decision of the Chair that, as is customary, the principal author of a measure will be recognized in preference to other members when seeking recognition to serve notice of possible intent to reconsider.

9.10 - 7. (2011) Main Question Open to Debate upon Reconsideration

⁸⁴ *Okla. H. Jour.*, 1386-1387, 52nd Leg., 2nd Reg. Sess. (April 20, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 10:08:11-10:32:09 (April 20, 2010); *Okla. H. Jour.*, 673-674, 54th Leg., 1st Reg. Sess. (March 12, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HB 1062*, 09:23:12-09:26:54 (March 12, 2013).

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Rule – House Rule 9.10, paragraph (a) and House Rule 10.1, paragraph (d) state in relevant part:⁸⁵

The final vote on Third Reading...may be reconsidered...

When a question shall be under consideration... [a] motion...shall be...debatable or not debatable, as set forth below:

(d) Main Motions

To reconsider (not amendable - debatable)

History – Representative Key moved to reconsider the vote whereby Senate Bill 801 failed, which motion prevailed upon a roll call vote. Senate Bill 801 was then read at length for the third time and passed by the House.⁸⁶

After consideration of additional business, Representative McPeak raised a point of order stating that when Senate Bill 801 was under reconsideration, the presiding officer called for questions and debate on the motion to reconsider but did not call for questions or debate on the measure itself when the measure was before the House on Third Reading.

The presiding officer observed that Representative McPeak did not request debate upon Third Reading prior to the vote

⁸⁵ See also *Okl. H. Rules*, §§ 8.16(a), 9.4(a) (53rd Leg.).

⁸⁶ *Okl. H. Jour.*, 916, 53rd Leg., 1st Reg. Sess. (April 13, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 801*, 00:37:19-00:42:18 (April 13, 2011).

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being ordered and noted that debate on the bill itself would have been in order at the time the motion to reconsider was before the House.⁸⁷

After consideration of additional business, Representative Reynolds raised a point of inquiry regarding Representative McPeak's point of order. Representative Reynolds inquired as to whether the Chair had ruled that debate would not be recognized on Third Reading after a motion to reconsider had been adopted.

The presiding officer stated that requests for debate on Third Reading would continue to be recognized and that debate offered on a motion to reconsider could include discussion of the merits of the bill under reconsideration.⁸⁸

Ruling – It is the ruling of the Chair that debate offered on a motion to reconsider could properly include discussion of the merits of the bill under reconsideration.

9.10 - 8. (2012) Final Action Stayed Until Conclusion of Reconsideration Period

⁸⁷ *Okla. H. Jour.*, 918, 53rd Leg., 1st Reg. Sess. (April 13, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 801*, 01:11:22-01:13:52 (April 13, 2011); *Mason's Manual of Legislative Procedure* 318, 319 § 471(1) (National Conference of State Legislatures 2000).

⁸⁸ *Okla. H. Jour.*, 918, 53rd Leg., 1st Reg. Sess. (April 13, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 801*, 01:20:40-01:23:53 (April 13, 2011).

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Rule – House Rule 9.10, paragraph (a) and paragraph (b) state:

(a) The final vote on Third Reading or Fourth Reading on any bill or joint resolution, or on the Emergency Section thereof, or the final vote on adoption of a simple or concurrent resolution, may be reconsidered only if a member serves notice immediately after such final vote is taken prior to the consideration of any other business, of said Member's intention to present a motion to reconsider such action, and the Presiding Officer shall afford any Member such opportunity prior to proceeding to consideration of any other business.

(b) Unless presented and considered within three (3) legislative days, including the day upon which notice is served, a motion to reconsider shall be considered as having failed of adoption.

History – During consideration of House Bill 2941, Representative Sherrer raised a point of order as to whether, pursuant to House Rule 6.8, the Derby amendment was in order for consideration because the amendment contained language similar to the language contained in House Bill 2808 which was previously defeated by the House.⁸⁹

⁸⁹ *Okla. H. Jour.*, 602-603, 53rd Leg., 2nd Reg. Sess. (March 13, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 2808*, 03:12:52-04:57:40 (March 13, 2012).

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The presiding officer stated that although House Bill 2808 had been defeated by the House, the principal House author had lodged notice to reconsider the vote whereby the measure had failed and until disposition of a possible motion to reconsider, final action had not occurred on House Bill 2808.⁹⁰

Ruling – It is the ruling of the Chair that final action has not occurred on a measure that previously failed on Third Reading while a possible reconsideration motion is pending on the same measure.

9.10 - 9. (2012) Motion to Reconsider Offered Immediately Not Item of New Business

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

A motion to reconsider may be offered immediately or upon the same day the final vote is taken by the member who served notice, or by another member with said member's consent. On the last day of the reconsideration period, any member may seek recognition for a motion to reconsider.

History – House Bill 3149 was read at length for the third time and was passed by the House upon a roll call vote.

⁹⁰ *Okla. H. Jour.*, 605, 53rd Leg., 2nd Reg. Sess. (March 13, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HB 2941*, 05:26:44-05:31:03 (March 13, 2012).

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Representative Sears served notice of the possibility that he might choose in the future to reconsider the vote whereby House Bill 3149 had passed.

On passage of the emergency, the emergency failed upon a roll call vote. Representative Sears moved to reconsider the vote whereby House Bill 3149 passed.

Representative Reynolds attempted to serve notice to reconsider the vote whereby the emergency failed, which notice was not recognized by the presiding officer.

Representative Proctor raised a point of order as to whether the Sears motion to reconsider was out of order because Representative Sears had not previously scheduled the motion with the Majority Floor Leader.

The presiding officer stated that the Sears motion had not been ruled out of order.

Representative Dorman raised a point of inquiry as to whether recognition of the Sears motion to reconsider, without the motion having been previously scheduled with the Majority Floor Leader, rose to the level of a new precedent.

The presiding officer stated that the Sears motion was not an item of new business because it pertained to the business presently before the House.

Representative Sears withdrew his motion to reconsider the vote whereby HB 3149 passed.

Representative Sears served notice to reconsider the vote whereby the emergency failed.

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Representative Trebilcock raised a point of inquiry as to whether the Sears motion was new business.

The presiding officer stated that the motion was not new business because it pertained to the business before the House.⁹¹

Ruling – It is the decision of the Chair that a motion to reconsider made while a measure is still before the House, offered by the member who served notice, either on the measure itself or on the emergency section, is not placing a new item of business before the House and may be recognized to proceed with the reconsideration motion.

9.10 - 10. (2013) No Requirement to Lodge Notice when Motion to Reconsider Offered Immediately after Final Passage

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

A motion to reconsider may be offered immediately or upon the same day the final vote is taken by the member who served notice...

History – Immediately after final passage of Senate Bill 1022, Representative Echols moved to reconsider the vote

⁹¹ *Okla. H. Jour.*, 1223-1225, 53rd Leg., 2nd Reg. Sess. (May 23, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 3149*, 00:29:1015-00:43:2120 (May 23, 2012).

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whereby Senate Bill 1022 passed. Representative Derby moved to table the Echols motion to reconsider.

Representative Inman attempted to serve notice to reconsider the vote whereby Senate Bill 1022 passed, which motion was ruled out of order. Representative Inman then raised a point of order as to where in House Rules it allows for a member to reconsider the vote on a measure without having served notice on the measure, to which the presiding officer replied House Rule 9.10, paragraph (c).

The presiding officer stated that it is not logical to interpret Rule 9.10, paragraph (c) to require a member to serve notice of possible future intent to reconsider when the motion to reconsider is to be offered immediately. The presiding officer stated that pursuant to House Rule 9.10, paragraph (c) the motion to reconsider was immediately in order.

Representative Inman appealed the ruling of the Chair, receiving the required fifteen (15) standing seconds. Prior to explanation of the appeal, Representative Wright moved to table the Inman appeal, which motion was declared adopted upon a roll call vote.⁹²

Ruling – It is the ruling of the Chair that when a motion to reconsider is offered immediately after final passage, there is no requirement to first lodge notice of possible future intent

⁹² *Okla. H. Jour.*, 1329-1331, 54th Leg., 1st Reg. Sess. (May 22, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *CCR to SB 1022*, 02:14:57-02:28:30 (May 22, 2013).

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to reconsider prior to offering the actual motion to reconsider.

§ 9.11 MEASURES VETOED BY THE GOVERNOR

9.11 - 1. (2012) Veto Override Motion Subject to Motion to Lay on Table

Rule – House Rule 9.11, paragraph (a) states:

When a bill or joint resolution is returned to the House because of a veto by the Governor, a motion to vote to override the veto shall be in order at any time.

History – Representative Proctor moved that House Bill 2296 become law notwithstanding the veto of the Governor. Speaker Steele moved to table the Proctor motion to override the Governor's veto.

Representative Dorman raised a point of inquiry as to whether it was in order for any member to make the motion to lay the motion to override the Governor's veto on the table.

The presiding officer stated that any member may offer the motion to table and that the motion to override the Governor's veto could be offered again at a later time.

Representative Dorman raised a point of inquiry as to whether additional motions presented by Representative Proctor that House Bill 2296 become law notwithstanding the veto of the Governor would be considered dilatory

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motions. The presiding officer stated the motion would not be dilatory if the parliamentary situation had changed.⁹³

Ruling – It is the decision of the Chair that a motion to override the Governor’s veto is properly subject to a motion to lay on the table.

Reasoning – A motion to override the Governor’s veto is a main motion.⁹⁴ As such, it is subject to most motions having higher precedence. It is distinguishable from ordinary main motions in that it is not subject to amendment. It is unusual in that it can be brought up again and again under the customs and practices of the Oklahoma House of Representatives but cannot be reconsidered under House Rules.⁹⁵ Subsequent attempts would not be considered dilatory if the parliamentary situation has changed.⁹⁶

⁹³ *Okla. H. Jour.*, 875-876, 53rd Leg., 2nd Reg. Sess. (April 16, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HB 2296*, 02:26:55-02:28:00 (April 16, 2012).

⁹⁴ *Mason’s Manual of Legislative Procedure* 293-294, §§ 440, 441 (National Conference of State Legislatures 2000).

⁹⁵ *Okla. H. Rules*, § 8.13 (53rd Leg.) and *Okla. H. Rules*, § 9.10 (53rd Leg.); the preceding provisions of *House Rules* limit the scenarios in which a motion to reconsider may be offered; a motion to override the Governor’s veto is not among the actions that the House may reconsider; most likely this practice was codified in the House Rules because a motion to override was entertained multiple times when previously unsuccessful.

⁹⁶ *Mason’s Manual of Legislative Procedure* 305-306, § 456 (National Conference of State Legislatures 2000).

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§ 9.12 QUORUM

9.12 - 1. (2010) Member Must Personally Answer Quorum Call

Rule – House Rule 9.12, paragraph (a) states:

If, at any time during the daily sessions of the House, a Member recognized by the Presiding Officer raises a question as to the presence of a quorum, the Presiding Officer shall, without debate, forthwith direct that the electronic voting machine be activated to determine the presence or absence of a quorum, and shall announce the result.

History – Shortly after convening the House of Representatives on Thursday, April 8, 2010, the presiding officer directed the clerk to activate the electronic machine to determine the presence of a quorum.

Following determination of the presence of a quorum, Representative Blackwell raised a point of inquiry as to whether a member must answer a quorum call personally by activating the electronic button at their desk or whether it would be permissible for one member to direct another member to activate the button on their behalf.

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The presiding officer stated that a member must activate the button from their own desk during the determination of the presence of a quorum.⁹⁷

Ruling – It is the decision of the Chair that when the House is under a quorum call, a member must personally activate the button from their own desk and not request another member to answer the quorum call on their behalf.

⁹⁷ *Okla. H. Jour.*, 1198 52nd Leg., 2nd Reg. Sess. (April 8, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 03:12-06:21 (April 8, 2010).

RULE TEN

MOTIONS

10 - 1. (2007) Rejection of Multiple Senate Amendments

Rule – House Rule 10 is the main House rule governing the use of motions by the House of Representatives during the legislative session.

History – Upon obtaining recognition by the presiding officer, Representative Benge offered a motion to reject Senate amendments to multiple House bills titled as appropriation measures. In the course of offering the motion, Representative Benge informed the House that the appropriation bills relevant to his motion had been published on a physical list and had been previously distributed to each member of the House.

Upon the offering of the Benge motion, Representative John Wright raised a question of the Chair as to whether or not this was a proper motion for the House to consider. The presiding officer informed Representative Wright that the Benge motion was an appropriate motion due to the fact that it has been the historic practice of the

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House to reject Senate amendments to House appropriation bills as a group.¹

Ruling – It shall be the decision of the Chair that House Rule 10 shall be interpreted to mean that a motion that purports to reject Senate amendments to multiple House appropriation measures shall be considered a proper motion.

10 - 2. (2010) No Requirement for Fiscal Impact Statement for Other Motions

Rule – Motions utilized by the House of Representatives are principally governed by House Rule Ten, “Motions”.²

History – Representative Cox moved to reconsider the vote whereby the emergency failed on House Bill 2437, which motion prevailed upon a roll call vote.

Representative Lamons moved that the debate on the motion to reconsider the vote whereby the emergency failed be printed verbatim in the House Journal.

¹ *Okla. H. Jour.*, 1349-1350, 51st Leg., 1st Reg. Sess. (April 23, 2007); *Daily H. Sess. Dig. Rec.*, 51st Leg., 1st Reg. Sess. Track 10:63, 1:19-4:06 (April 23, 2007).

² See *Okla. H. Rules*, § 7.11(a) (52nd Leg.); *Okla. H. Rules*, § 7.15(d) (52nd Leg.), for motions that, according to House Rules, must be accompanied by a fiscal impact statement.

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Representative Reynolds moved to extend the debate time on the motion to reconsider the vote whereby the emergency failed, which motion was ruled out of order.

Representative Hickman raised a point of order stating that the Lamons motion was not accompanied by a fiscal impact statement and therefore was not in order for consideration.

The presiding officer ruled that there is no requirement within House Rules that a motion be accompanied by a fiscal summary and as such the point was not well taken. Representative Lamons pressed his motion that the debate on the motion be printed verbatim in the House Journal, which motion was declared adopted upon a roll call vote.³

Ruling – It is the decision of the Chair that no motion shall be required to be accompanied by a fiscal impact statement except such motions as are specifically required by House rule to include a fiscal impact statement.

10 - 3. (2012) Renewal of Motion to Advance from General Order

Rule – Motions utilized by the House of Representatives are principally governed by House Rule Ten, “Motions”.

³ *Okla. H. Jour.*, 1676-1678, 52nd Leg., 2nd Reg. Sess. (May 24, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 3:44:20-3:45:33 (May 24, 2010).

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History – During consideration of House Bill 2586, Representative Ownbey moved that House Bill 2586 be advanced from General Order.

Representative Proctor moved to table the Ownbey motion, which tabling motion was declared adopted upon roll call vote.

After additional questions and answers, Representative Ownbey again moved that House Bill 2586 be advanced from General Order.

Representative Reynolds raised a point of order as to whether renewal by Representative Ownbey of the motion to advance the bill from General Order was a dilatory motion.

The presiding officer cited *Mason's Manual*, Section 160, Paragraph 7, which says in part that motions that have been presented and rejected, under certain circumstances, may be proposed again under the theory that a proposal made under one set of circumstances is not the same as the proposal made under a different set of circumstances.

After the House adopted a motion to table Representative Ownbey's initial motion to advance the bill, the presiding officer entertained additional questions and answers on the measure.

As such, the presiding officer ruled that circumstances had changed and that renewal by Representative Ownbey of his motion to advance the bill from General Order was a proper motion.

Rule 10. Precedents

As such, the presiding officer ruled the point not well taken.⁴

Ruling – It is the ruling of the Chair that upon a change in the parliamentary situation, a motion to advance a measure from General Order, previously rejected, may be renewed.

10 - 4. (2012) Renewal of Motion to Suspend House Rules

Rule – Motions utilized by the House of Representatives are principally governed by House Rule Ten, “Motions”.

History – During consideration of House Bill 2808, Representative Sean Roberts moved to suspend House Rule 8.6, paragraph (b) for the purpose of allowing consideration of an untimely filed floor amendment, which motion failed of adoption upon a roll call vote.

Representative Sean Roberts renewed his motion to suspend House Rule 8.6, paragraph (b) for the purpose of allowing consideration of the previously offered untimely filed main floor amendment.

Representative Holland raised a point of order as to whether it was dilatory to renew the motion to suspend House Rules because the House had previously defeated the same motion.

⁴ *Okla. H. Jour.*, 475-476, 53rd Leg., 2nd Reg. Sess. (March 7, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HB 2586*, 01:51:35-02:13:32 (March 7, 2012).

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The presiding officer stated that because of additional questions and answers, a different parliamentary situation had arisen and ruled the point not well taken. The presiding officer subsequently entertained a second motion to suspend House Rule 8.6, paragraph (b).

Representative Sean Roberts pressed adoption of the motion to suspend House Rule 8.6, paragraph (b), which motion failed of adoption upon a roll call vote.⁵

Ruling – It is the ruling of the Chair that upon a change in the parliamentary situation, a motion to suspend House rules previously rejected, may be renewed.

10 - 5. (2012) Timing of Objection to Consideration of Question

Rule – Motions utilized by the House of Representatives are principally governed by House Rule Ten, “Motions”.

History – After substantial consideration had occurred on Senate Bill 327, Representative Terrill objected to the consideration of the question on Senate Bill 327.

The presiding officer stated that pursuant to *Mason’s Manual of Legislative Procedure*, Section 296,⁶ objection to consideration was not presently in order.⁷

⁵ *Okla. H. Jour.*, 601-602, 53rd Leg., 2nd Reg. Sess. (March 13, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HB 2808*, 03:39:48-03:41:51 (March 13, 2012).

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Ruling – It is the ruling of the Chair that objection to consideration must be made immediately after the presiding officer recognizes a member for presentation of a measure.

Reasoning – The manner of applying the motion to object to consideration is not defined in *House Rules* except to say that it is not amendable or debatable.⁸

As such, the presiding officer looked to *Mason's Manual of Legislative Procedure* for additional guidance. *Mason's Manual* says that objection to consideration must be made immediately following statement of the question.⁹

In this instance, objection was not raised immediately after the member received recognition to present the bill in question.

10 - 6. (2012) Identical Amendment Offered to More Than One Measure

⁶ *Mason's Manual of Legislative Procedure* 219 § 296(1-2) (National Conference of State Legislatures 2000).

⁷ *Okla. H. Jour.*, 730, 53rd Leg., 2nd Reg. Sess. (March 29, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *SB 327*, 01:13:25-01:15:24 (March 29, 2012); *Okla. H. Jour.*, 482, 54th Leg., 1st Reg. Sess. (March 4, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HB 1721*, 01:32:49-01:34:42 (March 4, 2013).

⁸ *Okla. H. Rules*, § 10.1(b) (53rd. Leg.).

⁹ *Supra*.

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Rule – Motions utilized by the House of Representatives are principally governed by House Rule Ten, “Motions”.

History – During consideration of Senate Bill 1214, Representative Inman moved to amend Senate Bill 1214. Representative Randy McDaniel then moved to table the Inman amendment.

Prior to the House taking up the motion to table the Inman amendment, Representative Nelson raised a point of order as to whether the amendment was dilatory because the House had previously tabled an identical amendment offered by Representative Inman.

The presiding officer ruled that though identical to the previously tabled amendment, consideration of the present amendment was not dilatory because the amendment was being offered to a different measure.¹⁰

Ruling – It is the ruling of the Chair that an identical amendment may be offered to more than one measure.

Reasoning – This particular ruling of the Chair must be balanced against the requirements of Section 180 of *Mason’s Manual of Legislative Procedure* which says:

Any regular parliamentary motion, when improperly used for the purpose of delaying or obstructing business, is a dilatory

¹⁰ *Okla. H. Jour.*, 784, 53rd Leg., 2nd Reg. Sess. (April 5, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *SB 1214*, 01:25:40-01:26:40 (April 5, 2012).

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*motion. For the convenience of legislative bodies, it is necessary to allow some highly privileged motions to be renewed again and again after progress in debate or the transaction of business...*¹¹

Whether an amendment is offered repeatedly for purposes of delay or obstruction is a judgment call on the part of the presiding officer and it is conceivable that such an effort could eventually become dilatory and be ruled out of order.

§ 10.1 PRECEDENCE OF MOTIONS

*10.1 - 1. (2009) Precedence of Main Motions Pertaining to Disposition of Conference Committee Reports*¹²

10.1 - 2. (2011) Precedence of Main Motions Pertaining to Disposition of Senate Amendments

Rule – House Rule House Rule 10.1, paragraph (d) states:

(d) Main Motions

¹¹ *Mason's Manual of Legislative Procedure* 141 § 180(1) (National Conference of State Legislatures 2000).

¹² Effectively discarded upon adoption of House Rules for 53rd and 54th Oklahoma Legislatures. See Section 10.1, paragraph (d) of House Rules for 53rd and 54th Oklahoma Legislatures (2011-2012; 2013-2014).

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A main motion shall be defined as a substantive proposal such as a bill, resolution or any other question which requires passage, adoption, rejection, approval or disapproval by the House of Representatives.

Main questions include but are not limited to the following and shall rank in the following order:

To reconsider (not amendable - debatable)

To rescind (not amendable - debatable)

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

To reject a conference committee report/joint committee report (not amendable - debatable)

To reject a conference committee report/joint committee report with instructions (instructions amendable - debatable)

To commit with instructions (instructions amendable - debatable)

Any other main question not specifically listed shall be taken up in the order offered.

History – Representative Wright moved to reject the Senate Amendments to House Bill 1319.

Representative Terrill raised a point of inquiry as to whether a motion to accept Senate amendments would take priority over a motion to reject Senate amendments.

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The presiding officer stated that motions to accept or reject Senate amendments would be taken up in the order they are offered.

Representative Wright pressed his motion to reject the Senate Amendments to House Bill 1319, which motion was adopted upon a division of the question.¹³

Ruling – It is the ruling of the Chair that motions to accept or reject Senate amendments will be taken up in the order they are offered.

10.1 - 3. (2011) Renewal of Motion to Adopt Senate Amendments on Subsequent Legislative Day

Rule – House Rule 10.1, paragraph (d) says in relevant part:

A main motion shall be defined as a substantive proposal such as a bill, resolution or any other question which requires passage, adoption, rejection, approval or disapproval by the House of Representatives...

History – The pending Senate Amendments to House Bill 1223 were called up for consideration.

Representative McCullough moved that the House adopt the Senate Amendments to House Bill 1223.

¹³ *Okla. H. Jour.*, 1209, 53rd Leg., 1st Reg. Sess. (May 3, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SA HB 1319*, 00:52:42-01:04:35 (May 3, 2011).

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Representative Thomsen then raised a point of inquiry as to whether the measure under consideration was the same measure that had previously failed in the House.

The presiding officer stated that while the motion to adopt the Senate Amendments to House Bill 1223 had failed of adoption, the measure itself had not failed.

Representative Inman raised a point of order as to whether it was proper to consider a renewed motion to adopt the Senate Amendments to House Bill 1223 when the same motion had been previously defeated by the House.

The presiding officer ruled that because the motion had failed on a previous legislative day resulting in a change in the parliamentary situation, a renewed motion to adopt Senate Amendments to House Bill 1223 was in order.¹⁴

Ruling – It is the ruling of the Chair that the House may properly entertain a renewed motion to adopt Senate Amendments to a House bill when such Senate Amendments failed of adoption on a previous legislative day.

¹⁴ *Okla. H. Jour.*, 1359, 53rd Leg., 1st Reg. Sess. (May 18, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SA HB 1223*, 00:22:47-00:24:30 (May 18, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SAs to SA HB 1223*, 02:26:30-02:33:50 (May 18, 2011). The video record cited in this footnote includes significant discussion regarding resolution of conflicts arising between provisions of the *House Rules* and *Mason's Manual*. When in conflict, adopted *House Rules* take precedence over *Mason's Manual*. Also, there is discussion regarding the limitations on use of the motion to reconsider as expressed in *House Rules*.

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Explanation – In this instance Representative McCullough offered a motion to adopt the Senate Amendments on May 10, 2011 and the motion failed of adoption.¹⁵ On a subsequent legislative day, Representative McCullough again moved to adopt the Senate Amendments on House Bill 1223.¹⁶

House Rules do not address the question of whether or not a failed motion to adopt Senate Amendments may be renewed; however, Sections 8.13 and 9.10 of *House Rules* clearly identify which motions may be reconsidered. Without question, motions dispositive of Senate Amendments are not among the motions that can be reconsidered.¹⁷

With this mind, Section 161 of *Mason’s Manual* provides helpful guidance. Paragraph (1) says that “main motions or other substantive proposals, such as amendments to main motions that may be reconsidered, may not be renewed”.¹⁸ If a failed motion to adopt Senate Amendments cannot be reconsidered under *House Rules*, it may be properly renewed at some future time.

¹⁵ *Okla. H. Jour.*, 1257, 53rd Leg., 1st Reg. Sess. (May 10, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SA HB 1223*, 00:10:18-00:48:27 (May 10, 2011).

¹⁶ See footnote 1.

¹⁷ *Okla. H. Rules*, §§ 8.13, 9.10 (53rd Leg.); see also *Okla. H. Rules*, § 6.8 (53rd Leg.).

¹⁸ *Mason’s Manual of Legislative Procedure* 127 § 161 (National Conference of State Legislatures 2000).

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If renewal of a motion to adopt Senate Amendments is proper at some future time, when should the presiding officer entertain such a motion?

Again, Section 161 is helpful. Paragraph (2) says that a motion to adopt an amendment that is identical to one that was previously refused cannot be attempted on the same legislative day.

The converse is therefore true. Consideration of an amendment that failed on a previous legislative day may be properly renewed on a subsequent legislative day.¹⁹

10.1 - 4. (2012) Vote on Failed Motion to Adopt (JCR) May Be Rescinded

Rule – House Rule House Rule 10.1, paragraph (d) states:

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¹⁹ As defined under the customs and practices of the Oklahoma House, the term “properly” as used above, means requesting that the Majority Floor Leader schedule a renewed motion to adopt Senate Amendments on a subsequent legislative day, see *Prec. Okla. H. of Rep.*, § 6.3(1.), 50th Leg., 1st Reg. Sess. (April 7, 2005). In addition, the House measure to which the Senate Amendments are attached must yet be within the physical custody of the House of Representatives at the time the motion to adopt Senate Amendments is renewed. At the point a motion to adopt Senate Amendments initially fails and perhaps is followed by a successful motion to reject Senate Amendments and request conference with the Senate, the bill may enter a status whereupon it is not possible to entertain a renewed motion to adopt Senate Amendments, see *Mason’s Manual of Legislative Procedure* 549 § 761 (National Conference of State Legislatures 2000).

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A main motion shall be defined as a substantive proposal such as a bill, resolution or any other question which requires passage, adoption, rejection, approval or disapproval by the House of Representatives.

Main questions include but are not limited to the following and shall rank in the following order:

To reconsider (not amendable - debatable)

To rescind (not amendable - debatable)

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

To reject a conference committee report/joint committee report (not amendable - debatable)

To reject a conference committee report/joint committee report with instructions (instructions amendable - debatable)

To commit with instructions (instructions amendable - debatable)

Any other main question not specifically listed shall be taken up in the order offered.

History – Representative Sears moved to rescind the vote whereby the Joint Committee Report on Senate Bill 1983 failed.

After consideration of other procedural motions, Representative Sears pressed his motion to rescind the vote whereby the Joint Committee Report on Senate Bill 1983

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failed, which motion was declared adopted upon a roll call vote.

Representative Sears moved adoption of the Joint Committee Report on Senate Bill 1983. After consideration of other procedural motions, Representative Sears pressed adoption of the Joint Committee Report on Senate Bill 1983, which motion was declared adopted upon a roll call vote.²⁰

Precedent – It is the precedent of the House that the vote on a failed motion to adopt a Joint Committee Report (JCR) may be rescinded.

§ 10.2 MOTIONS IN WRITING

10.2 - 1. (2010) Appeal of the Chair May Be Tabled

Rule – House Rule 10.2 states in relevant part:

The following motions are incidental in nature and may be made at any time as an incident to the consideration of the subject before the House. Such motions shall be amendable or not amendable, debatable or not debatable, as set forth below:

²⁰ *Okla. H. Jour.*, 1282-1287, 53rd Leg., 2nd Reg. Sess. (May 25, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 1983*, 04:48:34-05:00:05 (May 25, 2012); see also, *Okla. H. Jour.*, 1272-1273, 53rd Leg., 2nd Reg. Sess. (May 25, 2012).

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Appeals (not amendable - not debatable, except as governed by Section 9.2)

History – During consideration of the Conference Committee Report on House Joint Resolution 1054, Representative Morrissette raised a point of order stating that consideration of the conference committee report was out of order pursuant to House Rule 7.15(a) because it was not germane to the engrossed version of the measure.

The presiding officer ruled the point not well taken and the conference committee report germane. Representative Morrissette appealed the ruling of the presiding officer followed by Representative Wright (Harold) offering a motion to table the appeal lodged by Representative Morrissette.

Representative Morrissette raised a point of order as to whether a motion to table an appeal of the ruling of the Chair was in order under House Rules.

The presiding officer stated that pursuant to House Rules 10.1 and 10.2, a motion to table is of higher precedence than a motion to appeal the ruling of the presiding officer.

The presiding officer further stated that Mason's Manual, Section 233, states that an appeal may be laid upon the table which has the effect of closing debate and sustaining the decision of the presiding officer.²¹

²¹ *Mason's Manual Of Legislative Procedure* 183 § 233 (National Conference of State Legislatures 2000).

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Representative Wright (Harold) withdrew his motion to table the appeal previously lodged by Representative Morrisette. At which time the presiding officer entertained the appeal. The decision of the presiding officer was upheld upon roll call vote.²²

Ruling – It is the decision of the Chair that a motion to table an appeal of the ruling of the Chair is a proper motion and, if adopted, has the effect of halting the appeal and sustaining the decision of the presiding officer.

²² *Okla. H. Jour.*, 1472-1473, 52nd Leg., 2nd Reg. Sess. (April 28, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 1:32:57-1:52:53 (April 28, 2010); *Okla. H. Jour.*, 1722, 52nd Leg., 2nd Reg. Sess. (May 25, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 03:24:46-03:26:25 (May 25, 2010); *Okla. H. Jour.*, 651-652, 53rd Leg., 1st Reg. Sess. (March 16, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 2128*, 03:00:59-03:18:09 (March 16, 2011); *Okla. H. Jour.*, 664-665, 53rd Leg., 1st Reg. Sess. (March 16, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1953*, 00:41:20-00:44:16 (March 16, 2011); *Okla. H. Jour.*, 670-671, 53rd Leg., 1st Reg. Sess. (March 16, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1304*, 01:58:28-02:06:10 (March 16, 2011); *Okla. H. Jour.*, 705-706, 53rd Leg., 1st Reg. Sess. (March 17, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1439*, 01:49:27-01:52:40 (March 17, 2011); *Okla. H. Jour.*, 1034-1035, 53rd Leg., 1st Reg. Sess. (April 20, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 923*, 04:21:08-04:24:00 (April 20, 2011); *Okla. H. Jour.*, 1037, 53rd Leg., 1st Reg. Sess. (April 20, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 923*, 04:39:44-05:00:42 (April 20, 2011); *Okla. H. Jour.*, 678-679, 54th Leg., 1st Reg. Sess. (March 12, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HB 1243*, 10:07:49-10:12:48 (March 12, 2013).

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§ 10.4 WITHDRAWAL OF MOTIONS ²³

10.5 - 1. (2009) Withdrawal of Measure by Author²⁴

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 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.

²³ Prior to 2011, this section was numbered as Section 10.5, *Withdrawal of Motions*. The same section was renumbered as Section 10.4, *Withdrawal of Motions*, in *House Rules* adopted for the 53rd Oklahoma Legislature (2011-2012).

²⁴ See preceding footnote.

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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.

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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.²⁵

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

²⁵ *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); *Okla. H. Jour.*, 834, 835, 52nd Leg., 2nd Reg. Sess. (March 10, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 4:07:24-4:16:10 (March 10, 2010); *Okla. H. Jour.*, 1356, 52nd Leg., 2nd Reg. Sess. (April 20, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 2:52:24-2:56:14 (April 20, 2010); *Okla. H. Jour.*, 1587, 52nd Leg., 2nd Reg. Sess. (May 17, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 01:50:59-01:53:13 (May 17, 2010); *Okla. H. Jour.*, 1691, 52nd Leg., 2nd Reg. Sess. (May 24, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 06:10:28-06:11:43 (May 24, 2010).

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parliamentary procedure, this effectively is a request to withdraw the bill from further consideration at that time.²⁶ 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 debate on the motion or taken some other action on the motion.²⁷

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.²⁸

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

²⁶ *Mason’s Manual of Legislative Procedure* 208 § 274 (National Conference of State Legislatures 2000).

²⁷ *Okla. H. Rules*, § 10.5 (52nd Leg.).

²⁸ *Mason’s Manual of Legislative Procedure* 109 § 141; 117 § 150 (National Conference of State Legislatures 2000).

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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 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.

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10.4 - 2. (2011) Withdrawal of Amendment after Adoption of Motion to Reconsider Amendment

Rule – House Rule 10.4, paragraph (a) states:

Except as provided in paragraph (b) of this section, 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 motion may be withdrawn only upon adoption of a motion to withdraw same.

History – Representative McNiel moved to reconsider the vote whereby House Bill 1954 failed, which motion prevailed upon a roll call vote.

Representative McNiel moved to rescind the Third Reading of the measure, which motion was declared adopted upon a roll call vote.

Representative McNiel moved to rescind the previously adopted motion to advance House Bill House Bill 1954 from General Order, which motion was declared adopted upon a roll call vote.

Once the bill was returned to General Order status, Representative McNiel then moved to reconsider the vote whereby the Derby amendment was adopted.

Representative Reynolds raised a point of order as to whether reconsideration of an amendment was in order. The presiding officer ruled the reconsideration motion in order pursuant to House Rule 8.13.

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Representative Reynolds moved to table the McNiel motion to reconsider the Derby amendment, which tabling motion failed of adoption upon a roll call vote.

Representative McNiel pressed her motion to reconsider the vote whereby the Derby amendment was adopted, which motion was declared adopted upon a roll call vote.

Upon adoption of the motion to reconsider the amendment, Representative Derby requested that the amendment be withdrawn.

Representative Reynolds raised a point of order stating that because the Derby amendment had been previously considered by the House, the amendment was in possession of the House and the Derby request was not in order.

The presiding officer stated that pursuant to Section 468 of *Mason's Manual*, once the House had voted to reconsider adoption of the Derby amendment, the House effectively had not yet taken action on the Derby amendment.²⁹ As such, it was proper for Representative Derby to request to withdraw his amendment. The presiding officer ruled the point not well taken.³⁰

²⁹ *Mason's Manual of Legislative Procedure* 316, 317 § 468 (National Conference of State Legislatures 2000).

³⁰ *Okla. H. Jour.*, 540, 544 53rd Leg., 1st Reg. Sess. (March 10, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1954*, 01:59:53-02:15:37 (March 10, 2011).

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Ruling – It is the ruling of the Chair that upon adoption of a motion to reconsider an amendment, the author of the amendment may request to withdraw the amendment.

10.4 - 3. (2011) Withdrawal of Motion to Reconsider Prior to Action or Debate

Rule – House Rule 10.4, paragraph (a) states:

Except as provided in paragraph (b) of this section, 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 motion may be withdrawn only upon adoption of a motion to withdraw same.

History – Upon consideration of Senate Bill 935 on Fourth Reading, the measure failed upon a roll call vote.

Representative McCullough attempted to serve notice to reconsider the vote whereby Senate Bill 935 failed.

The presiding officer stated that the measure would have to be reconsidered immediately pursuant to House Rule 9.10, paragraph (f). Representative McCullough then moved to reconsider the vote whereby Senate Bill 935 failed.

Representative Blackwell raised a point of order as to whether the House had adopted a resolution setting the date for sine die adjournment. The presiding officer stated that the present ruling was based on statements made by the Speaker of the House and the Majority Floor Leader indicating that

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Friday, May 20, 2011, would be the final day of the First Session of the Fifty-Third Oklahoma Legislature.

Representative Proctor moved to table the motion offered by Representative McCullough to reconsider the vote on Senate Bill 935. The motion to table was not stated to the body by the presiding officer.

The presiding officer then recognized Representative Sullivan, the Majority Floor Leader, for explanation of matters related to sine die adjournment of the House of Representatives.

The Majority Floor Leader stated that because a resolution setting the date of sine die adjournment had not been considered by the House, in his opinion, it was proper for notice to be served for a possible motion to reconsider without requiring that such motion be taken up immediately.

As such, Representative McCullough withdrew his motion to reconsider the vote whereby Senate Bill 935 failed.

Representative Reynolds raised a point of order stating that Representative McCullough had moved to reconsider the vote and Representative Proctor had subsequently moved to table the McCullough motion, and therefore the House should take immediate action on the pending motion to table.

The presiding officer stated that the motion by Representative McCullough had been withdrawn and ruled the point not well taken.

Representative Reynolds appealed the ruling of the Chair.

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Representative Terrill raised a point of order as to whether it was proper for Representative McCullough to withdraw his motion to reconsider the vote.

The presiding officer ruled the point not well taken pursuant to House Rule 10.1, paragraph (a).

Representative Wright moved to table the pending appeal of the Chair, which motion was declared adopted upon a roll call vote.³¹

Ruling – It is the ruling of the Chair that unless action or debate occurs on a motion to reconsider, it may be withdrawn by the member offering the motion.

Explanation – The McCullough motion to reconsider the vote by which Senate Bill 935 failed was not ever put to the body as a question for its determination.³²

Discussion arose as to whether or not the motion to reconsider had to be taken up immediately because that day, Friday, May 20, 2011, might possibly conclude with the sine die adjournment of the House of Representatives.

³¹ *Okla. H. Jour.*, 1426-1428, 53rd Leg., 1st Reg. Sess. (May 20, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 935*, 00:37:59-00:51:11 (May 20, 2011); *Okla. H. Jour.*, 1440, 53rd Leg., 1st Reg. Sess. (May 20, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *Reconsideration on SB 935*, 00:53:00-01:05:00 (May 20, 2011).

³² *Mason's Manual of Legislative Procedure* 119 § 156(2-3) (National Conference of State Legislatures 2000).

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The presiding officer recognized the Majority Floor Leader for the purpose of hearing his opinion regarding the date of sine die adjournment.

After the Majority Floor Leader rendered his opinion on the matter, Representative Proctor offered a motion to table the McCullough motion to reconsider which the presiding officer did not put to the body. Before any further action was taken, Representative McCullough withdrew his motion to reconsider. Prior to notification to the presiding officer of Representative McCullough's intent to withdraw the motion, no motion to table was put to the House by the presiding officer and no debate on the motion to reconsider was entertained or attempted. As such, the motion to reconsider did not become property of the House and Representative McCullough was properly allowed to withdraw his motion.

10.4 - 4. (2012) Withdrawal of Measure Itself during Consideration of an Amendment

Rule – House Rule 10.4, paragraph (b) states:

When a bill or resolution is under consideration within the House, the principal author or the member designated to present the bill or resolution on behalf of the principal author may withdraw said measure at any time prior to the vote being ordered on adoption of a recommendation or final passage of the bill or resolution.

History – During consideration of House Bill 2503, Representative Reynolds moved to amend the bill.

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Representative Watson moved to table the Reynolds amendment, which tabling motion failed of adoption upon roll call vote.

Upon request of Representative Watson, House Bill 2503 was withdrawn from further consideration.

Representative Reynolds raised a point of order stating that the request made by Representative Watson to lay the bill over was out of order because the House was considering the amendment and not the bill itself.

The presiding officer ruled that pursuant to House Rule 10.4, paragraph (b) the author may withdraw the bill from consideration at any point until the vote is ordered on final passage of the measure, and therefore ruled the point not well taken.³³

Ruling - It is the ruling of the Chair that the author may withdraw the bill from consideration at any point until the vote is ordered on final passage of the measure.

10.4 - 5. (2012) Ability to Withdraw Measure upon Successful Reconsideration of Measure

Rule - House Rule 10.4, paragraph (b) states:

³³ *Okla. H. Jour.*, 302-303, 53rd Leg., 2nd Reg. Sess. (Feb. 27, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HB 2503*, 01:13:50-01:14:45 (Feb. 27, 2012).

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When a bill or resolution is under consideration within the House, the principal author or the member designated to present the bill or resolution on behalf of the principal author may withdraw said measure at any time prior to the vote being ordered on adoption of a recommendation or final passage of the bill or resolution.

History – Representative Vaughan moved to reconsider the vote whereby House Bill 2198 failed, which motion prevailed upon a roll call vote.

Upon return of the measure to Third Reading, Representative Vaughan withdrew House Bill 2198 from further consideration.³⁴

On the following Monday, Representative Vaughn was recognized to continue consideration of House Bill 2198.

Representative Reynolds raised a point of order as to whether it was in order to proceed with consideration of the bill because the period for reconsideration had lapsed under House Rules.

The presiding officer stated that House Rule 10.4, paragraph (b) allows the principal author of a bill, or the member designated to present the bill on behalf of the principal author, to withdraw the bill at any time before the vote is ordered on final passage.

³⁴ *Okla. H. Jour.*, 362-363, 53rd Leg., 2nd Reg. Sess. (March 1, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HB 2198*, 03:15:26-03:17:04 (March 1, 2012).

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The presiding officer stated that if a bill is successfully reconsidered, the bill is effectively moved back to the status of Third Reading which is prior to the final vote, thus returning to the author or the author's designee the ability to decide whether or not to withdraw the bill.

The presiding officer noted that the same action had been taken by the House during this Legislature and ruled the point not well taken.³⁵

Ruling – It is the ruling of the Chair that upon successful reconsideration of a measure, the measure may be withdrawn from further consideration by the author or the member designated by the author to present the measure.

10.4 - 6. (2012) Author May Withdraw Measure during Author's Debate

Rule – House Rule 10.4, paragraph (b) states:

When a bill or resolution is under consideration within the House, the principal author or the member designated to present the bill or resolution on behalf of the principal author

³⁵ *Okla. H. Jour.*, 399, 53rd Leg., 2nd Reg. Sess. (March 5, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HB 2198*, 02:09:00-02:06:48-02:14:56 (March 5, 2012); *Okla. H. Jour.*, 595, 603, 54th Leg., 1st Reg. Sess. (March 7, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HB 1660*, 02:31:27-02:42:22; 00:32:13-02:35:49 (March 7, 2013); *Okla. H. Jour.*, 1103-1104, 54th Leg., 1st Reg. Sess. (April 25, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *SB 631*, 01:35:14-01:45:16 (April 25, 2013).

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may withdraw said measure at any time prior to the vote being ordered on adoption of a recommendation or final passage of the bill or resolution.

History – When Senate Bill 1971 was called up for further consideration, Representative Sears pressed his motion to adopt the Joint Committee Report (JCR) and requested permission to yield to Representative Cox for continued presentation of the Joint Committee Report (JCR), to which no objection was heard.

Representative Cox made additional explanation of the Joint Committee Report (JCR), including a description of his previous misunderstandings of the Joint Committee Report (JCR), and concluded with a request of the House to adopt the Joint Committee Report (JCR).

Upon inquiry by the presiding officer, Representatives Sears waived the remainder of his debate time and the presiding officer put the question of adoption of the Joint Committee Report (JCR) to the House.

Representative Reynolds raised a point of order as to whether additional time for debate on the Joint Committee Report (JCR) should be permitted and whether the author of a bill may properly withdraw his or her measure from further consideration in the course of their own debate or during the debate of other members.

The presiding officer ruled that the author of a bill may choose to withdraw his or her bill from further consideration during their own debate or between the beginning and conclusion of debate of other members, but that the

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presiding officer would not recognize such a request made by the author during the debate of another member.³⁶

Ruling – It is the ruling of the Chair that the author of a bill may choose to withdraw the bill during his or her own debate or before the beginning or after the conclusion of debate of other members, but not during the debate of another member.

10.4 - 7. (2012) Withdrawal of Measure after Failed Motion to Adopt Joint Committee Report (JCR)

Rule – House Rule 10.4, paragraph (b) states:

When a bill or resolution is under consideration within the House, the principal author or the member designated to present the bill or resolution on behalf of the principal author may withdraw said measure at any time prior to the vote being ordered on adoption of a recommendation or final passage of the bill or resolution.

History – Representative Sears moved adoption of the Joint Committee Report (JCR) on Senate Bill 1983, which motion failed of adoption upon a roll call vote.

³⁶ *Okla. H. Jour.*, 1270-1271, 1279-1281, 53rd Leg., 2nd Reg. Sess. (May 25, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 1971*, 01:04:24-01:06:20 (May 25, 2012).

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Upon request of Representative Sears, Senate Bill 1983 was laid over pursuant to House Rule 10.4, paragraph (b).

Representative Trebilcock raised a point of inquiry as to whether an author is allowed to lay a bill over and thereby prevent consideration of a motion to reject with instructions filed on the bill, to which the presiding officer responded by citing House Rule 10.4, paragraph (b).

Representative Blackwell raised a point of order as to whether there was even a bill still under consideration if the motion to adopt the Joint Committee Report (JCR) had failed of adoption.

The presiding officer stated that a failed motion to adopt a Joint Committee Report (JCR) does not have the same procedural result as a successful motion to reject a Joint Committee Report (JCR).³⁷

Ruling – It is the ruling of the Chair that the author of a measure may, under House Rule 10.4, paragraph (b), withdraw a measure that would otherwise be before the House in order to prevent a motion to reject or to reject with instructions.

³⁷ *Okla. H. Jour.*, 1272-1273, 53rd Leg., 2nd Reg. Sess. (May 25, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 1983*, 01:27:25-01:32:40 (May 25, 2012); *Okla. H. Jour.*, 1371-1372, 54th Leg., 1st Reg. Sess. (May 23, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *JCR to SB 1127*, 09:52:36-10:10:21 (May 23, 2013).

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Reasoning – A failed motion to adopt a Joint Committee Report (JCR) does not have the same procedural result as a successful motion to reject or to reject with instructions.

A failed motion to adopt a Joint Committee Report (JCR) does not result in “final action” on the Joint Committee Report (JCR) or on the measure itself. A failed motion to adopt a Joint Committee Report (JCR) is not among the actions constituting final action under House Rules.³⁸

At the point a motion to adopt a Joint Committee Report (JCR) fails, the typical next step is for the Majority Floor Leader to move on to the next item of daily business. Prior to that moment, it is indeed possible for another member to offer a motion to reject or reject with instructions unless the author withdraws the measure.

It is permissible under the provisions of House Rule 10.4, paragraph (b), that the principal author or the author’s designee presenting the measure, may take what amounts to a defensive step to protect his or her measure withdrawing the bill or resolution from further consideration.

10.4 – 8. (2013) Withdrawal of Measure after Failed Motion to Adopt Conference Committee Report (CCR)

Rule – House Rule 10.4, paragraph (b) states:

³⁸ *Okla. H. Rules*, § 6.8 (53rd. Leg.).

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When a bill or resolution is under consideration within the House, the principal author or the member designated to present the bill or resolution on behalf of the principal author may withdraw said measure at any time prior to the vote being ordered on adoption of a recommendation or final passage of the bill or resolution.

History – On Tuesday, May 21, 2013, the Conference Committee Report on House Bill 2097 was called up for consideration. After explanation and questions, Representative Jackson moved adoption of the conference committee report.

After additional procedural motions, Representative Jackson requested that the report be withdrawn from further consideration.³⁹

On Thursday, May 23, 2013, the Conference Committee Report on House Bill 2097 was again called up for consideration. Again, Representative Jackson moved adoption of the conference committee report.

Representative Inman moved to reject the pending conference committee report and requested further conference with attached instructions. The motion to reject with instructions was not recognized by the presiding officer because the pending motion to adopt the conference

³⁹ *Okla. H. Jour.*, 1321-1322, 54th Leg., 1st Reg. Sess. (May 21, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *CCR to HB 2097*, 01:28:12-02:30:11 (May 21, 2013).

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committee report was of higher rank under Section 10.1, paragraph (d) of House Rules.

Representative Reynolds moved to table the pending motion to adopt the report, which motion failed of adoption upon a roll call vote.

Representative Jackson pressed adoption of the Conference Committee Report on House Bill 2097, which motion failed of adoption upon a roll call vote.

Upon request of Representative Jackson, House Bill 2097 was withdrawn from further consideration.

After the measure was withdrawn from further consideration by Representative Jackson, the author, Representative Inman offered a motion to reject the Conference Committee Report on House Bill 2097 and request further conference with instructions, which was not recognized by the presiding officer pursuant to House Rule 10.4, paragraph (b).

Representative Dorman and Representative Inman then raised a point of order stating that the applicable rule was Joint Rule 5.1, paragraph (c) rather than House Rule 10.4, paragraph (b), which point was not well taken by the presiding officer.

Representative Inman appealed the ruling of the Chair, receiving the required fifteen (15) standing seconds and the decision of the Chair was upheld upon a roll call vote.

After the appeal and upon receiving recognition from the presiding officer, Representative Jackson consented to further consideration of the Conference Committee Report on House Bill 2097. Representative Inman was then recognized

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for the motion to reject the Conference Committee Report on House Bill 2097 and request further conference with instructions, which motion was declared adopted.⁴⁰

Ruling – It is the ruling of the Chair that upon failure of a motion to adopt a conference committee report, the author of the measure may withdraw the measure from further consideration pursuant to Section 10.4, paragraph (b) of House Rules.

Reasoning – Prior to 2011, the House Rule that governed withdrawal of a measure by its author was found in Section 10.5 of House Rules and looked much the same as the present Section 10.4, paragraph (a). It said:

10.5 - Withdrawal of Motions

*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 motion may be withdrawn only upon adoption of a motion to withdraw same.*⁴¹

⁴⁰ *Okla. H. Jour.*, 1352-1354, 54th Leg., 1st Reg. Sess. (May 23, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *CCR to HB 2097*, 02:16:53-02:38:20 (May 23, 2013); *Okla. H. Jour.*, 1372, 54th Leg., 1st Reg. Sess. (May 23, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *JCR to SB 1127*, 10:10:23-10:12:56 (May 23, 2013).

⁴¹ *Okla. H. Rules*, § 10.5 (52nd Leg.).

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Identical language was present in House Rules, Section 10.5, at least from 2005, the beginning point of keeping written precedents as a type of record in the House of Representatives.⁴²

In 2009, after the Third Reading of House Bill 2013, debate on the House Floor was requested, entertained and concluded. After debate but before the vote on final passage was ordered, the principal author, requested unanimous consent to “lay the bill over”, meaning that the author wished to withdraw the bill from further consideration. There was an objection, the author pressed his motion and the motion was declared adopted by the presiding officer.⁴³

Two points were then raised. One member raised a point as to whether it was the tradition of the House to permit the principal author of a bill to exercise sole responsibility over whether to withdraw a bill from further consideration. On this point, the presiding officer took the point under advisement without ruling.⁴⁴

The second point inquired, on the contrary, as to whether the bill should be considered property of the House rather than remaining within the sole control of the author, meaning that the House should proceed on to the vote on

⁴² Cf. *House Rules*, 50th Oklahoma Legislature through 52nd Oklahoma Legislature (2005-2009).

⁴³ *Okla. H. Jour.*, 570-571, 52nd Leg., 1st Reg. Sess. (Feb. 19, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:08, 42:51-47:03 (Feb. 19, 2009).

⁴⁴ *Id.*

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the bill. On the second point, the presiding officer ruled the point well taken.⁴⁵

Several days later, the presiding officer offered additional guidance, saying in relevant part:

The Chair would like to clarify at what points the author may withdraw his or her bill from further consideration by the House versus at what point a bill becomes property of the House. 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 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...motion to request leave to withdraw the question... ..in House Rules, the two threshold events for a bill becoming property of the House are **adoption** of an amendment or **commencement** of debate." [emphasis added].⁴⁶*

During the 2010 session, House Bill 2538 was amended during consideration on the House Floor. After two

⁴⁵ Id.

⁴⁶ *Okla. H. Jour.*, 614, 52nd Leg., 1st Reg. Sess. (Feb. 23, 2009); *H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:29, 1:31-3:01 (Feb. 23, 2009).

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amendments were adopted, the author moved to withdraw House Bill 2538 from further consideration.⁴⁷

A point of order was raised asserting that the author should be able to withdraw their own measure from further consideration, at will. The presiding officer ruled the point not well taken pursuant to House Precedent *10.5 – I. (2009) Withdrawal of Measure by Author*, the precedent from 2009 which arose when the author of House Bill 2013 desired to withdraw the bill from further consideration.⁴⁸ Representative Tibbs, the author, again moved to withdraw House Bill 2538 from further consideration, which motion was declared adopted upon a roll call vote.⁴⁹

When House Rules were adopted for the Fifty-Third Oklahoma Legislature, (2011-2012), the House rule governing withdrawal of a measure by the author was relocated from Section 10.5 to Section 10.4, and reflected a more author-centric outlook than that of the previous version of the rule or of general parliamentary law.⁵⁰ The same

⁴⁷ *Okla. H. Jour.*, 833-835, 52nd Leg., 2nd Reg. Sess. (March 10, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 4:07:24-4:16:10 (March 10, 2010).

⁴⁸ *Id.*

⁴⁹ *Id.* at 835.

⁵⁰ *Okla. H. Rules*, § 10.4(b) (53rd Leg.); *Mason's Manual of Legislative Procedure* 206-207 § 272, 273 (National Conference of State Legislatures 2010). When a House rule conflicts with general parliamentary law, the House rule prevails; see *Prec. Okla. H. of Rep.*, § 14.2(3.), 53rd Leg., 1st Reg. Sess. (May 13, 2011) and *Mason's Manual of Legislative Procedure* 30-32 § 37 (National Conference of State Legislatures 2010).

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language was included again for the Fifty-Fourth Oklahoma Legislature.⁵¹

Only in two specific instances does Section 10.4, paragraph (b) limit the author's right to withdraw a measure. One, the author is not allowed to withdraw a bill in committee after the committee chair orders the vote on a motion for a committee recommendation and, second, the author is not permitted to withdraw the measure on the House Floor after the presiding officer orders the vote on final passage.⁵²

Neither instance is applicable in this case. Motions pertaining to a CCR are not addressed by Section 10.4, paragraph (b) but rather by 10.4, paragraph (a).

Under paragraph (a), although the presiding officer would not have permitted withdrawal of a motion to adopt the CCR once the vote was ordered, nothing in House Rules or Joint Rules would preclude an author from withdrawing the bill itself after a failed motion to adopt a CCR.⁵³

Without confusing the terms, "possession" and "property",⁵⁴ in this case, the motion to adopt the CCR on House Bill

⁵¹ *Okl. H. Rules*, § 10.4(b) (54th Leg.)

⁵² A vote on "final passage" could arise after Third or Fourth Reading, depending on how far a measure has progressed in the legislative process.

⁵³ *Okl. H. Rules*, § 10.4(a) (54th Leg.); see also *Mason's Manual of Legislative Procedure* 533 § 761(8) (National Conference of State Legislatures 2010).

⁵⁴ To say that a measure is in the "possession" of the House is not to say that it is also the "property" of the House, within the meaning of parliamentary law. In the context of the legislative process, "possession" is established by physical custody of a measure's "bill file". The "bill file" is the customary,

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2097, when it failed, did not result in the bill automatically becoming the “property” of the House, thus exposing the bill to additional procedural actions repugnant to the author.⁵⁵

Joint Rule 5 simply provides the basic mechanics of the conference process establishing which chamber has possession of a bill at specific points in the “conference” process.⁵⁶ A failed motion to adopt a conference committee report (CCR), addressed in Section 5.1, paragraph (c), says that the House will continue to retain control of a House bill when a motion to adopt a CCR on that same bill fails of adoption in the House.⁵⁷

tangible file folder that holds all allied documents and accompanies the bill throughout the legislative process, from the time of introduction to arrival in the legislative archives maintained by the Oklahoma Secretary of State. Possession cannot occur simultaneously and is always sequential. Only one of four entities can have physical “possession” of a measure at any given time, the House of Representatives, the Senate, the Governor or the Secretary of State. In contrast to “possession”, a measure becomes the “property” of the House when the author can no longer exercise the right, under the House Rules or general parliamentary law, to unilaterally withdraw the measure from further consideration by the House. Although the House must have possession of a measure for it to ever become the property of the House, it is possible for the House to have possession of a measure without it being considered as the property of the House, e.g. prior to the vote being ordered in committee for recommendation or on the House Floor for final passage.

⁵⁵ A similar situation occurred in the 2012 legislative session when a motion to adopt the Joint Committee Report (JCR) on Senate Bill 1983 failed and the author withdrew the bill from further consideration. See *Prec. Okla. H. of Rep.*, § 10.4(7.), 53rd Leg., 2nd Reg. Sess. (May 25, 2012).

⁵⁶ Possession of a measure at a particular time is a significant matter in the legislative process. See *Mason’s Manual of Legislative Procedure* 533 § 761(8) (National Conference of State Legislatures 2010).

⁵⁷ *Okla. J. Rules*, § 5.1 (54th Leg.).

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Likewise, regardless of whether the author makes an additional attempt at a later time to adopt the same CCR or someone offers a motion to reject that same CCR and request further conference, if the measure is a House bill, it continues in the possession of the House per Section 5.1, paragraph (c) of Joint Rule 5.⁵⁸

With possession established by Joint Rule 5, the procedural actions normally available within the House Rules, including an author's qualified right to unilaterally withdraw his or her bill from further consideration, remain viable and are in no way barred or hindered by the fact that the Joint Rule 5 designates the House as the chamber continuing to have possession of a bill after a failed motion to adopt a CCR.

⁵⁸ Id.

RULE TWELVE

ADJOURNMENT OR RECESS

§ 12.3 SINE DIE ADJOURNMENT

12.3 - 1. (2011) Early Sine Die Adjournment Determined by House

Rule - House Rule 12.3 says:

The date and time of sine die adjournment of each Regular Session of the Legislature shall be fixed by motion or resolution. Once the date and time so fixed has arrived, no further business shall be conducted by the House and the presiding officer shall declare the House adjourned sine die.

History - Upon consideration of Senate Bill 935 on Fourth Reading, the measure failed upon a roll call vote.

Representative McCullough attempted to serve notice to reconsider the vote whereby SB 935 failed.

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The presiding officer stated that the measure would have to be reconsidered immediately pursuant to House Rule 9.10, paragraph (f).

Representative Blackwell raised a point of order as to whether the House had adopted a resolution setting the date for sine die adjournment. The presiding officer stated that the present ruling was based on statements made by the Speaker of the House and the Majority Floor Leader indicating that Friday, May 20, 2011, would be the final day of the First Session of the Fifty-Third Oklahoma Legislature.

The presiding officer recognized Representative Sullivan, the Majority Floor Leader, for explanation of matters related to sine die adjournment of the House of Representatives.

The Majority Floor Leader stated that because a resolution setting the date of sine die adjournment had not been considered by the House, in his opinion, it was proper for notice to be served for a possible motion to reconsider without requiring that such motion be taken up immediately.¹

¹ *Okla. H. Jour.*, 1426-1428, 53rd Leg., 1st Reg. Sess. (May 20, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 935*, 00:37:59-00:51:11 (May 20, 2011). See also SCR 20 adopted by the House of Representatives later in the day on May 20, 2011. SCR 20 provided that after regular adjournment on May 20, 2011, each chamber could reconvene at any time prior to 5:00 p.m. on Friday, May 27, 2011, the constitutionally required date of sine die adjournment, upon the mutual agreement of the President Pro Tempore of the Senate and the Speaker of the House of Representatives and with at least twenty-four (24) hours of notice.

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Precedent – It is the precedent of the House that the date of early sine die adjournment will be determined by the House and that applicable deadlines within House Rules will be calculated on the basis of an established date for sine die adjournment.

RULE FOURTEEN

RULES

§ 14.1 SUSPENSION OR AMENDMENT OF RULES

14.1 - 1. (2010) Previous Rule Suspension Still Effective After Temporary Postponement of Question

Rule – House Rule 14.1, paragraph (c) states:

Two-thirds (2/3) of the Members elected to and constituting the House may suspend the Rules, or a portion thereof, but a motion for that purpose shall be decided without debate.

History – The 2nd Conference Committee Report on Senate Bill 481 which had been temporarily postponed was called up for further consideration.¹

¹ *Okla. H. Jour.*, 1864, 1865, 52nd Leg., 2nd Reg. Sess. (May 28, 2010).

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Representative Kiesel raised a point of inquiry as to whether it was necessary to suspend House Rule 9.3(b) again in order to continue consideration of the 2nd Conference Committee Report on Senate Bill 481. The presiding officer ruled that an additional suspension of House Rule 9.3(b) was not necessary in order to proceed with consideration of the conference committee report.²

Ruling – It is the decision of the Chair that once a House rule is suspended, the same rule does not need to be suspended a second time when the question to which the suspension is incidental is taken up again after being temporarily postponed.

14.1 - 2. (2012) Applicability of Rule Suspension over Multiple Days

Rule – House Rule 14.1, paragraph (c) states:

Two-thirds (2/3) of the members elected to and constituting the House may suspend the Rules, or a portion thereof, but a motion for that purpose shall be decided without debate.

History – During consideration of House Bill 2220 on Tuesday, February 28, 2012, Representative Faught, the measure's author, requested that House Bill 2220 be

² *Okla. H. Jour.*, 1900, 52nd Leg., 2nd Reg. Sess. (May 28, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 8:14:10-8:14:42 (May 28, 2010).

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withdrawn from further consideration. On the next day, House Bill 2220 was called up for further consideration.

Representative Inman raised a point of order as to where in the House Rules it states that a motion to suspend a House Rule remains in effect from one legislative day to the next.

The presiding officer referenced House Rule 14.1, paragraph (c), stating that the House had voted to suspend House Rule 9.6, paragraph (c), the “two minute rule”, through the remainder of Representative Faught’s sunset review bills published on the Floor Calendar on the previous day³ and that the suspension, as adopted, remained in effect for the Sunset Review bills on the list from the previous day.

Representative Inman appealed the ruling of the presiding officer which was upheld upon a roll call vote.⁴

Ruling – It is the ruling of the Chair that the House may adopt a rule suspension that remains in effect over multiple days.

Reasoning – In substance, the motion in question was that the House suspend House Rule 9.6, paragraph (c), the “two minute rule”, for the remainder of the “sunset review bills”

³ *Okla. H. Jour.*, 324, 53rd Leg., 2nd Reg. Sess. (Feb. 28, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., 02:17:20-02:20:25 (Feb. 28, 2012).

⁴ *Okla. H. Jour.*, 342-343, 53rd Leg., 2nd Reg. Sess. (Feb. 29, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., 01:23:50-01:41:20 (Feb. 29, 2012).

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available on the Floor Calendar for Tuesday, February 28, 2012 and to be presented by Representative Faught.

The House may adopt a motion to suspend rules that has a variety of terms, conditions and qualifiers included in the motion.

The motion as adopted suspended the “two minute rule” for a finite number of bills of a specific type. Because the terms of the motion were not fully satisfied on Tuesday, February 28, meaning that for lack of time, the House did not consider all of the sunset bills available on the Floor Calendar on the Tuesday that were to be presented by Representative Faught, the House, on Wednesday, February 29, properly proceeded with consideration of the remaining “sunset bills” under the terms of the motion adopted on the previous day.

14.1 - 3. (2013) Qualified Motion to Suspend Rules in Order

Rule – House Rule 14.1, paragraph (c) states:

Two-thirds (2/3) of the members elected to and constituting the House may suspend the Rules, or a portion thereof, but a motion for that purpose shall be decided without debate.

History – During consideration of Senate Bill 408, Representative Shelton moved to suspend Sections 8.6 and 8.11 of House Rules for the purpose of considering two untimely floor amendments and for the purpose of suspending the requirement that proposed amendments be germane to the subject of the measure under consideration.

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Representative Reynolds raised a point of inquiry as to whether the House would have to vote to suspend the House Rules on two separate occasions in order to individually consider the two untimely amendments.

The presiding officer stated that when offering his motion, Representative Shelton qualified his motion to suspend House Rules as being for the purpose of allowing consideration of two untimely amendments and for the purpose of avoiding the germaneness requirement and as such, one vote to suspend House Rules would be sufficient.

Representative Shelton pressed adoption of his motion to suspend Sections 8.6, and 8.11 of House Rules, which motion failed of adoption upon a roll call vote.⁵

Ruling – It is the ruling of the Chair that a qualified motion to suspend more than one requirement in House Rules at the same time is in order.

Reasoning – The reasoning relied upon in this ruling is the same as that relied upon in House Precedent 14.1 - 2 “Applicability of Rule Suspension over Multiple Days” from 2012, which holds that “[t]he House may adopt a motion to suspend rules that has a variety of terms, conditions and

⁵ *Okla. H. Jour.*, 1105-1106, 54th Leg., 1st Reg. Sess. (April 25, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., SB 408, 02:09:47-02:14:45 (April 25, 2013).

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qualifiers included in the motion.”⁶ To do so, complies with the principles of general parliamentary law.⁷

§ 14.2 PARLIAMENTARY AUTHORITIES

14.2 - 1. (2007) Constitutional Rulings

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 – In the course of considering House Bill 1360 on General Order, Representative Lamons requested that the presiding officer rule on the constitutionality of House Bill 1360. The presiding officer stated that the Chair would not rule on the constitutionality of a bill under consideration by the House.⁸

⁶ *Prec. Okla. H. of Rep.*, § 14.1(2.), 53rd Leg., 2nd Reg. Sess. (Feb. 29, 2012).

⁷ *Mason’s Manual of Legislative Procedure* 210-212 §§ 279, 281-282 (National Conference of State Legislatures 2010).

⁸ *Okla. H. Jour.*, 682, 51st Leg., 1st Reg. Sess. (March 6, 2007); *Daily H. Sess. Dig. Rec.*, 51st Leg., 1st Reg. Sess. Track 10:08, 0:38-2:07 (March 6, 2007); affirmed at *Okla. H. Jour.*, 449, 52nd Leg., 2nd Reg. Sess. (Feb. 16, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 46:52-48:08 (Feb. 16, 2010); *Okla. H. Jour.*, 576, 52nd Leg., 2nd Reg. Sess. (March 1, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 9:16-12:52 (March 1, 2010); *Okla. H. Jour.*, 1398, 52nd Leg., 2nd Reg. Sess. (April 21,

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2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 1:32:18-1:34:36 (April 21, 2010); *Okla. H. Jour.*, 1650, 52nd Leg., 2nd Reg. Sess. (May 21, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 04:54:27-04:56:47; 06:28:11-06:28:50 (May 21, 2010); *Okla. H. Jour.*, 1676, 52nd Leg., 2nd Reg. Sess. (May 24, 2010); *Daily H. Sess. Video Rec.*, 52nd Leg., 2nd Reg. Sess., 03:15:15-03:17:10 (May 24, 2010); *Okla. H. Jour.*, 542, 53rd Leg., 1st Reg. Sess. (March 10, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1954*, 01:51:10-01:56:20 (March 10, 2011); *Okla. H. Jour.*, 1227-1228, 53rd Leg., 1st Reg. Sess. (May 4, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SAs to HB 1283*, 00:41:10-00:58:05 (May 4, 2011); *Okla. H. Jour.*, 1433-1434, 53rd Leg., 1st Reg. Sess. (May 20, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *CCR on SB 671*, 02:00:55-02:04:45; 02:34:19-02:39:08 (May 20, 2011); *Okla. H. Jour.*, 503-504, 53rd Leg., 2nd Reg. Sess. (March 8, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HB 3053*, 02:12:30-02:26:00; 02:26:00-02:41:25 (March 8, 2012), the presiding officer provided an informational statement and as in previous instances where constitutional questions were raised regarding the format of a bill, the Chair did not weigh in and left it up to the House to decide whether to pass the bill as drafted; *Okla. H. Jour.*, 526, 53rd Leg., 2nd Reg. Sess. (March 8, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HB 2196*, 03:02:22-03:07:23 (March 8, 2012); *Okla. H. Jour.*, 841, 53rd Leg., 2nd Reg. Sess. (April 11, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *SB 1533*, 01:37:20-01:53:34 (April 11, 2012); *Okla. H. Jour.*, 856, 53rd Leg., 2nd Reg. Sess. (April 12, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *SB 1913*, 01:41:14-01:58:35 (April 12, 2012); *Okla. H. Jour.*, 999, 53rd Leg., 2nd Reg. Sess. (April 25, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *SAs to HB 2155*, 03:50:04-03:51:35 (April 25, 2012); *Okla. H. Jour.*, 1073, 53rd Leg., 2nd Reg. Sess. (May 2, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *SAs to HB 2204*, 02:32:40-02:36:32 (May 2, 2012); *Okla. H. Jour.*, 1216-1217, 53rd Leg., 2nd Reg. Sess. (May 23, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg.,

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Ruling – It shall be the decision of the Chair as allowed under the provisions of House Rule 14.2 that the presiding officer will not rule on the constitutionality of a bill under consideration by the House of Representatives.

14.2 - 1A. (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 Morrisette 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

2nd Reg. Sess., *CCR to HB 3053*, 02:41:17-02:55:22 (May 23, 2012); *Okla. H. Jour.*, 1273, 53rd Leg., 2nd Reg. Sess. (May 25, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *CCR to SB 1816*, 01:51:00-01:53:05 (May 25, 2012); *Okla. H. Jour.*, 710-711, 54th Leg., 1st Reg. Sess. (March 13, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HCR 1002*, 03:35:33-03:39:37 (March 13, 2013); *Okla. H. Jour.*, 1056, 54th Leg., 1st Reg. Sess. (April 23, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *SB 655*, 02:27:32-02:30:28 (April 23, 2013); *Okla. H. Jour.*, 1105, 54th Leg., 1st Reg. Sess. (April 25, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *SB 408*, 01:56:15-01:59:13 (April 25, 2013).

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taken pursuant to *House Precedent 14.2-1*.⁹ Representative Morrissette appealed the ruling of the presiding officer. The decision of the presiding officer was upheld upon a roll call vote.¹⁰

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.¹¹

⁹ *Prec. Okla. H. of Rep.*, § 14.2(1.), 51st Leg., 1st Reg. Sess. (March 6, 2007).

¹⁰ *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); affirmed at *Okla. H. Jour.*, 488-489, 53rd Leg., 1st Reg. Sess. (March 8, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1512*, 03:16:51-03:36:11 (March 8, 2011); *Okla. H. Jour.*, 663-664, 53rd Leg., 1st Reg. Sess. (March 16, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1953*, 00:12:41-00:25:18 (March 16, 2011); *Okla. H. Jour.*, 1315-1316, 53rd Leg., 1st Reg. Sess. (May 16, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *CCR on HB 1512*, 02:45:57-02:46:46 (May 16, 2011).

¹¹ See *Mason’s Manual of Legislative Procedure* 187 § 242(3) (National Conference of State Legislatures 2000).

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14.2 - 2. (2009) Authority to Publish Rulings of the Chair¹²

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.

¹² Effectively modified upon adoption of House Rules for the 54th Oklahoma Legislature (2013-2014). Section 14.2 requires the Speaker to publish “substantive” rulings of the Chair and removes the previously allowed discretion to publish such rulings. Notably, as mentioned in the “reasoning” relied upon in this Precedent, it would still be out of order 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 of the procedure established by Rule 14.2.

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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 determine which rulings are published as written precedents of the House.¹³

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

¹³ *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).

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Rule 14.1, paragraphs (a) and (b), for amending House Rules.

14.2 - 3. (2011) House Rules Prevail in Conflict with Parliamentary Authority

Rule – House Rule 14.2, paragraph (a) states:

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. In making his or her ruling, the Speaker may rely upon, but is not bound by, these published rulings or other parliamentary authorities, including, but not limited to, the 2000 edition of Mason's Manual of Legislative Procedure.

History – During consideration of House Bill 2170, Representative McPeak moved to suspend Joint Rules 7.13, paragraph (d) and 7.14, paragraph (d) for the purpose of rejecting the Joint Committee Report (JCR) on House Bill 2170 with instructions.

Speaker Steele moved to table the McPeak motion. Representative Morrisette then raised a point of order pursuant to Section 282 of *Mason's Manual of Legislative Procedure* as to whether the motion to table a pending motion to suspend joint rules was in order.

The presiding officer stated that House Rules govern the procedures within the House of Representatives and that pursuant to Section 10.1 of House rules, the motion to table

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is a prior motion because it is a privileged motion while the motion to suspend Joint Rules is an incidental motion.

As such, the presiding officer ruled the point not well taken and the tabling motion in order.¹⁴

Ruling – It is the decision of the Chair that when a conflict exists between a provision within House Rules and a provision in *Mason’s Manual of Legislative Procedure*, the House rule controls.

14.2 - 4. (2012) Authority and Effect of House Precedents

Rule – House Rule 14.2, paragraph (a) states:

¹⁴ *Okla. H. Jour.*, 1287, 53rd Leg., 1st Reg. Sess. (May 13, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 2170*, 02:20:53-02:23:10 (May 13, 2011); *Okla. H. Jour.*, 1376, 53rd Leg., 1st Reg. Sess. (May 18, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SAs to HB 1223*, 02:27:20-02:41:34 (May 18, 2011). In the course of considering House Resolution 1003, proposed House Rules for the 54th Oklahoma Legislature (2013-2014), Representative Brown raised a point of inquiry regarding a potential conflict between the proposed House Rules and the rules in effect for the previous biennium. Representative Brown raised a second point regarding a potential conflict between the proposed House Rules and *Mason’s Manual of Legislative Procedure*. The presiding officer stated that it is up to the House decide whether to adopt the proposed rules and that when a conflict arises between the House Rules and *Mason’s Manual*, the House Rules take precedence, see *Okla. H. Jour.*, 234, 54th Leg., 1st Reg. Sess. (Feb. 4, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HR 1003*, 02:29:28-02:30:45 (Feb. 4, 2013).

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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. In making his or her ruling, the Speaker may rely upon, but is not bound by, these published rulings or other parliamentary authorities, including, but not limited to, the 2000 edition of Mason's Manual of Legislative Procedure.

History – Representative Reynolds moved to suspend House Rule 9.2, paragraph (a) for the purpose of allowing immediate consideration of Senate Bill 1433.

The presiding officer ruled that pursuant to House Precedent 9.2-1 (2005) motions placing new business before the House must be scheduled through the Majority Floor Leader and that pursuant to House Precedent 9.2-5 (2009), the Majority Floor Leader determines the daily, legislative schedule. As such, the Reynolds motion was ruled out of order.¹⁵

Representative Terrill raised a point of inquiry as to whether the effect of the ruling was to prevent any new item of business from being brought up before the House.

The presiding officer stated that it is the custom of the House for the Majority Floor Leader to schedule motions placing new business before the House.

¹⁵ *Prec. Okla. H. of Rep.*, § 9.2(1.), 50th Leg., 1st Reg. Sess. (April 7, 2005); *Prec. Okla. H. of Rep.*, § 9.2(5.), 52nd Leg., 1st Reg. Sess. (March 12, 2009).

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Representative Reynolds raised a point of inquiry as to whether the House Precedents established in previous years remained relevant to current House Rules.

The presiding officer stated that the relevant House Rules had not changed and that House Precedents are merely a record of actions previously taken by the House.

Representative Terrill raised a point of inquiry as to whether a motion properly scheduled through the Majority Floor Leader must be entertained.

The presiding officer stated that a motion placing new business before the House must be scheduled by the Majority Floor Leader for consideration prior to adjournment on that same day, except that it is the custom of the House for the Majority Floor Leader to schedule the daily, legislative business of the House.

Representative Reynolds moved to appeal the ruling of the presiding officer but failed to receive the required fifteen (15) seconds.¹⁶

Ruling – It is the decision of the Chair that House Precedents are simply a record of actions previously taken by the House.

Reasoning – House Precedents are merely a record of an action or actions previously taken by the House of

¹⁶ *Okla. H. Jour.*, 1000-1001, 53rd Leg., 2nd Reg. Sess. (April 25, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *SAs to HB 2155*, 04:55:06-05:12:30 (April 25, 2012).

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Representatives. The purpose of maintaining a written record of House Precedents is to aid the House and chiefly, the presiding officer in remembering what decision was previously made concerning the same or a similar question. House Precedents are not binding authority. They should only be viewed as persuasive authority.

GENERAL PRECEDENTS

GP - 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.

Representative Morrisette inquired as to whether the House of Representatives should adopt temporary rules, as occurred previously in 2005, the 50th Oklahoma Legislature,¹ prior to

¹ 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.

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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.²

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.

(Jan. 4, 2005); *Daily H. Sess. Dig. Rec.*, 50th Leg., 1st Reg. Sess. Track 10:01, 0:00-44:48 (Jan. 4, 2005).

² *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); *Okla. H. Jour.*, 229, 54th Leg., 1st Reg. Sess. (Feb. 4, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HR 1003*, 01:45:32-01:47:45 (Feb. 4, 2013).

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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.³ To one degree or another, each colonial assembly perceived itself to possess equivalent “privileges” as those claimed by the British Parliament.⁴ Among privileges claimed was the long-standing

³ 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).

⁴ 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).

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assertion that Parliament alone would decide matters of internal procedure.⁵

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.⁶ 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.⁷

⁵ *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 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).

⁶ 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).

⁷ US CONST I, 5.

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Similar to other jurisdictions,⁸ Article V, Section 30 of the Oklahoma Constitution contains a “textually demonstrable constitutional commitment of the issue”⁹ 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 authority¹⁰ to conclusively and authoritatively fix standards for orderly

⁸ 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.

⁹ *In re INITIATIVE PETITION NO. 348*, 1991 OK 110, 820 P.2d 772, 780 (1991) footnote 21 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).

¹⁰ *Shea v. Shea*, 537 P.2d 417, 418 (1975).

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conduct of business.¹¹ From the plain, natural and ordinary meaning of the words, in order of grammatical arrangement,¹² it is clear that the people of Oklahoma intended for the Legislature to decide its own rules of procedure.¹³

Even without “textual commitment” to the legislative branch, adoption of procedural rules is an inherently legislative function intrinsic to the powers of a legislative body¹⁴ and thus falls under the protections of the separation of powers requirement.¹⁵ This is so because the legislative branch could not function as a co-equal branch of state government if it lacked the authority 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,¹⁶ 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

¹¹ WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 616, 1396 (ed. 1993); BLACK’S LAW DICTIONARY, 1357 (8th ed. 2004).

¹² See *Shaw v. Grumbine*, 278 P. 311, 315 (1929); *Wimberly v. Deacon*, 144 P.2d 447, 450 (1943).

¹³ 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).

¹⁴ H. W. Dodds, *Procedure In State Legislatures* 12, 13 (The American Academy of Political and Social Science 1918).

¹⁵ OK CONST IV, 1.

¹⁶ OK CONST V, 30.

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Court has historically exercised restraint when asked to intervene in disputes arising over intracameral procedure or other activities of a recognizable legislative character.¹⁷

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.¹⁸

¹⁷ 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).

¹⁸ 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 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).

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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”?¹⁹ 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 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

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).

¹⁹ *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).

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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.²⁰

²⁰ 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.*, 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

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The actions taken in adopting 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.²¹

Moreover, the ruling of the Chair parallels guidance provided in *Mason's Manual of Legislative Procedure*²² both for initial adoption of rules²³ and for group decision making.²⁴

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).

²¹ *Id.*

²² *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.*

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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.

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.).

²³ *Mason's Manual of Legislative Procedure* 36 § 39(6) (National Conference of State Legislatures 2000); see also Cushing, Luther 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).

²⁴ *Mason's*, 37-40 §§ 42, 43.

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Eleventh and finally, there must be a record of the decision made by the group.

In comparison, the Oklahoma House of Representatives was duly constituted²⁵ and was constitutionally authorized to adopt procedural rules.²⁶ Second, the House assembled and convened on the date and at the time constitutionally mandated.²⁷ Third, 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,²⁸ 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.²⁹ Fifth, a clear question came before the House to be decided when Representative Jones, the Majority Floor Leader, moved adoption of House Resolution 1005 which contained proposed House Rules for the 52nd Oklahoma Legislature.³⁰ Sixth, upon consideration of House Resolution 1005, members of the House were afforded opportunity to offer debate on the merits of the

²⁵ *Okla. H. Jour.*, 1-6, 52nd Leg., 1st Reg. Sess. (Jan. 6, 2009).

²⁶ OK CONST V, 30.

²⁷ *Okla. H. Jour.*, 35, 52nd Leg., 1st Reg. Sess. (Jan. 6, 2009); *Okla. H. Jour.*, 37, 52nd Leg., 1st Reg. Sess. (Feb. 2, 2009); OK CONST Art. V § 26.

²⁸ *Id.*; *Okla. H. Jour.*, 35, 52nd Leg., 1st Reg. Sess. (Jan. 6, 2009).

²⁹ *Okla. H. Jour.*, 37, 52nd Leg., 1st Reg. Sess. (Feb. 2, 2009).

³⁰ *Id.* at 270.

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proposed rules.³¹ Seventh, the question before the House, adoption of House Resolution 1005, House Rules, was brought to a vote.³²

Eighth, the question before the House passed with a majority of the House voting in the affirmative.³³ 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 House Journal,³⁴ 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.³⁵

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

³¹ *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:16, 32:18-55:29 (Feb. 2, 2009).

³² *Okl. H. Jour.*, 270, 52nd Leg., 1st Reg. Sess. (Feb. 2, 2009).

³³ *Id.*

³⁴ OK CONST V, 30.

³⁵ *Okl. H. Jour.*, 268-295, 52nd Leg., 1st Reg. Sess. (Feb. 2, 2009).

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time-honored practices of the House and generally agreed upon standards of parliamentary procedure.

GP - 2. (2011) Reliance on General Parliamentary Law Prior to Adoption of House Rules

History – Upon presentation of House Resolution 1008, Representative Hoskin moved to postpone consideration of the resolution for a twenty-four (24) hour period.

Representative Sullivan moved to table the Hoskin motion to postpone to a definite time. Representative Reynolds then raised a point of order that the motion to table offered by Representative Sullivan was out of order.

The presiding officer ruled the point well taken pursuant to Section 370 of *Mason’s Manual*.³⁶

Ruling – It is the ruling of the Chair that a motion to table a motion to postpone to a definite time offered prior to adoption of House rules is out of order pursuant to Section 370 of *Mason’s Manual*.

Reasoning – In practical terms, this ruling has limited effect. Section 370 of *Mason’s Manual* says that it is not in

³⁶ *Okla. H. Jour.*, 253, 254, 53rd Leg., 1st Reg. Sess. (Feb. 7, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HR 1008*, 02:53:15-02:57:47 (Feb. 7, 2011).

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order to table a motion to postpone to a definite time.³⁷ This ruling was made prior to adoption of House Rules for the 53rd Oklahoma Legislature. Under House Rule 10.1, as subsequently adopted, a motion to postpone to a definite time is subject to a motion to table. However, in view of the fact that House Rules for the 53rd Oklahoma Legislature had not yet been adopted, the Chair relied on general parliamentary law when deciding questions of order.³⁸

GP - 3. (2011) Motion to Extend Debate not in Order Immediately after Adoption of Motion to Limit Debate

History – Representative Peters moved to advance the question, which motion was declared adopted upon a roll call vote.

³⁷ *Mason's Manual of Legislative Procedure* 256-258 § 370(1) (National Conference of State Legislatures 2000).

³⁸ *Okl. H. Rules*, § 10.1 (53rd Leg.); this is not in agreement with the general principle expressed in Section 370 of *Mason's Manual* which says that a motion to postpone to a definite time is not subject to the subsidiary motion to table. When adopted House Rules conflict with general parliamentary law, the House rule in question takes precedence over general parliamentary law and should be applied even if in direct conflict with the general principle expressed in a general parliamentary authority. Cf. *Mason's Manual of Legislative Procedure* 32-33 § 37 (National Conference of State Legislatures 2000); Durham, W.F., *Durham's Legislative Manual* 73 § 160 (Harlow Publishing Company 1935).

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Representative Dorman raised a point of inquiry as to whether it would be appropriate to offer a motion to extend debate.

The presiding officer stated that because the House had just voted to limit debate, it would not be appropriate to immediately consider a motion to extend debate.

Representative Reynolds raised a point of inquiry as to the basis for the presiding officer's ruling due to the fact that the House had not yet adopted its rules.

The presiding officer stated that he was relying on the customs of the House.³⁹

Ruling – It is the decision of the Chair that a motion to extend debate offered immediately after adoption of a motion to limit debate is out of order.

Reasoning – The Oklahoma Constitution establishes that the House of Representatives will determine its own rules of procedure.⁴⁰ This constitutional right exists even when the House is organizing itself prior to the time the House formally adopts its rules.⁴¹

³⁹ *Okla. H. Jour.*, 257-258, 53rd Leg., 1st Reg. Sess. (Feb. 7, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HR 1008*, 04:38:18-04:43:22 (Feb. 7, 2011). See also *Okla. H. Jour.*, 1034-1035, 53rd Leg., 1st Reg. Sess. (April 20, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 923*, 03:51:16-04:26:54 (April 20, 2011).

⁴⁰ OK CONST V, 30.

⁴¹ *Prec. Okla. H. of Rep.*, GP(1.), 52nd Leg., 1st Reg. Sess. (Feb. 2, 2009).

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During this initial stage, the presiding officer must maintain an orderly process for adoption of House rules, all the while observing the relatively few procedural requirements present in the Oklahoma Constitution.⁴² In practicality, this means relying on the customs and practices of the House and general parliamentary law.⁴³

GP - 4. (2012) Measure Lacking Express Effective Date

History – During consideration of House Bill 3053, Representative Rousselot raised a point of order as to whether House Bill 3053 was in order for consideration because the measure did not contain an effective date or emergency clause.

⁴² *Mason's Manual of Legislative Procedure* 17-18 §§ 6-7 (National Conference of State Legislatures 2000); Cf. OK CONST V, 7, 18, 19, 24-27A, 29-36, 42, 46, 54-59; VI, 7, 11, 12, 14; VIII, 3; X, 23, 25; XXIV, 1.

⁴³ *Prec. Okla. H. of Rep.*, GP(1.), 52nd Leg., 1st Reg. Sess. (Feb. 2, 2009); *Prec. Okla. H. of Rep.*, GP(2.), 53rd Leg., 1st Reg. Sess. (Feb. 7, 2011); *Mason's Manual of Legislative Procedure* 32-33 § 37 (National Conference of State Legislatures 2000); see *Okla. H. Jour.*, 1201 52nd Leg., 2nd Reg. Sess. (April 8, 2010); see also *Okla. H. Jour.*, 1474 52nd Leg., 2nd Reg. Sess. (April 28, 2010), the presiding officer entertained the motion to extend debate but only after a failed motion to table the motion to advance the question and with the caveat that such a motion would normally be ruled as dilatory. Obviously, the instances cited from 2010 are not exhaustive and do not contemplate the entire history of the Oklahoma House of Representatives but rather demonstrate the recent habits and usages of the House.

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The presiding officer stated that the timing of when a bill goes into effect is governed by the Oklahoma Constitution and because the bill did not contain an effective date, the default effective date would be ninety (90) days after sine die adjournment as prescribed by the Oklahoma Constitution. The Chair also took notice of the fact that numerous other bills had been passed without an express effective date.

Representative Morrisette raised a point of order as to whether the ruling made by the Chair was a constitutional ruling.

The presiding officer stated that the Chair's response to Representative Rousselot's previous point of order was informational and as in previous instances where constitutional questions were raised regarding the format of a bill, the Chair would not weigh in on such questions and it would be up to the House to decide whether to pass the bill as drafted.

Representative Morrisette appealed the ruling of the presiding officer which was upheld upon roll call vote.⁴⁴

Ruling – It is the ruling of the Chair that a bill without an express effective date becomes effective ninety (90) days after sine die adjournment.

⁴⁴ *Okla. H. Jour.*, 503-504, 53rd Leg., 2nd Reg. Sess. (March 8, 2012); *Daily H. Sess. Video Rec.*, 53rd Leg., 2nd Reg. Sess., *HB 3053*, 01:12:27-01:26:00; 01:26:05-01:41:25 (March 8, 2012).

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GP - 5. (2013) Constitutionality of Motion Authorizing Postage and Supplies on “Organizational Day”

History – During the course of the “organizational” session required by the Oklahoma Constitution⁴⁵, Representative Peterson requested unanimous consent that a motion be adopted by the House of Representatives allowing each House Member to be given a credit in the House post office in the House Member be given a credit in the House for stationery and/or office supplies in the amount of \$350.00, the same to be reimbursed by the House upon presentation of receipts to the Comptroller of the House and that the Speaker be authorized to purchase from time to time necessary postage, supplies and equipment to conduct the affairs of the House during the First Regular Session of the Fifty-fourth Legislature. An objection was made to the request for unanimous consent.⁴⁶

Representative Reynolds then raised a point of inquiry as to whether, pursuant to the Oklahoma Constitution, the Peterson motion was appropriate for consideration by the House.

⁴⁵ OK CONST V, 26.

⁴⁶ The longstanding custom and practice of the House is to adopt a motion on the first day of session to provide for postage and supplies for the members of the House during the legislative session.

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The presiding officer stated that it is not the precedent of the House for the presiding officer to make constitutional pronouncements.⁴⁷

Representative Reynolds appealed the ruling of the Chair which was upheld upon a roll call vote. After the appeal, Representative Peterson pressed her motion, which motion was declared adopted upon a roll call vote.⁴⁸

Ruling – It is the ruling of the Chair that it is not the precedent of the House for the presiding officer to make constitutional pronouncements.

Reasoning – A review of House Journals from the past decade indicates that it is the custom and practice of the House of Representatives to adopt a motion authorizing purchase of office supplies and postage for use by members in conducting official business during the legislative session. The House Journals for each “organizational day”, 2003 through 2011, chronicle a similar motion which in each instance authorized purchase of postage and supplies for official business.⁴⁹

⁴⁷ *Cf. Prec. Okla. H. of Rep.*, § 14.2(1.), 51st Leg., 1st Reg. Sess. (March 6, 2007); *Prec. Okla. H. of Rep.*, § 14.2(1.A.), 52nd Leg., 1st Reg. Sess. (March 2, 2009).

⁴⁸ *Okla. H. Jour.*, 23-25, 54th Leg., 1st Reg. Sess. (Jan. 8, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., 01:39:14-01:53:26 (Jan. 8, 2013).

⁴⁹ *Okla. H. Jour.*, 20-21, 49th Leg., 1st Reg. Sess. (Jan. 7, 2003); *Okla. H. Jour.*, 29, 50th Leg., 1st Reg. Sess. (Jan. 4, 2005); *Okla. H. Jour.*, 23, 51st Leg., 1st Reg. Sess. (Jan. 2, 2007); *Okla. H. Jour.*, 31-32, 52nd Leg., 1st

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GP - 6. (2013) Consideration of Proposed House Rules on Same Day as Introduction

History – The House took up consideration of House Resolution 1003, the simple resolution containing proposed House rules for the 54th Oklahoma Legislature. During consideration of House Resolution 1003, Representative Reynolds raised a point of inquiry as to whether it was in order to proceed with consideration of the resolution because it would give rise to debate and as such, should lie over for twenty-four (24) hours.

In response to Representative Reynolds' point of inquiry, the presiding officer stated that the custom of the House is to allow resolutions relating to business immediately before the House to be considered on the same day.⁵⁰

Precedent – It is the decision of the Chair that the custom of the House is to allow resolutions relating to business immediately before the House to be considered on the same day they are introduced and as such a resolution containing proposed House rules may be considered on the same day it is formally introduced.

Reg. Sess. (Jan. 6, 2009); *Okla. H. Jour.*, 40, 53rd Leg., 1st Reg. Sess. (Jan. 4, 2011).

⁵⁰ *Okla. H. Jour.*, 229, 54th Leg., 1st Reg. Sess. (Feb. 4, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HR 1003*, 01:46:55-01:49:36 (Feb. 4, 2013).

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Reasoning – Article V, Section 30 of the Oklahoma Constitution grants authority to the House of Representatives to adopt its own procedural rules. Pursuant to this authority, the House customarily adopts rules at the beginning of the biennium and operates under the same procedural rules throughout the remainder of the biennium. In the short period prior to adoption of formal House rules, as established by precedent, the House of Representatives relies on the customs and practices of the House, without departing from the norms of general parliamentary law. This usually means following the provisions of House rules adopted in the preceding two-year term because the previous rules are the best evidence of the customs and practices of the House.⁵¹

In an instance like this, though generally proper to look to previous House rules to ascertain the customs and practices of the House, the presiding officer should not sustain a point of order based on a provision in the previous rules if the effect of such a ruling would be to delay adoption of the House rules before the House of Representatives at the beginning of a new biennium.

⁵¹ *Mason's Manual of Legislative Procedure* 35 § 39(6) (National Conference of State Legislatures 2010). Cf. Cushing, Luther Stearns, *Elements of the Law and Practice of Legislative Assemblies of the United States of America* 311, 312 §§ 792, 793 (Little, Brown and Co. 1856); Hughes, Edward Wakefield, *Hughes' American Parliamentary Guide, 1927-1928* 24, 25, § 6 (State of Ohio, F.J. Heer Printing Co. 1928).

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Few questions are of greater significance than adoption of rules for a new biennium. As such, it would not be the “best practice” for a presiding officer to permit delay of consideration of House rules unless such a delay arose from a universally recognized requirement or condition or from a clearly expressed principle of general parliamentary law.⁵²

Moreover, it is worth noting that even if the presiding officer had relied on the previous House rules, consideration of the newly proposed House rules when and how they were considered, would still have been in order under the customs and practices of the House as evidenced by the previous rules. Section 6.7 of House Rules, 53rd Oklahoma Legislature, paragraphs (b) and (c) would have permitted House Resolution 1003 to be taken up on the same day as “introduced”⁵³ because these paragraphs provide as follows:

(b) The following classes of simple and concurrent resolutions may be taken up the same [emphasis added] legislative day they are introduced:

1. resolutions relating to business immediately before the House;

⁵² *Mason’s Manual of Legislative Procedure* 30-32 §§ 36-37 (National Conference of State Legislatures 2010).

⁵³ While not reflected in the official proceedings of the House on Monday, February 4, 2013, the proposed language for House rules contained in House Resolution 1003 had been circulated to each member of the House of Representatives in the course of the previous week in an e-mail circulated by the Speaker Pro Tempore.

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2. *resolutions relating to business of the day on which they may be offered;*

Adoption of House rules for the biennium is a matter relating to business immediately before the House. It is directly relevant to the business of the day - that day being the first day of the legislative biennium following the short “organizational day” in January.

GP - 7. (2013) Electronic Publication of Amendments Prior to Adoption of House Rules

History – The House took up consideration of House Resolution 1003, the simple resolution containing proposed House rules for the 54th Oklahoma Legislature. During consideration of House Resolution 1003, Representative Reynolds raised a point of inquiry as to whether proposed amendments to the resolution were required to be electronically filed. The presiding officer stated that it was up to the author of the amendment to provide a copy of the amendment to the members.⁵⁴

Ruling – It is the decision of the Chair that prior to adoption of House rules, the author of an amendment offered to the proposed House rules is not required to provide a copy of the amendment to other members.

⁵⁴ *Okla. H. Jour.*, 232, 54th Leg., 1st Reg. Sess. (Feb. 4, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HR 1003*, 02:29:30-02:30:47 (Feb. 4, 2013).

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Reasoning – Before adoption of House rules at the beginning of the biennium, no authority exists that requires members who wish to offer an amendment to provide a copy of the amendment to other members of the House. Specifically, no expression of general parliamentary law requires a broad distribution of physical copies of a proposed amendment and certainly no provision exists requiring electronic distribution of a proposed amendment.

As a matter of best practices, prior to adoption of House rules, the presiding officer should require a member in this situation to at least provide the proposed amendment to the Reading Clerk in written form so that at the time of consideration, the amendment may be read to the House.⁵⁵ In this case, beyond the minimal requirement that the proposed amendment be physically provided to the Reading Clerk, a member could still utilize the available technological infrastructure to accomplish electronic filing or use the nearby copy machines. While the provisions of House rules adopted in the preceding two-year term are the best evidence of the customs and practices of the House,⁵⁶

⁵⁵ Cf. *Mason's Manual of Legislative Procedure* 265-286 §§ 395-420 (National Conference of State Legislatures 2010).

⁵⁶ *Mason's Manual of Legislative Procedure* 35 § 39(6) (National Conference of State Legislatures 2010). Cf. Cushing, Luther Stearns, *Elements of the Law and Practice of Legislative Assemblies of the United States of America* 311, 312 §§ 792, 793 (Little, Brown and Co. 1856); Hughes, Edward Wakefield, *Hughes' American Parliamentary Guide, 1927-1928* 24, 25, § 6 (State of Ohio, F.J. Heer Printing Co. 1928).

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the presiding officer, prior to adoption of new rules, should not impose requirements from the previous rules that go beyond those clearly expressed in general parliamentary law.⁵⁷

GP - 8. (2013) Possession by House Required before Final Vote on Bill may be Rescinded

History – During the daily session on Monday, May 13, 2013, Representative Inman renewed a point of order similar to those raised on Thursday, May 9, 2013, regarding the vote on House Bill 2301.⁵⁸

In the course of the interchange with the presiding officer, Representative Inman moved to rescind the vote whereby House Bill 2301 had previously passed, which motion was ruled out of order because the measure had already been engrossed to the Senate and was no longer in the possession of the House of Representatives.

Representative Inman then moved to request that the Honorable Senate return House Bill 2301 to the House for

⁵⁷ *Mason's Manual of Legislative Procedure* 30-32 § 37 (National Conference of State Legislatures 2010).

⁵⁸ *Okla. H. Jour.*, 1226, 1228, 54th Leg., 1st Reg. Sess. (May 9, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HB 2301*, 03:58:53-03:59:25; 03:59:32-04:00:11; 04:27:05-04:27:49 (May 9, 2013).

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further consideration, which motion was recognized by the presiding officer.⁵⁹

Ruling – It is the ruling of the Chair that a motion to rescind is not in order when the measure in question is not in possession of the House of Representatives.

Reasoning – Once a measure is no longer in possession of the House of Representatives, due to transmittal to the Senate,⁶⁰ the Governor or the Secretary of State, the House does not have authority to proceed with additional consideration of that measure.⁶¹

In accordance with general parliamentary law, the requesting chamber would first vote to send a message to the opposite chamber asking that the measure in question be returned for additional consideration.⁶²

In this case, at the time the motion to rescind was offered, the Senate had possession of House Bill 2301.⁶³ To continue consideration of the bill, the House had no other option but

⁵⁹ *Okla. H. Jour.*, 1241-1243, 54th Leg., 1st Reg. Sess. (May 13, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., located within video record of *HB 1313*, 01:25:11-01:48:48 (May 13, 2013).

⁶⁰ *Okla. H. Jour.*, 1229, 54th Leg., 1st Reg. Sess. (May 9, 2013).

⁶¹ *Mason's Manual of Legislative Procedure* 533 § 761(8) (National Conference of State Legislatures 2010).

⁶² *Mason's Manual of Legislative Procedure* 533 § 762(1) (National Conference of State Legislatures 2010).

⁶³ A review of the record in the Clerk's office indicates that House Bill 2301 was received by the Senate shortly after 5:28 p.m. on Thursday, May 9, 2013.

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to first attempt to regain possession of the bill from the Senate. If successful, a motion proposing additional action on the bill could then be properly recognized by the presiding officer.

The chamber receiving such a request, though not obligated to do so,⁶⁴ typically has been willing to cooperate with the requesting chamber, particularly if the measure in question originated in the chamber making the request.⁶⁵

GP - 9. (2013) Floor Amendments Presented to House Published in House Journal

History – During consideration of House Resolution 1003, Representative Morrisette presented a proposed floor amendment offered to House Resolution 1003.

Representative Inman raised a point of inquiry as to whether the language in the floor amendment presented by Representative Morrisette would be printed in the House Journal.

⁶⁴ *Mason's Manual of Legislative Procedure* 533 § 762(1) (National Conference of State Legislatures 2010).

⁶⁵ Closeness in time to a bill's delivery and receipt probably would have some bearing on whether the chamber in possession would be willing to return the bill to the opposite chamber upon request.

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The presiding officer stated that the amendment would be included in the House Journal according to the customs of the House.⁶⁶

Ruling – It is the ruling of the Chair that floor amendments presented to the House will be published in the House Journal according to the customs of the House.

Reasoning – In this instance the question raised touches on the constitutional requirement that “each House shall keep a journal of its proceedings...”⁶⁷ Inherent to creating a strong record is the practice of including in the House Journal the actual language of the floor amendments presented during the floor sessions of the House of Representatives.

⁶⁶ *Okla. H. Jour.*, 232, 54th Leg., 1st Reg. Sess. (Feb. 4, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *HR 1003*, 02:09:38-02:10:29 (Feb. 4, 2013).

⁶⁷ OK CONST V, 30.

JOINT RULE THREE

AVAILABILITY OF LEGISLATION

(Joint Rule) 3 - 1. (2013) Layover Requirement Applicable to Senate Amendments

Rule – Joint Rule 3 states:

Neither chamber of the Oklahoma Legislature shall consider legislation unless said legislation has been made available on a previous legislative day to the members of the chamber then having custody of the measure.

History – During consideration of the Senate amendments to House Bill 1661, Representative Sherrer raised a point of order as to whether the Senate amendments were eligible for consideration by the House.

The presiding officer stated that because the Senate amendments had been available since April 18, 2013, the

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Senate amendments were in order for consideration pursuant to Joint Rule 3.¹

Ruling – It is the ruling of the Chair that the layover requirements of Joint Rule Three are applicable to Senate amendments.

Reasoning – The Senate amendments in question were brought up for consideration on the House Floor on Tuesday, May 14, 2013, the fifty-eighth legislative day. The applicable rule, Joint Rule Three, requires that legislation be “available” to the House on a “previous legislative day”. In practical terms, this means the Senate amendments to House Bill 1661 could have been brought up for consideration on the House Floor as early as Monday, April 22, 2013, the forty-fifth legislative day. Their consideration nearly a month later, without question, fulfilled the requirements of Joint Rule Three.

(Joint Rule) 3 - 2. (2013) Layover Requirement Not Applicable to Motion to Reject with Instructions

Rule – Joint Rule 3 states:

Neither chamber of the Oklahoma Legislature shall consider legislation unless said legislation has been made available on a

¹ *Okl. H. Jour.*, 1256, 54th Leg., 1st Reg. Sess. (May 14, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., *SAs to HB 1661*, 00:20:12-00:31:13 (May 14, 2013).

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previous legislative day to the members of the chamber then having custody of the measure.

History – Representative Wright moved to reject the Conference Committee Report on Senate Bill 1030 and request further conference with instructions.

Representative Morrisette raised a point of order as to whether further consideration of the motion to reject with instructions was in order pursuant to Joint Rule 3.

The presiding officer ruled that the motion to reject a conference committee report with instructions was a procedural motion and therefore did not fall under the purview of Joint Rule 3.²

Ruling – It is the ruling of the Chair that the layover requirement of Joint Rule 3 is not applicable to a motion to reject a conference committee report with instructions.

² *Okl. H. Jour.*, 1366, 54th Leg., 1st Reg. Sess. (May 23, 2013); *Daily H. Sess. Video Rec.*, 54th Leg., 1st Reg. Sess., CCR to SB 1030, 06:36:40-06:38:21 (May 23, 2013).

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JOINT RULE SEVEN

JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET

§ JOINT RULE 7.4 NOTICE OF MEETINGS

(Joint Rule) 7.4 - 1. (2011) Modification of Meeting Notice Requirement

Rule – Joint Rule 7.4 states:

Unless otherwise established by agreement between the Speaker of the House and the President Pro Tempore of the Senate, twenty-four (24) hours of notice to the public shall be provided for meetings of the Joint Committee whether such meetings shall be held jointly or separately.

History – Representative Sears moved adoption of the Joint Committee Report on House Bill 2170.

Representative Reynolds raised a point of order as to whether it was appropriate to consider adoption of the Joint Committee Report on House Bill 2170 stating that the

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presiding officer had ruled previously that a suspension of the rules was required to change the public notice requirements for meetings of the Joint Committee on Appropriations and Budget.

The presiding officer stated that the previous inquiry pertained to the manner of suspending a joint rule.³

The presiding officer's response to the previous inquiry did not address the provision which allows the Speaker of the House and the President Pro Tempore of the Senate to modify the meeting times of the Joint Committee on Appropriations and Budget.

Representative Reynolds raised a point of order as to whether it was appropriate to consider adoption of the Joint Committee Report on House Bill 2170 because the announced meeting time of the Joint Committee on Appropriations and Budget was revised and the Joint Committee convened without twenty-four (24) hours of public notice as required by Joint Rule 7.4.⁴

The presiding officer stated that Section 7.4 of the Joint Rules permits the Speaker of the House and the President Pro Tempore of the Senate to modify public notice requirements for meetings of the Joint Committee on

³ *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., 00:55:59-00:56:51 (May 12, 2011).

⁴ *Okla. H. Jour.*, 1286, 53rd Leg., 1st Reg. Sess. (May 13, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *JCR to HB 2170*, 00:41:17-00:46:51 (May 13, 2011); see also *Okla. J. Rules*, § 7.5 (53rd Leg.).

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Appropriations and Budget and ruled the point not well taken.

Representative Morrissette raised a point of order as to the existence of such an agreement between the Speaker of the House and the President Pro Tempore of the Senate. The presiding officer referenced an e-mail published by the Speaker and ruled that the Chair would rely upon the representations of the Speaker of the House.

Representative Morrissette raised a point of order as to the method used by the Speaker to arrive at such an agreement and was not recognized by the presiding officer.

Ruling – It is the ruling of the Chair that in the event the meeting time of the Joint Committee on Appropriations and Budget is modified by agreement between the Speaker of the House and the President Pro Tempore of the Senate, the Chair will rely on the representations of the Speaker that such an agreement in fact exists.

§ JOINT RULE 7.11 RECOMMENDATIONS

(Joint Rule) 7.11 - 1. (2011) Cognizance of Jurisdictional Question by the Chair

Rule – Joint Rule 7.11, paragraph (d) states:

No measure shall be recommended by the Joint Committee to the chamber of origin which does not have a fiscal impact. A fiscal impact may arise from provisions affecting revenues or

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expenditures or from provisions giving rise to a fiscal impact upon any governmental subdivision of the State of Oklahoma.

History – Representative Peters moved to reconsider the vote whereby House Bill 2184 passed. Representative Hickman moved to table the Peters motion.

Representative Terrill then raised a point of order as to whether, pursuant to Joint Rule 7.11, paragraph (d), it was proper to consider House Bill 2184 because the published fiscal analysis stated that there was no fiscal impact on the measure.

The presiding officer stated that the question of whether a measure reported from the Joint Committee on Appropriations and Budget has a fiscal impact is a jurisdictional question pursuant to Joint Rule 7.11, paragraph (d), and that upon a motion to reconsider the measure the main question would again be under consideration thus allowing the presiding officer to review such a question.

The presiding officer stated that the pending motion was the motion to table and that upon failure of the motion to table, the motion to reconsider would again be before the House and at that time the presiding officer would take cognizance of the jurisdictional question.

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Representative Hickman pressed his motion to table the Peters reconsideration motion, which motion was declared adopted upon a division of the question.⁵

Ruling – It is the ruling of the Chair that the Chair will not take cognizance of a jurisdictional question pertaining to a main question until the main question itself is before the House for consideration.

⁵ *Okla. H. Jour.*, 1363, 53rd Leg., 1st Reg. Sess. (May 18, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., JCR HB 2184, 01:46:10-02:03:55 (May 18, 2011).

JOINT RULE EIGHT

CONFERENCE COMMITTEES

§ JOINT RULE 8.1 PROCEDURES

(Joint Rule) 8.1 - 1. (2011) Rejection of Senate Amendments (SAs) not Permitted after Internal House Deadline¹

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

When a bill or resolution is returned by either chamber to the other with amendments, and the chamber where the bill or resolution originated refuses to concur in said amendments, a conference, by a majority vote of those present and voting, may be requested...

History – Senate Amendments to House Bill 1223 were called up for consideration.

¹ Effectively modified upon adoption of House Rules for the 54th Oklahoma Legislature (2013-2014). Sections 7.22 and 7.23 charge the House Calendar Committee with “scheduling” legislation on the House Floor. In contrast to past practice, the House Calendar Committee rather than the Speaker now bears the responsibility of establishing a specific deadline for principal House authors to move to reject Senate Amendments and make their initial request for conference with the Senate.

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Representative McCullough moved that the House adopt the Senate Amendments to House Bill 1223, which motion failed of adoption upon a roll call vote.

Representative McCullough then moved to reject the Senate Amendments to House Bill 1223, which motion was not recognized pursuant to the internal deadline established by the Speaker of the House for motions to reject Senate Amendments to House measures and request conference.

Representative Blackwell moved to suspend House Rules for the purpose of allowing consideration of a motion to reject the Senate Amendments to House Bill 1223, which motion was not recognized.²

Ruling – It is the decision of the Chair that a motion to reject Senate Amendments (SAs) will not be recognized after the deadline customarily established by the Speaker of the House.

Explanation – It is the custom and practice of the House of Representatives for the Speaker to publish a memorandum establishing a specific deadline for principal House authors to move to reject Senate Amendments and make their initial request for conference with the Senate.³

A successful motion to “reject Senate Amendments and request conference” with the opposite chamber is a prerequisite to the conference committee process in the Oklahoma Legislature.⁴

² *Okla. H. Jour.*, 1257, 53rd Leg., 1st Reg. Sess. (May 10, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., SA HB 1223, 00:10:18-00:48:27 (May 10, 2011).

³ The Speaker electronically published a memorandum on Wednesday, April 6, 2011, establishing the internal House deadline for rejection of Senate Amendments (SAs) to House measures. A reminder containing the same deadline and instructions was sent by the Speaker’s office via e-mail to the House of Representatives on Monday, May 2, 2011.

⁴ *Okla. J. Rules*, § 8.1 (53rd Leg.).

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Once the deadline passes, Senate Amendments may only be “accepted” but not “rejected” thus limiting the late entry of bills into the conference process. This reflects an on-going practice by the Speakers of the House intended to prevent an insurmountable “pile-up” of bills immediately prior to the required time of sine die adjournment.⁵

⁵ OK CONST V, 26.

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