

TESTIMONY BEFORE LEGISLATIVE REFORM COMMITTEE

Chair Pelowski:

Thank you for inviting me to address your committee, and for your work on this important issue. Let me begin by saying it has been a great privilege for me to serve with all of the current members that are here, and I wish you the best in the coming session. As a retiring senior member, I thought I should provide some thoughts on some areas of legislative process reform in which I have some particular experience:

- 1) End of session logjams and crunch time. Most members, including myself, have been frustrated at how so much work tends to get crammed into the last few days of session.

There have been many proposals over the years to set earlier deadlines by rule, and otherwise deal with this. However, in my experience it is impossible to enforce deadlines in conference committees at the end of session unless both Houses of the Legislature and the Governor want this. And usually, at least one party sees some advantage to delaying negotiations to the last minute, and not much happens until targets are actually agreed upon.

Senator Cohen and I pondered this problem after the 2015 session, and actually had a couple of representatives from the NCSL come in and make a presentation to a rare joint meeting of the Senate Finance and House Ways and Means Committees. We basically heard that unless one party controls the Legislature and the Governorship, which is the case in many states but rarely in Minnesota, it is hard to get agreement.

However it is also my observation that the biggest delay tends to come from leadership not being able to negotiate the targets. In 2016, Speaker Daudt and Majority Leader Bakk allowed Senator Cohen and me to negotiate our own target. We were able to do so, and I believe it not a coincidence that our bill was the only omnibus bill to become law that year.

- 2) Setting targets on the House floor.

I have always felt that all members should have an actual vote on the targets themselves, since they are so important in determining budget priorities and the outcome of the session. Otherwise you have leadership and a select group of Ways and Means members making the decision, and other members have no effective formal input. I would like to see the House return to the practice we had from 2003-2006 of voting on targets on the House floor. As Ways and Means Chair from 2003-2006 I did successfully author and pass the resolutions off the floor each of those four years. It was of course more work, and sometimes more nerve wracking, but I do think members should have this vote. The rules did allow us to make modifications to the targets in the Ways and Means Committee, and we did make some minor ones, and I don't really see a problem with that. As for those worried that this will turn into a free for all on the

floor, that was not my experience. Members were reluctant to author amendments that took money from one committee target and give it to another.

With the consent of the Senate, you could also perhaps break end of session logjams by sending targets back and forth between each body.

3) Referrals between finance committees and the bonding committee.

After I chaired the bonding committee in 1999-2000, I heard complaints from finance committee chairs that it was unfair for the Bonding Committee to fund a capital project they didn't like, since it would commit their committee to provide operating funds for it in the future. I appreciated that view, so we then put in place a rule the following term that allowed finance committees to give a negative recommendation to a capital project if they wished, and if they did so the Capital Investment Committee could not fund it. In practice this rarely happened, but it did give finance committees the ability to stop a capital project affecting their area which they thought would unduly burden their operating budget. I recommend adopting such a rule again.

4) Germaneness rulings on the House floor.

I think there is too much gamesmanship on the floor regarding rulings regarding germaneness, and perhaps some other areas too. I have seen leaders in both parties try to protect their members by having people raise points of order on issues on which the majority party doesn't want a recorded vote. However, in my experience, this is really a waste of time. In both 2014 and 2016, my race was the highest spending House race in the state. Votes I took to uphold the ruling of the Speaker were styled in direct mail attacks to say things like "Knoblach voted to block consideration of such and such an issue." The vast majority of these efforts to convert a clear vote into a germaneness ruling are thus a waste of time, because the direct mail can be written to use the vote against the member anyway. We still do need a germaneness rule, but both parties should agree on ways to limit its use. The way it is often used now just wastes time and reflects poorly upon the institution of the House.

5) Don't require a conference committee if the House and Senate don't immediately agree on a bill.

We should allow the House and Senate to continue sending bills back and forth instead of having a conference committee. Conference committees are necessary for omnibus bills, but there are other bills where allowing volleying of bills back and forth would save time and make it more likely that a bill is passed.

6) Finally, the single subject rule. As Members know, there is a provision in our Constitution that says: "No law shall embrace more than one subject, which shall be expressed in its title."

Members may remember that I brought a lawsuit against the state based on this in 2013, because I felt it was unconstitutional for the 2013 tax bill to authorize the appropriation of money for a new Senate Office Building. In researching the lawsuit, I found several examples of Minnesota court decisions that had allowed appropriations from different appropriation committees to be combined in the same appropriation bill. I would have thought such mixing of different types of appropriations would be unconstitutional, but the courts had already ruled against that by the time the Senate office building came along. I did think, however, that if the single subject provision meant anything, it would mean you could not mix taxes and appropriations unrelated to taxes in the same bill. However, the courts found against me.

I do think we should get back to having a single subject rule such as the writers of our constitution intended. However, the courts have now completely neutered the existing provision. It seems like both sides use this argument when it was convenient for them; Democrats this year complained the Omnibus Finance bill violated it, but then were silent during the Senate Office Building controversy. I supported this year's Omnibus Finance bill as being constitutional because the court decision on the Senate Office Building means our current constitutional provision is meaningless.

However, I do think we should have a single subject rule, and thus some sort of new constitutional amendment on this subject should be brought forward. Custom and usage in this body for many years has been to have an Omnibus Finance bill in the even numbered year. One of the main attractions of the Ways and Means chair job is the ability to co-chair that conference committee. Until a new constitutional amendment is enacted, it will have to be up to legislators and the Governor to deal with this issue.

In conclusion, let me say the common denominator of these recommendations is to take some power away from leadership. I think Members delegate too much power to their leaders, and the state would be better off if Members did not do that as much.

Thank you for this opportunity to speak today.