



# Legislative Council

## 63rd Montana Legislature

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DEBBY BARRETT  
ROBYN DRISCOLL  
CLIFF LARSEN  
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CHAS VINCENT

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KRISTIN HANSEN  
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GORDON VANCE

### COMMITTEE STAFF

SUSAN FOX, Executive Director  
TODD EVERTS, Legal Division Director  
FONG HOM, Secretary

## MINUTES LOG

RULES SUBCOMMITTEE  
Conference Call  
Room 137, Capitol Building  
Helena, Montana

October 13, 2014

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select *Committees*, then *Interim*. Once on the page for *Interim Committees*, scroll down to the appropriate committee. The written minutes summary, along with the audio and video recordings, are listed by meeting date on the interim committee's web page.

Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

### COMMITTEE MEMBERS PRESENT

SEN. JEFF ESSMANN (phone)  
REP. CHUCK HUNTER

SEN. CLIFF LARSEN (phone)  
REP. MARK BLASDEL (phone)

### STAFF PRESENT

TODD EVERTS, Legal Director

## AGENDA (Attachment 1)

### VISITORS' LIST - N/A

### COMMITTEE ACTION

The Rules Subcommittee decided that Issue Nos. 1, 2, 3, 4, 5, 8, 9, 11, 12, and 13 will proceed to the November meeting as is. Issue No. 10 will be redrafted and brought to the November meeting for further review.

### CALL TO ORDER AND ROLL CALL

00:00:07 Sen. Essmann called the meeting to order at 9:00 a.m. Rep. Hunter was present at the meeting. Sen. Essmann, Rep. Blasdel, and Sen. Larsen participated by phone.

### REVIEW RULE CHANGES

00:01:12 Todd Everts discussed the rule issues listed in the Legislative Council Rules Subcommittee Proposals. **(Exhibit 1)**

#### **Issue No. 1: Clean up -- eliminate JR 10-90**

00:02:37 Sen. Essmann said that with no objections, issue no. 1 will proceed to the November meeting.

#### **Issue No. 2: Repealed and amended sections count as words in bill titles**

00:05:02 Mr. Everts said that the subcommittee had directed that a section be placed with depositive direction regarding the appealed amended sections. Mr. Everts said he created a section that said, "sections of the Montana code repealed or amended in legislative referendum must be listed in any section within the body of the bill after the enacting clause".

00:06:36 Sen. Essmann said that with no objections, issue no. 2 will proceed to the November meeting.

#### **Issue No. 3: Update revenue estimating process**

00:07:06 Mr. Everts said that issue no. 3 is to update the revenue estimating process rule changes by eliminating last session's revenue estimating rule revisions from the rules.

00:07:43 Rep. Hunter said that we had the special rule last session because of how things came out of Revenue and Transportation. This goes back to the original process which is what it should be.

00:07:59 Sen. Essmann said that with no objections, issue no. 3 will proceed to the November meeting.

**Issue No. 4: Reclarify classification of revenue bills for transmittal deadline purposes**

- 00:08:08 Mr. Everts said that that rule basically reverts it back to the pre-2011 rule changes by eliminating or “by suspending or otherwise changing the allocation of revenue” language.
- 00:08:34 Sen. Essmann said with no objections, that issue will move forward to the November meeting.

**Issue No. 5: Sync up revenue and appropriation bill transmittal deadlines**

- 00:09:09 Sen. Essmann asked if that rule will sync the revenue transmittal deadline to the appropriations bill deadline? Mr. Everts said yes.
- 00:09:44 Rep. Hunter said that at the last meeting several of the House members came up to him afterwards with some alarm about this particular rule. He thinks that that is an okay change, but he may change his mind by the time full Council meets.

**Issue No. 6: Provide for a bill introduction deadline**

- 00:11:25 Mr. Everts said that he addressed this issue in his document “Additional Rule Proposals” under (1) Provide for a bill introduction deadline. **(Exhibit 2)**
- 00:11:30 Sen. Essmann suggested changing the 7-day to a 6-day.
- 00:12:28 Rep. Hunter said that feedback regarding that rule was if we only have a session every other year, why do we want to limit our flexibility. He would not support this particular change.
- 00:13:14 Sen. Larsen said he has similar perspective that Rep. Hunter just expressed.
- 00:13:21 Sen. Essmann said that issue no. 6 will be stricken from the agreed upon set of rules that are going to go to the November meeting.

**Issue No. 7: Establish rules or guidelines for proper use of electronic devices and transmittal of electronic communication during committee public hearings or executive action**

- 00:14:10 Mr. Everts said that he would like formal direction from the subcommittee on where they wanted to go with issue no. 7.
- 00:15:10 Sen. Essmann said his recollection was that Sen. Larsen suggested leaving it at the guidelines level.
- 00:15:23 Sen. Larsen said that Rep. Bennett had strong feelings about where you draw the line with respect to electronic devices and he thought it was a reasonable concern.
- 00:16:09 Mr. Everts said that he will meet with Ms. Fox and finalize a draft version of the guidelines that will be provided at Legislative Orientation and send it to the

subcommittee members' review.

- 00:16:35 Sen. Essmann asked that Mr. Everts insure that the guidelines discuss the necessity for committee members to pay attention to the witnesses before the committee versus their electronic device as a matter of courtesy and raise the issue of electronic communications during action on the floor in both chambers in compliance with the Montana constitution and the need to be conscious of that dilemma.
- 00:18:18 Mr. Everts said he will incorporate those changes that Sen. Essmann suggested and also that Rep. Hunter had expressed a statement about public records as it related to electronic communication.

**Issue No. 8: Designate ranking minority member for Senate and House standing committees**

- 00:19:05 Sen. Essmann said issue no. 8 will proceed to the November meeting.

**Issue No. 9: Clean-up archaic heading in S50-210**

- 00:19:32 Sen. Essmann said issue no. 9 will proceed to the November meeting.

**Issue No. 10: Streamline the confirmation process in the Senate to treat the nomination resolutions more like traditional resolutions**

- 00:19:49 Mr. Everts said that the chair had directed that changes be made in order to allow a nominee to be separated or segregated at the committee level prior to the Senate. He addressed this in his document "Additional Rule Proposals", subsection (2).
- 00:20:55 Sen. Essmann said he would like further discussion on the 3-day review policy for the Senate of the Whole after the committee reports out the resolutions. He doesn't think there is any need to remove that from the rules.
- 00:24:05 Sen. Larsen thought that we would defer action on that and let the full Council consider this at the November meeting.
- 00:24:326 Rep. Hunter suggested having Mr. Everts do some of the redrafts that Sen. Essmann is talking about and then agree to send this issue forward without recommendation to the full Council.
- 00:25:03 Sen. Essmann said that he would like the stricken language in (3)(b) and (4)(a) put back in.
- 00:27:14 Mr. Everts suggested that there be an affirmative statement that would accept this type of motion out from the general reconsideration motion that is within the legislative rules because that rule allows for reconsideration of any motion.
- 00:27:54 Sen. Essmann said that if there are no objections, he would like Mr. Everts to draft that for review at the November meeting.

**Issue No. 11: Reclassification of certain House committees**

- 00:28:54 Rep. Hunter said he is fine with moving this forward.
- 00:29:37 Rep. Blasdel said that his one concern with leadership as far as working with caucus members is to make sure they get the committees they want.
- 00:30:31 Sen. Essmann said that issue no. 11 will proceed to the November meeting.

**Issue No. 12: Clarify House rules regarding cosponsor forms**

- 00:31:33 Mr. Everts said this issue is to help clarify and expedite the co-sponsor process.
- 00:31:47 Sen. Essmann said that with no objections issue no. 12 will proceed to the November meeting.

**Issue No. 13: Cloture House rule**

- 00:32:14 Mr. Everts said this a rule to clarify the cloture rules and the 30-minute requirements in the House.
- 00:32:30 Sen. Essmann said without objections, issue no. 13 will proceed to the November meeting.

**ADDITIONAL RULE PROPOSALS (Exhibit 2)**

- 00:32:49 Mr. Everts said that the first two additional rule changes have already been discussed.

**(3) Revised Call Provisions of the Senate Rules**

- 00:32:55 Sen. Essmann said that subsection (3) looked good to him.
- 00:33:22 Sen. Larsen said that the full Council should examine this.
- 00:34:06 Rep. Hunter said that he concurs with Sen. Larsen.
- 00:34:35 Sen. Essmann said that subsection (3) will proceed forward without a recommendation.
- 00:35:06 Sen. Essmann discussed an op ed by Sen. Jent. He asked Sen. Larsen if he had read that and what his thoughts were on that op ed.
- 00:36:25 Sen. Larsen said he did not see the op ed and therefore he cannot comment on it.
- 00:37:15 Sen. Essmann said he would appreciate it if Sen. Larsen would visit with Sen. Jent because he felt that Sen. Jent had challenged his integrity as Presiding Officer of the Senate during the session when a Call of the Senate had occurred.

**(4) Provide for on-call ethics committee during the interim to hear ethics complaints**

- 00:37:28 Mr. Everts said that to authorize the ethics committee to meet as a session standing committee would require a statutory change.
- 00:38:30 Sen. Essmann gave background information on why he requested that there be an On Call Ethics Committee during the interim.
- 00:45:17 Rep. Hunter said that he would like to leave things as they are. If there is an event that is serious enough to get the body interested in calling themselves back into session, his guess is that such an egregious act would likely have other civil or criminal consequences and there are other forms to pursue that kind of serious act.
- 00:46:07 Rep. Blasdel said that Sen. Essmann has laid out a reason to look into this but if Rep. Hunter is that reluctant, it will be tough to get it through the full Council.
- 00:46:47 Sen. Larsen said that we always have the option of reconvening the legislature if it is a matter of that gravity, but some members of the Council will not act favorably on this if we bring it to them in November.
- 00:47:35 Sen. Essmann said that he would like to work with Mr. Everts on that issue and have a detailed bill prepared so that it can be briefly discussed in November.
- 00:49:05 Rep. Hunter said he had no objections.

**Public Comment - none**

**ADJOURNMENT**

- 00:49:47 With no further business before the committee, Sen. Essmann adjourned the meeting at 9:50 a.m.

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