



Legislative Council

64th Montana Legislature

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EDWARD BUTTREY
ROBYN DRISCOLL
TOM FACEY
BOB KEENAN
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COMMITTEE STAFF

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

MINUTES LOG RULES SUBCOMMITTEE May 18, 2016 Room 102, Capitol Building Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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COMMITTEE MEMBERS PRESENT

REP. BRYCE BENNETT, Chair
SEN. TOM FACEY
SEN. ED BUTTREY
REP. STEPHANIE HESS

STAFF PRESENT

TODD EVERTS, Legal Director
FONG HOM, Committee Secretary

VISITORS' LIST ([Attachment 1](#))

AGENDA ([Attachment 2](#))

CALL TO ORDER/ROLL CALL - Rep. Bennett, Presiding Officer

00:00:01 Rep. Bennett called the meeting to order at 9:00 a.m. The secretary called roll.
(Attachment 3)

LEGISLATIVE RULE REVISION PROCESS OVERVIEW - Todd Everts, Legal

Director

00:00:55 Mr. Everts discussed the Montana Constitutional and Statutory Provisions Specifically Applicable to the Legislature. (Exhibit 1)

00:04:29 Mr. Everts discussed rules that were adopted last session: LC5335 (Exhibit 2), LC5336 (Exhibit 3), and LC5337 (Exhibit 4). Mr. Everts demonstrated how to access adopted rules on the website.

00:07:45 Mr. Everts discussed the 2014 Summary Table. (Exhibit 5)

00:09:51 Mr. Everts referred the committee to the Montana Constitutional and Statutory Provisions (Exhibit 1) and discussed the concept that statutes trump rules.

00:14:31 Mr. Everts discussed scripts for certain house and senate floor motions/actions. (Exhibit 6) (Exhibit 7)

Committee Questions

00:16:04 Sen. Buttrey asked about conflicts between joint rules and the house rules.

00:17:37 Sen. Buttrey discussed the two incidents where there was a conflict and asked what would take precedence, joint rules or house rules.

00:19:45 Sen. Facey said that when it comes to the hierarchy and the rules, does the Legislature's published rules come before Mason's.

POTENTIAL RULE CHANGE TOPICS -Subcommittee Members & Staff

00:20:11 Rep. Bennett gave an overview of the agenda topic.

Joint Rules

00:21:47 Rep. Bennet asked the committee members for their ideas regarding the joint rules.

00:22:07 Sen. Facey commented on the legislative staff's use of social media.

00:24:25 Ms. Miller commented on making sure that if something like that is put into rule, her staff will follow it.

00:26:19 Ms. Grovom commented on the difference between the partisan staff and the general staff that are hired, and that providing advice and guidelines regarding social media in the training and orientation sessions would be helpful.

00:27:39 Ms. Fox said that a policy on social media can be found in the Branch's Administrative Manual.

- 00:28:52 Mr. Everts discussed transmittal deadlines and deadlines for revenue and appropriation bills that were changed last session to coincide with each other.
- 00:30:00 Ms. Fox said that it is impractical to process the number of bills before those deadlines, and that the turnaround of getting bills back to the chambers is difficult.
- 00:31:57 Sen. Buttrey asked what changed in the rule and why was it changed.
- 00:33:28 Rep. Hunter said that the idea was to make it balanced and occurring on the same day.
- 00:34:29 Sen. Facey suggested keeping the referendum at the 67th day, but the revenue bills be Day 69.
- 00:36:41 Mr. Everts will recommend to the bill drafters and the legislators to bring these bills that includes a contingency voidness provision if the governor vetoes the appropriation for the interim committee, if the Rules Subcommittee recommends no change to the rule.
- 00:38:17 Ms. Fox explained further what a contingency voidness clause is.

Public Comment on Joint Rules - None.

Senate Rules

- 00:40:05 Ms. Fox discussed the confirmation process in the Senate.
- 00:41:17 Ms. Miller discussed streamlining the confirmation process and the disparity between the House and Senate rules about rereferred bills.
- 00:42:22 Mr. Everts discussed H40-80(2) Rereferral -- Appropriations Committee rereferral -- normal progression, and said that the Senate does not have that rule.
- 00:44:55 Rep. Bennett said he would like to look at the use of proxy votes in the interim, the issue of absentee committee members, the duties of negotiations between the presiding officers of the majority and the majority party.
- 00:47:02 Ms. Fox said that there are guidelines for interim committees regarding Rep. Bennett's first and second suggestions dealing with interim committees. The staff has looked for authority from the Legislative Council to adopt guidelines for interim committees regarding committee members who miss two meetings that were not counted as excused. The rules subcommittee may want to consider rules or guidelines for the operation of interim committees.
- 00:48:25 Rep. Bennett said that he is talking about members of leadership who are appointed to committees that they know they can't attend the meetings but are there to essentially be a vote and is often voting by proxy.
- 00:48:57 Rep. Hess asked Rep. Bennett to speak to his concerns regarding proxy votes.
- 00:49:38 Rep. Bennett said his concern is that the committees have a lot of autonomy about what processes they use for proxy votes and there should be more uniformity.

Public Comment on Senate Rules - None.

House Rules

- 00:50:33 Sen. Facey discussed the need to look at the super majority issue.
- 00:51:53 Mr. Everts discussed the silver bullet language that needs to be cleaned up and a policy decision on whether the House wants to continue that for the upcoming session.
- 00:52:58 Rep. Bennett said that the ability of committees to use a simple majority to require a super majority to have a discussion on the "do pass or do not pass" motion seems to go against a number of other statutes and constitutional guarantees.
- 00:53:52 Sen. Facey asked if Mr. Everts could give a history of the "do not pass" and "do pass" recommendations.
- 00:54:36 Mr. Everts gave the history of the "do not pass" and "do pass" recommendations.

Public Comment on House Rules

- 00:59:24 Rep. Hunter commented on House 20-20, House 30-20 and 30-50; the super majority issue which he concurs with simple majority for blast motions; a rule in the Appendix where if a committee is overburdened with work, the chair of the committee can go to the Speaker and ask that a bill be reassigned to another committee; health insurance bills that are listed in the Human Services committee but should go to the Business and Labor Committee; and finally, the appointment of members to committees in that there should be a rule that says that those committees should be appointed in proportional fashion to the overall makeup of the House.

Public Comment on any matter not contained on this agenda - None.

- 01:07:04 Ms. Fox discussed two possible issues from the Revenue and Transportation Interim Committee: the formation of a Revenue Estimating Subcommittee and the number of revenue bills that get rereferred to appropriations and the appropriateness of that. She also reported on the progress of the Session Systems Replacement project where there may be rule changes to the engrossing and enrolling process, and the review of compositions of committees; e.g., class type and number of members, by Legislative Council.
- 01:09:40 Rep. Hess said that it is appropriate that the number of bills per committee and whether or not what class they are seems appropriate for the full Council and not necessarily the Rules Subcommittee.
- 01:10:00 Rep. Bennett agreed.

Adjournment

- 01:10:24 With no further business before the committee, Rep. Bennett adjourned the meeting at 10:10 a.m.

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