

MINUTES

**MONTANA SENATE/HOUSE
57th LEGISLATURE - SPECIAL SESSION
JOINT SENATE/HOUSE COMMITTEE ON RULES**

Call to Order: By **CHAIR FRED THOMAS**, on July 26, 2002 at 9:10
A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Sen. Fred Thomas, Chair (R)
Sen. Tom A. Beck, Vice Chair (R)
Sen. Vicki Cocchiarella (D)
Sen. Steve Doherty (D)
Sen. Lorents Grosfield (R)
Sen. Bob Keenan (R)
Sen. Ken Miller (R)
Sen. Linda Nelson (D)
Sen. Mike Taylor (R)
Sen. Jon Tester (D)
Rep. Doug Mood, Vice Chair (R)
Rep. Roy Brown (R)
Rep. Tom Facey (D)
Rep. Dan Fuchs (R)
Rep. Monica Lindeen (D)
Rep. Jeff Laszloffy (R)
Rep. Dan McGee (R)
Rep. Elaine Sliter (R)
Rep. Tropila, Joe (D)
Rep. Cindy Younkin (R)

Members Excused: Sen. Mike Halligan (D)proxy
Sen. Don Hargrove (R)proxy
Sen. Walter McNutt (R)proxy
Rep. Kim Gillan, Vice Chair (D)proxy
Rep. George Golie (D)proxy
Rep. Jim Shockley (R)
Rep. John Witt (R)

Members Absent: None.

Staff Present: Fredella D. Haab, Committee Secretary
Greg Petesch, Legislative Branch

Please Note: These are summary minutes. Testimony and

discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:

Executive Action:

CHAIRMAN FRED THOMAS called the meeting to order.

SEN. LORENTS GROSFIELD stated that **SEN. BERRY** is no longer with us and he was a member of the Senate Rules, and the Committee on Committees met yesterday evening and temporarily replaced him with **SEN. KEN MILLER**.

CHAIRMAN THOMAS opened the Joint Rules Committee on the proposed temporary Joint Rules for this Special Session. **Mr. Greg Petesch, Legislative Branch**, was asked to review these proposed temporary rules for this Special Session.

Mr. Petesch stated that for the most part these proposed rules are based upon the temporary operating rules adopted for the 2000 Special Session. The first change to Joint Rules 10-150 requires only the text of the adopted amendments be recorded. The rationale for that was that you don't fully staff for special sessions the way you do for regular session. You don't have as many journal clerks etc. So you only record the adopted amendments on the floor as opposed to the proposed ones. This a reversion as to the way we use to operate before we had full electronic system that is fully staffed.

The next change is the elimination of the rule that requires the appropriation bills be heard in the joint sub committees prior to the session. That is because the joint sub committees are not hearing the bill. You are not creating the budget. You are revising the existing budget and that is the rationale.

The striking of Joint Rule 30-60 is because you are going to have a revenue estimating resolution this session. It is not going to come out of the interim committee as the rule requires. It is going to come out of the regular taxation committees. This reference to the revenue estimating resolution is for the joint interim committee to propose that. They are not going to meet or consulted with the staff who consult with the chairman of the revenue and transportation committees. That is the reason for that.

The changes to Joint Rule 40-40 eliminate all the deadlines for requesting and processing bills and just requires that bills have to be within the call of the special session. The reason is we don't know how long a special session is ever going to go and it

is also meaningless to allow you to request an unlimited number of bills before December 5 because I hope this is over before then. The same rationale applies to the striking of Joint Rule 40-50. If you notice that the deadlines for requesting bills and transmitting them are likely inapplicable in a special session of limited magnitude and duration.

The change to the fiscal note in 40-100 simply reads that every effort will be made to have a fiscal note before second reading. The reason for that it allows eight days for the budget office to prepare a fiscal note. They are preparing fiscal notes as quickly as they have before but if you allow eight days, once again it could greatly extend the duration of the session if you had to wait that time period for a fiscal note. This is the same rule we had in the last special session. It is very likely even if you are voting in committee on changes you are going to have some numbers available to you from both the budget office and the fiscal analyst. You are going to know the impact but you won't have a formal fiscal note printed and distributed possibly.

The proposal to strike Joint Rule 40-140 is to have second reading copies of all bills available in their normal process but, for example, on the last day whenever that might be you may not want to linger to require us to have the bill engrossed and have the second reading copy printed. What we have done historically is to allow those bills to go to the floor with a copy of the amendments stapled in them if the sine die motion is imminent based upon a single bill. So that's the elimination of that requirement. We will do it in the normal course of business but this allows it to go to the floor without that. The corresponding change is no requirement for engrossing and printing blue paper for third reading if you choose to adjourn without being available. This just allows the special session to move expeditiously.

CHAIRMAN THOMAS said for purposes of discussion do we have a motion on these proposed temporary rules for this session?

Motion: **SEN. GROSFIELD** moved **TO ADOPT THE PROPOSED TEMPORARY RULES FOR THIS SPECIAL SESSION.**

CHAIRMAN THOMAS asked if there was any discussion or any questions for **Mr. Petesch** on any of these rules as proposed.

REP. TOM FACEY had an amendment he wanted to make on page 2, section 10, of Joint Rule 40-100. This whole session seems to be about money and figures. Where it is coming from and where it is going to. If we are going to be voting on second readings without a fiscal note, I think we and the people of the State of

Montana might be in doubt of what our actions are. I appreciate the fact that time is short. We could adjourn ourselves, we could do something but we need to have those fiscal notes before we vote.

Motion: **REP. FACEY** moved **TO HAVE A FISCAL NOTE BEFORE VOTING ON SECOND READING.**

CHAIRMAN THOMAS stated to **REP. FACEY** that they would take that as a conceptual amendment. Is there a discussion on the motion?

SPEAKER DAN MCGEE asked **REP. FACEY** to explain where he was on the proposed rules.

REP. FACEY said it was on page 2, 40-100.

SPEAKER DAN MCGEE accepted the conceptual amendment.

REP. FACEY stated that the basis for his motion, was just because we vote on things, because of the nature of this session, we probably need to have those fiscal notes before us. What concerns me about the rule here, is we may never see those fiscal notes. Where are we going to see the fiscal notes? Because of the proposed language, there is not a guarantee that we will see a fiscal note before we adjourn. So that is why I make my motion.

SPEAKER MCGEE noted that we talked about this issue and the requirement for a fiscal note. If I am not mistaken, it is not germane to appropriation bills. Number two, is the tax bills that will come before us will not have any difficulty in getting a fiscal note. Three, we have a statutory requirement to have a fiscal note etc. I can't see where anyone is hurt by this particular amendment the way it is worded.

REP. FACEY said the **SPEAKER MCGEE** referred to a statutory amendment and I see people pointing at a book up there. Can you enlighten me on what we are talking about?

CHAIRMAN THOMAS stated there is statute 54204 that has to do with fiscal notes and distribution to legislators and my recollection of it is that any committee reporting a bill out to the floor has to accompany a fiscal note with it. Of course, the fiscal notes are to be requested by the presiding officers of the two houses of which that bill originates and the committee reporting it out has to have a fiscal note with it. So that is in statutory language and has to be followed by us. The rules are just another item that we operate under in addition to the statutory

requirement that we have fiscal notes. The only real issue I think is whether or not the bill is amended and what aspect it amends and what is the magnitude of the amendment. Certainly in this session most things are going to be budgetary and the statute does not require, if I understand it right, fiscal notes on appropriation bills unless it is obvious what the fiscal impacts are. I know that we propose the existing rules from previous sessions and it didn't seem to have been an issue or problem. We have to be particularly vigilant in following the statute anyway and not just our rules. I think the amendment rules that are proposed are fine and I understand what your point in raising this.

SEN. VICKI COCCHIARELLA asked the chairman to clarify what he had just said. A statute said that a bill that requires a fiscal note has to come out of committee with a fiscal note. Is that right? Does the statute say that?

CHAIRMAN THOMAS said that was his general memory.

SPEAKER MCGEE thought that the actual language is that a fiscal note has to be prepared before second reading. I don't know if it comes out of committee with a fiscal note.

SEN. COCCHIARELLA asked **Mr. Petesch** to clear this matter up.

Mr. Petesch stated that section 54204 provides that a completed fiscal note has to be submitted to the sponsor who requested it and all bills reported out of a committee have to be accompanied by a fiscal note. But, the rule requires you can't report until the fiscal note is completed. This would allow you to report the bill and have the fiscal note catch up to it. I think you would still need that fiscal note before final passage of the bill but it would allow you to report the bill out with a fiscal note being prepared.

SEN. COCCHIARELLA didn't think this language said what **Mr. Petesch** just said. What I think **REP. FACEY** is saying is that we need the fiscal note before second reading. I think that is fair. I think what **Mr. Petesch** said is that we are kind of going to ignore the statute with this rule and we are going to let the fiscal note catch up to it at some point in time but the purpose of the amendment is to make sure we all have a chance to see the impact of a bill. I don't think that is unreasonable and when does the fiscal note catch up, when we are gone?

CHAIRMAN THOMAS asked **Mr. Petesch** to explain because I think he had it right the first time.

Mr. Petesch stated that the statute says all bill reported out of committee must be accompanied by a fiscal note. He believed that the rule slightly modifies that statute by saying they cannot be reported out of committee until the fiscal note exists. This would allow you to prepare the committee the committee report and report the bill out and have the fiscal bill available, hopefully, before second reading but if not I think it would be required by statute by third reading.

SEN. COCCHIARELLA wanted to look at this language and support the motion of **REP. FACEY**. I think it is important to have it. Fiscal notes on second reading when a bill is being debated and not on third reading when there is no opportunity to discuss it. Why are we here if we are not going to look at these things carefully and have the numbers in front of us. I think this amendment is very appropriate for our reasonable deliberations of the issues. Maybe there is another way to say this but I think we need to have fiscal notes before we vote on second reading.

PRESIDENT TOM BECK came to the conclusion you aren't unreasonable about this. I think if you are going to have a fiscal note, you want it on second reading. Remember a lot of this that we are going to be dealing with is appropriation bills and appropriation does not have a fiscal note with it the appropriation will be by going along through the appropriation process. The fiscal note would be on tax issues or those other types of bills and I think as President of the Senate, we want the fiscal note before we debate it on second reading. I have no problem with that.

REP. FACEY said what he was referring to - I don't want to stop the bill to be reported out of committee. My only intent is to have the fiscal note before us when we debate. So if we can change the rules so that a fiscal note must be available before second reading. So, we can still report it out of committee which I want to happen. I don't want to stop the process. I want the process to go forward as quickly and smoothly as possible.

Motion: **REP. FACEY** moved **A BILL REQUIRING A FISCAL NOTE BE AVAILABLE BY SECOND READING.**

CHAIRMAN THOMAS stated that **REP. FACEY** had made a motion somewhat conceptual but more specifically that fiscal notes will be available by second reading for debate and action. Is there any further discussion on that. **Mr. Petesch** was asked if he had enough to draft that and make it.

PRES. BECK hopes that everybody realizes and gives us a little bit of latitude. If there is an amendment on a bill on second

reading and we have to kick that back and get another fiscal note, most generally we will know where we are at. What we want is the bill to be reported out of committee that will have a fiscal note coming to the floor.

CHAIRMAN THOMAS asked for further discussion.

MOTION: REP. FACEY'S MOTION PASSED UNANIMOUSLY BY VOICE VOTE.

CHAIRMAN THOMAS asked for further discussion of the rules.

Motion: SPEAKER MCGEE moved THE ADOPTION OF THE PROPOSED RULE CHANGES AS AMENDED.

CHAIRMAN THOMAS asked for any further discussion.

MOTION: PASSED VOICE VOTE UNANIMOUSLY.

ADJOURNMENT

Adjournment: 9:30 A.M.

SEN. FRED THOMAS, Chair

FREDELLA D. HAAB, Secretary

FT/FH

EXHIBIT (rus-7bad)