

Legislative Rule Issues and Options Table

Issue #	Rule Issue Identified	Existing Law/ Rules Impacted	Option 1 No Action taken to Amend the Rules or Legislative Processes	Option 2 Change Legislative Process Outside Rules	Option 3 Change, Remove, or Supplement Rules
1	Legislative Referenda Classification/ Transmittal Deadline	J40-50, J40-200	Leave the Request and Transmittal Deadlines the same as Revenue Bills.	NA	Revert Referenda Classification/ Transmittal deadlines back to the General Bills deadlines.
2	Legal Review of Proposed Legislation	5-11-112(1)(c), MCA	The Legislative Services Division is statutorily required to conduct legal review of draft bills (5-11-112(1)(c). Mechanically, there is a bill draft checklist attached to each bill draft in which the drafter checks that "conformity with the state and federal constitutions is considered". If there are issues regarding conformity, the drafter notes those specific issues in the bill draft file and discusses those issues with the bill draft requestor in order to attempt to resolve those issues. The bill draft is then submitted to the legal director for legal review and the director legally reviews the bill draft and notes additional conformity issues, if applicable. If the legal director notes additional conformity issues, the legal director notifies the drafter, who in turn notifies the bill draft requestor. If the conformity issues are not resolved, then those issues are noted and stay with the bill draft file which is accessible by legislators and the public. There is no formal note or review that is attached to the bill once it is introduced.	Potential Options: 1. Change bill draft checklist wording. 2. Standard caveat language on issues noted. 3. Additional collective review when issues are noted and not resolved. 4. Emphasize in Legislator training.	Formalize legal review process in the Rules.

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3	Revenue Estimating Process Changes	J30-70	Leave revenue estimating process the same. (Emphasize in legislator training.)	See Revenue Estimating Proposal	Formalize Revenue Estimating Proposal in Rules
4	Reconfiguring the Rules Committee membership to be evenly divided between majority and minority parties.	S30-10 H30-10	Leave committee membership appointment and proportion up to the Committee on Committees and the Speaker of the House.	NA	Formalize in Rules and follow 5-5-311 statutory appointment language.
5	Cloture Rule - fix the problem of a Representative standing up in favor of motion when in fact they are against the motion in order to expedite cloture.	H40-170	Leave cloture process the same (at least two proponents and two opponents). (Emphasize in legislator training.)	NA.	Formalize restriction in Rule.

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6	Proxies/Absentee voting - improve accuracy of recorded absentee votes -- excused absences -- limit scope of absentee votes.	J10-150 S30-60 (8)(e) S30-70 (8), (13)(f) S30-100 S50-10 S50-210 H10-140 (2)(h) H10-150 H30-40(6)(e) H30-50(9), (13)(f), (16) H50-10 H50-50(4) H50-70(3) H50-200(5) H50-220	<p>Leave proxy process as is.</p> <p>Currently the Rules provide that:</p> <p>S30-70 (13) - to vote, either by being present or by proxy, using a standard form.</p> <p>S30-100 - Authorization for absentee or proxy voting must be reflected in the committee minutes</p> <p>H30-60 (14) to vote, either by being present or by proxy if authorized pursuant to subsection (9), using a standard form or through the vice chairman or minority vice chairman.</p> <p>H30-50. Procedures—absentee or proxy voting—member privileges - Authorization for absentee or proxy voting must be reflected in the committee minutes.</p>	See Susan Fox's proposal.	Formalize in Rule
7	Time requirements to expedite committee executive action on bills.	S30-70 H30-50	The deadline for executive action currently is the last day for committee action prior to the transmittal deadline. (Emphasize in legislator training.)	Designate an informal legislative day deadline for committee action.	Designate in Rule specific legislative day deadlines by which session committees must take executive action on bills.

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8	Every House Member should serve on Class I Session Committee, with an escape clause for those individuals that can't or won't serve.	H30-10	Speaker retains discretion to appoint committee membership after consultation with minority leader.	NA	Formalize in Rule that the Speaker is required to appoint each House Member to a Class I Committee unless the House Member is unable or unwilling to serve.
9	Establish some type of prohibition that a bill sponsor of a committee requested bill cannot hijack the bill for purposes that were not originally intended by the by the committee. Establish a trigger for removing the "By Request of Committee".	J40-40(5)	Constitutionally, any bill is just a recommendation to the Legislature as a whole. As long as an amendment is within the original purpose of the bill, the bill is subject to change at the whim of the Legislature. (Emphasize in legislator training.)	NA	Establish in Rule that if Bill is amended after introduction, the "By Request of the Interim Committee" is removed.

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10	Indicate that the interim committee that requests a bill on the behalf of an agency is not the "By Request of" entity. Create an additional category in the status system of Agency request, etc. Make it very clear that a committee endorsement is not intend intended, only a courtesy.	J40-40(5)	No Action. (Emphasize in Legislator training).	See Susan Fox's proposed resolution of this issue.	Formalize in Rule.
11	Specify the actual day when making a motion to postpone to a day certain (i.e., Day 24, Day 73)	H50-120(g)	No Action.	NA	Formalize in Rule that the motion require that a date be specified.

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12	Establish rules for proper computer use on the floors of the Senate and House and in session standing committees.	J10-70 S10-50 S30-60 S30-80 Senate Rules, Chapter 2, Decorum H10-20 H30-40 H30-60 House Rules, Chapter 2, Decorum	No restrictions on computer use, other than the presiding officer's discretion regarding decorum. (Emphasize good management practices regarding proper use in Legislator training.)	Issue guidelines for computer use under general decorum authority.	Formalize guidelines in the Rules.
13	For bills that require fiscal notes, require that a Session Committee may not vote on the bill without the fiscal note accompanying the bill. Electronic availability of fiscal notes.	5-4-201, MCA JR 40-100(1), (10)	No Action. Currently the Rules allow a Session Committee to vote on a bill without the fiscal note accompanying the bill. The bill may not reported out of committee without a fiscal note.	NA	Formalize in Rule that a Committee vote may not occur without the fiscal note accompanying the bill.

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14	Clarify that receipt by one house of a bill that has been transmitted to the other house constitutes actual possession of the bill for transmittal purposes.	JR 40-190	No Action. Under current Rule, each house shall transmit to the other with any bill all relevant papers. When a House bill is transmitted to the Senate, the Secretary of the Senate shall give a dated receipt for the bill to the Chief Clerk of the House. When a Senate bill is transmitted to the House of Representatives, the Chief Clerk of the House shall give a dated receipt to the Secretary of the Senate.	NA	Formalize in Rule a clarification of what constitutes possession of a bill in each house.
15	Update the reference Rule to Mason's Manual to include the 2010 version of Mason's Manual.	JR 60-20	No Action.	NA	Amend JR 60-20 to substitute the 2010 Mason's Manual for the 2000 Mason's Manual.
16	Authorize the House to dispose of a bill without a hearing that is consistent with the Senate Rules.	S30-70 H30-50	No Action. House is required to have a hearing in committee on every introduced bill. In the Senate, at the written request of the sponsor, a committee may finally dispose of a bill without a hearing. However, a bill may not be reported from a committee without a hearing.	NA	Amend H30-50 to make it consistent with S30-70.

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17	Reinforce that under the Senate and House Rules witnesses must be allowed to testify on every bill or resolution before a committee.	S30-80 H30-60	No Action. The plain language of the Rule requires that a session standing committee take testimony.	Reinforce in Committee Chair Training	NA
18	Clarify further that on a motion to reconsider, the debate on the motion is limited to the motion and not the substance of the bill and possibly specify the number of legislators that can debate the motion.	S50-90 H50-170	No Action. Currently, the Senate Rules state that the debate on a motion to reconsider may not address the substance of the matter for which reconsideration is sought. However, an inquiry may be made concerning the purpose of the motion to reconsider. House Rules limit debate pursuant to H50-80.	Reinforce in Legislative Rules training.	Formalize limitations on debate within the Rules.
19	Eliminate the positive disposition language requirement in the Senate to conform the House Rules.	S50-180 see H40-140(4)	No Action. In the Senate, the Rules require that a motion on second reading must be disposed of by a positive vote. This results in motion to indefinitely postpone action on a bill that has been voted down on second reading. In the House, the Rules allows for the obverse if a bill fails on second reading and therefore no motion to indefinitely postpone is needed.	NA	Make the Senate Rules consistent with the House Rules regarding positive disposition.

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20	Eliminate adverse committee reports.	JR 10-150 S50-120 H40-100 H50-160	<p>No Action. Adverse committee report motions are complex and anti-intuitive. In the Senate, the Secretary of the Senate reads the committee report. Mr. President, we have an adverse committee report. Mr. President, we the Committee on Education and Cultural Resources recommend Senate Bill ## do not pass, signed Senator X, Chair. The Committee Chair says: “Mr. President, I move adoption of the adverse committee report.” If the adoption of the adverse committee motion passes, the adverse committee report is adopted and the bill does not progress to 2nd reading. If the motion to adopt the adverse committee report on the bill fails, the bill is placed on 2nd reading in the committee of the whole.</p> <p>The motion to adopt a committee report is not debatable, but Senate Sponsor of the bill may respond to motion to adopt the committee report. If the Sponsor wants the bill to be placed on 2nd reading, the Sponsor should explain why the body should vote against adopting the adverse committee report. In the House, if the motion is to reject the adverse committee report, it takes 3/5 vote to approve the motion. If the rejection motion passes, the bill is placed on 2nd reading. Failure to pass a rejection motion constitutes adoption of the adverse committee report.</p>	Reinforce in Legislative Rules Training.	Eliminate the authorization of adverse committee reports.

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21	Streamline the confirmation process in the Senate to treat the nomination resolutions more like traditional resolutions.	S70-10 S70-20	No Action. The Rules require a very detailed process regarding Senate Confirmations.	Leadership training regarding the confirmation process.	Formalize in Rule a less detailed process for confirmations.
22	Clarify the re-referral process in the House Rules.	H40-80	No Action. Currently the House Rules authorize that if a bill has been reported from committee with a do pass or be concurred in recommendation, a majority vote of the House is sufficient for re-referral. Therefore, in the House, any bill that has been on second reading or is eligible for second reading may be re-referred by majority vote. This motion removes a bill from its normal progression and refers it back to the committee to which it was originally assigned or to a different committee. In the House a 3/5 vote by the members present and voting is required if a bill has not been reported from a committee.	Reinforce in Rules Training	Further clarify in the Rules the re-referral process.
23	Prohibit Whereas Clauses in Bills. Retain in Resolutions	None.	No Action. Continue to allow whereas clauses.	Provide best management practices in bill drafting training with legislators and staff.	Formalize prohibition in Rules.

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24	Require that bill draft requests contain sufficient information in order to assign the bill draft request or the request will be returned to the Legislator.	None.	No Action. Continue to receive and assign bill draft requests based on the information received.	Legislator training regarding making bill draft requests. Send out memo outlining information requirements and filling out a bill draft request form.	Formalize requirement in the Rules.
25	Establish Rules regarding requests for junque files and requests for copies of databases.	None.	No Action. Currently respond to requests and provide copies. Labor intensive.	Legislator training regarding junque files.	Formalize request procedures in Rules.
26	Establish introduction deadlines for general bills to allow time for fiscal notes, committee hearings/actions and 2nd and 3rd reading.	JR 40-40	No Action. Currently no deadline for introduction of bills other the preintroduction deadlines for committee and agency bills. Transmittal deadlines are the ultimate deadline with respect to whether a bill makes it through the process.	Reinforce informal introduction deadlines in Legislator training.	Formalize deadlines for general bill introduction in the Rules.

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27	Revise the requirement that an interim committee bill contain an appropriation to allow for a contingent voidness if the appropriation in the bill was removed.	JR 40-65	No Action. Enforce the existing rule that requires that an interim study bill may not be transmitted to the Governor without containing an appropriation sufficient to conduct the study.	Reinforce this requirement in Rules training.	Clarify in Rule.
28	Require notification to Leadership with respect to global amendments to House Bill 2 before staff conducts work on the amendments.	None.	No Action. Currently no notification requirement in Rule.	Set out informal guidelines.	Formalize requirement in Rule.

Side note issues brought up by Subcommittee members:

- * Legislators need good explanation of the differences between joint, house and senate rules. (Mason's could help here)
- * The Legislative Rules booklet should have tabs. Legislators should be provided with a demo on the Rules searchable database.
- * Cover the Legislative process flow in the training materials.

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