

RULES OF PROCEDURE
MONTANA LEGISLATIVE COUNCIL
Last Revised March 26, 2004
Proposed change, September 2011

Part A. Council Meeting Rules

- A-1.** Each Legislative Council shall determine the rules of its proceedings. (Formerly RULE I)
- A-2.** These rules may be altered, suspended, or amended by vote of a majority of the Council. (Formerly RULE XII)
- A-3.** Regular meetings of the Legislative Council must be held in the State Capitol, Helena, Montana, unless otherwise approved by a majority of members. Meetings may be scheduled by the presiding officer or by a majority of the members. A meeting agenda must be sent to each member prior to each meeting. A member of the Legislative Council who misses two (2) consecutive meetings may be removed from the Council by a majority of the Council. (Formerly RULE II; amended 9/22/03)
- A-4.** All meetings of the Legislative Council must be conducted under the established rules of the Senate of the state of Montana as to quorums and parliamentary procedure as applicable. (Formerly RULE III)
- A-5.** All meetings are open to the public except if matters of individual privacy are discussed and if the demand for individual privacy clearly exceeds the merits of public disclosure, unless the right of privacy has been waived. (Formerly RULE IX; amended 8/5/96; amended 3/26/04)
- A-6.** The minutes of all regular and special meetings must be mailed to each member of the Council as soon as possible after each meeting. (Formerly RULE VII)
- A-7.** Proxies are generally discouraged. Employment of a proxy is inappropriate whenever a question before a committee has not received a prior hearing or where new debate occurs the day of the vote. For the exercise of a proxy to be valid, the deputized member shall hold a written proxy from the absent member that specifies the question to which the proxy applies. Where a written proxy refers generally to a question but does not precisely address the question called to a vote, the presiding officer shall determine whether the proxy will be allowed. (proposed September 2011)

Part B. Rules Governing Council Duties

- B-1.** If a question of statewide importance arises when the Legislature is not in session and an interim or other statutory committee has not been assigned to consider the question, a majority of the Council may

agree to assign the question to an appropriate committee as provided in 5-11-105, MCA. (Formerly RULE IV; amended 9/22/03)

B-2. All publicity and news releases on behalf of the Council, other than meeting notices, must be made by the presiding officer of the Council. (Formerly RULE X; amended 9/22/03)

B-3. (*Policy out-of-state travel expenses for a lame duck legislator.*) (Formerly RULE XI; removed 5/17/99)

B-4. The Legislative Council may adopt a request for an interim study prior to the compilation of the list of study requests required by 5-5-217, MCA. A request so adopted must be included on the list sent to legislators for ranking as to priority. (Adopted 10/5/96)

B-5. For the deliberation of the Legislative Council provided for in 5-5-217(2), MCA, the Legislative Council shall invite the attendance and comments of each sponsor of an interim study resolution that is under consideration during the setting of interim study priorities. Where possible, the sponsor's presentation should be made prior to adjournment *sine die*. (Adopted 10/11/94)

B-6. In setting priorities for interim study, the Legislative Council may not make a priority of any study request funded by special revenue until all of the special revenue is available for expenditure. (Adopted 10/11/94)

B-7. In order to ensure the most efficient and effective use of staff and financial resources, the Legislative Council may establish such procedures or guidelines as may be necessary to facilitate provision of effective and efficient staff resources on behalf of an interim committee and establish time limits within which interim committee support work or other interim committee activities must be completed. (Adopted 10/11/94; amended 5/17/99)

B-7.1. The Legislative Council will determine when the anticipated workload for an interim committee may require the appointment of additional members as provided in 5-5-211, MCA. The Legislative Council may make this determination on its own initiative or on application from an interim committee. Appointments must be made by the Committee on Committees and the Speaker of the House. An interim committee may suggest members to be appointed for consideration of the appointing authorities. (Adopted 5/17/99; amended 5/18/01)

B-7.2. (*Committees from which members to interim committees should be selected.*) (Removed 5/18/01)

B-7.3. The Legislative Council shall serve as a clearinghouse for all interim studies to be conducted within the Legislative Branch and retains authority to review interim work undertaken by interim committees.
(Adopted 5/17/99)

B-8. Sections 77-2-302 and 77-2-351, MCA, authorize the Board of Land Commissioners to dispose of, sell, or exchange certain state lands after consultation with the appropriate legislative committee. The Legislative Council has assumed the role of the appropriate legislative committee. The process provided in this rule will be followed in fulfilling this consultative role.

(1) The presiding officer shall set a consultation on the agenda when the Board presents a timely request with documentation meeting the adopted criteria. In cases in which the presiding officer determines that it is important that the consultation be completed before the next regularly scheduled meeting of the Legislative Council, the presiding officer may provide for consultation by conference telephone call or by mail. Following the consultation, the Legislative Council shall notify the Board that consultation, as required by 77-2-302 or 77-2-351, MCA, has occurred. If the Legislative Council has recommendations or concerns for the Board to consider, they may be added.

(2) The Board shall provide the Legislative Council with at least the following information with respect to potential land transfers:

(a) For a transfer proposed under 77-2-302, MCA -- disposition of former institutions and certain federal grant lands:

1. Are the lands, including buildings, in fact properties formerly used as or by a state institution and no longer used for institutional purposes?

a. Provide an accurate written description of the properties involved, including a legal description and the acreage involved.

b. Provide a general location map showing graphically the same information as required in the written description of the properties.

c. Provide an affidavit indicating the qualifying state institutional use and verifying the lack of current use.

2. Are there legal restrictions on the proposed transfer?

Provide a legal assessment of restrictions or limitations on the transfer or the lack of restrictions or limitations that may exist under The Enabling Act, the Montana Constitution, or other restriction under law.

3. Are the terms of the proposed transfer in the best interest of the state?

Document the proposed terms of the transfer and any alternative terms that may have been considered.

4. Is the manner of the transfer in accordance with public policy?

Document the proposed manner of the transfer, including plans for the required 60-day notice period.

(b) For a transfer proposed under 77-2-351, MCA -- sale to or exchange of property with public entity.

1. What lands are involved?

a. Provide an accurate written description of the properties involved, including a legal description and the acreage involved.

b. Provide a general location map showing graphically the same information as required in the written description of the properties.

2. Are there restrictions on the transfer?

a. Provide an affidavit documenting whether the land is or is not granted to or held by the state in trust for the support of the common schools, for a state institution, or for another specific purpose.

b. Provide an affidavit indicating any known restrictions on the transfer or stating that there are none.

3. Are the terms of the proposed transfer in the best interest of the state?

a. Document the proposed terms of the transfer and any alternative terms that may have been considered.

b. If the transfer involves a binding commitment to use the property to provide a community service or a benefit that fulfills a public purpose, provide documentation showing the details of the commitment.

c. Document that the transferee is a "public entity" as that term is used in 77-2-351, MCA.

4. Is the manner of the transfer in accordance with public policy?

Document the proposed manner of the transfer, including plans for the required 60-day notice period. (Adopted 05/15/98; amended 05/17/99; amended 9/22/03)

Part C. Rules Governing Staff

C-1. Subject to limitations of the approved operating plan, the Executive Director may engage such employees and consultants as necessary to discharge Legislative Services Division duties. The Executive Director may engage consultants on behalf of committees served by the Legislative Services Division subject to the approval of the committee involved and limitations of the applicable budget. (Formerly RULE VI; amended 10/5/96)

C-2. (Removed 10/5/96)

C-3. Staff of the Legislative Services Division may not represent a legislator as an individual. Staff may not prepare speeches for individual members. Staff may not prepare arguments for use in a voter information pamphlet. This rule does not prohibit staff from responding to legitimate requests for information that may or may not be used by a member of the legislature for preparation of a speech or argument.

C-4.1. Bill drafting requests will not be accepted from individual legislators until after the legislative general election results are known, except that the requests from holdover senators and legislators running unopposed may be processed as staff time permits. (Amended 3/26/04)

C-4.2. To facilitate the preparation of bills proposed by elected officials of the Executive Branch, prior to November 1 preceding a regular session, staff may accept agency bill drafting requests that have been reviewed and approved for drafting by the interim committee or other statutory committee to which the agency is assigned as requests of that committee. A bill drafting request processed under this rule must be preintroduced. The Legislative Services Division staff shall cancel a request not preintroduced. (Amended 3/26/04)

C-4.3. The Legislative Council will act as the requestor for bills requested by newly elected state executive officials until December 5 preceding a regular session.

C-4.4. Prior to a special session called by the Governor, staff may accept bill drafting requests from the Governor designed to implement the provisions of the Governor's call as a request of the Legislative Council. (Formerly RULE V(2); amended 10/5/96; amended 11/17/00; amended 5/18/01; amended 3/26/04)

C-5. A bill drafting request must provide sufficient information to allow the request to be entered into the Legislative Automated Workflow System (LAWS). (Formerly RULE V(3); amended 3/26/04)

C-6. Staff who are assigned bill drafting requests shall begin work on the requests in the order that the requests were made -- "First in, first worked on". A drafter may set aside a bill draft request and work on a later priority draft if the drafter is awaiting information needed to complete a draft. If it is anticipated that the information required to complete the bill draft request will not be available for a day or more, the drafter shall place the request on hold. This rule does not guarantee a strict "first-in-first-out" result because of staff

drafting specialties, bill complexities, a priority set by leadership, and other variables. However, the rule does strive to provide fair treatment for all bill draft requests. (Amended 10/5/96; amended 3/26/04)

C-7.1. (1) An initial bill draft is a draft produced for a requestor's review before the draft is submitted for legal review.

(2) A requestor who receives an initial bill draft from a drafter shall instruct the drafter as to how to proceed with the initial bill draft by the deadline indicated in the letter accompanying the bill draft.

(3) The deadline for receipt of instructions as required under (2) is generally:

(a) 14 calendar days after delivery of the initial bill draft to the requestor before a regular session; or

(b) 2 legislative days after delivery of the initial bill draft to the requestor during a regular session.

(4)(a) Except as provided in (4)(b), if the requestor does not provide instructions by the applicable deadline as provided in (2), the drafter shall submit the initial bill draft for legal review.

(b) In lieu of submitting the initial bill draft for legal review as provided in (4)(a), the drafter may place the draft on hold pending receipt of information. (Adopted 3/26/04)

C-7.2. (1) Once a bill draft has been submitted for legal review by a bill drafter, a requestor is entitled to submit the bill draft to the drafter for correction or minor alteration (REDO) under the original request priority one time.

(2) To receive the priority of the original request under this policy, the requestor must notify the drafter of the potential need for a change in the draft:

(a) within 14 calendar days of delivery of a formal review bill draft to the legislator before a regular session; or

(b) within 1 legislative day after delivery of a formal review bill draft during a regular session.

(3) The requestor must provide the drafter with the information required to make all necessary corrections within 14 calendar days after notification prior to the beginning of a regular session and within 2 legislative days after notification during a regular session.

(4) A redraft of a bill draft requested after the applicable deadline provided for in (2) that may still be introduced will be treated as a new drafting request with regard to priority and moved to the bottom of the drafter's priority list. Corrections of obvious clerical errors are not covered by this policy; such errors will be corrected as expeditiously as possible. (Amended 9/24/92; amended 3/26/04)

C-8. A Legislative Services Division staff person may not draft a proposed initiative measure or a proposed administrative rule. (Formerly RULE V(4); amended 5/17/99)

C-9. (Removed 10/5/96)

C-10. The Executive Director shall administer the fiscal affairs of the Senate, House, and Legislative Services Division in accordance with budgets and allocations adopted by the responsible approving authority. The Executive Director shall provide financial reports and information to the approving authorities from time to time showing expenditures and expenditure plans as requested by the approving authority or a representative of the approving authority. Claims against the Senate, House, and Legislative Services Division appropriations for legislator travel reimbursement are subject to approval based upon legal eligibility and conformance with guidelines adopted by the Legislative Council. (Formerly RULE VIII; amended 10/5/96; amended 9/22/03)

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