

Legislative Council Rules Subcommittee Committee Legislator/Staff Standard Session Generated Rules Proposals
(8/24/2020)

Proposal #	Potential Rule Change	Existing Rule Impacted	Issue Raised	Proposed Change
1 - Joint Rules	JR 40-50 (2)(a) (i) does session committee bill or resolution cover a committee bill proposing referenda, revenue bill and bills implementing HB 2?	JR 40-50 (2)(a) (i)	Staff identified potential rule change.	<p>40-50. Schedules for drafting requests and bill introduction. (2) (a) A bill or resolution must be introduced at least 6 legislative days prior to the applicable transmittal deadline as provided in Joint Rule 40-200 except for:</p> <p>(i) a session committee bill, or resolution, <u>or</u> referenda;</p>
2 - Joint Rules	JR 40-100(8) (a) on fiscal notes. Do we need a requirement to have a positive action in committee in order to request a revised fiscal note (“and on an amended bill”), or does it have to be engrossed in the bill after the floor adopts the committee report. In (9), it can proceed without the updated fiscal note, or the committee could ask for the bill to be rereferred. The Budget Office allowed the request based on an amendment without any action.	JR 40-100(8) (a)	Staff identified potential rule change.	<p>40-100. Fiscal notes. (8) <u>(a)</u> A fiscal note also may be requested, with the approval of the presiding officer, on a bill and on an amended bill by:</p> <p>(a) <u>(i)</u> a committee considering the bill;</p> <p>(b) <u>(ii)</u> a majority of the members of the house in which the bill is to be considered, at the time of second reading; or</p> <p>(c) <u>(iii)</u> the chief sponsor.</p> <p><u>(b) With the approval of the presiding officer, a committee may request a revised fiscal note on committee approved amendments to a bill not reported out of committee by passing a motion to postpone action on the bill pending a revised fiscal note.</u></p> <p>Note: See Fiscal Note Statutory Requirements below.</p>

3-Joint Rules	JR 40-110(4) - Should this be revised to state “The Legislative Fiscal Division or the Legislative Services Division” ?	JR 40-110(4)	Staff identified potential rule change.	<p>40-110. Sponsor's fiscal note rebuttal.</p> <p>(4) The Legislative Services Division <u>or the Legislative Fiscal Division</u> shall provide forms for preparation of sponsors' fiscal note rebuttals and shall print the completed sponsors' fiscal note rebuttal forms on a different color paper than the fiscal notes prepared by the Budget Director.</p>
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<p>4-Joint Rules</p>	<p>(a) JR 40-200 (1)(c)(iii) – discuss changing definition of revenue – Language from MS: “For the purposes of this rule, the term "revenue bill" shall include only those bills whose primary purpose is to increase or decrease taxes or to authorize the issuance of bonds or the borrowing of money. Bills which are primarily for regulatory purposes which have revenue provisions included shall not be considered as revenue bills for the purposes of this rule.”</p> <p>(b) This change would impact fiscal note rule JR 40-100 (5) that if there is a zero impact, the fiscal note will only be printed for the committee hearing the bill and will be posted online. (A massive amount of paper on zero impact fiscal notes has been wasted.) “After the legislative day has elapsed, all fiscal notes <u>having a potential effect on the revenues, expenditures, or fiscal liability (language from (1))</u> must be reproduced <u>for the members of the committee hearing the bill and if the bill is reported out of committee, placed on the members’ desks, either with or without the chief sponsor’s signature.</u></p>	<p>JR 40-200 (1)(c)(iii) JR 40-100 (5)</p>	<p>Staff identified potential rule change.</p>	<p>40-200. Transmittal deadlines -- two-thirds vote requirement. (1)(c) (i) Revenue bills and bills proposing referenda must be transmitted to the other house on or before the 67th legislative day. (ii) Amendments to revenue bills and bills proposing referenda, received from the other house, must be transmitted to the house of origin on or before the 80th legislative day. (iii) (A) A bill except as provided in subsection (1)(c)(iii)(B), a A revenue bill is one that either increases or decreases revenue by enacting, eliminating, increasing, or decreasing taxes, fees, or fines or fees. — (B) A bill is not considered a revenue bill for the purposes of this rule if the bill is primarily for a regulatory purpose and includes a revenue provision.</p> <p>40-100. Fiscal notes.</p> <p>(5) A completed fiscal note must be submitted by the Budget Director to the presiding officer who requested it. The presiding officer shall notify the bill's chief sponsor of the completed fiscal note and request the chief sponsor's signature. The chief sponsor has 1 legislative day after delivery to review the fiscal note and to discuss the findings with the Budget Director, if necessary. After the legislative day has elapsed, all fiscal notes <u>having a potential effect on the revenues, expenditures, or fiscal liability (language from (1))</u> must be reproduced <u>for the members of the committee hearing the bill and if the bill is reported out of committee, placed on the members’ desks, either with or without the chief sponsor’s signature.</u></p> <p>Note: See Fiscal Note Statutory Requirements below.</p>
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5-Joint Rules	Sponsor: JR 40-40(6) works, but, HR 40-30 is problematic as the Senate doesn't follow the House Rule. The two chambers need to be consistent – either make the HR into a Joint rule(see also JR 10-130 (7) – the "or" might need to be made into an "and sign or initial " if this becomes a Joint Rule) or get rid of the House Rule. The form has helped greatly but inconsistent application causes confusion.	JR 40-40(6)	Staff identified potential rule change.	<p>10-130. Bills -- sponsorship -- style -- format.</p> <p>(7) Prior to submitting legislation for introduction, the chief sponsor may add representatives and senators as cosponsors. A legislator may either sign on the front page of the legislation or <u>and</u> sign or initial a cosponsor form supplied upon request by the Secretary of the Senate or the Chief Clerk of the House in order to be added as a cosponsor.</p> <p><u>(8) (a) Prior to submitting legislation to the Secretary of the Senate or Chief Clerk of the House for introduction, the chief sponsor may add representatives and senators as cosponsors. A legislator shall sign the cosponsor form attached to the legislation in order to be added as a cosponsor.</u></p> <p><u>(b) (After legislation is submitted for introduction but before the legislation returns from the first House or Senate committee, the chief sponsor may add or remove cosponsors by filing a cosponsor form with the Secretary of the Senate or the Chief Clerk of the House.</u></p>
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6-Joint Rules	JR 40-160(1) (3) and (6), change to one duplicate printed copy and in (7), strike “the Clerk of the Supreme Court”. The Clerk of the Supreme Court no longer wants to get a copy.	JR 40-160(1)	Staff identified potential rule change.	<p>40-160. Enrolling. (1) When a bill has passed both houses, it must be enrolled. An original and two <u>one</u> duplicate printed copies <u>copy</u> of the bill must be enrolled, free from all errors, with a margin of two inches at the top and one inch on each side. In sections amending existing statutes, new matter must be underlined and deleted matter must be shown as stricken.</p> <p>(3) The correctly enrolled bill must be delivered to the presiding officer of the house in which the bill originated. The presiding officer shall sign the original and two copies of each <u>one copy of the</u> bill not later than the next legislative day after it has been reported correctly enrolled, unless the bill is delivered on the last legislative day, in which case the presiding officer shall sign it that day. The fact of signing must be announced by the presiding officer and entered upon the journal no later than the next legislative day. At any time after the report of a bill correctly enrolled and before the signing, if a member signifies a desire to examine the bill, the member must be permitted to do so. The bill then must be transmitted to the other house where the same procedure must be followed.</p> <p>(7) The original must be filed with the Secretary of State. Signed copies <u>A signed copy</u> with chapter numbers assigned pursuant to section 5-11-204, MCA, must be filed with the Clerk of the Supreme Court and the Legislative Services Division.</p>
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7-Senate Rules	New Rule on Rereferral of bills to the Senate Finance and Claims Committee	Duplicate H40-80(2)	Legislator identified potential rule change.	<p>New Senate Rule:</p> <p>SXX-XX Rereferral -- Senate Finance and Claims Committee rereferral</p> <p>(2) (a) With the consent of the majority leader, the minority leader, and the bill sponsor, legislation that has passed second reading in the Committee of the Whole and that has been rereferred to the Senate Finance and Claims Committee and is reported from committee without amendments may be placed on third reading.</p> <p>(b) Prior to being placed on third reading, legislation rereferred must be sent to be processed and reproduced as a third reading version and specifically marked as having been passed on second reading and the <u>third-reading agenda must specify that the legislation was rereferred to the Senate Finance and Claims Committee and reported from the committee without amendments as having been passed on second reading.</u></p>
8-Joint Rules	JR 40-40 - review bill draft limits	JR 40-40	Legislator identified potential rule change.	Staff needs further direction from the Council regarding bill draft limits for the upcoming session.
9- House Rules	H 40-80 (2)(b) - Either suspend for bills sent to House Appropriations and returned unchanged or require only 1 st “specifically marked”. Incredible waste of paper and when it comes to crunch times, there is not enough time to print and get into packets. Maybe require the House to either save the previous copies of the bills or if they know that they will be rereferred, not pass them out.	H 40-80 (2)(b)	Staff identified potential rule change.	<p>H40-80. Rereferral -- Appropriations Committee rereferral -- normal progression.</p> <p>(2) (a) With the consent of the majority leader, the minority leader, and the bill sponsor, legislation that has passed second reading in the Committee of the Whole and that has been rereferred to the Appropriations Committee and is reported from committee without amendments may be placed on third reading.</p> <p>(b) Prior to being placed on third reading, legislation rereferred must be sent to be processed and reproduced as a third reading version and specifically marked as having been passed on second reading and the <u>third-reading agenda must specify that the legislation was rereferred to the House Appropriations Committee and reported from the committee without amendments as having been passed on second reading.</u></p>

<p>10 - Senate Rules and House Rules</p>	<p>Rule revision of the Senate and House Ethics Committee Process</p>	<p>S30-160, No similar House Rule</p>	<p>Legislative Council raised issue per the Commission on Political Practices discussion.</p>	<p>Staff is continuing to work on providing additional options for this process.</p> <p>New House Rule:</p> <p>H -XX Ethics Committee. (1) The Ethics Committee shall meet only upon the call of the chair after the referral of an issue from the Rules Committee or the Legislator Conduct Panel or to consider a request for a determination pursuant to subsection (4). The Rules Committee may be convened to consider the referral of a matter to the Ethics Committee upon the request of a Representative. The Rules Committee shall prepare a written statement of the specific question or issue to be addressed by the Ethics Committee. Except for a referral from the Legislative Conduct Panel, the issues referred to the Ethics Committee must be related to the actions of a Senator during a legislative session.</p> <p>(2) The matters that may be referred to the Ethics Committee are:</p> <p>(a) a violation of:</p> <p>(i) 2-2-103;</p> <p>(ii) 2-2-104;</p> <p>(iii) 2-2-111;</p> <p>(iv) 2-2-112; or</p> <p>(v) Joint Rule 10-85:</p> <p>(b) the use or threatened use of a Senator's position for personal or personal business benefit or advantage; or</p> <p>(c) any other violation of law by a Senator while acting in the capacity of Senator.</p> <p>(3) If there is a recommendation from the Ethics Committee, the recommendation is made to the Senate.</p> <p>(4) A Representative may seek a determination from the Ethics Committee concerning the possibility of a personal conflict of interest.</p> <p>See Ethics Committee statutory provisions below.</p>
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Statutes on Fiscal Notes:

5-4-201. Requirement of fiscal notes with committee reports. All bills reported out of a committee of the legislature having an effect on the revenues, expenditures, or fiscal liability of the state or of a county or municipality, except appropriation measures carrying specific dollar amounts, shall include a fiscal note incorporating an estimate of such effect. Fiscal notes shall be requested by the presiding officer of either house, who shall determine the need for the note at the time of introduction.

5-4-202. Requests for notes by committee, house, or sponsor. A fiscal note also may be requested on a bill, as the joint rules of the senate and the house of representatives may allow, by:

- (1) a committee considering the bill;
- (2) a majority of the members of the house in which the bill is to be considered, at the time of second reading; or
- (3) the sponsor, through the presiding officer.

5-4-203. Budget director to prepare note. The budget director, in cooperation with the state or local agencies or officials or organizations representing local agencies or officials affected by the bill, is responsible for the preparation of the fiscal note and shall return same within 6 days. The director may request additional time to complete a note, which extension must be submitted to the presiding officer or committee requesting the note for approval.

5-4-204. Submission of fiscal note — sponsor's fiscal note rebuttal — distribution to legislators. (1) A completed fiscal note must be submitted by the budget director to the presiding officer who requested it. Upon receipt of the completed fiscal note, the presiding officer shall notify the sponsor of the bill for which the fiscal note was prepared that the fiscal note has been completed and is available for review. Within 24 hours following notification, the sponsor shall:

- (a) notify the presiding officer that the sponsor concurs with the completed fiscal note;
- (b) request additional time, not to exceed 24 hours, to consult with the budget director on the fiscal note; or
- (c) elect to prepare a sponsor's fiscal note rebuttal as provided in subsection (4).

(2) (a) If the sponsor concurs with the completed fiscal note prepared by the budget director or elects to prepare a sponsor's fiscal note rebuttal, the presiding officer shall refer the completed fiscal note prepared by the budget director to the committee considering the bill. If the bill is printed, the note must be reproduced and placed on the members' desks.

(b) If the sponsor requests additional time to consult with the budget director, the presiding officer shall notify the sponsor and the budget director of the time, not to extend beyond the time limitation specified in subsection (1)(b), by which:

- (i) the budget director shall submit a revised completed fiscal note to the presiding officer;
- (ii) the sponsor shall notify the presiding officer that the sponsor concurs with the original completed fiscal note; or
- (iii) the sponsor shall elect to prepare a sponsor's fiscal note rebuttal as provided in subsection (4).

(3) At the time specified as provided in subsection (2)(b), the presiding officer shall refer the original or, if revised, the revised fiscal note to the committee considering the bill. If the bill is printed, the note must be reproduced and placed on the members' desks.

(4) (a) If a sponsor elects to prepare a sponsor's fiscal note rebuttal, the sponsor shall prepare the fiscal note rebuttal on a form provided by the legislative services division and return the completed sponsor's fiscal note rebuttal form to the presiding officer within 4 days of the election to prepare a sponsor's fiscal note rebuttal. The form must identify the bill number, the sponsor of the bill, the date prepared, the version of the fiscal note being rebutted, the reasons the sponsor disagrees with the fiscal note, the items or assumptions in the fiscal note that the sponsor believes are incorrect, and the sponsor's estimate of the fiscal impact, if an estimate is available.

(b) The presiding officer may grant additional time to the sponsor to prepare the sponsor's fiscal note rebuttal.

(c) Upon receipt of the completed sponsor's fiscal note rebuttal form, the presiding officer shall refer it to the committee hearing the bill. If the bill is printed, the form must be identified as a sponsor's fiscal note rebuttal, reproduced, and placed on the members' desks.

5-4-205. Contents of notes. (1) Fiscal notes must, when possible, show in dollar amounts the estimated increase or decrease in revenue or expenditures, costs that may be absorbed without additional funds, and long-range financial implications. A comment or opinion relative to the merits of the bill may not be included in the fiscal note. However, technical or mechanical defects may be noted.

(2) It is the legislature's intent that a fiscal note be prepared as an objective analysis of the fiscal impact of legislation. The fiscal note should represent only the estimate of the revenue and expenditures that would result from the implementation of the legislation, if enacted, and may not in any way reflect the views or opinions of the preparing agencies, the sponsor, or other interested parties. Changes in revenue must be estimated for each reported year based upon appropriate revenue estimating methodologies for the source of revenue described and should reflect a change from the official revenue estimate provided for in 5-5-227. Expenditures must be estimated as the amount required for implementing the legislation, if enacted, in excess of or as a reduction to the present law base level of expenditures in each reported year regardless of whether or not the preparing agency determines that it can absorb the costs in its proposed budget.

(3) The fiscal note must clearly differentiate between facts and assumptions made in the preparation of the fiscal note while maintaining a logical flow of both fact and assumption in presenting how the fiscal impact is determined.

Statutes on the Ethic Committees:

2-2-135. Ethics committees. (1) Each house of the legislature shall establish an ethics committee. Subject to 5-5-234, the committee must consist of two members of the majority party and two members of the minority party. The committees may meet jointly. Each committee shall educate members concerning the provisions of this part concerning legislators and may consider conflicts between public duty and private interest as provided in 2-2-112. The joint committee may consider matters affecting the entire legislature.

(2) Pursuant to Article V, section 10, of the Montana constitution, the legislature is responsible for enforcement of the provisions of this part concerning legislators.

5-2-205 Authority for standing committees to meet during interim. (1) Except as provided in 5-2-202 and subsection (2) of this section, a standing committee of the legislature, as provided for in legislative rules, may not meet during the interim between regular legislative sessions.

(2) Upon approval of the president of the senate or the speaker of the house of representatives, a standing committee may meet before a special session, as provided in 5-3-101, or during a special session.