

Amendments to the Joint Rules by

Polling of the Legislature

Requested by Senator Fred Thomas

For the Joint Rules Committee

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September 16, 2020 (9:18 p.m.)

1. **AMEND JOINT RULE 40-60: "40-60. Joint resolutions.** (1) A joint resolution must be adopted by both houses during the legislative session or through a legislative poll during the interim as provided in subsection (5) and is not approved by the Governor. It may be used to:

- (a) express desire, opinion, sympathy, or request of the Legislature;
  - (b) recognize relations with other governments, sister states, political subdivisions, or similar governmental entities;
  - (c) request, but not require, a legislative entity to conduct an interim study;
  - (d) adopt, amend, or repeal the joint rules;
  - (e) approve construction of a state building under section 18-2-102 or 20-25-302, MCA;
  - (f) deal with disasters and emergencies under Title 10, specifically as provided in sections 10-3-302(3), 10-3-303(3), 10-3-303(4), and 10-3-505(5), MCA;
  - (g) submit a negotiated settlement under section 39-31-305(3), MCA;
  - (h) declare or terminate an energy emergency under section 90-4-310, MCA;
  - (i) ratify or propose amendments to the United States Constitution;
  - (j) advise or request the repeal, amendment, or adoption of a rule in the Administrative Rules of Montana; or
  - (k) approve the organization of a new community college district under section 20-15-209, MCA.
- (2) A joint resolution may not be used for purposes of congratulating or recognizing an individual or group achievement. Recognition of individual or group achievements is handled on special orders of the day.
- (3) Except as otherwise provided in subsection (5), these rules, or The Constitution of the State of Montana, a joint resolution is treated in all respects as a bill during a legislative session.
- (4) A copy of every joint resolution must be transmitted after adoption to the Secretary of State by the Secretary of the Senate or the Chief Clerk of the House.

(5) (a) A joint resolution that is passed by the polling process during the interim may be used for the purposes in subsection (1), but the joint resolution by poll is not treated as a bill and is not subject to the joint rules, house rules, or senate rules regarding session procedures, including but not limited to administration, session legislation requests, bill introduction, scheduling, session committee hearings, floor action, floor passage, transmittal, enrolling, engrossing, and journal entry. A joint resolution by poll provided for in this subsection (5) supersedes any contradictory rules of the House and the Senate that require a joint resolution by polling to be treated as a bill. A joint resolution by poll may only be requested by:

(i) the Speaker of the House;

(ii) the President of the Senate;

(iii) an administrative committee; or

(iv) an interim committee.

(b) A request must be made in writing to the Chief Clerk of the House of Representatives and the Secretary of the Senate to poll the legislators to determine if a majority of the legislators of each house are in favor of the joint resolution and must contain:

(i) the complete text of the resolution; and

(ii) the name of the requesting party.

(c) Within 5 business days after receiving a request, the Chief Clerk of the House of Representatives and the Secretary of the Senate shall send to all legislators by mail and electronic mail a ballot that contains:

(i) the name of the party making the request;

(ii) the complete text of the joint resolution;

(iii) the date by which legislators shall return the ballot by mail, in person, or by electronic means, which may not be more than 30 days after the date of the mailing of the ballots; and

(iv) a stamped return envelope with the ballot sent by mail.

(d) If a majority of the legislators of each house reply affirmatively to the poll, the Chief Clerk of the House of Representatives and the Secretary of the Senate shall notify in writing the:

(i) requesting party;

(ii) the Secretary of State; and

(iii) the person or entity that the Legislature is addressing in the joint resolution, if applicable.

(e) The joint resolution by poll of the members is deemed issued and passed by the Legislature upon the receipt of affirmative replies by a majority of legislators from each house by the Chief Clerk of the House of Representatives and the Secretary of the Senate, unless a different time is prescribed in the joint resolution."

2. **AMEND JOINT RULE 60-05: "60-05. Source and precedent of legislative rules of the Montana Legislature.** (1) The legislative rules of the Montana Legislature are derived from several sources listed below and take precedence in the following order:

- (a) constitutional provisions and judicial decisions on the constitution;
- (b) adopted legislative rules of the Montana Legislature;
- (c) statutory provisions;
- (d) adopted parliamentary authority; and
- (e) parliamentary law.

(2) Legislative rules passed by one legislature ~~or statutory provisions~~ apply to subsequent legislatures until removed or amended by a resolution or by a poll of members.

(3) Statutory provisions governing the legislative process are not binding on a subsequent legislature."

3. **AMEND JOINT RULE 60-10: "60-10. Suspension of joint rule -- change in rules.** (1) A joint rule may be repealed, amended, or adopted only with the concurrence of both houses. A motion ~~or~~ a joint rule resolution, or a request to poll members to repeal, amend, or adopt a joint rule must be referred to the Rules Committee. A joint rule may be repealed, amended, or adopted only with the concurrence of a majority of the members voting in both houses or a majority of the members by poll in both houses.

(2) A joint rule governing the procedure for handling bills may be temporarily suspended by the consent of two-thirds of the members of either house, insofar as it applies to the house suspending it.

(3) Any Rules Committee report recommending a change in the joint rules must be referred to the other house unless proposed in a joint rules committee comprised of the House Rules Committee and the Senate Rules Committee. Any new rule or any change in the rules of either house must be transmitted to the other house for informational purposes.

(4) Upon adoption of any change, the Secretary of the Senate and the Chief Clerk of the House of Representatives shall provide the office of the Legislative Services Division:

- (a) one copy of all motions, ~~or~~ resolutions, or polling documents amending Senate, House, or joint rules; and
- (b) copies of all minutes and reports of the Rules Committees and polling results."

4. **AMEND JOINT RULE 60-40: "60-40. Tenure of joint rules.** The joint rules remain in effect until removed or amended by a joint resolution or by a poll of members ~~or until a new Legislature is elected and takes office."~~

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