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LEGISLATIVE COUNCIL
67th Montana Legislature

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Susan Fox - Executive Director
Todd Everts - Legal Director
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MINUTES LOG
Legislative Council Rules Subcommittee

June 30, 2020

Zoom Conference Meeting
Remote Room 102, Capitol Building
Helena, Montana

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ROLL CALL

Members Present:

Sen. Mark Blasdel, Vice Chair
Rep. Kim Abbott
Rep. Wylie Galt
Sen. Margie MacDonald

Staff Present:

Susan Fox, Executive Director
Todd Everts, Attorney
Nadine Spencer, Secretary

AGENDA (Attachment 1)

CALL TO ORDER/ROLL CALL

10:00:28 Sen. Mark Blasdel called the meeting to order at 10:00 a.m. The secretary called the roll. **(Attachment 2)**

LEGISLATIVE RULE REVISION PROCESS OVERVIEW

10:01:21 Todd Everts, Chief Legal Counsel, Legislative Services Division (LSD), gave an overview of the legislative rule revision process.

10:05:52 Susan Fox, Executive Director, LSD, and Mr. Everts discussed the proposals in the Legislative Council Rules Subcommittee Generated Rules chart. **(Exhibit 1)**

Committee Questions

Sen. Pomnichowski thanked staff for identifying the rules. She commented on the definition of what constitutes a legislative day.

10:24:58 Sen. Pomnichowski said voting pairs will not be able to be accomplished if there is a virtual session and proposed removing the pairs section from the senate rules.

10:25:53 Sen. Pomnichowski said the senate rule requires a member who is present to vote on second reading, but the House does not have that requirement. She recommended that the Senate follow the House model for second reading.

10:26:39 Sen. Pomnichowski recommended indicating on the House and Senate agendas that a bill returned from appropriations or finance and claims committee is unchanged and was not reprinted.

10:27:41 Sen. Pomnichowski recommended that the rule on attendance and quorum that allows members of leadership to establish a quorum also apply to virtual committee meetings.

10:28:36 Sen. Pomnichowski recommended finding a way to document the name of the person speaking during public testimony at a virtual meeting.

10:29:50 Sen. Blasdel recommended a separate category for rules pertaining to a standard session and a virtual session. He commented on the ability to make a notation on the House and Senate agendas that the fiscal note is zero.

10:30:48 Sen. MacDonald asked Sen. Blasdel if the committee will discuss the rules individually.

Public Comment

None.

DISCUSSION ON RULE CHANGES

Proposal 1: JR 40-50, does a session committee bill or resolution cover a committee bill proposing referenda, revenue bill and bills implementing HB 2

10:32:25 Sen. Blasdel opened discussion on proposal #1.

- 10:32:58 Mr. Everts suggested clarifying the rule to understand whether it includes referenda or revenue bills or bills implementing House Bill 2.
- 10:33:46 Sen. Blasdel asked Mr. Everts about the process of moving forward with some possible language for review at the next meeting.
- 10:34:17 Sen. Pomnichowski said that the rule says, "a bill or resolution must be introduced 6 legislative days prior to the transmittal deadline except for a session committee bill or resolution". Is the proposal to require introduction 6 days prior? She asked Mr. Everts about suspending the rules for late session committee bills or resolutions. Is the proposal to exclude late session committee bills and resolutions.

Proposal 2: JR 40-100, fiscal notes

- 10:36:46 Sen. Blasdel discussed the issue of notating any fiscal note changes on bills that were not referred out of committee on a positive action or read across the rostrum and then referred back to committee.
- 10:37:59 Lindsey Vroegindewey, Clerk of the House, said she had a discussion with the budget office and they agreed that the Chair can move to postpone consideration pending the revised fiscal note.
- 10:40:31 Sen. McDonald said she would advocate for having the motion as proposed by Ms. Vroegindewey so that there is an understanding that this is a bill that is moving forward or has the potential to move forward pending the outcome of the fiscal note.
- 10:41:31 Rep. Abbott said she likes the idea of outlining a clear motion to be used.
- 10:42:30 Sen. Pomnichowski commented that postponing action on different budget bills would be problematic.
- 10:45:22 Sen. Pomnichowski asked Ms. Vroegindewey to direct her to the rule that postpones action.
- 10:45:38 Ms. Vroegindewey said that there is no rule. This was a case they came across last session and she visited with Amy Sessano in the Budget Office and they agreed that when a chairman makes this motion that they would order revised fiscal notes based on the amendment.
- 10:46:22 Sen. Blasdel asked Mr. Everts to explore whether it's a motion or something along those lines. It's going to be important to hear from the Budget Office, but also relay to the chairs that this can't be something that's going to be on numerous bills throughout the session, so we can keep things going seamlessly.

Proposal 3: JR 40-110, revising "The Legislative Fiscal Division or the Legislative Services Division"

- 10:47:02 Sen. Blasdel opened discussion on proposal #3. There was no committee discussion.

Proposal 4: JR 40-200, fiscal note rule if there is a zero impact

- 10:47:52 Sen. McDonald discussed language inserted into the rule that clarifies whether the bill is a revenue bill in order to change the transmittal deadline.
- 10:48:03 Sen. Blasdel discussed zero fiscal note.
- 10:48:36 Ms. Vroegindewey said sometimes those include verbiage on why there is a zero fiscal impact. Sometimes we would get a lot of requests on why that fiscal note is not in the packets. We should include a status update. She said that she doesn't know if those steps are worth the paper that we would save for this coming session.
- 10:49:51 Ms. Fox discussed the issue of saving paper and avoiding having to print so many fiscal notes. This would be a training issues for legislators and she doesn't think there will be a problem creating a status for that.
- 10:51:15 Sen. McDonald said she would want to think about the first issue, minimal impact and definition of a revenue bill, but suggested writing that up as a proposal for further discussion with the full Legislative Council.

Proposal 5: JR 40-40, sponsor signatures on a bill

- 10:52:24 Ms. Fox discussed signatures of sponsors and co-sponsors on bills that are done differently in each house, which at times, causes confusion.
- 10:52:58 Sen. Pomnichowski suggested making it consistent and require that co-sponsors sign the co-sponsor sheet.

Proposal 6: JR 40-160, whether duplicate copying needs to go to the Supreme Court

- 10:53:34 Sen. Pomnichowski agreed that the Supreme Court doesn't need a copy.

Further discussion on Proposal 5

- 10:53:36 Sen. Pomnichowski asked how would co-sponsoring a bill be noted if there is a virtual session. Would notification be via email or a phone call to Legislative Services to indicate that someone wanted to sign on as a co-sponsor by a certain deadline.
- 10:53:55 Ms. Fox said that the Rules Subcommittee should develop a rule for a regular session and then a secondary rule for how to do these things electronically.

Proposal 7: JR 40-50, the 6-day introduction deadline, legislative days or calendar days

- 10:55:20 Sen. McDonald said that when she looks at the JR 40-50, it says "at least 6 legislative days".
- 10:55:57 Ms. Fox suggested attaching that with the Legislative Day question and make sure that we are consistent in an application.
- 10:57:56 Sen. McDonald said there is a part one and a part two for defining legislative days that we might want to think about.
- 10:58:22 Sen. Pomnichowski said that Rule 10-20 defines Legislative Day and if we added language to say that if either house meets in session as the

committee of the whole or conducts legislative business as the committee of the whole, then that satisfies a floor session day. She asked if Ms. Fox is proposing to define a legislative day as any day on which any legislative business is being conducted, whether that's a public hearing?

10:59:02 Ms. Fox discussed delaying a floor session or having floor sessions twice a week in order to offset the house and senate and do social distancing. She discussed what will affect salary and the 90 days in session.

11:00:47 Sen. Pomnichowski said that throughout the rules, especially where deadlines are concerned, we use the term "legislative day" and we're operating under this current definition. For the purposes of "compensation", that could be its separate thing.

Rep. Abbott discussed the challenge that the Legislature is facing, as the committee tries to talk about a contingency plan in the context of COVID-19, is giving the members some certainty around time away from their regular jobs and some predictability in compensation.

11:02:55 Ms. Vroegindewey discussed default calendar days and the confusion last session with the budget office and the 10 days to prepare a fiscal note and whether or not to include Sundays. There needs to be some direction or rules on that 10-day rule for the budget office.

Proposal 8: JR 10-20, Legislative Day definition clarification per delaying the start-up of the session

11:05:09 Sen. Blasdel opened discussion on proposal #8. There was no committee discussion.

Proposal 9: JR 40-40, review bill draft limits

11:05:58 Mr. Everts discussed limits of bill draft requests.

11:07:00 Sen. Blasdel asked if other states have a process where the sponsor has to get a certain number of signatures before he can introduce the bill.

11:08:37 Ms. Fox said that information on bill request limits is posted on the web. She will provide more information about other states at the next meeting.

11:13:00 Sen. Pomnichowski discussed tasking leadership with what would be veto power or prioritization power. Being limited in the number of bill drafts would limit the body and the state. She discussed the legality of putting into the bill title "Generally revise Montana law".

Proposal 10: HR 4-80, reprinting bills that are referred back to Appropriations or Finance and Claims coming back unamended

11:17:20 Ms. Fox said that turnaround for reprinting bills is impossible.

11:17:33 Ms. Vroegindewey explained the process that the House used.

Marilyn Miller, Secretary of the Senate, sent a text that she will send her comments to Ms. Fox.

Proposal 11: SR and HR on Ethics Committee Process

- 11:19:19 Mr. Everts said that the House has no rules regarding the ethics committee process and he advised taking a look at those and at the statute that prohibits session standing committees from meeting during the interim.
- 11:20:49 Sen. McDonald suggested designating that the Legislative Council will function as the ethics committee during the interim.
- 11:21:15 Sen. Blasdel asked Mr. Everts to provide that information.
- 11:21:32 Sen. Pomnichowski asked if the proposal is to make the senate rule a joint rule and adapt language to refer to the respective house ethics committee.
- 11:21:18 Mr. Everts said that under the constitution, it says "each chamber that is the body that process ethics complaints".

Proposal 12: JR, SR, HR, modify the Legislative Rules to allow for remote/hybrid remote sessions

- 11:23:12 Sen. Blasdel opened discussion on proposal #12. There was no committee discussion.

Further Discussion

- 11:23:36 Sen. Blasdel asked Mr. Everts about bills that pass second reading and is referred to the Finance and Claims Committee.
- 11:24:19 Sen. MacDonald commented on concerns when a bill that does not have any fiscal issues is assigned to the Finance and Claims Committee.
- 11:25:32 Ms. Fox said some ideas were proposed during Legislative Week regarding that issue and said she can put together information for the committee to consider. She said the SB 310 steering committee might be able to give input.
- 11:26:17 Sen. Pomnichowski asked that the issues that she had discussed earlier be added to the list of potential rule changes.

GENERAL PUBLIC COMMENT

None

ADJOURNMENT

- 11:28:05 Sen. Blasdel adjourned the meeting at 11:28 a.m.