

From: [Everts, Todd](#)
To: [Fox, Susan](#)
Cc: [Hom, Fong](#)
Subject: FW: [EXTERNAL] JP joint rules
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[SJ0001 JP.docx](#)

From: JP Pomnichowski <pomnicho@gmail.com> **On Behalf Of** JP Pomnichowski
Sent: Friday, October 2, 2020 2:38 PM
To: Everts, Todd <teverts@mt.gov>
Subject: [EXTERNAL] JP joint rules

Mr. Everts,

Since the Legislative Council rules subcommittee has been considering proposed rules for the 2021 session, I red-lined suggestions for rules changes. I've attached the joint rules document with Track Changes on, and also have included below some suggestions.

I'll send under separate cover the same red-lined/outlined Senate and House rules changes.

I hope these are helpful to you. I'd like these considered in the proposed rules for the upcoming session.

There is more to be added, to be sure; the proposed rules should reflect public health considerations and support public health protections, should give the assurance of full public participation in a remote session, should support the use of technology to conduct the business of the legislature, etc. I expect you're drafting language to that effect.

There are some straightforward actions, like searching for terms that are done when we're all gathered in the capitol (like "printed and placed on desks"), and expanding language to allow for electronic means of voting, notice, etc.; and there are other policy considerations that I'd expect you'd be reluctant to include, since legislators will need to decide whether or not to support them (like changing the deadline for bills proposing referenda). There are other changes that I've highlighted that will likely be decided after the election and after caucuses, like whether to refer to legislative days or specific legislative days in the rules, rather than calendar dates. I'm sure you'll use which you think are appropriate.

Respectfully,

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Joint Rules
10-20. Legislative day -- duration.
[define **Legislative business** for the purposes of public notice, recording proceedings, and legislator compensation]

10-40. Adjournment -- recess -- meeting place. ...to any place other than that in which the two houses are **sitting**.

10-50. Access of media -- registration -- decorum -- sanctions. (2) The presiding officer shall authorize the issuance of cards to media representatives to allow **floor access** (should be alright; if we're not in the capitol, this won't matter anyway)

(3) Overflow access will be in the **gallery**.

10-70. Telephone calls and internet access. **ADD (5) Internet access costs for locations other than the capitol and for the purpose of the legislator's remote participation may be reimbursed to a legislator.**

10-100. Legislative Services Division. (2) prepare payrolls for **certification and signature authorization** by the presiding officer

10-120. Engrossing and enrolling staff -- duties. (1) The Legislative Services Division shall provide all engrossing and enrolling staff.

(2) The duties of the engrossing and enrolling staff are:

(a) to engross or enroll any bill or resolution **delivered** to them within 48 hours after it has been **received**, unless further time is granted **in writing** by the presiding officer of the house in which the bill originated; and

(3) The engrossing and enrolling staff shall give notice **in writing** of the clerical correction to the Secretary of the Senate or the Chief Clerk of the House, who shall **give notice** to the sponsor of the bill or amendment. The **form** must be **filed** in the office of the amendments coordinator.

[define **in writing** to include paper or electronic messages]

[define **notice** or **give notice** to include paper messages or phone or electronic (email) or text notifications]

10-130. Bills -- sponsorship -- style -- format. (1) A bill must be sponsored by a member of the Legislature.

(2) A bill must be **formatted electronically and**:

(a) **may be printed on paper** with numbered lines;

(b) numbered at the foot of each page (except page 1);

(c) **if printed**, backed with a page of substantial material that includes spaces for notations for tracking the progress of the bill; and

(5) Introduced bills must be **posted online** and may be **reproduced** on **white paper** and **distributed** to members.

[define **distributed** to include links to the bill sent electronically to members]

(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 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.

A legislator **may indicate in person, via electronic message or phone communication, or on a cosponsor form to be added as a co-sponsor.**

10-140. Voting on bills -- constitutional amendments. (1) A bill may not become a law except by vote of the constitutionally required majority of all the members **present and voting** in each house

[define **present and voting** to include present, participating remotely]

10-150. Recording and publication of voting.

A copy of the minutes must be filed with the Montana Historical Society. If electronically recorded minutes are kept for a committee, a **written log** must also be kept that includes but is not limited to:

10-170. Journals -- authentication -- availability. (1) The journal of the Senate must be authenticated by the **signature** of the President and the journal of the House of Representatives must be authenticated by the **signature** of the Speaker.

30-50. Committee consideration of general appropriation bills. (3)(c) the chair is **present** for the vote at the time that a question is called. A vote may not be held open to facilitate voting by a chair.

[not needed? If present is defined (in part) as participating remotely, then perhaps this should be **present in the meeting**]

40-20. Appropriation bills -- introduction in House -- feed bill. (1) All appropriation bills must originate in the House of Representatives.

(2) Appropriation bills for the operation of the Legislature must be introduced by the chair of the House Appropriations Committee.

(3) The provisions of a bill that implements provisions of a general appropriation act must directly and substantively relate to a corresponding provision of the general appropriation act. When a bill that implements provisions of a general appropriation act is transmitted from the Senate to the House for concurrence, the House **may** refer the bill to the House Appropriations Committee for a joint meeting with the appropriate house standing committee for public review and consideration prior to action by the House Committee of the Whole on second reading.

40-40. Bill requests and introduction -- limits and procedures -- drafting priority -- agency and committee bills.

(c) After December 5, a member, in the member's discretion, may grant to any other member any of the remaining bill or resolution requests the granting member has not used. A bill requested by an individual may not be transferred to another legislator but may be introduced by another legislator. The requestor must **pick up** the bill and **sign** a receipt indicating delivery of the bill and may either introduce the bill or give the bill to another legislator for introduction.

(3) Bills and resolutions must be reviewed by the staff of the Legislative Services Division prior to introduction for proper format, style, and legal form. The staff of the Legislative Services Division shall store bills on the automated bill drafting equipment and shall **post them electronically** or **print** and **deliver** them to the requesting members. The original bill back must be **signed** to indicate review by the Legislative Services Division. A bill may not be introduced unless it is so **signed**.

(4) (a) During a session, a bill may be introduced by **endorsing** it with the name of a member and presenting it to the Chief Clerk of the House of Representatives or the Secretary of the Senate. Bills or joint resolutions may be sponsored jointly by Senate and House members. A jointly sponsored bill must be introduced in the house in which the member whose name **appears** first on the bill is a member. The chief joint sponsor's name must **appear** immediately to the right of the first sponsor's name, and the chief sponsor may not be changed. Except as provided in subsection (4)(b), in each session of

the Legislature, bills, joint resolutions, and simple resolutions must be numbered consecutively in separate series in the order of their receipt.

[define **endors-** and **appear**; restate to “**indicate**”]

- (5) (b)(ii) (ii) An official newly elected to a statewide office may request **in writing** that the Legislative Services Division remove the phrase "By Request of " from bills requested by the outgoing official of that office.

[define **in writing** to include on paper or by electronic means]

- (6) ... **Actual signatures and verified email addresses or electronic signatures** of persons entitled to serve as members in the ensuing session may be obtained on a **consent form** from the Legislative Services Division and the sponsor's name **printed or listed** on the bill. Additional sponsors may be added on motion of the chief sponsor at any time prior to a standing committee report on the bill. These names will be forwarded to the Legislative Services Division to be included on the face of the **printed bill or included on the electronic version of the bill** following standing committee approval

40-50. Schedules for drafting requests and bill introduction. (1) The following schedule must be followed for submission of drafting requests.

Request
Deadline
5:00 P.M.

Legislative
Day

- General Bills and Resolutions 12
- Revenue Bills 17
- Committee Bills and Resolutions 36
- Committee Revenue Bills and **Bills Proposing Referenda** **56**

[CHANGE deadline for bills proposing referenda; ref 2007 rules]

40-60. Joint resolutions. (1) A joint resolution must be adopted by both houses and is not approved by the Governor. It may be used to:

- (k) approve the organization of a new community college district under section 20-15-209, MCA.

[OUTLIER. Remove?]

40-100. Fiscal notes. (1) All bills reported out of a committee of the Legislature, including interim committees, having a potential effect on the revenues, expenditures, or fiscal liability of the state, local governments, or public schools, except appropriation measures carrying specific dollar amounts, must include a fiscal note incorporating an estimate of the fiscal effect. The Legislative Services Division staff shall **indicate** at the top of each bill prepared for introduction that a fiscal note may be necessary under

this rule. Fiscal notes must be requested by the presiding officer of either house, who, at the time of introduction or after adoption of substantive amendments to an introduced bill, shall determine the need for the note, based on the Legislative Services Division staff recommendation.

(2) The Legislative Services Division shall make available an electronic copy of any bill for which it has been determined a fiscal note may be necessary to the Budget Director immediately after the bill has been prepared for introduction and **delivered** to the requesting member.

[define **delivered** to include by electronic means]

(3) The Budget Director, in cooperation with the governmental entity or entities affected by the bill, is responsible for the preparation of the fiscal note. Except as provided in subsection (4), the Budget Director shall return the fiscal note within **6 days** unless further time is granted by the presiding officer or committee making the request, based upon a written statement from the Budget Director that additional time is necessary to properly prepare the note.

[define as 6 calendar **days**, not including Sunday? In which case it'd be fine to say 6 legislative days]

(4) ...at the time that the bill is **presented** for introduction...

[define **presented** to mean either in hard copy or electronically]

(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 acknowledgement**. 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 must be **posted online and may be reproduced** and placed on the members' desks, either with or without the chief sponsor's **signature acknowledgement**.

[define **acknowledgement** as a physical signature or verification by electronic means]

(9) The Budget Director shall prepare and deliver an amended fiscal note on an amended bill within **3 legislative days** of the request by the presiding officer; otherwise the bill may proceed without the updated fiscal note.

(11) If a bill requires a fiscal note, the bill may not be reported from a committee for second reading unless the bill is **accompanied** by the fiscal note.

[define **accompanied** or change to "...unless the bill is ~~accompanied by~~ **and** the fiscal note **are posted online**."]

40-110. Sponsor's fiscal note rebuttal. (1) If a sponsor elects to prepare a sponsor's fiscal note rebuttal, the sponsor shall make the election as provided and **return** the completed sponsor's fiscal note **rebuttal form**

[define **return** to include by electronic means]

(3) 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**. **The sponsor's rebuttal must be posted online with the bill materials.**

(4) The Legislative Services Division shall provide forms for preparation of sponsors' fiscal note rebuttals **and shall post online and may** print the completed sponsors' fiscal note rebuttal

forms on a different color paper than the fiscal notes prepared by the Budget Director.

~~40-120. Substitute bills. (1) A committee may recommend that every clause in a bill be changed and that entirely new material be substituted so long as the new material is relevant to the title and subject of the original bill. The substitute bill is considered an amendment and not a new bill.~~

~~(2) ——— The proper form of reporting a substitute bill by a committee is to propose amendments to strike out all of the material following the enacting clause, to substitute the new material, and to recommend any necessary changes in the title of the bill.~~

~~(3) ——— If a committee report is adopted that recommends a substitute for a bill originating in the other house, the substitute bill must be printed and reproduced:~~

[delete this rule. Sections 1 and 2 contradict one another: one says to respect the title and subject of the original bill, the next says to make changes in the title of the bill.]

40-140. Second reading -- bill reproduction. (1) If the majority of a house adopts a recommendation for the passage of a bill originating in that house after the bill has been returned from a committee with amendments, the bill must be **reproduced on yellow paper** with all amendments incorporated into the copies.

(2) If a bill has been returned from a committee without amendments, **an indication must be made online on the bill status page. If the bill is printed,** only the first sheet **must be reproduced on yellow paper**, and the remainder of the text may be incorporated by reference to the preceding version of the entire bill.

40-150. Engrossing. (1) When a bill has been reported favorably by Committee of the Whole of the house in which it originated and the report has been adopted, the bill must be engrossed if the bill is amended. Committee of the Whole amendments must be included in the engrossed bill. If the bill is not amended, **the bill status page must indicate so, and the bill may** be sent to **printing**. The bill must be placed on the calendar for third reading on the legislative day after receipt.

(2) **Copies** of the engrossed bill to be distributed to members **electronically or, if printed,** **are reproduced on blue paper**. If a bill is unamended by the Committee of the Whole and contains no clerical errors, it is not required to be **reposted or** reprinted. **If printed,** only the first sheet must be **reproduced on blue paper**, with the remainder of the text incorporated by reference to the preceding version of the entire bill.

(3) If a bill is amended by a standing committee in the second house, the amendments must be included **in a tan-colored bill and distributed** in the second house for second reading consideration. If the bill is amended in Committee of the Whole, the amendments must be included **in a salmon-colored reference bill and distributed** in the second house for third reading. If the bill passes on third reading, copies of the reference bill must be distributed in the original house. The original house may request from the second house a specified number of **copies** of the amendments to be printed.

40-160. Enrolling. (1) When a bill has passed both houses, it must be enrolled. **The bill must be enrolled, free from all errors, and posted online. If the bill is printed, an** original and two duplicate printed copies 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.

(2) When the enrolling is completed, the bill must be examined by the sponsor.

(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 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**,

[define **sign-** to include "**electronically signed**"]

(4)(c) **signed** by the presiding officers; and

(d) **delivered** to the Governor or, in the case of a bill proposing a referendum, to the Secretary of State, not later than 5 working days after the 90th legislative day.

(6) The original and two copies **signed** by the presiding officer of each house

(7) The original must be filed with the Secretary of State. **Signed copies** 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.

40-190. Transmittal of bills between houses -- referral -- hearing. (1) Each house shall transmit to the other with any bill all relevant papers. **Relevant papers must be posted online on the bill status page.**

(2) 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.

40-200. Transmittal deadlines -- two-thirds vote requirement. (1) (a) A bill or amendment transmitted after the deadline established in this subsection (1) may be considered by the receiving house only upon approval of two-thirds of its members present and voting. If the receiving house does not so vote, the bill or amendment must be held pending in the house to which it was transmitted.

(b) (i) A bill, except for an appropriation bill, a revenue bill, **a bill proposing a referendum**, an interim study resolution, or amendments considered by joint committee, must be transmitted from one house to the other on or before the **45th legislative day**.

(ii) Amendments, except to appropriation bills, committee bills implementing the general appropriations bill, the revenue estimating resolution, interim study resolutions, **bills proposing referenda**, and revenue bills, must be transmitted from one house to the other on or before the **73rd legislative day**.

(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 revenue bill is one that either increases or decreases revenue by enacting, eliminating, increasing, or decreasing taxes, fees, or fines.

(d) (i) Appropriation bills and any bill implementing provisions of a general appropriation bill must be transmitted to the Senate on or before the **67th legislative day**. A fund transfer within the state treasury is not an appropriation for purposes of this section.

(ii) Senate amendments to appropriation bills must be transmitted by the Senate to the House on or before the **80th legislative day**.

(2) (a) A joint resolution introduced pursuant to 5-5-227, MCA, for the purpose of estimating revenue available for appropriation by the Legislature must be transmitted to the Senate no later than the **60th legislative day**.

(b) Amendments to the revenue estimating resolution must be transmitted to the body in which the resolution was introduced no later than the **82nd legislative day**.

(3) Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules may be transmitted at any time during a session.

(4) Interim study resolutions must be transmitted from one house to the other on or before the **85th legislative day**.

[delete "bills proposing referenda" and "referendum" and change the deadline for referenda/m]
++ [change legislative days to dates? Or say after so many days in session?]

40-210. Governor's veto. (1) Except as provided in 40-65 and 40-180, each bill passed by the Legislature must be submitted to the Governor for the Governor's **signature**. This does not apply to:

(a) bills proposing amendments to The Constitution of the State of Montana;

(b) bills ratifying proposed amendments to the United States Constitution;

(c) resolutions; and

(d) referendum measures of the Legislature.

(2) If the Governor does not **sign** or veto the bill within 10 days

[define **sign** to include **electronic signature and electronically sign**]

40-220. Response to Governor's veto. (1) When the presiding officer receives a veto message, the presiding officer shall read it to the members over the rostrum. After the reading, a member may move that the Governor's veto be overridden.

(2) A vote on the motion is determined by roll call. If two-thirds of the members **present** vote "aye", the veto is overridden. If two-thirds of the members **present** do not vote "aye", the veto is sustained.

[define "present" and "present and voting"]

[define "return" a bill to include electronically return] ref: 40-230 gov's amds

Chapter 60

Rules

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 governing the legislative process are not binding on a subsequent legislature.

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