



**Montana Legislative Services Division**  
**Legal Services Office**

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March 21, 2011

TO: Senator Jim Peterson, President of the Senate  
Representative Mike Milburn, Speaker of the House

FR: Todd Everts, Chief Legal Counsel

RE: Request for Information Regarding the Veto Process with Respect to House Bill 2 and the Bills that Implement House Bill 2

At Legislative Leadership's request, this memorandum sets out the legal and procedural requirements with respect to the veto process as it relates to House Bill 2 and the bills that implement House Bill 2.

**I. WHAT ARE THE SCENARIOS FOR HOUSE BILL 2 BECOMING LAW?**

**(A) House Bill 2 becomes law during the legislative session under the following conditions:**

- (1) The Governor signs House Bill 2.
- (2) The Governor does not sign or veto House Bill 2 within 10 days after its delivery from the Legislature.
- (3) The Governor vetoes House Bill 2 in its entirety within 10 days after its delivery from the Legislature. The Governor returns House Bill 2 with a veto message to the House and 2/3 of members present in each chamber vote to override the veto.
- (4) The Governor line item vetoes House Bill 2 and signs House Bill 2 within 10 days after its delivery from the Legislature. The Governor returns a statement to the House of the items objected to and then 2/3 of members present in each chamber vote whether to override the line item veto or not. Note that regardless of whether the line item veto is sustained, House Bill 2 itself has been signed by the Governor and becomes law.
- (5) The Governor sends House Bill 2 back to the House with recommended amendments (amendatory veto) within 10 days after delivery from the Legislature:
  - (a) Both the House and the Senate accept the Governor's amendments on a majority vote and return the bill to the Governor for reconsideration and the Governor signs the amended bill.
  - (b) Both houses disapprove the Governor's amendments and return the bill to the Governor for reconsideration and the Governor signs the unamended bill.

(c) If one house approves the Governor's recommendations and the other house disapproves, then either house may request a conference committee, which may be a free conference committee.

(i) If both houses approve committee report, then House Bill 2, as amended by the conference committee in accordance with the report, is returned to the Governor for reconsideration and the Governor signs the bill with the report.

(ii) If the conference committee fails to reach agreement or if the report is not adopted by both houses, the Governor's recommendations are considered not approved and the bill is returned to the Governor for further consideration and the Governor signs the bill.

Note: the Governor may not return the bill for amendment a second time.

**(B) House Bill 2 becomes law when the Legislature is not in session under the following conditions:**

- (1) The Governor signs House Bill 2.
- (2) The Governor does not sign or veto House Bill 2 within 10 days after its delivery from the Legislature.
- (3) The Governor vetoes House Bill 2 in its entirety within 10 days after its delivery from the Legislature and Governor returns House Bill 2 to the Secretary of State.
  - (a) If House Bill 2 was approved by two-thirds of the members voting on the final vote on House Bill 2, the Secretary of State shall, within 5 working days of receipt of House Bill 2 and the veto message, send by certified mail to each legislator a copy of the House Bill 2 and the veto message, along with a ballot. Within 30 days from the date that the Secretary of State sent the package of materials to each legislator, the ballot must be returned. If two-thirds or more of the members of each house vote to override the veto, then House Bill 2 becomes law.
  - (b) If House Bill 2 was not approved by two-thirds of the members voting on the final vote on House Bill 2, the Secretary of State shall, within 5 working days of receipt of House Bill 2 and the veto message, mail a copy of the title of the bill and the veto message to each legislator. The legislature may reconvene in a special session to reconsider the veto of House Bill 2. If during the special session two-thirds or more of the members of each house vote to override the veto, then House Bill 2 becomes law.
- (4) The Governor line item vetoes House Bill 2 and signs House Bill 2 within 10 days after its delivery from the Legislature and the process for overriding the line item veto pursuant to subsection (B)(3) above occurs.

(C) **10-Day Timeline and Delivery of House Bill 2:** Pursuant to Article VI, section 10, of the Montana Constitution, if the Governor does not sign or veto House Bill 2 within 10 days after its delivery to the Governor from the Legislature, House Bill 2 becomes law. Set out below is my interpretation of what constitutes "10 days" and "delivery" of House Bill 2:

(1) *10-Day Time Period:* The "10 days" means 10 calendar days. The first day of delivery is excluded and the last day of the 10 days is included. The 10-day clock starts ticking at 12:00 a.m. the next day following the day of delivery of House Bill 2 by the Legislature to the Governor. The 10-day period ends on 10th day prior to 12:00 a.m. of the following day.

(2) *Delivery:*

(a) Delivery of House Bill 2 from the Legislature to the Governor: Delivery from the Legislature to the Governor is determined by the Secretary of the Senate or Chief Clerk's transfer of the bill to the Governor and the Governor's office signing a receipt of delivery (see Attachment B). Based on past practice and law, delivery requires a signed receipt. Therefore, delivering House Bill 2 to a closed Governor's office does not constitute delivery.

(b) Delivery of House Bill 2 from the Governor to the Legislature: Past practice has been that the Governor has delivered the bill with a veto message to the house from which the bill originated. The back of the bill is date stamped on the day that the Governor delivers the bill. Pursuant to 5-4-306, MCA, if the Governor wants to return a vetoed House Bill 2 to the House and the House has adjourned for the day, the Governor may deliver the bill with a message to the Speaker, the House Clerk, or any member of the House. The delivery is considered to be made as though House Bill 2 had been delivered when the House was in session if the Governor, on the first day the House is in session again, notifies the House of the delivery and the time the delivery was made and the person to whom it was delivered.

(C) **Contingent Voidness Warning:** Each of the above scenarios for House Bill 2 becoming law presupposes that there is not any contingent voidness language in any other bill that passes the Legislature and that is signed by the Governor that voids House Bill 2.

## II. **WHAT ARE THE GOVERNOR'S VETO OPTIONS REGARDING HOUSE BILL 2 AND WHAT IS THE LEGISLATURE'S LEGAL AND PROCEDURAL RESPONSE TO THOSE VETO OPTIONS IF THE LEGISLATURE IS STILL IN SESSION?**

The Governor has three veto options regarding House Bill 2: veto of the entire bill, line item veto parts of the bill, or make recommendations through an amendatory veto. Set out below is an explanation of each veto option and Legislature's legal and procedural response.

(A) **Veto of House Bill 2**

(1) *Explanation*: The Governor's veto of House Bill No. 2 constitutes the Governor returning the vetoed bill to the Legislature within 10 days after its delivery to the Governor from the Legislature with a statement of reasons for the veto.

(2) *Legislative Response to Veto of House Bill 2*:

(a) House Response: If the Governor returns House Bill 2 with a veto, the House shall announce the veto on Order of Business No. 5. On any legislative day, a Representative may move to override the Governor's veto by a two-thirds vote of the members present under Order of Business No. 9. A vote on the motion to override the Governor's line item veto is determined by a roll call vote. If two-thirds of the members present vote "aye", the veto is overridden in the House. If two-thirds of the members present do not vote "aye", the veto is sustained. A motion to override can be made on any legislative day, and there is no limitation on the number of times the motion can be made in the House.

(b) Senate Response: If the Governor returns House Bill 2 with a veto, the Senate shall announce the veto on Order of Business No. 4. On any legislative day, a Senator may move to override the Governor's veto by a two-thirds vote of the members present under Order of Business No. 6. A vote on the motion to override the Governor's veto is determined by a roll call vote. If two-thirds of the members present vote "aye", the veto is overridden in the Senate. If two-thirds of the members present do not vote "aye", the veto is sustained. A motion to override can be made on any legislative day, and there is no limitation on the number of times the motion can be made in the Senate.

(c) Veto Override: In order for the Legislature to override the Governor's veto of House Bill 2, two-thirds of the members present in each house must vote in favor of the motion to override. If the Legislature overrides the Governor's veto of House Bill 2, the bill and items associated with the bill are authenticated by certificate pursuant to 5-4-305, MCA, and returned to the Governor, who is then required to deliver it to the Secretary of State.

(d) Veto Sustained: If the Legislature is unable to override the veto by the required constitutional majority in each house, the Governor's veto of House Bill 2 is sustained. When the Legislature is in session, failure of the motion to override the Governor's veto of House Bill 2 has the net effect of leaving House Bill 2 in the possession of the Legislature. A motion to override House Bill 2 can be made by any Legislator in either house on any legislative day, and there is no limitation on the number of times the motion can be made during the session.

**(B) Line Item Veto of House Bill 2**

(1) *Explanation*:

(a) The Governor may veto distinct items of appropriation of money within House Bill 2, while approving other portions of House Bill 2. Specifically, the items in which the Governor may veto in House Bill 2 are:

(i) a specific appropriation contained in the bill;

(ii) a condition that limits the use to which an appropriation may be put but only if the appropriation to which it is attached is vetoed as well; and

(iii) a rider which is an unrelated substantive piece of legislation incorporated in House Bill 2 (i.e., a reporting requirement that imposes an additional substantive duty beyond the purpose of the appropriation).

(b) If the Governor disapproves an item in House Bill 2, the Governor is required to attach to House Bill 2, at the time of signing House Bill 2, a statement of the items the Governor objects to and the reasons for the objection. Based on prior sessions, the Governor takes a copy of House Bill 2 and, using red ink, manually strikes out the items that are vetoed and, as required, returns the bill along with a statement of his objections to the Secretary of State if the Legislature is not in session or to the House of Representatives where House Bill 2 originated from if the Legislature is in session (see attached example of 2007 House Bill 2 line item veto).

*(2) Legislative Response to a Line Item Veto of House Bill 2:*

(a) Legislative Treatment of Line Item Vetoes: Pursuant to the constitution and statutory law, the line items that the Governor objects to in House Bill 2 must be separately reconsidered by the Legislature in the same manner procedurally as if the Governor had vetoed House Bill 2 in its entirety.

(b) House Response: If the Governor returns House Bill 2 with a line item veto, the House shall announce the veto on Order of Business No. 5. On any legislative day, a Representative may move to override an individual item in House Bill 2 that has been line item vetoed by a two-thirds vote of the members present under Order of Business No. 9. A vote on the motion to override the Governor's line item veto is determined by a roll call vote. If two-thirds of the members present vote "aye", then the line item veto is overridden in the House. If two-thirds of the members present do not vote "aye", the line item veto is sustained. A motion to override can be made on any legislative day, and there is no limitation on the number of times the motion can be made in the House.

(c) Senate Response: If the Governor returns House Bill 2 with a veto, the Senate shall announce the veto on Order of Business No. 4. On any legislative day, a Senator may move to override an individual item in House Bill 2 that has been line item vetoed by a two-thirds vote of the members present under Order of Business No. 6. A vote on the motion to override the Governor's line item veto is determined by a roll call vote. If two-thirds of the members present vote "aye", the line item veto is overridden in the Senate. If two-thirds of the members present do not vote "aye", the line item veto is sustained. A motion to override can be made on any legislative day, and there is no limitation on the number of times the motion can be made in the Senate.

(d) Line Item Veto Override: In order for the Legislature to override an individual item in House Bill 2 that the Governor has line item vetoed, two-thirds of the members present in each house must vote in favor of the motion to override. If the Legislature overrides the line item veto in House Bill 2, the item associated with the bill that has been overridden is authenticated by certificate pursuant to 5-4-305, MCA, and is returned to

the Governor, who is then required to deliver it to the Secretary of State.

(e) Veto Sustained: If the Legislature is unable to override the line item veto by the required constitutional majority in each house, the Governor's line item veto of House Bill 2 is sustained. When the Legislature is in session, failure of the motion to override the Governor's line item veto in House Bill 2 has the net effect of leaving the individual item in House Bill 2 that the Governor has line item vetoed in the possession of the Legislature. A motion to override the line item veto in House Bill 2 can be made by any Legislator in either house on any legislative day, and there is no limitation on the number of times the motion can be made during the session.

**(C) Amendatory Veto of House Bill 2**

(1) *Explanation*: An amendatory veto constitutes the Governor sending House Bill 2 back to the House of Representatives with the recommended amendments within 10 days after delivery of House Bill 2 from the Legislature. An amendatory veto is merely the Governor's recommendation for amendments to House Bill 2.

(2) *Legislative Response to an Amendatory Veto of House Bill 2*:

(a) House Response: The Governor's recommendations for amendments to House Bill 2 must be first considered by the House because House Bill 2 originated in the House. When the Governor returns a bill with recommended amendments, the House shall announce the amendments under Order of Business No. 5. The House may debate and adopt or reject the Governor's recommended amendments on second reading on any legislative day. The House shall transmit to the Senate House Bill 2 and the House's approval or disapproval of the Governor's recommendations.

(b) Senate Response: When the Senate receives House Bill 2 with the Governor's recommendations for amendments and the House's approval or disapproval of the Governor's recommendations, the Senate shall announce the amendments and the House's action under Order of Business No. 4. The Senate may debate and adopt or reject the Governor's recommended amendments on second reading on any legislative day.

(c) Collective House/Senate Response:

(i) If both the House and Senate approve the Governor's recommendations to House Bill 2, the bill must be returned to the Governor for reconsideration. The Governor has 10 days after House Bill 2's delivery from the Legislature to either sign the bill, leave the bill unsigned, veto the entire bill, or line item veto the bill. The Governor may not return House Bill 2 to the Legislature a second time for amendment.

(ii) If both the House and Senate disapprove the Governor's recommendations to House Bill 2, the bill must be returned to the Governor for reconsideration. The Governor has 10 days after House Bill 2's delivery from the Legislature to either sign the bill, leave the bill unsigned, veto the entire bill, or line item veto the bill.

The Governor may not return House Bill 2 to the Legislature a second time for amendment.

(iii) If one house disapproves the Governor's recommendations and the other house approves, then either house may request a conference committee, which may be a free conference committee. If both houses adopt a House Bill 2 conference committee report, the bill along with the report must be returned to the Governor for reconsideration. If a conference committee fails to reach agreement or if its report is not adopted by both houses, the Governor's recommendations to House Bill 2 must be considered not approved and the bill must be returned to the Governor for further reconsideration. The Governor has 10 days after House Bill 2's delivery from the Legislature to either sign the bill, leave the bill unsigned, veto the entire bill, or line item veto the bill. The Governor may not return House Bill 2 to the Legislature a second time for amendment.

Note: If both the House and the Senate accept the Governor's recommended amendments on a bill that requires more than a majority vote for final passage, the House and Senate shall place the final form of the legislation on third reading to determine if the required vote is obtained.

### **III. WHAT ARE THE GOVERNOR'S OPTIONS REGARDING THE BILLS IMPLEMENTING HOUSE BILL 2 AND WHAT IS THE LEGISLATURE'S LEGAL AND PROCEDURAL RESPONSE TO THOSE OPTIONS IF THE LEGISLATURE IS STILL IN SESSION?**

The Governor's veto options with respect to the bills implementing House Bill 2 are the same options that are outlined above with respect to House Bill 2. From a coordination standpoint, it may make sense to have House Bill 2 and the bills implementing House Bill 2 delivered to the Governor at the same time on the same day so that all of the bills have the same 10-day time constraint and House Bill 2 and the bills implementing House Bill 2 can be treated as a package. However, the Governor has the flexibility to separately sign individual bills, amendatory veto or veto individual bills, and stagger the delivery of amended or vetoed bills back to the Legislature over that 10-day period.

It should be noted that if a specific appropriation in House Bill 2 is coordinated with the passage of a related implementation bill, then vetoing the related implementation bill would void the appropriation, leaving the specific program unfunded in House Bill 2. For illustrative purposes, a coordination provision could say that if HB 619 is not passed and approved, then the appropriation in House Bill 2 to the Department of Fish, Wildlife, and Parks (DFWP) of \$xxx for the purpose of requiring a forest management plan and sustained yield study is void. In the alternative, the coordination could say that if HB 619 is not passed and approved then the named appropriation in House Bill 2 is void, and \$XXX is appropriated to DFWP for the purpose of requiring a forest management plan and sustained yield study from the state general fund.

## **Attachment 1: Relevant Law and Legislative Rules:**

### **Constitution:**

**Article VI, Section 10. Veto power.** (1) Each bill passed by the legislature, except bills proposing amendments to the Montana constitution, bills ratifying proposed amendments to the United States constitution, resolutions, and initiative and referendum measures, shall be submitted to the governor for his signature. If he does not sign or veto the bill within 10 days after its delivery to him, it shall become law. The governor shall return a vetoed bill to the legislature with a statement of his reasons therefor.

(2) The governor may return any bill to the legislature with his recommendation for amendment. If the legislature passes the bill in accordance with the governor's recommendation, it shall again return the bill to the governor for his reconsideration. The governor shall not return a bill for amendment a second time.

(3) If after receipt of a veto message, two-thirds of the members of each house present approve the bill, it shall become law.

(4) (a) If the legislature is not in session when the governor vetoes a bill approved by two-thirds of the members present, he shall return the bill with his reasons therefor to the secretary of state. The secretary of state shall poll the members of the legislature by mail and shall send each member a copy of the governor's veto message. If two-thirds or more of the members of each house vote to override the veto, the bill shall become law.

(b) The legislature may reconvene as provided by law to reconsider any bill vetoed by the governor when the legislature is not in session.

(5) The governor may veto items in appropriation bills, and in such instances the procedure shall be the same as upon veto of an entire bill.

### **Statutory Law:**

**5-4-301. Bills received by governor -- how endorsed.** Each bill passed by the legislature, except bills proposing amendments to the Montana constitution, bills ratifying proposed amendments to the United States constitution, resolutions, and initiative and referendum measures, must be submitted to the governor for the governor's signature. Each bill must, as soon as it is delivered to the governor, be endorsed as follows: "This bill was received by the governor this .... day of ....., 20...". The endorsement must be signed by the governor or by an assistant authorized by the governor.

**5-4-302. Approval of bills.** When the governor approves a bill, the governor shall sign the bill with the date of approval and deposit the bill in the office of the secretary of state.

**5-4-303. Line item veto.** If a bill presented to the governor contains several distinct items of appropriation of money, the governor may disapprove one or more items while approving other portions of the bill. If an item is disapproved, the governor shall append to the bill, at the time of signing it, a statement of the items objected to and the reasons for the objection. The governor shall transmit to the house in which the bill originated, or to the



secretary of state if the legislature is not in session, a copy of the statement, and the items objected to must be separately reconsidered in the same manner as bills that have been disapproved by the governor.

**5-4-304. Amendatory veto.** The governor may return any bill to the originating house with the governor's recommendations for amendment. The originating house shall reconsider the bill under its rules relating to an amendment offered in committee of the whole. The bill is then subject to the following procedures:

(1) The originating house shall transmit to the second house, for consideration under its rules relating to amendments in committee of the whole, the bill and the originating house's approval or disapproval of the governor's recommendations.

(2) If both houses approve the governor's recommendations, the bill must be returned to the governor for reconsideration.

(3) If both houses disapprove the governor's recommendations, the bill must be returned to the governor for reconsideration.

(4) If one house disapproves the governor's recommendations and the other house approves, then either house may request a conference committee, which may be a free conference committee:

(a) If both houses adopt a conference committee report, the bill, in accordance with the report, must be returned to the governor for reconsideration.

(b) If a conference committee fails to reach agreement or if its report is not adopted by both houses, the governor's recommendations are considered not approved and the bill must be returned to the governor for further consideration.

(5) The governor may not return the bill for amendment a second time.

**5-4-305. Bills returned without approval.** (1) A bill or item or items of an appropriations bill become law whenever:

(a) the bill passes both houses of the legislature;

(b) the bill is returned by the governor without signature and with objections to the bill or, if it is a bill containing several items of appropriation of money, with objections to one or more items; and

(c) upon reconsideration the bill or item or items pass both houses by the constitutional majority.

(2) The bill or item or items must be authenticated by a certificate endorsed on or attached to the bill or the copy of the statement of objections. The form of the certificate must be: "This bill having been returned by the governor with objections and, after reconsideration, having passed both houses by the constitutional majority has become a law this .... day of ....., A.D. ...." or "The following items in the within statement (naming them) having, after reconsideration, passed both houses by the constitutional majority have become a law this .... day of ....., A.D. ....". The endorsement, signed by the president of the senate and the speaker of the house, is sufficient authentication of the bill or item or items.

(3) The authenticated bill or statement must be delivered to the governor, who shall deposit it with the laws in the office of the secretary of state.

**5-4-306. Return when legislature not in session.** (1) If, on the day the governor desires to return a bill without approval and with objections to the bill to the house in which it originated, that house has adjourned for the day, but not for the session, the governor may deliver the bill with the message to the presiding officer, secretary, clerk, or any member of that

house. The delivery is as effectual as though returned in open session if the governor, on the first day the house is again in session, by message, notifies it of the delivery and of the time when and the person to whom the delivery was made.

(2) If the legislature is not in session when the governor vetoes a bill, the governor shall return the bill with the reasons for the veto to the secretary of state. If the bill was not approved by two-thirds of the members voting on the final vote on the bill, the secretary of state shall within 5 working days of receipt of the bill and veto message mail a copy of the title of the bill and the veto message to each member of the legislature. If the bill was approved by two-thirds of the members voting on the final vote on the bill, the secretary of state shall poll the members of the legislature. The secretary of state shall within 5 working days of receipt of the bill and veto message send by certified mail to each legislator, at an address provided by the legislator, a copy of the bill and the veto message, a ballot, a return envelope, instructions for casting a vote, and notice of the date by which each legislator shall return a vote. The date for return must be within 30 days after the date on which the bill, veto message, and voting instructions are sent. A legislator may cast and return a vote by delivering the ballot and return envelope in person or by mailing the ballot in the return envelope by regular mail, postage paid, or by sending the ballot by facsimile transmission to the office of the secretary of state. A legislator may not change the legislator's vote after the ballot is received by the secretary of state. The secretary of state shall tally the votes within 1 working day after the date for return of the votes. If two-thirds or more of the members of each house vote to override the veto, the bill becomes law.

(3) The legislature may reconvene to reconsider any bill vetoed by the governor when the legislature is not in session by using the statutory procedure provided for convening in special session.

**5-4-307. Bills remaining with governor.** (1) A bill that has passed both houses of the legislature and has not been returned by the governor within 10 days after its delivery to the governor becomes law.

(2) The governor shall deliver the bill to the secretary of state and direct the secretary of state to authenticate it by a certificate endorsed on or attached to the bill. The form of the certificate must be: "This bill having remained with the governor 10 days, it has become a law this .... day of ....., ....". The certificate must be signed by the secretary of state and deposited with the laws in the secretary of state's office.

**5-4-308. Transmittal of veto messages to legislative services division.** The governor shall transmit one copy of each veto message to the legislative services division.

**1-1-306. Computation of time -- which days counted.** The time in which any act provided by law is to be done is computed by excluding the first day and including the last unless the last day is a holiday, and then it is also excluded.

#### **Joint Rules of the Legislature:**

**JR 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 after its delivery, the bill becomes law.
- (3) The Governor shall return a vetoed bill to the Legislature with a statement of reasons for the veto.
- (4) If after receipt of a veto message, two-thirds of the members of each house present approve the bill, it becomes law.
- (5) If the Legislature is not in session when the Governor vetoes a bill, the Governor shall return the bill with reasons for the veto to the Legislature as provided by law. The Legislature may be polled on a bill that it approved by two-thirds of the members present or it may be reconvened to reconsider any bill so vetoed (Montana Constitution, Art. VI, Sec. 10).
- (6) The Governor may veto items in appropriation bills, and in these instances the procedure must be the same as upon veto of an entire bill (Montana Constitution, Art. VI, Sec. 10).

**JR 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.

**JR 40-230. Governor's recommendations for amendment — procedure.** (1) The Governor may return any bill to the Legislature with recommendations for amendment. The Governor's recommendations for amendment must be considered first by the house in which the bill originated.

(2) If the Legislature passes the bill in accordance with the Governor's recommendations, it shall return the bill to the Governor for reconsideration. The Governor may not return a bill to the Legislature a second time for amendment.

(3) If the Governor returns a bill to the originating house with recommendations for amendment, the house shall reconsider the bill under its rules relating to amendments offered in Committee of the Whole.

(4) The bill then is subject to the following procedures:

- (a) The originating house shall transmit to the second house, for consideration under its rules relating to amendments in Committee of the Whole, the bill and the originating house's approval or disapproval of the Governor's recommendations.
- (b) If both houses approve the Governor's recommendations, the bill must be returned to the Governor for reconsideration.
- (c) If both houses disapprove the Governor's recommendations, the bill must be returned to the Governor for reconsideration.
- (d) If one house disapproves the Governor's recommendations and the other house approves, then either house may request a conference committee, which may be a free conference committee.
  - (i) If both houses adopt a conference committee report, the bill in accordance with the report must be returned to the Governor for reconsideration.
  - (ii) If a conference committee fails to reach agreement or if its report is not adopted by both houses, the Governor's recommendations must be considered not approved and the bill must

be returned to the Governor for further consideration.

**JR 40-180. Final action on a bill.** (1) When a bill being heard by the second house has received its third reading or has been rejected, the second house shall transmit it as soon as possible to the original house with notice of the second house's action.

(2) A bill that reduces revenue and that contains a contingent voidness provision may not be transmitted to the Governor unless there is an identified corresponding reduction in an appropriation contained in the general appropriations act.

**JR 40-65. Appropriation required for bills requesting interim studies.** A bill including a request for an interim study may not be transmitted to the Governor unless the bill contains an appropriation sufficient to conduct the study. A fiscal note may be requested for a bill requesting an interim study if the appropriation does not appear to be sufficient.

**JR 40-70. Bills with same purpose — vetoes.** (1) A bill may not be introduced or received in a house after that house, during that session, has finally rejected a bill designed to accomplish the same purpose, except with the approval of the Rules Committee of the house in which the bill is offered for introduction or reception.

(2) Failure to override a veto does not constitute final rejection.

#### **Senate Rules:**

**S50-240. Governor's amendments.** (1) When the Governor returns a bill with recommended amendments, the Senate shall announce the amendments under Order of Business No. 4.

(2) The Senate may debate and adopt or reject the Governor's recommended amendments on second reading on any legislative day.

(3) If both the Senate and the House of Representatives accept the Governor's recommended amendments on a bill that requires more than a majority vote for final passage, the Senate shall place the final form of the legislation on third reading to determine if the required vote is obtained.

**S50-250. Governor's veto.** (1) When the Governor returns a bill with a veto, the Senate shall announce the veto under Order of Business No. 4.

(2) On any legislative day, a Senator may move to override the Governor's veto by a two-thirds vote under Order of Business No. 6.

#### **Senate Rules Appendix A**

List of Questions Requiring Other Than a Majority Vote

The following questions require the vote specified:

(1) a call of the Senate with a quorum pursuant to S50-220(2) (five Senators);

(2) a motion to lift a call of the Senate pursuant to S50-220(4) (two-thirds of the members present);

(3) a motion to amend or suspend rules pursuant to S60-10 (two-thirds);

(4) a motion to override the Governor's veto pursuant to S50-250 and Article VI, section 10(3), of the

Montana Constitution (two-thirds);

## **House Rules:**

**H40-250. Governor's amendments.** (1) When the Governor returns a bill with recommended amendments, the House shall announce the amendments under Order of Business No. 5.

(2) The House may debate and adopt or reject the Governor's recommended amendments on second reading on any legislative day.

(3) If both the House and the Senate accept the Governor's recommended amendments on a bill that requires more than a majority vote for final passage, the House shall place the final form of the legislation on third reading to determine if the required vote is obtained.

**H40-260. Governor's veto.** (1) When the Governor returns a bill with a veto, the House shall announce the veto under Order of Business No. 5.

(2) On any legislative day, a representative may move to override the Governor's veto by a two-thirds vote under Order of Business No. 9.

**H50-160. Questions requiring other than a majority vote.** The following questions require the vote specified for each condition:

Members Present and Voting

(1) a motion to override the Governor's veto pursuant to H40-260 and Article VI, section 10(3), of the Montana Constitution (two-thirds);

## **Special Session Law:**

### **Constitution:**

**Section 6. Sessions.** The legislature shall meet each odd-numbered year in regular session of not more than 90 legislative days. Any legislature may increase the limit on the length of any subsequent session. The legislature may be convened in special sessions by the governor or at the written request of a majority of the members.

**Section 11. Special session.** Whenever the governor considers it in the public interest, he may convene the legislature.

### **Statutory Law:**

**5-3-101. Convening of special session -- limiting subjects -- committee meetings -- compensation.** (1) The legislature may be convened in special session by the governor or at the written request of a majority of the members. Subject to 5-5-227, the governor or the legislature may limit the special session to the subjects specified in the call.

(2) (a) A standing committee of the legislature may meet prior to a special session for the purpose of holding hearings and taking action on preintroduced legislation that has been referred to that committee.

(b) Public notice of a hearing to be held by a standing committee prior to a special session must be given at least 7 days before the hearing.

(3) Members of the legislature engaged in presession business for a special session are entitled to receive compensation and expenses as provided in 5-2-302. Members of the legislature are entitled to receive compensation and expenses, as provided in 5-2-301, for the day prior to the convening of a special session.

**5-3-102. Calling of a future special session when legislature is in session.** When the legislature is in session, a majority of the members may by a written request call a special session to meet at a specified time.

**5-3-105. Request by ten members to poll legislators.** (1) When the legislature is not in session, any 10 members may in writing request the secretary of state to poll the legislators to determine if a majority are in favor of a special session.

(2) The request must state:

(a) the conditions warranting the call of a special session;

(b) the purposes of the special session; and

(c) the proposed convening date and time of the special session.

5-3-106. Procedure for polling legislators. Within 5 days after receiving a request, the secretary of state shall send to all legislators by certified mail a ballot that contains:

(1) the names of the legislators making the request;

(2) the reasons for calling the special session;

(3) the purposes of the special session;

(4) the requested convening date and time of the special session;

(5) the date by which legislators shall return the ballot, which may not be more than 30 days after the date of the mailing of the ballots; and

(6) a stamped return envelope.

**5-3-107. Notice of time of approved special session.** If a majority of the legislators reply affirmatively to the poll, the secretary of state shall notify each legislator of the time and day on which the special session shall convene.

**5-3-108. Failure to approve special session -- ballots void.** If a majority of the legislators fail to approve the call for a special session within 30 days after the secretary of state mails the ballots or notifies each legislator, all ballots are void and may not be used again. The entire process must be repeated to call the legislature into special session.

**Attachment 2: Example of Bill Receipt from the Governor**

### **Attachment 3: 2007 Line Item Veto Example**

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