

Amendments to Senate Joint Resolution No. 1  
1st Reading Copy

Requested by Senator Jason Ellsworth

For the Senate Rules Committee

Prepared by Jaret Coles  
December 15, 2020 (4:24PM)

1. Page 1.

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**CHAPTER 1**

**COVID-19 Response**

**1-05. Definitions.** As used in these rules, the following definitions apply:

(1) "Member" means a member of the Senate or the House of Representatives for the 67th Legislature.

(2) "Participating remotely", "remotely present", or "participate remotely" means participating by telephone, teleconference, videoconference, or other means.

(3) "Present" means a member was either physically present and participating in the session or remotely present and participating in the session.

(4) "Session" means the 67th legislative session.

**1-10. Legislative Leadership COVID-19 Response Panel.** (1)

There is a Legislative Leadership COVID-19 Response Panel comprised of:

- (a) the Senate President;
- (b) the Senate President Pro Tempore;
- (c) the Senate Majority Leader;
- (d) the Senate Minority Leader;
- (e) the Speaker of the House;
- (f) the Speaker of the House Pro Tempore;
- (g) the House Majority Leader; and
- (h) the House Minority Leader.

(2) (a) The panel shall elect its presiding officer and vice presiding officer from among its members. A member of the panel votes individually and not by the house to which the panel member belongs.

(b) All meetings of the panel are open to the public to

the same extent as other legislative committee meetings, subject to the provisions of Joint Rule 1-20. The panel shall provide for and give public notice, reasonably calculated to give actual notice to interested persons, of the time, place, and subject matter of regular and special meetings. However, a meeting may be held upon notice appropriate to the circumstances.

(c) The panel may meet and conduct business from the start of the legislative session until adjournment sine die, regardless of whether a legislative day is scheduled.

(3) The purpose of the panel is to comply with constitutional requirements during a period of emergency regarding legislative business and public access while promoting and protecting the health and safety of legislative members, legislative staff, and other individuals involved in the legislative process. The panel is established to provide operating flexibility for the Legislature and quick responsiveness during the current COVID-19 public health emergency. In any significant panel action that impacts legislative business and public access, the panel will consider the Legislature's broad authority under the constitutional continuity of government provisions provided in Article III, section 2, of the Montana Constitution, the Legislature's inherent police powers during an emergency, the constitutional legislative rule provisions, and the Legislature's specific statutory authority. Subject to subsection (4), the panel may exercise authority over all aspects of legislative business that are impacted by the COVID-19 health emergency, including but not limited to public access as provided in Joint Rule 1-20 and a member's physical presence as provided in Joint Rule 1-30.

(4) All decisions of the panel are subject to the oversight of the Joint Rules Committee, and a motion to challenge a decision of the panel must be referred to the Joint Rules Committee. The panel may not exercise authority over a legislator's independent decision to receive COVID-19 testing or a COVID-19 vaccine.

(5) In order to adequately respond to an emergency, the decisions of the panel are effective immediately without adoption by the House of Representatives or the Senate.

**1-20. In-person public access -- right to participate and observe -- COVID-19 Response Panel.** (1) In order to promote and protect the health and safety of individuals involved in the legislative process and to minimize public health dangers resulting from the current COVID-19 public health emergency, the Legislative Leadership COVID-19 Response Panel shall determine the level of in-person public involvement in all matters of legislative business, including but not limited to public meetings, House and Senate floor and gallery access, and access

to legislative offices. The panel may adjust the level of in-person public involvement at any time based on a sliding scale approach that considers all of the relevant facts and circumstances, including the impact to the public, the legislative process, and the overall risk of becoming infected with COVID-19 in the Capitol.

(2) Subject to subsection (4), the approach may provide restricted in-person public involvement in the legislative process or closure of any areas of the Capitol to the public that are under control of the Legislature. Restrictions may include testing for COVID-19 symptoms, requiring electronic exhibits from members of the public, room capacity limitations, daily in-person attendance limits, advance in-person registration, room closures, directional traffic, and any other relevant social distancing measure that may limit the spread of COVID-19.

(3) (a) The approach must provide for the ability of a committee to receive oral testimony from members of the public through electronic means. The panel may require advance registration or impose other limitations, including time limitations. All members of the public, whether testifying in person or remotely, must be provided with equal time to testify. Advance registration requirements include but are not limited to:

(i) registering electronically as a proponent, opponent, or informational witness;

(ii) providing the address and location of the remote testimony and any relevant contact or technical information for conducting remote meetings; and

(iii) the senate district or house district number where the member of the public resides.

(b) A committee chair retains the right to limit testimony through electronic means, including deadlines for testimony requests and time allowed for public comment. Witnesses may be called to testify at any point during a bill hearing as determined by the chair, regardless of whether the witness is a proponent or an opponent.

(4) The approach must provide for the public's right to participate and right to know as required by Article II, sections 8 and 9, and Article V, section 10(3), of the Montana Constitution. The public has an absolute right to participate in the legislative committee process by submitting written testimony as a proponent or an opponent on any legislation through the Legislature's website. Written testimony submitted through the website will be included in the record for the committee considering the bill. The option to submit written testimony will be available beginning when a bill is scheduled for a hearing in a committee of reference and will last until

the committee hearing on the bill ends. A live broadcast must be streamed online for any legislative committee meeting.

**1-30. Legislator participation during session -- exclusion of members from physical participation by COVID-19 Response Panel.** In order to promote and protect the health and safety of individuals and legislative members involved in the legislative process and to minimize public health dangers resulting from the current COVID-19 public health emergency, the Legislative Leadership COVID-19 Response Panel shall determine when to limit or exclude other members from physical participation in the legislative session, and the level of physical participation of members in all committee meetings and floor sessions. The approach must be balanced by treating all members who have the same factual circumstances and potential exposure to COVID-19 in the same manner. The approach may provide for an excluded member to participate remotely as provided in Joint Rule 1-40.

**1-40. Members physically present or remotely present by electronic means.** (1) The Senate and the House may assemble, convene, and conduct the session with members being either physically present or participating remotely. A member is not permitted to participate remotely unless excluded from physical participation based on a decision of the Legislative Leadership COVID-19 Response Panel pursuant to Joint Rule 1-30 or through a decision of the member's caucus leader pursuant to Joint Rule 1-50.

(2) Subject to subsection (3), members who are permitted to participate remotely in the session:

(a) may vote on any question or other matter before the Senate or the House, including committees of the Senate or the House;

(b) have the same privileges, rights, and duties as if the member were physically present, including the right, privilege, and responsibility to cast votes on all questions or other matters brought to a vote;

(c) are considered to have immunity that prevents the member from being questioned in any other place for any speech or debate in the Legislature that happens by participating remotely, as guaranteed by Article V, section 8, of the Montana Constitution;

(d) are entitled to receive compensation for remotely participating in the same manner as a legislator member physically participating during the session; and

(e) are considered present and in attendance at the session for all purposes, including for purposes of:

(i) determining a quorum pursuant to Article V, section 10, of the Montana Constitution; and

(ii) being present for the passage of a bill pursuant to Article V, section 11, of the Montana Constitution.

(3) Members who vote remotely are required to use electronic authentication as determined by the Legislative Leadership COVID-19 Response Panel to prevent access to voting by anyone other than the member.

(4) The Legislative Services Division shall assist members who are participating remotely with any logistical or technical issues during the session.

**1-50. Participation during session -- permission granted by caucus leader for participating remotely.** (1) A member's caucus leader may allow the member to participate remotely as provided in Joint Rule 1-40 and to vote by proxy, except as provided in subsection (2).

(2) Voting by proxy in third reading may be authorized by a member's caucus leader only when a member is hospitalized. Proxy voting on third reading is discouraged unless a member is physically present and participating in the session or remotely present and participating in the session, because Article V, section 11, of the Montana Constitution requires a member to be "present and voting".

(3) For the purpose of this rule, the caucus leader:

(a) for the majority party in the House is the Speaker of the House, the Speaker Pro Tempore of the House, the House Majority Leader, or a Representative designated by a leader in this subsection (3) (a);

(b) for the minority party in the House is the House Minority Leader or a Representative designated by the House Minority Leader;

(c) for the majority party in the Senate is the Senate President, the Senate President Pro Tempore, the Senate Majority Leader, or a Senator designated by a leader in this subsection (3) (c); and

(d) for the minority party in the Senate is the Senate Minority Leader or a Senator designated by the Senate Minority Leader."

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