

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - 1st SPECIAL SESSION**

JOINT COMMITTEE ON RULES

Call to Order: By Senator Fred Van Valkenburg, on December 12, 1991, at 3:05 p.m.

ROLL CALL

Members Present:

Senator Fred Van Valkenburg (D), Chairman
Senator Joe Mazurek (D)
Senator Bruce Crippen (R)
Senator Paul Svrcek (D)
Representative Jerry Driscoll (D)
Representative Hal Harper (D)
Representative Larry Grinde (R)
Representative Mike Kadas (D)
Representative John Mercer (R)
Representative Bill Strizich (D)
Representative Chuck Swysgood (R)

Members Excused:

Senator Delwyn Gage (R), unable to attend
Senator Judy Jacobson (D), unable to attend
Senator Tom Keating (R)
Representative Dave Brown (D), unable to attend
Representative Paula Darko (D), unable to attend (attachment #1)
Representative Jim Rice (R), unable to attend
Representative Angela Russell (D), unable to attend

Staff Present: None.

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion:

Senator Van Valkenburg explained the purpose of the meeting was to adopt in concept rules for operation of the special session of the legislature called by Governor Stephens. The session will convene on January 6, 1992. He told the Committee that the Legislative Council staff prior to the meeting has distributed to members of the Rules Committee, memos from previous sessions dealing with rules, as well as copies of journal entries with respect to motions in that regard.

Senator Van Valkenburg asked Gregg Petesch to summarize materials distributed and the Legislature's past actions in adopting rules for special sessions.

Mr. Petesch told the committee the materials outline the Rules the Committee has not chosen to adopt for Special Sessions which deal with request and introduction deadlines, transmittals, and other matters which are not applicable during Special Sessions. He pointed out a change under the Miscellaneous Rules category which refers to Joint Rule 30-60 (2), the revenue estimating resolution rule. He explained there is no need to adopt this rule because of changes made during the last regular session.

Senator Van Valkenburg asked for proposals from the Committee with respect to adoption of rules for Special Sessions. He asked if there were any reason to deviate from what had been set out in the memo of Special Session Rules and Rule exceptions from June of 1989 with revisions in May of 1990. With no response to his question Senator Van Valkenburg told the Committee his intent was to prepare a motion to be made on the opening day of the Special Session which would adopt the Joint Rules of the 1991 Legislative Session with the exceptions set out in the memo and with the deletion of Rule 30-60 (2).

Representative Jerry Driscoll asked that a similar motion be prepared for the House as well.

Representative Hal Harper moved that the Joint Rules Committee recommend to the Legislature the adoption of the Joint Rules of the 1991 Legislative Session.

Senator Van Valkenburg asked Mr. Petesch if in the past the Legislature had set a deadline for bill drafting request or introduction of bills. Mr. Petesch explained this was not normally the case. In some instances there was a transmittal deadline. He told the Committee the requesting of bills has not had a deadline. He explained as concurrent sessions are called the rule changes constantly.

Discussion followed regarding deadlines for bill drafting requests or bill introductions. Representative Driscoll pointed out deadlines would require rules suspension or committee bills to obtain a draft request. He suggested leaving this open. Senator Joe Mazurek explained during the Special Session in June of 1986, there was a third legislative day deadline and one day after delivery of a bill. He cited an example if there were additions to the Call, or if there was a concurrent special session called by the Governor based on agreement or by petition that this does not run concurrently, there would be three days from that date.

Senator Van Valkenburg told the Committee he did not want to address particular deadlines until it is clear what is within the scope of this Legislative session, and to understand what recommendations the Governor will make with respect to the budget problems facing Montana.

Senator Mazurek explained a portion of the language of the Call was to make reductions in House Bill 2 or reductions in other appropriations and to consider legislation which would implement those reductions. He pointed out if legislation is needed to implement reductions introduced during the session, there will be a need to draft such legislation.

Representative Harper pointed out it seems there are provisions in the Call

which are extremely broad and could allow an unlimited number of bills to be introduced. He asked on what grounds can a bill draft be denied.

Senator Bruce Crippen said that the Rules Committee has been the governing body which decides whether a particular piece of legislation is within the Call. Senator Van Valkenburg pointed out that is only when the Legislative Council staff feels it is not within the Call. At that time the matter comes before the Rules Committee.

Senator Crippen explained that the attorney for the Legislative Council has indicated if it is his opinion a particular piece of legislation is within the Call, the Rules Committee has the authority to rule otherwise.

Representative John Mercer told the Committee he was interested in having deadlines. He responded to Representative Harper's concern of moving funds around. He explained a majority of the funds would be dealt with in House Bill 2. Reductions within that could be done so with an amendment. Something of statutory nature (diverting funds or taking funds) does not need to be addressed by the Committee until it becomes a problem.

Senator Van Valkenburg asked Representative Mercer if it was his position to not include a deadline for introduction for bills or bill drafting requests. Representative Mercer explained because the deadline would be after the session begins he did feel it was necessary to take the issue up at this meeting.

Representative Mike Kadas pointed out that the Legislative Council makes the decision with only an appeal bringing the issue back to the Rules Committee. He stated the Committee should make this clear to Mr. Petesch and the Council.

The Question was called. Representative Harper's motion CARRIED UNANIMOUSLY.

Senator Paul Svrcek asked for discussion pertaining to the Call. He pointed to the second provision in the Call which allows for legislation necessary to implement budget reductions. He asked whether or not a revision of the law which was struck down by Judge Sherlock would come under that provision.

Senator Van Valkenburg asked Mr. Petesch if such a bill would be construed to be within the Call. Mr. Petesch stated that bill request would not be included within the Call. He explained that the section Senator Svrcek cited gave the governor authority to reduce appropriations but had nothing to do with the implementation of such reductions.

Senator Mazurek told the Committee based on discussions between the leadership and the Governor's office he had the impression that if the Legislature feels this a desirable thing to try to do in the session and a consensus can be developed within the caucuses, he (Senator Mazurek) believes the Governor would expand the call to include such things.

Representative Driscoll moved that the Joint Rules Committee determine that a bill drafting request to amend the section of the law which was declared

unconstitutional to make it constitutionally operative is within the Call.

Representative Mercer told the Committee from conversations with the Governor's office, that specific question is not in the Call. He explained that the Governor does not feel it is appropriate for him to request delegated authority from the Legislative branch. He explained he believes the language in the Call could allow for this. He asked that they "not get side-tracked on that issue as a way of solving the problem".

Representative Harper pointed out the primary reason the Special Session is being called is because of the court case. He stated it is important the session address that. He said in his opinion it should be within the Call.

Senator Mazurek pointed out any Legislator could challenge whether the legislation was within the Call.

Representative Kadas stated if the motion passes and a bill draft request is made for a particular bill, it can be introduced and does not require review by the Rules Committee.

The Question was called. The motion CARRIED with Representative Swysgood and Representative Grinde voting NO.

Senator Mazurek asked for discussion regarding pre-session activity. He told the Committee that the Legislative Fiscal Analyst Terry Cohea was present to explain timelimes and other preparations she has been making.

Representative Swysgood asked for discussion about appropriation sub-committees and whether or not they should meet. He said going to the full Committee would save time.

Senator Van Valkenburg said he interpreted the Rules that such a decision should be made by the chair of the House Appropriation Committee and/or chair of the Senate Finance and Claims Committee, and is not within the scope of the Rules Committee to decide whether sub-committees would meet.

Senator Van Valkenburg introduced Representative Frances Bardanoue, Chair of the House Appropriations Committee and asked him to respond to the suggestions of Representative Swysgood. Representative Bardanoue told the Committee the magnitude of the problem has not "hit the people of Montana". He explained he "had some fear that the sub-committees might have a pride of authorship". During the last session in the appropriation process the House Appropriations Committee referred back to the sub-committees recommended cuts. The cuts which the sub-committees recommended were conservative.

Senator Van Valkenburg asked if it would make any difference if Representative Bardanoue had a better idea of what the Governor was proposing for reductions in the budget.

Representative Bardanoue told the Committee any additional information would help.

Representative Kadas told the Committee that the sub-committees know the

budgets and know the people who have established the budgets within the agencies.

Senator Van Valkenburg told the Committee this is a decision which has to be made by the chairman of the committee.

Senator Crippen asked how many days does leadership anticipate the Special Session will go and what is being budgeted.

Representative Harper told the Committee that the feed bill had not been drafted yet. He stated he anticipated it may be two weeks if the appropriate time was allowed for public response and there were no glitches and if nothing was attempted to be "steam-rolled".

Representative Bardanoue told the Committee he requested the feed bill be drafted. He asked for suggestions from the leadership.

Senator Crippen said Representative Bardanoue was in the position to know what recommendation to make.

Senator Mazurek suggested a twelve day session, plus pre-session expenses.

Senator Van Valkenburg said that is leadership's role to make recommendations and to attempt to limit the length of any special session.

Senator Crippen told the Committee a two-week session would be appropriate.

Senator Mazurek suggested the feed bill include funds for all Finance and Claims and House Appropriation Committee members and Revenue Oversight to be paid salary plus travel expenses for the days they are here prior to the session, as well as other members of the legislature who wish to attend sub-committee meetings. This would be room plus meals with one round trip from home.

Representative Thoft asked to address the Committee about the extra expenses which will be facing the Budget Office and the Legislative Fiscal Analyst. He asked that this be addressed in the feed bill.

Terry Cohea told that the Committee Senator Jacobson and Representative Bardanoue have asked the LFA to contact the committee chairs to work out a tentative schedule for three days of hearings. This would be half of Thursday, through Friday and Saturday. The LFA would work over Sunday to prepare a working document for House Appropriations to consider on Monday.

Senator Mazurek asked Ms. Cohea to explain the turn-around. She said that a budget analysis is being prepared which would bring the Legislature up-to-date since the Legislature adjourned. She told the Committee this analysis would be completed by December 17, 1991, at which time the LFA will receive the Executive budget. An analysis will be made of the Executive budget. A document will be ready on January 2, 1992. The LFA staff is prepared and the schedules are ready for those meetings. The sub-committee recommendations would be put in a worksheet form to go to the House Appropriation Committee. It will take two and one-half to three days after the House Appropriations Committee completes its action to enter all

the necessary data and to turn the bill around to get it to the Council. The printing is the most time consuming step. All of this assumes the legislature will waive the LFA actually making the changes between second and third reading.

Senator Van Valkenburg asked Mr. Bob Person of the Legislative Council how long it will take to print an appropriation's bill after action in Committee. Mr. Person told the Committee once the LFA's work is done it would be around twelve hours.

Senator Mazurek asked if there is work being done to prepare a bill request from the Governor.

Mr. Petesch told the Committee there is no formal request for that bill.

Senator Mazurek asked that this process be started as soon as possible.

Mr. Rick Bartos of the Governor's Office told the Committee "there is significant preliminary work being done on the bill". He explained it has not gotten to the point of actually getting a bill draft request in.

Senator Mazurek asked when this will be coming.

Mr. Curt Nichols said the bill draft will be marked up when the budget is complete on the 18th.

Representative Harper asked Mr. Nichols when will the Governor's proposal be complete and to the Legislators.

Mr. Nichols told the Committee it would be done on the 18th.

Representative Kadas asked if the whole package would be there or only the revisions to HB 2.

Mr. Bartos stated that substantial work will be done and there will be bills in print ready for legislative review in a packet being to sent to legislators prior to coming to Helena.

Representative Kadas asked if the budget office is going to present a new revenue estimate.

Mr. Bartos stated there were revenue estimate revisions.

Representative Harper asked if there would be a complete package with the Governor's complete proposal to the Legislature before the session actually begins.

Mr. Bartos told the Committee they did not know what would happen between now and the convening of the Legislature. He explained what is in the Call and what the Governor would like the Legislature to address will be in the Legislatures hands on the 18th of December.

Representative Harper asked what the Legislature is to expect from the Governor?

Mr. Bartos explained there will be recommendations made by the Governor for the consideration of the Legislature on all issues addressed in the Call. He explained that the Governor is looking to the Legislature for input.

Representative Mercer said that on December 18th the Governor's Budget Analysis book will come out and his complete proposals for balancing the budget will be presented to the Legislature. He explained there will not be a bill to amend the statute which was ruled unconstitutional.

Representative Kadas asked Mr. Bartos if the Legislature would get a whole balanced budget with an ending fund balance on the 18th. Mr. Bartos said that was correct.

Mr. Person told the Committee during the regular session the appropriation bills are an automated process. He explained once the Budget Office has things together it is a simple process to draft the introduced bill. But because of the nature of this special session there will have to be an amendment to House Bill 2. He explained that in order to simplify the Budget Office process he has agreed to receive a "marked up and hand written version". His office would have to go through the clerical process.

Representative Bardanoue asked if there would be anything on the Governor's agenda in regards to the court case.

Senator Van Valkenburg stated the Governor will not propose a bill which would address that particular problem. He explained the Rules Committee has interpreted the Call to include the possibility of such a bill.

Representative Mercer suggested leadership of both sides meet with the Chairman of the committees to discuss the procedures. He asked for an assurance that these committees be made aware that leadership would like to make themselves available for this purpose.

Representative Driscoll asked for the date of the next Joint Rules Committee meeting.

Senator Van Valkenburg told the Committee a meeting is anticipated to be called for January 3, 1992.

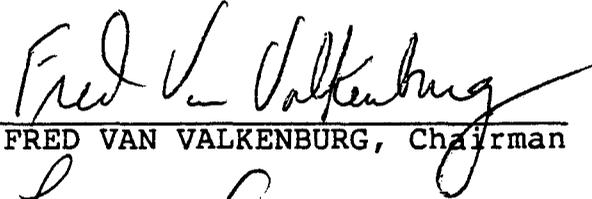
Senator Van Valkenburg announced there would not be a Senate Rules Committee meeting today as Senators Keating, Gage and Jacobson are not in attendance.

Senator Mazurek told the Committee there would be a skeleton staff with only leadership telephones.

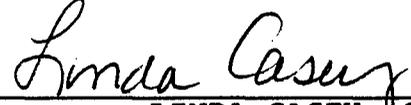
There being no further business a motion to adjourn was made by Representative Driscoll. Motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment At: 4:25 p.m.



FRED VAN VALKENBURG, Chairman



LINDA CASEY, Secretary

FV/11c



The Big Sky Country

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JUDICIARY
LOCAL GOVERNMENT
RULES

Dec 11, 1991

To Whom It May Concern:

Pressing personal matters make it impossible for me to attend the House-Senate Joint Rules Meeting on Dec. 12, 1991. I wish to be excused. Rep. Hal Harper or Rep. Jerry Driscoll have my proxy vote for any & all matters that they deem necessary.

Sincerely,

Rep. Paula A. Darko

*EXHIBIT #1
12/12/91
Joint Rules/11c*