

Chairman Brand called the meeting to order at 8:00 a.m.; Rep.'s Lien and Bardanouve were excused for other meetings; and Menahan and Ryan were absent.

Hargesheimer submitted his summary - see attachment #1.

SB 104-Sen. Hims1, sponsor--This results from a number of audit studies dealing with institutions. Payroll should be based upon actual payroll figures submitted after the payroll period, not estimated; and they must be submitted within 10 business days. Now, people are paid partially on an estimated basis. There's no audit trail to follow due to the ongoing estimation. 10 days is the same as required by public business. If you used calendar days it would include Sundays and holidays; and if you use business days it doesn't require any overtime.

BRAND-Page 2, lines 4 and 5 - you put in "all payroll systems", why? MORRIS BURSETT, Legislative Auditor-Because all systems are not on the "central payroll system".

SB 38-Sen. Murphy, sponsor--This accepts the retrocession of jurisdiction over the lands of the Big Horn Battlefield. This was brought to my attention by the superintendant of Yellowstone Park. Montana has no legal jurisdiction there because it is a national monument. The only people with any authority are park rangers, and the police can't go in there and arrest anyone - so kids in Dillon can go in there and have a pot party and nobody can do anything. With this bill, both state and local enforcement officers can go in. I urge your favorable consideration.

SB 51-Sen. Story, sponsor--This is a simple little bill - each of the portions in the Constitution that require 2/3 vote will now say 2/3 of each house. This restores the two house set-up. Most important, veto votes require 2/3 "present" - there could be a very important bill vetoed someday, and may come down to a question of who was present - someone who wasn't there for roll call, but voted; or someone who would answer roll call and then not vote. If you don't want to go to 2/3 of the body, you should at least say 2/3 present and voting.

FEDA-If we do amend it back, will the Senate accept it? STORY-I hope. I have no objection to changing it back to "present and voting"

SB 120-Sen. Story, sponsor--This gives a machanism for objections to administrative rules. I don't anticipate that this would be used very often. With this, 10 members can question a rule, and it doesn't require registered mail. Within 10 days, the number of responses determines whether any action will be taken. It is conceivable that we have a few cranks in the body, but when you get 10 legislators, usually they aren't all crazy. I have spent a number of years looking at administrative rule making, and this puts a handle on the process. While we are in session, we have good procedures for changing rules. There are also court opinions that require us to tighten up our procedures. Anytime we change rules, the court says we have to be tighter. We don't need rules to be arbitrary. I don't expect this to be used very much. (He submitted written testimony - see attachment #2)

ROD GIDGET, Montana State Pharmaceutical Association, and Montana Nursing Homes--With the rate at which rules and regulations are made, we need to be more concerned about the rule makers than the legislators. They are in a position where there are no checks. Having been in the position of being a rule maker before, it is a powerful position. The two associations I represent are very strongly in favor of this bill since it proposes a check on such procedures.

## OPPONENTS

ROBERT LOHN, Governor's Staff Attorney--The more I listen to Senator Story, the more I am persuaded of the genuine concern he is showing by this bill. I am examining this bill with the Administrative Procedures Committee; but we haven't finished. This bill seems to be the most tactful. There are problems: (1) should the legislature act as any other than a full body? (2) all of the checks and balances go back and forth, so you get a lot of input. Each of the bills that move the legislature into interim exercise removes the option for informed decision making and removes the option to act as a group. This allows you to act as individuals, so should you pass it? (3) when the mail ballot goes out, each side should have the right to state its case. (4) the bill needs more clarity on what happens to a rule. What does the repealer do? We want some provision for the agency to propose another option when such rule is needed immediately. The repealer currently extends the effective date until the following legislature - emergency rules would be immediately deemed void. (5) the best way for you to get a handle on it? I praise the annual sessions bills - your presence as a body makes it easier.

STORY-I kind of agree that it would be better to have the full body here, but that is impractical if just someone down in Anaconda got in trouble. This puts some of the agencies on speaking terms with legislators. It would be alright to put statements from both sides on the communique'.

KROPP-This using first-class mail - you don't think it should be registered? STORY-If a legislator is really conscientious, he will have a place to forward his mail. Senator Jergeson has a bill in that allows us to review all of the rules. This only allows us to question peculiar ones. So, when something is in question, it is suspended until the last day of the next session. LOHN-First-class mail is now OK with the courts. STORY-First-class saves a lot of money - registered mail is quite expensive. Since the last session, there were three controversial rules and once the code committee got on them, they were rescinded. TURNER-Do you want to suspend the law, or do you want to let the agency take another stab? LOHN-All of the agencies I deal with are concerned about their relations with you, and are very careful not to offend the legislature. Where you object, they would do what they could. BRAND-If you saw problems arise, you would go to the Interim Code Committee, and the the agency. Do you really think all legislators would do that? Why didn't you implement this? If 10 people decide to do something, they could do it. This could lead to problems. STORY-There are 31 occupational licensing divisions, and a lot of them are proposing rules that smack of restraint rather than consumer protection. Still, there are some arbitrary and complex rules. This bill looks to the time when there are people who are less likely to get along. BRAND-Do you think this type of legislation is better than Interim Code Committees? STORY-I think they all should pass, because they all address different things. I think we need them all. MULAR-Would you object to our establishing rules? STORY-No, not at all.

Brand suggested that the committee wait on Executive action until amendments could be worked out.

SB 38-Turner moved that the bill BE CONCURRED IN, which carried unanimously. Turner will carry on the floor.

MEETING ADJOURNED - 9:15 a.m.

Joe Brand, Chairman

*Anita C. Sierke*  
Anita C. Sierke, Secretary