

MINUTES

MONTANA SENATE 53rd LEGISLATURE - SPECIAL SESSION

JOINT COMMITTEE ON RULES

Call to Order: By Senator Greg Jergeson, on December 2, 1993, at 3:10 p.m. in Room 413-415.

ROLL CALL

Senate Members Present:

Sen. Greg Jergeson, Chair (D)
Sen. Fred Van Valkenburg, Vice Chair (D)
Sen. Bruce Crippen (R)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. John Harp (R)
Sen. Judy Jacobson (D)
Sen. J.D. Lynch (D)

House Members Present:

Rep. Larry Grinde, Chair (R)
Rep. Jim Rice, Vice Chair (R)
Rep. Jerry Driscoll (D)
Rep. Mike Foster (R)
Rep. Bob Gilbert (R)
Rep. Marian Hanson (R)
Rep. Harriet Hayne (R)
Rep. John Mercer (R)
Rep. Ted Schye (D)
Rep. Bill Strizich (D)

Members Excused: Rep. Mike Kadas (D) and Rep. Hal Harper (D)

Staff Present: Lynn Staley, Committee Secretary

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

Committee Business Summary:

Senator Jergeson said the purpose of the meeting is to review some of the bills Mr. Petesch has made a determination that are without the call of the governor and to take any appeals that might exist of his ruling. He said at the last meeting we did this, Mr. Petesch briefly ran through the bills on the list and we asked any Legislator who wished to appeal his ruling to step forward. If no one appealed, the recommendation of Mr. Petesch was accepted. He then asked Mr. Petesch to run through the list of bills for this meeting.

Senator Lynch asked to make it clear that in the event they were ruled out of order, that does not preclude the petition route.

Senator Jergeson said that was correct, any bill that is ruled to not be within the governor's call still has available to it, at the sponsor's discretion, the effort to circulate a petition to expand the call to include that bill.

Mr. Petesch said the bills he has determined currently to not be within the call are nine bills and he would briefly go through the list as they are listed in Exhibit 1.

Senator Jergeson said the first one would be a request by Rep. Cocchiarella.

Rep. Cocchiarella, House District 59, said she believes it fits in the call because it deals with operational issues. It would allow local contractors to be in the bidding process and she believes outsiders have unfairly taken advantage of the system. It will not cost anything but it should raise revenue for the state fund.

Senator Lynch said it is not the validity of the bill or the great necessity of the bill, but how does it fall within the specific calls the governor issued. He said he fails to see how this request does.

Rep. Cocchiarella said she is asking to stretch the call in the sense it is under operational issues and she believes it fits under operations aspect of number 1 of the call.

Motion: Rep. Jerry Driscoll moved to accept the bill draft request as within the call.

Vote: The request failed by a roll call vote of House Rules members. Senator Jergeson said even if the Senate Rules members were to agree it were within the call, the motion would fail. The ruling of Mr. Petesch is upheld.

Senator Jergeson said the second was a bill drafting request by Sen. Halligan. Since no one was present to appeal, Mr. Petesch's ruling is upheld.

Senator Jergeson said the next were two bill drafting requests by Sen. Tveit.

Senator Tveit said in dealing with residential property taxes for which the governor has a bill, there is a real concern in the area of commercial property taxes also. He said he put the 2 bills in which not only could be a cost savings, but with the repeal of the personal property tax we can get rid of 150 to 175 FTE in the area of deputy assessors and appraisers. He thinks there is a concern in the area of personal property taxes and something should be done.

Rep. Gilbert said this is an area where we are stretching but we need to point out that anything above a duplex is considered commercial property although people live in them. They would be affected by the property tax increases, so we do have commercial property that really isn't commercial in the aspect people do live in them, they are not a business building.

Mr. Petesch said the requests deal with personal property. The call addresses home and land owners whose property values have suddenly increased. Personal property does not include home or land.

Motion: Senator Crippen moved to allow the requests in the call. He said he does this in light of what occurred in the last Rules meeting where we seemed to have stretched it a great deal. He was surprised at what we just did on the first two requests as it appears a precedent was set in the last meeting that we would allow others within the call. He thinks we should be consistent in what we are doing. He feels we should have been very strict during the first meeting, and that is the role of this committee. He thinks Mr. Petesch understands that sometimes we feel that the legislature has the responsibility to listen to bills when we are legally in session.

Senator Jergeson asked if there was any discussion on the motion.

Senator Jergeson said in the other issues where the "broadening" occurred dealt with the first issue in the governors call. It is balancing the budget and operational issues and that is one of the most broadly based portions of the governors call, open to a great deal of interpretation. The portion of his call that deals with property tax is very limited as is the portion of his call that deals with the oil and gas incentive program. Those particular call items are fairly well limited. It is only the first one that is very broad in its scope and is the one that is subject to interpretation. He said it is his opinion that since these 2 bills are clearly property tax issues they would have to be judged under the restrictions of the second item in the Governor's call. He said since these bill draft requests were by a member of the Senate, they would have a roll of the Senate first.

Vote: The motion failed on a roll call vote of the Senate Rules committee.

Senator Jergeson said they would next discuss Rep. McCaffree's two requests. Senator Jergeson said both he and Rep. Grinde were contacted prior to the meeting and that Rep. McCaffree is unavoidably out of town due to a death in the family and that Senator Jergeson had agreed that Gordon Morris could speak to the appeal.

Gordon Morris, Director, said it is their opinion that increasing from two hundred to five hundred the number of voters required

for the polls to be open from 7 a.m. to 8 p.m. could affect the state. In 1993 there were elections that were paid for by the state relative to the property tax and the sales tax proposal. He said if we had to vote in June 1994 that would be a state responsibility and he would estimate that the state would save \$25,000 simply by virtue of allowing the opportunity to adjust the poll places and the hours they would be open. The other request would provide county commissioners discretion for keeping the county courthouse offices open. That directly affects the state and he would ask the committee's consideration.

Senator Jergeson asked for discussion by the committee.

Motion: Senator Jacobson moved these two bills are within the call. She said we are trying hard not to affect county government in the budget cutting measure and these are things that the county can use for some flexibility. She does think they fall within the broad general call.

Vote: The motion failed on a tie vote of House Rules members.

Senator Jergeson said the next bill request is by Rep. Clark to urge Canadian restrictions on truck tractor length, and asked if anyone wished to appeal.

Rep. Clark, Chairman of the House Highway Committee, said the Canadian government has some restrictions that beginning January 1 will put a bind on a lot of truckers in this country. They will not be allowed to run some of the newer trucks into Canada. The law was passed in Canada in about 1988 or 1989 and it restricts the length of the tractor units. Some of the new semi's in Montana are extended frames that are safer and more comfortable for the driver. When they go in to Canada after January first, they will not be able to tow a 48 foot trailer. They would have to carry smaller loads or they are going to have to buy new tractors or new trailers. The trucking industry is getting no cooperation with the Canadian officials whatsoever. He is hoping Gov. Racicot could write a letter requesting they cooperate with the truckers.

Senator Jergeson said we are not here to have a hearing on the merits of the resolution, we are trying to determine whether it is within the governor's call. He asked Rep. Clark how the resolution fits within the call.

Rep. Clark said he does not know if it does fit the call, but it is an economic standpoint with the trucking industry and what they bring into the state in economy.

Senator Jergeson asked for discussion by the committee.

Senator Gage said we still have a Montana - Alberta Canadian Boundary Organization that is going to be meeting in January in Lethbridge. He said they are trying to get 3 or 4 people to fund

their own way to go up and meet with the Canadians on this. He thinks it may be more beneficial than a resolution.

Motion: Senator Harp moved to rule that this resolution is within the call of the special session.

Vote: The motion failed on a voice vote with Senators Harp and Crippen voting yes.

Senator Jergeson said the next issue is a request by Senator Brown relating to bank loan limit restrictions on bank directors and asked if there was an appeal.

Senator Brown said in the last session, HB 201, that dealt with recodifying some of the banking laws had some kind of a drafting error in it that limits banks to two and one-half percent of the capital reserves in terms of making loans to the bank directors. He said this has created some real problems for rural banks especially in eastern Montana. It was the feeling of the banking industry that perhaps we could correct this problem during the special legislative session. He said he realizes the petition option is available.

Senator Jergeson said at the previous meeting he suggested that what the Rules Committee did may set a precedent, but precedents may be broken.

Motion: Senator Crippen moved it be included within the call and said we do have precedence for this and that it has been done before with this type of bill where there was obviously a drafting error or an error of some type, even if it is clearly outside the call. He said this type of legislation is not controversial and would not take a lot of time.

Senator Van Valkenburg said in previous special sessions of the legislature the Joint Rules Committee has also been a forum in which issues that were outside the scope of the call could be discussed and then there might be a potential for a motion and agreement to either go directly to the governor and ask the governor to expand the scope of the call to include that particular item or to go to caucuses and see if caucuses would support the expansion of the call to include that particular item. He thinks the principal jurisdiction ability of this committee to operate is to say whether a proposed drafting request is within the call, but in some previous special sessions we have also used the Joint Rules Committee for those other purposes.

Senator Lynch said he has looked at the bill and it is an easy bill, and he would sign the petition if that is the way it goes. He has a difficult time saying this one doesn't need a lot of work, and at the same time turn down some that are close to the call. He doesn't know how it has been done in the past, but it would seem to him some have been turned down that were marginal

at best, and this one isn't even marginal by the sponsor's own admission. He said in good conscience he could not say if he would vote for this one or not.

Rep. Gilbert said it would appear there are two viable methods of expanding the call. Number one being the petition route and number two being talking to the governor and asking him to expand the call. It appears we need to decide if a project is within the call and if it isn't, the petitioner could certainly go ahead and circulate their petition or ask the governor to expand. He does not believe the Rules Committee should take it upon themselves to expand the call.

Rep. Driscoll said they could also make a motion on Motions on the Floor to expand the call. That has been done in the past.

Senator Jergeson said he thinks it is our responsibility to determine whether or not the bill draft request on appeal is within the call. Obviously, looking at the call and the broadness of the first item within the governor's call there has been some license taken about how you describe whether or not a bill is either having to do with balancing the budget or having to do with the operational issues of how state government is managed.

Vote: The motion by Senator Crippen to rule that this bill draft request by Senator Brown is within the call FAILED on a voice vote.

Senator Jergeson said it is our responsibility to recommend what the rules are to the legislature and to act on appeals of our rules and act on appeals of Mr. Petesch's rules on the call.

Senator Jergeson said the final item is a request by Senator Van Valkenburg.

Senator Van Valkenburg said the bill draft request he submitted would cause a bill to be drafted which would move the election on the referendum on HB 671 from the November 1994 general election to the June 1994 primary election. He believes it is within the scope of the call because the call calls for legislation to balance the state's budget in issue No. 1 and in issue No. 8 legislation for the purpose of implementing matters listed in Nos. 1 - 7 above, including amendments, repealers or new sections to existing statutes or new acts. Clearly HB 671 was legislation to balance the state budget. It is now set for election in November 1994. This would amend that, and therefore it falls within the call in issues No. 8 and 1.

Motion: Rep. Mercer moved that Senator Van Valkenburg's request is within the call.

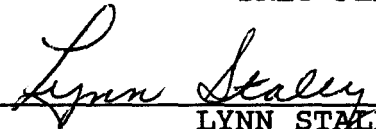
Vote: The motion carried with Rep. Gilbert and Rep. Hayne voting no.

ADJOURNMENT

Adjournment: The meeting adjourned at 3:45 p.m.



GREG JERGESON, Chair



LYNN STALEY, Secretary

GJ/lis

ROLL CALL

SENATE COMMITTEE RULES

DATE 12/2/93

[illegible]

FC8

Attach to each day's minutes

ROLL CALL

COMMITTEE

HOUSE RULES

DATE _____

12/21/93

[illegible]

FC8

Attach to each day's minutes

House
ROLL CALL VOTE (1)

HOUSE COMMITTEE Rules BILL NO. _____

DATE 12/2/93 TIME _____ A.M. P.M.

NAME	YES	NO
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[illegible]

Lynn Staley

SECRETARY

CHAIR

MOTION: Rep. Driscoll moved to accept Rep. Cocchiarella bill draft request as written
Gubernatorial call

En ci

ROLL CALL VOTE

SENATE COMMITTEE _____ RULES _____ BILL NO. _____

DATE 12/2/93 TIME _____ A.M. P.M.

NAME	YES	NO
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[illegible]

Lynn Stally
SECRETARY

CHAIR

MOTION: Sen. Chipper moved to accept Sen.

Twit bill draft requests as within

Eng. Lawrence call. to Filed

ROLL CALL VOTE

House
COMMITTEE

Rules

BILL NO. _____

DATE 12/2/93 TIME _____ A.M. P.M.

NAME _____

YES NO

NO

[illegible]

Lynn Staley
SECRETARY

SECRETARY

CHAIR

MOTION: Sen. Jacobson moved to accept
Rep. McCaffrey's two bill draft requests
within Governor's call.

Ena

Exhibit 1
12-2-93

BILLS NOT WITHIN CALL

Require proof of work comp and U.I. coverage to obtain building permit	Cocchiarella
Resolution to maintain integrity of SB 285	Halligan
Reduce personal property tax rate to 4.5%	Tveit
Repeal personal property tax	Tveit
County discretion for hours offices open	McCaffree
Revise hours for certain polling places	McCaffree
Urge Canadian restrictions on truck tractor length	Clark
Revise bank loan limit restrictions to directors	Brown
Special election on I.R. 112	Van Valkenburg