

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON SENATE JOINT RULES

Call to Order: By CHAIRMAN JOHN G. HARP, on January 13, 1997, at
7:00 A.M., in Room 325

ROLL CALL

Members Present:

Sen. John G. Harp, Chairman (R)
Sen. Gary C. Aklestad, Vice Chairman (R)
Sen. Bruce D. Crippen (R)
Sen. Eve Franklin (D)
Sen. Mike Foster (R)
Sen. Lorents Grosfield (R)
Sen. Mike Halligan (D)
Sen. Charles "Chuck" Swysgood (R)

Rep. John Mercer (R)
Rep. Larry Grinde (R)
Rep. Marian Hanson (R)
Rep. Shiell Anderson (R)
Rep. Ernest Bergsagel (R)
Rep. Sonny Hanson (R)
Rep. Karl Ohs (R)
Rep. Harriet Hayne (R)
Rep. Vicki Cocchiarella
Rep. Dan Harrington (D)
Rep. Joe Quilici (D)
Rep. Bob Ream (D)

Members Excused: Senator Tom Beck, Senator Fred Van Valkenburg,
Representative Scott Orr, and Representative Tim Dowell

Members Absent: None

Staff Present: Greg Petesch, Legislative Services Division
Fredella D. Haab, Committee Secretary

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

Committee Business Summary: This meeting was to set the Senate
Joint Rules for the 55th Legislative Session.

CHAIRMAN JOHN HARP asked Greg Petesch if there were amendments to
be offered.

Greg Petesch, Code Commissioner, Legislative Services Division, stated there were three sets of amendments on the Joint Rules Committee. The first set of amendments clarify the pre-introduction requirements that you have adopted for agency and certain committee bills. The first amendment clarifies that the committee that have to be pre-introduced are statutory committees, such as Legislative Council, Legislative Finance, Legislative Audit, Revenue Oversight, and then Interim Committee bills. We would be exempting standing committees because it is obvious that standing committee bills which are requested up until the 30th legislative day can't be pre-introduced. We clarify what pre-introduction is by adding a paragraph that says when it must occur. That will be set in the rules so that agencies can't try to negotiate later dates for pre-introduction. This would require pre-introduction to occur by 5:00 p.m. on the 5th working day prior to the convening of a session. It states clearly that pre-introduction is accomplished when the signed pre-introduction form is received by the Legislative Services Division. This will clarify the committee bills that are subject to introduction and will have an explicit statement in the Rules what pre-introduction actually is.

SPEAKER JOHN MERCER asked if the reason for that was that, it is the last date which you can have it ready?

Greg Petesch stated that date was chosen because whenever a deadline is set and you get all the requests or forms, this will allow us to assemble and get the printing finished prior to the session convening.

SENATOR LORENTS GROSFIELD asked about pre-signed forms and faxes.

Greg Petesch said they accepted them this time and as long as the fax is signed, we accept that.

CHAIRMAN HARP asked if there was any further discussion on the amendment.

SENATOR MIKE HALLIGAN asked about his EQC and Juvenile Justice which were statutory committees,

Greg Petesch said his was an Interim and **SENATOR HALLIGAN'S** was statutory.

Motion/Vote: **SENATOR SWYSGOOD** MOVED THE FIRST AMENDMENT AND IT PASSED UNANIMOUSLY.

Greg Petesch said the second amendment was requested by **SENATOR HALLIGAN**.

SENATOR HALLIGAN thought the contingent voidance issue was something he absolutely hated. He didn't care if it were Republican or Democrat. If you like the bills that are coming in, you have to kill them. We had to do that under other

administrations and we didn't necessarily agree with what the Governor was doing or what our members were doing. I am not trying to play games with it and I am just trying to get one last shot at it. I think it is encouraging that people just go ahead and submit it anyway, so what? We all get to vote for it and we all get to go home. Now that may be wise but I just think it is something that we can agree on if a bill is bad public policy then we ought to kill it. So, just remove contingent avoidance from the Rules

Motion: SENATOR HALLIGAN MOVED HIS AMENDMENT ON CONTINGENT VOIDANCE.

SENATOR BRUCE CRIPPEN asked if the Chair would enlighten the committee as exactly where the contingent avoidance clause is and where it is applied.

CHAIRMAN HARP stated it was dealing with budget issues where you are going to include something in the appropriation process, you have to specify where that is coming from - the spending side. What we were trying to do two years ago is make sure there was accountability if there were new ideas beyond what the current level of spending occurred. The proposal would bring it to the floor and the committee and without that the contingent avoidance in the Rules did not allow that product or that issue to ultimately get to the Governor's chair and be signed and become state law. It was a means of controlling some legislation that could possibly get to the Governor's desk but would not find a way of funding the bill.

{Tape: 1; Side: A; Approx. Time Count: 8.5; Comments: none.}

SENATOR CRIPPEN asked if he had a bill with potential spending aspects to it that are not in the Governor's budget and he failed to show a source of revenue by the deadline time, then that bill he introduced is void. Is that how it works?

SPEAKER MERCER stated that the contingent avoidance is an option, not a mandate. First of all, if you put a bill in to repeal the income tax, that bill, if it is introduced in that form, could be passed by both Houses, and sent to the Governor even though it would put our budget totally out of balance. If you introduced a bill to repeal the income tax either the House or the Senate committee could choose to put a contingent avoidance clause on your bill that says your bill can't take effect because it is obvious it is going to rip state revenue unless you can show reductions in state spending or some other replacement of that revenue. Every bill is not affected by this rule only the bills that contain the contingent avoidance clause are affected by it. The reason it was a good idea is, first of all, the complaint was that you should kill a bill up or down. The bill does get killed up or down if it has that clause in it. If there is no off-setting revenue then the bill dies. That is the vote when it occurs. Frankly, he thought it led to responsibility on the part

of the budget. It is very easy for people to propose tax cuts and then not propose the off-setting reduction in revenue and, **SENATOR HALLIGAN**, some of the things that have gone on in Washington D. C., where some of the big debates have been about tax cuts and people arguing about how are they going to pay for the reduction.

SENATOR CRIPPEN asked who puts the clause in and at what point in time is it put into the bill.

CHAIRMAN HARP stated it was put in during committee or floor action.

SENATOR CRIPPEN stated if they put in on, it is the same thing as voting.

SENATOR HALLIGAN wished the previous statements were true and the wished **SPEAKER MERCER'S** statements were true but if everybody voted for a bill to get to the Governor, a majority of people have to vote for it, like the repeal of the income tax, we could all go home and say we voted for the repeal of the income tax but it went to this committee and somehow it died there because he couldn't find a corresponding increase in revenue to replace it or budget reduction to deal with it. Let's say I submitted the repeal of the box car tax or something that is only a couple of hundred thousands. Let's say I did find a corresponding budget reduction that you guys didn't like. Well, I found it, you didn't like it, and so I have done my job but the majority decided not to pass it, whether Republican or Democrat. I guess the vote up or down is to just put this contingent voidance in so that all of us can vote for and that is what has happened in the past that everybody gets to vote for something. It is not this contingent voidance happens whether you have a budget bill, appropriations or a tax bill. A simple one to reduce taxes that may not cause a problem. Two people on a conference committee who may not agree with the bill and may not put it back in, dictates what the whole legislature decides because they reject my proposal to potentially put money back in or cut a budget in a particular way. I think that is where the accountability should be.

CHAIRMAN HARP asked for further discussion.

Motion/Vote: **SENATOR HALLIGAN'S MOTION ON CONTINGENT VOIDANCE AMENDMENT NO. 2 FAILED.**

Greg Petesch stated that the next set of amendments are what he hoped they would consider technical amendments. There are three issues that he grouped on this set of amendments. Remember two sessions ago when you got three copies instead of two of an introduced bill. We tried to figure out what the third copy was being used for and we determined it was being given to the press. We eliminated the assembly of that bill in the hard copy and required just an additional title sheet which was given to the

press. We are no longer even preparing the additional title sheet because the press is picking them up on the electronic bulletin board system immediately. We have a requirement that we produce an additional title page and the assembly staff isn't even doing that because they are all being thrown away. We need to get that out of the rules.

Motion/Vote: SENATOR SWYSGOOD MOVE THE HOUSEKEEPING AMENDMENTS AND IT PASSED UNANIMOUSLY.

Greg Petesch state the amendment deals with the engrossing problem and there is a conflict right now between the Rules because on page 3, lines 14-16 of the Joint Rules, it gives the engrossing staff 48 hours to engross amendments. This rule that we are amending states that the bill must be placed for third reading on the succeeding legislative day. We can't have both 48 hours to engross the amendments and a requirement that the bill be voted on the next day. We would just put in "rather than the succeeding legislative day, on the day following receipt". Most amendments don't take 48 hours to engross and we are going to get them done as soon as possible. This will eliminate a conflict between rules. House Bill 2 is a great example.

CHAIRMAN HARP asked for further discussion.

Motion/Vote: SENATOR SWYSGOOD MOVED THE AMENDMENT TO READ "RATHER THAN THE SUCCEEDING LEGISLATIVE DAY, ON THE DAY FOLLOWING RECEIPT". MOTION CARRIED.

Greg Petesch stated the last amendment was on page 14, line 17-18. This makes no sense, so he was going to rewrite it. If you look, it says if a bill is not amended in the Committee of the Whole and contains no clerical errors, it may be engrossed amended. So we propose to say is that "if it contains no clerical error, it is not required to be reprinted". There is nothing to engross and there is no reason to reprint it. We are just clarifying that to remove that section.

Motion/Vote: SENATOR SWYSGOOD MOVED THE AMENDMENT TO READ "IF IT CONTAINS NO CLERICAL ERROR, IT IS NOT REQUIRED TO BE REPRINTED". MOTION PASSED UNANIMOUSLY.

CHAIRMAN HARP stated the Joint Rules Bill was before them as amended. He asked for discussion.

{Tape: 1; Side: A; Approx. Time Count: 16.9; Comments: .}

SPEAKER MERCER thought he asked Greg Petesch to prepared an amendment considering the concept of adding "by request of". He further stated there is in our current rules a requirement that if people want a "by request" on a bill you have to get it in ahead of time. I think there was a bill or two from the Governor's office and one from the Auditor's office and some others that they didn't do that and weren't able to get their

bills ready on time. What I think they are going to do is as soon as the Legislature meets they are going to run to the committee and ask they stick that "by request of" on this bill and ask the committee to do it. I would like to see us have a rule that you can't do that because otherwise the whole purpose of the incentive to get your bill in early is so you can have your "by request line." If we take that incentive off, what difference does that make. They can put it in late and have the committee amend it in. So I guess I would like to see us insert in our rules that a "by request line" cannot be added to a bill that was requested prior to the session. It is against the rules and otherwise they are going to do it and we will lose the whole incentive to get it in early.

SENATOR CRIPPEN asked if the committee has the authority to put that in? Does that have to go by motion of Order #6 in the Senate that the phrase be added since it is prior to the time?

Greg Petesch thought it to be unclear. The current Joint Rules require that any bill "by request of" an executive agency has to be so indicated by the phrase. The deadline for that is, that if it is requested prior to December 23, it has to be requested by an individual member or it is placed on hold. Now the Legislative Council over the past couple sessions has acted as the requester for most agency bills. That simply is to get them in so they can be worked on. So all those are given that line at that time. What was decided in the prior Joint Rules Committee meeting was not if an individual member has requested the bill and it was not going to be pre-introduced it could be kept alive by taking the line off. Now the Speaker is saying are you going to allow that designation to be added after the fact for those that were kept alive by taking it off. He is saying that should be prohibited.

SENATOR CRIPPEN asked **SPEAKER MERCER** if his motion said that a committee should do that?

SPEAKER MERCER said his concern was that we are trying to get the bills in ahead of time and the only incentive we have over agencies is that they want that "by request line" on there so they can prove to the Governor or whoever else that they accomplished something in the Session. In order to get that line on there they have to get it in early. Right now what happens is they fail to get it in early so they have a legislator request it and after the bill is already in they ask, please add that line back on, whether it is a motion on the Senate floor or the House floor or any place. What I am trying to do is let's make a rule that they can't. That way they will have the strongest incentive to get the bill in.

REPRESENTATIVE VICKI COCCHIARELLA asked if there was some exception we would consider. She missed that part about special consideration.

SPEAKER MERCER said he was thinking a classic exception would be that the Federal Government did something or the Governor said something in his State Address that brought up a totally new issue. Remember you had that mandate thing last time. It wasn't something requested prior to the Session. It was something he dreamed up while he was walking downstairs probably. In that instance I think it would probably be alright to put a bill in "by request of." It is a new thing after the session has started. We know these other issues. These were already requested prior to when the Legislature ever met and they didn't get them done on time and then what they want to do go past the laws.

CHAIRMAN HARP asked if there has ever been an occasion in the past where someone, a certain agency, has added "by request line" after the bill has been introduced.

SPEAKER MERCER did not know.

SENATOR CRIPPEN state if it happened in his committee he would throw it out of order. He thought it is before the title and anything before the title is not in the bill, not part of the bill, and the only way they could do that is Order of Business Nol 6 on the floor. I might add if they did it in the Senate the House would be required to accept it.

PRESIDENT AKLESTAD stated he believed there is some merit to what the Speaker is trying to do, to clarify and make sure that the agencies know what is happening. Prior to the Session the Speaker and I had to go down to the Legislative Council because there were some bills in a cloudy area as to what was going to happen to these bills. He thought this could have possibly rectify that situation and didn't think there would be any harm to ensure that those agencies get their bills in on time. We then have something to hang our hat on to justify our action.

Motion: **REPRESENTATIVE LARRY GRINDE** moved that the Council adopt the language that the Speaker has suggested in order to get it on the table to discuss is and we can vote on it.

CHAIRMAN HARP stated a motion was on the table to discuss and then they can vote on it.

SENATOR HALLIGAN agreed with and supported the motion with the provision if any elected official has any mandates coming down from the feds you have to have the opportunity to have a bill introduced and it should be spelled out in the rules to make sure that nothing prevents someone from doing that.

Greg Petesch proposed that on page 9, line 11, following the period they would just insert that the phrase may not be added to an introduced bill. That way the new things that come in could be requested "by request of" of the Governor, for example for a

new idea but a bill that was not on originally could not be added to.

SPEAKER MERCER asked if he were the DEQ and he has a big bill and he doesn't get it in on time and so **REPRESENTATIVE GRINDE** instead, cancels mine, requests it before the Session in that five day period. He requests, if the bill has not been introduced, that "by request of" the DEQ be at the top of that bill. Would this prevent this also?

Greg Petesch stated the other rule that requires "by request of" bill to be pre-introduced would prevent that because it would be dead as soon as he put it on.

SPEAKER MERCER asked if someone - the Governor - comes up with a new idea in his State of State Address or there is a federal mandate, or the State Auditor or someone like that, and they want to put a bill in "by request of" their agency - how would they do that?

Greg Petesch said they would have to wait for the Session to convene, request it, and it would be okay under this rule.

SENATOR AKLESTAD asked why it would be okay?

Greg Petesch said because the existing rules says that it would have to be a new Governor. It could not be pre-introduced obviously because the session had convened but you would not be adding the phrase to an introduced bill because it would be a drafting request and this says any bill by an executive agency must be so indicated already. So, we had a little bit of conflict between this rule and the former practice already. This now would allow a request after the convening of the session to be made by the Governor or another elective official.

SPEAKER MERCER thought this was a loophole. I made this request, it fell apart, session starts, I have **REPRESENTATIVE GRINDE** request it for me and I want that line put on there.

Greg Petesch said it would be permissible under this rule but **REPRESENTATIVE GRINDE** would have to use one of his requests that are available after the session convenes.

SPEAKER MERCER said what he was attempting to get at, was if some issue was requested prior to the Session, but was not pre-introduced as required by this rule, then somebody else can't request it later and then ask that "by request of line" put on. If it is something totally new after the Session starts, then it could be.

PRESIDENT AKLESTAD said it would appear that we would need language that would so state that there will not be "by request of line" after a certain date. That way a legislator would be able to go ahead with the proposal but he wouldn't be able to put

"by request of line" on. That would make sure the departments got theirs in early. A legislator could carry something for the Governor or anything that came up afterwards that was very important. A legislator could but it wouldn't have the request on it. The measure would still get introduced into the process but just wouldn't have that identifying mark on it.

CHAIRMAN HARP asked **SENATOR CRIPPEN** if he had a motion and if the idea was the Speaker's. The motion doesn't answer the Speaker's purpose behind the motion, so maybe you want to withdraw the motion.

SENATOR CRIPPEN withdrew his motion.

CHAIRMAN HARP said we were back on the question of the Speaker's. **Greg Petesch** is working on some language to do exactly that. Is there anything else we can discuss on this bill?

Just a verification on the point and maybe there is a provision elsewhere - if a new Governor is coming - being sworn in for the first time, is there a provision to allow for that.

SENATOR AKLESTAD said page 9, line 15 covers it.

SENATOR HALLIGAN stated that on those same points why don't you after convene, require it come through a committee if no individual legislator could even use one of their two requests or would have to be - if it is that important, whether it's the author or the Governor, maybe the committee would have to request it by some super majority or just the majority vote. It would have to be a committee bill and then be assigned - say it was a mandate and the local government, they decided it was that important to do it.

SENATOR SWYSGOOD stated that would be alright except for the vote that requires a committee bill and if it were something that, regardless of which party was in control, you could maybe throttle it just for the sake of throttling it, just by the committee vote.

SENATOR HALLIGAN thought it would be a "by request" issue for just that particular one.

REPRESENTATIVE GRINDE asked **SPEAKER MERCER** if it could be tied to subject matter. If a bill has been pre-introduced on a certain subject matter prior to the Session that is acceptable if that same subject matter is introduced after the session starts, it cannot have anybody on it.

SPEAKER MERCER stated there was no effort to stop any bill. The bill can be requested. This is a very little nitpicking thing about whether you can get the "by request of line" on there. We know that is the only lever we have over everybody who wants their name on some bill. They can show their competency if they

get it in early. We have to have a rule that prevents them from doing it after the fact. Otherwise, they will have no incentive to do it ahead of time.

CHAIRMAN HARP stated there **Greg Petesch** had a couple of options for the committee.

Greg Petesch thought they still need the original language. The phrase "may not be added to an introduced bill and may not be placed on a bill whose subject matter was requested by an agency prior to the convening of a Session." You can't say just the subject matter was requested because, let's say **SENATOR GROSFIELD** had a revised water rights bill and so did DNRC then his request would preclude it. You need "may not be placed on a bill whose subject matter had been requested by an agency or committee prior to the convening of the session."

CHAIRMAN HARP asked for a motion.

Motion/Vote: **SENATOR SWYSGOOD** MOVED "MAY NOT BE PLACED ON A BILL WHOSE SUBJECT MATTER HAD BEEN REQUESTED BY AN AGENCY OR COMMITTEE PRIOR TO THE CONVENING OF THE SESSION" AMENDMENT. THE MOTION CARRIED.

CHAIRMAN HARP said they had the Joint Rules as amended. Are there any further amendments. Seeing none, discussion on the bill as amended for do pass. Discussion on the Rules. Seeing none, all those in favor say aye.

Motion/Vote: MOTION TO ACCEPT THE JOINT RULES AS AMENDED CARRIED WITH **SENATOR HALLIGAN** AND **SENATOR FRANKLIN** VOTING NO.

Greg Petesch stated that they didn't have to hold another hearing necessary. However, it has to go through the floor at both Houses.

REPRESENTATIVE COCCHIARELLA asked if it went to the Senate first?

Greg Petesch said it went to the Senate first.

REPRESENTATIVE GRINDE asked **REPRESENTATIVE COCCHIARELLA** how she felt about this and if she wanted a short meeting now to take a look at this or if she was satisfied with the Joint Rules as they stand.

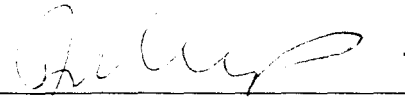
REPRESENTATIVE COCCHIARELLA said they were fine.

Greg Petesch said they couldn't take it up in House Rules now as they are still in the Senate jurisdiction.

CHAIRMAN HARP stated if there was nothing else, a motion to adjourn was in order.

ADJOURNMENT

Adjournment: MOTION TO ADJOURN UNANIMOUS AT 7:30 A.M.



SEN. JOHN G. HARP, Chairman



FREDELLA D. HAAB, Secretary

jgh/fdh