



# MONTANA LEGISLATIVE BRANCH

## Legislative Fiscal Division

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Director  
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DATE: February 18, 2010

TO: Legislative Finance Committee

FROM: Jaret Coles, Staff Attorney  
Legislative Services Division

RE: Legislative Finance Committee Rules

Legislative legal staff was recently asked to review the rules of the Legislative Finance Committee (LFC) to determine if updates were warranted or desired. After review, staff has noted several areas for LFC discussion and potential action.

### **RULES OF THE LEGISLATIVE FINANCE COMMITTEE – OPTIONS FOR REVIEW**

1. **NEW PROPOSAL:** Rules of Proceedings. Each Legislative Finance Committee shall determine the rules of its proceedings.

*(COMMENT: This is similar to Legislative Council Rule A-1. The change clarifies that an old committee cannot bind a new committee.)*

2. Location. The Legislative Finance Committee and the Legislative Fiscal Analyst shall maintain offices in the State Capitol, Helena, Montana.

3. Meeting. Meetings of the committee shall be held in the State Capitol at the call of the Chairman at least once each quarter. Upon written request to the Chairman by a majority of committee members, the Chairman shall call a meeting. Meetings may be held away from the State Capitol upon majority vote of the committee.

4. **OLD RULE:** Emergency Meeting. If emergency items or unanticipated items are raised, the committee may call a special meeting without 48 hours notice. When the legislature is not in session, the procedure shall be to notify by phone the committee members, the media, the Governor's legislative liaison, and any nongovernmental agency that is scheduled to be the subject of discussion or action. When the legislature is in session, the meeting will be announced in both the House and Senate.

**ALTERNATIVE:** Emergency Meeting. If emergency items or unanticipated items are raised, the committee may call a special meeting without ~~48~~ 72 hours notice. When the legislature is not in session, the procedure shall be to ~~notify by phone~~ give notice by a method appropriate to the circumstances to the committee members, the media, the Governor's ~~legislative liaison~~, budget director, and any nongovernmental ~~agency entity~~ that is scheduled to be the subject of discussion or action. When the legislature is in session, the meeting will be announced in both the House and Senate.

*(COMMENT: This change is similar to language in House Rules 30-40(4), which allows a meeting to be held upon notice appropriate to the circumstances. Additionally, the change clarifies that at least 72 hours notice is ideal, and that the budget director is the appropriate person to notify about an emergency meeting, as opposed to the Governor's legislative liaison.)*

**5. OLD RULE: Quorum.** Eight members of the committee constitute a quorum and a vote of seven members is required to carry any motion.

*(COMMENT: The current rule requires a vote of seven members, whereas as any change in the rule could allow a motion to carry on four yes votes. If the current rule is retained, then an ambiguity exists in regards to how many votes are needed on subcommittee actions, as explained in further detail in Alternative 3.)*

**ALTERNATIVE 1: Quorum – chairman and vice-chairman in subcommittees.** (1) A quorum of the Legislative Finance Committee is a majority of the members of the Legislative Finance Committee. A quorum of a subcommittee is a majority of the members of the subcommittee. A quorum of a committee must be present at a meeting to act officially. A quorum of a committee may transact business, and a majority of the quorum, even though it is a minority of the committee, is sufficient to carry any motion. (2) The chairman and the vice-chairman are ex officio, nonvoting members of all subcommittees. They may count toward establishing a quorum.

*(COMMENT: This proposal is similar to House Rule 30-40, which makes it clear that ex officio members do not vote – the proposal is also similar to Senate Rule 30-40(2), but the Senate Rules do not address voting).*

**ALTERNATIVE 2: Quorum – chairman and vice-chairman in subcommittees.** (1) A quorum of the Legislative Finance Committee is a majority of the members of the Legislative Finance Committee. A quorum of a subcommittee is a majority of the members of the subcommittee. A quorum of a committee must be present at a meeting to act officially. A quorum of a committee may transact business, and a majority of the quorum, even though it is a minority of the committee, is sufficient to carry any motion. (2) The chairman and the vice-chairman are ex officio, voting members of all subcommittees. They may count toward establishing a quorum and vote at any subcommittee meeting.

*(COMMENT: This alternative is different than House Rule 30-40, as ex officio members are given the power to vote at all subcommittee meetings. Additionally, since it can be inferred that*

*the chair and vice-chairman can vote at all subcommittee meetings when there is a quorum, it was directly addressed).*

**ALTERNATIVE 3:** (Retain the old rule, which requires 8 members of the committee (i.e., 2/3rd majority), as opposed to the typical simple majority rule followed in both houses and other committees. If this rule is retained, a rule needs to be formulated to take care of subcommittees. For example, is 2/3rds of the subcommittee required to be present? Additionally, the rule would need to provide that the chairman and the vice-chairman can step in for purposes of a quorum pursuant to this committee's recent motion. Lastly, it should be noted that the old rule is limiting, as situations may arise where there are less than 8 members on the committee (i.e., not elected for another term, resignations, etc.), which would effectively stop the Legislative Finance Committee from operating).

**6. NEW PROPOSAL:** Proxy Voting. The committee may by majority vote authorize committee members to vote by proxy during a committee meeting. Authorization for proxy voting must be reflected in the committee minutes.

*(COMMENT: This proposal is similar to Senate Rule S30-100 in regards to proxy voting, but it does not cover voting in absentia.)*

**7. Officers.** The committee shall elect, from its membership, a chairman, vice-chairman, and secretary who shall serve until their successors are elected. The Chairman may not be from the same house for more than two biennium in a row or from the same party for more than one biennium. Upon election of a Chairman, a Vice-chairman shall be chosen from the opposite political party and the opposite house of the legislature. The secretary may be from either house and either political party. The Legislative Fiscal Analyst shall assist the secretary of the committee.

**8. Management Advisory Work Group.** The Chairman shall appoint a four member Management Advisory Work Group to meet with the Legislative Fiscal Analyst to discuss job performances, committee expectations, and provide guidance to the Legislative Fiscal Analyst. The subcommittee shall formally evaluate the fiscal analyst at least yearly and report to the full committee between May 15 and July 15 of each year.

**9. OLD RULE:** Parliamentary Procedure. Except as otherwise provided in the rules of the committee, the proceedings of the committee shall be governed by the joint rules of the Montana Legislature, so far as applicable, together with Mason's Manual of Legislative Procedure.

*(COMMENT: The current rule provides that the default rules are the joint rules of the Montana Legislature. However, the joint rules address items such as enrolling bills, legislation, and transmittal, while the House Rules and the Senate Rules have greater detail in regards to procedure.)*

**ALTERNATIVE 1:** Parliamentary Procedure. Except as otherwise provided in these rules, all meetings of the Legislative Finance Committee or any subcommittee must be conducted under

the established rules of the Senate of the state of Montana, so far as applicable, together with Mason's Manual of Legislative Procedure (2000).

*(COMMENT: This is similar to Legislative Council Rule A-4, which follows the rules of the Senate as to parliamentary procedure.)*

**ALTERNATIVE 2: Parliamentary Procedure.** Except as otherwise provided in these rules, all meetings of the Legislative Finance Committee or any subcommittee must be conducted under the established rules of the House of Representatives of the state of Montana, so far as applicable, together with Mason's Manual of Legislative Procedure (2000).

*(COMMENT: This is similar to alternative 1, but it uses the House Rules.)*

10. Roll Call. The roll shall be called on any question upon demand of a member.

11. Staff Procedures. The Legislative Fiscal Analyst shall present work plans of his/her office to the committee for approval and the committee may initiate plans. The work of the office shall be in accord with such plans or modifications as approved by the committee.

The Legislative Fiscal Analyst, upon request, shall furnish fiscal information to any member of the legislature. When a legislator's information request is completed, it shall be recorded in an information request log, which is available to the public. The Legislative Fiscal Analyst, upon request, may furnish fiscal information to any committee of the legislature. If such request is so substantial as to alter the office's work plan, the committee shall consider the request.

~~The Legislative Fiscal Analyst shall request a dedicated legal review of the second reading copy of House Bill 2 by the staff legal services division prior to consideration by the House Committee of the Whole. This step is to be in addition to other drafting, legal, proofing, and editing steps in place for House Bill 2.~~

*(COMMENT: The last paragraph is not necessary, as the Legislative Finance Committee may not meet during the session. Moreover, this already occurs as part of the House Bill 2 review process.)*

12. Reports. Reports of the Legislative Fiscal Division represent the findings and recommendations of that office. The committee may or may not choose to endorse the findings and recommendations.

The staff shall issue draft reports to agencies directly involved 10 days prior to a committee meeting so the agency can develop a meaningful response at the meeting. The report shall be stamped to indicate that it is a draft report. If determined appropriate by the chairman of the committee and the Legislative Fiscal Analyst, comments from an agency or person that is directly involved in the draft report may be requested and included when the draft report is mailed to the committee and made available to the public. The agency that receives a draft report shall discuss any concerns or comments the agency has on the report with the fiscal analyst two

days prior to the hearing. The Legislative Fiscal Analyst has the authority to grant additional time.

At the time draft reports are mailed to committee members, they shall also be mailed to any person, at his own expense, who has previously requested to be placed on the committee report mailing list. Such reports shall be available to the public the next working day following mailing to committee members.

Any interested person shall be allowed ~~have twenty (20) days following consideration of the report by the Legislative Finance Committee~~ to submit written comments to the Legislative Finance Committee or request in writing that the report be considered at the next committee meeting.

*(COMMENT: The last paragraph was changed, as there will be circumstances when the Legislative Finance Committee acts on a report the first time it is on the agenda.)*

13. Press Relations. All publicity and news releases on behalf of the committee shall be made by the Chairman or his designate. Each committee member shall use discretion in speaking to the press concerning committee business.

14. Travel and Training. A committee member may receive reimbursement for travel and training costs if the trip expense incurred is related to the Legislative Finance Committee business and approved by the Chairman, Vice-chairman, and Legislative Fiscal Analyst prior to incurring any costs. If the Legislative Finance Committee meets prior to the committee member incurring the travel or training costs, the committee may vote to override the decision of the Chairman, Vice-chairman, and Legislative Fiscal Analyst.

15. **OLD RULE:** Suspension of Rules. Alteration, suspension, or amendment of the committee rules shall require a majority vote of the full committee.

*(COMMENT: An ambiguity exists as to whether all twelve members of the committee need to be present in order for the committee to change the rules, which could be difficult if a committee member is unavailable due to unforeseen circumstances.)*

**ALTERNATIVE 1:** Rule Changes. These rules may be altered, suspended, or amended by vote of at least seven members of the committee.

*(COMMENT: This change would clarify that a quorum could change the rules, but at least seven members would need to vote yes on rule changes.)*