

Sample 2011 Rules Questions

Conflict of Interest Questions

Rep. Phillips:

Last night you requested information on conflict of interest and the legislative process. Specifically your question was:

Can a representative vote on a bill when a valid conflict of interest exists? The first clause of the final sentence of MCA 2-2-112(2) connects to H 50-200(4) which seems to indicate that a representative cannot vote when a valid conflict of interest exists. My question stems from HB 576 and whether representatives who historically have benefitted from outfitter guaranteed licenses can vote to reinstate such licenses given their termination with passage of I-161.

Answer: First, it must be determined whether a conflict of interest actually exists. Note that a conflict situation does not arise from legislation or legislative duties affecting the membership of a profession, occupation, or class (2-2-112, MCA). Second, if a conflict of interest does exist, a Representative is not prohibited from voting as long as the legislator discloses the conflict of interest (2-2-112, MCA and H50-200).

Set out below is some information regarding conflict of interest and the relevant law and rules.

If you have any questions, don't hesitate to contact me.

.What is the legal authority regarding conflict of interest? Article XIII, section 4, of the Montana Constitution provides that the Legislature is required to provide a Code of Ethics prohibiting conflict between public duty and private interest for members of the Legislature and all state and local officers and employees. The Legislature has fulfilled this obligation by enacting Title 2, chapter 2, part 1, MCA. Section 2-2-101, MCA, provides that the purpose of Title 2, chapter 2, part 1, MCA, is to set forth a Code of Ethics prohibiting conflict between public duty and private interest as required by the Constitution of Montana. This Code of Ethics recognizes distinctions between legislators, other officers and employees of state government, and officers and employees of local government and prescribes some standards of conduct common to all categories and some standards of conduct adapted to each category. The Code of Ethics recognizes that some actions are conflicts per se between public duty and private interest while other actions may or may not pose a conflict depending upon the surrounding circumstances. Legislative rules provide guidance on disclosure of a conflict of interest, and voting when a conflict of interest has been disclosed.

.What is a conflict of interest? It is a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the legislator's influence, benefit, or detriment in regard to the legislative matter. In determining whether a legislator has a conflict of interest, a legislator must consider:

- .whether the conflict impedes the legislator's independence of judgment;
- .the effect of the legislator's participation on public confidence in the integrity of the legislature;
- .whether the legislator's participation is likely to have any significant effect on the disposition of the matter; and
- .whether a pecuniary interest is involved or whether a potential occupational, personal, or family benefit could arise from the legislator's participation (2-2-112, MCA). [A pecuniary interest means an interest pertaining to money, i.e., given or exacting monetary payment].

Note that a conflict situation does not arise from legislation or legislative duties affecting the membership of a profession, occupation, or class (2-2-112, MCA).

.How can a Legislator determine whether they have a conflict of interest or not? There is an informal process and a formal process for determining whether a conflict of interest exists. Informally, I would suggest that a legislator talk to legislative leadership regarding the potential conflict prior to taking a vote. If there is still a question as to whether there is a conflict of interest contact me and I will provide what advice I can on the issue. Formally, a legislator may also request that the House Ethics Committee advise the legislator on whether the legislator has a conflict of interest. A legislator may briefly present the facts to the House Ethics Committee and the Committee shall advise the legislator as to whether the legislator should disclose the interest prior to voting on the issue (2-2-112(2), MCA).

.What should a Legislator do if the Legislator has a conflict of interest? A legislator has a legal responsibility to participate in all matters as required in the Rules of the Legislature. Under the House Rules, a Representative shall vote on all matters, unless the legislator has disclosed a conflict of interest to the House. A legislator may, subject to legislative rule, vote on an issue on which the legislator has a conflict, after disclosing the interest. (2-2-112(2), MCA, HR 50-200). The bottom line in the House, is that a Representative is required to vote on all matters, unless the Representative has a conflict of interest and even if the Representative has a conflict of interest, the Representative can vote after disclosure of that conflict of interest, should the Representative choose to do so.

Constitution/Statute/Rules:

Montana Constitution, Article XIII, Section 4. Code of ethics. The legislature shall provide a code of ethics prohibiting conflict between public duty and private interest for members of the legislature and all state and local officers and employees.

2-2-112. Ethical requirements for legislators. (1) The requirements in this section are intended as rules for legislator conduct, and violations constitute a breach of the public trust of legislative office.

(2) A legislator has a responsibility to the legislator's constituents to participate in all matters as required in the rules of the legislature. A legislator concerned with the possibility of a conflict may briefly present the facts to the committee of that house that is assigned the determination of ethical issues. The committee shall advise the legislator as to whether the legislator should disclose the interest prior to voting on the issue pursuant to the provisions of subsection (5). The legislator may, subject to legislative rule, vote on an issue on which the legislator has a conflict, after disclosing the interest.

(3) When a legislator is required to take official action on a legislative matter as to which the legislator has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the legislator's influence, benefit, or detriment in regard to the

legislative matter, the legislator shall disclose the interest creating the conflict prior to participating in the official action, as provided in subsections (2) and (5) and the rules of the legislature. In making a decision, the legislator shall consider:

(a) whether the conflict impedes the legislator's independence of judgment;

(b) the effect of the legislator's participation on public confidence in the integrity of the legislature;

(c) whether the legislator's participation is likely to have any significant effect on the disposition of the matter; and

(d) whether a pecuniary interest is involved or whether a potential occupational, personal, or family benefit could arise from the legislator's participation.

(4) A conflict situation does not arise from legislation or legislative duties affecting the membership of a profession, occupation, or class.

(5) A legislator shall disclose an interest creating a conflict, as provided in the rules of the legislature. A legislator who is a member of a profession, occupation, or class affected by legislation is not required to disclose an interest unless the class contained in the legislation is so narrow that the vote will have a direct and distinctive personal impact on the legislator. A legislator may seek a determination from the appropriate committee provided for in 2-2-135.

JR 10-60. Conflict of interest. A member who has a personal or private interest in any measure or bill proposed or pending before the Legislature shall disclose the fact to the house to which the member belongs. (section 2-2-112, MCA)

H50-200. Voting—conflict of interest—present by electronic means. (1) The representatives shall vote to decide any motion or question properly before the House. Each representative has one vote.

(2) The House may, without objection, use a voice vote on procedural motions that are not required to be recorded in the journal. If a representative rises and objects, the House shall record the vote.

(3) The House shall record the vote on all substantive questions. If the voting system is inoperable, the

Chief Clerk shall record the representatives' votes by other means.

(4) A member who is present shall vote unless the member has disclosed a conflict of interest to the House.

(5) A member may be present for a vote by electronic means.

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Fiscal Note Questions

I have had a number of questions come up regarding session committee actions and fiscal notes. Set out below are the issues that have arisen and the requirements under the statute and rules:

.Issue: Can a session standing committee take action (i.e., do pass, table, etc.) on a bill that requires a fiscal note, but does not have a fiscal note attached to the bill?

Answer: Yes.

.Issue: Can a committee, after taking action on a bill that requires a fiscal note, but does not have a fiscal note attached to the bill, report that bill out of committee?

Answer: No. A bill may not be reported out of committee without a fiscal note.

.Issue: If a committee takes action (i.e., do pass) on a bill that requires a fiscal note, but does not have a fiscal note attached to the bill, but then a fiscal note is received for the bill prior to the bill being reported out of committee, is the committee required to take action on the bill again?

Answer: No. The committee need not take any action and the bill can be reported out of committee with the fiscal note if the committee approved an original do pass motion on the bill prior to receiving the fiscal note. As a side note, a committee has the option to reconsider any action on any matter that is still within the possession of the committee.

Relevant Law and Rules:

5-4-201. Requirement of fiscal notes with committee reports. All bills reported out of a committee of the legislature having an effect on the revenues, expenditures, or fiscal liability of the state or of a county or municipality, except appropriation measures carrying specific dollar amounts, shall include a fiscal note incorporating an estimate of such effect. Fiscal notes shall be requested by the presiding officer of either house, who shall determine the need for the note at the time of introduction.

History: En. Sec. 1, Ch. 53, L. 1965; R.C.M. 1947, 43-1001; amd. Sec. 1, Ch. 229, L. 1983.

JR 40-100 :

(1) As provided in Title 5, chapter 4, part 2, MCA, all bills reported out of a committee of the Legislature having a potential effect on the revenues, expenditures, or fiscal liability of the state, local governments, or public schools, except appropriation measures carrying specific dollar amounts, must include a fiscal note incorporating an estimate of the fiscal effect.

(8) A fiscal note also may be requested, through the presiding officer, on a bill and on an amended bill by:

(a) a committee considering the bill;

(b) a majority of the members of the house in which the bill is to be considered, at the time of second reading; or

(c) the chief sponsor.

(9) The Budget Director shall make available on request to any member of the Legislature all background information used in developing a fiscal note.

(10) If a bill requires a fiscal note, the bill may not be reported from a committee for second reading unless the bill is accompanied by the fiscal note or, if required, an updated fiscal note reflecting committee action.

S30-70. Procedures—member privileges.

(4) The committee may not report a bill to the Senate without recommendation.

(5) In reporting a measure out of committee, a committee shall include in its report:

(a) the measure in the form reported out;

- (b) the recommendation of the committee;
- (c) an identification of all proposed changes; and
- (d) a fiscal note, if required.

H30-50. Procedures—absentee or proxy voting—member privileges.

(4) The committee may not report a bill to the House without recommendation.

(5) The committee may recommend that a bill on which it has made a favorable recommendation by unanimous vote be placed on the consent calendar. A tie vote in a standing committee on the question of

a recommendation to the whole House on a matter before the committee, for example on a question of whether a bill is recommended as “do pass” or “do not pass”, does not result in the matter passing out to

the whole House for consideration without recommendation.

(6) In reporting a measure out of committee, a committee shall include in its report:

- (a) the measure in the form reported out;
- (b) the recommendation of the committee;
- (c) an identification of all substantive changes; and
- (d) a fiscal note, if required.

(10) An action formally taken by a committee may not be altered in the committee except by reconsideration and further formal action of the committee.

(11) A committee may reconsider any action as long as the matter remains in the possession of the committee. A bill is in the possession of the committee until a report on the bill is made to the Committee of the Whole. A committee member need not have voted with the prevailing side in order to move reconsideration.

H30-50. Procedures—absentee or proxy voting—member privileges.

(11) An action formally taken by a committee may not be altered in the committee except by reconsideration and further formal action of the committee.

(12) A committee may reconsider any action as long as the matter remains in the possession of the committee. A committee member need not have voted with the prevailing side in order to move reconsideration.

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Yes, the presiding officer could determine that there isn't a need for a fiscal note on the amended bill. As long as there is "a" fiscal note for the bill when it is reported out it complies with the rule.

This issue has come up previously and it has been pointed out that JR 40-100(10) states: If a bill requires a fiscal note, the bill may not be reported from a committee for second reading unless the bill is accompanied by the fiscal note or, if required, an updated fiscal note reflecting committee action. An

argument has been made that substantive amendments would require an updated fiscal note to reflect committee action. The Senate Leadership has concluded that the “if required” language doesn’t translate into requiring a fiscal note for substantive amendments.

From: O’Connell, Sue
Sent: Thursday, April 07, 2011 12:27 PM
To: Everts, Todd
Subject: Fiscal note question

Hi, Todd,

The question of a fiscal note for the amended version of SB 423 came up last night. In looking at Joint Rule 40-100, it appears to me that a fiscal note is needed for the bill to come out of committee. It has that, so no problem with the bill being reported out.

But, the last section of subsection (1) says “Fiscal notes must be requested by the presiding officer of either house, who, at the time of introduction or after adoption of substantive amendments to an introduced bill, shall determine the need for the note, based on the Legislative Services Division staff recommendation.”

Does this mean that the presiding officer could determine that a fiscal note *isn’t* needed after substantive amendments are adopted?

The amendments to SB 423 changes responsible agencies, does away with a licensing process, and makes other changes that would alter the original fiscal note. So I’m just wondering how it’s decided that a new fiscal note is need and if the preparation of the fiscal note could, again, push the House up against its transmittal deadlines?

Thanks,

Sue

*Sue O’Connell
Research Analyst
Montana Legislative Services Division
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The Joint Rules apply for requesting new fiscal notes on amended bills. Other than the committee report requirements in H 30-50, there is nothing in the House Rules regarding this issue with respect to standing committees. Here is my interpretation of JR40-100:

With respect to House session standing committees, a House committee or the chief sponsor can request a fiscal note through the chairman of the committee on an amended bill. The committee can either vote on the request or the chair could say without objection from the committee he/she will make the request. The amended bill cannot be reported out of the committee without the fiscal note.

JR 40-100 :

(1) As provided in Title 5, chapter 4, part 2, MCA, all bills reported out of a committee of the Legislature having a potential effect on the revenues, expenditures, or fiscal liability of the state, local governments, or public schools, except appropriation measures carrying specific dollar amounts, must include a fiscal note incorporating an estimate of the fiscal effect.

(8) A fiscal note also may be requested, through the presiding officer, on a bill and on an amended bill by:

(a) a committee considering the bill;

(b) a majority of the members of the house in which the bill is to be considered, at the time of second reading; or

(c) the chief sponsor.

(9) The Budget Director shall make available on request to any member of the Legislature all background information used in developing a fiscal note.

(10) If a bill requires a fiscal note, the bill may not be reported from a committee for second reading unless the bill is accompanied by the fiscal note or, if required, an updated fiscal note reflecting committee action.

H30-50. Procedures—absentee or proxy voting—member privileges.

(5) The committee may recommend that a bill on which it has made a favorable recommendation by unanimous vote be placed on the consent calendar. A tie vote in a standing committee on the question of

a recommendation to the whole House on a matter before the committee, for example on a question of whether a bill is recommended as “do pass” or “do not pass”, does not result in the matter passing out to

the whole House for consideration without recommendation.

(6) In reporting a measure out of committee, a committee shall include in its report:

(a) the measure in the form reported out;

(b) the recommendation of the committee;

(c) an identification of all substantive changes; and

(d) a fiscal note, if required.

From: Niss, David

Sent: Thursday, February 03, 2011 1:39 PM

To: Everts, Todd

Subject: amended fiscal notes

Todd, do the old or new rules specifically address requests for new fiscal notes as a result of amendments adopted in a standing committee?

I see that the rules for the Bodies do, in Joint 40-100(8), but I can't find the analogous rule in Chapter 3 of the House Rules.

Committee Hearings Questions

From: Everts, Todd

Sent: Tuesday, February 15, 2011 1:01 PM

To: 'Mike Milburn'

Cc: 'tmcgillvray@bresnan.net'; Cargo, Beth; 'mp_more@yahoo.com'; Fox, Susan; Thigpen, Helen; Stutz, Robert; Bohyer, Dave; Miller, Marilyn

Subject: Committee Requirements Regarding Introduced House Bills

Mr. Speaker:

It has come to my attention that some House Committees may be under the misconception that they can somehow “cancel” an introduced bill, not take action on an introduced bill, or not hold a public hearing on an introduced bill. Set out below are the requirements regarding introduced bills. If you have any questions, don't hesitate to contact me.

Issue: Can a House Committee not take action on an introduced House Bill or not hold a public hearing on an introduced House Bill?

Answer: No. Unless both the Joint Rules and the House Rules are suspended, once a bill is introduced it:

- . may not be withdrawn;
- . must follow the normal progress of legislation through the House which consists of introduction, referral to a standing or select committee, a report from the committee, second reading, and third reading;
- . must receive a public hearing; and
- . must be acted upon by a session standing committee by either:
 - . reporting the bill out of committee with a do-pass or do not pass motion or with a recommendation to refer the bill to another committee; or
 - . tabling the bill.

Relevant Rules:

JR 40-40. Bill requests and introduction—limits and procedures—drafting priority—agency and committee bills. (4) (a) **During a session, a bill may be introduced by endorsing it with the name of a member and**

presenting it to the Chief Clerk of the House of Representatives or the Secretary of the Senate. Bills or

joint resolutions may be sponsored jointly by Senate and House members. A jointly sponsored bill must

be introduced in the house in which the member whose name appears first on the bill is a member.

The

chief joint sponsor's name must appear immediately to the right of the first sponsor's name, and the chief

sponsor may not be changed. Except as provided in subsection (4)(b), in each session of the Legislature,

bills, joint resolutions, and simple resolutions must be numbered consecutively in separate series in the

order of their receipt.

(b) The first 15 House bills may be reserved for preintroduced bills.

JR 10-130. Bills — sponsorship — style — format — withdrawal prohibited. (1) A bill must be sponsored by a member of the Legislature.

(2) A bill must be:

(a) printed on paper with numbered lines;

- (b) numbered at the foot of each page (except page 1);
- (c) backed with a page of substantial material that includes spaces for notations for tracking the progress of the bill; and
- (d) introduced. Introduction constitutes the first reading of the bill.
- (3) In a section amending an existing statute, matter to be stricken out must be indicated with a line through the words or part to be deleted, and new matter must be underlined.
- (4) Sections of the Montana Code Annotated repealed or amended in a bill must be stated in the title.
- (5) Introduced bills must be reproduced on white paper and distributed to members.
- (6) An introduced bill may not be withdrawn.

H40-50. First reading — receipt of Senate legislation. Legislation properly introduced or received in the House must be announced across the rostrum and public notice provided. This announcement constitutes first reading, and no debate or motion is in order except that a representative may question adherence to rules. Acknowledgment by the Chief Clerk of receipt of legislation transmitted from the Senate commences the time limit for consideration of the legislation. All legislation received by the House may be referred to a committee prior to being read across the rostrum.

H40-70. Referral. (1) The Speaker shall refer to a House committee, joint select committee, or joint special committee all properly introduced House legislation and transmitted Senate legislation in conformity to the committee jurisdiction.

(2) Legislation may not receive final passage and approval unless it has been referred to a House committee, joint select committee, or joint special committee.

H40-80. Rereferral — normal progression. (1) Except as provided in subsection (2), legislation that is in the possession of the House and that has not been finally disposed of may be rereferred to a House committee by House motion approved by not less than three-fifths of the members present and voting.

(2) Legislation that is in the possession of the House and that has been reported from a committee with a do pass or be concurred in recommendation may be rereferred to a House committee by a majority vote.

(3) The normal progress of legislation through the House consists of the following steps in the order listed: introduction; referral to a standing or select committee; a report from the committee; second reading; and third reading.

H50-160. Questions requiring other than a majority vote. The following questions require the vote specified for each condition:

Members Present and Voting

(7) a motion to remove legislation from its normal progress through the House as provided under H40-80(3) and reassign it unless otherwise specifically provided by these rules, such as H40-80(2) (three-fifths);

H30-50. Procedures—absentee or proxy voting—member privileges. (1) The chairman shall notify the sponsor of any bill pending before the committee of the time and place it will be considered.

(2) A standing or select committee may not take up referred legislation unless the sponsor or one of the cosponsors is present or unless the sponsor has given written consent. The chairman shall attempt to not schedule Senate bills while the Senate is in session.

(3) The committee shall act on each bill in its possession:

- (a) by reporting the bill out of the committee;
- (i) with the recommendation that it be referred to another committee;

(ii) favorably as to passage; or

(iii) unfavorably; or

(b) by tabling the measure in committee.

(4) The committee may not report a bill to the House without recommendation.

(5) The committee may recommend that a bill on which it has made a favorable recommendation by unanimous vote be placed on the consent calendar. A tie vote in a standing committee on the question of

a recommendation to the whole House on a matter before the committee, for example on a question of whether a bill is recommended as “do pass” or “do not pass”, does not result in the matter passing out to

the whole House for consideration without recommendation.

(6) In reporting a measure out of committee, a committee shall include in its report:

(a) the measure in the form reported out;

(b) the recommendation of the committee;

(c) an identification of all substantive changes; and

(d) a fiscal note, if required.

(7) If a measure is withdrawn from a committee and brought to the House floor for debate on second reading on that day without a committee recommendation, the bill does not include amendments formally adopted by the committee because committee amendments are merely recommendations to the

House that are formally adopted when the committee report is accepted by the House.

(8) A second to any motion offered in a committee is not required in order for the motion to be considered by the committee.

(9) The vote of each member on all committee actions must be recorded. All motions may be adopted only on the affirmative vote of a majority of the members voting. Standing and select committees may by

a majority vote of the committee authorize members to vote by proxy if absent, while engaged in other

legislative business or when excused by the presiding officer of the committee due to illness or an emergency. Authorization for absentee or proxy voting must be reflected in the committee minutes.

(10) A motion to take a bill from the table may be adopted by the affirmative vote of a majority of the members present at any meeting of the committee. (11) An action formally taken by a committee may not be altered in the committee except by reconsideration and further formal action of the committee.

(12) A committee may reconsider any action as long as the matter remains in the possession of the committee. A committee member need not have voted with the prevailing side in order to move reconsideration.

(13) Any legislation requested by a committee requires three-fourths of all members of the committee to vote in favor of the question to allow the committee to request the drafting or introduction of

H30-60. Public testimony — decorum — time restrictions. (1) Testimony from proponents, opponents, and informational witnesses must be allowed on every bill or resolution before a standing or

select committee. All persons, other than the sponsor, offering testimony shall register on the committee witness list.

(2) Any person wishing to offer testimony to a committee hearing a bill or resolution must be given a reasonable opportunity to do so, orally or in writing. Written testimony may not be required of any witness, but all witnesses must be encouraged to submit a statement in writing for the committee’s official record.

(3) The chairman may order the committee room cleared of visitors if there is disorderly conduct. During committee meetings, visitors may not speak unless called upon by the chairman. Restrictions on time available for testimony may be announced.

(4) The number of people in a committee room may not exceed the maximum posted by the State Fire Marshal. The chairman shall maintain that limit.

(5) In any committee meeting, the use of cameras, television, radio, or any form of telecommunication equipment is allowed, but the chairman may designate the areas of the hearing room from which the equipment must be operated. Cell phone use is allowed only at the discretion of the chairman.

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From: Weiss, Rachel
Sent: Monday, March 14, 2011 4:15 PM
To: Everts, Todd
Subject: RE: Proponents/opponents

And the person reclassified doesn't want to be an opponent.

From: Everts, Todd
Sent: Monday, March 14, 2011 4:11 PM
To: Weiss, Rachel
Subject: RE: Proponents/opponents

The Senate Rules do not address this issue. Traditionally it has gone both ways. Sometimes, if a proponent says that they will support the bill if it is amended, the chair has reclassified the proponent as an opponent. What happened here?

From: Weiss, Rachel
Sent: Monday, March 14, 2011 3:43 PM
To: Everts, Todd
Subject: Proponents/opponents

Can the chair reclassify proponents and opponents?

Possession of Bill in Committee Questions

At what point is a bill no longer in the possession of a session standing committee?

A bill is still in the possession of a session standing committee if the committee report that contains a recommendation on the bill has not been read across the rostrum and adopted.

- H30-50. Procedures.** (1) The chairman shall notify the sponsor of any bill pending before the committee of the time and place it will be considered.
- (2) A standing or select committee may not take up referred legislation unless the sponsor or one of the cosponsors is present or unless the sponsor has given written consent. The chairman shall attempt to not schedule Senate bills while the Senate is in session.
- (3) The committee shall act on each bill in its possession:
- (a) by reporting the bill out of the committee:
 - (i) with the recommendation that it be referred to another committee;
 - (ii) favorably as to passage; or
 - (iii) unfavorably; or
 - (b) by tabling the measure in committee.
- (4) The committee may not report a bill to the House without recommendation.
- (5) The committee may recommend that a bill on which it has made a favorable recommendation by unanimous vote be placed on the consent calendar. A tie vote in a standing committee on the question of a recommendation to the whole House on a matter before the committee, for example on a question of whether a bill is recommended as “do pass” or “do not pass”, does not result in the matter passing out to the whole House for consideration without recommendation.
- (6) In reporting a measure out of committee, a committee shall include in its report:
- (a) the measure in the form reported out;
 - (b) the recommendation of the committee;
 - (c) an identification of all substantive changes; and
 - (d) a fiscal note, if required.
- (7) If a measure is withdrawn from a committee and brought to the House floor for debate on second reading on that day without a committee recommendation, the bill does not include amendments formally adopted by the committee because committee amendments are merely recommendations to the House that are formally adopted when the committee report is accepted by the House.
- (8) A second to any motion offered in a committee is not required in order for the motion to be considered by the committee.
- (9) The vote of each member on all committee actions must be recorded. All motions may be adopted only on the affirmative vote of a majority of the members voting.
- (10) A motion to take a bill from the table may be adopted by the affirmative vote of a majority of the members present at any meeting of the committee.
- (11) An action formally taken by a committee may not be altered in the committee except by reconsideration and further formal action of the committee.
- (12) A committee may reconsider any action as long as the matter remains in the possession of the committee. A committee member need not have voted with the prevailing side in order to move reconsideration.
- (13) Any legislation requested by a committee requires three-fourths of all members of the committee to vote in favor of the question to allow the committee to request the drafting or introduction of legislation. Votes requesting drafting and introduction of committee legislation may be taken jointly or separately.
- (14) The chairman shall decide points of order.
- (15) The privileges of committee members include the following:
- (a) to participate freely in committee discussions and debate;
 - (b) to offer motions;
 - (c) to assert points of order and privilege;
 - (d) to question witnesses upon recognition by the chairman;

- (e) to offer any amendment to any bill; and
- (f) to vote, either by being present or by proxy, using a standard form or through the vice chairman or minority vice chairman.
- (16) Any meeting of a committee held through the use of telephone or other electronic communication must be conducted in accordance with Chapter 3 of the House Rules.
- (17) A committee may consolidate into one bill any two or more related bills referred to it whenever legislation may be simplified by the consolidation.
- (18) Committee procedure must be informal, but when any questions arise on committee procedure, the rules or practices of the House are applicable except as stated in the House Rules.

H40-80. Rereferral — normal progression. (1) Except as provided in subsection (2), legislation that is in the possession of the House and that has not been finally disposed of may be rereferred to a House committee by House motion approved by not less than three-fifths of the members present and voting.

(2) Legislation that is in the possession of the House and that has been reported from a committee with a do pass or be concurred in recommendation may be rereferred to a House committee by a majority vote.

(3) The normal progress of legislation through the House consists of the following steps in the order listed: introduction; referral to a standing or select committee; a report from the committee; second reading; and third reading.

H40-90. Legislation withdrawn from committee. Legislation may be withdrawn from a House committee by House motion approved by not less than three-fifths of the members present and voting.

H40-100. Standing committee reports. (1) A House standing committee recommendation of “do pass” or “be concurred in” must be announced across the rostrum and, if there is no objection to form, is considered adopted.

(2) A recommendation of “do not pass” or “be not concurred in” must be announced across the rostrum and, on the following legislative day, may be debated and adopted or rejected on Order of Business No. 2. A motion to reject an adverse committee report must be approved by not less than three-fifths of the members voting. Failure to adopt a motion to reject an adverse committee report constitutes adoption of the report.

(3) If the House rejects an adverse committee report, the bill progresses to second reading, as scheduled by the Speaker, with any amendments recommended by the committee.

Bill Classification Questions

From: Everts, Todd

Sent: Friday, February 04, 2011 11:17 AM

To: O'Connell, Sue

Cc: Fox, Susan; Heiman, Lee; Thigpen, Helen; Bohyer, Dave; Martin, Jeff; Stutz, Robert

Subject: Bill Classification and Amendments

Question: Can a bill be reclassified through the amendment process and if so, is the reclassified bill subject to the transmittal deadlines set out in the Joint Rules?

Answer: (1) Except as provided in subsection (2), the answer is “yes”. Bills can be reclassified through the amendment process, subject to certain limitations (i.e., the amendment fits within the original purpose of the title, can't

reclassify a bill to a resolution, etc.). For example, a general bill can be amended to be a revenue bill and thus receives a later transmittal date. Therefore, a revenue bill that has the revenue provision removed becomes a general bill and is subject to the general bill transmittal date. If a revenue bill becomes a general bill after the general bill transmittal deadline, the bill is dead, unless the second house suspends its rules to receive the bill.

(2) If the Legislative Leadership of both Chambers mutually agree that all bills (including nonrevenue bills) assigned to the Senate and House Taxation Committees be classified as revenue bills, then, based on tradition, all of the bills assigned to those committees are treated as revenue bills for transmittal purposes, regardless of whether they are amended or not throughout the process. The only exception this exception is if an appropriation bill is assigned to the tax committee and then that bill would be treated as an appropriation bill for transmittal purposes.

Relevant Rules:

40-190. Transmittal of bills between houses — referral — hearing. (1) Each house shall transmit to the other with any bill all relevant papers.

(2) When a House bill is transmitted to the Senate, the Secretary of the Senate shall give a dated receipt for the bill to the Chief Clerk of the House. When a Senate bill is transmitted to the House of Representatives, the Chief Clerk of the House shall give a dated receipt to the Secretary of the Senate.

(3) Transmitted bills must be referred to committee and scheduled for hearing.

40-200. Transmittal deadlines — two-thirds vote requirement. (1) (a) A bill or amendment transmitted after the deadline established in this subsection (1) may be considered by the receiving house only upon approval of two-thirds of its members present and voting. If the receiving house does not so vote, the bill or amendment must be held pending in the house to which it was transmitted.

(b) (i) A bill, except for an appropriation bill, a revenue bill, a bill proposing a referendum, an interim study resolution, or amendments considered by joint committee, must be transmitted from one house to the other on or before the 45th legislative day.

(ii) Amendments, except to appropriation bills, committee bills implementing the general appropriations bill, the revenue estimating resolution, interim study resolutions, bills proposing referenda, and revenue bills, must be transmitted from one house to the other on or before the 73rd legislative day.

(c) (i) Revenue bills and bills proposing referenda must be transmitted to the other house on or before the 71st legislative day.

(ii) Amendments to revenue bills, received from the other house, must be transmitted to the house of origin on or before the 82nd legislative day.

(iii) A revenue bill is one that either increases or decreases revenue by enacting, eliminating, increasing, or decreasing taxes, fees, or fines or by suspending or otherwise changing the allocation of revenues.

(d) (i) Appropriation bills and any bill implementing provisions of a general appropriation bill must be transmitted to the Senate on or before the 67th legislative day. A fund transfer within the state treasury

is not an appropriation for purposes of this section.

(ii) Senate amendments to appropriation bills must be transmitted by the Senate to the House on or before the 80th legislative day.

(2) (a) A joint resolution introduced for the purpose of estimating revenue available for appropriation by the Legislature must be transmitted to the Senate no later than the 60th legislative day.

(b) Amendments to the revenue estimating resolution must be transmitted to the House no later than

the 82nd legislative day.

(3) Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules may be transmitted at any time during a session.

(4) Interim study resolutions must be transmitted from one house to the other on or before the 85th legislative day.

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Committee Motion Questions

[See Below for my answers](#)

From: O'Connell, Sue

Sent: Wednesday, February 09, 2011 8:08 AM

To: Everts, Todd

Subject: Rules Question, again

Hi, Todd,

I think there may be an effort to take a bill off the table in my committee. In reading through the rules, I'm unclear on whether that needs to be its own separate, stand-alone motion (H30-50(10)) or whether the following subsections (11) and (12) also come into play. So I'm wondering:

.Does there need to be a motion to reconsider their action before there's a motion to take the bill off the table? If so, it that motion a majority of all members, including those voting by proxy? **No. There is no need for reconsideration motion, just a motion to take HB ## from the table.**

.If there has to be a motion to reconsider and the committee votes to reconsider, then is the committee back to its original motion to table? If so, could there be a substitute motion to pass the bill which could, again, pass by a majority vote that includes proxies? **Taking it from the table keeps the bill in the status that it was put on the table, i.e., amendments passed are still on the bill. The next motion should be do pass or do pass as amended and then if there are additional amendments move those.**

.Or, is a motion to take the bill off the table just a motion all bit itself, that doesn't have to go through the reconsideration process? **Yes. Note that a motion to take from the table requires a majority of members present and voting. No proxies can be used. See H30-50 below.**

H30-50. Procedures—absentee or proxy voting—member privileges.

(10) A motion to take a bill from the table may be adopted by the affirmative vote of a majority of the members present at any meeting of the committee.

[As a side note:](#)

the motion to take from the table doesn't preclude a motion to reconsider if the committee wants to go that route. Strategically a motion to reconsider doesn't preclude the use of proxies.

Thanks!

Sue