
RESOLUTIONS AND MEMORIALS

I. APPLICABLE LEGISLATIVE RULES

The drafting of resolutions and memorials is quite different from the drafting of bills except for the drafting of those concurrent resolutions that propose amendments to the state constitution. Resolutions and memorials are classified by Senate Rule No. 30 and by House Rule No. 26. Senate Rule No. 30 provides as follows:

Rules of the Senate

30. Resolutions and Memorials

Resolutions and memorials shall be of the following classes:

- (a) (1) Senate concurrent resolutions, which shall:
 - (A) Propose amendments to the state constitution or recommend the holding of a constitutional convention. * * *
 - (B) Ratify proposed amendments to the federal constitution. * * *
- (b) Senate joint resolutions, which pertain to:
 - (1) The transaction of the business of both houses.
 - (2) The establishment of investigating committees composed of members of both houses.
 - (3) An expression of the will of both houses on any matter not mentioned in Rule 30A [concerning tributes]. * * *
- (c) Senate resolutions, which shall not require the concurrence of the House, and shall cover any purpose similar to a joint resolution, but relate solely to the Senate. * * *
- (d) Senate joint memorials or Senate memorials, which shall pertain to resolutions memorializing the Congress of the United States on any matter, or to an expression of sentiment on the death of any person or persons who served as members of the General Assembly, present or former elected State officials, present or former justices of the Colorado Supreme Court, members of Congress, elected officials of other states or of the United States, or foreign dignitaries. * * *

House Rule No. 26 is similar to the above-quoted Senate Rule as to the classification of resolutions and memorials except that memorials introduced in the House may deal only with the expression of sentiment on the death of persons and only for persons who served as members of the General Assembly. The House Rule differs somewhat from the Senate Rule in wording and the handling of certain resolutions upon introduction.

II. CONCURRENT RESOLUTIONS

Under Senate Rule No. 30 and House Rule No. 26, the submission of proposed amendments to the state constitution and the question of holding a state constitutional convention, which must be submitted to the people by the General Assembly, take the form of concurrent resolutions. The drafter should first become familiar with the form of a concurrent resolution for either of these purposes. (See the example in Appendix A of this manual.)

Article XIX of the state constitution sets forth the method by which both proposed amendments to the state constitution and the question of holding of a state constitutional convention are submitted to the people by the General Assembly.

As previously discussed in the chapter of this manual titled "Special Rules and Techniques of Drafting", the provisions of Joint Rule No. 21 of the Senate and House of Representatives apply to concurrent resolutions proposing constitutional amendments. Accordingly, new material should be capitalized, and material to be omitted should be shown in crossed-out letter type.

In 1994, voters adopted a single subject rule for titles of constitutional amendments. The single subject requirement is contained in section 2 of article XIX of the state constitution. The same rules on single subject for drafting bill titles apply to drafting titles to constitutional amendments.

Section 2 of article XIX further provides in part: "But the general assembly shall have no power to propose amendments to more than six articles of this constitution at the same session." The General Assembly also has the power to amend a proposed constitutional amendment passed at a prior session if the proposed amendment has not yet been submitted to a vote of the people (*In re Senate Concurrent Resolution No. 10*, 137 Colo. 491, 328 P.2d 103 (1958)).

The General Assembly also ratifies amendments to the United States constitution by concurrent resolution. The form for such a resolution may be found in Appendix A of this manual.

Guidelines for Drafting Concurrent Resolutions

(1) Check concurrent resolutions to ensure that the title and the quotation of the title in the second to the last section of the resolution are identical and accurately reflect the text of the proposed amendment.

(2) Check that the title meets single subject requirements.

(3) When citing the article and section number of the constitution in the title, do not include "as amended".

(4) Proposed constitutional amendments are submitted to the "registered electors". Do not use "qualified electors" in the title or submission clause for concurrent resolutions.

NOTE: Be careful in changing a concurrent resolution to a regular bill. Make certain that you replace Sections 2 and 3 of the resolution with appropriate sections for a bill, such as an effective date and a safety clause.

III. JOINT AND SIMPLE RESOLUTIONS

Joint resolutions may pertain to the business transactions of the two houses, such as the joint resolution adopted at the beginning of each session to notify the Governor that the houses are ready to conduct business and the joint resolution adopted at the end of each session to adjourn the General Assembly *sine die* (that is, adjourn without appointing a day on which to appear or assemble again - technically pronounced "see'-nay dee'-ay", however, commonly pronounced "sigh'-nee die").

Study committees composed of members of both houses may also be established by joint resolution. These are usually interim committees appointed by the Legislative Council, but they may also be independent study committees, such as the Commission on Spanish-surnamed Citizens created by House Joint Resolution No. 1014, pages 1500 and 1501, Session Laws of Colorado 1965, or the Colorado Rural Development Commission created by Senate Joint Resolution No. 24, pages 1374 and 1375, Session Laws of Colorado 1971. A checklist prepared by the Legislative Council staff entitled "Drafting an Interim Resolution" can be found in Appendix F of this manual. It covers customary and alternative provisions for such resolutions.

Joint resolutions may express the will of both houses on any matter other than matters that are the subject of tributes. (See Senate Rule No. 30A and House Rule No. 26A for the subject matter of tributes.)

Simple resolutions, such as a House resolution or a Senate resolution, can pertain to any of the above purposes, but they do not require the concurrence of both houses, and they must relate solely to the house in which they have been introduced. A simple resolution is often used by the house holding a bill to submit interrogatories to the Colorado Supreme Court, pursuant to section 3 of article VI of the state constitution, for an opinion on the bill's constitutionality. Joint resolutions may also be used for this purpose.

The parts of joint and simple resolutions are: The preamble (in the form of "whereas clauses"); the resolving clause; and the body of the resolution, which expresses the purpose

of the resolution. Under certain circumstances, the preamble (or "whereas clauses") may be omitted.

In preparing joint resolutions, particularly those that express the will and sentiment of the General Assembly, the drafter should attempt to obtain from the sponsor, preferably in writing, definite ideas to be used in the "whereas clauses" in order for the sentiments of the sponsor to be expressed in the manner desired. For instructions on amending resolutions and memorials, see Appendix C of this manual.

The typical joint resolution described in the preceding paragraph does not have the effect of law, and the General Assembly cannot do by resolution that which can only be done by law. For instance, if money is to be made available for any committee created by joint resolution, it must be authorized and allocated from an appropriation already made by bill since appropriations cannot be made by resolution. Section 33 of article V of the state constitution provides that "No money shall be paid out of the treasury except upon appropriations made by law...."

Some joint resolutions are required by statute to go to the Governor for his approval or disapproval. Those joint resolutions, if signed by the Governor, do have the force and effect of law. An example is the annual resolution on the water pollution control project eligibility list, which is required by section 37-95-107.6 (4)(b) to be approved by a joint resolution signed by the Governor.

Examples of joint and simple resolutions are found in Appendix A of this manual.

Joint Resolutions for Creation of Interim Study Committees

Study committees composed of members of both houses may also be established by joint resolution.¹ Creation of these committees raises issues similar to those raised in the creation of executive branch entities that are temporary in nature, and, generally, the joint resolution should address the same issues specified for bills creating temporary entities. See pages 6-20 to 6-22.

Under Joint Rule 24A, if the committee requires funding from the legislative budget or the use of legislative staff resources, the joint resolution creating the committee is subject to review and prioritization by the Legislative Council in accordance with section 2-3-303.3, C.R.S.

Any joint resolution creating an interim study committee must specify, at a minimum:

¹ A study committee may also be created in statute, especially if the study is expected to continue over more than one year. When creating a study committee in statute, the drafter should follow the guidelines specified in Joint Rule

1. The membership of the interim study committee;
2. The appointing authority for the members, including the appointing authority for any member who is required to meet specific professional, geographic, or other conditions;
3. The specific issues to be studied; and
4. Any agencies that are required to provide staff support.

Joint Rule 24A(c)

Under Joint Rule 24A(d), there are several issues that, if not addressed in the resolution creating the interim committee, are controlled by the rule. These issues include appointment of the committee chairman and vice-chairman, the maximum number of committee meetings, payment of members' expenses, proportionality of majority and minority membership, and the date by which the committee must report its findings and recommendations to the Legislative Council. It is also important to note that, under paragraph (f) of this rule, if the interim study committee includes non-legislative members, a majority vote of the legislative members is required to recommend any legislation, unless otherwise specified in the resolution.

Guidelines for Drafting Joint Resolutions to Create Interim Study Committees

(1) There are generally two types of interim study committees: Those considering legislation to address a specific issue; and those generally studying an issue with no preconceived idea as to how or whether to address the issue through legislation. The drafter should talk with the joint resolution sponsor to determine what type of interim study committee the sponsor is planning to create.

(2) If you are drafting a resolution for the first type of committee, draft the charge as narrowly as possible. If the committee is actually considering implementation or a redraft of legislation that has already been introduced, refer specifically to the existing legislation. If the committee is considering implementation of the recommendations made as a result of an earlier study, specifically name the earlier study. The drafter who staffs the interim committee should have draft legislation ready for the interim committee's first meeting, if possible.

(3) The second type of committee will probably require more meetings, a greater amount of testimony, and greater freedom in the committee's charge to study all aspects of the problem. But the drafter should still try to draft the committee's charge as clearly and narrowly as possible to still accomplish the sponsor's goal in creating the committee. The drafter may consider specific language to limit the topics on which the interim committee may submit legislative recommendations. The drafter should explain to the sponsor that, if the committee's charge is focused and clearly explained, the committee is likely to

accomplish more in fewer meetings. However, the drafter should be aware that the sponsor may want a committee that has a broad charge to ensure that the topic is thoroughly studied.

(4) The drafter should talk with the sponsor about specifying in the resolution the date by which committee members must be appointed and the date by which the committee must hold its first meeting. Although these dates may not be binding in a resolution, they at least send a message to the committee to begin its work early, rather than waiting until fall and then running out of time to hold the necessary number of meetings. The drafter should also specify in the resolution the date by which the committee must report to the Legislative Council. This is a standard date (October 15 in even-numbered years and November 15 in odd-numbered years), but having it specified in the resolution puts the committee members on notice of the deadline by which they must report.

IV. JOINT AND SIMPLE MEMORIALS

Memorials may be used for two purposes: (1) To memorialize the Congress of the United States on any matter (Senate memorials only), or (2) as an expression of sentiment on the death of a former member of the General Assembly. To memorialize any federal agency other than the Congress or to express opinions to Congress which are to be introduced in the House, the drafter should prepare either a joint or simple resolution.

Many memorials are requested to express sentiment for the death of current or former members of the General Assembly. If a deceased former member served in both houses of the General Assembly or if a deceased member served as a member of the current General Assembly, the drafter should prepare a joint memorial. If a deceased former member served in only one house, the drafter should prepare a simple memorial for the house in which the member served.

Memorials are similar in form to joint and simple resolutions in that they contain a preamble consisting of "whereas clauses", a resolving clause, and a body expressing its purpose. In drafting memorials, especially those memorializing the Congress of the United States, the drafter should attempt to obtain from the sponsor, preferably in writing, definite ideas to be used in the "whereas clauses" in order for the sentiments of the sponsor to be expressed as desired.

Examples of joint and simple memorials are found in the back of any recent volume of the Session Laws and in Appendix A of this manual.

V. TRIBUTES

Tributes are meant for congratulatory purposes. Since they do not need to be adopted by the House or the Senate, no floor time is necessary to handle tributes. Because of this, the

leadership has encouraged members to use tributes to congratulate sports teams or to honor exceptional people or groups rather than joint resolutions or memorials.

Drafters in the Office of Legislative Legal Services do not presently draft tributes. If any Senator requests a "Tribute", refer him or her to the Secretary of the Senate; if any Representative requests a "Tribute", refer him or her to the Chief Clerk of the House of Representatives. The Secretary of the Senate and the Chief Clerk of the House have the proper "Tribute" forms to be filled out.

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