Updated:
February 2018

Making Laws

Research Department
Minnesota House of Representatives

The Research Department of the Minnesota House of Representatives is a nonpartisan professional office serving the entire membership of the House and its committees. The department assists all members and committees in developing, analyzing, drafting, and amending legislation.

The department also conducts in-depth research studies and collects, analyzes, and publishes information regarding public policy issues for use by all House members.

Research Department

Minnesota House of Representatives

600 State Office Building, St. Paul, MN 55155

651-296-6753

Updated: February 2018

Making Laws

This publication describes Minnesota's legislature and lawmaking process.

This publication was originally written by **Tom Todd, retired director** of the House Research Department. It has been subsequently updated by **current director, Patrick McCormack**. Questions may be directed to Patrick at 651-296-5048.

Scott Kulzer provided secretarial support.

Brenda van Dyck edited and indexed the publication.

Preface

This publication aims to describe the formal lawmaking process in Minnesota. Newcomers to the legislature and its proceedings may find it useful.

The 2018 Update

Making Laws was first published as a guide to the Minnesota legislative process in 2005. Updated in 2010 and again in 2018, *Making Laws* is still useful as a fulsome guide to the entire range of legislative strategies, rules, procedures, and pathways. Over the 20 years since this guide to lawmaking was first published, legislative sessions have struggled with new challenges and created new procedures to deal with those challenges. This updated version of *Making Laws* touches on the range of new channels for legislative life, including:

- A discussion of enhanced reliance on special sessions, and different norms for when a special session is called;
- A description of the diminished use of some conference committees, and the change in conference committee culture;
- A description of "summit" deal making between the governor and legislative leaders;
- An outline of efforts to constrain floor debate on the House floor, including time limits for bills, and pre-filing of floor amendments;
- An outline of the repeated use of the courts to create "core funding" and to litigate the end of session deals; and
- A discussion of an increasing distrust of the fiscal note system, culminating in the potential creation of a legislative budget office.

These changes in how the legislature operates have been only partially reflected in rules and procedures. Norms and mores are as important as rules of procedure, and a shifting in these norms has been underway. Capturing these changes in a publication is like a still photo of a rushing river, a point in time. However, the interpolation of these and other trends can create a distinction between a description of making laws through the written procedures and pathways, and making laws through the common and understood cultural norms that have developed over time.

Purpose and Scope

These pages describe only the formal part of the legislative process—the law about making laws. Much in the legislative culture is considered only obliquely. Meetings of political caucuses and caucus steering groups; the labors of legislative staff; the role of lobbyists and the organizations they represent; relationships with executive, judicial, and other governmental organizations; the watching media and the daily rhythm of press releases and press conferences; meetings back in the home district, in Capitol offices, over coffee or breakfast, in the corners of legislative meeting rooms and the corridors outside; the intricacies of proper parliamentary practice—all this is largely beyond the scope of this publication. Collectively, these transactions (and the individuals who conduct them) create a legislative culture and are at least as important to the legislative process and its outcomes as the formalities of lawmaking.

Organization

The first part of the publication, Part A: The Legislature, consists of two chapters. One explains the structure of the legislature as an institution of government. The other defines the forms of action and the types of documents that the legislature works with and produces.

The larger second part, Part B: The Process, describes the lawmaking process in seven chapters. The first three chapters in Part B are labeled Fundamentals because they present the essential elements of the process as a whole. Here are the steps required by the Minnesota Constitution to make valid law and the legislative rules and practices designed to ensure compliance with the constitutional requirements. These chapters include descriptions of:

- the procedures each house must follow in passing a bill;
- the methods the two houses use to achieve the constitutionally required agreement between them on each bill; and
- the lawmaking role of the governor.

The final four chapters provide more detail on certain aspects of the process, including:

- the committee system and how bills move through that system;
- what committees do with bills and something of how they do it;
- how the House and Senate act on bills that emerge from the committee process; and
- the special executive and legislative proceedings used to produce one particularly important type of law—the dozen or so omnibus finance laws that collectively express the state's budget.

Sources of Information

The various sources of information in this guidebook are the Minnesota Constitution, Minnesota Statutes 2016, and legislative rules adopted by the 90th Legislature in regular session 2017. More information can also be found in *Mason's Manual of Legislative Procedure* (National Conference of State Legislatures, 2010) and the *Minnesota Revisor's Manual* (Office of the Revisor of Statutes, 2013).

For an extensive list of references by subject and page number, see the earlier version of *Making Laws*, September 2010.

Content Summary

Part A: The Legislature

Table of Illustrations

Part A
The Legislature

THE LEGISLATURE

Some knowledge of the legislature as an institution of government is helpful to understand the legislative process.

A Bicameral Legislature…page 4

The constitution creates the legislature as one of three branches of state government and partitions the legislature internally into two houses.

Legislators…page 4

The constitution prescribes the qualifications for legislative office and the term of office. The size of the legislature—currently 201 members—is set by state law, within certain constitutional parameters.

Regular Sessions…page 7

The constitution requires the legislature to meet regularly, once during each legislative biennium, in a session of limited duration.

Special Sessions…page 10

The constitution allows the governor to call the legislature into special session on extraordinary occasions.

Internal Organization…page 13

The internal organization and operation of the legislature are determined not by the constitution or laws so much as by legislators themselves.

A BICAMERAL LEGISLATURE

The constitution establishes the structure of the legislature and its position in state government.

The constitution creates the legislature as one of three branches of state government

The constitution says, "The powers of government shall be divided into three distinct departments: legislative, executive, and judicial." The constitution places each branch under the control of officials directly elected by the people:

- legislators
- five executive branch officers (governor, lieutenant governor, secretary of state, attorney general, state auditor)
- judges

The constitution gives to each of the three branches certain powers, to be exercised by that branch exclusively except as the constitution provides otherwise: "No person or persons belonging to or constituting one of these departments shall exercise any of the powers properly belonging to either of the others.…"

These constitutional provisions express a principle of government known as the "separation of powers," which holds that the authority of the state should be distributed among three separate branches of government, each largely in charge of its own affairs. All state constitutions and the federal constitution break up the power of government along these lines.

The constitution partitions the legislature internally

The constitution divides power within the legislative branch as well, creating a bicameral (two-house) legislature and naming each part: "The legislature consists of the senate and house of representatives." The federal constitution and all state constitutions except that of Nebraska divide the legislature similarly.

LEGISLATORS

The legislature comprises 201 legislators: 67 senators who are elected to four-year terms, and 134 representatives who are elected to two-year terms. The constitution prescribes the qualifications for holding legislative office and the term of office. The size of the legislature—the number of legislators and legislative districts—is set by state law within certain constitutional parameters.

The constitution prescribes the qualifications for legislative office

Legislators and other officials are chosen at a state general election every other year. The constitution schedules the election on the first Tuesday after the first Monday in November of even-numbered years (e.g., 2018, 2020, 2022).

The constitution requires a candidate for the legislature to be a qualified Minnesota voter when elected. This means that, at the time of the general election, a candidate must have been a U.S. citizen for at least three months and must not fall into a class of persons not permitted to vote: those convicted of treason or felony, unless restored to civil rights; those under guardianship; and those who are insane or mentally incompetent.

The constitution imposes residency requirements. At the time of the general election a candidate for the legislature must have resided in the state for at least one year and in the legislative district for at least six months.

The constitution requires persons elected to the legislature to be at least 21 years of age at the time their term of office begins. The term of office of newly elected legislators begins about two months after the general election, on the first Monday in January of each odd-numbered year (e.g., 2019, 2021).

Legislators may not hold any other public office, except that of postmaster or notary public. A legislator elected or appointed to another public office must resign from the legislature.

In accordance with separation of powers principles, the constitution makes each house the judge of the election returns and eligibility of its members. If a person's election to legislative office or qualification for office is challenged, the law provides for a judicial proceeding to assemble evidence to aid the House or Senate in making a decision whether to "seat" the person as a legislator.

The constitution prescribes the term of office of legislators

The constitution prescribes one term of office for representatives and another for senators: "Representatives shall be chosen for a term of two years, except to fill a vacancy. Senators shall be chosen for a term of four years, except to fill a vacancy and except there shall be an entire new election of all the senators at the first election of representatives after each new legislative apportionment…." The constitution says that a vacancy in office must be filled at an election called by the governor. No one is ever appointed to the legislature.

This has been the prescribed term of legislative office for well over a century, under an amendment to the constitution adopted in 1877.[1] The effect is that all legislative terms of office coincide within each house: all 134 representatives are elected at once and serve for the same two-year term of office beginning and ending in early January; all senators are elected at once

[1] Before that, during the first two decades of statehood, terms were half as long: one year for representatives and two years for senators.

and serve for the same four-year term beginning and ending in early January.[2]

There is one exception to the Senate term of four years. Once each decade, the four-year Senate term is halved, because of two constitutional requirements relating to the drawing of legislative district boundaries.

- The federal constitution, as interpreted by courts since the 1960s, requires each state to redraw the boundaries of state legislative districts after each decennial federal census to reflect geographic shifts in population during the preceding decade.
- The provision in the Minnesota Constitution, quoted earlier, expressly requires "an entire new election of all the senators" at the first election of representatives following every redrawing of legislative districts.

As a consequence of these two constitutional requirements, legislative district lines must be redrawn every ten years, after each federal census of population, and all legislators in both houses must be chosen from the newly drawn districts at the next general election. The result is a repeating decennial pattern of Senate terms of four, four, and two years (e.g., 2023-2026, 2027-2030, 2031-2032).

State law determines the size of the legislature

The constitution says that the number of members of each house of the legislature "shall be prescribed by law." The law currently sets the number of legislators at 201—67 senators and 134 representatives.

The constitution also gives the legislature "the power to prescribe the bounds of ... legislative districts." As this provision has been interpreted, the boundaries must be drawn by law—that is, using the lawmaking procedures described in this publication, including review by the governor.

The federal constitution, as interpreted by courts since the 1960s, requires the state to redraw the boundaries of legislative districts after each decennial federal census, to reflect changes in population distribution during the preceding decade. The state must accomplish this in time for the first state general election after each census, which is the election in years ending with the numeral "2" (2022, 2032, etc.). If the legislature and governor do not accomplish this by enacting a law in time for that election, the courts intervene to draw new legislative district lines.

State laws that define legislative districts and prescribe the number of legislators must be consistent with certain requirements imposed by the state constitution:

- Representation in both houses "shall be apportioned equally throughout the different sections of the state in proportion to the population thereof."

[2] Early in the state's history, the terms of senators overlapped: at each election half of the senate stood for election, while the terms of the other half carried over until the following election. This practice, called staggered terms, was ended under the 1877 amendment to the constitution.

- Senators "shall be chosen by single districts of convenient contiguous territory ... numbered in a regular series."
- "No representative district shall be divided in the formation of a senate district."

These three constitutional requirements affect the number of legislators and legislative districts in two ways. First, only one senator may be elected from each Senate district. Second, the number of representative districts must be equal to, or a multiple of, the number of Senate districts (because each representative district must be contained within a single Senate district and both must be apportioned according to population).

Current law implementing these constitutional requirements divides the state into 67 Senate districts, each of which elects one senator. This has been the size of the Senate for about 90 years (since 1915). Each of the 67 senate districts is divided into two house districts, making a total of 134 districts, each of which elects one representative. This has been the size of the House since 1973; before that, for a decade (1963-1972), there were 135 house districts, and before that (1917-1962), 131.

This arrangement makes the House precisely twice the size of the Senate. One-third of the 201 members of the legislature are senators, and two-thirds are representatives. Each senator currently represents about 79,000 persons, and each representative about half that number. After the 2022 reapportionment, these numbers will change.

REGULAR SESSIONS

The constitution requires the legislature to meet regularly, once each legislative biennium, in a session of limited duration.

The constitution requires the legislature to meet at least once every biennium

"The legislature shall meet at the seat of government in regular session in each biennium at the times prescribed by law...." In this constitutional provision, the word "biennium" refers to a legislative biennium, which is the two-year period corresponding to the term of office of representatives—beginning and ending on the first Monday in January of odd-numbered years (e.g., January 2019–January 2021).

The constitution leaves the time of the regular session to be prescribed by law. The law requires the regular session to begin the day after newly elected legislators take office. Thus, the regular session begins on the first Tuesday following the first Monday in January (unless the first Monday falls on January 1, in which case the day of convening is delayed by one day, until Wednesday).

Each regular session is conducted by a distinct legislature

The convening of each new regular session in January of each odd-numbered year marks the end of one legislature and the beginning of another, because all representatives, and sometimes all senators, are starting a new term of office. Sessions, and legislatures, are numbered in sequence. The first regular session, and the first state legislature, convened in December 1857. The regular session beginning in January 2019 is the 91st regular session, and the legislature that meets then is the 91st legislature.[3]

What is a Session?

Within the context of a *regular* session, the term may refer either to:

- the entire biennial session—extending over parts of both years of a legislative biennium; or
- an annual part of the biennial session—that is, the session in the first year of the biennium, or the continuation of the session in the second year.

The term is used also to indicate a daily session during a regular or special session. A daily session of a house occurs when the members meet on the floor (meaning the Senate chamber or the House chamber in the State Capitol). When the daily session concludes, the house adjourns for the day and specifies the day of the next daily session.

On the last day of the regular biennial session, or of a special session, each house concludes the session finally by adjourning *sine die* ("without a day")—that is, without specifying a day to meet again.

The constitution allows only one regular session in a legislative biennium

Once convened in regular session, the houses of the legislature continue the session simply by adjourning from one day to another. The regular session ends, typically every two years, when the houses adjourn *sine die* (that is, without specifying a day to reconvene). After a legislature adjourns *sine die*, it may not meet again in regular session during that legislative biennium. The terms of legislators continue, and the legislature continues to exist and may be called into a special session by the governor. But the regular session for that biennium is finished.

The constitution regulates the length of the regular session

In addition to requiring a biennial session at the times prescribed by law, the constitution limits the length of the regular session through three provisions.

[3] The number 91 is greater than half of the 162 years of statehood from 1857 to 2019, because during the first two decades of statehood legislative elections occurred annually and the legislature met annually rather than biennially.

The regular session is limited to 120 legislative days, as that term is defined by law. The law defines a legislative day as "a day when either house of the legislature is called to order"—that is, meets in a floor session. Legislators may conduct business at the Capitol and legislative committees may meet without consuming a legislative day, so long as neither house meets on the floor that day.

The legislature normally must use at least two legislative days each week. The constitution does not allow either house to adjourn for more than three calendar days (excepting Sunday) without the consent of the other house. Although the two houses could agree to frequent long adjournments, in practice they do not. Both routinely comply with the constitutional requirement by scheduling a minimum of two floor sessions each week—usually on Monday and Thursday—even when there is little or no floor business to conduct. In the early weeks of a regular session, when there is little floor business, the length of many floor sessions tend to be brief.

The legislature may not meet in regular session after a specified day in May. The constitution forbids the legislature to meet in regular session after the first Monday following the third Saturday in May in any year. This restriction, along with the January convention date prescribed by law, confines the regular session each year to a five-month span—from early-January to mid-May. If for some reason the legislature meets in the summer or the autumn, it must meet in a special session called by the governor, because it cannot meet in regular session then.

Within the constitutional parameters, each legislature schedules its session as it pleases

The constitutional and statutory regulations just described establish what is called a "flexible biennial session." The session is *flexible* because each legislature may schedule its regular session meetings as it pleases, so long as it does not exceed 120 legislative days or meet outside of the January-to-May period. The session is *biennial* because each legislature is allowed—not required—to meet in both years of the biennium. When it closes the regular session in the first year, the legislature may choose to adjourn *sine die* or to a day that it specifies in the following year.

Since 1973, when these regulations took effect, no legislature has used all of its 120 legislative days (although in 2008 and 2012, the 119-legislative-day mark was reached), and every legislature has chosen to spread its regular session over both years of the legislative biennium rather than adjourning *sine die* at the close of the first year's session. The result is this typical configuration of the regular session:

> ***First year:*** The regular session begins on the prescribed day, in the first week of January of the odd-numbered year. The session continues for nearly five months, until the constitutional deadline in mid-May, when both houses adjourn to a day they specify in the following, even-numbered year.
>
> ***Second year:*** On the specified day in the following year, usually sometime in late January or February, the two houses reconvene to continue the regular session. The session in the second year typically is shorter, lasting for two or three months, until sometime in April or May, when both houses bring the regular session to an end by

adjourning *sine die*. This has been the general pattern; some recent second-year sessions have been longer.

Regular Session History

Historically, the legislature met annually at first, then in alternative years, and now in flexible biennial sessions.

Annual sessions—1857-1878: The 1857 state constitution limited neither the frequency nor the duration of legislative sessions. The first legislatures met annually in sessions lasting as long as four or five months. In 1860, a constitutional amendment limited each annual session to 60 days. Accordingly, beginning in 1861 the legislature met each year for 60 calendar days, from early January to early March.

Alternate-year sessions—1879-1972: An 1877 constitutional amendment retained the 60-day limit but directed the legislature to "meet biennially." So beginning in 1879, and for nearly 100 years thereafter, the legislature met only in odd-numbered years. An 1888 constitutional amendment changed the 60-day limit to 90 "legislative days"—which was understood to mean that Sundays and legal holidays could be disregarded in reckoning the 90-day span of the session. In 1962, a constitutional amendment raised the limit of legislative days from 90 to 120 and replaced the constitutional direction to "meet biennially" with a more explicit direction confining regular session to "each odd-numbered year."

Flexible biennial sessions—1973-present: The flexible session amendment to the constitution, adopted in 1972, removed the provision confining regular sessions to odd-numbered years, added the May adjournment deadline, and directed that "legislative day" be defined by law. A 1973 law defined legislative day as a day when either house convenes in a floor session. Since then, each legislature has met in a single regular session spread over both years of the legislative biennium.

SPECIAL SESSIONS

Besides requiring the legislature to meet once in regular session during each legislative biennium, the constitution permits the legislature to meet in special session "on extraordinary occasions." Special sessions have become almost routine, and both the governor and legislative leaders have at times preferred special sessions as vehicles for deal making.

Only the governor may call the legislature into a special session

Some state legislatures are allowed to call themselves into special session. The Minnesota Constitution does not permit this: only the governor can call the legislature into a special session.[4]

[4] Statutory law purports to allow the legislature to call itself into a special session under certain circumstances, when the state is under attack by enemies of the United States.

Statutory law directs the governor to call a special session by means of a proclamation, to notify all legislators of the time of the meeting, and to inform them of the purpose of the session. The governor's proclamation is filed with the secretary of state and printed in the journal of each house and in the *Laws of Minnesota*.

Special sessions permit legislative decisions at any time of the year

Special sessions permit legislative decisions, if necessary, at times when the legislature is not meeting—or not allowed to meet—in regular session (generally, the summer and autumn months). Typically governors call special sessions for three reasons:

- The legislature does not complete work on vital legislation during the time allowed for the regular session.
- Circumstances require urgent legislative action when the legislature is not convened in regular session.
- The governor feels that negotiations will, on the margin, favor the executive branch during a special session.

It is possible for a special session to run concurrently with a regular session—either because a special session continues after the start of a regular session, or because the governor chooses to call a special session during a regular session. This overlapping of special and regular sessions has occurred only once, in 1981.

Special sessions were rare during the first century of statehood but have been more common since the middle of the 20th century. According to information compiled by the Legislative Reference Library, governors called three special sessions during the first half century of statehood (1857-1906), ten in the succeeding half century (1907-1956), 18 between 1973 and 2000, and 12 in the years between 2000 and 2017. As many as six special sessions have been called during a single legislative biennium (in 1981-82).

Each special session is discrete

Each special session is a separate, free-standing meeting of the legislature, independent of the regular legislative session and any other special session. In a special session, the legislature may not act on legislation from its regular session or another special session; all legislation to be considered must be introduced anew.

The legislature determines the length and scope of a special session

Governors initiate special sessions but have no authority to limit their scope or duration. Nor does the constitution regulate the length of special sessions, as it does regular sessions. Once legislators are assembled in a special session, they constitute a separate branch of state government in charge of its own affairs, and they are free to decide what issues and legislation to

consider and for how long to meet. Legislators could decide to take up a large agenda and meet for a lengthy period—even, in theory, until legislative terms of office end and a new legislature convenes in regular session in January of the next odd-numbered year.

Most special sessions are quite concentrated and short

Despite the legislature's unbridled authority to determine the scope and duration of special sessions, long ones are rare. The length of most special sessions is best measured in hours or days. Seldom does one extend beyond a single week. The longest in history—by far—occurred in 1971, when a special session convened in late May and did not adjourn finally until the end of October.

Two common practices contribute to the brevity of most special sessions.

Prior agreement on the business

The governor and legislative leaders seek agreement on the business of the session before the governor calls it. Some agreement on the general scope of the session usually is possible. This is announced publicly before the session and reflected in a general way in the language of the governor's proclamation. A typical proclamation these days recites the need for essential laws in specified subjects and calls for the prompt conclusion of legislative business, with a limited agenda and as much prior agreement as possible.

Besides seeking consensus on the general scope of the session, the governor and legislative leaders also may attempt to reach more detailed agreements about the content of legislation to be considered. Sometimes this is possible—to the point even that bills drafted before the special session convenes pass into law without any amendment whatever. Other times, important matters remain unsettled when the session begins, because the issues are so complex or contentious that the leaders cannot agree or their agreements do not hold once all legislators are assembled.

Expedited procedures

During special sessions, the House and the Senate often pass bills shortly after they are introduced, on the same day. This is accomplished by declaring an urgency, which allows a house to dispense with procedural requirements in the constitution and legislative rules that prevent the quick passage of bills. As described in *Passing Bills* (page 47), two-thirds of the members elected to a house must agree to dispense with the normal procedures to expedite the passage of bills. This support usually is forthcoming, because most legislators wish to curb the length of the special session.

Experimentation with Special Session Customs

During the last two decades, there have been different flavors or kinds of special sessions—instances of experimentation with the usual customs surrounding the calling of a special session. It might be argued that special sessions, once useful tools to complete legislative work, have increasingly proven to be less than sufficient to allow timely completion of necessary budget decisions.

- In 2003, Governor Pawlenty called a special session, without a pre-negotiated deal with legislative leaders, commencing immediately after the end of the regular session. This session lasted for nine days, and culminated in a final deal.
- In 2001, 2005, and 2011 partial government shutdowns resulted from an inability of a special session to conclude work in a timely fashion.
- In 2009, in order to avoid a looming special session, Governor Pawlenty unallotted state expenditures to balance the budget, a set of actions that were later overturned by the courts.
- In 2017, Governor Dayton called an immediate special session without a final deal with legislative leaders, but with pieces of a final deal. The session lasted three days and culminated in a final deal, but subsequently ended in a gubernatorial veto of the legislature's funding and a court standoff.

INTERNAL ORGANIZATION

The internal organization and operation of each successive legislature is largely the making of legislators serving in that legislature, rather than of constitutional or legal requirements.

Constitutional and statutory directives, though important, are few in number

The constitutional and statutory directives described in this publication are profoundly important in legislative affairs.

- The constitution dictates the legislature's bicameral structure.
- The constitution and state law prescribe the number, qualifications, and term of office of legislators.
- The constitution and state law regulate the frequency and duration of regular sessions and the manner of calling special sessions.
- State law directs that legislators stand for election on a partisan ballot, a requirement that produces the political party caucuses in each house that help organize and structure internal legislative affairs.
- The constitution specifies the basic procedures for making valid law.
- The constitution states that the seat of government is in St. Paul.

- The constitution and state law require that legislative sessions and meetings of legislative committees be open to the public.[5]

But permanent, external directives such as these about legislative organization and procedure are few in number. In keeping with separation of powers principles, the constitution and laws of the state leave the legislature largely to its own devices in organizing its affairs.

A public meeting is required

One of the first principles of parliamentary law is that legislators cannot act by separate consultation and consent; they can only act when properly assembled as a group. A house is properly assembled, according to the constitution, when a quorum—at least a majority all of the members—is present.

The constitution requires that the meeting be open to the public: "Each house shall be open to the public during its sessions except in cases which in its opinion require secrecy." (A law imposes the same requirement and applies it also to joint sessions of the legislature and to meetings of legislative committees and conference committees.)

Each new legislature is in charge of its own organization

Because each regular session is conducted by a distinct legislature, when a new legislature convenes in January of the odd-numbered year, it must organize itself anew: establish its membership, choose its leaders, and decide on its internal organization and rules of procedure.[6]

A new legislature must convene and establish its membership

The responsibility for convening a new legislature in regular session is given, by state law, to two elected constitutional officers of the executive branch. On the day in January prescribed by law for the beginning of the regular session, the lieutenant governor calls the Senate to order, and the secretary of state calls the House to order. In the absence of the designated executive branch officer, the law gives the responsibility to the oldest member of the house.

The constitution makes each house the judge of its membership. Therefore, each house must

[5] During renovation of the Capitol in 2015, the House and Senate allowed a limited number of the public into their temporary chambers in order to satisfy this requirement.

[6] For a special session, the legislature need not organize itself anew. State law declares: "The officers elected, the rules adopted, and the committees established by the legislature and by each house during the preceding regular session shall serve and be in effect during a special session, except as the legislature or a house provides otherwise."

"seat" its newly elected members and administer the oath of office.[7] For this purpose, the convening executive branch official appoints a temporary clerk (clerk pro tempore) from among the members of the house. The clerk functions as a record keeper while the house goes about the business of officially accepting its members, administering the oath of office, and electing officers.

Each house of a new legislature must elect officers

The constitution requires each house to elect a presiding officer and other officers as may be provided by law. So after convening and establishing their membership, the Senate and House elect officers. The constitution requires the members to vote orally in these elections and requires the legislative journals to record how each member voted.

Presiding officer

The Senate elects one of its members as the presiding officer, called the president of the Senate.[8] The House elects one of its members as the presiding officer, called the speaker of the House.

State law requires legislators to stand for election on a partisan ballot. As a consequence, the presiding officer of a house normally is a senior member of the political party caucus that controls the house, by virtue of having the greatest number of members elected.

The president of the Senate and the speaker of the House preside at meetings of the House and Senate floor sessions. The presiding officer manages the business coming before the house that day, recognizes members to speak, rules on procedural issues, and maintains order and decorum on the floor. In both houses, and particularly in the Senate, the leader of the majority political caucus (called the majority leader) helps the presiding officer manage the business of the day.

In addition to presiding during floor sessions, a presiding officer may have other duties and authority, given by the membership through legislative rules and custom. The House gives more authority to the speaker than the Senate gives to the president. For example, in addition to presiding over the floor sessions, the speaker stipulates the name and jurisdiction of the standing committees of the House, appoints members to standing committees and conference committees, and refers introduced bills to the committees of the House. The authority bestowed by the House on the speaker in these matters is formally divided by the Senate among the president, the Committee on Rules and Administration, and its Subcommittee on Committees; in practice the Senate Majority Leader is the leader of the Senate.

[7] In the regular session beginning in an odd-numbered year falling in the middle of the four-year term of office of senators, the Senate need not establish its membership or administer the oath of office. The Senate merely calls the roll of Senate districts in numerical order.

[8] Until a constitutional amendment approved in 1972, the lieutenant governor, an executive branch official, was the president of the Senate.

Staff officers

After the elections of the speaker of the House and president of the Senate, the gavels pass from the convening officials—the secretary of state and the lieutenant governor—to the newly elected presiding officers.

Each house next elects a handful of other officers specified by state law. Unlike the presiding officers, these are staff officers—not members but employees. Most elected staff officers are in positions that assist the presiding officers in conducting floor sessions. These are the secretary of the Senate and the chief clerk of the House, the sergeant at arms of each house, and the chief assistants to these officers. Once the staff officers are elected and assume their posts in the chambers of the House and Senate, the duties of the clerk pro tempore, appointed initially for organizational purposes, come to an end.

Each new legislature must establish its internal organization and procedures

To conclude the business of getting organized, each house must decide upon its internal organization and procedures, and the two houses must agree on the basics of bicameral organization and procedure.

Organizing resolutions

Each house adopts one or more organizing resolutions pertaining to the business of the house and the legislature as institutions of government—employees, parking, facilities, per diem payments, and the like.

House and Senate rules

Each house also adopts legislative rules, a form of self-governance expressly recognized by the constitution: "Each house may determine the rules of its proceedings…." Legislative rules embody the decisions of the house on fundamental matters of internal governance—the allocation of authority within the organization and the rules of parliamentary practice. Legislative rules, for example, grant and limit the authority of legislative leaders, create standing committees, govern the referral of bills to committees, set out procedures for considering bills in committee and on the floor, and establish internal administrative practices and financial controls.[9]

[9] In addition to formally adopted legislative rules, the House and Senate rely on two other sources of legislative law. Past legislative practices—that is, tradition and precedent—are influential in resolving questions of internal organization and procedure. This source of authority is commonly called "custom and usage." Second, a standard manual of legislative practice offers guidance when formal rules and established usage are lacking. For this purpose, the rules of the House and Senate both require the use of *Mason's Manual of Legislative Procedure*, published by the National Conference of State Legislatures.

Joint rules

The two houses also must agree upon joint rules. This is accomplished by a means of a concurrent resolution that each house adopts. Joint rules establish common standards for bills and other legislative documents, procedures for inter-house relations on bills and for conference committees, and protocols for transmitting legislative documents to the governor and for conducting joint conventions.[10]

Successive legislatures tend to keep proven arrangements and practices

Each new legislature is free to make itself over—to radically change legislative organization and procedure. But in reality these internal arrangements, once proven practical, tend to persist over time from one legislature to the next.

Legislative rules adopted on the first day of session by a new legislature, called temporary rules, usually are simply the rules of the preceding legislature with minor modifications (changing dates, the names of committees, and the like). Some weeks later each house usually adopts permanent rules, which may make more substantial changes in organization and procedure. But usually the permanent rules also stick pretty close to the proven, inherited rules.

The permanent rules may be amended in some particulars later in the session. But, as the name suggests, these rules are expected to govern legislative affairs for the entire legislative biennium—that is, for the life of the legislature that adopts them.

Then when the next legislature convenes, it gets under way by adopting the permanent rules inherited from its predecessor as temporary rules to get underway.

[10] Joint conventions are formal, decision-making meetings of the whole legislature, both houses together. These are rare, in keeping with the bicameral structure imposed by the constitution. The main regular example is the joint convention required by the constitution to elect regents of the University of Minnesota.

FORMS OF ACTION

Written documents are the stuff of the legislative process and the main tangible product of the legislature.

A Bill for an Act…page 20

A bill for an act is a proposal to the legislature by one or more members, usually to make, change, or repeal state law. A bill for an act becomes an act after it passes both houses of the legislature. An act is a proposal of the legislature to the governor.

Laws…page 30

A bill for an act becomes a law if the governor approves or acquiesces, or if the legislature overrides the governor's rejection (veto) of it. The legislature publishes laws in two forms: session laws and statutes.

Resolutions…page 32

A resolution may be used to make some legislative decisions when a bill is not required. The legislature recognizes four types of resolution: simple, concurrent, memorial, and joint.

Amendments and Engrossments…page 34

In the legislative process, a bill amends the law. An amendment amends not the law but another legislative document—a bill, a resolution, or another amendment.

The process of incorporating the language of previously adopted amendments into the text of a bill is called engrossing the bill. The result, a fresh version of a bill as amended, is called an engrossment. A bill may be engrossed multiple times during the legislative process as successive amendments are incorporated.

Legislative Journals…page 38

The journals of the House and Senate are the official record of the proceedings and decisions of each house of the legislature.

A BILL FOR AN ACT

A bill for an act is a proposal to the legislature by one or more of its members, usually to make or change state law. The term comes from the introductory phrase that begins each such proposal: "A bill for an act...."

A bill for an act becomes an act after it passes both houses of the legislature. An act is a proposal of the legislature to the governor.

The constitution directs the legislature to enroll each bill it passes before presenting it to the governor for review. Enrollment physically transforms a bill for an act into an act by (among other things) deleting the first three words of the introductory phrase, "a bill for an act," leaving only the words "an act." The resulting document, called an enrollment, is what the legislature presents to the governor.

Most bills and acts propose to make, change, or repeal state law

The constitution requires the legislature to use bills and acts to make new laws or to change or repeal existing laws. Because this requirement applies to any state action that the constitution requires be done by law, the legislature must use bills and acts not only to change the letter of the law but to authorize the state to raise revenue, spend money, or borrow money.

Bills and acts may be used for purposes other than making or changing law

The legislature may use this form of action for other purposes as well. For example, one function of the legislature is to propose amendments to the state constitution. Unlike a proposal to change a law, a proposal to change the constitution:

- need not be approved by the governor (and cannot be vetoed by the governor), and
- must be approved by the voters.

The legislature has customarily used acts to propose constitutional amendments. When a constitutional amendment is proposed in this form, the constitution requires the legislature to submit the act to the governor, even though the governor has no authority over it. The legislature could use another type of document—a joint resolution, described on page 33—to propose a constitutional amendment. If the legislature proposes a constitutional amendment in the form of a resolution rather than an act, the legislature need not submit it to the governor.

Bills must be written in a prescribed and exacting form

Before a bill can be written, a legislator must develop or receive an idea for accomplishing some purpose by changing state law. Ideas for legislation come from many sources: legislators, citizens, the governor, state executive or judicial agencies, local governments, federal law, the laws of other states, or one of the many groups and individuals petitioning for action by state

government. Legislative staff and others assist individual legislators in receiving, developing, and evaluating ideas for legislation.

An idea for legislation must be translated into a bill for an act—a written proposal to alter state law in specific ways. A bill may be written by anyone, but most are drafted in three legislative staff offices: House Research, for members of the House; Senate Counsel, Fiscal Analysis and Research, for members of the Senate; and the Office of the Revisor of Statutes, for members of both houses. A bill may go through multiple drafts as members, legislative staff, executive officials, and others evaluate and suggest revisions in the text.

Legal form

Bills are easily recognized.

- Each begins with the same introductory label: "A bill for an act."
- The opening phrase is followed by a title, which describes the content of the bill. The title is required by the constitution.
- Following the title are words called the enactment clause ("Be it enacted by the Legislature of the State of Minnesota"). This also is required by the constitution.

Font conventions

Bills must be explicit and unambiguous about the exact change being proposed in the wording of laws. Certain typescript conventions are employed to achieve the precision required: Current law is shown as regular text. Language to be added to current law is underscored. Language to be removed from current law is stricken (or, if a whole section or subdivision, repealed by reference to the section or subdivision number).

The "jacketed" bill

Before it can be introduced into the legislative process, a bill must be submitted to the Office of the Revisor of Statutes, a joint legislative staff agency. There it is reviewed and approved for correct legal form and compliance with legislative rules.

The Revisor's Office also prepares an official version of the bill for introduction into the legislative process. A unique Revisor document number appears in the upper right corner of each page of the bill, and a colored cover, called a "jacket," is affixed to the back of the bill. House bills have green jackets, and Senate bills have yellow jackets.

The colored jacket is used to record essential information about the bill and its course through the legislature: title, document number, author, date of introduction, committee referrals, committee reports, second reading, floor action, and so on. In the end, a bill's jacket carries a complete record of legislative action on the bill into the permanent archives of the legislature and the state.

The Revisor's Office produces three identical copies of the jacketed bill for introduction in a house. For a bill expected to be introduced in both houses, as companion bills, the Revisor's Office produces six identical copies, three with green jackets for the House and three with yellow jackets for the Senate. (Companion bills are two bills, one introduced in the Senate and one in the House, that are administratively linked for purposes of bicameral bill management. Almost all bills going through the legislative process are companion bills.)

A bill must be sponsored by one or more legislators

Every bill introduced in a house must be sponsored by at least one member of that house. A bill in the Senate must be sponsored by one or more senators; a bill in the House by one or more representatives. Legislators sponsoring a bill are called its authors. Authors indicate their sponsorship by signing the bill jackets.

The Revisor's Office delivers the jacketed bills to the legislative sponsor. Usually, this is the legislator who requested the bill and is to become its main sponsor in one house or the other. Certain types of bills may originate and be delivered differently.

Chief authors and coauthors

One author is sufficient. But often the main sponsor, called the chief author, asks other members of the same house to join in sponsoring the bill. These secondary sponsors are called coauthors of the bill.

House and Senate authors

A bill may be introduced in one house only. But introduction of a bill in both houses usually is desirable, so most bills enter the process as companion bills with authors in each house.

Authorship limits

Neither house imposes a limit on the number of bills an individual legislator may author or coauthor. But both houses limit the number of authors that may join in sponsoring a single bill. A Senate bill may have no more than five authors—the chief author and four coauthors; a House bill, no more than 35 authors—the chief author and 34 coauthors.

Changes in authors

Authorship is not fixed but may change after a bill is introduced, as it moves through the legislative process. A legislator may decide to withdraw as an author, sometimes in favor of another member who wishes to become an author, other times because of a change of opinion or a change in the bill. Conversely, legislators may be added as authors after a

bill is introduced, with the consent of the chief author. Changes in coauthors are quite common; changes in chief authors are quite rare.

Each authorship change is accomplished by a separate motion on the floor. Because motions to change authorship rarely are controversial, they are dealt with collectively on the floor to save time. The presiding officer calls attention to a list of authorship motions for the day and, after waiting a moment for objection from the floor, declares the business done. Unanimous consent to each of the motions is assumed. Even though authorship changes are done in bulk on the floor, the journals show each change separately, producing a full and permanent record.

Author information

The names of a bill's authors are printed on the first page of copies of the bill that are made for general distribution. The name of the chief author is listed first, followed by the names of coauthors. There is room for only five names, so the author list on House bills may end with the words "and others"—signifying the presence of more authors than shown.

The author list that appears on the first page cannot be relied upon entirely. It may not reflect changes in authors after introduction, and in the House it may not show the names of all authors. A complete, accurate, and up-to-date record of the authors of a bill can be compiled by tracing the authorship motions in the daily journal of the House or Senate. Authorship information is more easily found in the Index Office of the chief clerk of the House and secretary of the Senate, and now also on the Internet.

Each house independently numbers bills in the order of their introduction

To keep track of bills, each house independently numbers its bills in the order that they are introduced in that house. Bills are called *files* for this purpose: House File No. 1; Senate File No. 1; and so on. The file number appears prominently on the bill. This is not the same as the Revisor document number mentioned before, which is displayed in small type in the upper right corner of each page of the bill when it is introduced.

The numbering sequence in each house begins with the first bill introduced in a regular (or special) session and continues until the legislature adjourns the session *sine die*. The "flexible" regular session of the legislature customarily extends over both years of a legislative biennium, with the session in the first year separated from the session in the second by a long interim recess. As a consequence of this:

- Bills introduced in the first year of the regular session remain actionable throughout the session, including the second year.
- The number of the first bill introduced in a house in the second year of a regular session is not No. 1 but the number following the number of the last bill introduced the year before.

- Legislative rules automatically relocate bills caught at certain points in the legislative process when the legislature adjourns for the long interim recess at the end of the first year of the session. Bills that are in the possession of a committee generally are left undisturbed, but bills elsewhere are repositioned for possible action in the following year.

  Bills on the floor. A bill remaining on one of the floor calendars or orders is returned to the standing committee that last reported the bill.

  Bills in the rules committee. A bill caught in the rules committee of either house, by virtue of having missed a committee deadline, is returned to the last standing committee to consider it before the referral to the rules committee.

  Bills in conference committees. A bill caught in a conference committee is returned to the house of origin and laid on the table. The conference committee is discharged.

  Vetoed bills. A bill returned by the governor with objections after the legislature adjourns is laid on the table in the house of origin.

- The House changed its rules in 2015 to allow the House to suspend the introduction of bills after a date chosen by the House Rules Committee. This provision has not been triggered as of yet.

Some types of bills are distinctive in form, source, purpose, or process

The legislature has developed or identified various types of bills, distinguished by a special purpose or procedure, unique form, specific origin, or unusual authorship arrangement. The most common are described below (as documents—the legislative procedures that may apply to them are described elsewhere in this publication).

Executive branch bills

Executive branch bills are bills that legislators sponsor on behalf of the executive branch of state government (the governor, other elected executive branch officers, and state agencies). The executive branch is an important and prolific source of legislative proposals, and many bills are developed and drafted initially under the auspices of the executive branch rather than a legislator.

There are two loosely defined types of executive branch bill:

- ***Department bills*** are bills developed and proposed by a department or agency of the executive branch and approved by the governor's office. Department bills are identifiable by the initials "EB" (for Executive Branch) appearing in the upper-right corner of each page of the bill, as part of the Revisor document number. Some department bills embody major changes in state law and policy; others are more in the nature of "housekeeping bills" (below), comprising various technical and minor substantive changes in the law.
- ***Governor's initiatives*** (or governor's bills) are bills developed or chosen by the governor as key administration proposals.

Only a legislator may introduce a bill, so legislative authors must be found for every executive branch bill. Procedures for securing legislative authors for these bills are flexible and vary from session to session. Recent practice has been as follows: The Revisor delivers department bills to the speaker's office in the House and to the assistant majority leader's office in the Senate, where authors are identified. A copy of each department bill also is delivered to the minority leader in each house. Governor's initiatives may be delivered to legislative leaders or as directed by the governor's office—sometimes to the governor's office, sometimes to a specific legislator, sometimes to legislative leaders.

The House imposes a deadline on executive branch bills: they must be introduced at least ten days before the first committee deadline.

Committee bills

A committee bill is a bill written in a committee and introduced by the chair of a committee on behalf of the committee. A committee bill is recognized by the way authorship is attributed (e.g., Smith, for the Committee on Education, …). Committee bills are often also omnibus bills.

Omnibus bills

An omnibus bill is a bill that addresses a subject comprehensively. The constitution's single-subject rule ("No law shall embrace more than one subject which shall be expressed in its title") and supporting legislative rules are designed to curb the creation of sprawling bills with provisions on disparate subjects. But a bill dealing comprehensively with one subject—an omnibus bill—is permitted.

- The most common use of the term is for the dozen or so omnibus budget bills that make up the state budget—the state's plan for raising, spending, and borrowing money for state government functions. These bills are described below (as documents—procedures for enacting them are described in *Making the Budget*).
- The term also may refer to any bill that attempts to address a subject comprehensively, even though the bill is not a budget bill and may raise or spend little or no money. Examples would be an omnibus liquor bill, omnibus insurance bill, or omnibus waste management bill.

Omnibus bills, particularly omnibus budget bills, are often quite long and complex, with dozens to hundreds of pages covering various topics within the larger subject. As an organizational device and aid to finding particular provisions, most of these bills are divided into numbered parts called "articles." Articles in omnibus budget bills are organized on various principles, some by topic (income tax, property tax), some by name of the affected agency or official (Department of Agriculture, Department of Natural Resources), some functionally (appropriations in one article, changes in law in another article or articles).

Omnibus appropriation bills

Spending by the state—whether by the executive branch, the judiciary, or the legislature—must be authorized beforehand in a bill enacted into law in accordance with the procedures described in this publication. The constitution requires this: "No money shall be paid out of the treasury of this state except in pursuance of an appropriation by law."

Neither the constitution nor state law dictates how many appropriation bills there should be or how they should be organized. These are decisions made by each legislature. For budget control reasons, the legislature generally does not scatter spending authorizations in many small bills but consolidates almost all of them in a few omnibus bills. In recent decades, the legislature has used about a dozen omnibus appropriation bills—six or eight the first year of session, fewer the second year. Each of the appropriation bills authorizes spending for various purposes within a broad category of state government activity (e.g., transportation, higher education, k-12 education, natural resources, state agency operations).

Each appropriation bill employs some organizational features that fit its particular subject. But all of the bills share common features that derive from the responsibilities given by the constitution to the legislature: first, to authorize by law the spending of money for various state purposes; and second, to maintain legislative control of how the money is spent.

- ***Items of appropriation.*** The constitutional term for an individual appropriation is an "item" of appropriation. Items of appropriation vary in specificity. Sometimes a single lump sum is appropriated for an agency, even a relatively large agency. More commonly, the law specifies separate amounts for each major program within an agency and sometimes for activities within a program. Usually a separate amount is appropriated for each of the two fiscal years of the biennium.
- ***Types of appropriation.*** An appropriation may be fixed or open-ended, both in amount and duration. The legislature tends to favor appropriations that authorize a specific amount to be spent during a specific fiscal period, usually a fiscal year. This type of appropriation is called a "direct" appropriation. Because the spending authority does not continue beyond the budget period, the agency must return to the legislature for another appropriation. This helps the legislature maintain its constitutional responsibility for authorizing state spending.

  Other common varieties of appropriation are: open (fixed in time but not in amount), standing (fixed in amount but for a lengthy or indefinite time), and statutory (written into permanent law and thus continuing from biennium to biennium, with no need for renewal by legislative reenactment). The legislature usually uses these types of appropriation only when a direct appropriation is impractical, because the amount to appropriate for a program is unknowable ahead of time (e.g., school funding based on the number of students that enroll, funding for fighting wildfires, a program funded by its own revenues from fees charged for services).

- ***Riders.*** Appropriation bills do not just contain numbers—sums of money appropriated for various purposes. They also include text that changes state law and prescribes conditions, restrictions, requirements, or directions on how the agency is to spend the money or how a program funded by the bill is to be conducted. Some omnibus bills have relatively little text, only directly related to appropriation items in the bill, while others incorporate nearly all of the policy and law changes in the subject for that legislative session.

  A textual provision may be placed in an appropriation bill in one of three ways: (1) as an uncodified paragraph of text subsumed directly under the relevant item of appropriation; (2) as an uncodified section of law situated at the back of the bill or of an appropriation article in the bill; or (3) as a permanent change in statutory law pertaining to the programs, agencies, and government functions funded in the bill. The first two of these forms—particularly the first, the subsumed paragraph of text—usually are intended to be temporary in effect and not permanent state law. Omnibus bills must be clear on this point, though, because courts on occasion have construed an uncodified provision as a permanent change in law.

  The term "rider" is used to describe some or all of this textual material included in omnibus appropriation bills. The narrower, and better, use of the term refers only to the first or second form—uncodified provisions having a temporary effect related to the appropriation function of the bill. Sometimes the term is used more loosely, to refer to all textual material in an omnibus appropriation bill, including permanent changes to state law.

Commentary on the use of the omnibus bill process tends to focus on criticism of the ability to use lengthy bills to "logroll" or bury controversial provisions, on the one hand, versus the necessity of bundling many actions into fewer votes for efficiency in the face of the limited length of legislative sessions on the other.

Omnibus bonding bills

The constitution allows the state to borrow money to pay for certain public purposes and activities. The state borrows money by issuing bonds that commit the state to use its revenues to repay the lenders of the money (bondholders) with interest. Bonds may be issued by the state only as authorized in a bill enacted into law in accordance with the procedures described in this publication.

As with appropriations, the legislature typically consolidates bond authorizations in omnibus bills. The largest and most important of these—commonly called "the bonding bill"—authorizes the issuance of general obligation (G.O.) bonds for what the constitution calls "public improvements of a capital nature."

- ***Types of state bonds.*** Four types of state bonds are commonly encountered in legislation. They are distinguished by the source of revenue used for debt service—that is, for the payment of principal and interest to the bondholders.

Revenue bonds must be paid off using revenues from specific sources, not from general state tax revenue. State law authorizes some agencies to issue revenue bonds. For example, the Minnesota Housing Finance Agency issues revenue bonds to make home loans and uses the revenue from mortgage payments to repay the bonds.

Trunk highway bonds are paid off with specific state revenues that are dedicated by the constitution or by law to this purpose (e.g., taxes on motor fuels or taxes on the sale and registration of motor vehicles).

General obligation (G.O.) bonds, as the name suggests, are paid off with broader revenue sources. The state pledges that it will repay the debt not merely with particular taxes or revenue sources but, if necessary, with its full faith, credit, and statewide taxing powers. Because G.O. bonds pose the greatest risk to the state's financial health, the constitution restricts G.O. bonds in several ways: the bonds may be used only for certain purposes, listed in the constitution; the authorizing law must "distinctly specify" the purposes for the bonds and the amount to be spent for each purpose; and the bonds may not have a repayment period longer than 20 years.

Appropriation bonds are debt instruments paid through annual appropriations. Used more frequently in recent years, for purposes such as the 2012 Vikings Stadium, these bonds are paid via appropriation, yet bind the state through the powerful impact nonpayment would have on the state's credit rating.

- ***The bonding bill.*** One of the purposes listed by the constitution for G.O. bonds is "public improvements of a capital nature"—meaning the acquisition or improvement of fixed and enduring public assets, like land and buildings owned by state or local governments. The bill authorizing the sale of G.O. bonds for this purpose is known in the legislative process as the bonding bill. The constitution subjects this bill to another restriction: it must pass each house by an extraordinary majority (three-fifths, rather than the majority required to pass most bills). As described in *Making the Budget*, the preparation and passage of the bonding bill is usually a main feature of the second year of the regular session, though quite often a bonding bill is passed in the first year as well.

Omnibus tax bills—the origination clause

The constitution dictates a special legislative procedure for bills for raising revenue: "All bills for raising revenue shall originate in the house of representatives, but the senate may propose and concur with amendments as on other bills." The first part of this constitutional provision is known as the origination clause. A similar provision appears in the federal constitution and in many state constitutions. The clause affects the sequence of action in the two houses on a bill to which it applies: the House must act on it first and the Senate second, so that the bill ultimately passes the legislature as a House file, not a

Senate file. (See *Making the Budget*, page 170.)

The meaning of the constitutional phrase "raising revenue" is not entirely clear. There is little case law in Minnesota on the subject. Courts generally have interpreted the constitutional language quite narrowly, to apply only to bills that have as a primary purpose the raising of state (not local) revenue from taxes (not fees, fines, penalties).

The traditional practices of the Minnesota Legislature reflect a broader view of the provision. The legislature historically has used House files not only for bills that raise state taxes but also bonding bills, for bills that authorize local taxes, and for bills that impose fees, fines, or penalties for the purpose of raising general revenue (as distinguished from revenue to defray the cost of the associated program or service). Still, the reach of the origination clause is no doubt limited. For example, it may not apply to a bill on some subject other than taxes that contains incidental or minor tax provisions, or to a bill authorizing a government program and dedicating all revenue from program fees, fines, or penalties—possibly even taxes—to defray the cost of the program. There are many possible variations and combinations in bill content, so the application of the constitutional provision to a particular bill is not always clear.

Housekeeping bills

A housekeeping bill is one that seeks to correct various technical errors and minor substantive problems in state laws or agency programs. The term is open to interpretation, and a bill identified as a housekeeping bill may stray considerably into renovation—making significant changes in policy or law. Some housekeeping bills are department bills, others are committee bills, still others are statutory housekeeping bills prompted by legislative needs.

Statutory housekeeping bills

The legislature produces three types of bill that are essentially statutory housekeeping bills. The first two—the Revisor's bill and the corrections bill—are encountered regularly, usually in every session. The third type—the recodification bill—appears more sporadically, as needed.

- ***Revisor's bill.*** This is drafted by the Revisor of Statutes to correct technical errors discovered in laws enacted in *prior* sessions of the legislature. This bill is easily recognized: it carries the label "Revisor's Bill" immediately below the title and has attached to it a memorandum explaining the reasons for each provision of the bill.
- ***Corrections bill.*** The second type of legislative housekeeping bill also is prepared by the Revisor's Office and therefore is sometimes, loosely, referred to as a Revisor's bill. But it is different, for it corrects mistakes, both technical and substantive, in laws enacted earlier in the *current* legislative session. The corrections bill is assembled by the Revisor's Office during the session, in

consultation with members, legislative and agency staff, and others who discover errors in laws already enacted that session. The bill usually is held for action until very late in the session—sometimes indeed so late that the legislature runs out of time and adjourns without passing it.

The current practice is to introduce both of these legislative housekeeping bills as bipartisan companion bills: the same bill is authored in each house by two members, one from each major political party caucus. The four authors are expected to see to it that the provisions in the bills do not make any unintended substantive change in law or policy. To further guard against unintended substantive effects, each provision is reviewed and approved by others as well (e.g., the committee chair with jurisdiction).

- ***Recodification bill.*** A recodification bill is another type of legislative housekeeping bill, one which attempts to comprehensively reorganize and clarify the statutory law on a subject. After many years of legislation, the statutes bearing on a subject may become scattered, disorganized, inconsistent, and difficult to understand. Depending on the state of the law and the intention of the legislature, a recodification may require only technical and very minor substantive changes, or it may involve legal and policy clarifications and interpretations of considerable substance.

Local bills

A local bill is one that relates or applies only to particular units of local government. The state constitution generally prohibits "special legislation"—laws that apply to particular entities, groups, or individuals, rather than generally to all similarly situated. Local laws are an exception to this constitutional prohibition. Subject to certain restrictions and procedures, the legislature may pass laws that apply only to a particular unit or units of local government. Local bills are common in the legislative process. Most local laws are not codified and thus appear only in the session laws, not the statutes.

By request bills

The words "by request" appearing on a bill after a single author's name signify that the author is not necessarily advocating the bill but is introducing it on behalf of a citizen, usually a constituent.

LAWS

A bill for an act becomes a law if the governor approves or acquiesces, or if the legislature overrides the governor's rejection (veto) of it. The legislature publishes laws in two forms: session laws and statutes.

Session laws are a compilation of legislation passed during a legislative session

Each year after the regular session ends, the Revisor of Statutes, a staff agency of the legislature, publishes legislative actions in volumes entitled *Laws of Minnesota* for that year. These are commonly referred to as the session laws.[11] The publication is divided into sections, one devoted to laws and another to resolutions (a form of action described later). A separate section is devoted to legislation enacted in any special session during the period. Within each section, the laws and resolutions appear in the order that the legislature took final action on them. Each law or resolution is given a number—a "chapter" number for laws, and a resolution number for resolutions.

Session laws that are temporary or local in character generally appear only in the *Laws*. A common example of a temporary law is one that appropriates money for expenditure by a state agency during a particular year. An example of a local law is one that allows a particular city or county to do something. Because temporary laws and local laws usually appear only in the session laws, many new laws and changes to old laws—including some of enduring significance for some place or purpose—are to be found only in the *Laws of Minnesota* for a particular year.

Statutes are a topical compilation of current laws of general and enduring application

Most laws of enduring and general, statewide application are extracted from the session laws and published separately in a multivolume compilation entitled *Minnesota Statutes*. This work also is done by the Revisor of Statutes. The statutes are not organized chronologically, by time of passage, like the session laws. Instead these volumes collect and organize state laws by subject. So, for example, all current state laws on environmental protection are grouped together in the statutes, no matter when they were enacted. The environmental laws are organized into "chapters" on particular subtopics, like water pollution or waste management. Each chapter is organized internally on topical lines into "sections," which may be broken down further into "subdivisions." The chapters, sections, and subdivisions are numbered (or "coded") in sequence. For this reason the statutes are sometimes referred to as the codified law of the state.

Because each legislature enacts session laws that create and change statute laws, *Minnesota Statutes* must be updated regularly. Every two years, shortly before a new legislature begins a new regular session, the Revisor's Office publishes a new compilation, incorporating all the new statutes and changes to statutes that were enacted by the previous legislature. The biennial compilation is updated after the close of the first year of the biennial legislative session, to show changes in the statutes enacted during that year's session. This update, called the *Supplement* for the year, is published as "pocket parts" that may be inserted in the back cover of each volume of the *Statutes*. Until the next edition of the *Statutes* appears a year later, the pocket part and the main volume must both be examined to be sure that a law has not changed since the volumes were published the year before. The Revisor's Office now also publishes and updates the statutes on the Internet, which makes it easier to find the current version of the law.

[11] Before 1973, when the legislature met in regular session only in odd-numbered years, the *Laws* were published in alternate years rather than annually.

RESOLUTIONS

A resolution may be used to make some legislative decisions when a bill is not required. Resolutions are clearly labeled as such and are easily distinguished from bills. Like bills, they customarily have a title, but the enactment clause ("Be it enacted"), which is required for a bill, is replaced by the clause "Be it resolved..."

The legislature currently distinguishes four types of resolutions. Two types of resolutions (most simple resolutions and concurrent resolutions) pertain to the internal business of the legislature and may be adopted[12] using abbreviated legislative procedures. The other two (memorial resolutions and joint resolutions) have import outside of the legislature. When acting on these, both houses use the same procedures that they use for acting on bills. When both houses adopt the same memorial or joint resolution, it becomes a formal action of the legislature and is published in the resolutions section of the *Laws of Minnesota* for that year.

A simple resolution is an action of one house only

A simple resolution is an action taken by one house, on its own, without the concurrence of the other. Simple resolutions are not actions of the legislature. They do not require gubernatorial review or approval and are not presented to the governor.

Simple resolutions are used mainly for two purposes: to make decisions on internal House or Senate business and to congratulate or offer condolences to individuals or groups. Simple resolutions sometimes are used also to express the opinion or "sense of the body" on some matter of external import.

Legislative rules permit a house to adopt a simple resolution using more abbreviated procedures than those required for a bill, with one exception (simple memorials—see below). For example, the House produces one variety of simple resolution (congratulatory) without any committee or floor consideration, and neither house requires most simple resolutions to be reported three times before final action.

The "sense of the body" resolution may resemble a memorial resolution in substance, in the statement it makes. But, unlike the memorial, this variety of resolution does not contain a transmittal clause or direct external action by an officer of the house and therefore need not go through the procedures required of a memorial.

With a few exceptions (some organizing resolutions adopted by the House on the opening day of a session), each house labels and numbers its simple resolutions in sequence.

A concurrent resolution is an action of both houses on internal legislative business

A concurrent resolution is used by the two houses mainly to make mutual decisions on internal

[12] Resolutions are *adopted*, whereas bills are *passed*.

legislative matters—what the constitution calls "the business or adjournment of the legislature." Examples include: a resolution to adjourn for more than the constitutionally allowed three days, a resolution to adopt joint legislative rules, a resolution to establish common deadlines for committee action on bills in both houses, a resolution establishing legislative revenue targets for the state budget. Occasionally, a concurrent resolution is used to congratulate or offer condolences to an individual or group.

Concurrent resolutions concern the legislature only. They do not require gubernatorial review or approval and are not presented to the governor. For this reason, legislative rules permit the legislature to act on concurrent resolutions using more abbreviated procedures than those required for bills. For example, concurrent resolutions need not be reported three times before final action by a house.

Concurrent resolutions are easily recognized, because they always are styled as an action of one house in which the other house *concurs* (hence the name): "Be it resolved by the Senate of the State of Minnesota, the House of Representatives concurring, ..." (or vice versa). Each house numbers all of the concurrent resolutions that it initiates in sequence.

A memorial resolution is a statement by one or both houses directed to others

A memorial resolution (memorial, for short) is a request, proposal, decision, or other statement directed to the outside world, usually another government official or agency (often, a federal official or agency). The defining characteristic of a memorial is the transmittal clause, directing legislative officers to send the memorial to the official or agency to whom the statement is addressed.

Because memorials aim to have an official effect beyond the legislature, neither house allows them to be adopted using the abbreviated procedures acceptable for simple or concurrent resolutions on internal legislative business. A memorial must go through the same procedures (referral to committee, three readings, etc.) required for a bill.

A memorial may be a simple resolution, adopted by one house only. Although a simple memorial is handled as a bill within a house, it does not proceed to the other house and does not become an action of the legislature.

A memorial agreed to by both houses, on the other hand, is an official action of the legislature directed beyond the legislature. The constitution requires the legislature to present such a resolution to the governor for review and possible veto, just as if it were a bill. If the memorial survives gubernatorial review, it becomes an official action of the state and is transmitted to the official it addresses as a message from the state. It also is published in a separate resolutions section in the *Laws of Minnesota* for that year.

A joint resolution may be used by the legislature to make certain decisions

The state and federal constitutions allow the legislature to make a few binding state decisions of external import on its own, without gubernatorial review or approval. These decisions, given to

the legislature alone, include the following:

- ratifying an amendment to the federal constitution
- proposing an amendment to the state constitution
- prescribing the compensation of judges

The legislature can make any of these decisions in the form of a bill. The legislature customarily does just that when it proposes constitutional amendments or when it prescribes the compensation of judges. If the legislature acts in the form of a bill, the constitution requires the legislature to present the bill to the governor, even though the governor's approval is not required and the governor has no authority to veto.

Alternatively, the legislature can choose to make these decisions in the form of resolutions rather than bills. This type of resolution is called a joint resolution. Unlike a bill or a memorial resolution of the legislature, a joint resolution of the legislature need not be presented to the governor. Instead, the legislature transmits the resolution directly to the secretary of state, and the legislature's decision is effective without any gubernatorial review or approval.

Because of the import of joint resolutions, neither house allows one to be adopted using the abbreviated procedures acceptable for simple or concurrent resolutions on internal legislative matters. A joint resolution, like a memorial, must go through the same procedures (referral to committee, three readings, etc.) that are required for a bill.[13]

AMENDMENTS AND ENGROSSMENTS

In the legislative process, a bill amends the law, while an amendment amends not the law but another legislative document—a bill, a resolution, or another amendment. If adopted, an amendment to a bill changes the text of the bill, which in turn eventually may change the law.

An amendment is offered by motion. When the vote is taken, the motion to amend either "prevails," which means that the amendment is adopted,[14] or "does not prevail," which means that the amendment is not adopted.

The process of incorporating the language of previously adopted amendments into the text of a bill is called engrossing the bill. The result, a fresh version of a bill as amended, is called an engrossment. A bill may be engrossed multiple times during the legislative process as successive amendments are incorporated.

[13] Another, older type of joint resolution, rarely used, is adopted by the legislature meeting in joint convention.

[14] Amendments, like resolutions, are *adopted*, whereas bills are *passed*.

An amendment proposes exact changes in the text of the document being amended

An amendment begins with a line identifying the member or members making the motion and the document proposed to be amended: "Representative Smith moves to amend H.F. No. 12 as follows: …."

To serve its purpose, an amendment must be written like a bill—that is, very precisely in language that is explicit and unambiguous about the effect of the amendment on the text of the bill or other document. An amendment to a bill may seek to do one or more of the following (using similar font conventions as used for a bill—page 21):

- add new language to current law (by underscoring)
- remove language from current law (by striking or repealing)
- delete new (underscored) language that the bill proposes to add to current law
- reinstate language in current law that the bill proposes to remove (strike or repeal)

To minimize misunderstanding, the legislature generally requires that amendments be in writing (except for very simple word changes and minor technical corrections).

Much of the legislative process is devoted to amendments

Amendments to bills are central to the legislative process. In committees and on the floor, members often spend more time debating amendments to a bill than the bill itself.

Common Types of Amendments

The most common type of amendment is called the ***page-and-line amendment***. It is readily identified: following the introductory line, it consists of one or more paragraphs, each beginning with a page and line number, followed by an instruction on the change in language to be made on that line of the bill: "Page 1, line 12, after "purchase" delete [strike, reinstate, insert]…." A page-and-line amendment shows exactly how the amendment would change the words in the bill.

The ***delete-everything amendment*** or delete-all amendment (or, inaccurately, strike-all amendment) begins by proposing to "delete everything after the enacting clause." The purpose is to remove all of the language in the bill and substitute new language.

A delete-all amendment is easier to read than a long, complicated page-and-line amendment. On the other hand, a delete-all amendment may make it difficult to see the exact language differences between the text of the bill and the text proposed to be substituted.

Most amendments are aimed at altering a bill (or resolution). But a member may propose an ***amendment to an amendment*** as well: "Representative Jones moves to amend the amendment to H.F. No. 12 as follows: …." An amendment to an amendment usually is written as a page-and-line amendment or, if very simple and short, offered orally. A ***third-degree amendment*** is an amendment to an amendment to an amendment. This is not allowed. A House rule states: "An amendment may be amended, but an amendment to an amendment may not be amended." The object of this restriction is to avoid having too many balls in the air at once, a first principle of parliamentary procedure being to deal with one proposition at a time.

An amendment may be ***divided*** at the request of a member. The member requesting a division of an amendment wants to vote separately on two or more discrete changes being proposed by a single

The attention that members give to amendments is a fitting and efficient manner of proceeding, because amendments are the means by which the legislative process objectifies—makes sharp and concrete—differences of opinion among legislators about state laws and government policy and behavior. There may be substantial consensus among legislators on many aspects of a bill but intense disagreement about a few. Amendments focus attention on the points in dispute and require each legislator to decide where to stand on them. In a way, amendments are the very purpose of the legislative process—as process. While the legislative product is a change in the law, the legislative process is designed to allow legislators to express disagreement about the law and to force their colleagues to choose.

amendment. If the parts can be separated and still remain intelligible and effective, the member requesting the division is entitled to the separate vote. (Calling for the division of an amendment is not the same as calling for a division on a *vote*. In asking for a division on a vote, a member is questioning the ruling of the presiding officer on which side prevailed in a voice vote. The member wants a division—a hand count of each side of the vote—to be sure that the chair ruled correctly.)

Annexation amendments incorporate one bill into another. This is not uncommon, particularly in committee. The omnibus budget bills are, in part at least, compilations of separate bills—essentially the product of multiple annexation amendments. Members also commonly recast bills into amendments to other bills on the same subject, perhaps to get a proposal before a committee without having to persuade the committee chair to give the bill itself a hearing, perhaps to rescue a bill trapped in an unfriendly committee by attaching it to a bill elsewhere in the legislative process.

A common type of amendment, described earlier, inserts textual material—called a ***rider***—in an omnibus appropriation bill. Riders prescribe conditions, restrictions, requirements, or directions about how an agency is to spend an appropriation in the bill or how a program funded by the bill is to be conducted.

An engrossment is a new version of a bill incorporating previously adopted amendments

The process of incorporating adopted amendments into the text of a bill is called engrossing the bill. The resulting fresh version of the bill, as amended, is called an engrossment. After a bill is engrossed, further legislative work on the bill deals with the engrossment, not the original bill or earlier engrossments.

A bill is engrossed each time a house adopts amendments recommended in a committee report on the bill. A house also may prepare an engrossment to show floor amendments to a bill. A bill that follows a sinuous path through the legislature may be engrossed many times.

Three types of engrossments are commonly encountered in the legislative process. Each has a different appearance and documentary status.

Engrossments by the house of origin

The Revisor's Office prepares engrossments of House bills for the House and Senate bills for the Senate. The Revisor's Office works under the direction of the chief clerk of the House or the secretary of the Senate.

Each engrossment is numbered in sequence and clearly labeled, by appending a number after the bill's file number in the upper right corner of each page of the bill and by a prominent announcement on the first page of the bill. So, the second engrossment of House File No. 155 would have "H0155-2" in the upper right of each page and "Second Engrossment" on the first page.

After a bill is engrossed, further legislative work on the bill in the house of origin deals with the engrossment of the bill, not the original bill or earlier engrossments.

Unofficial engrossments by one house of bills that originate in the other

An engrossment of a House bill by the Senate, or a Senate bill by the House, is called an *unofficial* engrossment, on the theory that neither house has the authority to officially engross a bill of the other. The Revisor's Office prepares unofficial engrossments for both houses.

An unofficial engrossment is easily identified: The file number in the upper right corner of each page begins with the letters "UE" and ends with the appended engrossment number. So, "UES0123-2" would be the second unofficial engrossment by the House of Senate File No. 123. The first page also bears the announcement "Unofficial Engrossment, Reprinted for the House [or Senate]."

After a bill is unofficially engrossed, further legislative work on the bill in the second house deals with the unofficial engrossment, not the original bill as received from the house of origin or earlier unofficial engrossments. Those working with a bill in the second house must be alert to the distinction between the house of origin's official engrossment of a bill and the second house's unofficial engrossment of the same bill. Because both houses may have engrossed the same bill, there can be *two* second engrossments of a bill. Thus, for example, the Senate's second engrossment of S.F. No. 123 may be very different, substantively, from the House's second unofficial engrossment of the same bill.

Unofficial engrossments prepared for committees

Another type of unofficial engrossment is sometimes prepared during the proceedings of a committee. This comes about because, even within the deliberations of a single committee, a bill may be amended so much that it becomes a jumble of amendments and amendments to amendments. Before making final decisions on the bill, the members of the committee may feel the need to see the bill whole again, with all the amendments incorporated.

There are two ways to meet this need:

- With a delete-all amendment to the bill that expresses all previously adopted amendments, without making any additional changes
- With an unofficial engrossment of the bill, incorporating all previously adopted amendments

Though they have a similar purpose, the two forms are not completely interchangeable. A delete-all amendment may include further author's amendments to the bill, in addition to amendments previously adopted by the committee, whereas an unofficial committee engrossment generally refers to a clean record of past committee actions without any additional author's changes.

An unofficial committee engrossment is prepared by House or Senate staff working with the committee (or by the Revisor's Office). It bears none of the labeling of an official or unofficial engrossment prepared for the House or Senate. And it has none of the status of those engrossments; it is merely a committee document. Unlike an engrossment for the House or Senate, a committee engrossment does not take the place of the original bill and has no standing until the committee adopts it as an amendment to the bill, in the nature of a delete-all amendment, which can be used in the committee report.

LEGISLATIVE JOURNALS

The journals of the House and Senate are the official record of the proceedings and decisions of each house.

The constitution requires a written public record of legislative proceedings

The constitution says: "Both houses shall keep journals of their proceedings, and from time to time publish the same…."

State law and legislative rules direct the use of certain journal procedures

The constitution does not dictate procedures for keeping legislative journals. But state law does: "A journal of the daily proceedings in each house shall be printed and laid before each member at the beginning of the next day's session. After it has been publicly read and corrected, a copy, kept by the secretary and chief clerk, respectively, and a transcript as approved shall be certified by the secretary or clerk to the printer, who shall print the corrected permanent journal." This law is the source of the distinction between the daily journal and the permanent journal.

Both houses implement the statutory directive in a way intended to avoid burning up precious floor time reading and correcting daily journals. At the start of its daily session, each house approves a routine motion to dispense with the reading of the journal and to approve the journal as corrected by the secretary or chief clerk.

The constitution says little about the content of the journals

The constitution requires few matters to be recorded in the journals:

- On any roll-call vote, the journal must record how each member voted: "...the yeas and nays, when taken on any question, shall be entered in the journal." The roll may be called on a question for various reasons: a constitutional requirement, a requirement in legislative rules, or a request by members. No matter why the roll is called, the journal must display how each member voted.
- For a vote on the passage of a bill, the journal must record sufficient information to show that the constitutionally required number of members voted for passage: at least a majority of all members elected to the house on most bills, three-fifths of all elected members on bonding bills.

  The constitution does not expressly require a roll-call vote to pass a bill nor a journal record of how each member voted on passage. Nonetheless the journals do record the vote of each member on passage, because the constitution requires a journal record of how each member votes whenever the roll is called, and both houses customarily call the roll on passage. (A House rule requires it.)
- If the governor vetoes a bill, by returning it to the house of origin, the governor's objections to the bill must be entered into the journal of that house.
- The constitution expressly requires a roll-call vote to override a gubernatorial veto and a journal record of how each member votes.
- In all elections by the legislature (e.g., legislative officers, regents of the University of Minnesota), members must vote orally, and their votes must be entered in the journal.
- Two or more members of a house may dissent and protest against any act or resolution of the house and have the reasons entered in the journal.

Though few in number, the constitutional directives about the content of legislative journals are imperative. The Senate and the House must make the entries required by the constitution or risk that a legislative decision will be declared invalid by the courts, because it was not taken in conformity to the constitution. For example, the courts may invalidate a law if a journal fails to record that a majority of all the members elected to a house voted to pass a bill or fails to record the name and vote of each member on a vote to override a veto (or any other roll-call vote).

Conversely, the courts may decline to overturn a law challenged on the grounds that a particular parliamentary action is not recorded in the journal if the constitution does not expressly require a journal record of the action.

Journals are a record of actions and decisions, not a transcript of proceedings

Apart from the few imperatives just described, the constitution leaves it to the Senate and House to decide how full and detailed the journal record should be. Both houses choose to record in their journals all of the essential steps taken in the lawmaking process, even though they are not

constitutionally required to do so.

But neither house records much more than these essentials. The legislature has decided to keep the journals from mushrooming into something resembling the Congressional Record—containing verbatim transcripts of what legislators say in debate or speeches, copies of documents and reports submitted to the legislature, and other voluminous material not necessary to record legislative actions on legislative documents. The policy of limiting the content of legislative journals is embodied in a state law on the subject, which requires the exclusion from the journals of all extraneous matter unless legislators specifically vote to include it. The rules of the House and Senate reflect the same policy, by not prescribing the content of the journals and seldom requiring particular journal entries.[15]

As a consequence of the legislature's policy of restraint in journal content, the journals of the House and Senate do not report what legislators say or reproduce what is submitted to them. The journals record only legislative business transacted, legislative decisions made, legislative actions taken. The result is a chronological record, day by day, of the formal steps by which various pieces of legislation are proposed, considered, and either accepted or rejected: bills introduced, bills referred to committees, bills reported by committees, decisions on committee recommendations, readings of bills required by the constitution, disposition of amendments proposed during floor debate, messages from the other house and from the governor, motions by members on the floor for various purposes, and the like.

Both houses also make audio, and more recently video, recordings of floor sessions. The audio recordings are deposited in the Legislative Reference Library, a joint legislative staff office, where they are available to the public. There are now audio recordings available on the Internet, as well. These recordings are not intended to be part of the official record of legislation but are a rich source of information.

Journals are evidence of the legislative process leading to the enactment of laws

Legislative journals are used mainly to better understand a law by reconstructing its "legislative history"—the course that the bill took through the legislative process in becoming a law.

The Minnesota courts may look to the journals to resolve questions about the text or intent of a law. For example, the journals have been used to determine which of two enrolled bills actually passed the legislature, to determine whether the two houses actually agreed to the same text, and to determine the purpose of a change in the wording of a bill during the legislative process.

The Minnesota courts also may use the journals to determine whether a bill was enacted in accordance with the lawmaking procedures required by the constitution—for example, whether a bill had three readings in each house, whether it had the number of votes required for passage in

[15] A House rule requires a record of attendance at floor sessions; the Senate has a similar rule. Another House rule requires that a request to withdraw a bill from legislative consideration be entered in the journal. Another requires a journal entry if a House bill and a Senate bill are compared and found to be identical. A Senate rule allows the entry into the journal of a roll-call vote in a committee under certain conditions.

each house, whether the text of the enrolled act presented to and approved by the governor is materially different from the bill that actually passed both houses, or whether the governor acted on the enrollment within the time allowed by the constitution.

The willingness of the Minnesota courts to use the journals to settle disputes about what a law says or whether it was validly enacted is called the "journal entry rule." The federal courts and the courts of some other states hold a different view, called the "enrolled bill rule." Those courts accept the enrolled bill, the properly authenticated document submitted to and approved by the chief executive, as conclusive proof of the content and procedural validity of a law. They refuse to peer behind the enrollment to the legislative journals for help in clarifying questions about the law or for evidence that the enrollment was not enacted in accordance with constitutional lawmaking requirements.

Minnesota courts are not eager to use the journals for these purposes. On the contrary, the courts presume that a law means what is says and was validly enacted. But they do not accept the enrollment as conclusive proof of this, as do courts that follow the enrolled bill rule. The presumption in favor of the validity of the enrollment can be overcome in Minnesota by clear contrary evidence in the legislative journals, showing that the law was not enacted in compliance with the process required by the constitution.

Part B

The Process

The first three chapters in this part are labeled *Fundamentals* because they describe the essential requirements for making valid Minnesota law as prescribed by the Minnesota Constitution and by rules and practices of the legislature designed to ensure compliance with constitutional requirements. Much of the intricate formality of the legislative process derives from these constitutional requirements and the legislative rules enforcing them. The overview flowchart on page 45 depicts these essentials graphically.

Fundamentals: Overview of the Legislative Process

Making law is usually a two-step process. First, the legislature must propose a law. The legislature does this by transforming a bill for an act into an act. A bill for an act is a proposal by individual legislators to the legislature; an act is a proposal of the legislature to the governor. The constitution dictates procedures that the legislature must follow in making bills into acts.

The second step in the lawmaking process is review by the governor. When the legislature passes a bill in the required manner, it must enroll the bill, which transforms it physically into an act, and then present the act to the governor. If the governor approves or acquiesces, the act becomes a law; it is said to be enacted. The constitution dictates procedures that the legislature and the governor must use in making acts into laws.

A third step is required if the governor disapproves—vetoes—a legislative proposal. The proposal cannot become law unless the legislature overrides the governor's veto. To enact a law over the governor's objections, each house must vote to override the veto and pass the legislation again, this time by an extraordinary majority (at least two-thirds of all its elected members).

The flowchart on the page below depicts the course of a bill as it moves through these steps in the lawmaking process. The bill moves from left to right, through four columns.

1st and 2nd columns: Passing Bills…page 47

The constitution requires each house to report a bill three times before voting on whether it should pass. The two columns on the left display the procedure that each house uses to pass bills in conformity with this requirement. The left column shows the sequence of action in the house that passes the bill first (called the "house of origin"). A bill may originate in either the House of Representatives or the Senate, with one exception: the constitution says that "bills for raising revenue" must originate in the House. The second column shows legislative action on the same bill in the second house, after it has passed the house of origin.

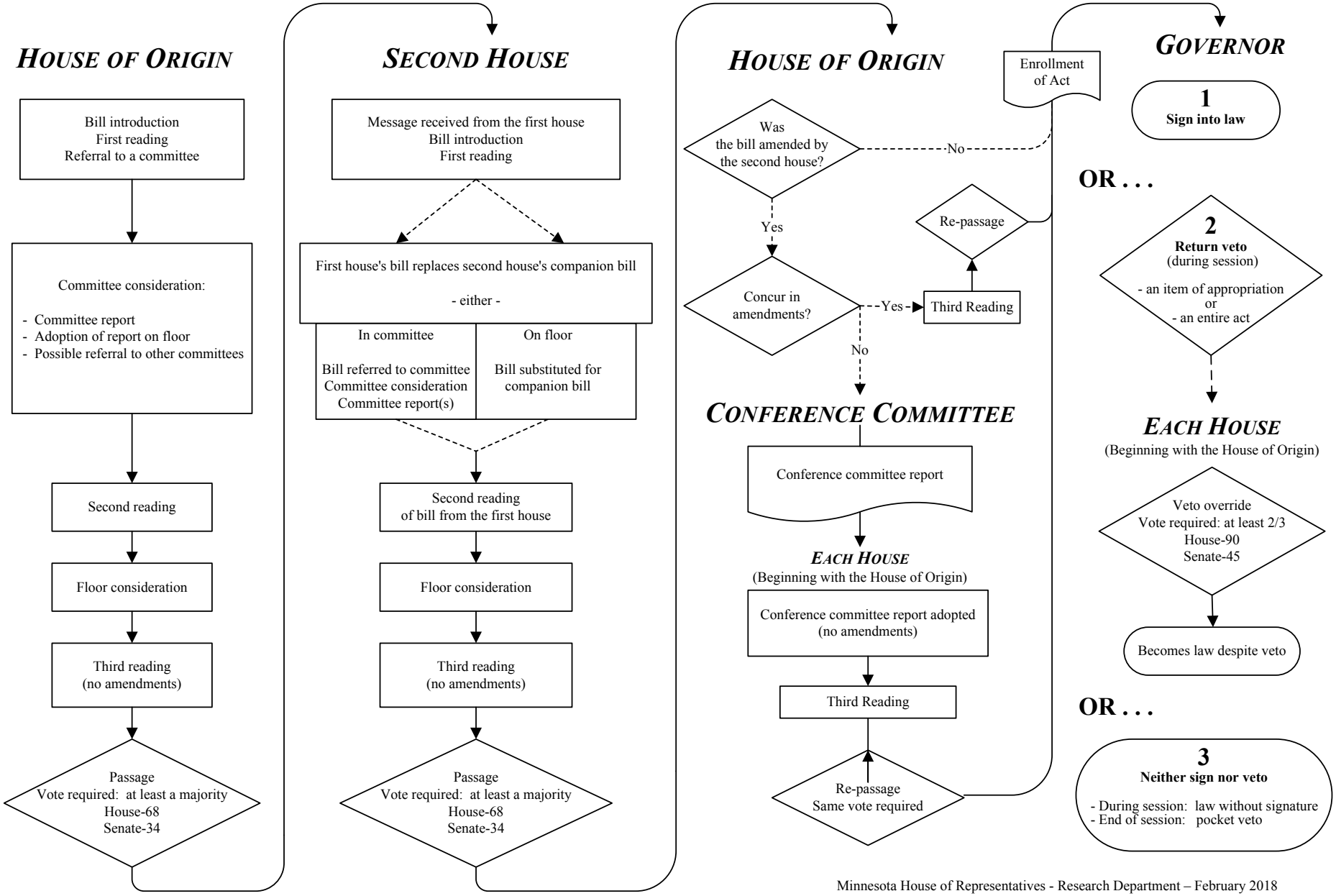
3rd column: Bicameral Agreement…page 65

The constitution requires both houses, acting separately and independently, to pass the same bill with identical content. The third column depicts the procedures used by the legislature, after each house has passed a bill once, to ensure that both pass the same document with identical content.

4th column: Review by the Governor…page 87

The constitution requires the legislature to enroll each act and present it to the governor for review. The fourth column shows the three options available to the governor for dealing with an act presented by the legislature and the steps that the legislature may use to enact legislation over the objections of the governor.

Overview of the Legislative Process



Minnesota House of Representatives - Research Department – February 2018

FUNDAMENTALS: PASSING BILLS

The constitution dictates procedures that each house must use to pass a bill.

The Reporting Requirement…page 49

The constitution requires each house to report a bill on the floor three times before asking members to vote on whether it should pass. To accommodate the constitutional reporting ("reading") requirement, each house has adopted the same six-step procedure for acting on bills.

Step 1: First Reading…page 51

When legislators who are sponsoring a bill put it before the members of a house, they are said to introduce the bill in that house. A bill receives its first reading when it is introduced.

Step 2: Committee Consideration…page 53

A bill normally is referred to a committee when it is introduced and given a first reading. Some bills are referred to just one committee, others to two or more committees in sequence. A committee has several options for dealing with a referred bill. If the committee acts favorably on the bill, the committee returns it to the house with a report conveying the committee's recommendations. After the house adopts the committee report,[16] the bill moves forward.

Step 3: Second Reading…page 57

After a bill has been reported by all committees with jurisdiction, the bill receives its second reading. Second reading of a bill signifies that the bill is finished with consideration by committees of the house and ready for consideration by the whole house.

Step 4: Floor Consideration…page 58

Between its second and third reading, a bill is considered by the house on the floor, where all members are able to hear about the bill, discuss it, and propose and vote on amendments to it.

Step 5: Third Reading…page 60

A bill receives its third and final reading after a house has finished disposing of any amendments to the text of the bill that are proposed during floor debate. Third reading signifies that work by the house on the content of the bill is finished, and the bill is ready for the vote on passage.

[16] During the 2013-2014 biennium, the House changed its description for adopting a committee report. The House removed the statement that committee reports were recommended "to pass" in order to emphasize the procedural nature of these adoptions.

Step 6: Vote on Passage…page 61

The parliamentary way of making a decision is by taking a vote. After the third reading and any final debate, the members of the house vote on whether the bill should pass. For a bill to pass a house, at least a majority of all the members elected to the house must vote in favor of it.

THE REPORTING REQUIREMENT

Notice is fundamental to due process. The constitution imposes a bill reporting requirement on each house, to ensure that legislators know about a bill before they vote on whether it should pass. The requirement has three elements:

- A bill must be reported to a house three times before the house votes on whether it should pass.
- Each report must be on a different day ...
- ... unless two-thirds of the members of the house agree to dispense with the separation of reporting days.

A bill must be reported—"read"—three times in each house

The constitution requires a house to report a bill three times to its assembled members before asking them to vote on it. Because each house must make these reports, a bill ultimately must be reported six times before it can pass the legislature.

"Readings"

The three reports required before the vote on passage are commonly called "readings" of the bill. The term survives from a time in parliamentary history when bills were read aloud to legislators on the floor.

Nowadays bills are not read aloud on the floor. The object no longer is to communicate what the bill says but instead to provide notice of its existence and its status in the legislative process. This notice is provided mainly by calling the attention to the file number of the bill and by reference to its presence on a list of bills being reported that day. Those wanting more information about a bill consult the list, which is available both on paper and on the Internet. The list shows vital information about each bill: file number, title, authors, and procedural status.

Bills usually are given their first reading collectively, so that all bills being introduced that day are dealt with in just a few moments. Second and third readings more often announce bills individually. The third reading, before the vote on passage, may include the first words of the bill's title, which provides notice of the subject of the bill.

To reflect these contemporary practices, when the language of the constitution was modernized in 1972, the word "report" replaced "reading." But the old constitutional word is still in common use at the legislature.

Each report must be on a different day

The constitution requires a house to make each of the three reports on a different day. This is intended to slow the legislative process, promote deliberation, and inhibit precipitous legislative action.

Because both the Senate and the House must separate the three reporting days, five is the minimum number of days ordinarily required for the legislature to move a bill from the beginning to the end of the legislative process in both houses. A sixth day is not needed, because the last reading in one house and the first reading in the other can occur on the same day without violating the constitutional requirement.

Unless two-thirds of the members declare an urgency

The writers of the constitution recognized that fast legislative action might sometimes be warranted, so the constitution allows a house to dispense with the requirement separating the three days on which a bill must be reported.

To restrain casual use of this method of speeding consideration of legislation, the constitution specifies a standard for the action and requires more than a majority of members to agree to it. The three reports must occur on different days "unless, in case of urgency, two-thirds of the house where the bill is pending deem it expedient to dispense with this rule."

The phrase "two-thirds of the house" has been construed to mean two-thirds of *all* the members of the house, not just two-thirds of those present. Accordingly:

- A minimum *number* of members must agree to declaring an urgency: in the House, at least 90 of the 134 representatives; in the Senate, at least 45 of the 67 senators.
- Not voting has the same effect as voting in the negative, for purposes of attaining the number of votes required to declare an urgency.

If at least the required number agree to expedite passage of a bill, the bill may receive its second and third readings—or even all three readings—in a single day. Because both houses may do this, a bill can go through both houses of the legislature, from first reading to final passage, in a single day. During a one-day special session, the legislature does exactly that.

Both houses use a six-step procedure to accommodate the reporting requirement

The constitution leaves it to the House and Senate to decide when during consideration of a bill the three reports should occur. Both houses have adopted the same general practice, inserting between each report sufficient time for legislators to consider the bill, first in committee and then on the floor. The result is a six-step procedure for moving bills through each house, shown most clearly in the left column of the flowchart on page 45. The flowchart does not show that the three readings occur on different days, but normally they do.

STEP 1: FIRST READING

The legislative process begins officially when one or more legislators "introduce" a bill—that is, put it before other legislators for their consideration. A bill receives the first of the three constitutionally required reports when it is introduced. These two actions—introduction and first reading—are aspects of the same order of parliamentary business on the floor. At this time also, a bill normally is referred to a committee for consideration.

Order of Business

Many routine floor activities, like readings of bills, are part of an orderly sequence of parliamentary business followed during each day's floor session. The sequence is set out in a legislative rule called the "Order of Business." The rule of each house is different in detail but similar in pattern, designed so that the necessary bill-passing steps occur each session day in a logical and natural sequence. So, for example, the second reading of bills follows committee reports on bills; the first reading of bills from the other house follows messages from the other house; and floor debate and voting on bills come after bills are read and committee reports are adopted.

The order of business is followed routinely but not rigidly. The rules permit a house to alter its normal order of business, skipping forward or backward to meet the exigencies of the moment. This becomes more common as the tempo of legislative floor activity and interhouse exchange accelerates toward the end of session. The rules require a majority vote of the whole house to alter the order of business, but usually this is accomplished easily: the presiding officer simply announces a change "without objection" (unanimous consent is assumed) or with a quick *pro forma* oral vote.

Some important legislative activities are not part of the regular order of business, which allows a house to attend to them at any time during a day's session. Examples of these unfixed proceedings include conference committee reports, reports of the rules committee of each house, Special Orders in the Senate, and the Fiscal Calendar in the House.

Bill authors must submit their bills to house officers in advance

The chief author of a bill must submit it to officers of the house in advance of the time it is to be introduced and receive its first reading. This is often described as "dropping the bill into the hopper." A House rule requires that a bill be submitted at least 24 hours before the beginning of the session at which it to be introduced; the Senate follows a similar day-ahead practice without a rule. The House normally convenes floor sessions in the afternoon, so authors submit bills by the early afternoon of the day before the intended day of introduction. The Senate usually convenes its sessions in the morning, so authors submit bills by 11:00 a.m. on the last working day before the intended day of introduction.

Officers of the house prepare the bills for introduction and first reading

Bills are submitted a day early to give officers of a house time to prepare the bills for initial floor action, assign a file number to each bill, prepare a list describing all the bills being introduced, and make decisions on the first committee referral of each bill.

File numbers

To keep track of bills, each house independently numbers its bills in the order that they are introduced in that house. As described in *Forms of Action* (page 23), bills are called *files* for this purpose: House File No. 1, Senate File No. 1, and so on. Assigning file numbers to bills as they are about to be introduced is the responsibility of the chamber staff in each house, headed by the chief elected staff officer of each house (chief clerk of the House, secretary of the Senate).

Bill introduction lists

The chamber staff also prepares a list showing essential information about each bill being introduced: file number, author(s), title, and committee of first referral. The bill introduction lists are available for examination, both in paper and on the Internet when the daily session begins. In the House, the list of new House bills is entitled "Introduction of Bills," while the list of Senate bills being introduced in the House, after passing the Senate, is entitled "Introduction and First Reading of Senate Files." In the Senate, the list of new Senate bills is entitled "Senate Bill Introduction," occasionally referred to as the "gray agenda" after the color of the paper once used; the list of House bills being introduced in the Senate, after passing the House, is printed in the "Senate Agenda," occasionally referred to as the "blue agenda" after the color of the paper once used.

The information contained in the bill introduction lists appears later in the journal for the day. Occasionally the journal differs in some particulars from the introduction list—for example, when a bill referral is changed after a list is prepared. The journal, not the introduction list, is the official record.

First committee referrals

Finally, during this interval between submission of the bill and its introduction, decisions are made by the majority caucus leadership about committee referrals. A bill normally is referred to a committee when it is introduced and first reported to a house, without any floor discussion. To allow the first referral to occur at once, each house delegates to its presiding officer the authority to decide, before the daily session begins, which committee should receive each bill being introduced. Choice of committee is partly constrained by past jurisdictional patterns, but in the end is discretionary.

Introduction, first reading, and referral of all bills for the day takes little floor time

These three procedural actions—introduction, first reading, and referral of all bills for the day—take just seconds on the floor. House of origin bills (Senate bills in the Senate, House bills in the House) are introduced and given their first reading collectively, by reference to their file numbers or to the introduction list for the day. Bills from the other house may be introduced and given their first reading individually, but still only by file number.

STEP 2: COMMITTEE CONSIDERATION

Between its first and second readings, a bill normally is considered in one or more committees. Thus, a bill usually is referred to a committee when it is introduced and given a first reading. Some bills are referred to just one committee, others to two or more committees in sequence. A committee has several options for dealing with a referred bill. If the committee acts favorably on the bill, the committee returns it to the house with a report conveying the committee's recommendations.

Referral procedures are described in greater detail in *The Committee System,* and committee practices and committee reports in *Committee Proceedings.*

A house and its committees communicate about bills by means of referrals and reports

Referral transfers jurisdiction of a bill from a house to one of its committees. When a house refers a bill to a committee, it conveys physical possession of the jacketed bill to the committee. In Congress and some other states, this is calling "committing" the bill to a committee.

If the committee to which a bill is referred acts favorably on it, the committee returns it to the house with a report conveying the committee's recommendations on the disposition of the bill. After 2007, House Rules have allowed reference of a bill between finance committee divisions by memo. In 2014, the House stopped recommending that a bill "do pass" and instead simply recommend that a bill be referred to the next parliamentary stop.

Referral to at least one committee normally is required

Neither house normally wishes to decide the merits of a bill until at least one of its committees has examined the bill, invited public testimony on it, and made recommendations about it to the house. For this reason, the legislative rules of both houses require that a bill be referred to a committee when it is introduced and given its first reading. In the House, the speaker makes the referral of each bill to "the appropriate standing committee." In the Senate, the president makes the referral "without motion to the proper standing committee unless otherwise referred by the Senate."

The referral requirement may be dispensed with for some bills

Legislative rules make two exceptions to the requirement that a bill be referred to a committee when it receives its first reading:

- committee bills
- companion bills from the other house in some situations

Both exceptions are for bills that, when introduced, already have been considered by a committee in some manner.

A bill that does not fall within one of these two established exceptions still may escape referral, because a house may choose to release any bill from the referral requirement. Two-thirds of all the members elected to a house must vote in favor of not applying the referral rule. (Any legislative rule may be so suspended.) This is not a regular practice, but it is done sometimes to expedite passage of a bill (for example, during a one-day special session).

A bill may be referred to more than one committee

A house may refer a bill to just one committee before taking it up on the floor, if only one committee has jurisdiction. But many bills affect the jurisdiction of more than one committee, so it is common for a bill to be referred to two or more committees before action on the floor.

A bill is never referred to multiple committees at once.[17] Referrals are sequential, so that only one committee has possession of the bill at a time. If the committee possessing the bill reports, the bill moves forward in the process. If not, the bill remains in the possession of the committee and expires there when the session ends.

Procedurally, referrals to other committees, after the first, are accomplished by different means than the referral at first reading. As described earlier, the first referral normally is made by the presiding officer. Subsequent referrals, if any, are decisions of the house, not the presiding officer. Usually a house makes the decision to refer a bill by adopting a committee report recommending that the bill be referred to another committee named by the report. A less routine—but not extraordinary—method of accomplishing a referral is by favorable action on a floor motion. House Rules adopted in 2007 allow some referrals between finance committee divisions to be made through a memo issued by the finance committee chair.

A committee has three general options for dealing with a bill referred to it

Both houses give their committees much autonomy and latitude in dealing with bills referred to them. Generally a committee can dispose of a bill in its possession in three ways:

- ***Retain the bill***, never returning it to the house. In doing this, a committee performs a screening function, stopping some bills from proceeding further in the process. This may be the result of a decision of the committee chair not to put the bill before the committee for a hearing and action. Or the committee itself may choose this course, by rejecting the bill after considering it in a hearing.
- ***Combine the bill*** with one or more other bills into a more comprehensive package. This is one source of the omnibus bills reported by committees—particularly the dozen or so omnibus bills that collectively express the state's budget.
- ***Report the bill individually***, returning it to the house with recommendations for action.

[17] The practice of introducing multiple identical "clone" bills is used on occasion, to allow multiple committee actions to occur simultaneously. At some late stop in the committee process, the bills are typically reconciled into one floor version.

The chair gives the bill a hearing, and the committee acts favorably on it by adopting a motion to return the bill to the house with the committee's recommendations.

These options are described in more detail in *Committee Proceedings* (page 131).

Committees commonly amend bills, often extensively

One purpose of referring a bill to committee is to evaluate its substance—to listen to people with expertise or an interest in the effect of the bill and consider whether its language should be changed. Accordingly, committee proceedings on a bill usually are much occupied with various types of amendments to it, as described in *Forms of Action* (page 35). The bill that emerges from a committee typically has been amended in large and small ways; often it is much different in content and effect than the bill that was referred to the committee.

Amendments adopted by a committee are not final actions; they are recommendations to the house. But both houses rely on the substantive work of their committees sufficiently that it may be said that much bill writing, and therefore much law writing, is done in committees rather than on the floor of either house.

A committee report on a bill contains recommendations to the house

When a committee acts favorably on a bill that has been referred to it, the committee returns the bill to the house, accompanied by a committee report on the bill.

A committee report is not a report in the usual sense: it does not summarize and explain the bill, describe testimony or other evidence received by the committee, or convey facts, findings, or conclusions. A report contains information about the procedural status of the bill—the name of the reporting committee, the date that the committee acted on the bill, etc. The report also conveys the committee's recommendations for subsequent action on the bill. Specifically, a committee report makes recommendations on three questions about a bill:

- Should the text of the bill be changed and, if so, precisely how?
- Should the bill pass? The House removed this aspect in 2014, but the Senate retains it.
- Where should the bill go next in the legislative process? This may be either referral to another committee or to second reading and preparation for floor consideration.

Various committee actions and reports on bills are described in more detail in *Committee Proceedings* (page 134).

Recommendations in a committee report take effect when it is adopted by the house

Committees have no power to decide, only to recommend. Therefore, a committee report must be adopted by the house before it can take effect.

Procedures for adopting committee reports

Both houses typically adopt committee reports *pro forma*, as a procedural action, with no floor discussion either of the bills or the reports. All reports for the day are adopted collectively, in a fashion similar to the first reading of bills. The business takes just seconds on the floor. Before the day's session begins, the chamber staff produces, on paper and on the Internet, a printed list of committee reports for the day, showing information about each bill: file number, title, authors, reporting committee, etc. When the House arrives at this order of business during the floor session, the speaker refers members to the list of committee reports and declares that, without objection, the reports will be adopted. Normally there is no objection, so all of the reports for the day are considered to be adopted by unanimous consent. In the Senate, the majority leader moves adoption of the list of committee reports printed in the agenda (the "blue agenda," after the color of the paper once used), and this motion quickly prevails by a *pro forma* voice vote.

There are exceptions to the routine adoption of committee reports in bulk. Sometimes a committee report arrives too late to be included in the prepared list of reports for the day but is adopted anyway, by separate oral reference on the floor. Occasionally, some members of the reporting committee submit a minority committee report on a bill, which must be dealt with first, before the report of the committee. Occasionally, a member objects to a committee report, which may cause its rejection by the house. (If a senator objects to the referral recommendation in a report, the report is directed to the Subcommittee on Bill Referral described in *The Committee System*, page 110.) Even if the objection to a report is not successful, it has the effect of distinguishing one from the bulk and drawing more than the usual attention to it.

Even though all reports for the day are adopted on the floor collectively, the journal records a separate action on each report, showing the recommendations of the committee, including the full text of any amendments to the bill that the committee recommended.

Effect of adopting a committee report

By adopting a committee report, a house is accepting the recommendations of the committee. After a committee report is adopted, its recommendations are executed:

- ***Amendments.*** If the report recommended that the bill be amended, a new version of the bill is prepared, with the text changed to reflect the amendments. As explained in *Forms of Action* (page 37), the process of incorporating amendments into a bill is called engrossing the bill, and the resulting fresh version of the bill is known as an engrossment. The engrossment is the version of the bill that moves on to the next step in the process. When another committee or the house later takes up the bill, it works with the engrossment, not the original bill as introduced. A bill that travels through multiple committees may be engrossed multiple times by the house of origin; and if it passes to the second house, it may be unofficially engrossed

there still more times. Each engrossment is conspicuously labeled and numbered in sequence.

- ***Disposition.*** Also, after the house adopts a committee report, the procedural disposition recommended in the report is carried out. If the report recommended referral to another committee, the bill is dispatched to the committee named in the report.

  If the report did not recommend referral to another committee, the bill remains on the floor to receive its second reading and await floor consideration.

STEP 3: SECOND READING

Second reading signals the end of the committee stage of the legislative process. A bill receives its second reading after the house adopts a committee report that does not recommend referral of the bill to another committee. Because the second reading of bills follows committee reports in the regular order of parliamentary business, a bill normally receives its second reading on the same day, shortly after the house adopts the committee report.

The second reading of house of origin bills and the second reading of bills of the other house are separate orders of business. But floor procedures are similar for both sets of bills. Before the daily session begins, the chamber staff produces, on paper and on the Internet, a list of the bills being given their second reading that day. The list includes essential information about each bill (file number, authors, title, and procedural history and status). The House titles its list "Second Reading of House Bills [or Senate Bills]." The Senate prints its second reading list as part of one of its agendas, the one occasionally referred to as the "blue agenda" after the color of the paper once used. The information on these lists later is incorporated into the legislative journal for the day.

The House gives bills their second reading individually, rather than collectively as on first reading. The chief clerk announces each bill by saying "second reading" and reciting the file number of the bill; the speaker then intones "second reading" and bangs the gavel. In the Senate, second reading of bills is done collectively, in a fashion similar to first reading. The president of the Senate refers to the list of bills in the agenda for the day and says "second reading" and bangs the gavel. If a committee report arrives too late to be included in the list, the bill may be given its second reading individually by oral reference on the floor.

Ordinarily a bill receives only one second reading in each house, but occasionally a bill receives more. This occurs when a house decides to refer a bill to another committee after giving it a second reading. The purpose may be to correct an error in the bill, to consider amendments better done in committee than on the floor, or to allow another committee to review the bill before it is taken up on the floor. The referral is accomplished by motion on the floor, generally offered either by the author of the bill or a concerned committee chair. If the motion to refer prevails, the bill is dispatched to the committee. If that committee subsequently reports the bill, the bill receives another second reading. Occasionally this happens more than once, resulting in a bill having several second readings.

STEP 4: FLOOR CONSIDERATION

Between its second and third reading, a bill is considered by the house on the floor, where all members are able to hear about the bill, discuss it, and propose and vote on amendments to it.

Procedures for floor consideration of bills are designed to accomplish several objectives:

- ***Management***—to allow leaders to select, prioritize, and schedule the many bills that often await floor consideration
- ***Notice***—to provide members and others with reasonable notice of the bills that are coming up for floor action, so as to allow time to prepare
- ***Information***—to inform all the members about the content of the bill and its effect on law and government in the state
- ***Debate***—to allow any member to discuss the bill and to question or take issue with the author or supporters of the bill
- ***Revision***—to allow any member to propose changes in the content of the bill and to require the house to act on each amendment proposed
- ***Decision***—to require every member to take a position, cast a vote, on amendments proposed to the bill and, in the end, on the bill itself

Floor procedures on bills after second reading are described in more detail in *The Bill on the Floor*.

After its second reading, a bill is prepared and placed on a list of bills awaiting floor action

The chamber staff, assisted by the Revisor's Office, readies each bill for floor consideration. The bill is engrossed, if necessary, to reflect any changes in the text of the bill recommended by the last committee reporting it. The legislative history that appears on the front page of the bill is updated to reflect the new stage the bill has reached in the legislative process. And copies of the bill are made for members and the general public.

The bill also is placed on a list of bills awaiting consideration on the floor.

Floor consideration is not guaranteed for every waiting bill

Floor action is not certain for every bill that emerges successfully from the committee process. Some bills are reported by one or more committees, receive a second reading, and then never come up for consideration on the floor. The chief author may decide not to press for floor action or may even withdraw the bill, asking that it be returned to the author. The house may decide to remove the bill from a floor list and return it to a committee, where it may remain forever. Or the bill may languish on a list of waiting bills, expiring there when the session ends.

Bills are taken up on the floor from lists of bills called calendars or orders

There are two lists of bills awaiting floor consideration:

- a Consent Calendar for uncontroversial bills—maintained only by the Senate
- a list for all other bills, called the General Register in the House and General Orders in the Senate

The Consent Calendar is part of the regular, daily order of parliamentary business in the Senate. When the Senate arrives at this order of business during a floor session, it can consider and act on the bills listed on this calendar. The House abolished this calendar in 2015.

Bills listed on General Orders in the Senate come up for floor consideration in one of two ways:

- Like the Consent Calendar, General Orders is a regular order of daily business on the Senate floor, so a bill may be taken up for consideration directly from this list by the Senate's Committee of the Whole.
- Alternatively, a bill on General Orders may be selected for placement on another list of bills scheduled for floor action on a particular day. This list is called Special Orders.

The House's General Register is not a part of the daily order of business on the House floor. Bills on this list are never acted on directly in the manner of Consent Calendar bills or General Orders bills in the Senate. In the House, all bills come up for floor consideration by being selected for placement on a list of bills scheduled for floor action on a particular day. The House has two such lists:

- Fiscal Calendar, for bills that have fiscal effects
- Calendar for the Day, for all other bills

These arrangements are described in detail in *The Bill on the Floor*.

When a bill comes up, it is first presented and then discussed and perhaps amended

When a bill is taken up on the floor, the general sequence of events is the same, no matter what list the bill is on. The chief author presents the bill, describes it, and advocates its passage. Other members may question the author or discuss or criticize the bill, leading to exchanges between the author and other members and general floor debate about the bill.

As described in *Forms of Action* (page 35), amendments of various types are often at the center of floor action on a bill. The author may offer amendments, either before or after presenting the bill. Each amendment is described by the author, discussed as the members see fit, and voted on. Some author's amendments may be accepted by the other members *pro forma*, to get the bill into the form that the author wishes, while others may be debated at length and perhaps rejected.

After the author's amendments are disposed of, other members may offer amendments to the bill. If other amendments are offered, each of these is presented, discussed as needed, and voted on in

turn. In the House, a constitutional amendment may not be offered to a bill on the floor.

When all floor amendments have been dealt with, the bill is ready for its third reading.

Amendments must be pre-filed in the House of Representatives

In 2013, the House adopted Rule 3.33, requiring pre-filing of floor amendments. Under this rule, when a House bill is placed on the Calendar for the Day, the Rules Committee may choose to trigger a requirement that all amendments be filed in advance and disclosed to the public.

This requirement is triggered if:

- the bill has arrived on the General Orders Calendar;
- there is sufficient time (two days) for a pre-filing period to operate; or
- the Rules Committee has designated a pre-filing order.

Suppose a bill were "calendared" by the Rules Committee on a Monday. The pre-filing period would require that all amendments be filed with the chief clerk by noon on the next day, a Tuesday. By 6:00 p.m. on that Tuesday, all amendments to those amendments would need to be filed with the chief clerk. As a result, when the bill came up for consideration on the Wednesday floor session, only those pre-filed amendments and amendments to those amendments could be heard.

The reason for this pre-filing amendment was a belief that disclosing amendments in advance would add to public transparency, accompanied by a belief that amendments drafted in the middle of debate, on the fly, were exposed to no public process and could be problematic in how they were technically drafted. The rule was adopted under the Democratic majority of 2013, and maintained by subsequent Republican majorities.

STEP 5: THIRD READING

A bill receives its third and final reading after a house has finished disposing of any amendments to the text of the bill that are proposed during floor debate. Third reading of a bill signifies that the house is finished with the work of revising the text of the bill. After third reading, a bill may not be amended without unanimous consent (except for very technical corrections, like an amendment to the title).

Bills considered on one Senate list (General Orders) normally do not receive their third reading until the session day after they are presented, debated, and possibly amended on the floor. All other bills, in both houses, receive their third reading on the same day, immediately following floor consideration. These procedures are described in more detail in *The Bill on the Floor*.

Third reading also signifies that the bill is ready for the sixth and final step—the vote on passage. Because this vote follows immediately after third reading, each bill is reported individually at

this point, rather than collectively as in earlier reports. Third reading of a bill consists of a reference to the bill's number and in the Senate an oral recitation of the first part of the bill's title, which provides notice of the subject of the bill about to be voted upon.

STEP 6: VOTE ON PASSAGE

After a bill receives its third reading, the presiding officer asks if there is any further discussion before the final vote. Often there is none, because members already have debated the issues posed by the bill and often various amendments to it. The author of the bill may make a final request for favorable action. A member may put additional questions to the author or make concluding points about the wisdom of the bill. Occasionally a contentious bill, or one on which the vote is expected to be close, may be debated at considerable length again, after third reading.

When all members wishing to speak about the bill have finished, the presiding officer calls for the vote on passage and instructs the chief staff officer (chief clerk of the House, secretary of the Senate) to take the vote.

Particular aspects of this final step in floor proceedings also are described in *Bicameral Agreement* (page 83), *The Bill on the Floor* (page 149), and *Making the Budget* (page 170).

At least a majority of all the members elected to a house must vote in favor of passage

For a bill to pass a house, the constitution requires that at least "a majority of all the members elected" must vote in favor or passage. The constitutional language is clear: a majority of all the members of a house must vote for passage, not merely a majority of those present. Accordingly:

- A minimum *number* of members must vote for passage: in the House, at least 68 of the 134 representatives; in the Senate, at least 34 of the 67 senators.
- Not voting has the same effect as voting in the negative, for purposes of attaining the number of votes required for passage.

More than majority support is required to pass some bills

For the passage of some bills, the constitution requires support from more than a majority of all the members elected.[18]

Bonding bills require three-fifths

The constitution allows the state to borrow money to finance certain capital improvements to land and buildings owned by the state or by local government. A bonding bill authorizes the

[18] The constitution also requires a two-thirds vote to pass a "general banking law." A general banking law is a law creating a state bank, a form of banking organization that is largely obsolete.

state to borrow money by issuing "general obligation" (G.O.) bonds, meaning that the state promises to pay off the bonds using its full statewide taxing powers, if necessary. (See *Forms of Action*, page 28.)

To pass a house, a bonding bill must have the support of at least three-fifths of all the members elected to the house: at least 81 of the 134 representatives, at least 41 of the 67 senators. (See *Making the Budget*, page 171.)

Veto overrides require two-thirds

An extraordinary majority is required also for a veto override vote, when a house decides that it wishes legislation to become law despite the objections of the governor. To override a veto, a house must have the support of at least two-thirds of all the members elected to the house: at least 90 of the 134 representatives, at least 45 of the 67 senators. Veto override procedures are described in *Review by the Governor* (page 91).

The vote on passage is a roll-call vote

The constitution expressly requires a roll-call vote to override a veto but not to pass a bill. Both houses nonetheless always call the roll when voting on passage. A House rule requires it.

If the vote is favorable—which is the usual outcome at this point in the process—the presiding officer reports the tally, announces that "the bill is passed and its title agreed to," and taps the gavel.

The vote is recorded in the journal

On a veto override vote, the constitution expressly requires that the vote of each member be recorded in the journal. On a vote to pass a bill, the constitution requires only that "the vote" be recorded in the journal. The journal nonetheless always shows how each member voted on passage, because the constitution requires a journal record of the vote of each member whenever the roll is called, and both houses always call the roll on passage. A House rule requires it.

After a bill passes, it goes quickly on its way to the next step in the process

After a bill passes a house, it is sent quickly on its way (barring a motion from the floor to reconsider the vote). Depending on the stage of the legislative process, the bill may be transmitted to the other house, with a message indicating the action taken, or it may be turned over to the Revisor's Office for enrollment, in preparation for presentation to the governor.

A bill may not be passed on the day prescribed for adjournment

The constitution forbids the passage of bills on "the day prescribed for adjournment." This prohibition has been construed to apply only to the passage of bills on certain days:

- on the 120th day of a regular session, a day when the constitution requires the legislature to adjourn *sine die*
- on the constitutional deadline for ending a regular session *sine die*, in May of the even-numbered year
- on a day that the legislature itself, both houses concurring, previously has resolved to adjourn *sine die*

FUNDAMENTALS: BICAMERAL AGREEMENT

Besides imposing bill processing requirements on each house, the constitution requires that both houses pass the same bill with identical content. If the House and Senate cannot agree on one document with identical language, the bill cannot be an act of the legislature presentable to the governor.

The Requirement of Bicameral Agreement…page 66

The constitution requires that both houses, acting separately and independently, pass the same bill with identical text.

The legislature has developed rules and procedures intended to ensure that every act it presents to the governor satisfies this constitutional requirement. The legislature's compliance strategy has three main components: companion bills, restricted passageways, and conference committees.

Companion Bills…page 66

The companion bill system fosters timely passage of the same bill in both houses. Companion bills are two bills—one introduced in the Senate and the other in the House—that are administratively linked to enhance bicameral bill management and coordination. Almost all bills going through the legislative process are companion bills.

Three Passageways…page 70

To promote the timely passage of a bill with identical content, legislative rules restrict further proceedings on a bill after both houses have passed it once. Only three paths forward lie open to a bill returning from the second house to the house of origin. One path is for bills that the second house did not amend. The other two are for bills that the second house amended: the house of origin may concur in the amendment, or it may refuse to concur and request a conference on the bill. It may not further amend the bill.

Conference Committees…page 75

Conference committees are part of the third passageway to bicameral agreement. A conference committee comes into being only when a bill's house of origin refuses to concur in an amendment to it by the second house. The legislature relies on the third passageway—conference committees—to settle differences between the houses on the content of most complex or controversial bills. However, the manner in which conference committees operate has changed from deliberation and negotiation, towards service as a procedural vehicle for leadership agreements.

THE REQUIREMENT OF BICAMERAL AGREEMENT

The state constitution imposes the requirement of bicameral agreement, which has two elements:

- The same bill—one document—must pass both houses.

  The Senate and the House, acting separately and independently, must pass the same document. A bill that passes the Senate must also pass the House; a bill that passes the House must also pass the Senate.

- The content of the bill—its text—must be identical.

  The document passed by the Senate and the House must have identical language. If the bill passed by one house differs from the bill passed by the other, the validity of the act may be called into question.

COMPANION BILLS

The companion bill system is one means of complying with the constitutional requirement of bicameral agreement.

The two columns on the left of the flowchart on page 45 suggest that bills are considered by the two houses in sequence—one house beginning its consideration of a bill after the other has finished with it. In reality, few bills proceed sequentially through the two houses in this way. The volume of legislation and limits on session time make this impractical. Instead, bills on the same subject generally are introduced in both houses and move simultaneously through the legislative process in both houses.

Simultaneous and independent proceedings in the two houses on separate bills on the same subject put the legislature at risk of failing to comply with the constitutional imperative that both houses pass a single document. Some mechanism is needed to coordinate legislative activity in the two houses on the thousands of bills introduced each session, so as to ensure that the same bill passes in both houses of the legislature. The companion bill system is this mechanism.

Companion bills help the two houses coordinate action on legislation

Companion bills are two bills—one introduced in the Senate and the other in the House—that are administratively linked to enhance bicameral bill management and coordination. Almost all bills going through the legislative process are companion bills.

There are two types:

True companions

True companions are two bills, one introduced in each house, that are identical when first introduced. True companions have the same Revisor document number. The two bills remain companions even though they may diverge greatly in content as they move through the two houses.

Designated companions

The two houses may agree to handle two bills as companion bills, even though they are not true companions. The chairs of corresponding committees in the two houses each may select a bill to be the main vehicle for legislation on some subject and agree to treat these two bills as companions. They inform the leadership, the secretary of the Senate, the chief clerk of the House, and the Revisor. Even though the two bills were not true companions when introduced, they will be handled in the legislative process as companions.

The partnering of a bill in the House and a bill in the Senate allows each house to work independently and simultaneously on the "same" legislation, while ensuring that at some point in the proceedings one house puts aside its bill in favor of action on the other house's bill, as required by the constitution.

The companion bill that first passes a house is the one acted on by both houses

This point in the process—when one of the companion bills is selected for action in both houses—comes when the second house begins considering a bill that has passed the first house.

When a house passes a bill, it transmits it to the second house, along with a message requesting that the second house act on the bill as well. The companion bill system obliges the second house to comply with this request—to put aside its companion bill in favor of action on the bill from the other house. This obligation derives from traditional comity between the houses; it is not spelled out in joint rules but expressed by the rules of each house separately. As a consequence of this cooperative arrangement, the bill that eventually passes the legislature is the bill that first passes a house, not the second house's companion to that bill.

A bill may originate in either house, with one exception. The constitution requires that "all bills for raising revenue" originate in the House of Representatives, a requirement known as the origination clause. Apart from this constitutional restriction, which companion bill makes it through a house first is the result of both happenstance and strategy. For many bills, the house of origin is of little consequence and is therefore left to the natural vagaries of committee schedules and the flow of floor business in the two houses. On some controversial or important bills, the house of origin may be of considerable strategic, political, or practical importance and therefore a matter for conscious decision by bill authors or leaders in one or both houses. House and Senate leaders also may try to coordinate action on some companion bills—especially those likely to engender lengthy floor debate and conference committee negotiation (e.g., the budget bills)—in order to expedite work on the bills and make the most efficient use of committee and

floor time in both houses.

The bill from the first house displaces its companion in the second house

The substitution of the bill from the first house for its companion in the second may occur either in committee or on the floor, depending on the location of the companion in the second house.

In committee

When the bill from the first house is introduced and given its first reading in the second house, if the second house's companion bill is still in committee, then the bill from the first house is referred to that committee. The committee now possesses both companion bills. When (and if) the committee takes up the bills, it acts on the bill from the first house rather than the companion bill.

The author of the companion bill in the second house assumes the role of the author of the bill from the other house. Proceedings on the bill from the other house then follow the usual course in the second house: after all committees with jurisdiction report the bill, it receives a second reading, followed by floor consideration, third reading, and finally the vote on passage.

The displaced companion bill normally remains in the committee permanently and dies there at session's end without being reported.

On the floor

When the bill from the first house is introduced and given its first reading in the second house, if the companion bill in the second house awaits action on the floor, having already finished with the committee process, then the substitution of bills occurs on the floor rather than in a committee. The Senate and House use different procedures for making the substitution, but the result is the same in both houses: floor proceedings on the second house's companion bill are "indefinitely postponed," and the bill from the first house receives its second reading and replaces the companion bill in a list of bills awaiting floor action. When (and if) the bill is taken up for floor action, the author of the companion bill in the second house assumes the role of the author of the bill from the other house.

These bill substitution proceedings in the second house are depicted in the set of boxes near the top of the second column of the flowchart on page 45.

The second house may amend the first house's bill, and often does

The substitution of one bill for the other does not mean that the second house must accept the *content* of the bill from the first house, only the *document* (i.e., the file number). In a bicameral legislative system, both houses must be able to act on and amend the same bill. Joint legislative rules so provide, giving either house "the power to amend any bill, memorial, or resolution passed by the other house."

Naturally the second house often prefers the content of its own bill, so the bill from the first house is often amended as a matter of course whenever its language differs substantially from the second house's companion bill. In fact, a Senate rule requires this whenever the substitution of bills occurs on the Senate floor.

On the Senate floor

If the Senate companion bill is on the floor when a bill from the House receives its first reading in the Senate, both bills are referred to the Senate Committee on Rules and Administration for comparison. The comparison is done by the Revisor's Office under the direction of the committee. If the text of the House bill is found to differ from the text of the Senate companion bill, the committee is required to recommend that the text of the Senate bill be substituted for the text of the House bill. When the committee report is adopted by the Senate, the effect is to amend the House bill by replacing all of its content with the content of the Senate bill, leaving only the House file number. If the Senate author prefers some or all of the House language, as sometimes happens, when the bill later comes up for consideration the author must move to amend the House bill to restore the desired House language and justify this choice to fellow Senators.

On the House floor

The House takes the opposite approach when substituting bills on the floor: it automatically resolves differences in favor of the content of the Senate bill, not the House companion. If the House companion bill is on the floor when a bill from the Senate receives its first reading in the House, both bills are referred to the chief clerk for comparison (rather than the rules committee, as in the Senate). The comparison is done by the Revisor's Office under the direction of the clerk. The comparison shows whether the text of the two bills is identical or not. But either way, the House accepts the text of the Senate bill, not just its file number. If the House author prefers some or all of the House language, which is usual, when the Senate bill later comes up for consideration the author must move to amend the Senate bill to insert the desired House language.

In committee

When the substitution of one bill for the other occurs in committee rather than on the floor, both houses use the House approach to the bill's content. Committee proceedings begin with the bill from the first house, with its content intact. The author in the second house who prefers some or all of the content of the second house's companion bill moves to amend the bill from the first house accordingly.

Because the bill from the first house may be—and often is—amended in the second house, there arises the need to engross the bill to incorporate amendments into the text so as to make the bill readable. As explained in *Forms of Action* (page 37), because neither house is deemed to have the authority to engross bills of the other, engrossments of bills in the second house are called *unofficial* engrossments. Unofficial engrossments by the second house, like engrossments by the house of origin, are prepared by the Revisor's Office.

THREE PASSAGEWAYS

When the second house passes a bill received from the other house, it returns the bill to the house of origin with a message describing the actions of the second house. Both houses now have passed the same document. This satisfies one aspect of the constitutional requirement for bicameral agreement. But there is a second constitutional demand: not only must the same document pass each house, the content of the document, as it passes each house, must be identical.

To promote the timely passage of a bill with identical content, legislative rules restrict further proceedings after both houses have passed the same bill once. Only three paths forward lie open to a bill returning from the second house to the house of origin. One pathway is for bills that the second house did not amend; the other two are for bills that the second house amended. The three passageways are depicted in the flowchart on page 45 by the three lines leading from the third to the fourth column (to the governor).

1st Passageway: The first and second house pass the same bill with identical content

If the second house returns a bill to the house of origin, after having passed it without amendment, the legislative process is complete. Each house has passed the same document with identical content. The constitutional requirements for bicameral agreement have been satisfied, and no further legislative action is necessary, except to enroll the bill and present it to the governor.

1st Passageway

The first house passes a bill

↓

The second house passes the same bill without amending it

This pathway is depicted by the topmost of the three lines leading to the fourth column in the flowchart on page 45.

2nd Passageway: The first house accepts the second house's amendment to the bill

If the second house amends the bill, the message accompanying the returning bill requests that the house of origin "concur in" the amendment of the second house. The house of origin now must decide whether to accept the amendment of the second house. If it does, the bill takes the second permitted passageway, depicted in the flowchart on page 43 by the middle line leading from the third to the fourth column.

2nd Passageway

The first house passes a bill

↓

The second house passes the same bill after amending it

↓

The first house concurs in the amendment of the second house and re-passes the bill as amended

Navigating the second passageway requires several steps in the house of origin. First, the house must vote to concur in the amendment of the second house. The chief author of the bill usually makes the motion to concur, explaining why the amendment by the second house is acceptable. Sometimes, the authors in the two houses have agreed privately on an amendment before it was offered in the second house; other times, the author in the house of origin was not consulted about the second house's amendment but finds it acceptable. Concurrences are useful to leadership, allowing a vehicle for adoption of a leadership agreement.

To prevail, the motion to concur requires a favorable vote from at least a majority of those voting on the question (not a majority of all members). If the motion to concur prevails, which is usual, the first house has adopted the second house's amendment to the bill.

Two more steps then follow: the house gives the bill another third reading, as amended, followed by another vote on passage. Unlike the vote to concur, the vote on passage must meet the usual constitutional and legislative requirements: passage requires a roll-call vote and the support of at least a majority of all the members elected to the house, not just a majority of those voting on the question.

If the bill again passes the first house, this time as amended by the second house, the legislative process is complete. Each house has passed the same document with identical content. The constitutional bill passage requirements have been satisfied, and no further legislative action is necessary, except to enroll the bill and present it to the governor.

If support for concurrence is lacking, either the author's motion to concur does not prevail or an insufficient number vote to pass the bill as amended. If left to stand, this result in the house of origin—inaction—would doom the bill, unless the author persuades a sufficient number to reconsider. When faced with this prospect, therefore, the author usually changes course and turns the bill into the 3rd Passageway by moving to refuse to concur.[19]

3rd Passageway: The houses disagree and appoint a committee to resolve their differences

The third passageway comes into use when the house of origin refuses to concur in the amendment of the second house. This path to bicameral agreement is longer than the other two.

After considering the amendment of the second house, the author in the house of origin may decide that the changes in the bill are unacceptable. The author then moves that the house of origin refuse to concur in the amendment of the second house. To prevail, the motion to refuse to concur requires a favorable vote from a least a majority of those voting on the question (not a majority of all members).

Occasionally, an author's motion to refuse to concur does not prevail (or is withdrawn by the author to avoid defeat). Perhaps a majority of members support the second house's amendment or fear that a conference committee on the bill will deliver a more objectionable result than the bill before them. If the motion to refuse to concur is defeated or withdrawn, the bill is doomed by inaction in the house of origin. The author wishing to move forward either must persuade a sufficient number to reconsider or—the usual choice—change course and turn the bill into the 2nd Passageway by moving instead to concur.

Usually, however, the author's motion prevails, and the house of origin refuses to concur in the amendment of the second house. Now the two houses have passed the same document but with differences in content: the second house has altered the first house's bill in ways that the first

[19] Occasionally an author in the house of origin, dissatisfied with the actions of the second house, may simply abandon the bill, making no motion whatever on the question of concurrence.

house rejects. If neither house will give way to the other, they have arrived at an impasse. Unless the dispute can be resolved, the bill cannot become an act of the legislature or a law.

The conference committee is the legislature's method of trying to resolve disputes between the houses over the content of a bill. Legislative rules direct the house of origin of a bill, whenever it refuses to concur in the amendment of the second house, to request the appointment of a conference committee on the bill. In fact, both houses make this request an integral part of the motion to refuse to concur.

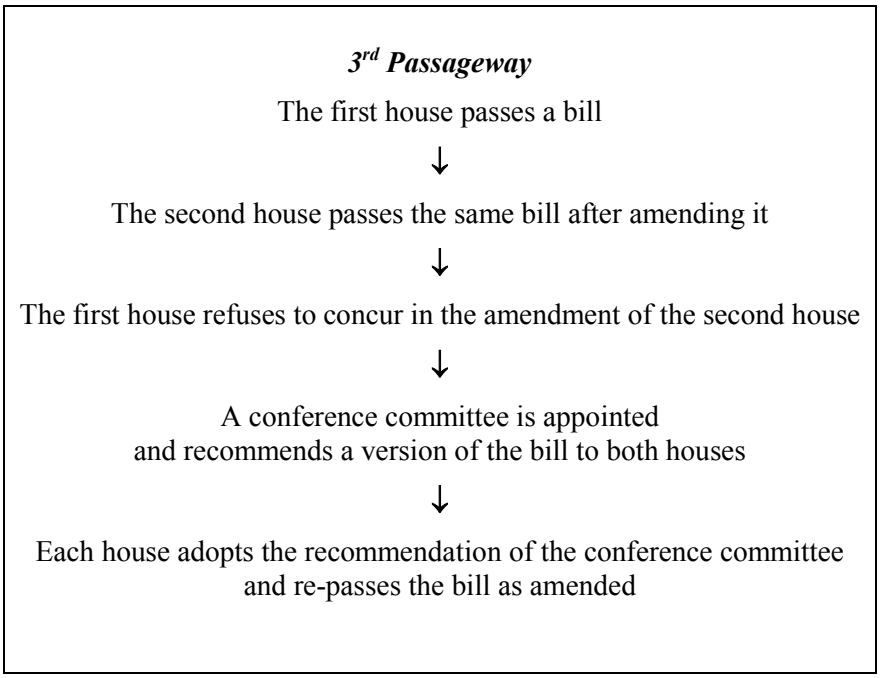
Conference committee proceedings are described in some detail in the next section. Briefly, a conference committee consists of a few members of each house who are appointed to confer on the matters in dispute and find a way through or around the impasse between the houses. The object of the conferees, as they are called, is to report a bill with content that both houses will accept—that is, pass without further amendment.

If the conference committee reports the bill, the house of origin, followed by the second house, must:

- adopt the report, which has the effect of amending the bill as recommended by the conference committee, and then
- without further amendment, give the bill another third reading and another vote on passage.

The vote on passage must meet the usual constitutional and legislative requirements: a roll-call vote and support from at least a majority of all members elected to the house. If the bill again passes both houses as amended by conference, the legislative process is complete. Each house has passed the same document in identical form. The constitutional bill-passage requirements have been satisfied, and no further legislative action is necessary, except to enroll the bill and present it to the governor.

This is the 3rd Passageway depicted in the flowchart on page 45 by the bottom line leading from the third to the fourth column:



Most complex bills go by way of the 3rd Passageway, requiring a conference committee

Under current legislative rules and practices, a bill must follow one of these three pathways to bicameral agreement on the content of the bill. About two-thirds of bills that pass the legislature do so by way of the first pathway or the second—that is, without a conference committee. Either the second house does not amend the house of origin's bill, or the house of origin concurs in the amendment of the second house.

The other bills—about one-third—take the longer route, in which a conference committee is used to settle differences between the houses about the content of the bill. The bills taking this third route include nearly all complex, contentious, and important legislation, including the omnibus budget bills.

This reliance on conference committees to settle the content of so much important legislation provokes controversy. Critics assert that conference committees are too powerful, constituting a "third house" of the legislature composed of a chosen few whose work the rank and file have little practical choice but to accept. Defenders respond that conference committees are a more efficient, time-saving, and open, public way of settling interhouse differences than the alternatives.

During the past decade, criticisms of conference committees have given way to criticisms of meetings between between the governor and legislative leaders. Conference committees have tended to be used as receptacles into which a leadership deal is deposited. This may be a short-term trend, caused by years of divided government, or it may be more permanent, a change in how decisions are made.

CONFERENCE COMMITTEES

As just explained, a conference committee is a part of the 3rd Passageway to bicameral agreement. A conference committee comes into being only when the house of origin refuses to concur in an amendment to a bill by the second house.

Each house appoints an equal number of conferees—either three or five

A conference committee consists of either six members (three from each house) or ten members (five from each house). Most conference committees have six members. Ten-member conference committees are used to deal with important, complex, or controversial bills (for example, the omnibus budget bills).

Procedurally, conferees are appointed first by the house of origin, then by the second house. After deciding not to concur in the amendment of the second house, the house of origin appoints conferees and transmits a message to the second house asking that it do the same. The second house complies with this request by appointing conferees and notifying the house of origin of this action.

During this period—after the house of origin appoints conferees but before the second house does so—either house may still reconsider its position. The second house, discovering that the house of origin is adamant, may recede from its amendment and repass the bill with content acceptable to the house of origin. Or the house of origin may change course and decide to concur in the amendment of the second house and repass the bill with the content preferred there. Last minute about-faces on the floor of either house are rare. Even if one house is willing to give way, a quick conference committee often is the most efficient way to accomplish this result.

Conferees are chosen by the leaders of the majority political caucus in each house

In the House, the speaker appoints members to conference committees, in consultation with others. The appointments are reported on the floor as "Announcements by the Speaker" and so enter into the House journal. Senators are appointed to conference committees by the Subcommittee on Committees of the Committee on Rules and Administration. The subcommittee is chaired by the Senate majority leader and dominated by leaders of the majority caucus. The appointments are reported by the subcommittee to the floor and so enter into the Senate journal. Both houses also publish the names of conferees, on paper and on the Internet.

The lead conferee from each house is the member whose name is listed first when the conferees are announced or reported. Usually the chief author of the bill in each house is appointed as the lead conferee. Other conferees typically include chairs or members of committees that considered the bill, authors of important amendments to the bill, members who have expertise in the subject, and members who will represent the position or interests of the house or important legislative groups or leaders within the house. Usually (but not always) the lead conferee and the majority of conferees from each house are members of the majority political caucus, and usually (but not always) the minority caucus of each house is represented among the conferees.

The selection of conferees may be a decision of considerable strategic importance. Members who want to have an influence on the content of a bill essentially must *ask* to get onto the conference committee. This gives the appointing authority leverage, not just over the deliberations of the conference committee itself, but also over initial floor consideration of the bill before it goes to conference. For example, a member who has serious reservations about a bill may nonetheless vote for it, or may be induced to vote for it, in hopes of being appointed to the conference committee.

In reaching agreement, conferees have much latitude but not complete freedom

Conference committees in the Minnesota Legislature are mostly "open"—that is, neither house instructs or charges the conferees on what they must or cannot agree to. But conferees are not completely free to do whatever they please. They are constrained by practical considerations, by the expectations of the appointing authorities and other members, and by legislative rules.[20]

The position previously taken by each house on the bill is one constraint. Each house generally expects its conferees to support the position taken by the house on the matters in dispute, giving way just enough to produce an agreement, but no more. A Senate rule says that the senators appointed to a conference committee must support the Senate's position on the matters in dispute. The House has no such explicit rule but a similar expectation.

For some conferees, the pressure to take the side of the house they represent on all matters in dispute may conflict with other commitments—to leaders with other views, to important dissenting factions in the house, to personal convictions, to the interests of constituents. Also, of course, conferees normally have to give way on something if they hope to reach agreement with the other side. But conferees cannot completely confound the expectations of the house they represent, for to succeed they must return with something that can pass there without amendment.

Another constraint on conference committees comes from legislative rules that limit the freedom of conferees to add new provisions to a bill that were not in either version of the bill as it passed the two houses. (These new provisions, often imported from other bills elsewhere in the process, are sometimes referred to as "outliers.")

- A conference committee cannot add a new provision that creates certain types of government boards.
- A conference committee cannot add a new provision that delegates administrative rulemaking authority to an executive branch agency or that exempts an agency from rulemaking procedures.

[20] The state constitution imposes some constraints on conference committee agreements as well. For example, the constitution says that laws may not "embrace more than one subject" and that "bills for raising revenue" must originate in the House.

- A conference committee cannot include in its report new provisions that are not germane to one or both versions of the bill that was committed to the conference.

  The two houses define germaneness a little differently. A joint rule replicates the standard for germaneness found in Senate rules: "A provision is not germane if it relates to a substantially different subject or is intended to accomplish a substantially different purpose" than either version of the bill committed to conference. A House rule adds another standard aimed specifically at outlier provisions imported from other bills: a conference committee must limit itself to subject matter contained in the two versions of the bill committed to conference or "like subject matter contained in a bill passed by the House or Senate." These germaneness standards are somewhat amorphous, and members of a conference committee may well differ on their application to a provision proposed to be added. But however ambiguous they may be in application, the germaneness rules do require conferees to consider the pertinence of new provisions they add to a bill.

Conference committees on the large omnibus bills that make up the state's budget are not bound by the budget controls and limits that each house establishes during the legislative process, as described in *Making the Budget* (pages 167 and 173). Were conferees bound by these separate House and Senate budget limits, no agreement between the houses on the budget bills would be possible—unless both houses happened to adopt identical limits. Though the budget limits set earlier by each house are lifted at the conference committee stage, any tendency of conferees to work out disputes by sweetening the pot is curbed by a legislative rule requiring permission: a conference committee may not recommend appropriating a larger amount than the amount authorized by the more generous version of the bill committed to conference, without first getting permission from the leadership of both houses.

A majority of the conferees from each house must support any agreement

A conference committee has two sides, one appointed by each house, meeting jointly. Each of these sides must agree to decisions about the bill. Hence, a majority of the conferees from each house must agree. It is not sufficient that a majority of all conferees agree. On a six-member conference committee, at least two of the three members from each house must agree; on a ten-member conference committee, at least three of the five members from each house must agree.

Conference committee proceedings may be short and sweet or long and agonizing

Each conference committee follows its own road to some extent, because it is unique—a temporary, *ad hoc* committee selected to perform a particular function in a certain time with a singular mix of participants and issues. Prior to 2010, however, conference committee procedures had become gradually more regular, more uniform—and more like standing committee procedures.

Preparing

Before a conference committee meets, legislative staff usually prepare materials showing

the differences between the Senate and House versions of the bill. Conferees from each house may prepare themselves by reviewing these materials and discussing the issues with staff, with each other and other members, and with outside groups and individuals interested in the outcome.

Sometimes the lead conferees from each house meet informally before the conference committee assembles. This is called "pre-conferencing" the bill. The lead conferees have various goals in mind: to prepare for the meeting, to save meeting time, to establish rapport, to avert a public brawl over sensitive issues, or to better control the result.

From time to time, preconference discussions produce a satisfactory agreement, making a meeting of the conference nearly superfluous. Occasionally, there is no meeting at all: to save time the conference committee report is "round-robined" for signatures. Open-meeting rules usually inspire at least one brief meeting to review and formally approve the agreement in public.

Meeting—in public and in private, by day and by night

The legislative open meeting law and supporting legislative rules require conference committees to make decisions in public meetings scheduled and announced in advance, as much as practical. (In the past, conference committees customarily met in private. In Congress and some states, they still do.)

The wording of the legislative open meeting law and legislative rules allows room for private discussion among conferees, even a quorum of conferees, as long as no action is taken, no decision made. Private meetings of a quorum are almost unknown, but conferees often engage in private discussions with each other, particularly on big or difficult bills. Especially common are private meetings between the two lead conferees and among conferees from one or the other house. On big, complex bills, public and private meetings may alternate: a public meeting is followed by private meetings among various conferees and others, then by another public meeting.

Conference committees generally meet during the day or evening. In the past, conference committees met at night—sometimes all night. In part this was for lack of a better time, because most conferences occur in the closing weeks of the legislative session when both houses are in floor session for long hours most days. In recent years, the legislature has adopted rules restricting late night conference committee meetings—between midnight and 7:00 a.m. Both houses also now try to schedule floor sessions to allow conference committees more time to meet in the afternoons and evenings rather than late into the night. The rule prohibiting meeting after midnight can and has been waived by adoption of a concurrent resolution allowing all-night meetings, as happened in 2016.

Getting started

The lead conferees serve as co-chairs at meetings of the conference. A joint rule adopted in 2010 requires that the presiding officer change each day, whether the conference

committee meets that day, or not. Sundays and holidays are exceptions. This alternation of authority between the co-chairs can have strategic implications during later conference committee proceedings, because the holder of the gavel is responsible for calling—or not calling—the next meeting.

The proceedings typically begin with a presentation and discussion of the issues in dispute between the houses. The conferees from each house explain their contrasting positions on various provisions in the bill, defend their views, question and criticize the position of the conferees from the other house, and, particularly in the early going, enlist support from experts and citizens in the audience.

In these initial exchanges, the conferees may appear inflexible and adamant, intent only to bolster and protect their positions on the issues. But this early sparring also is a form of negotiation. It allows the conferees to examine the disputes on the merits, to test the resolve and reasoning of other conferees on various points, and begin to explore ways of reconciling the differences.

Taking testimony

In the past, meetings of conference committees, even when open to the public, were typically devoted entirely to discussion among the conferees. Occasionally, a question might be asked of someone in the audience, but testimony on disputed matters in the bill was neither invited nor permitted. Prior to 2010, conference committees commonly allowed, even requested, considerable public testimony on issues in dispute between the houses. Full public hearings on a bill—the norm for standing committees—are unusual for conference committees. But on controversial or difficult matters, a conference committee meeting may take on the quality of a regular committee hearing, with hours of testimony on both sides of an issue. One positive aspect of this practice is the venue such public testimony provides for executive branch and public concerns.

Bargaining

Some conferences reach agreement easily and quickly. Conferees from one house may conclude that the other house actually has the better position on an issue. On other matters, minor changes in wording may satisfy both sides. On still others, it may become apparent that the differences are not of great moment and can be dealt with by old-fashioned horse-trading. In such cases, conferees may begin to "clear the decks," agreeing on the easy or minor issues one-by-one, until they finally isolate and find a resolution to each of the more substantive disagreements.

For other conferences, agreement is more elusive, not amenable to issue-by-issue settlement or horse-trading. It is in the nature of things that the thorniest problems, the most important questions of law and policy, the most entrenched differences of opinion among legislators and voters, the largest and most complex bills are visited upon conference committees. Legislators appointed to contentious or complex conferences find

themselves peering across apparently unbridgeable divides or groping uncertainly through dozens or hundreds of disputed points, all interrelated in murky ways both substantively and politically. Faced with this sort of conflict or uncertainty, conferees may dig in early, stubbornly resisting agreement on anything, even very technical and minor issues, out of a concern that an early concession on one point may have unpredictable consequences in negotiations later on other points. Finding a way through or around the resulting gridlock may require long hours, days, even weeks of analysis, explanation and counter-explanation, pro and con testimony, vigorous contention, edgy negotiations on individual items, offers and counter-offers, the ferrying back and forth of "package deals" trading one set of concessions for another, interspersed with occasional displays of annoyance or outrage.

Bogging down

After days or weeks of fruitless grappling, when no avenue opens to agreement, the proceedings may enter a stage marked by signs of apparent failure. Attitudes harden. Conference committee meetings become gradually more quarrelsome. Meetings become irregular and unpredictable. A scheduled meeting is aborted because conferees from one house do not appear; another ends unexpectedly with the abrupt departure of furious conferees. Meetings may cease entirely for a time, as face-to-face negotiations are replaced by documentary bombardments flung back and forth. Smaller subconferences break out to negotiate particular issues, and alert members in both houses begin scrambling to find other homes—another bill, another conference committee—for important provisions.

Failing and succeeding

When a conference appears to be subsiding into utter ruin, it is possible for the two houses to discharge the floundering conferees and appoint others in their place. This is rarely done. More often when a conference verges on collapse, the leaders of the two houses intervene in an effort to help work out a compromise or even to force one upon reluctant conferees. If these rescue efforts fail, both houses may resort in desperation to lobbing "missiles"—newly minted, take-it-or-leave-it bills—from chamber to chamber. Occasionally, this works. More often it does not, and the bill—sometimes an important one—simply dies in conference as session time, energy, and patience run out. (For the disposition of such a bill at the end of the first year of regular session, see *Forms of Action*, page 24.)

But most conference committees do not fail. However painfully and reluctantly, the conferees discover a way through or around the standoff. A settlement emerges at last from some combination of the forces at work in such proceedings—goodwill, reason, exhaustion, deadlines, doggedness, despair, pressure from other legislators and officials, and recognition that the citizenry depends upon some legislative decision, however imperfect.

The leadership agreement conference

As long as bicameralism has existed, and as long as governors and legislators have been in separate constitutional branches, a need has existed for comity, agreement, and conclusion of each legislative session. Agreements may be made with clenched teeth, but a conclusion requires an agreement.

Since 2010 (and occasionally before that) end-of-session agreements have often come via extended negotiation sessions with legislative leaders and the governor. Stories are told about the "good old days" when the governor and legislative leaders would negotiate a series of bullet point agreements, and communicate these to conference committee chairs, who would then make extensive decisions on their own. The governor and legislative leaders would then troubleshoot, fixing problems and mending breakdowns.

This practice was not codified, but was instead the product of the historical culture of law making. Since 2010, the pattern has shifted to meetings with the governor, at which omnibus bills are often negotiated in seriatim and in detail. The result is a series of deals that are delivered to conference committees, sometimes at the last minute, and often without public input.

The "leadership agreement conference" is arguably a product of divided government, but some have also argued that in the face of a divided polity, where social media trumpets each decision and interest groups track decisions in detail, only the actual leaders can deliver compromise. Whatever the explanation, it is also becoming clear that the functions of bill writing, policy vetting, fiscal accounting, and workflow management are not designed to fit within leadership negotiations as structured to date.

The product of a successful conference committee is a committee report on the bill

When the conferees (or leadership) reach an agreement, the conference produces a conference committee report. The report recommends that both houses pass the bill with the content agreed upon by the conferees. The required number of conferees—at least a majority from each house—must sign the report, indicating their support.

A conference committee report can be very short, recommending that one house simply agree to the version of the bill passed by the other—either that the house of origin accept the amendment of the second house or that the second house abandon its amendment and accept the bill as it came from the first house. Usually neither house yields so completely to the other, so most conference committee reports recommend that one of the two houses accept the bill passed by the other, but with various changes, small and large.[21]

[21] Technically, a report can accomplish this in one of two ways, recommending either: (a) that the house of origin concur in the amendment of the second house and that the bill be further amended in specified ways, or (b) that the second house recede from its amendment and that the bill be further amended in specified ways. If the changes to the bill are very simple, the report may be in the form of a page-and-line amendment to the bill. Usually

Conference committee reports are prepared by the House and Senate staff working with the conference and put into final form by the Revisor's Office. After the report is signed by the required number of conferees, it is returned to the Revisor's Office, where it joins the original bill (which is deposited there by the house of origin at the time conferees are initially appointed). The Revisor's Office delivers the report along with the original bill to the house of origin.

Each house must adopt the report and repass the bill without further amendment

Neither house may amend a conference committee report. Legislators in both houses have but two options now: accept the bill as recommended by the conference committee or reject it.

Reports of conference committees are not a regular order of business in either house. In the House, a report on a House bill can be taken up at any time, while a report on a Senate bill normally is taken under the order of business "Messages from the Senate." In the Senate, conference reports usually are received as messages and then acted upon under the order of business "Motions and Resolutions."

Except during the closing days of a regular session (typically the last Friday through Monday), joint rules require that a conference committee report be available to the members at least 12 hours before it is taken up on the floor. During the closing days, when the 12-hour limit does not apply, it is common for conference committee reports to be taken up on the floor almost as soon as they become available. (Availability may be in the form of a paper copy, a copy printed in the journal, or an electronic copy accessible on the Internet.)

Consideration of a conference committee report is a four-step process in each house:

- ***Receipt of the message.*** The house receives and announces the presence of the report.
- ***Adoption of the report.*** When the conference committee report comes up for consideration on the floor (which may be right after the message or later), the lead conferee begins by moving that the house adopt the report. The lead and other conferees then summarize and explain the main features of the proposed compromise, focusing on how the issues in dispute between the houses were resolved by the conferees and how the recommendations in the report differ from the positions taken earlier by the house when it passed the bill.

  Other members may—and usually do—ask questions, which lead to exchanges between the conferees and others and then to generalized debate about the terms of the agreement. Some conference committee reports are adopted quickly, with few questions and little or no debate. Others may be strongly opposed, producing intense debate and a close vote, occasionally even a vote to reject the conference report.

  When discussion of the report concludes, the house votes on the initial motion of the lead

---

the amendments are more extensive, and the report takes the form of a delete-all amendment to the bill. This has the advantage of displaying the whole agreement recommended by the conferees and reducing the risk of technical errors in the final text.

conferee to adopt the report. If the motion prevails, the effect is to amend the bill accordingly. This action requires the support of a majority of those voting on the question (not a majority of the whole membership).

- ***Third reading, as amended.*** After adopting the report, the house gives the bill another third reading, as amended, signifying that it is ready, once more, for the vote on passage.
- ***Vote on passage.*** Finally—perhaps after more debate on contentious issues—the house votes on whether the bill should pass, as amended in conference. The usual constitutional and legislative requirements for bill passage apply, requiring a roll-call vote and support from at least a majority of all the members elected to the house, not just a majority of those voting on the question.

The house of origin acts on the conference committee report first. If the house succeeds in adopting the report and passing the bill again, the bill and the report are transmitted to the second house with a message indicating the action of the house of origin. The second house then must go through the same four steps.

If either house rejects the conference committee report, or adopts the report and then does not pass the bill, the bill fails—unless, time permitting, it is returned to conference for more work. Often time does not permit, for adjournment draws near, and rejection is likely to doom the whole bill for the year. Members may conclude that any bill, however flawed, is better than no bill. For this reason and others, conference committee recommendations are not often rejected on the floor.

If both houses adopt the recommendations of the conference committee and repass the bill as amended, the legislative process is complete. Each house has passed the same document in identical form. The constitutional bill-passage requirements have been satisfied, and no further legislative action is necessary, except to enroll the bill and present it to the governor.

The role of conference committees has changed

The role of conference committees in a given session depends on the uses that legislative leadership assigns. The usual pattern of conference committee usage has shifted over the past decade, with a lowering commitment to the use of conference committees to make decisions about the state budget.

Conference committees often reconcile nonbudget bills, some of which have large and unwieldy issues (Vikings stadium, Prairie Island cask storage, etc). Smaller policy differences are often worked out in short conference committees. However, the state budget is passed, every two years, using between nine and 12 large budget conference committees.

In 1986, a study of the Minnesota Legislature, sponsored by the legislature and carried out by the Humphrey Institute of Public Affairs at the University of Minnesota, called out conference committees as a problematic tool for reconciliation of differing takes on budget and policy issues. In “The Third House” the Humphrey Institute noted the secretive decision making, and inclusion of unique items, that marked out the conference committee stage of the legislative

process as prone to abuse.

Thirty years later, the dynamic has shifted at the legislature. Leadership negotiations often eclipse the conference committees as a tool for finishing the legislative session. There are many highway markers on the trail to this shift in the operating mores of the legislature:

- In 2007, many final bills were written in the Senate Rules Committee, and sent to the House on House Files, for adoption by the House, avoiding conference committees entirely.

- In 2011, during the government shutdown, special unappointed working groups with executive branch officials and subsets of members worked within the closed State Capitol to finalize bills to be adopted in a special session.

- In 2013, executive branch officials were often present at bill drafting sessions, and the leadership conference process (see chart) fed decisions into conference committees that were "manila envelopes" for deals to be placed within for easy passage.

- In 2015 and 2017, extended negotiations by leaders resulted in deals that were written quickly and passed by the legislative bodies in conference committees that met seldom and did not "vet" or reveal deals.

Conference Committee Process	***Leadership Conference Process***
Conference committees are appointed two to three weeks prior to the end of session and meet publicly for at least two weeks of meetings	Leadership meetings occur sporadically over the last two weeks of session
Conference committees produce one-off drafts of specific issues of contention, which can be reviewed by executive branch officials, lobbyists, and public	Leadership committees produce lists of agreements and issues-in-contention, and often these lists are themselves disputed
Over the weeks of public meetings, issues are refined, bill drafts are circulated, and issues are solved—with involved experts in the room and making suggestions	The actual bill drafts are often not written until final decisions are made
Many members are on a large conference committee and do make many decisions	Conference committees are "manila envelopes" into which leadership deals are dropped
The legislative leadership and governor circulate bullet point lists of decisions and leave the rest to the chairs. Occasionally, the governor submits a letter to guide the negotiations.	Leadership often writes all of the bills and solves all of the issues, taking on a huge workload
The conference committee process is hard to follow, with many meetings going on in various places around the Capitol, creating a natural target for savvy lobbyists and members to sneak in items	The leadership process creates a way for commissioners, governor, and legislative leaders to dominate the process and exclude the public, the majority of legislators, and interested lobbyists
The weeks of meetings and the involvement of many members create an impetus to finish, to avoid wasting the work	The high stakes and huge workload creates an impetus to delay, and when done, a rush to draft and pass quickly

FUNDAMENTALS: REVIEW BY THE GOVERNOR

The constitution does not allow the legislature to make law on its own. With few exceptions (see *Forms of Action*, page 33), the legislature must present each of its actions to the governor for review.

Enrollment and Presentment…page 88

After achieving bicameral agreement on a bill, the legislature must enroll the bill, making it into an act of the legislature, and then present the act to the governor.

Time Allowed for Gubernatorial Review…page 89

The constitution gives the governor a limited time, a certain number of days, to respond to an act presented by the legislature.

Governor's Options…page 89

The constitution gives the governor three choices for responding to an act:

- ***Approval.*** If the governor approves the act, by signing it within the constitutionally specified period, the act becomes a law.
- ***Disapproval.*** If the governor disapproves the legislation, by vetoing it within the constitutionally specified period, the legislation does not become law, unless the legislature overrides the veto.
- ***Inaction.*** If the governor does nothing, neither approves nor vetoes, but instead retains the act for longer than the constitutionally specified period, the act may or may not become law, depending on when during the session the legislature passed the bill and whether the legislature remains in session when the review period expires.

Veto Override…page 91

If the governor vetoes within the period allowed while the legislature remains in session, the legislature may override the veto by passing the legislation once more, this time by an extraordinary majority (two-thirds) of each house. The effect is to make law despite the objections of the governor.

Procedural Effect of the Time of Passage…page 92

These exchanges between the legislature and the governor may be organized and understood in another way—according to when an act passes the legislature. The constitution prescribes different procedures and effects for bills that pass the legislature "during the last three days of a session" than for bills that pass earlier in a session.

ENROLLMENT AND PRESENTMENT

After the two houses pass the same bill in identical form, as required by the constitution, the constitution directs the legislature to:

- Enroll the bill, which transforms it physically into an act of the legislature, and
- Present the act to the governor, who has the constitutional authority to approve, reject, or acquiesce.

The Revisor of Statutes, a joint legislative staff office, performs these functions as an agent of the legislature.

The legislature enrolls the bill, which transforms it into an act

After a bill passes both houses in the required manner, the constitution requires that the bill be enrolled by the legislature before it is presented to the governor for review. Enrolling a bill transforms a bill for an act into an act—from a proposal *to* the legislature into a proposal *of* the legislature.

The resulting document, called an enrollment, is an accurate copy of a bill, as it passed both houses of the legislature. The enrollment is printed on archive-quality paper with places for the signatures of legislative and executive officials. Each enrollment is given a number in order of passage; this later becomes the chapter number of the act in the published session laws for that year.

Before it leaves the legislature's hands, the enrollment is signed by two elected officers of each house: the speaker and chief clerk of the House, and the president and secretary of the Senate.

The legislature presents the act to the governor for review

The constitution requires the legislature to present each enrolled act to the governor.

When to present an act is a decision of the legislature, within limits set by the constitution. Normally there is no reason for delay, so the legislature presents the act as soon as practical after passing it. If the legislature ever were tempted to delay, the constitution establishes the outer limits—in the form of two presentation deadlines. Which of the two applies depends on when the act passed the legislature—whether before or during "the last three days of a session."

> ***If the act passed before the last three days of a session***—The legislature must present it before the legislature adjourns the session *sine die*.
>
> ***If the act passed during the last three days of a session***—The legislature must present it by the end of the third calendar day after the day that the legislature adjourns *sine die*.

TIME ALLOWED FOR GUBERNATORIAL REVIEW

The constitution gives the governor a certain number of days to respond to an act presented by the legislature. The time allowed by the constitution depends on when the act passed the legislature—whether before or during "the last three days of a session."

If the act passed before the last three days of a session—The governor has three calendar days to review it after the day it is presented. Sunday does not count as one of the three days.

If the act passed during the last three days of a session—The governor has 14 calendar days, including Sundays, to review it after the day that the legislature adjourns *sine die* (not the day the act is presented). The governor's review period may be reduced by as much as three days (to 11 days), because the legislature is allowed three days after the day of adjournment to present the act. Conversely, the period can be lengthened by as much as three days (to 17 days), if the legislature presents the act during the last three days, before it adjourns the session.

GOVERNOR'S OPTIONS

The constitution gives the governor three choices for responding to an act presented by the legislature.

Option 1: The governor may sign the legislation within the time allowed

If the governor signs the act in the time allowed, it becomes a law. It is said to be enacted.[22] After signing, the governor is required to deposit the act, now a law, in the office of the secretary of state and to notify the legislature.[23]

Option 2: The governor may veto the legislation within the time allowed

The constitution allows the governor to disapprove—to "veto"—most legislation.[24]

---

[22] A law does not necessarily take effect when it is enacted. A law takes effect on a date specified in the law itself or, in the absence of a specification in the law, on a date prescribed by general law. General law prescribes three effective dates for laws, depending on the character of the law: a law with an appropriation is effective on July 1, which is the start of the state's fiscal year; a law that applies to a local unit of government usually is effective upon the approval of the law by the unit's governing body; other laws are effective on August 1.

[23] The constitution makes the office of the secretary of state, an elected executive branch official, the depository for laws enacted by the legislature and governor.

[24] Because of exemptions in the federal or state constitution, the governor does not have the authority to disapprove certain legislative actions, even when they take the form of an act. The legislature still must present the act, but the governor has no power to veto it. (*Forms of Action*, page 33)

Return veto

The governor vetoes an act by returning it to the house of origin, with a message explaining the reason for the veto. This is called a return veto. The governor must return the act in the time allowed by the constitution for gubernatorial review and while the legislature is still in session (that is, before it adjourns *sine die*). The governor also is required by law to deposit a notice in the office of the secretary of state indicating the chapter number of the vetoed act.

Item veto

A variation on the return veto is the item veto. If an act contains "several items of appropriation of money," the constitution allows the governor to sign the act while vetoing one or more of the items of appropriation.[25] The governor vetoes an item of appropriation by appending to the signed act a statement indicating the items vetoed. Governors also sometimes mark the act to indicate the vetoed item or items. The governor is required to deposit the signed act, along with the veto statement, in the office of the secretary of state. If the legislature is still in session, the governor also must return a copy of the veto statement to the house of origin.

A vetoed act or item of appropriation does not become law, unless both houses of the legislature vote to override the veto by a two-thirds majority. The procedure for doing this is described in the following section.

According to information compiled by the Legislative Reference Library, in the half-century from 1955 to 2017, governors vetoed 477 acts, either in whole or in part by line item. About two-thirds of these vetoes occurred in a 12-year period, during the administrations of governors Arne Carlson and Jesse Ventura (1991-2002). Governor Pawlenty vetoed 123 acts from 2005 to 2010.

Option 3: The governor may choose not to respond—neither sign nor veto

The governor's third option is simply to keep the act, doing nothing with it, until the time allowed for gubernatorial review expires.[26] The effect of inaction by the governor depends on: (a) when the act passed the legislature—whether before or during "the last three days of a session"; and (b) whether the legislature is still in session when the governor's time expires.

If the act passed before the last three days of a session—The act becomes law without a signature at the close of the governor's three-day review period, unless the legislature has prevented a return veto by adjourning the session *sine die* during that time. A governor

[25] What qualifies as an "item of appropriation"—and hence a valid target of a veto—is a complex issue and the subject of considerable litigation in states like Minnesota that give the governor this authority.

[26] **Recission of Veto.** There is an argument that the governor could rescind a veto, if the recission was accomplished during the three-day, or 14-day, veto period. This argument is tied to actions taken by Governor Perpich to modify the effect of vetoes during his administration.

who acquiesces to a law in this way is required to deposit it in the office of the secretary of state, along with a notice that the governor is allowing the act to become law without the governor's signature.

If the act passed during the last three days of a session—The act does not become law without a signature at the close of the 14-day review period. This is called the pocket veto. The governor is required by law to retain the act in the records of the governor's office and to file a notice with the secretary of state indicating that the act, identified by chapter number, has been pocket vetoed.

VETO OVERRIDE

If the governor vetoes an act or an item of appropriation while the legislature is still in session, the legislature may enact the proposal into law anyway, despite the governor's objections. This action is called a veto override.

When the legislature overrides a veto, the legislature deposits the legislation, now a law, in the office of the secretary of state.

An override must be accomplished before the session ends

There is no time limit on legislative action to override a veto, except that the legislature must accomplish it during the same session that the legislation was passed and vetoed.[27] Once the legislature has adjourned a regular or special session *sine die*,[28] it cannot, in a subsequent special session, override a veto from the session concluded earlier.

Overriding a veto requires the support of two-thirds in each house

To override a veto, two-thirds of all the members elected to each house (not merely two-thirds of those present and voting) must vote in favor of making the legislation a law despite the governor's objections to it. Accordingly:

- A minimum *number* of members in each house must vote to override: in the House, at least 90 of the 134 representatives; in the Senate, at least 45 of the 67 senators.
- Not voting has the same effect as voting in the negative, for purposes of attaining the required number of votes to override.

[27] The legislature has the whole of its biennial session to override a veto. If there is nothing to be gained by delay, the legislature acts promptly after receiving the veto message. But the legislature could vote in the second year of a biennial session to override a veto from the year before.

[28] The conclusion stated here, that a special session veto cannot be overridden in a subsequent session, is an untested conclusion; there is no court ruling either way.

The constitution expressly requires a roll-call vote to override a veto. It also expressly requires that the vote of each member on the question be entered into the journal.

Vetoes may not be overridden collectively. There must be a separate vote in each house on each vetoed act or each vetoed item of appropriation in an act.

The house of origin votes first, then the second house

The governor executes a return veto by delivering the veto to the house of origin. The constitution requires the house of origin to enter the governor's objections into the journal. The house then may either:

- allow the veto to stand without challenge, or
- submit the veto to an override vote.

If the veto is not submitted to a vote, or if the vote falls short of the two-thirds required, the veto stands, and legislative proceedings go no further.

If the house of origin votes in favor of overriding the veto, it transmits the matter to the second house with a record of this action. The second house now decides whether to challenge the veto. If the second house also submits the veto to an override vote, and if two-thirds of all the members there also vote in favor of overriding the veto, then the act or the item of appropriation becomes law despite the governor's objections.

Veto overrides are not common, historically

Veto overrides are quite rare in Minnesota, compared to some states. They have become more frequent in recent years, as the number of gubernatorial vetoes has risen, but still are not common. According to information compiled by the Legislative Reference Library, in the half-century from 1955 to 2017—a period during which governors vetoed 561 bills in whole or in part by line item—the legislature has overridden the veto of 12 acts and four items of appropriation. All but three of these 16 veto overrides occurred during the four years of the Ventura administration, from 1999 to 2002.

PROCEDURAL EFFECT OF THE TIME OF PASSAGE

These exchanges between the legislature and the governor may be organized and understood in another way—according to when an act passes the legislature. The constitution prescribes different arrangements for two categories of acts:

- those that pass "during the last three days of a session"
- those that pass earlier in the session

The time of passage affects when the legislature must present the act to the governor, how much time the governor has to respond, and what happens if the governor does not respond within the time allowed.

"…the last three days of a session..."

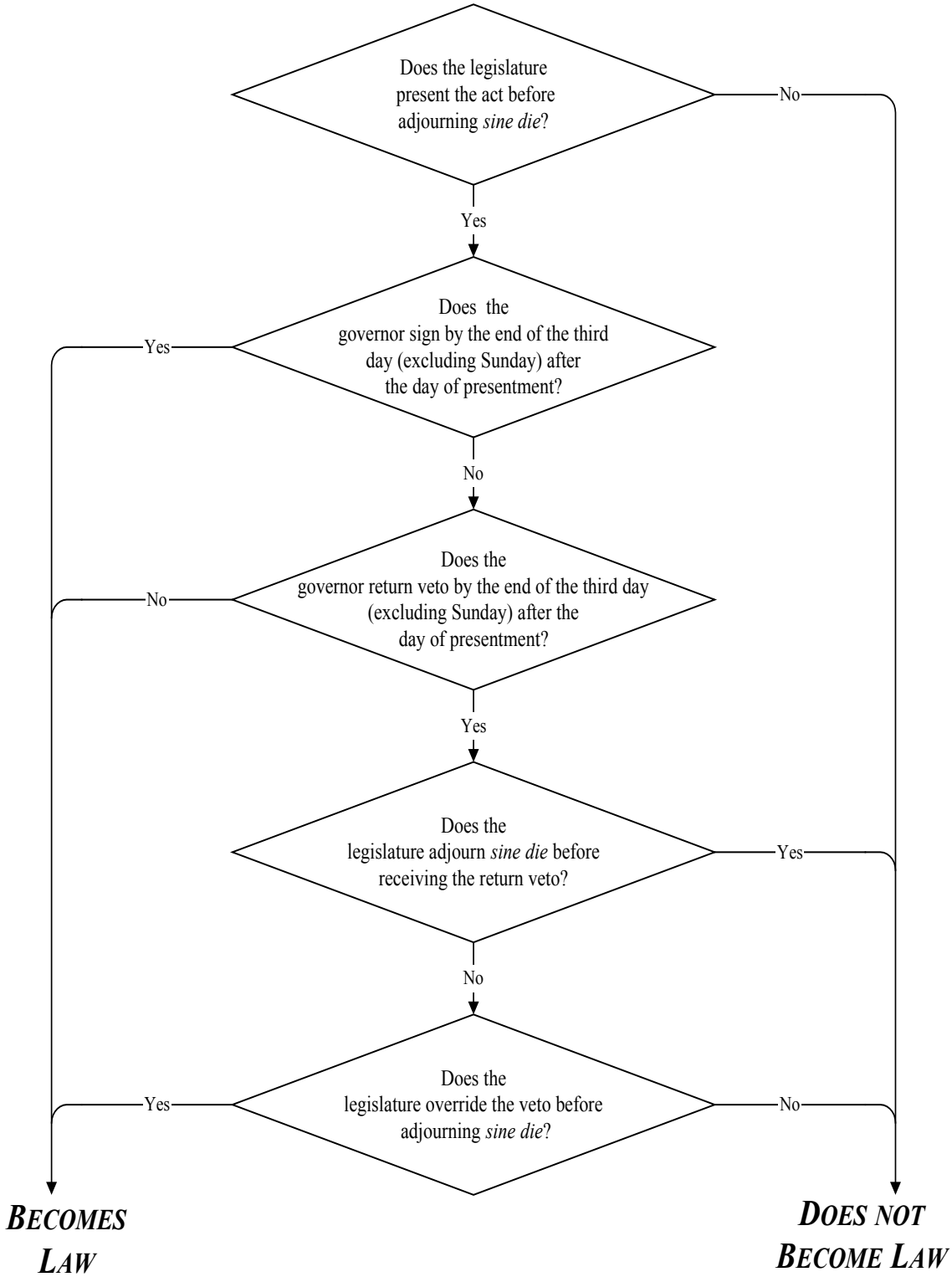
The constitutional words—"passed during the last three days of a session"—apply only to the days leading up to a *sine die* adjournment ending a regular session or special session. The end-of-session arrangements for gubernatorial review do not apply to acts passed during the three days preceding an interim adjournment during a legislative session. The notable example is the three days before the customary interim adjournment of the biennial regular session, at the end of the session in the first, odd-numbered year. Acts passed in these three days are not considered to have passed during the last three days of a session.

In general, the constitutional words have been construed to mean the day that the legislature adjourns *sine die* and the two calendar days before that day. But the application of the words to particular acts—and therefore the correct close-of-session enactment procedures—can be quite complex, even murky. One source of difficulty is that the last three days of a session usually are known for sure only after the legislature actually adjourns *sine die*.

Another issue is whether Sunday is one of the three days. The legislature typically adjourns the regular session *sine die* on Monday, and the constitution does not say whether the last three days are Saturday, Sunday, and Monday, or whether Sunday is excluded so that the last three days are Friday, Saturday, and Monday. Excluding Sunday seems generally consistent with the constitutional scheme for dealing with close-of-session legislative actions (unless the legislature itself were to act on that last Sunday, which it has done only rarely). But the constitution does not expressly exclude Sunday from the three days, as it does in other, nearby language.

Finally, what does the word "passed" mean? For purposes of identifying whether a bill passed the legislature on the last three days, the word does not necessarily mean the day of the vote on final passage in the last house to act on the bill. The courts have construed the word to include at least the additional time required to enroll the act and obtain the required signatures of legislative officers. So a bill that is enrolled and signed during the last three days is considered to have passed during those three days, even though it may have passed the last house on an earlier day.

AN ACT THAT PASSES BEFORE THE LAST THREE DAYS OF A SESSION

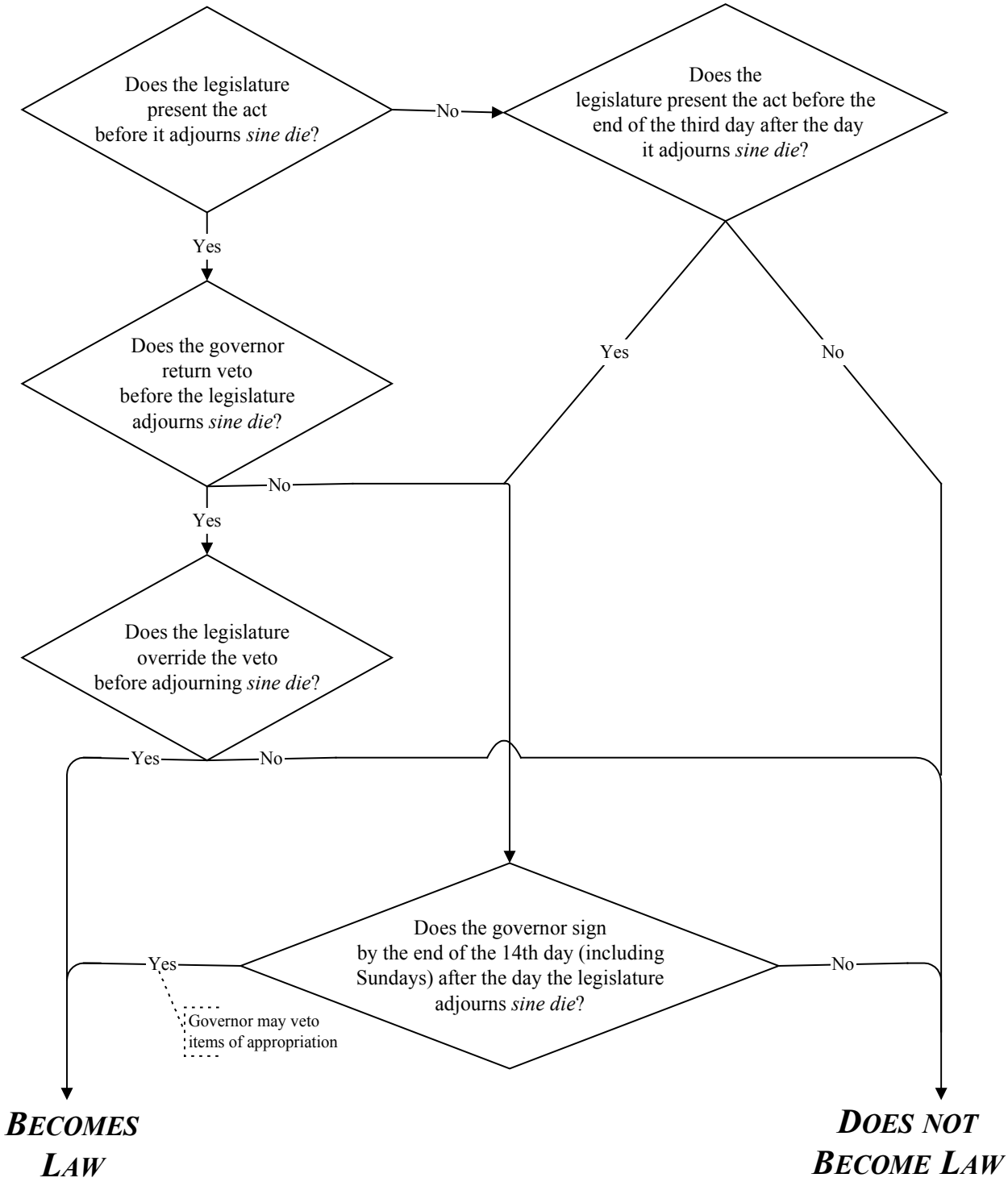


An act that passes before the last three days of a session is dealt with in one way

For acts passed during most of a legislative session, the constitution imposes the arrangements described below and depicted in the flowchart.

- ***Presentment.*** The legislature must present the act before the legislature ends the session by adjourning *sine die*.
- ***Three-day review period.*** The governor has three calendar days to either sign or return veto the legislation, after the day it is presented. Sunday does not count as one of the three days.
- ***Signature.*** If the governor signs within the three-day review period, the legislation becomes law.
- ***Return veto.*** If the governor return vetoes the legislation within the three-day review period, the legislation does not become law unless the legislature overrides the veto. The legislature has until it adjourns the session *sine die* to override the veto. If it does not override by then, the veto stands, and the legislation does not become law.
- ***Acquiescence.*** If the governor neither signs nor return vetoes by the end of the three-day review period, the legislation becomes a law without the governor's signature, unless the legislature has prevented a return veto by adjourning *sine die* during the period allowed for gubernatorial review.

AN ACT THAT PASSES DURING THE LAST THREE DAYS OF A SESSION



An act that passes during the last three days of a session is dealt with in another way

For acts passed near the end of a legislative session, during the last three days before the legislature adjourns *sine die*, the constitution prescribes different arrangements. These are described below and depicted in the flowchart.

- ***Presentment.*** The legislature may present the act before it adjourns *sine die* or during the three calendar days after the day it adjourns.
- ***Fourteen-day review period.*** The governor has a longer time to decide whether to sign the act—14 days, including Sundays, after the day that the legislature adjourns *sine die* (rather than the usual three days, excluding Sunday, after the day that the legislature presents the act). Because the review period is calculated from the day of adjournment rather than presentment, the number of days actually available to the governor to review an act can be reduced or extended by as much as three days (i.e., to as few as 11 days or as many as 17), depending on when the legislature presents the act during the last three days of the session and the three days following.
- ***Signature.*** If the governor signs within the 14-day review period, the legislation becomes law.
- ***Return veto.*** If the legislature presents the act before it adjourns *sine die* (i.e., during the last three days of the session), the governor may return veto before the legislature adjourns. If so, the legislation does not become law unless the legislature overrides the veto. The legislature has until it adjourns *sine die* to override the veto. If it does not override by then, the veto stands, and the legislation does not become law.

  After the legislature adjourns *sine die*, the governor still may veto but by means of the pocket veto rather than the return veto.

- ***Pocket veto.*** Whether the legislature presents the act before or after it adjourns *sine die*, the act does not become law unless the governor signs it by the end of the review period. The governor may not acquiesce, by allowing the act to become law without the governor's signature, as is possible earlier in the session. The effect of gubernatorial inaction on these end-of-session acts is the opposite of its effect on acts passed earlier in the session: instead of becoming law without the governor's signature, the act does not become law. This is the pocket veto.
- ***Item veto.*** The governor can also veto an item of appropriation after the legislature adjourns, by signing the act during the review period while vetoing the item of appropriation. As with the pocket veto, the legislature, having adjourned, has no opportunity to override.

THE COMMITTEE SYSTEM

The procedures and practices described in this and succeeding chapters have a different origin than those described in preceding chapters. The fundamentals of making law—passing bills, achieving bicameral agreement, submitting them for review by the governor—are prescribed by the constitution; these legislative rules are designed to enforce constitutional requirements. The constitution has nothing to say about legislative committees or floor proceedings (apart from floor reporting and voting requirements). The committee system and proceedings on bills in committee and on the floor are a creation of the legislature, exercising authority granted by the constitution to each house to determine its rules of proceedings.

Legislative Committees…page 101

Each house establishes committees of various types and defines their scope of authority, role in the legislative process, and lines of accountability. Bicameral committees, with membership from both houses, are few in number and have no formal role in the lawmaking process, but some are influential.

The Referral Requirement…page 107

Before undertaking any floor discussion or decision on a bill, a house usually refers the bill to at least one committee for consideration and recommendation.

Referral Decisions…page 109

Legislative rules define who makes committee referral decisions and how those decisions may be contested or changed.

Referral Standards…page 112

The jurisdiction and legislative authority accorded by a house to each of its committees governs decisions about which committee or committees should consider a bill.

Referral Sequences…page 114

When more than one committee has jurisdiction of a bill, the bill is referred to each of the committees in succession. The sequence of referral from one committee to the next can be important to the fate of a bill. It can also be mysterious and surprising at times, but customary referral patterns exist.

Committee Deadlines…page 117

Both houses establish deadlines for committee action on various types of bills. Committee deadlines influence the progression of bills through the committee system, promote orderly

decision making, and mitigate the end-of-session "logjam" of bills on the floor.

LEGISLATIVE COMMITTEES

Each house establishes committees of various types and defines their scope of authority, role in the legislative process, and lines of accountability. Bicameral committees, with membership from both houses, are few in number and have no formal role in the lawmaking process, but some are influential.

The predominant committees are the standing committees of each house

At the beginning of the biennial regular session, each house establishes a set of standing committees. Standing committees are expected to endure—to stand—for the entire biennial session. These committees are newly minted and populated at the start of each regular session.[29] Permanent standing committees of the sort seen in Congress—committees that exist for decades with the same leadership, members, and authority—do not exist here.

Even though the standing committee system is created anew by each legislature, the structure tends to persist from session to session, with only relatively minor changes from one legislature to the next. In recent decades, each house typically has operated with between 20 and 30 standing committees. The Senate, with half the membership of the House, often gets by with fewer committees.

The House and Senate follow different procedures in establishing standing committees. In the House, the speaker stipulates the jurisdiction and membership of committees, usually after consulting with other members or an organizing committee of the majority caucus. In the Senate, an organizing committee of the majority caucus, led by the majority leader, determines the jurisdiction and membership of committees. Ultimately, much of the standing committee structure is formally described in legislative rules adopted by each house early in the regular session.

The two houses may confer as they go about establishing standing committees. This discussion, along with the usual continuity of the committee structure, typically produces a committee organization in the two houses that is roughly parallel. Ultimately, though, each house is acting independently in establishing its committees. The internal exigencies and divergent policy perspectives of the two houses often produce differences, minor and major, in their committee structures.

Each standing committee has a legislative jurisdiction defined by the house that creates it

A house gives each of its standing committees jurisdiction of a set of legislative subjects and issues. The jurisdiction of a committee is indicated roughly by its name (agriculture, transportation, higher education, etc.) and delineated further in documents produced by the majority caucus and the committees. In addition, legislative rules, described later, formally

[29] Senate committees may have greater continuity when the Senate organizes for a new regular session in the middle of the four-year term of office of senators.

prescribe the jurisdiction of some committees by requiring that bills with certain content be referred to them. The House has traditionally chosen not to publish a list of committee jurisdictions, in part as a way to empower the speaker's prerogatives on bill assignment.

The collective jurisdiction of standing committees embraces all legislative subjects

The collective jurisdiction of the standing committees in each house is intended to encompass every possible subject of state legislation. The legislature does not make extensive use of temporary committees—sometimes called select committees—established *ad hoc* to deal with pressing or complex issues that spring up during a session. Both houses tend to rely on their standing committees to deal with whatever comes.

Standing committees are distinguished by their authority and relationship to the house

A standing committee is commonly described as either a full committee or a division, a distinction based on the committee's relationship to the house in which it is set.

Full committees

The existence and authority of a full committee come from decisions of a house, and full committees generally are listed in the legislative rules of each house. A full committee also communicates directly with the house that creates it, receiving bills from the house and reporting them back to the house.

Divisions

A division is a standing subpart of a full committee. A division is akin to a full committee in that its existence and authority come from decisions of the house (unlike subcommittees—see below). The House often lists divisions in its legislative rules, as part of the standing committee structure. The Senate does not, but divisions in the Senate nonetheless are established by the Senate, through its organizing committee and Subcommittee on Committees.

Although brought into being by action of a house, a division usually stands in a different procedural relation to the house than a full committee. Unlike full committees, most divisions do not communicate directly with the house that created them but instead receive bills from, and report to, the full committees in which they are set.[30]

[30] The qualifiers—usually, most—are necessary. Sometimes a house has organized itself so as to give some divisions authority similar to that of a full committee, including the authority to receive bill referrals directly from the house (or from the full committee, *pro forma*, at the direction of the house) and to report bills to the house (either directly or by means of a *pro forma* pass through the full committee).

Even though a division may report to a full committee rather than directly to the house, seats on these committees often are coveted assignments for legislators. This is because divisions usually are fiscal committees—the committees that create the indispensable omnibus bills that make up the state budget. Chairing a division may convey as much or more prestige and authority than chairing a full committee.

Some standing committees focus on government finance, others on law and policy

Both houses distinguish also between standing fiscal committees and policy committees.

Fiscal committees

Each house establishes a set of committees with jurisdiction over state revenue (taxes), appropriations (spending), and debt (bonds). Fiscal committees are structured differently by successive legislatures and by the two houses of each legislature. In recent sessions, the following arrangements have been typical:

- ***Taxes.*** Each house establishes a tax committee and gives it jurisdiction of state tax laws, policies, and revenues and some aspects of state-local fiscal relations. This committee is responsible for writing the omnibus budget bill dealing with these matters.
- ***Appropriations.*** Each house establishes a set of appropriation (or finance) committees. Each committee is given jurisdiction over some aspect of state spending (e.g., natural resources, education, transportation) and is responsible for writing the omnibus appropriation bill that authorizes spending on state government activities within its jurisdiction.
- ***Capital investment.*** Each house establishes a committee—lately called the Capital Investment Committee—that is responsible for assembling omnibus bills that authorize the issuance of state general obligation (G.O.) bonds for capital projects.
- ***Budget management.*** One or both houses may create a budget management committee for two purposes: (a) to help develop the position of the house on two fundamental budget decisions—the size of the budget and the allocation of resources among broad government functions, and (b) to review omnibus budget bills produced by other fiscal committees, to ensure that they comply with budget control decisions of the house.

  Budget management is a central concern of the majority political caucus in each house, and of its leadership, which holds itself responsible for maintaining budget discipline and setting budget priorities. Caucus leaders closely monitor the budgetary implications of committee decisions on omnibus budget bills. The budget management committee functions as a final checkpoint for these bills before they leave the committee process for the floor.

  The House has made longer and fuller use of this type of committee, first established in House rules as the Budget Committee in 1985 and now called the Ways and Means Committee. The role of the committee has varied over the years.

From 2007 to 2010, the House had both a Ways and Means and a Finance Committee. These committees shared the House's work, to make budget control and allocation decisions and review omnibus budget bills for compliance before floor action.

The Senate has no single committee with budget management authority quite like the House Ways and Means Committee. On the revenue side, the Senate's tax committee reports directly to the floor. On the spending side, the Senate has handled budget management differently from session to session—sometimes establishing a single committee with authority to review spending bills similar to that of the House Ways and Means Committee, other times dividing the responsibility among several co-equal finance committees.

Appropriation Committee Organization

The task of distributing jurisdiction among appropriation committees can be difficult. The arrangement is important to many participants in the legislative process: committee chairs, legislators, state agencies, and lobbyists. A perennial background issue complicating the task is the tension between consolidation and dispersion of authority over spending: some wish to distribute budget decisions among a greater number of appropriation committees and bills, while others favor fewer committees and bills to enhance budget control. Moreover, the two houses usually do not agree completely on the appropriate arrangements.

Because of these and other organizational and political complexities, the distribution of jurisdiction among appropriation committees in the two houses, though usually similar, rarely is identical. And it changes over time in both houses. Three general methods of organizing appropriation committees have been employed in pure and mixed forms:

- Full committees reporting directly to the house—e.g., the Education Finance Committee
- Divisions reporting to a full finance or budget management committee—e.g., the Education Finance Division of the Finance Committee
- Divisions reporting to a full policy committee—e.g., the Education Finance Division of the Education Policy Committee

Policy committees

Each house also establishes a set of policy committees whose jurisdiction focuses on the substance of policies, laws, and government programs rather than on fiscal affairs. Often, the policy committees have jurisdictions that roughly coincide with those of the appropriations committees. For example, a house might establish a transportation policy committee and a transportation finance committee.

The distinction between policy and finance is far from exact. Considerable overlap may exist in the interests and jurisdiction of the policy committee and the finance committee dealing with a common subject like transportation, education, or natural resources. In addition, different legislatures and the two houses have allocated authority differently over the years between policy

and finance committees. In general, though, the stronger hand often goes to the finance committee, because of the importance of money and because the usual bill referral practices described later give the finance committee the last say on bills before floor action.

Policy and finance may be so intertwined, in fact, that a house decides not to separate them, instead giving a single committee jurisdiction of both policy and finance in some subject, like health or higher education. This arrangement, combining jurisdiction of both policy and finance in one committee, is similar—in concept, if not always in effect—to the last of those listed in the sidebar on appropriations committee organization (the finance division within a policy committee).

Subcommittees are few, and most are creatures of another committee

Subcommittees, like divisions, are subparts of full committees and usually receive and report bills through the committees in which they are set. But unlike a division, a subcommittee usually is not established by the house but rather is conceived, populated, and put into service by a committee chair needing a subgroup to concentrate—often temporarily, but sometimes for a session—on a specific issue or particularly difficult legislation.[31]

A chair wishing to establish a subcommittee is expected to consult with leaders of the House or Senate. A House rule requires the advice and consent of the speaker for subcommittee appointments. Even so, the subcommittee remains a creature of the committee that created it, deriving its authority and jurisdiction by delegation from the committee, not directly from the house.

Neither house makes extensive use of subcommittees, and powerful standing subcommittees of the type seen in Congress are unknown here.

Bicameral committees may be influential in some legislative decisions

Bicameral committees are established to enhance communication and coordination between the two houses on legislative business. They are composed of an equal number of members from each house. Members may be chosen by the customary appointing authority in each house (the House speaker and the Senate Subcommittee on Committees) or serve *ex officio*, by virtue of holding other legislative office, usually a committee chair or leadership position.

Unlike the standing committees within each house, bicameral committees do not have a formal role in the legislative process. Neither house refers bills to them, nor do they introduce or report

[31] Here again the qualifiers—usually and most—are needed. A few Senate subcommittees have some of the qualities of standing committees, being established by the Senate, recognized in Senate rules, and even in some cases authorized to report directly to the Senate with the authority of a full committee. Senate subcommittees with some of these unusual powers deal with the legislative process, rather than with the substance of legislation. Examples are the Subcommittee on Committees and the Subcommittee on Ethical Conduct of the Committee on Rules and Administration.

bills in either house.[32] Despite their separation from the formal lawmaking process, bicameral committees may be influential in legislative decisions in some subjects.

Broadly speaking, two categories of these committees may be distinguished.

Joint committees

Some bicameral committees are established temporarily by the two houses, so that members of both houses can work together on an important issue. In some cases, citizens and government officials outside of the legislature are included in the membership. These temporary joint committees are called, variously, joint task forces, working groups, advisory groups, or select committees. They may be established by informal agreement between the houses or more formally by concurrent resolution or by a provision in a law, typically a session law.

The legislature does not make heavy use of temporary joint committees of this sort. But some have been quite influential, developing legislative recommendations or drafting bills that form the basis for decisions in both houses.

Legislative commissions

Legislative commissions differ from joint committees in that they are permanently established by statutory law. Commissions consist of legislators from the two houses; some commissions have citizen members.

Some legislative commissions are established to enhance coordination and communication between the houses on internal legislative operations. The prominent example is the Legislative Coordinating Commission (LCC), a statutory legislative management group composed of the leaders of both houses. The LCC supervises joint legislative staff groups like the Revisor of Statutes and the Legislative Reference Library, among other duties.

Other legislative commissions are established to enhance what is called legislative oversight—the legislature's constitutional responsibility to monitor the implementation of laws by the executive branch of state government. Examples of this type of commission include the Legislative Advisory Commission, which advises the executive on certain spending decisions, and the Legislative Audit Commission, which conducts financial audits and evaluates the performance of executive branch agencies. In addition to these statutory commissions, the LCC has chosen to create standing joint subcommittees to carry out certain oversight responsibilities assigned to the LCC by law. For example, an LCC-created oversight subcommittee advises both houses on state employee

[32] Conference committees do play a formal role in the legislative process—an important one—described in *Bicameral Agreement*. But a conference committee is not really a joint, bicameral committee. It is, instead, two committees, one appointed by each house, that meet together for a time to negotiate a compromise between the houses on the content of a particular bill.

compensation plans and union contracts.

Some legislative commissions perform a function similar to conference committees: promoting and negotiating agreement between the houses on the content of legislation. But whereas a conference committee operates toward the end of the legislative process, after a bill has passed both houses, a commission operates more at the front end of the process, attempting to broker agreement on difficult or complex matters before any bill is introduced in either house. Currently, one legislative commission plays this sort of role in public pensions, and two others in the funding of certain types of natural resources projects. Even though these commissions do not have a formal role in the legislative process—neither receiving referrals nor reporting bills—their work is nonetheless influential. Bills recommended by the commissions are introduced in both houses by members of the commissions. Differences often emerge from amendments as the bills proceed through the legislative process. But both houses are inclined to rely on the recommendations of the commissions, so the differences between the bills that emerged from the two houses are often fewer, less consequential, and more easily resolved by conference committees at the end of the process.

THE REFERRAL REQUIREMENT

Before undertaking any floor discussion or decision on a bill, a house usually refers the bill to at least one committee for consideration and recommendation.

A bill is referred to a committee when it is introduced and first read

Legislative rules in both houses require that bills be referred to a committee when they are introduced and given a first reading. Neither house normally wishes to debate or take action on a bill until at least one committee has examined the bill, invited public testimony on it, and made recommendations on it to the house.

The referral requirement may be dispensed with for some bills

Legislative rules make two exceptions to the requirement that a bill be referred to a committee when it receives its first reading. Both exceptions are for bills that, when introduced, already have been considered by a committee in some manner. In addition to the two regular exceptions, a house can choose not to apply the referral requirement to any bill.

Committee bills

One exception to the referral requirement is for committee bills. A committee bill is a bill written in a committee and introduced by the chair of the committee on behalf of the committee. A committee bill is recognized by the way authorship is attributed (e.g., Smith, for the Committee on Education ...).

A committee bill may emerge from two committee processes:

- A committee may write a new bill as the outcome of committee hearings and deliberations on some subject
- A committee may assemble a new bill on some subject from parts of several bills that have been referred to the committee[33]

Because a committee bill is the product of a committee when it is introduced, legislative rules do not require referral of the bill to a committee on first reading. The bill may be referred to another committee with jurisdiction. But if no other committee has jurisdiction, the bill remains on the floor for second reading and possible consideration by the full house. A committee bill remaining on the floor in this way does not receive its second reading until the next session day. The one-day lie over is designed to separate the first and second readings of the bill, as required by the constitution and legislative rules.

Companion bills

The other exception to the practice of referring every bill to a committee on first reading arises when a bill passed by one house is introduced and given its first reading in the second house. To ensure that both houses of the legislature act on the same document, as required by the constitution, the second house is obliged to act on the bill from the first house rather than the second house's companion bill on the same subject.

To facilitate the substitution of one companion bill for the other, the bill from the first house is routed by the second house to the procedural location of the companion bill. If the companion bill is still in committee in the second house, the bill from the first house is referred to the committee possessing the companion. If, however, the second house's companion bill already has finished with the committee process and awaits action on the floor, then the bill from the first house is not referred to committee on first reading, as normally would be required. Instead, the bill remains on the floor, and the substitution of bills occurs there.

Companion bills and bill substitution procedures are described more fully in *Bicameral Agreement* (page 66).

Dispensing with the requirement for a particular bill

A bill that does not come within one of the two established exceptions to the referral requirement still may escape referral to committee on first reading, because a house can choose not to apply the referral rule to any bill. Two-thirds of all the members elected to the house must vote in favor releasing the bill from the referral requirement. (Any legislative rule may be so suspended.) This is not a regular practice, but it is sometimes

[33] A committee wishing to combine several bills in its possession into one bill need not always introduce a new committee bill. It can instead use one of the referred bills as a "vehicle" for the content of the other bills.

done to expedite passage of a bill. One example is during a one-day special session, when several legislative rules, including the referral requirement, must be suspended to allow a bill to move from introduction to final passage in a single day. Procedures for dispensing with such requirements in cases of urgency are described in *Passing Bills* (page 50).

REFERRAL DECISIONS

Legislative rules define who makes referral decisions and how those decisions may be contested or changed.

The presiding officer makes the first referral; the house makes subsequent ones

As explained earlier and in *Passing Bills*, a bill normally is referred to a committee at the same time it is introduced and given its first reading, without any discussion of its merits. To make this instantaneous referral possible, someone must decide before the daily session begins which committee should see the bill first. Both houses give this responsibility to the presiding officer—the speaker of the House and the president of the Senate.

Decisions about subsequent referrals to other committees, after the first, are made not by the presiding officer but by the house. A house generally makes a referral decision in one of two ways: (a) by adopting a committee report recommending referral of a bill to another committee, as described in *Passing Bills* (page 55); or (b) by acting favorably on a floor motion to refer a bill to another committee.

Referral decisions may be changed or reversed

Both houses have procedures to contest, change, or undo referrals. The object may be any of the following:

- to correct a mistaken referral
- to settle a dispute about which committee should receive a bill
- to reorder the sequence in which committees will receive a bill
- to expedite the progress of a bill through the committee system
- to return a bill from a committee to the possession of the house for second reading and floor action

A reversal or change in a referral usually implements an agreement among the leaders, the bill author, and the affected committee chairs. But occasionally an unresolved referral breaks into a discussion on the floor.

Senate Subcommittee on Bill Referral

The Senate has a formal committee process for resolving referral disputes. Any senator may object to a referral, whether it is a decision of the presiding officer on first reading or a referral recommended in a committee report. When a senator objects to a referral, Senate rules require that the bill be referred without debate to the Committee on Rules and Administration, which has a Subcommittee on Bill Referral, usually chaired by the assistant majority leader. The subcommittee conducts a meeting on the disputed referral and recommends a decision to the full committee. The subcommittee's recommendation is seldom changed by the committee, though it may be hotly debated; the recommendation of the full committee is never rejected or amended by the Senate.

The House does not have a similar committee procedure for intervening to review or change a pending bill referral. The House relies instead on floor motions to fix mistaken or disputed referrals.

Referral motions on the floor

A floor motion may be used in either house to change a referral. Floor referral motions are used less frequently in the Senate than in the House, in part because of the Senate's procedure for diverting referral issues to a committee for resolution.

If a floor referral motion prevails, the effect is to recall the bill from the committee to which it had been referred and refer it to another committee. To prevail, the motion requires the support of at least a majority of all the members of the house (34 of the 67 senators, 68 of the 134 representatives), not just a majority of those voting. In the Senate, the motion also requires the concurrence of the author and, after the committee deadline on the bill, the support of three-fifths (41 senators).

Normally, the motion to change a referral is made by the bill author or a committee chair after discussion and agreement among the author, the affected committee chairs, and leadership. In such cases, sometimes after a question or two from other members, the motion usually is accepted *pro forma*, without objection or upon a voice vote.

Occasionally a referral issue on a contentious bill is not settled privately but erupts on the floor. A disaffected member—usually the bill author, occasionally another member or even a committee chair—attempts by floor motion to move a bill from one committee to another, over the objections of committee chairs, leaders, or others. In the House, a member also may use a floor motion to challenge a referral decision or recommendation, something that in the Senate would be dealt with by referral to the Subcommittee on Bill Referral. Maverick referral motions on the floor are unusual and only occasionally succeed.

Because floor referral motions may be controversial, they are not adopted in bulk (unlike, for example, motions to change bill authors). Each referral motion is offered and considered separately. The presiding officer calls upon the member making the motion to explain the reason for it and to report on who has been consulted about it.

Recall motions on the floor

Less common than the motion to move a bill from one committee to another is the motion to recall a bill from the committee process entirely, with the object of keeping it in the possession of the house for possible floor action. Some recall motions are unobjectionable; others are contentious and rarely employed successfully. Much depends on the purpose of the member making the motion.

- *To expedite house action on a bill*

  The usual purpose of the recall motion is to expedite the passage of a bill, by cutting off the committee process and moving the bill immediately to second reading and action on the floor. This is not a regular practice and generally is the result of an agreement among the leaders, chairs, and key members to expedite consideration and passage of a bill that is in the possession of a committee.

  It is even possible by floor motion to recall a bill from a committee, give it a second reading, debate and amend it, give it a third reading, and pass it—all on the same day. This requires the house to dispense with constitutional requirements and legislative rules separating the days on which a bill is reported, an action that requires more than the majority support needed for the usual recall or referral motion. For this sweeping motion to prevail, the constitution and legislative rules require that it win the support of at least two-thirds of all the members elected to a house (90 of 134 representatives, 45 of 67 senators).

- *To dislodge a bill trapped in an unfriendly committee*

  A committee is not required to report every bill referred to it, or even give every bill a hearing. Many bills are referred to committee and remain there permanently. Either they do not get a hearing, or they are rejected by the committee after a hearing.

  Both houses have procedures that a member, including a disgruntled bill author, may use to extract a bill from a committee that is not favorably disposed to the bill. The Senate procedure has the member apply to the Senate Committee on Rules and Administration. The House has two mechanisms: one using a floor motion, the other a procedure designed to force the committee to vote on the bill.

  These recall procedures are seldom used, and almost never successfully by maverick bill authors over the objections of the committee chair or leaders. The members of the majority caucus tend to regard the attempt as an attack on the committee process, on the affected chair, and on the majority caucus. For this reason, the recall procedures often include mechanisms that allow the majority to prevent recall if need be.

  Despite the apparent futility of using a floor motion to free a bill from the grip of an unfriendly committee, disgruntled authors of contentious bills sometimes mount such efforts, usually less with an expectation of success than for the

purpose of expounding on the issue on the floor ("why is this important bill being suppressed?"). Because recalling a bill over the objection of the chair or leaders is so difficult, the author of a bill lodged in an unfriendly committee usually turns to other remedies: bringing pressure to bear on the chair, introducing another bill with the object of getting it referred to a different committee, waiting for the companion bill to come over from the other body, or—the simplest remedy—recasting the bill as an amendment to another bill on a related subject elsewhere in the legislative process.

REFERRAL STANDARDS

The jurisdiction and legislative authority accorded by a house to each of its committees governs decisions about which committee or committees should consider a bill.

Referrals are governed by the allocation of legislative jurisdiction among committees

When it establishes its standing committee system at the start of a biennial session, a house defines the substantive jurisdiction of each committee, by naming it and describing its scope of authority.

Bill referral decisions during the session implement these initial jurisdictional arrangements. Each bill is referred to the standing committee or committees with authority over the subject of the bill.

Legislative rules state some referral standards with greater particularity

In addition to the allocation of jurisdiction embodied in the standing committee system, both houses have adopted some referral standards as part of their permanent rules. These referral rules establish the jurisdiction of some committees with greater force and precision, by requiring that bills with certain types of provisions be referred to certain committees.

Bills affecting state government operations

Both houses have a rule governing the referral of bills that affect state government agencies or operations in certain ways.

The House directs to its government operations committee any bill that creates a state agency or substantially changes the organization or power of an agency or executive official.

The Senate directs to its government operations committee any bill proposing a government board or commission to which legislators may be appointed. The Senate also requires the referral of such a bill to its Committee on Rules and Administration.

Both houses direct to their government operations committees bills that bear on the authority of executive branch agencies to promulgate administrative rules (the statutory term for what are commonly called government regulations).[34] Any bills that give administrative rulemaking power to state agencies or that exempt agencies from statutory rulemaking requirements must be referred to the government operations committee in both houses. For example, a bill reported by the environment committee authorizing a state agency to issue administrative rules regulating waste disposal must be referred to the government operations committee before it can be considered on the floor.

Bills affecting criminal sanctions

A Senate rule requires that any bill authorizing or increasing a sentence of imprisonment in a state correctional facility (that is, felony sentences) must be referred to the Senate committee dealing with criminal justice. Although not stated by rule, the House customarily refers bills imposing any criminal penalty (misdemeanor and up) to its committee that deals with criminal justice.

Bills in the House affecting data practices

A House rule requires bills affecting government data practices to be referred to the committee responsible for data practices.

Bills in the House proposing constitutional amendments

A House rule requires that a bill proposing an amendment to the state constitution be referred to the Committee on Rules and Legislative Administration.

Bills in the House proposing memorials

A House rule requires that a bill proposing a new memorial in the area around the Capitol building be referred to the Committee on Rules and Legislative Administration.

Bills with a fiscal effect

Both houses have rules governing the referral of bills affecting the state's budget or fiscal affairs.

---

[34] Administrative rules have the force and effect of law, even though they are not enacted through the legislative process. The legislature naturally wants to restrain extra-legislative lawmaking by state agency officials. An agency may not adopt rules on a subject unless it is expressly authorized to do so by law. An agency must adopt rules following exacting procedures prescribed by law. The legislature's referral requirement is another means of keeping a handle on grants of administrative rulemaking authority.

- A House rule requires that bills affecting taxes be referred to the tax committee. The Senate has no express rule on tax bill referrals, but the practice is the same as in the House.
- In both houses, bills that make or affect appropriations must be referred to an appropriation committee.
- Bills dealing with the issuance of state bonds for capital projects must be referred in the House to the Capital Investment Committee.

Members and committee chairs are quite vigilant about enforcing these referral rules. If a bill appears on the floor that does not meet a requirement found in a legislative rule, an objection from the floor is possible, even probable, and absent a suspension of the rule by a two-thirds vote, the bill is likely to be sent off to the committee named by the rule.

REFERRAL SEQUENCES

When more than one committee has jurisdiction of a bill, the bill is referred to each of the committees in succession. The sequence of referral from one committee to the next can be important to the fate of a bill. It can also be mysterious and surprising at times, but customary referral patterns exist.

Many bills are referred to more than one committee

If only one committee has jurisdiction of the subject of a bill, the bill goes only to that committee. But many a bill has provisions that bring it within the jurisdiction of more than one committee. Such bills are referred to each committee with a claim.

Complex, contentious, or far-reaching bills may be referred to many committees. Two recent examples: a bill restricting telemarketing calls went through four committees in each house before floor consideration; a bill on school employee insurance went through seven committees in the House and five in the Senate before floor consideration.

A bill is referred to one committee at a time, in succession

Although referral of a bill to multiple committees is common, a bill is never in the possession of more than one committee at the same time. Instead, a house refers the bill to one committee after another, in succession. After each referral, the bill is in the sole possession of that committee (including subordinate committees, like subcommittees or divisions). When the committee reports the bill recommending another referral, after the house adopts the report, the bill moves forward to the next committee. If the committee does not report the bill, it may remain in the possession of that committee permanently.

The referral sequence can be important and sometimes confusing

For many bills, the order of their referral from one committee to the next is of little consequence and easily settled by consultation between authors and committees. But for some complex or controversial bills, referral sequence may be an important substantive or strategic consideration. Early referral to an unfriendly committee may doom a bill before it has a chance to gain momentum. An amendment adopted by one committee may be excised or altered by the next. An amendment in one committee may bring the bill suddenly within the scope of other committees hitherto without jurisdiction. The committee that considers a bill last may be important, for the report of this committee determines the content of the bill when debate commences on the floor.

When referral sequence is important or unsettled, the bill author, leaders, and various committee chairs may engage in much private negotiation about which committees should see the bill and in what order. The result may be a clear and certain course, or it may be an unlikely amalgam of the wishes of the author, the convenience of the chairs, committee hearing schedules, various strategic considerations, and, at times, simple confusion. And any committee in the chain, just by adopting an amendment to the bill, may force a course alteration.

Most bills follow coherent and customary paths through the committee system

Though some bills seem to meander from committee to committee in a convoluted, even perplexing sequence of referrals, most follow fairly coherent and well-trod paths through the committee system.

Main subject → ancillary subjects

One source of customary bill referral practice is a distinction between the main subject of the bill and supporting provisions. Many bills have a primary subject but contain one or more ancillary provisions that may fall within the jurisdiction of another committee. Usually such a bill goes first to the committee with jurisdiction of the primary subject and then to one or more committees that deal with the ancillary provisions. Almost any committee may have secondary jurisdiction of a bill, but some tend to have it more often. These include the committees dealing with state agency operations, civil law, criminal justice, taxes and spending, and the rules committees.

An example of this referral pattern might be a bill dealing with off-road vehicles. The bill provides for the regulation of off-road vehicles on public land and establishes state programs and trails for such vehicles. It also contains a provision imposing criminal penalties for certain vehicular offenses and another provision allowing a state agency to adopt administrative rules regulating off-road vehicles. The bill likely would be referred first to the committee with jurisdiction of natural resources and thereafter to the committees with jurisdiction of criminal justice and state agency operations.

Sometimes, of course, it is not clear which subject is primary and which ancillary, or which ancillary subject should be considered first and which second or third. A bill dealing with drainage issues, for example, might be of nearly equal concern to several

policy committees: agriculture, natural resources, transportation, local government. For such a bill, the author, committee chairs, and leaders try to work out an acceptable, strategic, and more or less sensible sequence of committee referrals.

Policy → finance

If a bill deals only or mainly with state taxes, spending, or debt, it may be referred directly upon first reading to the appropriate fiscal committee. Such a bill may never go to any policy committee. Conversely, if a bill deals only with state policies or laws or agency affairs and has little or no fiscal effect, it is referred to one or more policy committees and then to the floor, bypassing the fiscal committees entirely.

But many a bill mixes policy and finance, by proposing changes in both law and finance or proposing changes in law that may have significant financial effects. A bill that mixes policy and finance in this way must be referred to both policy and fiscal committees before floor action. The usual referral sequence is that the bill goes first to the policy committee or committees and then to fiscal committees for final consideration before action on the floor. This gives the fiscal committees the final committee-level say over bills that affect both policy and finance. Because so many bills are not "pure" policy bills but have direct or indirect effects on state finances, this bill referral pattern has a sweeping effect on legislative proceedings.

A committee may refer a bill to a subordinate committee

A bill may be referred by a house to a committee and then referred by the committee to a subordinate committee or subgroup, like a division or subcommittee. The referral may be a choice of the committee chair; or it may be required, if the legislative authority of the subordinate committee is established by order of the house as part of the standing committee system.

The actions of the subordinate committee take the form of a report on the bill to the committee.[35] The content of the report is similar to the content of a full committee report: recommendations on the text and the disposition of the bill. (See *Committee Proceedings*, page 134.) When the full committee takes up the bill, the chair of the subordinate committee presents the report. The committee then adopts the report, which accepts any amendments to the bill recommended by the subordinate committee and puts the bill, as amended, before the committee for action. After the committee adopts the report, the author of the bill takes over the presentation. The committee then proceeds to act on the bill, debating it, perhaps further amending it, and finally deciding whether and how to report the bill to the house.

[35] Occasionally a bill also may return to the referring committee by recall rather than report. That is, the chair of the committee may decide to recall a bill previously referred to a subordinate committee but not yet reported.

In the House, a committee may refer a bill by memo

From 2007 through 2010, the House adopted a method of referral by memo. The chair of the House Finance Committee was allowed to move bills from full Finance to a division of Finance, or between divisions of Finance, through a memo, published to the Internet, moving the bill from one stop to another. This allowed multiple hearings between different divisions of the Finance committee, in an expedited fashion. The House also adopted a rule allowing a division to refer a bill directly from the floor, and to refer that bill, upon passage, directly back to the floor, if the bill did not have a financial impact. These rules were designed to allow bills to move easily between divisions of the full Finance committee; arguably, the existence of both a Finance and a Ways and Means Committee during these years in the House made such an informal standard earlier in the process more feasible.

COMMITTEE DEADLINES

Both houses establish deadlines for committee action on various types of bills. Committee deadlines influence the progression of bills through the committee system, promote orderly decision making, and mitigate the end-of-session "logjam" of bills on the floor.

Normally both houses set deadlines for committee action during a session

Both houses usually set the same committee deadlines, arrived at by agreement among legislative leaders. In some sessions, the deadlines are promulgated formally, in a resolution adopted by one or both houses. Other times, there is no formal resolution; the deadlines are communicated informally by memo or announcement from the leaders. Occasionally the leaders do not achieve an agreement on the deadlines, and each house sets deadlines on its own.[36]

Three deadlines are customary—one for omnibus budget bills, two for all others

Typically the houses establish three deadlines. The third deadline applies to the omnibus appropriation bills that make up the state budget. The other two deadlines come earlier and apply to other bills. In general, the deadlines move bills through policy committees toward fiscal committees, supporting one of the referral patterns described earlier.

All three deadlines typically fall, about a week or two apart, into the four-week period preceding the final four weeks of an annual session.

The first deadline applies to bills in the house of origin

By the first deadline, a bill must clear most committees in the house of origin: House

[36] In addition to formal deadlines for committee action, the leaders of the two houses often also informally schedule and allocate floor time for bills, which creates other deadlines and sequences of committee action on bills.

committees must finish action on House bills; Senate committees must finish action on Senate bills. The first deadline usually comes about seven or eight weeks before a session is expected to end that year.

A committee has until the second deadline to finish action on a bill, if the companion bill in the other house has met the first deadline. For example, a House committee need not finish action on a House bill by the first deadline if committees in the Senate have finished work on the Senate companion bill. Committee chairs in the two houses may coordinate action on bills as the first deadline approaches, to make the best use of this exception.

The second deadline applies to all other bills except omnibus appropriation bills

By the second deadline, committees must act on house of origin bills that escaped the first deadline. Committees also must finish action on bills that have come over from the other house and been referred to a committee in the second house—that is, Senate bills in House committees, and House bills in Senate committees.

The second deadline usually follows the first by about a week or two. This is the final deadline for committee action on most bills. By this time, most bills must clear most committees in both houses. After the second deadline, legislative activity in committees in both houses comes largely to an end, except for action on the omnibus budget bills.

The third deadline applies to omnibus appropriation bills

The omnibus appropriation bills that authorize spending of state funds are exempt from the first two deadlines. After the second deadline, these bills become the focus of committee activity. The finance committees or divisions with primary jurisdiction over the omnibus appropriation bills must finish action on them by the third deadline. The third deadline comes about a week or two after the second deadline.

A few committees are exempt from the deadlines

After the third deadline, a bill should be out of all committees except for ones that are exempt from the deadlines. The list of exempt committees varies somewhat from one session to another, and between the houses, but generally it comprises the committees that have final committee-level responsibility for budget legislation and those that are responsible for managing the flow of bills to the floor. These are the following:

- the committee in each house charged with keeping state spending within budget limits set by the house, currently the House Ways and Means Committee and the Senate Finance Committee
- usually, but not always, the tax committee in each house
- usually, but not always, the committee in each house responsible for preparing the

omnibus bonding bill, currently the Capital Investment Committee

- the rules committee of each house

When the tax and capital investment committees are exempt from deadlines, technically there is no deadline for the omnibus tax bill and the omnibus bonding bill. But the third deadline is then customarily applied.

A bill that misses a deadline may be rescued from oblivion

A bill that misses a committee deadline is not necessarily doomed. A committee can still report the bill after the deadline, but legislative rules require that the bill be referred to the rules committee in that house. The rules committee decides whether the bill will be allowed to go forward despite having missed the deadline. This is not a regular practice, but each year some late bills move forward in this way. (For the disposition of the others at the end of the first year of the regular session, see *Forms of Action*, page 24.)

There are at least two other ways to revive prospects for a bill that has missed the deadline for committee action. One method is to attempt to recall the bill from committee by a floor motion, as described earlier. Recall procedures seldom are used successfully to rescue a late bill. A determined bill author is more likely to resort to the second salvage method, which is to recast the late bill as an amendment to a bill on a related subject elsewhere in the legislative process.

COMMITTEE PROCEEDINGS

The role of committees in the legislative process is to make recommendations to the house about the text and disposition of bills. Although committees have only the authority to advise, not decide, committee actions and recommendations on bills are influential, often determinative.

Each committee has its particular mores, which tend to persist over time from one legislature to the next. The character and style of chairs past and present and the background of leading members are sources of stylistic variation. Another is the committee's substantive jurisdiction and position in the legislative process. One committee may attend mainly to dollars, another to laws; one may act on many bills in a session, another on just a few; one may deal primarily with state agencies, another with local governments, yet another with private interests; one may get few bills referred to it from other committees, another dozens. These substantive differences naturally engender variations in the way committees behave.

Overarching these procedural variations, however, are the uniform expectations laid on all committees by the House and Senate, expectations expressed in legislative rules and in customary practices followed by all committees.

Decision Making by Committees…page 122

Committees act on bills referred to them in the parliamentary way—by assembling as a group and voting. To take action on a bill, at least a quorum of the committee must assemble and decide by majority vote.

Benefit of Committee Proceedings…page 124

Committee proceedings on bills improve the quality of the legislative process. They deepen the legislature's collective knowledge, provide due process, enhance the deliberative qualities of lawmaking, and enrich the public record. Group decisions gain validity and respect when they are seen to be well-informed and fairly and thoughtfully arrived at. Committees are one way that the legislature serves these values.

Authority of Committees…page 131

Besides contributing to the quality of the lawmaking process, committees have a large influence on the substance of laws, on the fate and content of bills. Although committees have only the authority to recommend, no authority to make final decisions, the content of legislation depends heavily on the work of committees.

DECISION MAKING BY COMMITTEES

To take action on a bill, at least a quorum of the committee must assemble and decide by majority vote.

A meeting of a quorum is required

Members of a committee cannot act by separate consultation and consent, only when properly assembled as a group. A committee is properly assembled when a quorum of the committee—a majority of its members—is present.[37]

In floor sessions, every member is required to be present and to vote unless excused, and less than a quorum cannot conduct any legislative business whatever. In committee, in contrast, members cannot be compelled to attend, and a quorum is required only for a decision: to call a meeting to order, to approve the minutes of a previous meeting, to adopt an amendment to a bill, to vote on a motion to report a bill, or to transact other official business.

A quorum is not necessary for committee activity not involving a decision. Committees can take testimony and discuss and debate with less than a quorum present. This is not uncommon, particularly late in a legislative session when deadlines approach and schedules begin to thicken and overlap. At these times, a legislator may be a member of two committees meeting simultaneously and the chief author of a bill being considered by a third. Even so, when it comes time for a committee decision, a quorum must be present, and committee staff are dispatched to round up scattered committee members. This is normally easily accomplished, for although members cannot be compelled to attend committee meetings, they generally are eager to do so and to participate in making decisions.

A vote is required

One purpose of the legislative process is to produce a group decision. The parliamentary way of making a group decision is to vote on a motion to do something. The usual motion pertaining to a bill in committee is either to adopt an amendment to the bill or to recommend the disposition of the bill itself.

Members vote in committee in three ways: by voice, by division, or by roll call. These are the same three methods used on the floor, but voting procedures in committee differ in some particulars.

By voice

In a voice vote, the committee chair asks those in favor of a proposal to voice their

[37] If no member of a committee suggests the absence of a quorum, a chair often conducts business under a previously established quorum; this is a common but uncomfortable practice.

support, followed by those opposed. The chair then judges which position has the greater number of voices in support and announces the result.

Only the committee's decision is recorded in the meeting minutes; there is no record of either the numbers or the names of the members supporting or opposing the proposal.

Voice votes are more common in committee than on the floor. With fewer voices, the prevailing side is easier to determine. Also, it is easier in committee to manage a division vote if needed.

By division

A division vote—a hand count of the number for and against—may be required to resolve uncertainty about which side prevailed in a voice vote. After the chair announces the result of a voice vote, another member of the committee who questions the judgment of the chair may request a division. Or the chair, in doubt about the result of a voice vote, may call for a division to settle the question.

Division voting is accomplished in committee by a show of hands. The chair first asks those in favor to raise their hands, then those opposed. The chair or a committee staff person counts the hands and tallies the number on each side; then the chair announces the result.

The meeting minutes record the number supporting, the number opposed, and the resulting decision. The vote of individual members is not recorded.

By a call of the roll

In committee, a single committee member may demand a roll-call vote on any question. In the Senate, the bill author may do so as well, even though the author is not a committee member.

A roll-call vote in committee is done orally. A committee staff person calls the name of each member, and marks the response, positive or negative, by the member's name on a list of committee members. Then the yeas and nays on the question are tallied by hand, and the chair announces the result.

A roll-call vote produces the fullest record in the meeting minutes, showing not only the result and the number voting on each side but also how each member of the committee voted on the question. In addition, in the Senate, three or more committee members may require that the record of a roll-call vote appear not just in the minutes of the meeting but also accompany the committee report and be printed in the Senate journal.

A majority of a quorum decides

In floor sessions, actions may require a specific number of votes—a majority, or three-fifths, or two-thirds of all the members elected to the house. In committee, in contrast, a specific proportion of members of the committee is not required to take any action, even final action on a bill. To prevail in committee, a motion need only win the support of a majority of those present and voting on the question—if a quorum is present. A tie-vote defeats the motion or proposal.

BENEFIT OF COMMITTEE PROCEEDINGS

Committee proceedings on bills can improve the quality of the legislative process. They should deepen the legislature's collective knowledge, provide due process, enhance the deliberative qualities of lawmaking, and enrich the public record. Group decisions gain validity and respect when they are seen to be well-informed and fairly and thoughtfully arrived at. Committees are one way that the legislature serves these values.

Committees deepen the legislature's knowledge by allowing legislators to specialize

The committee system divides the labor of learning, which enhances the collective knowledge of the legislature. Legislators cannot all achieve a thorough understanding of the thousands of issues and bills they deal with each session. The committee system distributes legislators among many committees, assigning each member to serve on only a few. This permits and encourages members to devote the attention and time needed to develop great understanding of some subjects. The specialized expertise that legislators acquire during lengthy committee proceedings is applied throughout the lawmaking process. Legislators often rely on each other's expertise, gained by the concentrated learning that comes from serving on committees.

The legislature gathers information from the outside mainly through committees

One of the principal functions of the legislative process is to investigate—to gather information from outside the legislature, to find the facts—and use the knowledge acquired to make better law. Of course, citizens influence lawmakers, and lawmakers learn from citizens, outside of the formal legislative process. But the legislature as an institution gathers outside information during the formal lawmaking process almost entirely by means of the public hearings and investigations conducted by legislative committees. Neither house conducts investigations or hearings on the floor, except in unusual situations like impeachment proceedings. Outsiders are seldom allowed on the floor and are never allowed to participate in the discussion there. The committee hearing is the only place within the formal process where an agency of the legislature must listen to—hear—petitioners for legislative action, the only place where outside voices enter directly into the discussion.

Informational hearings

Committees devote many meetings just to gathering information. No bill is under consideration, nor is any decision or action contemplated. The hearing addresses a

general topic of legislative interest or concern, and the proceedings are given over to receiving reports, listening to experts and the interested public, asking questions.

Another type of informational hearing is devoted to learning about a complex or contentious bill. The bill is under consideration by the committee, but no action on it is scheduled. The meeting is devoted entirely to gathering information on the bill from citizens and experts with knowledge of the subject and an interest in the outcome.

Committees hold many of these informational hearings during the early weeks and months of the regular legislative session. Committee hearings held during the interim break, between the regular session in the first and second years of the legislative biennium, also usually are informational hearings. Committee action on a bill is possible during the interim, if the committee has possession of the bill.[38] But committees rarely act on bills during the interim, for the action cannot be completed until the session reconvenes and the committee can report the bill.

Hearings on bills

As a regular session moves along, more committee meetings are devoted to consideration of individual bills (although a committee may revert to informational hearings whenever it begins considering new or complex legislation).

Policy committees generally move into hearings on bills sooner than fiscal committees. Policy committees also generally take action on bills one by one, at the conclusion of the hearing on each bill, as described on the following page. On a routine bill, a policy committee may get informed about the bill, discuss it, possibly amend it, and dispose of it at one hearing. Indeed, several bills may be dealt with in this way at a single hearing. For a complex or contentious bill, on the other hand, the chair may divide the proceedings, devoting one or more meetings to gathering information, hearing about the bill, listening to testimony, followed by one or more meetings with no scheduled testimony where the committee discusses the bill, considers amendments to it, and takes final committee action on it.

In contrast, fiscal committees make informational hearings their normal mode of operation for much of the session. As described in *Making the Budget*, even when hearing individual bills or proposals, fiscal committees usually do not act at the close of the hearing but instead wait until near the committee deadline before deciding on any.

[38] A committee cannot act on a bill unless it has possession of it. For a bill to be in the possession of the committee during an interim, it must have been introduced and given a first reading and been either: (a) referred to the committee but not reported by the committee before adjournment, or (b) reported but later returned by the house to the committee. A bill filed for introduction and unofficially referred to a committee during the interim (a practice allowed by the rules) is not in the possession of the committee, for it has not had its constitutionally required first reading before the house.

A Hearing on a Bill

Motion for action. The hearing begins with a motion for a committee decision, usually that the bill be recommended to pass. If the author is not a member of the committee, the committee chair or another member makes the motion.

Author's presentation and testimony. The author presents the bill, explaining it to the committee and advocating favorable action on it. The author may call on others (government officials, committee staff, outside experts) to testify, help explain the bill, or answer questions about it.

Author's amendments. The author may propose amendments to the bill. Whether to present the bill and then amend, or amend and then present, is the author's choice. It may depend on how substantially an amendment changes the bill or defuses issues the author expects to arise in the hearing. If the author is not a member of the committee, a member will move the amendment for the author. Committees often accept an author's amendments with little discussion, both as a courtesy ("to put the bill in the form the author wants it") and as a way to avoid wasting time debating provisions that the author has decided to change or remove. Deference to the author may decline in committees after the first, for these committees are dealing not just with the author's wishes but the position of another committee on the bill. Because the author goes first with amendments that are often routinely adopted by the committee, persons wanting the bill amended may approach the author first, recruiting another sponsor on the committee only if the author resists or refuses. For more information on amendments, see *Forms of Action* (page 34).

Public testimony. After the author's business is finished, the committee listens to testimony from others. A House rule requires committees to take public testimony, for and against, on every measure; Senate committees do so as well. Usually those in favor testify first. The author may help proponents organize this testimony, but others also may come forward on their own. Then the committee hears from opponents. On important or controversial bills when many wish to testify, the chair may schedule proponents and opponents on different days or limit the time available to each side.

Committee member involvement. At first, committee members may just listen to the author and the testimony. As time passes, members begin questioning the author and testifiers, clarifying points, raising issues, voicing objection or support, suggesting changes. After testimony concludes, committee members may continue discussing the bill; the author, even if not a committee member, is included in these discussions. Committee members also may offer amendments at this time. These generally are considered in the order offered, although a chair may control this to some extent, especially in committees where the chair requires amendments to be filed before the hearing (24 hours is typical). Absent a pre-filing requirement, a member may choose when to bring an amendment forward. Surprise may be a tactic for the author of a hostile amendment on a politically charged or contentious matter, or between members who are personal or political antagonists. Often, though, members with amendments forewarn the chair or the author of the bill, and behind-the-scenes negotiations may ensue on whether and in what order amendments will be offered.

Committee decision. After amendments are disposed of and debate completed, the initial motion that the bill be recommended to pass is renewed. (Other motions are possible but less common.) The motion now may be refined based on the committee's discussion or actions—for example, that the bill be recommended to pass as amended by the committee, or be referred to another committee, or be placed on the Consent Calendar. This final motion, if it prevails, is the essence of the committee report on the bill.

Committees provide notice and an opportunity to be heard

Fundamental to due process is notice and the opportunity to be heard. The legislative committee hearing provides this. In times past, legislative committees often met in private without notice. Nowadays, committees meet, take public testimony, and make decisions in public, generally at scheduled times and with an announced agenda. A state law codifies these legislative open meeting standards and directs each house to establish rules and procedures to enforce them. Both houses have done so.

The open meeting requirement

The legislative open meeting law and legislative rules require that committee meetings be open to the public. The requirement applies only to meetings when:

- a quorum is present; and
- an action is taken regarding a matter within the jurisdiction of the committee.

Thus, a quorum of a committee could meet in private without violating the rules, as long as no action is taken. The open meeting requirement applies only to meetings of legislative committees. It does not apply to other meetings of legislators—for example, a meeting of less than a quorum of committee members, a meeting of legislators from one political party caucus, or a meeting of a legislative delegation (legislators representing a particular geographic area or local political subdivision).

Notice

The open meeting law and legislative rules require public notice of committee meetings. Both houses achieve this in part by establishing regularly scheduled meeting times for most committees. Committee chairs are expected to provide advance notice of meetings held outside the regularly scheduled time. A House rule requires one-day advance notice of time changes.

The rules of both houses also require notice of meeting agendas—the topics and bills to be considered—to the extent practical. Agendas normally are posted around legislative offices and on the Internet three days in advance. The wording of the requirement (to the extent practical) allows some flexibility in scheduling. As deadlines approach for committee action on hundreds of bills in several dozen Senate and House committees, it is difficult for committee schedules to anticipate every need for action three days in advance. Experienced participants in the legislative process double-check committee agendas with bill authors, committee chairs, or committee staff.

In addition to committee meeting notices, both houses also maintain reporting and public information capabilities that focus in considerable part on committee activity. The House and Senate televise many committee meetings, making the signal available within the legislative offices and outside through media outlets and the Internet.

Restrictions on late-night meetings

Late-night committee meetings, once common during parts of the session, were rare, but are now becoming common again. To improve public access to the legislative process, both houses have adopted rules restricting such meetings. The Senate requires a committee to adjourn by 10:00 p.m., unless two-thirds of the members present vote to suspend the requirement. The House forbids committee meetings between 12:00 midnight and 7:00 a.m. Both houses also try to reduce the need for night committee meetings by limiting lengthy floor sessions during periods of intense committee activity.

Public testimony

Before reporting a bill, a committee must provide the proponents, opponents, and the general public an opportunity to be heard. House rules require this; the practice in the Senate is the same. Also, some committee meetings now are occasionally conducted using interactive television, which allows citizens located around the state not only to observe but to participate in the hearing.

Committees enhance the deliberative quality of the legislative process

Group decisions gain validity and respect if they are thoughtfully arrived at, after full discussion and exchange of views. Committees enhance these deliberative qualities in the legislative process.

Substantive focus

The committee system enhances deliberation simply by dividing legislative jurisdiction, forcing each committee to deal with a limited subject. The narrower scope of each committee's legislative authority permits lengthier discussion and more concentrated attention to detail than would be possible if all issues and bills were dealt with only by all members on the floor.

Small membership

Committees enhance deliberation also simply by being small. With fewer members wishing to be heard, the exchange of views can be freer and more extended than is possible on the floor with many more voices participating. Longer, deeper debate among a smaller number in committee enhances the chance that legislative action follows careful consideration.

Informality

Many parliamentary meeting practices apply in committee meetings just as they do on the floor. Proposals for action must be offered by motion and disposed of by voting. The

chair is the presiding officer—deciding when to begin and end the meeting, controlling the order of business, recognizing those wishing to speak, ruling on points of order, and taking votes. Participants are expected to ask to be recognized, by hand signal or oral request. When recognized, participants are expected to speak through the chair, by addressing the chair as well as the committee or another person ("Madame Chair and Mr. Smith, ..."). Parliamentary formalities like these maintain awareness of the group, prevent multiple simultaneous conversations between individuals, and identify speakers for the record.

Despite the formalities, both houses deliberately unburden committees of many parliamentary formalities that must be observed in floor proceedings.

- On the floor, both houses have rules to restrict speaking times and limit debate (though they normally are not strictly enforced or even invoked). The debate in a committee is not limited by rule. The amount and number of times a member may speak on a question is limited only by the courtesy of the speaker and the patience of others.
- On the floor, the presiding officer never makes motions and rarely participates in debate (and must leave the chair to do so). In committee, the chair performs the usual functions of a presiding officer but also participates directly in the debate and discussion. In the House, committee chairs also make motions.
- Debates about the germaneness of amendments, endemic on the floor, rarely arise in committee. Legislative rules requiring that amendments be germane to a bill either do not apply in committee or are substantially relaxed.
- Several members are required to bring about a roll-call vote on the floor of the House and in floor sessions of the Senate's Committee of the Whole. In a committee a single member, and in the Senate the bill author as well, may demand a roll-call vote.
- On the floor, a decision may be reconsidered only if the member requesting reconsideration voted with the prevailing side and follows certain procedures. A committee may reconsider and reverse an action or decision more easily. If the matter is still in the possession of the committee, a single committee member may request reconsideration of an action, and the requester need not have voted on the prevailing side or even been present for the vote.

The absence of formalities like these contributes to the freer, less inhibited, less structured quality of committee deliberations.

Committees enrich the public record

A committee report on a bill is the formal record of the committee's decision, but it is not the only record of its activities. Committees keep meeting minutes and an organized record of legislative documents considered by the committee. In addition, committee meetings are recorded—the sound at least and sometimes the sight. This documentation of a committee's

work is held for a time by the committee or house and then for several years by the Legislative Reference Library (a joint legislative agency) and finally deposited with the Minnesota Historical Society. The rules of both houses specify that these records are not intended to be admissible in court or other proceedings on an issue of legislative intent, but they are nonetheless a rich source of information about legislation.

Minutes

Meeting minutes are required by legislative rules. Minutes indicate which bills were considered and acted on at each meeting, who testified, which members made motions pertaining to the bill, and what votes were taken on amendments to the bill and the bill itself. Minutes are a record of actions but a poor source of information on the substance of the debate in committee.

The minutes are available to the public after they are approved. In the House, minutes are available in the chief clerk's office, on the Internet, and in the Legislative Reference Library (LRL). Senate rules require the secretary of the Senate to deliver approved minutes to the LRL.

Committee books

After a session ends, the minutes and other legislative documents considered by committees are collected in bound committee books. The books for each committee are organized chronologically by meeting date. They contain copies of minutes; bills, amendments, and other documents considered by the committee; reports of subcommittees and divisions; and documentation of other official actions.

The committee books are retained by the LRL for eight years after the end of the legislative biennium in which they were created and then transferred to the Minnesota Historical Society.

Recordings

Committees also make audio recordings of their meetings. The recordings are a better source of information than the minutes about who said what.

The Senate delivers the recordings to the LRL for public use within a week after the meeting. The House makes the recordings available to the public shortly after the meeting and delivers them to the LRL after the end of each legislative biennium. Committees have begun to make committee audio available on the legislature's website.

The LRL retains the audio recordings for a time after the end of the legislative biennium in which they were created. Then they may be destroyed or transferred to the Minnesota Historical Society.

Each house televises some committee meetings, preserving yet another type of record of some committee activity. These recordings are available through legislative offices in each house and sometimes also on the legislature's website.

AUTHORITY OF COMMITTEES

Besides contributing to the quality of the lawmaking process, committees have a large influence on the substance of laws, on the fate and content of bills. Although committees have only the authority to recommend, no power to make final decisions, the content of legislation and of law depends heavily on the work of legislative committees.

Committees do not have the authority to make decisions for a house

The constitution gives all legislative authority to the Senate and the House of Representatives. It does not mention legislative committees. Neither house may delegate authority granted to it by the constitution, not even to a group of its members sitting as a committee. This relegates legislative committees to an advisory role: committees recommend decisions to the house that creates them but have no power to make final legislative decisions.

Committee actions and recommendations are influential, sometimes determinative

Although confined to an advisory function, committees still have great influence on the content and fate of bills. Most of the fact-finding, the debating, and the law writing is done in committees, not on the floor of either house. One reason for this is that committees get first crack at nearly every bill, by virtue of the legislative rule requiring that all bills be referred to committee when they are introduced. Another is that both houses give committees much autonomy and latitude in dealing with referred bills and pay heed to the recommendations of committees.

A committee has three broad options for dealing with a bill in its possession: retain it, never returning it to the house; combine it with other bills into a comprehensive bill; or report it individually, returning it to the house with recommendations for action. These three options are explained further in the following sections.

Committees screen bills, by not returning them to the house

The legislative process is, in part, a complex filtering mechanism. Many introduced bills are not actively considered; others are considered and rejected. Committees form an important part of the screen.

A committee is not required to consider, still less to report, every bill referred to it. Many bills proceed no further than introduction and referral to a committee; they are never heard of again. Others emerge from one committee only to founder in another.

No hearing

A committee hearing on a referred bill is not automatic. The author must ask for one. Some bills do not get a hearing because the author decides not to request one or push strongly for one.

An author is not entitled to a hearing on request. The committee chair decides and may refuse. Some chairs find this easier than others, but almost every chair, however amiable, denies some bills a hearing. A chair may refuse for simple lack of time; the limited session period does not permit a hearing on every introduced bill, and a chair may consider one bill more important than another. A chair may decide that a bill is not ripe for legislative decision for some reason—a pending federal action, a court case, a forthcoming government report on the subject. A chair simply may oppose a bill on its merits, or, conclude that a majority of the members of the committee are opposed, making a hearing pointless.

Hearing and rejection

Committee chairs usually do not waste precious committee time on bills certain to be defeated, and committee members are not eager to publicly reject bills of their colleagues. But getting a hearing does not guarantee favorable committee action. Committees do sometimes reject a bill after hearing about it, "voting it down" by defeating a motion to report the bill with a recommendation that it pass.

Instead of rejecting a bill outright, the committee may postpone action on it by "laying it over for further study." Or a bill may die in committee after a hearing, because the bill's author, perhaps sensing that the bill does not have support and wishing to avoid outright defeat, withdraws it before the committee votes.

In some legislatures, committees report bills with a negative recommendation—that a bill "not pass" or "be indefinitely postponed." In Minnesota, committees simple do not report bills that are not heard or that are heard and rejected.

Inaction or rejection by a committee usually seals the fate of a bill. It remains in the possession of the committee and expires there when the legislative session ends. The effect, for good or ill, may be to delay or prevent action on an issue or keep consideration of it within the control of a particular committee membership instead of the general membership.

It is possible for a house, at the instigation of a bill author, to recall a bill from a committee over the objections of the chair or the committee. But, as explained in *The Committee System* (page 111), this is almost never done. A determined author of a bill trapped in committee is more likely to organize outside groups or other members to press the committee chair for a hearing, or a rehearing if the bill was voted down. If that fails, the author may attempt to revive the measure elsewhere in the legislative process, by introducing a similar bill aiming for referral to a friendlier committee, by getting favorable action on the companion bill in the other house, or by recasting the bill as an amendment to another bill on a related subject in some other committee or on the floor.

Committees organize legislation, combining several bills into one comprehensive bill

Committees organize bills as well as screen them. A committee may give a bill a hearing, perhaps revise it, decide to act favorably on it, but rather than reporting it individually, put the content of the bill into another bill and report that bill. Many bills may be referred to a committee, but only one emerges with others included as parts of the whole.

This amalgamation of bills can be accomplished, procedurally, in one of two ways:

- A committee may combine several referred bills into a new bill, which the chair introduces on behalf of the committee as a committee bill.
- Alternatively, the committee may attach several bills to a referred bill, which is then said to be the "vehicle" bill for the others.

The choice between introducing a committee bill and reporting a vehicle bill may have important strategic and procedural implications. But the effect on the bills left behind in committee is the same: all except the new committee bill or vehicle bill appear to die there in the committee, even though their substance lives on, moving forward as part of another bill.

Such aggregations and combinations of bills are common in the legislative process, and most of it takes place in committees. This is the main way that the legislature creates omnibus budget bills, the dozen or so bills that together form the state budget. Omnibus policy bills are also common. Rather than acting individually on a dozen separate bills on criminal justice, or telecommunications, or insurance, a committee may instead combine them into a single policy bill. By combining separate bills on a subject into more comprehensive packages, the legislature recognizes that time is limited, and avoids the necessity of managing and acting consistently on separate bills on the subject.

The practice of turning many bills into one is restrained by the single-subject provision of the constitution: "No law shall embrace more than one subject, which shall be expressed in its title." This constitutional restriction is intended to inhibit any inclination of legislators to secure the passage of ill-favored proposals by slipping them into a bill on another subject with happier prospects. The courts give the legislature much leeway in applying the constitutional restriction, but they have been known to invalidate laws found to violate it.

The single-subject mandate in the constitution is supported by legislative rules on the germaneness of amendments to bills. Germaneness rules apply lightly or not at all in committee proceedings, but deference to the principle of germaneness discourages the construction of bills in committee that combine subjects completely foreign to one another. Other House rules serve a similar end, forbidding a committee to adopt amendments on subjects not within its jurisdiction or to report a bill on a different subject than the subject of the bill referred to the committee.

Another restraint on unbridled amalgamations is the practice of securing bicameral agreement on the organization of some omnibus bills. As described in *The Committee System* (page 101), at the beginning of each regular session, the leaders of the two houses try to agree on how to allocate budget subjects among the various fiscal committees in each house. These agreements shape and limit the scope of each of the dozen or so omnibus budget bills produced during the session. Bills

in special sessions often are guided similarly, by bicameral agreement on the scope of the various bills to be considered in the session.

Committees report bills, recommending action on them to the house

The third option for committee action on a referred bill is to act favorably on it and return it individually to the house with a report conveying the committee's recommendations for action.

A committee report is not a report in the usual sense: it does not summarize and explain the bill, describe testimony or other evidence received by the committee, or express facts, findings, or conclusions. To the extent that this type of information is preserved, it is done by means of other committee records.

A committee report is limited to information about the procedural status of the bill (name of the reporting committee, date that the committee acted on the bill, and the like) and the committee's recommendations for action on the bill. Specifically, a committee report on a bill makes recommendations on three questions:

First, should the text of the bill be changed and, if so, precisely how?

In the course of committee deliberation on a bill, a committee may adopt amendments to the text of the bill. This is one of the purposes of referring a bill to committee: to evaluate the bill and, if need be, change or improve its content. A committee report conveys these changes as recommendations from the committee to the house.

Second, should the bill pass?

A committee report conveys the committee's conclusions also on the merits of the bill—whether the bill should pass. The usual recommendation is that the bill pass, or pass as amended.

As mentioned earlier, committees do not report negatively on bills: bills rejected in committee simply are retained by the committee, not reported. Occasionally, a committee reports a bill "without recommendation" (except, perhaps, that the bill be amended or referred to another committee). In issuing such a report, the committee is returning the bill to the house for disposition without going on record in support of the bill. A no-recommendation report is difficult to interpret and may have different meanings to different members of the committee. Some members, though opposed to the bill, may be willing to vote for a no-recommendation report because they do not think that the committee should kill the bill outright. Others who favor the bill may join in a no-recommendation vote, because they do not believe that the committee will recommend passage, and a no-recommendation report seems a better outcome than outright defeat in the committee. Other members may support a no-recommendation report, because they believe that another committee has primary jurisdiction of the bill and should be responsible for suppressing or recommending action on it.

In 2015, the House changed its procedures related to committee reports. In the House, these reports no longer recommend a bill "pass," instead merely stating the next procedural step where the bill would be sent.

Third, where should the bill go next in the legislative process?

Finally, a committee report recommends a procedural disposition for the bill. A committee has two choices:

- It may recommend that the bill be referred to another committee, named in the report.
- Or it may—by not recommending referral to another committee—indicate that the bill should remain on the floor for consideration by the house.

This element of the committee report performs a routing function, having the effects outlined in the box. When the house adopts the report on the floor, the procedural recommendations are executed: the bill is dispatched either to the other committee named in the report or kept on the floor for its second reading.

Routing Effect of Common Committee Recommendations

Recommendation	*Effect*
Senate	
That the bill pass (or pass as amended, if the committee amended the bill)	Second reading, followed by placement on a list of bills awaiting floor action (General Register in the House, General Orders in the Senate)
That the bill pass (or pass as amended) and be placed on the Consent Calendar	Second reading, followed by placement on another list of bills awaiting floor action, the Consent Calendar, which is for bills that are not controversial
That the bill pass (or pass as amended) and be referred to another, named committee that also has jurisdiction of the bill	Referral to the named committee
House	
That the bill be amended, and then referred to a subsequent procedural step, either another committee stop, or the General Register	Simply progresses the bill to its next stop

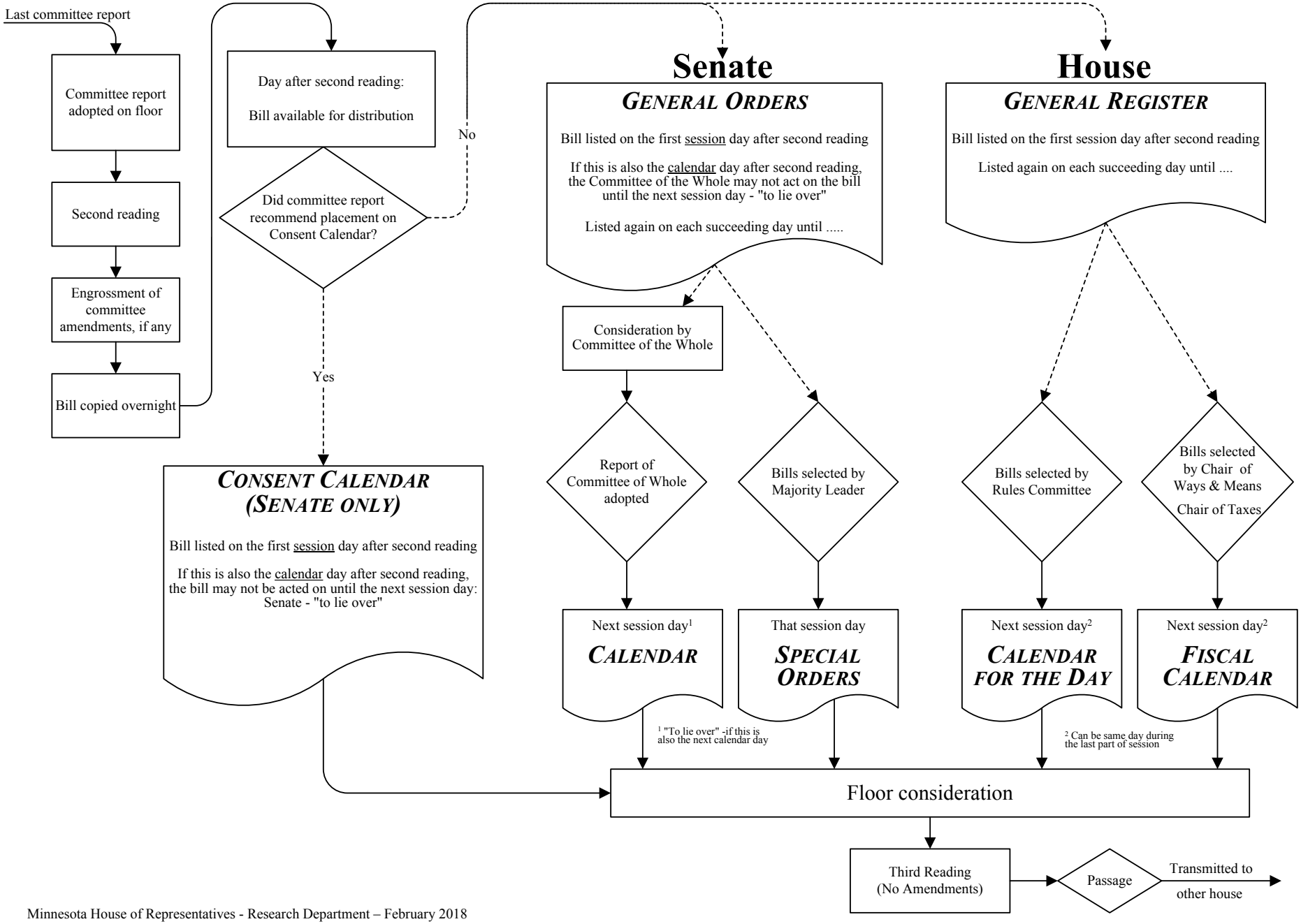
A committee report takes effect when it is adopted by the house

A committee report must be signed by the committee chair and then submitted to the secretary of the Senate or the chief clerk of the House. A House rule requires that reports be delivered to the chief clerk at least four hours before the convening of the daily session in which the report is to be presented (except during the last seven legislative days of a session, when committees normally are not reporting bills anyway).

Because committees have no power to decide, only to recommend, a committee report must be adopted by the house before it can take effect. Despite their status as recommendations, committee reports carry considerable weight on the floor, as described in *Passing Bills* (pages 52-54). Both houses routinely adopt the recommendations of their committees *pro forma*, without any debate or discussion.[39] As a result, when discussion begins on a bill in the next committee or on the floor, the content of the bill is always what the last committee report recommended it should be. During consideration of a bill on the floor, many members are inclined, absent other considerations, to side with the position of the reporting committee. Some contentious bills are substantially altered on the floor, of course; but on most legislation both houses usually rely heavily on the recommendations of their committees.

[39] In 2014, the minority party requested roll call votes on contentious bills, when committee reports on those bills were before the body. This transformed what had been a procedural motion into a policy debate and vote. A lawsuit over political descriptions of these votes eventually led to an agreement to remove of committee report recommendations that bills "do pass" in the House.

The Bill on the Floor



THE BILL ON THE FLOOR

The second reading of a bill signifies that it is finished with committee consideration and ready for the next step in the process: consideration on the floor by all members of the house. Floor procedures on bills, depicted graphically in the flowchart, are largely a creation of each house of the legislature (except for the constitutional requirements for reporting and voting on bills described in *Passing Bills*).

Preparation…page 140

After its second reading, a bill is prepared for floor consideration and added to a list of bills awaiting floor action.

Scheduling: How Bills Come Up for Floor Action…page 141

Bills first appear on a list of waiting bills in the order of their second reading. Bills come up for floor action in one of two ways: by gradually rising to the top of a list as the house works its way through the bills listed there; or by being selected for consideration on a particular day.

Floor Deliberation…page 144

Because procedures for handling all bills on the floor have common objectives, described in *Passing Bills* (page 58), the general sequence of action on a bill is broadly similar no matter what list carries the bill. The five main steps in floor deliberation on a bill are notice, presentation and debate, possible amendment, third reading, and the vote on passage.

Decision Making on the Floor…page 150

The parliamentary way of making a group decision is to assemble and vote on a proposed decision. The constitution requires the presence of a specified number of members on the floor to transact any business, and it requires the vote of a specified number to make certain decisions. To ensure that a house is able to function and carry out its legislative duties under these conditions, members are required to attend floor session and to vote on most questions, unless excused, and a house can compel attendance for this purpose.

PREPARATION

After its second reading, a bill is prepared for the floor and added to a list of bills awaiting floor action.

The chamber staff is responsible for preparing the bill for floor consideration

Preparation of the bill for the floor is the responsibility of the chief clerk of the House or secretary of the Senate, assisted by the Revisor's Office.

- If the adopted committee report on the bill recommended amendments, the Revisor's Office prepares a new engrossment of the bill, incorporating the amendments into the text of the bill.
- The information printed on the first page of the bill (authors and procedural history) is updated to reflect the bill's new position in the legislative process.
- Copies of the bill are made for distribution to members and the public, both on paper and on the Internet.

These preparations are completed overnight. Thus, the floor version of a bill is available on the business day following the day that the bill received its second reading. In paper form, the bill for the floor has a distinctive appearance and is sometimes called the "printed bill"—recalling a time when bills were sent out for commercial printing before floor action.

The bill is appended to a list of bills awaiting floor action

On the session day following the day on which a bill receives its second reading, the bill appears on a list of bills awaiting floor action. If a house is meeting every day, as is often true later in the session, a bill could appear on a list as early as the day following the day of its second reading, the same day that the floor version of the bill becomes available. Bills are listed in the order that they received their second reading.

Each house maintains lists of bills awaiting floor action:

House	***Senate***
	Consent Calendar
General Register	General Orders

Bills that are unobjectionable may be placed on the Consent Calendar

The Senate maintains a Consent Calendar for bills that are "not likely to be opposed." The purpose of this calendar is to expedite the passage of unobjectionable bills, thus preserving precious floor time for more difficult bills.

A bill typically appears on the Consent Calendar as a result of a committee report. When the last committee to report a bill believes it to be unobjectionable, the committee may recommend placement on the Consent Calendar. After the house adopts the committee report, the bill is directed accordingly. A Senate rule also allows a majority of the whole Senate (34 senators), or the Senate majority leader, to order a bill moved from General Orders to the Consent Calendar.

To preserve the integrity of the Consent Calendar as a place for bills that are not controversial, the rules allow for easy removal of a bill that turns out to be contentious. A bill must be removed from the Consent Calendar in the Senate if three of the 67 senators object.

Consent Calendars traditionally are printed on pink paper and are now also posted on the Internet.

All other bills are placed on the General Register (House) or General Orders (Senate)

If the last committee to report a bill does not recommend placement on the Consent Calendar, the bill is placed on another list of bills awaiting floor action. In the House, this list is called the General Register; in the Senate, it is called General Orders.

The General Register and General Orders traditionally are printed on white paper and are now also posted on the Internet.

SCHEDULING: HOW BILLS COME UP FOR FLOOR ACTION

A bill comes up for floor action in one of two ways: by gradually rising to the top of a list of bills as the house works its way through the bills listed there; or by being selected for consideration on a particular day.

Floor consideration is not guaranteed for every waiting bill

Just because a bill appears on a list of bills awaiting floor action does not mean that it will certainly or soon be considered by the house. Bills listed on the Consent Calendar ordinarily are acted upon in short order. But bills listed on the General Register or General Orders may remain there for extended periods, sometimes running out the session in place.[40]

[40] When a house adjourns the first year's session for the interim break, bills remaining on the General Register or General Orders are returned automatically to a committee (usually the last committee to report them). The committee receiving such a bill may revive it by reporting it again when the session resumes the next year. When a house ends a session permanently, by adjourning *sine die* (without a date for reconvening), the bills remaining on General Orders or the General Register expire in place. For more information about how bills are handled at adjournment for the interim, see *Forms of Action*, page 24.

Inaction on a bill may be deliberate. Sometimes, inaction on a bill stems from a decision by the author to delay or abort further consideration of the bill. Or key members, perhaps a majority of members, may oppose floor action on the bill. A house may decide to remove a bill from a floor list and return it to a committee, where it may remain permanently. Inaction may also be for simple lack of time: the session may end before a house can act on every waiting bill.

A bill may come up for consideration as part of the regular order of floor business

One way that a bill comes up for floor action is by rising to the top of a list as the house works its way through the bills listed there. Three of the four lists of bills are not just lists; they are parts of the regular, daily order of business on the floor (*Passing Bills,* page 51). General Orders is the 11th order of business in the Senate. The Consent Calendar is the tenth order in the Senate.

Each day of floor session, when the Senate or House arrives at one of these orders of business, it may take action on bills listed there. To prevent precipitous floor action on bills, however, a bill must be available to members at least one day before it is taken up from one of these lists. As explained earlier, when a house meets two days in a row, a bill can appear on a list on the calendar day after it receives a second reading, which is the same day that the bill becomes available. Bills in this situation still appear on the list, but under the heading "To Lie Over" (Senate) or "Technical Calendar" (House). The bills so labeled are not eligible for action that day (absent a suspension of the rule); they are held over on the list until the next session day, when they appear again without the label.

In contrast to the Consent Calendar in both houses and General Orders in the Senate, the General Register is not a part of the regular order of House business. It is simply a list of bills that are ready for floor consideration. The House never acts directly on bills listed on the General Register. All bills in the House come up for floor action in another way: by being selected for consideration on a particular day.

A bill may be selected for action on a particular day

The second way that a bill may come up for floor action is by being selected by some authority for consideration on a particular day.

The General Register and General Orders are the main repository for bills awaiting floor action; most bills are listed there, not on the Consent Calendar. These two repositories of waiting bills grow very long, especially toward the end of session as committees finish their work. Some of the bills are simple and short, others complex and lengthy; some are momentous, others are of small consequence; some are urgent, others are not; some are likely to pass quickly, others may be debated at length. Yet all are listed together on the General Register or General Orders, in the order of their second reading.

The length of the two lists, and the circumstantial ordering of bills on them, make it difficult for a house to manage floor business—to schedule bills to fit the floor time expected to be available on a particular day, to accelerate or retard action on key bills, to coordinate work between the houses, or to accommodate the schedules of bill authors. To accomplish these objectives, both

houses have developed procedures that allow bills to be plucked from the General Register or General Orders and placed on another list of bills scheduled for consideration on a specific day. The Senate places the selected bills on a list called Special Orders. The House places them on one of two lists: the Calendar for the Day or the Fiscal Calendar.

Senate Special Orders

The chair of the Senate Committee on Rules and Administration—who is the Senate majority leader—may designate any bill that has had its second reading as a special order for immediate consideration on a certain day or at a certain time. Usually, the majority leader selects from the bills listed on General Orders, but any bill may be selected that has had a second reading, so a bill could be made a Special Order before it even appears on General Orders.

Unlike General Orders and the Consent Calendar, Special Orders is not an item on the Senate's regular order of daily business. This allows the majority leader to turn the Senate's attention to particular bills at almost any time during a floor session. As the legislative session moves toward a close, the majority leader makes increasing use of this authority to accelerate and schedule floor action on important or urgent bills.

Special Orders traditionally is printed on green paper. But in the harried days toward the end of session, bills may be special ordered in the midst of a floor session, resulting in the distribution on the floor of a handwritten list on plain paper. When it becomes available, Special Orders is now also posted on the Internet.

House Calendar for the Day and Fiscal Calendar

As explained earlier, the House does not act on bills listed on the General Register. A bill appearing there is not available for floor consideration without being placed on another list—a calendar of bills actionable on the floor.

The House uses two such calendars: the Calendar for the Day and the Fiscal Calendar. The Calendar for the Day is the main calendar for scheduling bills for action on the House floor, while the Fiscal Calendar, as its name suggests, is used for bills affecting the state's financial affairs. The Calendar for the Day is the tenth item on the House's regular order of daily business, immediately following the Consent Calendar (the same placement as Senate General Orders). Each day of floor session, when the House arrives at this order of business, it may take up the bills listed for action on the Calendar for the Day. The Fiscal Calendar, in contrast, is not part of the regular daily order of House floor business. In this respect, it is similar to Special Orders in the Senate.

Bills are placed on the Calendar for the Day by the Committee on Rules and Legislative Administration, which is chaired by the House majority leader. (The House may do so as well, but this is rare.) Bills are placed on the Fiscal Calendar by a chair of one of the two main House fiscal committees—the Taxes Committee and the Ways and Means Committee. Until toward the end of an annual session, these authorities must announce

their selections at least one day ahead—by 5:00 p.m. the day before floor action is planned on the bills. Toward the end of session, this day-ahead notice of bills selected for floor action is often waived by the Rules Committee; but it is customarily given anyway.

Usually the authorities select bills for these calendars from among the bills already listed on the General Register. But any bill that has had its second reading is eligible for selection. So when the House is meeting every day, a bill could be selected on the same day that it receives its second reading, resulting in its appearance the next day (the same day that copies of the bill first become available) on both the General Register and a calendar of bills available for floor action that day.

The Calendar for the Day is traditionally printed on yellow paper, the Fiscal Calendar on green paper (like Special Orders in the Senate). Both calendars are now also posted on the Internet.

Generally bills are taken up for action in the order they appear on a list

A house generally acts on bills in the order that they appear on a calendar or order of business. The house begins with the first bill on the list and proceeds down the list, considering and disposing of each bill in turn.

Deviations from the normal sequential order are possible, and toward the end of session not uncommon. A bill may be skipped or taken out of order for various reasons: to expedite or delay consideration of a particular bill, to accommodate an author's schedule, to allow an author time to prepare for floor debate or prepare an amendment, or to wait until the text of the bill is compared with its companion bill just arrived from the other house. Departures from usual order come to pass in several ways: In the House, the rules authorize the speaker to determine the order that bills are considered on the Calendar for the Day. The speaker also decides when to bring up the Fiscal Calendar, which often has but one or two bills listed. A Senate rule requires the approval of the membership to take a General Orders bill out of order; the presiding officer generally brings this about quickly by announcing a change in order "without objection" or with a quick, *pro forma* oral vote. When the Senate is working on Special Orders, the majority leader directs the order in which the bills are considered. The author of a bill also may initiate a deviation from the usual order. On any calendar or order, consideration of a bill may be delayed if the author requests. These author requests generally are accommodated, so long as the author does not overuse the privilege: in some cases, there is a three-request limit.

FLOOR DELIBERATION

Because procedures for handling all bills on the floor have the common objectives described in *Passing Bills* (page 58), the general sequence of action on each bill is broadly similar, no matter which order or calendar carries the bill. The five main steps in the process of floor deliberation are: notice, presentation and debate, possible amendment, third reading, and the vote on passage.

A bill goes through all of these steps at once, on the same day, except for a bill taken up on the Senate's General Orders, where two days normally are required.

Floor proceedings on a bill begin with notice from the presiding officer

The presiding officer begins consideration of a bill by directing the members' attention to it, by means of an announcement from the desk of the bill's file number and other information about it. The presiding officer then recognizes the bill's chief author.

A motion is not required, except for bills considered on Senate General Orders

Committee action on a bill always begins with a motion—that the bill be recommended to pass. On the floor this initial motion is not required, except for bills taken up on Senate General Orders, because the outcome of floor action is not a vote on a motion recommending passage, but third reading and the actual vote on passage.

Senate General Orders bills require a motion, because they are dealt with initially on the floor not by the Senate but by yet another committee—the Committee of the Whole, which is all senators sitting as a committee. The work product of the Committee of the Whole is not a bill ready for third reading and a vote on passage, as on all other calendars and orders, but rather a report from the Committee of the Whole to the Senate recommending action on the bill. (As described later, final Senate action normally occurs on a subsequent day, on the Senate Calendar.) For this reason, the author of a bill on General Orders begins by moving "that when this committee do arise, [the bill] be recommended to pass."

The Committee of the Whole

When the Senate reaches General Orders in its regular order of business each day, the Senate "resolves itself" into a Committee of the Whole. This is accomplished by an announcement from the presiding officer that the Senate is in recess, followed immediately by the sound of a gavel bringing the Committee of the Whole to order. When work on General Orders bills concludes for the day, the committee "arises" and is replaced in the room by the Senate, which, after being gaveled to order by its presiding officer, promptly adopts the reports it has just received from the Committee of the Whole.

The institution of the Committee of the Whole stems from the struggle of the early British Parliament to achieve independence from the Crown. The committee device allowed members of Parliament to rid themselves of the Crown's representative, who normally presided over their meetings, so as to meet, speak, and vote privately. A similar institutional situation prevailed in the Minnesota Senate before 1973, when the presiding officer of the Senate was an executive branch official—the lieutenant governor. Since 1973, under a 1972 constitutional amendment, the presiding officer of the Senate is a senator elected by the Senate.

Proceedings of the Committee of the Whole differ from Senate proceedings in ways that still reflect these origins. The presiding officer of the committee, who often is not the president but another senator, is addressed as the "chair." Rules of debate that apply in meetings of the Senate are relaxed in meetings of the Committee of the Whole, generally in favor of informality, freedom of debate, and privacy. For example, Senate rules limiting the number of times a member may speak on a question are relaxed in meetings of the committee. And voice voting, which does not produce a record of how each senator voted, is more common in the committee than in Senate sessions. Roll-call votes were entirely forbidden in the committee until the early 1970s and still are not taken there without the demand of at least three senators, rather than just the one required in sessions of the Senate. Even the final vote on a bill—because it is a vote of a committee on a motion recommending passage, not a Senate vote on passage—can be taken by voice rather than by roll call; and favorable action requires the support only of a majority of senators voting rather than the majority of all senators that is required by the constitution for passage.

The House also once used a similar Committee of the Whole process, even though the House's presiding officer has always been a member of the House elected by the House. The House abandoned its Committee of the Whole and replaced General Orders with the General Register in 1999.

The bill author presents and defends the bill

After the initial procedural formalities, the author presents the bill, describing what it is intended to accomplish, why it is needed, and why members should support it. A Consent Calendar bill may be presented in a minute or two. A complex or contentious bill on another calendar or order may require a lengthy presentation that anticipates and defends against objections and criticisms from other members, provides important procedural information (amendments considered and adopted or rejected by committees, action in the other house, and the like), and identifies important groups or officials supporting the bill. On a large omnibus bill, the author may yield the floor to other members to present various parts of the bill on which they have special expertise.

During the course of the author's presentation, other members may rise and ask to be recognized to question the chief author or other presenters, sometimes seeking information or clarification, sometimes making points for or against the bill. These exchanges may lead into a generalized and lengthy debate on disputed points.

The author and other members may offer amendments to the bill

While presenting the bill, the author also may offer amendments to it. The author's amendments are taken before those of other members, both as a courtesy to the author and so as to avoid wasting time debating provisions that the author plans to change anyway. Whether to present the bill and then amend, or amend and then present, is the author's choice; it depends on the contentiousness of an amendment, how substantially the amendment changes the bill and therefore the author's explanation of the bill, and other considerations. Some author's amendments may be accepted *pro forma* by the members; others may be controversial and much disputed.

After the author's business is concluded, other members may offer amendments. One by one, these are announced by the presiding officer, presented by the sponsor of the amendment, debated, possibly amended further by other amendments, and finally voted upon. Some amendments are disposed of in seconds or minutes (as, for example, when the author of an amendment has no objection to proposed change and offers to incorporate it into the amendment); others take hours of floor time.

For more information on amendments see *Forms of Action* (page 34).

Both houses restrict floor amendments

In Congress and some other state legislatures, unhappy experience with uninhibited floor action on bills causes legislative leaders to tightly control floor amendments. In Minnesota, legislators remain comparatively free to offer amendments on the floor. But both houses have adopted some rules restraining certain types of amendments. Some of these restrictive rules are broadly accepted by the membership; others may be objectionable (or objectionable in application) and therefore the source of considerable contention on the floor.

Germaneness

Legislative rules allow a proposed amendment to be excluded from consideration not on its merits but because it is not "germane" to the bill. This serves a purpose similar to the single-subject rule in the state constitution: to prevent bills from being freighted with an accumulation of unrelated provisions on diverse matters. Germaneness questions play a much larger role in amendments on the floor than in committee, where the rule is relaxed or extinguished.

The Senate defines a nongermane amendment as one that is on "a substantially different subject" or is "intended to accomplish a substantially different purpose" than the bill. The House defines it as one that is on "a subject different" from the subject of the bill.

If a member objects to a floor amendment on the grounds that it is not germane to the bill, the presiding officer listens to advice—sometimes a lot of it—from members, and then decides ("rules") whether the amendment is germane or not. An undecided presiding officer may put the question to the membership for a vote, but this is not frequently done.

A member may appeal the ruling of the presiding officer. The appeal is to the membership of the house. (Any ruling of the presiding officer may be so appealed.) An appeal requires members to vote on the question of germaneness, either supporting or opposing the ruling of the presiding officer. An appeal may be initiated with the hope of overturning the ruling of the presiding officer or more with the object of putting each member on record as to whether the amendment should be considered by the house.

Budget limits

As described in *Making the Budget*, each house establishes spending limits for about a dozen categories of state spending, corresponding generally to the scope of the several omnibus budget bills. When these spending limits are in force, a presiding officer may rule an amendment out of order if the amendment would place the bill out of compliance with a spending limit. This ruling of the presiding officer, like rulings on germaneness, may be appealed to a vote of the members.

Prefiling of amendments

In 2013, the House adopted a rule allowing the Rules Committee to establish a prefiling period for amendments to bills on the floor. This requirement makes floor amendments publicly available on the day prior to floor debate. If the Rules Committee does not trigger this requirement, amendments can be heard as fast as they are conceived and written.

After all amendments are disposed of, the bill is ready for final floor action

Final floor proceedings on a bill consist of the two steps described in *Passing Bills*:

Third reading

Third reading signifies that the house is finished with the work of revising the text of the bill. After third reading, a bill may not be amended without unanimous consent (except for very technical corrections, like an amendment to the title).

Third reading also signifies that the bill is ready for the final step—the vote on passage.

Because the vote follows third reading, each bill is reported individually at this point, rather than collectively as in some earlier reports. Third reading consists of a reference to the bill's number and, in the Senate, an oral recitation of the first part of the bill's title, which provides notice of the subject of the bill about to be voted upon.

Vote on passage

After the bill receives its third reading, the presiding officer asks if there is any further discussion of the bill before the final vote. Often no floor discussion intervenes between third reading and the vote. Members already have debated the issues posed by the bill and various amendments to it that may have been offered. Sometimes the author of the bill makes a final request for favorable action. Sometimes members put additional questions to the author or make concluding points about the wisdom of the bill. Occasionally a contentious bill, or one on which the vote is expected to be close, may be debated at considerable length again, after third reading.

When all members wishing to speak about the bill have finished, the presiding officer calls for the vote on passage and instructs the chief staff officer (chief clerk of the House, secretary of the Senate) to take the vote. Constitutional and legislative requirements for this final vote are described in *Passing Bills* (page 61).

Final action is taken at once, on the same day, except for Senate General Orders bills

Except for bills considered on Senate General Orders by the Committee of the Whole, all floor action on bills is completed in a single day. The bill is presented, debated, perhaps amended, and then immediately receives its third reading leading to the vote on passage. There is no interval between floor debate and final action, nor is the bill engrossed before final action. This one-day procedure is used in the House for all bills. The Senate uses it for bills on the Consent Calendar and on Special Orders, but not General Orders.

Consent Calendar bills in the Senate are not much amended or debated, so floor proceedings typically move rapidly from presentation to third reading and the vote on passage. A bill on the Consent Calendar may go from the author's presentation to third reading and passage in a few minutes. The Senate may dispose of a dozen or more of these bills in a half hour.

Bills taken up on Senate's Special Orders and the House's Calendar for the Day and Fiscal Calendar also are presented, debated, perhaps amended, read a third time, and passed all in one day, although some of these bills may be very complex, contentious, and extensively debated and amended on the floor.

The Senate takes final action on General Orders bills on the next session day

As described earlier, a General Orders bill is not considered on the floor initially by the Senate but by the Senate's Committee of the Whole. After debating and possibly amending the bill, the committee reports the bill to the Senate with its recommendations for action. The Senate adopts the committee report but then normally takes no further action on the bill but goes on to other

business, leaving the reported bill to be engrossed, if the adopted committee report recommended amendment, and prepared for final action on the next session day.[41]

On the next session day, the bills reported by the Committee of the Whole appear on another list of bills, the Senate Calendar, traditionally printed on yellow paper. This is on the regular order of Senate business, immediately preceding the Consent Calendar and General Orders. When the Senate reaches the Calendar in its order of business, each of the bills listed for final action receives its third reading and then, usually with little or no discussion, the vote on passage. (Senate rules require that bills on the Calendar be available in electronic or paper form at least one day before the Senate may act on them, so if the next session day is also the next calendar day, the bills appear on the Calendar under the heading "To Lie Over." Bills appearing under this rubric appear again on the Calendar for third reading and final consideration on the following session day.)

This two-day procedure—General Orders on one day, the Calendar on the next—slows the progress of a General Orders bill through Senate floor consideration. Thus, placing a bill on Special Orders in the Senate expedites it in two ways: Not only is the bill selected for immediate floor consideration, rather than having to wait its turn on General Orders, the bill also passes in one day rather than the two required for a General Orders bill.

A house may limit debate

During the 2009-2010 Legislature, the House experimented with time limits on floor debate. The Rules Committee debated and adopted limits for bills scheduled for floor action. The majority leader then had the option of moving the previous question, when a given bill had exhausted the allotted time. In practice, this rule was seldom evoked, and was controversial. It was repealed in 2011 and replaced with the prefiling of floor amendments in 2013.

DECISION MAKING ON THE FLOOR

The parliamentary way of making a group decision is to assemble and vote on a proposed decision. The constitution requires the presence of a specified number of members on the floor to transact any business, and it requires the vote of a specified number to make certain decisions. To ensure that a house is able to function and carry out its legislative duties under these conditions, members are required to attend floor session and to vote on most questions, unless excused, and a house can compel attendance for this purpose.

Members must vote

One object of floor proceedings is to allow, and if necessary require, each member to take a

[41] It is possible for the Senate to proceed immediately to final action—third reading and the vote on passage—on a General Orders bill, by suspending the Senate rules (which requires a two-thirds vote). This is not the usual practice, but it is sometimes used to expedite passage of a bill.

position on amendments to the bill and, ultimately, on the bill itself. Thus, the rules of both houses require members to vote on most questions when called upon to do so, unless excused from voting due to a personal financial interest in the decision (commonly referred to as a conflict of interest).[42]

Members vote on the floor by a call of the roll, by voice, or by division, just as in committee, but using some different methods.

By a call of the roll

A roll-call vote on the floor places each member on the record, in the journal, either as favoring or opposing the amendment, bill, or other decision under consideration.

Both houses call the roll for the vote on the passage of a bill or the override of a veto. On most other questions, a roll-call vote is not required unless demanded by a certain number of members before the voting begins. In the House, 15 members may require a roll-call vote; in the Senate, a single member may require it except in the Committee of the Whole, where it takes three.

In committee, roll-call votes are accomplished orally, each member voicing a vote in response to the call of the member's name. On the floor, to save time both houses take roll-call votes by means of electronic voting systems controlled by the chief clerk of the House and the secretary of the Senate under the direction of the presiding officer. Members vote by pushing one of two buttons mounted on the desk before them (green for yes, red for no). The vote of each member—green or red—is displayed on a large electronic panel in the chamber.

When members have voted, the presiding officer instructs the clerk or secretary to close the roll. This stops further voting and causes an electronic tally of the vote totals, which also is displayed on an electronic panel in the chamber. (The Senate displays a running tally during the vote; the House displays the tally after the roll is closed.) The presiding officer announces the tally of affirmative and negative votes on the question and the resulting decision. The voting system produces a printed record, showing how each member voted, which later appears in the journal of the house.

Electronic voting saves much time on the floor. Most roll-call votes are accomplished in less than a minute. At this late stage of the legislative process, often after lengthy debate, members usually have decided how they are going to vote and are happy to do so. Sometimes, though, on a highly contentious bill, or one where the vote is very close, one or more members may not vote, even though present in the chamber or nearby. A house may excuse a member from voting, but it also may refuse to do so, resulting in a delay in closing the roll while the reluctant member is found or cajoled—a process that usually takes a few minutes but occasionally several hours. At such times, the presiding officer may direct the chief clerk of the House or secretary of the Senate to call for the reluctant

[42] The House allows members to choose not to vote on a memorial resolution.

member by voice, whereupon that officer begins repeatedly to intone the name of the member.

By voice

If a roll-call vote is not required or demanded, the presiding officer conducts a voice vote. This is accomplished by calling first for the voices of those in favor, then of those opposed. The presiding officer judges by ear which side of the question had the largest number of votes and announces the result.

In contrast to roll-call votes, the journal record of a voice vote indicates only which side prevailed on the question. There is no indication of who or how many voted on each side of the question.

Voice voting is more common on the Senate floor than on the House floor, probably in part because the number of representatives, twice that of senators, makes a voice vote in the House a bit more problematic, especially in the event of a division.

By division

If a voice vote is close or very important, a member may question the presiding officer's judgment about which side prevailed. The member does this by calling for a division—which precipitates a hand count of the number of members voting on each side of the question.

A division vote is accomplished on the floor by having members stand to be counted. The presiding officer calls first for the members voting in favor to stand by their desks to be counted; then those opposed must stand to be counted. The chamber staff performs the count and reports the tally to the presiding office, who announces the number on each side of the question and the result—the two facts that will appear in the journal record of the vote.

A hand count takes considerable time and also may be more subject to error than a roll-call vote, especially in the House with twice the membership of the Senate.

A house may require all members to be present in the chambers

The constitution allows a house to operate legally only when properly assembled as a group. Without the presence of a quorum (at least a majority of the members—68 representatives, 34 senators), a house may do only two things: (1) adjourn, and (2) send for the absent members.

Moreover, a house—unlike a committee—is not permitted to take final action on legislation by majority vote of a quorum. As described in *Passing Bills* (page 57), the constitution requires a specific *number* of affirmative votes (at least 68 in the House, at least 34 in the Senate) to pass any bill, and a greater number for some bills and actions. Legislative rules impose a similar

minimum vote requirement for other decisions by a house (e.g., to suspend a rule in case of urgency).

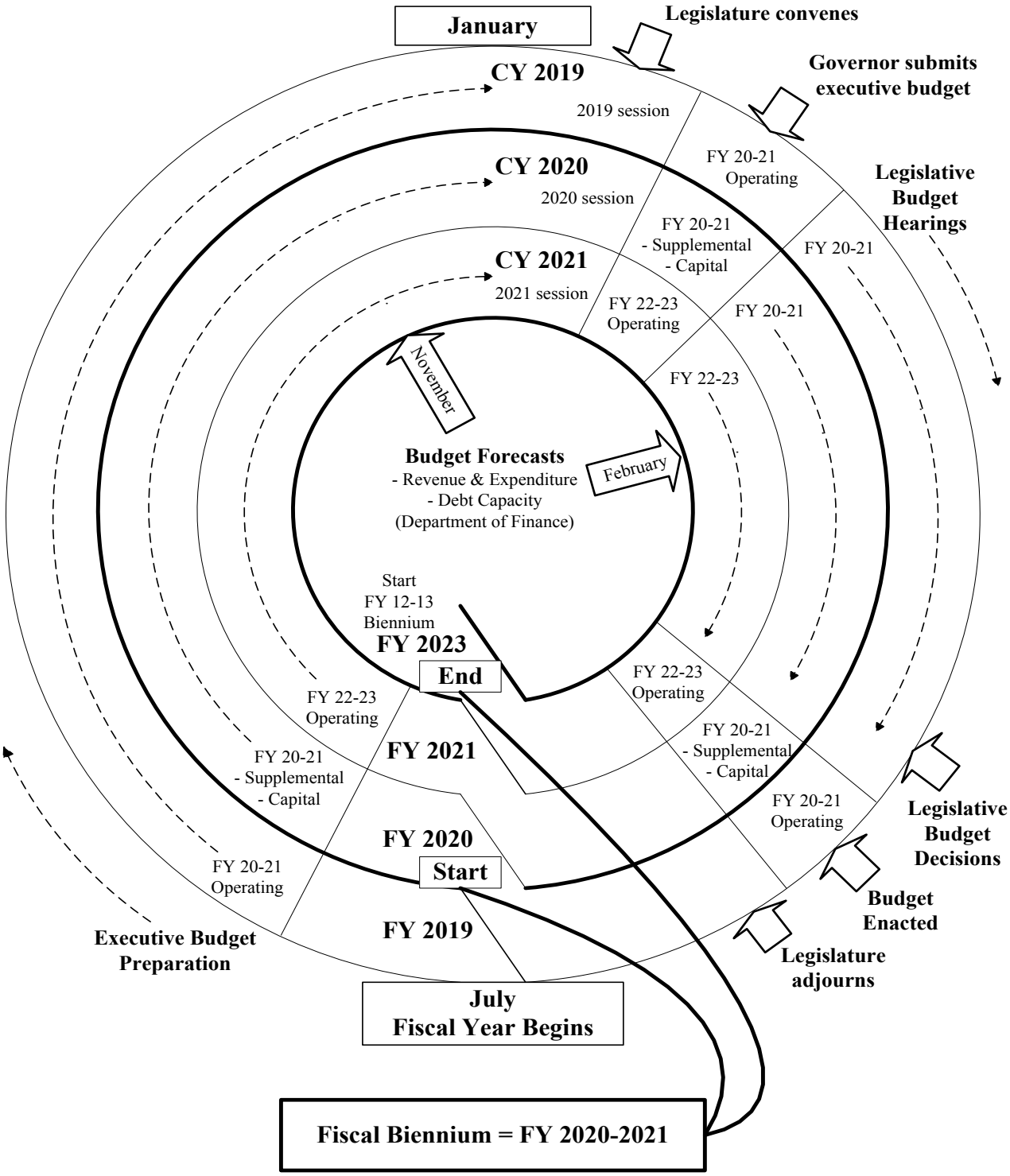
To ensure that a house is able to operate and carry out its legislative business under these conditions, the constitution allows a house to "compel the attendance of absent members in the manner and under the penalties it may provide." Without this authority, a group of legislators, simply by not showing up or refusing to vote on the floor, could deny a house the quorum required to function or the number required to legislate.

Both houses use this constitutional authority to compel attendance. Legislative rules require members to attend floor sessions unless excused by the presiding officer for illness or other sufficient cause. In addition, the rules establish a method for compelling attendance—the call of the House or call of the Senate. A call may be imposed at any time during a floor session except during a vote. A single senator may demand a call of the Senate; ten representatives may demand a call of the House.

A call brings all floor proceedings to a stop while the presiding officer directs the taking of the roll by means of the electronic voting board. If this shows that some unexcused members are absent, the house may continue the call, halting all proceedings while waiting for the return of the absent members. On occasion, a call continues for hours while a member is found—or even fetched from afar. More commonly, a house votes to suspend the call and instruct the sergeant at arms to bring in the absent members. Suspending the call allows floor proceedings to resume while the absent members are rounded up and brought to the chamber. Though suspended, the call nonetheless remains in effect. Until it is terminated ("lifted") by a vote of the house, members may not leave the chamber without the permission of the presiding officer.

Many times a call is imposed simply because the house wants to collect members from nearby hallways or meeting rooms for an important debate or decision. Legislators have worked hard to get elected so as to participate in state decisions and generally are eager to attend floor sessions and vote. Sometimes, though, a call is demanded by some to ensure that others are required to vote on the record on an especially divisive or difficult question.

MAKING THE BUDGET



MAKING THE BUDGET

The state budget must be expressed in the form of laws enacted in accordance with the procedures described in this publication. Formulating the laws that constitute the budget is one of the most important and complex responsibilities of the legislature and the governor and a centerpiece of each legislative session.

Provisions of the constitution and state law structure the budget, allocate responsibility and decision-making authority between the governor and the legislature, and regulate the budget-making process and schedule. In addition, the executive and legislative branches have developed special internal arrangements for carrying out their budget-making responsibilities.

Form of the Budget…page 156

The budget is the state's plan for raising and spending money during a defined budget period. The constitution and state laws prescribe the basic form of the budget and some of the procedures used to make it.

Role of the Executive Branch…page 159

The executive branch of state government, headed by the governor, plays a larger role in making budget laws than most other laws. The executive has been given primary responsibility for developing the budget and analyzing its components. The governor has a special "item veto" authority for budget legislation. And the executive and governor have some authority to alter the budget, if necessary, after it is enacted into law.

The Legislature: Passing Budget Bills…page 164

Each house prepares and passes omnibus budget bills independently, in a process not much different in its general aspects than the passage of any other type of legislation. The budget bills are written by fiscal committees of each house, based on budget hearings during the first part of the session and on budget control decisions made midway through the regular session each year. Floor proceedings on the budget bills produced by these committees are similar to floor proceedings on other bills but may be affected by budget control regulations in the constitution and legislative rules.

The Legislature: Bicameral Budget Agreement…page 171

The constitution requires bicameral agreement on each budget bill, just as for any bill. The legislature relies mainly on conference committees to achieve agreement on budget bills, although some structures and mechanisms foster agreement between the houses on aspects of the budget earlier in the legislative process, before either house writes or passes its budget bills.

FORM OF THE BUDGET

The budget is the state's plan for raising and spending money during a defined budget period. The constitution and state laws prescribe the basic form of the budget and some of the procedures used to make it.

The state's budget period is a biennium—a two-year span

The law defines the budget period as a fiscal biennium. A fiscal biennium begins on July 1 of the odd-numbered year (e.g., 2017) and ends two years later, on June 30 of the next odd-numbered year (e.g., 2019).

The biennium is divided into two fiscal years. Each fiscal year runs from July 1 to June 30.

A fiscal year is named for the calendar year in which it *ends*. For example, the fiscal year that begins July 1, 2017, and ends June 30, 2018, is called Fiscal Year 2018 (FY 2018, for short).

A fiscal biennium is named for the two fiscal years that compose it. For example, the fiscal biennium that begins July 1, 2017, and ends June 30, 2019, is labeled the FY 2018-2019 biennium.

The chart on page 154 depicts the arrangement of fiscal years in a fiscal biennium.

The budget must be enacted in the form of laws

The constitution requires the state to exercise its fiscal powers through laws enacted in accordance with the procedures described in this publication.

- ***Revenue.*** The state may collect taxes and fees only as authorized by law.
- ***Spending.*** All state spending—whether by the executive, the judiciary, or the legislature—must be authorized beforehand by a law. The constitution calls the authorization required an appropriation: "No money shall be paid out of the treasury of this state except in pursuance of an appropriation by law."
- ***Borrowing.*** The state may borrow money to pay for certain public purposes and activities. The state borrows money by issuing bonds that commit the state to use its revenues to repay the lenders of the money (bondholders) with interest. Bonds may be issued by the state only as authorized by law.

Passing these laws arranging the financial affairs of state government each biennium is one of the most important responsibilities and a central activity of each legislature. The timing of the regular session of the legislature is synchronized with the state's budget cycle. The legislature meets in regular session during the winter and spring months of the year, just before the beginning of a new fiscal period.

The budget comprises about a dozen laws

Neither the constitution nor state law dictates how the laws expressing the state budget should be organized. That is a decision made by each legislature. In recent decades, the legislature typically has given legislative form to the biennial budget in about a dozen omnibus budget laws. The form of these is described in *Forms of Action* (page 25); the process of enacting them into law is described in this chapter.

Each legislature partitions the budget a little differently. Typically the omnibus budget laws number about eight or ten in the first year of the biennial regular session, and half or fewer than that in the second year of the session. Usually there is:

- an omnibus tax law each year;
- a set of omnibus appropriation laws—about six or eight the first year of session, fewer the second—authorizing state spending for various purposes; and
- an omnibus law in the second year, and sometimes in the first as well, that authorizes the issuance of bonds to raise money for spending on capital projects.

Important fiscal provisions may be found in other laws as well, but the omnibus budget laws express most of the state's budget.

The budget must be balanced: expenditures may not exceed revenues

Although the two-year budget period—from July of one odd-numbered year through June of the next—is defined by law, not by the constitution, the constitution influences the period chosen by requiring the state to balance its budget by a certain date every two years.

Unlike the federal constitution, the Minnesota Constitution does not allow the state to operate "in the red" for any extended period. The constitution obliges the legislature and governor to enact revenue, spending, and borrowing laws so that operating expenditures for all purposes are equal to or less than revenues from all sources.

The constitution imposes the balanced-budget requirement indirectly, by not allowing the state to borrow money to pay for its operations on an ongoing basis. The state can borrow money to cover temporary shortfalls in operating revenue, but it must pay up by a certain date every two years. The constitution specifies June 30 of each odd-numbered year as the date when the state must take action to eliminate any operating deficit. The state has chosen to end its biennial budget period on this date as well.

The budget is designed to avoid a deficit

It is not a simple matter to enact and maintain a balanced budget over a two-year period. At the time it is enacted, the budget is based, necessarily, on predictions about future economic conditions in the state and their effect on future government revenue and expenditure. Economic conditions commonly change in unforeseen ways after the budget is enacted, which throws the budget into surplus or deficit. Long experience with the effect of uncertainty in long-range

economic, revenue, and spending forecasts has caused successive governors and legislatures to develop methods of budget planning and control to avoid the constitutionally forbidden deficit. Some methods derive from the constitution, but most are prescribed by state law or have developed over the years from internal decisions by executive agencies and by the legislature.

Reserve funds

One way to protect against an unexpected revenue shortfall is to keep a stash—just in case. The state does exactly that to protect its main operating fund, the general fund.[43] The enacted budget does not appropriate all of the revenue that the state expects to flow into the general fund during the budget period. Some is set aside in case of fiscal difficulty. Two types of set-asides help protect the general fund.

- ***The budget reserve.*** The budget reserve—sometimes called the "rainy day fund"—is money appropriated by law for use only if a budget shortfall develops after the budget laws are enacted.
- ***Cash flow account.*** The cash flow account serves a different purpose. The state's tax collections and expenditures are both naturally lumpy, varying from month to month. The fluctuations are not always in harmony. The cash flow account is money appropriated for use during periods when the state's revenue temporarily lags behind its expenditures. This helps the state avoid temporary, short-term borrowing to pay operating costs during low-revenue periods.

Staged enactment

The state reduces forecasting risk and improves its chances of balancing the budget by spreading budget decisions over as long a time as possible. The budget is not enacted all at once. It is broken into three parts that are phased in over time. The first part is enacted shortly before the start of a new fiscal biennium, the second and third parts not until the biennium is well underway.

- ***Biennial operating budget.*** The operating budget for a fiscal biennium provides funds to pay for state agency operations, state government programs, and aid to local governments and school districts. The operating budget is the first part of the budget to be enacted. The executive develops the operating budget during the even-numbered year under a statutory schedule calculated to present the governor's proposed operating budget for legislative action in January or early February of the following odd-numbered year, shortly after a new legislature convenes in regular session. The legislature works on this part of the budget all

[43] The state segregates money into many funds for budget control and accounting purposes. Most of these funds are small, particular in purpose, and often maintained by special fee or tax revenue dedicated by law to the fund. The game and fish fund, the state airports fund, and the trunk highway fund are examples. The general fund is by far the largest of the funds. It receives the undedicated revenue from most of the state's major taxes and is the repository of most of the money used to pay for state government and state programs.

winter and normally passes it shortly before adjourning in mid-May, about six weeks before the fiscal biennium begins on July 1.

- ***Supplemental budget.*** During the customary continuation of the regular session in the second year of the legislative biennium (the even-numbered year), the legislature and governor adjust the operating budget enacted the year before. This second-year adjustment to the biennial operating budget is called the supplemental budget. It changes the laws governing operating revenue and expenditure to cope with changing economic and fiscal conditions, to ensure that the operating budget stays in balance for the remainder of the fiscal biennium.
- ***Capital budget.*** Also during the legislative session in the second year, the legislature and governor enact the third part of the budget—the capital budget, which authorizes the state to borrow money for use in acquiring and improving fixed and enduring public assets, like land and buildings. Borrowing for capital projects are often proposed and authorized in the first year's session as well, but supposedly most of these decisions are left for the second year. The executive develops the capital budget during the odd-numbered year under a statutory schedule calculated to present the governor's proposed capital budget for legislative action on February 1 of the following even-numbered year, about the time that the second year of the regular session typically gets under way.

The chart on page 154 displays the staging of these three budget actions.

In addition to structuring the budget itself to avoid deficits, the executive and legislative branches use a variety of management devices and practices to control the budget. These are described in the remaining sections of this chapter.

ROLE OF THE EXECUTIVE BRANCH

One of the major developments in state government during the 20th century was the enlargement of the role of the governor and the executive branch in budget making. The legislature still must pass budget legislation, as required by the constitution. But the executive branch of state government, headed by the governor, plays a larger role in making budget laws than most other laws. The executive has been given primary responsibility for developing the budget and analyzing its components. The governor has a special "item veto" authority for budget legislation. And the executive and governor have some authority to alter the budget, if necessary, after it is enacted into law.

The executive is responsible for preparing and proposing a budget

In some states, responsibility for preparing the budget rests with the legislature or is shared by the legislative and executive branches. In Minnesota, the executive branch is responsible for preparing a budget and proposing it to the legislature. The legislature does not share in developing the executive budget proposal, nor does it develop a competing legislative proposal.

Standards for the executive budget

State law dictates the form and organization of the budget presented to the legislature by the executive. It must include a summary and overview section. It must have information about anticipated government revenues and expenditures over several fiscal biennia. It must explain how the proposed budget, if enacted, would depart from past budgets. It must describe initiatives of the governor that have fiscal implications. It must include volumes of supporting fiscal and operating information about each government agency and program (narrative description, performance data, revenue and expenditure summary for recent fiscal biennia, proposed changes in levels of spending, etc.).

To the budget requirements imposed by law, the executive branch adds more detailed specifications. The state agency Minnesota Management and Budget (MMB) assists the governor in developing these specifications and supervising the departments and agencies involved in preparing the budget. The governor and MMB usually dictate a uniform format for budget documents and impose fiscal standards (e.g., inflation adjustments, spending restrictions, spending cuts). Each agency then prepares its budget request, operating within the parameters laid down by the governor and MMB. Agencies submit their budgets for review by MMB and governor's office. MMB helps the governor's office evaluate, modify, winnow, and enhance agency requests and prepare the executive budget for submission to the legislature.

Schedule for the executive budget

The executive branch works intensively on its budget proposal during roughly the six months leading up to the start of each legislative session—that is, during the summer and autumn months of each year. During this period in the even-numbered year, leading up to the January start of a new regular session, executive budget work focuses on preparing the biennial operating budget for presentation to the new legislature. In December, the executive produces preliminary budget estimates. The finished executive budget formally enters the legislative process about a month later, in late January. (A newly elected governor has until mid-February to present the executive budget.)

After the enactment of the biennial operating budget at the end of the first year's legislative session, executive budget work shifts to preparing the other two parts of the budget—the supplemental budget and capital budget—for presentation to the legislature when it returns to continue the regular session the following year.

The executive is responsible for economic and budget forecasts

To help the state make prudent budget decisions, state law requires the production of long-range forecasts of state revenues and expenditures. The law dictates standards for these forecasts. They must be done: (a) for anticipated economic conditions, (b) assuming no change in current tax and spending laws, and (c) with no allowance for inflation in costs. As mentioned earlier, such long-range forecasts are impossible to do with certainty or precision.

MMB, aided by the Department of Revenue and others, is responsible for producing the required

budget forecasts for the state. Both the governor and the legislature use MMB forecasts in their budget decisions. The legislature does not participate in making the forecasts or produce its own competing forecasts. It relies on the executive branch forecasts. The legislature often disputes details of forecasts in a good-natured manner, but uses these forecasts as guideposts in creating its budget.

Timing of the forecasts

The law requires four forecasts during each two-year budget cycle. Two forecasts are issued during the six months leading up to the enactment of the biennial operating budget; two more are issued during the biennial budget period.

The first forecast comes in late November of the even-numbered year, about seven months before the fiscal biennium begins the following July. The governor uses this forecast to prepare the executive budget to present to the new legislature that convenes in January.

The second forecast comes three months later, in late February. The February forecast informs the legislature and governor as they work during the spring months to enact the operating budget for the upcoming biennium.

MMB repeats the forecast twice more after the fiscal biennium gets under way on July 1. These updates—issued once again in November and February—inform executive and legislative action during the second year of the legislative session on the two remaining parts of the budget: the supplemental budget and the capital budget.

The chart on page 154 shows this twice-a-year cycle of budget forecasts.

Content of the forecasts

Each forecast has two elements:

- The ***revenue and expenditure forecast*** concerns the operating budget. It predicts the effect of future economic activity on state revenue and expenditure. The first two forecasts in the biennial cycle of four cover three fiscal biennia: the current one, the one due to begin in July, and the one following that. The second two forecasts in the cycle—produced during the fiscal biennium—cover two fiscal biennia: the current one and the one following.
- The other required element is the ***debt capacity forecast***, which concerns the capital budget. The debt capacity forecast predicts the state's capacity to pay off state bonds issued for capital projects. The analysis is based on the amount of state bonds already outstanding, the debt service obligation imposed by those bonds, and debt management guidelines that the state uses to maintain a prudent level of state debt. Each of the four debt capacity forecasts covers a

ten-year period: the past fiscal biennium, the current one, and the three biennia coming up.

The governor is required to propose revenue targets

Before the start of each fiscal biennium, as a part of the budget-making process, the governor must produce a long-range estimate of the cost of all government—state and local. This estimate is called, variously, the price of government estimate or the revenue target. The governor issues it in late January of the odd-numbered year, along with the governor's biennial budget proposal. The governor is required to:

- state objectives for government revenue for the upcoming fiscal biennium and the succeeding one,
- estimate the percentage of total personal income in the state that will be devoted to state and local government activity during the four-year period, and
- specify the proper apportionment of total government revenue between the state and local governments.

The price of government estimate is intended to focus the attention of decision makers on the capacity of the state's economy, as represented by the personal income of Minnesotans, to support all government activity in the state for the next four years.

The executive is responsible for analyzing the fiscal effect of bills

The budget that the executive submits to the legislature analyzes the fiscal effect of changes in laws and government programs being proposed by the executive in the budget. But the executive branch is not the only source of ideas for change. Many legislators sponsor legislation that, if enacted, would significantly affect government activity and finance.

The law makes the executive branch responsible for analyzing the fiscal effect of these independent legislative proposals, when asked to do so by the chair of a legislative committee. The estimates take several common forms:

- A ***fiscal note*** estimates the effect of a legislative proposal on state government spending and nontax revenue (e.g., revenue from fees). A fiscal note is produced under the supervision of the DOF by the government agency or agencies that would be charged with implementing the proposal were it to become law.
- A variation on the fiscal note is a ***local impact note***, which is designed to produce information about the fiscal effect on local governments of a proposed change in local government activity mandated by the state. For example, a local impact note might analyze the effect on local spending for jails and criminal prosecutions of a change in criminal penalties prescribed by state law.
- A ***revenue estimate*** forecasts the loss or gain in government revenue that would result from the enactment of a bill proposing to change tax laws. Most revenue estimates are produced by the Department of Revenue.

In 2017, the legislature authorized creation of a Legislative Budget Office, which is supposed to commence work in 2019. This office will initially take over duties with respect to creation of fiscal notes. A special commission was created to consider the duties of this office; this commission has not met at the time this report was published, and it is not yet clear what exact role the new Legislative Budget Office will play. Tensions in designing the legislative and executive roles in budget formation continue.

The governor may veto items of appropriation in omnibus budget bills

The influential role of the executive in budget preparation and analysis, just described, is created largely by state law, not by the constitution. The constitution enhances executive budget authority in another way, by giving the governor special "item veto" authority over the omnibus budget acts passed by the legislature and presented to the governor.

As with any act, the governor may veto an omnibus budget act in its entirety for any reason, including that it is fiscally unwise. In addition, the governor can approve an omnibus budget act but veto one or more individual "items of appropriation of money" within the act. This item veto power, coming at the end of the legislative process, gives the governor considerable leverage over budget making within the legislature and greater flexibility in responding to budget decisions presented by the legislature.

The governor's veto authority, including the line item veto, and the legislature's power to override a veto, are described in *Review by the Governor*.

The executive has some authority to adjust the enacted budget

Considerable adaptability is built into the state budget-making process just described—in the form of budget reserves, the staged, interactive budgeting process that extends well into the fiscal biennium, the repeated financial forecasts, the analysis of the fiscal effect of independent legislative proposals, and the item veto authority of the governor. State law also gives the governor and state agencies some flexibility, after the budget is enacted, to cope with unanticipated problems encountered while implementing the budget.

- ***Money transfer.*** Ordinarily government agencies must faithfully execute each item of appropriation in the law, by spending the amounts specified for the purposes specified. Under some conditions, however, general law allows an agency to transfer money from one program, where it is not needed, to another program, where it is.
- ***Carryforward.*** The law usually appropriates a separate sum to be spent in each fiscal year of the biennium. But general law permits agencies to carry forward unspent money from the first year of the fiscal biennium to the second year. (Moving money the other way, from the second year to the first, generally is not permitted.)
- ***Unallotment.*** An appropriation is an authorization to spend money, not a command to do so. But ordinarily the legislature expects executive agencies to spend the full amounts appropriated for the purposes specified. The legislature does not countenance unilateral reductions by the executive in expenditures that have been authorized by law. But there is an exception in general law, designed to allow spending reductions by the executive

when the constitutionally forbidden budget deficit threatens. After the budget is enacted, if the governor concludes that state revenues, including the budget reserve, will be insufficient to meet the expenditures authorized by law in the budget, the governor is required to reduce spending to correct the problem. A spending reduction ordered unilaterally by the executive in this way is called "unallotment."[44] A court decision in 2010 clarified that the governor does not have the authority to unallot until two things have happened: a) the legislature has passed and the governor has signed a balanced budget; and b) until the budget is subsequently found to be out of balance.

- ***Expenditure increase.*** Finally, general law may offer the executive some flexibility in implementing the enacted budget when a revenue surplus, rather than a deficit, develops. In such times of plenty, the law may authorize the executive to spend the unexpected additional revenues under certain conditions and for specified purposes.

The governor may call a special legislative session to correct the enacted budget

When problems develop after the enactment of a budget that cannot be handled with the available budget management devices, the constitution offers one final method of coping. On "extraordinary occasions," the governor may call the legislature into a special session. Historically, an unexpected budget shortfall—generally from an economic recession that increases state expenditure while decreasing state revenue—is one of the common causes of special legislative sessions. The enacted budget gets so far out of balance that the governor must assemble the legislature to pass new budget laws to increase revenue or reduce expenditure.

THE LEGISLATURE: PASSING BUDGET BILLS

Each house prepares and passes omnibus budget bills independently, in a process not much different in its general aspects than the passage of any other type of legislation. The budget bills are written by fiscal committees of each house, based on budget hearings during the first part of the session and on budget control decisions made midway through the regular session each year. Floor proceedings on the budget bills produced by these committees are similar to floor proceedings on other bills but may be affected by budget control regulations in the constitution and legislative rules.

Each house independently prepares and passes budget bills

The legislature does not create its own separate plan for raising revenue and spending money during a budget period. It uses the executive budget—the governor's plan—as the foundation of legislative proceedings. Legislative proceedings are devoted to:

[44] The term derives from an accounting procedure that is part of the state's budget control and accounting system. After a law is enacted, MMB examines all the appropriations in the law and formally authorizes agencies to spend specific amounts of money for various purposes. Each portion of spending so authorized by the DOF is called an allotment, as is the process of making them.

- evaluating and modifying the budget proposed by the executive,
- considering independent budget proposals advanced not by the governor but by legislators, and
- expressing the budget in the form of laws.

Each house conducts its own, separate proceedings on the budget and produces budget legislation independently. The size of the budget, the allocation of resources among general categories of spending, the amount and use of state bonds, changes in revenue, the amount of spending for various agencies, programs, and activities—all these decisions are made separately by the House and the Senate and embodied in the omnibus budget bills passed by each.

The fiscal committees in each house are responsible for writing the budget bills

At the beginning of the regular biennial legislative session, each house establishes a standing committee structure, as described in *The Committee System*. Included in the structure is a set of fiscal committees—tax committees, appropriations committees, capital investment committees, budget management committees. The fiscal committees are responsible for writing the omnibus bills that, once enacted, embody the state budget.

The fiscal committees conduct budget hearings during the first part of the session each year

To prepare themselves to produce the omnibus budget bills, the fiscal committees begin hearings and analysis soon after the legislature convenes the regular session each year. Committee preparatory work continues for about three months in the odd-numbered year, from early January until late March or early April, and for a shorter period in the even-numbered year.

Procedures vary from one committee to another, and from year to year; much depends upon the fiscal condition of the state. But in general, the committees begin with overview hearings, followed by hearings focusing on the details of the executive budget proposal that year, and then by hearings on budget proposals advanced by legislators independently of the executive budget.

Overview hearings

During the first year's session, the fiscal committees begin budget background and overview hearings in early January, soon after the regular session convenes. Through these hearings, the committees gather information on the economy, the fiscal condition of the state, current state revenues from various sources and expenditures for various purposes, and the cost and benefit of state government programs and activities.

In the second year of the regular session, background hearings may be abbreviated, because the session usually does not begin until late January or February, around the time the executive branch issues its budget proposals—the supplemental budget and the capital budget—for legislative consideration.

Hearings on the executive budget

The executive budget enters the legislative process in late January or early February each year. In the first year of the regular session, attention centers on the biennial operating budget; in the second year, on the supplemental budget and the capital budget.

After the executive budget appears, the work of the fiscal committees shifts from overview hearings to hearings on the budget initiatives and detailed agency budgets contained in the executive budget. Some of the governor's budget initiatives may be introduced as bills; these make their way to the fiscal committees in the usual fashion, either directly upon introduction or by referral after consideration by one or more policy committees. Other elements of the executive budget are not introduced as separate bills but instead are developed by the fiscal committees for inclusion in the omnibus bills.

Hearings on independent budget proposals

The governor is not the only source of legislation that affects the budget. Members of the House and Senate are free to advance budget initiatives of their own, and many do. Some of these independent proposals derive from suggestions by government agencies; others are put forward by private interests; still others are ideas of individual legislators or initiatives to benefit home districts.

Some independent proposals are introduced formally as bills. Like the bills embodying the governor's initiatives, they make their way to the fiscal committees, either directly upon introduction or by referral after consideration by one or more policy committees. As always, the chair of the committee decides which bills receive a hearing and consideration by the committee.

Not every independent proposal need be introduced as a bill. A legislator sitting on a fiscal committee may choose to offer a budget idea in the committee instead, as an amendment for inclusion in the omnibus budget bill developed by the committee.

The executive budget contains an analysis of the fiscal effect of executive budget initiatives and changes. Independent budget proposals are not covered by this analysis. To fill this gap in information, fiscal committee chairs usually require the executive branch to produce the documents described earlier—fiscal notes, local impact notes, or revenue notes—that analyze the fiscal effect of each independent proposal considered in committee.

A fiscal committee could choose to report any budget proposal or initiative within its jurisdiction as a separate bill, in the fashion of a policy committee. Typically fiscal committees do not do this. Instead of acting separately on each bill or proposal after a hearing, fiscal committees usually set them aside for later consideration and possible inclusion in the committee's omnibus budget bill.

The reason for deferring decisions on budget proposals in this way is budget control. Each fiscal committee knows that it will have a limited amount of money to work with and that it will have to select from among competing proposals to stay within that limit. Until a committee knows for

sure the amount of money it has to work with, it is loath to take final action on any proposal, lest it prejudice later action on others still to be considered. The fiscal committees learn their budget limits or "targets" about midway through the regular session each year, when each house makes two fundamental budget control decisions.

Each house makes two budget control decisions midway through the annual session

While the fiscal committees are holding budget hearings during the early part of the session, each house is working more or less independently toward two fundamental decisions on the budget: the size of the budget—the amount of revenue that will be available; and the allocation of revenue among broad categories of government activity.

Amount of revenue

Each house makes the first of these decisions in mid-March, soon after the executive issues the February budget forecast. In the first year's session, each house decides on the total amount of undedicated general fund revenue that should be available for the biennial operating budget, based on the budget forecast and the fiscal policies favored by the house. In the second year of the session, each house decides how much to adjust the budgeted amount upward or downward, depending on the revised budget forecast and the fiscal policies favored by the house.

How the size-of-budget decision is made varies from session to session and between the two houses. Sometimes, the decision is made privately by the majority caucus and announced by its leaders. Other times, the decision is promulgated more formally as a legislative resolution adopted by a house or a fiscal committee. When made in the form of a resolution, the decision is commonly called the budget resolution. It has three main elements: (1) the maximum amount of revenue available for the general fund; (2) an amount for the budget reserve; and (3) an amount for the cash flow account. (On these budget structures, see page 158.)

By establishing the size of the general fund and its cash reserves, and sometimes other budget limits, each house sets the outside parameters of most state spending.

Allocation of revenue among government functions

The second fundamental decision is made by each house soon after the first. This decision allocates the available general fund revenue among broad categories of government activity (K-12 education, higher education, natural resources, health and human services, transportation, etc.). The categories used by each house generally correspond to the jurisdictions assigned to its various fiscal committees. Depending on the fiscal condition of the state and the preferences of the house, an allocation may increase funding for an activity, keep funding level, or decrease funding.

The decision on how to allocate revenue or cuts among governmental functions, like the decision on the size of the budget, sometimes issues from the majority caucus, other

times more formally as a house or committee resolution.

The amount allocated for each function is often referred to as a target. Hence, the legislative resolution that may express this decision is referred to as the targets resolution.

These two decisions—on the size of the budget and its allocation among government functions—are intended to govern the development of omnibus budget bills in each house. A house aims to write and pass budget bills that conform to its budget control decisions and employs various means of enforcement to bring about compliance.

The fiscal committees write budget bills that conform to the budget control decisions

The decisions in each house on the amount of general fund revenue and its allocation clear the way for the development of omnibus budget bills by the fiscal committees. The decisions tell each committee how much it has to raise, spend, or cut in preparing the omnibus bill for its part of the budget. In late March, with these budget targets in hand, the fiscal committees bring budget hearings to an end and begin writing the omnibus budget bills.

Allocation and revenue decisions

Each omnibus appropriation bill is based on decisions by an appropriation committee on how to distribute the amount allowed it by the house (whether increases or decreases) among competing needs and proposals under its jurisdiction. How much should be made available for this or that agency, program, or activity? How much, if any, should be devoted to funding new initiatives proposed by the governor or executive branch agencies? How much should be devoted to funding new legislative initiatives? Which programs or activities should be reduced in size or eliminated entirely and which expanded? The appropriation committees refer to these distribution decisions as allocations. The tax committees must make similar policy decisions on the revenue and tax side of the budget.

Each committee is expected to produce an omnibus budget bill that conforms to the budget control decisions made by the house. If the decisions were made in the form of a legislative resolution, legislative rules may require fiscal committees to show compliance with the resolution when reporting omnibus budget bills. To maintain compliance, the rules also may allow a fiscal committee chair to rule an amendment to a budget bill out of order (meaning it cannot be considered by the committee), if the adoption of the amendment by the committee would transgress budget controls.

The budget bills

The allocation decisions of the appropriation committees, and the similar revenue raising and tax policy decisions of the tax committee, form the basis for writing the omnibus budget bills. The provisions accepted by a committee for inclusion in an omnibus bill—whether from the governor's budget, agency proposals, or independent proposals of legislators—are said to be "folded into" the omnibus bill.

A committee may produce an omnibus bill either as a new bill to be introduced by the chair as a committee bill or as an amendment to an already introduced bill that has been referred to the committee. Whether to introduce a new committee bill or report a much-amended referred bill (called a "vehicle" bill) is a complex decision affected by convenience, timing, and strategic considerations.

After a committee has decided on the provisions to be included and the form of the bill, the committee takes final action on its committee report on the bill. The committee aims to have the bill, fully assembled, before it for the final vote. But if time is short, the committee may be compelled to vote on the aggregate result of all earlier votes on allocations, individual budget items, and language provisions and direct the staff to prepare the final bill accordingly.

The bonding bill

The bill authorizing the sale of G.O. bonds for state and local capital projects is known in the legislative process as the bonding bill. As described in *Forms of Action* (page 27), this bill is usually a main feature of the second year's session, though often a bonding bill is passed in the first year as well. The committee procedures used for assembling the bonding bill vary in the House and Senate and also from session to session. In general, the process has two steps: First, the various appropriation committees recommend priorities for funding capital projects within their respective jurisdictions. The recommendations are directed to another committee, currently called the Capital Investment Committee, which is responsible for assembling a single bonding bill from these recommendations. Often the Capital Investment Committee must cut some projects recommended by the appropriations committees to bring the bill into compliance with budget controls. However, a second step usually involves a major revision, often on the floor of each house, to create a version of the bonding bill that can garner the constitutionally required 60 percent vote.

Committee deadlines

The fiscal committees operate on a tight schedule. Each appropriation committee must complete work on its bill by the third committee deadline described in *The Committee System* (page 118). The third deadline usually comes in April, just weeks after the initial budget control decisions are made. The third deadline usually does not apply to the Tax Committee or the Capital Investment Committee, but usually both complete their bills by this time also.

Review by a budget management committee

After the fiscal committee with primary responsibility completes work on an omnibus budget bill, legislative rules and practices may require that the bill be examined by a budget management committee before floor action. In the House, tax bills, appropriation bills, and bonding bills all are referred to the Ways and Means Committee. In the Senate, tax bills move directly to the floor, but other omnibus bills may be referred to a

superintending finance committee, either from divisions of the finance committee or from separate full committees.

Action in the budget management committee determines the content of the omnibus bills when they are taken up on the floor. Bills may be amended here to correct mistakes or to change controversial provisions before the bill gets to the floor. Bills also may be amended to ensure compliance with budget control decisions. The budget management committee usually has played a role, earlier in the session, in making the budget control decisions for the house. Now, at the end of the committee process, before the omnibus bills are taken up on the floor, the committee is responsible for reviewing the bills for compliance with the budget controls. If the budget controls were adopted formally as a legislative resolution, legislative rules may require the committee to certify compliance with the resolution when reporting the omnibus bills.

Floor action on budget bills may be affected by constitutional and legislative regulations

Floor action on omnibus budget bills usually begins about the time of the third committee deadline. Floor proceedings on these bills are a centerpiece of the legislative session, and the debate on them is invariably spirited and consequential.

The general pattern of floor action described in *Passing Bills* and *The Bill on the Floor* applies to omnibus budget bills: second reading, placement on a list of bills actionable on the floor, discussion and possible amendment, third reading, and the vote on passage. Special calendars or orders usually are used for these bills. The House generally considers them on the Fiscal Calendar, the Senate on Special Orders. Because the budget bills are so complex, important, and urgent, the houses also may attempt to coordinate floor action to make the best use of floor time and expedite passage in each house.

Although floor procedures on budget bills are similar to other bills, departures from the norm may be compelled by budget control regulations in the constitution and legislative rules.

- ***Omnibus tax bills.*** The constitution dictates the scheduling of floor action in the two houses on bills for raising revenue: "All bills for raising revenue shall originate in the house of representatives, but the senate may propose and concur with amendments as on other bills."

  The first part of this constitutional provision is known as the origination clause. The origination clause requires that "bills for raising revenue," described in *Forms of Action* (page 28), pass the House first. The Senate must act on a bill it receives from the House, not a Senate bill.

  Earlier parts of the legislative process are not affected by the origination clause. Bills for raising revenue proceed through each house in the usual manner: Bill authors—usually the tax committee chairs—introduce or identify companion bills. The two bills move simultaneously through the committee process in the two houses. The Senate may even report its bill out of committee and debate it on the floor before the House companion bill passes and comes over to the Senate.

  But, because of the constitutional requirement, the Senate does not act finally on its bill.

It waits until the House bill comes over, substitutes the House bill for the Senate bill on the floor in the usual way, as described in *Bicameral Agreement* (page 68), amends the House bill by placing the content of the Senate bill in it, and sends the bill back to the House with the content favored by the Senate. The House generally refuses to concur in the Senate amendments and requests the appointment of a conference committee.

- ***Bonding bill.*** The constitution requires that one of the omnibus bills—the bonding bill, described in *Forms of Action* (page 28)—pass each house by an extraordinary majority. This means that the bill must win the support of three-fifths of all the members elected to each house rather than the majority required to pass most bills (*Passing Bills*, page 61). The bill must have the vote of 81 of the 134 representatives (rather than the usual 68) and 41 of the 67 senators (rather than the usual 34). This voting requirement has a substantial effect on the movement of the bonding bill through the legislative process and the timing of floor action on the bill.
- ***Amendment restrictions.*** Floor amendments to an omnibus budget bill may be restricted by legislative rules aimed at budget control, described in *The Bill on the Floor* (page 148). The rules may allow the presiding officer to rule an amendment out of order (which prevents consideration of it), if the adoption of the amendment would throw the bill out of compliance with the budget controls adopted earlier by the house. This legislative rule, and the floor rulings enforcing it, require a ruling by the presiding officer, and are much debated on the floor.

THE LEGISLATURE: BICAMERAL BUDGET AGREEMENTS

The constitution requires bicameral agreement on each budget bill, just as for any bill. The legislature has in the past relied mainly on conference committees to achieve agreement on budget bills, although some structures and mechanisms foster agreement between the houses on aspects of the budget earlier in the legislative process, before either house writes or passes its budget bills.

Bicameral agreement is required

Because the budget must be enacted as law, all of the constitutional requirements for lawmaking apply, including the requirement of bicameral agreement. Each omnibus bill making up the state budget must pass both houses of the legislature with identical content before being sent off to the governor for review. (See *Bicameral Agreement*.)

But, as described earlier, each house writes and passes budget legislation independently, guided by its own budget control decisions. So the budget bills passed by one house almost invariably differ in content from those passed by the other—and also from the executive budget proposed by the governor. Reconciling the differences in these bills, so as to achieve bicameral agreement, and agreement with the governor, usually is accomplished only with great difficulty.

Agreement on some aspects of budget legislation may emerge during the session

Some legislative structures and mechanisms foster or contribute to bicameral agreement on aspects of budget legislation fairly early in the regular session each year.

The standing fiscal committee system

The need of each house to organize standing fiscal committees at the beginning of the biennial regular session, as described in *The Committee System* (page 101), presents an opportunity for early agreement on the organization of budget legislation for the session. Legislative leaders attempt to achieve some congruence in the number and jurisdiction of fiscal committees established in each house. To the extent they succeed in this, they produce, as a by-product, some agreement on the legislative form of the budget—the number and scope of the omnibus budget bills that these committees will write. Perfect congruity in these arrangements is rare, but general coherence is not.

Joint legislative committees

Some joint legislative committees and commissions described in *The Committee System* (page 106), foster early agreement between the houses on some matters pertaining to the budget. Examples include the Legislative Commission on Pensions and Retirement (public employee pensions); the Legislative Commission on Employee Relations (public employment contracts); the Legislative Commission on Minnesota Resources (spending on certain environmental projects); and the Joint Subcommittee on Claims (payment of claims against the state). Although these joint groups do not have a formal role in the legislative process in either house, neither introducing nor receiving referred bills, their efforts to broker early bicameral agreements on the content of legislation tends to reduce the scope of disagreement between the houses remaining for conference committees to resolve at the end of the process.

The legislature relies mainly on conference committees to agree on budget legislation

Apart from these formal mechanisms for early concurrence on matters pertinent to the budget, the legislature relies mainly on conference committees to satisfy the constitutional imperative for bicameral agreement on budget legislation. The budget bills nearly always take the third passageway through the legislature described in *Bicameral Agreement*:

- One house passes a budget bill and transmits it to the second house.
- The second house amends the bill to reflect the second house's budget decisions, then passes it and returns it to the house of origin.
- The house of origin refuses to concur in the amendment of the second house and requests the appointment of a conference committee to recommend to both houses how to settle their differences.

Conference committees on budget bills are appointed and proceed in the manner described in

Bicameral Agreement. The committee on each budget bill is composed of ten members, five representing each house. These conferences—meeting at the very end of the legislative session under the watchful eye of the executive, legislative leaders, and others interested, and often under pressure from session-ending deadlines—are typically the most grueling, difficult, and contentious conference committees of the session. Each house endeavors to maintain its position on the many provisions in these complex bills; and mutual understanding usually emerges only in the waning days or hours of the session.

Agreement on the budget bills requires agreement also on budget control decisions

Achieving agreement in conference committees on the budget bills is complicated by an additional factor not present for other conference committees. Each house is attempting to maintain its position not only on the many provisions in the budget bills but also on the large budget control decisions it made earlier in the session—on the size of the budget and its allocation among major government activities. The decisions made by one house on these global budget matters normally differ, more or less profoundly, from those made by the other.

If the budget bill conference committees are to make much progress toward a settlement, one or both houses now must retreat from some earlier budget control decisions. Legislative practices and the rules described in *Bicameral Agreement* (page 76) do not allow conference committees, on their own, to achieve agreement by sweetening the pot, bursting through previously established budget limits. The rules allow for the breaching of these budget limits, as they must, but only with the permission of the leaders of each house. As a result, the budget conference committees usually must wait upon the leaders of the two houses and the governor to arrive at a new global agreement on the budget fundamentals that each party earlier decided independently: the amount of revenue to be available to the state and its allocation among broad categories of government activities.

In recent years, divided government has meant that a larger portion of final decisions are decided within the "leadership conference," and are then procedurally processed within the classic but outmoded conference committee. This new process is much maligned, and a large number of reform efforts have been proposed.

Budget Disputes and the Courts

Beginning in 2001, on five different occasions Minnesota state courts have been drawn into budgetary disputes between the governor and the legislature.

On three of these occasions, a budgetary impasse between the governor and legislature prompted the state attorney general to successfully petition the Ramsey County District Court to order executive branch officials to release money from the Treasury, absent an appropriation, to temporarily fund the core functions of state government (on one of these three occasions, the impasse was resolved before the court-ordered funding took effect).

On two occasions, state courts were asked to rule whether a governor's novel budget-making gambit was lawful. When Governor Tim Pawlenty unilaterally balanced the state's FY 2010-2011 operating

budget via unallotment, the Minnesota Supreme Court ruled that the governor's actions impermissibly exceeded the authority provided by law. When Governor Mark Dayton item-vetoed funding for the legislature in an attempt to gain negotiating leverage in 2017, a district court judge ruled that the governor's action was an unconstitutional violation of the separation of powers principle enshrined in the state constitution.

Each of these five events is summarized in more detail below.

2001: When the 2001 regular session ended on May 21, most executive branch officers and agencies were without funding for the FY 2002-2003 biennium. In response, Governor Jesse Ventura called what became a 19-day special session beginning on June 11. When the special session failed to promptly resolve the budget impasse, Attorney General Mike Hatch petitioned the district court in Ramsey County on June 20 to order temporary funding for the core functions of the state beginning on July 1. On June 29, Chief Judge Lawrence Cohen agreed and ordered state officials to issue payments from the Treasury as necessary to discharge core state government functions and appointed a special master to mediate any related disputes. However, this court-ordered funding was not necessary because that same day the legislature adjourned the special session *sine die* after sending Governor Ventura the negotiated omnibus spending and tax acts.

2005: The 2005 regular session ended on May 23 with no operating funding in place for many executive branch officers and agencies beginning on July 1. Governor Tim Pawlenty convened a special session of the legislature the following day, May 24. However the special session did not conclude until mid-July, nearly two weeks after the new fiscal biennium began. As in 2001, Attorney General Hatch successfully petitioned the Ramsey County District Court to order funding of core functions. The result was a partial government shutdown, as those agencies and programs without enacted or court-ordered funding were shuttered. Court-ordered funding for core functions began on July 1 and effectively ended on July 9, when the governor signed a "lights-on" act to temporarily fund affected state agencies and programs until the corresponding spending acts were enacted. The impasse officially ended when the legislature passed (July 13) and the governor signed (July 13-14) the remaining omnibus budget acts.

2009: During the regular legislative session, the legislature passed several omnibus spending acts that significantly reduced the state's projected $4.6 billion deficit for the forthcoming FY 2010-2011 biennium. As the regular session neared its constitutional adjournment date, Governor Tim Pawlenty announced that he would sign the final omnibus spending act (health and human services) but veto an omnibus tax act that included budget-balancing tax increases and K-12 aid payment delays. The governor attempted to balance the general fund budget by reducing certain enacted spending items via statutory unallotment authority. The Minnesota Supreme Court ruled during the final days of the 2010 regular session that the governor's actions were not authorized by the unallotment statute. In a one-day special session on May 17, the legislature sent Governor Pawlenty the agreed-upon omnibus budget act that balanced the FY 2010-2011 operating budget through a combination of spending reductions, the transfer of money to the general fund from several other funds in the state treasury, and aid payment delays.

2011: The February 2011 budget forecast projected a sizeable deficit of $5 billion for the FY 2012-2013 biennium. When the 2011 regular session ended on May 23, of the major spending bills only the omnibus agriculture act had been signed into law by Governor Mark Dayton. Following the precedent set by her predecessor in 2001 and 2005, Attorney General Lori Swanson successfully petitioned the Ramsey County District Court to order temporary funding of core functions. Unlike in 2005, the legislature and governor did not agree to a "lights-on bill" to temporarily fund the other affected agencies and programs. The longest partial government shutdown in state history—20 days—ended

with a brief special session beginning on July 19 and the governor's signatures on July 20.

2017: Several omnibus spending bills and the omnibus tax bill had not been enacted when the regular legislative session ended on May 22. Governor Mark Dayton called the legislature into special session the following day, May 23. After the legislature passed the remaining bills and adjourned the special session *sine die*, Governor Dayton signed the omnibus state government spending act but item-vetoed the FY 2018-2019 funding for the Senate and House of Representatives. Legislative leaders rejected the governor's demand to resume negotiations and brought suit in Ramsey County District Court to have the item-vetoes declared an unconstitutional separation-of-powers violation. Upon appeal, the Minnesota Supreme Court overturned the district court's ruling in favor of the legislature and concluded that the governor's vetoes were constitutional in this context because the legislature had access to reserves and other funding sufficient to continue operations until it reconvened the regular legislative session in February 2018.

INDEX