MN HOUSE RESEARCH

Making Laws: Forms of Action

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Making Laws is a series of publications that explain the lawmaking process of the Minnesota Legislature. This work is the second in the series and discusses the types of written documents and their role in the legislative process. Please see the list at the end for other works in this series.

Executive Summary

Written documents are the substance of the legislative process and the main tangible product of the legislature. This publication describes the types of written documents of the legislature: bills, laws, resolutions, amendments, engrossments, and journals.

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.

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.

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

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.

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

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Contents

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 ratified 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 16—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, Research, and Fiscal Analysis, 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 existence of a 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. 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 or in both. 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 common; changes in chief authors are 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 through the Index Office of the chief clerk of the House and secretary of the Senate.

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 Revisor document number mentioned before, which is separately 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.

- 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 rule permits a cessation of bill introduction by the House.

- 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.

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 visible format or look of these types of bills may be quite similar, but the internal content and procedural pathways differ. The most common are described below.

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. These may be written by the executive branch or simply endorsed by the governor as part of their overall plan.

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. A committee chair may choose to build a committee bill to embrace a cooperative process, or on an issue that fits an iterative approach to policy choices.

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 a separate work in this series *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 over a dozen omnibus appropriation bills—about 12 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, 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.

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. Conversely, proponents argue the necessity of bundling many actions into fewer votes for efficiency in the face of the limited length of legislative sessions. Courts have interpreted the single-subject rule broadly, leading to a more common use of omnibus bills of greater length and scope.

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, these bonds are paid via appropriation, yet bind the state through the powerful impact nonpayment would have on the state's credit rating. For example, appropriation bonds were used for the construction of the Vikings Stadium in 2012.

- **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 a separate work in this series *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*.)

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 policymaking. Some housekeeping bills come from state agencies, others are committee bills.

Statutory housekeeping bills

The legislature produces three types of bills 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.[1] 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")

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

in sequence. For this reason the statutes are sometimes referred to as the codified law of the state.[2]

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 also publishes and updates the statutes on the Internet, which makes it easier to find the current version of the law.

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[3] 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.

[2] The statutes are not the laws themselves, but instead are evidence of the laws as they exist, according to Minnesota Statutes, section 3C.13.

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

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 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 often 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.[4]

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

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,[5] 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.

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 3):

- 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).

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

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 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 or combination 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 amendments incorporating other bills. 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.

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.

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.

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 corner 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 committee engrossments

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. This was a barely used constitutional possibility until recent years, when a journal protest and dissent has become a more popular tool for memorializing conflicts amongst members.

Although 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.[6]

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 available to the public via the internet. 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 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

[6] 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.

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 it says and was validly enacted. But they do not accept the enrollment as conclusive proof of this, as do courts in other states 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.

About This Series

This publication series describes the formal process of making laws in Minnesota. The series is made up of nine separate publications, each one describing an aspect of the lawmaking process. Together they explain the legislature as a body and the various components and procedures that are involved in creating law.

The first two works in the series describe the structure of the legislature and forms of action in the legislative body. The rest of the works in the series describe steps in the process of making laws, including passing bills, bicameral agreement, review by the governor, the committee system, committee proceedings, a bill on the floor, and making the budget. The complete series is listed here:

- The Legislature
- Forms of Action
- Passing Bills
- Bicameral Agreement
- Review by the Governor
- The Committee System
- Committee Proceedings
- The Bill on the Floor
- Making the Budget

Earlier Versions

Making Laws was originally published as a comprehensive guide to the Minnesota legislative process in 2005 and written by Tom Todd, former director of House Research. It was updated and republished in 2010 and again in 2018. The current series represents separate chapters in the previously published guide.

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