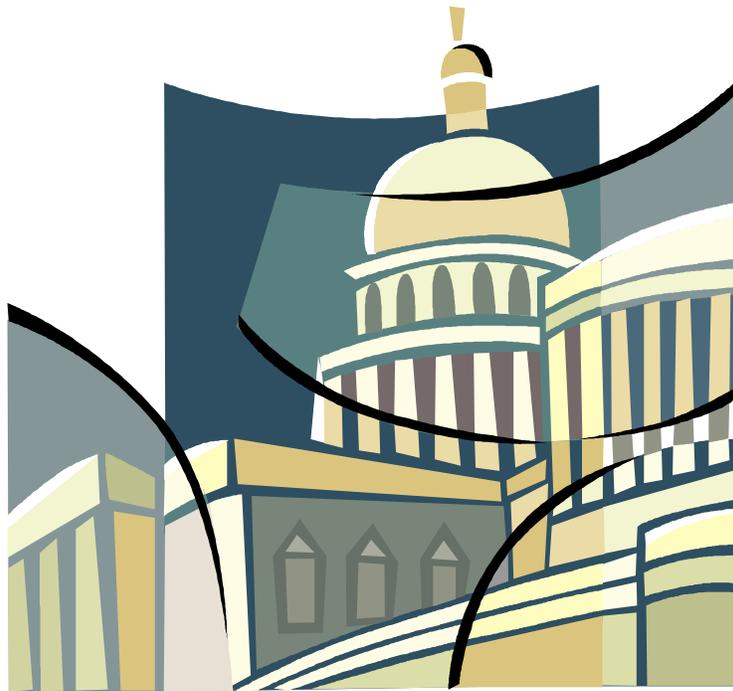


PRESIDING OFFICER MANUAL

MONTANA STATE LEGISLATURE
2011



LEGISLATIVE SERVICES DIVISION
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TABLE OF CONTENTS

I. PREFACE	1
II. RESPONSIBILITIES OF COMMITTEE PRESIDING OFFICERS/STAFF	2
III. COMMITTEE OPERATION AND MANAGEMENT	5
IV. AUDIO COMMITTEE MINUTES: PROCEDURAL OVERVIEW	15

APPENDICES

APPENDIX 1: ORDER OF HEARING.....	19
APPENDIX 2: COMMITTEE RULES OF PROCEDURE	21
APPENDIX 3: MOTIONS IN COMMITTEE	24
APPENDIX 4: EMERGENCY GUIDELINES FOR PRESIDING OFFICER	25
APPENDIX 5: COMMITTEE WORK MANAGEMENT AND THE LAWS SYSTEM.....	27
APPENDIX 6: COMMITTEE MEMBER RESPONSIBILITIES.....	28
APPENDIX 7: NOTIFICATION SAMPLES FOR HEARINGS/AMENDMENTS	29

I. PREFACE

A citizen's legislature means more than citizen-legislators taking time from their normal lives and jobs to help make policy for the state. It means citizens can participate directly. The committee hearing process in the Legislature is the primary opportunity for citizens to come before their representatives to make their views known on pending legislation. The presiding officer's organization and management skills help the committee hearing process flow as smoothly as possible, given sometimes controversial subjects and passionate viewpoints.

All committee meetings must be open to the public under the Montana Constitution, Article II, Section 8, "Right of Participation", and Section 9, "Right to Know", as implemented by Title 2, chapter 3, part 2, Montana Code Annotated, regarding open meeting laws.

Section 8. Right of participation. The public has the right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision as may be provided by law.

Section 9. Right to know. No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure.

Among the tools that a presiding officer can draw upon are:

- the Montana Constitution, particularly Article II, Section 8 and Section 9;
- the Joint Rules of the Montana Legislature or the rules for either the House or the Senate;
- "Mason's Manual of Legislative Procedure" (not "Robert's Rules of Order", which is used in many city and county committees); and
- the related guidelines in this Presiding Officer Manual.

Specific references to the Joint, House, and Senate Rules are not included in this manual as there are traditionally changes made to the rules from session to session and the rules are not adopted until session has begun. Rules on "Committees" may be found under chapter 30 in the Joint Rules, chapter 3 in the Senate Rules, and chapter 3 in the House Rules. The joint rules remain in effect until removed by a joint resolution or until a new Legislature is elected and takes office. Rules adopted by the House remain in effect until removed by House resolution or until a new House is elected and takes office (Senate Rules are silent on this).

A presiding officer can help provide the best experience for citizens and committee members by controlling the hearing process to ensure that hearings are

conducted fairly and in a manner that demonstrates respect for members of the public as well as the committee. Time management is critical. Equally important is observation of committee rules so that both committee members and the public know what is required of them and what they can expect. Finally, compliance with the law protects against challenges of legislation based on faulty procedures.

By avoiding the appearance of bias, seeking to make witnesses feel at ease, and making sure that participants, including committee members, know the ground rules, the presiding officer steers the process on a steady course so that legislation can be debated on its merits rather than be sidelined by debates over process or procedures.

Critical Points:

- ✓ *Time management*
- ✓ *Providing consistent application of rules*
- ✓ *Avoiding debates on process so policy merits are the focus*

II. RESPONSIBILITIES OF COMMITTEE PRESIDING OFFICERS/STAFF

A. COMMITTEE PRESIDING OFFICER (also known as chairman, chair)

1. The presiding officer of a committee is designated by the Speaker of the House or the Senate Committee on Committees. The presiding officer has general control and direction over the committee room.
2. Although the presiding officer is responsible for the efficient management of the committee, including appropriate scheduling of bills for hearing or executive action and ensuring fair and unbiased decorum, it is the committee, as a whole, that is responsible for gathering public comment; reviewing, analyzing, and amending bills; and recommending the passage or disapproval of bills.
3. Committee organization, operation, and management are the main duties of the presiding officer and are covered in this manual.



B. COMMITTEE VICE PRESIDING OFFICERS

1. In the House, the majority and minority vice presiding officers are selected by the Speaker of the House. (Senate rules do not address the use of vice presiding officers.)
2. The majority vice presiding officer presides over committee meetings when the presiding officer is absent or is presenting a bill to the committee.

Some options used in the Senate to determine vice presiding officers have been:

- ✓ use of seniority
- ✓ appointment by presiding officer

3. The minority vice presiding officer serves as a contact for the minority members and as presiding officer when both the presiding officer and the majority vice presiding officer are absent or are presenting bills.

C. RESPONSIBILITIES OF COMMITTEE SECRETARY

The secretary's duties include:

1. calling the roll for attendance and recording roll call votes in executive action;
2. assisting the presiding officer in scheduling bill hearings and executive action based upon the number and status of bills in the committee by utilizing the LAWS bill status reports (see Appendix 5);
3. assisting the presiding officer in scheduling subcommittee meetings;
4. providing adequate notice of bill hearings, subcommittee meetings, and executive action as directed by the presiding officer in order to conform with the public's constitutional right to observe and participate in governmental operations;
5. notifying bill sponsors of hearings on their bills;
6. notifying committee members and staff of bills scheduled for hearing, meeting of subcommittees, and bills scheduled for executive action;
7. maintaining for each member a book or folder containing a copy of each bill referred to the committee and a copy of each fiscal note prepared for those bills;
8. contacting the Chief Clerk or the Secretary of the Senate if fiscal notes for bills assigned to committee are not sent to the committee prior to hearings;
9. ensuring that all witnesses sign the visitor sheet before testifying;
10. preparing the committee report for each bill reported out of committee;
11. ensuring that committee reports and amendments are contained in the committee record;
12. preparing accurate minutes of committee and subcommittee meetings according to the policies of the respective house; and
13. providing general administrative and logistical support to assist the presiding officer and the committee, including making certain that handouts presented to the committee are sent to the scanner.

Current House and Senate rules suggest that in most cases the public be given at least 3 days' notice of a hearing.

D. RESPONSIBILITIES OF COMMITTEE STAFF

An attorney or research analyst from the Legislative Services Division is assigned to most standing committees. Staff from the Legislative Fiscal Division is

assigned to the House Appropriations and the Senate Finance and Claims Committees and the Joint Subcommittees. Staff is assigned to select committees as necessary.

In Montana, committee staff are nonpartisan by design and have a duty to assist each member of the committee regardless of committee member's party affiliation.

If a legal or technical issue related to a bill is not raised with the committee by proponents or opponents during the hearing, it is the duty of staff to inform the committee of the legal or technical concern prior to executive action on the bill.

The committee staff person's duties include:

1. reviewing bills assigned to the committee for possible conflict with other bills. This review enables the committee staff person to summarize key changes in the bill, if asked by a presiding officer or committee member.
2. drafting amendments upon request of individual committee members or the sponsor prior to committee action. Committee staff will ask that any amendment by a lobbyist or other person who is not on the committee be submitted for drafting with a written note from the committee member who proposes to sponsor the amendment. Otherwise, the committee staff will not draft the amendment.
3. compositing amendments adopted individually by the committee in executive action for inclusion in the committee report to the full Senate or House;
4. drafting committee bills;
5. attending committee and subcommittee meetings, conference committees, or free conference committees as assigned to provide the duties listed here, including drafting conference committee amendments if adopted; and
6. assisting a committee or a subcommittee in obtaining data or other information pertaining to bills under deliberation.

Requirements include ensuring amendments conform with the U.S. and Montana constitutions and the Bill Drafting Manual, avoiding conflicts with Montana statutes, checking any internal references, and ensuring the amendment has not violated the requirement that the bill title be limited to one subject or changed the original intent of the bill.

E. ORGANIZATIONAL MEETING WITH STAFF

A presiding officer is responsible for meeting in advance with the committee secretary and the Legislative Services staffer assigned to the committee to discuss logistics listed below. Options include meeting during training or at least prior to or during the first day or two of the session. The meeting is necessary to:

1. exchange phone numbers and office locations;



2. discuss and outline the working arrangement for committee work;
3. review the presiding officer's expectations of staff;
4. arrive at a mutual understanding of the roles and responsibilities of the staff to the presiding officer and to the committee as a whole;
5. discuss whether department informational presentations are expected and who will be coordinating them;
6. discuss how best to keep the committee informed of work being done by the House Appropriations Committee or the Senate Finance and Claims Committee on areas germane to the committee;
7. scope out a tentative session calendar to prevent running out of time to hear and act on bills before transmittal;
8. determine how best to keep committee members informed of bill hearing schedules (see Appendix 7 for sample schedules); and
9. review the emergency procedures manual.

F. INITIAL COMMITTEE ORGANIZATION

At the first organizational committee meeting, the presiding officer must set the ground rules for:

1. location of electronic equipment (cameras, TV coverage, etc.) by the public or press and the use of cell phones;
2. time limits for popular or controversial bills;
3. testimony by fellow legislators;
4. motions in committee (see Section IIIJ and Appendix 3);
5. the presiding officer's policy and schedule regarding executive action on bills heard (e.g., every Friday, at the beginning of the following meeting, etc.);
6. the use of proxy votes (see Appendix 2) by members of your committee when they are not present for executive action (e.g., excused and unexcused absences--unexcused absences may include a member who "boycotts" committee meetings for personal reasons); and
7. order of roll call votes (i.e., alphabetical, presiding officer first or last, etc.).

At the first meeting the presiding officer also is responsible for making the committee aware that there are emergency procedures.

III. COMMITTEE OPERATION AND MANAGEMENT

A. CONVENING THE HEARING

1. After the committee is seated at the designated time, the presiding officer should ask the secretary to call the roll in order to determine if the

necessary quorum is present. A “quorum” means the minimum number required for a valid meeting, which is a majority of the members or one more than half the number on the committee. Those present, absent, and excused must be noted by the committee secretary (before convening the committee, the presiding officer should inform the secretary of excused absences). A quorum of the committee must be present at a meeting for it to act officially. An actual roll call helps those listening on an audiocast or broadcast, or even in the audience, to know who is present.

2. A hearing on a bill may not proceed unless the sponsor is present or the sponsor has waived the requirement for the sponsor's presence. The waiver must be in writing and included as an exhibit in the minutes for the permanent record.
3. The presiding officer may convene a meeting before all the members have arrived but a quorum must be present. Continuing to hear bills without a quorum is discouraged because of the difficulty of informing absent members of testimony and because of the perception this creates for the public. A quorum of a committee may transact business, and a majority of the quorum, even though it is a minority of the committee, is sufficient for committee action.
4. The Speaker of the House or the President of the Senate and the appropriate majority and minority leaders are ex officio nonvoting members of all standing committees and may be present for purposes of establishing a quorum. The members of the committee should be instructed to notify the presiding officer of anticipated absences. For other committee member duties see Appendix 6.
5. Following announcement of a quorum, each hearing proceeds in roughly the same order. Appendix 1 lists the order in which most hearings should proceed.

B. COMMITTEE RULES

1. Each committee should establish written rules for the operation of the committee. The rules should be posted and pointed out to witnesses before the beginning of each meeting. Every person who wishes to testify on a bill must sign a witness list that is usually located near the entrance to the committee room. The secretary will use the witness list to properly identify people testifying on a bill. The witness list becomes a part of the committee record. Witnesses are encouraged to submit written testimony. The testimony may be submitted before the hearing. Presiding officers may discourage the reading of written testimony in order to save time and to allow additional testimony to be heard.
2. Committees must use Chapter 3 of their respective rules (along with appropriate provisions of the Montana Constitution and Montana Code Annotated) in establishing any written rules of procedure for the operation

of the committee. A sample of committee rules is contained in Appendix 2 to this manual.

C. POWERS OF THE PRESIDING OFFICER

1. The presiding officer:
 - a. Coordinates work of the committee staff (assigned to the committee).
 - b. Schedules hearings and executive action on bill and resolutions. In the committee room, has the duty to:
 - i. ensure that roll is called and determine the status of committee members (present, excused, absent).
 - ii. determine in what order bills will be heard;
 - iii. call for testimony on a bill;
 - iv. require that testimony be relevant to a bill;
 - v. control the time used by a witness or witnesses on a bill;
 - vi. recognize members wishing to speak or ask questions;
 - vii. direct that questions to witnesses be addressed to the presiding officer;
 - viii. rule a witness out of order because of the nature of testimony (e.g., a personal attack on a member or other witness);
 - ix. require that persons disrupting the committee process (e.g., interfering with the taking of the minutes or testimony by other witnesses) be asked to leave or be removed from the committee room by security staff;
 - x. assign bills to subcommittees;
 - xi. recess or conclude a hearing or meeting;
 - xii. rule on points of order (questions raised by committee members as to proper committee procedure), unless the point is submitted to the committee for its decision;
 - xiii. designate the area from which telecommunication equipment may be operated;
 - xiv. subpoena witnesses (although this is almost never used);
 - xv. generally control the decorum in the hearing room; and
 - xvi. review and sign committee reports and the business reports of each day's action for inclusion in the minutes.
2. Decisions by the presiding officer are, as in the body of each respective house, subject to modification or reversal by a majority of a quorum of the members of the committee.
3. A presiding officer has the option of talking with the House or Senate leadership about bill assignments that relate to the committee's interests but also may be of interest to another committee, recognizing that leadership determines the bill's committee assignment.



D. HEARING TIME MANAGEMENT (Mont. Const. Art II, sec. 8)

1. Every person attending a hearing on a bill who wishes to testify on the bill must be given the opportunity to do so.
2. By checking with a bill's sponsor, a presiding officer can estimate the length of time needed for the sponsor's introduction to a bill and the approximate amount of time witnesses will need to present their testimony. Discussion with bill sponsors regarding the order in which bills will be heard on a given day is also helpful in managing the time necessary for a hearing.
3. At the beginning of each hearing on a bill, it may be necessary to divide the available time so that each bill may receive equal consideration. The presiding officer may ask witnesses to designate, through a show of hands, on which bill they wish to testify. (Before the hearing, the presiding officer may ask proponents and opponents of a bill how much time their testimony is likely to take.)
4. The presiding officer may then announce the time allotted to each side and that the time limits will be enforced. Important reminders to those who are testifying include: Be Brief and Do Not Repeat.

Various options for handling time limits:

Presiding officers differ on how they handle time limits announced to witnesses.

1. At the very least, if a large number of witnesses wish to testify, each "side" [proponents and opponents] should be given an overall time limitation.
2. Beyond that, if a presiding officer wishes to divide the overall limits into a time limitation for each witness, the presiding officer may do so.
3. However, some presiding officers think that a time limitation for each witness is being heavy-handed and that announcement of the time limit for each side is sufficient.
4. The choice is up to the presiding officer, but if time limits for each witness are not used, the presiding officer should be clear in announcing to all witnesses that if one witness on a side, even a spokesperson, takes too much time in testifying, the overall time limitation for that side will be enforced, even if it means remaining witnesses on one side can only announce their name, who they represent, and that they support or oppose the legislation.

E. ORDER OF HEARING

A guide for the order in which most hearings should proceed is contained in Appendix 1 to this manual. In brief, this is the order:

1. The presiding officer asks the sponsor of the bill to "open" the testimony.

2. A sponsor may introduce a constituent, lobbyist, or other person who brought the bill or issue to the sponsor's attention. The person identified by the sponsor should be the first proponent to testify.
3. Proponents of the bill testify, and then opponents of the bill are given equal time. An interested person, such as an executive branch employee, may testify as a "resource or informational witness". After hearing a resource or informational witness's testimony, the presiding officer may designate the person as a proponent or an opponent.
4. After testimony of all witnesses is complete, committee members may question witnesses. A member wishing to ask a question must be recognized by the presiding officer. Questions must be limited to the subject under consideration. Witnesses must confine their answers to the questions. The presiding officer may wish to repeat this caution periodically.
5. Witnesses are not allowed to question other witnesses or committee members.
6. After questions are completed, the sponsor is allowed to "close" on the bill. Questions are not allowed after the sponsor closes.

F. QUESTION ETIQUETTE

1. Committee members may not question each other during the hearing. This type of questioning is reserved for executive action.
2. Courtesy is very important. Committee members may not abuse witnesses. The presiding officer may not tolerate the abuse of a committee member by a witness.
3. A member wishing to question a witness or other individual must first be recognized by the presiding officer for each question the member wants to ask. A presiding officer may want to limit the initial round of questions if one member seems to be asking several follow-up questions. The presiding officer may explain that other members will be given the opportunity to ask questions before additional follow-up questions from any member with a long list of questions.



G. ANTICIPATED EXECUTIVE ACTION

1. Normally, executive action is not taken at the time that a bill is heard. However, executive action might be taken the same day if, for example, the bill is noncontroversial, there is no opposition to the bill, it is readily understood by all members of the committee, the sponsor has no objection to immediate action, and all substantive amendments have gone through the editing process.

2. At the close of the hearing on a bill, the presiding officer may, as a courtesy to the public attending the hearing, state when executive action on the bill is contemplated. Stating when executive action is to be considered also allows early notification for drafting of amendments.
3. A presiding officer may consider scheduling executive action on a bill at the beginning of a future hearing in order to provide advance notice and ensure the proper parties are in attendance. Scheduling executive action at the beginning of a meeting may be an easier way to manage the time to hold executive action instead of waiting until after bills are heard as the amount of time needed may be harder to gauge. Executive action at the beginning of a meeting also may be a better way to handle space management in a crowded meeting room and to serve constituents waiting for action on a bill.
4. Among reasons for a presiding officer to delay executive action on a bill for more than a few meeting days are:
 - a. No fiscal note on a bill for which a fiscal note has been requested.
 - b. Action pending in the other house on a bill with the same purpose.
 - c. A hearing on a bill with a similar or even contrary purpose and a concern by the sponsor or committee members that the bills be debated at the same time.

H. EXECUTIVE ACTION

1. Executive action is the time for the committee to act on a bill. The executive action session is open to the public, but testimony is usually not taken from witnesses. However, if there are no objections from the committee or at the discretion of the presiding officer, a member may be allowed to ask questions of witnesses during executive action. This practice should be discouraged as it does not allow rebuttal or additional testimony from other points of view, but if it is allowed, fairness to both sides must be afforded.
2. A member must normally ask the committee staff to prepare proposed amendments before executive action is taken. This practice allows the proposed amendment to be written in accordance with the Constitution, existing statutes, and other provisions of the bill and to be amended, edited, distributed to the committee, and discussed. This is particularly true of extensive or complicated amendments that, if not prepared before executive action, may require a delay in order to allow the committee staff to write the amendments properly and to bring them to the committee for review.
3. Committee members may propose amendments to a bill during executive action. Although a witness may suggest an amendment during testimony, any amendment considered by the committee must be requested and moved by a member of the committee. All but the simplest of amendments must be requested ahead of time to allow staff to prepare

the amendment and to have it edited. "Conceptual" amendments are discouraged.

4. Simple amendments drafted after executive action may be approved by the presiding officer and incorporated into the committee report.
5. After all proposed amendments have been moved and acted upon, action is taken on the bill as amended. All amendments must be in the committee report.

If extensive amendments are offered or if several bills on a subject are before the committee, the presiding officer may appoint a subcommittee to work on the bill or bills.

I. VOTING IN COMMITTEE

1. All votes on amendments and bills must be recorded and made public.
2. If agreed upon by the presiding officer and the committee, an excused member may be allowed to vote by leaving a written vote or a proxy. Absentee voting procedures through the use of the standard form proxy required by both Senate and House rules should be established in the committee rules (see the sample of committee rules of procedure included at Appendix 2).
3. On many amendments and bills, a preponderance of the votes will be on one side of the question. The vote may be taken by a voice vote. Those not voting with the majority must be asked to identify themselves. The secretary is required to record the vote.
4. Any member may request a roll call vote. The secretary should call the roll in the order directed by the presiding officer.
5. Regardless of the voting method, the presiding officer should immediately announce the vote.
6. If a bill has been referred to a subcommittee, the subcommittee report is received during executive action in the form of recommended amendments. Action on the amendments proposed in the subcommittee report is the same as for all other amendments acted on by the full committee (although the report to the subcommittee is usually acted on as a "package" and not by a vote on each amendment recommended in the subcommittee report).
7. Senate rules prohibit the use of pairs in committee votes. (Pairs "pair" a proponent and an opponent so that a senator may vote in absentia.)

J. DISPOSITION OF BILLS AND MOTIONS

1. Following the hearing and during executive session, which may include consideration of amendments or subcommittee reports, a motion must be made to dispose of the bill.

2. A bill requiring a fiscal note may not be reported from the committee without a fiscal note.
 - a. The statute allows up to 6 days for the preparation of a fiscal note (up to 10 days if the bill requires an estimate of a fiscal impact on a local government or school district). If a fiscal note does not accompany the bill when the bill is assigned to the committee, the presiding officer should ask the Speaker of the House or the President of the Senate to request a fiscal note as soon as the need is indicated.
 - b. If the committee action has rendered an existing fiscal note inaccurate or has resulted in the need for a fiscal note, the presiding officer should ask the Speaker of the House or the President of the Senate to request a new fiscal note. There is a place for the secretary to indicate the need for a fiscal note when the committee reports are prepared by the amendments coordinator.
3. The appropriate motions on the bill in its entirety are as follows:
 - a. do pass;
 - b. do pass as amended;
 - c. be concurred in (for bills from the other house);
 - d. be concurred in as amended (for bills from the other house); or
 - e. table.

A bill requiring a fiscal note may not be reported out of committee until the fiscal note is available.

To table is a motion to set aside consideration of a bill. The bill remains in committee and is not reported to the floor. This motion is often used to finally dispose of a bill without requiring consideration by the Committee of the Whole. A motion to table is nondebatable, and a presiding officer may request to delay that motion if debate is appropriate.

4. A substitute motion may be made for any pending motion.
 - a. Only one substitute motion to the original motion may be offered.
 - b. Adequate discussion should be allowed before voting on each motion.
 - c. If a substitute motion is offered, it is voted on first.
 - d. If the substitute motion fails, the original motion is considered.
 - e. If the substitute motion and the original motion are opposing motions, the presiding officer may announce that, without objection, the vote on the substitute motion will be reversed and recorded as the vote on the original motion.

Other motions that are discouraged because they will use Committee of the Whole time and use resources for bills that are not approved (the “to table” motion is the appropriate motion – after allowing for discussion):

- a. do not pass;**
- b. do not pass as amended;**
- c. be not concurred in (bill from other house); and**
- d. be not concurred in as amended (bill from other house).**

5. When voting on complicated amendments, the question may be divided by segregating amendments into separate votes.
6. If the bill originated in the other house, arrangements should be made by the sponsor of the bill for a member to carry the bill in the Committee of the Whole. When the sponsor has not arranged for a member to carry the bill, the presiding officer may designate a member to move the bill.
7. The joint rules state that once introduced, a bill may not be withdrawn. However, Senate rules allow Senate committees to dispose of a bill without a hearing if so requested by the bill's sponsor. The request must be documented in writing to be included in the minutes as part of the permanent record.
8. Some presiding officers extend a courtesy to sponsors by advising the sponsor that a bill is likely to be killed in the committee in order to allow the sponsor time to suggest amendments to the committee. There is no rule requiring such a courtesy.
9. Other motions that may be used in committee:
 - a. To take from the table a motion to resume the consideration of a bill previously set aside.
 - b. To postpone action: consideration of the bill is delayed, often to a date certain.
 - c. To reconsider action: a motion to bring up a bill previously voted on but that has not yet been reported from the committee. The motion to reconsider action is usually made for the purpose of attempting to change a prior committee vote or to allow reconsideration of adopted or defeated bills or amendments.

K. COMMITTEE REPORT

1. A report is prepared for each bill that is recommended to the Committee of the Whole. If amendments are made to the bill, the committee staffer will prepare the amendments for inclusion in the committee report. The committee secretary must work with the committee staffer and the amendments coordinator of the appropriate house to prepare the committee report.
2. The report must be signed by the committee presiding officer. Before signing the report, the presiding officer should read the report to ensure that it accurately reflects the action of the committee. If the presiding officer is unsure whether all amendments are properly included in the report, the presiding officer should check with the committee secretary or committee staffer.
3. If a report needs to be changed for any reason (e.g., the committee wants to revote or a report has been erroneously prepared and signed), it can only be done if the legislation is still in the possession of the committee. (The rules expressly provide that a committee may reconsider an action until the committee report is given to the Secretary of the Senate or the

Chief Clerk of the House). Once legislation is no longer before the committee, in order to have the committee report changed, the bill must again be referred by the body to the committee. Other alternatives to changing the report include rereferring the bill to another committee or an amendment could be proposed in the Committee of the Whole.

L. COMMITTEE BILLS

1. Members of a legislative committee may, by motion and vote, request the drafting of what is known as a "committee bill". A committee bill is requested and is given its own LC number.
2. A committee bill may be on any subject generally within the jurisdiction of the committee and may arise from committee discussion of bills before the committee or just from an idea of one or more members of the committee, not related to legislation then before the committee, who can convince a sufficient number of other committee members to vote for its drafting.
 - a. In both the Senate and the House, three-quarters of the members of the committee must vote to request the drafting of a committee bill (except in the Senate Finance and Claims Committee, where a majority is sufficient). There are special request deadlines in the joint rules specifying the deadline by which a committee bill must be requested by a committee. If members of a committee are interested in a committee bill, Joint Rules should be consulted to be sure the request falls within the applicable bill draft request deadline (usually the 36th legislative day).
 - b. In Senate committees, once the committee bill has been drafted, the presiding officer of the committee must sign the bill, or designate another member to sign it, and introduce the bill. By tradition, the procedure is the same in the House.
 - c. Once the bill is before the committee, consideration of and committee action upon the bill by the committee, including the reporting of the bill and its transmittal to the other house, is the same as for other legislation of its type.

M. HANDLING EMERGENCIES

The presiding officer is responsible for appointing a person to handle emergencies outlined in Appendix 4 or for handling those emergencies personally.

IV. AUDIO COMMITTEE MINUTES: PROCEDURAL OVERVIEW

All standing committees will be recorded and archived for the 2011 session. Most of the committee meetings will be audiostreamed live via the Internet.

A. PRESIDING OFFICER

1. Before calling the meeting to order, the presiding officer should let the secretary know that the meeting is ready to begin. The secretary will turn the sound system on, and live broadcast to the Internet will begin. This will take a few seconds as the secretary needs to start the recording and will tell the presiding officer that it is recording. After being given the signal that the recording has been started, the presiding officer may start the meeting.
2. The presiding officer should use a firm gavel rap to start the meeting and clearly state into the microphone that the meeting is starting. If the presiding officer does not have a gavel, clearly state into the microphone that the meeting is starting.
3. The presiding officer should ensure that all committee discussion goes through the presiding officer.
 - a. The presiding officer recognizes each committee member by name when a member wants to address the committee, question the speaker, etc.
 - b. The presiding officer should ensure that each committee member is speaking near a microphone and can be heard through the in-room speakers.
4. The presiding officer should ensure that sponsors, proponents, opponents, and informational witnesses introduce themselves when testifying and speak into the microphone. If they are not audible to the sound system, their testimony will not be recorded. The presiding officer may request that witnesses spell their name for the record.
5. The committee may conduct committee business that is unrelated to the bills to be heard or acted upon in executive session before members are called to order and the meeting begins. For example, collecting money for the coffee fund or planning an end-of-the-session social gathering should be done before the meeting begins so that activity is not archived or broadcast to the Internet.
6. The presiding officer should clearly state into the microphone when each new bill hearing is beginning and when it has concluded. The audio recordings now have links to individual bill discussions, so it is important to have a consistent and identifiable start and end to the bill hearings. The presiding officer should clearly announce the start of the bill hearing, including the specific bill number before asking the sponsor to open the testimony.

7. During the meeting, the presiding officer should remind committee members to speak into the microphones. If they are not audible to the sound system, their statements will not be recorded.
8. The presiding officer may ask members of the audience to approach the podium microphone to respond to questions rather than speaking from their seats.
9. The presiding officer may wish to remind committee members that private conversations are best relegated to areas away from the microphones to prevent those discussions from being archived and broadcast over the Internet.
10. If the presiding officer calls for a break, the secretary should be notified in advance. Before calling the meeting back to order, the presiding officer should let the secretary know it is time to resume the meeting.
 - a. The secretary will turn off the sound system immediately when a break is called.
 - b. The secretary will turn the sound system on immediately prior to resumption.
11. If the sound system fails or another technical problem develops, the secretary will notify the presiding officer, who should stop the meeting for a short recess.
 - a. The secretary will attempt to fix the problem.
 - b. If the problem cannot be fixed and upon the presiding officer's approval, the secretary (or committee aide) will plug in table-top microphones and record the remainder of the meeting on the secretary's laptop computer. The meeting audio will be archived, but will not be broadcast live over the Internet.
12. The presiding officer should approve the Committee Business Report (written log) before leaving the meeting room. This will permit the minutes to be posted to the Legislative Branch website in a timely manner.

The presiding officer needs to sign the Committee Business Report before leaving the meeting room.

B. COMMITTEE SECRETARIES

This document is only an overview of the process. Secretaries should obtain and use the detailed instructions for the meeting process. The secretaries' duties are:

1. Before the meeting begins, the secretary will set up a laptop computer in the docking station, which connects the laptop to the network and the sound system. The secretary will start WordPerfect and create or open the minutes (log) for the meeting. The secretary will use the laptop computer to draft the minutes (i.e. written log) during the meeting. The secretary will start recording with the "Audacity" software on the laptop and will then open the "AVS Manager" software to start the live broadcast several minutes before the meeting begins.

2. Immediately prior to the start of the meeting when given the signal from the presiding officer that the meeting is about to begin, the secretary will turn on the sound system. The presiding officer may want to remind all attendees in the committee room that any conversations taking place in a hearing room may be recorded and possibly broadcast.
3. The secretary will alert the presiding officer to start the meeting and set the start time in the timestamp macro in WordPerfect when the gavel drops to start the meeting and insert a meeting start time stamp in the minutes document.
4. If the presiding officer calls for a break, the secretary will turn the sound system off but continue to record with Audacity and the AVS Manager and leave the timestamp macro running. The secretary should create a timestamp in the log and note that the committee took a break. Immediately prior to the resumption of the meeting, the secretary will turn on the sound system.
5. Immediately after the presiding officer ends the meeting, the secretary will turn off the sound system and stop the recording with the AVS Manager (this will end the live broadcast). The secretary will insert the meeting ended timestamp in the minutes document and export the Audacity mp3 file from the laptop to the appropriate location on the network.

Sound system failure:

1. If the sound system fails during the meeting, the secretary will immediately notify the presiding officer of the problem. The presiding officer will stop the meeting for a short recess. The Audacity recording and the timestamp macro should NOT be stopped.
2. With approval of the presiding officer, the secretary will set up the portable microphones on the tabletops. Once the microphones are in place and recording to Audacity, the secretary will notify and remind the presiding officer and others to speak loudly so as to be picked up by the portable microphones.
3. After the meeting ends, the secretary will save the Audacity file as usual and will immediately notify the supervisor that the sound tower failed during the meeting. The secretary will call the technical help desk, x0912, for assistance with copying the Audacity file from the laptop to the appropriate location on the network.

For technical help with the sound system, call extension 0912.

Laptop failure:

1. Should the secretary's laptop computer fail prior to or during a meeting, the secretary will notify the supervisor to get a replacement. If the sound system is operating normally, the meeting need not be stopped, but the secretary will have to create the minutes (written log) after the meeting

- ends using the archived audio file.
2. If the secretary's laptop fails during a meeting, the meeting should continue so long as the sound system is working. Following the meeting, the secretary will use the audio archive file from the Branch website to complete the minutes (log).

When sound system or laptop is unavailable:

Should a situation arise where a committee meeting is about to start and there is no working sound system or laptop available, the secretary or someone else should obtain a portable digital recorder from the secretarial supervisor and record the meeting with it. After the meeting, the secretary will contact the technical help desk, x0912, for assistance with copying the portable recorder file to the network for archiving.

Posting audio recording, minutes (log), and exhibits to the legislative website:

1. The Legislative Services Division will post the audio recording for each meeting to the Branch website as soon as possible after the meeting. Individuals who want to listen to a meeting will be directed to the website.
2. The secretary will have a Business Report for the presiding officer to sign in the hearing room when the meeting ends. It is important that the presiding officer sign the report before leaving the room. This report will include Bills and Resolutions heard and Executive Actions taken during the meeting and any other comments or business the presiding officer considers significant.
3. After the meeting the secretary will finalize the minutes and have them proofread. The secretary will take the signed Business Report, finalized minutes, attachments, and exhibits to the scanning technician (or the supervisor -- as determined by the secretarial supervisor). The secretary will also transfer the electronic copy of the minutes to the scanning directory for the committee on the network.
4. The scanning technician will scan the attachments and exhibits and link them to the minutes files electronically.
5. The Legislative Services Division will post the minutes, attachments, and exhibits to the Branch website.

APPENDIX 1 ORDER OF HEARING

1. Use gavel to call committee to order once quorum is believed present.
2. Ask committee secretary to take roll (by roll call for the listening audience); the presiding officer by custom announces those members absent and excused.
3. Make announcements.
 - a. This includes alerting members of the audience to:
 - i. Turn off cell phones.
 - ii. Make sure that any written information they submit to the committee contains their name and who they represent but no other personal information that the person testifying does not want to be made public. The testimony will be posted on the legislative website.
 - iii. Sign in on the witness sheet by legibly printing name and affiliation, if any.
 - b. This also includes notices regarding time management so committee members and audience know if there are time constraints on any particular bill.
 - c. Further notices may be made to committee members regarding training or other special information from leadership or staff.
4. Announce agenda for meeting:
 - a. bills to be heard that day and the order in which they will be heard;
 - b. bills to be acted on in executive action; and
 - c. any other informational sessions.
5. Open hearing on first bill.
 - a. Invite sponsor to make opening statement and welcome sponsor to committee.
 - b. After opening statement: Ask for proponents. Remind witnesses to sign in and spell their name for the committee secretary.
 - c. After proponents have spoken: Ask for opponents.
 - d. After opponents have spoken: Ask for any resource or informational witnesses. These are witnesses who are neither for nor against a bill but available to respond to functional questions about the proposal. The presiding officer may reclassify a resource witness as a proponent or an opponent, based on the comments the witness makes.
 - e. After witness testimony: Open for questions by committee members. During this question-and-answer period committee members do not debate the merits of the bill. That is done during executive action.
 - f. After questions, invite sponsor to make a closing statement.

A gavel is a tool for the presiding officer. It is used to open a meeting, close the meeting, and maintain decorum.

- g. Announce after closing statement that “This closes the hearing on (Bill Number) and thank the participants.
6. Repeat hearing procedure for other bills.
7. Executive action on bills
 - a. Committee member offers motion to begin debate: pass or do not pass.
 - b. Debate occurs.
 - c. Amendments may be offered at any time after the original motion, unless the original motion is to table, which is not debatable.
 - d. Vote on any amendments first, then on entire bill. This may require another motion to “do pass, as amended”.
8. Voting can be done by voice vote, a show of hands, or a roll call.
9. Wrap up with announcement of any subcommittee meetings, schedule for the next day’s hearings and executive action, and remind committee members to provide staff with any amendments that they want for upcoming bill hearings.
10. Use gavel to close the meeting.

APPENDIX 2

COMMITTEE RULES OF PROCEDURE

I. Public Hearings on Proposed Legislation

A. Hearing Process

1. At the time set for hearing, the presiding officer will recognize the sponsor of the bill who will make opening remarks (or introduce another individual who will make opening remarks).
2. Proponents of the bill will present testimony.
3. Opponents of the bill will present testimony.
4. Informational testimony may be accepted.
5. Questions will then be asked by committee members only.
6. Each question will be directed through the presiding officer.
7. All discussion will begin and end at the discretion of the presiding officer.
8. The sponsor of the bill will close the presentation.

B. Witnesses

1. All witnesses must enter their names on the witness list before presenting testimony and spell their name at the start of testifying.
2. Proponents and opponents should try to state new points of testimony only. If they wish to agree with points already made, they should simply say that they agree.
3. Witnesses presenting testimony before the committee should remain in the room until the hearing is closed to answer any questions from committee members.
4. When possible, written copies of testimony should be submitted for the permanent committee record and to help the secretary. The presiding officer may want to remind witnesses that any written testimony will be posted on the internet so they are responsible for redacting any personal information that they do not want made public.

C. General

1. Everyone will act and be treated in a courteous manner.
2. The presiding officer will maintain order within the committee room and the surrounding area during all committee meetings.
3. Suggested amendments to bills should be presented to the committee in writing.
4. Cell phones must be turned off or muted in the hearing room except in cases of true emergency.

- 5. Testimony requiring the use of video, audio, or other equipment will be permitted at the discretion of the presiding officer, if arrangements are made with the secretary in advance.
- 6. Absentee video or audio testimony is not permitted.

II. Executive Session

- A. Generally, executive sessions will not be held the same day as the public hearing on the bill, time permitting.
- B. Although executive sessions are open to the public, no comments may be made by anyone but committee members. On occasion, members of the public may be asked questions by committee members at the discretion of the presiding officer.
- C. Absentee voting by committee members is permitted through the use of the standard form proxy or through the vice presiding officer or minority vice presiding officer.
- D. Motions by committee members do not require a second.

III. Amendments

- A. Amendments to be presented to the committee for consideration during executive session must be requested by a committee member.
- B. All amendments must be submitted in writing to the committee staff at least one day prior to executive action on a bill. A simple amendment may be considered on shorter notice at the discretion of the presiding officer. For example, a change in a single date or number could be an amendment not presented in writing.
- C. Only members of the committee may move amendments to a bill while the bill is in the committee.
- D. If a presiding officer discusses potential executive action with the committee staff, the committee staff can prioritize amendment drafting.

IV. Sample Proxy Forms

Examples are based on past usage. Form may change per leadership or rules.

PROXY VOTE

I, the undersigned, hereby authorize Representative or Senator _____ to vote my proxy on any issue before the _____ Committee held on _____, 20__.

Signed _____
Representative/Senator

Date _____

COMMITTEE PROXY

I request to be excused from the _____ Committee because of other commitments. I desire to leave my proxy vote with: _____.

Indicate bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

House Bill/Amendment Aye No

Senate Bill/Amendment Aye No

Representative/ Senator _____ Date _____
(Signature)

APPENDIX 3

MOTIONS IN COMMITTEE

Proper motions in committee include:

1. To amend: the motion is to propose to change the bill in a specified manner.
2. Do pass: the bill is recommended to be placed on second reading as received by the committee.
3. Do pass as amended: the bill is recommended to be placed on second reading with amendments adopted by the committee engrossed into the second reading copy.
4. To table: a motion to set aside consideration of a bill. The bill remains in committee and is not reported to the Committee of the Whole. This motion is nondebateable and is often used to finally dispose of a bill without requiring consideration by the Committee of the Whole.
5. To take from the table: a motion to resume the consideration of a bill previously set aside.
6. Postpone action: consideration of the bill is delayed, often to a date certain.
7. Reconsider action: a motion to bring up a bill previously voted on but that has not yet been reported from the committee. The motion to reconsider action is usually made for the purpose of attempting to change a prior committee vote or to allow reconsideration of adopted or defeated amendments.
8. Be concurred in: the bill received from the other house is recommended to be placed on second reading in the form received by the committee.
9. Be concurred in as amended: the bill received from the other house is recommended to be placed on second reading with amendments adopted by the committee engrossed into the second reading copy.

Other motions that are allowed but are discouraged because they will use Committee of the Whole time and use resources for bills that are not approved (the table motion is the appropriate motion – after allowing for discussion time):

1. **do not pass;**
2. **do not pass as amended;**
3. **be not concurred in (bill from other house); and**
4. **be not concurred in as amended (bill from other house).**

APPENDIX 4
EMERGENCY GUIDELINES FOR PRESIDING OFFICER
(SUMMARIZED)

A. MEDICAL ASSISTANCE, SECURITY MATTERS, HOSTILE WITNESSES, OVERCROWDING, SOUND SYSTEM ISSUES

If during the course of a hearing or meeting the presiding officer or a committee member has concerns about someone in the hearing or any other matter, call or send someone to the Sergeant at Arms offices (in the House, Room 470 or call 444-4200 and in the Senate, Room 375 or call 444-4878), notify the nearest House or Senate security officer (in blue or burgundy blazers), the Capitol security officers (in uniform and at the first floor guard desk), or call Lenore Adams (Legislative Branch Emergency Action Team Coordinator) cell number 431-7890. The presiding officer, a committee member, or staff can call regarding medical assistance, security matters, hostile witnesses, overcrowding, sound system issues, or any other concern. The Sergeants at Arms can use radios or other means to summon security, Department of Administration General Services, Helena Police, or a medical response team, as necessary. All security personnel are connected by radios.

B. MEDICAL EMERGENCY

For a medical emergency, **call 911 immediately** and send a runner or make a call to the Sergeant at Arms office to summon in-building help. There are AED (Automated External Defibrillator) units on the second floor and at the guard's desk on the first floor. Personnel within the building are trained in their use. The in-building emergency response team will be activated by the Sergeants at Arms or security staff to assist until the EMTs arrive.

C. FIRE ALARM OR EVACUATION

In the event of a fire alarm or evacuation, the presiding officer and any staff member present should assist the Department of Administration General Services Division, security personnel, or orange-vested safety team member to clear the room, evacuate the building, and then report to the assembly area for check-in. The presiding officer and the staff should remain calm and help maintain a sense of authority and order. This is especially important to the visitors and guests to whom the procedures will be unknown. By encouraging others to cooperate and to stay together, a presiding officer can lead by example and help set the tone for the entire evacuation or event.

D. BOMB THREAT

In the event of a bomb threat, contact the Sergeant at Arms' office or call 911. This will initiate the Capitol Complex response. Do not pull the fire alarm for anything other than an actual or suspected fire.

E. SUSPICIOUS MAIL

For a threatening letter, note, or other suspicious mail, it is important to report it immediately to the Sergeants at Arms or security. Even if you think it is an isolated event or do not feel threatened, it is important to track these items because sometimes there are trends or the letters escalate to involve other Legislators. Do not handle the item further and do not expose additional people to it.

F. EARTHQUAKE

In the event of an earthquake, drop under a piece of furniture, cover your head and neck, and hold on until the movement stops. Then immediately evacuate the building while assisting those with injuries.

G. LOCKDOWN PROCEDURES

In the event that you hear gunshots or are warned to lockdown, immediately secure the doors, turn out the lights, stay quiet, and have everyone stay down on the floor. Call 444-3060 and give the committee name, location, and the number of people in the room. If there are life-threatening injuries or medical conditions, call 911 to report them. The lockdown procedures are in the bill cabinet in every hearing room (red/green hanging packet) for additional information on the evacuation procedure that will be followed after an incident. Once a lockdown has been declared, do not exit the room until police or security officers evacuate you.

H. COMMITTEE PROCEDURES

The presiding officer, the staff assigned to the committee, and the committee secretary should discuss beforehand the various exits from their hearing room (maps are posted above the light switch) and decide who will lead the way out and who will follow the group. All staff and legislators should have read and be familiar with the Emergency Action Plan for the Capitol Building. The Emergency Action Plan covers numerous scenarios in depth and offers an explanation of the Capitol Complex emergency procedures that the Legislature and staff follow. It will be distributed to you by the Sergeants at Arms.

It is vital that after an evacuation legislators and staff immediately report to the Sergeants at Arms at the assembly point so that everyone is accounted for as soon as possible. If you are aware of someone who may be trapped or is missing, it is your responsibility to report that information to a security officer or orange-vested safety person as soon as possible. If you have any questions about this material or other issues, please seek clarification from the Branch Coordinator or the Sergeant at Arms. Working together we can all be safer and more secure.

Updated October 2010, Lenore M. Adams, Legislative Branch Emergency Action Coordinator, Cell number 431-7890, Office number 444-4456.

APPENDIX 5

COMMITTEE WORK MANAGEMENT AND THE LAWS SYSTEM

LAWS stands for the **L**egislative **A**utomated **W**orkflow **S**ystem. The LAWS database provides the ability to run reports to manage your committee workflow. Committee secretaries can run the following reports on a daily or weekly basis to give you up-to-date information about the bills referred to your committee:

- Bills in Senate Committees
- Bills in House Committees
- 2-Week Hearing Calendar
- Appropriation and Revenue Bills

Other reports that you may find useful:

- Daily Summary of House Floor actions
- Daily Summary of Senate Floor actions
- Bill Draft Requests by Requester
- Bill Draft Requests by Subject
- Bill Drafts “By Request Of...(i.e. agency, interim committee)”
- Cumulative Drafts Request List
- Sections Affected Report
- Conflict Checking Report
- Session Laws Chapter Numbers

These reports are available to the general public through the legislative webpage in addition to search capabilities by subject matter, keywords, bill number, sponsor, and bill status. Preference lists can be developed for specific bills. See:

www.leg.mt.gov/laws.htm

Each legislator also has a webpage that includes a table for the bills that the legislator is sponsoring and also a table for the bills in the legislator’s committees. To get to a legislator’s webpage, click on the tabs “House” or “Senate” at the top of the main page:

www.leg.mt.gov

APPENDIX 6

COMMITTEE MEMBER RESPONSIBILITIES

Committee members are responsible for:

1. Knowing the rules, protocols (for example, asking questions through the presiding officer and knowing what to do in an emergency), and proper questioning of witnesses (for example, not treating them as if they were on trial in a court).
2. Providing amendments in advance to the committee staff for proper drafting and editing.
3. Showing up for committee meetings and paying attention to the work of the committee, in particular to bills being heard by the committee and to witnesses who are testifying on a bill. It is important to remember that colleagues who are not on the committee may rely on members of the committee to explain a bill heard in that committee (because as much as everyone would like to read ALL the bills, legislators often rely on committee members to explain the details.)

Complaints heard by the public include:

- a. Frequent absences from a committee meeting. (Apologies to committee members may assuage the situation.)
 - b. Use of a computer/cell phone in the committee room for e-mails or other work that does not appear to be related to the bill being heard by the committee.
 - c. Frequent snacking in a manner that indicates the member is not paying attention to the bill hearing. Getting coffee, etc., is best done between hearings on bills or between hearings and executive action.
4. Letting the presiding officer or the minority vice presiding officer know if the committee member is unable to attend a committee meeting and providing a written proxy for bills and amendments to the appropriate vice presiding officer.

Samples of hearing schedules are in Appendix 7. The committee members and presiding officer can determine which option best suits their needs to be informed.

APPENDIX 7
NOTIFICATION SAMPLES FOR HEARINGS/AMENDMENTS

Sample 1.

NAME OF COMMITTEE	
<u>Executive Action:</u>	
<ul style="list-style-type: none"> • SB XXX – Explanation (e.g. Revise ...) Amendments include: • SB YYY – Explanation (e.g. Prohibit...) Amendments include: 	Sponsored by Sen. ABC 1 from Sen. ABC 2 from Sen. DEF 1 from Sen. GHI Sponsored by Sen. GHI 1 from Sen. JKL
<u>Hearing Schedule:</u>	
Friday, Jan. 14	
<i>Hearings for:</i>	
SB ZZZ -- Explanation (e.g. Definition...)	Sponsored by Sen. MNO
Monday, Jan. 17	
<i>Hearings for</i>	
SB AAA -- Explanation (e.g. Repeal...)	Sponsored by Sen. PQR
<u>Still to be Scheduled:</u>	
SB BBB -- Explanation (e.g. Revise)	Sponsored by Sen. STU
SB CCC -- Explanation (e.g.Repeal...)	Sponsored by Sen. VWX
SB DDD -- Explanation (e.g. Add....)	Sponsored by Rep. YZA

Sample 2.

NAME OF COMMITTEE					
Bill #	Hearing Date	Description/Sponsor	Amendments	Fiscal Note Needed	Exec. Action Date
HB 2010	1/14	Revise statutes on – Sponsored by Rep. YZA	HB AAA.01 for Rep. Smith	No	1/17
HB 2011	1/17	Repeal XYZ – Sponsored by Rep. Black	HB ZZZ.01 for Rep. Jones	No	1/19
HB 2012	1/17	Revise definition of --- Sponsored by Rep. White	none	Yes	Not set yet