

# CHAPTER 7: MAKING PUBLIC POLICY THROUGH BILLS AND RESOLUTIONS

## Introduction

This chapter explains how the Legislature makes public policy through bills and resolutions. Citizens also have the power to create or amend law by initiative or referendum. These citizen-initiated processes are not addressed in this handbook.

## Overview of Bills and Resolutions

### Bills



A bill is a proposal sponsored by a legislator to amend or repeal existing law or establish new law. A few types of bills are described below.

Others are described in the *Bill Drafting Manual* published by the Legislative Services Division.

- ✓ **General bill.** A bill that amends or repeals statutes or establishes new statutes that govern the state.
- ✓ **Appropriation bill.** A bill that authorizes the expenditure of state money for a specific purpose. Appropriation bills must originate in the House of Representatives.
- ✓ **Revenue bill.** A bill that increases or decreases revenue (i.e., fines, fees, taxes, penalties).

- ✓ **Constitutional amendment.** A bill that proposes a constitutional amendment by legislative referendum. If the bill is approved by two-thirds of the members of the Legislature, it is referred to Montana voters.

- ✓ **Referendum.** A bill that orders a vote and approval by the electorate before the bill becomes law.

### Resolutions

Resolutions are actions of the Legislature for a variety of purposes. Resolutions do not have the force of law. Some common types of resolutions are described below. Others are described in the *Bill Drafting Manual*.

- ✓ **Simple resolution.** A simple resolution may be used to adopt or amend the rules or otherwise provide for the internal affairs of the house adopting the resolution. In the Senate, simple resolutions are used to confirm the Governor's nominations for appointments.

- ✓ **Joint resolution.** Some of the uses of a joint resolution are to:
  - amend, adopt, or repeal Joint Rules;
  - express support for or disapproval of federal legislation;

- request an interim study;
- send a request to a state agency, Congress, or the President;
- express sympathy to relatives of a deceased legislator;
- ratify or propose amendments to the U.S. Constitution;
- request amendment, adoption, or repeal of Executive Branch administrative rules; or
- approve construction of a state building.

Authorized uses of a joint resolution are specified in the Joint Rules.

## ■ Requirements for Bills: Tips for Legislators

A thorough review of requirements that affect bills is beyond the scope of this handbook. A legislator may begin to become more familiar with these requirements by reviewing the *Bill Drafting Manual*, which references selected provisions relating to bill drafting, and the provisions of the *Rules of the Montana Legislature* that deal with legislation.

Legislators should be aware of the constitutional requirements summarized below.

- ✓ A bill may not be amended after introduction so as to change its original purpose.
- ✓ A bill may contain only one subject, which must be clearly expressed in

its title. (Exceptions are made for general appropriation bills and bills for the codification and general revision of laws. The constitution clarifies what qualifies as a general appropriation bill.)

- ✓ An appropriation may not be made for religious, charitable, industrial, educational, or benevolent purposes to any private individual, private association, or private corporation not under the control of the state.
- ✓ A law may be challenged on the ground of noncompliance with Article V, section 11, of the Montana Constitution (including the provisions listed above) only within 2 years after its effective date.

A few additional requirements in statute or rule are summarized below.

- ✓ Statutes are effective October 1 following passage and approval except for:
  - laws appropriating public funds for a public purpose;
  - statutes providing for the taxation or imposition of a fee on motor vehicles;
  - statutes enacted during a special session of the Legislature; or
  - laws that provide a different effective date. (This practice is discouraged.)
- ✓ A bill may not be introduced or received in a house after that house has finally rejected a bill designed to accomplish the same purpose. The Rules Committee of the appropriate

house may approve exceptions to this rule.

- ✓ It is a crime, punishable by fine or imprisonment, to knowingly making a false entry or false alteration in a bill or law.

## ■ The Drafting Process: From Idea to Introduction

The drafting process begins when a legislator requests that a bill or resolution be drafted. This section reviews the policies that govern requesting and drafting of bills and resolutions and provides a step-by-step overview of the process.

### ■ Who May Request Bills or Resolutions

The following individuals or committees may request that bills or resolutions be drafted:

- ✓ a person entitled to serve in the next session of the Legislature;
- ✓ a standing committee of the Legislature; or
- ✓ an interim or other statutory legislative committee.

The eligible requesters listed above may request that legislation be drafted at the request of Executive Branch officials or agencies.

### ■ Limitations on Drafting Requests

Under the current Joint Rules, an individual who will serve in the 2011 session may request:

- ✓ an unlimited number of bills or resolutions before 5 p.m. on December 5, 2010; and
- ✓ up to seven bills or resolutions after December 5. Only two of these seven bills or resolutions may be requested after noon on January 3, 2011. All general bills and resolutions must be requested by the 10th legislative day; deadlines for other bills and resolutions, including committee bills, are established in the Joint Rules.

After December 5, 2010, an eligible requester may grant any unused requests to another person entitled to serve in the next legislative session. Existing requests may not be transferred.

### ■ Bill Drafting Services

Each request is assigned to a research analyst or attorney from the Legislative Services Division based on expertise and workload. The drafter is an impartial technician whose function is to translate the objectives and proposed policies of the requester into clear, concise, and unambiguous language.

Current Joint Rules require that bills and resolutions be reviewed by the staff of the

Legislative Services Division prior to introduction for proper format, style, and legal form. The *Bill Drafting Manual* establishes the format and style guidelines.

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PRIOR TO INTRODUCTION, DRAFT BILLS AND RESOLUTIONS ARE REVIEWED BY AN ATTORNEY, AN EDITOR, PROOFREADERS, AND THE EXECUTIVE DIRECTOR OF THE LEGISLATIVE SERVICES DIVISION, IN ADDITION TO THE DRAFTER.

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The drafter will:

- ✓ draft the bill or resolution in accordance with the *Bill Drafting Manual* and applicable law;
- ✓ identify potential conflicts with state and federal constitutional provisions and notify the requester of these conflicts;
- ✓ contact persons identified by the requester for information, if necessary;
- ✓ identify decisions that need to be made by the requester; and review existing statutes to avoid conflicts, duplication, or confusion.

Upon request and time permitting, the drafter may conduct research and identify options for the requester or provide background information related to the bill.

The drafter may not:

- ✓ express personal thoughts or promote self-interest;
- ✓ prepare speeches for individual legislators; or
- ✓ make decisions that determine the policy to be implemented or articulated through a bill or resolution.

Prior to introduction, draft bills and resolutions are reviewed by an attorney, an editor, proofreaders, and the Executive Director of the Legislative Services Division, in addition to the drafter.

#### ■ Providing Direction to the Drafter

Legislative Council rules require that all bill drafting requests provide sufficient information to allow the request to be entered into the Legislative Automated Workflow System (LAWS).

The following questions are designed to help a legislator prepare a bill draft request.

- ✓ What exactly is the problem to be solved? If applicable, what are the undesired effects of the current law?
- ✓ Who has experienced the problem?
- ✓ What results are desired?
- ✓ What is the proposed solution to the problem?
- ✓ What action should the government take to solve the problem? Do you know of existing statutes that should be changed to achieve your proposed solution?
- ✓ Is there a document or "draft bill" prepared by a citizen, agency, lobbyist, or any other entity that may serve as a model or provide guidance for your bill? Provide a copy if you have one. (You may request that Legislative Services Division staff make a copy and return the original to you.)
- ✓ Is there legislation from another state that may serve as a model for your bill? Provide a copy of the legislation if you have one. If you are aware of any information that will help to find the legislation (state, date, bill or law number), provide this information.
- ✓ Is the proposed solution based on an idea that you heard or read about? Provide any reference information that you are aware of. Where did you hear or read about it? Do you have a copy of an article that you can provide?
- ✓ Does the solution require additional money for implementation? How should the money be raised or from what existing source should it come? (Mandates to local governments must authorize a source of funding.)

Prospective requesters who are not prepared to answer these questions may ask for information from research analysts or attorneys of the Legislative Services Division or may request that a resolution requesting an interim study be drafted.

After a request is received, the requester will be asked to provide additional guidance through responses to questions posed by the drafter or review of a draft bill or resolution.

#### ■ **Prioritization of Drafting Requests**

The general rule that applies to drafting the first five requests from persons who will serve as legislators in the next session is: "first in, first worked on". After the first five bills or resolutions have been drafted for all requesters, remaining requests are drafted in order of request. As is often the case with general rules, there are many exceptions; most are listed below.

✓ After a draft bill or resolution has been submitted for legal review, the requester may make changes to the draft only one time without losing priority. If the changes are requested in accordance with deadlines specified in Legislative Council rules for notifying the drafter of potential revisions and for providing requested revisions, the request retains its original priority. If these deadlines are not met or if the requester submits subsequent revisions, the request is treated as if it were a new bill draft request for purposes of prioritization.

✓ The President of the Senate, Senate Minority Floor Leader, Speaker of the House, and House Minority Floor Leader may each direct the Legislative Services Division to assign a higher priority to 10 draft requests.

✓ A request must be assigned a higher priority when jointly directed by:

- the leadership of both houses as provided in the Joint Rules; or
- the Senate and House.

#### ■ **Monitoring and Changing the Status of Bills**

The requester should periodically review all drafts requested and take action to change the status or move the request forward, if needed. The status of bills can be easily monitored using the Legislative Automated Workflow System (LAWS) on the Legislative Branch website to generate a list of requests by requester and noting the status of each. Requesters

may do this themselves using the Internet or may ask Legislative Services Division staff to generate the list for them. (See Chapter 13 for information about the LAWS.)

At various points in the process, the "ball is in the legislator's court". For example, when the status system says "Draft to Requester for Review" or "Draft Ready for Delivery", the requester is being asked to take action. The requester should not hesitate to contact the bill drafter anytime that the requester has a question about the status of a request.

A requester may cancel a request or place it on "hold" anytime before introduction. Legislators can help to ensure that state government resources are used efficiently and that all legislators are best served by:

✓ notifying the drafter that a request should be placed on "hold" if the legislator is uncertain as to the best approach or is not sure that the bill or resolution merits further effort. Placing the draft on "hold" allows the drafter to work on requests for other members who are "ready to go".

✓ canceling requests for bills or resolutions that are not desired.

#### ■ **Preintroduction**

Bills or resolutions drafted prior to the legislative session may be preintroduced before the legislative session and assigned a bill number.

Preintroduction allows the Legislature to "hit the ground running" by facilitating the

assignment of bills to committees so that presiding officers may schedule hearings. With a few exceptions, bills drafted at the request of an interim or other statutory legislative committee (including Executive Branch proposals) must be

preintroduced. Deadlines are specified in the Joint Rules. All preintroduced bills must be sponsored by a legislator. The legislator must comply with the instructions provided by the Legislative Services Division for signing and returning the bill by the deadline or the request will be canceled.

## Request to Introduction: Step-by-Step

- ① **Request.** An eligible requester may request that a bill or resolution be drafted by completing a form available from the Legislative Services Division or by contacting the Division.
- ② **Request assigned -- displayed on website.** The request is assigned to a Legislative Services Division research analyst or attorney, usually by the Director of the Legal Services Office or the Executive Director. The request is summarized in an unofficial short title and displayed through the LAWS on the Legislative Branch website. The request and any information that the Legislative Services Division has related to the request are public information. The information may be viewed or copied by any interested person.
- ③ **Drafting.** The drafter writes a draft bill or resolution and provides the services identified above (see "Bill Drafting Services"). The drafter will notify the requester if information or guidance is needed. If the information is not available for a day or more, the bill is put on "hold" until the information is available.
- ④ **Draft to requester for review.** A draft is mailed or delivered to the requester for review, along with a form. The requester fills out the form to indicate the appropriate instructions and returns the signed form to the drafter. The drafter may put the draft on "hold" or forward the draft to legal review if the drafter has not heard from the requester within a specified timeframe.
- ⑤ **Draft to legal review and edit.** The draft is reviewed and corrected, if necessary, by a Legislative Services Division attorney and an editor. Once the draft has been submitted for legal review, the request may lose its priority if changes are requested (see "Prioritization of Drafting Requests" or Legislative Council rules).

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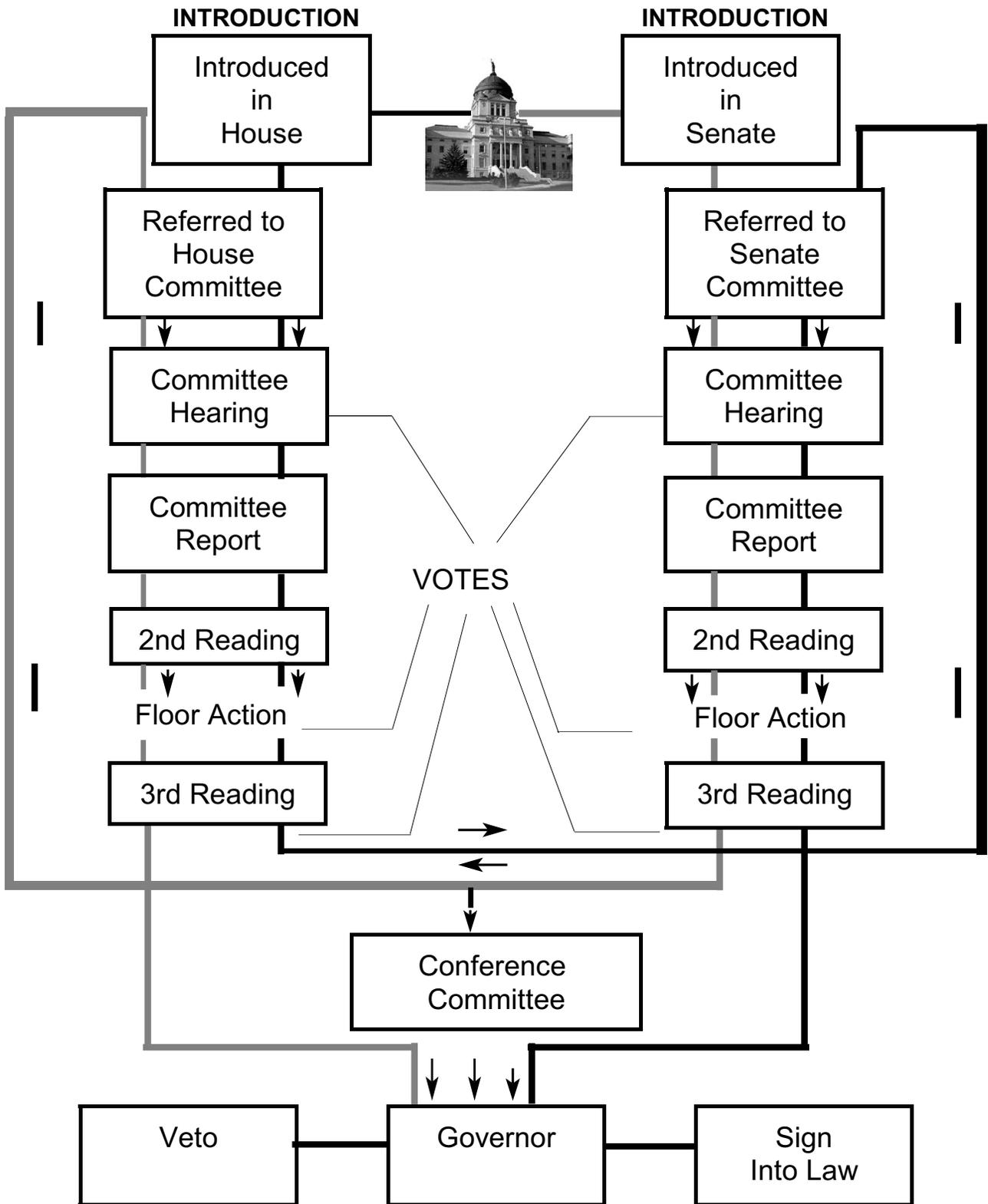
- ⑥ **Draft available on website.** After corrections have been made as a result of legal review and edit, the draft text is posted to the Legislative Branch website. An updated version is posted whenever the document is revised or amended.
- ⑦ **Final review.** The draft is reviewed by proofreaders, the drafter, and the Executive Director, and any necessary corrections to proper format, style, and legal form are made.
- ⑧ **Notice to requester.** A notice is delivered to the requester providing instructions for introduction or preintroduction.
- ⑨ **Requester picks up bill.** Only the requester may pick up the bill. Once the bill has been picked up, it is considered "delivered" and must be introduced within 2 legislative days. (Before the session begins, the legislator may follow the instructions provided for preintroduction.)
- ⑩ **Introduction.** Except for appropriation bills, any legislator may introduce the bill. (An appropriation bill may be introduced only by a representative.) A senator may introduce a bill or resolution by signing it and delivering it to the Secretary of the Senate. A representative may introduce a bill or resolution by signing it and delivering it to the Chief Clerk of the House. Signatures of cosponsors or a joint chief sponsor from the other house may be gathered before introduction. (Instructions for preintroduction are provided to the requester.) Once the bill or resolution is introduced, it may not be withdrawn or canceled by the requester or sponsor.

If a local government fiscal impact statement is required, it must accompany the bill at the time that it is presented for introduction (see "Information About Bills: Fiscal Notes and Other Statements" below).

## ■ How a Bill Becomes a Law

This section outlines the general process for making a law, from the time when a bill is introduced until the bill becomes a law. It includes a step-by-step overview of the process, oriented to the bill's sponsor, and information about preparation of amendments. **Figure 7-1** illustrates the process in general terms.

Figure 7-1. Flow Chart of the Legislative Process



## ■ Step-by-Step Overview

The process outlined applies to bills that are proposed laws. Approved resolutions are not laws. Proposed constitutional amendments and referendum measures are subject to approval of the voters. These measures follow most, but not all, of the same steps; however, they are not sent to the Governor for action. The appropriations process is reviewed in a subsequent section.

The bill may not always proceed through the steps in this sequence; for example, the house that has the bill may approve a motion to refer the bill to another committee or take the bill from committee and place it on second reading. A legislative body may reconsider its action at various points.

- A. Introduction.** The bill is signed by the sponsor. Bills sponsored by senators are filed with the Secretary of the Senate. Bills sponsored by representatives are filed with the Chief Clerk of the House. The presiding officer of the house (President of the Senate or Speaker of the House) requests a fiscal note for the bill, if a fiscal note is needed. The bill is assigned a bill number.
- B. First reading, first house, and referral to committee.** The bill's number, sponsor, and the committee to which the bill has been referred by the presiding officer are announced in the first house.
- C. Committee hearing.** The committee holds a public hearing. The hearing begins with an opening statement by the sponsor. The presiding officer should be notified as early as possible if the sponsor cannot appear at a scheduled hearing. A sponsor may distribute copies of a written statement to all committee members before beginning the sponsor's testimony. A brief written document is a valuable reference. If the sponsor wishes to use visual aids, the committee secretary should be notified at least 1 day in advance of the hearing. If a sponsor has arranged for a number of individuals to speak as proponents, the sponsor should encourage them to avoid repeating the testimony of the others. A sponsor may make a closing statement.

The committee hearing is a critical step in the process of lawmaking. Many bills never proceed beyond this step. The hearing is an opportunity for the sponsor to: explain why the bill is needed; educate members about the bill so that they can speak to the bill on the floor; respond to any concerns raised by witnesses; and suggest amendments, if warranted. The sponsor may also follow up with committee members between the hearing and executive action. If the sponsor desires an amendment to the bill, the sponsor should ask a committee member to request that the amendment be drafted before executive action and move the amendment during executive action. Amendments are usually drafted by the committee research analyst or attorney who will be present and able to explain the amendment when action is taken.

- D. Committee consideration and action.** Action by the committee is usually not taken on the same day as the hearing. (See Chapter 8 for a thorough discussion of actions that may be taken by the committee.) If the committee recommends further consideration by the appropriate house ("do pass", "do pass as amended", "do not pass", or "do not pass as amended"), a committee report is prepared. If the committee does not recommend consideration by the appropriate house, the bill does not move beyond this point until further action is taken.
- E. Committee report.** The committee report, along with the text of any amendments approved by the committee, is printed in the daily journal. The report is adopted upon a motion in the Senate. In the House of Representatives, without objection, a favorable committee report is considered adopted upon reading. If a fiscal note is required, the bill may not be reported out of committee without the fiscal note.
- F. Second reading, first house.** The Committee of the Whole in the sponsor's house debates the bill. Amendments may be moved and voted on. After any amendments are considered, the bill (as amended, if applicable) is voted on.
- G. Committee of the Whole report.** When a Committee of the Whole report is adopted that includes a majority vote for a favorable recommendation, any amendments are engrossed into the bill and it moves to third reading. A member may move to segregate legislation prior to the adoption of the Committee of the Whole report. If the motion prevails, the bill remains on second reading.
- H. Third reading, first house.** A bill may not be amended or debated on third reading. Each member's vote must be recorded and printed in the journal. An extraordinary (greater than majority) vote is required for certain bills. (A section in the bill will note the requirement.) The third reading vote determines whether or not this requirement has been met. Except on the last legislative day, second and third reading may not take place on the same day.
- I. Transmittal.** The bill is transmitted to the other house. Deadlines for transmittal of various types of bills are established in the Joint Rules. After the deadline, a bill may be considered by the receiving house only upon approval of two-thirds of its members present and voting. (Compliance with transmittal deadlines helps the Legislature to maintain a pace of work that facilitates completion of its business within 90 days.)
- J. First reading, second house, and referral to committee.** See step B.
- K. Committee hearing.** See step C. Because the bill's sponsor will not be present during Committee of the Whole debate in the second house, the bill's sponsor may want to arrange for a member in the second house to be a floor sponsor. The sponsor should notify the committee's presiding officer if a floor sponsor has been arranged. Otherwise, the committee presiding officer will designate a committee

member to act as floor sponsor if the bill is recommended for further consideration by the appropriate house.

- L. Committee consideration and action.** See step D. If the committee recommends consideration by the appropriate house ("be concurred in", "be concurred in as amended", "be not concurred in", or "be not concurred in as amended"), a committee report is prepared. If there is another live bill with a conflicting provision, the committee should adopt an amendment providing a coordination instruction. The coordination instruction typically voids a provision if a conflicting provision is passed.
- M. Committee report.** See step E.
- N. Second reading, second house.** See step F.
- O. Committee of the Whole report.** See step G.
- P. Third reading, second house.** See step H. A bill passed on third reading in the second house, if not amended by the second house, will have passed both houses in an identical form. The bill then proceeds to step T "Enrolling". If the bill is amended in the second house, it is returned to the original house with a message requesting concurrence in the amendments. Deadlines are established in the Joint Rules for transmittal of various types of bills with amendments.
- Q. Consideration of amendments of second house by first house.** Concurrence with the amendments of the second house is first considered by the Committee of the Whole. If the Committee of the Whole recommends concurrence and there is a favorable vote on third reading, the bill proceeds to step T "Enrolling".

If a Committee of the Whole report is adopted that recommends the amendments not be concurred in, the first house usually appoints a conference committee and requests a conference with the second house.

- R. Conference committee.** Unless a free conference committee has been appointed, the conference committee is limited to consideration of the disputed amendment. The committee may recommend: acceptance or rejection of each disputed amendment in its entirety; or further amendment of a disputed amendment. A free conference committee may discuss a bill in its entirety.

Conference committee meetings are joint meetings of separate committees. The presiding officer of the Senate committee is the chair of the conference committee. Each committee votes separately.

The time and place of conference committee meetings must be agreed upon and announced from the rostrum.

- S. Conference committee report.** If a conference committee report is agreed to by a majority of the committee members from each house, the committee report is debated by the Committee of the Whole in each house. If the Committee of the Whole recommends concurrence, upon a favorable vote on third reading, the bill proceeds to step T "Enrolling". (If the conferees do not approve a committee report or the conference committee report is not adopted by either house, various approaches may be pursued. The bottom line is that the bill will not become law unless both houses approve the bill in the same form on third reading. This may be done by adopting the same conference committee report.)
- T. Enrolling.** The bill is printed in the form that it was approved by both houses.
- U. Signature of presiding officers.** The enrolled bill is delivered to the presiding officer of the first house. The bill is signed and recorded in the journal and then transmitted to the other house. The presiding officer of the second house signs the bill and it is recorded in the journal. If the bill is a resolution, referendum, or constitutional amendment, the bill is transmitted to the Secretary of State. All other bills go to the Governor.
- V. Governor's action.** If the Governor signs the bill, it becomes law. If the Governor does not take action on a bill, it becomes law after 10 days. All laws are filed with the Secretary of State. (The work does not end here; see "Codification and Publication of Laws" below.)

The Governor has the option of using three types of vetoes:

- ✓ **Veto.** Disapproval of the entire bill.
- ✓ **Item veto.** Disapproval of a specific appropriation.
- ✓ **Amendatory veto.** The Governor returns the bill to the Legislature with recommendations for amendment.

- W. Consideration of Governor's amendments.** Governor's amendments may be:

- ✓ recommended for approval on second reading and approved on third reading by both houses; or
- ✓ rejected by one or both houses of the Legislature.

The bill goes back to step V.

- X. Veto override.** The Legislature may override a veto or an item veto by a two-thirds vote of the present members of each house. If the Legislature is not in session and the bill was originally approved by two-thirds of the members of each house, the Secretary of State must convey the veto message and poll the members. If two-

thirds or more of the members of each house vote to override the veto, the bill becomes law.

## ■ Amendment Drafting Services

Amendments are drafted by Legislative Services Division research analysts and attorneys at the request of legislators. (See the following section for amendments to appropriation bills.)

Because an amendment may be considered only if a motion is made by a legislator, staff are not authorized to draft amendments at the request of a citizen, lobbyist, agency staff member, or any other person who is not a legislator.

A legislator who wishes to move an amendment (including an amendment that has been written by a lobbyist, agency staff member, or any other person) must authorize Legislative Branch staff to prepare the amendment. This should be done before the body takes action on the bill. This is easily done by contacting the amendments coordinator or by signing a short note and having it delivered to the drafter by a page. (The legislator may also contact the drafter by phone, in person, or by electronic mail.)

Amendments are nearly always drafted by the research analyst or attorney assigned to the committee that is considering the bill. That person continues to draft amendments to the bill for the Committee of the Whole or a conference committee until another standing committee amends the bill. Sometimes amendments are assigned to other staff, based on workload and expertise.

Any legislator who is not sure whom to contact for amendment drafting may contact the amendments coordinator for the member's house or the Legislative Services Division.

If approved, an amendment to a bill becomes law. A substantial amount of time and effort is devoted to drafting bills and resolutions so that Montana's laws can be clear and consistent; amendments deserve the same attention. Although many suggested amendments appear to be simple, some behind-the-scenes work and careful review by trained staff are necessary to write amendments that result in clear and consistent laws.

Amendments drafted by Legislative Services Division staff are reviewed by skilled editors. Staff will perform the following services:

- ✓ ensure that changes made by an amendment are reflected in the bill's title in order to comply with the Montana Constitution;
- ✓ evaluate whether or not the amendment would change the original purpose of the bill in violation of the Montana Constitution;
- ✓ review the entire bill and references to sections that occur in other laws to ensure that any changes are made consistently in order to avoid conflicts in the laws;
- ✓ identify the need for coordination instructions when provisions of two bills conflict;

- ✓ ensure compliance with format and style guidelines;
- ✓ review the entire bill in light of the proposed amendment to identify any portions that require clarification; and
- ✓ if desired, suggest additional amendments that are necessary or desirable in order to accomplish the requester's goal.

## ■ The Appropriation Process

This section provides general information about the appropriation process. Anyone interested may obtain more detailed information from the Legislative Fiscal Division, which prepares excellent training materials for legislators.

All appropriation bills must be sponsored by a representative and introduced in the House of Representatives. Deadlines for transmittal of appropriation bills are later than the deadlines for general bills. Current rules do not establish a deadline for requesting appropriation bills.

### ■ General Appropriations Bill

The general appropriations bill (by tradition House Bill No. 2) is the vehicle through which the majority of appropriations that fund state government agencies are made. Because of the size and complexity of House Bill No. 2, the bill is reviewed following a process that is different from other bills. The bill is divided into sections composed of the budgets of agencies with similar functions. Each section is reviewed by a subcommittee consisting of members of the Senate Finance and Claims and

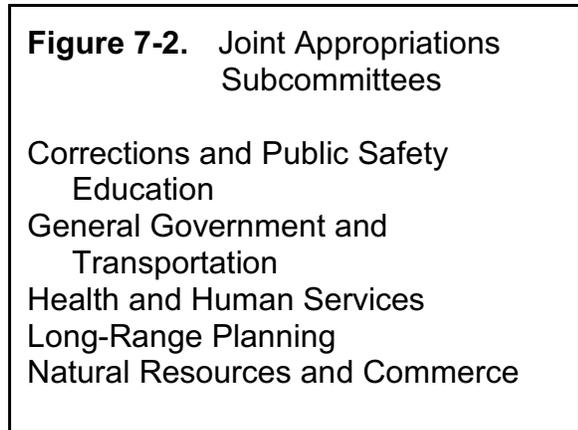
House Appropriations Committees. (See **Figure 7-2** for a list of the joint subcommittees.) The presiding officer of each subcommittee is a member of the House of Representatives.

Traditionally, the steps for consideration of House Bill No. 2 during the legislative session are as follows:

- ① **Review and recommendation by appropriations subcommittees.** The subcommittees hear testimony from agency staff and the public.
- ② **Consideration by House Appropriations Committee.** The committee prepares a substitute bill for consideration by the Committee of the Whole.
- ③ **Consideration by House of Representatives.** The bill is debated and amended in the Committee of the Whole, then considered by the House of Representatives on third reading.
- ④ **Transmittal to Senate and referral to Senate Finance and Claims Committee.**
- ⑤ **Consideration by Senate Finance and Claims Committee.** The committee amends the bill and reports to the Senate.
- ⑥ **Consideration by Senate.** The bill is debated, and any amendments are considered in the Committee of the Whole, then considered by the Senate on third reading.

- ⑦ **Free Conference Committee.** The free conference committee may recommend amending the bill in order to implement other bills with a fiscal impact that have been approved without an appropriation. When both houses adopt the free conference committee report, the process is the same as for other bills.

The Legislative Fiscal Division produces several documents that provide useful information for the appropriation process, including the *Legislative Budget Analysis*, available at the beginning of the legislative session, and the *House Bill No. 2 Narrative*.



- **Other Appropriations**

Certain appropriation bills are traditionally considered by the Joint Appropriations Subcommittee on Long-Range Planning before they are referred to the House Appropriations Committee.

Other appropriation bills follow the same path as any other bill. Bills may be referred to another standing committee in addition to the Senate Finance and

Claims Committee or the House Appropriations Committee.

- **Amendments**

All amendments to House Bill No. 2 are drafted by fiscal analysts from the Legislative Fiscal Division. For amendments to other appropriation bills, a legislator may contact the amendments coordinator, the Legislative Fiscal Division, or the Legislative Services Division.

## ■ How to Read a Bill

A few tips for reading a bill follow.

- **Title**

The bill's title begins near the top of the first page. The title must clearly summarize the contents of the bill. Reading the title is a good way to get an overview of what is proposed.

- **Preamble**

Some bills include an optional preamble. The preamble follows the title and includes one or more clauses that begin with "WHEREAS". The preamble is a preliminary statement of the reasons for enactment of the law.

- **Underlined Words**

New words that are to be included in an existing section of law are underlined, while the language in current law is not underlined, as illustrated:

An interim committee shall review administrative rules and draft legislation.

### ■ **Underlined and Capitalized Words**

Words that are added to a bill by amendment after introduction are underlined and printed in capital letters, as illustrated:

An interim committee shall review administrative rules AND DRAFT LEGISLATION.

### ■ **Stricken Words**

Words that will be deleted from the bill or from an existing section of law if the bill is approved are stricken, as illustrated:

An interim committee shall review administrative rules ~~and monitor agency functions~~.

### ■ **Sections**

Each bill is broken into sections. A section may include proposed amendments to a single section of existing law, such as a numbered section of the MCA, or a section may propose a new section of law. A new section is identified as illustrated.

NEW SECTION. **Section 2.**  
**Reports to legislative council.**  
Each interim committee shall provide periodic written reports to the legislative council.

The text of a new section is not underlined unless it is amended during the legislative process.

### ■ **Definitions**

Some sections of law contain definitions that apply to specified chapters, parts, or sections. An understanding of applicable definitions can be essential to interpreting the policy to be established by the bill.

### ■ **Nonsubstantive Changes**

Whenever a section of existing law is substantively amended in a bill, Legislative Services Division staff are required to amend the language, without changing its meaning, as necessary to comply with the format and style guidelines in the *Bill Drafting Manual*. This is also a means of "cleaning up" archaic language in the MCA. Therefore, some of the underlined and stricken text may indicate nonsubstantive changes.

### ■ **Repealer**

If the bill proposes to repeal sections of existing law, it will include a separate section labeled "repealer", which contains a list of the repealed sections and their short titles. Repealed sections must also be listed in the title. The text of the repealed section is not included in the bill. Legislators may ask committee staff to provide them with a copy of the text of the repealed section.

### ■ **MCA Numbering**

The MCA is divided into titles. Titles are further divided into chapters. Chapters are further divided into parts.

For example, the laws in Title 75 deal with environmental protection. Within Title 75, there are numerous chapters; one of these (chapter 2) is devoted to air quality laws. Within chapter 2, there are several parts. One of these parts is devoted to asbestos control.

The title, chapter, and part can be determined from the MCA section number. For the MCA section aa-bb-ccc:

- ✓ "aa" refers to the number of the title;
- ✓ "bb" refers to the chapter number; and
- ✓ the first "c" refers to the part number.

## Information About Bills: Fiscal Notes and Other Statements

### ■ Fiscal Notes

A fiscal note is an analysis of a bill's dollar impact on state or local revenue, expenditures, or fiscal liability. Except for bills that appropriate a specific dollar amount, a fiscal note must be prepared for every bill that affects the revenue, expenditures, or fiscal liability of the state, a county, or a municipality.

Fiscal notes must be requested by the presiding officer of the house at the time of introduction. The presiding officer determines the need for a fiscal note, based on the recommendation of Legislative Services Division staff. A fiscal note may also be requested through the presiding officer by:

- ✓ a committee considering the bill;

- ✓ a majority of the members of the house considering the bill at second reading; or
- ✓ the chief sponsor of the bill.

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A FISCAL NOTE IS AN ANALYSIS OF  
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LIABILITY.

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The notes are prepared at the direction of the Governor's Budget Director by the staff of the Governor's Office of Budget and Program Planning, in cooperation with agencies affected by the bill. The Budget Director has 6 days after the fiscal note request is received to return the analysis unless an extension is granted by the presiding officer.

A fiscal note shows, in dollar amounts when possible:

- ✓ the estimated increase or decrease in revenue or expenditures;
- ✓ costs that may be absorbed without additional funds; and
- ✓ long-range financial implications.

The fiscal note may not contain comments or opinions on the merits of the bill; however, technical defects may be noted.

The Budget Director submits the fiscal note to the presiding officer, who notifies the sponsor. Within 1 day of notification, the sponsor must:

- ✓ request to consult with the Budget Director;

- ✓ elect to prepare the sponsor's own fiscal note; or
- ✓ notify the presiding officer (by signing the fiscal note) that the sponsor concurs.

A sponsor who either does not understand the fiscal note on the bill or does not agree with the conclusions represented in the fiscal note is encouraged to contact the Office of Budget and Program Planning to discuss the fiscal note with the preparer of the fiscal note. This may help resolve any misunderstandings by the sponsor or preparer concerning the fiscal note or the bill.

After the applicable time limits, the presiding officer directs that the fiscal note be printed, distributed, and referred to the committee considering the bill. This is done whether or not the sponsor concurs.

A sponsor who elects to prepare a fiscal note rebuttal must submit the note to the presiding officer within 4 days, unless an extension is granted. Upon receipt of the sponsor's fiscal note rebuttal, the presiding officer directs that the fiscal note rebuttal form be printed, distributed, and referred to the committee considering the bill.

Background information used in developing a fiscal note may be obtained from the Office of Budget and Program Planning.

If adopted amendments to the bill may change its fiscal impact, a revised fiscal note may be requested. The process for

requesting a revised fiscal note is the same as for requesting a fiscal note.

Fiscal notes are available wherever bills are distributed. The text of fiscal notes and the status of fiscal note requests are available for each bill on the LAWS section of the Legislative Branch website under "Look Up Bill Information".

## ■ **Local Government Fiscal Impact Statement**

At the time that the bill is presented for introduction, a local government fiscal impact statement must accompany any bill that imposes a requirement on a local government unit for a direct expenditure of additional funds without a specific means to finance the activity, service, or facility.

The estimate must be prepared by the Budget Director in cooperation with the local government or school district affected by the bill. The Budget Director has 10 days after the local government fiscal impact statement request is received to prepare the statement unless an extension is granted by the presiding officer.

## ■ **Codification and Publication of Laws**

### ■ **Session Laws**

Immediately following approval of legislation or adoption of a legislative or constitutional referendum, the legislation is filed with the Secretary of State. The Secretary of State assigns a chapter number to each act in the order that it is received by the Secretary of State's

office. Resolutions are cited by the number assigned by the Senate or the House at the time of introduction.

Publication of all chapters and resolutions from a session of the Legislature is arranged as soon as possible by the Legislative Services Division in a set of volumes known generically as the "session laws".

The session laws contain tables of MCA sections affected and previously uncodified session laws affected, cross-references between bills and chapter numbers, tables of effective dates, and tables showing where each new section of every act has been placed in the MCA.

#### ■ **Montana Code Annotated (MCA)**

The Code Commissioner, a statutory officer within the Legislative Services Division, directs the Legislative Services Division staff in the compilation of newly enacted laws and amended laws within the framework of the MCA.

The MCA is the systematic arrangement of all permanent state laws currently in effect in Montana. The MCA is published in two parts: the code itself and the annotations to the code. A new edition of the code is printed every odd-numbered year, with new laws added, repealed laws deleted, and amended statutes updated. An entry in the MCA includes the statute, its legislative history, and any compiler's comments and cross-references to related code sections.

The annotations incorporate background materials related to the statutes, including pertinent official comments, amendment summaries, case notes, references to

administrative rules, digests of Attorney General's opinions, and citations to law review articles, bar publications, and legal encyclopedias.

The index to the MCA and the Montana Constitution provides the user with a convenient reference, by subject, to all material codified. The index is composed of a general index, an index of words and phrases defined in code, and a popular names and short titles index.

#### ■ **Other Publications**

Other publications that are useful to those who want to recall or learn what happened during the legislative session are the journals for each house, the *Montana Legislative Review*, and the *History and Final Status of Bills and Resolutions*.