

The Budget Process in the Legislature

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One of the first things that seems to surprise observers of the budget process is the way the Legislature takes a Governor's budget, immediately upon delivery, and divides it up. No sooner has he managed to get all the various pieces pulled together into one nice, neat package, than the Legislators and their staff begin pulling it apart and sending it off to various committees, some of which you had no idea would play a part in the enactment of the budget.

Why does this happen? Is it a plot? A conspiracy? Yes! The Legislature is conspiring to enact a budget of its own!

To understand why the Legislature behaves as it does, you must first understand that, unlike in the executive branch, power in the Legislature is divided. It is divided between the House and the Senate, each of which has an equal vote in deciding what is to be enacted. Unless both agree on every single detail of a bill, nothing can be sent to the Governor for his signature. Nothing can be done without a consensus between the two houses. Within each house, things get a little easier, but more complex. Each house need not achieve a consensus, it may proceed by majority vote. And the members who will make up that majority have been decided in advance, when each house was organized. So their task is to make sure that at least 34 members of the Senate majority caucus, and 68 members of the House majority caucus, can find it in their hearts to vote for the proposals in the Governor's budget, or an alternative budget they have developed themselves.

Since the power in each body is divided among the members who make up the majority caucus, the labor of working on the budget is divided up as well. This not only allows the various members of the majority to specialize in certain areas and develop expertise, it also allows them to work simultaneously on different parts of the budget, thus allowing them to complete action on the whole in less time than if they all went through the whole budget together. So the Legislature's consideration of the budget is essentially similar to the executive's consideration of the budget: it relies on a division of labor to enable it to bring a specialist's expertise to bear on many parts of the budget simultaneously, thus allowing it to complete a complex task in a minimum of time with a maximum of skill.

How does the Legislature divide the labor? By committee, by bill, and between temporary and permanent law.

You may be familiar with the Legislature's committee structure, and which committees handle which parts of the budget. But you may wonder how committee jurisdictions are established and why they change. When each house organizes after an election, the members of the majority caucus decide who among them will be committee chairs and what the jurisdiction of each committee will be. In the Senate this occurs every four years, and the more members of the majority who retire or are defeated, the more changes there are likely to be in committee jurisdictions. The House of Representatives reorganizes every two years.

When the executive branch acts to recommend a budget to the Legislature, it does so by means of a written document signed by the Governor. When the Legislature acts, however, the Constitution requires that it do so by means of a bill. Since several different committees and divisions must act on different parts of the budget, each of them finds it convenient to have their own bill to work with. While the single-subject requirement of the Constitution has not yet been interpreted to require more than one omnibus bill on the budget, having more than one omnibus bill has enabled the Legislature to divide up the power, divide up the labor, and speed the process of considering the budget. Even in conference committee, the Legislature can proceed simultaneously on the several different bills, and the chairs of each conference committee have something to say about how their piece of the pie will be divided, as well as about how big a slice they will get.

While it is easy to see why each of the committees or divisions wants to work on its own bill, it is harder to see why certain matters are included in an omnibus appropriations bill while other matters are contained in separate bills. To understand this, you must first understand the difference between the finance committees and the other standing committees. Most of the Legislature's time and effort, as reflected in the work of the other standing committees, is spent on the things that are new. Changes in the law, new programs, new policies to deal with new challenges. The finance committees, on the other hand, deal with things that are old. Paying the costs of all the programs that were once new but have now become an established part of state government. The finance committees are not expected to determine whether these programs should continue. Rather, they are expected to make sure that they are all adequately funded. If something new is proposed, the other standing committees want to review it before it goes to a finance committee. Thus, the need for a separate bill.

While the concept of old versus new is easy to understand, determining whether a specific proposal is merely a refinement of an "old" program that need be dealt with only by finance, or is a "new" program that must first be approved by another standing committee, is often difficult. The only way to find out for sure about some proposal is to ask the chair of the relevant standing committee, and perhaps additional members, whether they want to see the proposal in their committees. If they do, a separate bill must be drafted.

Each omnibus appropriations bill contains both sections appropriating money and sections that establish or change the policies that govern how the money will be spent. You may have wondered why certain policies are expressed in the front of the bill along with the appropriations and other policies are expressed in the back of the bill separate from the

appropriations. Roughly, the front of the bill is for temporary law and the back of the bill is for permanent law. The policy provisions in the front of the bill are usually attached to specific appropriations and are intended to survive only as long as the appropriation remains available, usually two years. The policy provisions that follow the appropriation sections are not tied to a specific appropriation and are usually intended to last indefinitely. Temporary laws, like direct appropriations, are published only in the session laws, called Laws of Minnesota. Laws that are intended to be general and permanent are first published in the session laws of the session that enacted them, but then are also published as a part of Minnesota Statutes, our code of all the general and permanent laws currently in force. Any law that will have the effect of changing our general and permanent laws is supposed to be drafted as an amendment to Minnesota Statutes that shows how the current law is being changed. No more than one section of Minnesota Statutes may be amended in the same section of a bill. Each of the bill sections amending a section of Minnesota Statutes is put in statutory order within each article of an omnibus bill.

Keeping track of the various bills that relate to the Governor's budget is not easy. For guidance, consult Senate Information at 651-296-0504 or House Information at 651-296-2146, or the Legislature's web page at www.leg.state.mn.us.

The Journals, showing all floor action and the text of all amendments adopted by the body, are available from the Senate and House offices, usually the next morning. Amendments adopted by a committee appear in the Journal of that house when the committee report is adopted by the body, usually from three days to a week after the committee acted.

The titles of bills to be introduced each day in the Senate appear on a list of Bill Introductions on the afternoon before each session. The titles of bills reported out of committee appear in a Senate Agenda about same time. Bills that have completed action in committee and are ready for debate on the floor are listed each day on General Orders in the order in which they were reported out of committee. They are usually taken up in the order in which they appear. Bills that have been considered on General Orders one day are put onto the Calendar the next day for final passage on a third day. Toward the end of the session, when General Orders is long, the more urgent bills are put onto a separate Special Orders list for immediate consideration. Bills that are not likely to be opposed or amended are put on a Consent Calendar, rather than on General Orders.

Somehow, while all the various committees and divisions are concluding their hearings on the many bills related to the budget, a consensus begins to develop within each house on what should be done, by whom, when, and how. Traditionally, this consensus has been shaped primarily by the committee and division chairs, with guidance by the Speaker of the House and the Senate Majority Leader.

Legislative deadlines require the omnibus appropriations bills to be reported to the floor by a certain date. House Rule 4.03 requires the House Committee on Ways and Means to report a budget resolution on the floor within 20 days after the Governor's last state revenue forecast of the regular session. Senate Rule 7.2 requires a similar budget resolution to be reported by the finance committee within 30 days after the last forecast. The budget resolution must set

maximum levels for taxes and spending and set the amount of the budget reserve. In addition to these formal deadlines, the various committee and division chairs establish their own informal deadlines for completing budget hearings, completing allocations, and reporting bills to the full committee and to the floor. The deadlines for committee action on bills mean that the separate bills relating to the budget must be finished in all policy committees and referred to a money committee by the deadline.

As decisions are made on each house's budget and the deadlines draw near, it becomes time to produce the bills that will embody those decisions. Since most of the amounts appropriated relate to programs that are old, and most of the structure of state government does not change from one biennium to the next, most of the appropriation language in an omnibus appropriations bill can be carried over from biennium to biennium. In order to avoid writing all of the bill at the last minute when decisions are made, a skeleton is prepared that contains the appropriation language from the previous biennium with dollar amounts blank.

At the same time as the divisions are completing their allocations and drafting their omnibus bills, policy committees are completing action on the separate bills. The leaders must decide which separate bills will be folded into omnibus bills in the finance committees. The decision to fold or not to fold is based on a number of political factors, including how controversial the bill is, who is its author, what are its prospects in the other body, and whether it is more likely to be passed separately or as part of a package.

Many of the separate bills that are referred to the finance committees contain appropriations that are blank. The finance committees have relied heavily on the fiscal notes prepared by the executive branch when filling in these blanks. It is a shame that so much effort must be spent on fiscal notes for bills that never make it to a finance committee, but it is vital for the money committees to have the best available estimate of the cost of the bills they are about to pass.

Most of the decisions on the omnibus bills are made in division, and consideration by the full committee is primarily used to fix technical errors and make a few amendments on the more controversial subjects.

Floor debate on the omnibus bills has been used primarily to add new provisions authored by members who are not on the committee and to provide the minority with an opportunity to take pot shots at provisions that are politically vulnerable. It is rare for significant changes to be made in an omnibus appropriations bill on the floor. The floor is merely a brief stop on the bill's swift journey from division to conference committee.

Conference committee is where the good ideas from the Senate get added to the good ideas from the House to make the resulting offspring larger than either of its parents. It is not unusual for an omnibus bill to come out of conference spending more money than either the Senate bill or the House bill had going in.

The conference committee report contains everything that will be in the law when it is enacted, but the new title appears at the end of the report rather than at the beginning. (The title at the beginning is from the bill as it went into conference.) Copies of the conference report are available on the Web as soon as it is taken up in the house of origin.

If the Governor decides to veto an item, his veto is contained in a statement appended to the bill, which he signs. The bill and veto statement are filed with the Secretary of State, and a copy of the veto statement is returned to the house of origin for possible override. The veto statements are usually available on the Governor's website.

As I explained to you earlier, all the acts of each session of the Legislature are published in one or more volumes of Laws of Minnesota. The last volume for each year contains an index of the laws for that year and several tables. Table 2 shows the sections of Minnesota Statutes that have been amended, and Table 3 shows the Senate and House files that were enacted. The complete text of each omnibus appropriation bill appears in Laws of Minnesota, which is usually available in late August or September.

Any amendments that were made by an appropriation bill to Minnesota Statutes appear in "clean" form, that is, without strikeouts or underlining, in a supplement to Minnesota Statutes. The supplement is in the form of pocket parts inserted in the back of each volume of the statutes. Always check the year of the statutes, and if the Legislature has met since then, look for the pocket part for the volume you are in. The supplements usually are available a month or two after the Laws. A complete new edition of Minnesota Statutes is published at the end of each even-numbered year. Minnesota Statutes has an index volume, but I usually find things faster by looking at the table of contents at the front of each volume to try to find the chapter where my subject is dealt with. Then I check the list of sections at the beginning of the chapter to find the one I am looking for. If I cannot find it using the table of contents, I try the index.

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