Making Laws: Making the Budget

September 2023

Making Laws is a series of publications that explain the lawmaking process of the Minnesota Legislature. This work is the ninth in the series and discusses the way the legislature crafts the state budget. Please see the list at the end for other works in this series.

Executive Summary

The state budget must be expressed in the form of laws enacted in accordance with requirements prescribed in the Minnesota Constitution. Formulating the laws that constitute the budget is one of the most important and complex responsibilities of the legislature and the governor; it is a centerpiece of each legislative session. On the other hand, adopting a budget has been accomplished since statehood and is a minimum threshold for a successful session.

Provisions of the constitution and state law structure the budget, allocate responsibility and decision-making authority between the governor and the legislature, and regulate the budget-making process and schedule. In addition, the executive and legislative branches have developed special internal arrangements for carrying out their budget-making responsibilities. See the figure on page 3 for a graphical representation of the budget-making process and the respective roles played by the executive and legislative branches.

Form of the Budget. The budget is the state's plan for raising and spending money during a defined budget period. The constitution and state laws prescribe the basic form of the budget and some of the procedures used to make it.

Role of the Executive Branch. The executive branch of state government, headed by the governor, plays a larger role in making budget laws than most other laws. The executive has the primary responsibility for developing the budget and analyzing its components. The governor has a special "item veto" authority for budget legislation. And the executive and governor have some authority to alter the budget, if necessary, after it is enacted into law.

The Legislature: Passing Budget Bills. Each house prepares and passes omnibus budget bills independently, in a process somewhat different in its general aspects than the passage of any other type of legislation. The budget bills are written by fiscal committees of each house, based on budget hearings during the first part of the session and on budget control decisions made midway through the regular session each year. Floor proceedings on the budget bills

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produced by these committees are similar to floor proceedings on other bills but may be affected by budget requirements in the constitution and legislative rules.

The Legislature: Bicameral Budget Agreement. The constitution requires bicameral agreement on each budget bill, just as for any bill. The legislature relies mainly on conference committees to achieve agreement on budget bills, although some structures and mechanisms foster agreement between the houses on aspects of the budget earlier in the legislative process, before either house writes or passes its budget bills.

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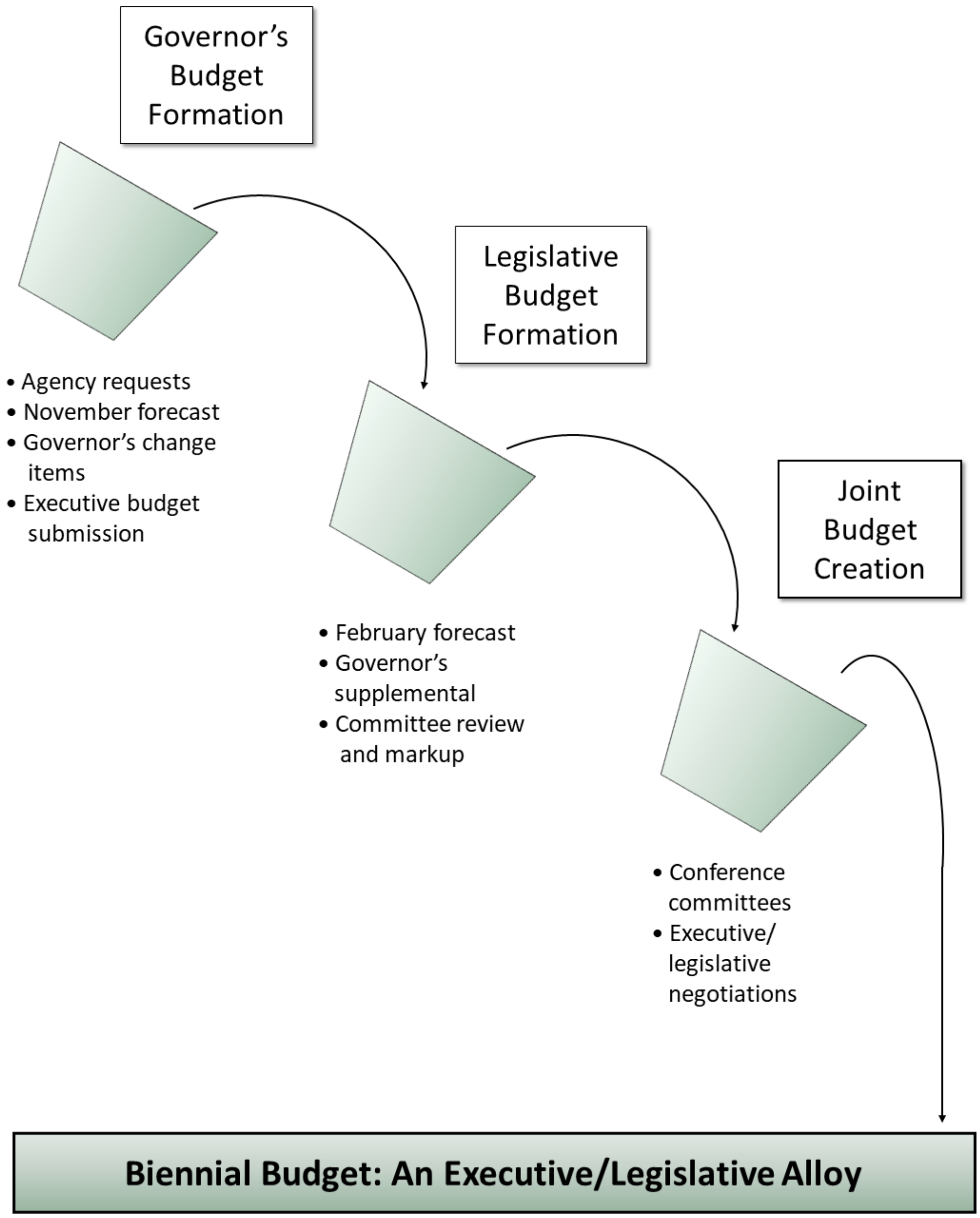
Form of the Budget

The budget is the state's plan for raising and spending money during a defined budget period. The constitution and state laws prescribe the basic form of the budget and some of the procedures used to make it.

The governor, the executive branch agencies, and the legislature all play crucial roles in developing the state budget. Budget making in Minnesota uses a set of statutory "moments" to create a process that forces cooperation between the legislature and executive branch. A budget is necessarily an alloy of competing and complementary visions, jointly completed.[1]

[1] During times of branch conflict, both the legislature and executive branch have taken turns in claiming that the budget is uniquely their responsibility. This happens to not be the case.

Making the Budget: Procedurally Enforced Cooperation



The state's budget period is a biennium—a two-year span

The law defines the budget period as a fiscal biennium. A fiscal biennium begins on July 1 of the odd-numbered year (e.g., 2023) and ends two years later, on June 30 of the next odd-numbered year (e.g., 2025).

The biennium is divided into two fiscal years. Each fiscal year runs from July 1 to June 30.

A fiscal year is named for the calendar year in which it *ends*. For example, the fiscal year that begins July 1, 2023, and ends June 30, 2024, is called Fiscal Year 2024 (FY 2024, for short).

A fiscal biennium is named for the two fiscal years that compose it. For example, the fiscal biennium that begins July 1, 2023, and ends June 30, 2025, is labeled the FY 2024-2025 biennium.

The budget must be enacted in the form of laws

The constitution requires the state to exercise its fiscal powers through laws enacted in accordance with the procedures described in this publication and other chapters in this series.

- **Revenue.** The state may collect taxes and fees only as authorized by law.
- **Spending.** All state spending—whether by the executive, the judiciary, or the legislature—must be authorized beforehand by a law. The constitution calls the authorization required an appropriation: "No money shall be paid out of the treasury of this state except in pursuance of an appropriation by law."
- **Borrowing.** The state may borrow money to pay for certain public purposes and activities. The state borrows money by issuing bonds that commit the state to use its revenues to repay the lenders of the money (bondholders) with interest. Bonds may be issued by the state only as authorized by law.

Passing these laws arranging the financial affairs of state government each biennium is one of the most important constitutional responsibilities and a central activity of each legislature. The timing of the regular session of the legislature is synchronized with the state's budget cycle. The legislature meets in regular session during the winter and spring months of the year, just before the beginning of a new fiscal period.

The budget comprises about a dozen laws

Neither the constitution nor state law dictates how the laws expressing the state budget should be organized. That is a decision made by each legislature. In recent decades, the legislature typically has given legislative form to the biennial budget in about a dozen omnibus budget laws. The form of these is described in a separate work in this series *Forms of Action*; the process of enacting them into law is described here.

Each legislature partitions the budget a little differently. Typically, the omnibus budget laws number about eight or ten in the first year of the biennial regular session, and half or fewer than that in the second year of the session. Usually there is:

- an omnibus tax law each year;
- a set of omnibus appropriation laws—about six or eight the first year of session, fewer the second—authorizing state spending for various purposes; and
- an omnibus law in the second year, and often in the first as well, that authorizes the issuance of bonds to raise money for spending on capital projects.

Important fiscal provisions may be found in other laws as well, but the omnibus budget laws express most of the state's budget. The omnibus budget bills have grown into compendiums of policy and fiscal provisions, and some have been over 1,000 pages long. The compression of the bulk of the legislature's agenda into a dozen or so bills has been a part of the legislative session for decades, but the content of these bills has arguably been burgeoning, with hundreds of pages of language surrounding extensive appropriation sections that take days to write and process. Leaders have become frustrated that the writing and processing of these bills has created logistical roadblocks.

The budget must be balanced: expenditures may not exceed revenues

Although the two-year budget period—from July of one odd-numbered year through June of the next—is defined by law, the constitution essentially prescribes the period chosen by requiring the state to balance its budget by a certain date every two years.

Unlike the federal constitution, the Minnesota Constitution does not allow the state to operate "in the red" for any extended period. The constitution obliges the legislature and governor to enact revenue, spending, and borrowing laws so that operating expenditures for all purposes are equal to or less than revenues from all sources.

The constitution imposes the balanced-budget requirement indirectly, by not allowing the state to borrow money to pay for its operations on an ongoing basis. The state can borrow money to cover temporary shortfalls in operating revenue, but it must pay up by a certain date every two years. The constitution specifies June 30 of each odd-numbered year as the date when the state must take action to eliminate any operating deficit. The state has chosen to end its biennial budget period on this date as well.

The budget is designed to avoid a deficit

It is not a simple matter to enact and maintain a balanced budget over a two-year period. At the time it is enacted, the budget is based, necessarily, on predictions about future economic conditions in the state and their effect on future government revenue and expenditures. Economic conditions commonly change in unforeseen ways after the budget is enacted, which throws the budget into surplus or deficit. Long experience with the effect of uncertainty in long-range economic, revenue, and spending forecasts has caused successive governors and legislatures to develop methods of budget planning and control to avoid the constitutionally forbidden deficit. The following methods are prescribed by state law or have developed over the years from internal decisions by executive agencies and by the legislature.

Reserve funds

One way to protect against an unexpected revenue shortfall is to keep a reserve of unallocated funds—just in case. The state does exactly that to protect its main operating fund, the general fund.[2]

The enacted budget does not always appropriate all of the revenue that the state expects to flow into the general fund during the budget period, thereby intentionally leaving money "one the bottom line" as a budgetary cushion should actual revenues collected by the state be less than anticipated.

As an additional deficit-prevention measure, the legislature also overtly sets aside additional reserve funds within the state treasury. Two types of set-asides help protect the general fund.

- **The budget reserve.** The budget reserve—sometimes called the "rainy day fund"—is money available to the executive branch if a budget shortfall develops after the budget laws are enacted.
- **Cash flow account.** The cash flow account serves a different purpose. The state's tax collections and expenditures are both naturally lumpy, varying from month to month. The fluctuations are not always in harmony. The cash flow account is money available for use during periods when the state's revenue temporarily lags behind its expenditures. This helps the state avoid expensive temporary, short-term borrowing to pay operating costs during low-revenue or high-expenditure periods.

Staged enactment

The state reduces forecasting risk and improves its chances of creating and maintaining a balanced budget by spreading budget decisions over as long a time as possible. The budget is not enacted all at once. It is broken into three parts that are phased in over time. The first part is enacted shortly before the start of a new fiscal biennium, the second and third parts not until the biennium is well underway.

- **Biennial operating budget.** The operating budget for a fiscal biennium provides funds to pay for state agency operations, state government programs, and aid to local governments and school districts. The operating budget is the first part of the budget to be enacted. The executive develops the operating budget during the even-numbered year under a statutory schedule calculated to present the governor's proposed operating budget for legislative action in January or early

[2] The state segregates money into many funds for budget control and accounting purposes. Most of these funds are small, particular in purpose, and often maintained by special fee or tax revenue dedicated by law to the fund. The game and fish fund, the state airports fund, and the trunk highway fund are examples. The general fund is by far the largest of the funds. It receives the undedicated revenue from most of the state's major taxes and is the repository of most of the money used to pay for state government and state programs.

February of the following odd-numbered year, shortly after a new legislature convenes in regular session. The legislature strives to pass it shortly before adjourning in mid-May, about six weeks before the fiscal biennium begins on July 1.

- **Supplemental budget.** During the customary continuation of the regular session in the second year of the legislative biennium (the even-numbered year), the legislature and governor adjust the operating budget enacted the year before. This second-year adjustment to the biennial operating budget is called the supplemental budget. It changes the laws governing operating revenue and expenditure to cope with changing economic and fiscal conditions, to ensure that the operating budget stays in balance for the remainder of the fiscal biennium.

- **Capital budget.** Also during the legislative session in the second year, the legislature and governor often enact the third part of the budget—the capital budget, which authorizes the state to borrow money for use in acquiring and improving fixed and enduring public assets, like land and buildings. Borrowing for capital projects is often proposed and authorized in the first year's session as well, but supposedly most of these decisions are left for the second year. The executive develops the capital budget during the odd-numbered year under a statutory schedule calculated to present the governor's proposed capital budget for legislative action on February 1 of the following even-numbered year, about the time that the second year of the regular session typically gets under way.

In addition to structuring the budget itself to avoid deficits, the executive and legislative branches use a variety of management devices and practices to control the budget. These are described in the remaining sections of this publication.

Role of the Executive Branch

One of the major developments in state government during the 20th century was the enlargement of the role of the governor and the executive branch in budget making. The legislature still must pass budget legislation, as required by the constitution. But the executive branch of state government, headed by the governor, plays a larger role in making budget laws than most other laws. The executive has been given primary responsibility for developing the budget and analyzing its components. The governor has a special "item veto" authority for budget legislation. And the executive and governor have some authority to alter the budget, if necessary, after it is enacted into law.

The executive is responsible for preparing and proposing a budget

In some states, responsibility for preparing the budget rests with the legislature or is shared by the legislative and executive branches. In Minnesota, the executive branch is responsible for preparing a budget and proposing it to the legislature. The legislature does not share in developing the executive budget proposal, nor does it develop a competing legislative proposal.

Standards for the executive budget

State law dictates the form and organization of the budget presented to the legislature by the executive. It must include a summary and overview section. It must have information about anticipated government revenues and expenditures over several fiscal biennia. It must explain how the proposed budget, if enacted, would depart from past budgets. It must describe initiatives of the governor that have fiscal implications. It must include volumes of supporting fiscal and operating information about each government agency and program (narrative description, performance data, revenue and expenditure summary for recent fiscal biennia, proposed changes in levels of spending, etc.).

To the budget requirements imposed by law, the executive branch adds more detailed specifications. The state agency Minnesota Management and Budget (MMB) assists the governor in developing these specifications and supervising the departments and agencies involved in preparing the budget. The governor and MMB usually dictate a uniform format for budget documents and impose fiscal standards (e.g., inflation adjustments, spending restrictions, spending cuts). Each agency then prepares its budget request, operating within the parameters laid down by the governor and MMB. Agencies submit their budgets for review by MMB and the governor's office. MMB helps the governor's office evaluate, modify, winnow, and enhance agency requests and prepare the executive budget for submission to the legislature.

Schedule for the executive budget

The executive branch works intensively on its budget proposal during roughly the six months leading up to the start of each legislative session—that is, during the summer and autumn months of each year. During this period in the even-numbered year, leading up to the January start of a new regular session, executive budget work focuses on preparing the biennial operating budget for presentation to the new legislature. In December, the executive produces preliminary budget estimates. The finished executive budget formally enters the legislative process about a month later, in late January. (A newly elected governor has until mid-February to present the executive budget.)

After the enactment of the biennial operating budget at the end of the first year's legislative session, executive budget work shifts to preparing the other two parts of the budget—the supplemental budget and capital budget—for presentation to the legislature when it returns to continue the regular session the following year.

The executive is responsible for economic and budget forecasts

To help the state make prudent budget decisions, state law requires the production of long-range forecasts of state revenues and expenditures. The law dictates standards for these forecasts. They must be done: (a) for anticipated economic conditions, (b) assuming no change in current tax and spending laws, and (c) including an allowance for inflation in costs. As mentioned earlier, such long-range forecasts are impossible to do with certainty or precision.

MMB, aided by the Department of Revenue and others, is responsible for producing the required budget forecasts for the state. Both the governor and the legislature use MMB forecasts in their budget decisions. The legislature does not participate in making the forecasts or produce its own competing forecasts. It relies on the executive branch forecasts. The legislature often disputes details of forecasts in a good-natured manner, but uses these forecasts as guideposts in creating its budget.

Timing of the forecasts

The law requires biannual forecasts that inform each two-year legislative budget-making cycle. Two forecasts are issued during the six months leading up to the enactment of the biennial operating budget; two more are issued during the first fiscal year of the biennial budget period.

The first forecast comes in late November or early December of the even-numbered year, about seven months before the fiscal biennium begins the following July. The governor uses this forecast to prepare the executive budget to present to the new legislature that convenes in January.

The second forecast comes three months later, in late February. The February forecast informs the legislature and governor as they work during the spring months to enact the operating budget for the upcoming biennium.

MMB repeats the forecast twice more after the fiscal biennium gets under way on July 1. These updates—issued once again in November/December and February—inform executive and legislative action during the second year of the legislative session on the two remaining parts of the budget: the supplemental budget and the capital budget.

Content of the forecasts

Each forecast has three main elements:

- The **revenue and expenditure forecast** concerns the general fund operating budget. It predicts the effect of future economic activity on state revenue and expenditure. The first two forecasts in the biennial cycle of four cover three fiscal biennia: the current one, the one due to begin in July, and the one following that. The second two forecasts in the cycle—produced during the fiscal biennium—cover two fiscal biennia: the current one and the one following.

- The **debt capacity forecast** concerns the capital budget. The debt capacity forecast predicts the state's capacity to pay off state bonds issued for capital projects. The analysis is based on the amount of state bonds already outstanding, the debt service obligation imposed by those bonds, and debt management guidelines that the state uses to maintain a prudent level of state debt. Each of the four debt capacity forecasts covers a ten-year period: the past fiscal biennium, the current one, and the three biennia coming up.

- The **price of government report** tracks total state, local, and school district revenue (taxes, fees, etc.) as a share of state personal income.

The executive is partially responsible for analyzing the fiscal effect of bills

The budget that the executive submits to the legislature analyzes the fiscal effect of changes in laws and government programs being proposed by the executive in the budget. But the executive branch is not the only source of ideas for change. Many legislators sponsor legislation that, if enacted, would significantly affect government activity and finance.

The law makes the executive branch and the legislature jointly responsible for analyzing the fiscal effect of these independent legislative proposals, when asked to do so by the chair of a legislative committee. The estimates take several common forms:

- A **fiscal note** estimates the effect of a legislative proposal on state government spending and nontax revenue (e.g., revenue from fees). A fiscal note is produced under the supervision of the Legislative Budget Office by the government agency or agencies that would be charged with implementing the proposal were it to become law.

- A variation on the fiscal note is a **local impact note**, which is designed to produce information about the fiscal effect on local governments of a proposed change in local government activity mandated by the state. For example, a local impact note might analyze the effect on local spending for jails and criminal prosecutions of a change in criminal penalties prescribed by state law.

- A **revenue estimate** forecasts the loss or gain in government tax revenue that would result from the enactment of a bill proposing to change tax laws. Revenue estimates are produced by the Department of Revenue.

In 2017, the legislature authorized creation of a Legislative Budget Office, which commenced work in 2019. This office initially took over duties with respect to creation of fiscal notes.

A special commission was created to consider the duties of this office. The Legislative Budget Office Oversight Commission establishes procedures for fiscal and local impact notes and provides oversight to a nonpartisan director.

As a result, the production of estimates of the cost of legislation is a hybrid of executive agency estimates and legislative oversight and reporting. The goal is a sound estimate that can guide choices by legislators in how they build the state budget.

The governor may veto items of appropriation in omnibus budget bills

The influential role of the executive in budget preparation and analysis, just described, is created largely by state law, not by the constitution. The constitution enhances executive budget authority in another way by giving the governor special "item veto" authority over the omnibus budget acts passed by the legislature and presented to the governor.

As with any act, the governor may veto an omnibus budget act in its entirety for any reason, including that it is fiscally unwise. In addition, the governor can approve an omnibus budget act but veto one or more individual "items of appropriation of money" within the act. This item veto power, coming at the end of the legislative process, gives the governor considerable leverage over budget making within the legislature and greater flexibility in responding to budget decisions presented by the legislature.

The governor's veto authority, including the line item veto, and the legislature's power to override a veto, are described in a separate work in this series *Review by the Governor*.

The executive has some authority to adjust the enacted budget

Considerable adaptability is built into the state budget-making process just described—in the form of budget reserves, the staged, interactive budgeting process that extends well into the fiscal biennium; the repeated financial forecasts; the analysis of the fiscal effect of independent legislative proposals; and the item veto authority of the governor. State law also gives the governor and state agencies some flexibility, after the budget is enacted, to cope with unanticipated problems encountered while implementing the budget.

- **Money transfer**. Ordinarily government agencies must faithfully execute each item of appropriation in the law by spending the amounts specified for the purposes specified. Under some conditions, however, general law allows an agency to transfer money from one program, where it is not needed, to another program, where it is.
- **Carryforward.** The law usually appropriates a separate sum to be spent in each fiscal year of the biennium. But general law permits agencies to carry forward certain unspent money from the first year of the fiscal biennium to the second year. (Moving money the other way, from the second year to the first, generally is not permitted.)
- **Unallotment.** An appropriation is an authorization to spend money, not a command to do so. But ordinarily the legislature expects executive agencies to spend the full amounts appropriated for the purposes specified. The legislature does not countenance unilateral reductions by the executive in expenditures that have been authorized by law. But there is an exception in general law, designed to allow spending reductions by the executive when the constitutionally forbidden budget deficit threatens. After the budget is enacted, if the governor concludes that state revenues, including the budget reserve, will be insufficient to meet the expenditures

authorized by law in the budget, the governor is required to reduce spending to correct the problem. A spending reduction ordered unilaterally by the executive in this way is called “unallotment.”[3] A court decision in 2010 clarified that the governor does not have the authority to unallot until two things have happened: a) the legislature has passed and the governor has signed a balanced budget; and b) the budget is subsequently found to be out of balance.

The governor may call a special legislative session to correct the enacted budget

When problems develop after the enactment of a budget that cannot be handled with the available budget management devices, the constitution offers one final method of coping. On “extraordinary occasions,” the governor may call the legislature into a special session. Historically, an unexpected budget shortfall—generally from an economic recession that increases state expenditure while decreasing state revenue—is one of the common causes of special legislative sessions. The enacted budget gets so far out of balance that the governor must assemble the legislature to pass new budget laws to increase revenue or reduce expenditure.

The Legislature: Passing Budget Bills

Each house prepares and passes omnibus budget bills independently, in a process not much different in its general aspects than the passage of any other type of legislation. The budget bills are written by fiscal committees of each house, based on budget hearings during the first part of the session and on budget control decisions made midway through the regular session each year. Floor proceedings on the budget bills produced by these committees are similar to floor proceedings on other bills but may be affected by budget control regulations in the constitution and legislative rules.

Each house independently prepares and passes budget bills

The legislature does not create its own separate plan for raising revenue and spending money during a budget period. It uses the executive budget—the governor’s plan—as the foundation of legislative proceedings. Legislative proceedings are devoted to:

- evaluating and modifying the budget proposed by the executive;
- considering independent budget proposals advanced not by the governor but by legislators; and
- expressing the budget in the form of laws.

[3] The term derives from an accounting procedure that is part of the state’s budget control and accounting system. After a law is enacted, MMB examines all the appropriations in the law and formally authorizes agencies to spend specific amounts of money for various purposes. Each portion of spending so authorized by MMB is called an allotment, as is the process of making them.

Each house conducts its own, separate proceedings on the budget and produces budget legislation independently. The size of the budget, the allocation of resources among general categories of spending, the amount and use of state bonds, changes in revenue, the amount of spending for various agencies, programs, and activities—all these decisions are made separately by the House and the Senate and embodied in the omnibus budget bills passed by each.

In a sense, the two houses of the legislature seek a separate pathway as a starting point towards eventual reconciliation. Other states use joint budget committees and processes in order to align the houses earlier in the process.

The fiscal committees in each house are responsible for writing the budget bills

At the beginning of the regular biennial legislative session, each house establishes a standing committee structure, as described in a separate work in this series *The Committee System*. Included in the structure is a set of fiscal committees—tax committees, appropriations committees, capital investment committees, budget management committees. The fiscal committees are responsible for writing the omnibus bills that, once enacted, embody the state budget.

The fiscal committees conduct budget hearings during the first part of the session each year

To prepare themselves to produce the omnibus budget bills, the fiscal committees begin hearings and analysis soon after the legislature convenes the regular session each year. Committee preparatory work continues for about three months in the odd-numbered year, from early January until late March or early April, and for a shorter period in the even-numbered year.

Procedures vary from one committee to another, and from year to year; much depends upon the fiscal condition of the state. But in general, the committees begin with overview hearings, followed by hearings focusing on the details of the executive budget proposal that year, and then by hearings on budget proposals advanced by legislators independently of the executive budget.

Overview hearings

During the first year's session, the fiscal committees begin budget background and overview hearings in early January, soon after the regular session convenes. Through these hearings, the committees gather information on the economy, the fiscal condition of the state, current state revenues from various sources and expenditures for various purposes, and the cost and benefit of state government programs and activities.

In the second year of the regular session, background hearings may be abbreviated, because the session usually does not begin until late January or February, around the time the executive branch issues its budget proposals—the supplemental budget and the capital budget—for legislative consideration.

Hearings on the executive budget

The executive budget enters the legislative process in late January or early February each year. In the first year of the regular session, attention centers on the biennial operating budget; in the second year, on the supplemental budget and the capital budget.

After the executive budget appears, the work of the fiscal committees shifts from overview hearings to hearings on the budget initiatives and detailed agency budgets contained in the executive budget. Some of the governor's budget initiatives may be introduced as bills; these make their way to the fiscal committees in the usual fashion, either directly upon introduction or by referral after consideration by one or more policy committees. Some elements of the executive budget may not be introduced as separate bills but instead are developed by the fiscal committees for inclusion in the omnibus bills.

Hearings on independent budget proposals

The governor is not the only source of legislation that affects the budget. Members of the House and Senate are free to advance budget initiatives of their own, and many do. Some of these independent proposals derive from suggestions by government agencies; others are put forward by private interests; still others are ideas of individual legislators or initiatives to benefit home districts.

Some independent proposals are introduced formally as bills. Like the bills embodying the governor's initiatives, they make their way to the fiscal committees, either directly upon introduction or by referral after consideration by one or more policy committees. As always, the chair of the committee decides which bills receive a hearing and consideration by the committee.

Not every independent proposal need be introduced as a bill. A legislator sitting on a fiscal committee may choose to offer a budget idea in the committee instead, as an amendment for inclusion in the omnibus budget bill developed by the committee.

The executive budget contains an analysis of the fiscal effect of executive budget initiatives and changes. Independent budget proposals are not covered by this analysis. To fill this gap in information, fiscal committee chairs usually require the executive branch to produce the documents described earlier—fiscal notes, local impact notes, or revenue notes—that analyze the fiscal effect of each independent proposal considered in committee.

A fiscal committee could choose to report any budget proposal or initiative within its jurisdiction as a separate bill, in the fashion of a policy committee. Typically fiscal committees do not do this. Instead of acting separately on each bill or proposal after a hearing, fiscal committees usually set them aside for later consideration and possible inclusion in the committee's omnibus budget bill.

The reason for deferring decisions on budget proposals in this way is budget control. Each fiscal committee knows that it will have a limited amount of money to work with and that it will have to select from among competing proposals to stay within that limit. Until a committee knows for sure the amount of money it has to work with, it is loath to take final action on any proposal, lest it prejudice later action on others still to be considered. The fiscal committees learn their budget limits or "targets" about midway through the regular session each year, when each house makes two fundamental budget control decisions.

Each house makes two key budget control decisions midway through the annual session

While the fiscal committees are holding budget hearings during the early part of the session, each house is working more or less independently toward two fundamental decisions on the budget: the size of the budget—the total amount of authorized spending—and the allocation of this total among the various broad categories of government activity. Each house typically makes these decisions in mid-to-late March, after the executive issues the February budget forecast.

Total amount of spending

In the first year's session, each house determines the total amount of general fund spending authorized for the biennial operating budget, based on the budget forecast and the fiscal policies favored by the house. In the second year of the session, each house decides how much to adjust the budgeted amount upward or downward, depending on the revised budget forecast and the fiscal policies favored by the house.

The way decisions are made about the size of the budget may vary from session to session and between the two houses. Sometimes, the decision is made privately by the majority caucus and announced by its leaders. Other times, the decision is promulgated more formally as a legislative resolution adopted by a house or a budget management committee. When made in the form of a resolution, the decision is commonly called the budget resolution. It has several elements, including: (1) the maximum amount of spending authorized from the general fund; (2) an amount for the budget reserve; and (3) an amount for the cash flow account. (On these budget structures, see page 6.)

By establishing the size of the general fund and its cash reserves, each house sets the outside parameters of much state spending.

Allocation of spending among government functions

The second fundamental decision made by each house is how to allocate total authorized general fund spending among broad categories of government activity (K-12 education, higher education, natural resources, health and human services, transportation, etc.). The categories used by each house generally correspond to the jurisdictions assigned to its various fiscal committees. Depending on the fiscal condition of the state and the preferences of the house, an allocation may increase funding for an activity, keep funding level, or decrease funding.

The decision on how to allocate revenue or cuts among governmental functions, like the decision on the size of the budget, sometimes issues from the majority caucus, other times more formally as part of the house or committee budget resolution.

The amount allocated for each function is often referred to as a target.

These two decisions—on the size of the budget and its allocation among government functions—are intended to govern the development of omnibus budget bills in each house. A house aims to write and pass budget bills that conform to its budget control decisions and employs various means of enforcement to bring about compliance.

The fiscal committees write budget bills that conform to the budget control decisions

The decisions in each house on the amount of general fund spending and its allocation clear the way for the development of omnibus budget bills by the fiscal committees. The decisions tell each committee how much it has to raise, spend, or cut in preparing the omnibus bill for its part of the budget. In late March, with these budget targets in hand, the fiscal committees bring budget hearings to an end and begin writing the omnibus budget bills.

Allocation and revenue decisions

Each omnibus appropriation bill is based on decisions by an appropriation committee on how to distribute the amount allowed it by the house (whether increases or decreases) among competing needs and proposals under its jurisdiction. How much should be made available for this or that agency, program, or activity? How much, if any, should be devoted to funding new initiatives proposed by the governor or executive branch agencies? How much should be devoted to funding new legislative initiatives? Which programs or activities should be reduced in size or eliminated entirely and which expanded? The appropriation committees refer to these distribution decisions as allocations. The tax committees must make similar policy decisions on the revenue and tax side of the budget.

Each committee is expected to produce an omnibus budget bill that conforms to the budget control decisions made by the house. If the decisions were made in the form of a legislative resolution, legislative rules may require fiscal committees to show compliance with the resolution when reporting omnibus budget bills. To maintain compliance, the rules also may allow a fiscal committee chair to rule an amendment to a budget bill out of order (meaning it cannot be considered by the committee), if the adoption of the amendment by the committee would transgress budget controls.

The budget bills

The allocation decisions of the appropriation committees, and the similar revenue raising and tax policy decisions of the tax committee, form the basis for writing the omnibus budget bills. The provisions accepted by a committee for inclusion in an omnibus bill—whether from the governor's budget, agency proposals, or independent proposals of legislators—are said to be "folded into" the omnibus bill.

A committee may produce an omnibus bill either as a new bill to be introduced by the chair as a committee bill or as an amendment to an already introduced bill that has been referred to the committee. Whether to introduce a new committee bill or report a much-amended referred bill (called a "vehicle" bill) is a complex decision affected by convenience, timing, and strategic considerations.

After a committee has decided on the provisions to be included and the form of the bill, the committee takes final action on its committee report on the bill. Although rare in recent years, the committee may aim to have the bill fully assembled before it for the final vote. But time is often short, so the committee may be compelled to vote on the aggregate result of all earlier votes on allocations, individual budget items, and language provisions and direct the staff to prepare the final bill accordingly.

The bonding bill

The bill authorizing the sale of G.O. bonds for state and local capital projects is known in the legislative process as the bonding bill. As described in *Forms of Action*, this bill is usually a main feature of the second year's session, though often a bonding bill is passed in the first year as well. The committee procedures used for assembling the bonding bill vary in the House and Senate and also from session to session. In general, the process has two steps: first, the various appropriation committees recommend priorities for funding capital projects within their respective jurisdictions. The recommendations are directed to another committee, often called the capital investment committee, which is responsible for assembling a single bonding bill from these recommendations. Often the capital investment committee must cut some projects recommended by the appropriations committees to bring the bill into compliance with budget controls. However, a second step usually involves a major revision, often on the floor of each house, to create a version of the bonding bill that can garner the constitutionally required 60 percent vote.

Committee deadlines

The fiscal committees operate on a tight schedule. Each appropriation committee must complete work on its bill by the third committee deadline described in *The Committee System*. The third deadline usually comes in April, just weeks after the initial budget control decisions are made. The third deadline usually does not apply to the tax or capital investment committees, but usually both complete their bills by this time also.

Review by a budget management committee

After the fiscal committee with primary responsibility completes work on an omnibus budget bill, legislative rules and practices may require that the bill be examined by a budget management committee before floor action. In the House, tax bills, appropriation bills, and bonding bills all are referred to the Ways and Means Committee. In the Senate, tax bills move directly to the floor, but other omnibus bills may be referred to a superintending finance committee, either from divisions of the finance committee or from separate full committees.

Action in the budget management committee determines the content of the omnibus bills when they are taken up on the floor. Bills may be amended here to correct mistakes or to change controversial provisions before the bill gets to the floor. Bills also may be amended to ensure compliance with budget control decisions. The budget management committee usually has played a role earlier in the session in making the budget control decisions for the house. Now, at the end of the committee process, before the omnibus bills are taken up on the floor, the committee is responsible for reviewing the bills for compliance with the budget controls. If the budget controls were adopted formally as a legislative resolution, legislative rules may require the committee to certify compliance with the resolution when reporting the omnibus bills.

Floor action on budget bills may be affected by constitutional and legislative regulations

Floor action on omnibus budget bills usually begins about the time of the third committee deadline. Floor proceedings on these bills are a centerpiece of the legislative session, and the debate on them is invariably spirited and consequential.

The general pattern of floor action described in separate works in this series *Passing Bills* and *The Bill on the Floor*, applies to omnibus budget bills: second reading, placement on a list of bills actionable on the floor, discussion and possible amendment, third reading, and the vote on passage. Special calendars or orders usually are used for these bills. The House generally considers them on the Calendar for the Day or, less often, on the Fiscal Calendar; the Senate on Special Orders. Because the budget bills are so complex, important, and urgent, the houses also may attempt to coordinate floor action to make the best use of floor time and expedite passage in each house.

Although floor procedures on budget bills are similar to other bills, departures from the norm may be compelled by budget control regulations in the constitution and legislative rules.

- **Omnibus tax bills.** The constitution dictates the scheduling of floor action in the two houses on bills for raising revenue: "All bills for raising revenue shall originate in the house of representatives, but the senate may propose and concur with amendments as on other bills."

  The first part of this constitutional provision is known as the origination clause. The origination clause requires that "bills for raising revenue," described in *Forms of*

Action, pass the House first. The Senate must act on a bill it receives from the House, not a Senate bill.

Earlier parts of the legislative process are not affected by the origination clause. Bills for raising revenue proceed through each house in the usual manner: bill authors—usually the tax committee chairs—introduce or identify companion bills. The two bills move simultaneously through the committee process in the two houses. The Senate may even report its bill out of committee and debate it on the floor before the House companion bill passes and comes over to the Senate.

But, because of the constitutional requirement, the Senate does not act finally on its bill. It waits until the House bill comes over, substitutes the House bill for the Senate bill on the floor in the usual way, as described in *Bicameral Agreement*, amends the House bill by placing the content of the Senate bill in it, and sends the bill back to the House with the content favored by the Senate. The House generally refuses to concur in the Senate amendments and requests the appointment of a conference committee.

- **Bonding bill.** The constitution requires that one of the omnibus bills—the bonding bill—pass each house by an extraordinary majority. This means that the bill must win the support of three-fifths of all the members elected to each house rather than the majority required to pass most bills. The bill must have the vote of 81 of the 134 representatives (rather than the usual 68) and 41 of the 67 senators (rather than the usual 34). This voting requirement has a substantial effect on the movement of the bonding bill through the legislative process and the timing of floor action on the bill.
- **Amendment restrictions.** Floor amendments to an omnibus budget bill may be restricted by legislative rules aimed at budget control, described in *The Bill on the Floor*. The rules may allow the presiding officer to rule an amendment out of order (which prevents consideration of it), if the adoption of the amendment would throw the bill out of compliance with the budget controls adopted or announced earlier by the house. This legislative rule, and the floor rulings enforcing it, require a ruling by the presiding officer, and are much debated on the floor.

The Legislature: Bicameral Budget Agreements

The constitution requires bicameral agreement on each budget bill, just as for any bill. The legislature has in the past relied mainly on conference committees to achieve agreement on budget bills, although some structures and mechanisms foster agreement between the houses on aspects of the budget earlier in the legislative process, before either house writes or passes its budget bills.

Bicameral agreement is required

Because the budget must be enacted as law, all of the constitutional requirements for lawmaking apply, including the requirement of bicameral agreement. Each omnibus bill making up the state budget must pass both houses of the legislature with identical content before being sent off to the governor for review. (See *Bicameral Agreement*.)

But, as described earlier, each house writes and passes budget legislation independently, guided by its own budget control decisions. So the budget bills passed by one house almost invariably differ in content from those passed by the other—and also from the executive budget proposed by the governor. Reconciling the differences in these bills, so as to achieve bicameral agreement and agreement with the governor, usually is accomplished only with great difficulty.

The need to reconcile House and Senate differences, and the governor's positions, create a set of discussions that shift between general negotiations between the speaker of the House, the Senate majority leader, and governor, and lower level interactions between committee chairs and state agency heads. There is no set level of involvement for leadership and therefore it varies over time.

Agreement on some aspects of budget legislation may emerge during the session

Some legislative structures and mechanisms foster or contribute to bicameral agreement on aspects of budget legislation fairly early in the regular session each year.

The standing fiscal committee system

The need of each house to organize standing fiscal committees at the beginning of the biennial regular session, as described in *The Committee System*, presents an opportunity for early agreement on the organization of budget legislation for the session. Legislative leaders attempt to achieve some congruence in the number and jurisdiction of fiscal committees established in each house. To the extent they succeed in this, they produce, as a by-product, some agreement on the legislative form of the budget—the number and scope of the omnibus budget bills that these committees will write. Perfect congruity in these arrangements is rare, but general coherence is not.

Joint legislative committees

Some joint legislative committees and commissions described in *The Committee System* foster early agreement between the houses on some matters pertaining to the budget. Examples include the Legislative Commission on Pensions and Retirement (public employee pensions); the Legislative Commission on Employee Relations (public employment contracts); the Legislative-Citizen Commission on Minnesota Resources (spending on certain environmental projects); and the Joint Subcommittee on Claims (payment of claims against the state). Although these joint groups do not have a formal role in the legislative process in either house, neither introducing nor receiving referred bills, their efforts to broker early bicameral agreements on the content of legislation tends to reduce the scope of disagreement between the houses remaining for conference committees to resolve at the end of the process.

The legislature relies mainly on conference committees to agree on budget legislation

Apart from these formal mechanisms for early concurrence on matters pertinent to the budget, the legislature relies mainly on conference committees to satisfy the constitutional imperative for bicameral agreement on budget legislation. The budget bills nearly always take the third passageway through the legislature described in *Bicameral Agreement*:

- One house passes a budget bill and transmits it to the second house.
- The second house amends the bill to reflect the second house's budget decisions, then passes it and returns it to the house of origin.
- The house of origin refuses to concur in the amendments of the second house and requests the appointment of a conference committee to recommend to both houses how to settle their differences.

Conference committees on budget bills are appointed and proceed in the manner described in *Bicameral Agreement*. The committee on each budget bill is typically composed of ten members, five representing each house.[4] These conferences—meeting at the very end of the legislative session under the watchful eye of the executive, legislative leaders, and others interested, and often under pressure from session-ending deadlines—are typically the most grueling, difficult, and contentious conference committees of the session. Each house endeavors to maintain its position on the many provisions in these complex bills, and mutual understanding usually emerges only in the waning days or hours of the session.

Agreement on the budget bills requires agreement also on budget control decisions

Achieving agreement in conference committees on the budget bills is complicated by an additional factor not present for other conference committees. Each house is attempting to maintain its position not only on the many provisions in the budget bills but also on the large budget control decisions it made earlier in the session—on the size of the budget and its allocation among major government activities. The decisions made by one house on these global budget matters normally differ, more or less profoundly, from those made by the other.

If the budget bill conference committees are to make much progress toward a settlement, one or both houses now must retreat from some earlier budget control decisions. Legislative practices and the rules described in *Bicameral Agreement* do not allow conference committees, on their own, to achieve agreement by sweetening the pot, bursting through previously established budget limits. The rules allow for the breaching of these budget limits, as they must, but only with the permission of the leaders of each house. As a result, the budget conference committees usually must wait upon the leaders of the two houses and the governor to arrive at a new global agreement on the budget fundamentals that each party earlier

[4] In 2023, three-person conference committees were created for several major bills, in order to reflect the narrow majorities of the House and Senate.

decided independently: the amount of total general fund spending for the state and its allocation among broad categories of government activities.

Budget Reform Is a Constant Issue

In recent years, during divided government a larger portion of final decisions are decided within the "leadership conference" and are then procedurally processed within the classic but then thoroughly outmoded conference committee. This top-down process is occasionally maligned, and a fair number of reform efforts have been proposed to increase involvement by rank-and-file members.

A veto of the budget of the legislature in 2017 by Governor Mark Dayton points up an issue with making a final budget deal. The legislature has to appropriate funds for any expenditures to be made, and in theory, this means that the legislature can eliminate programs merely by inaction. However, as in the case of the veto of the legislature's own budget, it is highly probable that a unilateral exercise of power by one branch can eventually be checked by another, or by a public outcry. In the end, a deal must be made to prevent an ongoing special session, a government shutdown, a court case, or public protest.

As a part of making the budget, and consonant with the powers of different players in making the budget, the Minnesota Legislature, lacking the numbers to accomplish a veto override, is forced to agreement by the Minnesota Constitution. Therefore reforms must be efficient in that they must allow a deal.

Reform ideas have included establishing an ongoing base budget, thereby removing the need for a complete A-to-Z deal each biennium, or at least changing the nature of the debate. Other reforms have sought earlier agreement on joint targets, and still others have suggested smaller or more tightly focused omnibus bills.

As in the case of the state government shutdown in 2011, and the veto of the legislature's budget in 2017, a failure to make a lasting budget deal then involves the judicial branch.

Budget Disputes and the Courts

Beginning in 2001, on five different occasions Minnesota state courts have been drawn into budgetary disputes between the governor and the legislature.

On three of these occasions, a budgetary impasse between the governor and legislature prompted the state attorney general to successfully petition the Ramsey County District Court to order executive branch officials to release money from the Treasury, absent an appropriation, to temporarily fund the core functions of state government (on one of these three occasions, the impasse was resolved before the court-ordered funding took effect).

On two occasions, state courts were asked to rule whether a governor's novel budget-making gambit was lawful. When Governor Tim Pawlenty unilaterally balanced the state's FY 2010-2011 operating budget via unallotment, the Minnesota Supreme Court ruled that the governor's actions impermissibly exceeded the authority provided by law. When Governor Mark Dayton item-vetoed funding for the legislature in an attempt to gain negotiating leverage in 2017, a district court judge ruled that the governor's action was an unconstitutional violation of the separation of powers principle enshrined in the state constitution, a decision later overturned by the Minnesota Supreme Court.

Each of these five events is summarized in more detail below.

2001: When the 2001 regular session ended on May 21, most executive branch officers and agencies were without funding for the FY 2002-2003 biennium. In response, Governor Jesse Ventura called what became a 19-day special session beginning on June 11. When the special session failed to promptly resolve the budget impasse, Attorney General Mike Hatch petitioned the district court in Ramsey County on June 20 to order temporary funding for the core functions of the state beginning on July 1. On June 29, Chief Judge Lawrence Cohen agreed and ordered state officials to issue payments from the Treasury as necessary to discharge core state government functions and appointed a special master to mediate any related disputes. However, this court-ordered funding was not necessary because that same day the legislature adjourned the special session *sine die* after sending Governor Ventura the negotiated omnibus spending and tax acts.

2005: The 2005 regular session ended on May 23 with no operating funding in place for many executive branch officers and agencies beginning on July 1. Governor Tim Pawlenty convened a special session of the legislature the following day, May 24. However the special session did not conclude until mid-July, nearly two weeks after the new fiscal biennium began. As in 2001, Attorney General Mike Hatch successfully petitioned the Ramsey County District Court to order funding of core functions. The result was a partial government shutdown, as those agencies and programs without enacted or court-ordered funding were shuttered. Court-ordered funding for core functions began on July 1 and effectively ended on July 9, when the governor signed a "lights-on" act to temporarily fund affected state agencies and programs until the corresponding spending acts were enacted. The impasse officially ended when the legislature passed (July 13) and the governor signed (July 13-14) the remaining omnibus budget acts.

2009: During the regular legislative session, the legislature passed several omnibus spending acts that significantly reduced the state's projected $4.6 billion deficit for the forthcoming FY 2010-2011 biennium. As the regular session neared its constitutional adjournment date, Governor Tim Pawlenty announced that he would sign the final omnibus spending act (health and human services) but veto an omnibus tax act that included budget-balancing tax increases and K-12 aid payment delays. The governor attempted to balance the general fund budget by reducing certain enacted spending items via statutory unallotment authority. During the final days of the 2010 regular session, the Minnesota Supreme Court ruled that the governor's actions were not authorized by the unallotment statute. In a one-day special session on May 17, the legislature sent Governor Pawlenty the agreed-upon omnibus budget act that balanced the FY 2010-2011 operating budget through a combination of spending reductions, the transfer of money to the general fund from several other funds in the state treasury, and aid payment delays.

2011: The February 2011 budget forecast projected a sizeable deficit of $5 billion for the FY 2012-2013 biennium. When the 2011 regular session ended on May 23, of the major spending bills only the omnibus agriculture act had been signed into law by Governor Mark Dayton. Following the precedent set by her predecessor in 2001 and 2005, Attorney General Lori Swanson successfully petitioned the Ramsey County District Court to order temporary funding of core functions. Unlike in 2005, the legislature and governor did not agree to a "lights-on bill" to temporarily fund the other affected agencies and programs. The longest partial government shutdown in state history—20 days—ended with a brief special session beginning on July 19 and the governor's signatures on July 20.

2017: Several omnibus spending bills and the omnibus tax bill had not been enacted when the regular legislative session ended on May 22. Governor Mark Dayton called the legislature into special session the following day, May 23. After the legislature passed the remaining bills and adjourned the special session *sine die*, Governor Dayton signed the omnibus state government spending act but item-vetoed the FY 2018-2019 funding for the Senate and House of Representatives. Legislative leaders rejected the governor's demand to resume negotiations and brought suit in Ramsey County District Court to have the item-vetoes declared an unconstitutional separation-of-powers violation. Upon appeal, the Minnesota Supreme Court overturned the district court's ruling in favor of the legislature and concluded that the governor's vetoes were only constitutional in this context because the legislature had access to reserves and other funding sufficient to continue operations until it reconvened the regular legislative session in February 2018. However, although claimed as a victory by then-Governor Dayton, the decision actually allowed for court-ordered funding to restore legislative functionality, if other funds ran out. In other words, the decision gave a short-term victory to Governor Dayton, but should the legislature be denied the ongoing funding it had at hand, the court hinted that it would have ruled a restoration of funds tied to completion of the legislature's constitutional duties.

About This Series

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

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

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

Earlier Versions

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

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