

About New Hampshire's Legislative Process

General Court Background

The New Hampshire General Court is made up of two houses. The New Hampshire House of Representatives has four hundred (400) members, elected from 195 legislative districts. The New Hampshire State Senate has a total of twenty-four (24) members, elected from 24 single member legislative districts. Representatives and Senators serve for two year terms. Members of both the House and the Senate receive \$200 for each two year session, except the Speaker of the House and the President of the Senate who get \$250. Members of the House and Senate are paid for travel to Concord at 38 cents for the first 45 miles of the round trip and 19 cents for every mile beyond 45.

The Beginning of the Legislative Process

In New Hampshire the only persons who may submit proposals to create new laws or repeal existing laws are the 424 members of the General Court. Anyone who wishes to propose a change in the statutes must, then, find a sponsor in the House of Representatives or the Senate; this applies equally to the citizenry, to the heads of state agencies, and to the Governor. An idea for legislation must first be drafted into appropriate language and put into the form of a bill. One of the functions of the Office of Legislative Services (OLS) located on the first floor of the State House, is to help legislators draft bills. Once drafted each bill must be approved and signed by the sponsoring legislator and any co-sponsors.

The Constitution requires that any bill which proposes new means of raising money (revenue) for the state must originate in the House; all other bills may originate in either the House or the Senate. The state's fiscal note law requires that all bills affecting the finances of New Hampshire state, county and/or municipal governments be accompanied by an objective estimate of that



bill's fiscal impact. The drafting attorney in OLS makes the initial determination of whether or not a bill needs a fiscal note; the Legislative Budget Assistant (LBA) is then forwarded the bill draft, and it is that office's responsibility to prepare the actual fiscal note statement which is attached to the bill. The drafted bill is then given to the clerk of the body of which the primary sponsor is a member, and its number (House Bill 1, Senate Bill 1, etc.) and title ("An act relative to smoking in public places") are read. It is then referred to a committee by the Speaker of the House or Senate President; there are 21 permanent committees in the House and 18 in the Senate, with jurisdiction over various subject matter. After referral to committee, the bill is sent to be printed; copies are available through the Sergeant-at-Arms Office of the House (room 318 in the State House). Any citizen may obtain one copy of any bill from this office.

The Public Hearing

Legislative committees do the real work of studying—and, if necessary—modifying bills. This work begins at the bill's public hearing. It is significant that the public hearing begins this process. Clear and persuasive arguments and evidence of public concern can be very effective at this early stage of the lawmaking process. Every bill introduced and referred to a committee must have a public hearing, unless the rules are suspended by two-thirds of the members present in either the House or the Senate. New Hampshire requires a public hearing on every bill. Bills receive public notice in the House or Senate Calendar before the public hearing. Hearings are held in the Legislative Office building or State House.

The chairman of the committee to which a bill has been referred opens the public hearing by announcing the bill's number and title. Persons who wish to speak are asked to sign up with the committee clerk prior to the start of the hearing. When called upon to testify, a person should address the chairman and committee members, identify himself or herself and the interest he or she represents, and then proceed with his or her statement on the bill being heard. It is generally a good idea to limit one's remarks to no more than five minutes; being brief and direct is important, and a speaker should always orient his or her testimony to the subject at hand. (The chairman has the duty to

call to order any speaker who does not keep his or her remarks to the point.) In order to avoid redundancy, a speaker should also tailor his or her remarks to points not already stated by previous speakers. Additional comments in the form of proposed amendments or written testimony can be left behind with the clerk of the committee for committee members to study; specific suggestions for changes in wording of a bill are particularly helpful to legislators as they examine a bill after the public hearing.

The purpose of the public hearing is to provide committee members with testimony and information relevant to the particular bill being heard, not to argue or inquire. Only committee members may ask questions of persons testifying; speakers may not ask questions of the committee members or of other members of the public who may have submitted testimony relative to the bill which is being heard. Once all those present at the hearing who wished to speak have spoken, the chairman declares the public hearing closed.

Committee Deliberation

The public hearing often causes legislators to see the bill from new angles. Legislators may wish to examine these perspectives more closely by conducting their own research and/or using staff in order to amplify, analyze, and compare different points of view on proposed legislation.

Some time after the public hearing, the committee holds what is called an executive session, which is when the bill is discussed and voted on. Under the state's Right-to-Know law, executive sessions are open to the public and any citizen may attend as an observer. Following the executive session, the committee submits a "report" on the bill to the Clerk. In the Senate the report would include one of the following recommendations:

"Ought to Pass," "Ought to Pass as Amended," "Inexpedient to Legislate," "Re-refer to Committee," or "Refer to Interim Study." (Re-refer to Committee shall be a report in the first year.)

In the House the report would include one of the following recommendations: "Ought to Pass," "Ought to Pass with Amendment," "re-refer to Committee," "Inexpedient to Legislate," or "Refer to Interim Study." Re-refer to committee in the House shall be a committee report only in the first year

session; refer for interim study shall be a committee report only in the second-year in the House and Senate. In New Hampshire, the legislative body adopts committee recommendations a high percentage of the time; it is somewhat unusual to see a committee report overturned on the floor of the House or Senate. This fact attests to the degree to which committees are respected for their expertise, and underscores the fact that much of the Legislature's substantive work goes on in its committees. One or more committee members who disagree with the majority view may submit a "minority report" for the purpose of putting their views in the permanent record. Such a report only rarely affects the ultimate action of the House or Senate, and is generally discouraged in the interest of harmony and the appearance of graceful acceptance of defeat by the minority. If a minority report is filed, it accompanies the majority's report when it is submitted to the Clerk of the body and it is printed with the majority's report in the House or Senate Calendar. A minority report in the Legislative Calendar does not automatically indicate that there will be a floor fight on a particular bill; the legislators filing the minority report may simply wish to point out to the full House or Senate that there are still differences of opinion on the bill as it comes to the floor.

Action by the House or Senate

Bills may be acted upon after the committee report (which is usually about a paragraph long) appears in the House or Senate Calendar which are published several times weekly during the legislative session. Amendments proposed by the committee which make changes in the bill are printed in the House or Senate Calendar.

Action on a bill reported out by a committee is taken on the bill's second reading; once again the bill's number and title are read to the body. It is at this point when floor debate is held and when amendments are offered. If the bill is then passed, it is ordered to the third reading, together with other bills that have reached the same stage, and the body votes to pass them all together. A bill is considered killed when the body votes to adopt a committee report of "inexpedient to legislate," or when a motion from the floor to "indefinitely postpone" the bill is adopted. Motions to reconsider the latter motion may be made but are

limited by rules and are only rarely successful. Any bill killed in the first year session is not permitted to be admitted into the second-year session, without the approval of a majority of the Rules Committee or a two-thirds vote of the House.

After a bill has passed the body in which it originated, it is sent on to the other body where it goes through the same process of readings, referral to committee, public hearing, and so on. The exception to this rule in the House and Senate are bills containing an appropriation. In the case of an appropriation, the bill is referred to the Finance Committee in the house or Senate. An additional exception to this rule in the House is a bill addressing licensure and/or certification of a bill affecting criminal penalties. In the case of a bill in the House addressing licensure and/or certification it is referred to the Executive Departments & Administration committee or if the bill affects criminal penalties it is referred to the Criminal Justice and Public Safety committee. A bill can be sent to these committees either directly or after a policy committee has studied the substance of the bill and reported it out as "ought-to-pass" or "ought-to-pass as amended." If the bill contains an appropriation, the House or Senate Finance committee then studies the bill's fiscal aspects, holds a public hearing and produces a committee report of its own. Similarly, in the case of a licensure and/or certification bill or bill affecting criminal penalties, the above noted appropriate House committee may hold a public hearing and produce a report.

Amended Bills

To become a law, a bill must be passed in the same form by both the House and Senate before it is sent to the Governor. If a bill has been amended by the body where it did not originate, it is sent back to the originating body; the amendments from the other body are printed in the House or Senate Calendar and are voted on by the originating body, in one of three (3) ways:

- 1 The originating body may approve (concur with) amendments made by the other body; the bill is then sent to the Governor.
- 2 It may disapprove (nonconcur with) changes made by the other body, but express a willingness to seek a compromise. In that case, it requests a Committee of Conference between

the two bodies; the presiding officers of each body (the Speaker and Senate President) then appoint members to a Conference Committee in order to iron out the differences.

3 If the originating body does not concur with the other body's amendments and does not request a committee of conference, the bill dies.

Conference Committee reports are presented in written form and are distributed to members of both bodies. Chairmen of a Committee of Conference must give notice of the time and place of meeting one day in advance of such meeting to the House Clerk's Office so that the meeting can be posted. Conference reports are distributed to be acted upon on some subsequent day.

Enrolling

When a bill has passed both houses, it is sent to the Enrolled Bills Committee which uses the Office of Legislative Services to examine the bill for problems, which as technical errors (improperly incorporated amendments), clerical mistakes (misspellings), or formal imperfections (incorrect citations of related laws). In case of any such errors, the committee reports the bill back to both Houses for amending those items.

If the bill passes muster, the committee issues an "enrolling report." Once the enrolling report is read in each house, the bill is forwarded to the Secretary of State, who transmits it to the Governor. The bill may be recalled from the Governor any time before he or she acts on it by majority vote of whichever body last had possession; this is fairly rare, however.

The Governor's Turn

The governor has five days to act on the bill. He or she may sign it into law, veto it, or do nothing. When the Legislature is in session the Governor must act within five days (excluding Sundays and holidays) or the bill becomes law without his or her signature. When the Legislature is not in session, the Governor's failure to act has the opposite effect: the bill dies. This is called a "pocket veto." If the Governor vetoes a bill, he or she returns it to the body where it originated with a veto message explaining his or her action. The Legislature may overturn a veto and pass a law without the Governor's approval; this requires a two-thirds

vote in each body of those present. The bill then becomes law without the Governor's signature. If there is less than a two-thirds vote in either house, the veto stands. Each bill states in its last paragraph when it goes into effect. Most do not take effect for at least 60 days after passage, allowing those affected by the bill's passage to learn of the Legislature's action and prepare as necessary.

The Budget-Making Process

The financial plan for expenditures and means of financing those expenditures is called a budget. The New Hampshire state operating budget goes through a lawmaking process similar to that of other bills. Much of the work which goes into making the operating budget, however, begins before the new Legislature convenes in January of the odd-numbered year.

Early in the summer of the even-numbered year, state agencies begin to put together their funding requests for the next two fiscal years. Although the Legislature meets yearly, New Hampshire continues to prepare its operating budget in two-year cycles called bienniums with the fiscal year running from July 1 to June 30.

In the fall the executive branch's financial experts review the state agency requests. By the end of fall budget deliberations begin when the Governor holds public hearings at which time directors of state agencies formally present their requests for funding.

During January the House Finance Committee is organized into divisions and members begin to prepare for the budget work ahead. The division assignments generally correspond with the operating budget bill categories and programs. This organizational structure provides the members within each division with more time to devote to understanding the impact of agency funding requests.

In February the Governor presents a budget to the Legislature, setting forth his or her blueprint for spending for the next two fiscal years.

The House Finance Committee then begins holding agency hearings, using the Governor's proposal as a framework. After several weeks of deliberation, the Committee introduces an operating budget bill which may differ substantially from the

Governor's proposal. The bill, a one to two inch thick document, following introduction is referred to the Finance Committee for the holding of public hearings. The time and location of public hearings are posted in the House Calendar in advance of the hearing. Members of the Legislature and the public may testify at these hearings the same as with other proposed laws.

Following the conclusion of public hearings, the committee debates the merits of the various pieces of information it received during the public hearings and subsequently submits its report, usually an amendment, to the full House for consideration. If the House passes the budget bill it is sent to the Senate where it is rereferred to the Senate Finance Committee. The process followed in the House is repeated in the Senate. When the Senate completes action on the budget, it returns it version to the House. Members of the House historically do not agree with what the Senate has done to the budget bill, and a conference committee is named by the Speaker and Senate President to try and iron out the differences in the two chambers' versions. The conference committee may require several days or several weeks to arrive at a compromise. The compromise version of the budget is again voted on by both the House and the Senate.

Prior to June 30, the budget bill is usually accepted by both the House and the Senate and is forwarded to the Governor. The Governor can either accept the budget and sign it into law, let it become law without his or her signature, or veto it. If the chief executive takes the latter course, the Legislature must vote by a two-thirds majority in order to override the veto.

On July 1, the first of the two fiscal years of the biennium begins with a plan for expenditures and means of financing those expenditures.

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