

REPORT
of
COMMISSION ON LEGISLATIVE PROCEDURES



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Submitted to the Legislature of the
State of Minnesota
January, 1959

SENATORS:

C. ELMER JOHNSON
HENRY M. HARREN
GORDON ROSENMEIER
MAGNUS WEFALD, Vice Chairman
DONALD O. WRIGHT



REPRESENTATIVES:

FRED A. CINA
AUBREY W. DIRLAM, Secretary
LLOYD L. DUXBURY
VLADIMIR SHIPKA
EDWARD J. VOLSTAD, Chairman

STATE OF MINNESOTA
COMMISSION ON LEGISLATIVE PROCEDURES

SAINT PAUL

TO THE GOVERNOR OF THE STATE OF MINNESOTA
AND THE MEMBERS OF THE 1959 LEGISLATURE

Gentlemen:

In accordance with Minnesota Laws 1957, Chapter 946,
transmitted herewith is the report of the Commission to study
Legislative Procedures.

Respectfully submitted

Commission on Legislative Procedures

By

Edward J. Volstad
Edward J. Volstad
Chairman

COMMISSION ON LEGISLATIVE PROCEDURES

The following members of the Commission on Legislative Procedures were appointed by the 1957 Legislature of the State of Minnesota:

SENATORS

C. Elmer Johnson
*Henry M. Harren
Gordon Rosenmeier
Magnus Wefald
Donald O. Wright

REPRESENTATIVES

Fred A. Cina
Aubrey W. Dirlam
Lloyd L. Duxbury
Vladimir Shipka
Edward J. Volstad

Mr. Arthur Naftalin

Hon. Karl Rolvaag

* Henry M. Harren was appointed to succeed Archie H. Miller.

AN ACT

CREATING A COMMISSION TO INVESTIGATE AND STUDY LEGISLATIVE PROCEDURE, THE COMMITTEE SYSTEM, THE USE OF THE STATE CAPITOL FOR EXCLUSIVE LEGISLATIVE USE, THE PRINTING OF ALL BILLS INTRODUCED AND TO STUDY AND COMPARE LEGISLATIVE ORGANIZATION OF OTHER STATES, AND APPROPRIATE MONEY THEREFOR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. A commission is hereby created to consist of five members of the senate, to be appointed by the committee on committees, and five members of the house of representatives, to be appointed by the speaker. The appointment of such commission shall be made upon passage of this act. The Lieutenant Governor and the Commissioner of Administration shall be members of the commission in addition to the above appointees to serve in an advisory capacity without vote. Any vacancy that may occur in the membership of the commission shall be filled by the appointing power.

Sec. 2. Such commission shall make a comprehensive, detailed and complete investigation, analysis and study of legislative procedure, the committee system, the printing of bills, the use of the state capitol for exclusive legislative use, the administrative procedure used and followed in the operation of such branch, the legal, technical and clerical assistance used by the legislature and the methods and means whereby such assistance may be made more effective, and to study and compare legislative organization of other states.

Sec. 3. The commission may hold meetings at such times and places as it may designate. It shall select a chairman, and such other officers from its membership as it may deem necessary.

Sec. 4. The commission may subpoena witnesses and records, and employ such assistance as it deems necessary to perform its duties effectively. It may do all the things necessary and convenient to enable it to perform its duties.

Sec. 5. The Revisor of Statutes and every other state agency shall cooperate with the commission in all respects so that its purpose may be accomplished. The commission shall use the available facilities and personnel of the Legislative Research Committee unless the commission by resolution determines a special need or reason exists for the use of other facilities or personnel.

Sec. 6. The commission shall make a report to the legislature on or before January 15, 1959, setting forth its findings and recommendations for legislation.

Sec. 7. The members of the commission shall be reimbursed for all expenses actually and necessarily incurred in the performance of their duties. Reimbursement for expenses incurred shall be made pursuant to the rules governing state employees.

Sec. 8. The sum of \$25,000 or so much thereof as may be necessary is hereby appropriated from the state treasury for the use of this commission in performing the duties imposed under the provisions of this act. For the payment of its expenditures, the commission shall draw its warrants upon the state treasurer, which warrants shall be signed by the chairman and one other member of the commission, and the auditor shall then approve and the treasurer pay such warrants as and when presented.

COMMISSION ON LEGISLATIVE PROCEDURES

I N T R O D U C T I O N

The Interim Commission on Legislative Procedures, created by Laws 1957, Ch. 946, had as its objective the study of the operating procedures and methods of the legislative branch for the purposes of ascertaining whether (1) its procedures and operations needed strengthening or improvement, (2) the changing needs of government and the peoples it served required a revision of its constitutional prerogatives.

The Commission was organized on June 27, 1957, held several meetings, heard expert testimony in the fields of legislative procedure in government and sent representatives to conferences in Oklahoma City and to Washington, D.C.

The committee considered the methods and operations presently existing in the Minnesota legislature; it studied the procedures and operations of legislative bodies in other states; and it inquired into the procedures of the United States Congress.

In addition to considering the views of its membership and other members of the legislative branch it heard the secretary of the senate, the chief clerk of the house, the revisor of statutes and the commissioner of administration. It invited Dr. Charles J. Zinn, counsel of the Judiciary Committee of the United States House of Representatives and professor of law at George Washington University, who addressed the committee on parliamentary procedures and the organization and operation of the Congress of the United States. It also heard Mr. Edwin H. Allen, Jr., Richfield, Minnesota, who presented a program of committee membership and organization as he viewed the needs of the Minnesota

legislature.

A synopsis of the study and the recommendations of the committee for the consideration of the 61st legislative session, commencing in January, 1959 is hereby submitted;

SUMMARY OF RECOMMENDATIONS OF THE COMMITTEE

1. Each house of the legislature shall continue to determine for itself the number of standing committees, the membership thereof, and the jurisdiction.
2. Each house shall continue to determine for itself its operating and parliamentary procedures.
3. The house shall amend its rules so that its daily sessions commence at 10:00 A.M., thereby having both houses of the legislature convene at the same time.
4. The existing form of an enrolled bill, as prepared for presentation to the governor shall be eliminated in order to reduce time-consuming and expensive retyping of bills and to minimize errors which result therefrom; and to substitute in lieu thereof a cover containing space for the signatures of the appropriate officers to be attached to a bill as it has passed both houses, or in the alternative to prepare an enrolled bill for the signature of the governor on legal size paper which may be prepared through the use of modern office equipment and reproduction processes.
5. The appropriations to the office of the revisor shall be increased so as to enable the development and training of professional bill-drafters and other technicians who would be available to assist legislative interim groups with bill-drafting and related work when the legislature is not in session and which would provide the legislature when in session with a highly trained professional staff of bill-drafters.
6. The existing system of maintaining committee records and the house and senate journals shall be continued.
7. The practice of appointing interim committees and commissions to study subjects, laws, or other matters about which the legislature requires information and knowledge should be continued but the reports to the legislature of such bodies should be standardized.

REPORT, FINDINGS, AND RECOMMENDATIONSA. Organization of the Legislature

In accordance with the provisions of the Constitution, Article IV, Section 4, each house of the Minnesota legislature determines by its rules, its proceedings and its organization, traditionally, and in accordance with the highest democratic principles, the consideration of legislation in each house has been through a committee system. Each house determines the number of committees, the membership of the committees, and the jurisdiction of the committees, and the committees have been organized so as to most efficiently consider and study the bills, memorials and resolutions presented for the consideration of the membership.

In recent years there has been criticism of the committee system, the principle criticism being that there are too many committees. As a result of such criticism, Congress reorganized itself in 1947 and reduced the number of standing committees in that national body. Since then, a great number of subcommittees have been established in the Congress and overall there are perhaps more committees considering federal legislation in the Congress than there were prior to the 1947 reorganization.

Legislation brought to the attention of the legislative branch must be considered and studied. During the 1955 Minnesota legislative session there were 3506 bills introduced in both houses and during the 1957 session there were 4014.

The standing committee system is the only effective means which has been designed among the English speaking parliamentary bodies for the proper consideration of such a great number of bills, resolutions, and memorials. Whether the committees operate as standing committees in small numbers or subcommittees

of standing committees in large numbers is merely a matter of terminology.

Legislation introduced in either house of the Minnesota legislature follows substantially the same pattern of study and consideration. Bills, when introduced, are referred to the appropriate standing committee. If favorably considered, they are reported back, debated and discussed in the committee of the whole and either passed or rejected. Routine bills of a non-controversial nature, and which usually occupy considerable time during every legislative session, are speeded up in their consideration by a Consent Calendar in the house and a Calendar of Ordinary Matters in the senate. The device of having special or local bills thoroughly considered in the standing committee and placed on the Consent Calendar or the Calendar of Ordinary Matters on the recommendation of the standing committee is a most progressive device for the careful consideration of this type of legislation with the minimum amount of time devoted for such purposes. A few states follow this system and a similar procedure exists in the House of Representatives in the Congress of the United States. It results in freeing a considerable amount of the time of the members so that they may devote such free time to the study and consideration of more complex and involved classes of legislation.

The use of the voting machine in both the house and the senate likewise contributes to the expeditious handling of legislation within the framework of a 90-day session. Minnesota was a pioneer in the use of this legislative device. Many legislatures still use roll calls or adaptations of a roll call in lieu of the voting device.

As a result of the foregoing, it is the recommendation of this committee that the organization of the standing committee, its membership, and its jurisdiction continue to be left to the decision of each house as expressed in its rules. There may be times in the future, just as there has been in the past,

where a sound legislative policy will require a greater number of standing committees or a lesser number of standing committees depending on the political, economic, or social requirements for legislation then existing. Likewise, and for similar reasons, it is the recommendation of the committee that the operating and parliamentary procedures of each house continue to be determined by the rules of each house as they have been in the past.

B. Meetings of the House and Senate

Traditionally, and for a great number of years, during each legislative session the senate and the house of representatives have convened each day's session respectively at 10:00 A.M. and at 2:00 P.M. As a result, most of the house committees have been meeting while the senate is in session and most of the senate committees have been meeting when the house is in session. This practice has been criticized but only in so far as it affects those Minnesota citizens and residents having business before the legislature. These persons have found it difficult to be heard at times and as a result thereof the question has often been asked by these persons as to why some arrangements could not be made so that they might appear before the respective committees of both houses considering the same piece of legislation on the same day.

Accordingly, it is the view of this committee that if the house and senate were to meet at the same time on each day it would be possible to arrange for the meetings of the companion committees of the house and senate on the same days in order to accommodate those people of the state of Minnesota having legislative business. Such an arrangement, and for the same reasons, might even result in the companion committees holding joint hearings solely for the accommodation of those people appearing before them.

This committee, therefore, recommends that the house amend its rules so that its daily sessions commence at 10:00 A.M.

C. The Enrolled and Engrossed Bills

The Minnesota Constitution, Article IV, Section 21, reads: "Every bill having passed both houses shall be carefully enrolled, and shall be signed by the presiding officer of each house." Pursuant thereto, the statutory provisions and the rules of the senate and house provide that each house engrosses and enrolls the bills which it considers and passes.

The word "enrolled" is not defined in the Constitution. The word "engrossed" does not appear in the Constitution. In *Anderson v. Commonwealth* 1938 275 Ky 232, an act was attacked on the ground, among others, that it had been enrolled by printing instead of in long hand. The Kentucky Constitution, Section 56, requires enrollment of a bill. The Kentucky Statutes, Section 1989, refer to both engrossing and enrolling bills. The Kentucky Court said:

"***the words 'engrossing,' 'enrolled' and 'enrolling' all appear in the same section of the statute, which fairly warrant the inference that the word 'engrossing' was used alternately or synonymously with the words 'enrolled' and 'enrolling.' In this connection it may be well to note that in Webster's definition of the word 'enroll' the words 'to engross' are used as one of or a part of the definition of the word 'enroll'."

The court concluded that it was unnecessary that enrolling or engrossing of bills be restricted in long hand.

In Minnesota the term "engrossed bill" has been applied to a bill receiving the consideration of either house which has been retyped in order to incorporate an amendment therein. The term "enrolled bill" has been applied to that copy of a bill which has been typed on an extra large sheet of good quality paper, and passed, ready for the signatures of the proper officers of the house and senate, the governor, and the secretary of state.

The process of engrossing a bill in either house of the Minnesota legislature is illustrated as follows:

"A bill is introduced, given its first reading, referred to the appropriate committee, returned by that committee to the originating house with amendments and a recommendation that the bill do pass as amended. The committee report is adopted and the bill given its second reading. It is then referred to Enrolling and Engrossing where the bill is retyped so as to incorporate the amendments in its text. This retyping of the bill is the first engrossment of the bill. The incorporated bill is then returned to the originating house and the following day each member is furnished with a printed copy of the bill.

If the bill is amended in committee of the whole or before it is finally passed, or both, after its passage, it is again referred to Enrolling and Engrossing where it is retyped so as to incorporate the amendments made since the first engrossment of the bill. The bill as so engrossed the second time is then sent to the other house where it may be amended in committee, in committee of the whole, or before it is finally passed. When passed in the other house, the bill with all the amendments attached is returned to the originating house for concurrence. If the originating house then concurs in the amendments and passes the bill as amended, it is again referred to Enrolling and Engrossing where it is retyped so as to incorporate within its text the amendments made since the last time the bill was engrossed. The bill as finally retyped is called the third engrossed copy of the bill. It is then retyped again in the form of an enrolled bill for presentation to the governor."

The enrolled bill is identical to the final engrossed bill except as follows:

- a. The enrolled bill reads: "An Act." The engrossed bill reads "A Bill for an Act."
- b. If a statutory provision of the law has been amended, the enrolled bill does not show the portions of the statute which have been stricken; the engrossed bill does.
- c. The enrolled bill contains certificates for the signatures of the speaker and chief clerk of the house, the president and secretary of the senate; the engrossed bill contains only the certificates of the secretary and chief clerk. When the enrolled bill, duly signed by the legislative officers, the governor, and the secretary of the state's office have been accomplished, the enrolled bill is a law.

The process of engrossing and enrolling bills by repeated retyping is time-consuming, expensive, and often results in serious errors. It is the recommendation of this committee that the engrossing and enrolling process be improved

particularly to minimize the amount of work required and to eliminate many errors. This recommendation may be accomplished in either one of the following two ways:

- a. The process of preparing an enrolled bill for presentation to the governor on a specially prepared sheet of paper should be eliminated. In lieu thereof a cover should be attached to the bill as passed by both houses with space provided thereon for signatures of the appropriate officers of the house and senate, the governor, and the secretary of state. In addition, the statutory law and the rules of both houses should be changed so as to require that the session laws as printed show both stricken and new material in case of a session law which amends an existing provision of the statutes. The law also should require that the revisor of statutes be directed to omit the stricken material in publishing Minnesota statutes and to have inserted in the session laws a statement that the stricken material is no part of the law.
- b. When a bill has passed both houses and is to be enrolled on a specially prepared piece of paper for the signatures of the appropriate legislative officers and the governor, the specially prepared piece of paper shall be reduced in size to legal size, and such enrolled bill shall show in the case of a statute which has been amended, the stricken material. The revisor shall receive the same instructions with reference to such stricken material as in the case of "a".

Either change, as recommended by this committee, will permit the use of modern office equipment and reproduction processes to eliminate unnecessary re-typing of bills.

D. The Revisor of Statutes

The office of revisor of statutes was created in 1939 to provide a bill-drafting service for the members of the legislature and others, an editorial office for the preparation, compilation, and indexing of the session laws and Minnesota statutes, and to systematically recommend to the legislature the repeal or amendment of statutory provisions which are obsolete or erroneous. The office has also been used to approve bills of the house as to form and to provide the house committee on Engrossment and Enrollment with a staff for engrossing and enrolling house bills.

If the revisor is to perform his statutory duties by providing adequate services to the persons entitled thereto, the office must be staffed with highly trained and skillful technicians. Such staff is particularly necessary during the legislative sessions. This can only be accomplished if the revisor's staff is sufficiently enlarged so as to enable him to develop professionally trained bill-drafters and other skilled technicians on a full-time basis. The additional personnel, however, should be available when the legislature is not in session to assist interim commissions in bill-drafting and related fields.

This committee recommends that the appropriations of the revisor be sufficiently increased so as to accomplish the foregoing.

E. The Records of the Legislature

The Congress of the United States and one or two state legislatures maintain and publish permanent records of all proceedings of the legislative bodies including the discussion and debates of the members and the testimony of the witnesses before the committees. More states do not do this because of the difficult problem involved in attempting to maintain and publish committee proceedings and proceedings of the legislative bodies themselves and to quickly have the material available so that it will serve some good purpose during the shortness of a limited legislative session.

To improve existing deficiencies, both the house and senate of the Minnesota legislature do require the respective committees to keep careful committee reports and records. The committee records include the minutes of the meetings. In some instances a stenographic account is made of the testimony of witnesses and in many instances a synopsis of the testimony is made. The records are permanently kept and are available. Both the senate and house maintain very adequate journals in comparison with similar bodies elsewhere in the country.

Accordingly, it is the recommendation of this committee that although weaknesses do exist, the existing practice be continued.

F. Interim Committees, Commissions, and Reports

When Minnesota was admitted to statehood there were approximately 5,000 people within the state. Since then, the state has grown and developed, the day to day political, economic, and social problems of its people have increased. It has been necessary for the state government to extend its areas of operations in order to best serve the growing state with its increasing population and problems. The result is that it is difficult for the governing body of the state of Minnesota, namely, its legislature, to perform its obligations within a 90-day session. To alleviate this problem and in order to more leisurely consider some of the pressing problems of government, the interim commission has come into being. It is necessary and essential to maintain this legislative device to gather information, to make studies and recommendations in those fields which the government occupies.

Accordingly, this committee does not criticize the practice of creating interim commissions as the need is required to study subjects, laws, or any other matters of which the legislature must have expert knowledge in order to properly serve the state. However, to facilitate the consideration of studies which are made and completed by interim committees and commissions, this committee recommends that the reports of such committees and commissions be standardized and be made uniform. All reports shall be submitted on paper $8\frac{1}{2}$ "x11" in size, bound on the left side with three binder holes to fit a standard-sized binder for $8\frac{1}{2}$ "x11" paper. The forepart of the report should contain a brief summary of the committee's recommendations distinct from its findings, discussions, and other portions of its report. Whenever possible, and if the

report contains legislative recommendations, copies of the proposed legislation--particularly if extensive in character--should be attached as an exhibit at the end of the report.

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