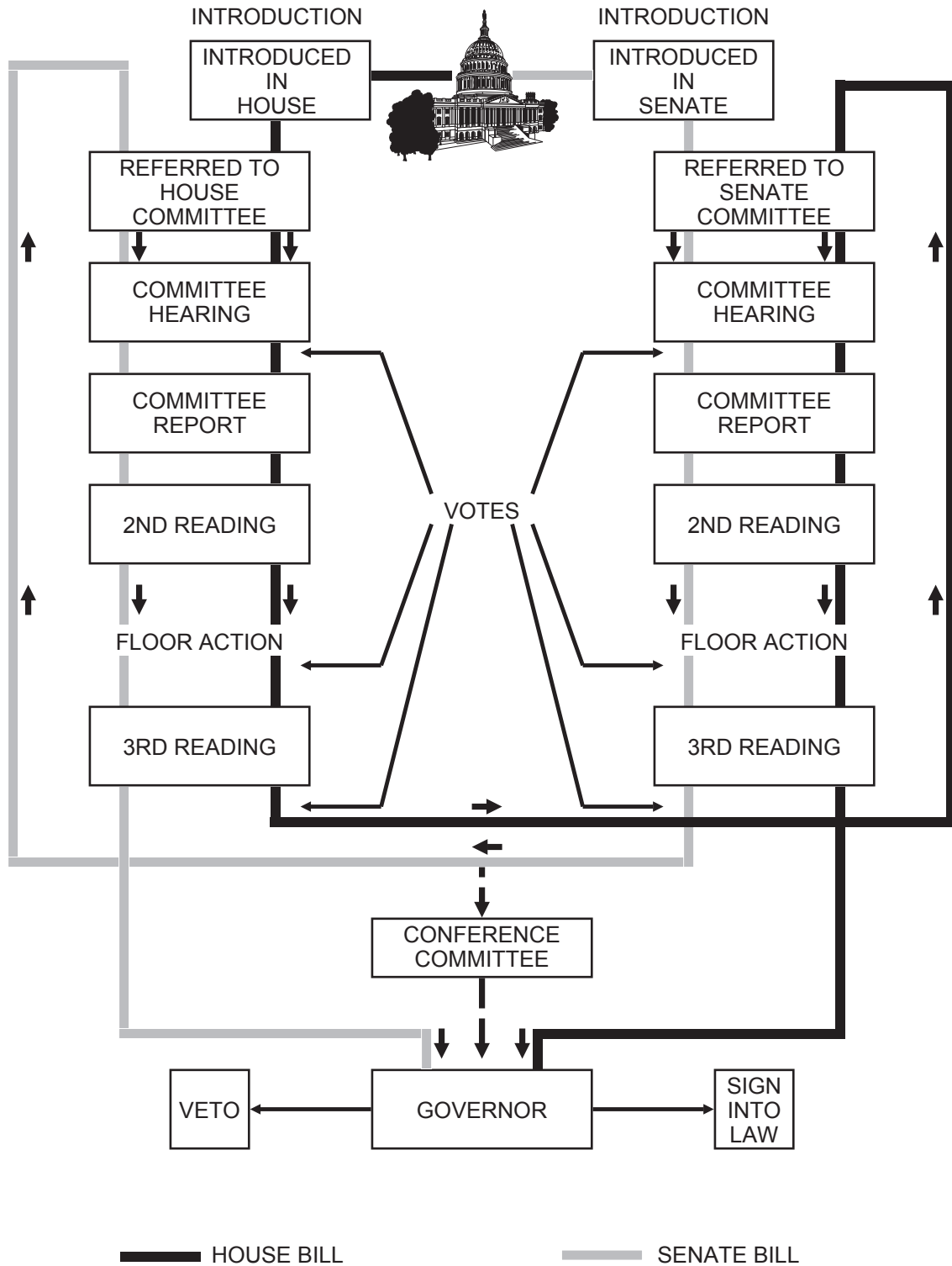


Figure 7-1 The Bill Making Process



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

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

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

- D. **Committee consideration and action.** Action by the committee is usually not taken on the same day as the hearing. (See Chapter 8 for a thorough discussion of actions that may be taken by the committee.) If the committee recommends further consideration by the appropriate house ("do pass", "do pass as amended", "do not pass", or "do not pass as amended"), a committee report is prepared. If the committee does not recommend consideration by the appropriate house, the bill does not move beyond this point until further action is taken.
- E. **Committee report.** The committee report, along with the text of any amendments approved by the committee, is printed in the daily journal. The report is adopted upon a motion in the Senate. In the House of Representatives, without objection, a favorable committee report is considered adopted upon reading. If a fiscal note is required, the bill may not be reported out of committee without the fiscal note.

- F. **Second reading, first house.** The Committee of the Whole in the sponsor's house debates the bill. Amendments may be moved and voted on. After any amendments are considered, the bill (as amended, if applicable) is voted on.
- G. **Committee of the Whole report.** When a Committee of the Whole report is adopted that includes a majority vote for a favorable recommendation, any amendments are engrossed into the bill and it moves to third reading. A member may move to segregate legislation prior to the adoption of the Committee of the Whole report. If the motion prevails, the bill remains on second reading.
- H. **Third reading, first house.** A bill may not be amended or debated on third reading. Each member's vote must be recorded and printed in the journal. An extraordinary (greater than majority) vote is required for certain bills. (A section in the bill will note the requirement.) The third reading vote determines whether or not this requirement has been met. Except on the last legislative day, second and third reading may not take place on the same day.
- I. **Transmittal.** The bill is transmitted to the other house. Deadlines for transmittal of various types of bills are established in the Joint Rules. After the deadline, a bill may be considered by the receiving house only upon approval of two-thirds of its members present and voting. (Compliance with transmittal deadlines helps the Legislature to maintain a pace of work that facilitates completion of its business within 90 days.)
- J. **First reading, second house, and referral to committee.** See step B.
- K. **Committee hearing.** See step C. This provides the public a second opportunity to testify, especially if changes were made to the bill in committee or on the floor of the first house. Because the bill's sponsor will not be present during Committee of the Whole debate in the second house, the bill's sponsor may want to arrange for a member in the second house to be a floor sponsor. The sponsor should notify the committee's presiding officer if a floor sponsor has been arranged. Otherwise, the committee presiding officer will designate a committee member to act as floor sponsor if the bill is recommended for further consideration by the appropriate house.
- L. **Committee consideration and action.** See step D. If the committee recommends consideration by the appropriate house ("be concurred in", "be concurred in as amended", "be not concurred in", or "be not concurred in as amended"), a committee report is prepared. If there is another live bill with a conflicting provision, the staff will inform the committee and sponsor and the committee will need to adopt an amendment providing a coordination instruction. The coordination instruction typically voids a provision if a conflicting provision is passed.
- M. **Committee report.** See step E.
- N. **Second reading, second house.** See step F.
- O. **Committee of the Whole report.** See step G.
- P. **Third reading, second house.** See step H. A bill passed on third reading in the second house, if not amended by the second house, will have passed both houses in an identical form. The bill then proceeds to step T "Enrolling". If the bill is amended in the second house, it is returned to the original house with a message requesting concurrence in the amendments. Deadlines are established in the Joint Rules for transmittal of various types of bills with amendments.

- Q. **Consideration of amendments of second house by first house.** Concurrence with the amendments of the second house is first considered by the Committee of the Whole. If the Committee of the Whole recommends concurrence and there is a favorable vote on third reading, the bill proceeds to step T “Enrolling”.

If a Committee of the Whole report is adopted that recommends the amendments not be concurred in, the first house usually appoints a conference committee and requests a conference with the second house. The presiding officers appoint the members, often three from each chamber, two from the majority and one from the minority.

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

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

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

- S. **Conference committee report.** If a conference committee report is agreed to by a majority of the committee members from each house, the committee report is debated by the Committee of the Whole in each house. If the Committee of the Whole recommends concurrence, upon a favorable vote on third reading, the bill proceeds to step T “Enrolling”. If the conferees do not approve a committee report or the conference committee report is not adopted by either house, various approaches may be pursued. The bottom line is that the bill will not become law unless both houses approve the bill in the same form on third reading. This may be done by adopting the same conference committee report.

- T. **Enrolling.** The bill is printed in the form that it was approved by both houses.

- U. **Signature of presiding officers.** The enrolled bill is delivered to the presiding officer of the first house. The bill is signed and recorded in the journal and then transmitted to the other house. The presiding officer of the second house signs the bill and it is recorded in the journal. If the bill is a resolution, referendum, or constitutional amendment, the bill is transmitted to the Secretary of State. All other bills go to the Governor.

- V. **Governor’s action.** If the Governor signs the bill, it becomes law. If the Governor does not sign or veto a bill, it becomes law after 10 days. All laws are filed with the Secretary of State. (The work does not end here; see “Codification and Publication of Laws” later in this chapter.)

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

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

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

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

The bill goes back to step V.

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

Amendment Drafting Services

Amendments are drafted by Legislative Services Division research analysts and attorneys at the request of legislators. (See the following section for amendments to appropriation bills.) Because an amendment may be considered only if a motion is made by a legislator, staff are not authorized to draft amendments at the request of a citizen, lobbyist, agency staff member, or any other person who is not a legislator.

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

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

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

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

Amendments are reviewed by legislative technical editors. Staff perform the following services:

- ensure that changes made by an amendment are reflected in the bill's title in order to comply with the Montana Constitution;
- evaluate whether or not the amendment would change the original purpose of the bill in violation of the Montana Constitution;
- review the entire bill and references to sections that occur in other laws to ensure that any changes are made consistently in order to avoid conflicts in the laws;
- identify the need for coordination instructions when provisions of two bills conflict;
- ensure compliance with format and style guidelines;
- review the entire bill in light of the proposed amendment to identify any portions that require clarification; and
- if desired, suggest additional amendments that are necessary or desirable in order to accomplish the requester's goal.

The Appropriation Process

This section provides general information about the appropriation process. More detailed information may be obtained from the Legislative Fiscal Division, which prepares excellent training materials for legislators.

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

General Appropriations Bill

The general appropriations bill (by tradition House Bill No. 2) is the vehicle through which the majority of appropriations that fund state government agencies are made. The size and complexity of House Bill No. 2 necessitate that the bill is reviewed following a process that is different from other bills. The bill is divided into sections composed of the budgets of agencies with similar functions. Each section is reviewed by a subcommittee consisting of members of the Senate Finance and Claims and House Appropriations Committees. (See inset for a list of the joint subcommittees.) The presiding officer of each subcommittee is a member of the House of Representatives.

Joint Appropriations Subcommittees

Education
General Government
Health and Human Services
Judicial Branch, Law Enforcement,
and Justice
Long-Range Planning
Natural Resources and
Transportation

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

- Review and recommendation by appropriations joint subcommittees. The subcommittees hear testimony from agency staff and the public.
- Consideration by House Appropriations Committee. The committee prepares a substitute bill for consideration by the Committee of the Whole.
- Consideration by House of Representatives. The bill is debated and amended in the Committee of the Whole, then considered by the House of Representatives on third reading.
- Transmittal to Senate and referral to Senate Finance and Claims Committee.
- Consideration by Senate Finance and Claims Committee. The committee amends the bill and reports to the Senate.
- Consideration by Senate. The bill is debated, and any amendments are considered in the Committee of the Whole, then considered by the Senate on third reading.
- Free Conference Committee. If the two chambers do not adopt the same version of the bill, it may go to a free conference committee. The free conference committee may recommend amending the bill in order to implement other bills with a fiscal impact that have been approved without an appropriation. When both houses adopt the free conference committee report, the process is the same as for other bills.

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

Other Appropriations

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

Other bills that contain specific appropriations, known as “cat and dog bills”, follow the same path as any other bill. Bills may be referred to another standing committee or to the Senate Finance and Claims Committee or the House Appropriations Committee or may be referred between standing committees and the budget committees.

Amendments

All amendments to House Bill No. 2 are drafted by fiscal analysts from the Legislative Fiscal Division.

For amendments to other appropriation bills, a legislator may contact the amendments coordinator, the Legislative Fiscal Division, or the Legislative Services Division.

How to Read a Bill

A few tips for reading a bill follow.

Title

The title must clearly summarize the contents of the bill. Reading the title is a good way to get an overview of what is proposed.

Preamble

Resolutions and some bills include a preamble. The preamble follows the title and includes one or more clauses that begin with “WHEREAS”. The preamble is a preliminary statement of the reasons for enactment of the law but is not considered law.

Underlined Words

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

An interim committee shall review administrative rules
and draft legislation.

Underlined and Capitalized Words

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

An interim committee shall review administrative rules
AND DRAFT LEGISLATION.

Stricken Words

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

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

Sections

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

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

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

Definitions

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

Nonsubstantive Changes

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

Repealer

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

MCA Numbering

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

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

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

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

Information About Bills: Fiscal Notes and Other Statements

Fiscal Notes

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

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

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

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

A fiscal note is an analysis of a bill's dollar impact on state or local revenue, expenditures, or fiscal liability.

A fiscal note shows, in dollar amounts when possible:

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

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

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

- ask to consult with the Budget Director;
- elect to prepare the sponsor's own fiscal note; or
- notify the presiding officer that the sponsor concurs.

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

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

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

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

If a sponsor would like assistance in any of these steps, please contact the Legislative Fiscal Division.

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

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

Local Government Fiscal Impact Statement

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

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

Codification and Publication of Laws

Session Laws

Immediately following approval of legislation or adoption of a legislative or constitutional referendum, the legislation is filed with the Secretary of State. The Secretary of State assigns a chapter number to each act in the order that it is received by the Secretary of State’s office. Resolutions are cited by the number assigned by the Senate or the House at the time of introduction and are not given chapter numbers.

Publication of all chapters and resolutions from a session of the Legislature is accomplished as soon as possible by the Legislative Services Division in a set of volumes known as the “Session Laws”.

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

Montana Code Annotated (MCA)

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

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

The annotations incorporate background materials related to the statutes, including pertinent official comments, amendment summaries, case notes, references to administrative rules, digests of Attorney General's opinions, and citations to law review articles and legislative publications.

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

Other Publications

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