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## **From Idea, to Bill, To Law~The Legislative Process in Arizona**

**by State Senator Randall Gnant**

(Edited for space)

### **It Starts With the Constitution...**

The American form of government, begun over two centuries ago was certainly a new and bold experiment. At the core of this new philosophy of government was the concept that the people were gathering together, as a group, to determine what government could and could not do. Our federal constitution begins with the words, "We the People..."

As our country grew and territories were preparing to come into the Union as states, delegates from each territory would meet to design their state constitution. Following the federal tradition, state governments would be designed to have only those rights granted to it by the people of the soon to be state.

As the number of states grew, the delegates of succeeding territorial conventions had more and more examples of state constitutions to choose from. In addition, the delegates, often for political reasons, had to be in tune with the sentiments and attitudes prevailing with the territorial voters. The voters, after all, would have to approve the proposed new constitution.

The Arizona constitutional convention took place in Phoenix over sixty-one days in the fall of 1910. There were already 46 states and Arizona and New Mexico were identified as states 47 and 48.

During the convention, the delegates borrowed heavily from the constitution of the state of Washington which had come into the Union just a short time earlier. They also added provisions for such things as the initiative and the referendum and for the recall of elected officials.

At the time, some thought these procedures to be harmful to the delicately balanced system which had worked for well over a century. One of these people was President William Howard Taft, who vetoed the Congressional resolution approving the new Arizona constitution because it contained a recall provision. Congress and the President approved a second resolution which said that Arizona could only become a state if they adopted an amendment removing judicial officers from the provision of the recall.

This the voters of Arizona did. On February 14, 1912 Arizona became the 48th State in the Union. But there was a limit on the rights that our early citizens would yield to the state government. They wanted the ability to recall judges if they saw fit to do so. As soon as we became a state, recall was added back in.

The Constitution of the State of Arizona is the first place to look.

## **The Constitution and the Legislature**

### **Limited Powers**

Article IV of the Arizona Constitution deals with the legislative department of government. Lest there be any doubt at all about who is ultimately in charge of Arizona, Article IV, Part 1, Section 1 makes it perfectly clear:

"The legislative authority of the state shall be vested in a legislature, consisting of a senate and a house of representatives, but the people reserve the power to propose laws and amendments to the constitution and to enact or reject such laws and amendments at the polls, independently of the legislature; and they also reserve, for use at their own option, the power to approve or reject at the polls any act, or item, section, or part of any act, of the legislature."

That's about as clear as you can get. While we elect a legislature and while we expect them to ably represent us, Arizonans still have the ultimate authority to initiate legislative action if they so choose and they also retain the authority to reject legislative action of which they disapprove.

### **Rules and Procedures**

From time to time we read in the newspapers, or hear on the radio, about policies and procedures and practices in the Arizona legislature. Most often that which we read or hear is critical of how the legislature goes about its business. Words such as "fair" and "open" and "level playing field" are used, as if to imply that the legislature should operate in a significantly different manner than it does.

Everyone is welcome to criticize, of course, and both newcomers and longtime veterans of the political scene will admit that there are always ways to improve the legislative process. But the operation of the legislature, both the House and the Senate, is dictated by the Arizona Constitution, by laws passed since Statehood, by custom and by tradition.

For example, Article IV, Part 2, Section 8 of our state constitution says, "Each house, when assembled, shall choose its own officers... and determine its own rules of procedure." The Constitution goes on to make some specific requirements, such as keeping a journal or prescribing a method for expelling members or providing privilege from arrest during session, but for the most part, the authors of the Constitution, and the public since then, have determined that each branch of the legislature should adopt its own rules and procedures for conducting its business.

In the Senate, each legislative term begins by temporarily adopting the rules of the previous term. Changes to the rules can be proposed by any member of the Senate. Rules can be added, amended, or adopted at any time. Because Senators make their own rules, they can suspend them if they choose to do so.

During the early days of each term the minority and majority caucuses will discuss proposed rule changes. Then the full Senate will adopt a set of rules for the rest of the term. These rules are published in booklet form and are available to the general public. Any subsequent changes are also published.

More about the rules of the Senate later on.

## Arizona and "The Citizen Legislature"

Interestingly enough, the constitution of the State of Arizona is quiet on the question of how long, or how hard, the members of the legislature should work.

The concept of the "citizen legislature" goes back to Colonial times and is based on the precept that if lawmakers have to go home and work under the laws they created, they will be more careful about passing laws.

Then, too, there wasn't all that much for legislatures to do two hundred years ago. The legislature could meet in January when the ground was too frozen to put in crops, could debate and socialize and pass what few laws needed passing -- and they could still be home in plenty of time for the spring plowing.

Modern state government is considerably more complicated than state government of two hundred years ago. In fact, it is more complicated than even the federal government was just one hundred years ago.

The Arizona legislature appropriated just short of \$5 billion dollars for the 1996-1997 fiscal year. But, the legislature also dealt with another \$5 billion in unappropriated monies. That's a \$10 billion state economy. Over 1000 bills were filed -- many of them unnecessary perhaps -- but the unnecessary bills were quickly disposed of without wasting much time or effort. Over 300 bills made it all the way through the legislative process.

Consider also, that lobbyists work twelve months of the year. The various state agency heads work twelve months of the year. The staff members of the House and Senate work year around.

Hardly anyone wants the Arizona legislature to go the way of the California legislature -- high salaries, large staffs, extensive perks and privileges, and year round legislative sessions. However, as Arizona continues to grow the nature of government will become increasingly more complex.

And it will become harder and harder for part time legislators to keep up with what is going on.

**As we will see beginning in the next chapter, Arizona depends on having legislators who devote far more than just "part time" to their legislative jobs. Indeed, the ability of the full legislature to function at all is due in large respect to those men and women who work so hard during the so called "interim period."**

## Let's Start at the End....

Any discussion of the legislative process must start somewhere.

It would seem logical to start with the beginning of the legislative session. Sessions start in January, public interest is highest when the legislature is in session, and most of the drama and excitement of the legislative process takes place when the legislature is in session.

But, just as the Super Bowl half-time show, with its lights, pyrotechnics and mechanical wonders takes months to plan and execute -- so too does a legislative session have its roots months and months before each first Monday in January.

In fact, the best place to begin is at the end of a legislative session....

Dawn breaks slowly over the first day in months that the legislature is not in session. It's quiet at the Capitol. Wandering through the Senate building is like prowling the streets of a city in one

of those black and white 1950's movies where the earth has been invaded from outer space and mass evacuation has taken place. The floor of the Senate is littered with celebratory confetti; the desks are still covered with last minute agendas and with compromise amendments to final pieces of legislation. Throughout the building wastebaskets are filled to overflowing with soft drink cans, styrofoam coffee cups and bags and wrappers from local fast food restaurants. Here and there office lights are still on -- their occupants too interested in leaving to take time to turn them off.

The legislators have gone home.

Only staff members, hard core members of the press corps, and the pigeons remain.

**The author makes no connection between these three groups. The reader is free to do so!**

It's the morning after sine die.

The period from roughly mid-April to January, when the legislature is not in session is known as "the interim period".

With the adjournment of a legislative session, virtually everyone takes a couple of weeks off to rest and reflect on the accomplishments and failures of the session just completed. Some legislators will take even more time off -- they will be heard from only sparingly, if at all, until the beginning of the next session.

**No value judgment is implied here. Our legislature is, after all, supposed to be "part time", and some Senate and House members do need to earn a living. Some rural legislators live so far from the Capitol that any sort of regular attendance would be expensive as well as inconvenient. And not all legislators are naturally interested in what happens during the interim period.**

For an increasingly large number of legislators, however, the summer and fall months are nearly as busy as the months when the legislature is in session.

For there is always a good deal of work to be done.

## **The Interim Period**

The interim period can occupy as much of a legislator's time as he is willing to commit. For members of leadership, there is work to be done nearly every day. For the rank and file members, there is plenty of work to be done, but members are free to work hard, moderately hard or not at all during the so called "off" months.

At the risk of over generalizing, interim activities can be grouped into one of four categories:

1) **Constituent service** -- While Senators try hard to deal with constituent concerns on a timely basis whenever they come up, the time demands during a legislative session sometimes make it difficult to deal with constituent problems and proposed legislation at the same time. With apologies to the constituents, non-emergency constituent service may, of necessity, be pushed to those days and weeks immediately following adjournment of the regular session.

2) **Clarification of recently enacted laws**. -- New laws don't always work out as intended. With the recent trend to 100 day legislative sessions, and with over 1000 bills being considered during each session, it should come as no surprise that each year legislation is passed which does

not have all of the i's dotted or the t's crossed. (This is not to say that when sessions lasted 160-170 days all laws were perfect.)

Sometimes the need for corrective change is known before the bill is even passed, but there is simply not enough time to make the change. Most often, these minor changes are noticed when state officials begin preparing to put the new law into effect. Once in a while it is even later when the "glitches" are discovered. Sometimes the law is interpreted differently than its sponsors intended, sometimes there can be a conflict with other laws and sometimes what appeared to be a solution to a problem on paper doesn't work in the real world.

When these shortcomings are discovered, they are accumulated and, as the time for a new session approaches, a piece of "cleanup" legislation is proposed in the form of a technical corrections bill. Because the required changes are generally easy to make and are almost always non controversial, "clean up" bills are often introduced very early in the subsequent legislative session and they usually move quickly through the process. The bill is generally introduced by the chairman of the committee which dealt with the earlier legislation or by the sponsor of the earlier legislation.

**3) Serving on "Interim" Committees** -- Although a bill may be passed into law by the legislature, sometimes debate and testimony during the legislative process will point out areas which need to be considered, but cannot be considered immediately due to the time constraints of the regular session. And sometimes an otherwise "good" bill has problems which prevent the bill from being passed by the legislature.

Each year the legislature passes bills which require the House and the Senate to establish interim committees to gather facts and make recommendations on areas of particular interest. It is not unusual to have several dozen interim committees.

An "interim" committee, then is a committee which meets during the months when the legislature is not in session. Most interim committees can accomplish their purpose in two or three meetings.

There are at least three types of interim committees:

**1) The "joint" committee** -- A joint committee is composed of members appointed by the President of the Senate and the Speaker of the House of Representatives. There is generally a requirement to "report" findings to the full House and the full Senate prior to the beginning of the next regular session of the legislature. These findings may include recommendations for specific legislation. The joint committees hold public meetings, hear testimony and consider proposals, but they do not "pass" bills. Joint committees may be created by an act of the legislature, or they may be created by agreement between the President of the Senate and the Speaker of the House of Representatives.

**2) The "select" committee** -- Similar to the joint committee, but with the addition of one or more members "selected" from the private sector.

**3) The "ad hoc" committee** -- These committees may be composed of only Senate members or only House members. They may or may not have members from the private sector. Ad hoc committees may be formed by the President or the Speaker. With permission from the President or the Speaker, ad hoc committees may even be formed by committee chairmen or individual legislators.

**Not surprisingly, there are occasional deviations from the descriptions of the types of committees just discussed. Historians of the Senate tell of joint committees without any legislative members, and "advisory" committees which may recommend legislation and "task forces" which lead to proposed new laws. For the most part, though, the descriptions I've given should cover most cases.**

**4) Drafting bills for the next legislative session** -- The summer and fall months are an ideal time to begin gathering information and discussing options for legislation which a member wants introduced in the next January session of the full legislature.

As summer turns into fall at the Capitol, members should be caught up on constituent service and the schedule of interim committee meetings should be nearing completion. But, as the next chapter describes, there are still more demands on the time of legislators who work during the interim. For, with January and the beginning of a new session nearing, efforts intensify from a number of sources -- efforts aimed at drafting bills -- efforts aimed at having new laws.

## **Where Do the Ideas for Bills Come From?**

Following is a sampling of groups which may want to sponsor legislation and some of their reasons for doing so:

1. While all Senate bills must be introduced by one or more Senators (and, of course, all House bills must be introduced by one or more members of the House of Representatives) less than one-third of all new bills are the original ideas of the sponsoring legislators. This is the largest single source of new bills, but it is still a minority of the total. Legislators get their ideas for new bills from a number of sources. Following are just a few:

A) Prior experience with other bills, whether passed into law or not, often indicates areas for new or revised legislation.

B) Long standing personal conviction certainly plays a role in some legislators' plans for new bills.

C) The results of interim committees. See the previous chapter.

D) Court decisions. From time to time courts (either state or federal) may rule portions of previously passed legislation to be unconstitutional. A court may also interpret a law in a manner which a legislator believes is incorrect or unintended. New laws to try a new approach or fine tune or clarify the old law may result.

2. Another large source of new bills is from state departments and agencies of both the executive and the judicial branch. Directors in these organizations will come to the legislature (either the House of Representatives or the Senate) for new or modified legislation for a number of reasons.

Sometimes existing laws need changing. As our society changes, our need for specific laws changes. Some legislation becomes out of date, other laws may need to be modified, either weakened or strengthened, to keep up with changing times. Once again the departments and state agencies will propose changes in legislation which will most often be introduced by an appropriate committee chairman.

3. Ideas for new legislation also come from political subdivisions. Counties, cities, towns, school districts and special districts will also come to the legislature to modify existing laws. But

they will also seek new legislation to help them best represent their constituencies.

4. Individual constituents propose new laws. Sometimes Senators will agree with the suggestions of the constituent and will work hard for the constituent as the bill makes its way through the process. Sometimes the Senator will introduce a bill on behalf of a constituent or constituent group but will do little or nothing to move the bill along. And sometimes the Senator will introduce a bill to satisfy a vocal constituent and then actively work behind the scenes to see that the bill dies somewhere along the road.

5. Finally, business and special interest groups are the prime movers behind proposals for some new laws. Believe it or not, this is often the smallest group of bills in terms of numbers, but it is these bills which often receive the most public attention.

Most of these special interest groups will be represented by one or more of Arizona's 7,500 registered lobbyists, but each year there is legislation suggested by very small interests who do not have professional lobbyists guiding them.

When lobbyists are involved, the legislation is generally presented in draft form to a sponsoring legislator. Here, too, it is important to have the appropriate committee chairman "on board" with the proposed legislation. But, to a greater extent than with departmental or agency legislation, the prime sponsors of the bill come from rank and file legislators.

When lobbying organizations are not involved, when an idea comes from a single company or a small group of involved constituents, it is generally the case that the proponents will have an idea of what they want to accomplish but that idea will not have been actually developed into proposed legislation. If this is the case, the proponents will find a legislator to sponsor and help craft a bill.

6. Miscellaneous sources of new bills include audit recommendations, news media investigations or special reports, national legislative organizations such as the National Conference of State Legislators or the American Legislative Exchange Council. In short, anyone, anywhere, with an idea stands a chance of finding a means to have a proposed new law introduced.

The following table shows the number of bills introduced and passed by the Arizona legislature for each of the past ten years. (Special session legislation is not included.)

<b>Year</b>	<b>Senate</b>	<b>House</b>	<b>Total</b>	<b>Passed</b>
1996	425	571	996	385
1995	407	550	957	309
1994	565	598	1163	380
1993	433	393	826	261
1992	545	597	1142	369
1991	476	503	979	335
1990	559	692	1251	417

1989	468	665	1133	322
1988	486	442	928	361
1987	463	474	937	379

Since 1960 the percentage of bills introduced which ultimately passed has ranged from 18.3% in 1963 to 45% in 1986.

Source: "Senate and House End of Session Bill Summaries"

### **The Sponsor of the Bill**

A bill can be sponsored by a single legislator or it can be cosponsored by a large number of legislators. In some instances bills are also sponsored by one of the standing committees of the Senate. This will be discussed below in "The Committee Meeting." Bills cannot be introduced by the governor, by state agencies or by any other person or organization. Only elected legislators or a committee of legislators can introduce bills.

Bills introduced in the Senate are sponsored by one or more Senators or a Senate committee. Bills introduced in the House are introduced by one or more Representatives. Except for budget bills, or bills which need to be "fast tracked", or bills which are considered particularly critical, identical bills are generally not introduced in both houses.

In most cases, the original sponsor of the bill will circulate the bill to get signatures of "cosponsors." Legislators can sign on as "Prime sponsors" or as "Additional sponsors", depending on their depth of feeling for the bill. Sponsors can be from either or both political parties, and they can be from either branch of the legislature. It is not unheard of for some popular bills to have a majority of one or the other house sponsoring them.

While in some cases the individual Senator who sponsors the bill is not important, there are many cases in which having the right sponsor is critical.

For example, bills which pertain to a single legislative district, or to two or three legislative districts, have a much better chance of passage if they are sponsored by Senators from the areas affected. There is a good deal of respect in the Senate for individual Senators where activities in their districts are concerned. If affected Senators are not sponsors, they should, at a minimum, be aware of the bill. If Senators from affected districts are against the bill, the bill is likely to have a hard time getting the votes necessary to pass.

It is also a political fact of life that a number of sponsors should, whenever possible, be from the majority party. This is not to say that bills sponsored solely by members of the minority party do not pass. However, there is limited time to consider bills during each legislative session, and it is natural that first priorities will go to bills which further the agenda of the majority party.

Obviously, sponsorship of a bill by the President of the Senate or the Majority Leader will have an impact. Each session there are Senators of the majority party who vote against bills sponsored by their leadership but it would be naive not to think that leadership weight behind a bill can influence fellow members of the majority party.

Perhaps the most important players in the sponsorship process, however, are the committee chairmen.

State departments or agencies develop working relationships with their respective committee



chairmen, often meeting on a regular basis when the legislature is not in session. The same is true with lobbyists and representatives of special interest groups. A committee chairman will almost always understand the areas affected by his committee as well as, or better than, any other legislator. It is natural, therefore, to seek them out as sponsors.

There is a more practical reason for efforts to solicit the sponsorship of the appropriate committee chairman on a bill. As we'll discuss in a later section, after a Senate bill is "second read", it is referred to a committee. If the committee chairman elects not to hold hearings on the bill, the chances of that bill becoming law are lessened considerably.

There is one final item regarding sponsorship of a bill. Not by law or by rule, but by tradition, a sponsor "controls his bill." He can often influence amendments to the bill and he can ask that progress of a bill be slowed. He can even ask for his bill to be killed. More on this later.

**A Senator can also sponsor a bill but can indicate that the bill is being introduced "By Request". When "By Request" is added to the bill the Senator is generally saying:**

*"I haven't had time to read and study this bill and just because I am sponsoring it does not necessarily mean I will support it," or "I don't care whether this bill goes anywhere or not. I'm only sponsoring it because someone asked me to and I had my reasons for not turning down the request."*

### **The Role of Committees and Committee Staff**

Permanent (or "standing") committees are adopted by the Senate as a whole (Senate Rule 7 (A)), but in practice the number and the names of the committees are determined by the President of the Senate and ratified by the entire body. The President assigns Senators to each committee. (Senate Rule 2 (I)). Committees may vary in size, but each committee will have roughly the same percentage of Senators from each party as that party has in the full Senate. Thus, each committee will have a majority of members from the majority party. Most committees have 8 or 9 members, but there may be instances where a committee could have five or even fewer members. The Appropriations Committee in the Senate is usually the largest committee; usually with 15 members.

In addition to the Senate members of the committee, each committee has a full-time paid staff member. There is one full time analyst for each committee and there is usually an intern during the legislative session. Committee staff is nonpartisan.

Once a Senator has agreed to sponsor a bill, one of the first steps is often to go to the appropriate committee staff. Staff can almost always provide significant information, such as previous attempts to do what the proposed bill does, what happened to those attempts, who the major interests pro and con are likely to be, and so on. In addition, Senators will often take just an idea for legislation to staff and staff will take over management of the bill drafting on behalf of the Senator.

## **The Role of Majority and Minority Staff**

In addition to the nonpartisan committee staff, each caucus also has a small number of full time partisan staff members. There is a Republican caucus and a Democratic caucus. These staff members also play a critical role in researching and gathering information on prospective legislation. In addition, if a Senator wishes, partisan staff provides advice, strategic planning, legal counsel and public relations services.

## **The Role of the Legislative Council**

The Legislative Council was formed in 1953 as a result of an act of the Legislature. (Laws 1953, chapter 2) Legislative Council performs a number of duties for the legislature, such as maintaining the computer system, but its main function is to assist in the preparation of proposed legislation. The 1995-1996 budget for Legislative Council is 47 people and \$4.3 million. Of the latter amount, \$1.3 million was a one-time allocation to support the legislative computer system. The 1996-1997 budget is set at 48 people and \$3.3 million.

All proposed bills are drafted and prepared for introduction by the Legislative Council staff. Legislative Council may be requested to prepare a proposed bill draft by any Senator, by partisan staff at the direction of a Senator, or by a committee of the Senate.

**Many "secrets" reside for a time with the Senate staff groups or with Legislative Council. Work being done on proposed legislation is absolutely privileged to the legislator doing that work unless the legislator indicates otherwise. This is done so the Senator may "test the waters" with fellow Senators or with constituents or interest groups. If it appears likely that the bill will not have an appreciable level of support, the draft bill can be substantially revised or even quietly abandoned.**

If similar work is being done by another legislator, it may be the case that committee staff or Legislative Council staff will, in general terms, advise the legislator that similar legislation is under consideration, but the other legislator is never identified without his permission. In most cases legislators are perfectly willing to work with other legislators to draft the best possible laws, but there is nothing that says that a "bombshell" bill cannot be researched, written and introduced without the knowledge of most of the legislature. There is also nothing to prevent two legislators from introducing essentially similar bills.

In "Leg (pronounced 'ledge') Council" the actual legal language is constructed and entered into the main legislative computer. It is often necessary to check back with staff members or the sponsoring Senator several times to be sure the language does what the sponsor intended. This may require several drafts of the proposed legislation.

Leg Council performs a number of crucial tasks often not appreciated by the Senators or the general public. For example, if a particular change is proposed for one statute, Leg Council is expected to know how that proposed change might affect any of the thousands of other statutes on the books. Leg Council is also expected to know how language is used in other statutes, so the chances of unclear meanings or double meanings are reduced.

Most importantly, legal staff in Leg Council may suggest changes intended to help the proposal pass Constitutional muster. For example, the Constitution (Article IV, Part 2, Section 13) requires

that, "Every act shall embrace but one subject and matters properly connected therewith..." If proposed legislation obviously covers two or more subjects, Leg Council will advise the sponsor that the bill must be trimmed, split into two or more bills, or face a potentially successful challenge on Constitutional grounds.

**The Rules Committee is the official arbiter of these matters, but as a matter of courtesy Leg Council sometimes advises Senators of potential problems in order to save time and inconvenience later on.**

## **The "Intro Set"**

When all questions have been answered, and final language has been agreed to, the bill is finally drafted. When the draft of the bill is approved by the sponsor it becomes part of an "intro set" prepared by Legislative Council. An "intro set" has five main parts:

**1. The Title of the Bill** -- The official title of the bill generally uses words such as "amending" or "establishing" or "creating", etc. The title must contain any and all existing statutes which have to be modified to accommodate the provisions of the proposed bill.

In fact, the framers of our state constitution felt the title was so important that it said in Article IV, Part 2, Section 13, that "Every act shall embrace but one subject... if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void..."

**So, this means that any bill can have only one subject and the title has to say what that subject is.**

**2. The Short Title** -- The short title of the bill is how the bill will generally be known as it goes through the legislative process. This title will be five or fewer words which uniquely describe the bill. The short title has no legal significance.

**Sometimes bills acquire humorous or sarcastic unofficial "short titles." On occasion these unofficial titles will be used so often that Senators will not recognize a bill by its official short title.**

**3. The Enacting Clause** -- This portion of the bill must contain the words "Be it enacted by the Legislature of the State of Arizona..." (Article IV, Part 2, Section 24)

**4. The Text of the Bill** -- Draft language for the bill is prepared on pages with line numbers down the left-hand side. This is so reference to a particular portion can quickly be made. New or additional statutory language is inserted in all capital letters. Language to be eliminated appears with a line through it. A very short mythical example:

- The speed limit on INTER
- STATE highways shall be
- no more than seventy (Seventy has a strike line across it on the hardpage.)
- SEVENTY-FIVE miles per 5 hour.

**5. A cover sheet** for sponsors to sign.

Once the "intro set" has been prepared it is delivered to the Senator who requested it.

Between the time a Senator receives the "intro set" until the deadline for filing new bills, the

Senator is free to circulate the proposed bill for additional sponsoring signatures. Not all Senators want additional signatures on each piece of legislation they plan to sponsor, but in general, a large number of sponsoring signatures serves as a signal that there is widespread support for the proposed legislation.

If it appears likely that the bill will not have an appreciable level of support, the bill can be quietly abandoned.

In non-election years, bills may be circulated and may be "pre filed" as early as November 15th (Senate Rule 14D). In election years bills may be prefiled as soon as the Secretary of State has certified the election of members. Or, the Senator may wait and may circulate the bill for signatures up to the deadline for filing new bills. By Senate Rule (14C), this deadline is set for the 22nd day of each regular session or the tenth day of a special session.

### **What are "Vehicle Bills?"**

There is one last source of new bills; a small but nonetheless important source.

The state constitution requires all bills to cover one subject only. (Article 4, Part 2, Section 13) Any amendments to a bill must relate to that subject -- they must be "germane".

"Vehicle bills" are bills which are drafted to make extremely minor, and almost always unnecessary, changes to existing law. They are not intended to pass as is. Instead, a number of vehicle bills, on a number of different subjects, are introduced at the beginning of each session and are moved through the process.

Vehicle bills have at least three purposes:

1) In the course of every legislative session there are bills which have strong backing which nonetheless do not clear one of the many hurdles in the legislative process. In some cases, there is reason to believe that the bill could be passed if given a new life and another chance.

If an important "non-vehicle" bill dies and if the subject matter of the important bill cannot be amended to any other bill which is still alive, the majority caucus can determine that the bill should have another chance. If so, a vehicle bill is identified and, using the "strike everything" amendment process, the subject of the vehicle bill is deleted and the subject of the bill that earlier died is amended onto the little that is left of the vehicle bill.

2) There are times when issues arise after the deadline for the filing of new bills. Using vehicle bills allows these new matters to be considered during the current legislative session; the issue need not be put aside for almost a year until the next session.

3) Vehicle bills can be used as "placeholders" for issues which have not been fully developed at the time of the deadline for the introduction of new bills.

Because the use of a vehicle bill, while technically legal, skirts what some consider "fair and right", (in that vehicle bills don't always get the public notice and attention that other bills do), vehicle bills are sparingly used.

**Generally, unused vehicle bills never come to a vote on the floor and die with the end of the session, although on very rare occasions a mistake is made and a vehicle bill is actually enacted into law!**

## **The "Hopper"**

When the sponsor has as many signatures as he can get, or as many as he wants, he formally files the bill. This is done by placing the "intro set" into a box in the office of the Secretary of the Senate. The box is known as "the hopper".

At this point the proposed legislation is formally designated as "a bill". The first bill introduced each session is SB1001, the second is SB1002 and so on. (The House of Representatives starts with HB2001.) The bill is logged and copies are made available for the first time to other Senators and to the general public. (Although, as we've already seen, few proposals get to this point entirely unknown because sponsors circulate bills for additional signatures or to test public opinion.)

The number of bills introduced during a legislative session may total 1,000 or more. Some bills may be only one page long; others may have hundreds of pages. It is not practical for each legislator to read all of the bills introduced; there simply isn't enough time. Instead, many legislators will file the bills they receive and will read individual bills only when the bill reaches a stage in the process where the legislator needs to become involved with the bill. For some bills this is when the bill is assigned to a committee of which the legislator is a member; for other bills it is when the bill is discussed in caucus.

If the legislative session is underway, the bill is put on the calendar for "first reading."

## **First Reading of the Bill**

The Arizona Constitution (Article IV, Part 2, Section 12) requires each bill to be "read by sections on three different days, unless in case of emergency." The rationale for reading each bill in its entirety three times goes back to territorial and early statehood days when communications between the legislators was much more difficult. Although it might be expected that anyone serving in the Arizona legislature would be literate, such was not always the case. Thus, to avoid embarrassment to those who could not read well, the bills were read to them. Even more importantly, the legislature did not always have the use of computers and high speed copiers to quickly print multiple copies of bills and amendments. Many of us can remember the old mimeograph machines, and before them anything duplicated had to be typeset and printed or it had to be recopied by hand. Reading proposed legislation out loud saved the time and trouble of waiting for multiple copies to be made.

Reading each bill three times also served as a sort of notice to the public.

Despite the lofty goals of requiring each piece of legislation to be read three times, in practice it became obvious that reading each piece of legislation three times would be enormously time consuming. Ingenious methods were devised to follow the Constitution, but nonetheless save time. For example, if a thirty page bill was introduced, thirty different people would each read one page. And all thirty would read at the same time!

Eventually, the legislature sought to get around the three readings. The solution was again creative. They simply declared an emergency. (Remember the "unless in case of emergency" in Article IV?) Under this provision, instead of reading the entire bill three times, the legislature only reads the title of the bill three times.

**So, to this day, one of the very first items on the agenda at the opening of each legislature is to have an emergency declared. Put differently, every piece of legislation passed for a number of years has been passed under an "emergency"!**

(This procedural "emergency" is, of course, different from "emergency clause" legislation. Legislation with the emergency clause is discussed further on in this booklet.)

Today, all Senators have a printed calendar of exactly what is going to be considered and when that consideration will take place. Today's Senators are also able to read. There is no longer any real need for three separate readings.

The President of the Senate is responsible for determining which bills are to be placed on the calendar. There is no requirement that the President put a proposed bill on the calendar. If he does not, it is as if the bill was never drafted or circulated for signatures. The bill, for all practical purposes, is dead.

There is no practical or political reason for killing a bill this early in the process though, so in practice virtually all bills introduced will receive at least one reading.

The Secretary of the Senate places the bill on the calendar for one of the daily sessions of the Senate. First Reading of Bills is one of the early items on each day's agenda, so, shortly after the prayer and the pledge of allegiance, the President will say "First reading of bills."

When the President announces first reading, a staff member known as "the Reader" rapidly reads the bill number and the title of each bill up for first reading. He does this very quickly, introducing perhaps a half dozen to a dozen bills in a minute.

**The performance of the reader is almost always met with astonishment and then smiles from those seated in the gallery. Hardly any of the visitors, and hardly any of the Senators, can make out what is being said, but everyone is amazed that the reader could read so fast. On days in which a large number of new bills are introduced, it is not unusual for the gallery to break into spontaneous applause when the reader finishes. Sometimes the Senators even add their appreciation!**

In the Senate, first reading is essentially ceremonial. In the House of Representatives, committee assignments are made on first reading.

During the 1996 session of the Legislature, 425 bills were introduced in the Senate. We'll keep track of the attrition as we move through the process.

## **Second Reading of Bills**

On the day after bills are first read, they are eligible for second reading. Second reading is much like first reading, but this time when the reader reads the bill number and the short title, the President responds with the name of the committee or committees to which the bill is being referred.

By Senate rule (2 J) all bills are automatically referred to the Rules committee, so the President announces only the names of the other standing committees appropriate to each bill. Senate Rules give the President complete discretion as to when, or if, bills receive a second reading. If the bill is not read a second time, it is essentially dead for the session. The only

alternatives open to the backers of the bill are to have the subject matter amended to a similar bill which still survives, have a "vehicle bill" used, or offer a "strike everything" amendment.

Today, assignment of a bill to a committee is virtually automatic; of the 425 Senate bills which received a first reading in 1996, 100% were assigned to committees. But this has not been the case in the past, and it may not be the case in the future.

A President could talk with other members of the majority leadership, to the sponsor of the bill, and even with individual Senators before assigning a bill to committee. He could meet with the chairman of the committee to which the bill would most properly be assigned to determine the reaction of the committee chairman to hearing the bill.

In addition, the President could use second reading as a means for eliminating or weeding out "foolish" bills, or bills which clearly do not have even close to majority support. Allowing such bills to continue in the process takes time and resources which can best be spent on bills with a chance of passage.

Of course it is well within the President's power to refuse to second read bills which might have majority support, but do not match the President's political philosophy.

### **The Role of the Committee Chairman**

Bills assigned to a committee on second reading immediately face another hurdle. The committee chairman of the committee to which the bill has been assigned must decide on a specific course of action for each bill. The options of the committee chairman are:

- a) Hear the bill and vote on it
- b) Hear the bill but take no action
- c) Assign the bill to subcommittee
- d) Not to hear the bill

The current practice is that no bill can be passed without public hearings, but there is no requirement that all bills assigned to a committee must receive a public hearing. Generally, public hearings are held for those bills which the committee chairman feels should move further forward in the legislative process.

Committees usually meet once a week, on the same day, and generally at the same time. Senate rule (7 B 11) requires that Senate bills must be heard by their standing committees prior to the Saturday of the sixtieth day of the session.

There is, then, a maximum of eight regular committee meetings for each committee to discuss bills introduced in the Senate. Sometimes this number is reduced to six or seven due to scheduling conflicts; sometimes the number is increased by holding special meetings near the end of session.

All in all, few committees could possibly have hearings on each bill which is assigned to it. It is the job of the committee chairman to decide which bills to hear and when to hear them. In making this determination, the committee chairman will consider whether or not a bill has a reasonable chance of passing his committee.

During the 1996 session, of 425 Senate bills assigned to committees, 146 or 34%, were held in committee (a few of these bills were given hearings). The remaining 279 bills were given committee hearings and voted either up or down.

Getting a hearing on a bill is a crucial first step for individual citizens, lobbyists, special interest groups and state agencies. As will be seen below, bills which receive a hearing have a high likelihood of passing committee, and almost as high a likelihood of passing the full Senate. So, while failure to secure a hearing is a virtual disaster for a bill, getting a hearing takes a bill on the

longest step towards becoming law.

If a committee chairman for whatever reason decides not to hear a bill, that bill is not dead, but it is severely wounded. It is within the President's power to remove a bill from a committee and assign it to another committee but this procedure is rarely used over the objections of a committee chairman. And, Senate Rule (7 B 6) provides that upon receipt of a petition signed by 2/3 of the committee, the chairman will immediately schedule a bill for a hearing. To reach 2/3 however, and force the committee chairman to hear a bill, some members of the majority party would have to go against their committee chairman. This almost never happens.

For bills which the committee chairman elects not to hear there is always the option of having the subject matter of the bill amended to another bill which still survives. This is the route most often taken.

If a committee chairman decides to hear a bill, at least five days before the committee meeting the chairman must distribute a public agenda announcing the specific bills to be considered. No other bills, resolutions or memorials, unless by unanimous consent, may be discussed at the meeting (Senate Rule 7 B 5.)

## **Before the Committee Meeting**

During the five days before the committee meeting, increased attention begins to be focused on the bill. It is during this period that the committee members become more familiar with the bill and what the bill would do. Often Senators will not even read bills until they are scheduled for a committee of which they are a member. There is, after all, little reason to read every bill when it is introduced if over a third of them are never even scheduled for a committee hearing.

While Senators are getting up to speed on the bill, staff research and preparation intensifies. Fact sheets are prepared and other pertinent background information is collected.

It is also during this time that contacts from lobbyists and interest groups intensify. Once proponents of legislation have convinced the committee chairman to hear a bill, efforts shift to convincing a majority of the committee to vote to pass the bill out of committee.

The first amendments begin to appear.

## **Amendments**

One of the most visible results of this heightened attention to the bill in the period before the public committee hearing is often found in the filing of amendments. Once a bill has been scheduled for committee, it is subject to the amendment process.

Amendments can be offered by any member of the committee. Amendments may correct technical errors noticed since drafting, amendments may strengthen the bill or weaken the bill, and in one situation, amendments may even entirely change the bill.

**Committees have different rules as to how amendments need to be offered, but the general rule in the Senate is that amendments must be made available to others no later than 5 P.M. on the business day before the committee meeting.**

## **The "Strike Everything" Amendment**



The "strike everything" amendment is unique, and barely qualifies to be called an amendment. It is, more properly, a complete replacement. In a "strike everything" amendment, everything after the words "Be it enacted by the Legislature of the State of Arizona" is struck out, or removed, and is replaced by an entirely different bill. This is one of the most common ways to resurrect a bill that has previously "died". It is also a way to deal with an issue which arose after the deadline for the filing of new bills. When an amendment of this type passes, the original bill and all amendments associated with it are gone.

All "strike everything amendments" to existing bills must be scheduled by filing a notice in the Secretary of the Senate's Office at least 24 hours in advance and must be heard by a standing committee at a public hearing.

**In the not so long ago "olden days", it was permissible for Senators to propose "strike everything" amendments during floor debate on a bill which had already cleared committee. This meant that for all practical purposes the new bill contained in the strike everything amendment could be debated and voted into law without a public hearing and without giving interested citizens and lobbying groups an opportunity to be heard. (Remember that each house of the legislature makes its own rules. Requiring notice and public hearings and restricting the use of devices such as "strike everything" amendments is a sign of the reform process which has been underway in the Senate for several years. The Senate has never been more "open" than it is today.)**

Needless to say, because this type of amendment destroys the original bill, a "strike everything" is rarely used without permission of the original bill's sponsor. In a

## **The Committee Meeting**

Committee meetings are almost always held in one of the designated hearing rooms on the first floor of the Senate Building. Prior to the meeting, bills to be heard, copies of amendments and a "Fact Sheet" for each bill prepared by committee staff are made available on a table outside the committee room. The table will also include "Sign-In Slips" for individuals to fill out if they wish to testify on a bill. These slips are forwarded to the committee chairman.

Once the meeting is underway, one of the first orders of business is generally for the committee chairman to announce which bills, if any, are to be "held." Remember that the agenda for the meeting indicated which bills were eligible to be heard, but there is no requirement that each bill on the agenda actually receives a hearing. Sometimes there are last minute technical problems with a bill, sometimes support dries up unexpectedly, and sometimes it becomes obvious that the time allocated for the meeting will not be enough to hear all of the bills on the agenda. By announcing "held" bills, the committee chairman does a courtesy to audience members who may have come to the hearing only for the bill or bills being "held."

Many committee chairmen will also announce the order in which the bills will be heard. Because it is not always possible to hear every bill, if a chairman wants to be sure a bill will be heard he can put it at the top of the agenda. Announcing the order in which bills will be heard is also a courtesy to the audience as it gives audience members a rough idea of the time period in which particular bills will be heard.

The first step in "hearing" a bill will almost always be a short objective presentation by one or more members of the committee staff. Staff will explain what the proposed bill does, may give appropriate legislative history and may answer questions from the Senators sitting on the committee.

If the sponsor of the bill is on the committee or in the audience, the sponsor will generally initiate testimony on the bill.

Testimony from witnesses generally follows. In some instances testimony is prescheduled and the order of at least some witnesses may be arranged in advance; but for most other bills the chairman will simply sort through the sign-in slips and call on individuals to testify. Witnesses may also be asked questions by the committee members.

There is no requirement that all who want to testify be allowed to do so. In fact, there is no requirement that anyone be allowed to testify. These matters are solely within the discretion of the committee chairman.

As a general rule, however, lobbyists for recognized interest groups are almost always allowed to testify because they represent large constituencies. And, there has been a trend in recent years to make a sincere effort to encourage private citizens to make their views known. In fact, the two limiting factors to hearing anyone who wants to give testimony are usually the lack of time and the eventual petering out of nonrepetitive testimony. On most bills, all who wish to speak generally have the opportunity to testify for at least a few minutes.

At some point it will become appropriate for the committee chairman to consider putting the bill in question to a vote. A chairman can "hold" a bill at anytime; during testimony, during debate, even after voting but before the final vote is announced. If there appears to be general agreement for the bill, the chairman will look for a motion to adopt the bill.

**There are no hard and fast rules about who makes motions, but by tradition the bill is moved by the sponsor of the bill if the sponsor sits on the committee. Otherwise the vice-chairman of the committee usually "moves" the bill.**

The format is generally as follows: *"Mr. Chairman, I move adoption of Senate Bill 1234"*.

In the Senate a motion does not require a second. If there are no amendments to the bill, the chairman will entertain discussion on the bill. Any committee member may speak for as long as he likes and can speak as often as he likes, so long as he is recognized by the chairman.

At the conclusion of discussion, the chairman will call for a roll call vote on the bill and will announce whether or not the bill is adopted by the committee and recommended to the full Senate.

In a roll call vote, the secretary reads each committee member's name in alphabetical order, with the exception of the chairman who is called last. Each committee member has three initial options, "Aye," "Nay" or "Pass". A "Pass" is only a temporary relief from voting; in the Senate, every Senator who is present must vote. (In the House, it is permissible to vote "Present" which counts as neither an aye nor a nay vote.) A "Pass" can be used if a Senator has not yet made up his mind, or if he wants to see how other Senators vote before he does. After completing the roll once, the Secretary will return to those who passed before calling on the chairman for his vote.

**There is a procedure for excusing oneself from voting. Under Senate Rules 15 and 30, Senators with conflicts of interest can be excused from voting on specific bills.**

If there are amendments to the bill, the chairman will indicate the order in which the amendments are to be considered and the sponsor of the first amendment will begin the amendment process. The form for introducing an amendment is: *"Mr. Chairman, I move adoption of the two page amendment bearing my name and carrying the date of 2/1/95."*

Following introduction of the amendment, there is discussion on the amendment similar to the discussion on a bill.

At the conclusion of discussion, the chairman will call for a voice vote on the amendment and will announce whether or not, in his opinion, the amendment is adopted. A roll call vote is only taken if requested by one of the committee members.

**Sometimes roll call votes are called for on amendments because a committee member believes the chairman has heard wrong -- that there were actually enough voice votes to swing the issue the other way. But, there is also a political purpose; by asking for a roll call vote a member can force the other members to make their position on the amendment a matter of the public record.**

After all amendments have been considered, if one or more amendments has been adopted, the form for adopting the bill is:

*"Mr. Chairman, I move that Senate Bill 1234, as amended, be adopted".*

The chairman authorizes a roll call vote and announces the result. Senate Rule (7 B 5) requires only a majority of members present to advance a bill.

(It is important to note that, while committee approval is a requirement for each bill, passing through committee does not guarantee that the bill will become law. Often committee hearings will reveal need for additional work on a bill. If there is not enough time to "hold" the bill and rework it, some committees will pass the bill out of committee with the understanding that additional work will be done on the bill before the bill reaches a vote of the full Senate. See discussion of "floor amendments" below. And, sometimes Senators will vote at the committee level for bills they do not support in order to allow the full Senate to make a determination on the merits of the bill.)

As we have already seen, most bills come to a committee's attention after they go in the "hopper", are "first" and "second" read and are scheduled for a hearing by the committee chairman. The exceptions are proposals for "committee bills".

Senate Rules (7 B 5 and 7 B 8) allow for bills (and resolutions and memorials) to be introduced by a committee. (The House does not have a similar rule.) Most Senate bills are sponsored by one or more Senators, so this procedure is not used very often. The procedure, though, is as follows:

Someone has to have an "intro set" that has not yet gone into the "hopper". The committee chairman has to schedule consideration of the item (unless there is unanimous consent to skip this part).

If the committee is unanimous in wanting to introduce the draft as a bill, it is called a "committee bill". If the vote is less than unanimous, but more than half, to introduce the bill, it becomes known as a "majority of committee" measure.

From committee the bill goes into the "hopper" and then to the President for the usual scheduling for "first" reading.

Following the committee meeting, minutes of the meeting are prepared and distributed. The minutes and records of the roll call votes are open for public inspection in the lobby of the Senate or in the office of the Secretary of the Senate. All committee meetings are also recorded on audiotapes and the tapes are made available to the general public at a nominal cost.

In the 1996 session, only 20 of the bills which received a committee hearing failed at the committee level. The remainder continued through the legislative process.

### **The Subcommittee - Boon, or Kiss of Death?**

As discussed above, one of the options of the committee chairman is to assign a bill to a subcommittee. There are generally two reasons for assigning a bill to a subcommittee:

1) The bill has had a hearing in the full committee and testimony reveals that additional work or additional testimony on the bill is required. Rather than take up the time of all of the committee members, the committee chairman may appoint a subcommittee to continue work on the bill and report back to the full committee. A chairman can assign a bill to subcommittee virtually at his discretion.

2) If the committee chairman wants to avoid criticism for not hearing a bill, but nonetheless doesn't want the bill to pass, he can assign it to subcommittee and then give a strong suggestion to the subcommittee chairman that he not hear the bill. This is the same as killing the bill.

Subcommittees represent a small departure from the usual procedure with meetings in the Senate. Subcommittee do not have to have minutes taken, there does not need to be written notice of a subcommittee meeting and there need not be a written agenda.

On the other hand, in order to comply with open meeting laws, it is necessary that all deliberations take place in public and it is necessary that any planned subcommittee meeting be announced during an open session of the Senate.

So, having a bill assigned to subcommittee can be either a good or a bad sign. In recent years, though, going to subcommittee has more often than not been a kiss of death.

### **The Role of the Rules Committee**

The Senators on the Rules Committee, aided by advice from the nonpartisan Rules Attorney, function as a sort of legal review panel for proposed legislation. Among other things, the Rules Committee reviews each bill for constitutionality and proper form. A bill goes to the Rules Committee after it has cleared its regularly assigned committee(s).

The Arizona Constitution, for example, requires that "Every act shall embrace but one subject and matters properly connected therewith." (Article IV, Part 2, Section 13) This may appear to be a simple requirement on its face, but it is one often difficult to determine. Is a bill dealing with a school tax, for example, a bill about taxes, or a bill about schools? The difference can be very important. It is in the Rules Committee that potential difficulties with constitutionality and form are worked out. In rare instances a bill is rejected entirely. Most often

amendments are proposed to correct deficiencies noted by the Rules Attorney.

While it does little good for the Senate to spend time, money and effort on legislation which is most likely going to be declared unconstitutional if challenged, there is no requirement that the Rules Committee go along with the recommendations of the Rules Attorney.

There is a saying, uttered only partly in jest, that if a bill can get "16 and 31" it is Constitutional. The saying refers to the number of votes necessary to pass a measure through the Senate and the House of Representatives. In a sense, the saying has validity. If a bill can pass through the legislature and is signed by the governor, it is presumed to be Constitutional unless and until it is successfully challenged in court. It is not unheard of for proposed legislation to pass even though almost all parties know it will be ruled unconstitutional -- sometimes there are political reasons for doing so. For the most part, though, a ruling by the Rules Attorney that proposed legislation is unconstitutional is enough to severely dim any chances of the proposed bill becoming law.

**The role of the Rules Committee in the Senate is different in one major aspect from the role of the same committee in the House of Representatives. In the Senate, bills are usually not "held" in the Rules Committee for partisan or political purposes; whatever bills go into the Rules Committee are almost always reported out. In the House, the Chairman of the Rules Committee can "hold" (read "kill") a bill simply by not giving it a hearing.**

## **The Caucus**

The caucus is not a Constitutional or statutory part of the bill consideration process. In a sense, though, it is one of the most important parts of the process.

Each political party has a caucus consisting of Senators of their party. There is, therefore, a majority caucus and a minority caucus. The majority caucus room is on the second floor of the Senate, the minority caucus room is on the first floor. Caucus meetings are currently open to the public, by Senate rule. Caucuses are not, however, subject to the Arizona Open Meeting law and there is no guarantee that caucus meetings will always be open to the public.

Periodically during the session, caucus meetings will be used to make all Senators aware of the bills which have cleared committee and Rules. While each Senator is knowledgeable about bills which have cleared the committees of which he is a member, the Senator may know little or nothing about bills which have cleared other committees. Indeed, caucus may be the first time they have heard of a particular bill.

During the caucus review, staff members will summarize each bill which has cleared committee and caucus members will have the opportunity to ask questions about the bill. Bills are not debated in caucus, and formal votes are not taken, but during discussion individual Senators may voice support or opposition to the bill and that discussion will often give an indication of future success or failure. Caucus discussion also occasionally reveals a need for additional amendments or corrections to the proposed bill.

Both parties usually cooperate to move bills quickly through caucus so the bills can be considered in Committee of the Whole.

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**"Committee of the Whole" is almost always referred to as "COW"!**

## **The Calendar of the Committee of the Whole**

Once a bill has passed the committee(s) it has been assigned to, it goes on the calendar of the Committee of the Whole (Senate Rule 8 A 1). The COW calendar functions as a holding area for bills which have cleared the committee process. No bill may be considered on the floor of the Senate until after it has been on the COW calendar for five days. The calendar of the Rules Committee is drawn from this list and during this period bills may be discussed by the Rules Committee and they may be discussed in caucus.

During the 1996 session, only eight bills did not "clear" the COW calendar.

## **Committee of the Whole**

As seen above, the holding area for bills is the calendar of the Committee of the Whole. From the bills on this calendar the President selects bills to become part of the active calendar of the Committee of the Whole. (Senate Rule 8 A 2). Even though a bill has passed through committee and has been discussed in caucus and the Rules Committee, there is no requirement that the President permit the bill to proceed any further in the legislative process.

Committee of the Whole is one of the orders of business during a session of the full Senate. It is, in effect, a committee meeting of all Senators, but without additional testimony from outside sources. It is in Committee of the Whole that debate by the full Senate takes place.

When a Committee of the Whole is convened, the President of the Senate does not preside. Instead, he will appoint a chairman for the meeting. The chairman is generally a Senator well versed in parliamentary procedure and the regulation of debate. Not all Senators are interested in serving as COW chairman. The chairmanship will rotate during the 100 days of the session with some Senators serving as chairman several times and other Senators not serving at all. Conduct of the Committee of the Whole is set forth in Senate Rule 16.

As the Senate nears the place on the calendar for Committee of the Whole, there may well be a flurry of activity as Senate pages move quickly from desk to desk on the Senate floor. They are delivering amendments.

We have already seen that for amendments to be considered by one of the standing committees of the Senate, those amendments must be published by 5:00 P.M. on the day before the committee meeting. There is no such rule for amendments offered in Committee of the Whole. While many amendments may be ready in advance of the COW meeting, others may not be ready until after the meeting has started. There may even be amendments drafted and delivered as debate is going on. Indeed, one of the most difficult tasks for Senators during COW debate is not solely to determine the merits of the bill itself, but to consider the bill in the context of numerous amendments which may be offered.

A COW session begins with the designated chairman assuming the President's chair on the floor of the Senate. Following the calendar established by the President, the chairman will call on the Secretary (this function is generally performed by the reader) to read the title of the first bill. The chairman then calls on the sponsor of the bill (or the chairman of the appropriate committee if it is a House bill) who makes a motion in the following form:

*"Mr. Chairman, I move that when the Committee of the Whole rises to report, it*

*recommends that Senate Bill 1234 do pass."*

## **Simple Bills**

In the event that the bill has no amendments, the Chairman will call on the sponsor of the bill and invite him to introduce debate on the bill.

As the sponsor speaks, other Senators may indicate to the Chairman that they also wish to be heard. The Chairman will call on all who wish to speak. Any Senator may speak as long as he wants and as often as he wants.

There are few rules about what can be said and what cannot be said during debate. Senate Rule 9C says that no Senator, during debate shall impute to another Senator any conduct or motive unworthy of a Senator. And, the Arizona Constitution says in Article IV, Part 2, Section 7 that no member of the legislature shall be liable in any civil or criminal prosecution for words spoken in debate.

**The combination of these two rules could be interpreted to mean that a Senator can say anything he wants as long as he doesn't say anything bad about another Senator!**

When debate has wound down, the Chairman will say approximately the following:  
"Is there any further debate? If not, the question before you is that when the Committee of the Whole rises to report, it recommends that Senate Bill 1234 do pass. All those in favor say 'aye'."

Votes on bills in COW are, with certain exceptions, voice votes. The Chairman will listen for the "aye" votes. Then he will say:

*"Those opposed, say 'nay'."*

The Chairman will listen for the "nay" votes. Assuming the "aye" votes appear to be greater than the "nay" votes, the Chairman will say:

*"The 'ayes' appear to have it. They do have it. [Sound gavel] So ordered."*

## **Division**

On any voice vote, and prior to the chairman sounding the gavel, any Senator may call for a "division." A division is a standing count vote of the "ayes" and "nays." This procedure is used when the voice votes do not indicate a clear preference for or against the bill, or when there is doubt that the Chair made the correct call.

## **Bills With Amendments**

If there are amendments to the bill, the procedure is slightly different. After the sponsor moves the bill, one of the amendments is read. The Chairman then calls on the sponsor of the amendment to explain his amendment and begin debate, not on the bill, but on the amendment. The debate and voice vote procedure is the same as for a bill. Any other amendments are disposed of in this same fashion. If one or more amendments are adopted, the sponsor of the bill will move that the bill "as amended" do pass. The final action is a voice vote on the bill "as amended."

## **Defeated Bills**

If a bill is defeated, Senate Rule (17 H) requires that a roll call vote be taken. This is the only provision for a roll call vote during Committee of the Whole.

**If a bill is defeated, it returns to the calendar of the Committee of the Whole -- the**

**holding pool of bills. The President can bring the bill back to the active Committee of the Whole calendar, to be debated once more in COW, again and, if necessary, again.**

### **Other Motions**

1) The Majority Leader may ask that a particular bill "retain its place on the calendar." The effect of this motion is to cause the Chairman to temporarily skip the bill; to move the bill to the end of the line of bills to be considered. This motion is used, for example, when last minute amendments are being drafted, or when one side or the other is unsure of the votes for a particular bill.

2) The Majority Leader may move that a bill "be retained on the calendar." The effect of this motion is to skip the bill entirely; to move it back to the calendar of the Committee of the Whole for selection on some other day.

In both cases, the Chairman will ask for (and almost always receive) unanimous consent to declare the motions passed.

When all bills on the active calendar of the Committee of the Whole have been heard or retained, the Chairman will call on the Majority Leader who will move that "The Committee of the Whole rise and report". The Chairman will order one final calling of the "ayes" and "nays". This motion almost always passes and when it does the Committee of the Whole is ended.

The Secretary will present the COW Chairman with a Committee of the Whole report which he signs.

At this point the President will retake the chair.

Once the Chairman of the Committee of the Whole is back at his desk, the Secretary will read the report of the Committee of the Whole and the President will call on the COW Chairman who will make the following motion:

*"Mr. Chairman, I move the report of the Committee of the Whole be adopted, and the bills be properly assigned."* If there is no objection, the President will "so order", but oftentimes this is not the case.

We have noted that, except in instances in which a bill fails, there are no recorded roll call votes in Committee of the Whole. However, once back in regular Senate session, and before the report of the Committee of the Whole is adopted, it may suit a Senator's purpose to force his fellow Senators to declare themselves on one or more bills. He can do this by offering amendments to the Committee of the Whole report, perhaps offering again an amendment that died during the Committee of the Whole debate, and asking for a roll call vote on each amendment. If his motions are carefully worded, he might not change the outcome on any bills, but he can force Senators to go on the record for any or all of the measures considered during Committee of the Whole.

Of 277 bills which appeared on the active Committee of the Whole Calendar in the 1996 session, 8 were held, 264 passed COW, 2 failed, and 3 were retained on the calendar.

### **Senate Calendar**

Bills which have passed COW go on the Senate calendar. This is another holding area. From this calendar the President picks the bills he wishes to present to the full Senate for "third reading" (Senate Rule 8 A 4).



## Engrossing

Once a bill has cleared Committee of the Whole it is "engrossed". During engrossing all amendments are merged with the original bill and a "clean" bill is created. This is so that, on third reading, Senators can read the bill as it has been approved so far without having to hold the original bill in one hand and a sheaf of amendment pages in the other.

## Third Reading

At any time after a bill has cleared COW, it is eligible for third reading. When, and if, the bill appears on the calendar for third reading (the active Senate calendar) is at the discretion of the President.

When a bill is "third read," the reader reads the title of the bill and all Senators immediately cast an electronic vote for or against the bill.

Debate is not allowed during voting, but it is permissible to ask permission to "explain one's vote." At times, vote explanations can become quite lengthy and can sound suspiciously like debate.

Most bills need 16 votes to pass, regardless of how many Senators are in the chamber at the time of the vote (Arizona Constitution, Article IV, Part 2, Section 15).

If a bill fails to receive 16 votes, it is one legislative day from being dead. The only way it can be revived is by a "Motion to Reconsider."

The exception to the 16 vote rule is for bills with "Prop 108" or "emergency clauses." Proposition 108 bills include any bills which have language which raises taxes or increases fees. These bills require a 2/3 vote to pass. In the Senate of 30 members, this means 20 votes.

Regular bills go into effect 90 days after the end of the session in which they are passed. Bills with "emergency clauses" go into effect as soon as they are signed by the governor and require a 2/3 vote to pass.

## Motion to Reconsider

This is often a final attempt to save a bill which failed in third reading but it can also be used to kill a bill which may have passed in third reading. This tactic is only used when the third read vote was very close and when there is reason to believe that enough votes have been changed (or absent Senators rounded up) to make a difference if the matter is brought up again.

A motion to reconsider must be made on the same or at the latest, the next session day. Additionally, the motion must be made by someone who was on the winning side of the earlier vote.

The form of the motion is as follows: *"Mr. President, I move that the Senate reconsider its action whereby it passed (or failed to pass) Senate Bill 1234 on March 15, 1995."*

After debate on the motion, a vote is almost always immediately taken, although when to vote on a motion to reconsider is technically at the discretion of the President.

If the motion to reconsider fails, the matter is settled and cannot be further discussed. If the motion to reconsider passes, then the bill returns to the Senate calendar. The time for actual reconsideration is at the discretion of the President.

### **Bills that Pass on Third Reading**

These bills have made it through a long road, but their journey is not even half over. Bills that pass on third reading are transmitted to the House of Representatives where they must begin much the same process all over again.

Some of the bills will die in the House. Some will be amended in the House and will be returned to the Senate. Some may even pass the House unamended and will be sent back to the Senate and on to the Governor for signing.

In the 1996 session, 264 Senate bills were eligible for third reading. 257 passed, 6 failed, and 1 was held.

### **Senate Bill Summary**

Following is a summary of the 425 bills introduced in the Senate during 1996:

	<u><b>Number</b></u>	<u><b>Remaining</b></u>
Introduced	425	
Held in First Read	0	425
Held in Second Read	0	425
Held in Committee	146	279
Held in Rules	2	277
Held on COW calendar	8	269
Retained on COW calendar	3	266
Failed in COW	2	264
Held on Third Read	1	263
Failed on Third Read	6	257
Sent to House		257

Source: "Summary of Senate Bills, Memorials and Resolutions"

## Crossover Week

All Senate bills must clear their committees before Saturday of the week in which the sixtieth day of the session falls (Senate Rule 7 B 9). This is so the Senate has time to Rules, caucus, COW and third read bills which must go over to the House of Representatives.

While the Senate is doing its business, the House is proceeding along essentially similar lines.

During "crossover week," a week which occurs about 70 days into the session (about mid-March), most other effort comes to a halt as both branches of the legislature ready the last of the bills which have to "cross over" to the other body.

In a sense, this is a week when some legislators can take a breather. They pretty much need it, because another major effort is about to begin.

## Consideration of House Bills

All of the bills which successfully passed through the House of Representatives come to the Senate as if they were brand new bills. They go through exactly the same procedure that we discussed for Senate bills. That is, they must be first and second read, they must be assigned to a committee, the committee chairman must elect to hear the bill, the bill must pass through committee, must go through Rules Committee and must be discussed in caucus. The bills must be debated in Committee of the Whole, must pass through there, and must secure a favorable vote on third reading.

At any point in the process bills may drop out, and at any point in the process (up to the final vote) bills may be amended. Amendments may become numerous at this point in the session because sponsors of bills which have failed or have not been heard earlier will be looking for bills on the same general subject in an attempt to secure a foothold for their failed bill via the amendment process.

Because the House of Representatives has done a "first cut" on the bills, the "held" percentage in committee is usually fairly low. However, this does not necessarily mean that the "pass" percentage is going to be particularly high.

In the 1996 session, the Senate received 258 bills from the House. Disposition of those bills was as follows:

Received from House		258
Held	54	204
Failed on Third Read	4	200
Passed by Senate	200	

Source: "Summary of House Bills, Memorials and Resolutions Received by Senate"

## The Conference Committee

Of the 200 bills passed by the Senate, many passed cleanly; that is, without amendments by the Senate. These bills were returned to the House, and then sent to the Governor.

The remaining bills, those that passed the Senate but, because of amendments, were in a different form than they were in when they initially passed the House, were returned to the House. The House, meanwhile, was returning to the Senate bills which they amended.

Each house now has a choice. They can accept the amendments made by the other body (they can "concur") or they can object to one or more of the changes. If they "concur", the bill is voted on, and if passed, sent to the governor. If they do not concur, the bills are sent to conference committees.

With the conference committees the legislature begins its most frenetic phase, but a phase which signals the beginning of the end of the legislative session.

A conference committee starts with the President of the Senate and the Speaker of the House each appointing conference committee members. The original sponsor of the bill is almost always on the conference committee. The conference committee meets, in public, and attempts to come to agreement on a single version of the bill. If they cannot come to agreement, the bill dies. If agreement is reached, then the agreed version is returned to both houses for a straight "aye" or "nay" vote. No further amendments. If either house votes "nay," the bill is dead (except for rare instances in which the bill is referred back to conference for another try). If both houses vote "aye," the bill is passed and is sent to the governor.

## Sine Die

When all bills are passed, defeated, or held the business of the legislature is over and the session is adjourned. The term "sine die" is Latin for "without a day" or "indefinitely". Both definitions apply, for the legislature adjourns immediately and will stay adjourned until the following January unless called into special session.

(Despite the Latin origins of the phrase, most legislators translate "sine die" into "Let's get the heck out of here.")

## The Governor's Desk

The governor has three options with each bill presented to him:

1) He can sign the bill within five days (10 days if the legislature is adjourned). If he does so, the law takes effect immediately if it was emergency or Proposition 108 legislation; otherwise the law takes effect 90 days after the legislature adjourns.

**The Arizona Constitution provides a 90 day period for opponents of a newly signed law to gather enough signatures to put the question of the law on the ballot at the next general election. If they get enough signatures, the new law is put on hold pending the vote of the people. This referendum procedure gives the people ultimate veto power over acts of the legislature.**

2) He can refrain from signing the bill, in which case it still becomes law after the five or ten

day period.

3) He can veto the bill. If the veto takes place while the legislature is still in session the bill is returned to the legislature where a 2/3 vote of each house (3/4 if emergency or Proposition 108 legislation) is required to override the veto. If the legislature has already adjourned, the bill is dead.

### **... And, Let's End at the End**

Any discussion of the legislative process must end somewhere.

Dawn breaks slowly over the first day in months that the legislature is not in session. It's quiet at the Capitol. Wandering through the Senate building is like prowling the streets of a city in one of those black and white 1950's movies where the earth has been invaded from outer space and mass evacuation has taken place. The floor of the Senate is littered with celebratory confetti; the desks are still covered with last minute agendas and with compromise amendments to final pieces of legislation. Throughout the building wastebaskets are filled to overflowing with soft drink cans, styrofoam coffee cups and bags and wrappers from local fast food restaurants. Here and there office lights are still on -- their occupants too interested in leaving to take time to turn them off.

The legislators have gone home.

Only staff members, hard core members of the press corps, and the pigeons remain.

It's the morning after sine die.

And the cycle is already beginning again.

### **A Final Word**

The road for a proposed new law is long and hard. Not all ideas become bills and all bills certainly do not become law. The process on occasion prevents a good idea from becoming law but it's generally accepted that the process more often prevents bad laws from making it to the statute books.

The way laws are made this year is significantly different from the way laws were made thirty years ago and the current method is probably going to continue to change in the coming years.

More than ever before the people of the State of Arizona are in charge. More than ever before, they are taking an active role in the process. And that's the way it should be.

## **Appendix A**

### **About Lobbyists**

For most of the general public the word "lobbyist" has a negative connotation. There are mental images of cigar chomping big business or big labor influence peddlers twisting arms and making back room deals - or images of under the table money and plots to punish or reward legislators "in their pocket".

Through much of Arizona's history, some of those images may have been true. In extremely rare instances, vestiges may still be in the process of dying out. The last two decades though, highlighted by Azscam, have been a period of change in the role of professional lobbyists and most observers will agree that politics at the capitol has never been cleaner than it is today.

Also, it should be remembered that each of us is represented by dozens of lobbyists whether we know it or not. There are lobbying organizations for the young and for the old, there are

lobbyists for landlords who own apartments and for tenants who live in them, there are lobbyists for police and for those who have run afoul of the law.

Indeed, state law requires that anyone giving testimony on a bill, who does not represent himself only, must register with the Secretary of State as a lobbyist. This means that if you appear on behalf of yourself and the neighbors on your block, you are technically a lobbyist and must register. Arizona has some of the strictest rules in the nation concerning lobbyists and those rules help explain why the total number of registered lobbyists exceeds 7,500.

To some involved with the legislative process, lobbyists may be "evil", but, if so, they are a "necessary evil". In the final analysis, lobbyists are simply representatives who act on behalf of others. Lobbyists from both sides of an issue provide additional information and additional perspectives on the merits of proposed legislation. They are as much a part of the political process as the staff members who provide research and background information to the legislators. In the end, it is often information supplied by lobbyists for both sides which makes the difference in helping the Senator decide how to vote.

For the purpose of this booklet, therefore, the term "lobbyist" includes not only any cigar chomping arm twisters who might still remain, it also includes the retirees, the mothers, the renters, the golfers and hundreds of other everyday citizens who take time from their schedules to testify for or against prospective legislation.

## **Appendix B**

### **Special Sessions**

In addition to the two regular sessions of each legislature, there are also gatherings of the legislature in what are known as "Special Sessions."

It would be nice if, once the legislature adjourns, it could stay adjourned until the next January. Each year, however, there are needs which cannot wait until the next regular session.

A special session can be called in one of two ways. In Article IV, Part 2, Section 1 of the Arizona Constitution, the legislature can call itself into special session by presenting a petition to the governor which contains the signatures of at least 2/3 of the members of each house. At this type of special session any and all matters may be addressed.

In Article V, Section 4, the Governor is empowered to call the legislature into special session. At this type of special session the legislature can consider only those items specifically mentioned in the Governor's "call."

There are no limits to the number of special sessions which can be held. Special sessions can be held during a regular session -- in fact a special session can be held while another special session is going on.

The budget of our state is almost always passed during a special session. Because no law can take effect until 90 days after the legislature adjourns, and because in recent years the legislature has adjourned in mid-April, a budget passed during the regular session would not become law until sometime in July. The only problem is, the fiscal year of the state begins on July 1.

So, during the regular session, all of the work necessary to pass a budget takes place. Then, sometime before March 31st, a special session is called just to pass the budget. The legislature simply moves back and forth between regular session and special session, depending on what they are working on at the moment.

## Appendix C

### Index and Glossary

**Ad hoc committee**-- an informal committee.

**ALIS Online**-- The Internet service provided by the legislature to make available to the general public most of the paperwork of the legislature. The ALIS Online address <http://www.azleg.state.az.us>

**Amendments**-- changes to a bill.

**Bills** Number introduced over time. Summary of 1996 bills.

**By Request**-- a caveat to the introduction of a bill by the sponsor.

**Caucus**-- a) the members of a particular political party in one branch of the legislature. For example, the Republican Senators are members of their caucus, the Republican House members are members of their caucus, and so on. b) a meeting of caucus members.

**Committee Chairman**, role.

**Committee of the Whole**-- a gathering of the Senate at which time bills are debated by the entire body.

**Conference Committee**-- a committee consisting of both House and Senate members, convened to reconcile differently amended versions of a bill which has passed in both houses.

**Court decisions**, and effect on legislation.

**Engrossing**-- merging amendments with a bill prior to third or final reading.

**Final Reading of Bills**-- Similar to third reading, but applies to bills which have been sent to the Senate from the House.

**First Reading of Bills**-- a largely ceremonial step introducing a bill for the first time to the entire Senate.

**Hopper**-- a box in the office of the Senate Secretary into which bills are placed when a bill is ready to be filed.

**Interim**-- the period between regular sessions of the legislature.

**Interim Committee**-- a committee which meets between the adjournment of one session of the legislature and the beginning of another. Interim committees often meet to gather facts and hear testimony. What is learned at these hearings often serves as the basis for proposed legislation for the next legislative session. Most interim committees are also joint committees.

**Intro Set**-- paperwork which authorizes a sponsor to file a bill.

**Joint Committee**-- a committee which has members of both the Senate and the House of Representatives. Some joint committees also have members of the general public.

**Legislative Council**-- a staffing arm of the legislature, primarily charged with the actual drafting of proposed legislation.

**Reconsider, motion to**-- a parliamentary maneuver aimed at getting a second chance to vote on a bill.

**Rules Committee**, role.

**Second Reading of Bills**-- The step in which newly introduced bills are assigned to a standing committee.

**Select committee**-- a committee which has one or more members from the private sector.

**Senate Calendar**-- a listing of bills ready for third or final reading.

**Session**-- a meeting of the legislature. Each two year legislature has two regular sessions. Each session begins on the first Monday in January and adjourns when its business is done.

**Session Law**-- a) a book prepared each year which contains those sections of the Arizona Revised Statutes which were changed as a result of legislation enacted. b) temporary or nonpermanent law, such as a law authorizing a study committee of limited duration.

**Sine Die**-- the end of a legislative session.

**Special Session**-- See Appendix B.

**Sponsor**-- a member of the House or the Senate who gives permission to have a bill introduced in his name.

**Standing Committee**-- At the beginning of the first year of each new legislature the President of the Senate makes appointments to various standing committees. These appointments are generally for the full length of the two year legislative term. As commonly referred to, standing committees review bills and conduct inquiries as part of the early stages of the legislative process. Technically speaking, special committees are also standing committees.

**Strike Everything amendment**-- essentially, replacing one bill with another.

**Third Reading of Bills**-- The point at which Senators cast their votes in favor or against a particular bill.

**Vehicle Bill**-- a bill which acts as a "placeholder" in case an important bill fails.