

Tim Jones
Speaker



Dwight Scharnhorst
Committee Chair

Aaron Smith
Committee Secretary

MISSOURI HOUSE OF REPRESENTATIVES

Interim Committee on Legislative Institutional Infrastructure and Process

COMMITTEE REPORT

To: The Honorable Tim Jones, Speaker of the House
From: Dwight Scharnhorst, Chair
Date: 12/20/13

This report is a collation of suggestions from each member on the Interim Committee on Legislative Institutional Infrastructure and Process. The original objective given to the committee was to review and enhance the legislature's effectiveness in meeting its constitutional responsibilities of making laws, crafting a budget, and providing a healthy system of checks and balances by overseeing the operations of the other branches of government.

With this objective in mind the committee focused on seven points of interest:

- Improving the effectiveness of the legislature;
- The transfer of knowledge on policy decisions from one generation of legislators to the next;
- Modernization of statutes, rules and procedures governing our legislative process;
- Identifying needed resources to better legislate transparently and openly in the 21st century;
- Find ways to better integrate our existing resources to the needs of legislators;
- Establish a framework for a long-range strategic planning process within the legislature to ensure our legislature is working in the best possible manner to represent the will of its citizens; and
- Enhance the ability of the House to attract and retain the highest quality of staff and arming them with the tools necessary to effectively oversee the operations of state government.

In order to address the identified agenda in a manageable timeframe the committee divided the members into four subcommittees:

Administration and Resources

Jeanie Lauer, Chair
Dwight Scharnhorst
Kevin McManus

Appropriations

Scott Fitzpatrick, Chair
Kathy Swan
Stephen Webber

Committee Structure and Procedures

Kevin Engler, Chair
Gail McCann Beatty
Kevin Elmer

Floor Activity and Rules

Todd Richardson, Chair
Caleb Jones
Jeanne Kirkton

Each subcommittee was given a deadline and specific task based on the overall objective of the interim committee and the seven points of interests. Along with their assigned task each subcommittee was provided several sample questions to research and answer. The purpose of this was to stimulate the formation of ideas with several viable solutions. Each subcommittee was also encouraged to supplement their own considerations into their findings.

The remainder of this document is a collection of the final reports submitted by each subcommittee.

Administration and Resources

Jeanie Lauer, Chair
Dwight Scharnhorst
Kevin McManus

Purpose: Focus on improving the effectiveness of the daily operations in the House/legislative body.

The Subcommittee on Administration and Resources focused on initiatives and recommendations for adapting a part-time legislature to full-time needs. The two main areas of focus were Building Efficiency and Member Office Productivity.

Suggestions for Increasing Building Efficiency:

1. Determine what departments and resources can be effectively consolidated between each state entity in the building. This process would start by defining the role of each department with the goal to consolidate and eliminate unnecessary overlap. This could present an opportunity to eliminate operating costs;
2. Create a House “storefront” with standardized office items that are pre-approved by the Administration & Accounts Committee and purchased by the House Purchasing Agent. This would eliminate clerical waste and save costs through accurate inventory recordkeeping and the ability to make discerning purchases for the House as a whole. This has already been instituted with most of the computer equipment in the House and has proved successful; and
3. Create some form of standardized member office. Give House Operations the ability to use funds to recondition member offices one section of the building at a time. This would eliminate the need for 163 members to “re-do” their office every two years when the House does office moves. The Senate currently uses a similar model.

Suggestions for Improving Member Office Productivity:

1. Phase in the Legislator Assistant Share Program where freshman members are required to do the Share Program. This would increase LA productivity, eliminate operating costs which could be reinvested in salaries, and set up an opportunity for incumbent members to be mentors to incoming freshman. This could also help grow the member knowledge base with each new class;
2. Cut the amount of full-time permanent position LA's we currently have. Make these permanent positions that can accommodate each caucus. Again, this would increase LA productivity, eliminate operating costs which could be reinvested in salaries, and provide long-term job security;
3. Keep the employees we currently have, eliminate the LA job title, and re-compartmentalize the position to meet the needs of House members. For example, instead of 160 LA's you could have 53 Secretary positions, 53 Constituent Services positions, and 53 Policy positions. This would also increase employee productivity, eliminate operating costs which could be reinvested in salaries, provide long-term job security, and give opportunities for upward mobility. Job title example:
 - a) Secretary (I,II,II) – responsible for emails, calendars, etc. for “x” number of members.
 - b) Constituent Service (I, II, II) – responsible for all constituent services responsibilities.
 - c) Policy Analyst (I, II, III) – responsible for assisting members with their legislation;
and
4. Give members control over their expense accounts within the limits of some form of set guidelines and transfer full responsibility of their staff over to them. This would relieve the House of being accountable for member office staff, place the responsibility on the individual members, and give the LA the ability to negotiate their salary. The Senate currently uses a form of this model.

Appropriations

Scott Fitzpatrick, Chair
Kathy Swan
Stephen Webber

Purpose: Focus on what actions should be taken to increase the oversight functions of the House to ensure executive departments spend state dollars in a manner in line with the goals of the budget passed by the General Assembly.

Representative Dwight Scharnhorst
Interim Committee on Legislative Institutional Infrastructure and Process Chair
201 West Capitol Avenue Room 402
Jefferson City MO 65101

Dear Representative Scharnhorst,

Pursuant to your directive as Chairman of the Interim Committee on Legislative Institutional Infrastructure and Process, the Subcommittee on Appropriations is pleased to deliver this report regarding

its recommendations for improving the legislative function of appropriating funds as well as improving the interaction between the legislature and the Governor's office.

Appropriations Subcommittee Recommendations:

1. Amend the Missouri Constitution to require the Governor's budget recommendations to be presented based solely on revenues available without the need for speculative legislation and without assuming that lapsed or withheld funds from the previous budget year are available for the current year. We should consider allowing the Governor to include unspent fund balances that will be available regardless of the actual revenues for the current fiscal year. In other words, if the projected revenues in the current fiscal year exceed appropriations and leave a projected surplus in various funds, we should allow the Governor to budget the excess fund balances in the next fiscal year. There are many funds with rolling balances that should be considered. Because the budget process occurs prior to the end of the preceding fiscal year, the actual available balances in these funds cannot be known during the budget process. Therefore, the budget projections should be determined jointly by the House, the Senate, and the Governor's office.

Prohibiting the budget from being based on unpassed legislation would improve the process. Currently, the Governor can include projected revenues that may arise upon passage of his or her legislative ideas in the General Assembly. This is a highly speculative approach, and the Governor has the ability to present a budget based on a legislative proposal that has no chance of becoming law or is based on a legislative proposal in which the Governor actually has no intention of signing. Additionally, these legislative ideas are not required to be drafted and presented to the legislature in the form of workable legislation. Conceivably, a Governor could include a \$1 billion tax increase as part of his budget plan, but never have to propose the actual legislation in order to raise those revenues.

When the Governor does this, it puts the legislature at a significant disadvantage. The Governor is the head of the executive branch, which is made up of more than 50,000 employees with access to information that is readily available to the Governor's budget and planning staff. The Governor's budget staff is more than twice as large as the House and Senate budget staff combined, and they have a much longer time frame with which to deliver a budget proposal. In addition to staffing and the allowed time disadvantage, the legislature has less access to the information needed to build the budget and does not have the same level of cooperation from the departments as the Governor's staff. If the leaders in the General Assembly choose to accept the Governor's position on the total size of the budget and the Governor's legislative ideas do not come to fruition, the legislature is put into the position of passing a budget that is not balanced and is giving the Governor an automatic reason to invoke his or her withhold authority under Article IV Section 27 of the Constitution. If the leaders in the General Assembly choose to eliminate revenues and spending from the Governor's budget proposal in order to pass a truly balanced budget, they are at a severe time and information disadvantage regarding how to accomplish that task responsibly and in the way that is best for the state.

2. The current function of the Appropriations committees is relatively limited in scope. Each year during the budget process, these committees hear testimony for a few weeks and draw formal recommendations for a portion of the budget. The recommendations are submitted to the budget chair for review before the chair files his or her substitutes. Once that task is complete, the committees cease to meet until the next budget cycle begins. Additionally, many members of the Appropriations committees are not members of the budget committee. Conversely, several members of the budget committee are not members of an Appropriations committee resulting in a budget committee that may not be armed with the information needed to deal with the full budget. It would strengthen the House's performance in handling the budget if every member of the Budget committee was a member of at least one appropriations committee. To accomplish this, we recommend making the Appropriations committees subcommittees of the Budget Committee.

In this case, the Appropriations committees would be smaller and would be made up solely of members of the Budget committee.

3. As has been stated previously, the Appropriations committees typically meet only during the budget cycle and do not meet once the bill markups are complete. During this previous session and the current interim, one of the Appropriations chairs has been holding oversight meetings. With an entity the size of Missouri's state government, keen oversight that is performed year round is imperative. By tasking the Appropriations committees with constant oversight responsibility, the House will discover a larger amount of waste that can be scrutinized during the budget process. Additionally, members of the committee will be more aware of the taxpayer funds that are being appropriated for programs. It is important for the members of the committee to understand each appropriation to the greatest degree possible. If the General Assembly appropriates money for a program that it has not fully vetted, it is a disservice to the taxpayers. This recommendation can be implemented without regard to recommendation number two.
4. During the downturn in state revenues spurred by the recession beginning in 2008, the General Assembly led by example and made cuts within its budget while doing the same across other departments. While this is an admirable approach, there is a possibility that the General Assembly has cut off its nose to spite its face in various areas. The Constitutional obligation to draft and pass a budget lies within the General Assembly. However, the Governor has at his disposal a budget and planning staff that is more than twice as large as the Senate and the House appropriations staffs combined. While there is not a need for a massive expansion of staff in the House Appropriations office, it would be wise to consider discussing the idea of adding a single staff member to the office with the Director of House Appropriations. The staff members are invaluable to the process, and if the General Assembly is understaffed, the work product of the body will lose quality without much additional savings to show for it.
5. The authority of the Governor to withhold money that has been appropriated is one that is necessary to preserve the creditworthiness of our state. That being said, this authority has recently been exerted in a manner in which the Missouri Constitution did not intend. In addition, the Supreme Court ruled in the withhold lawsuit filed by the Auditor against the Governor that the Auditor did not have standing to sue and the issue was not ripe to be adjudicated, rendering it unlikely for any future plaintiff to successfully see the issue adjudicated prior to the appropriation in question lapsing. Because the Governor has the authority to control the rate of expenditure, he or she may elect to prevent expenditure of an appropriation until the last minute of the last day of the fiscal year without regard to the fact that even a modestly sized appropriation that required a single entry to expend could never be spent. In order to bring this power back in check so that it will be used as intended, Article IV Section 27 of the Constitution will need to be amended to create a Withhold Board made up of statewide elected officials, such as the Governor, Lt. Governor, and the Treasurer or some other combination, that will consider the withholds being proposed by the Governor and will vote on their Constitutional merit. If at least one of the statewide officials does not agree with the Governor that state revenue is not sufficient to sustain the appropriation(s), then the money should be released. Additionally, the board should entertain grievances in the event an appropriation is being unofficially withheld by reducing the rate of the expenditure to zero until the end of the fiscal year. This could also be accomplished by allocating withhold oversight to the General Assembly. The Governor should be required to present a withhold plan if he or she deems the withhold necessary, which the General Assembly will consider and amend or approve. If the General Assembly fails to agree on a decision within a constitutionally mandated time frame, the Governor's withhold plan would stand. The Governor's power to control the rate of expenditure to the point of a virtual withhold could also be checked by allowing the General Assembly to increase the rate of expenditure of any appropriation at any point throughout the year.

6. Currently, the Governor has the power by convention or statute to create a fund at will and to the extent that existing statute doesn't direct the money elsewhere and to direct the deposit of money to the fund. State law should be amended to explicitly outlaw this practice. The Governor could use this power to prevent appropriated money from being deposited into a fund effectively rendering the funds inaccessible to the General Assembly until it passes an appropriation to either transfer the fund balance to another fund or appropriate it directly from the fund. As the power to appropriate is an exclusive power of the General Assembly, it only follows that the General Assembly should control the number of funds the state may have.

In summary, there are many opportunities to improve the Appropriating function of the General Assembly and, in particular, the House. Many ideas will need fine tuning and input from experts in the field of appropriations. We feel these recommendations are a good starting point and merit further consideration at this time. The members of this subcommittee welcome further discussions and recommendations for improving the process of appropriating in the great state of Missouri.

Committee Structure and Procedures

Kevin Engler, Chair
Gail McCann Beatty
Kevin Elmer

Purpose: Focus on the rules and procedures for conducting committee business and adopting policy.

Put Limitations on Bill Introduction

In limiting the number of bills, it encourages early bill preparation and it reduces the number of "hero bills" going through the system. It narrows the concentration on substantial legislation, thus making the vetting process easier by reducing the number of frivolous legislation and reducing the number of bills that legislators must review. Bill limits also help to streamline the legislative process and reduce costs for staff, printing, and paper.

Although limitations in sponsorships would somewhat restrict lawmakers, an extension process may be put in place with requests being run through the Speaker. These extensions would include rising issues dealing with emergencies, technical errors, or any issue the representative sees as imperative.

Suggestions for limits:

- 1) Set limit across the board (outside of appropriations bills);
- 3) Allow for unlimited bill introductions during the pre-filing period and then a set cap as of the first day of session;
- 4) Set limit with bills filed by committees;
- 5) Set limit for the House as a whole; and
- 6) The Speaker would set the limit per session.

Chambers that Impose a Limit on Bill Introductions

Arizona House
California Senate and Assembly
Colorado Senate and House
Florida House
Indiana Senate and House
Louisiana Senate and House
Montana Senate and House

Nevada Senate and Assembly
New Jersey Senate and General Assembly
North Carolina House
North Dakota Senate and House
Tennessee Senate
Wyoming Senate

Consolidate Standing Committees

With or without the enactment of limits on bill introduction, consolidating standing committees allows the body to filter legislation more thoroughly. The number of Missouri's House committees, on average, is nearly double that of the nine states with a comparable population size.

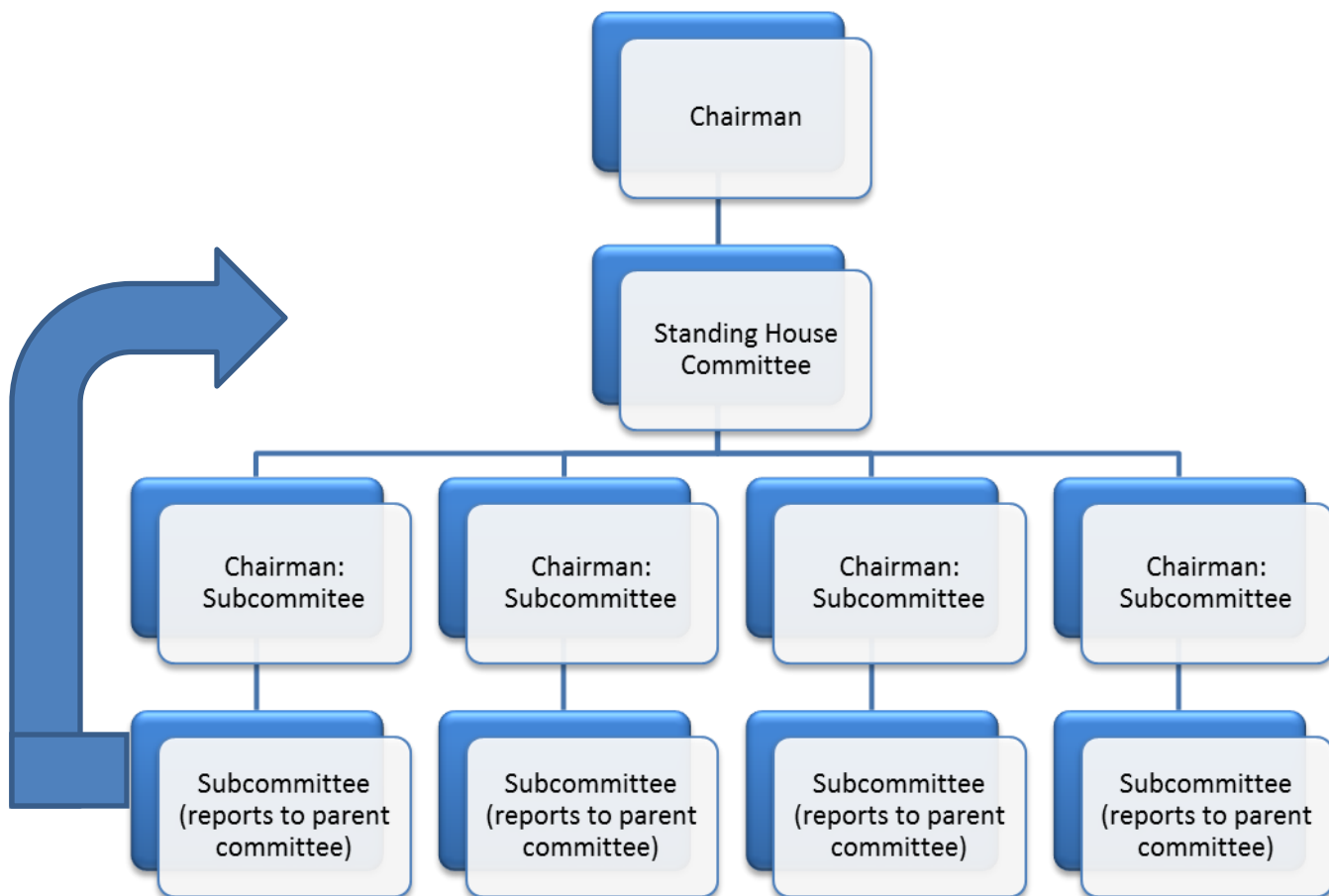
Committee Numbers by Population Comparison

State	*Population (2010)	Number of Standing Committees
Alabama	4, 779,736	31
Arizona	6,392,017	18
Colorado	5,029,196	11
Indiana	6,483,802	22
Maryland	5,773,552	8
Massachusetts	6,547,629	9
Minnesota	5,303,925	30
Missouri	5,988,927	54
Tennessee	6,346,105	15
Washington	6,724,540	23
Wisconsin	5,686,986	45

*Population reflects the data estimated by the US Census Bureau

By cutting down the number of committees, members will then be given fewer assignments, allowing legislators stronger focus, more dedication, and higher in-depth knowledge of centralized issues.

In addition to placing caps on the number of filed bills and merging committees, a vertical committee approach would utilize multiple subcommittees within the larger umbrella of the standing committee. Each committee chair would have the opportunity to assign these subcommittees an in-depth review for a piece of legislation before that bill is debated by the full committee. Subcommittees will use their reports to make specific suggestions as to the needed changes prior to the public hearing.



Improve the Hearing and Bill Report Process

Utilizing timers during the hearing process would support its efficiency. It makes each witness' testimony a fair length of time and also helps with committee organization.

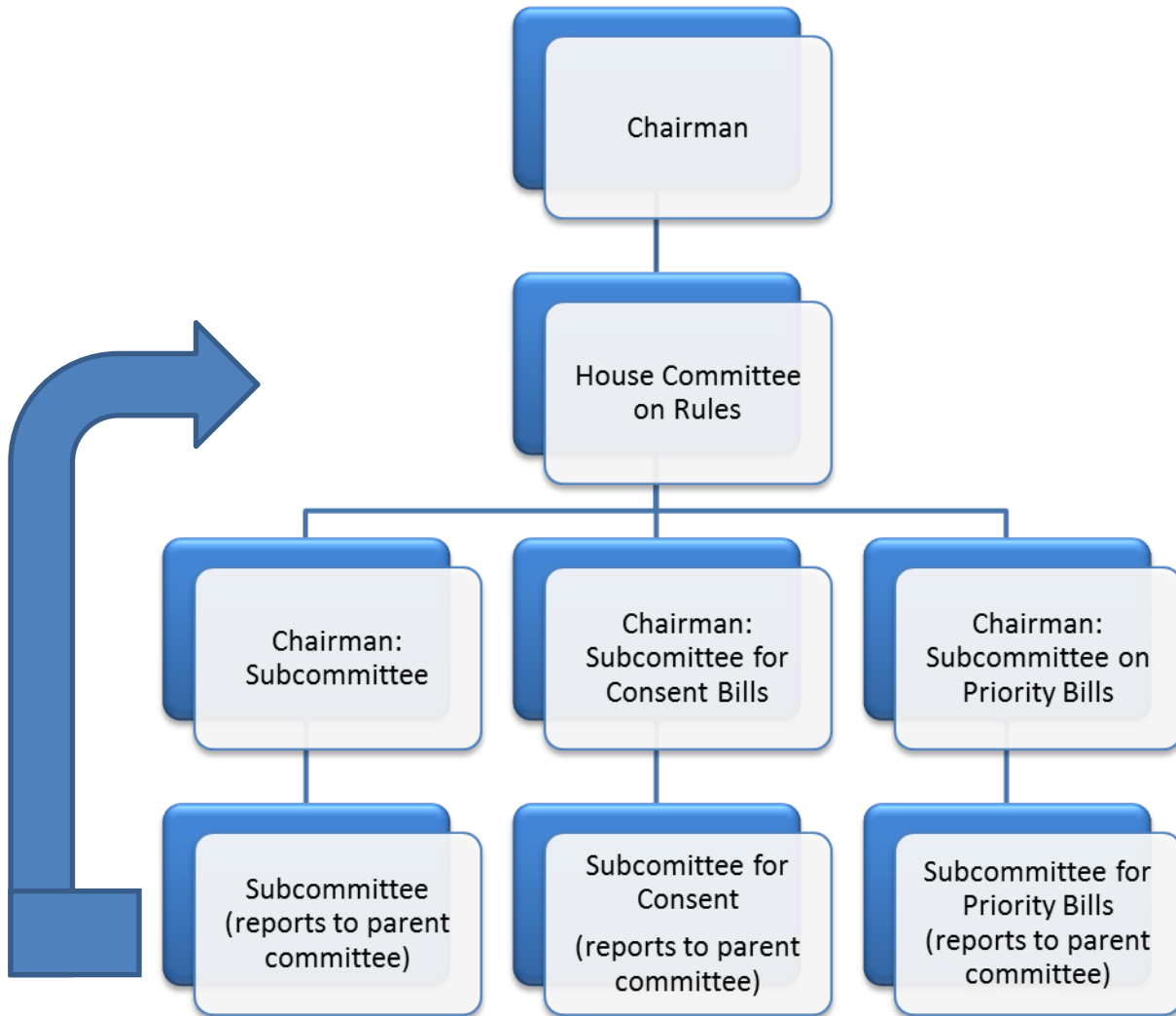
Suggestions for bill reporting:

- 1) Monthly release for bills;
- 2) Bills by priority; and
- 3) Remove bill slots altogether

Positive Outcomes of Subcommittees on the Rules Committee

Subcommittees should play a role in all standing committees including the House Committee on Rules. The use of subcommittees helps the Rules Committee to truly serve its purpose as the final vetting station before the bills are sent to the full House for debate.

Specifically, the structure for the Rules Committee would go beyond subcommittees focused on individual subject matter but also include subcommittees tasked with the review of consent and legislative priority bills. This would ensure that consent bills actually adhere to consent guidelines and that priority bills, that tend to move quickly, are properly checked for erroneous content often missed during debate.



Floor Activity and Rules

Todd Richardson, Chair

Caleb Jones

Jeanne Kirkton

Purpose: To look at the amendment process and ways to increase the efficiency of floor activity.

NO REPORT FILED