

It is the Brennan Center's position that legislative rules should outline a robust process that requires committees to carefully consider and substantively work on all bills before a vote is allowed. An adequate process for reviewing and amending bills in committee should resemble the following:

1. No bill not pertaining to appropriations shall be subject to a vote until it has been read before a public meeting of the full committee.¹ Bills shall be read aloud, first in full, and then one section at a time, by the committee clerk. By majority vote, the committee may dispense with the first reading and proceed immediately to the section-by-section reading.²
2. Notice of the reading of a bill shall be given to the bill's author at least 48 hours in advance. A bill may not be considered in the absence of the author without her consent, except when the bill is presented by the author's representative who is authorized in writing.³
3. Upon the conclusion of the clerk's reading of each section of the bill, the chair shall ask if there are any amendments to the section. At this time, it shall be in order for any member of the committee to introduce an amendment.⁴
4. Amendments must be filed with the committee chair in writing 24 hours in advance of the reading of the bill and provided in printed form to the bill's author, all committee members, the clerk, and the chair before the reading begins, unless the amendment is a verbal amendment, accepted at the chair's discretion as described below.⁵ The chair shall request the clerk to read each amendment upon the member's introduction.⁶

¹ See United States Congress Rules Manual at 217-218: "Moreover, although the previous question may be moved on any pending amendment, it may be moved on the measure, itself, only when the entire measure has been read for amendment (or considered as read by unanimous consent)."

² See United States House of Representatives, A Step-by-Step Guide to Committee Markups, available at <http://www.rules.house.gov/archives/class3.htm>: "After the bill has been read in full (or such reading is dispensed with), the bill must be read by section for amendment (Section 412, Jefferson's Manual) unless unanimous consent is obtained to read by title or consider the bill open to amendment at any point."

³ See 2009 CAL. SEN. R. 21.5 (h): "The chair shall set the hearings of bills and arrange the calendar for committee hearings. Notice of hearing of any bill shall be given to the author and other persons requiring notice. A bill may not be considered in the absence of the author without his or her consent, except that a bill may be presented by the author's representative who is authorized in writing."

⁴ See United States House of Representatives, Amendment Procedure in the Committee of the Whole, available at http://www.rules.house.gov/POP/amend_comm_whole.htm: "Chair next recognizes other Members with amendments to that section [...] A Member wishing to offer an amendment stands at the committee table on his or her side of the aisle and, when recognized by the Chair, states that he or she has an amendment to the pending section at the desk. The Clerk then begins to read the amendment. Typically, the sponsor asks unanimous consent that further reading of the amendment be dispensed with."

⁵ In the Minnesota House, committee chairs have the authority to set their own rules regarding the submission of amendments, though they must consult with the Speaker and submit these rules in writing to all committee members. The most common rule that chairs adopt requires that amendments be submitted in writing 24 hours in advance, with an exception for amendments that come up during the course of debate on a bill. In practice, this means that verbal amendments are allowed unless the amendment is too complex for members to consider in an informed manner without a written version, or unless the amendment clearly could have been submitted in advance. Telephone Interview with Lisa Radzak, Asst. to the House Majority Leader, in St. Paul, Minn. (Apr. 15, 2009).

⁶ See note 4.

5. Committee members may also make verbal motions to amend during the reading of the bill, which the chair shall consider in order unless she deems the amendment not germane, too complex to be reasonably understood in spoken form, or concerning a matter that could have reasonably been addressed in an amendment filed in advance.⁷ Verbal amendments shall be dictated to the committee clerk, who will transcribe the amendment and read it back to the committee before the author considers the friendliness of the amendment, and again before the amendment is subject to a committee vote.
6. The chair shall put the question to the author of whether each amendment is friendly or unfriendly.⁸ If the author has waived her right to attend or be represented by a proxy at the reading of the bill, all amendments are automatically deemed friendly.
7. [Preferred Rule:] All amendments may be incorporated into the bill by a majority vote of committee members present and voting. This vote shall be a voice vote unless a member of the committee requests a roll call vote and another committee member seconds the motion. If this request is so made, a roll call vote on the amendment shall be taken and each member's vote on the amendment shall be recorded and made public.⁹

[Alternative Rule:] All amendments deemed 'friendly' by the author or her proxy may be incorporated into the bill by a majority vote of committee members present and voting. This vote shall be a voice vote unless a member of the committee requests a roll call vote and another committee member seconds the motion. If this request is so made, a roll call vote on the amendment shall be taken and each member's vote on the amendment shall be recorded and made public. All amendments deemed 'unfriendly' by the author or her proxy shall be dispensed with and shall not be subject to further debate or vote.¹⁰

⁷ See note 5. See also 2009 CAL. SEN. R. 21.5 (m): "When a committee adopts proposed amendments to a bill, the bill may be taken up for vote at that meeting or, if the committee or author requests, sent out to print before final action. If the amendments are not in proper form, they shall be prepared and submitted to the chair for approval before being reported to the Desk. Amendments submitted by the author that, in the opinion of the committee chair, are major or substantial shall be submitted to the committee at least two legislative days before the bill is scheduled for hearing."

⁸ In the California Assembly, the chair puts this question to the author on each amendment, though committee members have the ultimate right to vote on both friendly and unfriendly amendments. If the author declares an amendment friendly, it is automatically adopted into the bill unless a majority of committee members vote to force a vote on the amendment. If an amendment is unfriendly, it is automatically subject to a simple majority vote of the committee members present. Telephone Interview with Teri Brown, Director for Assembly Floor Analysis, Cal. State Assembly, in Sacramento, Cal. (Apr. 21, 2009).

⁹ See 2009 MINN. HOUSE R. 6.21: "A member of a committee may demand a roll call vote on any bill, resolution, report, motion or amendment before the committee. If a demand is made, the roll must be called. The name of the member demanding the roll call and the vote of each member must be recorded in the committee minutes."

¹⁰ The Brennan Center strongly prefers a rule under which all amendments, including those opposed by the sponsor, come before the committee for a vote. However, we recognize that there are some in the Senate who wish for the sponsor to retain greater control over the fate of the bill, and we would be willing to accept a rule similar to this alternative as a compromise.