



VERMONT HOUSE OF REPRESENTATIVES

Legislative Procedure: Quick Reference Guide

OFFICE OF CLERK OF THE HOUSE

2023

VT LEG #364994 v.1

Last updated 8/25/2023

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OATH OF OFFICE

“I do solemnly swear (or affirm) that as a member of this Assembly, I will not propose, or assent to, any bill, vote, or resolution, which shall appear to me injurious to the people, nor do nor consent to any act or thing whatever, that shall have a tendency to lessen or abridge their rights and privileges, as declared by the Constitution of this State; but will, in all things, conduct myself as a faithful, honest Representative and guardian of the people, according to the best of my judgment and ability. (If an oath) So help me God. (Or if an affirmation) Under the pains and penalties of perjury.

“I do solemnly swear (or affirm) that I will be true and faithful to the State of Vermont, and that I will not, directly or indirectly, do any act or thing injurious to the Constitution or Government thereof. (If an oath) So help me God. (Or if an affirmation) Under the pains and penalties of perjury.

“I do solemnly swear (or affirm) that I did not at the time of my election to this body, and that I do not now, hold any office of profit or trust under the authority of Congress. (If an oath) So help me God. (Or if an affirmation) Under the pains and penalties of perjury.

“I do further solemnly swear (or affirm) that I will support the Constitution of the United States. (If an oath) So help me God. (Or if an affirmation) Under the pains and penalties of perjury.”

CONSTITUTIONALITY—DECISION OF HOUSE

Whether legislation is constitutional is a decision of the House.

- a. “The presiding officer possesses no authority to rule upon the constitutionality of bills. The decision whether to pass legislation belongs to exclusively the house.”
Mason’s Sec. 578-6.
- b. “It is not the presiding officer’s right to rule upon the constitutionality or legal effect or expediency of a proposed bill, since that authority belongs to the house.”
Mason’s Sec. 232-1.
- c. “It is not within the province of the presiding officer to rule upon the constitutionality of an amendment.”
Mason’s Sec. 232-2.

DECORUM—DEBATE

- a. ***One member at a time.*** The member first arising is entitled to the floor; when two or more arise at the same time, the Speaker shall name the one who is to speak. A member unable to stand may otherwise request to be recognized. [House Rule 66](#).
- b. ***Through Speaker.*** All debate must be addressed to the Speaker and not to members. [Mason's Sec. 110-1](#). Address the Speaker as "Madam [or Mr.] Speaker." [Mason's Sec. 110-3](#).
- c. ***Germaneness.***
 - i. Debate must be confined to the proposal before the body. [Mason's Sec. 101-1](#).
 - ii. When an amendment is pending, the debate must be confined to the merits of the amendment, unless it is of such a nature that its decision practically decides the main motion. [Mason's Sec. 101-6](#).
 - iii. Debate on a bill is confined to the bill under consideration and does not extend to criticism of other bills before the House or in committee, even though they relate to the same subject. [Mason's Sec. 101-4](#). It is out of order to refer in debate to a bill or other proposals not yet reported by a committee, or to refer to committee proceedings unless they have been formally reported by the committee to the House. [Mason's Sec. 101-5](#).

d. ***No personalities.***

- i. Do not refer to other members by name; instead, describe them by their town, district, seat, or in some other respectful manner. *Mason's Sec. 110-2.*
- ii. Do not indulge in personalities, impugn motives of members, use indecent or profane language, or participate in conduct that disrupts or disturbs the orderly proceedings of the body. *Mason's Sec. 122-2.*

e. ***Separation of powers.*** *Mason's Sec. 111:*

- i. Do not refer to the name or office of the Executive in order to influence the vote. However, it is in order to refer to the Executive or Judiciary or their opinions, with either approval or criticism, if relevant to the proposal under discussion, in conformance with rules.
- ii. Do not quote or refer to the vote by which a proposal passed the Senate.
- iii. Do not debate or discuss a matter awaiting adjudication in a judicial tribunal.

f. ***Limit on same question.*** A member may not speak more than twice on the same question without leave of the House, and members who have once spoken shall not again be entitled to the floor (except for the purpose of explanation) to the exclusion of another who has not spoken. [House Rule 64.](#)

g. ***Cease debate.*** Debate may be closed on a question on a motion decided in the affirmative by a vote of three-fourths of the members present. [House Rule 68.](#)

DECORUM—INTERROGATION

a. ***Through Speaker.***

i. If a member desires to ask a question of another member, they must do so through the Speaker. “[I]t is discourteous and a strict violation of parliamentary rules to ask questions directly of a member.” *Mason’s Sec. 114-1.*

ii. House practice:

- “Madam [or Mr.] Speaker, may I interrogate the member from [town]?”
- *Speaker*: “The member from [town] is interrogated.”
- “Madam [or Mr.] Speaker, can the member tell me [question]?”
- Signal when complete—“Madam [or Mr.] Speaker, I thank the member.”—and then finish any further comments.

b. ***Germaneness.*** Questions addressed to members may only relate to the proposal before the body. *Mason’s Sec. 114-4.*

c. ***No personalities.*** A question should not be permitted that reflects upon the character or conduct of any member or upon the Executive or other official. A question as to what course a member proposes to follow is not in order. *Mason’s Sec. 114-5.*

- d. ***Purpose; form.*** The purpose of a question is to obtain information and not to supply it to the body. A question may not contain statements of fact unless they are necessary to make the question intelligible and can be authenticated. A question should not contain arguments. *Mason's Sec. 114-6.*
- e. ***Response.***
- i. A committee's bill reporter and the mover of an amendment must submit to interrogation. [House Rules 31 and 64](#). Otherwise, a member may decline to be interrogated. *Mason's Sec. 114-2.*
 - ii. If the first reply does not fully answer the question, it is the practice to permit a limited number of further questions to be asked. *Mason's Sec. 114-2.*
 - iii. A member having the floor in debate may, without objection, yield it for questions and explanations connected with the subject before the House. *Mason's Sec. 95-1.*

DIVIDING A QUESTION

- a. ***House Rules; application.*** “If the question in debate contains more than one point, it shall be divided on demand of a member[,] except that a motion to strike out and insert shall not be divided.” [House Rule 67](#).
- The following are examples of questions that contain only one point, and therefore cannot be divided: *Shall the bill be read a third time? Shall the House adopt the resolution? Shall the House concur in the Senate proposal of amendment?*
- b. ***Mason’s.*** See [Mason’s ch. 31](#), esp.:
- iii. [Sec. 312-1](#): “To be divisible, a proposal must include subjects or parts so distinct and separate that, one of them being taken away, the other will stand as a complete proposal.”
 - iv. [Sec. 310-4](#): The separate subjects do not need to be incongruous or contradictory. “It is sufficient if each is distinct and complete in itself and of such a nature that a member might reasonably wish to vote for one and against another.”
 - v. [Sec. 313-2](#): “When a member has the right to demand a division, that member’s demand is not subject to debate, amendment, except as to the manner of dividing the proposal, or other subsidiary motions.”
 - vi. [Sec. 313-3](#): “Whether a proposal contains two or more subjects or parts is a question to be ruled upon by the presiding officer in the first instance, but that ruling is subject to appeal.”

ELECTIONS—BY HOUSE

- a. **Day 1: Speaker.** [Vt. Const. Ch. II, § 16](#) requires the Speaker to be chosen before House members take their oath.
- b. **Day 1: Clerk.** [Vt. Const. Ch. II, § 16](#) requires the Clerk to be chosen before House members take their oath.
- c. **Jan. 1–Feb. 1 of Year 1: *Judicial Nominating Board, House members.***
 - i. [4 V.S.A. § 601\(b\)\(3\)](#) requires the House to elect three House members, not all of whom are members of the same party and only one of whom may be an attorney.
 - ii. [Subdiv. \(b\)\(5\)](#) states that the election shall occur between Jan. 1 and Feb. 1 of each odd-numbered year. This subdiv. also prohibits members from serving more than three consecutive terms.

ELECTIONS—BY JOINT ASSEMBLY

- a. **Opening of session (Day 2): Governor, Lt. Governor, or Treasurer**, if any of them did not receive a “major part of the votes” via [Vt. Const. Ch. II, § 47](#).
- b. **7th Thurs. after Day 1 of Year 1 (mid-Feb.): Sergeant at Arms and UVM Trustees**. [2 V.S.A. § 10\(a\)](#).
- c. **11th Thurs. after Day 1 of Year 1 (mid-March): Judicial retention**. [2 V.S.A. § 10\(b\)](#).
- d. **7th Thurs. of Year 2 (mid-Feb): Vermont State College Trustees and Adjutant and Inspector General**. [2 V.S.A. § 10\(c\)](#).
- e. **11th Thurs. of Year 2 (mid-March): Judicial retention**. [2 V.S.A. § 10\(b\)](#).

GERMANENESS—AMENDMENTS

- a. **Generally.** The germaneness requirement is set forth in *Mason's Sec. 402*, which provides that amendments must be “relevant, appropriate, and in a natural and logical sequence to the subject matter of the original proposal[.]” and that an “amendment is required only to relate to the same subject.”
- i. Both the House and Senate have used [NCSL's sample checklist](#) to test germaneness in accordance with *Mason's Sec. 402*: Does the amendment deal with a different topic or subject? Unreasonably or unduly expand the subject of the bill? Introduce an independent question? Change the purpose, scope, or object of the original bill?
 - ii. As [the U.S. House Committee on Rules advises](#), you cannot amend a specific provision (ex.: apples) with a general proposal (ex.: fruit). But you may amend a general provision (fruit) with a more specific proposal (apples).
- b. **Application.** An amendment to an amendment must be germane to the subject of the amendment as well as to the proposal under debate. *Mason's Sec. 402-5*. The rule also applies to committee reports: “All amendments must be germane to the subject of the proposal. The body may refuse to receive or consider amendments proposed by a committee that are not relevant to the general subject of the bill. A committee may properly propose any amendments within the general scope of the bill[.]” *Mason's Sec. 616-4*.
- c. **Action of Senate.** It is not within the province of the presiding officer to rule upon the germaneness of amendments from the other house; germaneness must be decided by the body. *Mason's Secs. 232-4 and 760-6 and -7*.

*LAY ON TABLE (ORDER TO LIE); TAKE FROM
TABLE (CALL UP)*

- a. ***Lay on table. Not debatable:***
- i. “A motion . . . to lay on the table . . . shall be decided without debate.” [House Rule 65](#).
 - ii. “This motion is not debatable. It is a matter of importance to a body that the consideration of a proposal may be put off to a later date without debate or delay. To permit debate on the motion to lay on the table would defeat this purpose.” [Mason’s Sec. 335-1](#).
- b. ***Take from table.***
- i. *When motion made; by whom; result.* Whenever a bill or resolution is laid on the table by order of the House, “it may at any time, except during Orders of the Day, be called up by a member and it shall be placed in the Orders of the Day of the succeeding day.” [House Rule 39](#).
 - ii. *Not debatable.* A motion to take from the table “is not subject to debate.” [Mason’s Sec. 492-6](#). (And note that [House Rule 39](#) simply allows legislation to be called up by any member; ie., it is not a motion to be voted on.)
 - iii. *Form when called up.* When called up, the proposal is before the chamber “exactly as when it was laid on the table.” Ie., if it had amendments and a motion to commit pending, the chamber returns the question of commitment and then the amendments. [Mason’s Sec. 492-7](#).

ORDERS OF THE DAY

- a. **Defined.** “Orders of the Day” is the House’s Action Calendar. [House Rule 32\(a\)](#).
- b. **Interrupting.** It is not in order to interrupt the Orders of the Day with any other business, except motions to adjourn, to recess, or to receive messages from the Governor or Senate. [House Rule 37](#). Accordingly, a motion to suspend rules to interrupt the Orders of the Day is required for any other business.
- c. **Other business.** Announcements are held on either side of the Orders of the Day, and this is a time to conduct business not on the Action Calendar. For ex., [House Rule 36](#) describes the first hour of each day as a time for other motions, votes on resolutions, and the introduction and referral of bills.

RECONSIDERATION

- a. ***House Rules.*** Governed by [House Rules 77-80](#).
- i. House Rule 77: Only way to consider the same question in a “session” (ie., a biennium) is to reconsider it.
 - ii. House Rule 78: Can only move to reconsider on the next legislative day. If a motion to reconsider is decided in the affirmative, further action on the question is postponed until the end of the Orders of the Day.
 - iii. House Rule 79: Motion to reconsider can only be made by a member who voted on the prevailing side of the question.
 - iv. House Rule 80: Can only vote to reconsider a question once. If a question is reconsidered, it can’t be reconsidered again.
- b. ***Debatable if question was debatable.*** “The motion to reconsider is debatable except when the motion that it is proposed to reconsider is not debatable. When the motion to be reconsidered is debatable, the entire proposal is opened to debate by the motion to reconsider.” Mason’s Sec. 471-1.
- c. ***Effect.*** If a motion to reconsider is decided in the affirmative (ie., when a vote is reconsidered), the “vote is canceled as completely as though it had never been taken” and “the question immediately [returns to] the proposal reconsidered.” Mason’s Sec. 468.

SUBSTANTIAL NEGATION

- a. **Summary.** Substantial negation is prohibited, with limitations. Substantial negation occurs when the House tries to undo a specific act it previously took on a main motion, outside of its authority to reconsider a question. The overall purpose of the rule is to prevent frivolous use of the chamber’s time on a substantive question it already decided.
 - i. The rule is strictly limited to the House considering the same question it had already decided. If a question is revised from a prior one, the rule is not violated.
 - ii. Moreover, there are exceptions to the rule: The same question may be posed again in a committee report, and in legislation that came from the Senate.
- b. **House Rules.** [House Rule 61](#) (prohibition; committee report exception): “Subject to [Rule 77](#) [*which is re: reconsideration*], an amendment previously adopted may be amended, but not so as to substantially negate the amendment already adopted, except that when a committee report recommends amendment, that amendment shall be in order even though it negates one previously adopted.”
- c. **Mason’s.**
 - i. *Mason’s Sec. 159-6* (rule; description): “When a decision has already been made on any proposal, the equivalent proposal, whether in the affirmative or negative, is not in order. Proposals are equivalent when the negative of one

amounts to the affirmative of the other and leaves no other alternative.”

- ii. Mason’s Sec. 159-4 (other chamber exception): “A rule of one house relating to further consideration of a proposal that was defeated has reference to a bill or resolution once acted upon by that house and does not prevent the consideration of the same subject matter when embodied in a bill or resolution coming from the other house.”

VOTING—CONFLICTS AND DUTIES

Conflicts

- a. House Rule 75: “Members shall not be permitted to vote upon any question in which they are immediately or directly interested.”
- b. Mason’s Sec. 522-1: “It is the general rule that no members can vote on a question in which they have a direct personal or pecuniary interest. The right of members to represent their constituencies is of such major importance that members should be barred from voting on proposals of direct personal interest only in clear cases and when the proposal is particularly personal. This rule is obviously not self-enforcing and, unless a vote is challenged, members may vote as they choose. A member may vote on a proposal when other members are included with that member in the motion, even though that person has a personal or pecuniary interest in the result . . .”
- c. *See also* Cushing’s Secs. 1784 and 1789–1791, providing that a question is not of direct personal interest if it is not in regard to a legislator personally (such as a motion to censure the legislator), and a question is not of direct pecuniary interest if it involves a matter of general public interest.
- d. Accordingly, House Rule 75 has generally been interpreted so that if a vote would affect both a legislator and a larger group of people, the legislator is not required to recuse themselves because the vote is not of “immediate or direct interest.”

- e. *Mason's Sec. 231-6*: “The proper time to raise a point of order questioning the right of a member to vote because of a direct personal or pecuniary interest is after the vote has been recorded and before the result is announced.”
- f. See [2023 House Ethics Panel training](#), slides 11-15, for details.

Duty to Vote

- a. In addition to House Rule 75, [House Rule 73](#) provides that a member cannot be compelled to vote if absent when the question was stated by the chair; and [House Rule 74](#) prohibits a member from voting in a roll call if not present when their name was called the second time, except with leave of House.
- b. Otherwise, without an “immediate or direct interest” under House Rule 75 or meeting one of the exceptions in House Rule 73 or 74, members have a duty to vote. See [House Rule 14](#) (“it shall be the duty of a member to vote upon all questions”) and [House Rule 73](#) (when a vote is taken, “every member present shall vote unless excused by the House”).
- c. See also *Mason's Sec. 521-3*: “It is the practice in the state legislatures to excuse a member from voting when that member has a personal interest in the proposal voted upon or for other good cause. Ordinarily, no question is raised when a member fails to vote, but especially when a particular number of votes are required or a certain proportion of the votes of members elected are required, one member may raise the question and insist that another member vote or state the reason for not voting and be excused.”

VOTING—FORMS

- a. ***Voice vote.*** Audible voting by groups of “Ayes” and “Nays.” Voice vote is the default form of voting. The Journal reflects only whether a question was agreed to, pursuant to the Speaker’s determination of the prevailing vote.
- b. ***Division.*** A count of members voting by groups of those standing or otherwise indicating their votes in favor of a question, and of those opposed to it. A division may be ordered by the Speaker or demanded by one member. [House Rule 71](#). The Journal reflects only the number of votes in favor and opposed to the question.
- c. ***Roll call.***
 - i. ***Form.*** Members vote individually by an alphabetical call of the roll, voting “Yes” in favor of a question, and “No” if opposed. [House Rule 69](#). Each member’s vote is recorded in the Journal. [Vt. Const. Ch. II, § 9](#). The alphabetical roll is called once, and then a second alphabetical roll of absentees is called. Members not present when their name is called the second time shall not be permitted to vote, except with leave of the House. Members are not permitted to change their votes after the results have been announced, except with leave of the House. [House Rule 74](#).

ii. *When required.*

- For any vote on the Governor’s veto. [Vt. Const. Ch. II, § 11.](#)
- When requested by one member and sustained by four others. [Vt. Const. Ch. II, § 9](#); [House Rule 69.](#)

- iii. *Vote explanations.* A member has a right to explain their roll call vote. [Vt. Const. Ch. II, § 9.](#) “Explanations shall be submitted immediately to the Clerk in writing. It is generally recommended that vote explanations should be infrequent and brief.” [House Rule 70.](#)

VOTING—QUORUM

- a. **Generally.** [Vt. Const. Ch. II, § 14](#) requires a majority of the Representatives “so chosen” to constitute a quorum.
- The Representatives “so chosen” is interpreted to mean the 150 Representatives required to be elected in [Vt. Const. Ch. II, § 13.](#)
 - Accordingly, except as provided below re: taxes, at least 76 House members must be present to conduct business.
- b. **Exception; raising a State tax.** As an exception to the foregoing, [Vt. Const. Ch. II, § 14](#) provides that for the business of raising a State tax, “two-thirds of the members elected shall be present[.]”
- Accordingly, when the House votes on a proposal to raise a State tax, at least 100 House members must be present.

VOTING—THRESHOLDS

- a. ***Standard threshold.*** Quorum’s majority of votes cast. *Mason’s Sec. 510-1* (“A majority of the votes cast, a quorum being present, is sufficient to carry a proposal unless a larger vote is required by the constitution. Members present but not voting are disregarded in determining whether an action carried.”). This threshold applies except as provided for the following votes.
- b. ***Amend rules.*** Majority of members present. [House Rule 92](#).
- c. ***Close debate.*** Three-fourths of members present. [House Rule 68](#).
- d. ***Proposal to amend Vt. Const.*** [Vt. Const. Ch. II, § 72](#) (*see also* [Overview of Procedure to Amend Vt. Const.](#)):
 - i. *1st biennium:* Majority of House members (ie., at least 76).
 - ii. *2nd biennium:* Majority of House (ie., quorum’s majority of votes cast).
- e. ***Suspend rules.*** Three-fourths of members present and voting. [House Rule 91](#). (At end, “and voting” added approx. 1965-67).
- f. ***Veto override.*** Two-thirds of members present. [Vt. Const. Ch. II, § 11](#).

*CHART—DEBATABLE? AMENDABLE? MOTION
REQUIRED? VOTE REQUIRED?*

	<u>Debatable</u>	<u>Amendable</u>	<u>Motion Required</u>	<u>Vote Required</u>
Adjourn (*debatable & amendable re: date/time)	No*	No*	Yes	Majority
Amend Main Motion	Yes	Yes	Yes	Majority
Appeal Ruling of Chair	Yes	No	Yes	Majority
Call Up (Take from Table)	No	No	No	None
Close Debate	No	No	Yes	3/4
Commit (*debatable & amendable only re: comm.)	Yes*	No*	Yes	Majority
Division of House	No	No	No	None
Order to Lie (Table)	No	No	Yes	Majority
Parliamentary Inquiry	No	No	No	None
Point of Information	No	No	No	None
Point of Order	No	No	No	None
Point of Personal Privilege	No	No	No	None
Postpone Indefinitely	Yes	No	Yes	Majority
Recess (*debatable & amendable re: time)	No*	No*	Yes	Majority
Recommit (same comm.)	No	No	Yes	Majority
Reconsider (*debatable, if question was debatable)	Yes*	No	Yes	Majority
Special Order (*debatable, but not as to merits)	Yes*	Yes	Yes	Majority
Suspension of Rules	No	No	Yes	3/4
Withdraw Motion	No	No	No	Majority
Roll Call	Requested by one and sustained by four members			

A **Quorum** is a majority of members present (76), except for raising a State tax, for which two-thirds of members (100) shall be present.

