



## Extraordinary Sessions of the Legislature

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Each biennial session of the Wisconsin Legislature begins and ends on the first Monday in January of the odd-numbered year, unless the first Monday falls on January 1 or 2. At the beginning of each session, both houses of the Legislature adopt a joint resolution that establishes the session schedule, including floorperiods.<sup>1</sup> In addition to the floorperiods established by the session schedule, the Legislature may convene an extraordinary session. An “extraordinary session” is:

The convening of the legislature by the committees on organization of each house or by petition or joint resolution of the legislature to accomplish the business specified in the action calling the session. When used to continue a floorperiod of the biennial session for a limited purpose, the extraordinary session is referred to as an extended session.<sup>2</sup>

This issue brief provides background on extraordinary sessions, explains the key differences between an extraordinary session and special session, and summarizes a recent Wisconsin Supreme Court decision that upheld the authority of the Legislature to convene in extraordinary session.

### BACKGROUND

The authority for the Legislature to convene an extraordinary session is provided in the joint resolution passed by the Legislature that establishes the session schedule and in legislative rules. The power to convene an extraordinary session is not unique to Wisconsin. In most states, the state legislature has the authority to call an extraordinary session.<sup>3</sup>

### Session Schedule

As described above, the schedule for the biennial session of the Legislature is established by joint resolution approved by both houses. The joint resolution is introduced by the Joint Committee on Legislative Organization (JCLO) early in each biennial session.

This joint resolution contemplates the ability of the Legislature to convene an extraordinary session. For example, 2019 Senate Joint Resolution 1 (2019 SJR 1), which is the joint resolution that establishes the session schedule for the 2019-20 biennial session period, provides that the 2019-20 biennial session begins on January 7, 2019, and ends at noon on January 4, 2021, and it also provides:

Unless reserved under this subsection as a day to conduct an organizational meeting or to be part of a scheduled floorperiod of the legislature, **every day of the biennial session period** is designated as a day for committee activity and **is available to** extend a scheduled floorperiod, **convene an extraordinary session**, or take senate action on appointments as permitted by joint rule 81. [Emphasis added.]

In effect, the Legislature may be in session at any time during the biennial period from inauguration day to inauguration day. The session schedule provides: (1) predictability in the schedule for the session; (2) flexibility for the Legislature to go into session on nonscheduled session days; and (3) consent to adjourn for more than three days under Wis. Const., art. IV, s. 10.

### Legislative Rules

Joint Rule 81 provides that any day of the biennial session that is not reserved by the session schedule for an organizational meeting or scheduled floorperiod may be assigned to an extended floorperiod or extraordinary session. This includes the ability to convene in extraordinary session, or an extended floorperiod, following the adjournment of the last general-business floorperiod (in the spring of the

even-numbered year) in the session schedule. Further, a floorperiod in the session schedule may be extended through the convening of an extraordinary session. An extraordinary session may be held concurrently with the regular session.

An extraordinary session may be authorized: (1) at the direction of a majority of the members of the committee on organization in each house; (2) by the adoption of and concurrence in a joint resolution by a majority of the members elected to each house; or (3) by the joint petition of a majority of the members elected to each house.

## DIFFERENCES BETWEEN EXTRAORDINARY SESSION AND SPECIAL SESSION

The primary difference between an extraordinary session and special session is who calls the session. An extraordinary session is called by the Legislature, by the committees on organization or through a joint resolution or joint petition, as described above. In contrast, a special session is called by the Governor. The authority of the Governor to call a special session is recognized in two provisions of the Wisconsin Constitution: (1) Article V, Section 4, which provides that the Governor has “power to convene the legislature on extraordinary occasions”; and (2) Article IV, Section 11, which provides:

The legislature shall meet at the seat of government at such time as shall be provided by law, unless convened by the governor in special session, and when so convened no business shall be transacted except as shall be necessary to accomplish the special purposes for which it was convened.

In addition, as the language of Section 11 suggests, when the Legislature is in a special session called by the Governor, the Legislature is limited to business that accomplishes the purpose of the special session. The purpose of a special session is determined by the Governor. In contrast, in an extraordinary session, the Legislature determines the purpose of the extraordinary session and can modify its purpose through additional legislative action, without the involvement of the Governor.

## WISCONSIN SUPREME COURT DECISION

In *League of Women Voters of Wisconsin v. Evers*, the Wisconsin Supreme Court held that the Legislature may convene in extraordinary session. In the case, the plaintiffs challenged the constitutionality of the Legislature’s December 2018 extraordinary session and argued that any action undertaken during the session was void because the session was not convened lawfully. In its decision, the Supreme Court stated:

We hold that extraordinary sessions do not violate the Wisconsin Constitution because the text of our constitution directs the Legislature to meet at times as “provided by law,” and Wis. Stat. § 13.02 (3) provides the law giving the Legislature the discretion to construct its work schedule, including preserving times for it to meet in an extraordinary session. The work schedule the Legislature formulated for its 2017-2018 biennial session established the beginning and end dates of the session period and specifically contemplated the convening of an extraordinary session, which occurred within the biennial session.<sup>4</sup>

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<sup>1</sup> Wis. Const., art. IV, s. 11, and art. XIII, s. 1; s. 13.02, Stats.; Joint Rule 81 (1).

<sup>2</sup> Joint Rule 99 (27m). The definition of “extraordinary session” in the Assembly Rules is almost identical to that in the Joint Rules. The Senate Rules also use a similar definition, except they are silent on whether an extraordinary session that is used to continue a floorperiod is referred to as an “extended session.” [Assembly Rule 95 (27m) and Senate Rule 99 (27m).]

<sup>3</sup> For a list of who may call a special or extraordinary session in other states and the mechanism available to do so in each state, see the National Conference of State Legislatures (NCSL) [webpage on special sessions](#). Note that, in some states, the equivalent to an extraordinary session in Wisconsin is referred to as a “special session.” See, also, NCSL, *Mason’s Manual of Legislative Procedure* (2010), s. 780.15.

<sup>4</sup> 2019 WI 75, P2.