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LEGISLATIVE ORGANIZATION AND PROCEDURE

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LEGISLATIVE REFERENCE BUREAU

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LEGISLATIVE ORGANIZATION AND PROCEDURE

Introduction

In order to function as deliberative assemblies, legislative bodies have long since developed principles of organization and procedure which have been adopted widely by the various states in the Union. In essence, these principles embrace officers, committee structure, and rules which the legislative bodies, officers and committees observe. All state constitutions make some provision for the selection of officers and procedures to be followed by the legislature as a body, but few contain references to committee structure or committee procedure.

The legislature, as a coordinate branch of the government, possesses inherent powers with which the executive and judicial branches of government may not interfere.

Speaking generally, these powers are such that if the free exercise of them were obstructed the effective discharge of the duties of the constituent branch would be seriously impaired. It is generally accepted that no explicit constitutional provision is necessary to the exercise of these powers and privileges upon the part of the legislature, but that they are implied in the general grant of legislative power and are necessary if that body is to fulfill its function.¹

It is therefore possible that no provision need be added to a constitution referring generally to officers, committee structure and rules of procedure unless it is desired to either indicate the preferred principle, but not necessarily to preclude others,² or to limit the choice of the legislature

¹Dodds, H. W. "Procedure in State Legislatures." The Annals of the American Academy of Political and Social Science, Supplement No. 1. May 1918, p. 2.

²In some cases the courts have interpreted the constitutional provisions prescribing the terminology for enacting clauses, required readings, etc., as directory rather than mandatory. Ibid, pp. 9-11.

and to require it to proceed as to that principle only as outlined in the constitution.

Although there is unanimity of opinion on the inherent power of the legislature, there is no similar accord on the legality of all the methods adopted by legislative bodies in applying the theoretical principle in implementing their actions as deliberative bodies. Thus, in the absence of express constitutional permission, the legislature, or its officers or committees, may be denied the right to proceed in a particular manner through court decision holding it does not possess such power. Probably because of this element of uncertainty, and to guard against the possibility of the legislature being precluded from functioning in a manner customarily considered to be within its prerogatives, many of the constitutions incorporate references to legislative officers and procedures which may in fact be redundant.

Reduced to tabular form, the more common provisions on legislative organization and procedure in the various constitutions can be presented in their relative frequency of adoption:

Summary of Constitutional Provisions
on Legislative Organization and Procedure*

Subject	Number of States	Per Cent
Power to choose officers	48	100.0
Quorum	48	100.0
Adopted rules	48	100.0
Journals	47	97.9
Roll-call ordered by demand	45	93.8
Form of enacting clause	45	93.8
Punish members and others	45	93.8
Time limit on adjournment	44	91.7
Origin of bills	42	87.5
Form of bills	41	85.4
Number of votes required, final passage	36	75.0
Open sessions	35	72.9
Reading bills, separate days	35	72.9
Forbid legislation by reference only	34	70.8

Summary of Constitutional Provisions
on Legislative Organization and Procedure*
(continued)

Subject	Number of States	Per Cent
Presiding officers sign bills	32	66.7
Time laws take effect	27	56.3
Reading bills in full	24	50.0
Printing of bills	16	33.3
Reading bills in full mandatory on third, or final passage	14	29.2
Rejected bills not revived same session	4	8.3

*Source: Prescott, Frank W. "Constitutional Provisions on Legislative Procedure." Papers on Constitutional Revision, Vol. II; University of Tennessee Record, Extension Series, Vol. XXIII, No. 3. July 1947, p. 35.

Of course, to the extent the constitution is silent, the legislature by statute, rule, or even custom must outline both the organization it will adopt and the procedures it will observe as a functioning body. It is doubtful if one legislature may bind its successors by statutory limitations;³ there is no question but that each legislature's rules do not apply to its successor except to the extent the subsequent legislature adopts them as its own.

The Hawaiian Organic Act embodies many of the provisions referring to legislative organization and procedure also found incorporated in the constitutions of the various states. However, in several instances it does not include provisions which are frequently encountered in state constitutions. The balance of this report will be concerned with a discussion of constitutional requirements viewed with reference to the Organic Act. As this is a manual prepared in aid of constitutional drafting, the substance of state

³See, for example, Interim Report of the New York State Joint Legislative Committee on Legislative Methods, Practices, Procedures and Expenditures. Albany, New York, 1945, p. 99; See also Dodds, op. cit., pp. 13-18.

statute or legislative rule is of relatively minor importance and will be commented upon merely when of assistance in illuminating the meaning or scope of the constitutional requirement.

1. Members

a. Each house judge of the qualifications of its members.

Each house shall be the judge of the elections, returns, and qualifications of its own members. (Sec. 15, Organic Act; 48 U.S.C. 612).

In one form or another, most state constitutions vest in the legislature the power to judge the qualifications, elections, and returns of its members. This power was first expressly formulated by New Jersey's initial constitution⁴ and would probably exist in the absence of constitutional provision.⁵ However, as constitutions may also make general provision for the contest of elections, the inclusion of specific mention of such a power may assure to the legislature the exclusive right to its exercise.

The various formal requirements for the qualifications of members relate to age, citizenship, and residence. Ineligibility may arise because of the holding of named offices or after conviction of specified crimes.⁶ In addition, legislatures have themselves occasionally established further qualifications, as indicated by the refusal of the New York Assembly in 1920

⁴Luce, Robert. Legislative Assemblies. Cambridge, 1924, p. 198.

⁵Dodds, op. cit., p. 3.

⁶Qualifications for membership are discussed in detail in Structure of State Legislatures, prepared by the Legislative Reference Bureau for the Subcommittee on Legislative Powers and Functions, and issued in January 1948, at pp. 14-16. For ineligibility of legislators to hold other offices, or to be appointed or elected to other office during the terms for which they are elected, see Executive Officers in State Constitutions, prepared by the Legislative Reference Bureau for the Subcommittee on Executive Powers and Functions, and issued in February 1948, at pp. 26-27.

to seat five Socialist members.⁷ Ordinarily, however, any individual who has met the constitutional requirements, who has been declared elected, and whose election was free from fraud is considered entitled to his seat in the legislature.

The Model State Constitution proposes that the legislature, by law, be specifically permitted "to vest in the courts the trial and determination of contested elections of members."⁸ The Iowa (Art. III, Sec. 7), Kentucky (Sec. 38), and Texas (Art. III, Sec. 8) constitutions go one step further and require the contested election to be "determined in such manner as shall be directed by law."⁹

b. Privileges of members.

No member of the legislature shall be held to answer before any other tribunal for any words uttered in the exercise of his legislative functions in either house. (Sec. 28, Organic Act; 48 U.S.C. 595).

The members of the legislature shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the sessions of the respective houses, and in going to and returning from the same: Provided, That such privilege as to going and returning shall not cover a period of over ten days each way. (Sec. 29, Organic Act; 48 U.S.C. 598).

Traceable to the first gatherings of Englishmen called to participate in the government of their country, the freedom from arrest was for long the most important privilege of the lawmaker.¹⁰ Originating much later in

⁷Graves, W. Brooke. American State Government. Third Edition, 1946, p. 254.

⁸National Municipal League. Model State Constitution. Fourth Edition, Partial Revision, 1946. Sec. 308.

⁹See, also, Ohio (Art. II, Sec. 21). For an excellent discussion of election contests, and the various procedures followed see Luce, op. cit., pp. 192-206.

¹⁰Luce, op. cit., p. 489.

parliamentary history, the privilege of freedom from accountability for words spoken in the course of the exercise of the legislative function has grown in importance so as now to eclipse the privilege of freedom from arrest. For all practical purposes, the latter may now be confined to arrests in civil cases, and not to refer to arrests and prosecutions for criminal offenses.¹¹

Only five constitutions fail to make some provision for immunity from arrest or civil process.¹² Of the remaining states, twenty-three follow the precedent of the United States Constitution (Art. I, Sec. 6) and grant immunity only during the session, and while going to and from the session. Eight states, when referring to arrest, specify time limits for immunity prior and subsequent to the session¹³ while Texas grants one day of immunity for every 20 miles to be traveled (Art. III, Sec. 14). Two states -- Connecticut and Nevada -- limit the privilege to cases of civil process, and the language of other state constitutions is sufficiently ambiguous as to be subject to the same construction.

In addition, nine states make different provision for arrest than for immunity from civil process. The constitutions of Arizona, California, Washington and Wisconsin are so phrased as seemingly to grant privilege against arrest during the entire term of the legislator, and not merely for a short time prior to, during, and for a short time subsequent to the legislative session. To this these four states add immunity from civil process

¹¹Williamson v. U. S. (1908) 207 U.S. 425, at p. 446; 52 L. Ed. 278, at p. 290.

¹²Florida, Maryland, New York, North Carolina, and Vermont. Probably the privilege would be allowed under common law in these states - Luce, op. cit., p. 494.

¹³Fifteen days before and after - Michigan, Mississippi, Missouri, Nebraska, Utah; 10 days before and after - South Carolina, West Virginia; 2 days before and after - Rhode Island.

during the session and for 15 days before the session; California and Wisconsin also grant 15 days immunity subsequent to the session, as well. The constitutions of Idaho, Indiana, Kansas and Oregon limit immunity from arrest to the period of the session, and while going and returning, but as to civil process, specify an immunity commencing 15 days (Indiana, Kansas, Oregon) or 10 days (Idaho) before the session and continuing only to the session's end. Virginia grants immunity from civil process for 15 days after the session as well, but the privilege against arrest applies only during the session of the legislature.

The immunity from punishment for words spoken in the legislature applies only as against "tribunals" other than the legislature. The legislature, itself, is not precluded from censoring a member, or otherwise indicating its displeasure. Probably the clause in the Organic Act referring to "words uttered in the exercise of his legislative functions" grants a broader privilege than that obtained from immunity from prosecution due to "any speech or debate in either house,"¹⁴ the language found in the United States Constitution (Art. I, Sec. 6) and many of the state constitutions.

c. Personal interest of members.

The constitutions of twelve states¹⁵ contain similar provisions relating to the private interests of members. They typically take the form of requiring any member who has a personal or private interest in a measure or bill before the legislature to disclose such fact to the house of which he is

¹⁴See discussion of communication not part of a speech or debate in Problems Relating to Legislative Organization and Powers. New York State Constitutional Convention Committee. Vol. VII. 1938, pp. 56-58.

¹⁵See Appendix I. Distinctive Constitutional Provisions on Legislative Procedure.

a member, and he is thereafter not permitted to vote thereon. Mississippi's constitution (Art. IV, Sec. 47) as well as that of New Hampshire (Part 2, Art. VII) declares the taking of a fee or being of counsel in any pending measure is grounds for forfeiture of a member's seat. Vermont (Ch. 2, Sec. 19) has a somewhat comparable provision, but permits advocacy on behalf of the state.

The constitution of West Virginia (Art. VI, Sec. 15) prohibits a member having a direct or indirect interest in any contract with the state which was authorized by any law passed during his term. New Mexico (Art. IV, Sec. 28) and South Dakota (Art. III, Sec. 12) have incorporated a similar limitation into their constitutions but the disability continues for one year after the end of the legislator's term. Oklahoma (Art. V, Sec. 23) extends the disability for a period of two years subsequent to the term of the legislator.

d. Punishment of members.

Each house may punish its own members for disorderly behavior or neglect of duty, by censure, or by a two-thirds vote suspend or expel a member. (Sec. 27, Organic Act; 48 U.S.C. 596).

Some provision for the punishment of members or non-members is found in the constitutions of all states but New York, North Carolina, and South Dakota.¹⁶ Two additional states--Massachusetts and New Hampshire--while referring to disciplining of non-members fail to provide specifically for the punishment of legislative members. Some state constitutions refer to the punishment of both members and non-members in the same section; others only provide for the punishment of members, as in Hawaii's Organic Act, or treat

¹⁶See Appendix A, column 4. See also p. 20, infra, for discussion of punishment of non-members.

the two separately.

Suspension or removal of a member is a power which appears to be used very sparingly. Safeguarding the individual member against momentary excesses of passion on the part of the majority is the requirement that a two-third majority is necessary for official action to be taken. Recognizing that the voters of a legislative district may return to the legislature a person previously expelled, the constitutions of twenty-six states¹⁷ prohibit the legislature from punishing a member twice for the same offense.¹⁸ Mississippi (Art. IV, Sec. 55) makes an exception to the rule against twice expelling a member in the case of expulsion for theft, bribery or corruption. Vermont's constitution (Ch. 2, Secs. 14, 19) does not incorporate the customary two-thirds majority requirement, and precludes expulsion for causes known to a member's constituents antecedent to his election.

2. Officers, Rules, and Procedure

a. Officers.

The senate and house of representatives shall each choose its own officers. (Sec. 20, Organic Act; 48 U.S.C. 592).

All state constitutions contain provisions recognizing the power of the legislature to choose its own officers.¹⁹ With the exception of Massachusetts, in the thirty-seven states with lieutenant governors, the Senate's

¹⁷Alabama, Arkansas, Colorado, Connecticut, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Washington, West Virginia, and Wisconsin.

¹⁸The most famous case of this nature was that of John Wilkes who was repeatedly elected to Parliament, only to be expelled by the House until finally, in 1774, he was permitted to take his seat.

¹⁹Appendix A, column 1.

power is not equal to that of the House as it is denied the right to designate its permanent presiding officer.²⁰ However, this does not preclude the selection of a temporary presiding officer in the absence of the lieutenant governor.

The temptation to reward the politically faithful and to repay political favors through appointment to legislative office or employment has resulted in the establishing of both constitutional and statutory limitations on the legislature's power to choose its officers and employees. An example of the former is furnished by the state of Arizona (Art. IV, Part 2, Sec. 1) which restricts the Senate to fourteen attaches, the House to not more than a number equal to two-thirds of its membership which is now fifty-eight, and limits attaches' salaries to a maximum of \$5.00 per day with the exception of the chief clerk or secretary of each branch of the legislature. Another approach is taken by the state of California (Art. IV, Sec. 23a) which fixes the maximum total expenses for officers, employees, and attaches at \$300 per day at regular sessions and \$200 per day at special sessions for both houses of the legislature. Statutory limitations are more frequently encountered, but although succeeding legislatures may observe them, there is grave doubt that they are legally binding on any legislature other than the one which adopted them.²¹

Wisconsin's constitution precludes the election of other than the presiding officers, chief clerks, and sergeants-at-arms of both houses, and a statute provides for the selection of the staffs of the chief clerks and

²⁰See Executive Officers in State Constitutions, prepared by the Legislative Reference Bureau for the Subcommittee on Executive Powers and Functions, issued in February 1948, at p. 32.

²¹See Note 3, p. 3, supra.

sergeants-at-arms on a merit basis.²² Six other states have attempted to meet the problem by the employment of permanent personnel, in addition to the temporary attaches added for each legislative session.²³

b. Rules.

The senate and house of representatives shall each⁷ determine the rules of its own proceedings, not inconsistent with this Act. (Sec. 20, Organic Act; 48 U.S.C. 592).

A provision referring to the adoption of rules is found in the constitutions of all forty-eight states.²⁴ As a legislative body possesses the power of adopting rules not inconsistent with constitutional requirements, and as there is no means of requiring it to act in the event it fails to adopt rules, this type of provision would appear unnecessary. In a few states, the constitution attempts to insure the rapid organization of the legislature - which implies the adoption of rules - by denying the constitutional per diem payment to members after a stated period subsequent to convening has elapsed, and until the legislature finally organizes.²⁵

c. Quorum.

A majority of the number of members to which each house is entitled shall constitute a quorum of such house for the conduct of ordinary business, of which quorum a majority

²²Art. XIII, Sec. 6. Wisconsin Statutes, 1943; Sec. 13.14. Council of State Governments, "Our State Legislatures." Report of the Committee on Legislative Processes and Procedures. 1946, p. 8. California's constitution (Art. IV, Sec. 23a) requires the legislature "so far as advisable" to select its employees and attaches under the provisions of law governing civil service, but this direction has never been implemented.

²³Massachusetts, Michigan, New York, Ohio, Pennsylvania, and Rhode Island. Graves, W. Brooke. American State Government. Third Edition, 1946, p. 276.

²⁴Appendix A, column 3.

²⁵See Idaho, Art. III, Sec. 10; Oregon, Art. IV, Sec. 12.

vote shall suffice. (Sec. 22, Organic Act; 48 U.S.C. 594).

A smaller number than a quorum may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may provide. (Sec. 23, Organic Act; 48 U.S.C. 594).

For the purpose of ascertaining whether there is a quorum present, the chairman shall count the number of members present. (Sec. 24, Organic Act; 48 U.S.C. 594).

A fear of rule by minorities prompted Tennessee in 1870 to adopt a quorum requirement of "two-thirds of all the members to which each house" is entitled. A simple two-thirds rule is found elsewhere in Indiana, Oregon, and Texas. Three other states -- Maryland, Missouri, and Ohio -- fix the quorum at a majority of members elected; the remainder of the states merely require a simple majority for a quorum.²⁶

Occasionally, for consideration of bills upon named subjects, a state constitution will set a quorum greater than that which normally must be present. This may take the place of or may be supplemental to another constitutional provision which incorporates a requirement of a larger than normal vote on final passage in order to adopt the measure. An example of the former is furnished by Wisconsin, where appropriation and revenue bills may be passed only when at least three-fifths of the members in each house are in attendance (Art. VIII, Sec. 8). The constitution of New York supplies an example of the latter situation: pursuant to Section 20 of Article III, the assent of two-thirds of the members is necessary for the adoption of bills appropriating money for local purposes, while under Section 23 of the same article, to form a quorum on final passage of such bills three-fifths of all the members must

²⁶Prescott, Frank W. "Constitutional Provisions on Legislative Procedure." Papers on Constitutional Revision, Vol. II; University of Tennessee Record, Extension Series, Vol. XXIII, No. 3. July 1947, p. 36. See also Appendix A, column 2.

be present.

The authorization contained in the Organic Act for adjournment from day to day until a quorum is obtained, and for compelling the attendance of absent members, is found in Article I, Section 5, of the United States Constitution and has been duplicated in the constitutions of the various states. Section 24 of the Organic Act, incorporating a procedure for ascertaining whether a quorum is present, is novel; this is a matter usually left to the house rules, and in the absence of provision thereon, would be determined according to general parliamentary rules of procedure.

d. Open sessions.

Absent from the Organic Act is a provision now incorporated into the constitutions of thirty-five states²⁷ requiring all legislative sessions to be open unless otherwise ordered by the legislative body when the subject under discussion is one considered to require secrecy. A few of these states are even more explicit in permitting the public to have full access to legislative debates, as Florida (Art. III, Sec. 13), Nevada (Art. IV, Sec. 15) and Utah (Art. IV, Sec. 15), which permit only the Senate to sit in closed, executive session or Idaho, which prohibits secret sessions of either house or its committee of the whole (Art. III, Sec. 12).

e. Use of English language.

All legislative proceedings shall be conducted in the English language. (Sec. 44, Organic Act; 48 U.S.C. 577).

A person who speaks, reads, and writes the Hawaiian language, but who is not similarly proficient in the English language, may be a voter for territorial senators and representatives (Secs. 60, 61, Organic Act) and may therefore become a senator or representative himself if he possesses the other

²⁷See Appendix A, column 6.

necessary qualifications. (Secs. 34, 40, Organic Act). In view of this, the requirement that legislative proceedings be conducted in English is particularly germane.

The states with Spanish speaking populations have had to meet the same problem. California's constitution incorporates a provision requiring all laws of the state and all legislative proceedings to "be conducted, preserved, and published in no other than the English language" (Art. IV, Sec. 24). Arizona's constitution requires reasonable command of the English language as a necessary qualification for state legislators (Art. XX, Sec. 8). New Mexico, however, explicitly provides that the right to hold public office shall not be impaired by inability to use the English or Spanish languages (Art. VII, Sec. 31).

f. Journal.

The senate and house of representatives shall each keep a journal. (Sec. 20, Organic Act; 48 U.S.C. 592).

With the exception of Massachusetts, all states require their legislatures to keep a journal.²⁸ Even in the absence of constitutional mandate, a journal is published daily in Massachusetts in contradistinction to Kentucky, whose constitutional requirement for daily publication of the journal (Sec. 40) is not observed. Approximately two-thirds of the states publish their journals daily.²⁹

The Pennsylvania journal prints a full verbatim record, similar to the Congressional Record, but apparently the only other state even to approximate

²⁸Appendix D, column 3.

²⁹Appendix E, column 1.

that is Maine, where a condensed verbatim record is published.³⁰ In about two-thirds of the states rulings of the chair are included, and in the journals of over three-fourths of the states all votes are shown.³¹ The only other uniformity displayed in journal content and format is one of inconsistency.

In contrast to the Hawaiian Organic Act which contains only three specific directions concerning matters to be shown in the journal (Sec. 21 - ayes and noes on any question after requisite request; Sec. 46 - ayes and noes on final passage of bills; Sec. 50 - governor's veto message and ayes and noes on vote after veto) some states seem to require that compliance with practically all constitutional procedural limitations be shown in the journal. In these states, failure to enter on the journal the action taken may result in a law being held invalid.³² Even in those states where the constitution is silent as to whether the observance of procedural requirements must be entered on the journal, to the extent the courts will go behind a properly authenticated enrolled bill to ascertain if they have been observed, the journal becomes important. Compliance with procedural requirements is not questioned

³⁰Bradley, Phillips. "Legislative Recording in the United States." The American Political Science Review. Vol. XXIX, No. 1. (February, 1935) p. 75.

³¹Appendix E, columns 2, 3.

³²Prescott, op. cit., p. 36. Decisions treating attacks on legislation on grounds of non-compliance with constitutional procedural requirements may be grouped into four categories: (1) Neither the journal nor any other evidence can impeach the enrolled bill (the bill signed by the legislative officers, governor, and filed); (2) Only when the legislative journal shows "affirmative contradiction" is it admissible to overcome the prima facie correctness of the enrolled bill; (3) evidence from the journal or other extrinsic source is permissible to invalidate the act; (4) the journal is conclusive and the enrolled bill is valid only if it accords with the recitals in the journal. Horack, Frank E., Jr. Cases and Materials on Legislation. Chicago, 1940; pp. 176-7.

by any court if the journal record shows that they have been followed.³³

g. Recorded vote on any question.

The ayes and noes of the members on any question shall, at the desire of one-fifth of the members present, be entered on the journal. (Sec. 21, Organic Act; 48 U.S.C. 593).

The essence of this section -- placing on record the persons voting pro and con on a particular question -- is found stated in a number of ways in the various state constitutions as well as the legislative rules of procedure. In additions to provisions similar to section 21 of the Organic Act, a recorded vote may be required upon the final passage of bills, consideration of certain classes of measures, adoption of constitutional amendments, etc. About four-sevenths of the states with provisions in their constitutions corresponding to the section quoted express in figures the minimum number of members required to set the procedure in motion rather than in percentages. When thus stated in absolute numbers, the minimum is fixed very low.³⁴ The United States Constitution and the constitutions of eleven states incorporate a "1/5 of members present" minimum which is applicable to both branches of the legislature.

In view of the high costs of legislative printing, attention has been turned to streamlining legislative journals. Kansas and Oregon have demonstrated that by stating the number voting in the affirmative and giving only the names of those voting in the negative, and of those not voting or absent, the space consumed in the journal for roll calls is greatly reduced.³⁵

³³Walker, Harvey. Law Making in the United States. New York, 1934, p. 314.

³⁴See Appendix D, columns 1 and 2.

³⁵Guild, Frederic H. "Streamlining Legislative Journals." State Government, Vol. XVI, No. 6. (June, 1943), p. 135.

Similarly, the use of electric roll call devices in fifteen of the states³⁶ has materially speeded the time consumed in taking roll calls. Both of these matters are referred to here so that if they appear commendable, the language relating to recorded votes incorporated into Hawaii's constitution will not preclude their adoption.³⁷

h. Adjournment.

Neither house shall adjourn during any session for more than three days, or sine die, without the consent of the other.
(Sec. 42, Organic Act; 48 U.S.C. 576).

This section, although referring to "adjournment," encompasses temporary recesses as well as to adjournment sine die. The three-day limitation on the duration of a recess when taken by one house without the consent of the other is by far the most generally adopted, it being incorporated into the constitutions of three-fourths of all states.³⁸ Only the constitutions of four states - Connecticut, Nebraska, Nevada, and North Carolina - fail to contain time limitations on adjournment. The new constitution of Missouri evidences a marked departure from the norm, as it countenances a ten day recess by one house without consent of the other branch of the legislature

³⁶Alabama (House); Arkansas (House); California (Assembly); Florida (House); Indiana; Iowa (House); Louisiana; Michigan (House); Minnesota; Nebraska; North Dakota; Texas (House); Virginia; West Virginia (House); Wisconsin (House). In addition, Arkansas has ordered electric voting equipment for the House, and Mississippi and Tennessee have adopted legislation authorizing installation in their House Chambers. Oklahoma State Legislative Counsel. Progress Report, Committee on Legislative Methods and Procedures. Report No. 2. March 1948, p. 9.

³⁷An example of a constitutional section which might preclude both practices is furnished by Section 26, Article III, of the new Missouri constitution. This requires in part that "the whole list of members shall be called and the names of members voting yea and nay and the absentees shall be entered in the journal."

³⁸Appendix A, column 5.

(Art. III, Sec. 20). The remainder of the states permit only a two day recess when the other house fails to sanction a longer period.

A number of states grant the governor power to adjourn the legislature -- usually when there is a dispute between the houses as to the time of adjournment. Under these circumstances, the governors of eighteen states may adjourn the legislature, but not beyond the time of the next regular session. The constitutions of five other states grant similar power but the maximum length of the recess is expressed in terms of days or months.³⁹ A few constitutions contemplate the recessing of the legislature to permit consideration of bills previously introduced, and some of these states incorporate limitations on the duration of these recesses.⁴⁰

i. Investigating committees.

Rarely do constitutions contain provisions expressly applicable to committees. When they do, reference is usually made to committee consideration of bills (see page 28) or to the incurring of committee expense. An exception is the section California added to its constitution in 1940 (Art. IV, Sec. 37). This is a provision relating to investigating committees which is not duplicated in other constitutions, and has been subjected to a good deal of interested examination.

As a result of the California Interim Committee Cases, the long established practice of creating interim investigating committees by either

³⁹See Executive Officers in State Constitutions, prepared by the Legislative Reference Bureau for the Subcommittee on Executive Powers and Functions, issued in February 1948, at p. 12.

⁴⁰See "Split Sessions" in Structure of State Legislatures, prepared by the Legislative Reference Bureau for the Subcommittee on Legislative Powers and Functions, issued in January 1948, at pp. 8-11.

single house or concurrent resolution was held unconstitutional.⁴¹ Should the legislature have desired to investigate any matter after final adjournment the only avenue of action left open by the court was through passage of a bill which, of course, was subject to the risk of hostile treatment at the hands of the governor. Two years after these court decisions a constitutional amendment was adopted which returned control of the right to institute investigations to the legislature. The fact that fifty-one different subjects are being investigated in California during the current biennium is convincing evidence of the extent to which the California legislature has exercised its newly recognized, but long exercised authority.

j. Legislative expenses.

In addition to limiting the power of the legislature to incur expenses for legislative officers and employees, referred to on page 9, the constitutions of about one-third of the states in some way specifically restrict or regulate legislative expenditures. The most frequently encountered provision, found in the constitutions of ten states,⁴² although not always identically phrased, requires legislative supplies and services to be obtained through contract let to the lowest bidder. In addition, South Carolina's constitution (Art. XVII, Sec. 5) directs that legislative printing be done as required by law. Arkansas (Am. No. 19) prohibits the incurring of legislative expense except by bill signed by the governor. Michigan (Art. V, Sec. 9) denies to the legislators the furnishing at public

⁴¹Special Assembly Interim Committee v. Southard (1939) 13 Cal. (2d) 497, 90 Pac. (2d) 304; Swing v. Riley (1939) 13 Cal. (2d) 513, 90 Pac. (2d) 313.

⁴²Alabama, Delaware, Michigan, Mississippi, Montana, Ohio, Pennsylvania, West Virginia, Wisconsin, and Wyoming.

expense of all newspapers, books, and perquisites of office not expressly authorized by the constitution.

A different form of regulation designed to give publicity to the expenditures of the legislature is provided for by the constitutions of Illinois, Nebraska, and Louisiana. In the first two states, the state auditor publishes a statement of all money expended, specifying the amount of each item and to whom and for what paid. Louisiana's constitution (Art. III, Sec. 28) requires the records of the contingent expense committee of each house to be audited and each audit report to be published.

k. Punishment of non-members.

Apart from referring to the disciplining of members, there is found expressed in the constitutions of about half of the states some provision relating to the punishment of non-members for disorderly behavior or non-observance of the legislature's process. Although in olden times Parliament would invent humiliating forms of punishment for those who hurt its pride or interfered with its members, of recent years only imprisonment, and an occasional fine, have been inflicted.⁴³ In the absence of more restrictive constitutional provision, the English conclusion that the offender may not be confined beyond the term of the legislative house sentencing him is generally accepted in the United States.⁴⁴ Eight states⁴⁵ by constitutional limitation preclude imprisonment beyond final adjournment or the termination of the session. Eleven other states have incorporated much shorter maximum

⁴³Luce, op. cit., p. 495.

⁴⁴Ibid.

⁴⁵Florida, Georgia, Kentucky, Maine, Mississippi, Nevada, South Carolina, and West Virginia.

periods of incarceration, ranging from 30 days to not more than 24 hours.⁴⁶ Missouri (Art. III, Sec. 18) also limits the maximum fine which may be imposed to \$300.

3. Bills -- Form and Substance

a. Title; one-subject rule.

Each law shall embrace but one subject, which shall be expressed in its title (Sec. 45, Organic Act; 48 U.S.C. 578).

A comparable provision is found in the constitutions of thirty-nine states.⁴⁷ In addition, New York and Wisconsin raise this requirement only as to local or private measures. A few of the states except appropriation bills, permitting them to be broader than their caption. The constitutions of California (Art. IV, Sec. 24) and several other states specifically declare that if any subject embraced in a bill is not expressed in its title, the act is void only as to the portion of the bill not referred to in the title.

The "one subject, to be expressed in the title" rule can be traced back to 1702, when it appears in the instructions to the first governor to act as executive for both East and West Jersey.⁴⁸ The object of the provision is to prevent the insertion of "jokers" or "sleepers" in bills and

⁴⁶Thirty days--Massachusetts, Ohio; 10 days--Louisiana, Maryland, Missouri, New Hampshire; 48 hours--Texas; 24 hours--Illinois, Indiana, Nebraska, Oregon. Illinois and Nebraska authorize continuation of imprisonment if the person being punished "persists" in the disorderly or contemptuous behavior.

⁴⁷Appendix B, column 2.

⁴⁸Sinclair, Thornton. "Procedural Limitations on the Legislative Process in the New Jersey Constitution." The Governor's Committee on Preparatory Research for the New Jersey Constitutional Convention. Trenton May 1947, pp. 4, 5.

securing the passage of the whole measure under the false color of its title.⁴⁹ It also assures to each distinct measure of legislation a separate consideration and decision.⁵⁰ It well may be, however, that the mass of litigation it has produced overshadows any improvement it may have made in the quality of legislation.⁵¹

b. Revival and amendment by reference.

A practice extensively followed in the Territory is the amending of an existant law without setting forth at length the section to be amended or the act to be revived. The constitutions of thirty-four states expressly prohibit this practice,⁵² requiring republication at length. Amendments by implication or repeals of existing laws by reference to section numbers or titles are not affected; what is aimed at by these constitutional provisions are "acts repealing a sentence or part of a sentence of an existing statute, or amending it by inserting a sentence which, standing alone, either conveyed no meaning or inadequately expressed the purpose it was intended to accomplish, and ... acts extending the provisions of a statute to a new class of subjects or persons by a simple reference to the title or to the numbers of the sections."⁵³

⁴⁹Walker, op. cit., p. 257.

⁵⁰Kennedy, Duncan L. "The Legislative Process with Particular Reference to Minnesota." (Reprinted from The Minnesota Law Review, June 1946, and December, 1946.) p. 3.

⁵¹See, for example: Sinclair, op. cit., p. 36; Prescott, op. cit., p. 38.

⁵²Appendix B, column 3.

⁵³Sinclair, op. cit., p. 13.

c. Enacting clause.

The enacting clause of all laws shall be, "Be it enacted by the legislature of the Territory of Hawaii." (Sec. 44, Organic Act; 48 U.S.C. 577).

With the exception of Delaware, Georgia, and Virginia, all state constitutions specify the style of the laws, although there is some variation in the terminology of these enacting clauses.⁵⁴ In those states where bills may be proposed by initiative, as well as by the legislature, two forms for the enacting clause may be prescribed, one applicable to legislative enactments and the other so drawn as to indicate that the people, themselves, have initiated the law. However, the maintenance of this distinction is not essential, as is evidenced by Michigan's enacting clause which reads "The People of the State of Michigan enact" (Art. V, Sec. 20).

d. Special, private and local laws.

The legislature shall not grant to any corporation, association, or individual any special or exclusive privilege, immunity or franchise without the approval of Congress; nor shall it grant private charters.... No divorce shall be granted by the legislature. (Sec. 55, Organic Act; 48 U.S.C. 562).

The practice of enacting special, private, or local legislation is prohibited or circumscribed by the constitutions of most states. This may take the form of a general prohibition against all such measures where a general law can be made applicable; a prohibition in specific situations coupled with a statement that only general laws shall be adopted in all other cases when possible; a prohibition against special legislation in specific situations as in Hawaii's Organic Act; or the establishment of a special procedure for notice through advertising before local legislation may be con-

⁵⁴Appendix C, column 4.

sidered by the legislature. The constitution of Michigan (Art. V, Sec. 30) contains a further limitation by requiring that a special act be accepted by a majority of the voters in the community to be affected before it can become effective.

These constitutional limitations grew out of abuses in the exercise of the legislative power.

The creation of corporations, the granting of divorces, the fixing of county salary scales, the alteration of township lines, the conferring of power on municipal corporations and many other acts were tinged with corruption, or at least favoritism.⁵⁵

The efficacy of these attempts to curb special legislation is somewhat doubtful: the number of such enactments continues to constitute a significant portion of the total legislative output.⁵⁶ Then, too, the courts do not consider acts with reasonable classifications as violating these constitutional requirements for general legislation. In the name of reasonable classification, the Minnesota legislature has adopted acts dealing with county affairs which are in fact made special by incorporating from two to five different criteria in the same law.⁵⁷

4. Bills -- Procedure During Legislative Consideration

a. House of introduction.

The constitutions of only six states, like the Organic Act, make no provision concerning the house of the legislature in which bills may be introduced. Twenty states specify that bills may be introduced in either house

⁵⁵Walker, op. cit., p. 258.

⁵⁶Graves, op. cit., p. 311.

⁵⁷Walker, op. cit., p. 259.

of the legislature, and a slightly larger number of states (21) require revenue or money bills to be introduced in the lower house.⁵⁸ In these latter states, the Senate has full power of amendment, but is denied the right to originate the measure. In this, the parallel furnished by Section 7 of Article I of the United States Constitution is being followed.

b. Time limit for introduction of bills.

Several states, through their constitutions, have undertaken to force the early introduction of bills. This may take the form of an absolute prohibition on the introduction during the latter part of the session of any bill, as the last 3 days in Arkansas and Mississippi; of any bill without receiving a requisite vote (2/3 - Maryland) or a request from the Governor (Minnesota); or of specific types of bills, as appropriation bills after the 40th day in North Dakota (except by unanimous consent).⁵⁹ A somewhat different approach is observed in California for the non-budgetary session, where all bills are required to be introduced in the first portion of the bifurcated session; after returning from the constitutional recess, no member may introduce more than two bills, and even this requires the consent of three-fourths of the members (Art. IV, Sec. 2). Of more importance, numerically, are the states which have adopted rules limiting the introduction of bills. As a result of these constitutional provisions and legislative rules, the great majority of states in some way attempt to restrict the

⁵⁸Appendix B, column 1. As Nebraska has a unicameral legislature, this problem does not arise in that state.

⁵⁹See Appendix I, Distinctive Constitutional Provisions on Legislative Procedure.

introduction of bills.⁶⁰

Due to the pressure brought upon members, it is difficult for them to refrain from waiving the rules. In addition, the "skeleton" bill, the "spot" bill, and the practice of "hijacking" another member's dead bill and completely amending it all contribute to weaken the efficacy of rules restricting the introduction of bills.⁶¹

The most drastic time limit on the introduction of bills is found in Massachusetts, where it is established by rule and is enforced very successfully. All bills must be introduced within the first 10 days of the session, after which a four-fifths vote in both branches of the legislature is a prerequisite to introduction. Government department recommendations carrying no appropriations must be filed prior to the session, and are formally introduced on the first legislative day. So effective have these rules been, that more than one-fifth of all the bills introduced are on file the first day of the session.⁶²

To enforce any effective time limit on the introduction of bills, the experience of the states has demonstrated that provision must be made for pre-session bill drafting. Pre-session filing also facilitates a procedural limitation of this nature. Pre-session bill drafting is now provided in thirty-four states; pre-session filing is already in effect in Connecticut,

⁶⁰Appendix F, column 1. There are no effective time limits on the introduction of bills in eleven states. (Council of State Governments, "Our State Legislatures." Report of the Committee on Legislative Processes and Procedures. 1946, p. 14.)

⁶¹Grant, J. A. C. "The Introduction of Bills." The Annals of the American Academy of Political and Social Science. Vol. 195. (January 1938) p. 116.

⁶²New York (State). Final Report of the New York State Joint Legislative Committee on Legislative Methods, Practices, Procedures and Expenditures. 1946, pp. 51-2.

Massachusetts, Nebraska, New Hampshire, and Utah, and is informally permitted in Vermont.⁶³

c. Printing.

In sixteen states, by constitutional direction, bills must be printed and laid on the desks of the legislators. In Alabama, this applies only to revenue bills, and in Maryland the rule is effective only as to bills on third reading.⁶⁴ The 1946 report of the Committee on Legislative Processes and Procedures of the Council of State Governments recommended the printing of all bills following introduction, and, as a general practice, that amendments to bills should be printed before being voted on.⁶⁵ However, it would appear that the underlying motivation--to permit adequate scrutiny--may be satisfied through requiring bills, as amended, to be printed before final adoption without necessitating all amendments to be printed before they are proposed for consideration. Section 312 of Article III of the Model State Constitution recognizes this distinction in proposing that all bills be printed and upon the desks of the members in final form at least 3 legislative days prior to final passage.

Previous mention has been made of the prohibition in thirty-four states against revival and amendment of bills by reference.⁶⁶ Observance of this constitutional mandate may itself result in confusing a legislator due to a lengthy section being completely reprinted merely to change a few words.

⁶³Appendix F, columns 2, 3.

⁶⁴Appendix C, column 1.

⁶⁵Loc. cit., p. 15.

⁶⁶Supra, p. 22

To avoid this, it has been suggested that all bills amending existing statutes when setting forth in full the section of the act amended, should indicate omitted material by brackets, by striking through, or by some other method, and new material in italics.⁶⁷

d. Referral to committee.

The Organic Act contains no mention of committee structure or of the committee's important role in the weighing of the merits of legislative proposals. The constitutions of Alabama, Colorado, Missouri, Montana, Pennsylvania, and Wyoming require all bills to be referred to committee for consideration. In addition, Mississippi, and Texas make the receipt of the committee report a condition precedent to the adoption of a measure.⁶⁸ Although the report of the committee is essential, the rules of these latter two states evidence the two different principles incorporated in the rules of all states: Texas is included in the ranks of the majority of states which do not require their committees to report all bills; Mississippi is listed with the minority of states whose rules purport to make such action mandatory.⁶⁹ Actually, in a few of the latter states, the rules are only technically observed because of the practice of reporting back on the last legislative day, which assures the measure's defeat.

Most states incorporate into their rules a procedure for the with-

⁶⁷Council of State Governments. "Our State Legislatures." Report of the Committee on Legislative Processes and Procedures. 1946, p. 15.

⁶⁸Appendix I, Distinctive Constitutional Provisions on Legislative Procedure.

⁶⁹Appendix G, column 7.

drawal of bills from committee;⁷⁰ in a few states, some provision is made by the constitution for discharge of bills. Missouri's constitution (Art. III, Sec. 22) exemplifies an affirmative approach, by granting an absolute right to withdraw a bill by vote of one-third of the elected members of the legislative body; Michigan's constitutional provision (Art. V, Sec. 15) is restrictive in nature, denying to the legislature the power to adopt rules which will prevent a majority of the members elected from discharging a committee from the further consideration of a measure. Kentucky's constitution (Sec. 46) precludes refusal or failure of a committee to report a bill in a reasonable time by permitting the bill to be called up by any member and to be considered in the same manner as if it had been reported.

In view of committee deliberations being at the heart of the legislative process, it is somewhat surprising that the number of committees, their size, the method for appointment of their members, and their procedures is a matter almost exclusively left to the legislative rules.⁷¹ Little uniformity is displayed as to any of these elements. The new constitution of Missouri is therefore quite out of the ordinary due to its injunction that each committee keep a record of its proceedings which, together with the recorded vote of its members, must be filed with the reports on all bills (Art. III, Sec. 22).

⁷⁰For an excellent account of North Carolina's "gag rule" see "Highlights and Sidelights" in Popular Government, June 1947, p. 3.

⁷¹Appendix G, columns 1-6.

e. Readings.

A bill in order to become a law shall, except as herein provided,⁷² pass three readings in each house, on separate days. (Sec. 46, Organic Act; 48 U.S.C. 579).

The requirement for the reading aloud of bills by attaches of legislative bodies is one of the anachronistic procedural requirements continued by the constitutions of almost three-fourths of all states.⁷³ Having its origin in the period when legislators could not read and methods of duplication did not permit copies of all bills to be furnished for their personal use and inspection, it has long survived as a legislative fiction. The reading of the bill's title in a droning voice obviously intended not to be comprehensible, and the rapid, staccato-like delivery of section numbers and random segments of text selected solely to fulfill the requirement of reading at length are commonplace occurrences in legislative halls. This feature of legislative procedure has probably been criticized and lampooned more frequently than any other.

Thirteen states make no provision in their constitutions for reading of bills,⁷⁴ but by rule eleven of them require three readings, and the remaining states, Maine and Rhode Island, require two.⁷⁵

Today, thirty-one of the states require three readings on separate days, save that two of them (Arkansas and New Mexico) permit two of the readings to be on the same day. Twenty of these specify exceptions, in cases of "urgency" or "public

⁷²The phrase "except as herein provided" apparently applies to other provisions of the Organic Act relating to special requirements for laws to become effective, and not to the reading of bills.

⁷³Appendix B, column 5.

⁷⁴Appendix B, columns 4-6.

⁷⁵The Council of State Governments. The Book of the States, 1948-1949. Vol. VII. "Legislative Procedure: House and Senate Action." p. III, column 1.

emergency," under which the rule may be dispensed with, usually by a two-thirds vote of the house where the bill is pending. Twenty-four states have provisions calling for reading of the bill "in full," "by sections," or "at length" for at least one reading, but in fourteen states reading in full must be had on the third (or last) reading or on final passage.

...twenty states may dispense with the rule of reading on three different days; Nebraska's unicameral body has no "second reading," requiring merely that bills shall be pending and on file for several days; Virginia and the 1945 Missouri Constitution require only that titles of measures be read--the last by title on three different days, in each house, as does Florida on introduction; fourteen states make mandatory a reading "in full," on third or on final passage, but Illinois, North Carolina, and Pennsylvania have absolute requirements on "full reading" on three separate days; finally, Louisiana requires but one reading at length during its course through each house. Georgia in her new constitution retained the three readings, on three separate days, but on local bills, first and second readings shall be by title only, unless ordered engrossed. Such are the recent trends in constitution making and amendment.⁷⁶

Subsequent to the publication of Dr. Prescott's summary, New Jersey adopted a new constitution which requires the lapse of a full calendar day following the day of second reading, but by a three-fourths vote permits emergency measures to proceed immediately from second to third reading (Art. IV, Sec. IV, Par. 6).

f. Vote on final passage.

...the final passage of a law in each house shall require the vote of a majority of all the members to which such house is entitled. (Sec. 22, Organic Act; 48 U.S.C. 594).

...the final passage of ... (a bill) in each house shall be by a majority vote of all the members to which such house is entitled, taken by ayes and noes and entered upon its journal. (Sec. 46, Organic Act; 48 U.S.C. 579).

In the constitutions of twelve states,⁷⁷ no provision is made for the requisite minimum number of votes necessary to pass a bill in each house of

⁷⁶ Prescott, op. cit., pp. 36-8.

⁷⁷ Appendix C, column 3.

the legislature. In the absence of constitutional provision, each of these states except New Hampshire by rule has established the requirement of a majority of members present and voting.⁷⁸ New Hampshire requires more than a simple majority in designated situations where the members present forming the quorum fall below a prescribed number. Of the thirty-six states which specify the requisite majority in their constitutions, the greatest number have adopted the standard of a majority of members elected as being necessary for the final passage of bills. Four state constitutions permit adoption by a vote of a majority of members present, and half as many states, in addition to the simple majority rule also require that at least two-fifths of the members elected vote in favor of the measure.⁷⁹

Frequently incorporated into constitutions are requisites for adopting specific types of legislation taking the form of a higher vote on final passage than that necessary to enact an ordinary law. This may be true, for example, of bills increasing the public debt or acts going into effect immediately as urgency measures in those states where a fixed time must elapse subsequent to adjournment before laws become effective. This is also true on passage of a bill over gubernatorial veto.⁸⁰

g. Reconsideration of rejected bills.

A rather unusual procedural provision now incorporated in the constitutions of four states, and for a period of seventy years in a fifth, is de-

⁷⁸The Council of State Governments. The Book of the States, 1948-1949. Vol. VII. "Legislative Procedure: House and Senate Action." p. 111, column 7.

⁷⁹Appendix C, column 3.

⁸⁰Infra, p. 40.

signed to save time lost by debates on reconsideration of measures once voted down. South Carolina from 1790 to 1861, and Georgia and Louisiana prohibit the reproposal without special consent of a measure once defeated. In Georgia permission takes the form of a two-thirds vote of the house where the bill was rejected, while Louisiana's constitution requires consent of a majority of the house which rejected it. Tennessee and Texas have an absolute prohibition against the passage of a bill with the same substance as one previously rejected during the same session.⁸¹ It is questionable whether this is a subject which is appropriately treated in a constitution.⁸²

h. Certification between houses.

Every bill when passed by the house in which it originated, or in which amendments thereto shall have originated, shall immediately be certified by the presiding officer and clerk and sent to the other house for consideration. (Sec. 47, Organic Act; 48 U.S.C. 580).

This provision of the Organic Act has its origin in Article 64 of the Constitution of the Republic of Hawaii adopted in 1894. Although the rules of the state legislatures outline the procedure to be followed in transmitting measures between the two legislative houses, and may contain a similar requirement, its incorporation into the fundamental law appears novel.

5. Bills -- Governor's Signature; Veto; Effective Date

a. Certification to governor.

Every bill which shall have passed the legislature shall be certified by the presiding officers and clerks of both houses, and shall thereupon be presented to the governor. (Sec. 49, Organic Act; 48 U.S.C. 581).

⁸¹Prescott, op. cit., p. 39. See also Appendix C, column 6.

⁸²Luce, Robert. Legislative Procedure. Boston, 1922, p. 395.

The constitutions of two-thirds of the states make some provision for the signing of bills by the presiding officers of both houses of the legislature prior to their submission to the governor.⁸³ In about two-thirds of this group of states, signatures of the legislative officers must be affixed in the presence of the house; in other states this clerical function is usually performed in the privacy of the offices of the presiding officers.⁸⁴ In those states in which the courts observe the enrolled bill rule, the act of signing bills passed by both houses takes on an added significance as the requisite signatures of the legislative officers and the governor ordinarily preclude attacks based on failure to comply with constitutional procedural requirements.⁸⁵

Kentucky, Louisiana, Missouri, and Kansas have constitutional provisions which specify the time in which a bill must be presented to the governor, that is, after it has been passed by the legislature. More specifically, the Kansas constitution, by Article II, section 14 provides that "Every bill and joint resolution passed by the house of representatives and senate shall, within two days thereafter, be signed by the presiding officers, and presented to the governor" Kentucky, by section 56 of the Constitution, requires that bills be immediately presented to the governor for his signature and approval, that is, after passage by the legislature. Louisiana, by Article III, section 26, provides that as soon as bills are signed by the Speaker of the House and President of the Senate they are to "be taken at once, and on the same day, to the governor

⁸³Appendix C, column 2.

⁸⁴Walker, op. cit., p. 369.

⁸⁵See supra, note 32, p. 15.

by the clerk of the House of Representatives or secretary of the Senate." Missouri, by Article III, section 30 requires the secretary or chief clerk of the house in which the bill originated "to present the bill in person to the governor on the same day on which it was signed and enter the fact upon the journal." In Indiana, by Article V, section 14, no bill may be presented to the Governor within two days next previous to the final adjournment of the General Assembly.⁸⁶

b. Action by governor; veto; item veto.

Except as herein provided, all bills passed by the legislature shall, in order to be valid, be signed by the governor. (Sec. 48, Organic Act; 48 U.S.C. 582).

If he approves it, he shall sign it, and it shall become a law. If the governor does not approve such bill, he may return it, with his objections, to the legislature. He may veto any specific item or items in any bill which appropriates money for specific purposes; but shall veto other bills, if at all, only as a whole. (Sec. 49, Organic Act; 48 U.S.C. 581).

Because the constitution of North Carolina fails to make provision for the appending of the governor's signature to bills, or for his vetoing bills he does not approve, it furnishes the only example of a state constitution which does not include the governor as an integral part of the legislative procedure which must be observed in enacting laws. The only other states which in any way approximate this are Maryland (Art. III, Sec. 52(B) and West Virginia (Art. VI, Sec. 51(B), where the general appropriation bill is not submitted to the governor for signature, but automatically becomes law immediately as passed by both houses of the legislature. All other state constitutions make provision

⁸⁶Extracted from Oklahoma (State). The Chief Executive. Report of the Constitutional Survey Committee, State Legislative Council of Oklahoma. Constitutional Study No. 4. February 1948, pp. 24-28. Italics added to constitutional provisions quoted.

for the governor's signature, and include a procedure for passing a bill over his veto.

In addition to the exercise of the veto, the constitutions of thirty-nine states⁸⁷ grant to the governor the power to veto items of appropriation while approving the balance of the act. This may be limited solely to eliminating an entire item of appropriation, or may include the right of reducing the item of appropriation.⁸⁸ In the states of South Carolina (Art. 4, Sec. 23) and Washington (Art. 3, Sec. 12) the item veto power extends to any item or section, and is thus not limited to reduction or elimination of items of appropriation but applies to substantive matters as well.

Most state constitutions require that the governor shall submit the reasons for his disapproval with his veto. However, even without this constitutional injunction, in the case of important measures the governor would undoubtedly announce the reasons for his veto.⁸⁹ In a few states the governor is permitted to return the bill with his recommendations for amendment, in which case the legislature may adopt the amendments without any greater majority than for passing an ordinary bill and the bill is enacted and signed as other bills.⁹⁰

⁸⁷See Appendix H, column 4.

⁸⁸For more complete discussion see Constitutional Budgetary and Appropriation Provisions to be issued shortly by the Legislative Reference Bureau.

⁸⁹Chamberlain, Joseph P. Legislative Processes National and State. New York, 1936; p. 282.

⁹⁰See for example Alabama (Art. V, Sec. 125) and Virginia (Art. V, Sec. 76).

c. Time for signature.

If the governor neither signs nor vetoes a bill within ten days after it is delivered to him it shall become a law without his signature, unless the legislature adjourns sine die prior to the expiration of such ten days.

If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature by their adjournment prevents its return, in which case it shall not be a law. (Sec. 51, Organic Act; 48 U.S.C. 584).⁹¹

Periods of 5, 10, 3, and 6 days for the signing of bills while the legislature is in session are preferred by the states in the relative order of precedence in which they are stated. Twenty-one states permit the governor only 5 days to veto a bill; if he fails to act within that time it becomes a law without his signature. Twelve states have incorporated a 10 day period into their constitutions, and at the other extreme, nine states permit only 3 days for the governor to consider a measure. The inclusion or exclusion of Sundays and legal holidays within the period varies among the different states.⁹² Missouri's new constitution incorporates a 15 day requirement, and if the governor does not return the bill endorsed with his approval or disapproval within that period, by joint resolution the legislature may direct the secretary of state to enroll the bill and it thereby becomes law (Art. III, Secs. 31, 33).

⁹¹The Revised Laws of Hawaii 1945, p. 32, carries the following note under this section: "The first paragraph of this s. was taken, by the commission which drafted this act, from the Hawaiian const. of 1894 (s. 69), and the second paragraph was added by Congress, from the Federal Const. (art. 1, s. 7). The latter giving twelve days, including Sundays, in which to return a bill, probably controls the former.... In several instances bills have been signed by the governor after the adjournment of the legislature but within ten days after their passage."

⁹²Appendix H, column 1.

The great preponderance of legislation is ordinarily passed by the legislature during the last few days of the session. As a result, the governor would be overwhelmed with legislative measures if he were not permitted to sign bills after adjournment,⁹³ and if different provision were not made for the signing of bills after adjournment. The latter usually takes the form of a greater period than that allowed the governor while the legislature is in session, and it ordinarily runs from adjournment rather than from time of presentation of the bill.

The constitutions of the states of Missouri and New Jersey contain the longest periods for signing bills after adjournment found incorporated in any state constitution: 45 days. This compares with a period of 15 days in Missouri and 10 days in New Jersey allowed the governor for consideration of bills during the time when the legislature is in session. In five states--California, Colorado, Delaware, New York, and Pennsylvania--10 days are allowed for gubernatorial consideration of bills during sessions of the legislature; bills presented late in the session or after adjournment may be considered by the governor for 30 days. Three states--Arkansas, Oregon, and Texas--allow the governor 20 days after adjournment, and five states--Connecticut, Montana, North Dakota, Oklahoma, and Wyoming--allow 15 days.⁹⁴

Following the precedent set by the procedure for vetoes while the legislature is in session, even after final adjournment a bare majority of the states exact an express veto, with the bill becoming law on the governor's failure to veto it. However, in an almost equal number of states,

⁹³ Apparently forty states authorize the governor to approve or veto measures after adjournment. Oklahoma (State). The Chief Executive, p. 30.

⁹⁴ Appendix H, columns 1, 2, 3.

unless the governor signs a bill during the specified period after adjournment, the bill automatically dies at the end of the period.⁹⁵

The pocket veto--as the governor's failure to act is referred to when it occurs after adjournment, because of the legislature's inability to enact the bill over the veto--is avoided in a number of states either by constitutional provisions or by resort to special legislative tactics. The latter are exemplified by the practice of the legislature recessing until after the period for vetoing has elapsed, then reassembling to hear the governor's veto messages,⁹⁶ or by the legislature's closing consideration of bills sufficiently before adjournment as to prevent any measure remaining with the governor by time of adjournment.⁹⁷

In Maine, Mississippi, and South Carolina by constitutional mandate vetoed bills become effective if the governor does not return them at the beginning of the next session of the legislature.⁹⁸ The new constitution of New Jersey provides for a special session to convene 45 days after adjournment, without petition or call, for the consideration of vetoed measures (Art. V, Sec. I, par. 14(b)).

⁹⁵Appendix H, columns 2, 3.

⁹⁶This may not be very successful due to the difficulty after the recess of having present the requisite constitutional majority necessary for passing a bill over the veto. Chamberlain, op. cit., pp. 283-4.

⁹⁷Appendix H, note k (Kansas); note o (Massachusetts).

⁹⁸Graves, op. cit., p. 391. In six other states--Alabama, Florida, Indiana, Nevada, Oregon, and Washington--vetoed bills must be returned to the next session of the legislature, but there is no provision for the bills becoming effective if not returned.

d. Legislative action after veto.

Upon the receipt of a veto message from the governor each house of the legislature shall enter the same at large upon its journal and proceed to reconsider such bill, or part of a bill, and again vote upon it by ayes and noes, which shall be entered upon its journal.

If after such reconsideration such bill, or part of a bill, shall be approved by a two-thirds vote of all the members to which each house is entitled, it shall thereby become law. (Sec. 50, Organic Act; 48 U.S.C. 583).

The procedure for reconsideration of a bill after veto by the governor as outlined by the Organic Act is fairly typical of that incorporated into the constitutions of the various states. The Organic Act would appear to require the governor's message and the vetoed bill to be delivered to both houses; in all states but Georgia and Kansas the governor must return a vetoed bill, with his objections, to the house of origin, and if the bill is passed over the veto, it is then submitted to the other house. In Kansas, vetoed bills are returned to the House of Representatives,⁹⁹ and the Georgia constitution is silent. All of the states except Florida, Georgia, and Indiana require the legislature to vote on the repassage of a vetoed bill by yeas and nays.¹⁰⁰

The votes required for the legislature to override the governor's veto in the veto states are:

Majority of members present, 1 state: Connecticut.

Majority of members elected, 6 states: Alabama, Arkansas, Indiana, Kentucky, Tennessee, West Virginia.

Three-fifths of members present, 1 state: Rhode Island.

Three-fifths of members elected, 4 states: Delaware, Maryland, Nebraska, Ohio.

Two-thirds of members present, 12 states: Florida, Idaho, Massachusetts, Montana, New Mexico, Oregon, South Dakota, Texas, Vermont, Virginia, Washington, Wisconsin.

⁹⁹Appendix H, footnote a.

¹⁰⁰Oklahoma (State). The Chief Executive, p. 30.

Two-thirds of members elected, 23 states: Arizona, California, Colorado, Georgia, Illinois, Iowa, Kansas, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Hampshire, New Jersey, New York, North Dakota, Oklahoma, Pennsylvania, South Carolina, Utah, Wyoming.¹⁰¹

e. Effective date of bills.

In the absence of constitutional rule or statutory provision, laws take effect immediately upon the completion of the procedure prescribed for their enactment. The constitutional qualifications of this rule take several forms. In Indiana, Kansas, Louisiana, New Mexico and Wisconsin no law, with minor exceptions, may become effective until it has been printed or "promulgated." Several states designate specific dates when all laws enacted at a session are to go into effect.¹⁰² Most common is the specification of the number of days which must elapse prior to a bill's becoming effective, some constitutions computing the time from the day of passage and others from the day of adjournment. The period of 90 days appears to be adopted more frequently than other time periods.¹⁰³

6. Lobbying

Democratic political theory is based on the assumption that rational decision can best be reached after considering and evaluating all factors, including the interests of the component members of society. To the extent the pressure group aids in the reaching of a rational decision, and does not falsify issues or corruptly influence the decision, its present important role in the formulation of public policy and the initiation of legislative

¹⁰¹Ibid. Also see Appendix H, column 5.

¹⁰²Walker, op. cit., p. 370.

¹⁰³Appendix C, column 5.

programs is in accord with democratic theory. The lobbyist, being the representative of the pressure group, is to be judged in the same light.

Lobbying, in essence, is the addressing or soliciting of legislators with the hope of influencing their votes by one not a member of the legislature.¹⁰⁴ The emphasis of many state statutes is directed toward one type of lobbyist--those who are employed to promote or oppose the passage of legislation affecting the pecuniary interests of their employers. Actually, there are lobbies representing pressure groups other than those motivated by monetary gain. However, due to historical reasons, the lobbyist to whom the suspicion of bribery and corrupt practices traditionally attaches is the paid representative of a group with a pecuniary interest to be furthered or protected. Perhaps because in the minds of many people this odium attaches to every lobbyist, Georgia's constitution (Art. I, Sec. II, Par. IV), declares all lobbying to be a crime, and Arizona's constitution (Art. XXII, Sec. 19) requires the legislature to prohibit any lobbying on the floor of the legislature.

Of the twenty states¹⁰⁵ that have constitutional provisions against lobbying or corrupt solicitation, all but two¹⁰⁶ prohibit persons from influencing official action through illicit means. Fourteen states¹⁰⁷ prohibit

¹⁰⁴In fact, lobbying is not confined solely to the legislature. There are abundant opportunities for lobbying in the executive branch of the government, and the courts are also subjected to group pressures.

¹⁰⁵Alabama, Arizona, Arkansas, California, Colorado, Delaware, Georgia, Kentucky, Louisiana, Maryland, Montana, New Mexico, New York, North Dakota, Pennsylvania, South Dakota, Texas, Washington, West Virginia, and Wyoming.

¹⁰⁶Alabama, Arizona.

¹⁰⁷Alabama, Arkansas, California, Colorado, Louisiana, Maryland, Montana, New Mexico, New York, North Dakota, Pennsylvania, Texas, West Virginia, and Wyoming.

public officers accepting personal rewards in return for their influence on the course of legislation. Common penalties for violations of the above provisions are fines and imprisonment,¹⁰⁸ disqualification from holding any office of trust and honor in the state and, in the case of a public officer, expulsion from office. A person may be compelled to testify against anyone charged with bribery and corrupt solicitation in ten states.¹⁰⁹ Besides prohibiting the practice of lobbying on the floor of the legislature, Arizona directs its legislature to regulate the practice of lobbying.

State laws governing the conduct of the lobbyists rely mainly upon provisions requiring the registration of lobbyists and their intent, and the filing of their expense accounts. A survey shows that twelve states limit lobbying regulations to corrupt practices.¹¹⁰ Twenty-six states require registration and generally include the name and address of the legislative agent; by whom he is employed; date and duration of employment, if determinable; and subject of the legislation to which the employment relates. Usually the secretary of state is designated as the official charged with providing the docket for filing of such information. In eighteen of these states, a statement of all expenses paid, incurred, or promised in connection with legislation is required to be filed in a period ranging from 30 to 60 days after adjournment of the legislature. Seventeen states forbid employment for compensation which is dependent upon the passage or defeat

¹⁰⁸The exact terms of which are to be provided by law, except in the constitution of New Mexico which imposes upon violators a fine of not more than one thousand dollars or imprisonment for not less than one nor more than five years.

¹⁰⁹California, Louisiana, Maryland, New Mexico, New York, Pennsylvania, South Dakota, Washington, West Virginia, and Wyoming.

¹¹⁰Young, C. C. The Legislature of California. 1943, p. 345, (with minor corrections.) See also Appendix K.

of legislation, and any other contingency connected with legislative acts is forbidden. Some states, such as Nebraska, North Dakota, and Wisconsin, attempt to define by statute the scope of the lobbyists' activities.

Constitutional and statutory regulation have not been able to eliminate all undesirable lobbying practices. Perhaps the two most outstanding defects in the present laws are the unsatisfactory definition of what constitutes lobbying and the lack of an effective enforcement agency. Generally ignored is some means of assuring the representative character of the lobby which claims to be the spokesman of a particular interest. Similarly ignored is whether the group views have been democratically arrived at, so that the legislator may be advised of those situations where a group may be representative, but the views expressed are not.

But even more fundamental to the problem of corrupt and unbalanced lobbying are legislative structure and procedures. Poorly organized legislatures, hamstrung by restrictions reflecting antiquated procedural heritages, are ideal spawning grounds for every form of corrupt practice as well as the more legal, but equally socially immoral, practices of misinformation, exaggeration, and false presentation. To the extent that the legislature is able to perform its own work efficiently and with a minimum of unnecessary delay, to that extent it may utilize its time to greater advantage in weighing all elements essential to policy determination. The motives for corrupt or deceitful lobbying may still be present, but opportunities for their materialization will be denied.

Conclusion

In discussing constitutional limitations on the legislative power, Freund¹¹¹ classified them into those of a formal and those of a substantive nature. With the possible exception of the discussion under local and special legislation, and the section devoted to lobbying, this manual has been concerned only with the formal aspects of constitutional restrictions.

Continuing to follow Freund's analysis, these formal limitations may themselves be divided into two groups: procedural requirements and style requirements. Illustrative of the former are provisions for separate readings, number of members who must vote for a measure before it may be adopted, etc.; examples of the latter are furnished by constitutional provisions relating to titles of bills, enacting clauses, the one-subject rule, etc. As to both groups, Freund has expressed certain critical evaluations which appear as provocative today as they did in 1917:

The sound policy of constitution-making is to impose procedural requirements only under the following conditions: (1) that they serve an object of vital importance; (2) that they can be complied with without unduly impeding business; (3) that they are not susceptible of evasion by purely formal compliance or by false journal entries; (4) that they do not raise difficult questions of construction; (5) that the fact of compliance or non-compliance can be readily ascertained by an inspection of the journal. The application of these tests would lead to the discarding of most of the existing provisions without any detriment to legislation, as is proved by the experience of the states which never adopted them.¹¹²

Conceding that ...requirements of style have had on the whole a beneficial effect upon legislative practice and the clearness of statutes, they have a reverse side which must not be ignored. They have given rise to an enormous amount of litigation; they

¹¹¹Freund, Ernst. Standards of American Legislation. Chicago, 1917, p. 152.

¹¹²Ibid, p. 154; emphasis added.

have led to the nullification of beneficial statutes; they embarrass draftsmen, and through an excess of caution they induce undesirable practices, especially in the prolixity of titles, the latter again multiplying the risks of defect. While the courts lean to a liberal construction, they have in a minority of cases been indefensibly and even preposterously technical, and it is that minority which produces doubt, litigation, and undesirable cumbrousness to avoid doubt and litigation.

The requirements were introduced to protect legislatures from fraud or surprise and to stop the practice of logrolling. The experience of those states which have not adopted the provisions would probably show that they are less necessary now than seventy-five years ago, that better practices have been compelled by public opinion, and that the benefits of the improvement may be enjoyed without the attendant risks and evils.¹¹³

¹¹³Ibid, p. 155-6; emphasis added.

APPENDIX A

STATE CONSTITUTIONAL PROVISIONS REGARDING LEGISLATIVE PROCEDURE
Officers, Quorum, Rules, Punishment, Adjournment, Sessions

State	Power to Choose Own Officers	Quorum: Number of Members	Adoption of Rules	May Punish Members and Others	Time Limit on Adjourn- ment	Open Sessions unless Other- wise Ordered
Alabama	*	Majority	*	*	3 days	*
Arizona	*	Majority	*	*	3 days	---
Arkansas	*	Majority	*	*	3 days	*
California	*	Majority	*	*	3 days	*
Colorado	*	Majority	*	*	3 days	*
Connecticut	*	Majority	*	*	---	*
Delaware	*	Majority	*	*	3 days	*
Florida	*	Majority	*	*	3 days	*
Georgia	*	Majority	*	*	3 days	---
Idaho	*	Majority	*	*	3 days	*
Illinois	*	Majority	*	*	2 days	*
Indiana	*	2/3 members	*	*	3 days	*
Iowa	*	Majority	*	*	3 days	*
Kansas	*	Majority	*	*	2 days	---
Kentucky	*	Majority	*	*	3 days	---
Louisiana	*	Majority	*	*	3 days	---
Maine	*	Majority	*	*	2 days	---
Maryland	*	Majority elected	*	*	3 days	*
Massachusetts	*	Majority	*	*	2 days	---
Michigan	*	Majority	*	*	3 days	*
Minnesota	*	Majority	*	*	3 days	*
Mississippi	*	Majority	*	*	3 days	*
Missouri	*	Majority elected	*	*	10 days	*
Montana	*	Majority	*	*	3 days	*
Nebraska	*	Majority	*	*	---	*
Nevada	*	Majority	*	*	---	*
New Hampshire	*	Majority	*	*	2 days	*
New Jersey	*	Majority	*	*	3 days	---
New Mexico	*	Majority	*	*	3 days	*
New York	*	Majority	*	---	3 days	*

STATE CONSTITUTIONAL PROVISIONS REGARDING LEGISLATIVE PROCEDURE--(Continued)

Officers, Quorum, Rules, Punishment, Adjournment,

State	Power to Choose Own Officers	Quorum: Number of Members	Adoption of Rules	May Punish Members and Others	Time Limit on Adjourn- ment	Open Sessions unless Other- wise Ordered
North Carolina	*	Majority	*	---	---	---
North Dakota	*	Majority	*	*	3 days	*
Ohio	*	Majority elected	*	*	2 days	*
Oklahoma	*	Majority	*	*	3 days	---
Oregon	*	2/3 members	*	*	3 days	*
Pennsylvania	*	Majority	*	*	3 days	*
Rhode Island	*	Majority	*	*	2 days	---
South Carolina	*	Majority	*	*	3 days	*
South Dakota	*	Majority	*	---	3 days	*
Tennessee	*	2/3 members	*	*	3 days	*
Texas	*	2/3 members	*	*	3 days	*
Utah	*	Majority	*	*	3 days	*
Vermont	*	Majority	*	*	3 days	*
Virginia	*	Majority	*	*	3 days	---
Washington	*	Majority	*	*	3 days	*
West Virginia	*	Majority	*	*	3 days	---
Wisconsin	*	Majority	*	*	3 days	*
Wyoming	*	Majority	*	*	3 days	*
Total Using Provision	48	48	48	45	44	35

Source: Based on pamphlet editions of state constitutions; New York Constitutional Convention Committee, Constitutions of the States and United States (Albany: the Committee, 1938), Vol. III. Published in "Constitutional Provisions on Legislative Procedure," by Frank W. Prescott, Papers on Constitutional Revision, Vol. 2, University of Tennessee Records, Extension Series Vol. XXIII, No. 3, Knoxville, Tenn.; July 1947, pp. 46-47. Minor alterations have been made in column 4 to permit consistency of presentation.

APPENDIX B

STATE CONSTITUTIONAL PROVISIONS REGARDING LEGISLATIVE PROCEDURE

Bills--Origin, Form, Readings

State	Origin of Bills--which House Specified	Form of Bills Subject in the Title: Bills Not To Be Broader than Caption, except Appropriations	Prohibitions against Legislation or Amendments by Reference	Number of Days	Readings of Bills	
					Separate Days in Each House; Dispensed with by:	In Full
Alabama	Revenue bills H.R.	*	*	3	2/3 vote	3
Arizona	----	*	*	3	2/3 vote	3
Arkansas	----	*	*	3	2/3 vote	1,2,3
California	Either house	*	*	3	2/3 vote	3rd
Colorado	Revenue bills H.R.	*	*	3	*	2,3
Connecticut	----	----	----	----	----	----
Delaware	Revenue bills H.R.	*	----	----	----	----
Florida	Either house	*	*	3	2/3 vote	2,3
Georgia	Revenue bills H.R.	*	*	3	*	3
Idaho	Revenue bills H.R.	*	*	3	2/3 vote	3
Illinois	Either house	*	*	3	*	1,2,3
Indiana	Revenue bills H.R.	*	*	3	2/3 vote	3
Iowa	Either house	*	----	----	----	----
Kansas	Either house	*	*	3	Majority elected	3
Kentucky	Revenue bills H.R.	*	*	3	Majority elected	3
Louisiana	Revenue bills H.R.	*	*	2	2/3 vote	1
Maine	Revenue bills H.R.	----	----	----	----	----
Maryland	Either house	*	*	3	2/3 vote	----
Massachusetts	Money bills H.R.	----	----	----	----	----
Michigan	Either house	*	*	3	*	----
Minnesota	Revenue bills H.R.	*	----	3	2/3 vote	2,3
Mississippi	Either house	*	*	3	2/3 vote	----
Missouri	Either house	*	*	3	By title	----
Montana	Revenue bills H.R.	*	*	----	----	----

STATE CONSTITUTIONAL PROVISIONS REGARDING LEGISLATIVE PROCEDURE--(Continued)
Bills--Origin, Form, Readings

State	Origin of Bills--which House Specified	Form of Bills Subject in the Title: Bills Not To Be Broader than Caption, except Appropriations	Prohibitions against Legislation or Amendments by Reference	Readings of Bills		
				Number of Days	Separate Days in Each House; Dispensed with by:	In Full
Nebraska	Unicameral	*	*	2	No 2nd reading	---
Nevada	Either house	*	*	3	2/3 vote	3
New Hampshire	Money bills H.R.	---	---	---	---	---
New Jersey	Revenue bills H.R.	*	*	3	3/4 vote	3
New Mexico	Either house	*	*	3	*	3
New York	Either house	Private or local bill	*	---	---	---
North Carolina	---	---	---	3	*	1,2,3
North Dakota	Either house	*	*	2	*	2
Ohio	Either house	*	*	3	3/4 vote	---
Oklahoma	Revenue bills H.R.	*	*	3	2/3 vote	3rd
Oregon	Either house	*	*	3	2/3 vote	3rd
	revenue bills H.R.					
Pennsylvania	Revenue bills H.R.	*	*	3	*	1,2,3
Rhode Island	---	---	---	---	---	---
South Carolina	Either house					
	revenue bills H.R.	*	---	3	By rule	2
South Dakota	Either house	*	---	3	*	1,3
Tennessee	Either house	*	*	3	*	---
Texas	Revenue bills H.R.	*	*	3	4/5 vote	---
Utah	---	*	*	---	3 times	---
Vermont	Revenue bills H.R.	---	---	---	---	---
Virginia	Either house	*	*	3	By title	---
Washington	Either house	*	---	---	---	---
West Virginia	Either house	*	*	3	4/5 vote	3
Wisconsin	Either house	Local bills	---	---	---	---
Wyoming	Revenue bills H.R.	*	*	---	---	---
Total Using Provision	42	41	34	---	35	24

Source: Based on pamphlet editions of state constitutions; New York Constitutional Convention Committee, Constitutions of the States and United States (Albany: the Committee, 1938), Vol. III. Published in "Constitutional Provisions on Legislative Procedure," by Frank W. Prescott, Papers on Constitutional Revision, Vol. 2, University of Tennessee Records, Extension Series Vol. XXIII, No. 3, Knoxville, Tenn.; July 1947, pp. 48-51. Minor alterations have been made in columns 1 and 5 to permit consistency of presentation.

APPENDIX C

STATE CONSTITUTIONAL PROVISIONS REGARDING LEGISLATIVE PROCEDURE
 Bills--Printing, Signing, Passage, Vote Required;
 Enacting Clause; Effective Date

State	Printing of Bills Required and on Members' Desk--Certain Time	Bills Signed by Presiding Officers	Number of Votes Required on Final Passage	Form of Enacting Clause ("Style of laws")	Time Laws Take Effect --Exceptions and Emergen- cies Declared	Rejected Bills Not to Be Revived in Same Session
Alabama	Revenue bills	*	Majority	*	---	---
Arizona	---	*	Majority elected	*	---	---
Arkansas	---	---	Majority members	*	---	---
California	*	---	Majority elected	*	90 days after adjournment	---
Colorado	*	*	Majority elected	*	90 days after passage	---
Connecticut	---	---	---	*	---	---
Delaware	---	---	Majority elected	---	---	---
Florida	---	*	Majority	*	60 days from adjournment	---
Georgia	---	*	Majority elected	---	---	Except by 2/3 vote
Idaho	*	*	Majority	*	60 days after adjournment	---
Illinois	*	*	Majority elected	*	July 1 next after passage	---
Indiana	---	*	Majority elected	*	When published	---
Iowa	---	*	Majority elected	*	July 4 next after passage	---
Kansas	---	*	Majority elected	*	When published	---
Kentucky	*	*	Maj. voting and 2/5 mem. elected	*	90 days after adjournment	---
Louisiana	---	*	Majority elected	*	20 days after adjournment	Except by majority vote
Maine	---	---	---	*	90 days after adjournment	---
Maryland	3rd reading	---	Majority elected	*	June 1 next after passage	---

STATE CONSTITUTIONAL PROVISIONS REGARDING LEGISLATIVE PROCEDURE--(Continued)
 Bills--Printing, Signing, Passage, Vote Required;
 Enacting Clause; Effective Date

State	Printing of Bills Required and on Members' Desk--Certain Time	Bills Signed by Presiding Officers	Number of Votes Required on Final Passage	Form of Enacting Clause ("Style of laws")	Time Laws Take Effect --Exceptions and Emergen- cies Declared	Rejected Bills Not to Be Revived in Same Session
Massachusetts	---	---	---	*	---	---
Michigan	*	---	Majority elected	*	90 days from end of session	---
Minnesota	---	*	Majority elected	*	---	---
Mississippi	---	*	---	*	60 days after passage	---
Missouri	*	*	Majority elected	*	90 days after adjournment	---
Montana	*	*	Majority	*	---	---
Nebraska	*	*	Majority elected	*	3 months after adjournment	---
Nevada	---	---	Majority elected	*	---	---
New Hampshire	---	---	---	*	---	---
New Jersey	---	---	Majority members	*	---	---
New Mexico	*	*	Majority	*	90 days after adjournment	---
New York	*	*	Majority elected	*	---	---
North Carolina	---	---	---	*	---	---
North Dakota	---	*	Majority elected	*	July 1 next after close of session	---
Ohio	---	*	Majority elected	*	90 days after passage	---
Oklahoma	---	*	Majority elected	*	90 days after adjournment	---
Oregon	---	*	Majority elected	*	90 days from end of session	---
Pennsylvania	*	*	Majority elected	*	---	---
Rhode Island	---	---	---	*	---	---
South Carolina	---	*	---	*	---	---

STATE CONSTITUTIONAL PROVISIONS REGARDING LEGISLATIVE PROCEDURE--(Continued)

Bills--Printing, Signing, Passage, Vote Required;
Enacting Clause; Effective Date

State	Printing of Bills Required and on Members' Desk--Certain Time	Bills Signed by Presiding Officers	Number of Votes Required on Final Passage	Form of Enacting Clause ("Style of laws")	Time Laws Take Effect --Exceptions and Emergen- cies Declared	Rejected Bills Not to Be Revived in Same Session
South Dakota	---	*	Majority elected	*	90 days after adjournment	---
Tennessee	---	*	Majority	*	40 days after passage	*
Texas	---	*	---	*	90 days after adjournment	*
Utah	---	*	Majority elected	*	60 days after adjournment	---
Vermont	---	---	---	*	---	---
Virginia	*	*	Majority voting and 2/5 members elected	---	90 days after passage	---
Washington	---	*	Majority elected	*	---	---
West Virginia	---	---	---	*	90 days after passage	---
Wisconsin	---	---	---	*	---	---
Wyoming	*	*	Majority elected	*	---	---
Total Using Provision	16	32	36	45	27	4

Source: Based on pamphlet editions of state constitutions; New York Constitutional Convention Committee, Constitutions of the States and United States (Albany: the Committee, 1938), Vol. III. Published in "Constitutional Provisions on Legislative Procedure," by Frank W. Prescott, Papers on Constitutional Revision, Vol. 2, University of Tennessee Records, Extension Series Vol. XXIII, No. 3, Knoxville, Tenn.; July 1947, pp. 52-54. Corrected to include 1946 amendment to constitution of South Dakota. Minor alterations have been made in columns 3 and 4 to permit consistency of presentation.

APPENDIX D

STATE CONSTITUTIONAL PROVISIONS REGARDING LEGISLATIVE PROCEDURE Roll-Call; Journal

State	Roll-Call Mandatory on Request of:		Each House Keep and Publish Journal of Proceedings
	House Members	Senate Members	
Alabama	1/10 present	1/10 present	*
Arizona	2	2	*
Arkansas	5	5	*
California	3	3	*
Colorado	2	2	*
Connecticut	1/5 present	1/5 present	*
Delaware	1	1	*
Florida	5	5	*
Georgia	1/5 present	1/5 present	*
Idaho	3	3	*
Illinois	5	2	*
Indiana	2	2	*
Iowa	2	2	*
Kansas	*	*	*
Kentucky	2	2	*
Louisiana	1/5 elected	1/5 elected	*
Maine	1/5 present	1/5 elected	*
Maryland	5	1	*
Massachusetts	---	---	---
Michigan	1/5 present	1/5 present	*
Minnesota	---	---	*
Mississippi	1/10 present	1/10 present	*
Missouri	5	5	*
Montana	2	2	*
Nebraska	---	1	*
Nevada	3	3	*
New Hampshire	1	1	*
New Jersey	1/5 present	1/5 present	*
New Mexico	1/5 present	1/5 present	*
New York	---	---	*
North Carolina	1/5 present	1/5 present	*
North Dakota	1/6 present	1/6 present	*
Ohio	2	2	*
Oklahoma	1/5 present	1/5 present	*
Oregon	2	2	*
Pennsylvania	2	2	*

STATE CONSTITUTIONAL PROVISIONS REGARDING
LEGISLATIVE PROCEDURE--(Continued)
Roll-Call; Journal

State	Roll-Call Mandatory on Request of:		Each House Keep and Publish Journal of Proceedings
	House Members	Senate Members	
Rhode Island	1/5 present	1/5 present	*
South Carolina	10	5	*
South Dakota	1/6 present	1/6 present	*
Tennessee	5	5	*
Texas	3	3	*
Utah	5	5	*
Vermont	5	1	*
Virginia	1/5 present	1/5 present	*
Washington	1/6 present	1/6 present	*
West Virginia	1/10 present	1/10 present	*
Wisconsin	1/6 present	1/6 present	*
Wyoming	2	2	*
Total Using Provision	45		47

Source: Prescott, Frank W. "Constitutional Provisions on Legislative Procedure," Papers on Constitutional Revision. Vol. 2. University of Tennessee Record, Extension Series Vol. XXIII, No. 3. Knoxville, Tenn.; July 1947. pp. 55-56.

LEGISLATIVE JOURNALS*

State	J o u r n a l			
	Published Daily	Shows Rollings of Chair	Shows All Votes	Checked by
Alabama	Yes	No	No	Journal clerk
Arizona	No	No	Yes	House--Chief clerk; Senate--Secretary
Arkansas	Yes	Yes	Yes	Journal clerks
California	Yes	Not consistently	Yes	Clerk
Colorado	Yes	Yes	(a)	Legislative Reference Office; House-- Clerk; Senate--Secretary
Connecticut	Yes	Yes	Yes	Clerks
Delaware	Yes ^c	Yes	Yes	House--clerk; Senate--Secretary
Florida	Yes	...	Yes ^b	House--Chief clerk; Senate--Secretary
Georgia	Committees on Journals
Idaho	Yes	Senate--partially	Yes	House--Chief clerk; Senate--Secretary
Illinois	Yes	Partially	No	House--Speaker; Senate--President
Indiana	No	No	Yes	House--Assistant clerk; Senate-- Assistant secretary
Iowa	Yes	Yes	No	House--Chief clerk; Senate--Secretary
Kansas	Yes	No	Yes	Journal Committees of each house
Kentucky	(g)	Yes	Yes	Assistant clerk
Louisiana	Yes	Yes	Yes	Journal clerk
Maine	(e)	Yes ^h	Yes ^h	House--Clerk; Senate--Secretary
Maryland	Yes	Yes	Yes	Journal clerk
Massachusetts	Yes	Yes	Yes	Clerks
Michigan	Yes	Yes ^f	Final passage	Clerk
Minnesota	Yes	No	No	House--Chief clerk; Senate--Secretary
Mississippi	No	No	Yes	House--Clerk; Senate--Secretary
Missouri	Yes	Yes	Yes	House--Clerk; Senate--Secretary
Montana	No	Yes	Yes	Journal committee

LEGISLATIVE JOURNALS*--(Continued)

State	Published Daily	Shows Rulings of Chair	J o u r n a l	
			Shows All Votes	Checked by
Nebraska	Yes	No	Third reading ^d	Journal clerk
Nevada	No	Yes	Yes	Chief clerk
New Hampshire	Yes	Yes	Yes	Journal committee
New Jersey	No	No	Yes
New Mexico	No	No	Yes	Committee on Rules and Journal Revision
New York	No	Yes	Yes	Journal clerk
North Carolina	(c)	No	No	Journal committee
North Dakota	Yes	Yes	Yes	Committee
Ohio	Yes	Yes	Yes	Journal clerk
Oklahoma	Yes	No	Yes	Journal clerk
Oregon	No	Yes	Yes	Chief clerk
Pennsylvania	Yes	Yes	Yes	Journal clerks
Rhode Island	Yes	Yes	Yes	House--Recording clerk; Senate--Secre- tary of State
South Carolina	Yes	Yes	Yes	Clerk
South Dakota	Yes	Yes	Yes	Legislative committee
Tennessee	(c)	Yes	Yes	Clerk
Texas	Yes	Yes	Yes	Journal clerks
Utah	Yes	Yes	Yes	Committee on Revision and Enrolling
Vermont	Yes	Yes	Yes	Clerk
Virginia	Yes	...	Yes	Clerk and journal clerk
Washington	No	Yes	Yes	House--Chief clerk; Senate--Secretary
West Virginia	Yes	Yes	(a)	Clerks and journal clerks
Wisconsin	Yes	Yes	Yes	Journal clerks
Wyoming	No	Yes	Yes	Chief clerks

*As of January, 1946.

a Third reading.

b On bills and joint resolutions; in other cases,
a show of five hands is required.

c Daily journal prepared; printed after close of
session.

d Others at request of one member.

e Advance daily journal printed.

f If point of order is raised, all votes final
passage.

g Constitution provides for daily publication, but
this is not done.

h In completed journal which is not printed.

Source: The Council of State Governments. The Book of the States, 1948-49. Vol. VII, p. 113.

APPENDIX F

INTRODUCTION AND REFERENCE OF BILLS

State	Time Limit for Introduction	Pre-session Bill-Draft- ing Service	Pre-session Bill Filing	Bills Referred to Committee	
				House	Senate
Alabama.....	None	Yes ^a	No	Speaker	President
Arizona.....	(b)	Yes ^a	No	Speaker	President
Arkansas.....	Until last 3 days	No	No	Speaker	President
California....	30 days ^c	Yes ^a	No	Speaker	Rules Comm.
Colorado.....	15 days ^d	Yes ^a	No	Speaker	President
Connecticut...	Set by joint rule	Yes ^a	Yes	Speaker	President
Delaware.....	Set by joint reso- lution	Yes ^a	No	Speaker	P. O.
Florida.....	None	No	No	Speaker	President
Georgia.....	No	No	Speaker	President
Idaho.....	30 days	No	No	Speaker	President
Illinois.....	Rules	Yes ^a	No	Speaker	President
Indiana.....	House--Apr. 14 House--30 days Senate--33 days	Yes	No	Speaker	President
Iowa.....	Rules	No	No	Speaker	President
Kansas.....	By resolution	Yes ^a	No	Speaker	President
Kentucky.....	None	Yes ^a	No	Speaker	Comm. on Comms.
Louisiana.....	20 days	No	No	Motion of Author	Motion of Author
Maine.....	Fixed at each sess.	Yes ^a	No	Joint Committee ^e	
Maryland.....	First 80 days	Yes ^a	No	Speaker	President
Massachusetts.	Second Friday of first session ^f	Yes ^a	Yes	Clerk	Clerk
Michigan.....	None	Yes ^a	No ^f	Speaker	President
Minnesota.....	Until last 20 days ^g	Yes	No	Speaker	President
Mississippi...	None last 3 days	No	No	Speaker	President
Missouri.....	60 days ^d	Yes ^a	No	Speaker	President
Montana.....	House--40 days Senate--30 days	No	No	Speaker	President
Nebraska.....	20 days	Yes ^h	Yes	Reference	Committee
Nevada.....	None	No	No	Members	Members
New Hampshire.	(i)	Yes ^h	Yes	Speaker	President
New Jersey....	Rules	Yes ^a	No	Speaker	President
New Mexico....	First 45 days ^d	Yes ^a	No	Comm. on Comms.	Comm. on Comms.
New York.....	None	Yes ^h	No	Speaker	Pres. pro tem
North Carolina	By resolution	Yes ^a	No	Speaker	President
North Dakota..	25 days ^j	Yes	No ^k	Speaker	President
Ohio.....	Joint Rule	Yes ^a	No	Ref. Comm.	Motion of Author
Oklahoma.....	None ^l	Yes	No	Speaker	Pres. pro tem

INTRODUCTION AND REFERENCE OF BILLS--(Continued)

State	Time Limit for Introduction	Pre-session Bill-Draft- ing Service	Pre-session Bill Filing	Bills Referred to Committee	
				House	Senate
Oregon.....	Rules	No ^m	No	P. O.	P. O.
Pennsylvania..	Fixed at each session	Yes ^a	No	Speaker	P. O.
Rhode Island..	42nd Legislative day	Yes ^a	No	Speaker	President
South Carolina	None	Yes	No	P. O.	P. O.
South Dakota..	Rules	Yes	No	Speaker	President
Tennessee.....	None last 3 days	No	No	Speaker	Speaker
Texas.....	30 days ⁿ	Yes ^o	No	Speaker	President
Utah.....	40 days	Yes	Yes	Speaker	President
Vermont.....	4 weeks	Yes ^a	Yes ^p	Speaker	President
Virginia.....	By resolution	Yes ^a	No	Speaker	President
Washington....	None last 10 days	Yes ^a	No	Speaker	President
West Virginia.	None ^q	No	No	Speaker	President
Wisconsin.....	Rule	Yes ^a	No	Speaker	P. O.
Wyoming.....	Rule	No	No	Speaker	President

Abbreviation --P. O.=Presiding Officer.

a Continuous service.

b In the Senate no bills may be introduced after the fifteenth day except by two-thirds vote.

c In general session; thereafter by three-fourths vote each member may introduce not more than two bills. No time limit in budget session.

d Except general appropriation bill and certain other exceptions.

e Composed of President of Senate, Speaker of House, one Senate member, and two House members.

f Not permitted by rules, but as many as 20 per cent of session bills have been prepared in advance.

g Except on written request of the governor.

h Established month prior to session.

i None after third Tuesday of session except by two-thirds vote unless reported by Committee on Rules.

j Except by unanimous consent.

k Legislative Research Committee has required that all bills considered by it be submitted sixty days prior to session.

l No revenue bills may be passed during last five days.

m No provision for pre-session bill drafting but Attorney General will provide service.

n Unless changed by four-fifths vote of membership of each house; (customarily changed to forty-five days at beginning of session by resolution.)

o Theoretically, but not as matter of practice.

p Informally.

q None until fiftieth day, then by concurrent resolution.

Source: The Council of State Governments. The Book of the States, 1948-49.
Vol. VII, p. 109.

APPENDIX G

COMMITTEES AND HEARINGS

State	Standing Comms.		Joint Comms.	House Committees Appointed by Speaker	Senate Committees Appointed by	Size of Committees Limited by	Must Report All Bills	Hearings Open to Public/
	House	Senate						
Alabama.....	14	30	None standing	*	President	House--statute Senate--rule	No	Dis.
Arizona.....	30	22	1	*	President	Rule	No	Dis.
Arkansas.....	51	41	1	*	President	Rule--custom	Yes	Dis.
California.....	25	21	10 ^a	*	Comm. on Rules	Rule	Yes ^b	Yes
Colorado.....	42	31	None standing	*	Resolution	Rule	Yes ^b	Dis.
Connecticut....	36	36	36	*	Pres. pro tem	Joint rule	No	Yes
Delaware.....	22	26	4	*	Pres. pro tem	Rule	No	Yes
Florida.....	55	41	None	*	President	(c)	No	Dis.
Georgia.....	56	36	7	*	President
Idaho.....	20	15	None standing	*	President	Rule	Yes	Dis.
Illinois.....	26	21	None	*	The Senate	Custom and rule	No	Yes
Indiana.....	42	39	2	*	President	Rule	No	Dis.
Iowa.....	54	34	4	*	President	Custom	No	Dis.
Kansas.....	43	43	1	*	President	Rule	Yes	Dis.
Kentucky.....	58	38	None	*	Committee on Committees	House--rule Senate--custom	No	Dis.
Louisiana.....	39	30	None	*	President	Rule	Yes	Dis.
Maine.....	7	2	41	*	President ^d	Joint rule	No ^e	Yes
Maryland.....	21	22	None	*	President	Rule	No	Yes
Massachusetts..	6	4	31	*	President	Rule	Yes	Yes
Michigan.....	69	18	None standing	*	Committee on Committees	Rule	No	Dis.
Minnesota.....	36	30	None	*	Committee on Organization	Rule	No	Yes
Mississippi....	50	49	5	*	Lt. Governor	Rule	Yes	Dis.
Missouri.....	49	23	4	*	Pres. pro tem	Rule	Yes	Dis.
Montana.....	47	46	None standing	*	Special comm. ^d	Rule	Yes	Dis.

COMMITTEES AND HEARINGS—(Continued)

State	Standing Comms.		Joint Comms.	House Committees Appointed by Speaker	Senate Committees Appointed by	Size of Committees Limited by	Must Report All Bills	Hearings Open to Public [/]
	House	Senate						
Nebraska.....		14 ^f	None ^f	(f)	Committee on Committees	Rule	Yes	Yes
Nevada.....	42	26	None	*	President	Rule	Yes	Dis.
New Hampshire..	35	25	3	*	President	Rule	Yes	Yes
New Jersey.....	51	38	9	*	President	Rule	No	Dis.
New Mexico.....	30	15	None standing	*	President	Rule	No	Dis.
New York.....	36	30	None	*	Pres. pro tem	Rule	No	Dis.
North Carolina.	49	52	2	*	President	Custom	Yes	Yes
North Dakota...	14	14	None	*	Committee on Committees	Rule	Yes	Dis.
Ohio.....	22	18	None	*	President	Rule	No	Yes
Oklahoma.....	69	33	None	*	Pres. pro tem	Rule	No	Yes
Oregon.....	24	30	None	*	President	House--dis. Senate--rule	Yes	Yes
Pennsylvania...	33	21	2	*	Pres. pro tem	Rule	No	Dis.
Rhode Island...	15	21	6	*	Named in rules	Rule	No	Dis.
South Carolina.	35	36	5	*	Elected	Rule	No	Dis.
South Dakota...	51	51	None standing	*	President	Rule	No	Dis.
Tennessee.....	46	35	None	*	President	None	Yes	Dis.
Texas.....	43	40	1	*	President	House--rule Senate--dis.	No	Dis.
Utah.....	35	16	1	*	President	Rule	No	Yes
Vermont.....	26	31	3	*	Special comm.	Rule	No	Dis.
Virginia.....	35	25	6	*	Elected	Rule	No	Dis.
Washington.....	33	30	1	*	President	Rule	No	Dis.
West Virginia..	26	30	1	*	President	Rule	No	Dis.
Wisconsin.....	23	10	2	*	Committee on Committees	Rule	Yes	Yes
Wyoming.....	19	21	1	*	President	Custom	Yes	Dis.

[/] Abbreviation: Dis.=Discretionary.

a Joint interim committees.

b In practice, those not acted upon reported back last day of session without recommendation.

c Size of committee varies with importance of subject.

d Confirmation by Senate.

e No rule, but custom of long standing.

f Unicameral.

Source: The Council of State Governments. The Book of the States, 1948-49. Vol. VII, p. 110.

EXECUTIVE VETO

State	Days after which Bill Becomes Law (before Ad- journment) unless Vetoed (Sundays excepted)	Fate of Bill after Adjournment:		Item Veto on Appro- priation Bills	Votes Required in House and Senate to Pass Bills or Items Over Veto ^a	Constitution Prohibits Governor from Vetoing:	
		Days after which Bill Passes un- less Vetoed (Sundays excepted)	Days after which Bill Dies unless Signed (Sundays excepted)			Initiated Measures	Referred Measures
Alabama.....	6	10	..	*	Majority elected	(b)	(b)
Arizona.....	5	10 ^a	..	*	Two-thirds elected ^c	*	*
Arkansas.....	5	20 ^{d,q}	..	*	Majority elected	*	*
California.....	10	..	30	*	Two-thirds elected	*	*
Colorado.....	10 ^d	30 ^{d,q}	..	*	Two-thirds elected	*	*
Connecticut....	5 ^e	15 ^{d,q}	..	*	Majority present	(b)	(b)
Delaware.....	10	..	30 ^d	*	Thres-fifths elected	(b)	(b)
Florida.....	5	10 ^{d,q}	..	*	Two-thirds present	(b)	(b)
Georgia ^f	5	..	(g)	*	Two-thirds elected	(h)	..
Idaho.....	5	10 ^a	..	*	Two-thirds present
Illinois.....	10	10 ^{d,q}	..	*	Two-thirds elected	(b)	(b)
Indiana.....	3	5 ^{d,e,i}	Majority elected	(b)	(b)
Iowa.....	3	(j)	30	..	Two-thirds elected
Kansas.....	3	(k)	(g)	*	Two-thirds elected	(b)	(b)
Kentucky.....	10	10 ^{d,q}	..	*	Majority elected
Louisiana.....	10 ^d	10 ^{d,l}	..	*	Two-thirds elected	(b)	(b)
Maine.....	5	(m)	Two-thirds elected	*	..
Maryland.....	6	..	6 ⁿ	*	Three-fifths elected	(b)	(b)
Massachusetts..	5 ^d	..	(o)	*	Two-thirds present	*	*
Michigan.....	10	..	5	*	Two-thirds elected	*	*
Minnesota.....	3	..	3 ^d	*	Two-thirds elected	(b)	(b)
Mississippi....	5	(j,m)	.. ^{d,q}	*	Two-thirds elected	(b)	(b)
Missouri.....	15 ^d	(p)	45 ^{d,q}	*	Two-thirds elected	*	*
Montana.....	5	..	15 ^{d,q}	*	Two-thirds present	*	*

State	Days after which Bill Becomes Law (before Ad- journalment) unless Vetoed (Sundays excepted)	Fate of Bill after Adjournment:		Item Veto on Appro- priation Bills	Votes Required in House and Senate to Pass Bills or Items Over Veto ^a	Constitution Prohibits Governor from Vetoing:	
		Days after which Bill Passes un- less Vetoed (Sundays excepted)	Days after which Bill Dies unless Signed (Sundays excepted)			Initiated Measures	Referred Measures
Nebraska.....	5	5 ^q	..	*s	Three-fifths elected	*	*
Nevada.....	5	10 ^q	Two-thirds elected	*	*
New Hampshire..	5	..	(g)	..	Two-thirds elected	(b)	(b)
New Jersey....	10	45 ^t	..	*	Two-thirds elected	(b)	(b)
New Mexico....	3	..	6	*	Two-thirds present	(h)	..
New York.....	10	..	30 ^d	*	Two-thirds elected	(h)	..
North Carolina	(u)	(u)	(u)	(u)	(b)	(b)
North Dakota..	3	15 ^{d,q}	..	*	Two-thirds elected	*	*
Ohio.....	10	10 ^{d,q}	..	*	Three-fifths elected
Oklahoma.....	5	..	15 ^d	*	Two-thirds elected	*	*
Oregon.....	5	20	..	*v	Two-thirds present	*	*
Pennsylvania..	10 ^d	30 ^{d,q}	..	*	Two-thirds elected	(b)	(b)
Rhode Island..	6	10 ^{d,q}	Three-fifths present	(b)	(b)
South Carolina	3	(m)	..	*y	Two-thirds elected	(b)	(b)
South Dakota..	3	10 ^{d,q}	..	*	Two-thirds present	*	*
Tennessee.....	5	..	(g)	..	Majority elected	(h)	..
Texas.....	10	20 ^{d,q}	..	*	Two-thirds present	(b)	(b)
Utah.....	5	10 ^q	..	*	Two-thirds elected	*	*
Vermont.....	5	..	(w)	..	Two-thirds present	(b)	(b)
Virginia.....	5	..	10 ^d	*	Two-thirds present ^x	(b)	(b)
Washington....	5	10	..	*y	Two-thirds present	*	*
West Virginia..	5 ^z	5 ^{d,q}	..	*	Majority elected	(b)	(b)
Wisconsin.....	6	..	6	*	Two-thirds present	(b)	(b)
Wyoming.....	3	15 ^{d,q}	..	*	Two-thirds elected	(b)	(b)

- a Bill returned to house of origin with objections, except in Georgia, where the governor need not state his objections, and in Kansas, where all bills are returned to the House of Representatives.
- b No provision for initiative or referendum in state.
- c Three-fourths in case of an emergency measure.
- d Sundays not excepted unless 10th day is Sunday, in the case of Rhode Island.
- e Sundays and legal holidays excepted.
- f New constitution, passed by General Assembly, withholds right to veto constitutional amendments.
- g Unsigned bills do not become laws; no constitutional time limit specified.
- h No provision for initiative in state.
- i Bill becomes law if not filed with objections with secretary of state within five days after adjournment.
- j Governor must act whether for or against bill within 30 days after adjournment.
- k In practice, the legislature closes consideration of bills three days before adjournment sine die.
- l Governor has 10 days from time bill was presented to him in which to approve or disapprove.
- m Bill passed in one session becomes law if not returned within two days (Maine and Mississippi three days) after reconvening of legislature.
- n Within 6 days after presentation to the governor, regardless of how long after adjournment this may be
- o Bill is dead if not signed following adjournment within 5 days of receipt by governor. In practice the General Court is not prorogued until the governor has acted on all bills.
- p Returns with approval or reasons for his disapproval within 45 days to secretary of state.
- q Governor must file his objections with secretary of state.
- r Sundays excepted.
- s Governor may not veto items in budget submitted by himself after it has passed legislature with three-fifths vote.
- t Provision for special session if vetoes.
- u No veto; bill becomes law 30 days after adjournment of session unless otherwise expressly directed.
- v Also may veto items in new bills declaring an emergency.
- w Unsigned bills do not become laws, see Hartness v. Black, 95 Vt. 190.
- x Including majority elected.
- y Also may veto items in any bill which contains items or sections.
- z Budget (appropriation) bill not submitted to governor after passage.

Source: The Council of State Governments. The Book of the States, 1948-49. Vol. VII, p. 112. Modified in accordance with Table 15. "Constitutional Provisions on Veto Powers of the Governors." The Chief Executive, Constitutional Study No. 4 of the Constitutional Survey Committee, State Legislative Council of Oklahoma. February 1948, pp. 25-27.

DISTINCTIVE CONSTITUTIONAL PROVISIONS ON LEGISLATIVE PROCEDURE

State	Provisions
Alabama	Limits scope of appropriation bills to general expenses. No amendment adopted without Yea or Nay vote recorded in journal. All bills must be referred to committee before final passage.
Arizona	Limits contents of general appropriation bills to departments, agencies, schools, debt service.
Arkansas	Limits contents of general appropriation bill. No bill to be introduced in last 3 days of session.
California	If any subject be embraced in bill not expressed in title, such act to be void only as shall not be expressed in the title.
Colorado	Reading of bills at length on 2 different days: second and third readings only. All bills shall be referred to committee.
Connecticut	Power to make rules in each house and "shall have all other powers necessary for a branch of the Legislature of a free and independent State."
Florida	No riders to be attached to appropriation bills. First reading of bills by title only.
Georgia	Executive budget provisions. Specifies objects of general appropriation bills. Thirty day notice must be given in locality prior to introduction of a local bill in General Assembly.
Idaho	Failure to organize the houses within first 4 days, quorum being present, absentees to receive no pay.
Indiana	Motion to adjourn, one-tenth members present required to order roll call. No act to take effect until published and circulated by state authority in all counties, except in stated emergency.
Iowa	If legislature desires law to take immediate effect, it shall be published in newspapers of the state.
Kentucky	Bill may be called up for consideration whenever committee, after a reasonable time, fails or refuses to report it to house. Bills carrying appropriation or debt charge, on final passage must receive vote of majority elected to each house.
Louisiana	No new bills shall be introduced after 21st day of session, except emergency declared and by two-thirds vote. When enrolled any 5 members may request reading in full before signed presiding officer.

DISTINCTIVE CONSTITUTIONAL PROVISIONS ON LEGISLATIVE PROCEDURE--(Continued)

State	Provisions
Maryland	No books or printed matter not pertaining to business of session to be purchased for General Assembly at state expense. No bills introduced in last 10 days of session unless by 2/3 vote. Specific sums must be provided in appropriation bills.
Michigan	No bill to be passed unless printed and in possession of each house for at least 5 days. No bill shall be amended in passage so as to alter its original purpose.
Minnesota	No new measure introduced except on request of governor during last 20 days of session. No bill to be passed on the day set for final adjournment.
Mississippi	Vote on final passage subject to reconsideration for 1 legislative day. No new bills introduced during last 3 days of session. Form of appropriation bills fixed and no revenue bill or property tax assessment unless 3/5 members present concur. All bills must be referred to committee, returned to house with written recommendation thereon. Appropriation bills have precedence over all others. (Art IV-68)
Missouri	No bill to be so amended as to alter its original purpose. Every bill shall be read by title on 3 different days in each house. Provides for printing and distribution of all bills to members. Sets up a permanent joint committee on legislative research. Every bill referred to committee; 1/3 elected members may discharge committee. Every committee to keep record of proceedings, record vote of members.
Montana	Specifies objects of appropriation bills. Lengthy provision against promises or influence of member for or against bill or other business--those violating provision to be deemed "guilty or bribery," expelled and ineligible to seat in future, plus civil penalties in court.
New Hampshire	Members shall refrain from lobbying for measures.
New Jersey	Special session held for considering vetoed bills.
New Mexico	Bills shall not receive more than two readings on same day. No bill shall be amended to alter its original purpose.
New York	No bills passed or become law unless printed and on desks of members in final form at least 3 calendar legislative days before final passage. No riders to be attached to appropriation bills. Tax bill must clearly state the tax and object to which it is applied.
North Carolina ...	Thirty days notice of private laws must be given.
North Dakota	No appropriation bill, except general, to be introduced after 40th day except by unanimous consent. No legislative day shall be shorter than the calendar day.

DISTINCTIVE CONSTITUTIONAL PROVISIONS ON LEGISLATIVE PROCEDURE—(Continued)

State	Provisions
Ohio	Every bill shall be "fully and distinctly read" on 3 different days.
Oklahoma	Two and one-half year limit on validity of appropriations; acts to be plainly worded.
Oregon	Every act shall be "plainly worded," avoiding as far as practicable technical terms. Members lose pay if legislature fails to organize within first 5 days after assembling.
Pennsylvania	No bill to be considered unless referred to committee, a report therefrom and printed. Limits subjects of general appropriation bill to regular departments, schools, interest on debt; other appropriations must be separate.
Rhode Island	Few procedural limitations provided.
South Carolina ...	Few procedural limitations provided.
Tennessee	Bill must be passed each time to become a law. Rejected bills not to be reconsidered in same session.
Texas	Rejected bills not to be reconsidered and passed in same session. All bills referred to committee and report thereon; must be reported at least 3 days before final adjournment. No bill to be valid unless read three separate days "and free discussion allowed thereon," except by 4/5 vote to suspend the rule. Notice must be given 30 days before passage of local act.
Utah	Bills to have one subject, expressed title, except appropriations and codification or revision of the laws.
Vermont	Provisions against members taking fees or reward to advocate or defeat any bill in the legislature. General Assembly to have "all powers necessary for the Legislature of a free and sovereign State."
Virginia	Tax laws shall specifically state the tax; on passage a majority vote of members is required.
Washington	Constitutional provision relative to time laws to take effect was repealed and covered by statute of 1911.
West Virginia	All bills shall be "fully and distinctly read" on 3 different days. Budget provisions and appropriation bills provided for at length.
Wyoming	No bill to be so altered as to change its original purpose. "No bill shall be considered or become a law unless referred to a committee, returned therefrom, and printed for the use of the members."

DISTINCTIVE CONSTITUTIONAL PROVISIONS ON LEGISLATIVE PROCEDURE--(Continued)

State	Provisions
Twelve States	Alabama, Colorado, Delaware, Kentucky, Louisiana, Montana, North Dakota, Oklahoma, Pennsylvania, Texas, Washington, and Wyoming have provisions on private interests of members. Alabama's provision (IV, 82) is quite typical: "A member of the Legislature who has a personal or private interest in any measure or bill proposed or pending before the Legislature, shall disclose the fact to the house of which he is a member, and shall not vote thereon."

Source: Prescott, Frank W. "Constitutional Provisions on Legislative Procedure," Papers on Constitutional Revision. Vol. 2. University of Tennessee Record, Extension Series Vol. XXIII, No. 3. Knoxville, Tenn.; July 1947. pp. 40-43. New Jersey altered.

CITATIONS FROM CONSTITUTIONS ON LEGISLATIVE PROCEDURE

State	Legislature	Veto
Alabama	Art. IV-51, 52, 53, 54, 55, 56, 57, 58, 61, 62, 63, 64, 66, 67, 70, 71	V-125, 126
Arizona	Art. VI-ii-8, 9, 10, 11, 12, 13, 14, 15, 24	V-7
Arkansas	Art. V-12, 13, 14, 18, 19, 21, 22, 23, 24, 28, 34	VI-15, 16, 17
California	Art. IV-1, 7, 8, 9, 10, 13, 14, 15, 24, 34	IV-16
Colorado	Art. V-10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 26, 31	IV-11, 12
Connecticut	Art. III-1, 2, 7, 8, 9, 11	IV-12 Am. 37, 50
Delaware	Art. II-5, 7, 9, 10, 11, 12, 16	III-18
Florida	Art. III-9, 10, 11, 12, 13, 14, 15, 16, 17, 18	III-28, IV-18
Georgia	Art. III-iv-4; v-2; vii-1, 2, 4, 5, 6, 7, 8, 9, 10, 13, 14, 19, 21	V-i-15
Idaho	Art. III-1, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 33	IV-10, 11
Illinois	Art. IV-9, 10, 11, 12, 13	V-16
Indiana	Art. IV-1, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 25	V-14
Iowa	Art. III-1, 8, 9, 13, 14, 15, 17, 26, 29	III-16
Kansas	Art. II-8, 10, 12, 13, 15, 16, 20	II-14
Kentucky	Section-34, 37, 39, 40, 41, 46, 47, 51, 55, 56	Sec. 88, 89
Louisiana	Art. III-7, 11, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28	V-15, 16
Maine	Art. IV-i-1, 7; ii-8; iii-4, 5, 6, 9, 12, 16, 19	IV-iii-2
Maryland	Art. III-19, 20, 21, 22, 23, 24, 25, 28, 29, 30, 31, 52	II-17
Massachusetts	Part II-Ch. I-ii-7, 8, 11. Amendments 33, 68	II-I-11, Am. 56
Michigan	Art. V-14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 39	V-36, 37
Minnesota	Art. IV-3, 4, 5, 6, 10, 12, 13, 18, 19, 20, 21, 22, 27	IV-11, 12
Mississippi	Art. IV-54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 65, 67, 68, 70, 71, 75	IV-72, 73
Missouri	Art. III-18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 35	III-31, 32, 33, IV-26
Montana	Art. V-9, 10, 11, 12, 13, 14, 19, 20, 21, 22, 23, 24, 25, 27, 28	V-40; VII-12, 13
Nebraska	Art. III-10, 11, 13, 14, 27	IV-15
Nevada	Art. IV-7, 13, 14, 15, 16, 17, 18, 23	IV-35
New Hampshire	Part II-18, 19, 20, 22, 23, 24, 36, 37	II-44, 45
New Jersey	Art. IV-i-3, 4; iv-2-6, 9; vi-1; vii-4-11	V-i-14, 15
New Mexico	Art. IV-2, 7, 8, 11, 12, 14, 15, 16, 17, 18, 19, 20, 23	IV-22
New York	Art. III-10, 11, 13, 14, 15, 16, 17, 20, 21, 22, 24, 25	IV-9

CITATIONS FROM CONSTITUTIONS ON LEGISLATIVE PROCEDURE---(Continued)

State	Legislature	Veto
North Carolina	Art. II-14, 16, 18, 19, 20, 21, 22, 23, 26	None
North Dakota	Art. II-36, 43, 46, 48, 49, 50, 51, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67	III-79, 80
Ohio	Art. II-6, 8, 9, 13, 14, 15, 16, 17, 18	II-16
Oklahoma	Art. V-28, 29, 30, 33, 34, 35, 54, 56, 57, 58	VI-11, 12
Oregon	Art. IV-11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 25, 58	V-15-a, 15-b
Pennsylvania	Art. II-9, 10, 11, 12, 13, 14; III-1, 2, 3, 4, 5, 6, 8, 10, 11, 15, 26	V-15, 16
Rhode Island	Art. IV-2, 6, 7, 8, 9, 10, 14; V-2; VI-2; VIII-8	VII-7-a
South Carolina	Art. III-11, 12, 13, 15, 16, 17, 18, 21, 22, 23	IV-23
South Dakota	Art. III-8, 9, 13, 15, 16, 17, 18, 19, 20, 21, 22	IV-9, 10
Tennessee	Art. II-11, 12, 14, 16, 17, 18, 19, 20, 21, 22	III-18
Texas	Art. II-9, 10, 11, 12, 15, 16, 17, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 57	IV-14
Utah	Art. VI-11, 12, 14, 15, 22, 23, 24, 25	VII-8
Vermont	Chap. II-6, 8, 9, 19	II-11
Virginia	Art. IV-46, 47, 49, 50, 52, 53	V-76
Washington	Art. II-8, 9, 10, 11, 18, 19, 20, 21, 22, 32, 36, 37, 38	III-12
West Virginia	Art. VI-1, 23, 24, 25, 26, 28, 29, 30, 31, 32, 41, 42, 51	VII-14, 15
Wisconsin	Art. IV-7, 8, 9, 10, 17, 18, 19, 20	V-10
Wyoming	Art. III-10, 11, 12, 13, 14, 15, 20, 21, 22, 23, 24, 25, 26, 28, 33	IV-8, 9

Source: Prescott, Frank W. "Constitutional Provisions on Legislative Procedure," Papers on Constitutional Revision. Vol. 2. University of Tennessee Record, Extension Series Vol. XXIII, No. 3. Knoxville, Tenn.; July 1947. pp. 44-45. New Jersey altered.

STATE REGULATION OF LEGISLATIVE LOBBYING

State	Laws Limited to Corrupt Practices ^a	Registra- tion Required	Legal Distinction: "Counsel" and "Agent"	Financial Report Required	Penalties for Violation		Three Years Disbarment After Conviction
					Fines	Imprisonment	
Alabama.....	*	Not less than \$500 and	1-2 yrs.	...
Arizona.....	*	Not over 5 yrs.	...
Arkansas.....
California....	...	*b
Colorado.....
Connecticut...	...	*	...	*	Not over \$1,000 ^c and/or	Not over 1 yr.	...
Delaware.....
Florida.....	...	*	Not over 20 yrs. ^d	...
Georgia.....	...	*	...	*	Not over \$1,000 and/or	Not over 6 mos.	...
Idaho.....	...	*	Not over \$200 and	Not over 6 mos.	...
Illinois.....
Indiana.....	...	*	*	*	\$200-\$1,000 or	3 mos.-1 yrs.	...
Iowa.....
Kansas.....	...	*	*	...	Not over \$5,000 and/or	Not over 1 yr.	*
Kentucky.....	...	*	...	*	Not over \$5,000 and/or	Not over 5 yrs.	...
					Not over \$1,000 ^e
Louisiana.....	*	\$200-\$2,000 and	6 mos.-2 yrs. ^f	...
Maine.....	...	*	*	...	\$100-\$500
Maryland.....	...	*	*	*	\$100-\$1,000	*
Massachusetts.	...	*	*	*	\$100-\$1,000	*g
Michigan.....
Minnesota.....

STATE REGULATION OF LEGISLATIVE LOBBYING—(Continued)

State	Laws Limited to Corrupt Practices ^a	Registra- tion Required	Legal Distinction: "Counsel" and "Agent"	Financial Report Required	Penalties for Violation		Three Years Disbarment After Conviction
					Fines	Imprisonment	
Mississippi...	...	*	...	* Not over \$1,000 and/or	Not over 3 yrs. ^h Not over 6 mos.	...
Missouri.....	*	\$100-\$500 and	10 da.-1 yr.	...
Montana.....	*	Not over 5 yrs.	...
Nebraska.....	...	*	...	*	Not over \$1,000 ^c and/or	Not over 1 yr.	...
Nevada.....
New Hampshire.	...	*	...	*	Not over \$1,000	Not over 5 yrs. ^d	...
New Jersey....
New Mexico....
New York.....	...	*	...	*	Not over \$1,000 ^c and/or	Not over 1 yr.	...
North Carolina	...	*	...	*	\$50-\$1,000 and/ or	Not over 2 yrs.	...
North Dakota..	...	*	\$100-\$1,000 ^l \$200-\$5,000 ^e	*
Ohio.....	...	*	...	*	\$200-\$5,000 and/or	1-2 yrs.	...
Oklahoma.....	...	*	\$200-\$1,000 or	10 da.-1 yr.	...
Oregon.....	*	\$50-\$500 or	3 mos.-1 yr.	...
Pennsylvania..
Rhode Island..	...	*	*	*	\$100-\$1,000 \$200-\$5,000 ^e	*
South Carolina	...	*	...	*	\$25-\$100 or	Not over 30 da.	...
South Dakota..	...	*	*	*	\$100-\$1,000 \$200-\$5,000 ^e	*
Tennessee.....	*	2-5 yrs.	...
Texas.....	*	\$200-\$2,000 and	6 mos.-2 yrs. ^f	...
Utah.....	*	\$500-\$10,000 ^j	Not over 5 yrs.	...
Vermont.....	...	*	*	...	\$100-\$500
Virginia.....	...	*	...	*	\$50-\$1,000 and/ or	Not over 1 yr.	...

STATE REGULATION OF LEGISLATIVE LOBBYING--(Continued)

State	Laws Limited to Corrupt Practices ^a	Registra- tion Required	Legal Distinction: "Counsel" and "Agent"	Financial Report Required	Penalties for Violation		
					Fines	Imprisonment	Three Years Disbarment After Conviction
Washington....
West Virginia.	*	\$50-\$200 and	10 da.-6 mos.	...
Wisconsin.....	...	*	*	*	\$100-\$1,000 ^k	*
					\$200-\$5,000 ^e
Wyoming ^l

a Exclusive of bribery. Provisions may also be found in the constitutions of the following states: Alabama, Arizona, Arkansas, California, Colorado, Delaware, Georgia, Kentucky, Louisiana, Maryland, Montana, New Mexico, North Dakota, Oklahoma, Pennsylvania, South Dakota, Texas, Washington, West Virginia, Wyoming.

b Required by the rules of the California Senate and Assembly. No punishment by fine and/or imprisonment is provided in the rules. No person may appear in legislative chambers or before any committee thereof on pending legislation unless he has first registered and received certificate from sergeant at arms.

c In addition, a corporation or association must file a statement of legislative expenses within the time required or forfeit \$100 for each day thereafter until filed.

d In Florida, offense for swearing falsely is perjury. In New Hampshire, prison term is provided for filing false statement.

e Applies to individual (other than legislative counsel or agent), corporation, or association. In Kentucky, fine up to \$5,000 for second offense, and, if a corporation, its charter may be revoked by court.

f Prison term may be added at discretion of the court or jury. In Louisiana, for unlawfully going upon

floor of legislature while in session, fine not to exceed \$100 may be imposed.

g Massachusetts provides that disbarment run until the termination of the third regular (annual) session.

h Longer term in state prison or penitentiary, shorter term with or without the fine in county jail.

i Compensation on a contingent basis and failure to make known an interest in legislation is punished by imprisonment of not more than one year or by fine not exceeding \$200.

j Fine imposed on corporation or association only.

k Applies to legislative counsel or agent only. A legislative counsel or agent may be punished for the special offense of attempting "personally and directly" to influence any member of legislature, by a fine not exceeding \$200 and imprisonment not exceeding six months. In 1933, Wisconsin provided a fine of not less than \$500 nor more than \$5,000 for violations of a law regulating the use of money for published articles in newspapers and other periodicals on matters pending before the legislature.

l Since 1945 Wyoming requires that associations actively engaged in sponsoring and formulating legislation file detailed lists of contributions and expenditures with the State Bank Examiner.

Source: "State Regulation of Legislative Lobbying" by Belle Zeller, in The Book of the States, 1948-49. Vol. VII, pp. 129-30.

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UH -- University of Hawaii

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