

Trends in State Legislatures

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Legislatures are the engines of representative democracy in the American states. They are the arenas in which the processes for choosing policies, setting priorities and reaching settlements among conflicting values and interests take place. This essay points out trends and directions in which state legislatures are moving, the significant issues confronting them and offers a framework for thinking about the current condition of state legislatures.

Legislatures are the engines of representative democracy in the American states. They are the arenas in which the processes for choosing policies, setting priorities and reaching settlements among conflicting values and interests take place. As political institutions, legislatures are not at all separate from their environments; quite the contrary, they are the most accessible and permeable of all the political institutions in American democracy.

This essay introduces, refers to and makes use of data collected from the 50 states by The Council of State Governments. It also points out trends and directions in which state legislatures are moving and the significant issues confronting them. Finally, it offers a framework for thinking about the current condition of state legislatures and describes some of the major issues facing state legislatures during the 2002 sessions.

The 50 state legislatures can be characterized and differentiated in various ways. They can be grouped by region of the country, by size of the state or length of legislative session. For present purposes, we will examine state legislatures according to their most distinguishing features: first, the extent of their professionalization; second, the degree of their political partisanship; third, the use of direct democracy in the states and how it restricts legislatures; fourth, limits on legislators' terms and the effects of term limits in 17 states; fifth, structural elements, such as legislative rules and procedures; and sixth, performance in terms of how legislatures carry out their major functions.

Professionalization

American legislatures can be distinguished from one another in terms of the professionalization of both institutions and members. Various political scientists have operationalized the concept, relying on factors such as the number of staff professionals, the compensation legislators receive, and the time the legislature and its members devote to the job. By most measures, California, Illinois, Massachusetts, Michigan, New Jersey, New York, Pennsylvania and Wisconsin lie at the professionalized end of the continuum, while

Montana, New Mexico, North Dakota, South Dakota and Wyoming lie at the least professionalized end. Roughly half the states can be found in the middle, gradually becoming more professionalized.

In the 1960s, perhaps only one or two legislatures could be considered professional. In the 1970s and 1980s, professional staff for leaders, committees, and individual members increased practically everywhere. In most states, staff remained relatively centralized in legislative councils or legislative service agencies. The number of legislative staff remained fairly constant throughout the 1990s at about 36,000. Over three-fourths of these staff were full-time professionals. The trend toward decentralization continued as more legislatures assigned staff to individual members, caucuses and committees. Through the 1970s and 1980s, legislators' salaries rose, as did expense allowances and special stipends for leadership positions. The time spent in session, meetings during the interim period and working in the constituency also increased. The result was that many bodies that were once considered "citizen legislatures" became hybrids, if not professional.

The trend toward professionalization slowed in the 1990s, but the time members spent on their job appeared to increase, if only gradually. Today's legislatures face several issues involving professionalization. First, are staffing levels adequate to do the job required? Some legislatures have large staffs, but many still lack the staff resources they need. Moreover, the recruitment and especially the retention of qualified staff present problems. Second, do low legislative salaries discourage able men and women from running for the legislature or continuing to serve? Do low salaries result in a legislative body that is composed disproportionately of the elderly, who are retired; the wealthy, who need not be concerned about the level of compensation; and the young and inexperienced, for whom a legislative salary may be competitive to what they could earn elsewhere? Third, do time demands make legislative service impossible for people who are engaged in the professions? The paramount issue generally is whether so-called citizen legislatures can any longer be justified or whether most legislatures will

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have to become bodies in which members are expected to be full time.

The tabular data reported here neither fully describes professionalization nor addresses the issues raised above. But it provides a base for analysis. The presentations that are especially relevant to the issues raised above are: legislative compensation (see Tables 3.9 through 3.12) and length of legislative sessions (see Table 3.2).

Legislative Compensation

Legislative compensation is an important factor in attracting legislators from a broad cross section of society. If it is set too low, only the wealthy or those just beginning their careers will be attracted to legislative service. Set it too high and the citizens reject it as unreasonable. In the 1960s, legislative reformers asserted that raising legislative salaries would help attract and retain more qualified members. In the mid-1960s, 26 states set legislative salaries in their constitutions. Today, only five states – Alabama, Arkansas, Nebraska, New Hampshire and New Mexico – set the specific amount of legislative compensation in the constitution. These states tend to pay relatively low salaries, such as Alabama's \$10 per day for the 105-calendar-day regular session, New Hampshire's \$100 per year and New Mexico's per-diem reimbursement of \$136 and no salary. Because these amounts are set in the constitution it is hard to change salaries to keep pace with changes in the economy. (See Table 3.8.)

In 2001, salaries ranged from a low of \$100 per year in New Hampshire to a high of \$99,000 per year in California. Seventeen states paid lawmakers \$30,000 or more per year in 2001, compared to 11 states that paid this much in 1994. Eight of these states pay in excess of \$40,000. All but six states pay legislators a per diem to cover living expenses. In at least 39 houses and 34 senates, presiding officers receive additional compensation. Majority leaders receive additional compensation in 23 houses and 21 senates, while minority leaders receive additional compensation in 24 houses and 23 senates. Other leaders, such as speaker pro tem, majority and minority whip and caucus chair, receive additional compensation in 24 states. Nine states provide additional compensation for all committee chairs, and in 10 states chairs of specific committees, such as appropriations, get extra pay. (See tables 3.9 through 3.12.)

Legislators in 40 states, the District of Columbia, Guam, Puerto Rico and the Virgin Islands are eligible for state retirement benefits. These benefits are optional in 23 states, Puerto Rico, Guam and the Virgin Islands. All but three states make health-, dental- and

optical- insurance benefits available to legislators. In some states, insurance is optional at the lawmaker's expense, while other states pay the entire premium. In most states, insurance benefits are the same as those provided to other state employees. California, the Florida Senate, Pennsylvania, Puerto Rico and the Virgin Islands provide allowances for automobiles. Leaders in Arkansas, Georgia, New Jersey and New York are provided with automobiles. (See Tables 3.9 through 3.13.)

Thirty states provide lawmakers with office expenses, staff allowances or both. Some states provide minimal allowances, such as Idaho's \$500 per year and Oklahoma's \$350 per year for unvouchered office supplies, plus seven rolls of stamps. Other states, such as California, Michigan and Texas, provide staffing allowances of more than \$100,000 to pay for district office employees. (See Table 3.10.)

Length of Legislative Sessions

Since the 1960s, states have relaxed limitations on the length of legislative sessions and restrictions on the legislatures' ability to call special sessions. Currently, 12 states place no limit on the length of regular legislative sessions, and 28 states have constitutional limits. Three states set session limits by chamber rule, and three states set indirect limits by cutting off legislators' compensation, per diem and mileage reimbursements after a certain date. (See table 3.2.)

All but six states – Arkansas, Montana, Nevada, North Dakota, Oregon and Texas – meet annually. The six that meet biennially hold their sessions in the odd-numbered year. Kentucky, New Hampshire and Washington are the most recent states to switch to annual sessions, doing so in 2001, 1985 and 1981 respectively. Following World War II, only four states met annually. This number grew to 20 states in 1966, and 41 held annual sessions in 1974. In addition, in six states – Connecticut, Louisiana, Maine, New Mexico, North Carolina and Wyoming – the subjects that the legislature can consider are limited during one year of the biennium. For the most part, the session is limited to budget, tax and fiscal bills, but these legislatures broadly interpret the types of bills that meet the criteria and the restricted sessions often are very similar to regular legislative sessions.

In the late 1980s and early 1990s, there was increased public sentiment in favor of limiting the length of sessions. Alaska, Colorado, Louisiana, Nevada and Oklahoma voters all approved constitutional amendments that resulted in shorter legislative sessions. However, as workloads grew, legislatures have used special sessions to address emergencies and

issues left unresolved in the regular session. There were 21 special sessions held in 1999, 18 in 2000 and 44 in 2001. (See table 3.20.)

Political Competitiveness and Political Partisanship

With the exception of the Nebraska Unicameral, legislatures are partisan bodies – organized and controlled either by Democrats or Republicans, or occasionally, when there is a tie, by a power-sharing agreement between the two major parties. Party affiliation and partisanship are among the defining characteristics of legislative bodies in the states and play a significant role in the legislative process in most places.

During recent decades, the nation's legislatures have been becoming more competitive bodies. This is largely because of the Republican upsurge in the 1990s. While only two or three out of every five legislative districts are competitive, depending on the state, roughly two-thirds of state senates and houses are competitive. That is, either party has a chance of winning a majority of seats and each party has had control for some time during the past decade or so. Still, some legislatures remain dominated by one party or the other – Utah, South Dakota and Wyoming by Republicans, and Hawaii, Louisiana, Massachusetts, Mississippi and Rhode Island by Democrats. But in most states, the margins are narrower, and the minority party has at least a chance in the future, if not at the very next election. For example, in 2002, nine senates have a two-seat or less split between the parties, and in seven of the houses, six seats or less separate the two parties.

Currently, as Table 3.3 shows, state legislatures are equally split between Democrats and Republicans. In 2002, following off-year elections in New Jersey and Virginia and special elections to fill two vacant seats in the Washington House of Representatives, Republicans hold a majority of seats in both chambers in 17 states, Democrats hold a majority in both chambers in 17 states, and in 15 states each party holds a majority of seats in one chamber. At the start of the 2002 sessions three legislative chambers were equally divided between the parties. (Nebraska legislators are elected on a nonpartisan basis.)

In terms of total seats held, the parties are almost tied. As sessions opened in 2002, 3,813 legislators (51 percent) were Democrats and 3,535 (48 percent) were Republicans. A combination of independents, members of other parties and vacant seats accounts for the other one percent. The parties have become dramatically more competitive in legislative elections over the past four decades. In 1960, 65 percent of all state legislators were Democrats and 35 percent were Republicans. Most of the increased competition has occurred in the

South, where Republicans increased their share of legislative seats from 10 percent in 1960 to 40 percent today. An example of their growing strength in the South took place in 2000, when Republicans held a majority of the seats in the South Carolina Senate for the first time since Reconstruction.

Three legislative chambers were tied following the 2000 election – Arizona Senate, Maine Senate and Washington House of Representatives. In Arizona, Democrats and a handful of Republicans coalesced to organize the Senate, electing a Republican Senate president and splitting committee chairs among the Democratic and Republican members of the coalition.¹ The tie in Maine occurred when voters elected 17 Democrats, 17 Republicans and one independent to the Senate. The members opted for a power-sharing arrangement that gave the Democrats the Senate presidency and control of the staff in the secretary of the Senate's office during the first year of the biennium and the Republicans the same positions during the second year. The independent senator served as Senate chair of the Joint Standing Committee on Appropriations and Financial Affairs both years. Chairs and membership of the other committees were divided equally between the two parties, as were office space and staffing.² Washington voters elected an equal number of Democrats and Republicans to the House of Representatives in 1998 and again in 2000. The parties crafted a power-sharing agreement with co-speakers, co-chairs of committees, co-clerks and an equal balance between the parties in all other functions within the House. Although the House was able to conduct its business and meet its responsibilities, operating with a tie for more than one session was frustrating for many members.³ Democrats won two special elections in 2001, which gave them a 50 to 48 majority and ended one of the longest continuous periods that a legislative chamber was tied.

The New Jersey Senate was evenly split with 20 Democrats and 20 Republicans following the 2001 election. The parties negotiated a power-sharing agreement in which the Senate president and chairs of the committees will rotate between the parties at specific intervals throughout the session.

Along with competition has come greater partisanship, reflecting a number of factors. First, most Americans still affiliate with or lean toward one party or the other. Second, in most places, the two parties take opposing positions on some key matters of public policy and on questions of taxation and state spending. Third, in over half the states, the legislative parties run campaigns for incumbents and challengers. And fourth, with high stakes and competitive politics, mem-

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bers of the two parties are inclined to stick together much of the time.

It is possible that partisan competition and partisanship will increase further, although there are no indications that substantial change will take place in the near future. Party politics raise a number of issues for legislative bodies. One issue relates to the politicization of the legislative process as a consequence of campaigns being run out of the legislature. Increasingly, lawmaking and the reelection campaign have become intertwined. Another issue pertains to the influence of staffing, particularly whether the influence of partisan staff will continue to grow while that of nonpartisan staff will diminish. This has already happened in a number of states. As important as any other issue is that of the lawmaking process itself and whether, as a result of partisan rancor, consensus building becomes an even more difficult process and deadlock increases. In some states today, Democrats have little to do with Republicans and vice versa, which diminishes civility and makes consensus building tougher than it would be otherwise. The overriding question is: just what role should parties and partisanship, through leaders and caucuses, play in the legislative process? Is there a productive way to balance partisanship and bipartisanship?

Direct Democracy

Institutionally, the relative autonomy of the legislature is as important as anything else. As representative and responsive bodies, legislatures are hardly autonomous; they have to react to environmental forces and various publics. But increasingly, as Alan Rosenthal's *The Decline of Representative Democracy* suggests, the constitutional and statutory initiative and other manifestations of direct democracy are working to further reduce legislative discretion. Public opinion polls, call-in radio and television, grass-roots lobbying and issue campaigns constrain deliberative processes and decision-making in the legislature. Shorter legislative terms, more demanding interest groups, new technology and the permeability of legislative boundaries all facilitate direct democracy. The issue facing legislatures today is how they will adapt and to what extent their strengths and independence will suffer under such pressure.

Of course, the most glaring manifestation of direct democracy is the initiative, a way to bypass the legislature and the legislative process, which is operative in 24 states. The initiative process allows amendments to the state constitution as well as state laws to be placed on the ballot, if a required number of citizens sign a petition. The electorate then votes on the initiative.

This device has been used most frequently in the West – in California, Oregon, Washington, Colorado, and Arizona – with substantial effects on state policy-making and state policy. Such effects have been especially pronounced in the areas of revenue and expenditure policy, severely limiting the legislature's authority. For example, voters in Colorado used the initiative process to set specific limits on the legislature's authority to spend revenues and to raise taxes by requiring a vote of the people on all tax and fee increases. A California initiative not only enacted limits on legislators' terms but set a ceiling on legislative expenditures that resulted in a 38 percent cut in the legislature's budget and eliminated lawmakers' pension benefits.

No states have adopted the initiative process since 1992, when Mississippi did so. Legislatures in states without the initiative are not inclined to put such a proposition on the ballot, but if voters had a choice, there is little question that they would adopt the use of initiatives for their own states. The issue that legislatures in states that allow initiatives face is whether and how their authority will be further curtailed by the voters. The issue that legislatures in states without the initiative process face is whether public pressure will build to the point that legislators are unable to resist letting the voters decide.

(See M. Dane Waters' essay on initiatives and referenda in Chapter Six and Janice May's essay on state constitutions and constitutional revision in Chapter 1 for more information on initiatives.)

Term Limits

Without the initiative in place, the term-limits movement would not have succeeded. Since term limits were first adopted in 1990 by voters in California, Colorado, and Oklahoma, they have been adopted by voters in 16 other states. Legislatures had a direct role in adopting term limits in two states. In Utah, the legislature enacted a 12-year term limit in order to preempt a shorter term that was about to be placed on the ballot as a popular initiative. In Louisiana, where there is no initiative, the Legislature placed a term-limits provision on the ballot that was approved by the state's voters in a 1995 referendum. Courts in Massachusetts, Oregon and Washington have invalidated their states' term-limits laws and the legislature in Idaho repealed its law. In most states term limits are part of the constitution, so any repeal would have to be approved by a vote of the people. Only Maine, Utah and Wyoming have statutory term limits that can be changed by the legislature. Several legislatures have considered legislation to amend them generally by increasing the number of terms allowed before the limits take effect.

States without the initiative process are not likely to enact term limits, although it is always possible that a concerted campaign could persuade legislators to put term limits on the ballot for the voters to decide, as they did in Louisiana.

The initial effects of term limits include high turnover rates, which have already hit a number of states. Other effects are impending and legislative scholars have begun studying just how legislatures are adapting to term limits. In states that have already enacted term limits, the issues are how well they adapt and what the effects on the legislative institution and the legislative process will be.

(See Table A on page 66 for more information on term limits.)

Structural Elements

Much of the data reported in this volume describes structural elements of legislatures in the 50 states. These elements differ from place to place, but all contribute to the institution and the process.

Legislative Operations and Procedures

As state legislatures have expanded their capacities and have taken a more active role in policy-making, their workloads have increased. Although there is great pressure to evolve into more professionalized bodies that spend more time in session, most legislatures want to remain part-time institutions, populated by members who hold other jobs outside of the legislature. As a result, legislatures spend considerable attention on streamlining and improving their operations and procedures. They are using technology to speed up bill processing and to increase public access to the legislative process. Many have adopted limitations on the number of bills each member may introduce as a way of reducing workloads. They are also using the interim between sessions to study issues in greater detail than they can during the session.

In recent years, legislatures have conducted formal studies of their operations, rules and procedures. The Florida House significantly restructured its committee system and process for considering legislation in the late 1990s. It also rewrote its rules to make them more understandable for new members elected under term limits. The Pennsylvania House has an ongoing committee that reviews its rules and processes, with the goal of making them more efficient and effective. In 2000, the Virginia General Assembly conducted a detailed study of its legislative process and procedures, with the goal of eliminating those that were unnecessary and time consuming. The legislature was struggling to keep up with an increasing workload while

remaining a part-time legislature with relatively short sessions. As a result of this study, the House reduced the number of committees and the number of members assigned to them. It also adopted a schedule for subcommittee meetings to avoid overlap and conflicts. Both chambers adopted incentives for prefilings bills, which results in bills being ready for consideration at the start of session and the workload being spread out throughout the session.

A major restructuring of the Rhode Island General Assembly is currently under way. A constitutional amendment approved by the voters in 1994 will reduce the House from 100 to 75 members and the Senate from 50 to 38 members effective with the 2002 election. The amendment was part of a series of changes recommended by a blue-ribbon citizens commission in 1992, which also included raising legislators' salaries from \$5 per session day to \$10,000 per year (the 2002 salary is \$11,236 per year), giving lawmakers shared office space and adding research staff to committees.

In 2001, the Wyoming Legislature assessed its need for additional research and legal staff and its procedures governing interim work. This study recommended adding more staff to the Legislative Service Office, improving interim committee scheduling, including a deadline for finishing interim work, and establishing deadlines and limits on bill introductions.

Bills and Bill Processing

As legislatures struggle to handle an increasing workload in a limited amount of time, they have adopted several strategies to limit the number of bills and better manage how they process them during the session. Currently, almost a quarter of all legislative chambers limit the number of bills that a member may introduce or request be drafted. This is almost double the number of chambers that had similar provisions in 1991. For example, lawmakers are limited to 50 bills during a regular two-year session in the California Assembly, five bills per year in Colorado and 50 bills during a session in New Jersey.

Other strategies to manage legislative workloads more effectively include the imposition of deadlines for introducing bills and allowing bills to be prefiled before the start of the legislative session. In many cases, legislatures that limit the number of bills a member may introduce during the session will allow an unlimited number of prefiled bills. In addition, 13 chambers use short-form or skeleton bills that can be turned into full bills if there is interest in the legislation. Forty-three chambers allow bills to carry over from the first year of the biennium to the second. Carryover bills do not need to be redrafted, and they often retain their

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place on the floor or in committee. These techniques are intended to get bills introduced earlier in the legislative session so committees can begin considering legislation upon convening. They also help spread out the workflow for bill drafters over a longer period of time, generally before the start of the session. (See tables 3.14 and 3.15.)

Probably the major issue of legislative structure relates to the power of leadership in bodies that are becoming more diverse and more democratically constituted. Will leaders be able to build the consensus necessary to reach settlements on issues and to balance the power of the governor?

Legislative leaders play a critical role in the operation of state legislatures. They set agendas, appoint committees, formulate policy, rule on parliamentary questions, preside over legislative sessions, maintain decorum and serve as the official spokespersons for their chambers. In essence, they are instrumental in making the legislative process work. To do their jobs effectively, they must understand their members' strengths, weaknesses and political goals. They must balance support for the members while leading them to reach desired outcomes on often difficult and controversial issues.

The leader's job has grown more complex as the demands on state legislatures have increased. This is exacerbated by turnover among leaders. About one in five presiding officers, majority and minority leaders are new to their position at the start of each biennium. Although many of them have considerable legislative experience, they are relatively new to their leadership roles. This is a particular problem in the term-limited states, where turnover among the entire membership is high, and members begin their leadership positions with limited legislative experience. In some term-limited states, members have become leaders after four years in the legislature and are termed out after two years as leader. This puts a premium on identifying potential leaders early in their careers and training the new leaders upon their election to their leadership position. (Tables 3.6 and 3.7 list the leadership positions in each legislature and how they are selected.)

Legislative Performance

A way of measuring legislatures' performance has yet to be devised (and probably cannot be devised), but there are essentially four significant functions that legislatures have to fulfill, and by which their performance can be assessed: 1) representing constituencies; 2) lawmaking; 3) balancing the power of the executive; and 4) maintaining the well-being of the legislature as an institution.

Representing Constituencies

Legislatures represent their constituencies and constituents by various means. Indeed, constituency is probably a more powerful influence on their behavior than any other factor.

One issue is just how representative legislators are of the people in their states. While they do not have to mirror the population in every demographic group, there is agreement that no major groups should be excluded from serving in the legislature. And none is, although those who serve are generally better educated and more secure financially than the population at large. But there has been substantial change in the demographic composition of legislatures. Legislatures include more minorities than they did before. The number of women serving in state legislatures increased from 301 (4 percent) in 1969 to 1,666 (22 percent) in 2002.⁴ Likewise, the number of African-American state legislators grew from 168 (about 2 percent) in 1970 to 567 (almost 8 percent) today.⁵ Hispanic legislators have also made gains in state legislatures, holding 198 (almost 3 percent) of legislative seats nationwide.⁶ Given the projected future growth of Hispanics in the overall population, the number of Hispanic lawmakers is likely to increase.

The majority of state legislators are baby boomers, with about six in 10 having been born between 1946 and 1965. The second largest block of lawmakers – about three in 10 – are those in the “silent generation” born between 1928 and 1945. Approximately five percent of lawmakers are under 35 and about four percent are 75 or older.

Another issue pertains to the representational role of legislators and how they serve their constituencies, while also taking into account the interests of the entire state. They are expected to provide some connection between their constituents and government and, by virtue of their activity in the district, they surely do. They are also expected to help their districts with state-budget allocations and appropriations for special projects. Their efforts in this domain are often criticized as parochial, but legislators believe that one of their jobs is to bring home the bacon. They are also expected to express the views of their constituency on policy and budgetary priorities, and this is the most problematic part of their representational role. On many issues, constituents have little concern; on others, small groups compete against one another; on a few, constituents divide sharply; and on even fewer, something resembling a constituency mandate can be said to exist.

The nature of representation varies enormously from state to state and even from district to district. The number of people in a district is an important factor in

determining the nature of representation. The populations of districts in the large states range in the hundreds of thousands, while those in the smaller states are under 10,000. The geographical shape of a district is also important.

Lawmaking

The introduction, processing and enactment of laws and the adoption of a state budget constitute a second major function of legislative bodies. The debate, deliberation and negotiation that take place from one stage of the legislative process to the next are critical. The important issues involve the nature of the discussion and how – and how fairly – issues get resolved.

Balancing the Power of the Executive

In the American system of separated powers, one legislative function is to balance the power of the executive. Whereas governors are elected statewide, legislators are elected by district. Whereas governors are individuals, speaking with a single voice, legislatures are a collection of individuals, speaking with many voices. While governors stand at the top of a governmental hierarchy, legislators are essentially equal to one another. Moreover, governors have the power not only to initiate policies and shape budgets, but also to veto – usually to item veto, and sometimes to conditionally veto, as well. Provisions regarding the governor's veto and the legislature's override are shown in Table 3.16. Ordinarily, governors have the upper hand in their dealings with the legislature. The issues for legislatures are those of independence, co-equality and the maintenance of a reasonable balance with the governor.

One way that legislatures maintain the balance of power with the executive branch is through the oversight process. While an important legislative function, it is one that legislatures find hard to perform effectively. Legislatures use several formal approaches for overseeing executive-branch operations. The first and most consistently applied is the budget process, where legislatures independently assess and adopt a budget for the executive branch. Every legislature has specific staff assigned to analyze the budget and fiscal issues. Legislative budget committees hold hearings and generally scrutinize the executive's budget request. Through this process, the legislature can monitor the operations of state agencies and exert its influence over the executive branch. A second approach is through program evaluation and auditing. Forty-four legislatures have a formal process for conducting program evaluations or performance audits of state agencies and programs. This process generates detailed information about how the laws the legislature passes are being

implemented by the executive branch. Some states use sunset laws that automatically terminate agencies and programs unless a review demonstrates that they should be continued as part of their program-evaluation process. Table 3.27 describes the provisions of the states' sunset laws. A third approach to oversight is legislative rules review. In this process, legislatures review the rules and regulations promulgated by state agencies to determine whether they are consistent with the legislature's intent when it gave the agencies rule-making authority, and whether the agency has the authority to do what is embodied in the rules. The legislatures vary in the actions they can take when they find that the rules and regulations do not meet these criteria. Forty legislatures have a formal rules review process. (See Tables 3.25 and 3.26.)

Maintaining the Well Being of the Legislature

The legislature and the legislative process are the engines of representative democracy. They drive the system. The legislature as an institution is not only a means to an end (that of public-policy decisions), it is an end itself. Thus, the well-being of the legislature is more important than any particular policies that it enacts.

The contemporary environment is especially hard on legislatures. The result is a public that is anti-politics, anti-politician, anti-process, and anti-institution. It is difficult for legislatures not to be affected by the cynicism they constantly encounter. In some respects, legislators themselves are to blame, such as when they make accusations against "the system" in political campaigns. In some respects, many legislators suffer because of the conduct of very few.

An overriding issue for legislatures today is whether they are taking steps to educate members and citizens alike about the importance and workings of the legislature in representative democracy. Building member and public support for the legislature as an institution and representative democracy as a system is a most important and most challenging part of a legislator's job.

Major Issues in the 2001-2002 Legislative Sessions

State legislatures considered a number of perennial issues during the 2001 and 2002 sessions, such as education policy and funding, transportation, growth management and welfare reform. In many respects, the usual business took place. However, state legislators also faced challenges and issues they did not have to address in other recent sessions.

To paraphrase the old line about the importance of location in the real estate business, the top three issues facing state legislatures in the 2002 legislative sessions were budgets, budgets and budgets. After a decade of

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Table A: Basic Provisions of State Term Limits Laws

State	Year enacted	Length of limits		Consecutive terms	Lifetime limit
		Senate	House/Assembly		
Arizona	1992	8	8	Yes	No
Arkansas	1992	8	6	No	Yes
California	1990	8	6	No	Yes
Colorado	1990	8	8	Yes	No
Florida	1992	8	8	Yes	No
Idaho (a)	1994	8	8	Yes	No
Louisiana	1995	12	12	Yes	No
Maine	1993	8	8	Yes	No
Massachusetts (b)	1994	8	8	Yes	No
Michigan	1992	8	6	No	Yes
Missouri	1992	8	8	No	Yes
Montana	1992	8	8	Yes	No
Nebraska (c)	2000	8	N.A.	Yes	No
Nevada	1996	12	12	No	Yes
Ohio	1992	8	8	Yes	No
Oklahoma (d)	1990	12	12	No	Yes
Oregon (e)	1992	8	6	No	Yes
South Dakota	1992	8	8	Yes	No
Utah	1994	12	12	Yes	No
Washington (f)	1992	8	6	Yes	No
Wyoming	1992	12	12	Yes	No

Note:

(a) The Idaho legislature repealed its term limits law in 2002.

(b) The Massachusetts Supreme Court overturned the term limits law in 1997, ruling that constitutionally established qualifications for office could not be changed via statute.

(c) An initiative limiting legislative terms was passed in 1992 but was overturned by the Nebraska Supreme Court in 1994 because there were not enough signatures to place the initiative on the ballot. An initiative limiting legislative and congressional terms was passed in 1994 but was overturned by the state Supreme Court in 1996 because the legislative limits were so intertwined with

the unconstitutional congressional limits as to be unconstitutional themselves. An initiative setting the current limits on legislative terms was passed in 2000.

(d) Oklahoma limits legislators to 12 total years of legislative service.

(e) Oregon limited legislators to eight years in the Senate, six years in the House and 12 total years of legislative service. The state Supreme Court invalidated the term limits law in 2002.

(f) The Washington Supreme Court overturned the term limits law in 1998, ruling that constitutionally established qualifications for office could not be changed via statute.

strong economic growth, the national recession took a toll on state revenues and drove up costs in several areas. After seven straight years of enacting tax cuts totaling \$35 billion, state legislatures had to find ways to reduce their budgets.⁷

Going into the sessions, more than 40 legislatures reported revenues below projections. Nearly half of the states revised their fiscal year 2002 revenue forecasts downward and in eight of these states, revenue collections were failing to meet the revised levels. Twenty-eight states and the District of Columbia reported that spending was above budgeted levels, with Medicaid expenses running over budget in at least 23 states. At

least 30 states implemented budget cuts or holdbacks and at least 15 states and the District of Columbia tapped reserve funds to balance their fiscal year 2002 budgets. States took some drastic measures to address these fiscal problems, such as delaying or canceling capital projects, placing a freeze on hiring, redirecting special funds into the general fund, delaying scheduled tax cuts and increasing state-employee contributions to health care plans. Arizona, California and Oregon held special sessions to address problems with the fiscal year 2002 budgets. Tax proposals to help balance the fiscal year 2003 budgets were being considered in 19 states.⁸

The terrorist attacks of September 11 and the result-

ing war on terrorism pushed security issues to the top of legislative agendas. Legislatures considered a number of measures to define terrorism and impose new criminal penalties. Florida, Michigan and Minnesota were among the states with legislation that defined acts of terrorism and assigned criminal penalties to them. Many of the states considered legislation that imposed penalties for terrorist hoaxes and false reports. Legislatures also considered bills to update and enhance the public health system's capacity to deal with bioterrorism and address issues such as administering antidotes, vaccines and antibiotics in crises. All of the states have created a mechanism – either an office of homeland security, commission or task force – to address security and terrorism issues. Legislatures tightened security in and around state capitols and legislative office buildings and took measures, such as installing metal detectors and x-ray machines, screening bags and briefcases and restricting access to a single entrance.⁹

Legislatures in most states undertook the process of redrawing district lines for themselves and members of Congress. Sometimes described as a “political blood-sport,” redistricting can be a highly political and technical process that consumes the time and attention of lawmakers. It drew added attention in the 2001 and 2002 sessions because, given the narrow partisan split in the U.S. House, decisions made by state legislatures in drawing congressional boundaries could determine which party controls the U.S. House of Representatives in 2003. In many states however, the courts will have the final say, either because legislatures were unable to agree on a plan by the deadlines for the 2002 elections or the legislative plan failed to meet the necessary legal requirements.¹⁰ (See Ronald Weber's essay on redistricting in Chapter 6 for more information.)

Shopping on the Internet continued to increase, because it is convenient, economical and many people assume “sales tax free.”¹¹ Studies show that states will lose a total of \$10.8 billion in 2003 alone as a result of uncollected sales and use tax on sales from remote locations. The states are currently working on a plan to remove the burden on remote sellers by simplifying the state sales- and use-tax structure. In 2001, Congress passed a two-year extension of the Internet tax morato-

rium, giving states a window of opportunity to accomplish this and convince the Congress and/or the federal courts to require merchants to collect sales and use taxes on their remote sales. During the 2001 and 2002 sessions over 25 states and the District of Columbia adopted legislation to simplify their sales taxes and representatives from these states are participating in a working group to develop an interstate agreement that will embody the details of a simplified sales tax system.

Notes

¹ Howard Fischer, “Equity's Hot in Arizona,” *State Legislatures* (National Conference of State Legislatures) 27, no.7 (July/August 2001): 21-23.

² Francis Quinn, “Mellow (Mostly) in Maine,” *State Legislatures* 27, no.7 (July/August 2001): 24-26.

³ David Ammons, “Fit to be Tied in Washington,” *State Legislatures* 27, no.7 (July/August 2001): 16-20.

⁴ “Women of Color in Elective Office 2001” Fact Sheet (New Brunswick, NJ: Center for American Women in Politics, December 2001).

⁵ Steve Manas, “Political Influence: African Americans and the Legislative Process,” *Rutgers Focus*, Rutgers University, October 19, 2001, <http://ur.rutgers.edu/focus/index.phtml?Article_ID=825&Issue_ID=102>.

⁶ “Latinos Grab Seats in State Houses Nationwide,” NALEO News, National Association of Latino Elected and Appointed Officials Educational Fund, November 9, 2000, <<http://www.naleo.org/PressReleases/latinosgrab.htm>>.

⁷ Gene Rose, “A Fog of Uncertainty,” *State Legislatures* 28, no.1 (January 2002): 12-16.

⁸ National Conference of State Legislatures, *State Fiscal Outlook for FY 2002: January Update*, (Denver, CO: National Conference of State Legislatures, 2002), 1-2.

⁹ National Conference of State Legislatures, *States Respond to Terrorism*, March 2002, <<http://www.ncsl.org/programs/press/2002/t-briefs.htm>>.

¹⁰ National Conference of State Legislatures, *Redistricting*, March 2002, <<http://www.ncsl.org/programs/legman/elect/redist.htm>>.

¹¹ Rose, “A Fog of Uncertainty,” 15-16.

About the Authors

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LEGISLATURES

Table 3.1
NAMES OF STATE LEGISLATIVE BODIES AND CONVENING PLACES

<i>State or other jurisdiction</i>	<i>Both bodies</i>	<i>Upper house</i>	<i>Lower house</i>	<i>Convening place</i>
Alabama	Legislature	Senate	House of Representatives	State House
Alaska	Legislature	Senate	House of Representatives	State Capitol
Arizona	Legislature	Senate	House of Representatives	State Capitol
Arkansas	General Assembly	Senate	House of Representatives	State Capitol
California	Legislature	Senate	Assembly	State Capitol
Colorado	General Assembly	Senate	House of Representatives	State Capitol
Connecticut	General Assembly	Senate	House of Representatives	State Capitol
Delaware	General Assembly	Senate	House of Representatives	Legislative Hall
Florida	Legislature	Senate	House of Representatives	The Capitol
Georgia	General Assembly	Senate	House of Representatives	State Capitol
Hawaii	Legislature	Senate	House of Representatives	State Capitol
Idaho	Legislature	Senate	House of Representatives	State Capitol
Illinois	General Assembly	Senate	House of Representatives	State House
Indiana	General Assembly	Senate	House of Representatives	State House
Iowa	General Assembly	Senate	House of Representatives	State Capitol
Kansas	Legislature	Senate	House of Representatives	State Capitol
Kentucky	General Assembly	Senate	House of Representatives	State Capitol
Louisiana	Legislature	Senate	House of Representatives	State Capitol
Maine	Legislature	Senate	House of Representatives	State House
Maryland	General Assembly	Senate	House of Delegates	State House
Massachusetts	General Court	Senate	House of Representatives	State House
Michigan	Legislature	Senate	House of Representatives	State Capitol
Minnesota	Legislature	Senate	House of Representatives	State Capitol
Mississippi	Legislature	Senate	House of Representatives	State Capitol
Missouri	General Assembly	Senate	House of Representatives	State Capitol
Montana	Legislature	Senate	House of Representatives	State Capitol
Nebraska	Legislature	(a)		State Capitol
Nevada	Legislature	Senate	Assembly	Legislative Building
New Hampshire	General Court	Senate	House of Representatives	State House
New Jersey	Legislature	Senate	General Assembly	State House
New Mexico	Legislature	Senate	House of Representatives	State Capitol
New York	Legislature	Senate	Assembly	State Capitol
North Carolina	General Assembly	Senate	House of Representatives	State Legislative Building
North Dakota	Legislative Assembly	Senate	House of Representatives	State Capitol
Ohio	General Assembly	Senate	House of Representatives	State House
Oklahoma	Legislature	Senate	House of Representatives	State Capitol
Oregon	Legislative Assembly	Senate	House of Representatives	State Capitol
Pennsylvania	General Assembly	Senate	House of Representatives	Main Capitol Building
Rhode Island	General Assembly	Senate	House of Representatives	State House
South Carolina	General Assembly	Senate	House of Representatives	State House
South Dakota	Legislature	Senate	House of Representatives	State Capitol
Tennessee	General Assembly	Senate	House of Representatives	State Capitol
Texas	Legislature	Senate	House of Representatives	State Capitol
Utah	Legislature	Senate	House of Representatives	State Capitol
Vermont	General Assembly	Senate	House of Representatives	State House
Virginia	General Assembly	Senate	House of Delegates	State Capitol
Washington	Legislature	Senate	House of Representatives	State Capitol
West Virginia	Legislature	Senate	House of Delegates	State Capitol
Wisconsin	Legislature	Senate	Assembly (b)	State Capitol
Wyoming	Legislature	Senate	House of Representatives	State Capitol
Dist. of Columbia	Council of the District	(a)		Council Chamber
American Samoa	Legislature	Senate	House of Representatives	Maota Fono
Guam	Legislature	(a)		Congress Building
No. Mariana Islands	Legislature	Senate	House of Representatives	Civic Center Building
Puerto Rico	Legislative Assembly	Senate	House of Representatives	The Capitol
U.S. Virgin Islands	Legislature	(a)		Capitol Building

Source: The Council of State Governments, *Directory 1 - Elective Officials 2002*.

(a) Unicameral legislature. Except in Dist. of Columbia, members go by the title Senator.

(b) Members of the lower house go by the title Representative.