

I. LEGISLATIVE BASICS

“Legislatures engage in three principal functions: *policymaking, representation, and oversight*. The first, policymaking, includes enacting laws and allocating funds. In their second function, legislators are expected to represent their constituents—the people who live in their district—in two ways. At least in theory, they are expected to speak for their constituents in the state—to do ‘the will of the public’ in designing policy solutions. In another representative function, legislators act as their constituents’ facilitators in state government.” The oversight function, evaluating the performance of the state bureaucracy, is one that legislatures have taken on recently. It is beyond the scope of this study of the legislature, which focuses on policies and practices in the legislative process. (Bowman and Kennedy, 2002, p. 140. See *Selected References*.)

Alabama Basics

Meeting Site: Alabama State House
11 South Union Street
Montgomery, AL 36130

The Alabama Legislature meets in the State House, located on Union Street across from the historic Capitol, occupying the fifth, sixth, seventh, and eighth floors. The former Highway Department Building was renovated in 1985 for temporary use by the legislature during the restoration of the Capitol. For the first time each legislator had a private office and telephone. In 1992 the move became permanent. The legislative chambers in the Capitol are now used for committee meetings and ceremonial events.

In the State House the Joint Briefing Room on the eighth floor is called “the star wars room” because it is fully equipped with the latest in computer and closed circuit television equipment. Each committee room is also wired

for sound, so that a legislator, while in his or her office, may listen to and monitor the committee meetings through a closed circuit sound system. (Unless otherwise identified, information in this section is from *The Legislative Process: A Handbook for Legislators*, 2002. See *Alabama Law Institute in Selected References*.)

At present, according to interviews and responses to the Survey of Legislators, lack of space has again become a serious problem, especially for committee meetings and for secretaries.

Meeting Schedule: Annual Sessions

Annual sessions with yearly salaries for legislators were adopted in 1974 with the passage of Constitutional Amendment 339. The first referendum in 1971 failed.

REGULAR SESSIONS of the legislature are for 30 legislative days (formal meeting

Regular Sessions Starting Dates in the Legislature's Four-Year Term

First year: Organizational Session--2nd
Tuesday in January;
Special Location--Alabama Law Institute,
Tuscaloosa;
Limited to 10 consecutive days

Regular Session--1st Tuesday in March

Second and third years: 1st Tuesday in
February

Fourth year: 2nd Tuesday in January

days) that may extend over 105 calendar days. The usual legislative week consists of three days: Senate and House sessions on Tuesdays and Thursdays with Wednesdays reserved for meetings of committees and caucuses.

The 30 legislative days allowed by Alabama are short when compared with other states. Florida allows 60 days, and Maryland allows 90 days, both of which are considered short sessions. Because the 30 days in

Alabama are spread over an unusually long period for a short session, 105 calendar days, the legislature has some flexibility. Breaks of a week or more may occur as events or the need for negotiation dictates. Of legislators surveyed, only 11% favored longer sessions.

SPECIAL SESSIONS may be called by the Governor to deal with the special topics included in the official Call. Special sessions meet for 12 legislative days within a period of 30 calendar days. Bills not included in the Governor’s Call may be introduced, but their passage requires a 2/3 majority.

Membership of the House and Senate

The current legislature was elected in 2002 for four-year terms. Members are up for reelection in 2006. The composition of both bodies in 2006 is summarized below:

House of Representatives	105
Democrats	62
Republicans	43
Women	13
African-Americans	26
Senate	35
Democrats	25
Republicans	10
Women	3
African-Americans	8

The percentage of women in the Alabama Legislature is now at an all-time high (16 of 140 members or 11.4%), giving the state a rank of 49th in the nation. (Numbers for all states are available at www.cawp.rutgers.edu).

A Bill’s Progress

After being filed or “dropped,” a bill receives three readings in each of the two houses before becoming law.

First Reading: A bill is assigned to committee after being read by title only. The committee may hold one or more meetings on the bill or refuse to put it on the agenda of a meeting for consideration. If the committee approves the bill, it is reported out.

Second Reading: The committee’s report to the members after it has finished its work on the bill and voted for passage is read to the whole body. The bill is then placed on the House or Senate Calendar for action later. The Rules Committee decides whether the bill will make further progress by placing it on a Special Order Calendar or setting it on the day’s agenda.

Third Reading: When a bill comes up on the calendar for a third reading, the question of final passage is before the house. At this time the bill is read at length, and committee amendments are presented. Amendments or motions may be offered, debated, and voted on. Upon termination of debate, the question of final passage is voted on. If the necessary majority of members present and voting vote favorably, the bill is passed.

For most bills, a majority vote of members present is required for passage, assuming that a quorum of members is present: 18 in the Senate, 53 in the House. A Constitutional Amendment requires an affirmative vote by 3/5 of *all elected members* of each house. The “Budget Isolation” Constitutional Amendment (Amend. 448, 1984) affects the majority required in the early part of a session. To pass legislation before budgets are submitted to the Governor, the legislative body must first approve a Budget Isolation Resolution by a 3/5 vote of the quorum. Often such a resolution allows consideration and passage of a non-budget bill with a regular majority. Sometimes, however, early in the session, a minority of members may prevent passage by rejecting the

resolution to exempt a bill from the budget isolation provision.

The process of three readings is repeated in the second house after the bill is *engrossed* and sent over. A bill that passes the second house in the same form as passed in the first house is *enrolled* and sent to the Governor for signature. Constitutional Amendments do not go to the Governor for signature; they are placed on the ballot for a vote of the people.

If a bill is changed in the second house, it is returned to the first, which may (1) concur in the amendments, (2) refuse to concur and kill the bill, or (3) refuse to concur and request a Conference Committee. A Conference Committee is the usual route for budget legislation. Composed of three members from each chamber, this committee seeks to work out the differences between the two bills. If this is accomplished, the reworked legislation is reported to both houses for a vote. If compromise is not reached, the Conference Committee may be discharged and a new committee appointed. This process may be repeated. At the end of a legislative session near or at the 30th legislative day, there is often great pressure to report a bill from conference and get it to a vote. Legislators complain that this pressure often results in votes on legislation they have not had time to read or study.

Leadership

The current leaders of each house were elected in the 2003 organizational session. For most of the 20th century, it was understood that the Governor would choose the Speaker of the House and other leaders. The election by members was *pro forma*. Since 1987, House members have voted independently for their leadership. The party with a majority in the House, as a general rule, elects its candidate for Speaker.

Until 1999, the Lt. Governor not only presided over the Senate but also held almost all powers

over the committee system and Senate agendas. When a Lt. Governor of a different party from the majority of senators was elected in 1999, certain powers were transferred by the majority party from the Lt. Governor to the President Pro Tempore. The Lt. Governor, as the President of the Senate, presides, enforces Senate Rules, breaks tie votes, and has some power to appoint boards. (More details about shared powers appear in *The Committee System*.)

Although the 1999 decision was described in interviews as primarily a political decision, not a policy one, the powers of the Lt. Governor have not been restored even though the Lt. Governor is currently of the majority party.

Comments on Senate leadership appeared in two forms in the interviews: Those who favor the current system view the Lt. Governor as part of the Executive Branch and thus not appropriate as the actual leader of a legislative body. Opponents believe that being elected by all citizens of the state provides more standing for the Lt. Governor than a single senator can possess. States currently use both arrangements with many permutations. In 24 states, the Lt. Governor is listed as President of the Senate; 28 states have a chief leader elected by the members individually, who may have the title of President of the Senate or another title. (*Book of the States*, 2004, pp.88-89)

2003-2006 Senate and House Leadership	
Senate	
President of the Senate:	Lt. Gov. Lucy Baxley (D), Montgomery
President Pro Tempore:	Lowell Barron (D), Fyffe
House of Representatives	
Speaker of the House:	Seth Hammett (D), Andalusia
Speaker Pro Tempore:	Demetrius C. Newton (D), Birmingham

Professor Jesse Brown, an expert on the Alabama Legislature, favors limiting the duties of the Lt. Governor to the Executive branch.

The Senate, he says, should elect one of its members to serve as President of the Senate and its presiding officer, “selected and legitimized by a majority.” His objections to the previous arrangement are: (1) The Senate’s agenda “has often been infected by the statewide political ambitions of the Lt. Governor;” and (2) A Lt. Governor of a party without a Senate majority “creates an environment for inter-party bickering and gridlock.”

In citing arguments against his proposal, he mentions the following: (1) One senator with loyalties to one district might acquire “a disproportionate influence over legislation” as Senate President; and (2) The Lt. Governor “operating with a statewide political agenda would be a more neutral ‘referee’ among the competing factions and parochial interests of individual senators.” Professor Brown doubts the “alleged neutrality,” and notes that “the degree of influence of a Senate President would vary, depending on the operating rules and structure adopted by the Senate.” (Brown, 2002-2003, pp. 592-593)

Legislative Council and Legislative Support Agencies

The Legislative Council, created in 1945, is composed of members from both bodies. It is charged with the review of administrative rules and with the development of policy proposals for consideration by the legislature. It also supervises the work of the Legislative Reference Service. Ex-officio members include the major leadership in each house, chairs of the Rules Committees, chairs of the Judiciary and Finance and Taxation Committees in the Senate, and chairs of the Ways and Means and the Local Government Committees in the House. In addition four senators and six representatives are elected. The Council oversees Joint Interim Committees.

The Legislative Reference Service (LRS), also created in 1945, operates under the direction of the Legislative Council. Although it is described as “a research, reporting, and bill-drafting agency,” its resources are devoted almost entirely to bill drafting. Individual legislators, the Governor, state departments and agencies, and even local governments may request bill drafting. Priorities for the “spot” research or studies mentioned in the *Alabama Government Manual* are determined by the Legislative Council. Jerry Bassett, Director, may appoint personnel either within or outside of the Merit System. (www.lrs.state.al.us)

The Legislative Fiscal Office (LFO), created in 1975, provides fiscal information to the House Committee on Ways and Means and to the Senate Committee on Finance and Taxation, including information about the budget, appropriation bills, and other bills authorizing or providing budget authority or tax expenditures; and information with respect to revenues, receipts, estimated future revenues, and changing revenue conditions. The Fiscal Office also provides a Fiscal Note, a written estimate for each bill that will cause any anticipated increase or decrease in revenue collections in the state. Further, in the Senate, the LFO provides a Fiscal Note for any general bill that affects state funding by more than \$1,000. It also provides information requested by other legislative committees or individual legislators. Director Joyce Bigbee hires and directs the work of the policy analysts, who come from various backgrounds that are generally related to the functional areas they analyze, for example, Education, Health and Social Services, Natural Resources and Transportation, Administration, Public Protection and Judiciary, and Revenue and Taxation. LFO analysis focuses predominantly on the budgets and money and is not substantive pro and con analysis of legislation. (www.lfo.state.al.us)

The Alabama Law Institute (ALI), created in 1967 and located at the Law Center of the University of Alabama Law School, is composed of attorneys and judges under the direction of Robert L. McCurley, Jr. It acts in an advisory capacity “to consider needed improvements in the law and to make recommendations to the legislature.” It studies the law with a view toward “discovering defects and inequities and recommending needed reforms.” In addition it carries out, through the facilities of the Legislative Reference Service, a plan for continuous Code revision. (www.ali.state.al.us) (The legal support ALI assigns to the legislature is discussed in *Legislative Support: Staffing and Research*, along with the work of the LRS and LFO.)

The Examiners of Public Accounts were removed from the Department of Finance and established as a separate department in 1947. They examine and audit the books, accounts, and records of all state and county offices, officers, bureaus, boards, commissioners, corporations, departments and other agencies, including the state’s two-year and four-year colleges and universities. They may also perform investigations. Ronald L. Jones is Chief Examiner. The Legislative Committee on Public Accounts (a joint Senate-House committee) exercises general supervision over the Examiners.

A Brief History of Modern State Legislatures

To understand the Alabama Legislature it must be set in the context of general legislative practice. That in turn requires some knowledge of the legislative reform movement that began nationwide in the 1960s and 1970s, and some consideration of how Alabama did or did not participate in those reforms. Alan Rosenthal, for many years the foremost authority on legislative reform, provides the following account. (Rosenthal, 1998 and 1996)

Before the reforms, legislatures were “unrepresentative, malapportioned, and dominated by rural areas of the states. The legislative process was, in many instances, a sham; power within the institution was narrowly held and not democratically exercised. Major issues were sidestepped, and initiatives for state policy were left to the governor. The legislature’s role in the most important business of government, that of allocating funds, was minimal. Whatever the positive outcomes, and however well-served the people of a state might have been, relatively little was attributable to the performance of the legislature.” (Rosenthal, 1996, p. 108)

The first stage in the transformation was precipitated by reapportionment decisions by the U.S. Supreme Court in *Baker v. Carr* (1962) and *Reynolds v. Sims* (1964). Legislative districts were redrawn on the basis of population to conform as closely as possible to the “one person, one vote ideal.” “A new generation of members—led by a number of outstanding leaders and supported by allies drawn from the ranks of citizens, businesses, foundations and universities—went to work to reshape legislative institutions through such groups as the Citizen’s Conference on State Legislatures.” (Rosenthal, 1996, pp. 108)

This Conference identified five characteristics critical to legislative improvement. Ideally a legislature should be functional, accountable, informed, independent, and representative. In a measurement of the 50 states published in 1971 as *The Sometime Governments: A Critical Study of the 50 American Legislatures by the Citizens Conference on State Legislatures*, Alabama ranked 50th based on the following rankings: Functional 48; Accountable 50; Informed 49; Independent 50; Representative 41. (pp. 168-171) In the decade from 1965 to 1975, characterized by Rosenthal as “the rise of the legislative institution,” the capacity of legislatures to perform their functions was strengthened in

three ways: *time, space, and information.* (Rosenthal, 1996, pp.108-111)

Depending on the extent to which the reforms were embraced, two concepts are used to describe major differences in how legislative bodies operate: professional legislatures and citizen legislatures. (Rosenthal, 1998, Chapter 2)

Professional Legislatures vs. Part-Time or Citizen Legislatures

Professional legislature is the term applied to the legislatures that most fully embraced the reforms proposed by the Citizens Conference on State Legislatures. These reforms increased the capacity of the legislature to function as an independent branch of government, capable of balancing the power of the executive branch and having the information necessary to make independent, informed policy decisions. Increased capacity includes: longer sessions (some meet almost year-round); increased staff numbers, including full-time staff; adequate space in which to conduct legislative business; and compensation levels that allow legislators to live without simultaneously performing a separate job. In professional legislatures, the members may list "Legislator" when asked their profession. They consider the legislature a career, not a stepping-stone to other offices or a way to enhance their other jobs. *Professional* can also apply to the way the legislature conducts its business, the conduct of the legislators, or both. The legislature develops as an institution with its own rules and norms for operation and with independence from the executive branch. The most populous states usually fall into this category.

Citizen legislature (sometimes called traditional legislature) is a term applied to legislatures that are mostly from small states. They meet only part of each year and have relatively few full-time staff. Legislators in such states hold full-time jobs and legislative work consumes the equivalent of a half-time job or less and offers low pay.

In reality, the distinctions between the two classifications may blur. Twenty-four states, including Alabama, are classified as a mixture of both types. (NCSL web site and Alan Rosenthal, 1998. See *Selected References.*) Although the distinction applied underlies many decisions about a legislature, both the public and legislators are often pulled in both directions when assessing what mix of the two may be appropriate for Alabama. Interviews and the Survey of Legislators revealed some of these tensions. (This topic is also discussed in *Legislative Support: Staffing and Research.*)

Some legislatures that developed into strong institutions in the 1970s and 1980s were destabilized in the 1990s by two powerful forces. The first was Term Limits. The second was Initiative and Referendum, which allows the use of ballot initiatives to legislate directly or indirectly. (Rosenthal, 1996, pp. 133-134) Alabama has neither Term Limits nor Initiative and Referendum as practiced elsewhere.

II. THE COMMITTEE SYSTEM

The committee system is universally understood to be the core of the legislative process. It is the major point in the process at which in-depth member analysis (substantive and political) of proposed legislation is most likely to occur. It is the first step in any examination of legislative policies and procedures.

The account of the committee system in this *Fact and Issues* presents information gathered from a variety of sources: interviews with legislators and knowledgeable observers, an anonymous survey of legislators, presented in Appendix A, House and Senate Rules, academic studies of state legislatures and legislative policy-making. (Rosenthal, 1998, pp. 133-137 and others) The topic of committee support in the form of staffing and research capacity is important enough to require a separate examination. (See *Legislative Support.*)