



NCSL
EP #5 THE MODERN LEGISLATURE
MARCH 2021

[SFX: Comments from Governor Tom Wolf followed by applause](#)

MEGAN: In an outdoor ceremony Pennsylvania Governor Tom Wolf, surrounded by legislators and community stakeholders, signs newly passed police reform bills. These signing ceremonies may be the most quintessential image for Americans of the legislative process. But, this is just the final step.

MANDY: Here's what House Speaker Bryan Cutler had to say about it:

CUTLER: I was honored to get the final seal of approval on behalf of all the house members on these important pieces of legislation that represent every voice involved in these issues. Our members on both sides of the aisle listen to their constituents, and engage with law enforcement to help make our community safer and enhance trust in the people sworn to protect and serve. Our timely action shows the power of our chamber to act on behalf of the will of Pennsylvanians when our rules and processes are used appropriately and effectively.

MEGAN: The ceremony is a celebration of the legislative process.

MANDY: But public signings obscure the untold hours of work done, not only by the legislators and stakeholders, but by highly skilled and dedicated legislative staff.

MEGAN: But legislating didn't always look like this. Wisconsin State Senator Fred Risser, first elected in 1956, explains:

RISSER: When I started out, there were no phones, no stationary, no staff. We didn't have computers or wireless phones or any of that. In fact, if we wanted to phone, we'd have to go down to the sergeant's office and ask permission to use his phone. We didn't have any office stationery. It was generic. It was state assembly stationary, and we didn't have any secretarial help, there was a pool. And, uh, we didn't have any other staff, or phones or any facilities. In fact, the chambers were used by the bureaucracy when we weren't in session.

MANDY: Little did Senator Risser know that his 64 years of legislative service would coincide with an era of dramatic legislative reform. Creating a more nimble, effective and representative legislature and . . . Building Democracy

TITLES

SECTION 1: WHY THE NEED FOR STRENGTHENING

SFX: LEG FLOOR DEBATE (INDISCERNIBLE RHUBARBS) UP AND SLOWLY RAMP OUT UNDER:

MEGAN: During the first half of the 20th Century, legislative practices and rules along with state constitutions were refined and cemented into tradition.

MANDY: Newly formed states benefited from the organizational structures already in place in existing legislatures. States that entered the union between 1900 and 1959 started off as complex, adaptable and sophisticated, steeped in tradition and methods of governing.

MUSIC: UP A MOMENT, THEN UNDER:

MEGAN: During this time, though, the legislative branch had become weaker in relation to the other two. From the Revolutionary War to after the Civil War, a distrust of executive power led to a time of legislative supremacy. But by the early 20th century, a reactionary movement arose to rein in legislative power.

MANDY: In most states, the Executive Branch gained power and some legislatures found themselves dependent upon money, research and staff provided by the executive branch and information from lobbyists. In short, legislatures' status as a co-equal branch of government was slipping.

MEGAN: Many factors led to the reforms of the 1960s, 70s and 80s. Baker v. Carr and other "one person, one vote" redistricting decisions in the early 60s changed the number of lawmakers in each chamber. States became increasingly responsible for management, allocation and tracking of federal funds, and populations grew in size, mobility and diversity.

MUSIC: RAMP OUT TO COLD BY THE LAST LINE:

MANDY: The 1960s were one of the most tumultuous and divisive decades in American history. And state legislatures were not immune. They began self-assessing and looking to become more co-equal branches of government rather than “sometime governments.” By early 1966, legislative improvement studies led by legislative and citizen groups were underway.

UNRUH: I am profoundly dedicated to finding political solutions and settlements to our problems-

MEGAN: That’s Jesse Unruh, Speaker of the California Assembly from 1961 to 1969.

-and I know those solutions are not found by shouting insults or by jostling the representatives of the establishment. . . solutions and better settlements are found by reasoned arguments and through the tedious job of assembling coalitions sometimes of disparate and even antagonistic people and it is not an easy task and it

is not much fun and it doesn't get you much in the way of TV headlines and it has none of the heady intoxication of violence about it. But it does work, and I submit that it is the only way that will work if we are determined today to keep from tearing our society apart.

MUSIC: FC CHAP419 2 Discoveries Reprise Main Track Elliott Harms 824495

MANDY: Unruh gave this speech in 1970, after spending nearly a decade pushing for reforms that made the California Legislature the premier example for states looking to push themselves into the 20th Century.

MEGAN: After successfully legislating California into a quote unquote Full Time Assembly and making headway in gaining independent and professional staff, office space, and better pay, Unruh took his message of legislative strengthening and reform on the road.

MANDY: He was instrumental in the formation of organizations such as the Citizens Conference on State Legislatures, the National Conference of State Legislative Leaders, and the National Legislative Conference.

CLIP: APOLLO COUNTDOWN (BACKTIMED) GENTLY UP UNDER:

And a movement grew to create state legislatures that were more responsive, representative, transparent and independent. Ushering in a new age.

POST: LIFTOFF! Etc and ramp out under:

MEGAN: One of the main products of the Citizens Conference on State Legislatures was an extensive study of all 50 state legislatures which were then rated and scored according to how functional, accountable, informed, independent and representative each legislature was.

MANDY: Scores were based on factors like length and frequency of session, legislator compensation, staff size and specialization, facilities, committee structure and the dynamic between minority and majority parties and between the legislative and executive branches.

MEGAN: The result of this study? The Sometimes Government, a book published with all of the results, analysis and recommendations for each state legislature. While this study became notorious for being “bad social science” it proved to be “good politics.” The rankings of states created a sense of competition and political motivation for reform.

MANDY: For the next two decades, legislative leaders in almost every state engaged their members, the public and others concerned about legislatures to bolster and re-envision their institutions. These efforts were historic in scope and accomplishment. Legislatures became more powerful, agile, and independent than at any other time in history.

SECTION 2.1: LEGISLATORS WORKING MORE

MONTAGE:

MUSIC: FC Zone8 45 Woodstock Instrumental Gracie

MIXED WITH:

CLIP: (singing) We shall overcome...

SFX: ANGRY MOB (VIETNAM PROTEST)

MIX: TAKE OUT ALL BUT MUSIC UNDER:

MEGAN: Hippies, tie-dye, peace signs and protests against the Vietnam War—the 1960s were an era of social change and revolution. While many might not list state legislatures among the major transformations of this period, they were undergoing their own evolutions.

MANDY: So what did this evolution look like? In short: legislators began working more, with more staff and more pay.

MEGAN: Bill Pound, the long-time Executive Director of NCSL (now former), tells us more about what was happening in capitols across the country at that time.

POUND: The changes would have been a movement toward more time spent in session, not necessarily to full time, though some states did that, some of the larger states generally. But to spending more time not only in session, but in interim work in the legislatures, to prepare for the normal session time. So it wasn't all crammed into 30 days or 60 days or 90 days, whatever it may be.

MANDY: In the early 1960s, most states restricted the length of their legislative sessions. But as legislatures became more professionalized with more of the demands of a full-time job, a number of states, among them, Colorado, Georgia, Kansas, Minnesota and South Dakota, increased their session length.

MEGAN: Session frequency increased too.

POUND: We saw a number of legislatures that didn't meet annually, move to that to where we're down to about four or five now that are in that category

MANDY: 19 legislatures met annually in the early 1960s. But momentum to strengthen legislatures swept across the country and by the mid-1970s, that total increased to 41. New Hampshire and Washington joined the pack in the 80s.

MEGAN: Today, only four states hold biennial sessions: Montana, Nevada, North Dakota, and Texas.

MANDY: Of course, biennial sessions don't mean that legislators work any less. In fact, increased work out of session - known as the interim - is another hallmark of this period.

THOMPSON: In the interim, what we do, we not only follow up on legislation that has passed, but there were issues that were raised that we didn't have an opportunity to address. We try to explore those issues

MEGAN: That's Texas Representative Senfronia Thompson. She's served in the Texas House of Representatives since 1973.

THOMPSON: We hold public hearings across the state, to get information across the state, from our constituencies to be able to find out what are the concerns that they have about that particular issue.

MANDY: As session lengths, frequency, and interim work grew, legislators also found themselves increasingly on call. Part-time work grew much closer to full-time, and many argued that lawmakers' salaries should reflect that shift. Others believed that higher pay would attract more people to the profession.

RISSER: Well, the legislative salary is an interesting thing to talk about, because for some people it's too much, and for other people it's not enough. In Wisconsin, the salaries have been increased with the idea that we would get more opportunities for, for people to participate and making it possible for it to be a full-time activity for some people. I think quite honestly, you've got to pay enough to encourage people to take the job.

MEGAN: That's Senator Risser again. And while increasing legislator compensation was one recommendation from The Sometime Governments, it would take more than that to create the 20th century legislatures America needed.

SECTION 2.3: INCREASE IN STAFF

SFX: HallwayLgBusyOffic

MANDY: While it's difficult to single out one area of reform as more or less important, the role of staff in reforming and strengthening state legislatures cannot be underestimated.

RISSER: I will tell you that legislators are much better legislators with competent staff.

MEGAN: Wisconsin was at the forefront of legislative staffing reform in the 60s and 70s. And it's no wonder why--it was one of the first states to receive a Ford Foundation grant to study and establish legislative service agencies staffed by independent professionals.

MANDY: The Wisconsin Legislature is widely credited for establishing what can be considered the first true legislative library way back in 1901. Charles McCarthy, the man put in charge of this new professional legislative research staff, provided the core principles of extensive, non-partisan reference and research in support of the legislative institution. These principles inform legislative services across the nation to this day.

MEGAN: McCarthy argued that

MIKE: (READER REVERB) "Efficient government required control of institutions by the voters rather than special interests, and that the

involvement of specialists in law, economics, and social and natural sciences would produce the most effective government.”

MEGAN: The library continued to grow in specialization and professional services, eventually becoming the Legislative Reference Bureau and has been replicated in states across the country. NCSL’s Bill Pound again:

POUND: You had clearly the growth of staff through all this time and a variety of staff, cause originally the staff in legislatures had been primarily a research and/or bill drafting staff, sometimes all, one in the same, sometimes separately.

SFX: GENTLY REPRISE THE BUSY OFFICE SFX (PREVIOUS) UNDER LONG SECTIONS OF V/O

MANDY: Minnesota caught the staff bug in the late 60s. Establishing the House Research and Fiscal Analysis Departments in 1967 and the legislative reference library, a central service agency for members of both chambers, in 1968. The library proved its value right off the bat. In its first session, the library was meant to simply gather and organize resources, but legislators were immediately hungry for the staff’s information and services.

MEGAN: A report published shortly after the Library was opened remarks that “[it] was fortuitous that the

Session occurred so soon after the Library's founding. The experience of receiving the many requests from research workers and members is providing excellent background for the developmental work that will take place in the interim."

MANDY: Before the 1969 legislative session was over, the Library was formally established in Minnesota law. As demand for services and a responsive legislature grew in Minnesota, so did the staff. Two additional researchers were hired during the library's first session, and its size increased steadily, peaking at 23 in 1999.

MEGAN: With the increase of staff, the capacity for legislatures to be functional, accountable, informed, independent and representative increased exponentially between the late 1960s and the 1990s.

POUND: And then came the growth of budget staff, of the fiscal analysis, independent for the legislature, and it was the mid-80s or later, before all 50 states had that. Most of them did by late 70s, did have a pretty good independent operation like that-and with that came just more trained staff, larger staffs, and then by a gradual growth of leadership staff that work for the leaders, or in many cases, committee staff, somebody that was assigned to a specific committee in the legislature, like the, the agriculture committee.

MANDY: In 1967 the Illinois General Assembly had no full-time staff for policy making committees. Ten

years later, professional staff had been assigned to all of them.

MEGAN: By 1977 Texas and a few other legislatures created Sunset Commissions. Other legislatures have performance audit and program evaluation divisions. Enabling legislatures to oversee and audit legislation, agencies and projects. In 1951, this function was performed in only three states. By 1961, that number had risen to 21. By the end of 1971, post auditing was performed in 32 states.

MANDY: Experts estimate that the number of legislative staff in 1935 was approximately 500. By 1979, NCSL's data shows there were just under 27,000 full time and session-only legislative staff, and that number peaked in 1996 at almost 36,000.

DOTSON: My experience is that the full-time legislature with full-time staff provided California with the opportunity to be on the cutting edge when it comes to policy, when it comes to transparency, when it comes to administering the legislature in a state as large as California.

MEGAN: That's E. Dotson Wilson. He was the chief clerk of the California Assembly for over 20 years. Not only was he the keeper of the rules but was also responsible for detailed and accurate record keeping for one of the largest states in the nation.

DOTSON: Members will take on the average 5,000 votes on the assembly floor in a two-year session and maintaining the accuracy and ensuring the accuracy of those votes is critical because that's why the members are there, they're sent by their constituents to Sacramento to represent the interest of their districts and the public, the elected members, legislative staff consultants and so forth. They have to know with 100% accuracy that the votes being reported and the records that are being maintained or being done in an accurate and fair manner consistent with what we know as our democratic process.

MANDY: Legislative staff make the work of legislators and the mission of legislative institutions easier to achieve.

SECTION 3: DIVERSIFICATION

SFX: WISCONSIN LEGISLATURE: ALL MALE VOICES RHUBARBING UP AND UNDER:

MEGAN: Women gained the right to vote in 1920, but their representation in elected office lagged behind.

MANDY: Even with the women's rights movement in full swing, by the 1960s, only a handful of women had served as state legislators. Senator Risser gives us a peek into that world:

RISSER: When I joined the state Senate in 1962, there had never been anything but white males, white men in

the state Senate for over 100 years...In 1962, I was just another white man in the state Senate, now over a third of the senators are women.

MEGAN: It's 1974, and Kathryn Morrison, an economics professor, is at the Wisconsin Capitol to lobby for women's rights issues. She has already participated in a successful effort to make the language in the state statutes gender neutral. As she watches the all-male Senate in action, she thinks to herself, ["My god, I can do that."](#)

MANDY: In 1975, she runs for office against one of the chief opponents to the gender-neutral language bill. And she wins. But when Morrison shows up to the Capitol on her first day, there's just one problem.

MEGAN: There's no women's restroom.

RISSER: One of the first things when we started getting women, as they say, "We want a restroom." We want a restroom for ourselves because in our legislative floor they only had restrooms for men cause they're only men there. And so, we had to split some of the men's restrooms up and make them women's restrooms."

MEGAN: Morrison is the first woman elected to the Wisconsin Senate, but she doesn't plan to be the last. She takes steps to have a [men's restroom and a staffer's office](#) converted into a women's restroom.

MANDY: And by the end of the 1970s, women had served in all but two of the nation's legislative chambers.

MEGAN: NCSL's Martha Saenz has more on how legislative facilities adapted to the changing times.

[MUSIC: FC CHAP419 2 Discoveries Reprise Main Track Elliott Harms 824495](#)

SIDEBAR: One of the recommendations of The Sometime Governments was the expansion of facilities. As legislative capacity increased so did the square footage necessary to do the work. Offices for members, space for personal staff, more room for committees and service agencies. Many legislatures were already outgrowing statehouses that had been previously rebuilt, renovated and added on to. Some, like Florida and Louisiana, built entirely new capitol buildings, others like North Carolina and Nevada built office facilities especially for their legislatures or like Alaska and Alabama repurposed buildings that were already there.

Some states got creative and renovated their current capitols and offices. Expansive spaces and rooms with high ceilings were sacrificed for whole new floors of office space.

Many of these renovations are now being removed as a movement towards restoration of historical spaces catches hold. Wyoming is one of the most recent to

restore their capitol as close to its original turn of the century design as possible. Welcoming citizens into their new. . . old capitol in July of 2019.

MUSIC: (concludes)

MANDY: Thanks Martha.

Of course, facilities weren't the only barriers to women's participation in state legislatures. Women had to overcome cultural perceptions and stereotypes about their sex.

MEGAN: It's Texas in 1973. And history is about to be made.

THOMPSON: That was the year of the woman, *Roe vs. Wade* was in the Supreme Court about to be heard and everyone was awaiting a decision of the Supreme Court, whether or not women were gonna have a right to have control of their own bodies, and the second big thing at that particular time was the Equal Rights Amendment, giving women the same rights as men.

MANDY: That's Representative Thompson again. In 1973 she became the first African American woman elected to the Texas House of Representatives, alongside Eddie Bernice Johnson. And she's still serving.

MEGAN: Despite the advances of the women's rights movement, Thompson entered office at a time when women, particularly women of color, faced practical challenges to equality.

THOMPSON: In Texas, a woman could not get a credit card in her own name, I don't care how much money she had, how good her job may have been. She could have been wealthy, she could have qualified, but the only thing that disqualified her was her gender. She couldn't even buy property in her name. She had to have a man to buy property through.

MANDY: Those prohibitions reflected a broader cultural belief that women were not as physically or mentally capable as men—especially not when it came to the task of legislating.

MEGAN: Indeed, one prominent Democratic advisor argued that women's

MIKE: “Raging hormonal imbalances”

MEGAN: Made them incapable of being successful leaders or politicians.

THOMPSON: Women deserve to be at home, in the house, in the kitchen or in the bedroom, those were the options. They definitely didn't have the intellectual stamina to be able to deal with issues that impact the lives of ordinary citizens.

MANDY: Working against those prevailing attitudes, Thompson forged a path into politics for both women and people of color. And she credits another trailblazer for opening the door to her legislative career.

MEGAN: That person is Barbara Jordan.

MANDY: Jordan is known to many of us as the first African American woman from a southern state to be elected to the U.S. House of Representatives. But she is also the first African American (man or woman) elected to the Texas Senate since reconstruction.

THOMPSON: Lord knows she didn't have an easy time running, you know as a female, because of her gender as well as her ethnicity

MEGAN: No black person had held legislative office in the southern states [between 1908 and 1962](#).

MANDY: Another big factor in bringing African Americans into many state legislatures was the Voting Rights Act of 1965.

MEGAN: The VRA prohibited racial discrimination in the electoral process, which effectively increased turnout among African Americans and, consequently, their [influence](#) in elections.

MANDY: Jordan's previous campaigns to join the Texas House of Representatives failed, but when she ran for state senate in 1966—after the passage of the VRA—she won.

MEGAN: The civil rights and women's movements brought more people of color and women to state legislatures, making them more representative of our nation as a whole.

MANDY: The increased diversity gave rise to the creation of affinity groups, or caucuses. Groups of people united to promote an agreed upon cause. Our resident caucus expert, Martha Saenz, has more on this.

[MUSIC: \(reprise\) FC CHAP419 2 Discoveries](#)
[Reprise Main Track Elliott Harms 824495](#)

SIDEBAR: Some of the first identity caucuses formed in the 1960's, with the bulk of their creation in the 1970s and 80s.

The first known formal convening of women lawmakers began in Connecticut with the OWLs or the Order of Women Legislators in 1927. A few years later Vermont started their chapter and later a national OWLS was established. The group's focus was building support for women legislators, increasing participation and women's role in politics.

As diversity in legislatures grew, so did the formation of caucuses.

Thirty-two state legislative black caucuses were formed between 1966 and 1986. New York was the first, followed by California, Ohio, Illinois and Kentucky. As the number of black legislators grow, the need for more organization and focus on policies that impact black communities also increases and leads to the formation of state legislative black caucuses.

Studies have also shown women legislative caucuses are more likely to exist in states that have formed a

black caucus. Maryland has one of the earliest known women's caucuses which was influenced by the Congressional Black Caucus.

Women's caucuses form for a variety of reasons, but typically work to create common policy agendas around women's issues or empowerment. Black and other people of color caucuses tend to lean towards setting policy agendas that effect their communities. Regardless of the background for establishment, caucuses continue to offer support, empowerment and organization opportunities for women and legislators of color.

MUSIC: CONCLUDES

SECTION 4: REACTIONS

MEGAN: As the diversity and complexity of legislative work increased so did the need for technology and a streamlined process.

MANDY: But, as Newton has taught us,

MIKE: (READER REVERB) "For every action, there is an equal and opposite reaction"

MEGAN: After rapid growth in the 1970s and 80s, the pendulum swung back. Technology, automation and tight budget years generally led to reduced numbers of lawmakers and less investment in staff. In the late 1990's staff numbers had crested at around 36,000.

Today there are more than 30,000 full-time and session-only staff employed by America's state legislatures.

MANDY: The reform movement's momentum slowed towards the end of the 20th century.

DOTSON: One of the indirect pushbacks in terms of a full-time legislature is not really the proposals to have a part-time legislature, those really never got any traction since the legislature went full-time in the 1960s, but the passage of proposition 140, which was billed as the term limit initiative to ensure that so-called full-time professional legislators weren't here forever.

MEGAN: That's Dotson talking about California again, which was one of the first three states to institute term limits in 1990. Advocates of term limits believed that legislatures needed new blood and new ideas to stay relevant.

MANDY: While term limits enabled more people to run for state office, they also had a profound--and not necessarily positive--effect on the legislative institution.

DOTSON: Even though the voters in your district wanted to continue sending you to Sacramento, you have to move on and do something else...you saw constant musical chairs. So instead of five, maybe 10 new members elected every two years under term limits, you saw an average of 32 new members getting elected every two years, starting in the 1994 election

cycle. And what you also saw was just a major turnover of staff.

MEGAN: No matter how good the legislature is at record keeping, the memory and experience of long-term staff and tenured legislators is invaluable.

SFX: NIXON RESIGNING 03:42-03:56

MANDY: The Watergate scandal in the early 1970s was an impetus for the passage of ethics laws at all levels of government. State governments, in particular, began to create an ethics infrastructure that included stronger laws, ethics training, and oversight entities to ensure compliance.

MEGAN: New York passed the first major ethics law in 1954. Hawaii and New Jersey created the first ethics commissions in 1968. And now all 50 states regulate the conduct of public officials.

MANDY: As the legislative strengthening movement of the 60s and 70s waned, partisanship grew--marked by a decreased willingness of members and the general public to engage in civil discussion. Lawmakers became less likely to vote against members of their own party and took more polarized stances, reflecting the influence of an increasingly divided public discourse.

CONCLUSION: 2000-TODAY

SFX: Any ideas? Money/change jingling?

POUND: The currency of the legislature is information, and the more people who have it, the easier it is to get, the more voices there are in it.

MEGAN: By Bill Pound's standards, today's legislatures are rich. Independent and functioning as increasingly co-equal with the other branches of state government.

MANDY: Equipped with robust staffs that provide professional support and independent nonpartisan information, legislatures emerged into the 20th century.

MEGAN: The institutional hallmarks put in place during the era of legislative reform have become stalwart protectors of a transparent and deliberative process. It is to the traditions of decorum, compromise, civil and informed discourse that we must turn to as we move forward into a new era of legislating and . . . building democracy.

ROSENTHAL SONG:

MANDY: We close out this episode with a song written by a scholar who cannot go unmentioned when we speak of this era in state legislatures. Alan Rosenthal studied legislatures and taught generations of lawmakers, staff and students the importance of and responsibility to the legislative institution.

In the words of a former Oregon legislator, "Alan Rosenthal is owed a debt of gratitude by all who study or serve in state governments."

OUTRO:

BRAD: Building Democracy: The Story of Legislatures is created by the National Conference of State Legislatures.

Your hosts are Megan McClure and Mandy Zoch.

Thanks to today's guests Texas Representative Senfronia Thompson, Former Wisconsin Senator Fred Risser, former chief clerk and parliamentarian of the California Assembly, E. Dotson Wilson and Bill Pound.

Thanks also to Martha Saens for her voice and expertise and Brenda Erickson and Karl Kurtz for sharing their great depth of knowledge and experience.

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What institutional challenges and exciting developments are on the horizon? How will our nation's dedicated state lawmakers, staff and citizens continue to innovate, evolving legislatures into the 21st century?

That's on our next episode- watch for it later this Spring.

Building Democracy is recorded at hastily-crafted home studios in Denver, Colo.