

HJR

2



FREE

Federation's Role in our Enterprise Economy

February 11, 1983

Senator Vic Fischer, Chairman
Senate State Affairs Committee
Pouch V
Juneau, Alaska 99811

re: SJR 2 and CSHJR 2

Dear Senator Fischer:

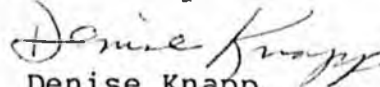
In January 1981, the Legislative Study Committee sponsored by the General Federation of Women's Clubs, Anchorage FREE Committee, completed a comprehensive study on legislative reform. One of the recommendations made in that report was that the length of the legislative sessions be limited. We still support that concept.

The Legislative Information Office reported that both SJR 2 and the committee substitute for HJR 2 were currently being considered by the Senate State Affairs Committee. In those deliberations, we ask that you consider the following recommendations.

First, we recommend that any extensions to the regular session include a "limited call" provision which would limit the legislature to addressing only those subjects specifically enumerated in the call for an extension. Second, we recommend that only one extension for a specific number of days not to exceed 10 consecutive days be permitted per legislative session. Third, we recommend that any extension require an affirmative vote of two-thirds of the membership of each house of the legislature. Fourth, we support a session limited to 120 consecutive calendar days.

Thank you for the opportunity to express our views on the length of legislative sessions. It is an area that increasingly concerns the public.

Sincerely,



Denise Knapp
Chairman



HJK-2
ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 31, 1983

MEMORANDUM

TO: Representative Joe Hayes
Attn: Jeff Day

FROM: Jonathan Sherwood
Research Staff

RE: Session Limits in Other States
Research Request 83-27

Jeff Day of your staff requested that we determine which states, among those that limit the length of their legislative sessions, have provisions for extending the session. We were also asked to determine the procedures by which sessions are extended in these states.

According to The Book of the States 1982-83, twenty-nine states limit the length of their legislative sessions.¹ Of these, eleven states, Arkansas, Florida, Hawaii, Kansas, Maryland, Maine, Mississippi, Nebraska, South Carolina, Virginia, and West Virginia, have a constitutional provision which enables the legislature to extend the length of the session.

A two-thirds² vote of each house of the legislature is required to extend the session in eight states: Arkansas, Hawaii, Kansas, Maine, Mississippi, South Carolina, Virginia, and West Virginia. In Florida and Maryland, a three-fifths vote of each house is required to extend the session. Four-fifths of the members of Nebraska's unicameral legislature must vote to extend its legislative session.

In six of the eleven states, the session may be extended indefinitely. Mississippi allows an unlimited number of thirty day extensions. Maryland and Virginia permit one thirty day extension. In Hawaii, the

¹ This does not include states which attempt to restrict the length of legislative sessions through indirect means, such as the termination of per diem and travel expenses after a certain date.

² In Maine and Mississippi, two-thirds of the members present must vote to extend the session. In all other states, two-thirds of the entire membership must vote to extend the session.

Representative Hayes
January 31, 1982
Page Two

session may only be extended for fifteen days. In Maine, the legislature may extend the session twice, for up to five days each time.

Two states have special provisions regarding the form in which the members of the legislature extend the session. South Carolina requires that the session be extended by a concurrent resolution and Hawaii requires that the session be extended by a petition from the members of the legislature.

We have attached a list from The Book of States 1982-83 which includes information on legislative session limits for all fifty states.³ In addition, we have attached the relevant sections of the constitutions of ten states which provide for the extension of the legislative session. We have not yet located the appropriate provision for South Carolina, but we will forward it to you as soon as we obtain the citation from South Carolina. We hope you will find this information useful. If you have any questions, or if we can be of further assistance to you, please do not hesitate to contact us.

JS/sj

Attachment:

The Book of the States, "Legislative Sessions: Legal Provisions"
Excerpts from State Constitutions, ten states.

³ The table fails to include Maine's provision for extending the length of the legislative session.

Table 15
LEGISLATIVE SESSIONS: LEGAL PROVISIONS

State or other jurisdiction	Regular sessions			Limitation on length of session	Legislature may call	Special sessions	
	Legislature convenes ^a					Legislature may determine subject of session	Limitation on length of session
	Year	Month	Day				
Alabama	Annual	Apr.	3rd Tues. (a,b) 1st Tues. 2nd Tues. (c)	30 L in 103 C	No	2/3 vote, each house	12 L in 30 C
Alaska	Annual	Jan.	3rd Mon. (a) 2nd Mon.	None	Vote 2/3 members	Yes (d)	30 C
Arizona	Annual	Jan.	2nd Mon.	None (f)	Petition 2/3 members, each house	Yes (d)	None
Arkansas	Odd (f)	Jan.	2nd Mon.	60 C (f)	No	(g)	None (g)
California	Even (h)	Dec.	1st Mon.	None	No	No	None
Colorado	Annual (i)	Jan.	Wed. after 1st Tues.	None	Vote 2/3 members, each house	Yes (d)	None
Connecticut	Annual (j)	Odd: Jan. Even: Feb.	Wed. after 1st Mon. Wed. after 1st Mon.	(j) (j)	No	No	None
Delaware	Annual (k)	Jan.	2nd Tues.	June 30	Joint call, presiding officers, both houses	Yes	None
Florida	Annual	Apr.	Tues. after 1st Mon. (b)	60 C (f)	Joint call, presiding officers, both houses.	Yes	20 C (f)
Georgia	Annual (k)	Jan.	2nd Mon.	40 L	Petition 2/3 members, each house	Yes (d)	(l)
Hawaii	Annual (k)	Jan.	3rd Wed.	60 L (f)	Petition 2/3 members, each house	Yes	30 L (f)
Idaho	Annual	Jan.	Mon. on or nearest 7th day	None	No	No	30 C
Illinois	Annual (k)	Jan.	2nd Wed.	None	Joint call, presiding officers, both houses	Yes	None
Indiana	Annual	Jan.	2nd Mon. (b)	Odd: 61 L or Apr. 30 Even: 30 L or March 15	No	Yes	30 L in 40 C
Iowa	Annual (k)	Jan.	2nd Mon.	None (m)	Petition 2/3 members, each house	Yes	None
Kansas	Annual (k)	Jan.	2nd Mon.	Odd: None; Even: 90 C (f)	Petition to governor of 2/3 members, each house	Yes	None
Kentucky	Even	Jan.	Tues. after 1st Mon.	60 L	No	No	None
Louisiana	Annual	Apr.	3rd Mon.	60 L in 83 C	Petition majority, each house	Yes (d)	30 C
Maine	Even (h) Even (l)	Dec. Jan.	1st Wed. 1st Wed. after 1st Tues.	100 L 30 L	Vote of majority of each party, each house	Yes (d)	None
Maryland	Annual	Jan.	2nd Wed.	90 C (l,n)	Petition majority, each house	Yes	30 C
Massachusetts	Annual	Jan.	1st Wed.	None	Yes	Yes	None
Michigan	Annual (k)	Jan.	1st Wed.	None	No	No	None
Minnesota	Odd (o)	Jan.	Tues. after 1st Mon.	120 L or 1st Mon. after 3rd Sat. in May	No	Yes	None
Mississippi	Annual	Jan.	Tues. after 1st Mon.	(l,p)	No	No	None
Missouri	Annual	Jan.	Wed. after 1st Mon.	Odd: June 30. Even: May 13.	No	No	60 C
Montana	Odd	Jan.	1st Mon. (q)	90 L	Petition majority, each house	Yes	None
Nebraska	Annual (k)	Jan.	1st Wed. after 1st Mon.	Odd: 90 L (f). Even: 60 L (f)	Petition 2/3 members	Yes	None
Nevada	Odd	Jan.	3rd Mon.	60 C (m)	No	No	30 C (m)
New Hampshire	Odd	Jan.	1st Wed. after 1st Tues. (b)	(m)	Yes	Yes	None (m)
New Jersey	Annual	Jan.	2nd Tues.	None	Petition majority, each house	Yes	None
New Mexico	Annual (l)	Jan.	3rd Tues.	Odd: 60 C; Even: 30 C	Petition 2/3 members, each house	Yes (d)	30 C
New York	Annual (k)	Jan.	Wed. after 1st Mon.	None	Petition 2/3 members, each house	Yes (d)	None
North Carolina	(j)(d)(e)	Jan.	Wed. after 2nd Mon.	None	Petition 2/3 members, each house	Yes	None
North Dakota	Odd	Jan.	1st Tues. after 3rd day (b,q)	30 L	No	Yes	None
Oklahoma	Annual	Jan.	1st Mon. (q)	None	Joint call, presiding officers, both houses	Yes	None

.....	Odd	Jan.	1st Wed. after 1st Tues.(b)	30 C(m)	No	No	20 C(m)
New Jersey.....	Annual	Jan.	2nd Tues.	None	Yes	Yes	None(m)
.....	Petition majority, each house	Yes	None
New Mexico.....	Annual(l)	Jan.	3rd Tues.	Odd: 60 C; Even: 30 C	Petition 1/3 members, each house	Yes(d)	30 C
New York.....	Annual(k)	Jan.	Wed. after 1st Mon.	None	Petition 2/3 members, each house	Yes(d)	None
North Carolina.....	Odd(o)	Jan.	Wed. after 2nd Mon.	None	Petition 1/3 members, each house	Yes	None
North Dakota.....	Odd	Jan.	1st Tues. after 3rd day(b,q)	80 L	No	Yes	None
Ohio.....	Annual	Jan.	1st Mon.(q)	None	Joint call, presiding officers, both houses	Yes	None

Oklahoma.....	Annual(k)	Jan.	Tues. after 1st Mon.	90 L	Vote 2/3 members, each house	Yes	None
Oregon.....	Odd	Jan.	2nd Mon.	None	Petition majority, each house	Yes	None
Pennsylvania.....	Annual(k)	Jan.	1st Tues.	None	Petition majority, each house	No	None
Rhode Island.....	Annual(k)	Jan.	1st Tues.	60 L(m)	No	No	None
South Carolina.....	Annual(k)	Jan.	2nd Tues.(b)	1st Thurs. in June(f)	No	Yes	None
South Dakota.....	Annual	Jan.	Odd: Tues. after 1st Mon. Even: Tues. after 1st Mon.	40 L 35 L	No	No	None
Tennessee.....	Odd(o)	Jan.	1st Tues.(b)	90 L(m)	Petition 2/3 members, each house	Yes	30(m)
Texas.....	Odd	Jan.	2nd Tues.	140 C	No	No	30 C
Utah.....	Annual(l)	Jan.	2nd Mon.	Odd: 60 C; Even: 20 C	No	No	30 C
Vermont.....	Odd(o)	Jan.	Wed. after 1st Mon.	None(m)	No	Yes	None
Virginia.....	Annual(k)	Jan.	2nd Wed.	Even: 60 C(f) Odd: 30 C(n)	Petition 2/3 members, each house	Yes	None
Washington.....	Annual	Jan.	2nd Mon.	Odd: 105 C; Even: 60 C	Petition, 2/3 members each house	Yes	30 C
West Virginia.....	Annual	Jan.	2nd Wed.(r)	60 C(f,n)	Petition 1/3 members, each house	Yes(s)	None
Wisconsin.....	Annual	Jan.	1st Tues. after Jan. 1(t)	None	No	No	None
Wyoming.....	Annual(l)	Jan. Feb.	Odd: 2nd Tues. Even: 2nd Tues.	40 L 20 L	No	Yes	None
American.....	Annual	Jan. July	2nd Mon. 2nd Mon.	45 L 45 L	No	No	None
Guam.....	Annual(k)	Jan.	1st Mon.(u)	None	No	No	None
Puerto Rico.....	Annual(k)	Jan.	2nd Mon.	Apr. 30(f)	No	No	20 C
Virgin Islands.....	Annual(k)	Jan.	2nd Mon.	75 L	No	No	15 C

*All states elect new legislatures in November of even-numbered years except Kentucky, Louisiana, Mississippi, New Jersey and Virginia. Alabama, Louisiana, Maryland and Mississippi elect all legislators at the same time to four-year terms.

†The following states provide for a special session only to consider bills vetoed after adjournment sine die: Connecticut, Hawaii, Louisiana, Missouri (even years only), Utah, Virginia and Washington.

Key: L—Legislative day
C—Calendar day
N—Natural day

(a) The year immediately following the quadrennial general election.

(b) Legislature meets in organizational session. Alabama: second Tuesday in January after annual election. Florida: fourteenth day following each general election. Indiana: third Tuesday after first Monday in November for one day only. New Hampshire: first Wednesday of December, even-numbered years. North Dakota: first Tuesday after first Monday in December in even years. South Carolina: first Tuesday after certification of the election of its members for no more than three days. Tennessee: first Tuesday in January for no more than 15 C days to organize and introduce bills; reconvenes on first Tuesday next following the conclusion of the organizational session, unless the General Assembly by joint resolution sets another date.

(c) During the election year.

(d) Only if legislature convenes itself. Special sessions called by the legislature are unlimited in scope in Arizona, Georgia, Maine and New Mexico.

(e) House and Senate rules require that regular sessions be adjourned sine die no later than the third Friday in April of each year.

(f) Session may be extended for an indefinite period of time by vote of members in both houses. Arkansas: 2/3 vote. Florida: 1/3 vote. Hawaii: petition of 2/3 membership for not more than 15 days. Kansas: 2/3 vote elected members. Maryland: 1/3 vote for 30 additional days. Mississippi: 2/3 vote of those present may extend for 30 C days, no limit on extensions. Nebraska: 4/5 vote. South Carolina: concurrent resolution, 2/3 vote, both houses. Virginia: 2/3 members, each house, for up to 30 days. West Virginia: 2/3 vote. Puerto Rico: joint resolution.

(g) After the legislature has disposed of the subject(s) in the governor's call, it may by a 2/3 vote of members of both houses take up subject(s) of its own choosing in a session of up to 15 days.

(h) Regular sessions commence in December of each even-numbered year following the general election. California: the legislature continues in session until November 30 of the next even-numbered year. It may recess from time to time and may be recalled into regular session.

(i) Second session of legislature is basically limited to budget and fiscal matters. Exceptions: Colorado—Items on governor's call; Maine—legislation; in the governor's call, study committee legislation and initiated measures; New Mexico—legislature may consider bills vetoed by the governor at the preceding session; Utah—legislature may consider non-budget matters after 2/3 vote of each house.

(j) Odd years: not later than first Wednesday after first Monday in June; even years: not later than first Wednesday after first Monday in May.

(k) The legislature meets in two annual sessions, each adjourning sine die. Bills carry over from first to second session. Delaware, Illinois, Virgin Islands: legislature adjourns sine die at end of second year only; Puerto Rico: four annual sessions.

(l) Limited to 70 days if called by governor and 30 days if called at petition of legislature, except for impeachment proceedings.

(m) Indirect restrictions only since legislator's pay, per diem, or daily allowance stops, but session may continue. Iowa: limit on per diem expenses, 120 days first session, 100 days second session. Nevada: limit on pay only. New Hampshire: constitutional limit on expenses of 90 days or July 1, whichever occurs first, 15 days salary and expenses for special sessions. Tennessee: constitutional limit on per diem and travel allowance only, excluding organizational session.

(n) Governor must extend until the general appropriation is passed.

(o) The legislature may divide and in practice has divided the session to meet in even years also.

(p) The first session of a new legislature. Every other even year of the gubernatorial term is limited to 15 C days; odd years 90 C days.

(q) If the first day falls on a legal holiday: Montana—following Wednesday; North Dakota—or falls on January 2, a date to be selected by the Legislative Council between Jan. 2 and Jan. 11; Ohio—the day after.

(r) Following each gubernatorial election, the legislature convenes on the second Wednesday of January to organize but recesses until the second Wednesday in February for the start of the 60-day session.

(s) According to a 1955 attorney general's opinion, when the legislature has petitioned to the governor to be called into session, it may then act on any matter.

(t) The legislature by joint resolution establishes the session schedule of activity for the remainder of the biennium at the beginning of the odd-numbered year. These dates may be subject to change.

(u) The legislature meets on the first Monday of each month following its initial session in January.

§ 15. Privileges of members.—The members of the General Assembly shall, in all cases except treason, felony and breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

§ 16. Per diem and mileage of general assembly.—Each member of the General Assembly shall receive six dollars per day for his services during the first sixty days of any regular session of the General Assembly, and if any regular session shall be extended, such member shall serve without further per diem. Each member of the General Assembly shall also receive ten cents per mile for each mile traveled in going to and returning from the seat of government, over the most direct and practicable route. When convened in extraordinary session by the Governor, they shall each receive three dollars per day for their services during the first fifteen days, and if such extraordinary session shall extend beyond fifteen days, they shall receive no further per diem. They shall be entitled to the same mileage for any extraordinary session as herein provided for regular sessions. The terms of all members of the General Assembly shall begin on the day of their election, and they shall receive no compensation, perquisite or allowance whatever, except as herein provided. [As amended by Amendment No. 5.]

Compiler's Notes.

Amendment No. 5 was declared to have been adopted by the speaker of the house of representatives February 10, 1913 (Acts 1913, p. 1525). The vote for the amendment being 103,246, the vote against the amendment being 33,397. The total number cast for governor being 169,649.

This amendment was superseded by paragraph 3 of Amendment No. 15, which fixed a regular salary of \$1,000 per year for members; \$1,100 for the speaker of the house; mileage at 5 cents, and a per diem of \$6.00 for special sessions.

Amendment No. 15 has in turn been superseded by Amendment No. 37, which fixes a regular salary of \$1,200 per year for members; \$1,350 for the speaker of the house; mileage at 5 cents, and a per diem of \$6.00 for special sessions.

Amendments.

Prior to its amendment, this section read: "§ 16. The members of the General Assembly shall receive such per diem pay and mileage for their services as shall be fixed by law. No member of either house shall, during the term for which he has been elected, receive any increase of pay for his services until any law passed during such term. The term of all members of the General Assembly shall begin on the day of their election."

An amendment adopted in 1902 (see Acts 1902, p. 412) deleted the word "per diem."

Cross-Reference.

Terms of office of members of general assembly begin January 1st after their election, Amendment No. 23, § 6.

NOTES TO DECISIONS

Holdover Committee.

Holdover committee is entitled to pay for necessary work after adjournment.

Russell v. Cone, 168 Ark. 989, 272 S. W. 678.

§ 17. Duration of sessions.—The regular biennial sessions shall not exceed sixty days in duration, unless by a vote of two-thirds of the members elected to each house of said General Assembly. Provided, that this section shall not apply to the first session of the General Assembly under this Constitution, or when impeachments are pending.

NOTES TO DECISIONS

Approval Not Required.

A concurrent resolution which has for its sole object the continuance of a session under this provision does not require

the approval of the governor. Trammell v. Bradley, 37 Ark. 374; Tipton v. Parker, 71 Ark. 193, 74 S. W. 298.

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agency other than judicial tribunals. Similar restrictions on other public officers and employees may be established by law.

(f) There shall be an independent commission to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission.

(g) This section shall not be construed to limit disclosures and prohibitions which may be established by law to preserve the public trust and avoid conflicts between public duties and private interests.

(h) Schedule—On the effective date of this amendment and until changed by law:

(1) Full and public disclosure of financial interests shall mean filing with the secretary of state by July 1 of each year a sworn statement showing net worth and identifying each asset

and liability in excess of \$1,000 and its value together with one of the following:

a. A copy of the person's most recent federal income tax return; or

b. A sworn statement which identifies each separate source and amount of income which exceeds \$1,000. The forms for such source disclosure and the rules under which they are to be filed shall be prescribed by the independent commission established in subsection (f), and such rules shall include disclosure of secondary sources of income.

(2) Persons holding statewide elective offices shall also file disclosure of their financial interests pursuant to subsection (h)(1).

(3) The independent commission provided for in subsection (f) shall mean the Florida Commission on Ethics.

History.—Proposed by Initiative Petition filed with the Secretary of State July 29, 1976; adopted 1978.

ARTICLE III

LEGISLATURE

Sec.

1. Composition.
2. Members; officers.
3. Sessions of the legislature.
4. Quorum and procedure.
5. Investigations; witnesses.
6. Laws.
7. Passage of bills.
8. Executive approval and veto.
9. Effective date of laws.

Sec.

10. Special laws.
11. Prohibited special laws.
12. Appropriation bills.
13. Term of office.
14. Civil service system.
15. Terms and qualifications of legislators.
16. Legislative apportionment.
17. Impeachment.
18. Conflict of interest.

SECTION 1. Composition.—The legislative power of the state shall be vested in a legislature of the State of Florida, consisting of a senate composed of one senator elected from each senatorial district and a house of representatives composed of one member elected from each representative district.

SECTION 2. Members; officers.—Each house shall be the sole judge of the qualifications, elections, and returns of its members, and shall biennially choose its officers, including a permanent presiding officer selected from its membership, who shall be designated in the senate as President of the Senate, and in the house as Speaker of the House of Representatives. The senate shall designate a Secretary to serve at its pleasure, and the house of representatives shall designate a Clerk to serve at its pleasure. The legislature shall appoint an auditor to serve at its pleasure who shall audit public records and perform related duties as prescribed by law or concurrent resolution.

SECTION 3. Sessions of the legislature.—

(a) ORGANIZATION SESSIONS. On the

fourteenth day following each general election the legislature shall convene for the exclusive purpose of organization and selection of officers.

(b) REGULAR SESSIONS. A regular session of the legislature shall convene on the first Tuesday after the first Monday in April of each odd-numbered year, and on the first Tuesday after the first Monday in April, or such other date as may be fixed by law, of each even-numbered year.

(c) SPECIAL SESSIONS.

(1) The governor, by proclamation stating the purpose, may convene the legislature in special session during which only such legislative business may be transacted as is within the purview of the proclamation, or of a communication from the governor, or is introduced by consent of two-thirds of the membership of each house.

(2) A special session of the legislature may be convened as provided by law.

(d) LENGTH OF SESSIONS. A regular session of the legislature shall not exceed sixty consecutive days, and a special session shall not exceed twenty consecutive days, unless

There shall be a commission on legislative salary, which shall be appointed by the governor on or before June 1, 1971, and every four years after the first commission is appointed. Within sixty days after its appointment, the commission shall submit to the legislature recommendations for a salary plan for members of the legislature, and then dissolve. [Am Const Con 1968 and election Nov 5, 1968]

Cross References

Allowances, see chapter 24.
Salary, see Art. XVI, §7.

Attorney General Opinions

Legislature may make changes in allowances, applicable to the legislature enacting the changes. Att. Gen. Op. 75-1.

Legislature may increase its salary by enactment of law; since a legislature exists from date of or general election to date of next, increase enacted by one legislature may be made applicable to the next legislature notwithstanding that the Senate consists of holdovers. Att. Gen. Op. 75-2.

SESSIONS

Section 11. The legislature shall convene annually in regular session at 10:00 o'clock a.m. on the third Wednesday in January.

At the written request of two-thirds of the members to which each house is entitled, the presiding officers of both houses shall convene the legislature in special session. The governor may convene both houses or the senate alone in special session.

Regular sessions shall be limited to a period of sixty days, and special sessions shall be limited to a period of thirty days. Any session may be extended a total of not more than fifteen days. Such extension shall be granted by the presiding officers of both houses at the written request of two-thirds of the members to which each house is entitled or may be granted by the governor.

Any session may be recessed by concurrent resolution adopted by a majority of the members to which each house is entitled. Saturdays, Sundays, holidays and any days in recess pursuant to a concurrent resolution shall be excluded in computing the number of days of any session.

All sessions shall be held in the capital of the State. In case the capital shall be unsafe, the governor may direct that any session be held at some other place. [Am Const Con 1968 and election Nov 5, 1968]

Cross References

Applicability of open meeting requirements, see §92-10.
Capital, see Art. XIII, §2.
Holidays, see §§8-1 and 2.

Attorney General Opinions

Urgency measure. Matters foreign to urgency statement cannot be inserted in bill. Att. Gen. Op. 62-17. Statement of urgency relating to pay raises for public officers and employees held sufficient. Att. Gen. Op. 62-19.

Bills to change fees payable to State agencies held to be revenue bills. Att. Gen. Op. 64-8.

Bills affecting the distribution of a portion of the general excise tax, consumption tax, compensating tax to the counties and thereby increasing the revenues to the State held to be revenue bills. Att. Gen. Op. 64-10.

No prohibition against the legislature passing an appropriation bill in which the proposed expenditures may exceed the anticipated state revenues. Att. Gen. Op. 64-16.

When national holiday falls on Saturday, the Saturday and the preceding Friday are considered holidays and are excluded in computing the number of days in a session. Att. Gen. Op. 64-1.

any office under the United States, his acceptance thereof shall vacate his seat."

Research and Practice Aids:

States—24 et seq., 47.
C.J.S. States §§ 29 et seq., 67.

CASE ANNOTATIONS

Annotations to original section:

1. Purpose is to create vacancy upon acceptance of specified offices. *The State, ex rel., Watson, v. Cobb*, 2 K. 37, 57.
2. Disability refers to time the person chosen. (Dissenting opinion.) *In re Cunn, Petitioner*, 50 K. 155, 267, 268, 32 P. 470, 948.
3. Act taxing leased railway cars (79-906 et seq.) held valid. *Associated Rly. Equipment Owners v. Wilson*, 167 K. 608, 609, 614, 620, 208 P.2d 604.
4. Separation of powers doctrine inherent in Kansas constitution; legislators cannot hold executive offices. *State, ex rel., v. State Office Building Commission*, 185 K. 563, 568, 573, 345 P.2d 674.

§ 6. This section was eliminated by the 1974 revision of this article.

Revisor's Note:

Original section 6 read as follows:

"§ 6. Same; convicts. No person convicted of embezzlement or misuse of the public funds shall have a seat in the legislature."

§ 7. This section was eliminated by the 1974 revision of this article.

Revisor's Note:

Original section 7 read as follows:

"§ 7. Oaths of state officers. All state officers before entering upon their respective duties shall take and subscribe an oath or affirmation to support the constitution of the United States and the constitution of this state, and faithfully to discharge the duties of their respective offices."

CASE ANNOTATIONS

1. Cited in discussing separation of powers doctrine. (Dissenting opinion.) *State, ex rel., v. Fadely*, 180 K. 652, 680, 308 P.2d 537.

§ 8. Organization and sessions. The legislature shall meet in regular session annually commencing on the second Monday in January, and all sessions shall be held at the state capital. The duration of regular sessions held in even-numbered years shall not exceed ninety calendar days. Such sessions may be extended beyond ninety calendar days by an affirmative vote of two-thirds of the members elected to each house. Bills and concurrent resolutions under consideration by the legislature upon adjournment of a regular session held in an odd-numbered year may be considered at the next succeeding regular session held in an

even-numbered year, as if there had been such adjournment.

The legislature shall be organized currently with the terms of representatives except that the senate shall remain organized during the terms of senators. The president of the senate shall preside over the senate and the speaker of the house of representatives shall preside over the house of representatives. A majority of the members then elected (or appointed) and qualified of the house of representatives or the senate shall constitute a quorum of that house. Neither house, without the consent of the other, shall adjourn for more than two days, six days excepted. Each house shall elect a presiding officer and determine the rules of its proceedings, except that the two houses may adopt joint rules on certain matters and provide for the manner of change thereof. Each house shall provide for the expulsion or censure of members in appropriate cases. Each house shall be the judge of election returns and qualifications of its own members.

Revisor's Note:

Original section 8 read as follows:

"§ 8. Quorum; rules; judge of elections and qualifications. A majority of each house shall constitute a quorum. Each house shall establish its own rules; and shall be judge of the election returns and qualifications of its own members."

Research and Practice Aids:

States—24 et seq.
Hatcher's Digest, Legislature §§ 5, 10 to 12.
C.J.S. States § 29 et seq.

CASE ANNOTATIONS

Annotations to original section:

1. Legislature itself may provide more than majority for certain acts. *Prouty v. Stover, Lieut. Governor*, 11 K. 235, 255.
2. Legislature cannot delegate power to judge qualifications of its members. *The State, ex rel., v. Gillmore*, 20 K. 551, 554.
3. Legislature, sole right to judge elections and qualifications of members. *The State, ex rel., v. Tomlinson*, 20 K. 692, 703.
4. House of representatives cannot legally exceed 125 members; invalid statute. *The State, ex rel., v. Francis, Treas.*, 26 K. 724, 726.
5. Origin of clause relative to qualifications commented on. (Dissenting opinion.) *In re Cunn, Petitioner*, 50 K. 155, 218, 219, 251, 32 P. 470, 948.
6. Each house is the ultimate tribunal as to the qualifications of its own members. *Harris v. Shanahan*, 187 K. 183, 214, 387 P.2d 771.

Annotations to 1974 amendment:

7. Referred to in determining senate confirmation of

shall not extend farther than to removal from office, and disqualification to hold or any office of honor, trust or profit under this State. But the party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

Originally Section 7; later renumbered Section 6; now renumbered Section 7.

tutional offices may be removed only by means authorized by the Constitution itself. Id.

Notes of Decisions

1. In general

Section 451 of 30 M.R.S.A. which provides for the removal of a district attorney from office by the Governor and Executive Council, upon complaint and due notice and hearing, does not violate the "distribution of power" provisions of Art. 3; by conducting a "quasi-judicial" hearing the executive department does not exercise a function of the judicial department nor does it undertake the function of the legislature of removing a constitutional civil officer from office. Opinion of the Justices of Supreme Judicial Court Given Under the Provision of Section 3 of Article VI of the Constitution (1975) Me., 343 A.2d 196.

A civil officer whose tenure is constitutionally established may be removed only by impeachment or address of the legislature. Id.

A civil officer whose tenure is fixed by statute may be removed from an office in a manner other than by impeachment or address of the legislature. Id.

When the Constitution fixes the tenure of a civil officer, it is beyond the power of the legislature to affect the tenure and persons holding such consti-

Where the Governor and the Executive Council had before them a complaint seeking removal of a district attorney which was filed by the Attorney General and the Governor and Council mutually agreed to act or refuse to act immediately, and the Governor and Council entertained doubts as to the constitutionality of 30 M.R.S.A. § 451 pursuant to which they were requested by the Attorney General to act, a "solemn occasion" existed which required the Supreme Judicial Court to answer the question submitted by the Governor concerning the validity of said statute pertaining to the removal of district attorneys. Id.

§ 8. To choose own officers

Section 8. The Senate shall choose their President, Secretary and other officers.

Originally Section 8; later renumbered Section 7; now renumbered Section 8.

PART THIRD

LEGISLATIVE POWER

§ 1. To meet biennially; power of Legislature to convene itself at other times

Section 1. The Legislature shall convene on the first Wednesday of December following the general election in what shall be designated the first regular session of the Legislature and shall further convene on the first Wednesday after the first Tuesday of January in the subsequent even-numbered year in what shall be designated the second regular session of the Legislature; provided, however, that the business of the second regular session of the Legislature shall be limited to budgetary matters; legislation in the Governor's cabinet; legislation of an emergency nature admitted by the Legislature; legislation referred to committees for study and report by the Legislature in the first regular session; and legislation presented to the Legislature by written petition of the electors under the provisions of Article IV, Part Third, Section 18. The Legislature shall enact appropriate statutory limits on the length of the first regular session and of the second regular session. The Legislature may convene at such other times on the call of the President of the Senate and Speaker of the House, with the consent of a majority of the Members of the Legislature of each political party, all Members of the Legislature having been first polled. The Legislature, with the exceptions hereinafter stated, shall have full power to make and establish all reasonable laws and regulations for the defense and benefit of the people of this State, not repugnant to this Constitution, nor to that of the United States.

§ 13, that vacancies in the membership of the General Assembly shall be filled by appointment of the Governor is not applicable to initial vacancies in the offices of county councilmen of a county which adopts a charter under the Home Rule Amendment because that amendment requires that the county council be an elective body. *County Comm'rs v. Supervisors of Elections*, 192 Md. 196, 63 A.2d 735 (1949).

Removal of member of House of Delegates from legislative district for which he was chosen would not justify determination that vacancy had occurred so long as the Delegate remains a resident of either Baltimore City or of the county or counties from which his legislative district was formed. 60 Op. Att'y Gen. 306 (1975).

This section does not require unanimity in selecting a nominee to fill a vacancy created by resignation. 62 Op. Att'y Gen. 442 (1977).

Duty of Governor where committee submits names of two or more qualified persons. — If a central committee should ignore the clear intent of this section and submit the

names of two or more qualified persons to the Governor, the Governor cannot ignore the names submitted by the committee. Rather, the Governor must appoint one of the persons to the vacancy. 62 Op. Att'y Gen. 241 (1977).

Duty of Governor not mandatory where committee fails to submit nominee. — Although the State Constitution provides that the Governor shall appoint a person within 15 days of the failure of the central committee to submit a nominee, that requirement cannot reasonably be construed as imposing a mandatory duty upon the Governor. 62 Op. Att'y Gen. 453 (1977).

Eligibility requirements for individuals who desire to be selected to fill a vacancy in the Senate or House of Delegates as a result of the resignation of an incumbent are contained in Md. Const., article III, § 9. 62 Op. Att'y Gen. 442 (1977).

Stated in *Tyler v. Board of Supvrs. of Elections*, 213 Md. 37, 131 A.2d 247 (1957).

Cited in *Covington v. Buffett*, 90 Md. 569, 45 A. 204 (1900); *Black v. Board of Supvrs. of Elections*, 232 Md. 74, 191 A.2d 580 (1963).

Section 14. Time of meetings of General Assembly; extraordinary session upon petition of members.

The General Assembly shall meet on the second Wednesday of January, nineteen hundred and seventy-one, and on the same day in every year thereafter, and at no other time, unless convened by Proclamation of the Governor. A Proclamation convening the General Assembly in extraordinary session must be issued by the Governor if a majority of the members elected to the Senate and a majority of the members elected to the House of Delegates join in a petition to the Governor requesting that he convene the General Assembly in extraordinary session, and the Governor shall convene the General Assembly on the date specified in the petition. This section does not affect the Governor's power to convene the General Assembly in extraordinary session pursuant to Section 16 of Article II of this Constitution. (1947, ch. 497, ratified Nov. 2, 1948; 1964, ch. 161, ratified Nov. 3, 1964; 1970, ch. 576, ratified Nov. 3, 1970.)

Cross reference. — See Editor's note to Md. Const., article II, § 1.

What session of General Assembly includes. — A "session" of the General Assembly includes only its regular session that commences in January and any extraordinary "session" proclaimed by the Governor, and does not include meetings of the Legislative Council or standing committees that are held at other

times during the year. 57 Op. Att'y Gen. 279 (1972).

Applied in *Richards Furn. Corp. v. Board of County Comm'rs*, 233 Md. 249, 196 A.2d 621 (1964); *Selinger v. Governor of Md.*, 266 Md. 431, 293 A.2d 817 (1972), cert. denied, 409 U.S. 1111, 93 S. Ct. 922, 34 L. Ed. 2d 693 (1973).

Cited in *Board of License Comm'rs v. R.N. & W. Corp.*, 20 Md. App. 278, 315 A.2d 107 (1974).

Section 15. Duration of sessions of General Assembly; compensation and allowances.

(1) The General Assembly may continue its session so long as in its judgment the public interest may require, for a period not longer than ninety days in each year. The ninety days shall be consecutive unless otherwise provided by law. The General Assembly may extend its session beyond ninety days, but not exceeding an additional thirty days, by resolution concurred in by a three-fifths vote of the membership in each House. When the General Assembly is convened by Proclamation of the Governor, the session shall not continue longer than thirty days, but no additional compensation other than mileage and other allowances provided by law shall be paid members of the General Assembly for special session.

(2) Any compensation and allowances paid to members of the General Assembly shall be as established by a commission known as the General Assembly Compensation Commission. The Commission shall consist of nine members, five of whom shall be appointed by the Governor, two of whom shall be appointed by the President of the Senate, and two of whom shall be appointed by the Speaker of the House of Delegates. Members of the General Assembly and officers and employees of the Government of the State of Maryland or of any county, city, or other governmental unit of the State shall not be eligible for appointment to the Commission. Members of the Commission shall be appointed for terms of four years commencing on June 1 of each gubernatorial election year. Members of the Commission are eligible for re-appointment. Any member of the Commission may be removed by the Governor prior to the expiration of his term for official misconduct, incompetence, or neglect of duty. The members shall serve without compensation but shall be reimbursed for expenses incurred in carrying out their responsibilities under this section. Decisions of the Commission must be concurred in by at least five members.

(3) Within 15 days after the beginning of the regular session of the General Assembly in 1974 and within 15 days after the beginning of the regular session in each fourth year thereafter, the Commission by formal resolution shall submit its determinations for compensation and allowances to the General Assembly. The General Assembly may reduce or reject, but shall not increase any item in the resolution. The resolution, with any reductions that shall have been concurred in by joint resolution of the General Assembly, shall take effect and have the force of law as of the beginning of the term of office of the next General Assembly. Rates of compensation and pensions shall be uniform for all members of the General Assembly, except that the officers of the Senate and the House of Delegates may receive higher compensation as determined by the General Assembly Compensation Commission. The provisions of the Compensation Commission resolution shall continue in force until superseded by any succeeding resolution.

(4) In no event shall the compensation and allowances be less than they were prior to the establishment of the Compensation Commission. (1920, ch. 319, rejected Nov. 2, 1920; 1927, ch. 379, rejected Nov. 6, 1928; 1929, ch. 348,

rejected Nov. 5, 1929; rejected Nov. 5, 1944; Nov. 2, 1948; 1962, ch. 3, 1964; 1966, ch. 3, 1970; 1976, ch. 541

Cross references. — Md. Const., article II, § 17 of the General Assembly Commission Determining Compensation and Allowances of Members of the General Assembly" set out in Maryland Law Review, 47 Md. L. Rev. 103 (1977).
Court of Appeals of Maryland, "Performance — Part I: Decision-Making," see 1978.

Meaning of term "session." — See Warfield v. Vandiver, 1905.

What session of the General Assembly includes. — A "session" of the General Assembly includes only its recesses in January and February. "session" proclaimed by the Governor does not include meetings of or standing committees during the year. (1972).

Constitutional limitations. — See Richards v. County Comm'rs, 233 Md. 1 (1964).

The powers of the General Assembly are as broad as those of the County Comm'rs, 233 Md. 1 (1964).

And cannot be limited by the Board of County Commissioners. — See Board of County Comm'rs v. Richards, 233 Md. 621 (1964).

Duration of special session, the public interest. — The public interest may require the legislature to remain in session for a 30-day limit, as long as proper legislation is introduced before it. Richards v. County Comm'rs, 233 Md. 621 (1964).

No prohibition against "nonemergency local bills." — See Board of County Comm'rs v. Richards, 233 Md. 621 (1964).

The General Assembly may pass a resolution from passing article 27 because it was a non-emergency local bill. Richards v. County Comm'rs, 233 Md. 621 (1964).

Court, carries with it an indorsement of the legislature of such construction. *Womack v Central Lumber Co.* 131 M 201, 94 So 2.

If the legislature subsequently covers the entire scheme dealt with in former acts, the former act will be repealed by the later one. A later statute, although not repugnant to the provisions of a former one, but clearly intended to prescribe the only rule in the case provided for, repeals the former statute. *State ex rel. Knox v Wyoming Mfg. Co.* 133 M 249, 103 So 11, citing *Mobile & O. R. Co. v Weiner*, 49 M 725 and *Myers v Marshall County*, 55 M 344.

Where there are irreconcilable conflicts between two statutes enacted at the same session, the one last approved will prevail. *Green v Hudson*, 139 M 471, 104 So 171.

Where there is such repugnancy between statutes, the former will be construed repealed by implication. *Dugger*

v Panola County, 139 M 552, 104 So 459.

The last act of the legislature amending a statute prevails. *Miller v Tucker*, 142 M 146, 105 So 774, citing *Lang v Harrison County*, 114 M 341, 75 So 126.

While the intent of a statute is to be determined from its language if its meaning is clear and unmistakable, yet if its language is capable of more than one meaning, the purpose and spirit of the statute, as gathered from all its provisions and history, must be ascertained and declared by the court. *Robertson v Texas Oil Co.* 141 M 356, 106 So 449.

A tax levied under an unconstitutional law and paid under a protest may be recovered back. *Pearl River County v Lacey Lumber Co.* 124 M 85, 86 So 755.

For definition of "preamble" see *Dean v Senatobia*, 142 M 815, 103 So 178.

Section 34. The house of representatives shall consist of members chosen every four years by the qualified electors of the several counties and representative districts.

SOURCES: 1869 art IV § 2.

Editor's Note—

Chapter 18, Laws of 1962 1st Extraordinary Session, which proposed to amend this section of the constitution, was not approved by the electorate.

Cross references—

As to apportionment of house of representatives, see section 254.

Section 35. The senate shall consist of members chosen every four years by the qualified electors of the several districts.

SOURCES: 1869 art IV § 4.

Cross references—

As to apportionment of senate, see section 255.

Section 36. The Legislature shall meet at the seat of government in regular session on the Tuesday after the first Monday of January of the year A.D., 1970, and annually thereafter, unless sooner convened by the Governor; provided, however, that such sessions shall be limited to a period of one hundred twenty-five (125) calendar days for regular 1972 session and every fourth year thereafter, but ninety (90) calendar days for every other regular

session thereafter. Provided further that the House of Representatives, by resolution with the Senate concurring therein, and by a two-thirds (2/3) vote of those present and voting in each house, may extend such limited session for a period of thirty (30) days with no limit on the number of extensions to each session.

SOURCES: 1869 art IV § 6; 1912 ch 414; 1968, ch 634.

Editor's Note—

The amendment to Section 36 of Article 4 of the Constitution of 1890 set out above was proposed by House Concurrent Resolution No. 36 of the 1968 regular session of the Legislature, and upon ratification by the electorate on June 4, 1968, was inserted by a proclamation of the Secretary of State on June 13, 1968, by virtue of the authority vested in him by Section 273 of the Constitution. See Section 273.

Cross references—

For governor's power to convene legislature, see section 121.

ALR Annotations—

Power of legislature or branch thereof as to time of assembling, and length of session. 56 ALR 721.

Section 37. Elections for members of the legislature shall be held in the several counties and districts as provided by law.

SOURCES: 1869 art IV § 8.

Cross references—

As to elections for state and county officers, see section 102.

Section 38. Each house shall elect its own officers, and shall judge of the qualifications, return and election of its own members.

SOURCES: 1869 art IV § 10.

Cross references—

As to officers of legislature, see section 99.

JUDICIAL DECISIONS

The term "house" means one distinguished from the other. *Green v Welch*, branch of the legislature as distinguished from the other. *Green v Welch*, 32 M 650.

Section 39. The senate shall choose a president pro tempore to act in the absence or disability of its presiding officer.

SOURCES: 1869 art IV § 11.

Cross references—

As to officers of legislature, see section 99.

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lished lines may be followed at the discretion of the Legislature. (Amended, 1934, 1962, 1966.)

Sec. 6. The Legislature shall consist of not more than fifty members and not less than thirty members. The sessions of the Legislature shall be annual except as otherwise provided by this constitution or as may be otherwise provided by law. (Amended, 1934, 1970.)

Sec. 7. At the general election to be held in November, 1964, one half the members of the Legislature, or as nearly thereto as may be practicable, shall be elected for a term of four years, and the remainder for a term of two years, and thereafter all members shall be elected for a term of four years, with the manner of such election to be determined by the Legislature; Provided, that when the Legislature is redistricted the members elected prior to the redistricting shall continue in office, and the law providing for such redistricting shall where necessary specify the newly established district which they shall represent for the balance of their term. Each member shall be nominated and elected in a nonpartisan manner and without any indication on the ballot that he is affiliated with or endorsed by any political party or organization. Each member of the Legislature shall receive a salary of not to exceed four hundred dollars per month during the term of his office. In addition to his salary, each member shall receive an amount equal to his actual expenses in traveling by the most usual route once to and returning from each regular or special session of the Legislature. Members of the Legislature shall receive no pay nor perquisites other than said salary and expenses, and employees of the Legislature shall receive no compensation other than their salary or per diem. (Amended, 1934, 1960, 1962, 1966, 1968.)

Sec. 8. No person shall be eligible to the office of member of the Legislature unless on the date of the general election at which he is elected or on the date of his appointment he is a registered voter, has attained the age of twenty-one years and has resided within the district from which he is elected for the term of one year next before his election, unless he shall have been absent on the public business of the United States or of this State. And no person elected as aforesaid shall hold his office after he shall have removed from such district. (Amended, 1972.)

Sec. 9. No person holding office under the authority of the United States, or any lucrative office under the authority of this state, shall be eligible to, or have a seat in the Legislature. No person elected or appointed to the Legislature shall receive any civil appointment to a state office while holding membership in the Legislature or while the Legislature is in session, and all such appointments shall be void. (Amended, 1972.)

Sec. 10. Beginning with the year 1971, regular sessions of the Legislature shall be held annually, commencing at 12:00 o'clock (noon)

on the first Tuesday in January of each year. The duration of regular sessions held shall not exceed ninety legislative days in odd-numbered years unless extended by a vote of four-fifths of all members elected to the Legislature, and shall not exceed sixty legislative days in even-numbered years unless extended by a vote of four-fifths of all members elected to the Legislature. Bills and resolutions under consideration by the Legislature upon adjournment of a regular session held in an odd-numbered year may be considered at the next regular session, as if there had been no such adjournment. The Lieutenant Governor shall preside, but shall vote only when the Legislature is equally divided. A majority of the members elected to the Legislature shall constitute a quorum; the Legislature shall determine the rules of its proceedings and be the judge of the election, returns, and qualifications of its members, shall choose its own officers, including a Speaker to preside when the Lieutenant Governor shall be absent, incapacitated, or shall act as Governor. No member shall be expelled except by a vote of two-thirds of all members elected to the Legislature, and no member shall be twice expelled for the same offense. The Legislature may punish by imprisonment any person not a member thereof who shall be guilty of disrespect to the Legislature by disorderly or contemptuous behavior in its presence, but no such imprisonment shall extend beyond twenty-four hours at one time, unless the person shall persist in such disorderly or contemptuous behavior. (Amended, 1934, 1970.)

Sec. 11. The Legislature shall keep a journal of its proceedings and publish them (except such parts as may require secrecy) and the yeas and nays of the members on any question, shall at the desire of any one of them be entered on the journal. All votes shall be viva voce. The doors of the Legislature and of the Committees of the Whole, shall be open, unless when the business shall be such as ought to be kept secret. (Amended, 1934.)

Sec. 12. Repealed, 1934.

Sec. 13. The style of all bills shall be, "Be it enacted by the people of the State of Nebraska," and no law shall be enacted except by bill. No bill shall be passed by the Legislature unless by the assent of a majority of all members elected and the yeas and nays on the question of final passage of any bill shall be entered upon the journal. (Amended, 1912, 1920, 1972.)

Sec. 14. Every bill and resolution shall be read by title when introduced, and a printed copy thereof provided for the use of each member, and the bill and all amendments thereto shall be printed and read at large before the vote is taken upon its final passage. No such vote upon the final passage of any bill shall be taken, however, until five legislative days after its introduction nor until it has been

No person holding a salaried office under the government of the Commonwealth, and no judge of any court, attorney for the Commonwealth, sheriff, treasurer, assessor of taxes, commissioner of the revenue, collector of taxes, or clerk of any court shall be a member of either house of the General Assembly during his continuance in office; and his qualification as a member shall vacate any such office held by him. No person holding any office or post of profit or emolument under the United States government, or who is in the employment of such government, shall be eligible to either house.

Cross references. — As to disabilities for holding office and qualifications of voters, see §§ 2.1-30, 24.1-41, 24.1-42 and art. II, § 1, of the Constitution. For qualifications of officers, see art. II, § 5, of the Constitution.

A retired naval officer is not ineligible, under this section, to a seat in the General Assembly, as he is not holding a federal office. Galt v. Hobbs, 7 Va. L. Reg. (n.s.) 255 (1921).

§ 5. Compensation; election to civil office of profit. — The members of the General Assembly shall receive such salary and allowances as may be prescribed by law, but no increase in salary shall take effect for a given member until after the end of the term for which he was elected. No member during the term for which he shall have been elected shall be elected by the General Assembly to any civil office of profit in the Commonwealth.

Cross reference. — For statutes concerning salaries of members of the General Assembly, see §§ 14.1-17.1, 14.1-18.

A member of the State Corporation Commission is elected by the General

Assembly, and a member of the State may not during his term of office as elected a member of the Commission. Gilmer, 183 Va. 367, 32 S.E.2d 88 (1944). See art. IX, § 1, of the Constitution.

Applied in Howell v. C & P Tel. Co., 215 Va. 549, 211 S.E.2d 265 (1975).

§ 6. Legislative sessions. — The General Assembly shall meet once each year on the second Wednesday in January. No regular session of the General Assembly convened in an even-numbered year shall continue longer than sixty days; no regular session of the General Assembly convened in an odd-numbered year shall continue longer than thirty days; but with the concurrence of two-thirds of the members elected to each house, any regular session may be extended for a period not exceeding thirty days. Neither house shall, without the consent of the other, adjourn to another place, nor for more than three days.

The Governor may convene a special session of the General Assembly when, in his opinion, the interest of the Commonwealth may require and shall convene a special session upon the application of two-thirds of the members elected to each house.

Cross reference. — For statutory provisions as to time and place of meeting, see § 30-1.

Proposed amendment. — An amendment to this section was proposed and agreed to by the General Assembly at the 1979 Session (Acts 1979, c. 742), and referred to the 1980 Session. The amendment, if ratified, will add "Except as herein provided for reconvened sessions" at the beginning of the second sentence of the first paragraph, and will add a third paragraph, reading: "The General Assembly shall reconvene on the sixth Wednesday after

adjournment of each regular or special session for the purpose of considering bills which may have been returned by the Governor with recommendations for their amendment and bills and items of appropriation bills which may have been returned by the Governor with his objections. No other business shall be considered at a reconvened session. Such reconvened session shall not continue longer than three days unless the session be extended, for a period not exceeding seven additional days, upon the vote of the majority of the members elected to each house."

Proposed amendment. — An amendment proposed and agreed to by the General Assembly at the 1977 Session and referred to the 1978 Session was agreed to at that session. The 1978 act agreeing to it was held unconstitutional.

§ 7. Organization. — Each house shall choose its own Speaker and shall exercise the powers of each body a president pro tempore. The rules of procedure between sessions of the General Assembly are elected. Vacancies which may exist while the Governor is absent from the Commonwealth. Each house shall judge its own members and may punish them to such extent as two-thirds of its electors may determine.

Cross reference. — See art. IV, § 1, of the Constitution, and art. V, § 1, of the Constitution.

§ 8. Quorum. — A majority of the members elected to each house shall constitute a quorum to do business, but a smaller number may in any case be constituted by the Governor by proclamation. If the Governor by proclamation cannot be convened, no business shall be done by the General Assembly.

§ 9. Immunities. — Members of the General Assembly shall be privileged from arrest during the sessions of the General Assembly, except in cases of treason, felony, or breach of the peace. Neither house shall punish its members to such extent as to arrest under any law, or during the fifteen days next before and next after the commencement of a session.

Cross reference. — For statutes regarding privileges of members of the General Assembly, see §§ 30-6, 30-7.

§ 10. Journal of Proceedings. — Each house shall keep a journal of its proceedings, which shall be published at the expense of the members voting in each house. The vote in any election shall be recorded, and how he voted shall be recorded.

Seat of Government

§ 20. The seat of government shall be at Charleston, until otherwise provided by law.

Cited in *Slack v. Jacob*, 8 W. Va. 612 (1875).

Provisions for Assembling of Legislature Other Than at the Seat of Government

§ 21. The governor may convene the legislature at another place, when, in his opinion, it cannot safely assemble at the seat of government, and the legislature may, when in session, adjourn to some other place, when in its opinion, the public safety or welfare, or the safety of the members, or their health shall require it.

Length of Legislative Session

§ 22. The regular session of the legislature held in the year one thousand nine hundred seventy-three and every fourth year thereafter shall, in addition to the meeting days preceding the adjournment provided for in section eighteen of this article, not exceed sixty calendar days computed from and including the second Wednesday of February, and the regular session held in all other years shall not exceed sixty calendar days computed from and including the second Wednesday of January. Any regular session may be extended by a concurrent resolution adopted by a two-thirds vote of the members elected to each house determined by yeas and nays and entered on the journals.

Editor's note. — This section originally read as follows: "No session of the legislature, after the first, shall continue longer than forty-five days, without the concurrence of two-thirds of the members elected to each house." By the first amendment, proposed by Senate Joint Resolution No. 3, Acts 1919, p. 498, submitted by Acts 1919, c. 127, and ratified on November 2, 1920 it was amended to read: "All sessions of the legislature, other than extraordinary sessions, shall continue in session for a period not exceeding fifteen days from date of convening, during which time no bills shall be passed or rejected, unless the same shall be necessary to provide for a public emergency, shall be specially recommended by the governor and passed by a vote of four-fifths of the members elected to each house; whereupon, a recess of both houses must be taken until the Wednesday after the second Monday of March following. On reassembling of the legislature, no bill shall be introduced in either house without a vote of three-fourths of all the members elected to each house taken by yeas and nays. The regular sessions shall not continue longer than forty-five days after reconvening, without the con-

currence of two-thirds of the members elected to each house."

By the second amendment, proposed by Senate Joint Resolution No. 9, Acts 1927, p. 350, submitted by Acts 1927, c. 28, and ratified on November 6, 1928, this section was amended to read: "All sessions of the legislature, other than extraordinary sessions, shall continue for a period of sixty days from the date of beginning. But all regular sessions may be extended by the concurrence of two-thirds of the members elected to each house."

By the third amendment, proposed by Senate Joint Resolution No. 4, Acts 1953, p. 612, submitted by Acts 1953, c. 31, and ratified on November 2, 1954, this section was amended to read: "The regular session of the legislature held in the year one thousand nine hundred fifty-five and every second year thereafter shall not exceed sixty days, and the regular session held in the year one thousand nine hundred fifty-six and every second year thereafter shall not exceed thirty days. During any thirty-day session the legislature shall consider no other business than the annual budget bill, except such as may be stated in a proclamation issued

by the governor at least ten days before the convening of the session, or such proclamation may be stated by the legislature by a two-thirds vote of the members of each house. All regular sessions may be extended by the concurrence of two-thirds of the members elected to each house."

The fourth amendment of this section was proposed by House Joint Resolution No. 1, submitted by Acts 1970, c. 22, and ratified on November 3, 1970. The amendment designated the "Legislative Session Amendment," rewrote this section.

When regular session expires, the legislature shall have a regular sixty-day session of the legislature for by this section and W. Va. Const., art. VI, § 18, unless extended pursuant to a concurrent resolution which expires by operation of law and law at midnight on the sixtieth day of the commencement thereof, subject to the provisions of W. Va. Const., art. VI, § 18, D, which authorizes an extension of the session by the governor for matters in the budget. State ex rel. Heck's Dis. Inc. v. Winters, 147 W. Va. 861, 132 S.E.2d 374 (1963).

Statute as to computing the duration of a legislative session is inapplicable in determining the time of adjournment. — Section 2-2-3, which provides that the "time within which a bill shall be done shall be computed by excluding the day and including the last day or the day before Sunday, it shall also be excluded from the computation applicable to the determination of the permissible duration of the regular legislative session under this section. State ex rel. Heck's Dis. Inc. v. Winters, 147 W. Va. 861, 132 S.E.2d 374 (1963).

Legislative records are conclusive evidence of the time of adjournment. — When the records of the legislature show the time of adjournment and are clear and unambiguous, they are conclusive, and evidence cannot be admitted to show that the adjournment was not as shown. Capito v. Tolson, 137 W. Va. 587, 64 S.E. 845, 22 L.R.A. 101 (1909); State ex rel. Armbricht v. Tolson, 137 W. Va. 60, 70 S.E.2d 73 (1952); Heck's Dis. Centers, Inc. v. Winters, 147 W. Va. 861, 132 S.E.2d 374 (1963). See also Heston, 137 W. Va. 375, 71 S.E.2d 374 (1952).

And failure to comply with the requirements of ambiguity or omission in records is not clearly proved. — A bill duly introduced, authenticated, and approved is conclusive evidence that it has been passed by the legislature in conformity with the requirements of the constitution, unless the contrary appears from the journal of either house or other legislative records; and the legislature to comply with c

SESSION LIMITATIONS

Regular session limit

90 days
120 days
(or any other number)

Extensions (length)*

7 days
10 days
15 days
30 days
(or any other number)

Number of extensions

one
some other number
no limit

Authorization of extension

majority of each house
two-thirds vote of each house
majority of the full membership of legislature
two-thirds vote of the full membership of legislature

Scope of session extension

limited to subjects designated by concurrent resolution
no limit

* extensions are not special sessions for purpose of Article 9 of the Alaska Constitution

Lawmakers taking care of business in Juneau

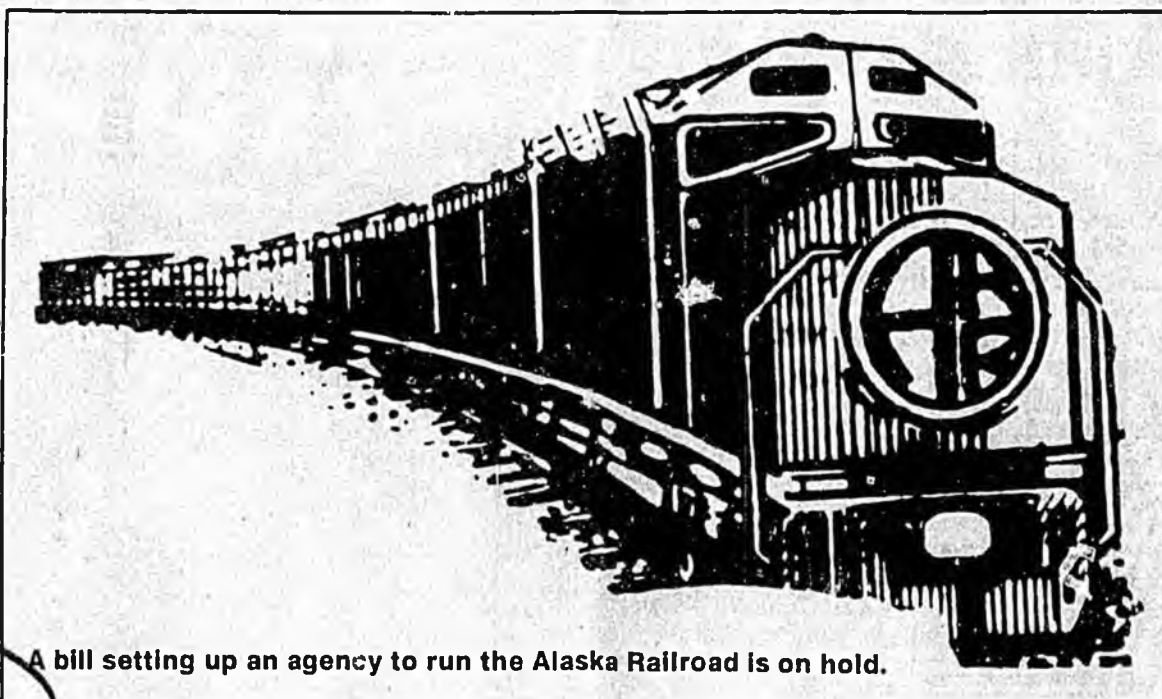
By **CHUCK KLEESCHULTE**
and **BETSY BRENNEMAN**
Daily News reporters

Lawmakers aren't yet in the home stretch, but at least they have rounded the far turn in their efforts to wrap up the 1983 legislature which, today enters its 108th day.

Before legislators pack up and head home, not expected for another month at least, they will decide the fate of dozens of issues, many vitally important to state business interests — or at least they will decide what not to decide until next year.

"Especially the House, but both bodies this year are very pro-business in their outlook," said House Speaker Joe Hayes, R-Anchorage. "The governor also has made a lot of statements which have shown his interest in promoting development of a stronger economy that can stand on its own without government subsidy. By the time we are through we should pass a number of bills of interest to the private sector."

Dave Ribacchi, acting chair of the Legislative Action Committee of the Anchorage Chamber of Commerce, agrees that this year's lawmakers have been attuned to business concerns, especially in the House. "I said he worries, however, that the mix of the new administration of Gov. Bill Sheffield and the inexperience of 23 fresh-



A bill setting up an agency to run the Alaska Railroad is on hold.

man lawmakers might team to delay final action on many issues until next year.

The progress on some of our priorities has been a bit less than desirable just because of the newness of the administration and of some of the lawmakers. Their

hearts are in the right place, but that might not be enough this year," Ribacchi said.

While the budget has the greatest impact on business, lawmakers also are considering everything from tax incentives for gas facilities and mining development to a new

loan program for small business.

Along the way, lawmakers have to decide dozens of other issues. A sketch of which would go like this:

ENERGY

The bill which all sources agree has the best chance at passage is one proposed by Hayes. It will provide increased state tax credits for gas processing and mining developments (HB258).

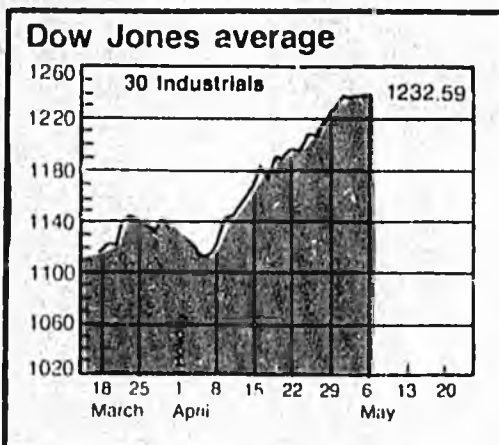
Under the bill, all developers of gas processing facilities south of the Arctic Circle and all miners will be able to write off 100 percent of permissible investments from their state corporate income tax bill, rather than the current 18 percent. The bill allows writeoffs for whatever industry currently can deduct from its federal taxes.

"At relatively little cost to the state, we can gain a tremendous stimulus to our economy. This will provide the incentive business needs to develop," said Hayes, who estimated that a proper investment climate could result in \$3 billion in mining development generating 6,000 jobs over the long run.

Hayes said the bill is not intended to push development of an all-Alaska route for a natural gas pipeline, although Northwest Alaska Pipeline Co., sponsor of the

See Page J-3, LAWMAKERS

index



Weekly stocks, Page J-6, J-7

J-2 DORFMAN:An investigation is under way of alleged stock sales based on inside information.

J-4 MONEY:The nation's basic money supply turned around in late April, rising \$1.4 billion.

Agriculture panel may give Sheffield a pain

Gov. Bill Sheffield may find himself between a rock and a hard place later this month when his agriculture task force issues its findings and recommendations on agriculture policy.

Nine of the 13 members of the task force are producers in the agriculture community and it is almost certain this group will push for extensive land clearing and farm development funding.

The group has already indicated it wants 500,000 acres of farm land made ready quickly. It further wants the Seward grain terminal at least partially completed and it wants Dick Lyon, commissioner of Commerce and Economic Development, removed from the farm scene altogether.

Many farmers feel that Sheffield has either tricked them or shunned his leadership role in farming matters.

They view Lyon as the either the messenger bearing bad tidings from the governor or as someone who is deviously misleading the governor and, in effect, running the show.

Sheffield had nothing but good news for the farmers on the campaign trail. Since he took



steve seplocha

office, the news has been mostly bad.

Lyon, with the governor's blessing, stopped work on the grain terminal. His logic was that the state cannot compete in world grain markets at this time and building a terminal primarily for export is a waste of money until the market develops.

The action was firm and drew rave reviews from many sectors of the business community and from critics of agriculture policy under the Hammond administration.

The governor, while standing firm on the

decision to close the terminal, reassured the farm community that he had not deserted them.

To prove his good intentions, he appointed the task force and said its input would help form that policy.

Sheffield's effigy was therefore granted a stay of execution as farmers funneled their wishes to the task force.

The report, due May 15, will certainly translate into more money than the administration feels is available, what with the drop in petro dollars.

There is every reason to believe that it will also represent a position almost the opposite of actions and statements attributed to Lyon during the past five months.

Finding a middle ground — palatable to farmers while remaining consistent with the administration's early track record — will probably be a challenge.

□ Steve Seplocha is The Daily News business editor

Lawmakers tackle measures that affect businesses ranging from agriculture to oil

Continued from Page J-1

Alaska gas line project, would have to change the location of its gas conditioning plant to Fairbanks from the North Slope to benefit from the bill's provisions.

The bill has a sporting chance of winning Senate approval. Senate sources confirm the bill has been flagged for movement by the leadership.

Two sets of key legislation which face a more problematic future are ratification of three royalty oil contracts to sell 53,000 barrels of state oil a day to Chevron and Tesoro.

The contracts have strong support from all business groups in the state and are a priority of Sheffield. They would provide Chevron 18,000 barrels a day of North Slope crude and Tesoro 27,000 barrels of North Slope and 8,000 barrels of Cook Inlet oil to keep the companies' Nikiski refineries running.

Tesoro plans a major expansion to produce aviation fuel if its contracts win approval.

The pacts aren't totally popular, however, because Charter Oil Co. has an option to buy 30 percent of Tesoro's stock. The state is suing Charter to recover lost income from a part royalty oil sale connected with the defunct Albetco refinery project.

Another controversial measure for which there is unanimous business and oil industry opposition would change the means by which the trans-Alaska oil pipeline is assessed. The measure would raise oil company taxes by \$80 million this year alone.

The bill, proposed by Sen. Frank Ferguson, D-Kotzebue, (SB203) would tax the pipeline on the basis of current year replacement costs minus depreciation, rather than the present method of reducing its value as Prudhoe Bay reserves decline.

The bill also would allocate the funds differently, giving the North Slope Borough at least \$13 million more next year. The Fairbanks North Star Borough and Valdez also would benefit while the state would lose revenue. Last week the bill was changed in committee to allocate 75 percent of any additional revenues among state municipalities, effectively turning it into a municipal revenue-sharing bill to gain more support.

ALASKA RAILROAD

One piece of legislation scheduled not to pass muster this year is a bill to set up an authority to run the Alaska Railroad if it is acquired by the state next year.

Senate President Jay Kerttula, D-Palmer, introduced legislation last year and again this year to create the authority that would be under the control of the state's Department of Transportation and Public Facilities.

The Alaska Railroad Transfer Advisory Commission, a citizens review group, recently submitted a report that largely backs Kerttula's proposed management system for the line, except that it proposes the railroad



A bill to revamp state's permit process has little chance of passage.

be run by an authority under a new department, separate from the transportation agency, that would turn the railroad over to private industry for operation.

Kerttula's bill leaves the ownership question to the future.

GENERAL BUSINESS

There is a host of general business legislation, including several measures that stand a chance of passage during the session.

The most likely to win approval is a bill to raise the preference Alaska businesses enjoy in bidding on state purchasing contracts. Currently, bids from Alaska firms can be accepted if they are less than 5 percent higher than Outside low bids.

Under the new bill, (HB106) that preference is raised to 15 percent. The change is proposed to give Alaska firms a better chance to win state contracts given the higher costs of business here.

A bill with a less certain future would create a new small business loan program (HB208). Proposed by Rep. Jim Duncan, D-Juneau, the bill would create a state loan authority to make loans of up to \$100,000 to small businessmen at rates 3 percent above the federal treasury discount rate.

While it would not provide subsidized money, it would make it easier for businessmen to get loans for new businesses, Duncan said.

Another bill standing a chance is one which will allow employees to voluntarily shift working hours among themselves without triggering overtime wage provisions (HB338).

A bill with a bleak future is one which would repeal the federal Davis-Bacon Act involving state-funded construction.

Currently union employees must be used, when available, on state construction; the



A bill to create a small-business loan program now faces an uncertain future.

state must make sure all contractors pay workers prevailing union wages for state-funded construction. Under the bill, that could be waived on some smaller rural projects.

Supporters argue it could have cut unemployment in the Bush by making construction more affordable and creating an incentive for the hiring of local, rather than Outside labor.

REGULATORY REFORM

An issue which is gaining widespread industry support — but has little real likelihood of passage this year, given its complexity — is a measure which would revamp the state's permit process (HB14).

The concept of instituting a mandatory deadline for issuing state permits has been around since 1978 but has repeatedly failed to pass because of disagreements between the oil industry and administration over technical aspects.

The bill would organize all state permits into three classes, most permits having to be issued within 30 or 65 days. The present proposal would designate a "lead" state agency responsible for issuing permits, helping to curb the current practice of an agency delaying a permit without clear legal authority at the urging of another agency.

DEVELOPMENT

The most hazy area facing lawmakers is what they should do with a host of expensive projects relating to economic development. On agriculture, lawmakers largely have been waiting for the recommendations of the Governor's Agricultural Task Force, whose proposals are expected to be released this week.

On road construction, such as consideration being given to the creation of an authority to facilitate construction of either

a Knik or Turnagain Arm crossing near Anchorage, lawmakers are sitting on a bill to create a \$50 million construction authority until they can assess the success of Sheffield's call last month for a joint state-private development venture to build a toll road across at least Knik Arm.

In regard to hydroelectric development, lawmakers are likely to appropriate enough funding to keep design work proceeding on the Susitna hydroelectric project. But most wind dropped from lawmaker sails for any more work on a long-range financing scheme for the dams this session when the Federal Energy Regulatory Commission last month, at least temporarily, rejected the state's application for a license to build the project, saying more economic feasibility work is needed.

AVIATION

Alaska air taxi operators are hoping for legislative action this session on at least two fronts — they likely will be battling .500 by session's end.

Air carriers would like to receive \$753,000 to fund an 18-month effort to develop lesson plans to teach Alaska pilots how to cope with unique Alaska flying conditions. The proposal, one from the new Alaska Aviation Safety Foundation, seems destined to fly after committee hearings last week.

The only issue is whether it will receive full funding.

Air carriers, however, stand almost no chance of winning passage this year of a state-backed insurance corporation designed to fund liability and hull insurance for air taxi operators.

FISHING & OTHERS

In the cracks are bills which would do everything from require the state to determine the value of fresh and frozen salmon — an important measure to implement pending salmon processor pricing settlements this summer — to bills to deregulate the cable television industry and interest rates.

One bill which prompted early business dissent — but opposition that might be softening — is a measure concerning hazardous and toxic substances in workplaces. Another bill in the same category is a measure calling for mandatory automobile liability insurance.

The hazardous and toxic substance bill will require businesses to post signs warning and training workers to safely handle all dangerous chemicals.

Initially, business howled when the bill covered some 59,000 substances including sand, sugar and wet hair. An ad hoc group late last week cut the list to 800 products, lessening opposition.

The mandatory auto liability bill, designed to force all motorists to get minimum insurance, originally was strongly opposed given the high costs of enforcement of the measure. Its future this session is still dim.

Other issues of concern to business, from funding of the state's existing loan programs to water and sewer improvement, will be decided as part of the budget process.

NOTICE

CS FOR HOUSE JOINT RESOLUTION NO. 12 (Judiciary) am

Failed in House 3/3/82, and was printed and distributed.

On Reconsideration 3/10/82, CSHJR 12(Jud) am has passed the House, and is now being printed and distributed.

Please discard all other versions, and retain this one.