

# **The Development and Nature of State Legislative Committee Procedures**

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**ABSTRACT:** Very little research has addressed the nature of rules of procedure at the state legislative level. This paper takes a thorough look at the development of state legislative procedures as they relate to the functioning of committee systems in the legislative process. It also looks more closely at the nature of state legislative committee procedures by exploring potential patterns of state legislative procedure. This research concludes that state legislative committee procedures have developed in state legislatures in similar patterns. It also concludes that state legislative committee procedures do not exist randomly, but rather within specific and purposeful dimensions.

Paper prepared for presentation at the State Politics and Policy Meeting, Milwaukee, WI, May 24-25, 2002.

This research has been supported in part by a National Science Foundation Dissertation Improvement grant (SES-0079928) and two additional National Science Foundation grants (SES-8411353 and SBR-9511518) as well as the Center for the Study of Institutions and Values at Rice University.

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### ***Introduction and Literature Review***

Congressional scholars have actively and consistently studied the procedural aspects of the legislative process. Much of their focus has been on studying the purpose of the committee process (Shepsle and Weingast 1987; Krehbiel 1991; Cox and McCubbins 1993; Maltzmann 1997), how floor agendas are set, the use of open versus closed rules for amending legislation (Bach and Smith 1988; Sinclair 1994; Krehbiel 1991, 1997a, 1997b; Dion and Huber 1996; Binder and Smith 1997), and the impact of reforms on the behavior of members (Sinclair 1989; Smith 1989; Rohde 1991 and Aldrich 1995). At the state legislative level, this area has received considerably less development. Procedural studies at the state legislative level have focused on the impact of procedural reforms on public policy (Carmines 1974; Leloup 1978; Roeder 1979 and Uslaner and Weber 1975), impact of rules on the number of committee positions (Hamm and Hedlund 1990), the role of party in member assignment to committees (Hedlund and Hamm 1996), and the impact of committee procedures on performance (e.g., Rosenthal, 1974; Hamm and Moncrief 1982). In particular, in almost all of these studies state legislative procedures are an independent variable attempting to account for some other aspect of the legislative process.

However more recently, scholars have begun to study how rules of procedure have developed over time. At the congressional level, this research has focused primarily on the expansion and contraction of minority procedural rights during the nineteenth century (Dion, 1997; Binder 1997; Fink 2000). Other research has explored procedural development in the U.S. Congress more generally (Swift 1997; Schickler 2001). State legislative research has also begun to explore the development of state legislative procedures as well. Specifically, this research explores why state legislative chambers adopt particular rules of procedure. This research has explored the basic foundations of state legislative structures and procedures over the course of the twentieth century (Hamm, Martorano and Hedlund 1998, 1999, 2001 and Martorano, Hamm and Hedlund 2000). It has also begun to explore the potential usefulness of congressional theories to help account for their existence (Martorano, Hamm and Hedlund 2000; Martorano 2001a; 2001b).

This paper will combine research concerning both rules of procedure and committee systems. The specific focus of this paper will be the development of rules of procedure at the state legislative level as they pertain to the functioning of committees in the legislative process. Specifically, this paper will accomplish two goals:

- It will explore the development of state legislative committee procedures over the latter portion of the twentieth century; and
- It will explore the nature of committee related procedures at the state legislative level.

### *The origins and sources of state legislative rules of procedure*

Before exploring the development of committee related rules of procedure at the state legislative level, it is imperative to take a moment to address the origins and sources of legislative procedure in state legislature as it is quite different from the congressional level. At the congressional level, each chamber (i.e., the House and the Senate) has the power to determine its own rules of procedure. Therefore, each chamber is the originator of its own guidelines for proceeding through the legislative process.

At the state legislative level, this is not always the case. While state legislative chambers are responsible for establishing their own rules of procedure, forces outside of their control may limit the procedures they may adopt. Specifically in the U.S. states, the way the legislative process unfolds can be dictated from outside the body (i.e., externally) either through state constitutions or statutory law. Further, similar to Congress, structures or procedures may be formally codified or they may simply be informal norms of behavior. Figure 1 displays the origin of state legislative committee procedures and provides examples of each type.

#### **[Figure 1 about here]**

The procedures informing the legislative process at the state legislative level also come from several different sources. Legislative procedures may originate in any of the following: (1) constitutions, (2) statutes, (3) formal rules and regulations of the legislature, (4) resolutions, (5) precedents, and (6) usages (Shambaugh 1918). In this section each of these sources will be considered in turn.

At the state level, state constitutions provide the same basic structures for their state legislative bodies as the Constitution provides for the U.S. Congress, and many state constitutions including those for Alabama, Alaska, California, Illinois, Michigan and New Hampshire also stipulate that each house shall have the power to adopt their own rules of proceeding (Hamm and Squire 2001). However, most state constitutions go further and actually dictate procedure directly in the text of the state constitution. In fact, legislative procedure can be broadly affected by state constitutions. The procedure for a bill to be read three times often originates in the state constitution (ex., Alabama). In terms of committee powers, state constitutions in a few states (i.e., Mississippi, Texas and Pennsylvania) require that all bills must be referred to a committee and some require that committee meetings be announced in advance (exs.: Illinois, Nevada, Ohio, Texas and Virginia).

Statutes are another source of authority for legislative procedure. By and large, members of the U.S. Congress are reluctant to pass laws that impact the workings of the Congress, and generally exempt themselves (i.e., the Congress) from many of the laws passed. However, a recent study (Martorano, Hamm and Hedlund 2000) found a wide variety of committee-related activities are sanctioned via statutes. This study found for example, that open meeting laws cover the operation of all government meetings, including those of legislative committees in 35 of the 36 states included in the study. The ability of committees to subpoena witnesses is set forth in the laws of 31 states while the ability of standing committees to meet in the interim is

authorized in 10 of these states. Less frequently mentioned in these 36 states are statutory provisions requiring legislative committees to give advance notice of committee meetings (5 states), requiring all bills go to a committee (3 states), permitting standing committees to introduce bills (2 states), requiring committees to keep minutes of meetings (2 states), requiring only one-third of the elected members to withdraw a bill from committee (1 state), providing for regular committee meetings (1 state), having the presiding officer appoint standing committees (1 state), announcing agenda prior to committee meetings (1 state), and permitting the committee to call meetings at his/her pleasure (1 state). There are also rare cases where initiatives and referendum are used to place limitations on state legislature (Rosenthal 1998; Hamm and Squire 2001). A contemporary example of the impact of initiatives and referenda on state legislatures are the passage of term limits on state legislatures in states such as Arkansas, Michigan and California.

Chamber rules of procedure provide the most thorough treatment of legislative procedures whether one considers the Congress or the state legislatures. Formal chamber rules comprise a majority of the procedures in both settings. Resolutions are another source of authority for certain practices. In the U.S. House for example, special rules (i.e., the rules for debate and amending on the floor) are set for each bill by resolution. At the state legislative level, an example is the creation of a bill sifting committee in the Iowa House by resolution each session for 58 years until it was formally adopted as part of the standing rules in 1931 (Shambaugh, 1918, 1968: 18). Precedents are more difficult to trace given the paucity of records, but they can be seen as affecting committees, particularly in the area of committee jurisdiction (King, 1994). Usages, or informal norms, constitute the final source of rules. Informal norms in Congress include junior senators refraining from debating and deferring to senior Senators in the past (of course, this norm no longer exists as freshman senators now actively participate in all stages of the process. Norms have also been shown to exist and to be important at the state legislative level (Wahlke et al. 1962). Precedents and informal norms are the most difficult sources to study as they can only be identified indirectly by observing the legislative body up close.

Thus it can be stated that in many ways the origins and sources of state legislative structures and procedures are in many ways similar to those of the U.S. Congress. However, some important differences do exist. What should be most evident from this discussion is that at the congressional level decisions concerning legislative structures and procedures are all made internally by the members themselves (Rieselbach 1995). These decisions can be formal (i.e., a written, codified rule or resolution) or informal (i.e., precedent or usage), but in the end the decision is still up to the members currently sitting in Congress. The only external pressure is structural. The U.S. Constitution dictates the number of chamber and their sizes, as well as the qualifications for office. However, the Constitution never dictates “the rules” of the legislative process – they are clearly left to the individual chambers. In contrast, at the state legislative level, procedure may be determined externally through the state constitution or statutory law. Specifically, the current state legislative body may be procedurally bound by the actions of the state’s citizens or actions of the members of previous state legislative sessions.

### ***Proposed Dimensions of State Legislative Committee Procedures***

It is naive to assume that committee related state procedures exist in legislative chambers at random. Rather, it is the assertion of this research that in any legislature certain procedures should in fact exist in very particular combination, and it is suggested here that five distinct dimensions of committee related state legislative procedures actually exist. The five dimensions presented below concern only procedural aspects of the committee stage of the legislative process. An example of a procedural rule is a provision in a chamber that allows committees to introduce their own legislation. Structural aspects such as the listing of committee names in the formal chamber rules of procedure are not included.

The inspiration for these dimensions comes from Mattson and Strøm's (1995) survey of committee powers, structures, and procedures in 18 European Parliaments as well as earlier, collaborative research by the author (Hamm, Hedlund and Martorano 1998, 1999, 2001; Martorano, Hamm and Hedlund 2000). Their 18 nation comparative study of legislative institutions uncovered four significant dimensions of legislative structure and procedure – information control, delegation, lack of internal control, and minority protection (1995: 301). The creation of the five dimensions of committee related state legislative procedures described in detail below was stimulated by the four dimensions uncovered in the Mattson and Strøm analysis.

In addition to asserting that state legislative procedures do not exist at random, this research asserts that these dimensions capture very distinct aspects of committee system behavior. Specifically, procedures that influence the functioning of committees in the legislative process can be broken down into three categories of committee behavior – 1) their ability to hold meetings and gather information, 2) the procedures under which the committees function interally, and 3) their ability to protect their decisions on the floor of the chamber (See Table 1).

#### **[Table 1 about here]**

The category dealing with committee meetings and information gathering is broken down into two distinct dimensions of committee power: 1) public access to committee meetings and 2) information gathering ability. Key to representative democracy is the ability of the public to attend committee meetings and influence the policy making process. The purpose of this first dimension (public access to committee meetings) is to determine how open the committee process is at the state legislative level. Included are provisions for regularly scheduled committee meetings, advance notice of committee meetings and their agendas, requirements that committees hold public hearings on all legislation referred to them, and requirements that committee hearings and committee deliberations are open to public attendance.

Information Gathering Ability is the second dimension. In order to perform efficiently and effectively, it is vital that committees have the ability to collect information about issues and topics related to their work. Through the ability to subpoena people and documents, conduct

investigations, meeting between and before sessions and hiring staff this dimension can be accomplished.

The second category of committee behavior – the internal functioning of committees is also broken down further, and includes two dimensions: 1) the ability of committees to impact the content of public policy through legislation and 2) the ability of committees to set and control their own agendas and timetable.

The third dimension gauges a committee's ability to receive, rewrite and initiate legislation. The ability to receive, rewrite and initiate legislation provides committees with powerful tools in their efforts to directly impact legislative content and thus public policy. Specifically, this dimension captures five ways in which committees can accomplish this goal: 1) requirement that all bills be referred to standing committees, 2) ability of committees to offer substitute bills, 3) the automatic incorporation of committee amendments, 4) the ability of committee to introduce bills, and 5) limitations on referral of bills to multiple committees.

The fourth dimension concerns the ability of the floor (i.e., the chamber) to control committee agendas and timetables. Logically, the committee system will be more autonomous when it is more difficult for external actors (i.e., leadership or the floor, etc.) to control the behavior of committees. This dimension is composed of four factors that tap committee autonomy or lack of it: 1) requirement that all referred legislation be considered, 2) existence of deadlines for committee action, 3) ability of the floor to demand a committee report and 4) the ability of the floor to withdraw legislation from committee consideration.

Protecting the committee's decisions on the floor, the final category of committee behavior includes single dimension: the ability of committees to protect their decisions on the floor of the chamber. The finality of committee decisions is central to many existing theories of legislative organization (i.e., distributive, informational and partisan theories). Thus, this fifth and final dimension includes written rules of procedure that should include mechanisms that protect committee decisions. This dimension includes: 1) requiring that bills be placed on the final action calendar in the order reported from committees, 2) not requiring committees to report back all bills referred, 3) making adverse committee reports difficult to overturn on the floor, 4) not allowing the minority on a committee to submit a report, and 5) making it difficult to amend legislation on the floor.

These development and nature of these dimensions of state legislative committee system procedure will be explored later in this research. The next section will discuss the data and analysis to be conducted in later sections.

### ***Research Design***

The basic research design used in this research is similar to the one adopted by Mattson and Strøm (1995) in their survey of committee powers, structures, and procedures in 18 European Parliaments. Some modifications to their research design will be made to make it

more compatible to the study of state legislatures, but their clearly presented analysis is quite helpful to scholars who want to undertake exploratory cross-system comparative committee studies. In addition to a basic descriptive analysis, the authors provide an analysis of the empirical relationships between committee powers, structures, and procedures. Their comparative study of legislative institutions uncovered four significant factors – information control, delegation, lack of internal control, and minority protection (1995: 301).

Previous collaborative research by this author has employed this design with a good measure of success (Hamm, Martorano and Hedlund 1998, 1999, 2001 and Martorano, Hamm and Hedlund 2000). This paper adds to this previous work by employing a dataset that includes nearly complete time-series of data in a limited number of states<sup>1</sup>.

The data for this research come from the formal rules of procedure of lower house chambers as well as state constitutions and state statutes in 23 states for the time period 1955 through 1995<sup>2</sup> (See Appendix A for coding template). These states are representative of all state legislative lower houses in the characteristics of legislative professionalization, membership turnover and partisan competition (See Appendix B for more discussion).

Further, a decision was made not to explore rules of procedure found in resolutions, precedents and usages (i.e., informal norms). Exploring rules of procedure embedded in resolutions, precedent and usages would be a monstrous task at the state legislative level, since it would require reading legislative journals page by page and locating historical records that discuss informal processes in each state.

Further, after much consideration, it was decided to limit the analysis in this research to only the lower chambers because the differences between the upper and lower chambers at the state legislative level are not as pronounced as the differences between the U.S. Senate and U.S. House (see Hamm, Hedlund and Martorano 2000). Thus, it does not appear that any significant leverage would be gained by including upper chambers, and they are excluded from the analysis in the interests of time and manageability.

Finally, this analysis is only concerned with the formal structures and procedures adopted at the beginning of each two-year electoral/session cycle. Therefore, this analysis is not concerned with minor changes made during the session(s). While these minor changes can be important, it is impossible to determine when they occur without scanning the entire set of journals for each and every session. Thus, in the interest of time and efficiency, the decision to

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<sup>1</sup> These previous papers looked only at procedures in one session per decade. That is, they included only the rules of procedure used during the 1919, 1929, 1939, etc. legislative sessions. They did not include 1921, 1923, 1925, etc. The dataset employed in this research looks at all legislative sessions between 1955 and 1995 (Some exceptions will be discussed later).

<sup>2</sup> For some states not all years in the time series were available for coding. The following states and year ranges were coded: AZ, CT, FL, IL, IN, KS, MI, MN, MT, NC, OH, PA, RI, SC, SD, VT, WA, WV, WI (1955-1995); CA, MT (1922-1991); DE (1955-1985); and KY, VA (1956-1994). Regular legislative sessions are held in even years in KY and VA, while regular sessions are held in odd years in the remaining states.

focus only on the rules of procedure adopted at the beginning of each session was made. All told, the subsequent analysis is based upon the rules for 472 legislative sessions.

### ***The Development of the Dimensions of State Legislative Committee Procedures***

Over time state legislative committee procedures have undergone significant changes. Earlier research (Hamm, Hedlund and Martorano 1999; Martorano, Hamm and Hedlund 2000) has shown that over the course of the twentieth century state legislative committee structures and procedures have seen dramatic changes. This research has also shown that many of these changes have occurred in the latter part of the twentieth century.

Within the timeframe of this project, 1955 to 1995, the dimensions of state legislative committee procedures of interest to this research have seen both stability and change. We will start by describing the “state” of state legislative committee procedures in 1955 and then progress 40 years to 1995, discussing both similarities and differences. Figures 1 through 5 display the extent to which procedures within the dimensions have developed over time in 23 state legislative lower houses. As is shown, some stay relatively the same while others change dramatically. In this part of the paper, three snapshots (1955, 1975 and 1995) of state legislative committee system procedures will be discussed and compared.

#### State legislative committee procedures in 1955

Public access to committee proceedings is possible only if committees hold meetings and the public knows when they are and what is being considered. In 1955, public access to committee proceedings was rather limited (See Figure 1). Committees in 30 percent of chambers studied – or only seven states (California, Florida, Kentucky, Minnesota, Ohio, Rhode Island and Virginia) – were required to hold regular meetings to discuss issues before them. Advance notice of committee meetings was required in only 56.5 percent of the chambers in the study while advanced notice of meeting agendas were required in only 13 percent of the chambers (California, Indiana and West Virginia). Less than half of the chambers were required to make their hearings and deliberations open to public inspection (43.5 and 39.1 percent, respectively). Finally in 1955, a single chamber, the Connecticut house required hearings on all legislation referred to a committee.

#### **[Figure 1 about here]**

The committee system would be limited without the ability to gather information, and in 1955 well over half the chambers in the study had at least some formal way of gathering information. The most widespread procedure on the books in 1955 was the power of committees to subpoena people, and force them to testify in front of the committee (See Figure 2). Fifteen of the 23 chambers or 65.2 percent possessed this power in 1955. The ability to subpoena documents was the second most popular power occurring in 11 or 47.8 percent of the chambers. These two procedures are unique in that in most states where they exist, they are either constitutionally or statutorily delineated powers. The existence of investigation authority, staff,



and meeting before and between sessions was far less frequent in 1955. In fact, only three chambers (Michigan, Pennsylvania and Virginia) were afforded explicit investigative powers, only eight chambers provided committees with staff support, only one allowed committees to meet before commencement of the session and only four states allowed interim meetings.

**[Figure 2 about here]**

State legislative committees in 1955 fared much better in their ability to receive, rewrite and initiate legislation (See Figure 3). In 78 percent (or 18) of the chambers studied, all legislation must be referred to a standing committee for consideration before becoming law. Florida, Indiana and South Carolina were the only chambers to not have this requirement (the Delaware and Virginia rules make no mention). Committees had the ability to introduce legislation in just over 60 percent (or 14) of the states examined and the multiple referral of legislation was permitted in 56.5 percent of the chambers. Nine (Connecticut, Delaware, Florida, Illinois, Kansas, Minnesota, Montana, Washington, and West Virginia) or 39 percent of the chambers explored allowed committees to present substitute versions of the bills referred to them. However, only two chambers in the study, South Dakota and Virginia automatically incorporated committee amendments into legislation before it was returned to the floor for a vote and in ten chambers there is clear indication in the rules of procedure that amendments are not to be incorporated and must be approved by the chamber on the floor.

**[Figure 3 about here]**

How did committees fare with regards to controlling their own agendas and timetable in 1955? The answer is not very well (See Figure 4). In 15 of the 23 (65.2 percent) chambers under study, committees were required to consider all legislation referred to them. Only one chamber, the South Dakota house, did not require committees to consider all referred legislation. In 82.5 percent (or 19) of the states studied, the floor had the power to withdraw bills from committee consideration. Of the four states that did not give the floor the power to withdraw bills from consideration, two of them (Connecticut and Washington) provided the floor the power to request that committees consider referred legislation. Only two chambers in the 23 chamber sample have neither a floor withdraw or request option in 1955. They are the Montana and Vermont houses. The only item on this dimension working in the favor of the committee system in 1955 is the low occurrence of deadlines for committee action. Clear deadlines for committee action existed in just over a quarter or six (Florida, Michigan, Minnesota, Vermont, Washington and Wyoming) of the chambers assessed.

**[Figure 4 about here]**

In 1955, it appears that committee decisions were not procedurally final in state legislative chambers. By and large, committees had very few mechanisms for protecting their positions during the floor consideration stage (See Figure 5). The only procedure that existed widely was that in just over half of the chambers bills were required to be placed on the calendar either in the order reported from committees or in numerical order.

**[Figure 5 about here]**

While, this procedure guarantees that the floor cannot skip over bills without a suspension of rules, and thus guarantees consideration, it really does very little to ensure that the committees' decisions are upheld on the floor. Much more powerful procedures include making adverse reports difficult to overturn, not requiring committees to report all referred legislation, making floor amending difficult and not allowing minority committee reports. Unfortunately, in 1955 very few chambers adopted any of these procedures. For instance, adverse committee reports were difficult to overturn in only two chambers studied – Florida and North Carolina houses. Only one chamber, the Connecticut house did not require committees to report back all referred legislation. Floor amending was considered difficult (requiring greater than a majority or limits on time of amendments) in only three chambers (Florida, Indiana and South Carolina) evaluated. Finally, a single chamber, the Michigan house, did not allow the minority of a committee to submit a report with the majority.

#### State legislative committee procedures in 1975

What changes were there in state legislative committee procedures, if any in the 20 years between 1955 and 1975? In some areas change was dramatic and in other areas there is little change at all.

With respect to the procedural dimensions that refer to the ability of committees to hold meetings and gather information, the amount of change is dramatic (See Figure 1). Public access to committee proceedings in 1975, increased greatly over the period of 20 years (See Figure 5-1). A regular schedule of committee meetings was now required in 13 of the 23 chambers (56.5 percent) in the study. This is an increase of seven chambers or about 25 percent from 1955. Advance notice of committee meetings was required in 82.6 percent or 19 of the chambers in the study, an increase of just over 25 percent. There was also an increase in chambers adopting the requirement that committee meeting agendas are announced in advance. In 1955 only three chambers had such a requirement and by 1975, nine chambers or just under 40 percent of the chambers have adopted this provision. The largest increases in rule adoption between 1955 and 1975 are the adoption of requirements that committee hearings and deliberations are open to public inspection. In 1955, these rules appeared in less than half of the chambers explored, and in 1975 almost every chamber was required (in most cases it is a statutory requirement) to have their committee hearings and deliberations open to the public. The exceptions are Kentucky and Michigan where there is no mention of requiring hearings or deliberations to be open and Virginia where there is no mention requiring open committee hearings. The only indicator to exhibit no change between 1955 and 1975 is the requirement that all bills receive a committee meeting. The Connecticut house is still the only chamber to have this requirement.

State legislative chambers also exhibited change between 1955 and 1975 in procedural resources afforded to committees to enhance their ability to gather information (See Figure 2). By 1975, committees in five more chambers in the study (an increase of about 22 percent) were given the power to subpoena people to get their testimony. Another five chambers also granted committees the power to subpoena documents between 1955 and 1975. The ability of committees to meet in the interim periods between annual session in the biennium also increased. In 1975, eleven chambers (47.8 percent of those studied) adopted provisions for interim

committee meetings (an increase of seven chambers). The ability of committees to conduct investigations and meet before the start of the biennial session period changed only slightly in the 20 years since 1955. Only two more chambers in the sample (California and West Virginia) provided committees with explicit investigative powers and only one additional chamber (Indian) allowed committees to meet before the start of the session. In the case of committee staff there is no change.

The situation with respect to the adoption of procedures that facilitate the ability of committees to receive, rewrite and initiate legislation remained fairly stable (See Figure 3). In 1955, 78 percent of the chambers required that all legislation be referred to standing committees. In 1975, the existence of this provision increases to 87 percent (or 20 out of 23 chambers). The only chamber to clearly state that all bills do not have to be referred to a standing committee in 1975 is the Illinois house (although they did have the requirement in 1955). For the remaining indicators on this dimension, there are only changes of one, two or three chambers between 1955 and 1975. There was an increase by one in the number of chambers that provide for the introduction of committee sponsored legislation, and three more chambers allowed legislation to be referred to more than one committee. Two more chambers afforded committees the power to suggest substitute versions of bills, while one less chamber (South Dakota dropped incorporation) allowed amendments to be incorporated before floor consideration and two more chambers clearly banned the practice.

Between 1955 and 1975 committees retained just about the same level of control over their agendas and timetables. Therefore, the situation is just as bad in 1975 as it was in 1955. One more chamber adopts a provision that requires committees to consider all referred legislation, increasing the percentage of chambers in this study adopting the procedure to just under 70 percent. Figure 4 shows that the percentage of chambers that allows the floor to withdraw bills from consideration decreases. However, this decrease is matched with an increase in the percentage of chambers that allow the floor to demand that a committee consider and report a bill (i.e., overall the committee system does not gain). Finally, the only committee power positive move on this dimension between 1955 and 1975 is a decline the number of chambers placing deadlines on committee action from six chambers to four (Florida, Illinois, Montana and Vermont – only Florida and Vermont had deadlines in 1955).

Finally, how has the ability of committees to protect their positions during the floor stage evolved in these 20 years? The answer is not much (See Figure 5). For the most part, all of the indicators on this dimension remain stable in the session between 1955 and 1975. The existence of a regular calendar order increases slightly between 1967 and 1971, but stabilizes back to the 1955 level by the 1975 session. As for the adoption of procedures that do not require committees to report all referred legislation, make floor amending difficult and do not allow minority reports, there is absolutely no change between 1955 and 1975. The only change on this dimension is with regard to procedures that make adverse committee reports difficult to overturn. In 1975 two more chambers (Illinois and Kansas houses) have made it harder to overturn adverse committee reports.

Thus, in the years between 1955 and 1975, the ability of state legislative committees to hold meetings and gather information increased. However, their ability to impact policy and control their decision making processes, and their ability to protect their decisions in later stages of the legislative process remains relatively unchanged and in some instances weak.

#### State legislative committee procedures in 1995

What happens in the last half of the time period of interest to this study? Procedurally, are state legislative committees given more or less power in the 20 years between 1975 and 1995?

Figure 1 shows that public access to committee meetings between 1975 and 1995 stayed fairly consistent. Committee hearings and deliberations that were open to the public existed in almost every chamber in the study (94.4 percent for each). The existence of a regular committee meeting schedule appeared at the same rate (55-56 percent) that it did in 1975, and the requirement that committee meetings be announced in advance increases slightly (about 5 percent). Two chambers (Minnesota and Ohio) also required hearings on all referred legislation. Connecticut dropped its requirement in 1991. The greatest change occurred in the adoption of procedures requiring committee agendas to be announced in advance. In 1975, just under 40 percent of the chambers required advance notice of the agenda, and in 1995 the percentage has increased about 15 percent to 55.6 percent.

With respect to information gathering ability there are some slight increases and drops between 1975 and 1995 (See Figure 2). Over the 20 years, adoption of procedures that allow committees to subpoena both people and documents gradually increases for total increases of about 7 and 15 percent respectively between 1975 and 1995. The adoption of clear investigative power for committees also increase in this period from about 22 percent in 1975 to 28 percent in 1995. In 1995, not a single state allows committees to meet before the commencement of the biennial session period, while the ability to meet in the interim drops to 39 percent from 48 percent after peaking in the 1980s. Finally, once again the formal provision of committee staff also declines from 34.8 percent in 1975 to 16.7 percent in 1995. Only Kentucky, North Carolina and West Virginia formally mention providing committees staff in their formal chamber rules.

When considering the ability of committees to receive, rewrite and initiate legislation, there is also very little change between 1975 and 1995 (See Figure 3). The most dramatic positive change is that by 1995, all but one chamber (Connecticut) in the study clearly required that all bills introduced be referred to standing committees for consideration (increase of 7.5 percent between the two periods). The most dramatic negative change is the decrease in the percentage of chambers that provide clear rights for committees to sponsor legislation. The percentage of chambers adopting a procedure in this area drops 15 percent between 1975 and 1995. The good news on this dimension is that 8.5 percent fewer chambers provide for the multiple referral of legislation and an additional chamber provides for incorporated committee amendments (South Dakota readopted the procedure in 1981). Less good news is that there was about a three percent drop off in the number of chambers allowing committees to propose substitute versions of referred legislation.

By 1995, state legislative committees gained some procedural control over their agendas and timetable (See Figure 4). In 1995, the number of chambers requiring committees to consider all referred legislation was cut in half giving state legislative committees more power to decide which bills to consider. However, the ability of the floor to both withdraw legislation from committee consideration and request legislation considered also increased slightly. On a more positive note, by 1995 there is not a single state legislative lower house that places deadlines on committee action. Therefore, by 1995 state legislative committees are given a great deal of leeway over their agendas (decreases in consideration requirements) and moderate control over their timetables (no more deadlines, but the floor can still demand reports or take bills away).

The most consistent procedural pattern over the time period is the floor maintaining its ability to overturn committee decisions during the floor consideration stage. Once again between 1975 and 1995 there is little change on this dimension and the changes that do occur are not to the advantage of the committee system (See Figure 5). The use of a system that placed bills on the floor consideration calendar in the order reported from committees or in numerical order continues to decline during this period. The total decline is about 20 percent and in 1995, only 6 chambers (Connecticut, Michigan, Minnesota, Rhode Island, South Carolina, and Vermont) have a regular calendar order. The adoption of rules that make adverse committee reports difficult to overturn decreases about 8.7 percent between 1975 and 1995. Finally, between 1975 and 1995 there is no change in the adoption of procedures by state legislatures that make more floor amending difficult, do not require committees to report all referred legislation and prohibit minority reports.

In sum, the only major changes in state legislative committee procedures between 1975 and 1995 occur in the area of agenda and timetable control. During these 20 years, state legislative committees were given much more control over their agendas and slightly more control over their timetables.

Overall, over the 40 years that this study unfolds state legislative committee systems have developed in ways that have made them more accessible to the public, that have given them greater ability to gather information and greater ability to control their own agendas and timetable. The ability of state legislative committees to impact policy through receiving, rewriting and initiating legislation evolved little between 1955 and 1995, while throughout the period the floor maintained its ability to override committee decisions during the floor consideration stage.

### ***Determining the Interrelationships Between Committee System Procedures***

The previous analysis displayed clearly how the dimensions of state legislative committee procedures have evolved over the time period of interest to this dissertation. It was also asserted earlier that very specific patterns of procedural adoption exist at the state legislative level. The simple analysis above does nothing to prove or disprove the existence of particular dimensions of formal state legislative committee system procedures. In this part of the analysis,

factor analysis is used to see if any particular combinations of state legislative rules of procedure exist in state legislatures, and if so are they the same or similar to the dimensions proposed earlier.

Creating the factor structure was quite difficult. Seventeen of the 25 indicators associated with the above dimensions were included in the factor analysis. While only one item was removed for its infrequent occurrence (i.e., ability to meet before sessions), uncertainty as to the reliability of seven other measures — staffing, establishing regular committee meetings, requiring a hearing, referring all bills to standing committees, the ability of committee minorities to file reports, multiple referrals and the placing of bills on the calendar in regular order—necessitated that they be omitted on the side of caution in this type of analysis. For the most part, the written rules in a number of chambers were silent on these items and it is dangerous in this type of analysis to assume whether they do or do not exist. For example, in legislatures with a small workload, bills could go on the calendar in the order that they were reported from committee without the necessity of a rule being in place since it may have been an informal agreement or understanding. Meeting during the interim was not included because several legislatures are in what we would call continual session throughout the entire two-year session period, thus eliminating the possibility of meeting during the interim.

The results of the factor analysis are presented in Table 2. It is a varimax-rotated solution and dimensions with eigenvalues of less than 1.06 are omitted. Factor loadings less than .40 are also excluded to make interpretation easier. While, not exactly the same as proposed earlier, the uncovered factor structure is quite similar. In particular, the factor analysis found six rather than five factor structures, and a few of the individual procedures to load on factors in ways anticipated earlier. In particular, the proposed committee openness factor does not exist in the uncovered factor structure. In fact, in the existing structure the proposed openness dimension falls on two different dimensions (i.e., openness and advance notice). Further, some of the indicators do not load on the factors proposed and some of the indicators do not load at all. Specifically, the incorporation of committee amendments loads on the advance notice factor rather than the initiating of legislation factor. The inability of the floor to withdraw legislation from committee consideration loads on the initiating of legislation factor rather than the control of agenda and timetable factor as anticipated. Finally, the inability of the floor to request that a committee consider and report a bill does not load on any factor.

**[Table 2 about here]**

Ultimately, the factor analysis uncovered the six dimensions of state legislative committee system procedures. The first dimension is an Openness dimension and it is composed of two procedures. Both the formal provisions for committee hearings that are open to the public and for committee deliberations that are open to public load positively on this dimension indicating that if a chamber adopts one provision it typically adopts the other as well.

Information Gathering is the second dimension and it is composed of the three proposed indicators that were included in the factor analysis – ability to subpoena documents, ability to subpoena people and the ability to conduct investigations. All three load positively on the factor

indicating that state legislative chambers typically adopt all three of the provisions. Only two of the proposed indicators load as anticipated on the Initiating of Legislation dimension. Both the ability of committees to introduce bills and offer substitutes load positively on this dimension. However, the inability of the floor to withdraw referred legislation also loads positively. At this time there is no clear explanation for this loading.

Control of the Committee Timetable and Agenda is the fourth dimension. The three procedures on this dimension – committees are not required to consider all legislation, committees not required to report all legislation and the absence of committee deadlines for action – once again all load positively on the factor. This dimension differs from the agenda and timetable dimension proposed as the inability of the floor to withdraw legislation or request legislation reported do not load on this dimension. Further, the formal provision that committees do not need to report on all legislation was originally proposed to be part of the committee position protection dimension. However, not requiring committees to report legislation can also be part of the committee system's ability to control its own agenda and timetable.

The final dimension is the Position Protection dimension. There are two procedures on this dimension – difficulty of the floor to overturn adverse committee reports and difficulty of amendment on the floor of the chamber. Yet again both indicators load positively on the dimension. This dimension differs from the proposed dimension as the requirement that committees report back all legislation loads on the Committee Control of Agenda and Timetable dimension rather than this one.

In sum, while the factor analysis does not uncover exactly the same factor structure as proposed earlier in this dissertation, the factor structure uncovered is in fact very similar. In addition to being similar to the proposed dimensions, the existing structure is also very similar to the structure found in the earlier analysis on procedures 685 legislative sessions spanning the entire century (Martorano, Hamm and Hedlund 2000) on which it is based.

### *Conclusion*

This research accomplishes two very important goals. First, it provides a story of the development of state legislative committee procedures between 1955 and 1995. Overall, it showed that over time state legislative committees became more open to the public and were given greater powers to gather information. State legislative committees were also able to gain some control (although modest) over their agendas and timetables during this period. Further, it showed that while committees may play an important role in the legislative process, the floor still maintains procedures that allow them to overturn committee decisions when necessary.

Secondly, this chapter through factor analysis showed that state legislative committee procedures do not exist randomly. Rather six very distinct dimensions of committee procedure exist – openness, information gathering, initiating legislation, control of timetable, advance notice and position protection. Further, the dimensions uncovered while not exactly the same, are quite similar to the dimensions found in an earlier analysis on procedures in 685 legislative

sessions spanning the entire century (Martorano, Hamm and Hedlund 2000). This suggests that these dimensions of state legislative committee procedures are quite stable. Finally, the discovery of these stable dimensions of state legislative committee procedures will be quite useful in future research. In particular, they provide a neat and useful way to conceptualize procedures. In particular, they will be quite useful in future analyses that seek to discover what forces drive the development of legislative procedures.

However, the most interesting finding from this simple analysis may be the extent to which state legislative committee rules of procedure remain stable over the latter half of the twentieth century. While more change was anticipated, the lack of change is not all that shocking given past literature.

Riker (1980) argues that institutions are far less likely to be altered due to majority rule cycles because the transaction costs associated with altering institutions are too great. Thus, in the case of state legislatures, members would be less likely to change structures such as committees or individual procedures (i.e., rules) because the time used to make the changes and learn the new procedures is too costly a price.

The neo-institutional literature advances another argument for the stability of institutions over time. March and Olsen (1989) argue that

Institutions preserve themselves, partly by being resistant to many forms of change, partly by developing their own criteria of appropriateness and success, resource distributions, and constitutional rules. Routines are sustained by being embedded in a structure of routines, by socialization, and by the way they organize attention (55).

Thus, neo-institutionalists argue that institutions are less susceptible to change because they are in effect formalizations or codifications of “routines of behavior” that individuals have become comfortable working within. Thus, in the case of state legislatures, members do not frequently change the structures and procedures because they represent a legislative processes that they know and are comfortable legislating within. This stability in state legislative committee procedures is another area that deserves research attention in the future.

Future research will focus on better understanding the nature of rule adoption and change. That is, given the rarity of procedural change in state legislatures, under what conditions do the members of the legislature decide that it is time to adopt a new rule or modify an existing one? Is it the case that a minimum set of conditions must be met, or is it the case that procedures are changed after a particular problem or condition builds up over time? These questions will be the focus of future research.



## Appendix A Coding Template

**STATE:**  
**CHAMBER:**  
**YEAR:**

<b>RULE</b>	<b><i>NARRATIVE</i></b>	<b><i>SOURCE</i></b>
<i>I. Committee Listing</i>		
• Are committees listed in the rules?		
• Names		
• Size		
• jurisdiction		
• sub-committees		
• party ratio		
<i>II. Committee Assignment</i>		
• Who assigns members to committees		
• Is there a seniority rule		
• chamber and/or committee		
• Do all members have to reassigned in each session		
• Can members be removed from committees during the session		
• How and Why		
• Is there a limit on #assignments/ member		
• Who assigns chairmen		
• Who appoints vice-chairmen		
• Can members hold more than 1 chair		
• Is there a ranking		

minority member system		
• Who appoints		
• Are there exceptions or limits to the assignment of members to committees		
<b>III. Process</b>		
<i>Assignment of Bills</i>		
• Who assigns bills to committees		
• Are multiple referrals possible		
• Are study bills in the rules		
• Do committees classify bills		
• Must all bills be referred to a committee		
• Can committees introduce bills		
• Can committees introduce bills longer than individuals		
<i>Procedure</i>		
• Are hearings required		
• Must committee meetings be announced in advance		
• Must all committee <b>meetings</b> be open		
• hearings		
• deliberations		
• Who calls hearings		
• Who can testify at hearings		
• Do committees file reports		
• Are minutes kept		

• Are voting records kept		
<i>Limitations</i>		
• Must committee consider all matters referred to them		
• Is there a deadline for committee action		
• What happens after this deadline		
• Can bills be withdrawn/action requested		
• Can bills be prefiled		
• Can committees meet before session		
• Can committees meet in the interim		
<i>Decisions</i>		
• Are committee amendments incorporated in the bill or are they separate recommendations that are approved by the membership		
• Can committees offer substitute bills		
• Does it get a new number		
• Do all committees lose control of all bills after a certain date		
• Is there a sifting/steering committee		
• Who appoints		
• Are there rules concerning adverse committee reports		
• Can the minority		

offer recommendations		
• Can the membership adopt the minority report		
• Can a bill be rereferred		
• Can bills be amended on the floor		
• Can committees engage in rules and regulations oversight		
• Must committee action in legislative review be sustained by the whole membership		
• Are there limitations on debate		
<i>Calendars</i>		
• Are there multiple floor action calendars		
• Do bills go onto the floor calendar in the order that they are reported		
<i>Rules and Resources</i>		
• Are committee rules uniform chamber wide		
• Are the Joint rules uniform		
• Is there a back-up rules source		
• How can the rules be suspended or changed		
• Are committee staffs provided		
• Do committee chairs have office space		

## **Appendix B**

### **State Selection**

It is necessary that the state legislatures employed in this analysis are representative of all U.S. state legislatures. By and large, the sample of 24 state legislatures employed in this research are representative of all state legislatures on three indicators: legislative professionalization, legislative turnover and partisan competition.

With respect to professionalization the sample of 24 states in this dissertation is almost completely representative of the United States as a whole. I have categorized all 50 states using the adaptation of King's (2000) professionalization measure discussed earlier in this chapter. The measure was calculated for each state in 1963, 1973, 1983 and 1993. Next each state was classified as being citizen, hybrid or professional based upon its "average" over the four time points. For example, Alabama was considered a citizen legislature in 1963, 1973 and 1983 and a hybrid legislature in 1993. Therefore, I have classified it as a citizen legislature because it had citizen legislature status for most of the time period of interest to this research. If a state was split evenly between two types, I classified the chamber as the type of legislature that it was in 1993. For example for two of the time points, Colorado was considered hybrid and it was considered professional the other two time points. However, it is considered a hybrid legislature in 1993 and that is the classification it was given.

Taking the 50 states, 15 or 30 percent are considered citizen legislatures. Six of these 15 states are included in my sample of 24 states. This constitutes 25 percent of my sample, which is close to the 30 percent found in the universe of states. Twenty-five or 50 percent of the states are considered hybrid legislatures, and in my sample 12 of these 25 states are included. This constitutes 50 percent of my sample, an exact match. Finally, in my 25 state dataset, 25 percent (6 states) of the states are considered professional legislatures. This is just slightly more than the 20 percent (10 states) of all 50 states that are considered professional legislatures. Thus, with respect to legislative professionalization, the 24 states used in this dissertation are reasonably representative of the 50 states as a whole.

The results are similar with respect to legislative turnover. All 50 states were classified using a combination of the data used by Shin and Jackson (1978) and Niemi and Winsky (1986). Specifically, each of the 50 states was classified as having low (less than 25%), medium (Between 25 percent and 50 percent) or high turnover (over 50%) based upon their average rates of turnover between 1951 and 1960 (1961-1970 was used for AK and HI) and between 1981 and 1985. The states were then categorized as either being:

- 1) Low turnover for both periods
- 2) Medium turnover in 1951-60 and Low in 1981-85
- 3) High turnover in 1951-196 and Low in 1981-1985
- 4) Medium turnover for both periods
- 5) High turnover in 1951-60 and medium in 1981-85
- 6) High turnover for both periods.

Once again, the sample of 24 states used in this dissertation possesses a distribution in these six categories similar to the entire universe of the 50 states. For all 50 states, four states (eight percent) have low turnover rates in both periods. The sample of 24 states contains two of these states, which is also 8 percent of the 24 state sample. The proportion of the 50 states that went from high turnover to low turnover is 6 percent. In the dataset used in this dissertation this proportion is 8 percent. Thirty-four percent of 50 states are considered to have medium turnover rates in both periods. Correspondingly, 32 percent of the 24 states employed in this research have medium turnover rates in both periods. The proportion of states in the dataset that transformed from medium to low turnover and from high to medium turnover between the two periods are not completely representative but pretty close. Thirty-two percent of the states in the 24 state sample were considered to have medium turnover rates in 1951-60 and low turnover in 1981-85. This is slightly higher than the 26 percent when considering all 50 states. Conversely, the 24 state sample is slightly under representative when considering states that transformed from high turnover rates in 1951-60 to medium turnover rates in 1981-85. This category contains 12 of the 50 states (24 percent), but the dataset in this dissertation contains on 3 of these states out of the 24 (13 percent). While not perfect, the 24 states employed in this dissertation are reasonably representative of all 50 states with respect to legislative turnover.

Finally, the 24 states are compared to all 50 states with respect to party competition. The partisan composition of each state legislative lower house was coded for each of the following sessions (1955 or 1956, 1975 or 1976, 1995 or 1996<sup>3</sup>). A chamber was considered competitive if the difference between the two political parties was less than 20 percent (i.e., a 60/40 split or better). Once again, “the average” was taken across the three sessions and a state was classified accordingly. When considering all 50 states, 38 states (or 76 percent) are considered non-competitive and 12 (or 24 percent) are considered competitive. In the 24 state sample, 15 states (or 63 percent) are non-competitive and 9 states (38 percent) are considered competitive. Thus, the sample of states used in this dissertation slightly under represent non-competitive states and over represent competitive states.

In sum, the 24 states chosen for inclusion in this dissertation are reasonably representative of all 50 states on two indicators: legislative professionalization and legislative turnover. On the other indicator, party competition, the 25 states over represent competitive states and under represent non-competitive states. However, the differences are not too severe. Further, it is impossible to have perfect representation on all three indicators and the high degree of representativeness on both the professionalization and turnover indicators was better than expected.

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<sup>3</sup> Even years were used for states with odd-year elections: LA, KY, MS, VA.

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**Table 1**  
**Dimensions of State Legislative Committee System Procedure**

<u><b>Dimensions</b></u>	<u><b>Specific Structure/Procedure</b></u>
<i>Cat. I: Holding Meetings and Gathering Information</i>	
I. Public Access to Committee Meetings	1) Regularly scheduled committee meetings 2) Advance notice of committee meetings 3) Advance notice of committee agendas 4) Open committee hearings and deliberations 5) Public hearings on all legislation
<i>II. Information Gathering Ability</i>	1) Ability to subpoena people and documents 2) Ability to conduct investigations 3) Ability to meet before and in between sessions 4) Ability to hire staff
<i>Cat. II: Functioning of Committees</i>	
III. Ability to Receive, Rewrite and Initiate Legislation	1) All bills must be referred to committee 2) Committees may offer substitute bills 3) Automatic incorporation of committee amendments 4) Committees may introduce bills 5) Limitations on referral of bills to multiple committees
IV. Floor Control of the Committee Agenda and Timetable	1) Requirement that all referred legislation be considered 2) Deadlines for committee action 3) Ability of floor to demand a committee report 4) Ability of floor to withdraw bills from committee consideration
<i>Cat. III: Decision Protection</i>	
V. Protecting the Committee's Position on the Floor	1) Requiring bills be placed on final action calendar in order reported from committee 2) Not requiring committees to report back all referred bills 3) Adverse committee reports difficult to overturn 4) Not allowing minority to submit a report 5) Making floor amending difficult

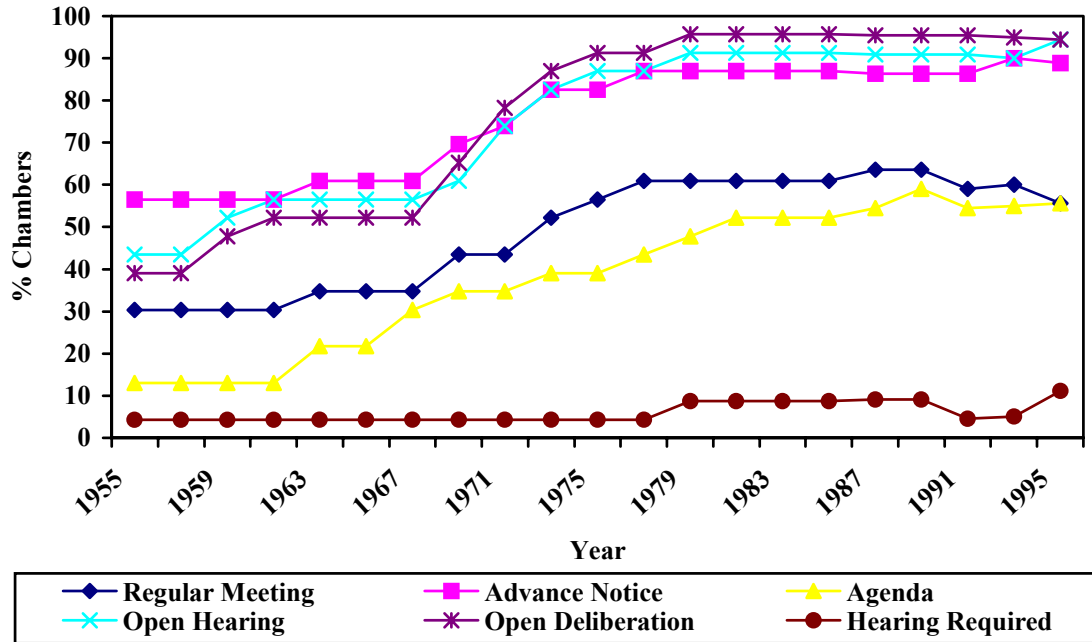
**Table 2**  
**Factor Analysis of Committee System Powers and Procedures in U.S. State Legislatures\***

	Dimension 1	Dimension 2	Dimension 3	Dimension 4	Dimension 5	Dimension 6
	Openness	Information Gathering	Initiating Legislation	Control of Timetable	Advance Notice	Position Protection
Open Hearings	.939					
Open Deliberations	.946					
Subpoena Documents		.900				
Subpoena People		.757				
Conduct Investigations		.495				
Committees May Introduce Bills			.673			
Committees May Offer Substitutes			.840			
Do Not Have to Consider All Bills				.848		
Do Not Have to Report All Bills				.777		
No Deadline for Comm. Action				.500		
Advance Notice of Meetings					.678	
Advance Notice of Agenda					.796	
Amendments are Incorporated					-.472	
Adverse Reports Hard to Overturn						.601
Floor Amending Difficult						.799
Floor Cannot Request Bills Reported						
Floor Cannot Withdraw Bills			.713			

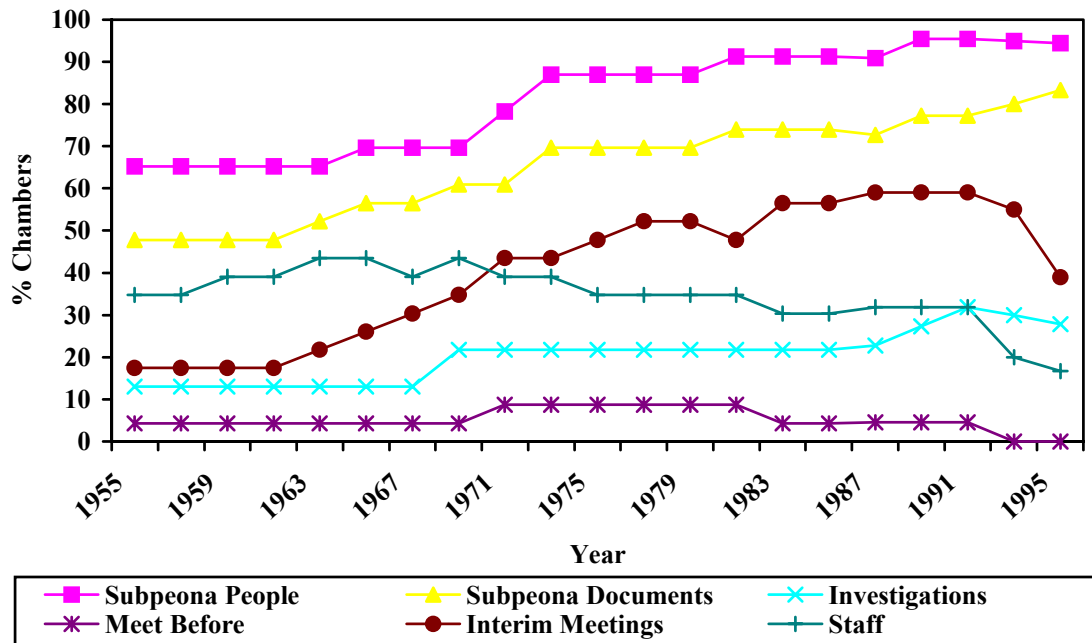
\*Rotation Method: Varimax with Kaiser Normalization

\*\*Factor loadings less than .4 are excluded.

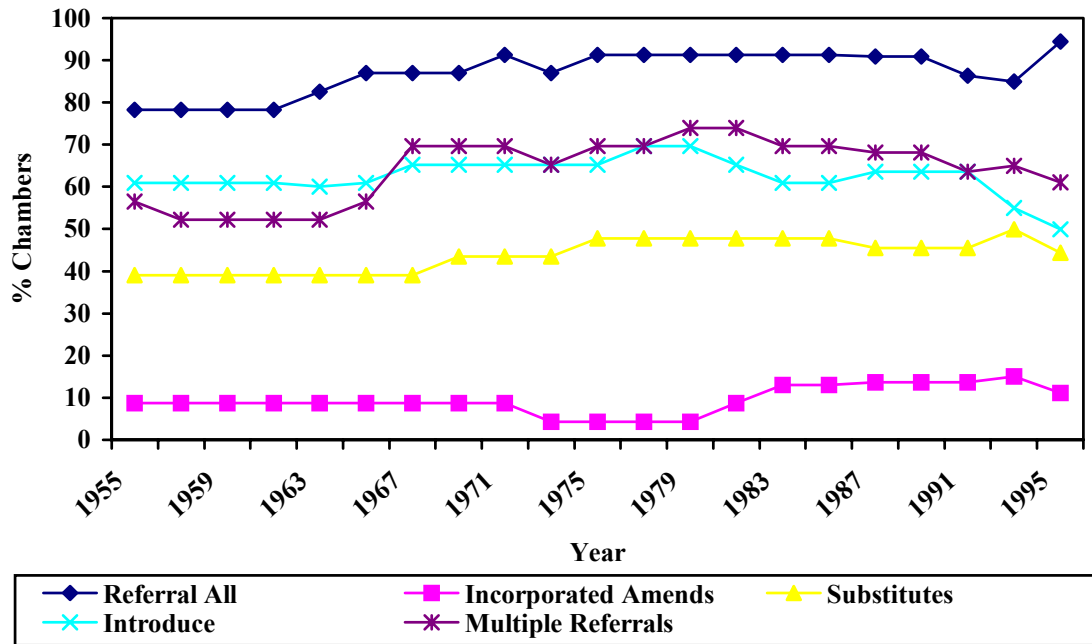
**Figure 5-1**  
**Public Access to Committee Meetings in 23 states, 1955-1995**



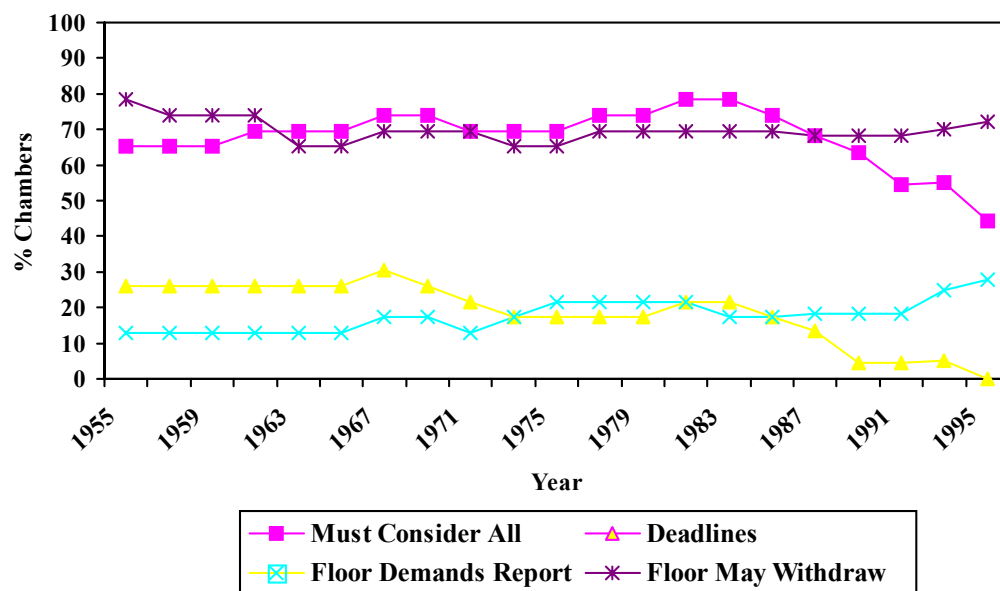
**Figure 5-2**  
**Information Gathering Ability in 23 states, 1955-1995**



**Figure 5-3**  
**Ability to Receive, Rewrite and Initiate Legislation in 23 states, 1955-1995**



**Figure 5-4**  
**Controlling the Committee Agenda and Timetable in 23 states, 1955-1995**



**Figure 5-5**  
**Committee Position Protection on the Floor in 23 states, 1955-1995**

