

# DEMOCRACY AND CONSTITUTIONALISM IN THE STATES

---

## Chapter 2

# Constitutional Government in the States

- Constitutions establish government structures
  - They distribute powers among the branches of government.
  - They prescribe the rules by which decisions are made.
  - They limit the powers of government and protect the rights of citizens.
- All 50 states have written constitutions.

# Background of Constitutions

- Limited Government
- Legal Status
- Origins of Written Constitutions

# Structure of State Constitutions

- Preamble
  - How do they differ among states?
- Bill of Rights
  - Differences between Virginia and U.S. Constitution
- Separation of Powers
  - All states have 3 branches of government

# Comparing Preambles

- U.S. Preamble: ***We the People*** of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.
- Does your state's preamble refer to:
  - Liberties or rights? Which ones?
  - The goals of the Constitution? What are they?
  - God or a divine figure? What words are used to describe the divinity figure?
  - Beliefs? Describe the beliefs mentioned.

# Characteristics of State Constitutions

- Weak Governors
- Emphasis on Legislative Powers
- Local Governments
- Interest Group Regulation
- Taxation and Finance
- Debt Limitation

# Comparing the U.S. and Virginia Bills of Rights

- States cannot give citizens fewer rights than the U.S. Constitution, but they can give *more* rights
- Read the U.S. and Virginia Bills of Rights and examine their similarities and differences
  - Is the order the same?
  - Which is longer?
  - Are additional rights guaranteed by the Virginia Constitution?
  - Are public policy issues part of either or both Constitutions?

# How to Change a State Constitution

- It is far easier to amend a state constitution:
  - Legislative Proposal
  - Popular Initiative
  - Constitutional Convention
  - Constitutional Revision Commission



# Democracy in the States

- Democracy means popular participation in government.
- However, the Founders established a system of representative democracy, not direct democracy. Why???

# Direct Democracy

Examples:

- Initiative
- Referendum
- Recall

# Direct Democracy

- What proponents say
- What critics say
- Smith and Tolbert article

# Initiative and Recall in the States

**TABLE 2-4 Initiative and Recall in the States**

<b>Initiative for Constitutional Amendments (Signatures Required to Get on Ballot)<sup>a</sup>(n = 18)</b>	<b>Statutory Initiative (for State Laws) (n = 21)</b>	<b>Recall (Signatures Required to Force a Recall Election)<sup>b</sup>(n = 18)</b>
Arizona (15%)	Alaska	Alaska (25%)
Arkansas (10%)	Arizona	Arizona (25%)
California (8%)	Arkansas	California (12%)
Colorado (5%)	California	Colorado (25%)
Florida (8%)	Colorado	Georgia (15%)
Illinois (8%)	Idaho	Idaho (20%)
Massachusetts (3%)	Maine	Kansas (40%)
Michigan (10%)	Massachusetts	Louisiana (33%)
Mississippi (12%)	Michigan	Michigan (25%)
Missouri (8%)	Missouri	Minnesota (25%)
Montana (10%)	Montana	Montana (10%)
Nebraska (10%)	Nebraska	Nevada (25%)
Nevada (10%)	Nevada	New Jersey (25%)
North Dakota (4% of state population)	North Dakota	North Dakota (25%)
Ohio (10%)	Ohio	Oregon (15%)
Oklahoma (15%)	Oklahoma	Rhode Island (15%)
Oregon (8%)	Oregon	Washington (25%)
South Dakota (10%)	South Dakota	Wisconsin (25%)
	Utah	
	Washington	
	Wyoming	

<sup>a</sup>Figures expressed as percentage of vote in last governor's election unless otherwise specified; some states also require distribution of votes across counties and districts.

<sup>b</sup>Figures are percentages of voters in last general elections of the official sought to be recalled.

*Source:* Statutory and Constitutional Initiative Powers from National Conference of State Legislatures, <http://www.ncsl.org/programs/legismgt/elect/irstates>, February 27, 2007; recall powers from National Conference of State Legislatures, <http://www.ncsl.org/programs/legismgt/elect/recallprovision.htm>, March 21, 2006.

# Keys Areas of State Initiative Efforts

- Tax Limitation
- Crime and Drugs
- Abortion and Assisted Suicide
- Same-Sex Marriage
- Education and School Vouchers
- Affirmative Action & Racial Preferences
- Immigration
- Redistricting
- Eminent Domain

# Trends in 2016 Ballot Initiatives

- Gun Control
- Minimum Wage
- Marijuana
- Right-to-Work (VA)
- Health Care

# Term Limits

- Arguments for and against term limits

# State Legislatures with Term Limits

**TABLE 2-6 Term-Limited State Legislators**

State	Year Enacted	House		Senate		% Voted Yes
		Limit	Year of Impact	Limit	Year of Impact	
Maine	1993	8	1996	8	1996	67.6
California	1990	6	1996	8	1998	52.2
Colorado	1990	8	1998	8	1998	71
Arkansas	1992	6	1998	8	2000	59.9
Michigan	1992	6	1998	8	2002	58.8
Florida	1992	8	2000	8	2000	76.8
Ohio	1992	8	2000	8	2000	68.4
South Dakota	1992	8	2000	8	2000	63.5
Montana	1992	8	2000	8	2000	67
Arizona	1992	8	2000	8	2000	74.2
Missouri	1992	8	2002	8	2002	75
Oklahoma	1990	12	2004	12	2004	67.3
Nebraska	2000	n/a	n/a	8	2006	56
Louisiana	1995	12	2007	12	2007	76
Nevada	1996	12	2010	12	2010	70.4

Source: National Conference of State Legislatures, 2009. Available at: <http://www.ncsl.org/Default.aspx?TabId=14844>.