Polarized, Not Paralyzed

BY KARL KURTZ

Many Americans’ image of the legislative process is based on Congress, which for nearly a decade has had difficulty passing laws regardless of which party is in control or who sits in the Oval Office. Negotiation and compromise between the parties have largely disappeared in Washington, D.C.

The public, the news media and others blame political polarization for much of the obstruction and gridlock. But is polarization the only culprit? After all, it’s possible to negotiate policy agreements despite being ideologically divided. Just look at state legislatures.

Lawmakers and governors operate in state capitals in the same polarized world. Yet most still manage to negotiate their differences, reach settlements on significant issues and enact public policy.

The closeness of the two parties and shifting control of the executive and legislative branches influences partisan conflict, but exactly how is a matter of disagreement. In her recent book “Insecure Majorities: Congress and the Perpetual Campaign,” political scientist Frances Lee argues that at the national level, highly competitive political parties and frequent changes in control of the White House and Congress are what drive partisan conflict, impede cooperation and lead to stalemate.

But at the state level, many say the opposite is happening. Veteran lawmakers say close majorities often elicit more cooperation and collaboration. Former Colorado Speaker Dickey Lee Hullinghorst (D) has observed that when margins are narrow in Colorado’s legislative chambers, “members must be more moderate.”

The same holds true in other states where control of the legislature switches often. When majorities are slim and caucuses aren’t totally united, leaders have to reach out to the other party to find enough support.

Rules to Live By

Unlike Congress, state legislatures have several constitutional and procedural rules that help them get things done.

Fixed adjournment dates in 42 states force timely action and prevent procrastination. Part-time citizen legislatures limit the length of their sessions. Lawmakers go to the capital for a short time to do the public’s business, then return to live and work in their communities, where relationships and connections transcend politics.

Deadlines are powerful motivators as well. From bill introductions to conference committee action, and every step along the way, deadlines keep the process flowing in three-quarters of state chambers.

Balanced-budget requirements aid in reach-
ing agreement on the most important measure of any legislative session—the budget. Trying to balance the budget often brings opposing sides together, and in some states it sets the tone for other issues.

Maintaining a high state bond rating is a “compelling force that transcends party,” one Virginia staffer says, adding that it provides the “come to Jesus” moment at the end of budget negotiations.

Single-subject rules that require bills to focus on only one issue can also help streamline the process. And rules requiring amendments to be relevant help to prevent diversionary tactics. In Colorado, for example, there is bipartisan pride in the single-subject rule, and members police one another on it.

Committee hearings are required for all bills in 22 of the 99 legislative chambers. Hearings keep the process moving and offer some fairness to members of the minority party. Hearings also assure constituents that their concerns are being heard.

A Leading Factor

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Whether from the executive or legislative branch, leaders have great influence over the success or failure of the policymaking process. First, they set the tone.

They also use a variety of approaches to encourage civility, consensus building and teamwork among members. “The legislative session is like a giant jigsaw puzzle,” says former longtime Minnesota Senate Majority Leader Roger Moe (D). “What’s the first thing you do with a jigsaw puzzle? You look at the picture on the front of the box to see how it is supposed to fit together. Good leaders help people see how the pieces fit together.”

Sometimes, making a small change can make a big difference.

Two years after a well-publicized blowup over public employee bargaining restrictions in 2011, newly elected Wisconsin Assembly Speaker Robin Vos (R) negotiated a memorandum of agreement with Assembly Minority Leader Peter Barca (D) requiring top party leaders to meet privately every day before the session began to agree on time limits for debate. The agreement worked well and is still in effect. The Assembly works on a tighter schedule, sessions end earlier and members get to go home at a reasonable hour. This small step has reduced tensions with the minority and smoothed legislative operations—even though the Republicans didn’t need any Democratic votes to get things done.

In Washington state, during a period when the House was tied in the early 2000s, lawmakers adopted a formal “no-surprise” rule that required leaders to be open with members of both parties about any plans to impose a new rule. Members regard the no-surprise rule as so successful they’ve left it in place, even without having the incentive of a tied House. It assures minority party members that they will be treated fairly. Both of the state’s legislative chambers also have adopted practices to ensure they pass a substantial number of bills sponsored by the minority party.

In most states, governors are the single most powerful actors in the legislative process because they set the agenda, submit a budget as a starting point for deliberation and use their high media visibility as a bully pulpit to influence public opinion. The level of interactions they have with legislative leaders and the influence they have over the legislative process depend on the chief executives’ personal characteristics and skills.

In his book “The Best Job in Politics: Exploring How Governors Succeed as Policy Leaders,” the late political scientist Alan Rosenthal describes how the desire to leave a legacy has motivated many governors to get things done, which has led them to moderate their positions and negotiate deals.
Staff and Committees Have Roles, Too

Nonpartisan staff often play an important role in constraining partisanship and mitigating the effects of polarization. Most legislators hold them in high regard and credit them with keeping the institution on track. In term-limited states, nonpartisan staff provide continuity and help new lawmakers see the big picture and understand the history of issues.

Committees do most of the substantive work of the legislature, and in a well-functioning system, committees give a fair hearing to all sides, deliberate on the merits of each proposal, allow active participation by minority-party members, and screen legislation for the rest of the chamber’s members. Committees are particularly effective when leaders give them the freedom to negotiate and act.

Committee chairs make key decisions, and can set the tone in the committee of either cooperation or partisanship. Washington Senator Randi Becker (R), chair of the Health Care Committee, for example, holds weekly meetings with the ranking minority member and makes sure every member of the committee gets at least one bill favorably reported out of committee.

In Iowa, Representative Thomas Sands (R), the House Ways and Means Committee chair, says they have a lot of freedom and autonomy with their committees. “I don’t have to ask for permission,” he says. “Our role is to funnel the bills and make the leaders responsible for negotiating fewer bills.”

Get Personal

Beyond the tangible rules, structures and formal powers that affect policymaking in polarized times, there are intangible factors—personal relationships across parties, political cultures, traditional norms of behavior—that can encourage compromise and problem solving. Many legislators note a decline in legislative socializing, either because of ethics laws or general societal changes. But efforts to get to know each other rarely go unrewarded.

Some lawmakers make it a goal to visit every member on the other side of the aisle in order to get to know them more personally—their interests, hobbies and families.

Others connect through shared interests—sports, hob-
bility, travel. Iowa Senator Tod Bowman (D) says a “good time to talk to colleagues from across the aisle is right after a friendly game of racquetball or basketball.”

Legislators need to take the time to understand all sides of an issue, says Washington Representative Ed Orcutt (R). When legislators take the time to understand each other’s views, “it is much easier for them to find common ground,” he says.

“It’s not always the far left versus the far right—often times there is plenty of common ground but just one or two points upon which we differ. Understanding the concerns of all sides better enables us to develop solutions that work for everyone.”

It helps that in Washington, members of both parties still connect by having dinner together regularly.

Cultural norms continue to guide actions in a few states, but their influence is fading fast.

The culture of the Connecticut General Assembly dictates that one should never practice “calling the previous question,” meaning one should never shut off debate. Such a motion would be viewed as using the “nuclear option.” It is a strong norm there that the minority has a right to extend debate, and it appears to work; the minority has never abused its filibuster privilege there.

Iowa House Speaker Linda Upmeyer (R) says her chamber is similarly respectful of the minority party’s concerns, especially about the budget. “We don’t use the tool of calling the question,” she says. “Or, when we do, we consult with the minority leader. We don’t use parliamentary surprises.”

For decades, Virginians have taken pride in “the Virginia way,” which put the needs of the state above partisanship. Many worry the Virginia way is fading as fewer lawmakers are willing to reach across the aisle to solve problems. It is important enough in Richmond, however, that members still talk about it and believe it influences their behavior.

**Not D.C.**

Even if things sometimes get tense, the attitude expressed by lawmakers in most state capitols is, “We’re not D.C.” The desire to make government work better in their states than it does in the nation’s capital has inspired many a legislator to get to work. When the parties split control of the Iowa Legislature in 2013, lawmakers still “managed to pass property tax reform, health reform—there were many grand bargains made,” former Senate Majority Leader Michael Gronstal (D) says. “One success led to the next success. We all felt good about not being like D.C.”

None of the ideas or practices discussed here will reduce polarization without some level of trust among lawmakers. Seeing the big picture, treating the minority party fairly, empowering committees to deliberate effectively, developing personal relationships, even finding common cause in “not being like D.C.”—all of it works best when policymakers know they can depend on one another.

Trust is needed in the fair and consistent application of rules, in relationships between leaders and governors, in carrying out traditions like the “no-surprise” rule and more. The encouraging thing is that a little trust goes a long way.

Making policy in polarizing times is difficult but by no means impossible. Legislatures are showing us the way.