

THE GOVERNOR'S COMMITTEE ON PREPARATORY RESEARCH  
for the  
NEW JERSEY CONSTITUTIONAL CONVENTION

THE GOVERNOR'S VETO POWER

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## THE GOVERNOR'S VETO POWER<sup>1</sup>

The first state constitutions gave the governors little control over legislation. The royal governor and his absolute power was still fresh in popular memory. The veto reminded too many citizens of monarchical oppression. The people's faith was in their elected legislators, and to them they entrusted full powers while leaving the executive the weakest of the three branches of government.<sup>2</sup>

Nine of the first constitutions made no provisions for executive veto, and in South Carolina it was discarded two years after adoption. A limited power was given to a Council of Revision (composed of the governor, chancellor and judges of the Supreme Court) in New York and to the governor in Massachusetts. The Federal Constitution (Art. I, Sec. VII, Par. 2) provided for a strong executive veto -- a vote of two-thirds of each house of Congress was required to override -- but this had little immediate influence upon the adoption of the device in the states.

No state adopted the veto in the period from 1793 to 1812. After Louisiana entered the Union with a constitution providing for an executive veto, the movement gradually gained ground; no state except West Virginia has since entered without some form of governor's veto. By the mid-1800's the earlier fear of executive dominance had in part been displaced by an equal distrust of the legislature. Except for Delaware, Maryland, Virginia, Tennessee, North Carolina, South Carolina, Ohio and Rhode Island, all the states had by 1850 given their governors some veto power. Today, North Carolina is the only state without an executive veto; Ohio (1903) and Rhode Island (1909) being the last two to vest that power in their governors.

The item veto of appropriation bills had its origin with the Constitution of the Confederacy, 1861. Georgia, Texas and West Virginia copied the provision.

The device spread to Pennsylvania, New York, and to the new states. Today, this provision is found in 39 constitutions, while Washington, Virginia and South Carolina have extended the item veto to permit the governor to eliminate sections of legislation objectionable to him, without being obliged to veto the entire measure.

### The New Jersey Constitution

#### I. Constitution of 1776

New Jersey's first Constitution gave the Governor no veto power. Elected annually by the Legislative Council and Assembly, whatever influence he may have possessed over legislation was by virtue of his presiding over the Council and having a casting vote in its proceedings.<sup>3</sup> As in most of the other original states, the framers of the Constitution, recalling their colonial experience, feared the tyranny of a strong executive.<sup>4</sup> By 1790, however, the omnipotence of the Legislature awakened the people to the fact that the Governor's executive power had to all intents and purposes been annihilated. Almost everyone was willing to admit the inefficiency and outmoded character of the 1776 Constitution,<sup>5</sup> and certainly of its executive provisions. The demand for revision was, "if not chronic, at least periodic."<sup>6</sup>

#### II. Constitution of 1844

The Committee on the Executive Department, appointed by the President of the 1844 Constitutional Convention on May 16, presented its report on the very next day. The veto section (VII) read:

"Every bill which shall have passed both houses shall be presented to the governor; if he approve, he shall sign it, but if he shall not approve, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to consider it: if after such reconsideration, a majority of the whole number of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by a majority of the whole number of that house, it shall become a law; but in all such cases the votes of both

houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively: if any bill shall not be returned by the governor within ten days, Sundays excepted, after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return; in which case it shall be a law, unless sent back within three days after their next meeting."

The debate on this section was one of the longest, most interesting and spirited of the entire Convention.<sup>8</sup> It reflected the cleavages and blocs among the delegates. The governorship was a significant enough subject to bring forth the most partisan discussion. The veto power especially aroused so much spirit that charges of party voting were made and, of course, forcefully denied.

The majority of Democrats in the Convention were inclined to favor a strong Governor and to trust the people; a majority of the Whigs tended to favor the Legislature and its joint meeting and to put their trust in specially qualified public officers. The strong feeling on the veto power was let loose on a motion by Ryerson to require a two-thirds vote to override a veto, instead of the majority vote proposed by the Committee. Most of his support came from fellow Democrats, but Field, a Whig, vigorously supported the strong veto. Condit, another Whig, tried to effect a compromise on a three-fifths vote to override. This was acceptable to Ryerson and the strong veto men, but enough Democrats joined with a majority of the Whigs to defeat it by a 27 to 27 tie, the Convention chairman voting in the negative. Bebout accurately summarizes the issues in the debate:<sup>9</sup>

"The debate on the veto power illustrates the confusion which frequently results from attempts to harmonize inherited theories with political prejudices and current objectives. R. S. Kennedy, Whig, looked upon the veto 'as an aristocratic feature which was inserted in the Constitution of the United States when our fathers had a feeling of fear to intrust the people with too much power.' Chief Justice Hornblower, another Whig, exclaimed, 'It is anti-republican and anti-democratic.' Zabriskie and Vroom were equally sure that the veto was essentially democratic: 'We desire to protect the people against the reckless action of their representatives.' The veto was a weapon by means of which the

governor, 'the sole representative of the whole State,' might prevent laws against 'the interests of the whole' from being passed under the influence of corruption or the combined weight of sectional interests. In response to this argument, Mr. Green complained that the 'idea of protecting the people is a modern idea to make the principle more palatable.' It might be regarded as a modernized version of the outworn argument of John Adams that the veto was needed to curb the appetites of competing aristocratic and democratic elements in the legislature; but the later development of pressure politics gives even more point now than in 1844 to Mr. Vroom's conception of the governor as the representative of the whole against the parts of the State.

"The veto, then, was opposed as aristocratic and supported as democratic. It was also both opposed and supported in the name of the separation of powers principle. Field warned, in language reminiscent of Jefferson and The Federalist, against the danger of 'the tyranny of a majority of the legislature...which is perpetually invading the other departments--and in whose hand power is constantly accumulated.' The veto was needed, therefore, to protect the position of the executive, the naturally weak member of the governmental trinity. Dr. Schenck on the other hand denounced the veto as working an improper accumulation of legislative and executive power in the hands of one man. It should be noted in evidence of Dr. Schenck's consistency that he later advocated giving the governor the appointing power, as properly belonging to him; but Field's argument has gained force with the years because of the failure of the convention to secure the governor in the possession of the appointing and removal powers constitutionally vested in the president. There can be little doubt that a stronger veto would have helped the governor to carve out a larger sphere for himself as chief administrator and have put him on a more nearly equal footing with the other departments."

Important amendments made to the section proposed by the Committee on the Executive Department, were the requirement that in neither house was the vote to override a veto to be taken on the same day on which the bill was returned, and a reduction from ten days to five in the time given the Governor to return a bill to the house of origin.<sup>10</sup> As finally adopted, the section read<sup>11</sup>:

"7. Every bill which shall have passed both houses shall be presented to the governor: if he approve he shall sign it; but if not he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it; if, after such reconsideration, a majority of the whole number of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved of by a majority of the whole number of that

house, it shall become a law; but, in neither house shall the vote be taken on the same day on which the bill shall be returned to it: and in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the Governor, within five days (Sunday excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislature by their adjournment, prevent its return in which case it shall not be a law."

### III. Amendment of 1875

The Constitutional Commission of 1873, which had been recommended by Governor Joel Parker in his annual message of that year, made a thorough study of the 1844 Constitution and finally, in 1875, submitted 28 separate amendments to the electorate, all of which were approved by the people. Among them was an amendment to Article V, Paragraph 7, adding the following item veto provision:

"If any bill presented to the governor contains several items of appropriations of money, he may object to one or more of such items while approving of the other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriations so objected to shall not take effect. If the legislature be in session he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by a majority of the members elected to each house, the same shall be a part of the law, notwithstanding the objections of the governor. All the provisions of this section in relation to bills not approved by the governor shall apply to cases in which he shall withhold his approval from any item or items contained in a bill appropriating money."

### IV. Commission on Revision of 1942

The Commission on Revision of the New Jersey Constitution, appointed pursuant to Joint Resolution No. 2, Laws of 1941, recommended the following executive veto provisions in its draft of a proposed revised Constitution (Art. IV, Sec. II, Pars. 3-5):<sup>12</sup>

"3. Every bill which shall have passed both houses shall be submitted to the Governor for approval. If the Governor shall approve, he shall sign the bill and it shall thereupon become a law. If any bill submitted to the Governor shall

contain one or more items of appropriation of money, he may approve and sign the bill, but may specially disapprove by a written statement appended thereto of one or more of such items, and the items so disapproved shall not take effect. If the Governor shall disapprove a bill, or an item or items of appropriation which may be contained therein, he shall return it, with a written statement of his objections, to the house in which the bill originated. The Governor's objections shall be entered at large in the journal of the proceedings of that house and a copy thereof shall be sent to the other house.

"4. Any bill shall become a law notwithstanding disapproval by the Governor if, upon reconsideration on or after the third day following return thereof to the house of origin, it shall receive the affirmative votes of a majority of the membership of each house of the Legislature, except that a supplementary appropriation bill may so become a law only by the affirmative votes of two-thirds such membership. Any item of appropriation specially disapproved by the Governor shall become effective notwithstanding such disapproval if, upon being separately reconsidered on or after the third day following return of the bill in which it is contained to the house of origin, it shall receive the affirmative votes of two-thirds of the membership of each house of the Legislature.

"The vote taken upon reconsideration of any bill or item of appropriation after disapproval by the Governor shall be by yeas and nays and there shall be entered upon the journal of each house, respectively, the names of the members voting for and against.

"5. At noon, on the seventh day, Sundays excepted, following the date of submission of any bill to the Governor, if he shall not prior thereto have returned it to the house of origin, the bill shall become a law with like effect as if he had signed it. If the Legislature shall by adjournment prevent return of a bill within seven days as aforesaid, the bill shall not become a law unless the Governor shall sign it within twenty days after such adjournment."

The Committee thus increased the vote required to override a veto from a simple majority of the membership of each house of the Legislature to two-thirds, but only in the case of item vetoes of appropriation bills. It also extended the time that had to elapse before the house of origin could reconsider a vetoed bill. Moreover, it gave the Governor seven days instead of five to return a bill to the house of origin, and in case the Legislature had adjourned within the seven days, the bill was not to become law unless signed within 20 days of adjournment.

In its explanation of the veto provisions the Commission said:<sup>12a</sup>

"The principle of strengthening the executive does not occasion a corresponding weakening of the Legislature. When the Governor is made a powerful and responsible head in his own sphere of administration, the Legislature can be relieved of executive functions and its attention confined solely to legislation. The relation of the Governor to the Legislature is thus defined more clearly by retaining each branch in its own sphere and preserving the traditional checks and balances. Only in connection with budgetary matters is this relationship altered in the proposed revision. The item veto over appropriation bills, now possessed by the Governor as the responsible budgetary officer, is strengthened by requiring a two-thirds vote in the Legislature before it may be overridden."

The Revision Commission's veto proposals aroused little debate. Those who appeared at the hearings held by the Joint Legislative Committee in 1942 to ascertain the sentiment of the people as to change in the Constitution, endorsed these proposals, with notably few exceptions. They realized, as have other states and as authorities on state government have for a long time, that the Governor must be given real executive authority and responsibility.<sup>13</sup> Among other things, his veto power had to be strengthened. One speaker before the Joint Legislative Committee put the argument thus:<sup>14</sup>

"The veto is needed to permit the Governor, as representative of all the people, to prevent legislation by the pressure and logrolling of minority or special interests. The proposed Constitution strengthens the Governor's power to prevent this sort of thing by requiring a two-thirds vote to override a veto of an appropriation item. This is important; but might it not be well to require a two-thirds vote in any case? Logrolling and special favors are not confined to State appropriation acts. Anyone who goes over the list of special tenure and pension acts passed almost every year over the ineffectual protest of the Governor knows this."

Many agreed that the two-thirds vote to override a veto be extended to all legislation, much of which was as important as appropriation bill items, if not far more important, because it affected the health, safety and welfare of the people. The Governor, elected on a statewide basis and the representative of all the people, ought to have an effective veto to strike down hasty and ill-



considered bills and to prevent legislation which was the product of pressure groups and special interests.<sup>15</sup>

#### V. The Revised Constitution of 1944

In 1944 the Legislature submitted a revised Constitution to the people containing the following veto provisions (Art. IV, Sec. I, Pars. 12 and 13):

"12. Every bill which shall have passed both houses shall be presented to the Governor; if he approve he shall sign it, but if not he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it; if, upon reconsideration on or after the third day following its return, three-fifths of all the members of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall be reconsidered and if approved of by three-fifths of all the members of that house, it shall become a law; and in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the Governor within ten days, Sundays excepted, after it shall have been presented to him, the same shall become a law on the tenth day if the house of origin is not in adjournment on said day. If, on said tenth day, the house of origin is in adjournment in the course of a regular or special session, the bill shall become a law on the day on which the house of origin convenes after the adjournment unless the Governor shall return the bill to that house on that day. If, on said tenth day, the Legislature is in adjournment sine die, the Governor shall within thirty-five days after such adjournment sign the bill or return it to the house of origin at a special session of the Legislature called by him, to meet within the thirty-five days, for reconsideration of bills; otherwise, the bill shall become a law on said thirty-fifth day. If the Governor shall return any bill to the house of origin less than three days prior to the adjournment sine die of any session, the bill shall become a law thirty-five days after said adjournment unless the Governor shall call a special session of the Legislature, to meet within said thirty-five days, for reconsideration of bills, and in such case such bill may be reconsidered.

"13. If any bill presented to the Governor shall contain one or more items of appropriation of money, he may object to one or more of such items while approving of the other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of each item to which he objects, and each item so objected to shall not take effect. A copy of such statement shall be transmitted by him to the house in which the bill originated, and each item objected to shall be separately reconsidered. If, upon reconsideration on or after the third day following said transmittal, one or

more of such items be approved by three-fifths of all the members of each house, the same shall become a part of the law, notwithstanding the objections of the Governor. All the provisions of the preceding paragraph in relation to bills not approved by the Governor shall apply to cases in which he shall withhold his approval from any item or items contained in a bill appropriating money."

It will be seen that this revision, rejected by the voters, went further than the one recommended by the 1942 Revision Commission. It took a three-fifths vote of the membership of each house to override any veto by the Governor - whether of an appropriation item or general legislation. A vetoed bill was not to be reconsidered by the house of origin until three days after the return of the bill. The Governor had ten days in which to act on a bill if the house of origin was not adjourned. If it had adjourned in the course of a session, the Governor was to return the bill when the house again convened, or the bill would become law; and if on the tenth day the Legislature was adjourned sine die, the Governor had to sign or return the bill to the house of origin at a special legislative session called by him to meet within 35 days to reconsider the bill. (Art. III, Sec. I, Par. 3 called for a regular legislative session limited to 90 days.)

#### Comparable Provisions in Other State Constitutions<sup>16</sup>

Of the 47 states whose constitutions provide for an executive veto,<sup>17</sup> all but Georgia and Mississippi require that all bills passed by the legislature be presented to the governor.<sup>18</sup> Few constitutions say anything about the time a bill must so be presented.<sup>19</sup> After the governor signs, the bill becomes law. Maryland requires him to sign in the presence of the presiding officers or chief clerks of both houses. Three constitutions require him to deposit the signed bills with the secretary of state; elsewhere statute or usage accomplishes the same result. In Minnesota he must notify the house of origin of his signing.

## I. Veto Restrictions During Sessions<sup>20</sup>

Every state prescribes the time the governor may have to consider a passed bill. Failure to veto and return the bill to the house of origin within the time limit is equivalent to approval if the legislature is in session. The number of days allowed the governor ranges from three to fifteen:

<u>States</u>	<u>Days</u>
9	3
22	5
4	6
11	10
1	15

New Jersey is among the 22 granting five days, and California, Illinois, Michigan, New York, Ohio and Pennsylvania among those allowing ten days. Missouri's new constitution extended the time from ten to fifteen days. Sundays are excepted from the count in all states but Colorado, Louisiana, Massachusetts, Missouri and Pennsylvania; Connecticut excludes legal holidays. Authorities claim that the longer period allowed results in greater executive authority and a better opportunity to study legislation.<sup>21</sup>

With the exception of Missouri, a bill automatically becomes law if the governor fails to sign within the allowed period while the legislature is in session.

## II. Overriding the Veto.<sup>22</sup>

All the 47 veto states give their legislatures the power to override executive vetoes. Except for Georgia and Kansas, their constitutions all require the governor to return a disapproved bill, with objections, to the house of origin where the message is entered at large on the journal. The vote on repassage is by yeas and nays in every state but Florida, Georgia and Indiana. Two states provide a "cooling off" period; there the vote to override may not be taken on the day the bill is returned.

There is a wide variation in constitutional requirements as to the vote

needed to override a veto:

(a) Majority of members elected - 7 states, including New Jersey

Majority of members present - 1 state, Connecticut

(b) Three-fifths of members elected - 4 states, including Ohio<sup>24</sup>

Three fifths of members present - 1 state, Rhode Island

(c) Two-thirds of members elected - 22 states, including California, Illinois, Michigan, Missouri, New York and Pennsylvania

(d) Two-thirds of members present - 11 states, including Massachusetts and Wisconsin

Two-thirds of members present, including a majority of members elected - 1 state, Virginia

### III. Veto Restrictions After Adjournment<sup>25</sup>

Constitutional provisions vary among the states concerning the fate of a bill when the legislature adjourns before the time limit for returning the bill expires. Mississippi forbids the approval of a bill while the legislature is not in session, and Georgia, Kansas, New Hampshire and Tennessee follow the rule that the business of enacting law ends with any final adjournment. In 23 states the governor must definitely sign a bill if it is to become law. In at least 40 states it would appear that the governor may either approve or veto measures after adjournment.

Twenty-seven states allow their governors more time to review bills presented just before or after adjournment than in the case of those presented earlier during the session. For example, in Missouri, when the legislature adjourns or is in recess for more than 30 days, the Governor has 45 days to consider bills. Five states - California, Colorado, Delaware, New York and Pennsylvania - allow ten days during sessions, but give the governor 30 days to review bills presented late in the session or after adjournment. Two states allow 20 days after adjournment, and five allow 15 days. Alabama provides that a bill presented to the governor within

five days before final adjournment may be approved within ten days after adjournment, New Mexico has the same rule, except that the number of days are respectively three and six. Except for Michigan, where the governor has only ten days during sessions and five after adjournment, the outstanding and important fact is that over a dozen states allow their governors 15 days or more to consider bills after adjournment, while only one provides more than ten days during sessions.

#### IV. The Pocket Veto<sup>26</sup>

Inaction on the governor's part results in a bill becoming law in a majority of the states. But 18 states have some form of pocket veto which operates as "a silent death sentence on a bill." A few states allow disapproval under such circumstances, but the governor must file the bill, with his objections, in the office of the secretary of state; and in three of these states he must give notice of his action by public proclamation within a fixed time. In practice these vetoes are just as absolute as those pocketed.

Nine states have the so-called "suspensive veto" which requires either the governor or secretary of state to return bills vetoed after final adjournment to the next session of the legislature. Of these states, three - Maine, Mississippi and South Carolina - provide that the bills will become law unless returned within two (or three) days after the next session convenes, and in Alabama such bills do not become effective unless so returned after a recess.

It has been said that the pocket veto puts a premium on executive inaction and tends to breed irresponsibility. One critic describes it as "an indefensible device. There is no reason why inaction by an executive after the adjournment of the legislature should have any more negative effect than during the time of the session."<sup>27</sup>

Answering the charge that the veto is a purely destructive device, Prescott cites the constitutions of Alabama, Massachusetts and Virginia.<sup>28</sup> In Virginia the governor may veto an offending section of a bill otherwise approved. Further, he may return the bill to the house of origin, and if the two houses agree to the governor's recommended change by a majority of members present, the bill again goes to the governor as though for the first time. Governor Harry Byrd returned 42 bills with recommendations in the years 1926-1928, inclusive, and the legislature concurred in all the suggested amendments. There were only three vetoes in the three sessions. Most of the measures returned were for technical defects or because they duplicated others.

Alabama allows the governor to return a disapproved bill to the house of origin with a proposed amendment that will meet his objections. The house may so amend it and then send the bill with the governor's message to the other house, which may adopt or reject, but may not amend the amendment. If both houses concur, the bill again goes to the governor for action; if the legislature refuses to accept his amendment, the bill may be enacted into law by a majority of the members elected to each house.

#### V. Item Veto<sup>29</sup>

Thirty-nine state constitutions give the governor the power to veto specific items of appropriation. This eliminates excessive, improper, or unconstitutional appropriations without endangering the safety of appropriations essential to the conduct of state business. The alternative would be to veto the entire bill or call an extra session, with its resultant increased expense and the probability of a flood of other bills. A few states permit the governor to reduce appropriation items which appear excessive.<sup>30</sup> The effectiveness of the item veto depends to some extent, on the degree of itemization found in appropriation bills. Lump sum appropriations or

revenues dedicated to certain purposes may render the veto practically worthless. The overwhelming majority of American students of government favor the item veto.<sup>31</sup>

#### VI. Use of the Veto Power

Use of the veto power has varied greatly, both in time and in the several states. Fairlie notes that it was infrequently exercised for many years, its use being limited to emergencies or constitutional situations. It has been more largely used since 1900.<sup>32</sup> A study of 16,500 bills passed by 44 state legislatures in 1923, shows more than 1100 bills and over 1000 items in other bills disapproved, and that 9% of the vetoes were overridden.<sup>33</sup> Figures for 1937 show 1351 vetoes of 21,765 bills passed.<sup>34</sup> Prescott remarks upon the extensive use of the veto in New Jersey, New York, Pennsylvania, Illinois and California, and its limited use in Massachusetts, Florida, Iowa, South Carolina, Vermont and Washington. Vetoes in Illinois, New York and California in recent years have been 10, 20 and 30 percent, respectively, of bills passed.<sup>35</sup>

## SCHEDULE A

## The Book of the States

## LEGISLATIVE PROCEDURE: EXECUTIVE VETO

State	Days after which Bill Becomes Law (before Adjournment) unless Vetoed (Sundays excepted)	Fate of Bill (after Adjournment)		Item Veto on Appropriation Bills	Votes Required in House and Senate to Pass Bills or Items Over Veto <sup>a</sup>	Constitution Prohibits Governor from Vetoing—	
		Days after which Bill Passes unless Vetoed (Sundays excepted)	Days after which Bill Dies unless Signed (Sundays excepted)			Initiated Measures	Referred Measures
Alabama.....	6	10	..	★	Two-thirds present	(b)	(b)
Arizona.....	5	10	..	★	Two-thirds elected <sup>g</sup>	★	★
Arkansas.....	5	20 <sup>c</sup>	..	★	Majority elected	★	★
California.....	10	..	30	★	Two-thirds elected	★	★
Colorado.....	10 <sup>c</sup>	30 <sup>c</sup>	..	★	Two-thirds elected	★	★
Connecticut....	5 <sup>d</sup>	15 <sup>c</sup>	..	★	Majority present	(b)	(b)
Delaware.....	10	..	30 <sup>c</sup>	★	Three-fifths elected	(b)	(b)
Florida.....	5	10 <sup>c</sup>	..	★	Two-thirds present	(b)	(b)
Georgia <sup>e</sup> .....	5	..	(f)	★	Two-thirds elected	(g)	..
Idaho.....	5	10	..	★	Two-thirds present	..	..
Illinois.....	10	10	..	★	Two-thirds elected	(b)	(b)
Indiana.....	3	5 <sup>c, h</sup>	..	..	Majority elected	(b)	(b)
Iowa.....	3	(i)	30	..	Two-thirds elected	..	..
Kansas.....	3	(j)	(f)	★	Two-thirds elected	..	(b)
Kentucky.....	10	10 <sup>c</sup>	..	★	Majority elected	..	(b)
Louisiana.....	10 <sup>c</sup>	10 <sup>c, k</sup>	..	★	Two-thirds elected	(b)	(b)
Maine.....	5	(l)	..	..	Two-thirds elected	★	..
Maryland.....	6	..	6 <sup>m</sup>	★	Three-fifths elected	(b)	(b)
Massachusetts..	5 <sup>d</sup>	..	(n)	★	Two-thirds present	★	★
Michigan.....	10	..	5	★	Two-thirds elected	★	★
Minnesota.....	3	..	3 <sup>c</sup>	★	Two-thirds elected	(b)	(b)
Mississippi.....	5	(l)(i)	..	★	Two-thirds elected	(b)	(b)
Missouri.....	(x)	..	..	★	Two-thirds elected	★	★
Montana.....	5	..	15 <sup>c, n</sup>	★	Two-thirds present	★	★
Nebraska.....	5	5 <sup>p</sup>	..	★ <sup>r</sup>	Three-fifths elected	★	★
Nevada.....	5	10	..	..	Two-thirds elected	★	★
New Hampshire..	5	..	(f)	..	Two-thirds elected	(b)	(b)
New Jersey.....	5	..	5 <sup>q</sup>	★	Majority elected	(b)	(b)
New Mexico.....	3	..	6 <sup>n</sup>	★	Two-thirds present	(g)	..
New York.....	10	..	30 <sup>c</sup>	★	Two-thirds elected	(g)	..
North Carolina..	(o)	(o)	(g)	★	.....	(b)	(b)
North Dakota...	3	15 <sup>c</sup>	..	★	Two-thirds elected	★	★
Ohio.....	10	10 <sup>c</sup>	..	★	Three-fifths elected	..	..
Oklahoma.....	5	..	15	★ <sup>t</sup>	Two-thirds elected	★	★
Oregon.....	5	20	..	★ <sup>t</sup>	Two-thirds present	★	★
Pennsylvania....	10 <sup>c</sup>	30 <sup>c</sup>	..	★	Two-thirds elected	(b)	(b)
Rhode Island...	6	10 <sup>c</sup>	..	..	Three-fifths present	(b)	(b)
South Carolina..	3	(l)	..	★	Two-thirds elected	(b)	(b)
South Dakota...	3	10 <sup>c</sup>	..	★	Two-thirds present	★	★
Tennessee.....	5	..	(f)	..	Majority elected	(g)	..
Texas.....	10	20 <sup>c</sup>	..	★	Two-thirds present	(b)	(b)
Utah.....	5	10	..	★	Two-thirds elected	★	★
Vermont.....	5	..	(w)	..	Two-thirds present	(b)	(b)
Virginia.....	5	..	10 <sup>c</sup>	★	Two-thirds present <sup>u</sup>	(b)	(b)
Washington.....	5	10	..	★ <sup>v</sup>	Two-thirds elected	★	★
West Virginia...	5 <sup>n</sup>	5 <sup>c</sup>	..	..	Majority elected	(b)	(b)
Wisconsin.....	6	..	6	★	Two-thirds present	(b)	(b)
Wyoming.....	3	15 <sup>c</sup>	..	★	Two-thirds elected	(b)	(b)

<sup>a</sup> Bill returned to house of origin with objections, except in Georgia, where the governor need not state his objections, and in Kansas, where all bills are returned to the House of Representatives.

<sup>b</sup> No provision for initiative or referendum in state.

<sup>c</sup> Sundays not excepted unless 10th day is Sunday, in the case of Rhode Island.

<sup>d</sup> Sundays and legal holidays excepted.

<sup>e</sup> New constitution, passed by General Assembly, withholds right to veto constitutional amendments.

<sup>f</sup> Unsigned bills do not become laws; no constitutional time limit specified.

<sup>g</sup> No provision for initiative in state.

<sup>h</sup> Bill becomes law if not filed with objections with secretary of state within five days after adjournment.

<sup>i</sup> Governor must act whether for or against bill within 30 days after adjournment.

<sup>j</sup> In practice, the legislature closes consideration of bills three days before adjournment *sine die*.

<sup>k</sup> Governor has 10 days from time bill was presented to him in which to approve or disapprove.

<sup>l</sup> Bill passed in one session becomes law if not returned within two days (Maine and Mississippi three days) after reconvening of legislature.

<sup>m</sup> Within 6 days after presentation to the governor, regardless of how long after adjournment this may be.

<sup>n</sup> Governor must file his objections with secretary of state.

<sup>o</sup> Bill is dead if not signed following adjournment within 5 days of receipt by governor. In practice the General Court is not prorogued until the governor has acted on all bills.

<sup>p</sup> Sundays excepted.

<sup>q</sup> After delivery to governor.

<sup>r</sup> Governor may not veto items in budget submitted by himself after it has passed legislature with  $\frac{2}{3}$  vote.

<sup>s</sup> No veto; bill becomes law 30 days after adjournment of session unless otherwise expressly directed.

<sup>t</sup> Also may veto items in new bills declaring an emergency.

<sup>u</sup> Including majority elected.

<sup>v</sup> Also may veto items in any bill which contains items or sections.

<sup>w</sup> Unsigned bills do not become laws, see *Hartness v. Black*, 95

<sup>x</sup> If governor does not return bill in 15 days, a joint resolution is necessary for bill to become law.

<sup>y</sup> Three-fourths in case of an emergency measure.

<sup>z</sup> Budget (appropriation) bill not submitted to governor after passage.



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### Footnotes

1. This monograph, except for the discussion of the New Jersey Constitution, is largely based on, and in some parts adapted from, the recent monograph of Frank W. Prescott, "Constitutional Provisions on the Governor's Veto Power," Univ. of Tenn. Bureau of Public Administration, 1946; the Council of State Governments' "Veto Powers of the Governors," (Governor's Bulletin No. 3), 1935, and the Book of the States, 1945-46; and the material in Vol. VIII, "Problems Relating to Executive Administration and Powers," of the New York Constitutional Convention Committee Report, 1938, pp. 11-15, 57-62.
2. For general history, see Prescott, op. cit., pp. 2-3; Robert Luce, Legislative Problems, 1935, pp. 140-170; and A. W. MacDonald, American State Government and Administration, 3rd. ed., 1945, pp. 4, 6, 7, 18, 22, 190, 209-11.
3. N. J. Const. of 1776, Art. XIV.
4. C. R. Erdman, Jr., The New Jersey Constitution of 1776, 1934, p. 63.
5. Ibid., p. 117
6. J. E. Bebout Proceedings of the Constitutional Convention of 1844, (1942), Introduction, p. XIX, and pp. XXXVII-LXIV. And see the Introduction generally for an excellent discussion and analysis of the background and proceedings of the 1844 Convention.
7. Proceedings, pp. 44-46.
8. Ibid., pp. 175-207.
9. Ibid., pp. LXXVI - LXXVIII.
10. Ibid., pp. 205-6.
11. Ibid., p. 622; Art. V, Par. 7.
12. Report of the Commission on Revision of the New Jersey Constitution, 1942, p. 43.
- 12a. Ibid., p. 21
13. Luce, op. cit., p. 121; C. R. Erdman, Jr., The New Jersey Constitution -- A Barrier to Government Efficiency and Economy, 1934. And see post, for provisions in other state constitutions.
14. Record of Proceedings before the Joint Legislative Committee ... to Ascertain the Sentiment of the People ... as to change ..., 1942, p. 209.
15. Ibid., pp. 218, 248, 252, 253, 259, 261, 263 and 311. One speaker argued for a simple majority vote on all vetoes (p. 257), and another opposed the provision requiring the house of origin to wait three days before

reconsidering a vetoed measure (pp. 632-33).

16. See attached table, Schedule A, taken from the Council of State Governments' Book of the States, 1945-46.
17. North Carolina has none and therefore is not considered in the remainder of this paper.
18. Georgia and Mississippi give the governor a power of "revision" of passed bills. In practice this is about the same as a veto.
19. Kentucky, Louisiana, Missouri and Kansas do; the bill must be sent "at once," "immediately," on the same day, or within a day or two of passage. Indiana provides that no bill may be presented within two days of final adjournment.
20. Prescott, op. cit., p. 6; New York Constitution Convention Committee Report, Vol. VIII, op. cit., pp. 11-12.
21. Luce, op. cit., p. 181; Harvey Walker, Law Making in the United States, 1934, p. 395.
22. Prescott, op. cit., pp. 6-7; New York Const. Conv. Comm. Report, Vol. VIII, op. cit., pp. 13-14.
23. The Georgia Constitution is silent; in Kansas the bill is returned to the lower house.
24. In Ohio a bill may not be repassed by a smaller vote than required by constitution on original passage.
25. Prescott, op. cit., pp. 7-8; New York Const. Conv. Comm. Report, Vol. VIII, op. cit., pp. 12-13.
26. Prescott, op. cit., pp. 8-9; New York Const. Conv. Comm. Report, Vol. VIII, op. cit., p. 13.
27. Walker, op. cit., 392-93; cf., Luce, op. cit., p. 182.
28. Op. cit., pp. 9-10.
29. New York Const. Conv. Comm. Report, Vol. VIII, op. cit., 13; A. F. MacDonald, American State Government and Administration, 1945, chap. 10.
30. California, Massachusetts, New York and Pennsylvania. The practice was held unconstitutional in Michigan.
31. Luce, op. cit., 186-87; J. M. Mathews, American State Government, rev. ed., 1934; A. E. Buck, Public Budgeting, 1929, p. 415; and H. M. Groves, Financing Government, p. 708. But cf., Luce, op. cit., p. 189 and Holcombe, op. cit., 357-362 who minimize the role of the item veto in any sound scheme of fiscal planning.

32. J. A. Fairlee, "The Veto Power of the State Governor," 11 Am. Pol. Sci. Rev. 473.
33. A. H. Holcombe, State Government in the United States, 3rd. ed., 1931
34. State Government, Vol. 11, No. 2, p. 43, revised by F. W. Prescott, op. cit., p. 11.
35. Prescott, op. cit., 11.