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Today's topic is comparing Congress and the Legislature in the lawmaking process. The legislative branches of the state and federal governments are similar in many regards, but they also have differences in several aspects.

The California Legislature is based upon the United States Congress. Certainly, both are prominently featured in the state and federal constitutions.

Both the US Congress and the California Legislature make laws. They both have investigatory powers. They adopt state budgets. Their senates confirm executive branch appointments.

There are also several profound differences between the two bodies. The Constitution of the United States, found in Article 1, Sections 1 through 10, spells out the authority of Congress to make laws.

Generally, the United States Supreme Court has broadly interpreted Congress' authority in the lawmaking process. However, the US Supreme Court has also limited this authority if it finds it to conflict with the 10th Amendment to the US Constitution.

You may recall that the 10th Amendment to the US Constitution states, "The power is not delegated to the United States nor prohibited by it to the states are reserved to the states respectively or to the people.

As a result, the scope of lawmaking by the California Constitution actually is quite broad on the basis of the 10th Amendment in the Federal Constitution.

Generally, state laws can be adopted on nearly any matter as long as they don't conflict with federal law and so long as they don't violate any provisions of the federal or state constitutions.

The California Constitution in Article 4 as well as California's government code generally in Sections 9,000 to 10606 established many of the procedures that are utilized by the California Legislature to propose, to consider, and to act upon legislation in California.

These state constitutional provisions, as well as numerous statutes, require the legislature to adopt specific rules when dealing with legislation in the lawmaking process.

As a result, the legislature has adopted three sets of rules -- the Joint Rules, the Senate Rules, and the Assembly Rules.

In both Congress and the Legislature, the political parties and the party leaders dictate most of what happens in the legislative process as well as the ultimate outcome of legislation.

This is due to the fact that the majority party, of course, enjoys a majority of members on committees, both policy and fiscal. As a result, can ensure the fate of most legislation.

Of course, they control a majority of members on the floors of the Congress and of the California Legislature. With the vast majority of bills in both houses requiring a simple majority for passage, the majority party dictates what legislation comes to the floors and which ones pass.

Both the US Senate as well as the US House of Representatives use an elaborate system of committees and subcommittees to do their work.

The US Senate has 16 standing committees and about 100 subcommittees. The US House of Representatives has 22 standing committees but almost 150 subcommittees.

It's in these committees and subcommittees where legislation is heard and mocked up and, eventually, sent to the floor.

With the size of Congress -- remember 100 senators and 435 representatives -- they heavily rely upon seniority and expertise of the members to determine the membership of their committees and their subcommittees.

Who is selected to serve on these committees and subcommittees is determined by the party leaders.

Now, the California Legislature relies less on seniority, particularly because there are term limits in the California Legislature, 12 years maximum in either house or in both houses together.

However, in Congress, there are no term limits. While seniority is taken into account, expertise and political needs of the members of the legislature are more often used to determine committee composition.

Neither the California Senate nor the Assembly has formal rules regarding how seniority and years of experience dictate picking chairs and members, although it is taken into consideration. Party politics often plays a primary role in affecting these decisions.

Traditionally, the leaders of the California Senate and California Assembly recognize the expertise, the experience, and certainly, the preferences of their members to make committee assignments and leadership assignments.

Like the California Legislature, a majority vote is required for most actions in the US House and the US Senate as well as the committees and subcommittees.

While one party is able to control Congress, House and Senate rules regarding debate and bringing matters to the floor are often utilizing supermajority votes, sometimes three-fifths or two-thirds.

The most common example is within the United States Senate, where rules-provided debate is virtually unlimited.

However, in the US Senate, a minority of senators can forestall legislation by use of the filibuster which can bring the entire operation of the US Senate to a standstill. Debate or the filibuster, unlimited debate, can only be terminated through the use of a cloture motion.

This motion requires 60 affirmative votes in order to shut off debate. While a majority party may have the votes to pass a piece of legislation, the minority party can procedurally prevent some legislation from ever coming to a vote on the floor of the US Senate.

However, neither the US House nor either House of the California Legislature has a similar filibuster and cloture procedure.

At both levels of government, through the annual federal and state budgets, both the Congress and the Legislature can provide additional or reduced funding. They can also direct executive branch agency activities through certain budget control language.

Congress can utilize a number of control agencies, such as the GAO, Government Accounting Office, the CBO, Congressional Budget Office, or even their legislative committees to do this, as can the California Legislature.

Through the LAO, the Legislative Analyst Office, the auditor's office or their legislative committees, they can utilize these resources to investigate the agency's actions to either regulate or implement laws.

Executive branch agencies can often be pressured via different informal or behind-the-scenes techniques that are utilized by legislative committees, party leaders, or even individual legislators. Similar to Congress, both the California Senate and the Assembly utilize a committee system.

We talked earlier about the vast number of congressional committees. In the Legislature, the Senate has 22 standing committees, and the Assembly has 31 standing committees.

The number of members on each committee and other details are addressed by the Senate Rules Committee and the speaker of the Assembly. The Senate Rules Committee and the Assembly speaker have similar powers.

Some of these standing committees do have subcommittees, particularly in the budget. The Budget Committee in the Senate, which is known as the Budget and Fiscal Review Committee, has five subcommittees which does the main work.

On the other hand, the Assembly has six budget subcommittees. The five major ones are similar to its Senate counterparts. The six is utilized more as an oversight or investigatory subcommittee.

Most bills in the California Legislature go through two committees in each House, a policy committee and a fiscal committee. However, some bills have two policy committee hearings or even three due to the subject matter of the bill.

In these legislative committees, the authors present their bills. The committees hear public testimony, discussing and debate the legislation, and then cast a vote.

Authors of bills often retain significant authority to negotiate and, ultimately compromise or not compromise on their legislation. These legislators can propose author's amendments. They can accept or reject committee amendments. They can even drop their proposals entirely.

The formative and key review of legislation naturally occurs in legislative committees, but the committees don't take over authorship of the legislation in the California Legislature. That's different than in Congress.

Another important distinction between federal and state legislative committees is how the bills are processed by these committees.

In the California Legislature, the general practice is to work out the language of the bills prior to the hearing.

As such, most legislative bill hearings are relatively brief debates on the merits, particularly between the proponents and opponents who testify in favor of or in opposition to.

There's generally a nominal amount of discussion by the committees. Then, it proceeds to a vote to either pass or defeat the bills.

In fact, there are often time limits set on particular bills. The California Legislature often utilizes what we call a two-and-two rule -- two proponent witnesses, two opponent witnesses.

On the other hand, in the congressional committees, particularly at the subcommittee level, they utilize what they deem are markup sessions. These markup sessions is where committee members actually debate and amend legislation in their committees or subcommittees.

They just don't debate the measures. They actually mark up or mock up the language of the bills. The congressional committees often engage in lengthy committee hearings where they debate specific language changes in the federal bills. That process of amending bills is open and part of the public hearing process.

When it comes to the annual budget, that's a little bit different. In the California Legislature, each house, the Senate and the Assembly, refers the budget to their respective and large budget committees.

Those, again, are divided into subcommittees where they accept, they reject, or they modify the governor's January 10 and May revision budget proposals.

These subcommittee decisions are usually ratified by the full budget committees. Then, they utilize it to House Budget Conference Committee to resolve their remaining difference before final action is taken on the state budget.

An interesting thing is to look at the productivity of the two legislative bodies of our federal and state governments.

In the 112th Congress, which was the 2011-2012 session, there were 12,298 bills and resolutions introduced, but only 238 measures, which is 1.9 percent actually became federal law. At the federal level, rarely do more than four or five percent of the bills introduced actually become law.

On the other hand, in California, there's anywhere between 4,500 and 5,000 bills introduced during each two-year, or biennial session. Anywhere from 1,500 to 2,000 of those bills are signed into law. More than one-third of the bills introduced in the California Legislature become law.

As we've gleaned from this podcast, the roles of Congress in the California Legislature are similar in many regards with some limited exceptions.

In our next podcast, we're going to look at the role of the chief executive in both the federal and state governments.