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City Club of Portland Report: Structure and Process of the Oregon Legislature

City Club of Portland (Portland, Or.)

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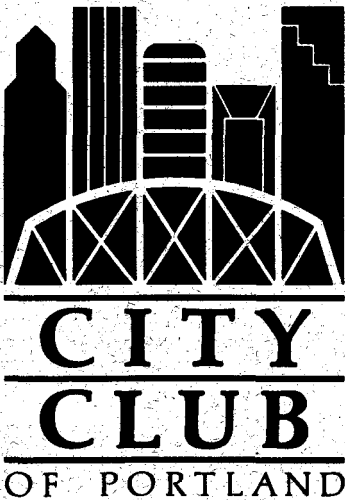
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Structure and Process of the Oregon Legislature

Submitted January 31, 1997



**RECOMMENDATION(S)
ADOPTED**

The City Club Membership will vote on this report on Friday, January 31, 1997. Until the membership vote, the City Club of Portland does not have an official position on the recommendations included with this report. The outcome of this vote will be reported in the City Club Bulletin dated February 14, 1997, (Vol. 78, No. 36).

EXECUTIVE SUMMARY

American discontent and disenchantment with U.S. political institutions has increased markedly during the 1990s. Similarly, many Oregonians have become increasingly critical of the Oregon Legislature. They are frustrated by what they perceive to be a legislature that is unwilling or unable to adequately respond to or resolve a range of issues, including such chronic and pressing problems as the state's high property taxes and declining quality in public education.

In response to this political mood, the City Club of Portland commissioned a study committee of City Club volunteers to examine the process and structure of the Oregon Legislature. The City Club asked the committee to develop standards for judging the legislature's performance, to use these standards to determine whether the Oregon Legislature is passing or failing as an institution, and to determine whether any changes to the legislature's process or structure would improve its performance and public reputation.

The committee found that, while the Oregon Legislature is not failing as an institution, the state's expanding population and changing economy, along with the increasing shift of responsibility from the federal government to the state level, present the legislature with issues and problems that are too complex to respond to in a hurried five- or six-month session every two years. The committee's conclusions and recommendations are summarized below.

A. Legislative Due Process

Criticisms of the legislature give rise to the question—What do we as citizens have a right to expect from our state legislature? The committee heard specific criticisms of the legislature that focused on the difficulty that citizens and groups have in gaining access to and influencing the legislative process, a belief that legislative decisions are often made without debate and careful deliberation, a view that the legislature does not respond in a timely fashion to urgent problems, and a belief that the legislature does a poor job of reconciling divergent views and balancing issues presented by an increasingly polarized electorate.

The committee determined that the development of a truly effective legislative system requires that citizens and legislators have an agreed on, clear set of principles that set a standard for legislative performance and guide any efforts at legislative reform. The committee characterizes these principles collectively as "legislative due process." Information gained through the committee's many interviews, led the committee to determine that Oregonians should have a right to expect a legislative system in which:

- Citizens have access to and are heard in the legislative process.
- Legislators engage in informed and deliberative decision making.

- The legislature is timely in responding to the state’s issues and problems.
- The legislature’s decision-making balances multiple, and sometimes conflicting, concerns and interests.

A legislative process that embodies these four principles will ensure that citizens get adequate consideration of their views, interests, and proposals. It will also help minimize the unintended consequences of poorly conceived and inadequately considered legislation—a problem that has gained particular prominence with the apparent unintended consequences of a number of recently passed state ballot initiatives.

The committee used the concept of legislative due process to guide its evaluation of the Oregon Legislature’s structure and process. Many aspects of the legislature’s operations were scrutinized, including its biennial structure (sessions held every two years), session timing in the current biennial structure, the Emergency Board, legislative committees, legislative staffs, caucus activity, term limits, the legislators’ leadership development and Oregon’s “citizen legislature”.

B. Committee Conclusions

The committee concludes that Oregon’s biennial sessions, which provide approximately six months of substantive legislative work every two years, are no longer adequate either to meet the needs of Oregon’s increasingly complex agenda of issues or to provide citizens with adequate legislative due process. The Oregon Legislature does not adequately provide the public access, informed deliberative decision making, timely response and balance of issues that your committee has determined to be the essence of legislative due process. However, the committee concluded that there is value in maintaining Oregon’s tradition of a citizen legislature.

Legislative committees no longer have the time to adequately analyze and respond to all of the issues that come before the legislature in one biennial session. Standing committees need more time to consider and craft legislation. Although interim committees are appointed after *sine die* adjournment of the biennial session, they function poorly or not at all and do not carry over membership from session to session or prepare legislators for deliberation in the regular session. The institution of term limits greatly exacerbates these problems.

The committee concludes that the biennial budgeting process has positive attributes such as promoting long-range planning and avoiding annual budgeting politics. However, annual budget adjustments may be needed to respond to changing circumstances and to accommodate the increased number of annual block grants from the federal government.

The committee also concludes that 1) legislative committee deliberations and other legislative actions are not well-documented for

easy future reference, thereby inhibiting the development and retention of valuable institutional memory, 2) the legislature needs additional professional nonpartisan staff, 3) new members do not receive sufficient orientation on issues and procedures, and 4) legislators' salaries do not reflect their workload and responsibilities.

Finally, the committee concludes that the legislature is not failing, nor is it on the verge of failing, but that structural changes are required to enhance the quality of the legislature's performance and to provide citizens with legislative due process.

C. Committee Recommendations

Legislative Due Process

The committee recommends that the Oregon Legislature and individual legislators embrace the concept of legislative due process as a guiding construct for developing and enacting legislation, and for avoiding the problem of unintended consequences which so frequently arise out of legislation enacted by initiative or the legislature. News media should apply these same principles when they evaluate and report on legislative performance. Oregon voters should actively demand that their individual legislators, and the legislature as a whole, support and follow these principles.

Annual Sessions

The committee recommends that the Oregon Legislature meet in limited annual sessions.

The committee's intention is not to increase the total time in session, but rather to structure the legislative calendar to allow more time for the public to be heard and the careful and thoughtful deliberation of issues. The legislature is presently in session for an average of about 180 days during each biennium. Under the committee's proposal, the legislature would convene in January of each odd-numbered year in a session limited to a maximum of 120 days. The legislature would reconvene in January of each even-numbered year for a session limited to a maximum of 60 days.

During the 120-day session, the legislature would, as it does now, organize itself by electing its leadership, forming legislative committees and appointing staff. The primary focus of this session would be the biennial budget. Legislative committees would meet regularly during the session and would hold hearings on substantive bills. The legislature would take action on matters ripe for decision.

After the formal adjournment of the 120-day session, legislative committees would continue to function and would hold meetings and hearings as appropriate with a view toward exploring issues and refining substantive legislation to be acted upon when the legislature reconvenes for a 60-day session the following January. Interim committees would no

longer exist. During the 60-day session, the legislature would focus on substantive issues and legislation and would be able to make any necessary adjustments to the biennial budget.

Your committee's proposal would allow the legislature to adjourn between sessions, but would ensure that legislative committees use this time to allow and encourage the public and staff participation necessary for good and thoughtful decision making. Legislative committees could mark up bills between sessions, which would then be ready for action during the following 60-day session. Committees would be better positioned to respond to new issues or crises that arise between sessions. Related legislation could then be ready for introduction at the beginning of the next annual session. Legislative committees that hold hearings and deliberate between sessions would provide new legislators with the opportunity to become knowledgeable on issues and play a more meaningful role in the legislative process. Overall committee membership would be more consistent from one session to the next. Legislative leadership would have the period between sessions to become familiar with proposed legislation and work with caucuses in setting goals and priorities. These same legislative leaders would serve during both the 120-day and 60-day sessions.

Your committee is convinced that in order to provide citizens with legislative due process and to meet the challenges that face the state today, the legislative session needs to be adjusted to provide for annual sessions.

Orientation/Salaries/Staffing

The committee recommends that freshman legislators be provided with improved training and orientation before the first annual session convenes following the election. Also, legislative salaries should be increased to more fairly reflect the workload and responsibilities of a legislator. Finally, the Oregon Legislature should continue its trend toward an increased number of nonpartisan permanent professional staff.

Emergency Board/Legislative History

The committee recommends that the Emergency Board be retained, but that the E-Board needs to provide more opportunity for public participation in its decision making process. E-Board meetings, and those of its subcommittees, are public meetings and should comply with all statutory requirements for public notice, public attendance and press coverage. Finally, the legislature needs to provide more legislative history by preparing: transcripts of testimony presented to committees; committee reports setting forth committee members deliberations and rationales; and records of floor debates.

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I. INTRODUCTION

American political institutions at all levels are currently the target of public distrust and cynicism. In Oregon, many citizens have turned some of their displeasure on the state legislature. Their displeasure seems to arise out of a perception that the legislature does not ensure the efficient delivery of state government services and fails to adequately respond to obvious ongoing crises, such as high property taxes and the decline in the state's public education system.

At the same time, other Oregonians argue that the Oregon Legislative Assembly is a relatively effective body. They claim that public dissatisfaction with the legislature is rooted more in mistaken perceptions than reality, and that the lack of action by the legislature on key issues simply reflects the lack of consensus among the citizenry on those same issues. Behind these conflicting views lies a deeper question: is the present structure and process of the Oregon Legislature adequate to meet the growing and changing needs of Oregonians or does this important institution need to be reshaped and reformed?

The City Club of Portland has long recognized the significant impact the state legislature has on the lives of Oregonians across the state. Given the important role that the legislature plays in the state and our democratic system and the seeming widespread public dissatisfaction with the institution's performance, the City Club decided to take a deeper look at the structure and processes of the state legislature.

In early 1995, the City Club Board of Governors commissioned a committee of volunteer club members to study this issue. To ensure an objective review, all committee members were screened to ensure that no member had an economic interest in the outcome of the study or was identified with a public position on the structure and process of the legislature. The committee presents the results of its study in this report.

A. Study Scope and Objectives

The intent of this study was to examine the structure and process of the legislature and not to evaluate the impact of political parties or the personalities and ideologies of individual legislators. The study charge established the following study objectives:

- The study should review the performance of the Oregon Legislature, both as compared to its past and as compared to other state legislatures.
- As a part of this process, the study committee will have to identify or develop appropriate standards to measure the legislature's success or failure.
- With the aid of these standards, the study should seek to determine whether the Oregon Legislature is clearly failing, is on the verge of

failure, or is relatively effective. Both the “reality” of the situation and the public perception of it (if the two are different) should be addressed.

B. Study Methodology

The committee started meeting in June 1995. Committee members interviewed 34 individuals including legislators, lobbyists, citizen activists, legislative staff, news reporters, pollsters, academics, members of the executive and judicial branches of government. The committee also reviewed a variety of materials on Oregon’s legislative system and legislative systems in other states around the country.

C. Report Structure

The report begins with a discussion of major issues that shape the context and challenges that will face present and future legislatures. The report continues with a brief background on the legislature’s history and its existing structure and processes. The Discussion section identifies key structural and process issues and presents the different points of view presented to the committee. In the Conclusions and Recommendations sections, the Committee presents its findings and lays out its proposals for changes to the structure and processes of the Oregon Legislature.

II. OVERVIEW OF MAJOR ISSUES IN OREGON

Significant developments at the local, state, and federal levels are changing the nature of the issues and challenges that face the Oregon Legislature and the environment in which the legislature carries out its responsibilities. At the same time that the legislature must respond to new demands and circumstances, public perception of and support for the legislature is at a low level. This section explores the nature of the legislature's poor standing with the public and identifies some of the developments that are changing and shaping the world in which the legislature must function.

A. Public Perception

Poor public perception of the legislature is a problem with real consequences. Several publications by the National Conference of State Legislatures (NCSL) suggest that state legislatures across the country are generally held in low esteem by their constituents. The NCSL suggests, however, that this problem may reflect a general decline of trust in government rather than a particular dissatisfaction with state government. In the past 20 years public confidence in virtually all public institutions has declined. The irony is that state legislatures are among the few institutions that have instituted major reforms to improve their effectiveness and accountability. Since the 1970s, many state legislatures, including Oregon's, have pursued reforms in the areas of compensation, professional staffing and access to information for legislators, facilities, open meetings, and improved public access to the legislative process. Despite these reforms, the public image of state legislatures has grown worse.

Oregon appears to be no different from other states in regard to the negative public perception of its institutions, both political and otherwise. However, distrust of government institutions, including the legislature, is nothing new. Citizen dissatisfaction with government institutions has always ebbed and flowed over time, but it is at a particularly high level in the mid 1990s.

Are government institutions really performing more poorly than in the past? So-called 'professional politicians' and certain highly publicized scandals are frequently mentioned as a cause of public frustration. Negative campaigning has always been around, but the prolonged attack-and-response media barrage on daily television networks is cited by some as a source of widespread public cynicism. While negative campaigning dominates congressional races far more than state-level legislative elections, people tend to see the political system as a whole and do not distinguish between the two levels of government. As issues and problems grow in complexity, legislators face greater difficulty in delivering on their promises to solve problems. When citizens' concerns and needs are not met by government institutions, public trust in these bodies declines.

It is beyond the scope of this committee's work to deal with the whole issue of public perception of government and institutions in general. This notwithstanding, the committee acknowledges that public perception is a political dynamic that must be reckoned with as one of several challenges facing the legislature. Widespread public support for its output can be difficult to achieve when the legislative body is seen in a negative light.

B. The Context: How Oregon Has Changed

Oregon is a state in transition. In recent years, new challenges have arisen that raise questions about the ability of the Oregon Legislature to deal effectively with new problems and conditions while still operating under a structure and processes put in place at a time when life was simpler and less complex. An overview of some of the state's major changes follows.

Economic Growth and Diversification

Different parts of the state are experiencing very different economic challenges and opportunities. Divergent economic development has led to a growing tension between urban and rural areas—between the Willamette Valley and the east-side and down-state areas, and between citizens whose livelihood depends on natural resources and those who make their living in other ways, such as high tech industries and services.

From its earliest beginnings, Oregon's economy was based primarily on the development and use of its abundant natural resources. Until very recently Oregon's most important industries were wood products, agriculture, tourism, and fisheries. In the 1930s, 40s and 50s the development of low-cost hydroelectric power ushered in investments in aluminum, other metals, and chemicals. The Portland metropolitan area became more industrially diversified by virtue of its extraordinary location as a hub and distribution center for rail, water and truck transportation. The rural communities of Oregon also grew and prospered, their economies fueled primarily by the state's abundant natural resources.

In the 1970s a deliberate effort was made by the state, through the Department of Economic Development, to attract new high tech electronic industries, high tech medical and biological industries, secondary manufacturers of wood products and aluminum, and value added processors of agricultural products. The state did not intend to bring in new industries to replace the basic resource industries, but to supplement them so as to provide a greater degree of economic stability.

This effort to achieve greater economic diversity has been highly successful so that today the high tech electronics sector employs more workers than does the wood products industry. In part, this shift in prominence has resulted from the curtailment of the wood products industry as the federal government has placed increasing constraints on the harvesting of federal forests. Policies aimed at preserving the environment have led to the reservation of blocks of federal forest and

range lands for wilderness and wildlife protection. This has had a significant effect on rural Oregon communities. Wood products mills have closed and some ranch operations have been curtailed or threatened. Some affected communities have begun to recover and establish new economic bases while others still experience high unemployment and a declining economy. During this same time period, Oregon's metropolitan areas have flourished with the influx of new electronic firms. Oregon is a state divided into two segments—one growing and prosperous, the other shrinking and depressed—with very different needs and expectations for legislative action.

Demographic Changes

Rapid population growth in Oregon—which includes large numbers of people moving to Oregon from out of state—has helped strengthen the state's economy but has also been accompanied by increases in many of the problems associated with America's older cities. Gang violence, racial conflict, crime, and large numbers of dysfunctional families have all become a part of the Oregon scene. The legislature has increasingly had to deal with complex social and health problems arising out of the state's new population mix. The growing population has also strained the state's transportation, criminal justice, education and welfare systems, leading to increasingly intractable problems in these areas as well.

Not only the size of the population but its geographic distribution affects Oregon's political culture in ways that often make the state's problems difficult to solve. Oregon is no longer a rural state with one fairly large city. The Portland metropolitan area remains the most densely populated region in the state with 1.2 million people—a number expected to swell to 2.4 million people by the year 2040. But 'big city' problems are becoming more prevalent not only in the Portland area but in the state's other growing metropolitan areas as well. Our metropolitan areas, like similar areas elsewhere in the country, have experienced significant suburban growth, even given Oregon's system of land use regulations, policies, and urban growth boundaries. Frequently, those who live and work in suburban areas are often more concerned with issues that directly impact them than with issues affecting urban areas.

Oregon's demographic changes combined with its divergent economic interests present Oregon legislators with the difficult task of achieving consensus, especially on matters that require public sector expenditures. The state shares with local governments the financial responsibility for providing education, welfare, transportation, housing, public health and environmental services. The role of the state in these areas is increasing for two important reasons: First, the complexity and scope of many of today's problems make it impossible for individual local governments to effectively address and resolve them on their own. Second, 1990 Ballot Measure 5, which instituted statewide property tax limitations, led to a shift of responsibility for financing many local services, especially education, from local governments to the state.

The institution of additional property tax limitations resulting from the passage of 1996 Measure 47 will surely hasten and broaden this shift. The state's population growth and the expanding state role in resolving local level problems place demands on modern Oregon legislatures that were not faced by earlier legislatures. The following chart illustrates the growth in population and state budgets.

Table 1
Growth in Oregon's Population and State Government
Budget 1977-1995

Year	Population	Percent Change	Total State Budget (1977 Dollars)	Percent Change*
1977	2,396,100		7,426,793,632	
1979	2,584,350	7.9%	7,879,275,801	6.1%
1981	2,660,735	3.0%	6,210,498,534	-21.2%
1983	2,635,000	-1.0%	6,759,040,714	8.8%
1985	2,675,800	1.5%	7,334,281,937	8.5%
1987	2,690,000	0.5%	7,164,943,759	-2.3%
1989	2,791,000	3.8%	7,875,520,454	9.9%
1991	2,930,000	5.0%	8,493,906,479	7.9%
1993	3,038,000	3.7%	9,277,365,574	9.2%
1995	3,132,000	3.1%	9,450,991,030	1.9%

* Two major structural changes account for the negative growth in the 1981 and 1987 state budgets: the State Accident Insurance Fund (SAIF) went off budget in 1981-83—1979-81 expenditures were \$235 million; and Oregon Health Sciences University (OHSU) went off budget in 1995-97—1993-95 expenditures were \$600 million.

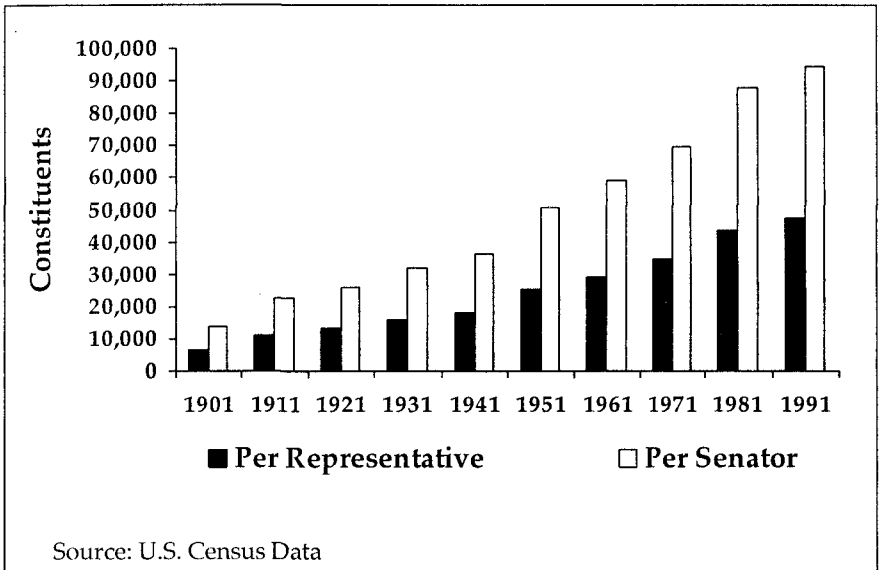
Sources:

Population Data: PSU center for population research; and Oregon Vital Statistics 1987, 1993.

State Budget Data: State Legislative Fiscal Office.

Population growth continues to significantly increase the number of citizens each legislator must represent. While the population of Oregon has steadily grown during this century, the number of state legislators has remained the same: 30 state senators and 60 state representatives. A state representative and a state senator at the turn of the century served an average of 7,000 and 14,000 constituents respectively. Each representative and senator in 1997 will represent approximately 50,000 and 100,000 constituents respectively. Figure 1 next page shows the growth in the number of constituents represented by each Oregon legislator during this century.

Figure 1
Growth in Number of Citizens
Represented by Each Legislator



Shift of Federal Programs to the States

While demographic and political events have increased the demand for state government services in Oregon, federal actions are creating an expanding role for state governments across the nation. The federal government, in a continuing effort to downsize its operations, has begun to shift to the states responsibility for many federal programs, especially in the health and welfare sectors. The federal government trend toward substituting block grants for formula grants is increasingly making state legislatures, rather than Congress, the arena for the competition for federal funds among various groups. As a result, Oregon's legislators will be the focus of more intense lobbying and will need to respond to state government's need to accommodate its new program responsibilities. Legislators will have to devote much time and energy to making these difficult policy choices.

The shift of federal programs to the state level poses some particular challenges for Oregon's state budget process. The federal government operates on an annual budget, with a fiscal year that begins on October 1. It is increasingly disbursing block grants to Oregon on an annual basis. State government in Oregon operates under a budget that covers two years, beginning on July 1. The difference in duration and timing between the federal government's annual budget and Oregon's biennial budget poses additional challenges for the Oregon Legislature.

Term Limits

In 1992, Oregon voters approved Ballot Measure 3 and thereby amended the state constitution to set lifetime limits on the number of terms an individual can serve in the state legislature. Prior to Measure 3, Oregon legislators could serve as long as their constituents kept returning them to office. Measure 3 limits a legislator's service to no more than six years—or three terms—in the House of Representatives and eight years—or two terms—in the Senate. The measure sets an overall limit to a legislator's time in office of twelve years of combined service in the Senate and the House.

The City Club of Portland studied Measure 3 in 1992. The City Club general membership voted to take a formal position against the measure because it would restrict voter choice and would transfer power to non-elected officials, thereby further removing control of the government from the people.

Oregonians saw the first major effects of term limits in the 1996 general election. The 1997-98 Oregon Legislature has experienced almost twice the historic turnover in legislators. Top leadership positions in both houses are held by second-term legislators. Several committees are led by first-term legislators.

As described above, Oregon legislators will clearly face a wide array of new and complex economic, demographic, and other challenges in the years ahead. The next section describes the legislative structure and process within which legislators will attempt to meet and respond to those challenges.

III. BACKGROUND

The Oregon Legislature was created in 1859 when Oregonians voted to adopt a constitution for their newly created state. The state constitution sets out the basic powers and procedures for the legislature. Additional elements of the legislature's structure and process have been established by the legislature itself through statutes and by rules adopted by each chamber in each legislative session.

A. Purpose and Functions

The primary functions of the legislature are to enact laws and to appropriate money to finance government activities. Legislators attempt to balance the interests of various groups within the state. Education, courts, prisons, the economy, the tax structure, and the environment are but a few of the areas addressed by the legislature. In the 1995 regular session more than 3,000 bills were introduced and nearly one-third became law.

Oversight of the executive branch is an important function of Congress, at the national level, and of state legislatures, to varying degrees, at the state level. In Oregon, however, the legislature's role in overseeing the executive branch is minimal and primarily an adjunct of the budgetary process. The state Senate confirms gubernatorial appointments to a number of offices. The Senate's confirmation role is particularly important in Oregon, where many state agencies are run by citizen commissions appointed by the governor.

Each member of the legislature provides services to individual constituents in a variety of ways. This can include acting as an 'ombudsman' by troubleshooting for a constituent who needs help in dealing with a government agency, securing information, or sponsoring legislation proposed by a constituent.

B. Organization/Structure

The Oregon Legislature consists of two houses: a 30-member Senate and a 60-member House of Representatives. Term limits, as discussed elsewhere in this report, regulate length of service in each house: six years in the house, eight years in the Senate, with an over all limit of twelve years of combined service in both houses. At the outset of each legislative session, members of each chamber elect their presiding officers known as the President of the Senate and Speaker of the House.

Much of the work of the legislature—gathering information, holding hearings and developing legislation—is done by committees of legislators known as "standing committees." Each house has about 12 standing committees, each focused on a specific issue area (e.g. Children and Families, Judiciary, Natural Resources, etc.). Legislative leadership sets up standing committees by rule at the beginning of each session. The number and size of standing committees varies from session to session. If a new

topic comes up during the session, a ‘special’ committee may be appointed for the remainder of the session.

The President of the Senate and the Speaker of the House appoint the committee chairs and vice-chairs. The President and Speaker also assign members to committees and decide which committees will hear which bills. The rules of each house govern the processes in that chamber. Appointing members and chairs of the committees is one of the most significant things the leadership does. As the issues become more complex and the number of bills increases, it is important to have well functioning committees so that well-crafted legislation goes to the floor.

Bills may be introduced in either chamber, except bills to raise revenue, which must originate in the House. The procedures for introducing bills are set by the rules of each house. These rules have allowed unlimited introduction of measures but have imposed deadlines after which bills may not be introduced.

C. Legislative Session Schedule

The state constitution mandates that the Oregon Legislature meet in a regular biennial legislative session “commencing on the second Monday of September....unless a different day shall have been appointed by law” (Article IV, section 10). Legislators convened in the fall of even-numbered years until 1882 when the legislature by statute moved the beginning of legislative sessions to January of each odd numbered year. This was apparently done to accommodate farm interests.

As of 1997, the Oregon Legislature has met in 69 regular sessions. The Oregon Legislature is one of only seven state legislatures that meet every two years. (The other states are: Arkansas, Kentucky, Montana, Nevada, North Dakota, and Texas.) All other state legislatures hold annual sessions.

Regular sessions of the Oregon Legislature now commence, by statute (ORS 171.010), on the second Monday in January in each odd-numbered year. There is no limit to the length of sessions. Most last five to six months. The length of regular legislative sessions has grown steadily over time, as illustrated by Table 2 on the next page.

In addition to the regular biennial sessions, the state constitution allows the legislature to be called into special session by the governor or by a written request of a majority of the members of both the House and Senate (Article IV, section 10a and Article V, section 12.). As of October 1996, the legislature has been called into special sessions 30 times since 1860. Special sessions have ranged in length from one to 37 days.

D. The Interim

The legislature’s biennial session schedule results in a 18-or-19-month period during which the legislature is not in session. This period is known as the “interim.” Limited legislative activity and committee work

Table 2
Average Length of Legislative Sessions

Time Periods	Regular Biennial Session (Average Length)	Special Sessions (Average Days per Biennium)	Total Days in Session (Average)
1860-1932	42 days	2 days	43
1933-1948	64 days	6 days	70
1949-1966	119 days	4 days	123
1967-1996	170 days	9 days	178

Source: 1995-96 Oregon Blue Book, pp. 142 & 161 and information on recent sessions from the Office of the Chief Clerk of the House of Representatives.

during the interim are carried out by the Emergency Board and interim committees.

Emergency Board

Legislative bodies all face the problem of how to authorize and appropriate funds for emergencies not foreseen by the body during its session. This has been a particular concern in Oregon because of the long period between regular biennial sessions. In 1952, Oregon voters approved a constitutional amendment that created a joint House-Senate committee authorized to carry out limited legislative functions, primarily budgetary, during the interim (Article III, section 3). The committee is known as the Emergency Board, or E-Board. During the interim, the E-Board has access to funds appropriated by the legislature during the preceding regular session, and can allocate these funds to state agencies in case of an emergency. The E-Board can also authorize state agencies to spend funds in excess of their budgets and can authorize funding for new state activities.

The E-Board is composed of 17 members including the President of the Senate, the Speaker of the House, Senate and House Chairs of the Ways and Means Committee, and six Senators and seven House members appointed by the President of the Senate and Speaker of the House and approved by majority vote of their respective chambers. Members serve on the E-Board only from the end of one regular biennial session to the beginning of the next session.

Interim Committees

While standing committees do much of the work of the legislature during the session, these committees are dissolved at the end of each session. The legislature then establishes new committees to continue to study issues, draft legislation, and exercise legislative oversight during the

interim. Interim committees have members from both chambers and are created by joint resolution of the Legislative Assembly. Legislative leaders sometimes also appoint task forces made up of members from only one chamber.

Legislators who serve on an interim committee and study an issue are not always the legislators who will serve on the standing committee that takes up the issue during the regular session. Legislators run for election between legislative sessions. A legislator serving on an interim committee might not win reelection to the legislature. Even if a legislator is reelected, legislative leaders do not necessarily appoint interim committee members to related standing committees during the session.

E. Legislative Staff

Legislators have access to a variety of staff support in carrying out their legislative duties. Legislative staff include personal staff who serve an individual legislator, partisan staff who serve a particular political party's caucus, and non-partisan staff who serve all legislators regardless of party.

Each legislator receives a budget for one staff person, year round, and an additional staff person during the session. Thus there are approximately 90 full-time personal legislative staff, a number that increases to approximately 180 during the legislative session.

Each of the two major parties has approximately ten, publicly-funded, partisan staff. These staff serve their party's leaders and the party caucus and are housed in a caucus staff office. Partisan staff support party members during both the session and the interim. Their activities vary but can include research, writing speeches, service to constituents, organizing caucus activities, and acting as a liaison with executive agencies.

The bulk of the support services for the legislature are provided by non-partisan staff. About 100 non-partisan staff provide support and administrative services to legislators and legislative committees. This number increases to about 150 during the legislative session. These staff are coordinated and overseen by the administrator of the Legislative Administration Committee. Other non-partisan staff provide legislators with policy analysis and research support. These services include:

Legislative Counsel

The Legislative Counsel is the full-time executive officer of the Legislative Counsel Committee. The staff presently consists of 13 full-time lawyers with an additional five to six attorneys added during the legislative session, and a large word processing staff. Committee staff is responsible for all bill drafting both for the Legislative and Executive branches.

Legislative Fiscal Office

The Legislative Fiscal Office has a present staff of 10 budget analysts and support staff. It serves the Ways and Means committees during the session and the Emergency Board in the interim.

Legislative Revenue Office

The Legislative Revenue Office was created by statute in 1975. It is headed by a Legislative Revenue Officer and presently has a permanent staff of 5 economists. The office serves House and Senate committees that deal with revenue and school finance.

Legislators have traditionally relied on their personal staff and caucus staff for policy analysis services. Recently, the legislature authorized the hiring of non-partisan policy analysts who will help staff substantive committees. This new policy staff function will be carried out in the 1997 legislature by six policy analysts, each assisted by one researcher and one legislative assistant.

F. Compensation of Legislators

The compensation of legislators is set by statute, a method used by 26 states. During the 1996-97 session Oregon legislators are paid a base salary of \$1,092 per month over their 24-month term (\$13,104 per year). Legislators receive an additional \$79 per day for each day that the legislature is in regular or special session. During the interim, legislators continue to receive their base salary plus \$79 per day for committee and task force meetings. In addition, legislators receive an expense allowance of \$15.50 per day during session and an interim expense allowance which varies from \$400 to \$550 per month based on the geographic size of their district. They also receive a staffing allowance of \$4,465 per month during session and \$1,100 a month during the interim. A comparison of Oregon's compensation levels to those of other states is difficult because different states offer different combinations of benefits. Without question the lowest is New Hampshire where legislators receive a salary of \$200 for a two-year term. On the top of the scale are legislators in the District of Columbia who receive a salary of \$80,605 a year, and California which pays \$75,600 a year with a per diem of \$109. Oregon pays the highest compensation of the seven states that meet biennially.

G. Summary of Previous City Club Studies

City Club committees have studied different aspects of the structure of the Oregon legislature three times in the last 20 years: a 1977 study of the E-Board; a 1981 study of the structure of the legislature, and a 1989 study of a ballot measure that would have required the legislature to meet in annual sessions. This section summarizes the City Club's past positions reflected in the recommendations of those reports.

1977 Emergency Board Study

In 1977, the City Club did a study of the E-Board that focused primarily on questions about the accountability and representative nature of that body—questions that still arise today. The study concluded that the E-Board is not geographically representative of the population of the state and that the power of the E-Board may allow some legislative leaders to abuse that power. The report concluded, however, that the E-Board, for all its faults, is a necessary complement to the legislature given the long interim period during which the legislature is not in session. The study made the following ten recommendations:

1. The E-Board should not invade executive branch policies or duties.
2. The board should not initiate expenditures beyond its stipulated authority.
3. The legislature should delegate to the Executive Department, not the board, interim authority over personnel reclassifications, capital construction projects, and federal grants for equipment (as distinguished from staffing).
4. Appropriate substantive interim committees should review agency requests before they are submitted to the board.
5. Composition of the board should reflect the apportionment of the legislature.
6. Experience on the Joint Ways and Means Committee, although desirable, should not be a prerequisite for appointment of a majority of board members.
7. The president of the Senate and the speaker of the House should be excluded from service on the board, but they should retain their authority to appoint board members.
8. Fiscal instructions now included in 'budget notes' should be incorporated into the body of appropriation bills.
9. The legislature should impose an upper limit on the amount of money that may be spent on a project.
10. The name of the board should be changed to reflect its true character as an interim fiscal body.

Legislative Fiscal Office staff told the committee that while on the whole the legislature has not adopted these recommendations, the E-Board endeavors to base its decisions on previous guidance from the full legislature and has transferred responsibility for some detailed administrative decisions to the executive branch. Staff also reported that legislators are more likely than in the past to express legislative intent in formal appropriation statutes rather than in informal budget notes.

1981 Legislative Structure Study

In the late 1970s, City Club members became concerned that the legislature's agenda had grown in both size and complexity to the point where many legislators could no longer effectively balance their public service with their private lives. Club members were also concerned that the structure and process of the legislature appeared "unable to deal effectively with the increased demands of modern state government and the complex policy issues which confront it every two years." The Club formed a study committee to assess the structure, composition, and performance of the Oregon Legislative Assembly.

In 1981, the committee concluded that, while Oregon was not faced with a legislative crisis and did not need a full-time legislature (like the U.S. Congress or the California State Assembly), the legislative process would benefit from a move to limited annual sessions. The committee was concerned that the biennial budgeting process is inherently inaccurate and that the E-Board was undemocratic and presented an opportunity for political mischief. The committee felt that the press of business during the legislative session made it difficult for the governor, political parties, and legislative leaders to develop coherent legislative programs to address major problems and priorities. According to the committee, there was too little time between the election and the start of the session, and that interim committees were unproductive and lacked "clout." The committee also expressed concern about the absence of an effective system to preserve records of legislative actions. The committee stated that this record of legislative intent is necessary for the courts and the public to later interpret legislative actions.

The report's major recommendations include the following:

1. Create limited annual sessions and postpone the start of the session which follows each election of legislators.
2. Abolish the Emergency Board by constitutional amendment. To the extent they are still necessary with limited annual sessions, powers presently exercised by the E-Board would be transferred by statute as follows:
 - To the full legislature—make supplemental appropriations and fund activities required by law; approve expenditures from dedicated funds, in excess of budget.
 - To the governor—approve transfer of funds between agency budget line items.
3. Require the governor, by statute, to submit an annual budget to the legislature.
4. Develop a fuller orientation program for members, including training in office management, writing, and use of permanent staff, executive branch, and other resources.

5. Create and preserve informative, uniform, publicly accessible legislative history: committee-adopted reports, an opportunity to obtain transcripts of committee hearings and floor debates, and full indices.

These recommendations have, for the most part, not been adopted. Oregon still has a biennial legislature, the E-Board still exists, and the governor still submits a biennial budget. However, legislative leadership and the political caucuses do provide some orientation for new legislators, and some records are available on committee actions and testimony before committees.

1990 Study of Annual Sessions Ballot Measure

The City Club reversed its 1981 position somewhat by coming out against 1990 Ballot Measure 3. Measure 3 was a referral from the legislature that would have required the legislature to meet in annual sessions and would have limited these sessions to 135 days in odd-numbered years and 45 days in even numbered years. A City Club committee that studied the measure did not find pressing problems with biennial sessions that would warrant a change to annual sessions. The committee was concerned that annual sessions would lead to a shift from biennial to annual budgeting—the committee felt that biennial budgets allowed better long-range planning by state agencies. The committee was also concerned that annual sessions would lead to greater legislative intrusion into state agency operations and would interfere with the effective and efficient management of state programs. Voters did not approve the measure.

While each of these studies examined important aspects of Oregon's legislative structure and process, none of the Club's previous studies established criteria by which to judge the overall performance of the Oregon Legislature.

IV. LEGISLATIVE DUE PROCESS— STANDARDS FOR LEGISLATIVE PERFORMANCE

The charge for this study states that the study committee should develop appropriate standards with which to evaluate the performance and effectiveness of the Oregon Legislature. From the outset, the committee combined its search for appropriate standards with the search for an answer to why the public seems to have a low opinion of their state legislature. Based on interviews with a wide range of people, the committee concluded that this public dissatisfaction is rooted in a perception by citizens that the legislature is not sufficiently responsive to their needs and concerns. The challenge for the committee was to identify the deeper issues that often lead citizens to be dissatisfied with their legislature.

The committee heard specific criticisms of the legislature that focused on the difficulty that citizens and groups have gaining access to and influencing the legislative process, a belief that legislative decisions are often made without debate and careful deliberation, a view that the legislature does not respond in a timely fashion to urgent problems, and a belief that the legislature does a poor job of reconciling divergent views and balancing issues presented by an increasingly polarized electorate.

Criticisms of the legislature give rise to the question—What should we as citizens expect from our state legislature? The committee determined that the development of a truly effective legislative system requires that citizens and legislators have an agreed on, clear set of principles that set a standard for legislative performance and guide any efforts at legislative reform. From the testimony heard by the committee, what is needed is a legislative process that embodies such a set of principles. The committee characterizes these principles collectively as “legislative due process.”

Legislative due process, as conceived by the committee, would be achieved when citizens and affected groups have adequate opportunity for input into the initiation and development of laws, when legislators engage in meaningful and thoughtful debate and deliberation on issues, where urgent and chronic problems are addressed in a timely and responsible way, vital regional and local needs and concerns are considered and balanced, and where the long-term needs of the state are consistently served and not sacrificed in the interest of short-term political expediency. Ideally, legislators would use these same principles to guide their own actions, and citizens would use these principles to help them evaluate the performance of individual legislators and the legislature as a whole.

Legislative due process protects citizens against proposals that have not been carefully thought out and subjected to varying points of view.

A good illustration of this in the extreme arises when initiatives are placed on the ballot without going through the legislative process.¹ Even when the thrust of the measure has good intentions, a measure not subjected to critical review frequently results in unintended consequences.

The committee identified four key principles at the heart of the its concept of “legislative due process.” These principles include:

- public access;
- informed, deliberative decision-making;
- timely response to issues and problems; and
- balance among a range of issues.

The committee believes the concept that the citizen has a right to legislative due process as the legislature enacts laws will clarify what the public expects of the legislature, will increase citizen participation in the legislative process, and, to the extent that the concept is reflected in the structure and processes of the legislature, will improve its image and increase the level of public satisfaction with the legislative product.

The committee used the four principles of legislative due process to evaluate the structure and processes of the legislature and to develop its conclusions and recommendations.

¹ The City Club of Portland’s 1996 study, *The Initiative and Referendum in Oregon*, examined this problem in some depth. Among the report’s key recommendations, is a limitation on the subjects that may be addressed through the initiative process, and the mandatory referral of all initiatives to the legislature for hearings and debate before they appear on the ballot.

V. DISCUSSION

A number of elements influence how effectively the legislature carries out its mission. This section first explores the popular concept of the Oregon Legislature as a "citizen legislature," followed by an examination of a number of structural and process issues, including: session timing, the E-Board, committees, staffing, and legislators, and closes with a presentation and evaluation of a range of proposals for structural and timing reform.

A. Citizen Legislature

The desirability of preserving a 'citizen legislature' was asserted by many who came before the committee. A similar view was also spelled out in the 1981 City Club report. The perceived advantage of a part-time, non-professional legislature is based on the notion that citizen legislators can better reflect the views and needs of the communities from which they come if they spend most of their time working and living there. Spending the bulk of their time in the communities they serve is seen by many to be the best guard against isolation and elitism.

Your committee believes that Oregon still has what is essentially a citizen legislature, and agrees with those who desire to preserve it to the extent possible, for as long as possible. Nevertheless, the committee recognizes that in recent years the work of the legislature has become more complex and time consuming, and that some legislators are essentially doing two full-time jobs. At current pay levels, few, if any, legislators can sustain themselves on the pay they receive without outside income. This means that to serve in the legislature, individuals must be independently wealthy, supported by another family member or they must be able to devote enough time to non-legislative duties to earn a living. As one legislator pointed out to the committee, pursuing a full-time occupation is becoming increasingly difficult as the legislative sessions lengthen, special sessions are held, more committee hearings are required to give adequate consideration to legislative proposals, citizens look more to their legislators to intervene with state agencies on their behalf, and as policy issues arise throughout each year that require constant community and political contacts. Some legislators have suggested to the committee that the concept of a citizen legislature is an idealized myth or at least becoming less and less a reality.

As Oregon's population grows and its economy becomes more diverse and complex, the pressures on legislators will increase. It will take greater time and effort to seek to reconcile the clash of interests and views. The time may come when Oregon, like some other states, will need a full-time legislature. Based on testimony, it appears to the committee that there are steps that can be taken to put off that day by making more productive use of the limited time legislators devote to the legislative process. The committee sought to identify ways that would provide Oregon citizens

with more 'legislative due process,' while avoiding turning the legislators' tasks into a full-time job. To this end the committee questioned all witnesses on specific structural issues and procedures. The following is a reflection of the statements made by witnesses. Taken together they form the basis of the committee's conclusions and recommendations.

B. Session Timing

In the current biennial structure, legislative action takes place every two years during the general session, adjustments to appropriations are made by the E-Board during the interim, and a combination of interim committees and task forces appointed by the Governor or legislature identify and study issues for consideration at the next session. Ideally, the timing of legislative sessions should promote legislative due process and should provide adequate opportunity for discussion of issues, review of research, and public access in the development of policy. Legislative leaders and the governor should establish priorities within the framework of a legislative agenda. The legislature as a whole should weigh alternatives, evaluate impact and funding requirements and the technical correctness of legislation. Your committee heard that, in practice, the current system of a five-to-six-month legislative session and a 18-to-19-month interim between sessions raises several issues that impede the legislature's ability to deliver to the citizens what the committee has identified as core elements of 'legislative due process.'

Careful Deliberation of Issues

The amount of time to debate and engage in *careful deliberation* is one of those issues. Despite the fact that sessions frequently run over the targeted time and special sessions are becoming more frequent, the legislature has difficulty dealing with the wide range of issues presented at the beginning of the session. "Effective lawmaking," according to one source, "should be a deliberative process, with lots of meetings, a lot of testimony." The committee heard that there is not adequate committee time to consider and craft legislation. It was pointed out that members of a committee are sometimes not sufficiently familiar with the details of many of the bills on which they are acting—while legislators not on the committee are even less familiar with the details of these bills. The common logjam of legislation at the end of a session is probably unavoidable under any circumstances but a serious complaint was that very often only the lobbyists know exactly what is in the legislation that emerges.

Most knowledgeable witnesses believe that it is not possible in a six-month period every two years to hold hearings, shape policy, and hammer out legislation, and to do so in a way that meets the needs and concerns of Oregon citizens. While no one who spoke to the committee said Oregon needs a full-time legislature (e.g. California), the committee was advised again and again that the current structure needs to be made more effective and productive. What the committee heard were

suggestions on how to make better use of legislators' time both during the interim and the regular session. Some witnesses suggested that the availability to legislators of better research and professional staff would help improve legislative productivity. Others suggested that standing committees should hold hearings and deliberate during the interim as well as in the regular session.

Institutional Memory

Informed decision making requires current knowledge of issues and an awareness of each issue's context and related past legislative action. Concern about a lack of *institutional memory* was another issue that surfaced throughout the committee's discussion on structure and timing. Institutional memory is the knowledge of what has been considered in previous legislative sessions and how matters were resolved. Many witnesses felt that institutional memory is essential to an effective legislative process.

Institutional memory has its greatest impact on the ability of the legislature to successfully respond to long standing and complex issues. Successive legislatures may waste time and public funds by repeating studies done by earlier legislatures or groups, and may develop and attempt solutions that were tried in the past and found to be ineffective. The loss of accumulated knowledge and wisdom will, result in piecemeal policy decisions, and blindness to developing crises in governance.

Institutional memory can reside in individuals, such as legislators, legislative staff, lobbyists, state agency staff, and citizen activists. Institutional memory can also be maintained through the preparation and preservation of records of legislative debates and legislative committee actions, also known as "legislative history." The committee learned that records of debates are archived but not published, making them hard to access. Committees do not provide written reports explaining the reasons for their legislative recommendations, and no records are available on the content of testimony before committees. Thus what is normally thought of as legislative history is not maintained in Oregon's present legislative system.

Because of the minimal amount of recorded legislative history, the Oregon Legislature depends heavily on the experience and knowledge of seasoned legislators and lobbyists as the primary means to access the lessons and knowledge of past legislative actions. The anticipated effect of *term limits* on institutional memory was mentioned repeatedly by people interviewed by the committee. Only term limits advocates dismissed the importance of institutional memory. Most legislators, government officials, and media representatives who spoke to the committee voiced varying degrees of opposition to term limits. Their common refrain was that term limits will result in consequences unintended by many Oregonians who voted for term limits in 1992. The objections that relate specifically to institutional memory hold that the departure of experienced members will lead to the loss of some legislative power. The office of the

governor will gain power relative to the legislature. Likewise, state agencies, legislative staff, and lobbyists—none of them directly accountable to the voters—will gain influence and power at the expense of the people’s elected representatives.

It appears to this committee that term limits were a bad idea that will do more harm than good to the Oregon body politic and legislative process, much of it in unexpected ways. In a recent editorial, *The Oregonian* expressed much the same view of the adverse effects of term limits. Nevertheless, the voters enacted term limits by a wide margin and are unlikely to change the policy until we have experienced the consequences first hand. The committee therefore concluded that its task was to make recommendations to minimize, to the extent possible, the anticipated problems and to improve the structure and processes of the legislature so it could function as effectively as possible—notwithstanding term limits.

Timely Response to Issues and Problems

Another issue brought to the committee’s attention was the ability of the legislature to consider and *resolve important issues in a timely way*. The committee heard that where issues are complex and require extensive legislative review, legislators cannot handle them within the time constraints of a limited biennial session. New issues, or old issues that reach a crisis between sessions, cannot always be effectively addressed in the limited time span of a special session. In addition, the federal government is increasingly administering funded programs through annual block grants to states. Oregon’s biennial sessions make it difficult for legislators, who meet every two years, to respond appropriately and in a timely way to issues that arise here in Oregon and to actions taken by the federal government.

Informed Decision Making Process

Legislative due process requires not only adequate time for consideration of bills but a process for *informed policy development*. One witness defined a rational legislative decision-making process as one in which legislators are elected, study issues, make decisions, and defend their positions. Some observers felt that Oregon’s current legislative decision making process is irrational. Under the present legislative system, newly elected legislators arrive in Salem in January and, with a minimum of orientation, are plunged into the legislative process. Also, legislators have only a limited opportunity to learn about issues before they vote on them. Much of the legislative committee work during the session is devoted, not to substantive issues, but to a battle over the development of the state budget.

The committee heard various suggestions for remedying the lack of adequate orientation and the insufficient time available for committees to gather information and consider important issues. Some suggested delaying the beginning of the formal session until the September following

the election so that committees could hold hearings during the first nine months of the year and members could become fully familiar with the legislative process and important issues. Others noted that such a schedule would interfere with the state's budgeting process because the legislature must pass the state budget before the end of the state's fiscal year on June 30. Some witnesses suggested that the legislature convene in January, to allow legislators to participate in orientation programs, recess early in the session to allow time for committee hearings and deliberations, and reconvene at a later time. Others recommended abandoning the biennial session schedule and having the legislature meet in formal annual sessions, and make more effective use of the interim between sessions.

While all the suggestions offered ways to enhance the knowledge of the citizen legislator before he or she participates in a regular session, the committee recognized that the suggestions contained another important element—continuity between the legislators who study issues on interim committees and those who serve on the session committees that act on these issues. Legislators who study and deliberate issues should introduce and steer the legislation through the entire process. Under the current system, legislators who study issues on an interim committee might not be reelected to serve in the next session, or, if reelected, are not always appointed to serve on a committee that will handle the issues they studied during the interim.

C. The Emergency Board

All legislative bodies face the problem of how to authorize and appropriate funds for emergencies that arise when the body is not in session. In Oregon, the E-Board exercises the legislature's power of appropriation during the interim between sessions. Most states delegate this responsibility to the governor, or to a combined executive-legislative authority. Some states require that the governor's decisions be reviewed by a legislative committee. Except for the inclusion of House and Senate leadership, Oregon's E-Board is in effect an interim Ways and Means Committee—but with authority to decide for the entire legislature. The structure and role of the E-Board is unique to Oregon.

Few witnesses cited the E-Board as a major source of problems with Oregon's legislative system. A number of people, however, expressed the same concerns raised in earlier City Club reports about the unrepresentative nature of the E-Board and the lack of public input into the E-Board decision-making process. The committee evaluated the E-Board according to the criteria of legislative due process. The E-Board scores poorly when rated on the principle of public access. The E-Board operates through its subcommittees and any testimony taken from agencies is taken without any real opportunity for public input. Some are concerned that there is no real check on the E-board's power, even though the full legislature sets the percentage of the budget overseen by the board and allocates the funds over which the Board has discretion.

Others objected to the unrepresentative nature of the board. The full legislature operates for five or six months; the E-Board, comprised of about one-sixth of the legislative body, operates for the remaining 18 months of the biennium. Some observers found this an unacceptable concentration of power. E-Board critics also argue that, while it may be efficient to have the membership dominated by Ways and Means Committee members, the fact that E-Board membership is based on anything other than region or population violates the concept of equal representation.

Some argued that the E-Board should be abolished, a position also taken by the 1981 City Club study of the legislature. Others noted that the E-Board, despite its problems, seems to get the job done without abusing its power and should be left in place, a position also supported by the 1977 City Club study of the E-Board. Though it is controversial, the committee found no concrete examples of the board misusing its power.

D. Standing Committees

Most of the legislature's deliberation and substantive activity take place in the standing and joint committees that operate in the general sessions. The legislative committees are the heart and soul of the legislative process. Legislative committees perform three essential tasks: study and analyze public policy issues; hold hearings to provide opportunities for the public to express its views; and develop legislation. In evaluating the ability of the Oregon Legislature to effectively perform these tasks, your committee applied the criteria for legislative due process. Three concerns surfaced again and again: insufficient public access, lack of continuity in the legislative process, and inadequate time for committee activity.

Committees do more than deliberate, they provide access. With few exceptions, the legislature received high marks for fairness and openness from those who appeared before the committee. Some commented that hearings held in Salem should require more advance notice so that citizens, especially those residing in other parts of the state, could give testimony. It was suggested that more effort be put into holding hearings in different parts of the state on key issues to improve accessibility. Overall, witnesses including lobbyists acknowledged that the Oregon legislature is more open than those in most other states.

Any complaints about access were systemic. The ability to provide access is related to the amount of time available to conduct hearings. There is far more incentive to appear before committees that legislate than those that study. Your committee's attention was frequently directed back to the interim on this issue with the suggestion that standing committees not disband at the close of a session, but instead replace interim committees and remain active during the interim so that there is greater opportunity for public input at the substantive stages of the legislative process.

E. Interim Committees

As stated earlier, after adjournment legislative work supposedly continues through the operation of both Senate and House interim committees supplemented by task forces. Ideally, issues are studied and drafts of new legislation are prepared. Your committee learned that legislative leaders attempt to assign members who serve on standing committees to related interim committees, however, interim committee members, if reelected to another term, often then serve on standing committees that bear little relation to their previous interim committee assignments. The lack of continuity between interim committees and standing committees that operate in the regular session imposes serious restrictions on substantive legislative activity. New legislators need to be educated about the rationale for each interim study as a result of committee reassignments and election turnover. Legislators who deliberate during the interim should be the individuals who follow the legislation all through the legislative process. Presently, members of interim committees have little incentive to advocate for their committee's proposals during the subsequent legislative session.

Interim committees are created, but some never actually meet. If a meeting is called, members are not required to attend. In fact legislators spend most of the 18-month interim servicing constituents and, if up for reelection, campaigning. At a time when committees are dealing with statewide issues involving major areas like transportation, criminal justice, education, and welfare, the lack of continuity in the process and the consequent delays in resolving issues does not provide the results the public has a right to expect. It appears to the committee that the issue is not necessarily the ability of part-time legislators to address issues, but, rather a process and structure that does not utilize their time to develop the expertise required to study and analyze the issues.

F. Caucuses

Oregonians expect the legislature to have the political will to avoid gridlock. Concerns about increased caucus activity and its perceived impact on the legislature's ability to respond to issues were aired by various witnesses, one of whom referred to 'caucus government' in his analysis. While there is increased activity by party caucuses, few believe that caucuses have an excessive effect on the overall process or that they have replaced the power of committees. The Oregon Legislature does not allow amendments to be made on the floor. This alone enhances the power of individual committee members and chairs vis-à-vis the leadership, caucuses and interest groups. While House rules provide that two members of a legislative committee can demand that measures come before a committee and discharge petitions voted upon by 31 members can get a bill reported out of committee, the fact remains that committees and committee chairs are seldom overruled either on setting the agenda or reporting a bill out.

Historically most caucusing has been split along rural/urban and conservative/liberal lines. The rise of 'caucus government,' which concerned some who came before the committee, is linked to the rise in partisanship. In both parties, the primaries create opportunities for less moderate candidates to succeed. All but a few viewed increased partisanship as confrontational and an undesirable departure from traditional Oregon politics. The committee heard a call for a nonpartisan legislature from those witnesses who indicated a concern that unless Oregon took steps now, the legislature would experience the same divisiveness and gridlock as Congress. The committee acknowledged the possibility but found most Oregonians in and out of the system believed that the broad majority of legislators were in the middle and could be considered problem-solvers. According to one witness, on about eighty percent of the bills there is agreement, and only 20 percent break along party lines. While there are legislators whose ideological viewpoints make it difficult to accomplish anything until a crisis state is reached, single-issue proponents or 'true believers' thus far do not dominate the Oregon Legislature.

G. Staffing

Legislative staff plays a pivotal role in the modern legislature. Most see that role as one that will increase. The growth and development of staff has significantly affected the operations of state legislatures. Through their ability to gather, evaluate, process and synthesize information, staff provide legislators with greater independence from lobbyists and executive agencies. Ironically, there is also a concern that legislators will become too dependent on staff once term limits begin to have their full effect.

Oregon has additional challenges in that it has a citizen legislature and one that has relied almost exclusively on the institutional memory of its membership in the absence of legislative history. Most agreed that as term limits begin to impact the process and institutional memory is diminished, additional non-partisan, professional staff will need to supply some of what is lost with the departure of experienced members.

The committee agrees with those who assert that as the issues become more complex, it is essential to have more non-partisan, professional staff to do the research and present the facts. Likewise, if the interim is made more productive by engaging legislators in substantive committee work, additional permanent staff will be necessary to provide the support for informed deliberation and the continuity that temporary staff cannot supply.

H. Legislators and Leadership Development

A key determinant of the effectiveness of any legislature is the skill, knowledge, and ability of its individual legislators and legislative leaders. The committee learned that the ability to lead and build consensus in state

legislatures is an ever-increasing challenge nationwide. The explanation is twofold: first, legislators are more independent because they raise most, if not all, of their own money rather than depending on political parties; and second, there are more issues and more lobbyists to represent them. The diminished power of the political parties has shifted to legislative leaders the primary responsibility to promote a statewide perspective, establish priorities, and develop and move a legislative agenda.

Your committee heard fairly positive reviews of Oregon's legislative leaders. People who spoke to the committee were concerned, however, that too few legislators possess leadership qualities and the experience necessary to meet the needs of the citizenry. Legislators usually develop leadership skills over the course of their legislative experience. However, many legislators, due to the brevity of the sessions, do not have adequate opportunity to develop these skills. Your committee heard reports, including one from a representative of the League of Women Voters, of inexperienced committee chairs who were completely unprepared to run a committee or follow established procedures for conducting hearings. Providing access to various groups and providing opportunity for debate is as much a function of skill as of will.

Moreover, term limits will have a negative impact on the development of legislative leadership by forcing the departure of the most experienced legislative leaders. In 1994, the National Conference of State Legislatures suggested that legislatures respond to the loss of experienced leaders by identifying freshman legislators who have had leadership experience outside the legislature and assigning them to head committees and serve in other leadership positions.

The lack of meaningful activity during the long interim hampers the ability of legislative leaders to develop the skills necessary to craft comprehensive legislative programs that address current issues as well as long-term and, sometimes, chronic problems. To do this requires sustained coordination among the parties, interest groups, and executive agencies. Because of the limited legislative session, legislative activity often focuses primarily on budget and appropriations issues rather than substantive issues. The legislature's response to substantive issues is frequently limited to reacting to proposals developed and presented by the governor.

I. Structure and Timing Alternatives

Your committee heard repeatedly that the present legislative schedule creates significant obstacles to the effectiveness of the legislature and its ability to fulfill the principles of legislative due process. Your committee carefully considered legislative scheduling and timing options that have been proposed by individuals inside and outside of the system and evaluated them against the principle of legislative due process. These options are discussed below.

Retain the Current System (No change)

Some witnesses pointed out that the current system has served Oregon well in the past and, therefore, there is no real reason to make changes. Some of the explanations cited were: Oregonians move slowly and are not overly concerned with responsiveness as an issue; Oregonians are naturally conservative and do not like change; Oregonians do not want any additional expenses that might be involved with a new legislative structure. Your committee evaluated these arguments and concluded that the current structure of biennial sessions does not provide citizens with the legislative due process to which they are entitled. If the public is to be served, the structure must be altered to provide greater access, more time to deliberate, a more timely response to issues, and the opportunity to create a comprehensive legislative program.

Proposals for Rescheduling the Legislative Session

Plans to reschedule the biennial session have been proposed and considered in the past.

- Full-time Senate, Biennial House

In the 1970s, Hans Linde (former justice, Oregon Supreme Court) and David Frohnmayer (president, University of Oregon; former state legislator and Oregon attorney general) proposed a new legislative structure that called for both houses to meet biennially, as they do now, to consider legislation and enact laws. The Senate, however, would continue to meet in session during the interim to perform all other legislative functions, while the House would recess until the next biennial session. The advantages of this arrangement would be to abolish the E-Board, allow annual budget revisions, provide meaningful interim activities for one chamber while allowing the other to maintain the semblance of a citizen body.

Despite some merits, this tiered structure violates the concept of two chambers of equal power in a traditional bicameral system. From a purely functional standpoint, some legislative jobs might get done more efficiently. However, in this arrangement, access would be increased to one chamber, but not the other; more deliberation would be achieved in one chamber, but not the other. Response time would not improve significantly because issues cannot be acted upon by one chamber. One chamber instructing, the other catching up, is seen by some as an invitation to more division and dissent.

- 1981 City Club Annual Sessions Proposal

After its 1981 review of the Oregon Legislature, the City Club proposed that the legislature meet in limited annual, rather than biennial, sessions and postpone the start of the session that follows each legislative election. The City Club recommended that in odd-numbered years, the general session would convene in February and end no more than 120 days later. Legislators would use the time from the general election until the

legislature begins to conduct orientation, select party leaders, organize staffs, confer informally, draft bills, and develop programs. During the first interim, standing committees would hold hearings and work sessions. In even-numbered years, the legislature would meet in limited session starting in January until no more than 60 days later. The report also recommended the abolishment of the Emergency Board and the transfer of the E-Board's functions during the interim to the full legislature and the governor.

Your committee finds the basic thrust of this proposal, except the abolishment of the E-Board and annual budgeting, to be the most viable option. The shift to annual sessions would result in greater public access to the legislative process and the opportunity for legislators to more extensively deliberate issues. The key element of this 1981 proposal is its focus on making the interim between sessions more productive.

- 1989 House Joint Resolution 28

House Joint Resolution 28, referred to the voters by the 1989 legislature (1990 Measure 3), would have amended the Oregon Constitution to require annual legislative sessions of not more than 135 calendar days in odd-numbered years and of not more than 45 days in even-numbered years. Sessions would have commenced on the second Monday in January if not otherwise provided by statute. Sessions could have been extended for successive five-day intervals by a two-thirds vote in each house. Measures introduced in one session, if they did not pass in that session, would not have carried over to the following session. HJR 28 was narrowly defeated in the 1990 general election by a vote of 294,664 Yes, to 299,831 No.

The City Club studied Measure 3 in 1989 and took a position against this particular measure for reasons in part related to provisions in the measure besides annual sessions. In particular, the committee was concerned that annual sessions would eliminate biennial budgeting and would lead to more legislative intrusion into the management of state agencies, which would interfere with the effective and efficient management of state programs.

Your committee agrees with the basic outline of Measure 3 as a recognition of the need for structural changes to make it possible for the legislature to address the challenges facing the state today. The closeness of the vote indicates a growing awareness on the part of the electorate of the need for changing the structure as well.

- 1995 Oregon House Joint Resolution 40

The legislature considered another rescheduling proposal, HJR 40, in 1995. The proposal failed fairly narrowly to pass and therefore was not referred by the legislature to the voters. Under the majority A-Engrossed version of HJR 40, the constitutional provision for biennial sessions would have been replaced in the constitution by a provision for regular sessions

of the legislature not to exceed 150 calendar days in a biennium, and for the legislature to hold an organizational session on the second Monday of December in even-numbered years. The legislature could decide at the organizational session to hold regular sessions annually or at any other times in the biennium. A minority report to the A-Engrossed version would have amended the constitution to require annual sessions of 135 and 45 days duration, just as HJR 28 in 1989 would have required.

The committee does not believe that this proposal will necessarily improve the legislative process. Leaving the determination of the session schedule up to each legislature, rather than setting it in statute, leaves the door open for politics to set the schedule for conducting the public's business. Predictable sessions, with starting and ending dates set by statute, are needed to provide the continuity necessary to effectively address the issues and develop policy. Your committee is more favorably disposed toward the minority report.

Full-time Legislature

While legislators perform many of the duties of their office on a year round basis, no one who spoke to the committee advocated a full-time legislature. In a full-time legislature, legislators would be engaged in their legislative duties full-time and would not be expected to have outside employment. The legislature would be in session most of every year, and pay levels would increase significantly to reflect the full-time nature of the position. Full-time sessions would eliminate the need for the Emergency Board, would permit budget adjustments to be made annually, and would provide time for consideration of all of Oregon's legislative business. However, your committee believes that Oregon's legislative business can still be adequately managed without requiring full time annual sessions. In a full-time legislature, the incentive to resolve differences and pass legislation before the end of the session would disappear with the possible consequence that the public could end up supporting a bigger system that is no more responsive to the needs and concerns of the citizens than the current structure.

VI. CONCLUSIONS

Based on the committee's research, the committee members have concluded that:

1. The legislature is not "failing", nor is it "on the verge of failing." Despite the poor opinion many Oregonians seem to have of their legislature, it has been, in fact, relatively effective for the most part. However, the present legislative process and structure is no longer adequate to do the public's business in Oregon, to provide citizens with adequate legislative due process, and to meet future needs.
2. Citizens are entitled to legislative due process. Legislative due process means that laws will be enacted in a process by which citizens will have adequate opportunity for input, where legislators will have sufficient time to debate and deliberate about the issues, where urgent problems can be addressed in a timely way, and where there are safeguards to prevent vital regional and local concerns from being brushed aside so that long as well as short term issues can be resolved. By providing legislative due process, many of the unintended consequences arising from poorly drafted laws and initiatives can be avoided.
3. It is important to maintain a 'citizen legislature' and avoid a full-time legislature. By restructuring, it is possible to prolong the 'citizen legislature' for an indefinite period of time.
4. The current biennial session inhibits the legislature from addressing an increasingly complex and time-consuming agenda of issues facing Oregon. Dramatic changes in the economy coupled with the state's rapid population growth have presented Oregon lawmakers with new and more difficult challenges. Our state has grown too large and the issues and problems have become too complex to be handled in a hurried biennial session.
5. The present legislative schedule, which allows for only about five or six months of substantive legislative work per biennium, is inadequate to meet the needs of the state in a way that provides citizens with 'legislative due process' as outlined by this committee. The long interim also interferes with the legislature's ability to respond to new issues or crises that require prompt legislative action.
6. Standing committees need more time to consider and craft legislation. The limited time frames within which standing committees operate have a direct impact on the amount of research, public access, and deliberation that can take place.
7. Because of election turnover and frequent committee reassignment from the interim to the regular session, continuity is interrupted with the result that those who deliberate do not necessarily see the

legislation through the entire process. Interim committees, as they now operate, do not contribute to continuity between sessions or prepare legislators for deliberation in the regular session. Although interim committees are appointed after *sine die* adjournment of the biennial session, they function poorly or not at all and do not carry over membership from session to session. With the institution of term limits, this problem is greatly exacerbated.

8. The current legislative schedule, together with term limits and the lack of adequate legislative history, inhibits the development and retention of valuable institutional memory.
9. Annual legislative sessions may help mitigate the adverse effects of term limits.
10. The Emergency Board, though it has been criticized over the years, serves a purpose in the current structure where the legislature sits in session five to six months in the biennium. Annual sessions would likely diminish the role of the E-Board but would not necessarily eliminate the need for it. Annual legislative sessions would provide a decision-making process that would clearly be more democratic and representative than the current E-Board process. Given the E-Board's power to carry out legislative functions, E-Board meetings should comply with all requirements for public meetings, and the public should have the opportunity to provide input into E-Board decisions.
11. Biennial budgeting should be retained because it encourages longer-range planning, avoids annual budgeting politics, and allows more time for other substantive matters. Annual sessions would make it easier for the legislature to make necessary annual adjustments to the state budget in response to situations such as changes in annual block grants from the federal government.
12. The legislature cannot successfully and effectively respond to the increasingly complex problems facing Oregon without skilled and knowledgeable non-partisan, professional staff. The legislature needs additional professional, non-partisan staff during and between legislative sessions to support the work of legislative committees.
13. New members do not receive sufficient orientation on issues and procedures, especially those related to committee work. More intense orientation sessions are needed.
14. Legislative salaries do not fairly reflect the workload and responsibilities of a legislator.
15. The ability to work with others is an important quality of a good legislator. Despite the polarizing activities of a few individuals, the predisposition of most toward compromise is a healthy element of the legislative process and one that Oregon still enjoys.

VII. RECOMMENDATIONS

The committee presents below its recommendations for the universal acceptance of the principle of legislative due process, the adoption of annual legislative sessions, and other recommendations intended to improve the performance and effectiveness of the Oregon Legislature.

A. Recommendation for Legislative Due Process

Your committee recommends universal acceptance of the principle that citizens are entitled to legislative due process as the legislature enacts laws. At the heart of this concept are four key criteria: public access; informed, deliberate decision making; timely response to issues and problems; and the pursuit of a balance among a range of issues. By subjecting proposals to legislative due process, the committee believes that the Oregon Legislature will be more likely to enact laws that are more carefully drafted and less likely to suffer from unintended consequences. The committee believes that implementation of the specific recommendations listed below will promote the achievement of legislative due process and thereby provide Oregon citizens with a higher degree of satisfaction with their legislature's performance and output.

Legislative due process will only be attained and maintained through the ongoing efforts of individual Oregonians inside and outside the legislative system. Oregon legislators should use the principle of legislative due process to guide their own actions and those of their fellow legislators. News organizations that report on the legislature should regularly use legislative due process criteria to evaluate the legislature's performance. Oregon voters should actively demand that their individual legislators and the legislature as a whole deliver legislative due process.

B. Recommendation for Limited Annual Sessions

A rescheduling of the legislative session is the most important structural change that could improve the effectiveness and responsiveness of the Oregon Legislature. The committee describes below its proposal for a new legislative schedule.

Proposal

Your committee agrees with the City Club's 1981 study committee, and again proposes that the Oregon Constitution be amended to eliminate the requirement that the Legislative Assembly meet in "biennial" session. Rather, it is proposed that the legislature meet in limited sessions on an annual basis. Oregon Revised Statute 171.010 should be amended to require the legislature to convene in January of each odd-numbered year in a session limited to a maximum of 120 days, and to reconvene in January of each even-numbered year for a session limited to a maximum of 60 days.

How it Would Work

In the 120-day session that convenes in the odd-numbered year following an election the legislature would, as it does now, organize itself by electing its leadership, forming committees, appointing staff and the like. The primary focus of this session would be the biennial budget. However, committees would meet regularly, begin holding hearings on substantive bills and the legislature would take action on whatever matters are ripe for decision.

The legislature would adjourn after not more than 120 days, but the leadership and committees would continue to function by holding meetings and hearings as appropriate with a view toward refining substantive legislation to be acted upon when it reconvenes for the 60-day session the following January. Biennial budgets would be revised as necessary during the 60-day session. Interim committees would no longer exist.

Under the Oregon Constitution, the governor and the legislature would still have the authority to call the legislature into special session, although a move from biennial to annual sessions would likely reduce the need for special sessions.

C. Other Recommendations

The Oregon Legislature should:

1. Retain the Emergency Board. Meetings of the Emergency Board and its sub-committees are public meetings subject to all the statutory requirements for public notice, public attendance, and press coverage. In addition to meeting these requirements, the E-Board should also provide opportunities for public input into the Emergency Board's decision-making process.
2. Retain biennial budgeting.
3. Provide incoming freshman legislators with improved training and orientation before the first annual session convenes following the election. The training and orientation should include office management, government procedures, use of permanent staff, and committee procedures.
4. Continue the trend toward more non-partisan, permanent, professional staff.
5. Increase legislative salaries to more fairly reflect the workload, and responsibilities of a legislator. Salary levels and benefits for legislators should be determined by a bipartisan commission appointed by the Governor and the legislative leadership.

6. Create documented legislative history by preparing: transcripts of testimony presented to committees; committee reports setting forth their deliberations and rationales; and records of floor debates.

Respectfully submitted,

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VIII. APPENDICES

A. Witnesses Interviewed by the Committee

Don Balmer, professor of political science, Lewis and Clark College

Kate Brown, representative, Oregon Legislative Assembly

Neil Bryant, senator, Oregon Legislative Assembly

Steve Buckstein, president, Cascade Policy Institute

Gary Carlson, vice president, Associated Oregon Industries

Chuck Carpenter, representative, Oregon Legislative Assembly

Wallace P. Carson, Jr., chief justice, Oregon Supreme Court

Thomas Clifford, legislative counsel, Oregon Legislature Council
Committee

Lawrence Dark, president/CEO, The Urban League of Portland

Kappy Eaton, legislative coordinator, League of Women Voters

Paul Farago, campaign director, Oregon Term Limits

Phillip Fell, League of Oregon Cities

Liz Frenkel, legislative coordinator, Sierra Club

David Frohnmayr, president, University of Oregon, and former Oregon
attorney general and state representative

Avel Gordly, representative, Oregon Legislative Assembly

David Henderson, administrator, Oregon Legislative Administration
Committee

Tim Hibbitts, Davis and Hibbitts, Inc.

Marge Kafoury, director of governmental relations, City of Portland

Ramona Kenady, chief clerk, Oregon House of Representatives

Ted Kulongoski, attorney general, Oregon Department of Justice

John Lattimer, legislative fiscal officer, Oregon Legislative Fiscal Office

William Lunch, professor, Oregon State University

Lynn Lundquist, representative, Oregon Legislative Assembly

Jeff Mapes, reporter, The Oregonian

Don McIntire, citizen activist

Fred D. Miller, vice president for public affairs, Portland General
Electric Co.

Hardy Myers, attorney general elect, and former speaker of the Oregon House of Representatives

Mark Nelson, president, Public Affairs Counsel

James Scherzinger, legislative revenue officer, Oregon Legislative Revenue Office

Paul Snider, Association of Oregon Counties

Dick Springer, senator, Oregon Legislative Assembly

Monroe Sweetland, former Oregon state senator, and former Oregon committeeman, Democratic National Committee

Fred Van Natta, Oregon State Homebuilders Association

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