THE CITY CLUB REPORTS
ON
MAY 18, 1982
PRIMARY ELECTION MEASURES

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PREFACE

This is the first year the City Club has been able to produce all primary ballot measure reports within a timeframe which allowed us to publish them in one, cohesive package.

Because of the number of bond measures proposed, we believed it would be helpful to provide a chart outlining the "Magnitude of State Bonding."

We have also enclosed a chart listing all of the May ballot measures which allows you to keep "score" of committee recommendations, City Club's actual vote, how Oregonians voted, and, of course, a place to mark your vote. These charts are listed following the final report in this package. We hope these will be of additional help to you when you go to the polls May 18.

We wish to thank the tremendous number of committee volunteers and the seven former Research Board members who were "recalled" for special duty as adjunct advisors to these study committees while the Research Board forged ahead with the multitude of short and long range studies this spring. Special thanks also go to current Research Board members who took on special assignments during this time period.

This new experimental system of meeting the demands a ballot measure season always presents was directed by Research Board Vice Chair, Bob Shoemaker.

Charlie Davis                                        Kandis Brewer Wohler
President                                             First Vice President
Research Board Chair

BALLOT MEASURE REPORT PRESENTATION SCHEDULE

<table>
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<th>MEASURE</th>
<th>DATE</th>
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<tr>
<td>State Measure No. 1</td>
<td>Fri. May 14</td>
<td>Benson Hotel, Mayfair, Room,</td>
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<td></td>
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<td>(Use of State Bond Proceeds</td>
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<td>to Finance Municipal Water Projects)</td>
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<td></td>
<td>Noon-1:30 pm</td>
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<tr>
<td>State Measure No. 2</td>
<td>Fri. May 14</td>
<td>Benson Hotel, Mayfair, Room,</td>
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<tr>
<td></td>
<td></td>
<td>(Multifamily Housing for Elderly</td>
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<td></td>
<td></td>
<td>and Disabled Persons)</td>
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<td>State Measure No. 3</td>
<td>Wed. May 12</td>
<td>Hilton Hotel, Ballroom B,</td>
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<td></td>
<td></td>
<td>(State Bonds for fund to Finance Corrections Facilities)</td>
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<td>5-7:00 pm</td>
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<tr>
<td>State Measure No. 4</td>
<td>Wed. May 12</td>
<td>Hilton Hotel, Ballroom B,</td>
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<td></td>
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<td>(Raises Taxes on Commercial</td>
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<td>Vehicles, Motor Vehicles Fuels For Roads)</td>
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<td>State Measure No. 5</td>
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<td>(Governor to Appoint Chief Chief</td>
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<tr>
<td>School District No. 1</td>
<td>Wed. May 12</td>
<td>Hilton Hotel, Ballroom B,</td>
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<tr>
<td>Measure #26-11</td>
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Report on
USE OF STATE BOND PROCEEDS TO
FINANCE MUNICIPAL WATER PROJECTS
(State Measure No. 1)

Purpose: "Amends state constitution. The law now permits the state to
borrow in an amount up to one and one-half percent of the true
cash value of all property in the state to fund secured loans
for building irrigation and drainage projects. Measure #1 would
permit up to half of these funds to be lent to towns and commu-
nities of less than thirty thousand persons to pay for the
building of water projects for municipal use."

To the Board of Governors,
The City Club of Portland:

I. INTRODUCTION

The 1981 legislature, following a Governor's Taskforce study, passed
Senate Joint Resolution 6, which will be voted on by the Oregon elector-
ate at the May 1982 primary election. This measure would not increase
the bonding limits of the state, but would allow up to one-half the Water
Development Fund to be used by towns and committees for municipal use
projects (including drinking water supply) in all but the six largest
(over 30,000 population) cities. Sewage projects would not be a permiss-
able use of the Fund. Currently, the Water Development Fund is reserved
for irrigation and drainage (agricultural) purposes. Potentially, the
Fund could loan a total of some $1.1 billion, based on the 1982 true cash
value of state property. However, the Fund has loaned only approximately
$23.5 million for 166 projects since 1979, or about 2 percent of maximum
authorization. Secured loans from the Fund would be repaid by the town
or district receiving the loan.

Many communities in Oregon face serious problems with their water
which will only worsen if they do not take steps to insure adequate
treatment. According to the Environmental Protection Agency, Oregon
reports an incidence of illness from water-borne infection which is three
times the national average. Roughly 100-150 small communities in the
state cannot meet the standard of the Federal Safe Drinking Water Act.
Many water systems derive from surface water supplies, which are the most
difficult to keep free of harmful organisms, including the protozoan
Giardia,* and free of turbidity.

II. HISTORICAL BACKGROUND

The use of state bond proceeds to finance municipal water projects
has been studied in the past by previous City Club ballot measure commit-
tees.

* Giardia lamblia is a parasite which lodges itself in the intestines
of many mammals, including humans, and can cause severe intestinal di-
ase which comes from drinking untreated, infected waters. This disease
is also known as "backpackers' diarrhea."
Following the 1971 legislative session, a constitutional amendment was referred to the voters which would have created a Water Development Fund primarily for irrigation projects. Although the City Club recommended passage of the measure, it was soundly defeated (62 percent to 38 percent) at the May 1972 election.

The 1973 Legislature revived the water fund issue, this time in a slightly expanded version. It, too, was defeated by a similar margin in the 1974 election. The City Club committee at the time recommended a "no" vote on the measure.

Finally, in 1977, voters narrowly approved a constitutional amendment by a margin of 51 to 49 percent, creating the current Water Development Fund. The City Club supported passage of the measure, which provided funds to be loaned for irrigation and drainage projects. A ballot measure to expand the Fund to include domestic water supply projects was submitted to the voters in 1978. The City Club found defects in both the measure and the implementing legislation and recommended a "no" vote. The measure was subsequently defeated at the polls.

The present measure came as a compromise proposal from the 1981 Legislature after the voters rejected state bonding of municipal water projects in 1978. In its present form, this measure is the result of the cooperative efforts of farmers, public officials, environmentalists, and administrators.

The Water Development Fund is now available for irrigation and drainage purposes only. To date, only $23.5 million in bonds have been sold for the Fund, which is authorized to bond up to 1.5 percent of the true cash value (TCV) of all property in the state. At this time, 1.5 percent of the TCV of state property is approximately $1.1 billion.

III. ARGUMENTS ADVANCED IN FAVOR OF THE MEASURE

1. Many existing municipal water systems are inadequate or antiquated, or will soon become so.

2. Many smaller municipalities cannot afford to finance water projects without the availability of low-interest money. Federal monies, previously used for such projects, are becoming more difficult to obtain.

3. Oregon cities over 30,000 population would be able to finance their own water projects.

4. The measure would not adversely affect the bond rating of the state.

5. The quality of drinking water in the state, primarily derived from surface water, is deteriorating and becoming in shorter supply as the population increases.

6. Expanded use of the Water Resources Fund would not raise the bonding capacity of the state.

7. Farmers will still have access to adequate funds for irrigation and drainage projects.
8. Future growth in Oregon communities demands availability of low interest funds to provide additional water supplies.

9. State administration of the program would allow small communities to utilize the state's greater financial resources, expertise, and bonding capacity with less administrative cost.

10. The Water Resources Department is fully staffed and capable of overseeing new water development projects.

IV. ARGUMENTS ADVANCED AGAINST THE MEASURE

1. The bond rating of the state would be adversely affected.

2. Not enough loan capacity would be left in the Water Fund to pay for needed irrigation and drainage projects.

3. Overdevelopment of water projects could, if inadequately regulated, lead to uneven stream flows, detrimental to fish and water recreation.

4. The Water Resources Department, which administers the Water Fund, is not staffed to properly manage the Fund, nor to see to it that projects are carried out according to specification.

5. The Water Resources Department does not have an adequate inventory of Oregon's water supply. Therefore, the Department does not know whether additional development would deplete the state's water resources.

6. Cities or districts of over 30,000 population would be prohibited from applying for Water Fund loans.

V. DISCUSSION

The arguments in favor of the measure forwarded by witnesses build a strong case. Water experts documented a strong need for building, maintaining, and upgrading municipal water systems. With Oregon's increasing population, witnesses said, water supplies are further in jeopardy from pressures on the watershed. Water supplies are subject to greater fluctuations, and ground water tends to be increasingly turbid.

Your Committee raised questions about the impact of the measure on the state's bond rating and bonding capacity. The State Treasurer's office said that Oregon is one of the most highly bonded states, per capita. However, a representative of the Treasurer's office said that issuing additional bonds for the Water Fund would not adversely impact the state's bond rating unless the bonding authority, $1.1 billion, was heavily utilized. This seems highly unlikely given the meager use of the Fund up to this point. In addition, no more than 50 percent of the Fund can be used for municipal uses. Your Committee believes that agricultural uses of the Fund will not be short-changed if the measure is passed.

While this increase may seem to discriminate against larger cities, your Committee believes that the 30,000 population limitation is reasonable. Smaller cities and towns are unlikely to be able to sell bonds with the same low interest rates as could the state or larger municipalities. If larger cities were able to apply, it is conceivable they could
tie up a large portion of the Fund. Certainly, they are in a better position to finance any needed water projects independently.

While environmental interests support financing of projects to insure pure waters for municipal use, they fear that if the projects are not properly administered, such development might adversely affect stream flow, and thus fishing and recreational opportunities. Your Committee believes that the state should be advised to hear and respond to this concern.

The threat to water resources because of reduced watersheds, diminished water purity, and competition for available supplies from neighboring states will make water one of the most important issues facing Oregon in coming decades. Your Committee was troubled by the fact that the Water Resources Department does not have a proper inventory of water resources, even though the need for one has long been recognized. Notwithstanding, your Committee believes this Measure's benefits far outweigh any detrimental impact.

VI. CONCLUSION

Passage of State Measure No. 1 at the state-wide primary election on May 18, 1982 will substantially benefit the people of Oregon and may be an incentive to planning for the future water needs of the state.

VII. RECOMMENDATION

Your Committee unanimously recommends a "Yes" vote on Measure No. 1 in the May, 1982 primary election.

Respectfully submitted,

David McNutt
Charles Williams
Merrie Buel
Stanley Loeb
Rob Wolf, Chairman

Received by the Research Board on April 1, 1982 for transmittal to the Board of Governors. Received by the Board of Governors on April 12, 1982 and ordered published and distributed to the membership for discussion and action on May 14, 1982.
APPENDIX A

Persons Interviewed

James Sexson, Director, State Water Resources Department
Nancy "Ned" Duhnkrack, Oregon Wilderness Coalition; also representing the
  Oregon Environmental Council
James Joseph, Manager, State Municipal Bond Division, State Treasurer's Office
John Huffman, Drinking Water Systems Section, Office of Environment and Health
  Systems, Oregon State Health Division
John Allen, Ph.D., Professor of Earth Sciences, Portland State University

APPENDIX B

Bibliography

SB 288 Drinking Water System Assessment 6/80
City Club of Portland:
  "Report on Domestic Water Fund Created," State Measure #4, May 12, 1978
  "Report on Water Development Loan Fund Created," State Measure #1,
    October 31, 1977
  "Report on Irrigation, Water Development Bonds," State Measure #4,
    May 12, 1974
  "Report on Irrigation and Water Development Bonds," State Measure #5,
    May 12, 1972
Senate Joint Resolution #6 filed by Secretary of State 8/11/81
Letter from Merrill Lynch, Municipal Finance Department to Water Resource
  Department
Letter from Bond Counsel to State Water Resources Department 7/9/80
Report on
MULTIFAMILY HOUSING FOR ELDERLY AND DISABLED PERSONS
(State Measure No. 2)

Purpose: "Amends state constitution. At the present time, the state may sell bonds to make loans to finance multifamily housing for low income elderly persons. The measure repeals the low income restriction. This measure also allows loans for multifamily housing for disabled persons. It also permits state loans to elderly persons to buy ownership interest in single units in multifamily housing. It does not increase the bonding authority of the state."

To the Board of Governors,
City Club of Portland:

I. INTRODUCTION AND BACKGROUND

In 1978, the people of the State of Oregon amended the State Constitution by creating a new Article XI-I permitting the State to incur additional indebtedness up to one-half of one percent of the value of property in the State by issuing bonds to provide funds for multifamily housing for "elderly households of low income." Measure No. 2 would amend Article XI-I by making the following changes:

1. It permits existing bonding authority to be used to provide housing for disabled persons in addition to the elderly;
2. It deletes the low income restriction from the Constitution2, and;
3. It permits the State Housing Division to secure direct loans to elderly people to purchase ownership interest in state sponsored multifamily housing units.

The Governor's Mental Health Task Force, the State Housing Council, and the 1981 legislature contributed to the development of Measure No. 2.

In addition to referring to the voters the constitutional amendment (Measure No. 2), the Oregon Legislative Assembly enacted Chapter 695 (House Bill 2406) to carry out the purposes of the amendment should it be adopted by the voters. It provides guidelines and definitions for administering the program and states that the Housing Division of the State Department of Commerce shall be the agency responsible for administering the program. Should Measure No. 2 pass, the Housing Division intends to use guidelines and procedures similar to those of the Division's current programs.

1. Currently equivalent to $412 million. To date, $23 million of this authority has been used.
2. The proposed amendment drops the term "low income" from the Constitution because it is without definition. As before, the enabling legislation charges the State Housing Division, with the concurrence of the State Housing Council, to adopt criteria for eligibility for elderly households, including maximum income limitations not to exceed the median family income.
The two "target populations" which would benefit by Measure No. 2 are:

1) **Elderly persons** over the age of 58 (rather than age 62 as is presently the case\(^2\)), who cannot obtain decent, safe and sanitary housing in the open market for 25 percent of the gross income of the household. These persons would be allowed to purchase equity in multifamily housing or mobile homes.

2) **Disabled persons** whose impairment and low income\(^4\) require special housing provisions. These persons would be allowed to participate in the multifamily rental program. Such disabilities include: a) mental retardation or other developmental disabilities; b) severe and persistent mental or emotional disturbances, or; c) physical impairments substantially limiting ambulation.

II. ARGUMENTS IN FAVOR OF AND IN OPPOSITION TO THE MEASURE

Your Committee found no organized opposition to Measure No. 2. During the 1981 session, only two legislators voted against it. Their concerns, along with concerns raised in Committee discussions, are included in B. Arguments in Opposition.

A. Arguments in Favor

1. There is an intensive need to encourage group housing for mentally and physically disabled people.

2. Elderly people who live on fixed incomes and who are eligible to obtain these loans at less than conventional interest rates for purchasing cooperative apartments or mobile homes will be protected from inflation-caused rent increases and other vagaries of the real estate market.

3. The program will encourage elderly people who have equity in their family home to move into multifamily units, freeing single family homes for larger households.

4. Mentally and physically disabled persons are more apt to function at the peak of their abilities in environments which are less restrictive and more natural than large institutions.

5. The courts have ruled that mentally handicapped persons who are presently institutionalized are to be placed in less restrictive environments consistent with their own and public safety. The State thus may be legally responsible for finding more appropriate living conditions for some individuals who are inappropriately institutionalized. Passage of the Measure would assist the State in discharging this responsibility.

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3. A reason given for the age reduction was that some elderly are eligible for retirement and benefits before reaching age 62.
4. Approximately two-thirds of those individuals who are mentally retarded or who have developmental disabilities receive a maximum Supplemental Security Income of $264.70 per month. The Committee could find no current statistics on the income of individuals who are severely physically disabled.
6. Several hundred specifically identified people now living in state institutions legally should be living in less restrictive environments.

7. Emotionally disabled people who need group care in supportive environments, but who legally cannot now stay in institutions, are forced to live in inappropriate housing conditions which may speed their return to more expensive, tax-supported institutions.

8. The average income of handicapped persons is too low to give them housing choices in the open market. Supplemental housing funding sources and the economics of congregate housing, coupled with rent reductions as a result of bond financing, will make units affordable for handicapped persons.

9. Expansion of the program will be self-supporting in that no new taxes or other state funds will be required.

10. The State Housing Division has proven itself capable of administering other mortgage lending and rental programs. This includes maintaining proper administrative controls over eligibility criteria.

11. The reference to low income in the Constitution is without definition and is therefore of little value. Instead, the definition of low income in the statutes can be more responsive to legislative intent to provide low income housing.

12. The program is likely to generate construction work.

B. Arguments in Opposition

1. The economics of the program allow only those people to be served who are able to pay rent high enough to service the debts on the property. Therefore, the truly needy would not benefit.

2. Handicapped persons' guaranteed monthly income of only $264 per month will be inadequate to pay rents on units financed through the program.

3. The program will place disabled persons in group housing, separating them from the rest of society.

4. By including disabled persons, the Measure will leave less money available for the elderly.

5. It may be legally discriminatory to allow elderly persons to receive direct loans to purchase homes in multi-family buildings and mobile home parks, but not to permit those handicapped persons covered by the legislation the same opportunity.

6. Many elderly persons have owned their homes for many years, have substantial equity in them, and already have low payments. There is no reason to believe they would want to sell their existing homes to move into a multifamily complex or mobile home park with potentially higher monthly payments.
7. The loan program does not require elderly persons who wish to purchase an ownership interest in a structure or facility to sell their ownership interest in their existing residences. Consequently, the program will not "free up" housing for younger families, and it may allow some elderly persons an unintended windfall profit in the form of rent for their existing homes.

8. Many of those eligible for the direct loans do not need assistance from the state nearly as much as other groups who do not already own their own homes, e.g. young, low-income families.

9. Transfer of the low income restriction from the constitutional amendment to the companion legislation allows the legislature to remove the low income restriction altogether without a vote of the electorate.

10. The Measure tries to accomplish too much by combining the three changes at one time. It thereby limits voters' choice. They may like only one aspect of the Measure, but are given an all-or-nothing choice.

11. The new program will be more costly to administer than the existing one because it is more complex.

12. The state may be overextending its limit on bonded indebtedness.

13. The Measure would increase the state's involvement in the banking business.

14. Builders, developers, and the wealthy looking for tax shelters are more likely to benefit from this Measure than the poor.

15. Developers will not consider an investment in this rental program financially worthwhile and therefore will not build units under the program.

16. Developers who do participate in the program will be unable to meet their financial obligations, and the program may cease to be self-supporting.

III. MAJORITY DISCUSSION AND CONCLUSIONS

During study committee interviews, staff members of the Oregon Mental Health Division and the Association of Retarded Citizens of Oregon said repeatedly that many, if not most, disabled people will function closer to the peak of their abilities if they live in the more home-like atmosphere of supervised group living facilities. Additionally, they said, care for disabled persons in such facilities may cost less than institutionalized care.

Society's attitudes toward housing emotionally disturbed people have changed drastically in the last 15 years. The courts have ruled that these people must be placed in less restrictive environments consistent with their own and the public's safety.
There are some 8,600 people in Oregon of varying ages who are mentally retarded or have developmental disabilities (e.g., epilepsy or cerebral palsy) and who eventually will need lifelong services. Additionally, 539 mentally retarded or developmentally disabled individuals recently have been identified who should be moved from institutions. However, appropriate group living facilities are not presently available. There is also a minimum of 800 persons with severe physical handicaps who would live in appropriate group housing if it were available.

There was concern that mentally handicapped persons could not afford to participate in the program since they have guaranteed incomes of $264 per month. However, two conditions would make the proposed program financially feasible: 1) Financial packages can be put together by sponsors/developers which include other monies such as HUD Section 202 funds (available to non-profit groups to provide housing for the elderly and disabled), foundation funds, grants, and donations, and; 2) Group housing for the handicapped clientele will permit economies of scale in building.

The enabling legislation for Measure 2 does not change the maximum income limitation. (Elderly persons with very low income are served by other programs such as those through HUD.) The Measure's proposal to make loans available to elderly persons to purchase equity in multifamily housing or mobile homes will increase their housing options and protect them from inflation-caused rent increases. The multifamily facilities may encourage peer group activities and friendly support to hold at bay two of the elderly's most vicious enemies, loneliness and depression. In the case of elderly people who already own their own homes, the program will give them the ability to sell or rent their large, high-maintenance homes. The money obtained from the rent or sale can be used for living expenses.

Although many elderly persons prefer to stay in their family homes, the time comes when most are unable to care for large homes because of their diminishing health or because of rising housing maintenance costs. The Measure provides a housing option when this need arises.

As with the existing program, the proposed housing loans will not impose a direct cost to Oregon taxpayers. Furthermore, the program will not overextend the State's bonding authority. Ninety-eight percent of the state's outstanding debt is in veterans' bonds which, to date, have been wholly self-supporting. Bonding authority for the existing housing program is but a small share of the remaining two percent.

Not only is the existing program self-supporting, but the general obligation bonds to be sold are secured by the mortgages and the assignment of rents on the properties built under the program. The program has been financially successful because it served an in-between group whose income was too large to be eligible for federally-subsidized housing, but too small to afford decent, safe, and sanitary housing on the open market. Moreover, the Housing Division already has lending procedures and

6. 1979 study conducted by the National Spinal Cord Injuries Foundation.
guidelines for other mortgage and rental programs. If the Measure
passes, these guidelines and controls will be used to administer the
expanded program.

Some witnesses fear that there is a potential for litigation based on
discrimination complaints because the Measure allows elderly persons, but
not disabled persons, to purchase an ownership interest in sponsored
facilities. However, it appears to the Majority that the program simply
serves the housing needs of two different populations. In addition, the
amendment does not preclude a disabled person from eligibility for the
direct loan program for elderly persons when he or she reaches age 58.
Furthermore, it is more efficient to address the housing needs of two
different groups within one program under the previously authorized bond-
ing authority.

Measure No. 2 addresses the critical housing needs of two groups who
desperately need state assistance – elderly persons and disabled per-
sons. The program has been well-administered, supports itself at no
direct cost to Oregon taxpayers, and does not increase previously author-
ized state bonding authority.

IV. MAJORITY RECOMMENDATION

Therefore, it is the recommendation of the Majority of your Committee
that the City Club favor a "Yes" vote on Measure No. 2 in the election of
May 18, 1982.

Respectfully submitted,

Betty Burt
Andrew Gerlicher
Roxanne Nelson
Thomas G. Taxelius
FOR THE MAJORITY

V. MINORITY DISCUSSION AND CONCLUSIONS

The Minority does not deny that the disabled citizens of this State
need good affordable housing. Nor does the Minority deny that the State
can and should play an important role in providing that housing. The
Minority does deny, however, that Measure No. 2 will effectively and
efficiently do the job. Measure No. 2 falls short of its purpose for
several important reasons.

The Measure discriminates without reason between disabled and elderly
persons. Elderly persons are allowed to purchase an ownership interest
in a multifamily unit. Disabled persons are not. Clearly, this discrim-
ination cannot be rationalized by supposedly different housing needs of
the two groups. Because of their low annual income, disabled persons
need as much protection against inflation-caused rent increases as do
elderly persons.

In addition, disabled persons are not, as a group, any less able than
elderly persons to handle the responsibilities associated with home own-
ership. For example, the disabilities of paraplegics and quadriplegics
do not prohibit them from handling their own financial affairs. Such
disabilities have nothing to do with mental competence. On the other
hand, elderly persons suffering from senility may very well be incompetent in handling their affairs. Because of this irrational discrimination between disabled persons and elderly persons, Measure No. 2 is sure to give rise to a significant amount of litigation that can only interfere with the operation of any housing program resulting from passage of the Measure.

The monthly income of handicapped individuals will be inadequate to pay rent on units financed through the program. According to statistics given by the Association for Retarded Citizens of Oregon, non-elderly handicapped people have guaranteed incomes of only $264 per month. This income is not sufficient to pay the rent that would be required by developers in order to meet their own financial obligation to the State. Should developers be unable to meet their obligation, the program would cease to be self-supporting.

Because of these shortcomings, the promises Measure No. 2 holds out are an illusion that is destructive to the cause of providing housing to disabled persons. The legislature and the citizens of the State will be allowed to believe (mistakenly) that they have taken sufficient action to provide housing for the handicapped and disabled. They may further be led to believe that nothing more needs to be done. Yet the Minority believes this program will not remain self-supporting and, in fact, based on the risk to the developer, may never materialize.

Many of the elderly who will be eligible for the direct loan provision already own their own homes. They generally have substantial equity in them and already have low monthly payments. There is no reason to believe they would want to sell their existing homes and move out of an established neighborhood into a multifamily complex or mobile home park with potentially higher monthly rents. Based upon the results of a survey conducted by his department in 1978, the Director of the Office of Housing Policy for the City of Portland stated that his department supported this opinion.

Those who do choose to buy interest in a complex are not required to sell their existing homes. Consequently, the program will not necessarily "free-up" housing for Oregon's younger families. It may, in fact, allow some elderly a windfall profit not intended by the legislature in the form of rent for their existing homes.

Removal of the low income restriction from the Constitution may defeat the stated purpose of the Measure. The argument is put forth that the Measure is intended to and will in fact assist needy elderly and disabled persons in securing housing. As the amendment now is written, housing assistance is restricted to low income individuals. Removal of the low income restriction will allow the legislature, without approval of the voters, to make assistance available to all elderly and disabled individuals regardless of income. Thus the purpose for which the bonding authority was created will be defeated.

The Minority believes the Measure is a sloppy piece of legislation. By combining the three separate provisions, the Measure tries to do too much. Clearly, there is no reason the provision dealing with housing assistance to disabled persons should be dependent upon acceptance by the voters of the other two provisions. Yet, this Measure gives the voter an all-or-nothing choice which may, in some cases, be no choice at all.
In conclusion, even though the purposes of Measure No. 2 are laudable, its current design will not fulfill its intent. At best, Measure No. 2 will lull the public into a state of complacency that a very real need - appropriate and safe housing for disabled persons - will be met. At worst, Measure No. 2 will provide rich ground for litigation and potential abuse.

VI. MINORITY RECOMMENDATION

For these reasons, the Minority recommends that the City Club support a "No" vote on Measure No. 2.

Respectfully submitted

Sarah Aiken-Kintz
FOR THE MINORITY

Received by the Research Board on April 7, 1982 for transmittal to the Board of Governors. Received by the Board of Governors on April 19, 1982 and ordered published and distributed to the membership for discussion and action on May 14, 1982.
APPENDIX A

Persons Interviewed

Elmer Becket, President, Goodwill Industries
Richard Brownstein, Attorney, Gilbertson, Brownstein, Sweeney, Kerr and Grimm
Howard Cherry, M. D., Member, Oregon House of Representatives, District 14
Bob Clay, Legislative Liaison, Oregon State Housing Division
Joyce Cohen, Oregon State Representative
Jane Graf, Housing Specialist, Association of Retarded Citizens of Oregon
Judith (Londahl) Greenough, Area Director, Housing Authority of Portland
Fred Hansen, Attorney, Oregon State Treasurer's Office
Andrew Hess, Director, Housing Division, Department of Housing and Urban Development, Portland Office
David Isom, Assistant Administrator, Oregon State Mental Health Division
Jim Joseph, Oregon State Treasurer's Office
Edward H. Look, Executive Director, Oregon Community Foundation
Bruce Martin, Director, Office of Housing Policy, City of Portland
Rick Michaelson, Assistant to Portland City Commissioner Margaret Strachan
Lyndon Musolf, Development Director, Housing Authority of Portland
William Pine, Administrator, Collins Foundation
Carol Pinegar, Housing Development Specialist, Oregon State Housing Division
Harvey Rogers, Attorney, Rankin, McMurry, Van Rosky, and Doherty Bond Counsel
Barbara Safriet, Professor of Constitutional and Administrative Law, Northwestern School of Law, Lewis and Clark College
Jim Simmons, Oregon State Senator, District 4
M. Gregg Smith, Administrator, Oregon State Housing Division
Ralston Smith, Chairman, Committee for Elderly and Handicapped Housing
George Trahern, Member, Oregon House of Representatives, District 49
Dr. Joseph Treleaven, Administrator, Oregon State Mental Health Division
Sydney Wallace, Mental Health Specialist, Adult Residential Services, Oregon State Mental Health Division
Donna Zajonc, Member, Oregon House of Representatives, District 32, and Sponsor, HJR 1
Michael Murphy, Staff Economist, Oregon State Housing Division

APPENDIX B

Bibliography

Report, Multnomah County Housing Task Force; Feb 26, 1982 Provided by Commissioner Bluemenauer's office.
"Residential Mobility Survey" City of Portland Planning Department, 1978
Report On
STATE BONDS FOR FUND TO FINANCE CORRECTIONS FACILITIES
(State Measure No. 3)

Purpose: "Constitutional amendment would permit state to sell bonds for fund to finance acquisition, construction, equipping or improvement of state, regional, county or city corrections facilities. Bond issuance not to exceed $60 million. Requires legislature to provide for payment of bonds."

To the Board of Governors,
City Club of Portland:

I. INTRODUCTION

Oregon shares with the remainder of the United States a serious problem of overcrowding in our jails, prisons, and other corrections facilities. Federal judges in several jurisdictions have ruled that overcrowding must be discontinued, either by expansion of facilities or by release of prisoners.

The 1981 Oregon legislature passed two resolutions concerning this issue. House Joint Resolution (HJR) 22 authorized State Measure No. 3, which seeks voter approval for a constitutional amendment to permit the state to issue general obligation bonds not to exceed $60 million. Proceeds from these bonds would be available for allocation to any level of state or local government to plan for, acquire, construct, equip or improve corrections facilities, but not to operate them. The facilities may include, but are not limited to, jail or prison facilities, work camps, and centers for housing inmates in the process of paying fines or making restitution for their offenses. Funds would be distributed in the form of grants or loans. The bonds may be in any form or for any term authorized by law and would be negotiated and marketed under supervision of the State Treasurer's office. Authority to issue bonds under this constitutional amendment would expire January 1, 1991.

House Bill (HB) 2956 is closely related to and was passed along with HJR 22. HB 2956 will not become operative, however, unless Measure No. 3 is approved by the voters. Section I of HB 2956 sets forth the state policy for corrections facilities, which is that such facilities shall, to the greatest extent possible:
"(1) Consist of less expensive alternatives to jails. These may include, but are not limited to, forest and other work camps and centers for housing inmates in the process of paying fines or making restitution.
"(2) Be sited, designed and operated to promote productive inmate activity and industry.
"(3) Be operated to complement community corrections programs under ORS 423.500 to 423.560."

In addition, HB 2956 directs that a preliminary statewide corrections plan be developed by the Assistant Director for Corrections. The plan is to be completed for submission to the first legislative session after May 1, 1982. The bill further requires that the plan incorporate county as well as state proposals, including expanded Corrections Division capacity for 250 inmates. Specific additional facilities are also provided for. HJR 22 is included as Appendix C to this report. (A copy of HB 2956 is on file at the City Club office.)
II. HISTORY AND BACKGROUND

A. Existing Corrections Facilities

Adult corrections in Oregon are administered on state and local levels. The Corrections Division of Oregon's Department of Human Resources is responsible for the supervision of all persons convicted of a felony by the Circuit Courts, either for probation or for confinement to one of Oregon's correctional institutions. Selected misdemeanants may also be assigned by District Courts to the supervision of the Corrections Division. The capacity of state institutions is 2,321 beds with one per cell (single-cells), as preferred by administrators, and 125 beds for special needs, e.g., serious disciplinary or medical cases. Felons convicted of less serious offenses and misdemeanants sentenced to incarceration are held in local jails. Sixty percent of jail inmates are felons and 40 percent are misdemeanants. Single-cell capacity in Oregon's city and county jails is 2,821 beds, although usage of some of this capacity has been limited by court order or voluntarily by corrections officials.

The Corrections Division is also responsible for the administration and operation of state correctional facilities, which housed 3,070 inmates as of April 1, 1982 (see chart). Among the Division's other responsibilities are the supervision of offenders who have been placed on probation or on parole from a state institution, release services and supervision of work furloughs, aid to counties participating in the Community Corrections Act, and inspection of juvenile and adult detention facilities. Currently, the Corrections Division directly supervises more than 20,000 offenders, mostly male—about one out of sixty adult males living in the State of Oregon.

The state's only maximum security correctional facility is the Oregon State Penitentiary (OSP), located on a 22 acre site in the middle of residential Salem. First built in 1866, it was extensively rebuilt in 1968 following a serious riot. It now has a single-cell capacity of 1,107 with two of the four cell blocks currently double-celled because of overcrowding. In 1981, the average length of stay was 33.9 months.\(^1\)

The Oregon State Correctional Institution (OCI) is a medium security prison located in a semi-rural setting six miles east of Salem. It opened in 1959 with a single-cell capacity of 476. As a matter of policy, first time convicted male felons are sent to OCI. In 1981, the average length of stay was 20.2 months.

Oregon Women's Correctional Center (OWCC), the state's only state-operated facility for women, is a medium security facility adjacent to the OSP. It was opened in 1964 with single-cell capacity of 76. The average length of stay in 1981 was 25.2 months.

In addition to these three prisons, the Corrections Division operates three minimum security correctional facilities. "Minimum security" provides for inmate freedom to move about outside the facility without constant supervision. Oregon's oldest minimum security facilities, the Farm Annex and the Tillamook Forest Camp, are under direct supervision of the OSP.

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1. Length of stay includes time spent in county jails prior to prison, but does not include work furloughs.
The Farm Annex, begun in the early 1900s, is located on a 2,089 acre farm five miles southeast of Salem. Milk and beef for inmates of all of the prison institutions are produced there. The capacity is about 200.

Established in 1951, the Forest Camp is located 80 miles from Salem in Tillamook County. The 65 inmates are housed in rudimentary cabins. Male inmates work on long-range reforestation projects or are trained to combat major forest fires throughout the state.

The Corrections Division Release Center (CDRC), opened east of Salem in 1977, accepts both men and women within six to eight weeks of intended release. The Center's 240 men and 40 women engage in community reintegration programs.

The Corrections Division's only facility for treatment of special problems is located at the Oregon State Hospital, which has a capacity of 117 beds. Admission is selective to one of four programs which treat alcohol and drug abusers, mentally and emotionally disturbed persons, sex offenders, and mentally retarded persons or those deficient in social skills.

The overall average operating cost of maintaining an inmate in an Oregon prison today is $31 per day, or $11,300 per year. (These figures exclude amortization of capital investment.) The chart below shows the number of individuals and the cost per day and year, per individual, housed by each correctional facility.2

<table>
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<tr>
<th>Facility</th>
<th>Design Capacity</th>
<th>Occupancy 4/1/82</th>
<th>Cost/Day</th>
<th>Cost/Year</th>
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<td>OSP (including Farm Annex &amp; Forest Camp)</td>
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<td>1,758</td>
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<td>$ 10,901</td>
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<tr>
<td>Special Beds*</td>
<td>161</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OWCC</td>
<td>76</td>
<td>74</td>
<td>$ 49.26</td>
<td>$ 17,978</td>
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<tr>
<td>Special Beds*</td>
<td>4</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OCI</td>
<td>476</td>
<td>831</td>
<td>$ 30.29</td>
<td>$ 11,054</td>
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<tr>
<td>CDRC</td>
<td>280</td>
<td>294</td>
<td>$ 27.77</td>
<td>$ 10,137</td>
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<tr>
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<td>117</td>
<td>113</td>
<td>$ 55.30</td>
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<td></td>
<td>2,546</td>
<td>3,070</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Special Beds: Discipline, Psychiatric and Hospital

The primary source of operating revenue for the state corrections programs is the State's General Fund. The General Fund allocation for the Corrections Division in the 1981-83 biennium is $114 million. A number of programs and staff positions have been reduced or eliminated because of the loss of federal funds, reallocation of funds within the Corrections Division, and a decrease in spending power due to inflation. State Measure No. 3 would not provide any additional operating funds.

It is difficult to estimate the cost per bed in constructing of new facilities, since there are so many variables in site location, size, and degree of security. The Corrections Division estimates the cost per cell in 1981 dollars to construct maximum, medium and minimum security facilities to be about $95,000, $65,000, and $18,000, respectively. These estimates, however, include only the costs of constructing and equipping a new facility, not the cost of operating it. Experts estimate that the costs of operating a medium or maximum security facility will match the initial construction costs every four or five years.

B. Overcrowding in Oregon's Prisons

Oregon's overcrowding problem became severe in the mid-1970s, when several trends in corrections and criminal justice resulted in more offenders sentenced to prison and detained longer. First, the number of young men aged 15 to 29 rose sharply. This number—known as the prison risk population—is the most reliable predictor of future prison population that Oregon correctional officials have. Second, the public and the legislature began adopting a harder line toward convicted felons, demanding tougher policies. Mandated minimum sentencing (the matrix system) was adopted by the legislature in 1977 and resulted in longer prison terms, longer parole time, and the greater likelihood of a prison sentence. The range of prison terms is defined in the matrix system by means of a grid that takes into account both the severity of a crime and the risks involved with the criminal’s release.

The end result was that the amount of time served by the average offender under the Division's authority—whether on probation, in prison or on parole—approximately doubled. Prison populations soared. OSP, OCI, and the Farm Annex became severely overcrowded. The State of Oregon enacted policy changes that added 1,180 more beds to the system. These included double-celling, opening three more wards at the Oregon State Hospital, changing institutional dayrooms into dormitories, and opening CDRC.

Suit was brought by the Prisoners' Legal Services of Oregon contending, in part, that double-celling was unconstitutional. On August 22, 1980, U.S. District Court Judge James M. Burns ruled in favor of the prisoners and ordered the state to reduce the combined population at OSP, OCI and the Farm Annex by 750 men by March 31, 1981. Through earlier parole of the less serious offenders and extensive use of a new 90-day work furlough, the Parole Board and the Division took steps to comply with the court order while the state appealed the decision in higher courts.

By February 1, 1981, the population had been cut back substantially and showed promise of nearing the Burns quota. At that time, the U.S. Supreme Court suspended the Burns order, pending the outcome of an Ohio case involving double-celling. In August 1981, the 9th Circuit Court of Appeals remanded the Oregon prison overcrowding case back to Judge Burns in light of a California case decided by the 9th Circuit Court and the Supreme Court. That case ruled that double-celling is not necessarily "cruel and unusual punishment" in violation of the U.S. Constitution. As of this writing, the issue remains unresolved and the prison population has returned to the August 1980 levels. A new trial tentatively has been set for June 21, 1982.
In October 1975, Governor Straub appointed a task force to study and
address Oregon's correctional problems, specifically the overcrowding of
state facilities and the inadequacy of local jails. The result was the
implementation of the Community Corrections Act, passed in the Oregon
Legislature in 1977. The stated purposes of the Act were to provide
appropriate sentencing alternatives and to improve local services for
offenders. The Act made funds available from the General Fund and the
Correction Division's Field Services budget to counties which wanted a
local program of alternatives to incarceration in state institutions.

When it became clear that the Community Corrections Act and other
policy changes were insufficient solutions to the overcrowding problem, a
second task force, the Governor's Task Force on Regional Correctional
Facilities, was formed. The Task Force report in February 1980 found
that overcrowding constituted an absolute crisis in corrections and
recommended that the 1981 legislature commit to construction of two
750-bed regional prisons to house felons in the custody of the State
Corrections Division.

Other efforts have been made over the past few years by the legisla-
ture to avoid the necessity of building new prisons and to solve the
overcrowding problem. These include: mandatory pre-sentence reports for
all felons; pre-trial diversion into community service or participation
in self enhancement programs; retroactive application of redefined drug
offenses to reduce sentences; enactment of the 90-day work furlough or
"terminal leave," and; change in parole procedures and increase of parole
staff. Within four to five years, these steps should reduce needed
capacity by 400-600 beds.

C. The Bond Measure

In November 1980, an $85 million bond measure for the construction of
new prison facilities was defeated by a 60,000 vote margin. Reasons for
defeat have been attributed to the lack of an organized campaign by
elected officials, a lack of detail as to how the funds would be used, a
panic response to a federal mandate, and too high a cost.

As a result of the failure of the 1980 bond measure and the continu-
ing overcrowding problem facing the Corrections Division, HJR 22 and HB
2956 emerged from the 1981 legislature. In anticipation of the passage
of Measure No. 3, all Oregon counties and sheriff's departments were
urged to develop plans for local correctional facilities in August,
1981. The plans were to include facilities that would be less expensive
to operate than jails, would promote increased inmate industry and activ-
ity, and would complement the Community Corrections programs. By Febru-
ary 1, 1982, the Corrections Division had received 13 plans involving 23
counties. Except for those in Southern Oregon who tended not to ask for
funds, most counties were represented in the plans. The Preliminary
Statewide Corrections Facility Plan was released at the end of March
allowing for 1,369 beds (472 state and 897 local).

If Measure No. 3 passes, the Statewide Corrections Facility Plan will
be submitted to the next session of the Oregon Legislature for approval.
III. ARGUMENTS IN FAVOR OF THE MEASURE

1. The need for additional spaces in state and local corrections facilities is critical.
   a) Space requirements in state facilities have grown by 1,700 beds since the mid-1970s. There is an irreducible need for at least 400 additional spaces in the state system alone.
   b) Local jails in many of Oregon's 36 counties are filled to capacity, and some are overcrowded.
   c) Both state and county jurisdictions have been ordered by federal courts to reduce inmate population to relieve overcrowding.

2. Passage of Measure No. 3 will restore effectiveness to our criminal justice system.
   a) Criminals are now aware that even for some serious offenses they will not be incarcerated until convicted of several offenses.
   b) Judges are presently restricted in the range of their options for holding those arrested and sentencing those found guilty. This has resulted in more lenient treatment than otherwise appropriate.
   c) Serious offenders are confined in county jails, taking spaces intended for misdemeanants and those awaiting arraignment on criminal charges.
   d) Corrections Division efforts to provide rehabilitation, including industrial and educational programs for prisoners, are seriously impaired.
   e) Inmates who are missing opportunities for rehabilitation because of overcrowded conditions are more likely to turn again to crime when released.

3. Measure No. 3, through companion HB 2956, includes the means to overcome the objection of insufficient planning which may have caused the defeat of the 1980 measure.

4. The plan proposed by the Corrections Division locates over 80 percent of new spaces in the counties. It emphasizes medium security and alternatives to jails over expensive maximum security space. It also favors expanding and improving already existing facilities, all of which are consistent with modern correction philosophy and should provide the most efficient use of funds generated by bond sales.

5. Passage of Ballot Measure No. 3 is financially prudent.
   a) Total indebtedness cannot exceed $60 million.
   b) The bonds will be repaid by legislative appropriation and not by property tax.
   c) Provisions are included for refinancing bond indebtedness to take advantage of any reductions in interest rates.
   d) The Measure includes a "sunset clause" which ends the authority to incur debt in January, 1991.
   e) Long term general obligation bonds are the most fiscally responsible as well as the lowest cost means of financing large capital costs.
   f) The proposed $60 million bond issue is well within Oregon's bonding capacity and will not have any adverse effect upon the state's operation in the bond market.
   g) Passage will permit an immediate start on design and construction; financing from limited current funds would restrict the range and scope of initial construction.
IV. ARGUMENTS IN OPPOSITION TO THE MEASURE

1. Passage of this measure is likely to have little, if any, effect on the rate of crime.
   a) Money should be spent in ways that are more likely to reduce the crime rate, such as in education, employment, and family services.
   b) With funding for needed, helpful programs being cut, now is not the time to spend money on corrections facilities which will do no good.

2. The state government should not be borrowing money now, when interest rates are high and a diminishing General Fund exists out of which interest must be paid.

3. This Measure does not provide any operational funding for additional facilities.
   a) The operation of the additional facilities may run as high as $15 million per year.
   b) The state cannot even afford to operate existing facilities--some of which are now closed due to insufficient operational funding.
   c) To provide operational funding, either taxes will have to be increased or other programs will have to be cut.

4. Nonincarcerative options, such as fines, community service orders, restitution programs, and halfway houses, should be utilized for the non-violent inmates which make up some 40 percent of the population at existing facilities, such options being far less costly and having a potentially greater rehabilitative effect than jails and prisons.
   a) Only the U.S.S.R. and South Africa incarcerate people at a higher rate than the United States; the U.S. incarcerates people at twice the rate of Canada and four times the rate of West Germany.
   b) Oregon's per capita incarceration rate is higher than approximately half of the other states.

5. Except that many nonviolent individuals are incarcerated, the system in Oregon appears to be working well--as a filter which results in those guilty of repeat and more serious offenses spending more time in prison than nonviolent offenders.

6. There has been little or no long-term planning done to determine the number and type of correctional facilities needed.
   a) Once the baby-boom generation passes through the crime-prone ages, fewer facilities will be needed.
   b) Oregon's population has leveled off and may be actually declining which will accentuate this reduced future need for facilities.

7. The problems addressed by the Measure are most acutely present in the Portland Metropolitan area, but the Measure requires funding by residents throughout the state.

8. HB 2956 stresses alternatives to incarceration in sweeping, non-binding rhetoric, but after the committed amounts from this Measure are spent (largely for medium security beds), the Corrections Division is recommending that an additional 309 medium security beds be constructed, and only 388 minimum security beds.
9. Approximately 40 percent of all crimes are committed by juveniles. Neither the bond measure nor the House Bill does anything to improve this state's capability to deal with this significant part of the overall problem.

V. DISCUSSION

Attitudes of the public and of corrections professionals were taken into consideration by this Committee in its effort to make an intelligent recommendation about State Measure No. 3. The following questions formed the framework for our inquiry:

1. Is the criminal justice system finding enough alternatives to expensive prisons?
2. Why are prisons overcrowded and why is "overcrowding" a problem?
3. What are the preferred methods of punishment and treatment of criminals?
4. How would $60 million be spent?
5. What won't the $60 million be used for?
6. Is Measure No. 3 an appropriate way to raise money?
7. What if Measure No. 3 fails?

1. Is the criminal justice system finding enough alternatives to expensive prisons?

Corrections administrators and legislators have created several alternatives to incarceration in recent years, resulting in an overall reduction of 400-600 cell bed needs over the next few years. In addition, 1,180 new cell beds have been added to the supply of cell beds in recent years. Despite these efforts, approximately 40% of the inmates at OSP and OCI are non-violent offenders who could be housed in minimum security facilities, thus freeing up more secure cells for those who must be locked away to protect the public. Past efforts have reduced demands on maximum and medium security facilities, but there still remain over 3,000 inmates to be housed in facilities designed for about 1,800 inmates and the situation is becoming worse.

Existing prisons are overcrowded, and this is a fact that is universally accepted among corrections, police, legislative, and judicial officials.

2. Why are prisons overcrowded and why is "overcrowding" a problem?

Population expansion (and to a lesser extent demographic bulges in the "risk-population" and economic downturns), increasing incarceration periods, increasing arrest rates, and increasing recidivism rates, have burdened Oregon's prisons beyond what is reasonable and effective. Testimony before this Committee has revealed that criminal activity in Oregon has increased in proportion to population growth since 1959, the year the last major prison facility was opened (OCI). Conservative projections indicate that Oregon's population will increase by 20-30% between 1980-2000, and cell bed needs will increase in proportion.

Public opinion in Oregon since 1975 has swung toward support of stronger measures in dealing with criminals, especially violent criminals. The brutality of the Marquett, Brudos and Bowles murder cases and the publicity surrounding these sensational crimes resulted in public pressure for harsher punishment and closer review of inmates nearing
release. In response, the Legislature authorized implementation of the previously described matrix system regulating incarceration and parole. The matrix system has increased average time served in prison by 50%. Under this system, the more serious offenders are serving longer periods of time behind bars and this factor has had the effect of increasing cell bed needs.

Testimony from David Schmahl, psychologist with the State Division of Corrections, indicates that while the reported crime increased by 7% between 1975 and 1979, arrests have increased 21%. Greater police effectiveness also results in greater demands on fixed prison space.

The recidivism rate is increasing as a result of prisoners being released without the benefit of enhanced economic and social skills, according to George Sullivan, OCI administrator. While corrections personnel appear to be doing quite well in maintaining discipline and order within prisons, testimony by Robert Watson, Oregon Corrections Division Administrator, and Mr. Sullivan, indicates that overcrowding places unreasonable demands on social, psychological and vocational enhancement programs, rendering them ineffective relative to design capacities. Consequently, inmates frequently leave prison without the benefit of social and economic skills needed to be successfully assimilated into the community. It appears to the Committee that the increasing recidivism rate is directly attributable to overcrowding.

Overcrowding is also detrimental to the behavioral relationship between inmates and security personnel. Overcrowding results in shorter tempers and escalation of frustrations into confrontations. This frequently places security personnel in life-threatening situations.

Overcrowding also causes idleness, which encourages prisoner dissatisfaction, because skill enhancement programs do not occupy sufficient blocks of time during the day for all prisoners. Only those closest to release can enroll in enhancement programs. As a result about 450 inmates at OCI spend most of their waking hours in their cells, and another 300 inmates are totally idle.

3. What are the preferred methods of punishment and treatment of criminals?

Michael Schrunk, Multnomah County District Attorney, expresses the prosecutor's desire to protect the public from violent offenders while also providing judges with sentencing alternatives. Violent offenders should be incarcerated in order to protect society from their potential future offenses. Judges should be confident that they have the option of incarceration when reviewing sentencing alternatives for convicted criminals. However, it appears that prisons are overburdened with less serious offenders serving time. With more medium security facilities, combined with more prison alternatives such as work camps, restitution centers, and work release centers, the state's maximum security facility, OSP, can become available solely for violent offenders.

The criminal justice system needs a range of sentencing alternatives to incarceration for most convicts. Regional medium security facilities near prisoner's homes and social networks are seen as a more effective treatment option for property offenders: they are not jailed with serious offenders, they maintain their local social network, they are isolated by officials who may then focus their attention on improving social and
economic skills, and they can work themselves back into their community through a variety of local alternatives. OSP should be the last place offenders are placed.

4. How would $60 million be spent?

One of the reasons why the $80 million bond measure failed was undoubtedly the absence of a plan to spend that money. In advance of the May 18 election, corrections officials are coordinating community and regional proposals to prepare a plan. Should the bond measure pass, this plan will be submitted to the next session of the Legislature, which is expected to be a special session during the summer of 1982. Corrections officials expect to commence design and construction as soon as possible after legislative approval.

One of the main features of this plan as it is emerging is that no new state maximum security prisons are proposed. Instead, a system of less expensive community-based facilities are anticipated, according to Corrections Division staff. The State Corrections Division will be allocated 250 medium security cell beds, which is authorized by HB 2956. These cell beds will be decentralized into five regional facilities. These regional facilities appear to require updating of, or expansion to, existing community facilities. The difference in cost between a new state prison (like OSP and OCI) and a system of regional medium security facilities is substantial. A state prison requires gates, guard towers, a separate power plant, and new or vastly expanded water and sewer facilities while a system of community facilities requires only up-grading or expansion of existing facilities. Cost figures are not now available, but the plan is to make more money available for development of alternatives to prisons.

The plan also appears to provide substantial additions to local detention capacities in regional centers. Ten regional centers, five of which also provide the 250 state-run medium security cell beds, are proposed to provide 897 cell beds for local community use. Of these, 388 cell beds will be in local minimum security work release, work camp, solid waste recycling centers, and dormitory facilities. The remaining local cell beds will be used to incarcerate offenders in medium security facilities under local management.

The plan also provides the Corrections Division with a 72-bed segregation unit at OSP and 150 forest work camp beds, as allowed by HB 2956.

5. What won't the $60 million be used for?

Judging by the Corrections Division staff proposals, the bulk of the $60 million will go toward building more cell beds. While the Committee believes that Measure No. 3 adequately addresses these immediate needs, it remains concerned that the Measure and the Corrections Division plans for using the $60 million do not appear to address:

a) operating costs of new facilities;

b) expanded juvenile treatment programs;

c) expanded social and economic enhancement programs for prison inmates, and;

d) community-based programs aimed at the "risk-group" population.
a) Operating Costs

Operating costs for these 250 Corrections Division cell beds are not known. However, the Committee believes that operating costs of a system of regional facilities will be substantially less than those of existing or new state prisons similar to OSP and OCI. This is because the personnel-to-inmate ratio can be lower, and because smaller facilities can be more efficiently designed. The Committee pressed officials for, but could not get, estimates of operations costs under the proposed plan. As a rule of thumb, however, operations costs are expected to equal initial construction costs within four or five years. Operating costs will be in the magnitude of $12-15 million annually, which will be divided between state and local jurisdictions and come from General Fund revenues. No operating funds will be provided out of the proceeds of Measure No. 3.

b) Juvenile Programs

Likewise, no funds will be available from this source for treating juveniles within the corrections systems, or for providing them with enhanced social and economic skills. In this regard, the Committee inspected the MacLaren School of Boys (which incarcerates and treats juvenile males aged 12-19) and found it the singularly most depressing institution visited (even when compared to OSP and OCI). Maclaren is the largest facility of its kind in the nation. It is visibly overcrowded and under-maintained. Because Maclaren and local juvenile facilities statewide are not under the jurisdiction of the Corrections Division, none of the $60 million is being targeted for juvenile programs in the Corrections plan.

The Committee is concerned about the lack of attention juvenile programs will apparently receive if Measure No. 3 is approved. This concern is echoed by a letter to the Committee from Herb Cawthorne, Portland School Board member, which states: "Education of young people toward productive and creative living is far more cost-efficient than spending on correctional facilities."

c) Prison Programs

While overcrowding of existing facilities renders social and economic enhancement programs less effective, the Committee would prefer to see more money allocated for expansion of these prison programs than is apparently proposed by Corrections Division staff. It is the Committee's position that several recommendations of the City Club's report on halfway houses have not been given the attention they deserve. It is also the Committee's position that expansion of prison space, however financed, must be accompanied by commitments to enhancing the economic and social skills of inmates they house.

d) Programs Aimed at the "Risk-Group" Population.

The Committee is also concerned that, although criminal activity is highest among males ages 15-29 (comprising the "risk-group" population), there are no preventative programs proposed which are aimed at this group.

6. Is Measure No. 3 an appropriate way to raise money?

Your Committee believes that the sale of general obligation bonds is an appropriate method of financing capital construction of a statewide system of criminal justice facilities. Testimony by Joyce Cohen and Tom Mason, members of the House Judiciary Committee which is primarily responsible for creating Measure No. 3, indicates that the state has three options for capital financing: (a) use of General Fund monies, (b) in-
creasing the state income tax to increase General Fund monies to pay for facilities, and (c) the bond measure. All three alternatives require General Fund allocations in any event. The limitations placed on the state's General Fund are now well known: a record special session of the legislature adjourned without conclusively resolving the state's financial problems. Funds to pay for the additional operational burdens created by newly constructed facilities will likely come at the expense of other existing state programs such as other agency budgets, homeowners and renters relief program, and property tax relief program. Because of the size of the immediate funding requirements, the General Fund is not, at this time, an appropriate source of financing for these facilities.

The proposed bond measure itself has been termed by Fred Hansen, Oregon State Deputy Treasurer, as the most restrictive and carefully thought-out bond measure ever presented to the people. It requires allocation of funds in specific areas, state and local coordination, and consideration of alternatives to expensive prison construction. In addition, the bond measure has a 1991 sunset provision, unlike virtually every other bonding authority the state has previously approved. The bonds themselves will likely have a "call" clause, allowing the state to pay-back lenders and re-issue other bonds at lower interest rates.

7. What if Measure No. 3 fails?

Criminal justice professionals are in universal agreement about the need for these funds and they have been preparing a coordinated plan in advance of the May 18 election. But, what will happen if Measure No. 3 fails?

The Committee expects many if not all of the elements of the proposed corrections plan to be implemented eventually whether or not Measure No. 3 passes, although its implementation will be fragmented, disjointed, and incremental. In the event of the measure's demise, the Committee expects the following to occur:

a) Pressure will be placed on local jurisdictions to update and expand local jails at local expense;
b) Pressure for early release of inmates will be placed on the legislature, which will then be pressured into restructuring the matrix system for the purpose of decreasing average incarceration time;
c) Judges will be more likely to release criminals back into the community under diversion and probation programs;
d) Police will continue to be effective in arresting offenders, but their level of frustration with the criminal justice system may increase and their morale decline;
e) The possibility exists that certain offenders will become increasingly unresponsive to the threat of meaningful punishment;
f) If Judge Burns issues his expected overcrowding order, then existing inmates will be released from prison without benefit of enhanced social and economic skills, and the rate of recidivism will increase, and;
g) The legislature may very well have to reduce home and property tax relief programs and some agency budgets in order to expand existing facilities wherever possible.
VI. CONCLUSIONS

This Committee believes that the need for additional correctional facilities and the updating of existing facilities has been clearly demonstrated. Such facilities are necessary to properly administer the assignment of the Corrections Division of the State of Oregon and this bond issue is an appropriate means for funding those facilities.

The Committee strongly believes, however, that a disservice will be done to the citizens of Oregon if the facilities to be provided by this bond issue unduly distract us from the significant underlying problems that must be resolved regardless of whether new construction funds are provided. We are greatly concerned about the need for alternative programs and enhancement of existing programs to reduce dependence upon full time incarceration of those people convicted of felonies. Such improved programs should include, but not be limited to, psychological counseling, training in commercial skills, and other means for achieving the desired behavioral modification objectives of the corrections system. We therefore believe that there is a compelling need for a comprehensive study of the criminal justice system in Oregon to propose solutions to such problems.

VII. RECOMMENDATION

Based upon our study, this Committee recommends a "Yes" vote for Measure No. 3 on May 18, 1982.

Respectfully submitted,

Francis R. Bletko
Kristi Halvorson
Peter Heuser
Chris Nelson
David Olson
Ed Smith
Jack Sullivan, Chairman

Received by the Research Board and the Board of Governors on April 14, 1982 and ordered published and distributed to the membership for discussion and action on May 12, 1982.

3. The Committee thanks Pete Behr for the excellent assistance rendered on this project.
APPENDIX A

Persons Interviewed\(^4\)

Les Balleque, State Jails Inspector; Manager, Community Corrections, State Division of Corrections
Ira Blalock, Member, Oregon State Board of Parole
Neil Chambers, Executive Assistant to the Administrator of the State Division of Corrections
Joyce Cohen, Member, Oregon State House of Representatives
Fred Hansen, Deputy Oregon State Treasurer
Bob Hatrak, Multnomah County Corrections Administrator
Charles Keaton, Educational Officer, Oregon State Penitentiary
Tom Mason, Chairman, House Judiciary Committee, Oregon State House of Representatives
Thomas Nelson, School Education Coordinator, MacLaren School for Boys, Children's Services Division, Oregon Department of Human Resources
Richard Peterson, Superintendent, Children's Services Correctional Division
Bill Replogle, Attorney, Schwabe, Williamson, Wyatt, et al, and Chairman, City Club study of halfway houses
David Schmahl, Psychologist, State Division of Corrections
Michael Schrunk, Multnomah County District Attorney
George Sullivan, Superintendent, Oregon State Correctional Institution
Marc Sussman, Attorney, Public Defender's Office
Harvey Suwol, State Division of Corrections
Robert J. Watson, Administrator, State Division of Corrections

APPENDIX B

Bibliography

Adult Correction in Oregon Part I, League of Women Voters of Oregon, 1982
Application for Correctional Facility Construction for Clackamas, Multnomah, and Washington Counties.
The Oregonian, "System Links Crime Severity, Risk," March 14, 1982
"Crowding Defeats Formula for Parole," March 14, 1982
"Retrial Set on Prison Crowding," January 14, 1982
Various minutes of the Committee on file at the City Club office.

\(^4\) The Committee corresponded with Herbert G. Callison, Executive Director, The Villages, Topeka, Kansas and Herb Cawthorne, Board of Education, Portland. In addition, the Committee toured the OSP, the OCI, and MacLaren School for Boys on February 19, 1982.
HOUSE JOINT RESOLUTION 22

Be It Resolved by the Legislative Assembly of the State of Oregon:

Paragraph 1. The Constitution of the State of Oregon is amended by creating a new Article to be known as Article XI-K and to read:

ARTICLE XI-K

SECTION 1. Notwithstanding the limits contained in any other provision of this Constitution, the credit of the State of Oregon may be loaned and indebtedness incurred in an amount not to exceed $60 million for the purpose of creating a fund to be known as the Corrections Building Fund. This fund shall be used to provide financing for the planning, acquisition, construction, equipping or improvement of state, regional, county or local corrections facilities. The facilities may include, but are not limited to, jail or prison facilities, work camps and centers for housing inmates in the process of paying fines or making restitution. The Legislative Assembly by law may provide for financial grants to counties or cities from the Corrections Building Fund for acquisition, construction, equipping or improvement of regional, county or city corrections facilities, other than jails. The Legislative Assembly by law may provide for loans to counties or cities from the Corrections Building Fund for the acquisition, construction, equipping or improvement of regional, county or city corrections facilities, including jails. Cities or counties may borrow from the Corrections Building Fund in such manner as may be provided by law.

SECTION 2. Bonds of the State of Oregon containing a direct promise on behalf of the state to pay the face value thereof, with the interest therein provided for, may be issued in an amount authorized by section 1 of this Article for the purpose of creating such fund. The bonds shall be a direct obligation of the state and shall be in such form and shall run for such periods of time and bear such rates of interest as shall be provided by law.
SECTION 3. Refunding bonds may be issued and sold to refund any bonds issued under authority of section 2 of this Article. There may be issued and outstanding at any time bonds aggregating the amount authorized by section 1 of this Article, but at no time shall the total of all bonds outstanding, including refunding bonds, exceed the amount so authorized.

SECTION 4. Bonds and interest thereon are payable from any state funds designated for that purpose by the Legislative Assembly, but if the Legislative Assembly does not designate any state funds for that purpose, then the Legislative Assembly shall provide for an annual levy of ad valorem taxes in a manner prescribed by law upon all the taxable property in the State of Oregon in sufficient amounts to provide for the payment of principal and interest of bonds issued pursuant to sections 2 and 3 of this Article.

SECTION 5. The authority contained in section 1 and 2 of this Article to loan the credit of the State of Oregon and to incur debt, and to issue bonds of the State of Oregon, shall terminate on January 1, 1991. The termination of authority as provided in this section shall not affect rights and obligations already incurred by the state in regard to bonds issued before January 1, 1991.

SECTION 6. The Legislative Assembly may enact legislation to carry out this Article. This Article shall supersede all conflicting constitutional provisions and shall supersede any conflicting provision of a county or city charter or act of incorporation, including but not limited to debt limitations imposed by any such provision.

Paragraph 2. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next state-wide primary election.

NOTE: Matter underlined in an amended section is new; matter [bracketed] is existing law to be omitted; complete new sections begin with SECTION.
Report on
RAISES TAXES ON COMMERCIAL VEHICLES,
MOTOR VEHICLES FUELS FOR ROADS
(State Measure No. 4)

Purpose: "The measure would raise commercial vehicle highway taxes an average of 12.5 percent this July 1, 11.1 percent on July 1, 1983, and 10 percent on July 1, 1984. The state tax on gas and other motor vehicle fuels is now 8¢ per gallon. This measure raises this tax by 1¢ per gallon on each of these three dates. Use of these funds is limited by the Oregon Constitution to road repair, improvement and construction."

To the Board of Governors,
City Club of Portland:

I. INTRODUCTION

State Measure No. 4 was adopted by the 1981 Legislative Assembly and referred to the voters on the primary ballot of May 18, 1982. The present state gasoline tax in Oregon is eight cents per gallon as a result of a one cent increase effective January 1, 1982. Commercial vehicle weight-mile taxes were increased an identical percentage on January 1, 1982. Under Measure No. 4, the state gasoline tax would increase one cent per gallon each July 1 through 1984 to a level of 11 cents per gallon. Weight-mile taxes would also increase proportionally each July 1 through 1984.

II. BACKGROUND

Oregon's highway system comprises 7,500 miles of paved roadways, excluding county roads and city streets. This system is financed with funds generated through the assessment of fuel taxes and fees imposed on the ownership and use of motor vehicles. Drivers license fees support administrative costs and designated driver programs, but do not fund highway improvement projects.

Surfaces on most state highways are built to have an average design life of about 20 years. In order to maintain the existing highway system, approximately 375 miles of Oregon's highways must be rehabilitated each year (7500 miles over 20 years).

In November 1976, the City Club of Portland recommended passage of State Measure No. 8, which would have raised the motor vehicles fuel tax from seven to eight cents per gallon. This measure also would have increased weight-mile taxes by 26 percent. State Measure No. 8 was defeated at the polls.

In May 1978, the City Club recommended passage of State Measure No. 5, which would have raised the motor vehicle fuel tax from seven to nine cents per gallon. This measure would have increased the weight-mile tax by approximately 12 percent. State Measure No. 5 was defeated at the polls.

In 1980, the gasoline tax issue appeared on both the primary and general election ballots. State Measure No. 1 on the May ballot limited funds from gasoline taxes to road repair, improvement and construction. Previously funds were diverted for State Police and parks and recreation purposes. State Measure No. 1 was successful at the ballot box.
State Measure No. 4 appeared on the November 1980 ballot. This measure would have increased the gas tax from seven to nine cents per gallon, with a 14 percent increase in weight-mile taxes. The City Club supported this measure for the same reasons it had supported previous gas tax measures, but the measure failed to achieve voter approval.

In 1981, the Oregon legislature increased the motor vehicle fuel tax from seven to eight cents with an equal percentage increase in weight-mile taxes. The increase was not referred to the voters. It became effective on January 1, 1982.

Oregon has one of the lowest gasoline tax rates and the lowest license tax rates of the fifty states. Additionally, Oregon has one of the highest weight-mile tax rates on truck use of any of the fifty states.

III. ARGUMENTS ADVANCED IN FAVOR OF THE MEASURE

1. Highways built during the tremendous expansion of Oregon's highway system in the 1960s are deteriorating. Funds for improvements are needed now.

2. Due to sharp increases in asphalt and petroleum products and reduced use of automobiles, highway construction costs have escalated much faster than highway tax revenues. Maintenance of our highways needs to be stepped up to avoid more costly rebuilding in the future.

3. An adequate highway system is essential to Oregon's economic well-being.

4. A dedicated fund should continue to be the sole source of revenue for maintaining and improving the highway system because competition with other vital interests for General Fund revenues is intense.

5. The measure maintains the equitable apportionment of taxes paid by cars and trucks.

IV. ARGUMENTS ADVANCED AGAINST THE MEASURE

1. Taxpayers do not want to pay any more taxes due to today's economic conditions.

2. The amount of the increase is not sufficient for needed repairs and maintenance and would provide only piecemeal, temporary solutions.

3. Highway repair should be financed with General Fund revenues because all citizens benefit from highway use.

4. To most Oregonians, the highway system is more than adequate and the highways appear to be in good shape.

V. DISCUSSION

A. What is the current condition of our roads?

In 1980, Oregon's Department of Transportation (ODOT) described the condition of Oregon's highways as follows: 9 percent of all highways are very good, 18 percent are good, 27 percent are fair, 38 percent are poor, and 8 percent are very poor.
Studies of road conditions in recent years show a steady and serious deterioration of Oregon's 7500-mile state highway system. Because of inflation, however, the size of the repaving program was reduced. According to a recent ODOT study, more than 3500 miles of state highways still need repaving. This year's severe winter weather exacerbated the problem.

According to a 1980 report of the Road Information Program, a Washington, D.C. research agency, Oregon needs a 10-year program of highway rehabilitation at a cost of over $183 million a year. Such a program would require an immediate 13 cent increase per gallon in the gas tax and a corresponding 186 percent increase in weight-mile taxes. Although your Committee believes that Oregon could not afford such a program today, this information illustrates the magnitude of the problem.

B. Is the highway fund in trouble?

Between 1970 and 1981, highway construction costs increased almost three times as rapidly as highway revenues. As a result, the purchasing power of highway revenues in 1981 was only 65 percent of what it had been in 1970. In addition, fuel consumption (measured by wholesale gasoline sales) has decreased steadily since peaking in 1978.

C. What would be the cost of Measure No. 4 to the motorist?

If Measure No. 4 passes, a motorist traveling 12,000 miles per year at 18 miles a gallon would pay an additional $6.70 in taxes per year for each 1 cent increase. A commercial vehicle (80,000 GVW diesel powered) driven 30,000 miles per year would pay an additional $270 in taxes per year.

Measure No. 4 makes no change in the ratio for truck and commercial vehicles' weight-mile tax. This tax would increase each year at the same percentage as the gas tax. However, the overall percentage of gas tax revenues paid by trucks is increasing due to automobile-users driving less and purchasing high-mileage automobiles.

D. How are our highway funds spent?

ODOT breaks it down this way for the 1981-1983 biennium:
About $21 million in additional funds will be raised with each 1 cent increase. Of this, $14 million would go to the State, $4 million to the counties, and $3 million to the cities. These funds are limited by the Oregon Constitution to road repair, improvement and construction. Committee witnesses agreed that city and county roads are in a state of disrepair comparable to that of state highways.

E. What options are available if Measure No. 4 fails?

There are four basic alternatives if gas tax measures continue to fail at the polls: a) continued decay of our highway system with limited attempts at repair; b) use of non-highway funds (state General Fund) to finance road repair; c) emphasis on alternative transportation systems to reduce use of highways (e.g., mass transit, light rail, riverboats, and bicycles), and; d) legislative approval of a gas tax increase without referral to the voters.

It appears to your Committee that some of these alternatives are unrealistic and others are unacceptable. Continued decay of our highway system will invite increased automobile accidents and repair costs. Deferred maintenance of the highways will inevitably be more expensive.

Use of General Fund revenues would force an unfortunate choice between road repairs and other vital interests competing for these revenues such as schools and social services. With the continual strain on state and local government finances, it appears that adding "one more mouth to feed" is no solution.

In the Portland Metro area mass transit has had a relatively small impact. Only five percent of total trips made are by transit-users, who represent only 10-20 percent of the total population. Other creative alternatives to motor vehicle transportation are interesting but not yet practical. A test of the ability to motivate highway users to use alternative methods of transportation will take place when the Banfield Light Rail Transit system comes on line in 1985.

Approval by the legislature of an increase in the gas tax would provide a temporary solution. With Oregon's system of initiative and referendum, there is no guarantee that such a move would escape an electoral battle.

VI. CONCLUSIONS

Your Committee believes highways in Oregon are substandard due to an alarming rate of deterioration. There is an immediate need for road repair and preventative maintenance. Inflation and lower fuel consumption have severely handicapped Oregon's ability to make needed repairs. Mass transit and other alternative methods of transportation do not significantly reduce Oregonians' dependence on our highway system.

Even though Oregon's economy is depressed and unemployment is high, the benefit to all Oregonians of a sound highway system should not be denied. The short term effect of a small additional tax ($6.70 per year based on 12,000 miles and 18 m.p.g.) should not blind us to the long term benefits of a sound highway system.
VII. RECOMMENDATION

Your Committee recommends the City Club go on record in favor of a "Yes" vote on State Measure No. 4 in the May 1982 primary election.

Respectfully submitted,

Marion Thompson
Kevin Rivers
Gary Oxley
Carl Cottingham, Chairman

Received by the Research Board on March 18, 1982 for transmittal to the Board of Governors. Received by the Board of Governors on April 19, 1982 and ordered published and distributed to the membership for discussion and action on May 12, 1982.

APPENDIX A

Persons Interviewed

Robert Knipe, Oregon Trucking Association
Nan Heim, Committee for Good Roads Again
Wayne Bowlby, Oregon Gasoline Dealers Association
Bob Knepper, Automobile Club of Oregon
Ed Hardt, Regional Engineer, State Highway Division
Chuck Frederickson, Regional Engineer, State Highway Division
George Bell, Public Affairs, Oregon Department of Transportation

APPENDIX B

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Report On
GOVERNOR TO APPOINT CHIEF JUSTICE OF OREGON SUPREME COURT
(State Measure No. 5)

Purpose: "This measure proposes that Oregon Supreme Court judge who is also Chief Justice be appointed as such by the Governor, instead of by judges of the Court. The Governor shall try to appoint a judge qualified to be administrative head of judicial department of government. The Governor must seek advice of judges of the Court in making an appointment. A Chief Justice could be removed by judges of the Court, but not by the Governor."

To the Board of Governors,
City Club of Portland:

I. INTRODUCTION

State Ballot Measure No. 5, to be voted on in the May 18, 1982 primary election, would change the method of selecting the Chief Justice of the Oregon Supreme Court. The measure proposes the Governor be given authority to select a Chief Justice from among those Judges serving on the Court. The Governor shall endeavor to appoint a Chief Justice who is well qualified to act as administrative head of the judicial department of government. The Governor shall seek the advice of the Judges of the Court in making the appointment.

It has been the custom of the Court to elect a Chief Justice from among themselves on the basis of seniority or by rotation. Gubernatorial selection of the Chief Justice was a recommendation of the "1980 Report of the Oregon Commission on the Judicial Branch." It was one element in a package of proposals of the Commission on reorganization of the Oregon state court system. Voters who believe the Governor should have authority to appoint the Chief Justice should vote "yes." Voters who favor the Court selecting their own Chief should vote "no."

II. BACKGROUND

The "1980 Report of the Oregon Commission on the Judicial Branch" was the culmination of several years of growing concern by the legislature and others as to the health of the state court system. Soaring overhead costs and an ever-growing caseload, combined with inconsistent and sometimes outdated administrative practices, were making it difficult for the judicial branch to perform its judicial duties.

Traditionally, the counties have financed the lower courts. Faced with ever-increasing financial commitments to maintain these courts, the counties began to turn to the state for assistance. The legislature responded by gradually assuming some court costs. As requests for assistance continued, the legislature requested a thorough review of the problems of the courts. In 1979 the legislature established the Oregon Commission on the Judicial Branch. Consisting of judges, attorneys, legislators, and citizens, the Commission presented to the legislature in February, 1981, a report recommending a broad reorganization of the state court system.
In that report, the Commission proposed the gradual state assumption of court funding (HB 2733) and the application of statewide standardized administrative procedures, with the Chief Justice of the Supreme Court assuming strong executive powers (HB 2696). As part of that proposal, the Commission recommended the Governor be empowered to appoint the Chief Justice from among the Judges on the Court. Traditionally, the Chief Justice was selected collegially; that is, by the members of the Court. Over the years they tended to make their selection on the basis of seniority.

The two bills, HB 2733 and HB 2696, were passed by the legislature in August of 1981 with one major modification of HB 2696: selection of the Chief Justice was to remain with the Court as a collegial decision.

During the legislative process the court reform package became a partisan issue. Governor Atiyeh notified the legislature he would veto the court reform legislation if the Governor was not granted the power to appoint the Chief Justice. He was convinced the Court would continue to select its Chief on the basis of seniority rather than to select its most capable administrator. Despite the Governor's threats to veto, the legislature passed the bills, retaining the system of collegial appointment. The Governor vetoed both HB 2733 and HB 2696 on August 24, 1981.

In an attempt to resolve the issue and save the court reform legislation, the legislature was called into special session on October 24, 1981, where the bills were reconsidered and passed. HB 3294 was introduced at that time as a compromise between the legislature and the Governor. It called for the issue of appointment of the Chief Justice to be referred to the voters in the May primary election.

The term of the current Chief Justice will expire in June of this year. The method in which the new Chief Justice is selected will be determined by the outcome of this ballot measure.

III. ARGUMENTS ADVANCED IN FAVOR OF THE MEASURE

1. Selection of the Chief Justice by the Governor is more consistent with the theory of accountability. The Court's selection of its own administrator would not establish a clear line of managerial authority.

2. Gubernatorial appointment will give the Chief Justice a modicum of independence from his colleagues on the Court, allowing him the freedom to act as an executive officer under the new system.

3. The Governor is free to select the best administrator. Collegial selection is likely to be influenced by matters other than the best administrative skills.

4. When required to make an interim appointment to the Supreme Court, the Governor will consider administrative skills in the selection process.

5. The Governor is more likely to support the judicial budget before the legislature, with his appointee as head of the judicial branch.

6. Gubernatorial appointment tends to reflect the federal model.
IV. ARGUMENTS ADVANCED IN OPPOSITION TO THE MEASURE

1. The Governor's appointment of the Chief Justice violates the separation of powers between the executive, legislative and judicial branches of government. It may violate Oregon's Constitution.

2. The Governor's appointment of the Chief Justice from among the sitting Judges has the potential of politicizing the position of Chief Justice and the court system. The Chief Justice should be perceived as being independent of the Governor.

3. The members of the Court are best qualified to assess their own administrative, judicial, and leadership capabilities.

4. Appointment by the Governor is inconsistent with Oregon's system of non-partisan judicial elections.

5. A Chief Justice selected collegially would be strong because he would have the internal support of his colleagues.

V. DISCUSSION

A. What are the changes in the role of Chief Justice?

The Supreme Court of Oregon is composed of seven Judges elected by nonpartisan elective ballot to serve six year terms. Usually, however, Judges are first appointed by the Governor on an interim basis to fill a vacancy, and then run for the office unopposed.

In the past, the Judges have selected one of their own to serve as Chief Justice for a six year term. In addition to the regular duties of a sitting Judge, the other functions of the Chief Justice have been: ceremonial, case assignment within the court, assignment of pro-tem judges in the lower courts, and administration of the Supreme Court budget.

Under the 1981 judicial reorganization plan, these duties continue. However, the plan expands the function of the Chief Justice to include executive powers over the entire state court system. The Chief Justice will set policy for the administration of the court system, which currently has a budget in excess of $102 million dollars and has over 1,100 employees statewide. In addition, the Chief Justice will appoint the state court administrator who carries out court policy and oversees the day-to-day operation of the courts. Under the new reorganization plan, the Chief Justice also will appoint the Chief Judge of the Court of Appeals and the presiding judges of the circuit and district courts.

B. Will the state judicial system be affected by a change in the process of selecting the Chief Justice?

Those favoring gubernatorial appointment of the Chief Justice and those favoring collegial selection agree that the method of selection is not significant to the functioning of the state judicial system.
C. **Who is better qualified to select the Chief Justice?**

1. **The Governor?**

Those who feel the Governor is better qualified to select the Chief Justice argue that, as an outsider, the Governor is free to select the best administrator on the Court objectively, without considerations of seniority, intra-court politics, and personality. The Governor has the power to make interim appointments to the bench. When there is a vacancy on the Court, he will also consider administrative skills when making an interim appointment. He makes many executive appointments in his role as governor and has the office and staff in place to make such appointments.

It is argued that a Chief Justice appointed by the Governor would be accountable to the Governor and that this is consistent with good management practices. Gubernatorial appointment would bring the structure of the state court system in line with the federal system, where the president appoints the Chief Justice of the U.S. Supreme Court.

Proponents of the measure envision an appointed Chief Justice as being independent from his colleagues and not merely the "first among equals." They feel such autonomy will give the Chief Justice a strong platform from which to set court policy and to work with the Governor and legislature in requesting funds for the judicial branch.

2. **The Supreme Court Judges?**

Those who believe that the Judges are better qualified to select their own Chief Justice argue that the Judges of the Supreme Court are the most knowledgeable as to the intellectual leadership and administrative ability of their colleagues. The Judges are very much aware of the newly legislated responsibilities of the Chief Justice and they are also aware that there may be individual members of the court who are unwilling or unable to accept those additional responsibilities. Proponents believe that a Chief Justice selected collegially would be strong because he would have the internal support of his colleagues.

The Oregon Constitution in Article III, Section I, provides for separation of powers between the executive, legislative and judicial branches. The Constitution states:

"The powers of the government shall be divided into three separate (sic) departments, the legislative, the Executive, including the administrative, and the Judicial; and no person charged with official duties under one of these departments, shall exercise any of the functions of another, except as in this Constitution expressly provided."

Several persons interviewed believed that gubernatorial appointment would violate the separation of powers of the executive and judicial branch and would interfere with an essential function of the judiciary. Eleven other states have a system of gubernatorial appointment; the state constitution in each of those states expressly provides for such a system. Opponents believe that, under Oregon's Constitution, the Governor could be given authority to make this appointment only through constitutional amendment. If the method of selecting the Chief Justice is set by legislative act rather than by constitutional amendment, the process is subject to change by subsequent legislatures without a vote of the people.
Opponents of Measure No. 5 also believe gubernatorial appointment of the Chief Justice introduces an unwelcome element into the traditional, nonpartisan system of electing judges in Oregon. They fear that this would open the door to the politicizing of a judicial office. Though traditionally Oregon's governors have not let partisan considerations color their interim judicial appointments, the fact is this issue became both politicized and polarized during the 1981 legislative process. It is now being presented to the voters as a political compromise in order to resolve the issue.

D. Committee Views

Your Committee believes the political overtones this issue took on during the legislative process demonstrate the most significant reasons for allowing the judicial branch to stand as a separate and equal branch of government without bringing the Governor into the process of selecting a Chief Justice. We realize politics play a part in some interim judicial appointments; we believe, however, that passage of Measure No. 5 may bring an unnecessary element of politics into the selection of the Chief Justice. We believe any politicizing of the judicial appointment process is detrimental and runs counter to Oregon's tradition of nonpartisan judicial elections.

The constitutional question surrounding gubernatorial appointment is also significant. Should Measure No. 5 pass, the power of gubernatorial appointment of the Chief Justice undoubtedly will be challenged in court.

The Governor's selection of the Chief Justice may be based on considerations other than finding the person best qualified for the job. A governor might not have the interest or time to thoroughly acquaint himself with the qualifications of each jurist on the Court. It is important to remember that administrative skills should not be the only criterion in making this selection. It is also important that intellectual leadership and collegial respect be considered.

Proponents of Measure No. 5 argue that the Governor could consider administrative talents when making interim appointments to the Court. Upon close examination, however, it becomes clear that the Governor's four-year term of office does not coincide with the Chief Justice's six-year term; the Governor would rarely have the opportunity to select such an interim appointee as Chief Justice.

Though many fear the Judges will continue to select the Chief Justice on the basis of seniority, the Court has indicated in writing that "...the present members (of the Court) are committed to the principle that in selecting the next Chief Justice they will vote for the member of the Court whom each believes most capable of performing all the duties of the office, regardless of seniority."*

The Committee believes that the argument that gubernatorial appointments would bring the Oregon judicial system more in line with the federal system is neither persuasive nor necessarily a desired goal to be achieved. Oregon has nonpartisan elective judicial positions with six-

---

year terms while all federal judges receive lifetime appointments. More important, in appointing the Chief Justice of the U.S. Supreme Court, the President is not limited to selecting from among the Judges on the Supreme Court.

The Chief Justice has been traditionally a figurehead and a jurist rather than an executive and an administrator. Arguments were presented to your Committee that gubernatorial appointment would provide clear lines of managerial authority from judicial and court offices upward, and from the Chief Justice to the Governor. It was agreed that the lines of managerial authority to the Chief Justice, as contemplated by the recent court reform, would be clear regardless of whether the Chief Justice is selected by gubernatorial or collegial appointment. Your Committee believes that the Chief Justice should neither be "accountable" nor owe any favors to the Governor. Gubernatorial appointment may tend to interfere with the Supreme Court's independence from the executive branch.

Many individuals interviewed believe the method of selecting the Chief Justice is not an important part of the judicial reorganization plan. Your Committee agrees. Most persons interviewed believe that the reorganized court system will function well whether or not Measure No. 5 passes. Although thoughtful arguments were presented on both sides, your Committee found arguments advanced in opposition to gubernatorial appointment to be more persuasive.

VI. CONCLUSIONS

1. Gubernatorial appointment of the Chief Justice has the potential for further politicizing the judicial selection process.

2. It is important that the Chief Justice and the judicial branch of government be independent, and be perceived as being independent, from the executive branch. The separation may be constitutionally required.

3. The Governor is not the best official to select the Chief Justice. Members of the Supreme Court are better able to determine the most qualified administrator from among themselves.

4. Gubernatorial appointment of the Chief Justice is not an essential element of the newly reorganized judicial system.

5. Gubernatorial appointment of the Chief Justice does not necessarily insure his greater accountability to the Governor or to the legislature.
VII. RECOMMENDATION

Your Committee therefore recommends a "NO" vote on Measure No. 5 on the May 18, 1982 primary election ballot.

Respectfully Submitted,

Ilo Bonyhadi
Gerald H. Braniff
Tom Imeson
C. Kent Roberts
Julie Keller Gottlieb, Chairman

Received by the Research Board on April 1, 1982 for transmittal to the Board of Governors. Received by the Board of Governors on April 12, 1982 and ordered published and distributed to the membership for discussion and action on May 12, 1982.

APPENDIX A

Persons Interviewed

Jeffrey A. Babener, Chairman, Committee on Judicial Administration, Oregon State Bar
John C. Beatty, Judge, Circuit Court, Multnomah County
Elizabeth D. Belshaw, Oregon State Court Administrator
Robert A. Bennett, Attorney, Member, Oregon State Bar, Board of Governors
Dennis Bronka, Director, Oregon Commission on the Judicial Branch
Keith Burns, Attorney
Arno H. Denecke, Chief Justice, Oregon Supreme Court
Barnes Ellis, Chairman, Oregon Commission on the Judicial Branch
George M. Joseph, Chief Judge, Oregon State Court of Appeals
Hans Linde, Associate Justice, Oregon Supreme Court
Tom Mason, Attorney, Oregon State Representative
Hardy Myers, Speaker, Oregon State House of Representatives
Fred Neal, Executive Director, State Courts Finance Action Committee
Robert W. Oliver, Assistant to Governor Victor Atiyeh
Bob Olson, Public Affairs, Oregon State Bar
Bill Rutherford, Oregon State Representative, District 29
Dick Springer, Oregon State Representative, District 10
Jacob Tanzer, Associate Justice, Oregon Supreme Court
APPENDIX B

Bibliography

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Denecke, Arno H., Letter to Governor Vic Atiyeh, August 7, 1981.

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News Articles

East Oregonian "Oregon Needs the Two Court Reform Measures," August 11, 1981.
Eugene Register Guard "Atiyeh's Costly and Unwise Veto," August 8, 1981.
Mail Tribune

The Oregonian
"Court Reform Revival Sought," September 13, 1981.
"Problems Surface as Court Reform Bills Eyed," October 18, 1981.
"No Veto of Reform for Oregon's Courts," August 4, 1981.
"Special Session Decision In Offing," October 6, 1981.
"Unequal Workload Triggers Push For Single Appellate Court,"
February 28, 1982.

Statesman Journal
"Court Reform Bills Flawed," August 2, 1981.
"Reform Should Be Achieved," August 29, 1981.

Purpose: "Amends County Home Rule Charter by making these presently appointed officers elective by people: Sheriff, County Clerk, District Court Clerk and County Assessor; requires that salaries of all county elective officers be set by popular vote at primary or general election only; limits all elective officers to eight (8) years' service (retroactive to 1976); prohibits employment of paid lobbyist; vest jail administration in sheriff; provides that officer's candidacy for different office automatically resigns existing elective office."

To the Board of Governors,
City Club of Portland:

I. INTRODUCTION

Ballot Measure No. 6 has been placed on the May primary ballot through the initiative process. The chief petitioners include Ray Phillips and Clyde Brummell of the Committee for Fair Government. The Measure is opposed by the Committee to Save Basic County Services.

Oregon law, ORS 250.175, and Multnomah County Code 4.10.530 both require that when a county measure is presented by initiative, the District Attorney of the county must prepare a ballot title and an impartial, simple and understandable statement explaining the measure. Under the provisions of ORS 251.285, this statement is submitted to the Secretary of State for publication in the Voters Pamphlet. The District Attorney for Multnomah County, Michael Schrunk, has prepared a neutral explanation of Ballot Measure No. 6 which is set forth as follows:

"1. Requires that the compensation of all county elective officers such as the County Executive, the five members of the Board of County Commissioners, and the officers this proposal would also make elective (see no. 2 below) -- be set only by vote of the people at a primary or general election. (Salaries of elective officers presently are set by vote of the Board of County Commissioners.)

"2. Provides that the [office of] Sheriff, County Clerk, District Court Clerk, and County Assessor, all presently appointive, would become elective by the people.

a) The Sheriff (now called the Director of Public Safety and Sheriff) is presently appointed by the Director of Justice Services, who is himself appointed by the elected County Executive subject to approval by the Board of County Commissioners; but jail administration is presently assigned to the Director of Justice Services, not the Sheriff.

b) Most of the functions of "County Clerk" are presently performed by the Circuit Court Administrator, who is selected by a majority of the county's 19 circuit court judges."
c) The District Court Clerk’s functions are presently performed by the District Court Administrator selected by a majority of the county’s 13 district court judges.

d) The County Assessor’s functions are now performed by the Director of Assessment and Taxation appointed by the Director of Administrative Services, who is himself appointed by the County Executive subject to approval by a majority of the Board of County Commissioners.

This proposal [Measure No. 6] would assign to each of these officers those functions such officers generally have under state law. It would also transfer to the Sheriff control of all jail administration.

"3. Prohibits the county from hiring a paid representative to promote the county's interests at the state legislature in Salem (commonly known as a lobbyist). Many organizations -- mostly private companies or special interests -- send lobbyists to Salem to represent their interests during the legislative sessions at which state laws are enacted or amended. This proposal apparently does not prohibit county representatives from appearing as witnesses before legislative committees in Salem, but it does prohibit paying a county representative to lobby on a continuous basis.

"4. Restricts all county elective officers to eight (8) years of service -- after which they would be ineligible for re-election. This provision is "retroactive to 1976," which may mean that only years of service beginning on January 1, 1976 are to be counted towards the eight years limit. Thus, existing county elective officers who were serving in office at or prior to January 1, 1976 would have five years service as of January 1, 1981, and eight years service (rendering them ineligible) as of January 1, 1984. On the other hand, the exact effect of this "retroactivity" may be unclear and thus may require clarification by court decision.

"5. Provides that a county elective officer who files as a candidate for a different office (apparently, any other office, county or otherwise) will be considered to have automatically resigned from the presently-held office as of the date of the filing. The candidate's old office would thus become vacant and would be filled as that vacancy is generally filled under existing law."

II. BACKGROUND

On November 8, 1977, the voters of Multnomah County adopted a charter review process which would convene a Charter Review Committee by June 30, 1983 for the purpose of making a comprehensive study of the Multnomah County Home Rule Charter. If the committee has amendments to propose, it must submit amendments to the Charter to the people of Multnomah County. The people adopted the review process as an acceptable method to amend the Charter coherently and to reduce the number of amendments previously proposed by initiative petition.
III. ARGUMENTS ADVANCED IN FAVOR OF THE MEASURE

1. In 1977 revisions to the Multnomah County Charter created numerous policy-making positions which are presently appointed and not directly accountable to the electorate. Voters should have a clear opportunity to voice their opinion on policy areas which, in other Oregon counties, are normally within the jurisdiction of a Sheriff and Tax Assessor. Elections held only for County-wide officials with general responsibility, such as County Commissioners and County Executive, limit voters' ability to influence specific policy areas which are important to them, such as: County-wide law enforcement and corrections policies, and; County tax assessment, the administration of which, while largely governed by the state law, contains substantial room for interpretation.

2. The two-term limitation proposed would be a stimulus to citizen participation in government and would limit the ability of an individual to make a career out of being an elected County official. Oregon's Governor, as well as other elected officials, including the United States President, presently are limited to two terms.

3. The elimination of any paid political lobbyist for the County would result in reduced cost and closer association of elected County officials with State government officials which may increase the County's influence at the State Legislature.

4. The public should not be expected to finance the career aspirations of public office holders. Elected officials are paid to perform the job for which they were elected and should not be paid for campaigning for election to another office.

IV. ARGUMENTS ADVANCED AGAINST THE MEASURE

1. In 1977, the voters set up an orderly and satisfactory charter review process for making changes in the Charter and it should be used.

2. The measure is so technically flawed in its approach to amending the Charter and would make so many unrelated changes that it is unworkable and would almost certainly be the subject of extensive and costly litigation, the cost of which would be borne by the county taxpayers. For example;

   a) No procedures are set out for how the voters would determine the salaries of elected officials. There is no provision for any person or group to propose a salary level for an affirmative or negative vote, nor is there any provision for paying an elected official any salary if the proposed salary is defeated. It is unlikely that qualified persons would run for and serve in full-time positions without any guarantee of adequate compensation throughout their term.

   b) The positions of County Clerk and District Court Clerk do not exist under Multnomah County home rule and election of persons with these titles would serve no purpose. Most of the tasks traditionally performed by a District Court Clerk will be the responsibility of the State after January of 1983, pursuant to 1981 legislation whereby the State will assume responsibility for administration and funding of the court system.
c) The prohibition against elected officials serving more than eight years, arbitrarily retroactive to 1976, does not state whether this applies to persons holding the same office for more than eight years or whether persons who have held any elected office within the county since 1976 are precluded from holding any other office if they have served a total of eight years.

3. The persons serving as Sheriff and County Assessor are currently appointed on the basis of professional training and ability in their fields. Although the state has prescribed qualifications for those offices, neither the Chief Law Enforcement Officer nor the Assessor in the county should be politicians concerned about winning popular votes.

4. The Sheriff, whether elected or appointed, is a law enforcement person and, as such, may not have the separate skills necessary for administering a corrections system. Turning over administration of Multnomah County's jails to the Sheriff would not solve the problems of the criminal justice system nor would it decrease crime.

5. The County needs the flexibility to retain an experienced lobbyist to monitor legislation that would affect the County and to coordinate the presentation of Multnomah County's position on legislation. The alternative to this single voice would result in contradictory positions and ineffective representation.

V. DISCUSSION AND CONCLUSION

In evaluating this initiative, your Committee asked itself three basic questions.

1. Do the proposals in the initiative have merit?

While your Committee concluded that some of the proposals in the initiative could have merit, on balance these were outweighed by other considerations which justify rejection of the entire initiative.

a) It would be difficult to attract qualified people to public office where their compensation is set by election(s).

b) The positions of County Clerk and District Court Clerk do not now exist in Multnomah County and the traditional duties are distributed throughout several other administrative positions.

c) Neither the County Clerk nor the District Court Clerk positions involve policy-making and election would be inappropriate.

d) The prohibition against an elected official running for another office while serving will make it more difficult to fill public office with people who have prior government experience. Your Committee is sympathetic to the idea that elected officials should give best efforts to the job they currently hold, but we believe the ballot box is an adequate remedy for dealing with those who do not.

e) The government of a large urban county should not be precluded by law from having a paid lobbyist in Salem.
2. Is the initiative drafted to permit effective and orderly implementation?

No. The initiative is vague and confusing. For example, there are no provisions for dealing with the compensation of officials between the time the initiative takes effect (30 days after passage) and the next general election when the salaries of elected officials would be voted on by the people. Who is to propose the salaries? What occurs if the people reject the salaries proposed? These flaws and other ambiguities of a similar nature would make the interpretation and implementation of this initiative difficult.

3. Do compelling reasons exist to adopt this initiative prior to the completion of the comprehensive charter review and amendment process already provided for the charter?

The charter review and amendment process will begin no later than June 30, 1983, and will end 95 days prior to the 1984 general election with a report to the people and to the Commissioners. The Charter Review Committee is appointed by the State Representatives and Senators elected from Multnomah County and can place amendments directly on the 1984 ballot. Chapter XII of the Multnomah County Charter describes the review process (see Appendix C). Your Committee found no reason to make any of the changes proposed in this initiative prior to the comprehensive charter review.

The testimony of witnesses indicates that there is dissatisfaction with County government, a perceived lack of responsiveness on the part of elected County officials, and a lack of accessibility by citizens to the executive branch. Thus, while we found the initiative flawed in its drafting and reject some of the proposals it contained, we believe that the ideas behind several of its proposals deserve careful consideration by the Charter Review Committee.

VI. RECOMMENDATION

Your Committee recommends a "No" vote on Multnomah County Ballot Measure No. 6 in the May 1982 primary election.

Respectfully submitted,

Diana Godwin
Thomas Landye
William June
Robert E. Kelley, Chairman

Received by the Research Board and the Board of Governors on April 22, 1982 and ordered published and distributed to the membership for consideration and action on May 14, 1982.
APPENDIX A

Persons Interviewed

Ellen Bombalski, League of Women Voters
Clyde Brummell, Sponsor of the initiative and Member, Committee For Fair Government
John Leahy, Multnomah County Counsel
Gladys McCoy, Multnomah County Commissioner
Ray Phillips, Sponsor of the initiative and Chairman, Committee For Fair Government
David Raahahn, Committee to Save Basic County Services
Felecia Trader, Director, Office of County Management

APPENDIX B

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Home Rule Charter of Multnomah County as amended through November 4, 1980.

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APPENDIX C

Chapter XII, Miscellaneous, Home Rule Charter, Multnomah County, Oregon

12.30 CHARTER REVIEW COMMITTEE. There shall be convened a Charter Review Committee for the purpose of making a comprehensive study of the Multnomah County Home Rule Charter and, if the Committee chooses, submitting to the people of Multnomah County amendments to the Charter.

[Created through initiative petition filed April 22, 1977, adopted by people Nov. 8, 1977.]

12.40 APPOINTMENT OF COMMITTEE MEMBERS. The Charter Review Committee shall be composed as follows:

(1) The Committee shall have two members appointed from each senatorial district having the majority of its voters within Multnomah County, who will choose their chairperson from among themselves and who shall have authority to establish their own procedures and organization.

(2) The state senator and the two state representatives who represent residents in each state Senate district located in Multnomah County shall appoint two electors, who reside in Multnomah County, to the Committee. If the three appointers from any
Senate district cannot agree on either or both of the two persons they are to appoint, any two of the three appointers may choose one or both of the persons to be appointed.

(3) The two electors appointed from each Senate district shall not be registered in the same political party.

(4) The following persons are not eligible for appointment to the Committee: The state senators and representatives who represent districts located in Multnomah County, the Members of the Multnomah County Board of Commissioners, and the county executive, if any, serving at the time of appointment.

(5) Any vacancy in the Committee shall be filled by the senator and representatives from the Senate district from which the previous member was appointed, using the same method as used for the original appointment.

(6) Appointments shall be made not later than June 30, 1983.

[Created through initiative petition filed April 22, 1977, adopted by people Nov. 8, 1977.]

12.50 SCOPE OF COMMITTEE REVIEW

(1) The Committee shall commence study of the Charter by all appropriate means including open hearings and meetings, the taking of testimony and interviewing witnesses.

(2) The Committee shall review the county charter and any issues relating thereto, including the role of the county auditor.

[Created through initiative petition filed April 22, 1977, adopted by people Nov. 8, 1977.]

12.60 REPORT OF COMMITTEE. Ninety-five days prior to the general election of 1984, the Committee shall report to the people and to the Board of County Commissioners their findings, conclusions and recommendations including any amendments they propose to the Charter.

[Created through initiative petition filed April 22, 1977, adopted by people Nov. 18, 1977.]

12.70 SUBMISSION OF AMENDMENTS TO THE PEOPLE. All amendments proposed by the Committee shall be submitted to the people of Multnomah County at the 1984 general election.
Report on
REVISED TAX BASE TO MAINTAIN BASIC EDUCATION FOR PORTLAND'S CHILDREN
(Portland School District No. 1 Measure 26-11)

Purpose: "Replaces one-year levies approved last year and the old, inadequate tax base with a revised tax base of $150,747,080.
"Provides funds for operating expenses including teachers, textbooks, supplies and maintenance to maintain basic education for 52,400 Portland children.
"Ensures that 100% of the Portland School District levy qualifies for State property tax relief.

"Explanation: Despite recent reductions in levels of administration and classroom support, inflation and reduced levels of State and Federal support require a revised tax base to prevent a major decline in the quality of education for Portland's children.
"Voters last revised the tax base in 1968. In 1981-82, the tax base was $92,364,976. The same year voters approved additional levies of $25,781,914; of that amount, 84.5% did not qualify for property tax relief.
"This measure will increase the property tax rate which will be partially offset for many homeowners by State tax relief."

To the Board of Governors,
City Club of Portland:

I. INTRODUCTION

In Measure 26-11, the Board of Education of Multnomah County School District No. 1 has requested voter approval of an increase in the District's tax base for 1982-83 from $97.9 million to approximately $150.7 million. According to the School Board, approval of this sum will enable the District to operate at its present level of service through 1985-86 without the need for any additional operating levies or tax base increases. Board and District personnel also believe that if their request is not accepted, a substantial curtailment of Portland's public educational service will follow. Your Committee was asked to evaluate the Board's request and to recommend whether or not to support it.

II. HISTORY AND BACKGROUND

A. Prior City Club Reports

In recent years, the City Club has adopted two reports dealing with District finances. The first, issued in November 1979, was intended to serve as a background report for future financial reports. It noted that since 1973-74 District operating costs had risen substantially, not only because of inflation but also because of factors such as the increase in government mandated programs for which no separate funding was provided. The 1979 report reviewed in detail all major aspects of the District's budgetary process and looked for areas in which expenses might be reduced.
The 1979 report found the District's administration to be responsible for an efficiently managed educational program. Classroom teaching costs, which account for 50% of the budget, were found to be adequate and not excessive. And, overall administrative costs and salaries had consistently been held below the level of inflation.

The second report, issued in March 1981, was more limited in scope. It dealt with the District's request, which was approved by the voters, for a $25.8 million special levy for supplemental general operating funds for the District's 1981-82 school year. The 1981 report noted the thoroughness of the process used by the District in preparing its budget and concluded that the reduction of services, which would be required if the budget did not pass, was "unwise and potentially damaging" and that passage of the levy was the only available alternative in the near term. The 1981 report also observed, however, that a permanent increase in the tax base "would be more beneficial in the long run." Just such a proposed tax base increase is the subject of the present report.

B. What is a Tax Base?

Many governmental units throughout the state, including school districts, port districts, fire districts and cities, are authorized to raise funds through a tax on real property within their boundaries. The maximum dollar amount of tax which the taxing unit may collect in any year without special voter approval is its tax base. This amount is initially determined by the voters when the taxing unit is established and can only be increased by specific voter approval or pursuant to Article XI, Section 11 of the Oregon Constitution, which allows the approved tax base to increase by a maximum of 6% per year without voter approval. The District's tax base has not been increased by voter approval since 1968.

The District's tax base is not the same thing as its operating budget. The budget revenues come from property tax levies, from the federal government, the State of Oregon and Multnomah County Education Service District. During the 1981-82 school year, for example, the District's total budget was approximately $163 million, but only $118.2 million of that amount came from property tax levies. Of that $118.2 million, $92.4 million was levied pursuant to the tax base. As noted above, the remaining $25.8 million from property taxes was raised through a one-year special levy approved by the voters.

C. Oregon's Property Tax Relief Program and the Requirement for a New Tax Base

In 1979 the Oregon Legislature approved a property tax relief plan. It provided that the State of Oregon would pay 30% of a homeowner's "qualified" property tax up to a maximum payment of $800. This maximum payment has been reduced, by both the 1981 regular session and most recently in the 1982 special session of the Legislature, to $287. In general, all taxes levied for a tax base are eligible for property tax relief. But not all taxes raised by a special levy are eligible. Therefore, taxpayers can usually increase their property tax relief by approving a new tax base, instead of approving a special levy on top of an old tax base.
The 1979 Legislature also required that if new taxes are levied by a school district in excess of its tax base in an odd-numbered year, it is required to request a new tax base in the following even-numbered year. Therefore, the District is required to ask the voters to approve a new tax base this year.

III. PROPOSED NEW TAX BASE

A. Relationship to Present Tax Base and Levies

The basis of the District's 1981-82 tax base was established in 1968 when voters approved a $43.3 million tax base. This base has grown through annual increases of 6% to a present 1981-82 tax base of $92,364,976. Without a tax base increase, the 1982-83 base would be $97.9 million, $20.3 million less than the amount levied for 1981-82.

The District estimated that a tax base of $139.3 million would be needed to fund a "no-growth" program for the 1982-83 fiscal year. This 18% increase over the combined tax base and special levy collections in 1981-82 of $118.2 million is principally the result of inflation affecting salary and nonsalary costs, decreased state Basic School Support and decreased federal support. By contrast, the overall percentage increase for the District's general fund budget would be approximately 12%. The further increase from $139.3 million to the proposed $150.7 million is a result of the Board's setting a base sufficient to fund the District through 1985-86, as well as other factors discussed below.

B. Amount of New Tax Base

The proposed new tax base is $150,747,080, effective for the 1982-83 fiscal year. With the annual increase of 6% to that tax base, the Board estimates this amount to be sufficient to fund "presently projected requirements" through the 1985-86 fiscal year. This result will be achieved because the $150.7 million exceeds actual needs in the early years, but will be less than the amount required for later years. The surplus funds in the early years will be collected, invested and ultimately spent in the later years.

The Board's major assumptions in setting the four-year projections relate to levels of funding both from state Basic School Support and the federal government, estimated salary increases of 10%, 9% and 8 1/2% for 1982-83, 1984-85, and 1985-86 respectively, and a proposed merger of the Teachers Retirement Fund Association ("TRFA") with the Public Employee Retirement System ("PERS") to fund the District's presently unfunded liability to TRFA.

The tax base figure has been set to preserve the existing level of services through the four years. The major exceptions include the School Board's decision to increase its contingency fund to 4% of the general fund (from 2.5%) and to provide funds beginning in fiscal year 1983-84 to fund the proposed merger of TRFA with PERS.

As a further part of its four-year projections, the School Board has stated it will reduce its now projected expenditures for these years by 1% per year on a cumulative basis. This annual 1% "squeeze down" has been factored into the $150.7 million figure.
The Board chose not to include funds in its tax base request for major capital outlays for remodeling and renovation. In addition to its existing tax base and one year special levy, the District currently collects funds for capital improvements from a $3.5 million eight-year serial levy which will last through 1983-84. When that levy runs out, the District will need either to request replacement funds or to cut such expenses from its budget, unless it turns out that the tax base will support such expenditures.

C. Impact on Individual Taxes

The rate at which property is taxed is a function of two factors: 1) the amount of money needed, i.e., the levy amount, and 2) the total assessed value of all taxable property. The School Board has set the amount of money needed for four years, but total assessed value of property in the District typically increases each year.

The total property tax bill actually paid by any individual is further affected by the relative increase of the assessed value of his property and the amount of property tax relief provided by the state as discussed in section II C above. The 1981-82 tax rate per $1,000 for the District was $11.05. Under the proposed tax base, the District has estimated the 1982-83 tax rate will be $13.10 per $1,000. On a home assessed at $60,000, the increase in the school tax from 1981-82 to 1982-83 would be $124.

IV. ARGUMENTS ADVANCED IN FAVOR OF THE TAX BASE INCREASE

1. Failure to approve the proposed tax base would present the District with a financial crisis.
   a. The District would face a $41.4 million shortfall.
   b. Either severe cuts would have to be made to the budget or the District would have to seek voter approval for a special levy to make up part of that shortfall.
   c. A special levy election costs the District $78,000.

2. Approving a new tax base is better than approving a special operating levy.
   a. The entire property tax levy would qualify for state property tax relief contribution.
   b. A special levy is traditionally only a one-year solution to the District's budgeting needs.
   c. Once a new tax base is approved by the voters it continues, increasing by 6% each year. This provides a more realistic base in the event the District does not seek, or cannot get approval for, a special levy on top of the tax base.

3. The proposed tax base would provide stability to the District's financial needs.
   a. The proposed tax base is estimated to be sufficient to fund projected requirements through the 1985-86 fiscal year.
   b. It would eliminate the need to spend District resources and human energy each year to pass a special operating levy.
   c. It would facilitate the District's ability to initiate and implement long-range planning for District educational objectives and programs.
d. The District would have four years to focus on budgetary management, including the promised 1% annual reduction in the total budget.
e. Barring unforeseen emergencies, the District would be constrained by political pressure to stay within its budget for the full four years.

4. The continued quality of education resulting from the new tax base would increase Portland's attractiveness as a city in which to live and raise a family, which in turn would provide an incentive to business to locate here.

5. Approving the new tax base would help ensure that Portland's children will receive the level of education necessary to make positive contributions to society.

V. ARGUMENTS ADVANCED AGAINST THE TAX BASE INCREASE

1. The new tax base would increase property taxes, which are already too high.

2. The proposed new tax base of $150.7 million is more than is needed for next year's budget. Even though the excess will be invested and saved for future needs, the taxpayers cannot afford the excess, particularly in the present economy.

3. By asking for a tax base to cover all projected requirements through 1985-86, the District has less incentive to trim the annual budget regularly and frequently.

4. The higher new tax base would reduce the amount and frequency of public control over District spending policies.

5. Four years is too long a period to be able to make accurate predictions. The District runs the risk of further damaging its credibility, and therefore its ability to obtain further financing, if it has to go back to the public for more funds.

6. The tax base does not include funds for capital improvements and the present serial levy runs out in 1983-84. The proposed tax base may be misleading because in two years the District will either have to seek another serial levy on top of the new tax base or do without these funds.

7. In a time of financial sacrifice for many, it is inappropriate to ask for sufficient funds to keep up with inflation, including budgeted salary increases.

VI. DISCUSSION

A. Effects of Voter Rejection

If the voters do not approve the ballot measure, the District's 1982-83 tax base will be $97.9 million, $20.3 million less than the taxes levied by the District this year, and $41.4 million short of projected "no-growth" needs. A number of options exist to respond to this shortage, from cutting existing expenses by the entire amount to submitting a special levy to the voters.
The District has prepared a contingency plan of 63 items to be cut if the budget is reduced by $41.4 million. While your Committee did not analyze the effects of specific budget cuts, cutting all 63 items from the program would, in the opinion of virtually all persons interviewed, have devastating educational and cultural impacts on the District and on the Portland community. Among the cuts proposed is the elimination of 1,158 school employees. To the extent that money spent translates into quality school programs, and program quality supports student achievement and long-term quality of life in the community, it is apparent that program cuts on the magnitude of $41 million would have a significant long-term impact.

Another District option is to seek approval of a special levy for the 1982-83 year. Special elections may be held on June 29, August 10, or September 21. Several Board members and District personnel believe that after a failed tax base election the success of a special levy would be doubtful. In any case, it is unlikely voters would support a special levy of the same magnitude as the defeated tax base, requiring at least part of the contingency plan to be implemented.

It was suggested that teachers and other personnel may take positions elsewhere rather than wait for an uncertain financial situation to be resolved. Thus, even if a special levy passed, District administrators expressed difficulty in guaranteeing the integrity of programs and staffing. Further, there would be a direct cost of about $78,000 to hold each election, as well as indirect administrative costs to prepare for each election. These are additional burdens on an already inadequate revenue base. For individual taxpayers, not all of the amounts approved by a special levy are eligible for state property tax relief as would be the case with a new tax base.

The Board could resubmit a new, but reduced, tax base for voter approval, but under Oregon law that could not be done until the November 1982 general election. Even if approved, this new tax base would not become effective until July 1, 1983. Therefore, resubmittal would not be a remedy for 1982-83 budget shortages. The District would still have to cut its budget, offer a special levy to the voters, or implement some combination of the two.

B. Discussion of Specific Increases

Your Committee recognizes that good arguments exist for passing a tax base that is either higher or lower than $150.7 million. As stated in section I B above, your Committee assumed the District's estimate of $139.3 million no-growth budget. The discussion in this part focuses on the propriety of the increase from $139.3 million to $150.7 million.

Perhaps the most controversial decision made by the Board in choosing a $150.7 million tax base was that it would suffice for four years. If the estimates are correct and the tax base actually covers the four years, much can be said in its favor. The District would have a stable financial base to allow it to concentrate on developing student achievement, community relations and long-term planning; taxpayers will benefit by having a known and fixed property tax bill; and expenses of needless elections will be saved.
In addition, the new tax base would provide a far more stable floor in the event of failure of future special levies. The existing tax base, adopted in 1968, is inadequate to continue even a semblance of present services. The proposed tax base would create the stability of a base more in line with current, voter-approved expenditures.

As with any long range financial forecast, the District had to make assumptions regarding future revenues and costs. Its forecast is only as good as these assumptions. The District's greatest risk is to its credibility and its ability to pass tax measures in the future if its projections are substantially wrong. Though the District does not intend to request further operating funds, the voter has no guarantee that it will not do so. Significantly, prior to the District's decision to request a tax base sufficient to meet projections for four years, your Committee heard repeated disclaimers of any ability to predict revenues and costs accurately beyond two years.

On the positive side, the District has a strong incentive to keep costs within its projections. An ability to plan on funds for four years may allow it to adopt management practices which will enable it to accomplish that goal. Barring mismanagement, as opposed to simply poor projections, if the District must seek additional funds before 1986-87 the taxpayer has lost nothing but an expectation that no further requests for funds will be made. That lost expectation would not even have existed without an attempt to get a longer-term tax base. Further, if one or more major assumptions do not materialize as projected, the voters will still have the right to approve any further increase.

On balance, your Committee agrees with the Board's decision to request a tax base projected to be sufficient for four years. The existing inadequate tax base requires the Board and Administration to constantly deal with immediate financial problems. The annual attempt to find sufficient resources to fund the desired level of services, while at the same time planning for the contingency of insufficient revenues, demands too much time and energy. Thus the Board and Administration are unable to devote the time necessary for considerate study of long range plans to improve educational quality and managerial efficiency in the District. The Board believes the opportunity to engage in careful review of delivery of services could result in considerable increases in efficiency. This could in turn lead to the possibility of the tax base being sufficient beyond the proposed four years. Your Committee believes the District should be given this opportunity afforded by the proposed tax base.

C. Educational Cost and the Current Budget

Your Committee did not comprehensively review the District's proposed 1982-83 budget. In the Committee's opinion, no such review was necessary for the following reasons:

1. The budget has already been subjected to intense scrutiny by the citizen's advisory committees. The District estimates that from 600 to 700 people participated in the 1982-83 budget review.

2. As noted earlier in this report, the 1979 City Club report found the bulk of the District's costs to be reasonable and found the District to be generally well managed. The 1981 City Club report essentially confirmed these findings and we have seen no need for further study.
3. Drastic cuts in both the quality and quantity of services offered to Portland's public school students will be necessary if the new tax base is not approved and the funds requested are not otherwise made available. The District simply cannot maintain its present level of service without substantial additional funds in the future. We believe that such cuts would be inconsistent with the long range interests of both Portland and its children.

To further check the District's level of expenditures, your Committee obtained, from the Oregon Educational Coordinating Commission, estimated expenditures per pupil for the 1981-82 school year for seven other Portland metropolitan area school systems and for two other large Oregon systems: Salem and Eugene. Of the ten districts, Portland ranks fourth highest (see Table 1). Particularly when Portland's greater costs for several mandated special programs, such as English as a Second Language and Title I are considered, your Committee believes that Portland's costs are not out of line with comparable districts.

Table 1

ESTIMATED 1981-82 PER STUDENT CURRENT EXPENDITURES IN DISTRICTS OF COMPARABLE TYPE AND SIZE

<table>
<thead>
<tr>
<th>District</th>
<th>Average Daily Membership*</th>
<th>Current Annual Expenditures Per Student</th>
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<tr>
<td>Eugene</td>
<td>17,005.0</td>
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<tr>
<td>Parkrose</td>
<td>3,440.0</td>
<td>3,261.83</td>
</tr>
<tr>
<td>David Douglas</td>
<td>5,864.5</td>
<td>3,108.40</td>
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<tr>
<td>Portland</td>
<td>48,174.9</td>
<td>3,095.52</td>
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<tr>
<td>North Clackamas</td>
<td>11,846.0</td>
<td>3,057.07</td>
</tr>
<tr>
<td>Beaverton</td>
<td>19,963.0</td>
<td>2,963.98</td>
</tr>
<tr>
<td>Lake Oswego</td>
<td>5,752.5</td>
<td>2,951.05</td>
</tr>
<tr>
<td>Centennial</td>
<td>4,600.0</td>
<td>2,905.32</td>
</tr>
<tr>
<td>Salem</td>
<td>22,534.0</td>
<td>2,805.90</td>
</tr>
<tr>
<td>Reynolds</td>
<td>6,030.0</td>
<td>2,549.52</td>
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</table>

* The average daily membership figures exclude some students enrolled in the districts shown for purposes of comparison, e.g. kindergarten students are counted as one-half, and students who are enrolled in programs that are fully funded by state or federal grants are excluded. The 52,400 children shown for the Portland School District in the ballot measure includes all children served by the District.

Source: Oregon Educational Coordinating Commission

VII. CONCLUSION

The School Board has asked voters to approve a tax base designed to fund projected requirements for the next four years. By doing so, the voter has been given a chance not only to approve the District's present level of services, but can also provide the District with a solid financial base. This longer term solution will permit the Board and the Administration to direct resources and energies towards improving quality...
in educational programs and services. At the same time there is an opportunity to increase economy and efficiency in school operations.

We conclude that the present level of educational programs and services should be continued and that the Board and new Administration should be given the opportunity to get on with the business of education and the long range planning that the new tax base would provide.

VIII. RECOMMENDATION

Your Committee recommends a "Yes" vote on Ballot Measure 26-11 at the May 18, 1982 election.

Respectfully submitted,

Robert J. Bailey
Eric Fuller
Nancy M. Ganong
Anne Seiler Jarvis
James T. McGill
Joyce Tsongas
Rodney E. Lewis, Jr., Chairman

Received by the Research Board and the Board of Governors on April 15, 1982 and ordered published and distributed to the membership for discussion and action on May 12, 1982.
APPENDIX A

Persons Interviewed

Herb Cawthorne, Member, Portland Board of Education
George A. Collins, Director of Finance, Portland Public Schools
James J. Fenwick, Interim Superintendent, Portland Public Schools
Dean Gisvold, Member, Portland Board of Education
Pamela J. Hulse, Campaign Manager, Committee for Portland's Children
Clement H. Lausberg, Research Coordinator, Oregon Educational Coordinating Commission
Ray Phillips, Oregon Taxpayer's Union
Matthew W. Prophet, Jr., Superintendent, Portland Public Schools
Forrest N. Rieke, Member, Portland Board of Education
Forrest Rodgers, Member, Education Committee of Portland Chamber of Commerce
William Scott, Chairman, Portland Board of Education
David W. Tyler, Controller, Portland Public Schools

APPENDIX B

Bibliography

Portland School District No. 1 - Reports and Publications

General Fund - Five Year Projection Report Issued by the Finance Department Portland School District No. 1 (Revised March 5, 1982)
Report to the Community - Good News About Portland Schools 1981-82 (March 1, 1982)
Revised Tax Base Calculations (March 16, 1982)
TRFA/PERS Integration - Estimated Funding Requirements (January 14, 1982)
Williams Scott Memorandum re Tax Base Amount (March 5, 1982)
Impact of the Reagan Administration FY 81 Recession and FY 82 Budget Requests on Portland Public Schools
1982-83 Budget Contingency Plan
Annual Financial Report, School District No. 1, Multnomah County (June 30, 1981)

Others

Oregon Taxpayer's Association, School Spending (March, 1982)
Tax Supervising and Conservation Commission, "Summary of Valuations, Annual Budgets, Property Tax Levy, Tax Rates and Indebtedness for Local Governments in Multnomah County"
Various Newspaper Articles and Editorials
City Club Report, Fiscal Affairs of Portland School District No. 1 (October 31, 1979)
City Club Report, A Review of Property Taxation in Oregon (April 14, 1980)
City Club Report, Report on Portland Public School District No. 1 Levy (March 27, 1981)
### Magnitude of State Bonding

<table>
<thead>
<tr>
<th>Purpose/Department</th>
<th>Constitutional Provision</th>
<th>Constitutional Debt Limit</th>
<th>Amount Outstanding</th>
<th>% of TCV Actually Outstanding</th>
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1. The State of Oregon may not incur indebtedness exceeding $50,000 without a constitutional amendment approved by the voters. The General Purposes and/or short term debt categories both reflect this single limitation.
2. Excludes refunded bonds.
3. Based on the January 1, 1981 True Cash Value (TCV) of $82,426,835,098.
4. Passage of Measures No. 1 (Use of State Bond Proceeds to Finance Municipal Water Projects) and No. 2 (Multifamily Housing for Elderly and Disabled Persons) would not increase the State's bonding authority but could result in greater utilization of that authority.
5. Passage of Measure No. 3 (State Bonds for Fund to Finance Corrections Facilities) would increase the authorized and outstanding general obligation bonds by $60 million.
6. As of April 7, 1982.

Compiled from statistics received from State of Oregon, Treasury Department, Municipal Bond Division.
## MAY PRIMARY BOX SCORES

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<th>Election Results</th>
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<td>GOVERNOR TO APPOINT CHIEF JUSTICE OF OREGON SUPREME COURT</td>
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<td>CHARTER AMENDMENT REVISING ELECTIVE OFFICERS, TERMS, COMPENSATION, AND OTHER MATTERS</td>
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**VOTE ON MAY 18!**