

WHAT LEGISLATURES NEED NOW

The prescription for change offered 40 years ago in “The Sometime Governments” has run its course, but legislatures still face plenty of institutional challenges.



BY KARL KURTZ AND BRIAN WEBERG

The challenges of today’s legislatures are complex. They involve questions of integrity, will, commitment and trust, and the solutions are not at all clear. The realities of today’s government and politics require a new approach to strengthen legislatures. What’s needed is a process that clarifies the current problems, what changes are needed and how to put

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those remedies into place.

In the 1970s, the Citizens Conference on State Legislatures launched a remarkable movement to strengthen our nation’s legislatures by publishing “The Sometime Governments: An Evaluation of the 50 American Legislatures.”

The book included sweeping recommendations for change. The guidelines were designed to give legislatures more resources of time, compensation, staff and facilities. Forty years later, that agenda for reform has been largely accomplished or is no longer as relevant.

In large measure, “The Sometime Governments” succeeded in igniting two decades of effort by legislatures in every state to build capacity—the amount of session time, the number of members, committee organization, facilities and staffing..

It provided state-specific marching orders and a battle plan to reform-minded political troops ready and able to carry out its agenda. At the time of its publication, American politics were in transition. The one-person, one-vote court decisions of the 1960s and subsequent redistricting after the 1970 census opened state legislatures to a surge of new

'THE SOMETIME GOVERNMENTS'

The Citizens Conference on State Legislatures was a private nonprofit organization formed in 1964 to improve state legislatures. With a major grant from the Ford Foundation, it launched a 50-state study of legislatures in 1969 and published "The Sometime Governments: An Evaluation of the 50 American Legislatures" in 1971.

Based on criteria for "functional, accountable, informed, independent and representative" legislatures, the book evaluated state legislatures and ranked them from one to 50. The rankings caused a considerable stir among state lawmakers, and were an effective call to action: No state wanted to remain ranked in the bottom half of the list or to be below its neighbors or rivals.

The book contained both general recommendations for all states and specific recommendations for each legislature. The recommendations focused on such things as the length of the session, number of members, committee organization, facilities and staffing. They were highly prescriptive and specific.

During the study, the Citizens Conference was directed by Larry Margolis, former chief of staff to California Speaker Jesse Unruh, who led the transformation of the California Legislature into a full-time, professional body in the late 1960s. The implicit standard of "The Sometime Governments" was that all legislatures should look like California's, which, not surprisingly, came out No. 1 in the rankings.

members in the 1974 elections.

They were a generation inspired by Kennedy, but also battered by the Vietnam War and the Watergate scandal. Armed with ideas set out in "The Sometime Governments" and fueled by private foundation support, they transformed state legislatures.

For the next two decades, legislative leaders in almost every state engaged their members, the public and others concerned about legislatures in efforts to redesign and rebuild their institutions. These efforts were historic in scope and accomplishment. Legislatures became more muscular, agile, intelligent and independent than at any other time in Ameri-

can history.

The reform agenda of "The Sometime Governments" fell on hard times in the 1990s. There was a backlash, fueled by growing public cynicism about government, that developed against what political scientists call the "professionalization" of state legislatures. In almost all of the 24 states that allow voter initiatives, measures were placed on the ballot to limit the terms of state lawmakers. Virtually all of them passed, though some were later invalidated by courts or repealed, leaving 15 states today with term limits.

An NCSL study in 2007 showed term limits had significantly weakened state legislatures, especially in relation to the governor. Other initiatives placed limits on the tax and spending powers of legislatures in many states.

In this atmosphere of public distrust and cynicism toward government, it became difficult for legislatures to strengthen and grow in the fashion advocated by "The Sometime Governments." In the last 20 years—outside of the area of technology, which has its own momentum and societal drive—legislatures mostly have stopped taking steps such as adding staff, building more facilities or increasing the amount of time spent on the job. By the 1990s, the Citizens Conference's recommendations had run their course. They had done their job of stimulating positive change.

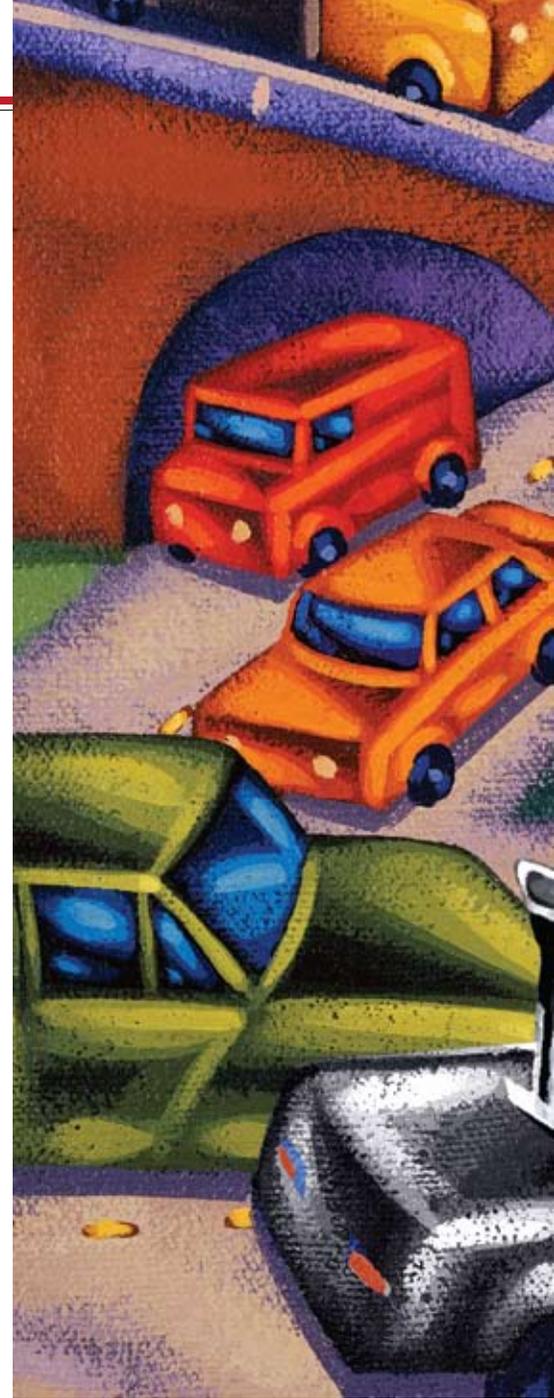
PROBLEMS PERSIST

While some of the issues raised in "The Sometime Governments" have been resolved, new ones have emerged.

The process of legislative improvement is never-ending, requiring constant tinkering and adjustment, state by state. Partly as a result of the previous success of strengthening legislatures, they face new problems today. In his book, "Engines of Democracy: Politics and Policy in State Legislatures," Rutgers University political scientist Alan Rosenthal identifies ailments confronting contemporary representative democracy.

◆ **Partisanship.** Strong party allegiance can organize conflict and disagreement, but in excess can lead to incivility and a lack of willingness to negotiate and compromise. Hyper-partisanship, as some have called it, undermines political trust and support for democratic institutions. Some state legislatures today, but by no means all, suffer from excessive partisanship.

◆ **Integrity.** The overwhelming number of



state lawmakers behave ethically. The misdeeds of a few members, however, tar the entire institution. The public believes the majority of legislators are out to serve themselves, and they are for sale to the highest bidder.

◆ **Deliberation.** The work of standing committees, which was a major focus of the earlier legislative strengthening movement, has been undermined in many states in recent years. Partisan considerations have been a detriment to substantive study, analysis of and deliberation on all sides of an issue. Top legislative leaders and party caucuses too often bypass or downplay the committee process. Term limits have also weakened committees as they have



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have experienced all of these problems. The need for legislative improvement differs from state to state. The only problem on the Rosenthal list that is common to all the states is public cynicism, and even then there are a few states—Alaska, Idaho, North Dakota and Wyoming are examples—in which the legislature has relatively high public opinion ratings. As the Citizens Conference recognized 40 years ago, an agenda for legislative strengthening needs to be state specific.

But how can we create a state-specific agenda?

We suggest a basic set of questions that legislators, legislative staff, political scientists and interested citizens should ask and answer about the performance of their legislature. These questions are standards of a sort, expectations of what a good legislature should be.

1. Does the legislature effectively share power with the governor? Does the legislature initiate and enact its own legislation and make independent decisions about the state budget? Does the legislature provide effective oversight of executive actions?
2. Does the redistricting process for the legislature result in reasonably compact, contiguous and competitive legislative districts that do not provide an undue advantage to one party and incumbent legislators?
3. Do the members provide effective constituent service including answering requests for information, casework, local projects and public expenditures? Is the proportion of women and racial and ethnic minorities in the legislature reasonably reflective of the population of the state?
4. Does the legislature take into account

been deprived of experience and expertise.

◆**Responsibility.** Rosenthal is concerned about the unwillingness of some legislators to make difficult fiscal decisions because of constituent opposition, the growing tendency for committees to fail to screen out bills that lack support or merit and the practice of lawmakers not voting against someone else's bill for fear that he or she will vote against their own.

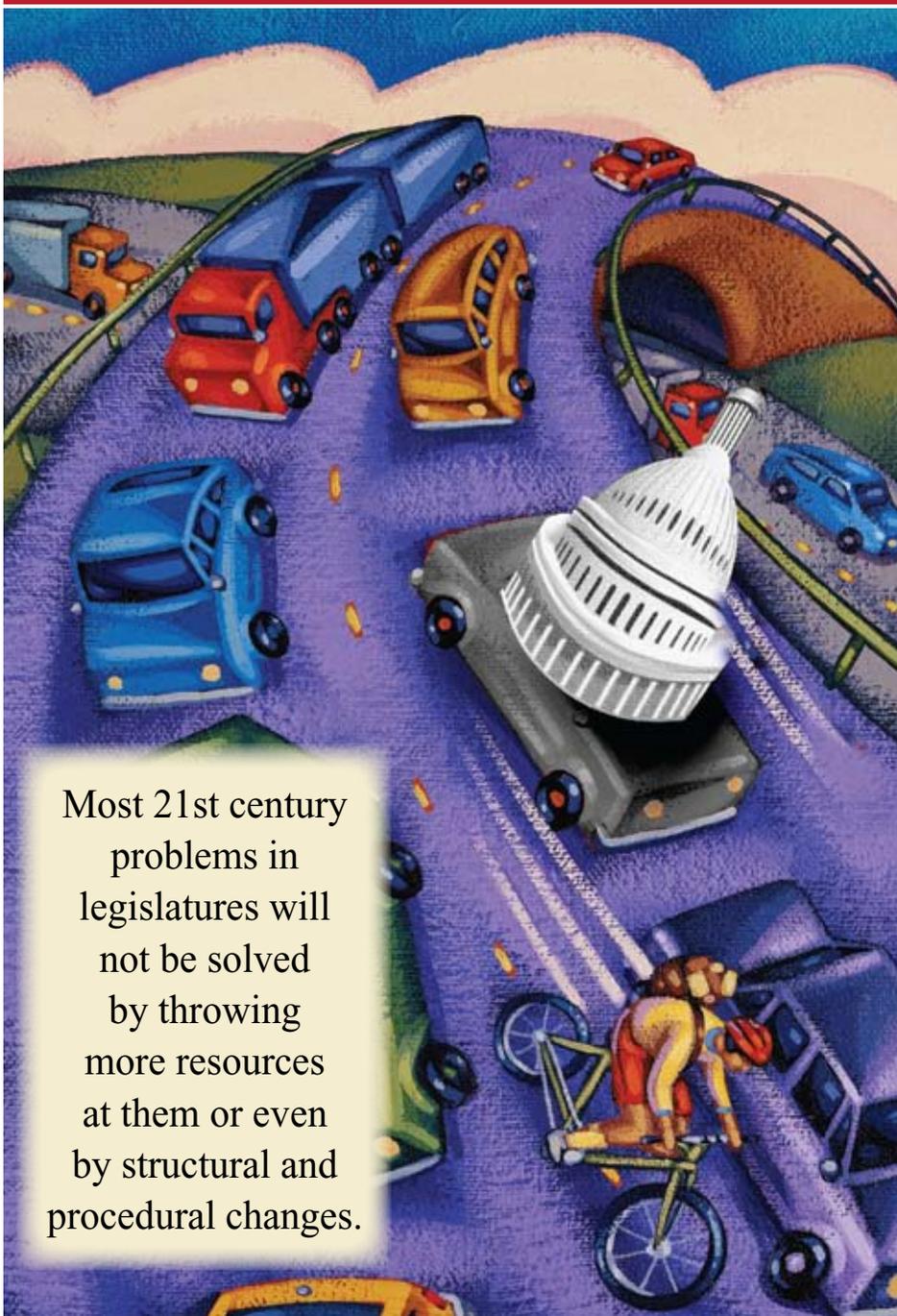
◆**Public cynicism.** Today's excessive public mistrust of democratic institutions is harmful. Cynicism discourages qualified people from running for office, promotes a reluctance by members to address unpopular but necessary issues, encourages simplistic institutional

reforms such as term limits, and increases the public's unwillingness to comply with legislative decisions.

◆**Institutional commitment.** Rosenthal writes that lawmakers often pay little attention to the institution and distance themselves from it. "If they do not devote themselves to their institution's well-being, who can they expect to do the job for them? The responsibility is primarily theirs—and it is not being adequately shouldered."

NEW SET OF QUESTIONS

Rosenthal's list of ailments ring true and it's vital they be addressed and remedied. But it's important to emphasize that not all states



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interests of the state as a whole instead of the cumulative interests of districts and constituencies?

5. Is there a reasonable balance in the legislature between the need to have strong, effective leaders who guide members on procedural and policy choices and the need for internal democracy that disperses power and protects the rights of individual members?

6. Does the majority party have enough clout to get things done? Are the rights of the minority party protected?

7. Is the degree of partisanship in the legislature reasonable? Does the legislature engage

in consensus-building? Are opposing sides willing to negotiate differences and find compromises to difficult problems?

8. Does the legislature have integrity? Do the members of the legislature and the capitol community behave in ethical ways?

9. Do individual citizens and organized groups with an interest in an issue have the opportunity to participate in the lawmaking process? Are all viewpoints heard and treated fairly by the legislature? Is the influence of moneyed interests that contribute to political campaigns appropriate relative to their role in the state's economy and well-being?

10. Does the legislature study and deliberate on issues effectively? Does it allow give-and-take and the open exchange of ideas at all stages of the formal and informal legislative process, especially the committee stage? Are legislative committees strong, attentive and involved in critical decision making?

11. Do the members of the legislature care about and protect the well-being of the institution? Is there adequate continuity in the membership of the legislature to promote institutional values, build up expertise, and pass on knowledge and skills? Are the leaders and members committed to educating the public about the legislative institution and defending its values?

12. Does the legislature have adequate resources—staff, time, facilities, technology—to do its job, and are those resources managed effectively? Is there an appropriate balance between partisan staff who provide strategic advice and guidance to members and nonpartisan staff who provide unbiased analysis and manage the institution?

SOLUTIONS ARE THE CHALLENGE

Each state—depending on its history, traditions and culture—will have different answers to these questions, and people within the same state will disagree. But if the answer is “no” on any set of questions, this is an area to strengthen.

Once those areas are defined, finding solutions becomes the challenge. Most 21st century problems in legislatures will not be solved by throwing more resources at them or even by structural and procedural changes. The remedies for these ailments are more likely to come through education, training and cultural changes in the institution—all of which may be difficult to bring about.

Legislators, staff, academics and committed citizens need to come together to draw up a new agenda to strengthen legislatures.

The reformers of the 1970s had a difficult task of transforming state legislatures into something more than “sometime governments.” But, in retrospect, their task seems easy compared to today's work of building integrity, will, commitment and trust.

The challenges facing today's more robust legislatures are even more daunting. But that shouldn't stop them. They need to find the mechanisms and a spirit similar to those of a previous generation of dedicated people who improved America's state legislatures. ■