

BACKGROUND FOR STUDY OF THE ALABAMA LEGISLATURE

“Legislatures engage in three principal functions: *policymaking, representation, and oversight*. The first, policymaking, includes enacting laws and allocating funds. In their second function, legislators are expected to represent their constituents - the people who live in their district - in two ways. At least in theory, they are expected to speak for their constituents in the state - to do ‘the will of the public’ in designing policy solutions. In another representative function, legislators act as their constituents’ facilitators in state government. The oversight function is one that legislatures have taken on recently. Concerned that the laws they passed and the funds they allocated frequently did not produce the intended effect, lawmakers began to pay more attention to the performance of the state bureaucracy. The oversight role takes legislatures into the administrative realm and, not surprisingly, is little welcomed by agencies, although legislatures see it as a logical extension of their policymaking role.”¹

Understanding today’s Alabama Legislature requires some knowledge of the legislative reform movement that has affected all legislatures and how Alabama did or did not participate in those efforts to modernize. Alan Rosenthal, for many years the chief authority on legislative reform, is the source of the analysis and much of the language of this account.² In sections labeled *In Alabama*, the information is drawn from published sources, state league files, and previous league work. It is subject to amendment as the committee consults in depth a wide range of people and other sources.

Rosenthal describes the legislatures before the reforms of the 1960’s as “unrepresentative, malapportioned, and dominated by rural areas of the states. The legislative process was, in many instances, a sham; power within the institution was narrowly held and not democratically exercised. Major issues were sidestepped, and initiatives for state policy were left to the governor. The legislature’s role in the most important business of government, that of allocating funds, was minimal. Whatever the positive outcomes, and however well-served the people of a state might have been, relatively little was attributable to the performance of the legislature.”³

LEGISLATIVE REFORM

The first stage of the transformation of American state legislatures was precipitated by the reapportionment revolution, the decisions by the US Supreme Court in *Baker v. Carr* (1962) and *Reynolds v. Sims* (1964). Legislative districts were redrawn on the basis of population to conform as closely as possible to the “one person, one vote ideal.” A new generation of members—led by a number of outstanding leaders and supported by allies drawn from the ranks of citizens, businesses, foundations and universities—went to work to reshape legislative institutions through such groups as the Citizen’s Conference on State Legislatures.

This Conference identified five characteristics critical to legislative improvement. Ideally a legislature should be functional, accountable, informed, independent, and representative. The acronym is FAIIR. In a measurement of the fifty states published in *The Sometime Governments: A Critical Study of the 50 American Legislatures by the Citizens Conference on State Legislatures* (library call number: JK 2490 .C57), Alabama ranked 50th based on the following rankings: Functional 48; Accountable 50; Informed 49; Independent 50; Representative 41.⁴

“The *functional* legislature has virtually unrestricted time to conduct its business. It is assisted by adequate staff and facilities and has effective rules and procedures that facilitate the flow of legislation. The *accountable* legislature’s operations are open and comprehensible to the public. The *informed* legislature manages its workload through an effective committee structure, legislative activities in between sessions, and a professional staff; it also conducts regular budgetary review of executive branch activities. The *independent* legislature runs its own affairs independent from the executive branch. It exercises oversight of agencies, regulates lobbyists, manages conflicts of interest and provides adequate compensation for its members. Finally the *representative* legislature has diverse membership that effectively represents the social, economic, ethnic, and other characteristics of the constituents.”⁵

The period of the reform movement, the decade from about 1965 to 1975, is characterized by Rosenthal as the period of “the rise of the legislative institution,” a period when the capacity of legislatures to perform their functions was strengthened. Capacity can be defined in terms of *space, time, and information*.

Increases in Legislative Capacity

Legislative Capacity: Time

“The amount of time that legislatures are in session is two or three times greater than in earlier years. All but seven states changed their constitutions so that their legislators could meet annually rather than biennially. About one quarter of states have no limits on session lengths. Legislatures in California, Pennsylvania, Illinois, Massachusetts, Ohio, Wisconsin, Michigan and New York are now in session practically year round. Even in states with limited sessions, the time legislators spend on their jobs has increased dramatically. In addition to regular and special sessions, legislators attend meetings of standing committees and special committees during the interim three or four times a month.”⁶ “In one form or another, the legislature has become a constant presence that cannot be ignored. While Governors still set the agenda, at least when it comes to major issues, they are no longer the sole source of major policy, nor do they always get what they want.”⁷

In Alabama, Time

Annual sessions with yearly salaries for legislators were rejected by the voters in 1971: however, Amendment 339 for annual sessions was adopted in 1974, under the leadership of former Senator Richard Dominick, a supporter of legislative reform since 1970. Both campaigns were strongly supported by LWVAL.

In length of regular sessions, Alabama’s 30 legislative days is among the shorter ones. Rosenthal cites Florida with 60 days and Maryland with 90 as short.⁸ Alabama’s session of 30 days, however, may be spread over an unusually long period of calendar days for a short session, 105 days. This practice allows some flexibility. Also to gain time in the regular session, Alabama has adopted two reforms recommended by the Citizens Council on Legislative Reform in *The Sometime Legislatures*, and elsewhere. New member orientation and the organizational meetings to elect officers and adopt Rules are conducted before the regular session. In January after a new legislature is elected, the Alabama Law Institute in Tuscaloosa hosts a short session that includes both activities. For this reason and for campaign purposes, Regular Sessions begin on different dates during the four year term

First year (2003)	first Tuesday in March
Second and third years (2004,2005)	first Tuesday in February
Fourth year (2007)	second Tuesday in January

Legislative Capacity: Space

“The improvement of legislative facilities, with the renovation of capital buildings and the construction of legislative office buildings, provided space for standing committee, legislative staff and workers.”⁹

In Alabama: Space

The Legislature did not gain *space* until 1986 when it moved from the Capitol to the upper floors the Highway Department building behind the Capitol, which was renamed The State House. The 5th floor holds most Representatives’ offices and the House Chamber. The 6th houses Committee Rooms, the House Gallery, the Legislative Reference Service, and the Legislative Fiscal Office. The 7th has Senators’ offices and the Senate Chamber. On the 8th are the Senate Gallery, Senate Finance and Taxation Room and the Joint Briefing Room. The State House provides a private office for each legislator to meet with constituents, a private telephone, and a closed sound system for monitoring a committee hearing or floor action. Previously only committee chairs had offices, often shared ones. . The Joint Briefing Room on the 8th floor, called “the Star Wars Room,” is fully equipped with the latest in computer and closed circuit television equipment. Governor Fob James referred to the new legislative quarters as the Taj Mahal.

Legislative Capacity: Information

“The single greatest boost to legislative capacity came as an outgrowth of professional staffing. An increase in the number of people employed and their broad distribution within the legislature meant that everyone was served to some extent. Legislative leaders acquired greater support. Standing committees received the assistance they needed to delve more deeply into their policy domains. Fiscal staffs afforded the appropriations and finance committees the wherewithal to play larger roles in the budget process. Caucus and partisan staff buttressed the legislative parties both in lawmaking and on the campaign trail. Audit and evaluation staffs enabled legislators to try their hands at oversight, inquiring into the efficiency of executive agencies and assessing the effectiveness of government programs. Finally, individual members benefited most often from pooled staff resources.”¹⁰

“Professional staffing grew rapidly in the 1980’s. Non-partisan staff uncovers problems, offers opinions, and analyses putative solutions. Little of an important policy nature is accepted without careful scrutiny. Partisan staff, a later development, serves to safeguard the political positions of its party, making sure that policy works to the advantage of the party.”¹¹

In Alabama: Information

Less progress has been made in Alabama on the third and most important element of legislative capacity, *information*. According to conventional wisdom, legislators rely for information on lobbyists, who have an interest in the bills. or their informal personal contacts.

In the Alabama legislature, no committee or legislator officially has professional staff. The staff is clerical, maintaining the members’ calendars, receiving messages on legislative events and servicing constituents. The clerk provided to each committee chair keeps records of the committee, prepares individual committee members’ files of bills before the committee for consideration, posts notices and agendas of the meetings, notifies members of meetings and other such duties.¹²

Two exceptions to the lack of professional information are the Legislative Fiscal Office and the Legislative Reference Service.

The Legislative Fiscal Office, created in 1975 and strongly supported by League positions, provides fiscal information to the House Committee on Ways and Means and the

Senate Committee on Finance and Taxation, including information about the budget, appropriation bills, and other bills authorizing or providing budget authority or tax expenditures; and information with respect to revenues, receipts, estimated future revenues, and changing revenue conditions. According to House and Senate rules, the Fiscal Office also provides a fiscal note, a written estimate for each bill that will have any anticipated increase or decrease in revenue collections in the state or further, in the Senate, any general bill that affects state funding of more than \$1,000. It also may provide such information to other legislative committees or individual legislators on request.¹³

The Legislative Reference Service, a research, reporting, and bill-drafting agency, established in 1945, operates under the direction of the Legislative Council, also established, in 1945. The Council, composed of selected leaders, designated committee chairs, four elected Senators and six elected House members, has the highest priority with the Reference Service. According to the Alabama Government Manual, individual legislators, the Governor, state departments and agencies, and even local governments may request bill drafting or “spot” research or studies.¹⁴ The priorities prescribed and limited resources, however, affect what this office can provide.

Valuable information with a specific focus on the Alabama Code comes from the **Alabama Law Institute**, at the Law Center of the University of Alabama. It “promotes the clarification and simplification of the laws. Its duty is to consider needed improvements in the law and to make recommendations to the Legislature.” It works with the Legislative Reference Service on Code revision.¹⁵

Other information may come from legislative committees of two types: Joint Permanent Committees and Interim Committees.

Joint Permanent Committees composed of members of both houses may be established by legislative act to gain knowledge and recommend courses of action in specialized areas such as highway safety or criminal justice as the basis for informed legislative action. In addition to committee titles that suggest study, like The Judicial System Study Committee, the list of 62 committees includes those that administer the legislature, such as the Legislative Council and the Community Service Grants Committee. To the extent that the Legislature has oversight of the Executive Branch and government agencies, this “watch dog” function is conducted through joint permanent committees such as the Sunset Committee and the Contract Review Committee. Many focus on fiscal responsibilities like the Drinking Water Finance Authority or Capitol Outlay Oversight for the Board of Corrections.¹⁶

A mechanism used in many states for wide-ranging research on diverse state and legislative problems also exists in Alabama. *The Legislative Process* describes **Interim Committees** as “a traditional means to gain specialized knowledge as the basis for informed legislative action.” Created to solve a particular problem of concern to the legislature, they meet between sessions and generally report during the session following the one at which they were created. “Used extensively” is the phrase in the legislator’s handbook.¹⁷

How adequately these groups function in the absence of professional staff to provide *information*, the most important element of legislative capacity, is yet to be determined.

Other Reforms: Structure

In addition to expanding state legislatures’ capacity by *time*, *space*, and *information*, reformers proposed streamlining the *structure* of the legislature to enable it to work more efficiently. Unicameral legislatures were considered but rarely adopted. Nebraska retains the one it adopted in 1934. Some states reduced the number of legislative seats. Rosenthal notes, “reducing the size of the legislature was intended to increase efficiency and reduce expense. Whatever gains were achieved in efficiency, however, they came at a price. With fewer

legislators, the talent pool within the chamber diminished... a smaller number had to be spread more thinly.”¹⁸

Reformers recommended reducing both the number of standing committees and each legislator’s number of assignments. Others proposals requested clear definitions of the jurisdiction of committees, consistency in assignment of bills to committees with the appropriate jurisdiction, and procedures to make committees more open in the conduct of their business.¹⁹

In Alabama, Structure: Size and Committee Reforms

Alabama made no change in legislative size. With its 35 Senators and 105 Representatives it was already much smaller than assemblies of states that made the reductions.²⁰

Alabama’s committee system has modernized at least once in recent memory. At present the Senate has 23 standing committees. The Local Legislation Committee is composed of three subcommittees: #1 (population less than 300,000); #2 (population more than 500,000); and #3 (population between 300,000 and 500,000) The House has 24 standing committees, with 8 for local legislation. One is labeled Local Legislation; 7 others specify the following counties: Jefferson, Mobile, Madison, Montgomery, Tuscaloosa, Shelby, and Lee. According to the Book of the States, in 1999 only 10 states had more committees than Alabama does.²¹

.From its experiences in recent years, the League Advocacy Committee has noted significant differences in the way committees operate in the two houses in such matters as scheduling of meetings, publishing of agendas, the definition or lack of it in committee jurisdictions, consistency in assignment of bills, and the openness of committee actions and especially the openness of the Rules Committees. Bill management and the conduct of committee meetings varies greatly, depending on the committee chair. As the study committee addresses one of its major topics, the functioning of the committee system in the two houses, these preliminary observations will be substantiated or modified.

In Alabama, events during the reform period of 1965-1975

During the decade of reform described by Rosenthal, the Alabama Legislature, created a Legislative Reform Committee in 1969 that submitted a thorough analysis of the deficiencies of its operations and procedures with 68 recommendations to correct them. Also a joint legislative committee on Constitutional Revision was extended under Governor Brewer into the Constitutional Commission that proposed the first complete new constitution in May, 1973. The Judicial Article and the amendment for yearly sessions were the only portions adopted. If Constitutional Reform had been achieved, legislative reforms would have occurred. A recent review with proposed reforms is an essay by Professor Jesse Brown of Athens College, “Alabama’s Legislative Article: Content, Comparisons, and Prescription” in the *Cumberland Law Review*²².

During the reform period, the League was also at work on Constitutional Reform and adopted positions that include Local Government, the Executive and Legislative Branches, and Taxation and Finance. A Legislative Study, to include non-constitutional changes needed to improve the legislature’s effectiveness, was authorized in 1972. Our existing Legislative positions are the result. Not surprisingly, given Governor Wallace’s power over the legislature, League positions emphasized equality and independence. The position, with some updating of language in 1995 and 2003, reads as follows:

The League of Women Voters of Alabama supports the strengthening of the Legislature that it may more effectively function within the traditional framework of checks and balances among the co-equal branches of government. We recommend that the Legislature meet annually and the legislators receive an adequate annual salary. We believe that a constitutional mandate for the Legislature to select its own leadership is necessary to insure greater independence of the

legislative branch and that there should be constitutional guarantees of adequate representation for all citizens.

In order to insure the independence of the Alabama Legislature and to increase its effectiveness, the League of Women Voters of Alabama supports:

- A. Election of the Speaker of the House by secret ballot;*
- B. Election of each committee chair by the relevant committee;*
- C. Use of efficiency and effectiveness criteria for determining the number of standing committees;*
- D. Maintaining and strengthening the Legislative Fiscal Office.*

In order to increase the responsiveness of the Legislature, the League further recommends easy public access to information on all legislative votes and records.

RESULTS OF REFORM

Legislative strength vs. the Governor

In summarizing the effects of the legislative reform movement, Rosenthal says “state legislatures are in better shape now than they were twenty-five years ago....One of the goals of the reform movement was the coequality of the legislative and executive branches of state government....to narrow the gap. While governors still set the agenda, at least when it comes to the major issues, they are no longer the sole source of major policy, nor do they always get what they want.”²³

Institutionalization

Another consequence of reform, *institutionalization*, can contribute to effective legislative functioning. As legislatures achieved more policy goals, their sense of themselves as institutions developed. Certain norms of behavior were generally acknowledged. Legislators worked in a somewhat closed environment that promoted institutional loyalty, trust, and sometimes civility. Rosenthal sees an institutionalized legislature as one that can deliberate and compromise in ways that were beneficial to the states.²⁴

Professionalization: Careerism

The reforms begun in the late 1960's led to more professional state legislatures, “in the sense of an institution with enhanced capacity to perform its role in the policy making process.” A co-relative development might be called ‘careerism,’ lawmakers taking legislative service as their primary professions. Fewer identified themselves by their professions outside the legislature. Most were full-time or virtually full-time.”²⁵

The professionalization of legislative careers is attributable to a number of factors. Among the most potent are the increasing demands on members' time, the greater resources available to members, and the rising levels of compensation. Probably the greatest increase in time spent on the job results from members attention to constituency affairs. Resources like staff and facilities encourage service.

The marked increase in compensation that has accompanied the other reforms now makes it possible for members to derive a substantial portion of their income from legislative service. The highest in 1996 were California, about \$93,000 per year, and New York, \$57,000. About half the states, however, paid less than \$15,000.”²⁶

In Alabama, compensation is difficult to compare because the original limitation on salary and travel set in the 1901 Constitution remain in effect. When compensation is raised, it is the session expenses and monthly expenses. Adding interim committees and increasing the number of days the committees meet also increases compensation through Committee Expenses.

Legislative Pay: \$10 per day while in session, 105 calendar days.
 Session Expenses \$50 per legislative day while in session, per legislative day
 Committee Expenses: \$50.00 one day a week (while in session). \$75 per day for each day an interim committee meets up to 30 days.
 Monthly Expenses: \$2,280 per month. Every month. Includes District expenses and others legislative expenses when not in session
 Mileage Allowance \$.10 per mile (one round trip per session).
 Plus mileage for Interim committees and for out of state travel on official duties.²⁷

Rosenthal believes that even in states with low compensation, “few legislators leave, except to seek higher office.” In surveys legislators with 15 or more years of service agreed with the proposition that legislators were more likely today than formerly to give priority to their re-election. Increased competition for dominance by political parties is an additional factor. Speculating on why they stay, Rosenthal says, “There are almost as many reasons as there are legislators who serve. Some are drawn to the legislature and remain there because they desire to serve their community and its people. Some are committed to a certain policy domain or a specific issue. Some want to promote a particular ideology. Many relish the excitement of the political process and the influence of the office. A few view legislative service as a way to promote their outside occupations (such as building a clientele for a law practice). Some like the income or the lifestyle. Usually motives are mixed...some combination of altruism and ambition, of public-regardingness and private desire.”²⁸

CHANGES AFFECTING PROFESSIONALIZED LEGISLATURES

Greater diversity among state legislators

Beginning with reappointment and enhances by other factors, legislators became more diverse. The number of women increased from 4% in 1969 to 22 % in 2001, African-Americans were 2% in 1970 but 6% in 1995; African-Americans were 2.2% in 1970 but grew 7% in 1995. Hispanics held 2% of seats nation-wide in 1995, with much higher percentages in selected states.²⁹ Female legislators range from a high of 40.8 % in Washington to a low of 10.1% in Arkansas and, lowest, 7.9% in Alabama. Overall, women occupy 12% of the leadership posts (across twenty-seven states).³⁰

In Alabama, diversity at present

35 Senators:	3 women (8.57%)	8 African-Americans (22.8%)
105 Representatives:	10 women (9.5%)	24 African-Americans (22.8%)
Totals	13 women	32 African-Americans

In its percentage of women, Alabama has consistently ranked 50th among the states.

Deinstitutionalization

Two powerful forces that have tended to deinstitutionalize legislatures are **term limits and initiative/ referendum**. “Between 1990 and 1996, the electorates of 21 states voted for initiative (or referendum) propositions to limit the terms of legislators. Among the twenty-four states that provide for a direct or indirect initiative, only 4 did not approve constitutional or

statutory limits on terms of legislators.” California, one of the most completely professionalized legislatures, was among the first to impose term limits.

“The use of initiative has been on the rise since the 1950’s and 1960’s. The 1980’s saw a marked increase, which continued into the 1990’s. A number of ballot propositions limit the legislature’s authority to impose taxes or spend money. The initiative process has had the most profound impact in California, where [observers] have noted that, in effect, initiative sponsors were becoming the states political leaders, while the governor and the legislature were being thrust into supporting roles.”³¹

In Alabama, Initiative

Initiative was included in the Constitution proposed by Governor Fob James in 1979. Callers to For the Record often ask legislative guests and other leaders whether they support it. A constitutional amendment for Initiative and/or Referendum has regularly been introduced; last session it received attention in a committee.

When the League adopted its original Constitutional Reform positions, no consensus was reached on this topic. In 1981, League published a Facts and Issues with background and the pros and cons entitled *Constitutional Reform: Direct Democracy?* Additional materials for study of California and other states is now available. The topic was authorized by LWVAL state convention as part of the current study: “*The appropriateness of various forms of Initiative and Referendum as possible additions to the legislative process.*” The Board decided to defer that portion until the three parts under consideration are completed.

Increased Politicization

According to Rosenthal, “Legislatures are more partisan than they used to be. The campaign pervades the legislative system and process today in part because of competition between the two major parties in an increasing number of states. Until about 1974, most state legislatures were dominated by one party, most often the Democrats. Nowadays, either party can win control of the senate or house in about three-fourths of the states”³²

Several harmful effects are cited. “In struggles on the floor, each party attempts to put the other on the wrong side of a popular issue. The minority will introduce amendments designed to embarrass the majority rather than really accomplish a legislative purpose.”³³ Rosenthal quotes Royce Hanson’s analysis of the damage to the legislative process. “What has been happening is that the function of the legislature has become that of crystallizing partisan views, not reconciling them (except in the most formal sense of bringing them to a vote). Electoral objectives are being advanced at the expense of the legislative processes of deliberation and legitimization.”³⁴ “An increasing practice in large party states like Illinois, Pennsylvania, Michigan and New Jersey and more lately in Connecticut is for legislative parties to hire staff to support their cause. In California, the politicization has spread beyond the caucuses to all standing committees. In the words of a long-time observer, ‘the policy experts have been replaced by political hired guns whose main job is to get their bosses elected.’”³³

Rosenthal believes, however, that “the party is less of a unifying force on matters of policy than on party organization for electoral combat. Legislators do not conceive of party as having much influence on how they vote on bills. Nor are they willing to go along with a party position at the risk of losing support in their district.”³⁴

In Alabama, Because a two-party system is just developing in Alabama, the kind and effects of politicization are not yet clear, beyond the tug of war between a Governor of one party and a legislature dominated by another. The operations of the caucuses and their effect on legislative function will be a major topic of the study.

Pressures From Without

Professional legislatures with strong institutional practices and controls, are increasingly beset by external demands, to which they are extraordinarily responsive. Pressures arising from ethical scandals have led to indictments and convictions in some states. The greatly increased scrutiny by the press is described by some as “an assault.”

Moreover, in many states lobbying is following a trend that has already occurred with the Congress by turning outward to the grassroots. “Lobbying was almost exclusively an inside game, depending largely on relationships. Lobbying is becoming more and more an effort to demonstrate public support for the group’s position.”³⁵

The greatest pressure, according to Rosenthal, is “the recent democratic trends in and around state legislatures. Despite the popular perceptions that legislatures are autocratic, arbitrary, isolated, unresponsive and up for sale, legislatures are in fact extraordinarily democratic institutions. They have become more democratic of late, so that a systemic shift from representative democracy to participatory democracy is under way.”³⁶ Rosenthal accompanies his analysis of recent developments that have reversed the institutionalization and professionalization of legislatures with the a rather ominous statement, “Indications are that the legislature, as an institution, may be in jeopardy.”³⁷ This view explains the title of his book, *The Decline of Representative Democracy*:

At the very least, the situation requires an examination of the tensions between Representative and Participatory Democracy.

CURRENT LEGISLATIVE ISSUES TO BE EXAMINED

Representative or Participatory Democracy

The lineage of the **representative** model includes Edmund Burke and the decisions of the American Constitutional Convention, especially the reasons for creating Congress with the different representative modes of the Senate and the House. The arguments for this kind of democracy are probably most familiar from The Federalist Papers, especially Number 10, which describes the dangers of “faction” and demonstrates how the proposed federal constitution can control them. In this view legislators function as Trustees, “Representatives must do their best for those in their charge, using judgment and wisdom in their decisions.” It is assumed that “through their familiarity with the legislative process, legislators are exposed to information that other people simply do not get a chance to see.” Rosenthal and others believe this model promotes deliberation and consensus building in state legislatures.³⁸

In the second model, **participatory democracy**, the representative acts as a delegate, accurately reflecting the wishes and opinions of those who are being represented. The representative acts in response to the wishes expressed by constituents even if they conflict with the representative’s own judgment. It partakes more of the direct democracy associated with ancient Athens and the New England Town Meeting. Initiative and Referendum are the contemporary devices most used. Advanced polling techniques have been discussed as a mechanism.

Each legislator chooses a place on the continuum between the two extreme forms of trustee or delegate for a legislative career or for a single vote. Citizens must also consider what kind of representation they want. For this year’s program, the packet includes an exploration of these tensions from the point of view of legislators. *The Case for Representative Democracy: What Americans Should Know about Their Legislatures*, from The National Conference of State Legislators, 2001 should provoke an exchange of views and examination of League members’ attitudes.

The Budget Process and Possible Reforms

Executive Actions

Alabama is an executive budget state. Executive budgeting is established by law and requires the governor to create a budget proposal for the operation of the executive branch of government. Because the state operates under two main budgets tied to separate funding streams (the Special Education Trust Fund and the General Fund), two separate budget proposals are presented to the legislature. Legal responsibility for the creation of the final budgets resides in the legislature. Executive budgets are advisory.

The Siegelman Administration was the first to formally begin the implementation of performance budgeting to create the executive budget. The move to the performance budget was mandated by a legislative act and committed the legislature to supporting the process. Implementation began with a few agencies that volunteered to be part of a trial run that included testing computer systems and training staff in performance measurement and budgeting techniques. The last gubernatorial election and the massive revenue shortfall experienced interrupted the implementation of the process.

The Riley Administration is currently implementing performance budgeting using a package it calls Smart Budgeting (described at: www.governor.state.al.us). Smart stands for: Specific, Measurable, Accountable, Responsive, and Transparent (easy to understand and available for public scrutiny).

Performance budgeting begins with the creation of a strategic plan and ties budget decisions to that plan. It requires the creation of a mission statement for the state as a whole. The Riley Administration gives the state mission as follows:

The mission is to transform Alabama's government fundamentally so that its central focus is to serve the people of Alabama ethically and efficiently in order that all sectors of our state, private and public, achieve their potential.

Performance budgeting also requires the identification of the values the system will be operating under. They are currently given as: trust (public trust); excellence (in all state functions); "servanthood"; and results.

A series of priorities with related goals is then established. These in turn are broken down into specific objectives to be achieved. Each objective must be measurable in some fashion so that with time it can be determined whether the objective is being achieved. State agencies must develop their own mission statements that support the state mission. They, too, must establish goals and objectives as well as the key assumptions that will drive their budget proposal, the critical issues they face, and strategies they will use to ensure achievement of the objectives. Budget proposals must then reflect these decisions.

The processes required to create this type of budget are time-consuming initially and require a reorientation in thinking on the part of administrators and line personnel. Properly applied, this process allows for efficient management of the executive branch.

Historically, the central problem generated by the creation of new budgetary approaches is whether a budget generated by the executive branch using the new format will be examined and utilized in the legislative decision-making process. Legislative support of new approaches can be dependent upon the nature and quality of the legislative leadership, political party and ideological differences (within the legislature and between the legislature and the governor), election cycles and resulting changes in elected personnel, whether legislators are trained to understand the ways in which the data may be used, interest group pressures, and a host of other factors. We have yet to see how the legislature will use the performance budget format in its own deliberations.

The Legislative Process

Legislative involvement with the budget typically begins before the start

of a legislative session. An interim committee(s) holds hearings on the budget proposal. These hearings usually begin with testimony from the head of the Legislative Fiscal Office (LFO) and the Revenue Commissioner. They outline the financial situation of the state and report on potential revenue levels. The two offices have a variety of forecasting models available to them and each forecasting model is built on a set of assumption that vary across models. As a result analyses they each rely on may result in different projections of revenue. Legislators may individually rely on still other forecasts. The norm for professional forecasters is to take what is known as a conservative approach, that is, to rely on the lower estimates of revenue in planning. The LFO and the Revenue Commissioner are also in communication with the Finance Office, Governor's Office, and other major actors in the development of the executive budget. Hearings also are held with the major state agencies. At these hearings they present their budgets and answer questions from the committee.

Once the legislative session begins, the standing committees with jurisdiction perform typical legislative functions. Unlike the U.S. Congress, both the revenue and appropriations sides of the budget are handled by the same committees. In the House these committees are Education Finance and Appropriations and Government Finance and Appropriations. In the Senate they are called Finance and Taxation Education and Finance and Taxation General Fund.

The "Budget Isolation Amendment" (#448), a constitutional amendment ratified by a statewide referendum in 1984, requires both houses of the legislature to pass the major budgets before either legislative chamber may send a bill passed by it to the other chamber for consideration. However, the same amendment gives each chamber the right to enact legislation other than the budgets if the chamber by a three-fifths vote votes to enact the bill. This action is routinely taken.

The brochure, *How a Bill Becomes Law*, is useful for the legislative part of the process. LWVAL program for 2003-2005 contains a Budget position adopted in 1987 and updated in 1995. That position supports more openness to the public, a concept discussed today as Budget Transparency.

Budget Transparency

In the definition of SMART budgeting, the T stands for transparent. A budget is transparent if it is easily accessible and understandable by the general public. The Center on Budget and Policy Priorities in Washington, as part of a study of the New Jersey budget, states that transparency will have a major impact on the following three areas:

Fiscal Stability: Poor budgets are often a function of insufficient information. Short term projections are not enough. Projections should estimate the cost of maintaining current levels of service for at least 5 years to show areas of greatest future need. This practice makes it unnecessary to just increase all programs by the same percentage whether needed or not.

Informed Debate: The public should participate in the debate on the use of public funds. This requires well presented and understandable budget information. Because the Governor's budget is advisory, it is important that it be possible to compare it to alternative proposals from the House and Senate.

Accountability: Citizens must be able to evaluate decisions accurately. It would be good to include performance data that illustrate the expected results of proposed expenditures. One suggestion for accountability is to include "tax expenditures," These are revenues lost from tax abatements, subsidies to businesses through exempting certain items of revenue. Many of these last for years.

A budget is truly transparent only if citizens and interest groups have the opportunity

to provide these analyses at each step of budget deliberations. The legislative process should allow adequate time for legislative and public review.³⁹

Structure and Function of the House and the Senate

These topics have been introduced during the discussion of legislative reforms.

Specific procedures and topics for investigation will include the following:

- a) the operation of the committee system, including the Rules Committees
- b) how well local legislation is handled in each house
- c) role of party affiliation and the functioning of the caucuses, including the Black Caucus.

The Role of Lobbyists

Definition: Lobbying is the process by which groups and individuals attempt to influence government decision-makers. *The Legislative Process: A Handbook for Alabama Lawmakers* is blunt. "The lobbyist's function is to propose or support legislation that would be beneficial to the interest represented and to oppose legislation that is deemed harmful to that interest."⁴⁰ Groups like the League of Women Voters, who lobby in the public interest and advocates for special needs like ARISE and Children First, register their lobbyists and pay the fees. In a ranking of the most influential interests in the fifty states in 2002, public interest/good government groups ranked 32nd.⁴¹

States have also been classified according to the overall impact of interest groups in 2002. A table in the Appendix shows that interest groups wield a dominating influence on the Alabama Legislature. Apparently interest group dominance is particularly true in states where political party leadership is weak and where there is relatively little economic diversity.⁴²

CONCLUSION

In the end, Rosenthal and the Council of State Legislatures do not only propose reforms for state legislatures; they advocate civic education for citizens. As citizens consider the kind of representation they want and the legislative policies they favor, Rosenthal asks them to accept the following points as the essentials of contemporary democracy:⁴³

1. The public is divided; public opinion is divided.
2. Public officials, reflecting the publics and their opinions, are also divided.
3. Ordinary people are represented by groups and also by legislators who do their best to be responsive to their constituencies.
4. Debate is good, allowing as it does opposing sides to be heard.
5. Compromise is essential, if consensus is to be built and progress is to be made.
6. Competition and conflict are normal and healthy.
7. People cannot get everything they want.
8. Working through to a settlement takes time.
9. Although settlements are reached, closure is rare; the process continues.
10. Through it all, tolerance helps.

In Alabama, League last considered what its legislative policy should be when the reform movement was just beginning. In Alabama those reforms were only partially implemented. . Now League can returns to the question of what reforms are best for the Alabama Legislature

using analysis of the effects of reform elsewhere and the requirements imposed by recent developments.

LWVAL Legislative Study Committee

Anne Permaloff, Montgomery
Beth Kellum, Montgomery
Jeanette Vandermeer, Tuscaloosa
Anne Schumaker, Greater Gadsden

10/12/2004

Ginnie Bennett, Auburn
Martha Rogers, Tuscaloosa
Yvonne Koslowski, Auburn
Carolyn Tambl

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- ³ Rosenthal, *The Legislature*, p. 108
- ⁴ *The Sometime Governments: A Critical Study of the 50 American Legislatures by the Citizens Conference on State Legislatures*. (Bantam Book, 1971), pages 168 to 171.
- ⁵ Bowman and Kearney, pages 156-157.
- ⁶ Rosenthal, *The Legislature*, page 111.

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- ⁷ *Ibid.* pages 108-109.
- ⁸ Rosenthal, *The Legislature*, page 111. See also *The Book of the States, 2000-2001* (Lexington, Ky: Council of State Governments, pages 66-60, Table 3.2.
- ⁹ Rosenthal, *The Legislature*, page 109.
- ¹⁰ *Ibid.*.
- ¹¹ Rosenthal, *Decline*, page 302
- ¹² *The Legislative Process A Handbook for Alabama Legislators*. Edited by Robert L. McCurley, Jr. Eighth Edition (Alabama Law Institute: Tuscaloosa, Alabama, 2003), page 145.
- ¹³ *Alabama Government Manual*. Eleventh Edition. Alabama Law Institute (Tuscaloosa, Alabama. 2002), pages 165-168. *Legislative Process*, pages 172-174 and page 73.
- ¹⁴ *Alabama Government Manual*, pages 606-607 and 598-599
Legislative Process, pages 165-168.
- ¹⁵ *Ala. Gov. Manual*, pages 600-602.
Leg. Process pages 174-175.
- ¹⁶ *Leg. Process*, pages 24-27.
- ¹⁷ *Ibid.*, page 28
- ¹⁸ Rosenthal, *Decline*, pages 51-52.
- ¹⁹ *Sometime Governments*,, pages 147-150.
- ²⁰ Rosenthal, *Decline*, page 51.
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- ⁴² *Ibid.*, pages 121-122.
- ⁴³ Rosenthal, *Decline*, page 343.