



# SEARCHING FOR LEGISLATIVE ACCOUNTABILITY

REBUILDING CITIZEN TRUST IN  
THE LEGISLATIVE PROCESS

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Report of the  
**University of Denver**  
**Strategic Issues Panel**  
on Legislative Accountability



UNIVERSITY of  
**DENVER**

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STRATEGIC ISSUES PROGRAM

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# Letter from the Chancellor

DEAR FRIENDS,

The University of Denver has a distinctive commitment to the public good, manifested in so much of the work of our faculty, students, staff and alumni. Across the University, faculty conduct research that adds to the font of human knowledge, expands human expression and, often, specifically addresses complex issues confronting our city, region, state, nation and world.

In this spirit, the University of Denver is proud to support the Strategic Issues Program, which each year chooses an issue of public import, convenes thought leaders from on and off campus, seeks to understand the complexities of the topic and recommends paths forward.

The Strategic Issues Program never shies from tackling incredibly complicated, nuanced or entrenched issues. But this year's panel, in considering legislative accountability at local, state and national levels, took on an issue that affects every person living in our nation.

In an age of grave distrust of the fundamental institutions of our democracy—and amidst a crisis of political polarization and gridlock—it is as important as ever to talk openly and honestly about political processes and how we might move beyond the gridlock.

This year's panel consists of 16 distinguished and knowledgeable individuals from various backgrounds. I thank them—and chair Jim Griesemer—for their hours of study and deliberation, which resulted in this report. Neither the subject nor the process is simple or straightforward, but the report itself is comprehensive and approachable—no small feat!

Part of what makes the Strategic Issues Program reports so successful is that they are often cited and used by those in positions to make change. We can only hope that this year's report will generate conversation and action that help to establish more accountable legislatures at the local, state and national levels. Indeed, this hope embodies the shared goal of this program and this university.

Sincerely,



Rebecca Chopp  
Chancellor  
University of Denver



## Overview from the Panel Chair

Few, if any, public institutions are more important than legislatures. Whether it is the U.S. Congress, a state legislature, city council, county commission or school board, legislative bodies have the power to impact citizens' lives in profound ways. The authority to adopt laws, allocate public resources and establish policies affecting individuals and organizations makes legislatures among the most significant institutions in society.

Given such great authority, one would expect that legislative power would be balanced with a high degree of public accountability. This proves not to be the case. Indeed, as institutions, legislative bodies have virtually no collective accountability to the public.

This serious shortcoming is the result of a mismatch between individual and institutional accountability. While legislative bodies are comprised of individual legislators, public policies can only be established or amended as a result of collective action. However, the only mechanism for legislative accountability—elections—focuses exclusively on individual legislators.

In the panel's view, the absence of collective institutional accountability is one of the reasons that legislatures are a prime target of the political dissatisfaction expressed by many citizens. At the federal level, and in some states, frustration with elected officials

continues to grow, while trust in Congress has reached all-time lows. With increasing frequency, citizen discontent has turned to anger and natural human skepticism has given way to civic cynicism.

It is this troubling trend—declining public trust in a vital, but unaccountable, social institution—that led the University of Denver to suggest that its 2015 Strategic Issues Panel examine the issues of legislative accountability and public trust. In the course of its work, the panel spent some ten months hearing from scholars, former public officials, advocates and other experts as well as reviewing a broad array of written materials.

After considering a wide range of ideas and perspectives, the panel began to examine issues that may underlie citizen frustration. The list proved to be long and the topics complex: political polarization, the role of big money in politics, special access for the rich and powerful, gerrymandered electoral districts favoring a single party, caucuses controlled by party activists, legislative bodies shutting out minority viewpoints and other issues all have the potential to erode public trust.

As important as these topics may be, the panel concluded that a viable mechanism for legislative accountability was unlikely to be found by addressing these issues. Although calls for reform may be appropriate, the degree to which these conditions exist varies significantly from one legislative body to another. An issue that may be a serious concern at the federal level may or may not be a



problem in a particular state legislature or local government.

Instead of tackling such fundamental but highly variable issues, the panel sought a practical approach to legislative accountability, one that could be implemented readily at any level of government. Panel members concluded that an accountability process should be performance based, straightforward, and easily implemented by any legislative body. Panelists also sought an approach that would give legislative bodies an opportunity to assume a greater leadership role in public affairs.

The panel's basic recommendation is, in a sense, deceptively simple. It calls for legislative leaders from both parties to develop a collaborative annual legislative agenda for the institution, rather than separate party agendas as is the current practice in many legislatures. The agenda identifies the most important issues facing the nation, state or locality—matters of strategic importance—and is publicly presented at the beginning of the annual legislative session. At the conclusion of the session, the legislature reports on actions taken to address the issues identified in the agenda.

This process, which the panel called Clear Legislative Accountability Reporting (CLEAR), offers a unique institutional accountability mechanism for legislative bodies. It is an approach that encourages bipartisan cooperation on vital issues and has the potential to break the logjam of legislative gridlock. It gives

the legislature an opportunity to assume leadership on important issues, demonstrate political capability, and educate the public on strategically significant matters. And, importantly, it presents a thoughtful basis for citizens to assess legislative performance, thus providing a foundation for rebuilding public trust.



James Griesemer  
Chair, Strategic Issues Panel  
on Legislative Accountability  
University of Denver



# REPORT OF THE UNIVERSITY OF DENVER STRATEGIC ISSUES PANEL ON LEGISLATIVE ACCOUNTABILITY

Legislatures are the defining institution of representative democracy, the direct link between the government and its citizens.

Legislatures exist, as James Madison observed, to “refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country.” It is a responsibility so central to public policy and administration that without an effective legislature it is difficult for governments to address important public issues. In a representative democracy, when legislatures fail to perform effectively, government stumbles.

Unfortunately, government stumbling and legislative ineffectiveness describe how many citizens view the situation in Congress and in some state and local legislative bodies as well. As the data in this report make clear, there is a high level of citizen frustration with

legislatures that fail to act on, or even address, important public policy issues. A significant consequence of this frustration has been a dramatic decline of citizen trust in government in general and in legislative bodies in particular.

**“In a representative democracy,  
when legislatures fail to perform  
effectively, government stumbles.”**

The inherent importance of legislative bodies, coupled with concerns about the erosion of citizen trust, led the University of Denver to ask its 2015 Strategic Issues Panel to examine the issues of legislative accountability and public trust. The panel studied the loss of public trust and its implications for government,

looked at potential drivers of declining trust, and explored the role of legislative accountability in rebuilding trust.

On the basis of its examination, the panel identified a process that legislative bodies can readily adopt to help citizens and interested organizations assess legislative performance. The panel believes its recommendations provide a practical means for legislatures to

demonstrate their accomplishments, inform public judgment about legislative effectiveness, and provide a foundation on which to rebuild public support for legislative institutions.

## TRUST, GOVERNMENT AND SOCIETY

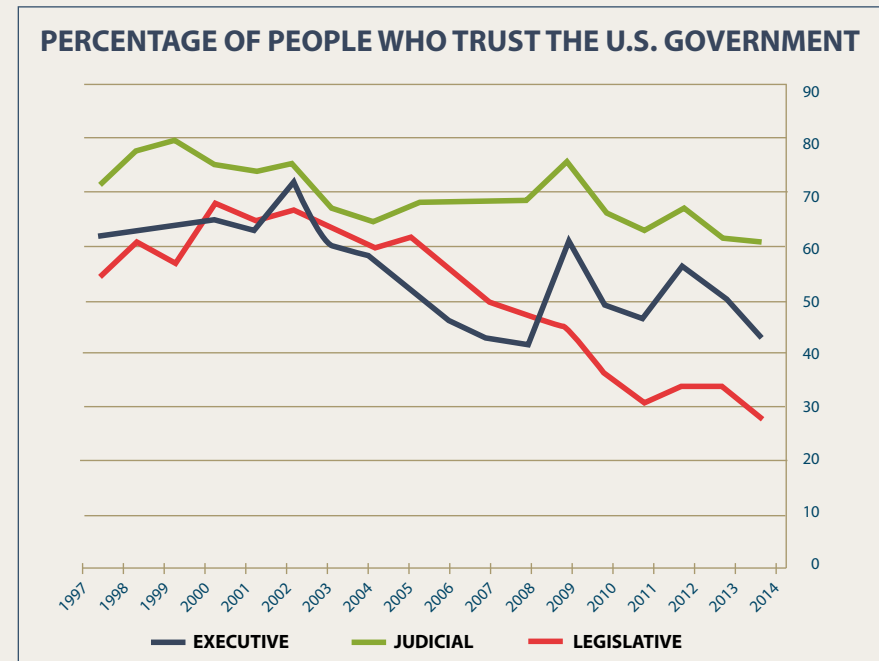
Representative democracy and the effectiveness of its defining institution—the legislature—rests on the bedrock of public trust. Trust is the irreplaceable element of every republic, essential to the successful functioning of all branches of government, at all levels: national, state and local. Trust is particularly important for the legislative branch, which is connected to voters in the most immediate way through the election of representatives from local districts.

### A LOSS OF TRUST

Fifty years ago, 77 percent of U.S. citizens believed their government would “do the right thing” always or most of the time. Today, less than 25 percent have this level of faith in government.

Not only does the public have declining confidence in government to solve problems, national polls reveal that many people think that government is the problem, outranking issues such as terrorism,

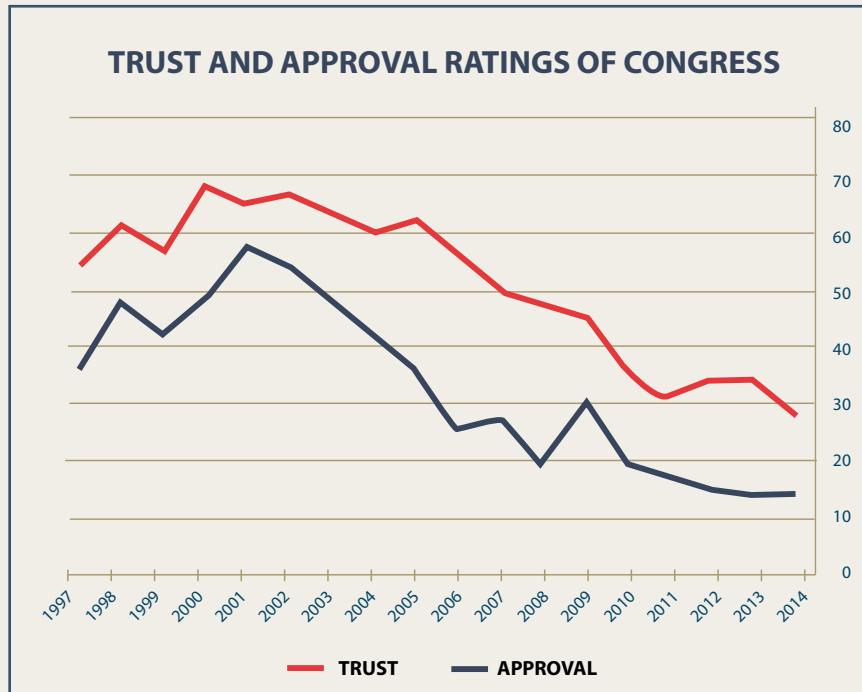
the federal budget deficit, and immigration. Figure 1 reflects the general decline in public trust among the three branches of the federal government since 1997.



**FIGURE 1—PERCENTAGE OF PEOPLE WHO TRUST THE U.S. GOVERNMENT A “GREAT DEAL” OR “FAIR AMOUNT”**

Source: Data from GALLUP

Figure 2 focuses on the U.S. Congress, showing the parallel decline of citizen trust and public approval, both of which have fallen to historic lows over the past decade. According to these polls, while



**FIGURE 2—TRUST AND APPROVAL RATINGS FOR CONGRESS**

Source: Data from GALLUP

only 28 percent of respondents said they have a “great deal” or “fair amount” of trust in Congress, even fewer—14 percent—approved of the job Congress is doing. In fact, where the institution of Congress is concerned, surveys suggest that citizens have more confidence in many things—police, banks, newspapers, TV news, big business—than they do in Congress. A poll reported by *Governing* magazine indicated that Americans have a higher opinion of root canals, head lice, cockroaches, Brussels sprouts, Genghis Khan and colonoscopies than of Congress.

### THE NATURE OF PUBLIC TRUST

Public expressions of distaste for congressional performance might be taken with a grain of salt if the consequences were not so serious. The degree to which citizens trust their government has profound implications for public institutions and the larger society as well.

In countries where levels of trust are low, the relationships among citizens and between citizens and governmental institutions are far different from those in societies where trust is higher. Political scientist Francis Fukuyama provides a striking description of the social fabric in low-trust countries:

“In such [low-trust] societies, neighbors are not potential helpmates but dangerous rivals, which is why domestic



architecture in all of these places tends to turn inward to hide the family's wealth from prying eyes. ... Businesses often keep two sets of books, an accurate one for the family and another for the tax collector; rampant tax evasion is socially approved because the state is regarded as just another dangerous stranger.”

In societies with higher trust levels, the relationship between citizens and government can be far more positive. Trust leads the public to comply with laws, pay taxes, support military actions, and show confidence in other ways. Citizen trust affects the willingness of the public to accept legislative policies, executive actions and court rulings even if, as individuals, they may personally disagree. Trust allows citizens to believe that while their personal view on an issue may not have prevailed today, they will get another chance to pursue their objectives in the future.

Higher levels of citizen trust also enhance the ability of politicians to deal with complex problems. As professor and author Jeffrey Becker notes:

“Public trust provides elected officials and community leaders with the latitude to make decisions on public questions without continually seeking popular approval.”

Where citizens trust the competence and motives of officials, they are more likely to believe that authorities are acting fairly and are more willing to accept governmental decisions.

Conversely, when citizen trust in government declines, the job of public officials becomes much more difficult. Yale professor Peter Schuck describes the environment where there is public dissatisfaction with government:

“Even if the current level of dissatisfaction falls short of widespread loss of legitimacy, it still constitutes a serious challenge to effective governance. It means not only that citizens hold low expectations of the government ... but also that the public is less willing to provide government with the authority, support, resources, and patience that effective policy making may require.”

### WHEN TRUST ERODES

As the foregoing observations suggest, public trust is not an ethereal matter; it impacts both government and the larger society. In the United States, while the legitimacy of democratic institutions runs deep, there is also a



**Ginger Maloney**  
Legislative Accountability Panel Member

historic skepticism of government embedded in American political culture. This underlying skepticism, compounded with falling levels of trust, can manifest itself in citizen actions intended to limit the authority of elected officials or the institutions of government.

In the early 1990s, a national movement to limit the power and authority of both federal and state legislative institutions led 23 states to adopt term limits for their congressional delegations. Nearly as many states also adopted term limits for representatives in their state legislatures. Some scholars have suggested that declining levels of trust in public officials is the most important factor in explaining support for term limits. Although the U.S. Supreme Court ruled that states could not impose such

limits on Congress, 15 states continue to have term limits for their state representatives.

Another significant movement designed to check the power of

legislatures has come in the form of citizen-imposed tax and expenditure limits (TELs). Currently, 30 states have some form of tax or expenditure limits, or both. Measures such as term limits and TELs have constrained the ability of state legislatures to

perform. Term limits have resulted in the loss of both institutional knowledge and leadership continuity within legislative bodies. Tax and expenditure limitations can impede the ability of legislatures to react to changing fiscal conditions within states.

Joining term limits and TELs as inhibitors of legislative performance are citizen initiatives. Nearly half the states have some form of initiative process that allows citizens to bypass the legislature completely by placing proposed statutes or constitutional amendments directly on the ballot. While the initiative process dates back 100 years in several states, there has been an increase in the number of citizen initiatives in recent years. According to the National Conference of State Legislatures, initiatives have changed from a grassroots tool for citizens into a

**“When citizens lose trust in legislative bodies they limit public officials’ freedom of action.”**

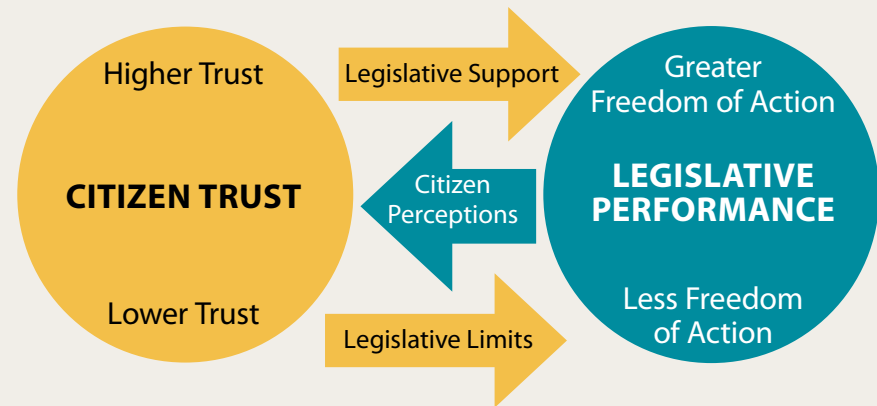


**Dennis Baldwin**  
Legislative Accountability Panel Member

device often exploited by special interests. Like tax and expenditure limits, citizen initiatives have removed a number of key decisions from the deliberative process of the legislature, weakening representative government.

All of these measures—term limits for legislators, tax and expenditure limitations, ballot initiatives that bypass the legislature—have foundations in declining citizen trust in the legislative process. Each limits the ability of legislatures to react to important issues facing the state, which, in turn, has the potential to further erode citizen trust. When citizens lose trust in legislative bodies they limit public officials' freedom of action.

The interrelationship between citizen trust and legislative freedom of action to address pressing public issues is illustrated graphically in Figure 3. Declining levels of public trust often take considerable time before they manifest as tangible action, but, as the legislative limitations described above make clear, the effect can be quite real. The relationship between citizen trust and a legislature's ability to perform can also be mutually reinforcing in either a positive or negative way. Over time, this can result in a positive cycle of increasing trust or a negative spiral of declining public confidence in government.



**FIGURE 3—CITIZEN TRUST AND LEGISLATIVE PERFORMANCE**

Source: University of Denver Strategic Issues Program



**Patricia Cooper**  
Legislative Accountability Panel Member

## DRIVERS OF DISTRUST

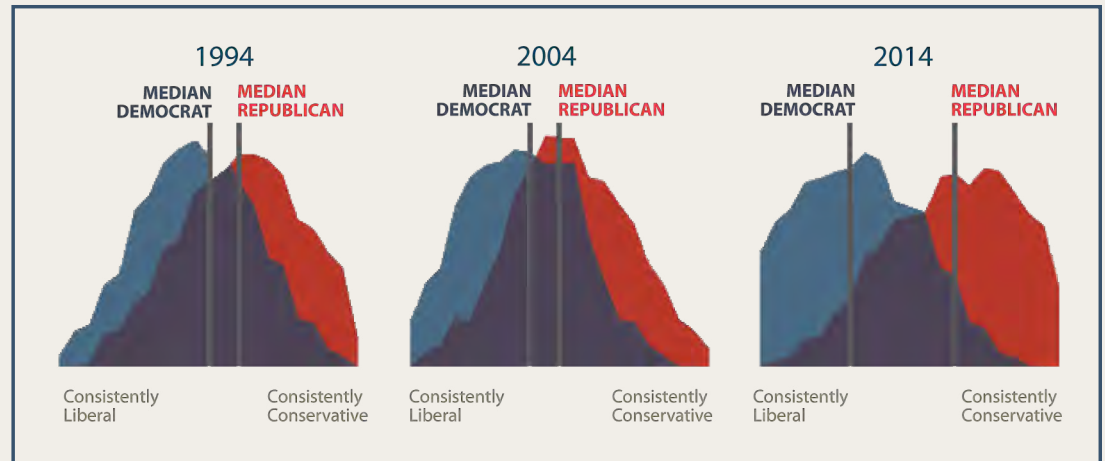
The United States is not the only modern democracy to experience a decline in public trust. Since the 1960s, nearly all industrialized democracies have experienced a decline in the level of trust enjoyed by their respective governments. Theories abound as to possible drivers of declining public trust in governmental institutions. Whatever the underlying forces, two major concerns among U.S. citizens are legislative gridlock—a failure of legislatures to deal with important issues—and increasing levels of political polarization, which encourage such deadlock.

### POLITICAL POLARIZATION

Political polarization occurs when members of a party align with more ideologically extreme positions. Over the past 20 years, growing polarization within both major parties has become a matter of concern among citizens, officials and academics alike. Some scholars consider political polarization and the resulting legislative gridlock to



**Jerry Groszold**  
Legislative Accountability Panel Member

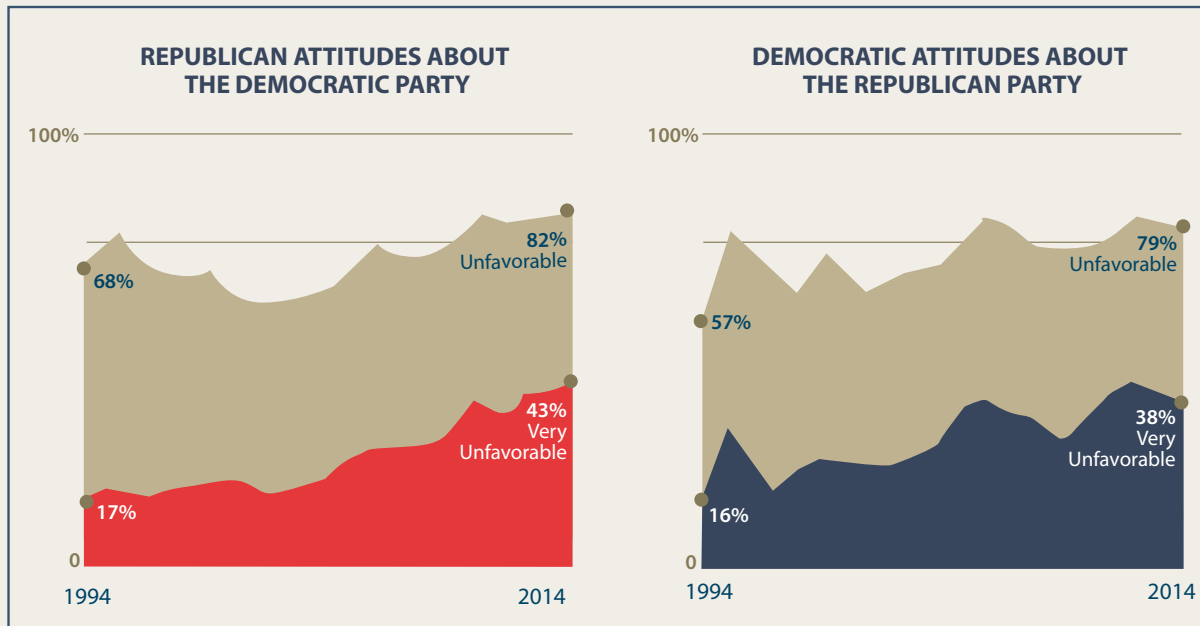


**FIGURE 4 - POLITICAL POLARIZATION OF THE AMERICAN PUBLIC**

Source: Pew Research Center, 2014

be the most problematic feature of contemporary American politics. Moreover, political polarization is not limited to the U.S. Congress; studies indicate that about half of state legislatures are even more polarized than Congress.

Voters are inclined to blame elected officials for polarization. However, it is important to recognize that the increased polarization seen in legislative chambers reflects a trend that exists among the public at large. It is not only officials who are becoming more



**FIGURE 5 - ANTIPATHY GROWS IN BOTH PARTIES**

Source: Pew Research Center, 2014

ideological, but also the voters themselves. Data from the Pew Research Center, which has been studying political polarization for a number of years, confirms the increasing ideological divide among citizens, as shown in Figure 4.

In addition to holding increasingly polarized views, the negative

intensity with which members of each party view the other party has become more strident. As Figure 5 shows, in 1994 a majority of Republicans had unfavorable impressions of the Democratic Party, but only 17 percent held very unfavorable views. Twenty years later, some 43 percent of Republicans held very unfavorable views toward Democrats. A similar trend of growing antipathy exists among Democrats in their views of the Republican Party.

### LEGISLATIVE GRIDLOCK

While there are various views as to the reasons for increased political polarization among the public, there is little question that elected officials operate in an increasingly polarized

political world. It is an environment in which levels of legislative deadlock have steadily risen and where, according to research by political scientist Sarah Binder, stalemate can affect as many as three-quarters of the salient issues on the agenda in Congress. RAND researchers Diana Epstein and John Graham have observed

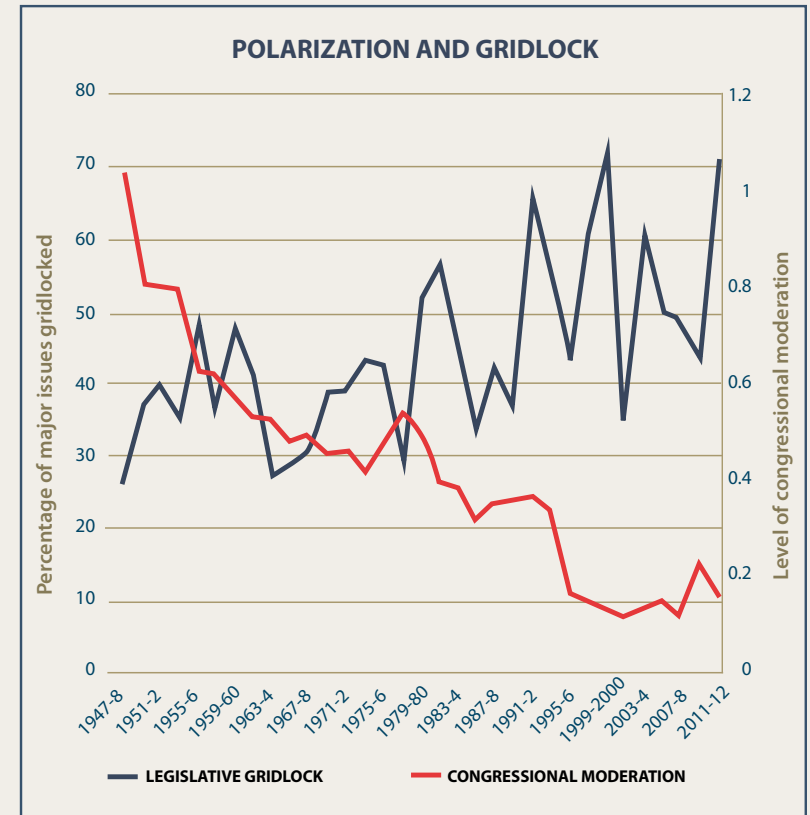


that, as the ideological center of gravity of parties has moved farther apart, there has been a “marked decline in legislative centrists who bridge the parties and broker crucial compromise.”

Fewer legislators occupying the middle of the political spectrum, and hardening views on each side about the opposition, have resulted in a decline of bipartisan cooperation within legislatures over the past two decades. The U.S. political system often requires broad, usually bipartisan, coalitions to adopt or alter the direction of public policy. Coalitions are far easier to achieve when a significant number of legislators are political centrists rather than located closer to the ideological boundary of either party. At the Congressional level, and in some states, declining bipartisan cooperation has contributed to legislative gridlock. Figure 6, illustrates the relationship between polarization—measured as a lack of congressional moderation—and legislative gridlock in Congress.



**Pat Grant**  
Legislative Accountability Panel Member



**FIGURE 6 - POLITICAL POLARIZATION AND GRIDLOCK**

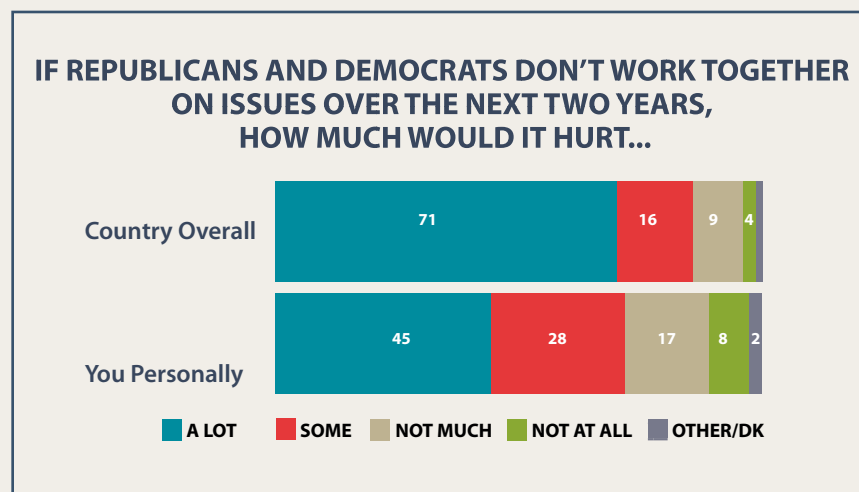
Source: Sarah Binder

## PERFORMANCE AND PUBLIC TRUST

While legislative gridlock may be the norm in Congress and some state and local legislative bodies, the majority of U.S. citizens live in a world where they are rewarded for successful performance in their chosen field of endeavor. Therefore, it is not surprising that citizens tend to base their trust in government on an assessment of the performance of public institutions. When citizens were asked in a 2013 Gallup survey why they disapproved of the job Congress is doing, the two highest categories of responses were “Party gridlock/bickering/Not compromising” and “Not getting anything done/Not making decisions.”

These views are consistent with research that concludes that public trust is based, in part, on the degree to which citizens perceive that government meets their performance expectations. Relying on perceptions of legislative performance as the basis for trust is particularly relevant when a citizen does not personally know his or her representative. This typically is the case with Congressional representatives in the U.S. Senate and House. It also is often true with representatives at the state level where few people are able to name their state legislator.

Although relatively few citizens know their Congressional or state legislators on a personal basis, the public does recognize the importance of legislative performance. A poll by the Pew Research Center and *USA Today* shows the degree to which the public is aware of the importance of effective legislative performance. As illustrated in Figure 7, when those surveyed were asked about the effects of continued legislative gridlock, 71



**FIGURE 7 – PERCEIVED IMPACT OF PARTISAN GRIDLOCK**

Source: Pew Research Center

percent said it would hurt the country while 45 percent thought it would be personally detrimental as well.

The panel found that there is a clear relationship between public trust and the way citizens perceive the performance of governmental institutions. As legislative gridlock inhibits the ability of legislatures to address major issues, citizen frustration mounts. To the degree that legislative bodies can demonstrate effectiveness in dealing with important public issues, the panel believes that citizen trust in government can be strengthened. With this in mind, *the panel concludes that legislative performance, demonstrated through a process of accountability, can provide a foundation for building citizen trust.*



**Phil Vaughan**  
Legislative Accountability Panel Member

## LEGISLATIVE ACCOUNTABILITY

The panel believes, as do many citizens, that politically driven gridlock—where legislative bodies consistently fail to address important public issues—is unacceptable. Legislative gridlock

seriously impairs governmental effectiveness and erodes public trust. The question is: What can be done to encourage bipartisan legislative action on important public issues? The panel determined that the answer is to be found in a process that strengthens legislative accountability.

Unlike parliamentary systems, where power is consolidated between the legislative and executive branches, the United States, with its separation of powers, allows specific accountability for each branch of government. However, while the distinct responsibilities of each branch create the conditions for accountability at the national, state and local levels, a mechanism for accountability of the legislature as a whole is noticeably absent in most jurisdictions. Given this situation, the panel focused on identifying a practical process for establishing legislative accountability.

**“There is a clear relationship between public trust and the way citizens perceive the performance of governmental institutions.”**

## ELECTIONS AND ACCOUNTABILITY

In considering the matter of accountability, it seems reasonable to observe that there already exists a long-established mechanism for holding legislators accountable: elections.

Panel members recognized the importance of elections as a mechanism for individual accountability of elected officials; however, they also observed shortcomings in using elections as the sole means of achieving legislative accountability.

There is little doubt that one can find issues with the election process at all levels of government. Concerns include the vastly increased role of money in elections, large contributions from undisclosed donors, gerrymandered electoral boundaries, the power of incumbents relative to challengers, the decline of competitive districts, primary systems dominated by party activists who tend to hold more partisan views than the average voter, and other issues.

Beyond these structural and procedural concerns is the matter of criteria that voters use in electing legislators. In a recent,

award-winning dissertation, author Steven Rogers highlights the significant influence that the popularity of the U.S. president has on elections for state representatives. Rogers notes that, instead

of serving as a referendum on a legislator's own actions, state elections are dominated by national politics, particularly the president's approval rating. The clear implication of Rogers' findings is that individual elections provide, at best, only limited accountability for actions and policy positions taken by state legislators.

**“There is a basic mismatch  
between individual and collective  
legislative accountability.”**

Although concerns about the election process are not to be viewed lightly, a more fundamental issue lies in the basic mismatch between individual and collective legislative accountability. While legislative bodies are comprised of individual legislators, the issues that are

**Sheila Cleworth**  
Legislative Accountability Panel Member



addressed and the policies that are established are the result of collective action. Legislatures must act collectively, yet the only existing accountability mechanism—elections—relates to the individual legislator, not the legislature as an institution.

Limitations on the electoral process do not invalidate elections as tools of accountability. The panel agreed that elections encourage a level of accountability among individual legislators; however, they also recognized shortcomings in using the electoral process as the singular mechanism for legislative accountability. The panel concluded that an institutional accountability mechanism focused on the legislature as a whole could be helpful in building accountability and restoring citizen trust. For that reason, *the panel recommends that, in addition to existing election processes, legislative bodies at national, state and local levels establish a mechanism for institutional legislative accountability focused on the collective performance of the legislative body as a whole.*

### ACCOUNTABILITY AND INFORMATION

Accountability and transparency are requisite conditions for building public trust. Transparency makes

accountability possible by allowing citizens to receive information that they can use to make more informed judgments about legislative performance. To document legislative performance, a process of accountability must have at least two elements. The first involves identifying the problems or issues to be addressed. The second involves reporting on the results achieved and explaining the reasons various actions were taken.

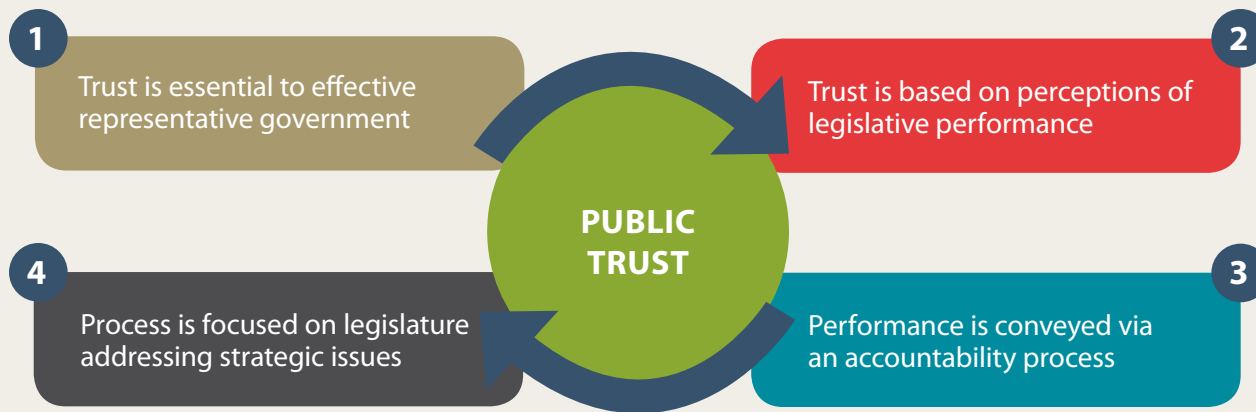
In the United States, the majority of legislative bodies have high levels of transparency. At the state level, information technology makes it possible for citizens to follow legislation from the introduction of a proposed bill through committee hearings and on to floor votes. In many cases, research and other supporting documents are available for viewing, and some states—such as Nebraska and Idaho—have tracking systems that allow individuals to follow specific legislation in which they have an interest. At the federal level, a website hosted by the Library of Congress allows one to track legislation as well as congressional records and other documents, and to conduct advanced searches by bill number, topic or sponsor.

The high degree of legislative transparency in the United States, while an invaluable asset to democracy, generates a vast quantity of information, far beyond the requirements of most citizens. As with other information in our knowledge society, the sheer volume



**Karen Beye**  
Legislative Accountability Panel Member





**FIGURE 8—TRUST AND LEGISLATIVE ACCOUNTABILITY**

Source: University of Denver Strategic Issues Program

of legislative data can be overwhelming. While information at this level of detail can be of value to academic researchers, historians, lobbyists, reporters, policy staff and others, the amount of raw data available on legislative activity is far more than the majority of citizens want or need.

Scholars established long ago that it is unrealistic to expect most citizens to follow governmental affairs in detail. Indeed, there may be one, or perhaps several, legislative matters that an individual will track in some detail. However, by and large, most citizens do not follow most things the legislature does—they are simply too busy dealing with other aspects of their lives. Given this reality, an effective performance-based legislative accountability process must provide citizens with information that focuses on the most important issues—matters of strategic significance to the

nation, state or locality. The panel characterized the process of conveying information about legislative performance on the most significant issues as strategic legislative accountability.

In developing its recommendations for a strategic legislative accountability process, the panel's logic can be summarized as follows:

- Public trust is essential to effective representative government
- Trust is based largely on citizens' perceptions of how effectively governmental institutions—in this case legislatures—perform
- Legislative performance can be conveyed through an institutional accountability process
- The accountability process should focus on legislative performance in addressing key strategic issues

These ideas are depicted graphically in Figure 8.

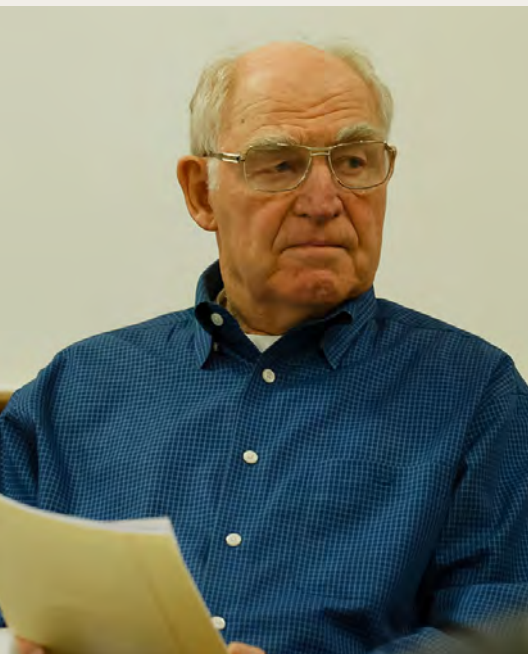
## LEGISLATIVE LEADERSHIP

Establishing a process for strategic legislative accountability provides an opportunity for legislative bodies to play a stronger leadership role in government. Since the founding of the United States, the executive (president, governor or mayor) has played an increasing role in the leadership of government. During the founding of the country there was a belief that the legislative branch would dominate. Writing in the Federalist Papers (No. 51), James Madison presented a careful argument describing why the legislative body would become the dominant branch of government and steps that could be taken to guard against excessive legislative power. However, in the years since the founding of the United States, it has been the executive, not the legislative branch, that has come to dominate the political scene. As legal scholar William P. Marshall has noted, “Two hundred years later, any suggestion that Congress is twice as powerful as the executive would be deemed ludicrous.”

Given the variety of legislative bodies at the national, state and local levels, the degree of legislative leadership varies by jurisdiction and changes

over time. There have certainly been occasions when Congress or state legislatures have assumed the lead on important public issues. In general, however, legislative bodies have come to respond to executive leadership rather than the other way around. The U.S. president and governors of each state present State of the Union or State of the State messages that make headlines and often influence the legislative agenda. At the federal level, and in most states, there is nothing comparable offered by the legislature as an institution.

The panel believes, as do a number of scholars, that a key role of the legislature is balancing the power of the executive. Central to the panel’s concept of institutional accountability, therefore, is establishing a more robust and visible political leadership role for the legislative body. A process of accountability allows a legislature to lead on public issues rather than follow the executive branch. For that reason, *the panel recommends that legislative bodies utilize a performance-based accountability process as a means to provide enhanced political leadership on important public issues.*



**Gary Christy**  
Legislative Accountability Panel Member

## A FRAMEWORK FOR ACCOUNTABILITY

With public trust based largely upon citizen perceptions of performance, *the panel recommends that legislative bodies adopt, by statute or constitutional amendment, a two-part legislative accountability process focused on (1) identifying key issues facing the nation, state or locality—matters of strategic significance—and (2) reporting on actions taken to address those issues.*

This process—which the panel identified as Clear Legislative Accountability Reporting (CLEAR)—can provide a framework for meaningful institutional accountability for legislative bodies at all levels of government.

The panel emphasizes that both elements of this legislative accountability process should be formally established as a matter of law—by statute or constitutional amendment—not simply through a revision of legislative rules or procedures which can be changed with little or no public notice. The panel believes that its CLEAR legislative accountability process is also applicable to local governments—cities, counties, school boards and special districts. The panel urges local governments to consider formally adopting the recommendations contained herein by ordinance or resolution as appropriate.

## THE STRATEGIC LEGISLATIVE AGENDA

The panel's approach to institutional legislative accountability begins with the establishment of a Strategic Legislative Agenda. The legislative agenda may be thought of as the legislature's institutional equivalent to the president's State of the Union address or a governor's State of the State speech. The Strategic Legislative Agenda would identify the most important issues and opportunities facing the jurisdiction and guide legislative attention toward matters of strategic importance. The panel determined that to be most effective the legislative agenda should embody several principles and processes, each of which is described in the sections that follow.

### Clear Language, Relevant Topics

From the panel's perspective, it is important that the Strategic Legislative Agenda be expressed in clear language and identify issues to be addressed in relatively specific terms. For example, the topic "K–12 Education" is so broad that it could encompass scores of issues. With such a broad topic the meaning is in the eye of the beholder; every legislator could claim



Peggy Kerns  
Legislative Accountability Panel Member

the legislature had achieved its goal. No successful business or effective organization, large or small, would allow such ambiguity in establishing its goals for the coming year.

At the same time, it is possible for a topic to be so narrow, specific or technical that it has little meaning to the average citizen. An illustration of such an overly narrow topic might be a bill designed to “harmonize the definitions of ‘canine hobby breeder facility’ and ‘dog breeder, small scale operation.’” It is not that harmonizing statutory definitions is an insignificant matter; indeed, it can be quite important. The concern is that such a narrow, technical topic will have little meaning to most citizens and, even if the definitions are successfully harmonized, it is unlikely to improve or diminish the public’s overall perception of legislative performance.

If legislators and legislative leaders are concerned about building and maintaining public trust in their institution, and many are undoubtedly interested in doing so, it is in their interest to select topics for the Strategic Legislative Agenda that citizens understand as being important to their nation, state or locality. Examples might

include “consideration of universal early childhood education” or “improving traffic flow on major state highways X, Y and Z” or “deregulating industry X” or “policies to deal with drought.” The key point is that the topics included in the Strategic Legislative Agenda must be understandable, results focused, specific enough to be measured, and viewed by most citizens as important issues requiring careful consideration by the legislature.

### **Limiting the Number of Issues**

Nations, states and even local governments are remarkably complicated entities that deal with a wide range of issues. Yet, no organization—private, nonprofit or governmental—can be all things to all people. Effective strategy requires that organizational resources be focused on a limited number of targets. This is especially true of governmental entities that have a wide range of issues that could potentially be addressed.

As a result, the panel concluded that the legislature needs to achieve a balance in terms of the scope of its Strategic Legislative Agenda. On one hand, the legislative agenda needs to encompass the most important issues facing the nation, state or local jurisdiction. At the same time, the number of issues needs to be limited enough to allow resources (including legislative attention) to be focused



**Jack Trigg**  
Legislative Accountability Panel Member

on the topics. Equally important, the Strategic Legislative Agenda needs to be sufficiently limited so that citizens can manage the scope of the list as they make an overall judgment as to the effectiveness of legislative performance.

Just where the balance lies in creating this Goldilocks formula of agenda issues— not too general, not too narrow; not too many, not too few— will, of course, vary by time, place and conditions. From the panel’s perspective, however, the appropriate number of issues is probably greater than two and no more than ten. The precise number is a matter to be determined by legislative leaders.

### **Creating the Agenda**

The panel believes that the Strategic Legislative Agenda should be created by the leaders of the legislative body. In this regard, it is important to note that the Strategic Legislative Agenda is not a party caucus agenda; rather, it is an institutional agenda for the entire legislative body. Certainly, legislative and party leaders will

discuss potential strategic agenda issues within party caucuses or in other settings. However, the final Strategic Legislative Agenda must be a collective statement of priority issues to be addressed by the entire body. It is an institutional, not a party, agenda.

**“The panel’s approach to institutional legislative accountability begins with the establishment of a Strategic Legislative Agenda.”**

Panel members determined that the Strategic Legislative Agenda should be a consensus document created by leaders of the legislative body. Legislators would not vote on the agenda; rather, the strategic agenda would be the product of a collaborative process that should include the presiding officers of the house and senate as well as legislative leaders from the major parties.

Unicameral legislative bodies—

Nebraska, cities, counties, etc.—would select a leadership group reflecting similar principles. Whatever the legislative structure, the exact makeup of the leadership group would be specified by law and would reflect, appropriately, the history and traditions of each legislative body. The panel emphasizes the importance of involving



legislative leaders, not simply from the majority party, but from the major political parties in developing the Strategic Legislative Agenda.

The Strategic Legislative Agenda should be created by legislative leaders prior to the opening of the legislative session. Panel members concluded that it is important for the strategic agenda to be presented at the opening session of the legislature and widely disseminated to the public. Since the agenda would reflect items that legislative leaders believe to be the most important problems, issues or opportunities facing the state, nation or locality, the document should serve to help guide the legislative session.

Failure of legislative leaders to agree on a meaningful agenda would speak volumes. It would confirm for citizens the dysfunctional nature

of the body. It would suggest to individual legislators that their legislative leaders were, at best, ineffectual. It would be an indicator to the public that the legislature cared more about scoring political points than addressing citizen needs.

Conversely, a meaningful, agreed-upon Strategic Legislative Agenda would signal that the legislature had moved beyond simply reacting to the executive; that the body was capable of providing leadership on important public issues. A thoughtful, relevant agenda would offer tangible evidence that legislative leaders were able to think strategically and identify the most important issues facing the state, nation or locality. It would suggest that the legislature had a broad perspective and that the body was prepared to address both near- and longer-term issues.

The panel concludes that a process for legislative accountability—one centered on strategically significant issues—offers benefits to citizens, the legislature, and the nation,

**“The Strategic  
Legislative Agenda  
is not a party  
caucus agenda ... it  
is an institutional  
agenda for the entire  
legislative body.”**



**Dorothy Lechowicz-Edwards**  
Legislative Accountability Panel Member

state or locality. Such an accountability process would present an opportunity for political leadership by the legislative body, provide citizens with an informed basis for evaluating legislative performance, and serve as a foundation for building public trust.

Therefore, *the panel recommends that legislative bodies annually establish a Strategic Legislative Agenda that will be:*

- *Focused on a limited number of high priority issues*
- *Developed prior to the session*
- *Created through a collaborative process involving leaders of the legislative body representing the major political parties*
- *Presented at the opening session of the legislature*
- *Publicized widely as evidence of institutional leadership*
- *Used to guide legislative attention throughout the session*
- *Evaluated by the public as evidence of the legislature's ability to identify both near- and longer-term issues of strategic significance*

Figure 9 provides a graphic summary of key aspects of the Strategic Legislative Agenda.

## STRATEGIC LEGISLATIVE AGENDA

### IDENTIFIES THE MOST IMPORTANT ISSUES

- Limited in number
- Reasonably specific, clearly expressed

### REFLECTS A COLLABORATIVE INSTITUTIONAL PROCESS

- Developed by legislative leaders
- Created prior to the legislative session
- Collaborative, unified leadership effort

### DEMONSTRATES INSTITUTIONAL LEADERSHIP

- Strategic Legislative Agenda widely publicized
- Proactive statement of legislative direction
- Comparable to State of the State address

### GUIDES LEGISLATIVE ATTENTION

- Presented at opening session
- Topics are addressed throughout the session

### SERVES AS A BASIS FOR PERFORMANCE EVALUATION

- A reasonable basis for public assessment
- A foundation for increased citizen trust

## FIGURE 9—STRATEGIC LEGISLATIVE AGENDA

Source: University of Denver Strategic Issues Program

## THE LEGISLATIVE PERFORMANCE REPORT

Throughout the legislative session, issues identified in the Strategic Legislative Agenda could be considered by the legislature in the normal course of business. During its deliberations, the legislature may wish to highlight discussions and decisions related to issues on the Strategic Legislative Agenda for the benefit of the public and the media. Subsequent to the conclusion of the legislative session, the legislature would issue a Legislative Performance Report.

The Legislative Performance Report would address actions taken on each item in the Strategic Legislative Agenda. It would describe the action taken on each strategic agenda issue, the underlying reasoning for such action, and how legislative leaders anticipate the action taken will help address the issue. The Legislative Performance Report should be issued within 45 days after the conclusion of the legislative session.

As with the Strategic Legislative Agenda, the Legislative

Performance Report would reflect a collaborative effort by legislative leaders. It would represent an institutional report covering results achieved by the entire legislative body, not a report from one party or the other. Individual legislators would not vote on the Legislative Performance Report although they, of course, would be free to express opinions on the content of the report.

**“The Legislative Performance Report would address actions taken on each item in the Strategic Legislative Agenda.”**

For legislative leaders, the performance report would present an opportunity to inform and educate citizens about issues the legislature identified as the most important matters facing the jurisdiction. The report should be relatively brief, readable, understandable, and

distributed in a comprehensive fashion. The work of a legislative body is important and complex; therefore, the report needs to engage citizen interest in a way that raises understanding of, and appreciation for, the legislative process and the achievements made during the most recent session.

Coupled with the Strategic Legislative Agenda, the Legislative

Performance Report would provide a means to build citizen trust based on performance information rather than political rhetoric or media hype. While not a panacea, the panel believes it would be a major step forward. For that reason, *the panel recommends that within 45 days after the conclusion of the session, legislative leaders*



**FIGURE 10—LEGISLATIVE PERFORMANCE REPORT**

Source: University of Denver Strategic Issues Program

*produce a formal Legislative Performance Report that presents—for each issue on the Strategic Legislative Agenda—information describing:*

- *Actions taken to address the issue*
- *Reasoning behind each action*
- *How the actions taken will help address the issue*
- *Issues on which the legislature did not act, and why*

## INFORMING JUDGMENT, FOSTERING DISCUSSION

The Strategic Legislative Agenda and the Legislative Performance Report will help citizens assess the performance and effectiveness of the legislature as a whole. While it is true that the public will judge the legislature's performance in any event, the legislative agenda and the performance report provide information to help both citizens and organizations do so in a thoughtful way. These two documents—if citizens judge the legislature to be effective—create a path to building and maintaining a positive atmosphere of public trust.

The Strategic Legislative Agenda and the Legislative Performance



**David Miller**

Legislative Accountability Panel Member

Report will provide a basis for dialogue between the legislature and citizens. The Strategic Legislative Agenda demonstrates the legislature's ability to identify near- and long-term strategic issues. The Legislative Performance Report provides an opportunity to educate citizens about how the legislature addresses the most important topics facing the nation, state or local jurisdiction. Together, these documents create a narrative of key issues that, in turn, provides a common framework for public discourse.

The absence of a shared framework for public discussion between the legislature, citizens, community organizations, interest groups and others means that participants in the public discourse often talk past one another. Each participant may begin the discussion from a different point of reference, without a common basis for dialogue. The result can sometimes be like ships passing in the night—loud foghorns sounding, but otherwise little communication.

The topics identified on the Strategic Legislative Agenda, while not addressing every interest and concern, would identify the most

important issues of the day. The narrative of the Legislative Performance Report provides insight into the complexity of key issues and a record of legislative accomplishment.

As the key documents to help the public assess legislative effectiveness, the Strategic Legislative Agenda and the Legislative Performance Report must be widely distributed. The legislature can utilize both traditional and non-traditional means to reach citizens and interest groups. In addition to press conferences, editorial boards and news releases, the legislature should take full advantage of the Internet and digital media to reach the greatest number of citizens. It is essential that the Strategic Legislative Agenda and Legislative Performance Report be distributed in an inclusive way, reaching all segments of the jurisdiction. In addition, it is important that the documents reach younger audiences through schools, social media and other means.

Because the federal government, all states, and most local governments already have well-established websites, and many are using social media as well, the incremental cost of distributing the Strategic Legislative Agenda and the Legislative Performance Report should be virtually zero. Given the importance of these documents



**Tom Kaesemeyer**  
Legislative Accountability Panel Member



as a means to strengthen legislative accountability and foster public trust, *the panel recommends that the legislature take steps to ensure both the Strategic Legislative Agenda and Legislative Performance Report are widely distributed to all segments of the community via traditional, electronic and social media.*

## A WAY FORWARD

The panel recognizes the complexity underlying increased political polarization, the difficulty of moving beyond legislative gridlock, and the subtle but pivotal nature of public trust. These are not simple issues and they are likely to be intertwined in intricate ways. Moreover, the degree to which these conditions exist varies significantly from one legislative body to another.

In the panel's view, a Clear Legislative Accountability Reporting process such as that described in this report can increase legislative accountability at the national, state and local levels. As with any innovation, the CLEAR process may take several years of effort to reach a point

of full effectiveness. The panel is confident, however, that such an approach to collective legislative accountability has the ability to inform citizen assessments of legislative performance and strengthen the leadership role of legislative bodies. In so doing, it offers the potential to strengthen public trust in legislatures and government at all levels.

**Sam McWilliams**  
Legislative Accountability Panel Member



# Summary of Findings and Recommendations

## Trust and Legislative Performance

1. The panel concludes that legislative performance, demonstrated through a process of accountability, can provide a foundation for building citizen trust.

## Institutional Accountability

2. The panel recommends that, in addition to existing election processes, legislative bodies at national, state and local levels establish a mechanism for institutional legislative accountability focused on the collective performance of the legislative body as a whole.

## Legislative Leadership

3. The panel recommends that legislative bodies utilize a performance-based accountability process as a means to provide enhanced political leadership on important public issues.

## A Framework for Accountability

4. The panel recommends that legislative bodies adopt, by statute or constitutional amendment, a two-part legislative accountability process focused on (1) identifying key issues facing the nation, state or locality—matters of strategic significance—and (2) reporting on actions taken to address those issues.

## The Strategic Legislative Agenda

5. The panel recommends that legislative bodies annually establish a Strategic Legislative Agenda that will be:
  - Focused on a limited number of high priority issues
  - Developed prior to the session
  - Created through a collaborative process involving leaders of the legislative body representing the major political parties
  - Presented at the opening session of the legislature
  - Publicized widely as evidence of institutional leadership
  - Used to guide legislative attention throughout the session
  - Evaluated by the public as evidence of the legislature's ability to identify both near- and longer-term issues of strategic significance

### The Legislative Performance Report

6. The panel recommends that within 45 days after the conclusion of the session, legislative leaders produce a formal Legislative Performance Report that presents—for each issue on the Strategic Legislative Agenda—information describing:

- Actions taken to address the issue
- Reasoning behind each action
- How the actions taken will help address the issue
- Issues on which the legislature did not act, and why

### Informing the Discussion

7. The panel recommends that the legislature take steps to ensure both the Strategic Legislative Agenda and Legislative Performance Report are widely distributed to all segments of the community via traditional, electronic and social media.



# Acknowledgments

## PANEL PRESENTERS

The University of Denver Strategic Issues Panel on Legislative Accountability wishes to acknowledge and extend its sincere appreciation to the following individuals whose expertise, information and viewpoints contributed to the panel's process and to this report. Titles shown reflect the positions held by individuals at the time of their presentation to the panel.

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# About the Strategic Issues Program

As part of its commitment to serve the public good, the University of Denver's Strategic Issues Program periodically convenes a panel of accomplished citizens to examine a policy issue that is important to the people of Colorado and the nation. Whatever the topic, the purpose of all strategic issues panels is to provide a nonpartisan basis for informed public discussion while raising awareness about the issue. To achieve this, panel members gain an in-depth understanding by receiving presentations from experts, advocates, public officials and others and through an extensive review of the literature on the topic. After examining the issue from a variety of perspectives, panel members engage in a consensus-based process, seeking practical solutions to issues rather than ideologically-oriented outcomes.

Over the years, Strategic Issues Panels have examined a number of important public policy issues, shown below. All panel reports, as well as videos of speaker presentations and other resources are available on the Strategic Issues Program website: [du.edu/issues](http://du.edu/issues).



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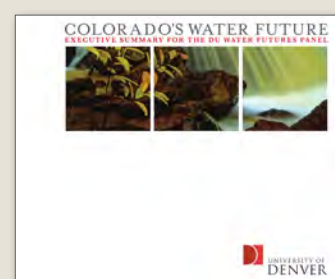
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