

STUDY ON TERM LIMITS CONDUCTED BY THE LWV OF THE BOZEMAN AREA

The LWV of the Bozeman Area relied on information for its study on term limits on research sponsored by the Joint Project on Term Limits. The project was a first of its kind collaboration between the National Conference of State Legislatures, the Council of State Governments and the State Legislative Leaders Foundation. Scholars were assembled to conduct a three year in depth study of the effects of term limits. The results of the study were published. The three most prominent of the publications include: *Coping with Term Limits: A Practical Guide*: (NCSL 2006), *Institutional Change in American Politics: The Case of Term Limits* (Michigan 2007), and *Legislating Without Experience Case Studies in State Legislative Term Limits* (Lexington Books 2007).

History of Term Limits

There have been term limits on state officials since colonial times.

In 1951 the 22nd amendment to the U.S. Constitution was approved establishing limits of two terms on the office of President.

In May 1995, the U.S. Supreme Court said that states may not impose term limits on Congress men or women.

Today 36 states and 4 territories have term limits for governors. All but Wyoming established the limits by constitutional amendment, not statute.

Proposals to limit the terms of state legislators have been the subject of public policy debate since 1990.

State	Year Enacted	House		Senate		% Voted Yes
		Limit	Year of Impact	Limit	Year of Impact	
MAINE	1993	8	1996	8	1996	67.6
CALIFORNIA	1990	6	1996	8	1998	52.2
COLORADO	1990	8	1998	8	1998	71
ARKANSAS	1992	6	1998	8	2000	59.9
MICHIGAN	1992	6	1998	8	2002	58.8
FLORIDA	1992	8	2000	8	2000	76.8
OHIO	1992	8	2000	8	2000	68.4
SOUTH DAKOTA	1992	8	2000	8	2000	63.5
MONTANA	1992	8	2000	8	2000	67
ARIZONA	1992	8	2000	8	2000	74.2
* MISSOURI	1992	8	2002	8	2002	75
OKLAHOMA	1990	12	2004	12	2004	67.3
NEBRASKA	2000	n/a	n/a	8	2006	56
LOUISIANA	1995	12	2007	12	2007	76
**NEVADA	1996	12	2010	12	2010	70.4

* Because of special elections, term limits were effective in 2000 for eight current members of the House and one Senator in 1998.

**The Nevada Legislative Council and Attorney General have ruled that Nevada's term limits cannot be applied to those legislators elected in the same year term limits were passed (1996). They first apply to persons elected in 1998.

Source: National Conference of State Legislatures

Six states have repealed term limits: Massachusetts, Oregon, Washington and Wyoming's State Supreme Court repealed term limits. State legislatures in Idaho and Utah repealed their term limits.

Under term limits in Montana legislators may serve 8 years in the Senate (2 terms) and 8 years in the House (4 terms). These terms may be served in consecutive years.

Term limits are the most significant institutional change in American legislatures since the legislative modernization movement of the late 1960s and early 1970s. Since term limits was adopted more than a thousand experienced legislators have been prevented from running for reelection. New legislators face the prospect of learning their jobs in a very short space of time and completing whatever they hope to accomplish in as few as six years.

One of the key findings of the study is that the impact of term limits on legislatures is greatly affected by two factors: the degree of professionalization of the legislature and the restrictiveness of the term limits. Some effects vary with the nature of the term limits and the type of state legislature under consideration. It matters whether the term limit is shorter or longer (6 or 12 years). It also matters whether there is a lifetime ban or a consecutive term limit. The nature of the legislative institution also matters (how professionalized the legislature is).

To begin with most of the discussion and debate when term limits were adopted in the 1990s was about the presumed effects of turnover on the kinds of individuals who would be elected- including demographics, degree of political experience and partisanship. What has proved to be most interesting and of the greatest long-run impact are the effects on the organization and operation of the legislatures.

Arguments in Favor of Term Limits

1. Term limits would allow more people to have the chance to serve in the legislature, thus retaining the notion of citizen legislatures.

Turnover increased in all of the term limited state legislatures studied, more than in control states. The compositional effects were less definitive than the proponents had hoped. Term limits did not increase the number of women in the legislature and did not change significantly the age and occupational backgrounds of those elected. Term limits did not produce a less career oriented politician, but it did cause those who wanted politics as a career to run for other offices.

2. Those who run for office knowing that their terms are limited are more likely to represent their constituents' interests and to seek policy changes that might be opposed by entrenched interest groups.

Representatives in term limited states seem to be less linked to the particular interests of their districts. They spend less time talking with and solving the problems of their representatives, they place less emphasis on securing projects and pork for their districts, and they devote less time to constituency issues. But, evidence indicates that term limited members are less knowledgeable about both issues and process and are as preoccupied as ever with reelection

and finding a post legislative career. There is also evidence that they spend less time on lawmaking and being attentive to statewide needs.

3. Term limits reduce the extraordinary power of incumbents during elections. As a result, a more diverse group of people will be elected to state legislatures.

Incumbency is still important. Some evidence suggests that term limits may discourage challenges to incumbents that would otherwise have occurred. When an incumbent's tenure will end with certainty there is less reason for potentially strong challengers to mount a costly campaign. Limiting terms is an effective way to off-set incumbency advantages and increase legislative turnover, but only when it creates open seats.

4. Interest groups would be weakened under a system with term limits, because such groups would not be able to develop long-term relationships with legislators.

Term limits has had an effect on lobbyists and interests groups. Lobbyists report that their job has gotten harder because they don't have time to establish long term relationships with legislators. But the evidence is mixed. The number of lobbyists has increased. Legislators are more dependent on lobbyists for information and institutional knowledge. With higher turnover there are more open seats reducing overall incumbency advantage so that lobbyists and interest groups are as important as ever in funding elections.

5. Most states already limit the number of terms that governors can serve. Term limits on legislators are just an extension of this policy and level the playing field for all officeholders.

The impact of term limits on legislators and governors seems to be different. Instead of leveling the playing field between the legislative and executive branches, term limits have weakened the legislative branch and strengthened executive power.

Arguments Against Term Limits

1. Term limits interfere with the fundamental right of voters to elect their representatives.

If voters do not want a person to represent them, they can vote him or her out of office. Repeated surveys of voters have shown no lessening of support for term limits. Voters are not acting as though they have been deprived of a fundamental right. Failing a change of heart on the part of voters, the challenge for legislatures is how to remain effective institutions under the constraints of term limits.

2. By removing experienced and knowledgeable legislators, term limits weaken the legislative branch of government.

A weak legislature upsets the balance of power that is the basis of the democratic form of government. There is a fair amount of evidence that the legislature has declined in capacity relative to the executive branch. The impact is greatest in professionalized legislatures. Term limits represent a swing back in the direction of enhanced executive power.

3. Term limits ignore the value of experience in crafting and managing public policy.

There is no clear evidence that policy making has gotten better or worse as a result of term limits. There is no objective way of measuring it. Democracy is largely about process, and

the legislature, not the executive or the judiciary, is the engine that drives democratic processes. Under term limits, there are more departures from standard processes of deliberation. Term limits have been accompanied by a decline in civility and respect for the institution and open government.

4. Term limits encourage legislators to opt for short-term solutions or quick fixes, over more difficult solutions that are best over the long term.

There was no systematic evidence that this is true. The evidence about representation and procedural effects is stronger than evidence about policy impacts. Even without term limits, legislators tend to have a short term horizon. Even if term limited legislators know less than legislators who are not term limited, they are still motivated to serve their constituents and are supported in their role by various staff, executive officials, lobbyists and constituents. Easing the problem of leadership is the fact that term limited legislators have run for positions in the other house and provide expertise which newly elected officials lack. Training programs have been established to help newly elected officials learn their jobs sooner.

5. The power of lobbyists, legislative staff, and bureaucrats increases under a system with term limits, because they possess institutional knowledge about policy issues and what went on in the past.

Lobbyists and interest groups have had to work harder with term limited legislators, but evidence suggests that their power has continued unabated without much difference than before term limits. Studies indicate that term limited legislatures are at an informational disadvantage, more with respect to the executive branch than with respect to lobbyists.

The Future of Term Limits

The authors conclude that term limits have weakened legislatures institutionally, especially in states with strict limits that had more professionalized legislatures with low turnover. Due to natural and planned adaptations, the consequences have not been as dire as they might have been. The choice that legislatures face is whether to figure out ways to compensate for the informational disadvantage they find themselves in or to cede policy making power to the executive branch.

Adaptations which will help:

1. Better education and training will help legislators adapt to the loss of experience caused by increased turnover.
2. Legislators who are interested in political careers have the opportunity to run for other offices, and many have. In some instances they have run for legislative offices in the other house, bringing experience with them.
3. Apprenticeships have helped in some legislatures to give experience to new legislators to prepare them for leadership positions in the future.
4. Non partisan staff in many states have become educators, teaching new legislators about the institution and how to become effective policy makers.

LEGISLATING WITHOUT EXPERIENCE

Predicted Effects of Term Limits

The effects of term limits may be directly related to the specific provisions of each state's term limits law and the degree of professionalization in each state legislature. The demographics of the legislature were predicted to change as a result of term limits. The removal of career politicians was expected to lead to a new breed of legislator, who was more independent and less career oriented. The increased number of open seats and termed incumbents seeking other offices were anticipated to raise the overall level of electoral competition within a state. Scholars and legislators expressed particular concern about a potential shift in institutional power.

Citizen Legislatures Studied: Arkansas, Maine, Kansas

Arkansas and Maine are term limited, Kansas was the control state.

Results of the study were mixed in regard to changes in the composition of the legislatures. Turnover increased as in all termed states. Institutional effects were more identifiable. Committee power decreased in all three states. Non-partisan staff saw an increase in power in both Arkansas and Maine. There was no change in Kansas. Lobbyists lost power in both term limited states with no change in Kansas. This does not match previous findings. Partisanship increased and civility decreased in the termed states but not in the control state. The power of the governor increased in Arkansas and Maine, but not in Kansas.

Aggregate Findings

Differences in the effects of term limits were based on the level of professionalism within the state legislatures. A greater number of effects were identified in the less professionalized legislatures.

Many effects were common to all termed states. Increased turnover among members was consistent across all levels of professionalism. Demographic changes were inconsistent and deviated little from the control states. Campaigns were more caucus oriented in all three professionalized states and more expensive in all three semi-professionalized states. Leadership power declined in four of the six termed states. Leadership power is generally diminished by term limits at all levels of legislative professionalism. Committees experienced decreased power in all six term limited states. The evidence indicates a general shift away from non-partisan staff in professionalized states, and a greater reliance on non-partisan staff in termed and semi-professionalized citizen legislatures. The results for lobbyists was mixed. Civility is decreasing as partisanship increases. The only consistent change in gubernatorial power was the increase found in the citizen legislatures.

Other Trends in Termed States

Term limits create chaos in state legislatures. This is particularly true in the first session after term limits. Anytime 30-50% of the members are serving their first term a certain amount of chaos is inevitable. Trends developing across the country are accelerated by term limits. The caucus has become the center of activity in term limited legislatures. This has allowed the caucus leadership to regain some of their lost clout. This has given rise to greater partisanship within the legislature and less civility among the members. Partisanship creates teamwork for getting things done within the legislature. It also widens the divide, which must be bridged to maintain the integrity of the institution. Democracy depends upon cooperation as well as competition.

Relationships are the grease that makes the wheels of government turn. Without that grease it takes much more effort to turn the wheels.

Conclusion

When the study was done there was not enough experience to learn more than the trends obvious in term limited states. That will take 8-10 more years. The prospects for easing, or eliminating term limits are slim. Term limits are the public's distrust of power.

Living With Term Limits

Legislators in the term limited states which were studied agreed that negative consequences of term limits trump the positive ones. Knowledgeable observers who include legislative staff, lobbyists and members of the state house press corps, also agree that the legislative process and legislative institutions have suffered as a result of term limits. Since the period of legislative modernization and capacity building which occurred from the mid 1960s to the 1980s, the legislative process and institution have been undergoing some erosion and decline. This had occurred in the non term limited states as well as in the 12 where term limits had had impact by 2000. Thus, some of the negative effects undergone by state legislatures are not attributable to term limits per se. But term limits probably enhanced these effects and produced others. At the very least, the changes taking place in term limited states are more pronounced than those happening elsewhere.

Compositional Effects

The most immediate and most visible effect of term limits has been the altered composition of the legislature. While they differ from non term limited legislators in their tenure and experience, term limited legislators do not differ in the characteristics they bring to legislative service. There is no evidence overall that term limits have increased competition or benefited one political party or the other. What proponents of term limits did expect and desire was the creation of opportunities for a new breed of legislators. They wanted amateur, citizen legislators who would cycle in and out of public office, replacing the professionals who had been taking over legislative bodies since the 1960s. These expectations and desires have not been met. If anything, the pool of political careerists has expanded, not contracted, as a result of term limits. Not only has there been little or no change in the political backgrounds or foregrounds of legislators in term limited states, there has also been rather little change in their demographic characteristics.

Behavioral Effects

Because their time in office is fixed, term limited legislators approach their jobs differently than legislators whose term and horizons extend farther. Anyone going into politics and facing elections every two or four years is not likely to think ahead very far. Term limited legislators do not have long to accomplish their agendas and they are impatient to get them accomplished. Term limited legislators are not disposed to specialize, because there is little time available. The survey of knowledgeable observers shows that legislators in non term limited bodies were believed to specialize more than those in term limited bodies and also to be more knowledgeable about both statewide issues and how the legislature operates. Term limits not only help make legislators impatient but also keep them from the mellowing that comes with aging.

Organizational Change

Where it is permitted, term limited legislators may be elected to the other house bringing experience with them. The usual direction is from the house to the senate. The senate may as a result function more smoothly than the house. It may still be too early to say definitively, but it appears that term limits contributes to an imbalance in the lawmaking influence of the two chambers.

With less time to learn leadership roles, the effectiveness of the legislature's top leadership has declined. Committee members and, most important, committee chairs have less experience, knowledge, and expertise in term limited legislatures, and the differences between them and non term limited legislatures are substantial. To some extent the business of committees has shifted to the majority party caucus. Major policy initiatives are more likely to come from party leaders than from the committees and the committee chairs. Legislator deference to standing committees has declined significantly because of term limits.

Political scientists predicted that the legislative staff, on the one hand, and lobbyists, on the other, would have additional power under term limits. However, the evidence for either prediction is mixed and less than persuasive. The job of lobbyists, and especially contract or independent lobbyists, has also been affected by term limits. Most obviously the more rapid turnover of legislators requires lobbyists to devote greater effort to the education of members on subjects they are promoting.

Legislative Performance

Does the legislature do a better or worse job as a consequence of term limits? The legislature's major value is that it is the driving engine of representative democracy in the states. The job of the legislature is essentially fourfold: first, representing constituents and constituencies, by means of serving their interests and exercising their views; second, lawmaking, which includes study and deliberation, negotiation and compromise, and putting together a succession of majorities to pass budgets and enact bills; third, balancing the power of the executive, especially on matters of revenues and expenditures and decisions of public policy for the state; and fourth, providing for the maintenance of the wellbeing of the legislature as an institution.

The effects of term limits on representation remain unclear. Surveys have revealed that legislators in term limited states report they pay less attention to their constituents, whether judged by constituency service or by attention to pork, and are more inclined to favor their own conscience and the interests of the state in contrast to those of the district. They tend to spend less time talking to their constituents, solving constituents' problems, seeking funds for projects in their districts, and sending newsletters and other mailings to the district. There is doubt as to whether term limits have impacted on representatives serving their districts' interests. There is even greater doubt as to whether term limits have changed how representatives express their constituencies' views. Generally speaking, on very few issues do constituency views exist. Term limits does not appear to make any difference regarding this mode of representation.

The major impacts of term limits on the lawmaking function probably stem from a weakening of both leadership and committees. Inexperienced and transitional leaders exercise less influence over members and face greater difficulty in building consensus.

The weakening of committees and the committee process may in the long run do the greatest damage to the legislature. The work of shaping legislation now is being done elsewhere. That is usually in the majority party caucus. When this happens members of only one party participate in

the process. Thus, the bipartisan substantive nature of the enterprise is eroded, while the partisan, political nature is strengthened. This development reinforces the rise in partisanship that stems mainly from the competitiveness of politics today and the fact that the legislature is presently an arena which election campaigns are conducted.

The third major part of the legislative job is that of balancing the power of the executive. In a system of separated powers and checks and balances, the legislative branch ought to maintain parity with the executive. This is difficult for it to do; and, in the judgment of members themselves, legislatures do not perform the balancing function as well as they do the functions of representation and lawmaking. The evidence is clear and consistent that, as a result of term limits, the legislature has been losing ground to the governor and executive branch. Similarly, the influence of administrative agencies has grown markedly in term limited states but less so in others.

The fourth function performed by legislatures is less concrete than the other three. The care and maintenance of the legislature as an institution requires concern and commitment on the part of both leaders and members. Lack of time and loss of experienced leadership has resulted in legislators who are poorly prepared to do their jobs. Term limits has done considerable harm here.

Conclusions

A decade's experience with term limits leads to several conclusions. First, while the effects are not uniform among the states, patterns do emerge. The most notable ones are as follows:

On the composition of legislatures:

1. Higher turnover
2. Less experienced members
3. No veterans
4. Acceleration of political ambition

On the behavior of legislators:

5. Short term orientation
6. Decline in specialization and expertise

On organizational matters:

7. Further democratization
8. Weakening of house vis-à-vis senate
9. Weakening of top leadership
10. Weakening of standing committees
11. More difficult job for legislative staff
12. More difficult job for lobbyists

On legislative performance:

13. Deterioration of lawmaking process
14. Less study and deliberation
15. Decreased role for minority party members
16. Weaker legislature vis-à-vis governor and executive departments and agencies
17. Diminished commitment by leaders and members to the legislature as an institution

Second, the stated objectives of proponents of term limits have not been met. There are more opportunities for legislative office, but the same kinds of people run for office. The nature of the membership has not changed in the citizen legislatures with term limits. The term limited legislature has become more dependent.

Third, arguments made by opponents of term limits, in large part, have been borne out. The lack of experience, knowledge, and tenure potential has had harmful effects. The governor and executive have come out ahead. The legislature, as opponents feared, is a weaker institution because of term limits.

Fourth, the effects appear to be greater in the more professionalized legislatures, i.e., California.

Fifth, the legislature as an institution and the legislative process are diminished. The good news is that nobody will die from the imposition of term limits. The bad news is also that nobody will ever die from term limits. The negative effects are barely perceptible to the naked eye; it takes investigators with more powerful lenses to discern the damage being done. This means that without the equivalent of catastrophe or scandal that can be tied to term limits, nothing will change. Repeal in some states is possible, but not probable. A campaign to win the public over will require energetic leadership, a broad based coalition of interest groups, bipartisan support, and a message and approach that delivers genuine public education.