

OUR GENERATION  
WE SAID WE WERE GOING TO  
CHANGE THE WORLD



# Term Limits: A Reform that Works

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## Introduction

Term limits are the most significant institutional change in American politics since the reform era of the 1960s and 1970s.<sup>1</sup> Passage of Term Limits legislation over the past 15 years continue to have a positive impact in state legislatures around the country.

The first states to vote on implementing term limits were California, Colorado and Oklahoma in 1990, and the most recent state was Nebraska in 2000. In all, voters in 21 states have approved legislative term limits. However, the limits were either repealed by fearful legislatures (Idaho and Utah) or thrown out by state courts (Massachusetts, Oregon, Washington and Wyoming) in six states, leaving 15 states with term limits currently on the books, while others are debating their adoption. By 2010, term limits were in operation in all 15 affected states.

Consequently, 2,244 state legislators have termed out since 1996. Furthermore, 17,000 local politicians in 2,900 cities, counties and towns throughout 40 states are now subject to term limits. At the national level, between 1990 and 1994, 22 states amended their constitutions by imposing term limits on Members of Congress. Many legal scholars consider this to be the largest grassroots movement in modern American history.

In 1995, a slim five-to-four majority in the U.S. Supreme Court derailed the movement at the federal level, ruling that state-initiated congressional term limits are unconstitutional. Nonetheless, the movement resurfaced in 2010, as the populist Tea Party seized upon term limits as one instrument through which America's political system could be restored to its founding principles. As a consequence of the publicity, the Tea Party revitalized public support for a proposed term limits amendment to the U.S. Constitution.

We are now able to move beyond mere speculation and assess the available sample of term-limited states. Although largely positive, the effects of term limits vary with the length and severity of the legislative service restriction. Predictably, term limits have had the largest impact in states in which there was the greatest potential for change.

The balance of the available research evidence supports the following four conclusions:

1. term limits stimulate electoral competition in state legislative elections;
2. term limits enable nontraditional candidates to run for seats in state legislatures;
3. term limits weaken the leadership of state legislatures because they weaken seniority systems in those bodies; and,
4. term limits promote/advance public policies compatible with limited government.

Overall, term limits foster more energetic, more ideological, and more effective deliberative legislative bodies.

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<sup>1</sup> See, for example, the Joint Project on Term Limits, quoted in Matthew C. Moen, et al., *Changing Members: The Maine Legislature in the Era of Term Limits* (Lanham, MD: Lexington Books, 2005) 2.



## History of Term Limits

Term limits are not a new concept.<sup>2</sup> The historical roots of term limits go as far back as Athenian democracy in the fifth century B.C.<sup>3</sup> and are grounded in traditional republican and classical liberal models of limited, democratic government.<sup>4</sup> In Colonial America, term limits were referred to as the “rotary system,” or the principle of “rotation in office.”<sup>5</sup> The New England Colony’s charter provided for the rotation of public officials and a limit on years of office-holding. By 1777, seven (of the 10) new state constitutions provided for rotation in office.<sup>6</sup> Convened in 1777, the Continental Congress approved the Articles of Confederation that became the nation’s first constitution in 1781. The articles included rotation of offices and limited federal legislators to a maximum of three years in Congress.<sup>7</sup>

In 1787, the Constitutional Convention in Philadelphia revised the Articles of Confederation, thereby producing the nation’s second constitution. Clearly, the Framers intended the country to be governed by successive citizen congresses. After all, as Gale Norton, a former U.S. Interior Secretary and a former Colorado Attorney General, reminds us: “The Framers... lived in a different time. Congress as they envisioned it did not need term limits, because Congressional service as they envisioned it was always going to be a part-time job.... That assumption, understandable in its day, allowed the Framers to believe that Congress would just naturally remain a citizen legislature, without any Constitutional requirement that those serving in Congress not spend their entire lives there.”<sup>8</sup>

The Framers debated the idea of mandatory rotation but, confident that sufficient safeguards (such as short terms in office and voluntary retirements) were in place to forestall careerism and concerned that its inclusion meant “entering into too much detail” for a short document,<sup>9</sup> they set aside the arguments of the anti-Federalists and chose not to include a term limits provision in the new Constitution. Moreover, President George Washington’s voluntary retirement after his second term in office established a precedent that held among occupants of the White House until the mid-20<sup>th</sup> century administration of Franklin D. Roosevelt.<sup>10</sup> As Mark P. Petracca establishes, “A general aversion to making a career of legislative service also characterized state and local politicians.”<sup>11</sup> At the state level, gubernatorial term limits have been commonplace throughout our nation’s history.<sup>12</sup>

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<sup>2</sup> Steven Millman, “Term Limitations: Throwing Out the Bums—Or the Baby with the Bathwater?” <http://web.mit.edu/millman/www/WPSA.html>.

<sup>3</sup> See, for example, A.H.M. Jones, *Athenian Democracy* (Baltimore: Johns Hopkins University Press, 1986) 105.

<sup>4</sup> See, for example, J.G.A. Pocock, ed., *James Harrington: The Commonwealth of Oceana* (Cambridge: Cambridge University Press, 1992) and James Burgh, *Political Disquisitions Volume 3* (New York: DaCapo, 1971).

<sup>5</sup> T.H. Benton, *Thirty Years’ View Volume 1* (New York: Appleton, 1854).

<sup>6</sup> The states were Delaware, Georgia, Maryland, North Carolina, Pennsylvania, South Carolina, and Virginia. See Alan Grant, “The Term Limitation Movement in the United States,” *Parliamentary Affairs* 48 (1995): 515-530; and Mark P. Petracca, “The Poison of Professional Politics,” *Cato Institute Policy Analysis No. 151* 10 May 1991: 13 <http://cato.org/pubs/pas/pa-151.html>.

<sup>7</sup> Edmund C. Burnett, *The Continental Congress* (New York: Macmillan, 1941) 250.

<sup>8</sup> Gale Norton, “Finishing Madison’s Work with a Term Limits Amendment,” *Independence Institute* 19 Jun. 1996 <http://i2i.org/SuptDocs/OpEdArcv/Op061996.html>.

<sup>9</sup> John H. Fund, “Term Limitation: An Idea Whose Time Has Come,” *Cato Institute Policy Analysis No. 141* 30 Oct. 1990: 1 <http://www.cato.org/pubs/pas/pa-141.html>.

<sup>10</sup> Presidential term limits were introduced by the Twenty-Second Amendment to the Constitution on February 27, 1951.

<sup>11</sup> Petracca 5.

<sup>12</sup> Alexander Tabarrok, “A Survey, Critique, and New Defense of Term Limits,” *Cato Journal* 14 (1994): 333-350 <http://www.cato.org/pubs/journal/cjv14n2-9.html>.



Municipal term limits have been in place since 1851 when the Indiana Constitution prescribed county-level limits.<sup>13</sup> At the federal level, a tradition of voluntary retirement after only one or two terms in the U.S. House of Representatives lasted until nearly the end of the 19th century.<sup>14</sup> From 1830 to 1850, turnover in the House averaged 51.5 percent. After the Civil War, legislative tenure gained new importance when the introduction of the seniority principle for congressional committee membership changed the dynamics of obtaining leadership positions. Consequently, between 1860 and 1920 House members' average tenure increased from four to eight years, and it has continued to rise ever since.<sup>15</sup>

In the 1960s and 1970s, the average state legislature experienced the turnover of one-third of its members every two years. During the 1980s, however, turnover declined considerably, and by 1988 average turnover had fallen to only 16 percent of state legislators.<sup>16</sup> Overall, during the 1980s, 99.3 percent of unindicted congressional and state legislative incumbents won re-election.<sup>17</sup>

### Challenging a Careerist Political Class

Term limits seek to improve American democracy by addressing the problem of careerism. As state legislatures have become more professional, they have attracted candidates who can and do spend their entire careers in the state capital. Careerism flourishes because incumbents are virtually certain to be re-elected, largely because of the inherent advantages of holding office.<sup>18</sup>

Careerism poses several problems for our system of representative democracy. Once in office, careerist legislators pay less attention to the needs and wishes of their constituents. Moreover, careerist elected officials become a political class attentive to their own interests. As term limits activist Eric O'Keefe writes, "The problem, quite simply, is that our representatives are not representative. They are a separate class, identifying their interests with those of the government, not the people. When the interests of the government in which they serve and the people they putatively serve conflict...they invariably side with the government."<sup>19</sup>

Substantial and continuing public support for term limits suggests widespread distaste for careerism in politics, as well as a conviction that the continual infusion of fresh blood into state legislatures will improve American government.

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<sup>13</sup> The most comprehensive treatment of term limits at the local level is found in Danielle Fagre, "Microcosm of the Movement: Local Term Limits in the United States," U.S. Term Limits Foundation 1995 [http://www.termlimits.org/Current\\_Info/microcosm.html](http://www.termlimits.org/Current_Info/microcosm.html).

<sup>14</sup> Grant: 516.

<sup>15</sup> Ibid. Grant: 516.

<sup>16</sup> Karl T. Kurtz, "No Change—For a Change," State Legislatures January 1989: 29.

<sup>17</sup> Doug Bandow, "Real Term Limits: Now More Than Ever," Cato Institute Policy Analysis No. 221 28 Mar. 1995: 7 <http://www.cato.org/pubs/pas/pa-221.html>.

<sup>18</sup> See, for example, Edward H. Crane, "Reclaiming the Political Process," in David Boaz and Edward H. Crane, eds., Market Liberalism: A Paradigm for the 21st Century (Washington: Cato Institute, 1993) 53–64. Paul Jacob, "From the Voters with Care," in Edward H. Crane and Roger Pilon, eds., The Politics and Law of Term Limits (Washington: Cato Institute, 1994) 30–34. Mark P. Petracca, "Restoring 'The University in Rotation': An Essay in Defense of Term Limitation," The Politics and Law of Term Limits 68–69.

<sup>19</sup> Eric O'Keefe, Who Rules America? The People vs. the Political Class (Spring Green, WI: Citizen Government Foundation, 1999) 1.



## The Anti-Term Limits Argument

Term limits continue to be opposed by a majority of politicians and by a majority of the legislative staff, bureaucrats, journalists, and interest groups that depend on politicians for employment, patronage, sources, and votes. Special interest groups (especially large, heavily regulated corporations, as well as unions that rely on government intervention in the labor market) have long viewed term limits as anathema to their interests.

These opponents of term limits emphasize the benefits of seniority and experience. Critics lament the projected loss of experienced legislators. In short, critics believe that institutional memory will be lost. It is predicted that this would lead to less effective legislatures, with some suggestion that policymaking will suffer from a lack of careful deliberation and compromise. Furthermore, critics predict a significant rise in the influence of the remaining tenured actors – bureaucrats, lobbyists and legislative staffers – who would run institutional rings around the rookie legislators.

## More Competitive Elections

Unquestionably, term limits have made elections more competitive. More candidates for office and the increased turnover of state legislatures have produced better choices for voters. Term limits have had a much richer effect on state legislative careers than previously understood, as they reduce the benefits of seeking re-election even for state legislators who are eligible to run, and reduce the opportunity cost of running for other offices. By increasing the supply of experienced challengers, term limits increase competition in elections for non-term-limited offices and, consequently, the quality of representation provided by those elected.

Among its many advantages, vigorous electoral competition helps states to avoid budgetary problems.<sup>20</sup> More generally, by truncating service term limits create massive turnover in some state legislatures in which they exist, bringing flocks of newcomers into office.<sup>21</sup>

## Number of Candidates

An increase in voter choice is achieved, in part, by the fact that term limits increase the number of candidates seeking election.<sup>22</sup> To cite some examples:

In California, the imposition of state-level term limits in 1990 led two years later to an increase of more than 25 percent in candidate filings for the state Senate and more than 50 percent for the state Assembly.<sup>23</sup> With term limits creating an unprecedented number

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<sup>20</sup> Jeff Cummins, "Term Limits, Electoral Competition and the Impact on State Fiscal Conditions," presented at the annual meeting of the Western Political Science Association, San Diego, 20 Mar. 2008.

<sup>21</sup> Marjorie Sarbaugh-Thompson, et al. "Democracy among Strangers: Term Limits' Effects on Relationships between State Legislators in Michigan," *State Politics & Policy Quarterly* 6 2006: 384-409.

<sup>22</sup> See, for example, Neil Pinney, et al., "The Costs of Reform: Consequences of Limiting Legislative Terms of Service," *Party Politics*, 10 2004 : 69-84.

<sup>23</sup> John C. Armor, "Foreshadowing Effects of Term Limits: California's Example for Congress," *Term Limits Outlook* 3, No. 1 Jun. 1994: 3.



of open seats, an historic number of candidates competed for New York City's citywide elections in 2001.<sup>24</sup>

More recently, in Nebraska, 83 candidates filed to run for 24 state Senate seats in the 2006 primary. This constituted a 51 percent increase over the number of candidates who ran in the primary in 2004 and a 66 percent increase over the 2002 primary.<sup>25</sup> At the time of writing, in San Antonio, 38 candidates are running for only 11 city council seats in the city's May 14, 2011, election.

In 1990, Proposition 140 made California one of the first three states to adopt term limits for legislators. California's term limits are among the strictest: six years in the Assembly and eight years in the Senate. In every election cycle, at least 10 senators and 27 assembly members are termed out. California State Assembly elections have experienced a modest, but significant, decline in incumbents' average winning margin since term limits went into effect in 1996.

Overcoming incumbent advantage is one of the most useful results of term limits. Without term limits, there is little competition when incumbents run for re-election because they have such a huge fundraising advantage and possess an equally large advantage in name identification. Jon Fleischman, an influential California political blogger, argues that term limits provide the only practical opportunity for voters to "have a real impact on their representation in Sacramento."<sup>26</sup>

An empirical analysis of the general election results for the lower state house in five states – Montana, California, Florida, Michigan and Arkansas – found that the overall margin of victory fell nearly 2.5 points after term limits were enacted, which is a statistically significant change. In Florida, the margin of victory declined 2.7 points after term limits. California saw a nearly two point decline in the margin of victory after term limits.<sup>27</sup>

During the last three California state legislative primary cycles, only 37 (42 percent) of all Assembly open seat primaries (89 in total) were seriously contested,<sup>28</sup> and only nine of 31 Senate primaries met that test. This represents significantly more competition than before term limits. In the races in the last three legislative primary cycles before the advent of term limits in 1992, there were only 23 open seat races in the Assembly (compared to 89 post-term limits), and only 14 of those were seriously contested in the primaries. In the Senate, there were only seven open seats (against 31 post-term limits) and of those seven, none had contested primaries (all but two involved the elevation of incumbent Assembly members).<sup>29</sup>

In the 1990s, many political scientists predicted that, as the traditional minority party, Republicans would benefit disproportionately from term limits by eliminating the Democrats' incumbency advantage. In practice, however, term limits are not inherently biased in favor of either of the major parties. Republicans have not gained

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<sup>24</sup> Source: New York City Finance Board, [A Brief History of the CFB](http://www.nyccfb.info/press/info/history.aspx). <http://www.nyccfb.info/press/info/history.aspx>.

<sup>25</sup> Doug Bend, "Term Limits for Nebraska State Senators: A Challenge to the Future Effectiveness of the Nebraska State Legislature," *Creighton Law Review*, 40 2006 Pages: 3-39

<sup>26</sup> Quoted in Robert W. Naylor, "The Good and The Bad of Term Limits," *California Journal of Politics and Policy*: 2 Pages 1-4 (2) 2010.

<sup>27</sup> Jeff Shank, *Term Limits*, SSRP, University of Nebraska, August 21, 2009.

<sup>28</sup> Here, "seriously contested" is defined as the victor winning by under 15 percent of the popular vote.

<sup>29</sup> Naylor. Page 3.



representation at the state legislative level under term limits, as was predicted by liberal term limits critics.

Furthermore, there is evidence that, in practice, term limits act as a natural campaign finance reform method, as in some states legislative term limits have reduced campaign expenditures. It seems that term limits diminish the value of a legislative seat to lobbyists and the special interests they represent in state capitals.

### **Increased Legislative Diversity**

Overall, there has been an increase in the number of candidates from outside the political establishment and the number of successful female and minority candidates has risen. Female, Hispanic-American and Asian-American candidates find it easier to enter term-limited legislatures than non-term limited bodies. The record is more mixed for African Americans.

A recent analysis examined the number of female legislators in both chambers of the state legislatures in all 50 states from 1990 to 2006. The study included 21 states with term limits and 29 states that had never had term limits. The results suggest a positive relationship between term limits and women's representation in state legislatures. This research is among the first to show a statistically significant relationship; the actual impact is estimated at 2.6 percent. In other words, women's representation in legislatures is approximately 2.6 percent higher in term-limited states than in non-term limited states.<sup>30</sup>

The proportion of minority members elected to the Michigan House, for example, peaked in the 2000 election at 18 percent following term limits from a pre-term limits proportion of just ten percent in the 1990s. This proportion declined in the 2002 election to 15 percent but has since remained above the pre-term limits levels.<sup>31</sup>

### **Better Legislative Institutions**

It is clear that term limits have brought many changes to the legislatures in which they are in effect. To date, terms limits have had a greater effect on those legislatures considered to be more professional.

More specifically, term limits opponents have charged that regular turnover of lawmakers would diminish institutional knowledge and political experience. However, in many cases term limits have reinvigorated state legislatures, broken up the political class, and injected new ideas into the political mainstream. Furthermore, the faster turnover of office-holders has weakened the relationship between careerist politicians and special-interest lobbyists.

Many anti-term limits studies are deeply flawed, in a methodological sense, as they rely on a combination of interviews with current and former legislators, staffers and lobbyists, or

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<sup>30</sup> Valerie O'Regan and Stephen Stambough, "Are Term Limits a Woman Candidate's Friend?" presented at the annual meeting of the Western Political Science Association, Vancouver, Canada, 19 Mar. 2009.

<sup>31</sup> Marjorie Sarbaugh-Thompson, et al. *The Political and Institutional Effects of Term Limits* (New York: Palgrave Mac-Millan Press, 2004) Page 74.



survey data from these stakeholders. Consequently, a great deal of self-interested opinion, but very little actual behavior, is examined in these studies.<sup>32</sup> More rigorous research is available that sheds considerable light on the institutional changes wrought by term limits.

### More Representative of Voter Preferences

Although a 2006 nationwide survey found that term-limited state legislators feel less constrained by their constituencies,<sup>33</sup> more recent research finds no evidence that term-limited legislators are any less representative of their constituents than are non-term limited legislators. These results are consistent with the so-called “sorting model,” found in economics literature, in which elections are reasonably efficient at selecting leaders whose preferences align with those of their districts.<sup>34</sup>

In fact, term limits – or even the mere threat of term limits – increases the responsiveness of politicians’ policy platforms.<sup>35</sup> Even in cases in which term limits do not produce much partisan change, they are likely to produce legislators who are closer to the median voters in their districts than in situations in which term limits do not apply.<sup>36</sup>

### Greater Ideological Consistency

Term-limited legislators are more likely to be motivated by issues than their non-term limited predecessors. There is further positive news for those who believe politicians should provide voters with, in Barry Goldwater’s famous phrase, “a choice, not an echo.” Anyone favoring more elected officials who stand on principle and refuse to bend to the latest focus group-driven political wind will be encouraged by the following: it has been found, using individual voting records, that term-limited liberal legislators behave more liberally during their last period in office, and term-limited conservative legislators behave more conservatively.<sup>37</sup>

Periodic elections are the main instrument through which voters can hold politicians accountable. From this perspective term limits, which restrict voters’ ability to reward politicians with re-election, may appear counterproductive. Nevertheless, economic research shows that, by reducing the value of holding office, term limits can induce politicians to implement policies that are closer to their private preferences. Such “truthful” behavior by incumbents in turn results in better screening of incumbents. The combination of these two effects increases the benefits (economic and non-economic) to voters.<sup>38</sup>

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<sup>32</sup> Neil Baer, “The Effects of Term-Limits on Co-sponsorship Behavior,” presented at the annual meeting of the Southern Political Science Association, Atlanta, 6 Jan. 2010.

<sup>33</sup> John M. Carey, et al., “The Effects of Term Limits on State Legislatures: A New Survey of the 50 States,” *Legislative Studies Quarterly* 31 2006: 105-134.

<sup>34</sup> Gerald C. Wright, “Do Term Limits Affect Legislative Roll Call Voting? Representation, Polarization, and Participation,” *State Politics & Policy Quarterly*, 7 2007: 256-280.

<sup>35</sup> Kong-Pin Chen and Emerson M.S. Niou, “Term Limits as a Response to Incumbency Advantage,” *The Journal of Politics*, 67 2005: 390-406.

<sup>36</sup> Ibid. Chen and Nicu: 390.

<sup>37</sup> Allison L. Huang, Term Limits and the Last Period Problem — with Evidence from Environmental Policy, 22 Aug. 22, 2006.

<sup>38</sup> Michael Smart and Daniel M. Sturm, “Term Limits and Electoral Accountability”, *CEP Discussion Paper No. 770*, Centre for Economic Performance, London School of Economics, Dec. 2006. <sup>39</sup> Patrick Basham, “A Long View of Short Careers: The Case for Voluntary Term Limits,” *Reason* 15 Mar. 2005, [http://www.cato.org/pub\\_display.php?pub\\_id=3709](http://www.cato.org/pub_display.php?pub_id=3709).



## Less Powerful Party Leaders, Committees and Lobbyists

Term limits have not strengthened interest groups, state bureaucracies or legislative staffs, as predicted by critics of term limits. In truth, lobbyists are unsettled by the term limits–induced need to build new relationships from scratch.

By mandating frequent turnover, term limits bring new perspectives to state legislatures. The introduction of an arguably higher quality, more richly experienced, and more diverse pool of candidates and legislators has led to an infusion of new blood and ideas. For example, freshman legislators tend to ask tougher questions of bureaucrats and demand a higher level of performance from government agencies than did their predecessors.

The earliest research suggested that term limits should reorient power within the legislature, pulling authority away from party leaders and toward rank-and-file members. In practice, term-limited legislators exercise greater independence than their non-limited peers and appear less fearful of incurring the wrath of either party power brokers or special interest groups.<sup>39</sup> The findings from the very latest research analysis confirm that, in the average state, party leaders lose a small, but statistically significant, degree of influence when limits are implemented in the lower chamber of the legislature.

Committees are often described as “where the action is” in a legislature. So understanding the impact of term limits on committees is crucial to understanding their effect on the work of a legislature. Term-limited legislatures report reduced influence of committees.<sup>40</sup> Generally speaking, term limits diffuse power in state legislatures, both by decreasing average contributions to incumbents and by reducing the power of party caucus leaders relative to other members.<sup>41</sup>

Regarding interest group influence, term limits have a slight negative impact in states, such as Florida, with very powerful interest group systems. That is, term limits have reduced the influence of lobbyists in Tallahassee and, arguably, in other state capitals throughout the nation.

Term limits diminish the value of a legislative seat to lobbyists and the special interests they represent because term limits increase the cost of lobbying individual politicians. That reduces the incentive for lobbyists to raise and distribute large campaign contributions, as the term-limited citizen legislator will be in office for a comparatively short time. Furthermore, term-limited politicians are far more likely to have nonpolitical sources of income. Therefore, they are less likely to succumb to the enticements of lobbyists.

## Better Policymaking

Contemporary policymaking is nearly always a protracted process, producing complex pieces of legislation that are actually read by very few legislators and properly understood by an even smaller number. It is therefore noteworthy that, according to one study, term limits reduced policy complexity in three hybrid and citizen legislatures, although laws became increasingly intricate in the highly professional California legislature.<sup>42</sup>

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<sup>40</sup> Jennifer Drage Bowser, “The Effects of Legislative Term Limits,” *The Book of the States 2005* (Lexington, KY: The Council of State Governments, 2005) 111-115.

<sup>41</sup> D. Apollonio and R.J. La Raja, “Term Limits, Campaign Contributions, and the Distribution of Power in State Legislatures,” *Legislative Studies Quarterly*, 31 2006: 259-281.

<sup>42</sup> Thad Kousser, “The Limited Impact of Term Limits: Contingent Effects on the Complexity and Breadth of Laws,” *State Politics & Policy Quarterly*, 6 2006 :410-429.



It has always been alleged that term limits have the potential to encourage a politician to shirk his or her duties during the last term in office. However, research evidence suggests that this is not the case, at least not for governors who may have career interests beyond their current office.<sup>43</sup>

An empirical analysis of the legislative record produced by states between 1990 and 2004 found that term-limited legislatures perform the people's business more efficiently than do non-limited legislatures.<sup>44</sup> New York University's Brennan Center for Justice compared different legislative practices across all 50 states and studied legislative enactment rates. Michigan enacted 69 percent of introduced bills, Ohio 52 percent, and California 41 percent – all in term-limited legislatures. In striking contrast, Wisconsin, Pennsylvania, Massachusetts, New York, and New Jersey had enactment rates ranging from 2.7 percent to 8.5 percent. The latter are not term-limited legislatures.

The Brennan Center report concludes that, overall, New York State's non-limited legislative process is the most dysfunctional in the nation. According to the report, Albany systematically excludes rank-and-file lawmakers and the public from the process. Evan Davis, former counsel to Gov. Mario Cuomo, observes, "Most New Yorkers are represented by people with no say. They vote on bills they have had no opportunity to read, let alone study."

Prior to term limits, California's state legislature was referred to as a political geriatric ward. After term limits were enacted, California went so far as to pass state budgets on time. One would have to go back decades to find legislative sessions that produced as much as some term-limited legislatures. In many instances, the loss of institutional memory, legislative knowledge, and political experience has fostered more energetic and more effective deliberative bodies.<sup>45</sup>

Overall, term-limited state legislatures are effectively adapting to their new institutional environment.<sup>46</sup> The bottom line is that legislatures are resilient institutions, and they continue to function efficiently under term limits. Many problems experienced by today's term-limited legislatures, such as a decline in civility and collegiality, a lack of deep policy knowledge, and missteps and human limitations, are the same as those faced by all legislatures.<sup>47</sup>

### **Slimming Down Big Government**

Regardless of whether one views the changes in a positive or a negative light, there is little question that states with term limits make fundamentally different economic policy choices than states without term limits.<sup>48</sup> The empirical evidence indicates, for example, that the stringency of term limits is an important factor in determining the size and allocation of state expenditures.

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<sup>43</sup> Christopher Parker, "Do Term Limits Matter? The Case of Gubernatorial Economic Policy," presented at the annual meeting of the Midwest Political Science Association, Chicago, 3 Apr. 2008.

<sup>44</sup> See the discussion in Patrick Basham, "Bring Back the Gov's Idea - Term Limits," *New York Daily News* 5 Oct. 2004.

<sup>45</sup> Basham, "Bring Back the Gov's Idea - Term Limits."

<sup>46</sup> Karl T. Kurtz, et al., eds., *Institutional Change in American Politics: The Case of Term Limits* (Ann Arbor: University of Michigan Press, 2007) Page: 3.

<sup>47</sup> Bowser. Page 115.

<sup>48</sup> Helen Abbie Erler, *So Much to Do, So Little Time: Term limits and State Fiscal Policy*, Doctoral dissertation, Yale University, 2005.



Studies show that the longer an individual stays in office, the greater the support for increased government spending.<sup>49</sup> Consequently, limiting terms may lead to limited government, or at least a smaller government than would have existed in their absence, as senior state legislators are more likely to vote for higher taxes and higher spending than are their junior colleagues.

Writing a decade ago, Michael New found that “the new legislators brought in by term limits are likely to be more fiscally responsible than their predecessors.”<sup>50</sup> Since then, at the national level many self-limiters have stood out as the most fiscally conservative congressmen. They have been some of the most outspoken advocates for reform of financially flawed government programs such as Social Security and Medicare. It is increasingly clear that voluntary term limits contribute to a decline in political parochialism. In practice, this serves to reduce growth in the size and scope of government.<sup>51</sup>

As New explained, “Limiting the amount of time that individuals could remain in the state legislature would theoretically cause state legislators to place less value on getting re-elected. They would become more likely to place the broad interests of the state ahead of the parochial interests of their constituents and therefore be less likely to vote for wasteful pork projects.”<sup>52</sup> Term limits can, in some cases, inhibit voters from selecting representatives who deliver particularistic benefits, and in these cases term limits reduce pork barrel spending.<sup>53</sup>

It is not merely term limits for elected officials that constrain Big Government; terms limits for non-elected state officials serve a complementary purpose. For example, looking at the impact of auditor term length and term limits on government performance at the state level, one finds strong evidence for a positive and significant influence of term limits on state credit ratings. Auditors who face a binding term limit seem to be more effective monitors, which improves their states’ credit ratings.<sup>54</sup>

Neither term limits nor its benefits are limited to this country. In China’s provinces, there is a documented positive impact of term-limited provincial governors on local economic growth.<sup>55</sup> In countries where terms are limited to two consecutive terms, it has been found that government does not grow as quickly as in countries with single-term limits.<sup>56</sup>

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<sup>49</sup> See, for example, James L. Payne, *The Culture of Spending*, (underline title; no italics; delete comma) (San Francisco: ICS Press, 1991) chapters 5 and 11; and Aaron Steelman, “Term Limits and the Republican Congress: The Case Strengthens,” *Cato Institute Briefing Paper No. 41*, 28 Oct. 1998 Page: 2 <http://www.cato.org/pubs/briefs/bp41.pdf>.

<sup>50</sup> Michael New, “Where Term Limits Lead to Tax Cuts,” *Cato Institute*, 17 Aug. 2001 [http://www.cato.org/pubs/\\_display.php?pub\\_id=3925](http://www.cato.org/pubs/_display.php?pub_id=3925).

<sup>51</sup> Basham, “A Long View of Short Careers.”

<sup>52</sup> Michael New, “Where Term Limits Lead to Tax Cuts,” *Cato Institute*, 17 Aug. 2001 [http://www.cato.org/pubs/\\_display.php?pub\\_id=3925](http://www.cato.org/pubs/_display.php?pub_id=3925).

<sup>53</sup> M.C. Herron and K.W. Shotts, “Term Limits and Pork,” *Legislative Studies Quarterly*, 31 2006: 383-403.

<sup>54</sup> Mark Schelker, *Auditor Terms and Term Limits in the Public Sector: Evidence from the US States*, 29 Aug. 2009, (Social Science Research Network Online Publication) and Schelker, “The Influence of Auditor Term Length and Term Limits on US State General Obligation Bond Ratings,” *Public Choice* (online), (2010) <DOI: 10.1007/s11127-010-9688-4>.

<sup>55</sup> Jun Zhanga and Yuan Gao, “Term limits and Rotation of Chinese Governors: Do They Matter to Economic Growth?” *Journal of the Asia Pacific Economy*, 13 2008: 274-297.

<sup>56</sup> Joseph M. Johnson and W. Mark Crain, “Effects of Term Limits on Fiscal Performance: Evidence from Democratic Nations,” *Public Choice*, 119 2004: 73-90.



## Today's Term Limits Debate

For the reasons stated throughout this paper, term limits remain popular with state electorates long after their introduction. Despite a steady onslaught of negative commentary emanating from the political and media establishments,<sup>57</sup> a very large number of Americans continue to support term limits. For example, Our Generation recently polled over two million people and found that 96 percent of the responders favor term limits.

Clearly, most Americans continue to believe that term limits eliminate the unfair political advantages and policy flexibility that accompany long-term political careers.<sup>58</sup> If permitted the democratic opportunity, experts predict approximately eight to ten additional states would choose to limit their members' congressional terms, action not allowed under the 1995 Supreme Court ruling.<sup>59</sup>

How best to calculate when, if ever, lawmakers might act to pass a proposed congressional term limits amendment? One constitutional expert recently concluded that congressmen will back term limits when they see an opportunity to package widespread anti-incumbent sentiment into a popular political platform.<sup>60</sup>

Surprisingly, perhaps, that day may already have arrived. Eleven Republican senators are currently pushing a new constitutional amendment that would limit senators to two terms and members of the House to three terms. Authored by Senator Jim DeMint (R-S.C.) and cosponsored by ten other Republican senators, the amendment faces a Democratic majority in the Senate, but a companion bill is expected to be introduced soon in the Republican-controlled U.S. House. The amendment would require passage by two-thirds of the House and Senate and then approval in two-thirds (38) of the country's state legislatures for ratification.

## Conclusion

The early advocates of modern-day term limits were largely correct. Term limits enable an elected official to gain the experience necessary to fulfill his or her role in legislative review and policy investigation while ensuring a renewal of ideas and perspectives on a regular basis.<sup>61</sup> One researcher has considered alternative institutional designs that might accomplish some of the goals of term limits, but found that none is likely to provide a perfect substitute. It was found that term limits have the advantage of clarity, making them relatively easy constitutional rules to enforce, and that they should be considered an effective part of the arsenal of democratic institutions.<sup>62</sup>

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<sup>57</sup> See, for example, Jennifer Drage Bowser, et al., *Coping with Term Limits: A Practical Guide* (National Conference of State Legislatures 2006) and, most recently, the criticism of term limits presented in "California's Legislature – the Withering Branch: How the Initiative Process Has Redistributed Power," *The Economist* 22 April 2011.

<sup>58</sup> Colleen Donovan, *Direct Democracy, Term Limits, and Municipal Fiscal Decisions in the United States*, October 19, 2009.

<sup>59</sup> Edward J. López and R. Todd Jewell, "Strategic Institutional Choice: Voters, States, and Congressional Term Limits," *Public Choice*, 132 (2007): 137-157.

<sup>60</sup> Keith J. Larson, "Republican Revolutionaries and Tea Party Patriots: A Public Choice Analysis of Congressional Term Limits," *ExpressO* 2011 [http://works.bepress.com/keith\\_larson/2](http://works.bepress.com/keith_larson/2).

<sup>61</sup> Sebastian Spano, *Bill C-10: An Act to Amend the Constitution Act, 1867 (Senate term limits)* Legislative Summary, Library of Parliament, Publication No. 40-3-C10-E, Ottawa, Canada, 6 Apr. 2010.

<sup>62</sup> Tom Ginsburg, "On the Evasion of Executive Term Limits," *ExpressO* 2010 [http://works.bepress.com/tom\\_ginsburg/31](http://works.bepress.com/tom_ginsburg/31).



Neither the benefits nor the necessity of term limits are limited to these shores. Term limits are an important instrument of democratization, because they not only constrain the power of individual leaders but also tend to promote political party alternation (as in Croatia in 2000 and Kenya in 2002). This, in turn, fosters democratic development.<sup>63</sup> Consequently, the international community could and should encourage the entrenchment of term limits in national constitutions, including our own.<sup>64</sup>

Term limits reward real-world experience over backroom experience. They have reformed state and local governments around the nation by replacing professional politicians with citizen legislators who participate in government largely out of a sense of civic duty. The detractors are simply wrong. Term limits are changing our country's political culture and paving the way to real reform.

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<sup>63</sup> Gideon Maltz, "The Case for Presidential Term Limits," *Journal of Democracy*, 18 (2007): 128-142.

<sup>64</sup> *Ibid.* Maltz: 128.