
Stanley Aronoff and Louis Blessing

Before and After: The View from the General Assembly

Materials

Gold, *Democracy in Session*, 461 - 464

Niemi and Rulison, "The Effects of Term Limits on State Legislatures..." [Albany Gov't Law Rev]

McLin, "The Hidden Effects of Term Limits" [Toledo Law Rev]

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DEMOCRACY IN SESSION

A HISTORY OF THE
OHIO GENERAL ASSEMBLY



David M. Gold

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Computers provided instant, up-to-date access to existing laws, introduced bills and resolutions, analyses, rules, and information for and about the members, as well as live online broadcasts of floor sessions and archived video recordings of floor sessions going back to 1997. Every member had a computer in his or her office and would soon have one on his or her desk on the floor of the House or Senate. Naturally, the legislature employed information technology people—web managers, systems engineers, telecommunications personnel—to keep all the computers and communications equipment in operation.

No one was going to get rich on a member's salary, but the compensation was adequate, particularly when health and retirement benefits were considered. Citizens who failed to account for all the time put in outside of floor sessions and committee meetings might think the members only worked part-time, but they could no longer accuse them of collecting two years' pay for a few months' work every other year. The General Assembly met annually. In the first year of a biennium, it stayed in session into the summer, took a break, and came back in the fall. In the second year, it usually left town a bit earlier, returned for a few pre-election sessions, and came back after elections to wrap up business. But the House and Senate leaders could call the members back into session at any time. The members clearly regarded themselves as full-time legislators. On twenty-first-century rosters, between 40 and 50 percent either listed legislator as their sole occupation or gave no other current occupation.

Ironically, the movement to professionalize the legislature collided with another reform with a directly contrary tendency: term limits. This was a change not contemplated by the Citizens' Committee in 1972. According to one scholar, term limits have "dismantled" legislative professionalism. "Limits appear to have the power to turn back the clock on some of the nation's most professional bodies," writes political scientist Thad Kousser, "bringing changes that narrow the broad gap between citizen legislatures and houses with long sessions, high salaries, and large staff." In particular, Kousser believes that terms limits destabilize and weaken leadership, aggravate partisanship, diminish the effectiveness of committees, reduce policy innovation, and impair the legislature's resistance to the executive.³

As the full effects of Ohio's term-limits initiative began to be felt, legislators foresaw seriously detrimental consequences. A common lament was the "loss of institutional memory" with the departure of seasoned members. When crises arose, who would know from experience how to deal with them? Senator Rhine McLin recalled how in 1997 the Ohio Supreme Court had given the General Assembly one year to revamp the system of funding the public schools. "It was during this

time,” she wrote, “that Republicans turned to Senator Robert R. Cupp. As a veteran member of the Senate, Cupp was familiar with the intricate details of the old formula of funding and was able to both explain it and suggest a plan for improvement.” What, McLin wondered, would the legislature have done without such experience?⁴

Legislators typically report that it takes one or two sessions for a member to learn the ropes. From the time when long tenures became common in the 1930s through the end of the twentieth century, the General Assembly never lacked a large group of individuals who knew how to play the game and could mentor new members. Term limits made it likely that inexperienced members who needed to learn the legislator’s craft would soon dominate. Senate President Richard Finan predicted in 2001 that “[t]his learning curve will be most apparent as new members seek an understanding of the budget process. Since the budget process occurs every two years, by the time a legislator learns the process fairly well, he or she will be forced out of office due to term limits.”⁵

Observers foresaw other negative consequences of term limits. They predicted a decline in the quality of leadership because would-be leaders would no longer have the time to develop a style and a vision, a deep knowledge of the institution, and a network of personal relationships on which to build authority. New members with short official life spans would make life difficult for leadership. Anxious to build their records fast, the newcomers would express themselves more openly and would be less deferential to and less reliant on their leaders. Political commentators predicted a shift in power from a weakened legislature to the executive branch. They thought that the role of lobbyists in educating members, especially with regard to complex issues, would become more difficult because the teachers would constantly be starting over. Moreover, big lobbying firms with the manpower and sophistication to handle their expanded educational role would swallow up small ones, and interest groups that lacked professional lobbyists would be left out in the cold. More members would resign before the end of their terms to take other jobs. The legislature would become a stopping point for people on the way to somewhere else, so that for many members the effective term limit would be seven years. With such a short time to make an impact, legislators would be more interested in getting “quick returns” than pursuing long-term legislative agendas and make consensus harder to reach.⁶

Besides all that, term limits threatened to destroy the less measurable aspects of legislative life that made progress possible. Legislatures had come to rely on the personal relationships built over time that allowed for compromise. The legisla-

tor's belief in the trustworthiness of other members—that they meant what they said, would vote the way they promised, and presented factual matters truthfully—undergirded the “civility, courtesy, understanding and respect” that made legislative work enjoyable and productive. Even in the days of Vern Riffe, whose breathtaking power contributed to the success of the term-limits movement in Ohio, members relied on personal relationships built up over not just years but decades. Riffe himself spent a long time as a backbencher before rising to the Speakership. The members, including those who disliked his authoritarian methods, knew and trusted him. He was as good as his word. He developed close friendships with Republican legislative leaders and did not always stifle minority amendments or bills simply because they came from the opposing party. Term limits, it seemed, would not allow enough time for ideological hard edges to soften, or to let members get to know and trust one another so that the legislative process could work itself out without rancor.⁷

The term-limits clock started running in 1992, even for incumbents who had been in the General Assembly for decades. As a result, the amendment did not have its full impact until the 2000 elections. It is too soon to tell for sure whether term limits have produced the dire results predicted by its critics, but anecdotal evidence, much of it unpublished and not given for attribution, suggests that the criticisms had some merit. Resignations have in fact increased. The budget process has become more chaotic (although passage of the main operating budget bill in 2007 went remarkably smoothly). The lack of experience and mentoring has been apparent, relations between the parties have been acrimonious, and leadership has at times been clumsy. According to one critic, the combination of “novice legislators” and “a relatively thin supporting staff” resulted in a badly drawn tort-reform law in 2004 written mostly by big lobbies. On the other hand, power does not seem to have shifted appreciably to the executive branch. An academic report issued in 2004 found that Ohio differed from other states with term limits in that power had moved away from the governor toward “parties in the legislature (partisan staff members, party leaders and party caucuses).” Perhaps Ohio's abnormality was due to the political weakness of Governor Bob Taft, who held office from the time term limits went into effect through 2006, or to the possibility that, as a former legislator, Taft had greater respect for the General Assembly than some of his predecessors who lacked legislative experience.⁸

Some of these situations may be temporary. There is a growing tendency for members to move back and forth between the houses or to return to the General Assembly after a four-year hiatus. Throughout the period of term limits, most

senators have been former representatives. If the trend continues, there will be an increase in experience and a restoration of at least some of the personal relationships upon which practical achievements as well as civility are built. Improved training for new members may enhance their performance in the early years. In 2000, when term limits had their first big impact on the General Assembly, the Legislative Service Commission expanded its orientation program for new members from one and a half to four and a half days. Longtime staff also help keep the institutional memory alive. In the House in 2006, for example, the minority chief of staff, director of administration, and director of policy collectively had nearly ninety years of experience at the statehouse, and the Legislative Service Commission had over twenty staff members with more than twenty years of service apiece. Video archives of legislative proceedings, should anyone care to use them, may also help preserve institutional memory.

Stronger governors may ultimately succeed in siphoning power away from the legislature, but that will depend more on personalities and politics than on the nature of term limits. Term limits have rid legislatures of old chaff as well as ripe wheat and have brought in well-educated, assertive new members. As leaders adapt to the new circumstances, they may find more than enough strength to maintain legislative independence. Indeed, one professional student of state legislatures speculated in 2005 that term limits had actually strengthened the General Assembly vis-à-vis the governor by bringing a particularly strong Speaker to the fore.⁹

Political scientist Alan Rosenthal has stated unequivocally that term limits will make legislatures worse. Two other scholars, after examining the effects of term limits in Ohio, acknowledged that term limits made the legislative process “chaotic and unpredictable” but concluded that “the Ohio legislature is functioning and functioning rather well. Perhaps it is in spite of term limits. Perhaps it is because of term limits. Our guess is that it is a little of both.” Term limits have been in effect in Ohio for only a few years. It will take longer than that to see how successfully the General Assembly adapts to the change. In the meantime, the limits themselves may be modified. In 2007, the leaders of both parties and the newly elected governor came out in favor of extending term limits to twelve years, three ex-governors called term limits a failure, and several major newspapers editorialized in favor of an extension or abolition of term limits. On the other hand, a Rasmussen poll found that a large majority of Ohioans not only supported term limits but thought that eight years was just about right.¹⁰

The importance of term limits cannot be denied, but some of the changes that term limits are thought to have wrought, or at least threatened, have other

**THE EFFECTS OF TERM LIMITS ON STATE
LEGISLATURES AND THEIR APPLICABILITY
TO THE EXECUTIVE BRANCH[†]**

Richard G. Niemi & Kristin K. Rulison***

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[†] This article draws heavily on INSTITUTIONAL CHANGE IN AMERICAN POLITICS: THE CASE OF TERM LIMITS (Karl T. Kurtz et al. eds., 2007) as well as the final report prepared by the 2010 New York City Charter Revision Commission. See N.Y. CITY CHARTER REVISION COMM'N, FINAL REPORT OF THE 2010 NEW YORK CITY CHARTER REVISION COMMISSION (2010), available at http://www.nyc.gov/html/charter/downloads/pdf/final_report_2010_charte_revision_9-1-10.pdf.

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INTRODUCTION

The introduction of term limits in the 1990s represents the most significant institutional change in American state legislatures since the movement to professionalize legislatures in the 1960s and 1970s. Today, some form of restriction on the length of tenure in office exists in fifteen state legislatures.¹ Enacted primarily by voter initiatives, term limits have been both the source of a debate over the merits of restricting incumbents' ability to return to office and the subject of close examination by scholars and members of legislative service organizations interested in determining how legislatures have been affected by and have adapted to these restrictions. The body of research, drawing on national surveys and intensive state studies, has addressed questions concerning the effect of term limits on the composition of legislatures, the competitiveness of elections, the power relationships between legislators and other political actors, and the nature and quality of policies produced, as well as how legislatures have adjusted their internal organization and operating procedures to accommodate these changes.

Term limits have also been applied to executive branch officials, most notably to the U.S. President and to state governors. In the wake of the term limit movement of the 1990s, an increasing number of municipalities—though an unknown fraction of the total—have extended term limits to local officeholders.

This paper reviews the findings of research on term limits, almost all of which has examined state legislatures. We assess how well the arguments for and against term limits stand up to the evidence and discuss the applicability of these conclusions to local legislative councils and executive actors. While the debate over term limits has hardly been resolved, it seems that term limits are neither the panacea portrayed by the most fervent advocates nor the disaster depicted by the harshest critics.

I. THE INTRODUCTION AND SPREAD OF TERM LIMITS

The idea of term limits is an old one, having been a part of the Articles of Confederation. The idea was also applied to some

¹ See *The Term Limited States*, NAT'L CONFERENCE OF STATE LEGISLATURES, <http://www.ncsl.org/default.aspx?tabid=14844> (last visited May 15, 2011).

executive and legislative offices in the 1780s (and also prior to that decade).² Likewise, term limits on state governors have a relatively long history, and, of course, U.S. Presidents have been limited to two full terms since the Twenty-Second Amendment was ratified in 1951.³ More recent legislative-level restrictions and the debates that surround them, however, stem from the 1990s, when the push began to limit the tenure of state and federal legislators. Concern had arisen that legislatures were becoming overwhelmingly populated by careerist politicians and becoming unresponsive to public interests.⁴ The term limit movement gained momentum when the Republican Party advocated for restrictions on congressional terms as part of its 1988 platform, and again in 1994, in its "Contract with America."⁵ During this same time, political reformers and advocacy organizations saw great success in building support for term limits among the states; between 1990 and 1994, term limits were introduced at the congressional level in twenty states and at the state legislative level in twenty-one states.⁶ These term limits were introduced by voter initiatives to amend the state constitution, by statutory initiatives, or by direct legislative action.⁷

When the Republican Party gained a majority in Congress in 1994, the leadership brought a constitutional amendment limiting the terms of members in the House of Representatives and the Senate to the floor.⁸ Unfortunately for its proponents,

² Lloyd N. Cutler, *The Constitutionality of State-Imposed Term Limits for Federal Office*, in *THE POLITICS AND LAW OF TERM LIMITS* 99, 102–03 (Edward H. Crane & Roger Pilon eds., 1994).

³ U.S. CONST. amend. XXII, § 1. Term limits on governors have been in existence since at least 1780. Bernard Grofman & Neil Sutherland, *Gubernatorial Term Limits and Term Lengths in Historical Perspective, 1790–1990: Geographic Diffusion, Non-Separability, and the Ratchet Effect*, in *LEGISLATIVE TERM LIMITS: PUBLIC CHOICE PERSPECTIVES* 279, 282 Table 17.1 (Bernard Grofman ed., 1996) (showing that gubernatorial term limits vary in their specifics, with some restricting the number of consecutive terms and others restricting the total number of terms).

⁴ Steven F. Huefner, *Term Limits in State Legislative Elections: Less Value for More Money?*, 79 *IND. L.J.* 427, 432 (2004).

⁵ See Jeffrey B. Gayner, Senior Fellow, Heritage Foundation, *The Contract with America: Implementing New Ideas in the U.S.*, in *THE HERITAGE LECTURES* 4 (Heritage Foundation, The Heritage Lectures No. 549, 1995), available at http://s3.amazonaws.com/thf_media/1995/pdf/hl549.pdf.

⁶ Huefner, *supra* note 4, at 431.

⁷ *Id.*

⁸ See Gayner, *supra* note 5, at 4.

four versions of the term limits amendment died in the House after failing to gain the necessary two-thirds majority support. Then, in May of 1995, the Supreme Court struck down term limits imposed by the states upon their congressional delegations as unconstitutional, on the grounds that the states did not have the power to place restrictions on qualifications for federal office.⁹ Thus, restrictions on state-level offices were left to the individual states to decide, and any limits on the tenure of federal office holders were self-imposed.¹⁰ Indeed, self-enforced restrictions on tenure in office have been a popular selling point in recent elections for congressional candidates who claim to be performing a public service rather than pursuing a political career, and who hope to appeal to the popular sentiment that long-term office holders have “sold out” at the expense of their constituents’ interests.¹¹

Between 1997 and 2003, term limits on state legislators were repealed in six states, either by legislative action or by court rulings.¹² Thus, term limits are in effect in fifteen states two decades after the modern movement began.¹³ The future of term limits is not entirely secure, as legislators regularly introduce proposals to modify them or overturn them entirely.¹⁴ When put to a popular vote, however, term limits have been routinely

⁹ See *U.S. Term Limits v. Thornton*, 514 U.S. 779, 837–38 (1995). In the 2010 midterm elections, some fifty-nine candidates for the U.S. House of Representatives and Senate signed a pledge to support an amendment to the U.S. Constitution which, if passed, would limit House members to three consecutive terms in office and Senators to two consecutive terms. However, many of these candidates lost, and it is very unlikely that Congress would vote to limit itself in this way. See *U.S. Term Limits Amendment Pledge*, U.S. TERM LIMITS AMENDMENT, <http://www.ustermlimitsamendment.org/about-us/> (last visited May 15, 2011).

¹⁰ Kathleen M. Sullivan, Comment, *Dueling Sovereignities: U.S. Term Limits, Inc. v. Thornton*, 109 HARV. L. REV. 78, 78–79 (1995).

¹¹ For a list of recent and current members of Congress who have announced self-imposed limits on their service, see HAROLD W. STANLEY & RICHARD G. NIEMI, VITAL STATISTICS ON AMERICAN POLITICS 2011–2012 (forthcoming 2011) (on file with authors).

¹² Jennifer Drage Bowser, *The Effects of Legislative Term Limits*, in 37 THE BOOK OF THE STATES 111, 111 (Council of State Gov’ts et al. eds., 2005), <http://www.csg.org/knowledgecenter/docs/BOS2005-LegislativeTermLimits.pdf>; *The Term Limited States*, *supra* note 1.

¹³ Bowser, *supra* note 12, at 111.

¹⁴ For example, see *States Term Limits*, TERMLIMITS.ORG, <http://www.termlimits.org/content.asp?pl=18&contentid=18> (last visited May 15, 2011) (providing a list of states in which term limits have been or are currently being challenged).

supported by substantial majorities of the voting public, suggesting that they are not going to disappear quickly or quietly.¹⁵ At the same time, it is not likely that term limits will be expanded to new states, as incumbent legislators in non-initiative states, such as New York, are unlikely to impose limits on their own ability to run for re-election.

Even among the fifteen legislatures with term limits, the limits vary considerably in their restrictiveness.¹⁶ The most common constraint, in both upper and lower chambers, is eight years (two terms in the upper house and four in the lower house). However, the limit is as short as six years in some states and as long as twelve years in others.¹⁷ In nine states, term limits apply only to consecutive terms; legislators may “sit out” for two years or for four years and then run for office again.¹⁸ In Oklahoma, the twelve-year term limit applies to total service in the legislature; members who have exhausted their allowable tenure in office may not run for office in the other chamber as they often do elsewhere.¹⁹

II. THE SCHOLARLY STUDY OF TERM LIMITS

Studies of the effects of term limits have focused almost entirely on state legislatures as opposed to executive actors. State legislatures serve as a natural experiment of sorts, providing both ample institutional variation and a sufficiently large number of observations to draw conclusions about the effects of the recent introduction of term limits in certain states. In their 2007 book, Kurtz, Cain, and Niemi describe the variation in characteristics of state legislatures, noting that:

¹⁵ In 2005, sixty-eight percent of Americans were in favor of term limits; in 2009, seventy percent were in favor. *See Many Americans Want Term Limits in Congress*, ANGUS REID PUB. OPINION, Mar. 17, 2009, available at http://www.angus-reid.com/polls/35455/many_americans_want_term_limits_in_congress (last visited May 15, 2011); see also Jeff McDonald, *Term-Limits Proposition, and Incumbents, Win Big; Horn, Roberts Likely Will Still Face Runoffs in Fall*, SAN DIEGO UNION-TRIB., June 9, 2010, at A-9, available at <http://www.signonsandiego.com/news/2010/jun/09/county-term-limits-win-do-incumbents/> (discussing the vote on June 8, 2010 in San Diego County that imposed term limits on members of the Board of Supervisors where nearly 72 percent of the public favored the measure).

¹⁶ Bowser, *supra* note 12, at 111 Table A.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

The universe of state legislatures includes

- 7,382 diverse, elected members and approximately [35,000] legislative staff;
- ninety-nine legislative chambers that vary in size from twenty members to [400];
- hundreds of legislative leaders who have different powers and responsibilities from state to state;
- ninety-nine committee systems that differ greatly in how they are appointed and operate;
- traditional part-time “citizen” organizations; full-time, highly professionalized bodies that look more like Congress than the legislatures of other states; and many variations in between.²⁰

The evidence used to assess the effects of term limits has come from a variety of sources. Researchers have turned to large-scale quantitative studies to gauge the attitudes of legislators in term-limited and non-term-limited assemblies toward the internal structure of the legislature, the influence of other political actors, their legislative duties, and their political careers.²¹

Other surveys have gathered the opinions of knowledgeable observers (such as executive and legislative staff, lobbyists, reporters, and others involved in the state-level political process) from different states about changes in the way the legislature has operated over the ten-year period in which term limits were implemented in some states.²² Scholars have also conducted in-depth interviews with legislators, staff, and lobbyists about legislative procedures and performed detailed case studies examining pairs of states with and without term limits.²³ Nonetheless, because of their recency, empirical studies of the effects of term limits are relatively few compared to those of other

²⁰ Karl T. Kurtz et al., *Introduction*, in *INSTITUTIONAL CHANGE IN AMERICAN POLITICS: THE CASE OF TERM LIMITS* 1, 2 (Karl T. Kurtz et al. eds., 2007) [references to this collection of works are hereinafter referred to as *INSTITUTIONAL CHANGE IN AMERICAN POLITICS*].

²¹ See John M. Carey et al., *The Effects of Term Limits on State Legislatures: A New Survey of the 50 States*, 31 *LEGIS. STUD. Q.* 105 *passim* (2006); Lynda W. Powell et al., *Constituent Attention and Interest Representation*, in *INSTITUTIONAL CHANGE IN AMERICAN POLITICS*, *supra* note 20, at 38–41, 51–53.

²² See Kurtz et al., *supra* note 20, at 5; MARJORIE SARBAUGH-THOMPSON ET AL., *THE POLITICAL AND INSTITUTIONAL EFFECTS OF TERM LIMITS* 9–10 (2004).

²³ Rick Farmer & John C. Greene, *Introduction: Accelerating Change with Term Limits*, in *LEGISLATING WITHOUT EXPERIENCE: CASE STUDIES IN STATE LEGISLATIVE TERM LIMITS* 1, 4 (Rick Farmer et al. eds., 2007) [references to this collection of works are hereinafter referred to as *LEGISLATING WITHOUT EXPERIENCE*]; see SARBAUGH-THOMPSON ET AL., *supra* note 22, at 9–10.

institutions in American politics.

III. EFFECTS (AND NON-EFFECTS) OF TERM LIMITS

Scholars and pundits alike continue to debate the merits of term limits. Proponents of term limits argue that they make legislatures more reflective of the constituencies they represent by increasing turnover and decreasing the electoral advantages of incumbency. Thus, these proponents assert that term limits create opportunities for more people—and a greater variety of people—to serve, thereby reducing the incentives of those in office to cater to entrenched interest groups and electorally valuable, particularistic interests at the expense of the interests of their constituents.²⁴ Opponents, on the other hand, claim that term limits result in inexperienced and therefore somewhat incompetent policy makers, and that they cripple the branch of government that is most closely linked with the citizenry. As a result, these opponents argue that term limits enhance the relative power of governors, careerist bureaucrats, and lobbyists who have been playing the political game for a longer time.²⁵

The underlying question is, however, what have studies of the effects of term limits revealed? Below are some revelations:

The amplifying effect of term limits on turnover rates is significant but conditional on a variety of factors. Term limits establish minimum levels of turnover; with near certainty, this increases overall replacement levels in state legislatures. Turnover—measured as the percentage of new members in each newly elected legislature—has been documented as far back as the 1930s, when there was concern over the lack of experience in many state houses.²⁶ The data shows that average turnover declined steadily from over fifty percent in the 1930s to fewer than twenty-five percent in the 1980s.²⁷ As term limits began to take hold in the 1990s, this decline was reversed overall—clearly owing to increases in the percentage of new members in term-

²⁴ See Alan Rosenthal, *Living with Term Limits, in* LEGISLATING WITHOUT EXPERIENCE, *supra* note 23, at 207–08.

²⁵ *Id.* at 212, 219.

²⁶ See, e.g., Charles S. Hyneman, *Tenure and Turnover of Legislative Personnel*, 195 ANNALS AM. ACAD. POL. & SOC. SCI. 21 (1938).

²⁷ Gary F. Moncrief et al., *Time, Term Limits, and Turnover: Trends in Membership Stability in U.S. State Legislatures*, 29 LEGIS. STUD. Q. 357, 359 (2004).

limited states.²⁸

Not only has average turnover increased, at times the number of new members has reached dizzying heights. In a number of instances, a majority of members were new; in the Michigan lower house in 1998, the proportion of new members reached sixty percent, and in the upper house in 2001, it was a staggering eighty-four percent.²⁹ In general, turnover rates are quite similar in lower and upper houses, though the effect is somewhat muted in the latter because new senators often have experience in the lower house.³⁰

Term limits have other effects on turnover as well. For example, office holders in some term-limited states are more likely to exit early in anticipation of reaching the limit of their permitted tenure; however, these “anticipatory effects” are dependent on a state’s past turnover levels, the length and nature of the term limit law, the political opportunity structure, and the redistricting cycle.³¹

Term limits also tend to affect movement between chambers. Among states with six-to eight-year term limits, the frequency with which House members move to the Senate increased by 150 percent between 1994 and 2002.³² This pattern does not exist among states with more liberal, twelve-year term limits, or among non-term-limited states. Additionally, term limits have fostered a previously unseen phenomenon in some states: in over twenty instances between 1994 and 2004, termed-out upper-chamber legislators have returned to the political arena in the lower chamber.³³

The introduction of term limits does not change the type of people who seek legislative office. Advocates of term limits have suggested that restricting the amount of time that a single legislator can retain control of a seat would encourage candidates of more diverse and representative demographic backgrounds to enter the political arena. It has also been suggested that instituting term limits might return state governments to the supposed ideal of “citizen legislatures,” in

²⁸ *See id.* at 366.

²⁹ *Id.* at 367, 369 (the percentages include legislators who were termed-out, as well as others who could have run again but decided not to).

³⁰ *Id.* at 363.

³¹ *Id.* at 367, 371–72.

³² *Id.* at 370 Table 5.

³³ *Id.* at 370.

which careerist politicians are replaced by average members of the community who enter and exit politics within a short period of time.³⁴ Empirically, there is little support for either of these notions.

Overall, the proportion of women and minority legislators is no greater in states with limits on the duration of incumbency than in states without such restrictions.³⁵ One exception to this statement is the growing number of termed-out legislators replaced by Latino politicians in districts where the underlying ethnic composition has changed over time.³⁶ It appears, however, that the only role term limits have played in this case has been to accelerate an existing trend. The same may be true in a few states for African Americans. Although the number of women elected to legislative office has increased slightly in both term-limited and non-term-limited states in recent years, analyses relying on techniques that control statistically for other variables reveal that this trend cannot be attributed to the presence of term limits.³⁷ There is no evidence that the ages or economic backgrounds of legislators are different in term-limited states than in non-term-limited states.

Although it is axiomatic that term limits increase turnover, thus removing careerist legislators from office, it also seems that their replacements are not the citizen legislators whom advocates of term limits had hoped would inherit the legislatures. For one thing, the individuals who replace termed-out legislators are

³⁴ See THAD KOUSSER, TERM LIMITS AND THE DISMANTLING OF STATE LEGISLATIVE PROFESSIONALISM 3–4 (2005).

³⁵ See BRUCE E. CAIN & THAD KOUSSER, ADAPTING TO TERM LIMITS: RECENT EXPERIENCES AND NEW DIRECTIONS 9–14 (2004), http://www.ppic.org/content/pubs/report/R_1104BCR.pdf; see also John M. Carey et al., *supra* note 21, at 114–15; Huefner, *supra* note 4, at 491; Viola Wild, *Term Limits and Their Effect on Women's Leadership Opportunities in State Legislatures: A Case Study*, 1 MICH. J. PUB. AFF. 1, 16 (2004), available at http://www.mjpa.umich.edu/uploads/2/9/3/2/2932559/term_limits.pdf.

³⁶ CAIN & KOUSSER, *supra* note 35, at 14; Jason P. Casellas, *The Institutional and Demographic Determinants of Latino Representation*, 34 LEGIS. STUD. Q. 399, 418–19 (2009), available at https://webpace.utexas.edu/jpc245/Casellas_LSQ_Aug09.pdf.

³⁷ Even ignoring potential confounding factors, evidence supporting an increase in the percentage of women due to term limits is almost nonexistent. In the fifteen years prior to the introduction of term limits, women state legislators increased from about ten percent to twenty percent. In the fifteen years since term limits first began, that figure has increased only to about twenty-four percent. See CTR. FOR AMERICAN WOMEN AND POLITICS, FACT SHEET: WOMEN IN STATE LEGISLATURES 2008 (2008), available at http://www.cawp.rutgers.edu/fast_facts/levels_of_office/documents/stleg08.pdf.

typically no less interested in politics and long-term political careers. They come into the job with at least as much elective office experience as those in non-term-limited states.³⁸ Unable to continue indefinitely in their current office, they move on to a variety of related positions: political party offices, elected positions in their communities, staff positions in the legislature, or to the other chamber of the state legislature.³⁹ The most common movement is for those in the lower house to move to the upper house, but, as noted earlier, there are even some instances of movement in the other direction.⁴⁰ Even controlling for other possible influences, it has been found that members in term-limited states are more likely to run for another office, more likely to run for office in the other chamber of the state legislature, more likely to run for open U.S. House of Representative seats, and more likely to challenge incumbents of the other party for their U.S. House seats.⁴¹ There is also no evidence that the presence of term limits increases the number of legislators who enter politics with the intention of returning to their private sector careers after completing what they hope to accomplish.

There is some evidence that term-limited legislators are less linked to the particularistic interests of their districts; for example, they seem to devote less time and effort to constituency issues.⁴² However, this does not necessarily translate into more understanding of and attention to broader matters. Quite the opposite: “[T]erm-limited members are less knowledgeable about both issues and process [They] spend less time on lawmaking and being attentive to statewide needs.”⁴³

Term limits do not have a simple, obvious effect on competition. The effect of term limits on competition is closely intertwined with its effect on turnover. It would seem as if increasing turnover would necessarily increase competition. After all, preventing incumbents from running for reelection

³⁸ JOHN M. CAREY ET AL., *TERM LIMITS IN THE STATE LEGISLATURES* 127 (2000).

³⁹ See CAIN & KOUSSER, *supra* note 35, at 15.

⁴⁰ Moncrief et al., *supra* note 27, at 370.

⁴¹ CAREY ET AL., *supra* note 38, at 127.

⁴² Gerald C. Wright, however, finds no evidence from voting behavior that term-limited legislators are any less representative of their districts. Gerald C. Wright, *Do Term Limits Affect Legislative Roll Call Voting? Representation, Polarization, and Participation*, 7 ST. POL. & POL’Y Q. 256, 266 (2007).

⁴³ Bruce Cain et al., *Conclusions and Implications*, in *INSTITUTIONAL CHANGE IN AMERICAN POLITICS*, *supra* note 20, at 187.

leads to open seats, which tend to be more competitive.⁴⁴ In fact, between 1996 and 2010, more than 2,200 state legislators have been termed-out of office as a result of restrictions on the number of years they can serve, thereby creating numerous open seat elections.⁴⁵ The “problem,” however, is that while competition may increase when incumbents are removed from the picture, the regular schedule of turnover also creates incentives for likely candidates to wait for incumbents’ forced retirements before running. Further, term limits do not reduce the electoral advantages of incumbency; when incumbents are able to run for reelection, they continue to enjoy the benefits “of name recognition, resources of their office” and staff, and greater campaign fundraising success, thus making it sensible for challengers to wait them out.⁴⁶ The tendency to wait out incumbents is especially likely for those with previous political experience who are more likely to pose a legitimate threat to the incumbent.⁴⁷ Thus, the contradictory effects of term limits on competition may offset each other.

To date, there is little empirical evidence to indicate that term limits enhance competition. Quantitative analyses of data from state legislative elections in Michigan and California show no significant increase in competition in either open-seat elections or elections with an incumbent after the introduction of term limits. Surprisingly, overall competition decreased somewhat, and there was actually an increase in the number of landslide victories (indicative of a lack of competition) in post-term-limit California.⁴⁸ Further, examinations of data from both state legislative elections and city council elections reveal no evidence that the presence of term limits increases voter turnout—as we might expect under more competitive circumstances.⁴⁹

Term limits weaken the legislative branch with respect to other actors in the political process. For one thing, term-

⁴⁴ Regarding competition in open seat elections, see RONALD KEITH GADDIE & CHARLES S. BULLOCK, III, *ELECTIONS TO OPEN SEATS IN THE U.S. HOUSE: WHERE THE ACTION IS* 172 (2000) (discussing competition in open seat elections).

⁴⁵ See *Legislators Termed Out: 1996–2010*, NAT’L CONFERENCE OF STATE LEGISLATURES, <http://www.ncsl.org/default.aspx?tabid=14842> (last visited May 15, 2011).

⁴⁶ Cain et al., *supra* note 43, at 188.

⁴⁷ See GARY C. JACOBSON & SAMUEL KERNELL, *STRATEGY AND CHOICE IN CONGRESSIONAL ELECTIONS* 23 (2d ed. 1983).

⁴⁸ SARBAUGH-THOMPSON ET AL., *supra* note 22, at 30–32.

⁴⁹ See ZOLTAN L. HAJNAL, *AMERICA’S UNEVEN DEMOCRACY: RACE, TURNOUT, AND REPRESENTATION IN CITY POLITICS* 161 (2010).

limited legislators have less time to learn their jobs effectively than do their counterparts in states that allow members to devote their careers to becoming experts on the policy-making process. The regular removal of the most experienced members of the legislature means that a significant proportion of a term-limited legislature lacks familiarity with the business of legislating and an understanding of legislative norms and procedures.⁵⁰ The fact that legislators under term limits typically have less experience with and knowledge about the political process means that other political actors—such as governors, lobbyists, and careerist bureaucrats—who have been involved in politics for a longer time and have developed extensive policy expertise, often have an informational advantage that inevitably increases their power relative to members of the legislature.⁵¹

Term limits generally have an intensifying effect on the relative power of the executive branch. Surveys reveal that legislators and knowledgeable observers in term-limited states attribute a stronger influence over policy outcomes to governors and civil servants than do their counterparts in non-term-limited states.⁵² Three implications are of particular importance. First, the decreased influence of legislators relative to governors may result in a reduced emphasis on the localized concerns of districts.⁵³ Second, the informational advantages of bureaucrats can transfer power from elected representatives to nonelected officials within the executive branch.⁵⁴ Third, the introduction of term limits has resulted in a reduction of legislative oversight of bureaucratic agencies—largely due to legislators' inexperience.⁵⁵

The effect of term limits on legislator-lobbyist relationships, however, is more complex. Without time for legislators to develop expertise in specific policy areas, legislators must rely more heavily on the information provided by experienced lobbyists when developing policy. Additionally, term limits have also affected personal relationships between legislators and other political actors—particularly lobbyists. Whereas lobbyists and legislators often develop familiar relationships over time in non-

⁵⁰ David R. Berman, *Legislative Climate*, in INSTITUTIONAL CHANGE IN AMERICAN POLITICS, *supra* note 20, at 108.

⁵¹ Richard J. Powell, *Executive-Legislative Relations*, in INSTITUTIONAL CHANGE IN AMERICAN POLITICS, *supra* note 20, at 136–38.

⁵² *Id.*

⁵³ *See id.* at 146.

⁵⁴ *Id.* at 146–47.

⁵⁵ *Id.* at 143.

term-limited states, this is less often the case in term-limited legislatures, where legislator-lobbyist relationships are regularly disrupted.⁵⁶ One effect of this disrupted relationship has been the reduction of disproportionate influence of certain interests, where long-term relationships had been developed with powerful veteran legislators. Under term limits, lobbyists have to work harder to make their cases to legislators because a substantial proportion of them are in their first term. Further, incoming legislators tend to be more suspicious of the influence of interest groups and lobbyists, even though they must rely on them more for information about policy.⁵⁷ Thus, while term-limited legislators cede power to other parts of the government, there appears to be a mitigating effect on the increased power that lobbyists have due to their advantages in knowledge and experience.

There is no clear evidence that the policies produced by term-limited legislatures differ systematically from those produced by their unrestricted counterparts. The policy-making process itself has been made more chaotic and less professional due to the decrease in legislative experience and policy knowledge of term-limited legislatures, but the resulting policies do not appear to be different in nature or quality from those passed by legislatures without term limits.⁵⁸ While the quality of legislative outputs is difficult to measure objectively, evidence about the general characteristics of legislation drafted under term limits offers no support for the claim that the institution of term limits results in better or worse policy. Contrary to the simplistic and narrow-in-scope bills that amateur legislators might be expected to create, evidence from California demonstrates that bills passed by term-limited legislatures were actually broader and more complex, perhaps because of increased reliance on the drafting expertise of legislative staff.⁵⁹ Further, interest group ratings suggest that the newly elected legislators who replace outgoing incumbents are ideologically similar to their predecessors.

⁵⁶ Christopher Z. Mooney, *Lobbyists and Interest Groups*, in INSTITUTIONAL CHANGE IN AMERICAN POLITICS, *supra* note 20, at 126–27.

⁵⁷ *Id.*

⁵⁸ Thad Kousser & John Straayer, *Budgets and the Policy Process*, in INSTITUTIONAL CHANGE IN AMERICAN POLITICS, *supra* note 20, at 149–52.

⁵⁹ See BRUCE E. CAIN & THAD KOUSSER, ADAPTING TO TERM LIMITS IN CALIFORNIA: RECENT EXPERIENCES AND NEW DIRECTIONS 58 (2004), available at www.ncsl.org/Portals/1/documents/jptl/casestudies/Californiav2.pdf.

Analysis of budget-making processes and outcomes in selected states makes it clear, however, that term-limited legislators have less incentive and fewer resources with which to oversee executive decision making.⁶⁰ As Kousser and Straayer conclude, "budget records clearly demonstrate that term limits have led to a significant erosion of legislative independence in the state budgeting process."⁶¹

IV. INSTITUTIONAL RESPONSES TO TERM LIMITS

Within legislatures, term limits have made everything faster. The fact that horizons on tenure are short means that legislators face greater incentives to make their mark in the world of politics as quickly as possible. Term-limited politicians are also less willing or able to remain on the sidelines, watching and learning, before becoming full participants in the policy process. Members become actively involved in drafting and debating legislation much sooner after joining the legislature than they would in a setting without term limits. Legislators often ascend to committee chairmanships and leadership positions in a fraction of the time it takes their counterparts in legislatures without restrictions on tenure.⁶²

In response to these changes in the legislative process, legislatures have adapted their internal procedures and organization in a number of ways. First, legislators tend to hire more experienced staff to aid in the policy-making process.⁶³ Second, legislatures have almost universally instated training programs to educate legislators on everything from the bill-writing process, to lobbyist relations, to administrative procedures.⁶⁴ These programs have grown increasingly important in term-limited states, expanding in scope and duration. Third, the leadership selection process has shifted from one in which leaders naturally ascend to positions of power through experience and skill to one in which future leaders are identified quickly and

⁶⁰ Kousser & Straayer, *supra* note 58, at 158.

⁶¹ *Id.* at 162.

⁶² See Bruce Cain & Gerald Wright, *Committees*, in *INSTITUTIONAL CHANGE IN AMERICAN POLITICS*, *supra* note 20, at 76.

⁶³ See, e.g., Mooney, *supra* note 56, at 124–25.

⁶⁴ Bruce Cain et al., *supra* note 43, at 185, 194. See Alan Rosenthal, *Education and Training of Legislators*, in *INSTITUTIONAL CHANGE IN AMERICAN POLITICS*, *supra* note 20, at 167, 170; Brian Weberg & Karl T. Kurtz, *Legislative Staff*, in *INSTITUTIONAL CHANGE IN AMERICAN POLITICS*, *supra* note 20, at 104.

routinely so that they may be trained for leadership roles that come early in their careers.⁶⁵ These responses have somewhat mitigated the deleterious effects of term limits, though training programs and leadership preparation require a great deal of effort if they are to be done well, and even then they may not be enough to overcome the loss of time for learning, experiencing, and utilizing legislative processes and procedures.⁶⁶

V. APPLICABILITY OF FINDINGS TO LOCALITIES AND EXECUTIVE ACTORS

Data on the frequency and effects of term limits in municipalities is sparse, and empirical work in this area is virtually nonexistent.⁶⁷ As in state legislatures, the trend toward instituting term limits in local government gained momentum primarily after 1990, both via voter initiatives and the efforts of individuals and loosely affiliated groups.⁶⁸ Of the 100 largest U.S. cities, forty-seven percent were reported to have some form of restriction on the duration of incumbency as of 1995; the average restriction in all term-limited cities was eight years.⁶⁹ Today, mayors' tenure in office is limited in nine of the ten largest U.S. cities (See Table 2), with most having limits on council members as well.⁷⁰

⁶⁵ See David R. Berman, *The Effects of Legislative Term Limits in Arizona: More Churning, More Chaos, and a Diminished Institutional Role for Legislators*, in LEGISLATING WITHOUT EXPERIENCE, *supra* note 23, at 90–91; Bruce Cain et al., *supra* note 43, at 194; Thomas H. Little & Rick Farmer, *Legislative Leadership*, in INSTITUTIONAL CHANGE IN AMERICAN POLITICS, *supra* note 20, at 62–63.

⁶⁶ Rosenthal, *supra* note 64, at 181, 184.

⁶⁷ Perhaps the most comprehensive report on local term limits is now fifteen years old. See generally Danielle Fagre, *Microcosm of the Movement: Local Term Limits in the United States*, 4 TERM LIMITS OUTLOOK SERIES 1 (1995), available at http://www.heartland.org/custom/semod_policybot/pdf/5523.pdf (providing a “comprehensive compilation of local-level term limits data”). An on-going, unofficial compilation of new term limit laws can be found in periodic issues of *No Uncertain Terms*, a newsletter published by U.S. Term Limits. See, e.g., *Term Limits Referenda Win from Coast to Coast*, 18 NO UNCERTAIN TERMS 1, 6 (2010), <http://www.termlimits.org/files/US'TL%20Nov-Dec%202010.pdf>.

⁶⁸ See Timothy Besley & Anne Case, *Political Institutions and Policy Choices: Evidence from the United States*, 41 J. ECON. LITERATURE 7, 21 (2003); Jeffrey A. Karp, *Explaining Public Support for Legislative Term Limits*, 59 PUB. OPINION Q. 373, 373 (1995).

⁶⁹ Fagre, *supra* note 67, at 2.

⁷⁰ The data on municipalities reported in Table 2 of this article is inconsistent with that cited by Fagre, especially since she reports that “[l]ocal limits are most

It seems likely that the effects of term limits discussed above would apply in a relatively straightforward manner to city councils, which often have procedures, organizations, and objectives similar to those of state legislatures. Extending findings from state legislatures to city-level executives is less straightforward. It seems likely, however, that as is the case in state legislatures, the introduction of term limits in mayoral offices would have no effect on the type of people who seek and win office. Nor does it seem likely that term limits would increase the overall competitiveness of mayoral elections, for reasons similar to those discussed above.

It is likely that term limits do tend to weaken executives. "Lame duck" mayor and governors approaching the end of their tenure may receive less cooperation from other political actors who know the incumbent will soon be replaced.⁷¹ The nature of executive versus legislative offices, however, may mitigate some of the impact of term limits on the effectiveness of executive leaders. Regardless of their degree of professionalization, state legislatures must share limited staff resources and coordinate the efforts and preferences of a large number of individuals, a substantial portion of whom (in term-limited states) are new to the legislative process. In contrast, even in small cities, executive positions are typically full-time offices with a relatively large number of dedicated staff. It may also be the case that the learning curve is sharper for executives, thus reducing the disruptive effect of term limits. Further, local executives, and certainly state governors, probably enter office with more previous political experience than newly elected state legislators, which may allow them to step into the executive role more quickly. It is also worth noting that most states, for whatever reasons and whatever the consequences, have seen fit to limit the tenure of their top executives. That is, governors in nearly three-quarters of the states are limited in the number (usually two) of consecutive terms they may serve.⁷²

prevalent in Texas, California and Florida." *Compare infra* Table 2 with Fagre, *supra* note 66, at 3. We have no explanation for this discrepancy.

⁷¹ Charles D. Taylor, Assistant Professor of Political Sci., Ball State Univ., Presentation: Gubernatorial Powers and Legislative Agendas: Are Strong Governors Bold Governors? 4, 9, 23 (June 5, 2010), http://www.sppc2010.org/Papers/taylor_sppc_2010.pdf.

⁷² Two studies have found negative fiscal effects in states with term-limited governors. James Alt et al., *Disentangling Accountability and Competence in Elections: Evidence from U.S. Term Limits*, 73 J. POL. 171, 181–82 (2011);

*A. Term Limits in New York City*⁷³

In 1993, voters in New York City approved a change to the city charter that established a limit of two four-year terms for the mayor, the comptroller, the public advocate, the borough presidents, and members of the City Council.⁷⁴ In 1996, voters rejected a referendum to increase the limit to three terms.⁷⁵ In 2008, with Mayor Bloomberg reaching the end of his second term, the City Council passed a law that extended the limit to three terms.⁷⁶ Finally, in November 2010, voters had the opportunity to decide whether city officials should remain subject to the three-term limit or return to the prior limit of two terms. Unsurprisingly, the vote on the 2008 amendment to allow a one-term increase, which was in the hands of Council incumbents, was approved (though only by a vote of 29-22, as some Council members were evidently wary of how voters would react).⁷⁷ Equally unsurprising, the 2010 charter change, placed before voters, was also approved by a wide margin, with citizens voting three to one to restore the two-term limit.⁷⁸ Voters in general, as noted earlier, have remained strongly supportive of term limits. In this instance, they were likely motivated as well by dislike of the Council's action of overriding the voters' two previous votes.

Despite the evidence that voters were largely in favor of the more restrictive limit (the referenda in 1993 and 1996), as well as a poll in October 2010 showing an overwhelming majority believing that term limits should be decided by a referendum, the ballot was soft on current incumbents, only offering the option to apply the proposed change prospectively—i.e., to officials elected

Timothy Besley & Anne Case, *Does Electoral Accountability Affect Economic Policy Choices? Evidence from Gubernatorial Term Limits*, 110 Q. J. ECON. 769, 787 (1995).

⁷³ The historical narrative in this section draws heavily on the excellent account in a two-part series by Henry Stern in specials to the *New York Sun*. Henry Stern, *Effort is Launched to Restore Two-Term Limit for Elected Officials in the City: Aim is a Referendum a Year Hence*, N.Y. SUN, Nov. 23, 2010, available at <http://www.nysun.com/new-york/effort-is-launched-to-restore-two-term-limit/87150/> [hereinafter *Effort is Launched*]; Henry Stern, *Term Limits Petition Drive Will Need 30,000 Signatures in First Round*, N.Y. SUN, Nov. 24, 2010, available at http://www.nysun.com/new-york/term-limits-petition-drive-will-need-30000/87152 [hereinafter *Term Limits Petition*].

⁷⁴ *Effort is Launched*, *supra* note 73.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ See *Term Limits Petition*, *supra* note 73.

in the 2013 election and later—thus allowing those already in office to serve three terms.⁷⁹

Numerous efforts to weaken or do away with term limits are par for the course in state legislative battles over such limits. It should be no surprise that similar actions occurred in New York City. Interestingly, a backlash arose almost immediately in New York City, and an effort is now being made to force a referendum in 2011 on whether the two-term limit should take effect in 2013 instead of 2021.⁸⁰

CONCLUSION

Neither the arguments of the advocates nor the opponents of term limits are entirely right. Apart from expediting ongoing changes, term limits do not have a diversifying effect on the composition of the governing bodies on which they have been imposed; most notably, term-limited and non-term-limited legislatures are similar in both the gender and ethnicity of their members. Further, the introduction of term limits makes legislatures no more likely to attract “citizen politicians.” In fact, restrictions on the duration of incumbency simply inspire career-minded legislators to seek other political offices.

Term limits do, however, increase the turnover rate in legislatures—both directly, by placing a ceiling on the legal length of tenure in office, and indirectly, by creating anticipatory exiting effects in some states. Further, term limits increase mixing between upper and lower chambers; in term-limited states, members of the lower house are more likely to go on to serve in the upper house, and there are even instances of members of the upper house moving to the lower chamber upon reaching the end of their term.⁸¹

Despite their enhancing effect on turnover, term limits do not appear to make elections more competitive; in fact, it is possible that they have the opposite effect as a result of creating a regular schedule of open seats. Nor do term limits diminish the advantages of incumbency because term-limited office holders

⁷⁹ *Effort is Launched*, *supra* note 73.

⁸⁰ *Term Limits Petition*, *supra* note 73. The new law does place a restriction on the ability of incumbents to change the term limits provision as it relates to them. This provision was presumably inserted to assuage voters who were angry over the Council’s action in 2008. See Javier C. Hernandez, *Once Again, City Voters Approve Term Limits*, N.Y. TIMES, Nov. 3, 2010, at P12.

⁸¹ Moncrief et al., *supra* note 27, at 370.

enjoy the same electoral benefits as their non-term-limited counterparts for as long as they may continue to seek office.⁸²

Although it is difficult to gauge whether the policies produced by term-limited legislatures are better or worse than those produced by their unrestricted counterparts, policy characteristics across term-limited and non-term-limited legislatures appear to be very much the same, despite the fact that members of term-limited legislatures are, as a group, less experienced with policy making. This may be due, in part, to the fact that legislatures have responded to restrictions on tenure by reorganizing their internal procedures. This reorganization quickly prepares members to become fully engaged in legislating. An additional response to tenure restrictions is the hiring of more experienced staff to assist with the process of drafting policy.

One aspect of politics that term limits do seem to affect is power relations between legislatures and other political actors. Legislatures with restrictions on the duration of members' tenure are weaker relative to the executive and must rely more heavily on nonelected parties, such as legislative staffers and bureaucrats—some of whom are executive political appointees—in developing policy. At the same time, the effect of term limits on the extent to which lobbyists and interest groups influence the policy process appears to be small, as term limits change the nature of the interaction between legislators and special interests.⁸³

The body of evidence on the effects of limiting incumbents' abilities to return to office continues to grow as scholars and legislative service groups observe the world of state politics in the wake of the introduction of term limits. While the debate over term limits has hardly been resolved, it seems that neither the highest hopes of advocates nor the worst fears of opponents have been realized.

⁸² N.Y. CITY CHARTER REVISION COMM'N, FINAL REPORT OF THE 2010 NEW YORK CITY CHARTER REVISION COMMISSION app. B-1–B-2 (2010), available at http://www.nyc.gov/html/charter/downloads/pdf/final_report_2010_charte_revisi_on_9-1-10.pdf.

⁸³ *Id.* at app. B-2.

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THE HIDDEN EFFECTS OF TERM LIMITS: LOSING THE VOICES OF EXPERIENCE AND DIVERSITY

*Rhine L. McLin**

INTRODUCTION

IN 1992 Ohioans voted that “[n]o person shall hold the office of State Senator for a period longer than two successive terms of four years. No person shall hold the office of State Representative for a period longer than four consecutive terms of two years.”¹ Term limits were presented to the voters as a way to increase the general responsiveness of the government and the overall representation of women and minorities. As Jane Campbell notes, “[p]eople wanted more responsive governments, and term limits were presented as a mechanism for that.”² However, term limits do not achieve government responsiveness.

Term limits adversely affect the quality of legislation. One of the clearest ways in which term limits affect the quality of legislation is through the loss of experienced legislators in the house and senate chambers. Members with legislative experience are vital to producing quality legislation because they help to ensure continuity in leadership, they develop relationships across party lines, they are a means through which long-term legislation can be pursued, and they retain the institutional memory.

Term limits also affect the quality of legislation by limiting the voice of women and minorities. Term limits force women and minorities out of office without ensuring that their seats will be replaced by other women or minorities. Finally, term limits limit the mentoring capabilities of women and minorities.

I. EFFECTS ON LEADERSHIP

Of the ninety-nine members of the Ohio House of Representatives, thirty-six were term limited in 2000. In addition, thirteen members ended their terms early to accept other positions and appointments. In the thirty-three-member Senate, six legislators were term limited in 2000 and three others left early. The leadership posts in the Ohio legislature are the first to experience the effects of term limits: “The wrenching effect, similar to that experienced in other statehouses with term

* Ohio State Senator for the 5th Senate District since 1994; minority whip since 1998. Senator McLin also served in the Ohio House of Representatives from 1988-1994. She has received an associate degree in mortuary science, Cincinnati College of Mortuary Science; B.A., Parson College; M.Ed., Xavier University.

I would like to extend special recognition to my staff, who worked diligently to assist me on this project. My legislative aide, Jaime Jones, spearheaded the project and enlisted the assistance of our Legislative Service Commission Intern, Cara Greene, to complete what was clearly a wonderful collaborative effort.

1. OHIO CONST. art. II, § 2 (amended 1992).
2. Karen Hansen, *Living Within the Limits*, STATE LEGISLATURES, June 1997, at 14.

limits, begins with the traditional leadership posts where seniority has long been a dominant factor."³ Almost 800 years of cumulative legislative experience will be eliminated as a result of term limits this year.⁴ By 2002, when the full effects of the term limits are felt, Ohio will have lost thirty committee chairs, twelve committee vice-chairs, a House Speaker, Senate President, and numerous floor leaders.

Loss of leadership interrupts the continuity that is established within a chamber. An established leadership creates a working environment with clearly defined expectations, a recognizable authority, and a semblance of structure which is most conducive to productivity. Term limits erode the foundational structure by both decreasing the authority of leadership and redefining expectations on a quickly rotating basis. Before term limits, the average length of terms served before assuming House leadership was eighteen years. In the years preceding a member's election as House Speaker, the member engaged in a series of learning experiences. Often he or she had served as a committee chair and floor leader. "Traditionally, the legislators who become leaders tend to be among the most experienced, senior members."⁵ By the time a member assumed leadership of the House, he or she had been established as a leader and had had the opportunity to investigate the intricacies of the legislative process.

It has been said that "[t]hose in the term-limited class of 2000 represent some of the most seasoned leaders of the [Ohio] General Assembly with extensive knowledge of the institution's protocols and history."⁶ For example, Jo Ann Davidson, House Speaker for the 121st, 122nd, and 123rd General Assemblies, served as a Representative for fourteen years before rising to the level of House Speaker. During those fourteen years she had the opportunity to establish herself as an authority figure among her colleagues. Her colleagues, in turn, were able to become familiar with her leadership style and vision for the House of Representatives: "Davidson gave members of both parties the right to offer amendments on the House floor for debate and a vote. She made it easier to discharge a bill out of committee and loosened the reins on committee chairs."⁷ As a result of her clearly defined structure—a structure developed over 20 years—Ohio had a legislature in which traditionally contentious bills, such as the biennial budget, were passed with overwhelming majorities and support.

There is a direct correlation between terms served and experienced gained. Likewise, there is a direct correlation between experienced gained and the ability to perform well in public office. Under term limits the maximum number of years that

3. Francis X. Clines, *Term Limits Bring Wholesale Changes into Legislatures*, N. Y. TIMES, Feb. 14, 2000, at A1.

4. See *The 124th General Assembly: The Beginning of a New Era*, OHIO SCH. BDS. ASS'N J., Dec. 2000, at 56, available at <http://www.ohioeic.org/eicdec00.html> (citing Gary Dougherty, *Legislative Term Limits: The Changing Face of the State Legislature*, CAPITOL REPORT, June 1999).

5. Jennifer Drage et al., *Leadership Selection in the Era of Term Limits*, Remarks at the National Conference of State Legislatures entitled *Coping with Term Limits: Ohio and the Nation 2* (April 12-13, 2000), reprinted in *THE TEST OF TIME: COPING WITH LEGISLATIVE TERM LIMITS* (Rick Farmer et al. eds., forthcoming 2002).

6. *The 124th General Assembly: The Beginning of a New Era*, supra note 4.

7. Charles Mahtesian, *JoAnn Davidson: After the Iron Fist*, GOVERNING, Nov. 1999, at 28, available at <http://www.governing.com/poy/ntdavid.htm>.

a legislator will have served before assuming leadership is six years. Speaker Davidson's successor, Larry Householder, has been a Representative for only four years and has held only one leadership position—Assistant Majority Whip. If a Representative or Senator with six years experience was elected to leadership, his or her maximum term of leadership would be two years. Voters in Maine believe that following the advent of term limits, the "power of legislative leaders has decreased because of the steep learning curve for new leaders and because it is so difficult for a term-limited leader to sanction rank and file membership."⁸ With the departure of seasoned leaders, the experience level of leadership will sharply decrease. As a result, the ability of those in leadership to effectively lead by building on past failures and successes will be severely limited.

With term limits a reality, more senators and representatives are ending their terms early to accept positions outside of the House and Senate chambers. House minority leader Jack Ford explained that "[y]ou don't want to come up short of income at the end of eight years, so you look ahead."⁹ The result of this mentality is an actual term of about seven years.¹⁰ Peter Schrag put it this way: "The legislature has, in effect, become a bus station where some people have just arrived and others are waiting to leave, and as a result the institution itself does not elicit much loyalty or devotion."¹¹ Instead of being a destination, the legislature has become merely a stepping-stone. The result is a legislature where legislation representing constituent needs and concerns is given a back seat to interests groups, lobbyists, and future employers.

II. EFFECTS ON BIPARTISAN RELATIONSHIPS

The biennial budget for the 123rd General Assembly (prior to the enactment of term limits) was passed by a vote of 93-6 in the House of Representatives. In the Senate the vote was passed by an overwhelming vote of 31-1. This display of consensus can be attributed not only to experienced leadership, but also to the relationships that had been built over time across party lines. These relationships allowed for compromise and agreement between the parties and various interests. Senator Eric Fingerhut, ranking minority leader on the Senate Finance Committee, contributed the minority caucus's support of the budget to the negotiations made between the majority and minority parties.¹² Term limits, however, hinder bipartisan relationships because they limit the amount of time in which trust can be built. As Douglas G. Brown, the director of Colorado's Office of Legislative Legal Services, remarked: "Experienced members know that disagreement is the default position and agreement takes time and compromise and education to achieve. Experienced

8. Drage, *supra* note 5, at 4.

9. James Bradshaw, *Departures Linked to Term Limits*, COLUMBUS DISPATCH, Apr. 13, 2000, at 10C.

10. See Clines, *supra* note 3, at A1.

11. Peter Schrag, *The Populist Road to Hell: Term Limits in California*, AM. PROSPECT, Winter 1996, available at <http://www.prospect.org/archives/24/24schr.html> (last visited Nov. 30, 2001).

12. See Eric Fingerhut, *Ohio Senate Budget Accomplishments*, OHIO DEMOCRAT, at <http://www.ohiodems.org/budget.htm> (last visited Nov. 30, 2001).

members can reason by analogy from previous experiences; new members will not know the lessons of the past."¹³

III. EFFECTS ON LONG TERM LEGISLATION

Relationships are not the only institution that develop over time and help ensure quality legislation that is representative of the constituents. The legislation itself is often evolving and changing. If a bill is not voted on before the end of a General Assembly, it must be reintroduced in the following General Assembly in order for it to remain under consideration. Sometimes, due to timing or complexity, a bill is reintroduced two or three times before it becomes law. Often, this process is initiated by the sponsoring Senator or Representative. The sponsoring member shepherds the legislation through committee and floor hearings and works with the Legislative Service Commission to ensure that the bill adequately addresses all needs and concerns.

For instance, Senate Bill 115 of the 123rd General Assembly, which mandated that prisoners in Ohio Correctional Institutions work towards a GED or High School Diploma, was passed on December 21st, 2000. Senator Mallory, the sponsoring Senator, had proposed this piece of legislation in two previous General Assemblies. Each time he was unable to get both chambers' concurrence before session ended. It took almost six years for Senate Bill 115 to become law. Term limits hamper a legislator's ability to pursue necessary long-term legislation. Instead, the tendency will be to pursue legislation with quick returns.

IV. EFFECTS ON INSTITUTIONAL MEMORY

The loss rendered by term limits is felt most acutely in the area of institutional memory. Massachusetts representative John McDonough said: "I think institutional memory is very important to have people who remember as far back as possible to avoid mistakes and to have people who were eyewitnesses to what has happened."¹⁴ Term limits have eliminated institutional memory. They were designed to limit the amount of time that could be served by one person, but the consequences of eliminating the perspective and knowledge of those legislatures on legislations was never fully evaluated.

The impact of the loss of institutional memory is best understood when reviewing an issue of special significance and pertinence. One of the most pressing problems facing the 124th General Assembly in Ohio is the Supreme Court mandate to restructure the state system of school funding. This first became an issue in 1991 when Perry County, along with a coalition of schools within Ohio, filed a suit on behalf of a Perry County student. The county alleged that the current system of funding did not meet the Ohio constitutional standard of a "thorough and efficient" system of education.¹⁵ The Ohio Supreme Court agreed with the coalition and on March 24, 1997 found that Ohio's system of funding violated Section 2 Article VI

13. Schrag, *supra* note 11.

14. Hansen, *supra* note 2, at 15.

15. See *DeRolph v. State* (DeRolph I), 677 N.E.2d 733, 740 (Ohio 1997).

of the Ohio Constitution.¹⁶ The court ordered the Ohio General Assembly to completely overhaul the system within twelve months.¹⁷ It was during this time that Republicans turned to Senator Robert R. Cupp. As a veteran member of the Senate, Cupp was familiar with the intricate details of the old formula of funding and was able to both explain it and suggest a plan for improvement. Referring to the loss of senators like Cupp due to term limits, Senate President Richard Finan asked, "Can you imagine what it will be like without people like that?"¹⁸

The school funding challenge continued following the May 11, 2000 Ohio Supreme Court decision that the current system of funding remains inadequate.¹⁹ This time around, the legislature must work toward a solution without the benefit of those most familiar with the issue. Senator Cupp, as well as many others closely connected to the issue, have been termed out. As a result, the challenge has increased for those dealing with complicated, prolonged issues like school funding. Legislators must find solutions without the background and history necessary to do so. "It's just knowing the history and the context—why something didn't happen," said Senator Don Wesley of Nebraska. "Maybe those reasons have changed, and that helps you to fashion better solutions to problems. To take that away, in my view, is reinventing the wheel."²⁰ Speaker Jo Ann Davidson echoes this concern: "Without the institutional memory, legislative brakes will not be applied when ideas that have failed in the past are revived."²¹

Institutional memory has been recognized as a key component of successful legislatures since the beginning of U.S. government. James Madison wrote in *Federalist No. 53*:

No man can be a competent legislator, who does not add to an upright intention and a sound judgment, a certain degree of knowledge of the subjects on which he is to legislate. A part of this knowledge may be acquired by means of information, which lie within the compass of men in private, as well as public stations. Another part, can only be attained, or at least thoroughly attained, by actual experience in the station which requires the use of it....

....

A few of the members, as happens in all such assemblies, will possess superior talents; will, by frequent re-elections, become members of long standing; [and] will be thoroughly masters of the public business The greater proportion of new members, and the less the information of the bulk of the members, the more apt will they be to fall into the snares that may be laid for them.²²

16. See generally *id.*

17. See *id.* at 747.

18. Thomas Suddes, *Term-Limits Creator Still Likes the Idea*, PLAIN DEALER (Cleveland, Ohio), Sept. 13, 1999, at B1.

19. See *DeRolph v. State (DeRolph II)*, 728 N.E.2d 993 (Ohio 2000).

20. Hansen, *supra* note 2, at 15.

21. Bradshaw, *supra* note 9, at 10C.

22. THE FEDERALIST NO. 53, at 411-12, 414 (James Madison) (John C. Hamilton ed., 1877).

Madison recognized that to limit the legislators in the time that they served would harm legislation and in turn harm the very people that the legislature existed to protect.

V. EFFECTS ON WOMEN AND MINORITY REPRESENTATION

The quality of legislation does not hinge upon experience alone. While the voice of experience can provide invaluable knowledge obtained through trial and error, the voices of women and minorities bring an essential perspective to the lawmaking process. This perspective ensures that all constituents' opinions and concerns are represented. Some term limit advocates believe addressing the barrier of incumbency will serve to diversify state legislatures. While it may appear that in some states this is certainly the case, these limited successes do not present the entire picture. Term limits are not a guaranteed solution and should not be treated as such. Instead, more emphasis needs to be placed on tools, ideas and methods that will encourage more women and minorities to run for office. Term limits may present an open seat, but they do not encourage, mentor, foster relationships or provide networking opportunities with which women and minorities can run for office with the knowledge and tools to win.

For the first time, the 1998 elections provided an opportunity to see the effects term limits would have on women and minority representation. The data from Arkansas, California, Colorado, Maine, Michigan and Oregon provided a myriad of results.²³ In state senates, the number of female senators increased in California, Colorado and Maine. California saw one female senator leave due to term limits and five more were elected.²⁴ In Colorado, the state saw an increase of two female senators. One senator in Maine was term limited, and he was replaced by a woman.²⁵ According to these findings, it seems that term limits provide an opportunity otherwise missed for women running for state legislatures. However, when considering data from state house races, the data allows for a different assessment of the effects of term limits on diverse representation.

Overall, the result from state house races show that term limits neither increased nor decreased the number of female representatives in these six state legislatures.²⁶ Following the 1998 elections, in the six states with term limits where an incumbent was term limited, the number of female representatives decreased by four. However, where incumbents sought re-election, the number of women representatives increased by five.²⁷ State Senate seats that were vacated due to term limits awarded the female representatives, who had the experience and the desire, the opportunity to run for the upper house. It is difficult for a newcomer to become elected, but with experience, women find it easier to transition into a Senate seat.

23. See generally Susan J. Carroll & Krista Jenkins, *The Effect of Term Limits on the Representation of Women: An Analysis of Evidence from the 1998 Elections*, CENTER FOR AM. WOMEN & POL., RUTGERS UNIV., at <http://www.rci.rutgers.edu/~cawp/pdf/Termlimits98.pdf> (last visited Oct. 25, 2001).

24. See *id.* at 4.

25. See *id.*

26. See *id.*

27. See *id.* at 3.

With established political networks, a constituency base and a voting record, female representatives find having experience in the House awards them a greater opportunity to run and win a state Senate seat.²⁸ Term limits, in other words, may award those with political experience a greater opportunity to further their political career rather than assisting newcomers in bids for office.

Term limits also seem to have helped minorities in House and Senate races. The 1998 elections saw an increase in minority representation, notably in Michigan and Colorado where minorities gained three more seats.²⁹ These increases are part of a larger pattern of minorities making gains across the country. Minority representatives also increased their representation by gaining two seats in races where incumbents were challenged.³⁰ However, as with the data of female Senators and Representatives, the data for minority candidates also shows mixed results.

Minority women did not fair as well as minority men in the 1998 elections. In state House seats, women of color saw a decrease in their numbers by three.³¹ African American women were able to increase their representation by one in seats not opened up by term limits and also by one where they challenged incumbents.³² Latinas also saw an increase of one in term limited seats.³³ Most seats held by minority women were not recaptured by other minority women. Of the seven African American women who left due to term limits, only one (Michigan) was replaced by another African American woman.³⁴ In Arkansas, none of the term limited African American Representatives were replaced by other African American women. Rather, they were replaced with African American men.³⁵ Oregon only had one African American woman term limited, and she was replaced by a white woman.³⁶ When considering a solution to a complex problem, the unintended effects must be assessed. While term limits seem to have helped white women and minority men in some states and in some races, minority women found term limits to be of little assistance.

Some of the harshest critics of term limits are incumbent women who know there is no guarantee that women will fill their vacated seat. Former Representative Maxine Berman of Michigan has been an outspoken critic of term limits, wondering at their effectiveness in increasing the representation of women in state legislatures. Specifically, she worries that term limits will hinder women from having the time necessary to gain the recognition and experience needed to run for higher office.³⁷ Former Speaker Jo Ann Davidson of Ohio has also voiced concerns, especially

28. *See id.* at 8.

29. *See* Susan J. Carroll & Krista Jenkins, *Term Limits and the Representation of Women, Minorities, and Minority Women: Evidence from the State Legislative Elections of 1998*, CENTER FOR AM. WOMEN & POL., RUTGERS UNIV. 8, at <http://www.rci.rutgers.edu/~cawp/pdf/Termlimit2.pdf> (last visited Sept. 6, 2001).

30. *See id.* at 9.

31. *See id.* at 11.

32. *See id.*

33. *See id.*

34. *See id.*

35. *See id.*

36. *See id.*

37. *See* Kathy Barks Hoffman, *Term Limits May Have Kept Women from Increasing Numbers in House*, ASSOCIATED PRESS, Nov. 7, 1998, available at 1998 WL 7464090.

concerning the lower than expected interest by newcomers to run for office.³⁸ Current and former officeholders are not the only ones expressing concern about the unintended effects of term limits. Ohio Senate Chief of Staff Teri Geiger has concerns about the caucus becoming "an all-male club."³⁹ Candidate recruiters from both the Republican and Democratic parties agree that convincing women to run for office is "a little more difficult than convincing men."⁴⁰

Creating open seats for which candidates can run will certainly bring new faces to state legislatures. However, we cannot depend upon term limits to ensure that the voices of women and minorities are equally represented. In order to ensure that their voices will be heard, women and minorities must be encouraged to run for office. Former officeholders need to offer their expertise and experience to recruiting efforts. Networking opportunities, workshops, and targeted recruiting efforts are just some of the possible ways to encourage more women and minorities to run for office.

Finally, if any doubt remains as to the importance of including women and minorities in policymaking, data from the 103rd and 104th Congresses provides concrete evidence of the importance of a diverse government. Women gained nineteen seats from the 102nd to the 103rd Congresses and thus 1992 was hailed as the "Year of the Woman."⁴¹ With the election of President Bill Clinton and increasing attention being paid to women's issues, female candidates saw a more open attitude to women's policy proposals.⁴² 1994, however, marked a striking contrast when control of Congress shifted to Republicans. These two different political environments awarded researchers a unique opportunity to examine the gender gap in bill sponsorship. Upon examining the data, it is clear that women are more likely to sponsor what have traditionally been deemed "women's issue" bills than their male counterparts.⁴³ Across both houses, Democratic women were between 23% and 27% more likely than Democratic men to craft women's issue legislation.⁴⁴ This division was also evident among Republican men and women, with 83% of women and 37% of men sponsoring such legislation.⁴⁵ Including women in the lawmaking process insures that women's issues will be adequately addressed.

38. See Dan Trevas, *Term Limits Could Turn Ohio Statehouse Into Men's Club, Again*, DAILY REC. (Wooster, Ohio), July 14, 1999, available at http://www.the-daily-record.com/past_issues/07_jul/990714dr1.html (last visited Nov. 30, 2001).

39. *Id.*

40. *Id.*

41. See Michele Swers & Amy Caiazza, *Transforming the Political Agenda? Gender Differences in Bill Sponsorship on Women's Issues*, INST. FOR WOMEN'S POL'Y RES., Oct. 2000, available at <http://www.iwpr.org> (PDF Reports).

42. *See id.* at 2.

43. *See id.* at 3.

44. *See id.*

45. *See id.*

CONCLUSION

Term limits are not the best solution to the problem of unresponsive government. Other solutions do exist. One possible solution is campaign reform. When the playing field is leveled for all candidates, for both incumbents and their challengers, voters will be able to choose the representative who is most responsive to their needs and interests.

The first step in campaign reform is to develop a system of more equitable finance. Elections often go to the highest bidder. Unfortunately, such a system often eliminates qualified, talented individuals with little financial power from effectively participating in a competitive election. When money becomes the primary means by which elections are won, candidates are usually more attuned to the interests of those who have financed their campaign and less to the needs of constituents. The second, and most important, step in campaign reform is to increase citizen awareness and participation. Government cannot be responsive to needs of which it does not know or to people it has not heard.

Term limits are one answer to geriatric, unresponsive government. They are, however, the wrong answer. Term limits fail to address the problem and instead eliminate the experience and institutional knowledge of the state legislature. "Term limits indiscriminately target the good with the bad," said Senator Raymond Rawson of Nevada.⁴⁶ Government can and should be more responsive to the people it serves. The challenge then is to foster a more responsive government, while retaining historical perspective, continuity in leadership, a means by which long-term legislation can be pursued and bipartisan relationships developed, and the representation of women and minorities.

When diverse ideas and voices are brought to the table, issues that have often been ignored are brought to light. Our government should reflect the diversity this country contains within its borders. We must look to all Americans to participate in our policy and lawmaking processes if we are to honor the diversity in which we have often taken pride. Term limits may address the barrier of incumbency that has controlled our government, but they do not adequately address the barriers of race and gender. Efforts should not stop with term limits. We must give minorities and women the tools gained through support, knowledge and experience so that they may forge new political careers and policy initiatives.

46. Hansen, *supra* note 2, at 15.

In Defense of Term Limits



June 9, 2009 [Dan Greenberg](#)

Last week I traveled to St. Louis to speak at the [Heartland Leadership Conference](#). One highlight of the conference was lunch with old and new friends [Paul Jacob](#) (of [Citizens in Charge](#)), [Eric Dixon](#) (of the [Show Me Institute](#)) and [Patrick Tuohey](#) (of [Market and Communications Research](#)) at the Millennium Hotel. The cafe there has a remarkable view of the Gateway Arch, which is quite breathtaking.

My presentation was on term limits and why we need them. Perhaps the strongest argument against term limits is that they deprive the public of the institutional knowledge of experienced public officials. I therefore decided to address this perspective in my remarks by arguing that the dangers of losing such knowledge are greatly exaggerated. I have reproduced a portion of my remarks, and links to my other research on term limits, after the jump.

“Obviously being an effective state legislator is a tough job requiring an impressive array of skills. But it is hard to understand why those skills are only the province of politicians. Those with experience in any large public or private bureaucracy have often developed similar political skills of necessity.

“Those who study or teach economics or political science (or, indeed, any intellectually rigorous field of study) are often as familiar with public policy as the average elected official. Those in the field of human services (whether ministering to people’s physical or spiritual needs) have an understanding of human nature which dwarfs that of someone whose primary professional contacts are lobbyists, bureaucrats, and constituents. And those with private sector experience often benefit from a gritty and unromanticized view of precisely how public policy affects the rest of the world – especially with respect to the bloated budgets and unfunded liabilities that plague our federal and state governments.

“In short, while experience as a politician is doubtless helpful for public servants, it is just a bit narrow-minded to argue that other kinds of professional experience are irrelevant or that the skills that elected officials learn on the job aren’t transferable to other fields.

“There is no other profession that requires years and years of on-the-job training to acquire basic competence. When incumbents argue the person who has just been elected cannot be a competent public servant, one begins to smell self-interest.

“There is no doubt it is difficult for a newcomer to learn the legislative process. But this problem does not call for the solution of diluting or eliminating term limits.

“The real problem that needs to be fixed is making the legislative process transparent and comprehensible to a well-informed and intelligent person, rather than arguing that being a legislator is an art, one almost verging on the mystical, that essentially requires years of apprenticeship in order to practice it well. The skills legislators acquire—budgeting, serving the public, administrative decisions involving large bureaucracies, making decisions involving numerous variables and uncertainties, and achieving public consensus on controversial issues by bargaining with interest groups—are useful even to those no longer in office.

“Without some effort to change the culture of the legislature, the value of having a legislature filled with lawmakers who know how to work the system is at best a mixed bag. In **Bill Clinton’s** autobiography (titled, with characteristic self-regard, **My Life**), he relates an anecdote involving “one of the brightest and most progressive members of the legislature.” This bright and progressive state Senator, **Nick Wilson**, is lauded as a canny problem-solver whose knowledge of state government would help the governor.

“Curiously, the book does not mention the disappointing end to Wilson’s political career: felony conviction and imprisonment for his defrauding of a state government program, one that he was instrumental in creating, that was ostensibly designed to provide legal services for disadvantaged children. One lesson of Wilson’s downfall may be that increasingly complex government programs that require experienced political experts to design and administer carry dangers with them that are not immediately apparent.

“It’s my hope that term limits will force the creation of legislative structures and policies that are simpler, more transparent and more open to change. While I understand that some people believe we must throw away term limits to preserve our stores of institutional knowledge, I say that we must change the system to fulfil the promise of term limits: that is, a regular influx of new ideas into our political system that fulfils the American promise of self-government.”