

# Fiscal Effects of Term Limits

First Draft (do not cite) by Nick Tomboulaides (August 2020)

"Those who oppose term limits express fears of having government run by amateurs, rather than by people with long experience in politics. But this country was created by people who were not career politicians, but who put aside their own private careers to serve in office during a critical time." – Thomas Sowell<sup>1</sup>

Term limits, once known as “rotation in office,” have been employed as an anti-corruption remedy for millennia. In Ancient Greece and Rome, even dictators had term limits— a concept hard for us to grasp today<sup>2</sup>. During America’s founding era, several key framers advocated for compulsory rotation, including John Adams, Thomas Jefferson and Benjamin Franklin. Franklin went so far as to insert term limits for all elected offices into the Pennsylvania State Constitution of 1776, keeping lawmakers from serving more than four years in any seven-year period.<sup>3</sup>

Jefferson did not attend the 1787 Constitutional Convention, having been appointed United States Minister to France during that time. But when he first saw the document that had been produced, he spotted a major omission:

"I apprehend... that the total abandonment of the principle of rotation in the offices of President and Senator will end in abuse."<sup>4</sup>

Keep in mind, Jefferson was arguing for term limits at a time when American life expectancy was under 40 and the average tenure of a magistrate or senator was one term. It took real foresight to see the need for term limits 150 years before the advent of gold-plated pensions and taxpayer-subsidized haircuts.

Delaware, New York and Virginia also had some form of legislative term limits during this period.<sup>5</sup>

Over time, legislative term limits faded into the background in favor of limits on chief executives. Motivated by Franklin Roosevelt’s death in office, and following the eight-year model set by George Washington, the states ratified presidential term limits as the 22<sup>nd</sup> amendment in 1951. As of 2020, 36 states have adopted term limits for their governors.<sup>6</sup>

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<sup>1</sup> Sowell, Thomas. 2013. A Real Term Limit. March 17. <https://www.creators.com/read/thomas-sowell/03/13/a-real-term-limit>.

<sup>2</sup> Altman, Alex. 2008. A Brief History of Term Limits. October 3. <http://content.time.com/time/nation/article/0,8599,1846988,00.html>.

<sup>3</sup> Greenwalt II, Charles E. 1992. The Morning Call. October 2. <https://www.mcall.com/news/mc-xpm-1992-10-02-2894661-story.html>.

<sup>4</sup> Jefferson, Thomas. 1788. National Archives. July 18. [founders.archives.gov](http://founders.archives.gov).

<sup>5</sup> Greenwalt II, Charles E. 1992. The Morning Call. October 2. <https://www.mcall.com/news/mc-xpm-1992-10-02-2894661-story.html>.

<sup>6</sup> [ballotpedia.org](http://ballotpedia.org). n.d. States with gubernatorial term limits. [https://ballotpedia.org/States\\_with\\_gubernatorial\\_term\\_limits](https://ballotpedia.org/States_with_gubernatorial_term_limits).

Mayoral term limits are also quite popular. Nine of the ten largest cities in America term limit their mayors with Chicago being the lone holdout. Of cities with a population of 250,000 or more, 51 percent have term limits.<sup>7</sup>

The 1990s represented a renaissance of sorts for the term limits movement. Led by reformers Paul Jacob, Howard Rich and Eric O’Keefe, citizens in 21 states passed ballot measures applying term limits to their legislatures<sup>8</sup>. Twenty-three states amended their own constitutions or statutes in an attempt to term limit their congressional delegations<sup>9</sup>. These state-imposed congressional limits were thrown out by the Supreme Court in the 1995 decision *U.S. Term Limits v. Thornton*, in which a 5-4 liberal majority wrote that qualifications for Congress are fixed by Article 1, Section 2 of the Constitution, and may not be altered by states short of a federal constitutional amendment.<sup>10</sup>

A majority of the term limits for state legislators – which were unaffected by *Thornton* -- were eight-year limits and consecutive in nature, meaning a politician could sit out for some period of time, restart his or her clock and run again. Six states saw their legislative term limits get repealed by either the legislature or state supreme court, leaving 15 states that have legislative limits intact today.<sup>11</sup>

Since the start of the modern term limits movement around 1990, there have been 69 statewide ballot measures to either enact new term limits or defend existing ones. Term limits have gone 56-13, with an average of 63% of voters choosing the pro-term limits side.<sup>12</sup> More recently, term limits have only increased in popularity, emerging as the most bipartisan issue in America. According to a 2018 poll from McLaughlin & Associates, 82 percent of Americans favor term limits, including 89 percent of Republicans, 76 percent of Democrats and 83 percent of unaffiliated voters.<sup>13</sup> It is clear many voters have grown disillusioned with rising re-election rates for incumbents and a perceived lack of responsiveness to popular concerns.

Historically, advocates for term limits have focused on the democratic benefits of the reform. In a system where incumbents wield unfair advantages, a term limit guarantees more open seat contests which stimulate competition. With state legislatures facing an epidemic of uncontested and uncompetitive elections, term limits have provided some benefit in this area.<sup>14</sup> The Institute on Money

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<sup>7</sup> Moulder, Evelina R. 2008. "Municipal Form of Government: Trends in Structure, Responsibility, and Composition." In *Municipal Yearbook*, by ICMA. ICMA. <http://kcmayor.org/cms/wp-content/uploads/2013/06/Municipal-Form-of-Government-Trends-in-Structure.pdf>.

<sup>8</sup>Limits, U.S. Term. n.d. Statewide Term Limits Election Results. <https://www.termlimits.com/statewide-term-limits-elections-results/>.

<sup>9</sup> Ibid.

<sup>10</sup> *US Term Limits v. Thornton*. 1995. 514 U.S. 779 (Supreme Court, May 22).

<sup>11</sup> National Conference of State Legislatures. 2015. *The Term Limited States*. March 13. <https://www.ncsl.org/research/about-state-legislatures/chart-of-term-limits-states.aspx>

<sup>12</sup> Limits, U.S. Term. n.d. Statewide Term Limits Election Results. <https://www.termlimits.com/statewide-term-limits-elections-results/>.

<sup>13</sup> McLaughlin & Associates. 2018. *National Survey Executive Summary – Voters Overwhelmingly Support Term Limits for Congress*. January 15. <https://mclaughlinonline.com/2018/02/08/ma-poll-voters-overwhelmingly-support-term-limits-for-congress/>.

<sup>14</sup> Greenblatt, Alan. 2016. *Uncontested Legislative Races Are Becoming More Common*. June. <https://www.governing.com/topics/elections/gov-uncontested-legislative-races.html>.

in State Politics found an association between the presence of term limits and the competitiveness of a state's elections.<sup>15</sup>

Vote margins for incumbents climbed steadily throughout the 20<sup>th</sup> century and continue to worsen, with incumbents having four times the electoral advantage today that they did in the 1940s. On average, incumbents receive an extra nine points of vote share in state legislative elections, while open seat candidates receive no advantage from their party having held the seat before.<sup>16</sup> For this reason, term limits carry the potential to not only usher in more competition but reduce partisanship and one-party dominance of a seat.

This expansion of democracy and enrichment of voter choice may itself have fiscal impacts at the state level. Shifting more control to voters – and away from rent-seeking interests – could result in a higher degree of accountability for politicians. Likewise, a limitation on terms may create increased independence, particularly during one's final term in office. **No longer needing to rely on a particular set of funders who are looking to extract favors from government, lawmakers would be free to choose sounder fiscal policies.**

The quality of research on term limits at the state level has been, at best, a mixed bag. The most cited papers come from the 2004 Joint Project on Term Limits (JPTL), which was a cooperative venture between the National Conference of State Legislatures, Council of State Governments and the State Legislative Leaders Foundation. While these are fine institutions, they are operated by legislators and thus hardly objective with respect to term limits. Since term limits are designed to curtail the power of politicians, most legislators oppose the reform and commonly take steps to repeal or relax their own term limits. JPTL's methodology is thus problematic because it relies mainly on interviews with legislators, lobbyists and other stakeholders whose careers have been impacted by term limits.

Term limits have increased turnover at the state level, disrupting the 20<sup>th</sup> century surge in legislative tenure. One century ago, professionalized politics in state legislatures were a rarity. Turnover rates were around 50 percent across the board. By the 1980s, turnover had dropped below 25 percent. But term limits states had a different experience. After the 1990s implementation of term limits, states with term limits saw their turnover rates begin to rebound – rising above 1980s lows.<sup>17</sup>

Term limits have joined retirement, indictment, and death as America's four basic means of generating political turnover – seeing as the defeat of incumbents is rarely a dependable option. Between 2016 and 2020, per the Lucy Burns Institute, over 97 percent of state legislative incumbents seeking re-election have advanced past primaries.<sup>18</sup> Between 93 and 96 percent of incumbents on the general election ballot won re-election, producing an overall retention rate north of 90 percent.

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<sup>15</sup> Holden, Zach. 2016. 2013 and 2014 Monetary Competitiveness in State Legislative Races. 3 9. <https://www.followthemoney.org/research/institute-reports/2013-and-2014-monetary-competitiveness-in-state-legislative-races>.

<sup>16</sup> Fowler, Anthony, and Andrew B Hall. 2014. "Incumbency Advantages: Evidence from Close Elections and Term Limits." *Quarterly Journal of Political Science* 501-531.

<sup>17</sup> Moncreif, Gary F., Richard G. Niemi, and Lynda W. Powell. 2011. "Time, Term Limits, and Turnover: Trends in Membership Stability in U.S. State Legislatures." *Legislative Studies Quarterly*.

<sup>18</sup> Lucy Burns Institute, internal email to U.S. Term Limits

While money never guarantees victory in an election, it also plays a big role. Fewer than 10 percent of candidates with neither the advantage of money nor incumbency win their elections to the state legislature.<sup>19</sup> Since a majority of contributions go to incumbents rather than challengers, this combination often has the effect of creating lopsided elections and chilling competition.

In terms of fiscal policy, supporters of term limits can make a sound case based on the established relationship between legislative tenure and a proclivity to support higher spending.<sup>20</sup> **Myers and Garand (2011) use cross sectional and panel models to confirm an inverse relationship between lawmaker seniority and scores from the National Taxpayers Union. They wrote, “The seniority coefficient is negative and highly significant...” “Suggesting, as Payne hypothesizes, that more senior members are the most prone to support high levels of government spending.”**<sup>21</sup>

These results, while pertaining to Congress rather than state lawmakers, confirm that elected officials over time become socialized to a culture of bigger government and increased spending. Payne (1991), who originally posited the “Culture of Spending” theory, recommends term limits as a remedy to curb seniority and lessen the assimilation into the ways of Washington.<sup>22</sup>

He’s not alone. Milton Friedman, the Nobel-prize winning economist, had said no reform would be more effective from a fiscal standpoint than term limits:

“The most important reform would be term limits, six-year limits. Because from an economic point of view, one of the worst features of our system is that you have a new tax law every year or every two years. However bad the tax law is, if you didn’t change it for five years it would do less harm. Why do you keep changing it? Because that’s the most effective way to raise campaign funds. Lobbyists will pay you to put loopholes in; they will pay you to take them out.”<sup>23</sup>

Critics of term limits have predicted and declared that the loss of legislative professionalism, via term limits, would produce disastrous results for state legislatures and the people they serve.<sup>24</sup> Data show us that these doomsday scenarios have not come to pass. What term-limited public servants lack in the way of political expertise, they make up for in the form of real-world experience, closeness with constituents, and more independence from special interests.

According to state fiscal health and economic freedom indices prepared by the Mercatus Center, the American Legislative Exchange Council and the Cato Institute, states with legislative term limits have a better average ranking than states without term limits. In fact, of the 10 states in the nation with the

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<sup>19</sup> O’Neil, Ciara. 2017. Money and Incumbency in State Legislative Races, 2015 and 2016. [followthemoney.org](https://www.followthemoney.org). <https://www.followthemoney.org/research/institute-reports/money-incumbency-in-2015-and-2016-state-legislative-races>.

<sup>20</sup> Basham, Patrick. 2011. Congressional Tenure and its Impact on Government Spending. Alexandria: Our Generation.

<sup>21</sup> Garand, James C., Rebekah Myers, and Renee Renegar. 2016. “Seniority, political experience, and support for government spending in the U.S. House: a culture of spending?” Public Choice.

<sup>22</sup> Payne, James L. 1991. *The Culture of Spending: Why Congress Lives Beyond Our Means*. ICS Press.

<sup>23</sup> Limits, U.S. Term. 2017. Milton Friedman: The most Important Reform Would Be Term Limits, Six-Year Limits. November 21. <https://www.termlimits.com/milton-friedman-important-reform-term-limits-six-year-limits/>.

<sup>24</sup> DePalo, Kathryn. 2015. *The Failure of Term Limits in Florida*. University Press of Florida.

poorest fiscal health, per Mercatus, only California has legislative term limits. Of the bottom five states – Kentucky, Massachusetts, New Jersey, Connecticut and Illinois – none have term limits.<sup>25</sup>

Michael Madigan, the Speaker of the Illinois State House, has held the gavel for 35 years, longer than any other legislative leader in our nation’s history. His institutional knowledge and political experience are unrivaled. And yet, Madigan presides over the state with the biggest fiscal mess and worst bond rating in America.

The rankings certainly don’t prove that term limits states are fiscally superior to their careerist peers. They do, however, disprove the common claim that inexperienced politicians will drive their states into the ground.

Predictions about term-limited lawmakers amplifying the power of lobbyists have also been contradicted by evidence. **A review of campaign finance data shows that, whenever term limits are on the ballot, lobbyists and their clients contribute almost exclusively to whichever side is trying to prevent, weaken or abolish term limits.** If lobbyists favored term limits – and saw an opportunity to take advantage of novice politicians – the opposite would occur. Notorious mega-lobbyist Jack Abramoff has provided an explanation for this phenomenon in his book, *Capitol Punishment*:

“A representative who stayed in Washington for decades, and was a friend, was worth his weight in gold,” Abramoff writes. “But permitting people to rule for decades is a recipe for disaster. Is there really a difference between a permanent Congress and president for life? Representatives should be allowed to serve for three terms of two years, senators for two terms of six years. Then they should get out of town.”<sup>26</sup>

A major concern for advocates of fiscal discipline has been the symbiotic relationship between lobbyists and policymakers. This relationship market has created a revolving door between capitols and lobbying shops, leading to the capture of the political process by corporations, trade associations, unions and nonprofit groups. When lawmakers and staff leave their official jobs at the capitol, they often take jobs as in-house or contract lobbyists, with the aim of selling access to former colleagues.

Some critics allege that term limits worsen this revolving door problem and make special interests more powerful. The data tell a different story. When Jordi Blanes i Vidal looked at lobbying revenues generated by former government staffers, he found that lobbyists with experience in the office of a U.S. Senator suffered a 24% drop in revenue when their old boss retired.<sup>27</sup> This suggests that term limits would help jam the revolving door by severing the relationships between lobbyists and politicians.

For example, if a member of the Florida State House retires (or faces 8-year term limits)<sup>28</sup> in 2020, the percentage of incumbent lawmakers he/she knows will drop off considerably, beginning the following year. By 2026, none of that lawmaker’s former colleagues will still be serving, making it much more difficult to parlay one’s experience into a lobbying career. Contrast this with non-term limited states like

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<sup>25</sup> Norcross, Eileen, and Olivia Gonzalez. 2018. Ranking the States by Fiscal Condition. Mercatus Research.

<sup>26</sup> Abramoff, Jack. 2011. *Capitol Punishment*. BookBaby.

<sup>27</sup> Vidal, Jordi Blanes i, Mirko Draca, and Christian Fons-Rosen. 2010. "Revolving Door Lobbyists." 5th Annual Conference on Empirical Legal Studies Paper.

<sup>28</sup> Florida State Constitution

Illinois and New Jersey, where a legislator who became a lobbyist in the 1970s may still be receiving favors from his ex-colleagues today.

Several academics have studied the question of how term limits affect spending and government growth at the state level. Erler found that term limits increased spending, although her data stopped in 2001, just one year after most term limits became effective.<sup>29</sup> Working with a larger data set, Asato and Matsubayashi assert that, while strict term limits increased spending, term limits of more moderate length had no effect.<sup>30</sup> Yakovlev and Tosun (2018) echoed this conclusion, finding that term limits increased health care spending and state aid to local governments, while decreasing welfare spending.<sup>31</sup>

In 2019, economists Randall Holcombe and Robert Gmeiner published what is probably the most useful paper in this area – looking at the budgetary impact of term limits from its effective date rather than the date of passage many years prior. That is to say, Holcombe and Gmeiner surveyed how states performed under the stewardship of citizen legislators whose rise had been made possible by term limits.

They found that, prior to the implementation of term limits, state expenditures and revenues were growing at approximately the same rate in states that would go on to enact term limits as in those that would not. After term limits became effective, however, both expenditure and revenue growth was significantly lower in the states that adopted term limits.<sup>32</sup> They wrote, “Different regression models looking at both expenditures and revenues estimate that after term limits took effect, state government expenditure and revenue growth was between 16% and 46% lower in term limits states than in states that did not enact legislative term limit. The empirical results are both statistically and economically significant. The slower growth of state budgets in term limits states means that in an eleven-year period after term limits took effect, states with term limits would have budgets from 5% to 10% lower than in comparable non-term limited states.”<sup>33</sup> Indeed, these results demonstrate what term limits advocates have always claimed: that leadership by a regular rotation of citizens – who are closer to the people -- would result in more fiscal restraint.

Term limits at the state level face three major impediments and threats to their survival: legislative self-interest, recalcitrant courts and the lack of an accessible citizen initiative process.

Public choice theory or “politics without romance” tells us that politicians’ behavior is subject to a principal-agent problem, where legislators will not act in the public interest unless their personal self-interest is also enhanced<sup>34</sup>. In the term limits space, this problem expresses itself in the unrelenting opposition to term limits among the political class. For this reason, the vast majority of term limits laws have been enacted through citizen initiative.

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<sup>29</sup> Erler, H. Abbie. 2007. "Legislative term limits and state spending." Digital Kenyon: Research, Scholarship and Creative Exchange.

<sup>30</sup> Asako, Yasushi, Tetsuya Matsubayashi, and Michiko Ueda. 2012. "Seniority, Term Limits, and Government Spending: Theory and Evidence from the United States." IMES Discussion Paper Series.

<sup>31</sup> Yakovlev, Pavel A., Mehmet Serkan Tosun, and William Lewis. 2017. "The Fiscal Consequences of State Legislative Term Limits." SSRN.

<sup>32</sup> Holcombe, Randall G., and Robert J. Gmeiner. 2019. "Term limits and state budgets." *Journal of Public Finance and Public Choice* 21-36.

<sup>33</sup> Ibid.

<sup>34</sup> Buchanan, James M., and Gordon Tullock. 1999. *The Calculus of Consent: Logical Foundations of Constitutional Democracy*. Liberty Fund. <https://www.econlib.org/library/Enc/PublicChoice.html>.

In all states where people have successfully term-limited the state legislature, the legislature attempts to repeal or water down its own limit in order to keep power longer. The legislatures of Idaho<sup>35</sup> and Utah<sup>36</sup> repealed term limits in the early 2000s. Lengthening efforts in California (2012)<sup>37</sup> and Arkansas (2014) succeeded – mainly due to misleading ballot language. In other cases, like Florida (2006) and South Dakota (2008)<sup>38</sup>, citizens were able to defeat anti-term limit schemes and maintain the laws they enacted.

A common refrain from political observers these days seems to be, “oh, term limits? Yeah, that was a big deal in the nineties and then people kind of forgot about it.” That’s not quite the case. Public support for term limits has never waned, but pro-term limit citizens eventually ran out of states with an accessible and durable initiative process.<sup>39</sup>

In Illinois in 2014, future governor Bruce Rauner’s Committee for Legislative Reform and Term Limits collected nearly 600,000 signatures to qualify for the ballot an amendment to the Illinois Constitution which would have limited all state legislators to 8 overall years in office<sup>40</sup>. The amendment was challenged in court, with plaintiffs arguing it did not make structural and procedural changes to the legislature – a requirement for citizen amendments under Article IV of the Illinois Constitution<sup>41</sup>. When an appeals court upheld a lower court’s ruling that the amendment was unconstitutional, Rauner’s effort was toast. The Illinois Supreme Court refused to hear his appeal.

The lack of a path forward – compounded by political and legal challenges – has kept term limits advocates from expanding their reach beyond the 15 states that currently limit legislators’ terms. That’s not to say progress isn’t being made. In 2020, the people of Missouri<sup>42</sup> will vote on whether the 8-year limit currently applying to the governor will be expanded to include all other statewide officials. In Florida<sup>43</sup>, progress has been made over the last several years to include 8-year term limits for all school board members in the Florida Constitution. And in North Dakota,<sup>44</sup> Governor Doug Burgum is seeking the adoption of 8-year limits for the North Dakota Legislative Assembly. Of course, term limits for Congress remains a popular but elusive goal as well.

There isn’t much debate over the corrosive effects of incumbency and captured politicians on our fiscal situation. As public office provides more and more benefits to its holders, this increases incentives for

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<sup>35</sup> National Conference of State Legislatures. 2015. The Term Limited States. March 13. <https://www.ncsl.org/research/about-state-legislatures/chart-of-term-limits-states.aspx>

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

<sup>39</sup> McLaughlin & Associates. 2018. National Survey Executive Summary – Voters Overwhelmingly Support Term Limits for Congress. January 15. <https://mclaughlinonline.com/2018/02/08/ma-poll-voters-overwhelmingly-support-term-limits-for-congress/>.

<sup>40</sup> Ballotpedia.org. 2014. Illinois Term Limits for Legislators Amendment (2014). [https://ballotpedia.org/Illinois\\_Term\\_Limits\\_for\\_Legislators\\_Amendment\\_\(2014\)](https://ballotpedia.org/Illinois_Term_Limits_for_Legislators_Amendment_(2014)).

<sup>41</sup> Ibid.

<sup>42</sup> Ballotpedia.org. 2020. Missouri Amendment 1, State Executive Term Limits Amendment (2020). [https://ballotpedia.org/Missouri\\_Amendment\\_1,\\_State\\_Executive\\_Term\\_Limits\\_Amendment\\_\(2020\)](https://ballotpedia.org/Missouri_Amendment_1,_State_Executive_Term_Limits_Amendment_(2020)).

<sup>43</sup> Tomboulides, Nick. 2019. Term limits for school boards are an overdue idea. March 22. <https://www.orlandosentinel.com/opinion/os-op-school-board-term-limits-20190322-story.html>.

<sup>44</sup> On the Issues. n.d. Doug Burgum on Government Reform. [https://www.ontheissues.org/Governor/Doug\\_Burgum\\_Government\\_Reform.htm](https://www.ontheissues.org/Governor/Doug_Burgum_Government_Reform.htm).

members to stick around longer and reap rewards. Politicians have learned that the key to staying in power is not to reduce the size of government, but to sell and exploit it for the highest bidder. Term limits are no silver bullet, but a strong case can be made that stemming the tide of careerism will improve democracy and keep spending in check.