

Report About the Proposal for Term Limits in Montgomery County
by Paul M. Bessel and Barbara Braswell (August 15, 2016)

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Executive Summary

It is likely that the ballot in Montgomery County in November 2016 will include a proposed amendment to the county charter that would limit the County Executive and County Council members to no more than 3 terms.

This probably sounds good to many people — it did at first to us — but there is a wealth of research about what happened in other states and jurisdictions when they adopted term limits and the conclusion of all researchers is that term limits do not lead to any of the benefits claimed by supporters and instead lead to new problems for citizens.

The items in the next few pages are summaries. For more details, and citations, see the remainder of this research paper.

1. Do term limits lead to lower spending and taxes?

No! As described in a study: “...this analysis finds that states with term limits have higher spending levels than states without term limits...”

2. Do term limits lessen Council pay increases?

They have nothing to do with this. If some people want to limit Council pay increases they can petition to amend the county charter to say exactly that.

3. Are long-time incumbents impregnable to defeat by challengers?

It is true that there are benefits to incumbents when they run again. However, the people of Montgomery County are not shy about voting incumbents out of office when they wish to do so. Examples include Sidney Kramer, Bill Hanna, Nancy Dacek, Blair Ewing, Michael Subin, Howard Denis. As described in another scholarly study: “A central problem with all of these arguments [in favor of term limits] is that the people who are being implored to vote for term limits are the same people who reelect their representatives. Ultimately, it is the voters who are responsible for incumbency advantage. Term limit proponents treat incumbency advantage as if it were an exogenous force imposed upon the voters by a nefarious power. They often fail to ask, ‘If incumbency advantage creates unresponsive politicians why do voters continue to reelect their representatives?’”

One commentator said he was hitting his head against the wall because polls show that the public supports term limits but the same public keeps electing the same people. In other words, the message here is: “Stop me before I vote for another incumbent!”

4. Do voters sometimes want to continue experienced people in office?

The voters of Montgomery County have proven they have no problem with reelecting people who they feel were doing good jobs even if they had already served the county for

3 terms. In fact, some voters may have felt this was a positive reason to vote for them, as they were experienced and knowledgeable because of their long service, and better able to serve on the County Council than a new person might have been. Should these voters be told they cannot exercise their vote this way? Why should anyone have the right to restrict whom voters can vote for?

5. Do term limits lead to more competition for office?

In Michigan, which has term limits, "The lineup for House contests looks like a family affair, with at least 13 races involving a spouse, sibling or other relation seeking to keep a seat within the stable. Let's not forget there are already sixteen sitting legislators that have followed their spouse into state politics."

Another study: "The wealth of evidence we examined ... after term limits leaves little doubt ...that the idea that term limits would produce a new breed of citizen legislators is not fulfilled. Indeed, the effect has been quite the opposite."

6. Do term limits lead to more women and minorities in office?

One scholarly study examined this and found: "the objective was to examine the proposition put forward by term limit advocates and some scholars that the implementation of term limits will lead to increases in the numbers of women serving in state legislatures. Data are examined for all state house races in the six states that implemented term limits in 1998." The results: "... the overall number of women serving in state house seats that were term-limited actually *decreased* following the election... more women were forced to leave state house seats because of term limits than were elected to house seats which were vacated by term-limited [women] incumbents".

A study in New York City concluded: "Term limits have not appreciably increased the racial or gender diversity of elected officials, nor have they had any effect on the type of people who seek election to office..."

7. Do term limits increase the power of lobbyists?

A study in Missouri said: "We found that the roles of lobbyists and legislative staff have changed in response to the larger number of inexperienced members...The evidence suggests that under term limits, there are more lobbyists, these lobbyists are working harder, their ethical behavior is sometimes worse, and they wield more influence in the legislative process ... "Term limits did not free the Legislature from special interests, as the sponsors contended they would."

A study in Michigan concluded: "These term limits were sold to Michigan voters on the notion that they would sever close ties with lobbyists and cause legislators to be more independent... In reality, we found them to have the opposite impact."

8. Do term limits increase voter turnout?

Detailed studies of the facts, based on data from California state legislative races from 1976 to 2004 – 28 years – shows that legislative term limits not only fail to achieve the reformers' goals, but they, in fact, decrease voter turnout... quite unexpectedly, I find that term limits actually reduce voter participation in elections.

9. Do term limits strengthen or weaken legislative bodies?

According to another study: "...many new senators arrive without knowledge of why past bills were rejected, don't understand the potential impact of legislation they introduce and are 'used and misused by the lobbyists.'"

"We find that lame ducks tend to be less attentive to their job duties in general ... They spend less time communicating with constituents ... attending meetings...Also, term limited representatives tend to seek information from a much more limited number of sources, thus making decisions on legislation that are much less likely to serve the welfare of their constituents."

As mentioned in another study: "supporters of term limits also say that bringing in new people means fresh blood and new ideas. It does. But it also means nobody knows what they're doing."

10. Do term limits decrease or increase gridlock?

"It [term limits] sounded like a good idea, but ... term limits are a recipe for political chaos and increased special interest influence..."

In another study: "The Legislature has seen an increase in partisanship because of term limits. With an influx of freshmen lawmakers, research found that division was more commonplace. "As novices stream into the institution, they may be less willing to accept traditional norms of compromise and conciliation."

11. Did the Founding Fathers support term limits?

The Framers of our Constitution discussed and unanimously rejected a proposal to add term limits to the Constitution, even though they were in the Articles of Confederation.

John Adams wrote; "There is no right clearer ... than that the people should be at liberty to choose the ablest and best men ... yet, upon the present [term limits] supposition, the people voluntarily resign this right, and shackle their own choice"

12. Are people in states with term limits happy with them?

In almost every state that has term limits, the deficiencies of that policy have led and still

are leading to efforts to fix the problems created by term limits..

“California already has term limits. And they're a disaster.”

Another conservative Republican in California wrote: “I oppose term limits...To not let the voters have a wide variety of choices on the ballot is unfair and runs contrary to our cherished beliefs...If a candidate is doing a good job, and his voters like him, why should he be forced out?”

A former Republican leader in the California legislature and California Republican Party Chairman, said in “Why Conservatives Should Oppose Term Limits,” that he is a Barry Goldwater / Ronald Reagan Republican who voted for term limits when he was in the California legislature. “It seemed like a good idea at the time. Turns out it was a *very bad* idea. (emphasis in original.) ... for every old hack forced out by term limits, there are at least as many people who are superbly competent, bright and balanced with profound institutional and policy knowledge... If a legislator has mastered the political art well enough to deserve another term, the people of that district should have the right to grant it.”

Maine Governor Paul LePage, a deep Republican conservative, said: “You’ve got to take term limits and you’ve got to throw ‘em out the window...”

A comment in Florida was: “Why do voters not allow themselves to re-elect good people? Do they know they're voting for incompetents or crooks but just can't resist?”

An Arizona State Senator who voted for term limits has written: “Nearly 12 years later, it’s clear that term limits are not only an impediment to effective policymaking — they are one of the most destructive political forces in my state’s history, purging the Legislature of its most experienced, respected, and effective lawmakers regardless of, and often against, their constituents’ will ... After 12 years in Arizona, it’s become obvious that the most effective form of term limits is that which our country’s founders instituted: an election.”

From Nebraska: “Term limits are a terrible idea Reagan rightly pointed out that term limits are 'a preemption of the people's right to vote for whomever they want as many times as they want ... we already have term limits. They're called 'elections.' We can invoke them to limit the terms of public officials whenever we want.”

13. What have others said about term limits

President Dwight D. Eisenhower also opposed term limits: “The United States must be able to choose for its president anybody he wants regardless of how many terms he has served. I have the utmost faith in the long term common sense of the American people.”

Ronald Reagan, an idol of many of those who support term limits, said that after he left office he wanted to lead an effort to end term limits for U.S. Presidents, to allow the people to "vote for someone as often as they want to do. In short, term limits may be an idea that

sounds good to some, but it takes away the right of the people to elect whom they wish, leads to more inexperienced people in office, and does not accomplish anything useful.”

14. What about: “If you can’t achieve your goals in 12 years you never will.”

An argument is made that, “If you can’t achieve your goals in 12 years you never will.” This doesn’t make sense. Some people run for public office because they want to serve the people, without having 12-year goals in mind. They feel they have something to give, and if the voters agree they become elected officials. Why should some people have the right to say that if those who want to serve more than 12 years, and whom the people want to elect, should be prohibited from doing so? People in other professions and careers are never held to this standard.

Conclusion of Executive Summary

Term limits sounds like a good idea, especially for those who are angry at current government officials. But voters should examine the evidence. Despite claims of those who support term limits, every study of what has happened when they have been adopted shows that they do not bring about the things their supporters claim, such as lower spending, new people with new ideas, and larger election turnout. If there are problems with the current government officials they should be dealt with using things that have been proven to work, not something that has been proven not to work and only cause problems. Ultimately, as so many have said, it is and should be up to the voters to choose whom they wish to represent them, from among all those who are willing to be candidates.

1. Introduction

A. Why was this document written? What is its purpose?

Although the following paragraphs will mention the Montgomery County Council's request that the Charter Review Commission (CRC) provide the Council with recommendations and other information on the subject of term limits, and although one of the authors of this paper is the Chairperson of the Charter Review Commission, it should be emphasized that this document is purely an effort by two individuals as citizens of Montgomery County.

On June 21, 2016, when the CRC report was officially presented to the Montgomery County Council, the Council requested the CRC to provide the Council with research and analysis concerning the expected petitions proposing that term limits be included in the Montgomery County Charter.¹

The CRC has not yet decided how to respond to this request from the County Council, but we had already started an extensive review of the scholarly studies of term limits and we continued to work on this paper. Its purpose is to provide readers with all the information we could find on the subject of term limits and how they have worked in practice rather than in theory, answer any questions that might be asked about this subject, offer our personal recommendations, and base this paper on facts and evidence.

B. Term Limits Petition in Montgomery County in 2016

Mr. Robin Ficker delivered what he described as about 18,000 signatures on petitions to place on the Montgomery County ballot on November 8, 2016, a proposal that the County Executive and County Council Members be limited to a maximum of 3 terms.²

Although Mr. Ficker claimed he had no assistance from Help Save Maryland, an organization that has been designated a "nativist extremist" group by the Southern Poverty Law Center, the Alabama-based non-profit that monitors extremist political activity, Brad Botwin, executive director of Help Save Maryland, said Tuesday that he collected "hundreds and hundreds of signatures, if not more than that."³

¹ Video of the June 21, 2016, County Council session is available at http://montgomerycountymd.granicus.com/MediaPlayer.php?view_id=81&clip_id=11884&embed=1

² Turque, Bill, "Signatures for term-limits amendment are delivered to Montgomery," *Washington Post*, August 8, 2016, https://www.washingtonpost.com/local/md-politics/signatures-for-term-limits-amendment-are-delivered-to-montgomery/2016/08/08/acf29296-5d06-11e6-af8e-54aa2e849447_story.html

³ Turque, Bill, "Head of anti-immigrant group says he gathered 'hundreds' of term-limits signatures," *Washington Post*, August 9, 2016, https://www.washingtonpost.com/local/md-politics/hundreds-of-term-limits-signatures-gathered-by-head-of-anti-immigrant-group/2016/08/09/b462c374-5e51-11e6-8e45-477372e89d78_story.html

Mr. Ficker has often organized petition drives to put proposals on the ballot in Montgomery County, and he has often run for office. He is also a former member of the Maryland House of Delegates.⁴

The Maryland Constitution provides that citizens who wish to place proposed amendments to a County Charter on the ballot may do so if they collect 10,000 signatures.⁵

The ballot question currently being promoted by Mr. Ficker is a proposal that all present and future County Council Members and County Executives be limited to 3 terms, with anyone who is serving or has served a partial term being considered to have served a full term. There is a more detailed discussion of this “partial term” issue below.

It is considered likely that the petition drive will succeed since there are about 650,000 registered voters in Montgomery County, and 10,000 signatures of registered voters are all that is required. Therefore, the signatures of only about 1½% of the voters are needed to succeed in a petition drive to place a question on the ballot.⁶

2. Summary

When we started thinking about term limits we thought they were a good idea. They might bring in new people, hopefully with new ideas, perhaps citizen-legislators who would serve for a while and then go back to private life. They might open new opportunities for those who have had a hard time trying to be elected in the past, such as women and minorities.

Maryland’s Senate President and House of Delegates Speaker have been in office for so

⁴ Mr. Ficker has had a very interesting life and career. For details, see <http://msa.maryland.gov/megafile/msa/speccol/sc3500/sc3520/013000/013092/html/13092bio.html> and https://en.wikipedia.org/wiki/Robin_Ficker and <http://www.theseventhstate.com/?p=6867>

⁵ Maryland Constitution, Article XI-A, Section 5. Amendments to any charter adopted by ... any County of this State under the provisions of this Article may be proposed by a resolution of ... the Council of the County, or by a petition signed by not less than 20% of the registered voters of the ... County, provided, however, that in any case 10,000 signatures shall be sufficient to complete a petition. A petition shall be filed with the ... President of the County Council. An amendment so proposed shall be submitted to the voters of the ... County at the next general or congressional election occurring after the passage of the resolution or the filing of the petition. If at the election the majority of the votes cast for and against the amendment shall be in favor thereof, the amendment shall be adopted and become a part of the charter of the ... County from and after the thirtieth day after said election. The amendments shall be published by the ... President of the County Council once a week for five successive weeks prior to the election in at least one newspaper published in said ... County

⁶ *Montgomery County Board of Elections Monthly Statistical Report for June 2016*, <http://www.montgomerycountymd.gov/Elections/Resources/Files/pdfs/stats/2016/MonthlyStatsMay2016.pdf>

long that others who want to move up are blocked.⁷

The only negative thing we thought about term limits was that they are anti-democratic, taking away from the voters the ability to elect those whom they feel are most capable to do the job of making laws, and also depriving the best legislators of the ability to offer their candidacy to see if the voters wish to elect them.

It is easy for people to say such things as: “If term limits become law, spending and taxes will go down,” or “If term limits become law the way will be open for new blood such as women and minorities in office.” However, those statements are pure guesses. We should always search for facts and evidence to determine if hypotheses are accurate or not.

We found that there are many books and scholarly articles about the effects of term limits in places where they have been in force for a long time. To my surprise, all the scholarly research concludes, without a single exception, that all the claims in favor of term limits do not prove to be accurate in the real world, and term limits lead to detrimental effects on our government and our citizens.

To promote this effort to urge voters to look at facts rather than guesses — which are unnecessary since the facts exist and are waiting to be seen — in this paper we will quote more of the scholarly studies than might be usual in a paper. This is so voters can see for themselves exactly what the evidence proves about term limits.

There is scholarly evidence below for each of the following statements:

1. Term limits do not lead to lower spending and taxes. They lead to higher spending and taxes.
2. Term limits do not lead to new people with new ideas coming into government as citizen-legislators, and they do not lead to more women and minorities being elected.
3. Term limits do not lead to higher voter turnout in elections.
4. The power of incumbency is not as great as proponents of term limits claim, at least not at the state and local levels. In Montgomery County, for instance, voters have defeated incumbent County Executives and County Council Members frequently enough that it is far from an impossible occurrence.

⁷ According to the Maryland Manual – <http://msa.maryland.gov/msa/mdmanual/07leg/html/ga.html> – Thomas V. Mike Miller, Jr., has been President of the Maryland Senate since January 1987, the longest of any Senate President in Maryland and the U.S., 30 years. Michael E. Busch has been Speaker of the Maryland House of Delegates since January 8, 2003, a period of 14 years. In states that have term limits, neither of these periods in office would be permitted. Also see Kurtz, Josh, “Maryland’s Political Logjam,” Center Maryland Blog, July 6, 2015, http://centermaryland.org/index.php?option=com_easyblog&view=entry&id=1328

5. Term limits force some of the best and most experienced legislators out of their positions. They are replaced by inexperienced people who must rely on unelected people such as lobbyists to provide them with information that experienced legislators would know for themselves.

6. Many of the people who promoted and supported term limits have now changed their minds because they have found that term limits do not bring about the benefits they thought and instead bring about negative things for the public.

7. Term limits take power away from voters, forcing them to vote for people they might not want to vote for, because the candidates they want are not permitted to be on the ballot.

As explained in one of the detailed studies of the real effects of term limits:

“This carefully-constructed, rigorous study provides an in-depth, detailed picture of the state legislature in electoral politics and governance over time, before and after term limits. The portrait is a troubling one that largely contradicts the aims of term limit reforms - weakening electoral competition, lessening democratic responsiveness, and strengthening the role of lobbyists in policymaking...we find that term limits coincide with a stunning increase in the amount of money given to representatives *after* they are elected...In this study, term limits get an “F” for “fail” because of less electoral competition, almost no citizen-legislators, giving bureaucrats more power, giving lobbyists more power, and making money more important in politics.”⁸

The idea of term limits, in its basic statement, is that the voters are too foolish and untrustworthy to vote the “proper” way — proper according to whom? — and they need to be prohibited from voting for candidates they like if those candidates have been in office a certain number of terms. Even if the voters overwhelmingly think a particular candidate is the best person for an office, and even if that candidate wishes to heed the call of the voters and continue in office, term limits say that the people and the candidates will not be permitted to do that. This is as undemocratic a statement as can be made.

Proponents of term limits say that people who have been in office for a certain period of time have “had their chance” and need to be forced out of office. Why? Are all office-holders who have been in office for a certain period automatically “bad,” even if the voters would be delighted to vote for them for further terms?

⁸ Sarbaugh-Thompson, M., Lyke Thompson, Charles D. Elder, John Strate Richard C. Elling, *The Political and Institutional Effects of Term Limits*, 2004, <https://www.amazon.com/Political-Institutional-Effects-Term-Limits/dp/1403965145>

3. Detailed Analysis

A. Should partial terms be considered the same as full terms?

One issue that is ambiguous in the petitions being circulated for term limits in Montgomery County is the definition of a “term” as including “any partial service of a full term.” It appears that the intention of the petition is that a Council Member who had been elected or appointed to fill someone else’s term, even if that person only served for a day, would have that counted against him or her for term limit purposes.

However, in a memorandum to the Council from Council staff dated July 19, 2016, a different approach is suggested. Council staff suggests that the Council might consider that the petition does not clearly describe “partial service of a full term.” Council staff suggests that the Council consider adding an additional ballot question to define that term as being 2 or more years, based on the 22nd amendment to the U.S. Constitution which defines a partial term of a U.S. president.⁹

County law provides for elections to fill a Council vacancy if there is one year or more left in that term.¹⁰

This is not an academic question. County Council Member Nancy Navarro, who was elected to the Council on May 19, 2009, and whose first term consisted of serving an unexpired term of about 1 year and 6 months, might be considered, for term limit purposes, as if her first term was a full term of 4 years rather than less than half that length.

The first term that Nancy Navarro served was the unfinished term to which Marilyn J. Praisner had been elected in 2006, representing District 4 on the County Council. Ms. Praisner was elected by a vote of about 75%. When Ms. Praisner died on February 1, 2008, a special election to complete her term was held on May 13, 2008, and Ms. Praisner’s widower, Don Praisner, was elected by about 66% of the vote. He died before completing that term, on January 30, 2009, and another special election was held. On May 19, 2009, Nancy Navarro was elected by a vote of about 61%, defeating Robin Ficker.¹¹

⁹ Drummer, Bob, and Josh Hamlin, Memorandum to the Montgomery County Council, July 19, 2016, “Proposed Charter Amendments.”
http://montgomerycountymd.granicus.com/Viewer.php?view_id=149&event_id=4562&meta_id=124658

¹⁰ *Montgomery County Code*, Chapter 16, Article III, Section 16-17

¹¹ See Spivak, Miranda S., “Maryland Politics: In a Time of Loss, A Push to Move On,” *Washington Post*, February 7, 2008,
<http://www.washingtonpost.com/wp-dyn/content/article/2008/02/06/AR2008020602295.html>; and Gazette staff, “Montgomery Councilman Praisner dead at 76,” *The Gazette*, Jan. 30, 2009, http://www.gazette.net/stories/01302009/montnew142754_32487.shtml; and Marimow, Ann E., “Maryland Politics: Montgomery County Council: Navarro Wins Democratic Primary for Montgomery County Council Seat by 62 Votes,” May 2, 2009,
<http://www.washingtonpost.com/wp-dyn/content/article/2009/05/01/AR2009050103781.html>; and

If a partial term of one year would be considered a full term for term limit purposes, why would anyone run in an election to fill such a short term rather than wait to run for a full term? It would not be logical, and could result in the best and most qualified people making the very logical decision not to run for the partial term, leaving the county and voters with less appealing choices on the ballot.

“If construed most broadly, the amendment could result in a Councilmember who is appointed to serve only a very small part of an unexpired term being precluded from being elected to a third term. This construction could result in a disincentive to the most capable and committed members of the community from accepting an appointment to finish an unexpired term. If the petitioned Charter amendment is approved by the voters, this ambiguity may need to be resolved by the Courts.”¹²

Moreover, describing a partial term as anything less than at least half the term would make our county different from almost all other jurisdictions that have term limits. As will be described later in this paper, other counties in Maryland and jurisdictions throughout the country that have term limits almost always define partial terms as at least half the remaining term, and sometimes say that partial terms should be completely ignored for purposes of calculating how many terms someone has served.

B. Do term limits lead to lower spending and taxes?

Proponents of term limits say that they will lead to less spending and lower taxes. The Montgomery County Council recently voted unanimously to raise taxes by almost 9%. Term limit proponents claim that term limits will get these “tax and spend” people out of office.

Is this true? No. All those who have made serious studies of the effects of term limits on spending and taxes have found evidence that term limits increase, not decrease, the possibility of higher spending and taxes.

As described in a study sponsored by *American Politics Research*, and an article in *Public Choice*: “Supporters of legislative term limits often claim that they will lower state spending levels. Using fiscal data from 48 states from 1977 to 2001, this paper finds little support for this assertion. Instead, this analysis finds that states with term limits have higher spending levels than states without term limits. These results suggest that term limits give legislators greater incentives to deviate from socially optimal fiscal policy by altering the legislative

Democratic Club of Leisure World, “Special Election in 2009 Montgomery County Council District 4,” May 19, 2009, <http://lwdems.org/special-election-2009.htm>

¹² Drummer, Bob, and Josh Hamlin, Memorandum to the Montgomery County Council, July 19, 2016, “Proposed Charter Amendments.” http://montgomerycountymd.granicus.com/Viewer.php?view_id=149&event_id=4562&meta_id=124658

environment in which such policy is formulated.”¹³

How is this possible?

Another scholarly study concluded: “Advocates of term limits argue that term limits would help reduce out-of-control government spending by removing veteran legislators who became acclimated to the pro-spending environment in our nation’s capitals. However, previous research shows that term limits may increase spending, which could jeopardize state fiscal health. The primary purpose of this article is to examine whether states with term limits encounter more fiscal problems than non-term-limited states. We suggest that the short-term fiscal outlooks and loss of experienced legislators produced by term-limit turnover lead to poor fiscal conditions. Myopic legislators may avoid tough fiscal decisions, while inexperienced legislators may be ill-equipped to develop sound fiscal policy. Analysis of budget data on U.S. states from 1983 to 2008 reveals that legislative turnover decreases budget balances....”¹⁴

For example, a detailed study was made in 2012 of whether term limits lead to less or more spending by legislators, and what type of spending is involved. Their conclusion: “Our analysis reveals that legislative term limits increase pork-barrel spending”¹⁵

“When they’re running for reelection, a politician wants two things: approval from citizens (votes) and money for campaign activities (campaign contributions). If reelection is off the table, unless a higher office is available, which is only an option for relatively few, there’s nothing they want any more from the people. There’s still plenty they want from the interest groups that have enough money to hire them later on.”¹⁶

If the proponents of the term limits petition in our county really wanted to stop tax increases such as the almost 9% property tax increase approved for fiscal year 2017, they could have circulated petitions to amend the County Charter to prohibit increases in the tax rate by more than the Consumer Price Index or either 4.5% (Anne Arundel county), or 2% (Talbot and Wicomico counties) or whichever is less. That, not term limits, would

¹³ Erlor, H. Abbie, “Legislative term limits and state spending,” *Public Choice*, December 2007, Volume 133, Issue 3, pp 479-494
<http://link.springer.com/article/10.1007%2Fs11127-007-9209-2?LI=true#page-1>

¹⁴ Cummins, Jeff, California State University, Fresno, “The Effects of Legislative Term Limits on State Fiscal Conditions,” *American Politics Research*, 2016
<http://apr.sagepub.com/content/41/3/417.abstract>,

¹⁵ Yakovlev, Pavel A., “Legislative Term :Limits and State Aid to Local Governments,” Duquesne University, Mehmet S. Tosun, University of Nevada, Reno and IZA, William P. Lewis, Duquesne University, *Institute for the Study of Labor*, March 2012, <http://ftp.iza.org/dp6456.pdf>

¹⁶ Alpert, David, “Term Limits are a Dangerous Policy,” *Greater Greater Washington*, April 6, 2011, <http://greatergreaterwashington.org/post/9965/term-limits-are-a-dangerous-policy/>

accomplish their stated goal.¹⁷

It is worth noting that the Montgomery County tax burden on individuals falls in the middle of the jurisdictions in our area. The District of Columbia, Fairfax County in Virginia, and Howard County in Maryland, all have higher per capita tax revenue than Montgomery County.¹⁸

According to one study: “Our empirical findings suggest that both accountability and competence play important roles in elections. First, we have found evidence of an accountability effect: per capita taxes, per capita spending, and borrowing costs are higher and economic growth is lower under term-limited incumbents than under those who are eligible for reelection, controlling for tenure in office. Second, we have found that performance improves with the incumbent’s tenure in office.”¹⁹

C. Why does government spending increase with term limits?

As explained in “Why Does Government Spending Increase Under Term Limits?” —

“Back in the 1990s, when about half the states’ voters slapped term limits on their state legislators, the idea was to rein in government spending and decrease the growth of government. Instead, spending per capita increased in those states relative to states without term limits... These results are counterintuitive insofar as we put stock in the intended mechanism, which was simple: As legislators spend more time in office, they tend to vote for more government spending – so if legislators are required by law to spend less time in office, they’ll spend less money... First, the premise that tenure and spending positively correlate has not held up to empirical scrutiny.” Term limits exacerbate common fiscal problems within the legislature... Term limits shorten legislators’ time horizons. If legislators use their time in office to advance their careers, and if the career-value of being in the statehouse increases with the support of more spending, then term limits can impart an incentive to spend more and sooner. For example, rank-and-file legislators support more spending to secure leadership positions, and leaders let more projects through in order to quickly build durable coalitions.”²⁰

¹⁷ *Anne Arundel County Charter* section 710(d), *Talbot County Charter* section 614, *Wicomico County Charter* section 706B.

¹⁸ “Individual and Business Tax Burdens in Local Jurisdictions,” *Montgomery County Office of Legislative Oversight*, Report 2016-7, Presentation to County Council, July 12, 2016

¹⁹ Alt, James, Harvard University, Ethan Bueno de Mesquita, The University of Chicago, Shanna Rose, New York University, “Disentangling Accountability and Competence in Elections: Evidence from U.S. Term Limits,” *The Journal of Politics*, Volume 73, Number 1, January 2011, Pages 171–18, http://home.uchicago.edu/bdm/PDF/term_limits.pdf

²⁰ Lopez, Ed, “Why Does Government Spending Increase Under Term Limits?,” *Marginal Revolution University*, December 17, 2012, <http://marginalrevolution.com/marginalrevolution/2012/12/why-does-government-spending-increase-under>

“Term limits might lure legislators into very wasteful forms of pork spending,” according to a paper by Michael Herron and Kenneth Shotts: “Term limits can, in some cases, inhibit voters from selecting representatives who deliver particularistic benefits, and, in these cases, term limits reduce pork spending. On the other hand, when pork is extremely socially inefficient, representatives who want to deliver pork to their districts have incentives to refrain from doing so to reduce future pork in other districts. In this scenario, term limits actually prevent legislators from promoting future spending moderation and thus paradoxically increase pork spending.”²¹

“In general, term limits increase spending because voters and legislators rationally respond to changes in their institutional environment. States with legislative term limits might also have worse bond ratings...Because term limits decrease the variance of tenure within a legislature, the relative power of party leaders and ranking committee members will decrease. As the distribution of power flattens, this increases the proportion of legislators who possess access rights to budget items, thus decreasing the control rights that a relatively few leaders and committee chairs would otherwise have...”²²

D. Do term limits lessen County Council pay increases?

Mr. Ficker was on the Kojo Nnamdi radio show on July 7, 2016.. When asked why term limits should be adopted he repeatedly mentioned the County Council’s vote in favor of a pay increase for themselves, for a tax increase in the FY 2017 budget, and for failing to sunset the energy tax adopted in 2014. He also kept repeating that the County Council Members gave themselves a raise while ordinary citizens got no increase in Social Security retirement payments.²³

This has also been reported in print media.²⁴

Is it true that if term limits were in effect, pay increases for the Council Members might be stopped? It sounds good, but the facts again prove that is inaccurate.

An independent commission in 2013 recommended salary increases for Council Members, but only to take effect after the next election.

-term-limits.html

²¹ Cited in Lopez, Ed, “Why Does Government Spending Increase Under Term Limits?”, *Marginal Revolution University*, December 17, 2012

²² Lopez, Ed, “Why Does Government Spending Increase Under Term Limits?”, *Marginal Revolution University*, December 17, 2012

²³ “Montgomery County Considers Term Limits,” *Kojo Nnamdi Show*, July 7, 2016, <http://thekojonnamdishow.org/shows/2016-07-07/montgomery-county-considers-term-limits>

²⁴ Kraut, Aaron, “County Council Votes Against Reducing Energy Tax,” *Bethesda Magazine*, May 13, 2015.

The amount was based on the commission's investigation of what other, similarly-situated legislators received as salary, and the complexity and time commitments involved in doing this job. "they researched the histories of the positions and conducted extensive personal interviews with officeholders, including the County Executive, current and past members of the County Council, the Sheriff, and the State's Attorney. We compiled data on counties from across the country with similar demographics, median income, governing bodies, and roles of elected officials. The Committee investigated additional information from various sources, which are described in detail in the report. After several months of meetings, reflection, and vigorous discussion...The Committee sought comments from the public by sending a press release in July 2013 to the local media...". The Gazette newspapers carried the announcement on July 22, 2013. The Committee also sent a press release to people on the Council's agenda e-mail list. The Committee received two written comments....The Committee reviewed comparable positions in counties around the country and began by looking at jurisdictions with similar populations...The scope of the work of a Councilmember is extraordinarily broad, with significant impacts Countywide, valuated time of council members, expertise needed, community involvement, etc. The salary increase for County Council Members was only done after a careful months-long study by a commission independent of the Council. The Council's action was to approve the recommendations of the Commission, and even then the Council stretched out the timeline for implementation of those recommendations. It should also be noted that the Commission also made salary recommendations for other officials than Council Members: County Executive, County Sheriff, and State's Attorney.²⁵

The salary of a newly elected Council Member in this term (2014 through 2018) will be about 30% higher in the final year of this term than it was in the final year of the last term (2010 through 2014).

"The council approved the plan by an 8 to 1 vote, with Phil Andrews (D - Gaithersburg - Rockville) as the sole dissenter. Andrews, who opposed the size of this year's raises for county workers, called the Council salary increase "larger than a pay increase should be."²⁶

Ironically for those supporting term limits, Council Member Andrews was then in his 4th term, a term that would have been prohibited if the current term limit had been in effect. Mr. Andrews was also the chief proponent of public financing of elections and a reform in the way police disability retirement was handled, resulting in lower spending by the government. He pointed out that these and other cost-saving measures took many years

²⁵ *Committee to Study the Compensation of the County Executive, County Council, Sheriff, and State's Attorney, Report, September 2013,*
https://www.montgomerycountymd.gov/COUNCIL/Resources/Files/REPORTS/2013_compensation_committee_report.pdf

²⁶ Turque, Bill, *Washington Post*, "Phased-in 17.5% raise approved for Montgomery County Council," October 22, 2013,
https://www.washingtonpost.com/local/md-politics/phased-in-175percent-raise-approved-for-montgomery-county-council/2013/10/22/5e930ab8-3b4e-11e3-b6a9-da62c264f40e_story.html

to accomplish, years that he would not have had if term limits had been in effect. Mr. Andrews also pointed out that public financing of elections has just recently been approved and financed. Public financing of elections can accomplish the goals often touted by those who support term limits — expanding opportunities for challengers and non-wealthy candidates to run viable campaigns, thereby increasing competition while at the same time reducing the influence of interest groups and wealthy donors in the elections and on public policy.

Many believe that term limits will not accomplish that goal and that public financing of elections will. Since public financing is already going to be started in Montgomery County, why not allow it to take effect rather than try to use the idea of term limits which has proven so ineffective everywhere it has been tried?²⁷

Andrews also voted against the part of the fiscal 2015 budget that provides negotiated wage hikes and longevity increases ranging from 6.75 percent to 9.75 percent for police, fire and non-uniformed employees. There were other times when Phil Andrews was a lone voice on the Council against measures that would have increased county spending, even in his 4th term on the Council.²⁸

If the goal of the petitioners was to stop what they consider to be large and uncalled-for increases in the salaries of the County Council members, that too could have been done specifically by a proposed amendment to Section 107 of the Charter saying something such as, “Salaries of Council Members may not be increased in any year by more than the increase in U.S. Social Security retirement payments that year.”

E. Are voters against long -time incumbents?

Nancy Floreen and George Leventhal had already served 3 terms when they ran for reelection in 2014. Did the voters have problems with them since they had already served 12 years? In the primary they came in #2 and #4 in number of votes, and in the general election they came in #2 and #3, despite opposition by 4 Republicans and 1 Green party candidate.²⁹

Similarly, the voters elected Phil Andrews to 4 terms, and Roger Berliner and Marc Elrich

²⁷ Conversation by the author of this paper with Phil Andrews on July 16, 2016.

²⁸ See Turque, Bill, “Phil Andrews says he’s the reform alternative to both rivals in primary for county executive,” *Washington Post*, May 29, 2014,

²⁹ See the website of the *Montgomery County Board of Elections* at <http://www.montgomerycountymd.gov/Elections/Resources/Files/htm/2014/primaryelection/results/electionresults.htm> and <http://www.montgomerycountymd.gov/Elections/Resources/Files/pdfs/OfficialEARLYVOTINGELECTIONDAYABSENTEE1PROVISIONALANDABSENTEE2RESULTS.pdf>

to 3 terms.³⁰

This shows that the voters of Montgomery County had no problem with reelecting people who had already served their county for 3 terms. In fact, some voters may have felt this was a positive reason to vote for them, as they were experienced and knowledgeable because of their long service, and better able to serve on the County Council than a new person might have been.

Should these voters be told they cannot exercise their vote this way? Why should anyone have the right to restrict whom voters can vote for?

F. What is the power of incumbency? Is it insurmountable?

It is true that there are benefits to incumbents when they run again. However, the people of Montgomery County are not shy about voting incumbents out of office when they wish to do so.

Examples of incumbents losing in our county include: County Executive Sidney Kramer in the 1990 primary, Council Member Bill Hanna in the 1998 primary, Nancy Dacek in the 2002 general election, Blair Ewing in the 2002 primary election, Michael Subin in the 2006 primary election, Howard Denis in the 2006 general election, and Duchy Trachtenberg in 2010 primary election.³¹

Endorsements of unions that can help candidates do not always go to incumbents. In the 2014 primary, challenger Beth Daly was endorsed by MCGEO (the largest and probably most politically-active of unions in Montgomery County), plus SEIU, the AFL-CIO, Fraternal Order of Police, Sierra Club, CASA, NOW, and the Gazette newspaper. In District 1, challenger Duchy Trachtenberg was endorsed by MCGEO, the AFL-CIO, and the Fraternal Order of Police.³²

As described in another scholarly study: "A central problem with all of these arguments [in

³⁰ See the website for the Montgomery County Board of Elections, <http://www.montgomerycountymd.gov/Elections/Resources/Files/htm/pastelections/2010/resultsgeneral/jurisdiction/jurisdictionwideabsentee2.htm>

³¹ Turque, Bill, *Washington Post*. November 25, 2015, "In Maryland's Most Populous County, Could Term Limits Finally Win?"; and Louis Peck., "2014 Endorsements: Candidates for County Executive, County Council: A look at how leading groups have come down in county-level contests," *Bethesda Magazine*, June 12, 2014, <http://www.bethesdamagazine.com/Bethesda-Beat/2014/2014-Endorsements-Candidates-For-County-Executive-County-Council/>

³² Peck, Louis, "2014 Endorsements: Candidates for County Executive, County Council," *Bethesda Magazine*, June 12, 2014, <http://www.bethesdamagazine.com/Bethesda-Beat/2014/2014-Endorsements-Candidates-For-County-Executive-County-Council/>

favor of term limits] is that the people who are being implored to vote for term limits are the same people who reelect their representatives. Ultimately, it is the voters who are responsible for incumbency advantage. Term limit proponents treat incumbency advantage as if it were an exogenous force imposed upon the voters by a nefarious power. They often fail to ask, 'If incumbency advantage creates unresponsive politicians why do voters continue to reelect their representatives?'" ³³

One commentator said he was hitting his head against the wall because polls show that the public supports term limits but the same public keeps electing the same people. In other words, the message here is: "Stop me before I vote for another incumbent!" ³⁴

Or, to put it another way: "Term limits are for sissies...Term limits do not insure better government – it creates a less responsive government and deters voters from participating in government rather than energizing them... This [term limits] takes responsibility away from the voters and as a byproduct the move encourages further voter apathy...The idea of term limits is a thinly veiled example of 'We can't trust ourselves,' and therefore we need someone to make a decision for us." ³⁵

Adam Pagnucco, whose blog posts are based on research and facts, pointed out that it is a myth that term limits are needed to create electoral competition in Montgomery County. "The historical record shows plenty of competition for elected office in Montgomery County." And he gives specific examples: "Since charter government was established in 1970, there has been one Republican County Executive (Jim Gleason, the first to hold that office) and three Republican Council Members (District 1's Betty Ann Krahnke and Howard Denis and District 2's Nancy Dacek). The other county elected officials have all been Democrats. But there has been substantial competition among the Democrats over the years, including the Neal Potter vs. Sidney Kramer factions in the 1980s and early 1990s and the competing council slates in 2002."

He continued, "But when you count the open seats (15 of them including three special elections), newcomers filled seats one-third of the time. That's plenty of turnover and FAR more than Congress. Ficker's objection is that Democrats replace other Democrats, and term limits won't change that."

Pagnucco also pointed out that "The historical record shows plenty of competition for elected office in Montgomery County. It just doesn't happen to be the kind of competition

³³ Taharrok, Alexander, "Survey, Critique, and New Defense of Term Limits, *Cato Journal*, 1994, <http://object.cato.org/sites/cato.org/files/serials/files/cato-journal/1994/11/cj14n2-9.pdf>

³⁴ Mirrisesy, Ed, "Shocker: Americans want term limits and end to Electoral College after re-electing a bunch of incumbents", *Hot Air*, January 18, 2013, <http://hotair.com/archives/2013/01/18/shocker-americans-want-term-limits-and-end-to-electoral-college-after-re-electing-a-bunch-of-incumbents/>

³⁵ Karem, Brian J. "Term limits are for sissies," 14 Jul 2016, *The Sentinel Newspapers*, <http://www.thesentinel.com/mont/columns/editor-s-notebook/item/3811-term-limits-are-for-sissies>

that some term limits supporters want.”³⁶

G. Do term limits lead to more competition for office?

Many who support term limits say confidently that term limits will increase competition for office. Do the facts prove them right or wrong?

Standish, a town in Maine is putting term limits on the ballot 2 years after they were adopted. Why? “In the June election, there were a dozen vacant municipal seats and only one ... was opposed. Candidates for the remaining 11 positions ran unopposed, and in some cases, there were no candidates.”³⁷

As described below, with term limits, political office often becomes a game of musical chairs, where office-holders go from one office to another, and in each office they will spend more money to make a name for themselves when they run for the next office.

According to a scholarly study, more than 80% of term-limited legislators remain in public life and do not return to private industry. They do not make way for more competition.³⁸

And, as stated by a Michigan reporter: “.. in my opinion, term limits need to be abolished. Hey we tried it. It seemed like a good idea at the time. But guess what, it hasn’t worked.. As an example, I know of an acquaintance who served her three terms in the State Legislature. Because of term limits she was forced to retire. To my surprise her husband ran to succeed her.”

Susan Demas, publisher of *Inside Michigan Politics* writes: “The lineup for House contests looks like a family affair, with at least 13 races involving a spouse, sibling or other relation seeking to keep a seat within the stable. Let’s not forget there are already sixteen sitting legislators that have followed their spouse into state politics. Not one, not two, but sixteen. To me that’s ridiculous and not what our system of government intended. Some of this nepotism might work out well. Spouses, in some cases, end up being better legislators than the family member they replaced. But in many situations this is not the case.”

Just take the case of Detroit’s Smiths. Former State Senator Virgil Smith Jr. was elected, at the age of 22, to the State Senate. That’s a pretty lofty post for a young man fresh out

³⁶ Pagnucco, Adam, “Two Myths About Term Limits,” by Adam Pagnucco, *Seventh State blog*, June 29, 2016

<http://www.theseventhstate.com/?p=6863>

³⁷ Wrobleski, Tess, “Standish rethinking municipal term limits,” *Keep Me Current*, August 12, 2016, <http://news.keepmecurrent.com/standish-rethinking-municipal-term-limits/>

³⁸ Cain, Bruce, and Thad Kousser, *Adapting to Term Limits: Recent Experiences and New Directions*, Published by the Public Policy Institute of California, 2004. http://www.ppic.org/content/pubs/report/R_1104BCR.pdf

of college. He was elected primarily because he was replacing his term limited father, Virgil Smith Sr. He won his election handily despite having no political background and several brushes with the law. So what happens once he gets in office? He assaults his ex-wife, putting several bullets in her car, and ending up serving a jail sentence.”³⁹

In Ohio, legislators seem to easily get around term limits by moving from one legislative chamber to the other. “In all, 18 current state representatives and senators have served more than eight uninterrupted years in Columbus by making at least one jump between chambers.”⁴⁰

“Term limits were supposed to bring fresh faces to state government. Proponents expected to have energetic, educated, qualified candidates who would work diligently while they were in office to serve their constituents. Instead we have families circumventing the process. Voters need to do their homework and understand term limitations. Just because a spouse has served admirably, doesn’t necessarily mean their son, daughter or wife will do the same.”⁴¹

“... a study of term limits in Michigan indicates that the “new” people are often relatives of the “old” people...“The lineup [in Michigan] for House contests looks like a family affair, with at least 13 races involving a spouse, sibling or other relation seeking to keep a seat within the stable,”

This is understandable, as those who can no longer hold a position might very well think that by having a relative hold it, the position will literally remain in the family. As stated in the Michigan story, “The wife serves, her husband follows, and then one of their kids appears to claim the family seat.” Continuing, “The voters were sold term limits back in 1992 as a way to make sure there was a consistent supply of fresh blood and new ideas in government. That may have been nice in theory. It might be happening if your average voter had the time and desire to carefully research the candidates and issues. But they don’t.”⁴²

“The wealth of evidence we examined ... after term limits leaves little doubt ...that the idea that term limits would produce a new breed of citizen legislators is not fulfilled. Indeed, the

³⁹ Lessenberry, Jack, “Our System of Term limits in Michigan is an Utter Failure,” Michigan Radio, Your NPR Radio Station, May 10, 2016, <http://michiganradio.org/post/our-system-term-limits-michigan-utter-failure#stream/0>

⁴⁰ Provance, Jim, “Term limits do little to oust Ohio lawmakers,” *The Blade*, July 29, 2012, <http://www.toledoblade.com/Politics/2012/07/29/Term-limits-do-little-to-oust-lawmakers.html>

⁴¹ Wilcox, Mike, “Term Limits Must Go,” *Clare County Review*, July 5, 2016, <http://www.clarecountyreview.com/columns/mikes-musings/term-limits-must-go/>

⁴² Lessenberry, Jack, “Term Limits in Michigan is an Utter Failure,” <http://michiganradio.org/post/our-system-term-limits-michigan-utter-failure#stream/0>

effect has been quite the opposite.”⁴³

Another example of this tendency is in Orange County, California: “Supervisors can – and do – serve the maximum time on the board, get elected to the Legislature and build a war chest, then return to the board later when the term limit clock starts all over,”⁴⁴

In Florida: “The Brevard County Commission and the local delegation to the Florida Legislature will undergo major makeovers in this year's elections, as most of the sitting commissioners and legislators will be moving out because of term limits... But that's not to say they all will be out of public office altogether, because most of those affected are seeking other offices.” Sen. Thad Altman, R-Indialantic, said, “I think term limits are bad for the process. I philosophically am not a fan of term limits. You're truly limiting the power of the people” by not giving voters the option of re-electing a sitting legislator or county commissioner who has served for eight years. Let the people vote and decide. Altman contends that term limits have backfired by giving more power to “lobbyists and special interests” because of the turnover of legislators after two, four-year terms in the Florida Senate or four, two-year terms in the Florida House. Once you understand the legislative process,” and the complexities of the state budget, “you're termed out,” Altman said.⁴⁵

Not only will people still consider politics a promising career option, but many who entered with discrete ambition will find the temptation to remain in politics overwhelming.⁴⁶

Long-time incumbents more efficiently execute voters' will. “There is great value to keeping someone in office who's done a good job and is executing a vision the voters support. We've seen the benefits and disadvantages of establishing term limits in the Louisiana Legislature. While it has infused new blood, new vision and new energy into the legislative process, career politicians merely switch chambers. And when you've got chambers filled with newly elected legislators, there can be a lot of wasted time and effort while these folks learn the ropes.”⁴⁷

The problems associated with inexperienced legislators, exacerbated by term limits, are

⁴³ Sarbaugh-Thompson, M., Lyke Thompson, Charles D. Elder, John Strate Richard C. Elling, *The Political and Institutional Effects of Term Limits*, 2004, <https://www.amazon.com/Political-Institutional-Effects-Term-Limits/dp/1403965145>

⁴⁴ *Orange County Register* Editorial, “Coming to terms with term limits,” July 26, 2016, <http://www.ocregister.com/articles/term-723601-board-measure.html>

⁴⁵ Berman, Dave, “Term limits shake up County Commission, Legislature lineups,” *Florida Today*, August 12, 2016, <http://www.floridatoday.com/story/news/politics/elections/2016/08/12/term-limits-shake-up-county-commission-legislature-lineups/88065482/>

⁴⁶ Garrett, Elizabeth. 1996. “Term Limitations and the Myth of the Citizen-Legislator.” *Cornell Law Review*, 81:623-698, <http://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=2596&context=clr>

⁴⁷ “Term limits: Yea or nay?” *The News Star*. April 14th, 2011, available at http://debatepedia.idebate.org/en/index.php/Debate:_Term_limits_for_legislators

compounded by the upcoming massive loss of retired government staff as described by the Dean of the Pepperdine School of Public Policy.⁴⁸

Is there really anything wrong with career politicians, especially those who come up with new ideas? Those that demonize career politicians have it backwards. Politicians are public servants, making significantly less money than many other members of society in a largely selfless and thankless career field. This is more often than not driven by a desire to do good for one's community...This should not be spat at, but celebrated. If public servants do good jobs, why not reward their service with a positive vote and more time in office?⁴⁹

Another scholarly study concluded: "This research finds that competition has not increased. In fact it has generally declined, and often sharply. The findings suggest that potential candidates, while influenced by local or national trends, wait for guaranteed open seats rather than challenge incumbents."⁵⁰

In any case, is there too little competition for the Montgomery County Council? As pointed out by Jonathan Shurberg, a knowledgeable blogger in Montgomery County, there have been many contests for spots on the County Council in the past, some of them bitter, and in 2018, the first time term limits would apply here if they are adopted, it appears that there are at least 22 people who are at least considering races for the Montgomery County Council. They include Nancy Floreen, George Leventhal, Marc Elrich, Roger Berliner, Craig Rice, Sidney Katz, Nancy Navarro, Tom Hucker, David Trone, Kathleen Matthews, Ben Kramer, Evan Glass, Terrill North, Will Jawando, Gabe Albornoz, Marilyn Balcombe, Beth Daly, Jonathan Shurberg, Jeff Waldstreicher, Al Carr, Ariana Kelly, Marc Korman, Andrew Friedson, Charlie Barkley, Will Smith, Does that sound as if there is too little competition and we need term limits to increase competition?⁵¹

Term limits have not led to the new breed of diverse, citizen-legislators proponents expected to see, however. political careerism does not seem to end with term limits. Rather than returning to their previous careers or private sector jobs, long-serving members in term-limited states are likely to run for other elective office, particularly for the upper chamber or a local office... The difference under term limits is that these

⁴⁸ Peterson, "The Greatest Public Leadership Transition in American History," Real Clear Policy, July 1, 2016, http://www.realclearpolicy.com/articles/2016/07/01/the_greatest_public_leadership_transition_in_a_merican_history_1654.html

⁴⁹ "Debate: Term limits for legislators," *Debatepedia*, http://debatepedia.idebate.org/en/index.php/Debate:_Term_limits_for_legislators

⁵⁰ Prier, Eric, Florida Atlantic University, and Kevin Wagner, Florida Atlantic University, "Running Unopposed: Assessing the Impact, of Term Limits on Competition in Florida and Maine," *Politics and Policy*, February 2009

⁵¹ Shurberg, Jonathan, "The Looming MoCo Shuffle," *MaryInd Scramble* blog, June 14, 2016, <http://www.marylandscramble.com/2016/06/14/2018-the-looming-moco-shuffle/>

legislatures no longer have a small group of long-serving members whose leadership and expertise can guide a largely inexperienced legislature. *Ballotpedia* describes the impact of term limits on state legislative elections in 2016 as follows: In the 2016 elections in the states with term limits, about 20% of those serving in the upper house will be forced by term limits not to run for reelection, and about 15% of those in the lower house will be similarly affected. This means about 250 legislators who might have wanted to run for reelection and whose constituents might have wanted to vote for them, will be prohibited from doing so in 2016. The number similarly situated in 2014 was somewhat lower. Of these, more Republicans than Democrats are term-limited and thus cannot run again.⁵²

H. Do term limits lead to more women and minorities in office?

This argument seems to be instinctively correct. If long-time incumbents are no longer running, there will probably be more people running for their seats, and more women and minorities will be elected. But what does the evidence show?

One scholarly study examined this and found: “the objective was to examine the proposition put forward by term limit advocates and some scholars that the implementation of term limits will lead to increases in the numbers of women serving in state legislatures. Data are examined for all state house races in the six states that implemented term limits in 1998.” The results: “Although there was some variation across the states, the overall number of women serving in state house seats that were term-limited actually *decreased* following the election... more women were forced to leave state house seats because of term limits than were elected to house seats which were vacated by term-limited [women] incumbents”.⁵³

A study in New York City concluded: “Term limits have not appreciably increased the racial or gender diversity of elected officials, nor have they had any effect on the type of people who seek election to office. Surveys of elected officials indicate that those who are term limited pay less attention to their geographic constituencies and more to statewide matters — perhaps because term limits force officials to anticipate running for higher office more

⁵² Jennifer Drage Bowser, National Conference of State Legislatures, Keon S. Chi, The Council of State Governments, Thomas H. Little, State Legislative Leaders Foundation, *Coping with Term Limits: A Practical Guide*, National Conference of State Legislatures, 2006, http://house.louisiana.gov/H_Reps/TermsCmteDocs/NCSL-term%20limits%20final.pdf

⁵³ Carroll, Susan J., and Krista Jenkins, “Do Term Limits Help Women Get Elected? *Social Science Quarterly*, December 19, 2002, http://onlinelibrary.wiley.com/doi/10.1111/0038-4941.00017/epdf?r3_referer=wol&tracking_action=preview_click&show_checkout=1&purchase_site_license=LICENSE_DENIED_NO_CUSTOMER

quickly.⁵⁴

A study at Boise State University found: “In 2002, we conducted the only survey of legislators in all 50 states aimed at assessing the impact of term limits on state legislative representation. We found that term limits have virtually no effect on the types of people elected to office — whether measured by a range of demographic characteristics or by ideological predisposition.”⁵⁵

“In general, there are not more women or minorities in state legislatures, and there is no substantial difference in legislators’ age and occupational backgrounds.... Between 1995 and 2004, the only term-limited legislatures that showed an increase in the number of women were California and South Dakota. In a majority of term-limited states, the number of women legislators has actually decreased since term limits took effect.”⁵⁶

I. Do term limits increase the power of lobbyists?

Do legislators who are term-limited have less time to develop financial connections with special interests, so lobbyists will have less influence on elected officials? Or do lobbyists have more influence?

A study in Missouri said: “We found that the roles of lobbyists and legislative staff have changed in response to the larger number of inexperienced members.”⁵⁷

Studies of term limits in places where they exist show that power shifts from elected officials, and the citizens who voted for them, to the paid staff of the government unit and to lobbyists. Government is not a simple job. There are many details that are very difficult to understand and elected officials have to be able to discuss many of them at the same session. The only ways to do this are to be expert in many subjects, or to rely on

⁵⁴ Egan, Patrick J., “Term Limits for Municipal Elected Officials Executive and Legislative Branches,” prepared for the *New York City Charter Revision Commission*, “ June 2010, <http://politics.as.nyu.edu/docs/IO/4819/egan.municipal.termlimits.2010.pdf>

⁵⁵ Carey, John M. Dartmouth College, Richard G. Niemi, University of Rochester, Lynda W. Powell, University of Rochester, Gary F. Moncrief, Boise State University, “The Effects of Term Limits on State Legislatures: A New Survey of the 50 States,” February 1, 2006, http://scholarworks.boisestate.edu/polsci_facpubs/82/

⁵⁶ Jennifer Drage Bowser, National Conference of State Legislatures, Keon S. Chi, The Council of State Governments, Thomas H. Little, State Legislative Leaders Foundation, “*Coping with Term Limits: A Practical Guide*, National Conference of State Legislatures, 2006, http://house.louisiana.gov/H_Reps/TermsCmteDocs/NCSL-term%20limits%20final.pdf

⁵⁷ David Valentine, Shannon Stokes, & Lilliard E. Richardson, Jr. “Institutional Effects of Term Limits In Missouri,” *Institute of Public Policy*, Harry S. Truman School of Public Affairs, November 2004, <https://mospace.umsystem.edu/xmlui/bitstream/handle/10355/2796/InstitutionalEffectsTermLimitsMissouri.pdf?sequence=1>

information from others. While we might hope that new legislators who take office when term-limited people leave are experts, it is not likely that they would be expert in all the subjects on which they have to vote, such as land use, ratification of appointments by the Executive, financial issues of great importance to taxpayers, and countless others. New and inexperienced legislators would have to turn to unelected people with no obligation to the voters — staff and lobbyists — to educate them, and in the process influence them. Is that good for the voters?

The evidence suggests that under term limits, there are more lobbyists, these lobbyists are working harder, their ethical behavior is sometimes worse, and they wield more influence in the legislative process.

In the book, *Institutional Change in American Politics: The Case of Term Limits*, the authors conclude that term limits have weakened legislatures institutionally, especially in states with strict limits that had more professionalized legislatures and low turnover in the membership.⁵⁸

“Term limits did not free the Legislature from special interests, as the sponsors contended they would. The lobbies now are certainly more diverse and represent more than corporations, and public employee unions and Indian tribes have become major forces. But it is lobbyists' job to serve their masters' interests, not the voters', and the grip of the lobbies on the Legislature is stronger than ever.”⁵⁹

Another study concluded that both the institutional context and experience of the term-limited legislators condition the effects of this reform on policymaking. In particular, a legislator's experience — in either state or local government — allows him or her to write broad and complex bills, and in legislatures that provide little staff support to compensate for the inexperience of their new members, term limits can reduce overall legislative policy knowledge, thus reducing the complexity of legislation.⁶⁰

A study in Michigan concluded: "These term limits were sold to Michigan voters on the notion that they would sever close ties with lobbyists and cause legislators to be more

⁵⁸ Kurtz, Karl T., and Bruce Cain and Richard G. “Institutional Change,” *American Politics: The Case of Term Limits*, September 2007, <http://www.ncsl.org/research/about-state-legislatures/institutional-change-american-politics-term-limits.aspx>

⁵⁹ “Term limits nothing but disaster,” *Free Lance*, June 23, 2003, http://www.sanbenitocountytoday.com/opinion/editorials/term-limits-nothing-but-disaster/article_da50446e-41fd-5142-828b-0ed6dda0289b.html

⁶⁰ Kousser, Thad, “The Limited Impact of Term Limits: Contingent Effects on the Complexity and Breadth of Laws,” *State Politics and Policy Quarterly*, <http://spa.sagepub.com/content/6/4/410.abstract>

independent... In reality, we found them to have the opposite impact." ⁶¹

J. Do term limits increase voter turnout?

Proponents of term limits often say they will increase voter turnout because they would increase the number of open-seat races, which tend to be more competitive, and the increased competition would inspire more voting. Further, the removal of entrenched incumbents would inspire more trust and confidence in government, thereby encouraging voter enthusiasm in a more diffuse way, increasing turnout for all races.

Detailed studies of the facts, based on data from California state legislative races from 1976 to 2004 – 28 years – shows that legislative term limits not only fail to achieve the reformers' goals, but they, in fact, decrease voter turnout... As stated in the concluding comment: "quite unexpectedly, I find that term limits actually reduce voter participation in elections. Although term limits remain popular with citizens, the reality is that in terms of increasing voter participation, the reform has failed...I evaluate these hypotheses empirically using data from California state legislative races from 1976 to 2004; incorporating a variety of methods, including pooled cross-sectional time-series regression. I find evidence that state legislative term limits not only fail to achieve the reformers' goals, but they, in fact, decrease voter turnout. " ⁶²

"Term limits' effects in Michigan and California state legislative elections surprised us. Although there were more open seat elections, this did not increase voter turnout...." ⁶³

K. Do term limits strengthen or weaken legislative bodies?

Term limits would insure that those with the most experience, and possibly ability, must move out. The new people might be, probably would be, inexperienced. So who would have the most institutional memory? Staff, unelected, answering to no voters. They, rather than experienced elected officials, would be the most influential people in government. Is that good, even in the minds of those who support term limits? If the voters want to get rid

⁶¹ Marjorie Sargaugh-Thompson, Wayne State University, "Twelve-year study by Wayne State faculty shows term limits for Michigan legislators have negatively impacted state," *Legislative Studies Quarterly*, Feb. 2010

<https://wayne.edu/newsroom/release/2010/03/08/twelve-year-study-by-wayne-state-faculty-shows-term-limits-for-michigan-legislators-have-negatively-impacted-state-3622>

⁶² Nadler, Kimberly, "The Effect of State Legislative Term Limits on Voter Turnout," *State Politics & Policy Quarterly*, Vol. 7, No. 2 (Summer, 2007), pp. 187-210, Published by: Sage Publications, Inc., Stable URL: <http://www.jstor.org/stable/40421578>

⁶³ Sarbaugh-Thompson, M., Lyke Thompson, Charles D. Elder, John Strate Richard C. Elling, *The Political and Institutional Effects of Term Limits*, 2004, <https://www.amazon.com/Political-Institutional-Effects-Term-Limits/dp/1403965145>

of those who have been in office a long time, they don't need term limits. They can just vote for new people who are always available to run. They also claim that term limits open opportunities for those who are underrepresented. Again, though, the facts show this is not what happens when term limits are imposed.⁶⁴

"...many new senators arrive without knowledge of why past bills were rejected, don't understand the potential impact of legislation they introduce and are 'used and misused by the lobbyists.'" ⁶⁵

"When someone is unable to be elected again, they are what is often (ungraciously) called a 'lame duck.' A two-term limit would mean that each municipal official would spend half of their time in office without having to worry about facing their constituents in an election again. They have no particular reason to work with their communities to find solutions, or to meet the expectations of their constituents. They can make whatever decisions they want without real penalty. As long as they show up to meetings, they can choose to say or do nothing, if they want, and never have to justify it to the people who elected them. Elections keep politicians responsive, engaged, and honest. That's why we have them."⁶⁶

Term limits also have an effect on those who are term-limited and who have decided not to seek another office. "We find that these lame ducks tend to be less attentive to their job duties in general ... They spend less time communicating with constituents ... attending meetings...Also, term limited representatives tend to seek information from a much more limited number of sources, thus making decisions on legislation that are much less likely to serve the welfare of their constituents."⁶⁷

As mentioned in another study: "supporters of term limits also say that bringing in new people means fresh blood and new ideas. It does. But it also means nobody knows what they're doing."⁶⁸

"Legislature leadership is weakened by term limits. Leaders are able to coordinate

⁶⁴ Lopez, Ed, "Why Does Government Spending Increase Under Term Limits?," *Marginal Revolution*, December 17, 2012, <http://marginalrevolution.com/marginalrevolution/2012/12/why-does-government-spending-increase-under-term-limits.html>

⁶⁵ Schulte, Grant, "After 10 years, term limits reshape Nebraska Legislature," *Associated Press*, July 10, 2016, <http://www.washingtontimes.com/news/2016/jul/10/after-10-years-term-limits-reshape-nebraska-legisl/>

⁶⁶ Daley, Kate, "Why municipal term limits are a bad idea," January 13th, 2014, <https://getpocket.com/a/read/1095315089>

⁶⁷ Sarbaugh-Thompson, M., Lyke Thompson, Charles D. Elder, John Strate Richard C. Elling, *The Political and Institutional Effects of Term Limits*, 2004, <https://www.amazon.com/Political-Institutional-Effects-Term-Limits/dp/1403965145>

⁶⁸ Alpert, David, "Term Limits are a Dangerous Policy," April 6, 2011, *Greater Greater Washington*, <http://greatergreaterwashington.org/post/9965/term-limits-are-a-dangerous-policy/>

legislative efforts, and without a strong influence coming from them, there lies the potential for the governor or executive agencies to have a stronger hand in the policymaking process... ”⁶⁹

L. Do term limits decrease or increase gridlock?

“It [term limits] sounded like a good idea, but if California is any indication, term limits are a recipe for political chaos and increased special interest influence,” and “California’s recent experience may signal what we can expect: gridlock, bitter partisan hostility, and greater reliance on special interests for the expertise required to write complex legislation. ... What it [term limits] has done is send a new generation of politicians to Sacramento who are long on partisanship and painfully short on both legislative experience and policy background--and, worse, often seem not to care. What is certain, at least in California, is that term limits have increased instability and reduced legislative experience. Under the state’s rigid limits, members begin looking for the next slot from the moment they arrive. 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. In the two-year period between the 1992 and 1994 elections, California had 12 special elections – that’s 10 percent of all seats. Term limits also lead to legislators who have less incentive to learn technical and complicated things such as budgets...who wants to study to be a brain surgeon if you can only practice for a limited time?”⁷⁰

The Legislature has seen an increase in partisanship because of term limits. With an influx of freshmen lawmakers, research found that division was more commonplace. “As novices stream into the institution, they may be less willing to accept traditional norms of compromise and conciliation.”⁷¹

In a more recent scholarly study, “we demonstrate that term limits reduce bipartisan cosponsorship... When legislators know that they’re only going to be in the legislature for a certain amount of time, they don’t necessarily want to return as citizens once they are turned out. Many are potentially seeking out their next office. And so when this career uncertainty blends with the political ambition that term-limited legislators still have, bipartisanship becomes a risky strategy. Their instinct is to become more partisan in their collaborative activity. And this is likely to be the product of legislators’ concerns over their

⁶⁹ Mackey, Brian, “Do Term Limits Reduce Bipartisan Cooperation?” WUIS-FM, August 3, 2016, <http://peoriapublicradio.org/post/do-term-limits-reduce-bipartisan-cooperation#stream/0>

⁷⁰ Shrag, Peter, “The Road to Populist Hell: Term Limits in California,” *American Prospect*, Winter 1996, <http://prospect.org/article/populist-road-hell-term-limits-california>

⁷¹ Burns, Christopher, March 18, 2015, “What Have Term Limits Accomplished for Maine?”, *BDN Maine*, <http://bangordailynews.com/2015/03/18/the-point/what-have-term-limits-accomplished-for-maine/>

future campaigns and potential challengers than to their constituents.”⁷²

M. Did the Founding Fathers support term limits?

Another claim by proponents of term limits is that our Founding Fathers intended that officeholders would not stay in office for long terms and instead “citizen-legislators” would serve for a while and then go back to private life.

The Articles of Confederation had term limits — “no person shall be capable of being a delegate [congressman] for more than three years in any term of six years.”⁷³

The Constitutional Convention of 1787 considered the issue extensively, although it ultimately declined to restrict the amount of time a person could serve as President.⁷⁴

The Constitution eliminated term limits. If the Founding Fathers thought term limits were a good idea, they had the example of the Articles of Confederation and they could have kept that in the Constitution.

John Adams wrote in his *Defense of the Constitutions of the United States of America*: “There is no right clearer, and few of more importance, than that the people should be at liberty to choose the ablest and best men, and that men of the greatest merit should exercise the most important employments; yet, upon the present [term limits] supposition, the people voluntarily resign this right, and shackle their own choice... They must all return to private life, and be succeeded by another set, who have less wisdom, wealth, virtue, and less of the confidence and affection of the people.”⁷⁵

The Founding Fathers struck the right balance with term lengths: “When our original constitutional Founders deliberated term limits 223 years ago, they decided that elections every two years for Representatives in the House, four years for the President, and six years for Senators would strike the right balance. They anticipated that these elected

⁷² Swift, Clint, University of Missouri, VanderMolen, Kathryn, University of Tampa, and “Term Limits and Collaboration Across the Aisle: An Analysis of Bipartisan Cosponsorship in Term Limited and Non-Term Limited State Legislatures,” *State Politics & Policy Quarterly*, 2016, <http://spa.sagepub.com/content/16/2/198.abstract>

⁷³ Articles of Confederation, Article V, 2nd paragraph. March 1, 1781, *Avalon Project, Documents in Law, History, and Diplomacy*, Yale Law School, http://avalon.law.yale.edu/18th_century/artconf.asp#art1

⁷⁴ “Presidential Term Limit,” *The Heritage Guide to the Constitution*, <http://www.heritage.org/constitution#!/amendments/22/essays/184/presidential-term-limit>

⁷⁵ John Adams, *The Works of John Adams*, vol. 6 (Defence of the Constitutions Vol. III cont’d, Davila, Essays on the Constitution) [1851], <http://oll.libertyfund.org/titles/adams-the-works-of-john-adams-vol-6>

officials would often hold office for more than one term." ⁷⁶

Alexander Hamilton argued that the representatives' need for reelection rather than mandatory rotation was the more effective way to keep representatives responsive to the people, because "[w]hen a man knows he must quit his station, let his merit be what it may, he will turn his attention chiefly to his own emolument." ⁷⁷

"The merits of term limits, or "rotation," have been the subject of debate since the formation of our Constitution, when the Framers unanimously rejected a proposal to add such limits to the Constitution. The cogent arguments on both sides of the question that were articulated during the process of ratification largely retain their force today. Over half the States have adopted measures that impose such limits on some offices either directly or indirectly, and the Nation as a whole, notably by constitutional amendment, has imposed a limit on the number of terms that the President may serve. Term limits, like any other qualification for office, unquestionably restrict the ability of voters to vote for whom they wish. On the other hand, such limits may provide for the infusion of fresh ideas and new perspectives, and may decrease the likelihood that representatives will lose touch with their constituents. It is not our province to resolve this longstanding debate." ⁷⁸

N. What are the Term Limits on the U.S. President?

An argument is sometimes made that there are term limits for the U.S. President so why shouldn't there be similar term limits for all other offices?

The answer is that the office of U.S. President is unique in America. And even there, the people of our country were very happy to elect Franklin D. Roosevelt 4 times, and if he had lived, possibly more terms.

The 22nd amendment to the U.S. Constitution limits presidents to 2 terms, and in the case of someone who has succeeded to that office such as a vice president, this limitation only

⁷⁶ Hession, Gregory A., "Term Limits — Still a Bad Idea," *New American*, May 25, 2010, <http://www.thenewamerican.com/usnews/politics/item/3105-term-limits-still-a-bad-idea>

⁷⁷ *The Federalist Papers*: No. 57.

⁷⁸ *Alpheus, Thomas Mason, and Grier Stephenson, American Constitutional Law: Introductory Essays and Selected Cases*, 2015

<https://books.google.com/books?id=ItRCgAAQBAJ&pg=PA162&lpg=PA162&dq=when+the+Framers+unanimously+rejected+a+proposal+to+add+such+limits+to+the+Constitution&source=bl&ots=k1W-vAmAbe&sig=MSc5PmdC9EjSh6NHciWnZ-CDj08&hl=en&sa=X&ved=0ahUKEwjp1OvAgPPNAhVM4SYKHSRODvoQ6AEIITAB#v=onepage&q=when%20the%20Framers%20unanimously%20rejected%20a%20proposal%20to%20add%20such%20limits%20to%20the%20Constitution&f=false>

applies to a person if he or she has served 2 years or more (50%) of a term.⁷⁹

However, the 22nd amendment has its critics, including Congressman Steny Hoyer of Maryland. In 2005 he introduced a bipartisan bill for a Constitutional amendment to repeal the 22nd, just as the 21st amendment repealed the 18th (prohibition of alcoholic beverages). The Congressman, and now Democratic Whip, said: “The time has come to repeal the 22nd Amendment to the Constitution .. I feel there are good public policy reasons for a repeal of this amendment ... the American people would have restored to themselves and future generations an essential democratic privilege to elect who they choose in the future... The 22nd Amendment reflects a fundamental distrust of the judgment of the American people. However, trust of the good sense of the people is one of the cornerstones of democracy ... In 1820, Thomas Jefferson wrote: “I know no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion ...I believe the repeal of the 22nd Amendment will restore power to the people themselves and make our Constitution more democratic.”⁸⁰

Ronald Reagan, an idol of many of those who support term limits, said that after he left office he wanted to lead an effort to end term limits for U.S. Presidents, to allow the people to "vote for someone as often as they want to do." In short, term limits may be an idea that sounds good to some, but it takes away the right of the people to elect whom they wish, leads to more inexperienced people in office, and does not accomplish anything useful.⁸¹

The 22nd Amendment that limits presidents to 2 terms only applies to the highest office, not to Senators and Congressmen, although that could have been done easily. And for most of American history there were no term limits for state legislators. It was only in the 1990s that a movement really started for term limits for state legislators out of people’s frustration with elected officials they didn’t like — but continued to elect anyway.⁸²

It should also be noted how clear the 22nd amendment is concerning partial terms. “No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term

⁷⁹ *Constitution of the United States*, Amendment 25, ratified February 10, 1967. See website of the Archives of the United States, http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html

⁸⁰ Hoyer, Steny, press release, “Hoyer Introduces Bipartisan Bill to Repeal 22nd Amendment,” February 17, 2005 <http://www.democraticwhip.gov/content/hoyer-introduces-bipartisan-bill-repeal-22nd-amendment>

⁸¹ Bowser, Jennifer Drage, and Gary Moncrief, Boise State University, *Term Limits in State Legislatures*, http://scholarworks.boisestate.edu/polsci_facpubs/60/,

⁸² As described below, starting in the early 1990s there was also a movement in many states for term limits for Congressmen, but this was stopped by the U.S. Supreme Court finding that those term limits were unconstitutional.

to which some other person was elected President shall be elected to the office of the President more than once.”⁸³

O. What is being said in states that have term limits?

In almost every state that has term limits, the deficiencies of that policy have led and still are leading to efforts to fix the problems created by term limits. This includes such things as legislators jumping from one legislative chamber to another and back again and efforts to make term limits longer.

“California already has term limits. And they're a disaster. Virtually everyone I [the author of this article] interviewed ... named term limits as a contributor to California's fiscal crisis. Imagine, for instance, that you elect a well-liked local physician's assistant to the state Assembly. Doesn't matter the party. Our hypothetical legislator might know a lot about medical care. But she probably knows nothing about the budget. This stuff takes awhile to learn, after all. And remember, she's not studying budget politics full time: She's raising money and dealing with constituent service and reading up on other bills and traveling back-and-forth from her district. So how long till our doctor-legislator really gets the budget, understands the legislative process, and matures into the sort of seasoned assemblywoman we'd want responding to a devastating fiscal crisis? Eight years? Twelve years? More? Too bad. Six years and she's out.”⁸⁴

A prominent Conservative Republican in California wrote: “TJR readers might be surprised that, as a Conservative Republican, I oppose term limits... To not let the voters have a wide variety of choices on the ballot is unfair and runs contrary to our cherished beliefs... If a candidate is doing a good job, and his voters like him, why should he be forced out? This type of interference with any other job position would be actionable in court. Why do it in politics? We already have term limits. It's called an election. .. Politicians who are being termed out have no reason to behave in a rational, accountable manner. They often start voting for nonsensical personal legislation, or start doling out public money and positions to their buddies, families, and supporters. "If I can't come back", they figure, "why not burn the place to the ground on the way out? It is an unforeseen consequence of what voters originally thought was good idea.”⁸⁵

Even some conservative Republicans who initially thought term limits were a good idea and voted for them, changed their minds when they saw the real-life results of having term limits. Bob Naylor, a former Republican leader in the California legislature and California

⁸³ *Legal Information Institute*, Cornell University, <https://www.law.cornell.edu/constitution/amendmentxxii>

⁸⁴ Klein, Ezra, “The Folly of Term Limits,” January 4, 2010, *The Washington Post*, http://voices.washingtonpost.com/ezra-klein/2010/01/the_folly_of_term_limits.html

⁸⁵ Jennerjahn, Phil, “Why I oppose term limits,” *The Jennerjahn Report*, October 18, 2010, <http://thejennerjahnreport.blogspot.com/2010/10/why-i-oppose-term-limits.html>

Republican Party Chairman, said in “Why Conservatives Should Oppose Term Limits,” that he is a Barry Goldwater / Ronald Reagan Republican who voted for term limits when he was in the California legislature. “It seemed like a good idea at the time. Turns out it was a *very bad* idea. (emphasis in original.) ... for every old hack forced out by term limits, there are at least as many people who are superbly competent, bright and balanced with profound institutional and policy knowledge... term limits have not produced competitive elections or many citizen-legislators, but the reason conservatives should oppose term limits has more to do with their negative impacts... If a legislator has mastered the political art well enough to deserve another term, the people of that district should have the right to grant it.”⁸⁶

In Colorado, term limits lead to a tremendous shift of power from the legislative branch to the executive branch, even where both are covered by term limits.⁸⁷

In Michigan, a 12-year study by the Wayne State faculty shows term limits for Michigan legislators have negatively impacted the state. Term limits eliminated expertise, dissolved important checks and balances.⁸⁸

A report on effects of term limits in Maine states: “Term limits do not appear to affect the extent to which legislators communicate with their constituents, respond to district concerns and do case work in Maine...leaders now come to their positions with limited experience in the legislature and even less experience as legislative leaders.”⁸⁹

“While term limits have remained in effect, a number of legislators have sidestepped them by switching between the House and the Senate every eight years. Martin, who has been in office since 1964 and was House speaker when the term limits law passed, has moved between the two bodies since term limits were enacted. The Legislature has seen an increase in partisanship because of term limits. With an influx of freshmen lawmakers, research found that division was more commonplace. “As novices stream into the institution, they may be less willing to accept traditional norms of compromise and

⁸⁶ Naylor, Bob, “Why Conservatives Should Oppose Term Limits,” *Calbuzz*, July 14, 2009, <http://www.calbuzz.com/2009/07/why-conservatives-should-be-against-term-limits/>

⁸⁷ Kurtz, Karl. 2004. “Joint Project on Term Limits Knowledgeable Observers Survey.” Denver, CO: *National Conference of State Legislatures*, <http://www.ncsl.org/Portals/1/documents/jptl/casestudies/Coloradv2.pdf>

⁸⁸ Marjorie Sargaugh-Thompson, Wayne State University, “Twelve-year study by Wayne State faculty shows term limits for Michigan legislators have negatively impacted state,” *Legislative Studies Quarterly*, Feb. 2010 <http://wayne.edu/newsroom/release/2010/03/08/twelve-year-study-by-wayne-state-faculty-shows-term-limits-for-michigan-legislators-have-negatively-impacted-state-3622>

⁸⁹ Powell, Richard J., University of Maine, “First in the Nation: Term Limits and the Maine Legislature,” *National Conference of State Legislatures*, Joint Project on Term Limits, 2004, <http://www.ncsl.org/Portals/1/documents/jptl/casestudies/Maine-FinalReportv2.pdf>

conciliation.”⁹⁰

Maine Governor Paul LePage, a deep Republican conservative, said: “You’ve got to take term limits and you’ve got to throw ‘em out the window,” during a keynote speech to a group of environmental and energy groups. He said “young people with firm agendas” are “hurting us in the long haul...At the time of the referendum in 1993, the law was widely seen as an effort to oust longtime Speaker of the House John Martin, D-Eagle Lake, from office. Martin had served in the Legislature since 1964 and had been speaker since 1975. Martin came back to the Senate in 2000, where he served four terms before moving to the House in 2008. He served two terms in the House before being defeated in 2012, but he has plans to run for a House seat once again this year. LePage mentioned Martin, the reluctant poster-child for term limits, saying he missed the powerful Democrat’s knowledge and experience in the Legislature. He was experienced. He had knowledge. He knew what worked and what didn’t work, and I never saw John deliberately do something that would hurt our state...”⁹¹

When he introduced a bill to extend term limits, a Florida legislator said: “We are a representative democracy and we should be making sure that it is the elected officials who move agendas forward, and not the lobbyists...Agendas are determined less by the will of voters and more by the will of special interests with ample money to spend on campaigns...Steve Schale, who ran House Democratic campaigns for former House Democratic Leader Dan Gelber, said that term limits make it difficult to recruit good candidates to run for the Legislature...” and “It’s almost impossible to recruit somebody good to run against someone in their last term,” he said. “The typical response I would get is: ‘Well, I would just wait that person out.’”⁹²

Another comment in Florida was: “Why do voters not allow themselves to re-elect good people? Do they know they’re voting for incompetents or crooks but just can’t resist?...After that mandate, how have we fared under term limits? Kathryn DePalo of Florida International University answers that question in her new book *The Failure of Term Limits in Florida*, “... Term limits have given us fewer tested leaders in the House for heading committees and serving as speaker.”⁹³

⁹⁰ Burns, Christopher, March 18, 2015, “What Have Term Limits Accomplished for Maine?”, *BDN Maine*, <http://bangordailynews.com/2015/03/18/the-point/what-have-term-limits-accomplished-for-maine/>

⁹¹ Moretto, Mario, BDN News, “LePage says legislative term limits should be ‘thrown out the window,’” *BDN Maine*, March 20, 2014, <http://bangordailynews.com/2014/03/20/politics/lepage-says-legislative-term-limits-should-be-thrown-out-the-window/>

⁹² Klas, Mary Ellen Klas, *Herald/Times Tallahassee Bureau*, <http://www.miamiherald.com/news/politics-government/state-politics/article45621033.html> Florida legislators propose increasing term limits

⁹³ Denslow, Dave, “Term limits have failed Florida,” *Gainesville.com*, February 12, 2016, <http://www.gainesville.com/news/20160212/dave-denslow-term-limits-have-failed-florida>

A study of term limits in Florida said: "I conclude that term limits have detrimental effects on the legislative process as a whole and are counterproductive to the effort of maintaining an efficient and accountable legislature in Florida."⁹⁴

And another comment from a supporter of term limits in Florida: "... term limits have created a revolving door, whereby supervisors go back and forth to and from the state Legislature, always scheming for election to a new office rather than developing expertise in the one they hold."⁹⁵

In Ohio: "Critics say term limits leave the legislature with too few long-term members who develop relationships with one another and have experience with complex subjects such as utility regulation, Medicaid, oil and gas drilling and school funding."⁹⁶

"Some of the most powerful figures in the Ohio Senate -- Senate President Keith Faber, Majority Leader Tom Patton, and Senate Financial Institutions Committee Chair Jim Hughes -- are looking to return to the Ohio House of Representatives next year, as they can't run for re-election to the Senate... They're not the first lawmakers to use such a tactic since Ohio voters passed 8-year term limits in 1992. A cleveland.com study of the current legislature shows that 14 state lawmakers -- including Republicans and Democrats -- moved to their current seat after nearing or finishing their 8-year term limit in the other chamber. Of those, six have made the switch multiple times... Some lawmakers have swapped seats with each other -- Rep. Kirk Schuring and Sen. Scott Oelslager, both Canton Republicans, have done so twice in the past 15 years. Patton and Hughes, who are also both Republicans, are looking to do the same thing next year with GOP Reps. Mike Dovilla of Berea and Stephanie Kunze of suburban Columbus, respectively... I think that if a person's doing a good job in the eyes of the voters, of the bosses, then they deserve to be there," said Sen. Randy Gardner, a Bowling Green Republican who has moved between the House and Senate a record four times during his 30-year legislative career."⁹⁷

Gov. Mike Rounds, Republican of South Dakota has announced he believes South Dakota's term limit laws for legislators aren't working. "I think it has done a huge amount of damage to the ability of the Legislature to carry on from year to year." Critics of term

⁹⁴ Waczewski, Joe, "An Analysis of the Impact of Term Limits on the Florida Legislature," Florida State University, December 2006, <http://askew.fsu.edu/current/masters/actionreport/fa2006/Joe%20Waczewski%20-%20Analysis%20of%20the%20Impact%20of%20Term%20Limits.pdf>

⁹⁵ Nelson, Shawn, "Should a term limit be a lifetime ban?," The Orange County Register, July 17, 2016, <http://www.ocregister.com/articles/term-722650-county-supervisors.html>

⁹⁶ Siegel, Jim, "Battle brewing in Ohio over extension of term limits," *The Columbus Dispatch*, <http://www.dispatch.com/content/stories/local/2015/05/15/battle-brewing-over-extension-of-term-limits.html>

⁹⁷ Pelzer, Jeremy, "Ohio lawmakers again look to skirt term limits by switching seats," *Cleveland.com*, http://www.cleveland.com/open/index.ssf/2015/11/ohio_lawmakers_again_look_to_s.html

limits argue that they lead to inexperienced legislators without restricting the seniority and experience of lobbyists, executive branch bureaucrats and Legislative Research Council staff - giving all three groups influence over citizen lawmakers. Many lawmakers take advantage of that, switching houses to stay in the Legislature. Bradford, who won election to the state Senate after eight years in the House of Representatives, said this lets talented legislators stay around if they want.⁹⁸

Term limits have weakened Montana's Legislature, shifting power to governors and lobbyists as well as contributing to divides within parties and a decline in bipartisan collaboration, many political observers agree. "It weakens the legislative body and the three branches of government become way out of balance," said Sen. Bob Keenan, a Bigfork Republican who has served both before and after term limits pushed out longtime legislators. "They're anxious to get done what they want to get done so both sides of the aisle are more ideologically driven. They feel like they're short on time."

"Under term limits, the Legislature lost the encyclopedic knowledge of people who worked sometimes decades on transportation funding, environmental regulation, taxation or other complex topics," said Bob Brown, a Republican who served 30 years in the Legislature before being elected Secretary of State.⁹⁹

An Arizona State Senator who voted for term limits has written: "Nearly 12 years later, it's clear that term limits are not only an impediment to effective policymaking — they are one of the most destructive political forces in my state's history, purging the Legislature of its most experienced, respected, and effective lawmakers regardless of, and often against, their constituents' will. The result is a sadly dysfunctional legislature whose inexperience renders it less capable of effectively addressing the state's pressing needs. Without question, the most detrimental effect of term limits is its forced removal of the most experienced lawmakers, denying the legislature the institutional knowledge so critical to effective policy-making. The devastating effects of term limits remain. Legislative leaders can and should take steps to minimize their impact, but the damage done by term limits is often irreparable. At stake here is much more than just allowing effective lawmakers to stay in office, but rather the future of the state legislature as an institution. By depriving not only the legislature, but the people it serves of their most experienced and effective representatives, term limits weaken the legislative branch, threatening the checks and balances so central to our republican form of government. After 12 years in Arizona, it's become obvious that the most effective form of term limits is that which our country's

⁹⁸ Montgomery, David, "South Dakota's term limit laws under question," *Rapid City Journal*, December 29, 2010
http://rapidcityjournal.com/news/south-dakota-s-term-limit-laws-under-question/article_5590bef2-12fb-11e0-a770-001cc4c002e0.html

⁹⁹ Fraser, Jayme, "Term limits have weakened Legislature, some observers say," *Missoulian*, May 23, 2015,,
http://missoulian.com/news/state-and-regional/term-limits-have-weakened-legislature-some-observers-say/article_e83cbf65-8dec-53ce-b52c-b08e26eedeaf.html

founders instituted: an election.”¹⁰⁰

In Nebraska: “Term limits are a terrible idea Reagan rightly pointed out that term limits are 'a preemption of the people's right to vote for whomever they want as many times as they want.' ... Legislation or a constitutional amendment that imposes term limits at any level of government would merely diminish the political power of ordinary voters... Besides, in a sense, we already have term limits. They're called 'elections.' We can invoke them to limit the terms of public officials whenever we want " or not limit the terms, if we so choose. Why would we saddle voters with an arbitrary barrier to their re-electing officials they want to re-elect? After all, unpopular incumbents never get re-elected anyway. The absence of term limits doesn't force us to re-elect people we don't want to re-elect... There are numerous other reasons why term limits are undesirable. They would eliminate the good politicians along with the bad. They would enhance the power of bureaucrats, staffers and lobbyists. They would result in a costly loss of knowledge and experience in government.”¹⁰¹

"Term limits gutted the Legislature as a branch of government," said Sen. Ernie Chambers of Omaha. “Term limits make it easier for state agencies to drag their feet on changes they oppose...The number of filibusters has also increased.”¹⁰²

There is a great deal of demonization of multi-term career politicians coming from the advocates of term limits. They believe that career politicians are disconnected from the reality of average citizens and of the businesses in the private sector. But, how could this be the case? If anything, career public servants spend their professional lives trying to speak with and understand the concerns of citizens, businesses, and organizations that they are charged with representing. Perhaps more than any other career, public servants are centrally tasked with understanding the real world faced by citizens. It is wrong to argue, therefore, that they are cloistered away and disconnected from reality.¹⁰³

In Louisiana, as reported July 9, 2016, in a New Orleans newspaper: “Term limits — requiring representatives and senators to step down after 12 years to make way for new lawmakers — were billed by supporters as a way to create a Legislature that would be more responsive to voters and allow for thinking “outside the box” to solve nagging

¹⁰⁰ Flake, Jake, “Effects of Term Limits in Arizona: Irreparable Harm,” *Spectrum: The Journal of State Government*, The Council of State Governments, Winter, 2005
http://www.csg.org/knowledgecenter/docs/spec_wi05TermLimitsAzIrreparable.pdf

¹⁰¹ Cunningham, Pat, “Enough already with the foolish push for term limits,” *Nebraska City News-Press*, July 2, 2016,
<http://www.ncnewspress.com/blogs/20160702/enough-already-with-foolish-push-for-term-limits>

¹⁰² Streff, Kristin, “Ten Years Later, Debate Continues Over Term Limits,” *The Columbus Telegram*, July 11, 2016,
http://columbustelegram.com/news/state-and-regional/ten-years-later-debate-continues-over-legislature-term-limits/article_30dae5b5-7acc-5c37-a270-6f1da0a330b6.html

¹⁰³ *Ballotpedia*, <https://ballotpedia.org>

governmental problems.”

But term limits also sapped legislators of historical knowledge, hardened political positions, and undermined the relationships that are essential ingredients to actually operating the machinery of government, some lawmakers, lobbyists and political operatives say.

“I can tell you with no uncertainty that term limits made a difference in the body,” said state Sen. Francis Thompson, who is one of the few legislators who can measure his time in decades, having served in the House and the Senate since 1975.

Thompson voted for term limits back in the 1990s, but now says it was a mistake. “It takes a long time to learn how to make the process efficient,” the *Delhi Democrat* said.¹⁰⁴

A recent Louisiana news item pointed out that enthusiasm for term limits has slowed in that state and in the nation.¹⁰⁵

In Colorado: Sen. Matt Jones, a Democrat from Louisville, called the term limits Colorado voters passed on legislators in 1990 “one of the worst things we ever did.” He said it ceded institutional knowledge and power to lobbyists, damaging decorum and bipartisanship to get things done. He said term limits deprive voters of representative democracy by limiting which candidates they could choose from. “For every bad apple you kick out 10 good ones,” Jones said.¹⁰⁶

P. Statements by others about term limits

Ronald Reagan was very strongly opposed to term limits. A newspaper article in 1987 quoted him: “President Reagan says that after leaving office he “would like to start a movement” to repeal the constitutional amendment that limits Presidents to two terms. Mr. Reagan, in a restatement of a past position, said the limitation interfered with the right of the people to “vote for someone as often as they want to do.”¹⁰⁷

¹⁰⁴ Ballard, Mike, “Good idea gone awry? How term limits impact sessions of Louisiana Legislature,” *The New Orleans Advocate*, July 9, 2016, <http://www.theneworleansadvocate.com/features/carnival/16359645-171/term-limits-impact-sessions-of-the-louisiana-legislature>

¹⁰⁵ Beam, Jim, “Term limit movement slows,” *American Press*, July 14, 2016, <http://www.americanpress.com/Beam-column-7-14-16>

¹⁰⁶ Bunch, Joey, “Colorado resolution seeking congressional term limits stumbles,” *The Denver Post*, May 3, 2006, <http://www.denverpost.com/2016/05/03/colorado-resolution-seeking-congressional-term-limits-stumbles/>

¹⁰⁷ Molotsky, Irvin, “Reagan Wants End of Two-Term Limit,” *New York Times*, November 29, 1987, <http://www.nytimes.com/1987/11/29/us/reagan-wants-end-of-two-term-limit.html>

Donald Trump said: "I'm not a believer in term limits... I think a term limit is when you don't like somebody you go into the voter booth and push a button... I see so many great politicians being turned out of office. I don't know why it's popular. The ultimate term limit is you vote against a politician. I think it's people who the only chance they have to get in office is, I guess, term limits because they can't win an election."¹⁰⁸

President Dwight D. Eisenhower also opposed term limits: "The United States must be able to choose for its president anybody he wants regardless of how many terms he has served. I have the utmost faith in the long term common sense of the American people."¹⁰⁹

When future president George W. Bush ran for Congress in 1978: "George W. opposed [his opponent] on term limits for members of Congress, calling the concept "simplistic" and promising to serve "until I'm not effective."¹¹⁰

An initiative that Mississippi voters rejected in 1995 would have limited appointed and elected state and local officials and U.S. senators to two consecutive terms and judges and U.S. representatives to three terms. One defeated in 1999 would have limited people to two terms in the state Senate and two in the state House.¹¹¹

When someone reaches the limit of how long one can spend as a county supervisor, then it is just a question of finding another political office to run for, such as a member of the state legislature. And when the limit on terms there is reached, it is time to look around for another political job -- perhaps as a mayor or a member of Congress.

Instead of always making reelection in an existing political post the top priority, in the last term in a given office the top priority will be doing things that will make it easier to get elected or appointed to the next political post. But in no term is doing what is right for the people likely to be the top priority.¹¹²

¹⁰⁸ "Donald Trump is Against Term Limits," *YouTube*, at 2:32 to 2:35, and ,2:51 to 3:25 https://www.youtube.com/watch?v=g-8IBz8-_3E and https://www.youtube.com/watch?v=g-8IBz8-_3E and <https://www.termlimits.org/where-do-the-presidential-candidates-stand-on-term-limits/>

¹⁰⁹ Zimmerman, Jonathan, *YouTube*, at 5:24 to 5:43, Department of History of NYU's Graduate School of Arts and Sciences, <https://www.youtube.com/watch?v=eTDM2z6SPFM>

¹¹⁰ Hatfield, J.H., *Fortunate Son*, p. 61 , 1999, http://www.ontheissues.org/Celeb/George_W__Bush_Government_Reform.htm

¹¹¹ Pettus, Emily Wagster, *Associated Press*, June 20, 2016, "Conservative divide scuttles Mississippi term limits effort," <http://www.washingtontimes.com/news/2016/jun/20/term-limits-initiative-wont-appear-on-mississippi/>

¹¹² Sowell, Thomas, "A Real Term Limit," *Townhall*, March 20, 2013, <http://townhall.com/columnists/thomassowell/2013/03/20/a-real-term-limit-n1537660>

Q. “If you can’t achieve your goals in 12 years you never will.”

An argument is made that, “If you can’t achieve your goals in 12 years you never will.” This doesn’t make sense. Some people run for public office because they want to serve the people, without having 12-year goals in mind. They feel they have something to give, and if the voters agree they become elected officials. Why should some people have the right to say that if those who want to serve more than 12 years, and whom the people want to elect, should be prohibited from doing so?

Mr. Ficker, and possibly others, also say: “If County Council Members can’t get the job done in 12 years they should be forced out.” Why? Does anyone say doctors, lawyers, plumbers, electricians, or members of any other profession or occupation must “get the job done” in 12 years or get out?

Just as with those other professions, people who are willing to put themselves before the voters for elective office do not necessarily have specific goals that they should be forced to achieve in 12 years. They want to join the County Council so they can exercise their best judgment and their minds and bodies to do the best job for the citizens of our county. Just as with members of any other profession, the longer they stay in office, the more experienced and knowledgeable they will become, and the better the job they will do. If the voters feel any particular Council Member is not learning and becoming better at the job they can be turned out by the voters, just as members of any other profession who don’t do a good job will lose their clients or customers and find themselves out of their profession.

4. Term Limits in States and other jurisdictions

In the 1990s the movement for term limits for state and local legislators – and proposals for term limits for Congressmen – became active. U.S. Term Limits (USTL), based out of Melbourne, Florida, advocates for term limits at all levels of government.¹¹³

There is a detailed history of the term limit movement, produced by *Congressional Quarterly*.¹¹⁴

According to the National Association of State Legislators, as of now there are term limits in 15 states for legislators; 21 have passed them at one time or another but some have

¹¹³ “Citizen Legislators, Not Career Politicians,” *U.S. Term Limits*, <https://www.termlimits.org/about/>

¹¹⁴ “Term Limits: Will a recent setback derail the term-limit movement?: *CQ Researcher*, January 10, 1992 • Volume 2, Issue 1, <http://library.cqpress.com/cqresearcher/document.php?id=cqresrre1992011000>

been ruled unconstitutional.¹¹⁵

A. Governors

The Governor of Maryland is limited to 2 consecutive elected terms.¹¹⁶

This has not always been the case, but the only Maryland governor who served more than 2 terms was Albert C. Ritchie who served 4 terms from 1920 to 1935.¹¹⁷

Under Maryland's first constitution as an independent state, in 1776, the governor was chosen every year by a joint ballot of the two houses of the General Assembly. In 1838 there was a constitutional amendment and governors were elected every 3 years from a different gubernatorial district. In 1851 the term was increased to 4 years. The 1864 constitution provided that governors were elected by the voters of the whole state. In 1948 the Maryland constitution was amended (60% to 40%) to provide that a governor who has served two consecutive terms cannot be elected at the next election. It is not clear if a partial term to fill a vacancy would be considered a "term" for this purpose.¹¹⁸

The following term limits apply to U.S. Governors.¹¹⁹

¹¹⁵ "Frequently Asked Questions about Term Limits," *National Conference of State Legislators*, <http://www.ncsl.org/research/about-state-legislatures/frequently-asked-questions-about-term-limits.aspx>

¹¹⁶ *Maryland Constitution*, Article II, Section 1. <http://mgaleg.maryland.gov/Pubs-current/current-constitution-maryland-us.pdf>, Maryland Constitution with Amendments to January 1, 2015, prepared by The Office of Policy Analysis and Legislative Document Management of the Department of Legislative Services General Assembly of Maryland

¹¹⁷ Friedman, Dan, *The Constitution of Maryland: A Reference Guide*, 2006, <https://books.google.com/books?id=MoTGJ8bk11wC&pg=PA60&lpg=PA60&dq=maryland+governor+term+limits&source=bl&ots=P6kJJ9xDy6&sig=bQEnZRjN8dGsMIPTg0DdRCOgqs&hl=en&sa=X&ved=0ahUKEwjDI-qzsO7NAhVMej4KHQ3WBxoQ6AEIlgEwFA#v=onepage&q=maryland%20governor%20term%20limits&f=false> Also see Marck, John T., "Governors 1777 to Present Day," *The Seventh State, Maryland the Seventh State*, <http://www.marylandtheseventhstate.com/article1102.html>

¹¹⁸ *Maryland Constitution*, Article 2, Section 1, See *Ballotpedia*, "Maryland Governor Succession," Amendment 4 (1948) [https://ballotpedia.org/Maryland_Governor_Succession,_Amendment_4_\(1948\)](https://ballotpedia.org/Maryland_Governor_Succession,_Amendment_4_(1948)), and Archives of Maryland Online, <http://msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001/000380/html/am380--270.html>

¹¹⁹ *National Governors Association*, <http://www.nga.org/cms/home/governors/elections/col2-content/past-election-information/2014-candidates-and-state-term-l.default.html> and *The Book of the States 2014*, <http://www.nga.org/files/live/sites/NGA/files/pdf/BOSTable4.9.pdf>

No term limits, 4 year term	12 states Connecticut, Idaho, Illinois, Iowa, Massachusetts, Minnesota, New York, North Dakota, Texas, Utah, Washington, Wisconsin
No term limits, 2 year term	2 states New Hampshire, Vermont
Term limit of 2 consecutive terms	23 states Alabama, Alaska, Arizona, Colorado, Florida, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Maine, Maryland, Nebraska, New Jersey, New Mexico, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, West Virginia
Term limits of 2 lifetime terms	8 states Arkansas, California, Delaware, Michigan, Mississippi, Missouri, Nevada, Oklahoma
8 years in any 12 year period	2 states Indiana, Oregon
8 years in any 16 year period	2 states Montana, Wyoming ¹²⁰
No consecutive terms	1 state Virginia

B. State Legislatures

Following is a chart of from the National Conference of State Legislatures¹²¹

State	Year Enacted & % Voted Yes	House Limit	Year of Impact	Senate Limit	Year of Impact
Maine	1993 68%	4 terms 8 years	1996	4 terms 8 years	1996

¹²⁰ Note on Wyoming: Wyoming has no constitutional term limits. The statute imposing term limits on state elected officials was adopted in a 1992 ballot measure. On February 1, 2013, the Wyoming Supreme Court overturned the voter-approved initiative as it applies to the offices of secretary of state, auditor, treasurer and superintendent of public instruction, but not governor. The court's ruling stated that the "qualifications for state offices are spelled out in the Wyoming Constitution and requirements can only be changed by constitutional amendment, not state statute.)

¹²¹ "The Term-Limited States," March 13, 2015, *National Conference of State Legislatures*, <http://www.ncsl.org/research/about-state-legislatures/chart-of-term-limits-states.aspx>

California	1990 52% modified in 2012	12 year cumulative total in either or both houses	1996	12 year cumulative total in either or both houses	1998
Colorado	1990 71%	4 terms 8 years	1998	4 terms 8 years	1998
Arkansas	1992 modified in 2014 60%	16 year cumulative total in either or both houses	1998	16 year cumulative total in either or both houses	2000
Michigan	1992 59%	3 terms 6 years	1998	4 terms 8 years	2002
Florida	1992 77%	4 terms 8 years	2000	4 terms 8 years	2000
Ohio	1992 69%	4 terms 8 years	2000	2 terms 8 years	2000
South Dakota	1992 64%	4 terms 8 years	2000	4 terms 8 years	2000
Montana	1992 67%	4 terms 8 years	2000	2 terms 8 years	2000
Arizona	1992 74%	4 terms 8 years	2000	4 terms 8 years	2000
Missouri (a)	1992 75% 2002	4 terms 8 years	2002	2 terms 8 years	2002
Oklahoma	1990 67%	12 year cumulative total in both houses	2004	12 year cumulative total in both houses	2004
Nebraska	2000 56%	n/a	n/a	2 terms 8 years	2006
Louisiana	1995 76%	3 terms 12 years	2007	3 terms 12 years	2007
Nevada (b)	1996 70%	12	2010	12	2010

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

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

In California and Oklahoma, a legislator may serve a total of 12 years in the legislature during his or her lifetime. The total time may be split between the two chambers, or spent

in its entirety in a single chamber. Before 2012, California's limits were six years in the assembly and eight years in the senate.

Another method of making way for changes in state legislatures is to adopt term limits just for leaders, as has been suggested in New York State.¹²²

Term limits for state legislatures will have great effects in 2016. Altogether, 253 current state legislators are forced to leave the offices they currently hold because of term limits. This represents about 20% of the total state senate seats up for election in the 13 term-limited state senates with elections in November 2016, and about 15% of the total seats up for election in the 13 term-limited state houses with elections in November 2016.¹²³

C. Consecutive versus Lifetime Term Limits

With consecutive term limits, a legislator is limited to serving a particular number of years. Upon hitting the limit, he or she may run for election to the other chamber or leave the legislature and run for another office.

A clear example of lifetime term limits is the 22nd Amendment to the U.S. Constitution. It provides that: "No person shall be elected to the office of the President more than twice ..."¹²⁴

In 6 of the 15 states with limits on state legislators, the limit is a lifetime limit. These states are Arkansas, California, Michigan, Missouri, Nevada and Oklahoma. In these states, once a legislator has served the maximum allowable number of terms in a particular legislative chamber, they may never again run for or hold office in that particular chamber.

¹²² *The New York State Senate* website, "Senate Passes Term Limits for State Legislative Leadership," January 12, 2016,

<https://www.nysenate.gov/newsroom/press-releases/senate-passes-term-limits-state-legislative-leadership-0>

¹²³ *Ballotpedia*, https://ballotpedia.org/Impact_of_term_limits_on_state_legislative_elections_in_2016

¹²⁴ U.S. Constitution, 22nd Amendment, section 1

Limit in Years	Consecutive	Lifetime Ban
6 house / 8 senate		MI
8 total	NE	
8 house / 8 senate	AZ, CO, FL, ME, MT, OH, SD	MO
12 total		CA, OK
12 house / 12 senate	LA	NV
16 total		AR

D. Term Limits Repeals

In two states, term limits have been repealed by the legislature. In another four states, courts have found term limits provisions to be unconstitutional. No court has struck down term limits on the merits of the law itself; rather, in all four cases, courts objected to the method by which the limits were enacted. In Massachusetts, Washington and Wyoming, the opinions were similar. In all three states, term limits were enacted as statutes, rather than constitutional amendments. The courts said that because term limits constituted a qualification for office, they must be spelled out in the state constitution, and a statute spelling them out was not constitutional. In Oregon, the State Supreme Court found that the initiative imposing term limits in that state violated the single-subject requirement for initiatives.¹²⁵

	Year Repealed	Year Enacted	Who Repealed?
Idaho	2002	1994	Legislature
Massachusetts	1997	1994	State Supreme Court
Oregon	2002	1992	State Supreme Court
Utah	2003	1994	Legislature
Washington	1998	1992	State Supreme Court
Wyoming	2004	1992	State Supreme Court

According to Ballotpedia.org: In the United States, there are 1,972 state senate seats and 5,411 state house seats. 562 of the 1,972 state senate seats, or 28.5%, come with a limit. 1,368 of the 5,411 state house seats, or 25%, come with a limit. Of the total of 7,383 state

¹²⁵ National Conference of State Legislatures, "Term Limit Repeals," <http://www.ncsl.org/research/about-state-legislatures/chart-of-term-limits-states.aspx>

legislative seats, 1,930 (26.1%) are limited.¹²⁶

E. Term Limits in Cities

Of the 10 largest cities in the U.S., 9 have term limits. Of all large U.S. cities with populations greater than 250,000, 51% have term limits. Those that have term limits: New York, Los Angeles, Houston, Philadelphia (mayor only), Phoenix, San Antonio, San Diego, Dallas, San Jose.

The one that does not have term limits on its mayor is Chicago, but an effort is being made this year to impose them there, led by a former Governor of Illinois¹²⁷

In Philadelphia, the mayor cannot be elected three consecutive times, but there is no limit on how long any individual can serve as mayor. Frank Rizzo was elected mayor in 1971 and 1975; he attempted to repeal the term limit, but failed and could not run in 1979. He ran unsuccessfully for the Democratic nomination for mayor in 1983 but he lost to Wilson Goode. In 1986, he switched to the Republican Party, and ran as a Republican in the mayoral elections of 1987 and 1991.

Limits vary from city to city even within the same state. For example, Houston, Texas, has a limit of 2 four-year terms (prior to November 3, 2015, 3 two-year terms dating back to 1991), while San Antonio, Texas, has a limit of 4 two-year terms. Both Houston's and San Antonio's term limits are absolute; elected officeholders are ineligible to run for the same position where seeking higher office is common.

A two-term limit was imposed on New York City Council Members and citywide elected officials (except for district attorneys). After a 1993 referendum (see the Charter of the City of New York, §1138). On November 3, 2008, however, former mayor Michael Bloomberg signed a bill extending the two-term limit to a three-term limit; one year later, he was elected to a third term. The two-term limit was reinstated after a referendum in 2010.

In Cincinnati, Ohio, the term limit for mayor is two successive four-year terms. Council members are limited to four successive two-year terms. There is no limit to total terms that may be served, just a limit on successive terms.

¹²⁶ "State legislatures with term limits," *Ballotpedia*, https://ballotpedia.org/State_legislatures_with_term_limits

¹²⁷ "Former Gov. Quinn petitions for Chicago mayor term limits," *Chicago Tribune*, June 13, 2016, <http://www.chicagotribune.com/news/local/politics/ct-pat-quinn-chicago-mayor-term-limits-20160612-story.html>

F. Congress and the *Thornton* Supreme Court Case

There are also movements for term limits for Senators and Congressmen.¹²⁸

In the case of *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995), the Supreme Court held that states cannot impose term limits or any other requirements on members of Congress other than those set in the Constitution (for Congress: age 25, 7 years a citizen, resident of state from which elected; for Senate age 30, 9 years a citizen, resident of state from which elected¹²⁹). This invalidated term limits on Congressmen that had been adopted in 23 states.¹³⁰

The court included in its decision the following: "Such a state-imposed restriction is contrary to the fundamental principle of our representative democracy, embodied in the Constitution, that the people should choose whom they please to govern them." (Internal quotation marks omitted) ... First, we emphasized the egalitarian concept that the opportunity to be elected was open to all,... Second, we recognized the critical postulate that sovereignty is vested in the people, and that sovereignty *confers on the people the right to choose freely their representatives* to the National Government. For example, we noted that "Robert Livingston.... endorsed this same fundamental principle: `The people are the best judges of who ought to represent them. To dictate and control them, to tell them whom they shall not elect, is to abridge their natural rights.... The true principle of a republic is, that the people should choose whom they please to govern them. Representation is imperfect in proportion as the current of popular favor is checked. This great source of free government, popular election, should be perfectly pure, and the most unbounded liberty allowed."

G. Self-Imposed Term Limits

A type of informal term limits consists of candidates who make pledges to impose term limits on themselves, giving themselves a certain number of years they will stay in office and promising the voters that if they are elected they will absolutely, positively stick to this pledge.¹³¹

For example, several Republican Congressmen in 2010 announced publicly that they

¹²⁸ *U.S. Term Limits* (organization), <https://www.termlimits.org/>

¹²⁹ *U.S. Constitution*, Article 1, Section 2.

¹³⁰ *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995)

¹³¹ Glaeser, Edward L., "Self-Imposed Term Limits," in *Public Choice*, Vol. 93, No. 3/4 (1997), pp. 389-394, Published by: Springer, Stable URL: <http://www.jstor.org/stable>, http://www.jstor.org/stable/30024308?seq=1#page_scan_tab_contents

would only stay in office for a limited number of years.¹³²

The problem with this type of informal term limits is that politicians have been known to sometimes be less than completely honest. If there aren't any laws imposing term limits, politicians can say they have discovered new information that makes it imperative that they must seek to stay in office because "the people need me." A recent example of this is Congressman Markwayne Mullen of Oklahoma, a Republican who in 2011 pledged to the organization U.S. Term Limits that he would introduce a bill to require term limits on Congressmen and impose a term limit voluntarily on himself. When U.S. Term Limits inquired why he hadn't introduced the bill he promised to introduce, that organization's executive director said: "Congressman Mullen — he's the only candidate in the country who might break two separate term limits pledges. He broke ours; he might break his own." He told a radio host on June 29, 2016: "even though his 'mind hasn't changed' about leaving Congress in 2018, he and his wife would continue to pray about what to do."¹³³

H. Counties in States Other than Maryland

There is no clear information about which counties in other states have term limits. Information from the National Association of Counties indicates that no counties in some states have term limits while all counties in other states have term limits. Some states have imposed term limits on all counties by state action and some states allow counties to make decisions on term limits individually.¹³⁴

I. Maryland Counties

Maryland has 23 counties, plus the City of Baltimore. Of those, 11 are Charter Counties, and of those 9 have County Executives in addition to County Council Members.¹³⁵

¹³² Sullivan, Beth, "They're Coming, But Not Staying! House Republicans Promise Self-Imposed Term Limits," *Foxnews.com*, November 14, 2010, <http://www.foxnews.com/politics/2010/11/14/theyre-coming-but-not-staying-house-republicans-promise-self-imposed-term-554200129.html>

¹³³ Associated Press, "Advocacy group: US Rep. Mullen broke term limits pledge," *Koco.com*, Oklahoma City, July 10, 2016, <http://www.koco.com/news/Advocacy-group-US-Rep-Mullen-broke-term-limits-pledge/40443212>

¹³⁴ Bell, Chanon, "History of County Term Limits," *National Association of Counties*, February 2011, <http://www.naco.org/sites/default/files/documents/County%20Term%20Limits.pdf>

¹³⁵ It has been reported that Carroll County is considering becoming the 12th Charter County in Maryland. See "Commissioners to explore move to charter government," by Heather Norris, in *Carroll County Times*, , June 16, 2016, <http://www.carrollcountytimes.com/news/government/ph-cc-charter-government-0617-20160616-story.html>
Also see "Should Carroll Consider Home Rule?" by Bill Kennedy, in *Carroll County Times*, February 15, 2016.

Of those, 7 have some form of term limits, according to the *Washington Post*. They are Prince George's, Anne Arundel, Carroll, Frederick, Harford, Howard, and St. Mary's.¹³⁶

The Prince George's County Charter says no one can serve more than 2 consecutive terms on the Council or as Executive. It does not specify whether a partial term counts toward this limitation, and if so how much of a partial term.¹³⁷

Prince George's County leaders have tried several times to eliminate or lengthen the number of terms in its term limit provision, but those efforts have failed. A ballot question in 2014 to increase the number of terms allowed was narrowly defeated, 51% to 49%.¹³⁸ The county is reported to be considering other ways to restructure the county government because of, at least to some extent, the "grip" of term limits.¹³⁹

There have been some efforts to change the term limits in Prince George's County, but so far they have been unsuccessful.¹⁴⁰

A newspaper article in 2014 pointed out that, "Prince George's County voters will weigh in for the third time in 22 years on whether term limits should restrict local politicians' time in office...The county enacted term limits in 1992 as a wave of anti-incumbent sentiment swept the nation. Residents again voiced their support for term limits in 2000, with 64 percent of residents voting against a measure to repeal the limits entirely."¹⁴¹

In Anne Arundel County, elected and appointed Council Members are limited to "two full consecutive four-year terms." So it appears a partial term would not count against this term

¹³⁶ Turque, Bill, "In Maryland's Most Populous County, Could Term Limits Finally Win," *Washington Post*, November 25, 2015
https://www.washingtonpost.com/local/md-politics/in-marylands-most-populous-county-could-term-limits-finally-win/2015/11/24/915c720a-86ff-11e5-9a07-453018f9a0ec_story.html

¹³⁷ *Prince George's County Charter*, section 307A.

¹³⁸ Yeager, Amanda, "Term limits extension rejected by narrow vote in Prince George's County," *The Baltimore Sun*, November 13, 2014,
<http://www.baltimoresun.com/news/maryland/howard/laurel/ph-ll-term-limits-results-1113-20141113-story.html>

¹³⁹ Hernandez, Arelis R., "Prince George's revives old debate about adding at-large council seats," *Washington Post*, June 27, 2016,
https://www.washingtonpost.com/local/md-politics/prince-georges-revives-old-debate-about-addin-g-at-large-council-seats/2016/06/24/38491f06-38b1-11e6-9ccd-d6005beac8b3_story.html

¹⁴⁰ Hernandez, Arelis R. Hernández, "A brief history of term limits in Prince George's, by Arelis R. Hernández," *Washington Post*, May 13, 2014,
https://www.washingtonpost.com/local/md-politics/a-brief-history-of-term-limits-in-prince-georges/2014/05/13/98515640-da0b-11e3-bda1-9b46b2066796_story.html

¹⁴¹ Noble, Andrea, "Term limits still in question after 22 years in Prince George's County," *The Washington Times*, July 23, 2014,
<http://www.washingtontimes.com/news/2014/jul/23/term-limits-still-in-question-after-22-years-in-pr/>

limit.¹⁴²

In Anne Arundel County's 1965 charter, there is a term limit provision for the county executive. The Anne Arundel County Executive serves a four-year term with a limit of two terms. The term limit restriction for the Anne Arundel County Council was established through a charter amendment in 1992. County Council Members are now restricted to two four-year terms.¹⁴³

On July 10, 2016, it was reported that an Anne Arundel County Council Member was introducing a proposal to allow Council Members to have three instead of 2 terms. It would take a vote of 5 of the 7 Council Members to put this on the ballot for the November 8, 2016 ballot and there appears to be some controversy about this.¹⁴⁴

In Baltimore County, the County Executive is ineligible to serve more than two consecutive terms.¹⁴⁵ It is not clear if a partial term is considered a term. There do not appear to be any term limits on Council Members.¹⁴⁶

Frederick County limits Council Members to 3 consecutive terms, and specifies that a partial term of less than 2 years does not count toward this term limit.¹⁴⁷

The Frederick County Executive is limited to 2 consecutive four-year terms, and has the same provision as with the Council that a partial term of less than 2 years does not count toward this term limit.¹⁴⁸

In Howard County, the term limit for Council Members is 3 terms, with service for less than 2 years of a partial term not counting toward the term limit.¹⁴⁹ The County Executive is limited to 2 consecutive terms but there is no provision similar to the one for County Council Members concerning partial terms.¹⁵⁰

¹⁴² *Anne Arundel County Charter*, Section 203

¹⁴³ *Anne Arundel County Charter*, Sections 203 and 401, <http://bessel.org/charter/other-charters/anne-arundel-2.pdf>

¹⁴⁴ Yeager, Amanda, "Smith proposes third term for council members," *Capital Gazette*, July 10, 2016, <http://www.capitalgazette.com/news/government/ph-ac-cn-council-third-term-0710-20160710-story.html>

¹⁴⁵ *Baltimore County Charter*, Section 402

¹⁴⁶ *Baltimore County Charter*, section 203

¹⁴⁷ *Frederick County Charter*, Section 206

¹⁴⁸ *Frederick County Charter*, Section 404

¹⁴⁹ *Howard County Charter*, Section 202©

¹⁵⁰ *Howard County Charter*, Section 302©

Charter Counties in Maryland

County Name	What Are the Term Limits?
Anne Arundel	elected and appointed Council Members and County Executive are limited to "2 full consecutive 4-year terms
Baltimore	County Executive limited to 2 terms of 4 years each apparently no limit on County Council Members
Cecil	apparently no term limits
Dorchester no County Executive	apparently no term limits
Frederick	County Executive limited to 2 consecutive 4-year terms, and a partial term of less than 2 years does not count toward this term limit. Council Members, limited to 3 consecutive 4-year terms, and a partial term of less than 2 years does not count toward this term limit.
Harford	apparently no term limits
Howard	County Executive is limited to 2 consecutive 4-year terms, provision concerning partial terms Council Members are limited to 3 terms of 4 years, with service for less than 2 years of a partial term not counting toward the term limit.
Montgomery	no term limits, proposal probably on ballot November 2016
Prince George's	term limits of 2 consecutive 4-year terms on the Council or as Executive
Talbot no County Executive	apparently no term limits
Wicomico	apparently no term limits

J. Montgomery County

Term limits were previously proposed for Montgomery County on the ballots in 2000 and 2004.

In 2000 the term limit proposal was for a maximum of 2 consecutive terms for the County Executive and County Council Members. The voters rejected this proposal. In 2000 the ballot asked, "Question C - Charter Amendment by Petition, Term Limits - County Council and County Executive, Amend Sections 105 and 202 of the County Charter to limit the

County Executive and members of the County Council to two consecutive terms in office, and provide that a County Executive and any member of the County Council who on December 2, 2002 will have served two or more consecutive terms cannot serve another successive term in the same office.”

In 2004 a term limit proposal was on the ballot, this time for a limit of 3 consecutive terms, just as is being proposed this year. The voters again rejected this. In 2004 the ballot asked, “Question B - Charter Amendment by Petition, Term Limits - County Council and County Executive, Amend Sections 105 and 202 of the County Charter to: limit the County Executive and members of the County Council to 3 consecutive terms in office, and provide that a County Executive and any member of the County Council who will have served 3 or more consecutive terms on December 4, 2006, cannot serve another successive term in the same office.”

The 2004 *Report of the Montgomery County Charter Review Commission* said the following about the term limits petition that was on the ballot that year:

“Term limits eliminate voters' ability to evaluate each candidate, and instead, impose an arbitrary amount of time that an official may serve. In addition, these limits may actually reduce the effectiveness of incumbents in their last term of office because they may have little incentive to improve performance and may be viewed as "lame ducks...A majority of the Commission determined that term limits are not necessary because voters already have the power to remove a representative from office through the election process.”¹⁵¹

Votes in Montgomery County on Term Limit Proposals

	2000 maximum 2 terms proposed	2004 maximum 3 terms proposed
Votes “Yes”	157,362	179,294
Percent “Yes”	46.2%	48.2%
Votes “No”	185,017	192,823
Percent “No”	53.7%	52.8%
Difference (votes)	21,932	7,806
Difference (%)	7.5	4.6

¹⁵¹ *Montgomery County Charter Review Commission Report 2004*, page 22. The recommendation to oppose the term limits ballot question was adopted by a Commission vote of 8 to 2. However, a minority report was also included in the Commission report, in the name of 3 members of the Charter Review Commission..The minority report only supported term limits for the County Executive, not County Council Members.

5. Conclusion

To summarize, if voters are angry at those who hold elective office voters can vote them out. Sometimes those who have been in office for a while deserve to be voted out of office, but sometimes they are the best people to achieve voters' goals and new people would be the worst. The power of incumbency does not make it impossible to vote incumbents out when voters think they are doing a bad job, especially where, as in Montgomery County, there is public financing of elections and thus, an easier way for challengers to succeed.¹⁵²

Voting for term limits is like saying, "We can't stop voting for the wrong people. Please stop us from doing that, even though it takes away our right to vote for whomever we wish."

Voters should reject term limits because it is a policy that has failed to achieve its goals everywhere it has been tried. It is not the answer to what's wrong with government. There are problems with government but there are other ways to fix them. Term limits will not fix anything.

Those taxpayers who feel that the Montgomery Council acted improperly when it approved a tax increase of almost 9% or when it approved large salary increases already have solutions available. For example, they can vote against, and organize others to vote against any member of the Council who voted for those things. Or, they can petition to amend the County Charter to prohibit property taxes and Council Member salary raises above a certain limit. Those actions would deal with the problems proponents of term limits say motivate them. As proven by facts gleaned from every jurisdiction where term limits exist, term limits will not solve those or any other problems and will cause new problems.

The ultimate solution to problems with government is for voters to learn more about those who are in office and those who are seeking to be in office. They can vote for the ones in office who they think are supporting policies they like, or those who they think will do so. That's the answer to the goal of better government, not term limits.

The voters can impose term limits with their votes. As was said by one scholar on this issue. "Legislators who meet the approval of the informed citizenry do not need to be

¹⁵² Drummer, Bob, "Public Campaign Financing Law, Montgomery County Style," <https://www.montgomerycountymd.gov/COUNCIL/Resources/Files/MontgomeryCountyCodeArticleIVPublicCampaignFinancing.pdf>, and Bob Drummer and Josh Hamlin, memorandum to the County Council, September 11, 2014, Bill 16-14, Elections - Public Campaign Financing, and Bill Turque, "Montgomery Council approves plan for public finance of local campaigns," *Washington Post*, September 30, 2014, https://www.washingtonpost.com/local/md-politics/montgomery-council-approves-plan-for-public-finance-of-local-campaigns/2014/09/30/b3e2b15c-482d-11e4-b72e-d60a9229cc10_story.html Funding for public financing of elections in Montgomery County was included in the county's budget for 2017, See Lublin, David, "Council Provides Crucial Funds for Public Campaign Finance," *The Seventh State*, May 19, 2016, <http://www.theseventhstate.com/?p=6760>

term-limited." ¹⁵³

¹⁵³ Susan J. Ward. "Term limits won't help; an educated electorate will," according to a quote in the *Las Vegas Sun*. April 18, 2011:
<http://m.lasvegassun.com/news/2011/apr/18/term-limits-wont-help-educated-electorate-will/>

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