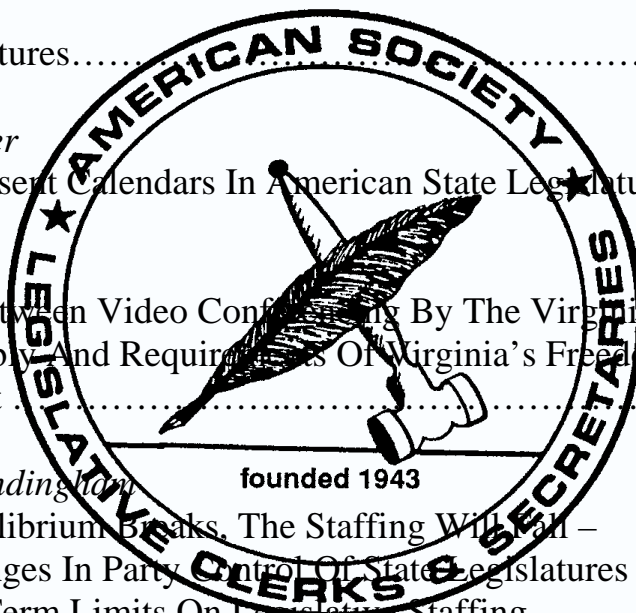


# Journal of the American Society of Legislative Clerks and Secretaries

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# **Journal of the American Society of Legislative Clerks and Secretaries**

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Specialized jargon should be avoided. Readers will skip an article they do not understand.

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# JUDGING LEGISLATURES

By Tim Hodson  
Center for California Studies

## Introduction

American legislatures date from July 1619 when the Virginia House of Burgesses first met; July 1619 is also undoubtedly the date of the first criticism of American legislatures. In the nearly 400 years since, millions of words have been used to describe, analyze, dissect, criticize, chide and condemn state legislatures. The failures and weaknesses of legislatures have, in particular, been documented in encyclopedic detail. Yet very little has been written about what is a “good” legislature or even how and on what criteria legislatures should be evaluated.

Part of the problem is the difficulty in defining “good.” Is an effective or functional or efficient legislature a “good” legislature? Is a legislature that makes efficient use of its resources and processes bills with equal efficiency a “good” legislature? Or is “goodness” determined by the quality of the laws and policies enacted regardless of the efficiency, or lack thereof, of the process? If so, how are “good” laws defined? Is a legislature that enacts unpopular but necessary laws a “good” legislature? Is a legislature that enacts very popular but harmful laws a “good” legislature?

It is tempting, but counterproductive, to simply appropriate Justice Potter Stewart’s famous definition of pornography and default to “you know a good legislature when you see it.” The harm in doing so is that it leaves legislatures vulnerable to unreasonable, unfair, and often destructive attacks and criticisms. When, for example, a reporter describes a heated budget debate as “bickering” or a teacher cites the mere number of lobbyists as proof of legislative corruption, the criticism is unfounded and feeds a destructive, cynical view of representative democracy.

The work of the National Conference of State Legislatures’ Trust for Representative Government is inspired, in part, by the recognition that many criticisms of state legislatures are fallacious. The Trust’s many activities and projects are designed to offer a “more positive and accurate view of elected officials, the people who work with them, and the legislative institutions in which they serve.”<sup>1</sup>

This focus in civic perspective can be enhanced and enriched by promoting more intelligent, balanced, and accurate criteria for judging legislatures. The news media, teachers, and legislators themselves should be asked, not to mute their criticism, but to base criticisms on grounds that are legitimate rather than fanciful, reasonable rather than self-serving, and logical rather than illogical.

This paper, an expansion of an article in *Californiana*, the newsletter of the Center for California Studies of California State University, Sacramento, is intended to outline the criteria and standards used by scholars and others to judge legislatures.<sup>2</sup> The criteria and standards are drawn from the works of Alan Rosenthal, America’s preeminent scholar of state legislatures, the now classic *The Sometimes Governments: A Critical Study of the 50 American Legislatures*, and the more recent work by the Brennan

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<sup>1</sup> Alan Rosenthal, Karl T. Kurtz, John Hibbing, and Burdett Loomis, *The Case for Representative Democracy: What Americans Should Know About Their Legislatures* (Denver, CO: The Trust for Representative Democracy, 2001), p. V.

<sup>2</sup> The Center for California Studies, California State University, Sacramento, “Policy Snap Shot: Judging Legislatures,” *Californiana*, vol. 14, No. 2, Fall 2004.

Center for Justice at New York University. The first section, however, addresses the most common fallacies of both contemporary and historical attacks on state legislatures.

### **Section 1: How Not to Judge**

Critics of legislatures often fall into one of two logical fallacies: unfairly criticizing something for being itself or arrogating “right” with one’s own beliefs.

#### *Criticizing Inherent Nature*

It is illogical to criticize seawater for being salty, a dog for being warm-blooded, or baseball for being played with a ball. Being salty, warm-blooded, or using a ball are inherent in the nature of seawater, dogs, and baseball. Yet legislatures are continually attacked for being legislative.

For example, *The Case for Representative Democracy: What Americans Should Know about Their Legislatures*, published by the National Conference of State Legislatures, documents that more than half of the American public sees no value in the debate of the sort routinely conducted by legislators.<sup>3</sup> In fact, the public believes that “bickering” rather than debate, is a more accurate description of what goes on in legislatures. However, bickering, or more truthfully debate and deliberation, is inherent in the legislative process. As noted by John Hibbing, a legislature is “an institution built to resolve disagreements by debate and compromise...”

This may not make it popular if “debate and perhaps compromise are seen in a negative light” but it is not grounds for legitimate criticism.<sup>4</sup> Similarly, the bicameral structure of 49 of 50 state legislatures is intended to ensure that issues and policies be reviewed and debated from different perspectives. Representation in American legislatures is based on population and geography to insure that the disparate, and often conflicting, voices of different communities and interests are heard.

Obviously, legitimate criticism can be made if an inherent characteristic is taken to an extreme (e.g., representation can become dysfunctional NIMBYism) but it is generally illogical and unproductive to criticize a legislature for acting like a legislature.

#### *Cognitive Myopia*

The second fallacy is a form of cognitive myopia or self-deception. As Demosthenes said, “Nothing is so easy as to deceive oneself for what we wish we readily believe.” It is all too human, but still incorrect and illogical, to conflate one’s own beliefs with fact. History is replete with examples of generals defeated because they thought their prejudices and assumptions were facts (e.g., French generals in 1940 regarded the Ardennes as impassable for tanks and thus assumed the area was, in fact, impassable. Unfortunately for France, German generals thought and proved otherwise). In politics, most people assume their beliefs are not only correct but are shared by the majority of their community. In reality, of course, this may or may not be true.

Many critics decry legislatures as dysfunctional or unrepresentative but the real complaint is that the legislature simply has not done what the critics would like. A liberal Democrat in Georgia or a

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<sup>3</sup> Op.cit, p. 28.

<sup>4</sup> John R. Hibbing, “How to Make Congress Popular,” *Legislative Studies Quarterly* XXVII (No. 2, May 2002), p. 230.

conservative Republican in California may be disgusted with their state legislature but, like it or not, the voters sent a Republican majority to Atlanta and a Democratic majority to Sacramento.

## **Section 2: How to Judge**

Legislatures can and should be judged based on criterion that can be clearly defined and logically justified. Criteria for evaluating legislatures generally fall into three categories: constitutional, functional, and procedural.

### Constitutional Criteria

Constitutional criteria start with the basic obligations and duties of a legislature under a state constitution and focus on how well a legislature performs as a co-equal branch of government. This is often condensed to three issues:

**Balancing:** Legislatures are a co-equal branch of government and thus should have, in the words of James Madison in the *51<sup>st</sup> Federalist Paper*, “the necessary constitutional means and personal motives to resist encroachments” by the executive or the judiciary.<sup>5</sup> Indeed, it has long been regarded that “one of their (legislatures) most important functions is to criticize the executive.”<sup>6</sup> Alan Rosenthal, the dean of American legislative studies, describes this as the legislature’s ability to “share with the governor the capacity to participate as equals in setting the priorities and policies for the state.”<sup>7</sup>

**Representation:** Legislatures have an obligation to represent both district and statewide constituencies, i.e., to ensure that the interests and needs of their communities are articulated and protected. Legislatures also have an obligation to help individual constituents having difficulties with state government. Legislatures should also provide for descriptive representation, i.e., membership should roughly reflect the general population. Representation also fulfills the function of legislatures to give legitimacy to governments and governmental actions.

**Lawmaking:** More than the simple act of passing laws, lawmaking is the process wherein conflicts among the public’s values, interests, and priorities are expressed, managed, and resolved. This requires information, analysis, deliberation, a willingness to listen to all sides, negotiation and compromise. Resulting laws should reflect majority interests while protecting the minority and deal effectively with problems.

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<sup>5</sup> Alexander Hamilton, John Jay and James Madison. *The Federalist Papers* (New York: The Modern Library, 1937), p. 337.

<sup>6</sup> K. C. Wheare, *Legislatures* (London: Oxford University Press, 1967), p. 1.

<sup>7</sup> Alan Rosenthal, *Heavy Lifting: The Job of the American Legislature* (Washington, D.C.: CQ Press, 2004) p. 241.

To these constitutional criteria, can be added three operational criterion identified by Rosenthal:

- The connection between legislators and their constituents and responsiveness to constituent views, when such views exist;
- The balance between the deliberative and political aspects of lawmaking which involves access to policy expertise and an effective committee process so that the merits as well as the politics of measures are considered; and
- The effectiveness of legislative leadership which, in turn, requires experienced and skilled leaders able to facilitate compromise build consensus and protect the institution.<sup>8</sup>

### Functionality Criteria

In 1970, the Ford Foundation funded the Citizens Conference on State Legislatures to develop a yardstick to measure the “decision-making capabilities” of state legislatures as governed by their “structure, organization, rules, procedures and practices.” The resulting study, *The Sometimes Governments*, ranked state legislatures in five basic categories.<sup>9</sup> Criteria based on those categories can be surmised as including:

- I.      Functionality
  - A.      Time & Its Utilization
    1.      Adequate length and frequency of legislative sessions
    2.      Effective management of legislative time
    3.      Effective use of pre-session and interim periods
  - B.      General Purpose Staff
    1.      Sufficient staff support for members and leaders
  - C.      Facilities
    1.      Adequate physical facilities for both the legislature (i.e., chambers) and legislators (i.e., offices)
    2.      Adequate physical facilities for support units (e.g., committees)
  - D.      Structural Characteristics
    1.      Manageable size of entire house membership
    2.      Manageable size of the number of committees & legislators’ committee assignments

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<sup>8</sup> Rosenthal, *Heavy Lifting: The Job of the American Legislature*, p. 243.

<sup>9</sup> Citizens Conference on State Legislatures, *The Sometimes Governments: A Critical Study of the 50 American Legislatures* (New York: Bantam Books, 1971), p. 44.

- E. Organization & Procedures
    - 1. Effective procedures regulating the flow of legislation
    - 2. Effective use of committees and joint committees
    - 3. Guarantees regarding hearing or consideration of bills
  - F. Management & Coordination
    - 1. Effective coordination between houses
    - 2. Effective leadership with adequate powers and length of office
  - G. Order & Dignity
    - 1. Maintenance of high level of order, dignity and decorum of sessions, hearings, and individual legislators
- II. Accountability
- A. Comprehensibility
    - 1. Understandable, transparent structure, organization, procedures, and rules
    - 2. Understandable processes for selecting leaders, including committee chairs and vice chairs
  - B. Public Access & Information
    - 1. Effective public notice and hearing requirements
    - 2. Effective public access to records and information including votes, text of bills, amendments, and analyses
  - C. Internal Accountability
    - 1. Effective calendaring to insure that legislators have the opportunity to vote on all bills reaching the floor
    - 2. Sufficient authority of committees to control bills under committees' jurisdiction
    - 3. Ability of committee majority to determine bills to be heard
    - 4. Effective guarantees of rights of the minority party
- III. Informedness
- A. Time Sufficiency
    - 1. Sufficient time during session
    - 2. Sufficient time during interim periods for effective fact finding

B. Committee System

1. Adequate and manageable number of committees
2. Well-defined committee jurisdictions
3. Adequate protections against committee abuses
4. Effective committee hearings with proper treatment of witnesses
5. Adequate committee facilities (i.e., offices and hearing rooms)

C. Bills

1. Effective procedures for tracking status and history of bills
2. Availability of printed bills and amendments in a timely fashion
3. Adequate summaries or digests of bills

D. Staff

1. Sufficient number of competent committee, policy, and/or general research staff
2. Sufficient number of competent legal staff

E. Fiscal Review

1. Clear and adequate authority regarding state budgets
2. Sufficient number of competent fiscal/budgetary staff
3. Adequate access to fiscal/budget information

IV. Independence

A. Procedural Autonomy

1. Ability to determine length and frequency of sessions
2. Ability to establish its own procedures and policies
3. Effective control of legislative budget
4. Control of redistricting

B. Independence from Executive Branch

1. Adequate sources of information independent from the Executive branch
2. Power to override gubernatorial vetoes
3. Limited authority of Lt. Governor in legislative affairs
4. Ability to increase or decrease appropriations

C. Oversight

1. Ability to conduct adequate and effective oversight

D. Interest Groups

1. Effective rules and procedures governing lobbyists

- E. Ethics
  - 1. Effective rules and procedures regarding legislative conflicts of interest
- V. Representativeness
  - A. Legislators and Constituents
    - 1. Clear identification between legislators and constituents
    - 2. Adequate district office and staff resources
  - B. Diversity
    - 1. Minimal qualifications to run for legislative office
    - 2. Legislative membership generally reflective of the state's demographics
  - C. Legislator Effectiveness
    - 1. Adequate compensation
    - 2. Effective limits on committee assignments
    - 3. Adequate staff and office resources
    - 4. Effective guarantees against abuses by leaders

Process Criteria

In 2004 the Brennan Center at New York University recently completed an evaluation of the New York Legislature.<sup>10</sup> The evaluation and resulting report was based on the notion that the effectiveness of an entire legislature can be determined by its processes and procedures.

The Brennan Center report argues that a “well-functioning” legislature is based on five values:

*Representativeness:* i.e., a well-functioning legislature “facilitates legislators’ full and faithful representation of their constituents”.

*Deliberativeness:* i.e., a well-functioning legislature ensures that “enacted legislation is based on a public consensus on the need for, as well as the type of, change.”

*Accessibility:* i.e., a well-functioning legislature “guarantees members of the public – like their legislators – meaningful opportunities to review and comment upon legislation...”

*Accountability:* i.e., a well-functioning legislature “encourages members to take responsibility for the content of legislation and facilitates voters in their efforts to judge their representatives for the legislation they pass or fail to pass.”

*Efficiency:* i.e., a well-functioning legislature “produces legislation for the governor’s signature without unnecessary delays, unduly high ratios of bills introduced to bills passed, or unnecessary barriers to final passage of a single bill...”

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<sup>10</sup> Jeremy M. Creelan and Laura M. Moulton. *The New York State Legislative Process: An Evaluation & Blueprint for Reform*. (The Brennan Center for Justice, New York University, 2004).

The Brennan Center Report further identified a number of specific process criteria:

1. Number of bills introduced vs. enacted (i.e., a negative ratio between the number of bills introduced and number enacted indicates inefficient allocation of resources and procedures).
2. Ability of the house to override committee referrals (i.e., the ability of the house to override referral decisions of the leadership).
3. Committee assignments per member (i.e., appropriate number of committees and committee assignments of individual legislators).
4. Requirements for effective committee hearings (i.e., whether committee hearings, including hearings of the Rules Committees, have adequate public notice, committee reports or bill analyses, voting records and should actually hear bills).
5. Control of committee staffing (whether hiring and firing of committee staff is controlled by leadership or committee chairs).
6. Proxy voting in committee (i.e., the ability of members to cast votes for absent members).
7. Restrictions on discharge motions (i.e., whether motions to discharge bills from committees and bring them to floor votes are excessively restricted).
8. Time limits on debates and the frequency of debates (i.e., the ability of legislators to engage in floor debates).
9. Leadership ability to remove bills from legislative calendar (i.e. whether leadership can unilaterally stop actions on bills)
10. “Fast roll calls” and “empty seat voting” (i.e., whether legislators’ votes can be automatically counted, without a roll call, as affirmative unless the legislators takes action to cast a negative vote).<sup>11</sup>

According to the Brennan Center, failures in these process areas have created five sources serious problems in New York, including dysfunctional committees; barriers to full consideration of legislation; inadequate review and debate; inadequate means to reconcile differences in bills as passed by the two houses; and legislative inefficiency and high costs.<sup>12</sup>

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<sup>11</sup> Creelan and Moulton, p. 39.

<sup>12</sup> Creelan and Moulton, p. vii.

## **Summary**

It is important that Americans' civic knowledge and civic perspective include an understanding of representative democracies - and that most essential institution of representative democracy, legislatures.

An important element of this knowledge and perspective is the ability to reasonably evaluate legislatures. This does not require a universal acceptance of a particular set of criteria but it does require that legitimate criticism be based on legitimate, logically defensible standards of judging.

# THE USE OF CONSENT CALENDARS IN AMERICAN STATE LEGISLATURES

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## Abstract

The normative and prescriptive literature unanimously supports consent calendars as a good way for legislatures to dispose of business that is non-controversial. The empirical literature disagrees more than it agrees on which state legislative chambers have consent calendar procedures. This paper explains inconsistencies in previous empirical studies and presents a new study of consent calendar use.

## INTRODUCTION

The workloads faced by contemporary state legislatures are impossible. The number of proposals submitted is extraordinary. Most are complex and difficult to understand. Legislators are besieged by individuals and groups urging them to support some measures and oppose others. Unbiased information is all-but-impossible to obtain. Most states impose statutory or practical limitations on session length. As a result, state legislatures are always seeking ways to operate more efficiently.

One organizational *modus operandi* for streamlining floor consideration is the consent agenda or consent calendar. The procedure has been promoted as a good way for all bodies following parliamentary procedure to dispose of business that is non-controversial.

The presentation of the consent agenda is established by a special rule of order and should be taken up before committee reports....When presenting it, the chair asks if any member wants to extract an item from the consent agenda....To extract an item, a member need only rise and request...The request does not need a second and it is not discussed, and no vote is taken to remove it from the consent agenda...The extracted items are added to the regular agenda under the proper categories for bringing up such items. (Robert McConnell Productions, 2001, pp. 19-20) Items remaining on the consent agenda are passed with limited or no discussion.

Past normative and prescriptive studies have advocated the use of consent calendars by state legislatures (Burns, 1971; Citizens Conference on State Legislatures, 1971; and Advisory Commission on Intergovernmental Relations, 1985). Previous empirical research efforts have identified which legislative chambers do and do not have provisions for consent calendars, but their findings have been inconsistent. This paper explains these inconsistencies in and presents a new study of consent calendar use.

## DISAGREEMENT IN PAST RESEARCH

There have been three published empirical studies of consent calendars in American state legislatures.

1. The Citizen's Conference on State Legislatures advocated that all state legislative chambers without consent calendars should implement them in two publications reporting a 1970 survey (Burns, 1971 and Citizens Conference on State Legislatures, 1971). The publications identified chambers that needed to implement consent calendars.
2. **The Book of the States** (1976, 1978) included information on consent calendars in two volumes discussing the legislative sessions of 1973-74 and 1975-76. The Advisory Commission on Intergovernmental Relations (1985) cited these data and advocated further adoption of consent calendars by state legislatures.
3. The American Society of Legislative Clerks and Secretaries in cooperation with the National Conference of State Legislatures published the results of a 1998 survey of consent calendar use in its September 2001 supplement to **Inside the Legislative Process**.

In addition, Hamm, Hedlund and Martorano conducted a large study of House and Senate rules in American state legislatures throughout the 20<sup>th</sup> century (Hamm, Martorano and Hedlund, 2000; Hamm, Hedlund and Martorano, 2001; Martorano 2001a; 2001b, 2002). They made available to me their unpublished information on the first appearance of consent calendar procedures.

These studies were all of high quality. Yet, they disagree more than they agree. There are inconsistent findings about the total number of chambers with consent calendars. In chronological order, the four studies reported 56, 58, 40 and 53 chambers as having consent calendars. There are also conflicting findings about which chambers do and do not have consent calendars. As one might expect, many of the differences, almost half, can be explained by chambers adopting consent calendars over time. Other differences were caused by missing data. However, there are additional important explanations for disagreement in previous studies of consent calendars.

*Abandonment over time.* To the best of my knowledge, there is no literature opposing consent calendars or arguing that they should be abandoned. Yet, 9 chambers, 5 senates and 4 houses, have either abolished consent calendar rules, or rarely use them. Five of these nine chambers have retained their consent calendar rules. Three of the four chambers that used consent calendars for several years retain consent calendar rules but don't use them or use them sparingly. Two of the five chambers that abandoned consent calendar use after one or two sessions retain the rules. In addition, the Kentucky House has never used its consent calendar. Table 1 identifies the chambers, their first use and last use of consent calendars.

Table 1  
**CHAMBERS THAT ABANDONED CONSENT CALENDAR USE**

<b>Chamber</b>	<b>First Use</b>	<b>Last Use</b>	<b>Rule Status</b>
Iowa Senate	1969	1990s	Retained
Illinois House	1971	Approximately 1995	Retained
Mississippi Senate	1981	Early 1980s	Retained
Montana Senate	1979	1997	Removed
North Carolina House	1995	1997	Removed
Oklahoma House	1987	2000-2001	Retained
Oklahoma Senate	1981	1982	Removed
Oregon Senate	1981	1981	Removed
Pennsylvania House	1981	1981	Retained

Legislative staff members in these bodies identified two explanations for discontinuing consent calendar use. For the five chambers that abandoned them after one or two sessions, consent calendar procedures did not produce expected efficiencies. The procedures in the chambers that experienced short-term failures seem to have been designed to enhance the power of leadership to control the flow of legislation as much as or more than to reduce time spent on unanimous agreement measures. At least some of these chambers may not have made good-faith attempts to establish consent calendars. In the four chambers that abandoned them after several years of use, staff members report that increased partisan conflict obviated the level of cooperation needed to use consent calendars effectively.

*Inconsistent definitions.* The first three studies used informants but did not define consent calendars for them. As a result, there are validity and reliability problems with the data they report. For example, the Hawaii House and Senate do not have consent calendar rules, but some officials there have reported an “informal consent calendar process.” The Pennsylvania Senate has a consent calendar for introduction of bills but not for floor consideration. A number of chambers have consent calendars for resolutions but not for bills. Multiple chambers have had consent calendar procedures that were not used for long periods of time. Furthermore, it is likely that some informants viewed unanimous consent procedures in their chambers as equivalent to consent calendars.

*Studying other procedures.* Some previous studies extend their empirical data beyond consent calendars. Citizens Conference on State Legislatures (1971) says there should be a consent calendar or some other procedure for expeditiously handling non-controversial legislation (p. 379 emphasis added). The question in the appendix also speaks of a consent calendar or some other procedure. Although Burns (1971) makes no reference to other procedures, he reports on the same data. Clearly, the two 1971 publications present information on consent calendars and unspecified other procedures for handling non-controversial items. Data reported in *The Book of the States* may also intentionally include procedures other than consent calendars. Other procedures were not intentionally included in the other two studies.

## **CONTEMPORARY USE OF CONSENT CALENDARS**

Given the inconsistencies of past research, providing a clear definition of what legislative procedures qualify as consent calendars is imperative. The definition of consent calendars in this study consists of the following elements.

- The purpose must be to make floor consideration more efficient.
- The widest range of bills must be eligible for placement on consent calendars.
- There must be an explicit procedure for bills to be placed on consent calendars.
- There must be time for legislators to review bills on consent calendars before they can be brought to the floor.
- There must be a procedure for a small number of legislators to remove bills from consent calendars.
- The rules for floor consideration of consent calendar bills must be different from those that apply to “regular” calendars. They must place limits on how consent calendar bills are dealt with on the floor.
- Consent calendar procedures must be used by legislative chambers. Consent calendar rules that are ignored or used to consider a small number of bills do not qualify.
- 

These elements are common to procedures in the overwhelming majority of state legislative chambers whose rules make reference to consent calendars. They are consistent with the normative prescriptions and empirical descriptions of legislative manuals (Cushing, 1856, Cannon, 1935, 2002; **Demeter’s Manual**, 1950; Robert McConnell Productions, 2001; **House Rules and Manual**, 2003). The definition is consistent with the spirit, if not the details, of previous efforts to study consent calendars.

Data on use of consent calendars were collected from November 2002 through February 2003. First, chamber rules were acquired and analyzed. Then, letters were sent to the parliamentarians of each, to determine the extent to which rules accurately described legislative behavior. Where there were no individuals with the title parliamentarian, information was sought from chamber secretaries and clerks. For all chambers with consent calendar procedures and many without, telephone interviews were conducted with chamber clerks and secretaries to further clarify legislative practices. One chamber secretary in his first session referred inquiries to his retired predecessor. All other informants were employees of state legislatures.

Table 2 lists current consent calendar use and first use for each state lower chamber. The findings for each chamber are identified as consistent or inconsistent with all four previous studies of consent calendars. In cases where findings are not entirely consistent for all studies, an explanation or comment is provided. Table 3 lists the same information for state upper chambers.

Table 2  
**LOWER CHAMBER BROAD USE OF CONSENT CALENDARS FOR BILLS**

<b>State</b>	<b>Consent Calendar Use</b>	<b>Consent Calendar Name</b>	<b>First Use</b>	<b>Explanation or Comment</b>
<b>AK</b>	No		--	
<b>AL</b>	Yes	Consent	1999	First use 1979
<b>AR</b>	Yes	Consent	1971	
<b>AZ</b>	Yes	Consent	1969	
<b>CA</b>	Yes	Consent	1959	
<b>CO</b>	No		--	Consent calendar has not been used
<b>CT</b>	Yes	Consent	1969	
<b>DE</b>	Yes	Consent	1975	First use 1975; formerly called consent calendars now called consent agendas
<b>FL</b>	Yes	Consent	1973	
<b>GA</b>	No		--	Consent calendar is limited to resolutions
<b>HI</b>	No		--	Some informants say a "modified" consent calendar is used
<b>IA</b>	No		--	Consent calendar is limited to resolutions
<b>ID</b>	No		--	Consent calendar has not been used
<b>IL</b>	No	Consent	1971	First use 1971; 5 bills on consent calendar since 1995
<b>IN</b>	No		--	
<b>KS</b>	Yes	Consent	1971	First use 1971
<b>KY</b>	No	Consent	--	Consent calendar rule approved in 1976 but has never been used
<b>LA</b>	Yes	Consent	1973	First use 1973
<b>MA</b>	No		--	There is a unanimous consent procedure but no consent calendar

<b>MD</b>	Yes	Consent	1973	First use 1973; constitutional amendment 1972
<b>ME</b>	Yes	Consent	1977	First use 1977
<b>MI</b>	No		--	Consent calendar has not been used
<b>MN</b>	Yes	Consent	1957	First use 1957
<b>MO</b>	Yes	Consent	1963	
<b>MS</b>	Yes	Local and Private	1971	First use 1971
<b>MT</b>	Yes	Consent	1979	First use 1979
<b>NC</b>	No		1995	Used 1995 and 1997 then abandoned
<b>ND</b>	Yes	Consent	1969	
<b>NE</b>	NA	NA	--	
<b>NH</b>	Yes	Consent	1971	First use 1971
<b>NJ</b>	Yes	Consent List	1974	First use 1974
<b>NM</b>	Yes	Concurrence	1967	First use 1967
<b>NV</b>	Yes	Consent	1977	First use 1977; constitutional amendment 1976
<b>NY</b>	No		--	Consent calendar has not been used; there is a "consent process"
<b>OH</b>	No		--	Consent calendar has not been used; constitution prohibits
<b>OK</b>	No	Consent	1987	First use 1987; not used in last 2-3 years
<b>OR</b>	Yes	Consent	2001	First use 2001
<b>PA</b>	No	Uncontested	1981	First and only use 1981
<b>RI</b>	Yes	Consent	1987	First use 1987
<b>SC</b>	Yes	Uncontested	1909	First use in or before 1920
<b>SD</b>	Yes	Consent	1970	
<b>TN</b>	Yes	Consent	1974	First use 1974
<b>TX</b>	Yes	Local, Consent	1933	
<b>UT</b>	Yes	Consent	1977	First use 1977
<b>VA</b>	Yes	Uncontested	1992	Rule adopted 1970 but not used; revised rule first use 1992
<b>VT</b>	No		--	Consent calendar implemented 2002 is limited to some resolutions
<b>WA</b>	Yes	Suspension	1991	First use 1991
<b>WI</b>	No		--	Unanimous consent procedure but no consent calendar
<b>WV</b>	Yes	Special	2003	First use 2003
<b>WY</b>	Yes	Consent List	1971	First use 1971

Table 3  
UPPER CHAMBER BROAD USE OF CONSENT CALENDARS FOR BILLS

State	Consent Calendar Use	Consent Calendar Name	First Use	Explanation or Comment
AK	No		--	
AL	Yes	Consent	1979	First use 1979
AR	Yes	Non-controversial	2001	First use 2001
AZ	Yes	Consent	1983	
CA	Yes	Consent	1959	
CO	Yes	Consent	2001	First use 2001
CT	Yes	Consent	1969	
DE	No		--	Consent calendar is limited to resolutions
FL	Yes	Consent	1973	
GA	No		--	Consent calendar for local bills starting in 1950s; population bills and commemorative resolutions added in 1983
HI	No		--	Some informants say a "modified" consent calendar is used
IA	No	Proposed noncontroversial	1969	Non-controversial calendar first use 1969 but no longer being used
ID	Yes	Consent	1999	First use 1999
IL	No		--	Consent calendar is limited to resolutions
IN	No		--	
KS	Yes	Consent	1977	First use 1977
KY	Yes	Consent	1972	First use 1972
LA	No	o	--	
MA	No		--	There is a unanimous consent procedure but no consent calendar
MD	Yes	Consent	1973	Constitutional amendment 1972
ME	No		--	
MI	No		--	Consent calendar is limited to resolutions
MN	Yes	Consent	1955	First use 1955
MO	Yes	Consent	1977	First use 1977
MS	No	Noncontroversial	1981	Used for a session or two in early 1980s then not used
MT	No		1979	First use 1979; abandoned 1999
NC	No		--	Consent calendar has not been used
ND	Yes	Consent	1969	

<b>NE</b>	Yes	Consent	1981	
<b>NH</b>	No		--	Consent calendar has not been used
<b>NJ</b>	Yes	Consent List	1974	First use 1974
<b>NM</b>	Yes	Concurrence	1967	
<b>NV</b>	Yes	Consent	1977	First use 1977; constitutional amendment 1976
<b>NY</b>	No		--	Consent calendar has not been used
<b>OH</b>	No		--	Consent calendar has not been used; constitution prohibits
<b>OK</b>	No	Consent	1981	Consent calendar used 1981-82 then not used
<b>OR</b>	No		1981	Consent calendar used in 1981 then abandoned
<b>PA</b>	No		--	Consent calendar is for introduction of bills only
<b>RI</b>	No		--	Consent calendar limited to nonpublic bills
<b>SC</b>	No		--	Uncontested calendar is for establishing order of consideration, not for expediting consideration
<b>SD</b>	Yes	Uncontested	1970	
<b>TN</b>	Yes	Consent	1971	
<b>TX</b>	Yes	Local and Uncontested	1935	
<b>UT</b>	Yes	Consent	1973	First use 1973
<b>VA</b>	Yes	Uncontested	1968	First use 1968
<b>VT</b>	No		--	Consent calendar implemented 2002 is limited to resolutions
<b>WA</b>	Yes	Consent	1983	First use 1983
<b>WI</b>	No		--	Consent calendar has not been used
<b>WV</b>	No		--	Special calendar is to organize and prioritize, not to expedite
<b>WY</b>	Yes	Consent List	1971	First use 1971

Consent calendars are used in 35 state legislatures. In 21 states both chambers use them; in 14 states (including Nebraska) only one chamber uses them. As defined above, 56 of 99 state legislative chambers currently use consent calendars. Lower chambers are more frequent users than upper chambers by a margin of 30 to 26.

Adding the 9 chambers that have implemented, then abandoned them, some 65 legislative chambers in 40 states have used consent calendars for at least some sessions. Within these 40 states, consent calendars have been used by both chambers in 25 states and in Nebraska. Sequential adoption outnumbered simultaneous adoption 14 to 11. Senates were first adopters 8 times; houses were first adopters 6 times.

The South Carolina House and the U.S. House of Representatives were the first American legislative bodies to use a consent calendar procedure. Both implemented their consent calendars in 1909. The U.S. House abandoned its consent calendar in 1995 (**House Rules and Manual**, 2003, section 899; **Cannon's**

**Precedents of the House of Representatives of the United States Including References to Provisions of the Constitution**, Volume 7, sections 972, 992, 994, 1004 and 1006). It now uses unanimous consent procedures to expedite consideration of some bills. Texas became the first state to use consent calendars in both chambers in the mid-1930s. The Minnesota Senate and House began use of consent calendars in 1955-57 and the California Senate and Assembly began use in 1959.

The impact of advocates such as the Citizens Conference on State Legislatures and the Advisory Commission on Intergovernmental Relations is clear from the pattern of adoptions over time. If one dates their influence over new implementation of consent calendars to 1967, the decisions of 57 adopting chambers (including some who later abandoned) were arguably a result of these reformers' efforts.

The time savings consent calendars make possible are presumably more important to legislative chambers whose sessions are shorter. Empirically, states with shorter session lengths make greatest use of consent calendars. Using 200 days as the dividing point, 84 percent of chambers with short sessions and 41 percent with long sessions use consent calendars. This difference is statistically significant at the .001 level.

## CONCLUSION

Consent calendars provide a valuable case for demonstrating the challenges involved in comparing rules and procedures across the 99 state legislative chambers. Past studies reported dissimilar findings partly because they studied different times. More importantly, they used diverse definitions. There is an important difference between chambers with rules that permit consent calendars and chambers that implement them. Consent calendars have been applied to resolutions only, to a limited range of bills only, to a broad range of bills only, and to a broad range of resolutions and bills. By the definitions of this study, consent calendars are currently used by 56 chambers. Another six chambers have qualifying consent calendar rules that currently are not being used. Other observers, opting for less restrictive definitions of consent calendars, may see 72 or more chambers currently employing them or have rules that permit them to be employed.

Consent calendars are important tools used by American state and local legislatures. They were not created by the Founders. They are a twentieth century innovation that has become conventional practice in state legislatures. Yet their role is rarely recognized by journalists, scholars, and others who comment on the legislative process. Consent calendars allow legislative chambers to identify legislation on which there is unanimous or near-unanimous agreement and to approve them with little or no floor discussion.

It is fashionable for commentators to emphasize partisan bickering and gridlock in American legislative bodies. Conflict is a central premise, if not the central premise, of social scientists who study and journalists who report on legislatures. Academic theories of how institutional procedures and decision-making in legislative bodies are not intended to be germane to decisions involving little or no conflict. The upshot is that frequency and importance of unanimous agreement in American state legislatures is poorly recognized. Understanding the role of consent calendars should help observers appreciate both cooperation and conflict in these bodies.

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**THE BALANCE BETWEEN  
VIDEO CONFERENCING BY THE VIRGINIA GENERAL ASSEMBLY  
AND  
REQUIREMENTS OF VIRGINIA'S FREEDOM OF INFORMATION ACT**

By John Garrett  
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INTRODUCTION

In December 1998, the Virginia General Assembly entered the world of video conferencing when the Senate installed this technology in a newly remodeled committee room. Video conferencing was to be used primarily by groups meeting during the time period between legislative sessions and would:

(i) allow members of interim study groups (legislative and citizen), who would travel hundreds of miles to participate in meetings in Richmond, to instead participate from their home offices; (ii) permit interim study groups to receive testimony from experts from other states without incurring travel and lodging costs; and (iii) facilitate public access by allowing citizens who would otherwise have to drive to Richmond to use video conferencing as a means to attend meetings.

As of December 1998, the Freedom of Information Act (FOIA) did not address video conferencing specifically, but instead referred to electronic meetings and included provisions which could be interpreted to apply to the technology, such as a 30-day notice requirement for the meeting, a restriction that no more than 25 percent of meetings use video conferencing technology, and a requirement that the meeting be halted should the audio or video conferencing service be interrupted.

In 1999, the General Assembly enacted Chapter 704 which specifically addressed meetings conducted using video conferencing and the issue of a citizen's right to notice of, and access to, a record of these meetings. This law applied to the legislative branch and certain executive branch agencies of state government, in effect establishing a pilot project which:

1. Authorized meetings using electronic communication (video conferencing).
2. Defined the term electronic communication to include video conferencing.
3. Required notice of meetings using electronic communication at least 7 days in advance.
4. Required materials to be available to members and the public at each remote site.
5. Required an audio/visual recording to be made of each meeting.

The pilot project also contained other provisions relating to reporting requirements, voting and a sunset clause of July 1, 2000. This project was eventually re-scheduled to end on July 1, 2005.

CLERKS' CONCERNS

Because of the impending conclusion of the pilot project, representatives of the Senate Clerk's and House Clerk's Offices addressed their concerns about the differences of existing law and the pilot project to the Virginia Freedom of Information Advisory Council (Council) in March 2004.

The representatives stated that the 30-day notice for an electronic meeting was onerous. Often meetings are not planned 30 days in advance. In addition, they provided examples of various situations which had arisen closer to the meeting day, such as personal emergencies or other exigent circumstances that prevented members of a public body from being physically present at a meeting.

Another problem area noted by the representatives was the limitation of allowing only 25 percent of meetings annually to be conducted electronically. They noted that it was impossible for bodies who met less than four times per year, including most legislative studies, to hold an electronic meeting, since even one meeting would exceed the 25 per cent limitation. Additionally, some legislative bodies, such as the Joint Rules Committee<sup>13</sup> met only upon the call of the chair, meaning it was impossible to know how many times during the year the body would meet, making it difficult to determine whether they were in compliance with the 25 percent meeting limitation.

As a result of these concerns, the Council established a Subcommittee (Subcommittee) to review these and other related issues. The Subcommittee met throughout the Summer and Fall of 2004 and discussed the issues raised by the Clerks' offices as well as other provisions of the electronic meeting portion of FOIA.

### SUBCOMMITTEE DELIBERATIONS

During the summer of 2004, the Subcommittee discussed the issues of greatest concern to the Clerks' offices. The Subcommittee considered the effect of a technical malfunction at one or more meeting locations. FOIA currently requires that an electronic meeting be suspended at all locations if there is an audiovisual malfunction -- even though a quorum must be assembled at one location. The purpose behind this provision is to guarantee public participation at all locations, since all meeting locations must be open to the public. However, it was noted that it might be difficult for one site to realize that another site has lost the audiovisual feed, and the chair would not realize that a meeting should be suspended. The Clerks' representatives were also concerned that frequent technical difficulties posed a serious potential to disrupt meetings and inhibit the work of the public body.

The Subcommittee discussed proposed changes to the electronic meetings provisions. One change shortened the notice required for electronic meetings from 30 days to seven days, to parallel the notice required by the pilot project. A representative of Senate Clerk's office stated that seven days was a good compromise, while representatives of the press and access groups expressed concern that seven days was not enough notice for electronic meetings. The Subcommittee members present voted to recommend that the notice for electronic meetings be changed to seven working days.

The Subcommittee also discussed the general notice requirements for all meetings (and not just electronic meetings). FOIA currently requires the physical posting of notices, while posting electronically is "encouraged." The Clerks' representatives indicated that the requirement for posting notice outside of the Clerk's Office did not give meaningful notice to the public because of the remote location of each Clerk's Office<sup>14</sup>. The clerks noted that the Internet is now a place where interested persons often look for notices of meetings. Both Clerks' Offices had taken advantage of technology to generate and send meeting notices, which had the effect of automatically updating the legislative calendar available on the General Assembly's website. Additionally, because the law already requires other state public bodies to place their meeting minutes on the Internet, it would be appropriate for all public bodies to use the Internet to also post meeting notices.

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<sup>13</sup> The Joint Rules Committee is a combined or joint subcommittee of the House Rules Committee and the Senate Rules Committee.

<sup>14</sup> It was later determined by the Subcommittee that the posting of meeting notices in the Lobby of the General Assembly Building met the posting requirement required by FOIA and subsequently the notice did not need to be posted physically in the Office of the Clerk.

As a result of these discussions the Subcommittee proposed draft legislation that would:

1. Shorten the notice requirement for electronic meetings from 30 days to 7 days;
2. Remove the 25 percent limitation on the number of electronic meetings,
3. Address the malfunction of the audio or audio/visual feed issue by suggesting that notice of electronic meetings include a phone number of a contact person at each site to notify other meeting locations that they have lost audio or audio/video feed. The suspension of the meeting in the event of a malfunction would remain.

In September 2004 the Subcommittee met again and reviewed draft legislation that also included the electronic meeting and notice changes discussed at a prior meeting. The draft proposal would require state public bodies in the executive branch of government to post notice of their meetings on the Internet. The Subcommittee discussed whether it might be better to require all state public bodies, including public bodies in the legislative and judicial branches of government, to post notice on the Internet. The Subcommittee members present voted to recommend that Internet notice be required of all public bodies at the state level.

The Subcommittee also considered the issue of eliminating the limitation that no public body conduct 25 percent of its meetings each year via electronic means. This led to a discussion among the Subcommittee members and the members of the public as to whether electronic meetings was a positive development for which access should be made easier or whether the more restrictive provisions concerning electronic meetings should be retained. The subcommittee made no recommendation on this issue at this meeting.

The Subcommittee met on November 15, 2004 to continue its deliberations and to accept public comment on the proposed draft. Already recommended by the Subcommittee was draft legislation that would: (i) require all meeting notices of state public bodies to be posted on the Internet; (ii) reduce the notice requirement for electronic communication meetings from 30 days to seven working days; and (iii) require the inclusion of a telephone number that may be used during an electronic communication meeting to notify other meeting locations of an interruption in the broadcast from any site of the meeting.

Among the interested parties to address the Subcommittee were the Virginia Coalition for Open Government and the Virginia Press Association (VPA). The Coalition for Open Government stated that the physical quorum at one primary location should be retained, seven working days' notice was adequate, and that there should be uniform rules for the conduct of electronic communication meetings.

The VPA reminded the Subcommittee that electronic communication meetings were not the rule under FOIA, but an exception to the open meeting provisions of FOIA. The procedural protections for notice, access, and preserving records of electronic communication meetings were put in place upon its enactment in 1986. The VPA noted that although technology has changed enormously since 1986, protections contained in the law should not be completely eliminated. Instead, the statutory provisions should be the subject of careful deliberation and amendment to maintain the policy objectives of FOIA. The VPA stated that the proper balance should be met between ensuring maximum public participation and access on the one hand and facilitating convenience for members of a public body on the other. The VPA also called for uniform rules governing notice and access to electronic communications meetings and stated that the requirement for a physically assembled quorum at one primary location should be maintained due to its importance to open government generally.

The VPA stated that its major concerns with electronic meetings are the chronic nonparticipation by a minority of members of a public body and the lack of access to a "disembodied group." The VPA stated that the effect of overturning current law on electronic communications meetings is to lower the bar for expectations of our public officials. Additionally, VPA questioned whether the reporting requirements for the pilot project or the relevant provisions found in FOIA had produced ample data that could serve as a basis for the amendment of the electronic meetings provisions. Council staff indicated that very few reports had been made since the inception of the pilot project in 1999.

With regard to the potential for chronic nonparticipation by members of a public body, the Subcommittee noted that current law addressed the situation by limiting the number of meetings that could be conducted electronically to 25 percent. One alternative to the 25 percent limitation was to identify the members physically present as well as those attending through remote locations in the minutes of the meetings. It was noted that the identity of the members present and absent is currently required to be recorded in the minutes of any meeting. It was also suggested that a limitation on the number of times a particular public official may use electronic communications meetings may be a solution. One Subcommittee member noted that ours is a representative government and questioned how public policy discussions may be impacted by such a limitation.

After considerable discussion among Subcommittee members and the interested parties, the Subcommittee by consensus recommended the following additions to the draft legislation;

1. Require minutes of electronic communication meetings to identify each member participating remotely and those physically located at the primary location of the meeting, as well as identifying the members who monitored the meeting from a remote location not noticed as a meeting site.
2. Eliminate the 25 percent limitation on the number of electronic communication meetings that may be conducted annually.
3. Require a quorum of the public body to be physically assembled at one primary location.
4. Eliminate the requirement for recording (either audio or audio and visual) of electronic meetings.

The Subcommittee discussed further the requirement for making and keeping a recording of every electronic meeting. The current requirement places a higher standard for electronic meetings than what existed for non-electronic meetings. In Virginia, there is no requirement for verbatim minutes nor recording of the proceedings of legislative meetings. The Subcommittee recommended that in lieu of recording, the annual reporting requirements should include the following information for each electronic meeting;

1. Number of meetings using video conferencing
2. Dates and purposes of the meeting
3. Number of sites used for each meeting
4. Number of participants, including the public attending each meeting location
5. Members who were absent and those present at each meeting location,
6. Summary of the public comment taken at each meeting
7. Summary of the public body's experience using video conferencing

This recommendation was also included in the draft legislation recommended by the Council.

## NEW VIDEOCONFERENCING RULES

During the 2005 Session, the General Assembly enacted Chapter 352, which substantially relaxed the procedural requirements of FOIA for videoconferencing and ensured the continued use of technology to enhance meetings for both legislative members and the public. Specifically Chapter 352 made the following changes to FOIA:

1. Mandated posting of meeting notices on the Internet.
2. Provided that minutes of electronic meetings must include the identity of
  - a. Members at each remote location.
  - b. Citizens attending the meeting at each location.
  - c. Member(s) who did not attend, if any.
3. Mandated at least one meeting of a public body to be held without video conferencing.
4. Eliminated restriction of public body only having up to 25 percent of their meetings using video conferencing.
5. Mandated that telephone number(s) of each remote site be included in the meeting notice, so that remote sites can report interruptions.
6. Reduced the time to provide meeting notice from 30 calendar days to 7 working days.
7. Increased the reporting requirement by the public body to include:
  - a. Number of meetings using video conferencing.
  - b. Dates and purpose of the meeting.
  - c. Number of sites for each meeting.
  - d. Number of participants at each location.
  - e. Members present and members absent for each meeting.
  - f. Summary of public comment received.
  - g. Summary of the public body's experience using video conferencing.

## CONCLUSION

What began in 1998 when the Virginia General Assembly invested in the technology for conducting video conferencing, culminated in 2005 with a balance that affords greater public access to interim meetings<sup>15</sup> of the various legislative study commissions and joint subcommittees while providing the necessary flexibility to schedule and conduct legislative meetings. Even though electronic meetings were authorized in FOIA in 1986, with few significant amendments<sup>16</sup>, it wasn't until 2004, when the Clerks made the Council aware of the challenges they faced in scheduling interim legislative meetings, adapting to available technology for video conferencing and meeting the open government requirements of FOIA. Their challenges were also the challenges being faced by the administrative staff in the executive branch of Virginia's government. As a result of the hard work and dedication of all participants in the Subcommittee's work, the Council unanimously adopted the recommendations of its Subcommittee. These recommendations were ultimately approved by the 2005 General Assembly by enacting Chapter 352. With most of the heightened procedural requirements for video conferencing reduced, legislative

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<sup>15</sup> It should be noted that at no time did the provisions of either existing or proposed law apply to any regular, special or reconvened sessions of the General Assembly.

<sup>16</sup> As part of its deliberations, the Subcommittee discussed the legislative history of § 2.2-3708 and noted that when the law was initially enacted in 1984, it prohibited any public body from conducting electronic meetings. The next significant amendment came in 1992 when state public bodies were granted the permanent authority to conduct electronic meetings. In 1996, § 2.2-3708 was amended to require that a quorum of a state public body be assembled at one central location, as a prerequisite for conducting electronic meetings.

commissions and joint subcommittees now have the opportunity to function more efficiently through the use of technology and at the same time benefit the public through increased access.

Portions of this article have been excerpted with the permission of the Virginia Freedom of Information Act Council from its 2004 Annual Report to the Governor and the Virginia General Assembly (House Document No. 45, 2004).

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**WHEN THE EQUILIBRIUM BREAKS,  
THE STAFFING WILL FALL –  
EFFECTS OF CHANGES IN PARTY CONTROL OF STATE LEGISLATURES  
AND  
IMPOSITION OF TERM LIMITS ON LEGISLATIVE STAFFING**

By Gary R. VanLandingham  
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This study utilizes punctuated equilibrium theory to examine staffing levels of the 50 state legislatures over time, and strongly supports theoretical predictions. Consistent with theory, changes in the dominant policy monopolies controlling state legislatures and the imposition of term limits are found to be related to reductions in professional legislative staff. Theory explains this outcome as the result of newly empowered policy coalitions' suspicion of existing legislative staff that served the prior policy monopoly. These results suggest that changes in policy monopolies have effects beyond the change in policy outcomes, as these changes also affect the institutional support systems that policy monopolies use to maintain their positions of control. Overall, the most important factor in a change of control of a policy monopoly appears to be the change itself. The direction of the change (e.g., whether between Democrat or Republican party control), the recency of the change, and effect of creating united or divided state government do not appear to affect staffing outcomes. These outcomes were statistically strongest during periods of the highest frequency of changes in party control of state legislatures. The presence of fiscal stress within states, which could be expected to act as a contributing factor in changes in legislative staffing, was not found to be statistically related to staffing outcomes.

**Effects of Changes in Party Control of State Legislatures and Imposition of Term Limits on Legislative Staffing**

Introduction

In recent years, advocacy coalition and punctuated equilibrium theories have been widely used to examine various public policies and institutions. This study extends the application of these theories to examine staffing patterns within state legislatures.

Advocacy coalition theory holds that public policy outcomes are the result of the long-term competition between advocacy coalitions, which are comprised of legislators, agency administrators, interest groups, and other policy actors including think tanks, journalists, and policy analysts, which would include legislative staff (Sabatier, 1991; Sabatier and Jenkins-Smith, 1999). Members of these coalitions share a set of normative beliefs and engage in coordinated activity over time to attain their policy objectives (Sabatier and Jenkins-Smith, 1999). In this framework, policy changes occur through the incorporation of new information into the coalitions' belief structure – termed “policy-oriented learning” – as well as changes in the policy environment including electoral outcomes and turnover in coalition leadership (

Punctuated equilibrium theory is generally consistent with advocacy coalition theory, and focuses on the causes and outcomes of shifts in public policy. In this framework, policy outcomes are affected by how advocates define issues and set the policy agenda. Once an issue is initially determined, it typically comes under the control of a ‘policy monopoly’, which is defined as the institutional structure responsible for policymaking in the issue area; this monopoly consists of the officials – legislators and agency administrators – responsible for the policy area as well as the interest groups – which can include advocacy groups and think tanks – that support the current policy outcomes. Entities that control the policy monopoly have shared values and policy images that support the status quo (Baumgartner and Jones, 1993).

While policy monopolies can be quite stable over time due to the inherent limits on the number of policy issues that the political system can address at any time and monopolies’ efforts to limit the access to the policy area by persons outside the controlling advocacy coalition, they are not immortal and are subject to dramatic change. These changes occur when the policy equilibrium is punctured by outside forces, which can include increased public attention, changes in the policy environment, successful efforts to challenge the dominant policy image, and election outcomes (Baumgartner and Jones, 1993; Zahariadis, 1999). When this occurs, the policy outcomes can change dramatically, and a new policy monopoly can be formed that establishes different institutional arrangements to solidify their newfound control over the policy image and outcomes (True, Jones, and Baumgartner, 1999).

While scholars applying these theories have, to date, focused mainly on how policy changes occur through the interactions between policy actors in advocacy coalitions such as political leaders, interest groups, and policy entrepreneurs, the theories also have implications for legislative staffing patterns.

Legislative staff play an important role in advocacy coalitions and policy monopolies by both serving as influential advisors to the legislators who make the ultimate policy decisions and by acting as gatekeepers (Walker, 1969; Whiteman, 1995, Zajano and Lochtefeld, 1999). These staff, who may be hired on either a partisan or nonpartisan basis, include personal aides to legislators, policy and fiscal committee analysts, party caucus aides, and personnel who help administer the institution and the flow of legislation such as chamber clerks and technology and security personnel (NCSL, 2004a). Such legislative staff resources have the effect of reducing legislatures’ transaction costs by increasing their ability to gain information independent of the executive branch, identify and assess policy alternatives, and monitor whether the executive branch is faithfully enacting legislative policy initiatives (Gilligan and Krehbiel, 1987, 1989; McCubbins, Noll, and Weingast, 1989; Moe, 1989; Horn, 1995; Knight, 1995; Epstein and O’Halloran, 1999).

The number of professional staff employed by legislatures (both the national Congress and state legislatures) has substantially increased over the past 40 years (Baumgartner and Jones, 1993, Rosenthal, 1999). At the federal level, the number of professional staff employed by Congress grew from 7,706 in 1970 to 11,625 in 1985 (Baumgartner and Jones, 1993, 198). This increase has enabled Congress to play a more active role in both preserving and punctuating policy monopolies (Baumgartner and Jones, 1993).

The increase in state legislative staffing has been just as dramatic. According to the National Conference of State Legislatures, the number of professional legislative staff nationwide grew from 16,930 in 1979 to 28,067 in 2003, an increase of 66% (NCSL, 2004b). As at the federal level, this growth in state legislative staff has substantially increased the resources available to legislatures in the policy arena, and has been recognized as one of the key factors in the rise of legislative activism and influence over this period. These staff serve as “slack resources”, enabling state legislatures to independently develop, enact, and monitor policy initiatives (Walker, 1969; Berry and Berry, 1999; Zajano and Lochtefeld, 1999; Pound, 1999; Rosenthal, 1999).

However, the existence of a large cadre of professional legislative staff has implications under both advocacy coalition and punctuated equilibrium theories, which hold that coalitions are bound together by ideology and shared values (Baumgartner and Jones, 1993; Sabatier and Jenkins-Smith, 1999). Legislative staff are typically selected, hired, and directed by the majority party. While minority parties usually are allowed some staff within legislatures, this allocation is typically smaller than that controlled by the majority party. For example, the Florida Senate allocated eight staff positions to its majority caucus office during 2004, while allocating only five positions to the minority party caucus (Florida Senate, 2004). Legislative staff thus serves the interests of policy monopolies supported by the majority party, and can be viewed with suspicion by those outside the governing coalition who can logically see these staff as members of the prevailing policy monopoly.

When new coalitions (such as the minority party) gain power under a punctuated equilibrium, they can be expected to see legislative staff as outsiders who do not share their ideology and who cannot be trusted to carry out their coalition's differing policy aims. Newly empowered coalitions could be expected to seek to limit the power (and number) of legislative staff until the loyalty of these persons can be assured. For example, one of the tenets of the "Contract with America" that helped enable the Republican Party recapture control of the House of Representatives in 1994 was that congressional committee staffing should be reduced by one-third (Gingrich, 1994). Similarly, when the Republican Party gained control of the Florida House of Representatives in 1996 for the first time since Reconstruction, it changed the job titles of legislative analysts to "legislative research specialists" to signal that the new governing coalition did not trust the staff, who were largely holdovers from the prior Democratic Party administration, to provide policy advice (Roth, 2004).

Within state legislatures, the past fifteen years provide an excellent opportunity to test these suppositions. Over this period, two major changes have occurred that have substantially affected state legislatures. First, there has been greatly increased party competition and turnover. While the majority of state legislatures had been under the control of the Democratic Party since the 1960s, state legislatures became much more competitive during the 1990s. During this period, historic changes in party control occurred, with the Republican Party capturing the majority of state legislative seats and control of legislative chambers for the first time since 1954 (NCSL, 2004c). Second, term limits took effect in many states -- 15 state legislatures are operating under term limits, which force out long-standing legislative members (NCSL, 2004d). Both the change in party control and the substantially increased turnover in legislative seats create the opportunity for the windows of opportunity in which long-standing policy monopolies can be overturned (Kingdom, 1984; Baumgartner and Jones, 1993).

#### Hypotheses

This study tests six hypotheses that can be reasonably distilled from advocacy and punctuated equilibrium theory to determine their applicability within state legislatures.

***H1: Legislatures that experience changes in party control during the study period (1988 to 2003) will tend to have lower growth rates of professional staff than those of legislatures with a long-standing party control.*** This is projected to occur because shifts in party control contributed to punctuated equilibriums in which the new party in power will tend to view existing legislative staffing with suspicion and will seek to reduce the number of these staff.

***H2. The impact of changes in party control on legislative staffing will be the greatest immediately following a change in party control but decline over time.*** This recency effect is projected to occur as the new party in power will take steps to gain control of legislative staffing and either gain confidence in the staff or replace them with those that can be trusted.

**H3: Legislatures in states that have a dominant party control of both the legislatures and the executive (governor) during the study period will have a lower staff growth rate than those states with divided government.** This is projected to occur because states with unified party control may have a unified advocacy coalition that controls policymaking in both the executive and legislative branches, and such legislatures will not exercise as much independent policy development and monitoring as legislatures in states in which party control and coalitions are divided and legislatures thus face higher transaction costs for information and monitoring.

**H4: Legislatures in which term limits have taken effect will have lower growth rates of legislative staff than those states that have not imposed term limits.** This is projected to occur as term limits contribute to punctuated equilibriums and staff in these states will be viewed with more suspicion in such state legislatures.

**H5: Legislatures controlled by Republican Party majorities, due to their ideological tendency to oppose government intervention, will tend to have smaller growth rates than legislative staffs than legislatures controlled by Democratic Party majorities.** This is projected to occur because the Republican Party members may tend to rely on outside staff resources such as those by business or conservative think tanks to support their policy monopolies rather than government employees.

**H6: Legislatures with a low proportion of partisan staff will show less impact of changes in party control on staffing levels than those legislatures with a high percentage of partisan staff.** This is projected to occur because the partisan make-up of legislative staffing may affect the impact of punctuated equilibriums. It can be argued that legislatures with a high proportion of partisan staff would be more affected by a change in governing coalitions than those with mostly nonpartisan staffs. The majority party typically hires and controls the majority of partisan staff, who are expected to vigorously support the views of the ruling coalition. A new party in control would tend to view such staff as highly unreliable to carry out its policy aims, and it may seek to reduce the number of such persons as it may lack the requisite number of reliable staff with which to replace those of the opposing party.

#### Data sources and methodology

Data to test these hypotheses are derived from the National Conference of State Legislatures. These data include

- (1) the total number of professional legislative staff employed by each state legislature for the years 1988, 1996, and 2003; unfortunately, reliable data for the intervening years are not available;
- (2) the percentage of professional legislative staff that were classified as partisan and nonpartisan staff in 2003. Unfortunately, data on this variable are not available for the other years, but this percentage is unlikely to change materially over time;
- (3) party control of each legislative chamber (House of Representatives/General Assembly and Senate) for each state for the period 1988 to 2003;
- (4) Whether a governing coalition controlled both houses of the legislature and the governor's office of a state for the period 1988 to 2003.

To test the hypotheses, states were examined for two time periods -- 1988 to 1996, and 1996 to 2003. These time periods match the available data on legislative staffing. To increase statistical power, each

state was initially treated as two cases, one for each time period, resulting in 98 net cases.<sup>17</sup> In each period, it was noted whether a change in party control of the legislature occurred, the direction of the change in party control, the year of the change, and whether the governing coalition controlled both the legislature and the governor. However, analysis determined that there was a statistically significant difference between the two time periods in terms of legislative staffing outcomes. Specifically, during the 1988-96 period state legislatures added an average of 65.34 professional staff positions each, while they added an average of only 2.82 staff during the 1996-2003 period.<sup>18</sup> To further examine this outcome, separate statistical analyses were conducted on only the 1996-2003 period, which found stronger statistical results than the overall 1998-2003 period. Accordingly, results are presented for both time periods.

It is recognized that state fiscal pressures can affect legislative staffing, as legislatures may need to reduce their own staff when facing severe revenue shortfalls regardless of the impact of punctuated equilibriums. To test for this effect, a fiscal stress control variable was analyzed for the 1996-2003 period -- the net percentage change in appropriations for each state for Fiscal Year 2002-03. As most states experienced fiscal stress during this period, which immediately preceded the 2003 measurement of legislative staffing, any potential impact on legislative staffing patterns should be apparent.

The hypotheses were tested using several techniques. First, for each hypothesis, t or ANOVA tests were conducted with the net change in legislative staffing serving as the dependent variable and the other hypothesized variables serving as independent variables. Second, the net change in total legislative staffing was analyzed using ordinary least squares regression with the net change in legislative staffing serving as the dependent variable and the remaining variables serving as independent variables.

## Results

Overall, the analysis supported three of the six hypotheses, providing support for punctuated equilibrium theory. These results suggest that changes in policy monopolies have effects beyond the change in policy outcomes, as these changes also affect the support systems (legislative staffing) that policy monopolies use to maintain their positions of control. Overall, the most important factor in a change in control of a policy monopoly appears to be the change itself. The direction of the change (e.g., whether between Democratic or Republican party control), the recency of the change, and effect on creating united or divided state government do not appear to affect staffing outcomes.

### Changes in party control

As shown in Exhibit 1, the changes in party control had an effect on legislative staffing patterns, supporting Hypothesis 1. However, these outcomes were statistically significant only for the 1996 to 2003 period.

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<sup>17</sup> Nebraska was excluded from analysis, as this state legislature is uniquely elected on a nonpartisan basis, and thus the hypothesis could not be tested for this state. While various policy monopolies may operate on a nonpartisan basis within the Nebraska legislatures, it could be expected that such coalitions may not be as ideologically divided in a non-party state and thus have a reduced impact on legislative staffing.

<sup>18</sup> This difference was statistically significant at the .05 level (T= 2.033).

Of the 98 cases in the study, 50 experienced at least one change in party control during the research period. In 17 cases, the change in party control was total, as the party that was the minority in both the legislative chambers (e.g., House of Representatives and Senate) subsequently gained control of both chambers. In the remaining 33 cases, the change in control was partial, as only one chamber within the legislature changed party control.

For the overall 1988 to 2003 period, legislatures that experienced changes in party control of at least one chamber had a lower growth rate in legislative staffing – a mean gain of 13.7 positions, compared to a mean growth of 56.35 positions for those legislatures that did not experience punctuated equilibriums. For the 1996 to 2003 period, the difference in outcomes was more striking -- legislatures that experienced changes in party control saw a mean net reduction of 38.28 legislative staff positions, while those that had no changes in party control showed a mean net gain of 45.13 positions.<sup>19</sup>

Exhibit 1 – Changes in Party Control of State Legislatures Associated with Reductions in Legislative Staffing

A. 1988 to 2003

Change in Party Control	Mean Change in Staff	Standard Deviation	Standard Error	t	Significance
Change (n=50)	13.70	182.680	25.835	1.354	.179
No Change (n=48)	56.35	124.868	18.023		

B. 1996 to 2003

Change in Party Control	Mean Change in Staff	Standard Deviation	Standard Error	t	Significance
Change (n=25)	-38.28	122.541	24.508	-2.257	.029*
No Change (n=24)	45.13	135.523	27.663		

\* statistically significant at the .05 level

This difference may be explained by the increase in partisanship in recent years and the fact that the Republican Party gained control of several southern state legislatures during this period, where it had been out of power for long periods of time. For example, in Florida the Republican Party gained control of the Legislature in 1996 for the first time on over 100 years, and subsequently cut 246 legislative staff positions by 2003. Under the punctuated equilibrium theory, this could be explained as the result of the new policy monopolies, which were out of power for extensive periods of time, having extreme distrust of existing legislative staffing and thus being more inclined to eliminate staff positions that were viewed as supporting the prior Democratic Party policy monopoly.

<sup>19</sup> Legislatures that experienced changes in party control during the 1988 to 1996 period did not have materially different staffing changes from those that did not experience changes in party control – the legislatures that had party control changes gained a mean of 65.68 positions while those that did not have party changes gained 67.58 positions on average.

Recency of change in party control

Data analysis did not support Hypothesis 2, as the number of election cycles since the change in party control of state legislatures was not associated with legislative staffing outcomes. As shown in Exhibit 2, more recent changes in party control of legislatures (as measured by election cycles) were not associated with larger staffing outcomes (net loss of professional legislative staff positions).<sup>20</sup> In fact, those states that experienced less recent changes in party control had the largest net losses of staff, although these states involved only a few cases. However, none of these differences were statistically significant.

It is possible that these outcomes may be explained by rapid ‘ripple effects’ of punctuated equilibriums – newly empowered advocacy coalitions may quickly solidify their control of the policy arena after gaining electoral success, and thus effects of these changes on staffing patterns are not long-term. The large net losses in those states with party changes several electoral cycles ago may simply be outliers that are not explained by the current variables rather than showing a true long-term effect of changes in party control.

Exhibit 2 – Recency of Change in Party Control of Legislatures Not Associated with Changes In Legislative Staff  
A. 1988 to 2003

<b>Election Cycles Since Change in Party Control</b>	<b>Mean Change in Staff</b>	<b>Standard Deviation</b>	<b>Standard Error</b>	<b>F</b>	<b>Significance</b>
0 - No Change in Control (n=47)	56.38	126.218	30.963	1.588	.171
1 – Change Last Election (n=32)	16.75	175.151	18.894		
2 (n=9)	101.11	226.056	75.352		
3 (n=4)	-46.75	111.228	55.614		
4 (n=6)	-86.5	138.621	56.592		

B. 1996 to 2000

<b>Election Cycles Since Change in Party Control</b>	<b>Mean Change in Staff</b>	<b>Standard Deviation</b>	<b>Standard Error</b>	<b>F</b>	<b>Significance</b>
0 - No Change in Control (n=23)	45.13	135.523	27.663	1.452	.225
1 – Change Last Election (n=19)	22.69	127.315	35.311		
2 (n=5)	13.5	52.792	26.396		
3 (n=1)	-65.67	128.103	73.960		
4 (n=1)	-103.8	147.564	65.993		

<sup>20</sup> Due to the number of cycles tested, this relationship was analyzed using one-way ANOVA.

United versus divided government

As shown in Exhibit 3, the results did not support Hypothesis 3, which had predicted that states with divided government would show a growth in legislative staffing compared with united government states due to the higher transaction costs such legislatures would face in policymaking when faced with a chief executive of a different political party.

The states were fairly equally divided in terms of unified party control of government. For the 1988 to 2003 period, slightly over half (51) of the cases had united party control of both the executive and legislative branches, while 47 had divided party control of government. For the 1996 to 2003 period, a slight majority of the cases (26) had united government, while party control of the executive and legislative branches was divided in the other 23 cases.

United government states showed the reverse of the predicted pattern of staffing impacts during the 1988 to 2003 period, as such states experienced larger net increases in legislative staff than did divided states. During the 1996 to 2003 period, the staffing outcome did follow the predicted pattern as divided government states showed a small net increase in legislative staff while united government states experienced a small net staffing reduction, but in neither case were the results statistically significant.

Exhibit 3 – Unified Control of Executive and Legislative Branches Not Associated with Reductions in Legislative Staffing

A. 1988 to 2003

Unified Government	Mean Change in Staff	Standard Deviation	Standard Error	t	Significance
United (n=51)	54.96	178.700	25.023	1.3537	.179
Divided (n=47)	12.49	129.532	18.894		

B. 1996 to 2003

Unified Government	Mean Change in Staff	Standard Deviation	Standard Error	t	Significance
United (n=23)	-5.09	140.020	29.196	-.370	.713
Divided (n=26)	9.35	131.777	25.844		

The imposition of term limits produced effects that supported Hypothesis 4, as legislatures that were subject to term limits experienced staffing reductions as predicted. The results were statistically significant for both the 1988 to 2003 and the 1996 to 2003 periods.

Eleven state legislatures were subject to term limits during the study period, with the limits generally taking effect between 1996 and 2000. As shown in Exhibit 4, states with imposed legislative term limits showed substantial reductions in legislative staffing after the limits were enacted. The difference in the respective staff growth rates for the 1998 to 2003 and the 1996 to 2003 period for those states without term limits reflects the lower overall growth rate for legislative staffing in the later period.

Exhibit 4 – Term Limits Were Associated With Significant Reductions in Legislative Staffing  
A. 1988 to 2003

<b>Term Limits</b>	<b>Mean Change in Staff</b>	<b>Standard Deviation</b>	<b>Standard Error</b>	<b>t</b>	<b>Significance</b>
Imposed (n=11)	-63.82	136.539	41.168	-2.482	.027*
No Limits (n=89)	46.18	154.813	16.410		

B. 1996 to 2003

<b>Term Limits</b>	<b>Mean Change in Staff</b>	<b>Standard Deviation</b>	<b>Standard Error</b>	<b>t</b>	<b>Significance</b>
Imposed (n=11)	-63.82	136.539	41.168	-1.859	.082**
No Limits (n=39)	21.62	127.640	20.439		

\* statistically significant at the .05 level

\*\*statistically significant at the .10 level

These results indicate that term limits serve to produce punctuated equilibriums. As legislators who are long-standing supporters of policy monopolies are forced out of office by the limits, newly elected replacement legislators tend to cut back the professional legislative staff that supported the prior ruling coalition.

Republican Party Control of Legislatures

Electoral results that brought Republican Party control of state legislatures did not support Hypothesis 5. As shown in Exhibit 5, while legislatures under full Republican Party control showed lower rates of staff growth over the 1988 to 2003 period and staffing reductions over the 1996 to 2003 period compared to legislatures under full control of the Democratic Party, the differences were not statistically significant. This analysis excluded legislatures that experienced divided party control with each chamber controlled by one party, as the results would be mixed in such situations.

This result is consistent with punctuated equilibrium theory, which would predict that it is the change in the policy monopoly itself, rather than the nature of the change, which produces ripple effects throughout the coalition support structure.

Exhibit 5– Republican Control of Legislatures Not Associated with Legislative Staffing Changes

A. 1988 to 2003

<b>Party in Control</b>	<b>Mean Change in Staff</b>	<b>Standard Deviation</b>	<b>Standard Error</b>	<b>t</b>	<b>Significance</b>
Republican (n=35)	32.92	183.740	22.853	.583	.562
Democratic (n=38)	54.83	135.199	29.807		

B. 1996 to 2003

<b>Party in Control</b>	<b>Mean Change in Staff</b>	<b>Standard Deviation</b>	<b>Standard Error</b>	<b>t</b>	<b>Significance</b>
Republican (n=20)	-14.95	122.998	27.501	.585	.563
Democratic (n=16)	11.63	144.744	36.186		

Partisan staffing

Analysis provided partial support for Hypothesis 6. For the 1996 to 2003 period, state legislatures with a high percentage of partisan staff substantially reduce the number of legislative staff, while those legislatures with mostly nonpartisan staff instead increased the number of such positions. In the entire period, the same overall relationship held, but legislatures with mostly partisan staff simply increased staffing at a lower rate than those legislatures with mostly nonpartisan staff. (A high percentage of partisan staff was defined as more than 36% of total professional legislative staff defined as partisan, which was the average of all states.)

Exhibit 6 – Legislatures with High Percentages of Partisan Legislative Staff had Lower Staff Growth Rates than Those with Mostly Nonpartisan Staffing

A. 1988 to 2003

<b>Percent Partisan Staffing</b>	<b>Mean Change in Staff</b>	<b>Standard Deviation</b>	<b>Standard Error</b>	<b>t</b>	<b>Significance</b>
Low (n=48)	48.06	83.673	12.077	.815	.418
High (n= 50)	22.44	205.144	29.012		

B. 1996 to 2003

<b>Percent Partisan Staffing</b>	<b>Mean Change in Staff</b>	<b>Standard Deviation</b>	<b>Standard Error</b>	<b>t</b>	<b>Significance</b>
Low (n=24)	51.63	99.991	20.411	2.690	.010*
High (n= 25)	-44.96	147.678	29.536		

\* Statistically significant at the .05 level

Regression models of combined effects

A series of regression analyses were conducted to test the combined effects of all of the variables examined in the study. With net change in professional legislative staff (as the dependent variable, the following independent variables were examined – the presence of term limits (TERMLIMITS), percentage of partisan staffing (PARTISAN), whether a change in party control of at least one legislative chamber occurred (CHANGE), the number of election cycles since the change in party control of at least one legislative chamber (CHGCYCLE), whether Republican Party majorities controlled the legislatures (RLEG), and whether the executive and legislative branches were controlled by a single party (UNITED). Additionally, as fiscal stress on a state could affect legislative staffing, a control variable was tested (FISCAL), defined as the percentage change in legislative appropriations for the 2002-03 state fiscal year.

As prior analysis had found differing results for the 1988 to 2003 period and the 1996 to 2003 period, separate regression analyses were conducted for the two periods. As shown in Exhibit 7, Model 2 produced much stronger results for the 1996 to 2003 period than did Model 1, which analyzed the 1988 to 2003 period. Only in the 1996 to 2003 period was the overall regression model statistically significant, and this model produced a much higher adjusted R<sup>2</sup>. Fiscal stress was not found to be statistically relevant. The best fit model, including only those variables that produced statistically significant results, produced the highest F change value (6.368, significant at the .001 level) and an adjusted R<sup>2</sup> of .251.

Exhibit 7 – Regression Analysis Found Support for Term Limits and Partisan Makeup of Legislative Staff as Key Predictors of Staffing Changes

A. Model 1 - 1988 to 2003

**Model Summary**

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate	Change Statistics				
					R Square Change	F Change	df1	df2	Sig. F Change
1	.320(a)	.102	.043	154.268	.102	1.729	6	91	.123

a Predictors: (Constant), united, chgcycle election cycle since party change, partisan percent staff partisan, termlimits state under term limits during period, rleg, change

**ANOVA(b)**

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	246952.719	6	41158.787	1.729	.123(a)
	Residual	2165666.954	91	23798.538		
	Total	2412619.673	97			

a Predictors: (Constant), united, chgcycle election cycle since party change, partisan percent staff partisan, termlimits state under term limits during period, rleg, change

b Dependent Variable: staffchg change in staffing

**Coefficients(a)**

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	167.236	105.132		1.591	.115
	termlimits	-116.925	52.560	-.235	-2.225	.029
	partisan	-.425	.570	-.077	-.745	.458
	Change	-10.588	48.179	-.034	-.220	.827
	chgcycle	-21.887	21.319	-.157	-1.027	.307
	Rleg	-2.501	24.511	-.013	-.102	.919
	United	-43.913	37.800	-.140	-1.162	.248

a Dependent Variable: staffchg change in staffing

B. Model 2 - 1996 to 2003

**Model Summary**

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate	Change Statistics				
					R Square Change	F Change	df1	df2	Sig. Change
1	.578(a)	.334	.221	118.724	.334	2.940	7	41	.014

a Predictors: (Constant), fiscal percentage change in appropriations 02/03, united, change, partisan percent staff partisan, termlimits state under term limits during period, rleg, chgcycle election cycle since party change

**ANOVA(b)**

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	290080.446	7	41440.064	2.940	.014(a)
	Residual	577915.554	41	14095.501		
	Total	867996.000	48			

a Predictors: (Constant), fiscal percentage change in appropriations 02/03, united, change, partisan percent staff partisan, termlimits state under term limits during period, rleg, chgcycle election cycle since party change

b Dependent Variable: staffchg change in staffing

**Coefficients(a)**

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	25.629	118.052		.217	.829
	termlimits	-78.170	47.027	-.245	-1.662	.104
	partisan	-1.872	.620	-.399	-3.021	.004
	change	22.272	53.706	.084	.415	.681
	chgcycle	-25.981	21.235	-.257	-1.223	.228
	rleg	12.196	27.333	.074	.446	.658
	united	20.296	41.271	.076	.492	.625
	fiscal	-.272	2.839	-.013	-.096	.924

a Dependent Variable: staffchg change in staffing

**Conclusions**

This article finds results that are highly consistent with punctuated equilibrium theory and serve to extend this theory to the institutions that support policy monopolies. Changes in the party control of state legislatures, which can be considered to represent the puncturing of an existing policy monopoly, produce impacts beyond the likely shift in policy outcomes, as these changes also affect the support systems (legislative staffing) that support the coalitions controlling policy arenas. Overall, the most important factor in a change in party control of state legislatures appears to be the change itself. Newly empowered policy monopolies apparently view the existing institutional support system represented by legislative staff who previously served the prior monopoly with deep suspicion, and react by reducing the number of such staff, particularly if they had been hired on a partisan basis. The direction of the change (e.g., whether between Democratic or Republican party control), the recency of the change, and effect on creating united or divided state government do not appear to affect staffing outcomes.

The impact of these changes on the legislative institution is unclear. As reductions in staffing after changes in party control of legislatures appear to be relatively permanent, given that no recency effect was found, these changes could have the effect of eroding the policy capacity of state legislatures over time. Given the increasing role of states in major policy areas such as public assistance and health care, such an outcome could signal a shift in power from legislatures to the executive branch or other entities. This outcome would be in line with predictions that term limits will erode the policy capacities and power of state legislatures.

However, this outcome could be a temporary anomaly in the long-term trend of increased legislative staffing over time and reflect the relatively tough fiscal times that states have faced since 1990. Although an available measure of fiscal stress was not found to be related to staffing outcomes, the impact of the recent recession and its major impact on state budgets may have exacerbated more naturally short-term reductions in staffing after a punctuated equilibrium occurs and depressed the expected rebound in staffing after the new policy coalition gained experience and confidence in its supporting professional staff. Additionally, some expected rebound effect may have been masked by the relative paucity of data on changes in legislative staffing over time. Additional data points on the number of staff employed by legislatures would allow a more precise determination of these effects and a more extensive application of punctuated equilibrium theory to legislative institutions.

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