



North Dakota Legislative Council

Prepared for the Legislative Procedure
and Arrangements Committee
LC# 25.9067.02000
December 2023

IMPACT OF TERM LIMITS ON THE LEGISLATIVE ASSEMBLY - BACKGROUND MEMORANDUM

Senate Bill No. 2192 (2023) ([appendix](#)), directs the Legislative Management to study the impact of term limits on the manner in which the Legislative Assembly conducts business. The study must include an assessment of the desirability of providing increased educational opportunities for legislative members due to shortened tenures in the Legislative Assembly, increasing the number of Legislative Council policy staff available to assist new members, and holding legislative sessions on an annual basis. The impetus behind Senate Bill No. 2192 was the passage of Measure No. 1 on the November 2022 general election ballot, which imposed term limits on legislators and the Governor.

BACKGROUND

Measure No. 1, which passed by a vote of 150,363 to 86,674, created Article XV of the Constitution of North Dakota and became effective on January 1, 2023. Article XV prohibits an individual from serving as the Governor for more than 2 terms and prohibits an individual from serving more than a cumulative period of 8 years as a member of the House of Representatives and a cumulative period of 8 years as a member of the Senate. An individual's service in the House of Representatives or the Senate or election to the office of the Governor before January 1, 2023, does not count against the term limits provided in Article XV. Section 1 of Article XV provides an individual "shall not be eligible to serve a full or remaining term as a member of the house of representatives or the senate" if serving the full or remaining term would cause the member to exceed a total of 8 years of service in that member's respective house.¹ Amendments to the term limits for legislators only may be proposed by citizens through an initiated constitutional measure. Article XV prohibits the Legislative Assembly from proposing amendments to alter or repeal legislator term limits.

The majority of state legislative term limits were enacted in the early 1990s.² The adoption of term limits in North Dakota made North Dakota the 16th state with legislative term limits. In a majority of states in which term limits are imposed, limits are placed on the consecutive number of years a legislator may serve before a break in service is required. In a minority of states, including North Dakota, term limits are imposed in a manner that creates a lifetime limit on the total number of years a legislator may serve. The following tables provide the lifetime legislative term limits and consecutive years of service legislative term limits by state.

State	Lifetime Term Limits
California	An individual is subject to a lifetime limit of 12 combined years of service between either house.
Michigan	An individual is subject to a lifetime limit of 12 combined years of service between either house.
Missouri	An individual is subject to a lifetime limit of 8 years of service in the House of Representatives and 8 years of service in the Senate.
Nevada	An individual is subject to a lifetime limit of 12 years of service in the House of Representatives and 12 years of service in the Senate.
North Dakota	An individual is subject to a lifetime limit of 8 years of service in the House of Representatives and 8 years of service in the Senate.
Oklahoma	An individual is subject to a lifetime limit of 12 combined years of service between either house.

¹ It is unclear whether this language prohibits a candidate from running in an election if a successful run will lead to the candidate being unable to serve the full term for which the candidate is elected without exceeding a total of 8 years of service or whether the provision does not prevent a candidate from running in an election but instead creates a vacancy in office if the candidate who is elected reaches 8 total years of service before the conclusion of that member's term.

² In 1990, term limits were enacted in California, Colorado, and Oklahoma and in 1992, term limits were enacted in Arizona, Arkansas, Florida, Michigan, Missouri, Montana, Ohio, and South Dakota.

State	Consecutive Year Term Limits
Arizona	An individual may serve 8 consecutive years in the House of Representatives and 8 consecutive years in the Senate. An individual must have an absence of service of one full term before serving another 8 consecutive years in the same house.
Arkansas	An individual may serve up to 12 consecutive years between either house. An individual must have a 4-year absence of service before serving another 12 consecutive years between either house.
Colorado	An individual may serve 8 consecutive years in the House of Representatives and 8 consecutive years in the Senate. An individual must have a 4-year absence of service before serving another 8 consecutive years in the same house.
Florida	An individual may serve 8 consecutive years in the House of Representatives and 8 consecutive years in the Senate. An individual must have a 2-year absence of service before serving another 8 consecutive years in the same house.
Louisiana	An individual may serve 12 consecutive years in the House of Representatives and 12 consecutive years in the Senate. An individual must have an absence of service before serving another 8 consecutive years.
Maine	An individual may serve 8 consecutive years in the House of Representatives and 8 consecutive years in the Senate. An individual must have a 2-year absence of service before serving another 8 consecutive years in the same house.
Montana	An individual may serve 8 consecutive years in the House of Representatives and 8 consecutive years in the Senate. An individual must have an 8-year absence of service before serving another 8 consecutive years in the same house.
Nebraska	An individual may serve 8 consecutive years in the Senate in Nebraska's unicameral legislature. An individual must have a 4-year absence of service before serving another 8 consecutive years.
Ohio	An individual may serve 8 consecutive years in the House of Representatives and 8 consecutive years in the Senate. An individual must have a 2-year absence of service before serving another 8 consecutive years.
South Dakota	An individual may serve 8 consecutive years in the House of Representatives and 8 consecutive years in the Senate. An individual must have an absence of service before serving another 8 consecutive years.

States in which term limits are imposed experienced dramatic turnover at the end of the first term limit cycle. Following the "Eight is Enough" campaign and the 1992 enactment of term limits in Florida, the state saw the highest number of new members elected in 2000 since the state's legislature first convened in 1845, with the forced retirement of 68 representatives and senators.³ In 1998, turnover at the end of the first cycle of term limits in Michigan was even more pronounced, with 64 of the state's 110 members of the House of Representatives barred from running for re-election.⁴ The impact of North Dakota's term limits initially will be felt in 2028, when up to 69 members will have termed out, and again in 2030, when up to an additional 72 members will term out.⁵

ADDRESSING THE IMPACTS OF TERM LIMITS

Proponents of term limits have highlighted the benefits of the practice as decreasing political careerism, increasing turnover to potentially include more women and minorities in the legislature, and bringing fresh ideas to the process. Opponents of term limits have highlighted the consequences including the loss of a voter's ability to re-elect long-serving members who have provided dedicated service to their constituents, the loss of institutional knowledge of the workings of the legislature and the political process, the increased influence of lobbyists, and a shift in the balance of power between the legislative and executive branches of government. States in which term limits are imposed have relied on legislative staff, legislative leaders, and outside organizations to lessen the negative impacts of term limits.

Role of Legislative Staff

State legislative staff generally consists of legal and library staff, policy and research staff, fiscal analyst and auditor staff, administrative and clerical staff, and information technology staff. The structure and organization of legislative service agencies vary from state to state. In North Dakota, a relatively small fiscal, legal, library,

³ DePalo, Kathryn A. *The Failure of Term Limits in Florida*, University Press of Florida, 2015.

⁴ Drage Bowser, Jennifer; Chi, Keon S.; and Little, Thomas H. *Coping with Term Limits: A Practical Guide*, National Conference of State Legislatures, 2006.

⁵ The 69-member figure is provided under the assumption all existing members from even-numbered districts would run for re-election in 2024 and Article 1 of Section XV of the Constitution of North Dakota will prevent those members from running in 2028 due to the inability of those member to serve the full term, effectively limiting existing members from even-numbered districts to 6 years of service following January 1, 2023. The remaining 72 members from odd-numbered districts, if all were to run and be re-elected in 2026, would term out in 2030.

information technology, and administrative services staff are housed at the same location under one legislative service agency and legislators, other than leaders, do not have personal staff. The North Dakota Legislative Council is comprised of 45 staff members and serves 141 legislators.

In Montana, the legislature has three nonpartisan service agencies, which include the Legislative Audit Division, the Fiscal Division, and the Legislative Services Division, which employ a combined total of 133 staff members and serve 150 legislators. Montana's Legislative Services Division is comprised of 69 employees, 10 of which are attorneys and 13 of which are research or policy analysts.

In Texas, the state's 181 legislators are served by five service agencies, including the Legislative Council, Legislative Budget Board, Legislative Reference Library, House Research Office, and Senate Research Center. The legal division of the Legislative Council in Texas is allotted 75 staff positions, 55 of which are for attorneys. Individual legislators in Texas also have access to personal staff, including communications specialists, policy analysts, and aids.

The following table includes data collected by the National Conference of State Legislatures during its most recently completed legislative staff census in 2021 regarding the number of permanent legislative staff in each state. The breakpoints in the table mark each incremental increase of 100 permanent staff or, for the last two breakpoints, each incremental increase of 1,000 permanent staff. As shown in the table below, North Dakota had the smallest number of permanent staff in the nation in 2021.

State	Number of Legislators	Permanent Legislative Staff ¹	State	Number of Legislators	Permanent Legislative Staff ¹
North Dakota	141	34 ²	Alaska	60	322
Wyoming	93	44	Virginia	140	351
South Dakota	105	61	Kentucky	138	363
Vermont	180	72	Alabama	140	379
Delaware	62	87	Oregon	90	405
Idaho	105	89	Missouri	197	408
New Mexico	112	122	Connecticut	187	427
Mississippi	174	129	Arkansas	135	432
New Hampshire	424	139	Ohio	132	436
Montana	150	143	North Carolina	170	493
Kansas	165	152	Wisconsin	132	592
Utah	104	165	Minnesota	201	600
Maine	186	178	New Jersey	120	605
West Virginia	134	189	Arizona	90	621
Iowa	150	192	Washington	147	627
Oklahoma	149	202	Maryland	188	644
Georgia	236	221	Louisiana	144	735
Nebraska	49	228	Massachusetts	200	791
Colorado	100	262	Michigan	148	810
South Carolina	170	269	Illinois	177	984
Indiana	150	270	Florida	160	1,448
Hawaii	76	273	Texas	181	1,619
Nevada	63	291	Pennsylvania	253	2,323
Rhode Island	113	294	California	120	2,751
Tennessee	132	304	New York	213	2,850

¹Permanent staff counts are based on the 2021 legislative staff census performed by the National Conference of State Legislatures.

²The number of funded permanent staff positions in the North Dakota Legislative Council increased to 45 following the 2023 legislative session.

In states that impose term limits, increased reliance is placed on legislative staff to provide new members with research on subject-specific items and educational materials on the budgetary process and the procedural workings of the legislature. Several states provide organizational days or sessions during which orientation materials are provided to new members. Information provided by the National Conference of State Legislatures indicates 19 states, including North Dakota, provided orientation sessions or days before or during the most recent legislative session. In North Dakota, Section 7 of Article IV of the Constitution of North Dakota mandates an organizational session be held in the month of December following the election of members. Orientation provided to new and returning members during North Dakota's 3-day organizational session includes computer and laptop training, training on software applications used by legislators, informational sessions on human resource applications and

benefits, training on legislative ethics and workplace harassment policies, information on services provided by the Legislative Council, an explanation of the division of powers and duties among the three branches of government, an explanation of the structure and responsibilities of the legislative branch, an overview of legislative rules, an explanation of daily routines and floor procedures, an overview of the lifecycle of a bill from introduction to final passage, information on unique statutory requirements for certain bills, a summary of the findings and recommendations of the previous interim's committees, and resource materials for standing committee chairmen.

A concern raised regarding North Dakota's organizational session is the difficulty for members to absorb a large volume of information in a short period of time. Some new members might find the breadth of information and training provided during the organizational session fairly overwhelming, and occasionally too abstract without the benefit of having experienced the situations to which the training applies. Potential approaches to address these concerns might include extending the organizational session or providing additional or refresher training sessions at various points during the legislative session. Refresher training sessions could aid in solidifying a new member's understanding of the procedural aspects of the legislative process. Additional educational materials and white papers also could be placed on the Legislative Council's website for ease of access by members; however, the speed at which new original work product could be added is somewhat constrained by the relatively small size of the Legislative Council staff.

Role of Legislative Leaders

The role of legislative leaders also takes on a new dynamic in states that have enacted term limits. The 2006 National Conference of State Legislatures' publication [Coping with Term Limits: A Practical Guide](#), provides invaluable insight on the challenges that arise due to term limits and the methods used to address those challenges. The publication, which is the result of a 3-year study and numerous interviews and surveys, artfully illustrates the juxtaposition between term limits' impact of eroding the influence legislative leaders have over new members while simultaneously increasing new member's reliance on legislative leaders for education and mentorship.

Legislative leaders and committee chairmen serve a vital role in keeping members in their respective houses on task to ensure the work of the legislative body is completed in the limited time allotted. This becomes more difficult in states in which term limits are imposed because members are sometimes less inclined to comply with directives from leaders or chairmen who members know will not be returning after a set time frame. An approach used in some states is the imposition of bill introduction limits to reduce the volume of legislation considered during the legislative session to a more manageable workload. In North Dakota, bill introduction limits are imposed on the number of bills that may be introduced per member after a certain date; however, overall bill introduction limits per member are not imposed. The following table provides a sampling of per member bill introduction limits by state.

State	Per Member Bill Introduction Limit ¹	Authority
Colorado	No more than 5 bills per member	Joint Rule 24
Wyoming	No more than 7 bills per Senate member	Senate Rule 4-3
Florida	No more than 7 bills per House member	House Rule 5.3
Oklahoma	No more than 8 bills per House member	House Rule 6.4
Indiana	No more than 10 bills per member	Senate Rule 48 and House Rule 108
Tennessee	No more than 15 bills per House member	House Rule 44
North Carolina	No more than 15 bills per House member	House Rule 31.1(g)
Rhode Island	No more than 25 bills per Senate member	Senate Rule 4.13
California	No more than 40 bills per Senate member and no more than 50 bills per House member	Senate Rule 22.5 and Assembly Rule 49

¹Many of the limitations specified above are subject to various exceptions or exclusions. The figures noted above reflect introduction limits imposed during a regular session. Some states provide lower bill introduction limit thresholds for bills introduced during a budget session than apply to bills introduced during a regular session.

Legislative leaders and committee chairmen also serve a heightened educational and mentorship role in states that impose term limits. Generally, members holding leadership and chairmen positions are the more senior members of the legislature. These members have the greatest level of institutional knowledge on legislative procedure and rules of decorum. Various methods have been used to transfer knowledge and orient new members in other states. In Ohio, a recent speaker held daily meetings with freshman members to explain the procedural aspects of what occurred during the day's floor session and respond to questions.⁶ In Arkansas and Florida, "speaker designates" are chosen the year before they will assume the role of Speaker to allow them to participate in leadership meetings and serve in an apprenticeship role.⁷

⁶ Drage Bowser, Jennifer; Chi, Keon S.; and Little, Thomas H. *Coping with Term Limits: A Practical Guide*, National Conference of State Legislatures, 2006, p. 9.

⁷ Id.

One challenge to establishing an apprentice method in North Dakota is the length of time between legislative sessions. North Dakota is one of four states that meet biennially. The other three states are Montana, Nevada, and Texas. Of the remaining states that convene for annual sessions, seven states limit the scope of sessions held in the 2nd year of the biennium to fiscal or budgetary matters. Those states are Arkansas, Connecticut, Louisiana, Maine, New Mexico, North Carolina, and Wyoming. The following table provides information on attempts made in the previous 20 years to institute either special or reconvened sessions in even-numbered years.

Year	Bill or Resolution Number	Description	Disposition
2003	Senate Bill No. 2294	Would have provided for reconvened regular sessions in even-numbered years for budget adjustment purposes.	Failed by a vote of 12 to 35 in the Senate.
2007	House Concurrent Resolution No. 3054	Would have provided for reconvened regular sessions in even-numbered years.	Failed by a vote of 37 to 54 in the House.
2009	House Bill No. 1557	Would have provided for reconvened regular sessions in even-numbered years for budget adjustment purposes.	Failed by a vote of 33 to 61 in the House.
2013	House Bill No. 1262	Would have provided for regularly scheduled reconvened sessions in even-numbered years.	Failed by a vote of 30 to 62 in the House.
2015	House Bill No. 1342	Would have provided for reconvened regular sessions in even-numbered years.	Failed by a vote of 27 to 65 in the House.
2015	Senate Bill No. 2247	Would have provided for reconvened regular sessions in even-numbered years.	Failed by a vote of 19 to 28 in the Senate.
2019	House Bill No. 1399	Would have provided for reconvened regular sessions in even-numbered years for budget adjustment purposes.	Failed by a vote of 19 to 72 in the House.
2019	Senate Bill No. 2279	Would have provided for reconvened sessions in even-numbered years for budget adjustment purposes.	Failed by a vote of 19 to 27 in the Senate.
2021	Senate Bill No. 2218	Would have provided for reconvened sessions in even-numbered years.	Failed by a vote of 25 to 68 in the House.
2023	Senate Bill No. 2333	Would have provided for reconvened regular sessions in even-numbered years.	Failed by a vote of 21 to 26 in the Senate.
2023	House Concurrent Resolution No. 3020	Would have provided for annual sessions.	Failed by a vote of 0 to 46 in the Senate.

If annual sessions become a reality in North Dakota, legislators may wish to consider whether there is a need for personal office space. North Dakota is one of 11 states that does not provide dedicated office space for all members. The other 10 states are Iowa, Kansas, Louisiana, Maine, Montana, New Hampshire, Rhode Island, South Dakota, Vermont, and Wyoming.

Role of Outside Organizations

The training and educational opportunities provided by outside organizations are a valuable resource for new members in states in which term limits are imposed. National organizations provide comprehensive resources in topic-specific areas as well as information specific to the role of legislating. Resources for new and returning legislators are available from organizations such as the National Conference of State Legislatures, the Council of State Governments, and the State Legislative Leaders Foundation.

SUGGESTED STUDY APPROACH

The committee may wish to proceed with the study by seeking information from national organizations on training and educational opportunities available to legislators; assessing current policies, procedures, and legislative rules to determine whether adjustments would be beneficial in addressing the impacts of term limits; receiving information from other interested parties that may be impacted by term limits; and analyzing the staffing and space needs of the legislative branch.

ATTACH:1