

Testimony
James C. Garand
Emogine Pliner Distinguished Professor
Special Committee on Preparing for Term Limits
March 14, 2007

I. Introduction

I was very pleased to hear that the Louisiana House had created a special committee to consider how to prepare for the implementation of legislative term limits. As you all know, term limits were adopted in a number of states throughout the 1990s. The adoption of term limits is really a great American political experiment. We political scientists did not have a great deal of definitive evidence about the implications of term limits when they were first adopted. To be sure, we had a wide range of theoretical expectations of what would happen when legislative term limits came into effect, though not all of us agreed with one another about those expectations. Both advocates and opponents of term limits were able to marshal arguments to support their positions, but the definitive assessment of the effects of term limits has awaited the implementation of term limits and the collection of evidence about their effects.

We are now in a position to offer more definitive arguments about the implications of term limits. Political scientists have studied term limits extensively, and we now have accumulated a stockpile of data that are relevant to answering the question of how term limits affect voters, candidates and potential candidates, legislators, legislative institutions, and power arrangements in the American states.

As I understand it, my charge is to talk about partisanship in state legislatures. In particular, I am charged with discussing the partisan implications of legislative term limits in state legislatures, with special attention paid to what we might envision as the future of partisanship in the Louisiana House of Representatives.

Permit me to preview my arguments for today. I am going to make three points:

1. Term limits have effects on voters, potential candidates, and legislative incumbents, and at least some of these effects have the potential of accentuating legislative turnover and partisan division in state legislatures. This is certainly—and some would say particularly—true for the Louisiana legislature.
2. A variety of demographic, political, and socioeconomic changes suggest that it is increasingly likely that the partisan composition of the Louisiana House will continue its shift in the Republican direction. This does not necessarily mean that the Louisiana House will become a Republican institution; rather, it is likely that the legislature will strike a stronger partisan balance between Republicans and Democrats. This has implications for the levels of partisanship and partisan conflict in the legislature.
3. Some level of partisan conflict in the Louisiana House is likely in the future, most likely above current levels. Some of this may be due to demographic, political, and socioeconomic changes that are creating higher levels of party polarization throughout

the United States, but some of this may be due to political changes associated with term limits. Partisan division and conflict in Louisiana is not necessarily a bad thing, provided that the partisanship is channeled into constructive directions. There may be some lessons from the legislative politics literature in political science relating to how to avoid the intense partisan conflict that characterizes some legislatures, including the U.S. Congress.

II. Do term limits increase partisan pressures in the electorate?

A. Term limits and turnover

Perhaps the most commonly discussed implication of term limits is membership turnover. In a legislature without term limits, presumably legislators will seek reelection (or not) based on their own inclinations and their perceptions of their political context. Some legislators will enter the legislature and remain naturally for only a short time, departing because of electoral defeat, the decision to seek higher office, or personal choice to leave public service. But other legislators will remain naturally in the legislature for a longer period of time, in some cases having a legislative career that spans decades. This is particularly true in professionalized legislatures, where making the legislature a career is possible and where the available resources can make the job of being a legislator tolerable or even enjoyable.

Obviously, term limits upset this natural rhythm of the legislative career. For legislators who would normally have a short-term legislative career, term limits do not have a major effect on their behavior. But for the many legislators whose natural inclinations and political context would normally result in a long career, term limits will have a strong effect on their ability to have a long legislative career and, ultimately, the career choices that they make. For such legislators, the departure from the legislative arena is involuntary and premature.

There is an interactive effect at work here between term limits and legislative professionalism. In a legislature with low professionalism and high level of turnover as a natural course, term limits affects the careers of only a small number of legislators. However, in highly professional legislatures members who would normally be expected to have a long career will have those expectations dashed. Hence seats come open at a faster rate than would be expected in highly-professionalized legislatures.

It is also important to note that legislators are rational—i.e., they tend to act strategically, and their reactions to term limits are no less strategic than their reactions to other conditions. What this means is that term limits are likely to shorten the careers of even those legislators who are still eligible for reelection. Some legislators who would naturally remain in the legislature will decide that the value of remaining in a term-limited seat is limited. Others—perhaps many others—will opt for higher office before their time in the legislative chamber is up. This creates a level of turnover that precedes the legal limitations of their legislative terms.

B. Term limits and incumbency

So what? If legislators step down from office prematurely (at least by their reckoning), how does this matter?

The answer lies at least in part in the decision process for voters. Political scientists have spent a great deal of energy trying to explain election outcomes in legislative elections. Scholars have found that partisan identification is a strong determinant of individuals' voting decisions in most elections, including legislative elections. When partisanship drives the choices of voters in legislative elections—that is, when elections become highly partisan—there is a strong tendency for that partisanship to be transmitted to the legislators elected on that basis. The result is often a more polarized legislature, with legislators sorting themselves and their votes on the basis of party.

Over the past 30 years political scientists have documented a major increase in the role of incumbency in U.S. congressional elections, primarily since the mid-1960s but also over a longer time period since the 1890s. Simply, partisanship, while still important, has become less important in shaping congressional election outcomes, while incumbency has come to have a more important role in congressional elections. This shift toward an incumbency-based election system has meant that there has been a shift toward “candidate-centered” campaigns rather than “party-centered” campaigns, and this has resulted in a decline in party polarization for much of the 20th century.

What is it about incumbency that trumps party? Political scientists often talk about how voters use simple “cues” or “decision rules” to assist them in making decisions at the polls. Party is a very good, simple cue—i.e., the voter goes to the polls, checks on the partisanship of competing candidates, and votes for the person whose partisanship matches his or her own. When the political parties stake out different policy positions in a consistent way, a vote based on a partisan cue is probably going to be just as good as a vote based on a thorough examination of the platform of all of the competing candidates. But incumbency has become an even more readily available cue in some ways. Voters do not want to vote for someone whose name they cannot recognize, and incumbents are much more likely to be known and recognized than non-incumbents, particularly in elections that are not at the top of the ticket. Moreover, incumbents have developed ways of publicizing their activities and doing constituency service and casework; these activities create a grateful electorate willing to support incumbents even if they do not share the same partisan attachment.

The power of incumbency is not limited to congressional elections. There is a strong incumbency effect in state legislative elections, particularly in professionalized legislatures where legislators have more opportunities for constituency service and publicizing their activities. But even in less professionalized legislatures, the incumbency advantage still exists.

What all this means is that party has not been the only game in town. When the effects of partisanship are diminished in the minds of voters, and when incumbency and the actions of incumbents take center stage, the likelihood of partisan conflict in the legislature is at least somewhat diminished. When the effects of party are enhanced and the effects of incumbency are diminished, the potential for partisan conflict in the legislature increases. This is exactly what term limits have the potential to do.

III. Are term limits likely to result in greater Republican representation and greater partisan division in the Louisiana House of Representatives?

Political scientists studying term limits have documented a wide variety of changes that occur in affected legislative bodies. Term limits are seen as having a negative effect on legislative expertise, since the expertise benefits of seniority are lost. Term limits are seen as diminishing institutional memory; if there are no “old timers” available to share their experiences from years past, legislatures are more likely to repeat the mistakes of the past, so the argument goes. Some scholars contend that term limits are associated with a decline in collegiality and cooperation; when legislators have only a short window in which to achieve their goals, they are less likely to be patient with the sometimes slow pace of desired policy change. Still other scholars have suggested that term limits results in a decline in legislative responsiveness to constituency policy preferences. This is a variation of what might be thought of as the “retirement” effect, in which legislators who know that they are not seeking reelection become less responsive to constituency opinion in the last few years in office.

However, the implications of term limits in which we are most interested here relate to partisanship. Are term limits likely to contribute to change in the partisan makeup of the Louisiana House? If so, will term limits have an effect on party polarization in the Louisiana House? Will the Louisiana House become more partisan and more conflictual due to partisan changes brought on by term limits?

A. Legislative turnover and partisan change

Any change that results in fewer incumbents running for reelection—whether it be institutional (such as term limits), strategic (such as large number of incumbents seeking higher office), and political (such as a large-scale scandal resulting in more retirements)—has the effect of opening up more windows of opportunity for the minority party, and it places these open seats previously held by members of the majority party “at risk” for a change in control to the minority party. If something other than term limits created the same number of open seats that are expected with term limits, the potential for partisan change would be similarly high.

The fact is that term limits will create a large number of vacancies in each election cycle in the foreseeable future. Currently Democrats control the Louisiana House, and no doubt many Democratic House members have had their reelection chances enhanced by the good work that they do for their constituents because of the advantages associated with incumbency. In some cases Democratic members have retained their seats with safe electoral margins, even though their districts have shifted demographically or politically in a Republican direction. In many cases these shifts occurred even before the disruptions of Katrina, but the Democratic incumbents have been able to maintain control of their seats because of their incumbency and the work that they have done for their districts in their roles as incumbents.

If incumbency is taken away by term limits, it is not assured that Democratic candidates in open-seat races will be able to maintain control of these seats for their party. As term limits creates a larger number of open seats, the number of Democratic-held seats that are at

risk for a strong Republican challenger increases. Many observers believe that it is likely that Republicans will pick up seats in the Louisiana House under these circumstances.

I should note that no doubt there are some Republican-held districts in the same situation, and the loss of incumbency because of term limits could result in a shift in control of that seat to the Democrats. But I suspect that the number of Democratic-held seats available for change is greater than the number of Republican-held seats available for change.

B. Term limits and post-Katrina politics

As a starting point, we must look at the potential effects of term limits in the context of post-Katrina politics in Louisiana. Our state has undergone unbelievable changes in a short time. The demographic and geographic shifts in the state population have great potential to change the landscape of state politics for some time to come. When one sees state legislative districts lose a large share of their populations (and hence voters), as we have seen in Louisiana, and when one sees so many voters leave the state in such a short time, one knows that political change is on the horizon.

Many political commentators suggest that these changes are likely to benefit the Republican Party, though the jury is still out on this. But it seems plausible that many of the demographic changes seen in the post-Katrina era would seem to make the political environment more receptive for Republican candidates. In a state without term limits and where incumbency still reigns supreme, the political implications of these demographic changes may have been muted, at least somewhat. Incumbents have ways of making adjustments to changes in their districts, and so it would not be inevitable that the post-Katrina demographic changes would result in widespread political change.

However, the configuration of Louisiana's term limit law means that incumbents will be stepping down and seats will be coming vacant at just the time when these demographic changes will be realized in full force. The interaction of the political aftermath of Katrina and the creation of open seats due to term limits could mean changes in the partisan composition of the Louisiana legislature in the Republican direction. At the very least this could mean greater partisan division in the membership of the Louisiana House.

C. What will the post-term limits Louisiana House look like in terms of its partisan makeup?

One cannot always predict the future with great certainty (and some would say any certainty), but I believe that the most likely scenario will see a steady increase in Republican representation in the Louisiana House over the next decade. When I asked my colleague Wayne Parent—a well-regarded expert on Louisiana politics—about my assessment, he agreed that this is likely. The bottom line is that we will likely see in the future a Louisiana House that is more evenly divided by party than is currently the case.

This could have some important effects on the tenor of the relationship between the Democrats and Republicans in the Louisiana House. Let me start with some information that represents some things that you probably already know. The Louisiana legislature is

commonly thought of as a “nonpartisan” or “low partisan intensity” legislature. What this means is that, while the average voting positions of Democrats and Republicans differ, there is considerable overlap between the two parties. That means that there are some liberal Republicans and conservative Democrats to go along with the party members whose voting patterns fit what you would expect for Democrats and Republicans. It also means that the potential for cross-party coalitions is high.

This can be verified by a look at the handout that I have given you. The first page is from an article in the *American Journal of Political Science* by John Aldrich (Duke University) and James Battista (University of North Texas). Battista wrote his dissertation on roll-call voting in state legislatures and collected data on roll-call votes for most of the American state legislatures in the late 1990s. He then used a statistical technique developed by Keith Poole and Howard Rosenthal to estimate how liberal or conservative legislators are. Their scale ranges from -1 for the most liberal members to +1 for the most conservative members.

One can note how political party works differently in different legislatures. At the top of the page is the distribution of liberal-conservative scores for the 92nd Congress (1971-1972) and the 104th Congress (1995-1996). In the first figure you see that the Democrats and Republicans have different average positions (represented by the peaks), but that there is considerable overlap. Now look at the second figure on the right, which shows that the Democrats have moved to the left and the Republicans have moved to the right. Further, there is very little overlap. This pattern is duplicated for the Connecticut House in 1997 and the Iowa House in 1997, where there is almost no overlap. How can the Democrats and Republicans get along in a legislature where they take positions that are such polar opposites? Isn't that what we are seeing in the U.S. Congress today?

Now let's see what the Louisiana House looks like. At the bottom left you can see the distribution of ideological positions for Democrats and Republicans in the Louisiana House. The heights of the curves shows us that there are many more Democrats than Republicans, and while the Republicans are, on average, more on the conservative side, and while the Democrats are, on average, more to the liberal side, there is considerable overlap. There are conservative Democrats and at least a few liberal Republicans.

One of my doctoral students, Trisha Sandahl, did her M.A. thesis a few years ago on the Louisiana legislature and collected roll-call data from 1999-2003, and then she created the same kind of liberal-conservative scores that Aldrich and Battista presented. If you turn to the second page, you see the distribution that I mentioned. My figures aren't as pretty as those by Aldrich and Battista, since I created them on short notice, but you can get the picture. Here again, the Democrats tilt to the left and the Republicans tilt toward the right, but there is still quite a bit of overlap.

Here is the problem that I think that many of you are concerned about. If my speculation is correct about the increase in the number of Republicans in the Louisiana House over the coming years, and if the Republicans and Democrats are fairly balanced in numbers in the future, what will the pattern of partisan conflict look like?

Again, noting that what I am saying is speculation, I think that the possibility of partisan conflict is at least moderately high. Here is the problem. The shift in the Republican direction is not likely to come from the districts held by liberal and moderately-liberal Democrats. Rather, the shift that could occur is likely to come from those districts held by conservative or moderately-conservative Democrats. That means that the average ideology of the Democratic caucus will shift to the left, and the average ideology of the members of the Republican caucus will shift to the right. This is exactly what happened in the top two figures on the first page of my handout. In the early 1970s there was considerable overlap in the Republican and Democratic caucuses in the House, primarily because there were some liberal Republicans and conservative Democrats. Most of the conservative Democrats were from the South. As the south moved in the Republican direction, southern Democratic House members were replaced by southern Republican House members as southern voters brought their votes in line with their political ideologies.

This is the most likely scenario in Louisiana. If there are few or no conservative Democrats and few or no liberal Republicans, the potential for coalition building that goes across party lines is diminished. It is this very coalition building that reinforces comity and cooperation among the parties. If this is diminished and the Democrats and Republicans in the legislature move into separate ideological camps, the potential for partisan conflict is high.

IV. What can be done to channel partisanship into constructive directions?

I am not one who believes that all partisanship is bad. In fact, partisanship and partisan divisions exist because political parties represent broad coalitions of interests that often do not agree with one another. There is a growing literature both in political science and in popular discussion of politics about the growing polarization of our American political system. Everyone refers to “red states” and “blue states” as a metaphor for those partisan divisions. The fact remains, though, that these partisan divisions have existed throughout American history and are inevitable with political interests of one group run counter to those of other groups.

The task is to channel partisanship in constructive ways. The model for this is what Evron Kirkpatrick, former executive director of the American Political Science Association (and husband of former U.S. Ambassador and university professor Jeanne Kirkpatrick), called the “responsible party model.” Many political scientists and political observers support the idea of political parties that represent different interests and that represent real differences in American politics. The responsible party model is about moving away from “tweedle-dee and tweedle-dum” politics, where the two political parties do not represent anything that is distinctive from one another. When Democrats represent one set of interests and stake out one set of principled positions, and when Republicans represent a set of competing interests and stake out an alternative set of principled positions, voters have a choice that is healthy for the political system. Moreover, when there is organized disagreement coming from two political parties, there is a competition of ideas that often generates better ideas.

When most people talk about the negative aspects of partisanship, they are referring, I think, to the rancorous, us-vs-them mentality that seems to permeate throughout the U.S. Congress. Citizens observe Congress and see partisan food fights rather than principled disagreement within fair rules of engagement. The lessons about what led Congress to have the kind of party polarization and intense partisan warfare is possibly instructive of what the Louisiana House should avoid.

Some lessons and suggestions:

1. Fair rules

Perhaps the biggest area of disagreement among the parties in Congress—besides those involving policy—relate to fair rules. There is a saying in political science—I think that it was coined by Keith Krehbiel, a prominent scholar who studies the U.S. Congress—that captures part of the problem. In talking about the rules and structures that legislatures set up to govern themselves, political scientists often say that “rules are endogenous to preferences.” This is an almost incoherent way of saying something rather simple—i.e., that rules are often made to help one side win over the other side.

A case in point: When the Democrats controlled the U.S. House of Representatives during the 1980s, they were perceived by the Republicans as setting up rules that were designed not to create a fair playing field, but rather to help the Democrats get their policies through Congress. For example, there was an informal norm that committee slots were allocated to the political parties in roughly equal proportion to the number of Democrats and Republicans in the House. In one election during the 1980s, the Democrats lost seats, so it was expected that the Republicans would pick up seats on all of the House committees. When Congress met, the Democrats kept their sizable majorities on the important committees (such as Appropriations and Rules) but gave the Republicans “fair” proportions on the other committees. Of course the Republicans were outraged by this, and they sponsored legislation that would have mandated equal chamber and committee proportions. Now, this is a small story, but it was this kind of disagreement that led to the rise of Newt Gingrich, who used the after-hours C-SPAN coverage to attack the Democratic majority and court fellow Republicans. When Gingrich became House Speaker following the 1994 congressional elections, he implemented a whole host of rules changes designed to cement Republican control of the policy process, just as the Democrats had done under Jim Wright’s leadership in the late 1980s. There is little doubt that these changes helped to stir up partisan acrimony in the House during the 1990s.

On the Senate side, one need look merely to the debate about the use of the filibuster on judicial nominees to see how disagreement about rules can spur nuclear war between the parties. The filibuster had rarely, if ever, been used to stop judicial nominations, but the Democrats used this tool (and its threat of use) to prevent a number of judicial nominations from going through. This was clearly within the rules of the chamber, if not the tradition. Republicans countered with a proposal for what commonly became known as the “nuclear option,” whereby Republicans would have the filibusters of judicial nominees declared out of order. My intention is not to say who was right or wrong

here—the break from tradition by the Democrats angered Republicans, the perceived change in rules by the Republicans angered Democrats.

2. Caucus politics

Party caucuses can serve as partisan conflict intensifiers. The politics of party caucuses can create greater polarization and acrimony between the parties. When one party is strong and the other is weak in a legislative chamber, party caucuses typically do not meet regularly, if at all. However, as the minority party becomes stronger and the number of Democrats and Republicans equalizes, the use of the party caucus is likely to increase. This is a natural expectation as the members of the two parties meet to discuss party strategy, policy, etc.

However, party caucuses can generate partisan conflict by putting pressure on all members to toe the party line. Of course each political party wants to achieve its legislative goals, and encouraging party members to support the party position is a good thing. But this can be balanced with concerns for the ultimate level of party conflict in the chamber. Care should be given within each party caucus to balance the legitimate policy goals of the party with an interest in maintaining some reasonable level of comity and cooperation between the two parties.

3. Legislators who play together, play together fairly

There is a famous book about the early Congresses that was on boarding houses in Washington. Members of Congress would stay at these boarding houses, and in many instances members of different parties would develop friendships that crossed party lines. There was speculation that these boarding houses helped to facilitate greater cooperation between disparate interests in Congress.

I am not suggesting that we add on to the Pentagon Barracks so that all members can reside close to each other, but there is something to be said about interaction among members of the two parties both outside and inside of the legislative chamber. Some political scientists have speculated that the intense partisanship in the U.S. Congress today is due in part to the fact that many House members and senators no longer live in D.C. In the 1950s and 1960s, members of Congress lived near each other, their children when to school together, and they socialized together. They often did this despite being from different political parties. It is difficult to refer to a fellow legislator in uncharitable terms when his or her 12-year old daughter is spending the night with your daughter this weekend.

I don't want to overplay this, but one strategy for minimizing conflict between the parties is to facilitate interaction, both socially and in the chamber.

4. Institutionalized leadership meetings

One thing that has been tried in the U.S. Congress is for the leadership of the two political parties to have regularly scheduled meetings to discuss various matters before the chamber. Here again, it is a bit more difficult for the leadership of one party to insult

the leadership of the other party when everyone knows that there will be a meeting each week with the other side. Moreover, such meetings give the two sets of party leaders an opportunity to facilitate a reasoned tone of debate that can be emulated by the party rank and file members. I am not saying that party conflict will never occur, but rather that it be managed by having leaders who are committed to working together to maintain cordial relations between the parties.

Figure 1: Ideology scores for various legislatures. (Source: Aldrich and Battista, 2002)

FIGURE 1 Polarization and Depolarization in the U.S. House

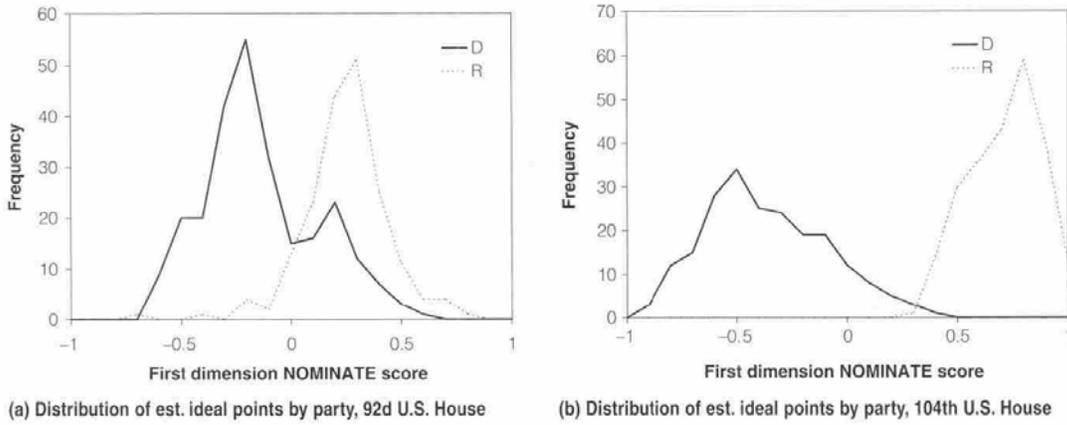


FIGURE 2 Two States with Polarized Parties

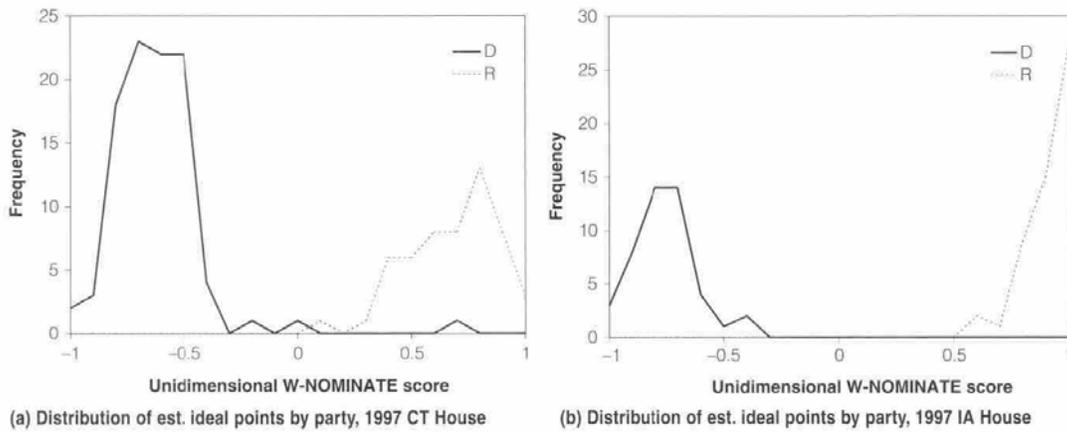


FIGURE 3 Two States with Depolarized Parties

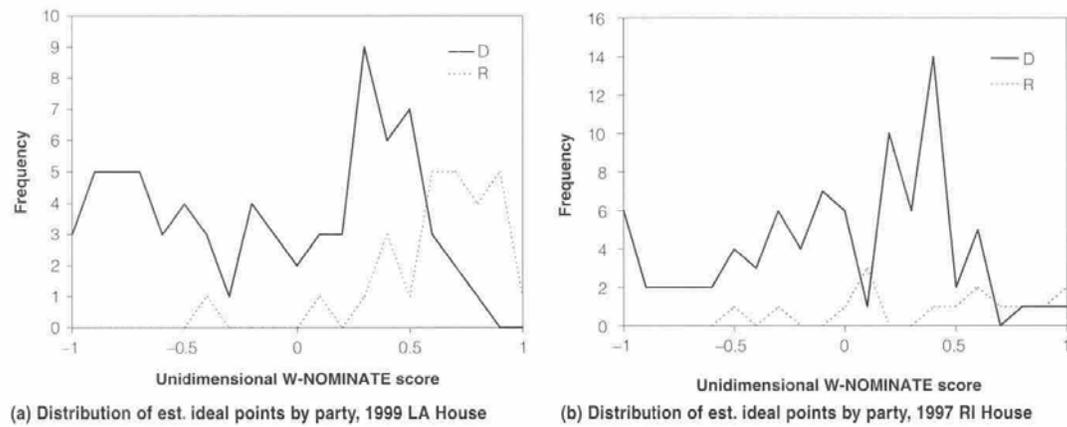


Figure 2: Ideology scores for Democratic and Republican members of the Louisiana House of Representatives, 1999-2003.

