

The Work of Committees in a Professional Legislature
Before and After Term Limits: How Can We Unravel the Action?

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It is widely accepted that legislative committees are central to policy making (Francis, 1985), especially in professional state legislatures (Hamm et al. 2006). Yet there is little in depth analysis of the work of committees—the group dynamics and discourse in committee hearings, testimony, and debate. (Notable exceptions include Kathlene 1994, Mattei 1998, and Hoffman 2008.) This paper utilizes the opportunity term limits provide (Mooney 2008) to develop a way to study the work of committees in a naturally occurring quasi-experiment. It pursues this goal by comparing committees assumed to be relatively skillful (pre-term-limits committees) to those assumed to be less skillful (post-term-limits committees).

Term limits in states with stringent limits reduce the collective experience of committee members and disrupt committee membership continuity. The effect of experience and membership continuity on the work of committees is important not just in term-limited states, but also in partisan landslide elections that propel masses of newcomers into office, (e.g., “the Gingrich Revolution”). The overarching assumption of this discussion is that committees of novice leaders and members will find it more difficult to, in the words of Hoffman (2008, p. 100), “[adjudicate] competitive knowledge claims and the [produce] authoritative knowledge” during committee hearings.

The contribution of this paper is to refine and test a coding framework for analyzing committee hearings and to develop some testable hypotheses about the group dynamics and discourse that occurs as committees create knowledge and mediate competing claims for government action or inaction. The current discussion revives and extends a project initiated a couple of years ago. Despite its modest goal, this work has the potential to provide a foundation from which to explore systematically the work of committees in state legislatures.

In order to explore what good and bad committee work looks like, one must grapple with what behaviors, outcomes, and processes are important in committee work. The number of bills

passed out of a committee could be a key indicator of a “good” committee, but this measure has several flaws. Most importantly, not all legislation is created equal. Bills passed out of committees vary in the breadth of their impact and their quality as well as their quantity. It is even possible that both impact and quality of legislation are inversely related to the quantity of legislation produced. Other measures of a committee’s legislative quality could include: the need to fix the bill on the floor or even whether the bill makes its way to the floor, subsequent constitutional challenges that overturn the bill, compromises that balance competing interests, avoiding narrow partisan victories that foment a backlash in future legislation or during implementation, bills that adequately reflect funding and implementation realities, and so on. None of these are easy to count or measure, however. Clearly it is not easy to assess good committee work when defining it is so elusive.

At this stage of the current research project, the author chose to focus on two indicators of good committee work: 1) serious efforts to mediate conflict arising from issues that affect multiple competing constituencies, producing legislation with bi-partisan support and 2) the ability of the committee to produce knowledge--information, understanding or evidence--about an issue. These were chosen based on the author’s assumption that a wide range of citizens with divergent interests need to be heard from in a democracy, and it is difficult for legislators and their staffs to learn how a public issue impacts different groups among this wide range of citizens without hearing about to their experiences—a process that often happens in committees.

The Work of Committees in Term-Limited States

There is a growing consensus that term limits undermine the influence of committees and/or their chairs (Cain and Wright 2007) by increasing turnover and reducing experience. Comparing states with and without term limits--Michigan and Maine versus Pennsylvania and Delaware--Brake (2003) concluded that term-limited committee chairs lost power. Based on the

number of floor votes that diverged from committee recommendations in the Maine legislature, Moen and Palmer (2003) found that committee chairs lost power after term limits. In Maine introduction of policy proposals shifted from committee chairs to caucus leaders after term limits suggesting that they gained power at the expense of Maine's traditionally weak committee chairs (Moen et al 2005). Kousser (2005) claims that California's Senate committees perform better than their counterparts in the Assembly due to the greater experience of senators. Sarbaugh-Thompson and her coauthors (2006) found a small but statistically significant decrease of in the extent to which chairs controlled the work of their committees, based on a scaled response question asked of more than 300 House members. Additionally they found that after term limits Michigan House members relied less on their colleagues serving on the relevant committee for information during floor debates.

Typically committee members and leaders gain expertise over time (Rosenthal 1974). In legislatures with high levels of committee membership continuity, legislators become experts through training by interest groups (Porter, 1974) and staff (Aberbach 1990), by listening to testimony (Duffin 2003), and by working for years on issues in the committee's policy arena (Rosenthal 1974). Fenno (1962) attributes the U.S House Appropriation Committee's high floor success to working relationships arising from member continuity and experience. He found that freshmen rarely were assigned to Appropriations because of the need for norms of reciprocity and give and take that needed to be learned and demonstrated before members were considered worthy of a position on that committee. Further he claims that low turnover facilitated maintenance of those norms through socialization and social sanctions. Yet Ray (1986) found that in the New Hampshire House committees with less experienced leadership and membership had more success passing legislation on the floor. So the role of experience in the work of

committees is not entirely clear—at least when sending legislation to the floor is used to measure committee performance.

Michigan's Institutional Context:

In the following discussion the author focuses on a state, Michigan, with a professional legislature and stringent term limits. This combination means that committees play an active role in the state's policy-making while term limits imposed an abrupt change in the level of experience of its committee leadership and membership.

Before and after term limits the Michigan State House of Representatives, committees possessed extensive formal powers (Francis 1985, Hamm et al. 2006). The full chamber rarely considers a bill unless a majority supported it in committee. Furthermore, in Michigan, chairs can decide whether to “take up” a bill assigned to their committee. Thus, they control the committee's agenda, and through the committee, act as gatekeepers for the chamber. Despite these powers, the speaker assigns bills to committees and can effectively bury a bill by assigning it to a chair who will never bring it up in committee. Conversely the speaker can insure that the bill will reach the floor by assigning it to a friendly chair leading a committee of loyal partisans. Finally, when a committee fails to pass a bill that the speaker wants, he (or she perhaps someday) can reassign it to another committee--one that will support the bill. For example, after term limits the House Commerce Committee, chaired by a close friend of the speaker, sent education bills to the floor that majority party members on the education committee did not support (interview notes).

Prior to term limits most chairs were experienced veterans of the House. Committee chairs in the 1997-98 session had an average of 8.9 years of prior service (approximately 4.5 sessions) and in the 1995-96 session they had an average of 7.5 years of experience (almost 4 sessions). The Democrats controlled the House in 1997-98 and the Republicans were in control

in 1995-96. In 1997-98 the chair with the most prior service had served 13 prior sessions and the most experienced chair in 1995-96 had served for 9 previous sessions. In 1999-2000, with the advent of term limits, committee chairs had an average of 1.9 years of prior service.¹ Although one committee chair had been elected in the 1980s for one term, and so had served 3 previous sessions, under term limits even the most seasoned chairs will typically have served only 4 years or 2 previous sessions. In 1995-96 there were no freshman representatives chairing committees; 1997-98 one freshman chaired a committee. In 1999-2000, under term limits, 11 freshmen representatives chaired committees. Clearly the experience committee chairs bring to their positions dropped dramatically in the Michigan House under term limits.

In her prior work, the author along with a team of colleagues spent nearly a decade exploring the effect of term limits on the Michigan House of Representatives. As described above, they found several indications that committee members and leaders were less influential after term limits. In this prior research majority and minority party leaders in the Michigan House were asked to name the three most important decision-making centers in the chamber. Before term limits they said the House leadership, committee chairs, and the majority party caucus--highly consistent with Francis' (1985) assessment of that chamber. After term limits, these respondents said that the House leadership, the Governor's office and lobbyists were the chamber's loci of decision-making—a substantially different institutional arrangement that bypasses committee chairs (Sarbaugh-Thompson et al 2004). It appears that lack of experience, especially for the chair, and lack of membership continuity undermined committee power and influence. Assuming that this is true, one should be able to observe differences in the behavior of committee members and chairs that illuminate ways that committees succeed or fail to produce

¹ Clucas (2000) finds comparable levels of pre-term limits committee chair experience and a similar dramatic decline in post-term limits experience of committee chairs in the California Assembly. Moen (2000) looking at the part-time Maine legislature finds much lower levels of pre-term limits chair experience and thus a smaller change after term limits.

knowledge about issues, mediate conflict between competing interests to produce with at least some regularity bipartisan bills that are broadly supported by legislators and a wide range of constituencies.

At this point it is worth reminding readers that the success or failure of the committees' work as assessed here is not based subjective evaluation of the substance of the legislation, which would vary by ideology and personal political views. For example, the chair of one committee that will be examined shortly passed a series of bills related to the fees assessed when land is subdivided and sold. This author does not agree with the substance of that bill, but the committee hearing demonstrated that the chair had skillfully coordinated input of a series of interest groups and had bipartisan support for the committee's action on the bill. Additionally, the chair made a commitment to work on one of the three amendments raised by a member of his own party who did not support the bill. Therefore, this would be classified as a successful use of the chair's power to achieve a result with wide support across party lines that recognized at least some of the legitimate substantive concerns raised in committee both by permitting the discussion of the member's objections and by agreeing to improve the bill in the near future.

The author hypothesizes that less experienced committee chairs in a term-limited House would have more trouble managing the committee's work effectively and even-handedly compared to their pre-term-limits counterparts. Norms of decorum are often credited with restraining conflict in a legislature (Wahlke et al 1962). Hedlund (1984) reports that norms of interpersonal behavior (e.g., respecting colleagues and keeping one's word) surface consistently in studies of legislatures, as they did in Fenno's (1962) work described earlier. Yet, with fewer veteran legislators to socialize newcomers and to enforce and reinforce norms governing working relationships, these norms are unlikely to persist (Axelrod 1984). Thus, the author expected conflict to rise on committees with inexperienced leaders and members and that this

conflict would not be resolved or dissolved to produce bipartisan support or at least acceptance of resulting legislation.

More Aggressive Tactics Reported After Term Limits:

This prediction is consistent with evidence from the author's prior work. Responses to open-ended questions about the chairs' "conflict management strategies" asked of legislators before and after term limits yielded evidence that chairs used more aggressive tactics, (e.g., suppressing comments from minority party members, turning off the microphone of the minority vice chair, and allowing minority party members to ask only one question in committee meetings). After term limits nearly 15 percent of respondents described the committee chair as autocratic compared to 10 percent before term limits. On the other hand, after term limits, 19 percent of respondents described the chair as weak while only about 5.5 percent made similar comments before term limits (see Sarbaugh-Thompson et al 2004 for a fuller discussion of this prior work).

Before term limits only three percent of respondents commented that chairs just "rammed" legislation through despite conflict, while after term limits 12.5 percent made comments of this sort. Open-ended comments also indicate that information access was rationed after term limits. Only 2 percent of respondents complained of this before term limits, while about 17.5 percent did so after term limits. Additionally, more conflict was described as ideologically based after term limits (18.5 percent afterward compared to 10 percent before)—perhaps reflecting a more parochial world-view of novice committee members.

A Framework for Exploring Committee Behaviors:

The work described in this manuscript searches for chairs' behaviors as well as rank-and-file committee members' behaviors that might provide insight into the work of committees. To do so, the author relies heavily on work of Barber (1966) about sources of power in non-

legislative committees combined. Based on simulations of committee meetings, he developed four frames of committee interaction: temporal, cognitive, organizational, and moral.

His temporal frame focuses on the use of timing to reach closure, to adequately explore the issues, and to gain commitment from committee members. Hoffman (2008) notes that the need to use time judiciously arose regularly in the committee hearing he analyzed and identified a chair's use of time as a major source of uncertainty for witnesses and committee members. So it was with the committee hearings analyzed here.

Evidence and information gathering procedures are addressed in the cognitive frame. One way knowledge is created in committees is by calling witnesses, both expert and lay observers, to share data, opinions, and experiences. Another is through questions posed by legislators to these witnesses. In the analyses that follow hearings were coded to determine the rhetorical pattern of questions used to acquire knowledge from witnesses. Additionally input from neutral experts, such as the non-partisan Legislative Services Bureau (LSB) and civil servants, was considered a sign that the committee was serious in its quest for information.

The organizational frame considers issues of control and power within the committee, such as the role played by the chair in setting the agenda, managing concerns of constituencies, and maintaining decorum during the hearing. The author noted whether the chair assigned problems to work group or used other techniques to resolving impasses in committee deliberations. Also noteworthy was evidence that the chair and minority vice chair (MVC) were working together.

Finally, the moral frame explores the justification for action or the rationale for the use of power, including the role of outside influences. This frame also considers the treatment of constituencies advocating different courses of action and issues of constitutionality and

implementation problems. The author treated the number of disputes between legislators and witnesses as an indication that the rationale for action was contested.

Fenno (1962) describes aspects of U.S. House Appropriations Committee work that promote integration of the committee members, an ingredient he associates with successful committees. He argues that whether the committee is integrated depends on the formal powers of the chair and the informal norms and work habits of its members. These norms can be typified as consensus, reciprocity, civility, and independence from external influences such as political parties, special interests and constituents.

In an earlier version of this work, the author combined Barber's four frames of committee action with Fenno's four norms of integrated committees to produce sixteen categories to code committee behaviors. After piloting testing the framework to code three committee hearings, the author added a fifth column--quality, skill or expertise demonstrated. That increased the number of cells to twenty, resulting in the four by five matrix or coding framework. The author then tested the utility of this framework herself by coding committee hearings and using a class of undergraduates assigned to analyze a tape of a committee hearing. Although the author found the coding framework useful herself, it was too complex and too loosely structured for use by even the best and brightest upper-level undergraduates.

The revised framework, which will be tested in the analyses described later in this paper, merges three of Fenno's norms—consensus and civility and equity—into one column designated as *nature of the interaction*. It expands Fenno's fourth norm—*independence*—to include the comprehensiveness the views considered and new information revealed in the hearings. This second column is called the *extent of the substance*. The final column, previously denoted as quality, skill and expertise is renamed *quality of the performance*. A chart summarizing this framework appears in Figure 1 below.

Figure 1
Coding Framework

	1. Nature of Interaction	2. Extent of Substance	3. Quality of Performance
A. Temporal Frame	A1. Time is allocated fairly for testimony and questioning. Measured by bipartisan opportunities to ask questions and range of witnesses called upon.	A2. New lines of inquiry are pursued. If new information surfaces chair allows hearing to continue or provides future opportunities to explore the issue.	A3. Balance maintained between exploring issues & moving agenda. Time is not wasted. Chair stops witnesses if necessary. Grandstanding by legislators is limited.
B. Cognitive Frame	B1. Testimony provides evidence and informs. No personal attacks. Questions encourage witnesses to share knowledge instead of entrapping them.	B2. Use of non-partisan experts and neutral parties to resolve competing claims. Facts as well as opinion sought. Anecdotal and systematic evidence both considered	B3. Legislators demonstrate knowledge of the issue by questions asked and also show willingness to learn and absorb evidence. High usage of WH questions
C. Organizational Frame	C1. Chair maintains decorum and treats all participants fairly, but leads assertively. Coordination with MVC is clear and groundwork is laid to move agenda.	C2. Chair shows awareness of other organizational actors involved—other chamber, agencies, minority party. Uses multi-constituency groups to resolve issues.	C3. Chair makes the agenda clear and adapts when unexpected issues arise. Chair is in charge. Chair and MVC ask a large proportion of the questions.
D. Moral Frame	D1. Disputes are rare. Witnesses present many sides of issue, which are usually treated as valid concerns.	D2. Chair incorporates concerns of many parties by through compromise. Perfect is not allowed to be the enemy of good.	D3. Rationale for action is established, constitutionality and implementation problems are considered carefully.

Methodology:

This revised framework was applied to videotapes of five House committee meetings purchased from Michigan Government Television (MGTV). Beginning in 1996, MGTV taped committee meetings and floor sessions that its staff considered of public interest. Archives of the initial years are spotty at best and primarily reflect hot button issues or issues that are likely to affect the average citizen. More recently, many committee rooms are equipped with cameras and most committee meetings are recorded routinely. When the author asked how decisions were made about what to tape, the MGTV staff replied that she reads the newspaper and knows what citizens would find interesting. Hence, the sample of videotapes is neither complete nor a random sample. Additionally the hearings from the 1990s were recorded using a now obsolete technology and are archived in a distant location—making access challenging.

In the following analyses, the author used videotapes of two “culture wars issues” after term limits—hearings on a change in Michigan’s concealed weapons permitting process and hearings on a package of bills regulating adult entertainment businesses. The committee hearings before term limits were on energy deregulation and on a newly-adopted high school proficiency test. A third committee before term limits was also analyzed primarily because the author and her colleagues were repeatedly told in earlier research that its chair was one of only a few chairs who could effectively oversee the state agencies within his committee’s jurisdiction and was also mentioned frequently as among the most effective and influential chairs in the chamber. The chair and MVC of this committee were best friends, choosing to sit with each other in the chamber rather than with members of their own political party. This latter committee was used as a benchmark to establish how an effective committee operates.

The Benchmark: How a “Good” Committee Works:

There are many ways in which the work of this committee differed from all other committees the author has observed. First the issues it addressed could best be described as mundane reality. The committee heard testimony about seven issues in one meeting ranging from the public participation in public boat launch siting to a ban on using plastic bags to recycle natural materials for compost production. It spent another short meeting discussing when to determine whether a plat of land was suitable for septic tank construction—at the time the plat was split into building sites or at the time of construction. And the devil really is in the details given the list of witnesses who wanted to provide testimony on these issues! Many of the issues addressed in the committee meeting were deferred for future discussion, often with a bipartisan work group assigned to contact all relevant constituencies and work out something that would have bipartisan support within the committee.

Using the framework above to organize the discussion, the author summarizes the work of this committee. Cell A1: Time was rationed with only a few of the witnesses present called to testify on any issue. The list of those called, however, represented both sides of the issue, or especially on issues that were voted upon, any bias was toward the opponents. When the chair supported a bill he seemed to provide additional opportunities for both witnesses and legislators opposing the bill to present their concerns. Cell A2: The chair announced the time available for testimony and questions and stuck to the schedule he established, but provided time for opponents to introduce amendments. Cell A3: Grandstanding—lengthy statements of position on issues by legislators—was fairly rare. Ability to deal with multiple issues demonstrated effective use of time. The chair did not hesitate to interrupt witnesses and kept the focus narrowly targeted on the issue at hand. B1: Questions were primarily substantive and 17 different committee members asked questions. Witnesses were treated with respect even when their concerns were

narrow and personal. Declarative questions were relatively rare. B2: Non-partisan staff and state agency experts were consulted regularly, often testifying at the request of the chair when a question arose that witnesses could not answer factually. When key experts were absent the chair on several occasions noted that in future meetings he hoped they would be present to provide information needed. B3: The proportion of WH questions (what, when, where, why, and how) was the highest of any meeting analyzed here. These questions frame the testimony as information gathering instead of an inquisition or an adversarial contest. This was true despite the fact that the last lengthy portion of the meeting was an inquisition of Department of Natural Resource staff about a computer glitch that produced long, long lines on the first day of sale for antlerless deer permits (70,000 sold in one day often at small hardware stores). C1: The chair consistently demonstrated high proficiency in running the meeting. He gavelled for order promptly when the audience got noisy. When a legislator directed a question to staff on her own, the chair rapped the gavel and went through the correct exchange in which the legislator should have asked through the chair for staff input, playing both roles in the mock exchange. It was clearly his meeting. C2: The chair used workgroup extensively to resolve disputes between key constituencies, moving disputes outside the hearing. Twice after voting against amendments, the chair stated that he felt the concerns addressed in the amendment were legitimate and promised he would work out something to address these substantive concerns later. In one case he stated that he wanted to be clear with the committee that his no vote on the amendment did not signify his opposition to it, but rather the need to move the bill forward immediately. In the other case, he noted that a compromise with EPA was so tenuous that he dared not support an amendment, but that the concern, raised by the League of Women Voters, that led to a proposed amendment would receive his attention and effort at a later date. The chair and MVC coordinated frequently during the hearing. C3: The chair asked nearly a third of all the questions posed. The minority

vice chair asked 18 percent of the questions. They were both knowledgeable and well prepared for the topics addressed. D1: There were only a moderate number of disputes, and those were between the committee and state agency staff as the committee attempted to oversee the work of the Department of Natural Resources in its sale of hunting licenses. D2: Chair signaled that he wanted or expected input from missing actors on issues where they would be considered to be key constituencies. The chair called on witnesses and asked for their input to resolve disputes over information or provide missing information. D3: Large amount of time was spent talking about the operational problems or implementation of the bills. At one point committee members were charged with visiting recycling centers in their districts during a coming break so that they would know what the people doing the work would want to see in a bill on composting. At another point the chair stated that although the committee could craft pretty language that would make interest groups happy, it would be a waste of time if it were not constitutional. Witnesses were asked what a bill would do that local governments could not already do through their own ordinances—in other words why state action was needed.

Other Pre-Term Limits Hearings:

The author viewed tapes of two other pre-term-limits hearings—one about a newly adopted high school proficiency exam and a hearing on deregulating electricity generation. Both these committee hearings involved other elected bodies—the State Board of Education for the proficiency exam--and the electricity deregulation hearing was a joint hearing organized by the state senate.

High School Proficiency Test:

The Education Committee investigated problems with the proficiency test after having conducted public hearings around the state at which parents and school personnel expressed frustration with the test, motivating legislators to intercede on their behalf. The business

community and the State Board of Education appear to have been the driving force behind the test, which was developed by the Michigan Department of Education in conjunction with experts for the state's universities.

An entire day was dedicated to the hearings. Three groups of witnesses were invited and given virtually unlimited time to provide information. Legislators were given ample time to question them, but few questions were asked (57 total) given the length of the hearing—a full day. All members ask at least one question, however. The witnesses were five members of the Michigan Business Leaders for Educational Excellence, the President of the State Board of Education, two professors from state universities who had helped design the test, and two evaluators from the Michigan Department of Education who were tasked with implementing the proficiency test. The only agenda item was to increase understanding the test, and ultimately that goal was achieved. But a lot of time was wasted in the morning as legislators grilled business leaders about why they were not using the results of the proficiency test in their hiring. Disputes over supposed features of the test that proved to be based on misinformation glean through the public hearings consumed time. Witnesses in the afternoon set the record straight, but both the witnesses--business leaders--and legislators appeared misinformed during the morning testimony.

Turning to the cognitive frame, row B, there were no personal attacks. Non-partisan experts were used extensively in the afternoon. Legislators in this hearing used WH questions about one-quarter of the time. They used the lowest level of yes/no questions, suggesting that they were trying to gain understanding of the test instead of interrogating or entrapping the witnesses.

The organizational frame, row C, highlights an adequate, but somewhat *laisse faire* chair who drifted through the morning session, but seemed more engaged and involved in the more

substantively useful afternoon session. The chair demonstrated expertise when questioning the president of the State Board of Education. Interestingly in the morning testimony, it appeared that business leaders were in the driver's seat in dictating state education policy. The chair and minority vice chair each ask approximately one-quarter of the total questions asked. The chair had assembled a cast of witnesses for the afternoon session who are able to explain the issue extremely well.

The rationale, row D, for having the test occupied a lot of time during the morning session. Disputes and challenges were relatively high—12%. Many of these occurred in the morning session, with legislators venting their frustration and some emotional challenges from legislators directed toward business leaders over content that proved later to be inaccurate. One source of concern was whether the test was a measure of students or of the school. Another was whether the test measured anything that would be useful in hiring decisions. Concerns of legislators were resolved primarily through information provided by state agency staff and by the two professors—expert witnesses. Upon having misperceptions corrected, legislators shifted their attention to ways they could improve the implementation of the test.

Deregulating Electricity Generation:

The next section summarizes the other pre-term-limits hearing—the joint Senate and House session on deregulating electricity generation. The overall impression provided is of highly engaged, involved house members and far less committed senators—so much for positive images of the upper chamber. A1: The witness list was balanced with six witnesses supporting deregulation, seven opposing it, and eight raising concerns and issues that they wanted to have addressed if deregulation proceeded. The chair, however, repeatedly asked everyone to be brief and suggested that legislators just listen to the witnesses instead of asking questions. A2: Most witnesses appear to have submitted written testimony and simply read it “for the cameras.” A3:

Chair asked witnesses to talk to legislators instead of reading testimony they submitted in writing and to keep their remarks brief—they did't. Despite the chair's request for brevity, witnesses make extended comments and the chair does nothing to set explicit time limits. The number of interruptions between witnesses and legislators is relatively high compared to the other sessions—10% of the total number of questions.

The cognitive frame highlights the difficulty in producing information in unstructured public hearings. Testimony provided limited information. Instead it explained the witnesses' preferences and reasons for supporting or opposing deregulation. Questions asked by House members reveal lots of information that none of the witnesses addressed voluntarily—such as who would purchase meters and what would happen to Michigan jobs if energy were generated by out-of-state companies. Neutral experts—either Public Service Commission staff or non-partisan legislative staff—were missing entirely. But WH questions formed 22% of the legislators' queries, so some knowledge was created. Legislators demonstrate good knowledge of technical utility industry terms, such as “stranded costs.”

The meeting seemed poorly organized and the chair seemed to lack basic leadership skills. The House was in session at the beginning of the hearing, so House members joined belatedly. Only one senator other than the chair was present at any time during the hearing and she asks no questions. The chair asked only 2 questions during the entire hearing. The chair's treatment of legislators seemed to reflect partisan bias. The Republican senator who was chairing the committee cut off one Democratic representative as he asked questions of the Enron witness. (The Representative departed abruptly immediately after that.) The House (Republican) MVC was recognized three times by the Republican Senate chair when she asked to question witnesses.

The rationale for action (Barber’s moral frame) was established through witnesses’ testimony about reduced electricity costs for industrial customers. Disputes were rare and focused primarily on comments by Enron’s representative about serving rural areas that some legislators found offensive. The Chair repeatedly assured interest group witnesses that they would be a part of the discussion in coming months—implying that they would be consulted as the bill was drafted. House members honed in on implementation problems through questioning. Their questions were extremely concrete and practical—exploring those devilish details.

A Post-Term-Limits Committee Meeting Designed for Political Posturing:

The first post-term-limits committee meeting considered is a meeting of the House Ethics Committee in which testimony was taken and the committee voted on a package of bills regulating “adult entertainment” businesses. Looking across row one, the temporal frame, a couple points are especially noteworthy. The chair allowed witnesses to testify at their leisure and allowed committee members to ask questions of the witnesses, apparently without restrictions—apparently a positive behavior. On the other hand, requests for time to explore constitutional issues about rights of adult business owners made by the one minority party member were deferred to counsel, with no effort made to get that opinion before voting. Additionally there was no delay in voting or debate to resolve concerns about cost and workload implications for the Department of Community Health, which was already too over extended to inspect nursing homes properly according to this same Democrat. Despite several requests for time to explore this, the vote proceeded unabated. This contributed to an overall impression that the vote was going to take place on schedule regardless of unresolved legitimate concerns of committee members. This was underscored by the absence of any witnesses opposing the bills. It appears that the ACLU had planned to testify, but when the Chair called the ACLU representative’s name to testify, no one came forward.

Turning to the cognitive frame, witnesses spent a lot of time describing the negative secondary impacts of adult entertainment, including emotional testimonials about ruined lives. There was, however, only a tenuous connection established between these secondary effects and the bills regulating adult entertainment businesses. One would assume, given the testimony, that the bills intended to put the industry out of business instead of regulate it.

Democrats on the committee challenged the character of some of the witnesses from the adult entertainment industry by asking if they reported to the police the illegal activities they described. (The witnesses hadn't and were asked why not.) These attacks on the witnesses' credibility did not seem to have any impact on the weight given to their testimony. The questions were asked professionally, but the intent was clearly a personalized confrontation.

Barber's cognitive frame draws our attention to the witnesses who did NOT testify. The Department of Community Health was not present to explain what resources (money and staff) were needed to conduct the required inspections. No one from any police force nor from any of the larger cities, such as Detroit, provided testimony. Although the Michigan Liquor Control Commission (MLCC) was mentioned several times, no one from MLCC testified. Had law enforcement personnel been represented at the hearings, they could have addressed whether the bills would make enforcement more difficult by driving the businesses underground. A highly skillful minority party would have been likely to ask these experts to testify and used their evidence to embarrass the majority party by demonstrating the costs and consequences of passing the bills.

Interestingly the sponsor of one bill in the package could not answer questions about any fiscal impacts. Committee staff explained that license fees would cover inspection costs. Sponsors' inability to answer questions about their bills suggests that they were given these bills to sponsor for political purposes and had not expended the time and effort to participate in

drafting the bills or even figure out exactly what they did. This suggests little or no substantive expertise or legislative skill, especially when the committee staff answers questions that legislators should be able to handle.

Considering the organizational distribution of power within the committee (row three of the framework), the chair appeared weak and made procedural mistakes as he tried to conduct the routine business of the meeting. Staff answered for the chair occasionally and told him what to do at a couple points. (This was toward the end of his second year as chair of the committee when one might have hoped he could get the minutes approved and adjourn a meeting without staff reminders.) He asked 5% of the questions and the MVC asked 17% of the questions.

Only 17% of the questions asked were WH questions. Although one Democratic committee member demonstrated some general knowledge that enabled her to challenge the justification for the bill, the list of missing witnesses impugns the minority party's ability to derail a package of poorly conceived bills. And there was no Democratic substitute bill proposed, perhaps one with different estimates of fiscal impacts or one that proposed stricter regulations for non-conforming establishments (those grandfathered in).

The rationale or justification (the moral frame using Barber's terminology) for the bill was not established to the satisfaction of the Democrats on the committee. The driving force behind the bills seemed to be officials from small towns and county prosecutors. Was the problem poor enforcement of existing laws or was a new law needed? No one seemed willing to gather evidence to answer this. What would happen if these laws drove adult entertainment businesses underground making them even more difficult for local law enforcement to monitor? Again, no one seems to consider the prospect seriously. And witnesses who could have shed light on these questions were glaringly absent.

Democrats repeatedly asked witnesses whether and how the bill would help combat the problems resulting from the proximity of adult entertainment businesses to residential property and to other businesses patronized by families and children. The problem of grandfathering in these businesses when zoning ordinances changed was not discussed. The only evidence presented that seemed to focus directly on the effects of regulation was from a neighborhood group member from a medium-sized city who described a “quality” adult video store as a good community neighbor. She claimed that well-regulated adult video stores do not cause harmful secondary effects because patrons watch the videos at home not in viewing parlors on the premises. Nothing was said about “well regulated” massage parlors or lap dancing establishments, however. It is more difficult to envision ways to shift those activities to the privacy of patrons’ homes.

The overall image is of a one-sided, incomplete debate in which a biased set of lay witnesses had more input than committee members. No one seemed to engage with other actors in the room. Questions are posed, but not answered. And no response or reaction was demanded. Committee members seemed bored and disengaged, as if they were spectators instead of actors. The hearing had the appearance of people going through the motions but not caring deeply about whether the bills would or could become law.

If the intent was to resolve a problem, it seems unlikely that this was a success. But if the goal was political pandering by Republicans and making Democrats squirm, then it was a success—and that reveals political expertise despite the lack of legislative skill. Possibly the minority was relying on veterans still serving in the other chamber to clean up the mess created by the House. Or perhaps they were only too willing to allow the majority party to waste time and resources on a bill likely to be found unconstitutional. (And the bills ultimately failed to pass in the Senate, which was controlled by the same party as the House.)

A Highly Contentious Post-term-limits Committee Meeting:

This committee hearing addressed a package of bills making a series of changes to Michigan's concealed weapons law. The most noteworthy of these was a shift from "may" to "shall" in the rules governing concealed weapons permits, shifting the burden of proof from the applicant to the gun board. This change reduced the discretion of local gun boards charged with issuing permits to carry concealed weapons (CCW).

The chair opened the hearing by noting that, out of respect for the shootings at Columbine High School that had occurred the previous day, he would delay the vote on the bills until the following week. He further asked committee members to refrain from asking witnesses questions because there were lots of people who wanted to speak. Members still asked questions, although there were fewer questions asked than in the other hearings analyzed here. Only seven witnesses testified—and several of these testified at great length. Eight additional witnesses had requested a chance to speak, but were told at the end of the hearing to return the following week. The chair only cut off two witnesses, both of whom opposed the package of bills. Among the seven witnesses who testified, 3 opposed the bills, 2 supported them, and 2 wanted portions amended.

Witnesses' testimony provided information. Questions asked were adversarial and often defensive. There were no neutral experts, such as LSB staff, who testified. Witnesses asking for amendments and modifications in the bills had law enforcement expertise. This committee had a much lower percentage of WH? and a higher percentage of yes/no questions (16% and 52% respectively) than the other committees analyzed here.

Turning to the organizational frame, the chair seemed unable to control the committee process, which became increasingly chaotic. Members wandered in and out. One witness asked questions of a committee member—a practice the chair eventually stopped after about five

minutes. Another witness wandered back into the area where committee members sat to chat with a legislator while another witness was testifying. A witness refuted testimony of another witness, with the chair's permission. Concerns of police and a county prosecutor were dismissed without serious exploration. No work groups are assigned to develop amendments to address their concerns. However, the bill sponsors indicated that they had forged a compromise with state police and other law enforcement groups during the drafting process.

Disputes were rampant, more than twice the level of any other hearing analyzed here—26% as a proportion of the total questions asked. Legislators cited their personal views and personal experiences to justify their positions. Some witnesses who spoke in opposition addressed the issue of hand gun access instead of the changes in use (concealed carrying) of hand guns that people could already purchase legally. One witness, a county prosecutor, pointed out that these changes were being made to resolve a problem that affected only 1-2% of the state's citizens, while he believed that the public safety was compromised if gun boards could not restrict permits to some groups of applicants, such as suspected gang leaders. No one offered to address his concerns by adding an amendment or making minor changes in the wording of the bill.

Discussion:

The coding framework was valuable in organizing the discussion of committee behaviors, but needs better ways to enumerate indicator behaviors. The value of the framework is that it forces systematic attention to a series of categories. We were often told in our prior research that the way to determine the impact of term limits was to look at what was NOT happening. The framework highlights glaring omissions. Yet at this point the analysis arising from use of the framework is susceptible to challenges of subjectivity.

The remaining discussion focuses on behaviors highlighted by the framework that were enumerated. One of the more useful discoveries made was differences across committees in the pattern of question types. These are summarized in Figure 2. If we assume that the benchmark (high quality) committee succeeded in creating knowledge as well as adjudicating competing claims (Hoffman 2008), then the pattern of questions asked in that committee should reveal and increase information. The use of WH questions (what, why, when, who, and how) was highest for the benchmark committee. Use of WH questions was also higher before term limits with veteran legislators and much lower after term limits. This leads the author to hypothesize that:

When committees use more WH questions, they will acquire more useful knowledge and information that can be used to produce better quality legislative outcomes—defined earlier as legislation that addresses concerns of multiple constituents and acquires bipartisan support.

Secondly, the chair's ability to actively participate in knowledge creation in committee hearings seems to characterize the "good" committee hearing. As Figure 3 shows, both in the benchmark committee and in the two hearings that occurred prior to term limits the chair and minority vice chair both were leading the inquiry about the issues by asking a large proportion of the questions. After term limits, in the two hearings analyzed, these committee leaders were not performing this role. This leads to a second hypothesis:

When committee leaders are actively involved in knowledge creation, they will produce better quality legislative outcomes—as defined above.

Although one might think that interrupting witnesses or fellow legislators would be a negative activity, we see in Figure 4 that it was relatively more common in our benchmark committee and in two other pre-term-limits committees. Used judiciously it appears that interruptions move the discussion forward and avoid wasting time on redundant, irrelevant, or

tangential testimony—to which witnesses seem highly susceptible unless a chair exercises assertive agenda control. On the other hand, disputes, often bordering on arguments between legislators and witnesses, were uncommon in our benchmark committee and in our pre-term-limits committees despite two instances in which the committee’s task was to exercise oversight of the work of state agency staff in response to myriad constituent complaints. Unresolved argumentative disputes were exceptionally high during the chaotic hearing about CCW permits. This suggests two related hypotheses:

When interruptions are targeted toward efficient use of committee time, knowledge acquisition will increase, providing a foundation for higher quality legislative outcomes.

When disputes proliferate without efforts to produce resolution and use a lot of time covering the same ground, knowledge acquisition will suffer and legislation becomes less likely to achieve bipartisan support.

Clearly these four hypotheses are only the tip of the iceberg. There are many other questions and hypotheses that one can generate after listening to these hearings. In the future the author plans to time the length of comments permitted for witnesses on various sides of issues, the count the number of questions direct to non-partisan experts, and in general try to develop more quantitative measures of the work of committees. The author looks forward to expanding this list of potential measures and welcomes suggestions.

References:

- Aberbach, Joel D. 1990. *Keeping a Watchful Eye*. Washington, D.C.: Brookings Institution.
- Axelrod, Robert 1984. *The Evolution of Cooperation*. New York: Basic Books.
- Barber, James D. 1966. *Power in Committees: An Experiment in the Governmental Process*. Chicago: Rand McNally.
- Brake, R. 2003. *Who's in Charge? The Impact of Term Limits on State Legislative Budgeting in Maine & Michigan*. Paper presented at the American Political Science Association Meetings, Philadelphia, PA
- Cain, Bruce and G. Wright 2007. Committees. In Kurtz, Karl, Bruce Cain, and Richard G. Neimi (eds.) *Institutional Change in American Politics: The Case of Term Limits*. Ann Arbor: University of Michigan Press.
- Clucas, Richard A. 2003. California: The New Amateur Politics. . In Farmer, Rick, John David Rausch Jr., and John C. Green (eds.) *The Test of Time: Coping with Legislative Term Limits*. Lanham, MD: Lexington Books.
- Duffin, Diane L. 2003. Explaining Participation in Congressional Oversight Hearings. *American Politics Research*, 31(5):455-484.
- Francis, Wayne L. 1985. "Leadership, Party Caucuses, And Committees In U.S. State Legislatures." *Legislative Studies Quarterly* 10 (2): 243-257.
- Fenno, Richard F. Jr., 1962. "The House Appropriations Committee as a Political System: The Problem of Integration." *American Political Science Review*, 56: 310-24.
- Hamm, Keith E., Ronald D. Hedlund and Nancy Martorano 2006. "Measuring State Legislative Committee Power: Change and Chamber Differences in the 20th Century." *State Politics and Policy Quarterly*, 6: 88-111.
- Hedlund, R. D. 1984. "Organizational Attributes of Legislatures: Structure, Rules, Norms, Resources." *Legislative Studies Quarterly* 9 (1): 51-119.
- Hoffman, Bruce 2008. Minding the Gap: Legal Ideals and Strategic Action in State Legislative Hearings, *Law and Society Inquiry*, 33(1), 89-126.
- Kathlene, Lyn 1994. Power and Influence in State Legislative Policymaking: The Interaction of Gender and Position in Committee Hearing Debates, *American Political Science Review*, 88(3), 560-576.
- Kousser, T. 2005. *Term Limits and the Dismantling of State Legislative Professionalism*. Cambridge, UK: Cambridge University Press.

- Mattei, Laura R Winsky 1998. Gender and Power in American Legislative Discourse, *Journal of Politics*, 60(2) 440-461.
- Moen, Matthew C. and Kenneth T. Palmer 2003. Maine: The Cutting Edge of Term Limits. In Farmer, Rick, John David Rausch Jr., and John C. Green (eds.) *The Test of Time: Coping with Legislative Term Limits*. Lanham, MD: Lexington Books.
- Moen, Matthew C., Kenneth T. Palmer, and Richard J. Powell 2005. *Changing Members: The Maine Legislature in the Era of Term Limits*. Lanham, MD: Lexington Books.
- Mooney, Christopher Z. 2008. *Term Limits as a Boon to Legislative Scholarship: A Review Essay*. Paper prepared for presentation at the 2008 meetings of the Midwest Political Science Association. April, Chicago, IL.
- Porter, H.O. 1974. "Legislative Experts and Outsiders: The Two-Step Flow of Communication." *Journal of Politics* 36: 703-730.
- Ray, David 1986. Assessing the Performance of State Legislative Committees: A Case Study and a Proposed Research Agenda. *The Western Political Quarterly*, 39(1): 126-137.
- Rosenthal, Alan 1974. *Legislative Performance in the States*. New York: The Free Press.
- Sarbaugh-Thompson, Marjorie, Lyke Thompson, Elder, Margaret Comins, Richard C. Elling and John Strate 2006. Democracy Among Strangers: Term Limits' Effects on Relationships Between Legislators, *State Politics and Policy Quarterly*, 6(4): 384-409.
- Sarbaugh-Thompson, Marjorie, Lyke Thompson, Charles D. Elder, John Strate and Richard C. Elling 2004. *Political and Institutional Effects of Term Limits*. New York, Palgrave Macmillan.
- Squire, Peverill 2007. Measuring State legislative Professionalism: The Squire Index Revisited. *State Politics and Policy Quarterly*, 7(2):211-227.
- Wahlke, John C., Heinz Eulau, William Buchanan and Leroy Ferguson 1962. *The Legislative System*. New York: Wiley.

Figure 2

Proportion of Question Types

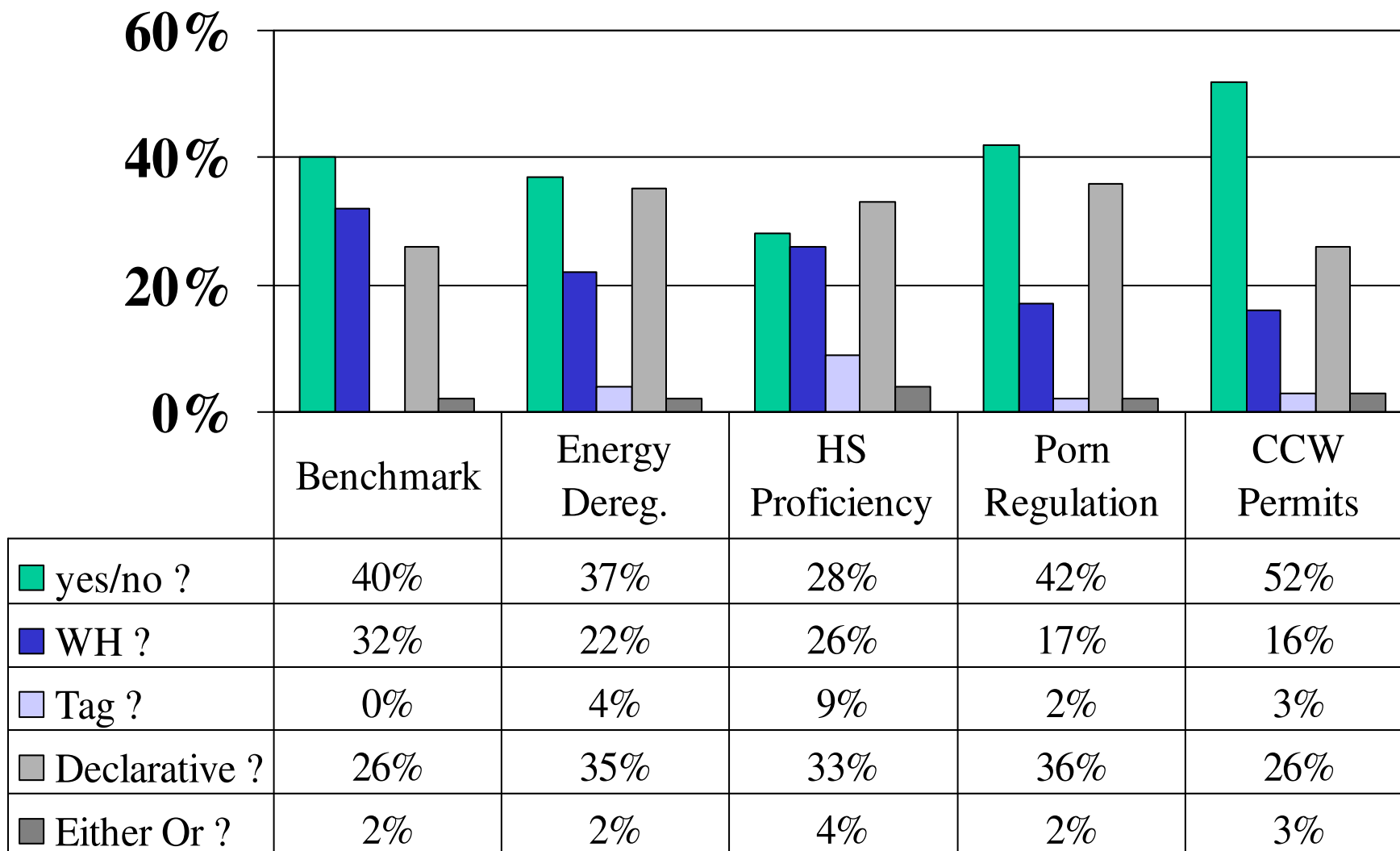
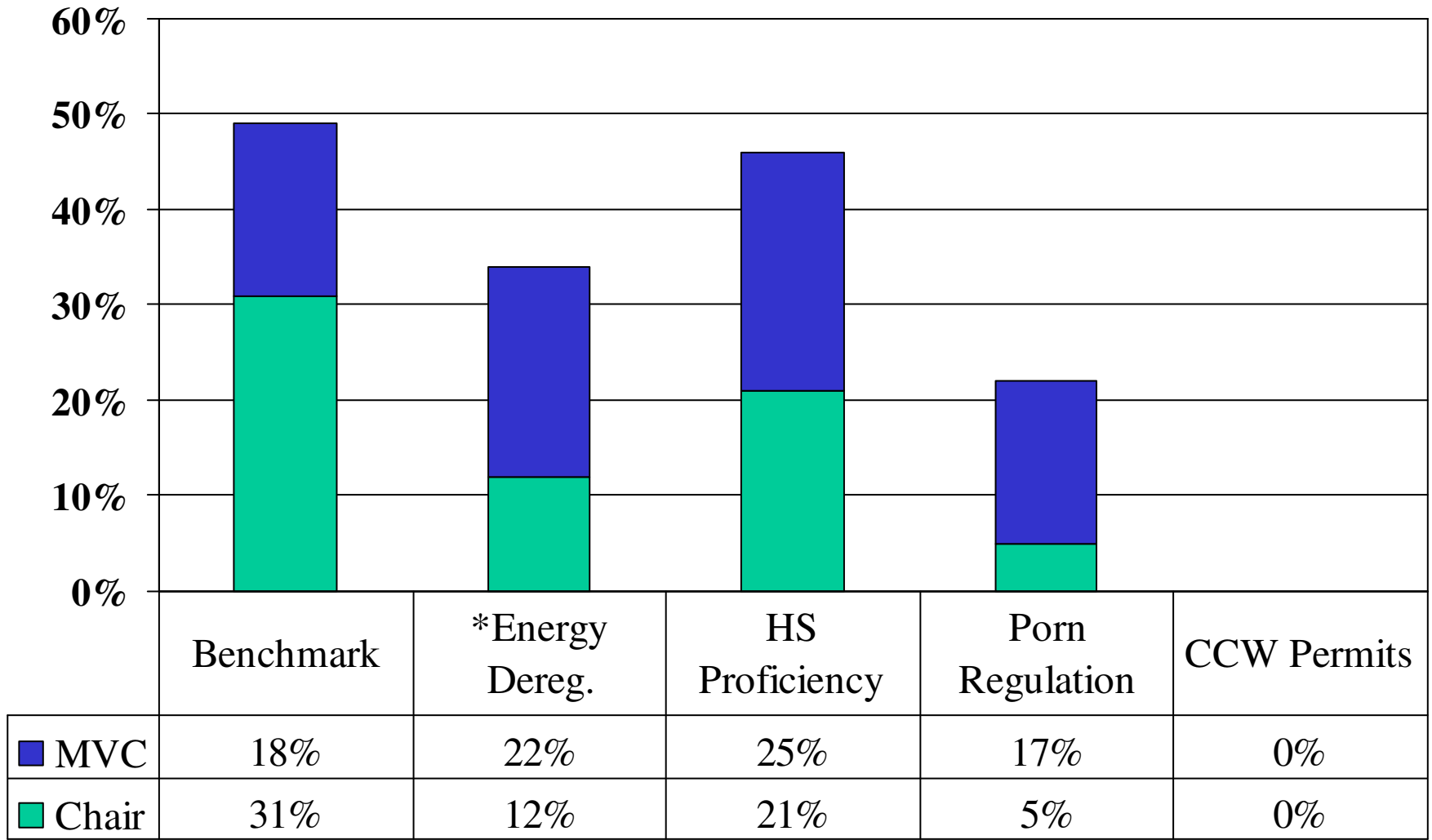


Figure 3

Proportion of Questions Asked by Leaders



*Joint hearing counted questions for House members not Senators

Figure 4

Interruptions and Disputes as a Proportion of Questions Asked

