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TERM LIMITS: THE ONLY WAY TO CLEAN UP CONGRESS

INTRODUCTION

The movement to limit political terms is steamrolling through American politics. Voters have approved term limits for Congressmen in each of the fifteen states where referenda have been held, with votes averaging over 66 percent in support, and another four to ten states will permit their citizens to vote on congressional term limits this November. If past elections and current polls are any indication, these proposals also will pass easily. In addition, eighteen states and hundreds of cities and counties across the country have adopted term limits for state and local officials.

Such substantial public support suggests widespread distaste for careerism in politics, as well as a conviction that continual infusion of fresh blood into the federal legislature will be good for both the Congress and the country. Support for term limits extends to significant majorities of diverse demographic groups: polls show that majorities of men, women, blacks, whites, Republicans, Democrats, and Independents all favor term limits, typically by 60 percent or better.¹ Such politically diverse figures as Ed Koch, Doug Wilder, Ralph Nader, Paul Tsongas, and George Will support term limits; over 100 Members of Congress have signed a discharge petition to force a vote in the House of Representatives on a constitutional amendment; and both Ross Perot and numerous United We Stand America chapters have made term limits a central goal. The United States Supreme Court has preempted a major argument of opponents—that term limits are clearly unconstitutional—by accepting a state case for review. Regardless of the outcome of the case, however, term limits are here to stay as an important issue on the American political landscape.

Term limits are a powerful political force, as demonstrated by the results of numerous state referenda, state legislative outcomes, and candidate election results.

Term limits are a vital political reform that would bring new perspectives to Congress, mandate frequent legislative turnover, and diminish incentives for wasteful election-related federal spending that currently flourish in a careerist congressional culture.

1 *New York Times*/CBS survey of 1,515 adults, April 1990.

Term limits as enacted on the state level are constitutional as a legitimate exercise of the states' power to regulate their own elections.

Term limits are opposed primarily by elected officials and the special-interest groups that depend on them because the weakness of the case against term limits does not appeal to the public.

Term limits have a promising future on numerous political fronts, such as candidate elections, state referenda, state and federal legislative action, and congressional and presidential politics.

THE TERM LIMITS PHENOMENON

When Americans are polled about their respect for the people in charge of their major institutions, Congress consistently comes out next to the bottom.² By substantial majorities, Americans have fixed firmly on term limits as the solution to problems in Congress, and will not easily be persuaded to change their minds. In one case, pollsters—after asking about subjects' views on term limits—gave four leading arguments against them; after the subjects heard these arguments, their support for term limits rose from 71 percent to 74 percent.³ Moreover, in contrast to other issues which are initially popular but fade under criticism, term limits are supported in actual voting nearly as strongly as in initial polls.

Skepticism about and distaste for long-term political careerism are central to the American experience. Term limits were contained in America's first governing document, the Articles of Confederation; they do not appear in the Constitution primarily because its drafters saw them as "entering into too much detail" for a short document.⁴ Several modern Presidents, including Truman and Eisenhower, have supported congressional term limits. Since the Constitution was amended in 1951 to limit Presidents to two terms, many political scientists have observed that congressional term limits could cure the imbalance between these two branches of the federal government.

As a political movement, term limits first achieved statewide success in September 1990 when Oklahoma opened the floodgates for statewide referenda by limiting the terms of its state legislators. Two months later, Colorado became the first state to place term limits on its congressional delegation. California, however, because of its size and influence on the rest of the nation, by its 1990 action in limiting the terms of state legislators may have been more influential in laying the groundwork for the victories that were to follow in 1992.

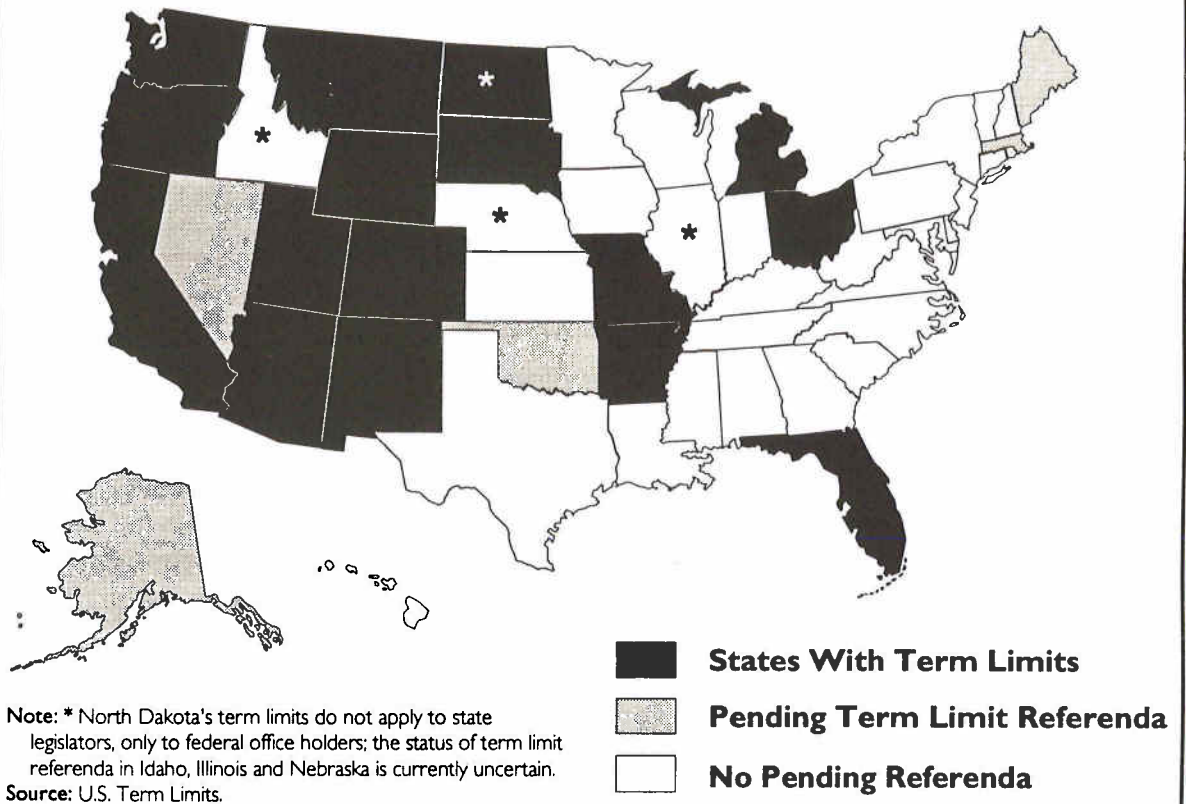
That year, fourteen more states passed term limit referenda the same day they helped elect a new President. In each of these fourteen states, term limits received more votes than did Bill Clinton; when added together, term limits received more votes in fourteen states than Ross Perot did nationwide. The appeal of limiting the terms of elected officials is also evident in the passage of term limits laws for hundreds of cities and counties across the country, including Los Angeles and New York City.

2 Law firms are the only group that the poll identifies as more unpopular than Congress. Louis Harris and Associates, "Confidence in Institutions" poll, 1966-1993.

3 Americans Talk Issues poll, January 1994.

4 John H. Fund, "Term Limitation: An Idea Whose Time Has Come," Cato Institute *Policy Analysis* No. 141, October 30, 1990.

States with Term Limits or Future Term Limits Referenda: 1994



Although opponents have attempted to create mass movements to fight term limits, they have been singularly unsuccessful because of term limits' widespread popularity. The term limits movement shows signs of becoming in the 1990s what the tax revolt became in the 1970s: a popular movement which politicians ignore at their peril. Although numerous state legislatures have dealt with term limits, to date only Utah's has successfully passed a bill (in March 1994), and a state referendum drive is currently under way there to correct what some activists see as weaknesses in the measure. More typically, state legislatures have resorted to various maneuvers in order to sidestep term limits. Last year in New Hampshire, the House successfully passed a term limits measure, but the Senate added a "killer amendment" that emasculated the legislation. The New Jersey House also passed a term limits measure in 1993, but the state Senate, relying on an advisory opinion from its in-house counsel that term limits are unconstitutional, refused to vote on the bill. In Wyoming, some members of the state legislature unsuccessfully attempted to amend the term limits referendum already passed by the voters by adding a proviso that term limits would not go into effect until every state in the Union passed them.

Legislative resistance to term limits is in sharp contrast with private citizens' strong support for them. Texas Republican Jim Tallas, a state legislator who bottled up a term limits measure in a subcommittee he chaired, was ousted in a March 1994 primary when his challenger, who made Tallas's opposition to term limits the center of his campaign, received 71 percent of the vote. The intensity of citizen support for term limits was demonstrated most recently in Ne-

braska after a May 1994 decision by the state supreme court voiding a successful term limits initiative on a technicality. Despite the fact that organizers had only nine weeks to gather signatures to place a second initiative on the November ballot, the names rolled in: over 60,000 in one week alone. As a result, Nebraskans almost certainly will re-enact term limits this fall. Speculation about whether the Supreme Court will find that state-imposed term limits on Members of Congress are constitutional diverts attention from the real story: a nationwide grassroots movement that has won popular votes in fifteen of fifteen states, has convinced a state legislature to pass them in a sixteenth (Utah), and almost certainly will expand its reach this November to as many as ten more states. This movement is animated by the conviction that the American people have lost control of their government but can take it back by using the most direct means available to control their elected representatives: frequent, mandated rotation that ensures they are truly of—not just from—their communities.

THE REAL POLITICS OF TERM LIMITS

The only serious opponents of term limits are incumbent politicians and the special interests—particularly labor unions—that support them. The specter of term limits creates powerful emotional reactions in opponents, at least two elected legislators (one the chairman of the House Administration Subcommittee on Elections) having publicly compared the term limits movement to Nazism. Such overheated rhetoric indicates both the threat that term limits poses to established special interests and the urgency of the battle for them.

It is clear that special interests do not believe term limits will help them. Among the major contributors to an anti-term limits campaign in Michigan, for instance, were Chrysler Corporation, Blue Cross-Blue Shield of Michigan, Michigan Bell Telephone Company, Detroit Edison Company, Southern California Edison Company, The Coastal Corporation, Kellogg Company, USX Corporation, and Pacific Telesis Group⁵—all large, heavily regulated businesses. Their unlikely allies were a coalition of unions, such as the Teamsters, the United Auto Workers, the Michigan Education Association, and the AFL-CIO, who rely on specific forms of government intervention in labor markets. All these groups' efforts were coordinated by Debbie Dingell, wife of Michigan Democrat and House Energy and Commerce Committee Chairman John Dingell. A similar assortment of regulated industries and unions that fought term limits in Washington State was spearheaded by Heather Foley, the spouse and unpaid chief of staff of Speaker of the House Tom Foley.

Special interests oppose term limits because they do not want to lose their valuable investments in incumbent legislators. Many are organized to extract programs, subsidies, and regulations from the federal government—to use the law, in other words, as a lever to benefit their own constituencies or harm their rivals. The zero-sum transfer economy from which skilled lobbyists profit—as well as their own high-paying jobs—will be decimated by term limits that force lobbyists to relearn the priorities of new Members and make arguments on the merits, not on the strength of personal connections. The number of groups listed in the *Encyclopedia of Associations* has quadrupled in the last four decades from fewer than 5,000 in 1956 to over 20,000 today as special interests have taken advantage of legislators' vulnerability to pro-

5 Norman Leahy, "Corporate Interests: Why Big Business Hates Term Limits," U.S. Term Limits Foundation, *Term Limits Outlook Series*, Vol II, No. 1 (March 1993).

posals that concentrate benefits but disperse costs. Such growth in lobbies and organizations is anything but a sign of democratic vigor.

WHY CONGRESS NEEDS TERM LIMITS

Term limits are needed at all levels of government. However, because of the large electoral advantages wielded by incumbents, the historically low rate of turnover, the greater threat from special interests, and the unique power that federal legislators hold, it is especially important to apply term limits to Congress.

- ✓ **Term limits counterbalance incumbent advantages.** Congressional term limits are a necessary corrective to inequalities which inevitably hinder challengers and aid incumbents. Each House Member, for instance, receives nearly a million dollars per year to pay for franked (free) mail, staff salaries, and office and travel expenses. While campaigning, incumbents continue to receive salaries upwards of \$130,000 a year, which typically dwarf the income of challengers (who often must resign from their jobs while running for office). A small army of congressional staffers does volunteer work during campaign season; they have every motivation to do so, since they are campaigning for perpetuation of their jobs. On official time, these political aides perform all sorts of jobs unrelated to legislation but closely tied to reelection, such as soliciting media attention and doing favors for constituents. The power of the frank permits each Member to send thinly disguised reelection propaganda to every residence in his district several times per term. The money allotted to each incumbent for franking alone—over \$160,000 per year—is higher than the average challenger's total campaign expenditures. State legislators, who recognize the benefits to their state from long-term congressional incumbency, redraw election districts to maximize incumbents' electoral chances. The extent of incumbent resources prevents their exhaustive listing here, but their electoral impact is sizable; both the House and the Senate, for instance, have authorized taxpayer-funded lawyers to intervene in term limits litigation. When these benefits are added to such natural incumbent advantages as name recognition, media access, and higher political contributions, it is no wonder that challengers unseat incumbents so rarely. Despite increasing complaints about the drudgery of life in Congress, a remarkable number of incumbents continue to seek (and secure) reelection.
- ✓ **Term limits ensure congressional turnover.** The turnover rate for House incumbents who attempt reelection typically is below 10 percent. This is in stark contrast to the first century of America's government, when long-term congressional incumbency was rare and Members often voluntarily chose to leave Washington and return home.⁶ In the nineteenth century, the average turnover in each new Congress was over 45 percent,⁷ and this ensured a continual influx of Members free from the institutional biases that long-term incumbency brings. Today, however, despite a large 1992 turnover fueled primarily by retirees, there is little or no turnover among those

6 See e.g., George Will, *Restoration* (New York: Free Press, 1992), p. 84.

7 Figures from Norman Ornstein, Thomas Mann, and Michael Malbin, *Vital Statistics on Congress 1993-1994* (Washington, D.C.: Congressional Quarterly, 1993), and Will, *Restoration*.

who set Congress's agenda: the committee chairmen and other members of the Democratic leadership. In the House of Representatives, for instance, the average job tenure is ten years. However, the principal leaders (the committee chairmen, speaker, majority leader, and whip) have served an average of *twenty-seven years*—which means that the average member of this group has been in the House since the Johnson Administration.⁸ For every congressional election in the last twenty years, incumbents running for reelection in the House of Representatives have been returned to office at rates averaging higher than 90 percent.⁹ Term limits would end such entrenchment and concentration of power, and the number of legislators who chose to retire or refused to run again also would increase. In California, for instance, the prospective imposition of term limits on the state legislature has more than doubled voluntary turnover (from 11 percent to 25 percent) in two years.¹⁰

- ✓ **Term limits secure Congress's independent judgment.** In one of the few cases where Congress itself has established term limits, service on the House and Senate Intelligence Committees is limited on the grounds that long-term membership might cause Members to develop a loyalty to the intelligence bureaucracy that would undermine their ability to exercise critical and independent judgment over it. This mandatory term limit is based on a sound theory of human conduct, but it deserves wider application; in an age where scores of federal agencies and special interests continually lobby for funding, there is a very real danger that Congressmen will become enmeshed in a culture that is overfamiliar with the federal government and insulated from the communities they ostensibly represent. Public sentiment in favor of term limits is likely influenced by the fear that Congressmen will become captured by this alien federal culture, as well as by frustration with the sclerotic representation that results from incumbents of all political stripes routinely getting reelected.
- ✓ **Term limits are a reality check.** Term limits also would provide inescapable, bracing reminders of what life in the real world is like. After former Senator George McGovern tried (and failed) to succeed in small business after spending eighteen years in Congress, he observed: "I wish I had known a little more about the problems of the private sector....I have to pay taxes, meet a payroll—I wish I had a better sense of what it took to do that when I was in Washington."¹¹ Ensuring that Members eventually are exposed to life outside of Congress should inculcate a more sophisticated understanding of the logic and the limits of federal regulation.
- ✓ **Term limits minimize Members' incentives for reelection-related "pork-barrel" legislation.** As government has grown larger, legislative careerism has become more prominent in Congress. Because long-tenured Congressmen have increasing power over the fate of federal projects due to the seniority system, senior members of both parties now routinely campaign by stressing their ability to bring federal projects to

8 See chart, "Unpopular Representation," *Insight*, April 11, 1994, page 22.

9 Ornstein, Mann, and Malbin, *Vital Statistics on Congress 1993-1994*, p. 118, table 4-7.

10 See John C. Armor, "'Foreshadowing' Effects of Term Limits: California's Example for Congress," U.S. Term Limits Foundation, Term Limits Outlook Series, Vol III, No. 1 (June 1994), p. 3.

11 Fund, *op. cit.*, p. 10.

