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Term Limits for Members of Congress: Issues in the 106th Congress

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Term Limits for Members of Congress: Issues in the 106th Congress

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Summary

Congressional efforts to limit federal lawmakers' tenure have waned since 1997, but supporters' differing strategies, various service limits at the federal and state levels, and the most recent general election are keeping the issue alive. Some proponents have changed their goal from mandatory limits through a constitutional amendment to voluntary limits through candidates' pledges to limit their own tenure. Fifty-nine Members of the 106th Congress have pledged to limit their service, including 10 who will reach their self-imposed limit at the end of this Congress. House Members who have served as chair of the same committee or subcommittee since 1995 will also reach the 6-year chairmanship limit established in House rules since 1995. At the state level, a total of 373 state legislators (in 12 of the 19 states that limit their state lawmakers' service) were ineligible for reelection in 2000. Term limits were also an issue in the 2000 general election. Some proponents were committed to recruiting and supporting candidates who pledged to limit their own tenure, and to campaigning against those who did not take the pledge or who took the pledge but broke it. This report will be updated as events warrant during106th Congress.

Background

There is no mandatory limit on the number of terms or years Members of Congress may serve, but term-limit proponents continue their efforts to add federal lawmakers to the list of elected public officials whose tenure in office is limited. Currently, that list includes the President, governors in 39 states and state legislators in 19 states.[1]

[1] The states that limit the tenure of the Governor are: AL, AK, AZ, AR, CA, CO, DE, FL, GA, HI, ID, IN, KS, KY, LA, ME, MD, MI, MS, MO, MT, NE, NV, NJ, NM, NC, OH, OK, OR, PA, RI, SC, SD, TN, UT, VA, WA, WV, and WY. The states that limit their state legislators' service are: AZ, AR, CA, CO, FL, ID, LA, ME, MI, MO, MT, NV, OH, OK, OR, SD, UT, WY and most recently, NE.

Proponents contend that term limits are needed to ensure membership turnover, offset some of the advantages of incumbency, increase competition in elections, and enhance the role of merit (rather than seniority) in the distribution of power. Opponents argue that term limits would infringe on the citizens' right to determine who serves and for how long, force many of the most competent and experienced Members from office prematurely, and weaken the legislative branch by creating larger numbers of inexperienced and "lame duck" Members of Congress and shifting power from elected legislators to lobbyists, congressional staff, and executive branch personnel who are less accountable to the electorate.

Issues in Debate

Campaign Against Term Limit Pledge-Breakers. Term-limit proponents have tried a variety of strategies in their efforts to attain congressional term limits; so far, none have been successful. A major group–*U.S. Term Limits*[2]–and other advocates hope to change that with their latest approach.[3] They have shifted from promoting mandatory limits through a constitutional amendment to promoting voluntary pledges by candidates to limit their own tenure. As part of this strategy, proponents are also conducting media campaigns aimed at candidates who do not take the pledge, or who take the pledge and subsequently break it. The decision to focus attention on pledge-breakers has caused some discord among term-limit advocates. Some supporters believe that campaigning against pledge-breakers reinforces the importance of keeping the pledge. Others contend it may increase the opportunity for replacing term-limit advocates with "people who don't support term limits."[4] Further, while this strategy may provide incentive for wavering Members to keep their pledge, it may also alienate some supporters and cause candidates who might be willing to limit their own terms to resist taking the pledge.

Limit on House Tenure. Another key issue among supporters is the appropriate limit on House service. For example, some, including the *Term Limits Legal Institute*[5], have suggested a 12-year limit. Others, including *U.S. Term Limits,* continue to press for a limit of 6 years. Still others, including the Florida-based group *Eight Is Enough*,[6] support an 8-year limit. In particular, the willingness of some proponents to accept limits

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[2] Based in Washington, DC, *U.S. Term Limits* is a national advocacy group that promotes term limits at the congressional, state, and local levels.

[3] This approach was developed after such events as the following: (1) a 1995 ruling of the U.S. Supreme Court (*U.S. Term Limits, Inc. v. Thornton*) invalidating state-imposed limits on congressional terms, (2) failed attempts to attain support sufficient for passage in Congress of a constitutional amendment, and (3) several state court decisions invalidating state laws and initiatives related to congressional term limits.

[4] Cleta Mitchell, *Term Limits Legal Institute*, quoted in Edward Walsh, "Term Limits Pledges Are Coming Due," *Washington Post*, Mar. 15, 1999, p. A1.

[5] The *Term Limits Legal Institute* originated as a project of Americans Back in Charge, a non-profit Colorado corporation, which was created to help states attain term limits for their federal legislators.

[6] Located in Florida, *Eight Is Enough* is a term-limit advocacy group that has spearheaded a campaign of the same name (i.e., "eight is enough") to limit the tenure of Florida's cabinet members, state legislators and Members of the U.S. Congress.

other than the 6-year limit, and *U.S. Term Limits'* virtual insistence on a 6-year limit, continue to be an issue within the term-limits movement.

106th Congress

As of the beginning of this Congress, 309 Members of the House (71%) had served less than 12 years, including 21 Members who will complete their twelfth year at the end of this Congress; 261 Members of the House (60%) had served less than 8 years, including 79 who will complete their eighth year at the end of this Congress; and 182 Members of the House (42%) had served less than 6 years, including 68 who will complete their sixth year at the end of this Congress. If a 12-year limit had been in place when the 106th Congress convened, more than one-fourth of the House (126 Members or 29%) would have been ineligible to serve. If an 8-year limit had been in place, approximately two-fifths of the House (174 Members or 40%) would have been ineligible to serve; and a 6-year limit would have rendered more than half of the current House (253 Members or 59%) ineligible to serve.[7]

Among term-limit advocates, the general consensus is for a limit of 12 years on Senate service. As of the beginning of the 106th Congress, 41 Senators had served more than 12 years.

Members Who Have Taken the Term Limits Pledge. According to *U.S. Term Limits*, 59 Members of the 106th Congress (45 Representatives and 14 Senators) have pledged to limit their tenure. Ten of these will reach their tenure limits at the end of this Congress.[8] According to press reports, seven of the 10 indicated they would keep their pledge and not seek reelection; three retracted their pledge.[9] The three who retracted their pledge were reelected to the 107th Congress, and one of the seven who is stepping down in compliance with the pledge, has not discounted running for reelection in 2002.[10]

Members of Congress Who are Former State Legislators. One effect of the limit on state legislators may be that those who have been term-limited out of their state legislative position will seek other public offices. State Senators may choose to run for the State Assembly or vice versa. Further, a number of state legislators may decide to seek election to Congress. Historically, a significant percentage of the Congress has previously served in a state legislature. For example, at least 47% of the Members of the last five Congresses have been state legislators; and 50% of the Members of the 106th Congress are former state lawmakers.

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[7] In calculating data, no distinction was made between consecutive and non-consecutive service.

[8] *U.S. Term Limits*, "California Ballot Initiative Would Favor Self-Limiting Congressional Candidates,"[http://www.termlimits.org/Press/Press_Releases/19990201.html], visited Jan. 5, 2000.

[9] For example, see: Kristin Brainerd, "Several Term Limit Supporters Recant Vows to Leave House, Saying Their Work Is Not Yet Done," *CQ Weekly Report*, June 19, 1999, p. 1444, and Karen Foerstell, "Term Limits Movement Strikes Out in New Direction," *CQ Weekly Report*, Feb. 5, 2000, pp. 235-237.

[10] Edward Walsh, "Term-Limit Pledges Are Coming Due," *Washington Post*, March 15, 1999, p. A1.

Term-Limit Test Laboratories

Term-limit proponents were unable to attain limits on the overall tenure of Members of Congress, but they did achieve limits in two important legislative arenas: (1) chairmanships of committees and subcommittees in the U.S. House of Representatives, and (2) state legislatures in 19 states.[11] Since 1995, when Republicans became the majority in the House, House Rules have limited Members serving as chair of the same committee or subcommittee to three consecutive terms (i.e., 6 years).[12] Since 1990, 19 states have chosen to limit the number of terms or years their state legislators may serve.[11] These committees in the U.S. House of Representatives and state legislatures may provide some insight into the term-limits issue and some of its practical effects. The limits' effects could have a significant impact on whether there will be a resurgence of interest in the issue in Congress.

House Congressional Committees.[13] Under the 6-year chairmanship limitation, Representatives who have served as chair of the same committee or subcommittee since 1995 will reach their tenure limit at the end of this Congress. If no change in the limitation rule is made, no Member who has been chairman of the same committee or subcommittee since 1995 can continue serving as chairman of that committee or subcommittee. In June 1999, however, Speaker Dennis Hastert (R-IL) made a "clarification" of the limitation rule and announced that a Member who reaches the 6-year chairmanship tenure limit at the end of this Congress, is not disqualified from becoming chairman of another committee or subcommittee during the 107th Congress. Precisely how this would work and what its final effect would be are unclear at this time.

It may be that allowing any Member who has reached the chairmanship tenure limit to become chairman of another committee, or to chair a subcommittee of his or her current committee, would enhance continued use of the chairman's knowledge and experience. It may also add incentive for some chairmen to continue serving after they have reached the 6-year chairmanship tenure limit.[14] On the other hand, it might cause some dissension, particularly between junior and senior Members as well as between committee and subcommittee members. It could also provoke opposition from some advocates, who consider the 3-term limit on House committee and subcommittee chairs, "the most important achievement" in the congressional term-limits movement.[15] The limits may also have a significant impact on committee structure, subcommittee jurisdictions, and party

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[11] Nebraska became the 19th state to limit the tenure of its state lawmakers as a result of a ballot initiative that was passed by the voters on Nov. 7, 2000.

[12] Rule X, clause 5(c)(2), Rules of the U.S. House of Representatives, 105th Congress. In 1995, in addition to limits on the tenure of committee and subcommittee chairmen, a limit of four consecutive Congresses (i.e., eight consecutive years) was also established for the Speaker of the House. (Rule I, clause 9, Rules of the U.S. House of Representatives, 105th Congress).

[13] For further discussion see: *House Committee and Subcommittee Chairmanships: Term Limits and Turnover Rates*, by Stanley Bach, CRS report RS20586 (Washington: May 23, 2000), 6pp.

[14] Juliet Eilperin, "House Chairmanship Trades Cleared; GOP Decision Lets Senior Lawmakers Maintain Influence," *Washington Post*, June 18, 1999, p. A10.

[15] Cleta Mitchell, General Counsel, *Term Limits Legal Institute*, telephone interview, Feb. 28, 2000.

dynamics, as the leadership, senior Members and rank-and-file members deal with the limits' practical effects.

If the Democrats had regained control of the House, they might have abolished the 6-year limit on chairmanships, since most of them did not support it in the first place. Reportedly, two years ago when a Democrat offered a proposal in Caucus that would have put limits on ranking members' tenure, the Caucus rejected the proposal.[16] Still,"the issue is not cut and dry for the [Democratic] Caucus, in part because the last 5 years have seen a good deal of turnover in the Caucus," one political observer has noted.[17]

State Legislatures. Proponents of term limits have had significant success in setting limits for state legislators. Nineteen states now limit how long their legislators may serve. The impact is becoming increasingly evident. In 1996, 52 state legislators reached their tenure limits; in 1998, more than 200. In 2000, a total of 373 lawmakers were ineligible for reelection. In 1998, the impact of term limits was most evident in the state houses of Arkansas and Michigan, where half of Arkansas' 100 members and 67 of Michigan's 110 members reached their tenure limits. Tenure limits could be reached for the first time in the year 2000 by state legislators in five states: Arizona, Florida, Montana, Ohio, and South Dakota.[18]

Term-limit opponents believe this systematically high turnover will adversely affect the political process by paving the way for legislative newcomers to replace well-regarded, experienced legislators. Proponents argue that the automatic turnover will guard against undue influence from special interests and maintain a constant influx of newcomers who are more likely to take risks, press for more ethics reform, and be more fiscally responsible.

Mixed Results. So far, preliminary results from the states with term limits have been mixed. For example, in California–one of the first two states to experience the impact of term limits in both state houses– all of the assembly members who had served in the legislature since 1990, and many of the state senators, reached their tenure limits in 1996.[19]

One political observer claims that "term limits has generated even more partisanship and incivility among members, a growing inability to compromise, a legislative leadership with greatly reduced powers, and a sharp decline in legislators' comprehension of, and interest in, the complexities of the issues that they are supposed to deal with."[20] But

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[16] Ethan Wallison, "Democrats Likely to Kill Term Limits, *Roll Call*, Jan. 10, 2000, pp.1, 21.

[17] *Ibid.*

[18] National Conference of State Legislatures, "Countdown Starts for Term Limited Lawmakers," and "Effect of Term Limits in the 2000 Elections," [http://www.ncsl.org/programs/legman/ about/termlim.htm], visited Dec. 2, 1999; and "Term Limited States" in Mark Katches, "No more Museum Pieces," *State Legislatures*, Feb. 1999, p.26.

[19] Passed by the voters in 1990, California's legislative term limits are among the most strict in the nation (three 2-year terms in a lifetime for assembly members and two 4-year terms in a lifetime for state senators).

[20] Peter Schrag, *Paradise Lost: California's Experience, America's Future*, (Berkeley and Los

(continued...)

California State Assemblyman Rod Pacheco contends that "during the advent of term limits California has done well." He offers as evidence: significant tax cuts in 1997, 1998, and 1999, reduced class size, welfare reform, and passage of the (1999) budget for the first time in 14 years.[21] The authors of an analysis comparing term-limit states and non term-limit states concluded that "neither the case for nor against term limits is sharply advanced by our findings. One can find results that suggest the reform is working in both positive and negative ways...."[22] Perhaps further reflecting the mixed results from the states is the variety of the term-limit proposals for state legislators that were introduced in the state legislatures in 1999 and 2000. Among these were measures to establish term limits for state legislators, measures to repeal existing term limits for state legislators, and measures to limit terms but also to increase the length of term in either or both houses of the state legislature.

Impact on the 2000 General Election

Term-limit advocates made the issue a factor in the 2000 general election. In January 1999, *U.S. Term Limits* announced plans to spend $20 million in the year 2000 election cycle on a campaign aimed at educating voters on the benefits of term limits. The group also "promised a concerted effort to defeat House members who it believes are violating their pledges."[23] To that end, the group and some of its allies conducted a campaign aimed at praising those self-limiters who kept their pledge, criticizing those who broke it, and pressuring those who appeared to be wavering about keeping it, to keep it.

Recent Developments

On March 7, 2000, voters rejected a term-limits initiative on the California primary ballot. Among other things, the measure would have allowed congressional candidates voluntarily to sign non-binding declarations of intention to serve no more than three House terms and two Senate terms, or to declare their choice not to so limit their terms. On November 6, 2000, the U.S. Supreme Court heard oral arguments on a case (*Cook v. Gralike*) regarding whether states can require congressional candidates to support congressional term limits or have the notation "disregarded voters' instruction on term limits" beside their name on election ballots. On November 15, 2000, the House Republican Conference rejected a proposal to eliminate the 6-year limit on chairmanship of the same House committee or subcommittee.[24]

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[20] (...continued)
Angeles: University of California Press, 1996), p.13.

[21] Rod Pacheco, "Term Limits Law Helps the Legislature," *Orange County Register*, Nov. 2, 1999, p. B6.

[22] John M. Carey, Richard G. Niemi, and Lynda W. Powell, "The Effects of Term Limits on State Legislatures," *Legislative Studies Quarterly*, vol. 23, May 1998, pp. 271-300.

[23] Brainerd, "Term Limit Supporters Recant Vows," *CQ Weekly Report*, June 19, 1999, p. 1444.

[24] Ben Pershing, "Bid to End Panel Limits Rejected," *Roll Call*, Nov. 16, 2000, pp. 1, 25.

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