CATO HANDBOOK FOR CONGRESS

Policy Recommendations for the 108th Congress

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9. Term Limits and the Need for a Citizen Legislature

Each member of Congress should

- pledge to be a citizen legislator by limiting his or her time in office to no more than three additional terms in the House of Representatives and no more than two additional terms in the Senate and
- keep that pledge.

Americans are dissatisfied with Washington. For more than a generation, polls have found a steady decline in the proportion of citizens who believe Washington can be trusted to do what is right. Most people believe that politics has nothing to do with their lives or that it is run for the benefit of a few. Not surprisingly, a poll by Princeton Survey Research Associates revealed that only 12 percent of the electorate have a great deal of confidence in Congress as an institution.

Americans can reclaim their democracy. They can have a government that is accountable to their will, a government for and by the people. They can have a citizen legislature in Washington and in every statehouse in America. Citizen legislators will make laws that make sense to ordinary people and revive our national faith in representative government.

How can we have citizen legislatures? The power of office has virtually put incumbents beyond the reach of the people. Restoring democracy requires term limits for incumbents. All members of Congress should pledge to limit their stay on Capitol Hill.

The People Support Term Limits

Members of Congress should listen to the good sense of the American people on this issue. For years, national polls have found that three of four voters support term limits. In a June 2000 poll by Diversified Research,

Inc., 69 percent of Californians said that they still approved of the original (1990) term limits initiative. In March 2002, a ballot initiative designed to weaken California's term limits law was soundly defeated at the polls. According to Paul Jacob, executive director of U.S. Term Limits, ''If the people of this country got a chance tomorrow to vote on term limits for members of Congress, you would see them rush to the nearest polling place.''

Indeed, the people have spoken loudly and clearly on term limits in virtually all of the states that provide an opportunity to do so. Twenty-two states representing nearly half of Congress had term limited their delegations by 1994. The great majority of those states had opted to limit their representatives to three terms, and all of those states had limited their senators to two terms. Only 2 of the 22 states chose six terms for the House.

In November 2000, Nebraska became the 19th state to limit the terms of state legislators. By 2001, term limits had affected more than 700 legislative seats. The first 19 states passed term limits by an average of 67 percent of the vote (Table 9.1). Moreover, every effort by incumbents to roll back term limits has been defeated by voters.

Despite the overwhelming support of the American people for term limits, the incumbent establishment has made it extremely difficult for the will of the people to be translated into law. When the Supreme Court declared that states could not limit the terms of their representatives in Washington, advocates of term limits petitioned the new Republican Congress—which had put term limits in its Contract with America—to pass a constitutional amendment to impose nationwide term limits. Incumbent members of Congress had an obvious conflict of interest on the issue, and they did not pass an amendment.

Take the Pledge

Americans believe term limits will make Congress a citizen legislature. But a Congress controlled by career politicians will never pass a term limits amendment. So the term limits movement, one of the most successful grassroots political efforts in U.S. history, has set out to change Congress from a bastion of careerism into a citizen legislature the best way it can—district by district.

George Washington set the standard. Perhaps the most popular and powerful American in history, Washington nevertheless stepped down after two terms as president. He handed back to the people the immense

Table 9.1
State Legislative Term Limits
Making a Difference One State at a Time

State	Year	Limited: Terms (total years allowed)	Year Law Takes Effect	Percentage Voting Yes
Arizona	1992	House: 4 terms (8 years) Senate: 4 terms (8 years)	House: 2000 Senate: 2000	74%
Arkansas	1992	House: 3 terms (6 years) Senate: 2 terms (8 years)	House: 1998 Senate: 2000	60%
California	1990	Assembly: 3 terms (6 years) Senate: 2 terms (8 years)	House: 1996 Senate: 1998	52%
Colorado	1990	House: 4 terms (8 years) Senate: 2 terms (8 years)	House: 1998 Senate: 1998	71%
Florida	1992	House: 4 terms (8 years) Senate: 2 terms (8 years)	House: 2000 Senate: 2000	77%
Louisiana**	1995	House: 3 terms (12 years) Senate: 3 terms (12 years)	House: 2007 Senate: 2007	76%
*Maine**	1993	House: 4 terms (8 years) Senate: 4 terms (8 years)	House: 1996 Senate: 1996	68%
Michigan	1992	House: 3 terms (6 years) Senate: 2 terms (8 years)	House: 1998 Senate: 2002	59%
Missouri	1992	House: 4 terms (8 years) Senate: 2 terms (8 years)	House: 2002 Senate: 2002	75%
Montana	1992	House: 4 terms (8 years) Senate: 2 terms (8 years)	House: 2000 Senate: 2000	67%
Nebraska	2000	Unicameral: 2 terms (8 years)	2008	56%
Nevada	1994	Assembly: 6 terms (12 years) Senate: 3 terms (12 years)	House: 2006 Senate: 2006	70%
Ohio	1992	House: 4 terms (8 years) Senate: 2 terms (8 years)	House: 2000 Senate: 2000	66%
Oklahoma	1990	12-year combined total for both houses	2002	67%
South Dakota	1992	House: 4 terms (8 years) Senate: 2 terms (8 years)	House: 2000 Senate: 2000	64%

(continued)

Table 9.1
(continued)

State	Year	Limited: Terms (total years allowed)	Year Law Takes Effect	Percentage Voting Yes
*Utah***	1994	House: 6 terms (12 years) Senate: 3 terms (12 years)	House: 2006 Senate: 2006	n/a
*Wyoming****	1992	House: 6 terms (12 years) Senate: 3 terms (12 years)	House: 2004 Senate: 2004	77%
Average Percentage of Vote				67%

SOURCE: U.S. Term Limits, www.termlimits.org/Current_Info/State_TL/Index.html.
Note: Italics indicate states limited by statute. All others are limited by state constitutional amendment.
*Maine's law is retroactive.
**Louisiana's and Utah's laws were passed by the state legislatures.
***Wyoming's law was originally passed by initiative in 1994. The legislature amended the law to allow members of the House to serve 12 years. A referendum to return to the original 6-year House limits garnered 54% of the vote but failed to get 50% plus 1 of all voters to veto the legislature.

power and trust they had given to him—dramatically making the case that no one should monopolize a seat of power.

The tradition of a two-term limit for the president lasted uninterrupted for almost a century and a half. When Franklin D. Roosevelt broke the tradition, Congress moved to codify the term limit by proposing the Twenty-Second Amendment to the Constitution, which the states ratified in just 12 short months. The presidential term limit remains tremendously popular.

We can establish such a tradition in Congress. Since 1994, several dozen new faces have entered the halls of Congress serious about changing the culture of Washington and after pledging to limit themselves to three terms in the House or two terms in the Senate. Those pledges have resonated with the voters who understand that a lawmaker's career interests do not always coincide with the interests of the people back home. A poll by Fabrizio-McLaughlin and Associates asked, ''Would you be more likely to vote for a candidate who pledges to serve no more than three terms in the House, or a candidate who refuses to self limit?'' Seventy-two percent of respondents said they would be more likely to vote for the self-limiter.

Self-limiters serve their constituents well. Rep. Matt Salmon of Arizona, in reaffirming the pledge he made in 1994 to serve only three terms in the House, said:

> The independence that comes from limiting my terms has enabled me to vote against the bloated budget deal of 1997, and to challenge my own party's leadership when I feel it would be best for the people of Arizona. Instead of looking ahead to my own career in the House, I am able to put my Arizona constituents first.

Self-limiters also resist Washington's culture of spending. They are able to vote for spending limits because of the freedom of conscience afforded by their term limit pledge. The self-limiters' collective experience suggests that self-limitation helps to discipline a politician's legislative behavior. Self-limiters exercise greater independence than their non-term-limited peers and appear less fearful of incurring the wrath of either party power brokers or special interest groups. During the past several years, many self-limiters stood out as the most fiscally conservative members of Congress.

Not surprisingly, self-limiters have spearheaded opposition to pork-barrel spending and committee budget increases. They have demanded honest accounting and pioneered the political push for real reform of flawed government programs such as Social Security and Medicare—so often used by professional politicians as political footballs.

Term Limits on Committee Chairs

Most laws begin life in congressional committees led by powerful chairs who act as gatekeepers for floor votes on legislation. For decades, the average tenure of a committee chair was about 20 years. The seniority system allowed entrenched politicians from the least competitive districts to wield power over other members, not on the basis of merit, but because of their longevity. In the past, the only way to lose a chair was by death, resignation, retirement, or electoral defeat.

The seniority system increased the level of pork-barrel spending and blocked much needed change. For example, in a Cato Institute Policy Analysis, ''Term Limits and the Republican Congress,'' Aaron Steelman examined 31 key tax and spending proposals in the 104th and 105th Congresses. He found that junior Republicans in Congress were ''more than twice as likely to vote for spending or tax cuts as were senior Republicans.'' Steelman pointed out that ''veteran Republican legislators have proven they are comfortable with big government. It is unlikely that fundamental change in Washington will occur while they continue to control legislative debate and action.''

For those reasons, in 1995 the Speaker of the House decided to limit the terms of House committee chairs to three terms, totaling six years. Those limits are an important dent in a corrupt system. Term limits on those powerful positions make the House more responsible and open the way for newer members to influence policy. In 1996, the Republican caucus imposed six-year limits on GOP committee chairs. As a consequence, some changes have occurred on the traditional Senate leadership career path. But the pace of change should be quickened, not slowed. The 108th Congress should retain term limits on committee chairs in the House and extend them to Senate committee chairs.

Why We Need a Citizen Legislature

Why are term limits so popular? Americans believe that career legislators and professional politicians have created a gaping chasm between themselves and their government. For democracy to work, it must be representative—a government of, by, and for the people. Democracy in America requires a citizen legislature.

To be a citizen legislator, a member of Congress should not be far removed from the private sector. The members of the House of Representatives, in particular, should be close to the people they represent. As Rhode Island's Roger Sherman wrote at the time of our nation's founding: ''Representatives ought to return home and mix with the people. By remaining at the seat of government, they would acquire the habits of the place, which might differ from those of their constituents.'' In the era of year-round legislative sessions, the only way to achieve that objective is through term limits.

What should be the limit on terms? Some observers have proposed as many as six terms (or 12 years) for the House. Three terms for the House is better for several reasons. America is best served by a Congress whose members are there out of a sense of civic duty but who would rather live their lives in the private sector, holding productive jobs in civil society, far removed from government and politics. Such individuals might be willing to spend two, four, or even six years in Washington, but not if the legislative agenda is being set by others who have gained their authority through seniority. Twelve-year ''limits,'' which amount to a mini-career, do little to remove this major obstacle to a more diverse and representative group of Americans seeking office.

We have solid evidence that short, three-term limits enhance the democratic process: Proposition 140 in California, which was passed by the

voters there in 1990 and limited the state assembly to three two-year terms. The 1992 assembly elections witnessed a sharp increase in the number of citizens seeking office, with a remarkable 27 freshmen elected to the 80-member lower house of the California legislature. In an article on that freshman class, the *Los Angeles Times* said:

> Among the things making the group unusual is that most of them are true outsiders. For the first time in years, the freshman class does not include an abundance of former legislative aides who moved up the ladder to become members. . . . Among the 27 are a former U.S. Air Force fighter pilot, a former sheriff-coroner, a paralegal, a retired teacher, a video store owner, a businesswoman-homemaker, a children's advocate, an interior designer, a retired sheriff's lieutenant, and a number of businessmen, lawyers, and former city council members.

A scholarly study of the California legislature by Mark Petracca of the University of California at Irvine found that the strict term limits Californians passed in 1990 had had the following consequences:

- Turnover in both legislative chambers had increased markedly.
- The number of incumbents seeking reelection had dropped sharply.
- The percentage of elections in which incumbents won reelection had dropped significantly.
- The number of women in both houses had increased.
- The number of uncontested races had declined.
- The number of candidates seeking office in both chambers had increased.
- The winning margin of incumbents had declined.

While perhaps not attractive to people seeking to be career politicians, all those developments please the great majority of Americans who favor a return to citizen legislatures.

Similarly, a three-term limit for the U.S. House of Representatives will return control of the House—not just through voting, but also through participation—to the people. We must make the possibility of serving in Congress a more attractive option for millions more Americans.

A second reason for shorter term limits is that the longer one is in Congress, the more one is exposed to and influenced by the ''culture of ruling'' that permeates life inside the Beltway. Groups like the National Taxpayers Union have shown that the longer people serve in Congress, the bigger spenders, taxers, and regulators they become. That is just as true of conservatives as it is of liberals. It is also understandable. Members

of Congress are surrounded at work and socially by people who spend other people's money and regulate their lives. It is the unusual individual—although such people do exist—who is not subtly but surely affected by that culture.

Three terms rather than six would better serve as an antidote to the growing ''professionalization'' of the legislative process. As Mark Petracca has written:

> Whereas representative government aspires to maintain a proximity of sympathy and interests between representative and represented, professionalism creates authority, autonomy, and hierarchy, distancing the expert from the client. Though this distance may be necessary and functional for lawyers, nurses, physicians, accountants, and social scientists, the qualities and characteristics associated with being a ''professional'' legislator run counter to the supposed goals of a representative democracy. Professionalism encourages an independence of ambition, judgment, and behavior that is squarely at odds with the inherently dependent nature of representative government.

Finally, shorter limits for the House would enhance the competitiveness of elections and, as previously noted, increase the number and diversity of Americans choosing to run for Congress. The most competitive races (and the ones that bring out the largest number of primary candidates) are for open seats.

At least a third of all House seats would be open each election under three-term limits, and it is probable that as many as half would not feature an incumbent seeking reelection. We also know from past experience that women and minorities have greater electoral success in races for open seats.

The members of a true citizen legislature literally view their time in office as a leave of absence from their real careers. Their larger ambitions lie in the private sector and not in expanding the ambit of government. Citizen legislators are true public servants, not the new masters of the political class.

State Legislative Term Limits Are Working

Term limits are taking effect all over the country in state legislatures—and they are working. Term limits were intended to end careerism among legislators. Scholarly research on the effects of term limits suggests that they have substantially attained that goal. Congress should take note:

- Term limits remain popular with state electorates long after their introduction.

- Term limits stimulate electoral competition in state legislative elections.
- Term limits enable nontraditional candidates to run for seats in state legislatures. Female, Hispanic, and Asian candidates find it easier to enter term-limited legislatures than non-term-limited bodies.
- Term limits weaken seniority systems in state legislatures.
- Term limits have not strengthened interest groups, state bureaucracies, or legislative staffs as predicted by critics of term limits.
- Term limits foster public policies that serve to halt, or at least reduce, the growth in the size and scope of government. Term-limited politicians demonstrate greater respect than their non-term-limited colleagues for taxpayers' money.

Clearly, term limits are working. Congress can't hold out forever.

Conclusion

The term limits movement is not motivated by disdain for the institution of Congress. It is motivated by a sincere desire on the part of the American people to regain control of the most representative part of the federal government. Resistance to this movement on the part of elected federal legislators only underscores the image of an Imperial Congress.

Those who sign the Term Limits Declaration are on the record as citizen legislators. Increasingly, that pledge will make the difference in winning competitive seats in Congress. The seniority system, rotten at its core, cannot survive a Congress where more and more members are under term limits. Nor can wrong-headed policies and wasteful spending projects survive a Congress with so many citizen legislators.

Term limits remain an issue to be reckoned with. Public support is even stronger and deeper for candidates making personal term limits commitments than for a term limits amendment. Voters seek to replace career politicians with dedicated citizen legislators as the best solution to what ails us in Washington. Political leaders who understand the problems created by a permanent ruling elite in Washington—or who simply want to abide by the overwhelming will of their constituents—will pledge to serve no more than three additional terms in the House or two in the Senate.

Suggested Readings

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