

Executive Memorandum

The Heritage Foundation

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RUSH!

HOUSE TERM LIMIT OPTIONS: GOOD, BETTER, BEST

On March 28, the House of Representatives will vote on term limits for the first time. Three of the four proposed constitutional amendments which will be considered represent positive approaches to term limits, though H.J.Res. 76, sponsored by Tennessee Republican Van Hilleary, is clearly the best option due to its quicker implementation, preservation of states' rights, and greater flexibility. The fourth, to be offered by Massachusetts Democrat Barney Frank, is an insincere effort by opponents to muddy the issue. If, as is likely, one of the three acceptable proposals proves the most popular in the initial voting, supporters should rally behind this version to provide the strongest possible vote for final passage of a term limits constitutional amendment.

Why Term Limits?

The breadth, depth, and persistence of public support for term limits is virtually unprecedented. Polls reveal support as high as 80 percent, with remarkably consistent views across often-divided demographic groups. The Gallup poll recorded a 49 percent plurality of Americans as favoring term limits for Congress in 1964, with support swelling to 64 percent in 1990 and 73 percent in 1994.

Public support for term limits, unlike many other issues, holds up well when citizens render a verdict on specific proposals after hearing competing arguments: state term limits initiatives have been approved in 22 states with an average of 66 percent support. From Maine to California, from New York City to small towns across the nation, whenever citizens have had the opportunity to vote on term limits, they have imposed them.

This broad public support is founded on sound principles of government and democracy: as power tends to corrupt, long-term incumbency changes the views of government officials. Incumbency also provides overwhelming electoral advantages, making elections less competitive. Rotation in office, on the other hand, produces a more representative government and enriches civic life by giving more citizens the opportunity to serve.

The electoral upheaval of 1994 was due in no small part to public support for term limits, and the new Republican majorities in Congress have a special obligation to deliver on this issue. Long-term incumbents who oppose term limits must be made to explain why they maintain opposition as public support for limits, even after years of vigorous discussion, continues to increase.

The House Choices

The House Republicans' Contract With America promised votes on constitutional amendments imposing three-term (six-year) and six-term (twelve-year) limits on House service, sponsored by Representatives Bob Inglis (R-SC) and Bill McCollum (R-FL), respectively. At a February 28 House Judiciary Committee mark-up session on these proposals, a coalition of opponents and wavering supporters amended the McCollum bill so that it would allow Representatives to sit out only one term before returning to office and explicitly would preempt state term limit laws (the original bill was silent on state powers). This made the McCollum bill unacceptable to most term limits supporters. The Committee refused to report the Inglis bill altogether.

As a result of the embarrassment in the Judiciary Committee, House GOP leaders postponed floor consideration of term limits and asked the House Rules Committee to honor the Contract With America's pledge for

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votes on the original McCollum and Inglis bills, along with a limited number of other alternatives. The Rules Committee has now proposed votes on alternative amendments by:

- X **Representative Frank** to impose term limits retroactively (counting terms already served in Congress against the limits);
- X **Representative Inglis** to impose six-year limits on House service;
- X **Representative Hilleary** to allow states to impose limits of their choosing (while explicitly protecting congressional term limit laws in the 22 states that now have them), subject to a twelve-year maximum;
- X **Representative McCollum** to impose twelve-year limits on House service.

All four proposals would impose twelve-year (two-term) limits on Senate service.

The most popular of the alternatives will advance to a final vote, a procedure known as "Queen of the Hill."

Why the Hilleary Amendment Is Best. The GOP Contract With America acknowledged the rights of the states and citizens to limit the terms of their elected officials. The Hilleary amendment, which is strongly backed by GOP freshman, is the only term limits proposal which explicitly recognizes the principle of federalism. Representatives from the 22 states which now have term limit laws, including California, Florida, Ohio, and Michigan, will be hard-pressed to explain their failure to respect the will of their constituents if they vote against the Hilleary amendment.

Grassroots activists from a variety of fields support the Hilleary amendment as a way to recognize the inviolability of citizen initiatives. Activists concerned about taxes, immigration, civil rights, and other issues will be up in arms if Congress implicitly overturns state initiative efforts on term limits.

The Retroactivity Red Herring. Often reluctant to oppose term limits openly, opponents of the idea have fixed on retroactive application of limits, arguing that if limits are such a good idea, why not throw most incumbents out of office right away? Recognizing that term limits represent principle, not retribution, the public has not bought this argument. It is hardly coincidental that the only retroactive measure ever offered to voters (in Washington State in 1991) also was one of only two term limits measures ever to be defeated. Nor should it be surprising that opponents of term limits are the only ones pushing for retroactive application.

Why Not a Statute? Some activists outside Congress are disappointed that the House procedure will not allow a vote on a term limits statute, which could be approved by a simple majority rather than the two-thirds required for a constitutional amendment. The possibility that Congress could impose term limits by a statute is an intriguing but relatively recent development. The Contract With America promised a vote on a constitutional amendment, the shared goal of term limits supporters until a few months ago. Thinking on how best to draft a statute is still developing, with a new version introduced in the House only weeks ago, and the efficacy of this approach may well be affected by the pending Supreme Court ruling in the Arkansas term limits case. Under House rules it is impossible to consider a statute and a constitutional amendment at the same time, so House leaders were justified in keeping the Contract pledge while leaving open the possibility of considering a statute at a later date.

The Goal: 290 Votes

A two-thirds vote of the House (290 if everyone votes) is necessary to approve a constitutional amendment. Term limits supporters should agree (and most have) to support on final passage whichever among the Hilleary, Inglis, and McCollum amendments receives the most support during the initial balloting. By presenting a united front, congressional term limits supporters give citizens what they most need: the best chance actually to pass term limits and, should the amendment fail, a clear test of where every Representative stands on the issue.

Win or lose, the March 28 vote is an historic step forward for term limits. Even if this first try fails, it will provide the necessary basis for further electoral, legal, and legislative efforts to advance the term limits principle. Among the choices offered in the House, the Hilleary Amendment is clearly the truest to the cause of term limits, but the Inglis or McCollum amendments also merit support should either one be the choice on the final vote.

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