

Sponsor Statement for HB 189 Repeal Term Limits/Term Limits Pledges

An Act repealing statutory provisions
relating to term limits and term limit pledges.

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On February 28, 2001, in a case entitled *Cook v. Gralike, et al.*, the United States Supreme Court ruled that printing term limit pledges on the ballot next to a Congressional candidate's name is unconstitutional. The Missouri act which was struck down required "DISREGARDED VOTERS' INSTRUCTION ON TERM LIMITS" to be printed on ballots by the names of members failing to take certain legislative acts in support of the proposed term limit amendment. It also provided that "DECLINED TO PLEDGE TO SUPPORT TERM LIMITS" be printed by the names of the non-incumbent candidates refusing to take a "Term Limit" pledge to bring about a specified "Congressional Term Limits Amendment."

Through the Elections Clause, the Constitution delegated to the States the power to regulate the "Times, Places, Manner of holding Elections for Senators and Representatives," subject to a grant of authority to Congress to "make or alter such Regulations." The states may regulate the incidents of such elections, including balloting, only within the exclusive delegation of power under the Elections Clause.

The Supreme Court found that the requirement of printing on the ballot a candidate's lack of acceptance of a term limit pledge was not a procedural regulation. It did not regulate the time of elections; it did not regulate the place of elections; nor did it regulate the manner of elections. Rather, the court found, the requirement was plainly designed to favor candidates who are willing to support the particular form of a term limits amendment, and to disfavor those who either oppose term limits entirely or who would prefer a different proposal. The Court stated that:

...it seems clear that the adverse labels handicap candidates at the most crucial state in the election process-the instant before the vote is cast. The labels imply that the issue 'is an important-perhaps paramount-consideration in the citizen's choice, which may decisively influence the citizen to cast his ballot' against candidates branded as unfaithful. Thus far from regulating the procedural mechanisms of elections, the Missouri act attempts to dictate electoral outcomes. Such 'regulation' of congressional elections simply is not authorized by the 'Elections Clause.'

Alaska statutes AS 15.15.500-575 require that "VIOLATED VOTER INSTRUCTION ON TERM LIMITS" be printed on the ballot adjacent to the name of any respective state senator or representative who failed to take appropriate action in support of a congressional term limit amendment to the constitution, during the preceding term of office. The same shall be printed on the ballot adjacent to the name of any United States Senator or Representative who also fails to take appropriate action during the preceding term.

Non-incumbent candidates for United States Senator and Representative, and state senator and representative who decline to take a "Term Limits" pledge shall have "DECLINED TO TAKE PLEDGE TO SUPPORT TERM LIMITS" printed adjacent to their name on every primary and general election ballot.

Any candidate for the United States Congress and the Alaska Legislature is permitted to submit to the lieutenant governor an executed copy of the Term Limits Pledge set for in AS 15.15.560(b). The lieutenant governor shall place on every election ballot “Signed TERM LIMITS pledge: Will serve no more than [3 terms] [2 terms]” next to the name of any candidate who has ever executed the Term Limits Pledge. In addition, “Broke TERM LIMITS pledge” shall be placed on every ballot next to the name of any candidate, who at any time executes the applicable Term Limits Pledge, and thereafter qualifies as a candidate for a term that would exceed the number of terms or years set for in the applicable Term Limits Pledge.

Since the Alaska statutes are so similar to those of Missouri, this United States Supreme Court ruling suggests that our statutes are unconstitutional. This bill will repeal these unconstitutional statutes.

The committee urges your support of this bill.