

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

591A0687

HOUSE BILL NO. 1188

Introduced by: Representatives Barker, Chicoine, Duniphan, Johnson (Doug), Jorgensen,
Waltman, and Weber and Senators Hutmacher, Halverson, Kloucek, and Lange

1 FOR AN ACT ENTITLED, An Act to repeal the provisions concerning a candidate's support
2 of congressional term limits.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 12-16-1.2 be repealed.

5 ~~— 12-16-1.2—~~

6 ~~— (1) — For the purposes of this section, a congressional term limits amendment is any~~
7 ~~amendment to the United States Constitution which is defined as follows:~~

8 ~~— (a) — No person shall serve in the office of United States Representative for more~~
9 ~~than three terms, but upon ratification of this amendment no person who has~~
10 ~~held the office of United States Representative or who then holds the office~~
11 ~~shall serve for more than two additional terms.~~

12 ~~— (b) — No person shall serve in the office of United States Senator for more than two~~
13 ~~terms, but upon ratification of this amendment no person who has held the~~
14 ~~office of United States Senator or who then holds the office shall serve more~~
15 ~~than one additional term.~~

1 ~~————— (c) This article shall have no time limit within which it must be ratified by the~~
2 ~~legislatures of three-fourths of the several states.~~

3 ~~————— (2) Each member of the state's congressional delegation shall use all of their powers to~~
4 ~~pass a congressional term limits amendment.~~

5 ~~————— (3) All primary and general election ballots shall have printed the information~~
6 ~~"DISREGARDED VOTERS' INSTRUCTION ON TERM LIMITS" adjacent to the~~
7 ~~name of any United States Senator or Representative from South Dakota who:~~

8 ~~————— (a) Fails to vote in favor of a proposed congressional term limits amendment, as~~
9 ~~defined by this section, when brought to a vote;~~

10 ~~————— (b) Fails to second a proposed congressional term limits amendment, as defined by~~
11 ~~this section, if it lacks for a second before any proceeding of the legislative~~
12 ~~body;~~

13 ~~————— (c) Fails to propose or otherwise bring to a vote of the full legislative body a~~
14 ~~proposed congressional term limits amendment, as defined by this section, if~~
15 ~~it otherwise lacks a legislator who so proposes or brings to a vote of the full~~
16 ~~legislative body a proposed congressional term limits amendment as defined by~~
17 ~~this section;~~

18 ~~————— (d) Fails to vote in favor of all votes bringing a proposed congressional term limits~~
19 ~~amendment, as defined by this section, before any committee or subcommittee~~
20 ~~of the respective house upon which the member serves;~~

21 ~~————— (e) Fails to reject any attempt to delay, table, or otherwise prevent a vote by the~~
22 ~~full legislative body of a proposed congressional term limits amendment as~~
23 ~~defined by this section;~~

24 ~~————— (f) Fails to vote against any proposed constitutional amendment that would~~
25 ~~establish longer term limits than those set forth in subdivision (1) of this section~~

1 regardless of any other actions in support of a proposed congressional term
2 limits amendment as defined by this section;

3 ~~(g) Sponsors or cosponsors any proposed constitutional amendment or law that~~
4 ~~establishes longer terms limits than those set forth in subdivision (1) of this~~
5 ~~section; or~~

6 ~~(h) Fails to ensure that all votes on a congressional term limits amendment are~~
7 ~~recorded and made available to the public.~~

8 ~~(4) The information "DISREGARDED VOTERS' INSTRUCTION ON TERM LIMITS"~~
9 ~~may not appear adjacent to the names of incumbent candidates for Congress if a~~
10 ~~congressional term limits amendment, as defined by this section, is before the states~~
11 ~~for ratification or has become part of the United States Constitution.~~

12 ~~(5) Non-incumbent candidates for the United States Senate and House of Representatives~~
13 ~~shall be given an opportunity to take a term limits pledge when the candidate files to~~
14 ~~run for such office. Any non-incumbent candidate who declines to take the term limits~~
15 ~~pledge shall have the information "DECLINED TO PLEDGE TO SUPPORT~~
16 ~~TERMS LIMITS" printed adjacent to the candidate's name on every primary and~~
17 ~~general election ballot.~~

18 ~~(6) The term limits pledge provided by subdivision (5) shall be offered to non-incumbent~~
19 ~~candidates for the United States Senate and House of Representatives until a~~
20 ~~congressional term limits amendment, as defined by this section, has been ratified by~~
21 ~~the states.⁷ The term limits pledge that each non-incumbent candidate, as provided~~
22 ~~by section 5 of this section, shall be offered is as follows: I support term limits and~~
23 ~~pledge to use all my legislative powers to enact a congressional term limits~~
24 ~~amendment as defined by this section. If elected, I pledge to vote in such a way that~~
25 ~~the designation "DISREGARDED VOTERS' INSTRUCTION ON TERM LIMITS"~~

1 will not appear adjacent to my name.

2 _____

3 Signature of Candidate

4 ~~(8) The secretary of state shall make an accurate determination as to whether the~~
5 ~~information "DISREGARDED VOTERS' INSTRUCTION ON TERM LIMITS" or~~
6 ~~"DECLINED TO PLEDGE TO SUPPORT TERM LIMITS" is placed adjacent to a~~
7 ~~candidate's name on the election ballot pursuant to this section.~~

8 ~~(9) The secretary of state shall consider timely submitted public comments prior to~~
9 ~~making the determination required in subdivision (8) of this section.~~

10 ~~(10) The secretary of state, in accordance with subdivision (8) shall determine and declare~~
11 ~~what information, if any, shall appear adjacent to the names of each incumbent~~
12 ~~member of the United States Senate or House of Representatives if the member is a~~
13 ~~candidate in the next election, This determination and declaration shall be made in a~~
14 ~~timely manner to ensure the orderly printing of primary and general election ballots~~
15 ~~with allowance made for all legal action as provided in subdivisions (11) and (12).~~
16 ~~This determination and declaration shall be based upon the member's action during the~~
17 ~~member's current term of office and any action taken in any concluded term, if the~~
18 ~~action was taken after the determination and declaration was made by the secretary~~
19 ~~of state in a previous election.~~

20 ~~(11) If the secretary of state makes the determination that the information~~
21 ~~"DISREGARDED VOTERS' INSTRUCTION ON TERM LIMITS" or "DECLINED~~
22 ~~TO PLEDGE TO SUPPORT TERM LIMITS" is not to be placed on the ballot~~
23 ~~adjacent to the name of a candidate as provided by this section, any elector may~~
24 ~~appeal such decision within five business days to the South Dakota Supreme Court~~
25 ~~as an original action or shall waive any right to appeal such decision. The burden of~~

1 proof shall be upon the secretary of state, relying on information provided by the
2 candidate, to demonstrate by clear and convincing evidence that the candidate has met
3 the requirements set forth in this section and therefore should not have the
4 information "DISREGARDED VOTERS' INSTRUCTION OF TERM LIMITS" or
5 "DECLINED TO PLEDGE TO SUPPORT TERM LIMITS" printed on the ballot
6 adjacent to the candidate's name.

7 ~~(12) If the secretary of state determines that the information "DISREGARDED VOTERS'~~
8 ~~INSTRUCTION ON TERMLIMITS" or "DECLINED TO PLEDGE TO SUPPORT~~
9 ~~TERM LIMITS" shall be placed on the ballot adjacent to a candidate's name, the~~
10 ~~candidate may appeal such decision within five business days to the South Dakota~~
11 ~~Supreme Court as an original action or shall waive any right to appeal such decision.~~
12 ~~The burden of proof shall be upon the candidate to demonstrate by clear and~~
13 ~~convincing evidence that the candidate should not have the information~~
14 ~~"DISREGARDED VOTERS' INSTRUCTION ON TERMLIMITS" or "DECLINED~~
15 ~~TO PLEDGE TO SUPPORT TERM LIMITS" printed on the ballot adjacent to the~~
16 ~~candidate's name.~~

17 ~~(13) The Supreme Court shall hear the appeal provided for in subdivisions (11) and (12)~~
18 ~~within twenty days and issue a decision not later than thirty days before the date of~~
19 ~~the primary election and sixty days before the date of the general election.~~

20 ~~(14) Upon the ratification of a congressional term limits amendment as defined by this~~
21 ~~section, this section shall be repealed.~~

22 ~~(15) Any legal challenge to this act shall be filed as an original action before the Supreme~~
23 ~~Court of this state.~~

24 ~~(16) If any portion, clause, or phrase of this initiative is, for any reason, held to be invalid~~
25 ~~or unconstitutional by a court of competent jurisdiction, the remaining portions,~~

1 ~~clauses, and phrases shall not be affected, but shall remain in full force and effect.~~