

## A U.S. Congress Assessment Project Study

January 3, 1995

# NEW HOUSE RULES: A VICTORY FOR CONGRESSIONAL REFORM

## INTRODUCTION

Charges that the Congress is unresponsive, arrogant, and ultimately ineffective have been an increasingly significant political issue for the past decade. Now that the 1994 elections have changed partisan control of Congress and delivered a clear reform mandate, the new leadership of the House of Representatives has assembled a package of rules changes designed to make that body more accountable and more effective. These proposals, to be approved on the first day of the 104th Congress, January 4, 1995, include provisions to reduce congressional bureaucracy, to make voting and budget procedures more fair and open, to encourage a more deliberative and accountable legislative process, and to subject Congress to most laws now applied to the private sector. These are large and important first steps toward making Congress more responsive to American voters and, in the process, restoring public confidence in that institution. As historic as they are, these changes should mark only the beginning of continuing congressional reform efforts, including the ultimate adoption of term limits.

For four decades, the House of Representatives was under the control of one party. During that period, House procedures became increasingly arbitrary and secretive. The House's internal management grew sloppy and bred corruption. Committee-based fiefdoms were dominated by special interests, and committees often were unable or unwilling to produce legislation responsive to broad public desires. Congressional Republicans increasingly criticized these developments, calling for a more streamlined, responsive, and equitable legislative process. In the end, voters felt alienated from their elected officials, and Congress's approval rating plummeted. The new House rules package largely achieves the goals of the institution's critics, with scores of minor and major changes in House rules designed to:

- ☛ **Improve deliberation** by banning proxy (absentee) voting in committees, ensuring minority rights in the amendment process, and requiring fuller reporting on spending bills.

- ☞ **Streamline the legislative process** by cutting the number of committees and sub-committees, abolishing joint referrals of legislation, and slashing committee staff.
- ☞ **Promote accountability** by requiring that committee meetings be open to the public and to the broadcast media, requiring roll call votes on major legislation, prohibiting changes in debate transcripts, and conducting a comprehensive audit of House finances.
- ☞ **Increase responsiveness** by imposing term limits on the Speaker and committee chairmen and providing for consideration of a measure to apply federal laws to Congress as the first legislative vote in the 104th Congress.

The rules changes prepared for the first day of the new House session include numerous other provisions designed to help achieve these four goals, which the new majority also promises to pursue in its day-to-day administration of the House by, for instance, making legislation and background information quickly available to the public electronically on the Internet.

After the first day, this new, more open House of Representatives should seek further improvements in the legislative process, including deeper cuts in congressional staff, spending, and free mail, reductions in congressional support agencies (requiring Senate cooperation), budget process reforms, and term limits.

## FILLING THE REFORM VACUUM

Public approval of Congress has been declining for over a decade, fueled initially by a consensus that legislators were failing to act on the nation's problems. Voter animus was heightened by a series of scandals which symbolized the degree to which Congress had become self-serving and detached from the concerns of average Americans. At the same time, public awareness of procedural abuses in Congress was increasing, fueling grass-roots movements for limits on the number of terms that Members of Congress could serve. Beginning in 1990, term limits were approved in every state that held a vote on them. In 1992, a record-setting class of freshmen Representatives was elected on a wave of reform sentiment. By 1993 an obscure House procedure known as the discharge petition became the object of a talk radio-spawned mass movement to open up the workings of Congress.

Despite these warning signs, leaders of the 103rd Congress took little or no action to improve the institution, gambling that the public would lose interest in the issue. In a meeting with a dozen reform-minded freshman Democrats shortly after the 1992 elections, then-Speaker of the House Tom Foley argued that nobody would be concerned about congressional reform by the time of the 1994 elections.<sup>1</sup> As a result of leadership pressure, the 103rd Congress failed to change such institutional embarrassments as deceptive budgeting, an overgrown staff and committee system, entrenched leadership structures, proxy voting, secret committee meetings, and near-dictatorial powers exercised by

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1 Congressman Eric D. Fingerhut, "A Democrat Throws Stones," *The New York Times*, December 17, 1994, p. A23.

committee chairmen. Foley's prediction that the public would lose interest was wrong. Voters recognized that these congressional abuses had become threats to representative self-government, and their conviction was a significant factor in the revolutionary election results of 1994.

The Republicans' Contract With America includes term limits and eight changes in House rules which the candidates promised would be enacted on the first day of the 104th Congress. Since the election, Republicans have assembled a rules package which fulfills those promises and adds several provisions designed to produce a more efficient, open, and fair legislative process. By passing this proposed new rules package, the House will accomplish more reforms in one day than the previous Congresses have in twenty years. These historic changes should not be the end of the reform process, however. In the coming months Congress should examine unfair incumbent electoral advantages such as the franking (free mailing) privilege and large personal staffs, and sharply reduce staffing in support agencies (possibly taking advantage of the opportunity to sell one of its office buildings). It also should consider additional truth-in-voting reforms such as lengthier review periods for legislation, formal restrictions on closed rules (which prohibit or limit amendments on the House floor), and application of the Freedom of Information Act to Congress.

## CONTRACT REFORMS

The reforms included in the Contract With America will be offered as eight separate resolutions, allowing for a separate debate and vote on each.

**Staff Cuts and Committee Reforms.** The new rules package will eliminate three House committees—Post Office and Civil Service, District of Columbia, and Merchant Marine and Fisheries—and 25 subcommittees.

Congressional committees and subcommittees have grown enormously. Congress's 1947 reorganization, which cut the number of committees and subcommittees to under 200, was undone by rapid committee and subcommittee growth in the 1970s. This expansion nearly doubled the number of committees and subcommittees; their total did not fall significantly under 300 until the early 1990s.<sup>2</sup>

Growth in committees and staff has ensured that Congressmen will be removed from policy choices and hindered from passing legislation, since a larger committee structure subjects bills to redundant scrutiny and more special-interest group influence. The concomitant larger number of committee assignments sometimes has forced members to neglect some of their committee duties and thus devalued the importance of

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<sup>2</sup> *Senate Committee System, First Staff Report to the Temporary Select Committee to Study the Senate Committee System*, July 1976, p. 29; *House Committee Reform Amendments of 1974*, H. Rept. 93-916, pt. II, Appendix B; Norman Ornstein, Thomas Mann, and Michael Malbin, eds., *Vital Statistics on Congress 1993-1994* (Washington, D.C.: Congressional Quarterly, 1993), table 4-1.

committee work and the deliberation that is supposed to take place there. Reducing the number of panels will make Congress better able to focus on legislative priorities.

The committee reform provision also will shrink House committee staff by one-third. House committee staff has grown almost twelvefold since World War II, with the most dramatic increases again occurring in the 1970s.<sup>3</sup> The growth rate of House committee staff has far outpaced the substantial growth in Senate committee staff as well as growth in the personal staff in either House—in the last two decades alone, committee staffs in the House of Representatives have grown by 158 percent. Congress is the most heavily staffed legislature in the world by a factor of five; with nearly 40,000 employees, it has grown over twice as fast as the entire federal government since World War II.

Staff cuts are worthwhile for a number of reasons, not the least of which is the opportunity for savings from the nearly \$2.3 billion yearly expense of the institution. Furthermore, experience shows that the larger the congressional staff, the more likely it is to pursue independent agendas, usurping decisions properly left to democratically elected representatives. Former Senator Walter Mondale (D-MN) described the pressures on an overstuffed legislator: “I felt sorry for them, so I would try to work with them. Pretty soon I was working for them.”<sup>4</sup> A larger legislative staff eager to improve the country from Washington, D.C., also creates pressure for the expansion of the federal government.

**Truth in Budgeting.** The second of the Contract provisions will require committees to compare new spending recommendations to the provisions of current law. The new leadership is also committed to additional truth-in-budgeting reforms, including reform of the “current services baseline,” but cannot accomplish them on the first day in session since they will require changes in statutes or in procedures affecting both Houses of Congress.

**Term Limits for Committee Chairmen.** House committee chairmen will be prohibited from serving more than three consecutive Congresses (six years). Limitation of tenure for committee chairmen begins to address some of the concerns of advocates of full-scale legislative term limits. A central problem of previous Congresses has been that the committee chairmen, who set Congress’s agenda, had spent decades in office. In the 103rd Congress, for example, two of the House’s three most powerful committees (Ways and Means and Energy and Commerce) were chaired by Congressmen who had held the chair for over a decade, while the third (Appropriations) had just been vacated by a Congressman who had held it since the 1970s. Over 90 percent of House committees were chaired by Members who had spent at least ten terms in office. Although this figure will drop to 55 percent in the 104th Congress—partly because of the switch in party control—the dangers of concentrated power and of committee chairmen who are resistant to new ideas remain.

Term limits for committee chairmen would increase the likelihood of their openness to new perspectives. They would also reduce opportunities for wasteful, district- and

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3 Ornstein, Mann, and Malbin, *Vital Statistics on Congress 1993-1994*, pp. 121-24, 132.

4 S. Hrg. 103-158, p. 7.

reelection-oriented federal spending aimed at favored constituents and special interest groups. Voters would also have less reason to evaluate incumbents running for reelection on the basis of seniority, and thus more reason to take into account candidates' views on the issues of the day.

**Elimination of Proxy Voting.** Elimination of the practice of allowing absent members of a committee to loan their votes to other members is a critical step to ensure fairness and to improve committee deliberation. Although House Rules have strictly prohibited one Member of Congress from casting votes for another on the House floor (indeed, ethics reprimands have been triggered by this rule's violation), proxy voting was the norm in most committees in the 103rd Congress. In 1993, for example, the House Committees on the Judiciary, Public Works and Transportation, and Energy and Commerce used proxies on every single legislative vote.

Historically, proxy voting allowed the majority party leadership to extend its control over committee outcomes by scheduling multiple, contemporaneous committee and subcommittee meetings. Committee chairmen, who determine their committee's entire legislative agenda, could postpone votes on controversial matters until they controlled sufficient proxy votes to ensure that the vote would go their way. Proxy voting also promoted committee absenteeism by ensuring that legislators who skipped meetings would retain their ability to cast votes in absentia. It allowed legislators to abandon their deliberative responsibilities by voting for or against legislation without hearing any discussion or argument on its merits. Abolishing proxy voting will reduce the power of committee chairmen and foster deliberation by forcing Congressmen to show up for work in committees if they want their votes to count.

The additional rules reforms to follow the eight Contract provisions include four related changes. "Rolling quorums" (allowing Congressmen to stick their heads inside a meeting room briefly and thus meet the minimum attendance requirement for a committee to do business) will be prohibited, and most committees would be barred from meeting when the House is in session. Most Members will be restricted to two full committee and four subcommittee assignments, preventing the inflation and devaluation of committee assignments. Finally, joint referral of a bill to two or more committees will be abolished. Like the proxy ban, these provisions will emphasize the importance of members actually working on legislation in House committees, increasing committees' accountability while improving their product.

**Open Meetings.** The new rules package will also ensure public access to committee meetings. In previous Congresses, committees frequently closed their doors to the press and public, a step the panels could take for nearly any reason. In fact, the two House committees that most often operated in secret—Appropriations and Ways and Means—were the bodies making controversial choices about federal taxation and spending.

Former Speaker Foley, who helped write the committee-closing rules roughly two decades ago, once suggested that secret meetings make for better decisions. "I think sometimes there is a feeling that there is better discussion, less inhibited, more free and full discussion... in closed session."<sup>5</sup> But Foley's suggestion that public accountability poisons deliberation runs counter to American ideals of republican self-government, in which citizens are expected to pass judgment on the actions of the lawmakers who represent them. In fact, past examples strongly suggest that the public interest would have been served by increased openness and disclosure. For instance, the Ways and Means

Committee prevented the public from observing discussions of the 1988 catastrophic illness legislation. Just months later, as the public began to understand the consequences of the law, it was repealed. Greater openness in government might have prevented that legislative disaster.

The new rules will allow committees to close meetings only if a public session would endanger national security, compromise law enforcement, or defame or incriminate individuals. Further, broadcast media would be permitted to cover any open hearing or meeting (currently, media coverage is subject to a vote of approval). Related additions to these Contract provisions include requirements that committees publish recorded committee votes in their reports (most voting records are now available only by personal journeys to committee offices) and that committee transcripts could not be altered other than for minor grammatical changes.

**Making Tax Hikes More Difficult.** The new rules package would require a three-fifths vote of the House to pass any income tax rate increase and prohibit retroactive taxation of income. Among Washington commentators the 60 percent rule has been particularly controversial, with claims that the new rule is anti-democratic or even unconstitutional. Behind the heated rhetoric of Beltway commentators is the conviction that new tax increases are needed. The supermajority requirement is quite similar to restrictions voters have imposed on numerous state legislators. Among the most beneficial aspects of the 60 percent tax rule is that any future Congress desiring to raise taxes would have to alter or waive the rule, providing a warning sign of a potential tax boost. The provision also balances the burden of a 1990 budget law which effectively requires a 60 percent vote in the Senate to cut taxes (unless the reductions are offset by increases in other taxes or cuts in entitlement spending).

**Authorization of House Audit.** The seventh Contract-related rules change will authorize a comprehensive audit of House records, assets, and facilities by an independent accounting firm. Some House accounts have been audited sporadically by the General Accounting Office, an internal congressional agency. Despite the fact that one such audit uncovered the House Bank scandal, most House accounts have not been examined regularly, and some may have never been reviewed by an independent examiner. This audit will be the first complete accounting of the House's financial status ever made available to the public.

**Applying Federal Laws to Congress.** The last of the Contract reforms is a rule paving the way for the first legislative action of the new House — consideration of the Congressional Accountability Act (CAA). This measure has both substantive and symbolic importance. Passage of the CAA will underscore the principle that no American should be immune from the law or receive special treatment in its application. The bill also will encourage legislators to continue to review the burdens that federal laws place upon American citizens and ensure that the benefits they bring exceed their attendant costs. The laws which would be applied to Congress include the Civil Rights Act, the Americans With Disabilities Act, the National Labor Relations Act, the Occupa-

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5 Kenneth J. Cooper, "GOP Freshmen Knocking on Closed Doors," *The Washington Post*, May 13, 1993, p. A25.

tional Safety and Health Act, the Worker Adjustment and Retraining Notification Act, and the Family and Medical Leave Act.

The House passed a version of the Congressional Accountability Act near the end of the 103rd Congress, but the measure died because the Senate failed to consider it. As a stopgap solution the House extended coverage of the specified laws to itself by an internal rules change in September of 1994, but a statute rather than a House rule is necessary to grant congressional employees review rights in federal court. This year the Senate appears poised to act on the Accountability Act early in the session, giving it very good prospects for passage.

The major remaining flaw in the current version of the Accountability Act is the exclusion of the Freedom of Information Act (FOIA) from the list of covered laws. The FOIA does not apply to the private sector because it is intended to give the public access to government information. Excluding FOIA can only give the appearance that Congress thinks it has something to hide, and runs counter to the openness in government principles infused in most other House reforms. A joint House-Senate group apparently will study application of FOIA to Congress, though without a promise of action.

## ADDITIONAL FIRST-DAY HOUSE RULES REFORMS

The new Republican majority in the House will go beyond reforms promised in the Contract With America with a further package of rules changes which will also be adopted during the House's first meeting on January 4. These reforms are fully consistent with those offered in the Contract, further advancing principles of fairness and accountability in House procedures. The most significant of these are term limits for the House Speaker, more equitable procedures governing special rules used for significant legislation, and a more open appropriations process.

**Ending the Emergency Spending Loophole and Other Appropriations Reforms.** The new rules package will close a loophole that enabled legislators to stuff pork into emergency spending bills. Because emergency relief bills are not subject to overall spending limits, they have been abused to advance programs which could not be justified in the regular legislative process. For instance, the \$6.2 billion that President Clinton requested for earthquake relief in 1993 ballooned into an \$11 billion federal spending spree by the time Congress had finished adding such extraneous items as federal employee pay raises and funding for a New York train station. Although the House in the 103rd Congress passed legislation banning such budgetary sleight of hand, the Senate failed to take action on the measure. Passage of this reform through House rules will eradicate this problem in the House even without Senate action.

Several other changes in the appropriations process will grant rank-and-file Members more say in spending decisions. Members will be permitted to offer "en bloc" amendments to transfer appropriations money from one program to another and to offer limitation amendments that prohibit federal funds from being used for specific purposes. En bloc amendments currently are not allowed, and limitation amendments are allowed only if sponsors can first defeat a procedural motion.

New rules would also require appropriators to identify projects that are not authorized (as is normally required). This step will both draw attention to authorizing committees which are failing to perform their job and to appropriators who are too eager to do it for them. For instance, no foreign aid bill has been authorized for the last eight years, which has left all decisions in that area entirely in the hands of appropriators.

**Greater Specificity About Rules Waivers.** One particularly egregious abuse of House procedures has been the practice of the blanket rules waiver, which authorizes departure from all House rules. Blanket waivers have enabled the majority party leadership to force immediate votes on lengthy bills while avoiding questions about what particular rule needed to be avoided, what part of the bill required special treatment, and what the departure from standard procedure would accomplish. For instance, when Rep. Jack Brooks (D-TX) came before the Rules Committee to request a blanket waiver on the 103rd Congress's crime bill, he was asked by Rep. David Dreier (R-CA) what aspects of the gargantuan legislation needed waivers. "I don't know," Brooks responded, "and I wouldn't tell you if I did!" Among the items Brooks was hiding was a large grant to a university in his own district. The new waiver restrictions would require the Rules Committee to specify "to the maximum extent possible" any departure from standard House Rules, giving legislators who opposed bending the rules a road map to focus their criticisms far more sharply.

**Minority Rights to Offer Amendments.** Many House Republican complaints over the last decades have centered around the fact that they have not been allowed to contribute to the legislative process. This situation has been exacerbated by historically large proportions of amendment-limiting rules. Too often majority party leaders refused to allow the minority party any role (Former Speaker Tip O'Neill is reported to have said during his tenure that "Republicans are just going to have to get it through their heads that they are not going to write legislation!"<sup>6</sup>). Republicans have pledged to adhere to their own calls for fairness as a majority party by:

- ✓ Guaranteeing in House rules the minority's right to offer at least one amendment to every piece of legislation in the form of a "motion to recommit with instructions," and
- ✓ Pledging that at least three-quarters of House rules will be open to all amendments (reversing the nearly three-quarters closed ratio recorded by Democrats in the last Congress).

**Honest Housekeeping.** Several new rules will provide better information to the public, including:

- ✓ Requiring recorded votes on appropriations, tax, and budget bills. Previously, such legislation was occasionally passed by voice vote, which denied constituents information on Congressmen's policy choices.

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6 William F. Connelly, Jr., and John J. Pitney, Jr., *Congress' Permanent Minority?* (Lanham: Littlefield Adams, 1994), p. 72.



- ✓ Preventing revision of the *Congressional Record*. In previous Congresses, Members were able to hide mistakes or embarrassing statements they uttered on the House floor by submitting corrections to *Record* compilers. Such rewriting of history, which allowed Congressmen to appear in the best possible light in the *Record*, would be disallowed by the new rules.
- ✓ Providing more timely information on the identity of Members signing discharge petitions (a method of bypassing recalcitrant committees).
- ✓ Providing House documents and records to the public via the Internet or by other electronic means (a step the new leadership has pledged which does not need a rules change).

**Abolition of Legislative Service Organizations (LSOs).** There are currently 140 special interest congressional caucuses: of these, 28 have been permitted to be LSOs. This status permits groups to have office space, access to House equipment and services, and funding through Members' clerk-hire accounts. Unfortunately, LSO spending was poorly controlled, allowing spending on items prohibited under normal rules. Items billed to LSOs in the past include \$2,646 worth of glass sculptures used for gifts, \$4,000 for pastries, a \$9,000 reception, and over \$10,000 in one year for a petty cash fund—with no receipts. Over one-fifth of the \$35 million spent by LSOs in the past decade remains unaccounted for. Not only did LSOs occupy scarce congressional offices, they contributed to policy fragmentation and client-based approaches to public policy, often acting as official proxies for outside special interest groups.

The new rules abolish LSOs, which could save a significant portion of the \$5 million yearly that they cost. Because LSO funds came from individual congressional accounts, which are not addressed in the first-day rules changes, actual savings will depend on subsequent action by Congress.

**Abolition of Commemorative Legislation.** The new rules package would ban commemorative legislation such as National Dairy Goat Awareness Week and National Tap Dancing Day. Although legislation that honors certain groups or activities is appreciated by the beneficiaries, such activity diverts congressional attention from more important matters.

**Abolition of Delegate Voting.** In the 103rd Congress, the majority congressional leadership awarded the five delegates from the District of Columbia and U.S. Territories the right to vote on the House floor in most instances. Republicans opposed this measure, arguing that the delegates neither represented citizens of the states (as specified in the Constitution) nor, for the most part, paid federal taxes. The new rules package would eliminate this controversy by restricting the right to vote on the House floor to those representatives of (in the Constitution's words) "the People of the Several States."<sup>7</sup>

**Term Limits for the Speaker.** Reforms in the committee system and other changes in House rules have the effect of concentrating more power in the hands of the Speaker. While most observers agree that centralization was needed, many Congressmen also

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7 U. S. Constitution, Article I, Section 2.

feared that concentrating power for too long in the hands of any one person might lead to abuses similar to those being combatted by these same rules changes. In response to these concerns, incoming Speaker Newt Gingrich has agreed to support a House rule limiting his own tenure (and that of his successors) to four terms (eight years). As with term limits on committee chairmen, or on Congress as a whole, this reform strikes an appropriate balance between the powers necessary to govern a great nation and the danger of leaving such power in the hands of any one official for too long.

## RULES REFORMS BEYOND JANUARY 4

Following the sweeping rules changes on the first day of its session, the House should not and likely will not abandon further reform efforts. Many needed reforms will require the cooperation of the Senate, the passage of legislation, or simply more study and consideration than was possible in the two months between election day and the opening of the new Congress. Among the most important of these reform areas are:

**Additional Staff and Budget Cuts.** House Republicans considered but postponed a proposal to reduce the number of employees that each Representative is permitted to hire. Over 40 percent of personal office employees are devoted to casework or essentially political functions. While Congressmen should remain sensitive to special problems of constituents, most casework is on routine matters such as pensions, entitlement benefits and passports. These problems could be better addressed through nonpartisan ombudsmen, for example, leaving Congressmen more time to address broader problems, and leaving fewer staffers available for private electoral purposes. For instance, hundreds of staffers currently spend the bulk of their workday writing and sending hundreds of millions of franked letters yearly, which serve as supplementary quasi-campaign mailings for incumbents seeking reelection. The “volunteer” campaign work performed by many congressional staffers sometimes approaches being a *sub rosa* condition of hire and almost certainly contributes to the record incumbent reelection rates of over 90 percent that House Members have seen on average over the last two decades. Congress should also reduce the franking budget and consider further restrictions on pre-election mailings. Finally, the House and Senate should work together to reduce staffing in the bloated congressional support agencies, particularly the General Accounting Office. Matching the one-third reductions in House committee staffing is a realistic goal for the support agencies. Both staff and franking are likely to be addressed this spring in the congressional appropriations process.

**Ending Baseline Budgeting.** The new rules package requires committees to compare proposed spending to actual current spending levels. However, without further changes, the overall federal budget process will still use “baseline budgeting,” which compares proposed spending to imaginary totals based on actual spending, inflation, and demographic and economic factors. This system has permitted Congress to slip disguised spending increases into budgets without taking responsibility for doing so. The Medicare baseline, for instance, typically calls for yearly increases of 12 percent to 13 percent, double or triple the rate of inflation.<sup>8</sup>

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8 James K. Glassman, “A Bit of Creative Accounting Makes the Budget a Fraud,” *The Washington Post*, July 30, 1993, p. B1.

As Texas Democratic Representative Charles Stenholm has noted, baseline budgeting “creates a bias to increase spending.”<sup>9</sup> The new rules package would address this problem in the case of individual bills, but Congress should also change the Budget Act so that the entire budget process operates on the same principle. The House passed baseline reform legislation last year which died in the Senate. Early House action this year would vastly improve prospects in the Senate, where new leaders may be more favorable to this change.

## TRUTH IN VOTING

In the 103rd Congress, Representative Mike Crapo (R-ID) introduced the Truth in Voting Act, a package of rules reforms designed to make the House’s legislative process more open, understandable, and accountable. Roughly half of the dozen truth-in-voting reforms in Crapo’s bill are included in the House’s new rules package. The balance of Crapo’s truth-in-voting reforms, however, are worthwhile.

**Establish a “deficit lockbox” for spending cuts.** Although Members of Congress love to trumpet their votes in favor of politically popular spending cuts, the implied benefit of these cuts—that they will save money or reduce the deficit—is almost always nonexistent. A House vote to cut spending simply cedes control of the funds in question back to the appropriations conference committee that originally spent the money. That committee can simply restore the cut spending or reallocate the money to another pet program; either of these options destroys the savings aimed at by budget-cutters. A lock box would allow lawmakers to designate spending cuts for deficit reduction.

**Require a three-fifths majority to waive rules.** Although incoming Rules Committee Chairman Gerald Solomon (R-NY) has pledged to make three-quarters of the legislation the House considers open to amendment, requiring a supermajority vote to block further legislative improvements would provide a better guarantee of minority rights in the amendment process. The House could preserve the right of the majority to force action by specifying conditions (such as time limits or pre-publication requirements) which could be adopted by a simple majority vote, while requiring a higher threshold for conditions which might shut out minority voices or rush legislation unreasonably.

**Eliminate House rules that make procedural tricks possible.** Among the rules abuses targeted by Crapo’s Truth in Voting bill are “self-executing rules” which cloak substantive provisions in procedural votes. In the past, the House has made policy through procedural votes on such disparate matters as aid to the Contras, congressional pay, changes in deficit targets, and endorsement of President Clinton’s policies on homosexuals in the military. Perhaps the most disturbing example is a permanent self-executing provision, House Rule XLIX, also known as the “Gephardt Rule” which permits continual increases in the federal debt limit, in line with annual budget resolutions, without the embarrassment of voting to hike it. Crapo would also prohibit “king-of-the-hill” rules which permit Members to vote on both sides of the same issue.

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<sup>9</sup> Testimony before the Joint Committee on the Organization of Congress, March 18, 1993.

**Apply the Freedom of Information Act to Congress.** Although the new House's first order of business—at last to apply federal laws to itself—is praiseworthy, this endeavor will remain flawed and incomplete until Freedom of Information Act coverage is included. Congressional secrecy has done more to harm the institution and make it susceptible to scandal than perhaps any other action. Abuses centering around the House restaurant, post office, and bank scandals would likely have been eliminated or curbed far earlier had knowledge about their details been available to the general public. Citizens have a right to know about the contacts that Members of Congress make with special-interest lobbyists and federal regulatory agencies. Applying FOIA to Congress is the best way to ensure that such information is disclosed.

**Rein in conference committees.** Federal programs often become more expensive over the course of many years, but they rarely become \$5 billion more expensive over the course of a few weeks. When the \$22 billion Senate crime bill and its \$28 billion House counterpart went to conference committee, that committee produced a \$33 billion product. Although massive public scrutiny eventually enabled congressional budget-cutters to reduce the bill's expense, unlimited committee discretion routinely enables committee members to add new spending to the legislation that ultimately must be voted on by both Houses of Congress. New House Rules specifying that conference committees may not fund programs at a higher level than either House of Congress had approved would eliminate committee skullduggery and redistribute power from conference committees to rank-and-file legislators. Such rules should also require conference committees to follow the dictates of any motions to instruct passed by the House, rather than allowing conferees to ignore those often overwhelming votes.

## TERM LIMITS

The Contract With America promises only a House vote on term limits. However, if House leaders make only desultory efforts to secure the two-thirds supermajority necessary to pass a constitutional amendment, term limit supporters will be outraged and citizens may feel they were tricked. While the reforms the new House majority has embraced are huge improvements, the task of congressional reform will not be complete until term limits become the law of the land. Only term limits can guarantee that Republicans will keep their vows to remember life in the minority and to remain sensitive to the will of the American people. The clearest test of House leaders' real commitment to term limits would be a vigorous effort to find a way to defuse the controversy between six- and twelve-year House service limits, which threatens to complicate this already difficult effort.

## CONCLUSION

Although disputes over the way the House operates are often portrayed as arguments over arcane details with little significance, the votes that establish the rules by which the House does business are some of the most important ones that House Members will cast over the next two years. Previous Congresses operated under rules that inflated staff, weakened the quality of House deliberation, kept important matters out of the public's view, and eroded individual Members' accountability. Passage of the new rules package will be an unprecedented House cleaning: it will make the House more efficient, more accountable, more deliberative, and more open to public scrutiny.

Among the highlights of the new rules are:

- ✓ Application of private sector laws to Congress;
- ✓ Elimination of numerous House committees and subcommittees, a one-third cut in committee staffs, and a prohibition on proxy (absentee) voting;
- ✓ Imposition of term limits on committee chairmen and the Speaker;
- ✓ Requirements for open meetings and better reporting of committee action, particularly in the appropriations process;
- ✓ Greater fairness in the rules process governing consideration of major legislation.

Even after their historic first day, House leaders should remain committed to reform by pursuing:

- ✓ Further staff and budget cuts;
- ✓ Budget process reforms;
- ✓ Additional truth in voting measures;
- ✓ A term limits constitutional amendment.

The historic changes that the new Republican majority will make in the rules of the House of Representatives on January 4 should not be an end, but a beginning to the process of reforming Congress. Further reforms in Congress's structure and in the budget process are particularly critical. Many steps in these areas will require joint action by the House and Senate, making them impossible to address on the first day of the congressional session. The new House and Senate leaders should quickly begin working together to address these needed reforms. Ultimately, Members of Congress must not forget that a term limits constitutional amendment is the true measure of congressional reform.

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