



Legislative Bulletin.....January 6, 2009

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Key Conservative Concerns

Take-Away Points

- Takes away the minority’s ability to offer “promptly” Motions to Recommit.
- Repeals term limits on committee chairmen.
- Makes it easier to raise taxes.
- Maintains the worse features of the dysfunctional PAYGO rule, while adding an “emergency exception” to weaken it even further.
- Provides closed rules for the Lilly Ledbetter Fair Pay Act and the Paycheck Fairness Act.
- Repeals the “Medicare Trigger”—an important cost-containment provision conservatives fought to add to the Medicare prescription drug bill.

For more details on these concerns, see below.

Order of Business: H.Res. 5 will be considered by the House on Tuesday, January 6, 2009 after the 111th Congress opens with a quorum call, the election of the Speaker of the House, and the swearing-in of Members.

Summary of the Major Provisions:

Restricts the Minority’s Ability to Offer Motions to Recommit: The Democrat rules package strikes the ability of the minority to offer a “promptly” Motion to Recommit (i.e. the legislation is referred back to committee). Crucially, this limits the ability of Members to strike tax increases from legislation, since a “forthwith” motion to recommit would have to include tax increases to comply with PAYGO (reforms to the spending side of the budget would not be germane). The ability of Republicans to offer “promptly” motions to recommit on tax bills has added significance since the current practice of the Rules Committee is to restrict the ability of Members to offer amendments to tax bills.

Eliminates Term Limits for Chairmen: The rules package for the 104th Congress (sponsored by the first Republican majority in 40 years) provided six-year term limits for committee chairmen. The Democrat rules package repeals this provision.

“Turns Off” the Medicare Cost Containment Provision: Makes Section 803 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 non-applicable during the 111th Congress in the House. On July 24, 2008, the House passed a resolution to the same effect for the remainder of the 110th Congress. See [this](#) RSC one-pager for more information on the “Medicare Trigger.”

Amends PAYGO: The bill makes two substantial changes to the PAYGO rule.

First, the bill allows the House to pass two separate bills, one the underlying legislation, another the “payfor,” and then link them back together at the engrossment stage. This has the effect of restricting the minority’s range of options on Motions to Recommit for the underlying bill, since the “payfor” often increases the range of potential amendments that are germane to the bill.

Second, the House rules package significantly weakens the already dysfunctional PAYGO rule by allowing the Majority to get around PAYGO with an “emergency” designation. The PAYGO rule in the 110th Congress applied to all direct spending and revenue measures, without any “emergency” exception.

Gives the Chair Permanent Postponement Authority: The rules package gives the chair, after passage of the previous question, the authority to postpone consideration of a measure until a time designated by the Speaker. According to the House Rules Committee Republicans, every rule in the 110th Congress included this provision.

Strikes Prohibition on Keeping Votes Open for an Unlimited Duration: The rules package for the 110th Congress included language which stated: “A record vote by electronic device shall not be held open for the sole purpose of reversing the outcome of such vote.” The 111th Congress rules package deletes this provision. In the last Congress, the Democrat Majority simply ignored the rule when necessary to win a vote. For just one example of this, see this [article](#).

Codifies H.Res. 491 from the 110th Congress: This provision makes it out of order to consider an appropriations bill conference report unless the joint explanatory statement includes a list of congressional earmarks that were not committed to the conference committee by either chamber (“air-dropped” earmarks). Makes it out of order to consider a rule or order that waives the application of this resolution.

Number of Subcommittees: Allows the Armed Services Committee to have seven subcommittees, the Foreign Affairs Committee to have seven subcommittees, and the Transportation and Infrastructure Committee to have six subcommittees. Clause 5(d) of Rule X otherwise limits each committee to five subcommittees.

Prohibition on Use of House Gym by Lobbyists: The Democrat rules package continues the prohibition on former Members (or their spouses), and former Officers of the House, from using the House gym if the individual is a registered lobbyist.

Numbering of Bills: The rules package reserves the first ten numbered bills (H.R. 1 through H.R. 10) to assignment by the Speaker.

Closed Rules for Bills to be Considered This Week: The rules package creates closed rules for the [Lilly Ledbetter Fair Pay Act](#) and the [Paycheck Fairness Act](#), both currently scheduled to be considered later this week. Both bills would be considered under a rule that waives all points of order against consideration of the bill (except those for PAYGO and earmarks), provides for one hour of general debate, and provides for one motion to recommit.

Democrat Inconsistency Alert!

Deliberation: The Democrats consistently complained about “gotcha” Motions to Recommit in the 110th Congress. The “promptly” Motion to Recommit, by sending legislation back to committee, allows for careful deliberation of measures. So by removing the “promptly” motions, they are actually setting themselves up for more motions that have to be considered instantaneously, rather than thoughtfully in committee.

Duration of Votes: The Democrats, upon taking control of the House in 2007, promised to end the practice of keeping votes solely for the purpose of changing the outcome of the vote. The 111th Congress rules package repeals the rule from the 110th Congress to that effect.

RSC Bonus Fact: The following are examples of some of the longer-serving chairmen in the era before the 1995 House Republican rules package limited chairmen to six-year terms:

Judiciary Committee:

- **18 years:** Rep. Emmanuel Celler (1955-1972)
- **16 years:** Rep. Peter Rodino (1973-1988)
- **16 years:** Rep. Hatton W. Summers (1931-1946)

Ways and Means Committee:

- **18 years:** Rep. Wilbur Mills (1957-1974)
- **14 years:** Rep. Robert Doughton (1933-1946)
- **14 years:** Rep. Dan Rostenkowski (1981-1994)

Energy and Commerce:

- **16 years:** John Dingell (1981-1994, 2007-08)

Appropriations Committee:

- **14 years:** Jamie Whitten (1979-1992)

The table below shows, by contrast, the total length of service in the House of some other House Members of note.

The Length of Service of Other Notable House Members

Member	Years as Member of the House	Notable Accomplishments
James Madison	8 years—1789-1797	“Father of the Bill of Rights”
Henry Clay	11 years—1811-1814, 1815-1821, 1823-1825	Missouri Compromise; proponent of the American System; shaped the role of the Speaker of the

		House
John Quincy Adams	<i>17</i> years—1831-1848	Killed the “Gag Rule”; helped create the Smithsonian; leading anti-slavery advocate
Thaddeus Stevens	<i>13</i> years—1849-1853, 1859-1868	14th Amendment

Potential Conservative Concerns: Conservatives have expressed concerns with numerous provisions in the rules package, some of them noted below.

- **The Repeal of Term Limits on Committee Chairmen.** Some conservatives believe that this change will make the House less democratic by increasing the power of a select few at the expense of the average Member. The entire House Republican leadership sent a [letter](#) to Speaker Pelosi protesting this change.
- **The Repeal of the Minority’s Right to Offer a “Promptly” Motion to Recommit.** The 1995 Republican rules package gave the minority the right to offer motions to recommit—either “promptly” (the bill is sent back to committee) or “forthwith” (the bill is amended on the floor immediately). The Democrat rules package would eliminate the ability of Republicans to offer a “promptly” motion to recommit, restricting the ability of the minority effect the shape of legislation that comes before the House.
- **Makes It Easier to Raise Taxes:** One other consequence of eliminating the “promptly” motion to recommit is that it would make it easier to raise taxes. As the Office of the Republican Whip puts it:

“Up until now if the Democrat Majority brought a bill to the floor that included a tax increase, then House Republicans could make a motion to strike the tax increase. However, under the Rules such a motion had to also send the bill back to its original committee. By prohibiting Republicans from offering a motion that sends a bill back to committee they are blocking Republicans from challenging their tax increases.”
- **Weakens PAYGO:** The rules package maintains the many flaws of the PAYGO rule from the 110th Congress, including the inequity of its treatment of spending and tax decisions. Further, the rules package makes it easier to avoid PAYGO through an “emergency” designation.
- **Closed Rules for First-Week Bills:** The rules package contains closed rules, shutting off the ability of Republicans to offer amendments, to the [Lilly Ledbetter Fair Pay Act](#) and the [Paycheck Fairness Act](#).
- **“Turns Off” Medicare Trigger in the 111th Congress:** The “Medicare Trigger” would merely cause the House to consider options for reforming Medicare spending. CBO projects the Medicare program will grow from \$454 billion in 2008 to \$889 billion in 2018, an increase of \$435 billion or 96%.

Committee Action: None.

Cost to Taxpayers: None.

Does the Resolution Expand the Size and Scope of the Federal Government?: No.

Does the Resolution Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: Article I, Section 5, states: “*Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.*” *[emphasis added]*

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