

**Getting Back to Legislating:
Reflections of a Congressional Working Group**

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Executive Summary

In July 2011, the Bipartisan Policy Center began a series of meetings on “How to Fix Congress” by looking at the operations of the committee system. In 2012, the series resumed as the “Culture of Congress Roundtable Discussion Series” in collaboration with the Woodrow Wilson Center. The meetings drew on the expertise and interest of current and former members of Congress, senators, senior staff, congressional scholars and concerned citizens. A total of five more sessions were held, touching on such areas as leadership influences, the regular order, conference committees, and budgeting (see Appendix A for a listing of meetings and participants).

The central thread running through the sessions was that the culture of Congress has changed dramatically over the last half century, from a culture of legislating to a culture of campaigning. The shift has taken its toll on all aspects of the institution, from committee bill markups and floor amendment debates, to conference committees and civility. The regular order of deliberative lawmaking has given way to winning at all costs, and bipartisan compromise is rare. While the roundtable experts agree that the current climate is not conducive to serious problem solving, no one suggests there is an easy answer for reversing course. The roundtable members agree that the culture cannot be changed by bold procedural fixes and instead requires a change of will and mindset by party leaders and followers, pressured from the outside by the president, the people, the media, and interest groups desiring a better functioning system. The roundtable members expressed confidence in the underlying soundness of the system and optimism that things can be turned around with gentle prodding from loving critics. While the rotating group of over 60 roundtable participants did not vote to endorse any specific reforms, listed below are some modest, incremental proposals for change suggested during the course of the discussions which the new Congress and its leaders should consider implementing:

- Leaders should commit to five-day workweeks, with three weeks on and one week off.
- Congress should adopt biennial budget resolutions and spin-off the discretionary spending and debt ceilings in the resolutions into a bill for enactment.
- Leadership should commit to fully restoring the authorization process to committees.
- Committee chairs should commit to full minority party participation in markups.
- Appropriations committees should refrain from authorizing in appropriations bills.
- A more open amendment process on the floor of each house should be allowed by limiting restrictive amendment rules in the House and avoiding “filling the amendment tree” in the Senate.
- Motions to proceed to consideration of legislation, and motions relating to going to conference in the Senate, should not be subject to filibuster.
- Leaders should commit to restoring the use of House-Senate conference committees.
- Leadership PACs should be abolished.
- Members should be encouraged to deliver annual State of the Congress addresses to constituents to better educate the public about the workings of the institution.

Introduction

Political culture is the set of attitudes, beliefs, and sentiments which give order and meaning to a political process and which provide the underlying assumptions and rules that govern behavior in the political system. It encompasses both the political ideals and the operating norms of a polity....[and]is the product of both the collective history of a political system and the life histories of the members of that system, and thus it is rooted equally in public events and private experiences.

--The International Encyclopedia of the Social Sciences

The United States Congress in 2012 has been the least productive and most gridlocked in recent memory. That reality is reflected in the lowest job approval ratings the public has given Congress since 1974 —the year President Richard Nixon resigned to avoid impeachment and removal over the Watergate scandal.

The public’s low regard for Congress’ performance is shared by Washington insiders including the current and former Members, senior staff, congressional scholars, and private citizens who participated in six roundtable discussions on the changing culture of Congress, cosponsored by the Bipartisan Policy Center and Woodrow Wilson Center. The sessions ranged over such topics as the committee system, budgeting, leadership influences, the regular order and conference committees (see Appendix A for programs and participants).

The central thread running through all the discussions is that the culture of Congress has changed dramatically over the last several decades from a culture of legislating to a culture of campaigning; and the nature of that change has made it more difficult for the institution to perform its central lawmaking functions. Specifically, Congress has failed in recent times to adopt congressional budgets, enact regular appropriations bills, or even complete routine reauthorizations on time.

The looming “fiscal cliff” of expiring tax cuts and across-the-board spending cuts is perhaps the most dramatic example to date of Congress’ failure to do its work --in this case, to enact self-imposed deficit reductions as part of the 2011 debt limit agreement.

While the roundtable participants and members of the general public consulted in the BPC process recognized that much of the legislative gridlock and dysfunction is a product of a deep partisan divide in Congress and the electorate, they also recognized the problem runs much deeper than partisan divisions. There are clearly cultural changes that have taken place that have profoundly affected how the institution operates.

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These changes are the product of both internal and external forces which have undermined public confidence in Congress' ability to provide a functioning, deliberative democracy.

Much has been made of the fact that Congress seems to be in the throes of a permanent or perpetual campaign. Whereas there once were clear lines between campaigning and governing, today governing is dominated primarily by electoral considerations rather than concerns over good policymaking. Insiders and outside observers alike agree that over the last half century Congress has moved from a culture of governance to a culture of campaigning.

Another factor that cannot be divorced from electoral considerations, but which merits separate consideration, is that not only is Congress driven by a culture of campaigning, but also by a culture of convenience. Schedules, processes and procedures within the Congress are designed to accommodate members in pursuit of their reelection goals, enabling them to devote maximum time to raising necessary campaign funds, mending fences and building political support back home.

While these processes and procedures may at times seem to advantage the majority party over the minority party, the fact is that they are supported across the aisle to permit members of both parties the time needed to secure their home bases and reelection. That is why, when party control of a chamber does switch, the new majority soon adopts the ways of its predecessors.

Thus, the shortcuts in the legislative process that have been designed to perpetuate the culture of convenience for members' electoral pursuits contribute just as greatly to Congress' tendency to shape substantive legislation to fit partisan electoral needs.

While it may seem paradoxical that procedural efficiency can produce institutional dysfunction, observers agree that such procedures tend to exacerbate the illegitimacy of the policy outcomes. Put another way, without a sound legislative process, sound legislative policies are much less likely.

As seemingly intractable as the current culture of Congress may be, it is still conceivable that some modest and incremental reforms can begin to induce the kind of cultural change necessary to restore an orderly, deliberative and effective lawmaking process in the national interest.

The Role of Members

The basic role of members of Congress has always been to represent their congressional districts and serve as legislators. Yet, members of the First Congress in 1789 would hardly recognize their counterparts in 2012. The gradual transformation of the role from being part-time, citizen legislators to fulltime, professional legislators, has brought with it new responsibilities and pressures never contemplated by the Founders.

The Congress of the late twentieth century was in many ways finely tuned to the interests and pressures that produced a conversion from a narrowly focused, committee-centered process to a party-controlled mechanism best suited to coordinate, hone and advance members' reelection priorities.

For individual members this not only meant hiring a more educated and politically astute staff both for work in Congress and on campaigns, but raising the requisite funds to compete with challengers backed by other interests. The result was more time consumed by members paying attention to their reelection campaigns and political party needs, but less time commensurately paid to their legislative responsibilities. Constituent service and district project needs, as well as accommodating the legislative needs of interest groups that helped fund campaigns, began to command more attention from members than attempting to address national policy needs through their committee responsibilities.

This is not to argue that previous generations of Members were not equally focused on reelection. But whereas at one time they did not have to choose between the goals of maximizing reelection prospects and legislating in the national interest, the new transparency and interest group attentiveness to voting records, combined with the rewards of campaign contributions for acceptable conduct, forced that choice more and more often.

Compounding these new electoral concerns have been the growing phenomena of challengers from the same party taking on incumbents who have presumably not been pure enough in their voting behavior. Such challenges only add to the fundraising demands of Members, as have the expectations of their parties in Congress to contribute to party campaign committees.

If the new key to Congress is to follow the money, the resulting discovery will be just how much members are driven by individual and party fundraising imperatives at the expense of their legislative obligations. Consequently, most members have become less informed on national problems and possible solutions, and more politically aware of what it takes to get reelected.

While members may still spout the maxim that good policy is good politics, the fact is they are less capable today, due to limited time, applied resources and dedication, to determine what might constitute good policy. Instead, they are more inclined to follow their party's lead as to what policy prescriptions might lead to the best political outcomes.

The Role of Committees

Over the last two decades, the well-respected *National Journal* has featured three major articles on the decline of committees in Congress. Each time the reports on the disintegration of committee processes and powers seem to get bleaker.¹ Committees today are mere shadows of

¹ Richard E. Cohen, "Crumbling Committees," *National Journal*, Aug. 4, 1990, 1876 et seq.; Richard E. Cohen, "Crackup of the Committees," *National Journal*, July 31, 1999, 2210 et seq.; Richard E. Cohen, "The Disintegration of the Committee Process," *National Journal*, Jan. 10, 2004. Note: The latter article was part of a larger NJ cover story on "The State of Congress," which identified 12 trends that "represent the way the modern-day legislative process works. In addition to the disintegrating committee system, the article singled-out greater powers concentrated in party leaders; increasing use of House rules to deny the minority full debate or votes on its views; the increasing use of filibusters; the lack of true debate in the Senate; the breakdown in the budget process; the heavy reliance on riders on must-pass appropriations bills; the refusal of appropriators to fully fund authorization bills; the tendency toward government-by-CR (continuing appropriations resolutions); the majority party's abuse of the conference committee; the lack of true bipartisanship and the polarization of Congress; and the inability or unwillingness of Congress to make thorough use of its oversight powers to keep the executive branch in check. The article notes that many of these trends have been exacerbated or have accelerated since the Republicans took over

what they were during the heyday of committee governance in the 1950s and 1960s. Except for the brief period of party government in the late nineteenth and early twentieth centuries, committee chairmen were the true kings of Capitol Hill both before and shortly after the turn of the twentieth century.

The reign of committees was not without controversy since it was governed by the whims of roughly 20 chairmen in each house, and was therefore uncoordinated, unaccountable and unresponsive to larger national needs. Committees were seen principally to look after the special interests over which they had jurisdiction, and the needs of their members.

The failure of committee rule to meet party and national needs led to the congressional reform revolution of the 1970s, which, at least in the House, took on the committee system and its chairs directly. Mainly using Democratic caucus rules, the new liberal majority stripped three committee chairmen of their crowns and put all others on notice that they would either be responsive to the caucus or lose their chairmanships.

The immediate result of the reform revolution was a brief period of subcommittee governance. But the resulting lack of central responsibility for the direction of the majority party and its programs led to a growing reliance on the party leadership to fill a void in which committee chairmen once called the shots.

The increasing delegation of powers to party leaders, particularly in the speaker, further diminished the importance of committees and their chairmen. Leaders not only scheduled legislation, but increasingly acted as agents of their members to dictate the details of bills.

Using the House Rules Committee as its fulcrum, the leadership today deftly juggles competing jurisdictional demands of the committees and sets policy agendas. While the data on legislative activity over the last two decades does not reveal a significant falloff in committee productivity, the more nuanced signs are that unreported bills in the House constitute a larger portion of all bills passed--from 39 percent in 1993-94 to 55 percent in 2010-2011 (see Appendix B, Table 1).

Moreover, unreported bills comprise 25 percent or more of all major legislation, defined as bills requiring special rules, and are more likely to be considered under a no-amendment floor process (See Appendix B, Table 2). These are clear indicators of increasing intervention by the leadership not only in legislative scheduling but in shaping legislative content for partisan purposes.

Committees have accepted their subservience to the majority party caucus and the leadership, producing the bills desired by the party and assuming new roles in filling the parties' coffers. Today, both parties assess committee and subcommittee chairmen (and ranking minority members) specified amounts they must contribute to party campaigns. Those who fall short lose coveted assignments and leadership roles.

Congress in 1995, but that "the GOP isn't entirely to blame." Many of the institutional trends "have been building over several decades at least, and were well evident during the years of Democratic control."

Even entering freshman members are advised to form their own leadership political action committees (PACs) if they hope to rise in the ranks, secure desired committee slots and eventual chairmanships. As one former member told a BPC roundtable, “Members no longer seek to get on committees to make policy; they seek seats on committees where they think they can raise the most campaign money. They could care less about policy.”

Other factors contributing to the decline of committees as policy makers and oversight agents include the shortened workweek in Washington. With typical weeks from Tuesday evening to Thursday afternoons, committees have scant time to schedule legislative markup sessions, let alone conduct serious hearings. Subcommittees consequently become less utilized and more marginalized in developing necessary expertise on which to develop sound legislative proposals.

Committees in Congress today have a dramatically different role and importance than they did a half-century ago. They offer a central example and explanation of how and why Congress has evolved from a culture of legislating to a culture of campaigning.

Floor Debates and Amendments

The House of Representatives, through its use of the Rules Committee to set limits on debate and amendments, is able to process major bills on the floor in one or two days. The Rules Committee in turn acts as an agent of the majority leadership in the scheduling of legislation and determining how open or closed the floor amendment process will be.

Most major bills are considered under “structured” rules reported by the Rules Committee, specifying which amendments may be offered. The bills most important to the majority party are considered under closed or modified closed rules, meaning no amendments or only one minority substitute.

Whereas in the 1970s, 85 percent or more of major legislation was considered in the House under an open amendment process, House, today less than 20 percent of major bills are. In the 111th Congress (2009-10) only one percent of the special rules were open. As of the 112th Congress’ election recess, 19 percent were open—a marked improvement over the preceding Congress (see Appendix B, Table 3).

In the Senate, which lacks anything comparable to the House Rules Committee, the majority leader is responsible for calling up legislation and for attempting to secure unanimous consent agreements for its consideration.

As in the House, the parties in the Senate are often at odds over the procedural ground rules for floor consideration of legislation resulting in the overuse of two procedural tools: filling the amendment tree and the filibuster. The minority party has increasingly taken to using the threat of filibusters to prevent the consideration of legislation (or nominations) in return for being allowed to offer minority amendments—many of which are not germane to the underlying bill. According to data compiled by the Senate, the number of cloture motions filed and voted on in a Congress was in the single digits prior to the 1970s. Those numbers steadily increased over the ensuing decades and by 2007, 139 cloture motions were filed, of which 112 were voted on, and just 61 succeeded (see Appendix B, Table 4).

In anticipation of minority party attempts to offer politically sensitive and often nongermane amendments, the Senate majority leader has increasingly resorted to filling the amendment tree to block other amendments.

The Senate was once characterized as a more deliberative and open debating forum than the House; however, today it is plagued by procedural squabbles similar to those in the House over whether and how to consider legislation.

While it is a standard joke that the Senate has only two rules —unanimous consent and exhaustion —the increase in partisanship has made it much more difficult to secure unanimous consent agreements considering bills and amendments. That leaves the Senate more exhausted than agreeable most of the time, with little to show for it but rescinded quorum calls and failed cloture motions (which require 60 votes).

When the Senate is able to get some agreements on proceeding with a bill, the amendment process can sometimes seem endless given the lack of a germaneness rule. The fact that the House and Senate are working on the same bill can be something of an illusion when one considers how their non-parallel procedural tracks can diverge beyond any possibility of eventual convergence and enactment.

Conference Committees

Implicit in the Constitution's presentment clause is that every bill presented to the president for his approval or disapproval shall have passed each house in the same form. This is done in one of the three ways: either the second house to act passes the bill in identical form as the first; the two houses exchange amendments to each other's versions until their differences are resolved; or a conference committee is appointed consisting of representatives from each body to resolve their differences, subject to the final approval of the House and Senate.

Whereas Congress once relied heavily on conference committees to process major legislation, their use has declined precipitously in recent years: from 62 conference committees producing 13 percent of all laws in the 103rd Congress (1993-94), to just 12 conference committees producing three percent of the laws in the 111th Congress (2009-2010). (See Appendix B, Table 5)

Looked at from another angle, whereas in the 103rd Congress, of those enactments in which there were some differences between the initial bills passed by the House and Senate, 65 percent of the measures enacted were a result of amendments between the houses (the so-called "ping-pong" approach), by the 111th Congress, 87 percent of the differing versions were resolved by exchanging amendments between the houses (see Appendix B, Table 6). As of the election recess in September 2012, only six bills had been processed through conference committees for the entire Congress.

What accounts for this increasing reluctance of Congress to use conference committees as opposed to playing amendment ping-pong? And, perhaps more important, does it matter? In discussing these questions with former members and staff who have been involved in both processes, there seem to be three main reasons given for the decline in the use of conference committees.

First, in the increasingly polarized institution, the minority party is less likely to be cooperative participants in a conference committee, especially if the legislation initially passed the houses by party line votes. Not surprisingly, the minority party has complained in recent years that it has been increasingly shut-out of any conference decisions—that the decisions have been made primarily between key majority conferees and their leadership in each house. Second, and perhaps related, the minority has been more inclined to threaten filibusters not only on motions to go to conference, but to appoint conferees.

Moreover, motions to instruct conferees, while non-binding, are subject to debate and thus to filibuster, and, unlike the House, where only one initial motion to instruct is in order, in the Senate any number of such instruction motions are possible. Motions to concur or disagree to the House-passed bill with an amendment, on the other hand, are privileged and not debatable, making it much easier and quicker to reach resolution on such motions than to achieve the 60-vote threshold for ending debate on conference related motions.

Finally, a third reason given for the decline in conference committees is the time it takes to process legislation in conference as opposed to the more informal game of ping-pong which entails far fewer steps and procedural requirements (such as gaining a majority of the signatures of conferees in each house and preparing a detailed joint explanatory statement of how the differences between the houses were resolved in conference).

Related to this time consideration is the ability of House members, after the conference committee has been appointed for at least 20 calendar days, to offer an unlimited number of motions to instruct conferees, each of which is debatable and subject to a vote—something that can be very time consuming and disruptive to the consideration of scheduled legislation on the floor.

The larger question of whether it matters how differences between the houses are resolved is obviously a subjective matter. Of those former members and senior staff present at a roundtable discussion of conference committees on July 25, 2012, there was near unanimity that a fuller utilization of conference committees should be restored. The reasons given were that the issue is closely related to the importance of committees and the participation of their members in the legislative process, from start to finish.

Absent conference committees, the issues are resolved by a small cadre of committee and party leaders, and therefore less likely to be representative of the two bodies and parties. Moreover, the ping-pong approach is much less transparent and therefore more likely to be subject to manipulation and gamesmanship that may not come to light until weeks or even months after enactment of the legislation. While it was conceded that leadership will intervene on issues of importance to the parties regardless of which process is used, it was agreed that there is less chance of egregious abuses if more members are involved in the process.

Finally, the restoration of conference committees are seen both as a building block to restoring committees as the critical fulcrum in the policymaking process, and in building bridges between the parties and individual members by forcing them to cooperate through a formal process designed to compel action on a final legislative product. Conference committees, properly used, allow members to engage each more fully and help break down some of the barriers to personal relationships in Congress and greater comity.

The Role of Party Leaders

The relative strength and powers of parties and their leaders in Congress has waxed and waned through history, usually portrayed as shifts between committee government and party government, with periods in between of shared powers or balance. There can be no question, though, that since the early 1980s, powers have continued to flow to party leadership in Congress at the expense of committee leadership.

One should not overlook the role of minority parties and leaders in considering the changing culture of the Congress. Much of the change is occasioned by the interplay and friction between the parties and the resulting procedural adjustments made to counteract the moves of the opposition. It was in reaction to what Republicans perceived as the abuse of power by the majority leadership, particularly the speakers, that the minority was able to rally its troops to revolt in unity, eventually leading to the Republican takeover of Congress in 1995. Republicans, however, soon followed the lead of those they had replaced with closed processes and centralized control.

When Democrats finally managed to oust the Republican majority after 12 years, in part on promises to restore a more open, fair and accountable Congress, based on the regular order, the pattern of majority rule soon reverted to that of its predecessor majority, with closed and restrictive amendment processes and other shortcuts to legislative success.

When Republicans regained power after the 2010 elections, the cry was again heard for a return to the regular order by the newly elected majority. But, while the number of amendments allowed to the minority has increased, the overall procedural record of the 112th Congress under Republicans has not wavered much from the preceding Democratic Congress (see Appendix B, Table 3). Power is still wielded by the leadership in response to a very active and forceful membership.

With three party flips of majority control in just 16 years and with a more closed than open, deliberative process, one can only conclude that the leaders and parties feel locked in a system that may allow them some short-term political gain at the expense of long-term institutional preservation and sound policymaking. How much new leaders can contribute to a reversal of this trend perhaps depends on one party or the other securing a large enough majority that it can begin to back away from anti-deliberative procedures and replace them with a more thoughtful system that depends on greater cooperation across the aisle to solve problems.

Oversight of the Executive Branch

A 1974 House Select Committee on Committees noted in its final report, “Many legislators and scholars have stated that oversight of programs and agencies should be a principal function of the Congress.” The select committee concurred, saying it “firmly believes that the oversight responsibilities of the House committee are important and too often shunted aside by the press of other business.” The select committee recommended strengthening Congress’s oversight role by requiring each committee to create an oversight subcommittee and adopt an annual oversight agenda to provide for a more systematic study of the programs and agencies under their jurisdiction.

That requirement was adopted in a watered down form, with oversight subcommittees optional and oversight agendas becoming little more than a restatement of the committees' jurisdiction. The requirements remain in the rulebook today, with periodic attempts made to revive and strengthen Congress's oversight role. And yet, each time a new assessment of Congress is made, congressional oversight remains near the top of the list of Congress's greatest failings.

Contributing factors include a lack of time and resources and lack of interest because members benefit from the interests that are recipients of the assistance provided by the programs they would oversee. The amount of oversight is also affected by whether the executive and legislative branches are controlled by the same or the opposition party. Unified party control of both branches tends to result in less congressional scrutiny of the executive branch.

Some would argue that the era of fiscal constraints should encourage oversight to save money by eliminating or drastically overhauling existing programs of dubious value. But more frequently the mindset is either to get rid of everything across the board, or to preserve programs untouched. Very little time is spent in actually determining what is and isn't working.

Congress and Budgeting

Closely linked to the oversight role of the Congress are its central responsibilities for funding the government—the powers to tax and spend. It wasn't until the enactment of the Budget and Accounting Act of 1921 that Congress fully recognized the need for centralized budgeting in the executive branch. And it wasn't until enactment of the Congressional Budget Act of 1974 that Congress recognized that it should not fully depend on the executive branch's budgeting resources or on the president's budget priorities.

Nevertheless, as government has grown and demands on government resources expanded, Congress has found it increasingly difficult to complete its budgetary responsibilities on time. Notwithstanding its assertion of power through enactment of the Congressional Budget Act of 1974, Congress has failed in most years since to enact all of its appropriations bills on time. The last instance of timely enactment was for the fiscal 1997 budget (calendar year 1996). In the past three fiscal years, Congress has relied almost entirely on continuing resolutions and ultimately omnibus bills not enacted until the following calendar year. The current fiscal year 2013 process has been set on a similar course, bridged by a six-month continuing resolution covering the entire government (see Appendix B, Table 7).

Another important aspect of the 1974 Budget Act that has been neglected in recent times is the annual congressional budget resolution. The budget resolution was intended to be Congress's alternative to the president's budget in setting national spending priorities, revenue, deficit (or surplus) and debt levels. The last budget resolution adopted by both houses was in fiscal year 2010.

The confusion in the last two years is in part due to the enactment of the Budget Control Act in 2011 which established statutory spending ceilings that the Senate argues is equivalent to a budget resolution. Nevertheless, that does not account for the failures to adopt a budget resolution in the preceding three years—the latter two of which were under unified party governance (both houses of Congress and the presidency were controlled by the Democrats in

2009 and 2010). All told, since the inception of the Budget Act, Congress has adopted only six budgets on time, and on seven occasions has failed to adopt a budget at all (see Appendix B, Table 8).

Congress's fiscal failings can be attributed to a variety of factors. But without regular processes, Congress has no formalized means of overcoming strong philosophical differences. The fact that Congress had to resort to a "super-committee" in 2011 to deal with the debt crisis is probably the most stunning example of Congress's inability to use existing committees and processes to meet its fiscal responsibilities. But the failure of that special joint select committee to even report recommendations for an up or down vote by the House and Senate speaks volumes more for just how crippled the institution is today.

Civility, Comity and Compromise

One of the biggest impediments to restoring a deliberative policymaking environment in Congress is the lack of civil discourse within the institution. The public sees Congress engaging in constant, petty partisan bickering at the expense of serious problem solving. To Members of Congress, it may not be bad as it is perceived or portrayed in the media, but there is still a sense that members cannot work with those of the other party. Cross-party fraternization is discouraged by the leadership and often runs at cross-purposes with the party's political strategy of drawing bright lines with the opposition.

The issue of incivility is not a cause of congressional dysfunction but rather a symptom of the deeper divisions that prevent and discourage Members from getting to know each other personally across party lines. Outbreaks of incivility or overt expressions of hostility and anger towards partisan opponents are actually rare in Congress. Instead, what is more pervasive and just as damaging is an ongoing condition of uncivility which is marked by a passive rudeness or failure to regard members of the other party as worthy of respect both for their personal character and political views.

Members might occasionally get passionate and angry if they directly engage with others holding differing views, but such clashes are rare. More often than not, members speak from their scripted remarks, fail to yield to others for questions or a colloquy, and consequently, tend to talk past one another rather than with each other. If they don't know their opponents personally to begin with, they are even less likely to yield for a dialogue because they don't trust the other person to engage in an open and honest manner. Because they often lack any depth beyond their talking points, members are reluctant to risk challenges to their assertions.

The reasons for this condition of alienation between members of opposing parties have been iterated and reiterated at every gathering of former members and staff. Members no longer move their families to D.C. so they no longer socialize with each other on weekends. The jet airplane has made it possible for members to return home every weekend, so House Members in particular keep their families in their districts so they can attend to constituents and family over a four day weekend.

Members no longer take foreign trips together because so-called "taxpayer junkets" can be used against them in campaigns. They therefore lose yet another means of getting better acquainted. And party leaders make a point of discouraging their members from fraternizing

across party lines because it can only complicate the job of leaders of forging party unity on important policy issues and votes.

Ironically, while incivility and uncivility may be symptoms of a deeper cultural disease, i.e., fierce and unyielding partisanship at all costs, treatment of the symptom may actually be a first step in curing the disease. If some simple steps were taken to overcome the alienation between members of opposing parties and encouraging the formation of at least amiable relationships, the ability to work across party lines on some areas of common concern would be that much easier.

This is one area in which party leadership at the full chamber and committee levels can alter the culture. Whether leaders have the courage and farsightedness to take that simple step in the other direction remains to be seen. But in the long run it could end up benefitting members individually, their constituents collectively, and the nation as a whole. It need not be viewed as a retreat of the parties but rather as a strategic advance that allows them to regain some of the lost public prestige and respect they have suffered by losing themselves in their partisan battles.

Restoring the First Branch

Over the past two years, the Bipartisan Policy Center has conducted an ongoing series of programs on the Congress from various angles and in collaboration with different institutions in town. The conferences, workshops and roundtables have illuminated all the dark corners that have contributed to what is generally agreed to be a dysfunctional institution today. Honest disagreements exist as to how much of the dysfunction is a function of the deeply divided electorate, as reflected in the Congress. Many assert the result of such political and ideological divisions at the national and congressional level is policy gridlock—at least until a national consensus is formed around particular policy solutions.

Others argue that the dysfunction is internally created by hyper-partisan members of Congress who have assumed positions of rigidity far beyond anything desired or imagined by their constituents. This hyper-partisanship in Congress has created a culture of its own that is self-perpetuating and at the same time destructive of the original purposes of having a national legislature to develop policies for the country. The partisan battles in Congress seem far removed from any serious national policy debates and more concerned with scoring political points for the purpose of gaining or maintaining power.

One need not come down on either side of the argument if it is conceded there are elements of truth in both explanations for our government's current dysfunction. Democracy has always been messy, and party competition has always existed in one form or another, but mainly as a further check on domination by any single person, party or group. Congress has vacillated over time between stasis and activism, just as the powers of political parties and their leaders have ebbed and flowed in attempting to manage and lead the institution.

In considering what might be done to alter a destructive or at least non-productive course and culture of hyper-partisanship, it is tempting to conclude that nothing but bold and radical reform are needed to save the Republic. Some proposals would entail making substantial changes in the Constitution, from imposing term limits on members of Congress, abolishing (or substantially reconstituting) the Senate, mandating balanced budgets, turning national

reapportionment over to a non-partisan commission of experts, or diluting the first amendment to impose stricter limits on campaign financing.

Putting aside the practical problems of amending the Constitution for any purpose, one must consider alternatively how difficult it is to reverse such nostrums once embedded in our founding document when the law of unintended consequences proves them unworkable or worse.

The central advice we heard over and over again from current and former members of Congress, staff and scholars was: (a) Don't expect to change the Congress by major procedural reforms; (b) Take incremental steps to encourage better conduct and performance; and (c) Bring pressure for change both from within and from outside the Congress. Just as the culture of Congress is the evolutionary product of internal and external forces, from party leaders, interest groups and the electorate, so too will any alteration in that culture require both member and public will and pressure.

One of the popular remedies seized on by both parties at one time or another is a concerted effort to "return to the regular order," that is, making laws the old fashioned way. This would entail restoring authorizing committees to a level of prominence they have not enjoyed for decades. While party leaders periodically pay obeisance to this goal, they have been reluctant to return even a measure of power to entities that are bipartisan in their composition and thus prone to develop bipartisan solutions to problems.

Some have argued that the danger no longer exists that committee chairmen could once again become powerful independent brokers, defying their majority party caucus's policy preferences because party caucus rules and procedures for choosing chairmen make clear the obligation of committee leaders to be responsive to the will of their party's majority in Congress. Others argue that once a commitment is made to restoring committees as central policy making organs, it will be difficult to contain the pressures for a genuinely deliberative and non-partisan policymaking process. History has shown, they argue, that either parties or committees control the levers of power in Congress, and that seldom are the powers shared on a magnanimous and equitable basis.

It is easy to resign oneself to the conclusion that so long as the nation remains divided roughly equally between the parties, the Congress will remain in a relative state of dysfunction and gridlock. It is not unusual for every age to consider itself unique and to worry from time to time that it has breached the limits of effective democratic governance.

But nothing in such a fluid political environment is inevitable, foreordained or foredoomed, as our history has demonstrated. The fact that over our 230-year existence the country has managed to survive all manner of external and internal crises and still retain its basic governing forms and practices is testimony to the resilience and wisdom built into the system.

The public disgust with Congress is just as real as are political divisions among the electorate. Not every issue has to be a test of party strength. Those issues that receive the greatest public attention and demand for action will, or at least should, drive members of both parties in Congress to find common ground or risk being rejected at the polls, regardless of party.

Suggested Areas for Change

The search for common ground can best be facilitated by taking small, incremental steps to rebuild confidence and trust between the parties and their members while ensuring the continuing role of party leaders in Congress to set the legislative agenda and help guide committees in enacting that agenda through fair and open deliberations. The following proposals are illustrative of the kind of steps that can be taken with the focus primarily on how to get the Congress functioning once again as the Founders intended.

(1) Leaders Should Commit to Five-Day Workweeks —To help restore a culture of legislating by enabling committees sufficient time to conduct their business, the bicameral leadership should commit to holding sessions five days a week for three consecutive weeks at a time, followed by one-week recesses.

(2) Congress Should Adopt Biennial Budget Resolutions and Spin-Off the Resolution's Discretionary Spending and Debt Ceilings Into Statute —Congress should move to two-year budget resolutions matching two-year discretionary spending and debt ceilings to be spun-off from final resolutions into a bills for enactment. The annual appropriations process should be retained to ensure tight oversight of the executive branch.

(3) The Leadership Should Commit to Fully Restoring the Authorization Process —Majority party leaders in each house, in consultation with their committee chairmen, should meet at the outset of a new Congress and agree on a timetable for considering major reauthorization bills.

(4) Committee Chairs Should Commit to Minority Party Participation —Committee chairs should consult with ranking minority members in developing a chairman's mark for major reauthorization bills to find common ground where possible, facilitate the markup process, and ensure greater committee consensus and unity.

(5) Appropriations Committees Should Refrain from Authorizing in Appropriations Bills —To further strengthen the policymaking role and relevance of authorizing committees, majority party leaders should insist on enforcing House and Senate rules against including legislative language in appropriations bills.

(6) A More Open Amendment Process Should Be Allowed in the House and the Senate --Majority leadership in the House should permit more modified open amendment rules in the House by requiring pre-printing of amendments in the Congressional Record and imposing an overall time cap on the amendment process for a bill. In the Senate the majority leader should refrain from filling the amendment tree to block minority party amendments.

(7) Motions to Proceed to Consider Legislation in the Senate Should Not be Subject Filibuster —Senate rules should be amended in the normal manner on opening day of a new Congress (not by exercising the “nuclear option”) to make motions to proceed to the consideration of any measure privileged (not subject to filibuster).

(8) Leaders Should Commit to Restoring Conference Committees —Congress should return to using House-Senate conference committees to resolve differences on major legislation. To facilitate this, all motions relating to going to conference and appointing conferees in the Senate should be privileged (not subject to filibuster); and motions to instruct conferees in the House after 20-days should be limited to not more than one every three legislative days if offered by the minority leader or a designee.

(9) Leadership Political Action Committees Should Be Abolished --To lessen the appearance of top committee spots being allocated to the highest party givers and the associated appearance of over-dependence on interest group contributions with an interest in legislation before such committees, House and Senate rules should be amended to prohibit each representative and senator from having more than one official campaign committee.

(10) Members Should be Encouraged to Deliver Annual State of the Congress Addresses to Constituents —To better enable members to carry out their educational and informational responsibilities to their constituents, members should consider scheduling an annual address to their constituents in which they report on the activities of the Congress, its strengths and weaknesses as an institution and their ideas for making it a more effective and representative body.

Conclusions

At the final roundtable discussion on regular order in October 2012, former House Parliamentarian Charles W. Johnson asserted that “gridlock is the regular order.” He attributed this state of affairs to a retreat from “the collegiality, spontaneity, openness and compromise that characterized earlier Congresses,” and “increased partisanship and stalemate motivated by the ‘win-every-vote’ mentality of House majorities” that are implemented through a variety of internal and external forces.²

Johnson went on to observe that this is especially exacerbated during times of divided party government, particularly when even the two houses of Congress are split between the parties. While a certain amount of policy gridlock is to be expected in such situations given the differing political philosophies and legislative priorities of the two parties, it cannot explain the near systemic breakdown in accomplishing even the most routine and least partisan of legislative responsibilities. The distinction between policy disagreements and institutional dysfunction is important to keep in mind in determining what needs to be corrected and how to do it.

Johnson blames this system-wide failure on members’ loss of institutional memory and loyalty; the collapse of a deliberative committee system dedicated to making good policy; the decline of an open amendment process on the House [and Senate] floor; and the near disappearance of House-Senate conference committees. The essential building blocks of an orderly legislative process have been allowed to crumble through disuse.

² Also see, Don Wolfensberger, “Policy Gridlock: Is It the New Regular Order,” Procedural Politics column, Roll Call, Oct. 9, 2012.

But Johnson told the roundtable that much of this can be turned around quickly simply through new directives from the leadership to the House Rules Committee where decisions are made on upholding or deviating from the regular order.

The post-election comments by leaders of both parties about a new willingness to work across party lines to get important things done for the country is an encouraging start. The tests of this new spirit will come early—even before the new Congress convenes in January--and will depend on the full support of members of both parties and both houses if it is to succeed. The people have made it clear through poll after poll that a return to the old order of gridlock is unacceptable.

APPENDIX A.
CULTURE OF CONGRESS
ROUNDTABLE DISCUSSIONS

Part 1. The Roundtable Series

From July 2011 through October 2012, The Bipartisan Policy Center held a series of six roundtable discussions on “The culture of Congress,” the latter five of which were cosponsored with the Woodrow Wilson International Center for Scholars. Below is the schedule of the roundtable series and the featured speakers who served as provocateurs for each discussion.

- (1) **The Culture of Congress and the Committee System** (July 20, 2011, BPC)
 - Christopher Deering, Professor of Government, George Washington University
- (2) **The Culture of Congress: Yesterday and Today** (April 30, 2012, WWC)
 - Julian Zelizer, Professor of Political History, Princeton University
 - Former Rep. Tom Downey (D-NY)
 - Former Rep. Vin Weber (R-MN)
- (3) **The Culture of Congress & Budgeting** (July 19, 2012, BPC)
 - Phillip Joyce, Professor of Public Policy, University of Maryland
- (4) **The Culture of Congress: Whither Conference Committees, or Is It Wither?** (July 25, 2012, WWC)
 - Walter Oleszek, Senior Specialist, Congressional Research Service
 - Elizabeth Rybicki, Specialist, Congressional Research Service
- (5) **The Culture of Congress & Leadership Influences** (Sept. 18, 2012 WWC)
 - Former Rep. Martin Frost (D-TX)
 - Matthew Green, Professor of Politics, Catholic University
 - Former Rep. Robert Walker (R-PA)
- (6) **The Culture of Congress: Is Irregular Order the New Normal?** (Oct. 17, 2012, BPC)
 - Charles W. Johnson, former House Parliamentarian
 - Jennifer Victor, Professor of Political Science, George Mason University

Part 2. The Roundtable Participants

Steve Bell, Bipartisan Policy Center	Matt Glassman, American University	Keith Kennedy, Baker-Donelson	Elizabeth Rybicki, CRS Colleen Shogan, CRS
Jeff Biggs APSA	Sec. Dan Glickman, BPC Senior Fellow	Francis Lee, Univ. of Md.	Rep. Jim Slattery (D-KN)
Rep. Jim Cooper (D-TN)	Joe Goldman, Omidyar	Scott Lilly, Center for American Progress	Tom Sliter, Stennis Center
Sen. Tom Daschle (D-SD) BPC Founder	Rep. Bart Gordon (R-TN)	Rep. Bob Livingston (R-LA)	Philippa Strum, Woodrow Wilson Center
Rep. Tom Davis (R-VA)	Matthew Green, Catholic University	Sen. Trent Lott (R-MS), BPC Senior Fellow	John Sullivan, Fmr. House Parliamentarian
Bill Dauster Office Sen. Maj. Leader	Jason Grumet, Bipartisan Policy Center	Rep. Jim McCrery (R-LA)	Rep. John Tanner (D-TN)
Christopher Deering George Washington Univ.	Rep. Jane Harman (D-CA), Pres., Wilson Center	Tom Mann, Brookings Institution	Monty Tripp, ABB
Sen. Pete Domenici (R-NM), BPC Senior Fellow	Bill Hoagland, Bipartisan Policy Center	Rep. Connie Morella (R-MD)	Jennifer Victor, George Mason University
Rep. Tom Downey (D-NY)	Kent Hughes, Woodrow Wilson Center	Michelle Nellenbach, Bipartisan Policy Center	Rep. Bob Walker (R-PA)
Jim Dykstra Eddington Peel Assoc.	Adam Jarvis, House Rules Committee	Walter Oleszek, CRS	Rep. Vin Weber (R-MN)
Rochelle Dornatt, Office Rep. Sam Farr (D-CA)	Michael Johnson, OB-C Group	Norman Ornstein, American Enterprise Inst.	Don Wolfensberger, Wilson Center & Bipartisan Policy Center
Rep. Mickey Edwards (R-OK)	Rep. Jim Jones (D-OK)	Bill Pitts, Fmr. House Republican Leader's Staff	Matthew Wasniewski, House Historian
Rep. Vic Fazio (D-CA)	Charles Johnson, Fmr. House Parliamentarian	Barry Pump, House Historian's Office	Gordon Zachs, RG Barry Corporation
John Fortier, Bipartisan Policy Center	Philip Joyce, Univ. of Maryland	David Pomerantz, House Appropriations Comm.	Julian Zelizer, Princeton University
Rep. Martin Frost (D-TX)	David Karol, Univ. of Maryland	Rep. Earl Pomeroy (D-ND)	
Alan Frumin, Fmr. Senate Parliamentarian	Ken Kato, House Historian's Office	Donald Ritchie, Senate Historian	

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DATA ON CONGRESS**

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Item	103 rd	104 th	105 th	106 th	107 th	108 th	109 th	110 th	111 th	112 th
Days in Session	265	289	248	272	265	243	242	282	286	327
Hours in Session	1,887	2,445	1,979	2,179	1,694	1,893	1,917	2,368	2,127	1,718
Average Hours Per Day	7.1	8.5	7.9	8	6.4	7.8	7.9	8.4	7.4	5.3
Public Measures Introduced	5,739	4,542	5,012	5,815	5,892	5,557	6,540	7,441	6,669	6,845
Public Measures Reported	544	518	511	654	510	572	428	627	435	500
Public Measures Passed	757	611	710	917	587	801	770	1,101	859	584
Unreported Public Measures Passed	291	165	282	392	203	346	382	577	474	260
Unreported Passed as % of Total	38%	27%	40%	43%	35%	43%	50%	52%	55%	45%
Total Public Laws Enacted	465	333	394	580	377	498	482	416	383	283
Commemoratives Enacted	81	0	0	0	1	1	0	0	3	0
Substantive Laws (minus commemoratives)	384	333	394	580	376	497	482	416	380	283
Total Roll Call Votes	1,094	1,321	1,157	1,209	990	1,218	1,212	1,865	1,647	1,603
Party Unity Votes: No.(% of all votes)	698 (64%)	891 (67%)	615 (53%)	547 (45%)	413 (42%)	604 (47%)	623 (56%)	990(55 %)	766 (47%)	628 (69%)
Measures Passed Under Suspension	420	343	461	669	464	594	612	568	475	421
Suspensions as % of All Passed	56%	56%	66%	73%	79%	74%	79%	52%	54%	71%
Suspension Measures Enacted	227	194	258	437	255	388	374	371	330	223
Suspensions as % of All Laws	50%	58%	65%	75%	68%	78%	76%	81%	86%	79%)
Open/Modified Open Rules:No. (%)	46 (44%)	83 (58%)	74 (53%)	91 (51%)	40 (37%)	24 (26%)	24 (19%)	23 (14%)	1 (1%)	25 (18%)
Structured Rules: No. (%)	40 (38%)	20 (14%)	6 (4%)	32 (18%)	20 (19%)	34 (26%)	52 (42%)	71 (44%)	60 (54%)	58 (41%)
Modified Closed Rules: No. (%)	9 (9%)	20 (14%)	36 (26%)	17 (9%)	24 (22%)	28 (21%)	9 (7%)	10 (6%)	12 (11%)	7 (5%)
Closed Rules: No. (%)	9 (9%)	19 (14%)	24 (17%)	39 (22%)	23 (22%)	37 (28%)	40 (32%)	59 (36%)	38 (34%)	50 (36%)
Self-Executing Rules: No.: (%)	30 (22%)	38 (25%)	46 (32%)	40 (22%)	42 (37%)	30 (22%)	28 (22%)	44 (28%)	40 (36%)	36 (26%)
Committees/Subcommittees	23/118	20/86	20/83	20/87	20/93	20/92	21/97	21/103	21/102	21/104
Committee Staff	1,800	1,171	1,265	1,205	1,366	1,383	1,363	1,344	1,324	1,272

Sources: “Resume of Congressional Activity,” Daily Digest, *Congressional Record*; “Survey of Activities,” Committee on Rules; Congressional Research Service Reports on “Committee Numbers, Sizes, Assignments and Staff,” and “Legislative Branch Appropriations;” House Calendars; Rules Committee Calendars & Website; and THOMAS. **Notes:** “Public measures” refers only to bills and joint resolutions and not simple or concurrent resolutions; “all measures” includes bills, joint, concurrent and simple resolutions. Suspension measures are those relatively non-controversial bills and joint resolutions considered under the suspension of the rules procedure on Mondays, Tuesdays and Wednesdays which allows for just 40-minutes of debate, no amendments, and requires a two-thirds vote for passage.

**Table 2. Comparative Data on Unreported Measures
On Which Special Rules Were Granted
109th, 110th, 111th & 112th Congresses
(Through Jan. 3, 2013)**

	109th Congress (2005-2006)	110th Congress (2007-2008)	111th Congress (2009- 2010)	112th Congress (2011-12)
Total Measures With Special Rules	125	163	105	140
Unreported Measures With Special Rules	34	35	29	38
Unreported Bills as Percent of Total	27%	21%	28%	27%
Unreported Bills With Closed Rules	28	32	21	31
Unreported Closed as Percent of All Closed	70% (40)	54% (59)	55% (38)	62% (50)

Source: Compiled by Don Wolfensberger from Rules Committee data.

Table 3. Special Rules Providing for the Original Consideration of Legislation in the House, 103rd-112th Congresses (1993-2012)
(Current to Friday, Jan. 3, 2013)

Congress	Open/Modified Open		Structured		Modified Closed		Closed		Totals	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
103rd (1993-94)	46	44%	40	38%	9	9%	9	9%	104	100%
104th (1995-96)	83	58%	20	14%	20	14%	19	14%	142	100%
105th (1997-98)	74	53%	6	4%	36	26%	24	17%	140	100%
106th (1999-2000)	91	51%	32	18%	17	9%	39	22%	179	100%
107th (2001-02)	40	37%	20	19%	24	22%	23	22%	107	100%
108th (2003-04)	34	26%	34	26%	28	21%	37	28%	133	101%
109th (2005-06)	24	19%	52	42%	9	7%	40	32%	125	100%
110th (2007-08)	23	14%	71	44%	10	6%	59	36%	163	100%
111th (2009-10)	1	1%	60	54%	12	11%	38	34%	111	100%
112th (2011-12)	25	18%	58	41%	7	5%	50	36%	140	100%

Sources: Committee on Rules Tables for 103rd & 104th Congresses; House Calendars, and personal examination of texts of and reports on special rules reported by the House Rules Committee, from the THOMAS and Rules Committee web sites for 105th-112th Congresses. <<http://www.house.gov/rules/welcome.htm>>.

Notes: The table applies only to special rules providing for the initial consideration for amendment of bills, joint resolutions, and significant concurrent resolutions (e.g., budget, war-related). It does not apply to privileged resolutions considered in the House, to subsequent rules for the same measure, to conference reports, or to special rules that only waives points of order against appropriations bills but do not provide for consideration in the Committee of the Whole. Rules making in order more than one bill are counted as a separate rule for each measure made in order, e.g., a rule providing for the consideration of four bills under closed rules is counted as four closed rules. An open rule is one which permits any Member to offer an amendment otherwise germane in the Committee of the Whole under the five-minute rule. A modified open rule is one which either requires the pre-printing of amendments (PP) in the Congressional Record, sets an overall time-cap (TC) on the amendment process, or both. A structured rule is one which limits the amendments that can be offered to those specified in the special rule and/or report on the rule. A modified closed rule allows for just one amendment (usually a minority substitute). A closed rule is one which permits the offering of no amendments (except those recommended by the reporting committee(s) or contained in a motion to recommit with instructions). R & NR indicates whether the bill was reported or not reported.

(Compiled by Don Wolfensberger/Resident Scholar, Bipartisan Policy Center)

Table 4. Senate Action on Cloture Motions 90th-112th Congresses (1967-2012)				
Congress	Years	Motions Filed	Votes on Cloture	Cloture Invoked
<u>112</u>	2011-2012	115	73	41
<u>111</u>	2009-2010	137	91	63
<u>110</u>	2007-2008	139	112	61
<u>109</u>	2005-2006	68	54	34
<u>108</u>	2003-2004	62	49	12
<u>107</u>	2001-2002	71	61	34
<u>106</u>	1999-2000	71	58	28
<u>105</u>	1997-1998	69	53	18
<u>104</u>	1995-1996	82	50	9
<u>103</u>	1993-1994	80	46	14
<u>102</u>	1991-1992	60	48	23
<u>101</u>	1989-1990	38	24	11
<u>100</u>	1987-1988	54	43	12
<u>99</u>	1985-1986	41	23	10
<u>98</u>	1983-1984	41	19	11
<u>97</u>	1981-1982	31	27	10
<u>96</u>	1979-1980	30	21	11
<u>95</u>	1977-1978	23	13	3
<u>94</u>	1975-1976	39	27	17
<u>93</u>	1973-1974	44	31	9
<u>92</u>	1971-1972	24	20	4
<u>91</u>	1969-1970	7	6	0
<u>90</u>	1967-1968	6	6	1

Source: Excerpted from, "Action on Cloture, Present-1917," U.S. Senate website.

**Table 5. Methods of Bicameral Resolution on Public Laws
103rd-112th Congresses (1993-2012)**

<i>Congress</i>	<i>Public Laws</i>	<i>Amendments Between Houses</i>	<i>ABH as Percent of Total Laws</i>	<i>Conference Committees</i>	<i>CC as Percent of Total Laws</i>
103 rd (1993-1994)	465	112	24%	62	13%
104 th (1995-1996)	333	55	17%	44	13%
105 th (1997-1998)	394	77	20%	39	9%
106 th (1999-2000)	580	106	18%	38	7%
107 th (2001-2002)	377	55	15%	33	9%
108 th (2003-2004)	498	57	11%	35	7%
109 th (2005-2006)	482	60	12%	26	5%
110 th (2007-2008)	416	79	19%	10	2%
111 th (2009-2010)	383	78	20%	12	3%
112 th (2011-2012)	283	40	14%	7	2%

Sources: Walter Oleszek, senior specialist, Government and Finance, Congressional Research Service Report for Congress (RL34611), “Whither the Role of Conference Committees: An Analysis,” Aug. 12, 2008; Elizabeth Rybicki, specialist on Congress and the Legislative Process, Congressional Research Service Report for Congress (R41003), “Amendments Between the Houses: Procedural Options and Effects,” Jan. 13, 2012; and House Calendars.

Note: The above columns showing amendments between the houses versus conference committees reflect only those bills that became law on which different versions were passed in each house. The difference between those two categories combined and total public laws reflects those bills on which the second house to act passed the bill in identical form as the first--on average roughly 70 to 80 percent of total laws enacted in each Congress. **Data compiled by:** Don Wolfensberger, resident scholar, Bipartisan Policy Center

**Table 6. Methods of Resolving Differences Between the House & Senate
On Bills that Become Public Laws
103rd-111th Congresses (1993-2010)**

<i>Congress</i>	<i>Amendments Between Houses</i>	<i>ABH as Percent of Measures in Disagreement</i>	<i>Conference Committees</i>	<i>CC as Percent of Measures in Disagreement</i>	Totals
103 rd (1993-1994)	112	64%	62	36%	174
104 th (1995-1996)	55	56%	44	44%	99
105 th (1997-1998)	77	66%	39	34%	116
106 th (1999-2000)	106	74%	38	26%	144
107 th (2001-2002)	55	63%	33	38%	88
108 th (2003-2004)	57	62%	35	38%	92
109 th (2005-2006)	60	70%	26	30%	86
110 th (2007-2008)	79	89%	10	11%	89
111 th (2009-2010)	78	87%	12	13%	90
112 th (2011-2012)	40	85%	7	15%	

Sources: Walter Oleszek, senior specialist, Government and Finance, Congressional Research Service Report for Congress (RL34611), “Whither the Role of Conference Committees: An Analysis,” Aug. 12, 2008; Elizabeth Rybicki, specialist on Congress and the Legislative Process, Congressional Research Service Report for Congress (R41003), “Amendments Between the Houses: Procedural Options and Effects,” Jan. 13, 2012; and House Calendars.

Note: The above data reflect only those bills that became law which involved some initial differences between the House and Senate passed versions. On average, 70 to 80 percent of the laws in each Congress involve the adoption by one house of the measure as sent to it by the other house, without change.

Data compiled by: Don Wolfensberger, resident scholar, Bipartisan Policy Center

Table 7. Disposition of Appropriations Bills, 102nd-112th Congresses (1991-2012)

Congress/Year	Regular Approps Enacted Separately by Oct. 1st	Regular Approps Enacted Separately After Oct. 1st	Reg Approps Enacted in Omnibus by Oct. 1st	Reg Approps Enacted in Omnibus After Oct. 1st	Short-term CRs Enacted
102nd /1991	2	9	0	0	3
102nd/1992	1	12	0	0	2
103rd/1993	2	9	0	0	3
103rd/1994	13	0	0	0	0
104th/1995	0	8	0	0	6
104th/1996	7	0	6	0	6
105th/1997	1	12	0	0	6
105th/1998	1	5	0	0	7
106th/1999	4	4	0	4	7
106th/2000	2	11	0	0	21
107th/2001	0	12	0	0	8
107th/2002	0	2	0	10	12
108th/2003	2	3	0	7	7
108th/2004	1	3	0	9	2
109th/2005	2	10	0	0	3
109th/2006	1	1	0	10	3
110th/2007	0	1	0	11	4
110th/2008	0	0	0	12	1
111th/2009	0	6	0	6	0
111th /2010	0	0	0	12	6
112th/2011	0	0	0	12	5
112th/2012	0	0	0	TBD	1

Sources: House Calendars; THOMAS.

Table 8. Dates of Final Adoption of Budget Resolutions (FY 1976-FY 2012)

Fiscal Year	Date Adopted	Fiscal Year	Date Adopted
1976	05-14-1975	1995	05-12-1994
1977	05-13-1976	1996	06-29-1995
1978	05-17-1977	1997	06-13-1996
1979	05-17-1978	1998	06-05-1997
1980	05-24-1979	1999	[none]
1981	06-12-1980	2000	04-15-1999
1982	05-21-1981	2001	04-13-2000
1983	06-23-1982	2002	05-10-2001
1984	06-23-1983	2003	[none]
1985	10-01-1985	2004	04-11-2003
1986	08-01-1985	2005	[none]
1987	06-27-1986	2006	04-28-2005
1988	06-24-1987	2007	[none]
1989	06-06-1988	2008	05-17-2007
1990	05-18-1989	2009	06-05-2008
1991	10-09-1990	2010	04-29-2009
1992	05-22-1991	2011	[none]
1993	05-21-1992	2012	[none]
1994	04-01-1993	2013	[none]

Source: Bill Heniff, Jr., and Justin Murray, “Congressional Budget Resolutions: Historical Information,” CRS Report for Congress (RL30297), March 13, 2012, Table 12.

Notes: The above data relates to the adoption of the first budget resolution in each fiscal year. In 1985 Congress eliminated the requirement for a second budget resolution and changed the deadline for adoption from May 15 to April 15 (effective in 1986). Since 1974, Congress has met the deadline for final adoption of the budget resolution just six times. Prior to the change in dates for final adoption, Congress met the deadline twice, in 1975 and 1976. Subsequently, Congress has met the deadline four times. Congress has failed to adopt a budget resolution in seven fiscal years (though the Senate has maintained that the Budget Enforcement Act of 2011 suffices in lieu of a budget resolution because it contains statutory spending ceilings).