



NEW DIRECTION FOR AMERICA

# Wipeout

How the Democratic Majority abandoned its promises of openness and civility

## The promise:

When they came to power in 2007, a central theme of the Democrats' "New Direction Congress" was a "Congress Working for All Americans", with greater openness and transparency than the previous Congress had employed. They said the Republicans' management of debate had led to "the most closed Congress in history." To underscore the point, on December 6, 2006, the incoming Speaker of the House Nancy Pelosi, made this promise about how a Democratic Majority in the House would operate:

*"Democrats pledge to conduct our work with civility and bipartisanship and to act in partnership — not partisanship — with the President and Republicans in Congress."*

As their first Congress in control draws to a close, the facts make clear the promise was broken. The real record demonstrates that the "New Direction Congress" has actually been more closed than any in history.



They said that if they were in charge—

- Committees would have regular order
- Full & fair debate with Minority amendments
- Members will be able to read bills
- The conference process would be open

A CONGRESS WORKING FOR ALL AMERICANS

REGULAR ORDER FOR LEGISLATION

Bills should be developed following full hearings and open subcommittee and committee markups, with appropriate referrals to other committees. Members should have at least 24 hours to examine a bill prior to consideration at the subcommittee level.

Bills should generally come to the floor under a procedure that allows open, full, and fair debate consisting of a full amendment process that grants the Minority the right to offer its alternatives, including a substitute.

Members should have at least 24 hours to examine bill and conference report text prior to floor consideration. Rules governing floor debate must be reported before 10 p.m. for a bill to be considered the following day.

24

Floor votes should be completed within 15 minutes, with the customary 2-minute extension to accommodate Members' ability to reach the House Chamber to cast their votes. No vote shall be held open in order to manipulate the outcome.

House-Senate conference committees should hold regular meetings (at least weekly) of all conference committee Members. All duly-appointed conferees should be informed of the schedule of conference committee activities in a timely manner and given ample opportunity for input and debate as decisions are made toward final bill language.

The Suspension Calendar should be restricted to non-controversial legislation, with minority-authored legislation scheduled in relation to the party ratio in the House.



# Regular Order

Bills should be developed following full hearings and open subcommittee and committee markups, with appropriate referrals to other committees. Members should have at least 24 hours to examine a bill prior to consideration at the subcommittee level.

# 53

Bills considered outside of  
"regular order"

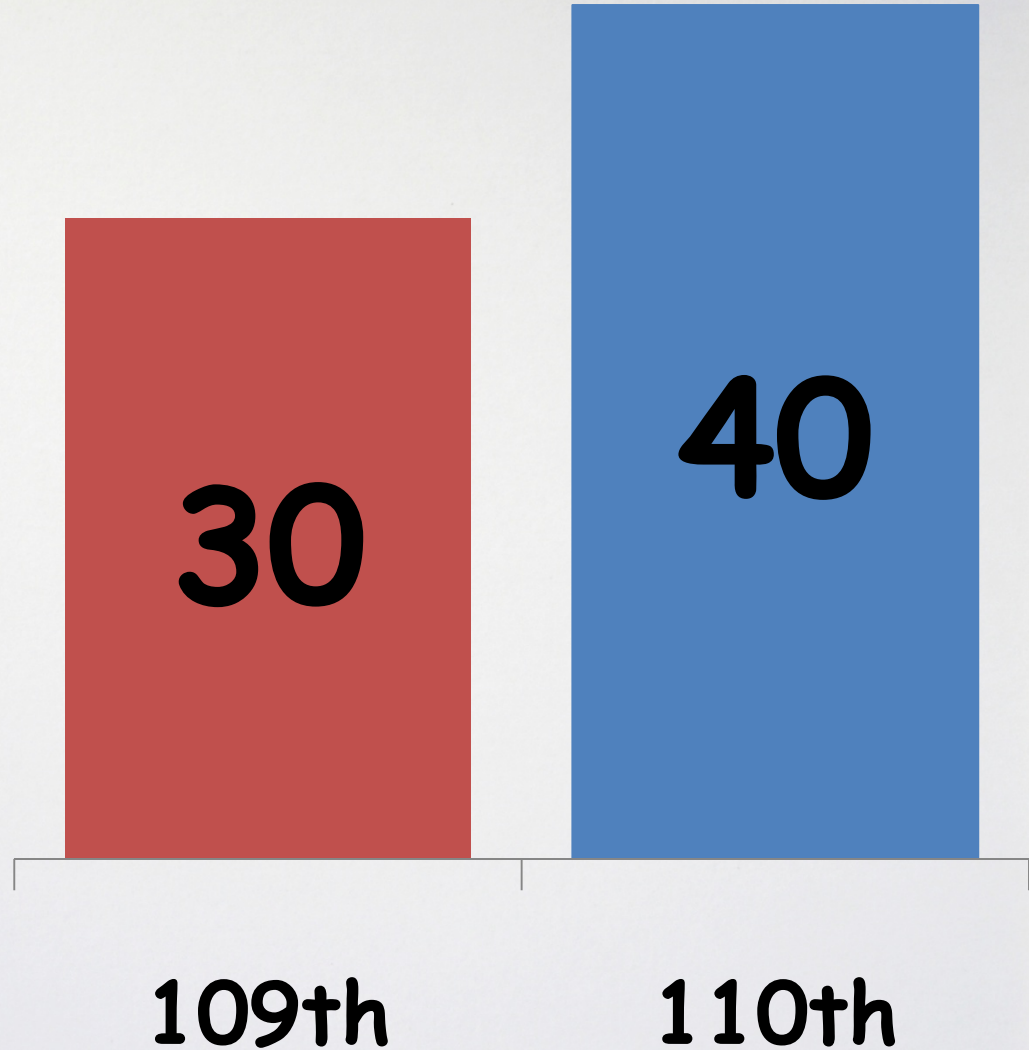
# Example: Energy Legislation

	Republican Approach— H.R. 6 (109 <sup>th</sup> )	Democratic Approach— H.R. 6899 (110 <sup>th</sup> )
Hearing?	✓*	X
Markup?	✓*	X
Date of Intro.	4/18/05	9/15/08
Date on Floor	4/21/05 (Available for 3 days)	9/16/08 (Available for <u>19 hours</u> )
Amendments?	<u>31</u> total 22 Dem., 5 Rep., and 3 Bipartisan	<u>0</u>

\*Hearings & markup held prior to introduction.

## Bills Rewritten by the Rules Committee

The 110th Congress has also rewritten more bills in the Rules Committee than did the previous Congress. In other words, they substituted new text for bills just before they moved to the floor. That's not regular order.

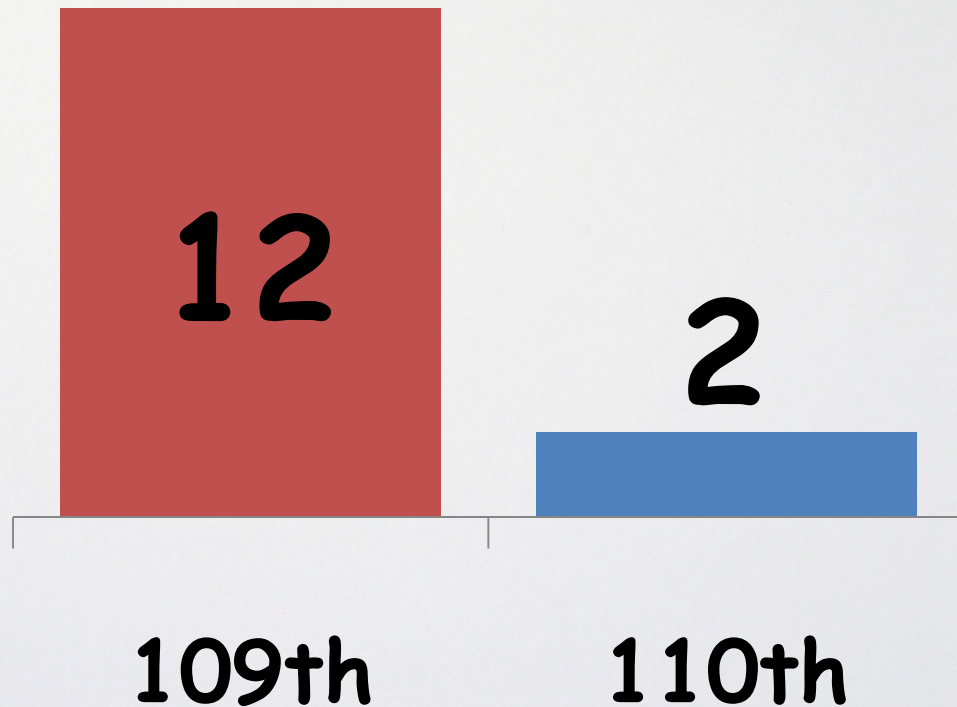




## Doing the Work: Appropriations Bills

In the second session of the 110th Congress, the appropriations process — the most important responsibility of the legislative branch — was virtually shut down. Only a few committee markups were held and only one of the regular appropriations bills moved to the floor. That bill was not considered under a traditional open rule allowing any member to go the floor and offer an amendment. Instead, it was considered under a restrictive rule that limited opportunity for amendment and debate, as was the supplemental.

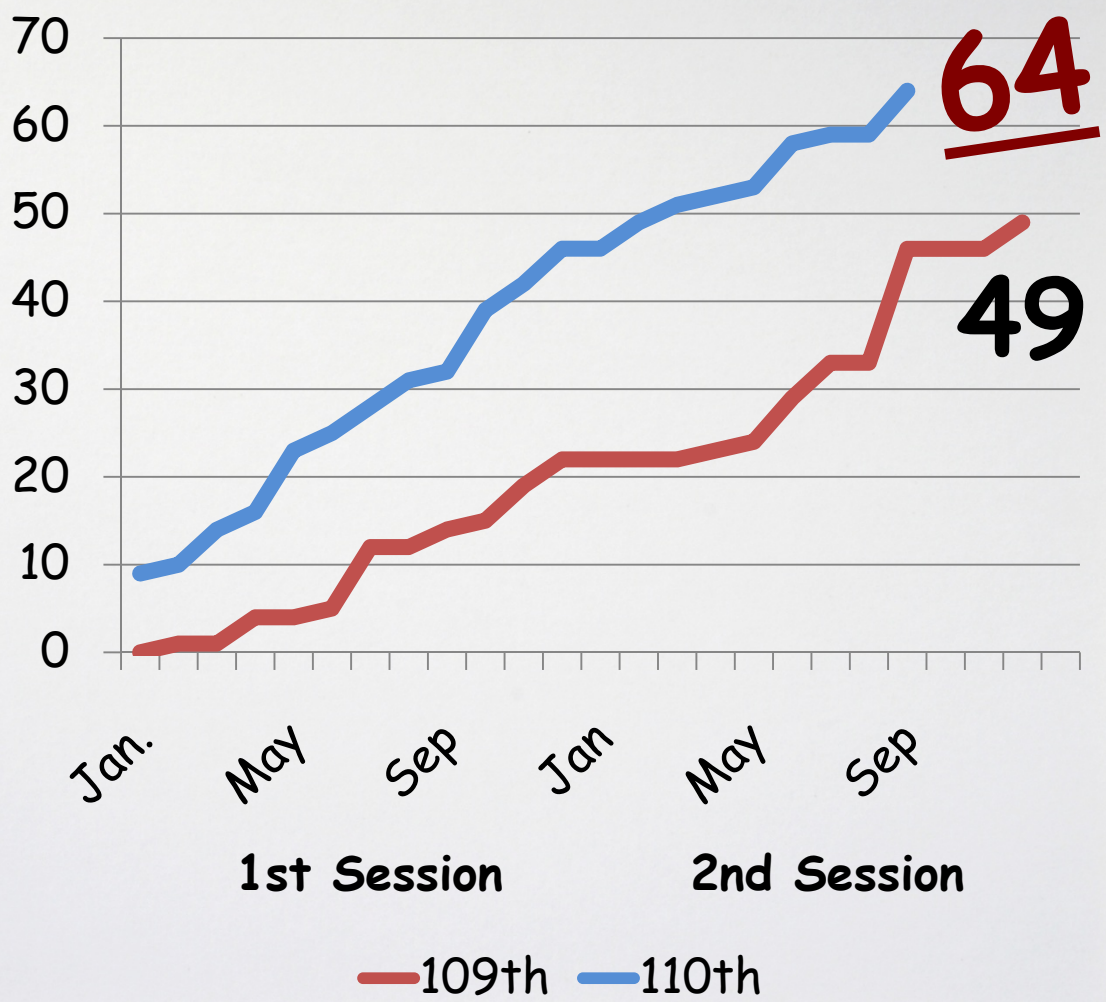
## Regular & Supplemental Appropriations Bills Considered in the 2nd Session by the House



## Closed, Limited, Restricted Debate

While the Democrats pledged to allow for open, full, and fair debate, the reality ended up being quite different. They considered more legislation under more restrictive rules and allowed fewer Minority sponsored amendments and substitutes than did the previous Congress. While the Democratic Members of the Rules Committee deemed the 109th Congress the "most closed Congress ever," they have used their new power to deny amendments in more ways and with more frequency.

### Closed Rules — 109th vs. 110th

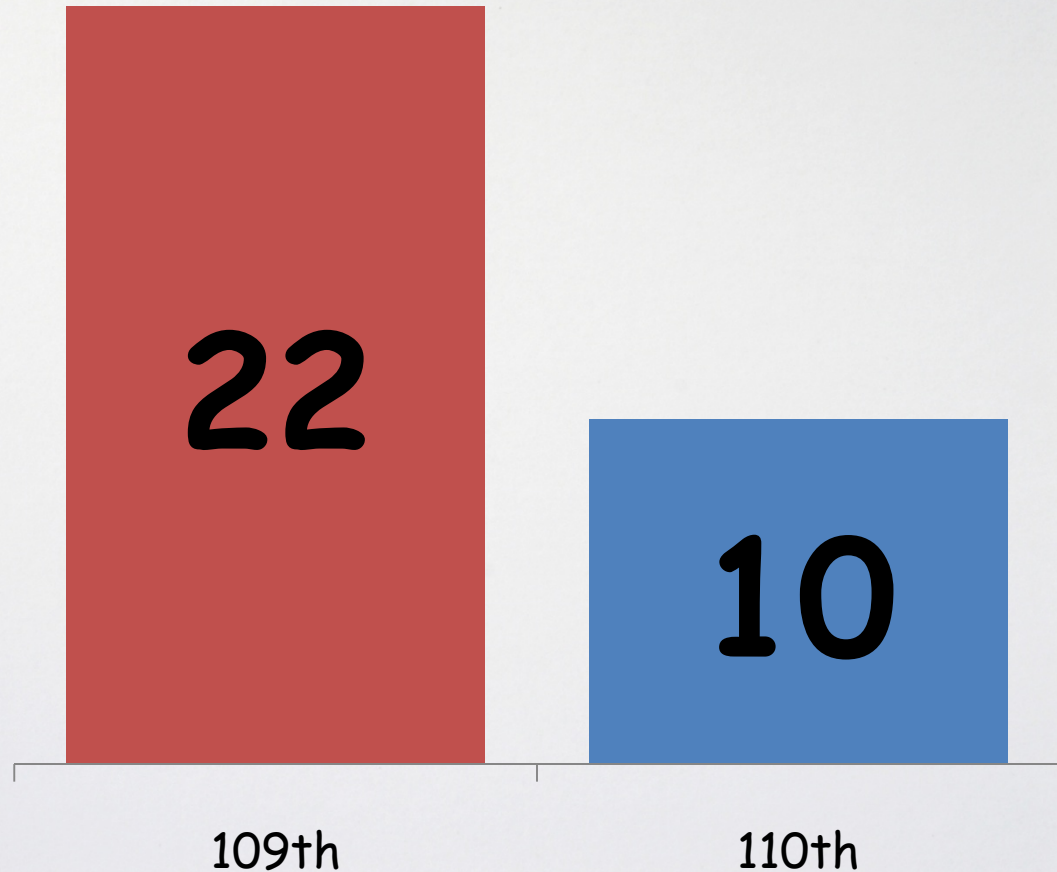




## Open Rules — 109th vs 110th

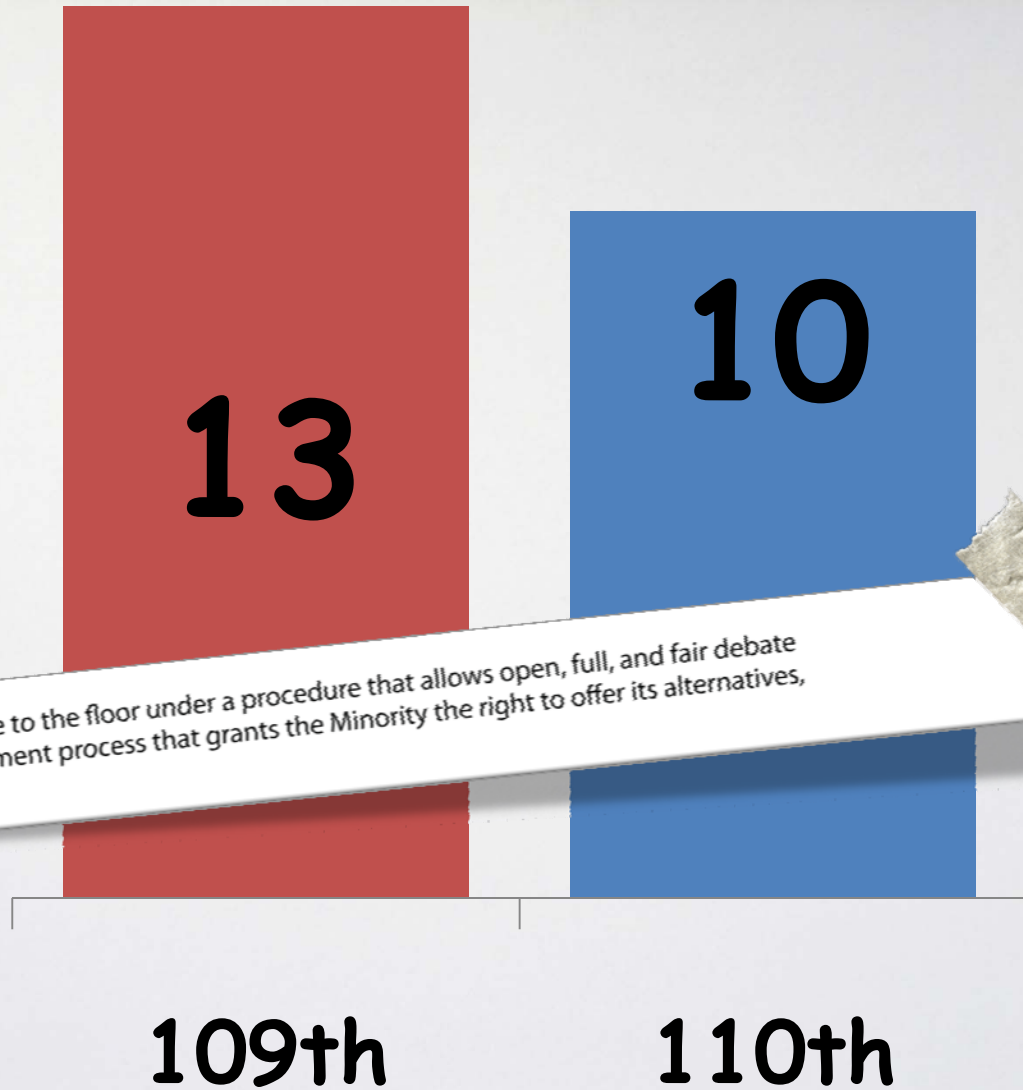
### Fewer Open Rules

As if the Democratic Majority's reliance on closed rules wasn't bad enough, they actually had fewer open rules — rules without any restriction on the amendment process — than did Republicans in the 109th Congress. As an overall percentage of the total number of bills considered under rules, in the 109th, nearly 17% of the bills were considered under an open rule, versus 6% in the 110th.



## Minority Substitutes Made in Order

The Democratic Majority has allowed fewer Minority substitutes than did the previous Congress, despite their pledge to give the Minority an opportunity to offer its ideas.



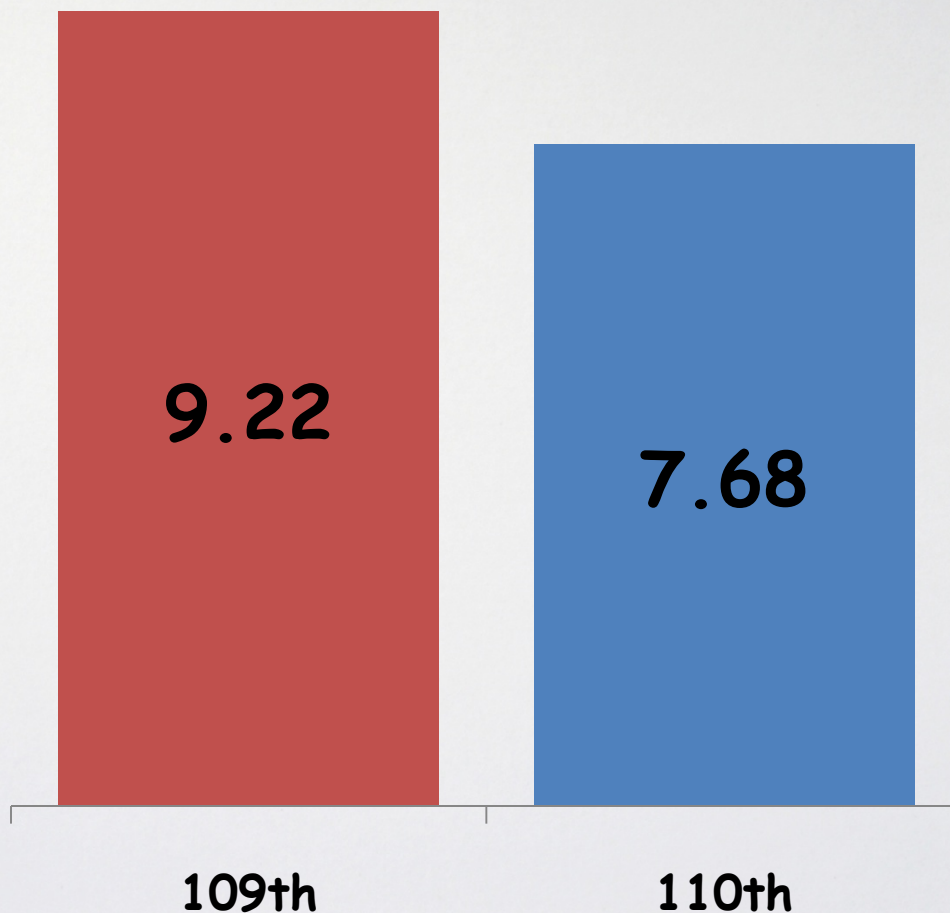
Bills should generally come to the floor under a procedure that allows open, full, and fair debate consisting of a full amendment process that grants the Minority the right to offer its alternatives, including a substitute.



## Fewer Amendments Overall

While the Democrats promised to allow for more amendments and more debate, they have allowed less. They have considered more legislation under a structured process, and allowed fewer amendments per rule than did the previous Congress. What's worse, they didn't just shut out Minority members more often, they shut out their own members too.

## Avg. Amendments per Bill



## Less time to review bills

Members should have at least 24 hours to examine bill and conference report text prior to floor consideration. Rules governing floor debate must be reported before 10 p.m. for a bill to be considered the following day.

Among the most pointed criticisms of the 109th Congress was that the Republican majority tried to "hide" bills from public scrutiny by ensuring that they were not available in time to be read before a vote. Yet even though the Majority promised to make sure every member had at least 24 hours to read legislation, 61 major bills — nearly 1/3 — were available for far less than a day.

# 61

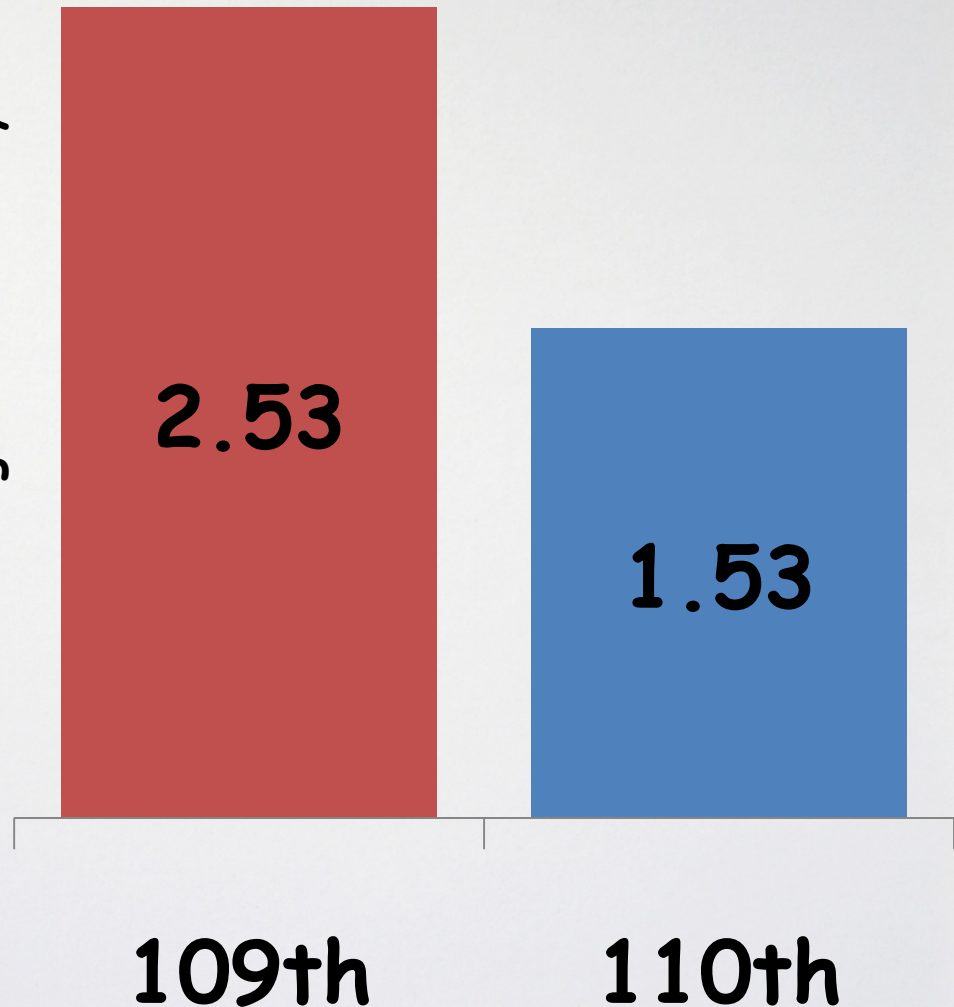
Major bills have been available for less than 24 hours



## Time to Review Legislation

The Democratic Majority has significantly restricted the amount of time members have to review legislation and propose amendments. When they do invite member input in the form of an amendment filing deadline at the Rules Committee, they have averaged almost a full day less time to read the bill and submit those amendments.

Average Business Days\*

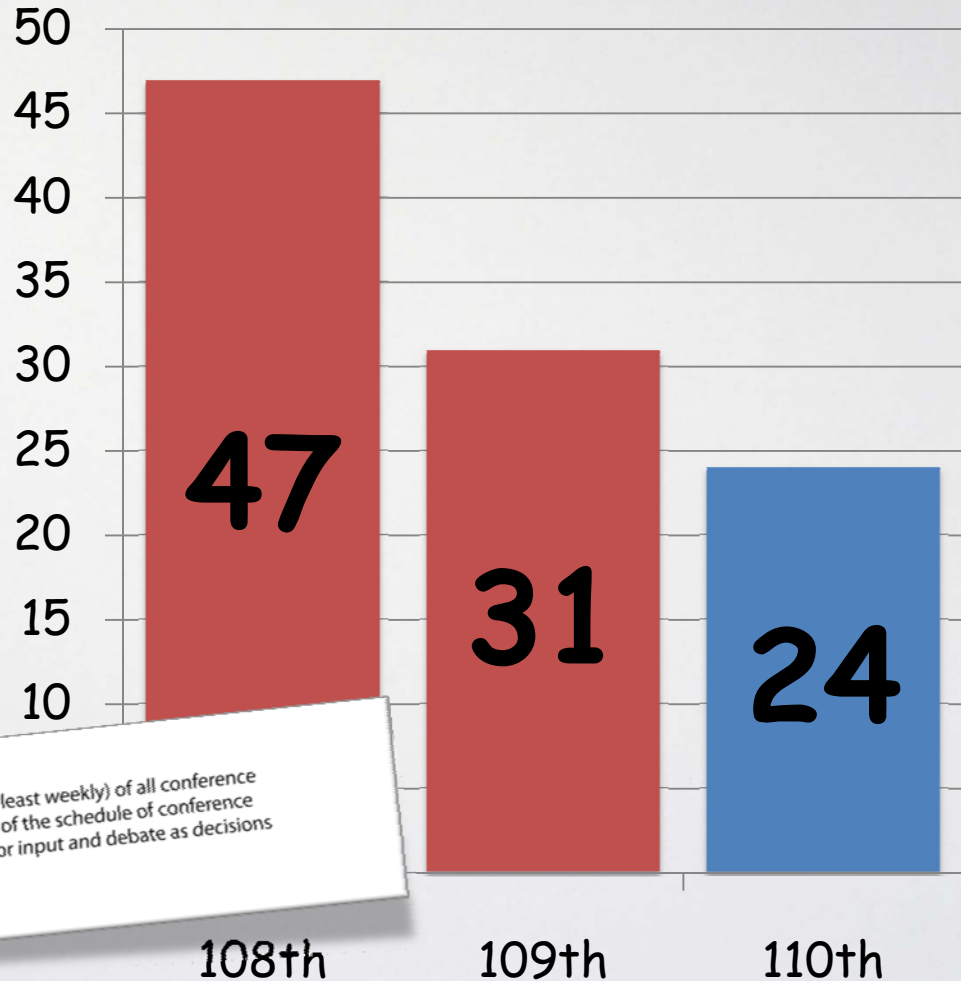


\*Average business days between amendment announcement and filing deadline through the end of each Congress

## House-Senate Conferences

Another key promise of the Democratic Majority was a new way of conducting conference committee business. They pledged to be more open, more inclusive, and more consistent. Instead, they have held fewer conference committee meetings than the previous Congress and have even employed new legislative tactics to avoid conference committees altogether.

## House-Senate Conferences



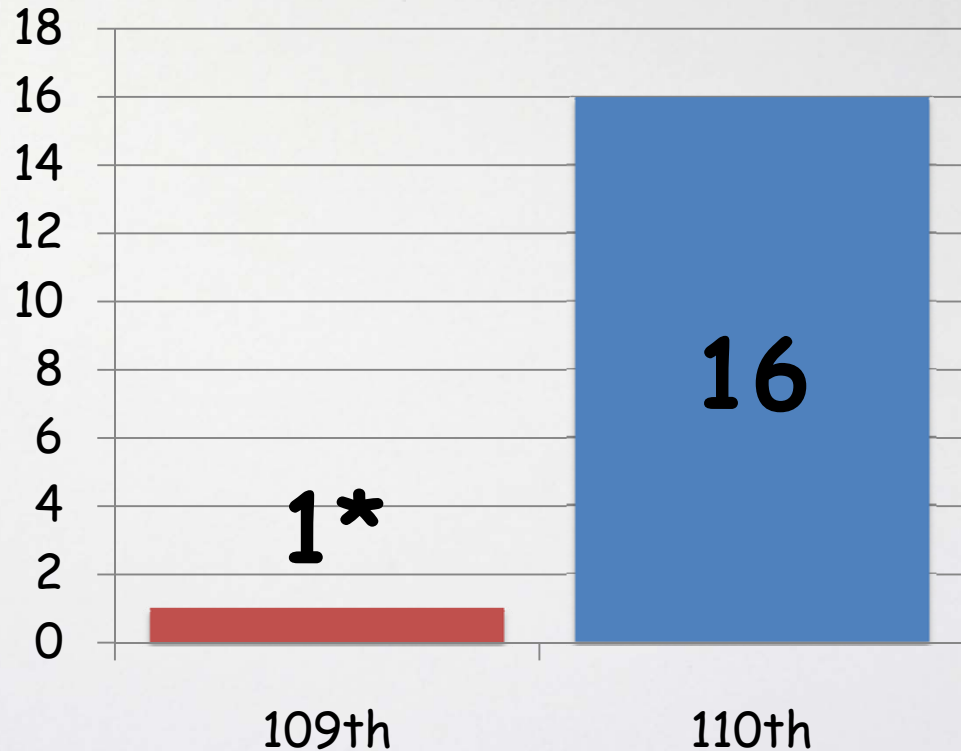
House-Senate conference committees should hold regular meetings (at least weekly) of all conference committee Members. All duly-appointed conferees should be informed of the schedule of conference committee activities in a timely manner and given ample opportunity for input and debate as decisions are made toward final bill language.



## “Ping-Pong”

In order to avoid the conference committee process and limit input into the final version of legislation, the Democratic Majority has used a procedure known as “Ping-Pong” with an alarmingly increasing frequency. This process is designed to short-cut normal legislative procedures by using old, unrelated bills as “shells” to move legislation back and forth between the House and Senate. By “ping-ponging” bills, no conference committee is required, no Motion to Recommit is required, and no amendments are allowed. This was a rare occurrence in most recent Congresses. The Democratic Majority has turned it into their go-to procedure.

## Consideration of House Bills with Senate Amendments by Rule



\*Although the procedure was used once during the 109th Congress, the Rules Committee provided the Minority with an amendment to compensate for the loss of the motion to recommit.

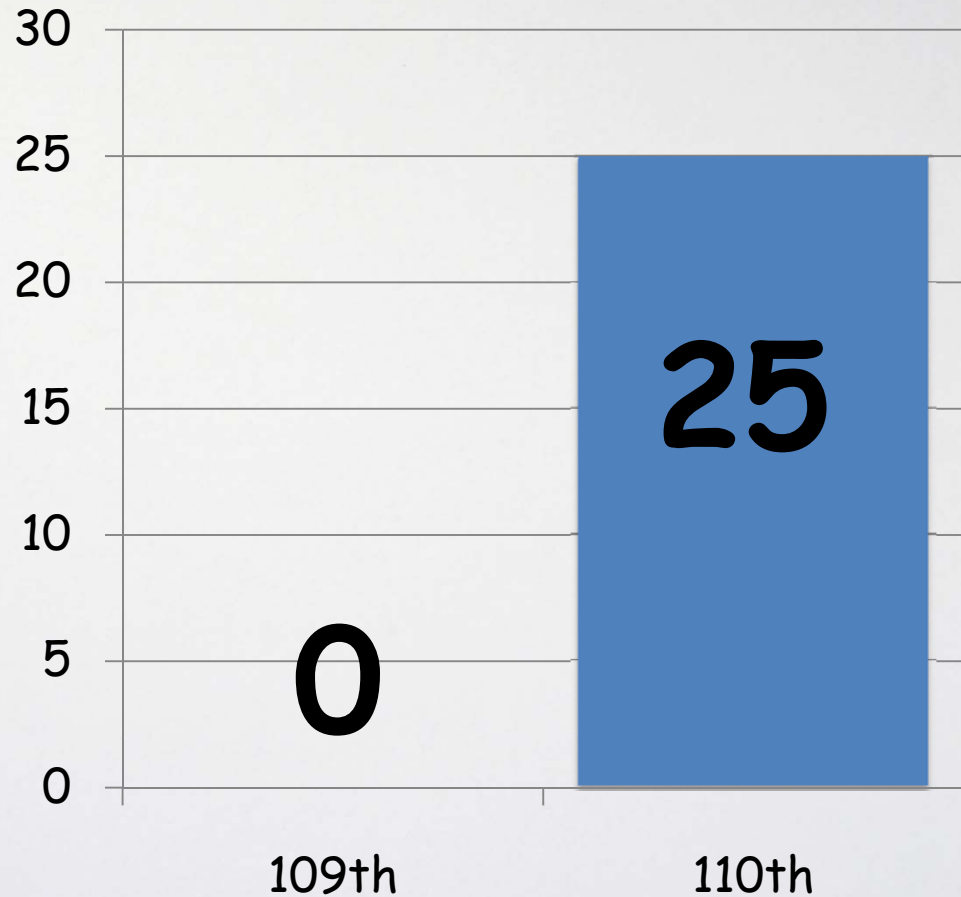
## Denying the Motion to Recommit

When the *GOP* took over the Majority in 1995, they changed House Rules to guarantee a Motion to Recommit (MTR) to the Minority. An MTR is basically a guaranteed bite at the apple, giving the Minority the opportunity to have their voices heard on legislation.

During the 12 years the *GOP* controlled the House, a Motion to Recommit was never denied. Early on, the Democratic Majority found themselves on the losing end of multiple Motion to Recommit votes. Apparently, this did not sit well because they immediately set out to find ways to deny the Minority its guaranteed right.

Whether it was deliberately considering critical energy legislation under a "suspension" of the rules even if it failed, or using old bills as shells and "ping-ponging" them back and forth between the Senate and circumventing the regular legislative process, the Democratic Majority has made clear its disdain for unsolicited input.

## Procedures used to Deny the Motion to Recommit





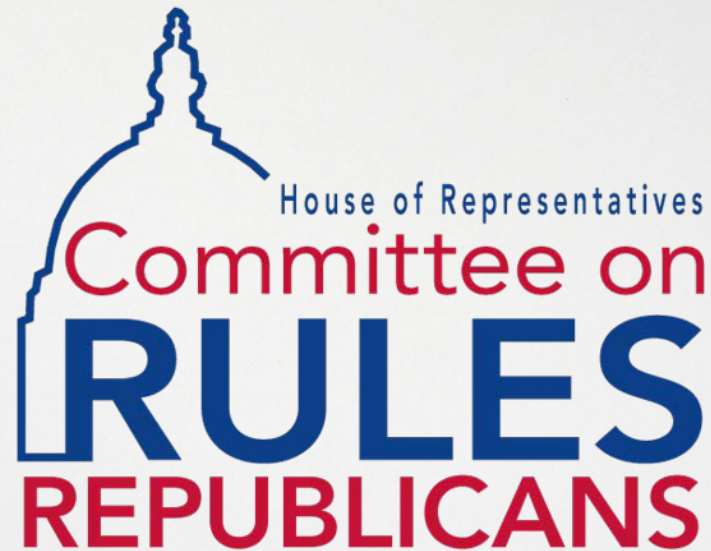
## Their Grade on Living Up to their Promises?



The Democratic Majority in Congress never saw fit to honor the promises they made to the American people, and it is the American people who are paying the price. They promised change but all they managed to do is change things for the worse.

This Congress has abdicated its responsibilities on multiple issues, from responsible spending to providing relief at the pump, focusing instead on partisan political statements. The legislative process exists to provide solutions to the problems affecting the American people. The Democratic Majority in the 110th Congress has twisted it to the point where it is nearly unrecognizable.

If they achieved anything this Congress, it is the setting of new lows in the legislative process. Their abuses of power do not exist in a vacuum. They have real consequences for our economy, our national security, and our future.



David Dreier ★ Lincoln Diaz-Balart ★ Doc Hastings ★ Pete Sessions  
<http://rules-republicans.house.gov> ★ (202) 225-9191

All figures and statistics in this document were compiled by the Committee on Rules Republicans and are current as of October 3, 2008. For more information, contact the Committee on Rules Republicans at the phone number above or visit our website.