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# Barack Obama and Congress: How the Rules of the Caucus Hinder the President's Legislative Agenda

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## Barack Obama and Congress: How the Rules of the Caucus Hinder the President's Legislative Agenda

Jordan Acker

### The Election of Barack Obama

The election of November 4, 2008 left Democrats and left-leaning Americans jubilant. For the first time since 1976, a Democrat had obtained more than 50% of the vote.<sup>1</sup> In defeating Senator John McCain, Barack Obama had won a clear mandate for his policies.<sup>2</sup> With fifty-nine Senate seats, and a large majority in the House of Representatives, not since Lyndon Johnson did Democrats see such rosy numbers at the polls.<sup>3</sup> These large majorities gave Democrats their chance to shape the nation and change the course of America.

However, the Democrats have found varying levels of success passing their legislative agenda. From climate change legislation, to health care, to the war in Afghanistan, the Democratic majority in both Houses of Congress determined sixty votes are required in order to pass legislation through the Senate.<sup>4</sup> For much of this legislation, the number sixty (required to pass a motion for cloture, which cuts off debate and forces a vote)<sup>5</sup> rather than the number fifty (to vote yes or no on a measure) are crucial. Such limitations are counter to democratic principles and the will of the people. That these limitations occur is a quirk of the system that the Democrats have set up in the Senate. Combining arcane caucus rules that set no term limits

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<sup>1</sup> Adam Nagourney, *Obama Wins Election*, N.Y. TIMES, Nov. 3, 2008, at A1.

<sup>2</sup> *Id.*

<sup>3</sup> Michael Memoli, *Sizing up Obama's Mandate*, Real Clear Politics (Jan. 22, 2009), available at [http://www.realclearpolitics.com/articles/2009/01/obama\\_agenda\\_mandate.html](http://www.realclearpolitics.com/articles/2009/01/obama_agenda_mandate.html).

<sup>4</sup> Stephanie Condon, *Do Dems Still Need 60 Votes for Health Care?*, CBS NEWS, (Oct. 15, 2009), <http://www.cbsnews.com/blogs/2009/10/15/politics/politicalhotsheet/entry5386805.shtml>.

<sup>5</sup> See United States Senate, *Cloture Rule*, available at [http://www.senate.gov/artandhistory/history/minute/Cloture\\_Rule.htm](http://www.senate.gov/artandhistory/history/minute/Cloture_Rule.htm).

for chairmanships, alongside the Senate's ancient rules that allow for such practices as "holds" and cloture, mixed with a weak Senate majority leader, fearing defeat in the 2010 election, creates a situation where Democrats have struggled to pass their agenda in the 111th Congress.

## Weak Leadership

The first major problem with the Democratic caucus is its leadership in the Senate. The current leader, Senator Harry Reid (D-NV) and former leader Tom Daschle were relatively weak politically. Their weakness stemmed from their precarious position coming from toss-up or Republican leaning states, combined with their politically "meek" image.<sup>6</sup>

While Daschle had won re-election comfortably twice, in 1992 and 1998, his seat was always considered endangered.<sup>7</sup> Daschle was defeated in 2004 by conservative Representative John Thune in one of that year's closest elections.<sup>8</sup> While South Dakota has a number of Democratic political leaders, including Senator Tim Johnson and Representative Stephanie Herseth Sandlin, it is a reliably conservative state, having voted for a Republican in every presidential election since 1940, with the exception of 1964.<sup>9</sup> While Daschle's political position was always tenuous, his entire career as Democratic leader was spent either as a minority leader or the majority leader under a Republican President.<sup>10</sup> This position differs greatly from that of Senator Reid, who has now spent nearly a year as majority leader under a Democratic President. Nevertheless, Senator Reid's political position in Nevada also remains tenuous.

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<sup>6</sup> Glenn Thrush, *Poll: Most Nevadans Think Reid is "Weak,"* POLITICO, Oct. 21, 2009, available at [http://www.politico.com/blogs/glennthrush/1009/Poll\\_Most\\_Nevadans\\_think\\_Reid\\_is\\_weak.html](http://www.politico.com/blogs/glennthrush/1009/Poll_Most_Nevadans_think_Reid_is_weak.html).

<sup>7</sup> ROLL CALL, Nov. 2, 2004, available at [http://daschlevthune.typepad.com/daschle\\_v\\_thune/2004/11/roll\\_call\\_on\\_da.html](http://daschlevthune.typepad.com/daschle_v_thune/2004/11/roll_call_on_da.html).

<sup>8</sup> CBC NEWS, *Daschle Defeated as Republicans Make Senate Gains*, Nov. 3, 2004, [http://www.cbc.ca/world/story/2004/11/02/senate\\_041102.html](http://www.cbc.ca/world/story/2004/11/02/senate_041102.html).

<sup>9</sup> America Votes 2004, CNN, available at <http://edition.cnn.com/ELECTION/2004/pages/pre/SD/history.html>.

<sup>10</sup> United States Senate, *Party Division in the Senate, 1789-Present*, 2009, available at [http://senate.gov/pagelayout/history/one\\_item\\_and\\_teasers/partydiv.htm](http://senate.gov/pagelayout/history/one_item_and_teasers/partydiv.htm).

In 2008, Nevada finally voted for a Democratic President. However, the traditionally libertarian-conservative state generally votes Republican in statewide elections.<sup>11</sup> While the influx of population from neighboring California has moved Nevada to a more liberal alignment, elections with national implications tend to send its electorate back into the arms of the GOP.<sup>12</sup> The governor, as well as the junior Senator, are Republicans; Nevada voted for the GOP in every presidential election from 1972 to 2004.<sup>13</sup> Overall, Nevada is considered a swing state.<sup>14</sup> The familiarity with the GOP spells trouble for Senator Reid. As of September 2, 2009, though Barack Obama's popularity polled around the 60% mark nationwide, the President's approval rating in Nevada was just 48%.<sup>15</sup> This creates a large dilemma for Senator Reid: as the majority leader, he has an obligation to his caucus to support its goals and ends. However, if the President (and his policies) are unpopular in his state, Reid may lose his own re-election campaign. This remains a difficult decision for Reid. While it has provided much consternation for Democrats, Reid has decided to take a moderate tack, hoping to keep his seat in 2010. This tack, however, has led to fewer accomplishments in the 111th Congress, and a "watering down" of important legislation.<sup>16</sup>

The final problem that weak leadership in the Senate creates is the complete elimination of the filibuster. In the 1950s and 1960s, filibusters of popular legislation were common. One such filibuster, by Strom Thurmond over the 1957 Civil Rights Act, lasted over twenty-four hours and included a reading of the Declaration of Independence and his grandmother's biscuit

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<sup>11</sup> See *Nevada Political Report*, available at <http://www.dcpoliticalreport.com/NV.htm>.

<sup>12</sup> See Census Statistics for Nevada, available at <http://usgovinfo.about.com/cs/censusstatistic/a/aagoingeast.htm>.

<sup>13</sup> Project Vote Smart, *State Officials of Nevada*, (accessed Oct. 2009), [http://www.votesmart.org/official\\_state.php?state\\_id=NV](http://www.votesmart.org/official_state.php?state_id=NV).

<sup>14</sup> Jeremy Twitchell, *Swing State Status Boosts Nevada*, LAS VEGAS SUN, Oct. 23, 2009.

<sup>15</sup> Research 2000 Polling for Daily Kos, Sept. 2, 2009, available at <http://www.dailykos.com/statepoll/2009/9/2/NV/357>.

<sup>16</sup> Jeff Muskus, *Blue Dogs Delay, Water Down House Health Care Bill*, HUFFINGTON POST, July 29, 2009, available at [http://www.huffingtonpost.com/2009/07/29/blue-dogs-delay-water-dow\\_n\\_247177.html](http://www.huffingtonpost.com/2009/07/29/blue-dogs-delay-water-dow_n_247177.html).

recipe.<sup>17</sup> Today, the leadership of the Democratic Party does no such thing. Rather, the mere threat of a filibuster pushes Reid back to the negotiating table, unable to force Republican (or even Democratic) Senators to publicly filibuster popular potential legislation. A majority leader with a sense of theatre would merely call the bluff of such a senator. Suppose Senator Lieberman declared, as he has in the past, that he would like to filibuster the Democratic health care bill.<sup>18</sup> Senator Reid could merely force Lieberman to speak on the floor of the Senate for as long as was required. The media reports would likely be devastating to him—his chances of reelection in a solidly Democratic state, where nearly 55% of voters support the Democratic health care plan, would be dramatically reduced.<sup>19</sup>

### Caucus Rules

The rules of the House and Senate Democratic caucus are the most significant problem stagnating Democratic legislative initiatives. While the rules themselves remain secretive, the rules on committee chairmanships and seniority generally remain the same.<sup>20</sup> The Democratic Party has a number of such rules. These rules include: seniority in the caucus (not necessarily years in the party), or a vote to give seniority from another party, are used to determine committee chairmanship under the direction of the caucus leader.<sup>21</sup> The rules for the Republican Party, in both the House and Senate, are different. They require a vote of both caucuses to receive or maintain a committee chairmanship, in addition to being selected through seniority by

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<sup>17</sup> See ASSOCIATED PRESS, *Thurmond Holds Senate Record for Filibustering*, June 27, 2003; see also Byron Williams, *Republican Filibuster May Be The Best Way to Pass Health Care in the Senate*, HUFFINGTON POST, Nov. 15, 2009, available at [http://www.huffingtonpost.com/byron-williams/republican-filibuster-may\\_b\\_358411.html](http://www.huffingtonpost.com/byron-williams/republican-filibuster-may_b_358411.html).

<sup>18</sup> Joshua Marshall, *Lieberman: I'd Filibuster Health Care Over Public Option*, TALKING POINTS MEMO, Oct. 27, 2009, available at [http://www.huffingtonpost.com/2009/10/27/lieberman-id-vote-against\\_n\\_335627.html](http://www.huffingtonpost.com/2009/10/27/lieberman-id-vote-against_n_335627.html).

<sup>19</sup> Rasmussen Reports, *Election 2010: Connecticut Senate Race*, Sept. 11, 2009, available at [http://www.rasmussenreports.com/public\\_content/politics/elections2/election\\_2010/election\\_2010\\_senate\\_elections/connecticut/election\\_2010\\_connecticut\\_senate\\_race](http://www.rasmussenreports.com/public_content/politics/elections2/election_2010/election_2010_senate_elections/connecticut/election_2010_connecticut_senate_race).

<sup>20</sup> Interview with prominent caucus staffer in Wash., D.C. (Nov. 2, 2009).

<sup>21</sup> *Id.*

the Republican steering committee.<sup>22</sup> This creates a number of problems for the Democratic caucus that the Republican caucus does not have. In no place is this more evident than in the recent debate on health care reform in the Senate.

To understand the way the Republican caucus works, it is first important to remember that the Republicans remain a small minority, generally unable to pass legislation through either House of Congress. Essentially, their only power in the Senate is to stop legislation, especially through their extensive use of the filibuster. There are a number of moderate Republican members, however, known for their ability to negotiate with the Democrats. On foreign policy, this senator is Richard Lugar (R-IN),<sup>23</sup> on climate change and the environment, Lindsey Graham (R-SC),<sup>24</sup> on the stimulus, Susan Collins (R-ME),<sup>25</sup> and on health care, Olympia Snowe (R-ME),<sup>26</sup> and occasionally on other issues, Senator John McCain has been known to cross party lines.<sup>27</sup> This bipartisan effort at working together, however, has been severely constrained by the rules of their caucus.

While the rules of the Republican caucus are not known publicly, like the Democratic rules, it is understood that the Republican caucus conducts majority votes to determine committee chairmanships.<sup>28</sup> This rule takes much of the power out of the hands of their leadership, and into the hands of the majority of the caucus on each wing of Congress. The Republican caucus' strict rules have an impact on how many times members of their caucus may

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<sup>22</sup> See Alexander Bolton, *Senators: Snowe's Health Care vote puts her top Commerce Perch in Jeopardy*, THE HILL, Oct. 13, 2009 (Noting the structure of the Republican caucus and their ability to deny Senator Snowe her seat "when it comes time to vote.").

<sup>23</sup> See Steve Clemons, *Lugar Calls for Return to Realism on Cuba*, THE WASH. NOTE (Feb. 21, 2009), available at [http://www.thewashingtonnote.com/archives/2009/02/lugar\\_calls\\_for/](http://www.thewashingtonnote.com/archives/2009/02/lugar_calls_for/).

<sup>24</sup> See John Kerry & Lindsey Graham, *Yes We Can (Pass Climate Change Legislation)*, N.Y. TIMES, Oct. 10, 2009.

<sup>25</sup> See *Stimulus Bill Far from Perfect, Obama Says*, ASSOCIATED PRESS, Feb. 7, 2009 (noting Senator Collins' provisional support for the legislation).

<sup>26</sup> See *Snowe: Health Care Bill a 'Good Place to Start'*, ASSOCIATED PRESS, Oct 14, 2009.

<sup>27</sup> *McCain Willing To Cross Party Lines*, THE STATE NEWS (South Carolina), Oct. 7, 2008.

<sup>28</sup> Interview with prominent caucus staffer in Wash., D.C. (Nov. 2, 2009).

cross party lines. It is widely rumored that Senator Charles Grassley (R-IA) was threatened with the loss of his position as ranking member on the Senate Finance Committee for negotiating with Democrats on various issues.<sup>29</sup> This fear is likely to have led to Grassley's departure from the negotiating table and his increasing belligerence toward his Democratic colleagues.<sup>30</sup> Similarly, Senator Snowe had some very severe repercussions for supporting the bill introduced by Senator Max Baucus.<sup>31</sup> According to *The Hill*, the Republican caucus is considering denying her the top Republican position on the Senate Commerce Committee.<sup>32</sup> This very real threat has definitely weighed on Snowe's decision-making process.

However, the opposite occurs in the Democratic caucus. While there a number of moderates in this caucus, they lack incentive to vote with the caucus. One prominent example is Senator Joe Lieberman. Despite Senator Lieberman campaigning for John McCain in 2008,<sup>33</sup> Lieberman, upon signaling he would remain in the caucus for the next session of Congress, was immediately given back his seniority.<sup>34</sup> Indeed, one prominent liberal commentator described the Democratic caucus as "a fun country club, trying to recruit members. Join team Democrat and vote however you want without consequence!"<sup>35</sup>

Even despite the near-break from the party that Lieberman attempted during 2006 and 2008, a number of other members have broken ranks significantly against their own party.

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<sup>29</sup> Steve Benen, *Snowe Risking Punishment*, WASH. MONTHLY, Oct. 13, 2009, available at [http://www.washingtonmonthly.com/archives/individual/2009\\_10/020399.php](http://www.washingtonmonthly.com/archives/individual/2009_10/020399.php).

<sup>30</sup> *Id.*

<sup>31</sup> Matthew Yglesias, *Republicans Run Their Political Party the Right Way*, THINK PROGRESS, Oct. 13, 2009, available at <http://yglesias.thinkprogress.org/archives/2009/10/republicans-run-their-political-party-the-right-way.php>.

<sup>32</sup> Alexander Bolton, *Sens: Snowe's Healthcare Vote Puts Her Top Commerce Perch at Risk*, THE HILL (Wash., D.C.), Oct. 13, 2009 (Quoting one prominent Republican senator as stating "A vote for healthcare would be something that would weigh on our minds when it came time to vote [for committee chairmanships].").

<sup>33</sup> *Lieberman: McCain Can Reunite Our Country*, CNN, Dec. 17, 2007, <http://edition.cnn.com/2007/POLITICS/12/17/mccain.endorsements/>.

<sup>34</sup> Daniel Engber, *Is Joe Lieberman Still a Democrat?* SLATE, Oct. 27, 2006, <http://www.slate.com/id/2152275/>.

<sup>35</sup> Matthew Yglesias, *Republicans Run Their Political Party the Right Way*, Center for American Progress, Oct. 13, 2009.

Senator Ben Nelson all but indicated that he would attempt to either filibuster or vote against his party's health care bill in 2009.<sup>36</sup> Senator Max Baucus, coming from a state with two Democratic senators and a Democratic governor, wrote a bill that eliminated a public option from health care reform, one of the central tenets of the Obama health care plan.<sup>37</sup> Ben Nelson votes in the manner that he does because of the conservative leanings of his state—he is likely the most liberal Senator that Nebraska could elect.<sup>38</sup> While Nelson must be accepted as simply the most conservative Senator, with a permanently precarious position as one of Nebraska's Senators, Baucus must be treated differently. Noting that his state is trending more and more Democratic, he must be prodded to move his bill further to the left in order to facilitate a more robust public option in his bill, as opposed to making the public option weaker in order to get the “bipartisan support” of one of Maine's senators.

While it could be argued that bipartisanship is a positive and should be encouraged in all aspects, the problem is that in Washington, bipartisanship has been granted an odd meaning. Rather than “working together,” the word has come to mean “Democrats give in.” If true bipartisanship was the spirit of Washington, several Republicans may have voted for any major legislation that Obama supports in the House or Senate. Instead, just one Republican member in each house—Susan Collins and Joseph Cao—voted for health care reform.<sup>39</sup> Until the Republican caucus begins to work toward true bipartisanship and compromise, the notion of Washington bipartisanship is meaningless, and party unity, not appeasing Senators Collins or Snowe, is the only route to passing meaningful legislation.

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<sup>36</sup> Ryan Grim, *Ben Nelson Plans to Oppose Public Health Plan*, HUFFINGTON POST, May 2, 2009.

<sup>37</sup> Lori Montgomery & Shailagh Murray, *Baucus Measure Would Expand Care Without Adding to Deficit*, WASH. POST, Sept. 17, 2009.

<sup>38</sup> See Nebraska Democratic Party Blog, *The Case for Ben Nelson, Democrat*, Feb. 4, 2009, available at <http://www.nebraskademocrats.org/blog/523/the-case-for-ben-nelson-democrat>.

<sup>39</sup> See Perry Bacon, Jr. *A Vote to Make or Break a Career*, WASH. POST, Nov. 9, 2009.



## **How the Caucuses Work—From the Inside**<sup>40</sup>

In order to have a true understanding of how the Democratic caucus works, it is important to speak with someone with intimate knowledge from the inside. For that, I spoke with a prominent caucus staffer, who asked not to be identified. They told me that seniority in the House is more important than in the Senate, an important fact when looking at committee chairman.<sup>41</sup> A lot of this has to do with sheer math: with so many members, seniority has to determine chairmanships.

Next, we discussed the caucus obligations for a typical member. These obligations include weekly meetings with the caucus leaders, the whips (i.e., the members that ensure that members of the party vote the way the leadership desires), as well as other meetings with various members of the administration. For example, if a Homeland Security bill was coming to the floor, the Secretary of Homeland Security might attend and answer questions that members have. Furthermore, these meetings usually occur without staff, so members can ask honest and open questions without worrying about their conversations being leaked to the public or to the press. At the end of each meeting, members can ask questions to whoever is presenting before the caucus.

Finally, we discussed how committee members become committee chairman. While this is a rare process, it is important when one considers how committee chairmanships are given. First, the members of the committee have to ratify the new chairman. Second, the steering and policy committee have to vote on the chairman. Because the Speaker of the House appoints this committee, the chairmen must be somewhat loyal to the Speaker's goals. This process is not

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<sup>40</sup> Interview with prominent caucus staffer in Wash., D.C. (Nov. 2, 2009).

<sup>41</sup> Three of the most important committee chairmen, Representative Rangel (Ways and Means), Representative Conyers (Judiciary), and Representative Obey (Appropriations), are all over 75 years old.

contentious; most of these chairmen and women have gained significant seniority over the years and expect to receive the chairmanships.

### **Conclusion: A New Framework for the Democratic caucus**

In order to fix the Democratic caucus, strong leadership, combined with effective rules, are needed. For this, I propose a two-part change. First, the overall leadership needs to be restructured according to the ideology of the caucus. While strong leadership may come from the center (Daschle) or the left (Schumer), it is important that leadership tend toward the center of the caucus, not the national political center. A moderate member of the caucus who is under no threat of removal, such as Senator Schumer, Senator Stabenow, or Senator Durbin, would make effective leaders. Part of the problem with the current leadership is, at times, it has failed to “pull punches” when it is necessary. Occasionally, it is necessary to let a Senator know that their intransigence is not politically popular in their own state, and force some public pressure on the rogue Senator.

In addition, the Democratic media strategies in the caucuses need to improve significantly. When the Republican caucus has an issue that needs to be publicly transmitted, they are extremely effective. “Death tax”<sup>42</sup> and “up or down vote”<sup>43</sup> on Bush nominees have been large issues trumpeted by the Republican caucus in the past. During the debates on each of these issues, the Republican caucus sprang into action, imploring citizens to call Democratic or wavering Republican members to make sure that their votes fell in line. Democrats, however,

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<sup>42</sup> “Death tax” was the term used by the GOP caucus to describe the estate tax. See William H. Gates, Sr. & Chuck Collins, *Wealth and Our Commonwealth*, 60 Plus Foundation, Mar. 18, 2003, available at <http://www.60plus.org/deathtax.asp?docID=347>.

<sup>43</sup> This term was coined to describe the fight over the Bush nominations for Federal Court positions. See *In Their Own Words: The Majority's Prerogative*, Media Matters for America (2009), available at <http://mediamattersaction.org/factcheck/200905010001>.

have not been as effective. While health care, ending the war in Iraq, and other initiatives remain popular, the Democratic caucus has not drummed up this support among its own rank and file. Members who were hesitant to vote for popular Democratic initiatives, such as Blanche Lincoln and Mary Landrieu, were not persuaded with an “up or down vote” style public campaign calling on citizens of Arkansas and Louisiana to allow this legislation to come to the floor. Rather, the Democratic caucus used exclusively backroom politics to persuade them. The public campaign might, in the future, help get these members on board with Democratic initiatives.

There are possible drawbacks to this public campaign that should be addressed. Not every Senator or member of Congress will respond well to this. While some Senators, like Charles Grassley, have taken to the Republican caucus public call for him to fall in line, it has created major problems with other members. Senator Susan Collins, Representative Joseph Cao, and Senator Olympia Snowe all publicly broke ranks with the Republican caucus in public disputes.<sup>44</sup> Far worse, Senator Arlen Specter, the leading Republican on the Judiciary Committee, left the Republican Party for the Democratic Party in early 2009.<sup>45</sup> To not alienate members, it is important to take each hesitant member or Senator on a case-by-case basis.

In addition to using either the public campaign or the private one against hesitant members, when considering how the leadership should push members into a position they should also consider the member or Senator’s constituency. Mary Landrieu (D-LA), a Senator from an increasingly conservative state, will likely require different incentives than a Senator from a unionized midwestern state. Similarly, many Senators, used to the “kid gloves” treatment that previous caucus leadership has applied, may balk at hardball treatment. The negative news

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<sup>44</sup> See Letter from Prominent Asian-American Groups to Minority Leader Boehner, *available at* <http://www.apaforprogress.org/apap-denounces-racist-attacks-against-joseph-cao>.

<sup>45</sup> Paul Kane, Chris Cillizza, & Shailagh Murray, *Specter Leaves GOP, Shifting Senate Balance*, WASH. POST, Apr. 29, 2009.

stories of a conservative Democratic Senator leaving the caucus, played up by the media, would do significant damage to the Democratic caucus and the causes they support. While ideology is important, the ability to engage with members and to deal with their concerns and demands on a case-by-case basis is crucial. Senators Durbin and Schumer, both used to the rough and tumble politics of Chicago and New York, have demonstrated this in the past.<sup>46</sup> While the caucus may want to avoid having its leader and the President come from the same state, both Durbin and Schumer would be ideal choices to be the Democratic caucus' next leader.

Most importantly, the Democratic rules on seniority need to be changed to give the caucus members more control over seniority. I propose that term limits should be imposed on committee chairmanships. Term limits would not only include committee chairmanships, but also time as a ranking member. This term limit would be twelve years (two six-year terms in the Senate, or six two-year terms in the House). After this time, seniority could be used to give deposed chairman a chance to become the chair of another committee. This would allow many Senators or members to experience being a committee chairman, and would avoid the corruption that occurs when chairman become ensconced in power for several decades.<sup>47</sup> Further, the caucus leader would also have the ability to remove a committee chairman at any time during the twelve-year period by calling for a majority vote of the caucus. This would both allow many senators to have highly prestigious positions, as well as enforce a stricter party discipline than occurs now.

While this system would improve the responsiveness of the individual members, it is not without major downsides. One of the major reasons that the caucus allows chairman to remain

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<sup>46</sup> See Adam Nagourney, *Schumer Presses D'Amato on Abortion*, N.Y. TIMES, Sept. 30, 1998; see also John Nichols, *Dick Durbin: Bush Fighter*, THE NATION, Jan. 27, 2005.

<sup>47</sup> See, e.g., Jennifer McKee, *Abramoff Friend Describes Burns Staff Ties to Lobbyist*, BILLINGS GAZETTE, Oct. 31, 2006 (discussing Senator Conrad Burns, who was involved with former superlobbyist Jack Abramoff, accepting allegedly illegal campaign donations from Indian tribes as well as other violations of Senate ethics).

for decades is the amount of experience dealing with particular issues, especially in regards to their staff. Some of the most experienced staff members in Congress remain with individual members for years.<sup>48</sup> When the members or Senators would lose the committee posts, the new chairman would, in most instances, hire a new staff that is loyal to them, not to the previous members. This occurred most recently in the voting for the chairman of the House Committee on Energy and Commerce. The previous chairman, John Dingell, was ensconced in power for decades, never falling below the position of ranking member. When Henry Waxman of California ran for the position, he defeated Dingell and removed all of Dingell's staff.<sup>49</sup> While the new staff members will no doubt have some experience, they will not have the decades of experience that the previous staff did—the intricate knowledge of the legislative process so crucial to passing legislation such as climate change or health care. In addition to the specialized staff members, such as legislative assistants and counsels that do much of the “grunt work” of the legislative process, the turnover at the top of the staffs would also be huge. Various staff directors, the most powerful position in committees, accumulate vast experience, sometimes staying with the individual members for years. With some issues being extremely complicated, such as banking and finance, it is important to have not just members and Senators with vast experience on the topic, but also the staff directors, who guide the staffs, and generally, the specific legislation.

Even despite this loss in staff, the turnover would greatly help the Democratic caucuses in both Houses. The wide range of experiences of all members would be a boon to the committees that they serve on. Suppose that one Senator, from Wisconsin, was passionate about

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<sup>48</sup> See Zachary Roth & Rebecca Sinderbrand, *Lets Do Lunch: 21 Power Players You Wish You'd Have Been Nicer To*, WASH. MONTHLY, Mar. 2007 (noting that Perry Apelbaum, the Staff Director for Rep. John Conyers, had been with the chairman since 1995).

<sup>49</sup> See House Energy & Commerce Committee—Staff Salaries, available at [http://www.legistorm.com/office/House\\_Energy\\_and\\_Commerce\\_Committee/1202.html](http://www.legistorm.com/office/House_Energy_and_Commerce_Committee/1202.html) (noting the turnover in staff after the removal of Dingell).

improving rural education. Another Senator, from Massachusetts, was increasingly concerned about literacy in our country. If the first member had been elected earlier and had become the chairman of the Health, Education, Labor, and Pensions (H.E.L.P.) Committee, his concerns may have dominated committee business for decades. The rotating system would allow the second member, as well as perhaps other members (especially younger members, who may have more recent “real world” experience than older ones) to get their agenda to the forefront.

Although the Democratic caucuses in both houses were at least partially effective in passing health care reform in 2009, there is much to be desired in the way that the Democrats both organize and operate their caucus. In the coming years, with a caucus consisting of moderates from Western and Southern States, and Midwestern and Northeastern liberals, the only way to enforce party unity is through potential serious sanctions that would hit members where it hurts—with their power. **L&P**