

# Congressional Perks: How the Trappings of Office Trap Taxpayers

NTU Foundation Policy Paper 131

By Peter J. Sepp  
October 23, 2000

## Executive Summary

Since the founding of the Republic, Americans have had a healthy skepticism of the concentration of power. The Framers of the Constitution established a system they hoped would prevent not only the disproportionate accumulation of *influence* in one branch of government, but also the disproportionate accumulation of *privilege*.

Today, Members of the United States Congress enjoy a vast web of perquisites that benefit them personally as well as professionally, including:

- Comfortable salaries that are often determined through legislative sleight-of-hand. Contrary to the arguments of many Washington “insiders,” the cost of living has rarely eroded the historical value of lawmakers’ pay, which on a constant-dollar basis is hovering near the postwar high.
- Pension benefits that are two to three times more generous than those offered in the private sector for similarly-salaried executives. Taxpayers directly cover at least 80 percent of this costly plan. Congressional pensions are also inflation-protected, a feature that fewer than 1 in 10 private plans offer.
- Health and life insurance, approximately 3/4 and 1/3 of whose costs, respectively, are subsidized by taxpayers.
- Wheeled perks, including limousines for senior Members, prized parking spaces on Capitol Hill, and choice spots at Washington’s two major airports.
- Travel to far-flung destinations as well as to home states and districts. Despite recent attempts to toughen gift and travel rules, “junkets” are still readily available prerogatives for many Members.
- A wide range of smaller perks that have defied reform efforts, from cut-rate health clubs to fine furnishings.

But the very nature of public office itself demands a more comprehensive definition of a “perk” than that normally applied to corporate America. Members of Congress can also wield official powers that allow them to continue to enjoy the personal benefits outlined above, such as:

- The franking privilege, which gives lawmakers millions in tax dollars to create a favorable public image. Experts across the political spectrum have labeled the frank as an unfair electioneering tool. In past election cycles, Congressional incumbents have spent as much on franking alone as challengers have spent on their entire campaigns.
- An office staff that performs “constituent services” and doles out pork-barrel spending, providing more opportunities for “favors” that can be returned only at election time.
- Exemptions and immunities from tax, pension, and other laws that burden private citizens -- all crafted by lawmakers themselves.

Congressional pay and perks directly add hundreds of millions of dollars to the yearly bill that Americans are forced to pay for the federal government -- a significant cost for taxpayers, even if pundits dismiss the amount as a “drop in the bucket.” Yet, beyond the basic issue of dollars and cents, Congress’s perks have other pernicious effects. They distort the budget process, by diminishing lawmakers’ moral authority to say “no” to special interest spending requests and benefit boosts for other government officials. They distort the electoral process, by tilting the playing field against challengers. Most importantly, they undercut efforts for long-term economic and budget reform, by insulating Members from the real-world effects of their own policies.

American taxpayers and American government would be better served by benefits for Members of Congress that look more like incentives than perks. Enactment of proposals for a defined-contribution pension plan, a scaled-back franking privilege, a pay level tied to government efficiency, and a term-limit Constitutional amendment would help to restore balance to a system plagued by the trappings of office.

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“[I]t is essential to liberty that the government in general should have a common interest with the people, so it is particularly essential that [Congress] should have an immediate dependence on, and an intimate sympathy with, the people.”

James Madison  
*Federalist #52*

Since the founding of the Republic, Americans have had a healthy skepticism of the concentration of power. The Framers of the Constitution understood the historical importance of maintaining a connection between government and the governed. Through the first three Articles of that document they established a framework of government that aimed to prevent the disproportionate accumulation of influence in one branch of government or one body of people.

A lesser-known but likewise important current in American political history has been the ongoing struggle to prevent the disproportionate accumulation of *privilege* in government. In no other area of our public sector has this battle taken more prisoners, inflicted more collateral damage on the public, or defied more attempts at “peaceful” resolution, than the United States Congress.

The *Webster’s New World Dictionary* defines a “perquisite” as “something additional to regular profit or pay,” or a “gratuity,” or “something claimed as an exclusive right.” Through the years, lawmakers have employed any and all of these descriptions in various commentaries on their system of “perks.” Yet, the very nature of public office requires a somewhat more expansive definition, for reasons which this paper will outline and hopefully justify.

## **Business or Personal? The Benefits of Being a Lawmaker**

At first glance, the issue of Congressional compensation would seem straightforward. Rank-and-file lawmakers are currently paid a salary of \$141,300. The Speaker of the House earns \$181,400, while the Senate President Pro Tem and the Majority and Minority Leaders each earn \$157,000<sup>1</sup>. The total annual cost to taxpayers to pay Members of Congress is thus

roughly \$75 million. All of these salaries are subject to periodic increases depending upon the actions of lawmakers. But as with any position, the salary is only a part of the total compensation package.

Certain perquisites for Members of Congress are intended more for their personal comfort than to enhance their ability to do the nation's business. Although these perks tend to have counterparts in the private sector, many of them come with frills or subsidies that even similarly-salaried executives in the private sector would envy.

### ***Pensions – Platinum Parachutes***

By far the single most personally valuable perk to a Member of Congress is his or her pension plan. Lawmakers began coverage under the government's pension system in 1942, but suspended their participation until after World War II. The rules can be complex, but extremely rewarding.<sup>2</sup>

Basically, Congressional pensions are determined by tenure in office, other federal service, age at retirement, and the average salary upon leaving Congress. The "accrual rate," the amount by which lawmakers build their pension benefit, is the most generous in the federal government short of the President of the United States.

For lawmakers who were elected before 1984, the pension formula upon retirement is the average of the three highest years' salaries, multiplied by years of Congressional, federal, and active duty military service, multiplied by 2.5 percent. The first year's benefit may not exceed 80 percent of final salary (but subsequent Cost of Living Adjustments (COLAs) can boost the figure well past 80 percent). The retirement age can be as early as age 50, depending upon years of service. This plan is part of the Civil Service Retirement System (CSRS) that covers many other rank-and-file federal civilian workers.

For lawmakers elected in 1984 and thereafter, the formula is generally the same as above, except that the accrual rate is 1.7 percent instead of 2.5 percent, and after the first 20 years of service, the rate falls to 1.0 percent. Also, there is no "80 percent of final salary rule" for these Members (lawmakers under the old CSRS also had the option of converting to this plan). This plan is part of the Federal Employees' Retirement System (FERS), and along with CSRS, enrolls millions of government employees and their dependents (there is an optional spousal annuity).

Nonetheless, there are key differences in the way lawmakers' benefits are calculated versus other government personnel. Members of Congress under CSRS have a generous accrual rate of 2.5 percent for all years served, while most workers in the Executive Branch get a sliding rate of between 1.5 and 2.0 percent. For FERS, Members get a 1.7 percent initial rate, versus 1.1 percent or 1.0 percent for most rank-and-file federal employees. Also, lawmakers with longer careers in Congress can generally collect pension benefits at a far earlier age than their counterparts with similar service elsewhere in the government.

In both cases, Members of Congress do contribute to their pension plans, although the rates are somewhat complicated by the fact that since 1984, all lawmakers have been required to pay into Social Security. Members elected before 1984 have usually paid 8 percent of their salaries into the pension plan, but some may have elected a “Social Security offset” provision that allows them to split part of the pay-in (6.2 percent for Social Security and 1.8 percent for the pension.) The result is that upon retirement, Members receive a pension that is reduced by the amount of Social Security that is attributable to Congressional service.

Members elected in 1984 and thereafter have generally paid 1.3 percent towards the pension and 6.2 percent to Social Security. For Congress overall, these contributions only cover roughly 20 percent of the actual average lifetime pension payout.

All Members of Congress are eligible to participate in a “Thrift Savings Plan,” a supplemental retirement contribution plan that works much like a private sector 401 (k) arrangement. However, only those first elected in 1984 and thereafter are entitled to receive a very generous government match -- up to 5 percent of salary, if the Member contributes a like amount.

The end results of these formulas -- huge pension windfalls for lucky lawmakers -- have been the subject of thousands of print, radio, and television media features since National Taxpayers Union Foundation (NTUF) began publicizing them. In 1988, NTUF announced that for the first time, the Congressional pension system had delivered a million dollars each to three retired Members -- Ben Reifel (R-SD), Margaret Chase Smith (R-ME), and Al Gore, Sr. (D-TN).<sup>3</sup>

Today, a sitting lawmaker who retires at age 60 with 15 or 20 years of service will likely collect at least a million dollars in inflation-compensated lifetime pension benefits. Some will collect four or even five times that amount. In 1997 the Congressional Research Service (CRS) reported that 400 lawmakers were receiving pensions, at an average benefit of just under \$47,000.<sup>4</sup> Based on a subsidy rate of 80 percent, this would amount to an annual taxpayer cost of approximately \$15 million.

But how do these benefits compare with those of the public and private sectors?

It would be tempting to simply measure a Member’s pension against the average individual Social Security benefit of just under \$10,000 annually, or the national defined benefit average of slightly above \$17,000 for “private-sector employees earning \$50,000 or more.”<sup>5</sup> But much more precise (and alarming) comparisons are possible.

According to CRS, a lawmaker with 20 years of service under FERS could expect to receive a pension equivalent to 34.0 percent of his or her highest three years’ salary average. For other federal employees in the Executive Branch, the “replacement rate” would be just 20.0 percent. For CSRS participants, the gap between a Member of Congress and an Executive Branch employee is 50.0 percent versus 36.5 percent.<sup>6</sup>

In 1995, the *Wall Street Journal* asked private-sector pension consultants to compare the first year’s pension benefit for a 60-year-old Member of Congress with 30 years of service to that of a similarly-salaried private-sector executive fitting the same profile. The *Journal* determined that the lawmaker’s benefit would start at \$99,175, versus just \$56,220 for the executive.<sup>7</sup>

More recently, *Reader’s Digest* cited a projection from a survey by the benefits firm Watson Wyatt Worldwide that compared pensions for a Member of Congress with a final salary of \$136,000 and 20 years of service to a corporate manager with the same tenure and pay. Ten years after retirement, the hypothetical lawmaker would enjoy a benefit of \$104,290, while the comparable private-sector retiree would receive \$62,500.<sup>8</sup>

<b>Table 1. The Cost of Living It Up How Even Recent Congressional Retirees Reap the Rewards of Time</b>			
<b>Name</b>	<b>Initial Benefit (Year)</b>	<b>Present Benefit (Year)</b>	<b>Career After Congress</b>
Carroll Hubbard (D-KY)	\$45,709 (1993)	\$53,908 (2000)	Jailed
Guy Vander Jagt (R-MI)	\$71,268 (1993)	\$84,049 (2000)	Joined law firm
Dan Rostenkowski (D-IL)	\$96,462 (1995)	\$108,614 (2000)	Jailed
Don Sundquist (R-TN)	\$41,924 (1996)	\$45,690 (2000)	Elected Governor of TN
Bill Bradley (D-NJ)	\$50,590 (1997)	\$53,579 (2000)	Sought Presidential nomination
Mark Hatfield (R-OR)	\$96,462 (1997)	\$102,162 (2000)	Joined law firm
Pat Schroeder (D-CO)	\$74,915 (1997)	\$79,342 (2000)	Joined trade association
<i>Note: Assumes that each Member participated in the Civil Service Retirement System from the beginning of his or her Congressional career and has received annual Cost of Living Adjustments each year following the initial year of eligibility. Also assumes that eligible Members under age 60 at retirement, as well as those with spouses, opted for reduced pensions. Source: NTUF Staff calculations, applying pension formulas and rules to each Member of Congress based on age and service data provided in official Congressional biographies.</i>			

But even these estimates don’t completely illustrate the compounding value of Congressional pension COLAs (see Table 1 for examples). NTUF estimates that fewer than 1 in 10 private-sector defined benefit plans offer COLAs (regular or occasional). In the space of a typical retired “lifetime” spanning a few decades, the inflation-adjusted Congressional payout can become many times more generous than its corporate counterpart.

Ironically, since 1989 every NTUF pension estimate has been just that -- an estimate. Because of an Appeals Court decision involving the revelation of pension information for a

participant in CSRS, actual benefits for individual Members of Congress are not a matter of public record.<sup>9</sup>

One issue that will likely never make it to a courtroom involves pensions for lawmakers convicted of crimes. Unlike military retirement pay, which may be revoked under these circumstances, only conviction for a “high crime” such as treason can automatically deprive a lawmaker of his or her pension.

In March 1995, NTUF revealed that at least 13 Members in the “felonious fraternity” collected taxpayer-funded benefits, some while serving time in prison:

- John Dowdy (D-TX), who went to jail on a perjury charge involving a \$25,000 bribe, managed to pull in 40 times that amount in pensions after leaving Congress in 1970.
- Mario Biaggi (D-NY), who served 26 months of an 8-year sentence as a result of the infamous Wedtech bribery scandal, was drawing more than \$44,000 per year.
- Harrison Williams (D-NJ), sent to prison as a result of the ABSCAM investigation, was using his \$40,000+ pension to help pay off the fines associated with his conviction.<sup>10</sup>

The irony of this situation never ceased. Shortly after House Post Office scofflaw Daniel Rostenkowski’s (D-IL) release to a halfway house, National Taxpayers Union (NTU) told the *Chicago Tribune* that COLAs had pushed his pension past the \$100,000 mark. Attempts in the 104<sup>th</sup> Congress to end taxpayer-subsidized pensions to Members convicted of a felony failed.<sup>11</sup>

Since its deceptive attempt at “reform” by instituting the FERS program in 1983, Congress’s only other significant act on its own pensions took place in the 104<sup>th</sup> Session, when lawmakers passed a mammoth budget bill that included a provision to equalize their retirement formulas with rank-and-file federal workers. After President Clinton vetoed the bill for other reasons, this change was quietly dropped.

### ***An Even Prince-lier Pension?***

Perhaps the only federal elected officials whose pensions can compete with those of lawmakers are ex-Presidents, who receive a pension equal to the annual salary of a Cabinet-level official (currently \$157,000). This benefit rises as the Cabinet pay rises. Only the dual act of impeachment and conviction (removal from office) can automatically strip a President of his or her pension.<sup>12</sup>

In addition, former Presidents receive staff, travel, mail, and office expense allowances that ranged from \$308,000 to \$548,000 for FY 1999 alone. Secret Service protection costs are not reported.<sup>13</sup>

Attempts to limit these Presidential perks have not fared much better than similar efforts to curtail Congress’s privileges. The FY 1994 Treasury/Postal Service Appropriations

Bill would have ended the staff and office allowance portion of the Presidential retirement package by October 1998, but these benefits were restored when Congress repealed the “sunset” provision in 1997.<sup>14</sup>

Given the lack of any public groundswell in favor of these perks, who could have possibly prevailed upon Congress to change its mind? None other than Gerald Ford, who, according to NTUF calculations, drew more than \$253,000 in Congressional and Presidential pensions in 1999 alone.

### ***Health and Life Insurance – Super Subsidies***

Members of Congress may obtain health insurance coverage for themselves and their families through the Federal Employees Health Benefits Program (FEHBP), which covers approximately 9 million government workers, retirees, and dependents. Widely touted as a model program even by fiscal conservatives, FEHBP allows employees to select the level and type of health insurance they desire (such as fee-for-service or managed care) from a variety of competing private plans, cooperatives, and union-negotiated arrangements. Providers are encouraged to “bid” with the government by offering specially-designed benefit packages at varied prices.<sup>15</sup>

According to Office of Personnel Management reports, the average biweekly premium for family coverage paid by the enrollee will amount to \$80.16; for self-only coverage, the biweekly amount would be \$36.52. However, the government provides workers with a large subsidy for the coverage, under a formula ironically dubbed the “Fair Share.” Enacted into law in 1997, taxpayers generally contribute 72 percent of the “program-wide weighted average of premiums in effect each year,” or 75 percent of the “total premium for the particular plan an enrollee selects.”<sup>16</sup>

If each Member of Congress selected the average self-only coverage option under FEHBP for the year 2001, taxpayers would contribute a subsidy of roughly \$1.2 million.

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**“[T]he arrogance of officialdom should be tempered and controlled.”**

*Cicero, 63 B.C.*

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Lawmakers may also participate in the Federal Employees’ Group Life Insurance (FEGLI) program, which like FEHBP is also generally available on a government-wide basis. Basic coverage is equivalent to one year of the employee’s salary, for which the employee contributes 2/3 of the program cost (taxpayers pick up the remainder of the tab). There is an “Extra Benefit” at no cost to the employee that doubles the amount payable for workers 35 or younger (it declines in value to zero by age 45). Extra coverage options for additional fees



include a flat \$10,000 supplemental benefit, a payment of up to five times an employee's annual salary, and payments for the death of a spouse or children.<sup>17</sup>

For a Member of Congress, the premium for basic coverage would amount to approximately \$48 per month, and the taxpayer contribution \$24 per month. If every lawmaker opted to take this lowest level, the total annual government subsidy would add up to approximately \$150,000. Although these costs may be comparable with private life insurance rates for some Americans, the rates for lawmakers are basically flat, with little regard for age or health. In addition, Congressmen retain a 1/4-of-final-salary life insurance benefit once they reach age 65, at no cost to themselves.

But life and health care for lawmakers does not end with insurance.

The Attending Physician's Office is a \$1.8 million-per-year operation that encompasses three separate facilities employing nearly twenty doctors, nurses, and technicians in the U.S. Capitol (some of whom are part-time workers). The clinics are open to Members of Congress and Legislative Branch employees.<sup>18</sup> Until 1992 lawmakers were entitled to receive acute care, lab tests, and other clinical work free of charge.

Since that time, an annual fee has been instituted, which this year is reportedly set at \$332 for House Members and \$520 for Senators. At this rate, the annual taxpayer subsidy for the Attending Physician is still at least \$1.6 million. However, Americans may take comfort in the fact that their subsidy has personal value -- Capitol visitors who fall victim to medical emergencies may receive treatment as well.

One medical benefit for lawmakers that even other Congressional employees can't obtain is the combination of outpatient care at the Walter Reed Army Hospital and Bethesda Naval Hospital -- along with inpatient care at the minimum flat daily rate even if intensive care treatment is required.<sup>19</sup>

### ***Wheeled Perks – Driven to the Brink***

The public is often under the impression that all lawmakers receive chauffeured limousines. In reality, only the top ten ranking leaders in the House and Senate are entitled to this courtesy on a regular basis, and not all of them avail themselves of the perk. It is difficult to put a price tag on this benefit, but an unofficial estimate by the Office of Management and Budget from 1992 claimed that the Executive Branch spent \$5.7 million for 288 cars and 190 drivers.<sup>20</sup>

Adjusting for inflation and accounting for overlap of drivers and cars, the Congressional limousine perk probably runs up a taxpayer tab of at least \$250,000 per year.

In addition, lawmakers may rent or lease automobiles for business use, and are entitled to receive the standard IRS reimbursement rate of 32.5 cents this year for business-related

travel in a personal vehicle.<sup>21</sup> Either way, such reimbursements come out of the official allowances provided to each House and Senate Member.

During the early 1990s, Congress was rocked by allegations that Representatives were playing fast and loose with automobile leasing costs. One investigation determined that nearly one-third of House Members were leasing cars, some them luxury models that fetched up to \$1,000 per month at the time. The report concluded that the House could have saved more than half of its \$769,000 total leasing cost that year if it had simply leased “through the government’s motor pool manager, the General Services Administration.”<sup>22</sup>

But this is not the end of automobile-related perks for Congress. The U.S. Capitol provides 11,000 parking spaces for employees and authorized users, half of which are indoors. They are administered by an army of parking-garage and parking-lot employees estimated to number close to 100.<sup>23</sup> The choicest spots belong to Members of Congress. And just like office space, parking spaces for lawmakers are issued on a seniority basis -- the longer they serve, the closer to the Capitol and its offices they can park.

Although some say this privilege is justified because lawmakers must get to House and Senate chambers for quick votes, its value is undeniable to Washington, DC residents who must pay for their own parking. According to a quick survey by NTUF, downtown and Capitol Hill monthly garage parking rates range from an average of approximately \$200 to as much as \$300. Using the lower value, taxpayers subsidize lawmakers’ parking to the tune of nearly \$1.3 million per year.

Ironically, Capitol Hill residents and visitors can pay an additional “tax” of their own on Congress’s parking spaces. The U.S. Capitol Police are empowered to issue parking tickets on spaces within their jurisdiction, and they have done so at the exhausting pace of more than 12,000 issued per year.<sup>24</sup>

Another parking perk that taxpayers -- especially traveling ones -- are more likely to notice are the 150 prime parking spaces located at Washington’s Reagan National and Dulles airports, which have been set aside for use by Members of Congress and a handful of other high-ranking officials. Rates for the general public in more remote lots at the same airports can run as high as \$28 per day. Whereas everyday passengers can travel a mile or more by foot or shuttle bus between parking lots and terminals, in the case of Reagan National, lawmakers are literally yards from one of the departure terminals.

Apparently even retired lawmakers can avail themselves of the privilege. Former Rep. (and now high-powered lawyer) Guy Vander Jagt (R-MI) continued to slip in to the reserved lot when space was available long after being voted out of Congress.<sup>25</sup>

But if Americans *do* notice these spaces, it wouldn’t be for Congress’s lack of trying to disguise them. For years, the signage in front of these lots read “Reserved Parking/Supreme Court Justices/Members of Congress/Diplomatic Corps.” Amidst adverse criticism in the 1980s and 1990s, the signs were replaced to read “Restricted Parking/Authorized Users Only.”

In 1994, U.S. Senator John McCain (R-AZ) offered a resolution to end the taxpayer-funded parking lots at these two airports, but it was voted down 53-44. Opening these spaces to the paying public might have generated \$1.6 million in savings, according to McCain's own estimates.<sup>26</sup>

Perhaps Congress's most unique transportation perk is the Capitol Subway system that links House and Senate Office Buildings with the Capitol Building (replete with cars that had "Reserved for Members" seats). In 1994, the Architect of the Capitol unveiled an \$18 million automated improvement to the system that would connect the Senate chamber with two of the office complexes. Four years earlier, when the federal budget deficit was climbing to new heights, Congress appropriated \$6 million for improvements to overall operations.<sup>27</sup>

### ***Travel and Junkets – Is This Trip Necessary?***

Although the House and Senate maintain different systems of reimbursement for Member expenses, domestic travel to and from Washington and the lawmakers' homes is basically funded through office accounts. The House's Members' Representational Allowance, for example, is adjusted on an individual basis to account for the relative distance (and hence cost of travel) from each district to the nation's capital.

According to an examination of House records, Members of the lower chamber spent approximately \$12 million in 1997 to travel on official business both to their districts and other points in the United States.<sup>28</sup> Millions more were spent by Committees. Yet these figures can't comprise the actual price tag, since they do not include the services of the Air Force's 89<sup>th</sup> Airlift Wing, which provides the planes for many trips taken by lawmakers, the President, and other dignitaries.

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**“Every man is equally entitled to protection by law; but when the laws undertake to add ... artificial distinctions, to grant titles, gratuities, and exclusive privileges ... the humble members of society ... have a right to complain of the injustice of their government.”**

*President Andrew Jackson, July 10, 1832*

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A recent study by the General Accounting Office -- which even the auditors themselves admitted was incomplete -- found that the total tab for aircraft alone for President Clinton's foreign excursions in the past three years amounted to \$247 million.<sup>29</sup> Although Members of Congress do not require the elaborate arrangements of the Chief Executive, it is safe to assume that lawmakers run up tens of millions on their own military aircraft adventures.

Even travel within the Continental U.S. is not without costly controversy for taxpayers. Thanks to a loophole created in 1991, employees of the House are able to convert the frequent-flyer mileage benefits they receive on official taxpayer-funded travel to personal use. One anonymous staffer told the *Washington Times* in 1994 about a lawmaker who gave his frequent-flyer miles to his daughter for her honeymoon; another official recalled a House Member who gave away a vacation gift to a lobbyist friend.<sup>30</sup>

No one is certain how extensive this practice is, but two government agencies have taken an ongoing interest: the IRS, which claims that personal windfalls from official travel are generally taxable income, and the Federal Election Commission, which would require disclosure of frequent-flyer coupons used to support any kind of election activity.

The Senate and all other agencies in the federal government have banned personal use of frequent-flyer mileage earned through this type of travel. To this day, the House officially frowns on conversion fever, but does not ban it. According to the closely-guarded *Members' Congressional Handbook*:

Free travel mileage, discounts, upgrades, coupons, etc. accrued by Members or employees as a result of official travel awarded at the sole discretion of the [airline] company as a promotional award, may be used at the discretion of the [recipient Member(s) or employees]. The Committee on House Administration encourages the official use of these travel awards wherever practicable.<sup>31</sup>

When most Americans hear the word “junket,” however, they tend to think of privately-funded trips to resorts in sunny Florida or Hawaii, and taxpayer-funded “fact-finding missions” to far-flung foreign destinations. The rules of Congress, along with increased media scrutiny, seem to have curtailed beach-hopping and globe-trotting, but for how long?

According to House rules, for example, “Official travel to a foreign country may be authorized by the Speaker ... or by a Committee Chair.”<sup>32</sup> Staff travel for official purposes must likewise receive the approval of the Member-employer. Privately-funded journeys connected with a Member’s official duties is limited to 4 days for domestic trips and 7 days for trips outside the Continental U.S. Trips of longer duration require advance written approval by the Standards Committee of the House.

Like the President, lawmakers have readily available access to military aircraft for official travel. In the case of travel on a private aircraft for “a political or an official purpose,” House Administration Committee and Federal Election Commission rules require Members to reimburse the operator for the equivalent of a first-class ticket on a regularly scheduled flight or the cost of a charter for a flight arranged especially for the Member. Representatives may accept special-interest expenses to cover the costs of one spouse or accompanying family member.<sup>33</sup>

Yet, these rules and their interpretations have their genesis in a number of high-profile travel travails that continue today:

- In 1989, Rep. Charlie Wilson (D-TX) reportedly attempted to deny funding to the Department of Defense in retaliation for the Air Force’s refusal to allow his girlfriend to board a military aircraft in the Middle East.<sup>34</sup>
- In the fall of 1992, four lawmakers took 25 aides, spouses, and escorts on a 17-day tour of the Orient to study “infrastructure.” Not coincidentally, the “infrastructure” they examined led to famous tourist attractions, such as the Great Wall of China and a giant panda preserve. Charges to taxpayers included \$497,000 for an Air Force jet and \$68,000 for meals, lodging, and bellhop tips.<sup>35</sup>
- In 1994, House Public Works Committee Chair Norm Mineta (D-CA) led a similar 23-member entourage on an estimated \$500,000 trip through Europe and Russia that included visits to “premier museums and ... boat tours through St. Petersburg.”<sup>36</sup>
- In 1996, the House sent a 16-member delegation to the North Atlantic Assembly’s biannual meeting in Paris, even though “opinions about the importance of the Assembly vary” and the transportation costs for the journey typically stick taxpayers for \$470,000 per year.<sup>37</sup>
- In December 1997, the Capitol Hill newspaper *Roll Call*, normally a strong supporter of Congressional fact-finding missions, chided lawmakers for accepting too much hospitality from the Commonwealth of the Northern Mariana Islands, which sought Congressional exemptions from certain labor standards that could be applied to the territory’s garment factories. “Trips by one or two leadership staffers and a couple of Members would be more than defensible,” the Editors wrote. “But when 80-odd people flock halfway across the world from Capitol Hill to a sunny island destination in the guise of fact-finding, there’s only one word to describe their collective actions: junket.”<sup>38</sup>
- The House International Relations Committee reported spending \$722,462 on delegation travel in 1999, approximately 1/3 of which went to per-diem allowances for hotels, restaurants, and entertainment. However, some lawmakers ran up per-diem bills that were 2-3 times higher than “the maximum allowances available to foreign services officers and other agency officials” that are established by the State Department.<sup>39</sup>

In a supremely ironic twist, the 1989 “Ethics in Government Act,” which banned Members from accepting honoraria but gouged taxpayers with a 40 percent Member pay hike, was expected to reduce the itch to travel on private dollars. After all, without honoraria to collect, it was thought Members would lose the incentive to take trips offered by special-interest hosts.

But two full years after the honoraria ban, the *Washington Post* reported that “Many Members of Congress [were] still venturing far and wide.” The article quoted one “top honoraria giver” from a New Jersey agribusiness firm as saying he simply “sends [honoraria] checks to charities” instead.<sup>40</sup> To many taxpayers, this charity should have begun at home.

### ***Gymnasiums & Personal Care – No Sweat***

Among the personal perks offered to Members of Congress, the House and Senate gymnasiums remain heavily shrouded in secrecy. Few photos of these facilities have ever been published, and less still is known of the type of equipment they feature. The *Washington Post* reported that the House gym in the bowels of the Rayburn Office Building sported “a swimming pool, and basketball and paddle-ball courts.”<sup>41</sup> Much of the public’s knowledge of the gyms is second-hand, through early accounts of renovation plans that did not meet approval. For example, investigative reporter Don Lambro uncovered schemes in the 1980s to add to already lavish arrangements:

The gyms contain swimming pools, saunas, steam baths, bodybuilding and exercise equipment, whirlpools, a heated pool, wrestling mats, and other equipment. The gyms are open sixteen hours a day and are staffed by eleven ‘physical therapists.’<sup>42</sup>

In 1992, House and Senate leaders agreed to establish a \$400 annual fee system for the House and Senate gymnasiums, which according to NTUF research is one-half to one-third the going rate for Washington, DC’s better health clubs.

Another target of popular derision in Congress -- the “five-dollar Hill haircut” -- was clipped on the House side of the Capitol beginning in 1995. The estimated annual saving to taxpayers, in foregone operating deficits, is nearly \$100,000.

Yet, the Senate’s Barber and Beauty Salon continues to shear taxpayers of their hard-earned funds (\$1.8 million in subsidies from 1993-97). The large annual payroll may have something to do with these exorbitant costs: seven barbers, five hair stylists, two manicurists, two receptionists, and a shoeshine attendant. In 1998, one barber was reported to have received \$62,000, while a receptionist pulled down \$47,000 and a shoeshine attendant \$27,000. A generous pension plan ensures that these coiffeurs will be living in style long after their scissors stop snipping.<sup>43</sup>

A similar split has occurred over the “cheap eats” in cafeterias located throughout the Capitol. Although both the House and Senate have attempted to bring in private contractors and restore market-level prices to their eateries, a recent audit of the Senate’s restaurants by the General Accounting Office determined that the facilities posted a \$680,000 loss in sales in 1999 (a 50 percent *improvement* versus 1998!). Taxpayer subsidies, “in the form of loans and appropriations, [were] reduced ... from \$1.7 million in 1998 to \$1.1 million in 1999.”<sup>44</sup> Ironically, much of the losses at the restaurants are directly traceable to Senators and their staffs, who owed close to \$200,000 in unpaid tabs at the end of the fiscal year.

Congress’s “reforms” of its gymnasium, barber shop, and restaurant privileges are not the only efforts made over the past decade to curtail perks (see Table 2 for further examples). However, given the strings attached to many of these give-backs, the list may not seem all that impressive to outside observers.

**Table 2. Going ... Going ... Gone  
Congressional Perks That Were Canceled or Curtailed  
in the Last Decade**

<b>Item</b>	<b>Comment</b>
Car washes	Members can park indoors
Ice delivery direct to Hill offices	Now available from centrally-located machines instead
Haircuts	Taxpayer subsidies for House barbershops ended; Senate subsidies remain
Health clubs	Once “free,” now available to Members for an annual fee
House Bank	Credit Union remains
Law books and personalized calendars	Once “free,” now payable out of Member allowances
“Legislative Service Organizations”	Special interest caucuses for lawmakers that cost taxpayers more than \$1.1 million/year
Long-distance telephone lines	Once “free,” now payable out of Member allowances
Plants from the Botanic Garden	Once “free,” now payable out of Member allowances
Prescription drugs and on-site medical care	Once “free,” now available to Members for an annual fee; pharmacy closed
Prints and picture framing from the National Gallery of Art	Once “free,” now payable out of Member allowances
Recording studios and photographers	Once “free,” now payable out of Member allowances
Restaurants	Once offered substantial discounts on meals; Taxpayer subsidies phasing out
Stationery Store shopping privileges	Once allowed Members to purchase cut-rate gifts and personal items
<i>Sources: NTUF Staff research and House Leadership Task Force on Reform, “The Index of Congressional Reform Indicators,” 1996.</i>	

***Cradle to Grave Perks?***

Lawmakers who need their little ones looked after may use the Congressional employees’ Child Care Centers. The Chief Administrative Officer’s *Statement of Disbursements* reported that the House spent \$132,000 on the operations of its facility during the first quarter of the year 2000.

But Representatives and Senators strive to take care of young and old alike, regardless of their financial circumstances. It is the time-honored practice to award widows of lawmakers who die in office a “gratuity” equal to one year’s salary of the dear departed.<sup>45</sup>

Another legacy is reserved for lawmakers who are dead *or* alive. Although the rules of Congress do not allow Committees that supervise building projects from naming structures after actively-serving Members of Congress, nothing prevents other Members from doing so through amendments to spending bills. Recent commemorations for living Members who were also in Congress at the time the honor was bestowed include: Sen. Ernest Hollings (D-SC, 1987); Sen. Mark Hatfield (R-OR, 1996); and, Rep. Louis Stokes (D-OH, 1998). In the 106th Congress, Rep. Tom Tancredo (R-CO) had introduced legislation to end this practice.<sup>46</sup>

The Fiscal Year 2001 *Budget of the United States Government* reported that in 1999, \$1 million in funding was appropriated to the “Congressional Cemetery.” Lest taxpayers think that Members are entitled to a free burial plot of their own, the Cemetery is actually a non-profit historic landmark containing the remains of 60,000 people, just 76 of whom are (or were) Members of Congress. But the hand of corruption has touched even this hallowed ground -- this year *Roll Call* reported that the former Superintendent of the Congressional Cemetery was indicted for embezzling \$175,000 in charitable contributions to the graveyard.<sup>47</sup>

### ***House Bank – Gone But Not Forgotten***

One of the seminal scandals in the history of the House of Representatives involved its bank. Between January and June of 1990, 134 House Members passed 581 bad checks in amounts of \$1,000 or more at the House’s \$50 million-a-year facility operated by the Sergeant-at-Arms. Overdrafts were routinely covered for periods of up to a month, and no banking privileges were ever suspended, even for the worst offenders. Altogether, 8,331 checks in *all* amounts were bounced between July 1989 and June 1990.<sup>48</sup>

Nearly two years prior, House Speaker Thomas Foley (D-WA) knew that these easy practices were producing a scandal. He ordered the House Bank to initiate reforms to curtail overdrafts. But the number of bounced checks actually *increased* 8 percent after the alleged reforms took effect. The Bank subsequently closed, and Congressional incumbents suffered on the campaign trail.

Members of Congress may have lost their own exclusive piggy bank, yet they can still reap the rewards of cut-rate financial services through the Congressional Federal Credit Union (CFCU). As this paper went to press CFCU offered members deals such as:

- A 6.35% Certificate of Deposit Yield on a 1-Year Account with a \$500 minimum.
- A 7.5% APR loan on the purchase of a new car, up to 100% of purchase price or retail value.
- A Visa Gold Card with a line of credit of as much as \$15,000, with finance rates of 10.9% APR - 11.9% APR.<sup>49</sup>



Unlike the House Bank, which had to rely on the fickle financial habits of lawmakers, the CFCU has 44,000 members to balance the bad debts of a few deadbeats. On the other hand, since CFCU is a federally-insured financial institution, taxpayers can never be sure that their wallets are safe from Congressional check-kickers.

### ***Offices – Fine-Feathered Nests***

No one wants to work in a hovel, but the halls of Congress are rarely described as such. Over the years, lawmakers have come under fire for some fabulous digs:

- Senate “hideaways” have long served as quiet, poshly-furnished areas where the upper chamber’s solons can unwind, reflect, and cut deals with colleagues. The locations are so secret that even some Senate staffers admit to not knowing where their own bosses’ cubbyholes have been carved out. According to the *National Journal*, “Several years ago, then-Sen. Paul Simon [D-IL] gave *Chicago Tribune* reporters a tour of his small room, but only after being promised that they would not publish its location.”<sup>50</sup>
- In 1992, House Speaker Thomas Foley (D-WA) raised a flap when he authorized \$20,000 to be spent on marble-inlaid floors in just three elevators on the House side of the Capitol.<sup>51</sup>
- In 1994, it was revealed that the Senate spent \$324,000 (not including installation) for slightly over 100 silver-plated bronze chandeliers modeled after those that hung in the Russell Office Building when it opened in 1905.<sup>52</sup>
- In 1993, a mini-scandal erupted over a little-known 1974 law that allowed retiring Members of Congress to purchase like-new office equipment for personal use, at 50 to 90 percent discounts. Rep. John Boehner (R-OH) recalled that his 1991 office inventory “nowhere matched” what he actually had, because his predecessor Buz Lukens had carted off much of the furniture at a cut rate.<sup>53</sup>
- Since 1998, the Clerk of the House has been on a hunting and gathering expedition to recover millions of dollars in taxpayer property looted by House Speakers for their own museums as they left office, including a fireplace from the White House, the original marble Speaker’s rostrum, and a Grecian urn valued at up to \$3 million.<sup>54</sup>

Apparently, Congress doesn’t even need to buy new furnishings to spend more tax dollars on offices. Following each election cycle, lawmakers who move up the seniority ladder are likewise eager to “trade up” their office space, prompting what many Capitol Hill staffers call the “post-election shuffle.” One investigation found that after the 1996 election, 232 of the House’s 435 Members moved their offices, at a cost to the House Architect’s decorating and moving staff of \$600,000.<sup>55</sup>

### ***Public Perks, Public Purse: The Link***

Taxpayers may be tempted to conclude that lawmakers who are willing to spend freely on themselves are just as willing to spend freely on special interest programs. But how valid is this assumption? At least two comprehensive comparisons confirm this suspicion.

In 1992, National Taxpayers Union assessed the performance of lawmakers involved in the House check-bouncing scandal on its 1991 Rating of Congress, which scored every lawmaker on every roll call vote affecting fiscal policy. Nine of the 17 worst check-kitters fell into the category of “Big Spender,” which denotes lawmakers with the worst pro-taxpayer voting records. Fifteen of the 17 worst abusers had below-average taxpayer scores. On the “full list” of abusers, 78 percent of the Members with 50 or more overdrafts rated below the average pro-taxpayer score.<sup>56</sup>

In 1996, National Taxpayers Union compared House Members’ office and staff expenditures for the previous year with its Rating of Congress. The 100 biggest office spenders had an average pro-taxpayer NTU Rating of 46 percent, or 12 points *lower* than the overall House average. The 100 must frugal office spenders had an NTU Rating of 72 percent, or 14 points *higher* than the average.<sup>57</sup>

### ***What’s In a Name?***

Ironically, simply being a former Member of Congress can constitute a “perk” in the private sector too. According to a review of the 1998 Edition of *Washington Representatives*, at least 128 former Members of Congress were listed as lobbyists among the 17,000 individuals included in the directory. That accounts for 12 percent of all Members who retired from Congress since 1970. Some Members offer themselves as “consultants for hire” on issues they may have tackled on Committees. Others have signed on full-time in government affairs departments:

- Connecticut Rep. Anthony Moffett (D, 1975-83) joined Monsanto Corporation as the Vice President for International Government Affairs.
- Colorado Rep. Pat Schroeder (D, 1973-97) became President of the American Association of Publishers.
- Louisiana Rep. W. Henson Moore (R, 1975-87) went on to serve as President of the American Forest and Paper Association.<sup>58</sup>

As a bonus, Congressional pensions are not reduced or otherwise affected by decisions to seek additional private sector or lower-level public sector employment. Only those Congressional retirees named to new federal positions -- like Ambassador (and Former House Speaker) Tom Foley (D-WA) -- must normally forgo their benefits while on active duty. The upside (for them) is, these former Members may elect to count their additional service and higher salaries toward a bigger, recalculated pension once they leave the federal government permanently.

## **Official Perks: Helping Those in Power Stay There**

By definition, any “perk” worth its name must deliver something of value to its intended recipient. That’s why even a lawmaker’s official powers function like perks. By helping to keep incumbent Members in office, items such as franking privileges, personal staffs, and other “official” powers are the means to a very comfortable end.

### ***The Frank – Mailing Challengers to the Wall***

The privilege to send mail under a “frank” (whereby a lawmaker’s signature serves as postage) is one of the oldest prerogatives of office ever granted to members of a legislative body. The First Continental Congress, borrowing an idea that originated in the British House of Commons in 1660, enacted mailing privileges in 1775. According to the Congressional Research Service, however, “the franking privilege has carried an element of controversy since the earliest days of the Continental Congress. . . . Misuse was such a problem in the latter part of the nineteenth century that Congress repealed the franking law for one year (1873), and then reenacted it.”<sup>59</sup>

Lawmakers, of course, argue that the franking privilege is an essential communication tool that they use not only to conduct everyday legislative business, but also to reply to the crushing volume of mail they receive from their constituents. That myth was destroyed on the floor of Senate itself in 1982, when Sen. Charles Mathias (R-MD) revealed data suggesting that the “crushing volume” comes from Congress, not citizens -- less than 5 percent of Congress’s outgoing mail was sent in reply to constituent inquiries.<sup>60</sup> The rest generally consists of unsolicited mass mailings.

Historically, the most vocal complaints about the frank have come not just from taxpaying citizens, but also from other Congressional candidates. This is because the content of even “official” mailings can portray the incumbent Member in such a favorable light to his or her constituents that political challengers must devote scarce resources of their own toward counter-advertising. Veteran Capitol Hill reporter Glenn R. Simpson and Professor Larry J. Sabato captured the essence of the frank when they related the following sales pitch from a Capitol Hill computer vendor:

You’ve got to get his [the lawmaker’s] name out seven times in a two-year period, so that they’ll remember him at the polls. I sometimes go in and do a training session and say, ‘hey, you guys are in the advertising business. You guys got to get your Member’s name out over and over.’<sup>61</sup>

As with so many other perks, the more Congress attempted to self-regulate the franking privilege, the more susceptible it became to abuse. By 1969 Congress ceased to rely on the U.S. Postal Service for rulings on what kind of Member mail could be sent under the frank. Charges of self-interest from challengers in the 1972 campaign became so prevalent that

Common Cause, a citizen group working for cleaner elections, sought to overturn the frank in court as an unconstitutional and “unfair advantage.”

The suit took ten years to wind its way through the “justice” system, until the Supreme Court finally decided to let stand a lower court ruling against Common Cause and place trust in Congress’s latest round of “reforms.”<sup>62</sup>

Predictably, Congress’s feeble steps to curb its own excesses during the 1980s went nowhere. The House created a “Commission on Mailing Standards” to conduct a pre-mailing review process designed to weed out blatantly political messages, family references, and obsequious holiday greetings. The Commission also established “content guidelines” that, among other provisions, “recommends” Members limit references to themselves to 8 per printed page.

Even in this regulatory process, Congress’s embarrassment over the frank was apparent. As recently as 1995, when a National Taxpayers Union Foundation staff member contacted the Commission to inquire about viewing the tax-funded mass mailings of his own Representative, he was told:

- 24 hours’ advance notice was preferred.
- Mailings could only be viewed in the Commission’s Washington, DC office.
- Copying of documents was prohibited.
- Note-taking was “permitted.”
- A “release form” to view “the Congressman’s mail” was required.<sup>63</sup>

The Senate provides comparatively convenient access to franking records, the House remains mired in Dark-Age disclosure policies -- one of its only recent “reforms” was to allow public photocopying of Commission advisories issued after January 1, 1996.

But it would take more lawsuits and more adverse publicity to loosen the electoral stranglehold of the franking privilege. In July 1992, a federal Appeals Court agreed with the National Taxpayers Union in ruling that a law permitting certain mass mailings outside current Congressional districts was unconstitutional. Prior to the ruling, many mailings were being sent outside Members’ own districts under the guise of “introducing themselves” in newly-drawn districts shortly after the decennial census.<sup>64</sup>

Additional abuses kept revealing themselves. In the first 18 months of the 1993-94 election cycle, House incumbents spent \$51 million on the frank. By comparison, the Federal Election Commission reported that the 1,041 challengers had raised just \$40.8 million over that same period for their entire campaigns.<sup>65</sup>

In 1994, nearly three dozen House Members were caught red-handed in attempts to circumvent a rule forbidding mass mailings of more than 500 pieces in the 60 days prior to a

primary or general election (now 90 days). First, 27 Members “bundled” their communications in 333 mailings of 400 pieces or more within the 60-day window. Second, 15 Members of Congress sent out a combined total of 4.6 million pieces of mail in the week prior to the 60-day deadline, at a cost to taxpayers of nearly \$600,000.<sup>66</sup>

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**“I have never seen a newsletter that positioned the elected official in anything but the best possible light. The purpose of these mailings has become little more than to remind citizens of who their elected officials are before they vote. It’s an unfair perk of incumbency. That’s why many congressional offices accelerate the number of mailings as the election draws closer. It’s surely not because of all that summer legislative activity.”**

*John Solomon, Former House Press Secretary  
Writing in Roll Call, October 2, 2000*

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By 1995, Members of the 105<sup>th</sup> Congress felt compelled to enact a new round of reforms. The Senate ambitiously chose to limit use of the Official Mail Account to constituent inquiry responses and town meeting notices only, up to 15 cents per address in most states. Mass mailings could only be funded from each Senator’s Office Expense Account, and postage for this type of mail was limited to \$50,000 per Senator per year. The House was somewhat less bold, opting instead to slash the combined mass mail and constituent reply allowance from approximately 67 cents per address to 43 cents.<sup>67</sup>

Today, the Senate spends roughly 1/5 to 1/4 as much on franked mail postage as the House, even though both chambers represent the same number of constituents. And although House expenditures have fallen to approximately \$25 million per year from the high of nearly \$80 million in 1988, the franking privilege is as effective as ever.

The Information Age may have made “snail mail” a dated technology for many citizens, but not for Congress. Separate individual postage limits for House Members were lifted in 1999. Offices can now purchase CD-ROM mailing lists customized to virtually any demographic group, meaning that Members need no longer blanket an entire district with mass mailings just to make sure they are reaching their desired audience. The use of glossy color inserts in newspapers, radio airtime, and television programs beamed back to district stations have also served to supplement the frank’s outreach potential. In the 1995-96 cycle one enterprising Member, Steve Stockman (R-TX), used \$68,800 from his office funds to purchase radio time to supplement the message in his mass mailings.<sup>68</sup>

By most accounts, the franking privilege will continue to exert a disproportionate influence on the electoral process until citizens pressure lawmakers for genuine reform. Meanwhile, complaints from challengers during the current 1999-2000 election cycle are already filling the nation's newspapers.<sup>69</sup>

### ***Constituent Services – An Offer They Can't Refuse***

In the opening scene of the movie "The Godfather," Don Vito Corleone greets a series of characters asking for a variety of "favours" that the normal institutions of society can't provide. Knowing he cannot turn down such requests on his daughter's wedding day, Corleone reminds his well-wishers that someday he may ask them to "perform a service" for their new-found friend, the Don. This Hollywood lesson has apparently been well-learned in Washington, DC, in the form of "constituent service."

In 1998, the Legislative Branch employed more than 31,000 individuals, about the same level as in 1971.<sup>70</sup> Yet, these figures are deceptive, for they fail to account for the explosive growth of one category within that workforce – personal staffs. Between 1967 and 1977, for example, personal staffs for Senators and Representatives mushroomed by 94 percent and 75 percent, respectively. During the mid-1970s about 75 percent of these staffs worked in Washington, DC, with the remainder scattered among small offices in the Members' home states and districts. By 1990, that level had fallen below 40 percent.<sup>71</sup> Today about half of all employees in the Legislative Branch work in Congressional offices or on Committees (the rest work for agencies such as the Architect of the Capitol and the Library of Congress).<sup>72</sup>

Prior to World War II, the notion of ever-larger permanent staffs would have seemed ludicrous to most lawmakers. Today, every Member of Congress maintains a cadre of "constituent caseworkers" in Washington and in district offices who help citizens to deal with the very bureaucracy that Congress helped to create. These staffers do everything from assisting retirees with Social Security check problems to arranging for school group tours of the Capitol to resolving disputes with the IRS.

Nearly 40 years ago, a Brookings Institution scholar made the electoral connection to this process when he observed that it offers "great potential for political benefit to the Congressman since [it affects] the constituent personally. If the legislator can be of assistance, he may gain a firm ally; if he is indifferent, he may even lose votes."<sup>73</sup>

The Congressional Management Foundation, a private organization dedicated to "helping Members of Congress and their staff better manage their workloads," was equally blunt, but in a more empirical manner, when it surveyed top Capitol Hill aides as to what they thought the "most important factors in solidifying [their] Member's base" were. Heading the list of replies was "constituent services."<sup>74</sup>

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**"The victor belongs to the spoils."**

The result, according to political scholars James Bennett & Thomas DiLorenzo, “is a nationwide network ... of tax-funded flunkies whose primary job is to subvert the electoral process -- that is, to give incumbents unfair advantages over their already under- financed challengers.” In fact, the authors found that often “no effort is made to mask” the naked political purpose -- in one election cycle, 40 percent of lawmakers seeking reelection hired a member of their official personal staff for their campaign.<sup>75</sup> The rules of Congress continue to permit this practice.

No survey of reelection perks would be complete without noting the power of the purse. The ability to deliver pork-barrel projects to home districts certainly helps to curry favor among special interest supporters. For example, Congress’s largest standing Committee, Transportation and Infrastructure, includes about 1 out of 7 House Members in its ranks. In 1998 the Committee helped to draft the \$216 billion “BESTEA” bill, whose \$21.3 billion in earmarked projects for roads and mass transportation dwarfed the amount of pork in the last major transportation funding bill passed in 1990.<sup>76</sup>

### ***Majority and Minority Staffs – Covering Both Sides***

Traditionally, parliamentary systems of government provide for a “majority” and a “minority” side of the aisle, in order to foster structured debate on questions put before them. But in the United States, these two titles also carry with them some serious taxpayer costs -- and some serious subsidies for incumbent lawmakers.

The FY 2001 *Budget of the United States Government* requests more than \$17 million in funds for the offices and staff of the House and Senate Majority and Minority Leaders, Republican and Democratic Conferences, Majority and Minority Policy Committees, and Steering Committees.<sup>77</sup> These requests come above and beyond budgets and staff reserved for those who actually preside over the daily business of Congress, such as the House Speaker, President Pro Tem of the Senate, and the Whips.

What does this \$17 million buy? In addition to some purposes relating to the business of the nation, the tax dollars also apparently help to fund a fair amount of partisanship aimed at extending or preserving incumbent advantages. As a tour of just four House leadership websites shows:

- The Democratic Caucus describes its mission as providing “essential information on House Democrats, our agenda, and the work of this Congress.” Its newsletter, *Beyond the Rhetoric*, “...shines the spotlight on what GOP leaders really believe by cataloguing some of their most extremist statements.”<sup>78</sup>

- Part of the Republican Conference’s mission is to furnish “Republican Members and staff with pending legislative, press, and constituent service handbooks, ... talking points, and analyses...” along with “Coordinating talk radio.”<sup>79</sup>
- The Majority Leader’s website states, “The Vice President now claims that he has a plan to lower oil prices. That raises the question: what has he been doing the past 8 years?”<sup>80</sup>
- The “Leader’s Corner” of the Minority Leader’s website proudly proclaims that “Ten years ago, Democratic Leader Dick Gephardt began his pioneering efforts to develop a more unified Democratic message ... [by] creating the House message group which set the pace and tone as Democrats regained their voice on the issues that matter -- working families, new opportunities, and new ideas.”<sup>81</sup>

Members of Congress and political parties are certainly free to speak their minds within the American political system. Yet, how much of this “free speech” should their constituents pay for?

### ***The Bottom Line***

How effective are these perks of power in helping lawmakers to boost their own job security? This year, *Congressional Quarterly*, one of the media’s most respected observers of events in Congress, could only identify 90 of the 435 contests for the House of Representatives where there was “any possibility of partisan turnover.” The overwhelming majority of the races – nearly 80 percent – were described as “safe Republican or Democratic.”<sup>82</sup>

Obviously, many factors contribute to the lack of competitiveness in Congressional election contests. Private fundraising, constituent demographics, and the method in which a district is drawn can present formidable obstacles that deter challengers from the beginning. At the very least, however, the privileges of incumbency greatly augment these advantages.

## **Above the Law: A Unique Advantage for Those Who *Make* the Law**

In 1995, lawmakers adopted the Congressional Accountability Act. Based upon the notion that “no one should be above the law,” the bill applied a litany of civil rights and worker protection laws from which Members of Congress had previously exempted themselves, including: the Fair Labor Standards Act; Title VII of the Civil Rights Act; the Americans With Disabilities Act; the Age Discrimination in Employment Act; the Family and Medical Leave Act; the Occupational Safety and Health Act; and, several other lesser-known laws that normally affect private employers.<sup>83</sup>

Despite this laudable progress, Members of Congress continue to skirt laws or rules that apply to the rest of America, as if doing so were their prerogative. This indifference to equality under the law often amounts to a “perk” that even the most callous private-sector boss would avoid.



## ***Special Tax Policies – Roadblock to Reform***

Taxpayers may wonder why Congress always talks a good game about tax reform, but rarely does anything about it. Perks may have a role to play. In addition to the IRS's past tax-time consulting offices (open to Capitol Hill employees), the tax agency also maintains an extremely active "Legislative Affairs Division" in Washington, along with a host of "Congressional Affairs Program" and "Casework Inquiries" contacts to help Members iron out tax problems with their constituents.<sup>84</sup>

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**“The passion for office among Members of Congress is very great if not disreputable, and greatly embarrasses the operation of the government. They create offices by their own votes and then seek to fill them themselves.”**

*James K. Polk  
President of the United States, 1845-49  
Cited in the Forbes Book of Business Quotations  
(Black Dog & Leventhal Publishers, 1997)*

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A recent opinion survey conducted for the Discovery Health Channel found that by a 57 percent to 30 percent margin, Americans feared the IRS more than God.<sup>85</sup>

Many beleaguered taxpayers would view their Congressman's help with IRS problems as Heaven-sent, for which thanks could be given in voting booths as well as church pews. Yet, Congress plays its own devil's advocate, by having given the tax agency the very powers that have led to high-profile civil rights abuses, not to mention creating the complex Tax Code that invites bureaucratic bungling.

Why such an apparent disconnect? In 1993 *Money Magazine* determined that 60 percent of the Members of the House Ways and Means and Senate Finance Committees, who are responsible for our tax laws, didn't even prepare their own tax returns. *Money* also estimated at the time that the IRS's two "customer service centers" for lawmakers and Capitol Hill employees cost taxpayers \$100,000.<sup>86</sup>

Another tax-related controversy arose in 1993, when the *New York Times* revealed that Congress was following the lead of IRS officials who discovered a "creative valuation method" to avoid having to pay income taxes on "free" parking spaces when their private-sector equivalent value exceeded \$155 per month. Even at the current \$175 threshold, most Capitol parking would constitute a partially taxable fringe benefit.<sup>87</sup>

Today, however, the clearest illustration of Congress's elevation above normal taxpayers is its own \$3,000 annual income tax deduction for maintaining a second residence.

Normally, a taxpayer in a lawmaker's income bracket could be subject to reductions in the value of his or her mortgage interest write-off for residences. The typical American who uses an additional residence for business or rental purposes may qualify for certain expense deductions, but only by filing complex forms.<sup>88</sup>

### ***Immunity – Or Impunity?***

Article I, Section 6 of the U.S. Constitution states that Senators and Representatives:

[S]hall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

Given the era in which the Constitution was written, this clause made good sense. Parliaments had much to fear from kings or other sovereigns who would use their own troops to interfere with legislative business. Additionally, partisans within Congress might very well be able to manipulate law enforcement officials to act maliciously against their political opponents, and thus influence the outcome of key votes.

Predictably, lawmakers in the modern age have put their own “spin” on this clause. Not until 1992 was Congress put out of the business of helping Members to avoid traffic and parking tickets. Prior to that time, the House's Sergeant-At-Arms would process all the necessary paperwork on behalf of Members to have the tickets canceled, a process conducted with the District of Columbia Mayor's Office and the Department of Public Works.<sup>89</sup>

However, even without help from Congressional staff, lawmakers still often enjoy “free rides” from police who are reluctant to push tickets anyway. According to press accounts, 81-year-old Senator Robert Byrd (D-WV) was recently involved in a rear-end collision with a van on Route 50 in Fairfax, VA, during which he produced to the ticketing officer a copy of the Constitution and pointed to the clause mentioned earlier in this section. At the Fair Oaks Police Station Byrd reiterated his claim of immunity and asked the shift commander to call the Commonwealth's Attorney for Fairfax to obtain confirmation that his claim was valid. Byrd was re-issued the ticket one week later, but he was not fined.<sup>90</sup>

Lawmakers claimed the right to exempt themselves from another system of “fines” known to children across America -- those applying to overdue library books. In 1994, Senator John McCain (R-AZ) introduced the “Library of Congress Book Protection Act,” in response to official estimates that 1/3 of the books on loan from the Library of Congress were overdue, and that \$12 million worth of books were “missing.” In many cases, Senators, Representatives, and Congressional staff members were implicated.<sup>91</sup>

Even Congress’s retirement policy has given lawmakers a legal “leg up” on the rest of America. According to the *Wall Street Journal*, former Rep. Philip Sharp’s (D-IN) pension -- which began at \$65,000 when he was just 52 years old -- would be “almost unheard of [in the private sector] because it exceeds by \$14,000 or more the Tax Code limits Congress has placed on business deductions for early pensions above certain levels.”<sup>92</sup>

***When the Best Isn’t Enough***

Mark Twain once observed that Congress was America’s only “native American criminal class.” More than a century later, emails circulating on the Internet claim that hundreds of lawmakers have committed, or are accused of committing, crimes. The truth is less dramatic, but still troubling enough.

In spite of their generous system of perks, some Members of Congress simply cannot resist breaking the law -- either for personal gain or through personal weakness.

Table 3, appearing below, provides some examples.

<b>Table 3. A Criminal Class? Members of Congress Who Were Convicted of or Pled Guilty to Major Offenses, 1992-1999</b>	
Name	Offense
Nick Mavroules (D-MA)	Tax evasion, accepting illegal gratuity (1992)
Albert Bustamante (D-TX)	Racketeering (1993)
Carroll Hubbard (D-KY)	Fraud and corruption charges (1994)
Carl Perkins (D-KY)	Fraud (1994)
Charlie Rose (D-NC)	Agreed to pay \$12,500 civil fine for financial disclosure irregularities (1994)
Larry Smith (D-FL)	Tax evasion (1994)
Dave Durenberger (R-MN)	Financial disclosure misdemeanor (1995)
Walter Fauntroy (D-DC Delegate)	Financial disclosure misdemeanor (1995)
Gerald Kleczka (D-WI)	Arrested for DWI (1995 and 1990); Convicted for DWI (1987)
Mel Reynolds (D-IL)	Sexual misconduct (1995)
Walter Tucker (D-CA)	Extortion (1995)
Charles Wilson (D-TX)	Agreed to pay \$90,000 fine to Federal Election Commission (1995)
Joe Kolter (D-PA)	Fraud and conspiracy (1996)

Dan Rostenkowski (D-IL)	Mail fraud (1996)
Wes Cooley (R-OR)	Lying about war record in Official Voter Pamphlet (1997)
Jay Kim (R-CA)	Campaign finance violations (1998)
Mary Rose Oakar (D-OH)	Financial disclosure irregularities (1998)
Austin J. Murphy (D-PA)	Voter fraud (1999)
<i>Note: This list does not include many lawmakers who have been disciplined or rebuked by Congress's own internal investigators, such as Bob Packwood (R-OR) and Newt Gingrich (R-GA). Nor does it include charges that were later dropped.</i>	
<i>Source: NTUF Staff research of Washington Post archives and Congressional Quarterly Yearly Almanacs.</i>	

### ***Selective Enforcement – Paid to Play***

In addition to exempting themselves from laws that apply to others, Members of Congress also exempt themselves from laws that apply to -- well, themselves.

Under Section 39 of Title II of the United States Code (U.S. Congress), a lawmaker's pay must be docked for "each day" he has been absent from the Senate or House, "unless such Member assigns as the reason for such absence the sickness of himself or of some member of his family."

In a complaint filed with the House Ethics Committee in 1994, the National Taxpayers Union cited then-Speaker Thomas Foley (D-WA) for "neglecting his legal duty to make a good faith inquiry into whether salary deductions under [the law] are required because of unjustified absenteeism." The complaint provided three concrete examples:

- Rep. Craig Washington (D-TX), who lost his primary election on March 8, was absent for 60 days through September 28 of that year. Total minimum salary overpayment: \$21,961.64.
- Rep. Jim Slattery (D-KS) seemed to have been absent 40 days in 1994 while campaigning for Governor of Kansas. Total minimum salary overpayment: \$14,641.10.
- Rep. Fred Grandy (R-IA) apparently spent most of May and the first week of June that year running for Governor of Iowa. Total minimum salary overpayment: \$10,980.82.<sup>93</sup>

Many taxpayers would object to being forced to subsidize electoral bids for higher office, but they would be treated to an ethical quagmire of a different kind in 1995. With the assistance of the National Taxpayers Union, a group of GOP lawmakers attempted to persuade then-Speaker Newt Gingrich (R-GA) to dock the pay of Reps. Mel Reynolds (D-IL) and Walter Tucker (D-CA), each of whom had been paid more than \$10,000 in Congressional salaries while being absent to stand trial for sexual assault, obstruction of justice, and extortion charges.<sup>94</sup>

Both sets of complaints fell upon deaf ears, but the issue of no pay for no work is as current as today's headlines. Questions of law notwithstanding, the ethical question remains:

will Senator Joe Lieberman (D-CT) reimburse the Treasury for any absences he may have due to campaigning with Al Gore? Time will tell.

### ***Gift Ban – Political Football***

In recent years, the House and Senate have enacted restrictions on the acceptance of gifts that would seem extremely tough to outsiders. But when the insiders get to write their own rules, the fine print can contain a few surprises. For example, aside from banning certain gifts of any value under certain categories, those gifts that may be accepted are subject to a per-gift cash-value limit of less than \$50, along with an annual limit from each source of less than \$100.<sup>95</sup> But how can one value a favor? The National Football League, which was recently given a lukewarm reception in hearings on tax-funded sports stadiums, “put a very limited number of tickets aside for leaders on both the national and local level” for Super Bowl XXXIV, the *National Journal* reported. Offering them for free could violate gift ban rules, so Members must pay the face value of \$300 per ticket.<sup>96</sup> Given the scarcity of these tickets, however, many football fans would regard this as a small price indeed.

## **Congressional Salaries: Case Study for Perquisite Perfidy**

Normally, a paycheck provided to a worker for services rendered would not be considered a “perk,” but rather as the *Webster’s* definition implies, “regular profit or pay.” In the case of Congress, however, the matter has never been this simple. The *ability to disguise the cost or intent behind a salary increase* has often served as a “perk” that lawmakers have used to their advantage.

This paper treats the topic of pay raises at length, but not because of their durable history or their expense. Rather, the maddening mechanics of pay raises capture perfectly the underlying public resentment of Congress’s other perks.

### ***A Perpetual Public Sore Spot***

Since the beginning of the federal system, proponents of Congressional pay hikes have given the same reasons to justify their position, such as economic necessity, equity with other workers, or as a reward for a job well done. Opponents have argued just as forcefully to the contrary.

The economic case for raises often rests on tenuous assumptions. In 1989, the House passed a bill that became law that adjusted salaries to a level of \$125,100 (the Senate followed shortly thereafter). Four subsequent COLAs have raised the annual remuneration to \$141,300. Yet, according to NTUF calculations, the inflation-adjusted salary for Members of Congress averaged just \$81,802.80 from 1900 to 1988 (in 1988 dollars), the year prior to enactment of the pay raise law. Against this historical perspective, inflation has not seriously eroded the value of a Congressional salary.

Other economic measurements likewise confirm that Member salaries are not “losing ground” with the cost of living. Actually, as Table 4 indicates, lawmakers’ pay in the 1990s was close to the postwar high.

In any event, legislation passed by Congress often directly impacts the level of inflation, which ideally should be close to zero percent. Unfortunately this has not been the experience of workers in the private sector, who must live with inflation but (outside of union contracts) rarely have guaranteed COLAs in their salaries. Indeed, even those citizens fortunate enough to benefit from the economic boom in real incomes have seen their gains eaten away by “progressive” income taxes.

<b>Table 4. Falling Behind or Running Ahead?</b> <b>Congressional Salaries Over the Past 60 Years</b> (By Decade, in <u>Constant</u> (1996) Dollars)	
<b>Years</b>	<b>Average Constant Salary</b>
1940-49	\$102,861
1950-59	\$110,993
1960-69	\$130,406
1970-79	\$134,549
1980-89	\$105,651*
1990-99	\$134,158*

\* Reflects weighted average to account for different levels of House and Senate salaries during this period.  
 Source: NTUF Staff calculations from Congressional salary data, using composite deflators for 1940-99 as reported in The Budget for Fiscal Year 2001, Historical Tables, Table 1.3.

The political case for pay increases is on similarly shaky ground. If the currently robust economy turns sour, such increases will fuel public suspicion that Congress has shielded itself from the effects of its own policy errors. If economic performance continues to shine, Congress’s attempts to enact only modest tax reductions while rewarding itself with raises will prove equally irritating to Americans.

Additionally, salary increases leave Members in a weaker position to defend themselves from charges of self-interest, whenever big-spending lobbies agitate for their undeserved “share” of federal budget surpluses.

In the end, the ultimate argument against large boosts in legislative pay is not public dissatisfaction with Congress’s job, but lawmakers’ *lack* of dissatisfaction with being in Congress. In most modern election cycles, the voluntary departure rate among Members of Congress has rarely risen above 10 percent<sup>97</sup> -- hardly an indication that the Capitol is destined for widespread walkouts any time soon.

These aspects aside, Congress's first "perk" -- the privilege of deciding how much lawmakers should be paid -- has legal dimensions as well.

### ***An Ongoing Constitutional Question***

According to Article I of the U.S. Constitution, compensation paid to Members of Congress "shall be ascertained by law." The Founding Fathers intended Congress to set its own pay through the appropriations process, on the supposition that Members would be guided by their own sense of honor. In fact, lawmakers lived without a yearly salary up until 1854,\* having contented themselves prior to that time with a per-diem system that paid a flat rate for each day Congress was in session.<sup>98</sup>

Thomas Jefferson believed that the system of representative government would automatically discipline lawmakers who voted for unduly large pay hikes, whatever form they took, and that it would even punish those who "skulked from the vote." Gouverneur Morris seconded that opinion when he argued that "there could be no reason to fear that they would overpay themselves."<sup>99</sup>

Not all of Jefferson's contemporaries agreed. In the very first Session of the United States Congress (1789), James Madison proposed an amendment to the U.S. Constitution that would force Members of Congress to submit to an election before any pay increase they voted for themselves could take effect. At the time he submitted his proposal, Madison argued that "there is a seeming impropriety in leaving any set of men, without control, to put their hands into public coffers to take money to put in their own pockets."<sup>100</sup>

Though the First Congress adopted his amendment, only 6 of the then-needed 11 states ratified it. But Madison's idea for controlling the legislative branch never died because the First Congress set no deadline for ratification by the required number of states. This fact would come back to haunt Madison's successors nearly two centuries later, and would lead to a bittersweet victory for citizen activists.

Why did the Framers occupy themselves with such a seemingly small matter? One reason may be that unlike the traditional relationship between a private employer and employee, the link between lawmakers and their "employers" -- American taxpayers -- is more complex. Without a system of regular and binding referendums, citizens cannot have the kind of direct input into the salaries of elected officials that some states and localities permit.\*

Many attempts have been made to resolve this dilemma, often through clumsy mechanisms that achieve the opposite of their desired effect: to make lawmakers accountable

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\* In 1816, an act of Congress was passed to replace the daily stipend with a \$1,500 annual salary, a compensation boost of 60 percent. The law was repealed in 1817 under public pressure.

\* To cite just two examples in the current election cycle, Arizona's Proposition 300 proposed a \$6,000 pay raise for State Legislators, while Missouri's Constitutional Amendment 3 limited the power of the State Legislature to exceed increase recommendations of the Citizens' Commission on Compensation.

for decisions regarding their own compensation. These efforts would sow the seeds of a spectacular citizen revolt that was nourished by a brand new medium.

### ***Pay Revolt Becomes Perk Revolt***

In 1953, Congress created the Commission on Judicial and Congressional Salaries in order to make “impartial” salary recommendations for senior officials of those branches of government. The panel’s recommendations would then have to be enacted into law by an affirmative vote of Congress. The result was the single largest pay hike in history for U.S. lawmakers -- an 80 percent raise to \$22,500 per year.

But even then, Members of Congress were concerned over the public’s reaction to the Commission system. In March of 1964, when the government was facing a budget deficit, the House balked at raising its rank-and-file pay to \$32,500, and consented to a smaller increase later that year after primary election season had passed.

In an attempt to avoid a repeat of this potentially embarrassing spectacle, Congress’s Salary Act of 1967 created a new Quadrennial President’s Commission on Executive, Legislative, and Judicial Salaries, which two years afterward (!) dutifully recommended a 67 percent raise. This time around, however, the affirmative Congressional vote requirement was turned on its head -- the Commission’s pay hike recommendations would take effect automatically, unless one chamber of Congress explicitly voted to *block* the raises. The dubious tactic succeeded (although the President trimmed the final increase to just over 40 percent).

The next round of the Quadrennial Commission’s raises for Congress were turned down in the 1974 election year, but by 1975 lawmakers had crafted a new deal with President Ford that would allow them to receive the same cost of living increases in pay as other federal employees, provided they furnished funding for them through the appropriations process. Again, public pressure forced lawmakers to relent and exempt themselves from the COLAs in 1976. During 1981, Congress had found a way around the appropriations vote requirement, and salaries began a more regular upward climb.

But by 1985, the straw that finally broke the public’s back was about to be drawn. Owing to an adverse court decision, Congress created even more loopholes in the original Commission-recommended pay hike process. From that point on, blocking a salary increase would require action by both chambers, not just one, and Congress had only 30 days from when the President submitted his budget to clear the resolutions of disapproval.

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**“Congress voted themselves 125,000 bucks.  
I can’t make that around here.”**

*Former Member of Congress Bob Price (R-TX)*



On February 4, 1987, both Houses of Congress voted to turn down a \$14,400 pay raise proposed by President Ronald Reagan in his January budget message. Unfortunately, this was one day after the 30-day deadline had expired. The raise could therefore take effect even though every Member of Congress was permitted to go on record against it.

This was no accident. According to accounts from the government relations staff of the National Taxpayers Union, their efforts to force a vote against the raise within the 30-day window were "stymied by the Democratic leadership of both Houses, who managed to schedule a two-week vacation into the intervening period and to delay action until February 4."<sup>101</sup>

During that time, NTU had also co-filed a lawsuit with Members of Congress attempting to overturn the 1985 law, on the grounds that it amounted to "an unconstitutional delegation of power from the Congress to the President," and violated the Constitutional requirement that Congressional salaries be "ascertained by law." The suit also argued that the 30-day "clock" should have begun ticking on the day Congress actually convened, and therefore the disapproval resolution was binding. U.S. District Court Judge Louis Oberdorfer subsequently rejected the suit, arguing that Congress did not breach the ascertainment clause because it specified a limited disapproval deadline and could always revoke raises after they took effect.<sup>102</sup>

Congressional leaders, assuming they were vindicated in a court of law, were apparently confident that the 1988 Quadrennial Commission's recommendation for a 51 percent salary hike would sail through Congress the following year. But then another gavel was set to fall in the court of public opinion.

On the December 16, 1988 anniversary of the Boston Tea Party, Detroit radio talk show host Roy Fox was railing against the Commission's pay recommendations when a listener suggested another "tea party." Fox liked the idea so much that he in turn urged his audience to send tea bags to the President with notes containing the message, "Read my tea bag. No 50 percent raise."<sup>103</sup>

Over the following week, the National Taxpayers Union mailed more than 113,000 letters to its own activists across the country, urging that the same steps be taken. By then NTU began reaching out to other hosts and D.J.s with its appeal. The group also enlisted consumer advocate Ralph Nader to the cause. By February 1989, nearly 200 stations were backing the tea bag campaign, and were even inspiring listeners with a song volunteered by the band Wood, Boehms, and Grass entitled, "Tea Bag Revolution."

House Speaker Jim Wright (D-TX), unmoved by the public display of outrage, remained convinced that he could stall any vote to disapprove the pay hike until after February 8 (the 30-day deadline), thus making it another pointless political gesture. But Wright would be done in by his own reliance on parliamentary parlor games.

On February 6, Rep. William Dannemeyer (R-CA) successfully engineered a House debate rule that would force his colleagues to go on record, either for the raise itself or on a motion to affirmatively adjourn and duck the issue. A mere voice vote to get out of town and let the raise take effect was no longer possible. When Rep. Tony Coelho (D-CA) motioned to adjourn the House, Dannemeyer demanded a roll call vote, which failed 88-238. The next day an up-or-down vote on the raise was held and rejected by wide margins in both chambers.

The resulting media reaction was phenomenal. *Newsweek* declared that “Not since the Iran hostage crisis has there been such a firestorm of public outrage.”<sup>104</sup>

Rather than accept their rebuke from the public, in November 1989 Congressional leaders stunned citizens with a lightning bolt of their own. They embarked on an attempt, in the words of *Congressional Quarterly*, “to recast the pay issue as part of a drive to wean public officials from private largess by linking the pay raise to new limits on outside income.” The result was a new “ethics law” that prohibited Members from accepting most honoraria from interest groups, in exchange for House and Senate pay hikes of 40 percent and 10 percent, respectively (later in 1991 the Senate equalized its pay with the House).

In order to deny citizen groups the time they needed to mobilize taxpayers against the bill, a “bipartisan leadership task force” crafted the legislation in secret, and kept the lid on any details up until the very week before the bill was rushed to the House and Senate floors. Democrat and Republican campaign chairs also signed a “non-aggression pact” that promised to “publicly oppose using the vote as a campaign issue” in 1990.<sup>105</sup>

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**“There’s no more money, we’re as angry as can be, So  
we’ve joined the Tea Bag Revolution,  
Repeating history.”**

*Lyrics from pay raise protest song by Wood, Boehms, and Grass  
(1989 – Copyright: Keith D. Wood)*

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But taxpayers fought back, using a tool the Founders gave them. On May 7, 1992, less than 3 years after the November 1989 pay raise debacle, Michigan became the 38<sup>th</sup> required state to ratify James Madison’s Constitutional Amendment that stipulated, “No law varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened ...” Still, the National Taxpayers Union had to take its case to court, and in this instance argued that the new 27<sup>th</sup> Amendment prohibited a

Congressional “Cost of Living Adjustment” proposed after the 1992 election from taking effect in 1993.

In December of that year, federal Judge Stanley Sporkin struck down the suit, and agreed with lawyers representing Congress and the Administration that COLAs were not actually “pay raises” covered by the Amendment.<sup>106</sup>

### ***Lessons Learned, Experience Earned***

Since Sporkin’s ruling, lawmakers have accepted 4 “COLAs” in the last 8 years, with another slated to take effect in 2001. At that point, Congressional salaries will likely exceed \$145,000. COLAs now take effect once the Treasury/Postal Appropriations Bill becomes law, although taxpayers would never be able to identify any language in the bill that appears to authorize these pay grabs. Members of Congress would need to specifically vote on, or insert, language blocking the raise if they do not want the increase to occur.<sup>107</sup>

Taxpayers are thus condemned to fight a bizarre annual battle over a COLA whose existence is only recognized when Congress opts to block it. However, they have won an important restriction. The 27<sup>th</sup> Amendment should block any and all pay hikes that are *not* triggered by the 1989 ethics law’s definition of a “COLA.”

Arguably, the machinations over pay raises have set the classic 4-step pattern for all other Congressional benefits that have since followed: 1) Create the benefits in secret; 2) Conceal their value from taxpayers once discovered; 3) Preserve as much of that value as possible when taxpayers demand reform; and, 4) Restore the benefits to their full value or create others when public resentment fades.

This pattern is evident in other perks described throughout this paper, from pensions to airport parking to the franking privilege. How can this destructive cycle of deceit be broken?

## **Conclusion: Perks that Work for Taxpayers**

Nearly every private-sector position in America has at least some kind of perquisite. Some stores allow salespeople a discount on items they buy for their own personal use. Many administrative firms allow employees to use office supplies, copy machines, and telephones for a modest amount of personal business. An increasing number of idea-based Internet companies are providing substantial exercise and entertainment facilities to enhance their employees’ creativity.

Yet, these perquisites do not function in a vacuum. Employers offer comfortable work environments, tokens of appreciation, insurance benefits, and retirement security not only out of conscience but also out of the expectation that employees will make more and better

contributions to the company's growth and profitability. In short, private-sector perks are incentives intended to work for the good of the economy as a whole.

With a few notable exceptions, public-sector perks for Members of Congress seem to have been designed with the same *intent*, but not the same *result*. When the "company" becomes our country, its "growth and profitability" comes at the *expense* of the economy as a whole.

Numerous studies point to the desirable economic effects of spending and tax restraint on the state, federal, and international levels.<sup>108</sup> Accordingly, in order to make Congressional perks work for taxpayers as well as lawmakers, they must be designed to promote legislative behavior that aims for true efficiency and a reduction of the public sector's control over private resources of all kinds.

### ***Promote Performance Pay***

Linking Congressional salary increases to rises in inflation only discourages lawmakers from carefully considering the consequences of the economic policies they enact. Basing merit pay on the existence of a balanced federal budget may have seemed far-sighted ten years ago, but if such a scheme were in effect today, it would merely reward Members for keeping record-level federal revenues in Washington rather than refunding them to taxpayers.

Apart from a compensation system guided by binding national referendums, an ideal arrangement would de-link pay raises from inflation, would subject all pay hikes to the strictures of the 27<sup>th</sup> Amendment, and would provide an incentive for Members to shrink or control the growth of the federal sector. One option would be to allow Senators and Representatives to receive an *increase* in salary equivalent to the percentage of *reduction* in total federal expenditures that occurred in the prior fiscal year (allowing for an election before the raise takes effect). At the very least, Congress should schedule up-or-down votes on any pay "COLAs" generated by the 1989 law.

### ***Retire the Pension Plan***

The face of American retirement planning has changed for the better with defined contribution plans, IRAs, and other tax-advantaged vehicles that rely on individual investment accumulations. Congress could scrap the defined benefit portion of its pension system. All such pension accruals could immediately cease (previously-earned benefits would probably have to be excepted for legal reasons). The only remaining Congressional pension could be participation in the Thrift Savings Plan, with a reduced matching rate for contributions from a Member's own salary that more closely reflects the private sector. The size of the pension would therefore be based on the health of the economy overall, because the pension contributions themselves would be invested in bond and stock markets.

A minimal step toward reform could begin with the suspension of additional COLAs. As an alternative, Congress could limit its own pension COLA to the actual dollar amount of the annual Social Security COLA.

### ***Get Frank with Franking***

The House should slash its own postage spending and ban unsolicited mass mailings during an election year. The lower chamber can also easily follow the Senate's lead by adopting more restrictive dollar limits on the use of the frank.

Additionally, Congress should consider tightening content and expenditure restrictions on all forms of constituent communication, including the practice of sending unsolicited ("spam") emails.

### ***Institute Real-World Fees***

Customers and shareholders can vote with their dollars if companies offer too many perks to top-level executives. Taxpayers cannot readily choose which federal government to use. This means Congress has a special responsibility to minimize its own perks and avoid the appearance of abusing tax dollars.

Short of this wholesale reevaluation, Congressional administrators could conduct a benefit survey of Washington, DC-area private firms to determine the typical fees and employer subsidies for health care, life insurance, parking, and gymnasiums, and apply them to Congress.

### ***Live by the Law***

It is time to end taxpayer subsidies for the campaigns of lawmakers seeking higher office, by enforcing the historical no work, no pay law. By instituting other reforms to pensions and tax privileges, lawmakers could also gain a valuable appreciation of the difficulties that typical citizens face in navigating through the maze of federal regulations.

### ***No More Secrets***

Since 1995, dramatic improvements in the financial reporting of the Chief Administrative Officer of the House enable public review of most office spending by Representatives. This light of accountability has yet to shine as brightly on the Senate's practices, and bookkeeping in all areas of Congress, especially in its travel operations, could stand improvement. Citizens deserve to see how their tax dollars are being spent, without exhausting disclosure battles or inconvenient access restrictions.

### ***Set Limits***

Term limits for Congress could free Members from the insular mentality that can grow with time in office -- as well as the temptation to establish perks that set them above the populace they serve.

Indeed, this one change could make it easier for lawmakers to earn the incentive pay described earlier. NTUF recently found that on average, Representatives first elected in 1994 who pledged to limit their tenure in office sponsored legislation during the 1999-2000 Congress that would reduce federal spending by \$27.2 billion annually. By contrast, the number of non-“self-limiters” from the Class of 1994 whose overall agendas would cut federal spending has plummeted. Whereas in the 1995-96 Congress almost 3/4 of freshman Members had agendas to reduce spending, in the current Congress fewer than half of them do.<sup>109</sup>

America is at a fiscal crossroads. Massive budget surplus projections for the years ahead will depend upon our leaders’ ability to control the growth of federal spending, reform the tax system, reshape entitlements, and rethink regulatory policies. Taking America down these paths will require strong leadership, reinforced by lawmakers who have the exemplary moral authority to exercise such leadership. The task of restoring that authority and embarking upon this critical journey can begin by tackling the trappings of office.

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***About the Author:** Peter J. Sepp is Vice President for Communications with National Taxpayers Union Foundation. He conducted the first talk radio interviews of his career on the issue of Congressional pay raises in 1988.*

## Notes

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