

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is centered in the narrow neck of the hourglass. The text is centered within the hourglass.

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*Congress and the Internet: Highlights*

Walter J. Oleszek, Government and Finance Division

August 29, 2007

**Abstract.** The relationship between Congress and the Internet is complex and multifaceted. Today, scores of technology measures are introduced in the House and Senate, influencing the work of nearly all congressional committees and Members and spawning the growth of a new array of interest groups. The Internet's influence is evident within and between the chambers of Congress. Despite widespread discussion about how the Internet will revolutionize legislative politics and policymaking, Congress usually reacts cautiously to the use of new technologies. This report explores how new technologies are introduced to Congress; discusses the impact of the Internet on two key centers of institutional power - committees and political parties - and provides a number of summary observations about the internet and congressional governance.

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# Congress and the Internet: Highlights

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August 29, 2007

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## Summary

The relationship between Congress and the Internet is complex and multifaceted. Today, scores of technology measures are introduced in the House and Senate, influencing the work of nearly all congressional committees and Members and spawning the growth of a new array of interest groups. The Internet's influence is evident within and between the chambers of Congress.

Despite widespread discussion about how the Internet will revolutionize legislative politics and policymaking, Congress usually reacts cautiously to the use of new technologies. This report explores how new technologies are introduced to Congress; discusses the impact of the Internet on two key centers of institutional power—committees and political parties—and provides a number of summary observations about the internet and congressional governance.

This report will be updated only if warranted by new developments.

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## Introduction

The pace of technological change in today's society is truly remarkable. "Moore's law" is a good example. Gordon Moore, former head of the world's largest semiconductor maker (Intel), correctly predicted in 1965 that the computing speed of silicon chips would double every year.<sup>1</sup> Rapid advances in telecommunications have ended the constraints of time and distance and led commentators to call ours the "Information Age," the "Knowledge Society," the "Digital Age," or the "Networked Nation." Personal computers, BlackBerry®, laptops, interactive television, wireless networks, and more are technological devices reshaping the habits and routines of individuals and institutions, including the U.S. Congress.

The relationship between Congress and the Internet is multifaceted. The emergence of any major technological development (railroads, radio, automobiles, etc.) always give rise to legislative debates about the need for new tax, regulatory, or management laws. The Internet is no exception. It has expanded the legislative agenda and influenced aspects of the lawmaking process. Congress is now grappling with a host of complex Internet-related issues heretofore not on its agenda, such as the extent to which copyright protections should be extended to material transmitted in cyberspace or whether state and local governments should collect sales taxes on goods and services traded on the Internet.

Today, scores of information technology bills are introduced in the House and Senate in each Congress, influencing the work of nearly all congressional committees and Members and spawning the growth of a new array of interest groups. For example, after ignoring Washington for years, Google embraced the lobbying world "in a scramble to match bases long established here by competitors like Yahoo and Microsoft, as well as the deeply entrenched telecommunications companies."<sup>2</sup> Thus, the invention of the internet as a new communications medium formed by the interconnection of numerous computers has led Congress into new frontiers of lawmaking, oversight, and representation.

The Internet's influence is also evident within and between the chambers of Congress. Nearly every nook and cranny is filled with diverse technologies. For example, Member and committee offices are "wired" to various electronic networks; numerous data bases available via the Internet; provide lawmakers, committees, and staff aides with a wide range of information; legislative support units, such as the Congressional Research Service, Government Accountability Office, or Government Printing Office, integrate the Internet into their work; committees and lawmakers maintain their own websites.<sup>3</sup> Each chamber has its own intranet; thousands of staff use BlackBerry® or other portable devices; and the exchange of legislative e-mail addresses is as common as trading telephone numbers. There is even a bicameral, bipartisan Internet Caucus which has as one of its prime goals moving Congress ever more quickly into the information age. Outside organizations such as the Congressional Management Foundation and The Congress Online Project (affiliated with George Washington University) provide relevant information and ideas to congressional offices on how they might enhance their use of electronic communications.

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<sup>1</sup> Paul Abrahams and Louise Kehoe, "Moore's Law Sets the Pace of Progress," *Financial Times*, June 2-3, 2001, p. 7.

<sup>2</sup> Kate Phillips, "Once a Maverick, Google Joins the Lobbying Herd," *New York Times*, March 29, 2006, p. A1.

<sup>3</sup> Kelly McCormack, "Congressional Websites," *The Hill*, June 20, 2007, p. 34.

Despite widespread discussion about how the Internet will revolutionize politics and policymaking, Congress usually reacts cautiously to new complexities and innovations. “The Congress never moves as fast as the rest of the world does,” said one senator.<sup>4</sup> Long-standing traditions, customs, and procedures exert a powerful influence in both the House and Senate and inhibit frequent changes in the way Congress conducts its day-to-day work. However, Congress also recognizes that, “ready or not,” it must adopt certain new technologies both to enhance lawmakers’ performance and to remain a relevant and effective branch of the national government.

The purposes of this report are several: explore how new technologies are allowed in or introduced to the Congress; discuss the impact of information technology on the two principal centers of institutional power—committees (jurisdictional competition, for example) and parties (communications strategies, for instance)—and provide a number of summary observations about the Internet and congressional governance.

## Technological Innovations Come to Capitol Hill

Members of Congress often approach the application of new technology to legislative processes with a mix of caution, skepticism, and resistance. As one lawmaker put it: “Whatever the future holds, we can be sure of one thing: At first, Congress will always be very good at resisting it.”<sup>5</sup> This general attitude among many lawmakers is understandable. Change often brings in its wake both pluses and minuses and has the potential to change the distribution of influence within Congress. Before lawmakers sign on to change, they want to know: Who stands to win or lose power with the new technology? Are there electoral risks associated with its use? What are its costs and benefits? Will Members become too dependent on the technology? How long will it be before the technology becomes obsolete? What rules or customs are likely to change if the new technology is used by the Congress? Is the new technology applicable to all the functions of Congress? What is the best way to integrate the technology into the legislative process? The list of questions can go on and on.

The point is that just because new technologies are constantly developed and marketed does not mean they will find ready acceptance in the Congress or even among the general public. For example, a scholar pointed out that the video telephone was demonstrated at the 1964 World’s Fair in New York City. Although home units of the video telephone became available in the 1990s, there seemed to be little public interest in employing them.

Why? The camera would add an unwelcome burden to the technique of conversation. You would need to look your best, be careful about facial expressions (you’re being recorded), and perhaps be forced to tidy up the visible background.<sup>6</sup>

A look at the lengthy process of introducing electronic voting machines in the House, gavel-to-gavel television coverage of House and Senate floor proceedings, and computers in Congress highlights the general legislative pattern of resistance followed by embracement.

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<sup>4</sup> Edward-Isaac Dove, “Legislative Pace Appears To Be On Track,” *The Hill*, July 25, 2001, p. 29.

<sup>5</sup> Susan Crabtree, “Congress in the 21<sup>st</sup> Century,” *Roll Call*, January 24, 2000, p. B-1.

<sup>6</sup> Edward Tenner, “We the Innovators,” *U.S. News & World Report*, January 10, 2000, p. 75.

## Electronic Voting

On June 1, 1869, Thomas Edison was granted a patent by the U.S. Patent Office for his electric vote recorder. “Having observed the great loss of time attending roll calls for votes in Congress,” Edison conceived the idea for an electronic voting machine.<sup>7</sup> He explained that the places where lawmakers sat would be wired to a central receiving instrument:

In front of each member of the House [would be] two buttons, one for aye and one for no. By the side of the Speaker’s desk was erected a square frame, in the upper part of which were two dials, corresponding to the two classes of votes. Below the dials were spaces in which numbers appeared. When the vote was called for, each member pressed one or another of the buttons before him and ... the number of votes appeared automatically on the record. All the speaker had to do was to glance at the dial and announce the result.<sup>8</sup>

Edison believed that his voting machine would win wide acceptance by state legislatures and the U.S. Congress. He was wrong. For example, the Massachusetts Legislature rejected Edison’s machine on the ground that it would infringe on the minority’s right to delay action on legislation. Undeterred, Edison went to Washington, D.C., and demonstrated his apparatus to a committee chairman whose panel was authorized to purchase such equipment. The chairman told Edison:

Young man, that is just what we do *not* want. Your invention would destroy the only hope that the minority would have of influencing legislation.... And as the ruling majority knows that at some day they may become a minority, they will be as much averse to change as their opponents.<sup>9</sup>

Still, there was some support in the House for Edison’s voting machine. On July 6, 1870, the chamber considered a report from the Committee on Rules recommending that the House experiment with a voting machine to expedite the counting of votes. “I believe a machine like this, which will facilitate the taking of the yeas and nays in this House,” declared Representative Samuel Cox of New York, “is consonant with the spirit of our progressive country and our progressive age.”<sup>10</sup> Another member, Representative Thomas Ferry of Michigan, stressed the large amount of time that would be saved by using the new voting apparatus. During a session of the 40<sup>th</sup> Congress, he said, “the roll was called three hundred and forty-six times, consuming one hundred and fifteen hours, which would be some twenty-three days, or a calendar month.”<sup>11</sup> These arguments were unsuccessful, and the House tabled (or killed) the proposition by a roll call vote of 86 to 82.

One hundred years passed before the House authorized the use of electronic voting equipment for roll call votes or quorum calls. The relevant part of Section 121 of the Legislative Reorganization Act of 1970 (P.L. 91-510; 84 Stat.1140) stated: “[U]pon any roll call or quorum call, the names of such Members voting or present may be recorded through the use of appropriate electronic equipment.” In the interim between Edison’s time and 1970, there were periodic calls from lawmakers and others to install electronic voting equipment. In 1945, for instance, two House

<sup>7</sup> Matthew Josephson, *Edison: A Biography* (New York: John Wiley & Sons, 1992), p. 65.

<sup>8</sup> *Ibid.*, p. 66.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Congressional Globe*, vol. 42, July 6, 1870, p. 5250.

<sup>11</sup> *Ibid.*

members testified before the Joint Committee on the Organization of Congress and recommended an automatic roll call device. Twenty years later about a dozen lawmakers testified in favor of electronic voting in the House before another joint reorganization committee. Then, in the midst of large public concern about secrecy in Congress, especially the lack of recorded votes in the Committee of the Whole (the prime amending forum in the House), the 1970 LRA made provision for recording the names of lawmakers either by tally clerks or an electronic device. A bipartisan coalition of lawmakers deserves large credit for generating public support for recording these votes. They employed an anti-secrecy strategy which gathered support from editorial writers and public interest groups across the country. The electronic voting provision became effective on January 23, 1973.

Periodically, suggestions are made in the Senate to permit electronic voting. On January 6, 1987, for example, Majority Leader Robert C. Byrd of West Virginia introduced a resolution (S.Res. 29, 100<sup>th</sup> Congress) to permit electronic voting on measures or matters, subject to the joint approval of the Democratic and Republican leaders.<sup>12</sup> To date, the Senate has yet to emulate the House and install electronic voting. One reason for the Senate's reluctance to modernize its voting system is that many Senators prefer the drama associated with calling the roll on highly controversial issues where the outcome is in doubt. Furthermore, during the period when the roll is called, many Senators welcome the opportunity to discuss legislative business with colleagues and to socialize with one another.

## Televising Floor Proceedings

Not until the 1970s did the House make a concerted effort to employ a technology—television—that had been in American homes a quarter century earlier. Like electronic voting, legislative resistance to television was strong. Many lawmakers argued that if floor sessions were televised, it would promote grandstanding, distort floor proceedings, encourage broadcasters to portray Congress unfairly (focusing on members reading newspapers rather than paying attention to the discussion, for example), and be too complicated and boring for the average viewer. Even as early as the 1920s, however, lawmakers began proposing radio coverage of the House and Senate and later, with the invention of television, they introduced legislation authorizing radio and television coverage of chamber and committee proceedings.

A television “first” occurred on the opening day of the 80<sup>th</sup> Congress (1947-1949), when TV coverage of the House was permitted for the first—and last—time until the 1970s. (Television was allowed in the chamber for the president’s State of the Union message or for speeches by certain dignitaries, but key party leaders opposed its wider use.) House and Senate committees were sometimes televised—for example, the nationally televised hearings in the 1950s on the communist threat or the 1960s hearings on the Vietnam War—subject to the rules of the pertinent panels. For a time in the 1950s, Speaker Sam Rayburn even banned televised committee hearings, arguing that they were not authorized by House rules. For example, on February 25, 1952, in response to an inquiry from GOP Leader Joseph Martin, Speaker Rayburn said: “There being no rule with reference to television or radio, the Chair interprets that the rules of the House shall apply to the committees whether they sit in Washington or outside of Washington.” Not until enactment of the Legislative Reorganization Act of 1970 did the House and Senate formally authorize the televising of committee hearings subject to committees’ broadcasting rules.

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<sup>12</sup> *Congressional Record*, vol. 133, January 6, 1987, p. S92.

Pressure to extend television coverage to floor proceedings, especially in the House, continued into the 1970s, a time of heightened public interest in “sunshine in government” and legislative-executive clashes over the Vietnam War. According to Donald Wolfensberger, who served as a top staff aide to the House Rules Committee’s 1975-1976 ad hoc subcommittee on broadcasting, “[w]hat gave impetus to televising House floor debates was the recognition by the Democratic leadership in early 1970 that President Richard Nixon was dominating the airwaves with defenses of his Vietnam War policies, while Congressional opponents were not being given equal access by the networks.”<sup>13</sup> Finally, after several closed-circuit tests were authorized by the Speaker, the House on March 19, 1979, went public for the first time with live floor coverage carried over the Cable Satellite Public Affairs Network (C-SPAN) whose founder, Brian Lamb, was instrumental in transforming the House floor into the “electronic gallery.”

If the House was slow to permit gavel-to-gavel broadcast coverage of its floor proceedings, the Senate was even slower. On May 2, 1924, the Senate did agree to a resolution sponsored by Senator Robert Howell, whose background was in radio, to consider the radio broadcasting of the chamber’s floor proceedings. Many senators opposed Howell’s proposal, including Majority Leader Henry Cabot Lodge, who stated: “I do not at all know whether or not the Senate desires to have everything which is said here broadcasted.”<sup>14</sup> Nothing ever came of Howell’s broadcast idea until July 29, 1986, when the Senate, after a six-week trial period, voted 78 to 21 to permit live gavel-to-gavel radio and television coverage of its floor proceedings over C-SPAN II.<sup>15</sup>

Institutional pride, competition, and self-image were among the prime factors that contributed to the Senate vote in favor of televised coverage.<sup>16</sup> Senators, who were accustomed to receiving much more publicity than rank-and-file House members, were concerned about the heightened public visibility accorded the House and its lawmakers. A telling argument for television coverage heard over and over again in the Senate was made by Majority Leader Howard Baker, “My point is that the House of Representatives will become the dominant congressional branch of government of the United States, simply because the public has access to their proceedings, if we do not provide similar access here.”<sup>17</sup> Senate Democratic leader Byrd added, “Many people think Congress is only what they see on TV—Tip O’Neill and the House of Representatives—and it

<sup>13</sup> Don Wolfensberger, “20 Years of House TV: A Bipartisan Reform For a Partisan Era?” *Roll Call*, March 18, 1999, p. 6. For more comprehensive treatments of Congress and television, see Stephen Frantzich and John Sullivan, *The C-Span Revolution* (Norman, OK: University of Oklahoma Press, 1996) and Ronald Garay, *Congressional Television: A Legislative History* (Westport, CT: Greenwood Press, 1984).

<sup>14</sup> Quoted in Richard Baker [the Historian of the Senate], “Senate Historical Minute: May 2, 1924 Radio Days,” *The Hill*, May 2, 2001, p. 6. See Len Allen, “Television From the Senate Floor,” *Senate Communications With the Public, A Compilation of Papers Prepared for the Commission on the Operation of the Senate* (Washington: GPO: 1977), pp. 87-107.

<sup>15</sup> In February 1978, Senate debate on the Panama Canal treaties was broadcast live by National Public Radio to an estimated 4.5 million listeners. See Linda Charlton, “Senate Makes Radio History, And Static, With Canal Debate,” *New York Times*, February 9, 1978, p. 15. Starting in February 1978, Senators could listen to floor debate over so-called “squawk boxes.” See Irwin B. Arieff, “‘Squawk-Box’ Loophole: Senators Can Beam Home Speeches from Senate Floor,” *Congressional Quarterly Weekly Report*, May 19, 1979, p. 948. As one journalist wrote, if Senators “stay at their [office] desks, the machine age will save them—a tiny radio squawk box brings floor debate to them, live.” See Ward Sinclair, “The Closing of the Senate Club,” *Washington Post Magazine*, April 23, 1978, p. 9. In June 1978, Speaker Thomas O’Neill announced that the “House’s public address system would be opened to broadcasters for radio coverage of floor activities.” See “Radio Gets To Pick Up House, Not Cover It,” *Broadcasting*, June 12, 1978, p. 42.

<sup>16</sup> Richard F. Fenno, Jr., “The Senate Through the Looking Glass: The Debate Over Television,” *Legislative Studies Quarterly*, vol. XIV, August 1989, pp. 313-348.

<sup>17</sup> *Congressional Record*, vol. 128, April 14, 1982, p. S3476.

shouldn't be that way.”<sup>18</sup> In the judgment of Speaker Thomas O'Neill, “They got a little tired of us grabbing the news.”<sup>19</sup> Many Senators, too, wanted their own electronic “bully pulpit” as a counterweight to the White House's.

## Computers and Congress

The introduction of information technologies to Congress was also a slow process. A lawmaker in the mid-1960s who opposed (perhaps feared) computers for Congress stated, “In my opinion, it will be a sorry day for the country when Congressmen have been replaced by computers.”<sup>20</sup> Nonetheless, there were lawmakers during this period who recognized the importance and value of technology for congressional use. They proposed legislation to encourage use of automatic data processing systems to better manage, store, and retrieve information, making Congress less dependent on the executive branch or special interests for data and analysis.<sup>21</sup> Several House and Senate committees and other legislative entities also examined: (1) where to apply computer technology (Member offices, committees, administrative units, and so on); for (2) what purposes (payroll preparation, inventory control, mail preparation, etc.); and (3) how it could best be used to assist lawmakers in making informed judgments on a myriad of complex issues.<sup>22</sup> For instance, a proposal by a committee reform panel won Senate adoption on February 4, 1977, of a resolution requiring establishment of a computerized scheduling system for all Senate committees. Still, by 1993, a report of the Joint Committee on the Organization of Congress noted:

Congress is an institution that has not kept pace with the developments in technology widely used in society. The House and Senate spend more than \$150 million per year on information and technology resources, yet critical information is often not readily available to the Members. There is little coordination between the entities that provide technological support to the Congress. Members require modern technological support to deal with the scope and variety of information on a huge span of issues. It is not being provided.<sup>23</sup>

Technological development on Capitol Hill accelerated in the mid-1990s because of the determined effort of many lawmakers to bring information age technology to Capitol Hill. Speaker Newt Gingrich was a strong champion of employing diverse technologies—the “cyber-

<sup>18</sup> Steven Roberts, “Senators Ponder Value of Letting TV in the Door,” *New York Times*, September 16, 1985, p. B6.

<sup>19</sup> Karen Tumulty, “Senate Decides to Live With TV,” *Los Angeles Times*, July 30, 1986, p. 11.

<sup>20</sup> Quoted in Rep. Fred Schwengel, “Information Handling: ‘For a Vast Future Also,’” in Mary McInnis, ed., *We Propose: A Modern Congress* (New York: McGraw-Hill, 1966), p. 312.

<sup>21</sup> For a summary overview of some of these developments, see Bruce Hopkins, “Congressional Reform: Toward a Modern Congress,” *Notre Dame Lawyer*, vol. 47, February, 1972, pp. 452-460.

<sup>22</sup> For example, in 1969 the Special Subcommittee on Electrical and Mechanical Office Equipment of the Committee on House Administration established a Working Group on Automatic Data Processing to develop an automatic data processing system for the House. Prominent outside organizations, such as the Stanford Research Institute and The MITRE Corporation, and academics (political science professors Richard Fenno, Charles Jones, and Donald Matthews, among others) served as advisors and consultants to the Working Group. See *Second Progress Report of the Special Subcommittee on Electrical and Mechanical Office Equipment*, Prepared by The Working Group on Automatic Data Processing for the House of Representatives, Committee on House Administration (October 1970).

<sup>23</sup> *Background Materials: Supplemental Information Provided To Members of the Joint Committee on the Organization of Congress*, Joint Committee on the Organization of Congress, S. Prt. 103-25, 103<sup>rd</sup> Congress, First Session (Washington, GPO: 1993), p. 1624. During 1975 and 1976, the House Commission on Information and Facilities studied, among other things, whether “the scope and complexity of the issues facing Congress may have surpassed the ready availability of the information and analysis required by Congress to deal effectively with those issues.” See *Final Report of the House Commission on Information and Facilities* (Washington, GPO: 1977), p. 1.

Congress”—to empower both individual lawmakers and individual citizens to acquire an expanded range of legislative information in a timely and cost-effective manner. An advocate of greater openness and transparency in congressional deliberations, Gingrich wanted legislative information “available to any citizen in the country at the same moment that it is available to the highest paid Washington lobbyists.”<sup>24</sup>

Soon after he became Speaker in 1995, Gingrich inaugurated a publicly available computer system called THOMAS (after Thomas Jefferson) in the Library of Congress. THOMAS, <http://thomas.loc.gov>, is an online legislative information resource that provides information (bill summaries and status updates, committee reports, the *Congressional Record*, etc.) previously accessible only to Capitol Hill staff and Washington lobbyists. This internet-accessed system was a watershed event for it made the legislative process more transparent and promoted the availability of materials about the Congress. Not everything of legislative significance is available on THOMAS, such as the “chair’s mark” (the draft legislative text) to be considered during the committee amendment, or markup, stage), but THOMAS provides a large amount of current and unfiltered information about Congress to the general public.

In 1995, Speaker Gingrich directed a Computer and Information Services Working Group to upgrade and revamp the House’s information system. Two years later, the Speaker supported adoption of a new House rule: “Each committee shall make its publications available in electronic form to the maximum extent feasible.” Previously, committee publications were available only in printed form. Two years later, the Library of Congress and the Congressional Research Service, at the instruction of the Senate Committees on Appropriations and Rules and Administration, brought online a legislative information retrieval system (the LIS) that is “available only within the legislative branch.”<sup>25</sup> In 2007, Speaker Nancy Pelosi urged all House committees to utilize technology to provide live broadcasts of their hearings online (“Webcasts”) so as to make the legislative process “fully accessible and transparent” to the public.<sup>26</sup> (A number of outside entities, such as the Sunlight Foundation, <http://www.sunlightfoundation.com>, strive to promote more transparency of and accessibility to the legislative branch by the citizenry.)<sup>27</sup>

To summarize, a number of significant forces and factors commonly combine to trigger technological change on Capitol Hill. First, new innovations arrive in the House or Senate because key committees and determined lawmakers champion their value. Second, external challenges from the White House or other places require the House and Senate to embrace technology as a way to modernize and strengthen their competency and effectiveness. Third, lawmakers recognize the “competitive advantage” of technology. It enables Members to better manage their workload, serve their constituents, and communicate policy and political views to a wide audience. Fourth, technology can be designed and structured to accommodate the unique requirements, responsibilities, procedures, traditions, and operations of the legislative branch.

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<sup>24</sup> Gary Ruskin, “America Off-Line: Gingrich’s Unfulfilled Internet Promise,” *Washington Post*, November 16, 1997, p. C2.

<sup>25</sup> Jeffrey C. Griffith, “Congress’s Legislative Information Systems: THOMAS and the LIS,” *Government Information Quarterly*, vol. 18, (2001), p. 45.

<sup>26</sup> Elizabeth Brotherton, “Webcasting Goes Mainstream Among House Committees,” *Roll Call*, March 7, 2007, p. 3.

<sup>27</sup> The Sunlight Foundation, in May 2007, issued its “Open House Project” report containing 10 ways to strengthen the sharing of information between Congress and lawmakers’ constituents. Two examples: require House committees to place promptly online the transcripts of their proceedings and make available to the public over the Internet broadcast-quality video of House and Senate floor activity and all committee hearings. See the website of the Sunlight Foundation, cited in the text of this report.

Fifth, the broader political environment—the ever-expanding development and use of new technology in society—fosters support for technological innovation and weakens resistance to change on Capitol Hill. Sixth, outside entities encourage wider use of appropriate technology by the House and Senate. Seventh, election results produce an influx of new Members who, having grown up using a variety of electronic devices, advocate and support technological innovation in the legislative branch. Lastly, there has been a rapid increase in the number of constituents knowledgeable in use of new technologies, such as the Internet, who are prepared to demand from Congress “better and more information, faster communication time, and ready accessibility to their lawmakers.”<sup>28</sup>

## An Overview of the Internet’s Role on Capitol Hill

Today, every lawmaker is an “electronic legislator” to one degree or another because the major functions of Congress—representation, lawmaking, and oversight—are all affected by technology. Members’ representational role has probably been affected the most by the array of new information technologies. Constituents may use e-mail to communicate their opinions around-the-clock to lawmakers.<sup>29</sup> In turn, many Members embrace the same technology to respond to voters’ inquiries. Lawmakers can use filtering techniques to distinguish e-mail messages sent by individuals from outside their district or state and choose not to respond to them. As one legislator said: “Most members are not interested in the views of those who don’t vote for them or have the potential to vote for them, so when an office is inundated with [e-mail] messages, it is sometimes easier not to respond.”<sup>30</sup>

Lawmakers also use the Internet for e-campaigning purposes—raising money, enlisting volunteers, or communicating political messages. “From a candidate’s point of view,” noted one account, “the great advantage of the Internet is that you can send a lot of information to a lot of people at minimal cost. The downside is: so can your opponents and anyone else with a keyboard or a camera phone.”<sup>31</sup> More lawmakers, too, are starting their own blogs. (A blog—short for web log—is generally a discussion of issues and events by an individual or group of contributors.) “Blogging lets me bypass [the conventional press and media] and take my message directly to many voters,” said one lawmaker. Another Member noted: “I think this whole medium has proven to be something not just for people who sit at a computer but who want to get involved” in the political process.<sup>32</sup> The Internet, in brief, expands the concept of “representation” beyond a distinct geographical area to include people who share similar interests and policy preferences regardless of their location on the planet.

Equally significant, the Internet has the potential to foster an interactive, or two-way, process of communication between Members and their constituents, as well as with other individuals and organizations. “Clearly the next phase [in Member-constituent communications] that we’re moving to is an interactive phase, and blogs or blog-like elements are part of that phase,” stated the deputy director of the Congressional Management Foundation (a non-partisan Washington-

<sup>28</sup> Dennis W. Johnson, *Congress OnLine* (New York: Routledge, 2004), p. 106.

<sup>29</sup> Elizabeth Brotherton, “E-mail Overloads Hill Offices,” *The Hill*, July 12, 2007, p. 3.

<sup>30</sup> Johnson, *Congress OnLine*, p. 101.

<sup>31</sup> “Campaigning on the Internet,” *The Economist*, March 17, 2007, p. 32.

<sup>32</sup> K. Daniel Glover, “The Rise of Blogs,” *National Journal*, January 21, 2006, p. 34. The two quotations in this paragraph are from this source.

based research organization). “Members are going to be forced to think about how to become a little bit more interactive.”<sup>33</sup>

Worth mention is that several lawmakers have created a “virtual town hall” on their website and answer questions (“Ask George,” for example) put to them by constituents. One lawmaker and his aides have consulted a large number of bloggers, policy experts, public interest groups, and citizens on various Internet issues. The Member said he will use the “information he collects to draft a bill, which he will then post online to gather more feedback before officially introducing the bill in the fall.”<sup>34</sup>

Information technology affects the congressional process in numerous other ways: from the ready supply of data and analysis for policy formulation, to the rise of e-lobbying, to concerns that some form of electronic “direct democracy” might short-circuit our representative system of government.<sup>35</sup> Today, both the House and Senate prohibit Members from using electronic devices on the floor for concern that they would disrupt the deliberative process. As a House member stated: “There is a sanctity to the floor of Congress. There are no constituents there, no lobbyists, no interests other than your colleagues.”<sup>36</sup> Another lawmaker viewed this matter differently. “It’s ridiculous that we can’t have laptops on the floor,” he said. “We could use laptops to get up-to-the-minute information while giving a speech or receive a message from a staffer about something we should mention in the speech. It would make things run that much more efficiently.”<sup>37</sup> (There are occasions when lawmakers read into the *Congressional Record* information from their BlackBerry® that has been e-mailed to them by their staff.)

As for Congress’s oversight role, computer-based technologies are increasingly being employed by committees to monitor executive branch performance and to receive relevant information from administrative entities. A few examples illustrate the point. The House and Senate Appropriations Committees rely upon information technology to track the fiscal expenditures of executive agencies and programs and evaluate their performance and cost-effectiveness. A March 2006 study of the Federal Aviation Administration (FAA) by the Government Accountability Office highlighted the user-friendly “For Congress” page on its website. The site provides a single point of access for information and analysis relevant to congressional oversight of the FAA. Two Senators established a website “to collect ideas from citizens on how the government might offer more services and better online information.”<sup>38</sup>

In 2006, President George W. Bush signed the Federal Funding Accountability and Transparency Act into law. A number of House and Senate members advocated enactment of this legislation. Informally called the “Google your government” law, it requires the Office of Management and Budget in 2008 “to provide a user-friendly, searchable database” of nearly \$1 trillion in federal grants and contracts.<sup>39</sup> The law would enable any interested citizen or watchdog group to monitor

<sup>33</sup> Staci Zavattaro, “Members Seeing Advantage Of Plugging Into Blogosphere,” *CongressDailyAM*, October 25, 2005, p. 8.

<sup>34</sup> Joelle Tessler, “Virtual Lawmaking,” *CQ Weekly*, August 6, 2007, p. 2341.

<sup>35</sup> Rep. David Dreier, “‘Virtual Congress’ Would Weaken Deliberative Process,” *Roll Call*, December 20, 2001, p. 8.

<sup>36</sup> Kathy Kiely, “Capitol Hill At a Crossroads on Info Highway,” *USA Today*, November 3, 1999, p. 24A.

<sup>37</sup> Crabtree, “Congress in the 21<sup>st</sup> Century,” p. B-6.

<sup>38</sup> Ben White, “Senators Go Looking for E-Ideas,” *Washington Post*, May 19, 2000, p. A29.

<sup>39</sup> Bill Myers, “‘Google your government’ Database Bill Signed Into Law,” *The Examiner*, September 29, 2006, p. 17. See CRS Report RL33680, *The Federal Funding Accountability and Transparency Act: Background, Overview, and Implementation Issues*, by Garrett Hatch.

federal spending, thereby providing greater transparency and accountability to the government's funding decisions. No doubt many "citizen auditors" would make their evaluations of federal expenditures known to congressional lawmakers and committees.

Relatedly, a Senator has declaimed that Congress needs "to enlist the public's help" in monitoring the performance of executive agencies.<sup>40</sup> To do this the Senator recommends placing on the website of executive entities the home page of the Inspectors General (IGs) so IG reports can be easily accessed by interested individuals. IGs conduct investigations and audits of the agencies in which they are located to improve efficiency, end waste and fraud, and discourage mismanagement.

The Internet affects Congress's operations in more ways than can be recounted in this report. A brief mention of the Internet's impact on two key centers of power on Capitol Hill—committees and political parties—illustrates how technological change can influence the work of the Congress.

## Committees and the Internet

The Internet's effect on committees is evident in many ways, as these examples illustrate. Committees, as noted earlier, make many of their reports and documents available on their home pages. The House Education Committee became the first panel ever to create a Spanish-language website so Spanish-speakers could obtain President George W. Bush's "No Child Left Behind" legislation in their native language.<sup>41</sup> House and Senate committee may organize interactive hearings with witnesses located outside of Washington, DC, and allow viewers to e-mail their questions to committee members.<sup>42</sup> The House and Senate have procedures to utilize cyberspace to promote "earmark" (funding for projects targeted to specific locales) transparency. For example, Section 511 of S. 1 (the Honest Leadership and Open Government Act of 2007) requires that before conference reports are voted upon, they must be available to Members and the general public on a publicly available website for 48 hours. Committee staff aides share information and analysis over the internet. To be sure, outside groups use the Internet to quickly mobilize support or opposition to legislation, nominations, or other matters being considered by a committee. They may also strive to win committee assignments for lawmakers who support the group's issues.

Committee jurisdictions loom large with respect to the Internet because they are central to congressional policymaking. Which committee has jurisdiction over a bill determines how, when, and by whom the legislation is considered and whether legislation will make it to the floor. Turf-conscious chairs seek to expand (or protect) their policy domains, especially when new issues or technologies appear on Congress's agenda. As a colleague said of one committee chairman, he "thought that every bill that began with H.R. began in [his] Committee."<sup>43</sup> Committee leaders may seek to exploit ambiguous committee boundaries or referral precedents to lay claim to emerging or emergent issues.

<sup>40</sup> *Congressional Record*, vol. 153, July 25, 2007, S9888.

<sup>41</sup> *CongressDaily/PM*, July 9, 2001, p. 7.

<sup>42</sup> See, for example, Sean Piccoli, "Hill Samples 'Third Wave,'" *Washington Times*, June 13, 1995, p. A8.

<sup>43</sup> *CongressDaily/PM*, March 30, 2000, p. 6.

In a knowledge-based society, the Internet influences virtually every kind of social, legal, cultural, economic, or political activity. Understandably, lawmakers and committees want a hand in shaping its development and to obtain a “piece of the technology action” spawned by the Internet (computer security, telecommunications, encryption, wireless broadband, and the like). As a rough indicator of heightened committee and Member interest in Internet-related legislation, a search was made of the LIS (Legislative Information Service) data base using the bucket term “Internet” to determine how many measures introduced in the 104<sup>th</sup> (1995-1997) and 109<sup>th</sup> (2005-2007) Congresses referenced that word in legislation. During the 104<sup>th</sup> Congress, 26 bills introduced in the House and Senate addressed the topic of the Internet. Eight House committees and three Senate committees received the legislation. By the end of the 109<sup>th</sup> Congress, 567 measures mentioned the word Internet; the bills were referred to nearly every House and Senate committee.

Any broad policy area—energy, environment, homeland security, or health—commonly affects the jurisdiction of several House and Senate committees. It is unsurprising, then, that the Internet has spawned jurisdictional rivalries as committees strive to expand and protect their “turf” for a burgeoning policy area. A case example illustrates how turf arouses the territorial instincts of committee chairmen.

### Turf Rivalry and the Internet: An Example

When the 107<sup>th</sup> Congress (2001-2003) began, the House Energy and Judiciary panels had new chairmen because of the six-year term limit rule adopted by the House in 1995. The Energy and Judiciary chairmen both were known as strong defenders of their panel’s jurisdictional mandate. The Energy chairman teamed with his ranking minority member to introduce a bill (H.R. 1542) with over 100 cosponsors to amend the landmark Telecommunications Act of 1996. H.R. 1542 would permit the regional telephone companies, such as Verizon, to provide high-speed, or broadband, internet service over their telephone lines without opening their local telephone markets to competitive rivals (cable television companies or satellite companies, for example) as required by the 1996 Act.<sup>44</sup> A spokesman for the Energy panel emphasized that our “Committee has sole jurisdiction over telecom policy.”<sup>45</sup>

The Judiciary chairman, concerned about the bill’s anti-trust implications, launched a public lobbying campaign to win a referral of the legislation. He sent a highly detailed 11-page letter to the Speaker—and to the media—“making the case for why Judiciary should receive a sequential referral of the bill. The Judiciary chair also pressed his case with the House Parliamentarian.”<sup>46</sup> (House rules state that the Speaker refers all measures, but in practice the referral function is performed on his or her behalf by the Parliamentarian. The Senate Parliamentarian also refers legislation on behalf of the presiding officer.)

The Judiciary chair’s letter to the Speaker, which he posted on the panel’s website, detailed the reasons why his committee wanted the telecommunications bill referred to his panel. For example, he highlighted the long history of hearings (since the 1950s) conducted by the Judiciary Committee on antitrust and the communications industry. He spotlighted the legislation referred

<sup>44</sup> See Neil Munro and Geri Rucker, “The Battle for Broadband,” *National Journal*, May 26, 2001, pp. 1564-1568.

<sup>45</sup> Peter Cohn, “House Judiciary Rings Up Telecom Measure,” *CQDaily Monitor*, June 13, 2001, p. 13.

<sup>46</sup> Ben Pershing, “Sensenbrenner Goes Out of His Way to Defend Turf,” *Roll Call*, July 5, 2001, p. 3.

to Judiciary, either on an exclusive basis or jointly with the Energy Committee, that dealt with the topic. He cited reports accompanying telecommunications legislation prepared by the Judiciary Committee. He also made explicit reference to House rules which, he argued, justified the sequential referral of the Energy measure to his panel:

Rule X(1)(k)(5) of the Rules of the House of Representatives provides the Committee on the Judiciary has jurisdiction over the “[p]rotection of trade and commerce against unlawful restraints and monopolies.” In addition, Rule X(1)(k)(2) of the Rules of the House provides that the Committee on Judiciary has jurisdiction over “[a]dministrative practice and procedure.” Fundamentally, H.R. 1542 addresses a monopoly issue. It takes its place at the end of a long line of legislative efforts that confront the monopoly power of incumbent local exchange carriers in the telephone industry. For decades, such efforts have come under the jurisdiction of the Committee on the Judiciary.<sup>47</sup>

A Democratic member of the Judiciary Committee strongly supported his chair’s determination to protect the panel’s jurisdiction. He said, “I ... want to express my appreciation and fervent desire to cooperate with the chairman in a vigorous defense of the jurisdiction of this committee against any imperialist assaults by other committees.”<sup>48</sup>

In mid-May 2001, the Speaker granted a 30-day sequential referral of H.R. 1542 to Judiciary, but limited its review of the bill to provisions dealing with the Department of Justice. On June 13, 2001, the Judiciary Committee reported the broadband legislation unfavorably and with an amendment “tearing out the heart of the [Energy-reported] measure.”<sup>49</sup> In order to avoid a nasty parliamentary fight on the floor between the two chairmen, the Speaker asked the Energy chair to negotiate differences with opponents of his bill, or he would not schedule the legislation for floor consideration.<sup>50</sup> The Speaker did schedule H.R. 1542 for floor consideration, which the House adopted on June 27, 2002. The Senate took no action on the legislation.

Committees may also draft memoranda of understanding to deal with Internet issues that overlap their responsibilities. These memoranda, which have some precedential value, are usually printed in the *Congressional Record*, kept on file in the Parliamentarian’s Office, and may influence the reference of legislation implicated by these inter-committee agreements. For instance, when the House reconfigured its committee system at the start of the 107<sup>th</sup> Congress, two committees (a new Financial Services Committee and the Energy panel) claimed authority for “the electronic communications networks that automatically match buy and sell orders for stock transactions.”<sup>51</sup> In order to end the turf battle, the Speaker brokered an agreement between the two panels which was entered in the *Congressional Record*.<sup>52</sup>

<sup>47</sup> <http://www.house.gov/judiciary/broadband>, p. 1.

<sup>48</sup> Pershing, “Sensenbrenner Goes Out of His Way to Defend Turf,” p. 3.

<sup>49</sup> J.P. Cassidy, “Rep. Tauzin Needs Deal to Win,” *The Hill*, August 8, 2001, p. 23.

<sup>50</sup> *Ibid.*

<sup>51</sup> Alan Ota, “House Panels Vie for Upper Hand In Regulating the New Economy,” *Congressional Quarterly Weekly Report*, January 13, 2001, p. 133.

<sup>52</sup> *Congressional Record*, vol. 147, January 30, 2001, p. H103. It is common for committees to waive their jurisdiction over measures in the interest of expediting floor consideration. An exchange of letters is, however, usually inserted in the *Congressional Record* by the respective chairmen stating that the waiver does not constitute a precedent for any subsequent referral of legislation. In addition, the chairman of the panel which waives its jurisdictional right to a bill often states that he/she reserves the right to seek conferees in any subsequent conference with the Senate. See, for example, *Congressional Record*, vol. 147, June 13, 2001, pp. H3105-H3106.

## Parties and Policymaking

The strategy for moving or blocking major legislation is often as much semantic and technological as it is political or procedural. Congressional leaders understand the importance of these components in framing issues, molding public opinion, and generating grassroots support to achieve policy initiatives on Capitol Hill. The shrewd use of words and communications strategies—calling the estate tax the “death tax,” for example—is part of the competing stagecraft parties employ to target their message, advance their agenda, attract popular support, and sway public opinion. “Words frame people’s understanding of issues; language does our thinking for us,” remarked Professor Kathleen Jamieson. “And so the person who places vocabulary in the head of the audience controls the thought process.”<sup>53</sup> Added a House Democratic leader about the importance of communication appeals to the public, “We can do all we can with our inside maneuvering, but without the outside mobilization we’ll never achieve what is possible.”<sup>54</sup>

Technology and policy stagecraft are often interconnected elements of each party’s legislative strategy, as highlighted by these three examples. First, in 1997 legislation was introduced in the GOP-controlled Congress targeting the Internal Revenue Service (IRS) for change because of its overly aggressive approach to tax enforcement. House Republicans also sponsored a public website during Halloween to solicit “horror stories” from taxpayers whose dealings with the IRS were unpleasant and negative. The website was titled “IRS Horror Stories.” “This Halloween, the Republican Congress is unmasking the IRS for what it really is: a bureaucratic monster stalking the American taxpayer,” declared a GOP leader. “Our Web page is a silver bullet for taxpayers fighting [this governmental] beast.”<sup>55</sup> The House Republican initiative, combined with well-publicized hearings on the IRS by the Senate Finance Committee, led to enactment of the Internal Revenue Restructuring and Reform Act of 1998.

Second, President George W. Bush announced in May 2001 a comprehensive initiative to promote domestic energy production through more drilling for oil and gas, tax incentives to encourage energy production and conservation, and funds for nuclear energy research and clean coal technology. Democrats attacked Bush’s plan for emphasizing energy production over energy conservation and environmental protection. For instance, Democrats set up a “war room” in the Capitol to coordinate radio and television interviews and opened a website, <http://www.grandoldpetroleum.com>, to bolster public opposition to Bush’s plan. Republican leaders responded by creating their own website, <http://www.bushenergy.com>, to encourage supporters to telephone radio shows with the message that Bush “is doing everything he can—as soon as he can—to help Americans who are feeling the energy crunch at the gas pump and in their utility bills.”<sup>56</sup> Both parties made available briefing materials online to party members, which they could download and use in their states or districts either to attack or promote the Bush energy plan, as the case might be.<sup>57</sup> This legislation did not make it out of Congress.

Third, public anger against health maintenance organizations (HMOs) contributed to efforts by both congressional parties to take up legislation dealing with this “hot” issue. In general,

<sup>53</sup> Josh Lohmer, “Searching for Words That Matter,” *State Legislatures*, July/August 2007, p. 46.

<sup>54</sup> John Nichols, “Is This the New Face of the Democratic Party?” *The Nation*, August 6 and 13, 2001, p. 13.

<sup>55</sup> John Godrey, “GOP Sets Up Web Site to Attract IRS Horror Stories,” *Washington Times*, November 1, 1997, p. A4.

<sup>56</sup> Mike Allen, “Democrats Turn Energy on Bush,” *Washington Post*, May 20, 2001, p. A9.

<sup>57</sup> Mike Allen and Juliet Eilperin, “Bush, GOP Mount Effort to Sell Energy Plan,” *Washington Post*, June 28, 2001, p. A8.

Democrats supported more federal regulation of HMOs and Republicans leaned toward a market-based approach to health care reform. A particularly divisive issue involved the Democratic proposal granting patients the right to sue HMOs for malpractice. Republicans argued that the proposal would raise the costs of health care and serve the interests of trial lawyers, a group commonly viewed as a Democratic supporter. Democrats responded that Republicans favored the insurance companies over patients. Given sharp party differences over this issue, the stage was set for a public relations battle between the two sides.

When Democrats took over the Senate in June 2001 following Senator James Jeffords's switch of party affiliation from Republican to Independent, Majority Leader Tom Daschle successfully made chamber enactment of a patients' bill of rights his top priority. As part of the strategy to widely broadcast the Democratic health care message, Senator Daschle created an "intensive care unit" (ICU) in a leadership conference room "equipped for live broadcasts over television, radio and the Internet."<sup>58</sup> Democratic Senators went on-line to discuss HMO reform, rebut opponent's charges, and advertise the Democratic plan. Not to be outdone, Senate Republicans established their own communications unit in the Capitol dubbed the "delivery room"—after their stated goal of delivering an HMO bill that President Bush would sign into law. The GOP's room was also equipped with various technological devices "from computers for interactive chats to cameras and microphones for senators to use for interviews."<sup>59</sup> (This legislation was not signed into law.) Plainly, the internet's capacity for rapid information retrieval and instant response means that it is a technology that cannot be ignored by either party in showcasing signature issues, mobilizing internal and external support, and winning policy and political objectives.

## The Internet and Congress: Summary Views

The Internet's impact on the legislative branch is extensive because it influences nearly everything that Congress does, from policymaking to representation to Member office operations. Odds favor even more extensive use of the Internet as a new generation of technologically-sophisticated lawmakers enter the House and Senate. Today, the use of various technologies is second nature to many young congressional staff aides. They are in the vanguard of using and exploring the Internet, in part because it permits them to "get smart quickly" on issues their Members are interested in, as well as target and mobilize activists on behalf of those topics. An interesting question is the extent to which it is technology or Internet-savvy people who are changing the work routines of Capitol Hill. Needless to say, it is increasingly important in the House and Senate to combine legislative skills with technological expertise. Several other technological implications also merit mention. They include transparency, constituent communications, information access/overload, deliberation and decisionmaking, and additional considerations as discussed below.

### Transparency

New technology has produced the ability to store huge amounts of information and to retrieve it quickly and efficiently. Remarkably, there is little cost in transmitting the information, regardless

<sup>58</sup> John Lancaster and Helen Dewar, "Daschle's 'Intensive Care Unit' to Attend to Patients' Rights," *Washington Post*, June 18, 2001, p. A15.

<sup>59</sup> Helen Dewar, "Dueling Rooms," *Washington Post*, June 25, 2001, p. A13.

of the distance between the sender and the recipient.<sup>60</sup> Hundreds of websites enable citizens to access reliable information and electronic documents about Congress. These sites, whether public (the Library of Congress or the Government Printing Office, for example) or commercial (Congressional Quarterly Inc., for instance), provide an abundance of trustworthy materials about the Congress to interested individuals. Internet access not only provides opportunities for citizens to be better informed about Congress; it also strengthens their ability to hold elected officials responsible and accountable for their actions and decisions.

As more information becomes available online about Congress, there is also more demand that additional materials be distributed electronically to the public. For example, various groups have urged Congress to post online searchable voting records of lawmakers or certain reports of the Congressional Research Service. There may, of course, be many arguments raised in favor of withholding specific materials at certain times. For example, after selected House and Senate members negotiate for days or weeks to hammer out a fragile compromise which they must then “sell” to colleagues, there may be an understandable reluctance to disseminate the product to the general public before it has been reviewed by the majority and minority leaders of Congress and the White House.

## Constituent Communications

The Internet has changed the way lawmakers and their staff aides communicate with constituents. Members can quickly keep constituents updated and informed about their activities. As one Senator explained:

Our office ... uses a digital camera—which allows photographs to be downloaded, printed, and disseminated almost instantly. On a recent trip to Bosnia, for instance, I took pictures of our troops from Tennessee, downloaded them into my laptop, e-mailed them to local newspapers in Tennessee, as well as to my Washington office where they were posted on the Web for all to see. The whole process took only a few minutes.<sup>61</sup>

Cyber-savvy legislators interact regularly in “chat rooms” with constituents in their districts or states. Constituents, in turn, are able to quickly send e-mails to their Members. The ease of sending e-mails to lawmakers has sometimes produced “e-mail overload” in Congress with Members’ staff sometimes unable to be responsive to the increasing volume of e-mails flooding their offices.<sup>62</sup>

Advocacy groups, too, are able to trigger constituent e-mails at internet speed. When President Bush nominated John Ashcroft to be Attorney General, pro- and anti-Ashcroft “websites sprung up within hours of the nomination, and helped generate hundreds of thousands of messages to lawmakers.”<sup>63</sup> Today, cyber-lobbying through the Internet is an important form of grassroots activism.

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<sup>60</sup> One reason the Internet has been embraced is because sending mass e-mails does not spend lawmakers’ franking allowance.

<sup>61</sup> *Congressional Record*, vol. 144, May 22, 1998, p. S5466.

<sup>62</sup> See the report of the Congress Online Project, “E-Mail Overload in Congress,” March 19, 2001, p. 2.

<sup>63</sup> Gail Russell Chaddock, “Behind Vote on Ashcroft, A Signal,” *Christian Science Monitor*, February 2, 2001, p. 4.

## Information Access/Overload

Members are inundated with information. There is so much information created and distributed worldwide that much of it can be characterized as “negative information.” Neither legislators nor staff aides have the time to sift through the enormous amounts of available data to determine the useful from the useless. As former Senate Majority Leader George Mitchell said, “What we do not lack is the means by which to learn about issues. There is no shortage of information. There is a shortage of time.”<sup>64</sup> The Internet’s prime virtue is the speed with which it can make unmediated information and data available to policymakers. What is often lacking on Capitol Hill is the time and human resources to make sense of it all and to find the policy-shaping “nuggets” in the information deluge. Significantly, lawmakers also need an array of legitimate information sometimes not easily found on the Internet and which is more difficult to obtain or create, such as the combination of political rewards or sanctions that might encourage wavering colleagues to vote a certain way or credible defense and intelligence-related analyses relevant to the use of military power.

Lawmakers and congressional staff are mindful that information quantity does not mean information quality. Several pertinent questions they may consider per downloaded reports or studies might include Who produced the information? Why? Is it accurate, credible, and legitimate? What is the reputation of the source(s)? Does the content of the material reflect an ideological bent? Like any means of communication, the Internet can convey good and bad, right or wrong information. Members, too, are mindful of representational fairness. Not all constituents have or can use the Internet. Further, is one form of communication more valued than another—a handwritten letter or an e-mail?

## Deliberation and Decisionmaking

The range of issues that every legislator must vote upon is truly immense. On any given day, lawmakers might be required to vote on measures involving defense, higher education, abortion, taxes, or public works. To be sure, the Internet can help Members make informed decisions. As one House member stated: “You know, we’re in the information age and we’re making decisions in so many different areas that it’s a huge help. I mean, from a policy standpoint, [computer technology is] very productive for me and it’s a very productive way to learn.”<sup>65</sup>

On the other hand, numerous factors shape how legislators make choices, not just information. Constitutency-based, party-based, or ideologically-based decisions are often more important than information-based judgments. In politics, an old saying goes, facts are negotiable. Members frequently want “objective” analyses that support their policy predispositions. Masses of reliable and timely data may be of limited value to legislators making political determinations.

Paradoxically, although information and ideas can move with the speed of light, lawmaking usually requires time for reflection and reasoned deliberation. These qualities are often necessary to forge the consensus generally required to pass legislation. The legislative process is replete with political and procedural “speed bumps” that inhibit overly hasty action. A House leader in

<sup>64</sup> *Congressional Record*, vol. 135, October 20, 1989, p. S13811.

<sup>65</sup> George Archibald, “Technology Lets Lawmakers Remain Connected,” *Washington Times*, September 12, 1999, p. C10.

the “cyber-Congress” movement put it this way: “The art of politics is the art of persuasion. When you’re persuading, there’s nothing more important than face-to-face contact.”<sup>66</sup> “Virtual collegiality” through e-mails, laptops, or videoconferences is no substitute for the hard work of building personal and political relationships between or among lawmakers. “If I cannot eyeball you, I cannot see you, I cannot see your body language, I can’t really listen to you,” declared one lawmaker.<sup>67</sup> Or, as a top Senate party leader said: “The Senate leadership role is about personal relationships.”<sup>68</sup>

## Additional Considerations

The Internet has transformed much of the work of the legislative branch by integrating technology into the day-to-day activities of the institution. It has enhanced ability of lawmakers in Washington to communicate with their constituents—the aforementioned “virtual town hall meetings,” for example, or party colleagues will electronically share “good responses” to tough or critical constituent letters. The Internet’s influence on the campaign trail is well-established (think fund-raising and Web-based video or YouTube.com). It has also augmented Congress’s ability to better oversee the executive branch by fostering greater administrative transparency and serving as a vital research tool for committees, lawmakers, and staff.

Significantly, the Internet has given rise to a type of direct democracy, expanding the influence of a growing community of online activists—politically attentive “cyber-citizens” and/or bloggers. The result: lawmakers and the two congressional parties no longer exercise the degree of control or influence over legislative elections or policymaking that they once did. For example, Members who block legislation or stymie action on amendments might be encouraged to change course by a nation-wide coalition of bloggers able to generate countervailing public sentiment. “In ways big and small,” wrote a news editor, “bloggers are changing how business is done on Capitol Hill.”<sup>69</sup>

Rapid advances in communications technology, such as the Internet, and new uses for old mediums (talk radio and C-SPAN, for example) have promoted both more open government and larger opportunities for citizens to shape the nation’s laws and policies. There are pluses and minuses in having the governed influence more directly the work of the governors. As Professor Robert Dahl, the Yale political scientist, stated:

The increase in direct communication between citizens and political leaders is not, in my view, inherently unhealthy or undesirable. On the contrary, it could mark an important stage in the development of a political system that provides citizens with a greater range of opportunities for participating effectively in important decisions that bear heavily on their lives[,] which is presumably one of the major justifications for democracy. But unless the citizens who influence government because of their special opportunities for direct communication are also able to understand how policy proposals bear on their own interests, and are reasonably representative of all citizens, the result of more direct communication will

<sup>66</sup> Kelly, “Capitol Hill At a Crossroads on Info Highway,” p. 24A.

<sup>67</sup> Tom Price, *Creating a Digital Democracy: The Impact of the Internet on Public Policy-Making* (Washington, D.C.: Foundation for Public Affairs, 1999), p. 14.

<sup>68</sup> Ben Schneider, “Senate Leadership,” *CongressDailyAM*, August 2, 2007, p. 3.

<sup>69</sup> Robert Bluey, “How Bloggers...Won On Earmark Reform,” *The Examiner*, January 18, 2007, p. 18.

not be to strengthen democracy but to create a pseudo-democratic facade on a process manipulated by political leaders to achieve their own agendas.<sup>70</sup>

The Founding Fathers deliberately created representative government and not a direct democracy. As James Madison wrote in *Federalist* No. 10, representative government enlarges and refines “public views by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country....” Or as former Speaker Gingrich told one of his college classes: “Direct democracy says, Okay, how do we feel this week? We all raise our hand. Let’s rush off and do it. The concept of republican representation ... is you [elect] somebody who you send to a central place.... They, by definition, learn things you don’t learn, because you don’t want to—you want to be able to live your life. They are supposed to use their judgment to represent you.... [The Founders] feared the passion of the moment.”<sup>71</sup>

Yogi Berra, the well-known former Yankee baseball player, is purported to have said, “Prediction is very hard, especially when it’s about the future.” Nonetheless, as the nation’s populace continues to become more and better educated and as new communications technologies pervade society, it is likely that the American constitutional system will evolve to combine representative government with more direct policy-influencing participation by “We the People.”

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<sup>70</sup> Robert A. Dahl, “Americans Struggle To Cope With a New Political Order That Works in Opaque and Mysterious Ways,” *Public Affairs Report*, Institute of Governmental Studies, University of California, Berkeley, September 1993, p. 5.

<sup>71</sup> Norman Ornstein and Amy Schenkenberg, “The Promise and Perils of CyberDemocracy,” *The American Enterprise*, March/April 1996, p. 54.