□ 2100

That is why it is so important that we carry forth on this commitment to be certain that we have the right environment for an economic renaissance in this country. Small businesses are the Nation's economic engine, and Republicans have worked to reduce their tax burden so that they have the ability to create more jobs. We have passed legislation that will give them more affordable health care options for their employees, Association Health Plans and Health Savings Accounts.

Republicans have passed legislation to stem the tide of frivolous lawsuits, and we are continuing to do more on the tort reform issues.

We are planning and continue to work daily on trade and opening foreign markets for American-made goods so that our employers in our local communities have access to markets around the globe, ways that they can place their products before a world that is ready to buy them. And we are trying to make certain that manufacturers are not being treated unfairly and that they have the opportunity to be competitive in a global marketplace.

Republicans want to pass a comprehensive energy policy so that America's economic growth is not held hostage to foreign energy production. We want to harness more of our domestic energy. We believe excessive government growth in spending crowds businesses out of the marketplace. We know that when there is a need, if government fills that need, then the private or not-for-profit sector does not move in and fill that need. We know that the growth of government needs to be curtailed so that less of the taxpayers' money is being required to pay for the government, so that taxpayers keep that money in their pocket. Reducing the size of government is what we have talked about over the past couple of weeks as we have talked about rooting out waste, fraud, and abuse and reducing the size of the Federal Government.

Mr. Speaker, we have a plan that will drive economic growth, that will continue to drive economic growth. We have had 40 months of overall economic growth. We would like to see another 40 months of economic growth and job creation for Americans. We have had 2.7 million jobs created in just under the past couple of years. We have 21 months where we have seen manufacturing increases. We had our last quarter of 2004 with 3.8 percent economic growth.

The fundamental difference between Republicans and Democrats is that we have a plan to continue to drive economic growth. And all of our small business owners, myself included, we know the cost that regulation imposes and the importance of rolling back regulation.

Among the top complaints that we receive from small business owners has to do with the Federal Tax Code, the cost of compliance. The gentleman from Iowa (Mr. KING) spoke to that earlier. Twenty-two cents of every single dollar of manufactured goods in this Nation is spent in compliance. That is an obstacle that we need to get rid of, and we are committed to working on that. We know this Tax Code is overly complicated, it is time-consuming, and it is incredibly frustrating for millions of small business owners in this Nation. That is why Republicans are committed to a code that is flatter, that is fairer, and absolutely is simpler not only for individuals but for our Nation's small businesses.

Mr. Speaker, all over we have got a plan. It is the better plan. And we know the problems that are facing our Nation's economy. We know the problems that are facing this Nation's employers, whether they be small or whether they be large, whether they are small businesses or whether they are big business. And, Mr. Speaker, one thing that we know for sure in this 109th Congress, we are committed to moving forward on commonsense reforms that will continue to work toward greater effectiveness and greater competitiveness for our Nation's economy.

THE 109TH CONGRESS'S RULES PACKAGE

The SPEAKER pro tempore (Mr. DENT). Under the Speaker's announced policy of January 4, 2005, the gentleman from West Virginia (Mr. MOLLOHAN) is recognized for 20 minutes as the designee of the minority leader.

Mr. MOLLOHAN. Mr. Speaker, the 109th Congress's rules package, which was adopted this past January on a straight party-line vote, included provisions that made major unfortunate changes in the rules governing consideration of ethics complaints by the Committee on Standards of Official Conduct. I am today introducing a resolution that would amend or repeal those provisions.

There cannot be a credible ethics process in the House of Representatives unless the Committee on Standards of Official Conduct is able to consider complaints against Members and staff in a thorough, efficient, and nonpartisan manner. I am concerned that those provisions of the rules package, if allowed to stand, will seriously undermine the committee's ability to perform this critical responsibility.

The rules package made essentially three changes in the rules governing ethics complaints. The first change is the Automatic Dismissal Rule, which requires the committee to consider an act on any complaint within a period as short as 45 days or else the complaint will be automatically dismissed.

The second is a set of changes that applies where the committee, or an investigative subcommittee, decides to conclude a matter by issuing a letter, notification, or a report that refers to the conduct of a particular Member. These changes provide a number of so-called ''due process'' rights to such a Member, one of which is the right to demand that the committee establish an adjudicatory subcommittee to conduct an immediate trial on the matter.

The third change concerns the matter of a single attorney representing more than one respondent or witness in a case before the committee. Under this change, the committee is prohibited from requiring that a respondent or witness retain an attorney who does not represent someone else in the case.

Mr. Speaker, turning first to the Automatic Dismissal Rule, the Automatic Dismissal Rule constitutes a radical change in the rules governing the Committee on Standards of Official Conduct's consideration of complaints. From the time the committee came into existence until the adoption of this rule, there was only one way that a complaint filed with the Committee on Standards of Official Conduct could be dismissed, and that is by a majority vote of the committee. Because under the prior rules a complaint could be disposed of only by a committee vote, committee members were required to analyze the claims made in a complaint, to collect and consider additional information on the conduct in issue, and to discuss complaints among themselves in an effort to reach a resolution.

With the enactment of the Automatic Dismissal Rule, the need for this study, fact gathering, and discussion within the committee will be significantly reduced, if not entirely eliminated, in any instance in which five committee members are initially inclined to vote to dismiss the complaint. What incentive would those members have to give genuine consideration to the complaint? Under the new rule, they need do nothing more than sit on their hands and the complaint will disappear.

Of course, this rule change will have its greatest impact on the controversial high-profile complaints that come before the committee, but it is in the handling of complaints of that kind that the committee's credibility is most at stake. In short, while the long-term interests of the House require that committee consideration of all complaints in a reasoned, nonpartisan manner be made, the effect of the Automatic Dismissal Rule will be instead to promote partisanship and deadlock within the committee.

Why was the Automatic Dismissal Rule included in the rules package? The sole rationale that was offered for the Automatic Dismissal Rule was that it would ''restore the presumption of innocence.'' Yet how does the Automatic Dismissal Rule restore the presumption of innocence? If a complaint against a Member is dismissed automatically because of committee inaction over a period as short as 45 days, is that Member in any position to claim vindication or that his conduct has been cleared by the committee?

The far more likely effect of a dismissal in those circumstances is that there would continue to be a cloud over that Member. So this rules change, in fact, does no favor for any Member who is the subject of a complaint. And no matter what the impact of the particular Member involved, any automatic dismissal of a valid complaint would do incalculable harm to the image and reputation of the House of Representatives as an institution.

It is also very pertinent to note that about 7 years ago when the report of the House bipartisan task force on ethics reform was before the House, Members had a meaningful opportunity to consider an automatic dismissal rule and they rejected such a proposal on a strong bipartisan vote. At that time the proponents of the rule argued that it would be unfair to a Member to have a complaint pending indefinitely before a deadlocked committee and that the proposed rule was akin to a judge declaring a mistrial when a jury was deadlocked. The fallacy of that argument was exposed when it was pointed out that a judge, in sending a case to the jury, never gives a set number of days for deliberation before a mistrial will be declared because to do that may guarantee that the jury will be deadlocked.

It is also noteworthy that the Automatic Dismissal Rule that was considered and rejected in 1997 gave the committee a far longer period of time to attempt to act on the complaint. That proposal was key to a committee vote on an unsuccessful motion to refer a complaint to an investigative committee, and it provided for automatic dismissal only if the committee failed to dispose of the complaint within 180 days after that vote.

The sheer unreasonableness of the Automatic Dismissal Rule that was enacted in the rules package for this Congress in January is shown in that the amount of time allowed for committee consideration of a complaint is as short as 45 days and cannot exceed 90 days. Because under committee rules a Member is allowed 30 days to file an answer to a complaint, that means the committee may have as few as 15 days to consider a complaint and answer, as well as whatever other facts it is able to gather in that brief period of time, before the complaint is automatically dismissed.

This Automatic Dismissal Rule must be repealed, Mr. Speaker, and it would be repealed upon approval of the resolution that I am offering.

Regarding the provisions of the rules package that provide certain so-called ''due process'' rights to Members, the resolution that I am proposing does not repeal those provisions in their entirety, but it does make a significant change in them. Where the committee or an investigative subcommittee proposes to issue a letter or other document that includes comments that are critical of a Member's conduct, it is reasonable to provide that Member with certain rights, such as prior notice and a meaningful opportunity to respond.

But the so-called ''due process'' provision of the rules package goes well beyond this, for they also provide a Member with the right to demand that the committee create an adjudicatory subcommittee to conduct an immediate trial on the conduct in question.

As a practical matter, Mr. Speaker, the effect of granting this right to Members is that the committee no longer has the ability to resolve a complaint by means of a letter that is issued in lieu of undertaking a formal investigation. In other words, under the due process provisions as now in effect, the committee, as a practical matter, now has only two options regarding each of the allegations made in a complaint: send the matter to an investigative subcommittee for a formal investigation or dismiss it.

Why is this so? It is important to understand that the committee would propose to resolve a complaint by the issuance of a letter of the kind referenced here only where it determines that a formal investigation of the matter is not warranted. While these letters are based on and reflect the information available to the committee on the conduct alleged in the complaint, the fact is that as of the time that the committee would propose to issue such a letter, not a single subpoena in the matter would have been issued and not a single witness would have been deposed. Yet these due process provisions confer upon the respondent Member the right to demand an immediate trial regarding that matter, a trial that would take place with no formal investigation ever having been conducted.

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No committee that is at all serious about conducting its business would allow itself to be put in that position. The other due process provisions that confer this same right with regard to certain notifications issued by the committee and certain reports issued by investigative subcommittees suffer the same flaw.

The resolution I am proposing corrects this flaw by deleting the Member's right to demand an immediate trial and providing instead that the Member has the right to demand the establishment of an investigatory subcommittee to conduct a formal investigation in the matter in question. Possibly that investigation would conclude that the Member did not violate any law, rule or standard.

But if instead the subcommittee determined that there was substantial reason to believe that a violation had occurred, then there would be a trial before an adjudicatory subcommittee. Under the resolution I am proposing, a Member would also continue to have the rights to prior notice and an opportunity to respond to a letter, notification or report that references that Member's conduct.

Finally, Mr. Speaker, the third change in the rules that was made by the 109th Congress rules package concerns the matter of a single attorney representing more than one respondent or witness in a case before the committee. The rules package added provisions to the rules labeled ''right to counsel provisions'' that absolutely prohibit the Committee on Standards of Official Conduct from requiring a respondent or witness retain an attorney who does not represent anyone else in the case. My resolution would repeal those provisions.

The committee has had no rule that prohibits a single attorney from representing more than one respondent in a case and neither the committee nor any subcommittee has ever prohibited a party or witness from retaining an attorney who represents someone else in the case. But two separate investigative subcommittees, including the subcommittee that investigated House voting on the Medicare legislation in 2003, specifically raised the concern that multiple representation may impair the fact-finding process and recommended that the committee adopt a rule or policy that addresses this concern.

The reasons for these subcommittees' concern is very clear: Representation of multiple respondents or witnesses by a single attorney potentially seriously undermines any effort by an investigative subcommittee to sequester witnesses and thereby to obtain their full and candid testimony. In fact, in the other case in which the investigative subcommittee raised this concern, the Member who was under investigation had arranged for his own attorney to represent nearly a dozen of the witnesses who had been called before the investigative subcommittee.

We see the problem clearly. Yet the right to counsel provision of the rules package entirely disregards the experience of and the recommendations made by these investigative subcommittees, and they absolutely preclude the committee from taking any action to address this problem. Almost certainly those provisions of the rules package will serve to encourage respondents and witnesses to employ the same counsel in cases before the committee and will thereby make the problem identified by the investigative subcommittee far worse.

In short, Mr. Speaker, no matter what the intent of any of these provisions of the rules package might have been, their effect will be at a minimum to seriously undermine the ability of the Committee on Standards of Official Conduct to consider and act on complaints in a credible way. In particular, the practical effect of the so-called due process provisions now in effect is to substantially eliminate the committee's ability to resolve a complaint short of a formal investigation and thus to force the committee to decide between either dismissing a complaint entirely or sending it to a formal investigation.

Under the new automatic dismissal rule, where there are five committee members whose initial inclination is to vote to dismiss the complaint, the likely result will be an automatic dismissal in a month and a half. Even if a complaint does make it to an investigative subcommittee, the right-to-counsel provisions will make it far more likely that the respondent and witnesses will be represented by the same counsel, and thus will have an opportunity to undermine the subcommittee's work by coordinating their testimony.

Approval of the resolution I am introducing will undo the harm done by these provisions of the rules package. Approval of this resolution will also provide a clear and desperately needed signal to our constituents that the House is firmly committed to protecting its reputation and integrity and that the House does intend to have a fair and effective process for considering and acting upon credible allegations of wrongdoing.

Approval of this resolution, Mr. Speaker, is also necessary for one other reason, and that is to affirm the longstanding principle in the House that major changes in the ethics rules and procedures must be made on a bipartisan basis. When the House revisited its ethics rules and procedures in both 1989 and 1997, the work was done through bipartisan task forces that gave thoughtful consideration to proposals from all Members. In contrast, Mr. Speaker, the changes made in the rules package adopted in January were made on a party line vote, with no input whatsoever from anyone in the minority.

Approval of this resolution will be a critical step in restoring the bipartisanship that is essential if there is to be a meaningful ethics process in the House.

OPPOSING THE CENTRAL AMERICAN FREE TRADE AGREEMENT

The SPEAKER pro tempore (Mr. DENT). Under the Speaker's announced policy of January 4, 2005, the gentleman from Ohio (Mr. BROWN) is recognized for 40 minutes.

GENERAL LEAVE

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, I am joined tonight earlier by the gentlewoman from California (Ms. SOLIS) and the gentlewoman from Ohio (Ms. KAPTUR), who were here to talk in opposition to the Central American Free Trade Agreement. Tonight I am also joined by a freshman, the gentleman from Louisiana (Mr. MELANCON), who has already shown himself to be a leader on the Central American Free Trade Agreement and other trade issues, and we will hear from him in a moment.

Twelve years ago, Mr. Speaker, I stood on this floor in opposition to the North American Free Trade Agreement. In those days, we heard promises from supporters of NAFTA, the trade agreement that included Mexico, Canada and the United States, we heard story after story of how this was going to lift up living standards in Mexico, knock down trade barriers between our country and Mexico and our country and Canada and Canada and Mexico, that it would create prosperity for Mexicans and increase jobs in the United States, creating a whole new integrated economy that would be good for all three countries.

I would display a couple of charts that I brought with me tonight to frankly prove that the 12 years of the North American Free Trade Agreement have not served any of our countries well.

I would start, Mr. Speaker, with showing just the overall trade deficit. In 1992, the first year I ran for Congress, we had a trade deficit in this Congress of $38 billion. That means we actually imported $38 billion more than we sold outside the United States; $38 billion.

The last month of 2004, the last month of the year, the trade deficit was almost $60 billion. It was $38 billion for the year in 1992; it was almost twice that for a month in December.

But you can see what has happened to our trade deficit. This is zero. If it were zero we would be buying and selling in equal amounts. We have gone from $38 billion. In 1994, the trade deficit exceeded $100 billion trade deficit; then $200 billion in 1999. Then when President Bush came to the White House, it got to $400 billion. Then it exceeded $425 billion, then $500 billion. In this past year, the trade deficit is $617 billion.

President Bush had told us in those days back when NAFTA was negotiated in the late 1980s and early 1990s that every $1 billion of trade translated into 19,000 jobs. If you had a trade deficit of $1 billion, it would cost your country 19,000 generally good-paying industrial jobs.

Now our trade deficit is $617 billion, and you can see what that means in job loss. If you want to break it down what happened to the trade deficit per country under NAFTA, you can see what happened to the trade deficit with Canada. Back in 1991, the trade deficit was about $7 or $8 billion with Canada. Now the trade deficit with Canada alone is about $62 billion. That is with Canada.

You can look at the trade deficit with Mexico. In fact, we had a trade surplus with Mexico. The numbers above zero mean we actually sold more to Mexico than we bought. Prior to NAFTA, we had a trade surplus with Mexico of a few billion dollars. Then right here is where NAFTA passed. Look at what happened. It is almost $20 billion for several years in a row. Then it went to about $25 billion. Then President Bush came to the White House and it was $30 billion, then almost $40 billion, then over $40 billion, now coming up on $50 billion. So the trade deficit as a result of NAFTA just grew and grew and grew.

I will show you one more, even though if is not part of the debate and discussion tonight, just because it is the most dramatic of all. This is our bilateral trade deficit as a Nation with China. A dozen years ago it was less than $20 billion with China. You can just see what happened, year after year after year after year. President Bush took office here, the trade deficit jumped from about $80 billion to over $100 billion. Then it was over $120 billion. Our trade deficit with China last year was over $160 billion.

Now, would you not think, and I know that the gentleman from Louisiana (Mr. MELANCON) understands this and other Members on our side of the aisle at least, would you not think when you have this kind of trade deficit, when it looks like this, when the overall U.S. trade deficit has moved this dramatically from just a few billion just a dozen years ago all the way to $617 billion, would you not think you might want to sort of change ideas and do something different, that you might think this trade policy we have simply is not working?

It is not working for American workers. Whether it is the sugar industry in Louisiana or the steel or auto industry in Ohio or textiles in Georgia and North Carolina, or a whole host of other manufacturers, or whether it is computer programmers in the Silicone Valley, clearly these trade policies are not working. You do not go from a few billion trade deficit to $617 billion in 12 years without something being wrong.

So what is our answer? President Bush's answer is let us pass the Central American Free Trade Agreement. What the Central American Free Trade Agreement does is it adds Central American countries. And then if Congress passes that, President Bush is negotiating something called Free Trade Area of the Americas, and that will add the rest of Latin America.

That will double the population of NAFTA and quadruple the number of low-income workers under NAFTA. So if you think NAFTA has not worked, where we had that trade deficit with Mexico and Canada, where we had almost a zero trade deficit when NAFTA passed, now Canada and Mexico's trade deficit with us is over $100 billion, so if we pass CAFTA, the Central American Free Trade Agreement, then the FTAA, Free Trade Area of the Americas, with four times the number of low-income workers, we are going to see more job loss in our Nation, more problems with our economy, more problems in our communities, hollowed-out industrial towns that simply do not have good paying industrial jobs anymore.