Congressional Research Service
Informing the legislative debate since 1914

A Retrospective of House Rules Changes Since the 110th Congress

Updated June 28, 2017

Congressional Research Service
https://crsreports.congress.gov
R42395

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

One of the majority party's prerogatives is writing House rules and using its numbers to effect the chamber's rules on the day a new House convenes. Because all Members of the House stand for election every two years, the Members-elect constitute a new House that must adopt rules at the convening of each Congress. Although a new House largely adopts the chamber rules that existed in the previous Congress, it also adopts changes to those rules. Institutional and political developments during the preceding Congress inform rules changes that a party continuing in the majority might make. Those same developments, perhaps over the whole time that a party was in the minority, inform rules changes when the minority party wins enough seats to become the majority party and organize the House.

This report analyzes rules changes made on only the opening day of the 110th, 111th, 112th, 113th, 114th, and 115th Congresses (the Congresses convening in 2007, 2009, 2011, 2013, 2015, and 2017, respectively), with references in footnotes to other selected legislation and actions during these Congresses that also affected House rules. Freestanding legislation such as the Honest Leadership and Open Government Act or a budget resolution can change House rules in consequential ways.

Changes made by Democrats after they took majority control in the 110th Congress and by Republicans after they took majority control in the 112th Congress reflected critiques of the other party's management of the House. Democrats emphasized changes to ethics rules and laws in their new majority beginning in the 110th Congress, and Republicans emphasized changes to legislative procedures in their new majority beginning in the 112th Congress. Both parties also addressed budget policymaking, in both rules changes and separate orders.

Most standing rules, however, did not change, at all or substantially, under either party because the rules reflect decades of experience with majority control of the House. Most of the changes that were made in each of the six Congresses covered in this report were incremental and, largely, grounded in experience. Changes, nonetheless, have touched the committee system and its procedures, the floor of the House, budgetary legislation, the administration of the House, and ethical norms of conduct. Rules facilitate the majority's organization and operation of the House; they do not dictate to party leaders and others how to run the House—their policy goals or procedural and political strategy—or determine what outcomes can be achieved.

This report is the second in a series on House rules changes at the beginning of a Congress. For changes in the 104th through the 109th Congresses, see CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104th Congress through the 109th Congress*, by Michael L. Koempel and Judy Schneider.

Contents

Introduction 1
Democratic Critique from the 104th Congress to the 109th Congress 4
Ethics 4
Legislative Management 7
Republican Critique in 110th and 111th Congresses 13
Democrats' Proposed Rules Changes, 112th Congress 16
Majority and Minority Policy Differences in the 113th Congress (2013-2015) Rules Debate 16
Majority and Minority Policy Differences in the 114th Congress (2015-2017) Rules Debate 17
Democratic Critique of the Rules Resolution in the 115th Congress (2017-2019) 18
Rules Changes Affecting Committees 21
Structure and Organization 21
Assignments and Size 21
Chairmanships/Term Limitations 22
Committee and Commission Creation or Retention 22
Committee Names 24
Committee Rules 24
Jurisdiction 25
Subcommittees 27
Procedure 28
Committee Reports 28
Depositions 31
Earmarks 32
Meeting Notices 32
Meetings, Restrictions on 32
Openness 33
Oversight 34
Referral 36
Subpoena Enforcement and Litigation 36
Voting 37
Witnesses 37
Staff and Funding 37
Rules Changes Affecting the Chamber and Floor 38
Admission to and Use of the Chamber 39
Appropriations Measures 40
Bill Introductions and Matters Received 42
Code Citations in Bills and Joint Resolutions 42
Constitutional Authority Statement 42
Certain Memorials Submitted to Congress 42
Cosponsorhip 43
Reserved Bill Numbers 43
Bills and Joint Resolutions Pending Consideration 44
Broadcasting 44
Budget Process 45

Calendar Wednesday 45
Calendars of the House 45
Commemorations 45
Conference 46
Continuity of Congress 47
Decorum in the Chamber: Conduct and Electronic Devices 48
Deficit Control 50
Delegates and Resident Commissioner 51
Discharging Committees 52
Earmarks 52
Gender References 53
Layover/Public Availability 53
Medicare Trigger; Independent Payment Advisory Board 54
Public Debt Ceiling 55
Recommit, Motion to 55
Special Order Speeches and One-Minute Speeches 55
Special Rules (Orders of Business) 56
Unfunded Mandates 57
Voting 57
Postponing Consideration 58
Rules Changes Affecting Budgetary Legislation 59
110th Congress 61
111th Congress 62
112th Congress 63
113th Congress 66
114th Congress 67
115th Congress 69
Rules Changes Affecting the Administration of the House 72
111th Congress 72
112th Congress 73
113th Congress 73
114th Congress 74
Congressional Member Organizations (CMOs) 75
115th Congress 76
Rules Changes Affecting Ethics Standards 77
110th Congress 77
111th Congress 80
112th Congress 80
113th Congress 81
114th Congress 82
115th Congress 82
Concluding Observations 83

Tables

Table 1. Selected Special Orders on Budgetary Legislation 70

Contacts

Author Information..... 86

Introduction

A Retrospective of House Rules Changes Since the 110th Congress is the second of two reports on rules changes adopted by the House at the beginning of a new Congress. By practice, the majority party organizes the House. The majority elects the House's Speaker, chairs its committees, holds majorities on its committees, selects its officers, and manages its legislative agenda. One of the majority's prerogatives is writing the House's rules and using its majority status to effect the chamber's rules on the day the new House convenes.[1] Although each new House largely adopts the chamber rules that existed in the previous Congress, each new House also adopts changes to those rules. It is a feature of the House, but not of the Senate, that it adopts rules at the convening of each Congress.[2]

The first report in this series, *A Retrospective of House Rules Changes from the 104th Congress through the 109th Congress*,[3] examined the sources of the extensive rules changes made when Republicans won the majority in the House after 40 years of Democratic control and presented the Republicans' critique of Democratic management of the House. It then grouped the changes made in rules resolutions from the six Congresses in which the Republicans organized the House into five broad areas—committees, chamber and floor, budget legislation, administration of the House, and ethics standards. These five broad areas were further subdivided, with the changes grouped by subject or by Congress and explained. The Democratic critique of Republican management of the House during these six Congresses was covered in that report.

This second report in the series picks up with the new Democratic majority in the 110th and 111th Congresses and the Republican majority in the 112th, 113th, 114th and 115th Congresses (the Congresses convening in 2007, 2009, 2011, 2013, 2015, and 2017, respectively). It first presents the Democratic critique of Republican management of the House during the 104th through the 109th Congresses; the Republican critique of Democratic management of the House during the 110th and 111th Congresses; and Democratic amendments proposed to Republican rules packages in the 112th, 113th, 114th, and 115th Congresses. The report then groups changes made in rules resolutions from the 110th through the 115th Congresses into five broad subject areas—committees, chamber and floor, budgetary legislation, administration of the House, and ethics standards. These five broad areas are again further subdivided, with the changes grouped by subject or Congress, and explained.

The two principal parts of this report reflect its two principal purposes. The first part analyzes the critique by Democrats of Republican management of the House through the 109th Congress, the critique by Republicans of Democratic management of the House in the 110th and 111th Congresses, and Democratic policy differences with the Republican majority presented during rules debates in the 112th, 113th, 114th, and 115th Congresses. In drafting House rules when Democrats took the majority in the 110th Congress and Republicans in the 112th Congress, each party drew on its critique. The purpose of this part of the report is to examine these sources of House rules changes.

---

[1] See CRS Report RL30725, *The First Day of a New Congress: A Guide to Proceedings on the House Floor*, by Judy Schneider and Michael L. Koempel, and Christina Wu. See also CRS Report RS21339, *Congress's Early Organization Meetings*, by Judy Schneider.

[2] The Constitution empowers the House and Senate to make their rules: "Each House may determine the Rules of its Proceedings.... " U.S. Const. art. I, §5, cl. 2.

[3] CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104th Congress through the 109th Congress*, by Michael L. Koempel and Judy Schneider.

The second part of the report organizes changes made in the six rules resolutions, and briefly explains the changes in language more readily understood than the language of the rules resolutions. These changes were included in the rules resolutions adopted at the beginning of the 110th through the 115th Congresses, separate orders adopted in conjunction with the rules resolutions, and Speakers' policy announcements made at the convening of each of these Congresses.[4] The major topical headings for this part of the report are as follows:

- "Rules Changes Affecting Committees"
- "Rules Changes Affecting the Chamber and Floor"
- "Rules Changes Affecting Budgetary Legislation"
- "Rules Changes Affecting the Administration of the House"
- "Rules Changes Affecting Ethics Standards"

Each of these major headings is further subdivided by topic or by Congress. The purpose of this part of the report is to catalogue and briefly explain by topic—regardless of the location of a topic in one or more rules—specific changes to House rules affecting committees or the House floor in the 110th through the 115th Congresses. Changes affecting budget legislation, House administration, and ethics are arranged by Congress.

This report supplements the official cumulation of rules changes, the *House Rules and Manual*. This volume, printed in each Congress to reflect adoption of a rules resolution, contains the provisions of House rules. For each rule, it also contains the House parliamentarian's notes describing changes to the rule (or to specific clauses within a rule) and decisions of presiding

[4] The rules resolution in the 110th Congress was H.Res. 6; the rules resolutions in the 111th, 112th, 113th, 114th, and 115th Congresses were numbered H.Res. 5. Debate on rules packages (including the text of the resolutions containing the rules changes, section-by-section explanations, and other materials inserted by Members) and the Speaker's announcements appeared in the *Congressional Record* as follows:

(1) H.Res. 5 (special rule) and H.Res. 6 (110th Congress rules): "Rules of the House," House debate, *Congressional Record*, vol. 153, part 1 (January 4, 2007), pp. 7-40, and (January 5, 2007), pp. 276-301. Speaker's announcements: "Announcement by the Speaker," *Congressional Record*, vol. 153, part 1 (January 5, 2007), pp. 273-274.

(2) H.Res. 5 (111th Congress rules): "Rules of the House," House debate, *Congressional Record*, vol. 155, part 1 (January 6, 2009), pp. 6-22. Speaker's announcements: "Announcement by the Speaker," *Congressional Record*, vol. 155, part 1 (January 6, 2009), pp. 23-25.

(3) H.Res. 5 (112th Congress rules): "Rules of the House," House debate, *Congressional Record*, vol. 157, part 1 (January 5, 2011), pp. 80-102. Speaker's announcements: "Announcement by the Speaker," *Congressional Record*, vol. 157, part 1 (January 5, 2011), pp. 104-106.

(4) H.Res. 5 (113th Congress rules): "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 159 (January 3, 2013), pp. H6-H23. Speaker's announcements: "Announcement by the Speaker Pro Tempore," *Congressional Record*, daily edition, vol. 159 (January 3, 2013), pp. H25-H27.

(5) H.Res. 5 (114th Congress rules): "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), pp. H7-H27. Speaker's announcements: "Announcement by the Speaker Pro Tempore," remarks in the House, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), p. H33-H35.

(6) H.Res. 5 (115th Congress rules): "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), pp. H7-H28. Speaker's announcements: "Announcement by the Speaker Pro Tempore," remarks to the House, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), pp. H34-H36.

officers and the House based upon the rule.[5] Rules in the *House Rules and Manual* are arranged by rule number.[6]

Citations in this report are generally only to the clause of a rule at the time a change was made; rules numbers are stable from Congress to Congress and clause numbers are also generally stable. Changes to the numbering of clauses, paragraphs, and subparagraphs may be found in the parliamentarian's notes.[7]

This report does not describe all of the actions taken during each Congress that effected permanent and temporary organizational, procedural, administrative, and other changes in the operation of the House. Because the report's purpose is to catalogue the changes made at the convening of a new House, it examines all rules changes and separate orders in the biennial rules resolutions and in the Speaker's biennial announcement of the Speaker's policies interpreting or implementing the rules where the Speaker has discretion.

In addition to changes made through rules resolutions, changes to rules and procedures are also made through orders and freestanding legislation, as provisions of bills or resolutions, and in report language on legislation and in joint explanatory statements accompanying conference reports.[8] Legislative branch appropriations bills and budgetary legislation contain organizational, procedural, and other changes that are temporary or permanent. (References to selected freestanding bills and resolutions are provided in footnotes in this report.) So-called fast-track or expedited House procedures are included in legislation that otherwise addresses a policy matter.[9] Democratic Caucus and Republican Conference rules and decisions have also had an impact on how specific House rules (such as rules on suspension of the rules and on committee assignment limits) are implemented.[10] In a few instances in this report, changes made by means other than a House rules resolution are described, where necessary to understand changes made in one or more rules resolutions.

---

[5] *Constitution, Jefferson's Manual, and Rules of the House of Representatives of the United States, [number] Congress,* prepared by [name], parliamentarian, [number] Cong., 2nd sess., H.Doc. [number] (Washington, DC: GPO, [year]). The current edition is U.S. Congress, House, *Constitution, Jefferson's Manual, and Rules of the House of Representatives of the United States, One Hundred Fourteenth Congress*, prepared by Thomas J. Wickham, parliamentarian, 113th Cong., 2nd sess., H.Doc. 113-181 (Washington, DC: GPO, 2015). (Hereinafter *House Rules and Manual*.) A new edition incorporating rules changes for the 115th Congress and parliamentary developments during the 114th Congress was anticipated for publication in August 2017.

[6] For information on the *House Rules and Manual*, see CRS Report 98-262, *House Rules Manual: Summary of Contents*, by Judy Schneider.

[7] A major project to recodify House rules—undertaken by a bipartisan task force of the Rules Committee and the Parliamentarian, with input from other experts, for the first time since 1880—concluded with the adoption of the recodification at the convening of the 106th Congress (1999-2001). For the text and comparative analysis of the recodification, as well as debate on it, see "Rules of the House," House debate, *Congressional Record*, vol. 145, part 1 (January 6, 1999), pp. 47-235.

[8] For a history of attempts at broad-based changes to House rules in the modern era, some implemented and some not implemented, see CRS Report RL31835, *Reorganization of the House of Representatives: Modern Reform Efforts*, by Judy Schneider, Betsy Palmer, and Christopher M. Davis.

[9] For an explanation of expedited procedures, see CRS Report RL30599, *Expedited Procedures in the House: Variations Enacted into Law*, by Christopher M. Davis. See also "Legislative Procedures Enacted in Law" in the current *House Rules and Manual*.

[10] Additional party guidance might also exist in a Congress. For example, in the 112th Congress, Majority Leader Eric Cantor promulgated "Legislative Protocols for the 112th Congress," which majority leaders have promulgated in subsequent Congresses; the current protocols are available at http://www.majorityleader.gov/protocols. The Republican Conference has adopted a standing order prohibiting a Member from requesting an earmark, available at https://www.gop.gov/115th-rules.

In the course of its daily proceedings, the House also adopts special rules and unanimous consent agreements that can adapt its rules for the consideration of one or more measures, proceedings on one or more days, or in another way affect the House's conduct of its affairs.

Between the 110th and 115th Congresses, some committees' names were changed. In this report, the names of committees appear as they existed in the specific Congress referenced. In footnotes of this report, *Congressional Record* references through the 112th Congress are to the bound volumes of the *Record*. References from the 113th Congress forward are to the daily edition of the *Record*.

Democratic Critique from the 104th Congress to the 109th Congress

The Democratic critique of the Republicans' management of the House during the Republican majority (104th Congress (1995-1997) through the 109th Congress (2005-2007)) was principally based on two broad concerns. The first—ethics—was a theme throughout the time Republicans held the majority, and Democrats moved quickly when they took majority control in the 110th Congress to change ethics rules and pass new ethics laws. The second—legislative management of the House—was most fully expressed in the 109th Congress, although Democrats made incremental rather than extensive rules changes when they held the majority in the 110th and 111th Congresses.

Ethics[11]

In the 104th Congress (1995-1997), Democrats offered rules changes that included a new gift rule[12] and regulated and limited Members' copyright royalty income.[13] In the 105th Congress (1997-1999), a principal issue in debate over the House rules package was the time allowed for the Standards of Official Conduct Committee (now the Ethics Committee) to complete its deliberations on ethics violations admissions by Speaker Newt Gingrich. The Republican rules package provided an end date of January 21, 1997; a Democratic proposal would have removed the time limit.[14]

---

[11] An explanation of the majority's decisions that were the subject of Democratic motions are explained in CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104th Congress through the 109th Congress*, by Michael L. Koempel and Judy Schneider.

[12] In the prior 103rd Congress (1993-1995), House and Senate conferees negotiated a compromise on gift legislation (S. 349, H.Rept. 103-750). While the House agreed to the conference report on the gift legislation, the Senate failed to invoke cloture on it.

[13] Speaker-designate Newt Gingrich signed a $4.5 million book contract in late 1994 with a publishing house owned by Rupert Murdoch, who had been lobbying Congress on broadcasting deregulation favorable to Fox Broadcasting. For background, see "Incoming Speaker Gingrich Focus of Investigation," *Congressional Quarterly Almanac, 1994*, vol. L (Washington, DC: Congressional Quarterly Inc., 1995), pp. 54-55.

The Democratic motion to commit the special rule for the rules resolution may be found at "Making in Order Immediate Consideration of House Resolution Adopting the Rules of the House of Representatives for the 104th Congress," *Congressional Record*, vol. 141, part 1 (January 4, 1995), pp. 457-460. The Democratic motion to commit the rules resolution may be found at "Rules of the House," pp. 526-529.

[14] For background, see "Gingrich Weakened by Ethics Case," *Congressional Quarterly Almanac, 1997*, vol. LIII (Washington, DC: Congressional Quarterly Inc., 1998), pp. 1-11–1-15.

Prior to consideration of the rules resolution for the 105th Congress, a Member made a motion to elect an interim Speaker pending completion of the Standards Committee's work. The Clerk of the House ruled that the election of the

In the 106th Congress (1999-2001), Democrats proposed adding a new clause to the Code of Ethics to disallow a Member from intervening in the hiring or dismissal of individuals by lobbying firms or other entities, based on an individual's political affiliation, and another new clause to prohibit a member of the leadership from threatening lobbying firms or other entities on the scheduling of legislation based on an entity's political contributions. These changes were directed in part at perceptions about the so-called K Street Project.[15]

A Democratic motion related to the rules resolution for the 107th Congress did not address ethics issues.

In the 108th Congress, the Republican rules package incorporated into House rules the provisions of H.Res. 168 (105th Congress), a bipartisan agreement on the operation of the Standards of Official Conduct Committee under which the committee had operated in the 105th, 106th, and 107th Congresses.[16] However, the rules package also made three changes to ethics rules that the Democratic motion to commit sought to eliminate. These changes allowed limited income from the practice of medicine by Members who were doctors or dentists, permitted gifts of perishable food to House offices, and exempted so-called charity travel from the gift rule under certain conditions.[17]

The Republican rules package for the 109th Congress (2005-2007) made changes to procedures of the Standards of Official Conduct Committee, which Democrats attacked as "gutting the ethical standards" of the House.[18] While Republicans defended these changes as guaranteeing a right to counsel as a Member would have in a court and as presuming the innocence of a Member,[19] Democrats countered that the changes would reduce the ethics committee to a "paper tiger."[20] Democrats also criticized rules changes that were dropped from the Republican rules package shortly before its submission to the House, for example, allowing a Member under indictment to continue to serve in a leadership position.[21] Democrats sought to strike a provision that dismissed ethics complaints after 45 days if neither the chair nor ranking minority member of the Standards Committee placed on the agenda the issue of establishing an investigative subcommittee, and also

---

Speaker was a matter of the highest privilege, and an appeal of her ruling was tabled. "Election of Speaker," *Congressional Record*, vol. 143, part 1 (January 7, 1997), pp. 115-116.

The Democratic motion to commit the rules resolution may be found at "Rules of the House," *Congressional Record*, vol. 143, part 1 (January 7, 1997), p. 139.

[15] See, for example, Rep. Chet Edwards, "Rules of the House," *Congressional Record*, vol. 145, part 1 (January 6, 1999), p. 227. For background information on the K Street Project, see Peter H. Stone, "One Hammer, Plenty of Nails," *National Journal*, vol. 31, no. 24, June 12, 1999, pp. 1598-1599; and Gebe Martinez with Jackie Koszczuk, "Tom DeLay: 'The Hammer' That Drives the House GOP," *CQ Weekly*, vol. 57, no. 23, June 5, 1999, pp. 1322-1328.

The Democrats' proposed amendment to the rules resolution, which was not in order after the previous question was moved, may be found at "Rules of the House," *Congressional Record*, vol. 145, part 1 (January 6, 1999), p. 232.

[16] Agreed to in the House September 18, 1997. Continued in operation for the 106th Congress by §3(c) of H.Res. 5, agreed to in the House January 6, 1999, and in the 107th Congress by §3(a) of H.Res. 5, agreed to in the House January 3, 2001. H.Res. 168 originated with the Bipartisan Ethics Reform Task Force. See "Creation of the Bipartisan Task Force to Review Ethics Process," *Congressional Record*, vol. 143, part 2 (February 12, 1997), pp. 2058-2059; and "Establishing Bipartisan Task Force on Reform of Ethics Process," *Congressional Record*, vol. 143, part 2 (February 12, 1997), p. 2059.

[17] The Democratic motion to commit the rules resolution may be found at "Rules of the House," *Congressional Record*, vol. 149, part 1 (January 7, 2003), p. 19.

[18] Rep. James P. McGovern, "Rules of the House," *Congressional Record*, vol. 151, part 1 (January 4, 2005), p. 51.

[19] Rep. David Dreier, "Rules of the House," *Congressional Record*, vol. 151, part 1 (January 4, 2005), p. 49.

[20] Rep. Louise Slaughter, "Rules of the House," *Congressional Record*, vol. 151, part 1 (January 4, 2005), p. 50.

[21] Ibid.

sought to prohibit a Member from engaging in employment negotiations with a person who had legislative interests in the current or previous Congress before committees on which the Member served.[22] Democratic and public criticism of changes adopted in the rules package continued, and the House in April 2005 reinstated the ethics rules as they previously existed.[23]

Democrats in the course of the 109th Congress also put forward several programs for changes to ethics standards and practices. In June 2006, Democratic Leader Nancy Pelosi released the Democrats' "New Direction for America," which contained a section titled "Honest Leadership and Open Government." The items in this section included—

- banning gifts and travel from lobbyists, and prohibiting travel on corporate jets;
- doubling the "cooling-off period" for lobbying to two years for Members, congressional staff, and executive branch officials, and eliminating floor privileges for former Members who are lobbyists;
- requiring lobbyists to disclose campaign contributions and client fees, increasing the frequency of filings and allowing only electronic filing, requiring certification that no ethics rules violation occurred, and imposing criminal penalties;
- prohibiting Members from pressing lobbying firms over hiring decisions;
- requiring Members to disclose outside employment negotiations;[24] and
- allowing only open conference committee meetings; allowing conferees to vote on all agreements made in a conference; requiring disclosure of all earmarks; and ensuring the posting of conference reports in electronic format for 24 hours before House consideration.[25]

In addition, Democratic Representatives David Obey, Barney Frank, David Price, and Tom Allen unveiled a House rules reform package in December 2005, which they introduced as H.Res. 659 in January 2006 with more than 125 Democratic co-sponsors, including Democratic Leader Pelosi and Democratic Whip Steny H. Hoyer.[26] Provisions of this resolution related to ethics standards and practices included—

- disallowing a Member or congressional staff member from accepting travel unless the individual obtained from the sponsor declarations stating that no lobbyists would participate in the travel or meetings, the sponsor did not engage in lobbying, the sponsor did not employ lobbyists, and the travel was not financed by a corporation unless through contributions deductible under the Internal Revenue Code and disclosed in the declaration;
- requiring a former Member seeking to be present on the House floor to file a written declaration that the former Member had no financial interest in the

[22] "Rules of the House," *Congressional Record*, vol. 151, part 1 (January 4, 2005), p. 65 (amendment to rules resolution, which was not in order after the previous question was moved) and p. 66 (motion to commit).

[23] H.Res. 241 (109th Cong.), adopting H.Res. 240 (109th Cong.), agreed to in the House April 27, 2005.

[24] See also H.Res. 686 (109th Cong.), discussed below under "Legislative Management," which contained one ethics provision prohibiting a Member serving on a committee from negotiating future employment with a person who had a direct interest in legislation before that committee in the current or preceding Congress.

[25] Democratic Leader Nancy Pelosi, "A New Direction for America," June 16, 2006, available at http://web.archive.org/web/20080731063814re_/www.speaker.gov/pdf/thebook.pdf. (Hereinafter "A New Direction for America.")

[26] For background, see the Members' December 5, 2005, presentation at the Center for American Progress, at http://www.americanprogress.org/events/2005/12/05/16358/a-proposal-to-make-congress-work-again.

legislation under consideration and that the former Member would not advocate while on the floor on any matter before the House;

- prohibiting a Member from conditioning an earmark request from another Member based on that Member's vote; and
- disallowing a Member from seeking an earmark unless the Member declared the existence or lack of existence of a financial interest or of control.[27]

Legislative Management[28]

Democrats on three occasions from the 104th through the 109th Congresses, in proposed amendments or motions to commit related to rules resolutions with the commencement of new Congresses, sought a rule requiring party ratios for each committee and subcommittee to reflect the party ratio of the House. Democrats made this proposal in the 104th (1995-1997), 107th (2001-2003), and 108th (2003-2005) Congresses.[29]

Democrats also periodically proposed changes in rules resolutions that would have affected the consideration of legislation with a budgetary impact. In the 104th Congress, a motion to commit included a proposal to allow individual votes on Budget Act waivers to be included in special rules.[30] A proposed amendment in the 105th Congress (1997-1999) would have struck from the rules resolution a provision requiring a "dynamic estimate" of major tax legislation, another provision restricting the content of appropriations bills and amendments to them,[31] and a third provision strengthening the right of the majority leader to move that the Committee of the Whole rise and report at the end of the amendment process for an appropriation bill.[32]

---

[27] H.Res. 659 (109th Cong.), introduced January 31, 2006, and referred to the Committee on Rules and in addition to the Committee on Standards of Official Conduct.

[28] An explanation of the majority's decisions that were the subject of Democratic motions are explained in CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104th Congress through the 109th Congress*, by Michael L. Koempel and Judy Schneider.

[29] Data on this matter in the modern congressional era is available in CRS Report R41501, *House Legislative Procedures and House Committee Organization: Options for Change in the 112th Congress*, by Judy Schneider and Michael L. Koempel (archived but available to congressional clients from the authors on request).

The Democratic motion to commit the 104th Congress rules resolution may be found at "Rules of the House," *Congressional Record*, vol. 141, part 1 (January 4, 1995), pp. 526-529. The Democratic motion to commit the 107th Congress rules resolution may be found at "Rules of the House," *Congressional Record*, vol. 147, part 1 (January 3, 2001), p. 35. The Democratic motion to commit the 108th Congress rules resolution may be found at "Rules of the House," *Congressional Record*, vol. 149, part 1 (January 7, 2003), p. 19.

[30] The Democratic motion to commit the rules resolution may be found at "Rules of the House," *Congressional Record*, vol. 141, part 1 (January 4, 1995), pp. 526-529.

[31] The prohibition on changes to existing law was expanded in the rules resolution to include "a provision making the availability of funds contingent on the receipt or possession of information not required by existing law for the period of the appropriation." §18 of H.Res. 5, agreed to in the House January 7, 1997.

An explanation of this change inserted in the *Congressional Record* stated, "[I]t would make clear that the Appropriations Committee could not report, nor could an amendment be considered by the House, that makes the availability of funds contingent upon the receipt or possession of information by the funding authority if such information is not required by existing law. This is designed to prohibit the consideration of so-called 'made-known' provisions and amendments which in the past have been used as a technical loophole to circumvent the prohibition on legislating in an appropriations measure." Rep. Gerald Solomon, "Rules of the House," *Congressional Record*, vol. 143, part 1 (January 7, 1997), p. 128. For discussion of legislating on appropriations bills, see CRS Report R41634, *Limitations in Appropriations Measures: An Overview of Procedural Issues*, by Jessica Tollestrup and James V. Saturno.

[32] The Democratic amendment to the rules resolution, which was not in order after the previous question was moved,

In the 106th Congress (1999-2001), the Democratic motion to commit the rules resolution proposed a pay-as-you-go rule applicable to revenue and direct spending.[33] In the 108th Congress (2003-2005), the Democratic motion to commit proposed to strike a provision of the rules resolution that replaced a "tax complexity analysis" that was to appear in Ways and Means Committee reports on legislation with a "macroeconomic impact analysis."[34]

Democrats' proposed amendments to rules resolutions and their motions to commit regularly sought to eliminate procedural changes included in rules resolutions. In the 105th Congress, their amendment would have struck from the resolution provisions allowing oversight reports in committee to be considered as read if they were available to committee members for 24 hours, requiring nongovernmental witnesses to disclose federal contracts or grants they or their employer received in the current and two previous fiscal years, allowing committees to adopt a rule on extended questioning time for hearings, and reducing to two days from three the time allowed to file views for inclusion in committee reports.[35]

The Democrats' proposed amendment in the 106th Congress (1999-2001) would have granted voting rights in the Committee of the Whole to the Delegate from the District of Columbia and have reformulated how legislation was drafted so that changes to existing law would be more readily discernible.[36]

The Democratic motion to commit in the 108th Congress (2003-2005) sought to strike changes to House rules in the Republicans' rules resolution: allowing committees to adopt a rule to postpone certain votes; permitting a motion to instruct conferees during a conference after both 20 calendar days and, as added by the rules resolution, 10 legislative days had tolled; and temporarily extending to Wednesdays the days on which motions to suspend the rules would be in order. The motion to commit also for the first time (in the timeframe covered by this report and the preceding rules changes report) tackled some of the procedures that have come to be identified in recent years by both Democrats and Republicans as transparency issues in the legislative process: honoring the House rule on the availability of conference reports, reducing the number of waivers in special rules, decreasing the number of measures to be considered under the suspension of the rules procedure, allowing more amendments and alternatives to measures considered pursuant to special rules, granting a larger number of open special rules, and allowing more minority-party amendments under structured rules.[37]

In the 109th Congress (2005-2007), Democrats included just one transparency issue in their motion to commit: proposing the requirement of a two-thirds vote on a special rule that proposed to waive the three-day layover of a measure or conference report.[38]

---

may be found at "Rules of the House," *Congressional Record*, vol. 143, part 1 (January 7, 1997), pp. 137-138.

[33] The Democratic motion to commit the rules resolution may be found at "Rules of the House," *Congressional Record*, vol. 145, part 1 (January 6, 1999), p. 233.

[34] The Democratic motion to commit the rules resolution may be found at "Rules of the House," *Congressional Record*, vol. 149, part 1 (January 7, 2003), p. 19.

[35] The Democratic amendment to the rules resolution, which was not in order after the previous question was moved, may be found at "Rules of the House," *Congressional Record*, vol. 143, part 1 (January 7, 1997), pp. 137-138.

[36] The Democrats' proposed amendment to the rules resolution, which was not in order after the previous question was moved, may be found at "Rules of the House," *Congressional Record*, vol. 145, part 1 (January 6, 1999), p. 232.

[37] The Democratic motion to commit the rules resolution may be found at "Rules of the House," *Congressional Record*, vol. 149, part 1 (January 7, 2003), p. 19. Concerning the types of rules related to the amendment process, see CRS Report 98-612, *Special Rules and Options for Regulating the Amending Process*, by Megan S. Lynch.

[38] The Democratic motion to commit the rules resolution may be found at "Rules of the House," *Congressional Record*,

The House in the 109th Congress also moved to address the issue of how to continue legislative activities in the event of "catastrophic circumstances" where many Members of the House might be dead or disabled, a concern heightened in the wake of the terrorist attacks of September 11, 2001, and the delivery of anthrax-laced mail to congressional offices in October 2001. The majority's rules resolution included procedures and conditions for establishing a quorum based on a "provisional number of the House." A Democratic Member raised a constitutional point of order against the rules resolution when it was called up for consideration, objecting to the inclusion of the provisional quorum rules on the grounds that it violated Article 1, Section 2, Clause 4 of the Constitution (related to filling House vacancies by election). The House decided on a question of consideration to go forward with the rules resolution.[39]

In the course of the 109th Congress, Democrats criticized Republican's legislative management of the House and made several wide-ranging proposals for change. In May 2006, Democratic Leader Nancy Pelosi announced the House Democrats' "New House Principles: A Congress for All Americans." In June, Leader Pelosi released the Democrats' "New Direction for America." Both documents contained proposals related to the legislative management of the House:

- "There should be regular consultations among the elected leaders of both parties to discuss scheduling, administration and operations of the House."
- "The House should have a predictable, professional, family-friendly schedule that allows the legislative process to proceed in a manner that ensures timely and deliberate dispensation [sic] of the work of the Congress."
- "Regular meetings between Chairs and Ranking Members of committees and staffs should be held."
- "The Minority should control at least one-third of committee budgets and office space."[40]

Democratic Members began speaking often in the 109th Congress about the need for "regular order" and "transparency" in the House's consideration of legislation, and introduced resolutions to change House rules to that effect.[41] In both "A New Direction for America" and "New House Principles," there were proposals or principles regarding the legislative management of the House, which had implications for regular order and transparency:

- "Bills should be developed following full hearings and open subcommittee and committee markups, with appropriate referrals to other committees. Members should have at least 24 hours to examine a bill prior to consideration at the subcommittee level."
- "Bills should generally come to the floor under a procedure that allows open, full, and fair debate consisting of a full amendment process that grants the Minority the right to offer its alternatives, including a substitute."

vol. 151, part 1 (January 4, 2005), p. 66.

[39] Ibid., pp. 44-47.

[40] Democratic Leader Nancy Pelosi, "New House Principles: A Congress for All Americans," press release, May 25, 2006, available at http://web.archive.org/web/20061012100316/democraticleader.house.gov/press/articles.cfm?pressReleaseID=1634 (hereinafter "New House Principles"); and "A New Direction for America" (see footnote 25).

[41] See, for example, H.Res. 688 (109th Cong.). Republican Members also introduced resolutions requiring additional transparency. See, for example, H.Res. 709 (109th Cong.).

- "Members should have at least 24 hours to examine bill and conference report text prior to floor consideration. Rules governing floor debate must be reported before 10 p.m. for a bill to be considered the following day."
- "Floor votes should be completed within 15 minutes, with the customary 2-minute extension to accommodate Members' ability to reach the House Chamber to cast their votes. No vote shall be held open in order to manipulate the outcome."
- "House-Senate conference committees should hold regular meetings (at least weekly) of all conference committee Members. All duly-appointed conferees should be informed of the schedule of conference committee activities in a timely manner and given ample opportunity for input and debate as decisions are made toward final bill language."
- "The Suspension Calendar [sic] should be restricted to non-controversial legislation, with minority-authored legislation scheduled in relation to the party ratio in the House."
- "Our New Direction is committed to 'Pay As You Go' budgeting—no more deficit spending. We are committed to auditing the books and subjecting every facet of federal spending to tough budget discipline and accountability, forcing the Congress to choose a new direction and the right priorities for all Americans."[42]

Earlier in the 109th Congress, in "Broken Promises: The Death of Deliberative Democracy," a document prepared by the House Rules Committee minority staff, committee Ranking Member Louise M. Slaughter presented a number of recommendations, stating:

> Adopting these modest recommendations would in no way diminish the majority's ability to move their agenda through the House in a timely way. But they would represent a good first step in restoring to the U.S. House of Representatives, the "People's House," the deliberative process that House Republicans used to support, that is, *"the full and free airing of conflicting opinions through hearings, debates, and amendments for the purpose of developing and improving legislation deserving of the respect and support of the people."*[43] (Emphasis in original, quoting a Republican statement from 1994.)

The bulk of the "Broken Promises" report criticized the types of special rules that had been employed (e.g., the number of minority amendments made in order and the number of closed rules) and the conditions under which special rules had been reported from the Rules Committee (e.g., frequent use of emergency meetings that were allowed by the Rules Committee's rules). The report concluded with five recommendations:

- "Open up the process by allowing more serious amendments"—" ... [The Republican leadership] should allow ... serious amendments that enjoy the support of a 'substantial number of Members' to come to the House floor for debate and up-or-down votes.... "
- "Allow more bills to be considered under open rules"—" ... increase the percentage of bills [the Republican leadership] allows to be debated under an

[42] "A New Direction for America," p. 24; and "New House Principles."

[43] Rep. Louise M. Slaughter, "Broken Promises: The Death of Deliberative Democracy," compiled by the House Rules Committee Minority Office, March 8, 2005, p. 44, available at http://www.citizen.org/documents/Broken_Promises.pdf (hereinafter "Broken Promises").

open rules process, and decrease the percentage of bills it jams through the House under closed rules.... ”

- “More Consideration of Major, Controversial Legislation and Fewer Suspension Bills”—“Instead of using the suspension of the rules procedure to crowd out debate on major legislation, the Republican leadership … should expand both debate time and quantity of amendments on bills it considers under special rules by restricting suspensions to Mondays and Tuesdays.”
- “Fewer late-night or early-morning ‘emergencies’ and more regular order”—“The House Rules Committee should only use the ‘emergency meeting’ procedure in [a] small number of cases.... Regular order should be the rule, not the exception.... ”
- “Give Members three days to read conference reports”—“The Rules Committee and Republican leadership should end its practice of granting ‘blanket waivers’ to conference reports.... ”[44]

Representative Slaughter and the other Democratic members of the Rules Committee—Representatives James McGovern, Alcee Hastings, and Doris Matsui—also introduced a resolution (H.Res. 686) to “restore transparency, accountability, and oversight.”[45] The resolution proposed to change House rules in a number of ways:

- requiring disclosure of scope violations in a conference report, prohibiting special rules from waiving points of order against such violations, and providing for disposition of scope violations by a question of consideration;[46]
- prohibiting a special rule that waives the three-day layover rule applicable to conference reports, and allowing disposition of a point of order against such a waiver by a question of consideration;
- prohibiting the consideration of a conference report if certain procedures were violated, with disposition of a point of order by a question of consideration;
- requiring a roll-call vote on final agreement of conferees to a conference report, and publication of that vote in the joint explanatory statement;
- changing to 24 hours from one day the layover rule applicable to House special rules;
- requiring publication in the *Congressional Record* of the names of Members voting or changing votes after a roll-call vote has proceeded for more than 30 minutes;
- prohibiting consideration under the suspension of the rules procedure of a measure authorizing or appropriating more than $100 million, and exhorting the Speaker to schedule an equal number of measures under this procedure sponsored by majority and minority Members;
- repealing the Gephardt rule for changing the statutory debt limit;

[44] Ibid., pp. 45-46.

[45] H.Res. 686 (109th Cong.), introduced February 16, 2006, and referred to the Committee on Rules and in addition to the Committee on Standards of Official Conduct.

[46] Scope of differences is: “The limits within which a conference committee is permitted to resolve the disagreements between the two houses on a measure.” Walter Kravitz, *Congressional Quarterly’s American Congressional Dictionary*, 3rd ed. (Washington, DC: CQ Press, 2001), pp. 225-226.

- allowing a minority amendment to a special rule when offered on the House floor; and
- requiring 24-hour notice of a unanimous consent agreement to alter a special rule adopted by the House.

As also already noted, Democratic Representatives David Obey, Barney Frank, David Price, and Tom Allen unveiled a House rules reform package in December 2005, which they introduced as H.Res. 659 in January 2006.[47] Provisions of the resolution related to the legislative management of the House included—

- limiting roll-call votes to 20 minutes unless both parties' floor managers or leaders agreed to a longer time for voting;
- allowing the chair or ranking minority member of a committee to offer the committee-reported version of legislation as a preferential amendment if a special rule makes another version in order;
- a rule waiving points of order against a measure must waive the same points of order against an amendment requested by the minority leader;
- printed copies of a measure to be considered pursuant to a special rule and of conference reports must be available 24 hours before the House may begin consideration;
- the House may not go to conference with the Senate on an appropriations bill unless the Senate expressed its differences in the form of numbered amendments;
- conference discussion of disagreements must occur in an open meeting, and House conferees must vote by record vote in an open meeting on the conference agreement;
- the House may not consider a conference report that "differs in a material way" from the agreement approved by House conferees;
- the House may not consider a reconciliation measure that would increase the size of the budget deficit, unless agreed to by the majority and minority leaders and by a vote of two-thirds of the House;
- extending Budget Act points of order to unreported legislation considered by the House;
- disallowing a bill or conference report containing revenue provisions from being filed until the Joint Committee on Taxation had identified tax expenditures in the measure; and
- prohibiting the House from adjourning sine die unless "during at least 20 weeks of the session, a quorum call or recorded vote was taken on at least 4 of the weekdays…."[48]

Congressional procedures and practices were also an issue in the 2008 presidential campaign. As a presidential candidate, Senator Barack Obama made an address in Green Bay, WI, on September 22, 2008, articulating reform issues, including what he termed "political reform"; he

[47] H.Res. 659 (109th Cong.), introduced January 31, 2006, and referred to the Committee on Rules and in addition to the Committee on Standards of Official Conduct. For background, see the Members' December 5, 2005, presentation at the Center for American Progress, at http://www.americanprogress.org/events/2005/12/05/16358/a-proposal-to-make-congress-work-again.

[48] Ibid.

mentioned these proposals subsequently at other events. Candidate Obama addressed some matters that affected the rules and practices of Congress:

> As President, I will make it impossible for Congressmen or lobbyists to slip pork-barrel projects or corporate welfare into laws when no one is looking because, when I am President, meetings where laws are written will be more open to the public. No more secrecy.... When there's a bill that ends up on my desk as President, you the public will have five days to look online and find out what's in it before I sign it, so that you know what your government's doing.... When there's a tax bill being debated in Congress, you will know the names of the corporations that would benefit and how much money they would get, and we will put every corporate tax break and every pork-barrel project online for every American to see. You will know who asked for them, and you can decide whether your Representative is actually representing you.[49]

Presidential candidate Senator John McCain made congressional earmarks an issue in the 2008 campaign and proposed their elimination.[50]

Republican Critique in 110th and 111th Congresses

Democratic control of the House in the last four years of the 21st century's first decade was brief compared to Democratic control before the 104th Congress and to Republican control from the 104th Congress through the 109th Congress.[51] Democratic leaders nonetheless established patterns of managing the House that Republicans critiqued, campaigned on, and eventually responded to when they claimed the majority in the 112th Congress.

In the 110th Congress (2007-2009), Republicans sought through two procedural means to change the special rule (H.Res. 5) providing for consideration of the rules resolution (H.Res. 6). First, they proposed an amendment to the special rule, which was not in order once the previous question was moved. The amendment proposed to write into House rules the legislative components of the Democrats' New House Principles, as explained above. Second, Republicans offered a motion to commit the rules resolution in order to add three prohibitions on special rules that were intended to protect changes Republicans had made during their majority. These prohibitions would have disallowed special rules from waiving the automatic yeas and nays on appropriations measures, measures increasing federal income tax rates, and concurrent resolutions on the budget; the requirement for a three-fifths vote on a measure increasing federal income tax rates; and the disallowance of retroactive federal income tax rate increases.[52]

---

[49] Videos and transcripts of the speech are available on various websites. For a transcript, see, for example, John T. Woolley and Gerhard Peters, *The American Presidency Project* [online] (Santa Barbara, CA: University of California [hosted], Gerhard Peters [database]), at http://www.presidency.ucsb.edu/ws/index.php?pid=84331#axzz1;4kXVbXO.

[50] See, for example, the second presidential debate, October 7, 2008; transcript available at http://elections.nytimes.com/2008/president/debates/transcripts/second-presidential-debate.html; and Andrew Taylor, "Obama, Clinton join McCain vs. earmarks," *Associated Press*, available at http://www.usatoday.com/news/topstories/2008-03-10-2861889130_x.htm.

[51] Democratic control in the 110th Congress (2007-2009) coincided with the last two years of Republican President George W. Bush's term; Democratic control in the 111th Congress (2009-2011) coincided with the first two years of Democratic President Barack Obama's term.

[52] "Rules of the House," *Congressional Record*, vol. 153, part 1 (January 4, 2007), pp. 18-19.

Although Republicans did not seek to delete from the rules resolution voting rights in the Committee of the Whole for the Delegates and Resident Commissioner, they made points of order and parliamentary inquiries during the 110th Congress related to Delegates' and the Resident Commissioner's votes. The points of order and parliamentary inquiries through May 2008 were catalogued in CRS Report RL34570, *Record Voting in the House of Representatives: Issues*

In the 111th Congress (2009-2011), Republicans again sought to preserve in House rules some of the changes they had made in House rules during their majority. They offered a motion to commit the rules resolution (H.Res. 5) to retain term limits on committee chairs, which the Democratic rules resolution proposed to eliminate. The Republicans' motion would also have struck changes to the House rule concerning the motion to recommit proposed in the Democratic rules resolution.[53]

Republicans' principal critique during the 110th and 111th Congresses concerned the majority leadership's limiting of opportunities for Member input in the manner in which Democratic leaders managed the House floor, a criticism Democrats had also made of Republican legislative management of the House during the Republican majority. Republicans criticized the number of bills (or legislative texts) that were brought to the floor without committee consideration, the limited number of amendments allowed under structured rules, the number of closed rules, use of procedures that obviated the opportunity to offer the motion to recommit, and the replacement of conference consideration by amendments between the houses.[54]

Republicans also criticized the Rules Committee's Democratic majority for their procedural implementation of the majority leadership's legislative strategy:

> They have rewritten much of the major legislation passed by this Congress, sometimes in the middle of the night. They engineered the exclusion of opposing viewpoints. They steered around the regular legislative process to support a majority driven by partisan concerns.[55]

When the Democratic leadership in 2009 moved to end the consideration of general appropriation bills under open special rules or the open amendment process allowed by House rules, the event triggered additional Republican criticism of Democrats' legislative management of the House. They argued that a "central tenet of the [appropriations process] was that every member would have the opportunity to bring their issue before the House…."[56]

Republicans also complained regularly on the House floor of receiving legislative proposals at the last minute.[57] In addition, both Democratic and Republican Members introduced resolutions to

---

and Options, by Michael L. Koempel, Jacob R. Straus, and Judy Schneider.

[53] "Rules of the House," *Congressional Record*, vol. 155, part 1 (January 6, 2009), pp. 19-20. See discussion of rules changes to the motion to recommit below at "Recommit, Motion to" and, in preceding Congresses, in CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104th Congress through the 109th Congress*, by Michael L. Koempel and Judy Schneider.

[54] See, for example, Committee on Rules Republicans, "House Rules Republicans Release New Report 'Wipe Out: How the Democratic Majority Abandoned Its Promises of Openness and Civility'," news release, October 21, 2008, available at http://web.archive.org/web/20081030214522/http://rules-republicans.house.gov/News/Read.aspx?id=169. The report and a slide show are available at http://web.archive.org/web/20081030214353/http://rules-republicans.house.gov/Stats.aspx. See also Republican Study Committee, "Democrat Majority Blocked 85% of Republican Amendments Submitted to the Rules Committee," policy brief, October 2010, available at http://web.archive.org/web/20110116124937/http://rsc.jordan.house.gov/UploadedFiles/PB_101510_Amendments.pdf.

[55] Committee on Rules Republicans, "The Wrong Way Congress: How the Democratic Majority Took America in the Wrong Direction with the Wrong Bills in the Wrong Way and the Wrong Time," September 2010, p. 1, available at http://web.archive.org/web/20101007090243/http://rules-republicans.house.gov/media/PDF/WrongWayCongress-Final-WEB.pdf. See also "Irregular Order," editorial, *The Washington Post*, January 12, 2009, p. A12, available at http://www.washingtonpost.com/wp-dyn/content/article/2009/01/11/AR2009011101958_pf.html.

[56] Committee on Rules Republicans, "Opportunities Lost: The End of the Appropriations Process," July 2009, p. 1, available at http://web.archive.org/web/20090805004026/http://rules-republicans.house.gov/media/PDF/OpportunitiesLost_fnl.pdf.

[57] See, for example, Rep. David Dreier, remarks in the House, "Providing for Consideration of Senate Amendments to H.R. 3590, Servicemembers Home Ownership Tax Act of 2009, and Providing for Consideration of H.R. 4872, Health

change House rules for the purpose of increasing transparency and adherence to regular order in the legislative management of the House.[58]

Republican leaders looked ahead as the 2010 elections drew near to describe how they might manage the House should their party be the majority. In speaking to the American Enterprise Institute for Public Policy Research, Republican Leader John A. Boehner proposed a return to the House's regular order for developing and considering legislation:

- allow more floor debate and amendments, with a presumption that legislation will be considered under an open rule;
- make committee-reported legislation the legislative vehicle for floor debate and amendment;
- follow House layover rules for legislation; and
- require committees to give sufficient notice of measures to be marked up, to webcast proceedings and post transcripts online, and to promptly post online amendments adopted and votes cast.[59]

Leader Boehner observed in his speech:

> Woodrow Wilson once said that 'Congress in session is Congress on public exhibition, while Congress in its committee rooms is Congress at work.' If Wilson went from committee room to committee room today, he might take that statement back. Because the truth is, much of the work of committees has been co-opted by the leaderships. In too many instances, we no longer have legislators; we just have voters.[60]

Similarly, Republican Whip Eric Cantor wrote about the centrality of committee work:

> The legislative agenda ought to reflect the importance of hearings and oversight. Setting aside specific time each week for committees to meet without interruption from floor activities ... would provide a protected, regular time for committees to conduct their important business.[61]

In addressing "transparency" in committee proceedings, Republican Leader Boehner drew on his experience as a committee chair:

> At Education and Workforce, we operated with a set of transparency rules that encouraged deliberation and limited problems: First, we gave at least three days' notice on all bills. Actually, we normally went above and beyond this standard, giving about a week's notice on each bill, but three days was the rule. That gave Members plenty of time to gain an appropriate depth of knowledge and scrub each bill for potential landmines.[62]

Care and Education Reconciliation Act of 2010," *Congressional Record*, vol. 156, part 3 (March 21, 2010), p. 4108.

[58] See, for example, H.Res. 216 and H.Res. 1360 (111th Cong.).

[59] Rep. John A. Boehner, "Congressional Reform and 'The People's House'," speech to the American Enterprise Institute for Public Policy Research, September 30, 2010; available at http://www.aei.org/publication/congressional-reform-and-the-peoples-house. (Hereinafter, "Congressional Reform," September 30, 2010). See also Republican Majority in Congress, "Pledge to America," September 23, 2010, available at http://www.gop.gov/resources/library/documents/solutions/a-pledge-to-america.pdf.

[60] Ibid.

[61] Rep. Eric Cantor, "Delivering on Our Commitment," statement in support of candidacy for majority leader, November 3, 2010, available at http://web.archive.org/web/20101103225644/http://republicanwhip.house.gov/Majority/Cantor.pdf. (Hereinafter, "Delivering on Our Commitment.")

[62] "Congressional Reform," September 30, 2010.

Democrats' Proposed Rules Changes, 112th Congress

The 2010 elections again resulted in a switch in majority in the House, beginning with the 112th Congress (2011-2013). In response to the Republican rules package for the new Congress (H.Res. 5), Democrats proposed an amendment to the rules resolution, which could not be offered after the previous question was moved. This amendment would have overturned the rules resolution provision exempting the extension of certain tax laws from the operation of the Statutory Pay-As-You-Go Act. The ranking minority member-designate of the Budget Committee argued:

> [T]his plan guts the existing pay-as-you-go rule that limits mandatory spending and tax breaks that add to our deficits. It also creates a mechanism to do an end run against the pay-as-you-go law recently signed by President Obama that will limit increases in our national debt. … [T]he rule being proposed … eliminates provisions that say you can't add to the deficit by creating special interest tax breaks. The proposal before us eliminates that limitation.[63]

A Democratic Member offered a motion to commit the House rules resolution to add a requirement that a Member make a decision on participation in the Federal Employees Health Benefits Program within 15 days of taking office and that the Member's choice be publicly disclosed; the motion was defeated.[64]

Earlier, after the rules resolution had been called up, the Delegate from the District of Columbia made a motion to refer the resolution to a select committee to study the constitutionality of the provision deleting Delegates' voting rights in the Committee of the Whole from House rules. The House voted to table the motion.[65]

Majority and Minority Policy Differences in the 113th Congress (2013-2015) Rules Debate

Unlike the Democratic critiques in the 104th through 109th Congresses, the Republican critique in the 110th and 111th Congresses, and the Democrats' proposed rule changes in the 112th Congress, the Democrats responded to the Republican rules package in the 113th Congress (H.Res. 5) by proposing amendments to the rules package that related to potentially different policy stances of the two parties rather than to changes in the proposed rules.

On behalf of her Democratic colleagues, the Democratic floor manager of the rules resolution, Rules Committee Ranking Minority Member Louise Slaughter, urged the House to defeat the previous question motion when it was offered so that the minority could propose an amendment to the rules resolution. The amendment would have made in order the consideration of a joint resolution containing an amendment to the U.S. Constitution to overturn the Supreme Court decision in *Citizens United* and other court cases to allow Congress and the states to limit political contributions.[66] Representative Slaughter argued:

---

[63] Rep. Chris Van Hollen, House debate, "Rules of the House," *Congressional Record*, vol. 157, part 1 (January 5, 2011), p. 93.

[64] The Democratic motion to commit the rules resolution may be found at "Rules of the House," *Congressional Record*, vol. 157, part 1 (January 5, 2011), p. 101.

[65] Del. Eleanor Holmes Norton, House debate, "Rules of the House," *Congressional Record*, vol. 157, part 1 (January 5, 2011), pp. 83-84.

[66] Citizens United v. Federal Election Commission, 558 U.S. 310 (2010).

> In the years since the Supreme Court handed down its ruling in the Citizens United case, unlimited amounts of money from billionaires and hidden special interests have flooded our elections. Led by secret political spending that is hidden from public view, wealthy special interests have tried to buy our airwaves, to fund outrageously expensive campaigns, and to launch dishonest political attacks to persuade the outcome of countless elections. ... [T]his amendment would finally remove the unlimited and untracked political donations from our electoral system.[67]

The Democrats' proposed amendment could not be offered after the previous question was moved.

Thereafter, a Democratic Member offered a motion to commit the House rules resolution in order to include an amendment to it to reduce waiting times in voting lines and to promote early voting opportunities. The motion to commit with the amendment was rejected. The question was then taken on the rules resolution and the resolution was agreed to.[68]

Earlier in the day, as in the 112th Congress, after the rules resolution had been called up, the Delegate from the District of Columbia made a motion to refer the resolution to a select committee to study the denial in House rules of Delegates' voting rights in the Committee of the Whole. The House voted to table the motion.[69]

Majority and Minority Policy Differences in the 114th Congress (2015-2017) Rules Debate

In the 114th Congress (2015-2017), Democrats again responded to the Republican rules package (H.Res. 5) by proposing amendments to it that related to potentially different policy stances of the two parties rather than to changes in the proposed rules.[70]

On behalf of her Democratic colleagues, the Democratic floor manager of the rules resolution, Rules Committee Ranking Minority Member Louise Slaughter, urged the House to defeat the previous question motion when it was offered so that the minority could propose an amendment to the rules resolution. The amendment would have made in order House consideration of a bill to "modify the rules relating to inverted corporations and to transfer the resulting revenues to the

---

[67] Rep. Louise M. Slaughter, House debate, "Rules of the House," *Congressional Record*, daily edition, vol. 159 (January 3, 2013), H10.

[68] The Democratic motion to commit the rules resolution, offered by Rep. George Miller, may be found at "Rules of the House" *Congressional Record*, daily edition, vol. 159 (January 3, 2013), p. H22. Several Democratic Members also expressed their opposition to the House's participation in lawsuits to defend the constitutionality of provisions of the Defense of Marriage Act. See, for example, Rep. Jerrod Nadler, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 159 (January 3, 2013), p. H17.

[69] Del. Eleanor Holmes Norton, House debate, "Rules of the House," *Congressional Record*, daily edition, vol. 159 (January 3, 2013), H9-H10.

[70] In the course of the 113th Congress (2013-2015), Democratic members of the Rules Committee often criticized the types of special rules reported by the committee. See, for example, Rep. Louise M. Slaughter, "The Most Closed Congress in History," *Politico Magazine*, January 6, 2014, available online at http://www.politico.com/magazine/story/2014/01/the-most-closed-congress-in-history-101794.

In the debate over the rules for the 114th Congress, the most-discussed rules change was a revision to the rule on "dynamic scoring." Democrats in the debate criticized the change and Republicans in the debate defended the revision. See, for example, Rep. Lloyd Doggett, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), p. H19, and Rep. Tom Price, p. H20.

Highway Trust Fund" to make additional money available for infrastructure spending.[71] Representative Slaughter explained the amendment thus:

> It is time to stop rewarding companies that move overseas and, instead, use those dollars to create good-paying jobs here at home and rebuild our Nation's crumbling infrastructure. By closing this loophole and ending the so-called tax inversions, we would raise an estimated $33.6 billion to invest in our roads, railways, and bridges which are falling apart all over the country.[72]

The Democrats' proposed amendment could not be offered after the previous question was moved. In the course of the rules debate, however, Democratic Members, including Democratic leaders, spoke about specific economic policy legislation that they would propose in the 114th Congress.[73]

After the previous question had been moved and debate thereby ended, a Democratic Member offered a motion to commit the House rules resolution in order to include an amendment making it in order for the House to consider the CEO-Employee Paycheck Fairness Act.[74] The text of this measure, included in the motion to commit, limited corporate deductions for executive compensation with the purpose of addressing "wage stagnation." The motion to commit with the amendment was rejected.[75] The question was then taken on the resolution and the resolution was agreed to.[76]

Earlier in the day, once the rules resolution had been called up, Delegate Eleanor Holmes Norton made a motion to refer the resolution to a select committee to study the failure of House rules to provide Delegates' voting rights in the Committee of the Whole. The House voted to table the motion.[77]

Democratic Critique of the Rules Resolution in the 115th Congress (2017-2019)

Over the course of the preceding three Congresses, with Republicans as the majority party in the House, Democrats consistently complained about the number of closed and structured special rules brought to the floor and about specific Democratic amendments not made in order for floor consideration.[78] During the 114th Congress, during debate on some of the special rules reported by

---

[71] For an explanation of corporate inversions, see CRS Report R43568, *Corporate Expatriation, Inversions, and Mergers: Tax Issues*, by Donald J. Marples and Jane G. Gravelle.

[72] Rep. Louise M. Slaughter, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), p. H14.

[73] "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), pp. H14-H24.

[74] Subsequently introduced as H.R. 620 (114th Cong.).

[75] Rep. Chris Van Hollen, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 161 (January 5, 2015), p. H18. The motion to recommit and vote appear on pp. H25-H27.

[76] "Rules of the House," House vote, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), p. H27.

[77] Del. Eleanor Holmes Norton, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), p. H11.

[78] See, for example, Rep. Louise Slaughter, "Speaker Boehner's House Conducts Most Closed Session of Congress in History," press release, January 7, 2014, available at http://democrats.rules.house.gov/press-release/house-gops-closed-rules-slam-door-progress; and Committee on Rules Democrats, "Milestone: Most Closed Congress in U.S. History," press release, November 17, 2015, available at http://democrats.rules.house.gov/press-release/milestone-most-closed-congress-us-history.

the Rules Committee, Democratic Members also argued against bifurcated rules[79] and in favor of the consideration of other public policy matters or legislation.[80] Rules Committee Ranking Minority Member Louise Slaughter reiterated this criticism during debate on the 115th Congress rules resolution (H.Res. 5),[81] concluding by saying, "we invite you to bring regular order back to this House and to bring back the barrel of ideas."[82]

A number of Democrats argued against three rules changes made in the rules resolution. The first change, which generated a number of remarks, allowed the sergeant at arms to levy a fine against a Member who breached House decorum with use of an electronic device and, further, added specific conduct that would be considered disorderly and subject to referral to the Ethics Committee. (See, below, "Decorum in the Chamber: Conduct and Electronic Devices.")

The Republican majority included the change in the rules resolution in response, at least in part, to Democratic Members' 25-hour "sit-in" on the House floor, spanning June 22-23, 2016. With House cameras turned off during recesses, the participating Members used social media and live-streaming to publicize the sit-in, the purpose of which was to demand votes on anti-gun violence legislation following the 49-person massacre in an Orlando nightclub on June 12.[83]

Democratic Members argued that the change unconstitutionally allowed an officer of the House to punish a Member, lacked due process protections, abridged Members' rights to debate, and sought to impose a "gag rule" on Members seeking action on legislation supported by many citizens but opposed by majority leadership.[84]

Once debate on the rules resolution concluded and the previous question had been ordered, Representative John Lewis offered a motion to commit the rules resolution to strike this change from it. The motion to commit was rejected.[85]

Another change that generated a number of remarks was a standing order that initially appeared as a standing order in the House rules resolution for the 112th Congress and in budget resolutions in the two succeeding Congresses. (See, below, "112th Congress" and "115th Congress" under "Rules Changes Affecting Budgetary Legislation.") The standing order included in the 115th Congress rules resolution contained an exemption from the standing order that would affect

[79] For an explanation of traditional special rules and contemporary variations, see Walter J. Oleszek et al., *Congressional Procedures and the Policy Process*, 10th ed. (Thousand Oaks, CA: CQ Press, 2016), pp. 161-175.

[80] For an example of debate that included these arguments, see Rep. James McGovern, "Providing for Consideration of H.R. 5053, Preventing IRS Abuse and Protecting Free Speech Act; and Providing for Consideration of H.R. 5293, Department of Defense Appropriations Act, 2017," House debate, *Congressional Record*, daily edition, vol. 162 (June 14, 2016), pp. H3770-H3772 et seq.

[81] Rep. Louise Slaughter, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H16.

[82] Rep. Louise Slaughter, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H24.

[83] For background, see Kellie Mejdrich, "Democrats' House Sit-In Continues into the Night, Stalls Action," *CQ Roll Call*, June 22, 2016, available at http://www.cq.com/doc/news-4915209?4&search=7kMC6kww; and Todd Ruger, "Driven by Orlando, Emotional Democrats Take a Stand for Gun Control," *CQ Roll Call*, June 22, 2016, available at http://www.cq.com/doc/news-4915567?6&search=R0TVQlL6.

[84] See, for example, the remarks and letter inserted in the *Congressional Record* by Rep. Clark: Rep. Katherine Clark, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), pp. H20-H21.

[85] Rep. John Lewis, "Rules of the House," motion to commit, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), pp. H26-H27.

legislation to repeal or reform the Patient Protection and Affordable Care Act and the Health Care and Education Affordability Reconciliation Act.[86]

Democrats attacked the policy implications of the exemption. They argued that this exemption would allow repeal or reform of the health care law to be done without regard to an expected several-trillion-dollar impact on the federal deficit and that repeal would take away health coverage from many people and drive up premiums for all, harm Medicare recipients in a number of ways, and adversely affect the solvency of Medicare.[87]

Ranking Member Slaughter announced during debate that she would offer an amendment to the rules resolution, urging Members to defeat the previous question so that she could offer the amendment. The amendment would have added a new paragraph to Rule XXI ("Restrictions on Certain Bills"). The amendment would have prohibited the House from considering a bill, joint resolution, amendment, or conference report that adversely affected health benefits in one of seven ways or that reduced taxes for very wealthy taxpayers or increased taxes for 80% of the population that was comparatively the least wealthy. Representative Slaughter explained, "[I]f we defeat the previous question, I will offer an amendment to the resolution that would establish a point of order against any legislation that would undo the requirements of the Affordable Care Act...."[88]

The House ordered the previous question, stymieing the offering of the amendment.

The third change also appeared in the rules resolution as a standing order. The change reintroduced the Holman Rule, which had been deleted from House rules in 1983.[89] The rule allows legislation on an appropriations bill when the effect of the amendment is to "retrench expenditures." (See, below, "115th Congress" under "Rules Changes Affecting Budgetary Legislation.") Democrats argued that the rule allows the majority party to circumvent the legislative process in order to "fire or cut the pay" of individual federal employees or groups of employees.[90]

---

[86] For additional explanation of the point of order as adopted by the House for the 115th Congress, see CRS Report R44769, *Provisions Affecting the Congressional Budget Process Included in H.Res. 5 (115th Congress)*, by Megan S. Lynch and James V. Saturno.

[87] See, for example, Rep. Frank Pallone, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H18.

[88] Rep. Louise Slaughter, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H18. The text of the amendment appears on p. H25.

[89] For an explanation of the standing order, see CRS Report R44736, *The Holman Rule (House Rule XXI, Clause 2(b))*, by James V. Saturno. The eponym of the rule was Rep. William Holman, D-IN, who served in the House from 1859-1865, 1867-1877, 1881-1895, and 1897. See also Jennifer Shutt and Kellie Mejdrich, "Spending Cuts to Salaries, Agencies Eased by House GOP Rule," *CQ Roll Call*, January 3, 2017, available at http://www.cq.com/doc/news-5011622?7&search=RTtvk1P0; Kellie Mejdrich, "House Rule on Spending Bills Could Boomerang on Republicans," *CQ Roll Call*, January 5, 2017, available at http://www.cq.com/doc/news-5012395?11&search=clj3PmlQ; and Jonathan Miller, "House Rule on Spending Adds to Federal Workers' Wariness," *CQ Roll Call*, January 9, 2017, available at http://www.cq.com/doc/news-5015124?13&search=dpCPQP2x.

[90] Rep. Steny Hoyer, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), pp. H16-H17. Other rules changes that Democratic Members discussed in debate included: a rule change requiring committees to include in their oversight plan recommendations for changes to existing law to move programs to discretionary appropriations from mandatory funding, and extending deposition authority to staff of all committees. Additional remarks on other changes were included in statements inserted in the *Congressional Record*. See, for example, Jeremy Dillon, "GOP Rules Package Would Ease Transfer of Federal Lands," *CQ Roll Call*, January 3, 2017, available at http://www.cq.com/doc/news-5011968?5&search=0b582n2k. Changes to the authority of the Office of Congressional Ethics had been withdrawn prior to the debate on the rules resolution, and some Members alluded to these proposals in the course of the debate. No changes, however, were included in H.Res. 5. For an explanation of

Following debate and disposition of the previous question motion and the motion to commit, the House adopted the rules resolution.[91]

Earlier in the day, once the rules resolution had been called up on the House floor, Delegate Eleanor Holmes Norton made a motion to refer the resolution to a select committee to study the failure of House rules to provide Delegates' voting rights in the Committee of the Whole. The House voted to table the motion.[92]

Rules Changes Affecting Committees

This section identifies changes made to the committee system on opening day of the 110th, 111th, 112th, 113th, 114th, and 115th Congresses, pursuant to the resolutions adopting amendments to the rules of the House and establishing separate orders, and pursuant to the Speaker's announcements.[93] Rules, sections of rules, and Speakers' policy announcements appear when a change occurs. The section is organized around three topics: (1) structure and organization, including committee chairmanships and committee assignments, committee jurisdiction, and subcommittees; (2) procedure, including committee meetings, committee reports, oversight, and voting; and (3) staff and funding.[94]

The 110th (2007-2009) and 111th (2009-2011) Congresses were organized by the Democrats; the 112th (2011-2013), 113th (2013-2015), 114th (2015-2017), and 115th (2017-2019) Congresses were organized by the Republicans.

Structure and Organization[95]

Assignments and Size[96]

In the 112th Congress, H.Res. 5 established the size of the Intelligence Committee at not more than 20 members, of which not more than 12 members could be from the same party.[97] (Amended clause 11 of Rule X.)

OCE, see CRS Report R40760, *House Office of Congressional Ethics: History, Authority, and Procedures*, by Jacob R. Straus.

[91] "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), pp. H7-H28.

[92] Del. Eleanor Holmes Norton, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H11.

[93] For changes affecting committees for the 104th-109th Congresses, see CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104th Congress through the 109th Congress*, by Michael L. Koempel and Judy Schneider.

[94] Historical information on committee structure and organization and an analysis of committee procedures appear in CRS Report R41501, *House Legislative Procedures and House Committee Organization: Options for Change in the 112th Congress*, by Judy Schneider and Michael L. Koempel (archived but available to congressional clients from the authors on request).

[95] For information on the structure and organization of congressional committees, see CRS Report RS20794, *The Committee System in the U.S. Congress*, by Judy Schneider; and CRS Report RS20465, *House Committee Organization and Process: A Brief Overview*, by Judy Schneider.

[96] For information on the assignment process to House committees, see CRS Report 98-151, *House Committees: Categories and Rules for Committee Assignments*, by Judy Schneider; CRS Report 98-367, *House Committees: Assignment Process*, by Judy Schneider; and CRS Report R40478, *House Committee Party Ratios: 98th-114th Congresses*, by Matthew E. Glassman and Sarah J. Eckman.

[97] By a freestanding resolution in the 111th Congress, the House had established the size of the Intelligence Committee

In the 114th Congress, H.Res. 5 increased the size of the Intelligence Committee to not more than 22 members, of which not more than 13 could be from the same party. (Amended clause 11(a) of Rule X.)

Chairmanships/Term Limitations[98]

In the 111th Congress, H.Res. 5 struck the chair term limit from House rules.[99] (Amended clause 5 of Rule X.)

In the 111th Congress, H.Res. 5 allowed a Member to serve a second consecutive term as chair or ranking minority member of the Budget Committee, even if in doing so the Member would exceed the limit on service on the committee. (Amended clause 5 of Rule X.)

In the 112th Congress, H.Res. 5 restored the standing committee chair term limit: service in not more than three consecutive Congresses as a committee or subcommittee chair, not counting service for part of a Congress. The change included an exemption from the term limit for the Rules Committee chair; the Rules chair had also been exempted from the prior term limit. (Amended clause 5 of Rule X.)

Committee and Commission Creation or Retention

As part of its committee expense resolution in the 110th Congress, the House created a Select Committee on Energy Independence and Global Warming.[100] The select committee was not given legislative authority, but was charged with investigating and making recommendations "to reduce the dependence of the United States on foreign sources of energy and achieve substantial and permanent reductions in emissions and other activities that contribute to climate change and global warming."[101] In the rules resolution for the 111th Congress, H.Res. 5, the House adopted a standing order continuing the existence of the select committee in the 111th Congress.[102]

H.Res. 5 in the 111th Congress also continued the existence of two commissions: the House Democracy Assistance Commission[103] and the Tom Lantos Human Rights Commission.[104] The following changes were made in the authority of the Lantos commission for the 111th Congress:

- In addition to collaborating with the staff of the Committee on Foreign Affairs, the commission could collaborate with the staff of other relevant committees; and

at no more than 22 members, of which not more than 13 could be members of one party. H.Res. 97, agreed to in the House January 28, 2009.

[98] For information on how chairs and ranking minority members are chosen in the House, see, CRS Report RS21165, *House Standing Committee Chairs and Ranking Minority Members: Rules Governing Selection Procedures*, by Judy Schneider.

[99] The committee chair term limit was a major reform made in the 104th Congress. Changes also beginning in the 104th Congress in how the parties select their chairs now probably have as much effect on chair tenure as a stated term limit. See CRS Report RS21165, *House Standing Committee Chairs and Ranking Minority Members: Rules Governing Selection Procedures*, by Judy Schneider.

[100] H.Res. 202 (110th Cong.), agreed to in the House March 8, 2007.

[101] H.Res. 202, §4 (c).

[102] The select committee expired with the sine die adjournment of the 111th Congress.

[103] Established by H.Res. 135 (109th Cong.), agreed to in the House March 14, 2005, and re-established by H.Res. 24 (110th Cong.), agreed to in the House January 30, 2007.

[104] Established by H.Res. 1451 (110th Cong.), agreed to in the House September 24, 2008.

- The commission was entitled, through the Committee on Foreign Affairs, to use the same House resources as the Committee on Foreign Affairs was entitled to use.

H.Res. 5 also continued the existence of the Office of Congressional Ethics (OCE). OCE had been created in the previous Congress to review allegations of misconduct against Members, officers, and employees of the House; to conduct an investigation pursuant to criteria included in the office's establishing resolution; and, pursuant to criteria in the establishing resolution, to refer its recommendations to the Standards of Official Conduct Committee.[105] The continuation also provided OCE with authority to hire consultants as if it were a standing committee of the House.

Separate orders contained in H.Res. 5 in the 112th Congress continued the existence but changed the name of the House Democracy Assistance Commission to the House Democracy Partnership, and continued the existence of the Tom Lantos Human Rights Commission with the same changes in authority as made in the 112th Congress.

Another separate order continued the Office of Congressional Ethics, again with authority to hire consultants as if it were a standing committee of the House.

H.Res. 5 of the 113th Congress contained a separate order that continued the existence of the House Democracy Partnership and the Tom Lantos Human Rights Commission, as modified in the 111th Congress.

Another separate order in the 113th Congress continued the Office of Congressional Ethics, again with authority to hire consultants as if it were a standing committee of the House. In addition, two provisions related to term limits for board members were made inoperative for the 113th Congress.

H.Res. 5 of the 114th Congress contained a separate order that continued the existence of the House Democracy Partnership and the Tom Lantos Human Rights Commission, as modified in the 111th Congress.

Another separate order in the 114th Congress continued the Office of Congressional Ethics, again with authority to hire consultants as if it were a standing committee of the House. In addition, two provisions related to term limits for board members were made inoperative for the 114th Congress. The separate order also contained two other additions. First, an individual who is the subject of a preliminary review or a second-phase review must be informed of a right to counsel. The exercise of that right may not reflect negatively on the individual. Second, the Office of Congressional Ethics may not take an action that would deny an individual a constitutional right or protection.

Another separate order continued the existence of the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi.[106] In the separate order, the select committee

[105] Established by H.Res. 895 (110th Cong.), which was deemed adopted with the adoption of H.Res. 1031 (110th Cong.), agreed to in the House March 11, 2008. See CRS Report R40760, *House Office of Congressional Ethics: History, Authority, and Procedures*, by Jacob R. Straus. The Standards of Official Conduct Committee was renamed the Ethics Committee in the 112th Congress. (See, below, "Committee Names.")

[106] During the 113th Congress, the House adopted H.Res. 567, which established a select committee on the events surrounding the 2012 terrorist attack on the American compound in Benghazi, Libya; agreed to in the House May 8, 2014.

was allowed to adopt a committee rule or motion permitting members to question a witness for 10 minutes.[107]

In the course of the 114th Congress, the House and Senate created a Joint Congressional Committee on Inaugural Ceremonies for the 2017 inauguration of the President and Vice President (S.Con.Res. 28) and authorized the use of the Capitol for the inaugural ceremonies (S.Con.Res. 29).[108]

With separate orders in H.Res. 5 in the 115th Congress, the rules resolution continued the House Democracy Partnership, the Tom Lantos Human Rights Commission, and the Office of Congressional Ethics unchanged from the separate orders adopted in the 114th Congress, described just above.

Committee Names

H.Res. 6 in the 110th Congress changed the names of five committees (amendments to Rule X):

- Education and Labor, from Education and Workforce,
- Foreign Affairs, from International Relations,
- Natural Resources, from Resources,
- Oversight and Government Reform, from Government Reform, and
- Science and Technology, from Science.

H.Res. 5 in the 112th Congress changed the names of three committees (amendments to Rule X):

- Education and the Workforce, from Education and Labor,
- Ethics, from Standards of Official Conduct, and
- Science, Space, and Technology, from Science and Technology.

In the 114th Congress, H.Res. 5 corrected the name in rules citations of the Joint Committee on Taxation, which appeared in House rules as the Joint Committee on Internal Revenue Taxation, its original name dating to the Revenue Act of 1926. The committee's name had been changed in the Tax Reform Act of 1976.[109] (Amended clause 3(h) of Rule XIII and clause 11(a) of Rule XXII.)

Committee Rules

In the 114th Congress, a requirement for inclusion in committee rules was moved by H.Res. 5 from one clause to another. Committees' rules are explicitly required to address audio and video coverage of a committee's proceedings, as listed in Rule XI, clause 4(f). Language appearing in subparagraph (f) requiring committees to adopt audio-video coverage rules was moved to Rule

[107] In the course of the 114th Congress, the House also adopted a resolution, H.Res. 461, establishing a select investigative panel as a part of the Energy and Commerce Committee, agreed to in the House October 7, 2015. Subsequently referred to as the Select Investigative Panel on Infant Lives, the panel was created in part to investigate matters related to "fetal tissue procurement." For background, see Melanie Zanona, "Panel Sets Up Debate for Planned Parenthood Panel, Mortgage Disclosure Bill," *Roll Call*, October 6, 2015, available at http://www.cq.com/doc/committees-2015100600330010.

[108] Agreed to in the House February 3, 2016, completing congressional action on the concurrent resolutions. For background on the joint committee, see CRS Report R42603, *Joint Congressional Committee on Inaugural Ceremonies: History, Membership, and Inaugural Activities*, by Jacob R. Straus.

[109] Tax Reform Act of 1976, P.L. 94-455, §1907(a)(1); 90 Stat. 1520, 1835 (1976).

XI, clause 2(a), which requires committees to adopt written rules. (Amended clause 2(a) and clause 4(f) of Rule XI.)

The rules resolution made an additional change to Rule XI, clause 4. A wordier statement on the prohibition of partisan political use of audio and video coverage of committees' proceedings was replaced with more succinct text mirroring the prohibition on use of House broadcasts. (Amended clause 4(b) of Rule XI.)

Jurisdiction[110]

110th Congress

References in the jurisdiction of the Intelligence Committee in Rule X, clause 11 were made consistent by H.Res. 6 with changes in the organization of intelligence agencies pursuant to the Intelligence Reform and Terrorism Prevention Act of 2004.[111] For example, "Director of National Intelligence" replaced "Director of Central Intelligence" at several places in clause 11.

The Speaker's announced policies for the 110th Congress did not include the previous Speaker's statement on jurisdictional issues, principally related to the memorandum of understanding between the Energy and Commerce and Financial Services Committees and referrals to the then-new Homeland Security Committee.[112]

111th Congress

An addition was made to the oversight authority of the Homeland Security Committee in H.Res. 5 so that the committee's oversight extended to all government programs and organizations related to homeland security that "fall within [the committee's] primary legislative jurisdiction." The change was intended to clarify that agencies' operating programs within the committee's legislative jurisdiction have a reporting relationship with it, in addition to their reporting relationship with other committees.[113] (Amended clause 3 of Rule X.)

The House Administration Committee gained jurisdiction over the "management of services" provided to the House by the architect of the Capitol. Services of the architect within the jurisdiction of the Transportation and Infrastructure Committee remained with that committee. (Amended clause 4 of Rule X.)

---

[110] See CRS Report 98-175, *House Committee Jurisdiction and Referral: Rules and Practice*, by Judy Schneider. See also CRS Report RL32661, *House Committees: A Framework for Considering Jurisdictional Realignment*, by Michael L. Koempel; and RL34293, *Resolving House Committee Jurisdictional Disputes: A Survey of Options*, by Walter J. Oleszek (archived but available to congressional clients from the author on request).

[111] P.L. 108-458; 118 Stat. 3638 (2004).

The chairs of the Homeland Security Committee and the Transportation and Infrastructure Committee also entered into a memorandum of understanding for the 110th Congress pertaining to the committees' jurisdiction over the Federal Emergency Management Agency (FEMA), the Coast Guard, and port security. "Rules of the House," *Congressional Record*, vol. 153, part 1 (January 4, 2007), p. 16.

[112] "Announcement by the Speaker," *Congressional Record*, daily edition, vol. 153, part 1 (January 5, 2007), pp. 273-274.

[113] Background on the creation and jurisdiction of the Homeland Security Committee is available in CRS Report RL32711, *Homeland Security: Compendium of Recommendations Relevant to House Committee Organization and Analysis of Considerations for the House, and 109th and 110th Congresses Epilogue*, by Michael L. Koempel (archived but available to congressional clients from the author on request).

112th Congress

H.Res. 5 assigned a new duty to the House Administration Committee—to promulgate standards for making House and House committee documents publicly available.[114] (Amended clause 4 of Rule X.) H.Res. 5 further provided that, if a document was available in electronic form at a location designated by the committee, the document would be considered available to Members as required by House rules.[115] (Added new clause 3 to Rule XXIX.) A separate order provided an interim order pending the promulgation of regulations by the committee. The interim order stated that posting on the Committee on Rules website would serve the publicly available requirement for the House floor and each committee's majority website would serve that purpose for a committee. (See also, below, "114th Congress" under "Rules Changes Affecting the Administration of the House.")

The rules resolution also added to the jurisdiction of the Armed Services Committee: "Cemeteries administered by the Department of Defense." The Veterans' Affairs Committee's jurisdiction over veterans' cemeteries was not affected. (Amended clause 1 of Rule X.)

113th Congress

H.Res. 5 added "general management" to "organization and administration" of the Department of Homeland Security to the Committee on Homeland Security's jurisdictional statement. This change was intended to clarify the committee's existing jurisdiction over the department, but not alter the existing pattern of bill referrals or oversight jurisdiction.[116]

H.Res. 5 also changed a word in the jurisdictional statement of the Committee on Natural Resources to "Insular areas" from "Insular possessions." This change conformed the language used in the committee to that used by the Departments of State and Interior. This change was also intended to clarify that the committee's jurisdiction included the Freely Associated States (the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau). The Freely Associated States, while independent nations under the jurisdiction of the Foreign Affairs Committee, also have a special relationship with the United States through the Compact of Free Association.[117] (Amended clause 1 of Rule X.)

---

[114] U.S. Congress, House, Committee on House Administration, "House Administration Adopts New Posting Standards for House Documents," news release, December 16, 2011, available at http://cha.house.gov/press-release/house-administration-adopts-new-posting-standards-house-documents. The standards are available at http://cha.house.gov/member-services/electronic-posting-standards, or as a PDF document at http://cha.house.gov/sites/republicans.cha.house.gov/files/documents/member_services_docs/electronic_posting_standards.pdf.

[115] U.S. Congress, House, Committee on House Administration, "Clerk Launches New Site for House Documents," news release, January 17, 2012, available at http://cha.house.gov/press-release/clerk-launches-new-site-house-documents. The website is located at http://docs.house.gov.

[116] For additional explanation, see the section-by-section analysis of H.Res. 5 placed in the *Congressional Record* by the chair of the Rules Committee: Rep. Pete Sessions, "Rules of the House," insert, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), p. H12. See also the remarks of the chair of the Judiciary Committee: Rep. Bob Goodlatte, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), pp. H21-H22.

[117] The chairs of the Committee on Foreign Affairs and the Committee on Natural Resources entered into a memorandum of understanding for the 113th Congress pertaining to the committees' jurisdiction over insular possessions of the United States. Rep. John Boehner, "Rules of the House," insert, *Congressional Record*, vol. 159 (January 3, 2013), p. H18.

114th Congress

H.Res. 5 made specific changes affecting the jurisdiction of three committees. First, it added "criminalization" to the jurisdiction of the Judiciary Committee. The purpose of the addition was to address instances where a measure criminalized conduct and triggered but did not change a criminal penalty, possibly leaving the measure outside the jurisdictional interests of the Judiciary Committee. The addition affected regulatory measures within the jurisdiction of other committees than Judiciary that subjected new conduct to criminal penalty but left a criminal penalty unchanged. A change to the criminal penalty would have been within the jurisdiction of the Judiciary Committee. The jurisdiction of other committees over specific regulatory measures was unchanged.[118] (Amended clause 1(l) of Rule X.)

Second, the rules resolution added jurisdiction over bills and joint resolutions containing new budget or other authority related to new direct loan obligations and new loan guarantee commitments to the jurisdiction of the Appropriations Committee. The change referenced Section 504(b) of the Congressional Budget Act, which allows new direct loan obligations and new loan guarantee to be incurred only to the extent of new budget authority or other authority contained in an appropriations act.[119] (Amended clause 1(b) of Rule X.)

Finally, the rules resolution provided the House Administration Committee with jurisdiction over the policy direction of the chief administrative officer in addition to the oversight jurisdiction it already exercised. (Amended clause 4(d) of Rule X and clause 4(a) of Rule II.) (See also, below, "114th Congress" under "Rules Changes Affecting the Administration of the House.")

Subcommittees[120]

In the 110th Congress, H.Res. 6 contained a special rule that made in order the consideration of a resolution "to enhance intelligence oversight authority." The House subsequently adopted H.Res. 35, creating a Select Intelligence Oversight Panel of the Committee on Appropriations, on January 9, 2007.[121]

A separate order in H.Res. 6 also authorized three committees to have more subcommittees than permitted by House rules. The Armed Services Committee and the Foreign Affairs Committee were each allowed not more than seven subcommittees, and the Transportation and Infrastructure Committee was allowed not more than six subcommittees.

---

[118] For additional explanation, see the section-by-section analysis of H.Res. 5 placed in the *Congressional Record* by the chair of the Rules Committee: Rep. Pete Sessions, "Rules of the House," insert, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), pp. H12 and H14. See also the remarks of the chair of the Judiciary Committee: Rep. Bob Goodlatte, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), pp. H21-H22.

[119] For information on federal credit programs, see CRS Report R42632, *Budgetary Treatment of Federal Credit (Direct Loans and Loan Guarantees): Concepts, History, and Issues for Congress*, by Mindy R. Levit.

[120] For information on House subcommittees, see CRS Report 98-544, *Subcommittees in the House of Representatives*, by Judy Schneider; and CRS Report 98-610, *House Subcommittees: Assignment Process*, by Judy Schneider. Regarding changes to the subcommittees of the Appropriations Committee, see CRS Report RL31572, *Appropriations Subcommittee Structure: History of Changes from 1920 to 2017*, by James V. Saturno.

[121] For background on creation of the panel, see Patrick Yoest and Tim Starks, "Senate to Begin Work on Sept. 11 Panel Legislation Following House Action," *CQ Today*, vol. 43, no. 6, January 10, 2007, p. 3.

A separate order in H.Res. 5 in the 111th Congress again allowed the Armed Services and Foreign Affairs Committees to have not more than seven subcommittees each and the Transportation and Infrastructure Committee to have not more than six subcommittees.

The House in H.Res. 5 in the 112th Congress eliminated the Select Intelligence Oversight Panel of the Appropriations Committee.[122] (Struck a portion of clause 4 of Rule X.)

A separate order in H.Res. 5 also allowed the Committees on Armed Services and Foreign Affairs each to have not more than seven subcommittees and the Committee on Transportation and Infrastructure to have not more than six subcommittees.

A separate order included in H.Res. 5 in the 113th Congress allowed the same exemption to the Committees on Armed Services, Foreign Affairs, and Transportation and Infrastructure.

A separate order in H.Res. 5 in the 114th Congress allowed the Agriculture Committee and Transportation and Infrastructure Committee to each have not more than six subcommittees and the Armed Services Committee and Foreign Affairs Committee to each have not more than seven subcommittees.

In the 115th Congress, a change was included in H.Res. 5 to amend a rule provision on the number of subcommittees allowed for three specific committees, replacing the biennial separate order applicable to these committees. The change allowed the Armed Services Committee to have not more than seven subcommittees, the Foreign Affairs Committee to have not more than seven subcommittees, and the Transportation and Infrastructure Committee to have not more than six subcommittees. (Amended clause 5(d) of Rule X.)

A separate order, nonetheless, allowed the Agriculture Committee to have not more than six subcommittees.

Procedure[123]

Committee Reports[124]

H.Res. 6 in the 110th Congress exempted the Committee on Rules from the requirement of including recorded committee votes in its reports. (Amended clause 3 of Rule XIII.)

Other committees' reports were now to contain a list of earmarks, limited tax benefits, and limited tariff benefits in the reported measure or a statement that the measure did not contain these provisions. (For an explanation of this requirement, see "Earmarks" below in this section.)

[122] For background on the panel's termination, see Tim Starks, "Plan to Eliminate House Panel Raises Budgetary Oversight Questions," *CQ Today*, vol. 47, no. 1, January 5, 2011, p. 9.

[123] For information on committee markups and hearings, see CRS Report R41605, *House Standing Committees' Rules on Legislative Activities: Analysis of Rules in Effect in the 114th Congress*, by Michael L. Koempel and Judy Schneider; and CRS Report R41083, *House Committee Markups: Manual of Procedures and Procedural Strategies*, by Michael L. Koempel and Judy Schneider. See also CRS Report RS20308, *House Committee Markups: Commonly Used Motions and Requests*, by Judy Schneider; CRS Report RL30244, *The Committee Markup Process in the House of Representatives*, by Judy Schneider; CRS Report 98-312, *House Rules Governing Committee Markup Procedures*, by Judy Schneider; and a series of reports on aspects of markups beginning with CRS Report 98-168, *House Committee Markup: Preparation*, by Judy Schneider. Regarding hearings, see CRS Report 98-317, *Types of Committee Hearings*, by Valerie Heitshusen, and a series of reports on aspects of hearings beginning with CRS Report 98-339, *House Committee Hearings: Scheduling and Notification*, by Christopher M. Davis.

[124] For information on House committee reports, see CRS Report 98-169, *House Committee Reports: Required Contents*, by Judy Schneider.

H.Res. 5 in the 112th Congress struck the requirement for a committee report on a bill and joint resolution to cite specific power granted to Congress in the Constitution to enact the measure. (Amended clause 3 of Rule XIII.) (See "Bill Introductions," below, for the new requirement for a constitutional authority statement to accompany the introduction of bills and joint resolutions.)

H.Res. 5 also repealed the exemption for the Rules Committee to including recorded committee votes in reports, begun in the 110th Congress. (Amended clause 3 of Rule XIII.)

(See also "112th Congress" under "Jurisdiction" above.)

H.Res. 5 in the 113th Congress changed the rule (known as the "Ramseyer rule")[125] that requires committee reports to show changes in law made by a reported bill or joint resolution. The amendment stated that the comparative analysis must now include "adjacent" statutory provisions that may aid in understanding the intent and effect of proposed changes. (Amended clause 3 of Rule XIII.)

H.Res. 5 made a change in reporting requirements for the Rules Committee. The committee was to specify any waiver of a point of order in the report accompanying a special rule resolution rather than in the resolution itself. The change conformed the language of the House rule to the practice of the Rules Committee. (Amended clause 6 of Rule XIII.)

H.Res. 5 also clarified rule text to conform to practice and intent that *all* members of a committee have a minimum of two additional calendar days to file supplemental, minority, or additional views when a single committee member gives notice of intent to file views. (Amended clause 2 in Rule XI.)

A separate order in H.Res. 5 required a committee report on a bill or joint resolution to include a statement that estimates the number of directed rule makings included in the measure. A "directed rule making" is a rulemaking, as defined in the Administrative Procedure Act, specifically required to be completed by a provision in the measure; the term does not include grants of discretionary rulemaking authority included in the measure. This order was to be treated as a content requirement for a committee report pursuant to Rule XIII, clause 3(c).

In the 114th Congress, H.Res. 5 amended House rules to add "dissenting" views to the list of "supplemental, minority, and additional" views that must be published in committee reports when timely requested and submitted. (Amended clause 2(l) of Rule XI and clause 3(a) of Rule XIII.)

H.Res. 5 once again amended the "Ramseyer rule," which had been amended in the 113th Congress to require additional, contextual text to be shown in the comparison of existing law to amended text. In the 114th Congress rules resolution, the Ramseyer rule was amended to specify an entire section to be shown when the section was amended or repealed and a comparative print of each amendment to such a section. (Amended clause 3(e) of Rule XIII.)

The 114th Congress rules resolution again contained the separate order on directed rule making, which first appeared as a separate order in the 113th Congress, as described just above.

H.Res. 5 in the 115th Congress modified the Ramseyer rule to address questions about the rule. The amendments—

- eliminated a subparagraph that seemingly required a duplicative comparative print, and
- clarified the requirement for typographical devices to be used for both repealed text and comparative prints. (Amended clause 3(e) of Rule XIII.)

[125] Named for Rep. Christian Ramseyer, R-IA (U.S. House, 1915-1933).

H.Res. 5 also contained a separate order similar to the separate order in the 114th Congress on "directed rulemaking," described just above. The new separate order contained a change, however, that required a list of directed rulemakings in a measure, rather than solely the number of directed rulemakings. Alternately, were there no directed rulemakings, the separate order required a statement to that effect.

Duplication of Federal Programs

A separate order in H.Res. 5 of the 113th Congress stated that, when a bill or joint resolution is referred to a committee, the chair of the committee may request that the Government Accountability Office (GAO) perform an analysis to determine whether a new federal program, office, or initiative created in the measure duplicates or overlaps with an existing federal program, office, or initiative.

The separate order also required that a committee's report on a bill or joint resolution include a statement indicating whether the measure establishes or reauthorizes a program "known to be duplicative of another Federal program."[126] At a minimum, the statement must explain whether the new or reauthorized program was included in any GAO report to Congress on duplicative federal programs (as provided in P.L. 111-139, §21), or if the most recent *Catalog of Federal Domestic Assistance* identified other programs "related" to the program established or reauthorized in the measure.

This separate order was also included in H.Res. 5 in the 114th Congress.

In the rules resolution for the 115th Congress, H.Res. 5 amended rules listing the required contents of committee reports on measures to include this explanation of whether a program established or reauthorized in a measure is "known to be duplicative of another Federal program," in the same manner as included in the earlier separate order. The rule change also repeated that, minimally, the statement explain whether such a program was included in a GAO report or in the most recent *Catalog of Federal Domestic Assistance,* as described in the earlier separate order. The rule change did not include language in the separate order related to requests for GAO analyses.[127] (Amended clause 3(c) of Rule XIII.)

Macroeconomic Effects of Major Legislation

In the 114th Congress, H.Res. 5 replaced a rule provision that required a macroeconomic impact analysis of revenue legislation with a new provision that required a cost estimate (required by Rule XIII, clause 3(c)) to include the budgetary effects of changes in macroeconomic variables resulting from major legislation. Changes in budgetary effects were defined as changes in revenues, outlays, and deficits. Major legislation was defined as a bill or joint resolution (1) for which an estimate was required from the Congressional Budget Office or from the Joint Committee on Taxation and that would have a budgetary effect (before measuring macroeconomic effects) of 0.25% or more of GDP, (2) was direct spending legislation (not revenue legislation) designated by the chair of the Budget Committee, or (3) was revenue legislation designated by the chair or vice chair of the Joint Taxation Committee. The new rule

[126] The separate order noted that this requirement was to be treated "as though [required] under clause 3(c) of Rule XIII...."

[127] Authority for committees to use the services of the Government Accountability Office is already included in federal law. See *House Rules and Manual,* §1115, p. 1025.

provision also set forth criteria for an estimate.[128] CBO and JCT estimates are used, among other purposes, to enforce budget resolutions.[129] (Added clause 8 to Rule XIII and deleted subparagraph 3(h)(2) of Rule XIII.)

Committee Activity Reports

See "Oversight," below.

Depositions

The House in H.Res. 6 in the 110th Congress authorized the Committee on Oversight and Government Reform to adopt a rule allowing and regulating the taking of depositions by committee members or counsel. The committee's rule could require a deponent's oath or affirmation, and the rule must ensure "equitable" treatment for minority committee members and counsel. (Amended clause 4 of Rule X.)

H.Res. 5 in the 112th Congress added a new provision to the 110th Congress change to require a member of the Oversight and Government Reform Committee to be present to take a deposition, unless the deponent waived this requirement. (Amended clause 4 of Rule X.)

In the 114th Congress, a separate order in H.Res. 5 granted deposition authority to specified committees for the first session of the 114th Congress. The chair of the Rules Committee was empowered to issue and print in the *Congressional Record* regulations for the exercise of this authority. The committees were those on Energy and Commerce; Financial Services; Science, Space, and Technology; and Ways and Means. Upon consultation with the ranking minority member, a chair of these committees could order the taking of depositions, including pursuant to a subpoena, by a committee member or counsel.[130]

In the 115th Congress, a separate order in H.Res. 5 expanded this deposition authority to include all standing committees, except the House Administration and Rules Committees, and to include the Intelligence Committee. Another change was made to the separate order as it operated in the 114th Congress. The new separate order required one committee member to be present at each deposition unless (1) the witness agreed in writing to waive the requirement or (2) the committee authorized the taking of the specified deposition without a committee member present, provided that the House was not in session on the day of the deposition.[131]

---

[128] Related provisions applicable in both chambers were included in the FY2016 congressional budget resolution, §3112 of S.Con.Res. 11; conference report agreed to in the House April 30, 2015, and in the Senate May 5, 2015. CBO's explanation of congressional requirements placed on it by the provision of the budget resolution may be found at CBO's Cost Estimates, https://www.cbo.gov/publication/50934. See also CRS Report R43381, *Dynamic Scoring for Tax Legislation: A Review of Models*, by Jane G. Gravelle.

[129] This 114th Congress rule change was debated more than any other proposed change. See, for example, the statements of the chairs of the Rules and Budget Committees, respectively: Rep. Pete Sessions, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), pp. H16-H17; and Rep. Tom Price, p. H20 and H23. See also the statements of the Democratic whip and a senior Democratic member of the Ways and Means Committee, respectively: Rep. Steny Hoyer, p. H7; and Rep. Lloyd Doggett, p. H19.

[130] The regulations were printed in the *Congressional Record:* Rep. Pete Sessions, Extensions of Remarks, "Procedures for the Use of Staff Deposition Authority," *Congressional Record*, vol. 161 (January 7, 2015), p. E21. In addition, the House on January 6, 2016, adopted H.Res. 579, which included a provision extending the named committees' authority through the second session of the 114th Congress.

[131] The regulations for the 115th Congress appeared at "115th Congress Staff Deposition Authority Procedures," insert, *Congressional Record*, daily edition, vol. 163 (January 13, 2017), pp. H536-H537.

Earmarks

H.Res. 6 in the 110th Congress required a committee of jurisdiction or a conference committee to provide a list of earmarks, limited tax benefits, and limited tariff benefits contained in a bill or joint resolution that was reported, was not reported, an amendment in the nature of a substitute or other committee amendment, or conference report, for the measure to be in order for consideration by the House. If the measure contained no earmarks, limited tax benefits, or limited tariff benefits, then a statement attesting to that fact was required to be provided. Earmarks, limited tax benefits, and limited tariff benefits were defined in the rule change. In general, an earmark was defined as a provision or report language included at a Member's request that targeted an expenditure to a specific entity "other than through a statutory or administrative formula-driven or competitive award process." In general, a limited tax or tariff benefit was defined as a provision benefitting 10 or fewer entities. Members were to request earmarks, limited tax benefits, and limited tariff benefits in writing to committees, disclosing information specified in the new rule, and committees were required to retain these written requests.[132] (Added clause 9 to Rule XXI.) Regarding the points of order to enforce this rules change against legislation and special rules, see "Earmarks" under "Rules Changes Affecting the Chamber and Floor" or "110th Congress" under "Rules Changes Affecting Budgetary Legislation." (See also "110th Congress" under "Rules Changes Affecting Ethics Standards" regarding changes in ethics rules related to earmarks.)

Meeting Notices

Committees have long been required to establish regular meeting days and to meet for business on those days "unless otherwise provided by written rule adopted by the committee." In the 113th Congress, H.Res. 5 obviated the need for committees to write a rule for canceling meetings on their regular meeting days. The change requires a meeting only if there is notice, as provided for in House Rule XI, clause 2(g). (Amended clause 2(b) of Rule XI.)

H.Res. 5 also required notices of meetings held at the initiative of a majority of the committee, when overriding the chair's failure to schedule a meeting, to be posted in electronic format. (Amended clause 2(c) of Rule XI.)

Meetings, Restrictions on

H.Res. 5 in the 112th Congress required a three-day notice of a committee meeting. Previously, notice requirements applicable to meetings were included in committees' rules, with most committees opting for 24 or 48 hours' notice. Notice of a hearing, under House rules, remained at one week. The amendment in H.Res. 5 also applied two exceptions to the new meetings notice requirement; these exceptions already applied to hearings notices. First, a chair with the concurrence of the ranking minority member could determine that there was good cause to start a meeting sooner, and, second, a committee by majority vote, a quorum being present, agreed to meet sooner. The amendment also clarified that announcements of hearings and meetings were to be printed in the Daily Digest of the *Congressional Record* and be made available in electronic

[132] Further discussion of the rules change is available in CRS Report RL34149, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 110th Congress,* by Bill Heniff Jr. (archived but available to congressional clients from the author on request); and CRS Report RS22866, *Earmark Disclosure Rules in the House: Member and Committee Requirements*, by Megan S. Lynch.

form. The Committee on Rules was exempted from the operation of this rule. (Amended clause 2 of Rule XI.)

Openness

H.Res. 5 in the 112th Congress established in House rules that the text of legislation to be marked up be made publicly available in electronic form at least 24 hours before a markup meeting.[133] House committees had previously set their own standards for the time in advance that text would be made available and how it would be made available. Most committees had a 24-hour availability rule. (Amended clause 2 of Rule XI.) (See also "112th Congress" under "Jurisdiction" above.)

The rules resolution also required a three-day notice of a committee meeting, which is explained above under "Meetings, Restrictions on."

H.Res. 5 also required any record vote taken in committee to be publicly available through electronic posting within 48 hours of the vote's occurrence. The previous rule required only that record votes be kept in a committee's office and be available there to the public. (Amended clause 2 of Rule XI.)

H.Res. 5 similarly required the text of any amendment adopted in committee to be publicly available through electronic posting within 24 hours of the amendment's adoption. (Amended clause 2 of Rule XI.)

The rules resolution also required committees to make their rules publicly available by electronic posting, in addition to their publication in the *Congressional Record,* within 30 days of a *chair's* election at the beginning of a Congress. The previous rule required publication in the *Congressional Record* with 30 days of a *committee's* election. (Amended clause 2 of Rule XI.)

The rules resolution required that committees provide audio and video coverage of their hearings and meetings "in a manner that allows the public to easily listen to and view the proceedings," and to maintain these audio and video recordings so that they are "easily accessible" to the public.[134] (Amended clause 2 of Rule XI.) In the past, some committees had more or less consistently webcast their proceedings; others had done so intermittently or not at all. C-SPAN provided many committee meetings and hearings on its channels and its website. Committees did not consistently preserve their webcasts. H.Res. 5 also deleted references to the photographic units of the Associated Press and United Press International in the House rule on admitting photographers to committee hearings and meetings. (Amended clause 4 of Rule XI.)

In the 115th Congress, the rules resolution provided new authority to the Homeland Security Committee to close additional hearings. Prior to the 115th Congress, only the Appropriations, Armed Services, and Intelligence Committees and their subcommittees were authorized to close five additional, consecutive days of hearings when voting to close a day of hearings. Other

[133] The section-by-section summary accompanying H.Res. 5 contained this explanation of the text referred to by the rule: "[I]f the committee is considering a committee print, or the chair of a committee intends to use an amendment in the nature of a substitute as the base text for purposes of further amendment, circulation of that text will satisfy this requirement." Rep. David Dreier, "Rules of the House," insert, *Congressional Record*, vol. 157, part 1 (January 5, 2011), p. 86.

[134] The Library of Congress was subsequently announced as the site for committee webcasting and archives and for archiving of earlier committee proceedings. U.S. Congress, House, Committee on House Administration, "LOC Launches New Site to Webcast Committee Proceedings," news release, February 2, 2012, available at http://cha.house.gov/press-release/loc-launches-new-site-webcast-house-committee-proceedings. The Library's website is available at https://www.congress.gov/committees/video.

committees could close one subsequent day of hearings. H.Res. 5 extended the five-day authority to the Homeland Security Committee. (Amended clause 2(g) of Rule XI.)

Oversight[135]

The House in H.Res. 6 in the 110th Congress authorized the Committee on Oversight and Government Reform to adopt a rule allowing and regulating the taking of depositions by Members or counsel, as explained above at "Depositions."

Activity Reports

The House in H.Res. 5 in the 112th Congress changed the requirement—for one activity report in each Congress from each committee—to a requirement for four activity reports in each Congress from each committee, to be filed not more than 30 days after June 1 and December 1 of each year. The rules resolution also adapted the existing provision on filing an activity report after the sine die adjournment of a Congress to apply to the sine die adjournment of the first session of a Congress and the sine die adjournment of the second session of a Congress, or December 15, whichever occurs first. (Amended clause 1 of Rule XI.) This change complemented another accountability initiative included in committee funding resolutions in the 111th and 112th Congresses. (See "Staff and Funding" below.)

The summary of a committee's oversight plan that had been required to be included in an annual activity was, under the amendment, to be included in a committee's first activity report of a Congress. The rules resolution also added to the list of subjects for committees to include in their oversight plans. The addition covered cutting or eliminating programs, including mandatory spending programs, that are "inefficient, duplicative, outdated, or more appropriately administered by State or local governments." (Amended clause 2 of Rule X.)

H.Res. 5 in the 113th Congress changed the requirement for the submission of committee activity reports to the House. The amended rule now stated that these activity reports were to be submitted to the House not later than January 2 of each year. The summary of the committee's oversight plan was required to be included only in the first activity report of a Congress. The purpose of this change was to reduce the frequency of committee activity reports to two times per Congress (once per session) from four times per Congress. The rule previously stated that the reports were to be submitted to the House four times in each Congress on the 30th day after each June 1 and December 1.[136] (Amended clause 1 of Rule XI.)

In the 114th Congress, H.Res. 5 again contained provisions on committee activity reports. The rules resolution returned these reports to a once-a-Congress schedule, as required prior to the 112th Congress. Changes made in previous rules resolutions on the required content of activity reports were retained. (Amended clause1(d) of Rule XI.)

Authorization and Oversight Plans

H.Res. 5 in the 115th Congress comprehensively amended the rule that required committees to adopt oversight plans. The rules resolution required committees to now adopt authorization and oversight plans.

---

[135] For information on congressional oversight processes, powers, and resources, see CRS Report RL30240, *Congressional Oversight Manual*, by Alissa M. Dolan et al.

[136] See also CRS Report RL34679, *House Committee Chairs: Considerations, Decisions, and Actions as One Congress Ends and a New Congress Begins*, by Judy Schneider and Michael L. Koempel.

The amended rule retained the date of February 15 in the first session of a Congress for committees to adopt their plan, and also the provision that a plan be adopted in an open meeting. Committees were also directed to continue to submit their plans to the Oversight and Government Reform Committee and the House Administration Committee. Committees were in addition directed to submit their plans to the Appropriations Committee. The amended rule retained the directive to the Oversight and Government Reform Committee to consult the Speaker, majority leader, and minority leader on the plans submitted to it, to report the plans to the House by March 31 of the first session, and to include in its report its own recommendations and those of the leaders consulted "to ensure the most effective coordination of authorization and oversight plans and otherwise to achieve the objectives of this [rule]."

The changes in the amended rule were as follows:

- exempted the Committees on Appropriations, Ethics, and Rules from the requirement to adopt an authorization and oversight plan;
- directed an authorization and oversight plan to include for programs and agencies within a committee's jurisdiction and to the "maximum extent practicable"—
    - a list of programs and agencies with lapsed authorizations that received funding in the previous fiscal year;
    - a list of programs and agencies with permanent authorizations that had not been subject to a "comprehensive review by the committee" in the "prior three Congresses";
    - a description of each program or agency to be authorized in the current Congress;
    - a description of each program or agency to be authorized in the next Congress, where applicable;
    - a description of oversight in support of the authorization of a program or agency in the current Congress; and
    - recommendations for changes to existing law for moving programs or agencies to discretionary spending from mandatory spending, "where appropriate";
- further directed that an authorization and oversight plan include for programs and agencies within a committee's jurisdiction—
    - similar to the previous rule, recommendations for the consolidation or termination of programs and agencies that are "duplicative, unnecessary, or inconsistent with the appropriate roles and responsibilities of the federal government";
    - recommendations for changes in law related to federal rules, regulations, statutes, and court decisions affecting programs and agencies "that are inconsistent with the authorities of the Congress under Article I of the Constitution"; and
    - a description of other oversight activities the committee considers necessary; and
- directed the chair of each committee to coordinate with other committees of jurisdiction to ensure that programs and agencies are subject to "routine, comprehensive authorization efforts." (Amended clause 2(d) of Rule X.)

The amendment in the rules resolution also made conforming technical amendments in clause 1(d) of Rule XI.

Referral

(See "Jurisdiction" above.)

Subpoena Enforcement and Litigation[137]

H.Res. 5 in the 111th Congress, in a separate order, authorized the Judiciary Committee and the House general counsel to continue the lawsuit that followed from the House holding former White House chief of staff Joshua Bolten and former White House counsel Harriett Miers in contempt of Congress. Bolten and Miers had failed to comply with Judiciary Committee subpoenas related to the committee's investigation of the firing of several U.S. attorneys. The separate order sought to provide continuity for enforcing subpoenas that expired at the end of the 110th Congress. It also contained deposition procedures for the committee.[138]

H.Res. 5 in the 113th Congress, in a separate order, authorized the Oversight and Government Reform Committee and the House general counsel to continue the lawsuit that followed from the House holding Attorney General Eric Holder in contempt of Congress (H.Res. 711 and H.Res. 706 (112th Congress)).[139] The lawsuit sought to force the Attorney General to comply with any committee subpoena related to the committee's investigation of the Justice Department's Fast and Furious gun-running investigation. The separate order sought to provide continuity for enforcing a subpoena that expired at the end of the 112th Congress. The separate order further authorized the committee chair, when authorized by the Speaker after consultation with the Bipartisan Legal Advisory Group, to initiate judicial proceedings to enforce subpoenas issued to other individuals in the 112th Congress. The separate order also allowed the chair of the committee to issue subpoenas related to the committee investigation pending the adoption of the committee's rules for the 113th Congress.[140]

A separate order in H.Res. 5 in the 114th Congress repeated the text of the separate order in H.Res. 5 in the 113th Congress, summarized immediately above. Additions to the text updated it to include references to the 113th Congress in addition to the prior references to the 112th Congress.[141]

The rules resolution for the 115th Congress (H.Res. 5) replaced the need for separate standing orders in a new Congress granting the House, the Speaker, a committee, or a committee chair status to continue litigation matters authorized in a previous Congress. The rules resolution added a new paragraph to the clause dealing with the Office of General Counsel. The new paragraph allowed the House, the Speaker, a committee, or a committee chair to act as the successor of

---

[137] Information on enforcement of congressional subpoenas is available in CRS Report RL34114, *Congress's Contempt Power and the Enforcement of Congressional Subpoenas: A Sketch*, by Todd Garvey and Alissa M. Dolan (archived but available from Mr. Garvey). For information on committee subpoena rules, see CRS Report R44247, *A Survey of House and Senate Committee Rules on Subpoenas*, by Michael L. Koempel.

[138] For background, see Bennett Roth, "House Adopts Package of Rule Changes," *CQ Weekly*, vol. 67, no. 2, January 12, 2009, pp. 75-76; and Keith Perine and Caitlin Webber, "House Holds Bush Aides in Contempt, Readies Civil Lawsuit for Compliance," *CQ Weekly*, vol. 66, no. 7, February 18, 2008, p. 442.

[139] Both resolutions agreed to in the House June 28, 2012.

[140] For background, see Joanna Anderson and Jonathan Strong, "Historic Vote Holds Attorney General in Contempt," *CQ Weekly*, vol. 70, no. 26, July 9, 2012, p. 1387.

[141] For more recent background on the controversy over the Fast and Furious investigation, see John Gramlich, "No Rest for Obama's Lawman," *CQ Weekly*, vol. 71, no. 40, November 18, 2013, pp. 1940-1941.

interest in the new Congress and to take steps necessary to continue the litigation. (Amended clause 8 of Rule II.)

Voting

H.Res. 6 in the 110th Congress exempted the Committee on Rules from the requirement of including recorded votes on amendments and reporting in its committee reports. (Amended clause 3 of Rule XIII.)

In the 112th Congress, H.Res. 5 required any record vote taken in committee to be publicly available through electronic posting within 48 hours of the vote's occurrence. The previous rule required only that record votes be kept in a committee's office and be available there to the public. (Amended clause 2 of Rule XI.)

H.Res. 5 repealed the exemption to including votes in reports, begun in the 110th Congress, for the Rules Committee. (Amended clause 3 of Rule XIII.)

Witnesses

H.Res. 5 in the 112th Congress required truth-in-testimony statements to be made publicly available, with certain personal information redacted, by electronic posting within one day of a witness's appearance. (Amended clause 2 of Rule XI.)

In the 114th Congress, H.Res. 5 contained three substantive changes to the rule on witnesses' truth-in-testimony statements. First, this rule was amended to provide explicitly that contracts or payments "originating" with a foreign government must be disclosed when received by a witness or by an entity the witness represented. (This disclosure was added to the required disclosure of federal grants and contracts received.) Second, the disclosure of a federal grant or contract or of a contract or payment originating with a foreign government was required when it "related to the subject matter of the hearing." The third change added that redactions to publicly available truth-in-testimony disclosures could be made to protect a witness's security in addition to the protection of a witness's privacy.[142] (Reorganized and amended clause 2(g)(5) of Rule XI.)

Staff and Funding

In the 111th Congress, the House Administration Committee included a provision in the committee funding resolution (not the rules resolution) holding committees accountable for their spending by requiring them to attend a hearing at the beginning of the second session.[143] The provision was included again in the 112th Congress committee funding resolution,[144] the 113th Congress committee funding resolution,[145] and the 114th Congress committee funding resolution.[146]

---

[142] The section-by-section summary of H.Res. 5 noted that a point of order for failure to comply with the requirement would not lie against the witness testifying, but failure to comply could result in the witness's testimony being excluded from the hearing record. Rep. Pete Sessions, "Rules of the House," insert, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), p. H12.

[143] §3(c) of H.Res. 279 (111th Cong.), agreed to in the House March 31, 2009.

[144] §3(c) of H.Res. 147 (112th Cong.), agreed to in the House March 17, 2011.

[145] §3(c) of H.Res. 115 (113th Cong.), agreed to in the House March 19, 2013.

[146] §3(c) of H.Res. 132 (114th Cong.), agreed to in the House March 19, 2015.

See CRS Report R42778, *House Committee Funding: Description of Process and Analysis of Disbursements*, by

Rules Changes Affecting the Chamber and Floor

This section identifies changes made to operations of the House floor on the opening day of 110th, 111th, 112th, 113th, 114th, and 115th Congresses, pursuant to the resolutions amending the rules of the House and establishing separate orders, and pursuant to the Speaker's policy announcements.[147] Rules, sections of rules, and Speakers' policy announcements appear when a change occurs.[148] The 110th (2007-2009) and 111th (2009-2011) Congresses were organized by the Democrats; the 112th (2011-2013), 113th (2013-2015), 114th (2015-2017), and 115th (2017-1019) Congresses were organized by the Republicans.

The use of closed and structured special rules has been central to the minority party's critique of the majority's floor management for nearly four decades, but the type of special rule used to govern House proceedings for a specific piece of legislation (and therefore the degree of deliberation on the House floor) is largely a matter of majority desires, not of standing House rules. The House through changes to its *standing* rules, nonetheless, allows or prohibits specified provisions in *special* rules.[149]

Rules changes in the 110th through 115th Congresses affecting the chamber and floor have sought to enhance the integrity of proceedings in addressing matters such as admission to the chamber, earmarks, and voting. Rules changes have also addressed consideration of budgetary legislation, which are discussed in this section and the next section.[150]

Matthew E. Glassman and Lara E. Chausow; and CRS Report RL32794, *House Committee Funding Requests and Authorizations, 104th-115th Congresses*, by Matthew E. Glassman.

[147] For a description of rules changes affecting the chamber and floor made at the beginning of the 111th Congress, see CRS Report R40509, *House Rules Changes in the 111th Congress Affecting Floor Proceedings*, by Megan S. Lynch and Elizabeth Rybicki. For a description of rules changes affecting the chamber and floor made at the beginning of the 112th Congress, see CRS Report R41711, *House Rules Changes in the 112th Congress Affecting Floor Proceedings*, by Elizabeth Rybicki. There is not a comparable report for the 110th, 113th, 114th, or 115th Congress.

[148] For changes affecting the chamber and floor for the 104th-109th Congresses, see CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104th Congress through the 109th Congress*, by Michael L. Koempel and Judy Schneider.

[149] In the contemporary Congress, the House majority leader has undertaken to issue floor protocols to supplement House rules. For the 115th Congress, the protocols may be found at http://www.majorityleader.gov/protocols. The protocols currently address these topics: a sunset requirement for authorization measures; disallowance of "such sums" discretionary authorizations; cut-go requirements for discretionary authorizations; directives to curb the proliferation of legally mandated reports; availability of measures to be considered under the suspension of the rules procedure; requirement for a Member's presence during floor consideration of the Member's bills and resolutions; exceptions to the commemorations prohibition to allow resolutions of bereavement or condemnation or directed to the action of a foreign government; templates related to constitutional authority statements for measures; requirements for ensuring a debate on the constitutionality of a measure; application of the three-day layover requirement to self-executing major amendments reported by the Rules Committee; and limitations on scheduling for floor consideration a resolution authorizing the Speaker to file an amicus brief.

[150] An analysis of special rules and other floor actions is available in CRS Report R41501, *House Legislative Procedures and House Committee Organization: Options for Change in the 112th Congress*, by Judy Schneider and Michael L. Koempel (archived but available to congressional clients from the authors on request); and CRS Report R44362, *Post-Committee Adjustment in the Modern House: The Use of Rules Committee Prints*, by Mark J. Oleszek. For an overview of House floor proceedings, see CRS Report 95-563, *The Legislative Process on the House Floor: An Introduction*, by Christopher M. Davis. See also CRS Report 98-143, *Procedural Distinctions Between the House and the Committee of the Whole*, by Judy Schneider; CRS Report R43424, *Considering Legislation on the House Floor: Common Practices in Brief*, by Elizabeth Rybicki; CRS Report 98-314, *Suspension of the Rules in the House: Principal Features*, by Elizabeth Rybicki; CRS Report RL32207, *Commonly Used Motions and Requests in the House of Representatives*, by Christopher M. Davis; CRS Report RL32200, *Debate, Motions, and Other Actions in the Committee of the Whole*, by Bill Heniff Jr. and Elizabeth Rybicki; and CRS Report RS22991, *Speaking on the House*

Finally, during the 114th Congress, the House elected a new Speaker on October 29, 2015.[151] Speaker John A. Boehner resigned the Speakership effective with the election of a new Speaker and resigned from the House, effective October 31, 2015.[152] In addressing the House immediately prior to being sworn in as Speaker, Representative Ryan sought to set a tone for House proceedings. He said,

> The committees should retake the lead in drafting all major legislation. If you know the issue, you should write the bill.
>
> Let's open up the process. Let people participate, and they might change their mind.... In other words, we need to return to regular order.[153]

Admission to and Use of the Chamber

In the 110th Congress, Speaker Nancy Pelosi revised the existing policy regarding floor privileges for former Members, Delegates, Resident Commissioners, parliamentarians of the House, elected officers of the House, and minority employees nominated as elected officers of the House to accommodate the changes to clause 4 of Rule IV made in the 109th Congress with the adoption of H.Res. 648.[154]

The Speaker in the 111th Congress clarified the application of clause 3 of rule I, which granted the Speaker control of the Hall of the House, and clause 1 of rule IV, which specified that the Hall of the House was to be used only for the legislative business of the House, for caucus and conference meetings of its Members, and for such ceremonies as the House might agree to conduct there. When the House was adjourned, the Speaker's policy stated, the House was on "static display," and no audio and video recording or "transmitting devices" were allowed so that sound or images from the chamber would not serve as a backdrop for activities that are not proceedings but that "might be taken to carry the imprimatur of the House."[155] In stating these policies, the Speaker sought to address situations like the use of the chamber to discuss energy policy during the August 2008 recess.[156]

In his announced policy for the 112th Congress, Speaker John Boehner deleted text characterizing the use of the chamber during a previous August recess that had prompted Speaker Pelosi's statement on the rules governing the proper use of the Hall of the House. Speaker Boehner's announced policy was otherwise unchanged from the earlier policy.[157]

The 112th Congress rules resolution, H.Res. 5, amended Rule IV (Hall of the House) to disallow the Speaker from entertaining a unanimous consent request or motion to suspend the first five

---

Floor: Gaining Time and Parliamentary Phraseology, by Elizabeth Rybicki.

[151] "Election of Speaker," House debate, *Congressional Record*, daily edition, vol. 161 (October 29, 2015), pp. H7337-H7338. See also CRS Report R44243, *Electing the Speaker of the House of Representatives: Frequently Asked Questions*, by Valerie Heitshusen.

[152] Rep. John A. Boehner, "Resignation from the House of Representatives," letter, *Congressional Record*, daily edition, vol. 161 (November 3, 2015), p. H7622.

[153] Rep. Paul Ryan, "Election of Speaker," address to House, *Congressional Record*, daily edition, vol. 161 (October 29, 2015), p. H7339.

[154] "Announcement by the Speaker," *Congressional Record*, vol. 153, part 1 (January 5, 2007), pp. 273-274. H.Res. 648 (109th Cong.), agreed to in the House February 1, 2006.

[155] "Announcement by the Speaker," *Congressional Record*, vol. 155, part 1 (January 6, 2009), pp. 23-25.

[156] For background, see "House Dems turn out the lights but GOP keeps talking," *Politico LIVE*, August 1, 2008, at http://www.politico.com/blogs/thecrypt/0808/House_Dems_turn_out_out_the_light_but_GOP_keep_talking.html.

[157] "Announcement by the Speaker," *Congressional Record*, vol. 157, part 1 (January 5, 2011), pp. 104-106.

clauses of Rule IV, pertaining to use of and admittance to the House chamber. Previously, only the first two clauses (specifically addressing use of the House for the conduct of legislative business and caucus or conference meetings and specifically naming officials entitled to access) were subject to this prohibition. (Amended clause 2(b) of Rule IV.)

In the 115th Congress, a provision of H.Res. 5 struck a phrase from the rule governing the Hall of the House to conform the rule to practice. The phrase had required staff admitted to the chamber to accompany Members to remain at the desk. (Amended clause 5 of Rule IV.)

(See also, below, "Decorum in the Chamber: Conduct and Electronic Devices.")

Appropriations Measures[158]

(See also "Earmarks" below and also the section below "Rules Changes Affecting Budgetary Legislation.")

The House in H.Res. 5 in the 111th Congress amended clause 9 of Rule XXI to require the joint explanatory statement of a conference report to accompany a general appropriation bill to list all earmarks, limited tax benefits, and limited tariff benefits not committed to conference by either house, or to include a statement that neither the conference report nor the joint explanatory statement contained such earmarks or limited tax or tariff benefits. This requirement could not be waived by a special rule. A point of order raised under this change would be disposed of by a question of consideration. (This amendment to clause 9 codified in House rules H.Res. 491, adopted in the 110th Congress.[159])

H.Res. 5 in the 112th Congress created a point of order against an appropriations measure that provided spending authority from the Highway Trust Fund (excluding any transfers from the General Fund of the Treasury), or reduced or limited accruals in the fund, for any purpose other than for those activities authorized for the highway or mass transit program. This point of order replaced a rule that prevented the Appropriations Committee from setting spending levels lower than those authorized in surface transportation law. The rules change sought to ensure that taxes collected to support the Highway Trust Fund were not diverted to other uses.[160] (Amended clause 3 of Rule XXI.)

A separate order first included in the 112th Congress rules resolution and revised in the 113th Congress rules resolution required general appropriation bills to include a spending reduction account. This separate order was renewed in the 114th Congress, as follows:

- A general appropriation bill could not be considered in the Committee of the Whole unless it contained a spending reduction account, and an order in the Appropriations Committee to report such a bill constituted authority for the committee chair to add the account to the bill. A spending reduction account contained only a recitation of the amount by which the allocation of the bill's

[158] For an introduction to the appropriations process in Congress, see CRS Report R42388, *The Congressional Appropriations Process: An Introduction*, by Jessica Tollestrup and James V. Saturno.

[159] The House in the 110th Congress, on June 18, 2007, had adopted H.Res. 491, creating the same point of order for the duration of that Congress against a conference report on a general appropriation bill that was not accompanied by a list of earmarks not committed to conference by either house. A special rule could not waive this requirement. A point of order under H.Res. 491 would be disposed of on a question of consideration.

[160] An explanation of this rules change appears in CRS Report R41926, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 112th Congress*, by Bill Heniff Jr. (archived but available to congressional clients from the author on request).

Section 302(b) new budget authority exceeded the new budget authority proposed in the bill.

- En bloc amendments solely transferring appropriations from one or more objects in the bill to the spending reduction account were in order. Such amendments could amend portions of the bill not yet read for amendment. The only amendments allowed in the House or Committee of the Whole to a spending reduction account in a general appropriation bill were those transferring funds in the bill to the spending reduction account.
- Amendments proposing a net increase in budget authority were not in order, unless consideration was en bloc with one or more other amendments resulting in a greater or equal decrease in budget authority.
- A point of order against including changes in existing law in an appropriations bill (Rule XXI, clause 2(b)) did not apply to a spending reduction account.

(Two changes to the separate order as it was continued in the 115th Congress are described just below.)

In the 114th Congress, H.Res. 5 eliminated a prohibition in House rules that a general appropriation bill could not be considered by the House until three days after hearings had been printed, which could allow a point of order to be made against consideration of the bill.[161] (Deleted clause 4(c) of Rule XIII.)

H.Res. 5 in the 115th Congress converted one component of the separate order in effect in the 112th, 113th, and 114th Congress to a rule change. The rules resolution provided that amendments to a general appropriation bill proposing a net increase in budget authority were not in order.[162] (Amendment clause 2 of Rule XXI.)

A separate order in the 115th Congress rules resolution otherwise continued the separate order in effect in the 112th, 113th, and 114th Congresses with one change. The change provided that, in the absence of a Section 302(b) allocation, the amount in a spending reduction account by which the 302(b) allocation exceeds the amount of new budget authority proposed in the bill is $0.

H.Res. 5 also reinstated, as a separate order, previously repealed rule text related to provisions in and amendments to appropriations bills, known as the Holman rule.[163] The separate order allowed legislative text to be included in an appropriations bill or amendment to "retrench" spending by reducing amounts of money in the bill, reducing the number or salaries of federal employees, or reducing the compensation of any person paid from the U.S. treasury.[164] (See also, below, "115th Congress" under "Rules Changes Affecting Budgetary Legislation.")

---

[161] In the course of the 114th Congress, Speaker Paul Ryan announced that there would be a pre-printing requirement for amendments that Members planned to offer to appropriations bills. See Cristina Marcos, "House GOP Changes Rules To Thwart Dems," *The Hill*, May 24, 2016, available at http://thehill.com/blogs/floor-action/house/281077-house-gop-seeks-to-avoid-more-unexpected-floor-fights; and Erica Werner, "Ryan Weighs House Floor Change after Gay Rights Flap," *Associated Press*, May 24, 2016, available at http://bigstory.ap.org/article/02a501ac01ca47a3a271071c4c8c7443/ryan-block-surprise-amendments-after-gay-rights-flap.

[162] For additional explanation, see CRS Report R44769, *Provisions Affecting the Congressional Budget Process Included in H.Res. 5 (115th Congress)*, by Megan S. Lynch and James V. Saturno.

[163] Named for Rep. William Holman, D-IN (U.S. House, 1859-1865, 1867-1877, 1881-1895, and 1897). For a history of the Holman rule, see *House Rules and Manual*, §1043, pp. 858-859.

[164] An earlier definition of "retrenchment" stated, "A reduction in an amount of money contained in a general appropriation bill. Under the Holman Rule in the House of Representatives, a germane legislative provision in, or

Bill Introductions and Matters Received[165]

(See also "Commemorations" below.)

Code Citations in Bills and Joint Resolutions

A separate order in H.Res. 5 in the 113th Congress required bills and joint resolutions proposing to repeal or amend law in a non-positive title of the *United States Code*[166] to include a citation to the "applicable" Code citation. A citation was to be inserted parenthetically following the designation of the matter proposed for repeal or amendment.

This same separate order appeared in H.Res. 5 in the 114th Congress, with two additions. First, a citation could be to a note in the Code. Second, if no Code citation was available, an "appropriate alternative citation to the applicable law or part" could be used.

A separate order in H.Res. 5 in the 115th Congress was identical to the separate order adopted in the 114th Congress.

Constitutional Authority Statement

In the 112th Congress, H.Res. 5 required the introduction of a bill or joint resolution to be accompanied by a statement citing the constitutional power granted Congress to enact the measure. These statements are to be printed in the *Congressional Record*. The chair of the committee of jurisdiction could submit such a statement for a Senate bill or joint resolution prior to its consideration in the House.[167] (Amended clause 7 of Rule XII.) (For a concomitant change deleting the requirement for a constitutional authority statement in committee reports, see "Committee Reports" above.)

Certain Memorials Submitted to Congress

A separate order in H.Res. 5 in the 114th Congress addressed memorials from state legislatures that call for a constitutional convention.

The Constitution allows states to request that Congress call a "Convention for proposing Amendments" to the Constitution. The request is framed by the Constitution as "on the Application of the Legislatures...."[168] Legislatures' requests are in the form of a memorial.[169] A

---

amendment to, such a bill is permitted if it changes existing law by reduction the amount of money covered by the bill." Walter Kravitz, *Congressional Quarterly's American Congressional Dictionary*, 3rd ed. (Washington, DC: CQ Press, 2001), p. 219. For an explanation of the change for the 115th Congress, see CRS Report R44736, *The Holman Rule (House Rule XXI, Clause 2(b))*, by James V. Saturno.

[165] For information on legislative forms, see CRS Report 98-728, *Bills, Resolutions, Nominations, and Treaties: Characteristics, Requirements, and Uses*, by Richard S. Beth; CRS Report 98-706, *Bills and Resolutions: Examples of How Each Kind Is Used*, by Richard S. Beth; and CRS Report R44001, *Introducing a House Bill or Resolution*, by Mark J. Oleszek.

[166] "Positive law" when used to describe the United States Code refers to a title of the Code enacted into statute. For a fuller explanation, see http://uscode.house.gov/codification/legislation.shtml;jsessionid=940627269FF8129E04FD4BCC06E77DC9.

[167] See CRS Report R41711, *House Rules Changes in the 112th Congress Affecting Floor Proceedings*, by Elizabeth Rybicki; and CRS Report R41548, *Sources of Constitutional Authority and House Rule XII, Clause 7(c)*, by Kenneth R. Thomas (archived but available to congressional clients from the author on request).

[168] U.S. Const. art. V.

[169] A memorial is a "communication to Congress, usually from a state legislature, requesting some kind of legislation or

memorial is typically addressed to the House, the Senate, or both chambers and is presented in the House by the Speaker. A memorial's title is printed in the *Congressional Record*.[170]

The separate order directed the chair of the House Judiciary Committee to take specified actions when the House receives a memorial from a state legislature calling for a constitutional convention or rescinding a call contained in an earlier memorial. When such a memorial is received in the 114th Congress, the Judiciary Committee chair must determine that the memorial is an application and then must designate the memorial for public availability by the Clerk of the House. The Judiciary Committee chair *may* designate such memorials received in prior Congresses for public availability. The separate order directs the clerk to make memorials designated by the Judiciary Committee chair available to the public in electronic form and organized by state of origin and year of receipt by the House.[171]

In the 115th Congress, H.Res. 5 continued this separate order, with one change. The new separate order added a requirement that the Clerk of the House, in posting a memorial, indicate whether it was designated as an application for a constitutional convention or as a rescission of the application. The rules resolution summary further explained that this designation was the sole responsibility of the chair of the Judiciary Committee. The chair was directed in the explanation of the separate order to provide the clerk with a letter of transmission indicating the designation, and the clerk was directed to post these letters as well as the memorials.[172]

Cosponsorhip

In his policy announcements for the 115th Congress, the Speaker requested Members to take more care in adding their names as cosponsors of bills and resolutions. The Speaker encouraged Members to use a template provided by the Office of the Clerk and to provide their names in printed form and with their state in addition to providing their signature.[173]

Reserved Bill Numbers

A separate order in H.Res. 6 in the 110th Congress reserved the first 10 bill numbers for assignment by the Speaker for the duration of the 110th Congress.

A separate order in H.Res. 5 in the 111th Congress reserved the first 10 bill numbers for assignment by the Speaker for the duration of the 111th Congress.

A separate order in H.Res. 5 in the 112th Congress reserved the first 10 bill numbers for assignment by the Speaker and the second 10 bill numbers for assignment by the minority leader, both for the duration of the 112th Congress.

---

expressing the sense of the state legislature on some question." Walter Kravitz, *Congressional Quarterly's American Congressional Dictionary*, 3rd ed. (Washington, DC: CQ Press, 2001), p. 149.

[170] Rule XII, cl. 3. See CRS Report 98-839, *Messages, Petitions, Communications, and Memorials to Congress*, by R. Eric Petersen.

[171] For information on article V, see CRS Report R42589, *The Article V Convention to Propose Constitutional Amendments: Contemporary Issues for Congress*, by Thomas H. Neale.

[172] Rep. Pete Sessions, "Rules of the House," insert, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H12.

[173] "Announcement by the Speaker Pro Tempore," *Congressional Record*, daily edition, vol. 163 (January 3, 2017), pp. H34-H35.

A separate order in H.Res. 5 in the 113th Congress reserved the first 10 bill numbers for assignment by the Speaker and the second 10 bill numbers for assignment by the minority leader, both for the duration of the 113th Congress.

A separate order in H.Res. 5 in the 114th Congress reserved the first 10 bill numbers for assignment by the Speaker and the second 10 bill numbers for assignment by the minority leader, both for the duration of the 114th Congress.

A separate order in H.Res. 5 in the 115th Congress reserved the first 10 bill numbers for assignment by the Speaker and the second 10 bill numbers for assignment by the minority leader, both for the duration of the 115th Congress.

Bills and Joint Resolutions Pending Consideration

H.Res. 5 in the 115th Congress set a deadline of December 31, 2017, for implementation of a searchable electronic version of comparative prints to be publicly available prior to House consideration of bills and joint resolutions. The components of this addition to the rule concerning Restrictions on Certain Bills were:

- the new rule would be effective December 31, 2017;
- it applies to bills and joint resolutions proposing to repeal or amend a statute or a part of a statute, to amendments in the nature of a substitute proposing to repeal or amend a statute or a part of a statute, and to texts of bills and joint resolutions different from a text reported from committee;
- the rule operates prior to consideration of these measures by the House;
- the comparative print must be publicly available in a searchable electronic form on a House website prior to House consideration of a measure;
- in the instance of bills, joint resolutions, and amendments in the nature of a substitute, a comparative print must present changes to current law, showing, to the greatest extent practicable, by appropriate typographical devices the omissions and insertions proposed; and
- in the instance of a text of a bill or joint resolution to be considered that is different from the text reported from committee, a comparative print must present the differences between the two texts, showing the differences by appropriate typographical devices. (Added new clause 12 to Rule XXI.)

Broadcasting

In H.Res. 5 in the 112th Congress, outdated references to specific media entities were deleted. The portion of Rule VI that allowed the Speaker to reserve one seat each on the floor for reporters from the Associated Press and United Press International was deleted. A further technical change was made limiting to “not more than one” the number of representatives of each press association the Speaker could admit to the floor, instead of “one additional.” Similarly the portion of the rule that previously limited floor access, at the Speaker’s discretion, to one representative each of the National Broadcasting Company, Columbia Broadcasting Company, and the American Broadcasting Company was amended to allow access to “not more than one representative” of media outlets as the Speaker may allow.

In the 113th Congress, H.Res. 5 changed references in the House’s broadcasting rule to “communications” from “telecommunications” to encompass new technologies. It also clarified that recordings of floor proceedings could not be used for a “partisan political campaign

purpose." The rule had stated that recordings could not be used for "any political purpose." (Amended clause 2 of Rule V.)

Budget Process

Within this section, see "Appropriations Measures," above, or "Deficit Control," "Earmarks," "Medicare Trigger," "Public Debt Ceiling," and "Unfunded Mandates," below. These topics as well as others concerning budgetary legislation are all also addressed in the next section, "Rules Changes Affecting Budgetary Legislation."

Calendar Wednesday

Calendar Wednesday was a procedure available each Wednesday, whereby committees could call up measures lacking privilege and pending on the House or Union Calendar.[174] The occurrence or use of the Calendar Wednesday procedure in the modern House had been rare, but it would automatically occur unless dispensed with, normally by unanimous consent. H.Res. 5 in the 111th Congress reformed the Calendar Wednesday procedure to require a committee to request its scheduling, eliminating the need for the House each week to prevent its occurrence. If requested by a committee, the procedure would be available only to the requesting committee. A rules change also eliminated a prohibition applicable to the Rules Committee reporting a special rule waiving Calendar Wednesday.[175] (Amended clause 6 of Rule XV and deleted clause 6 of Rule XIII.)

H.Res. 5 in the 113th Congress added a new paragraph stating, "Precedents, rulings, or procedures in effect before the One Hundred and Eleventh Congress regarding the priority of business and the availability of other business on Wednesday shall be applied only to the extent consistent with [clause 6]." (Amended clause 6 of Rule XV).

Calendars of the House

A rule change in the 115th Congress conformed two rules related to the Calendar of the Committee of the Whole House on the State of the Union (the "Union Calendar") to modern practice. Measures referring a claim to the Court of Claims are now referred to the Private Calendar rather than to the Union Calendar. H.Res. 5 deleted this referral from the list of matters referred to the Union Calendar. (Amended clause 1 of Rule XIII and clause 3 of Rule XVIII.)

Commemorations

A change to the Republican Conference rules in the 112th Congress, continued in the 113th, 114th, and 115th Congresses, had a significant effect on commemorative bills, resolutions, and amendments. Many bills and resolutions had commonly been considered by the House under the suspension of the rules procedure.[176] The change made in conference rules stated that the Speaker

[174] Privilege is "An attribute of a…measure…that gives it priority status for consideration." Walter Kravitz, *Congressional Quarterly's American Congressional Dictionary,* 3rd ed. (Washington, DC: CQ Press, 2001), p. 188.

[175] For an explanation of procedures under Calendar Wednesday before and after the change, see CRS Report R40509, *House Rules Changes in the 111th Congress Affecting Floor Proceedings*, by Megan S. Lynch and Elizabeth Rybicki.

[176] "Commemoration" was defined by the 104th Congress as "…a remembrance, celebration, or recognition for any purpose through the designation of a specified period of time." (House Rule XII, cl. 5) Members, however, were able to draft similar legislation that did not fit the definition, and legislation in this form was routinely considered on the House

should not schedule a bill or resolution that "expresses appreciation, commends, congratulates, celebrates, recognizes the accomplishments of, or celebrates the anniversary of, an entity, event, group, individual, institution, team or government program; or acknowledges or recognizes a period of time for such purposes."[177] Democrats and Republicans alike had criticized the floor time the House consumed in the consideration of such measures.[178]

Conference[179]

H.Res. 6 in the 110th Congress amended the existing one-sentence rule that "a meeting of each conference committee shall be open to the public" by adding openness goals that House managers "should endeavor to ensure": (1) all House conferees have notice of meetings and a "reasonable opportunity" to attend; (2) all provisions in disagreement be open to discussion at any meeting; and (3) signed conference papers containing an agreement not be changed without opportunity for House conferees to reconsider their decision to sign or not sign.[180] It is not clear whether these goals are enforceable by a point of order or are exhortations to House managers. The rule was also amended to require that conferees be provided with a complete copy of the conference agreement at one place and at one time to sign or not sign. (Amended clause 12 of Rule XXII.) (See also, below, "Earmarks.") H.Res. 6 also contained a new provision stating that it was not in order for the House to consider a conference report, in which the conference text varied (other than by clerical change) from "action of the conferees on all of the differences between the two Houses" as acknowledged by signing or not signing the conference report and joint explanatory statement.[181] (Added new clause 13 to Rule XXII.)

The House in H.Res. 5 in the 111th Congress amended clause 9 of rule XXI to require the joint explanatory statement of a conference report to accompany a general appropriation bill to list all earmarks, limited tax benefits, and limited tariff benefits not committed to conference by either house, or to include a statement that neither the conference report nor the joint explanatory

---

floor under the suspension of the rules procedure.

[177] Rules of the House Republican Conference for the 115th Congress, available at https://www.gop.gov/115th-rules. See also Committee on Rules, 115th Congress Legislative Protocols, at https://www.majorityleader.gov/protocols.

[178] Rep. Louise Slaughter, "Broken Promises," p. 45; and Rep. Eric Cantor, "Delivering on Our Commitment." See also CRS Report R43539, *Commemorations in Congress: Options for Honoring Individuals, Groups, and Events*, coordinated by Jacob R. Straus.

[179] For information on the conference process and the process of amendments between the houses, see CRS Report 98-696, *Resolving Legislative Differences in Congress: Conference Committees and Amendments Between the Houses*, by Elizabeth Rybicki. See also CRS Report 96-708, *Conference Committee and Related Procedures: An Introduction*, by Elizabeth Rybicki; and CRS Report R41003, *Amendments Between the Houses: Procedural Options and Effects*, by Elizabeth Rybicki.

[180] See CRS Report RS21629, *Sufficiency of Signatures on Conference Reports*, by Richard S. Beth and Elizabeth Rybicki.

[181] This change was meant to address the possibility of adding to or changing items in a conference report after conferees had reached agreement, but without the conferees' knowledge. An example frequently cited at the time was that of an earmark for the so-called Coconut Road interchange on I-75 in Florida (H.R. 3; P.L. 109-59). See Charlie Whitehead, "Bonita will benefit for Coconut Road I-75 exit," *Naples News*, August 24, 2005, available (for a small fee) at http://nl.newsbank.com/nl-search/we/Archives?p_product=NDNB&p_theme=ndnb&p_action=search&p_maxdocs=200&s_dispstring=Title%28coconut%20road%20I-75%29&p_field_advanced-0=title&p_text_advanced-0=%28%22coconut%20road%20I-75%22%29&xcal_numdocs=50&p_perpage=25&p_sort=YMD_date:D&xcal_useweights=no; and Elizabeth Wright, "Coconut Road earmark investigation gains major momentum in Congress," *Naples News*, April 15, 2008, available at http://www.naplesnews.com/news/local/coconut-road-earmark-investigation-gains-major-momentum-in-congress-ep-401896082-344545072.html.

statement contained such earmarks or limited tax or tariff benefits. This requirement could not be waived by a special rule. A point of order raised under this change would be disposed of by a question of consideration. (This amendment to clause 9 codified in House rules H.Res. 491, adopted in the 110th Congress.)[182] (See also, below, "Earmarks.")

H.Res. 5 in the 113th Congress conformed the rules on the availability of conference reports to the rules on the availability of legislation in electronic format. (Amended clause 8 of Rule XXII.)

In the 114th Congress, a rule change contained in H.Res. 5 allowed conference committees additional time to reach agreement before a motion to instruct or to discharge and appoint conferees would be privileged to be made. The rule had granted privilege 20 calendar days or 10 legislative days after conferees had been appointed. The change bestowed privilege after 45 calendar days and 25 legislative days. (Amended clause 7(c) of Rule XXII.)

Continuity of Congress

H.Res. 6 in the 110th Congress authorized the chair of the Committee of the Whole, when notified of an imminent threat to the House's safety, to declare an emergency recess subject to the call of the chair. The change eliminated potential confusion over whether the Committee of the Whole would need to rise (to return to the House sitting as the House) so that the Speaker could declare an emergency recess. (Amended clause 12 of Rule I.)

In the 113th Congress, H.Res. 5 allowed the designees of the majority leader or minority leader to consult with the Speaker in the event of catastrophic quorum failure report, rather than solely the two leaders. (Amended clause 5 of Rule XX.)

In the 114th Congress, H.Res. 5 provided the Speaker with authority to reconvene the House during an adjournment or recess of less than three days at a time other than the appointed time and to notify Members. The Speaker was directed to consult the minority leader, to decide when the public interest warranted, and to act within the limits of Article I of the Constitution.[183] This change included in House rules separate orders from the 112th and 113th Congresses.[184] The rule change also allowed the Speaker to name designees to exercise the reconvening authorities listed in this new subparagraph and two existing subparagraphs of Rule I. (Amended clause 12 of Rule I.)

The rules resolution for the 115th Congress (H.Res. 5) contained a technical, one-word change to the rule allowing the Speaker to convene the House in the District of Columbia at a place other than the Hall of the House in the Capitol "if" rather than "whenever" it was in the public interest. (Amended clause 12 of Rule I.)

The 115th Congress rules resolution also clarified that an acting Speaker pro tempore would hold priority over the Clerk of the House in preserving order and decorum pending the election of a new Speaker. (Amended clause 2 of Rule II.)

[182] The House in the 110th Congress, on June 18, 2007, had adopted H.Res. 491, creating the same point of order for the duration of that Congress against a conference report on a general appropriation bill that was not accompanied by a list of earmarks not committed to conference by either house. A special rule could not waive this requirement. A point of order under H.Res. 491 would be disposed of on a question of consideration.

[183] U.S. Const. art. I, §5, cl. 4.

[184] See H.Res. 479 (112th Cong.), agreed to in the House December 6, 2011, and H.Res. 66 (113th Cong.), agreed to in the House February 14, 2013.

Decorum in the Chamber: Conduct and Electronic Devices

Elaborating on the prohibition on the receiving and making of wireless telephone calls within the chamber, the Speaker in the 111th Congress further clarified that "telephone headsets" should not be worn within the chamber.[185]

The House in H.Res. 5 in the 112th Congress changed its rule to proscribe only "use of a mobile electronic device that impairs decorum." The change shifted the rule from prohibiting specific devices to the manner in which electronic devices were used on the House floor, although the change provided the Speaker with sufficient flexibility to ban specific devices. (Amended clause 5 of Rule XVII.)

Regarding the use of mobile electronic devices, the Speaker in his announced policies reminded Members of the prohibition on use of those devices that "impair decorum," as provided in Rule XVII, clause 5. The Speaker noted that electronic tablet devices do not constitute personal computers for the purpose of the rule and thus could be used "unobtrusively" within the chamber. However, no device could be used for still photography or for audio or video recording.[186]

In the 115th Congress, H.Res. 5 added decorum provisions to three House rules. The first change authorized the sergeant-at-arms to levy a fine against a Member, a Delegate, or the Resident Commissioner for using an electronic device to photograph, to record audio or video, or to broadcast on the House floor, in violation of Rule XVII, clause 5 or of a Speaker's announced policy on electronic devices on the floor. (Amended clause 3 of Rule II.)

Rule XVII, clause 5 disallows a "person on the floor of the House ... [to] use a mobile electronic device that impairs decorum." The Speaker's announced policy on electronic devices in the 115th Congress continued the policy from the 114th Congress, with the addition of the phrase "live broadcast" to the prohibition on the use of an electronic device for photography or audio or video recording.[187]

The first change in addition set the fine at $500 for a first offense and $2,500 for any subsequent offense. The sergeant-at-arms was directed to "promptly" notify the alleged offending Member, the Speaker, the chief administrative officer, and the Ethics Committee of a fine. The Member could appeal the fine in writing to the Ethics Committee within 30 calendar days or 5 legislative days of notification, whichever date was later.

Upon receipt of an appeal, the Ethics Committee was directed to decide within 30 calendar days or 5 legislative days, whichever was later, to dismiss the fine or to allow the fine. Upon the committee's decision or, if no appeal was made, after the time for appeal had tolled, the committee chair was directed to notify the Member, the Speaker, and the chief administrative officer.

The Speaker was directed by the rule to promptly lay the committee chair's notification before the House. The sergeant-at-arms and the committee were authorized to promulgate policies and procedures for implementation of the rule change. (Amended clause 3 of Rule II.)

The second change authorized the chief administrative officer, upon notification from the Ethics Committee chair, to deduct a fine from the "net salary" due the Member. The CAO was

[185] "Announcement by the Speaker," *Congressional Record*, vol. 155, part 1 (January 6, 2009), pp. 23-25.

[186] "Announcement by the Speaker," *Congressional Record*, vol. 157, part 1 (January 5, 2011), pp. 104-106.

[187] "Announcement by the Speaker Pro Tempore," *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H36.

authorized to promulgate policies and procedures for implementation of the rule change. (Amended clause 4 of Rule II.)

The Speaker's announced policy for the 115th Congress contained additional text explaining the process for levying and collecting a fine. In addition to reiterating provisions in the rule, the announced policy indicated that the fine would be levied for violations "observed first-hand as well as [for] violations that become apparent at a later time, such as through publication online or broadcast on television." The sergeant-at-arms would hand a Member a card noting a violation that was observed on the floor and follow up with a letter to the Member detailing the violation. For a violation that becomes apparent later, the sergeant-at-arms would send a letter to the allegedly offending Member.

The explanation in the announced policy indicated that the sergeant-at-arms would attempt to provide a written warning prior to levying a fine for a first offense. The policy announcement also indicated that the sergeant-at-arms could choose not to cite minor violations at ceremonial events. The policy announcement further stated that it was the Speaker's desire that policies and procedures of the sergeant-at-arms, Ethics Committee, and chief administrative officer implementing the rule be printed in the *Congressional Record*. It also stated that the additions to House decorum rules did not deprive the House of its ability to address violations that could give rise to questions of the privileges of the House under Rule IX.[188]

The third change added a new clause to the rule on Decorum and Debate. A person in the House chamber—a Member, a Delegate, the Resident Commissioner, an officer, or an employee—was prohibited from engaging in "disorderly or disruptive conduct," which was defined to include—

- "intentionally obstructing or impeding the passage of others";
- using an exhibit to "impede, disrupt, or disturb the proceedings"; or
- denying "legislative instruments" to others "seeking to engage in legislative proceedings."[189]

The new clause also stated that it established a standard of conduct within the meaning of Rule XI, clause 3(a)(2). The provision cross referenced authorizes the Ethics Committee to investigate alleged violations of standards of conduct. (Added a new clause 9 to Rule XVII and renumbered the former clause 9 as clause 10.)

H.Res. 5 made another, unrelated change to decorum provisions in various House rules. The rules resolution struck references in six places in five different rules that referred to the Speaker or to a Member "rising." The summary that the Rules Committee chair inserted in the *Congressional Record* explained that the changes eliminated "outdated references to physical mobility" from the rules in order to "address the needs of Members who are physically unable to stand."[190] (Amended clause 6 of Rule I, clause 6 of Rule XIII, clauses 2 and 5 of Rule XVII, and clause 1 of Rule XX.)

[188] "Announcement by the Speaker Pro Tempore," *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H36. See also "Announcement by the Speaker Pro Tempore," *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H28.

[189] In the section-by-section analysis of the rules resolution, this explanation appeared: "legislative instruments such as microphones." Rep. Pete Sessions, "Rules of the House," insert, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H12.

[190] Rep. Pete Sessions, "Rules of the House," insert, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H12.

Deficit Control

(See also "Rules Changes Affecting Budgetary Legislation" below.)

H.Res. 6 in the 110th Congress prohibited the House from considering a budget resolution, an amendment to it, or a conference report on it that contained reconciliation directives that would have the effect of reducing the surplus or increasing the deficit over 6- and 11-year timeframes.[191] (Added clause 7 to Rule XXI.)

H.Res. 6 also added to House rules a pay-as-you-go (PAYGO) provision, which prohibited consideration of any bill, joint resolution, amendment, or conference report, the provisions of which affecting direct spending or revenues would have the net effect of increasing the deficit or reducing the surplus for either a 6- or 11-year period. The rule provided direction on how the effect of a measure on the surplus or deficit was to be calculated.[192] (Added clause 10 to Rule XXI.)

H.Res. 6 also applied Budget Act points of order to measures considered pursuant to a special rule, whether or not a measure was reported by committee. Points of order applied to measures as reported, made in order for the purpose of amendment, or on which the previous question was ordered.[193] (Added clause 8 to Rule XXI.)

In the 111th Congress, the House in H.Res. 5 made the following changes to clause 10 of Rule XXI, the pay-as-you-go (PAYGO) rule:[194]

- Aligned the PAYGO rules of the House with those of the Senate so that both houses used the same CBO baselines;
- Permitted one House-passed measure to be used to pay for spending in a separate House-passed measure as long as the two were linked at the engrossment stage;
- Exempted provisions expressly designated as emergency from a point of order under Rule XXI, clause 10;[195] and
- Required the chair to put a question of consideration with respect to bills, joint resolutions, amendments made in order as original text by a special order of business, conference reports, or amendments between the Houses that contain a provision designated as emergency for the purposes of PAYGO principles.

---

[191] An explanation of 110th Congress budget rules changes is available in CRS Report 34149, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 110th Congress*, by Bill Heniff Jr. (archived but available to congressional clients from author on request); and CRS Report RL33818, *Federal Budget Process Reform in the 110th Congress: A Brief Overview*, by Robert Keith (archived but available to congressional clients from the authors on request).

[192] Ibid.

[193] See CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno.

[194] In addition, Congress in the 111th Congress passed and President Obama signed into law the Statutory Pay-As-You-Go Act of 2010 (P.L. 111-139; 124 Stat. 8 (2010)). See CRS Report R41157, *The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History*, by Bill Heniff Jr.

[195] The section-by-section analysis inserted in the *Congressional Record* included guidelines for what measures may receive "emergency designation," although these guidelines did not appear in the text of the rules resolution and did not appear to be binding. Rep. Louise Slaughter, remarks in the House, "Rules of the House," *Congressional Record*, vol. 155, part 1 (January 6, 2009), pp. 11-13.

H.Res. 5 in the 112th Congress established a point of order against considering a concurrent resolution on the budget, or an amendment to it, or a conference report on it that contained reconciliation directives that would have the effect of a net increase in direct spending over 6- and 11-year time periods. This rule previously disallowed reconciliation instructions that would have the effect of increasing the deficit or reducing the surplus resulting from "changes in law."[196] (Amended clause 7 of Rule XXI.)

H.Res. 5 also replaced the pay-as-you-go rule with a cut-as-you-go rule. While the House had prohibited consideration of any bill, joint resolution, amendment, or conference report if "the provisions of such measure affecting *direct spending and revenues* have the net effect of increasing the deficit or reducing the surplus," the House in the 112th Congress prohibited consideration of these legislative vehicles "if the provisions of such measure have the net effect of *increasing mandatory spending*."[197] *(Emphasis added)* (Amended clause 10 of Rule XXI.)

H.Res. 5 also provided that the chair of the Committee on the Budget (as opposed to the committee itself) could provide "authoritative guidance" on the budgetary impact of legislation. This change recognized in rules what had become practice, where the House's presiding officer needed to seek information from the Budget Committee in determining whether a legislative provision violated a budget enforcement rule: such information was provided by the committee chair.[198] (Added clause 4 to Rule XXIX.)

In the 115th Congress, H.Res. 5 in a separate order provided a point of order against increasing direct spending, applicable to reported bills and joint resolutions, amendments to these measures, and conference reports on these measures. The Congressional Budget Office was directed, "to the extent practicable," to estimate whether a bill, joint resolution, amendment, or conference report increased direct spending in excess of $5 billion in any of 4 consecutive 10-year periods, beginning with the fiscal year 10 years after the current fiscal year. The point of order barred consideration of the legislation exceeding this amount in any of the 10-year periods, based on estimates provided by the Budget Committee chair. The point of order did not apply, however, to legislation repealing or reforming the Patient Protection and Affordable Care Act or to legislation for which the Budget Committee chair had made an adjustment to allocations, levels, or limits contained in the most recent concurrent resolution on the budget.[199] (See also "115th Congress" under "Rules Changes Affecting Budgetary Legislation.")

Delegates and Resident Commissioner

H.Res. 5 in the 112th Congress deleted rules provisions allowing Delegates and the Resident Commissioner to chair or vote in the Committee of the Whole. The House in the 110th Congress

[196] An explanation of changes to budget rules made by the 112th Congress is available in CRS Report 34149, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 110th Congress*, by Bill Heniff Jr. (archived but available to congressional clients from author on request). The 112th Congress also passed the Budget Control Act (P.L. 112-25; 125 Stat. 240 (2011)). See CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan.

[197] Information is available in CRS Report RL34149, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 110th Congress*, by Bill Heniff Jr. (archived but available to congressional clients from the author on request).

[198] Ibid.

[199] See CRS Report R44769, *Provisions Affecting the Congressional Budget Process Included in H.Res. 5 (115th Congress)*, by Megan S. Lynch and James V. Saturno.

had granted these rights in the Committee of the Whole to Delegates and the Resident Commissioner.[200] (Amended clause 3 of Rule III and clauses 1 and 6 of Rule XVIII.)

In the 115th Congress, H.Res. 5 granted permission to the Speaker to appoint a Delegate or the Resident Commissioner to preside over the Committee of the Whole. (Amended clause 1 of Rule XVIII.)

Discharging Committees[201]

In the 112th Congress, H.Res. 5 changed the discharge rule to indicate that it was the names of signatories rather than the actual signatures of Members that the Clerk of the House should make available. (Amended clause 2 of Rule XV and clause 13 of Rule XVIII.)

In the 113th Congress, H.Res. 5 applied discharge procedures to all committees by removing the word "standing," as in "standing committees," from the relevant clause. (Amended clause 2 of Rule XV.)

Earmarks[202]

H.Res. 6 in the 110th Congress required a committee of jurisdiction or a conference committee to provide a list of earmarks, limited tax benefits, and limited tariff benefits (as defined in the rule) contained in a bill or joint resolution that was reported, was not reported, an amendment in the nature of a substitute or other committee amendment, or conference report for the measure to be in order for consideration by the House. If the measure contained no earmarks, limited tax benefits, or limited tariff benefits, then a statement attesting to that fact was required to be provided. If the measure was reported, the list or statement was to appear in the committee report. If the measure was not reported, the list or statement was to be printed in the *Congressional Record*. A point of order would lie against consideration of a measure only in the absence of the list or statement.

A point of order was also allowed against a special rule waiving the requirement for the list or statement, which would be disposed of on a question of consideration, debatable for 10 minutes by the Member making the point of order and 10 minutes by an opponent.[203] (Added clause 9 to

---

[200] H.Res. 78 (110th Cong.), agreed to in the House January 24, 2007. (See also above "Democrats' Proposed Rules Changes, 112th Congress"; "Majority and Minority Policy Differences in the 113th Congress (2013-2015) Rules Debate"; and "Majority and Minority Policy Differences in the 114th Congress (2015-2017) Rules Debate.") For information on prerogatives in the House for Delegates and the Resident Commissioner, see CRS Report RL33824, *The Constitutionality of Awarding the Delegate for the District of Columbia a Vote in the House of Representatives or the Committee of the Whole*, by Kenneth R. Thomas; CRS Report R40170, *Parliamentary Rights of the Delegates and Resident Commissioner from Puerto Rico*, by Christopher M. Davis; and CRS Report R41711, *House Rules Changes in the 112th Congress Affecting Floor Proceedings*, by Elizabeth Rybicki.

[201] For information on the House discharge rule, see CRS Report 97-552, *The Discharge Rule in the House: Principal Features and Uses*, by Richard S. Beth.

[202] Information on changes in rules affecting earmarks is available in CRS Report RL34462, *House and Senate Procedural Rules Concerning Earmark Disclosure*, by Sandy Streeter (archived but available to congressional clients from authors of this report on request). Changes made during the 110th Congress are explained in CRS Report RL34149, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 110th Congress*, by Bill Heniff Jr. (archived but available to congressional clients from the author on request); and CRS Report RL33818, *Federal Budget Process Reform in the 110th Congress: A Brief Overview*, by Robert Keith (archived but available to congressional clients from the authors on request). See also CRS Report RS22866, *Earmark Disclosure Rules in the House: Member and Committee Requirements*, by Megan S. Lynch.

[203] Further discussion of the rules change is available in CRS Report RL34149, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 110th Congress*, by Bill Heniff Jr. (archived but available

Rule XXI.) (See "Earmarks" under "Rules Changes Affecting Committees," above, and "110th Congress" under "Rules Changes Affecting Budgetary Legislation" and "110th Congress" under "Rules Changes Affecting Ethics Standards," both below.)

The House in H.Res. 5 in the 111th Congress amended clause 9 of rule XXI to require the joint explanatory statement of a conference report accompanying a general appropriation bill to list all earmarks, limited tax benefits, and limited tariff benefits not committed to conference by either house, or to include a statement that neither the conference report nor the joint explanatory statement contained such earmarks or limited tax or tariff benefits. This requirement could not be waived by a special rule. A point of order raised under this change would be disposed of by a question of consideration. (This amendment to clause 9 codified in House rules H.Res. 491, adopted in the 110th Congress.)[204] (See "111th Congress" below, under "Rules Changes Affecting Budgetary Legislation.")

Republican Conference guidance has also affected the consideration of earmarks. In the 112th, 113th, 114th, and 115th Congresses, the Republican Conference adopted a standing order prohibiting a Member from requesting an earmark.[205]

Gender References

H.Res. 5 in the 111th Congress amended House rules to change masculine nouns, pronouns, and possessives to gender-neutral language. So, for example, "chair" was substituted for "chairman," and subsequent references to the Speaker as "he" or "his" were changed to "the Speaker" or "the Speaker's."

Layover/Public Availability

In the 112th Congress, H.Res. 5 contained a new layover requirement applicable to unreported legislation. Under the change, it would not be in order to consider on the floor a bill or joint resolution that had not been reported from committee until the third day after it had been available to Members. The existing three-day layover rule had applied only to the required report on committee-reported legislation.[206] Because the route to floor consideration for an unreported measure is normally via the suspension of the rules procedure or a special rule, leadership's restraint in making an unreported measure available for three days before floor consideration would probably be of greater impact than the rules change itself.[207] (Added a new clause 11 to Rule XXI.)

In support of House layover rules in the Internet Age, H.Res. 5 also assigned a new duty to the House Administration Committee—to promulgate standards for making House and House

---

to congressional clients from the author on request); and CRS Report RS22866, *Earmark Disclosure Rules in the House: Member and Committee Requirements*, by Megan S. Lynch.

[204] The House in the 110th Congress, on June 18, 2007, had adopted H.Res. 491, creating a point of order for the duration of that Congress against a conference report on a general appropriation bill that was not accompanied by a list of earmarks not committed to conference by either house. A special rule could not waive this requirement. A point of order under H.Res. 491 was disposed of on a question of consideration.

[205] Available at https://www.gop.gov/115th-rules.

[206] See CRS Report RS22015, *Availability of Legislative Measures in the House of Representatives (The "Three-Day Rule")*, by Elizabeth Rybicki.

[207] The rules change and its relationship to other rules and practices is discussed in CRS Report R41711, *House Rules Changes in the 112th Congress Affecting Floor Proceedings*, by Elizabeth Rybicki.

committee documents publicly available.[208] (Amended clause 4 of Rule X.) H.Res. 5 further provided that, if a measure or matter was available in electronic form at a location designated by the committee, the item would be considered available to Members as required by House rules.[209] A requirement of "availability" under the rules was previously met only by printed items. (Added a new clause 3 to Rule XXIX.) A separate order provided an interim order pending the promulgation of regulations by the committee. The interim order stated that posting on the Committee on Rules website would serve the publicly available requirement for the House floor and each committee's majority website would serve that purpose for a committee.

Medicare Trigger; Independent Payment Advisory Board

A separate order included in H.Res. 5 in the 111th Congress rendered inoperative for the 111th Congress a rule incorporated into the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. The separate order allowed the President to submit a measure to respond to a "Medicare funding warning" (the so-called Medicare trigger) issued by Medicare trustees, as required by the law, but voided the expedited procedures that required the House to act on the measure.[210]

A separate order in H.Res. 5 in the 113th Congress rendered inoperative for the 113th Congress a procedural rule incorporated into the Patient Protection and Affordable Care Act. The separate order stated that the congressional procedures for consideration of an Independent Payment Advisory Board proposal submitted to Congress by the President "shall not apply" in the House.

A separate order in H.Res. 5 in the 114th Congress repeated the suspension.[211] Another separate order continued the suspension in the 115th Congress (H.Res. 5).

[208] U.S. Congress, House, Committee on House Administration, "House Administration Adopts New Posting Standards for House Documents," news release, December 16, 2011, available at http://cha.house.gov/press-release/house-administration-adopts-new-posting-standards-house-documents. The standards are available at http://cha.house.gov/member-services/electronic-posting-standards, or as a PDF document at http://cha.house.gov/sites/republicans.cha.house.gov/files/documents/member_services_docs/electronic_posting_standards.pdf.

[209] U.S. Congress, House, Committee on House Administration, "Clerk Launches New Site for House Documents," news release, January 17, 2012, available at http://cha.house.gov/press-release/clerk-launches-new-site-house-documents. The website is located at http://docs.house.gov.

[210] P.L. 108-173, §§801-803; 117 Stat. 2066, 2357-2363 (2003). Senate procedures appear in §804. For an explanation of the Medicare trigger, see CRS Report RS22796, *Medicare Trigger*, by Patricia A. Davis, Todd Garvey, and Christopher M. Davis. For background, see Bennett Roth, "House Adopts Package of Rule Changes," *CQ Weekly*, vol. 67, no. 2, January 12, 2009, pp. 75-76. The House had disabled these expedited procedures in the 110th Congress as well in adopting H.Res. 1368 (110th Cong.), agreed to in the House July 24, 2008. For background, see Drew Armstrong, "House Adopts Measure Waiving Medicare Trigger," *CQ Weekly*, vol. 66, no. 30, July 28, 2008, p. 2061.

[211] The procedures, adopted as an exercise in congressional rulemaking, appear at 42 U.S.C. 1395kkk(c) (P.L. 111-148 §3403; 124 Stat. 489 (2010); and P.L. 111-148, §10320; 124 Stat. 949). See CRS Report R41511, *The Independent Payment Advisory Board*, by Jim Hahn and Christopher M. Davis; and CRS Report R44075, *The Independent Payment Advisory Board (IPAB): Frequently Asked Questions*, by Jim Hahn, Christopher M. Davis, and Edward C. Liu.

Public Debt Ceiling[212]

In the 112th Congress, the Gephardt rule was deleted. (Repealed Rule XXVIII.)[213] (See "112th Congress" below, under "Rules Changes Affecting Budgetary Legislation.")

Recommit, Motion to[214]

In the 111th Congress, H.Res. 5 restricted motions to recommit with instructions only to a form of direction to report back an amendment "forthwith." This change precluded other forms of instructions, such as to report back "promptly" or to undertake other actions, for example, to hold hearings. While minority Members over the years had normally offered "forthwith" instructions, the minority in the 110th Congress frequently offered motions to recommit to instruct a committee to "promptly" report an amendment. This form of instruction sent the measure back to committee, was advisory, and did not immediately bring an amendment before the House. The majority objected to this practice and changed the rule in the 111th Congress.[215] The change for the first time also allowed 10 minutes of debate on a motion to recommit without instructions (also called a "straight" motion to recommit). Previously, 10 minutes of debate had been available only on a motion to recommit with instructions.[216] (Amended clause 2 of Rule XIX.)

Special Order Speeches and One-Minute Speeches[217]

In the 110th Congress, the special order policies included in previous Speakers' announcements were not included in the Speaker's announced policies for the 110th Congress.[218]

In the 111th Congress, the Speaker reintroduced the previous policy on special order speeches, allowing five-minute speeches and then up to four hours of longer speeches, two hours allocated to the majority and two hours to the minority.[219]

The Speaker in his announced policies for the 112th Congress stated that any special-order speech was to conclude by 10 o'clock in the evening (rather than midnight). The Speaker further specified that the second hour of each party's two-hour period for special-order speeches would be divided into two 30-minute periods and that recognition during the party's first hour and each

---

[212] For an explanation of the Gephardt rule and of congressional procedures related to debt legislation, see CRS Report RL31913, *Debt Limit Legislation: The House "Gephardt Rule"*, by Bill Heniff Jr.; and CRS Report RS21519, *Legislative Procedures for Adjusting the Public Debt Limit: A Brief Overview*, by Bill Heniff Jr.

[213] Rule XXVIII was listed in the rules resolution as "reserved" but contained no text. More information is available in CRS Report R41926, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 112th Congress*, by Bill Heniff Jr. (archived but available to congressional clients from author on request).

[214] For an explanation of the motion to recommit, see CRS Report 98-383, *Motions to Recommit in the House*, by Megan S. Lynch.

[215] See, for example, Don Wolfensberger, "Minority's Motion to Recommit Should Not Be Curtailed," *Roll Call*, November 12, 2007, available at https://www.wilsoncenter.org/publication/minoritys-motion-to-recommit-should-not-be-curtailed.

[216] For a discussion of the rules change, see CRS Report R40509, *House Rules Changes in the 111th Congress Affecting Floor Proceedings*, by Megan S. Lynch and Elizabeth Rybicki.

[217] For information on non-legislative debate, see CRS Report RL30136, *Special Order Speeches: Current House Practices*, by Judy Schneider; and CRS Report RS21174, *Special Order Speeches and Other Forms of Non-Legislative Debate in the House*, by Judy Schneider.

[218] "Announcement by the Speaker," *Congressional Record*, vol. 153, part 1 (January 5, 2007), pp. 273-274.

[219] "Announcement by the Speaker," *Congressional Record*, vol. 155, part 1 (January 6, 2009), pp. 23-25.

30-minute period would alternate initially between the parties each day and then subsequent to the initial speech. Five-minute special order speeches were in order until February 1, 2011.[220]

In his announcements for the 113th Congress, the Speaker clarified that any 60- or 30-minute period not claimed at the appropriate time would be considered to have expired.[221]

In his announced policies for the 115th Congress, the Speaker indicated that a Member would be recognized only once a day to address the House for one minute.[222]

Special Rules (Orders of Business)[223]

In the 110th, 111th, 112th, 113th, and 115th Congresses, the rules resolution contained special rules making in order House consideration of specified legislation.

In the 110th Congress, the rules resolution made in order the consideration of five measures: creating an oversight panel on intelligence (see, above, "Subcommittees"), implementing additional recommendations of the 9/11 Commission, increasing the federal minimum wage, allowing embryonic stem cell research, and providing the Secretary of Health and Human Services with authority to negotiate drug prices under Medicare Part D.

In the 111th Congress, the rules resolution made in order the consideration of the Lilly Ledbetter Fair Pay Act and the Paycheck Fairness Act.

In the 112th Congress, the rules resolution made in order motions to suspend the rules on Thursday, January 6, 2011, related to "reducing the costs of operation of the House of Representatives" and extending debate time to 2 hours from the 40 minutes provided in House rules.

In the 113th Congress, the rules resolution made in order motions to suspend the rules relating to a "measure addressing flood insurance."

In the 112th, 113th, and 114th Congresses, the rules resolutions also contained an order of business providing for the reading of the Constitution on the House floor. In the 112th Congress, the reading was in order on January 6, 2011. In the 113th Congress, it was in order any time through January 15, 2013. In the 114th Congress, the reading was in order through January 16, 2015.

In the 115th Congress, H.Res. 5 contained two orders of business. The first order allowed the reading of the Constitution on the House floor through January 13, 2017. The second order allowed the consideration of H.R. 21, which would amend the Congressional Review Act, related to congressional review of certain proposed regulations, to allow a joint resolution to disapprove two or more proposed regulations rather than one regulation.

---

[220] "Announcement by the Speaker," *Congressional Record*, vol. 157, part 1 (January 5, 2011), pp. 104-106.

[221] "Announcement by the Speaker Pro Tempore," *Congressional Record*, daily edition, vol. 159 (January 3, 2013), p. H26. The Speaker also deleted from his announcement related to special order speeches a paragraph from the 112th Congress allowing five-minute speeches upon the conclusion of legislative business, effective until February 1, 2011.

[222] "Announcement by the Speaker Pro Tempore," *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H35.

[223] See CRS Report 98-354, *How Special Rules Regulate Calling up Measures for Consideration in the House*, by Richard S. Beth.

Unfunded Mandates[224]

In the 112th Congress, H.Res. 5 struck the clause authorizing a motion to strike an unfunded mandate from a bill considered in the Committee of the Whole. Under the repealed clause, such an amendment was in order unless specifically precluded by the terms of a special rule. (Struck clause 11 of Rule XVIII.)

Voting[225]

A provision in H.Res. 6 in the 110th Congress sought to ensure that recorded votes were closed in a timely manner without manipulating a vote's duration to achieve a specific outcome. A sentence was added to clause 2 of Rule XX: "A record vote by electronic device shall not be held open for the sole purpose of reversing the outcome of such vote."[226]

Existing language in the Speaker's announced policies noting that the chair would have the full support of the Speaker in striving to close each electronic vote as quickly as possible was removed. New language stating that Members would be given a "reasonable amount" of time in which to accurately record their votes was introduced, while retaining the existing statement that Members in the House well would not be prevented from voting.[227]

The sentence about holding open a vote for the sole purpose of reversing an outcome was repealed in H.Res. 5 in the 111th Congress.[228] (Amended clause 2 of Rule XX.)

The Speaker in the 111th Congress continued existing policy regarding the timely conduct of votes, but added that presiding officers should look to the clerk for certification that a vote tally was complete and accurate.[229] The repeal of the rules provision on holding votes open and the inclusion of new language in the Speaker's announced policies was a response to the

---

[224] In the 104th Congress, Congress enacted and the President signed the Unfunded Mandates Reform Act (P.L. 104-4; 109 Stat. 48 (1995)). It defined a federal mandate as a law or regulation that imposed a legally binding duty on state, local, or tribal governments or on the private sector. A point of order in the House or Senate would lie against reported legislation imposing a mandate exceeding applicable thresholds unless spending authority exceeding the mandate's costs was provided. See CRS Report R40957, *Unfunded Mandates Reform Act: History, Impact, and Issues*, by Robert Jay Dilger and Richard S. Beth.

[225] For information on voting in the House, see CRS Report 98-228, *House Voting Procedures: Forms and Requirements*, by Walter J. Oleszek; CRS Report 98-870, *Quorum Requirements in the House: Committee and Chamber*, by Christopher M. Davis; and CRS Report 98-778, *Super-Majority Votes in the House*, by Walter J. Oleszek.

[226] This sentence was the subject of numerous parliamentary inquiries and several points of order in the 110th Congress. On August 3, 2007, in response to one Democratic presiding officer's decision to end a vote at a particular juncture, the House subsequently approved the creation of a select committee to investigate the possibility of "irregularities" in the conduct of that vote. (H.Res. 363 (110th Cong.), agreed to in the House August 3, 2007.) The investigation resulted in a recommendation to the House that the rule be repealed. The Select Committee to Investigate the Voting Irregularities of August 2, 2007, in its unanimously adopted report, indicated that the change was made with a "noble intent," but it was "difficult to enforce" and a "catalyst for raw anger." U.S. Congress, House, Select Committee to Investigate the Voting Irregularities of August 2, 2007, *Final Report and Summary of Activities*, 110th Cong., 2nd sess., H.Rept. 110-885 (Washington: GPO, 2008), pp. 22-24. A discussion of the electronic voting system and of voting in the House appears in CRS Report RL34366, *Electronic Voting System in the House of Representatives: History and Evolution*, by Jacob R. Straus (archived but available to congressional clients from the author on request); and in CRS Report RL34570, *Record Voting in the House of Representatives: Issues and Options*, by Michael L. Koempel, Jacob R. Straus, and Judy Schneider.

[227] "Announcement by the Speaker," *Congressional Record*, vol. 153, part 1 (January 5, 2007), pp. 273-274.

[228] For additional explanation of the rules change, see CRS Report R40509, *House Rules Changes in the 111th Congress Affecting Floor Proceedings*, by Megan S. Lynch and Elizabeth Rybicki.

[229] "Announcement by the Speaker," *Congressional Record*, vol. 155, part 1 (January 6, 2009), pp. 23-25.

recommendations of the Select Committee to Investigate the Voting Irregularities of August 2, 2007, detailed in H.Rept. 110-885.

In the 112th Congress, H.Res. 5 allowed the chair of the Committee of the Whole to reduce the time for recorded votes on amendments to not less than two minutes after a 15-minute recorded vote. The previous rule allowed the chair to reduce voting time to five minutes, although the House had on occasion authorized the chair of the Committee of the Whole to hold two-minute votes. (Amended clause 6 of Rule XVIII.)

H.Res. 5 in the 113th Congress changed the minimum time for electronic voting in the Committee of the Whole to not less than two minutes from five minutes on a pending question following a quorum call made after the chair sustained a point of order that a quorum was not present. (Amended clause 6 of Rule XVIII.)

H.Res. 5 also made changes to Rule XX, clause 9, which permitted the Speaker to reduce to five minutes votes on questions arising, without intervening business, following a vote that had been preceded by an announcement of possible five-minute voting for a series of votes. The additions to this clause covered two additional parliamentary circumstances. The Speaker could reduce voting to five minutes on a question arising after the Committee of the Whole rose and reported, without debate or intervening motion. And, the Speaker could reduce voting to five minutes on a question of adoption of the motion to recommit, or ordering the previous question on the motion, arising without debate, other than debate on the motion, or intervening motion. (Amended clause 9 of Rule XX.) (This change was related to other changes in the Speaker's and chair of the Committee of the Whole's authority to reduce voting time on postponed questions, described immediately below.)

In the 115th Congress, H.Res. 5 amended this same rule on five-minute voting to better conform the guidelines in this rule to those in Rule XX, clause 8(c). (Amended clause 9 of Rule XX.) In addition, consistent with his announcement on January 7, 2016, the Speaker included in his announced policies for the 115th Congress a statement on allowing Members time to vote. The Speaker stated that a vote would not be terminated when a Member was in the well attempting to cast a vote. He further stated that "other efforts" to hold a vote open would not be similarly protected.[230]

Postponing Consideration

In the 111th Congress, H.Res. 5 provided permanent authority to the Speaker to postpone consideration of a measure, called up pursuant to a special rule, once the previous question had been ordered on it. The House had previously granted such authority to the Speaker in individual special rules. In the absence of this authority, the House, once the previous question was ordered, would be required to continue consideration of the measure through "re-votes" on amendments adopted in the Committee of the Whole, a motion to recommit, and a vote on final passage.[231] (Amended clause 1 of Rule XIX.)

Prior to the 113th Congress, the Speaker had authority to postpone requests for a recorded vote in a number of instances listed in Rule XX, clause 8 and to resume proceedings on a postponed request at a time he determined. The Speaker was also authorized to reduce to 5 minutes the minimum time for voting following a 15-minute vote so long as there was not intervening

[230] "Announcement by the Speaker Pro Tempore," *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H35.

[231] For a discussion of this rules change, see CRS Report R40509, *House Rules Changes in the 111th Congress Affecting Floor Proceedings*, by Megan S. Lynch and Elizabeth Rybicki.

business. H.Res. 5 in the 113th Congress expanded the Speaker's authority to reduce voting time to 5 minutes when the Committee of the Whole rose and reported, without intervening debate or motion, if in the discretion of the Speaker "Members would be afforded an adequate opportunity to vote." (Amended clause 8 of Rule XX.) In addition, the Speaker in his announcements for the 113th Congress included a statement interpreting this change. The statement indicated that the chair would "endeavor to assess the presence of the membership and the expectation of further votes" in exercising the authority granted under the rule change.[232]

Prior to the 113th Congress, the chair of the Committee of the Whole already had authority to postpone requests for a recorded vote on any amendment and resume proceedings on a postponed request at any time. The chair was also authorized to reduce to 2 minutes the minimum time for voting following a 15-minute vote so long as there was not intervening business. H.Res. 5 in the 113th Congress expanded the chair's authority to reduce voting time to 2 minutes on a postponed question where there was no intervening business or motion after the Committee of the Whole resumed its sitting if, in the discretion of the chair, "Members would be afforded an adequate opportunity to vote."[233] (Amended clause 6 of Rule XVIII.) In addition, the Speaker in his announcements for the 113th Congress included a statement interpreting this change. The statement indicated that the chair would "endeavor to assess the presence of the membership and the expectation of further votes" in exercising the authority granted under the rule change.[234]

H.Res. 5 in the 115th Congress added two motions to the list of questions on which votes could be postponed. The questions added were adoption of the motion to recommit and adoption of a motion to concur in a Senate amendment, with or without amendment. (Amended clause 8(a) of Rule XX.)

Rules Changes Affecting Budgetary Legislation[235]

This section of the report explains rules and separate orders related to budgetary legislation that were included in the rules resolutions for the 110th through the 115th Congresses.[236] Rules, sections of rules, and Speakers' policy announcements appear when a change occurs. Five separate orders that were common to two or more of these Congresses are shown in **Table 1**.[237]

---

[232] "Announcement by the Speaker Pro Tempore," *Congressional Record*, daily edition, vol. 159 (January 3, 2013), p. H26.

[233] The section-by-section analysis of H.Res. 5 inserted in the *Congressional Record* by the chair of the Rules Committee explained: "The Rules Committee intends that these parallel authorities will be used following a vote stack in the Committee of the Whole or the House ... where the Chamber is still full, and hence it would be likely that the Presiding Officer would determine that an adequate opportunity for Members to vote exists." (The parallel authorities are those described in this paragraph and the preceding paragraph.) Rep. Pete Sessions, "H.Res. 5, Adopting Rules for the 113th Congress: Section-by-Section Analysis," insert, *Congressional Record*, daily edition, vol. 159 (January 3, 2013), p. H12.

[234] "Announcement by the Speaker Pro Tempore," *Congressional Record*, daily edition, vol. 159 (January 3, 2013), p. H26.

[235] For an explanation of the congressional budget process, see CRS Report 98-721, *Introduction to the Federal Budget Process*, coordinated by James V. Saturno. Accommodations are also made in years in which presidential inaugurations occur so that the incoming President may propose changes to the executive budget submitted by the outgoing President. See CRS Report RS20752, *Submission of the President's Budget in Transition Years*, by Michelle D. Christensen.

[236] For changes affecting budgetary legislation for the 104th-109th Congresses, see CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104th Congress through the 109th Congress*, by Michael L. Koempel and Judy Schneider.

[237] An analysis of the rules changes made in the 110th Congress that affected budgetary legislation appears in CRS Report 34149, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 110th*

Other sources of change to the consideration of budgetary legislation, such as the concurrent resolution on the budget that is often a source of permanent or temporary changes in the budget process, have not been analyzed.[238] Other process changes may have been included in appropriations acts and other freestanding legislation;[239] those changes are not discussed in this report.

Congress, by Bill Heniff Jr. (archived but available to congressional clients from author on request). An analysis of such rules changes made in the 112th Congress appears in CRS Report R41926, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 112th Congress*, by Bill Heniff Jr. (archived but available to congressional clients from author on request). There is not a comparable report for the 111th, 113th, or 114th Congress. For the 115th Congress, see CRS Report R44769, *Provisions Affecting the Congressional Budget Process Included in H.Res. 5 (115th Congress)*, by Megan S. Lynch and James V. Saturno.

[238] Permanent or temporary changes to budget process rules are regularly included in the annual concurrent resolutions on the budget. For data on and an analysis of concurrent resolutions on the budget, see CRS Report RL30297, *Congressional Budget Resolutions: Historical Information*, by Bill Heniff Jr. The budget resolutions that passed at least the House in these Congresses are as follows:

(1) 110th Congress: H.Con.Res. 99 (FY2008), conference report adopted by both the House and the Senate May 17, 2007; and H.Con.Res. 312 (FY2009), conference report adopted by both the House and the Senate June 5, 2008.

(2) 111th Congress: H.Con.Res. 85 (FY2010), conference report adopted by both the House and the Senate April 29, 2009. For FY2011, the House agreed July 1, 2010, to a "budget enforcement resolution," H.Res. 1493.

(3) 112th Congress: H.Con.Res. 34 (FY2012), agreed to in the House April 15, 2011; motion to proceed to consider the resolution defeated in the Senate May 25, 2011. H.Con.Res. 112 (FY2013), agreed to in the House March 29, 2012; motion to proceed to consider the resolution defeated in the Senate May 16, 2012. See P.L. 112-25, the Budget Control Act of 2011; 125 Stat. 240 (2011).

(4) 113th Congress: H.Con.Res. 25 (FY2014), agreed to in the House March 21, 2013; the Senate amendment in the nature of a substitute was agreed to in the Senate October 16, 2013; provisions of H.Con.Res. 25 were included in P.L. 113-67 (127 Stat. 1165 (2013)), as an alternative to an FY2014 budget resolution. H.Con.Res. 96 (FY2015), agreed to in the House April 10, 2014. P.L. 113-67 also served as an alternative to a FY2015 budget resolution.

(5) 114th Congress: S.Con.Res. 11 (FY2016), conference report agreed to in the House April 30, 2015, and in the Senate May 5, 2015. See P.L. 114-74, the Bipartisan Budget Act of 2015; 129 Stat. 584 (2015).

(6) 115th Congress: S.Con.Res. 3 (FY2017), agreed to in the House January 13, 2017, and in the Senate January 12, 2017.

[239] The legislative branch appropriations acts adopted during these six Congresses are as follows:

(1) Consolidated Appropriations Act, FY2008, P.L. 110-161, Div. H; 121 Stat. 1844, 2218 (2007);

(2) Omnibus Appropriations Act, FY2009, P.L. 111-8, Div. G; 123 Stat. 524, 812 (2009);

(3) Legislative Branch Appropriations Act, FY2010, P.L. 111-68, Div. A; 123 Stat. 2023 (2009);

(4) Department of Defense and Full-Year Continuing Appropriations Act, FY2011, P.L. 112-10, Title IX; 125 Stat. 38, 170 (2011);

(5) Consolidated Appropriations Act, FY2012, P.L. 112-74, Div. G; 125 Stat. 786, 1116 (2011);

(6) Consolidated and Further Continuing Appropriations Act, 2013, P.L. 113-6, Div. F, title VI; 127 Stat. 198, 426 (2013);

(7) Consolidated Appropriations Act, 2014, P.L. 113-76, Div. I; 128 Stat. 5, 417 (2014);

(8) Consolidated and Further Continuing Appropriations Act, 2015, P.L. 113-235, Div. H; 128 Stat. 2130, 2523 (2014);

(9) Consolidated Appropriations Act, 2016, P.L. 114-113, Div. I; 129 Stat. 2242, 2654 (2015) and

(10) Consolidated Appropriations Act, 2017, P.L. 115-31, Div. I (2017).

Continuing and supplemental appropriation acts were also enacted during this timeframe. For an explanation of legislative branch appropriations, see the tables and links on the CRS website at http://www.crs.gov/AppropriationsStatusTable/Index.

The 110th (2007-2009) and 111th (2009-2011) Congresses were organized by the Democrats; the 112th (2011-2013), 113th (2013-2015), 114th (2015-2017), and 115th (2017-2019) Congresses were organized by the Republicans.

110th Congress

This section describes budget process-related amendments to the rules of the House adopted in H.Res. 6 by the 110th Congress.[240] In addition, separate orders that were common to the 110th Congress and one or more of the 111th, 112th, 113th, 114th, or 115th Congresses are shown in **Table 1**.

- Prohibited the House from considering a budget resolution, an amendment to it, or a conference report on it that contained reconciliation instructions that would have the effect of reducing the surplus or increasing the deficit over 6- and 11-year timeframes.[241] (Added clause 7 to Rule XXI.)
- Applied Budget Act points of order to measures considered pursuant to a special rule, whether or not a measure was reported by committee. Points of order applied to measures as reported, made in order for the purpose of amendment, or on which the previous question was ordered.[242] (Added clause 8 to Rule XXI.)
- H.Res. 6 in the 110th Congress required a committee of jurisdiction or a conference committee to provide a list of earmarks, limited tax benefits, and limited tariff benefits (as defined in the rule) contained in a bill or joint resolution that was reported, was not reported, an amendment in the nature of a substitute or other committee amendment, or conference report for the bill or joint resolution to be in order for consideration by the House. If the measure contained no earmarks, limited tax benefits, or limited tariff benefits, then a statement attesting to that fact was required to be provided. If the measure was reported, the list or statement was to appear in the committee report. If the measure was not reported, the list or statement was to be printed in the *Congressional Record*. A point of order would lie against consideration of a measure in the absence of the list or statement. A point of order was also allowed against a special rule waiving the requirement for the list or statement, which would be disposed of on a question of consideration, debatable for 10 minutes by the Member making the point of order and 10 minutes by an opponent. (Added clause 9 to Rule XXI.) (See also "Earmarks" above and "110th Congress" under "Rules Changes Affecting Ethics Standards" below.)
- Added a pay-as-you-go (PAYGO) provision, which prohibited consideration of any bill, joint resolution, amendment, or conference report, the provisions of which affecting direct spending or revenues would have the net effect of

[240] An analysis of the rules changes and other adaptations made in the 110th Congress that affected budgetary legislation appears in CRS Report 34149, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 110th Congress,* by Bill Heniff Jr. (archived but available to congressional clients from the author on request); CRS Report RL34015, *Congressional Budget Actions in 2007,* by Bill Heniff Jr. (archived but available to congressional clients from the author on request); and CRS Report RL33818, *Federal Budget Process Reform in the 110th Congress: A Brief Overview,* by Robert Keith (archived but available to congressional clients from the authors of this report on request).

[241] See CRS Report 98-814, *Budget Reconciliation Legislation: Development and Consideration,* by Bill Heniff Jr.

[242] See CRS Report 97-865, *Points of Order in the Congressional Budget Process,* by James V. Saturno.

increasing the deficit or reducing the surplus for either a 6- or 11-year period. The rule provided direction on how the effect of a measure on the surplus or deficit was to be calculated.[243] (Added clause 10 to Rule XXI.)

111th Congress

This section describes budget process-related amendments to the rules of the House adopted in H.Res. 5 by the 111th Congress. In addition, separate orders that were common to the 111th Congress and one or more of the 110th, 112th, 113th, 114th, or 115th Congresses are shown in **Table 1**.

The House in H.Res. 5 amended clause 9 of rule XXI to require the joint explanatory statement of a conference report to accompany a general appropriation bill to list all earmarks, limited tax benefits, and limited tariff benefits not committed to conference by either house, or to include a statement that neither the conference report nor the joint explanatory statement contained such earmarks or limited tax or tariff benefits. This requirement could not be waived by a special rule. A point of order raised under this change would be disposed of by a question of consideration. (This amendment to clause 9 codified in House rules H.Res. 491, adopted in the 110th Congress.)[244]

In addition, the House made the following changes to clause 10 of Rule XXI, the pay-as-you-go (PAYGO) rule:[245]

- Aligned the PAYGO rules of the House with those of the Senate so that both houses used the same CBO baselines;
- Permitted one House-passed measure to be used to pay for spending in a separate House-passed measure so long as the two were linked at the engrossment stage;
- Exempted provisions expressly designated as emergency from a point of order under Rule XXI, clause 10;[246] and
- Required the chair to put a question of consideration with respect to bills, joint resolutions, amendments made in order as original text by a special order of business, conference reports, or amendments between the Houses which contain a provision designated as emergency.

[243] Further explanation is available in CRS Report R41510, *Budget Enforcement Procedures: House Pay-As-You-Go (PAYGO) Rule,* by Bill Heniff Jr. (archived but available to congressional clients from the author on request).

[244] The House in the 110th Congress, on June 18, 2007, had adopted H.Res. 491, creating the same point of order for the duration of that Congress against a conference report on a general appropriation bill that was not accompanied by a list of earmarks not committed to conference by either house. A special rule could not waive this requirement. A point of order under H.Res. 491 would be disposed of on a question of consideration.

[245] In addition, Congress in the 111th Congress passed and President Obama signed into law the Statutory Pay-As-You-Go Act of 2010 (P.L. 111-139; 124 Stat. 8 (2010)). See CRS Report R41157, *The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History*, by Bill Heniff Jr.

[246] The section-by-section analysis inserted in the *Congressional Record* included guidelines for what measures may receive "emergency designation," although these guidelines did not appear in the text of the rules resolution and did not appear to be binding. Rep. Louise Slaughter, remarks in the House, "Rules of the House," *Congressional Record,* vol. 155, part 1 (January 6, 2009), pp. 11-13.

H.Res. 5 also allowed a Member to serve a second consecutive term as chair or ranking minority member of the Budget Committee, if in doing so the Member would exceed the limit on service on the committee. (Amended clause 5 of Rule X.)

112th Congress

This section describes budget process-related amendments to the rules of the House and separate orders adopted in H.Res. 5 in the 112th Congress.[247] In addition, separate orders that were common to the 112th Congress and one or more of the 110th, 111th, 113th, 114th, or 115th Congresses are shown in **Table 1**.

Established a point of order against considering a concurrent resolution on the budget, or an amendment to it, or a conference report on it that contained reconciliation directives that would have the effect of a net increase in direct spending over the period covered by the budget resolution. This rule previously disallowed reconciliation directives that would have the effect of increasing the deficit or reducing the surplus resulting from "changes in law."[248] (Amended clause 7 of Rule XXI.)

- Replaced the pay-as-you-go rule with a cut-as-you-go rule. While the House had prohibited consideration of any bill, joint resolution, amendment, or conference report if "the provisions of such measure affecting *direct spending and revenues* have the net effect of increasing the deficit or reducing the surplus," the House in the 112th Congress prohibited consideration of these legislative vehicles "if the provisions of such measure have the net effect of *increasing mandatory spending*" over 6-year and 11-year periods. Other provisions of the rule change allowed direct spending measures to be joined upon engrossment to accommodate the required budget neutrality and, under certain procedures, exempted direct spending provisions designated as emergency from the budget neutrality requirement.[249] *(Emphasis added)* (Amended clause 10 of Rule XXI.)
- Provided that the chair of the Committee on the Budget (as opposed to the committee itself) could provide "authoritative guidance" to the presiding officer on the budgetary impact of legislation, codifying practice. Where the House's presiding officer needed to seek information from the Budget Committee in determining whether a legislative provision violated a budget enforcement rule, the Budget Committee chair, in practice, had provided that information in the committee's behalf. (Added clause 4 to Rule XXIX.)
- Repealed the Gephardt rule providing for the automatic engrossment of a joint resolution to adjust the public debt limit when a concurrent resolution on the budget was adopted by Congress. This rule had allowed the House to avoid a direct vote on legislation to adjust the debt limit.[250] (Repealed Rule XXVIII but reserved it without text.)

---

[247] An analysis of these rules changes appears in CRS Report R41926, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 112th Congress,* by Bill Heniff Jr. (archived but available to congressional clients from the author on request). The 112th Congress also passed the Budget Control Act (P.L. 112-25; 125 Stat. 240 (2011)). See CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan.

[248] See CRS Report 98-814, *Budget Reconciliation Legislation: Development and Consideration*, by Bill Heniff Jr.

[249] See CRS Report R41564, *Emergency Designation: Current Budget Rules and Procedures*, by Bill Heniff Jr.

[250] For explanation of the Gephardt rule, see CRS Report RS21519, *Legislative Procedures for Adjusting the Public*

- Created a point of order against an appropriations measure (or amendments) that provided spending authority from the Highway Trust Fund (excluding any transfers from the General Fund of the Treasury), or reduced or limited accruals in the fund, for any purpose other than for those activities authorized for the highway or mass transit programs. This point of order replaced a rule that prevented the Appropriations Committee from setting spending levels lower than those authorized in surface transportation law. The rule change sought to ensure that taxes collected to support the Highway Trust Fund were not diverted to other uses, although an appropriations measure or amendment could reduce spending below authorized levels. (Amended clause 3 of Rule XXI.)
- Struck the clause authorizing a motion to strike an unfunded mandate from a bill considered in the Committee of the Whole. Under the repealed clause, such an amendment was in order unless specifically precluded by the terms of a special rule, which it had typically been. (Struck clause 11 of Rule XVIII.)

The following are selected separate orders adopted by the 112th Congress in its rules resolution. Other separate orders related to budgetary legislation appear in **Table 1**.

Instructed the chair of the Committee on the Budget, until adoption of a concurrent resolution on the budget for FY2012, not to include those bills, joint resolutions, amendments thereto, or conference reports thereon that provided new budget authority, but that were designated as emergency provisions in calculating their budget effects pursuant to titles III and IV of the Congressional Budget Act and the Rules of the House.

- Exempted new budget authority or outlays for "contingency operations directly related to the global war on terrorism" from being counted for purposes of titles III and IV of the Congressional Budget Act.
- Authorized the chair of the Committee on the Budget, pending adoption of a concurrent resolution on the budget for FY2012, to adjust budget aggregates for any measure reported by the Committee on Ways and Means that reduced revenues if the measure did not increase the deficit over the period FY2011-FY2021.
- Prohibited advance appropriations that, in an aggregate amount, exceeded $28,852,000,000 in new budget authority for FY2012 and FY2013 and were for a program or activity not contained in "Accounts Identified for Advance Appropriations" published in the *Congressional Record*. Also exempted were programs of the Department of Veterans' Affairs for the Medical Services, Medical Support and Compliance, and Medical Facilities accounts of the Veterans Health Administration.[251]
- Directed that the joint explanatory statement accompanying the conference report on any concurrent resolution on the budget to include, in its Section 302(a) allocations under the Congressional Budget Act, discretionary administrative expenses of the Social Security Administration and of the Postal Service. Receipts and disbursements of the Social Security trust funds and the Postal Service Fund remained "off-budget."

Debt Limit: A Brief Overview, by Bill Heniff Jr.; and CRS Report RL31913, *Debt Limit Legislation: The House "Gephardt Rule"*, by Bill Heniff Jr.

[251] For an explanation of advance appropriations, see CRS Report R43482, *Advance Appropriations, Forward Funding, and Advance Funding: Concepts, Practice, and Budget Process Considerations*, by Jessica Tollestrup.

- Prohibited consideration of a bill or joint resolution reported by a committee (other than the Committee on Appropriations), or an amendment thereto or a conference report thereon, that increased mandatory spending more than $5 billion in four consecutive 10-year windows within a 40-year period.
- Authorized the chair of the Committee on the Budget, prior to the adoption of a budget resolution for FY2012, to exempt the budgetary effects of certain measures in providing estimates of such legislation under clause 4 of Rule XXIX for purposes of budget enforcement under budget laws or House rules. Measures that could be exempted:

  (1) extension of the Economic Growth and Tax Relief Reconciliation Act of 2001;

  (2) extension of the Jobs and Growth Tax Relief Reconciliation Act of 2003;

  (3) repeal of the Patient Protection and Affordable Care Act and title 1 and subtitle B of title II of the Health Care and Education Affordability Reconciliation Act of 2010;

  (4) reform of the Patient Protection and Affordable Care Act and of the Health Care and Education Affordability Reconciliation Act of 2010;

  (5) reform of both the Patient Protection and Affordable Care Act and of the Health Care and Education Affordability Reconciliation Act of 2010, *and* the payment rates and related parameters in accordance with Section 1848 of the Social Security Act (subject to certain qualifications);

  (6) adjustments to the Alternative Minimum Tax exemption amounts;

  (7) extension of the estate, gift, and generation-skipping transfer tax provisions of title III of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010;

  (8) providing a 20% deduction in income to small businesses; and

  (9) implementation of trade agreements.
- Authorized the chair of the Committee on the Budget to take into consideration these exemptions and adjustments (immediately above) for the purpose of determining budgetary effects under the Statutory Pay-As-You-Go Act of 2010.[252]
- Established that general appropriation bills considered in the Committee of the Whole must include a "spending reduction account" as the last section of the bill.
- Allowed amendments in the Committee of the Whole to transfer funds to the spending reduction account, even if the amendment is to a portion of an appropriations bill not yet read for amendment.
- Disallowed amendments to change the amount in the spending reduction account, except amendments that transfer funds to it, thereby essentially precluding consideration of an amendment to restore funding that had already been cut.
- Prohibited amendments that proposed a net increase in budget authority.

[252] See CRS Report R41157, *The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History*, by Bill Heniff Jr.

113th Congress

This section describes budget process-related separate orders the House adopted in H.Res. 5 in the 113th Congress. In addition, separate orders that were common to the 113th Congress and to one or more of the 110th, 111th, 112th, 114th, or 115th Congresses are shown in **Table 1**.

In determining the budgetary effects of legislation complying with provisions of the Statutory Pay-As-You-Go Act, the chair of the Committee on the Budget was authorized to make adjustments to take into account the exemptions and adjustments in the congressional budget resolution for FY2013 (H.Con.Res. 112, §503(b)(1)). Related authority was granted to the chair of the Committee on the Budget in the 112th Congress.

- Established that a concurrent resolution, an amendment to a concurrent resolution, or a conference report on a concurrent resolution on the budget may not be considered unless it contained a separate heading entitled "Direct Spending." This heading must include categories for "Means-Tested Direct Spending" and "Nonmeans-Tested Direct Spending." These matters must be set forth in this section: (1) the average growth rate for each category in the total amount of outlays for the 10-year period preceding the budget year; (2) estimates for each category under current law for the period covered by the concurrent resolution; and (3) additional information on the proposed reforms for each category.
- Instructed the chair of the Committee on the Budget to submit a description of the programs to be considered means-tested and nonmeans-tested direct spending to be printed in the *Congressional Record* prior to the consideration by the Budget Committee of a concurrent resolution on the budget for a fiscal year.[253]

Amendments to appropriations bills were restricted, in a manner similar to that in the 112th Congress, as follows:

- A general appropriation bill could not be considered in the Committee of the Whole unless it contained a spending reduction account, and an order in the Appropriations Committee to report such a bill constituted authority for the committee chair to add the account to the bill. A spending reduction account contained only a recitation of the amount by which the allocation of the bill's Section 302(b) new budget authority exceeded the new budget authority proposed in the bill.
- En bloc amendments solely transferring appropriations from one or more objects in the bill to the spending reduction account were in order. Such amendments could amend portions of the bill not yet read for amendment. The only amendments allowed in the House or Committee of the Whole to a spending reduction account in a general appropriation bill were those transferring funds in the bill to the spending reduction account.
- Amendments proposing a net increase in budget authority were not in order, unless consideration was en bloc with one or more other amendments resulting in a greater or equal decrease in budget authority.[254]

[253] See Rep. Paul Ryan, "Publication of Budgetary Material," insert, *Congressional Record*, daily edition, vol. 159 (March 7, 2013), pp. H1323-H1326.

[254] See also CRS Report RL31055, *House Offset Amendments to Appropriations Bills: Procedural Considerations*, by Jessica Tollestrup and James V. Saturno.

- A point of order against including changes in existing law in an appropriations bill (Rule XXI, clause 2(b)) did not apply to a spending reduction account.

114th Congress

This section describes budget process-related rules changes and separate orders the House adopted in H.Res. 5 in the 114th Congress. In addition, separate orders that were common to the 114th Congress and to one or more of the 110th, 111th, 112th, 113th, or 115th Congresses are shown in **Table 1**.

The rules resolution added jurisdiction over bills and joint resolutions containing new budget or other authority related to new direct loan obligations and new loan guarantee commitments to the jurisdiction of the Appropriations Committee. The change referenced Section 504(b) of the Congressional Budget Act, which allows new direct loan obligations and new loan guarantee to be incurred only to the extent of new budget authority or other authority contained in an appropriations act. (Amended clause 1(b) of Rule X.)

- A requirement in House rules was deleted that a general appropriation bill could not be considered by the House until three days after hearings had been printed, which could allow a point of order to be made against consideration of the bill. (Deleted clause 4(c) of Rule XIII.)
- H.Res. 5 replaced a rule provision that required a macroeconomic impact analysis of revenue legislation with a new provision that required a cost estimate (required by Rule XIII, clause 3(c)) to include the budgetary effects of changes in macroeconomic variables resulting from major legislation. Changes in budgetary effects were defined as changes in revenues, outlays, and deficits. Major legislation was defined as a bill or joint resolution (1) for which an estimate was required from the Congressional Budget Office or from the Joint Committee on Taxation and that would have a budgetary effect (before measuring macroeconomic effects) of 0.25% or more of GDP, (2) was direct spending legislation (not revenue legislation) designated by the chair of the Budget Committee, or (3) was revenue legislation designated by the chair or vice chair of the Joint Taxation Committee. The new rule provision also set forth criteria for an estimate.[255] CBO and JCT estimates are used, among other purposes, to enforce budget resolutions.[256] (Added clause 8 to Rule XIII and deleted subparagraph 3(h)(2) of Rule XIII.)
- A separate order in the 114th Congress rules resolution continued a separate order from the 113th Congress rules resolution that required specified information and

[255] Related provisions applicable in both chambers were included in the FY2016 congressional budget resolution, §3112 of S.Con.Res. 11 (114th Cong.); conference report agreed to in the House April 30, 2015, and in the Senate May 5, 2015. CBO's explanation of congressional requirements placed on it by the provision of the budget resolution may be found at CBO's Cost Estimates, https://www.cbo.gov/publication/50934. See also CRS Report R43381, *Dynamic Scoring for Tax Legislation: A Review of Models*, by Jane G. Gravelle.

[256] This 114th Congress rule change was debated more than any other proposed change. See, for example, the statements of the chairs of the Rules and Budget Committees, respectively: Rep. Pete Sessions, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), pp. H16-H17; and Rep. Tom Price, p. H20 and H23. See also the statements of the Democratic whip and a senior Democratic member of the Ways and Means Committee, respectively: Rep. Steny Hoyer, p. H7; and Rep. Lloyd Doggett, p. H19.

estimates on direct spending to be disclosed. (See, immediately above, "113th Congress.")

- Another separate order created a point of order against a bill, joint resolution, amendment, or conference report that would reduce the actuarial balance of the Social Security OASDI trust fund by at least 0.01% of present value of the fund as shown in the most recent annual report of the board of trustees. The point of order does not apply to a measure that would improve the actuarial balance of the combined balance in the OASDI trust fund and the Disability Insurance trust fund.[257]

Amendments to appropriations bills were restricted, in the same manner as in the 113th Congress, as follows:

- A general appropriation bill could not be considered in the Committee of the Whole unless it contained a spending reduction account, and an order in the Appropriations Committee to report such a bill constituted authority for the committee chair to add the account to the bill. A spending reduction account contained only a recitation of the amount by which the allocation of the bill's Section 302(b) new budget authority exceeded the new budget authority proposed in the bill.
- En bloc amendments solely transferring appropriations from one or more objects in the bill to the spending reduction account were in order. Such amendments could amend portions of the bill not yet read for amendment. The only amendments allowed in the House or Committee of the Whole to a spending reduction account in a general appropriation bill were those transferring funds in the bill to the spending reduction account.
- Amendments proposing a net increase in budget authority were not in order, unless consideration was en bloc with one or more other amendments resulting in a greater or equal decrease in budget authority.[258]
- A point of order against including changes in existing law in an appropriations bill (Rule XXI, clause 2(b)) did not apply to a spending reduction account.

Another separate order gave effect to H.Con.Res. 25[259] (the House-passed concurrent resolution on the FY2014 budget) in the first session of the 114th Congress, pending adoption of a concurrent resolution on the budget for FY2015:

- titles III (recommended levels for 2030, 2040, and 2050), IV (reserve funds), and VI (budget enforcement) of H.Con.Res. 25, as adopted by the House in the 113th Congress, have effect in the House as if adopted in the 114th Congress;
- the "allocations, aggregates, and other appropriate levels" inserted by the Budget Committee chair in the *Congressional Record* of April 29, 2014, and adjusted in the 113th Congress, are considered effective under titles III and IV of the Congressional Budget Act;

[257] The section-by-section analysis of the rules resolution indicated that the intent of the point of order was to protect the OASDI trust fund form a "diversion of its funds to finance a broken Disability Insurance system." Rep. Pete Sessions, "Rules of the House," insert, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), p. H13.

[258] See also CRS Report RL31055, *House Offset Amendments to Appropriations Bills: Procedural Considerations*, by Jessica Tollestrup and James V. Saturno.

[259] Agreed to in the House March 21, 2013.

- references to allocations, aggregates, or other appropriate levels of "this resolution" in titles IV and VI of H.Con.Res. 25 are considered to be references to the matter inserted by the Budget Committee chair in the *Congressional Record* of April 29, 2014, and adjusted in the 113th Congress;
- references to a fiscal year in titles IV and VI of H.Con.Res. 25 are considered to be references to the succeeding fiscal year;
- the Budget Committee chair may revise such "allocations, aggregates, and other appropriate levels" for a bill or joint resolution, amendment to it, or conference report on it if the measure maintains the solvency of the Highway Trust Fund but does not increase the deficit over the period of fiscal years 2015-2025; and
- the Budget Committee chair may revise such "allocations, aggregates, and other appropriate levels" in recognition of the most recently published CBO baseline.

115th Congress[260]

This section describes budget process-related rules changes and separate orders the House adopted in H.Res. 5 in the 115th Congress. In addition, separate orders that were common to the 115th Congress and to one or more of the 110th, 111th, 112th, 113th, or 114th Congresses are shown in **Table 1**.

H.Res. 5 in the 115th Congress converted one component of the separate order in effect in the 112th, 113th, and 114th Congresses to a rule change. The rules resolution provided that amendments to a general appropriation bill proposing a net increase in budget authority were not in order. (Amended clause 2 of Rule XXI.)

A separate order in the 115th Congress rules resolution otherwise continued the separate order in effect in the 112th, 113th, and 114th Congresses with one change. The change provided that, in the absence of a Section 302(b) allocation, the amount in a spending reduction account by which the 302(b) allocation exceeds the amount of new budget authority proposed in the bill is $0.

H.Res. 5 also reinstated as a separate order previously repealed rule text related to provisions in and amendments to appropriations bills, known as the Holman rule.[261] The separate order allows legislative text to be included in an appropriations bill or amendment to "retrench" spending by reducing amounts of money in the bill, reducing the number or salaries of federal employees, or reducing the compensation of any person paid from the U.S. treasury.[262] Such an amendment must be offered after the reading of the bill and must comply with House rules. The separate order expires at the end of the first session.

[260] For additional explanation of rules changes and separate orders affecting budget processes and budgetary legislation, see CRS Report R44769, *Provisions Affecting the Congressional Budget Process Included in H.Res. 5 (115th Congress)*, by Megan S. Lynch and James V. Saturno.

[261] Named for Rep. William Holman, D-IN (U.S. House, 1859-1865, 1867-1877, 1881-1895, and 1897). For a history of the Holman rule, see *House Rules and Manual*, §1043, pp. 858-859. For an examination of the Holman rule, see CRS Report R44736, *The Holman Rule (House Rule XXI, Clause 2(b))*, by James V. Saturno.

[262] An earlier definition of "retrenchment" stated, "A reduction in an amount of money contained in a general appropriation bill. Under the Holman Rule in the House of Representatives, a germane legislative provision in, or amendment to, such a bill is permitted if it changes existing law by reduction the amount of money covered by the bill." Walter Kravitz, *Congressional Quarterly's American Congressional Dictionary*, 3rd ed. (Washington, DC: CQ Press, 2001), p. 219.

Another separate order in the rules resolution prohibited advance appropriations that, in an aggregate amount, exceeded $28,852,000,000 in new budget authority and were for a program or activity not contained in "Accounts Identified for Advance Appropriations" published in the *Congressional Record*. Also exempted from the prohibition on advance appropriations were programs and activities of the Department of Veterans' Affairs not to exceed $66,385,032,000 that were listed in" Veterans Accounts Identified for Advance Appropriations" published in the *Congressional Record*.[263] (A similar separate order was included in the 112th rules resolution, as summarized above.)

In the 115th Congress, H.Res. 5 in a separate order provided a point of order against increasing direct spending, applicable to reported bills and joint resolutions, amendments to these measures, and conference reports on these measures. The Congressional Budget Office was directed, "to the extent practicable," to estimate whether a bill, joint resolution, amendment, or conference report increased direct spending in excess of $5 billion in any of 4 consecutive 10-year periods, beginning with the fiscal year 10 years after the current fiscal year. The point of order barred consideration of the legislation exceeding this amount in any of the 10-year periods, based on estimates provided by the Budget Committee chair. The point of order did not apply, however, to legislation repealing or reforming the Patient Protection and Affordable Care Act or to legislation for which the Budget Committee chair had made an adjustment to allocations, levels, or limits contained in the most recent concurrent resolution on the budget.[264] (See the related provision, above, under "112th Congress.")

The rules resolution also continued a separate order from the 114th Congress that created a point of order against a bill, joint resolution, amendment, or conference report that would reduce the actuarial balance of the Social Security OASDI trust fund by at least 0.01% of present value of the fund as shown in the most recent annual report of the board of trustees. The point of order does not apply to a measure that would improve the actuarial balance of the combined balance in the OASDI trust fund and the Disability Insurance trust fund.[265]

A final budgetary separate order in the rules resolution affected a bill, joint resolution, amendment, or conference report related to the conveyance of federal land to a state, local government, or tribal authority. Such a conveyance would not be considered as providing new budget authority, decreasing revenues, increasing mandatory spending, or increasing outlays.

Table 1. Selected Special Orders on Budgetary Legislation

(included in rules resolutions, 110th-115th Congresses)

Provision	110th House	111th House	112th House	113th House	114th House	115th House
References to resolutions and joint resolutions[a]	✓	✓	✓	✓		

[263] For an explanation of advance appropriations, see CRS Report R43482, *Advance Appropriations, Forward Funding, and Advance Funding: Concepts, Practice, and Budget Process Considerations*, by Jessica Tollestrup; and CRS Report R44769, *Provisions Affecting the Congressional Budget Process Included in H.Res. 5 (115th Congress)*, by Megan S. Lynch and James V. Saturno. For the matters published in the *Congressional Record*, see Rep. Diane Black, "Publication of Budgetary Material," insert, *Congressional Record*, daily edition, vol. 163 (May 2, 2017), p. H3064.

[264] See also CRS Report R44769, *Provisions Affecting the Congressional Budget Process Included in H.Res. 5 (115th Congress)*, by Megan S. Lynch and James V. Saturno.

[265] The section-by-section analysis of the rules resolution indicated that the intent of the point of order was to protect the OASDI trust fund form a "diversion of its funds to finance a broken Disability Insurance system." Rep. Pete Sessions, "Rules of the House," insert, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H12.

Provision	110th House	111th House	112th House	113th House	114th House	115th House
A point of order under Section 303 of CBA[b]	✓	✓	✓	✓		
Certain compensation not new entitlement authority[c]	✓	✓	✓	✓		
Providing basis for budget enforcement pending adoption of budget resolution[d]	✓[e]		✓[f]	✓[g]	✓[h]	
Enforcing 302(b) limits in Committee of the Whole[i]	✓	✓	✓	✓	✓	✓

Source: Created by the authors.

Note: Explanations of these special orders may be found in CRS Report 34149, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 110th Congress,* by Bill Heniff Jr. (archived but available to congressional clients from the author on request); and CRS Report R41926, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 112th Congress,* by Bill Heniff Jr. (archived but available to congressional clients from the author on request). There is not a comparable report for the 111th, 113th, or 114th Congress. For the 115th Congress, see CRS Report R44769, *Provisions Affecting the Congressional Budget Process Included in H.Res. 5 (115th Congress)*, by Megan S. Lynch and James V. Saturno.

a. During this Congress, references in Section 306 of the Congressional Budget Act of 1974 to a "resolution" would be construed in the House of Representatives as references to a "joint resolution." This language first appeared as a special order in the 107th Congress and was continued by the 108th and 109th Congresses.

b. During this Congress, a point of order under Section 303 of the Congressional Budget Act of 1974 lies against text made in order as an original bill or joint resolution for the purpose of amendment or against text on which the previous question is ordered directly to passage. This special order ensured that the House followed the prohibition on the consideration of budgetary legislation before Congress agreed to a budget resolution.

c. During this Congress, a provision in a bill or joint resolution, an amendment thereto, or a conference report thereon, that established prospectively for a federal office or position a specified or minimum level of compensation to be funded by annual discretionary appropriations would not be considered as providing new entitlement authority under Section 401 of the Congressional Budget Act of 1974. This special order was also included in rules resolutions in the 106th through the 109th Congresses.

d. Congress, having not passed a budget resolution for FY2007 by the start of the 110th Congress, the special order in the rules resolution designated the provisions of H.Con.Res. 376 of the 109th Congress, as adopted by the House, to have force and effect for budget enforcement in the House until the 110th Congress passed a concurrent resolution on the budget for FY2008. The House instructed the chair of the Committee on the Budget to publish the Congressional Budget Act Section 302(a) allocations to accompany H.Con.Res. 376 and "Accounts Identified for Advance Appropriations." (See table note e.) The 111th Congress did not pass a concurrent resolution on the budget for FY2011, although the House had passed a "budget enforcement resolution" (H.Res. 1493, 111th Cong.). The 112th Congress, therefore, instructed the chair of the Committee on the Budget to publish both the aggregates and allocations contemplated by Section 301 of the Congressional Budget Act and allocations contemplated by Section 302(a) of that act, among other, related provisions. (See table note f.) The 113th Congress adopted for its first session the provisions of H.Con.Res. 112 from the 112th Congress and the allocations of spending authority in tables 11 and 12 of H.Rept. 112-421, until a budget resolution for FY2014 was adopted. (See table note g.) For the 114th Congress, see the text immediately above at "114th Congress."

e. The chairman's allocations may be found at Rep. John Spratt, Jr., "Allocation of Spending Authority to House Committees," *Congressional Record*, vol. 153, part 3 (February 6, 2007), pp. 3160–3161.

f. The chairman's allocations may be found at Rep. Paul Ryan, letter to the House, "Communication from the Chairman of the Committee on the Budget Regarding Interim Budget Allocations and Aggregates for Fiscal Years 2011-2015," *Congressional Record*, daily edition, vol. 157 (February 11, 2011), pp. H720-H721.

g. The chairman's allocations may be found at Rep. Paul Ryan, "Publication of Budgetary Material," *Congressional Record*, daily edition, vol. 159 (January 22, 2013), p. 220.

h. For the 114th Congress, see the text immediately above at "114th Congress."

i. During this Congress, with some exceptions, a motion that the Committee of the Whole rise and report an appropriations bill to the House was not in order if the bill, as amended, exceeded an applicable allocation of new budget authority under Section 302(b) of the Congressional Budget Act of 1974, as estimated by the Committee on the Budget. The separate order, first included in the 109th Congress rules resolution, allowed a Member to make a point of order against the motion to rise and report, which, if sustained, requires the chair to submit the question of whether to rise and report to a vote, debatable for 10 minutes, equally divided between a proponent and an opponent. If the Committee of the Whole voted in the affirmative, the Committee rose and reported. If the Committee of the Whole votes in the negative, it considers an amendment to bring the measure into compliance with Section 302(b) allocations. The amendment is debatable for 10 minutes. The point of order did not apply to a motion to rise and report offered by the majority leader after a bill has been read for amendment.

Rules Changes Affecting the Administration of the House

This section of the report explains rules and separate orders related to the administration of the House that were included in the rules resolutions for the 110th, 111th, 112th, 113th, 114th, and 115th Congresses.[266] Rules, sections of rules, and Speakers' policy announcements appear when a change occurs.

Many administrative changes also took place with the exercise of authority delegated to the Committee on House Administration and to House officers,[267] by order of the Speaker, through entities such as the House Office Building Commission, and in legislation such as the legislative branch appropriations bills.[268] With few exceptions, these changes are not discussed here.

The 110th (2007-2009) and 111th (2009-2011) Congresses were organized by the Democrats; the 112th (2011-2013), 113th (2013-2015), 114th (2015-2017), and 115th (2017-2019) Congresses were organized by the Republicans.

111th Congress

The House in H.Res. 5 in the 111th Congress expanded the jurisdiction of the Committee on House Administration to include services provided to the House by the architect of the Capitol, excluding services within the jurisdiction of the Committee on Transportation and Infrastructure. (Amended clause 4 of Rule X.)

The rules resolution also clarified the inspector general's authority to conduct audits for "non-traditional audit work ... in the areas of business process improvements, services to enhance the efficiency of House support operations, and risk management assessments" and to "implement

[266] For changes affecting the administration of the House for the 104th-109th Congresses, see CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104th Congress through the 109th Congress*, by Michael L. Koempel and Judy Schneider.

[267] See CRS Report RL33220, *Support Offices in the House of Representatives: Roles and Authorities*, by Ida A. Brudnick.

[268] See CRS Report R44515, *Legislative Branch: FY2017 Appropriations*, by Ida A. Brudnick; and CRS Report R43397, *Legislative Branch Appropriations: Frequently Asked Questions*, by Ida A. Brudnick.

guidance and standards" published by the Government Accountability Office.[269] (Amended clause 6 of Rule II.)

112th Congress

The House in H.Res. 5 in the 112th Congress directed the Committee on House Administration to establish standards for making documents publicly available in electronic form.[270] (See "Jurisdiction" and "Openness" under "Rules Changes Affecting Committees" above.) The rules resolution also required that committees provide audio and video coverage of their hearings and meetings "in a manner that allows the public to easily listen to and view the proceedings," and to maintain these audio and video recordings so that they are "easily accessible" to the public.[271] (See "Openness" under "Rules Changes Affecting Committees" above.)

In H.Res. 5, outdated references to specific media entities were deleted. (See "Admission to and Use of the Chamber" under "Rules Changes Affecting the Chamber and Floor" and "Openness" under "Rules Changes Affecting Committees," both above.)

An order of business was also included in H.Res. 5 that authorized the Speaker to entertain motions to suspend the rules on Thursday, January 6 to reduce the costs of House operations. Pursuant to this authorization, the House subsequently considered and approved H.Res. 22.[272]

Later in the 112th Congress, the Speaker and Democratic leader announced the end of the House page program after the August 2011 recess.[273]

113th Congress

The House in H.Res. 5 in the 113th Congress directed the inspector general to submit a report of each audit conducted to the chair and ranking minority member of the Committee on Appropriations, in addition to the Speaker, the majority and minority leaders, and the chair and

---

[269] Rep. Louise Slaughter, "Section-by-Section of Rules Changes—111th Congress," insert, *Congressional Record*, vol. 155, part 1 (January 6, 2009), pp. 11-13. See also CRS Report R40133, *Office of the House of Representatives Inspector General*, by Jacob R. Straus.

[270] U.S. Congress, House, Committee on House Administration, "Clerk Launches New Site for House Documents," news release, January 17, 2012, available at http://cha.house.gov/press-release/clerk-launches-new-site-house-documents. The website is located at http://docs.house.gov/.

[271] The Library of Congress was subsequently announced as the site for committee webcasting and archives and for archiving of earlier committee proceedings. U.S. Congress, House, Committee on House Administration, "LOC Launches New Site to Webcast Committee Proceedings," news release, February 2, 2012, available at http://cha.house.gov/press-release/loc-launches-new-site-webcast-house-committee-proceedings. The Library's website is available at http://thomas.loc.gov/video/house-committee.

[272] "Resolution to Cut Congress's Budget," *Congressional Record*, daily edition, vol. 157 (January 6, 2011), pp. H62-H68. Among its spending limitations, the resolution limited spending in 2011 by Member, leadership, and committee offices to 95% of the amounts authorized in 2010.

[273] The leadership's Dear Colleague letter may be found at http://e-dearcolleague.house.gov/details.aspx?65141.

The page program had been the subject of debate in recent Congresses. As a consequence of the investigation initiated after a Member's relationship with House pages came to light, Congress in the 110th Congress enacted and President George W. Bush signed into law the House Page Board Revision Act of 2007 (P.L. 110-2; 121 Stat. 4 (2007)). For background, see U.S. Congress, House, Committee on Standards of Official Conduct, *Investigation of Allegations Related to Improper Conduct Involving Members and Current or Former House Pages*, 109th Cong., 2nd sess., H.Rept. 109-733 (Washington, DC: GPO, 2006); CRS Report 98-758, *Pages of the United States Congress: History and Program Administration*, by R. Eric Petersen; and CRS Report RL33685, *Pages of the United States Congress: History, Background Information, and Proposals for Change*, by Mildred Amer (out of print, but available to congressional clients from the authors on request).

ranking minority member of the Committee on House Administration.[274] (Amended clause 6 of Rule II.)

Another change affected record keeping. Members and staff are required to execute a non-disclosure oath in order to have access to classified information. All oaths had been retained by the Clerk of the House. Under the change, oaths executed by Members, Delegates, or the Resident Commissioner would be retained by the clerk as part of the record of the House, and oaths executed by officers and employees would be retained by the sergeant-at-arms. (Amended clause 13 of Rule XXIII.)

A separate order in H.Res. 5 provided continuing authority for the Bipartisan Legal Advisory Group in the 113th Congress to act as the successor to the Bipartisan Legal Advisory Group in the 112th Congress. The purpose of this authority was to allow the group to continue its intervention in civil actions to defend the constitutionality of the Defense of Marriage Act and related provisions in other titles of the United States Code.[275]

114th Congress

H.Res. 5 provided the House Administration Committee with jurisdiction over the policy direction of the chief administrative officer in addition to the oversight jurisdiction it already exercised. (Amended clause 4(d) of Rule X and clause 4(a) of Rule II.)

The House Administration Committee, the Clerk of the House, and other House officers were directed in a separate order to continue their efforts to make legislative documents publicly available in machine-readable formats. Pending designation of the location of publicly available documents by the House Administration Committee, a repository could be operated by the clerk. (See also, just above, "112th Congress.")

A separate order in the rules resolution directed the clerk to make publicly available in electronic form memorials calling a constitutional convention. (For an explanation of this separate order, see, above, "Certain Memorials Submitted to Congress.")

Another provision of the rules resolution reorganized the rules' clause on the Office of General Counsel. The only amendment to the clause was an addition to state that the Bipartisan Legal Advisory Group "speaks for, and articulates the institutional position of, the House in all litigation matters." This phrase appeared in a special order in H.Res. 5 in the 113th Congress. (Reorganized and amended clause 8 of Rule II.)

A separate order designated the House of the 114th Congress as the successor to the House of the 113th Congress in the civil action the House was pursuing to challenge a component of the Patient Protection and Affordable Care Act, *U.S. House of Representatives v. Burwell*, authorized in the 113th Congress by H.Res. 676.[276] The separate order authorized the Speaker and the Office of General Counsel to take steps to ensure the continuation of the civil action and gave effect to H.Res. 676 in the 114th Congress.[277]

---

[274] See CRS Report R40133, *Office of the House of Representatives Inspector General*, by Jacob R. Straus.

[275] The section-by-section summary of H.Res. 5 inserted in the *Congressional Record* by the chair of the Rules Committee contained an extensive explanation of this special order. Rep. Pete Sessions, "H.Res. 5, Adopting Rules for the 113th Congress: Section-by-Section Analysis," insert, *Congressional Record*, daily edition, vol. 159 (January 3, 2013), p. H13.

[276] Agreed to in the House July 30, 2014.

[277] In the 114th Congress, the House authorized the Speaker to appear amicus curiae in a case challenging the

Another separate order authorized Michael Sheehy, former Intelligence Committee staff member and former national security advisor to then-Speaker Nancy Pelosi, to provide testimony in a criminal proceeding, *United States v. Sterling*, pursuant to Intelligence Committee authorizations granted in the 112th and 113th Congresses.[278]

A technical change included in the rules resolution updated the U.S. Code citation dealing with the clerk's management of the Office of Speaker upon the Speaker's death. (Amended clause 2(i) of Rule II.)

Congressional Member Organizations (CMOs)[279]

A separate order included in H.Res. 5 allowed Members who subscribe to a CMO to enter into an agreement with the CMO and "transfer" a portion of a Member's Member Representational Allowance (MRA) to the CMO.

For a CMO to qualify to participate in this program, it must have

- been registered with the House Administration Committee;
- designated one Member to be responsible for the CMO's administration, including an account comprising funds transferred for salary and expenses;
- had at least three House employees "assigned to work" for the organization;
- had the support of at least 30 Members in the preceding 113th Congress, who transferred a portion of their MRAs for the salary and expenses of a shared employee; and
- certified to the House Administration Committee and the Chief Administrative Officer that it will administer an account pursuant to regulations promulgated by the House Administration Committee.

The separate order allowed an employee of a Member to carry out official and representational duties of the Member by assignment to a CMO, pursuant to an agreement made between the Member and the CMO. Pursuant to the agreement, the Member could transfer a portion of the Member's MRA to the CMO for the employee's salary and related expenses, to the "extent that the employee carries out such duties under the agreement." The House Administration Committee was authorized to promulgate regulations for this program.

The separate order also specifically reiterated the House Administration Committee's statutory authority to regulate the use of transferred MRA funds for the same purposes allowed for a Member's use of such funds (2 U.S.C. 5341(d)), but it disallowed transferred funds from being used for "franked mail, official travel, or leases of space or vehicles." It also specifically reiterated the committee's authority to regulate the statutory limit on the number of employees in a Member's office (2 U.S.C. 5321(d)), with the direction that the committee's regulations account

President's Deferred Action for Childhood Arrivals (DACA) decision (H.Res. 639). See "Authorizing the Speaker To Appear as Amicus Curiae on behalf of the House," House debate, *Congressional Record*, daily edition, vol. 161 (March 17, 2016), pp. H1434-H1446.

[278] Some background on Mr. Sheehy's testimony may be found in Amanda Loviza-Vickery, *Courthouse News Service*, January 21, 2015, available at http://www.courthousenews.com/2015/01/21/scant-direct-evidence-in-cia-leak-trial-as-prosecution-prepares-to-rest.htm.

[279] See CRS Report R40683, *Congressional Member Organizations: Their Purpose and Activities, History, and Formation*, by Matthew E. Glassman.

for a shared employee under an agreement between a Member and a CMO so that the Member adheres to the statutory staff limit.

The House Administration Committee was authorized to regulate the operation of the House's student loan repayment program for Members' shared employees working for CMOs under Member-CMO agreements. The separate order further provided that funds made available for repayment for a shared employee be transferred to the CMO's salary and expenses account and that the CMO use the funds accordingly, under the same terms and conditions as apply to the employing Member's office.

Finally, the separate order directed the House Administration Committee to promulgate regulations so that such CMOs had "appropriate access" to House services.[280]

115th Congress

A provision in the 115th Congress rules resolution (H.Res. 5) clarified that the records of individual Members are the property of the Members, who may decide their disposition, and are not the property of the House. (Amended clause 6 of Rule VII.)

The rules resolution also redrafted Rule VIII related to responses to judicial subpoenas or orders received by Members (including Delegates and the Resident Commissioner), House officers, and House employees concerning the official functions of the House. The section-by-section analysis of the rules resolution indicated that the redrafted rule "clarifies and streamlines procedures."[281]

The redrafted rule retained a policy first decided in the 95th Congress (1977-1979) that provided general authority to respond to subpoenas and eliminated the need for a House vote authorizing response. The redrafted rule also retained the statement that the rule did not waive any constitutional or legal privileges of the recipient of a subpoena or of the House or the right to assert any privileges in court.

The redrafted rule, however, made clearer the process by which the recipient of a subpoena is to notify the Speaker. The recipient of a subpoena must provide the Speaker with a "determination" that a subpoena is a "proper exercise of jurisdiction" by the court and "consistent with the rights and privileges of the House," in addition to providing the Speaker with written notification of the receipt of a subpoena. Alternately, the recipient must provide a statement of recipient's intention to obtain the described determination, in addition to providing the Speaker with written notification of the receipt of a subpoena.

Other changes in the redrafted rule eliminated provisions identified as obsolete or superfluous:

- deleting the phrase "material and relevant" as a criterion for a valid subpoena since that is integral to a subpoena being consistent with the rights and privileges of the House;
- eliminating the requirement that the Clerk of the House provide a court with a copy of Rule VIII;

[280] For background on the termination of legislative service organizations (LSOs) and the authorization of CMOs, see U.S. Congress, House Committee on House Administration, *A History of the Committee on House Administration, 1947-2012*, committee print, 112th Cong., 1st sess. (Washington: GPO, 2012), pp. 285-292; and U.S. Congress, House Committee on House Oversight, *Report on the Activities of the Committee on House Oversight of the House of Representatives during the One Hundred Fourth Congress*, 104th Cong., 2nd sess., January 2, 1997, H.Rept. 104-885 (Washington: GPO, 1997), pp. 36-39.

[281] Rep. Pete Sessions, "Rules of the House," insert, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H12.

- omitting a requirement that recipients of subpoenas for the production of documents provide certified copies; and
- deleting a statement as superfluous that the Speaker's notification to the House, following an adjournment or recess of three days or more, occurs when the House next meets.

The redrafted rule also deleted references to "administrative subpoenas," with the explanation that compliance with such subpoenas could mistakenly be interpreted as being mandatory. (Amended Rule VIII.)

An unrelated rules change in the 115th Congress on the *issuance of subpoenas by House entities* appears above at "Subpoena Enforcement and Litigation" under "Rules Changes Affecting Committees."

The rules resolution for the 115th Congress also changed the rule, in addition to obviating the need for a separate order, to designate the electronic document repository operated by the Clerk of the House for measures and matters being publicly available and also available to Members. (Amended clause 3 or Rule XXIX.)

The House rules resolution also continued a separate order from the 114th Congress exhorting the House Administration Committee, Clerk of the House, and other officers and officials to continue their efforts to broaden the availability of legislative documents in machine-readable formats.

The rules resolution renewed with the same text the separate order from the 114th Congress governing congressional member organizations (CMOs).

Rules Changes Affecting Ethics Standards

The 110th Congress, in particular, was the source of numerous additions and changes to ethics rules and laws. This report analyzes the rules, special orders, and Speaker's announcements at the convening of a Congress and not all of the actions taken during the 110th, 111th, 112th, 113th, 114th, or 115th Congress.[282] Rules, sections of rules, and Speakers' policy announcements appear when a change occurs. (For changes affecting the organization of the Ethics Committee, see "Structure and Organization" under "Rules Changes Affecting Committees" above.)

The 110th (2007-2009) and 111th (2009-2011) Congresses were organized by the Democrats; the 112th (2011-2013), 113th (2013-2015), 114th (2015-2017), and 115th (2017-2019) Congresses were organized by the Republicans.

110th Congress

The House adopted extensive changes to its ethics rules in the 110th Congress, and subsequently passed the Honest Leadership and Open Government Act, which President George W. Bush

[282] For information on ethics rules and laws applicable to the House, see CRS Report 98-15, *House Committee on Ethics: A Brief History of Its Evolution and Jurisdiction*, by Jacob R. Straus; CRS Report RL30764, *Enforcement of Congressional Rules of Conduct: A Historical Overview*, by Jacob R. Straus; and CRS Report R40760, *House Office of Congressional Ethics: History, Authority, and Procedures*, by Jacob R. Straus.

For changes affecting ethics standards for the 104th-109th Congresses, see CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104th Congress through the 109th Congress*, by Michael L. Koempel and Judy Schneider.

signed into law September 14, 2007,[283] and created the Office of Congressional Ethics.[284] The ethics rules changes in H.Res. 6 addressed these issues:

- A Member could not influence a private entity's employment decision or practice on the basis of political affiliation by taking or withholding an official act, or threatening to do so, or by influencing another's official act, or by offering or threatening to do so. The provision was intended to address, among other actions, a Member's attempt to influence hiring decisions by lobbying entities and associations, based on applicants' political affiliation. (Adding a new clause 13 to Rule XXIII.)
- A Member, officer, or employee of the House could not knowingly accept a gift from a lobbyist or foreign agent or a private entity that retained or employed lobbyists or foreign agents, except as allowed by the House gift rule (clause 5 of Rule XXV). The provision was intended to disallow Members, officers, and employees from accepting lobbyist gifts under most instances.[285] (Amended clause 5 of Rule XXV.)
- A gift of a ticket to a sporting or entertainment event was to be valued at face value so long as the face value reflected the price at which the issuer offered the ticket for sale. The change sought to ensure that gifts of tickets were appropriately valued. (Amended clause 5 of Rule XXV.)
- A gift of privately funded travel was prohibited if it was offered by a lobbyist or foreign agent or a private entity retaining or employing lobbyists or foreign agents. Two exemptions were also provided, without regard to the prohibition on a connection to lobbyists: (1) privately funded travel by a higher education institution, and (2) privately funded travel to a one-day event, exclusive of travel time or an overnight stay.[286] (Amended clause 5 of Rule XXV.)
- A Member, officer, or employee could not accept privately funded travel from an entity that retained or employed lobbyists or foreign agents unless a lobbyist's or agent's participation in the "planning, organization, request, or arrangement of the trip is de minimis." Before accepting a gift of travel, a Member, officer, or employee must submit a written certification signed by the provider of the gift of travel to the Standards of Official Conduct Committee. The rule detailed the

[283] P.L. 110-81; 121 Stat. 735 (2007). Discussion appears in CRS Report RL34166, *Lobbying Law and Ethics Rules Changes in the 110th Congress*, by Jack Maskell (archived but available to congressional clients from the authors on request). See also CRS Report RL31126, *Lobbying Congress: An Overview of Legal Provisions and Congressional Ethics Rules*, by Jack Maskell; and CRS Report RL34377, *Lobbying Registration and Disclosure: The Role of the Clerk of the House and the Secretary of the Senate*, by Jacob R. Straus.

[284] Established by H.Res. 895 (110th Cong.), which was deemed adopted with the adoption of H.Res. 1031 (110th Cong.), agreed to in the House March 11, 2008. This office was created to provide an entity charged with reviewing allegations of misconduct against Members, officers, and employees of the House; to conduct an investigation pursuant to criteria included in the office's establishing resolution; and, pursuant to criteria in the establishing resolution, to refer its recommendations to the Standards of Official Conduct Committee, renamed the Ethics Committee in the 112th Congress. See CRS Report R40760, *House Office of Congressional Ethics: History, Authority, and Procedures*, by Jacob R. Straus.

[285] Discussion appears in CRS Report RS22566, *Acceptance of Gifts by Members and Employees of the House of Representatives Under New Ethics Rules of the 110th Congress*, by Jack Maskell (archived but available to congressional clients from the authors on request).

[286] The rules change also allowed a two-night stay, if approved by the Ethics Committee on a case-by-case basis, if necessary for the Member to participate in the one-day event.

content of the certification, including attesting that the travel was not financed by a lobbyist or foreign agent, that the travel was not planned, organized, requested, or arranged by a lobbyist or foreign agent, and that the traveler would not be accompanied by a lobbyist or foreign agent. Prior approval of the travel needed to be obtained from the Standards of Official Conduct Committee. Expenses must be disclosed to the Clerk of the House within 15 days of the completion of travel, and the clerk was directed to make authorizations, certifications, and disclosures available for public inspection. (Amended clause 5 of Rule XXV.)

- Members were barred from using personal, official, or campaign funds to pay for travel on a "non-governmental airplane that is not licensed by the Federal Aviation Administration to operate for compensation or hire." The purpose of this provision was to prohibit Members from traveling on privately owned aircraft, but continue to allow them to use commercial charters.[287] (Added a new clause 15 of Rule XXIII.)
- The Standards of Official Conduct Committee was directed to develop guidelines on the "reasonableness of an expense or expenditure" for officially connected travel and regulations on information to be submitted in seeking committee approval. The new provision described the factors that the guidelines were to address, and required the committee to adopt the guidelines and regulations annually. (Amended clause 5 of Rule XXV.)
- Additional disclosure related to travel was required. Information to be filed with the clerk after travel was to include a description of meetings and events attended. (Amended clause 5 of Rule XXV.)
- The Standards of Official Conduct Committee was directed to offer annual ethics training to every Member, officer, and employee. New officers and employees were required to obtain ethics training within 60 days of employment, and all officers and employees designated as covered by this provision were directed to certify by January 31 of each year that they had received ethics training within the previous year.[288] (Amended clause 3 of Rule XI.)

Two changes to House ethics rules involved earmarks and limited tax and tariff benefits. First, a Member was prohibited from conditioning the inclusion in legislation of an earmark or limited tax or tariff benefit on a vote cast by another Member. Second, Members were required to request earmarks and limited tax and tariff benefits in writing and to provide information specified in the new rule. Among the information required was a certification that neither the requesting Member nor the Member's spouse had a financial interest in the earmark or limited tax or tariff benefit. (Added new clauses 16 and 17 of Rule XXIII.) (See above "Earmarks" under "Rules Changes Affecting the Chamber and Floor" and "110th Congress" under "Rules Changes Affecting Budgetary Legislation.")

In the 110th Congress, in recognition of changes to clause 4 of Rule IV in the preceding Congress, the Speaker revised the application of the existing policy regarding floor privileges for former

[287] This provision was subsequently amended by H.Res. 363 (110th Cong.), agreed to in the House May 2, 2007. H.Res. 363 added exceptions to the rule, such as for a plane owned or leased by a Member.

[288] The House also adopted a resolution that required the Standards of Official Conduct Committee to empanel an investigative subcommittee within 30 days of a Member's indictment, or the filing of criminal charges against a member, or to submit to the House an explanation of why it had not empaneled an investigative subcommittee. H.Res. 451 (110th Cong.), agreed to in the House June 5, 2007.

Members to include former Delegates, Resident Commissioners, parliamentarians of the House, elected officers of the House, and minority employees nominated as elected officers of the House. The Speaker added an individual's status as a registered lobbyist or foreign agent, regardless of interest in the matter before the House, to the list of conditions for which former Members and officials would be denied entry to the Hall of the House or its adjacent rooms.[289]

A separate order included in H.Res. 6 disallowed access to House exercise facilities by former Members and former officers and their spouses if an individual was a lobbyist or foreign agent. The House Administration Committee was authorized to promulgate regulations.[290]

111th Congress

Pursuant to the Honest Leadership and Open Government Act, the House renumbered two of its rules and inserted a new Rule XXVII.[291] This rule required disclosure of post-service employment negotiations by Members, officers, and certain staff. An amendment to this new rule was included in H.Res. 5 so that the disclosure requirement applied to lame-duck Members until their service ended.

A separate order also continued the existence of the Office of Congressional Ethics.[292] Another separate order in H.Res. 5 continued H.Res. 451 (110th Congress) in effect in the 111th Congress.[293]

Another separate order included in H.Res. 5 disallowed access to House exercise facilities by former Members and former officers and their spouses if an individual was a lobbyist or foreign agent. The House Administration Committee was again authorized to promulgate regulations. (See, immediately above, "110th Congress.")

112th Congress

H.Res. 5 renamed the Standards of Official Conduct Committee as the Ethics Committee.

A separate order included in H.Res. 5 again extended the existence of the Office of Congressional Ethics, providing, in addition, that it would be treated as a standing committee with regard to committee staff.[294] Since H.Res. 5 also changed the name of the Standards of Official Conduct

---

[289] "Announcement by the Speaker," *Congressional Record*, daily edition, vol. 153, part 1 (January 5, 2007), pp. 273-274. The Speaker's policy implemented the changes to Rule IV made by H.Res. 648 (109th Cong.), agreed to in the House February 1, 2006.

[290] The House had adopted H.Res. 648 (109th Cong.) February 1, 2006, establishing a special order (not a change to House rules) barring former Members and others from the use of House exercise facilities. The separate order included in H.Res. 6 continued this provision of H.Res. 648 for the 110th Congress.

[291] P.L. 110-81; 121 Stat. 735, 751-752 (2007). In addition to changes to statutory law, the Honest Leadership and Open Government Act made changes to other House rules, including Rule XXIII (lobbying by consultants' firms) and Rule XXV (lobbying contacts by the spouse of a Member who is a registered lobbyist). It also imposed duties on the Clerk of the House.

[292] Established by H.Res. 895 (110th Cong.), which was deemed adopted with the adoption of H.Res. 1031 (110th Cong.), agreed to in the House March 11, 2008. See CRS Report R40760, *House Office of Congressional Ethics: History, Authority, and Procedures*, by Jacob R. Straus.

[293] H.Res. 451 (110th Cong.), agreed to in the House June 5, 2007. Following the indictment of Rep. William Jefferson, the House adopted H.Res. 451 providing that the Standards of Official Conduct Committee convene an investigative subcommittee within 30 days or, if it did not empanel such as subcommittee, report to the House on its decision.

[294] Established by H.Res. 895 (110th Cong.), which was deemed adopted with the adoption of H.Res. 1031 (110th Cong.), agreed to in the House March 11, 2008. See CRS Report R40760, *House Office of Congressional Ethics:*

Committee to the Ethics Committee, the special order interpreted the resolution creating the Office of Congressional Ethics to refer to the Ethics Committee where the name Standards of Official Conduct Committee was used.

Another separate order in H.Res. 5 continued H.Res. 451.[295]

Another separate order included in H.Res. 5 disallowed access to House exercise facilities by former Members and former officers and their spouses if an individual was a lobbyist or foreign agent; the same separate order as included in the 111th Congress. The House Administration Committee was again authorized to promulgate regulations. (See, just above, "110th Congress.")

113th Congress

A separate order again included in H.Res. 5 disallowed access to House exercise facilities by former Members and former officers and their spouses if an individual was a lobbyist or foreign agent; the separate order was first adopted in the 110th Congress. The House Administration Committee was again authorized to promulgate regulations. (See, just above, "110th Congress.")

Another separate order in H.Res. 5 continued H.Res. 451 (110th Congress).

A separate order included in H.Res. 5 again extended the existence of the Office of Congressional Ethics (OCE),[296] again providing that it would be treated as a standing committee with regard to committee staff and interpreting references to the Standards of Official Conduct Committee in the resolution creating the OCE as referring to the Ethics Committee. The separate order also suspended the term limits of the organic resolution for sitting OCE members.

H.Res. 5 expanded an anti-nepotism provision applicable to a spouse to a "relative" of a Member, Delegate, or Resident Commissioner. The rule previously stated that a Member, Delegate, or Resident Commissioner could not employ a spouse in a paid position. Additionally, a committee could not employ in a paid position the spouse of a member of the committee. The rule was expanded to apply to all relatives of Members, Delegates, or the Resident Commissioner. The rule defined the following as relatives: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, grandson, or granddaughter. The rule change did not affect individuals who were employed prior to the 113th Congress. (Amended clause 8 of Rule XXIII.)

An amendment to the House rule on Ethics Committee procedures clarified when an announcement was required on a recommendation from the OCE. The change clarified that a public statement was required when the chair and ranking minority member together, or the committee by vote, decided to extend time for consideration of an OCE referral. (Amended clause 3 of Rule XI.)

H.Res. 5 amended the rule proscribing the use of private aircraft, except in specific circumstances, by Members, Delegates, and the Resident Commissioner. One additional

---

History, Authority, and Procedures, by Jacob R. Straus.

[295] H.Res. 451 (110th Cong.), agreed to in the House June 5, 2007. Following the indictment of Rep. William Jefferson, the House adopted H.Res. 451 providing that the Standards of Official Conduct (Ethics) Committee convene an investigative subcommittee within 30 days or, if it did not empanel such as subcommittee, report to the House on its decision.

[296] Established by H.Res. 895 (110th Cong.), which was deemed adopted with the adoption of H.Res. 1031 (110th Cong.), agreed to in the House March 11, 2008. See CRS Report R40760, *House Office of Congressional Ethics: History, Authority, and Procedures*, by Jacob R. Straus.

exception was allowed for Members to pay the pro rata share of a charter flight priced at fair market value, divided by the number of Members, officers, or House employees on the flight. Another exception was added where the aircraft was supplied by another Member, Delegate, or the Resident Commissioner. The chair and ranking minority member of the Ethics Committee could also jointly waive, subject to conditions they may prescribe, the prohibition on a Member's use of a non-commercial flight that does not fit an exception in the rule. (Amended clause 15 of Rule XXIII.)

H.Res. 5 also eliminated the requirement that Members' annual financial disclosure statements be published in a bound volume. (Amended clause 1 of Rule XXVI.)

114th Congress

H.Res. 5 added a requirement for new Members of mandatory ethics training to be completed within 60 days of the beginning of their service. Such training has been available to any Member throughout a Congress, but it was not mandatory for new or reelected Members. The same requirement already existed for new officers and employees of the House. All officers and employees are in addition required to complete annual ethics training, and senior staff must complete an additional hour of training within each Congress. (Amended clause 3(a) of Rule XI.)

H.Res. 5 also added a new provision to the clause governing the Ethics Committee's investigations. The committee was directed not to take an action that would "deny any person any right or protection provided under the Constitution...." (Amended clause 3 of Rule XI.)

A separate order in the 114th Congress continued the Office of Congressional Ethics, again with authority to hire consultants as if it were a standing committee of the House. In addition, two provisions related to term limits for board members were made inoperative for the 114th Congress. The separate order also contained to other additions. First, an individual who is the subject of a preliminary review or a second-phase review must be informed of a right to counsel. The exercise of that right may not reflect negatively on the individual. Second, the Office of Congressional Ethics may not take an action that would deny an individual a constitutional right or protection.[297]

A separate order again disallowed access to House exercise facilities by former Members and former officers and their spouses if an individual was a lobbyist or foreign agent; the separate order was first adopted in the 110th Congress. The House Administration Committee was again authorized to promulgate regulations. (See, just above, "110th Congress.")

115th Congress

The separate order on access to House exercise facilities was extended again in the 115th Congress.

The House through rules changes also imposed new duties on the Ethics Committee related to decorum. The new decorum rules and the committee's duties are explained above at "Decorum in the Chamber: Conduct and Electronic Devices."

[297] An outdated reference to the Clerk of the House's publishing as a House document of financial disclosure reports of board members of the Office of Congressional Ethics was changed to a specific date, August 1. (Amended clause 3 of Rule XXVI.)

Concluding Observations

Changes made by Democrats after they took majority control of the House in the 110th Congress and by Republicans after they took majority control in the 112th Congress reflected, in part, critiques of the other party's management of the House. Democrats emphasized changes to ethics rules and laws in their new majority in the 110th Congress, and Republicans emphasized changes to legislative procedures in their new majority in the 112th Congress. Both parties addressed budget policymaking, in both rules changes and separate orders.

The Jack Abramoff scandal in particular put on public trial the interactions between lobbyists on the one hand and Members and congressional staff on the other.[298] The new majority in the 110th Congress responded with many changes to House ethics rules and with new law. Calls during the 111th Congress for more transparency generally and for more time to review legislation to be brought to the floor led to changes in the House's rules in the 112th Congress, such as posting in electronic format the legislative text to be considered on the House floor, and to changes in the House's legislative management, such as some open or modified open rules and some structured rules that allowed more amendments and a new schedule that included some five-day work weeks with regular week-long district work periods.

Most standing rules, however, did not change, at all or substantially, when Democrats or Republicans became the majority, because the rules reflected decades of experience with majority control of the House. Rules *facilitate* the majority's organization and operation of the House; they do not *dictate* to party leaders and others how to run the House—their policy goals or procedural and political strategy—or determine what outcomes can be achieved. Rules changes do not necessarily enable a majority to pass legislation, to keep all the party's Members together, to work smoothly with the minority, to achieve the same outcomes as the other body, or to either deliver on or counteract voter sentiments.

In managing the House in the new millennium, each party's majority needed to accommodate an assertive range of perspectives among its Members, and to balance the need to govern with the demand of an emboldened minority to be heard. Consequently, the number of open—and modified open—special rules decreased and the number of structured rules increased, a third day for the consideration of legislation by suspension of the rules was added, fewer days were spent in session, more competition over jurisdiction between committees occurred, a number of measures passed by the House could not pass the Senate, and convening conferences between the chambers declined in favor of resolving differences through amendments between the houses. The motion to recommit was used to broadcast a message as much as to offer an alternative.

The majority leadership's influence over committee agendas and its role in drafting or redrafting of major legislation to be considered on the floor continued to increase. On the one hand, party leadership has increased its control of committees and committee agendas, for example, by leadership's control of the selection of chairs and ranking minority members. On the other hand, there has been less political overlap between the parties so that leaders may need to look exclusively within their own caucus or conference to build a majority on key votes,[299] and leaders

[298] For background, see, for example, Susan Schmidt and James V. Grimaldi, "The Fast Rise and Steep Fall of Jack Abramoff," *The Washington Post,* December 29, 2005, available at http://www.washingtonpost.com/wp-dyn/content/article/2005/12/28/AR2005122801588.html.

[299] In a speech commemorating the centenary of the Cannon speakership, former Speaker Dennis Hastert articulated a set of principles that guided him as Speaker. One principle was "to please a majority of your majority." Speaker Hastert explained,

are better positioned than committee chairs to know what legislative provisions will create those majorities.

The churning in the House's membership has also contributed to leadership's influence over legislation. Turnover brings new energy and ideas to the House, and reflects "an immediate dependence on, and an intimate sympathy with, the people" that "frequent elections ... [secure]," as Madison explained about the nature of the House of Representatives in *The Federalist Papers* (no. 52). So much turnover in such a large body as the House, however, favors the centralizing efforts of leadership.[300] During the 109th Congress and in the 2006 election, 60 new Members were elected. During the 110th Congress and in the 2008 election, 67 new Members were elected. During the 111th Congress and in the 2010 election, 105 new Members were elected. During the 112th Congress and in the 2012 election, 75 new Members were elected. High turnover continued in the elections for and during the 113th, 114th, and 115th Congresses so that, midway through the first session of the 115th Congress, the median length of service in the House was just over three terms completed—more than half of all Representatives were sworn in in the current decade, in 2011 or later.

The work of a Representative has also continued to evolve, which, in turn, has meant Members of the House have favored efficiency and decisionmaking in floor proceedings so that they have time for their committee work, campaign fund raising, and representational work.[301] The latter has expanded with the ubiquity of information technology, whereby most Members now participate in several social media platforms and must respond rapidly to developments within a relentlessly continuous news cycle. Members also want to maximize the representational time they spend in their districts meeting with constituents, participating in district events, and attending to their political interests, which will include home-state redistricting in conjunction with the 2020 census. The Washington-district schedule put in place in the 112th, 113th, 114th, and 115th Congresses has allowed Members time to visit schools, work sites, local government offices, and other places in their districts during those places' regular business hours.

Regardless of the cumulative rules changes in the House since the 104th Congress, the House remains one of the two independent political institutions of Congress, designed to be so by the Framers. Interest balances interest, as noted in *The Federalist Papers* (no. 10), and unless there is majority political will—not necessarily a party majority but a majority of Members of each house—to take an action, such as make a specific law, that action will not happen. One role of Congress is to make law, but its larger role is to winnow the proposals about what should be

---

> The job of Speaker is not to expedite legislation that runs counter to the wishes of the majority of his majority.… On each piece of legislation, I actively seek to bring our party together. I do not feel comfortable scheduling any controversial legislation unless I know we have the votes on our side first.

U.S. Congress, Joint Committee on Printing, *The Cannon Centenary Conference: The Changing Nature of the Speakership*, Walter Oleszek, ed., 108th Cong., 2nd sess., H.Doc. 108-204 (Washington, DC: GPO, 2004), p. 62.

[300] Seeking to exercise policymaking in leadership is not an easy task, whether a party is in the majority or the minority. Both Nancy Pelosi and John Boehner faced challenges in putting together policy-based coalitions within their parties as Speaker and as minority leader. Speaker Boehner in particular faced criticism from factions within the Republican Conference as he sought to rally party members around specific policies in order to enact what many considered to be must-pass legislation. See, for example, Simone Pathé, "Boehner Ends Rocky Run as Speaker on a High Note," *CQ News*, October 29, 2015, available at http://www.cq.com/doc/news-4781705; and Emma Dumain, "Critics of Leadership Warming to Paul Ryan," *CQ News*, October 28, 2015, available at http://www.cq.com/doc/news-4780736. As mentioned above ("Rules Changes Affecting the Chamber and Floor" and "Appropriations Measures"), Speaker Paul Ryan, facing the same composition of the Republican Conference as Speaker Boehner, has sought to take a different approach so that somewhat more policymaking occurs in committees than in leadership.

[301] As mentioned, then-Majority Leader Eric Cantor emphasized time divisions during the day so that committees could "meet without interruption from floor activities." See, above, "Republican Critique in 110th and 111th Congresses."

law—because some proposals are bad ideas or lack public support or offend a constituency or cost too much or are impractical or are for some other reason unable to generate the needed majorities. Chamber rules allow opportunities for all Members to participate at all stages of the legislative process, in both chambers, building on the Framers' system.

Looking ahead to the 116th Congress and beyond, rules changes are likely to be incremental rather than extensive with either a Democratic or Republican majority. A package of rules changes presented by the majority party would take into consideration the size and composition of the party majority. The changes would need to balance that fact, and protect minority prerogatives, against the need to govern. A House majority party would also need to consider majority control of the Senate as it contemplates a rules package.

The House majority party might also contemplate the party arrangements and the effectiveness of the President and Congress over the past 30 years. President Reagan began with a Republican Senate and Democratic House and ended with a Democratic Congress. President George H.W. Bush held office with a Democratic Congress. President Clinton entered office with a Democratic Congress and served most of his two terms with a Republican Congress. President George W. Bush served through 2006 with only a Republican Congress, except for a portion of the 107th Congress when Democrats controlled the Senate. President Obama enjoyed Democratic control of both houses of Congress for two years, but faced a Republican House and narrower Democratic Senate majority in the next years, before Republicans controlled both chambers in the 114th Congress. President Trump began his presidency with Republican control of both chambers. Presidents have succeeded and failed with their major policy initiatives under each arrangement.[302]

Both parties in the House gave attention to their party rules in the 114th and 115th Congresses, which were intended to open the parties to more voices and perspectives in party decisionmaking. Many Members in the Democratic Caucus are organizing under the "progressive" banner and many Members in the Republican Conference are organizing under the "very conservative" banner, but there are other groups and many viewpoints within both parties. For Members and Congress watchers alike seeking to understand the congressional environment, being attentive to the parties' organization and decisionmaking is vital.[303]

The rules of the House do not exist to achieve a specific legislative result. They are available to all Members and to any majority or minority. Many factors besides party control, and the party's use of rules, affect the congressional environment. To look back in history, Speaker Thomas Bracken Reed could be said to have created the modern, majority-minority House with his rulings, but he could not have contemplated how a very strong Speaker like Joseph Cannon would use the Speakership to dominate the House. The Corrections Calendar was announced with great fanfare when it was created in 1995; it had long been moribund when it was terminated in the rules package for the 109th Congress. The consideration of legislation under suspension of the rules was a minor, relatively infrequent procedure 40 years ago; now motions to suspend the rules are in order Mondays, Tuesdays, Wednesdays, and, when allowed by special rule, other days of

[302] For one study examining divided government, see David R. Mayhew, *Divided We Govern: Party Control, Lawmaking, and Investigations, 1946-2002* (New Haven, CT: Yale University Press, 2005).

[303] See, for example, Emma Dumain, "House Democrats Brace for Potentially Tense Retreat," *CQ.com*, January 27, 2015, available at http://www.cq.com/doc/news-4611913; and Emma Dumain, "House Republicans OK Changes to Steering Panel," *CQ.com*, November 19, 2015, available at http://www.cq.com/doc/news-4793728.

House sessions. The Congressional Budget Act of 1974 called for two budget resolutions each year; the procedure was impractical and hugely time consuming and was abandoned.[304]

The House rules—the common language of the House—are very important components of governance, and they exist for all Members and all majorities and minorities to use.[305]

Author Information

Michael L. Koempel
Senior Specialist in American National Government

Judy Schneider
Specialist on the Congress

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.

[304] Indeed, in the 114th Congress, both the House and the Senate Budget Committees were examining potentially wide-ranging changes to the congressional budget process. See, for example, Jennifer Shutt, "House Members Trade Barbs in Debate over Budget Process," *CQ News*, May 25, 2016, available at http://www.cq.com/doc/news-4896466; and Jennifer Shutt, "Senate Budget to Huddle with Two Former Chairmen on Overhaul," *CQ News*, June 6, 2016, available at http://www.cq.com/doc/news-4901422.

[305] Exogenous developments also affect Congress. For example, the installation of air conditioning in the Capitol complex after World War II made it thinkable to spend the summer and fall in Washington, DC; the jet plane and the growth of air travel made it possible for most Members to go home weekends and to have their families live at home rather than in the Washington, DC, area; and the web, email, and other information technology advances have connected all Members and their staff with constituents (and anyone else) to receive and send communications.