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House Rules Changes Affecting Floor Proceedings in the 117th Congress (2021-2022)

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SUMMARY

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House Rules Changes Affecting Floor Proceedings in the 117th Congress (2021-2022)

In January 2021, the House agreed to H.Res. 8, a resolution adopting the rules of the House of Representatives for the 117th Congress (2021-2022). H.Res. 8 provided amendments to the standing rules and separate orders affecting floor proceedings, including the consideration of legislation and access to the House chamber. The House subsequently adopted two additional resolutions, H.Res. 38 and H.Res. 73, which authorized the fining of Members for contravening certain chamber policies under specified circumstances.

Among its provisions, H.Res. 8 removed a specific form of the motion to recommit, specifically, those offered *with instructions*. The motion to recommit with instructions previously enabled the minority party to propose, debate, and obtain a vote on alternative policy options before the initial House passage of bills and resolutions considered under the terms of special rules reported by the House Rules Committee.

The rules package for the 117th Congress continued, with slight alterations, the practice in the 116th Congress of voting by proxy during pandemic "covered" periods. It also refined the 72-hour public availability period established in the 116th Congress (2019-2020) to clarify that review periods for specified types of legislation begin at the time the text is posted electronically. The new rules stipulate that title amendments are in order only if offered by the majority leader or a designee.

The rules package facilitated the process for Members to withdraw as cosponsors to House measures while requiring the Clerk to establish a process for House Members to demonstrate their support for Senate bills. New rules extended floor privileges to the mayor of the District of Columbia and removed floor privileges for former Members, House officers, and certain House employees if such individuals have been convicted of crimes in relation to their election or service to the House. Finally, H.Res. 8 removed the qualified privilege previously afforded to measures addressing the District of Columbia as well as the prohibition on the consideration of certain legislative measures unless the House has previously made available searchable electronic comparative prints.

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Introduction

On January 4, 2021, the House agreed to H.Res. 8, the rules package for the 117th Congress (2021-2022). H.Res. 8 provided amendments to the standing rules and also contained standing orders that affect floor proceedings in the House.[1] Subsequently, the House agreed to H.Res. 38 and H.Res. 73, which authorized the fining of Members[2] for contravening certain House chamber policies under specified circumstances.

This report identifies and explains selected changes to House rules in the 117th Congress (2021-2022) that affect floor proceedings, including the consideration of legislation and access to the House chamber.[3] It identifies procedures that have been altered or removed or are no longer mandated, as well as additions and clarifications to House rules as compared to standing rules in force during the 116th Congress (2019-2020).[4]

Consideration of Legislation

Motion to Recommit

The House rules package modified the motion to recommit (clause 2 of House Rule XIX) by eliminating the option of making a motion to recommit "with instructions." It also removed the period of deliberation before a vote on the motion to recommit without instructions (that is, a "straight" motion to recommit). In the 117th Congress, Members cannot use this motion to propose an alternative policy proposal (which was contained in the previously allowed instructions) or debate a straight motion to recommit. Instead, the sole parliamentary effect of a

[1] The House agrees to its standing rules as one of the first orders of business at the start of each new Congress. Generally, as in H.Res. 8, the House agrees to many of the same rules as the previous Congress, with amendments to those rules and separate orders packaged as a simple House resolution and presented to the House. Separate orders are provisions that affect House procedures but are not codified in the standing rules of the House. They remain in effect for the duration of the Congress unless a subsequent resolution provides for their adjustment.

[2] In this report, the term *Member* includes the Delegates and the Resident Commissioner.

[3] This report does not consider changes related to the budget process, committee procedure (unless it affects floor procedure), separate orders that are the same as those agreed to in the 116th Congress (e.g., the separate order in H.Res. 8 that clarifies procedure regarding the War Powers Resolution, because it is identical to a separate order contained in H.Res. 6, 116th Congress), or the administration of Congress (i.e., modifications to the Code of Official Conduct, employee training and protections, and congressional member organizations). For information about changes to budget and appropriations procedure, see CRS Report R46659, *Changes to House Rules Affecting the Congressional Budget Process Included in H.Res. 8 (117th Congress)*, by Megan S. Lynch and James V. Saturno. For changes to House rules concerning floor procedure in the 116th Congress, see CRS Report R45787, *House Rules Changes Affecting Floor Proceedings in the 116th Congress (2019-2020)*, by Jane A. Hudiburg.

[4] See H.Res. 8; U.S. Congress, House, *Rules of the House of Representatives, One Hundred Seventeenth Congress*, prepared by Cheryl L. Johnson, Clerk of the House of Representatives, 117th Cong., 1st sess., 2021; U.S. Congress, House, *Constitution, Jefferson's Manual and the Rules of the House of Representatives of the United States One Hundred Sixteenth Congress* (hereinafter *House Manual*, 116th Congress), 115th Cong., 2nd sess., 2019 (Washington: GPO, 2019); U.S. Congress, House Committee on Rules, H.Res. 8, *Adopting the Rules for the 116th Congress, Section-by-Section Analysis*, 117th Cong., 1st sess., 2021; Charles W. Johnson, John V. Sullivan, and Thomas J. Wickham Jr., *House Practice: A Guide to the Rules, Precedents, and Procedures of the House* (Washington: GPO, 2017) (hereinafter *House Practice*). For information on changes to floor procedure in the 116th Congress, see CRS Report R45787, *House Rules Changes Affecting Floor Proceedings in the 116th Congress (2019-2020)*, by Jane A. Hudiburg.

successful motion to recommit would be to send a measure back to committee and thus delay further action on the measure.[5]

Commonly offered by the minority leader or a designee, the motion to recommit is in order immediately before the vote on final passage on a bill or joint resolution. If successful, straight motions to recommit send a measure back to committee indefinitely. In contrast, the motion to recommit with instructions, prior to this rules change, enabled a mechanism by which the House could vote to immediately amend the measure on the House floor, provided that the amendment, as stated in the "instructions," was otherwise in order under House rules (such as those on germaneness).[6]

In the 117th Congress, House rules continue to prohibit the Rules Committee from reporting a special rule that would prevent the straight motion to recommit from being offered during initial House consideration of a measure.[7] However, as amended, clause 2(a) of Rule XIX no longer allows debate on the motion. Instead, the previous question, which closes the debate period, "shall be considered as ordered on any motion to recommit."[8]

In earlier Congresses, the minority party frequently offered motions to recommit with or without instructions on measures raised and considered under the terms of special rules. The motions were debatable for 10 minutes and were often subject to roll call votes that recorded Members' support for or opposition to the proposed alternative. In the 117th Congress, straight motions to recommit do not provide for a minority policy alternative to be offered as instructions, and the motions are not debatable.[9]

Remote Voting by Proxy or Secure Technology

By separate order, H.Res. 8 continued, with slight modifications, remote voting and proxy rules set forth in H.Res. 965 (116th Congress) as agreed to in the previous Congress. H.Res. 965 enabled Members, during pandemic-related "covered periods," to designate another Member to cast a "proxy" vote on their behalf in the House chamber in accordance with the terms in the

[5] When used in regard to measures that have not previously been referred to a House committee, the motion is technically a motion to commit. For purposes of clause 2 of Rule XIX, a motion to commit is treated in the same manner as a motion to recommit. See CRS Report R44330, *The Motion to Recommit in the House of Representatives*, by Megan S. Lynch.

[6] If the House adopted the motion, the measure would remain on the floor, and the committee chair or designee would immediately rise and report the bill back to the House with the amendment contained in the instructions. Afterward, the House would vote on the amendment and then on the bill itself, as it may have been amended. For a more detailed explanation of the history of the motion to recommit (with or without instructions), see CRS Report R44330, *The Motion to Recommit in the House of Representatives*, by Megan S. Lynch; and CRS Report RL34757, *The Motion to Recommit in the House of Representatives: Effects and Recent Trends*, by Megan S. Lynch.

[7] Rule XIII, clause 6(c).

[8] The previous question motion proposes to end debate and amendment and bring about an immediate vote on the underlying measure or question at hand. If the previous question is considered as ordered, there is no period of debate before the vote on the measure. See CRS Report R43424, *Considering Legislation on the House Floor: Common Practices in Brief*, by Elizabeth Rybicki.

[9] The minority party can continue to use the period of general debate, which occurs before the consideration of amendments (if any are in order), to propose alternative policy options. If the minority party subsequently offers a motion to recommit, the vote in favor of the motion may be framed as a vote for the policy alternative. See Olivia Beavers, "Scoop! Motion Commotion!," *Politico*, February 25, 2021, https://www.politico.com/newsletters/huddle/2021/02/25/tk-491900.

resolution and regulations issued by the Rules Committee. H.Res. 8 extended those procedures to the 117th Congress.[10]

The separate order also required the chair (in consultation with the ranking member) of the Committee on House Administration to identify and submit operable and secure technology that may be used to conduct remote voting in the House. Following the certification of this technology, the chair of the Rules Committee (in consultation with the ranking member) is directed, pursuant to the extended provisions of H.Res. 965, to submit regulations to enable Members to vote off-site without requiring the presence of Members serving as proxies in the chamber.[11]

Remote Voting by Proxy

H.Res. 8 reestablished the procedure, initially set forth in H.Res. 965, for designating or revoking a proxy. During a "covered period," Members may designate a proxy, and may alter or revoke a designation, by submitting signed letters to the Clerk. If a Member who had previously designated a proxy casts a vote in the chamber, the proxy designation is automatically revoked, even without the submittal of a revocation letter.

H.Res. 8 continued, with one modification, the notification and availability requirements concerning proxy designations. In the 116th Congress, the Clerk was to maintain a public list of designations, alterations, and revocations and notify House leadership and the Members involved when letters had been submitted, including letters of revocation received after the automatic revocation of a proxy. In the 117th Congress, the Clerk is to follow the same notification practice except for letters of revocation received after a designation is automatically revoked. The Clerk does not have to notify House leadership or the Members involved, or make a revocation publicly available, if a revocation letter is received after the Member votes or is recorded as present in the chamber.

Remote Voting by Secure Technology

The 117th Congress separate order requires the chair of the Committee on House Administration chair, in consultation with the ranking member, to identify "specific operable and secure technology" that may be used for remote voting in the House. Furthermore, the chair shall submit the technology to the Speaker and to the chair and ranking member of the Committee on Rules and "provide certification of such submission to the House."

In the 116th Congress, H.Res. 965 required the chair of the Committee on House Administration to determine that operable and secure technology exists. Subsequently, the staff of the committee

[10] H.Res. 965 states, in part: "[A]t any time after the Speaker or the Speaker's designee is notified by the Sergeant-at-Arms, in consultation with the Attending Physician, that a public health emergency due to a novel coronavirus is in effect, the Speaker or the Speaker's designee, in consultation with the Minority Leader or the Minority Leader's designee, may designate a period (hereafter in this resolution referred to as a "covered period") during which a Member who is designated by another Member as a proxy in accordance with section 2 [of H.Res. 965] may cast the vote of such other Member or record the presence of such other Member in the House." The House Committee on Rules posts the regulations associated with H.Res. 965 in *Key Documents: Congressional Emergency Remote Proceedings* at https://rules.house.gov/press-releases/key-documents-congressional-emergency-remote-proceedings.

[11] For more information about remote voting by proxy and by secure technology, see the House report that accompanied H.Res. 965 (116th Congress): U.S. Congress, House Committee on Rules, *Authorizing Remote Voting by Proxy in the House of Representatives*, 116th Cong., 2nd sess., May 14, 2020, H.Rept. 116-420 (Washington: GPO, 2020).

provided a report concluding that technology did exist to provide secure remote voting.[12] Given that determination, the 117th Congress separate order requires the chair of House Administration to identify and deliver a specific technology.

Otherwise, the provisions of Section 5 in H.Res. 965 apply in the 117th Congress. That is, following the certification of technology, the chair of the Committee on Rules, upon consultation with the ranking member, is to submit regulations for the implementation of remote voting in the House. This submission would enable such voting to occur once the Speaker notifies the House that the regulations have been submitted.

Title Amendments

As amended by H.Res. 8, clause 6 of Rule XVI makes title amendments in order "only if offered by the Majority Leader or a designee." Unless so designated, Members, in the 117th Congress, will not be recognized to propose changes to a bill title or resolution title.

House rules limit Members' ability to change the title of a measure once it has been introduced. Pursuant to clause 6 of Rule XVI, an amendment to a measure's title is not in order until after the bill or resolution is passed or agreed to, and agreement to such an amendment is to be decided without debate. Rules of the 117th Congress further restrict the offering of these amendments.

District of Columbia Business

H.Res. 8 removed what was previously clause 4 of Rule XV, "District of Columbia business." The House designates certain days of the week or the month to consider specific types of motions or measures, such as motions to suspend the rules, legislation assigned to the Private or Discharge Calendars, and, prior to the 117th Congress, legislation related to the District of Columbia's municipal affairs.

The Constitution provides Congress with the power to "exercise exclusive Legislation in all Cases whatsoever" over the District, which serves as the seat of the government of the United States.[13] Beginning in 1870, the House established specific days on which to consider District of Columbia business.[14] In previous Congresses, clause 4 of Rule XV designated the second and fourth Mondays of the month to consider District-related legislation called up by the Committee on Oversight and Reform.[15]

However, the House was no longer using this provision to consider the District's municipal affairs legislation. Instead, for the past several Congresses, such legislation has usually been

[12] U.S. Congress, Committee on House Administration, Staff Report on Feasibility of Remote Voting in the United States House of Representatives Pursuant to House Resolution 965, Sec. 5, 17, 116th Cong., 2nd sess. (2020); U.S. Congress, Committee on House Administration, The Report on the Activities of the Committee on House Administration during the 116th Congress, 116th Cong., 2nd sess. (2020), H.Rept. 116-707 (Washington: GPO, 2020), pp. 82-83.

[13] According to Supreme Court rulings, the constitutional power was intended to exclude other states from assuming control over District matters. Congress may delegate its constitutional authority to the District of Columbia's municipal government and has increasingly done so since the enactment of the District of Columbia Home Rule Act in 1973 (P.L. 93-198); U.S. Const. art. I, §8; *District of Columbia* v. *John R. Thompson Company*, 346 U.S. 100 (1946); *Stoutengurgh* v. *Hennick*, 129 U.S. 141 (1889); *House Practice*, ch. 20, §1.

[14] *House Manual*, 116th Congress, §894.

[15] District of Columbia Days were reserved for District-related legislation within the jurisdiction of the Committee on Oversight and Reform (i.e., not District appropriations legislation within the jurisdiction of the Committee on Appropriations); *House Practice*, ch. 20, §2.

raised and considered under suspension of the rules procedure or under the terms of a special rule reported by the Rules Committee and agreed to by the House.

Availability and Printing Requirements

Clarification of 72-Hour Availability

House rules require a period of public availability before measures may be considered on the floor. In the 117th Congress, the rules, as amended, make explicit that the 72-hour availability period for specific forms of legislation begins at the time the text is posted electronically. The new rules clarify that clause 3 of Rule XXIX, concerning the use of Clerk-operated electronic document repositories, applies to the availability requirement for unreported bills and resolutions and Senate amendments reported in disagreement by a conference committee.

H.Res. 8 amended clause 11 of Rule XXI to specify that the 72-hour availability period (required before the consideration of an unreported bill or joint resolution) begins at the time the *text* of the measure is made publicly available rather than at the time the *measure* is made available. This change makes explicit that the period begins at the time the House posts in electronic form, or otherwise makes publicly available, the text to be considered.

H.Res. 8 amended clause 8(b) of Rule XXII to clarify the 72-hour availability period for a Senate amendment reported in disagreement by a conference committee. Under the change, the period now begins at the time the amendment is posted on a publicly available website operated by the Clerk *or* when it is printed in the *Congressional Record*.[16] Prior to the 117th Congress, this clause did not state that an electronic posting may also begin the availability period.

In the 116th Congress, the rules package amended Rules XIII, XXI, and XXII to establish, for certain legislative text and committee reports, a 72-hour review period. The previous review period spanned until the "third calendar day" on which the measures' text or committee reports had been available.[17] Clause 3 of Rule XXIX, first established in 112th Congress (2011-2012) and modified in the 115th Congress (2017-2018), enabled the posting of legislative text and committee reports on electronic document repositories maintained by the House Clerk's Office to satisfy such availability requirements.[18]

[16] The House and Senate must agree to the same bill text before the bill (or joint resolution) can be presented to the President. When one chamber passes a bill, the other chamber may amend and pass the bill with differences in text. If the first chamber does not agree to the amended text, a conference committee may form to resolve the differences between the House and Senate versions of the bill. Occasionally, the conference committee is unable to come to an agreement on all of the amendments to the bill. In such cases, the committee reports a partial conference report, as well as any amendments that remain unresolved. If the amendments were originated by the Senate, the House first approves the partial conference report, then takes up the Senate amendments reported in disagreement. See CRS Report 96-708, *Conference Committee and Related Procedures: An Introduction*, by Elizabeth Rybicki.

[17] Prior to the 116th Congress (2019-2020), measures or reported matter could not be considered until the "third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) on which the legislative text had been made available." U.S. Congress, House, *Constitution, Jefferson's Manual and the Rules of the House of Representatives of the United States One Hundred Fifteenth Congress*, 114th Cong., 2nd sess., 2017 (Washington: GPO, 2017), §850.

[18] *House Manual*, 116th Congress, §1105a.

H.Res. 8 clarified that these earlier-established provisions in House rules apply to unreported bills and resolutions and to Senate amendments reported in disagreement by a conference committee. However, as with other standing rules, the House can agree to waive this 72-hour requirement.[19]

Printing Requirements

H.Res. 8 modified the prohibition against the consideration of primary or supplemental expense authorization resolutions before a prescribed availability period. Prior to the 117th Congress, these resolutions, which authorize payments for committees, commissions, and other congressional entities, were not to be considered unless a "printed report thereon was available the previous calendar day." H.Res. 8 struck the word *printed* from each place it appears in clause 6 of Rule X.

In the 117th Congress, the consideration of committee expense authorization resolutions continues to require an accompanying report to be publicly available the previous calendar day, but the report does not need to be physically printed. Instead, the previous day availability requirement is met if the report is made available in either electronic or printed form.

Electronic Comparative Prints

H.Res. 8 amended Rule XXI to remove what was previously clause 12, which required the posting of a searchable electronic comparative print on a House website before certain legislation could be considered on the floor. This clause required, prior to floor consideration, the posting of comparative prints of any bills, joint resolutions, or amendments in the nature of a substitute that proposed to repeal or amend a statute or part of a statute or any changes to reported text. In both instances, the electronic comparative prints were to show, via appropriate typographical devices, the proposed changes in text in comparison to either (a) current law or (b) the text as reported.

The House first adopted clause 12 of Rule XXI at the start of the 115th Congress (2017-2018). It is similar to clause 3(e) of Rule XIII, known as the Ramseyer rule, which requires the inclusion of comparative prints in committee reports of legislation proposing to amend current law.[20] The Ramseyer rule remains in effect as a requirement for committee reports.

Clause 12 of Rule XXI encompassed more measures than those affected under the Ramseyer rule, as it included amendments proposing to change reported text, as well as bills and joint resolutions amending current law. In addition, it applied to unreported bills and joint resolutions that could potentially be considered by the House, while the Ramseyer rule applies to written committee reports and thus would not affect the consideration of unreported measures.

While the clause 12 requirement is removed from House rules, a separate order contained in H.Res. 8 instructs the Committee on House Administration, the Clerk, and other House officials to continue efforts to "broaden the availability and utility of legislative documents in machine readable formats." These efforts are intended to further the House's ability to produce electronic comparative prints showing differences between versions of legislation and between proposed legislation and current law.

[19] For information about the use and the waiving of the "72-hour rule," see CRS Report RS22015, *Availability of Legislative Measures in the House of Representatives (The "72-Hour Rule")*, by Elizabeth Rybicki.

[20] First established in 1929, the Ramseyer rule requires a committee to include in its report of a "bill or joint resolution proposing to repeal or amend a statute or part thereof" the text of the current law and a comparative print showing the omissions and insertions proposed. *House Manual*, 116th Congress, §846.

Demonstrating Support for House and Senate Measures

Withdrawing Cosponsorship of House Measures

Rules of the 117th Congress now allow Members seeking to withdraw their cosponsorship of a House measure to do so without having to obtain the unanimous consent of the House.[21] As amended by H.Res. 8, clause 7(b) of Rule XII enables Members to demand from the floor that their names be removed. That is, Members no longer need the consent of the House to withdraw as cosponsors; they can simply notify the House that they are withdrawing. As in earlier Congresses, the sponsor of the measure *does* need unanimous consent to remove the name of another Member cosponsor, and no withdrawal will be recognized once the bill has been reported or the relevant committees have been discharged of their consideration.

House Member Support for Senate Measures

H.Res. 8 provided a separate order instructing the Clerk to submit, by February 1, 2021, regulations establishing a process for "Members to indicate their support for Senate measures that have been received by the House." The new process, enabling Members to formally express support for Senate-passed measures that have been received by the House, was to include a publicly available list of Members supporting such measures.

Pursuant to this order, the Clerk submitted proposed regulations to the Rules Committee to enable a formalized procedure to demonstrate support.[22] These regulations mandate that Members may only indicate support for a Senate bill, joint resolution, or concurrent resolution that has been received in the House. (Simple resolutions [S.Res.] adopted by the Senate are not sent to the House.) Congress.gov identifies supporting House Members for such measures. The period to indicate support closes when all House committees of referral have reported the measure, the measure has passed the House, or the House has initiated consideration under the terms of a special rule.[23]

House Members cannot cosponsor Senate-originated bills and joint resolutions (and, conversely, Senators cannot cosponsor House-originated measures).[24] Instead, Members have used a variety of less-formal means to demonstrate their support for Senate measures.[25] The new regulations provide a more structured process for expressing such support.

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[21] For more information about the cosponsorship of House measures, see CRS Report RS22477, *Sponsorship and Cosponsorship of House Bills*, by Mark J. Oleszek.

[22] *Congressional Record*, daily edition (February 2, 2021), p. H275.

[23] The Clerk has provided a "House Member Support for Senate Measure" form on the internal House website at https://housenet.house.gov/sites/housenet.house.gov/files/documents/quick-guide-senate-measures-support.pdf. Members are to sign and submit one form per measure. Forms that are not signed or contain multiple names will not be processed. When the House is in session, forms may be submitted through the hopper on the House floor or through email submission to the Clerk. Members may submit their own forms or authorize, via a "Staff Authorization Form," a staff member to do so on their behalf. Authorized staff are to submit "House Member Support" forms as email attachments to the Office of the Clerk. The emails must be sent while the House is in session or during the 15-minute period prior to the House convening or within 15 minutes after adjournment.

[24] See CRS Report 98-279, *Sponsorship and Cosponsorship of Senate Bills*, by Mark J. Oleszek.

[25] Prior to the 117th Congress, House Members could informally announce their support for Senate measures during nonlegislative debate (one-minute, special-order, or morning-hour speeches) or via other constituent communications. Members could also introduce or cosponsor a House-originated "companion" measure containing the same or similar text as the Senate legislation. In the 117th Congress, Members may continue to employ these alternative means to

Hall of the House

Floor Privileges Granted, Mayor of the District of Columbia

H.Res. 8 amended clause 2(a) of Rule IV to add the Mayor of the District of Columbia to the list of positional categories granted floor privileges while the House is in session. This rules change gives the Mayor the same status in the House as in the Senate.[26]

Floor Privileges Removed, Certain Convicted Individuals

The rules package amended clause 4(a) of Rule IV to add language revoking floor privileges for any former Member, Parliamentarian, elected officer, or minority employee nominated as an elected officer if such individual "has been convicted by a court of record for the commission of a crime in relation to that individual's election to, or service to, the House." This prohibition includes the chamber's adjacent rooms and the Speaker's lobby and the cloakrooms but shall not apply to joint sessions and other occasions designated by the Speaker.

Fines Imposed for Rules Violations in Chamber

Following approval of H.Res. 8, the House agreed to two resolutions (H.Res. 38 and H.Res. 73) that authorized the fining of Members for contravening chamber protocols. As separate orders, the policies established in these resolutions remain in effect only for the duration of the 117th Congress unless they are reestablished or repealed by a subsequent resolution.

Fines for Failure to Wear a Mask in the House

The Speaker's announced policies of the 117th Congress[27] require Members to wear masks in the chamber during a "covered period," as designated by the Speaker in consultation with the Attending Physician.[28] Members not wearing masks will not be recognized.[29]

On January 12, 2021, the House agreed to H.Res. 38, a resolution that, among its provisions, authorized and directed the Sergeant at Arms to impose fines against a Member for failure to wear a mask in the House chamber during a pandemic "covered period" in violation of the Speaker's announced policy. Such fines shall be "treated as though imposed" under clause 3(g) of Rule II.

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express support for Senate measures.

[26] The Senate first granted floor privileges to the Mayor of the District of Columbia in 1979 and to the position's precursors, the DC Commissioners, in 1884. See CRS Report R46257, *Senate Floor Privileges: History and Current Practice*, by Jane A. Hudiburg.

[27] "Conduct during a Covered Period," *Congressional Record*, vol. 167, 117th Cong., 1st sess. (January 4, 2021), p. H38.

[28] *Covered period* is defined in H.Res. 965 (116th Congress) and remains in effect under the terms of H.Res. 8 (117th Congress). The Speaker or designee may designate, in consultation with the minority leader or designee, a pandemic covered period after being notified by the Sergeant at Arms, in consultation with the Attending Physician, "that a public health emergency due to a novel coronavirus is in effect." Covered periods are to terminate after 45 days but may be extended in 45-day increments if the Speaker provides notification that the public health emergency remains in effect.

[29] The announced policy of January 4, 2021, stated: "Members will not be recognized unless they are wearing a mask, and recognition will be withdrawn if they remove their mask while speaking;" *Congressional Record*, January 4, 2021, p. H40. On May 11, 2021, the Office of the Attending Physician announced an update to this policy. Members, once recognized, may remove their masks to speak at a microphone in the chamber. They are to replace their masks at the conclusion of their remarks. For more information, contact the Office of the Attending Physician at https://attendingphysician.house.gov.

That provision imposes fines ($500 for the first offense and $2,500 for any subsequent offenses) for the use of electronic devices in the chamber in contravention of House rules.

Members deemed to be in violation of the mask policy may appeal the fine in writing to the Committee on Ethics within 30 calendar days or five legislative days, whichever is later, of such notification, pursuant to clause 3(g) of Rule II. The Committee on Ethics then has the same amount of time to make a ruling. (The 30-day time period to consider the appeal was not to begin before the Ethics chair provides notification that the committee has adopted its rules for the 117th Congress.[30])

Fines for Failure to Complete Security Screenings

In response to the attack on the Capitol on January 6, 2021, the Speaker directed the Capitol Police to install magnetometers (metal detectors) at the entrance doors to the House chamber as a means to ensure compliance with Capitol Police Board regulations prohibiting firearms in the chamber.[31] At that time, the Speaker announced that a forthcoming resolution would impose fines on Members who refuse to follow the new screening protocols.[32]

Accordingly, on February 2, 2021, the House passed H.Res. 73, providing the Sergeant at Arms with the "authority to fine Members, Delegates, or the Resident Commissioner for failure to complete security screening for entrance to the House Chamber."[33] Fines imposed "shall be $5,000 for a first offense and $10,000 for any subsequent offense."

Pursuant to the resolution, the Sergeant at Arms is to notify in writing the Member involved, the Speaker, the Committee on Ethics, and the Chief Administrator of any fine imposed. This notification is to be made publicly available by the chair of the Committee on Ethics. The Member may appeal the fine within 30 calendar days or five legislative days, whichever is later, of the notification. The Committee on Ethics then has an equal amount of time to consider the appeal.

The Ethics review period begins at the time the appeal is received or upon notification that the committee has adopted its written rules (whichever date is later). Following the review, the fine is upheld unless the majority of the Ethics Committee agrees to the appeal. The committee provides a public notification of the final status of the fine after it makes its ruling on the appeal or, if no appeal is filed, after the period allowed for filing the appeal has closed.

[30] Subsequent to the agreement of H.Res. 38, the House agreed to H.Res. 85, which amended H.Res. 38 to clarify that the 30-day period in which the Ethics Committee is to consider the appeal shall not begin before the chair provides notification that the committee has adopted its rules, rather than at the time the committee adopts its rules.

[31] Pursuant to Rule I, the Speaker "shall preserve order" (clause 2) and has "general control of the Hall of the House [and] the corridors and passages in the part of the Capitol assigned to the use of the House" (clause 3).

[32] Office of the Speaker, "Pelosi Statement Announcing Rule Change Mandating Fines for Refusing to Follow New Chamber Security Screening Protocols," January 13, 2021, https://www.speaker.gov/newsroom/11321-2.

[33] Pursuant to Section 7 of H.Res. 85, H.Res. 73 was considered adopted by the House on February 2, 2021.

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