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A Retrospective of House Rules Changes Since the 104th Congress through the 109th Congress

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Summary

One of the majority party's prerogatives is writing the House rules and using its majority status to effect the chamber's rules on the day the new House convenes. It is a feature of the House that it must adopt rules at the convening of each Congress. While each new House largely adopts the chamber rules that existed in the previous Congress, each new House also adopts changes to those rules. Institutional and political developments during the Democratic majority, particularly during the 103rd Congress, were a prelude to the rules changes made by the Republicans when they took control of the House in the 104th Congress.

Rules changes made at the convening of the 104th Congress addressed most aspects of the committee system: decision-making autonomy, jurisdictions, internal committee procedures and structure, and staff. Rules changes for the 104th Congress and after also addressed most aspects of legislation deliberations on the House floor and organization of the chamber. For example, the minority was guaranteed the ability to offer the motion to recommit with instructions, commemorative legislation was banned, the names of signatories of discharge petitions were publicized, provisions were made for convening a House with a reduced membership due to a terrorist attack, and the Speaker was subjected to a term limit that was later repealed.

Two of the eight goals of the Republicans' 1994 Contract with America dealt with budgetary legislation. House rules were changed to require a three-fifths vote to pass a federal income tax rate increase, and cost estimates replaced baselines as the preferred way of understanding the year-to-year changes in federal spending.

Rules changes in the administration of the House were extensive. Offices were abolished and others created. Responsibilities were shifted and accountability clarified. Rules changes affecting ethical standards were largely technical, with most major changes taking place through freestanding and other legislation.

The House rules changes made starting in the 104th Congress reflected a Republican frame of reference that was built over many years as the minority party. Most rules, however, did not change, either at all or substantially, since they had evolved over decades to support the majority in its organization and operation of the House. Rules changes do not necessarily enable a majority to pass legislation, to overcome voter sentiments, or to work smoothly with the minority. 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 or what outcomes can be achieved.

This report describes and analyzes only rules changes made on the opening day of a new Congress, but it references in footnotes selected other legislation and actions that also changed or affected House rules during the 104th Congress and during subsequent Congresses.

This report is the first in a series on House rules changes at the beginning of a Congress. For changes in the 110th, 111th, and 112th Congresses, see CRS Report R42395, *A Retrospective of House Rules Changes Since the 110th Congress*, by Michael L. Koempel and Judy Schneider. This report will not be updated.

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Introduction

In the 1994 general election, Republicans won a majority of seats in the House for the first time since the 83rd Congress (1953-1955). By practice, the majority party organizes the House. It elects its 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. It is a feature of the House, but not of the Senate, that it must adopt rules at the convening of each Congress. It is also a feature of the House that it relies heavily on its formal rules, and formal means of temporarily changing them, rather than on the informal, ad hoc procedures so often used in the Senate. Although each new House largely adopts the chamber rules that existed in the previous Congress, each new House also adopts changes to those rules. Among the many subjects that the rules may cover, these changes can strengthen the ability of the majority to control the legislative process and the legislative agenda, and they can bestow rights on the minority party, minority interests, and individual Members.¹

The changes made by the Republican majority in the 104th Congress rules resolution and in subsequent rules resolutions adopted by Republican majorities through the 109th Congress addressed nearly every aspect of the legislative process, budget process, committee organization, administrative operations, and ethical standards. The changes the Republican majority made were not conceived solely in the days following the 1994 elections, but drew on many experiences and sources.

This report has two principal parts reflecting its two principal purposes. The first part analyzes the sources of Republican rules changes. Republicans built their critique of Democratic management of the House over many years. In drafting rules for the 104th and subsequent Congresses and in other exercises of the House's rulemaking authority, Republicans could draw on their experience and on a variety of partisan and bipartisan plans and proposals. The first purpose of the report is to identify the sources of the broad rewriting of House rules in the 104th Congress and additional changes in subsequent Congresses.

The second part of the report organizes rules changes affecting committees and the House floor topically and changes affecting budgetary legislation, House administration, and ethics by Congress, and briefly explains the changes in layman's terms. These changes were included in the rules resolutions adopted at the beginning of the 104th through 109th Congresses, special orders adopted in conjunction with the rules resolutions, and Speakers' policy announcements made at the convening of each of these Congresses.² The major topical headings for this part of the report are as follows:

¹ 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.

² The rules resolution in the 104th Congress was H.Res. 6; the rules resolutions in the 105th through 109th Congresses were all 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 (104th Congress rules): "Making in Order Immediate Consideration of House Resolution Adopting the Rules of the House of Representatives for the 104th Congress" and "Rules of the House," *Congressional Record*, vol. 141, part 1 (January 4, 1995), pp. 447-530. Speaker's announcements: "Policies of the Chair," *Congressional Record*, vol. 141, part 1 (January 4, 1995), pp. 551-553.

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

Each of these major headings is further subdivided by topic or by Congress. The second purpose 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 rules over the course of Republican majority control of the House.

This report supplements the official source of rules changes, the *House Rules and Manual*.³ This volume, printed in each Congress to reflect adoption of a rules resolution, contains the current provisions of House rules. For each rule, it also contains the House parliamentarian’s notes describing changes to the rule (or its specific clauses) and decisions of presiding officers and the House based upon the rule. Rules in the *House Rules and Manual* are arranged by rule number.⁴

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. In addition to changes made through rules resolutions, such changes were made through freestanding legislation and as provisions of bills or resolutions, and in report language on legislation and in joint explanatory statements accompanying conference reports.⁵ Legislative branch appropriations bills and budgetary legislation contained organizational, procedural, and other changes that were temporary or permanent. So-called fast-track or expedited House procedures were included in legislation that otherwise addressed a policy matter. Democratic Caucus and Republican Conference rules and decisions also had an impact on how specific House rules (such as rules on suspension of the rules and on committee assignment limits) were implemented. In a few instances, changes made by means other than the House rules

(2) H.Res. 5 (105th Congress rules): “Rules of the House,” *Congressional Record*, vol. 143, part 1 (January 7, 1997), pp. 121-141. Speaker’s announcements: “Announcement by the Speaker Pro Tempore on Procedures for the 105th Congress,” *Congressional Record*, vol. 143, part 1 (January 7, 1997), pp. 146-148.

(3) H.Res. 5 (recodification of House rules, and 106th Congress rules): “Rules of the House,” *Congressional Record*, vol. 145, part 1 (January 6, 1999), pp. 47-234. Speaker’s announcements: “Announcement by the Speaker Pro Tempore,” *Congressional Record*, vol. 145, part 1 (January 6, 1999), pp. 246, 247-249.

(4) H.Res. 5 (107th Congress rules): “Rules of the House,” *Congressional Record*, vol. 147, part 1 (January 3, 2001), pp. 24-37. Speaker’s announcements: “Announcement by the Speaker Pro Tempore,” *Congressional Record*, vol. 147, part 1 (January 3, 2001), pp. 39-41.

(5) H.Res. 5 (108th Congress rules): “Rules of the House,” *Congressional Record*, vol. 149, part 1 (January 7, 2003), pp. 7-21. Speaker’s announcements: “Announcement by the Speaker Pro Tempore,” *Congressional Record*, vol. 149, part 1 (January 7, 2003), pp. 22-24.

(6) H.Res. 5 (109th Congress rules): “Rules of the House,” *Congressional Record*, vol. 151, part 1 (January 4, 2005), pp. 42-67. Speaker’s announcements: “Announcement by the Speaker Pro Tempore,” *Congressional Record*, vol. 151, part 1 (January 4, 2005), pp. 69-71.

³ *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]).

⁴ For additional information, see CRS Report 98-262, *House Rules Manual: Summary of Contents*, by Judy Schneider.

⁵ 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, Christopher M. Davis, and Betsy Palmer.

resolution are described, where necessary to understand changes made in rules resolutions. Selected references to relevant freestanding bills and resolutions, however, are provided in footnotes in the report.

Between the 104th and 109th Congresses, some committees were created and others were abolished, and some committees' names were changed. In this report, the names of committees appear as they existed in the specific Congress referenced.

Following the next section, "The 103rd Congress: Prelude to Change," there is a section titled "Recodification of House Rules, 106th Congress." During the 105th Congress (1997-1999), a Rules Committee task force completed the first recodification of House rules since the 1880s. Citations appearing in this report are only to the recodified rules. The parliamentarian's notes in the *House Rules and Manual*, attached to specific rules, clauses, or paragraphs, trace the recodification of specific provisions of House rules, in addition to changes to the text of the rules.

This report is the first in a series on House rules changes.⁶ A second report currently covers changes for the 110th through 112th Congresses: CRS Report R42395, *A Retrospective of House Rules Changes Since the 110th Congress*, by Michael L. Koempel and Judy Schneider. It is also divided into two parts, with the first part covering the partisan critique of the majority party's management of the House—a source of rules changes when the majority changed—and the second part organizing rules changes topically. The topic headings in reports in the series are the same, to the extent that the same procedural and other topics were addressed in each time frame.

The 103rd Congress: Prelude to Change

The House rules changes made in the 104th Congress reflected a Republican frame of reference that was built over many years as the minority party, including more democratic floor processes, minority party rights, a subordinate role for seniority, accountability in House operations, and streamlining of the House's organization and staffing. The rules changes in the succeeding five Republican-organized Congresses continued to draw on this frame of reference, but also drew on current experiences in managing the House. While Republican Members as members of the minority party for 40 years had less invested in the status quo of the House than Democratic Members, they nonetheless had some investment, such as the opportunity awaiting those Republican Members who might assume the chairmanship of a committee on which they had long served as ranking minority Member. These interests also influenced the final 104th Congress rules package.

Republican criticisms relevant to the changes made in the 104th Congress began with the decisions on rules made at the direction of the Democratic Caucus beginning after the 1974 election. The Committee Reform Amendments,⁷ agreed to just a month before the 1974 elections, had abolished proxy voting in committees and allocated to the minority one-third of statutory committee staff and one-third of investigative committee staff. The rules for the House in 94th Congress (1975-1977) restored proxy voting, although requiring proxies to be given in writing, and abrogated the committee staff allocation formula, with minority committee staffing in the 94th Congress anticipated to be about 20% of total committee staffing.⁸

⁶ In the 1994 general election, Republicans won a majority of seats in the House for the first time since the 83rd Congress (1953-1955). They maintained their House majority through five consecutive elections, until the 2006 election. This report covers that time period.

⁷ H.Res. 988, agreed to in the House October 8, 1974.

⁸ "Congressional Reforms Made in 1975," *Congressional Quarterly Almanac*, 1975, vol. XXXI (Washington, DC:

As the Democratic majority began innovating in the 1970s and 1980s with special rules—such as modified closed rules and “king of the Hill” rules—to give a procedural advantage to its preferred policy outcome,⁹ Republican House Members formed groups, such as the Conservative Opportunity Society and the Republican ‘92 Group, to contest Democrats’ legislative management of the House by employing House procedures to attract attention, to critique Democratic proposals, and to develop and publicize substantive Republican alternatives. The Conservative Opportunity Society, founded by then-Representative Newt Gingrich in 1983, promoted conservative proposals as an alternative to the so-called welfare state.¹⁰ The ‘92 Group, named for the goal of electing a Republican majority in the House in 1992, was founded by Republican moderates such as then-Representatives Olympia Snowe and Tom Tauke. It also advanced proposals for governing as an alternative to Democratic legislation.¹¹

Then, in the 102nd and 103rd Congresses, scandals cast a pall over public perceptions of Congress, exposing Members’ special treatment and self-dealing, and contributing to the public’s sense of disconnection between Members of Congress and their constituents. The disclosure of damaging information began in 1991 with an investigation of the House post office stamp clerks for embezzlement and drug dealing. A reported allegation by a post office supervisor that he had helped Members of Congress “get thousands of dollars in cash through phony transactions disguised as stamp purchases” led to subpoenas for the records of three Members, one of whom was the chair of the Ways and Means Committee, Representative Dan Rostenkowski.¹² On May 31, 1994, Representative Rostenkowski was indicted on 17 criminal charges involving embezzlement, fraud, and coverup.

In September 1991, a General Accounting Office audit revealed that Members had written 8,331 bad checks (non-sufficient fund checks) in the 12 months ending June 30, 1990, at the House bank, a check-cashing service in the Capitol for Members and staff. Later that month, House Administration Committee members revealed that more than 250 Members were in arrears for bills at House restaurants for more than \$255,000. In March 1992, the House voted to release the bad check audit data, including Members’ names.

In May 1992, the ranking Republican Member of the House Appropriations Committee was separately indicted on bribery and illegal gratuities charges. In August 1992, a Democratic Member from Massachusetts was separately indicted on charges of extortion, racketeering, and tax evasion. In the 102nd and 103rd Congresses, a greater than usual number of Members of both chambers were investigated by their house’s respective ethics committees or federal authorities and a number of Members of the House were indicted.¹³

Congressional Quarterly Inc., 1976), p. 30. See also, for example, Rep. Bill Frenzel, “Rules of the House,” *Congressional Record*, vol. 121, part 1 (January 14, 1975), p. 25.

⁹ Steven S. Smith, “Taking It to the Floor,” in Lawrence C. Dodd and Bruce I. Oppenheimer, eds., *Congress Reconsidered*, 4th ed. (Washington, DC: CQ Press, 1989), pp. 331-350.

¹⁰ Public Broadcasting Service, *Frontline*, “The Long March of Newt Gingrich,” original air date of January 16, 1996, interview with Rep. Vin Weber, available at <http://www.pbs.org/wgbh/pages/frontline/newt/newtintwshtml/weber.html>.

¹¹ Susan Webb Hammond, “Congressional Caucuses and Party Leaders in the House of Representatives,” *Political Science Quarterly*, vol. 106, no. 2 (Summer 1991), pp. 277-294; and William F. Connelly Jr. and John J. Pitney Jr., *Congress’ Permanent Minority: Republicans in the House* (Lanham, MD: Rowman & Littlefield Publishers Inc., 1994), pp. 27-30.

¹² “Post Office Probe Hints at Large Scandal,” *Congressional Quarterly Almanac*, 1992, vol. XLVIII (Washington, DC: Congressional Quarterly Inc., 1993), p. 50.

¹³ For background information on ethics matters, including House votes on them, in the 102nd Congress, see *Congressional Quarterly Almanac*, 1992, vol. XLVIII (Washington, DC: Congressional Quarterly Inc., 1993): “Voters

Facing a volatile electorate in the 1992 elections, 52 Representatives retired, 19 were defeated in primaries, and 24 were defeated in the general election. While the state of the economy set the tone for the 1992 elections, the scandals, particularly the House bank scandal, figured prominently in incumbents' decisions not to run for reelection and in incumbents' defeat.¹⁴ In the 1994 election, voters ended Democrats' 40-year majority in the House. While a desire for change was a theme that political observers found among the electorate, a significant group of voters responded specifically to the Republicans' campaign manifesto, the Contract with America, which called for "institutional reforms designed to make the House less cumbersome and more accountable."¹⁵

The Republicans' 104th Congress rules package, subsequent rules packages, and other exercises of the House's rulemaking authority drew many specific changes from experiences like these and from three principal sources: the Republican alternative rules package in the 103rd Congress, the recommendations of the Joint Committee on the Organization of Congress, and the House Republicans' Contract with America.¹⁶ These three sources are discussed in detail in this section.

103rd Congress Rules

The Democratic Caucus at its early organization meeting in December 1992 approved a number of rules changes, which continued to be developed until the rules package (H.Res. 5) was put before the House at the convening of the 103rd Congress on January 5, 1993. Except for a rules change that removed the House general counsel from the Office of the Clerk and created an Office of General Counsel under the Speaker and another rules change that conformed House rules on franked mail to a new law of the 102nd Congress,¹⁷ the Democratic rules package was silent on the ethics issues of the previous Congresses.¹⁸

Enraged Over House Banking Abuses," pp. 23-46; "Post Office Probe Hints at Large Scandal," pp. 47-51; "Cloud of Scandal Hovers over Capitol Hill," pp. 51-55; and "House Tightens Limits on Franked Mail," p. 61.

For background information on ethics matters in the 103rd Congress, see *Congressional Quarterly Almanac, 1993*, vol. XLIX (Washington, DC: Congressional Quarterly Inc., 1994): "Rostenkowski Investigated in Stamp Scam," pp. 64-68, and "Indictments, Convictions Plague Congress," pp. 68-74; and *Congressional Quarterly Almanac, 1994*, vol. L (Washington, DC: Congressional Quarterly Inc., 1995): "Rostenkowski Indicted, Defeated," pp. 43-48, and "Misconduct Charges Plague Members," pp. 50-55.

¹⁴ Phil Kuntz, "House Bank Overdrafts Send a Chill through Campaigns of Incumbents," *Congressional Quarterly Weekly Report*, vol. 50, no. 42, October 24, 1992, pp. 3328-3329; Dave Kaplan and Charles Mahtesian, "Election's Wave of Diversity Spares Many Incumbents," *Congressional Quarterly Weekly Report*, vol. 50, no. 44, November 7, 1992, pp. 3570-3576; and Phil Kuntz, "Overdrafts Were a Potent Charge," *Congressional Quarterly Weekly Report*, vol. 50, no. 44, November 7, 1992, p. 3575.

¹⁵ Robert W. Merry, "Voters' Demand for Change Puts Clinton on Defensive," *Congressional Quarterly Weekly Report*, vol. 52, no. 44, November 12, 1994, pp. 3207-3209.

¹⁶ See, for example, Jeffrey L. Katz, "Republicans Dust Off Blueprints for Changing House Operations," *Congressional Quarterly Weekly Report*, vol. 52, no. 44, November 12, 1994, pp. 3220-3221.

¹⁷ The 103rd Congress rules package proposed to conform House rules to provisions of the fiscal 1993 Legislative Branch Appropriations Act (P.L. 102-392), which disallowed Members from using the frank for mass mailings outside of their districts.

¹⁸ Democrats had nonetheless earlier implemented reforms. In the 102nd Congress, for example, the House on April 9, 1992, agreed to H.Res. 423, the House Administrative Reform Resolution of 1992. Among its provisions, this resolution abolished the Office of Postmaster of the House, removed certain authorities of the Clerk and Sergeant-at-Arms of the House, created a bipartisan Subcommittee on Administrative Oversight of the Committee on House Administration, and established two new entities: the Director of Non-Legislative and Financial Services and the Office of Inspector General. See "House Approves Hiring of Professional Administrator," *Congressional Quarterly Almanac, 1992*, vol. XLVIII (Washington, DC: Congressional Quarterly Inc., 1993), pp. 55-56. The scandals also gave impetus

An innovation included in the rules package provided a vote in the Committee of the Whole to the four Delegates and the Puerto Rican Resident Commissioner, and allowed these five individuals to chair the Committee of the Whole as other Members were able to do. This change also allowed a re-vote in the House if the Delegates' or Resident Commissioner's vote affected the outcome of a vote in the Committee of the Whole. The Delegates and Resident Commissioner were not given a vote in the House meeting as the House. The Delegates and Resident Commissioner could also be appointed to any conference committee, not just those created for legislation reported from a committee on which they served. During debate, Democratic Members portrayed this change as a matter of fairness and democracy in action, and pointed out the services of citizenship undertaken by residents of the territories, Puerto Rico, and the District of Columbia. They argued that allowing the Delegates and Resident Commissioner to vote in the Committee of the Whole did not flout constitutional requirements since their votes could not affect the outcome of votes in the House.¹⁹ (The counter-argument appears below under "Republican Critique.")

Democratic Members indicated that other major changes proposed to the House rules were made for purposes of legislative efficiency and productivity, although Republicans challenged this explanation and countered with their own proposed rules changes, as explained below (see "Republican Critique"). Committees were allowed to meet while the House was sitting under the five-minute rule, without having to seek permission to do so. Committee records were dispositive on the presence of a quorum to report a measure, reducing the opportunity to raise a point of order on the floor, and a point of order on the floor was prohibited in most instances when a measure was reported by a voice vote or unanimous consent. (A counter-argument appears below under "Republican Critique.") Moribund general teller vote procedures (a method of counting votes without recording individual Members' positions) in the Committee of the Whole were eliminated; the possibility of recorded tellers remained in the event the electronic voting system malfunctioned.

The Speaker was authorized to declare short recesses throughout a Congress, rather than only by authorization of a special rule, a general authority previously granted only at the end of a Congress. If a question of the privileges of the House was raised by the majority or minority leader, it would be considered immediately. If a privileges of the House resolution was offered by another Member, it would be noticed, and the Speaker was required to schedule debate on it within two legislative days. Debate time on a question of the privileges of the House would be divided between the proponent, on the one hand, and the leadership of the party in opposition to the motion, on the other, as determined by the Speaker. This change allowed the Speaker to put off debate on any privileges of the House resolution not raised by the majority or minority leader to a time of the Speaker's, majority's, or House's preference, and took half of debate time away from the proponent of a question of privileges, who previously controlled all debate time.

In instances where the Senate added legislative language to a general appropriation bill and a motion was made in the House to, in the motion's effect, agree to a change in existing law, the chair of the authorizing committee with jurisdiction over the subject matter could make an

to the creation of a new Joint Committee on the Organization of Congress, to report recommendations at the end of 1993. See "Lawmakers Look for Ways to Improve Operations," *Congressional Quarterly Almanac*, 1992, vol. XLVIII (Washington, DC: Congressional Quarterly Inc., 1993), pp. 56-57.

Votes occurred on additional resolutions during the 102nd Congress to authorize investigations, such as one concerning the House bank, and to release information, such as the list of all sitting and former Members who had written overdraft checks. For background information, see the sources listed at footnote no. 13.

¹⁹ Debate on the 103rd Congress House rules appears in *Congressional Record*, vol. 139, part 1 (January 5, 1993), pp. 49-100.

intervening motion to insist on disagreement to the amendment. While some could argue that the change protected the prerogatives of the House, others could argue that the change was a parochial protection for a specific committee. The change also allowed the motion to hold up a conference report without proposing a legislative solution. The motion would then be debated for one hour, with time divided between the proponent of the motion to insist on disagreement and a proponent of the motion to change existing law, presumably the chairs of the authorizing and Appropriations committees. The Speaker was also authorized to add Members to, and remove them from, conference committees and select committees.

The House Fair Employment Practices resolution²⁰ was codified in the rules, and changes were made in procedures of the Office of Fair Employment Practices. The permanent authorization of the Select Committee on Aging was repealed, and the temporary authorizations of three existing select committees were not renewed in the rules package, thus terminating the existence of those select committees.²¹

A rules change that had been endorsed by the Democratic Caucus was dropped from the proposed rules package. This change would have limited special orders (non-legislative debate normally occurring after the conclusion of a day's legislative debate) to three hours or not later than 9:00 p.m., whichever came first. Special orders were allowed under the traditions of the House, and regulated by the Speaker's announced policies. When the rules change was not offered, special orders continued to be regulated by the Speaker's announced policies.

Republican Critique

While the majority party in the House can use its numbers to effect the chamber rules it desires, the minority party often tries to amend the rules proposed by the majority and normally critiques the proposed rules. Republicans in the 103rd Congress argued against the proposed rules on the basis of what they did and what they failed to do. Representative Gerald Solomon, as ranking Republican on the Rules Committee and Republican floor manager of the rules debate, used his opening remarks to argue that, after the events of the last Congress, voters had chosen change in the 1992 election and Democrats were misreading the voters' message: "The American people thought last November they were voting for a change. Where is it?"²²

Many of the Republican Members who spoke during debate on the rules spoke against allowing the Delegates and Resident Commissioner to vote in the Committee of the Whole. Their arguments were based on constitutional objections that only Representatives of states may be Members of the House;²³ the constitutionality of the existing practice of allowing Delegates and

²⁰ H.Res. 558, agreed to in the House October 3, 1988, and renewed in the 101st and 102nd Congresses before being incorporated into House rules in the 103rd Congress.

²¹ The existence of the Select Committees on Children, Youth, and Families; Hunger; and Narcotics Abuse and Control were not extended. In addition, changes in Democratic Caucus rules related to subcommittees resulted in the elimination of more than 15 subcommittees, an example of the impact of a party's decision on the implementation of House rules.

²² Rep. Gerald Solomon, "Rules of the House," *Congressional Record*, vol. 139, part 1 (January 5, 1993), p. 55. Several Republican Members and media editorials noted the Republicans' 10-seat gain in the House in the 103rd Congress. Perhaps more indicative of the change that occurred in the congressional elections was the number of new Members elected—110—of whom 63 were Democrats and 47 were Republicans.

²³ The Constitution states: "The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature." U.S. Const. art. I, §2, cl. 1. The Constitution also states: "No person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen." U.S.

the Resident Commissioner to vote on committees had not been established; the disparity that existed in population among the territories, Puerto Rico, and the District of Columbia and between the territories and the congressional districts; and the situation that federal income tax receipts were returned to the territories, Puerto Rico, and the District of Columbia. Some Members also argued that, practically, the votes of the Delegates and Resident Commissioner would be sought to build a majority and, politically, the change reduced the Republicans' election gains by half since the Delegates and Resident Commissioner were all Democrats. This last point was reinforced in editorial columns representing a range of political orientation.

Although other specific proposals in the rules package evoked criticism, none besides the Delegate voting was criticized so much as expanding the possible meaning of the requirement for a quorum to be physically present in committee to report out legislation. Minority Leader Robert Michel stated:

a rolling quorum defeats the purpose of collective deliberation and decision making. The very word "Congress" has at its root the concept of coming together, of being together, of political community, and to institute procedures that fragment the collective sense of decision making and responsibility in the House is to demean the very concept of the Congress.²⁴

In discussing the proposed change to this rule, Representative Bob Walker's remarks revealed that a sense of the comity between the two parties appeared to be lacking:

Under the rolling quorum concept, what can happen is that legislation can be passed not by a committee meeting in a room and deciding that it is time to pass the legislation, but by a declaration that "what we are going to do is allow the vote to remain open until sufficient members of the committee have shown up to vote on the matter," so literally the vote can take place over a matter of hours, over a matter of days, over a matter of weeks, over a matter of months.²⁵

Republican Procedural Actions

In addition to debate, the Republican minority did three other things during the debate on the proposed rules package. First, they prepared an extensive alternate package of rules changes (see **Table 1**) although they were not able to offer the alternate as an amendment once the previous question was moved on the Democratic majority's rules resolution. Once the previous question is moved in the House, no amendments or further debate are in order.²⁶ A number of the proposals in

Const. art I, §2, cl. 2.

Several Republican Members challenged in court the granting of voting rights in the Committee of the Whole to Delegates and the Resident Commissioner. The court found the rule valid since the votes were rendered "meaningless" in instances where they would be decisive in a vote's outcome. *Michel v. Anderson*, 817 F. Supp. 126 (D.D.C., 1993), *aff'd*, 14 F.3d 623 (D.C. Cir., 1994). 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; and CRS Report R40170, *Parliamentary Rights of the Delegates and Resident Commissioner From Puerto Rico*, by Christopher M. Davis.

²⁴ Rep. Robert Michel, "Rules of the House," *Congressional Record*, vol. 139, part 1 (January 5, 1993), pp. 93-96.

²⁵ Rep. Bob Walker, "Changes in House Rules," *Congressional Record*, vol. 139, part 1 (January 5, 1993), pp. 115-117. Mr. Walker spoke during rules debate. These remarks are from a 60-minute special order for which Mr. Walker was recognized in the evening following the debate. The complete special order appears on pp. 115-122.

²⁶ The majority's proposed rules package was debated in the House under the hour rule, and an additional 30 minutes was added to the debate time by unanimous consent. The previous question was ordered on a 249-176 vote, thereby eliminating the possibility of amendment. One motion to commit by the minority was in order after the previous question was ordered.

this alternate rules package were included in the Republicans' 104th Congress rules resolution, and several of these proposals (or similar ones) also appeared in the Democrats' 103rd Congress rules resolution.

Second, Republicans inserted in the *Congressional Record* nearly 24 pages of documentation explaining and in support of their alternate rules package.²⁷ Third, they offered two motions that provided alternative ways (to amending) to obtain votes on changes to the majority's proposed rules package. As soon as the resolution containing the majority's rules package was reported on the floor, Representative Gerald Solomon offered a motion to refer the resolution to a special committee to study the constitutionality of giving voting rights in the Committee of the Whole to Delegates and the Resident Commissioner. The motion was tabled on a vote of 224-176.²⁸ At the conclusion of debate on the majority's rules package, Representative Michel offered a motion to commit the resolution to a select committee with instructions to report back forthwith with two amendments to strike provisions related to new privileges for the Delegates and Resident Commissioner and to add a new provision of term limits of three consecutive Congresses for chairs and ranking minority Members of standing committees, effective immediately. The motion was defeated on a 187-238 vote.²⁹

The Republicans' alternate rules package was the first principal source of rules changes subsequently advanced by Republican majorities in the 104th and subsequent Congresses.

Table I. Summary of Republican Rules Package, 103rd Congress

Congressional-Presidential Relations
When cleared by Congress, House-originated bills are transmitted to the President within 10 calendar days
Upon reading of veto message in House, the Speaker immediately puts question on reconsideration
Administrative Matters
At the beginning of a session of Congress, the Speaker announces the legislative program, target dates for considering major legislation, weeks in session (assuming a five-day work week), weeks of district work periods, and a target adjournment date
Reprogramming of House funds is allowed only with the approval of the Speaker and minority leader
Speaker provides for uniform visual broadcast coverage of House
Office of Doorkeeper is abolished
Chief Financial Officer of the House is established, with responsibilities for reviewing and analyzing the House's financial operations, managing specified operations, and reporting to the Speaker, minority leader, and House Administration Committee
Office of General Counsel is created, accountable to a bipartisan leadership group; House approval of a resolution is required for the general counsel to appear before a court or file a brief
Members and staff on foreign travel must disclose their official itinerary

²⁷ Rep. Gerald B. Solomon, "Rules of the House" (inserted materials), *Congressional Record*, vol. 139, part 1 (January 5, 1993), pp. 55-76. Rep. Solomon and other Republican Members also inserted analyses and newspaper editorials at other points in the debate.

²⁸ *Ibid.*, pp. 53-53.

²⁹ Rep. Robert Michel, "Rules of the House," *Congressional Record*, vol. 139, part 1 (January 5, 1993), pp. 98-99. The partisan lineup of Members at the convening of the 103rd Congress (1993-1995) was 258 Democrats, 176 Republicans, and one independent, who caucused with the Democrats. On the motion to table, all Republicans voting and 10 Democrats voted against the motion. On the motion to recommit, all Republicans voting and 14 Democrats voted for the motion. The rules package was subsequently agreed to on a 221-199 vote, with all Republicans who voted and 27 Democrats voting against it.

Members are disallowed from sending franked mass mailings outside their districts

Appropriate committees are directed to report legislation bringing the House under coverage of specific laws: National Labor Relations Act, Occupational Safety and Health Act, Equal Pay Act, Age Discrimination Act, Freedom of Information Act, Privacy Act, title VII of the Civil Rights Act, and Independent Counsel Act

Committees: Organization

House elects committee members within seven calendar days of Congress's convening, and committees organize within seven calendar days of election

Party ratios on committees, subcommittees, select committees, and conference committees reflect party ratios of full House, unless House rules provide otherwise

House Administration Committee has an equal party ratio

House Subcommittee on Legislative Appropriations has an equal party ratio

Chair and majority of members of the Government Operations Committee are of the opposite party to that of the President

Size of the Permanent Select Committee on Intelligence is reduced to 13 from 19 members, with a 7-6 majority-minority party ratio

Existing select committees are abolished

Committees are limited to five subcommittees, except for the Committee on Appropriations, which may have not more than 13 subcommittees, and nine major committees, which may have not more than six subcommittees: Committees on Agriculture, Armed Services, Banking, Education and Labor, Energy and Commerce, Foreign Affairs, Judiciary, Public Works, and Ways and Means

No Member may serve on more than four subcommittees

A three-Congress term limit is placed on committee chairs and ranking minority Members

House members of the Joint Committee on the Organization of Congress are directed to request the joint committee to study and recommend committee jurisdiction realignment on functional lines and with parallel jurisdictions between House and Senate committees and with executive departments

Committees: Procedures

Joint referral of measures is eliminated; Speaker may designate a committee of principal jurisdiction

The majority of a committee or subcommittee constitutes its quorum to conduct business, including markup of legislation

Proxy voting is banned

Committee meetings may be closed only for reasons of national security or personal privacy, and only by majority roll-call vote

Committee reports on measures and other matters must include the names of those voting for and against reporting; if reporting was done without a record vote, a list of Members present must appear in the report

Committees: Additional Matters

Committee and subcommittee prints may be released to the public by vote, with the opportunity for inclusion of minority or additional views, or they may be released without a vote but must carry a disclaimer that the document does not reflect the views of the committee or its members

Oversight plans from committees for a new Congress are sent to the House Administration Committee, which reports the plans to the House by March 15 with any recommendations to ensure coordination; Speaker may appoint ad hoc oversight committees when committees share jurisdiction

Prior to consideration of a committee expense resolution, the House must adopt a resolution establishing an overall ceiling on House committee staff; the Budget and Appropriations Committees are subject to same staff ceiling and committee expense resolutions

The number of committee staff is reduced by 10% a year over three years

The minority is entitled to up to one-third of investigative staff funds

Members, officers, and employees must take an oath not to disclose classified materials

Floor Procedures: Special Rules

Special rules may not be considered on same calendar day as they are reported or on a subsequent calendar day of the same legislative day, except by a two-thirds vote of the House

Rules Committee may not report a special rule limiting floor amendments on a measure, unless the Rules Committee chair announces to the House at least four days in advance of a committee meeting that such a rule may be reported

House must agree by a two-thirds vote to consideration of a special rule that provides for automatic adoption of an amendment, bill, joint resolution, conference report, motion, or matter

Rules Committee may not report a special rule disallowing amendatory instructions in a motion to recommit

Floor Procedures: Suspension of the Rules

Measures may be considered by suspension of the rules only by direction of the committees of jurisdiction or on request of the chair and ranking minority Member of such committees

Notice that a measure will be considered by suspension of the rules is placed in the *Congressional Record* at least one day in advance of consideration, together with the text of any amendment

No measure may be considered by suspension of the rules that authorizes or appropriates more than \$50 million for a fiscal year

No constitutional amendment may be considered by suspension of the rules

Floor Procedures: Additional Matters

Automatic roll-call votes are required for final passage of appropriations, tax, and Member pay-raise bills; conference reports; and adoption of budget resolutions and conference reports containing debt-limit increases

Names of signers of discharge petitions are published in the *Congressional Record* once 100 signatures are obtained; updates are published weekly thereafter

Pledge of Allegiance is required as the third item in the House's order of business

Congressional Record is a verbatim account of proceedings

A commemorative calendar is established

Conference Matters

Members are allowed three days to file supplemental, minority, or additional views in conference reports

Budgetary Legislation

Rules Committee reports on special rules must justify any proposed Budget Act waiver, and must contain comments on the waiver received from the Budget Committee; a separate vote could be demanded in the House on a Budget Act waiver

A point of order would lie against a provision of a reconciliation bill not directly related to reconciliation instructions to reduce spending or raise revenues, as determined by the Budget Committee

To consider an appropriations bill under a special rule, a three-fifths vote is required to agree to the special rule if it waives points of order against, or denies amendments to, an unauthorized or legislative provision, if such a provision had not been previously agreed to for that fiscal year by the House

Committee reports on appropriations bills must include a list of unauthorized activities funded in such bills

Restrictions on limitation amendments to appropriations bills are abolished

Offsetting, deficit-neutral amendments may be offered en bloc to an appropriations measure

Continuing appropriations measures of less than 30 days may provide only for the lesser spending amount of the House bill, Senate bill, conference report, or previous year's appropriation; this ceiling could be waived only by a three-fifths vote

Continuing appropriations of more than 30 days must carry the full text of the provisions to be enacted

Prohibition on legislation and unauthorized appropriations in appropriations bills is extended to long-term continuing resolutions

CBO cost estimate is required to be included in the committee report on a long-term continuing resolution

Authorization measures for a fiscal year, if reported after May 15 immediately preceding the beginning of that fiscal year, may not be considered

House members of the Joint Committee on Organization of Congress are directed to request that the joint committee study and make recommendations on biennial budgeting

Rules and Government Operations Committees are directed to report a bill granting the President enhanced rescission authority, which would be subject to disapproval by congressional enactment

Campaign Reform

House Administration Committee is directed to report a campaign reform bill

Source: Prepared by authors based on Republican amendment and amendment summary printed in the *Congressional Record*. Rep. Gerald B. Solomon, "Rules of the House" (inserted materials), *Congressional Record*, vol. 139, part 1 (January 5, 1993), pp. 60-69.

Joint Committee on the Organization of Congress

A second principal source for Republicans' 104th Congress and subsequent rules was the recommendations of the Joint Committee on the Organization of Congress.³⁰

The 102nd Congress (1991-1992) created a Joint Committee on the Organization of Congress (JCOC).³¹ The joint committee was directed in H.Con.Res. 192 to report to the two chambers by December 31, 1993, the end of the 103rd Congress's first session, on its work:

[The joint committee shall] (1) make a full and complete study of the organization and operation of the Congress of the United States; and (2) recommend improvements in such organization and operation with a view toward strengthening the effectiveness of the Congress, simplifying its operations, improving its relationships with and oversight of other branches of the United States Government, and improving the orderly consideration of legislation.³²

The study shall include an examination of—(1) the organization and operation of each House of the Congress, and the structure of, and the relationships between, the various

³⁰ Among the Republican House Members who served on the joint committee were Gerald Solomon and David Dreier, who was named co-vice chair of the joint committee. In the transition following the 1994 general elections, Speaker-designate Newt Gingrich selected Representative Solomon, a House Rules Committee member, to chair the committee in the 104th Congress. He also placed Representative Dreier, another House Rules Committee member, in charge of streamlining House committees and legislative operations; Mr. Dreier's proposals, including those he drew from the joint committee's recommendations, were the foundation for the rules resolution adopted for the 104th Congress. Michael Barone and Grant Ujifusa, *The Almanac of American Politics 1996* (Washington, DC: National Journal Inc., 1995), p. 165; and Philip D. Duncan and Christine C. Lawrence, *Politics in America 1996* (Washington, DC: Congressional Quarterly Inc., 1995), p. 150.

³¹ For additional information, see U.S. Congress, Joint Committee on the Organization of Congress, *Organization of the Congress: Final Report of the House Members of the Joint Committee on the Organization of Congress*, 103rd Cong., 1st sess., H.Rept. 103-413 (Washington, DC: Government Printing Office, 1993); and CRS Report RL31835, *Reorganization of the House of Representatives: Modern Reform Efforts*, by Judy Schneider, Christopher M. Davis, and Betsy Palmer, from which some information in this section was drawn.

³² Section 2(a) of H.Con.Res. 192, final action occurring in the House Aug. 6, 1992. H.Con.Res. 192 was continued in effect in the 103rd Congress by a provision in the Legislative Branch Appropriations Act for Fiscal Year 1993 (P.L. 102-392, §317 (1992)).

standing, special, and select committees of the Congress; (2) the relationship between the two Houses of Congress; (3) the relationship between the Congress and the executive branch of the Government; (4) the resources and working tools available to the legislative branch as compared to those available to the executive branch; and (5) the responsibilities of the leadership, their ability to fulfill those responsibilities, and how that relates to the ability of the Senate and the House of Representatives to perform their legislative functions.³³

For the House, the House subcommittee of the joint committee recommended changes affecting the breadth of House organization and operations. Many of these recommendations were mirrored in the Senate subcommittee's recommendations for the Senate.

The following is a synopsis of the House subcommittee's recommendations, which informed the Republicans' rules resolutions and other exercises of the House's rulemaking authority beginning with the 104th Congress:

Legislative-Executive Relations

All standing House committees should be required to prepare an oversight agenda at the beginning of each Congress and to submit it to the House Administration Committee for consideration in the committee funding process. The House Administration Committee should publish these agendas and its recommendations for coordination among committees' oversight activities. Committees should also be required to hold oversight hearings on reports concerning the executive branch, such as inspectors general's reports. All committees should be directed to eliminate unessential executive reporting requirements.

With House approval, the Speaker should be authorized to appoint ad hoc oversight committees.

Although there were no specific recommendations on legislative-judicial relations, appropriate committees were encouraged to develop formal and informal means of dialogue between the two branches.

Committee System

Members' committee assignments should be limited to two standing committees and four subcommittees. Waivers could be granted by the House only after recommendation of a Member's party caucus. If enforcement of the assignment limit caused a committee to have less than half the number of Members serving on it as it had in the 103rd Congress, the Rules Committee would be directed to report a resolution abolishing the committee and transferring its jurisdiction.

A Member should be allowed to serve on the Permanent Select Committee on Intelligence for eight years (rather than six years), and the chair could serve an additional term if the Member named chair was in his or her final term.

Except for the Committee on Appropriations, exclusive or major committees should not have more than five subcommittees. Non-major committees would be limited to four subcommittees. The Speaker would be instructed to designate a "primary" committee of jurisdiction in referring legislation, and could set time or subject-matter limits on other committees of referral after the primary committee reported a piece of legislation.

Subcommittees should be prohibited from meeting when their parent committee was meeting, without the written permission of the committee chair. A week's notice of a committee or

³³ Ibid., §2(b).

subcommittee meeting should generally be required. Committee reports should include the roll-call vote on a motion to report or, if reporting was by voice vote, contain a list of those Members present for the voice vote. Committees should be directed to publish their committee and subcommittee attendance and voting records semiannually in the *Congressional Record*.

Standing committees should prepare an oversight agenda at the beginning of each Congress, and report at the end of the Congress on how that agenda was fulfilled. The reports would be taken into consideration by the House Administration Committee in deliberations on committee funding.

Floor Procedure

A minority motion to recommit with instructions should be guaranteed. Members should also be permitted in debate to make references to certain actions taken by the Senate or its committees that were a matter of public record.

The House should have a four-day legislative week, and specific times would be set aside only for floor proceedings or only for committee meetings. The *Congressional Record* should be a substantially verbatim transcript of House proceedings. The House parliamentarian should be directed to prepare a recodification of House rules.

Budgetary Legislation

Congress should establish a two-year budget cycle for presidential budget submissions, budget resolutions, multiyear authorizations, and appropriations. A budget resolution and appropriations bills would be considered in the first year of the two-year cycle, and multiyear authorizations and committee oversight would occur in the second year.

The Appropriations Committee should be required to notify appropriate committees of jurisdiction whenever it reported a measure containing unauthorized appropriations or legislative provisions. A point of order would lie against an appropriation in excess of an authorization level set by the House.

Budget resolutions should include a statement on total tax expenditures attributable to special provisions of the tax code. Committee reports on tax bills, and joint explanatory statements to conference reports on tax bills, should list tax expenditures, and committee reports on appropriations bills, and joint explanatory statements to conference reports on appropriations bills, and authorization bills should list earmark provisions.

To gain better control over entitlement spending, a new process should be established that requires the President to submit targets for direct spending and to make recommendations for reaching the targets in the event they will be exceeded.

Ethics Process

The Committee on Standards of Official Conduct (the “Ethics Committee”) should be allowed to use a panel of private citizens as fact finders to investigate complaints against Members and to report to the committee any formal charges of violations.

Staffing and Support Agencies

A Speaker task force should be appointed to study the legislative branch to achieve cost savings consistent with reductions implemented in the executive branch under the National Performance Review.

Eight-year authorizations should be imposed on the Congressional Budget Office, Congressional Research Service, General Accounting Office (now the Government Accountability Office³⁴), Office of Technology Assessment,³⁵ and Government Printing Office. Appropriate committees should study means to better coordinate nonpartisan services in the legislative branch and minimize duplication, and should assess the feasibility of opening such services to competitive bidding by the private sector. Appropriate committees should report on the feasibility of granting to private firms by competitive bid the right to operate certain congressional facilities, including the barber and beauty shops, gymnasium, health and medical services, restaurants, and child care facilities.

A bicameral “office of compliance” should be created to study how to apply labor laws to Congress, and to issue regulations applying those laws to Congress, effective on House and Senate approval of a concurrent resolution. The office should also establish administrative enforcement mechanisms, using independent hearing officers and providing recourse to federal appellate review.

The House Administration Committee should be given a goal of creating professional development programs for congressional employees. Appropriate House and Senate committees should study staff salaries and take steps to achieve greater parity between the chambers.

Information Technology

The Joint Committees on the Library and on Printing should be abolished, and their functions should be transferred to a Joint Committee on Information Management, which would oversee information management for Congress.

Public Understanding

To foster public understanding of Congress and the legislative process, the House should undertake different activities such as experimenting with alternative forms of debate, such as Oxford Union-style debates; encourage the creation of a congressional education center; and enhance orientation programs for journalists covering Congress. Legislative information should be more readily available to Members, the public, and the media, and bills, committee reports, conference reports, and amendments (to bills to be considered under suspension of the rules) should be available for review at least 24 hours before consideration.

Action on the JCOC Recommendations in the 103rd Congress

Legislation embodying the JCOC’s recommendations was introduced in the 103rd Congress (H.R. 3801 and S. 1824), but no action was taken on these measures. The House, however, passed H.R.

³⁴ For a history and explanation of the name change, see the Government Accountability Office’s website, at <http://gao.gov/about/namechange.html>.

³⁵ Congress did not fund the continuation of the Office of Technology Assessment (OTA) in FY1996. The House Appropriations Committee did not include funding in H.R. 1854, the fiscal 1996 appropriation bill for the legislative branch, and an amendment to restore funding was defeated on the House floor. “Legislative Branch Appropriations Act, 1996,” *Congressional Record*, vol. 141, part 12 (June 21, 1995), pp. 16677-16683. The Senate Appropriations Committee reported H.R. 1854 with only termination funds for OTA. An amendment to restore funding was defeated on the Senate floor. “Legislative Branch Appropriations Act for Fiscal Year 1996,” *Congressional Record*, vol. 141, part 14 (July 20, 1995), pp. 19635-19640, 19641-19647, and 19661. As sent to the President, H.R. 1854 contained termination funding. After President Clinton vetoed H.R. 1854, Congress sent to the President H.R. 2492, which contained only termination funding for OTA (P.L. 104-53, 109 Stat. 514, 526 (1995)).

4822, the Congressional Accountability Act, which the Senate did not act on. In explication of recommendations of the joint committee, this bill would have applied certain federal labor laws to Congress, established an Office of Congressional Fair Employment Practices, provided a dispute resolution process, and established a procedures for Congress to consider rules proposed by the new office's board. The House also agreed to H.Res. 578, establishing an Office of Compliance and effecting other recommendations related to the applicability of labor laws to Congress.³⁶

The House and Senate also came close to passing new lobby laws and gift rules (S. 349, H.Rept. 103-75), but, while the House agreed to the conference report on the measure, Senate consideration ended when the Senate failed to invoke cloture on the conference report.

Contract with America

As part of the campaign preceding the 1994 elections, most Republican candidates for U.S. Representative signed the Contract with America, a campaign platform for institutional change and priority legislation, should Republicans become the majority party in the House in the 104th Congress. The provisions of the platform that related to Congress as an institution were as follows:

On the first day of the 104th Congress, the new Republican majority will immediately pass the following major reforms, aimed at restoring the faith and trust of the American people in their government:

First, require all laws that apply to the rest of the country also apply equally to the Congress;

Second, select a major, independent auditing firm to conduct a comprehensive audit of Congress for waste, fraud or abuse;

Third, cut the number of House committees, and cut committee staff by one-third;

Fourth, limit the terms of all committee chairs;

Fifth, ban the casting of proxy votes in committee;

Sixth, require committee meetings to be open to the public;

Seventh, require a three-fifths majority vote to pass a tax increase;

Eighth, guarantee an honest accounting of our Federal Budget by implementing zero base-line budgeting.³⁷

The Contract with America was the third principal source for changes to House rules in the 104th Congress. These eight planks were the basis for the eight sections of title I of H.Res. 6, agreed to in the House January 4, 1995.

Recodification of House Rules, 106th Congress

The recodification of House rules was a recommendation of the Joint Committee on the Organization of Congress. A brief explanation is included here in this report since references to the numbers and clauses of rules in succeeding sections are to the recodified rules.

With the Speaker's approval, the Rules Committee established a task force on recodification at the committee's organizational meeting for the 105th Congress. House rules had last been

³⁶ H.Res. 578, agreed to in the House October 7, 1994.

³⁷ The text of the Contract with America can be found at <http://www.house.gov/house/Contract/CONTRACT.html>.

comprehensively recodified in the 1880s. Fifty-one rules were collapsed to twenty-eight, without substantive change but with deletion of obsolete provisions. The recodification sought to use consistent language, to cluster together like provisions, and to retain rules numbers long associated with certain procedures.³⁸ The Rules Committee presented its recommendations to House leaders, chairs, and ranking minority Members in October 1998.³⁹ The proposed recodification was adopted when the House adopted its rules for the 106th Congress on January 6, 1999.⁴⁰

The parliamentarian’s notes in the *House Rules and Manual*, attached to specific rules, clauses, or paragraphs, trace the recodification of specific provisions of House rules, in addition to changes to the text of the rules. Therefore, citations appearing in the balance of this report are only to the recodified rules, and only to a clause of a rule at the time a change was made. Cross references to House rules prior to recodification may be found in the parliamentarian’s notes or through **Table 2**, and changes following recodification to the numbering of clauses, paragraphs, and subparagraphs may be found in the parliamentarian’s notes.

Table 2. Structure of House Rules before and after Recodification

Structure of 105th Congress Compared with 106th Congress Rules

Subject	Former Rule Number(s)	Recodified Rule Number
Speaker	Rule I	Rule I
House Officers and Officials	Rules II, III, IV, V, VI, VII	Rule II
Members of Congress	Rules VIII, XII	Rule III
Hall of the House	Rules XXXI, XXXII, XXXIII	Rule IV
Broadcasting the House	Rule I	Rule V
Official reporters, media galleries	Rule XXXIV	Rule VI
Records of the House	Rule XXXVI, XXXVII	Rule VII
Response to Subpoenas	Rule L	Rule VIII
Questions of Privilege	Rule IX	Rule IX
Organization of Committees	Rules X, XI, XLVIII	Rule X
Procedures of Committees	Rules XI, X, XXXV	Rule XI
Referral of Measures	Rules X, XXII, XXXIX	Rule XII
Reports of Committees	Rules XI, XIII	Rule XIII
Order of Business	Rule XXIV	Rule XIV
Special Days	Rules XXVII, XXIV	Rule XV
Motions and Amendments	Rule XVI	Rule XVI
Decorum and Debate	Rules XIV, XXIX, XXX	Rule XVII
Committee of the Whole	Rule XVIII	Rule XXIII

³⁸ A separate order allowed the majority and minority leaders, or their designees, to insert materials in the *Congressional Record* that they considered legislative history pertinent to the recodification. H.Res. 5, §2(e) (106th Cong.), agreed to in the House January 6, 1999.

³⁹ U.S. House, Committee on Rules, *Survey of Activities of the House Committee on Rules, 105th Congress*, 105th Cong., 2nd sess., H.Rept. 105-840 (Washington, DC: GPO, 1999), pp. 51-52.

⁴⁰ “Rules of the House,” *Congressional Record*, vol. 145, part 1 (January 6, 1999), pp. 47-235.

Subject	Former Rule Number(s)	Recodified Rule Number
Motions after Amendment Stage	Rule XVII	Rule XIX
Voting and Quorum Calls	Rules XVI, I, XXXVIII	Rule XX
Restrictions on Certain Bills	Rule XXI	Rule XXI
House-Senate Relations	Rule XX, XXVIII	Rule XXII
Statutory Public Debt Limit	Rule XLIX	Rule XXIII
Code of Official Conduct	Rule XLIII	Rule XXIV
Use of Official Funds	Rules XLV, XLVI	Rule XXV
Outside Earned Income, Gifts	Rules XLVII, LI	Rule XXVI
Financial Disclosure	Rule XLIV	Rule XXVII
General Provisions	Rule XLII	Rule XXVIII

Source: Prepared by authors of this report, based in part on Rep. David Dreier, “Major Rule Citation Changes Pursuant to the Recodification of the Rules of the House” (table) in “Rules of the House,” *Congressional Record*, vol. 145, part I (January 6, 1999), pp. 82-83.

Notes: The subject column lists the subject of the recodified rules, in numerical order. Individual pre-recodification rules might have covered several subjects; the column Former Rule Number(s) lists principal sources for a recodified rule, not the source of every provision of a recodified rule. A table showing the recodification of specific text, with commentary on changes, appears at Rep. David Dreier, “Rules of the House,” *Congressional Record*, vol. 145, part I (January 6, 1999), pp. 84-223.

Rules Changes Affecting Committees

Surveys and hearings conducted by the Joint Committee on the Organization of Congress showed that Members and staff, in overwhelming numbers, ranked committee structure and other matters involving committees to be among their greatest concerns.⁴¹ The House had previously made extensive changes to committee organization or procedures or both in the Legislative Reorganization Act of 1946, the Legislative Reorganization Act of 1970, the Congressional Budget and Impoundment Control Act of 1974, the Committee Reform Amendments of 1974, and a 1980 resolution realigning committee jurisdiction over energy.⁴² Incremental changes to committee organization and procedures had been made in biennial rules resolutions, and, as noted above, decisions in the Democratic-controlled House in the 103rd Congress eliminated four select committees.

Changes to the committee system made in rules resolutions in the 104th Congress and subsequently addressed most aspects of the committee system. The following section identifies changes made to the committee system on the opening day of each Congress since the 104th Congress in resolutions adopting the rules of the House and establishing special orders, and

⁴¹ U.S. Congress, Joint Committee on the Organization of Congress, *Organization of the Congress: Final Report of the House Members of the Joint Committee on the Organization of Congress*, 103rd Cong., 1st sess., H.Rept. 103-413 (Washington, DC: Government Printing Office, 1993), p. 23.

⁴² Legislative Reorganization Act of 1946, 60 Stat. 812 (1946); Legislative Reorganization Act of 1970, 84 Stat. 1140 (1970); Congressional Budget and Impoundment Control Act of 1974, 88 Stat. 287 (1974); the Committee Reform Amendments of 1974, H.Res. 988, agreed to in the House October 8, 1974; and energy jurisdiction realignment, H.Res. 549, agreed to in the House March 25, 1980. For a detailed history of House reform efforts since 1946, see CRS Report RL31835, *Reorganization of the House of Representatives: Modern Reform Efforts*, by Judy Schneider, Christopher M. Davis, and Betsy Palmer.

pursuant to the Speakers' announcements. The section is organized around three central themes: (1) structure and organization, including committee chairmanships and committee assignments, committee jurisdiction, and subcommittees; (2) procedure, including committee hearings and meetings, committee reports, referral, and oversight; and (3) staff and funding.⁴³

Structure and Organization

Assignments and Size

*General Assignment Rules*⁴⁴

H.Res. 6, agreed to in the 104th Congress, prohibited Members from serving on more than two standing committees and four subcommittees of standing committees, with exceptions approved by the House upon recommendation of the respective party caucus or conference. House rules had been silent on assignment limitations.⁴⁵ A subcommittee was defined as a unit of a committee set up for at least six months; a special oversight subcommittee of the National Security Committee was exempted from this definition. Ex officio service by a chair or ranking minority Member on their committee's subcommittees was not included in the limit.

H.Res. 6 also authorized the Speaker, with the approval of the House, to appoint ad hoc oversight committees to review matters within the jurisdiction of two or more standing committees. The change was one of several made in House rules to enhance and coordinate House committee oversight. A House rule previously provided this authority to the Speaker only when the House approved creation of an ad hoc committee with legislative authority or, generally, a select committee.

*Budget Committee*⁴⁶

H.Res. 6 in the 104th Congress changed the permissible duration of Members' service on the Budget Committee to four Congresses in six Congresses from three Congresses in five Congresses.

In the 106th Congress, the prohibition of service on the Budget Committee for more than four Congresses in any six successive Congresses was waived during the 106th Congress by a separate order in H.Res. 5.

⁴³ For additional information on rules changes affecting committees made at the beginning of each Congress, see CRS Report 95-187, *Committee System: Rules Changes in the House, 104th Congress*, by Judy Schneider; CRS Report 97-138, *Committee System: Rules Changes in the House, 105th Congress*, by Judy Schneider; CRS Report RS20017, *Committee System Rules Changes in the House, 106th Congress*, by Judy Schneider; CRS Report RS20769, *Committee System Rules Changes in the House, 107th Congress*, by Judy Schneider; CRS Report RS21382, *Committee System Rules Changes in the House, 108th Congress*, by Judy Schneider; and CRS Report RS22018, *Committee System Rules Changes in the House, 109th Congress*, by Judy Schneider.

⁴⁴ For additional information, see CRS Report 98-367, *House Committees: Assignment Process*, by Judy Schneider, and CRS Report 98-151, *House Committees: Categories and Rules for Committee Assignments*, by Judy Schneider.

⁴⁵ For background on House committee sizes and assignments, see CRS Report R41501, *House Legislative Procedures and House Committee Organization: Options for Change in the 112th Congress*, by Judy Schneider and Michael L. Koempel.

⁴⁶ For background on the Budget Committee, see CRS Report R40774, *Committee on the Budget in the House of Representatives: Structure and Responsibilities*, by Megan Suzanne Lynch.

In the 108th Congress, H.Res. 5 provided that the Budget Committee’s membership would include one member from the Rules Committee, codifying a decision made in the Republican Conference’s early organization meetings. (Amended clause 5 of Rule X.)

H.Res. 5 in the 109th Congress contained a provision that one member of the majority party and one member of the minority party were to be “designated” by the respective elected leaderships as members of the Budget Committee. The rule that was amended had previously required the members to be “from” the elected leaderships. (Amended clause 5 of Rule X.)

Ethics Committee⁴⁷

In the 106th Congress, H.Res. 5 eliminated the requirement that four members (two from each party) of the Standards of Official Conduct Committee (the “Ethics Committee”) rotate off the panel every Congress,⁴⁸ and changed service on the committee to three Congresses in any five Congresses from two Congresses in any three Congresses. The size of the committee was also set at 10 members, 5 of each party.⁴⁹ (Amended clause 5 of Rule X.)

Intelligence Committee⁵⁰

Membership on the Permanent Select Committee on Intelligence was changed by H.Res. 6 in the 104th Congress to four terms from three in six successive Congresses, while the chair and ranking minority Member were allowed to serve a fifth term. The Speaker was also designated as an ex officio member of the committee in place of the majority leader; the minority leader continued as an ex officio member. The size of the Intelligence Committee was also decreased to 16 members (from 19), with a limit of not more than 9 members from one party.

In the 107th Congress, H.Res. 5 increased the size of the Intelligence Committee to not more than 18 members (from not more than 16 members), of which not more than 10 could be from the same party.⁵¹ (Amended clause 11(a)(1) of Rule X.)

⁴⁷ For background on the Ethics Committee, see CRS Report 98-15, *House Committee on Ethics: A Brief History of Its Evolution and Jurisdiction*, by Jacob R. Straus.

⁴⁸ Established previously by Section 2 of H.Res. 168 (105th Cong.), agreed to in the House September 18, 1997. This resolution (in Section 1) was also the source of a provision of Rule X, clause 5(a), directing the Speaker and minority leader to each designate 10 Members, not assigned to the Ethics Committee, to serve on investigative subcommittees of the Ethics Committee.

⁴⁹ While 10 members (5 of each party) was the size of the committee in the previous, 105th Congress, the Ethics Reform Act of 1989 had established the size of the committee at 14, with 7 members of each party. P.L. 101-194, §803(b); 103 Stat. 1716, 1774 (1989). As an exercise in congressional rulemaking authority, the House could change the size in law by a later rule, by a rules change, by a special order, or by simply electing a specific number of members to the committee.

⁵⁰ For background on the Intelligence Committee, see CRS Report RL32525, *Congressional Oversight of Intelligence: Current Structure and Alternatives*, by L. Elaine Halchin.

⁵¹ In the 107th and 109th Congresses, the House again changed the size of the Intelligence Committee. On January 6, 2001, the House by unanimous consent agreed to an order to set the size of the committee at 20, with not more than 11 members from one party. Rep. Porter Goss, “Composition of Permanent Select Committee on Intelligence,” *Congressional Record*, vol. 147, part 1 (January 6, 2001), p. 115. H.Res. 51 (109th Cong.), agreed to in the House January 26, 2005, set the membership at 21, of which not more than 12 members could be from the same party.

Chairmanships/Term Limitations⁵²

Pursuant to H.Res. 6, effective with the 104th Congress, committee and subcommittee chairs were limited to serve as chair to not more than three terms in three consecutive Congresses. The resolution also permitted any majority member, not the senior most ranking majority Member, to be designated as the vice-chair of a committee or subcommittee.⁵³

H.Res. 6 also allowed a chair or ranking minority Member of the Permanent Select Committee on Intelligence who had served just one term to be reappointed to serve an additional term if he or she had already completed the term limit of four Congresses on the committee.

In the 108th Congress, H.Res. 5 abolished the term limit for service as chair or ranking minority Member of the Permanent Select Committee on Intelligence. (Amended clause 11 of Rule X.) The term limit for service as chair or ranking minority Member of the Budget Committee was codified to six years, equal to the term limitation for other standing committee chairs. (Amended clause 5 of Rule X.)

H.Res. 5 in the 109th Congress authorized the chair of the Rules Committee to serve as chair notwithstanding the rule limiting service of committee chairs to three consecutive terms. (Amended clause 5 of Rule X.)

Committee Abolition

The Committee on the District of Columbia, the Committee on Merchant Marine and Fisheries, and the Committee on Post Office and Civil Service were abolished pursuant to H.Res. 6 in the 104th Congress. (See “Jurisdiction” below for explanation of the distribution of the committees’ jurisdiction.)

Committee Creation and Retention⁵⁴

(See also “Jurisdiction” below.)

H.Res. 6 also authorized the Speaker, with the approval of the House, to appoint ad hoc oversight committees to review matters within the jurisdiction of two or more standing committees. The change was one of several made in House rules to enhance and coordinate House committee oversight. A House rule previously provided this authority to the Speaker only when the House approved creation of an ad hoc committee with legislative authority or, generally, a select committee.

A rules change in H.Res. 5 in the 105th Congress extended until January 21, 1997, the existence of a Select Committee on Ethics (comprising members of the Standards of Official Conduct

⁵² For additional information on chairs and ranking minority Members, see CRS Report RS21165, *House Standing Committee Chairs and Ranking Minority Members: Rules Governing Selection Procedures*, by Judy Schneider.

⁵³ In seeking to fulfill another provision of the Contract with America, Republicans brought congressional term limit proposals to the floor. The House voted twice, once in the 104th Congress and once in the 105th Congress, on a constitutional amendment imposing term limits on service in Congress. A two-thirds vote is required to propose an amendment to the Constitution, and both votes fell short. See H.J.Res. 73 (104th Cong.), failed passage 227-204, March 29, 1995, and H.J.Res. 2 (105th Cong.), failed passage 217-211, February 12, 1997.

⁵⁴ For background information on types of House committees, see CRS Report 98-241, *Committee Types and Roles*, by Valerie Heitshusen.

Committee in the 104th Congress), to allow committee members to complete their work and make any recommendations to the House related to the official conduct of Speaker Newt Gingrich.⁵⁵

H.Res. 5 in the 106th Congress contained a separate order continuing until March 31, 1999, the existence of the Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China.⁵⁶

H.Res. 5 in the 108th Congress created a Select Committee on Homeland Security for one Congress's duration with legislative jurisdiction to develop recommendations and report to the House on matters relating to the Homeland Security Act of 2002.⁵⁷ The select committee was also charged with conducting a study of committee jurisdiction over the issue of homeland security and reporting any recommended changes to the House by September 30, 2004.⁵⁸

H.Res. 5 in the 109th Congress created a permanent, standing Committee on Homeland Security with legislative and oversight jurisdiction. The new panel was granted legislative jurisdiction over the following:

- (1) Overall homeland security policy.
- (2) Organization and administration of the Department of Homeland Security.
- (3) Functions of the Department of Homeland Security related to the following:
 - (A) Border and port security (except immigration policy and non-border enforcement);
 - (B) Customs (except customs revenue);
 - (C) Integration, analysis, and dissemination of homeland security information;
 - (D) Domestic preparedness for and collective response to terrorism;
 - (E) Research and development; and
 - (F) Transportation security.”⁵⁹

⁵⁵ 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.

⁵⁶ Established by H.Res. 463 (105th Cong.), agreed to in the House June 18, 1998. The separate order in H.Res. 5 (106th Cong.) contained restrictions on certain provisions of H.Res. 463. The life of the select committee was ultimately extended to May 31, 1999. H.Res. 129, agreed to in the House March 24, 1999; H.Res. 153, agreed to in the House April 29, 1999; and H.Res. 170, agreed to in the House May 13, 1999. For background, see Chuck McCutcheon, “With Cox Report’s Release, Struggle for Consensus Begins,” *CQ Weekly*, vol. 57, no. 22, May 29, 1999, pp. 1251-1254.

⁵⁷ 116 Stat. 2135.

⁵⁸ The select committee’s letter of transmittal, report, and supplementary materials on proposed committee jurisdictional changes are available at http://web.archive.org/web/20041023103612/http://hsc.house.gov/files/mini_report_sigs.pdf.

In the 107th Congress, in response the President George W. Bush’s proposal to create the Department of Homeland Security, the House created a Select Committee on Homeland Security to receive proposed legislation on the department’s creation from a number of standing committees and to “develop recommendations and report to the House on such matters that relate to the establishment of a department of homeland security as may be referred to it by the Speaker.” H.Res. 449, agreed to in the House June 19, 2002. The existence of that select committee expired with the adjournment of the 107th Congress.

⁵⁹ For background and analysis on the creation and existence of the Homeland Security Committee, see 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; and CRS Report RL33061, *Homeland Security and House Committees: Analysis of 109th Congress Jurisdiction Changes and Their Impact on the Referral of Legislation*, by Michael L. Koempel and Judy Schneider.

The House Appropriations Committee reorganized its subcommittees in the 108th Congress and the 109th Congress. In

The new committee was granted oversight authority over homeland security, including the “interaction of all departments and agencies with the Department of Homeland Security.” (Amended clauses 1 and 3 of Rule X.) In addition, in his announced policies for the 109th Congress, the Speaker stated that referrals to the Select Committee on Homeland Security would not constitute precedent for referrals to the permanent committee.⁶⁰ (See “Jurisdiction” below in this section for concomitant changes in other committees’ jurisdiction.)

Committee Names

(Name changes are made as amendments to Rule X, with any needed conforming changes made in other rules.)

Several committees were given new names under H.Res. 6 for the 104th Congress:

- Banking and Financial Services (formerly Banking, Finance, and Urban Affairs);
- Commerce (formerly Energy and Commerce);
- Economic and Educational Opportunities (formerly Education and Labor);
- Government Reform and Oversight (formerly Government Operations);
- House Oversight (formerly House Administration);
- International Relations (formerly Foreign Affairs);
- National Security (formerly Armed Services);
- Resources (formerly Natural Resources);
- Science (formerly Science, Space, and Technology); and
- Transportation and Infrastructure (formerly Public Works and Transportation).

In the following 105th Congress, H.Res. 5 changed the name of the Committee on Economic and Educational Opportunities to the Committee on Education and the Workforce.

In the 106th Congress, pursuant to H.Res. 5, the name of the Committee on Government Reform and Oversight was changed to the Committee on Government Reform; the Committee on House Oversight was returned to the Committee on House Administration; and the Committee on National Security was returned to the Committee on Armed Services.

H.Res. 5 of the 107th Congress changed the name of the Committee on Commerce to the Committee on Energy and Commerce. Further, the resolution reconstituted the Committee on Banking and Financial Services as the Committee on Financial Services. (See “Jurisdiction,” next below, for an explanation on the realignment of these two committees’ jurisdiction.)

the 108th Congress, it created a Homeland Security Subcommittee, and changed the jurisdiction of other subcommittees while retaining a total of 13 subcommittees. U.S. House, Committee on Appropriations, “Chairman Young Announces Homeland Security Reorganization,” news release, January 29, 2003. In the 109th Congress, it reorganized its subcommittees and reduced their number to 10. U.S. House, Committee on Appropriations, “Chairman Lewis Announces Major Reorganization of the House Appropriations Committee and Slate of Subcommittee Chairmen,” news release, February 9, 2005. See also CRS Report RL31572, *Appropriations Subcommittee Structure: History of Changes from 1920-2011*, by Jessica Tollestrup.

⁶⁰ “Announcement by the Speaker Pro Tempore,” *Congressional Record*, vol. 151, part 1 (January 4, 2005), p. 71.

Jurisdiction⁶¹

(See also “Committee Creation and Retention” above and “Referral” below.)

104th Congress

H.Res. 6 transferred jurisdiction from the District of Columbia Committee and the Post Office and Civil Service Committee (both abolished by the resolution) to the Government Reform and Oversight Committee. The Post Office Committee’s jurisdiction over the Franking Commission was transferred to the House Oversight Committee. Specific jurisdiction over paperwork reduction and over public information and records was added to the Government Reform Committee’s jurisdiction, and the committee was given specific responsibility for coordinating House committees’ oversight plans.

The House Oversight Committee’s jurisdiction over the erection of monuments to the memory of individuals was transferred to the Resources Committee.

Also abolished was the Merchant Marine and Fisheries Committee. Its jurisdiction was dispersed among several panels:

- the Merchant Marine Academy, the national security aspects of merchant marine, and interoceanic canals were transferred to the National Security Committee;
- marine research was transferred to the Science Committee;
- the Coast Guard, navigation, vessel registration, prevention of collisions at sea, non-national security aspects of merchant marine, and pollution of navigable waters were transferred to the Transportation and Infrastructure Committee; and
- fisheries, marine affairs except pollution of navigable waters, oceanographic affairs, and endangered species were transferred to the Resources Committee.

An addition for purposes of clarification was also made to the National Security Committee’s jurisdiction, for intelligence-related activities of the Department of Defense. An addition was made to the Transportation and Infrastructure Committee’s jurisdiction over federal management of emergencies and natural disasters.

Changes affected a sizable portion of the Commerce Committee’s jurisdiction:

- primary jurisdiction over Glass-Steagall reform legislation was given to the Banking and Financial Services Committee;
- food inspection was consolidated in the Agriculture Committee with the addition of the inspection of poultry, seafood, and seafood products;
- railroads and inland waterways were absorbed by the Transportation and Infrastructure Committee;
- the Trans-Alaska Pipeline (except ratemaking) was transferred to the Resources Committee; and
- the commercial application of energy technology was moved to the Science Committee, consolidating its jurisdiction over energy research and development.

⁶¹ For additional information on jurisdiction, see CRS Report 98-175, *House Committee Jurisdiction and Referral: Rules and Practice*, by Judy Schneider.

The Commerce Committee gained from the Resources Committee jurisdiction over regulation of the domestic nuclear energy industry, and a conforming change was made in the committee's oversight jurisdiction.

H.Res. 6 also added specific water conservation jurisdiction for the Agriculture Committee. It added specific jurisdiction for the Banking Committee over economic stabilization, defense production, and financial aid to commerce and industry. It added small business jurisdiction related to regulatory flexibility and paperwork reduction to the jurisdiction of the Small Business Committee.

H.Res. 6 also expanded the Budget Committee's jurisdiction to include "Measures relating to the congressional budget process, generally" and "Measures relating to the establishment, extension, and enforcement of special controls over the Federal budget, including the budgetary treatment of off-budget Federal agencies and measures providing exemption from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985." A paragraph of the committee's jurisdiction regarding concurrent budget resolutions and matters under titles III and IV of the Congressional Budget Act was amended to add: "and other measures setting forth appropriate levels of budget totals for the United States Government."⁶²

The Judiciary Committee's jurisdiction was clarified with the specific addition of "judiciary" and "administrative practice and procedure" to its jurisdiction. H.Res. 6 also amended the jurisdiction of the Permanent Select Committee on Intelligence to reflect previous referral decisions.

105th Congress

In the 105th Congress, H.Res. 5 revised the jurisdictions of the Budget and Government Reform and Oversight Committees. The Budget Committee was given oversight over the "budget process" rather than over solely the "congressional budget process." The Government Reform Committee was given jurisdiction over "government management and accounting measures, generally" rather than "budget and accounting measures, generally."

107th Congress

H.Res. 5 in the 107th Congress transferred jurisdiction over securities and exchanges, and insurance generally, to the Committee on Financial Services from the Committee on Energy and Commerce.⁶³ (Amended clause 1 of Rule X.) In addition, the Permanent Select Committee on Intelligence gained exclusive oversight responsibility over the sources and methods of the core intelligence agencies. (Amended clause 3 of Rule X.)

⁶² The section-by-section analysis of H.Res. 6 indicated that the Budget Committee "would gain jurisdiction over budgetary legislation from the Committee on Government Reform and Oversight." Rep. Gerald Solomon, "Section-by-Section Analysis of House Rules Resolution," *Congressional Record*, vol. 141, part 1 (January 4, 1995), p. 474. See also jurisdictional understandings inserted in the *Congressional Record*: Rep. Richard Arney, *Congressional Record*, vol. 141, part 1 (January 4, 1995), pp. 483-484; and Rep. John Kasich, "Rules Package/Memorandum of Understanding," *Congressional Record*, vol. 141, part 1 (January 4, 1995), pp. 617-618. Memoranda of understanding or other announcements can explain the meaning of jurisdictional changes or the settlement of a jurisdictional disagreement.

⁶³ Memoranda of understanding, Speakers' announcements, and decisions of the House can explain the meaning of jurisdictional changes and the settlement of jurisdictional disagreements. For explanation of the jurisdictions of the Energy and Commerce Committee and the Financial Services Committee, see Speaker Dennis Hastert, "Memorandum of Understanding between Energy and Commerce Committee and Financial Services Committee," *Congressional Record*, vol. 147, part 1 (January 20, 2001), p. 163.

The resolution transferred, to the clerk of the House, the House Administration Committee's responsibilities to examine House-passed bills, joint resolutions, amendments, and enrolled bills and joint resolutions, and to present enrolled bills and joint resolutions to the President. In cooperation with the Senate, the clerk now examines bills and joint resolutions passed by both houses to ensure their correct enrollment, and presents enrolled bills and joint resolutions originated in the House to the President, after obtaining the signatures of the Speaker and the President of the Senate. The clerk then reports to the House the fact and date of a measure's presentment to the President. (Amending clause 2(d) of Rule II, and clause 4(d)(1) of Rule X.)

108th Congress

H.Res. 5 in the 108th Congress created a Select Committee on Homeland Security for one Congress's duration with legislative jurisdiction to develop recommendations and report to the House on matters relating to the Homeland Security Act of 2002.⁶⁴ The select committee was also charged with conducting a study of committee jurisdiction over the issue of homeland security and reporting any recommended changes to the House by September 30, 2004.⁶⁵

109th Congress

H.Res. 5 in the 109th Congress transferred jurisdiction of the Committee on Transportation and Infrastructure over transportation security and port security to the Committee on Homeland Security, but the Transportation and Infrastructure Committee retained jurisdiction over the Coast Guard as an agency and over many of its programs and activities and over transportation safety. The resolution also transferred jurisdiction over domestic preparedness for terrorist acts to the Committee on Homeland Security, but the Transportation and Infrastructure Committee retained jurisdiction over natural disasters and other emergencies. Further, the resolution transferred the Judiciary Committee's jurisdiction over border security to the Committee on Homeland Security, but the Judiciary Committee retained jurisdiction over immigration and over non-border related policy. The resolution also specifically added "criminal law enforcement" to the jurisdiction of the Judiciary Committee. The resolution transferred jurisdiction over the Customs Service to the Committee on Homeland Security, although the Committee on Ways and Means retained jurisdiction over customs revenue.⁶⁶ (Amended clause 1 of Rule X.) (See "Committee Creation and Retention" above for the jurisdiction of the Select Committee on Homeland Security that existed in the 108th Congress and the jurisdiction of the permanent Homeland Security Committee established in the 109th Congress.)

⁶⁴ 116 Stat. 2135.

⁶⁵ The select committee's letter of transmittal, report, and supplementary materials on proposed committee jurisdictional changes are available at http://web.archive.org/web/20041023103612/http://hsc.house.gov/files/mini_report_sigs.pdf.

In the 107th Congress, in response the President George W. Bush's proposal to create the Department of Homeland Security, the House created a Select Committee on Homeland Security to receive proposed legislation on the department's creation from a number of standing committees and to "develop recommendations and report to the House on such matters that relate to the establishment of a department of homeland security as may be referred to it by the Speaker." H.Res. 449, agreed to in the House June 19, 2002. The existence of that select committee expired with the adjournment of the 107th Congress.

⁶⁶ For a detailed explanation seeking to differentiate the homeland security jurisdictions of the Committee on Homeland Security and that of 10 standing committees, see Rep. David Dreier, "Legislative History to Accompany Changes to Rule X," *Congressional Record*, vol. 151, part 1 (January 4, 2005), pp. 60-61.

In addition, the Speaker in his announced policies for the 109th Congress indicated that the referral of measures to the Select Committee on Homeland Security of the 108th Congress would not constitute precedent for referrals to the standing Committee on Homeland Security.⁶⁷

The Speaker's announced policies also addressed the January 20, 2001, "Memorandum of Understanding Between Energy and Commerce Committee and Financial Services Committee," regarding the jurisdictions of the two committees. The Speaker announced that the final two paragraphs of the memorandum dealing with electronic commerce, anti-fraud authorities under securities laws, and the setting of accounting standards by the Financial Accounting Standards Board would no longer provide jurisdictional guidance.⁶⁸

Subcommittees⁶⁹

H.Res. 6 in the 104th Congress prohibited any committee from having more than five subcommittees, except for Appropriations (13 subcommittees), Government Reform and Oversight (7), and Transportation and Infrastructure (6).

In the 106th Congress, H.Res. 5 maintained the existing rule restriction regarding the limitation of five subcommittees; however, committees that maintained an oversight subcommittee were restricted to no more than six subcommittees. H.Res. 5 also deleted the Committee on Transportation and Infrastructure from the exemption to the five subcommittees plus an oversight subcommittee. (Amended clause 5 of Rule X.) Further, the Committee on Government Reform, in order to maintain a Census Subcommittee, was allowed by a separate order in the rules resolution to have eight subcommittees for the 106th Congress.

H.Res. 5 in the 107th Congress maintained the rule regarding the number of subcommittees each committee could create. However, by separate order in the rules resolution, the Committee on Government Reform was allowed to create up to eight subcommittees and the Committee on International Relations and the Committee on Transportation and Infrastructure were allowed to create up to six subcommittees each.

The 108th Congress's H.Res. 5 also maintained the existing rule on subcommittees. However, the Committee on Armed Services, the Committee on International Relations, and the Committee on Transportation and Infrastructure were allowed by separate order in the rules resolution to create up to six subcommittees each.⁷⁰

H.Res. 5 in the 109th Congress maintained the existing rule on subcommittees. However, by separate order in the rules resolution, the Committee on Armed Services and the Committee on Transportation and Infrastructure were entitled to create up to six subcommittees each, and the

⁶⁷ "Announcement by the Speaker Pro Tempore," *Congressional Record*, vol. 151, part 1 (January 4, 2005), pp. 69-71.

⁶⁸ *Ibid.*

⁶⁹ For additional information on 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.

⁷⁰ The House Appropriations Committee reorganized its subcommittees in the 108th Congress and the 109th Congress. In the 108th Congress, it created a Homeland Security Subcommittee, and changed the jurisdiction of other subcommittees while retaining a total of 13 subcommittees. U.S. House, Committee on Appropriations, "Chairman Young Announces Homeland Security Reorganization," news release, January 29, 2003. In the 109th Congress, it reorganized its subcommittees and reduced their number to 10. U.S. House, Committee on Appropriations, "Chairman Lewis Announces Major Reorganization of the House Appropriations Committee and Slate of Subcommittee Chairmen," news release, Feb. 9, 2005. See also CRS Report RL31572, *Appropriations Subcommittee Structure: History of Changes from 1920-2011*, by Jessica Tollestrup.

Committee on International Relations was allowed to create up to seven subcommittees in the 109th Congress.

Procedure

Committee Reports⁷¹

H.Res. 6 in the 104th Congress added content requirements to the directive to committees to submit biennial activities reports. The resolution required activities reports to contain separate summaries of legislative and oversight activities, and for the oversight summary to compare a committee's plan to its actions and to list recommendations resulting from the committee's oversight.

H.Res. 6 required committee reports on legislation to include members' recorded votes in committee on amendments. Reports already included members' recorded votes on motions to report.

H.Res. 6 contained a "truth-in-budgeting baseline reform" provision requiring a comparison (when practicable) of total funding in legislation to the "appropriate levels under current law." The purported effect of this rules change was to require that the entire amount of authorizations, appropriations, and entitlement spending to be shown in cost estimates, not solely in increments of change. The "truth" aspect was intended to get at a criticism of baseline budgeting that allowed spending increases above a current year's level, but below baseline levels, to be characterized as spending cuts.

H.Res. 5 in the 105th Congress authorized committees to (1) file joint investigative or oversight reports with other committees on matters on which they conducted joint studies or investigations, (2) file investigative or oversight reports after the final adjournment of a Congress if they were properly approved by the committee and at least seven calendar days had been permitted for filing views, and (3) file final activity reports after an adjournment if at least seven calendar days had been permitted for filing views. H.Res. 5 also stipulated that proposed investigative reports would be considered as read if available for at least 24 hours in advance of their consideration.

In addition, H.Res. 5 changed the period for filing views on reports from three full days after the day on which the bill or matter was ordered reported to two days. The resolution granted a committee an automatic right to have until an hour after midnight on the second day to file its report, if an intention to file views was announced. The resolution repealed the requirement that committee reports include an inflationary impact statement. Reports, however, must now include a new "constitutional authority statement" that cited the specific powers granted to Congress by the Constitution upon which the proposed measure was based.

H.Res. 5 stated that committees must make their publications available in electronic form "to the maximum extent feasible." It also conformed the layover requirements for Budget Committee reports on budget resolutions to those of other committees for legislation they reported.

H.Res. 5 in the 107th Congress repealed the requirement that committee reports include a summary of oversight findings and recommendations by the Committee on Government Reform, but required inclusion of a new statement of general performance goals and objectives, including outcome-related goals and objectives for which the measure authorized funding. (Amended clause 4 of Rule X.) In addition, committees were allowed to file supplemental reports, without

⁷¹ For additional information on committee reports, see CRS Report 98-169, *House Committee Reports: Required Contents*, by Judy Schneider.

additional layovers, to correct errors in the depiction of record votes taken in committee. (Amended clause 3 of Rule XIII.)

Appropriations Committee

H.Res. 6 in the 104th Congress required the Appropriations Committee to identify unauthorized appropriations in its committee reports on general appropriations bills, in addition to the existing requirement to list legislative provisions.

The Appropriations Committee was also prohibited in H.Res. 6 from including non-emergency provisions in emergency appropriations measures, unless the provisions rescinded budget authority, reduced direct spending, or reduced an amount for a designated emergency.

With regard to reports on general appropriations bills, H.Res. 5 in the 107th Congress required the Appropriations Committee to include additional information on unauthorized appropriations—a statement of the last year for which expenditures were authorized, the level authorized for that year, the actual level of spending for that year, and the level of appropriations in the current bill. (Amended clause 3 of Rule XIII.)

Ways and Means Committee

H.Res. 5 in the 105th Congress allowed the majority leader, after consultation with the minority leader, to designate “major tax legislation” on which the report by the Ways and Means Committee could then include a “dynamic estimate”—the macroeconomic feedback emanating from the proposed change in tax policy. The dynamic estimate was to be “used only for informational purposes,” not for enforcement or scorekeeping purposes.

In the 108th Congress, H.Res. 5 required the Ways and Means Committee to include in committee reports on measures amending the Internal Revenue Code a “macroeconomic impact analysis” by the Joint Taxation Committee. A macroeconomic impact analysis was defined as an estimate of “changes in economic output, employment, capital stock, and tax revenues expected to result from enactment of the proposal.” The joint committee’s analysis was also to include a statement of assumptions and data sources. The reporting requirement could be waived if the Joint Taxation Committee certified that such an analysis was not calculable, or the chair of the Ways and Means Committee inserted the analysis in the *Congressional Record* prior to the measure’s consideration by the House. (Amended clause 3 of Rule XIII.)

Conference, Motion to Go to

H.Res. 5 in the 109th Congress allowed committees to adopt a rule allowing the committee chair to offer a privileged motion to go to conference whenever the chair deemed it appropriate to do so. Previously, a chair needed prior authorization by his or her committee to make such a privileged motion. (Amended clause 2 of Rule XI.)

Hearings Procedures⁷²

(See also “Openness” and “Witnesses” below.)

⁷² For additional information on hearings, see, for example, CRS Report 98-317, *Types of Committee Hearings*, by Valerie Heitshusen, and CRS Report 98-339, *House Committee Hearings: Scheduling and Notification*, by Christopher M. Davis.

H.Res. 5 in the 105th Congress authorized committees to adopt a rule or motion to (1) permit selected majority and minority Members, in equal numbers, to take more than five minutes to question witnesses, up to a limit of 30 minutes per side, per witness, and (2) permitted staff to question witnesses if the other side was given equal time and opportunity to do so. A House rule had provided only for five minutes of questioning of witnesses by committee members.

H.Res. 5 in the 106th Congress clarified the rule permitting more than five minutes of time for committee members and staff to question witnesses. An addition to the rule stated that such time must be equally divided between majority and minority. A change to the rule stated that such questioning could not exceed one hour in total. (Amended clause 2 of Rule XI.)

In the 107th Congress, H.Res. 5 struck the word “investigative” from the rule on hearing procedures so that it was clear the procedures referred to all hearings. (Amended clause 2 of Rule XI.)

Meetings, Restrictions on

H.Res. 6 in the 104th Congress prohibited committees from sitting while the House was reading a measure for amendment under the five-minute rule without special leave to sit. Special leave would be granted unless 10 or more Members objected to the unanimous consent request, or a privileged motion offered by the majority leader was adopted by the House. The Committees on Appropriations, Budget, Rules, Standards of Official Conduct, and Ways and Means were exempted from the prohibition on sitting. While restrictions on committees meeting while the House was reading a measure for amendment under the five-minute rule had varied, House rules in the immediately preceding 103rd Congress allowed committees to meet without obtaining permission to do so, except during a joint session or meeting of the House and Senate.

The Speaker in addition established the following guidelines regarding requests by committees to meet while the House was proceeding under the five-minute rule:

- If the request for permission to sit pertained to a day for which the legislative program had not been announced, then unanimous consent was required. Once the legislative program for a day had been announced, then the objections of 10 Members would be required to deny a request.
- Requests would not be entertained on a day that all votes on legislative matters had been postponed to another day; however, requests for committee hearings to be held later in the week would be accepted by the chair if a request had the concurrence of the ranking minority Member of the committee or subcommittee.
- On days when legislative business was to be conducted, and when roll-call votes were in order on legislation, the chair would entertain requests during the one-minute period only when assured of the support of the ranking minority Member of the committee or subcommittee involved.
- If 10 or more Members objected to a request, then that request could not be renewed on the same day unless the chair was assured that the objections had been withdrawn.
- The chair would not entertain requests after legislative business had concluded.⁷³

⁷³ “Policies of the Chair,” *Congressional Record*, vol. 141, part 1 (January 4, 1995), pp. 551-553.

H.Res. 5 in the 105th Congress allowed all committees to meet at any time the House was in session without first obtaining special leave from the full House. The Speaker's policy, therefore, was also discontinued.

Openness

(See also "Witnesses" below.)

H.Res. 6 in the 104th Congress prohibited committee meetings from being closed to the public unless the deliberations would endanger national security, compromise sensitive law enforcement information, defame a person, or violate a law or House rule. Meetings previously could have been closed without a stated purpose. The resolution also struck from the House rule committee deliberations over budget and personnel as matters that allowed a committee to close a meeting. The House rule already allowed a meeting to be closed only by a majority vote, a quorum being present. Further, broadcast coverage and still photography was specifically allowed for any hearing or meeting that was open.

H.Res. 5 in the 105th Congress clarified the procedure for closing a hearing, indicating that a hearing would not be closed if a majority of those voting, instead of a majority of committee members, determined that the evidence or testimony would not tend to defame, degrade, or incriminate any person.

H.Res. 5 in the 105th Congress also required committees, to the maximum extent feasible, to make all committee publications available in electronic form.

In the 107th Congress, H.Res. 5 allowed either a member of the committee or a witness at a hearing to assert that evidence or testimony at the hearing may tend to defame, degrade, or incriminate a person. (Amended clause 2 of Rule XI.)

Oversight

(See also "Committee Reports" and "Openness" above, and "Subpoena" and "Witnesses" below.)

H.Res. 6 in the 104th Congress required all committees to adopt oversight plans—in an open meeting with a quorum present—and to submit them to the House Oversight Committee and the Government Reform and Oversight Committee by February 15 of the first session. The Government Reform and Oversight Committee was required to report the plans back to the House by March 31 with recommendations. The committee was directed to consult majority and minority leadership prior to submitting the committees' oversight plans to the House with its own recommendations for coordination and for ensuring the goals of the rule would be achieved.⁷⁴ Previous House rules required committees to conduct oversight, but they were not specific and did not require a plan.

In developing their plans, committees were instructed to consult with other committees with jurisdiction over the same or related laws, programs, or agencies. If a committee did not submit an oversight plan, it would not be in order to include its funding in a committee expense resolution.

⁷⁴ Congress also passed Congressional Review of Agency Rulemaking, subtitle E, title II, of the Contract with America Advancement Act of 1996 (110 Stat. 847, 868), providing a process for congressional review and disapproval of agencies' major proposed rules.

H.Res. 6 also authorized the Speaker, with the approval of the House, to appoint ad hoc oversight committees to review matters within the jurisdiction of two or more standing committees. The change was one of several made in House rules to enhance and coordinate House committee oversight. A House rule previously provided this authority to the Speaker only when the House approved creation of an ad hoc committee with legislative authority or, generally, a select committee.⁷⁵

In the 106th Congress, H.Res. 5 repealed the prohibition against consideration of a committee expense resolution when a committee had not submitted its oversight plan to the House Administration and Government Reform Committees by February 15 of the first session. (Amended clause 2 of Rule X.)

H.Res. 5 in the 107th Congress required committees to include in their oversight plans a review of specific problems with federal rules, regulations, statutes, and court decisions that were ambiguous, arbitrary, or nonsensical, or imposed a severe financial burden on individuals. (Amended clause 2 of Rule X.)

H.Res. 5 in the 109th Congress required committees, in oversight plans provided to the Government Reform Committee and the House Administration Committee, to “have a view toward insuring against duplication of federal programs.” (Amended clause 2 of Rule X.)

Proxy Voting

(See also “Voting” below.)

The 104th Congress, pursuant to H.Res. 6, prohibited proxy voting in committees and subcommittees.

Quorums⁷⁶

Pursuant to H.Res. 6, the 104th Congress eliminated so-called rolling quorums, returning to earlier text of the rule on reporting measures to the House, which required a majority of the committee to be “actually present.” Text that allowed the rule to be interpreted to allow a rolling quorum was eliminated.

In the 107th Congress, H.Res. 5 amended the rule on the majority quorum requirement for reporting a measure to comprehend other instances in other rules when a majority quorum was required by House rules: the release of executive session materials, the issuance of subpoenas, and determining if evidence or testimony may defame, degrade, or incriminate any person. (Amended clause 2 or Rule XI.)

Recess Authority

H.Res. 5 in the 109th Congress allowed for a privileged motion in committee to recess subject to the call of the chair for a period of less than 24 hours, rather than the existing rule that allowed for a privileged motion only to recess from day to day. (Amended clause 1 of Rule XI.)

⁷⁵ H.Res. 168, agreed to in the House June 20, 1995, replaced the Consent Calendar with a new Corrections Calendar, part of an expedited procedure to repeal or correct laws, rules, and regulations. The 105th Congress House agreed to H.Res. 7 on January 7, 1997, creating a Corrections Calendar office. For an explanation of the Corrections Calendar, see CRS Report 97-301, *The House's Corrections Calendar*, by Walter J. Oleszek.

⁷⁶ For an explanation of quorums in the House of Representatives, see CRS Report 98-870, *Quorum Requirements in the House: Committee and Chamber*, by Christopher M. Davis.

Referral⁷⁷

(See also “Committee Creation and Retention” and “Jurisdiction” above.)

H.Res. 6 for the 104th Congress prohibited joint referral, the principal form of referral to more than one committee.⁷⁸ The Speaker was instead directed upon introduction of a measure to designate a committee of primary jurisdiction. Split referrals and sequential referrals continued to be allowed, either upon introduction or after the primary committee reported, and the Speaker was still permitted to refer legislation to an ad hoc committee with the approval of the House.

In his announced policies for the 104th Congress, the Speaker deleted text from the Speaker’s announcement for the 103rd Congress, which had stated: “the appointment by the chair of various groups of conferees in the context of the particular House and Senate provisions sent to the conference should not be construed as precedent binding the Speaker to subsequent joint referrals of all bills amending the work product of that particular conference.”⁷⁹

H.Res. 5 in the 108th Congress allowed the Speaker to refer measures to more than one committee without a designation of a primary committee under “extraordinary circumstances,” providing the Speaker with an alternative to designating a primary committee if he or she believed extraordinary circumstances affecting referral to exist. (Amended clause 2 of Rule XII.)

In the 109th Congress, the Speaker’s announced policies included a provision that indicated that referral of measures to the Select Committee on Homeland Security in the 108th Congress “will not constitute precedent for referrals to the new committee,” referring to the newly created standing Committee on Homeland Security.⁸⁰ (See also the discussion above at “Committee Creation and Retention” and, under Jurisdiction, “109th Congress.”)

The Speaker’s announced policies for the 109th Congress also addressed the January 30, 2001, “Memorandum of Understanding Between Energy and Commerce Committee and Financial Services Committee,” regarding the jurisdictions of the two committees. The Speaker announced that the final two paragraphs dealing with electronic commerce, anti-fraud authorities under securities laws, and the setting of accounting standards by the Financial Accounting Standards Board would no longer provide jurisdictional guidance.⁸¹

Subpoenas

H.Res. 5 in the 106th Congress clarified House rules to include the practice that a subpoena could specify the terms of return to other than at a meeting or hearing of a committee or subcommittee. (Amended clause 2 of Rule XI.) (See also “Quorums” above.)

⁷⁷ For additional information on referral of legislation, see CRS Report 98-175, *House Committee Jurisdiction and Referral: Rules and Practice*, by Judy Schneider.

⁷⁸ “The practice of referring a measure to two or more committees for concurrent consideration....” Walter Kravitz, *Congressional Quarterly’s American Congressional Dictionary*, 3rd ed. (Washington, DC: CQ Press, 2001), p. 154.

⁷⁹ “Policies of the Chair,” *Congressional Record*, vol. 141, part 1 (January 4, 1995), pp. 551-553.

⁸⁰ “Announcement by the Speaker Pro Tempore,” *Congressional Record*, vol. 151, part 1 (January 4, 2005), pp. 69-71.

⁸¹ *Ibid.* For explanation of the jurisdictions of the Energy and Commerce Committee and the Financial Services Committee under the memorandum, see Speaker Dennis Hastert, “Memorandum of Understanding between Energy and Commerce Committee and Financial Services Committee,” *Congressional Record*, vol. 147, part 1 (January 20, 2001), p. 163.

Transcripts

The 104th Congress, pursuant to H.Res. 6, required hearing and meeting transcripts to be substantially verbatim accounts of the proceedings, with committee members' votes shown on roll-call votes.

Voting

Pursuant to H.Res. 6 in the 104th Congress, committee reports were to include the names of committee members voting for or against any amendments in addition to their votes on the motion to report. H.Res. 6 also prohibited proxy voting in committees and subcommittees.

H.Res. 5 in for the 108th Congress permitted committees to adopt a rule that allowed the chair of the committee or subcommittee to postpone votes on approving a measure or matter, or on agreeing to an amendment, and to resume proceedings on a postponed question at any time after reasonable notice. An underlying proposition would remain subject to further debate or amendment to the same extent as when the question was postponed. (Amended clause 2 of Rule XI.) Committees did not previously have specific authority to postpone or cluster votes.

Witnesses⁸²

(See also “Hearings Procedures” and “Openness” above.)

H.Res. 5 in the 105th Congress required non-governmental witnesses who appear before a committee to provide with their advance written testimony, to the greatest extent practicable, a curriculum vitae and a disclosure by source of the federal grants and contracts received by them and any entity they represented in the current and preceding two fiscal years. This rule, a new addition to requirements placed on witnesses, has been called the “truth-in-testimony” rule.

In the 107th Congress, H.Res. 5 clarified that a copy of the committee rules and hearing procedures should be made available to witnesses “upon request,” and that an assertion that evidence or testimony at a hearing may tend to defame, degrade, or incriminate a person may be made either by a member of the committee or by a witness at a hearing. (Amended clause 2 of Rule XI.)

Staff and Funding

(See also various entries related to congressional staff and consultants under “Rules Changes Affecting Administration of the House” and “Rules Changes Affecting Ethics Standards,” below.)

Allocation of Staff

The 104th Congress, under the provisions of H.Res. 6, required committee chairs to provide sufficient staff to subcommittees, whose chairs and ranking minority Members would lose independent hiring authority. Committee chairs were also directed to ensure the minority was “fairly treated” in the apportionment of staff. (See also “Number of Staff” below.)

⁸² For additional information on committee witnesses, see CRS Report 98-338, *House Committee Hearings: Witness Testimony*, by Christopher M. Davis.

Associate Staff

In the 104th Congress, under new provisions of H.Res. 6, associate or shared staff were excepted from prohibitions on performing work other than committee work, but each chair was required to certify that compensation by a committee was commensurate with the work performed.

Explanatory information placed in the *Congressional Record* indicated that chairs could require certifications from supervising committee members.⁸³ Conditions of employment for shared staff were subject to regulation by the House Oversight Committee. The Committee on Appropriations was exempted from these new provisions on associate staff.

H.Res. 5 in the 108th Congress stated that the associate or shared staff of the Committee on Appropriations were not subject to review by the Committee on House Administration with respect to the reporting of a committee expense resolution. Such staff were still to be subject to the general restrictions of House Rule X, clause 9. Further, H.Res. 5 clarified that the professional staff of the Appropriations Committee should comply with the same rules regarding their duties as professional staffs of other committees. (Amended clause 9 of Rule X.)

Funding⁸⁴

H.Res. 6 in the 104th Congress consolidated what were separate salary authorization levels for statutory staff on the one hand and investigative staff and committee expenses on the other into committee salary and expense accounts funded by a single, two-year (rather than annual) committee expense resolution. Authorization of additional spending by any committee could still be obtained only through a supplemental expense resolution. The Budget Committee, which had been exempted from the committee funding process, was brought into the new process. The Appropriations Committee continued to be exempt from this process.

The rules resolution also provided committees with interim spending authority consistent with planned reductions, pending adoption of a committee expense resolution. The chair of the House Oversight Committee was authorized to sign vouchers for committees terminated through the rules resolution.

A provision of the resolution also stated that, if a committee did not submit an oversight plan, it would not be in order to include its funding in a committee expense resolution.

In the 105th Congress, H.Res. 5 allowed committee primary expense resolutions reported by the House Oversight Committee to include a reserve fund for unanticipated expenses, provided that any allocation from such a fund was approved by the House Oversight Committee.

In the 106th Congress, H.Res. 5 repealed the prohibition against consideration of a committee expense resolution when a committee had not submitted its oversight plan to the House Administration and Government Reform Committees by February 15 of the first session. (Amended clause 2 of Rule X.)

Number of Staff

Committee staff were to be reduced by at least one-third from the 103rd Congress level pursuant to H.Res. 6 in the 104th Congress. Explanatory information inserted in the *Congressional Record*

⁸³ Rep. Gerald Solomon, "Rules of the House," *Congressional Record*, vol. 141, part 1 (January 4, 1995), p. 472.

⁸⁴ For additional information on committee funding, see CRS Report RL32794, *House Committee Funding Requests and Authorizations, 104th-112th Congresses*, by Matthew Eric Glassman.

indicated that this reduction was to be achieved by the House Oversight Committee through the committee funding process.⁸⁵ The number of authorized staff for each committee was increased to 30 professional staff from 18 professional staff and 12 clerical staff, with all staff designated professional. The allocation for the minority was set at 10 (rather than 6 professional and 4 clerical), or one-third of professional staff if a committee hired fewer than 30 staff.

Rules Changes Affecting the Chamber and Floor

While in the minority, Republican complaints included being denied the opportunity to offer amendments to measures because of restrictive rules, an inability to routinely offer a motion to recommit with instructions, the increased volume of commemorative legislation, and a floor schedule that was neither family friendly nor conducive to deliberation. On the opening day of the 104th Congress, the new majority rules package attempted to address some of these complaints, while renewing procedural rules that allowed them to control the schedule, agenda, and proceedings. Over the next several Congresses, some rules changes agreed to in 1995 were modified or even repealed as the majority party considered the competing demands of deliberation and decision making. In the 108th Congress, in response to the September 11, 2001, and anthrax terrorist attacks, the majority’s rules package addressed a previously unanticipated concern: How could a House with fewer Members conduct business?

The following section identifies changes made to operations on the House floor on the opening day of each Congress from the 104th through the 109th Congress with adoption of the resolution continuing but amending the rules of the House and establishing special orders, and pursuant to the Speaker’s announcements.⁸⁶ It is organized topically, with cross references between the different topics and to related changes in other sections of the report.

Adjourn, Motion to

H.Res. 5 in the 108th Congress clarified that a Member could move to adjourn during a call of the House (quorum call); allowing the motion had been at the discretion of the Speaker.

Admission to the Chamber

The Speaker added to his announced policies for the 105th Congress a policy that he and previous Speakers had stated at various times, but not since 1977 at the beginning of a Congress.⁸⁷ The announcement confirmed the concordance of the words of then-Rule XXXII, clause 3, with its understanding by the Speaker and its enforcement by the House. The rule allowed former

⁸⁵ Rep. Gerald Solomon, “Rules of the House,” *Congressional Record*, vol. 141, part 1 (January 4, 1995), p. 472.

⁸⁶ For additional information on rules changes affecting the chamber and floor made at the beginning of the 104th, 107th, 108th, and 109th Congresses, see

CRS Report 96-850, *House Rules Changes Affecting Floor Proceedings in the 104th Congress*, by Stanley Bach (out of print; available from author of current report to congressional clients upon request).

CRS Report RS20782, *House Rules Changes Affecting Floor Proceedings in the 107th Congress*, by Stanley Bach.

CRS Report RS21388, *House Rules Changes Affecting Floor Proceedings in the 108th Congress*, by Elizabeth Rybicki.

CRS Report RL32772, *House Rules Changes Affecting Floor Procedures in the 109th Congress*, by Thomas P. Carr and Elizabeth Rybicki.

⁸⁷ The policy was first announced by Speaker Thomas P. “Tip” O’Neill Jr. on January 6, 1977; reiterated by Speaker O’Neill on June 7, 1978, by Speaker Thomas S. Foley on June 9, 1994, and by Speaker Newt Gingrich on May 25, 1995, and again on August 1, 1996.

Members and other former officials access to the House floor unless they (1) had a personal interest in legislation pending before the House or reported from committee, or (2) were employed to lobby on legislation pending before the House, reported from committee, or under consideration by a committee or subcommittee. The announcement reiterated these prohibitions against access by former Members, indicated they applied to former Members whose employer was lobbying legislation, and stated that former Members could be prohibited from the House floor and adjoining rooms. Serving Members were exhorted to report violations by former Members to the sergeant at arms.⁸⁸

H.Res. 5 in the 108th Congress granted designated majority and minority party leadership staff access to the House floor with the approval of the Speaker. (Amended clause 2 of Rule IV.) The change codified what had been practice, but on which the rules had been silent.

In addition, in applying Rule 4 (“Hall of the House”), the Speaker in his announced policies for the 108th Congress expressed his intent to grant approval only to leadership staff essential to floor activities. The Speaker then reiterated policies consistent with provisions of Rule IV limiting floor access to certain committee staff only when a measure reported from their committee was being considered, and allowing floor access for a Member’s personal staff only when the Member had an amendment pending. A committee or personal staff member wishing to be present on the floor required the approval of his or her supervisor, which was then subject to the approval of the Speaker. Noting the concurrence of the minority leader regarding this policy, the Speaker directed the sergeant-at-arms to assure enforcement of the rule and the Speaker’s policy.⁸⁹

The Speaker expanded control over staff floor access in his policies for the 109th Congress. First, he clarified that individual Members’ staff were not entitled to floor access during House consideration of a Member’s bill or during a Member’s special order speech. Second, he requested that committee chairs and ranking minority Members submit to the Speaker a list of staff to be allowed on the floor during consideration of a measure reported by their committee. He stated that the sergeant at arms would keep these lists, and further stated that committee staff should exchange their IDs for committee staff badges.

Amendment Process

H.Res. 6 in the 104th Congress provided for floor amendments to be numbered when submitted for printing in the *Congressional Record*. This change was intended to make it more convenient to identify such amendments. (See additional changes to the amendment process immediately following under “Appropriations Process.”)

Appropriations Process⁹⁰

(See also “Appropriations Committee” under “Committee Reports;” “Voting” below in this section; and “Rules Changes Affecting Budgetary Legislation” below.)

H.Res. 6 in the 104th Congress permitted Members to offer amendments en bloc to a general appropriations bill if the only effect of the en bloc amendment was to “transfer appropriations

⁸⁸ “Announcement by the Speaker Pro Tempore on Procedures for the 105th Congress,” *Congressional Record*, vol. 143, part 1 (January 7, 1997), pp. 146-148.

⁸⁹ “Announcement by the Speaker Pro Tempore,” *Congressional Record*, vol. 149, part 1 (January 7, 2003), pp. 22-24.

⁹⁰ For an overview of the appropriations process, see CRS Report R42388, *The Congressional Appropriations Process: An Introduction*, by Jessica Tollestrup.

among objects without increasing the levels of budget authority or outlays in the bill,” a so-called offsetting amendment. The rules change also disallowed any Member from demanding that the question (vote on the offsetting amendment) be divided. The rules change allowed Members to offer amendments to parts of an appropriations bill not yet open for amendment, making in order amendments proposing this type of transfer of funds.⁹¹

H.Res. 6 provided that all points of order against a general appropriations bill be automatically considered as reserved when the bill was reported to the House, obviating the need for a Member to be physically present to reserve them when the report was filed.

H.Res. 6 also gave precedence (over a motion to further amend) to a motion that the Committee of the Whole rise and report, when the motion is offered by the majority leader or his designee, after a general appropriation bill has been read for amendment. The majority leader was thereby allowed, if the motion was agreed to, to preclude consideration of limitation amendments. The precedence of the motion existed in prior House rules, but the change restricted the motion’s precedence to its being offered by the majority leader.⁹²

H.Res. 6 also made automatic a roll-call vote on final passage or adoption of any bill, joint resolution, or conference report making general appropriations. While the rule obviated the need to request such a vote, the purpose of the rule change was to ensure that a roll-call vote occurred on passage or adoption of this legislation. A roll-call vote does not occur unless it is requested and seconded, or requested and the absence of a quorum is noted.⁹³

H.Res. 5 in the 105th Congress prohibited the Appropriations Committee from reporting a measure, or the House from considering an amendment, making the availability of funds contingent on the receipt or possession of information by the funding authority if that information was not already required by law. This change was directed at so-called made-known provisions and amendments that could be used despite a ban on legislating on appropriations bills.⁹⁴ The rules resolution also further tightened the precedence of the majority leader’s motion to rise and report over a further motion to amend by clarifying that the majority leader’s motion has precedence over any motion to amend, not just over a motion to offer a limitation amendment.

In the 108th Congress, H.Res. 5 defined “tax or tariff provisions” vis-à-vis a general appropriation bill. Under existing House rules, tax and tariff measures could not be reported from a committee not having jurisdiction over such a measure, and an amendment with tax or tariff provisions was not in order to a bill reported by a committee not having jurisdiction. The change dealt with an ambiguity of the rules related to limitation amendments offered to appropriations bills. The 108th Congress rules change provided that a tax or tariff measure “includes an amendment proposing a

⁹¹ For additional information on offset amendments, see CRS Report RL31055, *House Offset Amendments to Appropriations Bills: Procedural Considerations*, by Jessica Tollestrup.

⁹² For an explanation of the motion to rise and report, see CRS Report RL32200, *Debate, Motions, and Other Actions in the Committee of the Whole*, by Bill Heniff Jr. and Elizabeth Rybicki.

⁹³ For an explanation of how recorded votes are obtained in the House, see CRS Report 98-228, *House Voting Procedures: Forms and Requirements*, by Walter J. Oleszek.

⁹⁴ 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 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 additional discussion of legislating on appropriations bills, see CRS Report R41634, *Limitations in Appropriations Measures: An Overview of Procedural Issues*, by Jessica Tollestrup.

limitation on funds in a general appropriation bill for the administration of a tax or tariff.”⁹⁵
(Amended clause 5 of Rule XXI.)

Bill Introductions⁹⁶

(See also “Commemorative Legislation” below.)

In the 104th Congress, a separate order in H.Res. 6 allowed more than one Member to be listed as an original sponsor on the first 20 bills and first 2 joint resolutions.

In the 106th Congress, a separate order in H.Res. 5 reserved the first 10 bill numbers for assignment by the Speaker until March 1, 1999.

In the 107th Congress, a separate order in H.Res. 5 reserved the first 10 bill numbers for assignment by the Speaker during the first session of the 107th Congress.

A separate order in H.Res. 5 in the 108th Congress reserved the first 10 bill numbers for assignment by the Speaker during the first session of the 108th Congress.

A separate order in H.Res. 5 in the 109th Congress reserved the first 10 bill numbers for assignment by the Speaker for the duration of the 109th Congress.

Classified Materials

In the 104th Congress, H.Res. 6 required a nondisclosure oath by any Member, officer, or employee before being granted access to classified information. The new oath was added to the Code of Conduct.

In the 107th Congress, the clerk was directed in H.Res. 5 to publish in the *Congressional Record* the names of Members who had taken the nondisclosure oath.

Commemorative Legislation

H.Res. 6 in the 104th Congress banned the introduction and consideration of commemorative legislation, and required a commemorative measure that a Member sought to introduce to be returned to the Member. “Commemoration” was defined as “any means of remembrance, celebration, or recognition for any purpose through the designation of a specified period of time.”⁹⁷

⁹⁵ Late in the 109th Congress, the House adopted an earmark reform resolution. Among its provisions, it allowed a point of order against consideration of an authorization, appropriations, or tax measure if the committee of jurisdiction failed to provide a list of earmarks included in the measure. H.Res. 1000, deemed adopted upon the adoption of H.Res. 1003, agreed to in the House September 14, 2006.

⁹⁶ For additional 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 98-458, *Introducing a House Bill or Resolution*, by Betsy Palmer.

⁹⁷ H.Res. 6 also directed the Committee on Government Reform and Oversight to “consider alternative means for establishing commemorations, including the creation of an independent of Executive branch commission for such purpose, and to report to the House any recommendations thereon.” The committee did not act on this directive in the 104th Congress. “Commemoratives Are Gone and All But Forgotten in Congress,” *CQ Daily Monitor*, January 29, 1996, p. 5.

Conference⁹⁸

The Speaker's announced policies for the 104th Congress deleted a policy statement by the preceding Speaker in the 103rd Congress. Speaker Thomas Foley had announced that appointment of conferees to reconcile provisions of a specific bill should not be construed as binding on subsequent joint referrals of measures to amend the "work product of that particular conference." The deletion brought the policy into accord with changes to the rule of referral, ending joint referral. (See "Referral" above.)

H.Res. 5 in the 109th Congress allowed committees to adopt a committee rule to grant general authority to the committee chair to make motions on the floor necessary to send a bill to conference whenever the chair deemed it appropriate to do so. Previously, a chair would need prior authorization by his or her committee to make such a privileged motion. (Amended clause 2 of Rule XI.)

Motion to Instruct Conferees

H.Res. 5 in the 107th Congress clarified that a motion to instruct conferees was in order after a conference committee had been appointed for 20 calendar days without having filed its report, but *only after* the Member proposing to make such a motion gave one calendar day's notice of his or her intent to do so. The recodification of the House rules in the 106th Congress included editorial changes to the rule on the privilege of motions to instruct conferees, but the editorial changes had unintended substantive consequences. The amendment in the 107th Congress restored the operation of the rule to its pre-106th Congress state to require one calendar day's notice of a Member's intent to make a motion to instruct conferees and to ensure the understanding that the elements of privilege—time elapsed, no report, and notice—operated together. (Amended clause 7 of Rule XXII.)

Further, H.Res. 5 barred *motions to instruct conferees* and *motions to recommit conference reports with instructions* from including "argument," that is, statements in support of the motion rather than solely the instruction to the conferees to uphold a certain position in conference with the Senate. (Amended clause 7 of Rule XXII.)

H.Res. 5 in the 108th Congress stated that a motion to instruct conferees was in order after a conference committee had been appointed for 20 *calendar* days and 10 *legislative* days without making a report.⁹⁹ The rule had previously required only that 20 calendar days must have elapsed. (Amended clause 7 of Rule XXII.)

Congressional Record

(See also "Decorum" below.)

H.Res. 6 in the 104th Congress required *by rule* that the House portion of the *Congressional Record* be a verbatim account of floor proceedings.¹⁰⁰ The resolution also established this rule as a standard of conduct enforceable by action of the Committee on Standards of Official Conduct.

⁹⁸ For additional information on resolving differences between the houses, see CRS Report 98-696, *Resolving Legislative Differences in Congress: Conference Committees and Amendments Between the Houses*, by Elizabeth Rybicki.

⁹⁹ A legislative day begins when the House meets, after an adjournment, and ends when the House next adjourns.

¹⁰⁰ For background on unauthorized deletions and on editing of the chair's rulings, which were part of the motivation for the rule, see the parliamentarian's notes in *Constitution, Jefferson's Manual, and Rules of the House of*

Continuity of Congress¹⁰¹

Emergency Recess

H.Res. 5 in the 108th Congress authorized the Speaker, when notified of an imminent threat to the House's safety, to declare an emergency recess subject to a call of the chair. If notified of an "imminent impairment" of the meeting location during a recess of not more than three days, the Speaker, in consultation with the minority leader, could accelerate or postpone the reconvening of the House. The change also allowed the Speaker to convene the House elsewhere in Washington, DC, than the Hall of the House.¹⁰² (Amended clause 12 of Rule I.)

Quorums

H.Res. 5 in the 108th Congress amended House rules to prepare for a catastrophic event by authorizing the Speaker to adjust the whole number of the House in the event of a Member's death, resignation, expulsion, disqualification, or removal, and directed the Speaker to announce to the House the adjusted number.¹⁰³ (Amended clause 5 of Rule XX.)

H.Res. 5 in the 109th Congress amended this rule to provide for an adjustment as well upon a Member's swearing-in. (Amended clause 5 of Rule XX.)

H.Res. 5 in the 109th Congress more significantly allowed for the House to temporarily conduct business with a provisional quorum in catastrophic circumstances, but only after a motion to compel Members' attendance had been disposed of and the following actions had been taken in the following sequence: (1) a call of the House totaling 72 hours had been taken without producing a quorum; (2) the Speaker and majority and minority leaders received from the sergeant-at-arms a "catastrophic quorum failure report" stating that the House could not establish a quorum due to a catastrophic event; (3) the Speaker announced the content of the report to the House; and (4) a further call of the House of at least 24 hours' duration was conducted and a quorum did not appear.¹⁰⁴ A provisional quorum would be calculated based on the number of

Representatives of the United States, 105th Congress, prepared by Charles W. Johnson, parliamentarian, 104th Cong., 2nd sess., H. Doc. 104-272 (Washington, DC: GPO, 1997), §926, pp. 791-792.

¹⁰¹ Even prior to the terrorist attacks of September 11, 2001, Congress considered the possibility of a catastrophe affecting the ability of Congress to function. For example, the joint bipartisan leadership issued a directive to the Capitol Police Board in 2000 to develop a comprehensive emergency preparedness plan for the legislative branch. Subsequently, in the 108th and 109th Congresses, the House passed bills to provide for continuity in representation by setting standards for special elections for Representatives. H.R. 2844 (108th Cong.) passed the House April 22, 2004, and H.R. 841 (109th Cong.) passed the House March 3, 2005; neither bill was considered by the Senate.

¹⁰² For background on continuity of Congress rules changes made in the 108th Congress, see Rep. Christopher Cox, letter to Rep. David Dreier, chair, House Rules Committee, from Rep. Cox and Rep. Martin Frost, co-chairs, House Continuity of Congress Working Group, *Congressional Record*, vol. 148, part 16 (November 14, 2002), pp. 22676-22677.

¹⁰³ *Ibid.* In addition to the rules change, H.Con.Res. 1, agreed to in the House January 7, 2003, and in the Senate February 13, 2003, authorized the Speaker and the Senate majority leader to convene Congress outside the District of Columbia. For related information on Congress's COOP, see CRS Report RL31594, *Congressional Continuity of Operations (COOP): An Overview of Concepts and Challenges*, by R. Eric Petersen and Jeffrey W. Seifert (out of print; available from author of current report to congressional clients upon request).

¹⁰⁴ Rep. Brian Baird raised a constitutional point of order against the rules resolution, alleging that the provisional quorum violated the Constitution. Article I, Section 5, clause 1 provides: "[A] Majority of each [House] shall constitute a Quorum to do Business[.]" Baird argued that the House could not establish a quorum different from the constitutional provision. Rep. David Dreier responded that constitutional scholars approved of the House's dealing with a possible catastrophic loss of Members. The point of order having been based on the Constitution, the Speaker did not rule, but

Members who responded to the second call of the House. The content of a catastrophic quorum failure report was detailed in the new rule.¹⁰⁵ (Amended clause 5 of Rule XX.)

Speaker Succession

H.Res. 5 in the 108th Congress established a new requirement for the Speaker to submit to the clerk of the House a list of Members who would take over the responsibilities of the speakership in the event of a vacancy and pending the election of a new Speaker.¹⁰⁶ (Amended clause 8 of Rule I.)

Corrections Calendar

H.Res. 5 in the 105th Congress permitted consideration of Corrections Calendar measures at any time on a corrections day and permitted bills to be called up in any order from the calendar. A rule as adopted during the 104th Congress had placed consideration of measures on the Corrections Calendar immediately after the Pledge of Allegiance and required bills on it to be called up in the order of their placement on the calendar.¹⁰⁷

H.Res. 5 in the 107th Congress exempted that measures placed on the Corrections Calendar from having to satisfy the three-day layover requirements applicable to measures generally and Corrections Calendar bills specifically before being eligible for floor consideration. (Amended clause 4 of Rule XIII and clause 6 of Rule XV.)

H.Res. 5 in the 109th Congress repealed the Corrections Calendar after it had experienced a period of disuse. (Deleted clause 6 of Rule XV.)

Decorum and Debate

Decorum

(See also “Admission to the Chamber” and “Congressional Record” above.)

The Speaker’s announced policies for the 104th Congress stated that violations of the rule against reference to personality could result in the chair immediately interrupting the Member instead of waiting for the Member to conclude his or her remarks. The Speaker’s announced policies also

put a question of consideration to the House, which was approved 224-192. “Rules of the House,” *Congressional Record*, vol. 151, part 1 (January 4, 2005), pp. 44-46.

¹⁰⁵ For additional information, see CRS Report RL32772, *House Rules Changes Affecting Floor Procedures in the 109th Congress*, by Thomas P. Carr and Elizabeth Rybicki. In addition, in the 107th Congress, the House had adopted H.Res. 559, to urge states to review their election laws to fill House vacancies. See “Expedited Special Elections,” *Congressional Record*, vol. 148, part 14 (October 2, 2002), pp. 18919-18927 and 18931. See also CRS Report R40628, *Constitutional Approaches to Continuity of Congressional Representation: Background and Issues for Congress*, by R. Eric Petersen.

¹⁰⁶ For background on continuity of Congress rules changes made in the 108th Congress, see Rep. Christopher Cox, letter to Rep. David Dreier, chair, House Rules Committee, from Rep. Cox and Rep. Martin Frost, co-chairs, House Continuity of Congress Working Group, *Congressional Record*, vol. 148, part 16 (November 14, 2002), pp. 22676-22677.

¹⁰⁷ H.Res. 168, agreed to in the House June 20, 1995, replaced the Consent Calendar with a new Corrections Calendar, part of an expedited procedure to repeal or correct laws, rules, and regulations. The 105th Congress House agreed to H.Res. 7 on January 7, 1997, creating a Corrections Calendar office. For an explanation of the Corrections Calendar, see CRS Report 97-301, *The House’s Corrections Calendar*, by Walter J. Oleszek.

admonished Members that it was not in order to speak disrespectfully of the Speaker and that, under House precedents, violations could be sanctioned even if a challenge was not timely.¹⁰⁸

The Speaker's announced policies for the 106th Congress referenced a separate policy statement on decorum announced earlier the same day. In light of the pending impeachment proceedings against President Bill Clinton, the Speaker announced that the House rule and precedents against avoiding personality in debate still applied. Only when the House was debating impeachment could Members make remarks that referred to misconduct on the President's part. In this same statement, the Speaker also reminded Members that House precedents did not permit them to characterize Senate action or inaction on a matter or allow them to call for specific action by the Senate.¹⁰⁹

In his announced policies for the 108th Congress, the Speaker added two items to the list of conduct items that Members should observe: Members should disable wireless phones when entering the chamber, and Members should wear appropriate business attire in the chamber.¹¹⁰

Debate

Under H.Res. 6 in the 104th Congress, unparliamentary remarks were permitted to be stricken from the record only by unanimous consent or by order of the House. This change was coupled with a new rule stating that the *Congressional Record* is a verbatim account of remarks in the House, thus clarifying how unparliamentary remarks could still be expunged from the *Record*. (See "Congressional Record" above.)

The Speaker in the 104th Congress emphasized that time limits on debate would be strictly enforced and that, to facilitate compliance, the chair would give a 10-second warning before a Member's time expired by lightly tapping the Speaker's gavel.¹¹¹

The Speaker in the 105th Congress discontinued the policy introduced in the 104th Congress, whereby the chair would give a 10-second warning by lightly tapping the gavel before a Member's debate time had expired.¹¹²

H.Res. 5 in the 109th Congress allowed remarks in debate to include references to the Senate or its Members, although remarks were to be confined to the question under debate and to avoid personality, which would include such matters as personal character or characteristics. The existing rule had allowed references to the Senate in House debate to refer only to matters of public record and factual descriptions involving the Senate, such as Senate committee action on a bill.¹¹³ (Amended clause 1 of Rule XVII.)

Electronic Devices

H.Res. 6 in the 104th Congress prohibited use of electronic devices on the House floor.

¹⁰⁸ "Policies of the Chair," *Congressional Record*, vol. 141, part 1 (January 4, 1995), pp. 551-553.

¹⁰⁹ "Announcement by the Speaker Pro Tempore," *Congressional Record*, vol. 145, part 1 (January 6, 1999), p. 246.

¹¹⁰ "Announcement by the Speaker Pro Tempore," *Congressional Record*, vol. 149, part 1 (January 7, 2003), pp. 22-24.

¹¹¹ "Policies of the Chair," *Congressional Record*, vol. 141, part 1 (January 4, 1995), pp. 551-553.

¹¹² "Announcement by the Speaker Pro Tempore on Procedures for the 105th Congress," *Congressional Record*, vol. 143, part 1 (January 7, 1997), pp. 146-148.

¹¹³ For a brief discussion of this change, see CRS Report RL32772, *House Rules Changes Affecting Floor Procedures in the 109th Congress*, by Thomas P. Carr and Elizabeth Rybicki.

In the 107th Congress, the Speaker reiterated a policy announced on January 27, 2000, which reminded all Members and staff that the use of any personal electronic office equipment, including cell phones and computers, was prohibited on the floor of the House at any time. The policy requested that cell phone use be done outside the chamber and that audible cell phone rings be silenced. The sergeant-at-arms was instructed to enforce the policy.¹¹⁴

H.Res. 5 in the 108th Congress amended House rules banning the use of electronic devices on the floor to forbid only “a wireless telephone or personal computer,” thereby allowing handheld electronic devices, such as a BlackBerry® smart phone. (Amended clause 5 of Rule XVII.)

The Speaker also revised the language of the Speaker’s policies regarding “personal electronic office equipment” to apply to a “wireless telephone or personal computer.”¹¹⁵

Exhibits and Handouts

The Speaker in the 105th Congress instituted a new policy requiring that all handouts distributed on or adjacent to the House floor by Members during House proceedings bear the name of the Member authorizing distribution, in light of a “misuse of handouts on the floor of the House” and a request from the Committee on Standards of Official Conduct. The content of a handout needed to comply with same standards of decorum applicable to debate. Staff were also not permitted to distribute handouts in or near the House chamber. The policy also stated that a failure to adhere to this guidance could give rise to a question of privilege.¹¹⁶

H.Res. 5 in the 107th Congress clarified that, whenever there was an objection on the floor to the use of an exhibit, the presiding officer could rule on the objection. The existing rule had implied that the issue must be submitted to the House for a vote. (Amended clause 6 of Rule XVII.)

Delegates/Resident Commissioner

H.Res. 6 in the 104th Congress prohibited Delegates and the Resident Commissioner from voting in the Committee of the Whole. As explained above (“103rd Congress Rules” and “Republican Critique”), the House in the 103rd Congress had allowed the Delegates and the Resident Commissioner to vote in the Committee of the Whole, with the possibility of a revote in the House if their votes affected the outcome of a vote.

Discharge Petitions

H.Res. 6 in the 104th Congress provided for publication of, and other means of public access to, the names of Members who signed discharge petitions. The language specified how public disclosure of names was to take place, and directed the clerk of the House to identify other means of publicizing signatories. Previously, the names of signatories were made public only after a majority of Members had signed a discharge petition.

H.Res. 5 in the 105th Congress made clear that a discharge petition on a resolution from the Rules Committee could apply only to a resolution making in order the consideration of a single measure (and not multiple measures). The resolution subject of a discharge petition could also make only germane amendments to the named measure in order.

¹¹⁴ “Announcement by the Speaker Pro Tempore,” *Congressional Record*, vol. 147, part 1 (January 3, 2001), pp. 39-41.

¹¹⁵ “Announcement by the Speaker Pro Tempore,” *Congressional Record*, vol. 149, part 1 (January 7, 2003), pp. 22-24.

¹¹⁶ “Announcement by the Speaker Pro Tempore on Procedures for the 105th Congress,” *Congressional Record*, vol. 143, part 1 (January 7, 1997), pp. 146-148.

District of Columbia Legislation

H.Res. 6 in the 104th Congress made District of Columbia legislation privileged on the second and fourth Mondays of each month when presented by the Committee on Government Reform and Oversight. The change to refer to the Government Reform and Oversight Committee was necessitated by the abolition of the District of Columbia Committee, whose legislation previously enjoyed privileged status on the second and fourth Mondays. (See “104th Congress” under “Jurisdiction” above.)

Order of Business

H.Res. 6 in the 104th Congress incorporated the Pledge of Allegiance into the daily order of business, following approval of the *Journal*, codifying practice of the House since 1988.

Public Debt Ceiling

H.Res. 5 in the 107th Congress repealed the House rule that provided for the automatic engrossment and transmittal to the Senate of a House joint resolution changing the public-debt ceiling—the so-called Gephardt rule, named for former Representative Richard Gephardt. The automatic engrossment was triggered by House agreement to a concurrent resolution on the budget. The automatic engrossment allowed the House to avoid a separate vote on initial adoption of debt-limit legislation.¹¹⁷ (Deleted Rule XXIII.)

H.Res. 5 in the 108th Congress reinstated the Gephardt rule. (Added a new Rule XXVII.)

Public Works

H.Res. 5 in the 106th Congress eliminated an obsolete point of order related to specific roads in a general roads bill. (Amended clause 3 of Rule XXI.)

H.Res. 5 in the 107th Congress barred consideration of any measure, amendment, or conference report that names a “public work” in honor of a Member, Delegate, Resident Commissioner, or Senator while that person was serving in Congress. This prohibition was a new rule. (Added clause 6 to Rule XXI.)

Question of Privileges of the House

In the 106th Congress, H.Res. 5 allowed the notice of the form of a question of privilege (that is, the full text of the resolution) to be waived by unanimous consent.¹¹⁸ Since a question admitted by the Speaker must be read, the change allowed the House to dispense with the requirement that the proponent read the resolution when noticing the question. (Amended clause 2 of Rule IX.)

¹¹⁷ If the Senate subsequently made any change to the House legislation, the House would need to vote on the Senate’s change. For an explanation of House procedures on debt-limit legislation, see CRS Report RL31913, *Developing Debt-Limit Legislation: The House’s “Gephardt Rule”*, by Bill Heniff Jr.; and CRS Report R41926, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 112th Congress*, by Bill Heniff Jr.

¹¹⁸ A Member might raise a question of the privileges of the House when he or she believes that the “rights of the House collectively” have been compromised. For explanation of questions of privilege, see CRS Report 98-411, *Questions of Privilege in the House*, by James V. Saturno.

Recommit, Motion to

H.Res. 6 in the 104th Congress assured the minority the right to offer a motion to recommit, either with or without instructions. A motion with instructions is normally an attempt to immediately amend a measure, although it can be used to instruct a committee to take other actions such as consider an amendment or hold hearings. A motion to recommit without instructions is normally interpreted to be an attempt to kill a measure by sending it back to committee without any instructions on how the committee should proceed. The motion is in order prior to the question on passage. The rules change proscribed the Rules Committee from reporting a special rule preventing the minority leader or a designee from offering a motion to recommit with instructions, specifically listing a motion with amendatory instructions. The availability of the “minority’s motion” had changed over many years, and special rules sometimes restricted the ability of the minority to offer a motion to recommit with instructions.¹¹⁹ Under the rules change, a special rule could disallow a motion to recommit with instructions on consideration of a Senate bill or joint resolution for which the text of a House-passed measure had been substituted.

Speaker of the House

H.Res. 6 in the 104th Congress limited service as Speaker to four consecutive Congresses. Service for less than a “full session in any Congress” would not count toward this limit. (See also, above, “Speaker Succession,” under “Continuity of Congress.”)

H.Res. 6 also authorized the creation of an Office of Legislative Floor Activities in the Office of the Speaker.

H.Res. 5 in the 108th Congress repealed the limit on service of a Speaker. (Deleted clause 9 of Rule I.)

Special Order Speeches and Other Non-Legislative Debate¹²⁰

While the Speaker in his announced policies for the 104th Congress continued previous Speakers’ policies on special order speeches, he implemented some changes. First, Members would not be able to request permission to reserve time for a special order speech more than one week in advance. Second, on Tuesdays, following legislative business, Members could be recognized for special order speeches until midnight, with five-minute special orders preceding longer special orders. Third, on other days, following legislative business and following five-minute special orders, up to four hours would be available for other or longer special order speeches, with two hours available to each party. The leadership of either party could reserve the first hour of its party’s time. Fourth, special order speeches on these other days would still not be allowed to continue past midnight. The time for each party’s special order speeches would be equally reduced if less than four hours was available before midnight. Fifth, television cameras covering special order speeches would not be allowed to “pan” the chamber. A “crawl” on viewers’ screens

¹¹⁹ For additional information on the motion to recommit, see CRS Report 98-383, *Motions to Recommit in the House*, by Betsy Palmer; and CRS Report 96-850, *House Rules Changes Affecting Floor Proceedings in the 104th Congress*, by Stanley Bach (out of print; available from author of current report to congressional clients upon request).

¹²⁰ For additional 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 Betsy Palmer.

would indicate that legislative business had ended and the House was proceeding with special order speeches.¹²¹

The Speaker's policy implemented the same restriction on television coverage for morning hour debate as for special order speeches: cameras could not "pan" the chamber and a "crawl" would indicate the House was proceeding in morning hour.¹²²

In the 105th Congress, the Speaker amended the policy applicable to special order speeches to require the leadership of each party to submit a list to the chair showing the allocation of time within each party's two-hour time period.¹²³

Special Rules

(See also Recommit, Motion to, above.)

H.Res. 6 in the 104th Congress required special rules to the extent possible to identify the specific House rules being waived in a special rule.

Suspension of the Rules

H.Res. 5 in the 108th Congress included a standing order allowing consideration of measures under suspension of the rules on Wednesdays through the second Wednesday in April (April 9, 2003).¹²⁴ Under House rules, motions to suspend the rules had been in order only on Mondays and Tuesdays and the last six days of a session.

H.Res. 5 in the 109th Congress allowed the Speaker to entertain motions to suspend the rules on Wednesdays, in addition to Mondays and Tuesdays and the last six days of a session. (Amended clause 1 of Rule XV.)

Tax Legislation

H.Res. 6 in the 104th Congress required a three-fifths vote (of the Members voting, a quorum being present) to pass a bill or joint resolution or agree to an amendment or conference report "carrying a Federal income tax rate increase."¹²⁵ The resolution further disallowed the House

¹²¹ "Policies of the Chair," *Congressional Record*, vol. 141, part 1 (January 4, 1995), pp. 551-553. Some of the policies on non-legislative debate were interim, pending agreement between the majority and minority leadership. Agreement was announced May 12, 1995. Rep. Richard Armey, "Format for Morning Hour Debates and Special Orders," *Congressional Record*, vol. 141, part 9 (May 12, 1995), p. 12765.

¹²² For additional information on morning hour, see CRS Report RS20131, *Morning Hour Debates: Current House Practices*, by Judy Schneider. When agreement was reached between the majority and minority parties on the Speaker's policies applicable to non-legislative debate, slight changes affecting the time of commencing and the duration of morning hour debate were made. Rep. Richard Armey, "Format for Morning Hour Debates and Special Orders," *Congressional Record*, vol. 141, part 9 (May 12, 1995), p. 12765.

¹²³ "Announcement by the Speaker Pro Tempore on Procedures for the 105th Congress," *Congressional Record*, vol. 143, part 1 (January 7, 1997), pp. 146-148.

¹²⁴ On April 30, 2003, the House agreed by unanimous consent to consider suspension measures through the last Wednesday in June (June 25, 2003). On June 26, 2003, the House agreed to H.Res. 297, extending this authorization to the end of the 108th Congress.

¹²⁵ This rules change was challenged in court by House Democrats and others. The court dismissed the complaint with prejudice, finding "federal courts should generally refrain, as a matter of policy, from intruding in the name of the Constitution upon the internal affairs of Congress at the behest of lawmakers who have failed to prevail in the political process." *Skaggs v. Carle*, 898 F. Supp. 1 (D.D.C., 1995), *aff'd* 110 F.3d 831 (D.C. Cir., 1997).

from considering bills, joint resolutions, amendments, and conference reports containing a “retroactive Federal income tax rate increase.” “Retroactivity” was defined as making the tax rate increase apply to a period “beginning prior to the enactment of the provision.” (See also “Voting.”)

In the 105th Congress, H.Res. 5 sought to clarify the definition of “Federal income tax rate increase” by limiting the relevant rules’ effect to specified provisions of the Internal Revenue Code. The changes were meant to clarify that the requirement of a three-fifths vote to approve an income tax rate increase did not apply to provisions that merely increased revenues or effective tax rates.

In the 108th Congress, H.Res. 5 defined “tax or tariff provisions” vis-à-vis a general appropriation bill. Under existing House rules, tax and tariff measures could not be reported from a committee not having jurisdiction over such a measure, and an amendment with tax or tariff provisions was not in order to a bill reported by a committee not having jurisdiction. The change dealt with an ambiguity of the rules related to limitation amendments offered to appropriations bills. The 108th Congress rules change provided that a tax or tariff measure “includes an amendment proposing a limitation on funds in a general appropriation bill for the administration of a tax or tariff.”¹²⁶(Amended clause 5 of Rule XXI.)

Unanimous Consent

In his policies for the 105th Congress, the Speaker reiterated previous Speaker’s policies on recognition for unanimous consent requests for the consideration of bills and resolutions, but he clarified that this policy encompassed the wider instances of precedents listed in the parliamentarian’s notes to Rule XIV, which at that time addressed decorum and debate.¹²⁷

Unfunded Mandates

H.Res. 5 in the 105th Congress clarified the opportunity to offer a motion to strike an unfunded mandate provision from a bill (unless the motion was disallowed pursuant to a special rule). The clarification was that the motion was solely for unfunded intergovernmental mandates, not for private sector mandates.¹²⁸

¹²⁶ 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 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 additional discussion of legislating on appropriations bills, see CRS Report R41634, *Limitations in Appropriations Measures: An Overview of Procedural Issues*, by Jessica Tollestrup.

¹²⁷ “Announcement by the Speaker Pro Tempore on Procedures for the 105th Congress,” *Congressional Record*, vol. 143, part 1 (January 7, 1997), pp. 146-148.

¹²⁸ 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; and CRS Report RS20058, *Unfunded Mandates Reform Act Summarized*, by Keith Bea and Richard S. Beth.

Voting¹²⁹

H.Res. 6 in the 104th Congress required a roll-call vote on final passage or adoption of any bill, joint resolution, or conference report making general appropriations or increasing federal income tax rates, and on final approval of any concurrent budget resolution or the conference report on a budget resolution.

The rules resolution also authorized the Speaker to reduce to five minutes the time for voting on questions after a vote had been ordered on the motion for the previous question. The rule had previously allowed five-minute voting only after the motion for the previous question was ordered on a special rule. (Additional changes to the duration of voting are described immediately below with “Postponed Votes.”)

Regarding the conduct of votes by electronic device, the Speaker reiterated a policy in the 104th Congress that Members would be granted at least 15 minutes to answer an ordinary roll call or quorum call. The Speaker, however, added a new statement to the policy: that the chair would have the full support of the Speaker in attempting to close a vote at the “earliest opportunity.” The Speaker also indicated that Members should not rely on “signals relayed from outside the chamber” to assume that a vote would be held open until a Member arrived.¹³⁰

H.Res. 5 in the 106th Congress abolished the practice of pairing, other than live pairs. Pairing was a procedural mechanism for absent Members to show their position on a vote and indicate that their absence would not have affected the vote’s outcome. A live pair, however, is a courtesy extended by a Member who is present for a vote to a Member who is absent for that vote. The Member present votes, announces he or she has a live pair with the absent Member, and withdraws his or her vote. The rules change preserved live pairs, but seemingly only when the House votes by a call of the roll. Members who are absent for a vote may insert a statement of their position in the *Congressional Record*.¹³¹ (Deleted clause 8 of Rule XX and amended clause 3 of Rule XX.)

Postponed Votes

H.Res. 6 in the 104th Congress expanded the authority of the Speaker to postpone votes to include the motion for the previous question on a question that itself was susceptible to postponement.

H.Res. 5 in the 105th Congress extended the Speaker’s authority to postpone votes to any manager’s amendment and motion to recommit (or any previous question thereon) considered under the Corrections Day process.

H.Res. 5 in the 106th Congress added an original motion to instruct conferees to the list of votes that the Speaker could postpone.¹³² (Amended clause 8 of Rule XX.) The resolution also added to the Speaker’s authority to reduce voting time to 5 minutes on all postponed questions and all

¹²⁹ For additional information on voting in the House, see CRS Report 98-228, *House Voting Procedures: Forms and Requirements*, by Walter J. Oleszek.

¹³⁰ “Policies of the Chair,” *Congressional Record*, vol. 141, part 1 (January 4, 1995), pp. 551-553.

¹³¹ For additional information on pairing, see CRS Report 98-970, *Pairing in Congressional Voting: The House*, by Christopher M. Davis.

¹³² This change addressed a motion to instruct made at the time of conferees’ appointment. Authority for the Speaker to postpone a vote on a subsequent motion to instruct conferees, which at that time was in order after 20 calendar days if a conference had not reported, had been granted by a rules change in the 101st Congress. Para. 1 of H.Res. 5, agreed to in the House January 3, 1989.

questions incidental to these questions so long as the first vote in a series was a 15-minute vote. (Amended clause 10 of Rule XX.)

H.Res. 5 in the 107th Congress permitted the chair of the Committee of the Whole to postpone record votes on amendments, allowing at least 15 minutes for the first vote and reducing subsequent votes to not less than 5 minutes. (Amended clause 6 of Rule XVIII.)

H.Res. 5 in the 108th Congress clarified House rules allowing the Speaker to reduce the minimum time allowed for voting on a second or subsequent electronic vote to five minutes, provided the Speaker gave notice and no business had taken place between votes. (Amended clause 9 of Rule XX.) Another change provided the Speaker with flexibility by eliminating the requirement that postponed votes be taken in the order in which propositions were considered. (Amended clause 8 of Rule XX.)

H.Res. 5 in the 109th Congress added the motion to reconsider, tabling of motions to reconsider, and amendments reported from the Committee of the Whole among those votes the Speaker might postpone within two additional legislative days. (Amended clause 8 of Rule XX.)

Rules Changes Affecting Budgetary Legislation

This section of the report explains or lists rules and separate orders related to budgetary legislation that were included in each House's rules resolution in the 104th through the 109th Congresses. Other sources of change to the consideration of budgetary legislation, such as the annual concurrent resolution on the budget that is often a source of permanent or temporary changes in the budget process, have not been analyzed.¹³³ Other process changes may be included in appropriations acts and other freestanding legislation; those changes are not discussed in this report.¹³⁴

¹³³ Permanent or temporary changes to budget process rules are regularly included in the annual concurrent resolutions on the budget. For historical data an analysis of the congressional budget resolutions, see CRS Report RL30297, *Congressional Budget Resolutions: Historical Information*, by Bill Heniff Jr. and Justin Murray. Beginning with the 104th Congress, the budget resolutions that passed at least the House are as follows:

- (1) 104th Congress: H.Con.Res. 67 (FY1996), conference report adopted in both the House and the Senate June 29, 1995; and H.Con.Res. 178 (FY1997), conference report adopted in the House June 12, 1996, and in the Senate June 13, 1996.
- (2) 105th Congress: H.Con.Res. 84 (FY1998), conference report adopted in both the House and the Senate June 5, 1997; and H.Con.Res. 284 (FY1999), agreed to in the House June 5, 1998.
- (3) 106th Congress: H.Con.Res. 68 (FY2000), conference report adopted by the House April 14, 1999, and by the Senate April 15, 1999; and H.Con.Res. 290 (FY2001), conference report adopted by both the House and the Senate April 13, 2000.
- (4) 107th Congress: H.Con.Res. 83 (FY2002), conference report adopted by the House May 9, 2001, and by the Senate May 10, 2001; and H.Con.Res. 353 (FY2003), agreed to in the House March 20, 2002.
- (5) 108th Congress: H.Con.Res. 95 (FY2004), conference report adopted by both the House and the Senate April 1, 2004; and S.Con.Res. 95 (FY2005), conference report adopted by the House May 19, 2004.
- (6) 109th Congress: H.Con.Res. 95 (FY2006), conference report adopted by both the House and the Senate April 28, 2005; and H.Con.Res. 376 (FY2007), agreed to in the House June 22, 2006.

¹³⁴ For an explanation of the congressional budget process, see CRS Report 98-721, *Introduction to the Federal Budget Process*, coordinated by Bill Heniff Jr.

104th Congress

Two of the eight goals of the institutional reforms of the Contract with America dealt with budgetary legislation: a three-fifths vote “to pass a tax increase” and an “honest accounting of our Federal Budget by implementing zero baseline budgeting.” These goals were refined for implementation as changes to House rules.¹³⁵

Changes related to budgetary legislation also appear in “Rules Changes Affecting Committees,” including

- Members were permitted to serve four Congresses out of six consecutive Congresses on the Budget Committee, with existing exceptions continuing for majority and minority leadership representatives and, under certain circumstances, for chairs and ranking minority Members.¹³⁶ (See “Budget Committee” under “Assignments and Size.”)
- The Budget Committee was given jurisdiction over “Measures relating to the congressional budget process, generally” and over “Measures relating to the establishment, extension, and enforcement of special controls over the Federal budget, including the budgetary treatment of off-budget Federal agencies and measures providing exemption from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.” (See “104th Congress” under “Jurisdiction.”)
- A “truth-in-budgeting baseline reform” provision required a comparison (when practicable) of total funding in legislation to the “appropriate levels under current law.” The purported effect of this rules change was to require that the entire amount of authorizations, appropriations, and entitlement spending be shown in cost estimates, not solely in increments of change. The “truth” aspect was intended to get at a criticism of baseline budgeting that allowed spending increases above a current year’s level, but below baseline levels, to be characterized as spending cuts.¹³⁷ (See “Committee Reports.”)
- The Appropriations Committee was prohibited in H.Res. 6 from including non-emergency provisions in emergency appropriations measures, unless the provisions rescinded budget authority, reduced direct spending, or reduced an amount for a designated emergency. (See “Appropriations Committee” under “Committee Reports.”)

¹³⁵ H.Res. 6, agreed to in the House January 4, 1995. For an analysis of the rules changes made in the 104th Congress that affected budgetary legislation, see CRS Report 95-432, *Budget Process Changes Made in the Rules of the House in January 1995 (H.Res. 6)*, by Robert Keith; and CRS Report 97-44, *Budget Process Changes Made in the 104th Congress (1995-1996)*, by Robert Keith. (Both reports are out of print, but available from author of current report to congressional clients upon request.)

Other Contract with America goals that related to budget policy and also affected congressional procedures were achieved through legislation, such as the Unfunded Mandates Act, 109 Stat. 48 (1995), and the Line Item Veto Act, 110 Stat. 1200 (1996). Additional policy initiatives with implications for congressional budget procedures were realized through legislation such as the welfare reform law (P.L. 104-193; 110 Stat. 2105 (1996)).

¹³⁶ House rules had previously limited Budget Committee service to three of the past five Congresses. A provision that seniority would not be a factor when determining Budget Committee membership was removed.

¹³⁷ The House passed a bill in the 103rd Congress that eliminated inflation adjustments from baseline estimates for discretionary programs, among other provisions. H.R. 4907, passed by the House August 12, 1994. No action was taken in the Senate.

- The Appropriations Committee was also required to identify unauthorized appropriations in its reports on general appropriations bills. (See “Appropriations Committee” under “Committee Reports.”)

Changes related to budgetary legislation also appear in “Rules Changes Affecting the Chamber and Floor,” including

- A three-fifths vote was required to pass legislation containing a federal income tax rate increase. (See “Tax Legislation.”)
- The House prohibited consideration of legislation containing a retroactive federal income tax rate increase, defined as the application of a tax rate increase to a period “beginning prior to the enactment of the provision.” (See “Tax Legislation.”)
- An automatic roll-call vote was required on final passage of (or adoption of the conference report on) any budget resolution or any measure making general appropriations or increasing federal income tax rates. (See “Voting.”)
- A motion to rise and report during consideration of a general appropriations bill has precedence over motions to further amend the bill only if offered by the majority leader or a designee. (See “Appropriations Process.”)
- A Member could offer en bloc offsetting amendments, to “transfer appropriations among objects without increasing the levels of budget authority or outlays in the bill.” (See “Appropriations Process.”)
- Whenever an appropriations bill is reported, all points of order against it are automatically reserved. (See “Appropriations Process.”)

Since H.Res. 6 also eliminated committees and changed the jurisdictions of committees, a provision of H.Res. 6 provided for the revision of spending allocations made under the budget resolution for FY1995.¹³⁸

105th Congress

Changes made by H.Res. 5 in the 105th Congress affecting budgetary legislation were described earlier as part of changes affecting committees and the House floor.¹³⁹ Those changes discussed in the section “Rules Changes Affecting Committees” were

- The majority leader was allowed, after consultation with the minority leader, to designate “major tax legislation,” on which the report by the Ways and Means Committee could then include a “dynamic estimate”—the macroeconomic feedback emanating from the proposed change in tax policy. (See “Ways and Means Committee,” under “Committee Reports.”)

¹³⁸ H.Con.Res. 218, conference report agreed to in the House May 5, 1994, and in the Senate May 12, 1994. The revisions were subsequently printed in the *Congressional Record*: Rep. John Kasich, “Communication from the Chairman of the Committee on the Budget Regarding Revised 302(a)/602(a) Allocation for Fiscal Years 1995-1999,” *Congressional Record*, vol. 141, part 5 (February 27, 1995), pp. 6136-6138.

¹³⁹ H.Res. 5, agreed to in the House January 7, 1997. During the 105th Congress, the House and Senate also passed the Budget Enforcement Act of 1997 (111 Stat. 251, 677), putting in place in title X of the act enforcement procedures to ensure compliance with laws having the goal of achieving a balanced budget by FY2002. For a brief description of the Budget Enforcement Act, see CRS Report 97-930, *The Budget Enforcement Act of 1997: A Fact Sheet*, by Robert Keith.

- The jurisdictions of the Budget and Government Reform and Oversight Committees were revised. The Budget Committee was given oversight over the “budget process” rather than solely the “congressional budget process.” The Government Reform Committee was given jurisdiction over “government management and accounting measures, generally” rather than “budget and accounting measures, generally.” (See “Jurisdiction.”)
- The layover requirements for Budget Committee reports on budget resolutions were conformed to those of other committees for other legislation. (See “Committee Reports.”)

Those changes discussed in the section “Rules Changes Affecting the Chamber and Floor” were

- The definition of “Federal income tax rate increase” was limited to rate increases affecting only specified provisions of the Internal Revenue Code. The changes were meant to clarify that the requirement of a three-fifths vote to approve an income tax rate increase did not apply to provisions that merely increased revenues or effective tax rates. (See “Tax Legislation.”)
- The Appropriations Committee was prohibited from reporting a measure, or the House from considering an amendment, that made the availability of funds contingent on the receipt or possession of information by the funding authority if that information was not already required by law, so-called made-known provisions and amendments. This kind of amendment had been used to legislate on appropriations bills, contrary to other House rules. (See “Appropriations Process.”)
- The precedence of the majority leader’s motion to rise and report over any Member’s further motion to amend was enhanced. The change clarified that the precedence applied not just to Members’ limitation amendments but to any amendment. (See “Appropriations Process.”)
- The opportunity to offer a motion to strike an unfunded mandate provision from a bill (unless the motion was disallowed pursuant to a special rule) was clarified. The clarification was that the motion was solely for unfunded intergovernmental mandates, not for private sector mandates. (See “Unfunded Mandates.”)

106th Congress

In the absence of a concurrent resolution agreed to by Congress on the budget for FY1999, a separate order included in the rules package authorized the chair of the Budget Committee to publish budget allocations under Section 302(a) of the Congressional Budget Act in the *Congressional Record*, and stated that “those budget levels shall be effective in the House as though established by passage” of a budget resolution.¹⁴⁰

Two technical changes were also included in separate orders. First, service limits on the Budget Committee were waived for the 106th Congress (see “Budget Committee” above, under “Assignments and Size”). Second, when a bill or joint resolution was considered pursuant to a special rule, a point of order under Section 303 of the Congressional Budget Act (generally, first requiring adoption of a concurrent resolution on the budget before consideration of legislation

¹⁴⁰ H.Res. 5, agreed to in the House January 6, 1999. See Rep. John Kasich, “Communication from the Chairman of the Committee on the Budget Regarding Interim Budget Allocations and Aggregates for Fiscal Years 1999-2003,” *Congressional Record*, vol. 145, part 3 (February 25, 1999), pp. 3117-3118. See also CRS Report RL31443, *The “Deeming Resolution”: A Budget Enforcement Tool*, by Megan Suzanne Lynch.

with budgetary impact) would lie against text made in order as original text for the purpose of amendment or against text on which the previous question was ordered directly to passage, not just against the text of the measure named in the special rule.

Several minor, technical changes conformed House rules to the Budget Enforcement Act of 1997.¹⁴¹ (Clauses 1, 2, and 4 of Rule X.)

107th Congress

The rules mechanism providing for automatic engrossment and transmittal to the Senate of a joint resolution to increase the debt limit, known as the Gephardt rule after former Representative Richard Gephardt, was repealed.¹⁴² (Struck Rule XXIII, and made conforming changes in other rules.) (See “Public Debt Ceiling” above.)

As described in the section “Rules Changes Affecting Committees,” rules changes required the Appropriations Committee to include in reports on general appropriations bills additional information on unauthorized appropriations—a statement of the last year for which expenditures were authorized, the level authorized for that year, the actual level of spending for that year, and the level of appropriations in the current bill. (See “Appropriations Committee” under “Committee Reports.”)

A separate order related to a point of order under Section 303 of the Congressional Budget Act was repeated (see “106th Congress,” immediately above). Two additional technical changes were included in separate orders. First, the word “resolution” in Section 306 of the Congressional Budget Act was interpreted to mean “joint resolution,” and not a simple or concurrent resolution. Second, the separate order stated that a provision of or amendment to legislation prospectively establishing compensation for a federal office, to be appropriated annually, does not create entitlement authority under the Congressional Budget Act.

108th Congress¹⁴³

In the absence of a concurrent resolution agreed to by Congress on the budget for FY2003, a separate order in H.Res. 5 established the provisions of H.Con.Res. 353 (107th Congress) as having effect in the 108th Congress until congressional agreement to a FY2004 budget resolution. The chair of the Budget Committee was also directed to submit allocations under Section 302(a)

¹⁴¹ P.L. 105-33, title X; 111 Stat. 251, 677 (1997)). See Rep. Richard Arney, “Rules of the House,” insert in the *Congressional Record*, vol. 145, part 1 (January 6, 1999), p. 78:

The areas of technical correction involve oversight requirements of the Budget Committee, the consideration of bills providing new entitlement authority, the submission of views and estimates on the President’s budget, and the application of certain points of order relating to the timing of consideration of legislation. These are very minor and technical changes that are necessary to remove current conflicts between the Budget Act and the rules of the House.

¹⁴² H.Res. 5, agreed to in the House January 3, 2001. See generally CRS Report RL31479, *Federal Budget Process Reform: Proposals and Legislative Actions in the 107th Congress*, by Bill Heniff Jr.; and CRS Report RL31795, *Congressional Budget Actions in 2002*, by Bill Heniff Jr. See also CRS Report RL31913, *Developing Debt-Limit Legislation: The House’s “Gephardt Rule”*, by Bill Heniff Jr.

¹⁴³ For an analysis of the rules changes made in the 108th Congress that affected budgetary legislation, see CRS Report RL31728, *House Rules Changes Affecting the Congressional Budget Process in the 108th Congress (H.Res. 5)*, by Bill Heniff Jr. See also CRS Report RL31754, *Congressional Budget Actions in 2003*, by Bill Heniff Jr.; and CRS Report RL32246, *Congressional Budget Actions in 2004*, by Bill Heniff Jr.

of the Congressional Budget Act, “Accounts Identified for Advance Appropriations,” and an estimated unified surplus for printing in the *Congressional Record*.¹⁴⁴

A separate order related to a point of order under Section 303 of the Congressional Budget Act was repeated (see “106th Congress” immediately above). Two additional separate orders were also repeated: The word “resolution” in Section 306 of the Congressional Budget Act was interpreted to mean “joint resolution,” and a provision of or amendment to legislation prospectively establishing compensation for a federal office, to be appropriated annually, was not to be considered to be entitlement authority under the Congressional Budget Act. (See “107th Congress” immediately above.)

Three provisions were described earlier in the section “Rules Changes Affecting Committees”:

- H.Res. 5 required the Ways and Means Committee to include in committee reports on measures amending the Internal Revenue Code a “macroeconomic impact analysis,” also known as “dynamic scoring,” by the Joint Taxation Committee. A macroeconomic impact analysis was defined as an estimate of “changes in economic output, employment, capital stock, and tax revenues expected to result from enactment of the proposal.” The joint committee’s analysis was also to include a statement of assumptions and data sources. The reporting requirement could be waived if the Joint Taxation Committee certified that such analysis was not calculable, or the chair of the Ways and Means Committee inserted an analysis in the *Congressional Record* prior to the measure’s consideration by the House. (See “Ways and Means Committee” under “Committee Reports.”)
- Two provisions of H.Res. 5 affected the Budget Committee’s makeup. The membership of the Budget Committee was changed to include one member of the Committee on Rules, codifying action taken in the Republican Conference’s early organization meetings. (See “Budget Committee” under “Assignments and Size.”) In addition, the term limit for service as chair or ranking minority Member of the Budget Committee was codified to six years, equal to the term limitation for other standing committee chairs. (See “Chairmanships/Term Limitations.”)

Two rules changes were discussed earlier in the section “Rules Changes Affecting the Chamber and Floor”:

- H.Res. 5 reinstated the Gephardt rule.¹⁴⁵ (Added as new Rule XXVII.) (See “Public Debt Ceiling.”)
- H.Res. 5 also defined “tax or tariff provisions” vis-à-vis a general appropriation bill. Tax and tariff measures may not be reported from a committee not having jurisdiction over such a measure, and an amendment with tax or tariff provisions was not in order to a bill reported by a committee not having jurisdiction. The rules change provided that a tax or tariff measure “includes an amendment proposing a limitation on funds in a general appropriation bill for the

¹⁴⁴ H.Con.Res. 353, agreed to in the House March 20, 2002. The allocations may be found at Rep. Jim Nussle, “Allocations of Spending Authority to House Committees,” *Congressional Record*, vol. 149, part 1 (January 8, 2003), pp. 180-181. This special order also identified the allocation referred to in H.Con.Res. 353, Section 231(d) as the “corresponding allocation” among those submitted by the Budget Committee chair.

¹⁴⁵ For a history and analysis of the Gephardt rule, see CRS Report RL31913, *Developing Debt-Limit Legislation: The House’s “Gephardt Rule”*, by Bill Heniff Jr.

administration of a tax or tariff.” (Amended clause 5 of Rule XXI.) (See “Tax Legislation.”)

109th Congress¹⁴⁶

In the absence of a concurrent resolution on the budget for FY2004 agreed to by Congress, a separate order in H.Res. 5 established the provisions of S.Con.Res. 95 (108th Congress) as having effect in the 109th Congress until congressional agreement to a FY2005 budget resolution.¹⁴⁷

The separate order related to a point of order under Section 303 of the Congressional Budget Act was repeated (see “106th Congress,” just above). Two additional separate orders were also repeated: The word “resolution” in Section 306 of the Congressional Budget Act was interpreted to mean “joint resolution,” and a provision of or amendment to legislation prospectively establishing compensation for a federal office, to be appropriated annually, was not to be considered to be entitlement authority under the Congressional Budget Act. (See “107th Congress,” just above.)

As described above in the section “Rules Changes Affecting Committees,” H.Res. 5 contained a provision that one member of the majority party and one member of the minority party were to be “designated” by the respective elected leaderships as members of the Budget Committee. The rule that was amended had previously required the members to be “from” the elected leaderships. (See “Budget Committee” under “Assignments and Size.”)

Rules Changes Affecting Administration of the House

Rules changes beginning in the 104th Congress affected the structure of the House’s administration and the relationships within it. Some offices were abolished, while others were created. Responsibilities were shifted, and accountability was increased. Modern practices, such as financial audits, were put in place, and traditional practices, such as requirements for distribution of printed materials, were reformed in light of changed conditions, such as the proliferation of versatile desktop information technology.

Changes to the administration of the House have also been implemented in all Congresses since the 104th Congress through other legislation, not covered here, including the annual legislative

¹⁴⁶ For an analysis of the rules changes made in the 109th Congress that affected budgetary legislation, see CRS Report RS22021, *House Rules Changes Affecting the Congressional Budget Process in the 109th Congress (H.Res. 5)*, by Bill Heniff Jr. See also CRS Report RL32791, *Congressional Budget Actions in 2005*, by Bill Heniff Jr.; and CRS Report RL33291, *Congressional Budget Actions in 2006*, by Bill Heniff Jr.

¹⁴⁷ Conference report on S.Con.Res. 95, agreed to in the House May 19, 2004.

branch appropriations bills,¹⁴⁸ and freestanding legislation, such as the House Administrative Reform Technical Corrections Act.¹⁴⁹

Many changes in the administration of the House were taken at the initiative of the House leadership, the House Administration Committee or House Oversight Committee, the House Appropriations Committee, House officials, the House and Senate together, or legislative branch agencies. For example, in 1994, neither THOMAS nor the Legislative Information System existed, and the use of information technology was not ubiquitous in the House. The World Wide Web was in its infancy, and use of e-mail was still somewhat novel. The BlackBerry® personal digital assistant was first introduced in 1999. The commitment to using information technology in the House was not generally effected through changes to House rules or specific provisions in legislation, but through initiatives exercised in various fora, including committee reports on legislation, joint explanatory statements accompanying conference reports, and actions of the House Administration Committee not requiring House consideration.

Again, 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 a Congress.

104th Congress

Some of the most wide-ranging changes implemented with the convening of the 104th Congress affected the administration of the House.¹⁵⁰ (See also, above, “Staff and Funding,” under “Rules Changes Affecting Committees.”)

House Officers

In adopting its rules, the House abolished the position of the director of non-legislative and financial services and created the chief administrative officer, who would be elected by the House. The chief administrative officer (CAO) took over the duties of the abolished position and

¹⁴⁸ Changes affecting the administration of the House are regularly included in the annual legislative branch appropriations bills and in accompanying committee and conference reports. Beginning with the 104th Congress, the legislative branch appropriations bills during the period covered by this report are as follows:

- (1) 104th Congress: P.L. 104-53 (FY1996); and P.L. 104-197 (FY1997).
- (2) 105th Congress: P.L. 105-55 (FY1998); and P.L. 105-275 (FY1999).
- (3) 106th Congress: P.L. 106-57 (FY2000); and P.L. 106-554 (FY2001), an omnibus appropriations act incorporating by reference H.R. 5657, as introduced on December 14, 2000.
- (4) 107th Congress: P.L. 107-68 (FY2002); and P.L. 108-7 (FY2003), an omnibus appropriations act, with legislative branch appropriations appearing as Division H.
- (5) 108th Congress: P.L. 108-83 (FY2004); and P.L. 108-447 (FY2005), an omnibus appropriations act, with legislative branch appropriations appearing as Division G.
- (6) 109th Congress: P.L. 105-55 (FY2006); and H.R. 5521, passed the House June 7, 2006.

¹⁴⁹ 110 Stat. 1718.

¹⁵⁰ For information on administrative changes during the 104th Congress, see CRS Report 96-764, *House Administrative Reorganization: 104th Congress*, by Paul S. Rundquist and Lorraine H. Tong (out of print; available from author of current report to congressional clients upon request). For additional information on the offices described here, see CRS Report RL33220, *Support Offices in the House of Representatives: Roles and Authorities*, by Ida A. Brudnick.

Legislative support agencies were also affected through legislative changes. For example, in the FY1996 Legislative Branch Appropriations Act (P.L. 104-53), Congress also terminated the Office of Technology Assessment, a legislative branch agency, and made the first cut toward a planned 25% reduction in resources for the General Accounting Office (now the Government Accountability Office), another legislative branch agency.

other duties as assigned by the Speaker or House Oversight Committee (formerly the House Administration Committee), and was made subject to the policy direction and oversight of the Speaker and House Oversight Committee.¹⁵¹

The rules resolution also abolished the Office of the Doorkeeper, and folded the doorkeeper's duties into the Office of the Sergeant at Arms.¹⁵²

The rules resolution strengthened the accountability of House officers to the House Oversight Committee. All House officers were required to report semiannually to the committee with financial statements and an explanation of their office's operations, implementation of new policies and procedures, and future plans. In addition, officers were required to provide, within 45 days of the close of each semiannual period ending on June 30 or December 31, a report of the financial and operational status of each function under their jurisdictions. They were also instructed to cooperate with reviews and audits of financial records and administrative operations.

The House inspector general was directed to conduct during the 104th Congress, in consultation with the Speaker and the Committee on House Oversight, a "comprehensive audit of House financial records and administrative operations," and was authorized to contract with independent auditing firms to conduct the audit. The audit was to be reported, in accordance with then-House Rule VI, to the Speaker, the majority leader, the minority leader, and the chairman and ranking minority Member of the Committee on House Oversight.

The inspector general's authority was broadened to cover audits of the financial and administrative functions of the House and joint entities, not just those under the former director of non-legislative and financial services. The inspector general was also required to report to the Standards of Official Conduct Committee any violations of House rules or laws by Members, officers, or employees of the House committed in the performance of their official duties.¹⁵³

Other Administrative Changes

With the abolition by the rules of the Post Office and Civil Service Committee, that committee's jurisdiction over franking and congressional mail regulations was transferred to the House Oversight Committee (see "104th Congress" under "Jurisdiction" above). The House Oversight Committee's Subcommittee on Administrative Oversight, created in the 102nd Congress, was also abolished.¹⁵⁴

¹⁵¹ H.Res. 6, agreed to by the House January 4, 1995. The position of director of non-legislative and financial services had been created by the House Administrative Reform Resolution of 1992 (H.Res. 423), agreed to by the House April 9, 1992. For information on the Office of the Chief Administrative Officer, see CRS Report RS22731, *Chief Administrative Officer of the House: History and Organization*, by Jacob R. Straus.

¹⁵² For background on the Office of the Doorkeeper, see *Constitution, Jefferson's Manual, and Rules of the House of Representatives of the United States, 112th Congress*, prepared by John V. Sullivan, parliamentarian, 111th Cong., 2nd sess., H.Doc. 111-157 (Washington, DC: GPO, 2011), §663a, p. 369. For information on the sergeant at arms, see CRS Report 98-835, *House Sergeant at Arms: Legislative and Administrative Duties*, by Jacob R. Straus and Lorraine H. Tong.

¹⁵³ For additional information on the House inspector general, see CRS Report R40133, *Office of the House of Representatives Inspector General*, by Jacob R. Straus.

¹⁵⁴ The subcommittee was created by the House Administrative Reform Resolution of 1992 (H.Res. 423), agreed to by the House April 9, 1992.

Legislative service organizations (LSOs) were prohibited, and the House Oversight Committee was authorized to “take such steps as are necessary to ensure an orderly termination and accounting for funds” of LSOs then in existence.¹⁵⁵

The rules package consolidated separate authorizations for statutory and investigative staff and for committee expenses into committee salary and expense accounts funded by a single, two-year (rather than annual) committee expense resolution.¹⁵⁶ A new entity was created—an Office of Legislative Floor Activities in the Office of the Speaker—to assist the Speaker in his or her management of legislative activity on the House floor.

The rules package also contained a special rule making in order the consideration of the Congressional Accountability Act (H.R. 1), and setting the terms of its debate and amendment.¹⁵⁷ The Congressional Accountability Act—applying 11 labor and antidiscrimination laws to Congress and the legislative branch and establishing the Office of Compliance as an independent entity within the legislative branch—became the first enactment of the 104th Congress.¹⁵⁸

105th Congress

The Speaker, in consultation with the minority leader, was directed to develop “through an appropriate entity of the House” a system of drug testing that could provide for testing of Members, officers, or employees.¹⁵⁹

The chief administrative officer was made subject to the policy direction and oversight of only the House Oversight Committee. The Speaker was no longer also designated in the rule.

The House authorized the inclusion of a committee reserve fund for unanticipated expenses in a primary expense resolution, to be allocated on the approval of the House Oversight Committee.

The chair and ranking minority Member of the House Oversight Committee must jointly approve the amount of a proposed settlement between an employee complainant under the Congressional Accountability Act and the employing House office.

Rule LI, Employment Practices, was repealed as obsolete, having been superseded by the Congressional Accountability Act.

¹⁵⁵ The House Oversight Committee subsequently authorized “congressional member organizations” that were informal, in that they had no corporate identity. See CRS Report R40683, *Congressional Member Organizations: Their Purpose and Activities, History, and Formation*, by Robert Jay Dilger; and CRS Report RL30301, *Informal Congressional Groups and Members Organizations: Selected Questions and Responses*, by Sula P. Richardson (out of print; available from author of current report to congressional clients upon request).

¹⁵⁶ During the 104th Congress, Congress passed and President Clinton signed into law the House of Representatives Administrative Reform Technical Corrections Act (110 Stat. 1718 (1996)), which, among its provisions, established Member Representational Allowances. See CRS Report R40962, *Members’ Representational Allowance: History and Usage*, by Ida A. Brudnick.

¹⁵⁷ Making Congress subject to various federal labor and antidiscrimination laws was a provision of the Republican Contract with America, available at <http://www.house.gov/house/Contract/CONTRACT.html>.

¹⁵⁸ 109 Stat. 3. For information on the Congressional Accountability Act, see CRS Report 95-557, *Congressional Accountability Act of 1995*, by Charles Dale, Robin Jeweler, Nancy Lee Jones, Jay R. Shampansky, Kathleen S. Swendiman, and Vincent Treacy (out of print, but available to congressional clients upon request).

¹⁵⁹ H.Res. 5, agreed to by the House January 7, 1997.

106th Congress

Three largely technical changes to the House rules were made in the 106th Congress.¹⁶⁰ First, a clarification was made that the Speaker appoints and sets the annual rate of pay for employees of the Office of the Historian. (Amended clause 7 of Rule II.) Second, the requirement that a House employee must perform duties commensurate with his or her compensation “in the offices of the employing authority” was amended to conform with federal statutes allowing telecommuting. (Amended clause 8 of Rule XXIV.) Finally, to conform the rules with changes in House officials’ duties made earlier, “chief administrative officer” was substituted for “clerk” as the entity responsible for disbursing pay. (Amended clause 1 of Rule XXIV.)

As noted earlier, the House Oversight Committee’s previous name was restored: House Administration Committee.

107th Congress

The House Administration Committee’s responsibilities to examine House-passed bills, joint resolutions, and amendments and enrolled bills and joint resolutions were transferred to the clerk of the House. In cooperation with the Senate, the clerk examines bills and joint resolutions passed by both houses to ensure their correct enrollment, and presents enrolled bills and joint resolutions originated in the House to the President, after obtaining the signatures of the Speaker and the President of the Senate. The clerk then reports to the House the fact and date of a measure’s presentment.¹⁶¹ (Amended clause 2 of Rule II and clause 4 of Rule X.)

The clerk was also authorized to distribute certain documents and other materials in nonprint forms. References to “print ...,” “binding,” and “mail” were struck from the rule listing the documents. (Amended clause 2 of Rule II.)

The clerk, sergeant at arms, and chief administrative officer were made subject to the oversight of the House Administration Committee. In addition, only the inspector general is subject to the committee’s policy direction. (Amended clause 4 of Rule X and clause 4 of Rule II.)

Rules addressing responses to the legal process were clarified to indicate that they applied to both judicial and administrative subpoenas and to judicial orders. (Amended Rule VIII.)

Rules Changes Affecting Ethics Standards

With regard to ethics standards, the rules packages before the House at the beginning of each Congress since the 104th Congress largely dealt with technical matters. Substantive changes were achieved at other times through House resolutions and new laws—many of them consequential and far-reaching—and through the parties’ revisions of their own rules. The House Committee on Standards of Official Conduct also regularly issues advisory memoranda and provides other assistance interpreting the ethical standards applicable to Members, officers, and employees of the House.¹⁶²

¹⁶⁰ H.Res. 5, agreed to by the House January 6, 1999.

¹⁶¹ H.Res. 5, agreed to by the House January 3, 2001.

¹⁶² For additional information on the Standards of Official Conduct Committee, see CRS Report 98-15, *House Committee on Ethics: A Brief History of Its Evolution and Jurisdiction*, by Jacob R. Straus; and CRS Report RL30764, *Enforcement of Congressional Rules of Conduct: An Historical Overview*, by Jacob R. Straus.

The ethics changes made in the rules package at the beginning of the 109th Congress, however, proved controversial, and the House rescinded those changes and reinstated the text of the ethics rules from the 108th Congress within four months. A dispute between the majority and minority over committee rules and staffing also delayed the organization of the Standards of Official Conduct Committee in the 109th Congress.¹⁶³

Again, 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 a Congress. (For changes affecting the structure of the Ethics Committee, see "Structure and Organization" under "Rules Changes Affecting Committees.")

104th Congress

Democrats sought to commit a special rule (H.Res. 5) making in order the consideration of the Republican rules package (H.Res. 6) and setting the terms of its consideration. The motion to commit H.Res. 5 contained instructions to report the resolution back forthwith with the addition of a new section to H.Res. 6 relating to a ban on gifts from lobbyists and limitations on Members' royalty income. The motion was defeated. At the conclusion of consideration of H.Res. 6, Democrats then sought to commit H.Res. 6 to a select committee, with instructions to report the resolution back forthwith with the addition of new sections relating to a ban on gifts from lobbyists, limitations on Members' royalty income, and changes to several provisions of H.Res. 6. The motion was defeated.¹⁶⁴

The House later in the 104th Congress, on November 16, 1995, agreed to H.Res. 250 prohibiting gifts to Members, officers or employees, except as provided for in the new rule created by the resolution. The House on December 22, 1995, agreed to H.Res. 299, regulating Members' book contracts, royalties, and advances.¹⁶⁵

105th Congress

A rules change in the 105th Congress and an item included in the Speaker's announcements further regulated activities in the House chamber and in the rooms adjacent to the chamber. Under the rules change, Members, officers, employees, and others, such as former Members, entitled to admission to the House chamber or an adjoining room were proscribed from "knowingly" distributing a campaign contribution.¹⁶⁶

The Speaker added to his announced policies for the 105th Congress a policy that he and previous Speakers had stated at various times, but not since 1977 at the beginning of a Congress.¹⁶⁷ The

¹⁶³ See, for example, Susan Ferrechio, "Democrat Berman Brings Experience, Different Style to Stymied Ethics Panel," *CQ Today*, May 2, 2006, pp. 3, 33; and Susan Ferrechio, "House Ethics Committee Members Finally Agree on Hiring of Top Staffer," *CQ Today*, November 4, 2005, p. 3.

¹⁶⁴ "Making in Order Immediate Consideration of House Resolution Adopting the Rules of the House of Representatives for the 104th Congress" and "Rules of the House," *Congressional Record*, vol. 141, part 1 (January 4, 1995), pp. 447-530.

¹⁶⁵ In the 104th Congress, Congress also passed the Lobbying Disclosure Act of 1995, signed into law Dec. 19, 1995 (P.L. 104-65; 109 Stat. 691), superseding the Regulation of Lobbying Act, title III of the Legislative Reorganization Act of 1946 (60 Stat. 812, 839).

¹⁶⁶ H.Res. 5, agreed to in the House January 7, 1997. Congress also subsequently passed the Lobbying Disclosure Technical Amendments Act (P.L. 105-166; 112 Stat. 38).

¹⁶⁷ The policy was first announced by Speaker Thomas P. "Tip" O'Neill Jr. on January 6, 1977; reiterated by Speaker O'Neill on June 7, 1978, by Speaker Thomas S. Foley on June 9, 1994, and by Speaker Newt Gingrich on May 25,

announcement confirmed the concordance of the words of then-Rule XXXII, clause 3, with its understanding by the Speaker and its enforcement by the House. The rule allowed former Members and other former officials access to the House floor unless they (1) had a personal interest in legislation pending before the House or reported from committee, or (2) were employed to lobby on legislation pending before the House, reported from committee, or under consideration by a committee or subcommittee. The announcement reiterated these prohibitions against access by former Members, indicated they applied to former Members whose employer was lobbying legislation, and stated that former Members could be prohibited from the House floor and adjoining rooms. Serving Members were exhorted to report violations by former Members to the sergeant at arms.¹⁶⁸

A rules change created a Select Committee on Ethics to exist until January 21, 1997. Its members would be the members of the Standards of Official Conduct Committee who served in the 104th Congress. The select committee was to complete the work of the Standards of Official Conduct Committee in the 104th Congress and make any recommendations to the House on a statement from an investigative related to the official conduct of Speaker Newt Gingrich.¹⁶⁹

106th Congress

A change included in the 106th Congress rules package allowed lower-paid House employees to receive honoraria for activities not related to their official duties.¹⁷⁰ (Amended clause 2 of Rule XXVI.) Another change applied provisions of the Code of Official Conduct to consultants. (Amended clause 14 of former Rule XXIV.)

Procedures of the Standards of Official Conduct Committee included in H.Res. 168 were included in a separate order.

The rules package also contained a special rule making in order the consideration of a resolution to amend recodified Rule XXVI, clause 5, the House gift rule. Subsequently, the House agreed to H.Res. 9 allowing the acceptance of a gift of less than \$50 in value and of gifts from one source that were cumulatively valued at less than \$100. A gift of less than \$10 value would not count toward the \$100 limit.¹⁷¹

107th Congress

The 107th Congress House changed the Code of Official Conduct rule pertinent to the House's employment of spouses, strengthening or clarifying the meaning of 5 U.S.C. Section 3110 in relation to personal office and committee employment. Unless a spouse was being paid before the 107th Congress, a Member could not employ his or her spouse in a paid position, and a committee

1995, and again on August 1, 1996.

¹⁶⁸ "Announcement by the Speaker Pro Tempore on Procedures for the 105th Congress," *Congressional Record*, vol. 143, part 1 (January 7, 1997), pp. 146-148.

¹⁶⁹ Spurred in part by the Gingrich investigation, the House subsequently on September 18, 1997, agreed to H.Res. 168, implementing the recommendations of the bipartisan House Ethics Reform Task Force. The resolution was developed by the Bipartisan House Ethics Reform Task Force, created by the bipartisan House leadership. See "Creation of the Bipartisan Task Force to Review Ethics Process," *Congressional Record*, vol. 143, part 2 (February 12, 1997), pp. 2058-2059.

¹⁷⁰ H.Res. 5, agreed to in the House January 6, 1999.

¹⁷¹ "House Gift Rule Amendment," *Congressional Record*, vol. 145, part 1 (January 6, 1999), pp. 237-240.

employee could not be compensated if his or her spouse was a member of that committee.¹⁷² (Amended clause 8 of Rule XXIII.)

The rules changes also contained technical corrections to the meaning of various terms, such as “officer,” in the gift rule to ensure the rule covered all House employees.

H.Res. 5 provided that consultants could not lobby the contracting committee or the members or staff of the contracting committee on any matter; lobbying other members or staff on matters outside the jurisdiction of the contracting committee was allowed. (Amended clause 14 of Rule XXIII.)

The operating procedures of the Standards of Official Conduct Committee included in H.Res. 168 were again included in a separate order of the House.

108th Congress

The rules changes for the 108th Congress removed a prohibition related to outside earned income, affected accounting for the value of gifts of perishable food to a congressional office, and allowed reimbursement for transportation and lodging to attend a charitable event in certain circumstances.¹⁷³ The practice of medicine was exempted from the restriction on professional services involving a fiduciary relationship. A Member, therefore, was allowed to earn outside income, including from the practice of medicine, of up to 15% of his or her congressional pay.¹⁷⁴ (Amended clause 2 of Rule XXV.) The value of a gift of perishable food was to be allocated among the individual recipients of an office rather solely to the Member whose office received the gift. (Amended clause 5 of Rule XXV.)

The prohibition on accepting reimbursement for transportation and lodging to attend a charitable event was waived if five conditions were met: the offer of free attendance was made by the charity benefitting from the event, the reimbursement was paid by that charity, the charity is a 501(c)(3) organization under the Internal Revenue Code, all net proceeds of the event are for the benefit of the charity, and the net proceeds are exempt from taxation under Section 501(a) of the Internal Revenue Code. Amended clause 5 of Rule XXV.)

The rules changes also incorporated into the rules the procedures for the Standards of Official Conduct Committee that were part of H.Res. 168 agreed to in the 105th Congress and that had existed as a separate order of the House in the 106th and 107th Congresses. (Added to clause 3 of Rule XI.)

109th Congress

Some planned changes to House ethics procedures and standards were deleted from the rules package placed before the House shortly before House consideration. Other changes, however, were retained in H.Res. 5.¹⁷⁵ One change required a Member named in a complaint, or a Member

¹⁷² H.Res. 5, agreed to in the House January 3, 2001. In the second session in other ethics-related actions, Congress (1) passed the Bipartisan Campaign Reform Act (P.L. 107-155), and (2) expelled Rep. James Traficant, with in excess of two-thirds of the House voting favorably July 24, 2002, for H.Res. 495.

¹⁷³ H.Res. 5, agreed to in the House January 7, 2003.

¹⁷⁴ In a subsequent letter to Speaker Hastert and Minority Leader Pelosi, the chair and ranking minority Member of the Standards of Official Conduct Committee stated their belief that such an exemption would require amendment of the Ethics Reform Act of 1989 (103 Stat. 1716, 1760). Joel Hefley and Alan Mollohan, letter to Speaker Dennis Hastert and Minority Leader Nancy Pelosi, December 8, 2003.

¹⁷⁵ H.Res. 5, agreed to by the House January 4, 2005. For information on ethics changes in the 109th Congress, see CRS

whose official conduct was referenced in certain communications to or from the committee, to be notified before specified actions by the Standards of Official Conduct Committee. Once notified, the Member would then be able to submit written views or to request the creation of an adjudicatory subcommittee. A second change provided for the dismissal of a complaint after 45 days if an affirmative decision to establish an investigative subcommittee had not been made. A third change allowed a Member to have the same attorney as another Member or witness in an investigation.¹⁷⁶ (Amended clause 3 of Rule XI.)

Although Members are prohibited from maintaining unofficial congressional office accounts or using campaign funds to pay for office expenses such as information technology services, an earlier change in law allowed Members to use certain campaign funds for “handheld communications devices,” such as BlackBerry® devices and cell phones. The rules change conformed the House rule (Rule XXIV, clause 1) to existing law, including the use of campaign funds for handheld communications devices (2 U.S.C. §59e(d)).

Another rules change also conformed House rules to federal law (39 U.S.C. §3210) by proscribing a Member who is a candidate in a primary or general election from sending a franked mass mailing less than 90 days before the election. The rule previously contained a 60-day limit. (Amended clause 8 of Rule XXIV.)

Another rules change permitted family members other than a spouse or child to accompany a Member on privately funded, official travel.¹⁷⁷ (Amended clause 5 of Rule XXV.)

Concluding Observations

As stated earlier in this report, the House rules changes made in the 104th Congress, and since, including changes affecting the organization of committees and the administration of the House, reflected a Republican frame of reference that was built over many years as the minority party. Republican criticisms of changes in the House made at the direction of the Democratic Caucus beginning after the 1974 election and continuing through the 103rd Congress, the ideas of the Conservative Opportunity Society in the 1980s, the Republican ‘92 Group, the Republican rules package of the 103rd Congress, the recommendations of the bipartisan Joint Committee on the Organization of Congress, the Contract with America, and other sources came together in the rules package the Republicans put before the House in the 104th Congress.

The Republican majority continued to draw on these antecedents in rules packages for subsequent Congresses. The extensive changes of the 104th Congress were followed by incremental changes in the 105th, 106th, and 107th Congresses. At the same time, a number of rules did not change,

Report RS22034, *House Ethics Rules Changes in the 109th Congress*, by Mildred Amer (out of print; available from author of current report to congressional clients upon request).

¹⁷⁶ The House restored the earlier text of the ethics rule (Rule XI, cl. 3) changed by H.Res. 5 when it agreed April 27, 2005, to a special rule (H.Res. 241) providing for the adoption of H.Res. 240, which contained the earlier text of the ethics rule. For background, see Alan K. Ota, “No Pat on the Back for GOP as Intraparty Issues Dominate,” *CQ Weekly*, January 10, 2005, pp. 66-70; and Susan Ferrechio, “House Ethics: Republicans Blink,” *CQ Weekly*, May 2, 2005, pp. 1144-1145.

¹⁷⁷ In the course of the 109th Congress, the House also adopted H.Res. 648 on February 1, 2006, amending Rule IV, cl. 4 to disallow former Members and other former officials with floor privileges from access to the floor if the individual was a lobbyist or foreign agent. These individuals were already barred from the floor if they had a personal or pecuniary interest in any legislative matter pending before the House or reported by a committee or was employed by or represented an individual or entity seeking to influence any legislative proposal. The Speaker was also authorized to promulgate regulations to exempt ceremonial or educational functions from the operation of the rule. For information on ethics changes in the 108th Congress, see CRS Report RS21439, *House Ethics Rules Changes in the 108th Congress*, by Mildred Amer (out of print; available from author of current report to congressional clients upon request).

either at all or substantially. The great bulk of House rules was continued from Congress to Congress since the rules had been built up over decades to support the majority in its organization and operation of the House.

After control of four Congresses, however, a confluence of events caused the Republicans to revisit the rules and some of the changes they had made. With the events of 9/11 and the anthrax attacks on Capitol Hill, publication of the 9/11 Commission report, the return of the federal budget deficit, a Republican President in the White House and Republican control of both houses of Congress, and a widening of Republican margins in the House and Senate, House Republicans made more extensive changes in House rules in the 108th and 109th Congresses and adapted to changed conditions.

The Republican majority adjusted to the end of the first round of committee chair term limits, discontinued the Speaker's term limit, accommodated demands for additional subcommittees, created a Homeland Security Committee and altered other committees' jurisdictions vis-à-vis homeland security, realigned Appropriations Committee subcommittees to handle homeland security spending and then reorganized the subcommittees to better accommodate Republican spending priorities, implemented new analyses of tax legislation, grappled with the possibility of a terrorist attack that could kill or disable many Representatives, and picked their way through ethical breaches by both Democratic and Republican Members.

Through actions intended to open up Congress, and especially the House—including the advent of THOMAS, putting documents online at committee and other websites, and “webcasting”—Congress allowed more citizens to know more, and to know more quickly, about Congress, and, concomitantly and unavoidably, readily gave lobbyists and political activists more knowledge and insight into Congress and policymaking. Committee and floor actions were increasingly accompanied by intense lobbying, grassroots communications, public relations, and coverage 24/7 by an array of traditional and new news and opinion outlets in a variety of media. Most Members also felt compelled to be in their districts three or four days every week, and many full weeks, making themselves available to their constituents.

The cost of campaigns and the pressure to raise money for their parties, too, opened many Members to more contact with more people who became interested in an individual Member's actions. Congressional districts have become more politically homogeneous through demographic changes and redistricting, and fewer voters are registering by party, arguably leaving a more politically homogeneous set of voters voting in each party's primaries.

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 overcome voter sentiments. Rules facilitate the majority's organization and operation of the House, but they do not dictate to party leaders and others how to run the House. In more recent Congresses, the Republican majority needed to accommodate a more assertive range of Republican Members' perspectives, and to deal with an emboldened minority. Consequently, the number of open—and modified open—special rules diminished 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, some measures passed by the House could not pass the Senate, and convening conferences between the chambers was sometimes problematic.

Despite the extensive 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 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. If rules—chamber rules, not House special rules—allow opportunities for all Members to participate at all stages of the legislative process, in both chambers, then the Framers’ system would be viewed by many as working.

As the 109th Congress entered its closing months, it was a telling statistic that 60% of Representatives, Delegates, and the Resident Commissioner had not known another set of rules and operational frame of reference than the one that has existed since the 104th Congress. Of the 438 Members of the House in August 2006, 265 sitting Members began their service in the 104th or a later Congress—153 Republicans and 112 Democrats. Twenty-one Members, whose service began in the 103rd Congress or before, left the House by retirement, resignation, or death during the 109th Congress, and the House ultimately welcomed 60 new Members, elected during the 109th Congress or in the 2006 election.

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; motions to suspend the rules were now in order Mondays, Tuesdays, and Wednesdays when the House is in session. The Congressional Budget Act of 1974 called for two budget resolutions each year; the procedure was impractical and hugely time consuming and was abandoned.¹⁷⁸

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.

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¹⁷⁸ 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 World Wide Web, e-mail, and other information technology advances have connected probably every Member and his or her staff with the Member’s constituents (and anyone else) to receive and send communications.

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