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House Rules Changes Affecting Floor Proceedings in the 108th Congress

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Summary

On the first day of the 108th Congress, the House agreed to H.Res. 5, which made several rules changes affecting floor proceedings. The 108th Congress was the first Congress to convene after the terrorist attacks of September 11, 2001, and the House modified three rules to prepare for a catastrophic event. In addition, the House adjusted its rules regarding motions to instruct conferees and the admission of electronic devices on the floor. It also repealed the term limit on the Speaker. The House clarified rules concerning the access of leadership staff to the floor, five-minute voting in a series, and the motion to adjourn during a call of the House. H.Res. 5 also included a standing order concerning motions to suspend the rules. This report will be updated if the rules of the 108th Congress change.

When the 108th Congress convened on January 7, 2003, the House adopted its rules for the next 2 years by agreeing to H.Res. 5. Following a well-established practice, H.Res. 5 provided for the rules of the previous Congress to be the rules of the new Congress, but with a set of amendments. This report briefly discusses each of the nine substantive changes to the standing rules of the House and one standing order that affect the transaction of business on the floor.[1]

Speaker Succession. H.Res. 5 amended Rule I, clause 8(b) to require the Speaker, for the first time, to submit to the clerk of the House a list of Members who shall take over the responsibilities of the speakership in the event of a vacancy, which could include a situation where the Speaker is physically unable to perform his duties. In case the office of the Speaker becomes vacant, the highest listed Member available will

[1] The resolution agreed to by the House, H.Res. 5, also changed the rules affecting the House committee system. These changes, including the creation of the Select Committee on Homeland Security and the authority granted to committees to postpone votes, are described in CRS Report RS21382, *Committee System Rules Changes in the House, 108th Congress*. The resolution also made technical and grammatical changes to the House rules.

become Speaker pro tempore and serve until the election of another Speaker or Speaker pro tempore.

Emergency Recess. In the event of an impending threat to the safety of Congress, the Speaker under an addition to Rule I, clause 12 may declare an emergency recess. The House would stand in recess subject to the call of the chair, or, in other words, until reconvened by the Speaker. If the sergeant at arms notifies the Speaker of a threat during any recess or adjournment of not more than 3 days, the Speaker, in consultation with the minority leader, may change the time or the location of the next meeting of the House. Furthermore, the Speaker may convene the House in locations in Washington, DC other than the Hall of the House.[2]

Accounting for Vacancies. Article I, Section 5, clause 1 of the Constitution states that "a Majority of each [House] shall constitute a quorum to do Business." The whole number of the House is required to determine the presence of a quorum, which has long been defined as a majority of the Members elected, sworn, and living.[3] Whenever the death, resignation, disqualification, removal or expulsion of a Member results in a vacancy, the whole number of the House is adjusted. Under a new provision of clause 5, Rule XX, when vacancies occur, the Speaker will announce this adjustment. The announcement by the Speaker will not be subject to appeal.

Motions to Instruct Conferees. H.Res. 5 modified clause 7(c)(1) of Rule XXII to make a motion to instruct conferees in order after a conference committee has been appointed for 20 calendar days and 10 legislative days without making a report. The rule of the previous Congress only contained the mandate for 20 calendar days; it made no mention of legislative days.

A legislative day is not necessarily a calendar day. A legislative day begins the first time the House meets after an adjournment and ends when the House adjourns again. When the House is in session, legislative and calendar days usually coincide because the House typically adjourns prior to the end of a calendar day. The change will affect the timing for offering motions to instruct when a recess intervenes and calendar days but no legislative days have occurred.

Electronic Devices on the Floor. House rules have long forbidden the use of electronic devices on the floor. The House changed the rules of the 108th Congress to forbid only "a wireless telephone or personal computer" (Rule XVII, clause 5). The sergeant at arms, as in previous Congresses, will enforce the rule. According to the

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[2] The clause states "The Speaker may convene the House in a place at the seat of government other than the Hall of the House whenever, in his opinion, the public interest shall warrant it." The "seat of government" has been statutorily defined as Washington, DC, since 1947 (4 U.S.C. 71). The language of the rule, however, is such that if the seat of government changed, the Speaker could relocate meetings of the House within that city as well. Article I, Section 5, clause 4 of the Constitution requires the consent of both the House and the Senate to adjourn for more than 3 days or to meet at "any other Place than that in which the two Houses shall be sitting."

[3] CRS Electronic Briefing Book, *Terrorism*, page on "Continuity of Congress: Proposals and Issues," by Paul Rundquist, at [http://www.congress.gov/brbk/html/ebter201.html].

summary submitted by the chair of the Rules Committee, unobtrusive handheld electronic devices will be permitted on the floor.[4]

Repeal of Speaker Term Limit. The House repealed clause 9 of Rule 1, which had limited the Speaker to serving four consecutive terms.

Staff Access to the Floor. H.Res. 5 amended clause 2(a)(7) of Rule IV to grant designated party leadership staff access to the floor with the approval of the Speaker. This addition formalized existing practice.[5] The Speaker announced his intention to grant such privilege to a few staff members, from both parties, whose responsibilities necessitate their presence on the floor.[6]

Five-Minute Voting in a Series. H.Res. 5 clarified clause 9 of Rule XX, which grants the Speaker the discretion to reduce the minimum time allowed for voting on a second or subsequent electronic vote to five minutes, provided the Speaker has given notice and no business has taken place between votes. The adjustment consolidated and simplified the earlier rule.

Proceedings during Call of House. H.Res. 5 amended House Rule XX, clause 6(c) to clarify that any Member might move to adjourn during a call of the House. It has long been in order to move to adjourn after every Member has had a chance to respond to a call of the House but before the result of the call has been announced. The previous language of the rule could have been interpreted as granting the Speaker the discretion to entertain the motion.

Suspension of the Rules on Wednesdays. H.Res. 5 also included a standing order, or a rules change applicable only to the first session of the 108th Congress. Through April 9, 2003, the Speaker may entertain motions to suspend the rules on Wednesdays, in addition to Mondays and Tuesdays as provided for in clause 1 of Rule XV.

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[4] Section-By-Section Summary of H.Res. 5, inserted material, *Congressional Record,* daily edition, vol. 149 (Jan. 7, 2003), p. H12.

[5] Section-By-Section Summary of H.Res. 5, inserted material, *Congressional Record,* daily edition, vol. 149 (Jan. 7, 2003), p. H12.

[6] Announcement by the Speaker Pro Tempore, inserted material, *Congressional Record,* daily edition, vol. 149 (Jan. 7, 2003), p. H21.

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