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# A Retrospective of House Rules Changes Since the 110<sup>th</sup> Congress

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## Summary

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

This report analyzes rules changes made on only the opening day of the 110<sup>th</sup>, 111<sup>th</sup>, 112<sup>th</sup>, and 113<sup>th</sup> Congresses, with references in footnotes to other selected legislation and actions that also affected House rules during these Congresses. Freestanding legislation such as the Honest Leadership and Open Government Act or the annual budget resolutions can change House rules in consequential ways.

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

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

This report is the second in a series on House rules changes at the beginning of a Congress. It will be updated to reflect changes in the rules in future Congresses so long as Republicans are in the majority; a third report in the series will be introduced whenever party control changes. For changes in the 104<sup>th</sup> through the 109<sup>th</sup> Congresses, see CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104<sup>th</sup> Congress through the 109<sup>th</sup> Congress*, by Michael L. Koempel and Judy Schneider. See also a related report: CRS Report R41501, *House Legislative Procedures and House Committee Organization: Options for Change in the 112<sup>th</sup> Congress*, by Judy Schneider and Michael L. Koempel.

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## Introduction

*A Retrospective of House Rules Changes Since the 110<sup>th</sup> Congress* is the second of two reports on rules changes adopted by the House at the beginning of a new Congress. By practice, the majority party organizes the House. 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.<sup>1</sup> Although each new House largely adopts the chamber rules that existed in the previous Congress, each new House also adopts changes to those rules. It is a feature of the House, but not of the Senate, that it adopts rules at the convening of each Congress.<sup>2</sup>

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

This second report in the series picks up with the new Democratic majority in the 110<sup>th</sup> and 111<sup>th</sup> Congresses and the Republican majority in the 112<sup>th</sup> and 113<sup>th</sup> Congresses. It first presents the Democratic critique of Republican management of the House during the 104<sup>th</sup> through the 109<sup>th</sup> Congresses; the Republican critique of Democratic management of the House during the 110<sup>th</sup> and 111<sup>th</sup> Congresses; and Democratic alternatives proposed to Republican rules packages in the 112<sup>th</sup> and 113<sup>th</sup> Congresses. The report then groups changes made in rules resolutions from the 110<sup>th</sup> through the 113<sup>th</sup> Congresses into five broad subject areas—committees, chamber and floor, budgetary legislation, administration of the House, and ethics standards. These five broad areas are again further subdivided, with the changes grouped by subject or Congress and explained.

The two principal parts of this report reflect its two principal purposes. The first part analyzes the critique by Democrats of Republican management of the House through the 109<sup>th</sup> Congress and the critique by Republicans of Democratic management of the House in the 110<sup>th</sup> and 111<sup>th</sup> Congresses. In drafting House rules when it took the majority, each party drew on its critique. The purpose of this part of the report is to examine these sources of House rules changes.

The second part of the report organizes changes made in the four rules resolutions, and briefly explains the changes in layman's terms. These changes were included in the rules resolutions adopted at the beginning of the 110<sup>th</sup> through the 113<sup>th</sup> Congresses, special orders adopted in conjunction with the rules resolutions, and Speakers' policy announcements made at the

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<sup>1</sup> See CRS Report RL30725, *The First Day of a New Congress: A Guide to Proceedings on the House Floor*, by Judy Schneider, Michael L. Koempel, and Christina Wu.

<sup>2</sup> 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.

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

convening of each of these Congresses.<sup>4</sup> The major topical headings for this part of the report are as follows:

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

Each of these major headings is further subdivided by topic or by Congress. The purpose of this part of the report is to catalogue and briefly explain by topic—regardless of the location of a topic in one or more rules—specific changes to House rules affecting committees or the House floor in the 110<sup>th</sup>, 111<sup>th</sup>, 112<sup>th</sup>, and 113<sup>th</sup> Congresses. Changes affecting budget legislation, House administration, and ethics are arranged by Congress. This report will be updated to reflect changes in the rules in future Congresses so long as Republicans are in the majority; a third report in the series will be introduced whenever party control changes.

This report supplements the official cumulation of rules changes, the *House Rules and Manual*. This volume, printed in each Congress to reflect adoption of a rules resolution, contains the provisions of House rules. For each rule, it also contains the House parliamentarian’s notes describing changes to the rule (or to specific clauses within a rule) and decisions of presiding officers and the House based upon the rule.<sup>5</sup> Rules in the *House Rules and Manual* are arranged by rule number.<sup>6</sup>

Citations in this report are only to a clause of a rule at the time a change was made; rules numbers are stable from Congress to Congress and clause numbers are also generally stable. Changes to

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

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

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

(3) H.Res. 5 (112<sup>th</sup> Congress rules): “Rules of the House,” House debate, *Congressional Record*, daily edition, vol. 157 (January 5, 2011), pp. H7-H27. Speaker’s announcements: “Announcement by the Speaker,” *Congressional Record*, daily edition, vol. 157 (January 5, 2011), pp. H29-H31.

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

<sup>5</sup> *Constitution, Jefferson’s Manual, and Rules of the House of Representatives of the United States, [number] Congress*, prepared by [name], parliamentarian, [number] Cong., 2<sup>nd</sup> sess., H.Doc. [number] (Washington, DC: GPO, [year]). (Hereinafter *House Rules and Manual*.)

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

the numbering of clauses, paragraphs, and subparagraphs may be found in the parliamentarian's notes.

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

In addition to changes made through rules resolutions, such changes are also made through additional special orders and freestanding legislation, as provisions of bills or resolutions, and in report language on legislation and in joint explanatory statements accompanying conference reports.<sup>7</sup> Legislative branch appropriations bills and budgetary legislation contain organizational, procedural, and other changes that are temporary or permanent. (References to selected freestanding bills and resolutions are provided in footnotes in this report.) So-called fast-track or expedited House procedures are included in legislation that otherwise addresses a policy matter.<sup>8</sup> Democratic Caucus and Republican Conference rules and decisions have also had an impact on how specific House rules (such as rules on suspension of the rules and on committee assignment limits) are implemented.<sup>9</sup> In a few instances in this report, changes made by means other than a House rules resolution are described, where necessary to understand changes made in one or more rules resolutions.

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

Between the 110<sup>th</sup> and 113<sup>th</sup> Congresses, some committees' names were changed. In this report, the names of committees appear as they existed in the specific Congress referenced.

## **Democratic Critique from the 104<sup>th</sup> Congress to the 109<sup>th</sup> Congress**

The Democratic critique of the Republicans' management of the House during the Republican majority (104<sup>th</sup> Congress (1995-1997) through the 109<sup>th</sup> Congress (2005-2007)) was principally based on two broad concerns. The first—ethics—was a theme throughout the time Republicans held the majority, and Democrats moved quickly when they took majority control in the 110<sup>th</sup>

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<sup>7</sup> For a history of attempts at broad-based changes to House rules in the modern era, some implemented and some not implemented, see CRS Report RL31835, *Reorganization of the House of Representatives: Modern Reform Efforts*, by Judy Schneider, Betsy Palmer, and Christopher M. Davis.

<sup>8</sup> For an explanation of expedited procedures, see CRS Report RL30599, *Expedited Procedures in the House: Variations Enacted Into Law*, by Christopher M. Davis. See also "Legislative Procedures Enacted in Law" in the current *House Rules and Manual*.

<sup>9</sup> Additional party guidance might also exist in a Congress. For example, in the 112<sup>th</sup> Congress, Majority Leader Eric Cantor promulgated "Legislative Protocols for the 112<sup>th</sup> Congress," which continued in effect for the 113<sup>th</sup> Congress, available at <http://majorityleader.gov/Protocols>; and the Republican Conference has adopted a standing order prohibiting a Member from requesting an earmark, available at <http://www.gop.gov/113th-rules>.

Congress to change ethics rules and pass new ethics laws. The second—legislative management of the House—was most fully expressed in the 109<sup>th</sup> Congress, although Democrats made incremental rather than extensive rules changes when they held the majority in the 110<sup>th</sup> and 111<sup>th</sup> Congresses.

## **Ethics<sup>10</sup>**

In the 104<sup>th</sup> Congress (1995-1997), Democrats offered rules changes that included a new gift rule<sup>11</sup> and regulated and limited Members' copyright royalty income.<sup>12</sup> In the 105<sup>th</sup> Congress (1997-1999), a principal issue in debate over the House rules package was the time allowed for the Standards of Official Conduct Committee (now the Ethics Committee) to complete its deliberations on ethics violations admissions by Speaker Newt Gingrich. The Republican rules package provided an end date of January 21, 1997; a Democratic proposal would have removed the time limit.<sup>13</sup>

In the 106<sup>th</sup> Congress (1999-2001), Democrats proposed adding a new clause to the Code of Ethics to disallow a Member from intervening in the hiring or dismissal of individuals by lobbying firms or other entities, based on an individual's political affiliation, and another new clause to prohibit a member of the leadership from threatening lobbying firms or other entities on the scheduling of legislation based on an entity's political contributions. These changes were directed in part at perceptions about the so-called K Street Project.<sup>14</sup>

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<sup>10</sup> An explanation of the majority's decisions that were the subject of Democratic motions are explained in CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104<sup>th</sup> Congress through the 109<sup>th</sup> Congress*, by Michael L. Koempel and Judy Schneider.

<sup>11</sup> In the prior 103<sup>rd</sup> Congress (1993-1995), House and Senate conferees negotiated a compromise on gift legislation (S. 349, H.Rept. 103-750). While the House agreed to the conference report on the gift legislation, the Senate failed to invoke cloture on it.

<sup>12</sup> Speaker-designate Newt Gingrich signed a \$4.5 million book contract in late 1994 with a publishing house owned by Rupert Murdoch, who had been lobbying Congress on broadcasting deregulation favorable to Fox Broadcasting. For background, see "Incoming Speaker Gingrich Focus of Investigation," *Congressional Quarterly Almanac, 1994*, vol. L (Washington, DC: Congressional Quarterly Inc., 1995), pp. 54-55.

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

<sup>13</sup> For background, see "Gingrich Weakened by Ethics Case," *Congressional Quarterly Almanac, 1997*, vol. LIII (Washington, DC: Congressional Quarterly Inc., 1998), pp. 1-11 – 1-15.

Prior to consideration of the rules resolution for the 105<sup>th</sup> Congress, a Member made a motion to elect an interim Speaker pending completion of the Standards Committee's work. The clerk of the House ruled that the election of the Speaker was a matter of the highest privilege, and an appeal of her ruling was tabled. "Election of Speaker," *Congressional Record*, vol. 143, part 1 (January 7, 1997), pp. 115-116.

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

<sup>14</sup> See, for example, Rep. Chet Edwards, "Rules of the House," *Congressional Record*, vol. 145, part 1 (January 6, 1999), p. 227. For background information on the K Street Project, see Peter H. Stone, "One Hammer, Plenty of Nails," *National Journal*, vol. 31, no. 24, June 12, 1999, pp. 1598-1599; and Gebe Martinez with Jackie Koszczuk, "Tom DeLay: 'The Hammer' That Drives the House GOP," *CQ Weekly*, vol. 57, no. 23, June 5, 1999, pp. 1322-1328.

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



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

In the 108<sup>th</sup> Congress, the Republican rules package incorporated into House rules the provisions of H.Res. 168 (105<sup>th</sup> Congress), a bipartisan agreement on the operation of the Standards of Official Conduct Committee under which the House had operated in the 105<sup>th</sup>, 106<sup>th</sup>, and 107<sup>th</sup> Congresses.<sup>15</sup> However, the rules package also made three changes to ethics rules that the Democratic motion to commit sought to eliminate. These changes allowed limited income from the practice of medicine by Members who were doctors or dentists, permitted gifts of perishable food to House offices, and exempted so-called charity travel from the gift rule under certain conditions.<sup>16</sup>

The Republican rules package for the 109<sup>th</sup> Congress (2005-2007) made changes to procedures of the Standards of Official Conduct Committee, which Democrats attacked as “gutting the ethical standards” of the House.<sup>17</sup> While Republicans defended these changes as guaranteeing a right to counsel as a Member would have in a court and as presuming the innocence of a Member,<sup>18</sup> Democrats countered that the changes would reduce the ethics committee to a “paper tiger.”<sup>19</sup> Democrats also criticized rules changes that were dropped from the Republican rules package shortly before its submission to the House, for example, allowing a Member under indictment to continue to serve in a leadership position.<sup>20</sup> Democrats sought to strike a provision that dismissed ethics complaints after 45 days if neither the chair nor ranking minority Member of the Standards Committee placed on the agenda the issue of establishing an investigative subcommittee, and also sought to prohibit a Member from engaging in employment negotiations with a person who had legislative interests in the current or previous Congress before committees on which the Member served.<sup>21</sup> Democratic and public criticism of changes adopted in the rules package continued, and the House in April 2005 reinstated the ethics rules as they previously existed.<sup>22</sup>

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

- banning gifts and travel from lobbyists, and prohibiting travel on corporate jets;

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<sup>15</sup> Agreed to in the House September 18, 1997. Continued in operation for the 106<sup>th</sup> Congress by §3(c) of H.Res. 5, agreed to in the House January 6, 1999, and in the 107<sup>th</sup> Congress by §3(a) of H.Res. 5, agreed to in the House January 3, 2001. H.Res. 168 originated with the Bipartisan Ethics Reform Task Force. See “Creation of the Bipartisan Task Force to Review Ethics Process,” *Congressional Record*, vol. 143, part 2 (February 12, 1997), pp. 2058-2059; and “Establishing Bipartisan Task Force on Reform of Ethics Process,” *Congressional Record*, vol. 143, part 2 (February 12, 1997), p. 2059.

<sup>16</sup> The Democratic motion to commit the rules resolution may be found at “Rules of the House,” *Congressional Record*, vol. 149, part 1 (January 7, 2003), p. 19.

<sup>17</sup> Rep. James P. McGovern, “Rules of the House,” *Congressional Record*, vol. 151, part 1 (January 4, 2005), p. 51.

<sup>18</sup> Rep. David Dreier, “Rules of the House,” *Congressional Record*, vol. 151, part 1 (January 4, 2005), p. 49.

<sup>19</sup> Rep. Louise Slaughter, “Rules of the House,” *Congressional Record*, vol. 151, part 1 (January 4, 2005), p. 50.

<sup>20</sup> *Ibid.*

<sup>21</sup> “Rules of the House,” *Congressional Record*, vol. 151, part 1 (January 4, 2005), p. 65 (amendment to rules resolution, which was not in order after the previous question was moved) and p. 66 (motion to commit).

<sup>22</sup> H.Res. 241, adopting H.Res. 240, agreed to in the House April 27, 2005.

- doubling the “cooling-off period” for lobbying to two years for Members, congressional staff, and executive branch officials, and eliminating floor privileges for former Members who are lobbyists;
- requiring lobbyists to disclose campaign contributions and client fees, increasing the frequency of filings and allowing only electronic filing, requiring certification that no ethics rules violation occurred, and imposing criminal penalties;
- prohibiting Members from pressing lobbying firms over hiring decisions;
- requiring Members to disclose outside employment negotiations;<sup>23</sup> and
- allowing only open conference committee meetings; allowing conferees to vote on all agreements made in a conference; requiring disclosure of all earmarks; and ensuring the posting of conference reports in electronic format for 24 hours before House consideration.<sup>24</sup>

In addition, Democratic Representatives David Obey, Barney Frank, David Price, and Tom Allen unveiled a House rules reform package in December 2005, which they introduced as H.Res. 659 in January 2006 with more than 125 Democratic co-sponsors, including Democratic Leader Pelosi and Democratic Whip Steny H. Hoyer.<sup>25</sup> Provisions of this resolution related to ethics standards and practices included—

- disallowing a Member or congressional staff member from accepting travel unless the individual obtained from the sponsor declarations stating that no lobbyists would participate in the travel or meetings, the sponsor did not engage in lobbying, the sponsor did not employ lobbyists, and the travel was not financed by a corporation unless through contributions deductible under the Internal Revenue Code and disclosed in the declaration;
- requiring a former Member seeking to be present on the House floor to file a written declaration that the former Member had no financial interest in the legislation under consideration and that the former Member would not advocate while on the floor on any matter before the House;
- prohibiting a Member from conditioning an earmark request from another Member based on that Member’s vote; and
- disallowing a Member from seeking an earmark unless the Member declared the existence or lack of existence of a financial interest or of control.<sup>26</sup>

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<sup>23</sup> See also H.Res. 686 (109<sup>th</sup> Cong.), discussed below under “Legislative Management,” which contained one ethics provision prohibiting a Member serving on a committee from negotiating future employment with a person who had a direct interest in legislation before that committee in the current or preceding Congress.

<sup>24</sup> Democratic Leader Nancy Pelosi, “A New Direction for America,” June 16, 2006, available at [http://web.archive.org/web/20080731063814re\\_/www.speaker.gov/pdf/thebook.pdf](http://web.archive.org/web/20080731063814re_/www.speaker.gov/pdf/thebook.pdf). (Hereinafter “A New Direction for America.”)

<sup>25</sup> For background, see the Members’ December 5, 2005, presentation at the Center for American Progress, at <http://www.americanprogress.org/events/2005/12/05/16358/a-proposal-to-make-congress-work-again>.

<sup>26</sup> H.Res. 659 (109<sup>th</sup> Cong.), introduced January 31, 2006, and referred to the Committee on Rules and in addition to the Committee on Standards of Official Conduct.

## Legislative Management<sup>27</sup>

Democrats on three occasions from the 104<sup>th</sup> through the 109<sup>th</sup> Congresses, in proposed amendments or motions to commit related to rules resolutions with the commencement of new Congresses, sought a rule requiring party ratios for each committee and subcommittee to reflect the party ratio of the House. Democrats made this proposal in the 104<sup>th</sup> (1995-1997), 107<sup>th</sup> (2001-2003), and 108<sup>th</sup> (2003-2005) Congresses.<sup>28</sup>

Democrats also periodically proposed changes in rules resolutions that would have affected the consideration of legislation with a budgetary impact. In the 104<sup>th</sup> Congress, a motion to commit included a proposal to allow individual votes on Budget Act waivers to be included in special rules.<sup>29</sup> A proposed amendment in the 105<sup>th</sup> Congress (1997-1999) would have struck from the rules resolution a provision requiring a “dynamic estimate” of major tax legislation, another provision restricting the content of appropriations bills and amendments to them,<sup>30</sup> and a third provision strengthening the right of the majority leader to move that the Committee of the Whole rise and report at the end of the amendment process for an appropriation bill.<sup>31</sup>

In the 106<sup>th</sup> Congress (1999-2001), the Democratic motion to commit the rules resolution proposed a pay-as-you-go rule applicable to revenue and direct spending.<sup>32</sup> In the 108<sup>th</sup> Congress (2003-2005), the Democratic motion to commit proposed to strike a provision of the rules resolution that replaced a “tax complexity analysis” that was to appear in Ways and Means Committee reports on legislation with a “macroeconomic impact analysis.”<sup>33</sup>

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<sup>27</sup> An explanation of the majority’s decisions that were the subject of Democratic motions are explained in CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104<sup>th</sup> Congress through the 109<sup>th</sup> Congress*, by Michael L. Koempel and Judy Schneider.

<sup>28</sup> For data on this matter in the modern congressional era, see CRS Report R41501, *House Legislative Procedures and House Committee Organization: Options for Change in the 112<sup>th</sup> Congress*, by Judy Schneider and Michael L. Koempel.

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

<sup>29</sup> The Democratic motion to commit the rules resolution may be found at “Rules of the House,” *Congressional Record*, vol. 141, part 1 (January 4, 1995), pp. 526-529.

<sup>30</sup> The prohibition on changes to existing law was expanded in the rules resolution to include “a provision making the availability of funds contingent on the receipt or possession of information not required by existing law for the period of the appropriation.” §18 of H.Res. 5, agreed to in the House January 7, 1997.

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

<sup>31</sup> The Democratic amendment to the rules resolution, which was not in order after the previous question was moved, may be found at “Rules of the House,” *Congressional Record*, vol. 143, part 1 (January 7, 1997), pp. 137-138.

<sup>32</sup> The Democratic motion to commit the rules resolution may be found at “Rules of the House,” *Congressional Record*, vol. 145, part 1 (January 6, 1999), p. 233.

<sup>33</sup> The Democratic motion to commit the rules resolution may be found at “Rules of the House,” *Congressional Record*, (continued...)

Democrats' proposed amendments to rules resolutions and their motions to commit regularly sought to eliminate procedural changes included in rules resolutions. In the 105<sup>th</sup> Congress, their amendment would have struck from the resolution provisions allowing oversight reports in committee to be considered as read if they were available to committee members for 24 hours, requiring nongovernmental witnesses to disclose federal contracts or grants they or their employer received in the current and two previous fiscal years, allowing committees to adopt a rule on extended questioning time for hearings, and reducing to two days from three the time allowed to file views for inclusion in committee reports.<sup>34</sup>

The Democrats' proposed amendment in the 106<sup>th</sup> Congress would have granted voting rights in the Committee of the Whole to the Delegate from the District of Columbia and have reformulated how legislation was drafted so that changes to existing law would be more readily discernible.<sup>35</sup>

The Democratic motion to commit in the 108<sup>th</sup> Congress sought to strike changes to House rules in the Republicans' rules resolution: allowing committees to adopt a rule to postpone certain votes; permitting a motion to instruct conferees during a conference after both 20 calendar days and, as added by the rules resolution, 10 legislative days had tolled; and temporarily extending to Wednesdays the days on which motions to suspend the rules would be in order. The motion to commit also for the first time (in the time frame covered by this report and the preceding rules changes report) tackled some of the procedures that have come to be identified in recent years by both Democrats and Republicans as transparency issues in the legislative process: honoring the House rule on the availability of conference reports, reducing the number of waivers in special rules, decreasing the number of measures to be considered under the suspension of the rules procedure, allowing more amendments and alternatives to measures considered pursuant to special rules, granting a larger number of open special rules, and allowing more minority-party amendments under structured rules.<sup>36</sup>

In the 109<sup>th</sup> Congress (2005-2007), Democrats included just one transparency issue in their motion to commit: proposing the requirement of a two-thirds vote on a special rule that proposed to waive the three-day layover of a measure or conference report.<sup>37</sup>

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

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(...continued)

vol. 149, part 1 (January 7, 2003), p. 19.

<sup>34</sup> The Democratic amendment to the rules resolution, which was not in order after the previous question was moved, may be found at "Rules of the House," *Congressional Record*, vol. 143, part 1 (January 7, 1997), pp. 137-138.

<sup>35</sup> The Democrats' proposed amendment to the rules resolution, which was not in order after the previous question was moved, may be found at "Rules of the House," *Congressional Record*, vol. 145, part 1 (January 6, 1999), p. 232.

<sup>36</sup> The Democratic motion to commit the rules resolution may be found at "Rules of the House," *Congressional Record*, vol. 149, part 1 (January 7, 2003), p. 19.

<sup>37</sup> The Democratic motion to commit the rules resolution may be found at "Rules of the House," *Congressional Record*, vol. 151, part 1 (January 4, 2005), p. 66.

Constitution (related to filling House vacancies by election). The House decided on a question of consideration to go forward with the rules resolution.<sup>38</sup>

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

- "There should be regular consultations among the elected leaders of both parties to discuss scheduling, administration and operations of the House."
- "The House should have a predictable, professional, family-friendly schedule that allows the legislative process to proceed in a manner that ensures timely and deliberate dispensation [sic] of the work of the Congress."
- "Regular meetings between Chairs and Ranking Members of committees and staffs should be held."
- "The Minority should control at least one-third of committee budgets and office space."<sup>39</sup>

Democratic Members began speaking often in the 109<sup>th</sup> Congress about the need for "regular order" and "transparency" in the House's consideration of legislation, and introduced resolutions to change House rules to that effect.<sup>40</sup> In both "A New Direction for America" and "New House Principles," there were proposals or principles regarding the legislative management of the House, which had implications for regular order and transparency:

- "Bills should be developed following full hearings and open subcommittee and committee markups, with appropriate referrals to other committees. Members should have at least 24 hours to examine a bill prior to consideration at the subcommittee level."
- "Bills should generally come to the floor under a procedure that allows open, full, and fair debate consisting of a full amendment process that grants the Minority the right to offer its alternatives, including a substitute."
- "Members should have at least 24 hours to examine bill and conference report text prior to floor consideration. Rules governing floor debate must be reported before 10 p.m. for a bill to be considered the following day."
- "Floor votes should be completed within 15 minutes, with the customary 2-minute extension to accommodate Members' ability to reach the House Chamber to cast their votes. No vote shall be held open in order to manipulate the outcome."

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<sup>38</sup> Ibid., pp. 44-47.

<sup>39</sup> Democratic Leader Nancy Pelosi, "New House Principles: A Congress for All Americans," press release, May 25, 2006, available at <http://web.archive.org/web/20061012100316/democraticleader.house.gov/press/articles.cfm?pressReleaseID=1634> (hereinafter "New House Principles"); and "A New Direction for America."

<sup>40</sup> See, for example, H.Res. 688 (109<sup>th</sup> Cong.). Republican Members also introduced resolutions requiring additional transparency. See, for example, H.Res. 709 (109<sup>th</sup> Cong.).

- “House-Senate conference committees should hold regular meetings (at least weekly) of all conference committee Members. All duly-appointed conferees should be informed of the schedule of conference committee activities in a timely manner and given ample opportunity for input and debate as decisions are made toward final bill language.”
- “The Suspension Calendar [sic] should be restricted to non-controversial legislation, with minority-authored legislation scheduled in relation to the party ratio in the House.”
- “Our New Direction is committed to ‘Pay As You Go’ budgeting—no more deficit spending. We are committed to auditing the books and subjecting every facet of federal spending to tough budget discipline and accountability, forcing the Congress to choose a new direction and the right priorities for all Americans.”<sup>41</sup>

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

Adopting these modest recommendations would in no way diminish the majority’s ability to move their agenda through the House in a timely way. But they would represent a good first step in restoring to the U.S. House of Representatives, the “People’s House,” the deliberative process that House Republicans used to support, that is, “*the full and free airing of conflicting opinions through hearings, debates, and amendments for the purpose of developing and improving legislation deserving of the respect and support of the people.*”<sup>42</sup> (Emphasis in original, quoting a Republican statement from 1994.)

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

- “Open up the process by allowing more serious amendments”—“... [The Republican leadership] should allow ... serious amendments that enjoy the support of a ‘substantial number of Members’ to come to the House floor for debate and up-or-down votes....”
- “Allow more bills to be considered under open rules”—“... increase the percentage of bills [the Republican leadership] allows to be debated under an open rules process, and decrease the percentage of bills it jams through the House under closed rules....”
- “More Consideration of Major, Controversial Legislation and Fewer Suspension Bills”—“Instead of using the suspension of the rules procedure to crowd out debate on major legislation, the Republican leadership ... should expand both

<sup>41</sup> “A New Direction for America,” p. 24; and “New House Principles.”

<sup>42</sup> Rep. Louise M. Slaughter, “Broken Promises: The Death of Deliberative Democracy,” compiled by the House Rules Committee Minority Office, March 8, 2005, p. 44, available at [http://www.citizen.org/documents/Broken\\_Promises.pdf](http://www.citizen.org/documents/Broken_Promises.pdf) (hereinafter “Broken Promises”).

debate time and quantity of amendments on bills it considers under special rules by restricting suspensions to Mondays and Tuesdays.”

- “Fewer late-night or early-morning ‘emergencies’ and more regular order”—“The House Rules Committee should only use the ‘emergency meeting’ procedure in [a] small number of cases.... Regular order should be the rule, not the exception.... ”
- “Give Members three days to read conference reports”—“The Rules Committee and Republican leadership should end its practice of granting ‘blanket waivers’ to conference reports.... ”<sup>43</sup>

Representative Slaughter and the other Democratic members of the Rules Committee—Representatives James McGovern, Alcee Hastings, and Doris Matsui—also introduced a resolution (H.Res. 686) to “restore transparency, accountability, and oversight.”<sup>44</sup> The resolution proposed to change House rules in a number of ways:

- requiring disclosure of scope violations in a conference report, prohibiting special rules from waiving points of order against such violations, and providing for disposition of scope violations by a question of consideration;<sup>45</sup>
- prohibiting a special rule that waives the three-day layover rule applicable to conference reports, and allowing disposition of a point of order against such a waiver by a question of consideration;
- prohibiting the consideration of a conference report if certain procedures were violated, with disposition of a point of order by a question of consideration;
- requiring a roll-call vote on final agreement of conferees to a conference report, and publication of that vote in the joint explanatory statement;
- changing to 24 hours from one day the layover rule applicable to House special rules;
- requiring publication in the *Congressional Record* of the names of Members voting or changing votes after a roll-call vote has proceeded for more than 30 minutes;
- prohibiting consideration under the suspension of the rules procedure of a measure authorizing or appropriating more than \$100 million, and exhorting the Speaker to schedule an equal number of measures under this procedure sponsored by majority and minority Members;
- repealing the Gephardt rule for changing the statutory debt limit;
- allowing a minority amendment to a special rule when offered on the House floor; and

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<sup>43</sup> Ibid., pp. 45-46.

<sup>44</sup> H.Res. 686 (109<sup>th</sup> Cong.), introduced February 16, 2006, and referred to the Committee on Rules and in addition to the Committee on Standards of Official Conduct.

<sup>45</sup> Scope of differences is: “The limits within which a conference committee is permitted to resolve the disagreements between the two houses on a measure.” Walter Kravitz, *Congressional Quarterly’s American Congressional Dictionary*, 3<sup>rd</sup> ed. (Washington, DC: CQ Press, 2001), pp. 225-226.

- requiring 24-hour notice of a unanimous consent agreement to alter a special rule adopted by the House.

As also already noted, Democratic Representatives David Obey, Barney Frank, David Price, and Tom Allen unveiled a House rules reform package in December 2005, which they introduced as H.Res. 659 in January 2006.<sup>46</sup> Provisions of the resolution related to the legislative management of the House included—

- limiting roll-call votes to 20 minutes unless both parties' floor managers or leaders agreed to a longer time for voting;
- allowing the chair or ranking minority Member of a committee to offer the committee-reported version of legislation as a preferential amendment if a special rule makes another version in order;
- a rule waiving points of order against a measure must waive the same points of order against an amendment requested by the minority leader;
- printed copies of a measure to be considered pursuant to a special rule and of conference reports must be available 24 hours before the House may begin consideration;
- the House may not go to conference with the Senate on an appropriations bill unless the Senate expressed its differences in the form of numbered amendments;
- conference discussion of disagreements must occur in an open meeting, and House conferees must vote by record vote in an open meeting on the conference agreement;
- the House may not consider a conference report that “differs in a material way” from the agreement approved by House conferees;
- the House may not consider a reconciliation measure that would increase the size of the budget deficit, unless agreed to by the majority and minority leaders and by a vote of two-thirds of the House;
- extending Budget Act points of order to unreported legislation considered by the House;
- disallowing a bill or conference report containing revenue provisions from being filed until the Joint Committee on Taxation had identified tax expenditures in the measure; and
- prohibiting the House from adjourning sine die unless “during at least 20 weeks of the session, a quorum call or recorded vote was taken on at least 4 of the weekdays....”<sup>47</sup>

Congressional procedures and practices were also an issue in the 2008 presidential campaign. As a presidential candidate, Senator Barack Obama made an address in Green Bay, Wisconsin, on

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<sup>46</sup> H.Res. 659 (109<sup>th</sup> Cong.), introduced January 31, 2006, and referred to the Committee on Rules and in addition to the Committee on Standards of Official Conduct. For background, see the Members' December 5, 2005, presentation at the Center for American Progress, at <http://www.americanprogress.org/events/2005/12/05/16358/a-proposal-to-make-congress-work-again>.

<sup>47</sup> Ibid.



September 22, 2008, articulating reform issues, including what he termed “political reform”; he mentioned these proposals subsequently at other events. Candidate Obama addressed some matters that affected the rules and practices of Congress:

As President, I will make it impossible for Congressmen or lobbyists to slip pork-barrel projects or corporate welfare into laws when no one is looking because, when I am President, meetings where laws are written will be more open to the public. No more secrecy.... When there’s a bill that ends up on my desk as President, you the public will have five days to look online and find out what’s in it before I sign it, so that you know what your government’s doing.... When there’s a tax bill being debated in Congress, you will know the names of the corporations that would benefit and how much money they would get, and we will put every corporate tax break and every pork-barrel project online for every American to see. You will know who asked for them, and you can decide whether your Representative is actually representing you.<sup>48</sup>

Presidential candidate Senator John McCain made congressional earmarks an issue in the 2008 campaign and proposed their elimination.<sup>49</sup>

## Republican Critique in 110<sup>th</sup> and 111<sup>th</sup> Congresses

Democratic control of the House in the last four years of the 21<sup>st</sup> century’s first decade was brief compared to Democratic control before the 104<sup>th</sup> Congress and to Republican control from the 104<sup>th</sup> Congress through the 109<sup>th</sup> Congress.<sup>50</sup> Democratic leaders nonetheless established patterns of managing the House that Republicans critiqued, campaigned on, and eventually responded to when they claimed the majority in the 112<sup>th</sup> Congress.

In the 110<sup>th</sup> Congress, Republicans sought through two procedural means to change the special rule providing for consideration of the rules resolution. First, they proposed an amendment to the special rule, which was not in order once the previous question was moved. The amendment proposed to write into House rules the legislative components of the Democrats’ New House Principles, as explained above. Second, Republicans offered a motion to commit the rules resolution in order to add three prohibitions on special rules that were intended to protect changes Republicans had made during their majority. These prohibitions would have disallowed special rules from waiving the automatic yeas and nays on appropriations measures, measures increasing federal income tax rates, and concurrent resolutions on the budget; the requirement for a three-fifths vote on a measure increasing federal income tax rates; and the disallowance of retroactive federal income tax rate increases.<sup>51</sup>

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<sup>48</sup> Videos and transcripts of the speech are available on various websites. For a transcript, see, for example, John T. Woolley and Gerhard Peters, *The American Presidency Project* [online] (Santa Barbara, CA: University of California (hosted), Gerhard Peters (database)), at <http://www.presidency.ucsb.edu/ws/index.php?pid=84331#axzz1;4kXVbXO>.

<sup>49</sup> See, for example, the second presidential debate, October 7, 2008; transcript available at <http://elections.nytimes.com/2008/president/debates/transcripts/second-presidential-debate.html>; and Andrew Taylor, “Obama, Clinton join McCain vs. earmarks,” *Associated Press*, available at [http://www.usatoday.com/news/topstories/2008-03-10-2861889130\\_x.htm](http://www.usatoday.com/news/topstories/2008-03-10-2861889130_x.htm).

<sup>50</sup> Democratic control in the 110<sup>th</sup> Congress (2007-2009) coincided with the last two years of Republican President George W. Bush’s term; Democratic control in the 111<sup>th</sup> Congress (2009-2011) coincided with the first two years of Democratic President Barack Obama’s term.

<sup>51</sup> “Rules of the House,” *Congressional Record*, vol. 153, part 1 (January 4, 2007), pp. 18-19.

(continued...)

In the 111<sup>th</sup> Congress, Republicans again sought to preserve in House rules some of the changes they had made in House rules during their majority. They offered a motion to commit the rules resolution to retain term limits on committee chairs, which the Democratic rules resolution proposed to eliminate. The Republicans' motion would also have struck changes to the House rule concerning the motion to recommit proposed in the Democratic rules resolution.<sup>52</sup>

Republicans' principal critique during the 110<sup>th</sup> and 111<sup>th</sup> Congresses concerned the majority leadership's limiting of opportunities for Member input in the manner in which Democratic leaders managed the House floor, a criticism Democrats had also made of Republican legislative management of the House during the Republican majority. Republicans criticized the number of bills (or legislative texts) that were brought to the floor without committee consideration, the limited number of amendments allowed under structured rules, the number of closed rules, use of procedures that obviated the opportunity to offer the motion to recommit, and the replacement of conference consideration by amendments between the houses.<sup>53</sup>

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

They have rewritten much of the major legislation passed by this Congress, sometimes in the middle of the night. They engineered the exclusion of opposing viewpoints. They steered around the regular legislative process to support a majority driven by partisan concerns.<sup>54</sup>

When the Democratic leadership in 2009 moved to end the consideration of general appropriations bills under open special rules or the open amendment process allowed by House rules, the event triggered additional Republican criticism of Democrats' legislative management of the House. They argued that a "central tenet of the [appropriations process] was that every member would have the opportunity to bring their issue before the House. . . ."<sup>55</sup>

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(...continued)

Although Republicans did not seek to delete from the rules resolution voting rights in the Committee of the Whole for the Delegates and Resident Commissioner, they made points of order and parliamentary inquiries during the 110<sup>th</sup> Congress related to Delegates' and the Resident Commissioner's votes. The points of order and parliamentary inquiries through May 2008 were catalogued in CRS Report RL34570, *Record Voting in the House of Representatives: Issues and Options*, by Michael L. Koempel, Jacob R. Straus, and Judy Schneider.

<sup>52</sup> "Rules of the House," *Congressional Record*, vol. 155, part 1 (January 6, 2009), pp. 19-20. See discussion of rules changes to the motion to recommit below at "Recommit, Motion to" and, in preceding Congresses, in CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104<sup>th</sup> Congress through the 109<sup>th</sup> Congress*, by Michael L. Koempel and Judy Schneider.

<sup>53</sup> See, for example, Committee on Rules Republicans, "House Rules Republicans Release New Report 'Wipe Out: How the Democratic Majority Abandoned Its Promises of Openness and Civility'," news release, October 21, 2008, available at <http://rules-republicans.house.gov/News/Read.aspx?ID=169>. The report and a slide show are available at <http://rules-republicans.house.gov/ShortTopics/Read.aspx?ID=278>. See also Republican Study Committee, "Democrat Majority Blocked 85% of Republican Amendments Submitted to the Rules Committee," policy brief, October 2010, available at [http://rsc.jordan.house.gov/UploadedFiles/PB\\_101510\\_Amendments.pdf](http://rsc.jordan.house.gov/UploadedFiles/PB_101510_Amendments.pdf).

<sup>54</sup> Committee on Rules Republicans, "The Wrong Way Congress: How the Democratic Majority Took America in the Wrong Direction with the Wrong Bills in the Wrong Way and the Wrong Time," September 2010, p. 1, available at <http://rules-republicans.house.gov/media/PDF/WrongWayCongress-Final-WEB.pdf>. See also "Irregular Order," editorial, *The Washington Post*, January 12, 2009, p. A12, available at [http://www.washingtonpost.com/wp-dyn/content/article/2009/01/11/AR2009011101958\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2009/01/11/AR2009011101958_pf.html).

<sup>55</sup> Committee on Rules Republicans, "Opportunities Lost: The End of the Appropriations Process," July 2009, p. 1, available at [http://rules-republicans.house.gov/media/PDF/OpportunitiesLost\\_fnl.pdf](http://rules-republicans.house.gov/media/PDF/OpportunitiesLost_fnl.pdf).

Republicans also complained regularly on the House floor of receiving legislative proposals at the last minute.<sup>56</sup> In addition, both Democratic and Republican Members introduced resolutions to change House rules for the purpose of increasing transparency and adherence to regular order in the legislative management of the House.<sup>57</sup>

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

- allow more floor debate and amendments, with a presumption that legislation will be considered under an open rule;
- make committee-reported legislation the legislative vehicle for floor debate and amendment;
- follow House layover rules for legislation; and
- require committees to give sufficient notice of measures to be marked up, to webcast proceedings and post transcripts online, and to promptly post online amendments adopted and votes cast.<sup>58</sup>

Leader Boehner observed in his speech:

Woodrow Wilson once said that 'Congress in session is Congress on public exhibition, while Congress in its committee rooms is Congress at work.' If Wilson went from committee room to committee room today, he might take that statement back. Because the truth is, much of the work of committees has been co-opted by the leaderships. In too many instances, we no longer have legislators; we just have voters.<sup>59</sup>

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

The legislative agenda ought to reflect the importance of hearings and oversight. Setting aside specific time each week for committees to meet without interruption from floor activities ... would provide a protected, regular time for committees to conduct their important business.<sup>60</sup>

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<sup>56</sup> See, for example, Rep. David Dreier, remarks in the House, "'Providing for Consideration of Senate Amendments to H.R. 3590, Servicemembers Home Ownership Tax Act of 2009, and Providing for Consideration of H.R. 4872, Health Care and Education Reconciliation Act of 2010,'" *Congressional Record*, daily edition, vol. 156 (March 21, 2010), p. H1835.

<sup>57</sup> See, for example, H.Res. 216 and H.Res. 1360 (111<sup>th</sup> Cong.).

<sup>58</sup> Rep. John A. Boehner, "Congressional Reform and 'The People's House,'" speech to the American Enterprise Institute for Public Policy Research, September 30, 2010; available at <http://www.aei.org/event/100308#doc>. (Hereinafter, "Congressional Reform," September 30, 2010). See also Republican Majority in Congress, "Pledge to America," September 23, 2010, available at <http://www.gop.gov/resources/library/documents/solutions/a-pledge-to-america.pdf>.

<sup>59</sup> Ibid.

<sup>60</sup> Rep. Eric Cantor, "Delivering on Our Commitment," statement in support of candidacy for majority leader, November 3, 2010, available at <http://web.archive.org/web/20101103225644/http://republicanwhip.house.gov/Majority/Cantor.pdf>. (Hereinafter, "Delivering on Our Commitment.")

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

At Education and Workforce, we operated with a set of transparency rules that encouraged deliberation and limited problems: First, we gave at least three days’ notice on all bills. Actually, we normally went above and beyond this standard, giving about a week’s notice on each bill, but three days was the rule. That gave Members plenty of time to gain an appropriate depth of knowledge and scrub each bill for potential landmines.<sup>61</sup>

## Democrats’ Proposed Rules Changes, 112<sup>th</sup> Congress

The 2010 elections again resulted in a switch in majority in the House. In response to the Republican rules package for the 112<sup>th</sup> Congress, Democrats proposed an amendment to the rules resolution, which could not be offered after the previous question was moved. This amendment would have overturned the rules resolution provision exempting the extension of certain tax laws from the operation of the Statutory Pay-As-You-Go Act. The ranking Member-designate of the Budget Committee argued:

[T]his plan guts the existing pay-as-you-go rule that limits mandatory spending and tax breaks that add to our deficits. It also creates a mechanism to do an end run against the pay-as-you-go law recently signed by President Obama that will limit increases in our national debt. ... [T]he rule being proposed ... eliminates provisions that say you can’t add to the deficit by creating special interest tax breaks. The proposal before us eliminates that limitation.<sup>62</sup>

A Democratic Member offered a motion to commit the House rules resolution to add a requirement that a Member make a decision on participation in the Federal Employees Health Benefits Program within 15 days of taking office and that the Member’s choice be publicly disclosed; the motion was defeated.<sup>63</sup>

Earlier, after the rules resolution had been called up, the Delegate from the District of Columbia made a motion to refer the resolution to a select committee to study the constitutionality of the provision deleting Delegates’ voting rights in the Committee of the Whole from House rules. The House voted to table the motion.<sup>64</sup>

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<sup>61</sup> “Congressional Reform,” September 30, 2010.

<sup>62</sup> Rep. Chris Van Hollen, House debate, “Rules of the House,” *Congressional Record*, daily edition, vol. 157 (January 5, 2011), pp. H19.

<sup>63</sup> The Democratic motion to commit the rules resolution may be found at “Rules of the House,” *Congressional Record*, vol. 157 (January 5, 2011), p. H26.

<sup>64</sup> Del. Eleanor Holmes Norton, House debate, “Rules of the House,” *Congressional Record*, daily edition, vol. 157 (January 5, 2011), pp. H10-H11.

## Majority and Minority Policy Differences in the 113<sup>th</sup> Congress Rules Debate

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

On behalf of her Democratic colleagues, the Democratic floor manager of the rules resolution urged the House to defeat the previous question motion when it was offered so that the minority could propose an amendment to the rules resolution. The amendment would have made in order the consideration of a joint resolution containing an amendment to the U.S. Constitution to overturn the Supreme Court decision in *Citizens United* and other court cases to allow Congress and the states to limit political contributions.<sup>65</sup> She argued,

In the years since the Supreme Court handed down its ruling in the *Citizens United* case, unlimited amounts of money from billionaires and hidden special interests have flooded our elections. Led by secret political spending that is hidden from public view, wealthy special interests have tried to buy our airwaves, to fund outrageously expensive campaigns, and to launch dishonest political attacks to persuade the outcome of countless elections. ... [T]his amendment would finally remove the unlimited and untracked political donations from our electoral system.<sup>66</sup>

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

Thereafter, a Democratic Member offered a motion to commit the House rules resolution in order to include an amendment to it to reduce waiting times in voting lines and to promote early voting opportunities. The motion to commit with the amendment was rejected. The question was then taken on the resolution and the resolution was agreed to.<sup>67</sup>

Earlier in the day, as in the 112<sup>th</sup> Congress, after the rules resolution had been called up, the Delegate from the District of Columbia made a motion to refer the resolution to a select committee to study the denial in House rules of Delegates' voting rights in the Committee of the Whole. The House voted to table the motion.<sup>68</sup>

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<sup>65</sup> *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010).

<sup>66</sup> Rep. Louise M. Slaughter, House debate, "Rules of the House," *Congressional Record*, vol. 159 (January 3, 2013), H10.

<sup>67</sup> The Democratic motion to commit the rules resolution, offered by Rep. George Miller, may be found at "Rules of the House" *Congressional Record*, vol. 159 (January 3, 2013), H22. Several Democratic Members also expressed their opposition to the House's participation in the lawsuits to defend the constitutionality of provisions of the Defense of Marriage Act. See, for example, Rep. Jerrod Nadler, "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 159 (January 3, 2013), p. H17.

<sup>68</sup> Del. Eleanor Holmes Norton, House debate, "Rules of the House," *Congressional Record*, vol. 159 (January 3, 2013), H9-H10.

## Rules Changes Affecting Committees

The following section identifies changes made to the committee system on opening day of the 110<sup>th</sup>, 111<sup>th</sup>, 112<sup>th</sup>, and 113<sup>th</sup> Congresses, pursuant to the resolutions adopting amendments to the rules of the House and establishing special orders, and pursuant to the Speaker's announcements. The section is organized around three topics: (1) structure and organization, including committee chairmanships and committee assignments, committee jurisdiction, and subcommittees; (2) procedure, including committee meetings, committee reports, oversight, and voting; and (3) staff and funding.<sup>69</sup>

### Structure and Organization<sup>70</sup>

#### Assignments and Size<sup>71</sup>

In the 112<sup>th</sup> Congress, H.Res. 5 established the size of the Intelligence Committee at not more than 20 members, of which not more than 12 could be from the same party.<sup>72</sup> (Amended clause 11 of Rule X.)

#### Chairmanships/Term Limitations<sup>73</sup>

In the 111<sup>th</sup> Congress, H.Res. 5 struck the chair term limit from House rules.<sup>74</sup> (Amended clause 5 of Rule X.)

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

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<sup>69</sup> Historical information on committee structure and organization and an analysis of committee procedures appears in CRS Report R41501, *House Legislative Procedures and House Committee Organization: Options for Change in the 112<sup>th</sup> Congress*, by Judy Schneider and Michael L. Koempel.

<sup>70</sup> For information on the structure and organization of congressional committees, see CRS Report RS20794, *The Committee System in the U.S. Congress*, by Judy Schneider; and CRS Report RS20465, *House Committee Organization and Process: A Brief Overview*, by Judy Schneider.

<sup>71</sup> For information on the assignment process to House committees, see CRS Report 98-151, *House Committees: Categories and Rules for Committee Assignments*, by Judy Schneider; CRS Report 98-367, *House Committees: Assignment Process*, by Judy Schneider; and CRS Report R40478, *House Committee Party Ratios: 98<sup>th</sup>-113<sup>th</sup> Congresses*, by Matthew E. Glassman.

<sup>72</sup> By a freestanding resolution in the 111<sup>th</sup> Congress, the House had established the size of the Intelligence Committee at no more than 22 members, of which not more than 13 could be members of one party. H.Res. 97, agreed to in the House January 28, 2009.

<sup>73</sup> For information on how chairs and ranking minority Members are chosen in the House, see CRS Report RS21165, *House Standing Committee Chairs and Ranking Minority Members: Rules Governing Selection Procedures*, by Judy Schneider.

<sup>74</sup> The committee chair term limit was a major reform made in the 104<sup>th</sup> Congress. See CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104<sup>th</sup> Congress through the 109<sup>th</sup> Congress*, by Michael L. Koempel and Judy Schneider. Changes beginning in the 104<sup>th</sup> Congress in how the parties select their chairs now probably have as much effect on chair tenure as a stated term limit. See CRS Report RS21165, *House Standing Committee Chairs and Ranking Minority Members: Rules Governing Selection Procedures*, by Judy Schneider.

In the 112<sup>th</sup> Congress, H.Res. 5 restored the standing committee chair term limit: service in not more than three consecutive Congresses as a committee or subcommittee chair, not counting service for part of a Congress. The change included an exemption from the term limit for the Rules Committee chair; the Rules chair had also been exempted from the prior term limit.<sup>75</sup> (Amended clause 5 of Rule X.)

## **Committee Creation or Retention**

As part of its committee expense resolution in the 110<sup>th</sup> Congress, the House created a Select Committee on Energy Independence and Global Warming.<sup>76</sup> The select committee was not given legislative authority, but was charged with investigating and making recommendations “to reduce the dependence of the United States on foreign sources of energy and achieve substantial and permanent reductions in emissions and other activities that contribute to climate change and global warming.”<sup>77</sup> In the rules resolution for the 111<sup>th</sup> Congress, H.Res. 5, the House adopted a standing order continuing the existence of the select committee in the 111<sup>th</sup> Congress.

H.Res. 5 in the 111<sup>th</sup> Congress also continued the existence of two commissions: the House Democracy Assistance Commission<sup>78</sup> and the Tom Lantos Human Rights Commission.<sup>79</sup> The following changes were made in the authority of the Lantos commission for the 111<sup>th</sup> Congress:

- In addition to collaborating with the staff of the Committee on Foreign Affairs, the commission could collaborate with the staff of other relevant committees; and
- The commission was entitled, through the Committee on Foreign Affairs, to use the same House resources as the Committee on Foreign Affairs was entitled to use.

H.Res. 5 also continued the existence of the Office of Congressional Ethics (OCE). OCE had been created in the previous Congress to review allegations of misconduct against Members, officers, and employees of the House; to conduct an investigation pursuant to criteria included in the office’s establishing resolution; and, pursuant to criteria in the establishing resolution, to refer its recommendations to the Standards of Official Conduct Committee.<sup>80</sup>

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

Another separate order also continued the Office of Congressional Ethics.

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<sup>75</sup> See CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104<sup>th</sup> Congress through the 109<sup>th</sup> Congress*, by Michael L. Koempel and Judy Schneider.

<sup>76</sup> H.Res. 202 (110<sup>th</sup> Cong.), agreed to in the House March 8, 2007.

<sup>77</sup> H.Res. 202, §4(c).

<sup>78</sup> Established by H.Res. 135 (109<sup>th</sup> Cong.), agreed to in the House March 14, 2005, and re-established by H.Res. 24 (110<sup>th</sup> Cong.), agreed to in the House January 30, 2007.

<sup>79</sup> Established by H.Res. 1451 (110<sup>th</sup> Cong.), agreed to in the House September 24, 2008.

<sup>80</sup> Established by H.Res. 895 (110<sup>th</sup> Cong.), which was deemed adopted with the adoption of H.Res. 1031 (110<sup>th</sup> Cong.), agreed to in the House March 11, 2008. See CRS Report R40760, *House Office of Congressional Ethics: History, Authority, and Procedures*, by Jacob R. Straus.

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

Another separate order in the 113<sup>th</sup> Congress continued the Office of Congressional Ethics.<sup>81</sup>

## **Committee Names**

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

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

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

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

## **Jurisdiction<sup>82</sup>**

### ***110<sup>th</sup> Congress***

References in the jurisdiction of the Intelligence Committee in Rule X, clause 11 were made consistent by H.Res. 6 with changes in the organization of intelligence agencies pursuant to the Intelligence Reform and Terrorism Prevention Act of 2004.<sup>83</sup> For example, “Director of National Intelligence” replaced “Director of Central Intelligence” at several places in clause 11.

The Speaker’s announced policies for the 110<sup>th</sup> Congress did not include the previous Speaker’s statement on jurisdictional issues, principally related to the memorandum of understanding

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<sup>81</sup> Much later in the 113<sup>th</sup> Congress, the House passed H.Res. 567, which established a select committee on the events surrounding the 2012 terrorist attack on the American compound in Benghazi, Libya; agreed to in the House May 8, 2014.

<sup>82</sup> See CRS Report 98-175, *House Committee Jurisdiction and Referral: Rules and Practice*, by Judy Schneider. See also CRS Report RL32661, *House Committees: A Framework for Considering Jurisdictional Realignment*, by Michael L. Koempel; and CRS Report RL34293, *Resolving House Committee Jurisdictional Disputes: A Survey of Options*, by Walter J. Oleszek.

<sup>83</sup> P.L. 108-458; 118 Stat. 3638 (2004).

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



between the Energy and Commerce and Financial Services Committees and referrals to the then-new Homeland Security Committee.<sup>84</sup>

### **111<sup>th</sup> Congress**

An addition was made to the oversight authority of the Homeland Security Committee in H.Res. 5 so that the committee's oversight extended to all government programs and organizations related to homeland security that "fall within [the committee's] primary legislative jurisdiction." The change was intended to clarify that agencies' operating programs within the committee's legislative jurisdiction have a reporting relationship with it, in addition to their reporting relationship with other committees.<sup>85</sup> (Amended clause 3 of Rule X.)

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

### **112<sup>th</sup> Congress**

H.Res. 5 assigned a new duty to the House Administration Committee—to promulgate standards for making House and House committee documents publicly available.<sup>86</sup> (Amended clause 4 of Rule X.) H.Res. 5 further provided that, if a document was available in electronic form at a location designated by the committee, the document would be considered available to Members as required by House rules.<sup>87</sup> (Added new clause 3 to Rule XXIX.) A separate order provided an interim order pending the promulgation of regulations by the committee. The interim order stated that posting on the Committee on Rules website would serve the publicly available requirement for the House floor and each committee's majority website would serve that purpose for a committee.

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

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<sup>84</sup> "Announcement by the Speaker," *Congressional Record*, daily edition, vol. 153, part 1 (January 5, 2007), pp. 273-274.

<sup>85</sup> For background on the creation and jurisdiction 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 109<sup>th</sup> and 110<sup>th</sup> Congresses Epilogue*, by Michael L. Koempel.

<sup>86</sup> U.S. Congress, House, Committee on House Administration, "House Administration Adopts New Posting Standards for House Documents," news release, December 16, 2011, available at [<http://cha.house.gov/press-release/house-administration-adopts-new-posting-standards-house-documents>]. The standards are available at <http://cha.house.gov/member-services/electronic-posting-standards>, or as a PDF document at [http://cha.house.gov/sites/repUBLICANS.cha.house.gov/files/documents/member\\_services\\_docs/electronic\\_posting\\_standards.pdf](http://cha.house.gov/sites/repUBLICANS.cha.house.gov/files/documents/member_services_docs/electronic_posting_standards.pdf).

<sup>87</sup> U.S. Congress, House, Committee on House Administration, "Clerk Launches New Site for House Documents," news release, January 17, 2012, available at <http://cha.house.gov/press-release/clerk-launches-new-site-house-documents>. The website is located at <http://docs.house.gov/>.

## **113<sup>th</sup> Congress**

H.Res. 5 added “general management” to “organization and administration” of the Department of Homeland Security to the Committee on Homeland Security’s jurisdictional statement. This change was intended to clarify the committee’s existing jurisdiction over the department, but not alter the existing pattern of bill referrals or oversight jurisdiction.<sup>88</sup>

H.Res. 5 also changed a word in the jurisdictional statement of the Committee on Natural Resources to “Insular areas” from “Insular possessions.” This change conformed the language used in the committee to that used by the Departments of State and Interior. This change was also intended to clarify that the committee’s jurisdiction included the Freely Associated States (the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau). The Freely Associated States, while independent nations under the jurisdiction of the Foreign Affairs Committee, also have a special relationship with the United States through the Compact of Free Association.<sup>89</sup> (Amended clause 1 of Rule X.)

## **Subcommittees<sup>90</sup>**

In the 110<sup>th</sup> Congress, H.Res. 6 contained a special rule that made in order the consideration of a resolution “to enhance intelligence oversight authority.” The House subsequently adopted H.Res. 35, creating a Select Intelligence Oversight Panel of the Committee on Appropriations, on January 9, 2007.<sup>91</sup>

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

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

The House in H.Res. 5 in the 112<sup>th</sup> Congress eliminated the Select Intelligence Oversight Panel of the Appropriations Committee.<sup>92</sup> (Struck a portion of clause 4 of Rule X.)

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<sup>88</sup> Rep. Pete Sessions, “H.Res. 5, Adopting Rules for the 113<sup>th</sup> Congress: Section-by-Section Analysis,” insert, *Congressional Record*, daily edition, vol. 159 (January 3, 2013), p. H12.

<sup>89</sup> The chairs of the Committee on Foreign Affairs and the Committee on Natural Resources entered into a memorandum of understanding for the 113<sup>th</sup> Congress pertaining to the committees’ jurisdiction over insular possessions of the United States. Rep. John Boehner, “Rules of the House,” insert, *Congressional Record*, vol. 159 (January 3, 2013), p. H18.

<sup>90</sup> For information on House subcommittees, see CRS Report 98-544, *Subcommittees in the House of Representatives*, by Judy Schneider; and CRS Report 98-610, *House Subcommittees: Assignment Process*, by Judy Schneider. Regarding changes to the subcommittees of the Appropriations Committee, see CRS Report RL31572, *Appropriations Subcommittee Structure: History of Changes from 1920 to 2013*, by Jessica Tollestrup.

<sup>91</sup> For background on creation of the panel, see Patrick Yoest and Tim Starks, “Senate to Begin Work on Sept. 11 Panel Legislation Following House Action,” *CQ Today*, vol. 43, no. 6, January 10, 2007, p. 3.

<sup>92</sup> For background on the panel’s termination, see Tim Starks, “Plan to Eliminate House Panel Raises Budgetary Oversight Questions,” *CQ Today*, vol. 47, no. 1, January 5, 2011, p. 9.

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

The same separate order on the number of subcommittees allowed the Committees on Armed Services, Foreign Affairs, and Transportation and Infrastructure was included in H.Res. 5 in the 113<sup>th</sup> Congress.

## **Procedure<sup>93</sup>**

### **Committee Reports<sup>94</sup>**

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

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

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

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

(See also “112<sup>th</sup> Congress” under “Jurisdiction” above.)

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

H.Res. 5 made a change in reporting requirements for the Rules Committee. The committee was to report the “object” of any waiver of a point of order in the resolution it reported. The change

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<sup>93</sup> For information on committee markups and hearings, see CRS Report R41605, *House Standing Committees’ Rules on Legislative Activities: Analysis for the 113<sup>th</sup> Congress*, by Michael L. Koempel, Judy Schneider, and J. Michael Jarrett; and CRS Report R41083, *House Committee Markups: Manual of Procedures and Procedural Strategies*, by Michael L. Koempel and Judy Schneider. See also CRS Report RS20308, *House Committee Markups: Commonly Used Motions and Requests*, by Judy Schneider. Regarding hearings, see CRS Report 98-317, *Types of Committee Hearings*, by Valerie Heitshusen; and a series of reports on hearings beginning with CRS Report 98-339, *House Committee Hearings: Scheduling and Notification*, by Christopher M. Davis.

<sup>94</sup> For information on House committee reports, see CRS Report 98-169, *House Committee Reports: Required Contents*, by Judy Schneider. See also CRS Report 98-673, *Publications of Congressional Committees: A Summary*, by Matthew E. Glassman.

stated that the object(s) should appear in the accompanying report. (Amended clause 6 of Rule XIII.)

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

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

### ***Committee Activity Reports***

H.Res. 5 in the 112<sup>th</sup> Congress changed the requirement for one activity report in each Congress from each committee to a requirement for four activity reports in each Congress from each committee. The rules resolution also adapted the existing provision on filing an activity report after the sine die adjournment of a Congress to apply to the sine die adjournment of the first session of a Congress and the sine die adjournment of the second session of a Congress, or December 15, whichever occurs first. (Amended clause 1 of Rule XI.) (See “Oversight,” below, for a further explanation of this change.) This change followed another accountability initiative included in committee funding resolutions in the 111<sup>th</sup> and 112<sup>th</sup> Congresses. (See “Staff and Funding” below.)

H.Res. 5 in the 113<sup>th</sup> Congress changed the requirement for the submission of committee activity reports to the House. The amended rule now stated that these activity reports were to be submitted to the House not later than January 2 of each year. The purpose of this change was to reduce the frequency of committee activity reports to two times per Congress (once per session) from four times per Congress. (See “Oversight,” below, for a further explanation of this change.) The rule previously stated that the reports were to be submitted to the House four times in each Congress on the 30<sup>th</sup> day after each June 1 and December 1. (Amended clause 1 of Rule XI.)

### ***Duplication of Federal Programs***

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

The separate order also required that a committee’s report on a bill or joint resolution include a statement indicating whether the measure establishes or reauthorizes a program “known to be duplicative of another Federal program.”<sup>95</sup> At a minimum, the statement must explain whether the

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<sup>95</sup> The separate order noted that this requirement was to be treated “as though [required] under clause 3(c) of Rule XIII....”

new or reauthorized program was included in any report to Congress from the Government Accountability Office on duplicative federal programs (as provided in P.L. 111-139, §21), or if the most recent Catalog of Federal Domestic Assistance identified other programs “related” to the program established or reauthorized in the measure.

## **Depositions**

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

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

## **Earmarks**

H.Res. 6 in the 110<sup>th</sup> Congress required a committee of jurisdiction or a conference committee to provide a list of earmarks, limited tax benefits, and limited tariff benefits contained in a bill or joint resolution that was reported, was not reported, an amendment in the nature of a substitute or other committee amendment, or conference report, for the measure to be in order for consideration by the House. If the measure contained no earmarks, limited tax benefits, or limited tariff benefits, then a statement attesting to that fact was required to be provided. Earmarks, limited tax benefits, and limited tariff benefits were defined in the rule change. In general, an earmark was defined as a provision or report language included at a Member’s request that targeted an expenditure to a specific entity “other than through a statutory or administrative formula-driven or competitive award process.” In general, a limited tax or tariff benefit was defined as a provision benefitting 10 or fewer entities. Members were to request earmarks, limited tax benefits, and limited tariff benefits in writing to committees, disclosing information specified in the new rule, and committees were required to retain these written requests.<sup>96</sup> (Added clause 9 to Rule XXI.) Regarding the points of order to enforce this rules change against legislation and special rules, see “Earmarks” under “Rules Changes Affecting the Chamber and Floor” or “110<sup>th</sup> Congress” under “Rules Changes Affecting Budgetary Legislation.” (See also “110<sup>th</sup> Congress” under “Rules Changes Affecting Ethics Standards” regarding changes in ethics rules related to earmarks.)

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<sup>96</sup> For further discussion of the rules change, see CRS Report RL34149, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 110<sup>th</sup> Congress*, by Bill Heniff Jr.; and CRS Report RS22866, *Earmark Disclosure Rules in the House: Member and Committee Requirements*, by Megan S. Lynch.

The Democratic Caucus during its majority in the 111<sup>th</sup> Congress banned earmarks for for-profit entities. Rep. Nancy Pelosi, “Pelosi Statement on House Appropriations Committee Ban on For-Profit Earmarks,” news release, March 10, 2010, available at <http://www.democraticleader.gov/news/press?id=1581>; and U.S. House, Committee on Appropriations, “Appropriations Committee Bans For-Profit Earmarks,” news release, March 10, 2010, available at [http://www.democrats.appropriations.house.gov/images/user\\_images/gt/stories/pdf/2010\\_Earmark\\_Reforms\\_Release-3.10.2010.pdf](http://www.democrats.appropriations.house.gov/images/user_images/gt/stories/pdf/2010_Earmark_Reforms_Release-3.10.2010.pdf). The Republican Conference, after gaining the majority in the House adopted a “standing order” effective for the 112<sup>th</sup> Congress stating that it was a conference policy that no Member request an earmark. The standing order was also adopted in the 113<sup>th</sup> Congress, available at <http://www.gop.gov/113th-rules>.

## Meeting Notices

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

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

## Meetings, Restrictions on

H.Res. 5 in the 112<sup>th</sup> Congress required a three-day notice of a committee meeting. Previously, notice requirements applicable to meetings were included in committees’ rules, with most committees opting for 24 or 48 hours’ notice. Notice of a hearing, under House rules, remained at one week. The amendment in H.Res. 5 also applied two exceptions to the new meetings notice requirement; these exceptions already applied to hearings notices. First, a chair with the concurrence of the ranking minority Member could determine that there was good cause to start a meeting sooner, and, second, a committee by majority vote, a quorum being present, agreed to meet sooner. The amendment also clarified that announcements of hearings and meetings were to be printed in the Daily Digest of the *Congressional Record* and be made available in electronic form. The Committee on Rules was exempted from the operation of this rule. (Amended clause 2 of Rule XI.)

## Openness

H.Res. 5 in the 112<sup>th</sup> Congress established in House rules that the text of legislation to be marked up be made publicly available in electronic form at least 24 hours before a markup meeting.<sup>97</sup> House committees had previously set their own standards for the time in advance that text would be made available and how it would be made available. Most committees had a 24-hour availability rule. (Amended clause 2 of Rule XI.) (See also “112<sup>th</sup> Congress” under “Jurisdiction” above.)

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

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

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<sup>97</sup> The section-by-section summary accompanying H.Res. 5 contained this explanation of the text referred to by the rule: “[I]f the committee is considering a committee print, or the chair of a committee intends to use an amendment in the nature of a substitute as the base text for purposes of further amendment, circulation of that text will satisfy this requirement.” Rep. David Dreier, “Rules of the House,” remarks in the House, *Congressional Record*, daily edition, vol. 157 (January 5, 2011), p. H13.

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

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

The rules resolution required that committees provide audio and video coverage of their hearings and meetings “in a manner that allows the public to easily listen to and view the proceedings,” and to maintain these audio and video recordings so that they are “easily accessible” to the public.<sup>98</sup> (Amended clause 2 of Rule XI.) In the past, some committees had more or less consistently Webcast their proceedings; others had done so intermittently or not at all. C-SPAN provided many committee meetings and hearings on its channels and its website. Committees did not consistently preserve their Webcasts. H.Res. 5 also deleted references to the photographic units of the Associated Press and United Press International in its rule on admitting photographers to committee hearings and meetings. (Amended clause 4 of Rule XI.)

## **Oversight<sup>99</sup>**

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

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

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

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<sup>98</sup> The Library of Congress was subsequently announced as the site for committee webcasting and archives and for archiving of earlier committee proceedings. U.S. Congress, House, Committee on House Administration, “LOC Launches New Site to Webcast Committee Proceedings,” news release, February 2, 2012, available at <http://cha.house.gov/press-release/loc-launches-new-site-webcast-house-committee-proceedings>. The Library's website is available at <http://thomas.loc.gov/video/house-committee>.

<sup>99</sup> For information on congressional oversight processes, powers, and resources, see CRS Report RL30240, *Congressional Oversight Manual*, by Todd Garvey et al.

H.Res. 5 in the 113<sup>th</sup> Congress changed the requirement for the submission of committee activity reports to the House. The amended rule now stated that these activity reports were to be submitted to the House not later than January 2 of each year. The summary of the committee's oversight plan was required to be included only in the first activity report of a Congress. The purpose of this change was to reduce the frequency of committee activity reports to two times per Congress (once per session) from four times per Congress. The rule previously stated that the reports were to be submitted to the House four times in each Congress on the 30<sup>th</sup> day after each June 1 and December 1.<sup>100</sup> (Amended clause 1 of Rule XI.)

## **Referral**

(See "Jurisdiction" above.)

## **Subpoena Enforcement**

H.Res. 5 in the 111<sup>th</sup> Congress, in a separate order, authorized the Judiciary Committee and the House general counsel to continue the lawsuit that followed from the House holding former White House chief of staff Joshua Bolten and former White House counsel Harriett Miers in contempt of Congress. Bolten and Miers had failed to comply with Judiciary Committee subpoenas related to the committee's investigation of the firing of several U.S. attorneys. The separate order sought to provide continuity for enforcing subpoenas that expired at the end of the 110<sup>th</sup> Congress. It also contained deposition procedures for the committee.<sup>101</sup>

H.Res. 5 in the 113<sup>th</sup> Congress, in a separate order, authorized the Oversight and Government Reform Committee and the House general counsel to continue the lawsuit that followed from the House holding Attorney General Eric Holder in contempt of Congress. The lawsuit sought to force the Attorney General to comply with any committee subpoena related to the committee's investigation of the Justice Department's Fast and Furious gun-running investigation. The separate order sought to provide continuity for enforcing a subpoena that expired at the end of the 112<sup>th</sup> Congress. The separate order further authorized the committee chair, when authorized by the Speaker after consultation with the Bipartisan Legal Advisory Group, to initiate judicial proceedings to enforce subpoenas issued to other individuals in the 112<sup>th</sup> Congress. The separate order also allowed the chair of the committee to issue subpoenas related to the committee investigation pending the adoption of the committee's rules for the 113<sup>th</sup> Congress.<sup>102</sup>

## **Voting**

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

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<sup>100</sup> See also CRS Report RL34679, *House Committee Chairs: Considerations, Decisions, and Actions as One Congress Ends and a New Congress Begins*, by Judy Schneider and Michael L. Koempel.

<sup>101</sup> For background, see Bennett Roth, "House Adopts Package of Rule Changes," *CQ Weekly*, vol. 67, no. 2, January 12, 2009, pp. 75-76; and Keith Perine and Caitlin Webber, "House Holds Bush Aides in Contempt, Readies Civil Lawsuit for Compliance," *CQ Weekly*, vol. 66, no. 7, February 18, 2008, p. 442.

<sup>102</sup> For background, see Joanna Anderson and Jonathan Strong, "Historic Vote Holds Attorney General in Contempt," *CQ Weekly*, vol. 70, no. 26, July 9, 2012, p. 1387.



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

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

## **Witnesses**

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

## **Staff and Funding**

In the 111<sup>th</sup> Congress, the House Administration Committee included a provision in the committee funding resolution (not the rules resolution) holding committees accountable for their spending by requiring them to attend a hearing at the beginning of the second session.<sup>103</sup> The provision was included again in the 112<sup>th</sup> Congress committee funding resolution<sup>104</sup> and the 113<sup>th</sup> Congress committee funding resolution.<sup>105</sup>

## **Rules Changes Affecting the Chamber and Floor**

The following section identifies changes made to operations of the House floor on the opening day of 110<sup>th</sup>, 111<sup>th</sup>, 112<sup>th</sup>, and 113<sup>th</sup> Congresses, pursuant to the resolutions amending the rules of the House and establishing special orders, and pursuant to the Speaker's policy announcements.<sup>106</sup>

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

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<sup>103</sup> §3(c) of H.Res. 279 (111<sup>th</sup> Cong.), agreed to in the House March 31, 2009.

<sup>104</sup> §3(c) of H.Res. 147 (112<sup>th</sup> Cong.), agreed to in the House March 17, 2011.

<sup>105</sup> §3(c) of H.Res. 115 (113<sup>th</sup> Cong.), agreed to in the House March 19, 2013. See CRS Report R42778, *House Committee Funding: Description of Process and Analysis of Disbursements*, by Matthew E. Glassman; and CRS Report RL32794, *House Committee Funding Requests and Authorizations, 104<sup>th</sup>-113<sup>th</sup> Congresses*, by Matthew E. Glassman.

<sup>106</sup> For a description of rules changes affecting the chamber and floor made at the beginning of the 111<sup>th</sup> Congress, see CRS Report R40509, *House Rules Changes in the 111<sup>th</sup> Congress Affecting Floor Proceedings*, by Megan S. Lynch and Elizabeth Rybicki. For a description of rules changes affecting the chamber and floor made at the beginning of the 112<sup>th</sup> Congress, see CRS Report R41711, *House Rules Changes in the 112<sup>th</sup> Congress Affecting Floor Proceedings*, by Elizabeth Rybicki. There is not a comparable report for the 110<sup>th</sup> Congress or the 113<sup>th</sup> Congress.

Rules changes in the 110<sup>th</sup> through 113<sup>th</sup> Congresses affecting the chamber and floor have sought to enhance the integrity of proceedings in addressing matters such as admission to the chamber, earmarks, and voting. Rules changes have also addressed consideration of budgetary legislation, which are discussed in this section and the next section.<sup>107</sup>

## **Admission to and Use of the Chamber**

In the 110<sup>th</sup> Congress, the Speaker revised the existing policy regarding floor privileges for former Members, former Delegates, Resident Commissioners, parliamentarians of the House, elected officers of the House, and minority employees nominated as elected officers of the House to accommodate the changes to clause 4 of Rule IV made in the 109<sup>th</sup> Congress with the adoption of H.Res. 648.<sup>108</sup>

The Speaker in the 111<sup>th</sup> Congress clarified the application of clause 3 of rule I, which granted the Speaker control of the Hall of the House, and clause 1 of rule IV, which specified that the Hall of the House was to be used only for the legislative business of the House, for caucus and conference meetings of its Members, and for such ceremonies as the House might agree to conduct there. When the House was adjourned, the Speaker's policy stated, the House was on "static display," and no audio and video recording or "transmitting devices" were allowed so that sound or images from the chamber would not serve as a backdrop for activities that are not proceedings but that "might be taken to carry the imprimatur of the House."<sup>109</sup> In stating these policies, the Speaker sought to address situations like the use of the chamber to discuss energy policy during the August 2008 recess.<sup>110</sup>

This rules resolution also amended Rule IV (Hall of the House) to disallow the Speaker from entertaining a unanimous consent request or motion to suspend the first five clauses of Rule IV, pertaining to use of and admittance to the House chamber. Previously, only the first two clauses (specifically addressing use of the House for the conduct of legislative business and caucus or conference meetings and specifically naming officials entitled to access) were subject to this prohibition. (Amended clause 2(b) of Rule IV.)

Speaker Boehner deleted text characterizing the use of the chamber during a previous August recess that had prompted Speaker Pelosi's statement on the rules governing the proper use of the

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<sup>107</sup> For an analysis of special rules and other floor actions, see CRS Report R41501, *House Legislative Procedures and House Committee Organization: Options for Change in the 112<sup>th</sup> Congress*, by Judy Schneider and Michael L. Koempel. For an overview of House floor proceedings, see CRS Report 95-563, *The Legislative Process on the House Floor: An Introduction*, by Christopher M. Davis. See also CRS Report 98-143, *Procedural Distinctions between the House and the Committee of the Whole*, by Judy Schneider; CRS Report R43424, *Considering Legislation on the House Floor: Common Practices in Brief*, by Elizabeth Rybicki; CRS Report 98-314, *Suspension of the Rules in the House: Principal Features*, by Elizabeth Rybicki; CRS Report RL32207, *Commonly Used Motions and Requests in the House of Representatives*, by Christopher M. Davis; CRS Report RL32200, *Debate, Motions, and Other Actions in the Committee of the Whole*, by Bill Heniff Jr. and Elizabeth Rybicki; and CRS Report RS22991, *Speaking on the House Floor: Gaining Time and Parliamentary Phraseology*, by Elizabeth Rybicki.

<sup>108</sup> "Announcement by the Speaker," *Congressional Record*, vol. 153, part 1 (January 5, 2007), pp. 273-274. H.Res. 648 (109<sup>th</sup> Cong.), agreed to in the House February 1, 2006. See CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104<sup>th</sup> Congress through the 109<sup>th</sup> Congress*, by Michael L. Koempel and Judy Schneider.

<sup>109</sup> "Announcement by the Speaker," *Congressional Record*, vol. 155, part 1 (January 6, 2009), pp. 23-25.

<sup>110</sup> For background, see "House Dems turn out the lights but GOP keeps talking," *Politico LIVE*, August 1, 2008, at [http://www.politico.com/blogs/thecript/0808/House\\_Dems\\_turn\\_out\\_out\\_the\\_light\\_but\\_GOP\\_keep\\_talking.html](http://www.politico.com/blogs/thecript/0808/House_Dems_turn_out_out_the_light_but_GOP_keep_talking.html).

Hall of the House. Speaker Boehner's announced policy was otherwise unchanged from the earlier policy.<sup>111</sup>

## **Appropriations Measures<sup>112</sup>**

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

The House in H.Res. 5 in the 111<sup>th</sup> Congress amended clause 9 of Rule XXI to require the joint explanatory statement of a conference report to accompany a regular general appropriation bill to list all earmarks, limited tax benefits, and limited tariff benefits not committed to conference by either house, or to include a statement that neither the conference report nor the joint explanatory statement contained such earmarks or limited tax or tariff benefits. This requirement could not be waived by a special rule. A point of order raised under this change would be disposed of by a question of consideration. (This amendment to clause 9 codified in House rules H.Res. 491, adopted in the 110<sup>th</sup> Congress.)<sup>113</sup>

H.Res. 5 in the 112<sup>th</sup> Congress created a point of order against an appropriations measure that provided spending authority from the Highway Trust Fund (excluding any transfers from the General Fund of the Treasury), or reduced or limited accruals in the fund, for any purpose other than for those activities authorized for the highway or mass transit programs. This point of order replaced a rule that prevented the Appropriations Committee from setting spending levels lower than those authorized in surface transportation law. The rules change sought to ensure that taxes collected to support the Highway Trust Fund were not diverted to other uses.<sup>114</sup> (Amended clause 3 of Rule XXI.)

A special order first included in the 112<sup>th</sup> Congress rules resolution and renewed in the 113<sup>th</sup> Congress rules resolution required general appropriations bills to include a spending reduction account, as follows:

- A general appropriations bill could not be considered in the Committee of the Whole unless it contained a spending reduction account, and an order in the Appropriations Committee to report such a bill constituted authority for the committee chair to add the account to the bill. A spending reduction account contained only a recitation of the amount by which the allocation of the bill's section 302(b) new budget authority exceeded the new budget authority proposed in the bill.
- En bloc amendments transferring appropriations from one or more objects in the bill to the spending reduction account were the only amendments allowed to a

<sup>111</sup> "Announcement by the Speaker," *Congressional Record*, daily edition, vol. 157 (January 5, 2011), pp. H29-H31.

<sup>112</sup> For an introduction to the appropriations process in Congress, see CRS Report R42388, *The Congressional Appropriations Process: An Introduction*, by Jessica Tollestrup.

<sup>113</sup> The House in the 110<sup>th</sup> Congress, on June 18, 2007, had adopted H.Res. 491, creating the same point of order for the duration of that Congress against a conference report on a general appropriations bill that was not accompanied by a list of earmarks not committed to conference by either house. A special rule could not waive this requirement. A point of order under H.Res. 491 would be disposed of on a question of consideration.

<sup>114</sup> For an explanation of this rules change, see CRS Report R41926, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 112<sup>th</sup> Congress*, by Bill Heniff Jr.

spending reduction account in the House or Committee of the Whole. Such amendment could amend portions of the bill not yet read for amendment. Except for these en bloc amendments, no amendments to a spending reduction account were in order.

- Amendments proposing a net increase in budget authority were not in order, unless consideration was en bloc with one or more other amendments resulting in a greater or equal decrease in budget authority.
- A point of order against including changes in existing law in an appropriations bill (Rule XXI, clause 2(b)) did not apply to a spending reduction account.

## **Bill Introductions<sup>115</sup>**

(See also “Commemorative Legislation” below.)

## **Constitutional Authority Statement**

In the 112<sup>th</sup> Congress, H.Res. 5 required the introduction of a bill or joint resolution to be accompanied by a statement citing the constitutional power granted Congress to enact the measure. These statements are to be printed in the *Congressional Record*. The chair of the committee of jurisdiction could submit such a statement for a Senate bill or joint resolution prior to its consideration in the House.<sup>116</sup> (Amended clause 7 of Rule XII.) (For a concomitant change deleting the requirement for a constitutional authority statement in committee reports, see “Committee Reports” above.)

A separate order in H.Res. 5 in the 113<sup>th</sup> Congress required bills and joint resolutions proposing to repeal or amend law in a non-positive title of the United States Code<sup>117</sup> to include a citation to the “applicable” Code citation. A citation was to be inserted parenthetically following the designation of the matter proposed for repeal or amendment.

## **Reserved Bill Numbers**

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

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

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<sup>115</sup> For information on legislative forms, see CRS Report 98-728, *Bills, Resolutions, Nominations, and Treaties: Characteristics, Requirements, and Uses*, by Richard S. Beth; CRS Report 98-706, *Bills and Resolutions: Examples of How Each Kind Is Used*, by Richard S. Beth; and CRS Report 98-458, *Introducing a House Bill or Resolution*, by Mark J. Oleszek.

<sup>116</sup> See CRS Report R41711, *House Rules Changes in the 112<sup>th</sup> Congress Affecting Floor Proceedings*, by Elizabeth Rybicki; and CRS Report R41548, *Sources of Constitutional Authority and House Rule XII, Clause 7(c)*, by Kenneth R. Thomas.

<sup>117</sup> “Positive law” when used to describe the United States Code refers to a title of the Code enacted into statute. For a fuller explanation, see <http://uscode.house.gov/codification/legislation.shtml;jsessionid=940627269FF8129E04FD4BCC06E77DC9>.

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

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

## **Broadcasting**

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

In the 113<sup>th</sup> Congress, H.Res. 5 changed references in the House’s broadcasting rule to “communications” from “telecommunications” to encompass new technologies. It also clarified that recordings of floor proceedings could not be used for a “partisan political campaign purpose.” The rule had stated that recordings could not be used for “any political purpose.” (Amended clause 2 of Rule V.)

## **Budget Process**

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

## **Calendar Wednesday**

Calendar Wednesday was a procedure available each Wednesday, whereby committees could call up measures lacking privilege and pending on the House or Union Calendar.<sup>118</sup> The occurrence or use of the Calendar Wednesday procedure in the modern House had been rare, but it would automatically occur unless dispensed with, normally by unanimous consent. H.Res. 5 in the 111<sup>th</sup> Congress reformed the Calendar Wednesday procedure to require a committee to request its scheduling, eliminating the need for the House each week to prevent its occurrence. If requested by a committee, the procedure would be available only to the requesting committee. A rules change also eliminated a prohibition applicable to the Rules Committee reporting a special rule

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<sup>118</sup> Privilege is “An attribute of a...measure...that gives it priority status for consideration.” Walter Kravitz, *Congressional Quarterly’s American Congressional Dictionary*, 3<sup>rd</sup> ed. (Washington, DC: CQ Press, 2001), p. 188.

waiving Calendar Wednesday.<sup>119</sup> (Amended clause 6 of Rule XV and deleted clause 6 of Rule XIII.)

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

## Commemorative Legislation

A change to the Republican Conference rules in the 112<sup>th</sup> Congress, continued in the 113<sup>th</sup> Congress, had a significant effect on commemorative legislation that had been commonly considered by the House under the suspension of the rules procedure.<sup>120</sup> The change made in conference rules stated that the Speaker should not schedule a bill or resolution that “expresses appreciation, commends, congratulates, celebrates, recognizes the accomplishments of, or celebrates the anniversary of, an entity, event, group, individual, institution, team or government program; or acknowledges or recognizes a period of time for such purposes.”<sup>121</sup> Democrats and Republicans alike had criticized the floor time the House consumed in the consideration of such measures.<sup>122</sup>

## Conference<sup>123</sup>

H.Res. 6 in the 110<sup>th</sup> Congress amended the existing one-sentence rule that “a meeting of each conference committee shall be open to the public” by adding openness goals that House managers “should endeavor to ensure”: (1) all House conferees have notice of meetings and a “reasonable opportunity” to attend; (2) all provisions in disagreement be open to discussion at any meeting; and (3) signed conference papers containing an agreement not be changed without opportunity for House conferees to reconsider their decision to sign or not sign.<sup>124</sup> It is not yet clear whether these goals are enforceable by a point of order or are exhortations to House managers. The rule was also amended to require that conferees be provided with a complete copy of the conference agreement at one place and at one time to sign or not sign. (Amended clause 12 of Rule XXII.) H.Res. 6 also contained a new provision stating that it was not in order for the House to consider a conference report, in which the conference text varied (other than by clerical change) from

<sup>119</sup> For an explanation of procedures under Calendar Wednesday before and after the change, see CRS Report R40509, *House Rules Changes in the 111<sup>th</sup> Congress Affecting Floor Proceedings*, by Megan S. Lynch and Elizabeth Rybicki.

<sup>120</sup> “Commemorative” was defined by the 104<sup>th</sup> Congress as “...a remembrance, celebration, or recognition for any purpose through the designation of a specified period of time.” (House Rule XII, cl. 5) Members, however, were able to draft similar legislation that did not fit the definition, and legislation in this form was routinely considered on the House floor under the suspension of the rules procedure.

<sup>121</sup> “Standing Orders for the 113<sup>th</sup> Congress,” available at <http://www.gop.gov/113th-rules/>.

<sup>122</sup> Rep. Louise Slaughter, “Broken Promises,” p. 45; and Rep. Eric Cantor, “Delivering on Our Commitment.”

<sup>123</sup> For information on the conference process and the process of amendments between the houses, see CRS Report 98-696, *Resolving Legislative Differences in Congress: Conference Committees and Amendments Between the Houses*, by Elizabeth Rybicki. See also CRS Report 96-708, *Conference Committee and Related Procedures: An Introduction*, by Elizabeth Rybicki; and CRS Report R41003, *Amendments Between the Houses: Procedural Options and Effects*, by Elizabeth Rybicki.

<sup>124</sup> See CRS Report RS21629, *Sufficiency of Signatures on Conference Reports*, by Richard S. Beth and Elizabeth Rybicki.

“action of the conferees on all of the differences between the two Houses” as acknowledged by signing or not signing the conference report and joint explanatory statement.<sup>125</sup> (Added new clause 13 to Rule XXII.)

The House in H.Res. 5 in the 111<sup>th</sup> Congress amended clause 9 of rule XXI to require the joint explanatory statement of a conference report to accompany a regular general appropriation bill to list all earmarks, limited tax benefits, and limited tariff benefits not committed to conference by either house, or to include a statement that neither the conference report nor the joint explanatory statement contained such earmarks or limited tax or tariff benefits. This requirement could not be waived by a special rule. A point of order raised under this change would be disposed of by a question of consideration. (This amendment to clause 9 codified in House rules H.Res. 491, adopted in the 110<sup>th</sup> Congress.)<sup>126</sup>

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

## **Continuity of Congress**

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

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

## **Decorum in the Chamber: Electronic Devices**

Elaborating on the prohibition on the receiving and making of wireless telephone calls within the chamber, the Speaker in the 111<sup>th</sup> Congress further clarified that “telephone headsets” should not be worn within the chamber.<sup>127</sup>

The House in H.Res. 5 in the 112<sup>th</sup> Congress changed its rule to proscribe only “use of a mobile electronic device that impairs decorum.” The change shifted the rule from prohibiting specific

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<sup>125</sup> This change was meant to address the possibility of adding to or changing items in a conference report after conferees had reached agreement, but without the conferees’ knowledge. An example frequently cited at the time was that of an earmark for the so-called Coconut Road interchange on I-75 in Florida (H.R. 3; P.L. 109-59). See Charlie Whitehead, “Bonita will benefit for Coconut Road I-75 exit,” *Naples News*, August 24, 2005, available at [http://www.naplesnews.com/news/2005/aug/24/ndn\\_bonita\\_will\\_benefit\\_from\\_coconut\\_road\\_i\\_75\\_exit](http://www.naplesnews.com/news/2005/aug/24/ndn_bonita_will_benefit_from_coconut_road_i_75_exit); and Elizabeth Wright, “Coconut Road earmark investigation gains major momentum in Congress,” *Naples News*, April 15, 2008, available at <http://www.naplesnews.com/news/2008/apr/15/coconut-road-earmark-investigation-gains-major-mom>.

<sup>126</sup> The House in the 110<sup>th</sup> Congress, on June 18, 2007, had adopted H.Res. 491, creating the same point of order for the duration of that Congress against a conference report on a general appropriations bill that was not accompanied by a list of earmarks not committed to conference by either house. A special rule could not waive this requirement. A point of order under H.Res. 491 would be disposed of on a question of consideration.

<sup>127</sup> “Announcement by the Speaker,” *Congressional Record*, vol. 155, part 1 (January 6, 2009), pp. 23-25.

devices to the manner in which electronic devices were used on the House floor, although the change provided the Speaker with sufficient flexibility to ban specific devices. (Amended clause 5 of Rule XVII.)

Regarding the use of mobile electronic devices, the Speaker in his announced policies reminded Members of the prohibition on use of those devices that “impair decorum,” as provided in Rule XVII, clause 5. The Speaker noted that electronic tablet devices do not constitute personal computers for the purpose of the rule and thus could be used “unobtrusively” within the chamber. However, no device could be used for still photography or for audio or video recording.<sup>128</sup>

## Deficit Control

(See also “Rules Changes Affecting Budgetary Legislation” below.)

H.Res. 6 in the 110<sup>th</sup> Congress prohibited the House from considering a budget resolution, an amendment to it, or a conference report on it that contained reconciliation directives that would have the effect of reducing the surplus or increasing the deficit over 6- and 11-year time frames.<sup>129</sup> (Added clause 7 to Rule XXI.)

H.Res. 6 added to House rules a pay-as-you-go (PAYGO) provision, which prohibited consideration of any bill, joint resolution, amendment, or conference report, the provisions of which affecting direct spending or revenues would have the net effect of increasing the deficit or reducing the surplus for either a 6- or 11-year period. The rule provided direction on how the effect of a measure on the surplus or deficit was to be calculated.<sup>130</sup> (Added clause 10 to Rule XXI.)

H.Res. 6 also applied Budget Act points of order to measures considered pursuant to a special rule, whether or not a measure was reported by committee. Points of order applied to measures as reported, made in order for the purpose of amendment, or on which the previous question was ordered.<sup>131</sup> (Added clause 8 to Rule XXI.)

In the 111<sup>th</sup> Congress, the House in H.Res. 5 made the following changes to clause 10 of Rule XXI, the pay-as-you-go (PAYGO) rule:<sup>132</sup>

- Aligned the PAYGO rules of the House with those of the Senate so that both houses used the same CBO baselines;
- Permitted one House-passed measure to be used to pay for spending in a separate House-passed measure as long as the two were linked at the engrossment stage;

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<sup>128</sup> “Announcement by the Speaker,” *Congressional Record*, daily edition, vol. 157 (January 5, 2011), pp. H29-H31.

<sup>129</sup> For an explanation of 110<sup>th</sup> Congress budget rules changes, see CRS Report RL34149, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 110<sup>th</sup> Congress*, by Bill Heniff Jr.; and CRS Report RL33818, *Federal Budget Process Reform in the 110<sup>th</sup> Congress: A Brief Overview*, by Robert Keith.

<sup>130</sup> *Ibid.*

<sup>131</sup> See CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno.

<sup>132</sup> In addition, Congress in the 111<sup>th</sup> Congress passed and President Obama signed into law the Statutory Pay-As-You-Go Act of 2010 (P.L. 111-139; 124 Stat. 8 (2010)). See CRS Report R41157, *The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History*, by Bill Heniff Jr.



- Exempted provisions expressly designated as emergency from a point of order under Rule XXI, clause 10,<sup>133</sup> and
- Required the chair to put a question of consideration with respect to bills, joint resolutions, amendments made in order as original text by a special order of business, conference reports, or amendments between the Houses that contain a provision designated as emergency for the purposes of PAYGO principles.

H.Res. 5 in the 112<sup>th</sup> Congress established a point of order against considering a concurrent resolution on the budget, or an amendment to it, or a conference report on it that contained reconciliation directives that would have the effect of a net increase in direct spending over 6- and 11-year time periods. This rule previously disallowed reconciliation instructions that would have the effect of increasing the deficit or reducing the surplus.<sup>134</sup> (Amended clause 7 of Rule XXI.)

H.Res. 5 also replaced the pay-as-you-go rule with a cut-as-you-go rule. While the House had prohibited consideration of any bill, joint resolution, amendment, or conference report if “the provisions of such measure affecting *direct spending and revenues* have the net effect of increasing the deficit or reducing the surplus,” the House in the 112<sup>th</sup> Congress prohibited consideration of these legislative vehicles “if the provisions of such measure have the net effect of *increasing mandatory spending*.”<sup>135</sup> (*Emphasis added*) (Amended clause 10 of Rule XXI.)

H.Res. 5 also provided that the chair of the Committee on the Budget (as opposed to the committee itself) could provide “authoritative guidance” on the budgetary impact of legislation. This change recognized in rules what had become practice, where the House’s presiding officer needed to seek information from the Budget Committee in determining whether a legislative provision violated a budget enforcement rule: such information was provided by the committee chair.<sup>136</sup> (Added clause 4 to Rule XXIX.)

## Delegates and Resident Commissioner

H.Res. 5 in the 112<sup>th</sup> Congress deleted rules provisions allowing Delegates and the Resident Commissioner to chair or vote in the Committee of the Whole. The House in the 110<sup>th</sup> Congress had granted these rights in the Committee of the Whole to Delegates and the Resident Commissioner.<sup>137</sup> (Amended clause 3 of Rule III and clauses 1 and 6 of Rule XVIII.)

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<sup>133</sup> The section-by-section analysis inserted in the *Congressional Record* included guidelines for what measures may receive “emergency designation,” although these guidelines did not appear in the text of the rules resolution and did not appear to be binding. Rep. Louise Slaughter, remarks in the House, “Rules of the House,” *Congressional Record*, vol. 155, part 1 (January 6, 2009), pp. 11-13.

<sup>134</sup> For an explanation of changes to budget rules made by the 112<sup>th</sup> Congress, see CRS Report R41926, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 112<sup>th</sup> Congress*, by Bill Heniff Jr. The 112<sup>th</sup> Congress also passed the Budget Control Act (P.L. 112-25; 125 Stat. 240 (2011)). See CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan.

<sup>135</sup> See CRS Report R41926, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 112<sup>th</sup> Congress*, by Bill Heniff Jr.

<sup>136</sup> *Ibid.*

<sup>137</sup> H.Res. 78 (110<sup>th</sup> Cong.), agreed to in the House January 24, 2007. (See also above “Democrats’ Proposed Rules Changes, 112<sup>th</sup> Congress,” and “Majority and Minority Policy Differences in the 113th Congress Rules Debate.”) For information on prerogatives in the House for Delegates and the Resident Commissioner, see CRS Report RL33824, *The* (continued...)

## Discharging Committees<sup>138</sup>

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

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

## Earmarks<sup>139</sup>

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

A point of order was also allowed against a special rule waiving the requirement for the list or statement, which would be disposed of on a question of consideration, debatable for 10 minutes by the Member making the point of order and 10 minutes by an opponent. (Added clause 9 to Rule XXI.)<sup>140</sup> (See “Earmarks” under “Rules Changes Affecting Committees,” above, and “110<sup>th</sup> Congress” under “Rules Changes Affecting Budgetary Legislation” and “110<sup>th</sup> Congress” under “Rules Changes Affecting Ethics Standards,” both below.)

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

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*Constitutionality of Awarding the Delegate for the District of Columbia a Vote in the House of Representatives or the Committee of the Whole*, by Kenneth R. Thomas; CRS Report R40170, *Parliamentary Rights of the Delegates and Resident Commissioner from Puerto Rico*, by Christopher M. Davis; and CRS Report R41711, *House Rules Changes in the 112<sup>th</sup> Congress Affecting Floor Proceedings*, by Elizabeth Rybicki.

<sup>138</sup> For information on the House discharge rule, see CRS Report 97-552, *The Discharge Rule in the House: Principal Features and Uses*, by Richard S. Beth.

<sup>139</sup> For information on changes in rules affecting earmarks, see CRS Report RL34462, *House and Senate Procedural Rules Concerning Earmark Disclosure*, by Sandy Streeter. Changes made during the 110<sup>th</sup> Congress are explained in CRS Report RL34149, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 110<sup>th</sup> Congress*, by Bill Heniff Jr.; and CRS Report RL33818, *Federal Budget Process Reform in the 110<sup>th</sup> Congress: A Brief Overview*, by Robert Keith.

<sup>140</sup> For further discussion of the rules change, see CRS Report RL34149, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 110<sup>th</sup> Congress*, by Bill Heniff Jr.; and CRS Report RS22866, *Earmark Disclosure Rules in the House: Member and Committee Requirements*, by Megan S. Lynch.

statement contained such earmarks or limited tax or tariff benefits. This requirement could not be waived by a special rule. A point of order raised under this change would be disposed of by a question of consideration. (This amendment to clause 9 codified in House rules H.Res. 491, adopted in the 110<sup>th</sup> Congress.)<sup>141</sup> (See “111<sup>th</sup> Congress” below, under “Rules Changes Affecting Budgetary Legislation.”)

Republican Conference guidance has also affected the consideration of earmarks. In the 112<sup>th</sup> and 113<sup>th</sup> Congresses, the Republican Conference adopted a standing order prohibiting a Member from requesting an earmark.<sup>142</sup>

## Gender References

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

## Layover/Public Availability

In the 112<sup>th</sup> Congress, H.Res. 5 contained a new layover requirement applicable to unreported legislation. Under the change, it would not be in order to consider on the floor a bill or joint resolution that had not been reported from committee until the third day after it had been available to Members. The existing three-day layover rule had applied only to the required report on committee-reported legislation.<sup>143</sup> Because the route to floor consideration for an unreported measure is normally via the suspension of the rules procedure or a special rule, leadership’s restraint in making an unreported measure available for three days before floor consideration would probably be of greater impact than the rules change itself.<sup>144</sup> (Added a new clause 11 to Rule XXI.)

In support of House layover rules in the Internet Age, H.Res. 5 also assigned a new duty to the House Administration Committee—to promulgate standards for making House and House committee documents publicly available.<sup>145</sup> (Amended clause 4 of Rule X.) H.Res. 5 further provided that, if a measure or matter was available in electronic form at a location designated by

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<sup>141</sup> The House in the 110<sup>th</sup> Congress, on June 18, 2007, had adopted H.Res. 491, creating a point of order for the duration of that Congress against a conference report on a general appropriations bill that was not accompanied by a list of earmarks not committed to conference by either house. A special rule could not waive this requirement. A point of order under H.Res. 491 was disposed of on a question of consideration.

<sup>142</sup> Available at <http://www.gop.gov/113th-rules>.

<sup>143</sup> See CRS Report RS22015, *Availability of Legislative Measures in the House of Representatives (The “Three-Day Rule”)*, by Elizabeth Rybicki.

<sup>144</sup> The rules change and its relationship to other rules and practices is discussed in CRS Report R41711, *House Rules Changes in the 112<sup>th</sup> Congress Affecting Floor Proceedings*, by Elizabeth Rybicki.

<sup>145</sup> U.S. Congress, House, Committee on House Administration, “House Administration Adopts New Posting Standards for House Documents,” news release, December 16, 2011, available at <http://cha.house.gov/press-release/house-administration-adopts-new-posting-standards-house-documents>. The standards are available at <http://cha.house.gov/member-services/electronic-posting-standards>, or as a PDF document at [http://cha.house.gov/sites/repUBLICANS.cha.house.gov/files/documents/member\\_services\\_docs/electronic\\_posting\\_standards.pdf](http://cha.house.gov/sites/repUBLICANS.cha.house.gov/files/documents/member_services_docs/electronic_posting_standards.pdf).

the committee, the item would be considered available to Members as required by House rules.<sup>146</sup> A requirement of “availability” under the rules was previously met only by printed items. (Added a new clause 3 to Rule XXIX.) A separate order provided an interim order pending the promulgation of regulations by the committee. The interim order stated that posting on the Committee on Rules website would serve the publicly available requirement for the House floor and each committee’s majority website would serve that purpose for a committee.

## **Medicare Trigger/Independent Payment Advisory Board**

A separate order included in H.Res. 5 in the 111<sup>th</sup> Congress rendered inoperative for the 111<sup>th</sup> Congress a rule incorporated into the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. The separate order allowed the President to submit a measure to respond to a “Medicare funding warning” (the so-called Medicare trigger) issued by Medicare trustees, as required by the law, but voided the expedited procedures that required the House to act on the measure.<sup>147</sup>

A separate order in H.Res. 5 in the 113<sup>th</sup> Congress rendered inoperative for the 113<sup>th</sup> Congress a procedural rule incorporated into the Patient Protection and Affordable Care Act. The separate order stated that the congressional procedures for consideration of an Independent Payment Advisory Board proposal submitted to Congress by the President “shall not apply” in the House.<sup>148</sup>

## **Public Debt Ceiling<sup>149</sup>**

In the 112<sup>th</sup> Congress, the Gephardt rule was deleted. (Repealed Rule XXVIII.)<sup>150</sup> (See “112<sup>th</sup> Congress” below, under “Rules Changes Affecting Budgetary Legislation.”)

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<sup>146</sup> U.S. Congress, House, Committee on House Administration, “Clerk Launches New Site for House Documents,” news release, January 17, 2012, available at <http://cha.house.gov/press-release/clerk-launches-new-site-house-documents>. The website is located at <http://docs.house.gov/>.

<sup>147</sup> P.L. 108-173, §§801-803; 117 Stat. 2066, 2357-2363 (2003). Senate procedures appear in §804. For an explanation of the Medicare trigger, see CRS Report RS22796, *Medicare Trigger*, by Patricia A. Davis, Todd Garvey, and Christopher M. Davis. For background, see Bennett Roth, “House Adopts Package of Rule Changes,” *CQ Weekly*, vol. 67, no. 2, January 12, 2009, pp. 75-76. The House had disabled these expedited procedures in the 110<sup>th</sup> Congress as well in adopting H.Res. 1368 (110<sup>th</sup> Cong.), agreed to in the House July 24, 2008. For background, see Drew Armstrong, “House Adopts Measure Waiving Medicare Trigger,” *CQ Weekly*, vol. 66, no. 30, July 28, 2008, p. 2061.

<sup>148</sup> The procedures, adopted as an exercise in congressional rulemaking, appear at 42 U.S.C. 1395kkk(c) (P.L. 111-148 §3403; 124 Stat. 489 (2010); and §10320; 124 Stat. 949). See CRS Report R41511, *The Independent Payment Advisory Board*, by Jim Hahn and Christopher M. Davis.

<sup>149</sup> For an explanation of the Gephardt rule and of congressional procedures related to debt legislation, see CRS Report RL31913, *Developing Debt-Limit Legislation: The House’s “Gephardt Rule,”* by Bill Heniff Jr.; and CRS Report RS21519, *Legislative Procedures for Adjusting the Public Debt Limit: A Brief Overview*, by Bill Heniff Jr.

<sup>150</sup> Rule XXVIII was listed in the rules resolution as “reserved” but contained no text. See also CRS Report R41926, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 112<sup>th</sup> Congress*, by Bill Heniff Jr.

## Recommit, Motion to<sup>151</sup>

In the 111<sup>th</sup> Congress, H.Res. 5 restricted motions to recommit with instructions only to a form of direction to report back an amendment “forthwith.” This change precluded other forms of instructions, such as to report back “promptly” or to undertake other actions, for example, to hold hearings. While minority Members over the years had normally offered “forthwith” instructions, the minority in the 110<sup>th</sup> Congress frequently offered motions to recommit to instruct a committee to “promptly” report an amendment. This form of instruction sent the measure back to committee, was advisory, and did not immediately bring an amendment before the House. The majority objected to this practice and changed the rule in the 111<sup>th</sup> Congress.<sup>152</sup> The change for the first time also allowed 10 minutes of debate on a motion to recommit without instructions (also called a “straight” motion to recommit). Previously, 10 minutes of debate had been available only on a motion to recommit with instructions. A Member could thereby use debate on a motion to recommit without instructions to argue for specific action on the measure by the committee to which the measure would be returned.<sup>153</sup> (Amended clause 2 of Rule XIX.)

## Special Order Speeches<sup>154</sup>

In the 110<sup>th</sup> Congress, the special order policies included in previous Speakers’ announcements were not included in the Speaker’s announced policies for the 110<sup>th</sup> Congress.<sup>155</sup>

In the 111<sup>th</sup> Congress, the Speaker reintroduced the previous policy on special order speeches, allowing five-minute speeches and then up to four hours of longer speeches, two hours allocated to the majority and two hours to the minority.<sup>156</sup>

The Speaker in his announced policies for the 112<sup>th</sup> Congress stated that any special-order speech was to conclude by 10 o’clock in the evening (rather than midnight). The Speaker further specified that the second hour of each party’s two-hour period for special-order speeches would be divided into two 30-minute periods and that recognition during the party’s first hour and each 30-minute period would alternate initially and then subsequently between the parties each day. Five-minute special order speeches were in order until February 1, 2011.<sup>157</sup>

In his announcements for the 113<sup>th</sup> Congress, the Speaker clarified that any 60- or 30-minute period not claimed at the appropriate time would be considered to have expired.<sup>158</sup>

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<sup>151</sup> For an explanation of the motion to recommit, see CRS Report 98-383, *Motions to Recommit in the House*, by Megan S. Lynch.

<sup>152</sup> See, for example, Don Wolfensberger, “Minority’s Motion to Recommit Should Not Be Curtailed,” *Roll Call*, November 12, 2007, available at [http://www.rollcall.com/issues/53\\_58/-20936-1.html](http://www.rollcall.com/issues/53_58/-20936-1.html).

<sup>153</sup> For a discussion of the rules change, see CRS Report R40509, *House Rules Changes in the 111<sup>th</sup> Congress Affecting Floor Proceedings*, by Megan S. Lynch and Elizabeth Rybicki.

<sup>154</sup> For information on non-legislative debate, see CRS Report RL30136, *Special Order Speeches: Current House Practices*, by Judy Schneider; and CRS Report RS21174, *Special Order Speeches and Other Forms of Non-Legislative Debate in the House*, by Judy Schneider.

<sup>155</sup> “Announcement by the Speaker,” *Congressional Record*, vol. 153, part 1 (January 5, 2007), pp. 273-274.

<sup>156</sup> “Announcement by the Speaker,” *Congressional Record*, vol. 155, part 1 (January 6, 2009), pp. 23-25.

<sup>157</sup> “Announcement by the Speaker,” *Congressional Record*, daily edition, vol. 157 (January 5, 2011), pp. H29-H31.

<sup>158</sup> “Announcement by the Speaker Pro Tempore,” *Congressional Record*, daily edition, vol. 159 (January 3, 2013), p. H26. The Speaker also deleted from his announcement related to special order speeches a paragraph from the 112<sup>th</sup> (continued...)

## **Special Rules (Orders of Business)<sup>159</sup>**

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

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

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

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

In the 113<sup>th</sup> Congress, the rules resolution made in order motions to suspend the rules relating to a “measure addressing flood insurance.”

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

## **Unfunded Mandates<sup>160</sup>**

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

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(...continued)

Congress allowing five-minute speeches upon the conclusion of legislative business, effective until February 1, 2011.

<sup>159</sup> See CRS Report 98-354, *How Special Rules Regulate Calling up Measures for Consideration in the House*, by Richard S. Beth.

<sup>160</sup> In the 104<sup>th</sup> 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.

## Voting<sup>161</sup>

A provision in H.Res. 6 in the 110<sup>th</sup> Congress sought to ensure that recorded votes were closed in a timely manner without manipulating a vote's duration to achieve a specific outcome. A sentence was added to clause 2 of Rule XX: "A record vote by electronic device shall not be held open for the sole purpose of reversing the outcome of such vote."<sup>162</sup>

Existing language in the Speaker's announced policies noting that the chair would have the full support of the Speaker in striving to close each electronic vote as quickly as possible was removed. New language stating that Members would be given a "reasonable amount" of time in which to accurately record their votes was introduced, while retaining the existing statement that Members in the House well would not be prevented from voting.<sup>163</sup>

The sentence about holding open a vote for the sole purpose of reversing an outcome was repealed in H.Res. 5 in the 111<sup>th</sup> Congress.<sup>164</sup> (Amended clause 2 of Rule XX.)

The Speaker in the 111<sup>th</sup> Congress continued existing policy regarding the timely conduct of votes, but added that presiding officers should look to the clerk for certification that a vote tally was complete and accurate.<sup>165</sup> The repeal of the rules provision on holding votes open and the inclusion of new language in the Speaker's announced policies was a response to the recommendations of the Select Committee to Investigate the Voting Irregularities of August 2, 2007, detailed in H.Rept. 110-885.

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

H.Res. 5 in the 113<sup>th</sup> Congress changed the minimum time for electronic voting in the Committee of the Whole to not less than two minutes from five minutes on a pending question following a

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<sup>161</sup> For information on voting in the House, see CRS Report 98-228, *House Voting Procedures: Forms and Requirements*, by Walter J. Oleszek; CRS Report 98-870, *Quorum Requirements in the House: Committee and Chamber*, by Christopher M. Davis; and CRS Report 98-778, *Super-Majority Votes in the House*, by Walter J. Oleszek.

<sup>162</sup> This sentence was the subject of numerous parliamentary inquiries and several points of order in the 110<sup>th</sup> Congress. On August 3, 2007, in response to one Democratic presiding officer's decision to end a vote at a particular juncture, the House subsequently approved the creation of a select committee to investigate the possibility of "irregularities" in the conduct of that vote. (H.Res. 363 (110<sup>th</sup> Cong.), agreed to in the House August 3, 2007.) The investigation resulted in a recommendation to the House that the rule be repealed. The Select Committee to Investigate the Voting Irregularities of August 2, 2007, in its unanimously adopted report, indicated that the change was made with a "noble intent," but it was "difficult to enforce" and a "catalyst for raw anger." U.S. Congress, House, Select Committee to Investigate the Voting Irregularities of August 2, 2007, *Final Report and Summary of Activities*, 110<sup>th</sup> Cong., 2<sup>nd</sup> sess., H.Rept. 110-885 (Washington: GPO, 2008), pp. 22-24. See also the discussion of the electronic voting system and of voting in the House in CRS Report RL34366, *Electronic Voting System in the House of Representatives: History and Evolution*, by Jacob R. Straus (out of print; available from the author); and in CRS Report RL34570, *Record Voting in the House of Representatives: Issues and Options*, by Michael L. Koempel, Jacob R. Straus, and Judy Schneider.

<sup>163</sup> "Announcement by the Speaker," *Congressional Record*, vol. 153, part 1 (January 5, 2007), pp. 273-274.

<sup>164</sup> For additional explanation of the rules change, see CRS Report R40509, *House Rules Changes in the 111<sup>th</sup> Congress Affecting Floor Proceedings*, by Megan S. Lynch and Elizabeth Rybicki.

<sup>165</sup> "Announcement by the Speaker," *Congressional Record*, vol. 155, part 1 (January 6, 2009), pp. 23-25.

quorum call made after the chair sustained a point of order that a quorum was not present. (Amended clause 6 of Rule XVIII.)

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

### **Postponing Consideration**

In the 111<sup>th</sup> Congress, H.Res. 5 provided permanent authority to the Speaker to postpone consideration of a measure, called up pursuant to a special rule, once the previous question had been ordered on it. The House had previously granted such authority to the Speaker in individual special rules. In the absence of this authority, the House, once the previous question was ordered, would be required to continue consideration of the measure through “re-votes” on amendments adopted in the Committee of the Whole, a motion to recommit, and a vote on final passage.<sup>166</sup> (Amended clause 1 of Rule XIX.)

Prior to the 113<sup>th</sup> Congress, the Speaker had authority to postpone requests for a recorded vote in a number of instances listed in Rule XX, clause 8 and to resume proceedings on a postponed request at a time he determined. The Speaker was also authorized to reduce to 5 minutes the minimum time for voting following a 15-minute vote so long as there was not intervening business. H.Res. 5 in the 113<sup>th</sup> Congress expanded the Speaker's authority to reduce voting time to 5 minutes when the Committee of the Whole rose and reported, without intervening debate or motion, if in the discretion of the Speaker “Members would be afforded an adequate opportunity to vote.” (Amended clause 8 of Rule XX.) In addition, the Speaker in his announcements for the 113<sup>th</sup> Congress included a statement interpreting this change. The statement indicated that the chair would “endeavor to assess the presence of the membership and the expectation of further votes” in exercising the authority granted under the rule change.<sup>167</sup>

Prior to the 113<sup>th</sup> Congress, the chair of the Committee of the Whole already had authority to postpone requests for a recorded vote on any amendment and resume proceedings on a postponed request at any time. The chair was also authorized to reduce to 2 minutes the minimum time for voting following a 15-minute vote so long as there was not intervening business. H.Res. 5 in the 113<sup>th</sup> Congress expanded the chair's authority to reduce voting time to 2 minutes on a postponed question where there was no intervening business or motion after the Committee of the Whole resumed its sitting if, in the discretion of the chair, “Members would be afforded an adequate

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<sup>166</sup> For a discussion of this rules change, see CRS Report R40509, *House Rules Changes in the 111<sup>th</sup> Congress Affecting Floor Proceedings*, by Megan S. Lynch and Elizabeth Rybicki.

<sup>167</sup> “Announcement by the Speaker Pro Tempore,” *Congressional Record*, daily edition, vol. 159 (January 3, 2013), p. H26.



opportunity to vote.”<sup>168</sup> (Amended clause 6 of Rule XVIII.) In addition, the Speaker in his announcements for the 113<sup>th</sup> Congress included a statement interpreting this change. The statement indicated that the chair would “endeavor to assess the presence of the membership and the expectation of further votes” in exercising the authority granted under the rule change.<sup>169</sup>

## Rules Changes Affecting Budgetary Legislation<sup>170</sup>

This section of the report explains or lists rules and separate orders related to budgetary legislation that were included in the rules resolutions for the 110<sup>th</sup> through the 113<sup>th</sup> Congresses. Separate orders that were common to two or more of these Congresses are shown in **Table 1**.<sup>171</sup>

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.<sup>172</sup> Other process changes may have been included in appropriations acts and other freestanding legislation;<sup>173</sup> those changes are not discussed in this report.

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<sup>168</sup> The section-by-section analysis of H.Res. 5 inserted in the *Congressional Record* by the chair of the Rules Committee explained: “The Rules Committee intends that these parallel authorities will be used following a vote stack in the Committee of the Whole or the House ... where the Chamber is still full, and hence it would be likely that the Presiding Officer would determine that an adequate opportunity for Members to vote exists.” (The parallel authorities are those described in this paragraph and the preceding paragraph.) Rep. Pete Sessions, “H.Res. 5, Adopting Rules for the 113<sup>th</sup> Congress: Section-by-Section Analysis,” insert, *Congressional Record*, daily edition, vol. 159 (January 3, 2013), p. H12.

<sup>169</sup> “Announcement by the Speaker Pro Tempore,” *Congressional Record*, daily edition, vol. 159 (January 3, 2013), p. H26.

<sup>170</sup> For an explanation of the congressional budget process, see CRS Report 98-721, *Introduction to the Federal Budget Process*, coordinated by Bill Heniff Jr.

<sup>171</sup> For an analysis of the rules changes made in the 110<sup>th</sup> Congress that affected budgetary legislation, see CRS Report RL34149, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 110<sup>th</sup> Congress*, by Bill Heniff Jr. For an analysis of such rules changes made in the 112<sup>th</sup> Congress, see CRS Report R41926, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 112<sup>th</sup> Congress*, by Bill Heniff Jr. There is not a comparable report for the 111<sup>th</sup> Congress or the 113<sup>th</sup> Congress.

<sup>172</sup> Permanent or temporary changes to budget process rules are regularly included in the annual concurrent resolutions on the budget. For data on and an analysis of concurrent resolutions on the budget, see CRS Report RL30297, *Congressional Budget Resolutions: Historical Information*, by Bill Heniff Jr.. The budget resolutions that passed at least the House in these Congresses are as follows:

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

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

(3) 112<sup>th</sup> Congress: H.Con.Res. 34 (FY2012), agreed to in the House April 15, 2011; motion to proceed to consider the resolution defeated in the Senate May 25, 2011. H.Con.Res. 112 (FY2013), agreed to in the House March 29, 2012; motion to proceed to consider the resolution defeated in the Senate May 16, 2012.

(4) 113<sup>th</sup> Congress: H.Con.Res. 25 (FY2014), agreed to in the House March 21, 2013; the Senate amendment in the nature of a substitute was agreed to in the Senate October 16, 2013; provisions of H.Con.Res. 25 were included in P.L. 113-67. H.Con.Res. 96 (FY2015), agreed to in the House April 10, 2014.

<sup>173</sup> The legislative branch appropriations acts adopted during these four Congresses are as follows:

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

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

(continued...)

## 110<sup>th</sup> Congress

This section describes budget process-related amendments to the rules of the House adopted in H.Res. 6 by the 110<sup>th</sup> Congress.<sup>174</sup> In addition, separate orders that were common to the 110<sup>th</sup> Congress and one or more of the 111<sup>th</sup>, 112<sup>th</sup>, or 113<sup>th</sup> Congresses are shown in **Table 1**.

- Prohibited the House from considering a budget resolution, an amendment to it, or a conference report on it that contained reconciliation instructions that would have the effect of reducing the surplus or increasing the deficit over 6- and 11-year time frames.<sup>175</sup> (Added clause 7 to Rule XXI.)
- Applied Budget Act points of order to measures considered pursuant to a special rule, whether or not a measure was reported by committee. Points of order applied to measures as reported, made in order for the purpose of amendment, or on which the previous question was ordered.<sup>176</sup> (Added clause 8 to Rule XXI.)
- H.Res. 6 in the 110<sup>th</sup> Congress required a committee of jurisdiction or a conference committee to provide a list of earmarks, limited tax benefits, and limited tariff benefits (as defined in the rule) contained in a bill or joint resolution that was reported, was not reported, an amendment in the nature of a substitute or other committee amendment, or conference report for the bill or joint resolution to be in order for consideration by the House. If the measure contained no earmarks, limited tax benefits, or limited tariff benefits, then a statement attesting to that fact was required to be provided. If the measure was reported, the list or statement was to appear in the committee report. If the measure was not reported, the list or statement was to be printed in the *Congressional Record*. A point of order would lie against consideration of a measure in the absence of the list or statement. A point of order was also allowed against a special rule waiving the requirement for the list or statement, which would be disposed of on a question of consideration, debatable for 10 minutes by the Member making the point of order and 10 minutes by an opponent. (Added clause 9 to Rule XXI.) (See also

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(...continued)

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

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

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

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

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

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

<sup>174</sup> For an analysis of the rules changes and other adaptations made in the 110<sup>th</sup> Congress that affected budgetary legislation, see CRS Report RL34149, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 110<sup>th</sup> Congress*, by Bill Heniff Jr.; CRS Report RL34015, *Congressional Budget Actions in 2007*, by Bill Heniff Jr.; and CRS Report RL33818, *Federal Budget Process Reform in the 110<sup>th</sup> Congress: A Brief Overview*, by Robert Keith.

<sup>175</sup> See CRS Report 98-814, *Budget Reconciliation Legislation: Development and Consideration*, by Bill Heniff Jr.

<sup>176</sup> See CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno.

“Earmarks” above and “110<sup>th</sup> Congress” under “Rules Changes Affecting Ethics Standards” below.)

- Added a pay-as-you-go (PAYGO) provision, which prohibited consideration of any bill, joint resolution, amendment, or conference report, the provisions of which affecting direct spending or revenues would have the net effect of increasing the deficit or reducing the surplus for either a 6- or 11-year period. The rule provided direction on how the effect of a measure on the surplus or deficit was to be calculated.<sup>177</sup> (Added clause 10 to Rule XXI.)

## 111<sup>th</sup> Congress

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

The House in H.Res. 5 in the 111<sup>th</sup> Congress amended clause 9 of rule XXI to require the joint explanatory statement of a conference report to accompany a regular general appropriation bill to list all earmarks, limited tax benefits, and limited tariff benefits not committed to conference by either house, or to include a statement that neither the conference report nor the joint explanatory statement contained such earmarks or limited tax or tariff benefits. This requirement could not be waived by a special rule. A point of order raised under this change would be disposed of by a question of consideration. (This amendment to clause 9 codified in House rules H.Res. 491, adopted in the 110<sup>th</sup> Congress.)<sup>178</sup>

In addition, the House made the following changes to clause 10 of Rule XXI, the pay-as-you-go (PAYGO) rule:<sup>179</sup>

- Aligned the PAYGO rules of the House with those of the Senate so that both houses used the same CBO baselines;
- Permitted one House-passed measure to be used to pay for spending in a separate House-passed measure so long as the two were linked at the engrossment stage;
- Exempted provisions expressly designated as emergency from a point of order under Rule XXI, clause 10,<sup>180</sup> and

<sup>177</sup> See CRS Report R41510, *Budget Enforcement Procedures: House Pay-As-You-Go (PAYGO) Rule*, by Bill Heniff Jr.

<sup>178</sup> The House in the 110<sup>th</sup> Congress, on June 18, 2007, had adopted H.Res. 491, creating the same point of order for the duration of that Congress against a conference report on a general appropriations bill that was not accompanied by a list of earmarks not committed to conference by either house. A special rule could not waive this requirement. A point of order under H.Res. 491 would be disposed of on a question of consideration.

<sup>179</sup> In addition, Congress in the 111<sup>th</sup> Congress passed and President Obama signed into law the Statutory Pay-As-You-Go Act of 2010 (P.L. 111-139; 124 Stat. 8 (2010)). See CRS Report R41157, *The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History*, by Bill Heniff Jr.

<sup>180</sup> The section-by-section analysis inserted in the *Congressional Record* included guidelines for what measures may receive “emergency designation,” although these guidelines did not appear in the text of the rules resolution and did not appear to be binding. Rep. Louise Slaughter, remarks in the House, “Rules of the House,” *Congressional Record*, vol. 155, part 1 (January 6, 2009), pp. 11-13.

- Required the chair to put a question of consideration with respect to bills, joint resolutions, amendments made in order as original text by a special order of business, conference reports, or amendments between the Houses which contain a provision designated as emergency.

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

## 112<sup>th</sup> Congress

This section describes budget process-related amendments to the rules of the House adopted in H.Res. 5 in the 112<sup>th</sup> Congress.<sup>181</sup> In addition, separate orders that were common to the 112<sup>th</sup> Congress and one or more of the 110<sup>th</sup>, 111<sup>th</sup>, or 112<sup>th</sup> Congresses are shown in **Table 1**.

- Established a point of order against considering a concurrent resolution on the budget, or an amendment to it, or a conference report on it that contained reconciliation directives that would have the effect of a net increase in direct spending over the period covered by the budget resolution. This rule previously disallowed reconciliation directives that would have the effect of increasing the deficit or reducing the surplus.<sup>182</sup> (Amended clause 7 of Rule XXI.)
- Replaced the pay-as-you-go rule with a cut-as-you-go rule. While the House had prohibited consideration of any bill, joint resolution, amendment, or conference report if “the provisions of such measure affecting *direct spending and revenues* have the net effect of increasing the deficit or reducing the surplus,” the House in the 112<sup>th</sup> Congress prohibited consideration of these legislative vehicles “if the provisions of such measure have the net effect of *increasing mandatory spending*” over 6-year and 11-year periods. Other provisions of the rule change allowed direct spending measures to be joined upon engrossment to accommodate the required budget neutrality and, under certain procedures, exempted direct spending provisions designated as emergency from the budget neutrality requirement.<sup>183</sup> (*Emphasis added*) (Amended clause 10 of Rule XXI.)
- Provided that the chair of the Committee on the Budget (as opposed to the committee itself) could provide “authoritative guidance” to the presiding officer on the budgetary impact of legislation, codifying practice. Where the House’s presiding officer needed to seek information from the Budget Committee in determining whether a legislative provision violated a budget enforcement rule, the Budget Committee chair, in practice, had provided that information in the committee’s behalf. (Added clause 4 to Rule XXIX.)

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<sup>181</sup> For an analysis of these rules changes, see CRS Report R41926, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 112<sup>th</sup> Congress*, by Bill Heniff Jr. The 112<sup>th</sup> Congress also passed the Budget Control Act (P.L. 112-25; 125 Stat. 240 (2011)). See CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan.

<sup>182</sup> See CRS Report 98-814, *Budget Reconciliation Legislation: Development and Consideration*, by Bill Heniff Jr.

<sup>183</sup> See CRS Report R41564, *Emergency Designation: Current Budget Rules and Procedures*, by Bill Heniff Jr.

- Repealed the Gephardt rule providing for the automatic engrossment of a joint resolution to adjust the public debt limit when a concurrent resolution on the budget was adopted by Congress. This rule had allowed the House to avoid a direct vote on legislation to adjust the debt limit.<sup>184</sup> (Repealed Rule XXVIII but reserved it without text.)
- Created a point of order against an appropriations measure (or amendments) that provided spending authority from the Highway Trust Fund (excluding any transfers from the General Fund of the Treasury), or reduced or limited accruals in the fund, for any purpose other than for those activities authorized for the highway or mass transit programs. This point of order replaced a rule that prevented the Appropriations Committee from setting spending levels lower than those authorized in surface transportation law. The rule change sought to ensure that taxes collected to support the Highway Trust Fund were not diverted to other uses, although an appropriations measure or amendment could reduce spending below authorized levels. (Amended clause 3 of Rule XXI.)
- Struck the clause authorizing a motion to strike an unfunded mandate from a bill considered in the Committee of the Whole. Under the repealed clause, such an amendment was in order unless specifically precluded by the terms of a special rule, which it had typically been. (Struck clause 11 of Rule XVIII.)

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

- Instructed the chair of the Committee on the Budget, until adoption of a concurrent resolution on the budget for FY2012, not to include those bills, joint resolutions, amendments thereto, or conference reports thereon that provided new budget authority, but that were designated as emergency provisions in calculating their budget effects pursuant to titles III and IV of the Congressional Budget Act and the Rules of the House.
- Exempted new budget authority or outlays for “contingency operations directly related to the global war on terrorism” from being counted for purposes of titles III and IV of the Congressional Budget Act.
- Authorized the chair of the Committee on the Budget, pending adoption of a concurrent resolution on the budget for FY2012, to adjust budget aggregates for any measure reported by the Committee on Ways and Means that reduced revenues if the measure did not increase the deficit over the period FY2011-FY2021.
- Prohibited advance appropriations that, in an aggregate amount, exceeded \$28,852,000,000 in new budget authority for FY2012 and FY2013 and were for a program or activity not contained in “Accounts Identified for Advance Appropriations” published in the *Congressional Record*. Also exempted were programs of the Department of Veterans’ Affairs for the Medical Services,

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<sup>184</sup> For explanation of the Gephardt rule, see CRS Report RS21519, *Legislative Procedures for Adjusting the Public Debt Limit: A Brief Overview*, by Bill Heniff Jr.; and CRS Report RL31913, *Developing Debt-Limit Legislation: The House’s “Gephardt Rule,”* by Bill Heniff Jr.

Medical Support and Compliance, and Medical Facilities accounts of the Veterans Health Administration.<sup>185</sup>

- Directed that the joint explanatory statement accompanying the conference report on any concurrent resolution on the budget to include, in its Section 302(a) allocations under the Congressional Budget Act, discretionary administrative expenses of the Social Security Administration and of the Postal Service. Receipts and disbursements of the Social Security trust funds and the Postal Service Fund remained “off-budget.”
- Prohibited consideration of a bill or joint resolution reported by a committee (other than the Committee on Appropriations), or an amendment thereto or a conference report thereon, that increased mandatory spending more than \$5 billion in four consecutive 10-year windows within a 40-year period.
- Authorized the chair of the Committee on the Budget, prior to the adoption of a budget resolution for FY2012, to exempt the budgetary effects of certain measures in providing estimates of such legislation under clause 4 of Rule XXIX for purposes of budget enforcement under budget laws or House rules. Measures that could be exempted:
  - (1) extension of the Economic Growth and Tax Relief Reconciliation Act of 2001;
  - (2) extension of the Jobs and Growth Tax Relief Reconciliation Act of 2003;
  - (3) repeal of the Patient Protection and Affordable Care Act and title 1 and subtitle B of title II of the Health Care and Education Affordability Reconciliation Act of 2010;
  - (4) reform of the Patient Protection and Affordable Care Act and of the Health Care and Education Affordability Reconciliation Act of 2010;
  - (5) reform of both the Patient Protection and Affordable Care Act and of the Health Care and Education Affordability Reconciliation Act of 2010, *and* the payment rates and related parameters in accordance with section 1848 of the Social Security Act (subject to certain qualifications);
  - (6) adjustments to the Alternative Minimum Tax exemption amounts;
  - (7) extension of the estate, gift, and generation-skipping transfer tax provisions of title III of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010;
  - (8) providing a 20% deduction in income to small businesses; and
  - (9) implementation of trade agreements.
- Authorized the chair of the Committee on the Budget to take into consideration these exemptions and adjustments (immediately above) for the purpose of determining budgetary effects under the Statutory Pay-As-You-Go Act of 2010.<sup>186</sup>

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<sup>185</sup> For an explanation of advance appropriations, see CRS Report RS20441, *Advance Appropriations, Forward Funding, and Advance Funding*, by Sandy Streeter.

<sup>186</sup> See CRS Report R41157, *The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History*, by Bill (continued...)

- Established that general appropriation bills considered in the Committee of the Whole must include a “spending reduction account” as the last section of the bill.
- Allowed amendments in the Committee of the Whole to transfer funds to the spending reduction account, even if the amendment is to a portion of an appropriations bill not yet read for amendment.
- Disallowed amendments to change the amount in the spending reduction account, except amendments that transfer funds to it, thereby essentially precluding consideration of an amendment to restore funding that had already been cut.
- Prohibited amendments that proposed a net increase in budget authority.

## 113<sup>th</sup> Congress

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

- In determining the budgetary effects of legislation complying with provisions of the Statutory Pay-As-You-Go Act, the chair of the Committee on the Budget was authorized to make adjustments to take into account the exemptions and adjustments in the congressional budget resolution for FY2014 (H.Con.Res. 112, §503(b)(1)). Related authority was granted to the chair of the Committee on the Budget in the 112<sup>th</sup> Congress.
- Established that a concurrent resolution, an amendment to a concurrent resolution, or a conference report on a concurrent resolution on the budget may not be considered unless it contained a separate heading entitled “Direct Spending.” This heading must include categories for “Means-Tested Direct Spending” and “Nonmeans-Tested Direct Spending.” These matters must be set forth in this section: (1) the average growth rate for each category in the total amount of outlays for the 10-year period preceding the budget year; (2) estimates for each category under current law for the period covered by the concurrent resolution; and (3) additional information on the proposed reforms for each category.
- Instructed the chair of the Committee on the Budget to submit a description of the programs to be considered means-tested and nonmeans-tested direct spending to be printed in the *Congressional Record* prior to the consideration by the Budget Committee of a concurrent resolution on the budget for a fiscal year.<sup>187</sup>

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

- A general appropriations bill could not be considered in the Committee of the Whole unless it contained a spending reduction account, and an order in the

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(...continued)

Heniff Jr.

<sup>187</sup> See Rep. Paul Ryan, “Publication of Budgetary Material,” insert, *Congressional Record*, daily edition, vol. 159 (March 7, 2013), pp. H1323-H1326.

Appropriations Committee to report such a bill constituted authority for the committee chair to add the account to the bill. A spending reduction account contained only a recitation of the amount by which the allocation of the bill's Section 302(b) new budget authority exceeded the new budget authority proposed in the bill.

- En bloc amendments transferring appropriations from one or more objects in the bill to the spending reduction account were the only amendments allowed to a spending reduction account in the House or Committee of the Whole. Such amendments could amend portions of the bill not yet read for amendment. Except for these en bloc amendments, no amendments to a spending reduction account were in order.
- Amendments proposing a net increase in budget authority were not in order, unless consideration was en bloc with one or more other amendments resulting in a greater or equal decrease in budget authority.
- A point of order against including changes in existing law in an appropriations bill (Rule XXI, clause 2(b)) did not apply to a spending reduction account.



**Table I. Selected Special Orders on Budgetary Legislation**  
(included in rules resolutions, 110<sup>th</sup>-113<sup>th</sup> Congresses)

Provision	110 <sup>th</sup> House	111 <sup>th</sup> House	112 <sup>th</sup> House	113 <sup>th</sup> House
References to resolutions and joint resolutions <sup>a</sup>	✓	✓	✓	✓
A point of order under Section 303 of CBA <sup>b</sup>	✓	✓	✓	✓
Certain compensation not new entitlement authority <sup>c</sup>	✓	✓	✓	✓
Providing basis for budget enforcement pending adoption of budget resolution <sup>d</sup>	✓ <sup>e</sup>		✓ <sup>f</sup>	✓ <sup>g</sup>
Enforcing 302(b) limits in Committee of the Whole <sup>h</sup>	✓	✓	✓	✓

**Source:** Created by the authors.

**Note:** Explanations of these special orders may be found in CRS Report RL34149, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 110<sup>th</sup> Congress*, by Bill Heniff Jr.; and CRS Report R41926, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 112<sup>th</sup> Congress*, by Bill Heniff Jr. There is not a comparable report for the 111<sup>th</sup> Congress or 113<sup>th</sup> Congress.

- a. During this Congress, references in Section 306 of the Congressional Budget Act of 1974 to a “resolution” would be construed in the House of Representatives as references to a “joint resolution.” This language first appeared as a special order in the 107<sup>th</sup> Congress and was continued by the 108<sup>th</sup> and 109<sup>th</sup> Congresses.
- b. During this Congress, a point of order under Section 303 of the Congressional Budget Act of 1974 lies against text made in order as an original bill or joint resolution for the purpose of amendment or against text on which the previous question is ordered directly to passage. This special order ensured that the House followed the prohibition on the consideration of budgetary legislation before Congress agreed to a budget resolution.
- c. During this Congress, a provision in a bill or joint resolution, an amendment thereto, or a conference report thereon, that established prospectively for a federal office or position a specified or minimum level of compensation to be funded by annual discretionary appropriations would not be considered as providing new entitlement authority under Section 401 of the Congressional Budget Act of 1974. This special order was also included in rules resolutions in the 106<sup>th</sup> through the 109<sup>th</sup> Congresses.
- d. Congress, having not passed a budget resolution for FY2007 by the start of the 110<sup>th</sup> Congress, the special order in the rules resolution designated the provisions of H.Con.Res. 376 of the 109<sup>th</sup> Congress, as adopted by the House, to have force and effect for budget enforcement in the House until the 110<sup>th</sup> Congress passed a concurrent resolution on the budget for FY2008. The House instructed the chair of the Committee on the Budget to publish the Congressional Budget Act Section 302(a) allocations to accompany H.Con.Res. 376 and “Accounts Identified for Advance Appropriations.” (See table note e.) The 111<sup>th</sup> Congress did not pass a concurrent resolution on the budget for FY2011, although the House had passed a “budget enforcement resolution” (H.Res. 1493, 111<sup>th</sup> Cong.). The 112<sup>th</sup> Congress, therefore, instructed the chair of the Committee on the Budget to publish both the aggregates and allocations contemplated by Section 301 of the Congressional Budget Act and allocations contemplated by Section 302(a) of that act, among other, related provisions. (See table note f.) The 113<sup>th</sup> Congress adopted for its first session the provisions of H.Con.Res. 112 from the 112<sup>th</sup> Congress and the allocations of spending authority in tables 11 and 12 of H.Rept. 112-421, until a budget resolution for FY2014 was adopted. (See table note g.)
- e. The chairman’s allocations may be found at Rep. John Spratt, Jr., “Allocation of Spending Authority to House Committees,” *Congressional Record*, vol. 153, part 3 (February 6, 2007), pp. 3160–3161.

- f. The chairman's allocations may be found at Rep. Paul Ryan, letter to the House, "Communication from the Chairman of the Committee on the Budget Regarding Interim Budget Allocations and Aggregates for Fiscal Years 2011-2015," *Congressional Record*, daily edition, vol. 157 (February 11, 2011), pp. H720-H721.
- g. The chairman's allocations may be found at Rep. Paul Ryan, "Publication of Budgetary Material," *Congressional Record*, daily edition, vol. 159 (January 22, 2013), p. 220.
- h. During this Congress, with some exceptions, a motion that the Committee of the Whole rise and report an appropriations bill to the House was not in order if the bill, as amended, exceeded an applicable allocation of new budget authority under Section 302(b) of the Congressional Budget Act of 1974, as estimated by the Committee on the Budget. The separate order, first included in the 109<sup>th</sup> Congress rules resolution, allowed a Member to make a point of order against the motion to rise and report, which, if sustained, requires the chair to submit the question of whether to rise and report to a vote, debatable for 10 minutes, equally divided between a proponent and an opponent. If the Committee of the Whole voted in the affirmative, the Committee rose and reported. If the Committee of the Whole votes in the negative, it considers an amendment to bring the measure into compliance with Section 302(b) allocations. The amendment is debatable for 10 minutes. The point of order did not apply to a motion to rise and report offered by the majority leader after a bill has been read for amendment.

## Rules Changes Affecting the Administration of the House

This section of the report explains or lists rules and separate orders related to the administration of the House that were included in the rules resolutions for the 110<sup>th</sup>, 111<sup>th</sup>, 112<sup>th</sup>, and 113<sup>th</sup> Congresses.

Many administrative changes also took place with the exercise of authority delegated to the Committee on House Administration and to House officers,<sup>188</sup> by order of the Speaker, through entities such as the House Office Building Commission, and in legislation such as the legislative branch appropriations bills.<sup>189</sup> With few exceptions, these changes are not discussed here.

### 111<sup>th</sup> Congress

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

The rules resolution also clarified the inspector general's authority to conduct audits for "non-traditional audit work ... in the areas of business process improvements, services to enhance the efficiency of House support operations, and risk management assessments" and to "implement guidance and standards" published by the Government Accountability Office.<sup>190</sup> (Amended clause 6 of Rule II.)

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<sup>188</sup> See CRS Report RL33220, *Support Offices in the House of Representatives: Roles and Authorities*, by Ida A. Brudnick.

<sup>189</sup> See CRS Report R43557, *Legislative Branch: FY2015 Appropriations*, by R. Eric Petersen and Ida A. Brudnick; CRS Report R43397, *Legislative Branch Appropriations: Frequently Asked Questions*, by Ida A. Brudnick.

<sup>190</sup> Rep. Louise Slaughter, "Section-by-Section of Rules Changes—111<sup>th</sup> Congress," insert, *Congressional Record*, vol. 155, part 1 (January 6, 2009), pp. 11-13. See also CRS Report R40133, *Office of the House of Representatives Inspector General*, by Jacob R. Straus.

## 112<sup>th</sup> Congress

The House in H.Res. 5 in the 112<sup>th</sup> Congress directed the Committee on House Administration to establish standards for making documents publicly available in electronic form.<sup>191</sup> (See “Jurisdiction” and “Openness” under “Rules Changes Affecting Committees” above.) The rules resolution also required that committees provide audio and video coverage of their hearings and meetings “in a manner that allows the public to easily listen to and view the proceedings,” and to maintain these audio and video recordings so that they are “easily accessible” to the public.<sup>192</sup> (See “Openness” under “Rules Changes Affecting Committees” above.)

In H.Res. 5 in the 112<sup>th</sup> Congress, outdated references to specific media entities were deleted. (See “Admission to and Use of the Chamber” under “Rules Changes Affecting the Chamber and Floor” and “Openness” under “Rules Changes Affecting Committees,” both above.)

An order of business was also included in H.Res. 5 that authorized the Speaker to entertain motions to suspend the rules on Thursday, January 6 to reduce the costs of House operations. Pursuant to this authorization, the House subsequently considered and approved H.Res. 22.<sup>193</sup>

Later in the 112<sup>th</sup> Congress, the Speaker and Democratic leader announced the end of the House page program after the August 2011 recess.<sup>194</sup>

## 113<sup>th</sup> Congress

The House in H.Res. 5 in the 113<sup>th</sup> Congress directed the inspector general to submit a report of each audit conducted to the chair and ranking minority Member of the Committee on Appropriations, in addition to the Speaker, the majority and minority leaders, and the chair and ranking minority Member of the Committee on House Administration.<sup>195</sup> (Amended clause 6 of Rule II.)

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<sup>191</sup> U.S. Congress, House, Committee on House Administration, “Clerk Launches New Site for House Documents,” news release, January 17, 2012, available at <http://cha.house.gov/press-release/clerk-launches-new-site-house-documents>. The website is located at <http://docs.house.gov/>.

<sup>192</sup> The Library of Congress was subsequently announced as the site for committee webcasting and archives and for archiving of earlier committee proceedings. U.S. Congress, House, Committee on House Administration, “LOC Launches New Site to Webcast Committee Proceedings,” news release, February 2, 2012, available at <http://cha.house.gov/press-release/loc-launches-new-site-webcast-house-committee-proceedings>. The Library’s website is available at <http://thomas.loc.gov/video/house-committee>.

<sup>193</sup> “Resolution to Cut Congress’s Budget,” *Congressional Record*, daily edition, vol. 157 (January 6, 2011), pp. H62-H68. Among its spending limitations, the resolution limited spending in 2011 by Member, leadership, and committee offices to 95% of the amounts authorized in 2010.

<sup>194</sup> The leadership’s Dear Colleague letter may be found at <http://e-dearcolleague.house.gov/details.aspx?65141>.

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

<sup>195</sup> See CRS Report R40133, *Office of the House of Representatives Inspector General*, by Jacob R. Straus.

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

A separate order in H.Res. 5 provided continuing authority for the Bipartisan Legal Advisory Group in the 113<sup>th</sup> Congress to act as the successor to the Bipartisan Legal Advisory Group in the 112<sup>th</sup> Congress. The purpose of this authority was to allow the group to continue its intervention in civil actions to defend the constitutionality of the Defense of Marriage Act and related provisions in other titles of the United States Code.<sup>196</sup>

## Rules Changes Affecting Ethics Standards

The 110<sup>th</sup> Congress, in particular, was the source of numerous additions and changes to ethics rules and laws. This report analyzes the rules, special orders, and Speaker's announcements at the convening of a Congress and not all of the actions taken during the 110<sup>th</sup>, 111<sup>th</sup>, 112<sup>th</sup>, or 113<sup>th</sup> Congresses.<sup>197</sup> (For changes affecting the organization of the Ethics Committee, see "Structure and Organization" under "Rules Changes Affecting Committees" above.)

### 110<sup>th</sup> Congress

The House adopted extensive changes to its ethics rules in the 110<sup>th</sup> Congress, and subsequently passed the Honest Leadership and Open Government Act, which President George W. Bush signed into law September 14, 2007,<sup>198</sup> and created the Office of Congressional Ethics.<sup>199</sup> The ethics rules changes in H.Res. 6 addressed these issues:

- A Member could not influence a private entity's employment decision or practice on the basis of political affiliation by taking or withholding an official act, or

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<sup>196</sup> The section-by-section summary of H.Res. 5 inserted in the *Congressional Record* by the chair of the Rules Committee contained an extensive explanation of this special order. Rep. Pete Sessions, "H.Res. 5, Adopting Rules for the 113<sup>th</sup> Congress: Section-by-Section Analysis," insert, *Congressional Record*, daily edition, vol. 159 (January 3, 2013), p. H13.

<sup>197</sup> For information on ethics rules and laws applicable to the House, see CRS Report 98-15, *House Committee on Ethics: A Brief History of Its Evolution and Jurisdiction*, by Jacob R. Straus; CRS Report RL30764, *Enforcement of Congressional Rules of Conduct: A Historical Overview*, by Jacob R. Straus and CRS Report R40760, *House Office of Congressional Ethics: History, Authority, and Procedures*, by Jacob R. Straus.

<sup>198</sup> P.L. 110-81; 121 Stat. 735 (2007). See CRS Report RL34166, *Lobbying Law and Ethics Rules Changes in the 110<sup>th</sup> Congress*, by Jack Maskell. See also CRS Report RL31126, *Lobbying Congress: An Overview of Legal Provisions and Congressional Ethics Rules*, by Jack Maskell; and CRS Report RL34377, *Lobbying Registration and Disclosure: The Role of the Clerk of the House and the Secretary of the Senate*, by Jacob R. Straus

<sup>199</sup> Established by H.Res. 895 (110<sup>th</sup> Cong.), which was deemed adopted with the adoption of H.Res. 1031 (110<sup>th</sup> Cong.), agreed to in the House March 11, 2008. This office was created to provide an entity charged with reviewing allegations of misconduct against Members, officers, and employees of the House; to conduct an investigation pursuant to criteria included in the office's establishing resolution; and, pursuant to criteria in the establishing resolution, to refer its recommendations to the Standards of Official Conduct Committee, renamed the Ethics Committee in the 112<sup>th</sup> Congress. See CRS Report R40760, *House Office of Congressional Ethics: History, Authority, and Procedures*, by Jacob R. Straus.

threatening to do so, or by influencing another's official act, or by offering or threatening to do so. The provision was intended to address, among other actions, a Member's attempt to influence hiring decisions by lobbying entities and associations, based on applicants' political affiliation. (Adding a new clause 13 to Rule XXIII.)

- A Member, officer, or employee of the House could not knowingly accept a gift from a lobbyist or foreign agent or a private entity that retained or employed lobbyists or foreign agents, except as allowed by the House gift rule (clause 5 of Rule XXV). The provision was intended to disallow Members, officers, and employees from accepting lobbyist gifts under most instances.<sup>200</sup> (Amended clause 5 of Rule XXV.)
- A gift of a ticket to a sporting or entertainment event was to be valued at face value so long as the face value reflected the price at which the issuer offered the ticket for sale. The change sought to ensure that gifts of tickets were appropriately valued. (Amended clause 5 of Rule XXV.)
- A gift of privately funded travel was prohibited if it was offered by a lobbyist or foreign agent or a private entity retaining or employing lobbyists or foreign agents. Two exemptions were also provided, without regard to the prohibition on a connection to lobbyists: (1) privately funded travel by a higher education institution, and (2) privately funded travel to a one-day event, exclusive of travel time or an overnight stay.<sup>201</sup> (Amended clause 5 of Rule XXV.)
- A Member, officer, or employee could not accept privately funded travel from an entity that retained or employed lobbyists or foreign agents unless a lobbyist's or agent's participation in the "planning, organization, request, or arrangement of the trip is de minimis." Before accepting a gift of travel, a Member, officer, or employee must submit a written certification signed by the provider of the gift of travel to the Standards of Official Conduct Committee. The rule detailed the content of the certification, including attesting that the travel was not financed by a lobbyist or foreign agent, that the travel was not planned, organized, requested, or arranged by a lobbyist or foreign agent, and that the traveler would not be accompanied by a lobbyist or foreign agent. Prior approval of the travel needed to be obtained from the Standards of Official Conduct Committee. Expenses must be disclosed to the clerk of the House within 15 days of the completion of travel, and the clerk was directed to make authorizations, certifications, and disclosures available for public inspection. (Amended clause 5 of Rule XXV.)
- Members were barred from using personal, official, or campaign funds to pay for travel on a "non-governmental airplane that is not licensed by the Federal Aviation Administration to operate for compensation or hire." The purpose of this provision was to prohibit Members from traveling on privately owned aircraft,

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<sup>200</sup> See CRS Report RS22566, *Acceptance of Gifts by Members and Employees of the House of Representatives Under New Ethics Rules of the 110<sup>th</sup> Congress*, by Jack Maskell.

<sup>201</sup> The rules change also allowed a two-night stay, if approved by the Ethics Committee on a case-by-case basis, if necessary for the Member to participate in the one-day event.

but continue to allow them to use commercial charters.<sup>202</sup> (Added a new clause 15 of Rule XXIII.)

- The Standards of Official Conduct Committee was directed to develop guidelines on the “reasonableness of an expense or expenditure” for officially connected travel and regulations on information to be submitted in seeking committee approval. The new provision described the factors that the guidelines were to address, and required the committee to adopt the guidelines and regulations annually. (Amended clause 5 of Rule XXV.)
- Additional disclosure related to travel was required. Information to be filed with the clerk after travel was to include a description of meetings and events attended. (Amended clause 5 of Rule XXV.)
- The Standards of Official Conduct Committee was directed to offer annual ethics training to every Member, officer, and employee. New officers and employees were required to obtain ethics training within 60 days of employment, and all officers and employees designated as covered by this provision were directed to certify by January 31 of each year that they had received ethics training within the previous year.<sup>203</sup> (Amended clause 3 of Rule XI.)

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

In the 110<sup>th</sup> Congress, in recognition of changes to clause 4 of Rule IV, the Speaker revised the application of the existing policy regarding floor privileges for former Members to include former Delegates, Resident Commissioners, parliamentarians of the House, elected officers of the House, and minority employees nominated as elected officers of the House. The Speaker added an individual’s status as a registered lobbyist or foreign agent, regardless of interest in the matter before the House, to the list of conditions for which former Members and officials would be denied entry to the Hall of the House or its adjacent rooms.<sup>204</sup>

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<sup>202</sup> This provision was subsequently amended by H.Res. 363 (110<sup>th</sup> Cong.), agreed to in the House May 2, 2007. H.Res. 363 added exceptions to the rule, such as for a plane owned or leased by a Member.

<sup>203</sup> The House also adopted a resolution that required the Standards of Official Conduct Committee to empanel an investigative subcommittee within 30 days of a Member’s indictment, or the filing of criminal charges against a member, or to submit to the House an explanation of why it had not empanelled an investigative subcommittee. H.Res. 451 (110<sup>th</sup> Cong.), agreed to in the House June 5, 2007.

<sup>204</sup> “Announcement by the Speaker,” *Congressional Record*, daily edition, vol. 153, part 1 (January 5, 2007), pp. 273-274. The Speaker’s policy implemented the changes to Rule IV made by H.Res. 648 (109<sup>th</sup> Cong.), agreed to in the House February 1, 2006.

A separate order included in H.Res. 6 disallowed access to House exercise facilities by former Members and former officers and their spouses if an individual was a lobbyist or foreign agent. The House Administration Committee was authorized to promulgate regulations.<sup>205</sup>

## 111<sup>th</sup> Congress

Pursuant to the Honest Leadership and Open Government Act, the House renumbered two of its rules and inserted a new Rule XXVII.<sup>206</sup> This rule required disclosure of post-service employment negotiations by Members, officers, and certain staff. An amendment to this new rule was included in H.Res. 5 so that the disclosure requirement applied to lame-duck Members until their service ended.

A separate order also continued the existence of the Office of Congressional Ethics.<sup>207</sup> Another separate order in H.Res. 5 continued H.Res. 451 (110<sup>th</sup> Congress) in effect in the 111<sup>th</sup> Congress.<sup>208</sup>

Another separate order included in H.Res. 5 disallowed access to House exercise facilities by former Members and former officers and their spouses if an individual was a lobbyist or foreign agent. The House Administration Committee was authorized to promulgate regulations.<sup>209</sup>

## 112<sup>th</sup> Congress

H.Res. 5 renamed the Standards of Official Conduct Committee as the Ethics Committee.

A separate order included in H.Res. 5 again extended the existence of the Office of Congressional Ethics, providing, in addition, that it would be treated as a standing committee with regard to committee staff.<sup>210</sup> Since H.Res. 5 also changed the name of the Standards of Official Conduct Committee to the Ethics Committee, the special order interpreted the resolution creating the Office of Congressional Ethics to refer to the Ethics Committee where the name Standards of Official Conduct Committee was used.

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<sup>205</sup> The House had adopted H.Res. 648 (109<sup>th</sup> Cong.) February 1, 2006, establishing a special order (not a change to House rules) barring former Members and others from the use of House exercise facilities. The separate order included in H.Res. 6 continued this provision of H.Res. 648 for the 110<sup>th</sup> Congress.

<sup>206</sup> P.L. 110-81; 121 Stat. 735, 751-752 (2007). In addition to changes to statutory law, the Honest Leadership and Open Government Act made changes to other House rules, including Rule XXIII (lobbying by consultants' firms) and Rule XXV (lobbying contacts by the spouse of a Member who is a registered lobbyist). It also imposed duties on the clerk of the House.

<sup>207</sup> Established by H.Res. 895 (110<sup>th</sup> Cong.), which was deemed adopted with the adoption of H.Res. 1031 (110<sup>th</sup> Cong.), agreed to in the House March 11, 2008. See CRS Report R40760, *House Office of Congressional Ethics: History, Authority, and Procedures*, by Jacob R. Straus.

<sup>208</sup> H.Res. 451 (110<sup>th</sup> Cong.), agreed to in the House June 5, 2007. Following the indictment of Rep. William Jefferson, the House adopted H.Res. 451 providing that the Standards of Official Conduct Committee convene an investigative subcommittee within 30 days or, if it did not empanel such as subcommittee, report to the House on its decision.

<sup>209</sup> The House had adopted H.Res. 648 (109<sup>th</sup> Cong.) February 1, 2006, establishing a special order barring former Members and others from the use of House exercise facilities. The separate order included in H.Res. 5 continued this provision of H.Res. 648 for the 111<sup>th</sup> Congress.

<sup>210</sup> Established by H.Res. 895 (110<sup>th</sup> Cong.), which was deemed adopted with the adoption of H.Res. 1031 (110<sup>th</sup> Cong.), agreed to in the House March 11, 2008. See CRS Report R40760, *House Office of Congressional Ethics: History, Authority, and Procedures*, by Jacob R. Straus.

Another separate order in H.Res. 5 continued H.Res. 451.<sup>211</sup>

Another separate order included in H.Res. 5 disallowed access to House exercise facilities by former Members and former officers and their spouses if an individual was a lobbyist or foreign agent; the same separate order as included in the 111<sup>th</sup> Congress.<sup>212</sup>

## 113<sup>th</sup> Congress

A separate order again included in H.Res. 5 disallowed access to House exercise facilities by former Members and former officers and their spouses if an individual was a lobbyist or foreign agent; the separate order was first adopted in the 110<sup>th</sup> Congress.<sup>213</sup>

Another separate order in H.Res. 5 continued H.Res. 451.<sup>1</sup>

A separate order included in H.Res. 5 again extended the existence of the Office of Congressional Ethics (OCE),<sup>214</sup> again providing that it would be treated as a standing committee with regard to committee staff and interpreting references to the Standards of Official Conduct Committee in the resolution creating the OCE as referring to the Ethics Committee. The separate order also suspended the term limits of the organic resolution for sitting OCE members.

H.Res. 5 expanded an anti-nepotism provision applicable to a spouse to a “relative” of a Member, Delegate, or Resident Commissioner. The rule previously stated that a Member, Delegate, or Resident Commissioner could not employ a spouse in a paid position. Additionally, a committee could not employ in a paid position the spouse of a member of the committee. The rule was expanded to apply to all relatives of Members, Delegates, or the Resident Commissioner. The rule defined the following as relatives: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, grandson, or granddaughter. The rule change did not affect individuals who were employed prior to the 113<sup>th</sup> Congress. (Amended clause 8 of Rule XXIII.)

An amendment to the House rule on Ethics Committee procedures clarified when an announcement was required on a recommendation from the OCE. The change clarified that a public statement was required when the chair and ranking minority Member together, or the committee by vote, decided to extend time for consideration of an OCE referral. (Amended clause 3 of Rule XI.)

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<sup>211</sup> H.Res. 451 (110<sup>th</sup> Cong.), agreed to in the House June 5, 2007. Following the indictment of Rep. William Jefferson, the House adopted H.Res. 451 providing that the Standards of Official Conduct (Ethics) Committee convene an investigative subcommittee within 30 days or, if it did not empanel such as subcommittee, report to the House on its decision.

<sup>212</sup> The House had adopted H.Res. 648 (109<sup>th</sup> Cong.) February 1, 2006, establishing a special order barring former Members and others from the use of House exercise facilities. The separate order included in H.Res. 5 continued this provision of H.Res. 648 for the 112<sup>th</sup> Congress.

<sup>213</sup> Ibid.

<sup>214</sup> Established by H.Res. 895 (110<sup>th</sup> Cong.), which was deemed adopted with the adoption of H.Res. 1031 (110<sup>th</sup> Cong.), agreed to in the House March 11, 2008. See CRS Report R40760, *House Office of Congressional Ethics: History, Authority, and Procedures*, by Jacob R. Straus.



H.Res. 5 amended the rule proscribing the use of private aircraft, except in specific circumstances, by Members, Delegates, and the Resident Commissioner. One additional exception was allowed for Members to pay the pro rata share of a charter flight priced at fair market value, divided by the number of Members, officers, or House employees on the flight. Another exception was added where the aircraft was supplied by another Member, Delegate, or the Resident Commissioner. The chair and ranking minority Member of the Ethics Committee could also jointly waive, subject to conditions they may prescribe, the prohibition on a Member's use of a non-commercial flight that does not fit an exception in the rule. (Amended clause 15 of Rule XXIII.)

H.Res. 5 also eliminated the requirement that Members' annual financial disclosure statements be published in a bound volume. (Amended clause 1 of Rule XXVI.)

## Concluding Observations

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

The Jack Abramoff scandal in particular put on public trial the interactions between lobbyists on the one hand and Members and congressional staff on the other.<sup>215</sup> The new majority in the 110<sup>th</sup> Congress responded with many changes to House ethics rules and with new law. Calls during the 111<sup>th</sup> Congress for more transparency generally and for more time to review legislation to be brought to the floor led to changes in the House's rules in the 112<sup>th</sup> Congress, such as posting in electronic format the legislative text to be considered on the House floor, and to changes in the House's legislative management, such as some open or modified open rules and some structured rules that allowed more amendments and a new schedule that included some five-day work weeks with regular week-long district work periods.

Most standing rules, however, did not change, at all or substantially, when Democrats or Republicans became the majority, because the rules reflected decades of experience with majority control of the House. Rules *facilitate* the majority's organization and operation of the House; they do not *dictate* to party leaders and others how to run the House—their policy goals or procedural and political strategy—or determine what outcomes can be achieved. Rules changes do not necessarily enable a majority to pass legislation, to keep all the party's Members together, to work smoothly with the minority, to achieve the same outcomes as the other body, or to either deliver on or counteract voter sentiments.

In managing the House in the new millennium, each party's majority needed to accommodate an assertive range of its Members' perspectives, and to balance the need to govern with the demand of an emboldened minority to be heard. Consequently, the number of open—and modified

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<sup>215</sup> For background, see, for example, Susan Schmidt and James V. Grimaldi, "The Fast Rise and Steep Fall of Jack Abramoff," *The Washington Post*, December 29, 2005, available at <http://www.washingtonpost.com/wp-dyn/content/article/2005/12/28/AR2005122801588.html>.

open—special rules decreased and the number of structured rules increased, a third day for the consideration of legislation by suspension of the rules was added, fewer days were spent in session, more competition over jurisdiction between committees occurred, some measures passed by the House could not pass the Senate, and convening conferences between the chambers declined in favor of resolving differences through amendments between the houses. The motion to recommit was used to broadcast a message as well as to offer an alternative.

The majority leadership's influence over committee agendas and its role in drafting or redrafting of major legislation to be considered on the floor continued to increase. On the one hand, party leadership has increased its control of committees and committee agendas, for example, by leadership's control of the selection of chairs and ranking minority Members. On the other hand, there has been less political overlap between the parties so that leaders may need to look exclusively in their own caucus or conference to build a majority on key votes,<sup>216</sup> and leaders are better positioned than committee chairs to know what legislative provisions will create those majorities.

The churning in the House's membership also contributed to leadership's influence over legislation. Turnover brings new energy and ideas to the House, and reflects "an immediate dependence on, and an intimate sympathy with, the people" that "frequent elections ... [secure]," as Madison explained about the nature of the House of Representatives in *The Federalist Papers* (no. 52). So much turnover in such a large body as the House, however, favors the centralizing efforts of leadership. During the 109<sup>th</sup> Congress and in the 2006 election, 60 new Members were elected. During the 110<sup>th</sup> Congress and in the 2008 election, 67 new Members were elected. During the 111<sup>th</sup> Congress and in the 2010 election, 105 new Members were elected. During the 112<sup>th</sup> Congress and in the 2012 election, 75 new Members were elected. In the 113<sup>th</sup> Congress, as of June 2, 2014, 7 new Members had been elected, and a total of 77 Members had one term or less of House experience. The median length of service in the House is now four terms.

The work of a Representative has also continued to evolve, which, in turn, has meant Members of the House have favored efficiency and decision making in floor proceedings so that they have time for their committee work, campaign fund raising, and representational work. The latter has expanded with the ubiquity of information technology, whereby most Members now participate in several social media platforms and must respond rapidly to developments within a relentlessly continuous news cycle. Members also want to maximize the representational time they spend in their districts meeting with constituents, participating in district events, and attending to their political interests, which included home-state redistricting in conjunction with the 2010 census. The Washington-district schedule put in place in the 112<sup>th</sup> and 113<sup>th</sup> Congresses has allowed Members time to visit schools, work sites, local government offices, and other places in their districts during those places' regular business hours.

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<sup>216</sup> In a speech commemorating the centenary of the Cannon speakership, former Speaker Dennis Hastert articulated a set of principles that guided him as Speaker. One principle was "to please a majority of your majority." Speaker Hastert explained,

The job of Speaker is not to expedite legislation that runs counter to the wishes of the majority of his majority. ... On each piece of legislation, I actively seek to bring our party together. I do not feel comfortable scheduling any controversial legislation unless I know we have the votes on our side first.

U.S. Congress, Joint Committee on Printing, *The Cannon Centenary Conference: The Changing Nature of the Speakership*, Walter Oleszek, ed., 108<sup>th</sup> Cong., 2<sup>nd</sup> sess., H.Doc. 108-204 (Washington, DC: GPO, 2004), p. 62.

Regardless of the extensive rules changes in the House since the 104<sup>th</sup> 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. Chamber rules allow opportunities for all Members to participate at all stages of the legislative process, in both chambers, building on the Framers’ system.

Looking ahead to the 114<sup>th</sup> Congress and beyond, rules changes are likely to be incremental rather than extensive with either a Democratic or Republican majority. A package of rules changes presented by the majority party would take into consideration the size of the party majority. The changes would need to balance that fact, and protect minority prerogatives, against the need to govern. A House majority party would also need to consider majority control of the Senate as it contemplates a rules package. The House majority party might contemplate the party arrangements and the effectiveness of the President and Congress over the past 30 years. President Reagan began with a Republican Senate and Democratic House and ended with a Democratic Congress. President George H. W. Bush held office with a Democratic Congress. President Clinton entered office with a Democratic Congress and served most of his two terms with a Republican Congress. President George W. Bush served through 2006 with only a Republican Congress, except for a portion of the 107<sup>th</sup> Congress when Democrats controlled the Senate. President Obama enjoyed Democratic control of both houses of Congress for two years, but faced a Republican House and narrower Democratic Senate majority in the next years. Presidents have succeeded and failed with their major policy initiatives under each arrangement.<sup>217</sup>

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 Brackett 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 109<sup>th</sup> Congress. The consideration of legislation under suspension of the rules was a minor, relatively infrequent procedure 40 years ago; now motions to suspend the rules are in order Mondays, Tuesdays, 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.<sup>218</sup>

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<sup>217</sup> For a study examining divided government, see David R. Mayhew, *Divided We Govern: Party Control, Lawmaking, and Investigations, 1946-2002* (New Haven, CT: Yale University Press, 2005).

<sup>218</sup> Exogenous developments also affect Congress. For example, the installation of air conditioning in the Capitol complex after World War II made it thinkable to spend the summer and fall in Washington, DC; the jet plane and the growth of air travel made it possible for most Members to go home weekends and to have their families live at home rather than in the Washington, DC, area; and the web, email, and other information technology advances have connected all Members and their staff with constituents (and anyone else) to receive and send communications.

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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