

CONFERENCE PRINT OF H.RES. 5
ADOPTING RULES FOR THE 112TH CONGRESS

SECTION-BY-SECTION ANALYSIS

Section 1. Resolved Clause.

This section provides that the Rules of the 111th Congress are the Rules of the 112th Congress, except with the amendments contained in section 2 of the resolution, and orders contained in section 3.

Section 2. Changes to the Standing Rules.

Citing Authority under the Constitution. Paragraph (a) creates a new clause 7 in rule XII providing that a Member may not introduce a bill or joint resolution unless the sponsor also submits a statement citing as specifically as practicable the power or powers under the Constitution authorizing the enactment of that bill or joint resolution. The statement will appear in a separate section in the Congressional Record and be made available to the public in electronic form.

With respect to Senate bills, the provision authorizes the chair of a committee of jurisdiction, prior to consideration of the Senate bill, to submit a statement as if the chair were the sponsor. Finally, the provision also repeals the current requirement for a similar statement in committee reports.

Three-Day Availability for Unreported Bills. This provision adds a new clause to rule XXIX establishing a point of order against consideration of a bill or joint resolution that has not been available for three calendar days. This provision mirrors existing rules prohibiting consideration of bills reported by a committee or conference reports.

Transparency for House and Committee Operations. Subparagraph (1) directs the Committee on House Administration to establish and maintain standards for documents made available in electronic form by the House and its committees. Subparagraph (2) provides that a measure or matter will have been considered as having been "available" within the meaning of the Rules if it was publicly available in electronic form at a location designated by the Committee on House Administration.

Subparagraph (3) rewrites clause 2(g)(3) of rule XI to provide for a minimum notice period of 3 days for a committee meeting. This joins the current requirement for 7 days notice for a committee hearing. The provision maintains the current ability of the Chair, with the concurrence of the ranking minority member, to waive both notice periods if they find good cause to start the hearing or meeting sooner. The provision can also be waived by a majority vote of the committee.

Subparagraph (4) requires that the chair of the committee make the text of the measure or matter being marked up publicly available in electronic form at least 24 hours prior to commencement of the meeting.

Subparagraph (5) requires that the chair of a committee make the results of any record vote publicly available in electronic form with 48 hours of the vote, while subparagraph (6) requires that the text of any adopted amendment be made similarly available, along with the text of the measure being marked up, within 24 hours of commencement of the markup or adoption of the amendment.

Subparagraph (7) requires the posting of non-governmental witness "truth-in-testimony" information (with appropriate redactions, such as a home address or phone number, to protect the privacy of the witness). Subparagraphs (8) and (9) respectively require public availability in electronic form of the committee rules and the name of each member in attendance at a hearing or meeting.

Subparagraph (10) requires each Committee, to the maximum extent practicable, to provide audio and video coverage of each committee hearing or meeting and maintain recordings that are easily accessible to the public.

Subparagraph (11) strikes an exception, adopted in the 110th Congress, for the Committee on Rules to accurately report its votes in committee reports to accompany a rule, joint rule, or a special order of business.

Initiatives to Reduce Spending and Improve Accountability.

Subparagraph (d)(1) replaces the current "pay-as-you-go" requirements with a "cut-as-you-go" requirement. The provision prohibits consideration of a bill, joint resolution, conference report, or amendment which has the net effect of increasing mandatory spending within the one-year, five-year, and ten-year budget windows. This provision continues the current practice of counting multiple measures considered pursuant to a special order of business which directs the Clerk to engross the measures together after passage for purposes of compliance with the rule and provides a mechanism for addressing "emergency" designations.

Subparagraph (2) strikes the "Gephardt rule" that provides for the automatic engrossment and transmittal to the Senate of a joint resolution changing the public debt limit, upon the adoption by Congress of the budget resolution, thereby avoiding a separate vote in the House on the public debt-limit legislation. Subparagraph (3) adds a new clause to rule XXIX that clarifies that the chair of the Committee on the Budget is authorized to provide guidance to the presiding officer on the budgetary impact of legislative proposals, rather than the entire committee. This change reflects the current practice under majorities of both parties.

Subparagraph (4) modifies clause 3 of rule XXI, pertaining to transportation obligation limitations, to protect the balances of the Highway Trust Fund while reducing the restrictions on amendments to general appropriation bill.

Subparagraph (5) modifies clause 7 of rule XXI, which places restrictions on reconciliation directives contained in a budget resolution. The new modification would specify that it would not be in order to consider a budget resolution or amendments thereto, or a conference thereon which would have the effect of increasing net direct spending.

Other Changes to House Operations. Paragraph (e)(1) provides the Chair of the Committee of the Whole with authority to employ two minute voting during a series of votes.

Subparagraph (2) changes the current rule regarding electronic devices, which prohibits the use of mobile phones and personal computers on the floor, to prohibit the use of any mobile electronic device that is disruptive of the decorum. This change will give the Speaker greater latitude in deciding which mobile electronic devices may or may not be used by Members on the floor.

Subparagraph (3) updates the House rules governing the media to eliminate references to specific media organizations.

Subparagraph (4) ends the ability of delegates and the Resident Commissioner to vote in, and preside over, the Committee of the Whole House on the state of the Union.

Subparagraph (5) strikes clause 11 of rule XVIII, which allows a motion to strike a provision from a bill that is asserted to be an unfunded mandate, even if the amendment would not otherwise be in order during consideration of the bill.

Subparagraph (6) clarifies the Armed Services Committee jurisdiction over DOD administered cemeteries.

Subparagraphs (7) through (9) change, respectively, the name of the Committee on Education and Labor to the Committee on Education and the Workforce, the Committee on Standards of Official Conduct to the Committee on Ethics, and the Committee on Science and Technology to the Committee on Science, Space, and Technology. Subparagraph (10) eliminates the Select Oversight Panel of the Committee on Appropriations.

Subparagraph (11) reduces the size of the Permanent Select Committee on Intelligence from a total of 22 members (13 from the majority party) to 20 members (12 from the majority party). The next subparagraph restores the term limit rules for committee chairs to the same state it existed in the 109th Congress.

Subparagraph (13) increases the frequency of committee activity reports from once per congress to four times per congress.

Subparagraph (14) modifies existing staff deposition authority for the Committee on Oversight and Government Reform by requiring the committee to adopt a rule requiring that a member be present at any deposition conducted by a staff member. The deponent is permitted to waive this requirement.

Technical and Clarifying Changes. These provisions correct a host of typographic and other simple errors. Subparagraph (1) corrects a typographic error, and subparagraph (2) corrects an errant reference to simple resolutions. The next subparagraph corrects an unintentional narrowing of the circumstances regarding the Speaker's regulation of access to the floor, and the following provision corrects another word that was inadvertently removed during the recodification of the House rules in the 106th Congress. Lastly, the provision eliminates unnecessary usage of "Members of the House" and makes clear that the Clerk does not have to disclose actual Member signatures, just their names, when making a disclosure under clause 13 of rule XXIII.

Section 3. Separate Orders.

Budget Matters. Subparagraphs (a)(1) through (3) clarify that section 306 of the Budget Act (prohibiting consideration of legislation with the Budget Committee's jurisdiction, unless reported by the Budget Committee) only applies to bills and joint resolutions and not to simple or concurrent resolutions. It also makes a section 303 point of order (requiring adoption of budget resolution before consideration of budget-related legislation) applicable to text made in order as an original bill by a special rule. Specified or minimum levels of compensation for federal office will not be considered as providing new entitlement authority.

Subparagraph (4) prevents the Committee of the Whole from rising to report a bill to the House that exceeds an applicable allocation of new budget authority under section 302 (b) (Appropriations subcommittee allocations) as estimated by the Budget Committee and creates a point of order.

Budget Enforcement. Subparagraphs (b)(1) and (2) requires the chair of the Committee on the Budget to submit for printing in the Congressional Record budget aggregates and allocations contemplated by section 301 (Content of the Concurrent Resolution on the Budget) for 2011 through 2015. Publication of these aggregates and allocations shall be considered to be the adoption of a concurrent resolution on the budget for fiscal year 2011.

Emergencies and Contingencies. Subparagraphs (c)(1) and (2) provide for exemptions for designated emergencies and the continuation of contingency operations related to the Global War on Terror.

Deficit-Neutral Revenue Reserve. Paragraph (d) allows the Budget Committee to make appropriate budget adjustments prior to the adoption of a budget resolution to account for the repeal or modification of the Patient Protection and Affordable Care Act and the Health Care and Education Affordability Reconciliation Act of 2010.

Limitation on Advanced Appropriations. Subparagraphs (e)(1) through (3) restrict the ability to provide advanced appropriations by establishing an aggregate spending ceiling.

Compliance with Section 13301 of the Budget Enforcement Act of 1990. Paragraph (f) provides temporary budget enforcement for matters related to certain off budget trust funds.

Limitation on Long-term Spending. Subparagraphs (g)(1) and (2) prohibit the consideration of measure which increase mandatory spending above \$5,000,000,000 for any 10 year window within a 40 year period.

Exemptions. Subparagraphs (h)(1) through (7) allow the Budget Committee Chairman, prior to the adoption of a budget resolution, to exempt from estimates the budgetary effects of the Economic Growth and Tax Relief Reconciliation Act of 2001 and the Jobs and Growth Tax Relief Reconciliation Act of 2003. It also exempts the budgetary effects of the repeal of the Patient Protection and Affordable Care Act and Education Affordability Reconciliation Act of 2010. The budgetary effects of AMT relief, estate tax, trade agreements and small business tax relief are also exempted.

Determinations for PAYGO Acts. Paragraph (i) allows the Chairman of the Budget Committee to take into account the exemptions provided under paragraph (h) for the purpose of complying with Statutory PAYGO.

Spending Reduction Amendments in Appropriations Bills. Paragraph (i) requires that in each general appropriations bill there be a "spending reduction" account, the contents of which is a recitation of the amount by which, through the amendment process, the House has reduced spending in other portions of the bill and indicated that such savings should be counted towards spending reduction. It provides that other amendments that propose to increase spending in accounts in a general appropriations bill must include an offset of equal or greater value.

Certain Subcommittees. This section waives clause 5(d) of Rule X to allow the Committees on Armed Services and Foreign Affairs not more than seven subcommittees, and the Committee on Transportation and Infrastructure not more than six subcommittees. This is a standard provision carried in the rules package.

Exercise Facilities for Former Members. This section continues the prohibition on access to any exercise facility which is made available exclusively

to Members, former Members, officers and former officers of the House and their spouses to any former member, former officer, or spouse who is a lobbyist registered under the Lobbying Disclosure Act of 1995.

Numbering of Bills. This provision reserves the first 10 numbers for bills (H.R. 1 through H.R. 10) for assignment by the Speaker and the second 10 numbers (H.R. 11 through H.R. 20) for assignment by the Minority Leader.

Section 4. Committees, Commissions, and House Offices

Subparagraphs (a) and (b) reauthorize the House Democracy Partnership and the Tom Lantos Human Rights Commission.

Subparagraph (c) reauthorizes the Office of Congressional Ethics.

Subparagraph (d) continues House Resolution 451, 110th Congress, directing the Committee on Standards of Official Conduct to empanel investigative subcommittees within 30 days after the date a Member is indicted or criminal charges are filed.

Section 5. Additional Orders of Business

Reading of the Constitution. This paragraph allows the Speaker to recognize Members for the reading of the Constitution on the legislative day of January 6, 2011.

Providing for Consideration of Certain Motions to Suspend the Rules. This provision provides that on January 6, 2011 the Speaker may entertain motions to suspend the rules related to reducing the costs of operation of the House and allow two hours of debate equally divided and controlled by the proponent and an opponent.