

SECTION-BY-SECTION SUMMARY OF H.RES. 5
ADOPTING HOUSE RULES FOR THE 109TH CONGRESS
Tuesday, January 4, 2005

Section 1. Resolved Clause.

The rules of the House of Representatives for the 108th Congress are adopted as the rules of the House for the 109th Congress with amendments as provided in section 2 and with other orders as provided in section 3.

Section 2. Changes in Standing Rules.

(a)**Committee on Homeland Security.** Creates a standing Committee on Homeland Security, and grants it legislative and oversight jurisdiction. First, the Committee's jurisdiction includes overall homeland security policy so that it can focus on national policies affecting the Federal government. Second, the jurisdiction includes authority over the Department of Homeland Security (DHS)'s internal administration. Third, the Committee would have jurisdiction over functions of the DHS relating to six specified areas. These include: (A) Border and port security (except immigration policy and non-border enforcement); (B) Customs (except customs revenue); (C) Integration, analysis and dissemination of homeland security information; (D) Domestic preparedness for and collective response to terrorism; (E) Research and development; and (F) Transportation security. Additionally, the Committee would have broad oversight authority over government-wide homeland security matters. Finally, changes are made to the jurisdictions of three committees. First, the Committee on the Judiciary's jurisdiction is modified by adding new subparagraphs for Criminal law enforcement and Immigration policy and non-border enforcement. Second, the Committee on Transportation and Infrastructure's jurisdiction is modified to exclude transportation security by adding exceptions in two subparagraphs. Third, the Committee on Ways and Means' jurisdiction is modified by adding the word "revenue" to the clause containing customs. [Rule X]

(b)**General oversight responsibilities - insuring against duplicative programs.** Adds to the required list of content included in each standing committee's adopted oversight plan as submitted to the Committees on Government Reform and House Administration a review of Federal programs with a view to insuring against duplication of such programs. [Rule X, clause 2(d)(1)]

(c)(1)**Membership of Budget Committee.** Permits one member of the Budget committee majority and one member of the minority to be "designated" by the respective elected leaderships. Current rules require such members to be "from" elected leadership. [Rule X, clause 5(a)(2)]

(c)(2) **Rules Committee Organization.** Authorizes the chairman of the Committee on Rules to serve as chairman, notwithstanding the prohibition on serving more than three consecutive terms. [Rule X, clause 5(c)(2)]

(d)(1)**Privileged motions in committee - Recess subject to the call of the chair.** Allows for a privileged motion in committee to recess subject to the call of the chair for a period less than 24 hours. Currently only a motion to recess from day to day is privileged. [Rule XI, clause 1(a)(1)(B)]

(d)(2)**Motion to go to conference.** Allows committees to adopt a rule directing the chairman of the committee to offer a privileged motion to go to conference at any time the chairman deems it appropriate during a Congress. Currently a motion to request or agree to a conference with the Senate is privileged if the committee authorizes the chairman to make such a motion. [Rule XI, clause 2(a)]

(e)**Motion to suspend the rules.** Extends suspension authority beyond Monday or Tuesday to include Wednesday. [Rule XV, clause 1(a)]

(f)**Repeal of Corrections Calendar.** Removes Corrections Calendar from the Standing Rules of the House. [Rule XV, clause 6]

(g)**Allows references to the Senate.** Allows remarks in debate to include references to the Senate or its Members. Remarks are to be confined to the question under debate, avoiding personality. [Rule XVII, clause 1]

(h)**Provisional quorum.** Provides for continuity of legislative operations in the House in the event of catastrophic circumstances. The rule allows for the House to conduct business with a provisional quorum only after a motion to compel members attendance, as prescribed under clause 5(a) of rule XX, has been disposed of and the following occur in sequence without the House adjourning: (A) A call of the House or a series of calls of the House totaling 72 hours without producing a quorum; (B) the Speaker, with the Minority and Majority Leaders, receive from the Sergeant-at-Arms (or his designee) a catastrophic quorum failure report and shall consult with the Minority and Majority Leaders on the contents of such report and shall announce the contents of such report to the House; and (C) A further call of the House or series of calls are conducted for a total of 24 hours without producing a quorum. A catastrophic quorum failure report is defined as a report advising that the inability of the House to

establish a quorum is attributable to catastrophic circumstances involving natural disaster, attack, contagion, or similar calamity rendering Members incapable of being present. The report shall be prepared on the basis of the most authoritative information available after consultation with the Attending Physician, the Clerk and pertinent public health and law enforcement officials. A catastrophic quorum failure report shall describe the number of vacancies in the House, the names of Members considered to be incapacitated, the names of Members not incapacitated, but otherwise incapable of being present, and the names of Members unaccounted for. The report shall be updated every legislative day and such updates shall be made available to the House. [Rule XX, clause 5(c)]

(i)**Postponement of certain votes.** Adds the motion to reconsider, tabling motions to reconsider and amendments reported from the Committee of the Whole among those votes the Speaker may postpone to a designated place in the legislative schedule within two additional legislative days. [Rule XX, clause (a)(2)]

(j)(1) - (2)**Allowing the use of campaign funds to pay for certain official expenses.** Allows Members to use campaign funds to pay certain, limited types of official expenses (e.g., handheld communication devices). This change conforms House Rules to current law (Sec. 105, P.L. 108-83), and mirrors Rules that took effect in the Senate in 2002. [Rule XXIV and Rule XXIII, clause 6(c)]

(j)(3)**Use of frank for mass mailings before an election.** Amends the rule to conform to section 3210 of title 39 United States Code, stating that a mass mailing is not frankable when it is postmarked less than 90 days before the date of a primary or general election which he is a candidate for public office. Currently the rule states 60 days. [Rule XXIV, clause 8]

(j)(4)**Gift rule on officially connected travel.** Expands the category of individuals who may accompany a Member or staff person on such a trip at the sponsor's expense to include a relative of the Member or the staff person. Under a provision of the current gift rule (clause 5(b)(4)(D) of House Rule XXV), a Member or staff person may be accompanied on a privately funded, officially connected trip, at the sponsor's expense, only by either his or her "spouse or a child", and not by any other relative. [Rule XXV, clause 5(b)(4)(D)]

(k)(1)**Due process for Members.** Affords Members the opportunity to be heard in the event the Standards Committee alleges the Member has violated or may have violated the Code of Conduct. Members may opt for either an adjudicatory proceeding or they can submit a response to the Committee report/letter with their response being made public with Committee report/letter. Under the current rule, the Chairman and

Ranking Member, or the Committee, may take action against a Member without a complaint, notice, or the opportunity to be heard. [Rule XI, clause 3]

(k)(2)**Restore presumption of innocence.** Provides that no action will be taken on a complaint unless the Chairman and Ranking Minority member of the Standards Committee, or the Committee itself, find within 45 days that further investigation is merited by the facts of the complaint, maintaining the presumption of innocence. Currently, if the Chairman and Ranking Minority Member take no action on a properly filed complaint within 45 days, the matter automatically goes to an investigative committee. [Rule XI, clause 3]

(k)(3)**Right to counsel.** Provides that Members may select a counsel of their choice even if that counsel represents other Members. [Rule XI, clause 3]

(l) **Technical and codifying changes.** Technical and grammatical changes are made throughout the rules of the House.

Section 3. Separate Orders.

(a)(1) - (a)(3)**Continuation of budget enforcement mechanisms from the 108th.** Clarifies that section 306 of the Budget Act (prohibiting consideration of legislation within 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.

(a)(4)**Continuation of budget “deeming” resolution from the 2nd Session of the 108th Congress.** Establishes that the provisions of the Senate Concurrent Resolution 95 of the 108th Congress, shall have effect in the 109th Congress until such time as a budget resolution for the fiscal year 2005 is adopted.

(b)**Extra subcommittees for Armed Services, International Relations, and Transportation & Infrastructure.** A waiver of Rule X, clause 5(d), is granted for Armed Services and Transportation & Infrastructure for 6 subcommittees, and International Relations for 7 subcommittees in the 109th Congress.

(c) **Numbering of bills.** In the 109th Congress, the first 10 numbers for bills (H.R. 1 through H.R. 10) shall be reserved for assignment by the Speaker to such bills as he may designate when introduced.