

H. Res. 5  
ADOPTING THE RULES FOR THE 118TH CONGRESS

SECTION-BY-SECTION ANALYSIS

***Section 1. Adoption of the Rules of the One Hundred Seventeenth Congress.***

This section provides that the Rules of the 117th Congress are the Rules of the 118th Congress, except for the amendments contained in section 2 of the resolution and orders contained in the resolution.

***Section 2. Changes to the Standing Rules.***

***Initiatives to Reduce Spending and Improve Accountability.***

Subsection (a)(1) replaces current “pay-as-you-go” requirements with “cut-as-you-go” requirements. The provision prohibits consideration of a bill, joint resolution, conference report, or amendment that has the net effect of increasing mandatory spending within a five-year or ten-year budget window. 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.

Subsection (a)(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 the House of a concurrent resolution on the budget resolution, thereby avoiding a separate vote in the House on the public debt limit legislation.

Subsection (a)(3) restores a point of order against net increase in budget authority for amendments to general appropriations bills.

Subsection (a)(4) restores a point of order against budget reconciliation directives that increase net direct spending.

***Increased Threshold for Tax Rate Increases.*** Subsection (b) restores a requirement for a three-fifths supermajority vote on tax rate increases.

***Two Minute Votes.*** Subsection (c) provides that the Speaker can reduce vote times in the House to not less than two minutes on any question that follows another electronic vote. The subsection also states that to the maximum extent practicable, advance notice will be given when reduced voting times are expected in a voting series.

***Modifications to Calendar Wednesday.*** Subsection (d) modifies the notice requirement to use Calendar Wednesday to conform with the 72-hour notice requirement prior to consideration of legislation.

***Committee Authorization and Oversight Plans.*** Subsection (e) restores the requirement that each standing committee (except the Committees on Appropriations, Ethics, and Rules) vote to adopt an authorization and oversight plan, which must be submitted to the Committees on Oversight and Accountability and House Administration no later than March 1 of the first session of a Congress. The plan must include a list of unauthorized programs and agencies within the committee's jurisdiction that have received funding in the prior fiscal year, or in the case of a permanent authorization, have not received a comprehensive review by the committee in the prior three Congresses. The subsection requires committees to describe each program or agency that is intended to be authorized in the current Congress or next Congress, and a description of oversight to support reauthorization in the current Congress. The subsection also requires the plan include any recommendations for moving such programs or agencies from mandatory to discretionary funding. When developing these plans, committee chairs must coordinate with other committees of jurisdiction to ensure that programs and agencies are subject to routine authorization efforts.

The subsection also provides that committee authorization and oversight plans may make recommendations to consolidate or terminate duplicative or unnecessary programs and agencies. Committees may make recommendations for changes to existing law to address Federal rules, regulations, statutes, and court decisions related to programs that are inconsistent with Congress' Article I authorities, as well as provide a description of other oversight activities that may be necessary.

The subsection also requires the Committee on Oversight and Accountability to report to the House no later than April 15 the authorization and oversight plans submitted by committees together with any recommendations it may make to ensure effective coordination of the plans.

***Cost Estimates for Major Legislation to Include Macroeconomic Effects.*** Subsection (f) restores the requirement that the Congressional Budget Office and Joint Committee on Taxation, to the extent practicable, incorporate the macroeconomic effects of major legislation into the official cost estimates used for enforcing the budget resolution and other rules of the House. The subsection requires, to the extent practicable, a qualitative assessment of the long-term budgetary and macroeconomic effects of major legislation, which is defined to cover legislation that causes a gross budgetary effect in any fiscal year covered by the budget resolution that is equal to or greater than 0.25 percent of the projected GDP for that year. This subsection also allows the chair of the Committee on the Budget,

or in the case of revenue legislation the House member serving as the Chair or Vice Chair of the Joint Committee on Taxation, to designate major legislation for purposes of this rule.

***Ethics Reform.*** Subsection (g) directs the Committee on Ethics to adopt rules which provide for a process to receive complaints directly from the public.

***Empaneling Investigative Subcommittee of the Committee on Ethics.*** Subsection (h) codifies House Resolution 451, 110th Congress, directing the Committee on Ethics to empanel an investigative subcommittee or issue a report within 30 days of the date a Member, Delegate, or the Resident Commissioner is indicted, or criminal charges are filed.

***Treatment of Evidence in Committee and Subcommittee Investigations.*** Subsection (i) eliminates a requirement that the Committee on Ethics adopt a rule allowing the use during an ethics investigation of evidence presented in a related criminal case where the respondent was convicted because this is already contained in the committee rules of the Committee on Ethics.

***Designating Committee on Oversight and Accountability.*** Subsection (j) redesignates the Committee on Oversight and Reform as the Committee on Oversight and Accountability.

***Designating Committee on Education and the Workforce.*** Subsection (k) redesignates the Committee on Education and Labor as the Committee on Education and the Workforce.

***Subcommittees of Committee on Agriculture.*** Subsection (l) permits the Committee on Agriculture to have six subcommittees, codifying a separate order in effect since the 114th Congress.

***Cybersecurity.*** Subsection (m) modifies the jurisdiction of the Committee on Homeland Security to include functions of the Department of Homeland Security related to cybersecurity. Committees currently holding jurisdiction over cybersecurity functions of DHS will retain a shared jurisdictional interest in such functions.

***Scope of Authority to Act in Continuing Litigation Matters.*** Subsection (n) eliminates “including, but not limited to, the issuance of subpoenas” in the description of authority to act as successor-in-interest in continuing litigation matters, such language being superfluous.

***Record Votes on Measures Reported by the Committee on Rules.***

Subsection (o) requires reports from the Committee on Rules to include a depiction of recorded votes.

***Access to the Hall of the House.*** Subsection (p) strikes language providing Governors of Territories and the Mayor of the District of Columbia access to the Hall of the House.

***Resolution Declaring the Office of Speaker Vacant.*** Subsection (q) strikes language from rule IX to allow any member to offer a privileged resolution declaring the Office of Speaker vacant.

***Section 3. Separate Orders.***

***Holman Rule.*** Subsection (a) reinstates the “Holman Rule” which allows amendments to appropriations legislation that would reduce the salary of or fire specific federal employees, or cut a specific program.

***Restoring Legislative Branch Accountability.*** Subsection (b) states regulations adopted pursuant to House Resolution 1096, 117th Congress will have no force or effect in the 118th Congress.

***Requirement with Respect to Single Subject Bills.*** Subsection (c) provides that, effective February 1, 2023, a bill or joint resolution may not be introduced unless the sponsor submits a statement setting forth the single subject of the bill or joint resolution. This statement must be included with the statement required by clause 7(c) of rule XII (Constitutional Authority Statements). A statement for any bill or joint resolution introduced prior to the effective date shall, to the extent practicable, be submitted by the sponsor prior to committee or House consideration.

***Question of Consideration for Germaneness.*** Subsection (d) establishes a question of consideration on a special rule that waives germaneness for an amendment. The question of consideration is debatable for 20 minutes and is not subject to any intervening motion.

***Budget Matters.*** Subsection (e)(1)(A) provides the authority for the chair of the Committee on the Budget to file allocations, aggregates, and other appropriate budgetary levels for the purpose of enforcing provisions of the Congressional Budget Act of 1974. Additionally, this subsection states that the provisions of S. Con. Res. 14, 117th Congress shall have no force or effect.

Subsection (e)(1)(B) provides adjustment authority to the chair of the Committee on the Budget for a bill, joint resolution, amendment thereto, or

conference report thereon if the measure does not increase direct spending over five or ten years. It additionally provides adjustment authority to the chair of the Committee on the Budget to take into account the most recent baseline published by the Congressional Budget Office.

Subsection (e)(1)(C) allows the Majority Leader or his designee, should the chair of the Committee on the Budget not yet be elected, to file statements permitted under subsections (f)(1)(A) and (f)(1)(B).

Subsection (e)(1)(D) allows the chair of the Committee on the Budget (or the Majority Leader or his designee, should the chair not yet be elected) to adjust an estimate under clause 4 of rule XXIX to exempt the budgetary effects of measures to protect taxpayers with taxable incomes below \$400,000 from an increase in audits above the most recent tax year from the Internal Revenue Service.

Subsection (e)(2) establishes a point of order against 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, which has the net effect of increasing direct spending in excess of \$2,500,000,000 for any of the four consecutive 10 fiscal year periods beginning with the first fiscal year that is 10 fiscal years after the current fiscal year. The levels of net increases in direct spending shall be determined based on estimates provided by the chair of the Committee on the Budget.

Subsection (e)(3) requires the Congressional Budget Office on any legislation that shows changes in mandatory spending which cause a gross budgetary effect in any fiscal year covered by the budget resolution that is equal to or greater than 0.25 percent of the projected GDP for the current fiscal year, to the extent practicable, to provide an estimate of the inflationary impacts of that legislation. This subsection also allows the chair of the Committee on the Budget to designate major legislation for purposes of this order.

Subsection (e)(4) requires the Congressional Budget Office on any legislation impacting either the Medicare Part A trust fund or OASDI trust fund that causes a gross budgetary effect in any fiscal year covered by the budget resolution that is equal to or greater than 0.25 percent of the projected GDP for the current fiscal year, to the extent practicable, to display: (1) the impact of legislation on the Medicare Part A trust fund's unfunded liabilities over a 25-year projection, solvency projections, and the net present value of those liabilities; and (2) the impact on the OASDI trust fund's unfunded liabilities over a 75-year projection, solvency projections, and the net present value of those liabilities. This subsection also allows the chair of the Committee on the Budget to designate major legislation for purposes of this order.

***Spending Reduction Amendments in Appropriations Bills.*** Subsection (f) provides for spending reduction account transfer amendments and requires a spending reduction account section to be included in all general appropriations bills.

***Scoring Conveyances of Federal Land.*** Subsection (g) reinstates the separate order from the 115th Congress providing that any provision in a bill, joint resolution, amendment, or conference report requiring or authorizing a conveyance of federal land to a State, local government, or tribal entity, shall not be considered as providing new budget authority, decreasing revenues, increasing mandatory spending, or increasing outlays.

***Member Day Hearing Requirement.*** Subsection (h) modifies the Member Day hearing requirement to only occur at the full committee level. Each standing committee (other than the Committee on Ethics) must hold a Member Day Hearing during the first session of the 118th Congress to receive testimony from Members, Delegates, and the Resident Commissioner on proposed legislation within its jurisdiction. The subsection permits the Committee on Rules to hold its Member Day Hearing during the second session to receive testimony on proposed changes to the standing rules for the next Congress.

***Information to Committees of Congress on Request.*** Subsection (i) requires that the chair of the Committee on Oversight and Accountability be included as one of the seven members of the committee making any request of an Executive agency pursuant to section 2954 of title 5, United States Code.

***Remote Appearance of Witnesses.*** Subsection (j) provides limited authorization to a chair of a committee to allow witnesses to appear remotely at committee and subcommittee proceedings. This subsection applies only to witnesses appearing in a non-governmental capacity and in accordance with regulations issued by the chair of the Committee on Rules and printed in the Congressional Record.

***Deposition Authority.*** Subsection (k) provides the Permanent Select Committee on Intelligence and each standing committee of the 118th Congress (except for the Committee on Rules) the authority to order the taking of a deposition by a member or counsel of such committee and limits persons who can attend depositions to members, committee staff, an official reporter, the witness, and up to two, personal, nongovernmental attorneys. Depositions taken under this authority are subject to regulations issued by the chair of the Committee on Rules and printed in the Congressional Record.

***Broadening Availability and Utility of Legislative Documents in Machine-Readable Formats.*** Subsection (l) instructs the Committee on House Administration, the Clerk, and other officers and officials to advance government

transparency by continuing efforts to publish documents of the House in machine-readable formats and broaden their utility by enabling all House staff to create comparative prints.

***Improving the Committee Electronic Document Repository.*** Subsection (m) directs the Clerk, the Committee on House Administration, and other officers and officials to continue to improve the existing electronic document repository operated by the Clerk for use by committees. Such improvements are intended to increase public availability and identification of legislative information produced by House committees, including votes, amendments, and witness disclosure forms.

***Providing for Transparency with Respect to Memorials Submitted Pursuant to Article V of the Constitution of the United States.*** Subsection (n) carries forward provisions that clarify the procedures of the House regarding the receipt of Article V memorials from the States by directing the Clerk to make each memorial, designated by the chair of the Committee on the Judiciary, electronically available, organized by State of origin and year of receipt, and indicate whether the memorial was designated as an application or rescission.

In carrying out this subsection, it is expected that the chair of the Committee on the Judiciary will be solely charged with determining whether a memorial purports to be an application of the legislature of a state calling for a constitutional convention or rescission of prior applications. The Clerk's role will be entirely administrative. The chair of the Committee on the Judiciary will only designate memorials from state legislatures (and not petitions from individuals or other parties), as it is only state legislatures that are contemplated under Article V of the Constitution.

In submitting each memorial to the Clerk, the chair of the Committee on the Judiciary will include a transmission letter that indicates it has been designated under this subsection. The Clerk will make publicly available the memorial and the transmission letter from the chair. Ancillary documentation from the state or other parties is not expected to be publicized.

***War Powers Resolution.*** Subsection (o) continues a separate order from the 117th Congress expressly providing that any motion to discharge a measure introduced pursuant to section 6 or section 7 of the War Powers Resolution is not subject to a motion to table.

***Further Expenses for Resolving Contested Elections.*** Subsection (p) authorizes such sums as may be necessary for the Committee on House Administration to resolve contested elections. Funds shall be available for expenses incurred between January 3, 2023, and January 3, 2024. Amounts made available

under this subsection shall be expended in accordance with regulations prescribed by the Committee on House Administration.

***Ethics Reform.*** Subsection (q) directs the Speaker to establish a bipartisan task force to conduct a comprehensive review of House ethics rules and regulations. The task force is directed to submit a report to the Speaker, Majority Leader, Minority Leader, and chair and ranking minority members of the Committees on Ethics and Rules.

***Exercise Facilities for Former Members.*** Subsection (r) continues the prohibition on access to any exercise facility that is made available exclusively to Members, Delegates, the Resident Commissioner, former Members, former Delegates, former Resident Commissioners, officers, and former officers of the House and their spouses to any former Member, former Delegate, former Resident Commissioner, former officer, or spouse who is a lobbyist registered under the Lobbying Disclosure Act of 1995 or any successor statute, or who is an agent of a foreign principal as defined in clause 5 of rule XXV.

***Non-Disclosure Agreements.*** Subsection (s) continues a separate order from the 117th Congress providing that non-disclosure agreements required by offices as a condition of employment for paid or unpaid staff or contractors cannot require notice or approval for employees to communicate with the Committee on Ethics, the Office of Congressional Workplace Rights, or any other office or entity designated by the Committee on House Administration; and that non-disclosure agreements must also provide clear guidance to that effect.

***Mandatory Anti-Harassment and Anti-Discrimination Policies for House Offices.*** Subsection (t) continues a separate order from the 117th Congress requiring the Committee on House Administration to issue regulations to carry out the subsection by April 1, 2023. Additionally, each House office is directed to adopt an anti-harassment and anti-discrimination policy.

***Displaying Statement of Rights and Protections Provided to House Employees.*** Subsection (u) continues from the 117th Congress a requirement that the Committee on House Administration issue regulations requiring each House office to prominently display a statement of the rights and protections provided to House employees under the Congressional Accountability Act of 1995, including procedures available to employees for responding to and adjudicating allegations of workplace rights violations.

***Requiring Members to Pay for Discrimination Settlements.*** Subsection (v) continues from the 117th Congress a requirement for a Member, Delegate, or the Resident Commissioner to reimburse the Treasury for any settlement of a complaint related to a claim alleging a violation by the Member, Delegate, or the Resident



Commissioner of sections 201(a), 206(a), or 208 of the Congressional Accountability Act of 1995, which cover discrimination based on race, color, religion, sex, national origin, age, disability, or an employee's service in the uniformed services, and retaliation for claims alleging such discrimination.

***Congressional Member Organization Transparency Reform.*** Subsection (w) modifies Congressional Member Organization Transparency reform to allow participating Members to enter into agreements with eligible Congressional Member Organizations for the purpose of payment of salaries and expenses. The subsection requires that for an organization to be eligible during the 118th Congress, the organization must register with the Committee on House Administration, designate a single Member to be responsible for the administration of the organization, have at least three employees assigned to perform work for the organization, and had at least 30 Members during the 117th Congress using a portion of their Members' Representational Allowance to pay for the salaries and expenses of the organization.

***Determination with Respect to Placement of Measure on Consensus Calendar.*** Subsection (x) directs the Majority Leader to submit a statement to the Congressional Record if a measure does not comply with his legislative protocols within two legislative days of a measure being placed on the Consensus Calendar.

***Transfer of Certain Committee Records to the Committee on House Administration.*** Subsection (y) directs those committees designated by section 7(b)(1) of House Resolution 503, 117th Congress, and the Archivist of the United States to transfer any records related to the committee established pursuant to House Resolution 503, 117th Congress, to the Committee on House Administration not later than January 17, 2023.

***Procedures During District Work Periods.*** Subsection (z) provides that during district work periods throughout the 118th Congress, the Journal shall be approved; the Chair may declare the House adjourned to meet within Constitutional limits; the Speaker may appoint Members to perform the duties of the Chair; and each day during this period shall not constitute a day for purposes of section 7 of the War Powers Resolution, clause 7 of rule XIII (resolutions of inquiry), clause 7(c)(1) of rule XXII (motions to instruct conferees), and clause 7 of XV (Consensus Calendar).

In carrying out this subsection, it is expected that the designation of a district work period will be satisfied by a letter submitted by the Speaker that is laid before the House.

***Reduction of Unauthorized Spending.*** Subsection (aa) establishes a new point of order against an unauthorized appropriation in a general appropriation bill

in excess of the most recent enacted level. If such a point of order is sustained, an amendment shall be considered to have been adopted reducing the amount of the appropriation to the most recent enacted level. In order to entertain a point of order under this subsection, the level of the most recently enacted appropriation must be submitted to the Chair.

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

#### ***Section 4. Committees, Commissions, and House Offices.***

***Select Subcommittee on the Coronavirus Pandemic.*** Subsection (a) establishes the Select Subcommittee on the Coronavirus Pandemic of the Committee on Oversight and Accountability to investigate, make findings, and provide legislative recommendations on the origins of the Coronavirus pandemic, including the Federal Government's funding of gain-of-function research, the use of taxpayer funds and relief programs to address the pandemic, the effectiveness of laws and regulations to address the Coronavirus pandemic and prepare for future pandemics, the development of vaccines and treatments and the implementation of vaccine mandates for federal employees and the military, the economic impact of the pandemic, including state and local government responses, the impact of school closures on American children, Executive Branch decisions and communications related to the pandemic, the protection of whistleblowers who provided information about improper activities, and inter-government cooperation regarding oversight of the preparedness for and response to the pandemic.

The Speaker is directed to appoint up to 12 Members, Delegates, or the Resident Commissioner to serve on the Select Subcommittee and to designate one of its members to serve as the chair. Not more than five of the members may be appointed on the recommendation of the Minority Leader. The chair and ranking minority member of the Committee on Oversight and Accountability shall be ex officio members of the Select Subcommittee.

Rule XI and the rules of the Committee on Oversight and Accountability shall apply to the Select Subcommittee, except that the chair, after consultation with the ranking minority member, may allow members to question witnesses for more than five minutes and may allow staff to question witnesses.

The Select Subcommittee may not authorize and issue subpoenas, but the Committee on Oversight and Accountability may authorize and issue subpoenas to be returned at the Select Subcommittee.

The Select Subcommittee may not markup legislation.

The Select Subcommittee must issue a final report of its findings to the House by January 2, 2025 and will sunset 30 days after filing of the report.

***House Democracy Partnership.*** Subsection (b) reauthorizes the House Democracy Partnership.

***Tom Lantos Human Rights Commission.*** Subsection (c) reauthorizes the Tom Lantos Human Rights Commission.

***Office of Congressional Ethics.*** Subsection (d) reauthorizes the Office of Congressional Ethics (OCE), reimposes the two-term limit (a maximum of eight years) for board members, and requires the board to, within 30 calendar days, appoint OCE staff and set their compensation.

### ***Section 5. Orders of Business***

Subsection (a) provides for the consideration of a bill to provide for the development of a plan to increase oil and gas production under oil and gas leases of Federal lands under the jurisdiction of the Secretary of Agriculture, the Secretary of Energy, the Secretary of the Interior, and the Secretary of Defense in conjunction with a drawdown of petroleum reserves from the Strategic Petroleum Reserve under a modified open rule. It provides one hour of debate equally divided and controlled by the Majority and Minority Leaders or their respective designees. After debate, the bill shall be considered for amendment under the five-minute rule. Only amendments that have been pre-printed in the Congressional Record may be offered for consideration. Twenty pro forma amendments may be offered for the purpose of debate, equally divided and controlled by the Majority Leader and the Minority Leader or their respective designees. At the conclusion of consideration of the bill for amendment, one motion to recommit is in order.

Subsection (b) provides for the separate consideration of seven bills under a closed rule with one hour of debate equally divided and controlled by the Majority Leader and the Minority Leader or their respective designees and one motion to recommit.

Subsection (c) provides the list of bills referred to in subsection (b), which include:

- A bill to rescind certain balances made available to the Internal Revenue Service.
- A bill to authorize the Secretary of Homeland Security to suspend the entry of aliens, and for other purposes.
- A bill to prohibit the Secretary of Energy from sending petroleum products from the Strategic Petroleum Reserve to China, and for other purposes.

- A bill to amend the Omnibus Crime Control and Safe Streets Act to direct district attorney and prosecutors offices to report to the Attorney General, and for other purposes.
- A bill to require the national instant criminal background check system to notify U.S. Immigration and Customs Enforcement and the relevant State and local law enforcement agencies whenever the information available to the system indicates that a person illegally or unlawfully in the United States may be attempting to receive a firearm.
- A bill to prohibit taxpayer funded abortions.
- A bill to amend title 18, United States Code, to prohibit a health care practitioner from failing to exercise the proper degree of care in the case of a child who survives an abortion or attempted abortion.

Subsection (d) provides for the separate consideration of two resolutions under a closed rule with one hour of debate equally divided and controlled by the Majority Leader and the Minority Leader or their respective designees.

Subsection (e) provides the list of resolutions referred to in subsection (d), which include:

- A resolution establishing the Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party.
- A resolution establishing a Select Subcommittee on the Weaponization of the Federal Government as a select investigative subcommittee of the Committee on the Judiciary.

Subsection (f) provides for the consideration of a concurrent resolution expressing support for the Nation's law enforcement agencies and condemning any efforts to defund or dismantle law enforcement agencies under a closed rule with one hour of debate equally divided and controlled by the Majority Leader and the Minority Leader or their respective designees.

Subsection (g) provides for the consideration of a concurrent resolution expressing the sense of Congress condemning the recent attacks on prolife facilities, groups, and churches under a closed rule with one hour of debate equally divided and controlled by the Majority Leader and the Minority Leader or their respective designees.

Subsection (h) allows the Speaker to recognize a member for the reading of the Constitution on any legislative day through February 28, 2023.