

## **H. Res. 5**

### ***In the House of Representatives, U.S.,***

*January 4, 2005.*

*Resolved,* That the Rules of the House of Representatives of the One Hundred Eighth Congress, including applicable provisions of law or concurrent resolution that constituted rules of the House at the end of the One Hundred Eighth Congress, are adopted as the Rules of the House of Representatives of the One Hundred Ninth Congress, with amendments to the standing rules as provided in section 2 and with other orders as provided in section 3.

#### **SEC. 2. CHANGES IN STANDING RULES.**

(a) COMMITTEE ON HOMELAND SECURITY.—

(1) In clause 1 of rule X, insert after paragraph (h) the following new paragraph (and redesignate the succeeding paragraphs accordingly):

“(i) **Committee on Homeland Security.**

“(1) Overall homeland security policy.

“(2) Organization and administration of the Department of Homeland Security.

“(3) Functions of the Department of Homeland Security relating to the following:

“(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.

“(F) Transportation security.”.

(2) In clause 1(l) (as redesignated) of rule X—

(A) insert after subparagraph (6) the following new subparagraph (and redesignate the succeeding subparagraphs accordingly):

“(7) Criminal law enforcement.”; and

(B) amend subparagraph (9) (as redesignated) to read as follows:

“(9) Immigration policy and non-border enforcement.”.

(3) In clause 1(r) (as redesignated) of rule X—

(A) in subparagraph (18) insert before the period “(except the Transportation Security Administration)”; and

(B) in subparagraph (20) after “automobile safety” insert “and transportation security functions of the Department of Homeland Security”.

(4) In clause 1(t)(1) (as redesignated) of rule X, strike “Customs” and insert “Customs revenue”.

(5) In clause 3 of rule X, insert after paragraph (e) the following new paragraph (and redesignate the succeeding paragraphs accordingly):

“(f) The Committee on Homeland Security shall review and study on a continuing basis all Government activities relating to homeland security, including the interaction of all departments and agencies with the Department of Homeland Security.”.

(6) In clause 10 of rule I, strike “1(i)(1)” and insert “1(j)(1)”.

(7) In clause 1(j)(4) (as redesignated) of rule X, strike “(q)(11)” and insert “(r)(11)”.

(8) In clause 1(j)(5) (as redesignated) of rule X, strike “(q)(11)” and insert “(r)(11)”.

(9) In clause 9(f) of rule X, strike “1(i)(1)” and insert “1(j)(1)”.

(10) In clause 1(c) of rule XI, strike “1(i)(1)” and insert “1(j)(1)”.

(11) In clause 4(a)(2)(B) of rule XIII, strike “1(i)(1)” and insert “1(j)(1)”.

(12) In clause 5(a)(3) of rule XIII, strike “1(i)(1)” and insert “1(j)(1)”.

(13) In clause 10 of rule XXIV, strike “1(i)(1)” and insert “1(j)(1)”.

(b) COMMITTEE OVERSIGHT RESPONSIBILITIES.—In clause 2(d)(1) of rule X—

(1) in subdivision (C), strike “and”;

(2) in subdivision (D), strike the period and insert “; and”; and

(3) add at the end the following new subdivision:

“(E) have a view toward insuring against duplication of Federal programs.”.

(c) MEMBERSHIP OF COMMITTEES.—

(1) In clause 5(a)(2) of rule X—

(A) amend subdivisions (A)(ii) and (A)(iii) to read as follows:

“(ii) one Member designated by the elected leadership of the majority party; and

“(iii) one Member designated by the elected leadership of the minority party.”; and

(B) amend subdivision (B) by striking “one from the elected leadership of a party” and inserting “one described in subdivision (A)(ii) or (A)(iii)”.

(2) In clause 5(c)(2) of rule X, strike “A member” and insert “Except in the case of the Committee on Rules, a member”.

(d) COMMITTEE AUTHORITIES.—

(1) In clause 1 of rule XI, amend paragraph (a) to read as follows:

“(a)(1)(A) The Rules of the House are the rules of its committees and subcommittees so far as applicable.

“(B) Each subcommittee is a part of its committee and is subject to the authority and direction of that committee and to its rules, so far as applicable.

“(2)(A) In a committee or subcommittee—

“(i) a motion to recess from day to day, or to recess subject to the call of the Chair (within 24 hours), shall be privileged; and

“(ii) a motion to dispense with the first reading (in full) of a bill or resolution shall be privileged if printed copies are available.

“(B) A motion accorded privilege under this subparagraph shall be decided without debate.”.

(2) In clause 2(a) of rule XI, add at the end the following new subparagraph:

“(3) A committee may adopt a rule providing that the chairman be directed to offer a motion under clause 1 of rule XXII whenever the chairman considers it appropriate.”.

(e) MOTIONS TO SUSPEND THE RULES.—In clause 1 of rule XV—

(1) amend the caption to read: “***Suspensions***”;  
and

(2) in paragraph (a) amend the second sentence to read as follows: “The Speaker may not entertain a motion that the House suspend the rules except on Mondays, Tuesdays, and Wednesdays and during the last six days of a session of Congress.”.

(f) REPEAL OF CORRECTIONS CALENDAR.—

(1) In rule XV, strike clause 6 (and redesignate the succeeding clause accordingly).

(2) In clause 1 of rule XIII, strike paragraph (b) (and redesignate the succeeding paragraph accordingly).

(3) In clause 4(a)(2) of rule XIII, strike subdivision (C) (and redesignate succeeding subdivisions accordingly).

(4) In clause 6(c)(1) of rule XIII, strike “clause 7” and insert “clause 6”.

(5) In clause 2(a) of rule XVIII, strike “clause 7” and insert “clause 6”.

(6) In clause 8(a)(2) of rule XX—

(A) strike subdivisions (E) and (G) (and redesignate succeeding subdivisions accordingly); and

(B) amend subdivision (E) (as redesignated) by striking “(D), or (E)” and inserting “or (D)”.

(g) REFERENCES IN DEBATE TO THE SENATE.—In clause 1 of rule XVII, amend paragraph (b) to read as follows:

“(b) Remarks in debate (which may include references to the Senate or its Members) shall be confined to the question under debate, avoiding personality.”.

(h) PROVISIONAL QUORUM.—In clause 5 of rule XX, redesignate paragraph (c) as paragraph (d) and insert after paragraph (b) the following new paragraph:

“(c)(1) If the House should be without a quorum due to catastrophic circumstances, then—

“(A) until there appear in the House a sufficient number of Representatives to constitute a quorum among the whole number of the House, a quorum in the House shall be determined based upon the provisional number of the House; and

“(B) the provisional number of the House, as of the close of the call of the House described in

subparagraph (3)(C), shall be the number of Representatives responding to that call of the House.

“(2) If a Representative counted in determining the provisional number of the House thereafter ceases to be a Representative, or if a Representative not counted in determining the provisional number of the House thereafter appears in the House, the provisional number of the House shall be adjusted accordingly.

“(3) For the purposes of subparagraph (1), the House shall be considered to be without a quorum due to catastrophic circumstances if, after a motion under clause 5(a) of rule XX has been disposed of and without intervening adjournment, each of the following occurs in the stated sequence:

“(A) A call of the House (or a series of calls of the House) is closed after aggregating a period in excess of 72 hours (excluding time the House is in recess) without producing a quorum.

“(B) The Speaker—

“(i) with the Majority Leader and the Minority Leader, receives from the Sergeant-at-Arms (or his designee) a catastrophic quorum failure report, as described in subparagraph (4);

“(ii) consults with the Majority Leader and the Minority Leader on the content of that report; and

“(iii) announces the content of that report to the House.

“(C) A further call of the House (or a series of calls of the House) is closed after aggregating a period in excess of 24 hours (excluding time the House is in recess) without producing a quorum.

“(4)(A) For purposes of subparagraph (3), a catastrophic quorum failure report is 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 Representatives incapable of attending the proceedings of the House.

“(B) Such report shall specify the following:

“(i) The number of vacancies in the House and the names of former Representatives whose seats are vacant.

“(ii) The names of Representatives considered incapacitated.

“(iii) The names of Representatives not incapacitated but otherwise incapable of attending the proceedings of the House.

“(iv) The names of Representatives unaccounted for.

“(C) Such report shall be prepared on the basis of the most authoritative information available after consultation with the Attending Physician to the Congress and the Clerk (or their respective designees) and pertinent public health and law enforcement officials.

“(D) Such report shall be updated every legislative day for the duration of any proceedings under or in reliance on this paragraph. The Speaker shall make such updates available to the House.

“(5) An announcement by the Speaker under subparagraph (3)(B)(iii) shall not be subject to appeal.

“(6) Subparagraph (1) does not apply to a proposal to create a vacancy in the representation from any State in respect of a Representative not incapacitated but otherwise incapable of attending the proceedings of the House.

“(7) For purposes of this paragraph:

“(A) The term ‘provisional number of the House’ means the number of Representatives upon which a quorum will be computed in the House until Representatives sufficient in number to constitute a quorum among the whole number of the House appear in the House.

“(B) The term ‘whole number of the House’ means the number of Representatives chosen, sworn, and living whose membership in the House has not been terminated by resignation or by the action of the House.”.

(i) POSTPONEMENT OF CERTAIN VOTES.—In clause 8(a)(2) of rule XX, add at the end the following new subdivisions:

“(G) The question of agreeing to a motion to reconsider or the question of agreeing to a motion to lay on the table a motion to reconsider.

“(H) The question of agreeing to an amendment reported from the Committee of the Whole.”.

(j) OFFICIAL CONDUCT.—

(1) In rule XXIV, amend clause 1 to read as follows:

“1. (a) Except as provided in paragraph (b), a Member, Delegate, or Resident Commissioner may not maintain, or have maintained for his use, an unofficial office account. Funds may not be paid into an unofficial office account.

“(b)(1) Except as provided in subparagraph (2), a Member, Delegate, or Resident Commission may defray official expenses with funds of his principal campaign

committee under the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

“(2) The funds specified in subparagraph (1) may not be used to defray official expenses for mail or other communications, compensation for services, office space, furniture, or equipment, and any associated information technology services (excluding handheld communications devices).”.

(2) In clause 6 of rule XXIII, amend paragraph (c) to read as follows:

“(c) except as provided in clause 1(b) of rule XXIV, may not expend funds from his campaign account that are not attributable to bona fide campaign or political purposes.”.

(3) In clause 8 of rule XXIV, strike “60 days” and insert “90 days”.

(4) In clause 5(b)(4)(D) of rule XXV, strike “either the spouse or a child of the Member, Delegate, Resident Commissioner, officer, or employee” and insert “a relative of the Member, Delegate, Resident Commissioner, officer, or employee”.

(k) PROCEDURES OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT.—

(1) DUE PROCESS.—In clause 3 of rule XI—

(A) in paragraph (k), add at the end the following new subparagraphs:

“(3) The committee shall adopt rules providing that before a letter described in subparagraph (1)(A) is issued, the committee shall transmit written notification to the Member, officer, or employee of the House against whom the complaint is made of the right of such person to review the contents of the letter. Such person shall have seven calendar days after receipt of such notification in which either to accept the letter (in which case the committee may issue the letter), to contest the letter by submitting views in writing (which shall be appended to the letter when issued and made part of the record), or to contest the letter by requesting in writing that the committee establish an adjudicatory subcommittee as if the letter constituted an adopted statement of alleged violation (in which case the committee shall establish an adjudicatory subcommittee and shall not issue the letter).

“(4) The committee shall adopt rules providing that, if a letter described in subparagraph (1)(A) references the official conduct of

a Member other than one against whom the complaint is made, the committee shall transmit written notification to such Member of the right of such Member to review the contents of the letter. Such Member shall have seven calendar days after receipt of notification in which either to submit views in writing (which shall be made part of the record and appended to the letter, if issued), or to request in writing that the committee establish an adjudicatory subcommittee as if the letter constituted an adopted statement of alleged violation (in which case the committee shall establish an adjudicatory subcommittee).”;

(B) in paragraph (p), insert after subparagraph (5) the following new subparagraphs (and redesignate succeeding subparagraphs accordingly):

“(6) whenever notification of the committee’s decision either to dismiss a complaint or to create an investigative subcommittee is transmitted to a respondent, such respondent shall have seven calendar days after receipt of such notification in which to submit views in writing, which shall be appended to the notification and made part of the record;

“(7) whenever notification of the committee’s decision either to dismiss a complaint or to create an investigative subcommittee is transmitted to a respondent and the notification references the official conduct of a Member other than the respondent, the committee also shall send the notification to such Member, who shall have seven calendar days after receipt of such notification in which either to submit views in writing (which shall be appended to the notification and made part of the record), or to request in writing that the committee establish an adjudicatory subcommittee as if the notification constituted an adopted statement of alleged violation (in which case the committee shall establish an adjudicatory subcommittee);”;

(C) in paragraph (q)—

(i) amend subparagraph (1) to read as follows:

“(1) Whenever an investigative subcommittee does not adopt a statement of alleged violation—

“(A) it shall transmit a report to that effect to the respondent, who shall have

seven calendar days after receipt of such report to submit views in writing, which shall be appended to the report and made part of the record;

“(B) it shall thereafter transmit the report (together with views received under subparagraph (2), if any) to the committee; and

“(C) the committee may by an affirmative vote of a majority of its members transmit such report to the House;” and

(ii) insert after subparagraph (1) the following new subparagraph (and redesignate succeeding subparagraphs accordingly):

“(2) whenever an investigative subcommittee does not adopt a statement of alleged violation and prepares a report to that effect, and such report alleges that a Member (other than one who is the subject of the statement of alleged violation) has or may have violated the Code of Official Conduct—

“(A) the subcommittee shall transmit a copy of the report to such Member; and

“(B) such Member shall have seven calendar days after receipt of the report (after which the report shall be transmitted to the committee and handled in the manner prescribed in subparagraph (1)) to—

“(i) submit views in writing, which shall be appended to the report and made part of the record; or

“(ii) request in writing that the committee establish an adjudicatory subcommittee as if the allegations in the report constituted an adopted statement of alleged violation, in which case the committee shall establish an adjudicatory subcommittee;”.

(2) DISMISSAL OF COMPLAINTS.—In clause 3 of rule XI—

(A) in paragraph (b), strike the undesignated text following subparagraph (2)(B);

(B) in paragraph (k)(1)(B), insert after “subcommittee” the following: “(unless, at any time during the applicable periods of time under this subparagraph, either the chairman or ranking minority member has placed on the agenda the issue of

whether to establish an investigative subcommittee, in which case an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee)”; and

(C) in paragraph (k)(2), strike “then they shall establish” and all that follows and insert “and an investigative subcommittee has not been established, then such complaint shall be dismissed.”.

(3) CHOICE OF COUNSEL BY RESPONDENTS AND WITNESSES.—In clause 3(p) of rule XI—

(A) amend the caption to read “***Due process rights of respondents and witnesses***”;

(B) amend subparagraph 9 (as redesignated) by striking “and” after the semicolon;

(C) amend subparagraph 10 (as redesignated) by striking the period and inserting a semicolon; and

(D) add at the end the following new subparagraphs:

“(11) a respondent shall be informed of the right to be represented by counsel of his or her choice (even if such counsel represents another respondent or a witness), to be provided at his or her own expense; and

“(12) a witness shall be afforded a reasonable period of time, as determined by the committee or subcommittee, to prepare for an appearance before an investigative subcommittee or for an adjudicatory hearing and to obtain counsel of his or her choice (even if such counsel represents a respondent or another witness).”.

(I) TECHNICAL AND CODIFYING CHANGES.—

(1) In clause 1(s) (as redesignated) of rule X—

(A) in subparagraph (6), strike “servicemen” and insert “servicemembers”; and

(B) in subparagraph (7), strike “Soldiers’ and sailors’” and insert “Servicemembers”.

(2) In clause 5(b)(2)(B)(iii) of rule X strike “must” and insert “may”.

(3) In clause 3(a)(2) of rule XIII, after “clause 4” insert “or clause 6”.

(4) In clause 6 (as redesignated) of rule XV—

(A) in paragraph (e) strike “rule” and insert “clause”; and

(B) in paragraph (f) strike “for a recess” and insert “that the Speaker be authorized to declare a recess”.

(5) In clause 5(b) of rule XX, strike “a majority of those present” and insert “a majority described in paragraph (a)”.

(6) In clause 5(d) (as redesignated) of rule XX, strike “or removal” and insert “removal, or swearing”.

(7) In the second sentence of clause 2(f) of rule XXI, strike “is not subject” and insert “are not subject”.

(8) In clause 7(c) of rule XXII, amend subparagraph (3) to read as follows:

“(3) During the last six days of a session of Congress, a motion under subparagraph (1) shall be privileged after a conference committee has been appointed for 36 hours without making a report and the motion meets the notice requirement in subparagraph (1).”.

### **SEC. 3. SEPARATE ORDERS.**

(a) BUDGET MATTERS.—

(1) During the One Hundred Ninth Congress, references in section 306 of the Congressional Budget Act of 1974 to a resolution shall be construed in the House of Representatives as references to a joint resolution.

(2) During the One Hundred Ninth Congress, in the case of a reported bill or joint resolution considered pursuant to a special order of business, a point of order

under section 303 of the Congressional Budget Act of 1974 shall be determined on the basis of the text made in order as an original bill or joint resolution for the purpose of amendment or to the text on which the previous question is ordered directly to passage, as the case may be.

(3) During the One Hundred Ninth Congress, a provision in a bill or joint resolution, or in an amendment thereto or a conference report thereon, that establishes prospectively for a Federal office or position a specified or minimum level of compensation to be funded by annual discretionary appropriations shall not be considered as providing new entitlement authority under section 401 of the Congressional Budget Act of 1974.

(4)(A) During the One Hundred Ninth Congress, until a concurrent resolution on the budget for fiscal year 2005 is adopted by the Congress, the provisions of the conference report to accompany Senate Concurrent Resolution 95 of the One Hundred Eighth Congress shall have force and effect in the House as though the One Hundred Ninth Congress has adopted such conference report.

(B) The allocations of spending authority included in the conference report, as adjusted during the 108th Congress, shall be considered the allocations con-

templated by section 302(a) of the Congressional Budget Act of 1974.

(b) CERTAIN SUBCOMMITTEES.—Notwithstanding clause 5(d) of rule X, during the One Hundred Ninth Congress—

(1) the Committee on Armed Services may have not more than six subcommittees;

(2) the Committee on International Relations may have not more than seven subcommittees; and

(3) the Committee on Transportation and Infrastructure may have not more than six subcommittees.

(c) NUMBERING OF BILLS.—In the One Hundred Ninth 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.

Attest:

*Clerk.*