



Legislative Bulletin..... January 6, 2015

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H. Res. 5 — Adopting rules for the One Hundred Fourteenth Congress (McCarthy, R-CA)

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(McCarthy, R-CA)**

Order of Business: [H. Res. 5](#) is expected to be considered by the House on January 6, 2015 (the first meeting of the 114th Congress).

Summary: H. Res. 5 provides for the adoption of the rules of the House of Representatives for the 114th Congress.

Except as changed by the resolution, the rules of the 113th Congress are carried forward for the 114th Congress.

Changes to the Standing Rules

Dynamic Scoring for Major Legislation: The resolution requires the Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT) to incorporate the macroeconomic effects of major legislation into the budgetary scores of major legislation. This is sometimes referred to as dynamic scoring.

The CBO and the JCT would be required “to the extent possible, incorporate the budgetary effects of changes in economic output, employment, capitol stock, and other macroeconomic variables resulting from such legislation.”

Major legislation is defined as legislation that causes an increase or decrease in revenues, outlays, or deficits of more than .25 percent of gross domestic product (GDP) in any year in the budget window, as compared to the baseline. In 2014, this would amount to \$43 billion. Appropriations bills would not be considered major legislation. The Chairman of the House Budget Committee (and the Chairman of Ways and Means Committee for tax legislation) would be able to designate legislation as major. According to the House Budget Committee, only three bills in the 113th Congress would have met the major legislation threshold: [H.R. 4](#), the Jobs for America Act; [H.R. 4718](#), the Permanent Bonus Depreciation Act; and H.R. 5771, the Tax Increase Prevention Act.

The resolution would require the CBO and JCT to provide a long-term assessment of the budgetary effects of major legislation for the 20 year period after the normal 10 year budget window (years 11-30). This reform could help provide transparency to legislation that is designed to “game” the normal budget window.

The resolution would require disclosure of the assumptions and sources of data used by the CBO and JCT in preparing the macroeconomic estimate.

The [Wall Street Journal](#) has editorialized in support of the rule change. The Heritage Foundation has released a backgrounder: [Accurate Budget Scores Require Dynamic Analysis](#).

On April 4, 2014, the House passed [H.R. 1874](#), the Pro-Growth Budgeting Act, by a [224 – 182](#) vote. This legislation would have required the CBO to produce a supplemental macroeconomic impact analysis for major legislation. The major difference between H.R. 1874 and the proposal contained in this resolution is that the current proposal would require CBO and JCT to incorporate the macroeconomic effects into its budgetary analysis instead of a separate, supplemental analysis.

For additional background on this issue, see the [House Budget Committee](#).

Conference Committee Deadlines: The resolution would increase the amount of time given to conference committees before unlimited motions to instruct House managers to a conference committee may be offered to 45 calendar days and 25 legislative days after conferees were appointed (currently 20 calendar days and 10 legislative days).

Eliminating Point of Order Against Considering Appropriations Bills Without Printed Hearings: The resolution would eliminate the Rule XIII, clause 4(c) point of order that prohibits consideration of an appropriations bill until the printed hearings of the Committee on the bill have been made available for three calendar days. This provision does not affect the three-day rule for consideration of measures on the House floor.

Jurisdictional Changes: The resolution would include “criminalization” under the jurisdiction of the House Judiciary Committee (as [requested](#) by Judiciary Chairman Goodlatte), and measures relating to “direct loan obligations and new loan guarantee commitments” currently under the jurisdiction of the House Appropriations Committee. The resolution would also place policy direction of the Chief Administrative Officer of the House under the jurisdiction of the Committee on House Administration.

Increase Membership on Permanent Select Committee on Intelligence: The resolution would increase the size of the Permanent Select Committee on Intelligence from 20 members to 22 members.

Committee Activity Reports: The resolution would decrease the requirement to prepare and file committee activity reports to once per Congress. The rules-adoption resolution for the [113th Congress](#) previously decreased this requirement to twice per Congress.

Bipartisan Legal Advisory Committee (BLAG): The resolution would clarify that the BLAG “speaks for, and articulates the institutional position of, the House in all litigation matters.”

The BLAG is a five Member panel consisting of the Speaker of the House, Majority Leader, Majority Whip, Minority Leader, and Minority Whip. The BLAG acts by a majority vote of the group. The House approved [H. Res. 676](#), which provided the Speaker the authority to initiate a lawsuit through the BLAG against the Executive Branch for failing to implement Obamacare’s employer mandate as required by law.

Amendment Added - Committee Reports Showing Changes to Existing Law: The resolution includes the [Amash/Posey amendment](#) that would amend the [Ramseyer Rule](#) to require that Committee Reports include the entire text of statute that is proposed to be amended or repealed by legislation. This reform was [included](#) in the most recent RSC budget.

Amendment Added - Ethics Training for New Members: The resolution includes the [Rigell Amendment](#) that would require new members of the House to receive ethics training no later than 60 days after beginning service in the House. This mirrors what is currently required by House employees.

Separate Orders That Apply in the 114th Congress

Continuing Litigation Authority: The resolution would continue the authority of the House to participate in litigation to enforce a subpoena against Attorney General Eric Holder related to the “Fast and Furious” scandal as well as litigation against the Secretary of Health and Human Services regarding the failure to implement Obamacare as required by law.

Article V Constitutional Convention Memorials: The resolution would require the Clerk to make any memorial from a state calling for an [Article V Constitutional Convention](#) publically available.

Independent Medicare Advisory Board (IPAB): The resolution states that the [provision](#) in Obamacare that would otherwise limit consideration of recommendations from the IPAB (or to repeal IPAB) shall not apply in the 114th Congress. The Constitution grants each house of Congress the power to set its own rules for consideration of legislation.

Spending Reduction Accounts: The resolution would continue the spending reduction accounts provided in appropriations bills, which allow Members to cut spending by offering amendments to transfer funds provided by the bill to a spending reduction account that prohibit those funds from being allocated elsewhere during consideration of the bill.

However, the provision in the resolution does not apply the savings in the spending reduction account to the Appropriation Committee’s 302(a) allocation, allowing those savings to be redirected by the Committee to spending in subsequent appropriations bills or added back in for the final version of the bill.

Budget Enforcement: The resolution would provide that, pending the adoption of a budget resolution, the allocations, aggregates, and levels established by the Budget Committee Chairman in the 113th Congress as well as the recommended long term budgeting levels, reserve funds, and budget enforcement from the House-passed FY 2014 budget resolution shall have force and effect. These provisions are necessary for budgetary enforcement until the adoption of a budget resolution.

The Chairman of the Budget Committee would be given the authority to revise the allocations, aggregates, and levels for legislation concerning the Highway Trust Fund (provided such legislation does not increase the deficit) and to take into account an updated CBO baseline.

The resolution would establish a point of order that prohibits the Committee of the Whole from rising to report a bill that exceeds a 302(b) allocation.

Number of Regulations Promulgated: The resolution would require that committee reports include an estimate of the number of directed rule-makings the accompanying legislation promulgates.

Welfare Spending in Budget Resolutions: The resolution would require that all budget resolutions before the House, including substitute amendments, include an analysis of the historical and projected growth of means-tested direct spending and non-means-tested direct spending. This provision will allow Members of Congress and the public to have an accurate picture of the true cost of welfare spending and begin to engage in a serious debate on real welfare reforms.

Duplicative Programs: The resolution would allow the chair of any committee to request that the Government Accountability Office (GAO) analyze legislation referred to that committee to assess whether it creates or reauthorizes duplicative or overlapping federal programs, which must be disclosed in the committee's report, acknowledging that the legislation referred to the committee is potentially growing government with duplicative programs.

Staff Deposition Authority: The resolution would provide for deposition authority by a member or committee counsel for the Committees on Energy and Commerce, Financial Services, Science, Space, and Technology, and Ways and Means during the first session of the 114th Congress.

Prohibition on House Gym for Lobbyists: The resolution would continue the prohibition on any former Members, former officers, or spouses who are registered lobbyists from accessing House exercise facilities.

Benghazi Committee: The resolution would continue the authority of the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi.

Other Authorizations: The resolution would continue the authority of the House Democracy Partnership, the Tom Lantos Human Rights Commission, and the Office of Congressional Ethics.

Reading of the Constitution: The resolution would authorize the Speaker to recognize a Member for the reading of the Constitution on any day through January 16, 2015.

Amendment Added - Parallel Citations and Digital Transparency: The resolution includes the [Amash amendment](#) that would require bills that propose to repeal or amend existing law that is not in a codified title of the U.S. Code to include parallel citations for those laws to the extent possible. The amendment would further promote efforts to make records of the House published in machine-readable formats to the extent possible.

Amendment Added - Congressional Member Organization Reform: The resolution includes the [Scalise amendment](#) that would reform the way that large Congressional Member Organizations (including the RSC) pay their staff. Specifically, the amendment would allow Member offices to transfer Members Representational Account (MRA) funds into a caucus account for the purpose of paying and supporting caucus staff. This would be limited to officially registered caucuses led by a single Chairman with at least 30 Members and 3 staff. Under current rules, caucus staff must be hired and subsequently fired by as many as six offices each month. This causes a significant administrative burden for both Member offices and House administrative staff, leading to disruptions of pay and benefits for staff.

Amendment Added - Social Security Solvency: The resolution includes the [Johnson amendment](#) that would establish a point of order against legislation that reduces the 75-year actuarial balance of the Social Security Old Age and Survivors Insurance Trust Fund by .01 percent or more unless that legislation would improve the 75-year actuarial balance of the combined Social Security Old Age and Survivors Insurance Trust Fund and Disability Insurance Trust Fund. According to the Social Security Trustees, the Disability Trust Fund will be depleted in 2016, while the Old Age and Survivors Insurance Trust Fund will be depleted in 2033. This amendment would prohibit consideration of legislation that simply bails out the Disability Trust fund by raiding the retirement Trust Fund, the Obama Administration's preferred option.

Amendments Added - Ethics: The resolution includes a [Pearce amendment](#) that reaffirm that a person subject to a review by either the Committee on Ethics or the Office of Congressional Ethics has a right to be represented by counsel, and would establish that invoking such right is not to be held negatively against them. The resolution also includes a [Pearce amendment](#) that would prohibit the House Committee on Ethics and the Office of Congressional Ethics from taking action that would deny a person any rights or protections provided under the Constitution of the United States of America.

Additional Background: The Rules of the House of Representatives for the 113th Congress can be found [here](#).

The text of the rules-adoption resolution for the 113th Congress, as [passed](#) by the House on January 3, 2013, can be found [here](#).

Legislative Action: H. Res. 5 will be officially introduced when the 114th Congress convenes.

The Republican Conference amended and approved H. Res. 5 on January 5, 2015, at the meeting of the Republican Conference.

The House Rules Committee held a Members' Day Hearing on Proposed Rules Changes for the 114th Congress on [September 17, 2014](#).

Constitutional Authority: House Rules do not require a statement of constitutional authority to accompany resolutions when introduced, however, the U.S. Constitution grants each house of Congress the power to set its own internal rules (Article I, Section 5, Clause 2).

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