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H.Res. 5—Rules Package for the 112th Congress

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 (Rep. Dreier, R-CA)**

Order of Business: H.Res. 5 will be considered by the House on Wednesday, January 5, 2011 after the 112th Congress opens with a quorum call, the election of the Speaker of the House, and the swearing-in of Members.

Summary of Changes to Rules of the 111th Congress:

Constitutional Citation Requirement: The rules package requires a sponsor of any bill or joint resolution to submit for the Congressional Record “a statement citing as specifically as practicable the power or powers granted to Congress to enact the bill or joint resolution.” This is a requirement in order to *introduce* the legislation. For a Senate bill or joint resolution being considered by the House, the chair of the committee of jurisdiction would be allowed to submit the statement.

Three-Day Layover: The rules package includes a point of order against any *unreported* bill that has not been available to Members for three calendar days. The similar requirement on reported bills, as well as conference reports, remains in place.

Minimum Notice Period for Committee Meetings: H.Res. 5 requires the chair of a committee to make a public announcement of the date, place, and subject matter of a committee meeting three days before it occurs.

Minimum Period for Availability of Committee Markup Text: The rules package requires text to be made available 24 hours prior to the commencement of the markup of legislation in committee.

Availability of Votes in Electronic Form: The rules package requires votes in electronic form to be made available 48 hours after recorded in the committee. H.Res. 5 also requires the text of

any adopted amendment, as well as the text of the measure being marked up, to be publicly available within 24 hours of the commencement of the meeting.

Truth-in-Testimony Information: H.Res. 5 requires a witness’s “truth-in-testimony” information to be publicly available, in electronic form, not less than 24 hours after the witness appears.

Availability of Committee Rules in Electronic Form: H.Res. 5 requires each committee to make its rules publicly available in electronic form 30 days after the chair of the committee is selected.

Replacing PAYGO with CUTGO: H.Res. 5 prohibits the consideration of legislation that would increase net mandatory spending over either the one-, five-, and ten-year budget windows. By contrast, PAYGO allows mandatory spending increases to be paid for with tax increases.

Elimination of Gephardt Rule: The rules package eliminates the “Gephardt Rule.” Under current House Rules, adoption of the budget resolution leads to automatic adoption (by the House) of legislation increasing the debt limit without an actual vote of the House on the bill. H.Res. 5 would require the House to specifically vote to increase the debt limit.

Control Over Transportation Spending: H.Res. 5 removes provisions in House rules that prohibited the Appropriations Committee from setting lower spending levels than the amounts provided by the 2005 highway bill. This would put transportation spending under the same budget process as other spending, so that it is not guaranteed a minimum level of funding. The rules package also creates point of order against trust fund revenues being spent on other federal programs. For more information on this provision, see [this](#) analysis from the Heritage Foundation.

Limitation on Reconciliation Instructions: H.Res. 5 prohibits reconciliation from being used with regard to any legislation that would increase net mandatory spending.

Two-Minute Voting: Allows the Chair of the Committee of the Whole to institute two minute voting.

Delegate Voting: Prohibits Delegates and the Resident Commissioner from voting (or presiding over the House) in Committee of the Whole.

Name Changes:

- From Education and Labor *to* Education and Workforce
- From Committee on Standards and Official Conduct *to* the Committee on Ethics
- From the Committee on Science and Technology *to* the Committee on Science, Space, and Technology

Term Limits on Chairmen: Except for the Rules Committee Chair, prohibits committee chairmen from serving for more than three consecutive terms.

Point of Order for 302(b)s: Prohibits a bill from being reported from the Committee of the Whole to the full House that would exceed the subcommittee's 302(b) allocation.

Budget Enforcement: Allows the Chairman of the Budget Committee to establish the allocations required of the Budget Act of 1974. This rule is necessary due to the failure of House Democrats to pass (or even propose) a budget during the last Congress.

Limitation on Advance Appropriations: Limits FY 2012 and FY 2013 advance appropriations to \$28.8 billion, plus appropriations for the Department of Veterans Affairs for Medical Services, Medical Support and Compliance, as well as the Medical Facilities Accounts of the Veterans Health Administration.

Limitation on Long-Term Spending: H.Res. 5 makes it out of order to consider any bill, or joint resolution, that increases net mandatory spending by more than \$5 billion in any of the first four consecutive ten-year periods for which the applicable concurrent resolution on the budget sets forth appropriate budget levels.

Spending Reduction Accounts: Requires spending reduction accounts be included in appropriations bills on floor. This would lock-in savings proposed by an amendment on the floor for purposes of that bill. It would be out of order for a Member to remove savings from that account to increase spending for another program (under current rules, a spending reduction amendment does not automatically reduce total spending in the bill—another Member could introduce an amendment to grab the savings to increase spending for something else). However, these accounts would not lead to a reduction of the 302(a) allocation, which means that savings could be used to increase spending in subsequent appropriations bills. The 302(a) allocation is basically the overall discretionary spending limit for a year set by the budget resolution. A Flake-Graves-Garrett-Jordan amendment to address this 302(a) problem failed in Conference yesterday.

Numbering of Bills: Reserves the first ten bill numbers (H.R. 1 through H.R. 10) for the Speaker to assign, and reserves the next ten for the Minority Leader.

Reading of the Constitution: Makes it in order for the Speaker to recognize the reading of the Constitution on January 6, 2011.

Legislation Under Suspension of the Rules on January 6, 2011: Provides for consideration of legislation under suspension of the rules on Thursday, January 6, 2011.

Conservative Victories: The rules package contains many rules changes long advocated by conservatives. These include:

Operations of the House:

- **Committee Disclosure:** Includes the requirement, sponsored by Rep. Sessions (R-TX), that committees disclose roll call votes on their website within 48 hours.

- **Term Limits:** Reinstates the six-year term limits on committee chairmen, except with regard to the Rules Committee.
- **Delegate Voting:** Ends the ability of Delegates to vote in the Committee of the Whole. Many conservatives have argued that it is unconstitutional to give Delegates this power.

Budget:

- **Eliminates Gephardt Rule:** Strikes the Gephardt rule which leads to House engrossment of a debt limit increase after the budget resolution is passed without the House even voting on the measure.
- **Reconciliation Restriction:** Prohibits reconciliation in the case of legislation that increases net direct spending.
- **Transportation Spending Control:** Under the current rules, it is out of order to lower spending compared to the most recent highway bill—even though the deficit has increased by a factor of five since that bill was passed, and even though that bill was passed with spending that is higher than the trust fund can support.
- **CUTGO:** Replaces PAYGO with CUTGO, which makes it out of order to consider legislation that increases net mandatory spending.

Constitution:

- **Constitutional Authority Requirement:** Requires the sponsor of any introduced bill to include a statement of constitutional authority “as specifically as practicable” in the congressional record. This allows the House to consider this information when the bill is brought to the House floor.
- **Constitution Reading:** Makes in order the reading of the Constitution on Thursday.

What the Rules Package Does NOT Include: As noted above, the rules package contains many provisions long championed by conservatives. But the following are some conservative proposals, not included in the package:

- Does not allow floor amendments that authorize on appropriations. This means that the committee can do this (if protected by a rule), but not Members during floor debate.
- Does not place limitations on the number or cost of bills that can be considered under suspension of the rules (although GOP Conference rules do have very strict limits on what can be considered).
- Does not apply any requirement that bills above a certain cost get an automatic roll call vote.
- Does not require final CBO scores be available before a bill is considered on the floor.
- No dramatic reforms to committee structure, as some conservatives had proposed.

Outside Groups in Favor:

Americans for Tax Reform (ATR)
FreedomWorks

Committee Action: None.

Cost to Taxpayers: None.

Does the Bill Expand the Size and Scope of the Federal Government?: No, though it contains many provisions to control federal spending.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: Article I, Section 5, states: “*Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.*” [emphasis added]

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