

# Changes to House Rules Affecting the Congressional Budget Process Included in H.Res. 8 (117<sup>th</sup> Congress)

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At the beginning of each Congress, the House of Representatives adopts rules to govern its proceedings. Traditionally, the House does this by readopting the rules of the previous Congress along with changes that will apply in the new Congress. On January 4, 2021, the House considered and adopted a resolution (H.Res. 8) providing for the rules of the House for the 117<sup>th</sup> Congress by a vote of 217-206. H.Res. 8 reinstitutes the standing rules of the 116<sup>th</sup> Congress with certain amendments and adopts other procedural and organizational matters that are not incorporated into the standing rules directly but are designated as Separate Orders.

This report addresses several of these provisions that affect the congressional budget process and the consideration of budgetary legislation. It provides information on one change to the standing rules that might affect the consideration of reconciliation legislation in the House of Representatives. It also addresses two provisions of H.Res. 8 included under Separate Orders. The first of these provides a continuing effect to budgetary enforcement levels established in the 116<sup>th</sup> Congress. The second authorizes the chair of the House Committee on the Budget to adjust budget estimates used for enforcement procedures in the House in order to exempt the budgetary effects of measures to prevent, prepare for, or respond to economic or public health consequences resulting from the Coronavirus Disease 2019 (COVID-19) pandemic or to prevent, prepare for, or respond to economic, environmental, or public health consequences resulting from climate change. Finally, this report includes information on a provision of H.Res. 8 extending the life of the House Select Committee on the Modernization of Congress.

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January 21, 2021

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At the beginning of each Congress, the House of Representatives adopts rules to govern its proceedings. Traditionally, the House does this by readopting the rules of the previous Congress along with changes that will apply in the new Congress. These rules and changes may be incorporated into the standing rules of the House directly, or they may be adopted as Separate Orders. In both cases, they establish procedural and organizational parameters for the House for the new Congress. On January 4, 2021, the House considered and adopted a resolution (H.Res. 8) providing for the rules of the House for the 117<sup>th</sup> Congress by a vote of 217-206. H.Res. 8 reinstitutes the standing rules of the 116<sup>th</sup> Congress with certain amendments and also adopts additional provisions as separate orders.

This report addresses several of these provisions, adopted both as part of the standing rules of the House and as separate orders, that affect the congressional budget process and the consideration of budgetary legislation. In some cases, these provisions are similar to provisions adopted in previous Congresses. This report also provides information on a provision extending the life of the House Select Committee on the Modernization of Congress, which may have an impact on House consideration of budget process reform issues.

## **Removing a Restriction on Reconciliation Directives**

H.Res. 8 did not provide for the continued adoption of the language that had previously been clause 7 of Rule XXI concerning restrictions on reconciliation directives. This clause had been included in House rules in several forms beginning in the 110<sup>th</sup> Congress (2007-2009). In the 116<sup>th</sup> Congress this clause provided:

It shall not be in order to consider a concurrent resolution on the budget, or an amendment thereto, or a conference report thereon that contains reconciliation directives under section 310 of the Congressional Budget Act of 1974 that specify changes in law such that the reconciliation legislation reported pursuant to such directives would cause an increase in net direct spending (as such term is defined in clause 10) for the period covered by such concurrent resolution.

## **Extending the Procedural Budgetary Levels Established for FY2021**

As has been typical practice, the rules package for the 117<sup>th</sup> Congress carries forward the procedural budgetary levels established in the prior year.

The House and Senate establish spending and revenue levels that act as an overall congressional budget plan by adopting a budget resolution. Once agreed to by both chambers, the levels in a budget resolution may be enforced by points of order. When the House and Senate do not reach agreement on a budget resolution, the chambers typically employ alternative legislative tools to serve as a substitute for a budget resolution. These substitutes are typically referred to as “deeming resolutions,” because they are deemed to serve in place of an annual budget resolution for the purposes of establishing enforceable budgetary levels for the upcoming fiscal year. As in many years, in 2020 such a mechanism was in effect for FY2021 (i.e., the fiscal year that began on October 1, 2020).<sup>1</sup>

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<sup>1</sup> Title II of the Bipartisan Budget Act of 2019 (P.L. 116-37) directed the House and Senate Budget Committee chairs to file statements of budgetary levels, which would have the same effect in the respective chamber as if they had been included in a budget resolution. The act requires that (1) for discretionary spending, the filed levels be consistent with the statutory limits on discretionary spending (as amended by the act), and (2) for mandatory spending and revenue levels, the filed levels be consistent with the most recent baseline projections made by the Congressional Budget Office. Pursuant to the act, on May 1, 2020, House Budget Committee Chair Yarmuth filed such levels. (*Congressional*

When a new Congress begins, the prior year's budget (or deeming) resolution is no longer in effect in the House. The House, therefore, typically renews a prior year's budget (or deeming) resolution as part of the new rules package.<sup>2</sup> H.Res. 8, under Separate Orders, in Section 3(p) includes such language, stating that during the first session of the 117<sup>th</sup> Congress, the levels and allocations in effect in 2020 for FY2021 shall continue to be in effect. Nothing in this provision precludes Congress from considering a budget resolution for FY2021 or any other fiscal year.

## Adjusting Budgetary Estimates

Subsection (v) of Section 3 (Separate Orders) of H.Res. 8 provides:

The chair of the Committee on the Budget may adjust an estimate under clause 4 of rule XXIX to—

- (1) exempt the budgetary effects of measures to prevent, prepare for, or respond to economic or public health consequences resulting from the COVID-19 pandemic; and
- (2) exempt the budgetary effects of measures to prevent, prepare for, or respond to economic, environmental, or public health consequences resulting from climate change.

Section 312(a) of the Congressional Budget Act provides that enforcement of budgetary requirements be “determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as applicable.” As adopted for the 117<sup>th</sup> Congress, clause 4 of Rule XXIX further establishes that the chair of the Committee on the Budget may provide authoritative guidance on budget estimates on behalf of the Committee on the Budget.

Subsection (v) modifies this authority to provide that the chair of the Committee on the Budget may adjust an estimate to exclude the budgetary effects of measures that address specified policy issues, effectively exempting such measures from budget enforcement procedures in the House, such as House Rule XXI, clause 10. Because this separate order is a part of a resolution concerning only the actions and operations of the House, however, it would have no impact on any estimates used for the enforcement of any statutory budgetary requirements. For example, it would not exempt the full budgetary impact of such a measure from the requirements of the Statutory PAYGO Act of 2010,<sup>3</sup> because that enforcement is based on estimates prepared by the Office of Management and Budget rather than the Committee on the Budget.

## Extending the House Select Committee on the Modernization of Congress

Section 4(e) of the rules package for the 117<sup>th</sup> Congress reestablished the House Select Committee on the Modernization of Congress, which was established in the 116<sup>th</sup> Congress and directed “to investigate, study, make findings, hold public hearings, and develop recommendations on modernizing Congress.”<sup>4</sup>

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*Record* [daily edition], pp. H1968-H1969.) As required, those levels were updated to reflect revised budgetary levels on July 22, 2020 (*Congressional Record* [daily edition], p. H3691), and December 21, 2020 (*Congressional Record* [daily edition], p. H7320).

<sup>2</sup> For example, see H.Res. 6 (116<sup>th</sup> Congress), Section 103(m).

<sup>3</sup> P.L. 111-139. For more information, see CRS Report R41157, *The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History*, by Bill Heniff Jr.

<sup>4</sup> H.Res. 6 (116<sup>th</sup> Congress), Title II. For more information on the House Select Committee on the Modernization of Congress, see CRS Report R45724, *House Select Committee on the Modernization of Congress: Structure and Procedures*, by Ida A. Brudnick and Mark J. Oleszek.

House rules specify that the Budget Committee has jurisdiction over the budget process generally,<sup>5</sup> but the House has sometimes permitted select committees to make recommendations related to the budget process.<sup>6</sup> During the 116<sup>th</sup> Congress, the House Select Committee on the Modernization of Congress held hearings and issued recommendations related to the congressional budget process.<sup>7</sup> Committee recommendations included that Congress hold an annual Fiscal State of the Nation discussion, that Congress replace its annual budget resolution with a biennial budget resolution (while maintaining annual appropriations bills), and that the President submit supplemental budget information earlier in the budget cycle.<sup>8</sup> While such recommendations have not yet been adopted or implemented, the Select Committee during the 117<sup>th</sup> Congress may continue to examine and make recommendations on the budget process.

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<sup>5</sup> Rule X, clause 1(e)(2). This provision was added to House rules in the 104<sup>th</sup> Congress (1995-1996). Budget process reform measures or budget resolutions may include provisions that have an impact on House rules, jurisdiction over which is under the Rules Committee. Section 301(c) of the Congressional Budget Act, as amended in 1985, specifically provides that a budget resolution reported from the Budget Committee that includes any matter or procedure that would change any rule of the House would trigger a referral to the House Rules Committee. This language was added by the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177, Title II) to clarify that jurisdiction over the rules of the House rested solely with the Rules Committee.

<sup>6</sup> For example, in the 115<sup>th</sup> Congress, Congress established a Joint Select Committee on Budget and Appropriations Reform. For more information, see CRS Report R45111, *The Joint Select Committee on Budget and Appropriations Process Reform*, by Megan S. Lynch and James V. Saturno.

<sup>7</sup> See Chapters 10 and 11 of [https://modernizecongress.house.gov/imo/media/doc/ModernizationCommittee\\_10152020r1Compressed%20\(newest%20gpo%20report\).pdf](https://modernizecongress.house.gov/imo/media/doc/ModernizationCommittee_10152020r1Compressed%20(newest%20gpo%20report).pdf).

<sup>8</sup> *Ibid.*, Chapter 11.