

MEMO
March 16, 2010

To: Reporters, Producers & Editors

From: Vince Morris w/Rules Chairwoman Louise Slaughter

Re: Rules Committee Precedents and Procedure

Hey folks

Given the recent attention to Rules Committee process, I wanted to ensure that everyone covering the health care legislation has some additional background on Rules Committee precedent and procedure, specifically as it pertains to special rules providing for the adoption of a measure. For starters, despite what the minority may claim, the precedent for adopting a resolution and at the same time concurring in a Senate amendment to a bill was set back in 1933.

In addition, the adoption of rules that are self executing is even more common and is typically used when the House votes to increase the debt limit. This model was used most recently in February, and in fact self-executing rules have been used over the years far more often by Republicans than by Democrats. If you have more questions, please don't hesitate to check in. In the meantime, please find attached some background on how this exact process has been used in years past - and how it originated with Republicans. Please let me know if you have any questions.

Special Rules Providing for Adoption of a Measure

The precedent of having one vote to adopt a resolution and at the same time concur in Senate amendments to a bill was set back in 1933; however that is not the only example of its use.

Deschler's Precedents
Citation Precedent
Vol. 6 Chap. 21 sec. 27.19

(H. Res. 63) March 16, 1933 H.R. 2820 – To maintain the credit of the U.S. Government.

Text of H. Res. 63:

Resolved, That immediately upon the adoption of this resolution the bill H.R.

2820, with Senate amendments thereto, be, and the same hereby is, taken from the Speaker's table to the end that all Senate amendments be, and the same are hereby, agreed to.

Floor Debate:

MR. [BERTRAND H.] SNELL [R-NY]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER [Henry Rainey, D-IL]: The gentleman will state it.

MR. SNELL: Mr. Speaker, it would seem to me that if we adopt this resolution that ends the bill and there is no further vote on the bill itself.

THE SPEAKER: That is correct.

MR. SNELL: I understood the gentleman from Alabama to say that we would then vote for or against the bill.

MR. [JOHN] MCDUFFIE [D-AL]: No; the gentleman from Alabama was mistaken.

MR. SNELL: If we adopt this resolution, we pass the bill.

MR. MCDUFFIE: We have then concurred in the Senate amendment, and, therefore, the bill is passed, so far as the House is concerned.

MR. SNELL: And there is no other vote on the bill.

MR. MCDUFFIE: No other vote on the bill, as I understand it.

THE SPEAKER: That is correct.
Vol. 6 Chap. 21 sec. 27.16

(H. Res. 510) March 24, 1948 H.R. 4790 – To reduce individual income tax payments, and for other purposes.

Text of H. Res. 510:

Resolved, That immediately upon the adoption of this resolution the bill (H.R. 4790) to reduce individual income tax payments, and for other purposes, with Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table to the end that all Senate amendments be, and the same are hereby, agreed to.

Floor Debate:

Mr. [Sam] Rayburn [D-TX]: Mr. Speaker, a parliamentary inquiry.

The Speaker [Joseph W. Martin Jr. R-MA]: The gentleman will state it.

Mr. Rayburn: As I understand the parliamentary situation, Mr. Speaker, there is to be one vote only; and if the resolution is agreed to, it means that the House concurs in the Senate amendments to the so-called Knutson bill.

The Speaker: The gentleman has stated the situation correctly.

The two best recent examples of how this procedure has been used for major legislation are:

In 1996, H. Res. 391 (a rule for the “Senior Citizens’ Right to Work Act”), included a provision to consider the conference report to accompany S. 4 (the “Line Item Veto Act”) as adopted upon receiving a message informing it that the Senate has adopted the conference report. (104th Congress)

In 1993, H. Res. 71 (a rule for H.R. 1, “The Family Medical Leave Act”), considered the Senate amendment to H.R. 1 adopted upon adoption of the rule. (103rd Congress)

The following pages contain a list of legislation passing under similar procedures.

Additional Rules Providing for Adoption of a Measure upon the Adoption of a Rule

101st through 111th Congress

Congress	Res. Number	Resolution Title	Measure Deemed as Passed
111	H. Res. 1065	Providing for consideration of the Senate amendment to the joint resolution (H.J. Res. 45) increasing the statutory limit on the public debt.	H. J. Res. 45 (The rule provided that the question of adoption of the motion be divided between concurring in the matter preceding title I of the Senate amendment (Raising the Debt Limit) and concurring in the matter comprising titles I and II of the Senate amendment (Pay-As-You-Go Act and Elimination of Duplicative and Wasteful Spending). The first portion of the divided question considered as adopted once the rule passed).
110	H. Res. 982	Providing for the adoption of the resolution (H. Res. 979) recommending that the House of Representatives find Harriet Miers and Joshua Bolten, Chief of Staff, White House, in contempt of Congress for refusal to comply with subpoenas duly issued by the Committee on the Judiciary and for the adoption of the resolution (H. Res. 980) authorizing the Committee on the Judiciary to initiate or intervene in judicial proceedings to enforce certain subpoenas.	H. Res. 979 (Recommending that the House of Representatives find Harriet Miers and Joshua Bolten, Chief of Staff, White House, in contempt of Congress for refusal to comply with subpoenas duly issued by the Committee on the Judiciary).

H. Res. 980 (Authorizing the Committee on the Judiciary to initiate or intervene in judicial proceedings to enforce certain subpoenas).

110 H. Res. 1031 Providing for the adoption of the resolution (H. Res. 895) establishing within the House of Representatives an Office of Congressional Ethics, and for other purposes. H. Res. 895 – Establishing within the House of Representatives an Office of Congressional Ethics, and for other purposes. (This resolution was amended by the rule; see the amendment and summary in H.Rept. 110-547 pages 2-5).

109 H. Res. 572 Providing for consideration of the resolution (H. Res. 571) expressing the sense of the House of Representatives that the deployment of United States forces in Iraq be terminated immediately and providing for consideration [adoption] of the concurrent resolution (H. Con. Res. 308) directing the Clerk of the House of Representatives to make a technical correction in the enrollment of H.R. 3058.

NOTE: H. Res. 572 Provided for consideration of H. Res. 571 and the adoption of H. Con. Res. 308. The rule title above mistakenly uses the word “consideration” regarding H. Con. Res. 308. H. Con. Res. 308 (to make a technical correction in the enrollment of H.R. 3058 (Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006)).

109 H. Res. 653 Relating to consideration of the bill (S. 1932) to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95). Concur in Senate amendment to House amendment to S. 1932 (Deficit Reduction Act of 2005 – Reconciliation).

109 H. Res. 1003 Providing for the adoption of the resolution (H. Res. 1000) providing for earmarking reform in the House of Representatives. H. Res. 1000 – Providing for earmarking reform in the House of Representatives.

108 H. Res. 71 Waiving points of order against the conference report to accompany, and providing for corrections in the enrollment of, the joint resolution (H.J. Res. 2) making further continuing appropriations for the fiscal year 2003, and for other purposes. H. Con. Res. 35 (to make a technical correction to H. J. Res. 2).

106 H. Res. 386 Waiving points of order against the conference report to accompany the bill (H.R. 3194) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000, and for other purposes. H. Con. Res. 234 (the Con. Res. provided for the tabling of H.R. 2466 – Interior Appropriations Act, so that it would not be presented to the President.)

NOTE: Provisions of this bill were included in H.R. 3194 which became Public Law 106-113.

105 H. Res. 232 Waiving points of order against the conference report to accompany the bill (H.R. 2160) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes. H. Con. Res. 167 (to make a technical correction, fixing an error in the enrollment of H.R. 2160).

104 H. Res. 180 Waiving points of order against the conference report to accompany the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes. S. Con. Res. 19 (to make a technical correction in the enrollment of H.R. 483).

104 H. Res. 336 Providing for the disposition of the Senate amendment to the joint resolution (H.J. Res. 134) making further continuing appropriations for fiscal year 1996, and for other purposes. H. Con. Res. 131 (This Con. Res. prohibited the Committee on House Oversight from presenting to the President H.J. Res. 134 (continuing appropriations) until the Speaker of the House notifies such Committee that: (1) the President has submitted to the Congress a plan to achieve a balanced budget by FY 2002; and (2) the Director of the Congressional Budget Office (CBO) has certified that the plan achieves a balanced budget based on CBO economic and technical assumptions).

104 H. Res. 393 Waiving points of order against the conference report to accompany the bill (H.R. 2854) to modify the operation of certain agricultural programs. S. Con. Res. 49 (makes technical corrections in the enrollment of H.R. 2854 (agricultural program modifications)).

103 H. Res. 240 Waiving points of order against the conference report to accompany the bill (H.R. 2264) to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994. H. Res. 235 (Provides that specified provisions, procedures, and points of order set forth in H.R. 2264 as passed the House of Representatives (103d Congress) requiring a response to any special direct spending message submitted by the President shall apply in the House for FY 1994 through 1997.)

102 H. Res. 581 Waiving points of order against the conference report to accompany, and providing for corrections in the enrollment of, the bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes. H. Con. Res. 365 (Makes corrections in the enrollment of H.R. 5503 (FY 1993 appropriations for the Department of the Interior and related agencies)).

102 H. Res. 583 Waiving points of order against the conference report to accompany, and providing for corrections in the enrollment of, the bill (H.R. 5488) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1993, and for other purposes, and against consideration of such conference report. H. Con. Res. 368 (Makes corrections in the enrollment of H.R. 5488 (Department of the Treasury and related agencies appropriations)).

101 H. Res. 538 Waiving certain points of order against consideration of the conference report on the bill (S. 358) to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes, and against its consideration. H. Con. Res. 394 (Makes corrections in the enrollment of S. 358 (immigration amendments) with regard to: (1) a pilot program to use drivers' licenses as documents establishing employability and identity; and (2) excludability of Palestine Liberation Organization officials on the grounds of terrorist activity).