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*House Voting Procedures: Forms and Requirements*

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May 19, 2008

**Abstract.** Voting is among the most public acts of Representatives. Generally, members try not to miss a vote, because it is an important demonstration to their constituents that they are always on the job. Procedural considerations suffuse voting, and thus it is important to understand the methods of voting in both the House and in the Committee of the Whole, where much of the chamber's business is conducted.

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# House Voting Procedures: Forms and Requirements

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## Summary

Voting is among the most public acts of Representatives. Generally, Members try not to miss a vote, because it is an important demonstration to their constituents that they are always on the job. Procedural considerations suffuse voting, and thus it is important to understand the methods of voting in both the House and in the Committee of the Whole, where much of the chamber's business is conducted.

## **In the House**

There are four ways for lawmakers to obtain a vote in the House. They are voice votes, division votes, yea and nay votes, and recorded votes.

### **Voice Vote**

This means that lawmakers call out “yea” or “nay” when a question is first put by the Speaker or Speaker pro tempore. As Rule I, clause 6, states, the Speaker will first say, “Those in favor (of the question), say ‘Aye’.” Then the Speaker will ask: “Those opposed, say ‘No’.” A voice vote can be quick and easy, but it is sometimes difficult for the Speaker to determine—based on the volume of each response—whether more lawmakers shouted “aye” compared to those who shouted “no.”

### **Division Vote**

Rule XX, clause 1(a), states that if the Speaker is uncertain about the outcome of a voice vote, or if a Member demands a division, the House shall divide. “Those in favor of the question shall first rise from their seats to be counted,” and then those who are opposed to the proposition shall stand to be counted. This procedure is reasonably accurate and takes only a few minutes, but it does not provide a public record of how each Member voted. Only vote totals (95 for, 65 against, for instance) are announced in this seldom-employed method of voting.

### **Yea and Nay Vote**

The Constitution (Article I, Section 5) declares that “the Yeas and Nays of the Members ... on any question” shall be obtained “at the Desire of one fifth of those present.” Under this provision, it does not matter if a quorum of the House (218 Members) is not present to conduct business—which the Constitution requires—because any Member can say, “Mr. Speaker, on that vote, I demand the yeas and nays.” If the demand is supported by one-fifth of those present, the Speaker will say “the yeas and nays” are ordered.

There is also an “automatic” yea and nay (or rollcall) vote provided in House Rule XX, clause 6. For example, if it is evident to a lawmaker that a quorum is not present in the chamber, he or she may object to a vote on that ground and, “automatically,” a vote will be ordered by the chair. To request an automatic vote, a Member says, “I object to the vote on the ground that a quorum is not present, and I make a point of order that a quorum is not present.” The actual vote will then simultaneously determine both issues: the presence of a quorum and the vote on the pending question. Clause 10 of Rule XX also states that the “yeas and nays shall be considered as ordered” on final passage of a limited number of measures or matters, such as concurrent budget resolutions. The Constitution requires that votes to override presidential vetoes shall be determined by the yeas and nays.

### **Recorded Vote**

Under Rule XX, clause 1(b), if any Member, Delegate, or Resident Commissioner “requests a recorded vote, and that request is supported by at least one-fifth of a quorum, such vote shall be

taken by electronic device.” (Yea and nay and recorded votes are all taken by electronic device—employed since 1973—unless the computerized voting system malfunctions; then standby procedures outlined in Rule XX, clause 2(b), are used to conduct the votes.) To obtain a recorded vote, a Member states, “Mr. Speaker, on that I demand a recorded vote.” If at least one-fifth of a quorum of 218—or 44 members—stand and support the request, then the recorded vote will be taken by electronic device. Recall that the distinction between recorded votes and the yeas and nays goes to the number of Members required to support each request: one-fifth *of those present* for the yeas and nays and one-fifth *of a quorum* (44 of 218) for recorded votes.

## In the Committee of the Whole

Three methods of voting are available in the Committee of the Whole: voice, division, and recorded. Yea and nay votes are not permitted in the committee, either the constitutional or “automatic” forms. In short, there is only one way to obtain a recorded vote in the committee—where a quorum is 100 Members—and it is outlined in Rule XVIII, clause 6(e). This rule of the House states: the “Chairman shall order a recorded vote on a request supported by at least 25 Members.” Thus, any Member may say, “I request a recorded vote,” and, if 25 lawmakers (the Member who made the request can be part of the tally, too) rise to be counted by the chair, the recorded vote will occur by electronic device. Alternatively, a lawmaker who plans to request a recorded vote even though few Members are present in the chamber will usually say, “Mr. Chairman, I request a recorded vote and, pending that, I make a point of order that a quorum is not present.” Once the chair ascertains that a quorum is not present, there is an immediate quorum call and the Member who requested the recorded vote can ask 24 other colleagues to support his request as they come onto the floor.

## Length of Time for Voting

Under Rule XX, clause 2(a), the minimum time for a record vote by electronic device is 15 minutes in either the House or the Committee of the Whole. The 15-minute period is the *minimum*, rather than the maximum, time allowed for the conduct of a recorded vote. The chair has the discretion to hold the vote open longer. A new 110<sup>th</sup> rule states that votes are not to be held open for the sole purpose of reversing the outcome of a vote. However, this rule seems difficult to interpret in practice. There are also occasions in the House (see Rule XX, clause 9) when the Speaker has the discretion to reduce the voting time to not less than five minutes. The Speaker also has the authority under Rule XX, clause 8, to postpone and cluster certain votes. Votes in the Committee of the Whole may also be reduced to five minutes, as noted in Rule XVIII, clause 6(f).

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