

# Quorums in House Floor Proceedings: An Introduction

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## Summary

This report presents a brief explanation of the House's rules and procedures relating to the quorum requirements applicable on the House floor. Additional and more authoritative information may be found in the commentary accompanying pertinent House rules and appearing in the most recent edition of the House rules manual, formally entitled *Constitution, Jefferson's Manual and Rules of the House of Representatives*.

## Background

For the most part, the Constitution empowers the House of Representatives and the Senate to establish the procedures by which each house conducts its legislative business. Under section 5, clause 2, of Article I, "[e]ach House may determine the Rules of its Proceedings." However, there are certain exceptions to this discretionary authority, including a provision of the immediately preceding clause stating that "a Majority of each [House] shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide."

So the Constitution stipulates that a quorum for House floor proceedings is a simple majority of the membership, or 218 of the 435 Representatives (assuming that there are no vacancies in the House). Furthermore, the Constitution would appear to require that this majority of Representatives actually must be present on the floor whenever the House is conducting legislative business, with the limited exception for adjournments and related proceedings. Yet any observer of the House will notice that it is quite unusual for 218 Members to be on the floor at the same time. In fact, it would be extremely difficult for the House's committees as well as its individual Members to meet all their official responsibilities if a majority of Representatives had to be present at every moment that the House is in session. How then does the House reconcile its practices with the constitutional requirement of Article I?

There are essentially two devices that the House has developed to give itself valuable flexibility in complying with the constitutional quorum requirement. One involves reliance on the Committee of the Whole; the other involves the definition of "business" that a quorum must be present to conduct.

## **The Committee of the Whole**

The House conducts much of its business on the floor by constituting itself into a committee on which all Representatives serve. The full title of this committee is the Committee of the Whole House on the State of the Union, but it is known simply as the Committee of the Whole. The constitutional quorum requirement does not apply during meetings of this committee because technically they are not meetings of the House of Representatives. So the House has decided for itself what the quorum in this committee should be. The rules of the House state that the quorum needed during meetings of the Committee of the Whole is only 100, compared with the 218 Members who constitute a quorum of the House.

All Representatives are members of the Committee of the Whole and it meets in the House chamber. In fact, the only immediately noticeable difference between a meeting of the House and a meeting of the Committee of the Whole is that the Speaker does not preside over a meeting of the Committee; he designates another member of the majority party to preside as chairman of the Committee of the Whole during floor consideration of one particular bill. The position of chairman is not a permanent one; the Speaker appoints different members of his party as chairman at different times.<sup>1</sup>

In most circumstances, not having to preside over the Committee of the Whole actually is advantageous for the Speaker because it gives him the freedom to use his time in ways that may be more productive in meeting his many institutional and political responsibilities. Once the House has begun consideration of a bill, there is relatively little that the Speaker (or the chairman of the Committee of the Whole) can do *from the rostrum* to affect what happens to it. While he is presiding, for example, the Speaker never participates in debate from the chair, nor does he make any comments at all about the policies that are being debated. He also is expected to apply and enforce the House's rules and precedents in a fair and even-handed manner. The same expectations govern chairmen in the Committee of the Whole.

When the House considers a major bill on the floor, the overwhelming majority of its time and work almost invariably takes place in the Committee of the Whole. Actually, a four-stage process is involved. All four stages may take place without interruption, or they can occupy part of the House's time over a period of several days or longer.

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<sup>1</sup>When the House becomes ("resolves itself into") the Committee of the Whole, the mace, which is the symbol of the authority of the House, is moved to a lower place on the Speaker's rostrum. It also should be noted that the Speaker does not always preside over the House; he often asks another member of the majority party to preside temporarily in his absence.

First, the House decides to consider a particular bill and then transforms itself into the Committee of the Whole for that purpose.<sup>2</sup>

Second, to begin the process of consideration in the Committee of the Whole, there is a period of time set aside for what is known as general debate—for debating the general merits of the bill and the issues it addresses. No amendments may be offered during general debate, although Representatives frequently describe amendments that they intend to offer at the next stage of the proceedings.

Third, while continuing to meet in the Committee of the Whole, there usually is an opportunity for Representatives to propose amendments to the bill. Each Member typically may be able to debate each amendment for five minutes. Representatives normally must offer their amendments to each section of the bill in sequence. However, the Committee of the Whole has no authority actually to amend the bill. Instead, it votes on whether it wishes to recommend each amendment to the House because only the House, not the Committee of the Whole, can vote to amend legislation. It is this fact—that the Committee of the Whole cannot amend legislation—that allows the House to assert that the Committee of the Whole is another form of committee and is not simply the House meeting under a different name.

Fourth and finally, when the Committee of the Whole has voted on the last amendment to the last portion of the bill, it transforms itself back into the House of Representatives and the Speaker once again presides. The House then votes on whether to formally adopt the amendments that had received majority votes in the Committee of the Whole. And finally, the House votes on whether to pass the bill as it may have been amended during this process. So it is the House itself that actually votes on whether to amend and pass the bill, but virtually all the debate and all the preliminary votes on amendments take place in the Committee of the Whole.

Because of the House's heavy reliance on the Committee of the Whole, the quorum requirement that usually must be satisfied on the floor is not 218, which is a majority of the total membership of 435, but only 100, which is the quorum that the House has established in its own rules to apply in the Committee of the Whole. In theory, at least, the House could reduce the quorum requirement in the Committee of the Whole to any level it chooses—to 10 instead of 100 members, for example—though it has been 100 for more than a century.

## **The Presumptive Quorum**

The House presumes that a quorum always is present, whether in the House or in the Committee of the Whole, unless the absence of a quorum is demonstrated conclusively, either by a quorum call or by a record vote. This is a reasonable and appropriate presumption because the alternative would be to presume that the House is not complying with the Constitution.

Furthermore, it is not the Speaker's (or the chairman's) responsibility to ensure that a quorum is present, and he never is required to take the initiative to count to determine

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<sup>2</sup>This normally is done under the authority of a resolution (known as a rule or special rule) that the House adopts at the recommendation of the Committee on Rules.

the presence of a quorum. Instead, any Member can demand that the roll be called to demonstrate that a quorum is present. In recent years, however, the House has amended its rules to limit the occasions when Members are allowed to demand quorum calls. The effect of these rule changes has been implicitly to narrow the definition of the "business" that a quorum must be present to conduct, according to the Constitution.

To summarize the effect of a complicated body of rules, about the only time that a Representative has a right to challenge the presumption that a quorum is present is when a vote is taking place. At almost all other times, it is left to the discretion of the Speaker or the chairman of the Committee of the Whole to decide whether to permit a request for a quorum call or to entertain a point of order that a quorum is not present. In this way, the House can meet on the floor with few Members present. When a vote takes place, Members come to the chamber to record their presence, but then they can leave again until the next vote occurs.

It is equally important to observe that Representatives do not enforce the applicable quorum requirements as often as the House's rules still permit. Quorum calls and record votes occur in connection with only a small fraction of all the votes that take place on the House floor. The first vote taken on any question is a "voice" vote: all those in favor of agreeing to the question call out "Aye," followed by those opposed who call out "No." The Speaker (or the chairman of the Committee of the Whole) then decides which side prevailed. This vote is final and valid even if there are very few Representatives present and voting so long as no one objects to the vote on the ground that a quorum was not present. The presumption in this situation is that a quorum (whether 218 in the House or 100 in Committee of the Whole) participated in the voice vote.

If any Member is dissatisfied with how the Speaker or chairman heard the voice vote, he or she can demand a division vote. In this case, those in favor stand and are counted, followed by those opposed. The Speaker or chairman then announces how many Representatives voted on each side, and this vote also is final and valid, even if the total number of Members voting do not constitute a quorum—again, unless a Member objects to the vote on the ground that a quorum was not present. The presumption in this case is that a quorum was present on the floor even if not all of those Members chose to vote. The House interprets the Constitution to require that a quorum be present, not that a quorum actually vote. As the House Parliamentarian has stated in his commentary on the House's rules, "[a] vote by division takes no cognizance of Members present but not voting, and consequently the number of votes counted by division has no tendency to establish a lack of a quorum."

Whether in the House or in the Committee of the Whole, any Member can object to any voice or division vote, making the point of order that a quorum was not present. In that case, the Speaker or chairman counts to determine whether a quorum is on the floor. If it is not, what occurs depends on whether it is a meeting of the Committee of the Whole or a meeting of the House that is taking place. In the Committee of the Whole, there first is a quorum call, which may be followed by a record vote on the pending question if enough Members request it. In the House, there is a record vote on the pending question; by casting their votes on this question, Members also document the presence of a quorum. To repeat, though, most votes that take place on the House floor do not provoke a record vote, either because they are routine and non-controversial, or because their outcome is

not in doubt and Members are reluctant to inconvenience all their colleagues unnecessarily by requiring them to come to the floor for a quorum call or a record vote.

## **Related CRS Reports**

The Congressional Research Service has prepared a variety of fact sheets and longer reports on Congress and its procedures. All of these fact sheets and reports are updated periodically to reflect relevant changes in House rules and precedents. Fact sheets are available in print; they also are available online at the “CRS Guide to the Legislative and Budget Process” at [<http://lcweb.loc.gov/crs/legproc/newformat/HomeNF.html>]. Among the related CRS reports are:

CRS Report 98-988. *Voting and Quorum Procedures in the House of Representatives.*

CRS Report 97-236. *Floor Procedure in the House of Representatives: A Brief Overview.*

CRS Report RS20067. *How Measures Are Brought to the House Floor: A Brief Introduction.*

CRS Report 95-563. *The Legislative Process on the House Floor: An Introduction.*

CRS Report RS20147. *Committee of the Whole: An Introduction.*

CRS Report 98-995. *The Amending Process in the House of Representatives.*

CRS Report RL30787. *Parliamentary Reference Sources: House of Representatives.*