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# House Voting Procedures: Forms and Requirements

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Analyst on Congress and the Legislative Process

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## **Summary**

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

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## **In the House**

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

### **Voice Vote**

Most questions are initially put to a voice vote. Representatives will call out “aye” or “no” when a question is first put by the Speaker or Speaker pro tempore. As Rule I, clause 6, states, the Speaker will say, “Those in favor [of the question], say ‘Aye.’” Then the Speaker will ask: “Those opposed, say ‘No.’” Following the response, the Speaker states that, in his or her opinion, “the ayes [or the noes] appear to have it.” There is no record of how an individual Member votes on a voice vote.

### **Division Vote**

When the House conducts a voice vote, it is sometimes difficult for the Speaker to determine—based on the volume of each response—whether more lawmakers responded “aye” compared to those who responded “no.” 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, like a voice vote, does not provide a public record of how each Member voted. Only vote totals (95 for, 65 against, for instance) are announced in this method of voting. Division votes are rare in current practice.

### **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 when the House has no vacancies) is not present to conduct business, because any Member can say, “Mr. [or Madam] 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 that “the yeas and nays” are ordered.

There is also an “automatic” yea and nay (or roll call) vote provided in House Rule XX, clause 6. 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,” the chair will order a vote. 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. [or Madam] 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 is 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. 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 that the “Chair 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 supporters (the Member who made the request can be part of the tally, too) rise and are counted by the chair, the recorded vote will occur by electronic device.

If few Members are present in the chamber, a lawmaker who plans to request a recorded vote will usually say, “Mr. [or Madam] Chair, 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 or her request as they come onto the floor.

## The Speaker’s Authority

When the Speaker or chair of the Committee of the Whole counts to determine a division vote, the accuracy of the count is assumed and cannot be challenged. This assumption also applies to determining the presence of a quorum as well as sufficient support for yea and nay votes and recorded votes.<sup>1</sup>

Under House Rule XX, clause 8, the Speaker has the authority to postpone and cluster certain votes. For most questions, postponed votes occur within two legislative days. A vote to agree to the Speaker’s approval of the Journal, however, is to occur within the same legislative day.

## Length of Time for Voting

Under Rule XX, clause 2(a), the minimum time for a 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.

The voting period for some votes may be shorter than 15 minutes under certain circumstances. The Speaker has the discretion to reduce the voting time to not less than five minutes (Rule XX,

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<sup>1</sup> According to the Parliamentarian, “one of the suppositions on which parliamentary law is founded is that the Speaker will not betray his duty to make an honest count on a division and the integrity of the Chair in counting a vote should not be questioned in the House.” *Constitution, Jefferson’s Manual and the Rules of the House*, 114<sup>th</sup> Cong., 2<sup>nd</sup> Sess., 2017, H.Doc. 114-192 (Washington: GPOS, 2017), §1012, p. 838.

clause 9) on any question immediately following an electronic vote, so long as notice of possible five-minute voting has been provided. Certain votes in the Committee of the Whole may also be reduced to not less than two minutes, as noted in Rule XVIII, clause 6.

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