



# PROCEDURE POINTS

## PARLIAMENTARY PROCESS, FACTS, AND STRATEGIES

### DEAR COLLEAGUE

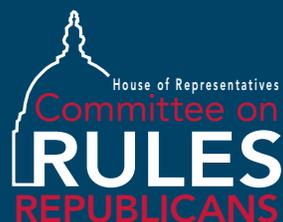
Dear Republican  
Colleague:

This is the latest in our occasional series of *Procedure Points* where we discuss the parliamentary particulars of unique aspects of House procedure.

With the recent notice that the House will consider a concurrent resolution relating to the withdraw of military forces from Afghanistan, this edition focuses on the expedited procedures for considering a resolution for troop withdrawal under the procedures of the War Powers Resolution.

I hope that you find this helpful. If you have any questions, please call the Republican Rules Committee staff at 202-225-9191.

Sincerely,



## “Fast-Track” Under the War Powers Resolution

Article 1, section 8 of the Constitution of the United States reserves to the Congress the power to declare war. When juxtaposed with the President’s role as Commander-in-Chief of the military, particularly in light of modern changes in the nature of conflicts, there have been conflicts between the two branches over the ability to commit U.S. forces to a prolonged conflict.

In the wake of the Korean and Vietnam conflicts, Congress enacted the War Powers Resolution. President Nixon vetoed the joint resolution, and Congress overrode the veto in November of 1973. Since its enactment, it has been a source of tension between the two branches, the Executive Branch arguing that the resolution is unconstitutional, while the Congress continues to assert its authority over committing U.S. troops for the long term.

### WAR POWERS RESOLUTION

In its simplest form, the War Powers Resolution provides that the President must notify Congress within 48 hours of committing troops to military action and prohibits them from remaining in place for more than 60 days (with an additional 30-day withdrawal period) without congressional authorization.

### EXPEDITED PROCEDURES FOR WITHDRAWAL OF FORCES IN THE HOUSE

The resolution provides expedited procedures both for joint resolutions authorizing the use of military force and concurrent resolutions directing the President to remove forces. While the constitutionality of the latter resolution is in question in light of the *INS v. Chada* decision (prohibiting “legislative vetoes”), it has been used several times in the past to force a debate on a particular conflict.

Section 5(c) of the War Powers Resolution provides that any time U.S. Armed Forces are engaged in hostilities outside the U.S. without a declaration of war or specific statutory authorization, the President must remove those forces if Congress adopts a concurrent resolution directing the President to do so.

Unlike many more modern expedited procedures, the law does not specify the text of the concurrent resolution, but provides that if a Member introduces a concurrent resolution to withdraw forces it will be referred to the House Committee on Foreign Affairs. The Committee then has 15 calendar days to report the concurrent resolution to the House, with its recommendations (including the two days required under the rules for drafting minority or other views), unless the House adopts a resolution by the yeas and nays providing for a longer time period. The Committee may report the resolution adversely.

If the Committee does not report the concurrent resolution within 15 calendar days, on the next legislative day, a motion to discharge the committee from consideration is privileged and may be offered by any Member. That motion would be debatable for 20 minutes equally divided by a proponent and opponent and is not subject to a motion to table.

At that point, the House must vote on the concurrent resolution within three calendar days, unless the House votes by the yeas and nays for an alternative procedure.

Again, unlike most other expedited procedure statutes, the law does not specify minimum or maximum debate time during the three-day period. In every prior instance, the debate on the concurrent resolution proceeded pursuant to an order of business, either agreed to by unanimous consent or reported by the Committee on Rules. Presumably, in the absence

**“FAST TRACK” UNDER THE WAR POWERS RESOLUTION** *continued*

of an order governing debate, it would occur under the one-hour rule, alternating among Members until the previous question is ordered or the time for debate on the resolution expires, although the House has never had the need to consider that question.

The House reserves the right to change these procedures either through a special order of business reported by the Rules Committee, consideration of a suspension measure, or through a special order agreed to by unanimous consent.

**RECENT USES OF THIS PROCEDURE**

In the 103rd Congress, the House considered a concurrent resolution with respect to the use of U.S. troops in Somalia. That measure was considered in the House pursuant to a Rule from the Committee on Rules which provided for a structured debate, and also limited the use of the expedited procedures under the War Powers Resolution for the remainder of that year.

In the 105th Congress, the House considered a concurrent resolution to remove U.S. forces from Bosnia. That measure failed, but was con-

sidered under a unanimous consent agreement providing 2 hours of debate divided between the sponsor of the resolution, and the Chair and Ranking Member of the Committee on International Relations. This issue was raised again in the 106th Congress, and the Rules Committee reported a rule providing for consideration of 5 bills and resolutions addressing the situation in Bosnia.

**EXPEDITED PROCEDURES IN THE SENATE**

The War Powers Resolution provides that if the concurrent resolution passes the House, it is referred to the Senate Committee on Foreign Relations, and then follows a parallel process to House consideration, including the 15-day time limit on committee consideration and the 3-day limit on floor consideration. One difference between House and Senate consideration is that the time for debate in the Senate is equally divided between the proponents and the opponents.

If a concurrent resolution were to pass the Senate with any changes, expedited procedures are also established for appointing conferees and filing and voting on a conference report.

Time line for consideration of concurrent resolution in the House under section 7 of the War Powers Resolution

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	<i>Day 1</i> Concurrent resolution introduced & referred to committee	<i>Day 2</i> Committee consideration begins	<i>Day 3</i>	<i>Day 4</i>	<i>Day 5</i>	<i>Day 6</i>
<i>Day 7</i>	<i>Day 8</i>	<i>Day 9</i>	<i>Day 10</i>	<i>Day 11</i>	<i>Day 12</i>	<i>Day 13</i>
<i>Day 14</i>	<i>Day 15</i> Deadline for committee reporting (including submission of views)	<i>Day 16</i> <ul style="list-style-type: none"> <li>• Motion to discharge available; If adopted, motion to proceed available</li> <li>• Floor consideration day 1</li> </ul>	<i>Day 17</i> Floor consideration day 2	<i>Day 18</i> <ul style="list-style-type: none"> <li>• Floor consideration day 3;</li> <li>• House must vote on Con Res prior to midnight</li> </ul>		