

RULE XI.

RULES OF PROCEDURES FOR COMMITTEES.

In General

1. (a)(1) The Rules of the House are the rules of its committees and subcommittees so far as applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege in committees and subcommittees.

§ 703a. Committee procedure.

(2) Each subcommittee of a committee is a part of that committee, and is subject to the authority and direction of that committee and to its rules so far as applicable.

Paragraph (a)(1) was first adopted December 8, 1931 (VIII, 2215), and amended March 23, 1955, pp. 3569, 3585. In the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144), paragraph (a)(2) was incorporated into the rules, together with the reference to subcommittees contained in paragraph (a)(1), having been contained in the Legislative Reorganization Act of 1970 (84 Stat. 1140). This clause was amended in the 99th Congress to allow a privileged motion in committee and subcommittee to dispense with the first reading of a measure where printed copies are available (H. Res. 7, Jan. 3, 1985, p. 393). See Jefferson's Manual at § 412, *supra*, for the requirement that a bill or resolution be read in full upon demand, prior to being read by paragraphs of sections for amendment. Each committee may appoint subcommittees (VI, 532), which should include majority and minority representation (IV, 4551), and confer on them powers delegated to the committee itself (VI, 532) except such powers as are reserved to the full committee by the rules of the House; but express authority has also been given subcommittees by the House (III, 1754-1759, 1801, 2499, 2504, 2508, 2517; IV, 4548).

(b) Each committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its re-

§ 703b. Investigative authority.

sponsibilities under rule X, and (subject to the adoption of expense resolutions as required by clause 5) to incur expenses (including travel expenses) in connection therewith.

(c) Each committee is authorized to have printed and bound testimony and other data presented at hearings held by the committee. All costs of stenographic services and transcripts in connection with any meeting or hearing of a committee shall be paid from the contingent fund of the House.

(d)(1) Each committee shall submit to the House not later than January 2 of each odd-numbered year, a report on the activities of that committee under this rule and rule X during the Congress ending on January 3 of such year.

(2) Such report shall include separate sections summarizing the legislative and oversight activities of that committee during that Congress.

(3) The oversight section of such report shall include a summary of the oversight plans submitted by the committee pursuant to clause 2(d) of rule X, a summary of the actions taken and recommendations made with respect to each such plan, and a summary of any additional oversight activities undertaken by that committee, and any recommendations made or actions taken thereon.

Paragraph (b) was incorporated into the rules under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), and, together with clauses 2(m) and 2(n) of rule XI, eliminated the necessity that each committee obtain such authority each Congress by a separate resolution reported from the Commit-

tee on Rules. Paragraph (c) was also made part of the rules on that date. The provisions of paragraph (d)(1) were first made requirements of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144, incorporating the provisions of sec. 118(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140)), and effective on January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470) exemptions from the reporting requirements for the Committees on Appropriations, the Budget, House Administration, Rules and Standards of Official Conduct were removed, so the paragraph from that point applied to all committees. The 104th Congress added subparagraphs (d)(2) and (3) to require that activity reports include separate sections on legislative and oversight activities, including a summary comparison of oversight plans and eventual recommendations and actions (sec. 203(b), H. Res. 6, Jan. 4, 1995, p. —).

Under the Unfunded Mandates Reform Act of 1995, effective on January 1, 1996, or 90 days after appropriations are made available to the Congressional Budget Office pursuant to that Act (whichever is earlier), the Committee on Rules is required to include in its activity report a separate item identifying all waivers of points of order relating to Federal mandates, listed by bill or joint resolution number and subject matter (sec. 107(b), P.L. 104-4; 109 Stat. 63).

Committee Rules

Adoption of written rules

2. (a) Each standing committee of the House shall adopt written rules governing its procedure. Such rules—

§ 704a. Committee rules.

(1) shall be adopted in a meeting which is open to the public unless the committee, in open session and with a quorum present, determines by rollcall vote that all or part of the meeting on that day is to be closed to the public;

(2) shall be not inconsistent with the Rules of the House or with those provisions of law having the force and effect of Rules of the House; and

(3) shall in any event incorporate all of the succeeding provisions of this clause to the extent applicable.

Each committee's rules specifying its regular meeting days, and any other rules of a committee which are in addition to the provisions of this clause, shall be published in the Congressional Record not later than thirty days after the committee is elected in each odd-numbered year. Each select or joint committee shall comply with the provisions of this paragraph unless specifically prohibited by law.

The requirement that standing committees adopt written rules was first incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144), having been included in the Legislative Reorganization Act of 1970 (84 Stat. 1140). Under the Committee Reform Amendments of 1974, clause 2(a) became effective in essentially its present form on January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). In the 94th Congress subparagraph (1) was amended to permit a rollcall vote to close the committee meeting at which committee rules are adopted only on the day of the meeting (H. Res. 5, Jan. 14, 1975, p. 20). In the 102d Congress the clause was amended to allow a committee 30 days after the election of its members, rather than after the convening of the Congress, to publish its rules in the Congressional Record (H. Res. 5, Jan. 3, 1991, p. —). Committees have historically adopted rules under which they function (I, 707; III, 1841, 1842; VIII, 2214). Committee rules are compiled by the Committee on Rules each Congress as a committee print. It is the responsibility of the committees, and not the House, to construe and enforce additional committee rules on the calling of committee meetings (Speaker Albert, July 22, 1974, pp. 24436–47). A Court has interpreted the statute, from which the last two sentences derive, providing for publication of committee rules in the Congressional Record, to be mandatory: where a Senate committee had adopted a rule setting one senator as a quorum for the purpose of taking sworn testimony, but had not published that rule in the Record by the date of the hearing, the rule was not valid at that time, and there was no “competent” tribunal before which alleged false testimony was given to support a perjury conviction. *United States v. Reinecke*, 524 F. 2d 435 (1975).

Failure to follow certain procedural requirements imposed on committees by this rule may invalidate committee actions. Violation of the requirements as to open meetings and hearings and other hearing irregularities improperly overruled (see clause 2(g)(5) of rule XI) or the prescribed committee procedures for reporting bills and resolutions (clause 2(1) of rule XI) or failure to adhere to the prohibition against committees meeting without permission while the House is operating under the five-minute rule (clause 2(i) of rule XI)

§ 704b. Committee Procedure generally.

may in some instances be the basis for a point of order in the House, resulting in the recommitment of the bill. But a point of order does not ordinarily lie in the House against consideration of a bill by reason of defective committee procedures occurring prior to the time the bill is ordered reported to the House (Procedure, ch. 17, sec. 11.1).

Many of the procedures applicable to committees derive from Jefferson's Manual, which govern the House and its committees in all cases to which they are applicable (rule XLII). A committee may act only when together, and not by separate consultation and consent, nothing being the report (or recommendation) of the committee except what has been agreed to in committee actually assembled (see Jefferson's Manual at § 407, *supra*). A measure before a committee for consideration must be read for amendment by section as in the House (see Jefferson's Manual at §§ 412–414), and reading of the measure and of amendments thereto must be in full. The procedures applicable in the House as in the Committee of the Whole (see §§ 424 and 427, *supra*) generally apply to proceedings in committees of the House of Representatives, except that since a measure considered in committee must be read for amendment, a motion to limit debate under the five-minute rule in committee must be confined to the portion of the bill then pending. The previous question may only be moved on the measure in committee if the entire measure has been read, or considered as read, for amendment.

Committees generally conduct their business under the five-minute rule but may employ the ordinary motions which are in order in the House, such as under clause 4 of rule XVI, and may also employ the motion to limit debate under the five-minute rule on a proposition which has been read.

Regular meeting days

(b) Each standing committee of the House shall adopt regular meeting days, which shall be not less frequent than monthly, for the conduct of its business. Each such committee shall meet, for the consideration of any bill or resolution pending before the committee or for the transaction of other committee business, on all regular meeting days fixed by the committee, unless otherwise provided by written rule adopted by the committee.

§ 705. Committee meetings.

Additional and special meetings

(c)(1) The chairman of each standing committee may call and convene, as he or she considers necessary, additional meetings of the committee for the consideration of any bill or resolution pending before the committee or for the conduct of other committee business. The committee shall meet for such purpose pursuant to that call of the chairman.

(2) If at least three members of any standing committee desire that a special meeting of the committee be called by the chairman, those members may file in the offices of the committee their written request to the chairman for that special meeting. Such request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If, within three calendar days after the filing of the request, the chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour of, and the measure or matter to be considered at, that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour and the

measure or matter to be considered; and only the measure or matter specified in that notice may be considered at that special meeting.

Vice chairman or ranking majority Member to preside in absence of chairman

(d) A member of the majority party on any standing committee or subcommittee thereof designated by the chairman of the full committee shall be vice chairman of the committee or subcommittee, as the case may be, and shall preside at any meeting during the temporary absence of the chairman. If the chairman and vice chairman of the committee or subcommittee are not present at any meeting of the committee or subcommittee, the ranking member of the majority party who is present shall preside at that meeting.

Paragraphs (b), (c), and (d) were first adopted on December 8, 1931 (VIII, 2208), were amended on January 3, 1953 (p. 24), and were revised both by the Legislative Reorganization Act of 1970 (84 Stat. 1140) and in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). In the 102d Congress paragraph (d) was amended to provide that the ranking majority Member of each committee and subcommittee be designated as its vice-chairman (H. Res. 5, Jan. 3, 1991, p. —). In the 104th Congress paragraph (d) was amended to permit the chairman of a full committee to designate vice-chairmen of the committee and its subcommittees (sec. 223(c), H. Res. 6, Jan. 4, 1995, p. —).

A committee scheduled to meet on stated days, when convened on such day with a quorum present may proceed to the transaction of business regardless of the absence of the chairman (VIII, 2213, 2214).

A committee meeting being adjourned for lack of a quorum, a majority of the members of the committee may not, without the consent of the chairman, call a meeting of the committee on the same day (VIII, 2213).

Committee records

(e)(1) Each committee shall keep a complete record of all committee action which shall include—

§ 706a. Required records.

(A) in the case of any meeting or hearing transcript, a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved; and

(B) a record of the votes on any question on which a rollcall vote is demanded.

The result of each such rollcall vote shall be made available by the committee for inspection by the public at reasonable times in the offices

of the committee. Information so available for public inspection shall

§ 706b. Public availability.

include a description of the amendment, motion, order, or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and the names of those Members present but not voting.

(2) All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access thereto, except that in the case of records in the Committee on Standards of Official Conduct respecting the conduct of any Member, officer, or employee of

§ 706c. Committee files.

the House, no Member of the House (other than a member of such committee) shall have access thereto without the specific, prior approval of the committee.

(3) Each committee shall include in its rules standards for availability of records of the committee delivered to the Archivist of the United States under rule XXXVI. Such standards shall specify procedures for orders of the committee under clause 3(b)(3) and clause 4(b) of rule XXXVI, including a requirement that nonavailability of a record for a period longer than the period otherwise applicable under that rule shall be approved by vote of the committee.

The first sentence of paragraph (e)(1) was rewritten entirely in the 104th Congress (sec. 206, H. Res. 6, Jan. 4, 1995, p. —). Its predecessor, requiring a complete record of all committee actions, including votes on any question on which a roll call was demanded, was enacted as section 133(b) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and made part of the standing rules on January 3, 1953 (p. 24). The requirement that committee roll calls be subject to public inspection was added by section 104(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and made a part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Effective on January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), the requirement that proxy votes in committee be made available for public inspection was eliminated from this paragraph since proxies were prohibited as of that date, but in the 94th Congress clause 2(f) of rule XI was amended to permit proxies in committee, and this paragraph was likewise amended to reinsert the requirement of availability for public inspection (H. Res. 5, Jan. 14, 1975, p. 20). When proxy voting was again eliminated in the 104th Congress, the reference thereto in the third sentence of paragraph (e)(1) was deleted (sec. 104(b), H. Res. 6, Jan. 4, 1995, p. —).

Paragraph (e)(2) derives from section 202(d) of the Legislative Reorganization Act of 1946 (60 Stat. 812), was made a part of the rules in the 83d Congress (H. Res. 5, Jan. 3, 1953, p. 24), and was amended in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70) to restrict the access of Members to certain records of the Committee on Standards of Official Conduct. Paragraph (e)(3) was added in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72).

A Member's right to access to committee records under this clause does not entitle him to make photostatic copies of such records (Speaker Rayburn, Aug. 14, 1957, pp. 14737–39), and such records may not be brought into the well of the House if the committee has not authorized such action (Speaker Rayburn, June 3, 1960, p. 11820). Furthermore, such access allows a Member to examine executive session materials only in committee rooms and does not permit a Member to copy or to take personal notes from such materials, to keep such notes or copies in his personal office files, or to release such materials to the public without the consent of the committee or subcommittee under clause 2(k)(7) of rule XI (Speaker O'Neill, Dec. 6, 1977, pp. 38470–73). This clause allowing all Members access to committee records and materials which are the property of the House does not necessarily apply to records within the possession of the executive branch which the members of the committee have been allowed to examine under limited conditions at the discretion of the executive agency in possession of such materials (Speaker O'Neill, July 31, 1980, p. 20765). Compare this clause with clause 7(c) of rule XLVIII, which only permits access of non-members of the Select Committee on Intelligence to classified information in the possession of that committee when authorized by that committee.

While all Members have access to committee records under this clause, testimony or evidence taken in executive sessions of a committee is under the control and subject to the regulation of the committee and, under clause 2(k)(7) of rule XI (§ 712, *infra*), cannot be released without the consent of the committee (Speaker pro tempore Mills, June 26, 1961, p. 11233; see also Procedure, ch. 17, sec. 15).

In implementing clause 2(e)(2), committees may prescribe regulations to govern the manner of access to their records, such as requiring examination only in committee rooms. See the rules of the Committees on the Budget, International Relations, and National Security, as compiled by the Committee on Rules.

Prohibition against proxy voting

(f) No vote by any member of any committee or subcommittee with respect to any measure or matter may be cast by proxy.

§ 707. Ban on proxies. The 104th Congress adopted paragraph (f) in this form (sec. 104, H. Res. 6, Jan. 4, 1995, p. —). An earlier form of the provision was enacted as section 106(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and made part of the standing rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144).

The original form of this paragraph permitted committees to adopt written rules permitting proxies in writing, designating the persons to execute

them and specifying the measures or matters to which they applied. Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), proxies in committee were prohibited, but in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20), the rule was amended to permit proxies in committees with additional restrictions requiring an assertion that the grantor was absent on official business or otherwise unable to attend, requiring the Member to sign and date the proxy, and permitting general proxies for procedural matters.

Open meetings and hearings

§ 708. (g)(1) Each meeting for the transaction of business, including the markup of legislation, of each standing committee or subcommittee thereof shall be open to the public, including to radio, television, and still photography coverage, except as provided by clause 3(f)(2), except when the committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, would tend to defame, degrade or incriminate any person, or otherwise would violate any law or rule of the House: *Provided, however,* That no person other than members of the committee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This paragraph does not apply to open committee hearings which are provided for by clause 4(a)(1) of rule X or by subparagraph (2) of this paragraph.

(2) Each hearing conducted by each committee or subcommittee thereof shall be open to the public, including to radio, television, and still photography coverage, except when the committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security, would compromise sensitive law enforcement information, or would violate any law or rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony,

(A) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security, would compromise sensitive law enforcement information, or violate clause 2(k)(5) of rule XI; or

(B) may vote to close the hearing, as provided in clause 2(k)(5) of rule XI.

No Member may be excluded from non-participatory attendance at any hearing of any committee or subcommittee, with the exception of the Committee on Standards of Official Conduct, unless the House of Representatives shall by majority vote authorize a particular committee or subcommittee, for purposes of a particular

series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this subparagraph for closing hearings to the public: *Provided, however,* That the committee or subcommittee may by the same procedure vote to close one subsequent day of hearing except that the Committee on Appropriations, the Committee on National Security, and the Permanent Select Committee on Intelligence and the subcommittees therein may, by the same procedure, vote to close up to five additional consecutive days of hearings.

(3) The chairman of each committee of the House (except the Committee on Rules) shall make public announcement of the date, place, and subject matter of any committee hearing at least one week before the commencement of the hearing. If the chairman of the committee, with the concurrence of the ranking minority member, determines there is good cause to begin the hearing sooner, or if the committee so determines by majority vote, a quorum being present for the transaction of business, the chairman shall make the announcement at the earliest possible date. Any announcement made under this subparagraph shall be promptly published in the Daily Digest and promptly entered into the committee scheduling service of the House Information Systems.

(4) Each committee shall, insofar as is practicable, require each witness who is to appear before it to file with the committee (in advance

of his or her appearance) a written statement of the proposed testimony and to limit the oral presentation at such appearance to a brief summary of his or her argument.

(5) No point of order shall lie with respect to any measure reported by any committee on the ground that hearings on such measure were not conducted in accordance with the provisions of this clause; except that a point of order on that ground may be made by any member of the committee which reported the measure if, in the committee, such point of order was (A) timely made and (B) improperly overruled or not properly considered.

(6) The preceding provisions of this paragraph do not apply to the committee hearings which are provided for by clause 4(a)(1) of rule X.

Subparagraphs (1) and (2) relating to open committee meetings and hearings, were first made part of the rules on March 7, 1973 (H. Res. 259, 93d Cong., pp. 6713–20). They were amended in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20), to limit to one day (in case of a committee meeting) or to one day plus one subsequent day (in the case of a hearing) the period during which a committee may close its session. They were again amended in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70), to require that a majority (rather than a quorum) be present when a committee or subcommittee votes to close a meeting or hearing and to provide that a non-committee Member cannot be excluded from a hearing except by a vote of the House. However, subparagraph (2) was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, p. 8) to permit a majority of those present under the rules of the committee for the purpose of taking testimony (not less than two Members as provided in clause 2(h)(1) of rule XI) to vote to close a hearing either to discuss whether the testimony would endanger national security or would violate clause 2(k)(5) of this rule, or to proceed to close the hearing as provided by clause 2(k)(5). In the 98th Congress subparagraph (2) was amended further to permit the Committees on Appropriations, Armed Services (now National Security), and Intelligence and their subcommittees, when voting in open session with a quorum present, to close a hearing on that particular day and for up to five additional days, for a total of not to exceed six days (H. Res. 5, Jan.

3, 1983, p. 34). In the 104th Congress subparagraphs (1) and (2) were amended to require that meetings and hearings open to the public also be open to broadcast and photographic media; subparagraph (1) was further amended to permit closed meetings only on specified conditions and to delete an exception for meetings relating to internal budget or personnel matters; and subparagraph (2) was further amended to specify a new condition (sensitive law enforcement information) for closing hearings (sec. 105, H. Res. 6, Jan. 4, 1995, p. —). Subparagraph (2) was also amended to reflect the new name of the Committee on National Security (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. —).

Subparagraphs (3)–(6) derive from sections 111(b), 113(b), 115(b), and 242(c) respectively of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and became part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), these provisions were inadvertently omitted from the rules, and were therefore reinserted in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20). Subparagraph (3) was amended in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113) to add the requirement of prompt entering of public notice of committee meetings into the committee scheduling service of the House Information Systems. Subparagraph (3) was again amended in the 104th Congress to permit the calling of a hearing on less than seven days' notice upon a determination of good cause either by the committee or subcommittee or by its chairman, with the concurrence of its ranking minority member (H. Res. 43, Jan. 31, 1995, p. —).

Quorum for taking testimony and certain other action

(h)(1) Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence which shall be not less than two.

§ 709. Quorum of two;
of one-third.

(2) Each committee (except the Committee on Appropriations, the Committee on the Budget, and the Committee on Ways and Means) may fix the number of its members to constitute a quorum for taking any action other than the reporting of a measure or recommendation which shall be not less than one-third of the members.

This paragraph when adopted on March 23, 1955, pp. 3569, 3585, only related to the authority of a committee to fix quorum of not less than two for taking testimony. In the 95th Congress (H. Res. 5, Jan. 4, 1977,

pp. 53–70) subparagraph (2) was added to authorize committees to fix a quorum less than a majority for certain other action. Under clause 2(g) of this rule, a majority of a committee or subcommittee must be present when a committee or subcommittee votes to close a meeting or hearing, under clause (m) of this rule a majority of a committee or subcommittee must be present to authorize and issue a subpoena, and under clause 2(l)(2)(A) of this rule, a majority of a committee or subcommittee must be present to order a measure or recommendation reported.

By unanimous consent the Committee on Standards of Official Conduct was authorized to receive evidence and take testimony before a quorum of one of its Members for the remainder of the second session of the 100th Congress (Oct. 13, 1988, p. 30467).

Limitation on committees' sittings

(i)(1) No committee of the House (except the Committee on Appropriations, the Committee on the Budget, the Committee on Rules, the Committee on Standards of Official Conduct, and the Committee on Ways and Means) may sit, without special leave, while the House is reading a measure for amendment under the five-minute rule. For purposes of this paragraph, special leave will be granted unless ten or more Members object; and shall be granted upon the adoption of a motion, which shall be highly privileged if offered by the majority leader, granting such leave to one or more committees.

§ 710. Committees not to sit.

(2) No committee of the House may sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.

A clause regulating when committees could sit had its origin in 1794. It was omitted from rule XI in the adoption of rules for the 80th Congress but remained effective as part of the Legislative Reorganization Act of 1946, the applicable provisions of which were continued as a part of the rules of the House. While the rule formerly prohibited committees from sitting at any time when the House was in session, it was narrowed to proscribe sittings during the five-minute rule by the Legislative Reorga-

nization Act of 1970 (sec. 117(b); 84 Stat. 1140) and this revision was made part of the standing rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 14). Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), the committees exempted from this clause were Appropriations, Budget, and Rules; and in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70), the Committee on Standards of Official Conduct was also exempted. The Committee on Ways and Means was traditionally permitted to sit during proceedings under the five-minute rule by unanimous consent granted each Congress (Jan. 29, 1975, p. 1677) until it was exempted from the rule in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113). A provision that special leave to sit be granted if ten Members did not object was added to the clause in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70). An exemption for the Committee on House Administration and the prohibition against committee meetings during joint meetings or joint sessions were added in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72). In the 103d Congress the prohibition against sitting during proceedings under the five-minute rule was stricken altogether (H. Res. 5, Jan. 5, 1993, p. —), but in the 104th Congress the former rule was reinstated with exemptions for the Committees on Appropriations, the Budget, Rules, Standards of Official Conduct, and Ways and Means, and also with the provision for a privileged motion by the Majority Leader (sec. 208, H. Res. 6, Jan. 4, 1995, p. —). The majority leader controls one hour of debate on the privileged motion provided under this rule (Jan. 23, 1995, p. —).

At the organization of the 104th Congress, the Speaker reiterated policies first enunciated on March 3, 1983, concerning the entertainment and disposition of requests for leave to sit under this paragraph, to wit: (1) unanimous consent is required to grant permission for a day for which the legislative program has not been announced; (2) no request is entertained on a day when no vote is scheduled except one for hearings only, by unanimous consent, and with the concurrence of the ranking minority member; (3) no request is entertained during the 1-minute period except with the concurrence of the ranking minority member; (4) no request is entertained after the completion of legislative business for the day, *i.e.*, after leaves of absence have been laid down or unanimous consent requests from the majority and minority tables have been entertained at the end of the day; and (5) after objection by 10 Members, a request may not be renewed on the same day without assurance that the objections have been withdrawn (Speaker Gingrich, Jan. 4, 1995, p. —).

Leave for a committee to sit during sessions of the House does not release its members from liability to arrest during a call of the House (IV, 3020). The Speaker declared a committee meeting void and directed a bill stricken from the calendar where it was shown that the committee reporting it had sat and ordered it reported during the session of the House without permission (Apr. 20, 1934, p.7057).

Calling and interrogation of witnesses

§ 711. (j)(1) Whenever any hearing is conducted by any committee upon any measure or matter, the minority party Members on the committee shall be entitled, upon request to the chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

(2) Each committee shall apply the five-minute rule in the interrogation of witnesses in any hearing until such time as each member of the committee who so desires has had an opportunity to question each witness.

Paragraph (j)(1) was contained in section 114(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was made a part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Paragraph (j)(2) was added to the rules on that latter date. While a majority of the minority members of a committee are entitled to call witnesses selected by the minority for at least one day of hearings, no rule of the House requires the calling of witnesses on opposing sides of an issue (Oct. 14, 1987, p. 27921).

Investigative hearing procedures

§ 712. (k)(1) The chairman at an investigative hearing shall announce in an opening statement the subject of the investigation.

(2) A copy of the committee rules and this clause shall be made available to each witness.

(3) Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.

(5) Whenever it is asserted that the evidence or testimony at an investigatory hearing may tend to defame, degrade, or incriminate any person,

(A) such testimony or evidence shall be presented in executive session, notwithstanding the provisions of clause 2(g)(2) of this rule, if by a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony, the committee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person; and

(B) the committee shall proceed to receive such testimony in open session only if a majority of the members of the committee, a majority being present, determine that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

In either case the committee shall afford such person an opportunity voluntarily to appear as a witness, and receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (5), the chairman shall receive and the committee

shall dispose of requests to subpoena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

The provisions of paragraph (k) were first incorporated into the rules on March 23, 1955, pp. 3569, 3585. The requirement of paragraph (k)(2) that a copy of committee rules be furnished to each witness was added in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144), and the former requirement of paragraph (k)(9) that a witness must pay the cost of a transcript copy of his testimony was eliminated under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Paragraph (k)(5) was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7-16) to permit a committee to hear testimony asserted to be defamatory in executive session upon a determination by a majority of those present that such testimony is indeed defamatory, degrading, or incriminating. The requirements of clause 2(g)(1) and (2) and of 2(m)(2)(A) of this rule that a majority of the committee or subcommittee shall constitute a quorum for the purposes of closing meetings or hearings or issuing subpoenas have been construed to require, under clause 2(k)(7) of this rule, that a majority shall likewise constitute a quorum to release or make public any evidence or testimony received in any closed meeting or hearing and any other executive session record of the committee or subcommittee. See also clauses 3(a) and 7(c)(2) of rule XLVIII, which provide that executive session material transmitted by the Intelligence Committee to another committee of the House becomes the executive session material of the recipient committee by virtue of the nature of the material and the injunction of clauses 7(c), (d), and (e) of that rule which prohibit disclosure of information provided to committees or Members of the House except in a secret session.

***Committee procedures for reporting bills
and resolutions***

(l)(1)(A) It shall be the duty of the chairman
§ 713a. Chairman's of each committee to report or cause
duty. to be reported promptly to the
House any measure approved by the committee
and to take or cause to be taken necessary steps
to bring the matter to a vote.

(B) In any event, the report of any committee
§ 713b. Filing by on a measure which has been ap-
majority of proved by the committee shall be
Committee. filed within seven calendar days
(exclusive of days on which the House is not in
session) after the day on which there has been
filed with the clerk of the committee a written
request, signed by a majority of the members of
the committee, for the reporting of that meas-
ure. Upon the filing of any such request, the
clerk of the committee shall transmit imme-
diately to the chairman of the committee notice
of the filing of that request. This subdivision
does not apply to a report of the Committee on
Rules with respect to the rules, joint rules, or
order of business of the House or to the report-
ing of a resolution of inquiry addressed to the
head of an executive department.

Subdivision (1)(A) is from section 133(c) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and was made a part of the standing rules on January 3, 1953 (p. 24). It is sufficient authority for the chairman to call up a bill on Calendar Wednesday (Speaker Rayburn, Feb. 22, 1950, p. 2162). Subdivision (1)(B) is derived from section 105 of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was made part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). A subdivision (1)(C) was added by the Committee Reform Amendments of 1974, effective Jan. 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), to incorporate

section 307 of the Congressional Budget Act of 1974 (88 Stat. 313), requiring the Committee on Appropriations to strive to complete committee action on all regular appropriation bills before reporting any of them to the House, and to submit a report comparing specified spending levels, but was repealed by section 232(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177, Dec. 12, 1985). An obsolete reference in subdivision (B) to the former subdivision (C) was deleted in the 104th Congress (sec. 223(f), H. Res. 6, Jan. 4, 1995, p. —).

Committee reports must be submitted while the House is in session (with the exception of reports on certain budget resolutions under section 310(a) of the Congressional Budget Act (§ 1007, *infra*), and that requirement may be waived by unanimous consent only, and not by motion (Dec. 17, 1982, p. 31951).

(2)(A) No measure or recommendation shall be reported from any committee unless a majority of the committee was actually present.

§ 713c. Requirement of quorum.

(B) With respect to each rollcall vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the committee report on the measure or matter.

§ 713d. Vote on reporting.

Subparagraph (2)(A) is from section 133(d) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and was made a part of the rules on January 3, 1953 (p. 24). The point of order that a bill was reported from a committee without a formal meeting and a quorum present comes too late if debate has started on a bill in the House (VIII, 2223; Feb. 24, 1947, p. 1374). No committee report is valid unless authorized with a quorum of the committee actually present at the time the vote is taken (IV, 4584; VIII, 2211, 2212, 2221, 2222), and while Speakers have indicated that committee members may come and go during the course of the vote if the roll call indicates that a quorum was present (VIII, 2222), where it is admitted that a quorum was not in the room at any time during the vote and the committee transcript does not show a quorum acting as a quorum, the Chair will sustain the point of order (VIII, 2212). In the 103d Congress, clause 2(l)(2)(A) was amended to provide that responses to roll calls in committee be deemed contemporaneous and to require that a point of no quorum with respect to a committee report be timely asserted in committee or considered waived

(H. Res. 5, Jan. 5, 1993, p. —), but in the 104th Congress both of those features were deleted from the rule (sec. 207, H. Res. 6, Jan. 4, 1995, p. —).

Where the committee transcript was not conclusive and the manager of the bill gave absolute assurance that a majority of the full committee was actually present when the bill was ordered reported the Speaker overruled a point of order made under subparagraph (2)(A) (Oct. 22, 1987, p. 28807). A point of no quorum pending a committee vote on ordering a measure reported may provoke a quorum call requiring a majority of the committee to be present in the committee room. A committee may act only when together, nothing being the report of the committee except what has been agreed to in committee actually assembled (see Jefferson's Manual at § 407, *supra*).

The requirement of subparagraph (2)(B) was contained in section 104(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140), was incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144), and was restated in the 104th Congress to require that reports also reflect the total number of votes cast for and against any public measure or matter and any amendment thereto and the names of those voting for and against (sec. 209, H. Res. 6, Jan. 4, 1995, p. —). If the accompanying report erroneously reflects information required by this paragraph, a bill would be subject to a point of order against its consideration; however, a point of order would not lie if the error was introduced by the Government Printing Office (Jan. 19, 1995, p. —).

(3) The report of any committee on a measure which has been approved by the committee shall include (A) the oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X separately set out and clearly identified; (B) the statement required by section 308(a)(1) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the measure provides new budget authority (other than continuing appropriations), new spending authority described in section 401(c)(2) of such Act, new credit authority, or an increase or decrease in revenues or tax expenditures, except that the estimates with respect to new budget authority shall include, when practicable, a comparison of

§ 713e. Content of reports.

the total estimated funding level for the relevant program (or programs) to the appropriate levels under current law; (C) the estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of such Act, separately set out and clearly identified, whenever the Director (if timely submitted prior to the filing of the report) has submitted such estimate and comparison to the committee; and (D) a summary of the oversight findings and recommendations made by the Committee on Government Reform and Oversight under clause 4(c)(2) of rule X separately set out and clearly identified whenever such findings and recommendations have been submitted to the legislative committee in a timely fashion to allow an opportunity to consider such findings and recommendations during the committee's deliberations on the measure.

The provisions of subparagraph (3) became effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). The subparagraph was amended in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70), to correct a cross-reference, and in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. —) to correct the typographical transposition of a phrase. Subdivisions (B) and (C) are requirements of sections 308(a) and 403 of the Congressional Budget Act of 1974 (88 Stat. 297). Subdivision (B) was amended in the 99th Congress by section 232(f) of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99–177, Dec. 12, 1985) to include new entitlement and credit authority in conformity with section 308(a)(1) of the Congressional Budget Act of 1974, as amended by that law. It was again amended in the 104th Congress to require estimates of new budget authority, when practicable, to compare the total estimated funding for the program to the appropriate level under current law (sec. 102(a), H. Res. 6, Jan. 4, 1995, p. —). At the same time it was also amended to reflect the new name of the Committee on Government Reform and Oversight (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. —).

(4) Each report of a committee on each bill or joint resolution of a public character reported by such committee shall contain a detailed analytical statement as to whether the enactment of such bill or joint resolution into law may have an inflationary impact on prices and costs in the operation of the national economy.

§ 713f. Inflationary impact.

Subparagraph (4) became a part of the rules under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). If a point of order were sustained under this paragraph, the measure would be recommitted to the reporting committee (Feb. 13, 1995, p. —).

Under the Congressional Accountability Act of 1995, each report accompanying a bill or joint resolution relating to terms and conditions of employment or access to public services or accommodations must describe the manner in which the provisions apply to the Legislative branch or a statement of the reasons the provisions do not apply, and any Member may raise a point of order against the consideration of a bill or joint resolution not complying with this requirement (sec. 102(b)(3), P.L. 104-1; 109 Stat. 6).

§ 713g. Application of laws to Legislative branch.

The Unfunded Mandates Reform Act of 1995 (P.L. 104-4; 109 Stat. 48 *et seq.*) added a new part B to title IV of the Congressional Budget Act of 1974 (2 U.S.C. 658-658g) that, effective on January 1, 1996, or 90 days after appropriations are made available to the Congressional Budget Office pursuant to the 1995 Act (whichever is earlier), imposes several requirements on committees with respect to measures effecting "Federal mandates" (secs. 423-424; 2 U.S.C. 659b-c) and establishes points of order to enforce those requirements (sec. 425; 2 U.S.C. 658d). See § 1007, *infra*.

§ 713h. Unfunded mandates.

(5) If, at the time of approval of any measure or matter by any committee, other than the Committee on Rules, any member of the committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than three calendar days (excluding Saturdays,

§ 714. Minority views.

Sundays, and legal holidays) in which to file such views, in writing and signed by that member, with the clerk of the committee. All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter. The report of the committee upon that measure or matter shall be printed in a single volume which—

(A) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(B) shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under subdivisions (C) and (D) of subparagraph (3)) are included as part of the report.

This subparagraph does not preclude—

(i) the immediate filing or printing of a committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by this subparagraph; or

(ii) the filing by any such committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that committee upon that measure or matter.

Subparagraph (5) was originally included in section 107 of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Subdivision

(B) was added under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470).

(6) A measure or matter reported by any committee (except the Committee on Rules in the case of a resolution making in order the consideration of a bill, resolution, or other order of business), shall not be considered in the House until the third calendar day, excluding Saturdays, Sundays, and legal holidays on which the report of that committee upon that measure or matter has been available to the Members of the House, or as provided by section 305(a)(1) of the Congressional Budget Act of 1974 in the case of a concurrent resolution on the budget: *Provided, however,* That it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b) of rule XI, a report from the Committee on Rules specifically providing for the consideration of a reported measure or matter notwithstanding this restriction. If hearings have been held on any such measure or matter so reported, the committee reporting the measure or matter shall make every reasonable effort to have such hearings printed and available for distribution to the Members of the House prior to the consideration of such measure or matter in the House.

This subparagraph shall not apply to—

(A) any measure for the declaration of war, or the declaration of a national emergency, by the Congress; or

(B) any decision, determination, or action by a Government agency which would be-

come or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress.

For the purposes of the preceding sentence, a Government agency includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the government of the District of Columbia.

Subparagraph (6) was originally contained in section 108 of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). The rule was amended on October 13, 1972 (H. Res. 1153, 92d Cong., pp. 36013–23), on January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), and in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20). In the 94th Congress it was amended to require that reports and reported measures be available for two hours but to permit the immediate consideration of a resolution reported from the Committee on Rules waiving this layover requirement (H. Res. 868, Feb. 26, 1976, p. 4625). In the 95th Congress it was amended to permit consideration of a measure on the third day of availability rather than on the third day following availability (H. Res. 5, Jan. 4, 1977, pp. 53–70). In the 96th Congress it was amended to require that copies of a committee report be available for three calendar days rather than two hours before the beginning of consideration of the reported measure (H. Res. 5, Jan. 15, 1979, p. 8). In the 102d Congress it was amended to clarify the availability requirements for reported measures, including concurrent resolutions on the budget (H. Res. 5, Jan. 3, 1991, p. —).

The availability requirement is not applicable to privileged reports from the Committee on Rules or to bills before the House which have not been reported from committee (Speaker Albert, Aug. 10, 1976, p. 26793), and the exception from the three-day availability requirement for certain reports from the Committee on Rules must be read in light of the broader authority, contained in clause 4(b) of this rule, conferred on that committee to call up other reports after one day of availability. The Committee on Rules has the authority under clause 4(a) of rule XI to report a special order making in order the text of an introduced bill as a substitute original text for a reported bill, and no point of order lies that such introduced text has not been available for three days under this rule, which only applies to the consideration of reported measures themselves (Oct. 9, 1986, p. 29973). The exceptions from the three-day layover requirement provided in the last two sentences of this paragraph were expanded in the 97th Congress (H. Res. 5, Jan. 5, 1981, p. 98) to include resolutions called up

pursuant to legislative veto provisions in laws having the effect of approving or invalidating the actions of any government agency (and not just agencies of the executive branch). That exception allows the consideration of a measure disapproving an executive branch decision pursuant to statute within three days of the expiration of the congressional review period, notwithstanding the three-day availability requirement (concurrent resolution disapproving a regulation of the Federal Trade Commission pursuant to the Federal Trade Commission Improvements Act, P.L. 96-252) (May 26, 1982, pp. 12027-30). A report from a committee which raises a question of the privileges of the House, such as a report relating to the contemptuous conduct of a witness before the committee, may be considered notwithstanding the availability requirements of this clause (Speaker Albert, July 13, 1971, pp. 24720-23; see also Deschler's Precedents, vol. 3, ch. 14, sec. 7.4, fn. 10, with respect to impeachment reports).

With respect to the committee expense resolutions reported by the Committee on House Oversight pursuant to clause 5 of rule § 716. *One-day layover.* XI, the requirement of that clause for the one-day availability of printed copies, rather than the three-day requirement of this rule, is applicable, but other privileged resolutions reported from that committee are now subject to this clause (Speaker Albert, Mar. 6, 1975, p. 5537).

(7) If, within seven calendar days after a measure has, by resolution, been made in order for consideration by the House, no motion has been offered that the House consider that measure, any member of the committee which reported that measure may be recognized in the discretion of the Speaker to offer a motion that the House shall consider that measure, if that committee has duly authorized that member to offer that motion.

Subparagraph (7) was contained in section 109 of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and became part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). This subparagraph should be read in light of clause 1(b) of rule XXIII, which provides for the House resolving into the Committee of the Whole by declaration of the Speaker pursuant to a special order of business rather than by adoption of a motion.

Power to sit and act; subpoena power

(m)(1) For the purpose of carrying out any of its functions and duties under this rule and rule X (including any matters referred to it under clause 5 of rule X), any committee, or any subcommittee thereof, is authorized (subject to subparagraph (2)(A) of this paragraph)—

§ 718. Administration of oaths to witnesses.

(A) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings, and

(B) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents

as it deems necessary. The chairman of the committee, or any member designated by such chairman, may administer oaths to any witness.

(2)(A) A subpoena may be authorized and issued by a committee or subcommittee under subparagraph (1)(B) in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present. The power to authorize and issue subpoenas under subparagraph (1)(B) may be delegated to the chairman of the committee pursuant to such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or by any member designated by the committee.

(B) Compliance with any subpoena issued by a committee or subcommittee under subparagraph (1)(B) may be enforced only as authorized or directed by the House.

Prior to the adoption of clause 2(m) under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), only the Committees on Appropriations, the Budget, Government Operations, Internal Security, and Standards of Official Conduct were permitted by the standing rules to perform the functions as specified in subparagraphs (1)(A) and (1)(B), and other standing and select committees were given those authorities by separate resolutions reported from the Committee on Rules each Congress. In the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20), subparagraph (2)(A) was amended to require authorized subpoenas to be signed by the chairman of the full committee or any member designated by the committee; and in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70) the clause was altered to permit subcommittees, as well as full committees, to authorize subpoenas and to allow the delegation of such authority to the chairman of the full committee. A subpoena issued under this clause need only be signed by the chairman of the committee or by any member designated by the committee, whereas when the House issues an order or warrant the Speaker must under clause 4 of rule I issue the summons under his hand and seal, and it must be attested by the Clerk pursuant to clause 3 of rule III (III, 1668; see H. Rept. 96–1078, p. 22). Pursuant to 2 U.S.C. 191, the President of the Senate, the Speaker of the House of Representatives, or a chairman of any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or of a committee of the whole, or of any committee of either House of Congress, is empowered to administer oaths to witnesses in any case under their examination, and any member of either House of Congress may administer oaths to witnesses in any matter depending in either House of Congress of which he is a Member, or any committee thereof.

While under this clause the Committee on Standards of Official Conduct may issue subpoenas in investigating the conduct of a Member, officer or employee of the House (the extent of the committee's jurisdiction under rule X), where the House mandates a possible investigation by that committee of other persons not directly associated with the House, the committee's jurisdiction is thereby enlarged and a broader subpoena authority must be conferred on the committee (Mar. 3, 1976, p. 5165). Subparagraph (2)(B) has been interpreted to require authorization by the full House before a subcommittee chairman could intervene in a law suit in order to gain access to documents subpoenaed by the subcommittee. *In re Beef Industry Antitrust Litigation*, 589 F.2d 786 (5th Cir. 1979).

Use of committee funds for travel

(n)(1) Funds authorized for a committee under clause 5 are for expenses incurred in the committee's activities; however, local currencies owned by the United States shall be made available to the committee and its employees engaged in carrying out their official duties outside the United States, its territories or possessions. No appropriated funds, including those authorized under clause 5, shall be expended for the purpose of defraying expenses of members of the committee or its employees in any country where local currencies are available for this purpose; and the following conditions shall apply with respect to travel outside the United States or its territories or possessions:

(A) No member or employee of the committee shall receive or expend local currencies for subsistence in any country for any day at a rate in excess of the maximum per diem set forth in applicable Federal law, or if the Member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual, unreimbursed expenses (other than for transportation) incurred by the Member or employee during that day.

(B) Each member or employee of the committee shall make to the chairman of the committee an itemized report showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, any funds ex-

pended for any other official purpose and shall summarize in these categories the total foreign currencies and/or appropriated funds expended. All such individual reports shall be filed no later than sixty days following the completion of travel with the chairman of the committee for use in complying with reporting requirements in applicable Federal law and shall be open for public inspection.

(2) In carrying out the committee's activities outside the United States in any country where local currencies are unavailable, a member or employee of the committee may not receive reimbursement for expenses (other than for transportation) in excess of the maximum per diem set forth in applicable Federal law, or if the member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual, unreimbursed expenses (other than for transportation) incurred, by the Member or employee during any day.

(3) A member or employee of a committee may not receive reimbursement for the cost of any transportation in connection with travel outside of the United States unless the member or employee has actually paid for the transportation.

(4) The restrictions respecting travel outside of the United States set forth in subparagraphs (2) and (3) shall also apply to travel outside of the United States by Members, officers, and employees of the House authorized under clause 8 of rule I, clause 1(b) of this rule, or any other pro-

vision of these Rules of the House of Representatives.

(5) No local currencies owned by the United States may be made available under this paragraph for the use outside of the United States for defraying the expenses of a member of any committee after—

(A) the date of the general election of Members in which the Member has not been elected to the succeeding Congress; or

(B) in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.

Prior to the adoption of clause (n) and of clause 1(b) of rule XI under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), each committee was given separate authority to incur expenses in connection with their investigations and studies, and certain committees were authorized to use local currencies for foreign committee travel, in resolutions reported from the Committee on Rules in each Congress. This clause was amended in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70) to clarify the availability of local currencies for travel outside the United States and its territories and possessions, to require reports within 60 days for use in complying with statutory reporting requirements, and to authorize the Committee on House Administration (now House Oversight) to recommend in expense resolutions expenses for foreign as well as domestic travel. Clause (n)(1)(A) was further amended on March 2, 1977 (H. Res. 287, 95th Cong., pp. 5933–53) to limit all travel expenses to the maximum per diem rate or actual, unreimbursed expenses, whichever is less. As indicated in clause 1(b), the authority to incur expenses (including travel expenses) is subject to the adoption of expense resolutions reported from the Committee on House Oversight as required by clause 5 of rule XI.

Under section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754, as amended by sec. 22, P.L. 95–384), foreign local currencies owned or purchased by the United States may be used for foreign travel expenses by members or employees of standing or select committees when authorized by the chairman thereof, and by other Members or employees when authorized by the Speaker. Consolidated committee reports prepared on a quar-

terly basis, and individual reports required within 30 days after the travel involved, must be forwarded to the Clerk of the House and published in the Congressional Record.

Broadcasting of Committee Hearings

3. (a) It is the purpose of this clause to provide
§ 720. a means, in conformity with acceptable standards of dignity, propriety, and decorum, by which committee hearings, or committee meetings, which are open to the public may be covered, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage—

(1) for the education, enlightenment, and information of the general public, on the basis of accurate and impartial news coverage, regarding the operations, procedures, and practices of the House as a legislative and representative body and regarding the measures, public issues, and other matters before the House and its committees, the consideration thereof, and the action taken thereon; and

(2) for the development of the perspective and understanding of the general public with respect to the role and function of the House under the Constitution of the United States as an organ of the Federal Government.

(b) In addition, it is the intent of this clause that radio and television tapes and television film of any coverage under this clause shall not be used, or made available for use, as partisan political campaign material to promote or oppose the candidacy of any person for elective public office.

(c) It is, further, the intent of this clause that the general conduct of each meeting (whether of a hearing or otherwise) covered, under authority of this clause, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, and the personal behavior of the committee members and staff, other Government officials and personnel, witnesses, television, radio, and press media personnel, and the general public at the hearing or other meeting shall be in strict conformity with and observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed by the House in its operations and shall not be such as to—

(1) distort the objects and purposes of the hearing or other meeting or the activities of committee members in connection with that hearing or meeting or in connection with the general work of the committee or of the House; or

(2) cast discredit or dishonor on the House, the committee, or any Member or bring the House, the committee, or any Member into disrepute.

(d) The coverage of committee hearings and meetings by television broadcast, radio broadcast, or still photography shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of this clause.

(e) Whenever a hearing or meeting conducted by any committee or subcommittee of the House is open to the public, those proceedings shall be open to coverage by television, radio, and still photography, except as provided in paragraph (f)(2). A committee or subcommittee chairman may not limit the number of television or still cameras to fewer than two representatives from each medium (except for legitimate space or safety considerations, in which case pool coverage shall be authorized).

(f) The written rules which may be adopted by a committee under paragraph (e) of this clause shall contain provisions to the following effect:

(1) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(2) No witness served with a subpoena by the committee shall be required against his or her will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off. This subparagraph is supplementary to clause 2(k)(5) of this rule, relating to the protection of the rights of witnesses.

(3) The allocation among the television media of the positions of the number of television cameras permitted by a committee or subcommittee chairman in a hearing or meeting room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(4) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.

(5) Television cameras shall operate from fixed positions but shall not be placed in positions which obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(6) Equipment necessary for coverage by the television and radio media shall not be installed in, or removed from, the hearing or meeting room while the committee is in session.

(7) Floodlights, spotlights, strobелights, and flashguns shall not be used in providing any method of coverage of the hearing or meeting, except that the television media may install additional lighting in the hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in the hearing or meeting room to the lowest level necessary to provide adequate television cov-

erage of the hearing or meeting at the then current state of the art of television coverage.

§ 724. Press photographers. (8) In the allocation of the number of still photographers permitted by a committee or subcommittee chair-

man in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests are made by more of the media than will be permitted by a committee or subcommittee chairman for coverage of the hearing or meeting by still photography, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(9) Photographers shall not position themselves, at any time during the course of the hearing or meeting, between the witness table and the members of the committee.

(10) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage of the hearing by the other media.

§ 725. Accreditation. (11) Personnel providing coverage by the television and radio media shall be then currently accredited to the Radio and Television Correspondents' Galleries.

(12) Personnel providing coverage by still photography shall be then currently accredited to the Press Photographers' Gallery.

(13) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

The rule permitting broadcasting of committee hearings was contained in section 116(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and became part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). In the 93d Congress (H. Res. 1107, July 22, 1974, p. 24447), the rule was amended to permit committees to adopt rules allowing coverage of committee meetings as well as hearings. Paragraphs (e), (f)(3), (f)(5), and (f)(8) of this clause were amended in the 99th Congress to remove the limit on the number of television cameras (previously four) and press photographers (previously five) covering committee proceedings, and to provide the committee or subcommittee chairman with the discretion to determine the appropriate number (H. Res. 7, Jan. 3, 1985, p. 393). In the 104th Congress paragraph (d) was amended to delete the former characterization of broadcast and photographic coverage of committee meetings and hearings as “a privilege made available by the House,” and paragraph (e) was amended to eliminate the requirement that a committee vote to permit broadcast and photographic coverage of open hearings and meetings and to prohibit chairmen from limiting coverage to less than two representatives from each medium, except where space or safety considerations warrant pool coverage (sec. 105, H. Res. 6, Jan. 4, 1995, p. —).

Privileged Reports and Amendments

4. (a) The following committees shall have
 § 726. leave to report at any time on the matters herein stated, namely: The Committee on Appropriations—on general appropriation bills and on joint resolutions continuing appropriations for a fiscal year if reported after September 15 preceding the beginning of such fiscal year; the Committee on the Budget—on the matters required to be reported by such committee under Titles III and IV of the Congressional Budget Act of 1974; the Committee on House Oversight—on enrolled bills, con-

tested elections, and all matters referred to it of printing for the use of the House or the two Houses, and on all matters of expenditure of the contingent fund of the House, and on all matters relating to preservation and availability of noncurrent records of the House under rule XXXVI; the Committee on Rules—on rules, joint rules, and the order of business; and the Committee on Standards of Official Conduct—on resolutions recommending action by the House of Representatives with respect to an individual Member, officer, or employee of the House of Representatives as a result of any investigation by the committee relating to the official conduct of such Member, officer, or employee of the House of Representatives.

The origins of this rule appear as early as 1812, but it was in 1886 that the various provisions were consolidated in one rule. The rule was amended by the Legislative Reorganization Act of 1946 (60 Stat. 812), on February 2, 1951 (p. 883), and by the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). On the latter date the privileges given to the Committee on Interior and Insular Affairs on bills for the forfeiture of land grants to railroad and other corporations, preventing speculation in the public lands and reserving public lands for the benefit of actual and bona fide settlers, and for the admission of new States, to the Committee on Public Works on bills authorizing the improvement of rivers and harbors, to the Committee on Veterans' Affairs on general pension bills, and to the Committee on Ways and Means on bills raising revenue, were eliminated from the rule. In the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20), the rule was further amended to reinsert "contested elections" under the authority of the Committee on House Administration (now House Oversight), a matter inadvertently omitted by the 93d Congress (H. Res. 988, Oct. 8, 1974, p. 34470). The rule was amended in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113) to permit joint resolutions continuing appropriations to be privileged if reported after a certain date. In the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72), the rule was amended to include under the authority of the Committee on House Administration (now House Oversight) all matters relating to preservation and availability of noncurrent

House records. In the 104th Congress it was amended to reflect the new name of the Committee on House Oversight (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. —).

At the time these privileges originated all reports were made on the floor, and often with great difficulty because of the pressure of business (IV, 4621), and by giving this privilege the most important matters of business were greatly expedited. In 1890 a rule was adopted providing that reports should be made by filing with the Clerk, but privileged reports must still be made from the floor (IV, 3146; VIII, 2230). A privileged report from the Committee on Rules may be filed at any time when the House is in session, including during special order speeches (Oct. 14, 1986, p. 30861). Prior to the original adoption of the provisions contained in clause 2(l)(6) of the rule XI in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144), the right of reporting at any time was held to give the right of immediate consideration by the House (IV, 3131, 3132, 3142–47; VIII, 2291, 2312). However, from that date until the effective date of the present provisions of clause 2(l)(6) on January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), only the Committees on House Administration (now House Oversight), Rules (subject to the two-thirds vote requirement of clause 4(b) of rule XI), and Standards of Official Conduct could call up a matter in the House for immediate consideration as soon as the report was filed. Now only reports from the Committee on Rules on rules, joint rules, and the order of business, under clause 4(b) of this rule, reports from the Committee on House Oversight on committee expense resolutions, under clause 5(a) of this rule, and reports constituting questions of privilege (see generally Deschler's Precedents, vol. 3, ch. 14, sec. 7.4, fn. 10, discussing ruling of Speaker Albert, July 13, 1971, on a reported contempt) are exempt from the requirements of clause 2(l)(6) (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Other committees enumerated in this clause may still utilize the privilege after the report on the bill or resolution has been available for at least three calendar days (excluding Saturdays, Sundays and legal holidays). Once called up for consideration, the matter so reported remains privileged until disposed of (IV, 3145). The House proceeds to the consideration of privileged questions only on motion directed to be made by the several committees reporting such questions (VIII, 2310). Privileged questions reported adversely have the same status so far as their privilege is concerned as those reported favorably (VI, 413; VIII, 2310).

The matters reported under the provisions of this clause are denominated "privileged reports" or "privileged questions," and since the privilege relates merely to the order of business under the rules, they must be distinguished from "questions of privilege" which relate to the safety or dignity of the House itself defined in rule IX (III, 2718). Therefore, "questions of privilege" take precedence over these matters which are privileged under the rules (III, 2426–2530; V, 6454; VIII, 3465).

§ 727. Privileged reports defined.

Privileged questions interrupt the regular order of business as established by rule XXIV, but when they are disposed of it continues on from the point of interruption (IV, 3070, 3071). But the Speaker has declined to allow a call of committees to be interrupted by a privileged report (IV, 3132). The presence of matter not privileged with privileged matter destroys the privileged character of a bill (IV, 4622, 4624, 4633, 4640, 4643; VIII, 2289; Speaker Rayburn, May 21, 1958, pp. 9212–16), or resolution (VIII, 2300), and when the text of a bill contains nonprivileged matter, privilege may not be created by a committee amendment in the nature of a substitute not containing the nonprivileged matter (IV, 4623).

The House may give a committee leave to report at any time only by the process of changing the rules (III, 1770).

The privilege given by this clause to the Committee on Rules is confined to “action touching rules, joint rules, and order of business” and this committee may not report as privileged a concurrent resolution providing for a Senate investigating committee (VIII, 2255), or provide for the appointment of a clerk (VIII, 2256); but the privilege has been held to include the right to report special orders for the consideration of individual bills or classes of bills (V, 6774), or the consideration of a specified amendment to a bill and prescribing a mode of considering such amendment (VIII, 2258). A special rule providing for the consideration of a bill is not invalidated by the fact that at the time the rule was reported, the bill was not on the Calendar (VIII, 2259; Speaker McCormack, Aug. 19, 1964, pp. 20212–13). The authority to report special orders of business includes authority to recommend consideration of measures and amendments thereto the subject of which might be separately pending before a standing committee (Apr. 15, 1986, p. 7531); to make in order the consideration of the text of an introduced bill as original text in a reported bill (Oct. 9, 1986, p. 29973); to permit consideration of a previously unnumbered and unsponsored measure which comes into existence by virtue of adoption by the House of the special order (Speaker O’Neill, Apr. 16, 1986, p. 7610); to recommend a “hereby” resolution, *e.g.*, that a concurrent resolution correcting the enrollment of a bill be considered as adopted by the House upon the adoption of the special order (Speaker Wright, May 4, 1988, p. 9865), or that a Senate amendment pending at the Speaker’s table and otherwise requiring consideration in Committee of the Whole under clause 1 of rule XX be “hereby” considered as adopted upon adoption of the special order (Deschler’s Precedents, vol. 6, ch. 21, sec. 16.11; Feb. 4, 1993, p. —); to provide that an amendment containing an appropriation in violation of clause 5(a) of rule XXI be considered as adopted in the House when the reported bill is under consideration (Feb. 24, 1993, p. —); to provide that an amendment containing an appropriation in violation of clause 2 of rule XXI be considered as adopted in the House when the reported bill is under consideration (July 27, 1993, p. —); and to provide that a non-germane amendment otherwise in violation of clause 7 of rule XVI be con-

§ 728. The privilege of individual committees for reports.

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§ 729a

Rule XI, clause 4.

sidered as adopted in the House when the bill is under consideration (Feb. 24, 1993, p. —; July 27, 1993, p. —). The Committee on Rules has also reported as privileged a joint resolution repealing a statutory joint rule (mandatory July adjournment, section 132 of the Legislative Reorganization Act of 1946) (July 27, 1990, p. —). The Committee on Rules has reported as privileged a special order of business nearly identical to one previously rejected by the House, but held not to constitute “another of the same substance” within the meaning of Jefferson’s section XLIII (reconsideration) because it provided a different scheme for general debate (July 27, 1993, p. —).

A resolution consisting solely of privileged matter, albeit in two separate jurisdictions empowered to report at any time under clause 4(a), has been referred to a primary committee, reported therefrom as privileged, referred sequentially, and reported as privileged from the sequential committee as well (H. Res. 258, 102d Cong., Nov. 8, 1991, p. —, Nov. 19, 1991, p. —).

The right of the Committee on Appropriations to report at any time is confined strictly to general appropriation bills (IV, 4629–4632; VIII, 2282–2284) and does not include appropriations for specific purposes (VIII, 2285). Before privilege was extended to continuing appropriation bills (in 1981), the rule was not construed to extend to resolutions extending appropriations (VIII, 2282–2284).

Reports from the Committee on House Administration (now House Oversight) authorizing appropriations from the Treasury directly for compensation of employees (IV, 4645) or fixing the salaries of employees are not privileged (VIII, 2302).

(b) It shall always be in order to call up for consideration a report from the Committee on Rules on a rule, joint rule, or the order of business (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting, but this provision shall not apply during the last three days of the session), and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn; but after the result is announced the Speaker shall not entertain any other dilatory motion until the report shall have been

§ 729a. Reports from Committee on Rules.

fully disposed of. The Committee on Rules shall not report any rule or order which provides that business under clause 7 of rule XXIV shall be set aside by a vote of less than two-thirds of the Members present; nor shall it report any rule or order which would prevent the motion to recommit from being made as provided in clause 4 of rule XVI, including a motion to recommit with instructions to report back an amendment otherwise in order (if offered by the minority leader or a designee), except with respect to a Senate bill or resolution for which the text of a House-passed measure has been substituted.

The Committee on Rules, "by uniform practice of the House," exercised the privilege of reporting at any time as early as 1888. The right to report at any time is confined to privileged matters (VIII, 2255). This was probably the survival of a practice which existed as early as 1853 of giving the privilege of reporting at any time to this committee for a session (IV, 4650). In 1890 the committee was included among the committees whose reports were privileged by rule. The present rule was adopted in 1892 (IV, 4621), amended on March 15, 1909, the matter in parentheses was adopted January 18, 1924 (pp. 1139, 1141), and the rule was further amended by the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), to limit its application to reports from the Committee on Rules on rules, joint rules and orders of business. In the 104th Congress the last sentence of paragraph (b) was amended to restrict the authority of the Committee on Rules to recommend a rule or order that would prevent a motion by the Minority Leader or his designee to recommit with instructions to report back an amendment otherwise in order to the case of a Senate bill or resolution for which the text of a House-passed measure is being substituted (sec. 210, H. Res. 6, Jan. 4, 1995, p. —). For rulings under the earlier form of the rule, see § 729c, *infra*.

Pursuant to this clause, a privileged report from the Committee on Rules may be considered on the same legislative day only by a two-thirds vote, but a report properly filed by the committee at any time prior to the convening of the House on the next legislative day may be called up for immediate consideration without the two-thirds requirement (Speaker Albert, July 31, 1975, p. 26243), including a report filed during special order speeches after legislative business on that prior legislative day (Oct. 14, 1986, p. 30861), and if the House continues in session into a second calendar day

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and then meets again that day, or convenes for two legislative days on the same calendar day, any report filed on the first legislative day may be called up on the second without the question of consideration being raised (Speaker O'Neill, Dec. 16, 1985, p. 36755; Speaker Wright, Oct. 29, 1987, p. 29937). This paragraph does not require that a privileged resolution, and the report thereon, from the Committee on Rules be printed before it is called up for consideration (Speaker O'Neill, Feb. 2, 1977, p. 3344).

In the case of certain resolutions reported from the Committee on Rules, the two-thirds vote requirement for consideration on the same day reported does not apply. Clause 2(l)(6) of rule XI provides for the immediate consideration of a resolution from the Rules Committee waiving the requirement that copies of reports and reported measures be available for three days before their consideration, and clauses 2(a) and (b) of rule XXVIII provide for the immediate consideration of a resolution from the Rules Committee waiving the requirement that copies of conferences reports or amendments reported from conference in disagreement be available for two hours before their consideration (see Aug. 10, 1984, p. 23978).

Although highly privileged, a report from the Committee on Rules yields to questions of privilege (VIII, 3491; Mar. 11, 1987, p. 5403), and is not in order after the House has voted to go into Committee of the Whole (V, 6781). Also a conference report has precedence of it, even when the yeas and nays and previous question have been ordered (V, 6449). Formerly if a report from the Committee on Rules contained substantive propositions, a separate vote could be had on each proposition (VIII, 2271, 2272, 2274, 3167); but these decisions were nullified by the adoption of the proviso to clause 6 of rule XVI. A report from the Committee on Rules takes precedence over a motion to consider a measure which is "highly privileged" pursuant to a statute enacted as an exercise in the rulemaking authority of the House, acknowledging the Constitutional authority of the House to change its rules at any time (Speaker Wright, Mar. 11, 1987, p. 5403). Before the House adopts rules, the Speaker may recognize a Member to offer for immediate consideration a special order providing for the consideration of a resolution adopting the rules (V, 5450; Jan. 4, 1995, p. —).

The Committee on Rules may report and call up as privileged resolutions temporarily waiving or altering any rule of the House, including statutory provisions enacted as an exercise of the House's rule-making authority which would otherwise prohibit the consideration of a bill being made in order by the resolution. (Speaker Albert, Mar. 20, 1975, p. 7676; Mar. 24, 1975, p. 8418), or which would otherwise establish an exclusive procedure for consideration of a particular type of measure (Speaker O'Neill, Apr. 16, 1986, p. 7610; Speaker Wright, Mar. 11, 1987, p. 5403). No rule of the House precludes the Committee on Rules from reporting a special order making in order specified amendments that have not been preprinted as otherwise required by an announced policy of that committee (Oct. 23, 1991, p. —). No point of order lies against a resolution reported from the Committee on Rules that waives points of order against a measure

or provides special procedures for its consideration, where no law constituting a rule of the House prohibits consideration of such a resolution (resolution providing for consideration of a budget resolution, where a statute, Public Law 96-389, reaffirmed Congressional commitment to balanced Federal budgets but did not dictate what legislation could be considered or otherwise constitute a rule of the House) (June 10, 1982, p. 13353).

The Chair has declined to entertain a unanimous consent request to alter a special order previously adopted by the House to admit an additional (nongermane) amendment during further consideration of a bill unless assured of certain clearances, consistent with the Speaker's announced policy (see § 757, *infra*) of conferring recognition for unanimous consent requests for the consideration of unreported bills and resolutions only when assured that the majority and minority floor and committee leaderships have no objection (Nov. 14, 1991, p. —).

In the later practice it has been held that the question of consideration may not be raised against a report from the Committee on Rules (V, 4961-4963; VIII, 2440, 2441). The clause forbidding dilatory motions has been construed strictly (V, 5740-5742), and in the later practice the motion

§ 729b. Dilatory motions not permitted.

to commit after the ordering of the previous question has been excluded (V, 5593-5601; VIII, 2270, 2750; Feb. 22, 1984, p. 2965), as has an appeal (though not a motion to reconsider the vote on ordering the previous question) (V, 5739), and the motion to postpone to a day certain (Oct. 9, 1986, p. 29972). Before debate has begun on a report from the Committee on Rules, a question of the privileges of the House takes precedence (VIII, 3491; Mar. 11, 1987, p. 5403). In the event that the previous question is rejected on a privileged resolution from the Committee on Rules, the provisions of clause 4(b) prohibiting "dilatory" motions no longer strictly apply; the resolution is subject to amendment, further debate, or a motion to table or refer, and the Member who lead the opposition to the previous question has the prior right to recognition (Oct. 19, 1966, pp. 27713, 27725-29; May 29, 1980, pp. 12667-78), subject to being preempted by a preferential motion offered by another Member (Aug. 13, 1982, pp. 20969, 20975-78). The member of the Committee on Rules calling up a privileged resolution on behalf of the Committee may offer an amendment, and House rules do not require a specific authorization from the Committee (Sept. 25, 1990, p. —). A motion to table such a pending amendment is dilatory and not in order under clause 4(b) of rule XI, but the motion to reconsider the vote on ordering the previous question on the rule and amendment thereto is not (see V, 5739; Sept. 25, 1990, p. —), and may be laid on the table without carrying with it the resolution itself (Sept. 25, 1990, p. —). The motion to adjourn is admissible during the consideration of a report from the Committee on Rules, though not when another Member has the floor (Sept. 27, 1993, p. —). Where the House adjourns during the consideration of a report from the Committee on Rules, further consideration of the report becomes the unfinished business on the following

day, and debate resumes from the point where interrupted (Sept. 27, 1993, p. —; Sept. 28, 1993, p. —).

A motion to recommit a special rule from the Committee on Rules is not in order (VIII, 2270, 2753).

From 1934 until the amendment of clause 4(b) in the 104th Congress (sec. 210, H. Res. 6, Jan. 4, 1995, p. —), it was consistently held that the Committee on Rules could recommend a special order that limited, but did not totally prohibit, a motion to recommit pending passage of a bill or joint resolution, as by precluding the motion from containing instructions relating to specified amendments (Speaker Rainey, sustained on appeal, Jan. 11, 1934, pp. 479–83); or by omitting to preserve the availability of amendatory instructions in the case that the bill is entirely rewritten by the adoption of a substitute made in order as original text (Speaker Foley, June 4, 1991, p. —; Speaker Foley, Nov. 25, 1991, p. —); or by expressly allowing only a simple (“straight”) motion to recommit (without instructions) (sustained by tabling of appeal, Oct. 16, 1990, p. —; sustained by tabling of appeal, Feb. 26, 1992, p. —; Speaker Foley, sustained by tabling of appeal, May 7, 1992, p. —; Speaker Foley, sustained by tabling of appeal, June 16, 1992, p. —; Nov. 21, 1993, p. —; Nov. 22, 1993, p. —). A special order providing for consideration of a bill under suspension of the rules does not prevent a motion to recommit from being made “as provided in clause 4 of rule XVI,” *i.e.*, after the previous question is ordered on passage, a procedure not applicable to a motion to suspend the rules (Speaker Foley, June 21, 1990, p. —). See Deschler’s Precedents, vol. 6, ch. 21, sec. 26.11; see generally Deschler’s Precedents, vol. 7, ch. 23, sec. 25.

The caveat against including in a special order matter privileged to be reported by another committee (Deschler’s Precedents, vol. 6, ch. 21, sec. 17.13) does not extend to a “hereby” resolution (*e.g.*, that a concurrent resolution correcting the enrollment of a bill within the jurisdiction of another committee be considered as adopted by the House upon the adoption of the special order), so long as not precluding the motion to recommit a bill or joint resolution (Speaker Wright, May 4, 1988, p. 9865).

A special rule providing that a House bill with Senate amendments be taken from the Speaker’s table, that the Senate amendments be disagreed to, that the Senate’s request for a conference be agreed to, and that the Speaker appoint conferees without intervening motion, is not in violation of clause 4(b) of rule XI, since not precluding a motion to recommit after the ordering of the previous question on passage of the bill, and since the motion to recommit the conference report would remain available (VIII, 2266); but where such a resolution provided for the appointment of conferees without intervening motion in the case where the House is to ask for a conference, giving the Senate the right of first acting on the conference report, it was held in contravention of the rule because it both precluded a motion to commit the Senate amendment before conference and per-

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mitted the Senate to act first on the conference report, thereby denying the minority of the House any opportunity of making a motion to recommit (VIII, 2264).

While the Committee on Rules is forbidden to report special orders abrogating the Calendar Wednesday rule or excluding the motion to recommit after the previous question, a resolution making possible that ultimate result by permitting motions to suspend the rules for a week was held in order (VIII, 2267).

The Unfunded Mandates Reform Act of 1995 (P.L. 104-4; 109 Stat. 48 *et seq.*) added a new part B to title IV of the Congressional Budget Act of 1974 (2 U.S.C. 658-658g) that, effective on January 1, 1996, or 90 days after appropriations are made available to the Congressional Budget Office pursuant to the 1995 Act (whichever is earlier), imposes several requirements on committees with respect to "Federal mandates" (secs. 423-424; 2 U.S.C. 658b-c), establishes points of order to enforce those requirements (sec. 425; 2 U.S.C. 658d), and precludes the consideration of a rule or order waiving such points of order in the House (sec. 426(a); 2 U.S.C. 658e(a)). See § 1007, *infra*.

(c) The Committee on Rules shall present to the House reports concerning rules, joint rules, and order of business, within three legislative days of the time when the bill or resolution involved is ordered reported by the committee. If any such rule or order is not considered immediately, it shall be referred to the calendar and, if not called up by the Member making the report within seven legislative days thereafter, any member of the Rules Committee may call it up as a question of privilege (but only on the day after the calendar day on which such Member announces to the House his intention to do so) and the Speaker shall recognize any member of the Rules Committee seeking recognition for that purpose. If the Committee on Rules makes an adverse report on any resolution pending before the committee, providing for an order of business for the

§ 730. Filing reports.

consideration by the House of any public bill or joint resolution, on days when it shall be in order to call up motions to discharge committees it shall be in order for any Member of the House to call up for consideration by the House such adverse report, and it shall be in order to move the adoption by the House of such resolution adversely reported notwithstanding the adverse report of the Committee on Rules, and the Speaker shall recognize the Member seeking recognition for that purpose as a question of the highest privilege.

Clause 4(c) was initially adopted January 18, 1924, amended December 8, 1931 (VIII, 2268), January 3, 1949 (p. 16), January 3, 1951 (p. 18), January 4, 1965 (p. 24) (inserting the so-called "21-day rule"), January 10, 1967 (H. Res. 7, p. 28) (deleting the "21-day rule" in effect in the 89th Congress), January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). A special order reported from the Committee on Rules and not called up within seven legislative days may be called up by any member of that Committee, including a minority member (Nov. 13, 1979, p. 32185; May 6, 1982, p. 8905). In the 100th Congress this paragraph was amended to require the member of the Committee on Rules calling up a report seven legislative days after its filing to have given one calendar day's notice to the House (H. Res. 5, Jan. 6, 1987, p. 6).

(d) Whenever the Committee on Rules reports
§ 731. Comparative
print. a resolution repealing or amending
 any of the Rules of the House of
 Representatives or part thereof it shall include
 in its report or in an accompanying document—

(1) the text of any part of the Rules of the House of Representatives which is proposed to be repealed; and

(2) a comparative print of any part of the resolution making such an amendment and any part of the Rules of the House of Representatives to be amended, showing by an ap-

appropriate typographical device the omissions and insertions proposed to be made.

Clause 4(d) was added to the rules under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), and is similar to the "Ramseyer Rule" requirements of clause 3 of rule XIII relating to bills and joint resolutions repealing or amending existing law. This clause is applicable to resolutions reported from the Committee on Rules which propose direct permanent repeal or amendment of a rule of the House, but does not apply to resolutions providing temporary waivers of rules during the consideration of particular legislative business (Speaker Albert, Mar. 20, 1975, p. 7676; Mar. 24, 1975, p. 8418), or to a special order of business resolution providing for the consideration of a bill with textual modifications that would effect certain changes in House rules on enactment of the bill into law, but not itself repealing or amending any rule (May 27, 1993, p. —).

(e) Whenever the Committee on Rules reports a resolution providing for the consideration of any measure, it shall, to the maximum extent possible, specify in the resolution the object of any waiver of a point of order against the measure or against its consideration.

§ 731a. Specifying waivers.

Paragraph (e) was adopted in this form in the 104th Congress (sec. 211, H. Res. 6, Jan. 4, 1995, p. —). In the 95th and 96th Congresses clause 4 included a paragraph (e) relating to the Speaker's authority to postpone proceedings on reports from the Committee on Rules, but that provision was among those consolidated in clause 5(b)(1) of rule I in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98-113).

Committee Expenses

5. (a) Whenever any committee, commission, or other entity (except the Committee on Appropriations) is to be granted authorization for the payment of its expenses (including all staff salaries) for a Congress, such authorization initially shall be procured by one primary expense resolution re-

§ 732a. Primary expense resolution.

ported by the Committee on House Oversight. Any such primary expense resolution reported to the House shall not be considered in the House unless a printed report on that resolution has been available to the Members of the House for at least one calendar day prior to the consideration of that resolution in the House. Such report shall, for the information of the House—

§ 732b. Availability of report.

(1) state the total amount of the funds to be provided to the committee, commission or other entity under the primary expense resolution for all anticipated activities and programs of the committee, commission or other entity; and

(2) to the extent practicable, contain such general statements regarding the estimated foreseeable expenditures for the respective anticipated activities and programs of the committee, commission or other entity as may be appropriate to provide the House with basic estimates with respect to the expenditure generally of the funds to be provided to the committee, commission or other entity under the primary expense resolution.

(b) After the date of adoption by the House of any such primary expense resolution for any such committee, commission, or other entity for any Congress, authorization for the payment of additional expenses (including staff salaries) in that Congress may be procured by one or more supplemental expense resolutions reported by the Committee

§ 732c. Additional expense resolution.

on House Oversight, as necessary. Any such supplemental expense resolution reported to the House shall not be considered in the House unless a printed report on that resolution has been available to the Members of the House for at least one calendar day prior to the consideration of that resolution in the House. Such report shall, for the information of the House—

(1) state the total amount of additional funds to be provided to the committee, commission or other entity under the supplemental expense resolution and the purpose or purposes for which those additional funds are to be used by the committee, commission or other entity; and

(2) state the reason or reasons for the failure to procure the additional funds for the committee, commission or other entity by means of the primary expense resolution.

(c) The preceding provisions of this clause do not apply to—

(1) any resolution providing for the payment from committee salary and expense accounts of the House of sums necessary to pay compensation for staff services performed for, or to pay other expenses of, any committee, commission or other entity at any time from and after the beginning of any odd-numbered year and before the date of adoption by the House of the primary expense resolution providing funds to pay the expenses of that committee, commission or other entity for that Congress; or

§ 732cc. Exception for certain initial funding.

(2) any resolution providing in any Congress, for all of the standing committees of the House, additional office equipment, airmail and special delivery postage stamps, supplies, staff personnel, or any other specific item for the operation of the standing committees, and containing an authorization for the payment from committee salary and expense accounts of the House of the expenses of any of the foregoing items provided by that resolution, subject to and until enactment of the provisions of the resolution as permanent law.

Paragraphs (a)–(c) of this clause were originally contained in section 110(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was added to the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), the authority of all committees to incur expenses, including travel expenses, was made contingent upon adoption by the House of resolutions reported pursuant to this clause (clause 1(b) of rule XI). The clause was amended in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70) to extend its applicability to all committees, commissions, and entities rather than just to standing committees. Paragraphs (a)–(c) were amended in the 104th Congress to institute biennial funding of committee expenses and to require that all committee staff salaries and expenses (including statutory staff) be authorized by expense resolution (sec. 101(c), H. Res. 6, Jan. 4, 1995, p. —).

The Committee on Appropriations is not covered by this clause, but is reimbursed by funds in appropriation acts for expenses of examinations of estimates of appropriations in the field (31 U.S.C. 22a). An exemption from this clause for the Committee on the Budget was effective from the enactment of the Congressional Budget Act of 1974 through the 103d Congress.

Based on the exception stated in paragraph (c), a resolution establishing a task force of members of a standing committee and providing for the payment of its expenses from the contingent fund of the House was held not to be subject to a point of order under clause 5(a) for lack of report language detailing the funding provided, since the resolution was called up at the beginning of the session prior to consideration of a primary expense resolution for all committees for that calendar year (Feb. 5, 1992, p. —).

Under clause 2(d)(2) of rule X, a committee expense resolution, or an amendment thereto, is not in order for a committee that has not submitted its oversight plans (see § 692b, *supra*).

(d) From the funds made available for the appointment of committee staff pursuant to any primary or additional expense resolution, the chairman of each committee shall ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the committee, and that the minority party is fairly treated in the appointment of such staff.

§ 732d. Funds for committee staffs; expense resolutions.

Paragraph (d) was adopted in this form in the 104th Congress (sec. 101(c)(4), H. Res. 6, Jan. 4, 1995, p. —). The preceding form of the paragraph, first adopted in the 94th Congress, authorized the chairman and ranking minority member of a subcommittee each to appoint one staff member to the subcommittee (H. Res. 5, Jan. 14, 1975, p. 20). As adopted in the 93d Congress to take effect on the first day of the 94th Congress, the paragraph had required that each standing committee, upon request of a majority of its minority members, devote one-third of its staffing funds to the needs of the minority (H. Res. 988, Oct. 8, 1974, p. 34470). As originally adopted in the 92d Congress, the paragraph had required that the minority be accorded fair consideration in the appointment of committee staff (H. Res. 5, Jan. 22, 1971, p. 144).

(e) No primary expense resolution or additional expense resolution of a committee may provide for the payment or reimbursement of expenses incurred by any member of the committee for travel by the member after the date of the general election of Members in which the Member is not elected to the succeeding Congress, or in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.

§ 732e. Travel by members not reelected.

Paragraph (e) was adopted on March 2, 1977 (H. Res. 287, 95th Cong., pp. 5933-53).

(f)(1) For continuance of necessary investigations and studies by—

§ 732f. Interim funding.

(A) each standing committee and select committee established by these rules; and

(B) except as provided in subparagraph (2), each select committee established by resolution;

there shall be paid out of committee salary and expense accounts of the House such amounts as may be necessary for the period beginning at noon on January 3 and ending at midnight on March 31 in each odd-numbered year.

(2) In the case of the first session of a Congress, amounts shall be made available under this paragraph for a select committee established by resolution in the preceding Congress only if—

(A) a reestablishing resolution for such select committee is introduced in the present Congress; and

(B) no resolution of the preceding Congress provided for termination of funding of investigations and studies by such select committee at or before the end of the preceding Congress.

(3) Each committee receiving amounts under this paragraph shall be entitled, for each month in the period specified in subparagraph (1), to 9 per centum (or such lesser per centum as may be determined by the Committee on House Oversight) of the total annualized amount made

available under expense resolutions for such committee in the preceding session of Congress.

(4) Payments under this paragraph shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, except as provided in subparagraph (5), and approved by the Committee on House Oversight.

(5) Notwithstanding any provision of law, rule of the House, or other authority, from noon on January 3 of the first session of a Congress, until the election by the House of the committee involved in that Congress, payments under this paragraph shall be made on vouchers signed by—

(A) the chairman of such committee as constituted at the close of the preceding Congress; or

(B) if such chairman is not a Member in the present Congress, the ranking majority party member of such committee as constituted at the close of the preceding Congress who is a Member in the present Congress.

(6)(A) The authority of a committee to incur expenses under this paragraph shall expire upon agreement by the House to a primary expense resolution for such committee.

(B) Amounts made available under this paragraph shall be expended in accordance with regulations prescribed by the Committee on House Oversight.

(C) The provisions of this paragraph shall be effective only insofar as not inconsistent with

any resolution, reported by the Committee on House Oversight and adopted after the date of adoption of these rules.

Paragraph (f) was added to this clause in the 99th Congress, to provide automatic interim funding for committees at the beginning of a Congress (H. Res. 7, Jan. 3, 1985, p. 393). Resolutions providing such interim funding had been routinely adopted at the convening of Congress before the adoption of this standing authority. In the 100th Congress, paragraphs (f)(1) and (2) were amended to make the automatic committee funding mechanism applicable to the first three months of the second session of a Congress, as well as the first session, and to authorize the Committee on House Administration (now House Oversight) to establish interim funding for any committee at a percentage lower than 9 percent of the total annualized amount (H. Res. 5, Jan. 6, 1987, p. 6). In the 104th Congress paragraph (f) was amended to reflect the new name of the Committee on House Oversight (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. —).

At its organization the 104th Congress suspended the operation of paragraph (f) in favor of special provisions for interim funding in light of its abolishment of three standing committees, its reduction in the overall number of committee staff, and its institution of biennial primary expense resolutions (sec. 101(c)(3), H. Res. 6, Jan. 4, 1995, p. —).

Committee Staffs

6. (a)(1) Subject to subparagraph (2) and paragraph (f), each standing committee may appoint, by majority vote of the committee, not more than thirty professional staff members from the funds provided for the appointment of committee staff pursuant to primary and additional expense resolutions. Each professional staff member appointed under this subparagraph shall be assigned to the chairman and the ranking minority party member of such committee, as the committee considers advisable.

§ 733a. Thirty professional staff.

§ 733b. Assignment.

(2) Subject to paragraph (f) of this clause, whenever a majority of the minority party members of a standing com-

§ 733c. Minority.

mittee (except the Committee on Standards of Official Conduct and the Permanent Select Committee on Intelligence) so request, not more than ten persons (or one-third of the total professional committee staff appointed under this clause, whichever is less) may be selected, by majority vote of the minority party members, for appointment by the committee as professional staff members from among the number authorized by subparagraph (1) of this paragraph. The committee shall appoint any persons so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of any person so selected are unacceptable to the committee, a majority of the minority party members may select other persons for appointment by the committee to the professional staff until such appointment is made. Each professional staff member appointed under this subparagraph shall be assigned to such committee business as the minority party members of the committee consider advisable.

This clause had its origins in section 202 of the Legislative Reorganization Act of 1946 (60 Stat. 812), which allocated up to four non-partisan professionals to each committee other than Appropriations and specifically provided for clerical staff, and which was incorporated into the rules on January 3, 1953 (p. 24). Section 302(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140), which increased the authorized maximum for professional staff from four to six and added the concept of minority staffing, was incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). In the 93d Congress the maximum was increased from six to 18, the minority entitlement within that number was increased from two to six, a requirement that professional staff be appointed without regard to political affiliation was eliminated, and prohibitions against consideration of race, creed, sex, or age in the appointment of staff were added (H. Res. 988, Oct. 8, 1974, p. 34470). An exemption for the Committee

on the Budget was included in section 901 of the Congressional Budget Act of 1974 (88 Stat. 330), was later omitted under the Committee Reform Amendments of 1974 (H. Res. 988, Oct. 8, 1974, p. 34470), and was reinserted by the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20). Also added in 1975 was a requirement that staff positions made available to subcommittee chairmen and ranking minority members pursuant to former provisions of clause 5 of rule XI be provided from staff positions available under clause 6 unless provided in a primary or additional expense resolution. The 98th Congress added the Permanent Select Committee on Intelligence to the exception for the Committee on Standards of Official Conduct (H. Res. 58, Mar. 1, 1983, p. 3241). The 101st Congress added an exemption for the Committee on Rules (H. Res. 5, Jan. 3, 1989, p. 72). The Ethics Reform Act of 1989 struck the anti-discrimination provisions as redundant (P.L. 101-194, Nov. 30, 1989). The 104th Congress eliminated the former distinction between professional and clerical staff, set the authorized maximum for committee staff under expense resolutions at 30, and set the entitlement of the minority within that number at one-third (sec. 101(c)(5), H. Res. 6, Jan. 4, 1995, p. —). The 104th Congress also mandated that the total number of staff of House committees be at least one-third less than the corresponding total in the 103d Congress (sec. 101(a), H. Res. 6, Jan. 4, 1995, p. —).

Additional clerks of committees are authorized by the Committee on House Oversight and agreed to by the House. There is no legal power to fill a vacancy in the clerkship of a committee after one Congress has expired and before the next House has been organized (IV, 4539). An assault upon the clerk of a committee within the walls of the Capitol was held to be a breach of privilege (II, 1629). The pay of clerks has been the subject of several decisions (IV, 4536-4538).

(b)(1) The professional staff members of each standing committee

§ 734a. Staff duties.

(A) may not engage in any work other than committee business during congressional working hours; and

(B) may not be assigned any duties other than those pertaining to committee business.

(2) This paragraph does not apply to any staff designated by a committee as “associate” or “shared” staff who are not paid exclusively by the committee, provided that the chairman certifies that the com-

§ 734b. “Associate” or “shared” staff.

pensation paid by the committee for any such employee is commensurate with the work performed for the committee, in accordance with the provisions of clause 8 of rule XLIII.

(3) The use of any “associate” or “shared” staff by any committee shall be subject to the review of, and to any terms, conditions, or limitations established by, the Committee on House Oversight in connection with the reporting of any primary or additional expense resolution.

(4) The foregoing provisions of this clause do not apply to the Committee on Appropriations.

The Ethics Reform Act of 1989 prescribed that staff work be confined to committee business during congressional working hours but maintained exceptions for the Committees on the Budget and Rules (P.L. 101-194, Nov. 30, 1989). The 104th Congress eliminated exceptions by committee in favor of exceptions for “associate” or “shared” staff (sec. 101(c)(5), H. Res. 6, Jan. 4, 1995, p. —).

(c) Each employee on the professional and investigative staff of each standing committee shall be entitled to pay at a single gross per annum rate, to be fixed by the chairman, which does not exceed the maximum rate of pay, as in effect from time to time, under applicable provisions of law.

§ 735. Pay.

This provision was derived from section 477(c) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), the maximum salary was set at level V of the Executive Schedule, rather than at the highest rate of basic pay under section 5332(a) of Title V, U.S. Code as specified in the 1970 Reorganization Act, and effective in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53-70), the authority for two professional staff to be paid at Level IV of the Executive Schedule was added to the clause. Under section 311 of the Legislative Branch Appropriations Act, 1988 (2 U.S.C. 60a-2a), the maximum salary for staff members is now set by pay order of the Speaker.

At the beginning of the 101st Congress, the references in clause 6(c) to particular levels of the executive schedule were deleted (H. Res. 5, Jan. 3, 1989, p. 72). In the 104th Congress paragraph (c) was amended to reflect the elimination of the former distinction between “professional” and “clerical” staff (sec. 101(c)(5), H. Res. 6, Jan. 4, 1995, p. —).

(d) Subject to appropriations hereby authorized, the Committee on Appropriations may appoint such staff, in addition to the clerk thereof and assistants for the minority, as it determines by majority vote to be necessary, such personnel, other than minority assistants, to possess such qualifications as the committee may prescribe.

§ 736. Staff,
Committees on
Appropriations.

Clause 6(d) derives from section 202(b) of the Legislative Reorganization Act of 1946 (60 Stat. 812), which was incorporated into the rules on January 3, 1953 (p. 24). The exemption was extended to the Committee on the Budget by section 901 of the Congressional Budget Act of 1974 (88 Stat. 330). The reference to that committee was inadvertently omitted by the 93d Congress (H. Res. 988, Oct. 8, 1974, p. 34470) and reinserted by the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20). The 104th Congress deleted the exemption for the Committee on the Budget (sec. 101(c)(5), H. Res. 6, Jan. 4, 1995, p. —).

(e) No committee shall appoint to its staff any experts or other personnel detailed or assigned from any department or agency of the Government, except with the written permission of the Committee on House Oversight.

§ 737.

This clause was contained in section 202(f) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and was incorporated into the rules on January 3, 1953 (p. 24). In the 104th Congress it was amended to reflect the new name of the Committee on House Oversight (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. —).

(f) If a request for the appointment of a minority professional staff member under paragraph (a) is made when no vacancy exists to which that appointment may be made, the committee

nevertheless shall appoint, under paragraph (a), the person selected by the minority and acceptable to the committee. The person so appointed shall serve as an additional member of the professional staff of the committee, and shall be paid from the contingent fund, until such a vacancy (other than a vacancy in the position of head of the professional staff, by whatever title designated) occurs, at which time that person shall be deemed to have been appointed to that vacancy. If such vacancy occurs on the professional staff when seven or more persons have been so appointed who are eligible to fill that vacancy, a majority of the minority party members shall designate which of those persons shall fill that vacancy.

(g) Each staff member appointed pursuant to a request by minority party members under paragraph (a) of this clause, and each staff member appointed to assist minority party members of a committee pursuant to an expense resolution described in paragraph (a) of clause 5, shall be accorded equitable treatment with respect to the fixing of his or her rate of pay, the assignment to him or her of work facilities, and the accessibility to him or her of committee records.

(h) Paragraph (a) shall not be construed to authorize the appointment of additional professional staff members of a committee pursuant to a request under such paragraph by the minority party members of that committee if ten or more professional staff members provided for in para-

graph (a)(1) who are satisfactory to a majority of the minority party members, are otherwise assigned to assist the minority party members.

Paragraphs (f)–(h) of this clause are derived from section 302(c) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and were incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), conforming changes were made in paragraphs (f) and (h) to reflect increased minority professional and clerical staff permitted to committees under paragraphs (a) and (b) of this clause. In the 104th Congress paragraphs (f)–(h) were amended to reflect the elimination of the former distinction between “professional” and “clerical” staff (sec. 101(c)(5), H. Res. 6, Jan. 4, 1995, p. —). The 104th Congress also mandated that the total number of staff of House committees be at least one-third less than the corresponding total in the 103d Congress (sec. 101(a), H. Res. 6, Jan. 4, 1995, p. —).

(i) Notwithstanding paragraph (a)(2), a committee may employ non-partisan staff, in lieu of or in addition to committee staff designated exclusively for the majority or minority party, upon an affirmative vote of a majority of the members of the majority party and a majority of the members of the minority party.

§ 738. Non-partisan staff.

Section 202(a) of the Legislative Reorganization Act of 1946 (60 Stat. 812), which was incorporated into the rules on January 3, 1953 (p. 24), required committee professional staffs to be appointed on a permanent basis without regard to political affiliation. The concept of minority staffing was added by section 302(b) of the Legislative Reorganization Act of 1970. Under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), paragraph (i) was added to permit committees to employ nonpartisan staff upon an affirmative vote of the majority of the members of each party. In the 104th Congress it was amended to reflect the elimination of the former distinction between “professional” and “clerical” staff (sec. 101(c)(5), H. Res. 6, Jan. 4, 1995, p. —).

Effective in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70), former clause 6(j), which was added on January 3, 1953 (p. 24) and which was contained in section 134(b) of the Legislative Reorganization Act of 1945, was deleted; that clause required committees to report semiannually to the Clerk, for printing in the Con-

§ 739. Reports on staff.

gressional Record, on the names, professions and salaries of committee employees.

RULE XII.

RESIDENT COMMISSIONER AND DELEGATES.

The Resident Commissioner to the United States from Puerto Rico and each Delegate to the House shall be elected to serve on standing committees in the same manner as Members of the House and shall possess in such committees the same powers and privileges as the other Members.

§ 740. Powers and Privileges of Resident Commissioner and Delegates as to committee service.

The rule resumed this form in the 104th Congress (sec. 212, H. Res. 6, Jan. 4, 1995, p. —). The first form of this rule was adopted in 1871, and it was perfected by amendments in 1876, 1880, 1887, 1892 (II, 1297), and on January 2, 1947 (Legislative Reorganization Act of 1946), August 2, 1949 (p. 10618), and February 2, 1951 (p. 883). It was completely revised in the 92d Congress to delete references to Delegates from the former Territories of Alaska and Hawaii, which had achieved statehood in 1959, to add a reference to the Delegate from the District of Columbia, an office established by Public Law 91-405 (84 Stat. 845), and to incorporate the provisions of the Legislative Reorganization Act of 1970 giving the Resident Commissioner (as well as the new Delegate from the District of Columbia) the right to vote in standing committees (H. Res. 5, Jan. 22, 1971, p. 144). The second clause of the rule was again revised in the 93d Congress (H. Res. 6, Jan. 3, 1973, pp. 26-27) to reflect the establishment of offices of Delegate from the Territories of Guam and the Virgin Islands pursuant to Public Law 92-271 (86 Stat. 118). The office of Delegate from American Samoa was established by Public Law 95-556 (92 Stat. 2078) and was first filled by the general Federal election of 1980. The title of the rule was amended in the 102d Congress amended to reflect the current membership in the House of the Resident Commissioner of Puerto Rico and all Delegates (H. Res. 5, Jan. 3, 1991, p. —). The rule was completely revised again in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. —) to provide that each of the Delegates and the Resident Commissioner be elected to committees of the House on the same bases, vote in any committees on which they serve, and vote on questions arising in the Committee of the Whole House on the state of the Union. The latter power was affected by clause 2(d) of rule XXIII (providing for immediate reconsideration in the House of questions resolved in the Committee of the Whole by a margin