

RULES OF THE HOUSE OF REPRESENTATIVES

§943b-§944a

Rule XLVIII.

pointed Federal employee who accepts an honorarium of more than \$2000 per speech. A statutory ceiling of \$25,000 from honoraria in a calendar year was repealed in 1981 (P.L. 97-51, Oct. 1, 1981). The Senate repealed its rule on outside earned income in the 97th Congress (S. Res. 512, Dec. 14, 1982, p. 30640).

For provisions of the federal criminal code restricting postemployment activities, see 18 U.S.C. 207, which was originally enacted in title V of the Ethics in Government Act of 1978 (P.L. 95-521) and most recently amended in the Ethics Reform Act of 1989 (P.L. 101-194, Nov. 30, 1989) and a related technical corrections Act (P.L. 101-280, May 4, 1990).

The House established in the 95th Congress a Select Committee on Ethics to "consider and report to the House on any bills or resolutions which may include provisions incorporating into permanent law applicable provisions and appropriate modifications of rule XLIII, rule XLIV, rule XLV, rule XLVI, and rule XLVII which may be referred to the select committee by the Speaker." The select committee was given exclusive jurisdiction over the bills and resolutions referred to it, and jurisdiction to adopt regulations and to issue advisory opinions respecting the application of those rules. The resolution creating that committee (H. Res. 383, Mar. 9, 1977, pp. 6811-16) provided that it expire on December 31, 1977, but the committee and its functions ultimately were extended through the "completion of its official business" (H. Res. 871, Oct. 31, 1977, p. 35957). The advisory opinions compiled by the former Select Committee on Ethics have been incorporated in the *House Ethics Manual* (102d Cong., 2d Sess.) prepared by the Committee on Standards of Official Conduct.

RULE XLVIII.

PERMANENT SELECT COMMITTEE ON INTELLIGENCE.

1. (a) There is hereby established a permanent select committee to be known as the Permanent Select Committee on Intelligence (hereinafter in this rule referred to as the "select committee"). The select committee shall be composed of not more than sixteen Members, of whom not more than nine may be from the same party. The select committee shall include at least one Member from:

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- (1) the Committee on Appropriations;

- (2) the Committee on National Security;
- (3) the Committee on International Relations; and
- (4) the Committee on the Judiciary.

(b)(1) The Speaker of the House and the minority leader of the House shall be ex officio members of the select committee, but shall have no vote in the committee and shall not be counted for purposes of determining a quorum.

(2) The Speaker and minority leader each may designate a member of their leadership staff to assist them in their capacity as ex officio members, with the same access to committee meetings, hearings, briefings, and materials as if employees of the select committee, and subject to the same security clearance and confidentiality requirements as employees of the select committee under this rule.

(c) No Member of the House other than the Speaker and the minority leader may serve on the select committee during more than four Congresses in any period of six successive Congresses (disregarding for this purpose any service for less than a full session in any Congress), except that the incumbent chairman or ranking minority member having served on the select committee for four Congresses and having served as chairman or ranking minority member for not more than one Congress shall be eligible for reappointment to the select committee as chairman or ranking minority member for one additional Congress.

2. (a) There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(1) The Central Intelligence Agency and Director of Central Intelligence, and the National Foreign Intelligence Program as defined in section 3(6) of the National Security Act of 1947.

(2) Intelligence and intelligence-related activities of all other departments and agencies of the Government, including, but not limited to, the tactical intelligence and intelligence-related activities of the Department of Defense.

(3) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence or intelligence-related activities.

(4) Authorizations for appropriations, both direct and indirect, for the following:

(A) The Central Intelligence Agency, Director of Central Intelligence, and the National Foreign Intelligence Program as defined in section 3(6) of the National Security Act of 1947.

(B) Intelligence and intelligence-related activities of all other departments and agencies of the Government, including, but not limited to, the tactical intel-

ligence and intelligence-related activities of the Department of Defense.

(C) Any department, agency, or subdivision, or program that is a successor to any agency or program named or referred to in subdivision (A) or (B).

(b) Any proposed legislation initially reported by the select committee, except any legislation involving matters specified in subparagraph (1) or (4) (A) of paragraph (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee by the Speaker for its consideration of such matter and be reported to the House by such standing committee within the time prescribed by the Speaker in the referral; and any proposed legislation initially reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred by the Speaker to the select committee for its consideration of such matter and be reported to the House within the time prescribed by the Speaker in the referral.

(c) Nothing in this rule shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence or intelligence-related activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee.

(d) Nothing in the rule shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the House to obtain full and prompt access to the product of the intelligence and intelligence-related activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

3. (a) The select committee, for the purposes of accountability to the House, shall make regular and periodic reports to the House on the nature and the extent of the intelligence and intelligence-related activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the House or to any other appropriate committee or committees of the House any matters requiring the attention of the House or such other committee or committees. In making such reports, the select committee shall proceed in a manner consistent with clause 7 to protect national security.

(b) The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence and intelligence-related activities of the agency or department concerned and the intelligence and intelligence-related activities of foreign countries directed at the United States or its interest. An unclassified version of each report may be made available to the pub-

lic at the discretion of the select committee. Nothing herein shall be construed as requiring the public disclosure in such reports of the names of individuals engaged in intelligence or intelligence-related activities for the United States or the divulging of intelligence methods employed or the sources of information on which such reports are based or the amount of funds authorized to be appropriated for intelligence and intelligence-related activities.

(c) On or before March 15 of each year, the select committee shall submit to the Committee on the Budget of the House the views and estimates described in section 301(c) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

4. To the extent not inconsistent with the provisions of this rule, the provisions of clauses 1, 2, 3, and 5(a), (b), (c) and (6)(a), (b), (c) of rule XI shall apply to the select committee, except that, notwithstanding the requirements of the first sentence of clause 2(g)(2) of rule XI, a majority of those present, there being in attendance the requisite number required under the rules of the select committee to be present for the purpose of taking testimony or receiving evidence, may vote to close a hearing whenever the majority determines that such testimony or evidence would endanger the national security.

5. No employee of the select committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified in-

formation by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the House (including the jurisdiction of the Committee on Standards of Official Conduct and of the select committee as to the security of such information during and after the period of his employment or contractual agreement with such committee); and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

6. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines that national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

7. (a) The select committee may, subject to the provisions of this clause, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this clause, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this clause.

(b)(1) In any case in which the select committee votes to disclose publicly any information which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by

such disclosure is of such gravity that it outweighs any public interest in the disclosure.

(3) If the President, personally, in writing, notifies the select committee of his objections to the disclosure of such information as provided in subparagraph (2), such committee may, by majority vote, refer the question of this disclosure of such information with a recommendation thereon to the House for consideration. The committee shall not publicly disclose such information without leave of the House.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the House under subparagraph (3), the chairman shall, not later than the first day on which the House is in session following the day on which the vote occurs, report the matter to the House for its consideration.

(5) If within four calendar days on which the House is in session, after such recommendation is reported, no motion has been made by the chairman of the select committee to consider, in closed session, the matter reported under subparagraph (4), then such a motion will be deemed privileged and may be made by any Member. The motion under this subparagraph shall not be subject to debate or amendment. When made, it shall be decided without intervening motion, except one motion to adjourn.

(6) If the House adopts a motion to resolve into closed session, the Speaker shall then be authorized to declare a recess subject to the call of the Chair. At the expiration of such recess,

the pending question, in closed session, shall be, "Shall the House approve the recommendation of the select committee?"

(7) After not more than two hours of debate on the motion, such debate to be equally divided and controlled by the chairman and ranking minority member of the select committee, or their designees, the previous question shall be considered as ordered and the House, without intervening motion except one motion to adjourn, shall immediately vote on the question, in open session but without divulging the information with respect to which the vote is being taken. If the recommendation of the select committee is not agreed to, the question shall be deemed re-committed to the select committee for further recommendation.

(c)(1) No information in the possession of the select committee relating to the lawful intelligence or intelligence-related activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to paragraphs (a) or (b) of this clause, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the House except as provided in subparagraphs (2) and (3).

(2) The select committee shall, under such regulations as the committee shall prescribe, make any information described in subparagraph (1) available to any other committee or any other Member of the House and permit any other

Member of the House to attend any hearing of the committee which is closed to the public. Whenever the select committee makes such information available (other than to the Speaker), the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the House received such information. No Member of the House who, and no committee which, receives any information under this subparagraph, shall disclose such information except in a closed session of the House.

(d) The Committee on Standards of Official Conduct shall investigate any unauthorized disclosure of intelligence or intelligence-related information by a Member, officer, or employee of the House in violation of paragraph (c) and report to the House concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Committee on Standards of Official Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation, together with its findings. If, at the conclusion of its investigation, the Committee on Standards of Official Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the House, it shall report its findings to the House and recommend appropriate action such as censure, removal from committee membership, or expulsion from the House, in the case of

a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

8. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

9. Subject to the rules of the House, no funds shall be appropriated for any fiscal year, with the exception of a continuing bill or resolution continuing appropriations, or amendment thereto, or conference report thereon, to, or for use of, any department or agency of the United States to carry out any of the following activities, unless such funds shall have been previously authorized by a bill or joint resolution passed by the House during the same or preceding fiscal year to carry out such activity for such fiscal year:

(a) The activities of the Central Intelligence Agency and the Director of Central Intelligence.

(b) The activities of the Defense Intelligence Agency.

(c) The activities of the National Security Agency.

(d) The intelligence and intelligence related activities of other agencies and subdivisions of the Department of Defense.

(e) The intelligence and intelligence-related activities of the Department of State.

(f) The intelligence and intelligence-related activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

10. (a) As used in this rule, the term “intelligence and intelligence-related activities” includes (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement, or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons.

(b) As used in this rule, the term “department or agency” includes any organization, committee,

council, establishment, or office within the Federal Government.

(c) For purposes of this rule, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence or intelligence-related activities now conducted by the department, agency, bureau, or subdivision referred to in this rule.

11. Clause 6(a) of rule XXVIII does not apply to conference committee meetings respecting legislation (or any part thereof) reported from the Permanent Select Committee on Intelligence.

This rule was adopted on July 14, 1977 (H. Res. 658, pp. 22932–49) and has had several technical amendments: (1) on January 25, 1979, to change the size of the Select Committee from thirteen to fourteen members (H. Res. 70, p. 1023); (2) on February 5, 1979, to change the name of the Committee on International Relations to Foreign Affairs (H. Res. 89, pp. 1848–49); (3) on January 30, 1985, to change the size to not more than sixteen members (H. Res. 33, p. 1271); (4) in the 100th Congress to change the size to not more than seventeen members and to change the cross-reference in clause 7(c)(1) to include paragraph (a) or (b) (H. Res. 5, Jan. 6, 1987, p. 6); (5) in the 101st Congress to change the size to not more than nineteen Members (H. Res. 5, Jan. 3, 1989, p. 73) and to permit the Speaker to attend meetings and have access to information (H. Res. 268, Nov. 14, 1989, p. 28789); and (6) in the 102d Congress to strike obsolete language relating to tenure restrictions in clause 1 and relating to the requirement for authorizations of appropriations in clause 9 (H. Res. 5, Jan. 3, 1991, p. —).

More substantive amendments have been adopted as follows: (1) clause 4 was amended to make clause 6(c) of rule XI applicable to salaries of the staff of the Permanent Select Committee (H. Res. 5, Jan. 15, 1979, pp. 7–16); (2) clause 4 was amended to make an exception to the provisions of clause 2(g)(2) of rule XI (requiring a majority of the membership of a committee be present in order to vote to close a hearing) to allow the Select Committee to vote to go into executive session if a majority of the members present, there being in attendance the requisite number under the Select Committee rules for the purpose of taking testimony, determine that it is necessary to do so for national security reasons (but in no event

to be determined by less than two members) (H. Res. 165, Mar. 29, 1979, p. 6820); and (3) clause 4 was amended to provide the Select Committee with permanent professional and clerical staff as provided by clauses 6 (a) and (b) of rule XI (H. Res. 58, Mar. 1, 1983, p. 3241).

In the 104th Congress the rule was amended in several different respects: (1) to limit the size of the panel to 16, with no more than nine members from the same party; (2) to set the tenure limitation at four Congresses within a period of six Congresses, with exceptions for ongoing service as chairman or ranking minority member; (3) to make the Speaker (rather than the Majority Leader) an ex officio member of the panel (as opposed to his former free access to its meetings and information); (4) to clarify jurisdiction over the National Foreign Intelligence Program and the tactical intelligence and intelligence-related activities of the Department of Defense; (5) to clarify staffing arrangements for the Speaker and the Minority Leader as ex officio members; and (6) to conform references to renamed committees (sec. 221, H. Res. 6, Jan. 4, 1995, p. —).

The resolution creating the Permanent Select Committee directed the committee to make a study with respect to intelligence and intelligence-related activities of the U.S. and to report thereon, together with appropriate recommendations, not later than the close of the 95th Congress (sec. 3, H. Res. 658; see H. Rept. 95-1795, Oct. 14, 1978), and transferred to the Permanent Select Committee on Intelligence all records, files, documents and other materials of the Select Committee on Intelligence of the 94th Congress in the possession, custody, or control of the Clerk of the House.

The Permanent Select Committee has concurrent jurisdiction with the Committee on the Judiciary over bills concerning electronic surveillance of foreign intelligence (Nov. 4, 1977, pp. 37070-71); concurrent jurisdiction with the Committees on Science, Space, and Technology (now Science) and Foreign Affairs (now International Relations) over a bill establishing a satellite monitoring commission (Mar. 15, 1988, p. 3847); and sole jurisdiction over a resolution of inquiry directing the Secretary of Defense to furnish to the House documents and information on Cuban or other foreign military or paramilitary presence in Panama or the Canal Zone (Apr. 6, 1978, p. 9105).

Clause 7(b) of rule XLVIII places restrictions on the Select Committee on Intelligence only with respect to the public disclosure of classified information in the possession of that committee, and does not prevent the House from determining to release any matter properly presented to it in secret session pursuant to rule XXIX (Speaker pro tempore Wright, Feb. 25, 1980, p. 3618).